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CONGRESSIONAL RECORD,

FORTY-SEVENTH CONGRESS, FIRST SESSION.

from the President of the United States; which, with the accompanying documents, was referred to the Committee on Indian Affairs, and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith a communication, dated the 14th instant, from the Secretary of the Interior, with draft of bill and accompanying papers, for the establishment of an Indian training-school on the site of the old Fort Ripley military reservation in the State of Minnesota. The subject is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 17, 1882.

SAN CARLOS RESERVATION, ARIZONA.

The SPEAKER also laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committee on Indian Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary [of the Interior] of the 12th instant, with accompanying papers, in relation to coal lands upon the San Carlos reservation in the Territory of Arizona. The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 17, 1882.

PUBLIC BUILDING, SYRACUSE, NEW YORK.

Mr. HISCOCK. I ask unanimous consent for the present consideration of House bill No. 4172, to provide for the erection of a public building in the city of Syracuse, New York.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the post-office, United States courts, internal-revenue offices, and other Government offices, at the city of Syracuse, New York. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for the site and building complete the sum of $200,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for said building shall be vested in the United States, nor until the State of New York shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. TOWNSHEND, of Illinois. There are about forty-five bills of this character now pending before the House.

Mr. RANDALL. I shall object to giving unanimous consent as to all of them; there ought to be some discrimination.

The SPEAKER. Is there objection to the present consideration of this bill?

There being no objection, the Committee of the Whole House on the state of the Union was discharged from the further consideration of the bill; which was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HISCOCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDING, HANNIBAL, MISSOURI.

Mr. HATCH. I ask unanimous consent to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill (H. R. No. 880) to provide for the erection of a public building in the city of Hannibal, in the State of Missouri, and that the bill be now put on its passage.

Mr. HOLMAN. I call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Minnesota, [Mr. DUNNELL,] that the House adjourn.

Mr. HATCH. I ask unanimous consent to say a word. I have sat here during three years and have never objected to any bill of this kind; but if I cannot get this bill up when other members are allowed that privilege with reference to their bills, it is an end to unanimous consent during the Forty-seventh Congress. I want that distinctly understood.

The SPEAKER. The regular order is the motion to adjourn.

Mr. DUNNELL. I withdraw the motion.

Mr. HOLMAN. I have no objection to having this bill taken up now for consideration hereafter; but I must insist on the motion to adjourn after the bill has been taken up.

The SPEAKER. The gentleman from Missouri asks unanimous consent to have taken from the Speaker's table——

Mr. BLACKBURN. I rise to a parliamentary inquiry. I desire to know from the Speaker whether there was not a ruling insisted upon in the last Congress and readopted by the presiding officer of this House, which determined that bills appropriating money for public buildings should be taken up in their order upon the Calendar. If, Mr. Speaker, that is true, then the House having two weeks ago gone down the Calendar until it reached the bill for a public building at the capital of my State, and having there dropped the matter, I hope the House will not now, whether by suspension of the rules or by unanimous consent, do me the injustice of taking up out of their order bills for other public buildings. I do not want to take any advantage of any gentleman who has charge of any public-building bill in this Congress; I certainly do not want to make complaint in regard to my friend from New York, [Mr. HISCOCK,] who has had his bill passed; I certainly do not wish to antagonize the bill of my friend from Missouri, [Mr. HATCH;] but I do insist that the capital of a State in which the Federal Government has never owned a brick, but where the State has furnished to it as a pensioner without pay offices for clerks and rooms for courts for nearly a century, ought not to be treated after this fashion.

I have stood upon my rights as I had them declared by the Speaker of the last House and reiterated by the Speaker of this House. I ask no more than that; I cannot afford to take less than that. That bill was the fifth upon the calendar of public-building bills. Four were passed last Monday a week ago. There the public-building bill calendar was dropped; and now if it is to go further I insist that fair dealing and the unanimous-consent arrangement of the last Congress and of this Congress entitle me to have that bill called up.

Mr. CALKINS. Let me ask a question.

Mr. HATCH. I have been recognized and have unanimous consent.

Mr. CALKINS. I do not believe the House is opposed to the bill of the gentleman from Kentucky.

Mr. HATCH. I insist I am not to be taken off the floor in this way.

The SPEAKER. The Chair thinks not.

Mr. CALKINS. I wish to say a word to the gentleman from Kentucky.

The SPEAKER. The gentleman from Missouri rises to ask unanimous consent. This does not affect the order of recognition or the order of consideration when the Calendar is reached, nor does it affect the question how recognition shall be made on suspension day. That question is not involved now. It is a question whether the House will give the gentleman from Missouri unanimous consent for the present consideration of his bill.

Mr. HOLMAN. Let it be taken up for consideration.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 880) to provide for the erection of a public building in the city of Hannibal, in the State of Missouri.

The SPEAKER. Is there objection to the present consideration of that bill?

Mr. HOLMAN. Is it before the House?

Mr. HATCH. It is.

The SPEAKER. It is, if there is no objection.

Mr. HOLMAN. We do not object to its being before the House, but I insist on the motion to adjourn after that.

The SPEAKER. The Chair will again put the question. Is there objection to the present consideration of the bill?

Mr. HATCH. No, there is not.

The SPEAKER. The Chair hears none, and the bill is before the House.

Mr. HOLMAN. I now move that the House adjourn.

Mr. HATCH. I rise to a parliamentary inquiry. Does this bill come up to-morrow as the unfinished business?

The SPEAKER. It comes up when we reach business of this class. It is up for present consideration, as the House has agreed by unanimous consent to take it up.

Mr. VAN VOORHIS. Let us put these bills through now.

Mr. HOLMAN. I move that the House adjourn.

The House divided; and there were—ayes 35, noes 26.

So the motion was agreed to; and then (at five o'clock and ten minutes p. m.) the House adjourned until eleven o'clock to-morrow morning.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ATKINS: The petition of A. Thompson, administrator of the estate of John A. Barnett, deceased, for compensation for property taken and used by the United States Army during the rebellion—to the Committee on War Claims.

By Mr. BAYNE: The resolutions of the Central Branch of the Land League of Pittsburgh, Pennsylvania, calling upon Congress and the Executive to take action to protect American citizens unjustly detained in British prisons, by demanding for them a speedy trial and insisting upon their immediate release—to the Committee on Foreign Affairs.

By Mr. BUTTERWORH: The petition of Frances Washington Finch, proposing to sell to the Government certain household effects of General George Washington now in her possession—to the Committee on Ways and Means.

By Mr. GEORGE R. DAVIS: Papers relating to the claim of W. H. Reynolds—to the Committee on Claims.

By Mr. McKENZIE: Papers relating to the claim of James C. Rudd—to the same committee.

By Mr. MOREY: Papers relating to the pension claim of J. S. Windsor—to the Committee on Invalid Pensions.

By Mr. MORSE: The petition of Barnes, Ward & Co. and others, merchants of Boston, praying for the passage of the bill providing for the permanent organization of the Signal Corps—to the Committee on Military Affairs.

By Mr. PAGE: The resolutions adopted by the San Francisco Produce Exchange relative to the duty on barley—to the Committee on Ways and Means.

Also, memorial of the Board of Marine Underwriters of San Francisco, asking for an appropriation of $100,000 per annum to increase the efficiency of the Hydrographic Office and for further surveys on the Pacific coast—to the Committee on Commerce.

By Mr. RANDALL: Papers relating to the pension claim of John O'Neill—to the Committee on Invalid Pensions.

By Mr. W. W. RICE: The petition of Washburn & Moen and others, of Worcester, Massachusetts, for the passage of the Lowell bill to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. W. E. ROBINSON: The resolutions adopted by the Irish National Land and Industrial League of Brooklyn, New York, relative to the imprisonment of American citizens in British jails, and demanding the recall or impeachment of James Russell Lowell—to the Committee on Foreign Affairs.

By Mr. SHACKELFORD: The petition of 100 citizens of North Carolina, asking for an appropriation for the establishment of a light at the mouth of New River, in said State—to the Committee on Commerce.

By Mr. SPAULDING: Paper relating to the pension claim of Martha Sewell, late Martha Frink—to the Committee on Pensions.

By Mr. P. B. THOMPSON: The petition of James Wilson, administrator of the estate of Joshua Gilbert, for relief—to the Committee on Invalid Pensions.

By Mr. H. G. TURNER: The petition of T. F. Jones and 45 others, citizens of Early County, Georgia, praying an appropriation by Congress for the cause of education in the States on the basis of illiteracy—to the Committee on Education and Labor.

Mr. B. W. HARRIS, from the Committee on Naval Affairs, reported, under clause 2 of Rule XXII, papers relating to the Kennedy spiral punch; which were referred to the Committee on Appropriations.

SENATE.

WEDNESDAY, *April* 19, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in answer to a resolution of the 13th instant, a list of all Indian reservations upon which troops are stationed, and also information touching the destruction and consumption of timber by such troops, together with a report of the Commissioner of Indian Affairs on the subject; which was referred to the Committee on Indian Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. HAMPTON presented resolutions of the Board of Trade of Columbia, South Carolina, in favor of the construction of the proposed Chesapeake and Delaware free ship-canal; which was referred to the Committee on Commerce.

Mr. HOAR. I present a petition of the Woman Suffrage Association, praying "that neither Dakota nor any other Territory be admitted hereafter as a State except upon condition that the constitution of said State shall establish equal legal and political rights for all American citizens resident therein irrespective of sex." I ask the reference of the petition to the Committee on Territories.

Mr. HARRISON. The bill on that subject has been reported from the Committee on Territories.

Mr. HOAR. The petition is general and applies to other Territories as well as Dakota. Perhaps the committee may reconsider the error of their ways as to Dakota.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Territories.

Mr. KELLOGG presented the petition of Rhoden Mitchell, of Washington, District of Columbia, praying to be compensated for services rendered by him as laborer in the office of the Sergeant-at-Arms of the United States Senate; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. MORRILL presented certain letters and papers concerning the proposed improvement of the Executive Mansion; which were referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

Mr. SHERMAN. I present a petition signed by the governor of Ohio and I suppose all the members of the General Assembly, the great body of them at least, and other citizens of Ohio, praying for an appropriation by Congress of liberal sums of money to educate the illiterate people of the Southern States. I move its reference to the Committee on Education and Labor.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HOAR, from the Committee on Claims, to whom was referred the bill (S. No. 490) for the relief of Mrs. Mary S. Porter, widow and sole heir-at-law of Samuel Stafford, deceased, late of New Orleans, Louisiana, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of S. R. Kramer, praying compensation for property taken by the United States Army, submitted an adverse report thereon, which was ordered to be printed; and the committee were discharged from the further consideration of the petition.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 710) for the relief of Mrs. J. P. Williams, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William G. Ford, of Memphis, Tennessee, praying compensation for certain bales of cotton seized by the United States Government, submitted a report thereon, accompanied by a bill (S. No. 1746) for the relief of William G. Ford.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. JACKSON, from the Committee on Claims, to whom was referred the bill (S. No. 624) for the relief of Frances E. Stewart, administratrix of Michael S. Stewart, deceased, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. FRYE, from the Committee on Claims, to whom was referred the bill (S. No. 385) for the relief of Frederick W. Ruggles, of Westport, Nova Scotia, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. FAIR, from the Committee on Claims, to whom was referred the bill (S. No. 583) for the relief of William Beddo and others, submitted a report thereon, which was ordered to be printed; and, on motion of Mr. FAIR, the bill and report were recommitted to the Committee on Claims.

Mr. CONGER, from the Committee on Claims, to whom was referred the bill (S. No. 386) for the relief of Mrs. Eliza E. Hebert, reported it with amendments; and submitted a report thereon, which was ordered to be printed.

Mr. ALLISON, from the Committee on Finance, to whom was referred the bill (S. No. 454) for the relief of James E. Montell, of Baltimore, Maryland, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

IOWA AGRICULTURAL COLLEGE.

Mr. ALLISON. The Committee on Finance instruct me to report favorably Senate bill No. 1677, and as it will take but a single moment, I ask that it may now be considered. It relates to the agricultural college in Iowa and the investment of the agricultural college fund.

By unanimous consent, the bill (S. No. 1677) to amend the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts was considered as in Committee of the Whole. It amends section 4 of the "act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to permit the State of Iowa, which has provided a college in accordance with that act, to loan the endowment fund belonging to the college, upon real-estate security, under such rules and regulations for its safe investment as the General Assembly shall hereafter provide.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CATALOGUE OF GOVERNMENT PUBLICATIONS.

Mr. ANTHONY. The Committee on Printing, to which was referred the bill (S. No. 329) to authorize the preparation and publication of a classified, analytical, and descriptive catalogue of all Government publications from July 4, 1776, to March 4, 1881, have directed me to report it with amendments. As this is a bill which relates to the convenience of the Senate and House of Representatives, I venture to ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Printing with amendments.

The first amendment was, in line 16, to strike out "$5,000" and insert "$10,000;" so as to make the bill read:

Be it enacted, &c., That there be prepared and published, under the direction of the Joint Committee on Printing, a classified, analytical, and descriptive catalogue of all publications made by the authority of the Government of the United States and the preceding government of the Colonies, and all departments, bureaus, and offices thereof, from July 4, 1776, to March 4, 1881; and upon the request of the said joint committee, the officers of the Senate and House of Representatives, and the heads of all the Executive Departments and of all the bureaus and offices thereof, shall furnish to said joint committee all such information and assistance in reference to said publications as will facilitate or assist in the completion of said work; and the sum of $10,000 is hereby appropriated for the purposes of this act.

The amendment was agreed to.

The next amendment was to add at the end of the bill:

Which sum may be expended as additional pay or compensation to any officer or employé of the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 3830) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1883, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. J. C. BURROWS of Michigan, Mr. GEORGE M. ROBESON of New Jersey, and Mr. S. S. COX of New York, managers at the conference on the part of the House.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2744) to regulate the carriage of passengers by sea; and

A bill (H. R. No. 4172) to provide for the erection of a public building in the city of Syracuse, New York.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 185) for the relief of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, administrators, agents, or assigns; and

A bill (H. R. No. 124) to establish distinct United States courts with distinct officers in the northern and southern judicial districts of the State of Georgia.

BILLS INTRODUCED.

Mr. HARRIS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1747) to amend section 829 of the Revised Statutes of the United States relating to the fees of marshals; which was read twice by its title.

Mr. HARRIS. I introduce the bill by request. I move that the bill, with the accompanying letter of the marshal of West Tennessee, be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILLIAMS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1748) for the relief of Harriet Ann Walker; which was read twice by its title, and, with the papers on file in the case, referred to the Committee on Claims.

Mr. BUTLER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1749) for the relief of William McNamara; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. SEWELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1750) granting an increase of pension to Mrs. Ann W. Mulvey; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRYE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1751) for the relief of Reuben B. Clark and Sayles J. Bowen; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. FAIR (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1752) for the relief of John Leathers; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRISON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1753) to restore and fix the Inspector-General's Department of the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENT TO POST-ROUTE BILL.

Mr. MCMILLAN submitted an amendment intended to be proposed by him to the bill (H. R. No. 5812) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

TEXAS BOUNDARY LINE.

Mr. MAXEY. I beg leave to call the attention of the Senate for a moment to a motion which I will make, which I think will be adopted without any difficulty. Senate bill No. 954 was referred to the Committee on Territories, it being a bill to complete the boundary between Texas and the territory of the United States, and it was reported favorably, and is on the Calendar. Under the constitution of Texas the Legislature in special session can only consider such measures as are submitted to it. The governor has called special attention to this bill, and the Legislature is now acting upon the question. It can only sit for thirty days. The purpose of the bill is to create a joint boundary commission to settle the boundary between the territory of Texas and that of the United States, and to run a line which the reports from the Interior Department show was not completed. The act of 1858, as is shown, created a joint boundary commission, which went on with its work, but the final report was never made. A portion of that line has never yet been run, and the purpose of the bill is to complete the line. In view of this special reason, I ask unanimous consent to call up the bill now and put it upon its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 954) to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between a part of the territory of the United States and the State of Texas, and to complete the survey of said lines authorized to be surveyed, run, and marked under the act of Congress approved June 5, 1858.

The bill was reported from the Committee on Territories with an amendment, in section 3, line 1, to fill the blank by the insertion of the words "ten thousand" before "dollars," so as to make the section read:

That the sum of $10,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act: *Provided*, That the person or persons to be appointed and employed by the State of Texas are to be paid by the said State.

The amendment was agreed to.

Mr. MAXEY. I will state that the first section follows the verbiage of the treaty of 1820 as to the boundary, and it is simply to carry out that treaty. The one hundredth degree of west longitude is a necessary part of that boundary. Therefore, after the word "Texas," at the end of line 20 of section 1, I move to insert "the one hundredth degree of west longitude may be definitely established and;" so as to read:

Said joint commission will report said survey with all necessary notes, maps, and other papers, in order that in settling definitely this part of the boundary between the Territories of the United States and the State of Texas the one hundredth degree of west longitude may be definitely established and the question may be definitely settled whether the North Fork of Red River or the Prairie Dog Town Fork of said river is the principal or true Red River.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. The question is on agreeing to the preamble.

The preamble was read, as follows:

Whereas no final report of the lines and boundaries authorized to be run and marked between the Territories of the United States and the State of Texas under and by virtue of the provisions of the act of Congress approved June 5, 1858, has ever been made by the joint commission authorized by said act; and

Whereas it is important to have said lines run, marked, and definitely established by suitable persons appointed to act on behalf of the United States in connection with suitable persons to be appointed by the State of Texas to act on behalf of said State: Therefore,

Mr. INGALLS. I suggest that the preamble be omitted. It is bad legislation to encumber the statute-books with the reasons for passing a bill, and it is unnecessary here.

Mr. MAXEY. I will not object to striking it out, but the preamble does give the real reasons for the passage of the bill.

The preamble was rejected.

OMAHA INDIAN RESERVATION.

The bill (S. No. 1255) to provide for the sale of a part of the reservation of the Omaha tribe of Indians, in the State of Nebraska, and for other purposes, was announced as first in order upon the Calendar, and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The bill was reported from the Committee on Indian Affairs with amendments, which will be stated in order.

Mr. COCKRELL. I should like to understand the bill before we pass upon the amendments.

The PRESIDENT *pro tempore*. The report can be read.

Mr. COCKRELL. There is no report accompanying the bill, and that is the reason why I ask the Senator from Nebraska [Mr. SAUNDERS] to make an explanation of the necessity for this legislation.

Mr. SAUNDERS. This subject has been in various shapes before the Senate for some length of time, the effort being to get a bill that would meet the wants of the Indians and at the same time give satisfaction to the Government. After making several efforts, the Committee on Indian Affairs authorized the reporting of this bill with the amendments that will now be stated from the Secretary's desk. The bill authorizes the sale of not exceeding fifty thousand acres, to be taken from the west part of the Omaha reservation. This land has no settlers upon it, as we are able to show from the papers and from the agent himself, and is yielding nothing to the Indians, nothing to the Government, and nothing to the country. It happens to be one of those few cases where I believe everybody is satisfied to have a bill of this kind passed. The Indians want it passed so as to put the money derived from the sale on interest. The white people are there ready to buy the land and put it in cultivation. The Indian Department is satisfied that it is best for the Indians and for the country to have the land sold. Therefore, unless some amendment should be suggested by some one to the bill, there is no objection to the passage of a bill of this kind. When the amendments have been acted on, if the Senator from Missouri or any other Senator has any suggestions to make I shall be very glad to hear them. We want to get the bill as nearly perfect as we can.

The PRESIDENT *pro tempore*. The amendments of the Committee on Indian Affairs will be reported.

The ACTING SECRETARY. In section 2, line 4, after the word "bidder," it is proposed to strike out the words "between the hours of twelve meridian and two post meridian on a given day in each month at," and to insert "through;" so as to read:

That after the survey and appraisement of said lands the Secretary of the Interior shall be, and he hereby is, authorized to offer the same for sale, for cash, to the highest bidder, through the United States public land office, at Neligh, Nebraska.

Mr. ALLISON. What is the object of that amendment?

Mr. SAUNDERS. It is to effect the sale through the agency instead of at the agency, by sending an agent from the land office to receive the bids on the ground.

The amendment was agreed to.

The next amendment was, after the word "Nebraska," in section 2, line 6, to insert "under such instructions as the Secretary of the Interior may issue."

The amendment was agreed to.

The next amendment was to strike out section 6, in the following words:

That the Secretary of the Interior may, with the consent of the Indians expressed in open council, secure other reservation lands upon which to locate said Indians, cause their removal thereto, and expend such sum as may be necessary for their comfort and advancement in civilization, not exceeding $100,000, including cost of surveys and expense of removals, the same to be drawn from the fund arising from the sale of their reservation lands under this act.

Mr. SAUNDERS. The reason for striking out section 6 is that it was found entirely unnecessary. The Indians are not proposing to leave that part of the country and settle elsewhere. They have plenty of land left, and propose to remain there; so that it was found entirely unnecessary to provide for their being settled in any other part of the country.

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. 6. That in addition to the purchase-money, each purchaser of said Omaha Indian lands shall pay $2, the same to be retained by the receiver and the register of the land office at Neligh, Nebraska, as their fees for services rendered.

The amendment was agreed to.

Mr. SAUNDERS. I move, at the end of section 2, to add the following additional proviso:

And provided further, That not more than one hundred and sixty acres of said land shall be sold to any one person.

I think there will be no objection to the amendment on the part of any Senator.

The amendment was agreed to.

Mr. INGALLS. As one member of the committee that reported this bill, there is a provision to which I could not give my assent. It involves a very important question, and in order to test the sense of the Senate upon the point involved I move to strike out, in section 4, that portion of the proviso between lines 6 and 11 proposing to exempt these lands from taxation. The proviso reads as follows:

Provided, That patents issued to Indians shall expressly state that the lands conveyed shall, for the period of twenty-five years from the date thereof, be inalienable and exempt from incumbrance and taxation, and that the title in its descent shall conform to the laws of the State of Nebraska.

It will be observed that this bill practically breaks up that portion at least of the reservation which is to be sold, and provides that it shall be disposed of to private purchasers. It also enables Indians who may desire to possess their lands in severalty to acquire a qualified private title. The lands that they occupy are segregated from the remainder of the reservation, and the allottees receive patents to the separate tracts, so that the interest and control and jurisdiction of the United States is absolutely relinquished. So far as the laws are concerned, so far as the authority of the constitution and statutes of the State of Nebraska are concerned, these lands hereafter to be occupied by the individual Indians are like those held by any other private title from the Government of the United States. The question is whether this land, being so held, the Government having relinquished its jurisdiction, it is competent for Congress, without the consent of the authorities of the State of Nebraska, to say that this land shall be for twenty-five years subject to the protection of the laws of that State and entirely exempt from taxation. I say that obviously upon the plainest principles of law it is not; and in order to test the sense of the Senate upon that proposition I move to strike out the words "and exempt from incumbrance and taxation" after "inalienable," in lines 9 and 10 of section 4 of the bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. DAWES. Mr. President, the Senator from Kansas, I think, stated when he moved the amendment that it was an important one, and correctly. It strikes directly at the efforts which are being made to civilize the Indians by means of making them agriculturists upon land of their own. It is an attempt to push the Indian out into the world without any care of him or any superintendent exercise of authority over him and over the property upon which he is to be placed. Without the Senator from Kansas intending any such result, his amendment is in its effect a provision by which an Indian can be most quickly and effectually deprived of his land; it is, in the language of one of the clearest-headed of all the Indians I have met, a method by which he would be in a very few months stripped as naked as a bird. That was the manner in which he expressed it.

There may be exceptions, but a majority of the Indians who are not as yet upon land in severalty are not so far advanced that putting them upon a portion of land with a patent in fee without any restrictions would enable them to take care of what they have and thereby of themselves. If we are to set an Indian up in severalty we must throw some protection over him and around him and aid him for awhile in this effort; we must countenance the effort; we must hold up his hand; we must instruct him how to maintain himself and how to regard the property through which he is to become self-sustaining. I know the Senator from Kansas does not desire to facilitate the preying upon the Indians by white men; but nothing can be so easy as to obtain from an Indian incumbrances upon his land which are equivalent to a conveyance of it.

Mr. INGALLS. My object is purely to test the question upon the right of Congress to exempt property from taxation within the limits of a State.

Mr. DAWES. I am aware of that.

Mr. INGALLS. I do not wish to include voluntary incumbrances; I think they ought to be excluded; but I want to come down to the simple naked proposition whether, under the Constitution and laws of this Government, Congress can exempt property in a State from taxation when vested in private hands.

Mr. DAWES. Perhaps the amendment of the Senator from Kansas goes beyond that and includes incumbrances by which as I understand him he does not mean any other except those involuntary incumbrances that come from enforcing the payment of debts and the like upon the Indian's land, which is another method of allowing him, an improvident, weak-minded man, unable himself at present to take care of himself, yet to be supposed to be in a condition where he can be led up to it and be made the prey of a sharper or any one with whom he may deal, to incur an obligation for the very purpose of using that obligation to despoil him. Unacquainted with the methods of meeting taxation and paying taxes, and redeeming lands sold for taxes, he can be stripped in that method of his lands. If it be worth while to make the experiment of trying to make an Indian self-supporting by means of teaching him the value of property and the indirect beneficial results that come from earning a livelihood upon property which is his own, it is worth while to use these ordinary instrumentalities that will keep him a ward of the nation let out from under our care only so far as his progress will show him capable of doing it.

The Senator from Kansas wants to test the power of the United States to exclude from taxation and from involuntary incumbrance any land which is now theirs, when they part with it to an Indian.

Mr. INGALLS. Not so broad as that.

Mr. DAWES. The Senator does not intend it, I know.

Mr. INGALLS. I said expressly within the limits of a State.

Mr. DAWES. Of course I mean within the limits of a State.

Mr. INGALLS. I did not speak of the power of the Government over land in the Territories. That is not touched.

Mr. DAWES. I am aware of that. The Senator wishes, if I may state it again, to test the power of the United States in any State to exempt, when it parts with land to an Indian, from taxation or involuntary incumbrance for a certain number of years that land which, while the United States does own it, is confessedly so exempt. If the United States has the power in the States to keep its own land for the use of the Indian free from taxation or involuntary incumbrance, then it seems to me that it can, whenever it conveys to the Indian that land which is held for that purpose, convey it upon such terms as it pleases.

I am not aware, Mr. President, of any decision of the Supreme Court adverse to the position of this bill. I have not been able to find any.

The PRESIDENT *pro tempore*. The time of the Senator from Massachusetts is up.

Mr. DAWES. If the Senate will indulge me, that I may say a few words more, I move to indefinitely postpone the bill. I will not trespass long upon the indulgence of the Senate.

The committee have not been able to find any authority to question the position taken in the bill. It has been one uniformly adopted. The Omahas occupy this land under treaty stipulations with the United States, equivalent to holding it by a grant from the United States, not in so many words, but equivalent in effect, and in that very treaty is a stipulation that they shall have their land in severalty whenever they desire. This provision in this bill is recognizing that authority in the treaty, and if the Senate shall decide now that it is beyond their power in the States to do this they reverse their uniform and unquestioned action in this matter for a long series of years, and they will do what in my judgment will be fatal to the success of the experiment of setting up an Indian upon land in severalty in the hope that he will be taught in that way to become a self-supporting citizen of the United States. I hope, therefore, that the amendment will not prevail.

I withdraw the motion to postpone indefinitely.

Mr. JONES, of Florida. Mr. President, in respect to this power of taxation it will be observed that in all the land States it was expressly stipulated in their acts of admission into the Union that they would not tax the public lands of the United States, and I presume that if these stipulations had not been made it might have been a question whether these lands could have remained exempt. Mr. Sumner was of opinion in his day that they could not. He took the ground, and there was great reason for it, that the lands held by the United States as a public proprietor, not needed for pub

lic uses, were just as much in equity bound to contribute to the burden of taxation of the State as any other lands within the State; and in a great argument which he made in the Senate in behalf of the struggling Western communities who were seeking aid to build railroads there, he was in favor of extending to them liberal donations of public land, and he put his argument on the ground that the States of the West had, in derogation of their right, given up their power of taxation in favor of the General Government, and the General Government as a great landed proprietor was just as much bound in equity to contribute to the support of the State government and to the building of roads and things of that kind as any other proprietor.

In every act of admission, certainly in the case of Florida and, I think, Alabama and all the land States of the South, it was stipulated that in consideration of a certain amount to be paid to the States, 5 per cent., I believe, of the net proceeds of the public lands, those States abandoned their right of taxation, and upon that ground it has stood in the nature of a compact between the States and the General Government ever since. The General Government has not attempted, in respect to its own public lands in the States, to claim the absolute right of exemption of those lands from taxation, but it put it on the ground of agreement with the States. The States in nearly every instance agreed that they would not tax the public land in consideration of the payment of 5 per cent. of the net proceeds to the States when sold. In some instances it was stipulated that they should remain exempt for some time after the sale to the purchaser; but that was all matter of agreement. There is nothing in those laws which goes to show that the Government ever set up its absolute right of exemption from taxation with respect to anything which was not necessary to the carrying out of the functions of the Government. Of course, in the great case of McCulloch *vs.* The State of Maryland, the Supreme Court held that any agency which might be necessary to the Government in the discharge of its functions and powers no State could tax; but the principle of that decision never extended to public lands held by the United States as a landed proprietor, because those lands in no sense have ever been necessary to the performance of the powers or the functions of Government.

Mr. ALLISON. Mr. President, I have looked over this bill, and I do not see that this proviso is a practical one in connection with the remainder of the bill. There is no provision here that these Indians shall be permitted to take these lands in severalty unless they do as other people, pay for them. Now, I would ask the Senator from Nebraska if it is contemplated in this bill that Indians will become the purchasers of any portion of this tract of land? This bill contemplates the very reverse, because it provides that the fund received in payment of these lands shall go directly into the Treasury of the United States, the interest only to be paid to the Indians.

Mr. SAUNDERS. In answer to the question propounded by the Senator from Iowa I will say that I do not think an acre of this land will be sold to the Indians, and hence I allowed this report to come in in this way through my own hands because of that fact. The other day we argued this same question on the bill to provide for the sale of the remainder of the Otoe reservation, and there it was decided by the Senate that they would leave this clause in, and on that account I was ready to leave it in here, although I did not think as a matter of fact a single acre of the land would go into the hands of Indians.

Mr. DAWES. The Senator will allow me. I think the Senator from Nebraska has overlooked the fact that underlying all this the treaty stipulations with these Indians is that any one of them can go on any part of all the present reservation, and is entitled to a patent, or what is equivalent to a patent; it is not called in the treaty a patent, but is equivalent in effect to a patent for 160 acres of land. Now, thirty-two at least of them have been here this winter representing that they are located on lands there and are entitled to a patent, and lest it may turn out that some of them are on this very land and are thus entitled, this provision is put in here.

Mr. ALLISON. Then a further provision ought to be inserted, excepting the rights of the Indians to the 50,000 acres, for the sale of which this bill provides, because here is an absolute direction that these 50,000 acres shall be set apart by metes and bounds, and appraised and sold. If a portion of this land is already occupied by individual Indians under the treaty stipulation we should except and reserve so much of said lands as are so occupied.

Mr. DAWES. I do not mean to assert that any of them are upon this land; but it was thought wise to provide that if any Indian had located there he should be taken care of and not thrown out.

Mr. ALLISON. In many of the laws providing for the admission of States into the Union a provision is reserved that the United States shall have absolute control of Indian reservations. I see no such reservation in the act admitting the State of Nebraska into the Union. I think there is no such reservation. Therefore, it seems to me it is a very grave question whether or not we can, under the laws of the United States, provide that these persons shall not be taxed under the laws of the State of Nebraska, in case they buy these lands as other people buy them. So it appears to me, under this bill, it is not a practical question, although it may be a very important one in other cases where we propose to allow Indians to settle in severalty upon reservations now within the boundaries of States already in the Union.

Mr. MORGAN. Mr. President, I do not understand——

Mr. SAUNDERS. The Senator will allow me to send up a letter to be read, to settle one question, probably, that has been raised here.

Mr. MORGAN. I will yield if it does not come out of my time.

Mr. SAUNDERS. When the question was first brought before the Senate inquiry was made of the Interior Department to ascertain whether any Indians were living upon this land. This letter is an answer made by the agent at the Omaha agency to the Interior Department. It will settle that question.

The PRESIDENT *pro tempore*. The letter will be read.

The Acting Secretary read as follows:

UNITED STATES INDIAN SERVICE,
Winnebago Agency, Nebraska, December 30, 1881.

To the honorable Commissioner of Indian Affairs, Washington, D. C.:

SIR: In answer to your letter of December 22, 1881, I respectfully state that there are no Indians living on the western portion of the Omaha reservation; that no land has been allotted to any of them so far as I can ascertain; and furthermore, that there are no improvements, such as houses, fencing, &c., upon the 50,000 acres of land alluded to in your letter. This land has a stream of water running through it, called the Logan, hence it is known as the Logan Valley.

I am, respectfully, your obedient servant,

ARTHUR EDWARDS, *Agent.*

Mr. MORGAN. The part of section 4 which the Senator from Kansas desires to strike out, I understand relates exclusively to the Indians who may become purchasers of this land at public sale, and there is no provision in this bill to exempt from taxation so much of the land as may fall into the hands of other persons under the sale. It relates only to the Indians. Then the question is presented whether Congress, in making this disposal of land reserved to the Indians, have the right to annex to the disposition the condition which is provided for in this fourth section. Congress has uniformly exercised that privilege, both in the States and in the Territories. My eye happens to fall on a case that occurred in the State of Wisconsin, the Stockbridge-Munsee tribes of Indians, residing in the county of Shawana, in the State of Wisconsin. One of the sections of that law provides as follows:

The homestead secured by virtue of the preceding section shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner encumbered, except upon the decree of the district court of the United States, as provided in the following section.

We have uniformly exercised this amount of control over lands belonging to tribes of Indians in whose favor reservations have been made, so as to protect the Indian against a thriftless disposition of his land after he shall acquire the right in severalty.

Mr. INGALLS. That question is not involved here.

Mr. MORGAN. It seems to me so, and it is the only question involved, because the Indian by purchasing the land which is now a part of the reservation, as he has the right to do as I understand the bill, acquires a title thereto subject to a condition that does not operate on the title of the white man, which is that it shall not be sold or encumbered for a period of twenty-five years, nor shall it be taxed by the State. We merely annex that condition to the disposal of this land which is yet within the jurisdiction and power of the United States Government. Surely, in conceding a title that does not now exist in favor of the State of Nebraska or in favor of the Indian reservee to him in severalty, we certainly have the right to annex this condition to him for the protection of the Indian; and it seems to me that if we yield this policy in this bill and all the others that are to follow it, this being a test question in the Senate, we shall expose the Indians to such an extent in respect to the land they will receive in severalty from the Government of the United States under the policy we are now trying to adopt, as that we had better not venture upon any such course. It is better to let them keep the lands in common than undertake to divide them in severalty between the Indians at all. Beyond all question, if the policy now insisted on by the Senator from Kansas is adopted by the Senate and carried into effect in the future disposal of public lands for the benefit of the Indians within their reservations, the property of the Indians will be swept away from them before they have a sufficient knowledge of affairs to be able to protect themselves.

Mr. INGALLS. I move to commit the bill, for the purpose of enabling me to say a few words more on this question, because it involves really a question of great magnitude, and one that deserves a more elaborate discussion than it can receive under the rule under which we are now operating.

The act admitting the State of Nebraska provides that—

No taxes shall be imposed by said State on lands or property therein belonging to or which may hereafter be purchased by the United States.

Therefore, with the exception of all land belonging to the United States or purchased by the United States, the right of taxation does affirmatively inure to the people of Nebraska. I quote now from the section of the constitution of the State of Nebraska upon the subject of eminent domain, article 6, section 3:

The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State.

Now, sir, the right to tax is the paramount right that arises from eminent domain. Unless there is the right to tax society cannot exist. If the Government can release one section of land from tax-

ation by an act of Congress within the limits of the State of Nebraska it can attach a similar provision to all land that ever has been occupied as an Indian reservation or military reservation whenever it is offered for sale. There is no more right in the Government to exempt land that is sold, from an Indian reservation, from taxation because it is sold to an Indian than there is because it is sold to a white man. The only question is, whether the Government releases its jurisdiction by giving a patent for a certain portion of this land to a private individual who is to live as a constituent member of that community, to receive the protection of its laws, to be allowed to travel over its roads and send his children to its schools, and at the same time to be entirely exempt from any impost upon the property on which he lives and to which this Government has no title whatever.

Mr. President, it appears to me that this is a very serious question, and when the Senator from Massachusetts states that this is an effort made to rob the Indians I should like him to state why. What robbery is there about imposing taxes like those which every other person pays upon the land that he owns and occupies? Is that robbery? What wrong is there about it? What rights has an Indian more than a white man to be exempt from bearing his burden of taxation upon the property that he owns and cultivates, and from which he obtains his support? If he is entitled to receive that land, if he has sense enough to take a patent for it and occupy it, he has sense enough to pay the taxes on it, and if he has not he ought not to be allowed to possess it.

I withdraw the motion to commit.

Mr. MORGAN. I renew the motion, Mr. President. I do not understand that the landed property of the United States Government in Nebraska is liable to taxation under the law as it exists. In order to bring it within the right and the power of the State to tax it, we have to part with the title, not with the eminent domain, but part with the fee-simple title into the hands of some person. We may part with that title conditionally, we may make a provisional arrangement by which the patent is to issue which contains within its four corners the express provisions that these lands are not to be subject to taxation, are not to be subject to be alienated or encumbered within the period of twenty-five years. The question, therefore, is whether we have the right to make such a provisional or conditional arrangement in favor of an Indian who we think needs and deserves such protection. May we dispose of land otherwise than by granting the fee-simple title absolute and *eo instanti*? That is the question. I think that the owner of land can certainly dispose of it upon condition; and that is all that Congress proposes to do in this bill.

Mr. HOAR. It seems to me that this is a very interesting question indeed. I should like, without having formed an opinion myself, to put a question to the Senator from Alabama. Does he claim that the United States might, for the purpose of enhancing the amount it should receive for its public lands, sell its public lands to white men only in any State? Suppose the United States should say in the State of Minnesota, "all the public lands we will sell on condition that they shall be exempt from taxes for the next twenty-five years," would that be lawful?

Mr. MORGAN. I understand that Congress has uniformly attached as a condition to the sale of all public lands that they should be exempt from taxation for a period of five years.

Mr. HOAR. I do not speak now of where they have reserved that right in the act admitting a State; but suppose they have not?

Mr. MORGAN. I do not understand that that provision of our laws has grown out of an agreement between the States and the Federal Government, but it is a power exercised in behalf of new settlers so that they may have a better opportunity to clear up their ground, build their houses, and establish themselves in living on the public lands.

Mr. ALLISON. I will call the attention of the Senator from Alabama to the act to enable the people of Nebraska to form a constitution and State government. I find in the third section of that act it is provided—

> That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States.

Mr. MORGAN. That is the doctrine to which I desire the Senate to adhere, that the public lands belong entirely to the Government of the United States, and are subject solely to their disposal, without contract or agreement with any one.

Mr. INGALLS. Not after they have sold them and given a patent.

Mr. MORGAN. If they sell them and put it in the patent that the grantee is to have a perfect title subject to taxation and with the right to encumber and the right to sell after a period of twenty-five years, I see no difficulty, either constitutional or in policy, in adopting a course of that kind.

Mr. INGALLS. Does the Senator hold the United States to have the right within the limits of the State of Kansas to give a patent to a white settler, providing that the land shall not be taxed for twenty-five years by the State of Kansas?

Mr. MORGAN. I do not know whether we have a right to discriminate between classes of persons in legislation. That is a different question entirely. But I think that in providing for the sale of a reservation which we secured to the Indians by treaty, and in which treaty it is said that they may hold their lands in severalty and receive patents, we have the right to provide that the patent shall inure to the party in full fee-simple title after the lapse of twenty-five years, and that there shall be an intermediate stage of the title which shall not be a complete fee-simple.

Mr. INGALLS. Take the case of this bill, where the land is confessedly land in an Indian reservation, and is to be sold to whites or Indians; does the Senator hold that the Government has the right to sell a portion of that land to a white man and put that condition in the patent that it shall not be taxed for twenty-five years?

Mr. MORGAN. I think the Government might have the right to do it. I would not undertake to commit myself, however, deliberately upon that proposition; but unquestionably where there is a right established by treaty in favor of the Indians under which provision a member of the tribe has the right to a location in severalty upon the identical land, when we come to execute the treaty——

The PRESIDENT *pro tempore*. The Senator's time is up.

Mr. MORGAN. Just allow me to——

Mr. INGALLS. I move to postpone the bill until to-morrow. That takes precedence, and the Senator from Alabama can take the floor on that motion.

The PRESIDENT *pro tempore*. If a Senator allows gentlemen to interrupt him, it must be taken out of his time. If he would simply declare that he would not allow any interruption, he could say a good deal in five minutes.

Mr. INGALLS. I move to postpone the bill until to-morrow, and that takes precedence of the motion to commit.

Mr. MORGAN. A weakly man has not much chance among the giants of the Senate.

Mr. INGALLS. The Senator from Alabama can go on on that motion and speak.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. MCMILLAN. I regard this as a very interesting and important question, although I incline to think that the position of the Senator from Kansas is incorrect. If I recollect the provisions of the homestead law passed by Congress, there is contained in that law a provision exempting a homestead from sale under an execution for any of the debts of the person who makes the homestead existing at the time the homestead right accrues. That provision I think involves the same principle that the Senator from Kansas supposes is involved in this question.

Mr. INGALLS. It would involve the same if the homestead law provided that it should not be liable for debts contracted after the title passed. That is exactly the difference.

Mr. MCMILLAN. Why that distinction?

Mr. INGALLS. Because this provides that after the title has passed from the Government by a patent still the land shall be exempt from taxation for twenty-five years after that.

Mr. MCMILLAN. The condition is imposed, however, at the time the Government parts with the title, and the exemption from levy and sale on execution continues after the party obtains his title.

Mr. HOAR. Does the Senator from Minnesota think that a private grantor could put such a condition, and would it operate in his grant, that the land granted should not be taxable for twenty-five years?

Mr. MCMILLAN. No, sir.

Mr. HOAR. Then this cannot be supported on the ground suggested by the Senator from Alabama, that the United States, as owner, has a right to make such conditions on its grant as it sees fit. You must dismiss that consideration if that be true. Therefore it must come that the power, if at all, must arise from the legislative authority of the United States, from its authority as a Government. Now, where does the Senator from Minnesota find the authority of the national Government to impose a perpetual or limited exemption from taxation on any real estate which is owned by a person who in all other particulars is like every ordinary citizen of a State, merely because it once owned it itself?

Mr. MCMILLAN. These are public lands.

Mr. HOAR. I put the question not to express an opinion, but to call out the view of the Senator.

Mr. MCMILLAN. These are public lands owned by the Government of the United States. The Indians by reason of their relation to the Government occupy this particular land at this time as the wards of the Government, and not as citizens of the United States. The Government does not part with the title in fee-simple, but permits the Indians, retaining still their relation to the Government, not as citizens, but as the wards of the Government, to enter upon the occupancy of this land under a qualified title. The conditions of that title are determined by the Government when the title, whatever its character, is acquired. The title is still in the sovereignty of the Government of the United States; and it can impose conditions.

Mr. SAUNDERS. I think there is probably not a full understanding with some Senators as to exactly how this matter stands. The Indians have in their reserve some one hundred and fifty thousand acres of land. They are living on the eastern part of it, what is called the Missouri part, and enough of land is reserved besides what we are offering to sell here to give the usual amount to them and a little more than is provided in the other bills for dividing up lands in severalty. So far as I am concerned, I am in favor, when Indians want

to take land and have it divided up and become citizens and take title to land to live upon, of giving them the advantages that are proposed by this bill. But this land is not occupied by the Indians. It is occupied by nobody. It is vacant land, so far as anything in the way of improvements is concerned, and they are proposing to sell it, and sell it for their own benefit. The money goes into their own pockets or into the Treasury of the United States for their benefit. It is different, therefore, from what it would be if it were now land divided up in severalty or if it were giving title to Indians being citizens of the United States and being self-sustaining. This, as I say, is done for their benefit, and every dollar of the proceeds goes into their own fund. So, then, if they want to buy any of it they ought to be treated really just like any other persons, so far as the land is concerned. So far as the land reserved, that which is not to be sold, is concerned, these other questions will come up, and I think I shall be in favor then of putting this clause in a subsequent bill as to that, as I am in favor of doing it in the Territories, and I shall do it in the States if it can be legally and properly done.

I wanted to make this statement to the Senate to show that this land has nothing to do with the land on which the Indians are living and residing at the present time.

Mr. INGALLS. I understand the Senator has no objection to my amendment.

Mr. SAUNDERS. I have no objection to the amendment.

Mr. INGALLS. I think it ought to prevail.

Mr. SAUNDERS. But I went with the majority of the committee in presenting the bill, and therefore I wanted to make this statement to the Senate to show that I am not treating the committee unfairly by presenting the bill and reserving to myself the right to vote as I choose on such an amendment as this.

Mr. MORGAN. I understood the Senator from Kansas to say that this was a test question, and he intended to test the opinion of the Senate on it; otherwise I should not have interfered with the case, because it is a very small matter if one or two Indians should buy small tracts of land that that land should be exempt from taxation and incumbrance for a period of twenty-five years in the State of Nebraska; but treated as a test question it is a very important one. I understand that the power of Congress to do this thing is challenged, and I understand also that the power of Congress has been expressly affirmed by the Supreme Court to do this thing, and upon the ground, if I understand the decision, that the Indian while he occupies or holds a tribal relation is not a citizen of the United States. We do not treat him and regard him as a citizen of the United States, and we have not extended our tax laws, perhaps, over the property of those persons who are within our domain but are not citizens of the country. In the case of the Kansas Indians it was decided by the present President of the Senate while he was on the Supreme Bench. I read the syllabus:

The State of Kansas has no right to tax lands held in severalty by individual Indians of the Shawnee, Miami, and Wea tribes under patents issued to them by virtue of the treaties made with those tribes respectively in 1854, and in pursuance of the provisions of the eleventh section of the act of March 3, 1859. (11 Statutes at Large, p. 431.)

Here is the eleventh section of the act referred to:

That in all cases where by the terms of any Indian treaty in Kansas Territory said Indians are entitled to separate selections of land, and to a patent therefor, under guards, restrictions, or conditions for their benefit, the Secretary of the Interior is hereby authorized to cause patents therefor to issue to such Indian or Indians, and their heirs, upon such conditions and limitation, and under such guards or restrictions as may be prescribed by said Secretary: *Provided*, That nothing herein contained shall be construed to apply to the New York Indians, or to affect their rights under the treaty made by them in 1838, at Buffalo Creek.

Mr. INGALLS. The Senator will observe that the distinction between these two cases was that the contract with the Shawnee Indians was made while Kansas was a Territory, subject to the jurisdiction of the United States.

Mr. MORGAN. Afterward, when Kansas became a State, however, it undertook to exercise the power of taxation over these very lands, and the Supreme Court held that they were protected by that treaty, not because the terms of the treaty or the act of Congress gave them lands in severalty and expressly prohibited that the lands should be taxed, but merely because they held their relations to the tribe, and not being citizens of the United States or of Kansas, their lands were not liable to taxation. I read the second branch of the syllabus to show that that is true:

If the tribal organization of Indian bands is recognized by the political department of the national Government as existing; that is to say, if the national Government makes treaties with and has its Indian agent among them, paying annuities and dealing otherwise with "head men" in its behalf, the fact that the primitive habits and customs of the tribe when in a savage state have been largely broken into by their intercourse with the whites—in the midst of whom, by the advance of civilization, they have come to find themselves—does not authorize a State government to regard the tribal organization as gone, and the Indians as citizens of the State where they are, and subject to its laws.

And the court held in that case that the lands were not liable to taxation, although neither in the patent nor in the act of Congress was there any express exemption from taxation. I think that is a broad doctrine; it is a generous one, and one that we ought to uphold in respect to these Indians. They are under our guardianship and care, and we owe it to them as well as to ourselves that we should preserve them against such persons of our own race, or any other race, as may find occasion to maraud upon their possessions and to deprive them of their lands, patented to them, before they have proper intelligence to take care of them.

Mr. DAWES. I do not know that I am in order in speaking at the present time.

The PRESIDENT *pro tempore*. The pending motion is to postpone until to-morrow. The Senator from Massachusetts has not spoken on that motion.

Mr. DAWES. I regret very much that the right of the United States to exempt land held in severalty by Indians under patent should be determined upon this bill, because the whole purpose of this proviso in the bill was to save such rights as possibly might exist to any individual Indian upon this territory growing out of this provision of the treaty made in 1866:

The Omaha Indians being desirous of promoting settled habits of industry and enterprise among themselves by abolishing the tenure in common by which they now hold their lands, and by assigning limited quantities thereof in severalty to the members of the tribe, including their half or mixed blood relatives now residing with them, to be cultivated and improved for their own individual use and benefit, it is hereby agreed and stipulated that the remaining portion of their present reservation—

A part of which is this—

shall be set apart for said purposes, and that out of the same there shall be assigned to each head of a family not exceeding one hundred and sixty acres, and to each male person, eighteen years of age and upward, without family, not exceeding forty acres of land—to include in every case as far as practicable a reasonable proportion of timber. Six hundred and forty acres of said lands, embracing and surrounding the present agency improvements, shall also be set apart and appropriated to the occupancy and use of the agency for said Indians. The lands to be so assigned, including those for the use of the agency, shall be in as regular and compact a body as possible, and so as to admit of a distinct and well-defined exterior boundary. The whole of the lands, assigned or unassigned, in severalty, shall constitute and be known as the "Omaha reservation."

It then goes on to stipulate that the Indian may have a paper or certificate that shall give him and his descendants exclusive occupation of this land. It was supposed by the committee, upon the information derived from the Nebraska Senators, that there were no Indians upon this land, either in common or in severalty; but it was known to the committee that a portion of the Indians, thirty or forty of them, had gone upon the land somewhere and made a location which entitled them to these certificates which gave that exclusive occupation to them and their descendants.

Mr. SAUNDERS. The Senator is mistaken about their going on to this land.

Mr. DAWES. In order to perfectly protect their rights, although it was said and believed to be true by the committee that none of them were upon this land, yet, lest it might turn out that we were mistaken, it was provided that any Indian under these circumstances upon this land should be preserved in his rights by a patent. No one supposed, no one intended that if an Indian, like a white man, should go and purchase this land offered for sale and pay for it, such an Indian should have a patent exempting his land from taxation. No one intended any such thing as that. It was left to the Senator from Nebraska to draw an amendment that would cover and protect the possible rights which no one knew existed, and the Senator from Nebraska supposed he had done it.

And, therefore, while I am not disposed to yield the proposition of law suggested by the Senator from Kansas, who was present when this bill was formed and came out in its present shape, nevertheless it would be a great misfortune to the Indians elsewhere, though it might not affect these, if the Senate should decide that the United States had not authority to exempt land from taxation for twenty-five years which they have the power, while they hold themselves for the Indian, to keep from taxation or incumbrance any number of years. It was deemed by the committee, and has always been so considered by the United States, that the Government parts with but a portion of the title, holding a portion of that title within itself for the very purpose of taking care of the Indians, holding in some sense the title for the purpose of the protection and the uses of the Indian, still holding enough to take care of him. That is the sense in which a patent exempts it from taxation.

I have no interest in this bill further than that the Senate shall not commit itself to a ground that will embarrass us in the future.

Mr. JONES, of Florida. Mr. President, I think it will be well for us to understand this question, for it is an important one. For one, I do not question the right of the Government of the United States by treaty to secure to a tribe of Indians the right to hold a tract of land independent of State authority; and when I was in the debate the other day my friend from Texas, [Mr. MAXEY,] not now in his seat, referred to the Cherokee decision in the case of the State of Georgia as affording an illustration against what I contended for then. But that decision only bore out what I said and what I propose to stand by now. In the case of the Cherokee Indians against Georgia, the Supreme Court held distinctively that they were an independent power in that State, and that the State of Georgia had no right to extend her laws over them, Marshall giving the opinion of the court. So in this case I do not question the right of the General Government to set apart a body of land for the Indians and to maintain them there as a distinct tribe, permitting them to hold their lands either in severalty or in common. But if it is the object of this bill to break up the tribal organization and to resolve those savage elements into the great body of the civilized community, then a very different principle must prevail. They cannot be pas-

mitted to have the principle extended to them in a civilized state which was applicable to them in a barbarous state.

If it is the purpose of the General Government to throw this body of Indians among the civilized masses of Nebraska and to enable them to obtain titles to this land in severalty by patent, they must hold this land upon the same condition as other citizens of that State. If it proposes to keep them apart from the white community and maintain their tribal relation, it can permit them to hold their land in severalty or in common for that purpose, and they are not subject to the laws of Nebraska at all. But the moment it undertakes to reverse this order of things, and to throw these savages into a civilized state, to sell their land to the highest bidder, enabling the Indian to come forth, if he thinks proper, and pay money and take the title, he can only take the title upon the same conditions as a white purchaser, and he must submit to every law and authority in that State the same as a white citizen.

Mr. DAWES. I think the design of the Senator from Nebraska will be reached by an amendment, and I offer as a substitute for the proviso the following:

Provided, That any right in severalty acquired by any Indian under existing treaties shall not be affected by this act.

If that meets the views of the Senator from Nebraska I will move to strike out the proviso and insert it.

Mr. SAUNDERS. As far as I am concerned, I will accept the amendment.

Mr. DAWES. The phraseology of the bill is open to the construction that if any Indian purchases like a white man he can have a patent exempting him from taxation. It does not mean that.

The PRESIDENT *pro tempore*. The proposition of the Senator from Massachusetts [Mr. DAWES] will be read.

The ACTING SECRETARY. It is proposed to strike out the proviso in section 4, and in lieu thereof to insert:

Provided, That any right in severalty acquired by any Indian under existing treaties shall not be affected by this act.

Mr. DAWES. If by chance any Indian has gone under existing treaties upon any portion of this land that it is proposed to sell, and acquired under the treaty the right to have a certificate in severalty, it will not be affected by this, and when the land comes to be sold his right to one hundred and sixty acres must be exempt from the sale.

Mr. INGALLS. That is satisfactory.

Mr. CONGER. I should like to inquire whether, under that provision, Indians now having the right to take any part of this land in severalty will continue to have that right?

Mr. DAWES. Not after the sale.

Mr. CONGER. I suppose that would defeat the object of the bill, for the part that is to be sold embraces the cream of all that reservation, the Logan Valley, and it is the part which any intelligent white man would select his right of severalty upon if he had it, and not among the bad lands bordering on the Missouri, which are left for the Indians. I am opposed to this continual attempt by legislation not only to take away the fairest and richest portions of the Indian reservations by such laws as this, but to still further diminish any right that the Indian may have by compelling him to take from the poor remainder in severalty the one hundred and sixty acres of land, and to the young man eighteen years old, who does not want a farm himself, a little pittance of forty acres, in lieu of his right to all this domain. I am very much surprised that the Senator from Massachusetts, so zealous for the rights of the Indian, permits this bill to pass without knowing, perhaps, as I happen to know, that the very desirable part of all this reservation, the part which white men want to-day, is this Logan Valley. I thought it was the most beautiful piece of land I had ever seen in the United States, as I passed through it a year ago.

It may be all for the best that this land be given to our white Nebraska friends, that piece after piece of the best farming land in that region be taken from the Indians. I know that this bill says it is to be with the consent of the tribe; but the wards of the nation are protected even against their consent by the theory of the Government. They want to be near the river; in their ignorant condition as to farming and agriculture, they want to be where they can throw their lines into the muddy river and draw out the catfish. That is all they live upon, I am told. They will not select the land best adapted for agricultural purposes first; but intelligent men would select this beautiful Garden of Eden which is to be given to the white people from the part of the reservation now proposed to be sold.

I submit to the Senator from Nebraska whether in point of fact the very cream of that reservation is not to be sold under this bill, and whether the Indian's right to take land in severalty is not left to apply to the broken, unfertile portions of the reservation because of the timber there and the gullies there, and the river in which the Indians now fish?

Mr. SAUNDERS. The Senator says that the Indians are by the river for the purpose of catching cat-fish alone.

Mr. CONGER. There may be other kinds of fish; I do not know about that. I do not confine my remark to cat-fish; I enlarge it.

Mr. SAUNDERS. There are more successful farms at those two agencies worked by Indians than anywhere I know of in any part of the country. The members of the other House who were with me visiting these Indians a few years ago found several of these Indians selling four or five hundred bushels of corn, and they have just as good lands left as these are. They want to sell this land, and the tribe have wanted to sell it for the last ten years. About ten years ago a bill was passed for the purpose of selling this same land, but it was limited to $2.50 an acre, and they could not make sale of the land at that time at that price. Lands are more valuable now than then, and can be sold for more. So I have put in the same clause, that they shall be sold at not less than $2.50 an acre.

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield?

Mr. CONGER. I am compelled to yield.

Mr. SAUNDERS. I thought the Senator was through.

Mr. CONGER. No; I had a word or two more to say, but I wanted to arouse the attention of my friend to this proposition. This bill proposes to give the Indians their rights, it is said. Why not make this bill as in other cases so as to give these Indians the right to make their selections after they are informed, after the nation has instructed its wards as it generally does by driving them away from their lands? Why not allow them to make their selection from the land along the Logan Valley, and then sell the residue of their reservation? That is the way we have done in other parts of the country; that is the way we did among the Indian tribes in Michigan. They first made their selection; they were not confined to the paltry little strip of forty acres for each male eighteen years old. But this fertile land in Nebraska, that part of the reservation which is really valuable, must first be taken off, and then a little pittance of land, one hundred and sixty acres to one, forty acres to another, given, and I do not know but twenty to some of the Indians——

Mr. SAUNDERS. No.

Mr. CONGER. I am glad to hear that it is not down to twenty acres.

Mr. SAUNDERS. And it is not down as low as forty acres each for individuals.

Mr. CONGER. I understand the bill to say forty acres.

Mr. SAUNDERS. To be sold in tracts of forty acres, but the land that is to be left for the Indians after this is sold will be more than eighty acres to each individual Indian, great and small.

Mr. CONGER. I may have been mistaken in regard to that. It would be in keeping with the bill to confine it to forty acres, and I thought naturally the bill was consistent with itself.

Mr. DAWES. Mr. President, the Senator from Michigan seems to be surprised that I have given my assent——

The PRESIDENT *pro tempore*. The Senator from Massachusetts is not in order.

Mr. DAWES. I wanted to relieve the Senator from Michigan from his surprise; but I can do it to-morrow.

Mr. ALLISON. Let us vote.

Mr. DAWES. I want to state to the Senate the ground on which I gave my assent to this bill. I have not had the benefit of personal knowledge of the ground as the Senator from Michigan, nor have I had any special claim——

The PRESIDENT *pro tempore*. The Senator from Massachusetts is speaking on his own amendment, the Chair is informed, and therefore in order.

Mr. DAWES. Last summer I saw the representatives of this tribe, and I heard them myself state that, while they were unwilling to take upon their ground any other Indians, they were very anxious to sell a portion of their real estate and obtain the money, so that the interest of the money they could use for the improvement of the residue of their property. They had more land than they could occupy, as I heard them state myself.

When this bill came in I was troubled lest the sale of 50,000 acres would leave the reservation too small. I went personally to the Indian Bureau to satisfy myself upon that point, and by the Commissioner of Indian Affairs I was assured that it would leave an ample reservation, as much as, if all the Indians should take in severalty, would give each one a farm and have some left for such increase of numbers as might probably be expected in the next twenty-five years; that there was no apprehension on the part of the Department; they were satisfied. He said that it would be for the interest of these Indians to have a portion of their lands converted into money the use of which they could have.

The PRESIDENT *pro tempore*. The hour of two o'clock has arrived, and the Chair will lay before the Senate——

Mr. DAWES. I wish the Senate might dispose of this bill. If there be no objection, I ask the Senate to continue the consideration of it.

Mr. INGALLS. Regular order.

The PRESIDENT *pro tempore*. The regular order is called for, and the Chair lays before the Senate the unfinished business.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President yesterday approved and signed the following acts and joint resolution:

An act (S. No. 699) granting an increase of pension to Saint Clair A. Mulholland;

An act (S. No. 1558) to amend section 2569 of the Revised Statutes, in relation to appraisers at the port of New Orleans, Louisiana; and

A joint resolution (S. R. No. 56) providing for the erection of a monument over the grave of Thomas Jefferson.

HOUSE BILLS REFERRED.

The bill (H. R. No. 2744) to regulate the carriage of passengers by sea was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 4172) to provide for the erection of a public building in the city of Syracuse, New York, was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

MISSISSIPPI AND MISSOURI RIVERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

Mr. JONAS. Mr. President, while as a member of the Committee on the Improvement of the Mississippi River and its Tributaries I gave my consent that the bill now before the Senate should be reported I yet reserved my right to support the amendment to be offered by the honorable Senator from Arkansas, [Mr. GARLAND,] and to offer myself another amendment partly in the same line, that of declaring it to be the policy and duty of this Government, both to maintain and improve the navigation of the Mississippi River, and at the same time to guard against and prevent the destructive and periodical overflow of its banks.

Both the bill and amendments provide that the money to be appropriated shall be expended "under the direction of the Mississippi River commission," and "in accordance with plans recommended by said commission," and I propose to show not only that these plans include, and recommend to a large extent, measures for the protection of the alluvial lands in the Mississippi Valley from overflow, but that the river commission were expressly charged with the duty of inquiring into and maturing such plans and submitting them to Congress for action.

The fourth section of the act of Congress, approved June 28, 1879, by which the Mississippi River commission was created, provides that—

It shall be the duty of said commission to take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River, improve and give safety and ease to the navigation thereof, prevent destructive floods, promote and facilitate commerce, trade, and the postal service; and when so prepared and matured, to submit to the Secretary of War a full and detailed report of their proceedings and actions, and of such plans, with estimates of the cost thereof, for the purposes aforesaid, to be by him transmitted to Congress: *Provided*, That the commission shall report in full upon the practicability, feasibility, and probable cost of the various plans known as the jetty system, the levee system, and the outlet system, as well as upon such others as they deem necessary.

And section 5 of the same act provides that—

The said commission may, prior to the completion of all the surveys and examinations contemplated by this act, prepare and submit to the Secretary of War plans, specifications, and estimates of costs for such immediate works as, in the judgment of said commission, may constitute a part of the general system of works herein contemplated, to be by him transmitted to Congress.

Thus Congress has expres ly appointed a commission charged with the duty not only of maturing plans and furnishing estimates of the cost of works for deepening the channel of the Mississippi River, but also for protecting its banks in order to prevent destructive floods. Yet, when plans have in great part been matured and submitted to Congress, which plans include recommendations for levees and an indorsement of the levee system, we find a disposition to treat this as a new and original question, and as such to deny the right of Congress to make an appropriation for the purpose.

In the bill reported by the committee the following proviso has been inserted:

Provided, That no part of the sum herein appropriated shall be used in the construction or repair of levees for the purpose of preventing injury to lands by overflow, or for any other purpose whatever, except as a means of deepening the channels or improving the navigation of said rivers.

This proviso embodies in a modified form the prejudice and hostility which has long existed, both in and out of Congress, to any measure for the improvement and development of this magnificent natural water-way which, while accomplishing that object, shall afford protection to the alluvial lands through which it flows to meet the sea.

This objection is urged even now, in the face of the great misfortune which has befallen the lowlands of the Mississippi Valley, and which has reduced one of the most prosperous agricultural districts of the earth to a comparative waste, and thrown many thousands of contented and well-to-do laborers upon the generous charity of the Government for bread with which to maintain life.

Many Senators and Members of Congress are willing to vote liberal appropriations for the purpose of preserving a proper depth of water in the channel of the river during the low-water season who cannot see their way to the expenditure of a dollar for the purpose of restraining the water within the banks of the river during the season of high water. Hence this proviso.

But, Mr President, as I said before, this is not a new question. It was settled in the passage of the bill creating the Mississippi River commission.

That commission was charged by its organic act with the duty of preparing plans for the protection of the banks of the river and for preventing "destructive floods." They have made their surveys, they have determined upon plans both for deepening the channel and protecting the banks of the river, and for preventing destructive overflows. They have performed in part the duty assigned them, and have reported their plans and estimates to Congress as directed, and now when we come to make an appropriation to carry out those plans we are about to say that not a dollar of that appropriation is to be used for the purpose of preventing injury to lands by overflow, at least by the construction and repair of levees, which, in the opinion of the commission as well as of nearly all engineers and practical men, is the only mode of preventing destructive overflows.

I do not think, Mr. President, that we should take such a step backward; certainly the country does not expect it of us; certainly not when the whole valley of the Mississippi is deluged with its waters, and the riparian proprietors, as well as the States affected, are powerless to stay its ravages.

The Mississippi River, Mr. President, is a great highway belonging to the nation, and extending from its northern frontier to the Gulf of Mexico. Its waters wash the shores of ten States, and it receives the water-shed of nineteen States and all of our Territories east of the Rocky Mountains. It is too great for individual control, and its waters pass from the jurisdiction of any one State. No corporation can be formed grand enough to control it even if the policy of our Government and the interest of the people would permit that it should be submitted to such control. No State has power to bind it or place limit on its flow of waters, or to make treaties with her sister States in order to secure united action for that purpose. The great States of the Northwest, along which it flows, safely intrenched between hills and highlands, demand that it should bear their rich products of wheat and corn and pork and cattle to the markets of the South and of Europe, and ask the Government to improve and maintain its channel so that the cost of such transportation may be reduced and its efficiency increased.

The people of the Southwestern States, along whose alluvial banks the mighty river wends its way to the sea, join in this prayer, for they are purchasers and consumers of the breadstuffs and provisions produced by their brethren, for which they pay with the price of their great staple which clothes half the world and forms the great medium of exchange between this country and Europe.

Shall one interest be protected and another destroyed? Shall the channel be deepened to the sea so that the produce of the North and West may be safely and cheaply conveyed to market, and shall the waters be permitted to overflow and desolate the magnificent country between Cairo and the Gulf? Shall the great river be made a benefaction and a blessing to one portion of our people and be permitted to carry ruin and desolation to another? And is it to the interest of the great grain and food producing North and West that their best home market should be impoverished and destroyed?

President Garfield said in his letter accepting the nomination for the Presidency:

The Mississippi River, with its great tributaries, is of such vital importance to so many millions of people that the safety of its navigation requires exceptional consideration. In order to secure to the nation the control of all its waters, President Jefferson negotiated the purchase of a vast territory extending from the Gulf of Mexico to the Pacific Ocean. The wisdom of Congress should be invoked to devise some plan by which that great river shall cease to be a terror to those who dwell upon its banks and by which its shipping may safely carry the industrial products of twenty-five millions of people.

And in his eloquent remarks on the Mississippi River commission bill in the House of Representatives, June 21, 1879, he said:

I believe that one of the grandest of our material national interests—one that is national in the largest material sense of that word—is the Mississippi River and its navigable tributaries. It is the most gigantic single natural feature of our continent, far transcending the glory of the ancient Nile, or of any other river on the earth. The statesmanship of America must grapple the problem of this mighty stream. It is too vast for any State to handle; too much for any authority less than that of the nation itself to manage. And I believe the time will come when the liberal-minded statesmanship of this country will devise a wise and comprehensive system that will harness the powers of this great river to the material interests of America, so that not only all the people who live on its banks and the banks of its confluents, but all the citizens of the Republic, whether dwellers in the central valley or on the slope of either ocean, will recognize the importance of preserving and perfecting this great natural and material bond of national union between the North and the South—a bond to be so strengthened by commerce and intercourse that it can never be severed.

Years before, in his speech at Memphis in 1845, Mr. Calhoun, the leader of the school of strict constructionists, said:

The invention of Fulton has in reality for all practical purposes converted the Mississippi with all its tributaries into an inland sea. Regarding it as such, I am prepared to place it on the same footing with the Gulf and Atlantic coasts, the Chesapeake and Delaware Bays and the lakes, in reference to the superintendence of the General Government over its navigation. It is manifest that it is far beyond the power of individuals or of separate States to supervise it.

In discussing a bill making an appropriation for the repair of levees on the Mississippi River, in the United States Senate in 1866, Mr. Thomas A. Hendricks, of Indiana, said:

I was not discussing the question whether Congress can fence farms. That is not exactly the question. The question is whether Congress can aid to reclaim a country which the Government bought in 1803, without the express letter of the Constitution authorizing it. This is to reclaim a whole section of the country and to restrain the Mississippi River within its natural limits. That river is under the control of the Government for almost every purpose. It is a great channel of commerce; it is the nation's river; it does not belong to Louisiana; it does not belong to Mississippi; it is the river of all the States; and when it has broken beyond its bounds, why may we not restrain it by some little aid which the Government of the United States may give to the people along the border?

But I was saying, when the Senator interrupted me, that there is no portion of the country more interested in this particular measure than the region of country that he and I represent. Let us have again that country restored to a condition of productiveness, that our people, the men of Indiana and of Illinois, may find there the market that they did before these dreadful crevasses destroyed that country.

In the same debate Mr. Howard, of Michigan, said:

It is a great channel of commerce. Have we not a right to protect it as such? Have we not a right to dredge it out for the purpose of facilitating trade and navigation upon its bosom? I think no gentleman will deny it; and if we have a right to dredge it, have we not, upon the same principle, a right to establish embankments upon it for the purpose of keeping the waters within their proper channels? These levees, I understand, were erected there mainly for that purpose originally.

I vote for this as a great national improvement. It may incidentally inure to the benefit of proprietors upon the banks of the river. If it does, I should be entirely content with it. But the great object is to afford facilities for commerce and navigation upon that stream, an object in which not only the States mentioned in the amendment are particularly interested, but in which Illinois, Ohio, Wisconsin, Iowa, Michigan, all the States of the Union, have an interest as part and parcel of this great nation; and I will not limit or confine my views to the small benefit which it may possibly confer upon the few persons who are immediately interested as planters and owners of farms upon this great river. I vote for it as a national object, as a national undertaking worthy of Congress, and I hope to see the amendment passed.

As I said, this is not a new question. The action of Congress in the passage of the bill creating the Mississippi River commission was not its first legislation in favor of building levees in order to prevent inundations of the Mississippi River.

In the general appropriation act of September 30, 1850, the Government directed the application of $50,000 to "a topographical and hydrographical survey of the delta of the Mississippi, with such investigations as may lead to determine the most practicable plan for securing it from inundation," &c. Fifty thousand dollars additional were applied under the law of August 31, 1852, for a continuance of that survey of "the Mississippi bottom and such investigations as may lead to determine the most practicable plan for securing it from inundation."

Private enterprise in Louisiana had brought into market swamp lands held by the Federal Government to the extent of two millions of acres. In consideration of this gain to the Treasury, the act of March 2, 1849, granted the remaining swamp lands in Louisiana to that State for the uses of her levees. On similar grounds Congress extended the provisions of that law in the act of September 28, 1850, to Arkansas and all other States having lands of that character belonging to the Federal Government.

It was largely with the proceeds of these lands that the States of Arkansas, Mississippi, and Louisiana constructed the very excellent system of levees which they maintained before the war, and the enhanced value of the lands reclaimed within those levees afforded basis for taxation sufficient to keep them in repair. The surveys authorized by the appropriations made in 1850 and 1852 were continued until the war, and a report was made upon them in August, 1861, by General Humphreys and Colonel Abbott.

In 1865 Mr. Stanton, then Secretary of War, directed General Humphreys to make an examination and survey of the Mississippi levees and report where and what repairs were most urgently required to prevent great injury to the agricultural interests of the alluvial region of the Mississippi. This Mr. Stanton did with a view of repairing the ravages of war and restoring the levees which had been destroyed as a military necessity. Since repeated reports of a favorable character have been made by committees of Congress on bills favoring appropriations for building levees as a part of a scheme for general river improvement, and these bills generally failed for want of concert of action, proper information, and a recognized and official plan of improvement. In order to secure such a plan the act creating the Mississippi River commission was passed with singular unanimity. Distinguished engineers were appointed upon that commission, and after elaborate examination and surveys they have made two reports to Congress—a preliminary report in 1880, and one fuller and more comprehensive in November, 1881. In the latter report the commission say:

The utility of levees as a means "to prevent destructive floods," which is one of the ends enumerated in the act creating the commission, is too obvious to require comment. The importance to be attached to that object is a matter wholly within the discretion of Congress, and not suitable to be discussed here.

The utility of levees as a means to "deepen the channel" of the river and "improve and give safety and ease to the navigation thereof," which are other ends enumerated in the act, is a subject on which differences of opinion exist, and in respect to which the facts collected do not carry equal weight as evidence to the minds of all the members of the commission. It is considered by all that levees, by confining the flood waters of the river within a comparatively restricted space, do tend, in some degree, to increase the scouring and deepening power of the current. But the extent and potency of their influence in the improvement of the low-water channel, in respect to which, for the purpose of navigation merely, improvement is most needed, and their value, for that purpose, as compared with other methods of improvement, and as compared with their cost, are regarded as subjects requiring further observation and study, and the accumulation of further and more comprehensive data, before final conclusions can be reached concerning them. In the mean time, and in the existing state of knowledge on the subject, the present judgment of the commission cannot be better expressed than in the words of their report of February 17, 1880, from which the following extract is submitted:

"Levees have never been erected upon the banks of the Mississippi River except for the special purpose of protecting the alluvial lands from overflow. They have, therefore, always had reference to the high-water stage, and the degree to which levees might prudently be relied upon 'to improve and give safety to navigation,' 'promote and facilitate commerce, trade, and the postal service,' has not hitherto entered into the question of the construction and maintenance of a levee system.

"There is no doubt that the levees exert a direct action in deepening the channel and enlarging the bed of the river during those periods of 'rise' or 'flood,' when by preventing the dispersion of the flood-waters over the adjacent low lands, either over the river banks or through bayous or other openings, they actually cause the water to rise to a higher level within the river-bed than it would attain if not thus restrained.

"It would seem to follow, from the law that the volume of water flowing in the bed determines the size, that, prior to the construction of levees, the area of the mean cross-section of bed of the Mississippi River must have been less than it was after the levees had reached their most efficient condition, assuming, what is believed to be true, that the average rainfall in the Mississippi Valley has not materially changed within the last hundred years.

"There is some evidence, in a comparison of the results of Young, Poussin, and Tuttle's examination of 1821 with later surveys, that the width of the river has increased since that date.

"As silt-bearing streams in alluvial districts have a tendency to assume in the straight reaches cross-sections which are arcs of circles, and in the bends curves of deeper forms, it follows that any general widening of the river resulting from concentration or increase of volume which may have taken place would, as a rule, be accompanied by a general and corresponding deepening as the result of such general enlargement, although local shoalings, temporarily injurious to navigation, might occur.

"There is reason to believe that during the period when levees were in their most perfect condition, from 1850 to 1858, the channel of the river was better generally for purposes of navigation than it has been since that time.

"It is known that during the last twenty years the levee system has been continuously interrupted by a great number of crevasses between Cairo and Red River.

"Before the levees were built a large portion of the flood-waters spread out over the banks of the river in a thin sheet, of which the average depth at the margin of the stream, where it escaped, did not probably exceed a few inches, or, at most, a foot. The immediate effect of the levees would be to increase the volume and height, and accelerate the velocity of the flood-waters between them, resulting in an erosion and deepening of the river-bed, and ultimately in a corresponding lowering of the flood-slope, in accordance with the general law already quoted—that an increase in the normal volume of discharge in a sedimentary stream, flowing through alluvial deposits, results ultimately in a lowering of the flood-surface. It would seem, therefore, that a closure of the crevasses might be expected to accelerate the removal of those shoals which have been produced by them, and if their closure be accompanied by the requisite contraction of the channel to a more nearly uniform high-water width, a lowering of the flood-level may be expected to such extent as will ultimately render the maintenance of the levees as an aid to navigation practically needless above Red River, and greatly lessen the necessity of their permanent maintenance for that purpose below Red River, even at a reduced height.

"While it is not claimed that levees in themselves are necessary as a means of securing ultimately a deep channel for navigation, it is believed that the repair and maintenance of the extensive lines already existing will hasten the work of channel improvement through the increased scour and depth of river-bed which they would produce during the high-river stages. They are regarded as a desirable, though not a necessary, adjunct in the general system of improvement submitted.

"It is obvious that levees are, upon a large portion of the river, essential to prevent destruction to life and property by overflow. They give safety and ease to navigation and promote and facilitate commerce and trade by establishing banks or landing-places above the reach of floods, upon which produce can be placed while awaiting shipment, and where steamboats and other river craft can land in times of high water.

"In a restricted sense as auxiliary to a plan of channel improvement only, the construction and maintenance of a levee system is not demanded. But in a larger sense, as embracing not only beneficial effects upon the channel, but as a protection against destructive floods, a levee system is essential, and such system also promotes and facilitates commerce, trade, and the postal service.

"A levee system aids and facilitates the postal service by protecting from injury and destruction by freshets and floods the various common roads and railways upon which that service is conducted to and from the river bank, and generally within that portion of the alluvial region subject to overflow. Moreover, the permanent maintenance below Cairo of a connected levee system—a system of sufficient strength to inspire confidence in its efficiency, or the demonstration by the achieved results of an improved river that overflow need no longer be seriously apprehended—would act as a prompt and powerful stimulant in rapidly developing a largely increased trade and commerce in all the products of agricultural industry indigenous to that region and in those branches of manufacturing enterprises related thereto."

In the report of the sub-committee on outlets and levees upon the degradation of the banks of the river and its effect upon navigation, will be found many strong arguments in favor of the levee system, and also the theory, supported by an irresistible array of facts, "that the elevation of the banks of the river before the lands adjacent to the main stream, and in the basins of its tributary streams, were cleared and cultivated, conformed much more nearly to the flood plane of the river than they do at present, and they are now so degraded by causes to be cited hereafter that the building of levees originally undertaken for reclamation has now become a question of maintaining artificially the former height of banks to preserve navigation;" and this decay of the banks is shown to be the natural result of the deforestering and cultivation of the country, and the sub-committee continue—

The time has passed when we can deal with the causes of change and deterioration heretofore cited. We cannot arrest the continued settlement of the basins and of the immediate banks of the stream, nor the attendant processes of clearing, draining, reclaiming. In any plan of improvement it must be recognized that the banks of the river have been lowered from their normal height several feet by causes that will increase for many years; that this former elevation of bank is restored, and the dispersion of flood-waters restrained by artificial embankments; that these are in precarious condition, requiring constant repair, and an extension, of more or less importance, in the plan recommended in our previous reports.

Therefore, apart from this extension, which has been partially discussed in previous reports of the commission as a work that would be of auxiliary importance, does not the question of levees, in view of the foregoing discussion, assume greater importance than has been allowed heretofore?

Would not the navigation of the river be most seriously obstructed if the normal banks were lowered seven or eight feet, as they now would be by the obliteration of levees, so as to allow the dispersion of flood-waters at a stage that much lower than the height which the river established, in compliance with the laws of its regimen?

Do not the present levees, instead of being only supplementary works built on top of the banks, stand as a part of the normal bed, giving that height of bank and maintaining that restraint upon the flood-waters which were established as conditions of its regimen? (See page 125, Report Mississippi Commission.)

The commission of engineers appointed under the act of June 22, 1874, "to investigate and report a permanent plan for the reclamation of the alluvial basin of the Mississippi River subject to inundation," in their report, after describing the incomplete levee system after the war, say:

In fine, then, the experience of over one hundred and fifty years has utterly failed to create judicious laws or effective organization in the several States themselves, and no systematic co-operation has ever been attempted between them. The latter is no less important than the former, for the river has no respect for State boundaries, and deluges Arkansas through breaks in the levees of Missouri, and overflows Louisiana by floods passing across the Arkansas line.

It is a common and apt figure of speech to personify the Mississippi, and to speak of the conflict waged to protect the country against the inroads of a terrible

enemy, and yet the army of defense has always been content to remain a simple aggregation of independent companies, with here and there a battalion under the command of a board of officers. That victory has not more frequently perched upon their banners is surely not surprising.

The British administration of the Indian lines is in striking contrast. The government takes the initiative, and sends its engineers to survey and estimate for levees at such localities as promises to be remunerative. The reports with detailed maps, plans, and estimates of costs are sent to the collector, who publishes the same and calls for reasons why the improvement shall not be ordered. Unless good reason is shown by the owners of the land to be benefited, the levees are built by the Government and a tax sufficient to pay for the same is laid upon the lands reclaimed thereby. If the sum is large an annual tax for a term of years is collected; if small, immediate payment is required. The enhancement of the value of his land thus precedes any raising of money by the proprietor.

This system is not suggested for adoption on the Mississippi, but is mentioned simply as an illustration that other nations have found by experience that individual efforts cannot successfully combat nature on a grand scale.

In the report of Humphreys and Abbott, made to the Secretary of War in 1861, (to which I have already alluded,) it is stated:

As the result of the careful investigation the subject had received, that the only method of protection against inundation that could be resorted to with success was the levee system, but that the levees as then constructed were not high enough by several feet. The additional heights that should be given at different points in the course of the river are there pointed out.

It is further stated that if there were no levees whatever, the cost of constructing them of such height and dimensions as would give complete protection against inundation to the whole alluvial region would amount to about twenty-six million dollars.

That to bring the levees then standing to this perfection, supposing them to be properly located, would cost $17,000,000.

The area thus protected amounts to 31,700 square miles, of which a mere narrow strip along the banks of the river and along a few bayous has been opened for cultivation.

Of this area, 12,300 square miles is below Red River, and belongs to the sugar region. Under a proper system of protection and drainage one-third of it may be eventually opened and cultivated, or 2,500,000 acres.

There are now under cultivation in this region about one million acres.

Of the remaining 19,400 square miles, perhaps 3,000 square miles may be north of the cotton-growing region, leaving some sixteen thousand square miles within that region of the most fertile alluvion, two-thirds of which may be finally rendered cultivable under a proper system of leveeing and draining. This would give 7,000,000 acres of cultivated land, capable of giving a bale of cotton to the acre, or about double the whole cotton crop of the United States in 1860.

The levees constructed under such a system would not, when greatest, exceed in magnitude those on the right branch of the Rhine below Arnheim, which protect the most fertile part of Holland. These levees are exposed at high water to as strong a current as that of the Mississippi in flood, and also to the destructive effects of ice. But the occurrence of crevasses such as take place with every great flood of the Mississippi are there unknown. Should they happen, the ruin of a large part of the most productive portion of Holland would follow, as extensive tracts protected by the levees are lower than surface of the sea, and their reclamation from overflow could only be effected by a drainage similar to that which has been applied to the lake of Harlem. The supervision, watching, and repair of the levees is costly, but effective and remunerative. The levees of the Mississippi as now existing are trifling compared to the interests they protect, and to the levees of the delta rivers of Europe, the Po, the Rhine, and the Vistula.

Some indication of the great wealth that would flow from the establishment of a proper levee system is given in what proceeds; such a system will probably be introduced gradually, and, as experience proves to those who must pay for it, that it is more and more necessary.

There have been great changes since the war; much of the country under cultivation and protected by levees at the time this report was made has been abandoned. The lands have depreciated in value because of insufficient protection and periodical overflows, and to some extent from scarcity of labor.

Little or no new land has been opened to cultivation, swamps remain undrained and forests uncut, and thousands of acres of land more fertile than the delta of the Nile are not able to bear the burden of taxation. The States, the counties, and parishes are impoverished and crippled with *ante-bellum* debts or with new ones created in a futile attempt to establish a levee system. Thrice in fifteen years have the waters deluged our lands, each time sweeping away all that has been accumulated by the intervening years of labor and thrift, and leaving nothing but the naked lands, enriched perhaps with a deposit which might be valuable to some more arid soil, but which is of little value when added to a bed of inexhaustible alluvion. The planters of the Mississippi Valley are men of elastic temperament and the most untiring energy. Again and again they have arisen superior to adversity, and have battled nobly to rebuild their fortunes and to protect their lands against new inundations.

But, Mr. President, the unequal war must cease. No individual efforts, whether of planter, county, district, or State, will longer avail. Either the Federal Government must take charge of this gigantic work, so truly national in its character, or this vast alluvial country must be relegated to the wilderness from which it was redeemed.

We have unfortunately no estimates from the Mississippi River commission of the cost of a complete levee system.

In the brief remarks which I made upon this subject on the 15th of March I read an estimate made by a member of the commission, Major Harrod, which I will not read now, but will print with my remarks.

NEW ORLEANS, *December* 2, 1881.

DEAR SIR: In reply to your request for information relative to the cost of a levee system, I give you my personal views. They cannot strictly be called an estimate, as such can only be based on surveys, and those of the Mississippi River commission are not yet sufficiently advanced to afford all the data necessary. I give you, however, the facts on which I base my opinion, and from which I think you will perceive that the figures are ample.

The levee commission of 1874 estimated that the aggregate length of breaks in the Arkansas and Mississippi fronts was 192 miles, which would require for closing 4,000,000 cubic yards, or 20,833 cubic yards per mile. It is, therefore, certainly more than sufficient to assume that the entire alluvial front of these two States, say from the Louisiana-Arkansas line to Commerce, Missouri, a distance of 600 miles, will require leveeing. This distance, at the above rate in cubic yards, amounts to 12,499,800 yards.

The Mississippi State levees have been put and maintained in good order since 1874. The same is partially true of Louisiana. An allowance of 2,500,000 yards would certainly be sufficient, apart from maintenance, to close existing breaks in these two States. This, added to the requirements in Missouri and Arkansas, would be 15,000,000 cubic yards.

But it is probable that the entire line, thus repaired, might need raising. The Mississippi River commission, as you will see in the last report, probably now before the Senate, does not consider the bed of the river practically incrosible, as has been heretofore assumed. Its reasons are derived from more extended and exact information than has been available. It is not certain that any great elevation of grade will be necessary for a continuously completed line. I am very sure that the additional elevation heretofore recommended, amounting as a maximum, to eleven feet, will never be required. For purposes of estimate I will assume that the present levees range in height from four to twelve feet, and that this must be increased to from five to fifteen feet over the entire length, on both banks, say 1,670 miles. While there are now heights exceeding twelve feet, there are also many localities where no levees, or levees less than four feet high, are required.

The amount of earthwork required for this additional grade is about 44,000,000 cubic yards, giving the following total:

Entire new levees in Arkansas and Missouri	12,500,000
Breaks in Louisiana and Mississippi	2,500,000
Raising grade throughout	44,000,000
Total cubic yards	59,000,000

The State of Louisiana has built her levees for the past two years at an average price of 19.4 cents per cubic yard. For the two years previous to that period, when supplies and labor were cheaper, the average cost was a fraction over 17 cents. The payments for this work have not been in cash, some warrants usually running as much as a year before settlement. The work also was divided into such small parts that contractors were not justified in purchasing the labor-saving machinery necessary for the economical execution of such work. It seems to me entirely certain that levee building could be done for 20 cents per yard for cash and in such large contracts as would admit the purchase of a suitable outfit. Assuming this rate, and the quantities before stated would make the cost of a complete levee system $11,800,000, or about one-quarter of previous estimates, namely, $46,000,000.

Now concerning maintenance. The States of Louisiana and Mississippi have about 1,070 out of 1,670 miles of front requiring levees, or where the hills do not approach the river. This is kept in tolerably good order. There is spent annually for maintenance in these two States a sum not exceeding $400,000; $500,000 would suffice to do it well. Prorating this sum over the entire length would give $773,000. I believe that with the better locations and dimensions that would be given by the Government to a systematic line, and with the protection to caving banks by revetment and other works of channel improvement, and with the greater security resulting from increased height, the maintenance could be accomplished annually for the sum of $600,000.

The part that this levee work would play in securing the objects enumerated in the act creating the Mississippi River commission is declared in our reports. With the other vast advantages that would flow from it you are as familiar as I am.

Very respectfully,

R. M. HARROD.

Hon. B. F. JONAS.

Mr. Harrod's estimate is $11,800,000. It was made before the overflow, and the repairs of the levees now made necessary would add probably $2,000,000 to the cost.

Fifty millions, Mr. President, would be a cheap expenditure to protect this magnificent country from destruction, and it would be repaid tenfold to the general wealth of the country in the great increase of values, of population, and of valuable agricultural products.

But we are told by Senators who desire to vote appropriations for the improvement of the Mississippi River that they cannot vote for levees to reclaim the alluvial lands upon its banks. This though they have voted for initial surveys and estimates for this very purpose, and although the commission of engineers have reported in favor of levees, not only for that object, but as a mode of contracting and deepening the channel.

Where, Mr. President, are the banks of this river now, and who are the riparian proprietors? In Arkansas the waters spread to the hills, over an area of fifty miles in width. In Mississippi the flood extends over the whole Yazoo Valley, more than a hundred miles from the Mississippi River. In my State the devastating flood has buried the riparian parishes out of sight, and the waters of the Mississippi are spread over the La Fourche, the Teche, the Atchafalaya, the Courtablean, in short over the whole southern portion of the State, overflowing sections of country in some instances two hundred miles from its ordinary banks and supposed to lie beyond all danger of inundation.

Are these people riparian proprietors who are not to be protected because the value of their lands may be enhanced? Are the valleys of the South to be deserted and their people to be compelled to flee to the hills? Is the money of the nation to be used only to deepen this vast river, so that it may bear the productions of the North and West to the sea, and not a dollar to be used for the purpose of controlling its swollen waters and preventing it from emptying itself in death and desolation over a country equally as fair and more than equally productive? Is one object more national in its character than the other? Will one add more to the general prosperity and happiness of the country than the other?

No, Mr. President, in the language of President Garfield again:

The wisdom of Congress should be invoked to devise some plan by which that great river shall cease to be a terror to those who dwell upon its banks, and by which its shipping may safely carry the industrial products of twenty-five millions of people.

These objects should be common to us all, and should be included in any bill we may pass, as they are included in the plans recommended by the Mississippi River commission.

But it is said, Mr. President, if the commission should deem it best to build levees for the purpose of deepening and improving the channel, that they have the power to do so, and that the alluvial lands would receive incidental benefit therefrom. If so, why not declare it, and why couple the appropriation contained in this bill with a proviso which would seem to limit this power or make it doubtful whether it exists at all? I am told that in view of this proviso, which was attached to the appropriation made last year, the commission entertained doubts as to their power to spend a dollar for levees, even for the purpose of contracting the channel, and I know that the people of the Mississippi Valley read it with the same doubt.

If these people are to have even incidental relief we should tell them so. They are waiting in their desolate homes for a rift in the sullen sky; waiting to be encouraged by a hope that Congress will grant them some aid and security for the future. If the levees are to be rebuilt, if the destructive overflows are to be controlled by efforts of the General Government, then they can once more go to work with hope. Their lands will have some value; they can obtain credit for provisions, farming utensils, and supplies; they can re-employ and feed their laborers, restore their fences, rebuild their cabins, and cultivate their crops. If we are going to give them even this incidental aid let us say so, and inspire them with hope and energy, so that as their lands emerge from the water they may commence the work of restoration.

It is with this view I have offered my amendment.

I am, as I have said, in favor of a direct appropriation for building levees, and shall vote for the amendment of the honorable Senator from Arkansas, [Mr. GARLAND.] Should that fail I will ask the Senate to adopt my amendment, which, meaning what the friends of the "proviso" say that it means, speaks out in language which cannot be misunderstood.

The amendment proposes to strike out the proviso and to insert, so as to read:

> And so much thereof may be applied to the immediate repair or construction of such levees as in the judgment of the said Mississippi River commission will assist in deepening the channel and improving the navigation of said rivers: *Provided*, That no part of the sum herein appropriated shall be used in the construction or repair of levees for the sole purpose of preventing injury to lands by overflow, or otherwise than as a means of deepening the channel or improving the navigation of the rivers.

The adoption of this amendment will make the meaning clear both to the commission and to the people most interested.

I do not care to discuss the question of outlets, as they have not been adopted in the plans of the Mississippi River commission, and find little or no favor among engineers or the people of the Mississippi Valley. A respected citizen of my State, Captain Leathers, has been before the committees of Congress advocating the outlet proposition of Captain Cowden, and opposing the plans of the Mississippi River commission. I find, however, that on another occasion, before a committee of Congress, Captain Leathers testified strongly in favor of a levee system as the best means of preserving the banks and deepening the channel of the Mississippi. I quote from his testimony:

> I came on the river in 1836. The river was very low that year. The average depth of water on the shoalest bars from the mouth of the Ohio to the mouth of the Arkansas, a distance of about four hundred and fifty miles, was about four feet. From mouth of Arkansas to mouth of Yazoo, about two hundred and twenty-five miles, there was about five feet. From that to the mouth of Red River, about the same distance, the average depth on the shoaled bars was seven feet. Below Red River levees had been built; I do not know how long; but thence to the Gulf there was deep water.
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> Then levees began to be built above Red River in the parishes of Concordia, Tensas, Madison, and Carroll, the result of which was that in 1857, a period of twenty-one years, while the river was twenty inches lower in its banks, there was not less than eight and a half feet of water on the shoalest bars in the formerly unleveed district between the Red and Arkansas Rivers, showing an increased depth of four feet scoured out by the current created by concentration of the water.
>
> I am convinced from my observations that if the levees were rebuilt and kept up on the lowlands, the concentration of volume and consequent accelerated current would soon wash out a channel large and deep enough for any purposes of commercial navigation. I am thoroughly satisfied that in the last ten years the frequent breaks in the levees and crevasses, dispersing the water over the country and diminishing the current, have caused the river to begin to shoal again. It always shoals near these breaks, evidently in consequence of the slackened current and natural deposit of sediment on the bottom which follows.
>
> I am confident that the only way of deepening the channel and getting reliable navigation is to concentrate the current, and if the great river accommodates itself by scouring out the bottom there will be no necessity for higher barriers at the top, and the levees will become more solid and reliable, because relieved in a measure from the great pressure to which they are subjected.

In the discussion of this bill, Mr. President, some opposition, or at least criticism, has come from the Senator from Minnesota [Mr. MCMILLAN] and the Senator from Wisconsin, [Mr. CAMERON,] principally on the ground that the present appropriation is asked by the commission for the river below the mouth of the Ohio. The river commission have only made a "progress report," as authorized by the fifth section of the act under which they were appointed, which says:

> They may, prior to the completion of all the surveys and examinations contemplated by this act, prepare and submit to the Secretary of War plans, specifications, and estimates of costs for such immediate works as in the judgment of said commission may constitute a part of the general system of works herein contemplated to be by him transmitted to Congress.

It is usual to commence the work of river improvement from the mouth and work upwards, and certainly the most immediate necessity exists between the mouth and the Ohio River. If the policy of contraction is to be adopted, and the work should commence at the headwaters, what would become of the concentrated volume of water when it reached the lowlands, where no work had been done? Manifestly it would spread over the whole country, producing a flood in high-water season and a wide, shallow stream, full of sand-bars, in the season of low water.

It appears from the report that the surveys and levels have been completed to Keokuk, Iowa, and that observation parties have been at work at Prescott, Winona, Clayton, and other points on the Upper Mississippi during the past year.

I feel, Mr. President, the same interest in the improvement of the Upper Mississippi as in the Lower, and I am prepared to vote for all appropriations for that purpose as soon as the commission submit their plans and estimates.

Mr. HARRISON. Will the Senator from Louisiana pardon an interruption for one moment?

Mr. JONAS. Certainly.

Mr. HARRISON. I ask the Senator whether it is not true that the work of improvement on the upper river is going on and has been going on simultaneously with the work of the commission on the lower river, under engineer officers placed specially in charge of sections of the upper river? I understand that it is not intended at all that the appropriation provided for in this bill shall apply to the whole river, or be the only appropriation for the river. It is the purpose of the commission, if I understand it, to leave those works on the upper river and even between Saint Louis and Cairo in charge of those engineer officers who have had them in charge, and that by special appropriations works on the upper river shall be made in addition to the amount provided for in the bill.

Mr. JONAS. I am glad to hear the explanation of the Senator, because I favor every one of these appropriations, and shall vote cheerfully for them when they come before the Senate. My impression was the other day that these appropriations were perhaps provided for in the river and harbor bill which is now being formed in the House, of which of course we have no information and to which we have perhaps no right to allude.

I live on the same great river as the Senator from Minnesota, although more than eighteen hundred miles of water-way separate our homes. My people are as much interested in its navigation and improvement from the source to the mouth as his.

We desire that the products of his great State shall find cheap and easy transportation to market, foreign or domestic, on the bosom of the Mississippi, and through our gates. We are natural commercial allies and friends, and it is to our mutual interest that every foot of the mighty stream which stretches its great length between us should be made available for the uses of commerce by the expenditure of whatever of talent, energy, or money may be necessary. I stand ready to vote with the Senator for all appropriations that may be required in order to perfect the low-water navigation of this river so that there may be a permanent channel maintained from the head of the river to the jetties, at all times and seasons, when not impeded by ice, and to this end I desire and ask him and other Senators interested in such improvement to stand by and support the recommendations of the Mississippi River commission.

The friends of this bill are attacking no other appropriation for any other locality or national purpose. We are criticising no other appropriations either now proposed or hitherto made for the development of our great national water-ways, harbors, and lakes. We claim that the friends of all these measures are interested in the improvement of the Mississippi, and in the great commercial results and interchange of commercial relations which must follow.

I shall not take time, Mr. President, in dilating upon the products and commerce of the Mississippi Valley, all of which should and will be tributary to the Mississippi River if permanent low-water navigation is secured. It has been hitherto stated on this floor—

> That fourteen States, which lie wholly within the valley, contrasted with the entire Union, produced, in 1879, 81 per cent. of the corn, 64 per cent. of the wheat, 60 per cent. of the oats, 49 per cent. of the cotton, 55 per cent. of the tobacco, and contained 66 per cent. in value of the live hogs.
>
> That the whole nineteen States intersected by the navigable portions produced, in 1879, 90 per cent. of the corn, 73 per cent. of the wheat, 83 per cent. of the oats, 64 per cent. of the tobacco, 77 per cent. of the cotton, and contained 81 per cent. in value of the live hogs.
>
> That the value of the annual internal commerce of the valley is about twelve and one-half times that of the total foreign commerce of the United States, and therefore about $18,000,000,000, or larger than the total foreign commerce of the whole world.

Since the success of the jetties has been assured the movement of grain by river for export from New Orleans increased in the single year ending August 31, 1880, as follows: Corn, 92 per cent. and wheat 186 per cent., and this in spite of low water and dangerous navigation.

> The transportation rates on a bushel of wheat shipped from the center of the valley, at Saint Louis, by river to the seaboard at New Orleans, during the three years 1877, 1878, and 1879 ranged all the way from ten to fifteen cents less than by rail to the seaboard at New York.
>
> If half of the grain produced in the fourteen valley States in 1879 had to be shipped from that center by river to New Orleans instead of by rail to New York the annual saving to the seaboard at ten cents per bushel would be $90,381,552, and at fifteen cents per bushel $135,572,328.

Mr. Nimmo, the distinguished statistician of the Treasury Department, in his report of this year on the "competition between the Mississippi River and the trunk railroads from Saint Louis to the Atlantic seaboard," gives the following statement of the compara-

tive freight charges as between Saint Louis and Liverpool, via New Orleans and via New York, from January 1, 1880, to July 1, 1881:

Rates from Saint Louis to New Orleans on bulk corn during the year 1880, *and from January* 1 *to July* 1, 1881.

Period.	Rate per bushel.
1880.	*Cents.*
January and February	9 to 9½
March	8 to 8½
April, May, June and July	7 to 7½
August	8 to 8½
September, October, November, and December	9 to 9½
1881.	
February	9
March	8
April	7
May	6
June	5

All-rail rates on grain per 100 *pounds from Saint Louis to New York during the year* 1880, *and from January* 1 *to July* 1, 1881.

Period.	Per 100 pounds.	Per bushel of 60 lbs.
	Cents.	*Cents.*
January to March 8, 1880	46½	28
March 8 to April 14, 1880	40½	24½
April 14 to November 22, 1880	35	21
November 22 to December 31, 1881	40½	24½
January 1 to April 18, 1881	40½	24½
April 18 to June 20, 1881	35	21

Mr. Nimmo continues:

In view of the fact that ocean rates fluctuate from day today, and that no agreements as to those rates prevail, as in the case of railroad transportation, it is difficult to present a schedule showing the relative rates from New Orleans and from New York, respectively, to Liverpool. It is stated by Mr. George H. Morgan, secretary of the Merchants' Exchange at Saint Louis, that the ocean rates from New Orleans to Liverpool are, on the average, about 25 per cent. greater than the rates from New York to Liverpool. Ocean rates at New Orleans are shown in Appendix No. 42.

Mr. Morgan also states that upon the opening of navigation in the month of March, 1881, and for some time thereafter, the through rate from Saint Louis to Liverpool was as high as 26½ cents per bushel on wheat, while the rate by rail via New York and thence by steamer to Liverpool was about thirty-five cents. He states, however, that since the first rush ended, freights have gradually declined until on the 31st of May the rate from Saint Louis to Liverpool via the Mississippi River was only 18½ cents per bushel on wheat, whereas at the same time by the rail route via Atlantic seaports it was about thirty cents per bushel, a difference of 11½ cents per bushel in favor of the river route.

Mr. John King, jr., late first vice-president of the Baltimore and Ohio Railroad Company, in his report to the joint executive committee of east-and-west trunk lines, under date of April 27, 1881, states that on the 20th of March last the total charges for transporting grain from Saint Louis to Liverpool via New Orleans, including river rates, ocean rates, insurance and transfer charges at New Orleans, amounted to 46.74 cents per 100 pounds, or 28 cents per bushel, and that at the same time the total charges for transporting grain from Saint Louis to Liverpool via New York, including rail and ocean rates and all incidental charges, amounted to 60.44 cents per 100 pounds, or 36¼ cents per bushel. This shows the charges on the route via New Orleans to be less than the rates via Atlantic seaports by 8¼ cents per bushel.

At the time this statement was made by Mr. King the river rate was eight and a half cents per bushel from Saint Louis to New Orleans. It is believed, however, by well-informed persons that grain can thus be transported in barges at a profit for four cents per bushel.

These statements show the great advantages offered by the river route for western transportation to the seaboard, even with the present difficult navigation. It is easy to see how much greater would be its capacity and how much less would be the cost of transportation with permanent low-water navigation. It is even now a matter of almost common occurrence for a single tug to tow from Saint Louis to New Orleans, in barges, a cargo of three hundred and seventy-five thousand bushels of grain and accomplish the trip in ten days. To carry this cargo by rail would require over nine hundred freight-cars and test the capacity of railroads to carry it in double the time.

Such being the great national advantages of this river improvement so successfully inaugurated by the construction of the jetties, and in view of the demand made from nearly all sections of the country for its continuance and perfection by Congress under the plans of the Mississippi River commission, I sincerely trust that this bill may receive the approval of the Senate and that the amendments offered may also be adopted.

The honorable Senator from Indiana, [Mr. HARRISON,] in his speech yesterday, while advocating channel improvements for the river, devoted most of his time to an attempt to show that the levee system has no relation to the work of river improvement, and opposed with great earnestness any proposition to expend a dollar for the purpose of preventing destructive floods, or, as he styles it, "land reclamation."

The honorable Senator might have approached the discussion with less bitterness and indulged, with good taste, in less misrepresentation of the arguments of his opponents.

This is no place for bitterness or partisanship, and I am at a loss to see any occasion for such frequent allusions to the rebellion. The losses and poverty of which the people of the Mississippi Valley complain are not the results of war, but of constant inundation, which sweep away the proceeds of their crops, leaving them always in debt, and always, like Sisyphus, recommencing their weary task, except that, unlike that unfortunate, they have no hill up which to roll their burden. They have State governments, but their treasuries are impoverished, and these State governments are unable to make treaties with each other for the adoption of a general levee system.

I see no reason why the honorable Senator should have said that the "War Department, which once sent armies and gunboats to destroy and kill, became the quick and gracious agent of Congress to convey food and shelter to the hungry and homeless." Why should the recollections of the war be evoked and connected with the generous action of Congress? Does not the honorable Senator know that nine-tenths of those whom we have fed and sheltered with this benefaction are colored people who had no part in the war except to receive the benefit of freedom. We have fed and clothed these people since the war, and have bought their food in Indiana, Illinois, and Ohio. Their wages and employment have continued whether crops were good or bad, and as long as bread and meat were in the storehouse it has been divided among them.

It has been twenty years since the war, Mr. President. The War Department has become one of peace. Let it perform the errand of mercy with which it has been charged by Congress without the display of ancient banners or the thunder of ghostly artillery. In the few remarks which I made when the bill of Senator GARLAND was first introduced, in drawing a distinction between the condition of the planters in the Mississippi Valley before the war and since, I stated that before the war 300,000 slaves, representing a taxable value of nearly $300,000,000, were held and assessed as property.

On this statement it has pleased the honorable Senator to make the following sneering comment, coupled with an innuendo unworthy of this place and of his position. He says:

Plainly stated, it is that the planters are now unable to pay the necessary taxes because they have lost slave property of the value of $300,000,000, and therefore the United States ought to build the levees. A middle premise in the argument, not stated by the Senator, suggests itself to me as necessary to its completeness. It is this: the United States destroyed this slave property, therefore, &c.

I treat the innuendo with the contempt which it deserves.

The amendments offered to the pending bill, Mr. President, ask for no appropriation except to carry out the plans of the commission. I contend that levees are an important part of their plan of improvement, and on that question take issue with the Senator.

The honorable Senator says that the river commission have not recommended the building or repair of levees as a part of their plan for river improvement. He admits that they have adopted their former report, made in 1880, upon that subject as their present judgment, and he read a portion of that report, but did not read it all, as I have done. He must have changed his opinion as to the meaning of the river commission in the report referred to, for he joined with General Comstock in a minority report, in which he dissented from the opinion of the majority of the committee on three points.

The second ground of dissent was as follows:

2. We do not concur with the majority of the commission in their estimate of the value of the closure of gaps in existing levees as a factor in the improvement of low-water navigation; this estimate being derived in part from the theoretical views already referred to.

Existing evidence seems to show that during low-water stages the bars below Cairo are usually cut out by the river, and that when the period of low river in the following season approaches, these low-water channels are found filled up, the low-water bed of the river in these shoal places having risen, to be again cut out by the low river. (See Major Suter's report in Report of Chief of Engineers, 1875.)

At the Horse Tail Bar, below Saint Louis, the bed of the river has been observed to rise eight or ten feet above low-water in the interval between two low river periods. (See General Simpson's report in Chief of Engineer's report, 1876.)

If, then, the final effect of a flood which rises from thirty to fifty feet above low water is to raise the low-water bed of the river at shoal places, may it not be possible that if the height of this flood be somewhat increased by levees the bed may rise still further instead of being depressed, thus injuring instead of improving navigation?

But even if a rise or fall of a foot or two in the bed of the river were produced by levees, it is difficult to see how this would sensibly affect the low-water width of the river. Bad navigation arises from excessive low-water width at certain places, and is to be cured by contracting that low-water width to about three thousand feet. This contraction must be effected by works in the bed of the river, and not by levees on top of its banks, out of contact with the low-water river.

For these reasons we are of the opinion that levees are of very little value in improving the low-water navigation of the river. Of their necessity in protecting alluvial lands against destructive floods there can be no doubt, and to obtain such protection the first step would be the closure of gaps in existing levees. The regulation of the low-water river, including the fixation of the river banks, would be of the greatest aid to the levees, since it would secure them from destruction by caving.

If the majority of the commission at that time "favored the closure of gaps in existing levees as a factor in the improvement of low-water navigation," they are of the same opinion now, for they reiterate that report as their present judgment, and they have been strengthened by new recruits, for the report is signed by General Comstock, who dissented last year, and by Mr. Taylor, the successor of the honorable Senator.

How can the honorable Senator assert with so much confidence that the commission do not include the use of levees in their recommendations and plans, when their original estimate of this year (in

which all concur) calls for the sum of $1,010,000 for closing existing gaps in levees, and when they have made a supplemental report, forwarded to the Senate with the special recommendation of the President, asking for $1,010,000 more for the same purpose, rendered necessary by the overflow.

Certainly the honorable Senator does not expect to convince the Senate that the Mississippi River Commission does not include the levee system in their plan of improvement when they ask an appropriation of over $2,000,000 for the purpose of building levees.

Captain Eads is a distinguished member of the Mississippi River commission, and his very able statement, (the honorable Senator objects to its being called a report,) which was published in the speech of my colleague, certainly shows the great advantage of the levee system to the work of channel improvement and may have some influence in the country, even when opposed to the results of the great experience of the honorable Senator.

Major Harrod, of Louisiana, is a member of the river commission and is an accomplished and experienced engineer. I find in the New Orleans Picayune of the 16th the following answers of Major Harrod to a reporter of that paper, showing that he too believes that levees are essential to the improvement of the navigation of the river:

Question. Do you regard levees as absolutely necessary for the purpose of carrying out the plans of the commission to improve navigation?

Major H. I think levees are essential to the improvement and even the maintenance of the navigation of the river. The data derived from the observations of the commission have strengthened the opinion I originally held on this subject, and I think the results obtained this year will satisfy every one of the absolute necessity for levees to carry out the objects of the bill organizing the commission.

Question. In case that a million, or say two millions, are available for levee purposes this year, at what points will the work of constructing levees begin?

Major H. This question must be decided by the commission. As for my individual views, I suppose it would be good policy to close recent gaps, so as to maintain the present condition of affairs. Afterward the older gaps could be closed, but under any circumstances it will be essential for the riparian States to maintain their levee organizations. The prompt action of Mississippi in this regard is very commendable. The closing of gaps will be effected by levees, all of a higher grade than those previously standing. It will be necessary for the States to raise the grades of levees remaining to the height that this flood shows is required to restrain the water.

In short, Mr. President, I am informed that such is the testimony of all of the members of the commission, as given recently before a committee of Congress, which testimony is unfortunately not yet printed. Major Suter signed, with Major Harrod, the report of the sub-committee on levees and outlets, to which I have previously referred.

The honorable Senator lays much stress upon the language used by the commission, that levees "are regarded as a desirable, though not a necessary adjunct in the general system of improvement submitted," and he seemed to derive much comfort from its frequent repetition. If they are a "desirable" adjunct, why should they not be built, even if not absolutely necessary? Why should the commission be restrained from using this desirable mode of improvement, which certainly must be superior to the bare requirements of necessity?

The honorable Senator furnished an answer. It pervaded his speech. Because the levees thus built may afford incidental protection to the alluvial lands; because they may save a fertile and cultivated country from inundation and destruction. These are sufficient reasons with the honorable Senator why the "desirable" adjunct should give way to bare necessity.

I trust reasons of such a narrow character may not prevail with the Senate.

POST-OFFICE APPROPRIATION BILL.

Mr. PLUMB. I desire to present again to the Senate the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes, which, with the amendments, was referred to the Committee on Appropriations yesterday. I now report it back, and move that the Senate insist on its amendment, and agree to the request of the House of Representatives for a new conference. I wish to say in connection with the motion that if the Senate shall adopt it, the committee of conference on the part of the Senate will construe it as practically an instruction to adhere to the former action of the Senate in making an addition to the appropriation for special mail facilities. I make this statement now, so that if there be any dissent from the proposition it may be expressed. The conferees on the part of the Senate, as well as the Committee on Appropriations, desire to know what the view of the Senate is, after the discussion yesterday, upon the proposition upon which practically the conferees of the two Houses have divided

Mr. DAVIS, of West Virginia. I hope the Senate will insist upon its amendments. It is a question I think of considerable importance. As is well known to all Senators who have given thought to the subject, there is now appropriated annually $500,000 to expedite mail facilities, or in other words to run fast trains over different railroads in the country. As that appropriation has heretofore been distributed, it is almost entirely given to railroads starting from New York, while the rest of the country gets very little. Of the $500,000 allowed heretofore to aid mail facilities I believe three-fourths are distributed from New York. On some roads probably $50,000 is given to a single division, while other cities both West and South and in the Middle States are entirely without increased mail facilities, or if they have them they must pay the bills themselves in some form or other. Such a distribution is unfair and unjust.

I think I may say that the Committee on Appropriations would not have recommended to the Senate the $500,000 given by the House had it not been with the understanding that there should be a redistribution and a more equitable division of the money throughout the whole country instead of giving it to one city, as is now done. A train leaves New York this morning or this evening; it does not make any difference; another leaves Baltimore; and by the payment of the Government the New York train overtakes the Baltimore train a few hundred miles south of us here, and then the two mails go together, practically giving an advantage to New York over her sister cities in the Southern and Middle States of two hundred miles, and the Government paying for it.

As I stated yesterday, the distribution is now made so that not one cent is allowed to the cities of Baltimore and Washington in any form. Not a train aided by the Government in any way leaves either of those cities, when in fact, as stated by the superintendent of the railway mail-service, a train leaving New York in the evening and coming by way of Philadelphia, Baltimore, and Washington is the fastest train to all the southwestern cities that we have; yet that train is running without aid from the Government while other trains which are making the same time and go in other directions get the bulk of the $500,000.

The Committee on Appropriations added $150,000 to the appropriation of the House, making it $650,000, with the distinct understanding, as I believe, and as I think the rest of the committee will bear me out in stating, that there should be a more just and equitable division to the whole country, to the Northwest and Southwest and to the South, and especially to the Middle States, where there is nothing now paid.

I hope the motion of the Senator from Kansas will be agreed to by the Senate; and while we of course cannot instruct the conferees, the committee ought to consider that the Senate means to insist upon its amendment or strike the whole thing out, and let us all be on a par.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on agreeing to the motion of the Senator from Kansas that the Senate insist on its amendments and grant the further conference asked by the House of Representatives.

The motion was agreed to.

The Chair being authorized, by unanimous consent, to appoint the conferees on the part of the Senate, Mr. PLUMB, Mr. ALLISON, and Mr. BECK were appointed.

CHINESE IMMIGRATION.

Mr. MILLER, of California. I ask consent to make a report from the Committee on Foreign Relations. I am instructed by the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese, to report it with amendments. I wish to say that the report is that of a majority of the committee, and is not a unanimous report, the chairman of the committee having reserved the right to support or oppose amendments which may be offered. I give notice that I shall ask to take up the bill to-morrow at two o'clock.

WITHDRAWAL OF PAPERS.

On motion of Mr. GROOME, it was

Ordered, That John Hogan have leave to withdraw his papers from the files of the Senate, upon the condition imposed by the rule.

MISSISSIPPI AND MISSOURI RIVERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

Mr. GARLAND. I wish to submit some remarks to the Senate on the amendment which I have offered to the bill; but if any Senator wishes to speak in opposition either to the amendment or to the bill, or both, I prefer that he should do so; if not, I will proceed.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. GARLAND. Mr. President, on the 8th of last month I introduced a bill, and had it referred to the Committee on the Improvement of the Mississippi River, for the purpose of repairing, rebuilding, and keeping in repair the levees upon the Mississippi River. The committee, after full and proper deliberation upon the subject, and also upon a kindred bill introduced by the Senator from Missouri, [Mr. COCKRELL,] reported them both back with a substitute, which substitute is now the subject-matter of consideration before the Senate. In substance the substitute appropriates $6,000,000, $1,000,000 of which is to the Missouri River, and $5,000,000 to the Mississippi, to be used by the Mississippi River commission in the improvement of the navigation of those rivers, but with a prohibition contained in the nature of a proviso against the use of any of the fund for the purpose of building levees, unless those levees are necessary to the bettering or improving of the navigation of the river.

When that bill came in from the committee I gave notice of an amendment which I afterward submitted, which, briefly stated, increases the general appropriation from $6,000,000 to $15,000,000, applying $2,000,000 of the amount to the Missouri River and $13,000,000 to the Mississippi, and submitting the entire appropriation to the disposal of the Mississippi River commission according to the dictates of their best judgment, to be used by them under the act of

June, 1879, which created that board. My first impression was to insist in the Senate upon the bill I had originally introduced looking to the building of the levees specifically, but in deference to the mature opinion of the committee, which is composed of experienced gentlemen, and gentlemen who have considered this subject before, I have deemed it best to insist upon a general appropriation for the purposes for which the board of commission was brought into existence, and submit my own opinions to the existing law on the subject of the improvement of the Mississippi River.

I was in hope that if our Mississippi River Improvement Committee, so called, did not approve the levee system specifically, they would at least have limited their appropriation under the law which created the board of commission and not put in obnoxious restrictions upon it so far as the disbursement of the money was concerned in the hands of the commission.

The Senate now I hope understands the amendment and its purpose. It is to appropriate this sum to be disbursed by the Mississippi River commission as they see proper from their observation and experience in the discharge of the duties assigned to them under the law which created them. There can be no reasonable objection of this idea attaching to the expenditure of the money, because if there is, the law which created the board should be repealed at once, or it should be modified, for we have a general law directing the commission to make surveys, to investigate all the different subjects looking to the improvement of the navigation of the Mississippi River, and to report such plan as in their judgment they think should be reported. In the law the different plans are specified—the jetties, the levees, the outlet, and all other plans that have been mentioned by man at any time.

The inquiry then necessarily is, why put this restriction upon the expenditure of any of this money, because section 4 of the law which I have here upon my desk, and the following section 5, impose as one of the duties upon the commission that they shall report upon the feasibility, the advisability, and the practicability of the levee system, or any other plan? I desire some member of the committee to make an explanation on that point. When the direction was given to the commission in one way, why do you slap them in the face by putting this restrictive provision upon the bill, and say, "Notwithstanding you may consider the levee system as a necessary adjunct, yet you must not use any of this money for the improvement of the Mississippi unless in your judgment it is absolutely necessary for the navigation of the river?" That is a suggestion which I desire to have answered, for the law is without restriction on the part of the commission to examine into the various projects and make their report. They have made their report. I shall not detain the Senate by referring to it again, because what I omitted to refer to when I introduced the bill in regard to levees has been amply supplied by the Senator from Louisiana, [Mr. JONAS,] who but a few moments ago addressed the Senate. However, I will call the attention of the Senate to one paragraph in the report which the Senator from Indiana, [Mr. HARRISON,] when he had the report before him yesterday, or the extracts from it, probably on account of not seeing it, failed to cite the attention of the Senate to. Upon page 11 the commission say——

Mr. HARRISON. If the Senator will allow me, it is the last report of the commission, the report of 1881, from which he is about to read?

Mr. GARLAND. Yes, sir; the report of the commission of 1881, referring to the previous report, from which the Senator from Indiana read yesterday. What I now read is copied from the previous report. This is a material point, and if the Senate wants to hear anything at all in reference to this matter, I beg that it will pay attention to the paragraph I read. Says the commission on page 11 of the report of November 11, 1881:

> There is reason to believe that during the period when levees were in their most perfect condition, from 1850 to 1858—

The time that they were in their "most perfect condition"—

> the channel of the river was better, generally, for purposes of navigation than it has been since that time.

If this be true, and it must be assumed to be true, we can appeal with the utmost good faith and the utmost confidence to the Senate and to the Congress of the United States, and say, "Help us restore those levees that are broken, and your navigation of the Mississippi River will be better than it is at present." The argument of the Senator from Indiana is answered in that one paragraph. Take it in its most restrictive sense, take it that you could not improve these lands, or that you could not make these levees save and only for the purpose of navigation, there is the complete answer to it. The Senator admits that you can take snags from the Mississippi River; the Senator admits that you can cut trees which fall across into the river; and yet, with the report of the commission before him, the Senator denies that it is necessary to make levees in order to improve or better the navigation of the Mississippi River. Then follows what I need not read; the Senator from Louisiana [Mr. JONAS] having read it.

Mr. HARRISON. Would the Senator be interrupted if I should ask him a question just at that point?

Mr. GARLAND. I would not be interrupted in the least.

Mr. HARRISON. I do not desire to inconvenience the Senator in his argument. The statement which he has read is that in the opinion of the commission, upon the information which they have obtained, in a certain period, I believe from 1850 to 1858, the navigation of the river was in a substantially good condition, and at that period the levees were at the best. I ask the Senator whether in his judgment or whether the commission there say that in their judgment the single coincidence of the levees at a given time and a better navigation at that time, without considering any of the other changes that have affected the navigation of the river, is sufficient evidence that levees are essential to navigation?

Mr. GARLAND. I think it is most indisputably. There is no trouble in answering that question at all, because this statement is either a foolish thing or it was meant to convey just that idea.

> There is reason to believe—

Says the commission—

> that during the period when levees were in their most perfect condition, from 1850 to 1858, the channel of the river was better, generally, for purposes of navigation than it has been since that time.

Then it has been since the time that these levees were not in their best condition, because we know that within a few years after 1858 the levees with everything else in the Southern country fell. This statement is corroborated and bolstered up by an after-statement made by the commission, which has been read by the Senator from Louisiana. They say the levee system not only improves the navigation of the river, but also the commercial and the postal service of the United States.

The question recurs all the time, and it has been suggested once or twice, why this talk for the special improvement of the Mississippi River, why this demand constantly for a special appropriation? Lest I might not be believed, or might be discredited, I will read to show the necessity that existed a long time ago for this improvement; and if it existed a long time since, it exists now in tenfold and a hundredfold proportion. I will read from an author who was State-rights and strict-construction enough even for the Senator from Indiana, or the Senator from Maine, or any other Senator, or any other man. I read from the report of Mr. Calhoun, made in 1846, upon this very subject, when he was examining into it and when his mind was directed specifically to the very question that we are talking about here, the improvement of the Mississippi River in every conceivable shape. I find this language in his report made to the Senate June 26, 1846:

> Of these several objects, the improvement of the navigation of the Mississippi, including its great navigable tributaries, is by far the most important, and has accordingly received their particular attention. That great stream is the channel through which, by the aid of steam, cheap and speedy transit and intercourse are effected, not only between all parts of its immense valley, but also between it and the rest of the Union and the commercial world. And to this cheap and speedy transit and intercourse are to be attributed, even more than to its fertile soil and great resources, its almost miraculous increase in population, wealth, and improvement. So great have they been, that what sixty years ago was one vast region, with little exception, of forest and prairies, over which a few hundred thousand savages wandered, has now a population but little less than nine millions, with great and flourishing cities, abounding in opulence, refined in manners, and possessed of all the comforts and even elegance of old and polished communities.
>
> But, as great as this increase and improvement have been, they are nothing compared to what may be expected in the next sixty years.

It is thirty-six years since that report was made. The prophecies of John C. Calhoun at that time, which follow on here in his estimates, have been more than realized twice over. They have been more than substantiated as sound and unbending and stern and rigid facts in thirty-six years, although he gave sixty years. He says further on:

> Great changes have since occurred. We have acquired the entire valley of the Mississippi, and have the exclusive control of its commerce. What was then an almost uninhabited wilderness now contains nearly one-half of the population of the whole Union, many great and flourishing States. Its commerce, then of small amount, and carried on in frail boats of small tonnage, and impelled by a power too weak to ascend its stream, now rivals that of the coast in amount, the cost and size of the vessels by which transported, cheapness of freight, rapidity of transit, and the force by which they are impelled—a force so great as to completely overcome its turbid and rapid current. It has done more. It has so intimately united the navigation of the river and the Gulf that vessels navigating the one may the other, so as to pass and repass to and from each other in one continuous voyage, just as if (for all practical purposes) the Mississippi was a part of the Gulf or an inland sea.

That is why we speak in reference to the improvement of the Mississippi River and ask that it be taken out of the category, out of the list of improvements on other rivers in this country. As Mr. Jefferson said, in his celebrated argument in defense of himself as President for seizing the Batture at New Orleans at the suit of Livingston, (to be found in the ninth volume of Jefferson's works,) there was no river on earth like it. He was another strict constructionist, and he preached the doctrine strong enough for the Senator from Indiana, or the Senator from Maine, or any other man. He said in that document, which is a text-book now, I believe, in all schools on this subject, that the king or sovereign, whatever you may call him, owned the navigable waters, the bed, the beach, and the banks of the river; and when he purchased the Mississippi River he purchased all; he did not purchase merely the bed of the river; and though there are riparian owners, yet they cannot own the land upon the bank and use it to obstruct navigation, for the purpose of obstructing commerce, for that is one of the principles of sovereignty

which is never surrendered to anybody or by any government. Mr. Calhoun continues in his report:

In consequence of these great changes, the reasons which influenced the framers of the Constitution to delegate to Congress the power to regulate commerce among the States are now as applicable to the States bordering on the Mississippi and its great tributaries as—

What? Hear:

As it was then to those bordering on the Atlantic coast.

That is what makes this an exceptional case. We ask to make this appropriation amount to something. We ask to have an appropriation made that will do the work, so that we shall not be coming back to Congress year after year and from time to time to have the appropriations renewed. I wish to show from the river and harbor act which I have now in my hand that taking the appropriations adopted in the last river and harbor act, if they are samples, (and I voted for them; I believe them just and fair and right,) the civilized kingdoms of the world have not money enough, they have not credit enough to raise money to appropriate to the Mississippi River. Let me commence:

Improving Wabash River, Indiana, $50,000.

Improving White River, Indiana, from Wabash River to Portersville, and to falls on West Fork, $20,000.

If that is a sample, a thousand millions of dollars ought to be voted without the wink of an eye to the Mississippi River. Here are appropriations for the Raritan River, the Delaware River, the French Broad River; the Kanawha River, Bayou Bartholomew in Arkansas, of $8,000, $10,000, $15,000, and $20,000. If this is a sample, I say the Government of the United States has not money enough to make sufficient appropriations for this river, or credit enough to raise it. We propose now to eliminate the Mississippi River from the river and harbor bill, and make it, as Mr. Calhoun calls it, a specialty, an exception, and appropriate sufficient to do that work.

Now let me read something which is a little instructive upon this subject. In 1828 we commenced appropriating money to take the raft out of the Red River. The debates at that time show that the friends of that measure insisted that $50,000 would be more than ample to do the work. In May, 1828, $25,000 was appropriated. Congress went on then regularly every year making an appropriation, sometimes $50,000, sometimes $60,000, sometimes $75,000, $80,000, and so on, until by March 3, 1875, $833,137.50 had been appropriated; money enough to have bought a Red River, if there had been one for sale; money enough to have dug a Red River; and yet, according to the report from which I shall read directly, the raft is still there, and the Government is making annual expenditures in still completing the removal of that raft. The first appropriation was made three years after the decision in the case of The Thomas Jefferson, in 10 Wheaton, which limited the admiralty jurisdiction to the ebb and flow of the tide, and sixteen years before the case of the Genessee Chief, in 12 Howard, was decided, which overthrew the decision in the case of The Thomas Jefferson, in 10 Wheaton, and said the jurisdiction existed wherever there was navigation, regardless of the ebb and flow of the tide. This is a part of the instructive lessons of the past. What does the report say in regard to the Red River improvement? I read from Appendix P, in the report of Benyaurd, on removing the raft in Red River:

This work is for the maintenance of an open channel in Red River above Shreveport, formerly entirely blocked by the Red River raft, and the original project embraced the entire removal of this great obstruction.

There is now a good navigable channel through the raft region at all seasons of the year, though it is liable to be temporarily blocked during the flood stages of the river.

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Three large rafts which entirely blocked the river, and eighty-three side jams, and one hundred and ninety-three snags were removed.

* * * * * * *

Closing Tone's Bayou, Louisiana: The object of this work is to close Tone's Bayou, which now takes away from Red River fully three-fourths of its volume to the injury of the low-water navigation of that stream. The original project embraced the entire closure of the bayou.

* * * * * * *

The amount expended during the fiscal year ending June 30, 1881, was $5,452.12.

During the coming season it is proposed to build Tone's Bayou Dam, and employ the steamer Florence in keeping the river open during the flood season, and in removing certain portions of the old raft.

With the appropriation of $18,000 asked for, for the fiscal year ending June 30, 1883, it is proposed to keep the river open and remove the old raft.

Then they go on and make estimates for this work to remove the Red River raft. We are now on the very same work, probably but a little more removed than we were in 1828, when the first appropriation was made, and the cry is still for more with the coming and going of each year to remove that raft. We are asked now by this committee to appropriate just enough for the Mississippi River to assure us at the end of a year, when another high water may come, how fruitless, how useless these small expenditures are.

Here is an instructive lesson. I can find many more items if it is necessary. I am told that the commission say that this is enough. The commission made their report in November, 1881, before this flood came; and when they go back upon this river and look upon the work that has been done there, and survey the ground again, they will never know that they have been upon that ground before. The late unprecedented flood has made new presentations; it has left new marks and new evidences there for the commission to consider since their report in November, 1881, was presented to Congress.

Mr. HARRISON. Will the Senator from Arkansas allow me to ask him whether the sum mentioned in the bill as reported by the committee is not the total amount asked by the Mississippi River commission, including the sum called for in their last suggestion?

Mr. GARLAND. Yes; that is probably true; but what I am saying now is that, whether it be an addition or not, we have evidences before us that the sum is not sufficient. It may do to run to the end of the fiscal year, but the end of the fiscal year may be the beginning of another period of distress. We want the work that they have surveyed completed as near as may be. We do not wish to go through with this business as the faithful Penelope, who would weave with her hands in the day and take it apart at night.

The commission will find their work undone, they will find their cloth unwoven, when they go to survey it. If this driblet of $5,000,000 is given now to restore the work, next year we shall have the lesson of removing the Red River raft repeated. It is economy to appropriate a sum sufficient, and I am rejoiced to see that the President has come in and said, "I will see you and go you better, even to twenty or thirty million dollars," as he has done in his communication, to which I will allude a little more fully after awhile. That is business. It is a day of joy to the country that the President, to use the language of the Senator from Indiana, has turned his face to the sun. He turned his face to the sun in his annual message when he failed to mention North or South or rebellion, and now he is walking full-eyed right toward the sun to meet it, when he asks that that part of the country may be restored which was ravaged and the people conquered, if you please. He asks that it may be restored to the Union. He has risen above the idea of rebellion. Mr. Lincoln said to his band after he had taken Lee's sword, "Play us Dixie, we have captured that too; it is ours also." He was not like the Senator from Indiana, afraid of shadows; he could hear that song played which had stirred men to battle and caused valorous hearts to kill his comrades. So President Arthur is not afraid of any scarecrow of the rebellion, and is willing to restore that country, ravaged by the rebellion, if you please.

So much now for this driblet system, this economy of the Senator from Indiana, that would save at the spigot and lose at the bunghole. Is it economy to ask us to dribble on here from time to time with a little appropriation as though we were clearing out a duck-pond or a catfish-pond in Arkansas?

The Senator from Indiana reported a resolution for the benefit of the sufferers on account of the flood, and supported it, I was glad to see. Where did he get his constitutional authority for that? Under what clause of the Constitution did he derive any authority to do that? I introduced another resolution, and was glad to see him support it. If you can relieve people from their suffering on account of the want of levees, can you not build levees to prevent that suffering in the future? The statement answers itself.

In 1874 we appropriated for the sufferers from the Mississippi overflow in the neighborhood of $500,000. For what purpose? To relieve them from overflows brought upon them on account of the want of levees. At the present Congress we have voted $350,000 for the same purpose, making in the neighborhood of $800,000 in the two years. In the course of time, at this rate we shall have expended more than enough to levee the river from head to foot. Yet Senators talk about the constitutional authority to make this big appropriation, when year after year we are called upon to do what we would not have to do if the levees were built, if the navigation were improved by an appropriation sufficient at once to be done with it. I repeat, if we could do that which we all voted we can do the other thing, because the one is but the consequence of the failure to do the other.

I wish now to call attention to the President's message which was laid before the Senate yesterday. It is such good reading that I am going to read it all. It is refreshing when a paper can at last come into the Congress of the United States upon this subject without mentioning war, rebellion, negro, scalawag, or any of those terms that lie back almost in the dim antechambers of the past. The President says:

I transmit herewith a letter dated the 29th ultimo, from the Secretary of War, inclosing copy of a communication from the Mississippi River commission, in which the commission recommends that an appropriation may be made of $1,010,000 for "closing existing gaps in levees," in addition to the like sum for which an estimate has already been submitted.

The subject is one of such importance that I deem it proper to recommend early and favorable consideration of the recommendations of the commission.

He does not transmit the letter with any milk-and-cider statement that he refers it to the better judgment of Congress, but he recommends "an early and a favorable consideration" of the appropriation.

Having possession of—

Yes; they whipped us, and they have got it—

and jurisdiction—

Yes; as the Supreme Court has decided repeatedly—

over the river, Congress, with a view of improving its navigation and protecting the people of the valley from floods—

"The people of the valley," not merely the navigation of the Mississippi River, but the people of the valley, the people who live upon its banks. Why? Because they are citizens of this country. If they fought for what they honestly believed to be right they have been overcome, and they have quit. Here is a great man standing now at the head of the Republican party who says so, and whether

either House of Congress allows it or not the country will applaud it to the echo. Congress—

has for years caused surveys of the river to be made, for the purpose of acquiring knowledge of the laws that control it, and of its phenomena. By act approved June 28, 1879, the Mississippi River commission was created, composed of able engineers. Section 4 of the act provides—

And that is recited in the very words given in my amendment, to submit the disbursement of the appropriation to the commission.

The constitutionality of a law making appropriations in aid of these objects cannot be questioned.

What objects? Levees. He differs from the Senator from Indiana; he differs *toto cœlo, longo vallo* with the Senator from Indiana. He is said, outside of being President of the United States, to have been a tolerably good lawyer in the city of New York, where they do have good lawyers.

While the report of the commission submitted and the plans proposed for the river's improvement seem justified as well on scientific principles as by experience and the approval of the people most interested, I desire to leave it to the judgment of Congress to decide upon the best plan for the permanent and complete improvement of the navigation of the river and for the protection of the valley.

The immense losses and widespread suffering of the people dwelling near the river induce me to urge upon Congress the propriety of not only making an appropriation to close the gaps in the levees occasioned by the recent floods, as recommended by the commission, but that Congress should inaugurate measures for the permanent improvement of the navigation of the river and security of the valley.

Not for the navigation of the river entirely, but the "security of the valley."

It may be that such a system of improvement would as it progressed require the appropriation of twenty or thirty millions of dollars.

Amen! says the President.

Even such an expenditure, extending as it must over several years, cannot be regarded as extravagant in view of the immense interest involved. The safe and convenient navigation of the Mississippi is a matter of concern to all sections of the country, but to the Northwest—

The Senator from Indiana has heard that expression "the Northwest" before—

with its immense harvests, needing cheap transportation to the sea, and to the inhabitants of the river valley, whose lives and property depend upon the proper construction of the safeguards which protect them from the floods—

Not navigation merely, but to protect the people of the valley—

it is of vital importance that a well-matured and comprehensive plan for improvement should be put into operation with as little delay as possible. The cotton product of the region subject to the devastating floods is a source of wealth to the nation and of great importance to keeping the balances of trade in our favor.

There is the argument. Now further:

It may not be inopportune to mention that this Government has imposed—

Senators, I desire you to hear this. "Time, at last, makes all things even;" no question of that—

It may not be inopportune to mention that this Government has imposed and collected some seventy millions of dollars by a tax on cotton, in the production of which the population of the Lower Mississippi is largely engaged, and it does not seem inequitable to return a portion of this tax to those who contributed it, particularly as such an action will also result in an important gain to the country at large, and especially so to the great and rich States of the Northwest and the Mississippi Valley.

That is the message of the President which came in yesterday. A case was made in your town, Mr. President, [Mr. HARRIS in the chair,] the case of Rolfe *vs.* Saunders, to test the constitutionality of the cotton tax. The court below decided that it was valid and constitutional. An appeal was taken to the Supreme Court and the decision was affirmed by a divided court—four to four. The country at large, or a great portion of it, believed the tax to be unconstitutional. It is not for me to say whether it was or not, and I do not care for the purpose of this argument what my opinion may be about that; but the Supreme Court was divided upon it and no opinion was ever published. The decision of the court below in the district of West Tennessee stood.

Now, we have from the Treasury Department a statement of that fund. Making allowance for amounts refunded on account of erroneous collections and as taxes collected on rope and bagging, the total not exceeding $72,000,000, the amount paid into the Treasury as internal-revenue tax on cotton is $68,000,000. That tax may have been levied as a necessity for governmental purposes, or it may have been levied for punitive purposes to punish the rebellion. I know not, and I care not; but here is the amount of money remaining in the Treasury that a large amount of people, a great number of people, the best cultured people in the country, believe was illegally put there. We ask you to restore to us one-fourth of that, a mere pittance, only $15,000,000 to be restored to the valley of the Mississippi, and the valley of the Mississippi cannot be redeemed without it. With that, the valley of the Mississippi can be redeemed for the benefit of mankind.

Mr. HARRISON. I suggest to the Senator from Arkansas that if he puts the application for aid in the construction of the levees on the ground that an unlawful tax was collected upon cotton, would it not be best to reach that question directly by a bill to restore to all of those who were unlawfully taxed the amount taken from them, rather than to make use of this argument in favor of an appropriation for levees.

Mr. GARLAND. I do not make the appeal on account of the unconstitutionality of the tax, because the Senator must not misunderstand me. I do not say it was illegal; I make the appeal upon the direct right and law and justice and morals and common sense and conscience; I appeal upon the ground of the tax to show this, and nothing else, that the money is there in the Treasury, received from this great valley, and we ask you simply to give a part of it back. It cannot be any injury to the Government. I am showing the capacity and ability of the Government to do this without suffering. I have given you the language of the President of the United States to guide me in that; he speaks of it, and he talks on this subject wisely. There are $68,000,000 in the Treasury, collected from the tax on cotton. Give us a mere pittance of one-fourth of it to engage in this great work, as the President says. I ask for but $15,000,000; he speaks of twenty or thirty millions. We are entitled to it, as the President says in his message. I do not ask it because the tax is illegal; I say no such thing. I will vouch for one thing, however, that if that much is voted to the people of the Mississippi Valley there will be no clamor for the restoration of the proceeds of the cotton tax. The people who are interested in the improvement of this river and its navigation will be satisfied.

The Senator from Indiana yesterday stated that it was a somewhat extraordinary argument that I should insist that the swamp-land grant had anything whatever to do with this matter. Now, if I do not show from the language of the law and from as good authority as can be found that it has something to do with it, you can spit in my face and call me a hawk or anything else. The act of March 2, 1849, "An act to aid the State of Louisiana in draining the swamp lands therein," grants the swamp and overflowed lands in Louisiana—

To aid the State of Louisiana in constructing the necessary levees and drains to reclaim the swamp and overflowed lands therein.

It is not to improve the navigation of the Mississippi River. And then it is provided:

That the proceeds of said land shall be applied exclusively, as far as necessary, to the construction of the levees and drains aforesaid.

That is in 9 Statutes at Large, page 352. They go on at page 519 and make the grant to the State of Arkansas and all the other States for the same purpose, and put the same restriction that the proceeds of the sale must be devoted to the leveeing and draining of the lands. In this same report of Mr. Calhoun, made in 1846, from which I have already read, he says:

As fertile as this great body of land is, by far the greater part is at present of little or no value in consequence of its swampy character and being subject to inundation, and must remain so, alike unprofitable to the public and individuals, so long as they may remain in their present condition.

But they must remain so until reclaimed—

By what?

by embankments. To meet the expense of making them the convention recommends—

That is, the Memphis convention—

the grant of lands or appropriation of money by Congress.

Your committee are of the opinion that something ought to be done toward bringing this great body of fertile land into cultivation.

"Your committee," speaking through Mr. Calhoun, think something ought to be done to bring this great body of land into cultivation. The report he was making was on the improvement of the navigation of the Mississippi River.

While it remains in its present state, with one—and that the larger—portion held by the Union, another (that granted for schools and other purposes) by the States, and a third by individuals, and these several portions not held in parcels or bodies separate and distinct from each other but intermixed one with the other, nothing can well be done toward reclaiming them.

Reclaiming the lands.

It would require the co-operation of the parties interested, each in proportion to the extent of his interest, to accomplish the object. To obtain such co-operation and fix satisfactorily the amount that each should contribute toward making the necessary embankments would obviously be a work of too much difficulty and complication to be undertaken. The only remedy is to diminish the number of the parties interested; and for that purpose your committee are of the opinion that Congress ought to adopt measures to dispose of its portion of these lands, with as little delay as a just regard to the public interests will permit. And to effect that they are of the opinion the most advisable cause would be to reduce the price of the portion belonging to the public gradually, say at the rate of one-fifth at intervals of four years, until it shall be reduced to the rate of 25 cents an acre, and to cede to the States in which they may respectively lie all not sold at the expiration of four years thereafter.

This report was what gave birth at last to the acts of 1849 and 1850; and yet the Senator from Indiana says Congress has got nothing to do with reclaiming those lands. Why, the great head-light of strict construction said we had. He made his report, he analyzed the Constitution from A to Z on this subject, and here is what he says in reference to it——

Mr. HARRISON. Allow me to ask the Senator under what clause of the Constitution, or did Mr. Calhoun refer to any specific clause?

Mr. GARLAND. Mr. Calhoun referred specifically to the clause empowering Congress to regulate commerce between the States, and to do those things needful for the welfare and protection of the people of the Mississippi Valley. Now, if the Congress of the United States can give the States land to redeem the overflowed and swamp land, can it not give money for that purpose? If she could give land held in the Land Office for a dollar and a quarter per acre, could she not give a dollar and a quarter in money? It does not need any person skilled in arithmetic or constitutional lore to answer that question. So said Mr. Calhoun.

Mr. HARRISON. Then do I understand the Senator from Arkansas to express the opinion as a lawyer that it is within the constitutional power of Congress to appropriate money to drain the swamp-lands that remain in Indiana undrained?

Mr. GARLAND. I do most indisputably, and I hope the Senator is satisfied with the answer.

Mr. HARRISON. I am, of course. It is very frank.

Mr. GARLAND. Because the great head-light of the school of politics to which the Senator from Indiana seems to belong said they could. I never belonged to that school. I never belonged to the school of strict construction of the Constitution. I have belonged to that school that always fought for a sensible construction of that instrument, and there is a sensible construction reached by Mr. Calhoun. If you can give land, why can you not give money? A man then could not buy the land at the Land Office of the United States for less than a dollar and a quarter an acre. If you could give 50,000 acres of land, could you not give so much money as was equivalent to the price of the land? There is no difficulty about the question. The argument is made in this report, much of which I cannot take time to read, though it would be interesting and instructive.

Now, does the Senator from Indiana suppose the argument is a light one or a trivial one that the grant of swamp lands expressly to redeem this land by drains and levees has something to do with the question before us? I accept the proposition and meet the Senator right there. I am as willing to accommodate him on this as it is possible for anybody to do. The argument was made before I came to the Senate. There is a sensible construction reached by Mr. Calhoun at that time, reached by Congress in its acts of 1849 and 1850, and reached by the present Executive to-day. And in this connection let me say of him that he is the first President since the war who has not in his annual message referred to "the North and South" and made sectional allusions.

Mr. MAXEY. May I ask the Senator from Arkansas, in the line of his argument, if by reason of the improvement made by Congress at the mouth of the river the outflow of water has been obstructed whereby the danger of flood has been increased above and the land has been overflowed, has not Congress the right to repair the effect of its own act?

Mr. GARLAND. Most unquestionably, and I am very glad the Senator from Texas has made the suggestion.

Mr. HARRISON. In that connection, shall I understand the Senator from Texas to suggest that the improvements of Captain Eads at the mouth of the river have increased the flood-line above? If so, the Senators will be found crossing the path of that distinguished engineer upon whom they have relied so much in this argument.

Mr. MAXEY. I have only to state that a great many very good engineers do believe that that has been the effect. I do not say whether it has been or not.

Mr. GARLAND. If it has, the question of the Senator from Texas is very applicable and worthy of consideration, and I hope it will be considered. But without regard to that there are ample reasons furnished by the commission, and reasons furnished by the commission when the Senator from Indiana was one of it; whether he agreed with it or not I do not know. Many of us in the Senate have been over the Mississippi and Missouri Rivers. I have traveled the Mississippi River at all hours of the day and night in skiffs and canoes, but I have never been at the mouth of the Mississippi. I cannot speak from personal observation of the effect of the jetties there.

I want now to take all the chances there are under the report of the commission. I want to do what old Ben Hardin did when he expected to die and sent for all the preachers. One of them said to him: "You have had a Catholic priest; you have had a Presbyterian minister; you have had a Methodist parson; I am a Campbellite. What do you mean by it?" "Well," said Hardin, "Mr. Preacher, I am on my last legs, and about to go, they tell me; and I have heard that heaven is a very good place to go to, a desirable place to go to, and I want to take all the chances of getting there." Now, I do not care whether it be true or not that the jetties have helped to cause this overflow of the Mississippi River; but under this report I want to take all the chances. Let the commission expend the money as they see proper, a commission that the Senator from Indiana once honored, a commission that makes its reports here annually. I want them to come up to the grand line laid down by the President to-day if it takes twenty or thirty millions. Let us do it and be done with it, make it complete.

I heard on the floor some Senator say that he was for levying a tariff for protection's sake, for protection *per se;* that it was a good thing to have, constitutional or unconstitutional. If you can protect the shoe-shops and the hide-shops and the woolen-shops for protection's sake, can you not protect this wonderful country for protection's sake? Can you not reach out an arm and protect this wonderful country, the parallel of which, as Mr. Jefferson and Mr. Calhoun following him stated, does not exist? Can you not protect the people of the Mississippi Valley from overflow, from disaster, from destruction, from ruin?

Mr. President, I have on my table letters that would draw tears of blood from the hearts of men if they were read, relative to the disastrous scenes which have accompanied the overflow that has come upon the country. Since the commission made their very valuable report in 1881 new light on the subject has come up. We live to learn, and let us not cast aside any advantage. We are poor; we may be poorer on account of our own mismanagement and on account of our own faults and mistakes, but we are poor. The States cannot build these levees as they did in 1858; the States cannot improve the river; and this commission says that one system in Mississippi, one in Louisiana, one in Arkansas, and one in Tennessee, all differing, is very little better than no system at all. What is needed is one uniform system, one compact system, under the same authority, and the United States is that authority under the Constitution to do it; she is capable of doing it and she is only asked to give back one-fourth of the $68,000,000 received as tax on cotton for that purpose. That completes the job, and it is enough. We vote railroad grants here to States lavishly; we build canals for people and ask no questions; and here is a small sum of $15,000,000 asked for this wonderful river with all the commerce floating on its bosom every year.

The necessity no one disputes. The only question is what amount shall be voted. The commission asks, and the President indorses it, $2,020,000 for levees especially. Give us an appropriation sufficient to do this work under the judgment of the commission; that is all I ask. Let them disburse it as they think proper, whether for levees, outlets, jetties, or what not.

As a matter of course if the $15,000,000 amendment fails, I shall support the bill as it is, for I shall take whatever I can get; but from the past experience, let us not do it piecemeal, let us go at it manfully as if we meant something, and eliminate the Mississippi River from the river and harbor bill. I am no enemy of river and harbor bills. I have voted for every one since I have been in the Senate and expect to vote for the rest of them. I know nothing the Government can do better for its credit than to contribute a part of its money to improve the navigable waters needed by those who pay its taxes. I beg Senators who object to this to come now and take a patriotic and magnanimous view of this whole subject. We are not working for to-day; we are not working for one section of the country; we are working for all time and we are working for all the peoples of the earth. I want no sectional ideas to be interposed. I vote for your Wabash, for your Delaware, and for your inlets and outlets and all those things that the Government is working on all over the country.

If there has been anything of a sectional feeling put into this debate or into this inquiry, I regret it. I have not done it; in that every one will bear me out. I ask the Senator from Indiana to say, when he comes to look at this question a little more, if he cannot relieve some of the rigid, of the unbending features of his speech when he said that we were limited alone and solely to the improvement of this river as affecting the navigation. I think I have shown that even under that restriction we have the authority under the Constitution and under the precedents which I cited to do this work. Events move rapidly. It is only thirty-six years since Mr. Calhoun made a prophecy which he thought it would take sixty years to fulfill, and it is more than fulfilled now. The life of man is short, and events come thick and fast, and hurry on. In ten years from this day, if this appropriation is not made or something equivalent to it, my prediction is that the Congress of the United States will vote $50,000,000 as cheerfully as they would vote $5,000,000 now.

Mr. President, there is a crying, there is an urgent necessity for this work. Abide by the law as it is, and let the commission disburse the money. That is my view of the subject. I have spoken without reservation, and I regret having detained the Senate as long as I have.

Mr. FRYE. Mr. President, the Senator from Arkansas [Mr. GARLAND] in the course of his remarks asked a question of members of the committee which I wish to answer. He called attention to the law creating this commission, and stated that the purposes of the commission were defined by Congress with a full understanding, and that they were "to improve, give safety and ease to the navigation of the river, prevent destructive floods, promote and facilitate commerce, trade, and the postal service," and then asked the committee where they found the authority to make an appropriation to be expended by that commission for the improvement of the navigation alone.

Mr. President, as I read that law—and I speak as a member of the committee—there were two duties assigned that commission, one to report a plan for the prevention of destructive overflows, and the other a plan for the improvement of the navigation of the river; that these two were distinct; and I cannot see for the life of me why it was not in the power of the committee and in their discretion to determine whether the money appropriated in this bill should be expended on the one or the other object.

Now, sir, I wish to inquire of the Senator from Arkansas if he gives to the words "promote and facilitate commerce, trade, and the postal service" any significance beyond the improvement of the navigation of the Mississippi River?

Mr. GARLAND. Does the Senator ask for an answer now?

Mr. FRYE. I do.

Mr. GARLAND. Most certainly I do; and the Senator will bear in mind that when I made my speech on the levees specifically during last month, I read from the report of the commission to show wherein it did benefit the postal service of the country outside of the mere matter of navigation or commerce. The language of the report was quoted in my speech at the time.

Mr. FRYE. Then, if I understand the Senator, there were three duties assigned the committee; one to improve the river for navigation, another to improve it for postal purposes, another to prevent destructive overflows; and yet the Senator cannot see how the committee had a right to make an appropriation of $6,000,000, and then call upon this commission to expend that $6,000,000 in improving the navigation, thus selecting the use of one of the three powers which were conferred upon the commission by law.

Mr. President, I had one single purpose. I recognize the importance of the Mississippi River; I recognize its importance in the control of the railroads of this country. There has been great discussion, almost boundless, here for the last ten years over the question of the regulation of railroads, their freights, &c. A score of propositions have been made, reported from committees, for the control of the railroads by commissions. Sir, I hold that the only regulation possible and practicable is water competition. You may start to-day from New Orleans for my own State, and the lowest freights and fares between New Orleans and the city of Portland are after you reach Boston, where we have constant communication by water. I believe that is due to the communication by water, which is continuous through the year.

Now, if there was no other purpose to be served I would vote to appropriate all the money necessary to improve the navigation of the Mississippi River that it might exercise to a certain extent a control over the railroads of this country. Why, sir, the canals and the lakes between the West and the East have an immense effect upon the freights carried between those sections.

Having that idea in my mind, I was willing to vote any amount of money that, in my judgment, could be economically expended in one year for the improvement of the navigation of this great river. The Senator complains that we have not appropriated enough for that purpose; and yet the commission having all three purposes in view, as the Senator said, to prevent overflow, to increase postal facilities, and to improve navigation, have only recommended $6,000,000, the exact amount which we have appropriated in this bill for expenditure this year, and this includes a supplementary report which has been made since the flood and after these gentlemen had secured all the information in their power touching the effect of the flood upon the Mississippi and Missouri Rivers.

Has the Senator a right to complain of the committee as to the amount of the appropriation? I say again that the committee appropriated first $5,000,000, and then when the supplementary report of the commission came in they adopted that and appropriated every dollar that the commission recommended for any purpose, whether it be improvement of the river in navigation, or repairing breaks in the levees, or improving the postal facilities. They appropriated every dollar that was asked by the commission, only they limited them in its expenditure to the improvement of navigation.

Mr. President, if any gentlemen know what that river requires, if any gentlemen understand how much money is needed this year, and how much can be economically expended; surely those are the gentlemen to whom the Senator is willing to intrust this whole question, and complains because we have not shown like confidence but have placed limits upon their discretion. Surely no complaint can be made that they have not recognized all the necessities, and have not asked for all the money which it is the duty of this Congress to grant at their asking. And yet their plans, according to the Senator from Arkansas, included three great projects or purposes, and we have given them this money to be expended on one. Is this reasonable?

Mr. President, the Senator compliments the President of the United States, and I am delighted to hear it, because I have great confidence in the President myself. I call his attention to what the President did say. He did not say in this message or intimate that we should appropriate fifteen, or twenty, or thirty million dollars to be expended this fiscal year. The President did say that you ought to appropriate enough money for the purpose, even though in the progress of years it took twenty or thirty million dollars. Why, sir, the Senator from Arkansas proposes to take $15,000,000 of that this very year.

Now, I contend respectfully that no commission can expend the $15,000,000 in one year on the Mississippi and Missouri Rivers with any degree of economy or prudence. I contend that it is not in the power of the commission to do it, and I do not believe that a single commissioner would come before any committee of Congress and say that, in his opinion, $15,000,000 could be expended economically on the Mississippi and Missouri Rivers in one fiscal year. I know it was the opinion of a majority of the Committee on the Improvement of the Mississippi River and its Tributaries that $6,000,000 imposed a heavy task on that commission in economical expenditure and effective work in one fiscal year. I do not think the Senator from Arkansas has reason to complain of that committee as to the amount of the appropriation.

Now, sir, a word as to the limitation; I do not announce any opinions of the committee in what I say now, and I do not raise any constitutional question, and I do not reply to the statement of the gentleman, that protectionists *per se* sometimes ask great things of the people of the country which are not allowable under the Constitution. I have no discussion touching it whatever; but I do myself believe that if the United States once enters upon building levees on the Mississippi River, $20,000,000, or $30,000,000, or $100,000,000 will not be the ultimate limit to which they will be compelled to go. I see no reason whatever in the rebellion, or in the condition of the South before the rebellion, or in the result of the rebellion, or in the overflow which the Almighty has sent down upon the Mississippi River this last year, under which the people have suffered so terribly—I see nothing in any of these which gives me the slightest reason for appropriating the money of the United States to recover or protect the lands of Mississippi and Louisiana and Arkansas, or any other State up or down the Mississippi or Missouri Rivers.

I do not believe that the Congress of the United States would be justified in making any appropriation for that purpose, and I never heard from any other section any request made for an appropriation of money for any such purpose. I believed when I authorized by my vote so far as I could this commission to make use of $6,000,000, that they would improve the levees on the Mississippi River, and that it would be impossible to make that expenditure without improving those levees. I do not believe you can improve the navigation of the Mississippi in any way without improving the banks of the river. Surely, if you lower the channel, if you increase the current, if you narrow the limits of the river, and thus compel it by erosion to lower itself in its bed, you are hardening and raising and building levees and banks every inch and every part of an inch that the river settles.

Now, sir, I am delighted that, in improving the navigation of the river, Louisiana, Mississippi, Arkansas, and the other States on the Mississippi River can receive benefit to their lands; that the people owning the farms there can be benefited. I make no complaint of that whatever. The committee provided that this money should be expended by this commission; how? The Senator from Arkansas says there is a limitation; the Senator from Louisana says there is a limitation. There is no more limitation in this bill than there would be if the amendment which the Senator from Louisiana proposes should be adopted. The only difference would be that adopting his amendment would be an invitation to the commission to expend money for the purpose of improving the levees; adopt the amendment proposed by the Senator from Arkansas and you compel the commission to expend money for the improvement of the levees and the recovery of the lands; adopt the bill which this committee have reported, and you authorize the commission to go on and expend $6,000,000 according to their plan.

The only limitation is that they shall not expend the money for the purpose of repairing the banks to prevent overflow, nor for the purpose of building levees to recover land, but they shall build levees, they shall repair breaks, they shall repair banks, they shall do whatever they say in their report and according to their plan and according to their specifications will improve the navigation of the Mississippi River. I do not see why any gentleman can ask for more than that unless he asks for more money. The judgment of the committee was that $6,000,000 was enough; and in arriving at this conclusion they were assisted by the recommendations of the commission.

I do not think that the North or the East is entitled to any taunt for being niggardly about making appropriations for the South, or for any other section of the country. I can say for New England that you cannot point to an instance where improvements have been called for in the West, or in the South, or anywhere else in this country, where her representatives have not responded by affirmative votes. The record will show that for the last twenty years New England has had the hardihood, if it required any, to vote for the largest appropriations for improvements in the great West and in the South, for improvements of the great rivers now under discussion. And, sir, that the taunt should come to us that we are niggardly in our appropriations for the South, and that it is because the South was once in rebellion!

Several SENATORS. Oh, no.

Mr. FRYE. I so understood it.

Mr. GARLAND. The Senator is mistaken if he attributes any such observation to me. I expressly disavow anything of this sort, because I know the Senator, and everybody else from the North I may say, has been extremely kind and liberal in these things. It is because he has been so just in that respect that I want to have him go on in that direction.

Mr. FRYE. I will refrain from saying what I was proposing to say, and instead will say that the South will ultimately understand the feeling of the North. I think they are getting to understand it now. I have never seen a day or an hour since the war closed that southern gentlemen would not have been received in any city, in any town, in any hamlet in New England with open arms, and I defy any Senator from the South who has been in the North to point to an instance where every courtesy has not been extended, even beyond the courtesies that would have been extended to our own.

Why, sir, even during the heat of that mad war, there was an underlying feeling of profound admiration for the manhood and the bravery, the endurance and the determination exhibited by the South in fighting for what they believed to be their rights. We did have bitter feelings in the North against men, not against men in the South, but in our North, in the Democratic party, men who were daily defying and decrying the armies of the Union in their attempts to save the country, and glorying in successes at the South, men sympathizing against their own and for you. We did hate those

men with a bitter, deep, abiding hatred, but never was there the slightest evidence of that feeling toward the men of the South who were in arms for what they believed to be right. We hated their cause, their purposes, and their mad attempt. To-day when the South appeals to us for aid against the scourge of yellow fever, do we hesitate?

Our men and women take their lives in their hand and go down there to fight the deadly scourge for the good of man; and when floods come and you appeal to us, do you find us refusing an answer? Eight hundred thousand dollars in this very Congress, and not a voice raised against it nor a thought felt against it by the members of Congress from the North. Sir, we are glad to do it; not for the South; it is time there was no South; we are glad to do for our countrymen anywhere, North, South, East, or West, what we believe to be for their good, the upbuilding of their country, and the glory of their nation.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas, [Mr. GARLAND.]

Mr. GEORGE. Mr. President——

Mr. HARRISON. Will the Senator from Mississippi yield to me a moment? I understand he desires to speak upon this bill; and as it is late in the day, if it be agreeable to him, I will move that the Senate proceed to the consideration of executive business, so that the Senator may have the floor for to-morrow.

Mr. GEORGE. I yield.

Mr. KELLOGG. I submit several amendments to this bill which I ask to have printed.

The PRESIDING OFFICER. The proposed amendments will be printed.

Mr. HARRISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

After eight minutes spent in executive session the doors were reopened, and (at four o'clock and forty-eight minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 19, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

FREMONT, ELK HORN VALLEY AND MISSOURI RIVER RAILROAD.

Mr. VALENTINE. Mr. Speaker, I move by unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 2997) granting right of way to the Fremont, Elk Horn Valley and Missouri River Railroad Company across the Niobrara military reservation, in the State of Nebraska, and authorizing the sale of a portion of said reservation, in order that it may be taken up and passed at this time.

Mr. ATKINS. Does it grant any land?

Mr. VALENTINE. It permits the sale of forty acres for depot purposes, and is recommended by all the Departments of the Government.

Mr. HOLMAN. I demand the regular order of business.

PRESIDENT GARFIELD'S SICKNESS, ETC.

Mr. TAYLOR. Mr. Speaker, I rise for the purpose of submitting a privileged report from the select committee to audit all claims for services and expenses growing out of the illness and burial of the late President James A. Garfield. I am directed to report back, as a substitute for House bill No. 1227, a bill (H. R. No. 5889) for the relief of Lucretia R. Garfield, and to move that the bill and report, together with the views of the minority, be printed. I also give notice that, at the proper time, I shall call the bill up for consideration. In the mean time, I ask that the committee be discharged from the further consideration of the subject, and that the bill and report, together with the views of the minority, be printed.

Mr. BLACKBURN. It is impossible to hear what the gentleman from Ohio is saying.

The SPEAKER. The gentleman from Ohio submits from the select committee to audit all claims for services and expenses growing out of the illness and burial of the late President James A. Garfield a substitute for the bill referred to that committee, and moves that the substitute and the report, together with the views of the minority, be printed; and he gives notice that at an early day he will endeavor to call the subject up for consideration and action.

Mr. BLACKBURN. Before submitting the views of the minority, I desire to ask whether the chairman of the committee will indicate now when it will be his wish to call the matter up for consideration?

Mr. TAYLOR. I cannot. But I will say this to the gentleman, that it will only be when the gentleman is present.

Mr. BLACKBURN. That is all I ask.

Mr. ATKINS. I desire to say in this connection, Mr. Speaker, that I wish all points of order reserved upon it.

Mr. BLACKBURN. I submit the views of the minority of the committee, and ask that the same order be made as to this that is made with reference to the majority report, and ask to reserve all points of order upon the bill as reported.

The SPEAKER. The report of the committee, and the views of the minority, as well as the substitute of the gentleman from Ohio for the bill, will be ordered to be printed, and referred to the Committee of the Whole House on the state of the Union.

The bill was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying reports, ordered to be printed.

ORDER OF BUSINESS.

Mr. JOYCE. I desire to ask consent for the present consideration of the resolution which I send to the desk.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the bills reported from the Select Committee on the Payment of Pensions, Bounty, and Back Pay be made a special order for Thursday, May 11, after the morning hour, and from day to day thereafter until disposed of, not to antagonize general appropriation and revenue bills.

The SPEAKER. Is there objection?

Mr. SPRINGER. I desire to reserve all existing orders. If this special order is entered upon it will prevent the consideration of the bill of the gentleman from Massachussetts [Mr. CRAPO] and that of the gentleman from Tennessee, [Mr. HOUSE,]——

The SPEAKER. Under the practice it would necessarily have to give way to all prior orders.

Mr. SPRINGER. But it could antagonize them. If, however, they are excepted from the operation of this resolution, then, of course, the question of consideration cannot be raised against them; otherwise that question could be raised as to which special order the House would consider.

The SPEAKER. Does the gentleman from Vermont accept the suggestion of the gentleman from Illinois, that the resolution shall be modified so as not to antagonize prior orders?

Mr. REAGAN. I object.

Mr. JOYCE. I think I will accept that modification.

The SPEAKER. The Chair understands the gentleman from Texas as objecting to present consideration.

Mr. CALKINS. Then I call for the regular order. I want to say that there are five hours' debate yet to take place on this contested-election case, and in order to get it out of the way to-day we must proceed with its consideration. Therefore, let us have the regular order.

The SPEAKER. The regular order is the privileged question, the contested-election case under consideration on yesterday.

Mr. SPRINGER. Does that take precedence of the morning hour?

The SPEAKER. It does. It comes up as the unfinished business this morning.

Mr. SPRINGER. Under the rules does the unfinished business take precedence of the morning hour, or is it not to be taken up after the morning hour?

The SPEAKER. This comes up before the morning hour. It did on yesterday and has been so held.

Mr. BUCKNER. Is that only applicable to privileged questions, or does it relate to any other question?

The SPEAKER. To privileged questions merely.

Mr. BUCKNER. Then, as I understand it, privileged questions do take precedence of the morning hour, but that would not be true of any other than a privileged question?

The SPEAKER. Certainly not.

Mr. HOOKER. I hope the gentleman from Indiana will give way for a moment to enable me to submit a report from a committee.

Mr. CALKINS. I would be very glad to yield to the gentleman, but I have refused the same courtesy to others, and I think it important to proceed at once with the contested-election case.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had passed a bill (S. No. 1045) to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana required for the use of the Northern Pacific Railroad, and to make the necessary appropriations for carrying out the same; and a bill (S. No. 1598) to authorize the Secretary of War to donate to the Ladies' Soldiers' Monument Association of Portsmouth, Ohio, four condemned cannon.

The message further announced that the Senate had passed, with amendments, the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883; in which bills and amendments the concurrence of the House of Representatives was requested.

ENROLLED BILL SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 124) to establish distinct United States courts, with distinct officers, in the northern and southern judicial districts of the State of Georgia.

UTAH CONTESTED-ELECTION CASE.

The SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. BELTZHOOVER. Mr. Speaker, this important contest is fortunately free from all partisan considerations, and will therefore be determined upon its merits and the plain principles of right. The election out of which it arises was held on November 2, 1880, for the choice of a Delegate from the Territory of Utah. The returns, which were duly filed with the secretary of the Territory, were opened and canvassed by him in the presence of the governor of the Territory on December 14, 1880. The canvass of the votes, which was concluded on January 8, 1881, showed that George Q. Cannon received 18,568 votes, and Allen G. Campbell received 1,357 votes. The law provides that the person having the highest number of votes shall be declared by the governor to be elected. The governor, however, in the mistaken belief that he had the right to go behind the returns, heard evidence and arguments to show that Mr. Cannon was an alien and polygamist, and on these grounds, finding them, as he believed, sustained, declared Mr. Cannon ineligible and disqualified to serve as a Delegate. The governor further decided, under an erroneous view of the law, that, Mr. Cannon being ineligible, the votes cast for him were void, and Mr. Campbell, being a citizen and eligible, and having received the next highest number of votes, was elected. The governor accordingly gave Mr. Campbell a certificate of election, and filed among the records of the Territory, in the office of the secretary thereof, an elaborate opinion containing a full statement of the facts. The secretary of the Territory, on January 10, 1881, gave Mr. Cannon a certified copy of the opinion and declaration of the governor, and also, on January 20, 1881, gave him a certified abstract of all the returns.

Mr. Cannon notified Mr. Campbell, on February 4, 1881, that he would contest his seat on the ground that he, Cannon, had received a large majority of the votes cast. On February 24, 1881, Mr. Campbell replied to Mr. Cannon's notice that he was not elected, and if elected, was disqualified by reason of his alienage and polygamy. No testimony was taken by Mr. Cannon in support of his notice during the time allowed to him by law but on May 9, 1881, and subsequently thereto, testimony was taken by Mr. Campbell to show that Mr. Cannon was a polygamist and an unnaturalized alien, and by Mr. Cannon, in reply, to show his citizenship.

The certificates held by Mr. Cannon and Mr. Campbell, and all the papers and testimony in the case, were placed in the custody of the Clerk of the Forty-sixth Congress, and by him were handed over to his successor at the organization of the Forty-seventh Congress.

When the Forty-seventh Congress was organized and the Delegates from the Territories were called to be sworn, objection was made to both Mr. Campbell and Mr. Cannon, and neither was admitted. After a full discussion of the question as to which of the two gentlemen had the *prima facie* right to the seat, it was resolved by the House on January 13, 1882—

That the papers in relation to the right to a seat as a Delegate from the Territory of Utah be referred to the Committee on Elections, with instructions to report, at as early a day as practicable, as to the *prima facie* right or the final right of the claimants to the seat, as the committee shall deem proper.

This resolution clearly made the case a special one and took it out of the regular order under which cases go to the Committee on Elections under the law and the standing rule of the House. Both the *prima facie* and final rights were argued by the parties before the committee, but it would not be proper to prolong the contest by dividing and reporting on the *prima facie* title when the committee are ready to pass upon the final right and thereby dispose of the case.

WERE THE CERTIFIED RETURNS EVIDENCE?

The first question which was presented for the determination of the committee was, Are the certified copies of the returns of the election from all the counties in the Territory evidence?

During the thirty days allowed Mr. Cannon under the law for taking testimony in support of his notice of contest he declined to take any testimony, but attached to his notice copies of all the returns of election from all the counties in the Territory filed in the office of the secretary of the Territory, under the seal of said office. He also subsequently, after the time had expired for taking testimony by him in chief, filed with the Clerk of the House certified copies of the same returns, and they are now printed in the RECORD and are before the committee as part of the papers in the case.

The counsel for Mr. Campbell, the contestee, objected to these copies, and stopped on the threshold of the argument before the committee, and asked to have the contest dismissed for the reason that Mr. Cannon had not offered any competent testimony to sustain his case. I am of the opinion that these certified copies are evidence, for several reasons:

First. The returns are made to and filed with the secretary of the Territory, in conformity to law, and as a part of the records of his office. They are compiled by the clerks of the several counties from the precinct returns, and are sent to the secretary of the Territory under the provisions of a well guarded election law. They are, therefore, records of the secretary's office, upon which the important rights of the people to representation depend, and can be certified for the purposes of evidence as any other record.

Second. The election was held, the canvass was made, the result declared, and the certificates issued, under sections 21 and 22 of the Territorial act of 1878, and section 1862 of the Revised Statutes of the United States. This is very clearly recognized by the governor all through his opinion, and in the certificate which he issued to Mr. Campbell. This being so, the governor had only the right to declare who was elected, and the secretary had the right to certify the declaration. The certificate of the governor was, therefore, without authority of law. The certificate of the secretary of the Territory, which gives the whole declaration of the result by the governor, when the returns were opened and canvassed in his presence, by said secretary, is the legal certificate. This certificate clearly gives Mr. Cannon the *prima facie* right to the seat, and the copies of the returns, which were filed at the same time with the certificate, corroborate that right. They are a part of the title, which for the further consideration of the case is good enough without them until it is assailed by testimony going to the legality and number of the votes cast. No such testimony was given.

WHO WAS ELECTED?

This brings us to the consideration of the second inquiry: Who was elected and returned by the people?

This question I will not take time to discuss. I am satisfied clearly and beyond all doubt that Mr. Cannon received a very large majority of the votes cast in conformity to the laws of the Territory, and was duly elected and returned. I desire to emphasize this point for the reason that I will not consent that the questions of election and return shall ever be determined by anything but the honest majority of votes cast. I do not believe that anything but votes can elect, and that the permanence of representative government depends more upon faithfully observing and respecting this principle than anything else. This disposes of the claim of Mr. Campbell that he was elected and returned, although he only received a small minority of the votes cast. The doctrine that when the majority candidate is ineligible or disqualified the minority candidate, being qualified, is elected, is utterly repudiated in almost all the States of this Union and by the uniform decisions of Congress. Under no circumstances, therefore, has Mr. Campbell any claim or title to be seated in this contest.

IS MR. CANNON A CITIZEN?

Having concluded that Mr. Cannon was elected and returned, there remain the questions: First, is he disqualified because he is an alien? Second, is he disqualified because he is an open and avowed polygamist?

I have given the subject of Mr. Cannon's citizenship careful examination, and have concluded that, under the decision of the Supreme Court of the United States in Campbell *vs.* Gordon, 6 Cranch, 176, the certificate of naturalization held by him is valid. It is in strict conformity to the spirit and policy of our Government to give a very liberal construction to the laws and regulations governing naturalizations. We are a nation whose progress and prosperity are largely built upon the emigration and absorption of the millions of people who have come and will continue to come to us from foreign lands. A learned judge has justly said:

If every naturalized citizen must always be prepared with his proofs to maintain the grounds upon which he obtained his papers in all courts and places in which they may be brought into question, the boon of citizenship, which is so liberally bestowed, would be barely worth possessing.

WHAT IS POLYGAMY?

We come, then, to the great controlling question in the contest: Is Mr. Cannon disqualified to sit as a Delegate from the Territory of Utah because he is a polygamist?

What is polygamy? What are its characteristics, doctrines, and practices, and how does it affect its followers and adherents in their relations and loyalty to the Government?

We can give the most correct and compendious answers to these inquiries by quoting from the majority report of the Committee on Elections, made in the Fortieth Congress, in the contested-election case of McGrorty *vs.* Hooper. The committee went into the subject elaborately and took testimony from every source which was within their reach. They say:

That by reason of polygamy in Utah great crimes have been committed and have been let go unwhipped of justice. Open violation of the authority of this Government has frequently occurred. The sanctity of the ermine has been profaned, the course of justice obstructed. Organized assassination has been frequently perpetrated.

The revelations of the seer have a higher authority than the laws of Congress. The sermons of the Mormon apostles have an edifying effect in Salt Lake City quite equal in the opinion of their followers to those of certain preachers in the cities of the East, and of more weight than a judicial decision. Intolerance, wrangling, violence, and polygamy have marred the administration of our laws in Utah and have weakened the authority of the United States. Why?

Because the organic law of the Territory does not remedy the evils local and peculiar to Utah, thereby leaving the dominion and control of the Territory and its resources completely in the hands of the hierarchy of the Mormon society.

Because the monopoly of wealth and power in the Territory is to a great extent in the hands of the Mormon leaders, excluding competition from the so-called Gentiles, *i. e.*, citizens of the United States not members of the Mormon society; the preference being by custom given to a Mormon whenever competition is likely to injure the Mormon interest.

Polygamy prevails in spite of express laws of the United States, in open outrage of every sacred family tie, controlling the social organization of the community, and shaming the sense of propriety so long and well established among all races of Europeans on this continent. No officer of the United States, civil or military, can hope to exert any salutary influence over this society while polygamy is allowed in defiance of his authority, and against the law of the Government he represents.

Polygamy must be abolished in all this Territory, or the power of this Government will be held in contempt by every class of inhabitants. Through its influence a social ban is put on all Christian women who remain true to the laws and customs of their country, and the precepts of their faith.

Isolated from all other influences than their own peculiar customs and prejudices, the Mormon population are not amenable to the arguments usually applied to enlighten or reform mankind. A revelation from the seer or a strong inducement to migrate seem the only easy remedies. Polygamy is synonymous with bigamy. Bigamy is, under our law, a crime, and polygamy is a monstrous bigamy. Under the Mormon organization it seems to threaten to become incest. The intermarriage of the leading families have made the usual definitions fixing relationship very complex, if not impossible, under the laws of the United States.

To the Mormons such definitions of polygamy and its developments are perhaps harsh, but your committee use only the definitions established among and by the people of the United States by common law and common decency. The instances of incest among the Mormons are taken from the printed works on the customs of that society, and your committee refer to them for the reliability of the statement. There seems to your committee, however, abundant proof of licentious practices under the law regulating marriages in Utah to call for vigorous enforcements of the existing law of Congress on the subject of polygamy. A conflict between monogamy and polygamy has been inaugurated in defiance of our laws by the Mormons themselves.

And this licentious custom of marriage or reckless abuse of that sacred rite is one of the most glaring and practical proofs of the aggressive and dangerous character of a system which grows at the will or in obedience to the lust of a political ruler styling himself a prophet.

Toleration of religious views is a holy duty enforced on Congress by the Constitution, but no law does or can exist which permits toleration of a practice hostile to the safety of society. Such a practice may be introduced by the best and highest human authority, but whether under the name of prophet, priest, or king it matters not, so long as the practice introduced be against established law of the land or fatal to the welfare of the state.

There are other practices under the hierarchy of Utah which militates, in the opinion of your committee, against the principles of good republican government. But the origin of all these existing evils, and the certain source of innumerable future evils in Utah, is in the prophetic power of the head of the society which rules there. The union of Church and State, the combined sanctity of the voice of God and the will of the people, arm the chosen ruler of that organization with spiritual and temporal power.

Has that power been hostile to the Government of the United States? Your committee believe that it is, and has been hostile rather from the inherent spirit of its creation than from any design on the part of that people.

* * * * * * *

The Secretary of War, in his report of December 1857, says:

"The Territory of Utah is peopled almost exclusively by the religious sect known as Mormons. They have substituted for the laws of the land a theocracy having for its head an individual whom they profess to believe a prophet of God. This prophet demands obedience, and receives it implicitly from his people, in virtue of what he assures them to be authority derived from revelations received by him from Heaven.

"Whenever he finds it convenient to exercise any special command, these opportune revelations of a higher law come to his aid. From his decrees there is no appeal; against his will there is no resistance.

"From the first hour they fixed themselves in that remote and almost inaccessible region of our territory from which they are now sending defiance to the sovereign power, their whole plan has been to prepare for a successful secession from the authority of the United States and a permanent establishment of their own."

On the 13th of February, 1863, Senator Wade, in a report submitted to the Senate of the United States in reference to Utah affairs, used the following language:

"The customs which have prevailed in all our Territories in the government of public affairs have had but little toleration in the Territory of Utah; but in their stead there appears to be, overriding all other influences, a sort of Jewish theocracy, graduated to the condition of that Territory. This theocracy having a supreme head who governs and guides every affair of importance in the church, and practically in the Territory, is the only real power acknowledged here, and to the extension of whose interests every person in the Territory must directly or indirectly conduce. We have here the first exhibition, within the limits of the United States, of a Church ruling the State." (Thirty-seventh Congress, third session, Rep. Com., No. 87.)

In January, 1866, certain resolutions were referred to the Committee on the Territories of the House of Representatives, instructing them to "inquire and ascertain what means, civil or military, might lawfully be resorted to to effectually eradicate the evil of polygamy from the land, what legislation was needed for that purpose, and why the law against polygamy was not enforced;" also, a resolution instructing the same committee to inquire into the expediency of reporting a bill providing for the repeal of the law organizing the Territory of Utah, and for dividing said Territory and attaching a portion thereof to the State of Nevada, and the residue to the Territories contiguous to Utah.

That committee, through Hon. J. M. Ashley, chairman, reported July 23, 1866, that they were unable to agree upon any plan which seemed to them to promise a practical solution of the abuses and evils complained of, and which were admitted to exist. They postponed the further consideration of the matter and reported the testimony.

The committee state that "the testimony discloses the fact that the laws of the United States are openly and defiantly violated throughout the Territory, and that an armed force is necessary to preserve the peace and give security to the lives and property of citizens of the United States residing therein." (H. Rep. No. 96, Thirty-ninth Congress, first session.)

* * * * * * * *

Express statute passed July, 1862, (12 Stat. at L., 501, 502,) provides suitable penalties for the violation of the law against polygamy. Have the people of Utah obeyed this statute.

* * * * * * * *

Did this community then submit to that law and obey it? Or have they since persistently lived in its open violation? Polygamy has alarmingly increased since the passage of the law. Brigham Young himself was one of the first to violate it, publicly espousing another wife on the 29th of January, 1863.

In the summer of 1863 Judge Drake, upon the hearing of a *habeas corpus* case, ordered that a girl who had been inveigled into a "plural" marriage with a Mormon bishop should be returned to the custody of her mother, and the marshal was ordered to execute the decree. But the people seized the girl as she was passing out of the court-house, bore her off in triumph, and delivered her to the bishop.

Judge Drake tells us that "since the commencement of 1865 polygamy has increased at least 100 per cent. throughout the Territory. Previous to the year 1863 this doctrine or practice was not generally held to be a religious necessity, but merely a tolerance to be indulged in by those who desired it. It is now held to be a cardinal point. That and the shedding of the blood of apostates to save their souls are the two soul-saving doctrines of the Mormon faith." (Statement of Hon. Thomas J. Drake, H. Mis. Doc. No. 35, second session Fortieth Congress, pages 9, 10.)

The question then arises, shall a community be represented in the Congress of the United States who are thus living in open violation of a law passed for the protection of the highest interests of society and of the state?

We have thus considered the question in reference to polygamy generally, without referring specially to those obscene and disgusting practices which are in this case concomitants. Incest in its various forms and under various names is practiced and encouraged.

The marriage of a man with the mother and her daughters indiscriminately and marriage with a half-sister are permitted. William Hepworth Dixon says that Brigham Young admitted to him in conversation that he saw no objection to the marriage of brother and sister. But he spoke for himself only, as he thought the church was not yet prepared for so strong a doctrine. (New America, by William Hepworth Dixon, page 216.)

By reference to a sermon preached by Young April 8, 1853, and reported in the Deseret News, volume 3, No. 12, it will be seen that he thought it (the church) prepared for another doctrine equally strong—the marriage of a mother with her own son.

Such are the doctrines and practices which are sought to be established and incorporated into the frame-work of society in the heart of this continent. Is it not time that the representative of this corrupt, licentious, this tyrannical, traitorous, and bloody priesthood shall be sent back to his constituents with instructions to abandon their unwarrantable assumptions of temporal power, obey the laws, and remodel their government so that it shall conform to the spirit of our free institutions?

Mr. MOULTON, who makes the minority report in this case, testifies to the same effect in his speech on polygamy, wherein he says:

The teachings and practice of polygamy are unnatural and in conflict with the physical and moral laws. Its effect upon the community in which it exists is its worst commentary. It dwarfs, separates, and isolates its devotees practically from the rest of the world.

A creed, political or religious, that necessarily causes its followers to separate themselves from the rest of the community, to set up institutions inimical to the laws and Constitution under which they live, will always, sooner or later, produce conflict and disastrous consequences to the whole country.

The people on the American continent should be as near one people as possible. The real government of Utah is a sort of religious hierarchy.

The following facts, which are pertinent to the inquiry now in hand, are found from the foregoing extract:

1. Polygamy is the basis of a fanatical hierarchy which is antagonistic to our institutions and laws, and no one who is subject to it can be well disposed toward the Government of the United States.

2. It is a disgrace to our civilization and offensive to the moral sense of mankind.

3. It breeds open defiance of our laws, and renders a republican form of government impossible where it prevails.

4. It is hostile to civil society, and fatal to the welfare of the State.

IS MR. CANNON A POLYGAMIST?

We next inquire, Is Mr. Cannon a polygamist? That he is, in the fullest, broadest, and most complete sense, is proven by his own confession, over his own signature, in the following language:

In the matter of George Q. Cannon. Contest of Allen G. Campbell's right to a seat in the House of Representatives of the Forty-seventh Congress of the United States, as Delegate from the Territory of Utah:

I, George Q. Cannon, contestant, protesting that the matter in this paper contained is not relevant to the issue, do admit that I am a member of the Church of Jesus Christ of Latter-day Saints, commonly called Mormons; that in accordance with the tenets of said church I have taken plural wives, who now live with me, and have so lived with me for a number of years, and borne me children. I also admit that in my public addresses as a teacher of my religion in Utah Territory I have defended said tenet of said church as being in my belief a revelation from God.

GEORGE Q. CANNON.

This paper was given by Mr. Cannon to prevent the contestee from going into the proof fully and squarely, which he proposed to do by calling witnesses who would have been compelled to disclose the facts. The paper was intended to be an unqualified surrender and agreement as to the fact of his being a polygamist in the broadest sense, and must be so considered. It therefore distinguishes this contest from all those that have preceded it in which this question of polygamy was raised. In the last contest which Mr. Cannon had with Mr. Maxwell, in the Forty-third Congress, (1874,) he denied most emphatically that he was "living with four wives or living or cohabiting with any wives in defiant or willful violation of the law of Congress of 1862." He denied that he was then "living, or had ever lived, in violation of the laws of God, man, his country, decency, or civilization, or of any law of the United States." These broad denials on the very issue which was the chief one involved in that contest doubtless had a great deal to do with the finding in Mr. Cannon's favor.

But in this contest we have not only no denial, but an open confession. We have a man knocking for admission at our doors who is a confessed preacher and practicer and apostle and defender of polygamy in its most odious form; who declares that he is a member of the Mormon Church; who, in obedience to the doctrines of that church, which he claims teach that it is right and righteous to marry more than one wife, has taken plural wives and lived and cohabited with them, and they have borne him children, and who has taught and teaches this doctrine as a revelation from God. The plain and unambiguous question now is whether such a man, under the law of the land and the customs and prerogatives of this House, is qualified to hold a seat as a Delegate from the Territory of Utah?

The Parliament of England, one of the greatest legislative bodies on the earth, has just expelled by an overwhelming vote a person who sought to hold a seat among its members because in the light of this Christian century he profanely avowed his disbelief in the existence of a God. This could not have been done in this Government, under whose Constitution "no religious test shall ever be required as a qualification for any office under the United States." But polygamy has been held by the Supreme Court of the nation not to be religion, but a crime.

Chief-Justice Waite, in delivering the unanimous opinion of the court in Reynolds *vs.* United States, after fully defining what is the religious freedom which has been guaranteed under the Constitution, says:

> Polygamy has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, almost exclusively a feature of the life of Asiatic and African people. At common law the second marriage was always void, (2 Kent's Com., 79,) and from the earliest history of England polygamy has been treated as an offense against society. After the establishment of the ecclesiastical courts and until the time of James I, it was punished through the instrumentality of those tribunals, not merely because ecclesiastical rights had been violated, but because upon the separation of the ecclesiastical courts from the civil, the ecclesiastical were supposed to be the most appropriate for the trial of matrimonial causes and offenses against the rights of marriage, just as they were for testamentary causes and the settlement of the estates of deceased persons.
>
> By the statute of 1 James I, chapter 11, the offense, if committed in England or Wales, was made punishable in the civil courts, and the penalty was death. As this statute was limited in its operation to England and Wales, it was at a very early period re-enacted, generally, with some modifications, in all the colonies. In connection with the case we are now considering, it is a significant fact that, on the 8th of December, 1788, after the passage of the act establishing religious freedom, and after the convention of Virginia had recommended, as an amendment to the Constitution of the United States, the declaration in a bill of rights that "all men have an equal, natural, and inalienable right to the free exercise of religion, according to the dictates of conscience," the Legislature of that State substantially enacted the statute of James I, death penalty included, because, as cited in the preamble, "it hath been doubted whether bigamy or polygamy be punishable by the laws of this Commonwealth." (12 Henning's Statute, 691.)
>
> From that day to this, we think it may be safely said, there never has been a time in any State of the Union when polygamy has not been an offense against society, cognizable by the civil courts, and punishable with more or less severity. In the face of all this evidence, it is impossible to believe that the constitutional guarantee of religious freedom was intended to prohibit legislation in respect to this most important feature of social life. Marriage, while from its very nature a sacred obligation, is nevertheless, in most civilized nations, a civil contract, and usually regulated by law. Upon it society may be said to be built, and out of its fruits spring social relations and social obligations and duties, with which government is necessarily required to deal. In fact, according as monogamous or polygamous marriages are allowed, do we find the principles on which the government of the people, to a greater or less extent, rests. Professor Lieber says polygamy leads to the patriarchal principle, and which, when applied to large communities, fetters the people in stationary despotism, while that principle cannot long exist in connection with monogamy. Chancellor Kent observes that this remark is equally striking and profound. (2 Kent's, Com., 81, note *c*.)

Under the facts and the law thus clearly laid down, will it be just for this the highest legislative tribunal of this great Christian Republic to admit to its membership one who openly and unblushingly charges God with inspiring and revealing and commanding to be preached and taught among men a doctrine not only of filth and lust, but of hostility to our Government and defiance to our laws; a doctrine which profanes and defies the pure and holy law which binds the families and forms thereby the great foundation of social virtue on which a free nation must rest; a doctrine which insults the sacred titles of mother and wife, and sister and daughter; a doctrine which ignores the mighty progress of mankind and defies the civilization and literature and philosophy which Christianity has brought to light among men?

WHAT QUALIFICATIONS MUST DELEGATES HAVE?

But notwithstanding that polygamy is an institution of the character we have stated, and that Mr. Cannon is its representative, it is contended that under the Constitution and law we have no right to refuse him a seat as Delegate from Utah. This leads us to inquire into the powers of Congress over the Territories, and how far this House has the right to prescribe qualifications for the admission of Delegates therefrom.

The only portion of the Constitution of the United States which refers to the Territories is Article IV, section 3, clause 2, which provides:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

This clause of the fundamental law has received the most learned and elaborate consideration by the Supreme Court, in Scott *vs.* Sandford, (19 Howard 393, &c.,) wherein, after going fully into the whole history of the Territories from the time of the first cession to the Government, it is held that this clause—

> Applies only to territory within the chartered limits of some one of the States when they were colonies of Great Britain, and which was surrendered by the British Government to the old confederation of the States in the treaty of peace. It does not apply to territory acquired by the present Federal Government by treaty or conquest from a foreign nation.

To all other territory it is held that the Constitution does not extend, and cannot be extended by Congress, except in so far as Congress may enact the provisions of the Constitution into a part of the organic law of such territory. This has been done in regard to Utah: first, by the act of Congress which organized that Territory, and which provides that "the Constitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same or any provision thereof may be applicable;" and second, by the Revised Statutes, section 1891, which provides, in somewhat different language, but of the same purport, that "the Constitution and all laws of the United States which are not locally inapplicable shall," &c.

The Constitution and all the laws of the United States are, therefore, a part of the statute law of the Territory of Utah, so far as they are applicable locally to that Territory.

Now, what was the design of the framers of the Constitution in reference to the Territory which they provided for in the clause which we have quoted above? The history of the subject clearly shows that they intended to commit the unorganized Territories wholly to the discretion and unlimited power of Congress. This is so decided by the courts in all the cases in which the subject is considered; this was so held in Scott *vs.* Sandford, (*supra*,) and Judge Nelson, in Benner *vs.* Porter, 9 Howard, 235, says:

> They are not organized under the Constitution nor subject to its complex distribution of the powers of government or the organic law, but are the creatures exclusively of the legislative department, and subject to its supervision and control.

It is held by Judge Story that:

> The power of Congress over the public Territories is clearly exclusive and universal, and their legislation is subject to no control, but is absolute and unlimited, unless so far as it is affected by stipulations in the cessions, or by the ordinance of 1787, under which any part of it has been settled. (Story, Constitution, section 1328; Rowle, Constitution, page 237; 1 Kent's Commentaries, page 243.)

The Supreme Court of the United States, in a very recent case, says:

> The power is subject to no limitations. (Gibson vs. Chouteau, 13 Wall., 99.)

See also Stacey *vs.* Abbott (1 Am. Law, T. R. 84) where it is held by the supreme court of one of the Territories that they "are not organized under the Constitution; they are exclusively the creatures of Congress."

But there is something more shown by the history of the clause in the Constitution in reference to Territories and by the decisions of the courts thereon. It is clear from both these that it was never intended that the status of the Territories should in any respect approach so near the character and position of sovereign States as to require that whatever agents these Territories might be entitled to on the floor of Congress should have the status and qualifications of members of Congress. The Territories, in the minds of the framers of the Constitution, had none of the rights and attributes of the States.

From the commencement of the revolutionary war serious difficulties existed between the States in relation to the disposition of large and unsettled territories which were included in the chartered limits of some of the other States. Some of these States, and particularly Maryland, which had no unsettled lands, insisted that as these lands were wrested from Great Britain by the common endeavor and by the common expense and in a common cause, that the moneys arising therefrom ought to be applied in proper proportions between the States to pay the expenses of the common war, and not be used by the States within whose chartered limits they happened to be. These contentions were the source of great uneasiness to those who particularly desired the continuance and prosperity of the Union. The Confederate Congress, September 6, 1780, passed a resolution strongly urging the State to cede these lands to the Government for the purpose of maintaining peace and to secure the public credit in carrying on the war. On October 6, 1780, Congress passed another resolution, pledging itself that if these lands were ceded as requested by the September resolution, that they should be disposed of for the common benefit, and be settled and be formed into distinct republican States, which should become members of the Federal Union and have the same rights of sovereignty and independence and freedom as other States. These controversies in reference to the Territories continued down till 1784, when Virginia ceded the vast territory lying northwest of the Ohio River. The only object of the State in making this cession was to put an end to the threatening and dangerous controversy and to enable Congress to dispose of the lands and appropriate the proceeds as a common fund for the benefit of the States. This was the state of affairs when the Constitution of the United States was formed. It was necessary that the lands thus ceded should be sold to pay the common debt of the war, and that regulations should be made for their management and control until sold or otherwise disposed of. Besides these ceded Territories there were arms and munitions of war and various property which came to the United States from the several States. It was necessary then to provide for these in the new government about to be formed under the Federal Constitution, and the clause was inserted which gives Congress the power "to dispose of and make all needful rules and regulations respecting the Territories or other property belonging to the United States."

This provision had a plain, palpable, unmistakable purpose which was to provide for the sale and control of the Territories ceded to the United States by the States for the purpose of the cession.

The Chief-Justice, in Scott *vs.* Sandford, says in reference to this clause:

> It begins its enumeration of powers by that of disposing, in other words making sale, of the lands or raising money from them, which, as we have already said, was the main object of the cession, and which accordingly is the first thing provided for in the article. It then gives the power which was necessarily associated with the disposition and sale of the lands—that is, the power of making needful rules and regulations respecting the Territory. And whatever construction may now be given to these words, every one, we think, must admit that they are not the words usually employed by statesmen in giving supreme power of legislation.

It must not be forgotten, too, that Territorial representatives had been sent from these Territories while they yet belonged to the States; that a Territorial form of government had been expressly provided by the confederation under the ordinance of 1787, and that this act without any change or modification had been re-enacted in 1790 under the Federal Constitution by Congress. Territorial Dele-

gates were therefore not unknown when the Constitution was framed. Why were they not mentioned? Why no qualifications fixed if they were to have any but such as Congress might see fit to provide? No other parts of the Constitution were made to apply to the Territories except the clause we have quoted. On the contrary, they were spoken of as property, and power was given to Congress to dispose of them as property, and to make all needful rules and regulations respecting them as other property of the United States. They were put in the same category with the other chattels of the Government. There is, therefore, nothing in the Constitution which will justify us in believing in the light of its history that the qualifications of agents who might be appointed to look after the interests of the Territories on the floor of Congress should be the same or even like those of members of Congress. This is so, we maintain, with regard even to that Territory over which the Constitution extends directly and immediately, because it was within the control of the Government at the time the Constitution was framed. If, therefore, the Constitution did not contemplate the requirement of such qualifications for Delegates as agents of the Territory within its immediate purview, with much less plausibility can it be contended that it should require them where it is only extended as a part of the statute law.

It is also important to observe the wide distinction which Congress has always made between the powers and status of a member of Congress and a Delegate from a Territory.

A member of Congress is sent by a State, by virtue of its irrefragible right to representation under the Constitution of the United States. This right Congress cannot abrogate or control or limit or modify in any way.

A Delegate is an agent of a Territory, sent under the authority or permission of an act of Congress. This right or permission is subject to the merest whim and caprice of Congress. It can be utterly wiped out or modified or changed just as Congress may see proper at any time.

A member of Congress must have certain qualifications under the Constitution.

A Delegate need have none but what Congress sees fit to provide.

A member of Congress is the representative and custodian of the political power and interests of a sovereign State, which is itself a factor and part of the Government.

A Delegate has no political power, but is only a business agent of the Territory for the purest business purposes. Chief-Justice Marshall, in discussing the power of Congress to govern the Territories, in Insurance Company *vs.* Carter, 1 Peters, 511, says, in reference to the people of Florida: "They do not, however, participate in political power; they do not share in the Government until Florida becomes a State; in the mean time Florida continues to be a Territory of the United States, governed by virtue of the clause in the Constitution." He has no right to vote or aid in shaping the policy of the Government in war or peace.

A member of Congress is an officer named in the Constitution of the United States, and contemplated and provided by the framers thereof at the time of the organization of the Government. He is a constitutional officer.

A Delegate is not a constitutional officer in the remotest sense. There were no Delegates mentioned or thought of by the framers of the Constitution.

A member of Congress is chosen under section 2, article 1, of the Constitution, which provides that—

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. No person shall be a Representative who shall not have attained the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State in which he shall be chosen.

This specifically and definitely and indubitably fixes how and where and by whom members of Congress shall be chosen and what qualifications they must imperatively have. "No person shall be a Representative," &c., without these qualifications.

A Delegate is chosen under section 1862 of the Revised Statutes, which provides that—

> Every Territory shall have the right to send a Delegate to the House of Representatives of the United States, to serve during each Congress, who shall be elected by the voters of the Territory qualified to elect members of the Legislative Assembly thereof. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such Delegate shall have a seat in the House of Representatives, with the right of debating but not of voting.

This fully and very clearly provides how Delegates shall be chosen and what power they shall have, but does not exact or provide any qualifications or hint at any. This is the same provision substantially which has been made for Delegates from 1787 down to this time. The provision in the act of July 13, 1787, for the government of the Northwest Territory, is that the joint assembly of that Territory "shall have authority, by joint ballot, to elect a Delegate to Congress, who shall have a seat in Congress with the right of debating, but not of voting."

These few marked points of distinction between the two offices not only show that the constitutional qualifications for Members do not apply to Delegates but that none of the legislation which has ever been enacted on the subject seems to have been founded on the belief that they did.

Mr. ATHERTON and Mr. JONES, with three other members of the Committee on Elections, urgently recommend the admission of a Delegate from the Territory of Alaska. In their report making this recommendation, they say:

> Its people ask protection and consideration, and to this end have elected and sent here a Delegate to represent them in this Congress and bring before Congress the wants of the Territory. He bears with him the credentials of election and a certificate that he was so elected, not bearing, it is true, the seal of a State, nor the signature of a governor. The people have neither; nor does the law require that he should present such a certificate. He is not a Representative but a Delegate, delegated by the inhabitants, who have been guaranteed the rights of all other citizens, and *to his qualification to be so admitted this House is the sole and only judge.* Congress has done so before, and in support of this, ever unwilling to deprive any people of their civil or political rights, and where these rights exist, although for a time suspended, there must be a remedy, and that remedy is with Congress. At the second session of the Third Congress, 1794, James White presented his credentials, claiming to be a Delegate from the territory south of the Ohio River, then not organized.

This Territory of Alaska is a vast, unorganized domain—a wilderness, without any of the most remote attempts at formal government. It has no census or other evidence of its resources or population. Yet these gentlemen who want to exact the qualifications of a member of Congress for a Delegate from Utah here use language and make a recommendation which shows that they go even further than any who have preceded them in holding that a Delegate is in no respect like a member of Congress, but is a mere agent and business factotum of a Territory. That Territory may, as has been held in very many cases, contain a mere handful of population. Alaska has only 129 white people and possibly 20,000 native savages. Dakota, when admitted as a Territory, had only 2,576 inhabitants. Nevada had very few more.

In White's case, 1 Clark & Hall, 85–91, referred to and relied upon in the Alaska case, it was decided that the right of the inhabitants of Territories entitled to elect Delegates is secured by compacts and ordinances of the United States and not by the Constitution, and that the rights and powers and duties of such Delegates from the Territories are so widely different from those of members of Congress that "the oath required of members of Congress cannot be exacted of them." Mr. Madison, who is presumed to have known something of the spirit and compass of the Federal Constitution, and Mr. Dayton and other distinguished gentlemen who debated that case, clearly held and showed that Delegates were in no possible respect constitutional officers. The whole debate in White's case, participated in by the men who made the Constitution and formulated the ordinances in reference to the Territories, shows more clearly than any present argument can what was regarded in that day as the status of Delegates from the Territories.

In Smith's case, 1 Bartlett, 112, it was decided that the admission of Delegates depends upon the will of Congress. Mr. Cartter, in his argument in that case, (p. 115,) says: "A Delegate from any Territory is not an officer provided for by the Constitution and when admitted to the floor discharges no constitutional duties."

HOW HAS CONGRESS REGARDED REGULATIONS PROVIDED FOR THE TERRITORIES?

Next let us inquire how Congress has regarded its own acts and the compacts and agreements between the Federal Government and the States in reference to the Territories. Let us look into the considerations which have governed the admission of States in the past. The States of Kentucky, Tennessee, Ohio, Indiana, Mississippi, Illinois, Alabama, Michigan, and Wisconsin were formed out of territory belonging to the original thirteen States; and the terms of their admission to the Union were largely determined by the provisions of the act of July 13, 1787, and of various compacts between the United States and the several State governments based upon the terms of that ordinance as the result of which the territory out of which they were severally constituted was relinquished to the General Government.

The ordinance referred to provided for the formation of the Territory, which should become the common possession of the Union, into States, to be laid out in accordance with the terms of the act, and to be admitted whenever they should have a free population of 60,000, or before their population reached this number, if deemed expedient by Congress. Among other notable features of this act were provisions for the establishment of two grades of Territorial government, the first to be under the administration of executive and judicial officers appointed by the President, and intended to continue until the condition of the Territory was such as to warrant the establishment of the second grade, which was provided for when the free male inhabitants should reach the number of 5,000, and was to be established by the election of a Legislative Assembly chosen by the qualified voters of the Territory.

The conditions and steps essential to the formation of new States, according to the terms of the ordinance of 1787, of the compacts with the various States relinquishing territory to the Union, of the treaty stipulations by which purchased territory was acquired, and of the laws of Congress passed in conformity with the articles of the Constitution adopted in 1787, may be briefly stated as follows: first, the determination of boundaries; second, proof that the population equals the number required by the ordinance of 1787, or the number necessary at the time to entitle the State seeking admission to a Representative in Congress, upon the basis of representation then existing; third, authority for the formation of a constitution and State government in accordance with provisions made by Congress

under so-called enabling acts; fourth, the ratification of the constitution adopted in pursuance of the above provisions, by vote of the qualified citizens of the Territory; fifth, an act of Congress approving the steps taken under the enabling act, and formally recognizing the newly formed government as a State.

While the validity and expediency of these conditions have been recognized, they were almost wholly disregarded in the case of Tennessee, the Territory first admitted after the adoption of the ordinance of July 13, 1787, which came fully under its provisions; and, while some of the rules noted have been enforced, others have been equally ignored in connection with the admission of nearly all of the Territories subsequently formed into States. The people of Tennessee, whose Territory had formerly been under the jurisdiction of North Carolina, and whose boundaries were already defined, adopted a constitution and formed a State government in 1795, without authority of Congress, and in the following year, through its representatives, this self-constituted State demanded admission to the Union. Its claims were strenuously opposed by a minority in Congress, who demanded that, prior to the consideration of its claims for admission, it should be required to comply with the terms of the ordinance of 1787, and contended that to admit it at that time would be in disregard of the authority of Congress, and calculated to establish a dangerous precedent. These advocates of the maintenance of Congressional authority as alone competent for determining the conditions under which Territories shall be entitled to seek admission to the Union were overruled, having among their opponents Madison, Macon, Gallatin, and other eminent men. Mr. Dayton, one of the chief opponents of the bill, claimed that its enactment would be equivalent to an utter disregard of existing provisions, and as a renunciation by Congress of any right to deliberate as to the title of a Territory to admission. Mr. Madison said that the inhabitants of the Territory were at present in a degraded situation, deprived of rights essential to freemen—among others, that of representation in Congress; and that an exterior power had authority over their laws, something which could only be justified on the ground of obvious and imperious necessity. Mr. Macon, in answer to the objection that the State had been established in contravention of the provisions intended to govern the formation of new States, replied that but two conditions were essential. Was its government republican in form, and had it the necessary number of inhabitants? If so, its right to admission was indisputable.

Mr. Gallatin said that the people of the Territory became *ipso facto* a State the moment the population reached 60,000 free inhabitants, and that it became the duty of Congress to recognize their title to admission whenever it had satisfactory proof of this fact. The views of Mr. Madison, Mr. Macon, and Mr. Gallatin prevailed, and the precedent, so deprecated by Mr. Dayton, of admitting a Territory in disregard of the provisions of the ordinance of 1787, was established. That the ill results feared by this eminent statesman have not followed has been the result of fortunate circumstances rather than the wisdom of the measures which he so ably opposed. While but one Territory has been subsequently admitted under conditions altogether similar to those existing in the case of Tennessee, in the case of nearly all other Territories this precedent, as regards some one of the rules applicable under the law of 1787, or provided by subsequent measures, has been ignored. These departures from the original intent of Congress have been especially evident as regards population. At the date of the acts enabling them to form State governments, I find that, of the Territories constituted into free States, Ohio, Indiana, Illinois, Oregon, Nevada, and Nebraska had a population less than 60,000; and of those constituted as slave States, not one had then a free population in excess of the required number, the total population, free and slave, of Kentucky, Louisiana, Mississippi, and Missouri being but a little above it, and that of Arkansas and Florida considerably below it. Of the above-named States, at the time of their final admission to the Union, Ohio, Illinois, Oregon, and Nevada, of the free States, were still below the required population; and in none of the slave States, including Tennessee, admitted without the formality of an enabling act, was the free population sufficient, while in Arkansas and Florida the total, including slaves, was still less than 60,000.

It will be thus seen that eleven States organized from Territories, when authorized to form State governments, and the same number when admitted to the Union, had free populations of less than 60,000, and that of the slave States included in this number, seven in all, not one had the required number of free inhabitants, either when authorized to take the first steps toward admission or when finally admitted; and that both of these steps were taken by two of the latter States with a total population, free and slave, below the required number. Why so many States have been authorized to form State governments, and have been subsequently admitted to the Union with populations so far below the requirements of the ordinance of 1787, and the accepted rules for subsequent action, may be briefly explained as follows: first, by the ground for the use of a wide discretion afforded in the provisions of the ordinance of 1787, for the admission of States, when deemed expedient, before their population should equal the required number; and, second, by the equally wide discretion given by the Constitution in the words, "new States may be admitted by Congress into this Union," the only provision of the Constitution bearing specifically upon this subject. Efforts have been made at various times to secure the strict enforcement of the original rules, with the modification resulting from the increase in the population of the Union, which provided that the number of free inhabitants in a Territory seeking admission should equal the number established as the basis of representation in the apportionment of Representatives in Congress, as determined by the preceding census. How little success the efforts made in this direction have met may be seen by a comparison of the number of inhabitants forming the basis of representation, as established by the different censuses, and the free population of the Territories admitted at corresponding periods.

WHAT POWER HAS CONGRESS TO ACQUIRE AND HOLD TERRITORY?

It has been decided that the power to govern the territory acquired by the Federal Government after the formation of the Constitution is an inevitable consequence of the right to acquire. Judge Taney says:

But no power is given to acquire a territory, to be held and governed permanently in that character. The power exercised by Congress to acquire territory and establish a government there according to its own unlimited discretion was viewed with great jealousy by the earlier statesmen.

Judge McClean, in Scott *vs.* Sandford, says:

No powers can be exercised but those which are initiatory to the establishment of State governments, and no more power can be claimed or exercised than is necessary to the attainment of the end. This is the limitation of all the Federal power.

Judge Curtis says:

The purposes and objects of the clause were the enactment of laws concerning the disposal of the public lands and the temporary government of the settlers thereon until new States could be formed.

It has been held to authorize the acquisition of territory not fit for admission at the time but to be admitted as soon as its population and situation would entitle it to admission. It is required to become a State and not to be held as a colony and governed by Congress with absolute authority.

The Government holds it (territory) for their (people's) common use until it shall be associated with the other States as a member of the Union. But until that time arrives it is undoubtedly necessary that some government should be established in order to organize society and to protect the inhabitants in their persons and property; and as the people of the United States could act in this matter only through the Government which represented them and through which they spoke and acted when the territory was obtained, it was not only within the scope of its power but it was its duty to pass such laws and establish such a government as would enable those by whose authority they acted to reap the advantages anticipated from its acquisition, and to gather there a population which would enable it to assume a position to which it was destined among the States of the Union.

It was a part of the solemn compact between the States and the General Government, as we have shown, that the territory ceded should be formed into States at the earliest practicable moment, and should be held for no other purpose.

Utah would long ago have been admitted as a State except for the persistent and defiant practice and propagation of the odious and unrepublican doctrine of polygamy in that Territory. It is unpatriotic and unstatesmanlike for Congress longer to permit such a rich and prosperous section of the Union to remain in the condition of a subject province instead of an equal and sovereign State. It will never be otherwise, however, unless we begin at once, and with sincerity and energy, to disqualify and wipe out the power of polygamy. Professor Henry Randall Waite, Ph. D., a very learned and impartial gentleman, has recently said on this subject:

Utah is now, as when its first petition was presented, debarred from admittance by its anomalous condition as a government controlled by those who maintain, in defiance of law and public opinion, a social system the revolting character of which is too well known to need description. Should the inhabitants of this Territory place themselves in a condition which would not be antagonistic to the laws of the Union, there can be no question that its right to become a State would be at once recognized. Originally settled by its present inhabitants in 1846-47, it was organized as a Territory and provided with a Territorial government by act of September 9, 1850. For a considerable period prior to this act, however, there had been in force in the Territory a semi-ecclesiastical government administered by the Mormon leaders, under the name of the "State of Deseret." The government provided by Congress was intended to extinguish that of this pseudo State, but the people of the Territory cunningly framed, under its provision, a constitution and laws which did not interfere with the essential features of the abrogated code of "Deseret," and was at the same time acceptable to Congress. The result of the change, instead of weakening the power of the Mormon leaders, really strengthened it, by enabling them, under statutes approved by Congress, to exercise from that time until now permanent and supreme executive, legislative, and judicial control throughout the Territory. While it is difficult to say in what manner such a result could have been prevented under the provisions of a representative Territorial government, it is undoubtedly true that the development of Mormonism as a system, the defiant attitude of its adherents, and the resultant difficulties to which reference will be made elsewhere, are chiefly due to the long tenure of absolute civil authority upon which its leaders entered in 1850.

Polygamy is the scarlet letter upon the brow of this fair young commonwealth which proclaims her deep shame, and forbids her entrance into the sisterhood of States.

EACH CONGRESS MAY FIX THE QUALIFICATIONS OF ITS DELEGATES.

Why? Because the history of the Territories, the clause in reference to them in the Constitution, the decisions of the courts thereon, and the contemporary legislation on the subject, all show that the Constitution does not apply to any Territory except such as was within the jurisdiction of the Confederacy at the time of the formation of the Federal Government; and that while the office of Delegate was well known to the framers of the Constitution, the word "Delegate" was not mentioned nor dignified with the slightest recognition. Delegates were clearly considered by the founders of the Government as not within the purview of the Constitution nor having any of the qualifications of members of Congress. Delegates are not, therefore, contemplated by the Constitution, nor any provision made for them in any way as to qualifications or otherwise.

It is clear, therefore, that the Constitution did not intend that Territorial Delegates should come within its provisions or that they

should have the status and qualifications of members. No act of Congress by simply extending the Constitution to a Territory would change it so as to require such qualifications unless the act itself provided such qualifications, and then they would be fixed by the act, and not by the Constitution. No act extending the Constitution to the Territories, in so far as *applicable*, as was done in the case of Utah, would have the effect to in any manner provide or change the qualifications of Delegates, because the Constitution is not applicable to Delegates.

The Constitution not fixing the qualifications of Delegates, and no act of Congress having ever done so, the question remains open, and under the powers of the House and general parliamentary law the House has the exclusive power to judge of and fix them.

Congress has the power to say at any time and in any way it may see proper what qualifications it will exact of the agents whom as a matter of grace and discretion it permits to come from the Territories into its deliberations and to sit among its members. Neither the Senate nor the Executive, nor any other power on earth, has any right to interfere except by permission in fixing the qualifications for admission to the House, and the concurrence and co-operation of the Senate and Executive in the passage of any enactment on the subject can go no further in giving it force and validity than to make it a persuasive rule of action which the House is at liberty to follow or disregard. "Each House shall be the judge of the election, returns, and qualifications of its own members." No law that was ever passed on this subject, which is under the exclusive and unlimited control of each House, by any former Congress, is binding on any subsequent House. Each House may wholly repudiate all such acts with entire propriety. It is customary to regard them as rules of conduct. This is well illustrated by the doctrine laid down by McCrary in his Law of Elections, section 349, in reference to the laws made to govern contested elections:

> The Houses of Congress, when exercising their authority and jurisdiction to decide upon "the election, returns, and qualifications" of members, are not bound by the technical rules which govern proceedings in courts of justice. Indeed, the statutes to be found among the acts of Congress regulating the mode of conducting an election contest in the House of Representatives are directory only, and are not and cannot be made mandatory under the Constitution. In practice these statutory regulations are often varied, and sometimes wholly departed from. They are convenient as rules of practice, and of course will be adhered to unless the House, in its discretion, shall in a given case determine that the ends of justice require a different course of action. They constitute wholesome rules, not to be departed from without cause. It is not within the constitutional power of Congress, by a legislative enactment or otherwise, to control either House in the exercise of its exclusive right to be judge of the election, returns, and qualifications of its own members.
>
> The laws that have been enacted on this subject being therefore only directory, and not absolutely binding, would have been more appropriately passed as mere rules of the House of Representatives, since by their passage it may be claimed that the House conceded the right of the Senate to share with it in this duty and power conferred by the Constitution. It is presumed, however, that the provisions in question were enacted in the form of a statute rather than as a mere rule of the House, in order to give them more general publicity, &c.

CONGRESS HAS ADDED TO THE CONSTITUTIONAL QUALIFICATIONS OF MEMBERS; WHY NOT OF DELEGATES?

But admitting for the purposes of this discussion, what cannot be maintained, that the same qualifications which entitle a member of Congress to admission shall also entitle a Delegate to the same right, and I still hold that Congress has the right and power to say that a polygamist shall not be admitted as a Delegate. Under the high power inherent in every organization on earth to preserve its integrity and existence, Congress has the indubitable right to keep out of its councils any person whom it believes to be dangerous and hostile to the Government.

During the war almost the whole Congressional delegation from the State of Kentucky were halted at the bar of the House, and, on the objection of a member, were not permitted to be sworn until it was ascertained whether they or either of them were guilty of disloyal practices. They had each every qualification usually required by the Constitution; they were duly and regularly elected and returned; they were sent by a sovereign State, holding all her relations in perfect accord with the Federal Government; but the House proceeded to inquire into each case, and not until a reasonable investigation was had were any of them admitted. The committee which had the matter in charge reported, and the House adopted and laid down the following rule on the subject of all such cases:

> Whenever it is shown by proof that the claimant has, by act or speech, given aid or countenance to the rebellion, he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public, and must have been done or said under such circumstances, as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion.

In the case of John Young Brown, who was among the number, the committee almost unanimously reported against his right to admission on the ground that he had written an imprudent and disloyal letter; nothing more. He had never committed an act of treason. He was never arrested nor tried nor convicted. He denied all treasonable intent in the letter, and made every effort in his power to explain and extenuate his offense. But seven out of the nine members of the Committee on Elections of the Fortieth Congress reported that he "was not entitled to take the oath of office, or to be admitted to the House as a Representative from the State of Kentucky." This report was adopted by the House by a vote of 108 to 43. The minority report in that case made an argument against the action of the majority in almost the same words and on identically the same grounds that the minority of the Committee on Elections occupy in the case under consideration. It was argued that Mr. Brown had all the constitutional qualifications, and that Congress had no right to exact more; that in any event he had never been tried or convicted of treason, and unless convicted of the crime even treason was no disqualification. But Congress then laid down the rule above given, and never abrogated since, that in addition to the ordinary constitutional requirements, every man must be well disposed and loyal toward the Government before he can be admitted to Congress to aid in forming its policy and controlling its destinies.

The act of July 2, 1862, providing what is known as the iron-clad oath, added a new and marked qualification to those required of members of Congress prior to that time, and every member who has taken that oath since has submitted to the exaction of that additional qualification. The distinguished counsel who argued the case of Mr. Cannon before the Committee on Elections felt the force of this act, and the long-continued practice of Congress under it, and explained it as a war measure. He said:

> The grounds upon which this law was vindicated, although not stated with much care or precision, are nevertheless clearly enough disclosed by the debates. It was enacted as a war measure. The iron-clad oath was adopted as the countersign which should in time of war exclude domestic enemies from the civil administration of the Government, in the same manner and for the same reason that the military countersign was employed to exclude those enemies from the military lines of the army. It was enacted as a measure of defense against an armed enemy in time of war, and was as necessary and as justifiable as any other war measure not specifically marked out in the text of the Constitution.

If Congress could, almost without challenge, provide and add such a distinct and imperative qualification, not for a Delegate, but for a member of Congress, in 1862, why may we not in 1882 ask a reasonable additional qualification for a Delegate from a Territory who does not come within the letter or spirit of the Constitution? The act of 1862 was a bold and radical assertion of the doctrine of self-preservation on the part of Congress to maintain its integrity and the purity and loyalty of its counsels. The resolution recommended by the majority of the Committee on Elections only says to the people of Utah, You shall not abuse the privilege of representation which we allowed you on the floor of Congress, by sending as your Delegate a person who adheres to an organization that is hostile to the interests of free government, and whose doctrines and practices are offensive to the masses of the moral people of the great nation we represent.

CONCLUSION.

The following is a summary of the reasons for my concurrence in the resolutions of the majority of the committee:

1. The history of the cession and organization of the Territory, which belonged to the Federal Government at the time of its formation, the history of the clause in the Constitution which relates to that Territory, and the Constitution itself all show clearly that it was not contemplated or intended that Delegates which might be sent from said Territory, then immediately under the Constitution, should have the same qualifications as members of Congress.

2. The Constitution does not extend over Utah except as a part of the statute law provided for that Territory by Congress and there is therefore more reason for holding that the qualifications required for members of Congress by the Constitution do not extend to Delegates from that Territory than there is in relation to Delegates from Territory immediately under the Constitution.

3. The Constitution not only does not provide that Delegates shall have the same qualifications as members of Congress but no law, in almost a century of legislation on the subject, has so provided.

4. There is no reason why the qualification of Delegates should be the same as those of members of Congress. Their status and duties and powers are widely different, and their qualifications should be made to conform to those powers and duties, which in case of Delegates are purely of a local and business character.

5. The Territories can only be held and governed by Congress with one single purpose in view, which is to adapt and prepare them for admission as States of the Union. It will hardly be contended that Utah will ever be admitted as a State while polygamy dominates it, or that it is preparing it for admission as a State to hold out to its people the delusive doctrine that a polygamist is not disqualified as a member of Congress, and therefore that polygamy is no bar to the admission of Utah to the Union.

6. No law fixing the qualifications of Delegates passed by any former Congress would be binding on any subsequent House. Each House shall be the judge of the qualifications of its own members, and for a much stronger reason it should be the exclusive judge of the qualifications of the Delegates, which are its creatures, and which it admits as a matter of its own discretion.

7. Congress has held from 1862 down to this time that it has the right to prevent the admission of persons as members who are hostile to the Government by excluding them on that ground, although they possess all the other qualifications required by the Constitution. With much more propriety and much less stretch of power Congress has the right to exclude a Delegate who is not well disposed toward the Government, and who openly defies the law.

I submit this case with one word in reply to the distinguished gentleman from Tennessee, [Mr. HOUSE,] who in so forcibly presenting the views of the minority yesterday declared that a decent respect for the opinions of mankind should constrain us to follow the prece-

dents set by the last four Congresses and accord to Mr. Cannon his seat. The appeal was an unfortunate one. I maintain with great confidence that, under the law and the facts of this case, a decent respect for the opinions of mankind overwhelmingly justify us in refusing to admit to this supreme legislative tribunal of this great Christian Republic one whose practices are offensive to our civilization, hostile to civil society, and fatal to the welfare of the state.

CHANGES IN STANDING COMMITTEES.

The SPEAKER. The Chair desires to announce certain changes in the standing committees.

Mr. KENNA, of West Virginia, is, at his own request, relieved from further service on the Committee on Enrolled Bills. Mr. TALBOTT, of Maryland, is appointed on the Committee on Enrolled Bills. Mr. HOGE, of West Virginia, is, at his own request, relieved from further service on the Committee on Private Land Claims. Mr. HOGE, of West Virginia, is appointed on the Committee on the District of Columbia. Mr. HARDY, of New York, is appointed on the Committee on Private Land Claims.

UTAH CONTESTED-ELECTION CASE.

Mr. JONES, of Texas. Mr. Speaker, in the time allowed me I shall not be able to notice or discuss all of the many interesting questions of constitutional law involved in this debate. I shall therefore select such as seem to me most salient and give them such consideration as my ability and the limited time will permit.

It is not denied that Mr. Cannon was duly elected, receiving some 18,000 votes to about some 1,600 votes against him. It is not questioned that these votes were legal. So that the only question before the House is whether he is laboring under any disability or disqualification on account of which he is denied or should be denied a seat on this floor. Touching this vital inquiry, I shall call attention to the qualifications established or prescribed by the Constitution for members:

> No person shall be a Representative who shall not have attained the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

It is admitted in the report of the majority that Mr. Cannon possesses all of these constitutional qualifications. The rule is familiar to the House that the qualifications thus prescribed by the Constitution exclude all others; in other words these are all the qualifications that can be required for members of this House. The old familiar rule, "the inclusion of the one is the exclusion of the other," in its application to this particular section or clause of the Constitution is expressly recognized and affirmed by Mr. Story in his treatise on the Constitution. There is no question about that. It is not pretended that Congress can either add to or take from these qualifications. It is, however, or has been in this debate insisted that Congress may, in the exercise of its constitutional prerogative to judge of the elections, qualifications, and returns of its own members, apply other tests or require other qualifications in a Delegate from a Territory.

Congress has the prerogative or exclusive privilege to judge, not to enlarge or to contract or to diminish the qualifications prescribed by the Constitution. The power is clearly one of judgment, one of ascertainment, and not one of creation. The House can neither enlarge nor diminish in so far as its members are concerned. But it is maintained by some gentlemen that this constitutional provision has little or no application to a Delegate coming from a Territory. Why not? Is not the reason the same? Congress cannot certainly require greater qualifications in a Delegate, in an inferior, in one occupying a less important position upon the floor than a Member. To do so would in itself be a travesty on constitutional law. You may require less, but certainly cannot require more. You cannot erect a standard for a Delegate different from and more exacting than the one by which you propose to be ruled yourselves. It not only involves a legal sophism but it involves self-reproach for a member of the United States Congress to stand up here and say, "I am good enough to represent my constituents, but some man hailing from a Territory is not good enough, though as good as myself, to represent his." Here in that same breath we have it that the people in the Territories are better than those in the States, when it serves your purpose; and yet the breath is not cold before you tell us that the people of the States are really better than those in the Territories, and ought to have better men to represent them in the United States Congress. And yet gentlemen attempting to maintain the sophism by which they sustain themselves in this particular case do not get through their pretended arguments before they tell us the people in the Territories have no rights we are bound to respect.

Now, then, it being conceded that Mr. Cannon posesses all of these constitutional qualifications, let us see if he does not possess all the qualifications required by the acts of Congress in respect to the Territory of Utah.

Gentlemen tell us this is a new question, as if it were here for the first time in its original character for our consideration, and yet the very same gentlemen who tell us so go back and trace our legislation for thirty years in respect to this very Territory and this very question.

Was not this question before Congress when it passed the organic act of the Territory of Utah? And what is that organic act? Has it any binding force or effect upon the people of the United States or upon this Congress? Can you treat it in any other light than a charter government for that people? Here is an organic act; you passed it and that people accepted it. It is in the nature of a legislative contract, and is binding on all parties, and certainly repealable by neither except with the agreement and by the consent of the other.

This is no new question in American history. George III and the British Parliament thought that our fathers when they were living under colonial and charter governments had no rights beyond their will. But Jefferson and Madison and Washington and others of our early fathers believed and maintained that men are born with inalienable rights, of which they cannot be deprived by the usurpation of their rulers.

This, then, is not a new question. It was before Congress in the act organizing the Territory of Utah. Congress incorporated into that act no disqualification as to polygamy. They recognized the fact then that there was in Congress an absolute want of power to do so. They organized the only government, in so far as this particular feature of the case is concerned, that in their judgment they had the power to organize. They recognized the people as having rights to life, liberty, and property.

Yet gentlemen here would tell us that they have none; that we can tax them without representation; that we can deny them representation on this floor. We are told that Delegates represent nobody here; that they amount to nothing; that they cannot vote. Granted; but have we as Americans yet to learn the potency of the right to speak, the power of the voice of a representative who speaks for his people? Do not gentlemen recognize the fact that it is the bulwark of our institutions that the people, whether of State or Territory, may bring their cause here, and if not heard, then by way of appeal they can go from Congress to the grand tribunal of the whole people of the United States? Yet you would deny them that right lest in asserting their own rights they might forsooth reproach you for their violation. Congress did not incorporate into the organic act any such provisions as are now insisted upon.

Take the Forty-third, the Forty-fourth, the Forty-fifth, and the Forty-sixth Congresses; at times Republican and at times Democratic. Yet the right of this people to be represented by a Mormon was recognized by all. Now, we are told that the presence of a Mormon on this floor will offend the dignity and sensibilities of certain men and women living elsewhere; hence, we must commence a crusade against Mormonism.

Gentlemen, are you in earnest in that? It is said that you may judge a tree by its fruit. Now, if you are in earnest and really want to extirpate polygamy, the way is easy and the constitutional method is plain. What is that? Why, just gather together thirty or forty thousand of you and go out there and settle. They cannot hinder you from doing so, and then you can settle this question.

The Forty-third Congress had this question before it, and the Forty-fourth Congress and the Forty-fifth and the Forty-sixth. It has passed the crucial test of all of them in a constitutional point of view, and they all decided that there was then no existing law, no such disqualification as polygamy as now contended for by gentlemen on the opposite side of this question. Congress by acquiescing, by receiving the Delegate, is now, if there can be any such thing upon the unbridled power claimed by this Congress, estopped from interposing and exacting for the first time a qualification hitherto unknown either to the Constitution, to the law, or to precedent.

The present Congress admits that; there is no question on that subject. Why hurry through in hot haste at the present Congress what is known as the Mormon bill, except to reach Mr. Cannon's case? Everybody knows that. You admit that the law and the Constitution sustained Mr. Cannon's right to a seat on this floor. And in order to overreach him you introduced this bill, known as the Mormon bill, and passed it in order to accomplish by indirect means what you could not effect directly. Now, is there a lawyer on this floor who does not know that what cannot be accomplished directly cannot be accomplished indirectly? Can you evade, and thereby defeat the Constitution of the country?

It is maintained by some gentlemen that this act of this Congress changes materially the attitude of the case. It is maintained by the gentleman from Pennsylvania [Mr. BELTZHOOVER] that for the first time we have polygamy confessed by Mr. Cannon. Now, does not everybody know that it was just as well known by general notoriety as a thing could be known? Did Mr. Cannon ever deny it heretofore? And now because the man was too honest, too frank, to deny the truth, but came up boldly in his manhood and admitted it, did not put the country to any trouble to prove it, that is seized upon as conclusive evidence of guilt. Now, was he guilty of any offense, any legal offense? I will inquire about that by and by. He had taken his wives before the act of 1862.

Mr. BELTZHOOVER. Will the gentleman allow me to ask him a question?

Mr. JONES, of Texas. Certainly.

Mr. BELTZHOOVER. Has the gentleman ever read the report of the Committee on Elections of the Forty-third Congress in the Cannon and Maxwell case?

Mr. JONES, of Texas. No, sir; I have not.

Mr. BELTZHOOVER. Then I would suggest that the gentleman should not make the assertion that Mr. Cannon did not deny that he was a polygamist.

Mr. JONES, of Texas. I say that he did not deny it then.

Mr. BELTZHOOVER. He did deny it.

Mr. JONES, of Texas. Denied that he ever had been married?

Mr. BELTZHOOVER. In the contest which Mr. Cannon had with Mr. Maxwell, in the Forty-third Congress, (1874,) he denied most emphatically that he was "living with four wives or living or cohabiting with any wives in defiant or willful violation of the law of Congress of 1862." He denied that he was then "living, or had ever lived, in violation of the laws of God, man, his country, decency, or civilization, or of any law of the United States." These broad denials on the very issue which was the chief one involved in that contest doubtless had a great deal to do with the finding in Mr. Cannon's favor.

Mr. JONES, of Texas. Very well. It is now stated that the case has been materially changed, that he admits—admits what? He does not admit that he has violated any law. He does not admit that he has been convicted of any offense. The fact that he admitted it in the Territory where he was directly amenable to the law and subject to prosecution in case of guilt shows a consciousness on his part that he was not thus liable.

The fact about it is that his polygamist errors, or whatever you please to term them, all took place before the enactment of the law of 1862. Will any gentleman pretend that Mr. Cannon could under that law be convicted and punished for an act which when done was not a crime?

The gentleman from Pennsylvania [Mr. BELTZHOOVER] says there is nothing that Congress cannot do in its treatment of the people of the Territories. But it seems to me that on this point he has read to very little profit the decisions of the Supreme Court if he has not been informed that, with all our legislative power, we cannot, to save our lives, make a law *ex post facto* in its nature or even impairing the obligation of contracts. In the celebrated case of Hepburn *vs.* Griswold, involving the legal-tender question—a case with which members of the bar are all familiar—the Chief-Justice, delivering the opinion of the court, grouped not the powers of the Government in order to show that it could do thus and so, but actually grouped the inhibitions by the Constitution upon the powers of the States—for what purpose? To show that by the very nature and genius of our Government *ex post facto* laws and laws impairing the obligations of contracts have no part or place in our entire system. The Federal Government cannot exercise the power to pass any such law. There is no authority, either State or national, that can by an act passed to-day make that which was done yesterday a crime.

The eighth section of the act of March 22, 1882, has been referred to. Let me read it:

That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote—

That does not affect votes heretofore given—

at any election held in any such Territory or other place—

Not heretofore but hereafter held in such Territory or other place—

or be eligible for election or appointment to—

Not in the past, but in the future—

or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States.

Now, in construing this provision I submit that the general and well-known rule that all statutes are to be construed so as to give them operation in the future, applies in this case. No statute can be construed as having a retroactive or *ex post facto* effect, even where there exists power in the legislative body to give it such effect, unless it be made so by express and unmistakable language. Now, apply that rule to this eighth section, which, it is claimed, works a change in the character that this case presents to us. Under the application of this rule the whole argument falls to the ground.

But, accepting the confession which this argument implies of your inability to reach this case in any other mode, let us concede that the law-makers intended to do just what you claim has been done—to reach Mr. Cannon and impose upon him a disqualification on account of polygamy; can you do it? Have you done it? Is not the law, if so construed, necessarily *ex post facto?* Was not Mr. Cannon duly elected to this Congress? Did he not acquire by virtue of his election a vested right of property in his office? Can you deprive him of it, except by due process of law? Is it true, as you affirm, that the people residing in the Territories have no protection whatever? Is it true, as you affirm, that the ægis of American liberty does not cover those poor, helpless people out there? Is it true, as you maintain, that when a man, invested in his own State with all the rights of American citizenship, happens to transcend the territorial borders of the State sovereignty, he loses his stature as a man and forfeits his rights as an American citizen? Why, sir, this idea reverses the whole theory of our Government. Our fathers thought that the governments were organized to conserve and protect the innate, inherent rights of man; yet you reverse that principle, and in these Halls, familiar in the past with the teachings of Douglas and Clay and other illustrious men, you gravely tell us that the people of the Territories have no rights whatever that we are bound to respect. Why, gentlemen, we are retrograding; we have got away back of 1765.

My friend from Pennsylvania [Mr. BELTZHOOVER] had better go a little behind the history that he read, when he undertakes to deny these people the right of representation. He could even go to the English Parliament and get valuable lessons from the Earl of Camden. When the same power was claimed for the British Parliament over the American colonies, what was the response of that noble lord? He maintained that whatever is a man's own is his own absolutely, and no one has a right to take it from him without his consent; whoever attempts to do so does him an injury; whoever does so commits a robbery. Whenever you undertake to deprive the people of Utah of the right of representation, of the right of a voice in their own legislation, however wayward they may be, you do those people an injury, and if successful you rob them, not of rights which you gave them, but of rights which they received from nature and nature's God.

Now, then, if Mr. Cannon was elected, and that is the main point I wish to impress upon this House, he is entitled to his seat. He has not been, as I maintain, and I think the intendment of this section clear in support of that view, deprived of it by this act of Congress. If the act had so intended, it is unconstitutional, and therefore inoperative. He is not in any view of its construction deprived of his right, and the logical conclusion is that he cannot be excluded without abolishing the office of Delegate from that Territory. I say, then, to gentlemen on the other side of this House, in all fairness, let them meet this question as it confronts them. Let them meet this question fairly. Here it is: Mr. Cannon is supported by his constitutional right, by his legal right. You find the Constitution and laws of your country and his country, however widely you differ in your religious views, are the same. You find them confronting you. They stand between you and him. They are opposed to you. The spirit of our Constitution and laws is opposed to you, to say nothing of their express language.

What are you going to do? What shall we do? That is the grave and solemn question for us to decide. Will we do as our predecessors have done, recognize this right, the right of representation in the people of the Territories, the right of Mr. Cannon to come here and voice their interests, to represent them in asserting their rights, in communicating to Congress such information as may be deemed necessary in their treatment, or will you ignore these rights?

Here you are brought in front of the Constitution itself. You cannot get around it and you cannot get over it. There is no escape. There is but one alternative: you must either admit Cannon or you must trample the Constitution of your country under your feet.

I do not propose at this time to undertake to discuss, or even to state, the constitutional questions involved as affecting the rights of the people in a Territory. It is not a new question. I accept as true that construction of the second clause of the third section of the fourth article of the Constitution in reference to the power of Congress over the Territories, as stated by the gentleman from Pennsylvania, [Mr. BELTZHOOVER.] Under that clause of the Constitution Congress has the power to do what? To dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

I submit to any fair-minded man whether both the legal and grammatical intendment of this language is not unmistakble. Does not the qualifying word "other" in its relation to the subject place territory in the same category with property? I submit that the plain intendment of the language, the word "other" referring back to territory, puts it in juxtaposition with property.

I will not now repeat what to my mind has been the unanswerable argument of Cass and Douglas on this question. I desire to affirm that I believe, as they maintained, that the power here given is limited to property as land in the Territories. At the time the Constitution was adopted Territorial government had already been provided for the Northwest Territory. The first Congress under the Constitution of the United States passed an act confirming the Territorial government in its relation to the new Government, succeeding and supplanting the old. That is all it did. They elected and sent their representative to Congress; they chose their representatives and lawmakers under it. Here we have, then, I may say, taking it in its historical relation and bearing, a direct expression of the sense of those who framed the Constitution.

The history of their struggle with British power was too fresh in the minds of our fathers for them to assume that the people who inhabited the Territories had no rights. They recognized in their brothers residing in a Territory the same capability, the same right to treat, regulate, and control their own affairs that they had so recently asserted for themselves. That is part and parcel, as it were, of the Constitution itself. The clause "to make all needful rules and regulations," &c., to which I have just referred, was intended to and did give Congress power to establish a system of land surveys, to dispose of and regulate the sale of public lands. At that time it might be reasonably supposed Congress was not looking to the acquisition of further territory, but Congress was empowered by the Constitution to make treaties and declare war, and under the power to make treaties Congress could acquire territory—this very Territory of Utah. In the execution of that power it did acquire this Territory.

The force of analogy and the example of the framers of the Constitution can leave but little room for doubt as to relations of rights and powers between the Government and the Territories. Conforming to those relations as interpreted by analogy and example, Congress

organized Territorial government, securing to the people the right of local self-government. The rights of the people in that Territory were recognized, as were those of the people in the Northwest Territory, thus conforming to the genius of our Government. The people accepted the government thus provided, and by accepting made it their own. If I had time, Mr. Speaker, I would like to reproduce some of the Fourth of July orations I have read on this great subject. Why, I have been so weak, so credulous as actually to believe that all just laws derive their sanction from the consent of the governed. I have been so weak and credulous as an American citizen. In fact, I used to pride myself in the genius of our institutions and in the faith that such was American doctrine and such the spirit of our Constitution and our laws.

I used to believe in the doctrine that all men are born with certain inalienable rights, but especially so with reference to the one to which I have referred; but I now find that I have been hugging delusive phantoms; that man has no rights except those conferred by the Government, and that Congress has absolute power over the domestic affairs of the hardy frontiersmen in the Territories and the right to establish for them such a system as shall suit the people in the States without regard to the will and welfare of the governed, give them bad names, call them polygamists, and try them in their absence and condemn them without a hearing. Is such the genius of American institutions? Is that American doctrine? "Oh," say gentlemen, "it won't do to let this despised people alone." James Madison was a lunatic when he said that time, forbearance, and example will do the work and correct the evil. Polk and Jackson and Jefferson and Madison and Clay and Webster were all beside themselves and should have been sent to lunatic asylums when they maintained that the second sober thought of the people would correct all political evils. Why, all of our forefathers were madmen when they laid the foundation of the Government upon the broad principle of the right of the people and upon the basis of the virtue, intelligence, and patriotism of the masses; that the people might be safely trusted with the settlement of all these political questions, and that the evils which would probably spring up could be corrected by the virtue and intelligence of the people themselves.

But, Mr. Speaker, gentlemen say we cannot trust the virtue and intelligence of the people in Utah. Well, then, whom can we trust, and to whom shall we intrust the Government? What power shall we invoke above that of the people themselves? It is said they have no rights. Whence do we get power to govern them at will and without restraint? It is proposed, as I have already stated, to legislate for them, and yet we are not responsible to them for the abuse of power. Separate responsibility and power and right is a myth and liberty a name. In this very case we have more concern to please our constituents than to promote the welfare of the people in Utah. In response to whose demands are we now pressing to a vote the unseating of Mr. Cannon? Is it done to help or benefit the people of Utah? Or is it done to respond to the demands of our own constituents, far removed from the influence of our action, and not affected by the consequences which you propose to impose upon others?

There are wrongs in Utah as there are in all other Territories; but it is tyranny for us to make laws that do not affect ourselves or constituents, and for which we are wholly irresponsible to the people on whom they act, however oppressively they may be affected by them. I may be what some people call an old fogy on these questions, but I have never forgotten the teachings of the fathers of the Republic. It may not be fashionable to remember them now. I know that other views and other opinions are current upon these questions, but when I turn to the Constitution what do I find? I find that our fathers, (and that Constitution embodies their wisdom and experience,) taught by the cruel persecution of witches, crucified by the persecutions of Catholics and Protestants alike, taught by all of those bitter experiences, declared that religion should have no place in our Constitution lest hypocrisy should thereby find pretense for outrage and wrong upon the innocent.

I find no power in the Constitution that warrants gentlemen in taking the position that we must to the rescue of the Christian religion and stamp out Mormonism, lest its virus contaminate the Christian world. The Christian religion is distinguished from all others by the fact that it does not ask or require the help of temporal aid, but addresses itself directly to the head and heart of the individual, and depends alone on the power of truth. It does not ask, but rejects as incompatible with divine truth, the aid of secular power. It is not a fact that Mormonism endangers either our religion or liberty.

But gentlemen say it will not do to trust the presence of this viper, this poison, in our midst; that the virus will infect and spread itself through the entire mass of the people of the United States. Why, if the people have the virtue and intelligence that we claim for them, we can trust it to them safely. If they have not, if a whole people, fifty millions, invincible in war and irresistible upon the Western Continent, have all their rights and liberties endangered by a few wild, superstitious Mormons, our fathers were greatly mistaken when they laid the foundation of our Government upon the virtue and intelligence of the masses. We have made that grand discovery, and I suppose now their work is to be discarded. We are to tear down this superstructure from its foundation of sand, and dig down and find rock for a new foundation. We do not know whether it is to be this artificial rock now made by recent inventions and processes, or some old rock—granite, or what not; we cannot tell whether it is to be Baptist or Presbyterian, Catholic or Mohammedan.

Now, Mr. Speaker, to be brief in recapitulation: Cannon was, by an overwhelming majority of the people of that Territory, elected a Delegate to this Congress. He was qualified under the law then in force. He is qualified under the Constitution of the United States, and it is not in the power of this House in judging of his qualifications to add to or subtract one thing from them.

The question here confronts us, Shall we admit Mr. Cannon and uphold the Constitution and laws of our country, or by rejecting him trample them beneath our feet and gain the plaudits of the inconsiderate and intemperate? The question is a grave one. It is a solemn one. It embraces all that is vital in constitutional liberty. There can be but two forms of government, one personal, the other institutional. In the case of institutional government the institutions themselves are the supreme power in the state. They are the ultimate tribunal; they are the power than which there is none higher. If you trample these down you start off with a mobocracy, and end inevitably in a military imperialism.

That is the question which, in my judgment, presents itself to every member here. I do not mean that gentlemen are not just as honest in their views in reference to this case as I am. But I do mean to say in my honest judgment this case puts to test the force and power of institutional government. And I might say here in this connection there comes fresh to my mind the language addressed by the Earl of Chatham to the British Parliament in their lust for power and in their eagerness to grasp and sway without limit and without stint the rod of empire over the Western World. I know you can do in this case just what he said England might do in reference to the colonies. He said, substantially: "I know the gallantry of your troops and power of your armies; I know that in a good cause you can crush America to atoms; but in this struggle if America fall she will fall like the strong man embracing the pillars of liberty, she will drag the constitution along with her."

Polygamy, Mr. Speaker, is odious. I have no sympathy with it. But in this struggle it has this advantage which we have unwittingly given it. It has in some form got behind the Constitution of the United States. You may embrace it, but in doing so you may embrace both, and when you drag down polygamy take heed lest you involve the constitutional liberties of your country in ruin. There is no occasion for it. There is no exigency in the life of the nation demanding it. The virtue and intelligence of the people of the United States certainly give us ample assurance that this leprosy cannot extend generally to the people of the United States. As was said yesterday so well by the gentleman from Tennessee, those people are brought now in contact with the outer world. They are no longer isolated. They are no longer away by themselves. Railways traverse their borders. Our people are pouring in and settling up and inhabiting the country. And no one need fear but that, if the vice as depicted by gentlemen yesterday is so hideous, so offensive as practiced in Utah, the American people will naturally be so startled that they will turn against it and destroy it. It will be corrected. There need be no fears on that score. But suppose it shall survive a day or two; suppose it shall live until next Congress and pass over the next Congress, it shall of itself be a monument in commemoration of the devotion to and love of the American people for the Constitution and laws of their country.

The gentleman from Iowa [Mr. THOMPSON] became so impassioned and so carried away with his theme yesterday in his efforts to seat Mr. Campbell, who received about one-tenth or less than one-tenth of the votes, that he actually enlarged upon and amplified the glory and sacred right of representation. Yes, the glorious right of representation! He tells us that here are 1,600 gentiles who have voted for Mr. Campbell, and if you do not seat Mr. Campbell the people will be denied the right of representation, and hurt and outraged in the most vital principles of their liberties and rights; forgetting that about 18,000 had spoken on the other side, asking to be represented by Mr. Cannon.

Now, I would like to ask that if it is a matter of such importance, a matter so imperious in its exactions, that we should admit Mr. Campbell lest 1,600 persons who voted for him be left unrepresented, is it not ten times more important that we admit Mr. Cannon so that the 18,000 who voted for him shall not be left unrepresented?

Mr. Speaker, I will inquire what time I have remaining.

The SPEAKER *pro tempore*, (Mr. UPDEGRAFF, of Ohio, in the chair.) The gentleman has ten minutes remaining.

Mr. JONES, of Texas. I will yield that time to the gentleman from Wisconsin, [Mr. BRAGG,] if he is present. I do not see him now, and I will reserve the remainder of my time.

Mr. JACOBS. I shall not occupy the time of this House in the few minutes I propose to take in this discussion in considering those matters which I deem incidental and collateral; but I shall proceed in what I have to say to the consideration of the legal and constitutional principles which it seems to me ought to govern this House in the exercise of its sovereign and independent functions in deciding this question.

Mr. Speaker, the claim of the Territory of Utah to be represented

upon this floor in the person of an avowed polygamist involves considerations and conditions altogether novel and peculiar. The framers of the Constitution, and of the law of 1850 organizing this Territory, could not, in the nature of the case, anticipate and provide against the existence of an inherent and inveterate vice in the body-politic of the political community claiming representation. In all other cases the social and political structure of the Territory has been modeled in conformity with the practice and principles of a republican form of government. And now the question is squarely presented as to the constitutional power and duty of Congress to refuse representation on this floor for any purpose to a political community which is unrepublican in every such sense as would debar its admission as a State in the Federal Union.

Mr. Speaker, more than thirty years ago the Congress of the United States saw an inconsiderable religious sect planted on perhaps the most favored of all our Territories, and gathering by its missionaries its devotees from every quarter of the globe, until it has reached the proportions of a formidable theocracy pervaded and controlled by practices and principles irrepressibly at war with the genius of our institutions and the policy of free government.

After thirty years of ineffectual discussion and legislation, after the baby has become a giant and threatens the peace of the country, an aroused and alarmed Congress has at last put on the panoply of its power and declared its determination to exterminate this inveterate evil.

A measure has passed both Houses almost unchallenged which denies to the citizens of that Territory who practice polygamy the right to hold office or participate in the government under which they live, and that, too, without judicial conviction or trial by jury.

The people of no Territory since the foundation of the Government have ever had the elective franchise or the right of self-government except by the provisions of the treaty by which it was acquired or the grace of the National Congress; and the people of this Territory acquired none of these rights by the treaty of Guadalupe Hidalgo in 1848; so that when the Forty-seventh Congress disfranchised the ruling class and deprived them of the elective franchise, it deprived them of no inherent or natural and no acquired right. No more does it when for the same cause it denies them admission to the Federal Union and their Delegate admission to a seat on the floor of this House.

The grasp of the Mormon Church upon the people of Utah has never been relaxed. In no such sense has a church ever ruled a state since the Lawgiver of Israel, through the thunders of Sinai and in the name of Jehovah, led the "chosen people" into the valley of the Jordan.

Mahomet poured his fanatic armies into every quarter of the eastern world and forced the nations at the point of the sword to acknowledge the prophet. But he transmitted his empire to the soldier and not to the priest. Whatever may be said of the influence of the Church of Rome in the courts and councils of Christendom, the fact still remains that the church has always been subordinated to the civil and military power.

It is reserved for the first Republic of the world, here in this citadel of personal liberty, with a Constitution commanding the law-making power by "all needful rules and regulations" to see to it that republican practices and principles prevail upon every inch of American soil—it is reserved to us to tolerate within our borders an establishment of religion that not only enslaves the conscience, enfeebles and disarms the will, but dominates the civil power.

That the danger is such as justifies the exercise of this extraordinary power was not seriously denied. And still it is contended that this House, by reason of some legal fiction or other, is powerless to exclude from its floor the representative of a political community which Congress has asserted the power to disfranchise.

To the question as to whether this incongruity exists I invite your attention.

PRIMA FACIE TITLE.

Upon the question of *prima facie* title to the seat and the alienage of the claimant, my views, as expressed before the committee, are briefly as follows:

Certificate of election issued to Allen G. Campbell, Delegate to the Forty-seventh Congress.

UNITED STATES OF AMERICA,
Territory of Utah, Executive Office, ss:

I, Eli H. Murray, governor of the Territory of Utah, do declare and certify that at a regular election for Delegate to the Forty-seventh Congress, held in said Territory on the first Tuesday after the first Monday of November, A. D. 1880, returns whereof were opened in my presence by the Secretary of the Territory, Allen G. Campbell was the person, being a citizen of the United States, having the greatest number of votes, and was therefore duly elected as Delegate from said Territory to said Congress, and I do give this certificate accordingly.

In testimony whereof I have hereunto set my hand and caused the great seal of the Territory to be affixed. Done at Salt Lake City this 8th day of January, A. D. 1881.

[L. S.] ELI H. MURRAY, *Governor.*

By the Governor:

ARTHUR L. THOMAS,
Secretary of Utah Territory.

So that this contest, so far as the *prima facie* case is concerned, may be resolved into the following propositions:

First. Is the governor's certificate such a muniment of title as confers the seat *prima facie* upon the contestant? McCrary, section 208, declares that "it is enough for a *prima facie* case if the certificate comes from the proper officer of the State, and clearly shows that the person claiming under it has been adjudged to be duly elected," &c. It is made conclusive of the *prima facie* title of the contestee, because it is a record. To be a record it must import absolute verity. It derives its authority from a single fact, and that fact is that the holder of the certificate received the highest number of votes. That fact may be omitted and the certificate still be valid. But when in addition to that fact the certifying officer couples with it the statement of another fact not necessary or germane to his determination, and upon both facts argumentatively (therefore) concludes that contestee was "duly elected," the document fails to import absolute verity, excites doubt, challenges controversy, and opens the door to investigation.

Second. The contestee having failed to make a *prima facie* title to the seat, and he being the only person bearing the certificate of the only officer competent for that purpose, it would seem to follow that the only remaining question is, Which of these two persons having the qualifications prescribed by the Constitution received the greatest number of votes at the election?

And here, at the threshold, it is objected that the contestant has failed to make any proof of the allegation, in his notice of contest contained, that he received the highest number of votes at such election within the time prescribed by law.

To which it may be replied that the notice of contest proceeded upon the assumption that the certificate of the governor conferred upon the contestee a *prima facie* title to the seat.

But if I am right in my first conclusion, and the contestee has by reason of his certificate no valid title whatever, then how can the burden of proof in the first instance be said to be upon the person who has named himself as the contestant? Both being destitute of a *prima facie* title, how do the parties differ so far as determining which has the affirmative in the contest?

But if the form the contest has taken is to be deemed to determine that, then we are brought to the question, Is the admission contained on page 32 of the record sufficient to put the contestee to proof of the affirmative allegations of his answer? At all events the contestee seems to have so regarded it, when, upon notice to the contestant, he produced and examined witnesses before the notary to establish the alienage and polygamy of the contestant.

For this and other reasons stated by counsel upon the argument, and which it would be idle to recapitulate, I hold that the contestee held the affirmative in the introduction of proof before the notary; and not having asked to be relieved from his default, we are brought to the inquiry, Was the contestant at the time of his election an alien? Upon this question I adopt the reasoning of the chairman, and hold that the judgment of naturalization cannot be attacked collaterally, and in conclusion, constrained as I am by my views of the principles of construction to hold that George Q. Cannon was at the time of the election a citizen of the United States, and received the greatest number of votes cast, I am, nevertheless, of the opinion that this committee should not recommend, and the House ought to refuse to admit, the said Cannon to a seat as a Delegate from the Territory of Utah, for the reason that, in defiance of the laws of Congress and the sense of mankind, he is living in open adultery with plural wives, and advocating the doctrines and practice of polygamy. And so, seeking the shelter of no subterfuge or technicality, I stand on this proposition for the dignity and honor of the House.

THE ISSUE.

And now that we have cut loose from and disposed of every preliminary question in the contestant's favor, we are brought face to face with the last and only ground upon which his claim to a seat can be rightfully rejected. And this issue upon which the report of the committee must, I think, stand or fall is best formulated in the published declaration of the contestant himself, on page 60 of the record, and is as follows:

In the matter of George Q. Cannon. Contest of Allen G. Campbell's right to a seat in the House of Representatives of the Forty-seventh Congress of the United States, as Delegate from the Territory of Utah.

I, George Q. Cannon, contestant, protesting that the matter in this paper contained is not relevant to the issue, do admit that I am a member of the Church of Jesus Christ of Latter Day Saints, commonly called Mormons; that in accordance with the tenets of said church I have taken plural wives, who now live with me, and have so lived with me for a number of years and borne me children. I also admit that in my public addresses as a teacher of my religion in Utah Territory I have defended said tenet of said church as being, in my belief, a revelation from God.

GEO. Q. CANNON.

So that the very question for this House to determine is, "Are the matters in that paper contained relevant to the issue," and do they constitute a valid reason why George Q. Cannon, after having been duly elected a Delegate from the Territory of Utah, should be refused a seat in the American Congress? In other words, does the fact that he is a member of the "Church of Jesus Christ of Latter Day Saints," commonly called Mormons; that, in accordance with the tenets of such church, he has taken plural wives, who now live with him, and have so lived with him for a number of years, and borne him children; that in his public addresses as a teacher of that religion he has defended such tenets as being, in his belief, a revelation from God—are these facts relevant to the issue, and do they constitute a valid reason for his exclusion?

Let us pause right here to consider the objection raised before the committee, and by the gentleman from Tennessee yesterday, that inasmuch as it does not affirmatively appear by the terms of the admission that any of these wives were taken subsequent to the act of 1862, declaring polygamy a crime, that therefore the confession does not bring the contestant within the penalties prescribed by the act.

A technical reply to a technical objection is fair, and my answer is that the contestant, having confessed the truth of the facts constituting the offense of polygamy under the act, is bound to plead the facts, which, by way of avoidance, take the case out of the operation of the statute. So that on the record made by himself he cannot now avail himself of that objection.

In the first place, I insist that the position taken by the chairman in the report of the majority is sound: that while the House of Representatives may not disregard any law which Congress has the constitutional right to pass, and that while Congress is competent to provide, under the Constitution, for legislative representation for the Territories; that, nevertheless, Congress cannot bind the House by any law respecting the qualification of a Delegate.

I cannot better state the position than to employ his language:

It (Congress) cannot affix a qualification by law for a Delegate and bind any House except the one assenting thereto. The qualification of members is fixed by the Constitution. Hence they may not be added to or taken from by law. But as to Delegates, they are not constitutional officers. Their qualification depends entirely upon such a standard as the body to which they are attached may make. It is urged this means a legal qualification. This is admitted; but that legal qualification is remitted to the body to which the Delegate is attached, because it is the sole judge of that requisite. It is unfettered by constitutional restrictions, and cannot yield any part of this prerogative to the other branch of Congress or the Executive. If it could, the right to amend would follow, and the House might find itself in the awkward position of having the Senate fixing qualifications to Delegates, or the Executive vetoing laws fixing them, and by this means the power which by the Constitution resides alone in the House would be entirely abrogated.

It is claimed this is an autocratic power. This is admitted. All legislative bodies are autocratic in their powers, unless restricted by written constitutions. In this instance there is no restriction.

It is contended that the act of Congress extending the Constitution and laws of the United States over the Territory of Utah, in all cases where they are applicable, extends the constitutional privilege to Delegates and clothes them with membership as constitutional officers of the House. We cannot assent to that view. The very language of the act itself only extends the Constitution and laws over the Territory in cases where they are applicable. They cannot be applicable to the election of a Delegate; for, if they were, then Congress would have no authority to deprive a Delegate of the right to vote. To contend that the applicability of the Constitution in that respect extends to Delegates proves too much. It is clear, therefore, that that clause of the Constitution relative to the expulsion of a member by a two-thirds vote cannot apply to Delegates, because they hold no constitutional office. It is equally clear that the clause of the Constitution relative to elections, returns, and qualifications of members has no applicability except by parity of reasoning; and we do not dissent from the view that, so far as the qualification of citizenship and other necessary qualifications (except as to age) are concerned, they extend to Delegates as well as to members. (Section 1906 Revised Statutes United States.) This is made so, probably, by the statute. Expressly so to all the Territories, except to Utah Territory, and inferentially to that Territory. It follows, as a logical sequence, that the House may at any time, by a majority vote, exclude from the limited membership which it now extends to Delegates from Territories any person whom it may judge to be unfit for any reason to hold a seat as a Delegate.

CONSTRUCTION OF ACT OF 1850.

But, Mr. Speaker, I invite the attention of the House to another view of the legal aspects of the case under consideration. It must be conceded that if this House has lost its original, inherent, and unlimited power under the Constitution to attach whatever conditions it deemed expedient to the admission of a Delegate from this Territory of Utah, it lost it by reason of the enactment of the provisions of the act of 1850 organizing that Territory. It will be observed that section 14 of that act, after providing the manner of the election of a Delegate, declares "the person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof to be given accordingly." And there it stops.

Whether thus by omitting to provide, as provided by the general act of 1817, that "every such Delegate shall have a seat in the House of Representatives, with the right to debate, but not to vote," Congress intended, even at that early day, in anticipation of the unprecedented and anomalous social and political condition likely to arise in this particular case, to preserve to the House, when the duly-elected Delegate, as in this case, presented himself at the bar for admission, the unembarrassed authority to receive or reject him, as its constitutional duty to so govern the Territory as to fit it for admission as a State might seem to require, is a question worthy perhaps of consideration.

But again, in considering the act of 1850 according to the settled rules of construction, section 14 must in any event be construed, as was insisted by the gentleman from Tennessee, as qualified by the subsequent section 16, declaring—

That the Constitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same or any provision thereof may be applicable.

And the report of the minority inquires, "Now, why is the provision of the Constitution relating to the qualification of members not applicable to the Territories?" And so it may be so far as it goes. And the reason why it is not applicable to the case of a Delegate to the extent of reducing the House to the narrow rule prescribed by the Constitution for the admission of members from the States, is that the status and rights of the State are fixed and certain by its admission into the Union, while a Territory, being a State in embryo, with ever-shifting conditions, is subject in addition to those provisions of the Constitution applicable to the States, to the unlimited power and duty of Congress "to make all needful rules and regulations for the Territories."

Now, it is contended that this provision of the act must be held to relate to that part of the Constitution only which treats of the qualifications of members of Congress. But by its terms every provision of the Constitution applicable to the proper government of the Territory is made a part of the act of organization. And even this was a work of supererogation. For whether the act said so or not, Congress had no power by any act of legislation to throw off the discharge of any duty imposed upon it by the Constitution.

And by the act of 1850 it was not undertaken to do so, but on the other hand needlessly and in express terms declared its purpose to govern the Territory in obedience to each and every requirement of the Constitution applicable to the facts and circumstances of the particular case.

Whether these provisions then relate to the personal qualifications of the claimant or not is not necessarily material, for if they relate to any other fact or circumstance pertinent to the execution by Congress of any duty imposed by the organic law with regard to the Territory, then this House on its part is bound to the performance of that duty, even though it involve the abrogation of its previous action. But, as I have shown, every power and every duty imposed upon Congress by the Constitution is expressly reserved by section 16 of the act.

POWER AND DUTY OF CONGRESS.

Judge Curtis says in Scott *vs.* Sanford: "Whether a law be 'needful' is a legislative or political and not a judicial question." This House, as I shall attempt to show, has no more warrant under the Constitution to give aid or sanction or recognition to the unrepublican system that in reality dominates and governs the Territory of Utah, by admitting its ambassador to a seat on its floor, than it would have, under the same circumstances, to admit Utah as a member of the Federal Union.

The Constitution declares:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Then follows in logical order the provision:

The United States shall guarantee to each State a republican form of government.

These provisions must be construed together. The first was clearly intended to devolve upon Congress the duty of supervising and governing the Territories, and as incident to the discharge of that duty, a plenary power, that is as stated by Justice Curtis in 1 Peters, 542:

All the power which both Houses and the State Legislature combined possess in the States.

And this doctrine stood unquestioned until slavery had outgrown its natural and traditional limits and was seeking judicial warrant for setting up its standard in the free Territories of the West. Then it was discovered for the first time that Congress no longer had the power to make all needful rules and regulations respecting the Territories, but that it had the power to make all needful rules, &c., except to make a rule excluding slavery from the Territories.

But the time has gone by forever when any interest will be strong enough to compel such a construction again. And we of the North, who assailed it with the zeal that comes from conviction, and you of the South, who defended it with the courage of lions and the fury of fanatics, even to the pulling down of the temple of our liberties over our heads, now that that fever dream is over we are discussing the powers and relations of Congress to the Territories in a better and more philosophic spirit, and are substantially agreed that that decision was part of the old system, and that the organic change which swept that away buried also this doctrine under the results of the war.

As Paschal says in his Notes on the Constitution:

Congress has all the power of legislation which may be necessary and proper to guarantee the principles of republican government, and to insure the erection and admission of new States with those principles.

Justice Curtis in the Dred Scott case says, and his reasoning may now be regarded as settled law:

If, then, this clause does contain a power to legislate respecting the Territory, what are the limits of that power? To this I answer that in common with all the other legislative powers of Congress it finds limits in the express prohibition of Congress not to do certain things; cannot pass an *ex post facto* law nor bill of attainder, &c. Besides this the rules and regulations must be needful. But undoubtedly the question whether a particular rule or regulation be needful must be finally determined by Congress itself. Whether a law be needful is a legislative or political, not a judicial question. Whatever Congress deems needful is so under the grant of power. * * * I cannot doubt that this is a power to govern the inhabitants of the Territory by such laws as Congress deems needful until they obtain admission as a State."

Chancellor Kent says:

With respect to the vast Territories belonging to the United States, Congress have assumed to exercise over them supreme acts of sovereignty. Exclusive and unlimited power of legislation is given to Congress by the Constitution and sanctioned by judicial decision. The general sovereignty existing in the Government of the United States over its Territories is founded on the Constitution which declares "that Congress shall have the power to dispose of and make all needful rules and regulations respecting the Territories."

Cooley, in his work on Constitutional Limitations, (page 30,) says:

The people of the several Territories may form for themselves State constitutions whenever enabling acts for that purpose are passed by Congress, but only

in the manner allowed by those enabling acts and through the action of such persons as the enabling act shall clothe with the elective franchise to that end.

If the people of a Territory shall of their own motion, without such enabling act, meet in convention, frame and adopt a constitution, and demand admission to the Union under it, such action does not entitle them as matter of right to be recognized as a State; but the power that can admit can also refuse, and the Territorial status must be continued until Congress shall be satisfied to suffer the Territory to become a State. There are always in these cases questions of policy as well as of constitutional law to be determined by the Congress before admission becomes a matter of right. For example, whether the Constitution formed is republican; * * * whether any inveterate evil exists in the Territory which is now subject to control, but which might be perpetuated under a State government.

Now, if the two sections of the Constitution already referred to be read together, they may be paraphrased as follows:

Congress shall have power to make all such needful rules and regulations respecting the Territories as will entitle them at the proper time to be admitted by the Congress into this Union, with a government republican in form and practice and principles.

The Constitution assumes a pre-existing government republican in form, and guarantees that it shall be maintained.

The Constitution assumes that the political unit known as a Territory shall be so informed and pervaded by the practice and principles of republican government that it may be admitted into the Union.

And this places Congress *in loco parentis* to the infant States, commits to its care their training, to guide their steps and watch their growth to the end that they may adopt the practice and principles as well as the form of republican government. The United States cannot long hold this great Territory, with its teeming population, as a colony, and it becomes the duty of Congress to so govern and mold it that it may be fit for self-government.

The Census Bureau has completed its estimate of the population of Utah Territory, classified as Mormons, Gentiles, Apostates, Josephites, and doubtful. Of the Mormons there are 120,283, nearly 49,000 of whom are more than 21 years old, while 40,000 are less than 9 years old. Of the Gentiles there are only 14,156, of whom a little more than one-half are more than 21 years old. There are 6,988 Apostate Mormons, 820 Josephite Mormons, and 1,716 persons who are classified as doubtful. Of the Mormons nearly 37,000 are of foreign birth.

But had she a million of inhabitants within her borders to-day, and resources corresponding to her population, and stood knocking at our doors for admission, bearing in her hands a republican form of government, but with this mighty system of polygamy lurking in the shadow behind, usurping in reality all the functions of government and social order—were such a spectacle presented to-day, is there a man on this floor bold enough to assert, or wrong or reckless enough to vote to ingraft such a monstrous growth on the body of the Republic? And if some Congress years ago had passed a law prescribing certain things as the only conditions upon compliance with which she should be admitted as a State, and all those conditions were complied with to-day, would you admit her? That will not be one man asking for a seat on this floor, but a great people with all the muniments of the right of self-government, except this unrepublican practice and system, and staking their cause, as our fathers did, on the declaration "that taxation without representation was tyranny."

This will confront us ere long, and what better reason will you have for refusing to admit a Territory into the Union which more than possesses all the qualifications ever before exacted, on the ground that this monstrous and "inveterate evil" dominates the Territory, than you now have to refuse to receive its proclaimed apostle, its accredited embassador for the same reason? You have no right to strengthen and dignify this system by admitting their agent to a seat on this floor, because that would be in aid of a power which is at war with the principles of the organic law, the settled policy of the Government, and the spirit of our institutions.

CHURCH AND STATE.

And, Mr. Speaker, Utah is unrepublican because—

First. It is a theocracy stronger in practice than the laws of Congress, and seeks a union of Church and State.

Second. Because no political community can be republican that maintains a civil or ecclesiastical law which abrogates the American institution of marriage and substitutes in its place the system of plural wives.

From its infancy every step in its growth has been distinguished by the complete subordination of the civil to the ecclesiastical power. From its cradle in Seneca County, New York, to Kirtland, Ohio, thence to Jackson County, Missouri, and back again across the Mississippi to Nauvoo in 1840, it everywhere exalted the shibboleth of the prophet over the authority of law, and aspired to local independence and supremacy. The Legislature of Illinois, in the kindly exuberance of their sympathy for men claiming to be flying from unjust persecution, granted them a city charter so artfully framed that the laws of the State were practically nullified within the corporate limits of the holy city of Nauvoo.

Under it, its courts had original and exclusive jurisdiction; a little army called the "Nauvoo Legion" was organized and commanded by the prophet as lieutenant-general. Such open abuse of their hospitality and such high-handed defiance of their laws, led first to ineffectual prosecutions for treason, and then to the death of the prophet at the hands of the people, and their final flight beyond the borders of a civilization that abhorred and spewed them out, under the leadership of Brigham Young, to the shores of the Salt Lake and the fertile plains and picturesque valleys of that charming solitude.

And here, where, in the words of the old familiar hymn,

Where every prospect pleases
And only man is vile.

And fondly fancying themselves beyond the control of the Government, (as they have been ever since,) they set up the standard of the prophet, again proclaimed their right to govern themselves, organized the free and independent "State of Deseret," and planted themselves on the manifesto of Sidney Rigdon, their great orator at Far West, Missouri, in 1838.

"We this day proclaim ourselves free, with a purpose and determination never to be broken —no, never! no, never! no, never!" And with the aid of Congress until now they have kept their word. Up to this hour, and for more than thirty years, against the indignant protest of the Christian world, against the laws they have set at naught, in the teeth of a great nation that has vanquished every other foreign and domestic foe, this monstrous and phenomenal power has more than held its own.

WHAT HAS CONGRESS DONE?

And now, I ask, what in all these years of Territorial tutelage has Congress done to make such "needful rules and regulations" as would bring about the subjugation of this unrepublican and inveterate evil and prepare this embryo State for admission to the Union?

Congress in 1850, with a view of supplanting the "State of Deseret," gave Utah the right to govern itself, only subject to the Constitution and the laws of the United States so far as applicable. The Legislature organized under this law proceeded with all convenient speed to gather Utah, her woods, her mines, her fields and streams, her women and everybody else's women, from Iceland to the tropics, into Abraham's bosom. They re-enacted the ordinance incorporating the "Church of Jesus Christ of Latter Day Saints," and under it, through Brigham Young and the apostles, acquired vast tracts of the most fertile and inviting sections. They organized a surveroy-general's office and sold the public lands to the highest bidder. They destroyed the monuments of survey the Government had established, captured the records of the surveyor-general and compelled him to fly for his life. Brigham Young was the absolute head of the church, the vicegerent of Heaven and the civil governor of the Territory. In September, 1857, a little army was marched against them. Brigham Young declared the Territory under martial law, and threatened to resist the advance of the troops by armed force, but the pacification of the Territory was apparently secured, the troops withdrawn and the civil power remanded without additional safe-guards, conditions, or penalties into the reckless and wicked hands of the Mormon hierarchy, with no semblance of Federal authority except a powerless Federal governor and a baffled and despised Federal court.

Then followed the agitation of the question in the Thirty-sixth Congress, and Mr. Nelson, from the Judiciary Committee of the House, in the bill which afterward substantially became the law of 1862, calls the attention of Congress to the enactment by the State of Deseret of a law entitled "An ordinance incorporating the Church of Jesus Christ of Latter Day Saints," and which was afterward re-enacted by the Territorial government, and which not only authorizes the Church of Jesus Christ of Latter Day Saints to hold and occupy real and personal estate, but by the section of the act it is declared that the real and personal property of the said church shall be exempt from taxation, thus establishing a hierarchy obnoxious to the spirit of our institutions, and conferring privileges and preroga tives unknown to any other ecclesiastical denomination. Such monstrous power and arrogant assumptions are at war with the genius of our Government. He further says that the Territorial statute, being constructively an act of Congress, is in direct violation of the amendment to the Constitution, article 1, providing that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Mr. Cook, in the Thirty-ninth Congress, from the Committee on the Judiciary, as to the memorial of Utah to repeal the act of 1862, says the humiliating fact is, however, apparent that the law is at present practically a dead letter in the Territory of Utah, and demands that it shall be executed.

ACT OF 1862.

Then followed the act of 1862, which provides, first, for the punishment of polygamy without providing any efficient machinery for the execution of the law. Section 2 annuls all acts which shield or countenance polygamy, but provides that this act shall be so limited and construed as not to interfere with the right of property legally acquired under the ordinance incorporating the Church of Jesus Christ of Latter Day Saints, but only to such acts as protect polygamy.

This left the church the owner in fee-simple of 400,000 acres of the public land and six hundred square miles of territory, and the power of the church undisturbed and unbroken and interwoven into every fiber and artery of the body-politic. The law was everywhere in Utah received with derision and has ever since been treated with contempt.

Later, Mr. Wade, from the Committee on Territories, in his report upon a bill authorizing the printing and distribution of the governor's message, which the Utah Legislature refused to print, says:

That the testimony taken by them disclosed the fact that the Territory was controlled by a sort of Jewish theocracy, graduated to the condition of that Terri-

tory, having a supreme head, who governs and guides every affair of importance in the church and practically in the Territory, and is the only real power acknowledged there. * * * We have here the first exhibition within the limits of the United States of a church ruling the state.

And there all agitation and deliberation looking to the breaking up of this "inveterate evil," all legislative effort in the direction of uprooting this theocracy ended, until the Forty-seventh Congress has at last asserted its unlimited power and advanced with vigorous measures to the discharge of its high constitutional duty. The fact that a nation of people can be gathered on this continent so besotted and ignorant who not only believe such rubbish as the "Last Revelation," but who would doubtless fight and die for it in the cañons of the Rocky Mountains with the same devotion as did the Huguenots and Waldenses in the valleys of Italy and France, demonstrates that extraordinary measures are demanded.

POLYGAMY AND FREE GOVERNMENT INCOMPATIBLE.

Again, Utah is unrepublican, because no political community can be free that maintains a civil or ecclesiastical law which abrogates the American institution of marriage and substitutes the system of plural wives.

In support, Mr. Speaker, of this assertion we have the plain lesson, the undivided testimony of all history. For example, when the world was young, Zimur led the savage nomads of the North to the conquest of the luxurious nation of Southern Asia. The sway of the patriarchal chiefs over the tribes having been unlimited the rule of the conqueror over the subjugated races became despotic. Revolutions in Europe have always resulted in more or less organic change in the constitution of government and society. But in Asia, while great empires rise and fall, the same character has been constantly transmitted from the former to the succeeding dynasty.

And lest the views already stated may be thought to take their color from the passion and prejudice of this heated and widespread controversy, I invoke the deliberate testimony, the cool and unbiased judgment of the great German philosopher, Heeren, the ablest of all writers on the constitution of the society and government of the "Asiatic nations," and the causes of their decay and degradation, when more than a quarter of a century ago he said that all his other reasons and "observations were not sufficient to account for the most gloomy phenomemon in the history of the human race; the fact that the fairest and richest portion of the globe, where the mind of man might have been expected to attain its greatest maturity, has in all ages been condemned to perpetual slavery." "How," he asks, "did their strength come to be so impaired that in the periods of their greatest prosperity they were unable to shake off a yoke which to European nations appears intolerable?"

To answer that question he says we must go back a step and seek the cause of the phenomenon in the defective constitution and condition, not of their civil institutions, but their domestic relations. Polygamy has at all times prevailed there; and polygamy, according to all the principles of our nature, has a tendency to promote unlimited despotism. No one who is aware how closely they are connected can deny the influence which the better or worse condition of the domestic relations has on those of society at large. The popular saying that a republic to be permanent must be founded on virtue appears to be only a consequence of the more general principle that civil freedom is closely connected with morality, and that the one inevitably perishes with the other. Now, there is no one custom more adverse to virtue in general—especially the domestic virtues, the chief sources of all true patriotism—than that of polygamy. By this we may explain the phenomenon that no nation praticing polygamy has ever attained to a true republican constitution, nor even to that of a free monarchy. Nay, it may be confidently asserted that it would be unable to maintain a government of this kind even if presented with it.

Polygamy at once produces domestic tyranny by making woman a slave and man a tyrant, and society at large thus becomes a combination, not of fathers of families, but of household tyrants, who by the practice of tyranny have been fitted to endure it. He who is tyrannical in authority will be abject in submission.

A plurality of wives also, as it diminishes conjugal tenderness, saps the foundations of parental attachment, and thereby impairs the interest which every member of the state should feel in its preservation and prosperity. The ideas of country and family, which among the Asiatics appear always to have been separated, if the first of them be not altogether wanting, have been ever closely associated in the minds of the nobler nations.

Attachment to the one has always produced devotion to the other; the best father of a family has always proved the best citizen; and from this source has flowed not only a respect for the authority of law and the magistrates but that heroic courage and contempt of death which fired the rude inhabitant of ancient Germany when fighting for his wife, his children, and his country, to rush upon the pikes of the Roman legions.

And so, Mr. Speaker, all along down the ages the human race has been marshaled in these two grand divisions. Asia, with polygamy on the one hand, after all its struggles and convulsions, to-day the same rigid, unchangeable, hopeless empire of force as in the dawn of the world. Europe and America, with monogamy on the other, through the ennobling influence of the Christian home, and the irresistible devotion to country it engenders, mounting through centuries of persecution and slaughter and the loss of all things, to the possession of personal liberty and constitutional government.

God, in the march of His Empire, has thundered His warning and planted His Cross in the sky. And if you will but listen reverently to these voices of the ages, you will retrace every backward step; take up your unused powers and proclaim to all the people that in the judgment of this House it is "needful," yea, imperative, to the adoption and practice by this embryo state of republican principles, that so long as this church rules this state, and polygamy inspires its thought and dictates its action, so long as its accredited embassador comes to us in the person of an avowed polygamist, a confessed violator of the laws of Congress, so long will this House refuse the Territory admission to the Federal Union and its agent admission to this floor.

I yield twenty minutes of my time to the gentleman from Tennessee, [Mr. PETTIBONE,] a member of the Committee on Elections.

Mr. PETTIBONE. Mr. Speaker, I happen to be a member of the Committee on Elections of this House. With other gentlemen I have prepared my views on this case and presented them to this House, and they have been printed. On yesterday my colleague from Tennessee [Mr. HOUSE] chose to designate the language which I had used in the conclusion of my report as extraordinary. I will read what he said as the text of what I am about to say:

Several members of the Committee on Elections, of the majority side, have favored the House with written reports, undertaking to set forth their reasons for denying Cannon his seat. These reports seem to be characterized more by a feeling of passion and indignation than by that calm judicial tone which should pervade such opinions given to this House for their guidance. My colleague, [Mr. PETTIBONE,] in the conclusion of the report which he submits, uses this extraordinary language:

"My voice and vote, then, is for a resolution denying to George Q. Cannon a seat as a Delegate from Utah, because it is in gross violation of the dignity of the House, and would be an insult to the sovereignty of the nation to admit a self-admitted criminal violator of the laws of Congress to a seat in the body whereof we are members."

That statement of mine is challenged by my colleague from Tennessee. He informed us yesterday that Mr. Cannon was a Delegate and had a seat upon this floor in the Forty-fourth, Forty-fifth, and Forty-sixth Congresses; and that when the question was presented to those Congresses it was determined by them, and each time Mr. Cannon received his seat; and the fact that he is a confessed polygamist is denied emphatically by my colleague from Tennessee.

I will now turn to the record in the Forty-fourth Congress, to the answer which Mr. Cannon himself filed in reply to the charges that were made against him. I find, among other things, the following by Mr. Cannon:

I deny that I am now living with four wives—

Then comes a comma, and then another statement—

or that I am living or cohabiting with any wives in defiance or willful violation of the law of Congress of 1862, entitled "An act to prohibit polygamy in the Territories."

There were two things denied by Mr. Cannon. The first that he denied was that he was then living with four wives. The charge of polygamy against him he explicitly, emphatically, and clearly denies. That is signed by George Q. Cannon himself.

Now, I beg this House to recollect that the act forbidding polygamy in the Territories was passed in 1862. George Q. Cannon, himself being the witness, was not guilty of polygamy in 1874. What does he say now? In the trial of this case before the Committee on Elections of this House, when his attention was challenged to this very matter, with the counsel upon both sides present, with the contestants upon both sides present, my colleague on the committee, the gentleman from Pennsylvania, [Mr. BELTZHOOVER,] called the attention of the committee and of counsel to the matter; and in the presence of Mr. Cannon it was admitted that what I shall now read was in his handwriting, and it was a part of the testimony submitted to the committee. Let us see what it is:

In the matter of George Q. Cannon. Contest of Allen G. Campbell's right to a seat in the House of Representatives of the Forty-seventh Congress of the United States as Delegate from the Territory of Utah.

I, George Q. Cannon, contestant—

Recollect, Mr. Speaker, that he was the contestant in this case—

I, George Q. Cannon, contestant, protesting that the matter in this paper contained is not relevant to the issue, do admit that I am a member of the church of Jesus Christ of Latter Day Saints, commonly called Mormons; that, in accordance with the tenets of said church, I have taken plural wives, who now live with me and have so lived with me for a number of years and borne me children. I also admit that in my public addresses as a teacher of my religion in Utah Territory I have defended said tenet of said church as being, in my belief, a revelation from God.

GEORGE Q. CANNON.

Now we find Mr. Cannon in 1874 denying that he had then violated the statute of 1862, when his case was contested in the Forty-fourth Congress by Mr. Maxwell. He now admits that he has taken plural wives, that he lives with them and they with him, and that they have borne him children.

It was in view of these facts, in view of the fact that in the Forty-fourth Congress he denied that he had violated the law that was passed twelve years before—I say it was in view of this and in view of his solemn admission in this case now on trial, now up for final adjudication, that he was living in polygamy—that I said he was a self-confessed violator of the laws of Congress. I repeat here and

now that he either is a self-confessed violator of the laws of Congress, or words in the English language have no meaning.

Now, what is bigamy? I turn to Bouvier's Law Dictionary. I find there that bigamy—that is the crime, that is what it is designated in the law. Polygamy is a generic term; bigamy is the legal term. Now, what is bigamy?

The willful contracting of a second marriage when the contracting party knows that the first is already subsisting.

I ask the attention of this House now to this definition, for it goes to the root and to the very meat of the matter:

The state of a man who has two wives, or of a woman who has two husbands, living at the same time.

Mr. Cannon says that that was not his condition in 1874, but he now admits solemnly that it is his present condition. The law was passed in 1862, and punishes the crime with fine and imprisonment.

What is bigamy at common law? I ask the attention of every lawyer here to this. In England this crime is punished by the statute of first James First, chapter 11, as a felony. When did James First come to the throne? History tells us, in the year 1603. That was four years before the first white man set foot upon the soil of Virginia; and under the common law of England, in the colonies of England, in the United States, at common law, bigamy has been a felony ever since 1603.

This man, George Q. Cannon, admits he is a bigamist and polygamist, solemnly admits he has plural wives now living with him, and he is therefore a self-confessed felon, (using the language of the common law,) a self-confessed violator of the laws of Congress.

Now, then, Mr. Speaker, I concede, if Mr. Cannon, or a Delegate from any Territory, was a member of this House, I grant, for I can read the Constitution of my country, that only three conditions are laid down, only three qualifications can be considered. What are they? Seven years a citizen of the United States, twenty-five years of age, and an inhabitant of the State from which he comes.

Is this man a member of this House? I concede to the fullest extent that if he is a member, or if any Delegate from any Territory can be considered as a member of Congress upon this floor, then, in the language of the Constitution of my country, I say we must admit Mr. Cannon. I make no subterfuge, I quibble not as to the law.

But, Mr. Speaker, what says the Constitution on this subject, that fundamental law which we are sworn to support? It is this:

The House of Representatives shall be composed of members chosen every second year by the people of the several States.

This is what your House is composed of. Now, there is an old law maxim, which I learned as a law student, and which I have never heard denied by any lawyer, that the expression of one thing is the exclusion of the other.

My colleague [Mr. HOUSE] spoke yesterday of the Delegate from a Territory as being a member. It slipped also from the mouth of my friend from Texas, [Mr. JONES,] a good lawyer, as I am glad to acknowledge. Treat him as a member and then undoubtedly, gentlemen, you have the argument, but I dare you in the face of the oath you have taken, I dare you in the face of the Constitution of the country, to say he is a member of this House. I know it is easy to fling epithets around here. I know it is easy to say I am beside myself. But, Mr. Speaker, there was a man once, and, Democrats, probably you know his name; he went under the name of James Madison while in the flesh, and was known as the father of the Constitution. Well, in the first case that ever came to this Congress, the case of Mr. White, who represented as a Delegate the people of the Southwest Territory, the question was determined once for all as to his status. Mr. Madison, what do you say? I am taken back to the year 1794, and I seem to see the venerable form of the father of the Constitution rising and teaching Democracy to you gentlemen on the other side of this House.

Let me read:

Mr. Madison said that in new cases there often arose a difficulty in applying old names to new things. The proper designation of Mr. White is to be found in the laws and rules of the Constitution. He is not a member of Congress, therefore, and so cannot be directed to take an oath unless he chooses to take it voluntarily.

So much for James Madison.

Now, it may well be that I, Mr. Speaker, in my youth and juvenescence may not be right, but I find myself in eminently respectable company; and I say in regard to this matter as Byron said in his English Bards and Scotch Reviewers, when it was said by the poet laureate he was not altogether correct—

Better to err with Pope than shine with Pye.

And better for me, Mr. Speaker, to err with James Madison than shine with my friend from Tennessee, [Mr. HOUSE,] an eminently respectable Representative of modern Democracy. What power have we over this subject? I have before me a citation from Chief-Justice Marshall. I am aware he did not know much law, but as he happens to be on my side I will quote him. Commenting on the provision of the Constitution that "Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property of the United States," Judge Marshall, in The American Insurance Company *vs.* Canter, 1 Peters, 511, declares: "In legislating for the Territories Congress exercises the combined powers of the general and of a State government."

Is that true or false? I believe Marshall was correct. But I go further. I have in my law library a book entitled, "Cooley on Constitutional Limitations," and I find this among other things:

The people of the Territory, except as Congress shall provide therefor, are not of right entitled to participate in political authority until the Territory becomes a State.

I commend this to my friend from Texas.

What then? I have shown you passed a law in 1862 making bigamy or polygamy in any Territory a crime, a felony.

I say next that George Q. Cannon solemnly denied in 1874—and I have looked in vain through the record for evidence to contradict him—solemnly denies that he was a polygamist in 1874. I find in his own handwriting in this case he confesses *now* that he is a polygamist. And here he stands a self-confessed criminal violator of the law, a felon, if we may believe his own words out of his own mouth, and demands as a right the rights of other members, not Delegates, not envoys, not agents from a Territory not yet admitted into the Union, but the same rights of every member of Congress upon this floor as they are laid down and written with an iron pen in the Constitution of your and my country. Furthermore, Mr. Speaker, that being so, I have held that it is beneath the dignity of this House to admit upon this floor this self-confessed felon.

But I have another word to say, and I challenge the attention of the members of this House to the wording of the Constitution. Why was it that in making the Constitution our fathers said that no qualification shall be demanded save the qualifications of age, inhabitancy, and citizenship?

The SPEAKER. The gentleman's time has expired.

Mr. PETTIBONE. I should like to have a few minutes longer.

Mr. JONES, of Texas. I have ten minutes of my time remaining, and will yield five minutes to the gentleman from Tennessee.

Mr. PETTIBONE. Thank you, sir. I say why was it, in making the Constitution, our fathers established no qualifications save those of age, inhabitancy, and citizenship? Does not every lawyer here know that when the Constitution was adopted in 1789 that bigamy, that larceny, that murder, that all the felonies and all the common-law misdemeanors were then fully cognizable in the courts of the several States? This being so, Congress might well say—the constitutional convention might well say—we will leave the punishment of these offenses to the various forums of the different States. But when you come to the Territories, Congress, exercising the power of the State Legislature, as Judge Marshall says, shall take cognizance of them. Now, this is a different thing. A man may commit bigamy in Maryland, and murder in Tennessee, and larceny in Vermont, and those States will look to it. Why, sir, even in the ancient forum at Corinth, when Paul was brought before the Roman judge, Gallio said to the multitude if he, Paul, had committed any crime he would attend to it, but "if it be a question of words and names, and of your law, look ye to it."

Now, this act of George Q. Cannon is in violation of the law of this Congress, and one word in this respect. Why do they say this is without precedent? I hold in my hands the reports of election cases in Massachusetts, and I see that as long ago as 1785 this question was adjudicated in that State. One Jeremiah Larned had been elected to the Legislature of Massachusetts, but it turned out that he had violated a law that that Legislature had passed. And what was it? Why on election day he headed a riot for the purpose of preventing the collection of taxes. What did the fathers of that day do? They were not "idiots," Mr. Speaker. They were not men who were regardless of human rights even though they lived in the State of Massachusetts; and they held that inasmuch as this man Larned had violated the law which they had passed, although it was only a question of assault and battery, he was unworthy to take a seat upon that floor and they kept him out.

Now, sir, I recognize the chivalry of gentlemen on the other side; but I would be ashamed to be silent even if I stood alone on this floor on a question of right and constitutional obligation. But I say to the gentleman from Texas, and to the people of Utah, to whom he referred, and to the women who voted in that election for George Q. Cannon, that there is a state of affairs that demands correction by the strong iron hand of this Congress. Men and women throughout Utah, voiceless thousands among them, tied up, bound down, kept under control by an ecclesiastical despotism, the like of which has not been seen this side of the Middle Ages, voiceless to-day, whisper to you and to me to stand by the action of the Committee on Elections and say to Mr. Cannon and to men like him, if you violate criminally the laws which the Congress of this nation has passed you are not worthy to have a seat upon the floor of this House. You shall not desecrate by your presence this temple of equal rights and constitutional freedom!

Mr. JONES, of Texas. In the few minutes which I have reserved I desire simply to state the logical conclusion of the argument which I intended to make in support of the minority report to the effect that Mr. Cannon cannot be excluded from a seat upon this floor without abolishing the office of Delegate from that Territory. And in supplement to what I have stated already, I desire to say simply by way of conclusion that the Christian religion is distinguished from all others by the fact that it does not make or require the help of temporal or political aid, but addresses itself directly to the head and heart of the individual, and depends alone upon the power of truth.

It does not ask, but rejects as incompatible with divine truth, the aid of secular power.

ENROLLED BILL SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1290) to amend sections 2586 and 2587 of the Revised Statutes of the United States, by creating the collection district of Yaquina, in the State of Oregon, and authorizing the appointment of a collector therein.

UTAH CONTESTED-ELECTION CASE.

Mr. MILLER. Mr. Speaker, in the limited time allowed me it is impossible for me to discuss the questions that have been presented in this debate in order to demonstrate that polygamy and the practices under it are dangerous to the civil as well as the religious institutions of this country. It is not necessary that it should be done. As early as the Fortieth Congress a committee appointed by the House, and which considered that question, said:

Polygamy is synonymous with bigamy. Bigamy is under our law a crime, and polygamy is a monstrous bigamy.

It further said:

Polygamy prevails in spite of express laws of the United States, in open outrage of every sacred family tie, controlling the social organization of the community, and shaming the sense of propriety so long and well established among all races of Europeans on this continent.

It said further, having asked the question whether or not this power had been hostile to the Government:

Your committee believe that it is, and has been hostile rather from the inherent spirit of its creation than from any design on the part of that people.

It further stated:

That by reason of polygamy in Utah great crimes have been committed and have been let go unwhipped of justice. Open violation of the authority of this Government has frequently occurred. The sanctity of the ermine has been profaned, the course of justice obstructed. Organized assassination has been frequently perpetrated.

It is also a fact, as appears by the records of the judicial proceedings of this country, that the Mountain Meadow massacre was traced directly to the Mormon Church, and that twenty years after the commission of that crime, one who had stood high in that church—Stephen D. Lee—was tried, convicted, and executed for participation in it. It appeared in that trial that the Mormon Church not only winked at but had incited the massacre.

If all these things be true, Mr. Speaker, if that institution is anti-republican, if it threatens the safety of this nation, why should it not be suppressed? Why should any one holding to those opinion and practicing those tenets be admitted to a seat in this House? Is there no law or authority to prevent this? Is it possible that a man who is a member of a political religious association which is hostile not only to the spirit of our laws but also to the letter of the American laws and Constitution can claim as a right under that Constitution a seat in the House?

This question is not a new one. In the case of John Young Brown, of Kentucky, who was duly elected a Representative from the ninth Congressional district of that State, and claimed his seat by virtue of said election in the Forty-first Congress, the Committee on Elections decided that disloyalty disqualified him from taking his seat in the House. And yet he had never taken an oath to support the Constitution of the United States which he had afterward violated; he had never borne arms against the United States Government; he had never committed any overt act; all that he did was to declare in a public speech, 1861, and afterward in a letter, that—

Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this Northern Army shall attempt to cross our borders we will resist it unto death, and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State.

Before the committee he admitted that he had used this language, but denied the authority of Congress to refuse him a seat in the House, inasmuch as the language did not constitute an offense or raise a disqualification under the Constitution. Mr. DAWES, the present Senator from Massachusetts, was chairman of the Committee on Elections. The political friends of Mr. Brown in Congress contended that even if he was guilty of disloyalty he could not be refused a seat in the first instance; that all that could be done would be to admit him, and then if he was guilty of any crime that would disqualify him from holding his seat he could be expelled. Mr. DAWES, in his argument in the House in support of the report of the committee, said:

If he has a right to enter this body, notwithstanding his disloyalty, what right have we afterward to expel him? And if we have a right to expel him for disloyalty have we not a right to keep him out for the same disloyalty? * * * Why would they (his political friends) expel a man from this House if he were a traitor? To punish him? Certainly not, for that is not the punishment prescribed for treason. Is it to overawe and restrain treason? That is puerile and ridiculous. What is it for? There is no other reason assignable except for the public safety. * * * If the public safety calls upon us to expel a member after he has put himself into his seat, because he has the life of the nation in his keeping, is not the public safety regarded more, is not the public safer by not letting him into the seat at all? The custody of the citadel is intrusted to your hands; the enemy approaches; you are bound to use all the means that are required to make that citadel safe. Are you to admit the enemy into the walls and then drive him out? Sir, the homely verse into which the speech of Colonel Titus was put two hundred years ago in the British Parliament, when Charles II undertook to batter down the doors of the House of Commons and trample under his feet the liberties of England, are a better commentary upon that position than anything I can say:

I hear a lion in the lobby roar!
Say, Mr. Speaker, shall we shut the door
And keep him out, or shall we let him in
To try if we can turn him out again?

I take it, sir, that the same question—the public safety—applies in this case, only with greater force and potency. In the case of Mr. Brown the rebellion, with which it was charged he had sympathized, had been over for more than three years. Every man in rebellion had long since laid down his arms. The authority of the Government was acknowledged in every part of the country. A loyal people had by an overwhelming majority elected to the Chief Magistracy of the nation the man who had led the Union armies to victory and the country to peace.

Here the danger which threatens the public safety is impending. The people of Utah and the contestant himself defy our laws. They scoff at the decisions of the Supreme Court of the United States. In the language of the late President Garfield in his matchless inaugural address:

The Territories of the United States are subject to the direct legislative authority of Congress; and hence the General Government is responsible for any violation of the Constitution in any of them. It is, therefore, a reproach to the Government that in the most populous of the Territories the constitutional guarantee is not enjoyed by the people and the authority of Congress is set at naught. The Mormon Church not only offends the moral sense of manhood by sanctioning polygamy but prevents the administration of justice through ordinary instrumentalities of law.

In my judgment it is the duty of Congress, while respecting to the uttermost the conscientious convictions and religious scruples of every citizen, to prohibit within its jurisdiction all criminal practices, especially of that class which destroy the family relations and endanger social order. Nor can any ecclesiastical organization be safely permitted to usurp in the smallest degree the functions and powers of the National Government.

I contend, therefore, Mr. Speaker, that the public safety calls upon us to shut the door and refuse admission to any Delegate from the Territory of Utah until it sends a representative for a law-maker who is not a notorious law-breaker.

But the gentleman from Tennessee, [Mr. HOUSE,] in his argument yesterday, contended that such a procedure would strip citizens or the United States of the rights and privileges that freemen most value—the right to vote and hold office. Why, sir, I read in the statutes of the gentleman's own State that for an act which is not a crime or misdemeanor at common law, and in but few States by statute, citizens of Tennessee may be and are deprived of the right of suffrage and the right to hold office. I refer to the act of 1870, 2d session, chapter 39, sections 1 and 2, as found in Thompson and Steger's compilation, volume 2, section 2437. The sections are as follows:

SECTION 1. The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood descended from a negro to the third generation inclusive, or their living together as man and wife, is hereby prohibited.

SEC. 2. The persons knowingly violating the provisions of the first section of this act shall be deemed guilty of a felony, and, upon conviction, shall undergo imprisonment in the penitentiary not less than one nor more than five years.

Under the constitution and laws of Tennessee any person convicted of a felony is deprived of the right to vote or hold any office of profit, honor, or trust thereafter. Thus it will be seen that the mere marriage of a "white person with a person of mixed blood descended from a negro to the third generation inclusive" is a felony in Tennessee, and on conviction the offender is deprived of the right to vote or hold office, which the gentleman prized so highly in the case of the lecherous, polygamous Mormons, who live in open violation of law. It would be well, sir, for the gentleman from Tennessee to revise the statutes of his own State before he criticises the action of the American Congress and condemns it for imposing, as a penalty for the crime of polygamy, disfranchisement and the further disability as to holding office. One who serenely indorses a statute which by its operation disfranchises a citizen because he marries one woman a shade darker than himself, ought not to be so indignant and wroth against a law that punishes a polygamist who boasts of four wives or more.

But the gentleman has still another objection. He says:

When I took a seat in this House I took an oath to support the Constitution of the United States. I cannot and will not swear to a lie even to emphasize my abhorrence of polygamy or to punish a Mormon, and with my views of this act would have had to do so if I had voted for the bill when it passed.

Why, sir, when did he become such a stickler for his oath that he needs thus, by innuendo, accuse other members of this body of violating theirs? I find by an examination of the Congressional Directory for the Forty-seventh Congress that in 1853–'54 the gentleman was a member of the Tennessee Legislature; as such he necessarily took an oath to support the Constitution of the United States. But scarcely was that oath dry upon his lips before he took part and participated in the rebellion of 1861–'65. He occupied a seat in the confederate congress, and he held some position in the confederate army; I know not whether as judge-advocate or not; but this I know, that he occupied a position whereby he necessarily disregarded his oath taken in 1853–'54. He has become wonderfully conscientious in this year of 1882, when he sees the monster polygamy about to be throttled, and he invokes the Constitution and his oath of office to protect it—that Constitution and that oath of office which he could waive

and put aside in order that he might aid in the attempt to destroy his country.

Mr. ATKINS. Will the gentleman allow me to interrupt him? I think it would be better taste for the gentleman to attack the gentleman from Tennessee, my colleague, if he were in his seat.

Mr. MILLER. Mr. Speaker, I was attacked yesterday by the gentleman from Tennessee when I was not in my seat, and the gentleman ought to be here. He ought not to expect to throw stones and then not be in his seat to defend himself if necessary. Have I charged anything against him that is not true? I refer gentlemen of this House to the Congressional Directory; and what is there I suppose he wrote himself.

Mr. ATKINS. Will the gentleman allow me——

Mr. MILLER. Not if it is to come out of my time.

The SPEAKER. It will have to come out of the gentleman's time.

Mr. MILLER. Then I do not yield.

Mr. Speaker, I think the true ground of opposition of this gentleman to the report of the majority of the Committee on Elections is found in that portion of his speech where he says:

> Mormons have been guilty of believing in, and some of them of practicing, polygamy. But they have been guilty of another sin also. They have committed the offense of belonging to the Democratic party.

I thank God that they do belong to the Democratic party. I thank God that every polygamist, that every man who disregards the laws of the United States in that Territory for suppression of polygamy, belongs to the Democratic party. I am also rejoiced that it devolved upon a Democrat, and upon one who in 1861–'65 spat upon the Constitution of his country and upon the oath that he took to support it, to stand up in this House to defend that monstrous evil. [Applause on the Republican side.]

Mr. MOULTON. How much time, Mr. Speaker, have we left on this side?

The SPEAKER. An hour and twenty minutes, according to the understanding of the Chair.

Mr. MOULTON. I yield five minutes to the gentleman from Wisconsin, [Mr. BRAGG.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of the following bills, in which concurrence was requested:

A bill (S. No. 329) to authorize the preparation and publication of a classified and analytical and descriptive catalogue of all Government publications from July 4, 1776, to March 4, 1881;

A bill (S. No. 954) to authorize the President of the United States in conjunction with the State of Texas to run and mark the boundary lines between a part of the territory of the United States and the State of Texas, to complete the survey of said lines authorized to be surveyed and run and marked, under act of Congress approved June 5, 1858; and

A bill (S. No. 1677) to amend the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

The message further announced that the Senate insisted on its amendments to the bill (H. R. No. 3548) making appropriations for the support of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes, disagreed to by the House, and agreed to the further conference asked by the House on the disagreeing votes of the two Houses, and had appointed as managers of said conference on its part Mr. PLUMB, Mr. ALLISON, and Mr. BECK.

UTAH CONTESTED-ELECTION CASE.

Mr. BRAGG. I am under obligations to the gentleman from Illinois [Mr. MOULTON] for giving me the opportunity to state the reasons which will control my vote in the case now pending before the House.

I think it was Macaulay who said, in his review upon the life of Byron and his works, that the general public at times, like the individual, become affected with the gripes. The public occasionally are affected with a species of moral gripes, which seems to have broken out about this time, and manifests a disposition to vent itself upon the Chinese and the Mormons. As I shall vote to give Mr. Cannon a seat here, I feel it proper that I state the reasons why, in order to show that I do not feel that I am affected by any gripes, either moral or otherwise, upon this subject.

I shall vote for him upon the mere cold legal proposition, and no other. I do not defend polygamy, nor would I defend infidelity. Infidelity saps and attacks the very foundations of the Christian religion fully as much as do the practices of the "Latter Day Saints." Yet I doubt if any member upon the floor of this House would vote against a man because he had no religious convictions at all, and belongs to the class which the Bible says "hath said in his heart there is no God."

We are not an ecclesiastical synod; we are not sent here as an inquisitorial body to make inquiry whether A, B, or C comes up to the religious standard that we have established for ourselves. We come here as a legislative body. The Committee on Elections of this House has certain functions to discharge, which in no wise affect a man's religious belief or his practices under that religion.

The first question for us to determine in cold blood is, Was the Territory of Utah, at the last general election, entitled to a Delegate in this House? Were the people of Utah entitled to exercise the right of franchise? Did they exercise that right of franchise, and did they choose a Delegate to represent them here as their agent? The majority report of the Committee on Elections decides, first, that Utah was entitled to representation; second, that the population of Utah did possess the elective franchise; third, that they exercised that franchise, and by an overwhelming majority selected as their Delegate or agent, to communicate to us their wishes, George Q. Cannon, who, the committee report, is not entitled to be received upon this floor as their representative.

Was Mr. Cannon eligible under the law? The only eligibility required is that he shall be a citizen of the United States, and I believe that that even is denied by the majority report, and they hold that there was no qualification at all. Then if he fills all the requisite——

The SPEAKER. The time of the gentleman has expired.

Mr. BRAGG. The gentleman from Texas [Mr. JONES] agreed to yield me some time.

The SPEAKER. The time of that gentleman has been exhausted.

Mr. SPARKS. The gentleman from Texas agreed to yield some of his time.

The SPEAKER. That is true; but nevertheless the time of the gentleman from Texas has been exhausted.

Mr. DAVIS, of Missouri. I had some time left at the conclusion of my remarks yesterday, and I will yield ten minutes to the gentleman from Wisconsin, [Mr. BRAGG.]

Mr. BRAGG. I thank the gentleman. I say that when the Committee on Elections exercised their functions they were exercised legally and properly in ascertaining these several facts. When they have found these facts all in the affirmative, they have no right legally, morally, or otherwise, in the discharge of their duties as an Election Committee of this House examining into the election of a Member or Delegate of this House, to go outside of the naked legal propositions which were submitted to them and bring in for the consideration of this House a discussion upon the question of the propriety or the legality of polygamy.

This agent, who has been selected by the polygamists to represent them here as their agent, has been here through two successive Congresses——

Mr. SPARKS. Through four Congresses.

Mr. BRAGG. Through four successive Congresses. He has borne himself as a gentleman in every respect. He has certainly not contaminated any member of Congress by any noxious doctrine.

Mr. ATKINS. Will the gentleman from Wisconsin [Mr. BRAGG] allow me to interrupt him in the little time he has to speak? I would like to hear from him, if he can reach the point, upon the effect of the Edmunds bill, the recent law of Congress, upon the right of the Delegate from Utah to his seat, whether or not it is retroactive? That is the point in this case.

Mr. BRAGG. When I rose to speak, I did so simply for the purpose of giving the reasons, without entering into any general discussion, of my vote on this question.

I have considered the question which has been propounded to me by the gentleman from Tennessee, [Mr. ATKINS,] and my view upon it from a legal stand-point is this: if Mr. Cannon was eligible and entitled to his seat when he received the franchises of his people which gave him that right to a seat, no subsequent act of Congress can deprive him of that right thus given him by the franchise which his people possessed, which they exercised, and which has become executed by the election which resulted in choosing him for this seat.

If the Committee on Elections desires to reach the question of polygamy, if this House desires to reach that question, if the sentiment of the country desires to reach that question, it must reach it by the disfranchisement of any person entertaining that species of religious belief which is entertained by the Mormons. And I doubt very much whether any member of this House will claim that the right exists in us to disfranchise any person in a Territory who by local law is entitled to the exercise of the right of franchise.

If they have that right of franchise they have the right of selection, and when they have made their selection, if they are entitled to it, we cannot deprive them of the benefits of that selection unless we repeal the law which entitles Utah to a Delegate. For these reasons, Mr. Speaker, independently of all questions of polygamy or Mormonism, I shall cast my vote to seat Mr. Cannon as a Delegate from his people to communicate to us their wishes upon the subject of legislation.

Mr. MOULTON. I yield seven minutes to my friend from Michigan, [Mr. HORR.]

Mr. HORR. Mr. Speaker, it is not my purpose to take up the time of the House with any general discussion of this question. I can state all I wish to say on the subject in a very few moments. I shall vote against seating Mr. Cannon as a Delegate from Utah, simply on the ground of ordinary common decency. He comes here before us and states unqualifiedly that he is living in open, notorious violation of law. In direct violation of the solemn enactments of a former Congress, with a total disregard for the common usages of modern civilization, unmindful of all the pure and ennobling principles that should adorn the society of this country, he states that he is living with three or four different women and raising a family of children by each one of them. What more do members of this House wish to know of any man? For myself, after such an acknowledgment, I

shall not bother my head about constitutional law. I shall puzzle my brain over no legal quibbles. It makes no difference to me whether the same law applies to Delegates that obtains as to Members or not, I simply will not vote to seat any man in this House as Member or Delegate who thus comes and flaunts his soiled garments in our faces. It makes no difference to me that he comes trying to cover his shame under the guise of religion. The inspiration dodge is too thin to cover that kind of iniquity. Neither the bullet of the assassin nor the lust and lechery of the lascivious can be in that way hidden from the sunlight of day. The cry of religious toleration, of freedom of conscience, has no application in this case.

Let us suppose, to illustrate this matter, that some man should be elected a member of this House from some district, and the charge should be made against him in the press of the land that he is a murderer. When standing here at the bar of the House, suppose some member should object to his being sworn in and should confront him with the charge. And in reply he should say, "Yes; I kill people. I belong to a church that believes in killing and eating people. It has been my practice for some time past to murder and devour my neighbors. I know it is in violation of statute law, but my church has 'new light' on this subject. I know the Gentile world call us murderers, cannibals, but they do this on account of their lack of inspiration. It is one of the ways we have of worshiping." And you must not forget that there are tribes of men still living who slay and eat their fellow-men simply as a religious ceremony. Now, is there a man here who would vote to seat such a monster? Would our Democratic friends, who are so noted for their constitutional convictions, commence their usual worn-out phrases on that much-abused instrument in defense of that kind of religious liberty, the right to kill and eat one's neighbors. Of course, not a man in the sound of my voice would do anything of the kind. Still, every argument used in favor of seating Mr. Cannon would apply with equal force in favor of seating that kind of a man. This plea for freedom of conscience, religious liberty, all this hue and cry, applies with just as much force to the one case as to the other.

Can any man afford to worry his brain or waste his time investigating and debating such a case? Far from it. Life is too short and time too precious to be thus wasted. Hence it is, I say, Constitution or no Constitution, law or no law, I will never vote to seat any such man in this House. It seems to me an insult to ask that such a thing be done, and a waste of time to debate such a proposition.

If there has been anything for which I have admired the average Democrats of the past, it is for their ability to swallow disagreeable doses, to gulp down without winking or blinking any mixture prepared and offered them by their leaders. I am just now watching with great interest to see if they drain this cup with smiling faces. You, gentlemen, can do so if you will; I utterly refuse to taste or even touch it. As for me, I too have had an inspiration on this subject. After these election cases were taken up yesterday a communication, clear and distinct, came to me, and I trust it came too from the skies. This is what it said: "In voting to seat or unseat members drop politics, and see that only such men receive your support as themselves received the majority of votes actually cast at the polls."

That closed the Campbell end of this controversy at once. The next celestial utterance was this: "Do not permit any man to cover up assassination, lust, or lechery under the plea of inspiration. That kind of afflatus never comes from above. Men who claim that it does are always frauds."

And thus ended with me the Cannon part of this case. Thus you see the gentleman from Utah and myself approach this subject from a common stand-point. We are both impelled by an outside force; have both received "new light." His inspiration leads him to violate law and live in a harem. Mine compels me to see to it that all such imposters are kept out of Congress. Neither of us believe in arguing the case, because we both admit that inspiration speaks with authority; that where it begins debate should stop. Hence he and I can have no quarrel, for surely, while he claims such immunity on account of the recent revelations made to himself and the "Latter Day Saints," he will permit me to be governed by this supernatural light that so surrounds and compasses me about. Of course to me it is gratifying to see that in this case reason and revelation, common sense and inspiration seem to run in such parallel lines. But to Mr. Cannon I have only to say, that having received this "new light" my conscience compels me to follow it. [Laughter and Applause.]

Mr. MOULTON. Mr. Speaker, if I can have the attention of the House I shall be able I think to state in a very short time the views which I entertain. I shall confine myself exclusively to what I conceive to be the points in the case, and to the law and the Constitution that apply in this case. A very wide latitude has been indulged in by gentlemen who have preceded me in this discussion, some of them, as I think, not touching a single point that is really involved in this case. For instance, my friend from Pennsylvania [Mr. BELTZHOOVER] and my friend from Wisconsin [Mr. HAZELTON] occupied most of their time in discussing a proposition that has never been contended for by the minority of the committee, that is not contended for by me, and has been admitted by everybody for the last ninety years, that there is a difference between a Delegate from a Territory and a Representative from a State. No person, so far as I know, has ever denied that proposition. It is distinctly admitted in the minority report; and more than that, one of the main arguments of the minority upon which they rest their conclusion is the fact of that very distinction. Therefore I say those gentlemen have spent their time in elaborating a proposition which I shall not seek to controvert. I admit that there is a difference between a Delegate and a member of Congress; and I shall endeavor to show the application of the law in reference to this distinction.

Mr. Speaker, this case comes here precisely as every other election case comes, and it should be treated in the same way. It comes here under the law. By the order of this House it was referred to the Election Committee. That committee has made a report. Let me say further to gentlemen on both sides that this case is governed by the law and the rules of evidence applicable to it, precisely in the same way as any other election case. Applying the rule of law to the facts in the case, as I hope to do, it seems to me that no lawyer can hesitate for a single moment as to the right of Mr. Cannon to a seat in this House.

My friend here from Michigan [Mr. HORR] says that he does not propose to trouble his brain about the Constitution or the laws. If it is only stated to him here, or he knows, that a man presenting himself for admission is a polygamist that settles the whole question with him, without reference to the Constitution or anything else.

On the other hand, my friend from Tennessee [Mr. PETTIBONE] makes the admission that if Mr. Cannon should come here as a Representative from a State, although covered all over with the infamy of polygamy, he would be bound to vote to admit him among us. There is the difference between the two gentlemen. The gentleman from Tennessee holds that he would be bound under the Constitution and laws to admit Mr. Cannon if he presented himself as a Representative from a State. I say, too, that he would be bound to admit him, as polygamy is no disqualification under the Constitution; and I hope to show that the same rule, the same law, is just as obligatory upon this House with reference to the rights of a Delegate as the rights of a Member. If I succeed in showing this I hope that my friend from Michigan will reconsider the declaration he has, I hope, too hastily made. I shall omit much that I had intended to say, because I do not desire to weary this House. I shall only discuss what I consider the legal points that are involved in the case.

Now, I wish to call the attention of the House to the fact that since the formation of this Government—at least since the case of James White, in 1794—Delegates have been seated on this floor, and in the language of Madison in that case, under the rules of the Constitution and the laws, and as matter of absolute right. James Madison, then a member of Congress, and other distinguished men who had been in the convention that framed the Constitution under which we now live, all conceded, although there was then no law of Congress providing for the admission of a Territorial Delegate, that Mr. White had a right on this floor as much as any member, under the ordinance of 1787, passed prior to the adoption of our present Constitution, and obligatory at that time upon the Government by adoption. From that time to the present moment, whenever a Delegate has presented himself at the bar of this House, there has never been a question about his right to a seat here under the law and under the Constitution as much as a member. The books before me are full of cases recognizing the absolute right of a Delegate to a seat. I will not refer to these numerous cases which so fully recognize the right of a Delegate to his seat upon this floor. These cases and precedents are predicated upon the great fact of right, the absolute right, of a Delegate under the law to a seat.

Under the present law relating to Delegates from the Territories it is provided that the people of the Territories shall send Delegates who shall have seats on this floor with the right to debate but not the right to vote. This law was passed by this House and the Senate and signed by the Executive. It is absolute in its operation. It confers a right which this House alone cannot curtail or limit in any way whatever, as I think I shall be able to show.

Allow me to say further in this connection that under the operation of the law it is provided in various statutes of the Federal Government that Delegates shall be treated precisely the same as Members in reference to every right except that of voting. It gives them the same salary. They take the same oath. The same law applies to both in reference to vacancies. So on through the catalogue of the rights of Members. The law that gives a Member the right to be seated here applies equally to a Delegate from a Territory.

There is another proposition I wish to call to the attention of the House, and I ask the consideration of the distinguished chairman of the Committee on Elections, the gentleman from Indiana, [Mr. CALKINS,] to this point when he comes to the reply in the closing hour. It is this: Congress has passed a law by which the Constitution and the laws of the United States so far as they are applicable shall apply to the Territories. That law binds as much as any statute made by Congress under the Constitution. It has never been challenged till now, and has been executed and practiced upon, and especially as to qualifications for Delegates, for more than twenty-five years. It is important to be remembered in this connection that the Constitution is applicable to the Territories so far as it can be applied, because as I think important consequences follow from that fact.

Now, I wish to call the attention of the House for a moment to the proposition which has been made by the majority of the committee

in their report in this case to the House. I think they have totally misstated, as they have totally mistaken, the law. I can do it in a very few words. The ground is boldly taken by the majority of the committee that Congress cannot make a law binding upon the next House as to the qualifications of Delegates from Territories. I will refer to page 8 of the report of my distinguished friend from Indiana [Mr. CALKINS] for the purpose of criticising it and to give him a chance to make an explanation of it when he comes to reply. The following are the exact words of the report.

He holds that it is incompetent for Congress and the Executive to impose on any future House the right of Delegates to seats with defined qualifications. That is to say, when the several laws were passed giving the Territories the right to this limited representation, those laws were binding only on the lower House, which permitted them to be, or made it possible for them to be passed, and were persuasive only to the Houses of future Congresses.

Let us analyze that. Here is a distinct denial on the part of the majority that Congress can pass a law defining any qualifications a member shall possess which shall bind the next House. That is the distinct proposition which is made here. In other words, although Congress may pass a valid and constitutional law fixing the qualifications of Delegates of Territories, requiring that they shall be seven years a citizen of the United States, twenty-five years old, and inhabitants of the Territories from which they come, and that if Congress passes such a law as that it is only binding upon the House that passes it. Let us test that and see where the logic of it carries us.

Here is the anti-polygamy bill passed this session which we nearly all voted for. I did reluctantly, I confess. Here is a law that does fix the qualification of a Delegate of a Territory. It provides in so many words that no Delegate who is a polygamist, or cohabits with more than one woman, shall hold any office of profit or trust under the Government. I should like to ask my friend to explain to this House the effect of this anti-polygamy bill. Here is a law defining the qualifications of a Delegate, although negatively, precisely as the Constitution defines the qualifications of members negatively; and I should like to ask my distinguished friend from Indiana, [Mr. CALKINS,] when he comes to close this debate, whether he means to say that the law which we have all voted for providing that no polygamist shall take his seat among us only applies to this Congress and the present House, and that the next House in the next Congress can disregard it and admit a polygamist. That certainly is the logic of this report, and there is no escape from it; and if that is the law the anti-polygamy bill is a farce and a failure.

That doctrine is a heresy, in my humble judgment. Congress can prescribe qualifications as to the Delegates, and can bind the House by such qualifications. It is competent for Congress to fix the qualifications of Delegates from the Territories, they not being members under the Constitution, and to say who shall and who shall not be a Delegate and fix the qualifications, and when Congress has so said, it is not only binding upon this House, but it is binding upon every House that succeeds this until such law is repealed. That is the common sense of the thing and the law of the case, and it cannot by any possibility be otherwise.

Now, my friend in his report goes on further to amplify his words, as follows:

And with reference to the election of Delegates who (if they hold any office or franchise at all) can be nothing but agents representing the property and common territory of all the people; it operates only on the lower branch of Congress, for their election extends no right to them to interfere with the business of the Senate, or to act as members thereof.

Now, under the Constitution, Congress can make all needful rules and regulations in relation to the Territories. It has been decided that Congress is the sole judge of this power. If this is so, why cannot Congress pass a law, if it deems it necessary, defining the qualifications of Delegates as necessary and proper for the regulation of the Territories? This right and power has never before been questioned, and when Congress passes such a law it is binding on this House and every branch of the Government.

The view of the minority upon the question is this: that this House can impose qualifications upon Delegates. It can fix limitations with reference to Delegates, and when the House has made the qualifications that have been made by the passage of a general law already referred to, providing that the Constitution of the United States shall operate in all of the Territories so far as applicable, that that act and by that law they did fix and establish qualifications and limitations and by that act they adopted the Constitution as a part of the statute law; suppose they had put it in another form; suppose they had put it in this form, and had passed a statute adopting and restating the very language of the Constitution giving a Delegate the same qualifications that the Constitution requires for members of Congress, and that he must possess these qualifications before he could take his seat. I would like to have my friends upon the other side say whether that would not be a valid law passed by Congress and binding upon this House until repealed by an act of Congress. What is the reason it would not?

But, suppose we take the other view of the case, and admit for the sake of the argument that the Constitution is inapplicable, that it has no relevancy, and does not apply to the case, then what is the condition? Why, we are placed in this condition: that Congress has passed a law, as I have already stated, that the Territories shall have the right to send Delegates here to take their seats upon the floor. Now, if they have not prescribed any qualifications for the Delegates and the constitutional provision does not operate, what standard do you fix? Is the standard of qualification to be wholly arbitrary and at the caprice of each succeeding House? Now, does not this follow as a logical conclusion from the premises that where you have fixed no qualifications, no limitations, where you have not said who shall or who shall not hold the seat, or whether he shall be white or black, the people of the Territories are judges of the matter for themselves, and select the person whom they desire to send here to represent their interests? Congress specifies no qualification. Then the rights of the people as to the Delegate are absolute, and this has been the theory and practice for ninety years. The people have the right to stand upon the law; they have the right to rely upon what is "nominated in the bond." What rule will you apply when they are given the right to have a seat here, and come clothed with all of the power necessary to occupy it?

It seems to me that if you take the ground that the Constitution does not apply, then this consequence, as I have stated, necessarily follows: that you have said to the people of that Territory, "You shall have the absolute right to send a Delegate here of your own selection to take his seat under his oath of office, and you may exercise the right; but if the Delegate does not suit us we will not permit him to take his seat." I ask again, and I ask my friends upon the opposite side of the question to say, if they can, when this man comes holding such credentials as a Delegate, whether you can apply the constitutional provision to him as to qualifications that you apply to those who represent the people of the States? And why not apply the same rule? You say in answer, "He is outside of the Constitution; he is but the very agent of the Territory; he comes with just such powers as the law clothes him with, and no more or less." This we think no answer. The law could have fixed qualifications, but it did not, and therefore the presumption is that Congress did not intend to prescribe qualifications for Delegates.

The law simply says to the people: judge for yourselves, send up the man whom you desire to represent your interests, and he shall have a seat. I say that if there is no qualification prescribed by the law you cannot exclude him, the man whom the people have sent, after you have permitted them to send him and he holds the certificate of his election and comes here claiming his right to a seat. This House, under the law, has no power to exclude. Why, now, for the first time, after the Delegate appears, apply additional qualifications and say that if he is a polygamist, a Catholic, a Methodist, or an atheist, he shall not be seated, when there was no such provision in the law? By the operation of that law that binds Congress, that binds everybody, he is entitled to come here, and, no limitations or qualifications having been specified, is entitled to his seat. There are many instances of the operation of law upon that principle, which are known to every lawyer, and the law is to be construed according to the language and import, and nothing can be added to it by mere construction changing the law. Therefore, whether you take the fact that the Constitution as applied to him and the qualifications therein specified operate upon him, or whether you exclude that thought or idea, or whether he comes here under the law without any qualifications being fixed by it, you have no right to exclude in either case, certainly not in the latter case, because there was not under the law at the time of his election any qualification prescribed, and this House is as much bound by the law as the Delegate himself or the humblest individual in the land.

I want now, Mr. Speaker, to call the attention of the House, as briefly as I can, to one or two other propositions. I have forborne any discussion upon the number of votes shown by Mr. Cannon, naturalization, or anything of that kind; because it has been conceded by the majority of the committee that Mr. Cannon had over 18,000 votes and that Mr. Campbell had about 1,300; it is conceded that Mr. Cannon had been seven years a citizen of the United States, and also that he was an inhabitant of the Territory at the time of his election; if the constitutional qualifications are to be applied to him, that he is qualified. These facts being conceded, what is the reason he is not entitled to his seat? The gentleman from Tennessee says notwithstanding the infamy of the man—and I think the history of Congress bears him out in that—notwithstanding the infamy of the man, if he is sent here from a State he is bound under the Constitution to let him in; and if that law applies to a Delegate, the same logic would compel you to let him in.

But it is said here, and it has been stated repeatedly, that Mr. Cannon admits that he is or was a polygamist upon the 1st day of June, 1880. The principal objection that has been urged, and I may say the only argument that has been made, and in my judgment the only argument that can be made, is simply and solely that he was a polygamist, and therefore that he is a polygamist to-day. That is the argument and reason given why he should not be seated, and that is the naked question. Now, I desire to address myself to that part of the argument under the operation of the anti-polygamy bill before referred to.

Mr. TOWNSHEND, of Illinois. Is there any evidence he was living in a state of polygamy since the adoption of that law?

Mr. MOULTON. No, sir. I want to say a word or two as to the admission of Mr. Cannon as to being a polygamist. I want to call the attention of the House in the first place to the admission that they say was made and the circumstances under which it was made,

to see what force and effect it has and how far and to what extent Mr. Cannon is bound by that admission or how it affects him.

In 1881, in the contest of Campbell *vs.* Cannon, at the end of a deposition that seems to have been taken in that contest, the admission is made that has been read. Now, in the record there is not a particle of explanation given why it was made, or for what purpose it was made, or how it came to be there. I say there is not a particle of evidence in the record as to that. We are trying this case upon the law and upon the evidence. Some gentlemen have intimated that to exclude Cannon it is only necessary for them to know that he made that admission, without reference to what the law or the Constitution or anything else is. There is the admission. He protested at the time it was made against it, and says it is improper and irrelevant to any issue in the case. Still the admission is there, and it shows that he had been or was then cohabiting with plural wives. That is all it shows. It is an extraneous fact thrust into the record.

Now, suppose for the purpose of the argument the admission was made. We say very frequently we admit a thing for the purpose of the argument. That is done in pleading. But he makes it under protest, and puts it on the distinct ground it is wholly irrelevant. And I say here, as a lawyer, and I do not think any lawer on this side will differ from me, that so far as the issue between Campbell and Cannon was concerned it was wholly irrelevant to any issue in the case, whether you apply the constitutional provision of qualification or whether you take the law that makes no qualification. If the law prescribes no qualification then he has a right to come here and demand his seat under the law, whether he is a polygamist or not. There is the admission. This case must be tried by the law and the evidence.

Now, Mr. Cannon had the right to assume that polygamy was no issue in his contest with Campbell, for the reason that this House in the case of Maxwell *vs.* Cannon, in the Forty-third Congress, where the precise question was involved, the Committee on Elections unanimously decided that polygamy was no disqualification for a Delegate; and this report was made by Republicans, and the House sustained it, and Cannon took his seat. Therefore Mr. Cannon was justified in regarding polygamy as not being an issue and as not affecting his rights.

It is said that, the admission being made, the anti-polygamy law that was passed by this Congress operates and excludes Mr. Cannon. I admit that this law operates *in presenti*. I do not admit that it operates retrospectively; and I want to show to the House, which I think I can do in a very few moments, that this anti-polygamy law deprives Mr. Cannon of no right whatever, and cannot possibly affect him, for the reasons which I think I can give.

The first section of this act provides:

> Every person who has a husband or wife living who, in a Territory or other place over which the United States have exclusive jurisdiction, hereafter marries another, whether married or single, and any man who hereafter simultaneously, or on the same day, marries more than one woman, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of polygamy, and shall be punished by a fine of not more than $500 and by imprisonment, &c.

The third section provides:

> That if any male person, in a Territory or other place over which the United States have exclusive jurisdiction, hereafter cohabits with more than one woman, shall be guilty of a misdemeanor, and fined and imprisoned, &c.

And I want to say to my friends on the other side of the House that the first and the third sections apply to this Territory here; that they apply to Washington City; but I am willing to give them the advantage of the charity of the presumption that they have not violated this law since it has taken effect.

Then the eighth section provides—

> That no polygamist, bigamist, &c., shall be eligible for election or appointment to or be entitled to hold any office or place of public trust—

Under the Government. If you say that this law operates *in presenti*, if you say that it operates now, it does not affect Mr. Cannon in the past. Mr. Cannon, in 1881, on the 1st of June, as you say, admitted that he was living with plural wives. That is admitted, but there is no admission or no proof of any violation of this law by Mr. Cannon since the passage of the law. And before a man could be convicted of any offense the offense must not only be charged in accordance with law but must be proved against him. This law was passed this session. The admission was that he was living with plural wives before the law was passed.

Now, I want to call the attention of my friends on the other side to another fact, and I challenge contradiction from them. I say that Mr. Cannon was living in violation of no law of Congress or of the Territory prior to the passage of the act of this session.

You have all charged him with being a felon, with having lived in violation of the law. I say there is not a particle of proof of that assertion in this record; and a man is not to be sent to the penitentiary or condemned without proof. I ask my friends on the other side to take this record, examine it, and show if they can where Mr. Cannon has up to the present time violated any law of Congress.

The law which the act of this session was intended to amend is to be found in section 5352 of the Revised Statutes. Why did Congress amend it? Because that law, under which Mr. Cannon was living, only provided that if after the passage of the law, which was in 1862, any man should marry more than one wife, should contract marriage with two or more women, he should be subject to the penalty prescribed. That law, which the act of this session proposed to amend, does not provide that the cohabiting with two or more women in Utah or any other Territory after the passage of that law shall be a criminal offense.

Now, if it is true that the marriage of Mr. Cannon to these women—and his answer in the case of Maxwell *vs.* Cannon, referred to by Mr. PETTIBONE, would go to prove as well as all the facts would seem to show that he was living with plural wives—yet, if it is true that he was married to more than one woman, and the marriages were contracted prior to the passage of the law of Congress of 1862, whose defects the anti-polygamy bill was intended to remedy, then simply cohabiting with plural wives since that law took effect was no offense.

Prior to the passage of the law of this session Mr. Cannon was not living in violation of any law of the United States. If he has married since the passage of the law of this session, he having a wife living, or has cohabited with more than one woman, that would be an offense against the law. But I say there is not a particle of proof in the record or anywhere else to that effect. The presumption is that every man is innocent of any violation of the law until he is proven to be guilty.

The very passage of the act of this session shows that the construction I have given to the prior law is correct; that the prior law did not provide a punishment for cohabitation with more than one woman. That was the very reason why the law of this session was passed. And the law of this session operates only upon persons hereafter; those who marry more than one woman or cohabit with more than one woman after the passage of the law. The former law applied only to marriages. The law of this session goes further, and applies not only to those who marry but to those who cohabit with more than one woman.

Now, where is the proof that Mr. Cannon was married to plural wives subsequent to the law of 1862? Before that time there was no law in the Territory against it. That is the very reason why he answered as he did, as was read by my friend from Tennessee, [Mr. PETTIBONE,] that he was not living with plural wives in violation of any law. The statement was true at that time, because whatever marriages there were, had taken place prior to 1862, and the law of 1862 could not operate retrospectively upon marriages that had taken place before the passage of that law.

If you say that the bill of this session operates upon Mr. Cannon, you must recollect that the provisions of that bill operate only after the passage of the bill. The bill uses the word "hereafter." It provides that any person who hereafter shall do so-and-so. If the charge against Mr. Cannon is that he has violated that law, then you must show that he has violated it since its passage.

Let me say to the conscientious gentlemen on the other side of the House, and I hope there are many of them, there is not a particle of proof that Mr. Cannon has violated this law. Besides, let me state another fact. One person alone cannot violate the law. It takes more than one. There must be two or more women to consent to the marriage with one man or to consent to cohabitation with him under this law to make it an offense.

The act of polygamy as defined by the bill of this session consists in the fact and in the intention. A great many of my friends have read from dictionaries in regard to the definition of polygamy. Why should you go to the lexicons, to the law dictionaries, to Webster, or anywhere else, when the law itself defines what polygamy is?

Here is the definition: "Every person who, having a husband or a wife living in a Territory or other place over which the United States has exclusive jurisdiction, hereafter marries another, whether married or single, or upon the same day marries more than one, &c., shall be guilty of polygamy." And section 3 of the act of this session makes cohabitation with more than one woman a misdemeanor, subject to fine and imprisonment. This description of the offense is clear, and it excludes every other definition or description of polygamy.

Now, I would like to ask the gentlemen who are to follow me to point out how Mr. Cannon stands amenable to this law or has violated it. The presumption is that every man is innocent until the contrary is shown. And that presumption applies to Mr. Cannon's case. You must have positive and distinct proof before you can show him to be guilty under this law. Suppose he was to-day indicted for violation of this law, would his admission in 1881 that he was then a polygamist be any proof that he has been a polygamist under this law? Besides, here is the great fact that stares us all in the face, the universal presumption that every man obeys the law, that he violates no criminal law. You have to show it by proof if you make the charge that Mr. Cannon has violated the law. This is the law which gentlemen say he has violated, and this is the law which many of you gentlemen perhaps will base your vote upon against Mr. Cannon.

Now, I say that since the passage of the act of this session Mr. Cannon has not violated the law. It has not been shown that he is now living with two or more women. It has not been shown that since the passage of that law he has married any woman, he having a wife living at that time. No one of the elements that go to constitute the offense of polygamy has been proved in any manner.

Now, what is the presumption of law in such a case as this? On this point I want to read a single authority from one of the Missouri reports, (29 Mo., 259,) a case almost exactly in point. It relates to

the principle of presumption of innocence. In this case a party had charged a man and woman with living in adultery. An action of slander was brought. It was proved that the woman admitted that she had been married in Germany before she claimed to have married the person she was then living with. In the court below this instruction had been given:

If the jury find from the evidence that the plaintiff, Margaret Klein, was married in Germany to another person than Leonerd Klein, the plaintiff, then such relation is presumed to continue; and it devolves upon the plaintiffs to prove to the satisfaction of the jury that such marriage was legally terminated before the date of the marriage certificate read in evidence, or they cannot recover.

Now, the supreme court of Missouri, to which the case was appealed, declared that such was not the law—upon what principle? Upon the principle I have just enunciated, that the presumption is every man obeys the law; that where a penal or prohibitory law is passed the presumption is that everybody obeys it until the contrary is shown. Besides, even if it be shown that a person was at one time a violator of the law, there is the *locus penitentiæ;* there is the time for repentance; so that the presumption of innocence, charitably founded upon the experience of ages, and laid down in all the elementary books, prevails all the time until the contrary is shown. Here is the language of the supreme court of Missouri:

We think the first instruction which the court gave in this case at the instance of the defendants was erroneous. There was no presumption that a marriage, which was proved to have existed at one time in Germany, continued to exist here after positive proof of a second marriage *de facto* here. The presumption of law is that the conduct of parties is in conformity to law until the contrary is shown. That a fact continuous in its nature will be presumed to continue after its existence is once shown is a presumption which ought not to be allowed to overthrow another presumption of equal if not greater force in favor of innocence.

The court further says:

The presumption was that this marriage was a lawful one, and that the former marriage in Germany, if any such was established, had been dissolved.

I read further from the language of the court:

There was not any evidence in this case, so far as the bill of exceptions shows, that the first husband of Mrs. Klein was still living; but if this had been established, we think she was still entitled to the benefit of the favorable presumption that the first marriage had been dissolved by a divorce, and that it was not incumbent on her, in this character of action and under the pleadings in this case, to produce a record of the judicial or legislative proceedings by which the divorce was effected.

Now, apply that to this case. A year ago Mr. Cannon acknowledged that he was living with plural wives, which I have shown you was then in violation of no law of Congress whatever; I challenge any gentleman to show that at the time it was an offense against the law. Now you have passed a law making cohabitation with more than one woman and marrying more than one woman a crime. Why may it not charitably be presumed that Mr. Cannon as a good citizen obeys the law as the rest of us do? That is the presumption of the law; and if so, how or when has it been shown that he has violated the law?

A good deal of newspaper comment and hearsay testimony has been introduced here. I want to call attention to the fact that since the passage of this law the small remnant of polygamy which before existed in the Territory of Utah is fast disappearing. The polygamous relations of parties are being broken up. The influence of this law is operating powerfully upon that people; for they now understand that if they live in violation of this law they are subject to fine and imprisonment. The presumption is that under the operation of this law polygamy will cease; that there will be no more violations of the law, and this presumption applies to Mr. Cannon's case.

But gentlemen say that this law operates against Mr. Cannon and excludes him. In what way? There are three sections applying here. The first section defines polygamy and makes it an offense; the third section declares cohabitation an offense; and the eighth section, referring to those two sections, provides—

That no polygamist—

That is, no polygamist as defined by this law; the first and third sections cannot refer to anything else; construing the whole statute together, this is the legal effect of the law and this is the language:

That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory or other place, or be eligible for election or appointment to or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States.

All the other provisions defining polygamy use the word "hereafter;" that is after the passage of the act; and it is incumbent upon any one making a charge to show that the person accused has violated the law since this act went into operation.

It is said—it has been said by nearly all the gentlemen who have preceded me—that Mr. Cannon comes here covered with crime, and for that reason we cannot admit him. This is the only topic which I shall have opportunity to consider in the time I have remaining. The proposition is that if a man is charged with an offense, it is the duty of this House when he makes his appearance here to exclude him. Now, I think it is a principle laid down in the books (and the precedents of the House are all in that direction) that although a person may be charged with crime, and even actually guilty, it is no consideration for the House upon his admission to a seat, under the Constitution and the laws. It may be said that this only applies to a member; but I think I have shown that the law and the constitutional provisions extend the same principle to a Delegate. But if the law does not apply the principle to a Delegate, then crime is no disqualification, because there is no law making it so, and you cannot exclude a Delegate upon that ground.

Now, all the precedents of this House say, and it is laid down in the books, that the only requirement resting upon a person applying for admission as a member here is to present his certificate, properly authenticated, to show that he has been elected; that when this is done you are bound to admit him. That is his *prima facie* case.

I want to call the attention of the House to what a committee has said in reference to this proposition that the allegation or fact of crime is no consideration for the House or for the Committee on Elections; that if it be true Mr. Cannon is a polygamist, it is not a question to be considered by the Committee on Elections or by the House, but that after he has been admitted, if his presence does not comport with the dignity of this House, he may be expelled.

I read from the celebrated report in a recent case where it is held that bribery or other crime committed by the member-elect, and which did not affect or influence the result of his election, could in no sense be construed to render his election void. That was the report of the majority of the committee, that if a man was guilty of the crime of bribery, (and it certainly is as great a crime in law as polygamy,) it was no reason why he should be excluded from his seat. It is further stated in this report, as follows:

That bribery by a candidate for an elective office (in the absence of a statute making it a disqualification) does not disqualify to hold the office at the common law was held by the court of Queen's Bench in Regina *vs.* Thwaits, (18 Eng. Law and Eq. Reports, 219, 221,) in a proceeding in the nature of a *quo warranto* to try the title to an office where acts were shown which were by the court held to amount to bribery, but which did not affect votes enough to change the majority, and the respondent was therefore held entitled to retain his seat as a member of a municipal council.

The same doctrine is held in Pennsylvania as to a sheriff, in Com. *vs.* Shaver, (3 Watts and Sergeant, p. 338.)

The English rule laid down by Cushing in his excellent work, without giving either the origin or reason of the rule, is calculated to mislead persons in this country.

It is quite demonstrable that the rule owes its existence to disqualifying statutes of England, and can have no application to questions arising in the Congress of the United States under our present Constitution and laws.

* * * * * * *

An examination of all the cases cited in Rogers, Douglas, and other English authorities, where a member of Parliament has been unseated for bribery, treating, &c., by himself or his agents, where the votes thus affected were less in number than his majority, will show that in every case the decision rests upon special English statutes, with which we have nothing to do.

* * * * * * *

In some of the States it is held that prior conviction of the disqualifying crime is necessary before such a rule can be applied by a legislative assembly. It is not admitted that either the organic act of a State or its Legislature can prescribe disqualifications of any kind for a member of the House of Representatives of the United States, but it may be proper to state here that the constitution of Minnesota (section 15, article 4) gives full power to the Legislature of that State to render ineligible to hold office any person guilty of crime, and that Legislature has not made bribery of voters a disqualification to hold office, but it has only made it a misdemeanor, punishable by fine and imprisonment in the county jail. (Statutes Minnesota, 1878, page 5, section 66.)

It may be observed that under no provision of the Constitution of the United States does crime committed by a member in his election disqualify him from taking and holding his seat.

The reason for the English rule wholly fails in the case of a member of the House of Representatives.

Justice Johnson, of the Supreme Court of the United States, in an early case, in speaking of distinctions between American and English legislative bodies, said:

"American legislative bodies have never possessed or pretended to the omnipotence which constitutes the leading feature in the legislative assembly of Great Britain, and which may have led occasionally to the exercise of caprice under the specious appearance of merited resentment."—6 *Wheaton*, 231.

In judging of the election of a member, the House deals alone with the question of the number of votes the member received, and if it appears that he has a majority of the votes cast, excluding all illegal and void votes cast, and a full and fair election has been held by which such majority has been obtained, or at least the majority would not have been affected by any unfairness or improper practices in the election, then the conclusion is irresistible that such member has been duly elected.

In judging of the returns of its members, the House deals with the formal returns, at least preliminarily, on which a member is expected to be admitted to a seat in the first instance.

In judging of the qualifications of a member, neither the question of election nor returns is involved. The qualifications of a member of the House of Representatives are fixed by the Constitution of the United States, article 1, section 2, as follows:

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen."

The SPEAKER. The gentleman's time has expired.

Mr. MOULTON. I should like to have a few minutes longer.

Mr. CALKINS. How much time does the gentleman require?

Mr. MOULTON. About ten minutes.

Mr. CALKINS. I move by unanimous consent the gentleman's time be extended ten minutes.

There being no objection, it was ordered accordingly.

Mr. MOULTON. Now, Mr. Speaker, here is a report which says in the face of a charge of bribery against a party that it is no business of the committee to inquire into it or to consider it at all, but that the only question which can be considered is the number of votes which have been cast and who has the highest number.

Mr. SPRINGER. What case is that?

Mr. MOULTON. It is the celebrated case of Donnelly *vs.* Wash-

burn; and I wish to read the names of those who signed the report. They are as follows: J. WARREN KEIFER, E. Overton, jr., W. H. CALKINS, JOHN H. CAMP, and W. A. Field.

I understand this full and exhaustive report was drawn up by Judge Field and subscribed by these distinguished jurists. They have said in the strongest language that this House has no right to inquire whether the applicant was guilty of bribery, whether he was a drunkard or not, whether he was an adulterer or polygamist, but that the only question which they have to inquire into is whether he received a majority of the legal votes cast and came here under the provisions of the Constitution and the law.

It was upon that ground, Mr. Speaker, that the gentleman from Tennessee [Mr. PETTIBONE] said that if Mr. Cannon came here as a Member instead of a Delegate he would be bound to vote to admit him. I have already shown that the Constitution and laws apply precisely the same rule to a Delegate that they do to a Member.

Now, the people who send a man here are better judges of the qualifications and ability and integrity of the man they send than this House possibly can be. Why? This House seems to exhibit a holy horror against any one who is a criminal or charged with an offense coming within its sacred precincts.

I say it is well known that murderers have sat in this House, that those guilty of bribery and convicted on the floor of this House have retained their seats. Herbert, of California, who killed a man in cold blood in this city, voted on the last roll-call of the House, after it was known to everybody he had committed a cold-blooded murder. Matteson, of New York, who had accepted a bribe, and on an investigation by the House resigned his seat to prevent expulsion, was afterward elected and took his seat in this House, notwithstanding a resolution was offered that the question should be inquired into. The House gave it the go-by, and that notorious briber, who had disgraced this House, and who would have been excluded from it by a two-thirds vote if he had not resigned, was allowed to remain in your midst, and you were bound to receive him under the Constitution.

I say the only standard which can be set up here is the standard of the law, and that law fixes the same qualifications for a Delegate it does for a Member. This House is bound by the law, and no such heresy ought to be permitted that one House of Congress can ignore the law made by a previous Congress and signed by the Executive.

There is another thing I should like to call the attention of the House to. It is a matter in which this whole question of polygamy as a disqualification has been discussed. I will send it to the Clerk to be read. It is from the case of Maxwell *vs.* Cannon, decided in the Forty-third Congress, when the same question was made as to his polygamy. You had no holy horror of his polygamist relations then. The Clerk will read what the committee say.

The Clerk read as follows:

"That George Q. Cannon is not qualified to represent said Territory, or to hold his seat in the Forty-third Congress, for the reason, as shown by the evidence, that he, on and before the day of the election in August, 1872, was openly living and cohabiting with four women, as his wives, in Salt Lake City, in Utah Territory, and he is still living and cohabiting with them."

On the question of qualifications, and the effect of making the Constitution a part of the law by act of Congress, the committee say:

"It being conceded that the contestee has these qualifications, one other inquiry only under this head remains, to wit: Does the same rule apply in considering the case of a Delegate as of a Member of this House? This question seems not to have been raised heretofore. The act organizing the Territory of Utah, approved September 9, 1850, enacts that the Constitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same or any provision thereof may be applicable. It was said on the argument, that the Constitution cannot be extended over the Territories by act of Congress, and the views of Mr. Webster were quoted in support of this position.

"We do not deem it necessary to consider that question, because it will not be denied that Congress had the power to make the Constitution a part of the statutory law of the Territory as much as any portion of the organic act thereof. For the purposes of this inquiry it makes no difference whether the Constitution is to be treated as constitutional or statutory law. If either, it is entitled to be considered in disposing of this case."

Upon this point there does not seem to have been any difference of opinion in the committee.

The committee in the same case, referring to the question of polygamy, say:

"The question raised in the specification of contestant's counsel, and above transcribed, is a grave one, and unquestionably demands the consideration of the House. This committee, while having no desire to shrink from its investigation, finds itself confronted with the question of jurisdiction under the order referring the case.

"The Committee on Elections was organized under, and pursuant to, article I, section 5, of the Constitution, which declares: 'Each House shall be the judge of the elections, returns, and qualifications of its own members.' The first standing committee appointed by the House of Representatives was the Committee on Elections. It was chosen by ballot, on the 13th day of April, 1789; and from that time to this, in the vast multitude of cases considered by it, with a few unimportant exceptions, in which the point seems to have escaped notice, the range of its inquiry has been limited to the execution of the power conferred by the above provision of the Constitution.

"What are the qualifications here mentioned and referred to the Committee on Elections? Clearly, the constitutional qualifications, to-wit, that the claimant shall have attained the age of twenty-five years, been seven years a citizen of the United States, and shall be an inhabitant of the State in which he shall be chosen. The practice of the House has been so uniform, and seems so entirely in harmony with the letter of the Constitution, that the committee can but regard the jurisdictional question as a bar to the consideration of qualifications other than those above specified, mentioned in the notice of contest, and hereinbefore alluded to.

"We conclude that the question submitted to us, under the order of the House, comes within the same principles of jurisdiction as if the contestee were a Member, instead of a Delegate."

The minority said:

"It is admitted in the report, and the fact has not been and is not denied, that Mr. Cannon possesses the constitutional qualifications, unless the qualifications of a Delegate in Congress from a Territory differ from the qualifications fixed by the Constitution for a member of the House. There can be no sufficient reason assigned for the position that the qualifications are any different. * * * The line of demarkation between these two great powers of the House, the power to judge of the elections, returns, and qualifications of its own members by a mere majority vote, and the power to expel its members by a two-thirds vote, is clear and well defined."

The "views" of the minority on the point were further expressed in these words:

"But a graver question than those we have considered is the question whether the House ought, as a matter of policy or to establish a precedent, to expel either a Delegate or Member on account of alleged crimes or immoral practices unconnected with their duties or obligations as Members or Delegates, when the Member or Delegate possesses all the qualifications to entitle him to his seat.

"If we are to go into the question of the moral fitness of a member to occupy a seat in the House, where will the inquiry stop? What standard shall we fix in determining what is and what is not sufficient cause for expulsion? If a number of members engage in the practice of gaming for money or other valuable thing, or are accused of violating the marital vow by intimate association with four women, three of whom are not lawful wives, or are charged with any other offense, and a majority of the House, or even two-thirds, expel them, it may be the recognition of a dangerous power and policy. If exercised and adopted by one political party to accomplish partisan ends, it furnishes a precedent which it will be insisted justifies similar action by the opposite party when they have a majority or a two-thirds majority in the House; and thus the people are deprived of representation, and their representatives, possessing the necessary qualifications, are expelled for causes outside of the constitutional qualifications of members, or those which a Delegate must possess, so far as his qualifications are fixed by reason or analogy, or are drawn from the principles of our representative system of government."

It may be stated that the reports, both of the majority and minority, were made by Republicans.

That is a precedent that covers the case before this House in every particular. It was exhaustively discussed in the committee and in the House, and was adopted by the House by an overwhelming majority, and it stands to-day as the rule and law of the House, unless it shall be reversed.

The issue in that case was sharply made, and the rule established that Delegates from Territories are entitled to the benefit of the constitutional limitations as to qualifications, and that polygamy was not a disqualification.

Now, if the rule that has been established and practiced since the formation of the Government as to qualification for Members and Delegates to the House is to be reversed and a different rule adopted, what standard shall it be?

This House may exclude a member on a charge of polygamy. The next House may exclude a person elected because he is a heretic or a Catholic or a Methodist, or because he had been charged by his opponent with adultery or some other offense.

Mr. MOULTON. We have associated with him for six, eight, or ten years upon terms of equality, and I am glad to see that my honorable friend the gentleman from Indiana in his report says that he is a gentleman, and that he makes no aspersions upon his personal character or honor. A legislative body like this where the members are elected by the people, who are the sovereign in this country, should not set up any transcendental standard of moral qualifications to entitle one to a seat. If a high moral standard was a prerequisite to a seat here, but few might find admission. The people elect men to office for their supposed fitness and ability to take care of the people's interests. The question of immaculate virtue is not so much considered. I think the law and the evidence is with Mr. Cannon and that he is entitled to his seat. It is for this House sitting as judges in this case to say on their oaths whether Mr. Cannon shall be seated here as a Delegate from the Territory of Utah, or whether he shall be excluded, and precedents, the Constitution, and the laws shall be violated, and the people of Utah deprived of representation.

Mr. CALKINS. Mr. Speaker, before demanding the previous question it is due that I should say to the House that Mr. Cannon has personally asked me for an hour in his own behalf. I make this statement for the reason that only a few minutes ago Mr. Cannon notified me that he would like to have an hour. I cannot see why it should be granted, as four hours have already been given to that side of the question for discussion by unanimous consent. Still, as a matter of justice to him, I feel bound to submit the fact to the House.

Mr. SPARKS. I can see very well why it should be granted. Here is the gentleman himself who is to be affected by the action here, and it would only seem to be a matter of right and common fairness to allow him an opportunity of being heard.

Mr. CALKINS. Gentlemen will bear me witness that I have not objected to the extension of any time of any gentleman who has taken the floor upon this question, but I supposed that the hour asked by the gentleman from Utah would have been taken out of the time allowed for debate upon the other side of this question.

Mr. RANDALL. I would like to ask the gentleman from Indiana if there has ever been a case where an application of this sort has been refused?

Mr. CALKINS. I understand, if the gentleman will allow me, the practice has been that when an understanding has been reached, or an agreement arrived at between the parties for an equal division of the time, that only that time could be occupied, and no extension of it under that agreement was allowed, except by unanimous consent.

Mr. RANDALL. Then I would ask unanimous consent that the gentleman from Utah be allowed an hour.

Mr. CALKINS. I am not going to object; but I do not consent, because I think it is fairly within the agreement that all the time on that side has been already occupied.

Mr. CASSIDY. I submit that the time should be granted, and if necessary that an equal time be taken on the other side of the question.

Mr. ATKINS. I would ask the gentleman from Indiana, if that argument is made, if it would not be well to adjourn and let the matter go over until to-morrow?

Mr. CALKINS. No; I want to close the question to-night.

Mr. RANDALL. Then I ask unanimous consent that the gentleman be allowed an hour.

The SPEAKER. The Chair will submit the question to the House. The gentleman from Pennsylvania asks unanimous consent that the gentleman from Utah, the contestant, be allowed one hour. Is there objection?

Mr. REED. There will be no objection if we can close up the matter to-night.

Mr. RANDALL. I will assist the gentleman to do so, as far as I am concerned.

Mr. REED. I think we can close it up to-night by extending the session an hour or two later than usual.

Mr. ATKINS. Is the gentleman from Indiana going to occupy his hour after the previous question?

Mr. CALKINS. I have an hour after the previous question is ordered.

Mr. RANDALL. That is usual. There is no objection to that.

The SPEAKER. The Chair will again submit the question. Is there objection to the request of the gentleman from Pennsylvania?

Mr. REED. It is understood that we are to close this question to-night?

Mr. RANDALL. I have only spoken for myself.

Mr. REED. I think in all fairness it should be closed to-night.

Mr. HUMPHREY. I shall object unless an understanding is reached that it is to be closed up to-night.

Mr. RANDALL. There has not been any effort at delay in this case and I have no knowledge that there will be any.

Mr. HUMPHREY. If we are to close it this afternoon I have no objection.

The SPEAKER. The objection must be absolute, or the Chair will regard it as no objection.

Mr. HUMPHREY. I shall not insist upon a vote to-night, but insist that the previous question be ordered and take a vote in the morning.

Mr. CALKINS. I will not agree to that. I want to dispose of it to-night.

The SPEAKER. The Chair will again submit the question.

Mr. CALKINS. Before that, if the Chair will permit me, I will ask the gentleman whether or not thirty minutes will be sufficient?

Mr. RANDALL. He has asked an hour; let him have it.

Mr. CALKINS. Well, give him an hour.

Mr. SPARKS. Let him have an hour, and if he does not consume it himself he shall not yield it to other gentlemen.

The SPEAKER. The Chair does not understand that the gentleman will be allowed to give the hour away if he does not choose to occupy it himself. The Chair hears no objection to the request of the gentleman from Pennsylvania.

Mr. CALKINS. I now demand the previous question, with the understanding that the contestant is to occupy his hour after the previous question is seconded and that I am to have my hour.

The SPEAKER. Is there unanimous consent to that understanding?

There was no objection.

Mr. CALKINS. But before calling the previous question I yield to the gentleman from Illinois [Mr. MOULTON] to offer formally his resolution, that it may be read from the Clerk's desk and considered pending.

The SPEAKER. The Chair will state there are three resolutions reported by the majority of the committee: the first declaring that Mr. Campbell is not entitled to a seat; the second declaring that Mr. Cannon is not entitled to a seat, and the third declaring vacant the seat of Delegate from the Territory of Utah. The gentleman from Illinois [Mr. MOULTON] is recognized to offer an amendment, which the Clerk will read.

The Clerk read as follows:

Resolved, That George Q. Cannon was duly elected and returned as Delegate from the Territory of Utah and is entitled to a seat as Delegate in the Forty-seventh Congress.

Mr. CALKINS. I now yield to the gentleman from Iowa [Mr. THOMPSON] to offer an amendment by way of a substitute for the resolutions of the committee.

The Clerk read the resolutions offered by Mr. THOMPSON, of Iowa, as follows:

Resolved, That G. Q. Cannon is not entitled to a seat in the Forty-seventh Congress of the United States as a Delegate from the Territory of Utah.

Resolved, That Allen G. Campbell is entitled to a seat in the Forty-seventh Congress of the United States as a Delegate from the Territory of Utah.

Mr. CALKINS. I now demand the previous question on the resolutions of the committee, the amendment offered by the gentleman from Illinois, and the substitute offered by the gentleman from Iowa.

The previous question was ordered.

Mr. CALKINS moved to reconsider the vote by which the previous question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The contestant, Mr. Cannon, is recognized for one hour.

Mr. CANNON, (contestant.) Mr. Speaker, as I have not prepared any written remarks, I will feel greatly obliged to members if they will allow me to proceed with that which I have to say without interruption.

I did not expect when this debate commenced to have anything to say upon this question unless the necessity should arise such as I think has arisen. I would feel ashamed, Mr. Speaker, if I could get the opportunity that has been afforded me now, to go back, should the House vote that this seat is vacant, to my constituents without saying something in reply to the many charges which have been made against them by various speakers during this debate.

I am comforted, Mr. Speaker, by one reflection. That Christianity which has been so much vaunted upon this floor, and which has been held up in contradistinction to that system which many of my constituents believe in, was itself a persecuted sect, and its founder was crucified between two thieves. And from that day until the present every man who has ever stood among his fellow-men to declare principles which came in conflict with popular ideas has in almost every instance had to lay down his life as a proof of the sincerity of his convictions concerning that which he has taught. There has been no end of false statements made on this floor concerning the people with whom I am connected. But while this flood of false statements has been pouring over the country concerning the people of Utah, scarcely a voice has been heard in their defense.

Those who attempted to say something favorable concerning them in the first discussion which took place upon the Utah case were sneered at and were derided and laughed almost out of the arena, to prevent them from saying a word respecting the morality, industry, the good order, or other good qualities the people of Utah possess.

Sir, that people have suffered persecution, but I did not expect the day would come when, on the floor of the American Congress, the fact that they had been driven five times from their homes would be cited as a reason why they should still be ill-treated, and why further inhuman resolutions should be adopted against them. But this has been the case in this discussion. The fact that they lived in Ohio, the fact that they lived in Missouri, the fact that they lived in Illinois, and that, mobbed, plundered, and driven out, they took their flight into the wilderness, has been urged as a reason why they should be treated now as is proposed, as has been enacted in the law that has passed this body and passed the other House, and that is now on the statute-book, and also as a reason why the people should be deprived of their representation on this floor.

In 1847, Mr. Speaker, in company with a large number of others, I reached Utah Territory, which was then a portion of the Mexican Republic. While we were at Council Bluffs in the summer of 1846 a demand was made by the Federal Government upon the traveling camps of the Mormon people for five hundred young men to enlist in a battalion to go to California and fight in the Mexican war. Those five hundred young men enlisted, and they helped with others of their countrymen in conquering and securing California, which then comprised what is now Utah Territory and adjacent Territories, including also the now State of Nevada.

Before the treaty of Guadalupe Hidalgo we had reached Salt Lake City, and one of our first acts after reaching that place was to hoist the United States flag and to take possession of the country as citizens of the United States. Though we had fled from religious persecution there was deeply implanted in our hearts a love for the institutions of this country. We knew that there was no form of government on the face of the earth that could be compared with this under which we dwell; that the largest possible liberty that man could desire could be enjoyed under this Constitution, which had been secured by so many sacrifices. And though we might have formed alliances with others, with neighboring powers, there was no disposition of that kind. The people were fondly attached to their country, to its institutions, and to its Constitution. At that time there were comparatively few of foreign birth among the people. A provisional government was formed as quickly as possible, under which the people dwelt until they could bring their condition before Congress. As soon as practicable delegates were sent down to Washington asking for the admission of the country as the State of Deseret, this being the title that was given to the provisional government. Almon M. Babbitt came down here in 1849; John M. Bernhizel came down afterward; both of them acting as delegates representing the people, who, as I have said, had formed a provisional government, and enacted laws for the government of the country and the maintenance of good order.

In September, 1850, Utah Territory was organized, at the same time that New Mexico was organized, and at the same time that California was admitted into the Union.

Our petition to be admitted as a State was denied us, but we were granted a territorial form of government. The first governor of the Territory who was appointed was Brigham Young, concerning whose family and the size of it the gentleman from Wisconsin [Mr. HAZELTON] told you yesterday. He was appointed by Millard Fillmore and acted as such governor for four years. At the expiration of that term Franklin Pierce, who was then President of the United States, reappointed him governor, and he continued to act in that capacity until the expiration of the second term of four years.

John M. Bernhizel came here as the Delegate from that Territory; a gentleman whom some few of the older members here will recollect; a man who in every way adorned the position, and whose conduct in

life and everything pertaining to him was unexceptionable. He was here for nearly twelve years. He served five terms in Congress, besides the time he was here as a representative of his people previous to the organization of the Territory.

During his term of service here the law of 1862, to which allusion has been made, was enacted. He was a polygamist, as the term goes; he had more wives than one, as also had the governor of Utah Territory who served the eight years for which he had been appointed.

In 1866 William H. Hooper was elected to serve as Delegate from Utah, and continued to serve until 1873, when George Q. Cannon was nominated, elected, and came here to Congress. With the exception of one term that was filled by a gentleman of the name of Kinney, those three men whose names I have given have represented Utah Territory on this floor during the entire period of the existence of Utah as a Territory, now nearly thirty-two years.

During all that time not a question has been raised, except that to which allusion has been made in this discussion, the question in my own case. In the Forty-third Congress my seat was contested, as the seat of my predecessor had been, not because he was open to the charge of plural marriages, for it was well known that he had but one wife. His seat was contested on the ground that he was a Mormon, and his contestant claimed that no Mormon was entitled to a seat on this floor.

The first man who contested his seat had 105 votes against upward of 12,000 votes given for Mr. Hooper. That man came here and remained during the entire session, annoying the sitting Delegate with his claim to the seat. It was during that contest that all this matter was published which has been quoted by the other side during this discussion. It was reported by a member of the Committee on Elections from New York, who made this report individually, and, though appearing on the record, was responsible for it. That report was entirely his own, and it was *ex parte* and uncontradicted, because there was no fair opportunity given to the people whom it maligned to meet and disprove the statements which it contained. And like other statements which are constantly being made, they are again and again quoted as though they were true because they appear in this report to Congress. And if contests should continue they will be again quoted, and the same kind of *ex parte* statements which are equally unfounded, will probably be quoted from the speeches which gentlemen have made here to-day, when in reality they will not bear the least investigation, for they are untrue and without foundation in fact.

On the 2d day of November, 1880, in a convention of delegates from all parts of the Territory of Utah, I received, unsought on my part, the unanimous nomination for Delegate to this House. Notwithstanding all that has been said about Church and State, I assert here that there is no place in the United States where there is greater freedom and greater liberty for the expression of opinions by the people respecting the men whom they wish to serve them than there is in the Territory of Utah. Our political organization is entirely distinct from our church organization. It is true that the members of the church are members of the political party, because they are all—that is, the great bulk of the people, now numbering over 120,000 according to the last census—members of that church. We have no salaried ministers. Every man is a preacher who is a reputable man among us. From the midst of the congregation men are called to preach, very frequently without any previous notice. All the males over twenty-one years of age of good repute hold office in the church. It is this, and this alone, which can give any color to the statements that there is a connection between Church and State.

Now, I wish to say here that though I have had probably as much influence in political matters as most of the men in the Territory of Utah, occupying as I do a position of confidence among the people, I can state on my honor that beyond the expression of an opinion as a citizen when asked, at no time and under no circumstances have I endeavored to influence any man or any body of men in the Territory of Utah respecting the selection of any one they had in view for office. I have not myself used any influence of that kind that could possibly be called by any one improper. When I speak this of myself of course I speak of my own personal knowledge. But I think I can say the same for the rest of the leading men of Utah. Whatever influence they have used has been always to have the people select and vote for men who would worthily fill the offices. Knowing the jealousy there is abroad respecting this matter, there is the greater care exercised so as to prevent anything from occurring which would give color to the prejudice existing upon this point; yet of course where men have influence, if their opinions are asked their views will always have considerable weight.

All the forms of political procedure prevail in Utah as in other Territories and in the States. The people hold their primary meetings, elect delegates, and these delegates meet in convention, sometimes instructed whom they are to vote for and sometimes not, and every delegate has the right to express his views in favor of or against any candidate, and to vote for whom he pleases, and as the secret ballot prevails in Utah there can possibly be no interference on the part of any one to prevent citizens from expressing their unbiased choice for any candidate. It was a convention of this kind, composed of delegates from all parts of the Territory, which nominated me as Delegate to Congress. I had given my friends to understand that I was not a candidate, and had done so upon every previous occasion when I had been nominated; for you know, gentlemen, the position that I have occupied here now for nine years is one which no one capable of filling the place would desire to occupy. It is not pleasant to be made a target for every man who wishes to gain credit for his morality to aim his arrows at. In coming here, however, I have been sustained by the consciousness that I was at a post of duty where it was necessary for some one to represent the people and that I had the solid support of my constituents. It was the unanimous feeling of the delegates coming from all parts of the Territory that I should be nominated, and I received their unanimous vote. At that time I was occupying the position of a Delegate in Congress. No question as to my eligibility had arisen or could arise; my constituents had the best of evidence in their possession that I was eligible from the fact that I was at that time a Delegate in good standing in this House, with an unquestioned right to my seat, and was in the same position when I was voted for and elected. Directly after the election I came here and took my seat and served through the last session of the last Congress.

But the governor of Utah Territory, having an idea that he had the opportunity to gain fame and make himself popular, entered, as I have full reason to believe, into a conspiracy with others to precipitate upon the country this question, for the agitation of which a favorable opportunity had been long sought, to furnish some excuse for nullifying the election, and either making the seat of the Delegate from Utah vacant, or have a man occupy it whom the people had refused to elect. I having been born in a foreign land, he affected to entertain the belief that I was not properly naturalized. At our last interview, before I came to Washington to occupy my seat at the last session, he told me he thought some question would arise on that point. I told him then that it was a matter which the House had already decided in the Forty-fourth Congress; that the question had been fully examined and adjudicated, and I thought there ought to be some time in a man's life when the statute of repose should intervene to prevent his being annoyed upon a question of that kind, especially after it had been so thoroughly investigated. I told him further that it was the province of Congress to decide upon the qualifications of its members. But in accordance, as I believe, with this prearranged programme, he withheld from me the certificate of election.

I came here, as you know, and claimed my seat as I had done before. I courted investigation. I have been willing that this charge should be thoroughly re-examined, although, as I said, it was thoroughly investigated by the Committee on Elections of the Forty-fourth Congress, who unanimously reported that I was a citizen of the United States. Since this session began a distinguished Republican member of the Committee on Elections, well known, if not personally at least by reputation, to every member of this House, Hon. Martin I. Townsend, told me—and I will be pardoned for mentioning his name, because I have no doubt he would be quite willing I should use it—"Mr. Cannon, there is nothing whatever in this charge about your not being a citizen. I went to the bottom of that case myself in the Forty-fourth Congress, and if you are not a naturalized citizen I do not know where to look for one." But at this session my case was referred, and fourteen of a committee composed of fifteen members of the House have decided I was properly elected. Of that there can be no question; for the governor himself in my presence gave to the Clerk of this House last winter his decision upon the election; and in response to my question, in the presence of the then Clerk of the House, "Governor, do you admit that this is your official action?" he replied that it was. In that decision he stated (and it is his duty under the law to declare the result of the election) that I had received 18,568 votes and my competitor 1,357. This is the decision also of your committee; and further, they decide after thorough discussion and examination that I am a citizen and, so far as election and citizenship are concerned, am entitled to my seat.

Mr. Speaker, it is now clear that if I had had my rights I should have come here with a certificate from the Territory of Utah under the seal of the Territory, signed by the governor and countersigned by the secretary of the Territory. That would have been my position if I had not been defrauded of my rights. I say "defrauded;" it is not too strong a term. I was defrauded of my rights and thus prevented from taking my seat on this floor; and the country has been inundated with falsehood since the election eighteen months ago to make the public believe that I was not eligible to a seat. I have been held in that position until within a few weeks a law of Congress has been passed which now disqualifies me in the opinion of many gentlemen on the other side who previously favored my case and said that I could not be kept out of my seat on account of any alleged disqualification arising out of my marital relations. I have been held in this position, bound hand and foot, until the passage of this act; and now it is proposed to make this law operative upon me to expel me literally from the House, not by a two-thirds vote, but by a majority vote.

If any gentlemen feel that they can vote thus to exclude me and be justified in it because of the clamor that is raised about Utah and the people of Utah and the religion of the people of Utah, I do not envy their feelings, but from the bottom of my heart I pity them. Of course every man must be responsible to himself and his constituency and his God for whatever vote he may cast. I do not question

the right of any member to vote as he may deem best. I do not quarrel with any man on that account. His is the responsibility. I do not do so now; but I say it is a great wrong to thus act. Whatever may be said about my constituents or myself does not justify the violation of the Constitution and the laws in my case.

It is conceded by the best lawyers in this House if that recent law had not been passed my case would have been a good one, notwithstanding the report of the Committee on Elections, and I could not have been kept out of my seat by that report nor by any reasoning embodied in it. This is the unanimous opinion of the best lawyers in this House. I had no fears whatever about the subject myself. I was undisturbed as to what the result would be. But when this law was passed I knew it was intended to furnish ground of justification for voting against me for many who were doubtful previously as to what vote they should cast.

Mr. Speaker, if religious prejudice, if religious animosity, if allegations against the people of Utah are to be accepted as the foundations upon which action in my case is to be based, then it is clear I am to be excluded, and cannot take my seat. If these are to be accepted as reasons why Utah should not have representation, then certainly all representation will be stricken down on this floor, and the seat of the Delegate from Utah Territory, legally elected under the laws and under the Constitution, will be declared vacant.

But I ask you, gentlemen, all of you, who say the people of Utah shall obey the law, will you who say we should comply with the law, religion or no religion, will you set us the example by smiting law down here, in what ought to be the temple of justice? Will you do this? Will you who ask equity from the people of Utah do equity, or will you deny us equity, and say we shall not have it because there are allegations made against Utah Territory; because they are falsely accused of everything that is vile, and charged with being bad men, just as the first Christians were when Nero burned them, made torches of them, and justified himself in doing so—will you, because of the alleged bad character of the people of Utah, be guilty of this great wrong?

I say to you, Mr. Speaker, that before I would be guilty of that I would want my right hand to lose its cunning and my tongue to cleave to the roof of my mouth—ay! before I would tear out the corner-stone of this grand and glorious temple of liberty which has been reared with so much costly toil and sacrifice, tear out the corner-stone of the right of the people to representation.

That, sir, has been conceded to Utah from the beginning. You now prescribe by law certain disqualifications. This, upon no principle of fairness can apply to me. It would be an outrage to have it do so. It would be giving legislation a retroactive effect. I am just as eligible to this seat in Congress to-day as I was the first Monday in December, 1873, when the Forty-third Congress convened in this Hall of Representatives; for this new law does not affect me. I have not exposed myself to its disqualifying clauses. My eligibility has not been interfered with in the least. I have not committed any act which makes me any more unsuitable to that position than I was at that time. And if this idea shall prevail—which is the ground upon which the majority of the committee base their report—that every Congress shall have the right to prescribe new qualifications for Delegates to Congress, imagine the condition of the people of the Territory. They elect a man in good faith, believing they have a right to elect him, and because of some whim or caprice, through some change in popular majorities, when he presents himself for some reason or other he is objected to, and is told he cannot have a seat in this House because in the opinion of the majority he is disqualified.

It may be plural marriage to-day; it may be something else to-morrow, or some offense, real or imaginary, the next day; it may be the Mormon to-day, the man who believes in marriage, and it may be to-morrow the Shaker, the man who does not believe in marriage. It may be the Catholic next day and soon, to suit the ever-varying whim of popular caprice, if Congress can prescribe new regulations for Delegates from the Territories. Such will be the inevitable condition if the conclusions adopted by the majority of this committee shall prevail.

It has been stated that I represent a church; that I am the embassador of a church. Mr. Speaker, I represent the people of Utah Territory. I represent no church, and yet I represent every church that exists in that Territory. I am not here as an embassador from any church. I am here because the voice of the legally qualified people of Utah Territory have chosen me to represent them here. It has been asserted also that I have no votes outside of the community of which I am a member. I dispute that statement also. It is not true, if the testimony of voters themselves can be believed, for they have stated to me, many of them, that they voted for me.

We have a secret ballot in Utah Territory, and there is no means of knowing the candidates for whom votes are cast. I was voted for, if I may believe what I am told, by many non-Mormons. My last contestant that was in the Forty-fifth Congress received over 4,000 votes. There has been an increase of the non-Mormon element since that time, and as one prominent man from Utah said to me in this city recently, "Mr. Cannon, when we wish to get the seat of the Delegate from Utah we will send some man here with more votes than 1,357 to get the seat." This was said by a prominent non-Mormon of that Territory, and if the entire vote had been cast in the Territory at the last election I have no doubt there would be nearly 5,000 in opposition at that time. I am, therefore, a representative of the people of Utah, and if I do not represent them, certainly there is no one to represent them; but I am here because the law of Congress says that Utah Territory is entitled to a Delegate on this floor, and because the law said who should vote for the Delegate, and because the votes were cast for me.

But in regard to licentiousness, concerning which so much has been said, I wish to say a few words. Do gentlemen understand that if the people of my Territory, those who are accused of violating law in having more wives than one—I say do gentlemen, in considering this question, not understand that if licentiousness and lechery were the objects to be accomplished, that the people could reach this in a much cheaper and much more popular manner than by marrying women and sustaining and making legitimate their children? Why it needs no argument upon this point. The mere suggestion brings conviction to the mind of any person who reasons that the methods in vogue elsewhere and which provoke no wrath would be much more likely to have been adopted to accomplish such a purpose if that had been the object.

Why should I stand here and be assailed, abused, and denounced as I have been for lechery, because of marrying wives? Was it necessary that wives should be taken to gratify sensuality? I have no need to take any wife to accomplish that. I have no need to take to myself the burden and responsibility of a family for that purpose. The people I represent would not need to be kept out of the Union (that being, we are told, the great reason that Utah has not sooner been admitted as one of the States) if the motives which have been attributed to them on this floor were the ones which have prompted them to contract marriages. There would be no necessity to place themselves in such a peculiar position if the gratification of passion were, as alleged, the sole object. What, then, is it?

Mr. Speaker, the people of Utah have profound convictions concerning many things. They have left their homes more than once for the sake of religion, and have been forced to make themselves new homes in a distant land. Marriage is an institution concerning which they have strong convictions. It may be said that this is not religion; but whether it is or not, they believe it to be religion. The Catholic has ideas as to what is religion. The Episcopalian has his ideas also upon the same subject; so with the Presbyterians, the Methodists, the Baptists, the Quakers, the Unitarians, and others; and who shall decide, until the great day when men shall be judged and rewarded or punished for the deeds done in the body, between them?

My constituents believe that God has given a command concerning marriage and that He never gives a command without an object, and that object in this instance is to redeem the human family from the terrible evils under which in modern society it groans. It may be asked how redeem them? We answer by making marriage honorable; by uplifting it, by elevating it above its present condition; by giving every woman an opportunity to be a wife and mother. To cut off opportunity for prostitution and concubinage, and to leave no margin for lust to prey upon. It may be said that the sexes are so evenly divided that there is not sufficient disparity between their numbers to justify the adoption of such a principle.

The people of Utah do not believe that plural marriage ought to be or can be universal. In Utah itself it is not possible, for the males outnumber the females. But give every woman the opportunity to marry, punish fornication and adultery, and what woman would occupy an illicit relation with the other sex? The people of Utah believe that at the present time marriage is falling into desuetude, and in consequence corruption is spreading over the land. And we have felt that the country was big enough to allow us in far-off Utah, not interfering with others, not forcing our views upon others, to test the effect of the patriarchal system of marriage in checking the tide of vice and preventing the spread of evils which modern society acknowledges its powerlessness to extirpate.

I do not think it would be wise under present circumstances that I should say anything more on this question. You may depend upon it, however, that there are more arguments in its favor than you have heard here or are likely to hear, and that the men and women choosing to embrace that principle are able to assign good and sufficient reasons for doing so.

I shall not allude to it from a scriptural stand-point. I may say, however, that so far as the condemnation of the world is concerned we are willing to be placed on the same plane with Abraham. And when we pray to go to Abraham's bosom we expect he will not look upon us as aliens or law-breakers; and when we pray to go to the New Jerusalem over each of whose twelve gates is written the name of each one of the twelve patriarchs, the sons of Jacob, we expect when we pass through those gates we shall not be ashamed to be known for what we are.

Since the commencement of this debate the statement has been made, and it has been made so frequently that I feel as though I ought to say something in regard to it in connection with this case; I mean the statement respecting the alleged conduct of the people of Utah in absorbing all the public lands. In the first speech on the Utah case the allegation was made that the people of Utah, in pursuance of a well-defined and settled policy, had absorbed all the public lands. It would seem as though it were unnecessary for any person, and for myself particularly, to say one word in relation to this matter, it being so well known that in Utah Territory, as well as in

the other Territories and States over which the land laws have been extended, every person can obtain land that is not occupied, every citizen who has the right to pre-empt or homestead land, and that there is no power in the local legislatures to alienate the lands or to take away the title and bestow it upon any individual. Acts of the Legislative Assembly of Utah Territory have been quoted to sustain the idea that they have really given title or sought to dispose of the public lands. At no time and under no circumstances was any action of this kind taken with a view to bestow the ownership or title upon any person who might occupy the land or to whom any grant might be given.

But our cañon roads had to be made, and it required some action on the part of the Legislature to induce men to build costly roads into our mountains and to build bridges over our cañon streams. I have known cañon roads there costing over $12,000 to be swept away by one single storm. Grants of this kind were given in the early days of the Territory for such purposes and also for herd grounds and for other purposes, that local rights might be preserved. If such had been the design it would have been futile. We lived in Utah Territory for twenty years before the land laws were extended over us; we had to do the best we could. As soon as these laws were extended over our Territory we then obtained title to our lands. These towns which have been spoken of could only get the same amount of land to their population that towns in other parts of the United States obtained. Where the inhabitants number one hundred, the law says, and less than two hundred, sites shall embrace not exceeding three hundred and twenty acres, and so on. The highest number that was allowed was 1,280 acres. That was to a town containing five thousand inhabitants. Now, Salt Lake City had outgrown the conditions for which the town-site act was designed and the inhabitants could not obtain title under it to their homes. My predecessor, Hon. W. H. Hooper, succeeded in getting a special act of Congress passed to meet the exigency.

The boundaries of the incorporated cities of Utah Territory were made very extensive. There was a good reason for this. It is to be found in the fact that the settlements of Utah Territory were differently situated from those of every other part of the country. We had to do our farming by means of irrigation. We had to adopt the Mexican system of living in pueblos or villages. And it was thought a wise thing for municipal authority to be extended over the farms, the fields, the water; so that the water could be controlled and come within municipal regulations, and that men who farmed in the country might be within the towns and have the social advantages, the school advantages, and other advantages that were there to be obtained. Besides it was an Indian country and we had to live in villages to secure protection. But under the old law no man could pre-empt inside of an incorporated city. This was found out after the land laws were extended over the Territory.

It was not supposed at the time these incorporations were granted that they would thus interfere with the settlement of lands outside of the town-site limits; and it put the Mormon people as much as it did all others to great inconvenience. They could not obtain title to their lands any more than any one else until a law was passed by Congress which relieved the people in that respect in that Territory and in all the Territories; so that every settler who came within the limits of an incorporated city could obtain his land if it was open to pre-emption or homestead entry. That is all there is connected with this allegation that the people of Utah have plastered the whole country with their incorporations in order to prevent settlement.

Another point, Mr. Speaker, in connection with this case. Let the resolution that has been proposed by the majority of the Committee on Elections be adopted and what will be the result? Nearly eighteen months have elapsed since the election for this Congress. President Hayes was President of the United States at that time. President Garfield succeeded him. President Arthur now fills the executive chair. During these three administrations the governor of Utah Territory, who ruthlessly violated the law and robbed the people of their franchises, still occupies that position.

Let this seat of the Delegate from Utah be declared vacant, and you say to every governor in the United States who acts as a ministerial officer in declaring the results of elections, "You can give certificates to men not elected with impunity if we are in power, as was done in the Utah case, and no one will call you in question." And the returning board which goes to Utah Territory under the law just passed, if not superior men, will feel emboldened to do the same thing with every man who may be elected under that law, and who may be displeasing to a majority of that board. They may assume the same right, and say to the man, "You have received the votes, but we question your right, your eligibility, and we refuse to give you the certificate." Gentlemen can see what the effect will be.

You may depend upon it that the consequences of this action, if the report of the majority of the committee be adopted, will not end with Utah Territory. Crystallize this fraud, make it effective by your votes, and its consequences will be far-reaching and extensive. The Delegate-elect from Utah may be an insignificant person, but a great principle is involved in this case. It will not be the Mormons always. There will be some one else, perhaps, who will be unpopular. There will be some party in the minority against whom strong prejudices will be aroused and strong feelings evoked. This case will be cited as a precedent for refusing right and justice to such persons, and it will be pleaded in justification that this Forty-seventh Congress indorsed such action by sustaining the report of the majority of the Committee on Elections. A great wrong of this character cannot be perpetrated even upon the people of Utah without producing terrible results, which will be far-reaching and widespread.

There is one statement which I feel that I ought not to permit to pass unchallenged. It was stated upon this floor by the gentleman from Pennsylvania, [Mr. BELTZHOOVER,] and he assigned it as a strong reason for joining in the majority report, that in the Forty-third Congress I had unequivocally denied that I was what I have since acknowledged myself to be. And the gentleman from Tennessee [Mr. PETTIBONE] made that the foundation for his argument. He read from the statement which I made in the Forty-third Congress, and he certainly has an admirable way of reading anything so as to make it suit the purpose of his own argument. He read:

> I deny that I am now living with four wives.

And then he paused. Well, if that were without qualification it would look as though the gentleman from Pennsylvania was quite correct in saying that I had unequivocally denied the accusation. But there is something else in the sentence. There is a parenthetical sentence—"or that I am living or cohabiting with any wives"—which may be omitted. It will read then in this way:

> I deny that I am now living with four wives in defiance or willful violation of the laws of Congress, &c.

I denied it then and I can deny it now. I never defiantly or willfully violated any law. In response to the tenth allegation contained in the statement, I said:

> I deny that I am now living or have ever lived in violation of the laws of God, man, my country, decency, or civilization, or of any law of the United States.

Every lawyer knows that in pleading for the purposes of the action in controversy allegations are denied and proofs are called for, or a defendant might violate the old common-law rule that a man is not bound to accuse himself but to leave the burden of proof to rest upon his opponent. But to show that the members of the committee in the Forty-third Congress understood exactly my position, for I want to make it so clear that it cannot be disputed, that that issue was raised and was accepted and was recognized as the true issue, I will read from their report. Before doing so I may say that the full committee decided, notwithstanding the accusation that had been made that I was not entitled to my seat because of marital relations, that these relations were not a disqualification for a seat upon this floor and the majority reported these resolutions.

> 1. *Resolved*, That George R. Maxwell was not elected, and is not entitled, to a seat in the House of Representatives of the Forty-third Congress as Delegate from the Territory of Utah.
> 2. *Resolved*, That George Q. Cannon was elected and returned as a Delegate from the Territory of Utah to the seat in the Forty-third Congress.

There the majority of the committee stopped. But a minority of the committee reported the following resolution:

> *Resolved*, That George Q. Cannon was duly elected and returned as Delegate from the Territory of Utah, and is entitled to a seat as a Delegate in the Forty-third Congress.

The issue in controversy, and upon which the contest was based, was brought plainly before the House, and the House by about a two-third vote adopted the majority report and the supplemental minority report. In the report which was made by the minority of the committtee it was stated that—

> The majority of the committee have failed and decline to report a resolution to the effect that George Q. Cannon was entitled to the seat upon the ground that he was disqualified by reason of the fact that he was the husband of more than one wife, and, as is assumed, is guilty of a violation of the act of Congress, &c.

You will see by this that the issue was fairly brought before the Committee on Elections; it was not only brought fairly before the Committee on Elections but it was brought fairly before this House. And this House, with the full knowledge of all the facts, thoroughly conversant with the statement made concerning me upon this point, and which I neither disputed nor denied, this House of a Republican Congress, by a vote of about two-thirds of the members present, confirmed me in my seat.

In the Forty-fourth Congress the same issue was made and the same resolutions were adopted. The House being pressed for time on account of business, the sub-committee did not report to the House, thinking it unnecessary to do so, as I already had my seat.

The SPEAKER. The time of the gentleman has expired.

Mr. CANNON, of Utah. I would like the indulgence of the House merely to clear up one other point.

There was no objection, and the time of Mr. Cannon, of Utah, was extended.

Mr. CANNON, of Utah. After I had been confirmed to my right to a seat in the Forty-third Congress a resolution was introduced by a member of the Committee on Elections making charges against me concerning marriages, and the committee was authorized to investigate the matter. The committee in submitting their report made this statement:

> Your committee think the evidence, unchallenged as it is by the Delegate, establishes, &c.

That is, that I was living with more wives than one. The committee then reported a resolution that George Q. Cannon, Delegate from Utah, being found upon due consideration of the evidence sub-

mitted, and not controverted by said Cannon, to be an actual polygamist, &c.

The committee was authorized to report to the House, but when it did report the House refused to consider the report, and the case was dismissed. That was in the Republican Forty-third Congress.

Mr. Speaker, I find myself in this position: I am here as the Delegate from Utah Territory regularly elected, properly qualified, fully entitled to the seat. My constituents, as well as myself, believed at the time of my election that there was no barrier to prevent me from taking my seat. Nothing has occurred since my election to interpose any such barrier. All these charges which are made against my constituency, which I have not time to allude to in detail or to disprove, but which I do state are false, all these charges were in existence years and years ago. They were in existence in the Forty-sixth Congress, in the Forty-fifth, in the Forty-fourth, in the Forty-third Congresses. I have sat here during those Congresses. My right to my seat has been fully vindicated by the House. I came here under precisely the same circumstances then that I come now. But it is now said that a law of Congress has been enacted which prevents me from taking my seat; that by the operation of this law I am excluded, and the seat is to be declared vacant. If this proposed resolution be sustained, then I say fraud will be supplemented by this method of strangling, of murdering the representation of Utah Territory on this floor.

If the report of the majority of this committee shall be sustained, I shall leave this Hall of Representatives with a feeling and a conscience which will give me far more satisfaction in the days to come than if I were a member of this House and voted in favor of the adoption of the report of the majority declaring this seat vacant. I am a resident of Utah Territory and one of those people who are everywhere spoken against and against whom many vile charges are made, as were made against their predecessors, the Church of Christ, in the early days, and as Jesus predicted would be the case; yet I do respect my oath, and I pity any gentleman who with nothing to sustain him but popular sentiment is willing to trample upon the Constitution and the law and to strike down a people against whom popular sentiment is strong. [Here the hammer fell.] Mr. Speaker and gentlemen of the House, I thank you for your kind indulgence.

Mr. CALKINS. I yield for a few moments to my colleague, [Mr. DE MOTTE.]

Mr. DE MOTTE. Mr. Speaker, I have no disposition to trespass upon the time of the House to discuss generally the various phases of this contest. There are some points, however, which present themselves in such a way that I feel called upon to say something in regard to them.

This is no ordinary contest, for there is more involved in it than the abstract right of a person to a seat on this floor. While that is the technical question submitted to us, the real one is, Shall the institution of polygamy continue to have recognition in this House? There could be no doubt, I think, as to the action of this House if the question of the recognition of polygamy was being thrust suddenly upon us. If a body of people anywhere in the United States were by positive enactment of their own or by asking legislation by this body attempting to establish polygamy and give it the sanction and protection of the law there would be but one voice everywhere. All Christendom would be aroused and the most positive and severe measures taken to throttle it at the beginning. There would be no one, even here, to secure for it a brief lease of life by dilatory motions and uncertain speeches. Like other evils of its class, it has crept stealthily upon us. Within the memory of a majority of the members of this House it was laughed at as the mere freak of a fanatic. When the leader of the Latter Day Saints announced to his persecuted and despised followers that God had revealed to him that plural marriages were the divine will it was scarcely deemed worthy of a sneer. Immediately after the announcement of this supposed revelation, as if frightened at the thought of so violent an innovation upon the civilization of the age, they wandered away from their fellow-men and hid themselves among the mountains of what was almost an unexplored portion of our national domain.

There for a time almost forgotten, they suffered and waited and labored as others of a better faith had frequently done before. Industrious, frugal, and zealous in the propagation of their religion, they rapidly increased in numbers and in wealth, while the outside world took no thought of them. The pioneer spirit of the people could not rest, and in about a quarter of a century they were no longer beyond the border, or upon the border, but were in the midst of us. In 1862, Congress, being controlled by that party which has never hesitated to grapple with evil wherever found or however strongly intrenched, passed laws declaring polygamy a crime and prescribing punishment for it. So strong had the institution become that those practicing it laughed at the idea of its being restrained by law. Public sentiment and the authority of the church were so strong in its favor that officers and juries could not be found to execute the law against it. The church was the supreme power. The church claimed polygamy as a part of its creed, and claiming the law to be unconstitutional, they have openly defied it for twenty years. Now they add another defiance to those of the past by sending to these Halls as their representative one who openly avows himself a polygamist and declares that the Constitution of the United States protects him in it. It is not unnatural that he should make this claim, reared as he has been amid the influences of his church. The most remarkable part of this is that he has found members on this floor who were not reared in the Mormon Church to assert that claim for him. Four of the distinguished gentlemen upon that committee advocate his claim and solemnly say to this House and to the country that the Constitution of the fathers protects the institution of polygamy in Utah. The distinguished gentlemen taking this position are without exception from the other side of this House.

It is but repeating familiar history to say that the greatest evils which have cursed us as a people have always found statesmen on the other side of the House to throw up constitutional breastworks for their defense and plead the letter of the law in their extenuation. Nearly a quarter of a century ago I sat in the Senate gallery, at the other end of the Capitol, and heard a brilliant Democratic Senator, in the interest of slavery, claim that the Constitution gave Congress no power to prevent slavery in the Territories; that the provision in the Constitution, "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States," now quoted and relied upon to some extent by all the members of the committee, gave no other authority than to sell or otherwise dispose of the public lands. Then I heard another distinguished Democratic Senator, in the interest of slavery also, insist that the clause quoted above made it obligatory upon Congress to legislate for the establishment and protection of slavery in the Territories. Thus it was that at every attempt to restrain or eradicate that evil the letter of the law was laid down and constitutional barriers raised up by gentlemen from the other side of the House to prevent. There was no power under the Constitution, they told us, to destroy that which was threatening to destroy us.

A little later, when rebellion had its grip on the national throat, a Democratic President—and I cheerfully remember that he was the last of his line, and unless his party has changed views on that subject since, I will doubtless be pardoned for hoping that he may continue the last for all time—sat like an imbecile while the enemy robbed us of our munitions of war and supplied himself, declaring that in the absence of positive legislation the Constitution gave no power to protect the Government against rebellion.

And now comes another evil that threatens to inoculate our social system with the leprosy of the Orient. It comes in defiance of positive law and asks to be publicly recognized by the admission of its representative to a seat in this House. Again we hear from the other side of the House that the Constitution, purged as it has been from every sentence, word, and letter which could possibly be construed as shielding evil, protects this man in his practice of polygamy, and that we must admit him.

In reading the reports in this contest we find that it has fallen to the lot of a gentleman from this side of the House to read the letter of the law in behalf of this representative of polygamy. The member of the Committee on Elections from Massachusetts, a State where Republicanism has generally assumed its most radical form, tells us that the letter of the law compels us to bestow membership upon one whom he thinks should immediately thereafter be expelled. While the argument is ingenious and the authorities skillfully marshaled, yet one is disappointed on arriving at the end to find that the entire web is woven to cover a bit of sentiment. The proposition made by the gentleman from Massachusetts would read well in a story book. A master-hand has tried it, and in my judgment he has succeeded in forming one of the finest climaxes in literature. Hugo describes a scene at sea. A gunner carelessly allowed a monster gun to escape from its fastenings. As the vessel rocked from side to side with the waves, the gun went thundering and pounding about the deck, threatening to send vessel and crew to the bottom of the sea. After an exhibition of extraordinary courage and strength the gunner succeeded in again securing it. Calling the crew together, the commander spoke of his brave act, and in recognition thereof pinned upon his blouse the cross of Saint Louis, and then ordered him instantly shot for allowing the gun to escape. As I said before, this reads well in romance. As narrated by the great novelist it is sublime, startling; but this is no place for such things. The legislation of the country is supposed to be, and I believe is, the sober second thought of the people, and romantic climaxes and elaborately clad bits of sentiment partake largely of the ridiculous. What has this man done that entitles him to this distinction? Has he shown an obedience to law and an attachment to republican principles which entitle him to such a reward? On the contrary, he is an avowed law-breaker.

Another thing in connection with the dealings of this House with polygamy deserves a passing remark. While I have, I think, as cordial a hatred for the crime of polygamy as any other, I am not disposed to go as far in denunciation of the Mormon people as many who have addressed the House recently on measures affecting them. As a people I do not believe they deserve the harsh words that in the heat of debate have been spoken of them.

The history of the past shows us that religious fanaticism has in all ages caused both the barbarous and the civilized to do many strange and unreasonable things. I call it fanaticism without meaning to speak lightly or contemptuously of it, for in its most unreasonable phases there is a kind of heroism about it one cannot help but admire. In the pagan world it manifests itself in long and toilsome

pilgrimages and in self-inflicted torture. This is not confined to pagan people. In Christendom the humiliation and sufferings of the Man of Sorrows have been imitated by devotees in all ages. At one stage of our civilization men of great mental power and liberal culture, in obedience to what they thought their duty to God, fled from human society, and in caves and barren places spent their lives in solitude, privation, and suffering. At another, statesmen, philosophers, and divines, for conscience' sake, denounced the virtue of cleanliness as the vice of pride, and passed their lives besmeared with filth and swarming with vermin. In every age of the world since the death of the Saviour devoted, conscientious, and pure-minded men and women, in the firm belief they were pleasing God, have denied themselves the common comforts of life; have starved, scourged, and tortured themselves, literally "living in the agonies of which other men die."

I do not now recall an instance among Christians where the demands of the conscience of the devotee have led him to do anything but "crucify the flesh," except the instance of polygamy now under consideration. If we may believe our critics across the ocean, we are always doing something unusual and startling here in America, or doing something usual in a very unusual manner. It seems to have been left to us to first attempt to make the Christian religion contribute to the gratification of the desires of the flesh. That which all other Christian people crucify, the Latter Day Saint would gratify. That polygamy at its inception was the babe of lust I do not doubt, but it has grown into the youth of conscience. That the few master minds who arbitrarily control the Mormon Church may be insincere I will not dispute, but I would do violence to my sense of right and propriety if I joined in an outcry against the sincerity of the mass of the Mormon people. The fact that they are sincere in what they term their religious belief does not change the attitude of this question here. They may as well claim immunity from punishment for any other crime as for that of polygamy. Are the honorable gentlemen who are now claiming that polygamy is a religious tenet, and therefore protected by the Constitution, willing to bear the odium of the other conclusions to which their doctrines legitimately lead? Whether willing or not, the people will hold them and the party they represent responsible.

I am one of those who honor the patriotism of the fathers. They were the wisest and best men of their day. They had no Jupiter's brain from which they could strike forth a full grown Minerva, but they wrought as wisely as they knew, and left the completion of their work to those who came after them. I have felt when I saw the leaders of the Democratic party holding up the Constitution as a warrant for the extension of slavery, as a barrier in the way of protecting the life of the nation, and as an edict robbing men of citizenship, that they insulted the memory of those grand men. I feel it more forcibly now, when I see them erecting it as a shield for the loathsome crime of polygamy. I believed in the earlier contests of this generation as I believe in this contest, that the fathers put no word in the Constitution and left none out of it with intent to protect crime or tolerate oppression. As we have conquered the other evils, and saved the life of the nation by striking directly at them, I see no reason why we should hesitate now. I shall therefore deal as hard a blow as I can at polygamy by voting that its representative shall not have a seat in this House.

Mr. CALKINS. I yield for a few moments to the gentleman from Nevada, [Mr. CASSIDY.]

Mr. CASSIDY. Mr. Speaker, the American Congress has been an accessory to the crime of polygamy quite long enough. I am in favor of the suppression of polygamy in Utah, and to that end I am in favor of suppressing polygamists whenever and wherever one dares to raise his head. Especially am I in favor of placing a quietus upon the chief of all the polygamists in Utah, George Q. Cannon.

Every argument that has ever been urged by anybody anywhere against polygamy in Utah will apply with equal force to the case now under consideration by this House. The seating or non-seating of George Q. Cannon has a direct and important bearing on the true solution of the question of polygamy as it exists to-day in the Territory of Utah. Cannon is the representative man of the lecherous, law-defying element in that Territory; he is the representative head of all that is bad and debasing in the damnable system of polygamy. His mission here is well understood. First, he has been returned as the Delegate from Utah, Congress after Congress for ten years, to make polygamy respectable in the eyes of the civilized world.

Brigham Young declared that polygamy was a God-given revelation through him to the Mormon Church, and when his own people and the great body of the American people all over the land began to murmur about it, he publicly proclaimed that he would cram the vile doctrine down the throats of the American people and of the American Congress. That is why Cannon is here to-day; that is why he was sent here in the first place. Brigham Young knew of the liberality of our Constitution and laws with reference to the subject of religious liberty and toleration, and he also knew that if he could succeed in installing a leading polygamist in one of the highest official stations in the Government, that act in and of itself would go further toward popularizing polygamy with the Mormon people than any number of sermons from the most gifted of his apostles and pulpit orators. Subsequent events demonstrate clearly that he reasoned well. Cannon was accorded a seat in this body and polygamy at once boomed all along the line.

The rank and file of the Mormon Church saw that the Government of the United States recognized and respected, or at least tolerated, the new doctrine; that it was no bar to the attainment of the most commanding positions of official trust and honor and emolument under the Government; and hence they embraced it with great zeal and enthusiasm. The history and statistics of the Mormon Church show a marvelous increase in polygamous marriages in Utah immediately following the admission of Cannon to a seat in this body for the first time. The ratio of increase was unparalleled. The number of such marriages sprang from less than fifty for the year preceding his first admission to more than four hundred for the succeeding year, and the unlawful system has continued to grow vigorously and steadily year by year since that time; and all because, as I believe, this House gave countenance and dignity to polygamy and popularized it with the Mormon people by according George Q. Cannon a seat upon this floor almost without a word of protest from any source whatever. Every victory won by Cannon here is a victory for polygamy in Utah. Each succeeding triumph in Congress adds to the strength and vitality of the monster in the West. The best end to kill of a snake is its head.

There has not been a lawful election in Utah for twenty-five years. The ballot is tainted, yea polluted, with illegality from one end of the Territory to the other. Under Mormon law, girls under age and alien women of all ages are permitted to vote at all elections. An election in Utah is simply the recorded will of the Mormon Church as directed by the leaders of that organization.

But I have a stronger objection to the admission of Cannon. He is not a citizen. He is an alien. True, he holds an alleged certificate of naturalization, but there is no record of a court of competent jurisdiction behind it. He was not qualified to become a citizen of the United States at the time this certificate purports to have been issued. Contemporaneous facts and circumstances are conclusive to my mind that he had not resided in this country over two years prior to its issuance. Governor Murray was cognizant of these facts. He went into an exhaustive examination of all the circumstances, arriving at the conclusion that Cannon was not a citizen. I believe that that decision was correct.

But gentlemen on this side say the governor usurped powers that did not belong to him. They talk of the sacredness and the binding effect of precedents. The nearest parallel that I have been able to find to the course of Governor Murray was that raised in the celebrated Cronin case in Oregon in the Presidential year of 1876. Governor Grover, of Oregon, held that Watt was ineligible to the office of Presidential elector because he held a Federal post-office. Governor Grover's position was sustained by some of the ablest Democratic lawyers in the United States, and there was hardly a Democratic politician anywhere who was not willing and anxious to accept the Presidential election by the aid of Cronin's vote. Governor Murray has said that Cannon was not elected because ineligible. The parallel in the Oregon case is complete to this extent, and the Democratic portion of the electoral commission also concurred in the opinion of Governor Grover, holding, every man of them, that Watt was not eligible, and therefore not elected. But it is true that they did not claim that Cronin was elected. They simply held that there was no election at all, which our committee now says, by the report of its majority, was the case in Utah. The pending resolution goes no further.

Then we have the Mountain Meadows massacre and the terrible work of vengeance of the Destroying Angels in Utah, all directly traceable, as I hold, to the Mormon system. Cannon was always high in the councils of the Mormon Church. He was second in command to Brigham Young. The leaders condoned and concealed the bloody work of the murderous members of their church for more than twenty years, thereby becoming accessories after the fact to all of these terrible crimes. I hold George Q. Cannon morally responsible for his share of these offenses against mankind and civilization. Morally he comes here red-handed from the Mountain Meadows massacre and the hundreds of assassinations perpetrated by the Destroying Angels of the Mormon leaders. He also comes as a self-confessed bigamist, and therefore a self-confessed felon under the law. I am against him and the whole foul and disgraceful system which he represents. [Applause on the Republican side.]

Mr. CALKINS. Mr. Speaker, in presenting this question to the House I had intended to submit a purely legal argument, and not extend my remarks to any phase of the case not strictly within the record; but the remarks made by the contestant in this case I must not allow to pass without challenge. I do not wish to be considered as having struck an unnecessary blow at a man or a people who now seem at least not to be in the ascendency; but I deem it just to history, just to the people of the United States, and just to the people whom the gentleman says he represents, to say that all is not so fair in the history of that people as would appear by his remarks; for I remember that as early as 1855 a speck of war appeared in the Territory of Utah, growing out of the defiance of the Mormon people to the authority of the Government, and to suppress that insurrection the Government was compelled to and did send there its Army, headed by that brave and gallant man who afterward fell fighting on the other side at the battle of Shiloh.

I am also reminded that coming up out of the past is a tale of blood, the equal of which is scarcely found in any of the annals of bloody crime that history records, and using language that my distinguished

friend sitting in front of me [Mr. BURROWS] once used, "so horrible and atrocious that a savage might have sat at their feet, and learned deeds of cruelty."

I remember that a peaceable Arkansas colony, on its way to the land of the setting sun, fell victims, after having surrendered under a truce, to a horrible butchery. I remember that one of the leading members of this Mormon colony many years afterward was convicted and punished for having been a *particeps criminis* to that horrible massacre. So with the fair scenes and pictures that have been presented in this House to-day these of darkness and bloodshed should not be forgotten, as well as the fact that, with all the virtues which have been referred to as belonging to them, there they stand to-day confessing as a part and parcel of the religious tenets of their creed a crime against our civilization so heinous that no man upon this floor save the contestant himself has dared to apologize for. These are some of the historical facts allied to and connected with the contest now presented.

I shall spend no further time upon this part of the subject, Mr. Speaker; I think it is unnecessary. Allow me to pass now to the consideration for a few moments of the merits of this contest, as well as to answer some of the objections which have been urged against the majority report, and first let me say in answer to so much of the contestant's remarks wherein he says that he had no fear of the majority report before the passage of the recent Mormon law, because the best lawyers on both sides of the House had condemned it, that if the statement be true, and if the best lawyers on both sides of the House did condemn it, and thereby find a way by which they could stultify the sentiment of this country, and vote to seat him on this floor, I am content to take my seat upon the back row, and find my vindication in the familiar quotation—

Where ignorance is bliss 'tis folly to be wise.

I admit that there is room for argument and for disagreement, not only between good lawyers, but between all lawyers, upon the constitutional question; but I claim for the report that in no Congress nor by any tribunal has the doctrine there asserted been denied. No judicial body or tribunal has sat upon it, or has ever passed judgment upon the question involved. Now, what is the question presented by the report? When you reach it it is well and sharply defined. It is said by those who criticise the report that Delegates in Congress are within the terms of the Constitution so far as membership is concerned, and that the Constitution applies in terms to Delegates.

Now, what are the constitutional provisions? What are the provisions relied upon and quoted in support of the questions presented here? The first one is the first clause of section 2 of article 1, which defines what the membership of the House shall be, or what shall constitute the House of Representatives. The clause in question is as follows:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature

It is here clearly expressed in words unmistakable, and in precise and unequivocal language, who and what members of Congress are. They shall be "chosen every second year by the people of the several States;" not by Territories, but by the people of the several States.

Let us pass to the next step. For some purposes this is a separate and distinct legislative body. This House is separate and individual in reference to all powers of its own organization, with reference to the election, organization, and the returns of its own members, with reference to the expenditure of its contingent fund, with reference to the punishment of infractions of its dignity, and with reference to its power and right to expel a member. For these purposes the House is separate and distinct as much as if it relied on no other branch of the Government for legislative purposes. So when you apply the constitutional provisions to the power of the House over the election, returns, and qualifications of its own members, it stands, as the text of the Constitution shows, as a judge to pass upon these qualifications and elections.

Take the next step. What are the qualifications of a member of the House? They are defined in the Constitution; and here comes the first point of divergence between myself and those who disagree with me. The framers of the Constitution being familiar with the history of parliamentary bodies knew, as everybody knows who has studied it, that every parliamentary body ought to be and is the sole judge of the qualifications of its own members; so they defined what the qualifications of a member of Congress should be, but did not define what his disqualifications might be. They separate the positive qualifications which must attach to him from the disqualifications which may attach to him. What did they do? They provided that a member at the time of his election should have three requisites, namely, citizenship, age, (twenty-five years,) and inhabitancy, and reserved to the House itself the right to say by a two-third vote what should be ground for expulsion from the body for any misconduct, for any misbehavior, for any crime involving moral turpitude; in short, what might be or become a disqualification; and the provisions of the Constitution in this regard were made to apply to the members elected from the States. That is all. Then it is provided that for any disqualification which may be found attached to any member which in the judgment of the House is sufficient by a two-thirds vote of the members he may be expelled.

I repeat that if it were not for the constitutional restriction upon this body for any cause which it might see fit or deem proper, it could expel or exclude a member from a seat on the floor by a majority vote. Upon that point, Mr. Speaker, I desire to call the attention of the House to the history of the House of Commons and its rules respecting the power of that body over its own members. I call attention to section 58 of Cushing's Parliamentary Law, wherein the author says that it never was pretended that there was any power restraining that body from exercising this authority over its own members, and in its exercise of that right so capricious was it that it allowed men to take their seats upon the floor who were under twenty-one years of age, and then in other parliaments it would expel them and refuse to allow them to take their seats, and in other parliaments it would again allow them to sit.

The position of the majority of the committee in this case, in a few words, was this: that a Delegate not being within the constitutional provisions is remitted in his standing before this body to the general power of the House to judge of the qualification of its members, which power resides exclusively in this House. It obtains that power in two ways: first, as to its members, by a direct provision of the Constitution; second, it resides in this House by common parliamentary law which has existed ever since parliamentary bodies were established. Hence, as regards any person attached to this House not a member in a constitutional sense, his qualifications are remitted to this House as a parliamentary body to say what his qualification shall be, as well after he is sworn as before. Not being within the provision of the Constitution, he is not subject to the two-thirds clause relating to expulsion; and a majority at any time may expel him. That is the proposition and there is where we divide, and, so far as I am able to discern, the only real difference between us.

Now, what do those who oppose this view say? They all admit that Delegates are not within the constitutional provision and are not members in the constitutional sense. What do they say? That by the act of September, 1850, Congress extended the Constitution and laws of the United States over the Territories, and thereby the Constitution became by positive law a part of the law of Congress, as applied to Territories, and being applicable in cases of Delegates, the same rule should apply to Delegates as applies to Members. That is their argument—that Congress having extended the Constitution and laws of the country over the Territories, therefore, as a matter of statute law, the Constitution should be applicable. I deny it. I deny that the constitutional provision is applicable or can be applicable so far as it relates to the election, qualification, and returns of a Delegate. It cannot be applicable by any rule of construction with which I am familiar. I never heard of a respectable text-writer who said you could carve out a part of a section and make it applicable and controlling to a given subject, and disregard the residue. The whole must be applicable or none. And if you make it applicable to the case of Delegates, you must extend to them the right to vote. You cannot step half way; so your position proves too much and is wholly illogical and cannot stand.

Apply another familiar maxim, namely, "Where the reason is the same, then the rule is the same." Is the reason the same as applied to Members and Delegates? My friend from Texas, [Mr. JONES,] in an able and earnest speech to-day, said that the reason was precisely the same. I beg his pardon. What is the potent power of a member of this House? Is it simply the indulgence and right to talk and introduce bills and exercise the franking privilege? Is that it? Oh, no, the potent power of a member of Congress is his vote. It is his vote that renders him powerful and potent on this floor. For all other purposes he might as well stay in his district if he could by staying there reach this House just as well by telegraph, and through the public press get his speeches and his bills before Congress. It is his vote that levies the taxes and distributes the money and gives direction to general legislation affecting fifty million people. That makes the member potent on the floor. This essential feature every Delegate lacks. He lacks it by law. And I doubt whether Congress in exercising any constitutional power could extend it to him. At least it has not been so claimed by any gentleman on the other side. And I most positively deny the right of Congress to do it. The potency, I say, of a member is the right to vote.

Very many times, Mr. Speaker, I have heard the vote of a member lightly spoken of, but I hold in my hand a volume, part of the records of this body when there were troublous times in the country; and I recall now the value of one vote in this House. It was the time when Kansas was applying to be made a State in this Union. You will remember it was the policy of a large part of the Democratic party whose representatives were then in Congress to fasten upon Kansas, when admitted as a State, a slave constitution. You will remember that the Lecompton constitution—an instrument conceived in sin and brought forth in iniquity—was before the House, and when the scales were finally held up at the Speaker's desk, and freedom was on one side and the slave and the shackle on the other, the question was put whether the Lecompton constitution should be saddled upon that free Territory in the West. The roll of members was called down to the last name; and, trembling even in the balance, the last vote recorded settled the question in favor of freedom, and

Kansas was free. That illustrates the power and potency of the vote of the member; and that is what the Constitution designed to protect when it defined the rights of members of this House.

The reason, then, is not the same. There is no reason why a Delegate should be twenty-five years old. It may be presumed that the framers of the Constitution believed in fixing the age of members at twenty-five, that they should have arrived at mature and considerate years before being intrusted with vital questions in the government of a great people. What reason is there why a Delegate over twenty-one years of age should not be a competent member? The whole thing is answered, Mr. Speaker, inferentially and argumentatively in the speech made by Mr. Madison away back in 1794, when he said that Delegates were not constitutional members, and you could not impose upon them the duty of taking the oath as other members of Congress did; and Mr. White was seated without being required to take it.

So the position that because by law the Constitution and laws of the United States were extended over the Territories, and the reasons being the same the rule ought to be the same, in my humble judgment fails. The reasons are not the same. Besides, the law expressly says that the Constitution and laws shall be extended over the Territories only in cases where their provisions are applicable, and we all know what that was intended to do. It did not refer by any manner of means to the right of the people of a Territory to elect a Delegate to Congress. It was intended to bring them within the purview of the Constitution and laws of the country so as to provide them with courts, protect the people in person and property, organize them in bodies-politic and prepare them for final admission as States into the Union.

It is urged that the Constitution having been construed, and the true construction of it being that Members possessing the three qualifications before alluded to are entitled to seats on this floor, by parity of reasoning it applies to Delegates as well, who must first be seated before they can be excluded or expelled for causes not included in the constitutional qualifications. The same reason why this proposition is not sound is the one given in my answer to the other. There is no reason why the House should do so foolish a thing as to seat a Delegate for the purpose of expelling him the next moment. If it can expel him by a majority vote, then, without a constitutional limitation upon it, as in the case of members from States, it can do the same thing in the first instance by denying him a seat; and a Delegate being without the pale of the Constitution, this House can exclude him in the first instance by a majority vote.

I come now to an argument which has been urged by the gentleman from Tennessee [Mr. HOUSE] and the gentleman from Illinois, [Mr. MOULTON.] They say that those who join in the majority report will be "hoist by their own petard," for Congress has recently passed an anti-polygamy law, and if our position is correct the next House of Representatives may seat a polygamist notwithstanding the law. Now, I beg the gentlemen to look at the law. It does not pretend to fetter this House. It is a limitation upon the people of the Territory who are debarred from the right of sending such a man here to represent them.

Mr. SPRINGER. Suppose they do.

Mr. CALKINS. Suppose they do. Then my judgment is that the rule laid down in the law would be a wholesome rule for Congress to adopt, as we are about to adopt it now.

In further answer I must be permitted to say: we have on the statute-book a law which prescribes the manner in which contestants and contestees shall proceed to take testimony in contested-election cases. That law was passed by the House and the Senate and approved by the President. Yet there has never been a House since that law was passed that has not violated it almost every time it has tried a contested-election case. And why? Because it has been truly said that Congress cannot pass a law limiting the right of each House to judge of the election, qualification, and return of its members. And Justice Strong, who was the author of that law, admitted upon the floor when it was passed that it did not bind any House but the one which passed it; that it was a wholesome rule and should be followed, but that it did not have the effect of positive law, and was only binding when this House chose to follow it. McCrary in his valuable work on elections takes the same view.

Mr. SPRINGER. Do I understand my honorable friend to say that no matter what qualifications Congress may by law prescribe for a Delegate, a subsequent House may disregard those qualifications and admit any Delegate that the majority of that body may see fit to admit?

Mr. CALKINS. I am coming to that in a moment. The next proposition urged is that Congress, having the constitutional authority under that clause of the Constitution which has been so often quoted giving to Congress the power to dispose of and make all needful rules and regulations respecting the Territories of the United States—that Congress under that clause has the power to provide for a seat for a Delegate on this floor, and, having provided for it, it necessarily follows that this body is bound to receive the Delegate whom the people have chosen. Now, does that follow?

To provide the right to a seat for a Delegate is one thing; to provide who may fill that seat is another thing. If that position is correct, then when Congress under that constitutional power has provided the seat, this body is stripped of all right to examine at all as to the qualifications of the person to fill it. And, as my friend from Illinois [Mr. MOULTON] argued, as I understood him, you must let the man who comes here, though he be a Comanche Indian, fill that seat. For if Congress has the constitutional power to provide the seat and there is no law, as there confessedly is none, fixing the qualifications of Delegates, and if this body has not the right to judge of the qualifications of its own members when unfettered by constitutional restrictions, then as a logical sequence you must seat any man the people of a Territory may send here, no matter who or what he may be and regardless of all qualifications.

Again, this position proves too much, and we cannot stand upon it. The true doctrine is that this House is remitted to that power under the constitutional clause respecting the qualifications of members, or under the power of general parliamentary law, which gives to every legislative body the right to pass upon the qualifications of its members. Upon this doctrine we can all safely stand, and I submit it is the only safe one.

Mr. SPRINGER. Do I understand the gentleman to hold that after Congress has provided by law for the election of a Delegate from a Territory and has prescribed the qualifications of that Delegate, when a person comes here possessing those qualifications this House may refuse him his seat because he has not some other qualifications which the House may set up?

Mr. CALKINS. That is precisely it. I take the ground just as the gentleman has stated it. Congress cannot bind this House as to the qualifications of its own members, except as the Constitution has bound it.

Mr. SPRINGER. Not Members, but Delegates.

Mr. CALKINS. Delegates in this House are the persons I am speaking of, and they are not constitutional members.

Mr. MOULTON. The law settles it.

Mr. CALKINS. There is no law that settles it. The moment Congress attempts to pass a law upon that subject the House divides the right which resides alone in it, that power which this House as a legislative body possesses, which is inherent in it as a parliamentary body, and it surrenders the right to judge of the qualifications of its own members. Such a law is clearly unconstitutional and wholly void, and Congress cannot prescribe such qualifications; because, if that were admitted, this House might propose a bill fixing one qualification for Delegates; the Senate might fix an entirely different qualification, and the bill going to the President might be vetoed by him because it did not correspond with his views. Thus you would have the Senate and the President prescribing the qualifications of Delegates who are to sit in this body.

Mr. SPRINGER. Nothing would be prescribed until the law had been passed by both Houses and approved by the President.

Mr. CALKINS. Certainly not; but the moment you say that the law prescribing the qualification must be submitted to the Senate and the President, you take away the power of the House on this subject.

Mr. SPRINGER. Allow me one question more. Suppose Congress should pass such a measure as that which is known as the "Pendleton bill," admitting members of the President's Cabinet to seats on this floor to speak on questions of legislation. Suppose such a bill, after passing both Houses, should be approved by the President, would a subsequent House of Representatives be authorized to refuse to members of the President's Cabinet seats on this floor?

Mr. CALKINS. Assuming that Congress has the constitutional power to pass such a law, I say that this House, and this House alone, would be the judge of the qualifications of those Cabinet officers if they should become members.

Mr. SPRINGER. Then this House could exclude them.

Mr. CALKINS. This House could exclude them, because it is a power residing unfettered and unrestricted in every parliamentary body. Without it the House could be imposed upon to an unlimited extent. This House and every legislative body must have this power in order to protect themselves.

Mr. ATKINS. I ask the gentleman to give way now for a motion to adjourn. He can finish his remarks in the morning.

Mr. CALKINS. I shall be through in ten minutes.

Mr. ATKINS. We can vote in the morning just as well as this evening. It is a piece of tyranny to force us to stay here longer to-night.

Mr. CALKINS. I shall be through in ten minutes, and I hope the gentleman will not interrupt me now.

My friend from Tennessee [Mr. HOUSE] was pleased to enter into some animadversions with reference to the report of the majority of the committee. One of his points, I am free to say, was very well taken. Where the word "legal" occurs it was, I admit, inaptly used. But the gentleman understands the sense in which it was used. It was in contradistinction to the idea that some qualification might not be prescribed by the House. In a technical sense my friend was right, but I submit to him that criticism of the use of language is not a forcible answer to the substance of the question; and when arguing the question as a matter of substance he was, I submit, quite disingenuous in his remarks. Again he said, after quoting from the report of the majority:

> Mr. Speaker, I stand silent in the presence of this logic and this law.

Now, that was designed as satire!—cold, crushing satire!—nipping,

biting satire! But as a matter of fact, my friend did not stand silent very long, for he immediately proceeded to exercise his lung power, and his eloquence, and his pursuasive faculties, and his legal genius, to make his hearers walk contentedly by the "wheel of the Mormon chariot." How far he succeeded will very soon be seen. I am content to let the report and the remarks I have made with reference to this constitutional question go down side by side with the gentleman's speech, and let the pen of impartial history say which is right.

I now come, Mr. Speaker, to the last point which I desire to discuss in connection with this case; it is the religious phase of the question. It is true that under the Constitution we are prohibited from passing any law which shall impair the right of any person to worship God according to the dictates of his own conscience. But an examination of the authorities discloses a distinction between that which as religion is harmless or beneficial to society, and that which, under the guise of religion, is mischievous. The law says that no man can put on the robe of sanctity and use it as a cloak to commit offenses against public morals and public decency. Whenever any one undertakes to do so, the law-making power and the courts step in to prevent it, in spite of the religious garb attempted to be set up as a defense and justification. I admit that vagaries which harm nobody except those who practice them may be practiced under the cloak of religion without the interference of the law and even under its protection. But whenever any one under the garb of religion attempts that which is harmful to the public, and which degrades morality, that moment the robe falls, and the law seizes the offender, as it does another malefactor or law-breaker who violates decency without such pretense.

My friend from Tennessee [Mr. HOUSE] said yesterday:

> The history of the world and of the religious persecutions that have disgraced churches and governments establishes this fact beyond controversy or doubt. "The blood of the martyrs is the seed of the church" has held good in all the past, and will prove true to-day.

In answer to that statement, as well as to that part of the contestant's remarks in which he spoke of the Mormon Church as a church receiving inspiration and new life from Heaven, I desire to say that for eighteen hundred years, wherever civilization has blessed a people, the foundation, the corner-stone of the laws of that people has been the doctrine taught by the Nazarene. Wherever that doctrine has been departed from decay, inevitable decay, has followed swift and fast.

The name of religion cannot cover crime. Men may steal the livery of Heaven to worship at the shrine of Beelzebub, but it cannot be religion. Freedom of conscience is the offspring of liberty, but the love of liberty is the love of law. The contestant has spoken of tearing out the corner-stone of our Constitution by the suppression of polygamy. He says it is their religion. Our civilization has for its central vitalizing power the pure truths taught by the Nazarene. The debasing dogma of plural wives finds no sanction there. Our laws, liberties, and growth are interwoven with the doctrines and morals of the sacred code. Paganism, of which Mormonism is the latest example, is the destroyer of homes and the cancerous rot of empire.

I hold in my hands the letters of Pliny the Younger, written in the second century after the birth of Christ, and I desire to read a sentence to show that the early Christians practiced the doctrines of the Nazarene as they are now taught. In a letter by Pliny to the Emperor Trajan he said he had not yet been present at the trial of the Christians, and desired to take advice from him what punishment to inflict. Here is his description of what the Christians said when brought before him:

> They affirmed, however, that this had been the sum, whether of their crime or their delusion; they had been in the habit of meeting together on a stated day, before sunrise, and of offering in turns a form of invocation to Christ, as to a god; also of binding themselves by an oath, not for any guilty purpose, but not to commit thefts, or robberies, or adulteries, not to break their word, not to repudiate deposits when called upon. These ceremonies having been gone through, they had been in the habit of separating and again meeting together for the purpose of taking food—food, that is, of an ordinary and innocent kind. They had, however, ceased from doing even this after my edict, in which, following your orders, I had forbidden the existence of fraternities.

This was the oath these early Christians took. These were the teachings of the Nazarene. These are the truths which make men better, which make republics better, which give substance and foundation to governments, but when ignored, everything that is pernicious must necessarily follow. [Applause.]

This is the corner-stone of this Republic. It has been the theme of every American statesman—it will continue to be while the Republic lasts. To-day in all the laws of all the States this same doctrine is universally recognized; and I say to the gentleman from Utah, and all his aiders, abettors, apologists, and followers that the doctrine of plural wives must be forborne, and the Mormons must yield not to the demands of the Republican party, not to the demands of the Democratic party, but to the universal voice of the civilized world. [Great applause.]

Several MEMBERS. Vote! Vote!

Mr. CALKINS. I have fifteen minutes left, which I yield to the gentleman from Massachusetts, [Mr. RANNEY.] [Cries of "Vote!"]

Mr. OATES. Mr. Speaker, I have not been permitted to occupy the floor on this subject because of the limited time for debate, and I therefore ask, by unanimous consent, for leave to print my remarks.

The SPEAKER. The Chair hears no objection, and leave is granted to the gentleman from Alabama to print his remarks in the RECORD. [See Appendix.]

[Cries of "Vote!" "Vote!"]

Mr. ROBESON. We have fifteen minutes left on this side.

Mr. CALKINS. I yield what time I have left to the gentleman from Massachusetts, [Mr. RANNEY.]

Mr. RANNEY. Mr. Speaker, I had intended to address this House on this subject very briefly on certain questions of law. I had desired simply to show that the recent act of Congress, approved March 23, 1882, would cover my vote in this case. I believe by the operation of that act Mr. Cannon should be excluded from his seat. I had intended to occupy the time of this House in discussing the operation of that new act, but it is so late, and gentlemen are so anxious to proceed to vote, I will simply ask to make a brief statement of my position on that matter, and to put it on record.

The SPEAKER. The Chair hears no objection, and the request of the gentleman from Massachusetts is granted. [See Appendix.]

Mr. RANNEY. This case has assumed a new phase since it was heard and reported upon to the House. It has been argued in two aspects: first, as it stood under the law prior to the act of March 23, 1882; and, second, under that act.

I do not propose to discuss the case in the view of the law as it was. I have already presented my views in committee, and they are before the House in print. All I desire to say is that I could not vote for the pending resolutions on the grounds assigned in the majority report. I dissented from them in committee, and I do the same now. I deem the doctrine so predicated to be in contravention of all authority and precedent, unsound in principle, and mischievous in practice.

But I can now, and propose to, vote for the pending resolutions, because the new act expressly provides that a polygamist shall not be entitled to hold any office or place of public trust, honor, or emolument, &c.

I have no doubt that this act applies to the present case because of this clause, nor of the fact that Mr. Cannon can safely be assumed to be a polygamist now upon his written admission filed. He is presumed to continue in that relation, and there is no pretense that there has been any change in his status since that written admission was filed and made a part of the record, and under the issues raised presenting that question for action.

Contestant cannot be admitted to a seat which he would not be entitled to hold if already in the same. A public office of the kind is subject to Congressional control, as it is but the creature of a statute, and the salary is only an incident and must fall with it. There is no ground whatever in my judgment for the charge that the law is unconstitutional for any of the reasons urged or otherwise, and I hardly deem these objections worthy of an answer.

These views I would like to express and elaborate more at length, but the time set for this vote having been reached without my being given the half hour allotted to me, there is no opportunity allowed for doing so.

I say the doctrine of the majority is likely to be mischievous, for their views may be invoked hereafter to defeat the operation of the very act now passed and come up to plague the friends of the same. For if the House can disregard the statutes as they stood before, they can do the same as to the present one hereafter.

In my judgment it would be much better to adhere to the established doctrines, and apply the present law to this case, thus emphasizing it, and avail ourselves of this the first opportunity to apply it.

Mr. CALKINS. I now call for the vote.

Mr. THOMPSON, of Iowa. I am well convinced, Mr. Speaker, of the fact that a large majority of the House is opposed to the resolution I have submitted as a substitute, and for the purpose of saving time I now withdraw it.

The SPEAKER. The question recurs on the amendment of the gentleman from Illinois, [Mr. MOULTON,] which will be read.

The Clerk read as follows:

> *Resolved*, That George Q. Cannon was duly elected and returned as Delegate from the Territory of Utah, and is entitled to a seat as Delegate in the Forty-seventh Congress.

Mr. MOULTON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 79, nays 123, not voting 89; as follows:

YEAS—79.

Aiken,	Chapman,	Dunn,	Jones, George W.
Armfield,	Clardy,	Ermentrout,	Jones, James K.
Atkins,	Clark,	Evins,	Kenna,
Barbour,	Clements,	Finley,	King,
Belmont,	Cook,	Frost,	Klotz,
Blackburn,	Cox, Samuel S.	Fulkerson,	Latham,
Blanchard,	Cravens,	Garrison,	Manning,
Bragg,	Culberson,	Gunter,	McMillin,
Buchanan,	Davidson,	Hammond, N. J.	Money,
Buckner,	Davis, Lowndes H.	Hardenbergh,	Moulton,
Cabell,	Deuster,	Hatch,	Muldrow,
Caldwell,	Dibble,	Herndon,	Oates,
Campbell,	Dibrell,	Hoge,	Phelps,
Chalmers,	Dowd,	House,	Reagan,

Robertson,	Sparks,	Tucker,	Whitthorne,
Robinson, Wm. E.	Speer,	Turner, Henry G.	Williams, Thomas
Scoville,	Springer,	Upson,	Willis,
Shackelford,	Talbott,	Vance,	Wise, George D.
Singleton, Jas. W.	Thompson, P. B.	Warner,	Wise, Morgan R.
Singleton, Otho R.	Tillman,	Wellborn,	

NAYS—123.

Aldrich,	Errett,	Marsh,	Robinson, Geo. D.
Anderson,	Farwell, Sewell S.	Mason,	Robinson, James S.
Barr,	Ford,	Matson,	Russell
Bayne,	Godshalk,	McClure,	Ryan,
Beltzhoover,	Grout,	McCoid,	Scranton,
Bowman,	Guenther,	McKinley,	Shallenberger,
Brewer,	Hall,	Miles,	Sherwin,
Briggs,	Hammond, John	Miller,	Skinner,
Browne,	Harris, Benj. W.	Moore,	Smith, Dietrich C.
Brumm,	Haseltine,	Morey,	Smith, J. Hyatt
Buck,	Haskell,	Mosgrove,	Spaulding,
Burrows, Julius C.	Hawk,	Murch,	Steele,
Calkins,	Hazelton,	Norcross,	Stockslager,
Candler,	Heilman,	O'Neill,	Strait,
Cannon,	Hill,	Orth,	Thompson, Wm. G.
Carpenter,	Hiscock,	Pacheco,	Townsend, Amos
Cassidy,	Holman,	Page,	Turner, Oscar
Caswell,	Horr,	Parker,	Tyler,
Chace,	Houk,	Paul,	Updegraff, J. T.
Cobb,	Hubbell,	Payson,	Valentine,
Colerick,	Hubbs,	Peelle,	Van Aernam,
Crapo,	Humphrey,	Peirce,	Van Horn,
Cullen,	Jacobs,	Pound,	Wadsworth,
Davis, George R.	Jadwin,	Prescott,	Wait,
Dawes,	Jorgensen,	Ranney,	Walker,
Deering,	Joyce,	Ray,	Ward,
De Motte,	Kasson,	Reed,	Webber,
Dezendorf,	Kelley,	Rice, Theron M.	White,
Dingley,	Lacey,	Rich,	Williams, Chas. G.
Dunnell,	Lewis,	Richardson, D. P.	Willits.
Dwight,	Lord,	Ritchie,	

NOT VOTING—89.

Atherton,	Farwell, Chas. B.	Le Fevre,	Shultz,
Beach,	Fisher,	Lindsey,	Simonton,
Belford,	Flower,	Martin,	Smith, A. Herr
Berry,	Forney,	McCook,	Spooner,
Bingham,	Geddes,	McKenzie,	Stephens,
Black,	George,	McLane,	Stone,
Bland,	Gibson,	Mills,	Taylor,
Bliss,	Hardy,	Morrison,	Thomas,
Blount,	Harmer,	Morse,	Townshend, R. W.
Burrows, Jos. H.	Harris, Henry S.	Mutchler,	Updegraff, Thomas
Butterworth,	Henderson,	Neal,	Urner,
Camp,	Hepburn,	Nolan,	Van Voorhis,
Carlisle,	Herbert,	Pettibone,	Washburn,
Converse,	Hewitt, Abram S.	Phister,	Watson,
Cornell,	Hewitt, G. W.	Randall,	West,
Cox, William R.	Hoblitzell,	Rice, John B.	Wheeler,
Covington,	Hooker,	Rice, William W.	Wilson,
Crowley,	Hutchins,	Richardson, Jno. S.	Wood, Benjamin
Curtin,	Jones, Phineas	Robeson,	Wood, Walter A.
Cutts,	Ketcham,	Rosecrans,	Young.
Darrell,	Knott,	Ross,	
Dugro,	Ladd,	Scales,	
Ellis,	Leedom,	Shelley,	

So the resolution was not agreed to.

The following pairs were announced:

Mr. CORNELL with Mr. BUCKNER.

Mr. COX, of North Carolina, with Mr. LINDSEY.

Mr. SCALES with Mr. WASHBURN.

Mr. MARTIN with Mr. FARWELL of Illinois.

Mr. RANDALL with Mr. CUTTS.

Mr. KETCHAM with Mr. HUTCHINS.

Mr. WATSON with Mr. HARDY.

Mr. WILSON with Mr. RICE of Massachusetts.

Mr. WEST with Mr. FORNEY.

Mr. SPOONER with Mr. BLACK.

Mr. HENDERSON with Mr. TOWNSHEND of Illinois.

Mr. VAN VOORHIS with Mr. BEACH.

Mr. FISHER with Mr. ROSECRANS.

Mr. HOOKER with Mr. HENDERSON.

Mr. MCLANE with Mr. URNER.

Mr. BLOUNT with Mr. ROBESON.

Mr. ELLIS with Mr. HARMER.

Mr. TAYLOR with Mr. GEDDES.

Mr. GEORGE with Mr. GIBSON.

Mr. BLAND with Mr. BURROWS of Missouri.

Mr. PETTIBONE with Mr. KNOTT.

Mr. JONES, of New Jersey, with Mr. HARRIS, of New Jersey.

Mr. BELFORD with Mr. RICHARDSON of South Carolina.

Mr. STONE with Mr. HEWITT of Alabama.

Mr. HAMMOND, of Georgia, with Mr. MCCOOK.

Mr. HOBLITZELL with Mr. SHULTZ.

Mr. CAMP with Mr. ATHERTON.

Mr. CROWLEY with Mr. CONVERSE.

Mr. BUTTERWORTH with Mr. MCKENZIE.

Mr. RICE, of Ohio, with Mr. LEEDOM.

Mr. JONES, of Texas, with Mr. JACOBS.

Mr. HERBERT with Mr. YOUNG.

Mr. SMITH, of Pennsylvania, with Mr. HEWITT, of New York.

Mr. CALKINS moved to reconsider the vote by which the resolution was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The resolutions reported by the majority of the committee will now be read.

The resolutions were read, as follows:

Resolved, That Allen G. Campbell is not entitled to a seat in this Congress as a Delegate from the Territory of Utah.

Resolved, That George Q. Cannon is not entitled to a seat in this Congress as a Delegate from the Territory of Utah.

Resolved, That the seat of Delegate from the Territory of Utah be, and the same hereby is, declared vacant.

The SPEAKER. If there be no objection the vote will be taken on the three resolutions together.

There was no objection.

The resolutions were agreed to.

Mr. CALKINS moved to reconsider the vote by which the resolutions were adopted, and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SHULTZ, for ten days.

ORDER OF BUSINESS.

Mr. ROBESON. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at six o'clock and fourteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. AIKEN: The resolutions of the Board of Trade of Columbia, South Carolina, urging the construction of a free ship-canal between the Chesapeake and Delaware Bays—to the Committee on Railways and Canals.

By Mr. BERRY: The petition of citizens of Colusa County, California, for the repeal of the law imposing a tax on banks, bankers, and trust companies—to the Committee on Ways and Means.

By Mr. BROWNE: The petition of 864 citizens of Wayne County, Indiana, asking that decisive action be taken to secure for American citizens now confined in British prisons a fair and speedy trial or an immediate and unconditional release—to the Committee on Foreign Affairs.

By Mr. DAWES: The petition of Lewis Sycks, of Clarington, Monroe County, Ohio, for the passage of an act to pension soldiers and sailors of the late war who were confined in confederate prisons—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

Also, the petition of J. T. Morrill, of Clarington, Monroe County, Ohio, relative to double or reply postal cards—to the Committee on the Post-Office and Post-Roads.

By Mr. DIBRELL: The petition of the Board of Health of Tennessee, asking Congress to make an appropriation to prevent overflows, &c.—to the Committee on Commerce.

By Mr. DINGLEY: The petition of the Board of Managers of the National Temperance Society, asking the early concurrence of the House of Representatives to the Senate bill to provide for a national commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. FISHER: The petition of citizens of Franklin County, Pennsylvania, for the passage of a bill for the construction of a ship-canal between the Chesapeake and Delaware Bays—to the Committee on Railways and Canals.

By Mr. HOUK: The petition of Jonathan D. Hale, of New Hampshire, for compensation for services rendered the Government during the rebellion; also for supplies furnished the United States Army during said war—to the Committee on War Claims.

By Mr. MILES: Two petitions, embracing the names of 215 citizens of Winchester, Connecticut, for a speedy trial or release of American citizens now imprisoned in British jails—severally to the Committee on Foreign Affairs.

By Mr. O'NEILL: The petition of the Philadelphia Board of Trade, for the passage of the Lowell bill to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. PEELLE: The petition and proof of E. P. Thompson, in support of claim for loss of postage-stamps stolen and destroyed—to the Committee on Claims.

By Mr. SHACKELFORD: The petition of citizens of North Carolina, for the establishment of a mail-route from Fayetteville to Keyser, in said State—to the Committee on the Post-Office and Post-Roads.

By Mr. OTHO R. SINGLETON: The petition of M. G. Parker and others, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Railways and Canals.

By Mr. TUCKER: Papers relating to the claim of Edwin De Leon—to the Committee on Claims.

By Mr. J. T. UPDEGRAFF: The petition of W. H. Sunderland and 26 others, citizens of Ohio, for an appropriation for the establishment of schools in Alaska—to the Committee on Education and Labor.

By Mr. THOMAS WILLIAMS: The petition of T. J. Pennington and others, citizens of Coosa County, Alabama, for Congressional aid for the education of the illiterate—to the same committee.

SENATE.

THURSDAY, *April* 20, 1882.

Prayer by Rev. GEORGE MORRISON, of Baltimore.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of the Board of Managers of the National Temperance Society, praying that the pending bills for the admission of Dakota and New Mexico as States be so amended as to require in their respective constitutions the proviso that the distilling, brewing, and sale of all alcoholic liquors for drinking purposes shall be forever unlawful in the proposed new States; which was referred to the Committee on Territories.

Mr. PENDLETON. I present the petition of M. M. White, W. A. Goodman, J. D. Hearne, B. Cunningham, and L. B. Harrison, respectively, presidents of national banks in Cincinnati, praying for the passage of the bill (H. R. No. 5656) to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses and the withdrawal of the same therefrom. I present also the petition of Paxton, Brothers & Co., of Cincinnati, to the same effect; the petition of R. Macready & Co., Isaac Reis, and 5 others, citizens of Cincinnati, to the same effect; and also the petition of G. Hotterhoff and H. C. Bruce, Feldman, Walker & Co., and George F. Dieterle, of Cincinnati; and the petition of the Mohr & Mohr Company, Stevens, Davis & Co., and ten other firms of Cincinnati, all praying for the passage of the same measure. I move the reference of the petitions to the Committee on Finance.

The motion was agreed to.

Mr. DAWES. I present the petition of George C. Richardson & Co., and a large number of other individuals and firms resident of Boston, Massachusetts, and largely engaged in the China trade, who have become very much alarmed at the prejudicial effect, as they believe, of the legislation now pending in Congress in reference to immigration from China, and they earnestly ask that that feature of such legislation may be carefully considered by the committee having the bill before them. If that bill has not been reported, I move that this petition be referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. The Chair would inform the Senator from Massachusetts that the Senator from California [Mr. MILLER] reported yesterday the House bill on that subject.

Mr. DAWES. Then let the petition lie on the table.

The PRESIDENT *pro tempore*. It will lie on the table.

Mr. MILLER, of California, presented a petition of citizens of California, praying for the passage of the bill to extend the limits of the Yosemite grant; which was referred to the Committee on Public Lands.

Mr. GROOME. I present a petition signed by the presidents of all or nearly all of the steamboat companies whose lines run out of the city of Baltimore, and by all or nearly all of the principal vessel owners of that city, praying that the bill amending an act entitled "An act to prevent the introduction of contagious or infectious diseases into the United States," approved June 2, 1879, may not be passed. The petition states in cogent language the objections that the petitioners have to the proposed legislation. It is very short, and as the bill has been already reported to the Senate, the only way that the petition can have any effect with the Senate is to have it read. I ask that it may be read at length.

The PRESIDENT *pro tempore*. The petition will be read if there be no objection.

The petition was read, as follows:

To the honorable the Senate and House of Representatives of the United States of America:

The petition of the undersigned, engaged in the shipping business in the city of Baltimore, respectfully shows that there is now a bill pending before your honorable body styled a bill amending "An act entitled 'An act to prevent the introduction of contagious or infectious diseases into the United States,'" approved June 2, 1879; that in section 5 of said bill it is provided "that the expenses, services, and necessary charges which shall have been incurred by the health officer at any port of entry within the United States in the care and detention of such passengers as shall be detained under the provisions of this act, or under the rules and regulations made in pursuance thereof, shall be a lien on the vessel bringing such passengers on account of whom such expenses, services, and charges have been incurred; and if the masters, owners, or consignees shall not pay such expenses and charges within three days after they shall have been rendered, the health officer shall proceed to enforce said lien, or he may have and maintain action against the masters, owners, or consignees of such vessels to recover the amount of such expenses, services, and charges in the district court of the United States within whose jurisdiction the port of entry is situated."

And in section 6 of the same bill it is furthermore provided that, "to pay the necessary expenses of placing vessels in proper sanitary condition to be incurred under the provisions of this act, the National Board of Health be, and hereby is, authorized and required to make the necessary rules and regulations fixing the amount of fees to be paid by vessels for such service, and the manner of collecting the same."

Now, your petitioners represent that while a national quarantine system may be desirable, there is no good reason why the system should be maintained chiefly at the expense of a special interest already too heavily taxed. The proposed quarantine is for the benefit of the people at large, and on them, and not on any particular branch of commerce, should the expense be imposed. It is respectfully suggested that the shipping interest at this time needs the fostering care of Congress, and that national and local duties and charges on vessels, such as those for pilotage, wharfage, harbor-masters', port-wardens', United States inspectors' fees, tonnage dues and consular fees in foreign ports, as well as the State quarantine fees, are already of so grave a character as to seriously jeopardize the shipping business, and that this property is now much more heavily burdened than is any other class.

For these, and for the further reason that an unlimited discretion as to amount of these charges is vested in the board, and for other obvious reasons, your petitioners respectfully but earnestly protest against the passage of that portion of the bill which imposes on the interest which they represent a large part of the expense of maintaining a national quarantine.

Mr. HARRIS. As the bill has been reported to the Senate, I ask that the petition lie on the table. I desire to say that the petition addresses itself to the bill as originally introduced, but the features of which it complains do not appear in the bill as reported from the committee.

The PRESIDENT *pro tempore*. The petition will lie on the table.

Mr. BLAIR presented the petition of Caroline French, widow of the late William H. French, brevet major-general, United States Army, praying to be allowed a pension and other relief; which was referred to the Committee on Pensions.

Mr. GEORGE presented a petition of farmers and members of the grange in the State of Mississippi, praying for the passage of the bill for a ship-canal across the Isthmus of Tehuantepec; which was ordered to lie on the table.

PROVIDENCE HOSPITAL.

Mr. BUTLER. I am instructed by the Committee on the District of Columbia to ask unanimous consent of the Senate to reconsider the vote by which the bill (S. No. 1127) for the relief of Providence Hospital, of the city of Washington, District of Columbia, was indefinitely postponed, with a view of asking its recommittal to the Committee on the District of Columbia.

The PRESIDENT *pro tempore*. The vote by which the bill was postponed indefinitely will be reconsidered, if there be no objection.

Mr. EDMUNDS. What is the ground of the application?

Mr. BUTLER. The ground of the application to recommit is because the committee at the time it made the adverse report was not fully in possession of all the facts which it has come in possession of since; and it therefore wants to reconsider the subject.

Mr. EDMUNDS. That is satisfactory to me, Mr. President.

The PRESIDENT *pro tempore*. There being no objection, the vote by which the bill was postponed indefinitely is reconsidered, and the bill is recommitted to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. BUTLER, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1612) to provide for the closing of an alley in square 751 in the city of Washington, in the District of Columbia, and for the relief of the Little Sisters of the Poor, reported it without amendment.

Mr. INGALLS, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill (S. No. 1754) to punish breaking and entering banks, shops, stores, and other buildings in the District of Columbia with intent to commit larceny or any felony therein; which was read twice by its title.

Mr. SEWELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 717) for the relief of William M. Beebe, jr, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. JACKSON. The Committee on Pensions have directed me to report the bill (H. R. No. 5158) for the relief of James F. Cullen adversely. There is a majority report adverse to the allowance of the pension and a minority report favoring it. I ask that the bill be placed on the Calendar.

Mr. BLAIR. There is a minority report in that case.

The PRESIDENT *pro tempore*. It was so stated. The bill will be placed on the Calendar.

Mr. MORGAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 140) to regulate the disposal of coal lands in the State of Alabama, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. COKE, from the Committee on Commerce, to whom was referred the bill (S. No. 1620) to authorize the construction of a street-railway and wagon-road bridge over the Rio Grande River between the city of El Paso, Texas, and Paso del Norte, Mexico, reported it with amendments.

Mr. PLATT, from the Committee on Patents, to whom was referred the petition of Oliver Evans Wood, praying payment of his claim for royalty on knapsacks made for the Government, submitted an adverse report thereon, which was ordered to be printed; and the committee were discharged from the further consideration of the petition.

Mr. ROLLINS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1588) to authorize the changing of alley-ways in the city of Washington, reported it with amendments.

Mr. CALL, from the Committee on Patents, to whom was referred the bill (S. No. 1541) for the relief of Isaac E. Palmer, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. ALDRICH asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1755) granting a pension to Mrs. Kady Brownell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CHILCOTT asked and, by unanimous consent, obtained leave

to introduce a bill (S. No. 1756) to authorize the Secretary of the Interior to dispose of the military reservation at Fort Lewis, in the State of Colorado, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CONGER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1757) to provide for the erection of a public building at Detroit, Michigan; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. KELLOGG asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1758) for the relief of the Citizens' Bank of Louisiana, in the State of Louisiana; which was read twice by its title, and referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a concurrent resolution correcting the enrollment of the bill (H. R. No. 3869) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 1290) to amend sections 2586 and 2587 of the Revised Statutes of the United States by creating the collection district of Yaquina, in the State of Oregon, and authorizing the appointment of a collector therein; and it was thereupon signed by the President *pro tempore*.

SOLDIERS' HOME AT HARRODSBURGH.

Mr. WILLIAMS. I ask leave to call up Senate bill No. 506, which was reported by the Committee on Military Affairs and was passed over without prejudice some days ago when reached on the Calendar, at the request of the Senator from New Jersey, [Mr. SEWELL.] He consents now that the bill be taken up and passed.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 506) authorizing the board of commissioners of the Soldiers' Home to sell certain property at Harrodsburgh, Kentucky, belonging to the Soldiers' Home.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and to insert—

That the board of commissioners of the Soldiers' Home be, and are hereby, authorized to sell the property belonging to the Soldier's Home situated at Harrodsburgh, Kentucky, and known as the Harrodsburgh Springs property.

SEC. 2. That said property shall be sold on the premises, and to the highest and best bidder, on a day to be fixed by the board of commissioners, after they shall have advertised the time, terms, and place of sale for thirty days in the Louisville Commercial, the Louisville Courier-Journal, and two other papers published in the vicinity of the property: *Provided*, That the commissioners shall be, and hereby are, authorized to withdraw said property after it shall have been offered on the day of sale if a satisfactory bid shall not be received, and to readvertise said property for sale as above designated should there be a failure of sale from any cause.

SEC. 3. That the said board of commissioners shall sell said property for cash in hand, and that an immediate payment of $500 shall be paid by the purchaser at said sale, to be deducted from the cash payment to be made by him on delivery of the deed, from which sum all the expenses of the sale shall be deducted in case said purchaser fails to comply with the full terms of the sale within thirty days from its date, the balance, if any, to be returned to the person making such payment; and when the purchase-money shall have been paid to said board of commissioners they are directed to make to the purchaser a deed of conveyance for said property, and when said deed shall have been made and properly acknowledged the United States shall be divested of the title to said property, and the purchaser shall be invested with the full title to the same.

Mr. WILLIAMS. There is a very short report accompanying the bill, which may be read. It states the case much better than I could.

The PRESIDENT *pro tempore*. The report will be read.

The Principal Legislative Clerk read the following report, submitted by Mr. LOGAN January 24, 1882:

The Committee on Military Affairs, to whom was referred the bill (S. No. 506) authorizing the commissioners of the Soldiers' Home to sell certain property at Harrodsburgh, Kentucky, belonging to the Soldiers' Home, have had the same under consideration, and submit the following report:

In reply to a communication from the committee, the commissioners of the Soldiers' Home answered as follows:

"OFFICE OF THE BOARD OF COMMISSIONERS OF THE SOLDIERS' HOME,
"(Room No. 16, Winder Building,)
"*Washington, D. C., December* 17, 1881.

"SIR: The commissioners of the Soldiers' Home have the honor to acknowledge the receipt of your request of the 16th instant for a report upon the merits of a bill, Senate No. 506, a copy of which was inclosed, to authorize the board to sell certain property of the home near Harrodsburgh, Kentucky, known as the Harrodsburgh Springs property.

"It is the earnest desire of the commissioners that Congress shall authorize the sale of the property mentioned, as it has not been for many years, and probably never will be again, occupied by the Soldiers' Home.

"The bill appears to be the same as the one that passed the House of Representatives January 24, 1879, and was reported in the Senate and referred to the Committee on the Judiciary January 28, 1879, except that the House bill fixed a minimum price of $10,000 for the property, and made the terms of the sale one-third cash in hand, one-third in six months, and the remaining third in one year. The present bill mentions no price and proposes a cash sale.

"There appears to be but one objection to the bill under consideration. If it shall become a law and the commissioners shall commence proceeding under it, there will be no means of protecting the interests of the Home against any contingency which might limit the highest and best bid to a sum that would be half the value of the property, or less. The requirement in section 2 that the property shall be sold to the highest and best bidder, on a day to be fixed, would compel the commissioners to sell it on that day without remedy against any combination to obtain it at less than its value. The commissioners should be authorized to withdraw the property after it shall be put up on the day of the sale if a satisfactory bid shall not be received, and to repeat the advertisement and sale as at first, in the event of no sale from any cause.

"It is suggested that the sum of $500 be named in the bill as a forfeit, payment to be made cash in hand by the successful bidder at the time of the sale as soon as the property is struck off, from which sum all the expenses of the sale shall be deducted to reimburse the home in case said bidder fails to comply with the full terms of the sale within thirty days from its date. The balance, if any, to be returned to the person making such payment.

"Very respectfully, your obedient servants,

"JOS. K. BARNES, *Surgeon-General, U. S. A.*,
"R. MACFEELY, *Comy. Genl. of Sub., U. S. A.*,
"R. C. DRUM, *Adjutant-General, U. S. A.*,
"*Commissioners of the Soldiers' Home.*

"To the CHAIRMAN
"*Of the Committee on Military Affairs, United State Senate.*"

The use of the property for the purpose originally designated was discontinued many years since, for the reason, among others, that the number of applicants from the Army was not sufficient to keep up two establishments, and consequently the one at Washington was retained and this one closed. The place is rapidly going to waste, the buildings and improvements are destroyed, and the property is leased at a low rate.

The committee agree with the commissioners in recommending its sale, and in accordance with the changes proposed report herewith a substitute for the bill, and recommend its passage.

The PRESIDING OFFICER, (Mr. HAWLEY in the chair.) The question is on agreeing to the amendment reported by the Committee on Military Affairs.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OMAHA INDIAN RESERVATION.

The bill (S. No. 1255) to provide for the sale of a part of the reservation of the Omaha tribe of Indians, in the State of Nebraska, and for other purposes, was announced as the first in order upon the Calendar, and the Senate, as in Committee of the Whole, resumed its consideration.

Mr. SAUNDERS. On reflection I have come to the conclusion, so far as I am concerned, that it would be well to adopt the amendment offered by the Senator from Massachusetts, [Mr. DAWES.] That would secure to the Indians all the rights which they may have acquired on this land prior to the passage of the bill, if any. I consent to that in order, as much as anything else, to get rid of the question raised by the amendment of the Senator from Kansas, [Mr. INGALLS,] and dispose of the bill, because the question will evidently come up on the bill which is now before the Senate providing for distributing lands in severalty among the Indians of the several tribes throughout the whole country, both in the Territories and in the States. Inasmuch as the question will necessarily almost have to be discussed at that time, I think it would be well to let it go over until that bill comes up and to adopt now the amendment of the Senator from Massachusetts, which will give all that will be required in this case. I do not wish to take up the time of the Senate. I merely rose to state that much as being my own views on the subject now.

Mr. INGALLS. Under parliamentary practice the motion of the Senator from Massachusetts is not strictly in order until my motion to amend has been first disposed of. But as I believe that the proposition of the Senator from Massachusetts will dispose of the point that I raised and reserve the general subject of exemption from taxation to be considered hereafter, with unanimous consent I will withdraw the amendment I offered in order that the amendment of the Senator from Massachusetts may be acted upon.

The PRESIDENT *pro tempore*. The Senator from Kansas withdraws his amendment.

Mr. DAWES. I now offer my amendment, and I should like to have it read again.

The PRESIDENT *pro tempore*. The Secretary will read the amendment of the Senator from Massachusetts.

The ACTING SECRETARY. In section 4, line 6, it is proposed to strike out all after the word "provided," as follows:

That patents issued to Indians shall expressly state that the lands conveyed shall, for the period of twenty-five years from the date thereof, be inalienable and exempt from incumbrance and taxation, and that the title in its descent shall conform to the laws of the State of Nebraska.

And to insert in lieu thereof:

That any right in severalty acquired by any Indian under existing treaties shall not be affected by this act.

Mr. BECK. The Senator from Massachusetts perhaps explained that amendment yesterday. There is no report accompanying the bill, and I happened to be in attendance on a session of a committee yesterday. I want to vote intelligently upon the amendment, and would be glad to hear what it means.

Mr. DAWES. The adoption of this amendment does not affect the merits of the whole bill. The whole bill rests upon a recommendation of the committee that it is proper to sell off from this reservation of about one hundred and fifty thousand acres 50,000 acres in a block on the western side of it. That is one question. But the Omaha Indians have the whole reservation and occupy it under an existing treaty in which it is stipulated that any Indian may go upon any part of the whole reservation and occupy one hundred and sixty acres for the head of a family, and eighty acres for a single individual,

and shall be entitled under the treaty to an instrument in writing from the United States which is equivalent to a qualified patent.

It is said by the Senator from Nebraska that no one of the Indians has so gone upon the 50,000 acres which it is proposed to sell. There are, however, quite a number of them who have gone onto some part of the reservation and made such locations, and who are entitled under existing treaties to the qualified patent; they have come to Congress praying that Congress will give them the patent. To make it perfectly safe and preserve the rights of any Indian who may have located upon this land is the design of my amendment. I do not know that it will apply to any Indian, though I am not quite certain but what it will. Whether the bill with that amendment ought to pass is quite another question.

Mr. BECK. The only object I have, after hearing some of the discussion yesterday, but not much of it, is to so vote as to carry out the idea that, as the Indians have by treaty this reservation now, and the United States does not presume to tax it, and as they have a right to go upon any part of it and we have a right to locate them in severalty, we should assert the right to locate them in severalty. Mr. President, I cannot hear myself, and I do not propose to talk in the midst of so much confusion.

The PRESIDENT *pro tempore*. The Senate will please come to order. Gentlemen who are here by the courtesy of the Senate will take seats. Does the Senator from Kentucky consent to be interrupted under the five-minute rule?

Mr. BECK. I do not desire to be interrupted by people talking all over the Senate.

The PRESIDENT *pro tempore*. Does the Senator desire to be interrupted by any Senator?

Mr. BECK. On any question he may desire.

The PRESIDENT *pro tempore*. Then it will be taken out of the Senator's time.

Mr. BECK. Certainly; I am seeking information now.

I desire that we shall have the right to locate in severalty these Indians upon their land and that we shall not tax them, and that when we do so locate them we shall put such a limitation as will enable them to hold the land for twenty or twenty-five years, so that no white man can swindle them out of their property. As we hold the whole reservation by treaty, on which we impose no taxes, I do not at all agree with the Senator from Kansas [Mr. INGALLS] that the State of Nebraska, or any other State, has the right of taxation. When we locate an Indian upon a portion of the territory in which he is now free from taxation, for the purpose of making the experiment of civilizing him by giving him a home of his own, we should protect him from taxation; we should protect him from being swindled; we should prevent white men from trading with him and taking that land away from him. We are about to enter upon the experiment of civilizing the Indians by giving them separate homesteads and by encouraging them in the arts of agriculture. If, when that is done, we are obliged, as seems to be intended, to submit them to State and other taxation, they will lose their land by taxation. If we allow white men to trade with them, they will get it away from them.

If we begin with the Omahas now and make their lands subject to taxation and give them the right to trade, and if the experiments we are now making are failures, then other Indians will not come under the terms we are now seeking to impose upon the Omahas unless they are protected—protected against themselves, protected against the right of white men to take their lands away from them. If this is an experiment made with uncommonly intelligent Indians, and if we can make it a success by giving them homes and protecting them from themselves, protecting their lands from sale, taxation, or anything else in the reservation that now belongs to them, then we are making a step in advance, and we can point the other Indians to it and show how the Omahas were protected by the Government in their efforts at civilization and in having homes of their own; whereas if the other rule prevails and we give it to them absolutely, and it can be taken away for taxes or by sales under judgments, every other Indian will point to the fact that the Omahas made the experiment and that it was a failure; and we may as well quit trying to give them homes.

Mr. JONES, of Florida. I appreciate very fully the importance of this question, but I do not think my friend from Kentucky [Mr. BECK] has stated it in all its length and breadth. If I understand the bill, it proposes to authorize the sale of an Indian reservation located in the body of a State. The Indians desire to sell the lands, and it is not denied that the lands may be purchased by white people as well as by Indians; they are to be put up to the highest bidder and sold for the benefit of the tribe. It is understood that an Indian has the right of purchase the same as a white man with respect to the land.

I want to know if the Senator from Kentucky is prepared to advance the doctrine that when a white man or half a dozen white men purchase titles to land within this reservation and settle down with Indians on it, the one may be taxed by the State of Nebraska and the other not? Is that to be the rule?

Mr. BECK. I mean to say, if the Senator will allow me, that this reservation and all Indian reservations may be divided up into a hundred lesser reservations, and if there are forty-nine thousand acres of this fifty thousand acres sold to white men, and the remaining one thousand acres held by Indians and allotted to them in severalty, we have a right to regard that one thousand acres of the fifty thousand acres as still remaining a part of the Indian reservation, and we can protect them against taxation and against sales as we could if the original reservation had never been broken up, and it is only so far——

Mr. JONES, of Florida. I have but five minutes.

Mr. BECK. They are not taxed, they cannot be; and if they are our wards why may we not protect them?

Mr. JONES, of Florida. I do not deny the right of the Government to deal with the Indians in a tribal organization, but I cannot subscribe to the principle put forth by the Senator from Kentucky in this case. I say we may divide up an Indian reservation into lots, and give each Indian his share, and keep from among them the white people; but if the General Government undertakes to mix up that Indian reservation with the territory of Kansas and authorizes the sale of their lands and the purchase of them by white men, and they are put side by side, you can never exempt the Indians from taxation in such a case as that without leading to great trouble and confusion.

What was the case of Georgia? The General Government recognized the right of the Cherokees to maintain their independent organization. The State of Georgia insisted upon her laws being extended over them. It created a controversy that almost drove the two peoples into bloodshed. The mandate of the Supreme Court was disregarded. The State of Georgia asserted her right over the Indians, and this Government denied it. We do not want any more troubles like that.

If you undertake to sell the Indian lands, and to permit the white people to buy them and settle side by side with the Indians, and thus consolidate and unite these two populations together, you cannot apply one rule to one and another to another. If you want to give Indians land in severalty, separate them from the white masses; recognize their independent organization, but do not undertake to mix them up side by side with the white people under such a system as this.

Mr. BUTLER. I wish to ask the Senator from Massachusetts a question. I understand from him that it is proposed to sell about fifty thousand acres of this reservation to anybody who chooses to purchase, Indian, white man, or anybody else. Do I understand that the Senator proposes to protect an Indian who purchases part of that 50,000 acres and takes it in severalty—does he propose to exempt that Indian from taxation?

Mr. DAWES. The Senator was not present, I presume, yesterday during the discussion, for such a case as this was expressly excepted. If my amendment is adopted the question now raised becomes an abstract question so far as this bill is concerned. It has no application to this bill. It is a very important question. I agree with the Senator from Kentucky that if we are under treaty stipulations with Indians whom we have put upon a reservation that we will guarantee them the land upon which there is a tribe whenever they choose to take it in severalty, *quoad hoc* each individual Indian occupies to that extent the reservation, with all the treaty stipulations around him to protect and guard him; but if an Indian buys like a white man any portion of this 50,000 acres, to come back to this bill, no one supposes that he ought to be upon any other ground than a white man who purchases a part of it.

But the reason for this discussion and the purpose of the original phraseology in the bill was to reach another class of Indians, a class of Indians who had gone under treaty stipulation in severalty upon certain portions of the one hundred and fifty thousand acres, and claim under the treaty a right in severalty to that land under treaty stipulations which protect the whole tribe when they occupy it in common from taxation and from judgments; and it has always been supposed that we had authority under such circumstances to protect the Indian who took his title not by purchase as a white man does, but under treaty stipulation from taxation. But this amendment takes care of all those Indians without raising the question or passing upon the question suggested by the Senator from Kansas.

Mr. BUTLER. Why should not the principle apply just as well to the Indian who purchases outside of his reservation? The treaty stipulations apply, it seems to me, just as well if it is part of his land.

Mr. DAWES. The Indians as a tribe consent. This bill goes upon the theory that the Indians as a tribe consent to part with fifty thousand acres of their land, and to take in lieu thereof the proceeds of the sale. [The President *pro tempore* rapped with his gravel.] I hope the Senate will indulge me to answer the question. The bill provides for the mode of selling the land. If an Indian comes in as a purchaser, he comes in precisely as a white man. That is the answer.

Mr. ALLISON. Mr. President, the suggestion of the Senator from Kentucky [Mr. BECK] raises a new question about which I should like to have some information. This bill proposes to sell 50,000 acres of the Omaha reservation. It seems to me before we agree to make this sale, or assent to it, we ought to know exactly how much land there is in the Omaha reservation, and whether it is a wise thing for us to part with this amount of their land on their account; and I should be glad to have somebody familiar with this bill inform us the extent of this reservation, the number of Indians upon it, and what

there will be left for them in the way of agriculture when these 50,000 acres shall be sold, because if our general theory be true with reference to the Indian tribes that they ought to be made self-supporting and that they ought to take their lands in severalty at some time, we certainly ought not to part with the lands which they must in future occupy in that way. So I think somebody who has charge of this bill or who has particular knowledge of it ought to give us some information on these points.

Mr. SAUNDERS. I think I can answer to the satisfaction of the Senator from Iowa and others the question he has stated. The question was raised some time ago when this bill was before the Committee on Indian Affairs, and I took it upon myself to write to the Commissioner of Indian Affairs to ascertain whether I was correct or not as to the number of acres included in the reservation. I have this reply:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, December 15, 1881.

SIR: Replying to your note, received this morning, relative to the amount of land contained in the Omaha reserve, I have to say that the reserve contained 143,225 acres. The Omahas number 1,121, which would give each member of the tribe about one hundred and twenty-eight acres.

Yours, respectfully,

H. PRICE, *Commissioner.*

Hon. A. SAUNDERS, *United States Senate.*

Deduct this from that, and it will leave 93,000 acres, or more than eighty acres to each individual member of the tribe, which is more than is required by any bill now before the Senate on the subject of dividing Indian lands in severalty. That letter is from the Commissioner of Indian Affairs himself, so it is evidently correct.

While I am on the floor I wish to state that I was probably misunderstood yesterday by some Senators who understood me to say that this land would be sold at $2.50 per acre. What I meant to say, and what I think I did say, was that none of it according to this bill would be sold for less than $2.50 per acre. It is to be appraised by three individuals, one to be selected by the Indians themselves, and two by the Secretary of the Interior, and the land is not to be sold for less than the amount appraised by these individuals. I have gone further than any other bill that I know of in requiring the land to be put up to the highest bidder above that. No one can buy for less than the appraised value, but every one will have to give the highest price offered at the sale. I do not know of any bill that has made that provision except this one. I thought it was proper to do so, lest it might be said hereafter that the land was thrown into the market at a low rate. As the Senator from Iowa [Mr. ALLISON] suggests, it is generally sold to the lowest bidder; but this bill requires it to go to the highest bidder, and then at not less than the appraised value, and none of it to be sold for less than $2.50 per acre. I know of nothing fairer that could be got up on this subject. The object of the Government is to sell this land and get it into cultivation, and the object of the Indians is to get the money and have it put in trust for them here in Washington where they can draw their interest.

There are eighteen miles of railroad running through this land that has not a house, or a tree, or a fence in it, or a fence-rail on it, nothing yielding anything in any shape or form. Every Senator here will see, when he knows that it is a first-class country, that the land will bring a good price, and that it ought to be sold and put into cultivation. The only thing was to see that the Indians themselves were ready for it. Twice they have expressed themselves already in open council in favor of it, and the bill requires that it shall be done a third time, and that the land shall not be sold until they do decide in open council that they want it sold. So there is nothing fairer than this bill as I have presented it now, and I am ready to answer any questions I can on the subject, if the Senate is not already fully satisfied.

The PRESIDENT *pro tempore.* The question is on the amendment of the Senator from Massachusetts, [Mr. DAWES.]

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

KICKAPOO LANDS IN KANSAS.

The bill (S. No. 469) to provide for the sale of certain Kickapoo Indian lands was considered as in Committee of the Whole.

The bill was reported from the Committee on Indian Affairs with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he hereby is, authorized to cause to be appraised and sold, for cash, to the highest bidder, after due advertisement, in tracts not exceeding one hundred and sixty acres to any one person, the following-described tracts of land in the State of Kansas, reserved, in accordance with the provisions of the amended eleventh article of the treaty made June 28, 1862, by and between the United States and the Kickapoo tribe of Indians, for mill-site and missionary and agency purposes, namely: the south half of section 4, township 5, range 16, and the north half of section 9, township 5, range 16, for mill-site purposes; the south half of section 33, township 4, range 17, reserved for mission purposes; lots 5, 6, and 7, section 3, township 5, range 17, and lot 6, section 15, township 5, range 17, reserved for agency purposes: *Provided*, That no tract shall be sold for less than the appraised value thereof, and in no case for less than $6 per acre.

SEC. 2. That the net proceeds of the sale of said lands, after deducting therefrom the expense incident to said appraisement and sale, shall be deposited in the United States Treasury to the credit of the Kickapoo tribe of Indians, and shall bear interest at the rate of 4 per cent. per annum; and the Secretary of the Interior is authorized to expend the interest annually accumulating thereon, and all or any part of the principal fund, at such time and in such manner as he may deem for the best interests of said Indians: *Provided*, That if the Secretary of the Interior shall direct the payment of said principal sum in installments, the unpaid portion thereof shall continue to draw interest until paid.

SEC. 3. That the Secretary of the Interior shall cause patents in fee-simple to be issued to the purchasers of the land sold under the provisions of this act in the same manner as patents are issued for the public lands.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the sale of certain Kickapoo Indian lands in Kansas."

APPOINTMENT OF ORDNANCE OFFICER.

The bill (H. R. No. 721) to authorize the appointment of V. McNally as an ordnance storekeeper in the Army was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 4, after the word "appoint," to strike out "V. McNally, the present chief clerk of the Ordnance Department;" so as to make the bill read:

That the President is hereby authorized to nominate and, by and with the advice and consent of the Senate, appoint an ordnance storekeeper in the Ordnance Department of the Army; and all laws inconsistent herewith are hereby suspended for the purposes of this act only: *Provided*, That prior to his appointment he shall have passed a satisfactory examination before a board of ordnance officers.

Mr. ALLISON. When this bill was under consideration a day or two since I objected to it. I shall not object now to its consideration, but I should be glad to have the Senator from Connecticut, [Mr. HAWLEY,] who seems to be interested in it, explain the necessity of the passage of this bill at this time. It adds one ordnance storekeeper to the number now authorized by law in the Army, giving him the rank and pay of a captain of cavalry. I think there should be some great necessity for this departure.

Mr. HAWLEY. Lest I may forget it I will at once correct the Senator on one point. The existing law gives a fixed pay of $2,000 a year to an ordnance storekeeper. The necessity for this bill is to my mind and that of the committee entirely clear. In the act of June 23, 1874, in one of the bills reorganizing portions of the military service, it was provided among other things that the office of ordnance storekeeper should run out, so to speak, that no vacancy should be filled; the consequence of which has been that out of eleven storekeepers now upon the rolls only four are active and fit for service. The others are either upon permanent sick leave or are over seventy years of age. Six or seven of them will be retired if the retirement clause in the Army appropriation bill shall pass the Senate.

The Ordnance Department is entirely clear as to the necessity for a limited number of these officers. I will state the value of the property and the actual expenditures at four armories and arsenals:

National armory, Springfield, Massachusetts, the value of arms and other ordnance stores and supplies is about six million dollars. The expenditures last year were $449,496.

At Watervliet arsenal $3,500,000 of property, and the expenditure last year was $133,093.

At Frankford arsenal $2,250,000 of property, and last year the expenditure was $136,940.

At Rock Island arsenal we have about two million two hundred and fifty thousand dollars of property, and last year the expenditure was $348,786. Besides there is a large quantity of ordnance stores in other places.

So long as these old storekeepers were able to perform the duty there was no difficulty arising from the law of 1874, but they are passing away, they are getting old, they are becoming disabled. The Ordnance Department needs storekeepers; and how shall it get along? It can take some young lieutenant of the Ordnance Department, and put him on duty there. He must receipt for a very large amount of property, he has these large sums to disburse, he gives no bond, and in a month or two or three he is called upon to go elsewhere to other service. It is not his business to be a mere storekeeper of property. It is not worth while to educate men at West Point to be mere storekeepers; but nevertheless the place requires, as the Senate will see, responsible and capable men.

The storekeeper known to the statute gives a bond for $40,000 and is supposed to stay some time and to understand this business, and the Department, I have no doubt correctly, states its need of another officer of this kind. The papers on that part of the subject are abundant.

The original bill provided that the President might nominate one Victor McNally for this additional place as storekeeper. That is all well enough, because McNally has been in the service twenty years and has in the very highest degree the confidence of the whole Department. He has been eleven years its chief clerk, but the Senate Military Committee thought, and I think on the whole wisely, that it is enough for us to make an office and not to usurp the appointing power of the President; and therefore the committee instructed me to present this amendment, striking out all that refers to McNally and simply giving the Ordnance Department another storekeepership, which the President may fill as he sees fit.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the appointment of an ordnance storekeeper in the Army."

LANDS IN SEVERALTY TO PEORIAS AND MIAMIES.

The bill (S. No. 447) to provide for the allotment of lands in severalty to the United Peorias and Miamies of the Indian Territory, and for other purposes, was considered as in Committee of the Whole.

The bill was reported from the Committee on Indian Affairs with amendments.

The first amendment was, in section 2, line 19, after the word "acres," to insert "except the chiefs of each tribe, who shall receive two allotments each, or four hundred and forty acres;" so as to make the clause read:

Each share or allotment not to exceed two hundred and twenty acres, except the chiefs of each tribe, who shall receive two allotments each, of four hundred and forty acres.

Mr. COCKRELL. I ask the Senator from Kansas if these Indians have their chiefs elected annually? How is that?

Mr. INGALLS. I understand that their chiefs are chosen by popular vote each year, but that, as a matter of fact, the office is practically hereditary, and that the same persons are re-elected from time to time so long as their services are acceptable.

Mr. COCKRELL. And this proposes to give those who may happen to be chiefs at the time this act passes the additional two hundred and twenty acres?

Mr. INGALLS. Yes, sir.

The amendment was agreed to.

The next amendment was, after the word "the," in section 2, line 23, to strike out "agent and;" in line 25, after "approval," to insert "and revision;" and to insert, after "Interior," in line 26, "the same to be forwarded to the Secretary of the Interior as soon as practicable;" so as to make the clause read:

Rolls containing the names of all such persons so entitled to a distributive share in said lands shall be made out and certified by the chiefs of said tribes, who shall have power to decide as to who are entitled to be placed upon either of said rolls, subject to the approval and revision of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, in section 3, line 7, after "of," to strike out "said;" in the same line, after "months," to insert "after the date of their appointment;" in line 18, after "wards," insert "and persons of unsound mind;" and in line 39, after the word "Indians," to insert:

Provided, That before any selections of lands are made twenty acres shall be set aside for school-house and cemetery purposes on each reserve, to be selected by the chiefs of said tribes.

So as to make the section read:

SEC. 3. That within six months from and after the date of the passage of this act a commission of three persons shall be appointed, two of whom shall be selected by a council of said United Peorias and Miamies, and the other shall be appointed by the Secretary of the Interior, and whose duty it shall be within the period of six months after the date of their appointment to complete the allotment of the said lands in severalty to the said United Peorias and Miamies, said commission to be approved by the Secretary of the Interior. The salary of the said commission shall be fixed by the Secretary of the Interior at the time when the said commission is selected. The Secretary of the Interior shall furnish to the said commission any and all plats, reports, and papers showing the legal subdivisions by the surveys made of said lands. All allotments of said lands under the provisions of this act shall be made, if by an adult, by individual selection, heads of families selecting for their minor children, and guardians for their orphan wards and persons of unsound mind, in lots or parcels, contiguous or not, as may be fixed or agreed upon by the council of the said United Peorias and Miamies, and in such manner, as nearly as practicable, to embrace the improvements of the Indians making selections: *Provided*, That where the improvements of two or more members of said tribes shall have been made upon the same legal subdivision, and said parties cannot agree, the said commission shall have the power to decide, and their decision shall be final. The said commission shall, on completion of their duties as herein set forth, forward to the Secretary of the Interior a complete list of all the individual allotments made under this act, with apt description of the same, in order that patents, as hereinafter provided, may issue therefor, and shall also submit a statement showing the description and amount of any surplus land, if any there be, after said allotments have been made. Should any surplus remain after all said allotments of land have been made, the same may be disposed of to any member or members of said tribes upon such terms and conditions as the chiefs of the said tribes and the Secretary of the Interior may see fit, or that they may deem most advantageous to said Indians: *Provided*, That before any selections of lands are made twenty acres shall be set aside for school-house and cemetery purposes on each reserve, to be selected by the chiefs of said tribes.

The amendment was agreed to.

The next amendment was, in section 4, line 10, after the word "provided," to strike out "for in case of lease;" so as to make the proviso read:

Provided, That the lands acquired by any Indian under and by virtue of this act shall not be subject to alienation, lease for a longer term than two years, or incumbrance, either by voluntary conveyance or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable, and not subject to taxation, lien, or incumbrance, except as hereinbefore provided, for the period of twenty-five years from the date of the patent, which said restrictions shall be incorporated in the patent when issued; and if any conveyance shall be made by any allottee of the lands set apart and allotted to him or her before the expiration of the time above mentioned, the contract shall be absolutely null and void.

The amendment was agreed to.

The next amendment was, to add to section 5:

The laws of the State of Kansas concerning descents and distributions, and guardians and wards, are hereby made applicable to the said Miami and Peoria Indians and their descendants.

The amendment was agreed to.

The next amendment was, to strike out section 6, in the following words:

SEC. 6. That the unallotted lands of the Miami Indians in Kansas, including the school sections, shall be disposed of in the following manner, to wit:

That each *bona fide* settler occupying any portion of said lands at the date of the passage of this act, and having made valuable improvements thereon, or the heirs-at-law of such, who is a citizen of the United States, or who has declared his intention to become such, shall be entitled at any time within one year from the passage of this act to purchase, for cash, the land so occupied and improved by him, not to exceed one hundred and sixty acres in each case, according to the Government survey, at the appraised value thereof, as heretofore ascertained by the Secretary of the Interior, in accordance with the provisions of the act of March 3, 1873, under such rules and regulations as the Secretary of the Interior may prescribe. And such persons who are entitled to purchase said lands as aforesaid shall be permitted to make payment therefor in three equal annual installments, the first installment to be payable on the day of the entry of the land, and the remaining two installments annually thereafter, with interest at the rate of 6 per cent. per annum from the date of entry.

That all lands not entered by said settlers at the expiration of one year from the date of this act, together with all the unoccupied and unallotted lands of the Miami Indians, shall be offered at public sale in the usual manner, under the direction of the Secretary of the Interior, at not less than the appraised value, notice of said sale to be given by public advertisement, of not less than sixty days, in three newspapers having general circulation in the State of Kansas; and any tract or tracts not then sold, together with such as may be hereafter entered, but wherein default may be made in the payment of any portion of the purchase-money, or the interest thereon as herein provided, shall be thereafter subject to private entry at the appraised value of the same.

And the net proceeds of the sales of said lands, after defraying the expenses of the sale, shall belong to said Miami Indians, and shall be disposed of as now provided by law.

The amendment was agreed to.

The next amendment was, in section 7, [8,] line 15, after the word "wards," to insert "and persons of unsound mind;" in line 19, after "tribes," to strike out "with the assistance of the agent;" in line 22, after "chiefs," to strike out "and agent shall have power to decide;" in line 23, after "decide," to insert "being the sole judges as to;" in line 24, after "rolls," insert "subject to the approval and revision of the Secretary of the Interior;" in line 29, after "of," to strike out "fifteen" and insert "twenty-five;" in line 32, after "of," strike out "four" and insert "five;" in line 35, after "fund," to strike out "the same to be invested in said bonds;" in lines 38 and 39, to strike out the words "the said bonds shall be sold and the proceeds of the same;" in line 39, after "same," to insert "said principal sum shall;" and in line 14, to insert "*Provided*, That the Secretary of the Interior is hereby directed to at once pay to the Peoria delegation now in Washington, District of Columbia, $1,000;" so as to make the section read:

SEC. 7. That within ninety days from and after the passage of this act the Secretary of the Interior is hereby authorized and directed to pay over to the said Peoria, Wea, Kaskaskia, and Piankeshaw Indians, except as hereinafter provided, all money belonging to said Peoria, Wea, Kaskaskia, and Piankeshaw Indians, and heretofore invested by the United States for the benefit of said Indians, together with all money now in the custody of the United States and belonging to said Indians, and arising from any and all sources whatsoever, principal and interest, the same to be paid out under the direction of the Secretary of the Interior per capita to all of said Peoria, Wea, Kaskaskia, and Piankeshaw Indians who may elect to receive their full proportion of said tribal funds, heads of families choosing for their minor children, and guardians for their orphan wards and persons of unsound mind. All persons entitled to such per capita share shall make known to the chiefs of said tribes their decision within thirty days from and after the passage of this act; whereupon the chiefs of said tribes shall cause rolls of the same to be made out and forwarded to the Secretary of the Interior as soon as practicable thereafter; the said chiefs being the sole judges as to who are entitled to be placed upon either of said rolls, subject to the approval and revision of the Secretary of the Interior. That from the total amount of all of said funds found due and payable to said Peoria, Wea, Kaskaskia, and Piankeshaw Indians there shall be deducted and retained by the United States the sum of $25,000, the same to be placed in the Treasury of the United States to the credit of the Secretary of the Interior in trust for said Indians, which shall bear interest at the rate of 5 per cent. per annum, the interest to be paid semi-annually, and to be known as "the Peoria, Wea, Kaskaskia, and Piankeshaw Indian school fund," for the period of ten years, or until such time as a Territorial form of government shall be established over said Indian Territory, when said principal sum shall become due and payable to said Indians in such manner as they shall decide: *Provided*, That the Secretary of the Interior is hereby directed to at once pay to the Peoria delegation now in Washington, District of Columbia, $1,000.

The amendment was agreed to.

The next amendment was, in section 8, [9,] line 3, to strike out, after the word "as," the word "hereinafter," and insert "herein;" in line 11, after "wards," to insert "and persons of unsound mind;" in line 12, after the word "tribe," to strike out "with the assistance of the agent of said tribe;" in line 15, after "said," to strike out "agent;" in line 17, after "rolls," to insert "subject to the approval and revision of the Secretary of the Interior;" in line 21, after "of," to strike out "ten" and insert "twenty;" in line 24, to strike out "four" and insert "five;" in line 26, after "fund," to strike out "the same to be invested in said bonds;" in line 29, to strike out, after "when," "the said bonds shall be sold, and the proceeds of the same;" in line 30, after the word "same," to insert "said principal sum;" in line 34, after "received," to strike out "up to the date of the passage of this act;" to strike out, in lines 36 and 37, the words "including the school sections referred to in section 8 of this act;" and to add, at the end of the section, "*Provided*, That the Secretary of the Interior is hereby directed to pay to the Miami delegation now

in Washington, District of Columbia, $1,000;" so as to make the section read:

SEC. 8. That within ninety days from and after the passage of this act the Secretary of the Interior is hereby authorized and directed to pay over, except as herein provided, to the said Miami Indians, all money belonging to said Indians, or that may be due to said Miami Indians from the United States arising from any and all sources whatsoever, principal and interest; the same to be paid out under the direction of the Secretary of the Interior per capita to the members of the said Miami tribe of Indians, to the heads of families for their minor children, and to guardians for their orphan wards and persons of unsound mind. The chiefs and councilors of said tribe shall cause pay-rolls to be made out, and forward the same to the Secretary of the Interior as soon as practicable thereafter; said chiefs and councilors shall have the power to decide who are properly entitled to be placed upon said rolls, subject to the approval and revision of the Secretary of the Interior. That from the total amount of all of said funds found due and payable to said Miami Indians there shall be deducted and retained by the United States the sum of $20,000, the same to be placed in the Treasury of the United States to the credit of the Secretary of the Interior in trust for said Indians, which shall bear interest at the rate of 5 per cent. per annum, the interest to be paid semi-annually, to be known as "The Miami Indian school fund," for the period of ten years, or until such time as a Territorial form of government shall be established over the said Indian Territory, when said principal sum shall become due and payable to said Indians in such manner as they shall decide. That all money received and now in the custody of the United States, or that may be received, arising from the sale of the unallotted lands in Kansas, shall immediately be available after the passage of this act; and the Secretary of the Interior is hereby authorized and directed to pay the same to said Miami Indians, in accordance with the provisions of the act of March 3, 1873: *Provided*, That the Secretary of the Interior is hereby directed to pay to the Miami delegation now in Washington, District of Columbia, $1,000.

The next amendment was, in section 10, [11,] after "sections," in line 7, to strike out "eight" and insert "seven;" and in the same line, after "and," to strike out "nine" and insert "eight;" so as to make the clause read:

Upon the selection of the same the chiefs of each tribe shall notify the Secretary of the Interior, giving the names of the persons so selected, and all money provided for by sections 7 and 8 of this act for the benefit of the educational interests of said Indians shall be paid to said boards upon their official application therefor by the Secretary of the Interior, &c.

The amendment was agreed to.

The next amendment was to insert, after section 10, [11:]

SEC. 11. That upon the organization of a form of government over the Indian Territory any adult member of the said Peoria or Miami Indians who shall desire to become a citizen of the United States, and shall prove to the satisfaction of the proper court established therein that he or she is sufficiently intelligent and prudent to manage his or her own affairs, and is able to maintain himself or herself and family, and has adopted the habits of civilized life, and shall take an oath of allegiance to the United States, he or she shall be declared by said court to be a citizen of the United States, and that the lands held by him or her shall be free from levy, taxation, sale, or forfeiture, as provided by section 4 of this act.

The amendment was agreed to.

The next amendment was, in section 12, line 1, after "that," to strike out "it is distinctly understood that;" so as to make the section read:

SEC. 12. That no person or persons who have heretofore been attached to either of said tribes, and who have withdrawn from either of said tribes and become citizens of the United States, and been paid any portion of the funds set apart for them and their families, shall have or be permitted to have any part or interest in and to any portion of the land or money allotted or paid to the said Peoria or Miami Indians under the provisions of this act. Where present members of either of said tribes shall have intermarried into each other's tribe, respectively, he or she shall not be barred from receiving his or her full share of all land and money divided per capita under this act among the tribe from which he or she originated.

The amendment was agreed to.

The next amendment was, in section 14, after the word "act," in line 2, to strike out "either as to land or money;" so as to make the section read:

SEC. 14. That any act or acts of Congress heretofore passed that may conflict with the provisions of this act are hereby repealed.

The amendment was agreed to.

Mr. COCKRELL. I should like to ask the Senator from Kansas why 4 per cent. is stricken out and 5 per cent. inserted, making the Government liable to pay 5 per cent. upon this fund instead of 4 per cent.?

Mr. INGALLS. There is no reason except that upon deliberation in the committee it was thought, in view of the condition of these Indians and from the further fact that the funds that they now possess bear that rate of interest, that 4 per cent. was insufficient and that 5 per cent. should be recommended for the judgment of the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

H. C. LINN.

The bill (S. No. 1367) for the relief of H. C. Linn was considered as in Committee of the Whole. It provides for the payment of $133.25 to H. C. Linn, Indian agent at the Pottawatomie agency, Kansas, that sum being the amount of fees and costs rendered by the district court of Brown County, Kansas, against Linn in the case of Pah-pah-she-not, an Indian who was arrested and tried for stealing a horse from a member of the Kickapoo tribe of Indians.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELECTION OF EXECUTIVE OFFICERS.

The joint resolution (S. R. No. 46) proposing an amendment to the Constitution of the United States was announced as next in order on the Calendar.

Mr. SAUNDERS. That can go over. I give notice, however, that on Thursday of next week I expect to call it up for a second reading, when I shall submit some remarks upon it.

The PRESIDENT *pro tempore*. The joint resolution will be passed over.

HIRAM JOHNSON AND OTHERS.

The next bill on the Calendar was the bill (S. No. 488) to pay Hiram Johnson and other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected.

Mr. INGALLS. Let that bill pass over for the present.

Mr. JACKSON. Let it go over without prejudice.

Mr. CONGER. I hope that bill will go to the Calendar, so as to be taken up at some time other than the morning hour.

Mr. HARRIS. I hope the bill may be permitted to hold its place on the Calendar. I shall be glad to consider it either in the morning hour or at any time the Senate will consent to do so, but I hope it will be passed over at present without prejudice.

The PRESIDENT *pro tempore*. That will be so done unless there is objection.

Mr. CONGER. I desire to say in regard to this bill that from information which I have obtained since the matter was before the Committee on Claims, I am satisfied that the time for discussing the bill should be longer and more general than can be allowed under the five-minute rule, and so far as I have the power I shall object to its consideration in the morning hour; but I may be absent when it is reached again, and therefore wish that it may be disposed of now so that I shall know it is not to come up in the morning hour in my absence.

The PRESIDENT *pro tempore*. The bill will remain on the Calendar.

Mr. HARRIS. I shall not insist, of course, now or at any other time, if any Senator thinks that the bill cannot be discussed under the five-minute rule, but shall ask the Senate to fix some time at which it will consider it; but I hope the Senator will not force it to lose its place on the Calendar by a peremptory objection at this time.

Mr. CONGER. If there can be an understanding that if it comes up in my absence it shall not be considered in the morning hour——

The PRESIDENT *pro tempore*. The Chair will recollect it.

Mr. CONGER. Very well.

MEMPHIS HARBOR.

The next bill on the Calendar was the bill (S. No. 1413) making an appropriation for continuing the improvements of Memphis Harbor, State of Tennessee.

Mr. CONGER. The Mississippi River commission bill proposes, if it shall pass and become a law, to embrace all the appropriations for the Mississippi River, including this, and until that is disposed of it would be better not to take up these separate appropriations and pass them, but to leave all to the work of the commission.

Mr. HARRIS. Will the Senator allow me to suggest to him in connection with the point he is now making that the same committee that reports the Mississippi River bill, as it is termed, reported at a previous day this appropriation. They reported the Mississippi River bill with a full knowledge of the fact that they had recommended this appropriation in order to continue this work that is now progressing, and that cannot be continued without this appropriation.

Mr. CONGER. That was the Committee on the Improvement of the Mississippi River?

Mr. HARRIS. The same committee reported both bills, and reported the Mississippi River bill with a full knowledge of the fact that they had reported this bill.

Mr. CONGER. That committee stepped a little beyond its proper limits in assuming to report bills making appropriations for objects under the general river and harbor bill. That committee has charge of the appropriations which are made for the Mississippi River in connection with its improvement under the commission. The Committee on Commerce has had and should now——

The PRESIDENT *pro tempore*. Does the Senator object to the present consideration of the bill?

Mr. CONGER. I think it had better wait.

Mr. HARRISON. Will the Senator from Michigan yield to me a moment for a word that may throw some light upon this matter? I take it from what I hear from the title of the bill and from what the Senator from Tennessee has said, that this is an appropriation to be used under Major Benyaurd, who is in charge of the work on the Mississippi River at Memphis.

Mr. HARRIS. It is.

Mr. HARRISON. I think, then, that it is not included at all in the general estimate which has been made by the Mississippi River commission; for, as I said yesterday, I think the policy of the commission has been, where engineers were on the river in charge of special works of improvement, and had begun and were executing those works, to leave the completion of them in the hands of those officers, simply exercising a supervision to see that they were conformable to the general plan of improvement. That is true of the upper river, and I think it is true of this appropriation at Memphis.

So I think it is not included in the general estimates of the Mississippi River commission which are reported in the Mississippi improvement bill that we have under discussion.

Mr. CONGER. Then it should go to the Committee on Commerce and have its consideration in connection with other appropriations outside of the Mississippi River improvement bill.

Mr. FRYE. The Senator will allow me one moment. I remember this bill perfectly well, and the testimony which was brought before the committee touching it. The rise of water was doing special harm to some improvements that had been made at Memphis Harbor, and it was deemed absolutely necessary that an early appropriation should be made, and that early work should commence on this in order to save improvements already made. I know that the committee was unanimous in the opinion that this appropriation should be made, and my recollection is that it was to be made available at once on the passage of the bill.

Mr. JACKSON. I will state to the Senator from Maine that the report was made unanimously by the Committee on the Mississippi River Improvement on a report of the special engineer in charge of the work.

Mr. FRYE. Yes.

Mr. JACKSON. That report is before me. No formal report was made by the committee; but the report of the engineer was before the committee, and he showed that the appropriation was important to continue this work.

Mr. FRYE. I hope the Senator from Michigan will not object.

Mr. CONGER. This officer is one of the engineers expending money by virtue of appropriations made in the river and harbor bill, not made to be expended by the Mississippi River commission, so that all this while there are two sets of authorities reporting upon bills for the improvement of the Mississippi. With a bill before us for $6,000,000 for that purpose, independent of the river and harbor bill, there comes up this bill, and others are pending, asking for appropriations to continue works now under the charge of the Engineer Department, commenced and heretofore paid for by appropriations made in the river and harbor bill. This is a continuation of a work of that kind. It is not merged into the Mississippi River commission, and the bill should go to the Committee on Commerce. There should be but one committee having charge of the appropriations made for expenditure by the War Department under the Chief of Engineers. This is one of those. This particular one may be a necessary appropriation. I am not speaking about that, but it should go to the Committee on Commerce, that it may have the proper and usual consideration there in connection with all other works in charge of that committee.

For that reason I desire either to move the reference of this bill to the Committee on Commerce, or to object to its passage until the river and harbor bill is reported to the Senate.

Mr. HARRIS. I hope the Senator will not object. Of course I shall submit to whatever the Senate may rule in respect to the bill; whether cheerfully or not does not matter. The importance of this work as a matter of time is shown by the report of the engineer in charge of it; and I am sure if the Senate will give its attention to that report it will not hesitate for one moment to make the appropriation, and to make it now.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole. If no amendment be proposed it will be reported to the Senate.

Mr. CONGER. May I take the liberty of inquiring how the bill proceeds when an objection is made?

The PRESIDENT *pro tempore*. If the Senator objects——

Mr. CONGER. I have said that I object to its consideration until the river and harbor bill comes up.

Mr. HARRIS. I move that the Senate do now proceed to the consideration of the bill, notwithstanding the objection.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Tennessee. A majority vote determines it.

Mr. CONGER. Let the majority determine.

The PRESIDENT *pro tempore*. The Senator from Michigan objects to the further consideration of the bill, and the Senator from Tennessee moves that notwithstanding the objection the Senate proceed to its consideration. The question is on that motion.

Mr. CONGER. I ask for the yeas and nays as a test question. One committee should have charge of this business, and why send it to another?

Mr. SHERMAN. I suggest to the Senator from Tennessee to let the bill go over until to-morrow, at any rate.

Mr. HARRIS. I have no objection to its going over until to-morrow if any Senator desires that postponement, but I am not willing that it should go over on objection, to lose its place on the Calendar.

Mr. SHERMAN. If a motion to postpone the Calendar in order to take up a particular case is pressed, except in rare instances, we break up the Anthony rule.

Mr. HARRIS. I do not propose to postpone the Calendar, but I do propose to avail myself of the right I have under the Anthony rule to invoke the will of the majority of the Senate as to whether we shall proceed now to consider the bill. I have no objection to its going over until to-morrow if any Senator desires that, but I am not willing that it should lose its place on the Calendar.

Mr. FRYE. I do not see the necessity of its going over until to-morrow. My recollection of this case is that it was very clearly shown to the committee that improvements had been commenced, that the money had given out, that in order to save from destruction the improvements which had already been commenced it was absolutely necessary to have an early appropriation. I do not see anything wrong about it or any danger of any mistake being made. It was carefully investigated by the committee.

Mr. CONGER. It was carefully investigated by a committee that had not charge of the subject-matter. Now, sir, I desire to say that I do not know but that there is a necessity for an immediate appropriation to preserve some works which are already commenced. The point with me is not whether there is that necessity, but it is whether this appropriation in common with all others shall be reported upon by the committee to which the subject-matter belongs under the rules of the Senate. That is all the point I desire to have determined, and for my own use hereafter. I desire to know whether one committee may report upon a subject which under the rules does not belong to it, and deprive another committee of the consideration which it requires. The only purpose I have is to have that point settled, and when that point is settled by the Senate I can regulate my own action in regard to my measures by asking different committees to report on different subjects.

The PRESIDENT *pro tempore*. The Senator from Michigan asks for the yeas and nays on the motion of the Senator from Tennessee.

The yeas and nays were ordered; and the Principal Legislative Clerk proceeded to call the roll.

Mr. GROOME, (when his name was called.) I am paired with the Senator from New York [Mr. MILLER] on political questions. I withhold my vote on this motion, as I do not know how he would vote.

The roll-call having been concluded, the result was announced—yeas 32, nays 15; as follows:

YEAS—32.

Bayard,	Fair,	Jonas,	Pugh,
Beck,	Farley,	Jones of Florida,	Ransom,
Blair,	Frye,	Kellogg,	Slater,
Butler,	Garland,	McPherson,	Vance,
Call,	George,	Maxey,	Vest,
Cockrell,	Hampton,	Mitchell,	Walker,
Coke,	Harris,	Morgan,	Williams,
Davis of Illinois,	Jackson,	Pendleton,	Windom.

NAYS—15.

Aldrich,	Ferry,	McDill,	Saunders,
Anthony,	Hale,	Morrill,	Sawyer,
Cameron of Wis.,	Hawley,	Platt,	Sherman.
Conger,	Lapham,	Rollins,	

ABSENT—29.

Allison,	Gorman,	Johnston,	Plumb,
Brown,	Groome,	Jones of Nevada,	Saulsbury,
Camden,	Grover,	Lamar,	Sewell,
Cameron of Pa.,	Harrison,	Logan,	Van Wyck,
Chilcott,	Hill of Colorado,	McMillan,	Voorhees.
Davis of W. Va.,	Hill of Georgia,	Mahone,	
Dawes,	Hoar,	Miller of Cal.,	
Edmunds,	Ingalls,	Miller of N. Y.,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1413) making an appropriation for continuing the improvements of Memphis Harbor, State of Tennessee. It proposes to appropriate $25,000 for the purpose of continuing the improvement of Memphis Harbor, Tennessee, which improvements are now being prosecuted under the direction of the Secretary of War, and the appropriation for which is wholly insufficient to continue the work of improving and protecting the harbor to the end of the current fiscal year.

Mr. CONGER. I ask that the report in this case be read.

The PRESIDENT *pro tempore*. There is no written report.

Mr. JACKSON. There is no written report made in the case by the committee. I have the report of Major Benyaurd, the special engineer in charge of the work, and he shows that the appropriation made in 1878 of $115,000 has been exhausted, that the special appropriation of $15,000 made in 1881 has been exhausted, and that the work is now in danger by reason of the late flood and needs special attention at once. This appropriation is intended to continue the work until the close of the current fiscal year.

Mr. CONGER. Will the Senator give me the date of that report?

Mr. JACKSON. The report bears date January 28, 1882.

Mr. CONGER. That was before the flood, then?

Mr. JACKSON. No, sir.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. No. 1096) for the relief of Harlan and Hollingsworth & Co. was announced as next in order.

Mr. McPHERSON. I should like to have that bill passed over without prejudice if the committee will agree with me, as there are some matters in connection with it on which I am now seeking information.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice, if there be no objection.

Mr. McPHERSON. And also the bill following it (S. No. 1103) for the relief of Secor & Co., Perine, Secor & Co., and Zeno Secor, as it appears to be on all fours with the previous bill.

The PRESIDENT *pro tempore*. That bill will also be passed over without prejudice.

L. MADISON DAY.

The next bill on the Calendar was the bill (S. No. 73) for the relief of L. Madison Day.

Mr. COCKRELL. We have not time to consider that. It may be considered at any other time, but not now.

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived, the Chair lays before the Senate the unfinished business, which is Senate bill No. 1572, upon which the Senator from Mississippi [Mr. GEORGE] is entitled to the floor.

ORDER OF BUSINESS.

Mr. GEORGE. I understand that the Senator from Iowa [Mr. McDILL] has indicated a desire to address the Senate at this hour, and I will yield to him.

The PRESIDENT *pro tempore*. According to custom the Senator from Iowa has a right to be heard now. He introduced a bill, and gave notice some days ago that he would ask to be heard upon it at two o'clock to-day.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1993) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States, relating to the collection districts of California; and

A bill (H. R. No. 2997) granting right of way to the Fremont, Elk Horn and Missouri Valley Railroad Company across the Niobrara military reservation, in the State of Nebraska, and authorizing the sale of a portion of said reservation.

The message also announced that the House had passed the bill (S. No. 361) for a public building at Frankfort, Kentucky.

MINNIE HARMON.

Mr. SHERMAN. I desire to enter a motion to reconsider a vote by which the Senate indefinitely postponed the bill (H. R. No. 3404) granting a pension to Minnie Harmon. I do this with the assent of the Senator who made the report, [Mr. JACKSON,] with a view to have it recommitted with further testimony.

The PRESIDENT *pro tempore*. If there be no objection, the vote indefinitely postponing the bill will be regarded as reconsidered, and the bill recommitted to the Committee on Pensions.

EPIDEMIC DISEASES.

Mr. HARRIS. I desire to give notice that I will on Monday next at two o'clock ask the Senate to proceed with the consideration of the bill (S. No. 1049) amending an act entitled "An act to prevent the introduction of contagious or infectious diseases into the United States."

CORRECTING ENROLLMENT OF A BILL.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a concurrent resolution from the House of Representatives which the Senator from Wisconsin [Mr. CAMERON] desires to have immediate consideration for.

The resolution was read, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That in enrolling House bill No. 3869, "An act for the allowance of certain claims reported by the accounting officers of the United States Treasury Department," the Clerk of the House be directed to omit the following words where they occur on page 77 of said bill as printed: "To R. S. James, administrator of John S. James, deceased, of Henry County, $270," said provision being a duplication of an appropriation in the same words on page 76 of said bill, and both referring to one claim.

The resolution was concurred in.

INTERSTATE COMMERCE.

Mr. McDILL. Mr. President——

The PRESIDENT *pro tempore*. Will the Senator have the bill upon which he wishes to speak read?

Mr. McDILL. I should like to have it read.

The PRESIDENT *pro tempore*. The bill will now have its second reading at length.

The Acting Secretary read the bill (S. No. 1724) to establish a board of railroad commissioners to regulate interstate commerce, and for other purposes, the second time at length, as follows:

Be it enacted, &c., That a board of railroad commissioners is hereby established, to consist of three commissioners, to be appointed by the President, one of whom shall be a civil engineer with practical railroad experience, one acquainted with agricultural, commercial, and manufacturing interests, and the other either a specialist in railroad questions or of approved legal attainments. Said commissioners shall receive a salary of $6,000 per year, and hold office for six years from the date of their appointment.

SEC. 2. That said board shall exercise a supervision over that portion of the business of all railroads, canals, or other transportation companies which passes from one State or Territory into or through one or more States or Territories, or to or from any foreign country into or through any State or Territory. Such supervision shall be limited to questions of commerce between the States and Territories, and foreign countries and the States or Territories, and the methods of operation by canals, railroads, and other transportation companies as affecting commerce between the States and Territories, and foreign countries and the States or Territories.

SEC. 3. That said board shall investigate all cases with reference to interstate commerce laid before it by railroad commissioners of the several States, and all complaints which may be forwarded to it of discrimination in the charges made for its services or method of rendering its services as a common carrier between the States and Territories, or foreign countries and the States or Territories, by any canal, railroad, or transportation company; and if such charges are approved by any incorporated board of trade or chamber of commerce, or any State or city government, the investigation, if so desired by the complainants and deemed necessary by the commissioners, shall be made on the spot where the cause of complaint originated. In such investigations the commissioners shall have power to summon witnesses and to direct the production of books, papers, and contracts relating to the subject-matter of complaint.

SEC. 4. That it is hereby made the duty of said board to carefully gather all necessary facts and statistics bearing upon the question of interstate commerce. It shall have power to require annual reports from all persons and companies engaged as carriers in interstate commerce, and to require specific answers to all questions deemed by the commissioners important in prosecuting their inquiries; and any person, corporation, or company engaged as a public carrier of interstate commerce, as herein defined, which shall refuse or neglect to make report or answer questions propounded by the commissioners shall be deemed guilty of a misdemeanor, and on conviction shall pay a fine of not exceeding $1,000 for each offense herein described.

SEC. 5. That on or before the 1st day of October in each year the commissioners shall submit in writing to the President of the United States a report of their doings, and shall embody in such report all such facts, statistics, and data as may be by them deemed important as bearing upon the question of the proper regulation of interstate commerce.

SEC. 6. That whenever investigation is made by the commissioners of a complaint, a special report of such investigation and the findings of the board shall be made to the persons complaining or making the charge; and whenever it shall appear that any railroad corporation or organization, or person, engaged as a public carrier of commerce between the States has violated or failed to perform a duty, or that any change is necessary or expedient in the manner in which interstate commerce is conducted in order to advance the public interests, the commissioners shall give public notice thereof to all parties concerned, and shall make report thereof in their next annual report, with such recommendations in relation thereto as they may think proper.

SEC. 7. That every unjust discrimination, either against persons or places, on the part of any railroad, canal, or transportation company engaged in interstate commerce, with reference to the subjects thereof; all extortion and all concession of rates, drawbacks, special rates, and secret arrangements; and all devices of every kind and character whatsoever whereby one shipper is given undue and unjust advantage over another, or whereby one locality is given undue or unjust advantage over another, are hereby declared to be against public policy; and it is specially made the duty of the commissioners to investigate all such cases of which they have or can obtain knowledge and make full report thereof in their annual report.

SEC. 8. That any failure or refusal to give information to the commissioners in relation to matters within their powers and jurisdiction, when requested by them, shall be deemed a misdemeanor; and any person, corporation, or company so failing or refusing upon the request of the commissioners shall, on conviction thereof, be fined in a sum not exceeding $1,000 for each offense.

Mr. McDILL. Mr. President, the numerous petitions presented to the Senate from citizens of the United States living in every part of it, asking legislation in regulation of railroads, as well as the constant discussion going on, not only in the public press, but in every place where men assemble with reference thereto, show that the public mind is quite occupied with the existence of a real or imaginary grievance with reference to the transportation question.

Doubtless some will say it is the discussion of demagogues over an imaginary wrong, but the universality of the outcry and the clear statement of cases of wrong and hardship preclude me from such a belief.

There is trouble; and it is our duty to give the subject a careful consideration, and without prejudging the case hear all that is said *pro* and *con*, and if we find a wrong, and have power so to do, provide a remedy. Many bills have been presented and referred to the Committee on Commerce having for their object the regulation of railroads, and those who perhaps hesitate before adopting radical measures such as are proposed by some of the bills above mentioned have proposed joint resolutions of inquiry as to the truth of the complaints made, the extent of the powers of Congress in furnishing relief, and the proper choice of remedies; if the power shall have been ascertained. It seems to me no man who wishes to truly represent his constituency can neglect to give the whole question careful consideration.

Railroads have become essential factors in the development of the country. They are and have been public benefactors. Yet they undoubtedly have used powers which are as yet unmeasured; at times in such manner as to inflict serious injuries upon citizens and the body politic. They are exerting an influence not only upon our material interests, but they also are changing and remolding our social and moral institutions. The army of presidents, managers, and their employés is becoming a mighty force, used often as one man for the accomplishment of purposes, an army managed generally by the finest minds and the most forceful executive ability of the age. Whether these mighty forces can rightfully be controlled or not the thoughtful man must be deeply interested in their study.

Railways are the carriers of a very large portion of our products. Markets are attainable only through their help. The rates which their owners charge for carriage may make the whole land a land of busy and well-rewarded industry, or may cause the fields to go uncultivated, close the stores and stop the wheels of the factory. Undoubtedly much can be left to their own earnest desire to make money for uncultivated fields, closed stores and still factories would soon stop the moving of their car-wheels. Yet, while this is true it is equally true that they may, by skillful use of their powers, cause one portion of the country to prosper while another shall perish by enforced idleness, one trader to grow rich while another sees nothing but disaster in his way, and yields at last to the creditor taking all from him by the processes of the law. It is said that railroad companies do at times accomplish these very results.

The late railroad war was said by the warring companies themselves to be about differential rates, and the officials and managers

in their presentations of their own differing views all admitted that their charges do have a very direct influence upon the prosperity of New York, Baltimore, Philadelphia, and other cities. As the prosperity of these cities and of every locality in our land depends upon free commerce, and as the railroad companies can by their rates and rules for business operation affect the commerce of the nation, I for one do not doubt the power and duty of Congress to legislate upon the subject, a power, as I think, clearly conferred; entailing a corresponding duty, for the power of Congress is exclusive. The power is lodged alone in our hands. The States are powerless with reference to interstate commerce.

What, then, are some of the evils which should be regulated? Chiefest of these evils is a discrimination against certain localities and in favor of others; building up one community and pulling down another. The fetters are woven around the condemned places so deftly that the bands and chains are locked and riveted before public attention has been attracted.

The following figures, taken from tables found in the fourth annual report of the Board of Railroad Commissioners for the State of Iowa, will show the method and its insidiousness by which such discrimination is accomplished.

Clinton is a city of the State of Iowa, situated on the west bank of the Mississippi River, three hundred and fifty miles from Council Bluffs, which is situated on the eastern bank of the Missouri River. The rate for wheat from Council Bluffs to Clinton, a distance of 350 miles, is 1.42 cents per ton per mile, while the same road will haul the same wheat from Council Bluffs to Chicago, a distance of 489 miles, for 1.23 cents per ton per mile. For a car load of cattle from Council Bluffs to Clinton $40 is charged; from Council Bluffs to Chicago $70. Lumber between Council Bluffs and Clinton pays 1.14 cents per ton per mile; between Council Bluffs and Chicago .89 of a cent per ton per mile. From interior points still stranger differences are found. Boone, an interior town on the line of the same road, is 202 miles from Clinton, 340 miles from Chicago. The wheat rate to Clinton is 2.28 cents per ton per mile; to Chicago 1.52 cents per ton per mile, a difference in favor of the long haul of .76 of a cent per ton per mile. Cattle per car load from Boone to Clinton pay $33; to Chicago $61. Belle Plaine, an interior town on the same road but only 116 miles from Clinton and 254 miles from Chicago, pays 2.93 cents per ton per mile for wheat to Clinton, 1.81 cents per ton per mile to Chicago, a difference in favor of the long haul of 1.12 cents per ton per mile. Louden, 40 miles from Clinton, 178 miles from Chicago, pays for wheat 4.50 cents per ton per mile to Clinton and 2.08 cents per ton per mile to Chicago, a difference in favor of the long haul of 2.12 cents per ton per mile.

Grain, and particularly wheat, is an article of produce which might be tempted into barges or steamers at the mighty Mississippi, and southward going, might, by way of New Orleans and the Gulf, reach a foreign market, and it is greatly drawn eastward as far off as the western border of Iowa by the tempting difference and reduction of .19 of a cent per ton per mile for a ride of 139 miles longer, but each mile of that moving a mile away from the great father of waters and their tempting southern journey. Boone is not so far away as Council Bluffs from the great natural water route to the Gulf and thence out upon the sea, only being 202 miles from the river. So its wheat is gently drawn to Chicago by a difference of .76 of a cent per ton per mile in favor of the longer ride to Chicago, (138 miles farther.) Belle Plaine has only 116 miles to go and then she finds the water waiting to transport her wheat southward. So she is told if her wheat will take the longer ride to Chicago (138 miles) there shall be a difference in favor of the longer ride of 1.12 cents per ton per mile, while little Louden, nestling down almost on the banks of the Mississippi, only 40 miles from Clinton, if she would have the luxury of a water ride, must pay 4.50 cents per ton per mile to get over the 40 miles to the river, while if she will go the 138 miles farther to Chicago she can go all the way for 2.42 cents per ton per mile less than it would cost to reach the river 40 miles away. Such persuasion as this is very winning; indeed, almost irresistible.

I do not bring forward these illustrations for the purpose, at this stage of my remarks, of finding fault with the railroad company for so fixing its rates. I only do it to show that it is in the power of railroad companies to so prepare and arrange their rates as to very materially affect the commerce of the country; that they may and do turn the stream of trade hither and thither at their own will, and that the exercise of such power may well be observed with alarm when it is seen that it may be used to the injury of the people and of places.

Now, it so happens that as yet people have no great temptation in Iowa to ship cattle southward, and hence we find, as the table I here submit will show, that the railroad company in question has not been by any means so persuasive in treatment of the rates on cattle:

Council Bluffs to Chicago, distance 489 miles, rate for cattle per car-load	$70 00
Council Bluffs to Clinton, distance 350 miles, rate for cattle per car-load	40 00
Difference in distance, 139 miles; difference in rate in favor of short haul	30 00
Louden to Chicago, 178 miles, rate per car-load on cattle	38 50
Louden to Clinton, 40 miles, rate per car-load on cattle	16 00
Difference in distance, 138 miles; difference in favor of short haul	22 50

Thus cattle take what is as yet their natural way to market, while grain is stimulated toward Chicago and the Atlantic coast.

Lumber moves westward on this railway, and hence it is desirable for the profit of the stockholder that it shall take the long ride from Chicago to Council Bluffs. Hence it is offered an excursion rate of .89 of a cent per ton per mile from Chicago to Council Bluffs. But if the Clinton lumber dealer gets his lumber from the rafts which float down the Mississippi River it must pay 1.14 cents per ton per mile to reach Council Bluffs. Here long haul is conqueror. Thus lumber is charged 1.14 cents for 350 miles; .89 of a cent for 489 miles; difference, .25 of a cent for 139 miles.

The same state of facts is observed in the rates charged on the Chicago, Rock Island and Pacific Railway, leading from Council Bluffs on the western border of Iowa to Chicago, and crossing the Mississippi River on the eastern border of Iowa at Davenport. The distance from Council Bluffs to Chicago is 500 miles; to Davenport 317 miles, Davenport being 183 miles nearer and on the western bank of the Mississippi River. Wheat is hauled through Davenport to Chicago for 1.20 cents per ton per mile, while if it stops at Davenport and the Mississippi River, 183 miles nearer than Chicago, it must pay 1.57 cents per ton per mile, a greater charge of .37 of a cent per ton per mile for the shorter distance. Lumber may be shipped 500 miles from Chicago to Council Bluffs for .80 of a cent per ton per mile, but if shipped from Davenport to Council Bluffs, a less distance by 183 miles, it must pay .27 of a cent per ton per mile more for the shipment. The difference in the cattle rate—$29—is not so striking.

Undoubtedly the same reason exists for the varying rates on this road as on the Chicago and Northwestern, cited heretofore.

The same striking difference will be found on the Chicago, Burlington and Quincy Railroad, and all other railroads in Iowa leading to Chicago.

Remarking on this subject the Iowa railroad commissioners, speaking of the changes in rates on the Burlington, Cedar Rapids and Northern Railway, say:

> From Wapello, the Chicago rate is reduced 33 per cent., and Burlington rate is increased 2 cents a hundred. To one versed in the philosophy of the distribution of railroad rates at competing and non-competing points, and particularly to such points as will best secure a long haul, this want of proportionate reduction to Burlington from all stations south of Cedar Falls is no enigma. It is not improbable also that this proportionate distribution of rates on wheat being 8 cents per ton per mile from Wapello to Burlington, 30 miles, and only 1.52 cents per ton per mile to Chicago, (262 miles) is a part of the consideration of the traffic arrangement between this company and the Chicago, Rock Island and Pacific and the Chicago, Burlington and Quincy, which transport its through business. All three of these roads, therefore, are either directly or indirectly interested in so adjusting rates on grain and live-stock as will draw them to Chicago rather than the Mississippi River markets.

Now, many good reasons may be given for the strange differences in rates which I have been citing. What I wish to bring out and to emphasize is the almost absolute power of railroad companies by rate charges over the commerce of the country. "The wind bloweth where it listeth, and thou hearest the sound thereof, but canst not tell whence it cometh and whither it goeth." So with this control of railroad companies over commerce. It is hidden and mysterious, yet very powerful. A town, a series of towns, a portion of a State, a whole State feels its force, but scarcely knows how the force is being operated. The very mystery is alarming, and Congress, in my judgment, is derelict in duty if it does not take in hand and regulate the exercise of this power, demanding and requiring that all vicious exercise of it shall cease and all other motions of this force be directed for the individual and general good.

In the cases that I have cited there has been undoubtedly discrimination against places. Those who dwell by the waters of the mighty Mississippi have not been permitted the full enjoyment of those privileges and advantages which, before the days of railroads, were supposed to come to those who chose for their business pursuits a location upon navigable waters. It is perhaps too soon in the discussion of the question to positively maintain that they have been unjustly dealt with, for I think it can be shown that discrimination is not necessarily at all times unjust.

The Iowa commissioners, in speaking of the difference between the through rates and the local rates on the Burlington, Cedar Rapids and Northern road, show that the reduction on through rates from Cedar Rapids to Chicago is 35 per cent., but that the rate to Burlington is increased by one cent per one hundred pounds over the rate of 1871. They also show that the through rate from Solon is reduced 35 per cent. while the local rate is unchanged; that the through charge from West Liberty is reduced 35 per cent. and the local rate is increased two cents per one hundred pounds; that from Wapello the Chicago rate is reduced 33 per cent., and the Burlington rate is increased two cents per one hundred pounds.

In commenting upon this strange state of charges they say what I have already quoted, but it will bear repetition:

> To one versed in the philosophy of the distribution of railroad rates at competing and non-competing points, and particularly to such points as will best secure a long haul, this want of proportionate reduction to Burlington from all stations south of Cedar Falls is no enigma. It is not improbable also that this proportionate distribution of rates on wheat being 8 cents per ton per mile from Wapello to Burlington (30 miles) and only 1.52 cents per ton per mile to Chicago (262 miles) is a part of the consideration in the traffic arrangements between this company and the Chicago, Burlington and Quincy, and the Chicago, Rock Island and Pacific, which transport its through business. All three of these roads, therefore, are either directly or indirectly interested in so adjusting rates on grain and live-stock as will draw them to Chicago rather than the Mississippi markets.

I think enough has been shown to establish beyond doubt that transportation companies do, by fixed rates, interfere with the regular stream of interstate commerce, seeking to turn it aside from what

might be called its natural route and to secure it for what is known among railroad men as the long haul.

While railroad companies should not be crippled in their attempt to secure business so long as they do not unjustly or unnecessarily interfere with the course of commerce, yet such arbitrary interferences as I have shown lead me at least to the conclusion that if Congress has the power it certainly becomes its duty to undertake to regulate transportation companies, including railroad companies, when they are unwarrantably interfering with the course of commerce. I do not know that it is any longer an open question whether Congress has the power. Certainly it seems to me that that question has been settled; and yet it may be proper to refer to the Constitution itself, which, in article 1, section 8, says:

Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

In construing this article, the Supreme Court has said in one case, (Gibbons *vs.* Ogden:)

Commerce means transportation.

In another case, (The Passenger cases, 7 Howard, 416:)

Commerce consists in transporting merchandise from the seller to the buyer to gain the freight.

In another case:

Beyond all question the transportation of freights of the subjects of commerce for the purposes of exchange or sale is a constituent of commerce itself.

Again:

That to regulate commerce means to prescribe the rules which shall govern it, and with the power Congress does not stop at the State lines, but it may be exercised within the territorial jurisdiction of the States. (Gibbon *vs.* Ogden, 9 Wheaton, 194, 195, and 196.)

That this power extends to the acts done on the land as well as on the water. (U. S. *vs.* Coombs, 12 Peters, 78.)

That this power is as extensive on land as upon water, and embraces all vehicles and persons engaged in carrying it on. (12 Howard, 244.)

I think it may be safely asserted that the power is exclusive and plenary; that the duty arising from the power must be to supervise and, if necessary, to regulate. The mode of regulation requires careful attention. It seems to me it is not difficult to demonstrate the impossibility of laying down any unvarying rule for rates and charges, for the reason that a rate which would be reasonable to one road would be unreasonable as applied to another, the whole question being one of grades, curves, the amount of business done, the amount of competition by water-routes or otherwise; all of which must be considered to justly determine a rate. So that I am quite sure that no body of men can be found wise enough to lay down an unbending and uniform rule which shall govern the different roads of the country engaged in interstate commerce when they are surrounded by so many and so widely varying circumstances.

As bearing directly upon the difficulties which one meets who seeks to arrange a schedule of fixed rates for railroads, I call attention to a table carefully prepared by the railroad commissioners of the State of Iowa, in the year 1878. This table, giving the names of the roads, the weights of their engines in tons, the net freight carried, and the net freight per ton weight of locomotives, shows as follows:

Names of roads.	Weight of engine in tons.	Net freight carried.	Net freight per ton weight of locomotive.
Burlington, Cedar Rapids and Northern	36	180	5.00
Burlington and Southwestern	30	170	5.66
Chicago, Burlington and Quincy	38	180	4.74
Chicago, Milwaukee and Saint Paul	30	140	4.66
Chicago and Northwestern (no report)			
Chicago, Rock Island and Pacific	36	219	6.08
Chicago, Clinton, Dubuque and Minnesota	33	570	17.27
Des Moines and Fort Dodge	26	160	6.15
Illinois Central	30	117	3.90
Kansas City, Saint Joseph and Council Bluffs	32	400	12.50
Keokuk and Des Moines	32	220	6.90
Missouri, Iowa and Nebraska	23	240	7.27
Newton and Monroe	22	90	4.20
Saint Louis, Ottumwa and Cedar Rapids	34	160	4.70
Sioux City and Pacific	28	360	12.86
Sioux City and Pembina and Dakota Southern	26	200	7.70
Sabula, Ackley and Dakota	28	158	5.64
Dubuque Southwestern	26	200	7.70
Crooked Creek	16	75	4.70
Des Moines and Minneapolis	16	100	6.25
Iowa Eastern	16	50	3.13

As peculiarly instructive I call attention to the fact that the Chicago, Burlington and Quincy Railroad, whose weight of engine at that time in tons was 38, carried 180 tons of net freight, and a net freight per ton weight of locomotive of 4.74 tons; the Chicago, Clinton, Dubuque and Minnesota Railroad, whose weight of engine in tons at that time was 33, carried 570 tons of net freight and net freight per ton weight of locomotive 17.27 tons.

Now, it might be inferred that inasmuch as the latter-named road could carry nearly four times as many tons weight to the ton of locomotive as the Chicago, Burlington and Quincy road could carry, it ought to carry freight for a proportionately less charge, and the superficial thinker would be strengthened in this view when he came to observe the beautiful grades of the Chicago, Clinton, Dubuque and Minnesota as compared with the heavy and laborious grades and frequent curves of the Chicago, Burlington and Quincy. Yet it is a matter of fact, fully set forth by the reports of the two companies herein named, that the Chicago, Clinton, Dubuque and Minnesota barely paid expenses, while the Chicago, Burlington and Quincy had so large a business on the Iowa division that it earned 6.3 per cent. upon its capital and debt in that year.

In fact, the most important question in deciding what would be a reasonable rate for carrying, is the question of the amount of business which the road can secure. A road with heavy grades, frequent curves, and most expensive equipment often makes money, while a road with beautiful grades, no curves, and a similar equipment is unable to pay interest upon its debt and leaves its stockholders every year without dividends.

In a late report made in England by Mr. Farrar, secretary of the board of trade, speaking upon this subject, he said:

It was quite impossible to give a general opinion as to whether the charges made by railroad companies were excessive or not. Each case must depend on its own merits. He would be very loth to say that the charges generally were excessive.

With regard to terminals, some confusion had arisen from the use of that term, and he thought it would be well if distinct terms could be applied to both classes of service in respect of which the charge was made, and he suggested that they should be called station terminals and handling terminals. He could give no opinion as to the right of the companies to charge for terminals, but as a matter of equity there could be no doubt that they are entitled to payment both for station terminals and for handling terminals over and above their mileage rates.

Continuing, he says:

Great complaint has been made by the witnesses as to the inequalities of charges from one place to another, but, so far as he could judge, those inequalities were not productive of injury to the trade of the country.

Taking the case of the carrying of foreign corn and meat from Liverpool to London at lower rates than English corn and meat, he was not at all assured if the rates were made equal, the Liverpool trader would be a gainer. The railway companies might raise their rates on the whole instead of lowering them.

Being asked his opinion as to the combination of companies, or what were called conferences, to keep up charges, the witness said:

They were universal in all large dealings and were inevitable.

He, however, added:

Most of the inequalities complained of were to the advantage rather than to the disadvantage of the public. He did not think, therefore, that there was any ground for legislative interference either for the purpose of enforcing equal mileage or any other form of equality of charge. He thought there should be a fixed scale for terminals, or, at any rate, for station terminals, and there should be further facilities for publicity and for information concerning the reasons of the various charges.

In view of the rapid reduction of rates which has been going on continuously since 1868, showing the average rate per ton per mile on the three great roads hereinafter named, the New York Central, the Erie and the Pennsylvania Railroad, to have been in 1868, 2.153 cents per ton per mile, and on the same roads in 1880, .867 of a cent per ton per mile, it may well be doubted whether natural forces are not compelling roads to reduce their rates fully fast enough.

Mr. Edward Atkinson in an article published not long since has declared that the grain and meat for a laborer's subsistence for one year may be transported, at the rates now charged by the railroad companies, from the field of its growth to the home of the laborer upon the eastern coast at a cost of $1.25.

In Nimmo's report on internal commerce, submitted July 1, 1881, I find on page 6 that the total tonnage movement on the following lines, namely, New York Central, Hudson River, Erie, and Pennsylvania Railroads, was in 1868, 11,193,120 tons; that the tonnage on the same roads in the year 1880 was 36,363,714. The 11,000,000 tons cost in the year 1868, 2.153 cents per ton per mile; the 36,000,000 in 1880 cost .867 of a cent per ton per mile. The cost of moving the tonnage in 1868, being only 11,000,000 tons, was $240,652.08 per mile, while the cost of moving the greatly increased tonnage of 1880 was only $316,344.18. The price of 1868 would have cost the commerce of 1880 per mile $781,819.85. In 1880 it did cost $316,344.18, and we thus have the remarkable result of a saving to the country upon the railroad commerce for 1880 and to the products, and eventually to prices, of $465,475.67 per mile.

It seems to me it would be unwise for Congress to go further than to provide:

First, that there shall be no unjust discrimination in rates and charges either against persons or places;

Second, that all extortion shall be prohibited;

Third, that no secret arrangement shall be made either through concessions, special rates, or drawbacks of any kind whatever;

Fourth, that the more effectually to carry out and enforce the above rules a commission should be appointed consisting of three persons, one of whom should be a civil engineer with practical railroad experience; one a shipper largely acquainted with shipping interests, agricultural, manufacturing, and mercantile, and the other either a specialist who has studied the railroad problem or a gentleman of approved legal ability.

It should be the duty of such commission to carefully study the transportation problem, to gather statistics bearing upon such prob-

lem, to require annual reports from all railroads and transportation companies engaged in interstate commerce, to require specific answers from such companies to be made to all questions deemed by the commissioners of importance to the inquiry, and to specially consider all cases of hardship with regard to interstate commerce laid before it by State commissioners, and to report the facts to Congress. It should be required to advise the delinquent railroad or transportation companies as to what should be done to remedy the evil complained of, and if they refuse to comply with the just request of the commission their refusal should be reported to Congress for action.

It may be urged by some that the duties devolving upon the various railroad commissioners appointed or chosen in the States obviate the necessity of a national commission; but an examination of the reports of the State railroad commissioners will show that they are daily met with this difficulty, namely: that they are powerless to deal with a case of interstate commerce; and States situated as are the Western States find that their commissioners are unable to deal with a very large proportion of the commerce of the railroads.

In the State of Iowa, after careful examination, the commissioners are satisfied that 85 per cent. of the transportation of the railroad companies of that State is interstate in character. With reference to the whole of this 85 per cent. they are powerless to act. Hence the absolute necessity for a national board of railroad commissioners, and hence in my opinion the wisdom of requiring such a board to act upon all cases reported from the State commissioners.

The policy of appointing a board of railroad commissioners seems to have been very generally adopted by the States. In 1878 eleven of the States had chosen railroad commissioners, namely: Connecticut, California, Illinois, Iowa, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, Ohio, Rhode Island, Virginia, Vermont, and Wisconsin, and since that time several other States have adopted the system. Charles Francis Adams, jr., when called upon by the Legislature of the State of Massachusetts to express his opinion with regard to the commission system, replied in the following terms:

These duties [meaning the duties of the railroad commission] are of three general descriptions. First, those of a supervisory character as respects the railroads themselves; secondly, those which are both supervisory and judicial as between the railroads and the public; and, third, judicial duties as between the different railroad corporations. Among the duties of the commissioners, by far the most difficult and delicate are those which arise out of its supervisory functions over matters between the railroad corporations and the community. Its jurisdiction in this respect is, I believe, peculiar to itself. It is compelled to receive all complaints against the railroads of the State, no matter how they may reach it, or to what they may relate, or whether coming from communities or individuals, and investigate and find out some remedy for them. In doing this the commissioners have no power except to recommend and report. Their only appeal is to publicity. The board is at once prosecuting officer, judge, and jury; but with no sheriff to enforce its processes. The method of railroad supervision is peculiar to Massachusetts, but I do not hesitate to say that I believe it is the best and most effective method which has ever been devised, the best for the community and the best for the corporations. It needs, I am confident, but to be developed and understood to be universally adopted.

In dealing with railroads, as between railroads and individuals, it is futile to talk about laws declaratory and penal and the usual processes of the courts, which, except in extraordinary cases of remedy through these processes, are too slow and too expensive, while the power and the wealth of the corporations as compared with individuals are too great. It is altogether different in proceedings before this commission. They have no technicalities or forms of procedure. The investigation takes place at once and upon the spot, and the conclusion is reached with no unnecessary delay. The conclusion cannot be enforced in law and carries weight only in proportion to the reasons adduced in its support. But in practical experience the recommendations of the board have almost never been disregarded. It is true they have sometimes been complied with under protest and with the utmost reluctance, but they have almost invariably been complied with. First and last they have covered all sorts of questions, from the putting on of a system of trains to the adoption of some important appliance of safety, matters which could hardly have been reached in any other way. Statements of this will be found accompanying our reports during the ten years they have been issued, but only the more difficult are there given. The many other and similar cases settled by private efforts are nowhere recorded.

I am very confident that this practice of public supervision might be developed so as to work a complete solution of the railroad problem as it presents itself in this country. To do this, however, it must be developed by men who are not only competent, but who enjoy the confidence both of the community and of the corporations. If they have not this they are powerless. If they have it there is nothing they cannot bring about; no abuse they cannot correct.

Again, speaking of the commission, he says:

I regard it as still an experiment. It has not yet, I very heartily agree, reached a point at which it can be spoken of as an assured success. As an experiment, however, it is the only single thing of the kind which holds out any promise of a rational solution of the railroad problem. On this point, which I now feel at perfect liberty to discuss, permit me to say there is hardly room for two opinions. The idea as respects railroads which this board originated of supervisory regulation through publicity and intelligent discussion has just begun to be developed. I feel quite confident that I could produce whatever amount of evidence the committee might desire, that so far as it has gone it is regarded in its sphere the most hopeful indication of the time. That the more prominent railroad specialists so regard it they will themselves say if the committee desire to hear them.

GREAT BRITAIN.

Great Britain, whose railway system is second to none, employs the instrumentality of a board of commissioners in the management and regulation of her railroads. During the past forty years the British Parliament has given much consideration to the question of regulating railways, upward of 3,300 acts having been passed with this view. The net product of all this legislation and the general discussions of the press throughout the realm, together with the large experience of so many years, is the present commission system. These three commissioners possess powers in relation to the working arrangements between railroad companies; they are to hear and determine matters of complaint that may be referred to them of violation of the railway laws, in this respect possessing the jurisdiction of certain courts and judges authorized to pass upon complaints; power to hear and determine certain classes of differences between transportation companies; they are, under prescribed law, to fix and apportion through charges on freight passing over two or more lines of road; power to settle questions of terminal charges; to settle the rates for loading, unloading, delivery, and other kindred services; power to call experts to their aid when in need of technical information, and to enforce the law regarding the publication of rates of transportation.—*Report of Iowa Railroad Commissioners, 1878.*

A very interesting account of the British railroad commission is to be found in Nimmo's Report on International Commerce of the United States, submitted July 1, 1881. It seems that a committee of Parliament in 1872, in view of the failure of competition to do for railways what it does for ordinary trade, recommended the establishment of a technical tribunal endowed with powers as set forth in the above quotation from the Iowa railroad commissioners' report. The term of that tribunal was limited to five years. Parliament subsequently continued it for one year and again by act continued it until December 31, 1882. It is given both judicial and administrative powers, and the law requires that one of the three members shall be experienced in the law, the other experienced in railroad business, and it is stated that the third member has been appointed with special reference to his personal knowledge in regard to the question of public policy and his reputation as a statesman. Those who are curious to see the work which this commission is to do will find the matter fully set forth in Nimmo's report.

One of the chiefest evils complained of by shippers is discrimination and favoritism against persons and places. One need not pause to prove that unjust discrimination is wrong and hurtful. This discrimination as against places is a fearful and unjust thing to towns, cities, and States suffering from it. It is not to be supposed that railway managers will practice this discrimination without what seems to them a just reason for it. But they are not the proper umpires on such a question. As long as men, by a law of their nature, which properly restrained is a wise law, are governed by selfish views it will never be safe to leave the interests of others to the uncontrolled will of those adversely interested. It would not be difficult to show that the whole Northwest has been bound captive to the interests of Chicago, and that any natural inclination of products to go southwest or southeast to Saint Louis and down the Mississippi is most skillfully, insidiously, and effectually restrained.

I have already shown in a former portion of my remarks the ease with which commerce may be restrained. But I have during the preparation of these remarks clipped from the newspapers of the State of Iowa a decision of the supreme court of that State which shows that in the view of that court, at least, very important interests may be affected by what otherwise would be considered trivial interferences.

An action was brought by one Myers for the recovery of $105 from the Chicago, Rock Island and Pacific Railroad Company for the killing of a cow inside the corporation limits of Council Bluffs. The plaintiff claimed the train was at the time running faster than allowed by ordinance. The railroad company admitted the rapidity of the train, but cited the fact that the corporation of Council Bluffs is extended three miles beyond the city proper, and for that distance out from the thickly settled portion of the place the railroad passes through agricultural lands fenced on both sides. The company claimed that the ordinance was unreasonable, oppressive, vexatious, and therefore void. The supreme court in its review of the case declares that—

Under the ordinance in question in this case it would take three-quarters of an hour after entering the corporate limits of Council Bluffs to pass over three miles of railroad through agricultural lands fenced on both sides and to reach the inhabited portion of the city, and it would take over an hour and a quarter to reach the Union Pacific depot. The ordinance placed not only unreasonable restrictions upon the railways themselves, but unnecessarily impeded the whole traveling public. If all the cities situated along the line of the defendant's road between Council Bluffs and Chicago should enact and enforce a like ordinance, it is apparent that the time between the two cities would be greatly increased. "The ordinance operates as a restraint upon commerce and ought not to be sustained."

Thus, in the view of the railroad companies themselves, of the courts, and of any one who has given the matter any attention whatever, there are continual interferences with commerce, and such interferences and restraints ought in some manner to be reached and dealt with. I think I have shown enough to satisfy all that no obstruction of natural commerce ways can be said to be small or trivial in character, for a very slight obstacle will often turn the stream aside from its natural course and work injustice to both persons and places. Unjust discriminations as against persons are much more common than as to places. Here personal intercourse and the naturally pleasant manners of one as compared with another shipper, at times a pecuniary interest on the part of the manager with the shipper, will lead to the ruin of one man in trade and to the wealth and prospelity of another.

Another of the evils complained of is very violently fluctuating rates. A railroad war, which was once regarded by the pet ple as a blessing to those who have carefully studied the subjec is now considered as a great public evil. While rates are down men are tempted to undue purchases. Those who bought before the war broke out between the contending companies find themselves with goods upon their shelves which they are unable to sell in competition with others for the time more fortunate competitors who purchased while the war was raging. The companies themselves are injured in their profits; stockholders cannot receive dividends, and general ruin comes. It would be the duty of a railroad commission appointed in the manner which I have advocated to study the ques-

tion of railroad wars, and, if possible, to devise some means of hindering such injurious competition.

Another great evil is found in the consolidation of weaker competing with stronger competing roads. All consolidations are not necessarily injurious. I think the consolidation of continuous lines will be found to the advantage of the people, because it enables the shipper at a great distance to send his commodities loaded in one car to the market of purchase. But when a railroad company owning a continuous line seeks to destroy a company competing with it by buying up its stock or buying up its line, it destroys the only check that may exist against exorbitant charges on its part. The great question of the benefits of "pooling" naturally suggests itself here, and it requires much study and the gathering of many statistics to justly determine the question. There are those who object to any legislation upon the subject whatever. They tell us that we should leave trade and commerce to adjust their difficulties by natural laws without governmental interference. This seems to be a pleasant theory, and will commend itself to the superficial thinker. But, like all theories, it will not bear the test of experience.

The English people found that it would not do. A joint select committee of the House of Lords and the House of Commons appointed in 1872 reported:

> But it may be taken as a general rule that there is now no active competition between different railways in the matter of rates and fares. Wherever different railway companies run between the same places they arrange their prices, and if a new railway should ever be started with the promise of lower rates, it is sure after a short time to arrange with its original rivals a system of equal charges.

And they close their report by expressing the opinion that the only real competition is between railways and water-ways, and recommend that the harbors of the realm should be kept out of the hands of the railway companies, and that every effort should be made to keep up and develop the system of inland water navigation.

France has tried independent corporate management of railroads and found it unsuccessful. In 1842 the government became a partner in the railroads, building the earth-work, the masonry, the stations, and paying one-third the cost of the lands. The companies bore the expense of the iron, rolling stock, maintenance, it being intended that two-fifths of the total cost should be borne by the companies and three-fifths by the state.

This system lasted from 1842 to 1859. In that year the emperor, feeling that the system was not a success, discarded all idea of competition and consolidated all the railroads into six great companies and assigned a territory to each, thus rendering competition impossible, until in 1865 a concession was made which gave rise to slow competition in certain localities. The only competition ever known in France with railroads has been afforded by canals and rivers.

In Prussia the government has aided in building all the railways, and in 1870 owned nine lines, while twenty-four lines were owned and operated by private companies; the length of the two systems being about the same. Prussia sought to destroy competition by a section of her railroad act providing:

> No second railroad running in the same direction as the first one, and touching the same principal points, shall be allowed to be constructed by undertakers other than the undertakers of the first railway within a space of thirty years from the opening of such railway: *Provided*, That means of communication between these points and in the same direction by other means shall not be interfered with hereby.

Afterward this act was repealed, and the different railroad companies constructed competing lines, but almost as soon as constructed agreements were made as to rates which substantially destroyed competition.

In Belgium the state owned part of the railroads; the other parts were owned by private citizens. The small companies combined and began to compete with the government; and then the private roads by combination became in a measure equal to the rich and powerful state company. In the words of Mr. W. R. Malcolm, in a paper submitted to the parliamentary committee:

> When the government was pressed by the competition of its rivals, its first resort was to seek for traffic as they did. It began to work upon commercial appreciation. It made special contracts and special tariffs in order to get business on its lines, and it ran a severe competition between the most profitable sources of traffic, the result of which was, in some cases at least, an agreement with its adversary—a joint purse arrangement, or what we call a "a pool."

It seems that if we had no history of our own the history of the subject in England, in France, in Prussia, and in Belgium would teach us that we cannot safely leave trade and commerce to adjust their difficulties without governmental interference. The policy of non-interference may be said to have been tried in this country, so far as the United States are concerned, since the organization of railroad companies, and the effect may be seen by a study of the current history of the times. Ruinously low rates have been prevailing in some places, destroying the weaker lines, and in the end removing competition. Before this was consummated, however, the lower rates had invited reckless purchases or by holding false hopes out to traders had ruined in the end the unwary. The railroad companies finally compromise their difference, agree to charge the highest price the quantity moving and the price of freight on the Lakes will permit. (See Routes to Seaboard, page 117.)

One manager says the only question is what charge will the property bear, keeping always in view the future development of the business and the elements of public prosperity involved in such development. As we have seen, France finds that canals and rivers afford the only competition known in that country. Great Britain finds that the only real and effective competition is between railways and water transport, and so it recommends that the harbors be kept out of the hands of the railway companies, and that every effort be made to keep up and develop the system of inland water navigation, saying that if a new railway should ever be started with the promise of lower rates it is sure, after a short time, to arrange with its original rivals a system of equal charges. Surely, if experience is a good teacher, our objectors have not given any reason for a neglect to do something in the way of an attempt to regulate interstate commerce. The reason why competition fails may easily be seen. A railway may not be a monopoly at its termini where it finds other roads competing with it, or at intermediate points where other and rival roads cross it, but at all other intermediate points it is a substantial monopoly, not only by the force of circumstances holding such trade, but by skillfully arranged schedules of charges, as in the case of the Iowa roads with regard to the Mississippi River, thus clearly showing that, if the people and if statesmen do not, the railroad managers do understand that their only real danger is water competition.

Relief by water competition should be generously granted, but when all is done there is need of supervision for the benefit of those who do not dwell on the very banks of some natural or artificial water-way.

Another objection made is that the vested rights of stockholders and bondholders must not be interfered with. I get impatient when I hear that cry. No immense wickedness was ever attempted that did not raise that cry. It will probably be heard at the gates of the New Jerusalem on resurrection morn by those who claim that by virtue of kinship to the original Adam who walked naked, sinless, and shameless in the garden, they have a vested right in the golden streets and pure rivers. I concede vested rights, but all that is proposed can be done without a single interference with any such real right. The trouble usually with those who use that argument is that they seem to suppose they have a monopoly in that kind of right. But, sir, every citizen of the United States has a vested right in a free and unimpeded commerce. It was written out and guaranteed to him and to his children after him when the fathers laid the solid foundation of this Government, and no investor in railroad property need in the least consider such proper legislation as the country demands an interference with his rights.

If the cry of the poor and distressed is not heard and heeded there will come a time when an angry people will appear at the gates of the palaces of these princes in a mood incapable of reason and in a determination which will not tarry to discuss vested rights, for when the torches burn and the banner of wrath and retribution is raised it is then too late to reason.

All considerations lead me to but one conclusion, and that is that, it is our duty to endeavor by proper, wise, and just regulations to bring the people who complain and the companies who transport the produce of the people into harmonious relations.

The problem is a great and unsolved one. I would not favor rash or radical legislation which might lead to the destruction of values or to the injury of any holder of any character of property. But there is such general complaint in all the States, the people are using their right of petition and are asking Congress to investigate the subject; and there can be so little danger to any interest whatever if the subject is committed to the hands of a commission of wise and able men, who shall gather information upon all the great questions involved in the solution of the problem, who shall furnish Congress with the statistics which will enable it to determine many points now disputed, that I am surprised that there should be any hesitation in the adoption of some one of the important measures now pending before the Committee on Commerce.

I move that the bill be referred to the Committee on Commerce.

The motion was agreed to.

MISSISSIPPI AND MISSOURI RIVERS.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senate resumes the consideration of the regular order, which is the bill S. (No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers, upon which the Senator from Mississippi [Mr. GEORGE] is entitled to the floor.

Mr. MILLER, of California. Will the Senator from Mississippi yield to me one moment?

Mr. GEORGE. Yes, sir.

Mr. MILLER, of California. I gave notice yesterday that to-day, after the morning hour, I would ask the consent of the Senate to take up the House bill on the subject of Chinese immigration, but the time having been allotted to the Senator from Iowa I did not make the motion. As the Senator from Mississippi is now about to address the Senate upon the Mississippi-levee bill, and as that is a measure of great importance and one which I do not desire to antagonize by an effort to press the consideration of the Chinese bill, I wish to say that as soon as the pending bill is disposed of, if it does not take any longer time than is expected, that is, to-day or to-day and to-morrow, I shall move to take up the Chinese bill for consideration and action. I am informed by the promoters of the pending bill, which is the regular order, that it is not expected to occupy any more than this day. If it shall be disposed of to-day, I shall move to-morrow to take up the Chinese bill.

Mr. ALLISON. If the Senator from Mississippi will indulge me a moment I desire to say that after he shall have completed his remarks to-day I shall seek to call up the joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriation for public printing and binding, for the fiscal year ending June 30, 1882. I do not know that it will take up very much time, but it is important that it should be passed to-day or to-morrow.

Mr. GEORGE. Mr. President, this measure is the most important one to my constituents that will probably engage the attention of Congress at this session. I feel, therefore, that it is my duty, in the absence of my colleague, [Mr. LAMAR,] to say what seems to me proper to influence the deliberation of this body in favor of the relief asked for in the bill and in the amendment offered by the Senator from Arkansas, [Mr. GARLAND.]

The country which is to be protected, and I may say saved by the building of the levees on the Mississippi River, is of a larger extent than is generally supposed. It extends north and south eight and a half degrees of latitude, and embraces within it the productions of almost every climate in the world. At the mouth of the Mississippi River we have the tropical productions of sugar, oranges, lemons, and bananas; as we proceed up we have the finest cotton-growing region in the world, and as we still farther advance north, it becomes a great producer of the cereals; and finally at its northern limit we find even that ice is cut and transported to market. It extends east and west upon an average of about sixty miles. If I said that there were 36,000 or 38,000 square miles in this territory, without some reflection you would hardly take into consideration the full meaning of the assertion. I will make some comparisons between that territory and States of the Union. It is larger than Maine. It is larger than Massachusetts, New Hampshire, Vermont, Connecticut, and Rhode Island all combined. It is larger than Delaware, Maryland, and West Virginia all combined. It is larger than the State of Kentucky; it is larger than the magnificent State represented in part by the Senator from Indiana, [Mr. HARRISON,] and it is nearly as large as the State of Ohio.

I have said that the soil of this district is the most fertile in the world. What is its condition? Has it been made to develop to this country the immense wealth which lies in its cultivation? Of its 24,000,000 acres of arable land not more than 2,000,000 are now cultivated. It is the estimate of General Abbott, who made a survey of that region, that if the levees were rebuilt over 10,000,000 acres of the best land in the world would be brought into cultivation which are not now cultivated and which cannot be cultivated successfully without the building of these levees. Of that large area, 2,500,000 acres are suitable to the production of sugar. If those 2,500,000 acres were cleared and cultivated, even in the slipshod way in which cultivation has proceeded in that section since the war, over 2,500,000,000 pounds of sugar would be produced in addition to the present production. Seven million five hundred thousand acres of that magnificent country would, according to General Abbott, be added to the cotton production of the country. That, even with the improvident cultivation which has attended that district for the last fifteen years, would produce 7,500,000 bales of cotton. At ten cents per pound that would be $750,000,000 per year.

Still, after taking out the cotton and the sugar production we should have over a million acres lying in Tennessee and Kentucky and Illinois and Missouri suitable for the production of the cereals. When I speak of the number of acres I mean more than are now cultivated. This area is to be added to the productive wealth of the country by the saving of this district from the overflows of the Mississippi River. Is this nothing? Are we to refuse to do what I shall show we can constitutionally do by spending a little money, or shall we decline to do it and devote this magnificent country to be an eternal jungle and forest?

It was asked by the Senator from Indiana [Mr. HARRISON] the other day, as I understood him, if this is such a magnificent country, if it is capable of such immense production, why are not we, the inhabitants of that district, able to make this improvement for ourselves? I answer the Senator that this is not actual but potential wealth. It is that wealth which may be developed by a judicious and liberal aid from the Government.

It is doubted by some Senators on this floor with whom I have conversed in private about this measure whether an appropriation if made would be actually available, whether it would be successful in redeeming this magnificent country from the ravages of the Mississippi floods. I desire to say something upon that point. An examination of the various reports of the Mississippi River commission and of the reports of the engineers appointed by the Government, of Humphreys's and Abbott's reports, will show that levees have been successful to a certain extent; that they have been unsuccessful to a certain other extent, and for reasons which I shall point out.

There is nothing in the Mississippi River, in its characteristics, in its size, in the nature of its bed, which prevents the same successful application of the levee system to it as has been applied to the Nile and to the Rhine. The Nile was successfully leveed by a semi-barbarous race, and it has been thus leveed for hundreds of years. It follows through an alluvial bottom or valley just like the Mississippi does. The Rhine, running through a similar soil, has been successfully leveed, and the levees there are subjected to a test which the levees of the Lower Mississippi are never subjected to; that is, the casting against them of enormous ice-floes, which would have a tendency to break them. Yet the levees on the Rhine have been so successfully built, repaired, and supervised that it has been many a year since there has been a break in them. So have the Adige, the Po, and the Vistula been successfully leveed.

But it is said by those who doubt the feasibility and the success of any system, "You have been at this work for many years, you have spent millions of dollars in making levees upon the Mississippi River, and the result is that to-day you are without a successful levee system and are supplicants at the door of the Federal Treasury for aid in building levees."

That is partially true; but there are causes which I desire to point out to the Senate why the levee system has failed up to this time. Before I go into that matter, as I shall do directly, let me give the Senate a little history connected with the levee system, and connected also with that valley from its first settlement, so that the Senate may more easily understand the causes why there has been so much failure

At the first settlement of the Mississippi Valley the banks of the Mississippi River, from well-known causes connected with sedimentary rivers, were higher than the surrounding country. Some of the engineers say that the declension from the river bed to the lowlands was at the rate of ten feet a mile. Others say that the declension was from ten to fifteen feet a mile. Those who do not understand the hydraulics of the Mississippi River cannot comprehend this fact; but it resulted from a very natural cause. When the overflows came, before the banks were built up, the first slacking of the current occurred upon the banks of the river, and there the principal deposits were made; and in this way from time to time the banks were built up, so that, as is said by some of the engineers, the ordinary overflow on the high banks was less than a foot. There was another thing that tended to raise these banks, and that was the reeds or cane, the brush or undergrowth which grew upon them, which acted as a dam to stop the current of the water and catch the sediment. So in the first settlement of the country the banks were very nearly as high as the highest water mark.

The leveeing was done in the first instance by individuals, and was simply a small embankment to protect a farm, as the settlements were made upon the bank of the river; but to improve the land they would cut away the forest and destroy the cane, which destroyed the adhesiveness of the banks, and the caving which kept continually going on was accelerated, and the banks of the river shifting by the caving of the banks from behind or from between, the high banks were in many places inclosed by low banks; and that has been going on ever since. That answers the objection that the levees raise the flood-tide, and that the result is you must build your levees higher and higher every year. The truth is, the flood-tide has not been raised. It is true the levees have been raised, but they have not been raised on top; they have been raised from the bottom. I explain that in this way: that being built on lower banks, it takes seven, eight, or ten feet of additional leveeing to put the levees on the same plane upon which they started when they were built on the high banks of the river. So there is nothing in that objection.

Having explained that much I propose to make an argument to show that it is within our power, and that it is our duty to aid in the rebuilding of these levees. In the outset, upon this part of the subject, I will admit what my friend from Arkansas [Mr. GARLAND] denied, that Congress has no constitutional power to make these improvements for the sole purpose of reclaiming or protecting the land from the floods of the Mississippi River. The power to make the levees exists, as I think can be demonstrated, but it results from the power to improve the navigation of the Mississippi River and its tributaries—a power conceded to exist in its amplest extent by the opponents of the amendment of the Senator from Arkansas. But note, sir, I say it results from the power to improve the navigation of the river, not merely to improve its channel, as was ingeniously stated by the Senator from Indiana, [Mr. HARRISON.]

The power to improve the navigation of the river implies also the power to do all that will facilitate navigation on it and render it safer, easier, more convenient. And navigation means, sir, in this connection, not the mere running of vessels on the river, but the safe and easy and convenient reception, transportation, and landing of persons and property in any kind of vessels adapted to the river. To effect this something more is necessary than to have a channel in which these vessels may safely float. There must be not only such a channel, but there must be the means of ascertaining where it is. For this purpose we provide buoys and lights. There must also be conveniences for loading and unloading in harbors. The vessel must not only be safe in motion, but it must have a proper and safe place to anchor and from which to start again. But the powers of the Government and its daily exercise of them—its daily undisputed exercise of them—do not stop here. Provision is made by law of Congress for the inspection of the vessels to determine their strength and safety; regulations are made for their safe navigation; signals are required to be given, and lights held out, and proper and competent pilots provided for. Life-boats and life-preservers are also required and proper regulations made in respect to the transportation of dangerous freight.

All these are provided for under the same power under which we

claim that levees can be made and repaired by authority of Congress. They are in the language applied by the Mississippi River commission to levees, as quoted by the Senator from Indiana, "a desirable though not a necessary adjunct" in the improvement of the river: in a "restricted sense, as auxiliary to a plan of channel improvement," these things, like levees, "are not demanded," "but in a larger sense" "they, just as levees do, promote and facilitate commerce, trade, and the postal services." And they do nothing more. They do for commerce between the States exactly what levees on the Mississippi River do, neither more nor less. They depend upon the same power in the Constitution that the building and repairing of levees do. If, therefore, the Government can do the one it can do the other.

But, sir, the levees do have what these do not, a direct and beneficial effect on channel improvement. And this effect is so clear, and can be so unmistakably made out, that if the power of Congress to improve the navigation of the river were restricted, as it clearly is not, to an improvement of the channel, it would extend to the making of the levees. Let us, see, sir, how this matter stands. We have the testimony not only of scientists, the members of the river commission, our own chosen officers, acting under the solemnity of their official oaths, but also that best of all kinds of evidence, experience. The commission, in their report of February 17, 1880, say:

> There is no doubt that the levees exert a direct action in deepening the channel and enarging the bed of the river during those periods of "rise" or "flood."

They exert a direct action, not remote, contingent and consequential, as argued by the Senator from Indiana, but direct, that is, "not crooked, oblique, or circuitous," but "leading immediately to the point or end," of deepening the channel. Can the jetties channel advocated by the Senator from Indiana do more? Then, again, the commission do not express this as a hypothetical opinion, mere speculation, but they say "there is no doubt" of this effect of the levees. The commission again say in the same report, reiterated with the above quotation in their latest report in December, 1881, and on this last occasion they are unanimous, including General Comstock, who dissented in the first report:

> There is reason to believe that during the period when levees were in their most perfect condition, from 1850 to 1858, the channel of the river was better, generally, for purposes of navigation than it has been since that time.

And the commission go on to show how this effect is produced. I quote from the same report, again reiterated unanimously in December last:

> The immediate effect of the levees would be to increase the volume and height and accelerate the velocity of the flood-waters between them, resulting in an erosion and deepening of the river-bed, and ultimately in a corresponding lowering of the flood-slope, in accordance with the general law already quoted—that an increase in the normal volume of discharge in a sedimentary stream, flowing through alluvial deposits, results ultimately in a lowering of the flood-surface. It would seem, therefore, that a closure of the crevasses might be expected to accelerate the removal of those shoals which have been produced by them, and if their closure be accompanied by the requisite contraction of the channel to a mere nearly uniform high-water width, a lowering of the flood-level may be expected to such extent as will ultimately render the maintenance of the levees as an aid to navigation practically needless above Red River, and greatly lessen the necessity of their permanent maintenance for that purpose below Red River, even at a reduced height.

Here it is seen that the immediate effect of the levees would be to increase the volume of water and to deepen the channel, and ultimately to so close in the flood-waters that levees above the mouth of Red River would be useless. And we have also in the extract the unanimous testimony of the commission to the fact that breaks or crevasses in the levees produce shoals or bars in the channel, which are the principal obstructions to the navigation of the Mississippi River.

Captain Eads, who did not sign this report, but made one of his own, is still more emphatic in declaring the utility of levees as a means of improving the channel navigation.

But, sir, this is not all the evidence. I shall next introduce the sworn statement of Captain T. P. Leathers, who has been engaged in the navigation of the Mississippi River for over forty years. He says, in an examination before a committee of Congress:

> I came on the river in 1836. The river was very low that year. The average depth of water on the shoalest bars from the mouth of the Ohio to the mouth of the Arkansas, a distance of about four hundred and fifty miles, was about four feet. From mouth of Arkansas to mouth of Yazoo, about two hundred and twenty-five miles, there was about five feet. From that to the mouth of Red River, about the same distance, the average depth on the shoaled bars was seven feet. Below Red River levees had been built; I do not know how long; but thence to the Gulf there was deep water.
>
> Then levees began to be built above Red River in the parishes of Concordia, Tensas, Madison, and Carroll, the result of which was that in 1857, a period of twenty-one years, while the river was twenty inches lower in its banks, there was not less than eight and a half feet of water on the shoalest bars in the formerly unleveed district between the Red and Arkansas Rivers, showing an increased depth of four feet scoured out by the current created by concentration of the water.
>
> I am convinced from my observations that if the levees were rebuilt and kept up on the lowlands, the concentration of volume and consequent accelerated current would soon wash out a channel large and deep enough for any purposes of commercial navigation. I am thoroughly satisfied that in the last ten years the frequent breaks in the levees and crevasses, dispersing the water over the country and diminishing the current, have caused the river to begin to shoal again. It always shoals near these breaks, evidently in consequence of the slackened current and natural deposit of sediment on the bottom which follows.
>
> I am confident that the only way of deepening the channel and getting reliable navigation is to concentrate the current, and if the great river accommodates itself by scouring out the bottom there will be no necessity for higher barriers at the top, and the levees will become more solid and reliable because relieved in a measure from the great pressure to which they are subjected.

Here, sir, we have reliable evidence of what levees have done for channel improvement—a scouring out of four feet on the bars above and a continuous good channel below Red River. What levees have done they can do again.

The next witness is Captain J. A. Aiken, president of the New Orleans and Red River Transportation Company, who also states before the same committee:

> Red River from Shreveport, Louisiana, to its mouth, distance about five hundred miles, was, previous to the building of levees along its banks, a shoal stream, having a rise and fall of eight to twelve feet, overflowing its banks during every high water and inundating the country for miles on either side. As the country became settled, the planters built levees to protect their lands from the annual overflows.
>
> At about the year 1860 these levees, from Loggy Bayou to Alexandria, distance two hundred and twenty miles, had become connected and continuous, presenting an unbroken line on each bank. It was soon found that the concentration of the water and increased current caused by the levees was washing out and lowering the bed of the river, and the effect has been so great that along this section of the river the rise and fall is now as much as twenty-five to thirty feet, and the lands have not been inundated for years. There are levees standing to-day four feet high above their base, that the highest floods have not touched for years. Since the war the levees have been extended above Loggy Bayou to Robinson's, distance about twelve miles, and the same deepening or lowering of the rived-bed has been the result.
>
> From Robinson's to Shreveport, distance about ninety miles, there are outlets on either side; the levees are not continuous and connected as they were below; the lands still overflow, and the river is gradually shoaling; below Alexandria the river is in about the same condition as when first navigated by steamboats; namely, no perfect system of levees, no lowering of its bed; open outlets and annual overflows.

Here we see the important fact that overflows and shoals in the channel, and levees and deepening the channel always go together.

And Messrs. Suter and Harrod, two members of the Mississippi River commission, after quoting the above testimony as to Red River, and other testimony as to other rivers, say:

> The subsequent histories of these streams have amply vindicated the correctness of the foregoing statements.

These gentlemen also report the following remarkable effects of levees on floods in the Mississippi River:

> The flood of 1858 is admitted to have been the greatest authenticated of recent years, generally, below Cairo. Its discharge at Cairo is estimated at 1,478,000 cubic feet per second. It found the levees to the mouth of the Saint Francis in their best condition, the breaks being less than twenty-five miles in length.
>
> This was the largest flood, containing the greatest discharge per second at Cairo, and yet it found the levees in a good condition between Cairo and Memphis, only twenty-five miles being down.
>
> The flood of 1874 discharged at Cairo 1,225,000 cubic feet per second, 253,000 feet or 17 per cent. less than 1858. It found in three hundred miles breaks one hundred and forty-three miles long, ranging to twenty-five feet in depth. Yet the crest of this flood, starting at Cairo 2.2 feet below that of 1858, steadily approached and then exceeded that mark at a point between Memphis and the mouth of the Saint Francis River.

Less by two feet in height, less by 17 per cent. in volume at Cairo, and yet with one hundred and forty-three miles of levee down it steadily approached in height and finally exceeded in height the great flood of 1858, which ran between perfected and completed levees nearly.

There is no accounting for this except on the theory that the levees had scoured out the river in 1858, deepening the channel, and thereby lessening the flood-height, and in 1874, the levees being down, the river had shoaled again, raising the flood-tide.

Here is evidence enough to convince the most skeptical that levees do constitute an important part of the means of improving the navigation of the Mississippi River.

I have now shown, both by the testimony of scientific experts—our own sworn officers—charged by law with making truthful and trustworthy reports on the subject, and by the observation of careful and intelligent non-experts, that the levees do have a direct and immediate, not an oblique and contingent effect, in deepening the river and improving its channel. What more is needed to establish both the power to make levees and the expediency of its exercise?

I have brought the erection of levees on the Mississippi River within the rule adopted by the Government in all its other dealings in facilitating commerce and furnishing easy and convenient appliances for it. I have done more. I have shown that the erection of levees does have an immediate and direct effect on the improvement of the channel. Yet, Mr. President, this goes for nothing, because it is said that they are not essential—not imperatively demanded—that the river may be improved without them. But, sir, this argument cannot prevail without destroying well-settled rules of constitutional construction, without reversing the action of this Government not only on the subject of improving navigation but also in its most important functions.

According to this argument the Government has no power to adopt either of any two methods or means of accomplishing the same end, however constitutional that end may be. If there be two, then neither one is essential, as the other may be resorted to. Thus when one is proposed, you destroy it by showing that some other way may also be adopted; and so when the latter is proposed, it is equally defeated by showing that the former is a feasible plan. In this way it can be equally shown that the Government has no power to remove the bars by dredging, because they can be removed by jetties; and so jetties may be shown to be beyond the power of the Government, because the improvement can be made by dredging. For, it is true, if dredging will do the work jetties are not "essential,"

and if jetties will do it dredging is not "essential." When we say that levees have a direct and immediate effect in removing bars, we are answered, "We cannot adopt the amendment of the Senator from Arkansas, because jetties will accomplish the same end; the improvement may be done by jetties alone, without levees." This kind of reasoning will not do. Congress is the constitutional judge of the means. The end is constitutional—admittedly so. In such a case Congress may select any one of several independent measures; or may combine them all, if in its judgment that be proper. I desire not to be misunderstood on this important subject. While asserting the power of Congress to choose the means, I admit that the choice must be fairly made with the view to accomplish the permitted constitutional end.

We cannot, under cover of selecting a proper means, by indirection and subterfuge accomplish an end outside of the Constitution. We must act in good faith—good faith to the Constitution which we are sworn to support; good faith to the people whose Treasury we use.

But, sir, as was admitted by the Senator from Indiana, if the means adopted do result in conferring a good, outside of and beyond the primary constitutional end to attain which power is granted this is no objection to their selection. On the contrary, sir, it is a just and good reason why they should be. The Constitution was formed, not for the mere purpose of exercising the granted powers, but for the purpose of promoting the public good through such exercise. It follows that if the means selected be appropriate to attain the end desired, it accords with the spirit and purpose of the Constitution that the greatest beneficent results should flow from them.

Sir, in all our actions here we are governed by these rules. Why should we discard them on this subject? When we come to levy duties under the power to raise revenue do we not do it in a way to accomplish an ulterior though incidental end—the protection of American manufactures? So, under the power to provide fiscal agents for the Government, do we not provide for banks of issue and deposit for furnishing a currency for the commerce of the country?

We encourage and advance manufactures by a choice out of several means to raise revenues. We facilitate commerce, foreign and domestic, by similar methods. Why can we not treat agriculture in the same beneficent manner? Is that alone, the greatest of all the interests of the country, employing one-half of our people and furnishing eight-tenths of our foreign exports, to be denied the friendly hand of the Government, by refusing it the incidental advantages arising from an exercise of admitted constitutional power? We spend millions to facilitate the transportation of agricultural products, as the primary end of the expenditure, yet it is supposed we must not spend a dollar in a particular way to attain this very end if it shall have the indirect and incidental effect to increase this production. A bushel of wheat, or of corn, or of potatoes, or a bale of cotton when it has been deposited on a navigable stream, when it has passed from the ownership of the farmer who raised it, is the object of our greatest direct solicitude and care, but we shrink from contributing in the least, even in an indirect and incidental way, to facilitate its production. We exhaust our care for it to save it when afloat. We can do nothing for agricultural productions when it is in the barns of the farmer, or when it is in his fields, developing by his care and labor and the beneficent power of nature into the great crops on which is based so much of the wealth and greatness of the country.

It is said levees, according to the Mississippi River commission, only facilitate improvement in navigation and increase and develop commerce on the Mississippi River, and therefore should not be built at the expense of the National Treasury; that because they are not absolutely demanded and are only useful and convenient, we must not interpose to build them; that they only hasten, by imparting increased potency to the scouring of the current, the removal of the bars and shoals in the river.

But, sir, are not all improvements for commercial intercourse of this character? Do any of them accomplish more than to hasten and facilitate transportation and intercourse? The very bars and shoals, which it is conceded by all we ought to remove, only impede and obstruct navigation; they do not absolutely prevent it. We have had for many years, and are likely to have for many more, an immense commerce on the Mississippi River with these bars in existence. During high water they are of no injury to navigation. It is only in the lowest stages of water that they become hurtful, and even then they admit the passage of light-draft vessels, in which the whole commerce of the river might be carried if their number were but sufficiently increased. And if we are to refuse this appropriation on that ground, are we not justified in refusing all appropriations whatever to improve the navigation of the river? Even harbors and the removal of bars which prevent large vessels from reaching our great cities are not demanded; that is, absolutely essential, for smaller vessels might be used. If larger ones are desired they might be anchored outside the harbor and loaded and unloaded by lighterage. And so I might say with reference to every improvement we make and every facility we give to promote the safety and convenience of commerce. None of them are essential in the sense here contended for in respect to levees. Buoys can be dispensed with by employing only skilled pilots acquainted with the channel and by using the sounding-lead. Lights on the banks might be omitted by anchoring the vessel at night. They only hasten navigation; their absence would only make it slower and more unsafe.

The levees are also useful, not to say necessary, as furnishing harbors or places for the reception and discharge of freight and passengers in high water. In not exceeding a score of places between Cairo and the mouth of the Mississippi, a distance of over 1,100 miles, can a boat land for purposes of commerce in high water, and these places are nearly all on the east bank of the river, leaving the west bank practically without any landing-place whatever. There is no remedy for this but levees. There is no place of safety either for passengers or merchandise in case of accident or storm. Without levees the Mississippi River at flood tide is practically a shoreless sea. With the commerce on its current and the adjacent country there is practically no connection. The Senate will remember that when we had under consideration the proposition to relieve the sufferers from the present flood that the Senator from Missouri [Mr. VEST] applied for authority to use the smaller boats of the Engineer Department to carry relief to the starving and drowning inhabitants of the valley upon the ground that the ordinary trade boats on the river could not reach them. If there had been levees no such application would have been made. If it is argued that for this purpose we would not be justified in making the large expenditure necessary, I answer that I do not ask it for this purpose alone, but it contributes an additional and very strong reason for the expenditure to the many others which exist.

The commerce, sir, which would be aided and facilitated by the furnishing of proper landing-places is one of the very highest merit, and demands the fostering care of the Government. It is a commerce directly between the wholesale dealer and frequently the producer on the one hand and the consumer on the other. On all the plantations on the river and near it immense quantities of western produce are consumed, together with clothing, dry goods, agricultural implements. With proper landing places these articles are landed directly at the door of the consumer. I have no statistics to show the amount of this commerce, but you will have some idea of it when you learn that in the Yazoo basin alone $130,000,000 of cotton has been produced since the war, every dollar of which has been expended in this commerce. That it would assume gigantic proportions in a few years if the Mississippi Valley was made secure from overflow is certain. In this view levees are rural harbors. We make these improvements without question in cities. Is there any reason why the same measure of jusfice should not be extended to the country when the necessity exists for it?

But, sir, there are other reasons of grave import to impel us to exercise the power to build and repair the levees, as I have shown it to exist.

The Mississippi River commission in their report in December, 1881, say:

> The discussion in Appendix F establishes a strong presumption that the levees of the Mississippi do not now stand as works superimposed on the normal banks to restrain an additional flood volume and elevation, which they themselves have produced, but as artificial barriers to replace that natural height of bank which has been lost from causes connected with the occupation and cultivation not only of the banks of the main stream but also of the basins drained by the tributaries. Their present function is not so much to increase the flood volume abnormally as to maintain that part of it which would otherwise be lost from the degradation of the banks.

In this appendix to the report here referred to it is shown that, while the flood-height of the river has not increased since it was first observed, and that the overflows originally on the banks were less than a foot in height, yet the levees are now necessarily raised higher and higher after every flood. I quote from the appendix, as follows:

> We therefore assume that it is established that the average flood-plane has not raised since the settlement of the country and the building of levees, the enlargement of the channel or bed having kept pace with the increased quantity of water retained therein, and that then the grade of the bank conformed much more closely to that plane than it does to-day—being only a little below, and perhaps, in some places, a little above—probably lower in the bends and higher in the points. The escape of water in average floods was probably confined to the outlets, with, in great floods, a shallow flow over the banks. Now, however, we constantly find long distances of levee of a height from 10 to 15, 18, and even 20 feet, exclusive of the dikes across defined outlets. It is believed that the levees will average, throughout their entire length, from 7 to 8 feet in height. They stand now, in fact, as part of the normal bank of the river.

This extract is especially worthy of note, for it in connection with what follows shows that by the necessary use of the land which the Government sold its liability to destructive overflow continually from year to year, season to season, increases, and will so continue for all time to come, and that the levees, to protect them from devastating floods, if the river be not deepened by being necessarily put on lower and lower banks, must be made higher and higher, till their erection and repair will be beyond the power of any save the National Treasury. It is not a fair answer to this, that as the cultivation of the soil by the owners contributes to the result it is their fault, and they are not entitled to relief. The land was sold for agricultural purposes. It has no other value. Would, sir, you have the farmers to abandon cultivation, to cease production, to leave their homes and fields, to allow the jungle and forest to return? And if so, for what? Why, sir, they must cease cultivation, cease clearing, cease the use of the land forever, in order that it may remain or become fit for a purpose to which, according to the argument I am answering, they dare not put it.

The report continues:

> Among the causes which have produced this change(—*i. e.*, the lowering of the banks) we consider the following as important:
>
> 1. The clearing of the banks has accelerated the rate of caving, and has removed the conditions favorable to the arrest of sediment, and the elevation of the land

thereby. It is certainly observable, both in surveys and in an examination of the river banks, that forests exert considerable influence in retarding the caving. Wooded banks generally stand a little in advance of the shore line of an adjacent clearing. As soon as this projection becomes sufficient to expose them to great stress of current they also cave, but the observed facts are sufficient to justify the opinion that when the line of forest was unbroken and accompanied by canebrakes, trailing boughs and vines, the interlacing of roots and the tenacity of the sod, the rate of caving was considerably slower than at present.

Corroborating this view is the increased number of cut-offs. The trace of these characteristic changes in the river is well-nigh indelible. They lie for centuries, lakes embosomed in the recesses of the swamp, retainining the distinctive marks of their origin, the high alluvial bank, the width, and to a great extent the depth, of the present stream. Of these cut-off lakes about thirty-one can be already recognized below Cairo, probably completing a record extending back many centuries. But of this number not less than twelve, or about two-fifths, have occurred since the beginning of the present century. Each one intensified the activity of the cause by which it was produced, increasing the current and the caving above and below, and directing it against new points of attack, composed of recent deposits of sand, which disappear with appalling rapidity.

Yes, sir, with "appalling rapidity." That is the language of the writers—two of the most intelligent and able members of the commission. This is not speculation or theory, but an appalling truth, demonstrated by the facts as they exist to-day.

Is there nothing in this to induce this body to so use an admitted power in a perfectly constitutional manner, by the selection of appropriate means to attain a clearly constitutional end in such way as to prevent the destruction of property which the Government has sold and for which it has been fully paid, to restore it as to exemption from overflow as near as may be to the condition existing when the sale was made, a belief in a continuance of that condition being an essential element in the sale and purchase, and without which belief no sale could have been made?

Mr. President, there are other causes for the present overflow which will continue to operate forever, and which are even more directly traceable to the action of this Government and the people of the Union, and which therefore, strongly persuade us to give the relief asked for. I continue the reading from the same paper:

2. Other causes geographically remote, and extending throughout the tributary valleys, have contributed.

An immense mass of observations has been collected in this country and in Europe upon the effects of clearing, cultivating, and such other changes as have been rapidly going on in all the States bordering the tributaries of the Mississippi; upon the climate, rainfall, and drainage. Although much remains in doubt and indefinite, yet all testimony is concurrent to the establishment of certain conclusions, which theory would have led us to anticipate. The deforesting of extensive tracts, although it cannot be surely said to have affected the aggregate amount of rainfall, yet certainly has made the climate more irregular.

And this irregularity is the cause of all the trouble, both to navigation and the use of the lands, for a regular rainfall would prevent both high and low water.

The rains are less frequent, but more violent. The summers are longer and the winters shorter. Clearing, and the consequent loss of the layers of leaves, mold, and sod beneath the forests, has increased the surface drainage at the expense of that part of the precipitation arrested, absorbed, and stored in the depths of the earth as a supply for perennial springs which furnish the low-water volume of the streams. The breaking of the sod by plowing exposes the surface to erosion of earthy and vegetable matter, sand, and still larger material swept by the more rapid drainage of the surface into and down the beds of the streams. It is the observation of pilots that the amount of gravel in the river has largely increased in the past thirty years. This must come mainly from the hillsides of the tributaries, and forms bars, which offer more resistance to erosion than the sandy and friable banks of the river.

It is therefore true that the agricultural development of the tributary basins of the Mississippi have contributed to make the floods of that river more violent and rapid to protect the low-water season and to add to the erosion and quantity of sediment moved by floods, and the sand and gravel bars of low water. These views concerning the effect of deforesting and cultivation are entertained by Humphreys and Abbot, and all authorities who have written on the subject. These changes of regimen are intimately and injuriously connected with the obstruction of navigation and the caving of the banks. To them may also be added the wash of steamboat waves, as having a destructive effect upon the banks and levees, particularly at certain stages of the river.

Further than that, as stated in the extract, large quantities of gravel which are not easily removable are found in the river, which were deposited there by the tributaries, and the ability of the tributaries to deposit is caused by the cultivation of the hillsides over which the water flows.

It is thus seen that the progress of the country—this astonishing, not to say marvelous, progress, which has given to us since the settlement of the Lower Mississippi Valley so many great States in the Northwest and which is continually adding to the cultivated lands in that region, all of which is drained by the Mississippi River—I say this progress and cultivation have added and are adding daily to the difficulty of protecting the Lower Mississippi River from these great floods. This progress, which ought to be a source of unmixed joy and pride to every American citizen, yet contains a deadly sting in it to the prosperity and safety of the dwellers in the Lower Mississippi Valley if they be unaided in their efforts to ward off the consequences pointed out in the extract I have read. Every new field cleared, every ditch dug, every furrow made by the plow, for the reasons stated in the extract, adds to the already overmastering violence of these floods and to the diminished volume of low water. Will not the people of this large section of the Union—great, prosperous, advancing—see that the grave calamities to which they are unwilling yet unavoidable contributors, shall be mitigated by an exercise of our undoubted power of the National Government.

But, sir, in the two last lines I have read from the preceding extract is contained, if possible, a more potent argument than all the others to urge this body to the passage of the bill with the amendment of the Senator from Arkansas. I will repeat them.

To them—

The foregoing causes of overflow—

may be added the wash of steamboat waves as having a destructive effect on the banks and levees, particularly in certain stages of the river.

Here we have another potent cause of the destruction of the levees and banks arising from the very servitude to which the Government devotes the river. This servitude we propose to increase by an improvement of the navigation. It will increase from this action of Congress and it will continue to increase till there shall be an end to the progress and advancement of the country. Already this inland sea in seasons of good navigation is vexed hourly at every point by the countless steamboats which carry the commerce of the West and South. If the navigation of the river shall be made safe and convenient, as we propose and as the needs of the country demand, there will be a ceaseless beat of these waves on the banks and levees, causing caving in of the one and abrasion and breaking of the other. Is it right and just to the people of the Mississippi Valley to put upon them the expense and duty of rebuilding and repairing what we are hourly destroying? This fact alone, even if the people were able to make the levees, appeals with great force to Congress to lift this burden from them, and this appeal comes with resistless force when it is shown, as it is here, that the improvement we are authorizing may be properly made in a way which will counteract the injury it inflicts, and when it is further shown that the ability of the people of the Mississippi Valley is unequal to the task of counteracting the injury we are inflicting.

Mr. President, there is one other consideration of a similar character in favor of improving the river so as to protect the lands from overflow. It arises from the fact that the present and most effective method of improving the tributaries—the method we adopt—is to remove bar-shoals and other obstructions to the free flow of the water in their channels, whereby the current is hastened in high water to the Mississippi River. This hastening of the waters causes an increased height in the floods of the Mississippi River, rendering higher, stronger, and more costly levees absolutely necessary.

It seems too plain to require argument that if we do anything which causes the floods to rise higher in the Mississippi River, it is our plain duty in improving it to do it in such manner as to mitigate as far as possible the injury which we inflict.

And now, Mr. President, I have stated the reasons which justify, in my judgement, this expenditure.

I wish to say something more to induce the Senate to adopt the amendment of the Senator from Arkansas, both as to the phraseology employed in directing the expenditure and as to the amount to be given.

I do not believe, sir, that the language of the bill will prevent the Mississippi River commission from building the levees, for I am sure that the levees will materially aid in the improvement of the navigation of the river, and I feel a great confidence that the members of the commission entertain the same view. But, sir, when I remember that the bill as it stands was sustained and construed by the very able and ingenious, yet, as I have shown, erroneous speech of a member of the committee who reported it, the Senator from Indiana, [Mr. HARRISON]——

Mr. HARRISON. Will the Senator allow me to correct him just at that point? I am not a member of the committee.

Mr. GEORGE. I thought the Senator was. The Senator ought to be.

Mr. HARRISON. I am much obliged.

Mr. GEORGE. I fear that a narrow construction will be put on the powers of the commission, and that they may not feel at liberty to exercise their unrestrained judgment in the disbursements of the fund appropriated. It is to remove all doubt, to leave to the commission the exercise of their judgment as to what should be done to repair or build levees in order to aid in the improvement of navigation, that I hope the phraseology may be changed. In so important a matter we ought to make our meaning clear. As to the amount, I think it is important that $15,000,000 should be appropriated. I agree with the Senator from Maine that this amount cannot be economically expended during the fiscal year, I do not expect that it will be expended within that time. But, sir, the designation of that sum is of vast importance to the people of the Mississippi Valley. It gives them the assurance that this Congress is in earnest; that the river will be so improved as to protect them. It will give them hope and confidence in the future; it will remove despondency and in many cases despair. It will inspire them with new energy in the hard task before them, to repair their fortunes, to rebuild their desolated homes.

Mr. President, it has been my fortune to visit a portion of the overflowed district within the last month. I saw for myself that the picture of desolation and destruction had not been overdrawn. For miles I traveled in a small boat over plantations once rich and fertile beyond those in any other region. It was the season when should have met my vision cultivated fields, growing crops of corn and cotton, the busy, contented, and happy laborer, with cheerful toil, working for the remunerative harvests of autumn.

The land was the bottom of a wide and, to all appearances, a bound-

less expanse of water, which bore on its bosom the sad but sure evidence of its destroying power—floating fences and houses, and the carcasses of drowned and starved domestic animals. The laborers were crowded and huddled in the higher parts of their dwellings, with no means of egress but rafts and small boats, which had been improvised for the purpose. They were gloomy, despondent, disheartened, waiting with resignation for the slow recession of the destroying flood.

I found the planters equally depressed. Many were hopeless of a crop during the present year; many had suffered such losses in stock, buildings, and fences that they were unable to go forward when the land should again appear; many were talking of abandoning the unequal contest with the destroying floods and going to the hills.

Is it too much, sir, to ask that this measure shall be promptly passed? I hope not, since it is commended to our favorable action by every consideration of justice and fair dealing. It has, too, the sanction of the President, who in this respect should be considered as more fairly representing the wishes and views of the great body of the American people than Senators representing either the inundated country or those coming from more fortunate localities.

Mr. McPHERSON. Mr. President——

Mr. ALLISON. I ask now unanimous consent that this bill be informally laid aside in order that I may ask the Senate to take up House joint resolution No. 197, being a joint resolution relating to the public printing.

The PRESIDING OFFICER. The Chair will first recognize the Senator from New Jersey as entitled to the floor on the pending bill.

Mr. McPHERSON. I will give way if the Senator wishes me to do so.

Mr. ALLISON. I ask the Senator from New Jersey to give way. I do not think this joint resolution will take a great deal of time.

Mr. McPHERSON. It is understood that I have the floor on the pending question.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

PRINTING DEFICIENCY APPROPRIATION.

Mr. ALLISON. I am directed by the Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriation for public printing and binding for the fiscal year ending June 30, 1882, to report it without amendment. I ask unanimous consent that it may be considered at this time.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. ALLISON. I do not know but that a brief explanation of this resolution may be required. It supplies a deficiency of $465,000 for public printing for the current year. It is estimated that if this amount is appropriated all the necessary printing for the current year can be done. I do not know whether any further explanation is required. If not, I ask that the resolution be passed at once.

Mr. BECK. I do not propose to debate it, but I should like to know of the chairman of the committee when he speaks of all the necessary printing, just what he means by that. I think the Senate ought to be advised of the real condition of this matter. The public printing has gone on now till we have spent $2,500,000 this year thus far; and when we had the little urgent deficiency bill here some time ago, and the Senate sought to give $200,000 more than the other House proposed, that economical House of Representatives would not allow it to go in; it had to be stricken out, and now they come with a deficiency bill of $465,000, and still have to lop off a very large amount of public printing in order to make this money carry us through the fiscal year.

I think there ought to be some explanation, unless we are just going to give all that anybody asks and print all that anybody wants. The committee were told this morning that the census reports, which are about the only essential things the people of this country seem to want, will not be given to us for two or three years to come. I believe a million and a half has already been appropriated for them, and they will cost two or three millions. Everybody is writing on every subject connected with the census whatever he likes, and it seems as though we are going to have a series of essays on every subject; and the compendium of the census is likely to appear about 1885, or perhaps about the time we shall be ordering a new census to be taken. We were told to-day that for one book the engravings alone would cost $95,000, and the paper for it was $25,000 more. What book was that?

Mr. ALLISON. That was the Agricultural Report of 1880.

Mr. BECK. Yes, the Agricultural Report.

Mr. ALLISON. The illustrations for the Agricultural Report of 1880, now nearly ready for distribution, cost $95,000.

Mr. BECK. I had a memorandum of what was reported to us. I think it is due to the Senate that the chairman of the committee should just tell the tangle we are in now about this matter and the number of useless things we are printing; and it is the fault of ourselves, for everything that comes to Congress is printed, and the amount of trash that we are ordering would break any Government but this. This Government cannot be broken, of course; it can spend any amount; there is no end to it. But why should the census reports be three years behind, for that is the shortest time anybody estimates that we shall get them; and we cannot get even the compendium till everybody writes all he likes. There are to be thirty volumes in all probability of reports of the census; they are swelling up; men are writing away yet and will continue to write for a year or two.

Mr. ANTHONY. Does the Senator from Kentucky hold the chairman of the Committee on Printing responsible for the expenditures of the Printing Office?

Mr. BECK. No; I hold the Senate and the House of Representatives responsible, and I hold myself partly responsible as one member of this body.

Mr. ANTHONY. Congress passes deficient appropriations for printing, and then orders large numbers of volumes to be printed not contemplated when the estimates for the appropriations were made. There is nothing printed at the Government Printing Office unless according to statute or by order of Congress, and not a bill is paid out except upon vouchers. The Public Printer draws two-thirds of the amount of his bond and when he has given vouchers for his subsequent expenditures he draws enough to make two-thirds of his bond in addition.

Mr. BECK. The chairman of the Printing Committee will allow me to interrupt him. There is what they call the Unabridged Message and Documents; I think eleven or twelve or thirteen volumes. Of course they ought to be printed; but they are sent to my home in bags and I cannot get anybody to take them. I do not know what to do with them; nobody wants them. How much their printing costs I do not know.

Mr. ANTHONY. Does the Senator know how many he has of those?

Mr. BECK. I do not know.

Mr. ANTHONY. He gets fourteen, I think.

Mr. BECK. Fourteen sets, of eleven volumes each?

Mr. ANTHONY. I think so.

Mr. BECK. I do not think any member of the Senate or House has need for more than one or two; but that work is only a specimen.

Mr. ANTHONY. Those volumes are printed according to statute. I find use for all mine in public libraries.

Mr. BECK. I will send all mine to the Senator for that use.

Mr. ANTHONY. I shall be glad to have them; I can distribute them. The Committee on Printing have several times reported a bill, which has twice passed the Senate but has not met the favor of the other House, to restrict the number of volumes printed. The Committee on Printing have uniformly, year after year, reported against the enormous numbers of the Agricultural Report printed. I think we have not had the support of the Senator from Kentucky in that attempt at reduction. Congress prints 300,000 copies of the Agricultural Report.

Mr. BECK. It is the only book of any account I ever knew to come from the Printing Office—the only book of any value.

Mr. ANTHONY. I think it is a valuable book, but I think that if we print 300,000 copies of the Agricultural Report we might very well print a similar number of reports upon mechanics and manufactures and other industrial arts. At all events the Committee on Printing have uniformly reported against this enormous edition and have been as uniformly defeated. As the chairman of the Committee on Appropriations has said, the illustrations for the Agricultural Report and the report on the diseases of swine last year cost $96,000—the illustrations alone.

Mr. BECK. This fact must not be overlooked: the total amount appropriated last year for printing was $2,100,000. This year we have got it up to $2,555,000, nearly $500,000 more already, and they have to lop off $200,000 of unfinished work in order to make this money last to the end of the year, and discharge a very large number of persons employed that they say they have no work for.

Mr. ANTHONY. The remedy is not in ordering the work, not in refusing to appropriate for it after it has been ordered. Every blank book, every account book, every blank, every bill, every article of printing needed from Portland to Galveston for all the public offices, for all the custom-houses, for all the post-offices, for all the land offices, for all the internal-revenue offices, is printed in this Printing Office, and as the country is growing the demands are constantly increasing, and it is impossible to get along without the printing.

Besides that, it has been the pleasure of Congress to pass an act requiring the Public Printer to pay a larger sum for eight hours' work at the Public Printing Office than private printers pay for ten hours' work. That makes an enormous addition to the charge for printing; and although it costs more to print here than it does anywhere else in the country, except perhaps at New Orleans and San Francisco, yet the work is done much cheaper now than it was under contract. Blank books are printed now for $27 that cost $59 under the contract system; and the printing here is done, according to the testimony of the Treasury officers, 50 per cent. better.

We have done everything we can on the part of the Committee on Printing to restrict the amount of printing; but in the first place the demands of the Departments increase, and in the second place the orders of Congress increase.

Mr. BECK. Permit me to say a word. I do not expect to vote against this deficiency bill; but when the Senate inserted $200,000 in the last deficiency bill it was stricken out by the House because it appeared very extravagant. Now comes an appeal for $465,000,

and then it will require $200,000 more, if all the other printing already ordered is done, and there is a large number of hands to be discharged. The question is, How can we stop this? Something must be done; and how can we get the necessary printing done? Why should the census reports, which everybody wants, especially the compendium of the census, be delayed three or four years?

Mr. ANTHONY. I do not know that it is to be delayed for three or four years. It has not been prepared yet, and it cannot be printed until the copy is furnished. We have not got the estimate. I sent for the estimate a week ago and I expect to have it here to-morrow; but it will be an approximate estimate because the copy has not been furnished and the Public Printer cannot form an estimate, except approximately, of how much it will require to print it. I do not think the census report will be delayed three years, but if it be it will be for lack of appropriation.

Mr. ALLISON. Mr. President, there is no question of the fact that the demands of this Government in every department of it are constantly increasing. The appropriations for 1878, 1879, and 1880 were constantly increasing appropriations. Last year we appropriated $2,200,000 for this purpose; but the regular appropriation bill last year for the present fiscal year only contained $1,700,000, when it must have been perfectly well known that there would be a deficiency in the public printing. We spent $2,014,000 in the fiscal year 1880-'81, and yet only appropriated $1,700,000 last year for this purpose for the present current fiscal year. An immediate deficiency bill was passed here in February. It came to the Senate with an item of $400,000 for a deficiency for public printing. The Senate Committee on Appropriations inserted an additional item of $200,000 for that purpose, knowing perfectly well that the public printing could not be conducted unless this additional deficiency was appropriated; yet the House of Representatives struck that out and said we could get on during the remainder of the year. Now they send to us a joint resolution for a deficiency of $165,000. That is not enough to print all the volumes and documents and papers that have been ordered by both Houses of Congress. There will still be behind $286,000 in value of public printing which has been already ordered by Congress.

This printing is largely for the Departments of the Government, as has truly been said by the Senator from Rhode Island. The printing for the Departments alone costs a million dollars annually. All the blanks of the internal-revenue offices, all the custom-house blanks, all the Post-Office blanks, everything in the nature of public printing for the various Departments is printed at the Public Printing Office at an annual cost of a million dollars. The current printing of Congress costs $100,000 every three months. In this deficiency appropriation is an item of $100,000 for the ordinary current printing of this session from the 1st of April to the 1st of July, if we shall continue so long in session. The CONGRESSIONAL RECORD will require $45,000 to carry on the printing of it from this time till the 1st of July. Two hundred and twenty-five thousand dollars of this sum is for the different Departments of the Government.

Now, although it is true that we are constantly increasing the amount appropriated for this purpose, yet I think in the main these are necessary appropriations. Take the census printing alluded to by the Senator from Kentucky. Not one dollar of this appropriation can be or has been used for the purpose of printing the census report. The Public Printer said to us to-day that the estimate made for printing the census volumes, $1,500,000, would be required. That must be appropriated either next year or the year following, and if we have these great publications printed at the public expense, as the census report will be a great publication, amounting to from twenty-four to thirty-two volumes, the cost must be paid for in some way. That is perfectly apparent.

Mr. HOAR. Will the Senator from Iowa permit me to say that I have been informed, on what I regard as very high authority, that the printing of the census reports will cost about $2,700,000.

Mr. ALLISON. I will permit the Senator to say that, but I regret to hear him say it. Of course the cost of that work is not under the control of the Public Printer, and it is not reasonably under the control of Congress. These various volumes will be prepared under the direction of the Superintendent of the Census and they will doubtless all be valuable in the future; and whatever the cost is, of course the appropriation must be made. If the volumes are to be thirty-two, as some say, perhaps the cost will amount to what the Senator from Massachusetts indicates.

But all I desire to say now is, that the sum we appropriate here in the way of a deficiency is absolutely necessary and essential to carry on the ordinary operations of the Government for the remainder of this fiscal year, and not one dollar of this appropriation is for extraordinary or even unnecessary purposes, in my judgment. The Agricultural Report of 1881 has not yet been ordered to be printed. The Public Printer says that the copy of the report for 1881 is not yet in his office, so that in this appropriation there is nothing for the Agricultural Report of 1881. It is true that we ordered 300,000 copies of the Agricultural Report of 1880, at a cost of $240,000, which has been paid for out of these appropriations. So if we order 300,000 copies of the Agricultural Report of 1881 we must make the necessary appropriation for that purpose.

It seems to me that all we have to do now is to appropriate the amount asked for by the House of Representatives, and I trust another deficiency will not appear for this purpose during the present session.

The joint resolution was reported to the Senate without amendment.

Mr. HOAR. I should like to make one observation in regard to what has been said by the Senator from Iowa. The House of Representatives seem to have thought it a wise economy to refuse to concur with the Senate in making a provision that the members of the two Houses might communicate on public business with their constituents free of charge. It was proposed by the Senate that when a soldier, a pensioner, desired, as he often does, his Senator or Representative to act merely as a claims agent for him—which I suppose we are all very happy to do to the extent of our ability—the expense of that correspondence should not be paid for out of the private pocket of the member of the House or of the Senate. Of the wisdom of that judgment I have nothing to say; but at the same time the House of Representatives and the Senate maintain this costly, wasteful, extravagant system of publishing and distributing public documents, and I believe three or four times the House has refused to give any consideration to bills which have passed the Senate on the recommendation of the honorable Senator from Rhode Island, the chairman of the Committee on Printing, providing for the proper and suitable distribution of these costly documents.

The result is that while this Government publishes these works, which are all of them, or nearly all of them, of the very highest value, doing great credit to the science, to the enterprise, and to the liberality of the American people, yet they are left to be distributed by members of the House or Senators as they come and go, succeeding one another, on a system which has no possible relation to economy or to the public interest. We regard it as a mark of attention or respect to some friend or acquaintance to send him one of these volumes, so that when they come out in sets some of the volumes go to one man's shelf who never reads them, some of the same set go on to another's, and they are almost practically worthless, three-quarters of them, I suppose, for any purpose for which they were originally designed by Congress.

Take this matter of the census report which was alluded to by the Senator from Iowa. I understand there will be from twenty to twenty-eight volumes of that report, possibly thirty, and it is, I suppose, the most complete and perfect census ever taken on earth, certainly by far the most complete one ever taken in this country; and yet, perhaps, the early volumes of this report will go to one man, the late volumes to another, with no regulation by which the public libraries of the country can get them, unless by accident the member of Congress or the Senator chooses to select a particular public library as a depository, and the House of Representatives utterly refused to consider any well-regulated scheme for the distribution of these public documents. They are used, as a rule—not a universal rule—not for the purpose of disseminating knowledge among the people, not for the purpose of building up or aiding in building up public libraries; they are used simply as marks of attention and respect by members of this body or members of the other House to constituents to whom they want to pay a compliment. That is not universally true, but it is largely true.

The publication of the records of the war will reach I understand one hundred volumes, and will cost this country many hundreds of thousands of dollars before it is completed. The Medical and Surgical History of the War has already cost several hundred thousand dollars, and the census report I am informed, on high authority, will probably cost some $2,700,000 in publication.

It seems to me that instead of discussing the petty, pitiful subject of the franking privilege, it is about time to incorporate in one of these printing bills a provision for economy and for proper and useful distribution of these important and costly documents.

Mr. BECK. Mr. President, since this subject is up, I want to call attention to another thing which we shall have to meet in a day or two. I have been watching it for some time. House joint resolution No. 34, Order of Business 490, "to provide for the publication of the official report of the trial of the murderer of President Garfield," will come up soon on the Calendar; and God knows how many copies of that report will be ordered to be printed. Then after the "dying confession" there will be another edition revised and corrected, and then will come the Mason trial, of course with fine engravings of "Betty and the baby," and all the other proceedings will be got up and printed for the use of Congress and circulated at a cost of $100,000 or $200,000. This joint resolution on the Calendar I expect to be heard on when it is reached. These are the kind of things we are spending public money upon.

Mr. HAWLEY. Mr. President, the question suggested by the Senator from Massachusetts [Mr. HOAR] is one of importance and of interest. It is not new to the Committee on Printing, on which committee I have the honor to follow the distinguished Senator from Rhode Island, [Mr. ANTHONY.] There have been various propositions made. One bill was presented by the society of librarians. It proposes to provide a list of libraries worthy of having these volumes, and then that the books shall be sent to them without the intervention of Congressmen. I am sure many of us would like that very well. So far as the State I have the honor in part to represent is concerned, it would suit me because it is very easy to give a list of libraries there worthy of receiving the books. But then this difficulty

confronted us: in many sections of the country, especially the newer and more thinly settled ones, there are no libraries of consequence; the people are too poor and scattered to be able to avail themselves of a library, even if one should be built up in the middle of a county fifty miles square containing a few hundred people. So the result of the plan proposed by the librarians, and which had suggested itself to many persons, would be that these books would be very unequally distributed over the country. That is the prime difficulty in that proposition.

I certainly am unable to see how we can provide a public list that would be fair. I do not see how we can avoid having the major part of the distribution at the discretion of Congressmen. I see the difficulties and the abuses in that system. Some of them have been mentioned here. I will venture to point out one of them. In a very short time after books are published at our Printing Office, even the best and most beautiful of them, I can go to second-hand dealers in this town and buy them at half the cost to the Government of getting them out. I can also buy as many copies of the agricultural report for ten cents a copy as I need. That report this year is likely to cost us $240,000 for 300,000 copies, nearly a dollar apiece, eighty cents, to be exact; and I venture to say that in two weeks after we are notified that those volumes are to be issued I can buy them for fifteen cents apiece. This volume is to be worth a little more than some of the others, and perhaps the price will rise above the ten cents. If you will explain that in any way that is creditable to members of Congress, you will do more than I can do. I can go and buy the elegant set of volumes reporting the International Exhibition of 1876, a beautifully printed, valuable set, for about half what it cost the Government to print them. In short I might go through the whole list and say the same thing.

We are unquestionably wasting money, and we are unquestionably failing to reach the proper and legitimate and honorable purpose of publication in a large number of these cases. If anybody can give the Printing Committee light on that subject, I am sure we shall be very glad to get it. I see a hundred ways in which there may be money saved, pinching here and there, but it does not reach the great evil, that is, of lavish publications on the part of Congress.

Look at the work right before you here, [exhibiting a pile of bills.] There are, I understand, something like 10,000 different bills printed for the two Houses; 1,900 copies are printed of each bill introduced, upon excellent paper, rather costly paper, better than you find in any one of your newspapers, and as good as you find in most of your books; you can write upon it without blotting; it is in large type; there is a wide space between the lines, so that you may put in your corrections, and a broad margin. You cannot print 1,900 copies of 10,000 bills without making a pretty large bill of expense.

You go into the Departments, and every subordinate officer of any sort of consequence there feels quite at liberty to make up an annual report, to pad it out, and to print a very handsome pamphlet. There ought to be a little more restriction there, it seems to me. I do not know but that we can legislate to provide that there shall be a censor of printing in each Department, a man directly under the orders of the Cabinet officer, and that nothing shall go to the Printing Office without the assent of some responsible man there. In short there are a hundred channels through which this expense is incurred.

The joint resolution was ordered to a third reading, read the third time, and passed.

DUTIES ON KNIT GOODS.

Mr. PLATT. I ask permission to make a report at this time. The Committee on the Revision of the Laws, to whom was referred the bill (S. No. 1605) to correct an error in the Revised Statutes of the United States, have directed me to report it back, asking that the committee be discharged from the further consideration of it and that it be referred to the Committee on Finance; and I should like to make a statement in relation to the bill.

The object of this bill is to correct an omission in the Revised Statutes relating to the duty upon knit goods. As the law stood before the revision of the statutes the duty on knit goods was twofold, a specific duty of from twenty to fifty cents a pound according to the value of the goods and an ad valorem duty of 35 per cent. The specific duty was to offset the duty on the raw material, and the ad valorem duty was for the benefit of the manufacturer. In revising the statutes the specific duty was left out, so that only the ad valorem duty is levied. The result is that the manufacturer in many instances has to pay more for the duty on raw material than he is protected by the ad valorem duty.

The committee have examined it and are clearly of opinion that it is the result of a pure error, and they would have reported the bill favorably but, that they thought as it related to the tariff it had better come from the Finance Committee; and I venture to express the hope that it may be speedily acted upon by the Finance Committee.

The PRESIDING OFFICER. The Senator from Connecticut, from the Committee on the Revision of the Laws, reports back Senate bill No. 1605, and asks that that committee be discharged from its further consideration, and that it be referred to the Committee on Finance.

The report was agreed to.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1993) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States, relating to the collection districts of California, was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 2997) granting right of way to the Fremont, Elk Horn, and Missouri Valley Railroad Company across the Niobrara military reservation in the State of Nebraska, and authorizing the sale of a portion of said reservation, was read twice by its title, and referred to the Committee on Military Affairs.

FORT MAGINNIS POST.

The following message from the President of the United States was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a letter from the Secretary of War, of the 18th instant, inclosing plans and estimates for the completion of the post of Fort Maginnis, Montana Territory, and recommending an appropriation for the purpose of $25,000, as called for by the estimates.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 20, 1882.

RELATIONS WITH MEXICO.

The following message from the President of the United States was referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a note addressed by the minister plenipotentiary of Mexico to the Secretary of State, proposing the conclusion of a convention between the two countries for defining the boundary between the United States and Mexico from the Rio Grande westward to the Pacific Ocean by the erection of durable monuments. I also lay before Congress a letter on the same subject, with its accompaniment, from the Secretary of War, to whom the proposition was referred by the Secretary of State for the expression of his views thereon.

I deem it important that the boundary line between the two countries, as defined by existing treaties and already once surveyed, should be run anew and defined by suitable permanent monuments. By so doing uncertainty will be prevented as to jurisdiction in criminal and municipal affairs, and questions be averted which may at any time in the near future arise with the growth of population on the border.

Moreover, I conceive that the willing and speedy assent of the Government of the United States to the proposal thus to determine the existing stipulated boundary with permanence and precision will be in some sense an assurance to Mexico that the unauthorized suspicion which of late years seems to have gained some credence in that republic that the United States covets and seeks to annex neighboring territory is without foundation. That which the United States seeks, and which the definite settlement of the boundary in the proposed manner will promote, is a confiding and friendly feeling between the two nations leading to advantageous commerce and closer commercial relations.

I have to suggest that, in accepting this proposal, suitable provision be made for an adequate military force on the frontier to protect the surveying parties from hostile Indians. The troops so employed will at the same time protect the settlers on the border and help to prevent marauding on both sides by the nomadic Indians.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 18, 1882.

ADJOURNMENT.

Mr. ALLISON. I move that the Senate adjourn.

The PRESIDING OFFICER. Before putting the motion the Chair will lay before the Senate the unfinished business, which is the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers. The question is on the motion of the Senator from Iowa.

The motion was agreed to; and (at five o'clock and nine minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 20, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

CORRECTION OF A BILL.

Mr. ATKINS. I desire to offer the following resolution, to which I have no idea there will be objection, and ask its present consideration.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Concurrent resolution to correct an error in the preparation of a bill to provide for the payment of certain claims.

Be it resolved by the House of Representatives, (the Senate concurring,) That in enrolling the bill H. R. No. 3869, an act for the allowance of certain claims reported by the accounting officers of the United States Treasury Department, the Clerk of the House be directed to omit the following words where they occur on page 77 of said bill as printed: "to R. S. James, administrator of John S. James, deceased, of Henry County, $270," said provision being a duplication of an appropriation in the same words on page 76 of said bill, and both referring to one claim.

Mr. ATKINS. That appears to have been an oversight in printing the bill, and this provides for its correction.

For safety, I desire to have the following telegrams go into the RECORD:

HOUSE OF REPRESENTATIVES UNITED STATES, *April* 19, 1882.

To THIRD AUDITOR, *Treasury Department:*

On pages 76 and 77 of H. R. No. 3869, private claims, an appropriation for R. S.

James, administrator of John S. James, for $270 occurs twice. Is this as it ought to be?

EDWD. McPHERSON,
Clerk House Representatives United States.

To Hon. E. McPHERSON:

R. S. James, administrator of John S. James, for $270, had one claim allowed for that sum. There appears to have been a duplicate entry of the same claim. Please cause one amount to be expunged from bill H. R. No. 3869.

A. M. GANGEWER,
Acting Third Auditor.

The SPEAKER. The question is on the adoption of the resolution.

The resolution was agreed to.

Mr. ATKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on table.

The latter motion was agreed to.

EVENING SESSION FOR DEBATE ON TARIFF-COMMISSION BILL.

Mr. KASSON. I beg to present to the House, and ask consent for the adoption of a proposition. Several gentlemen desire to be heard on the tariff-commission bill, and I ask that there be a session of the House this evening at eight o'clock for debate upon the tariff bill only.

Mr. HAMMOND, of Georgia. I object.

Mr. KASSON. I understood that gentlemen upon the other side of the House had withdrawn their objections.

Mr. HAMMOND, of Georgia. I did not object before; but I do now.

FREMONT, ELK HORN AND MISSOURI VALLEY RAILROAD.

Mr. VALENTINE. I desire again to call up for present consideration the bill (H. R. No. 2997) granting right of way to the Fremont, Elk Horn Valley and Missouri River Railroad Company across the Niobrara military reservation, in the State of Nebraska, and authorizing the sale of a portion of said reservation. This is the bill which was cut off from consideration yesterday by a demand for the regular order, made by the gentleman from Indiana, [Mr. HOLMAN.]

The SPEAKER. The gentleman from Nebraska asks unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of House bill No. 2997, and that it be brought before the House for present consideration. The bill will be read.

The Clerk read as follows:

Be it enacted, &c., That the Fremont, Elk-Horn Valley and Missouri River Railroad Company, a corporation duly organized under the laws of the State of Nebraska, are hereby granted the right of way for their said railroad across and through the Niobrara military reservation, located in said State of Nebraska; said right of way to be one hundred feet in width, not to interfere with any buildings or improvements thereon, and the location thereof to be subject to the approval of the Secretary of War.

SEC. 2. That the Secretary of the Interior is hereby authorized to sell to said Fremont, Elk-Horn Valley and Missouri River Railroad Company one-half section of land, at a price of not less than $2.50 per acre, for depot and other railroad purposes, to be selected by said company from the wood and timber reserve of said reservation, said land to be devoid of timber: *Provided*, That the selection of said land for depot purposes shall first be approved by the Secretary of War.

Mr. VALENTINE. There are amendments offered by the committee which I desire to have read. They change the bill somewhat, and also change the name of the corporation.

The Clerk read the proposed amendments, as follows:

In line 3, section 2 of the bill, strike out the words "one-half section" and insert the words "forty acres."

In the first and second sections of the bill, after "Elk-Horn," strike out "Valley;" after "Missouri," strike out "river;" and before "railroad," insert "valley."

Amend the title so as to read: "A bill granting right of way to the Fremont, Elk-Horn and Missouri Valley Railroad Company across the Niobrara military reservation in the State of Nebraska, and authorizing the sale of a portion of said reservation."

Mr. HOLMAN. As this bill simply grants the right of way one hundred feet in width, with authority to purchase forty acres of land from the Government, I withdraw my objection.

Mr. DUNNELL. How many parcels of forty acres are purchased?

Mr. VALENTINE. Only one. Those forty acres are considered sufficient for depot purposes.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VALENTINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CALIFORNIA COLLECTION DISTRICT.

Mr. BERRY. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 1993) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States, relating to the collection districts of California, and that it be brought before the House for present consideration.

Mr. HOLMAN. Let the bill be reported.

The bill was read, as follows:

Be it enacted, &c., That section 2582 of the Revised Statutes be amended so as to read as follows:

"SEC. 2582. There shall be in the State of California four collection districts, as follows:

"First. The district of San Diego; to comprise all the waters and shores of the county of San Diego; in which San Diego, on the Bay of San Diego, shall be the sole port of entry.

"Second. The district of Wilmington; to comprise all the waters and shores of the counties of Santa Barbara, Ventura, Los Angeles, and San Bernardino; in which Wilmington, on the Bay of Wilmington, shall be the sole port of entry, and Santa Barbara a port of delivery.

"Third. The district of San Francisco; to comprise all the waters and shores of the State north of the counties embraced in the second district and south of the county of Humboldt; in which San Francisco shall be the port of entry, and Vallejo a port of delivery.

"Fourth. The district of Humboldt; to comprise all the waters and shores of the counties of Humboldt and Del Norte; in which Eureka, on the Bay of Humboldt, shall be the sole port of entry, and Crescent City a port of delivery."

That section 2583 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 2583. There shall be in the collection districts of California the following officers:

"First. In the district of San Diego, a collector, who shall reside at San Diego.

"Second. In the district of Wilmington, a collector, who shall reside at Wilmington; a deputy collector, who shall reside at Wilmington; and one inspector, to be appointed by the collector, with the approval of the Secretary of the Treasury, for the port of Santa Barbara.

"Third. In the district of San Francisco, a collector, a naval officer, a surveyor, who shall reside at San Francisco; two appraisers, two assistant appraisers, and a special examiner of drugs, medicines, and chemicals; a deputy collector, who shall reside at Vallejo; an inspector at Monterey, an inspector at Sacramento, an inspector at Benicia, and an inspector at Stockton.

"Fourth. In the district of Humboldt, a collector, who shall reside at Eureka; and one inspector, to be appointed by the collector, with the approval of the Secretary of the Treasury, for the port of Crescent City."

That section 2607 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 2607. At the port of Wilmington, in the district of Wilmington, and at the port of San Diego, in the district of San Diego, and at the port of Eureka, in the district of Humboldt, the Secretary of the Treasury shall have power to appoint such inspectors, weighers, gaugers, measurers, and other officers as may be necessary for the collection of the revenue of those ports. Also such inspectors as he may deem necessary to enforce the customs laws along the boundary between the Republic of Mexico and the counties of San Diego and San Bernardino."

That section 2684 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 2684. The collector of the district of San Diego shall receive a salary of $2,000 a year; the collector of the district of Wilmington shall receive a salary of $3,000 a year, and the deputy collector of said district shall receive a salary of $1,500 a year; and the collector of the district of Humboldt shall receive a salary of $3,000 a year."

Mr. O'NEILL. I desire to offer an amendment to the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BURROWS, of Michigan. I do not care to object if some explanation is given.

Mr. TOWNSHEND, of Illinois. If it is understood that gentlemen who may desire to criticise the bill may be heard, I will make no objection.

Mr. BERRY. I desire to make a statement.

Mr. BURROWS, of Michigan. The right to make objection being reserved.

The SPEAKER. The right to object will be reserved.

Mr. BERRY. This is an amendment of certain sections of the Revised Statutes necessary to make the port of Wilmington a port of entry and the port of Eureka a port of entry. All the bill does is to create two new collection districts. That necessitates the appointment of a collector in each of those districts. The bill also constitutes San Luis Obispo a port of delivery, and also Crescent City a port of delivery. The whole scope of the bill is to appoint two new collectors, one deputy, and two new inspectors, making five officers in all.

Mr. PACHECO. It has the approval of the Secretary of the Treasury.

Mr. BERRY. Yes; the bill has the approval of the Secretary of the Treasury. I wish to say here the port of Eureka is the second port in the State of California. We have more than a thousand miles of coast and have only two ports of entry. This is a port from which there were more than three hundred cargoes passed out and in last year. Thirty of those cargoes were to foreign ports; yet they had to report at the port of San Francisco and then to sail three hundred miles north and enter the port of Eureka. This is absolutely necessary. The bill has been examined by the Committee on Commerce and unanimously reported; and if gentlemen understood the facts of the case they would see there could be no objection to it.

Mr. HOLMAN. I understand the gentleman to say that this is recommended by the Secretary of the Treasury.

Mr. BERRY. Yes, sir; it is recommended by the Secretary of the Treasury. I will state also that a bill constituting Wilmington a port of entry has passed the Senate and is now on the Speaker's table.

Mr. HOLMAN. As I understand, there are now two districts.

Mr. BERRY. Yes, sir; two districts.

Mr. HOLMAN. And this increases the number to four?

Mr. BERRY. It does.

Mr. HOLMAN. What effect has it on the present salaries?

Mr. BERRY. The salaries are the same as before. The new collectors will receive a salary of $3,000 each.

Mr. HOLMAN. Do the present two collectors have $3,000?

Mr. BERRY. One has the same salary; the collector of the district of San Francisco has more.

Mr. HOLMAN. By this bill the deputy collector receives a salary of $1,500. Is that the present salary?

Mr. BERRY. Yes.

Mr. BURROWS, of Michigan. The gentleman from California has stated that this is recommended by the Secretary of the Treasury.

I understand the gentleman has the letter of the Secretary, and I ask that it be read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McCOID. I object.

Some time subsequently Mr. McCOID withdrew his objection.

The SPEAKER. The Chair will again submit the question whether there is objection to the present consideration of the bill.

Mr. TOWNSHEND, of Illinois. I wish to know if the proposition is simply to consider the bill.

The SPEAKER. That is the proposition. The Chair hears no objection.

Mr. BURROWS, of Michigan. Now I call for the reading of the letter of the Secretary of the Treasury.

Mr. DUNNELL. Let the report of the committee also be read.

The Clerk read the letter of the Secretary of the Treasury, as follows:

TREASURY DEPARTMENT, *February* 8, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, transmitting a copy of House bill No. 76, entitled "A bill to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States, relating to the collection districts of California," and requesting the views of this Department "as to the propriety of making the port of entry at Wilmington."

In reply I have to respectfully inform you that this Department sees no objection to the passage of the bill referred to.

Very respectfully,

CHAS. T. FOLGER, *Secretary.*

Hon. M. C. GEORGE, *House of Representatives.*

Mr. HOLMAN. This bill is not recommended by the Secretary of the Treasury as necessary; he simply says that he does not object to it.

Mr. PACHECO. This bill passed the last House, and has been thoroughly investigated by several committees of the House.

Mr. HOLMAN. The Secretary of the Treasury presents no public reasons for this bill.

Mr. PACHECO. He says there is no objection to it.

Mr. HOLMAN. It increases the number of public offices.

Mr. DUNNELL. Let the report be read.

The SPEAKER. The report will be read.

Mr. REAGAN. Allow me to say in regard to the bill before the House that both of the new ports are recommended by the Treasury Department, and they have the unanimous concurrence of the Committee on Commerce. The port at Wilmington is the transfer of a port from another place; and the one at Eureka is for the accommodation of a long stretch of coast where there is a great deal of local business. The Committee on Commerce had no doubt but both are required, and they have recommended both. I hope the House will pass the bill.

The SPEAKER. The Clerk will read the report.

The report was read, as follows:

This bill, by amending sections 2582, 2583, 2607, and 2684 of Revised Statutes, provides for four collection districts in the State of California.

The existing law and a bill heretofore reported from this committee provide for three districts—San Diego, Wilmington, and San Francisco. This bill makes Eureka, in Humboldt County, a port of entry, and Crescent City, in Del Norte County, a port of delivery.

The Commerce of Eureka, situated on Humboldt Bay, is second in importance in the State of California.

This bay is the only outlet to an immense body of redwood timber, almost inexhaustible in extent; it is also the point of distribution for a very large district of country rich in agricultural and grazing lands and precious metals.

It is estimated that the export values from this port reached a figure of over $2,000,000 for the year 1881, comprising three hundred and ninety-seven cargoes, thirty of which were to foreign ports.

There is springing up an increased demand from Australia, China, South America, Mexico, and other foreign countries, for the redwood lumber of that region. This port is three hundred miles north of San Francisco, which is the nearest port of entry.

We are satisfied that commerce will be facilitated and the interests of that part of the State advanced by the passage of this bill. The Secretary of the Treasury has been consulted in this matter, and has informed the committee that "he sees no reason why the bill should not become a law." We therefore recommend its passage.

Mr. TOWNSHEND, of Illinois. As I understand it this bill is now before the House for consideration.

The SPEAKER. It is.

Mr. TOWNSHEND, of Illinois. And it will soon be submitted to the vote of the House. I rise for the purpose of saying that I shall not be able to vote for this bill, because it creates several new offices, and I should prefer that a bill of this character should have a more deliberate consideration than it can receive at this time. But as it is apparent that we have inaugurated for the remainder of this session this method of passing bills by unanimous consent, in order that it may not be monopolized by a few persons, I shall insist that hereafter the list of members be called, the first on the roll alphabetically being called for the first bill and the last on the roll for the second bill, and so on alternately, so that each member of the House may have it in his power to call up one bill for consideration.

It is apparent that those members known as the watch-dogs of the Treasury have about yielded their objections to the passage of bills by unanimous consent. If so, it is only right and just that every member on this floor shall have the privilege of calling up for consideration, not for passage simply, but calling up for consideration at least one bill.

The other evening, just before the House adjourned, a gentleman called up a bill involving an appropriation of three hundred or four hundred thousand dollars. The bill was not even read, but was put upon its passage and passed by the House. Now I insist that hereafter each member of the House shall have the privilege of calling up at least one bill for consideration. In regard to this bill, as I have already said, I shall vote against it.

Mr. O'NEILL. I desire to offer an amendment to this bill. Before doing so I will say that the gentleman from Illinois [Mr. TOWNSHEND] is altogether mistaken. I think that if we shall trust to the generosity of our fellow-members on this floor we will, many of us, get bills through by unanimous consent. But if we resort to the roll some of us never will be reached, no matter how long the session may be. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Add the following:

"And the salary of the appraiser of the port of Philadelphia shall hereafter be $5,000 per annum."

Mr. HOLMAN. I object to that amendment.

Mr. ROBESON. I desire to offer an amendment to the amendment.

Mr. PACHECO. I object to the amendment.

The SPEAKER. An objection to the amendment is not sufficient; the bill is under consideration.

Mr. HOLMAN. The amendment is not germane to the bill.

Mr. O'NEILL. I do not see why.

Mr. HOLMAN. It is independent legislation, and changes the present existing law.

The SPEAKER. The Chair is inclined to sustain the point of order.

Mr. O'NEILL. Of course the Speaker will not rule my amendment out of order. This is a bill in relation to the collection of customs. It does not matter what locality may be affected by this bill. The customs of the country are for the whole country.

Now, my amendment is to raise the salary of a most meritorious officer in the port of Philadelphia, whose salary is less than that of any appraiser in any port in the country except where there are two appraisers. Whenever I can get the opportunity I propose to offer an amendment to put the salary of that officer at $5,000 a year, as it should be.

Mr. PACHECO. This bill relates only to California.

The SPEAKER. The Chair was inclined at first to think that the amendment was subject to the point made by the gentleman from Indiana, [Mr. HOLMAN,] that it changes existing law. But it is not an amendment to an appropriation bill.

Mr. HOLMAN. But it is an amendment which we have a right to make the point upon that it shall be first considered in Committee of the Whole.

The SPEAKER. But the bill is under consideration in the House by unanimous consent.

Mr. HOLMAN. But the amendment is subject to the point of order that it must go to the Committee of the Whole. Every proposition of the kind must go to the Committee of the Whole.

The SPEAKER. The Chair will be obliged to the gentleman from Indiana if he will call attention to the rule upon which he bases his point of order.

Mr. HOLMAN. The rule is imperative that every proposition changing existing law and involving expenditures shall go to the Committee of the Whole. This amendment is an independent proposition.

Mr. PACHECO. This bill specifies and designates what sections of the Revised Statutes shall be amended. The amendment of the gentleman from Pennsylvania [Mr. O'NEILL] is hardly germane to this bill.

Mr. O'NEILL. I do not wish to interfere with the bill of the gentleman from California; I would prefer to withdraw my amendment rather than have it endanger his bill. But my amendment is proper and germane to the subject of the bill. I desire, while I have this present opportunity, (for I know how few opportunities occur in this House,) to get legislation which is good. Hence I must adhere to my amendment.

Mr. PACHECO. You will kill the bill.

Mr. CANNON. It occurs to me that the gentleman's amendment is not germane and therefore not in order. If this amendment were admissible, then it would be in order for me to offer an amendment to increase the salary of the assessor at Chicago, or for my friend from New Jersey [Mr. ROBESON] to offer an amendment decreasing the salary of the collector at the port of Philadelphia.

Mr. ROBESON. That is just what I wish to do. I have always held that the salary should be reduced.

Mr. O'NEILL. The amendment of the gentleman from New Jersey would not be in order upon this bill. I am willing to accept the amendment indicated by the gentleman from Illinois [Mr. CANNON] as an amendment to my amendment. These poorly paid appraisers of the ports have my sympathy, and I desire that the appraisers at the port of Chicago should have their salaries raised to what they should be.

Mr. BERRY. I hope the amendment will be voted down.

The SPEAKER. The question is on the point of order, not now on the merits of the amendment. The gentleman from Indiana will be heard on the point of order.

Mr. HOLMAN. I understand the Chair to hold that this bill is

now before the House for consideration, just as though it had come up in the regular way under the rules. Now there is offered as an amendment an independent proposition, which changes existing law and involves an appropriation. I submit that the point of order upon this proposition, as changing existing law and involving an appropriation, applies to the amendment just as it would have applied to the original bill, if the bill had come before the House for consideration in the usual way.

Mr. O'NEILL. I do not imagine the gentleman from Indiana intends seriously to press this point of order.

Mr. HOLMAN. Oh, yes, I do.

Mr. O'NEILL. I can hardly suppose that a member who has had so much experience as the gentleman from Indiana can fall into the mistake of believing that the point of order is applicable, as the Speaker has indicated this is not an appropriation bill.

Mr. HOLMAN. It involves an appropriation.

Mr. O'NEILL. And the gentleman must know that it is amendable in any way, provided the proposed amendment is germane to the bill.

Mr. HOLMAN. The amendment involves an appropriation of money and increased expenditures.

Mr. ROBESON. I have sent to the Clerk's desk an amendment, which will not meet with objection from the gentleman from Indiana, [Mr. HOLMAN.] It is to decrease the salary of the collector of the port of Philadelphia $2,000.

Mr. HOLMAN. I have no objection to that.

Mr. O'NEILL. I raise a point of order on the proposition of the gentleman from New Jersey, [Mr. ROBESON.] This is not a question of decreasing salaries on this bill, but as to increasing them, and the gentleman cannot come in here proposing to add to the bill an amendment to decrease a salary. [Laughter.]

Mr. SINGLETON, of Illinois. I desire to inquire whether a motion to lay the amendment on the table would not carry the bill with it?

Mr. PACHECO. Of course it would.

Mr. SINGLETON, of Illinois. I would like an answer from the Chair.

The SPEAKER. That motion cannot yet be made, because a point of order is pending against the amendment, and it is not yet determined that the amendment is before the House as a proper amendment to the bill. The Chair has indicated that in its view the amendment was not subject to the point that it changed existing law, because that rule applies only to general appropriation bills. But the point is made that this amendment is not germane to the bill; and the further point is raised that the amendment includes a proposition to increase a salary, which would result in requiring a further appropriation of money. Under paragraph 3, of Rule XXIII, this becomes an important question. The Clerk will read that paragraph.

The Clerk read as follows:

All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

The SPEAKER. The question of doubt with the Chair is whether this point of order can be made as against a mere amendment, not a bill. But the Chair is inclined to hold that the amendment is not germane to the bill, and therefore rules it out of order.

Mr. O'NEILL. I am very sorry the Speaker has come to that conclusion; but perhaps I am not altogether displeased, as the gentleman from California [Mr. PACHECO] fears that the effect of the amendment would be to defeat his bill in the House. On the contrary, I think my proposition would have strengthened his bill very much, and would have hastened its enactment into a law.

Mr. HOLMAN. I submit that the salaries proposed to be paid under this bill are far above the average. I therefore move to amend so as to reduce the salaries of the three collectors, other than the collector at San Francisco, to $2,500 each.

Mr. PACHECO. I shall certainly object to that. The bill proposes to give what has usually been received there.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] will please send up his amendment in writing, or indicate it so that the clerks can put it in proper form.

Mr. HOLMAN. My motion is that in the three districts other than the San Francisco district the salary shall be $2,500, instead of $3,000.

Mr. ROBESON. Do I understand the Chair rules my amendment to decrease the salary of the collector of the port of Philadelphia out of order as not germane?

The SPEAKER. The Chair did not consider the point of order was made against that amendment.

Mr. O'NEILL. Yes; there is a point of order pending against that amendment made by myself.

The SPEAKER. The Chair is inclined to hold it is not germane to this bill.

Mr. O'NEILL. It would not be germane to this bill and I have raised the point of order against it. [Laughter and applause.]

The SPEAKER. The Clerk will read the amendment proposed by the gentleman from Indiana, [Mr. HOLMAN.]

The Clerk read as follows:

Line 65, strike out "3" and insert "2;" so it will read:
"The collector of the district of San Diego shall receive a salary of $2,000 a year."
Line 67, strike out "3" and insert "2;" so it will read:
"The collector of the district of Wilmington shall receive a salary of $2,000."
Line 70, strike out "3" and insert "2;" so it will read:
"The collector of the district of Humboldt shall receive a salary of $2,000 a year."

Mr. HOLMAN. I stated the reduction should be from $3,000 to $2,500 a year.

Mr. BERRY. The Clerk has not read the amendment correctly. Instead of reducing from $3,000 to $2,000 a year, the gentleman from Indiana moves only a reduction from $3,000 to $2,500 a year.

Mr. HOLMAN. Yes, that is my amendment, that the salary shall be $2,500 instead of $3,000.

Mr. HOLMAN's amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BERRY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAROLINE MOTT.

Mr. GROUT. Mr. Speaker, I ask by unanimous consent to take from the Speaker's table for present consideration and action the bill (S. No. 354) for the relief of Mrs. Caroline Mott, administratrix of the estate of Danford Mott.

Mr. HOLMAN. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That there shall be paid to Mrs. Caroline Mott, administratrix of the estate of Danford Mott, late of Alburgh, in the State of Vermont, deceased, the sum of $2,707.92 out of any money appropriated for the payment of judgments rendered against the United States; the same being the amount found due and allowed to said Danford Mott in his lifetime by the Court of Claims for expenses incurred in defending a suit brought against him for acts done as an officer of the United States.

Mr. HUBBELL. Has that bill been considered by any committee of this House?

Mr. HOLMAN. I reserve the right to object until we can know something more about this case.

Mr. GROUT. If the House will listen to a brief statement I am sure there will be no objection. The bill provides for the payment of a judgment rendered by the Court of Claims in 1860 for expenses and costs incident to a suit at law growing out of the seizure of a vessel upon Lake Champlain by a revenue officer for alleged breach of the neutrality laws of 1838.

Mr. HOLMAN. If this is a judgment of the Court of Claims, there is no necessity for making an appropriation for it.

Mr. GROUT. The reason why an appropriation is necessary is this: at that time an appropriation was necessary to pay the judgment of the Court of Claims in every case. When the court was reconstructed in 1863 that became unnecessary, and a certified judgment of the Court of Claims is an appropriation. This is identical with House bill No. 1740, which was examined by the Committee on Claims and reported favorably. It now stands upon the Private Calendar. The sum expressed in the bill is the exact amount for which judgment was rendered in 1860, without the addition of interest, although the House committee in reporting the bill say if there is a case in which interest should be added it is this case.

Mr. HOLMAN. The judgment was by a divided court.

Mr. SPRINGER. I shall object until I have further explanation of this bill.

Mr. GROUT. It may be as said by the gentleman from Indiana, but it is nevertheless a judgment of the Court of Claims, and should be paid.

Mr. HOLMAN. Yes; Judge Blackford delivered the dissenting opinion, and the bill never came back from the Committee on Claims. That is my recollection.

Mr. RAY. Mr. Speaker, one of the judges of the Court of Claims dissented from the opinion of the rest, but the majority of the court rightfully made the decision the same as other courts determine cases. The decision is right, and the House of Representatives at various times, and at various times the Senate, have passed a bill to pay this claim, but thus far not concurrently. It has been favorably reported as much as half a dozen times, and never adversely so far as I can learn. There is no earthly reason why the demand (which was reduced by the Court of Claims to about one-half its original amount in the judgment rendered there twenty years ago) should not be paid. The man to whom it was awarded has died during its prosecution before Congress, and I think it is a disgrace to the country that a judgment like this, in a poor man's favor, was not paid long ago.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. Yes; I object until I can know more about it.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. PRUDEN, one of his secretaries.

PUBLIC BUILDING, FRANKFORT, KENTUCKY.

Mr. BLACKBURN. Mr. Speaker, I do not think I ever asked a personal indulgence of this or any other House of Congress of which I was a member. I now ask unanimous consent to call from the Speaker's table Senate bill No. 361 for consideration, and will ask the House to give me one minute to make a statement.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (S. No. 361) for a public building at Frankfort, Kentucky.

Mr. BLACKBURN. I will state, Mr. Speaker, if the House will permit me, that this bill is a verbatim copy of a bill unanimously reported to this House favorably by the Committee on Public Buildings and Grounds of the House, and it stands now first upon the Calendar among the public bills. It has been passed by the Senate, a verbatim copy of the House bill. My State, Mr. Speaker, was admitted into the Union in 1792, and from that time until the present it has furnished to the Federal Government, without charge for rent, its Federal court-houses, its Federal clerks' offices, and is so doing to-day. The Federal Government does not own an office or the title to a single foot of ground in the capital of Kentucky. This bill appropriates $100,000 for the purchase of the site, and for the construction of a public building for Government purposes in that city, and it limits the total cost to that amount, which covers the purchase of the site as well as the erection of the building, which appropriation cannot be increased under this system. That being the capital of the State from 1792 until the present time, and having furnished, as I have stated, without rent or charge these offices for clerks of the courts, I think it is only fair and just that this appropriation should be granted for the purpose specified, and in addition to that it will save the Government the rent now being paid for post-offices and internal-revenue collectors' offices, which to-day are being paid for, and which would bring this appropriation within the line of economy. [Cries of "Vote!" "Vote!" "No objection!"]

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. I ask that the bill be read subject to objection.

The SPEAKER. The bill will be read.

The bill was read. It is as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase or otherwise procure a site, which shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than fifty feet, including streets and alleys, and cause to be erected thereon, at the city of Frankfort, in the State of Kentucky, a substantial and commodious public building, with fire-proof vaults, for the use of the Federal courts, the post-office, and internal-revenue and other Government offices located there; the plans and estimates for said building having first been prepared, examined, and approved as required by section 3734 of the Revised Statutes of the United States; said plans to be based upon calculations and specifications that will insure the purchase of the site and completion of the building at a cost not to exceed the sum of $100,000; which said sum is hereby appropriated for the purpose herein named out of any moneys in the Treasury not otherwise appropriated: *Provided*, That no money to be appropriated for said building shall be used until a valid title to the site selected shall be vested in the United States, nor until the State of Kentucky shall have ceded to the United States jurisdiction over the same for all purposes during the time the Government shall be or remain the owner thereof, except to enforce the criminal laws of the State, and for the service of civil process therein.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WHITE. There is no objection; on the contrary, the bill ought to pass.

Mr. HOLMAN. Inasmuch as this is the last of this class of bills to be passed by unanimous consent, and with that understanding, that it is the last of its class to be passed by unanimous consent, I shall withdraw the objection.

The bill was taken from the Speaker's table, read by its title a first and second time, and ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. RAY. I move to take from the Speaker's table Senate bill No. 1034, to provide for the erection of a public building in the capital of my State, New Hampshire, and ask that the same be put upon its passage.

Mr. HOLMAN. I demand the regular order.

Mr. RAY. I hope the gentleman will not insist upon that.

The SPEAKER. The Chair understands the gentleman from Indiana as objecting.

Mr. RAY. After having had a bill passed on that side by unanimous consent, I hope the gentleman will not insist upon his objection.

Mr. HOLMAN. I must insist upon the regular order.

CORRECTION OF THE TITLE OF A BILL.

Mr. KELLEY. I ask the gentleman from Indiana to withdraw the call for a moment so that we may concur in an amendment of the Senate to the title of an important House bill. The text of the bill is not changed.

Mr. HOLMAN. That seems to be a matter of public concern and I shall not object to it.

Mr. KELLEY. I ask that the Senate amendment to the title of the bill (H. R. No. 5221) to amend section 3066 of the Revised Statutes of the United States be concurred in.

Mr. TOWNSHEND, of Illinois. Let the amended title be read.

The Clerk read as follows:

An act to amend section 3066 of the Revised Statutes of the United States in relation to the authority to issue warrants.

Mr. KELLEY. I move concurrence in the Senate amendment.

The motion was agreed to.

CLERK TO COMMITTEE ON WOMAN SUFFRAGE.

Mr. URNER. I desire to make a privileged report from the Committee on Accounts. I am directed by the committee to report the following substitute for the resolution referred to them to appoint a clerk to the Committee on Woman Suffrage.

The SPEAKER. The report will be read.

The Clerk read as follows:

The Committee on Accounts, to whom was referred the resolution of April 4, 1882, that the Committee on Woman Suffrage be authorized to employ a clerk during the sessions of Congress, to be paid out of the contingent fund of the House, respectfully report that they have considered the same and are of opinion that the clerks of committees already in the employment of the House are sufficient in number to perform all the clerical services required by the House, and that an increase of the number is unnecessary. The committee report the following as a substitute for said resolution, and recommend its adoption:

Resolved, That the clerk to the Committee on the Library, in addition to the duties heretofore assigned him, shall also act as clerk to the Committee on Woman Suffrage.

The resolution was agreed to.

Mr. URNER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS B. SHANNON.

Mr. PAGE, by unanimous consent, introduced a bill (H. R. No. 5890) for the relief of Thomas B. Shannon; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

TRANSPORTATION OF DUTIABLE GOODS.

Mr. PAGE, by unanimous consent, also introduced a bill (H. R. No. 5891) to amend section 5 of an act entitled "An act to amend the Statutes in relation to immediate transportation of dutiable goods and for other purposes," approved June 10, 1880; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

WILLIAM H. GORDON.

Mr. HOUSE, by unanimous consent, introduced a bill (H. R. No. 5892) for the relief of William H. Gordon; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AGRICULTURAL APPROPRIATION BILL.

Mr. VALENTINE. I desire to call up a privileged matter. I ask that the bill (H. R. No. 4466) making appropriations for the Agricultural Department for the fiscal year ending June 30, 1883, and for other purposes, with amendments by the Senate, be taken from the Speaker's table and referred to the Committee on Agriculture, and that the Senate amendments be printed.

There was no objection, and it was so ordered.

BILLS FROM SELECT COMMITTEE ON PAYMENT OF PENSIONS, ETC.

Mr. JOYCE. I ask unanimous consent to submit for present consideration a resolution which I think will not be objected to by any one when the House hears it.

The Clerk read as follows:

Resolved, That the public bills reported from the Committee on Pensions, Bounty, and Back Pay be made the special order for May 11, after the morning hour, and from day to day thereafter until disposed of, not to antagonize general appropriation or revenue bills or existing special orders.

Mr. REAGAN. That only refers to public bills, I understand?

Mr. JOYCE. That is all. I have inserted the word "public."

The resolution was agreed to.

Mr. JOYCE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CALKINS. I rise to a question of the highest privilege. I call up the contested-election case of Lynch *vs.* Chalmers, from the sixth Mississippi district.

Mr. CARLISLE. I desire to raise the question of consideration upon that case. I wish to state to the House that the gentleman from Ohio, [Mr. ATHERTON,] who was a member of the sub-committee to whom this case was referred by the Committee on Elections, and who made the report on behalf of the minority of that committee, is absent and sick; and I do not believe there is a gentleman on this side of the House prepared to go on with the discussion of that case to-day. I think, as a matter of justice and fairness to the gentleman from Ohio and to the interests which have been committed to his hands, this case ought not to be taken up

until he can have at least a reasonable opportunity to be present and to be heard. Moreover, I think this House, under the arrangement spoken of yesterday morning, ought to go on during the remainder of this week at least with the discussion of the tariff-commission bill. I therefore raise the question of consideration.

Mr. MOULTON. I desire to state to the House very briefly that the Committee on Elections is divided into three sub-committees, and to those sub-committees certain cases were assigned. To the sub-committee of which Judge ATHERTON is a member, being the only Democrat on that sub-committee, the Lynch and Chalmers case was referred. He has had the exclusive control and management of that case, is familiar with all its parts, has examined the evidence and the authorities and made the report, and is very desirous to be present at the discussion of the case. None of the other members of the minority have had the opportunity or time to examine fully this case. We have been constantly engaged in other cases before our respective sub-committees, and it would be great injustice to the contestee and I think to all of us to insist upon taking up that case in the absence of Judge ATHERTON. He will be here on Monday, as I am informed; and after that so far as I know no objection will be raised to the taking up and considering any case that comes up in its order. This, it seems to me, in justice to the committee, in justice to the contestee, and especially in justice to Judge ATHERTON, ought to be conceded by our friends on the other side of the House.

Mr. CALKINS. I will say first, in answer to my friend from Kentucky, [Mr. CARLISLE,] that no man on either side of the House I am sure will impute to me any desire to be unfair in the consideration of this case or any other. And I will say at once, in reply to the suggestion of my friend from Kentucky, that there is a good reason why the case should not be pressed to a vote in the absence of Judge ATHERTON. My colleague on the committee, the gentleman from Illinois, [Mr. MOULTON,] has also stated a fact in furtherance of what my friend from Kentucky has said, which seems to furnish a good reason for the suggestion that Judge ATHERTON was the only man on the sub-committee who heard the case all the way through and made the report.

Now, I have a proposition to make in furtherance of the suggestion of my friend and colleague on the committee, that Judge ATHERTON will be here on next Monday. I will read a telegram which I have just received from him. I had asked him if he could be here this week. He answers:

Inpossible this week; will come by Monday, or die.

Mr. HAMMOND, of Georgia. Read the one which came just before that.

Mr. CALKINS. I will.

My physician forbids me to travel.

I got that on yesterday. Now I make this proposition, inasmuch as there are several gentlemen upon this side of the House, and I think on the other, although I am not prepared to speak for them, who desire to make speeches on this case: let the case be called up now, and I will say to my friends on the other side I will not ask a vote until the last of next week.

Mr. HOUSE. That would not be fair, for Mr. ATHERTON would not be present to hear the argument.

Mr. CALKINS. I understand that Mr. ATHERTON will be here on Monday to take charge of his side of the case.

Mr. HAMMOND, of Georgia. Does the gentleman think it would be fair to have this case argued in the absence of the only man on our side who has examined the case and prepared the report on his side of it, and who has charge of the case?

Mr. CALKINS. The gentleman asks me if I think it would be fair?

Mr. HAMMOND, of Georgia. I do.

Mr. CALKINS. I think this, that the speeches which will be made here to-day and to-morrow—for I do not propose to take Saturday away from the Committee on Ways and Means; the speeches made here to-day and to-morrow will appear in the RECORD, so that every person can become familiar with the line of argument pursued. Therefore it will not be unfair. That is what I actually and honestly think.

Mr. HAMMOND, of Georgia. Members on the gentleman's side of the House may be in the habit of reading all the speeches in the RECORD; members on our side are not. [Laughter.] We want the case argued under the control of the man who prepared the report. Now if your side of the House cannot see the impropriety of pressing the case to this extent, I suppose if you have the power you will press it.

Mr. CALKINS. I only want to say that this side of the House, so far as I am speaking for it, has shown no disposition to press any case unfairly. They propose simply to present the case to the House.

Mr. MOULTON. It does seem to me that in a spirit of fairness this little extension of time should be allowed. To take up this case now and discuss it in the absence of Mr. ATHERTON, it seems to me would be doing injustice to all parties. Besides, my friends on the other side should be satisfied with the glory which they achieved on yesterday and be willing to rest for a day or two.

I hope my friend from Indiana will not press this case. I do not think the public business will be at all retarded by conceding our reasonable request. For my part I will not be in favor of throwing any obstacles in the way of the consideration of this case when Mr. ATHERTON is here.

Mr. CALKINS. In reply to my friend from Illinois, [Mr. MOULTON,] I will state that if I correctly understand the agreement which was made, and if I am wrong my friend from Iowa [Mr. KASSON] and my friend from Pennsylvania [Mr. KELLEY] will correct me—if I understand the agreement, it is that three days of next week will be given for the general debate on the tariff-commission bill. Those three days, I suppose, will be taken in the early part of the week. Now I do not intend, nor does the Committee on Elections, nor does this side of the House intend, to undertake to crowd out that discussion, because it is a fair understanding arrived at between the parties.

Mr. ANDERSON. An understanding on the part of the Committee on Ways and Means.

Mr. CALKINS. Never mind about that now.

Mr. ANDERSON. But that is a point to be considered.

Mr. CALKINS. I am only stating what I understand the arrangement to be. Now, for the purpose of allowing the discussion on this case to run for two days, and arriving at a vote upon it the latter part of next week, if our friends on the other side think that will give sufficient time for discussion—for I want all these cases discussed fairly—I thought it fair to say that this discussion might run to-day and to-morrow, and then go over until next week.

Mr. HAMMOND, of Georgia. We think it would be manifestly unfair to have the case taken up to-day at all.

Mr. CARLISLE. I do not feel disposed to allow the statement made by the gentleman from Indiana, [Mr. CALKINS,] with reference to the time when the discussion on the tariff-commission bill shall close, to pass without a word of explanation.

I understand the gentleman to say now that it is understood that three days only of next week are to be devoted to the discussion of that bill. I stated yesterday morning distinctly what my understanding was of the partial arrangement made in the Committee on Ways and Means. It was that we should procure from the House all the time possible this week for the discussion of that measure, and then the general debate might be closed at the end of three days' further discussion next week. Of course, if we are to be deprived, as we have been up to this time, of any opportunity to discuss the tariff-commission bill during the present week, we do not understand that there is any agreement which compels the discussion to be closed at the end of three days next week.

I desire to say further, in support of what has been said by the gentleman from Georgia, [Mr. HAMMOND,] that the report in the case which the gentleman from Indiana [Mr. CALKINS] is now seeking to call up was received by the members of this House only last Saturday or last Sunday. Now, the record in the case is quite a voluminous one and involves several very difficult and important legal questions which ought to receive the serious consideration of this House.

As to the questions of fact I do not, for my part, propose to undertake to investigate the record in order to come to any conclusion upon them, except so far as to ascertain what questions of law are presented by the testimony. For my own part, (and I believe it is the case with almost, if not quite, every gentleman on this side of the House,) I have had so many other matters to consider and investigate that I have not even read entirely the report of the majority of the committee. I repeat, therefore, my statement, made at the beginning of this discussion, that so far as I know and believe there is not a gentleman on this side of the House who is now prepared to enter upon a discussion of the many important legal questions which appear to be involved in this contested-election case.

Mr. CALKINS. I will yield to my friend from Iowa [Mr. KASSON] to answer the first part of the remarks of the gentleman from Kentucky, [Mr. CARLISLE.] So far as the latter part of his remarks is concerned, I am prepared to say that without going beyond the bounds of propriety, in the pressure of public business and in the legitimate control of the public business which must be in the majority side of the House, they have kindly given away to the Committee on Elections that we might, so far as we could to-day and to-morrow, go on with this case.

Now, that committee has certain business before it which it is in honor bound both to the country and to the House to present in good faith. I told gentlemen on the other side that we would take up these cases upon the reports of the committee in the order they were reported; and I have striven, as I think they will bear me out in saying, to call the cases up in their order. If gentlemen on the other side think that this case ought not now to be called up, because of the absence of the gentleman from Ohio, [Mr. ATHERTON,] then I will ask to call up the next case reported and commence its consideration now. I refer to the South Carolina case of Mackey *vs.* O'Connor.

Mr. HAMMOND, of Georgia. In that case the report is not yet printed.

Mr. CALKINS. I have the report on my desk.

Mr. HAMMOND, of Georgia. The minority report is still in the Printing Office. I presume the gentleman will not controvert the statement that the minority report is not yet printed.

Mr. CALKINS. If the gentleman has investigated and found the fact to be as he states, of course I do not controvert his statement.

Mr. HAMMOND, of Georgia. I make the statement on information only. Is not the gentleman's information the same?

Mr. CALKINS. I have no information on the subject. I have the majority report here. The minority report is not with it.

Mr. MOULTON. I prepared the minority report. The proof came to me and was corrected. I gave it to the clerk of the Committee on Elections to send to the printer yesterday morning.

Mr. CALKINS. I will then yield at present to the gentleman from Iowa [Mr. KASSON] to bring up the tariff-commission bill. To-morrow morning I will again make an effort to proceed with these election cases, as I think we ought to do. I withdraw the demand for the consideration of the Lynch case, and notify the House that to-morrow morning I will ask to have taken up for consideration the next election case.

Mr. KASSON. I wish to say only one word. I am very desirous that there shall be no misapprehension or supposed misapprehension on either side as to our understanding with reference to the debate on the tariff-commission bill. I see myself no essential difference between the understanding expressed by the gentleman from Kentucky [Mr. CARLISLE] and my own, except perhaps that he supposed other business would interfere to a less extent this week than I supposed it would. Looking at my memorandum made at the time, I find the understanding was that we were to get what time we could for the discussion of the bill this week, not meaning any forcible antagonism to other public measures, but with due regard to the pressure to which I alluded, and that, whether there should be more or less time for debate this week, there were to be three days of general debate next week; that more would not be asked for general debate. I was also to get such evening sessions as I could this week for the discussion of the subject. The gentleman will bear me witness that I have made efforts in this direction, and objection has not come from that part of the House, which might reasonably be expected to follow our suggestion.

I am very glad that the gentleman from Indiana [Mr. CALKINS] has given way to-day that we may proceed with the tariff debate. Before making the motion to go into Committee of the Whole I will ask once more that a recess be taken either at half past four or at five o'clock to-day, the evening session to be devoted to debate only on the tariff-commission bill. I hope there will be no objection to this proposition.

Mr. CARLISLE. I desire to say that the gentleman from Iowa [Mr. KASSON] has stated correctly and in terms, I believe, the understanding arrived at by the Committee on Ways and Means; but I submit to the gentleman whether the terms of the agreement did not necessarily imply that we should endeavor to procure as much time as possible this week for the discussion of the tariff-commission bill. The gentleman belongs to the majority side, which can, of course, control the business of the House. The day before yesterday, which those on this side who had made that arrangement thought a proper occasion to get time for this tariff discussion, the gentleman from Iowa, I am sorry to say, did not assist us in that direction, and therefore we did not get all the time we might have obtained this week for the discussion of the subject.

Mr. KASSON. I must say to the gentleman from Kentucky that I did not consider the understanding as involving the obligation to antagonize all other public business which it was understood was liable to come before the House; but I was so careful not to subject myself to any misconstruction that on the occasion to which the gentleman has just referred I declined to vote with my side of the House, allowing the gentleman from Kentucky to get all the assistance he might on either side in antagonism to the proposition then made. [Cries of "Regular order!"]

The SPEAKER. This discussion has been going on by unanimous consent.

Mr. KASSON. I ask unanimous consent that the House take a recess at five o'clock to-day until eight o'clock, the evening session to be devoted to debate on the tariff-commission bill.

Mr. SPRINGER. I object, unless the evening session is to be for general business.

The SPEAKER. Objection is made.

Mr. KASSON. Then I move simply that the House take a recess at five o'clock to-day until eight o'clock.

Mr. KELLEY. With the understanding that at the evening session we shall go into Committee of the Whole to continue the discussion on the tariff-commission bill, so that to-day and this evening may be given to the subject.

The SPEAKER. The gentleman from Iowa asks unanimous consent that the House take a recess at five o'clock to-day until eight o'clock, the evening session to be devoted exclusively to the discussion of the tariff-commission bill.

Mr. SPRINGER. I object to that.

Mr. KASSON. My motion is that the House take a recess at five o'clock till eight o'clock this evening.

Mr. SPRINGER. General business to be in order at the evening session as during the day.

The SPEAKER. The order for a recess, if made now, must be by unanimous consent, or the gentleman can reserve his motion until the time the recess is to be taken.

Mr. KASSON. I move that the House resolve itself into the Committee of the Whole.

The SPEAKER. The regular order is demanded, which is the call of committees for reports.

Mr. KELLEY. I move to dispense with the morning hour.

Mr. KENNA. I understand the gentleman from Pennsylvania will not insist on his objection to the motion of the gentleman from Iowa, [Mr. KASSON.]

The SPEAKER. The question is on the motion to dispense with the morning hour.

The House divided; and there were—ayes 84, noes 43.

So (two-thirds not voting in favor thereof) the motion was disagreed to.

Mr. WHITE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WHITE. On Monday, the 11th of April, a resolution was referred to the Committee on Ways and Means, and under Rule XXIV that committee is compelled to report within a week. It has not yet reported; and I should like to know whether there is any way to compel that committee to report?

The SPEAKER. The matter is not for the Chair.

Mr. KASSON. I demand the regular order.

The SPEAKER. The regular order is the call of committees for reports.

LEWIS JOHNSON & CO.

Mr. ERRETT, from the Committee on Ways and Means, reported, as a substitute for House bill No. 4790, a bill (H. R. No. 5893) for the relief of Lewis Johnson & Co.; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. PAYSON, from the Committee on the Judiciary, submitted the following adverse reports; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 235) for the relief of John Spicer;

A bill (H. R. No. 1069) for the relief of the United States Regulation Fire-arms Company; and

Joint resolution (H. R. No. 76) to restore certain causes to the docket of the Court of Claims and to provide for the hearing thereof.

FOG-SIGNAL AT POINT ROBINSON.

Mr. RICHARDSON, from the Committee on Commerce, reported back a memorial of the Legislative Assembly of Washington Territory as to a fog-signal at Point Robinson; which was referred to the Committee on Appropriations, and the accompanying report ordered to be printed.

SEEDS FOR DESTITUTE PERSONS.

Mr. VALENTINE, from the Committee on Agriculture, reported back the bill (H. R. No. 5395) to authorize the Commissioner of Agriculture to furnish necessary seeds for planting purposes to persons represented to be in a destitute condition; which was laid on the table, and the accompanying report ordered to be printed.

SARATOGA MONUMENT ASSOCIATION.

Mr. BRAGG, from the Committee on Military Affairs, reported back the bill (H. R. No. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

SAMUEL HALL.

On motion of Mr. DEZENDORF, the Committee on Naval Affairs was discharged from the further consideration of the petition of Samuel Hall, of the United States Navy; and the same was referred to the Committee on Invalid Pensions.

The SPEAKER. The Chair will state for the information of the House, that under the rules change of reference of petitions can be made through the petition-box.

SALE OF CHARLESTOWN NAVY-YARD, MASSACHUSETTS.

Mr. MORSE, from the Committee on Naval Affairs, reported back the bill (H. R. No. 5443) authorizing the sale of the Charlestown navy-yard, Massachusetts; and the same was referred to the Committee on Appropriations, and the report ordered to be printed.

TERRENCE DELOZIER.

Mr. LACEY, from the Committee on the Post-Office and Post-Roads, reported back with an amendment the bill (H. R. No. 4597) for the relief of Terrence Delozier; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. H. TINSLEY.

Mr. LACEY also, from the same committee, reported back adversely the bill (H. R. No. 465) for the relief of J. H. Tinsley; which was laid on the table, and the accompanying report ordered to be printed.

THAD BUTLER.

Mr. SPAULDING, from the Committee on Naval Affairs, reported back the bill (H. R. No. 5174) authorizing the Secretary of the Treasury to settle the accounts of Thad Butler; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

FRED PHILLIPS.

Mr. BLANCHARD, from the Committee on Indian Affairs, reported, as a substitute for House bill No. 1912, a bill (H. R. No. 5894) for the relief of Fred Phillips; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

OLD POST-OFFICE SITE, NEW YORK CITY.

Mr. SHALLENBERGER, from the Committee on Public Buildings and Grounds, reported, as a substitute for House bill No. 1061, a bill (H. R. No. 5895) authorizing the sale of the land and premises formerly occupied as a site for the post-office in the city of New York; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING, PATERSON, NEW JERSEY.

Mr. LEWIS, from the Committee on Public Buildings and Grounds, reported, as a substitute for House bill No. 5026, a bill (H. R. No. 5896) for the erection of a public building at Paterson, New Jersey; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING, JEFFERSON CITY, MISSOURI.

Mr. DE MOTTE, from the Committee on Public Buildings and Grounds, reported, as a substitute for House bill No. 3354, a bill (H. R. No. 5897) providing for the erection of a building at Jefferson City, Missouri; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING, CARSON CITY, NEVADA.

Mr. DE MOTTE also, from the same committee, reported, as a substitute for House bill No. 1007, a bill (H. R. No. 5898) for the erection of a public building at Carson City, Nevada; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

ELLEN GILLESPIE.

Mr. MATSON, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 4082) granting a pension to Ellen Gillespie; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JOHN ADAMS.

Mr. JOYCE, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 2626) granting a pension to John Adams; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ALFRED G. FIFIELD.

Mr. RAY, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 1020) granting an increase of pension to Alfred G. Fifield; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ABAGAIL S. TILTON.

Mr. RAY also, from the same committee, reported back with favorable recommendation the bill (S. No. 108) granting an increase of pension to Abagail S. Tilton; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. WADSWORTH, from the Committee on Invalid Pensions, reported back with adverse recommendation bills of the following titles; which were severally ordered to lie on the table and the reports printed, namely:

A bill (H. R. No. 2793) granting a pension to Emily H. Drury; and

A bill (H. R. No. 1170) granting a pension to Mary M. J. Frank.

Mr. PARKER, from the Committee on Invalid Pensions, reported back with adverse recommendation bills of the following titles; which were severally ordered to lie on the table and the accompanying reports printed:

A bill (H. R. No. 1100) granting a pension to Eleanor K. Fillis;

A bill (H. R. No. 3027) granting a pension to George Quarrell; and

A bill (H. R. No. 1099) granting a pension to Thomas Shannon.

HUGH O'NEIL.

Mr. PARKER also, from the same committee, reported back the bill (H. R. No. 5679) granting a pension to Hugh O'Neil, with the recommendation that said committee be discharged from its further consideration, and that the same be referred to the Committee on Pensions.

The recommendation was agreed to.

CALVIN GUNN.

Mr. FULKERSON, from the Committee on Pensions, reported back with an adverse recommendation the bill (H. R. No. 2186) granting a pension to Calvin Gunn; which was laid on the table, and the accompanying report ordered to be printed.

MARY C. J. BUDLONG.

Mr. FULKERSON also, from the same committee, reported back with an adverse recommendation the bill (H. R. No. 1164) for the relief of Mary C. J. Budlong.

Mr. PRESCOTT. I ask that the bill just reported from the Committee on Pensions be referred to the Committee of the Whole House on the Private Calendar.

The bill, with the adverse recommendation, was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JAMES CALER.

Mr. RAY, from the Committee on Claims, reported back the bill (H. R. No. 2845) for the relief of James Caler; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ERNEST F. UNLAND.

Mr. TAYLOR, from the Committee on Claims, reported back the bill (H. R. No. 3243) for the relief of Ernest F. Unland; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

CLAIMS PENDING IN TREASURY DEPARTMENT.

Mr. CHAPMAN, from the Committee on War Claims, reported back, as a substitute for House bill No. 3362, a bill (H. R. No. 5899) to authorize the accounting officers of the Treasury to consider and pass upon certain claims now pending before them; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

JOHN TORREY AND OTHERS.

Mr. GEDDES, from the Committee on War Claims, reported back with an adverse recommendation the bill (H. R. No. 2535) for the relief of John Torrey, Edward W. Weston, and Charles T. Weston.

Mr. JADWIN. I desire to submit the views of the minority of the committee in that case.

The SPEAKER. Does the gentleman from Pennsylvania desire the case to go on the Private Calendar?

Mr. JADWIN. Yes, sir.

The SPEAKER. The report of the majority and the views of the minority will be printed, and, at the request of the gentleman from Pennsylvania, [Mr. JADWIN,] the case will go on the Private Calendar.

SETTLERS IN WIND RIVER VALLEY.

Mr. HOOKER, from the Committee on Indian Affairs, reported back with a favorable recommendation the bill (H. R. No. 3511) for the relief of certain settlers in the Wind River Valley, Wyoming Territory; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

CAPITOL AND NORTH O STREET RAILWAY, WASHINGTON, D. C.

Mr. PEIRCE, from the Committee on the District of Columbia, reported back with a favorable recommendation the bill (H. R. No. 2871) to provide for the extension of the Capitol, North O Street and South Washington Railway; which was referred to the House Calendar, and the accompanying report ordered to be printed.

SOUTHERN MARYLAND RAILROAD COMPANY.

Mr. PEIRCE also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 4842) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia; which was referred to the House Calendar, and the accompanying report ordered to be printed.

NATIONAL FIDELITY GUARANTEE COMPANY, DISTRICT OF COLUMBIA.

Mr. URNER, from the Committee on the District of Columbia, reported back the bill (H. R. No. 3685) to incorporate the National Fidelity Guarantee Company of the District of Columbia; and moved that the Committee be discharged from the further consideration of the same, and that it be referred to the Committee on the Judiciary.

The motion was agreed to.

UNITED STATES FIDELITY GUARANTEE COMPANY, DISTRICT OF COLUMBIA.

Mr. URNER also, from the same committee, reported back the bill (H. R. No. 2500) to incorporate the United States Fidelity Guarantee Company of the District of Columbia, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on the Judiciary.

The motion was agreed to.

RELIEF FROM TAX ARREARS.

Mr. NEAL, from the Committee on the District of Columbia, reported back with an adverse recommendation the petition of Archbishop Gibbons, asking that certain real estate in said petition described be relieved from arrears of taxes; and the same was laid on the table, and the accompanying report ordered to be printed.

OUTSTANDING CERTIFICATES OF ASSESSMENT.

Mr. NEAL also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 5772) to provide for

the redemption of outstanding certificates of assessment issued by the late corporation of Washington, in cases where the Congress of the United States has since then released the property assessed from the lien of said assessment, and for other purposes; which was referred to the House Calendar, and the accompanying report ordered to be printed.

GOVERNMENT FOR ALASKA TERRITORY.

Mr. RICHARDSON, of South Carolina, from the Committee on Territories, reported, as a substitute for House bill No. 3754, a bill (H. R. No. 5900) providing a civil government for the Territory of Alaska; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

CONDEMNATION OF LAND IN PHILADELPHIA.

Mr. FISHER, from the Committee on Coinage, Weights, and Measures, reported back with a favorable recommendation the bill (S. No. 813) for the purchase or condemnation of land in the city of Philadelphia for public purposes; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

BOARD OF REVIEW OF PENSION CLAIMS.

Mr. JOYCE, from the Select Committee on the Payment of Pensions, Bounty, and Back Pay, reported back with amendments the bill (H. R. No. 4711) to establish a board of review of pension and bounty-land warrant claims rejected under existing laws and to prevent fraud or injustice in the granting of pensions and bounty-land warrants; which was referred to the Committee of the Whole House on the state of the Union, and the amendments and report ordered to be printed.

PENSION LAWS.

Mr. CURTIN, from the Select Committee on the Payment of Pensions, Bounty, and Back Pay, reported back with a favorable recommendation the bill (H. R. No. 3920) to amend section 4766, title 57, of the Revised Statutes of the United States; which was referred to the House Calendar, and the accompanying report ordered to be printed.

Mr. HAWK, from the Select Committee on the Payment of Pensions, Bounty, and Back Pay, reported back with a favorable recommendation the bill (H. R. No. 1247) to amend pension law; which was referred to the House Calendar, and the accompanying report ordered to be printed.

Mr. HAWK also, from the same committee, reported back with an adverse recommendation the bill (H. R. No. 1739) to amend section 4702, title 57, of the Revised Statutes of the United States relating to pensions; which was laid on the table, and the accompanying report ordered to be printed.

Mr. HAWK also, from the same committee, reported back with an adverse recommendation the bill (H. R. No. 3490) granting pensions for injuries received and disabilities incurred in the life-saving, railway mail, and internal-revenue services of the United States; which was laid on the table, and the accompanying report ordered to be printed.

UNITED STATES SIGNAL SERVICE.

Mr. BAYNE, from the Committee on Military Affairs, reported back a communication from the Secretary of War, transmitting, in response to House resolution of January 24, 1882, a detailed statement of all items of expenditures of the annual appropriations for the United States Signal Service from the year 1875 to the year 1881, inclusive, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Expenditures in the War Department.

Mr. STEELE. Those papers were brought here to the House in response to a resolution submitted by the gentleman from Pennsylvania, [Mr. BELTZHOOVER.] The Committee on Expenditures in the War Department did not ask for them.

The SPEAKER. It is solely a matter for the House to determine.

The motion of Mr. BAYNE was agreed to.

ORDER OF BUSINESS.

Mr. HATCH. I call for the regular order.

The SPEAKER. The gentleman from Missouri calls for the regular order, which, as the Chair understands, is the unfinished business coming over from the legislative day of Tuesday.

Mr. KASSON. I want to inquire if that unfinished business is about being concluded, or if debate is to go on?

Mr. HATCH. I think there will be no debate.

Mr. BURROWS, of Michigan. I say to the gentlemen there will be debate.

Mr. KASSON. Then I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of resuming the consideration of the tariff-commission bill.

Mr. HATCH. I do not yield the floor for that motion.

The SPEAKER. The Chair thinks the question of consideration could be raised against proceeding with unfinished business at this time.

Mr. KASSON. If the unfinished business is insisted upon, in view of the statement which has been made that it will lead to debate, I must raise the question of consideration, in accordance with the understanding I have had with gentlemen on both sides of the House.

The SPEAKER. Does the gentleman from Missouri [Mr. HATCH] insist upon calling up the unfinished business at this time? It will not lose its privilege if it is not called up.

Mr. HATCH. I do not wish to press the unfinished business upon the House, though I think it will take but a few moments to dispose of it. I am certain that the gentleman from Michigan, [Mr. BURROWS,] after a bare statement of the facts, will not want to make a lengthy discussion upon the subject. I myself do not want to discuss it.

Mr. BURROWS, of Michigan. I think it will take some time to dispose of the matter.

Mr. KASSON. I understand that it will not lose its place.

The SPEAKER. The Chair has already informed the gentleman from Missouri [Mr. HATCH] that it will not lose its place as unfinished business if not called up now.

Mr. KASSON. Then, if the gentleman does not insist upon it, I will renew my motion to go into Committee of the Whole.

The SPEAKER. The Chair will entertain the motion to go into Committee of the Whole.

Mr. ANDERSON. I desire to make a statement in regard to a special order which was made for the 27th day of March.

The SPEAKER. The Chair thinks such a statement can be made only by unanimous consent at this time, as the pending motion is undoubtedly in order.

Mr. ANDERSON. As I understand, it would be entirely in order to call up now the special order; that is the reason I desire to make a statement.

Mr. MCKINLEY. I object to debate.

The SPEAKER. The question is upon the motion of the gentleman from Iowa [Mr. KASSON] to go into Committee of the Whole House on the state of the Union, the object being to proceed with the consideration of the tariff-commission bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. ROBINSON, of Massachusetts, in the chair.

TARIFF COMMISSION.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of further considering the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws, upon which the gentleman from Maine [Mr. DINGLEY] is entitled to the floor.

Mr. DINGLEY. I will yield ten minutes of my time to the gentleman from Kentucky, [Mr. TURNER.]

Mr. TURNER, of Kentucky. Mr. Chairman, the masses of the people of this country have felt the unjust oppression of this protective tariff system for many years. They have asked for relief by bills introduced by their Representatives. Some of those bills I had the honor to offer. All of them have been referred, under the rules of this House, to the Committee on Ways and Means, and there they have slept unreported either favorably or unfavorably. All relief has been refused, even a modification in the smallest particular. The clamor for relief has increased until the rumbling of the storm has alarmed even the strongest advocates of this unjust system of taxation, and they have felt the necessity of doing something to appease the wrath of an incensed people who have been robbed of countless millions through a long series of years. They have finally concluded that something must be done, or they would be hurled out of power by the oppressed people. And, sir, what have they offered us? Have they offered to reduce the present tariff or give us the opportunity to do it? No, sir! They have given us the bill under consideration, which is as follows:

A bill to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws.

Be it enacted, &c., That a commission is hereby created to be called the "tariff commission," to consist of nine members.

SEC. 2. That the President of the United States shall, by and with the advice and consent of the Senate, appoint nine commissioners from civil life, one of whom, the first named, shall be the president of the commission. The commissioners shall receive as compensation for their services each at the rate of $10 per day when engaged in active duty, and actual traveling and other necessary expenses. The commission shall have power to employ a stenographer and a messenger; and the foregoing compensation and expenses to be audited and paid by the Secretary of the Treasury out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff, or a revision of the existing tariff, upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission, in the prosecution of its inquiries, is empowered to visit such different portions and sections of the country as it may deem advisable.

SEC. 4. That the commission shall make to Congress final report of the results of its investigation, and the testimony taken in the course of the same, not later than the first Monday of December, 1882; and it shall cause the testimony taken to be printed from time to time and distributed to members of Congress by the Public Printer, and shall also cause to be printed for the use of Congress 2,000 copies of its final report, together with the testimony.

Amend the title so as to read: "A bill to provide for the appointment of a commission to investigate the question of the tariff."

Who are these commissioners to be? What will be their views? From what professions and occupations are they to be selected? Are they to be lawyers or merchants or agriculturists, or are they to be manufacturers? What interests are to be represented on this com-

mission, and in what proportion? Are the consumers who are not interested in manufactories, who constitute the vast majority of our population and who have to pay the enhanced price of everything by reason of this tariff, to be represented, or is it to be composed of manufacturers, and is it to be left to them to say how many millions they will take annually out of the pockets of the people of this country? These are grave and important questions. By the provisions of this bill is there any guarantee given upon these questions? What guarantee is given by this bill that any relief will be given adequate to the demands of a tax-ridden people? None whatever.

Mr. Chairman, in regard to who ought to compose at least a majority of those commissioners, if any are appointed, I will read the opinion expressed in the memorial adopted by a convention of delegates of Pennsylvania, and presented to Congress in 1820, when this tariff system was in its infancy, showing who ought to be the judges of the tariff rates:

If it be asked who are the rightful judges in regard to the expediency and justice of the proposed tariff, it is surely fair to answer that the payers, who constitute a very large majority of the whole nation, are certainly more competent to decide than the expectant receivers, when the only inquiry is, how much of the money of the former shall be paid to the latter, and to what extent it shall be taken, not only without their consent but in opposition both to their entreaties and remonstrances.

Mr. Chairman, why should we delegate the power to a commission to do what it is our imperative duty to do? Are we incompetent? If so we ought to resign and let the people send members here who are competent and who are willing. Not a single good reason has been given why the regular committees of this House, or a select committee of this House and Senate, cannot at once proceed to revise and modify this tariff. Why, then, should we pass this bill when its object is simply delay, as I have said before? Why, sir, after consuming months and it may be years the committee will, I suppose, favor us with some sort of report, what it will be God only knows. And then we will be just where we are to-day, and have the whole revision to make after the loss of time. This is so plain that every fair-minded man must see it, and the honest people who are the sufferers will see it. In the mean time the manufacturers will continue to draw the tribute from the people to add to their enormous wealth. And therefore I said in my first speech that this bill was simply in the nature of an affidavit for the continuance of a bad cause.

My able friend from Ohio, [Mr. McKINLEY,] in referring to this remark, charged that the Democratic party was responsible for the delay in the modification of the tariff. No man knows better than he does why there has been no modification of this iniquitous tariff. I explained it fully in my first speech and shall not repeat it. He knows that whenever an effort has been made to modify this tariff, or to reduce it, that it has been prevented by a solid vote of the Republicans and a few Democrats who voted with them—enough to defeat any reform measure. He knows when I offered an amendment to the rules to put it in the power of a member of this House to force a vote on a bill giving relief or modifying the tariff, that he and his whole party voted against the amendment with a few Democrats and defeated it.

Therefore it is unjust on his part to charge, as he did, that the Democratic party was responsible for a want of revision or modification of the tariff. He knows that a large majority of the Democratic party of this House stand upon the Democratic platform of a revenue tariff, and opposed to a protective tariff; and I hope that some of the Republican members will regard the wants of the people and vote with us for reform, at least in the tariff.

Mr. Chairman, we have had a long debate upon the protective tariff, and, sir, the argument made against this protective system stands to-day unanswered. We have had from the advocates of protection only a rehash of the delusive statements that have been repeated time and again in this House, that this system was to protect "American labor from the pauper labor of Europe and to give us a home market." Have any of their able advocates pretended to show us that the system is just to the masses of the people, to the consumers, who constitute a large majority of the people? Have they shown us any authority in the Constitution for this system? Have they shown us either in the letter or spirit of the Constitution that Congress has the right to tax the masses of the people of this country to benefit manufacturers? That one part of the people should be taxed to benefit another? No, sir. With all their ingenuity they have failed, utterly failed, to establish any of these propositions. They have simply met us with denials without proof, and bold and contradictory assertions, such as we had a specimen of in the speech of a member who stated that he was a manufacturer and knew all about the system.

In one breath they say they must have tariff duties high and in some cases prohibitory, to protect American industry from the competition of the pauper labor of Europe, and in the next they tell us that the tariff cheapens articles manufactured here. Gentlemen have said, among other things, that trace-chains were cheaper here than in England, and the other articles daily used by the farmer referred to by me. If this be true, why do the protective-tariff men object to abolishing the tariff duties? How does it cheapen articles here to impose a high tariff upon them? The argument or rather statement is absurd. The tariff duty enhances the price of every article upon which it is imposed. This fact is well established, as I will show by authority from the States now clamoring for a continuance of this system. The advocates of this bill have left the system, after many speeches, just as it is—nothing but a fraud upon the people; legalized public robbery of the masses for the benefit of the few.

Now, Mr. Chairman, this may seem harsh language; but, sir, I am not the only one who has used it. It has been used by some of the highest courts in the States, and by the Supreme Court in regard to special taxes—imposed upon one class to benefit another, in violation of the Constitution—and I propose to show how conclusive and able are the arguments coming from those States which now clamor for protection, and which have grown rich under this iniquitous system.

Mr. Chairman, I desire now simply to show, in addition to what has been said, that the opposition to this so-called "protective system" has not been confined to the South and West, but, sir, it comes from conventions, boards of trade, and from the best and greatest men in the very States that are now clamoring for a continuance of this unjust system. I hope the Representatives of these States before they vote on this bill will give their attention, and may profit by the views and arguments of the great men and patriots who have represented their States before them, when justice, patriotism, and a veneration for the Constitution of our fathers controlled an avaricious desire for profits not warranted by the Constitution or justice. The Representatives from Massachusetts voted then solid against this unjust system. I hope they may do it again.

Mr. Chairman, I am aware that the advocates for protection will be driven to say these are old arguments. But, sir, this is no answer. The Constitution is the same in this respect that it was then; the eternal principles of justice are the same now that they were then, and the reasons are more forcible to-day than they were then, for they were protesting against a low tariff on but few articles, while now we have a tariff of an average of about 45 per cent., and on about 2,000 articles.

In November, 1820, Mr. Kinsley presented to the Sixteenth Congress a memorial from Belfast, in the State of Maine, protesting against any further protection to the manufacturing interest of the country. In the same year, in the month of December, Mr. Whitman presented to Congress a memorial from a convention of delegates from the agricultural and commercial sections of the State of Maine, assembled at Portland, asking that no such tariff be adopted as was proposed at the former Congress, (which was a low tariff on a few articles,) in which, after presenting an elaborate argument against a protective tariff, they use this language, (see Annals of Sixteenth Congress, page 1495:)

Your memorialists have not been led to these remarks by anything like hostility to the manufacturing interests. They are, on the contrary, decidedly in favor of all reasonable encouragement to promote, uphold, and cherish everything of that kind.

But your memorialists had never dreamed it would ever be considered necessary or proper that all other interests should be made to yield as secondary and tributary to that alone. They are sure this was not the original design of the framers of the Constitution. In that instrument we find nothing about manufactures.

They, however, have pressed into their service an elaborate essay of the celebrated Alexander Hamilton on this subject. They have adopted his principles, but disregard their application. He insisted on the encouragement of manufactures so far as might be consistent with a due regard to commerce and the collection of revenue. The duties now are nearly treble what they were when he wrote, and, on an average, higher by 100 per cent. than he, in the height of his zeal for manufactures, ever recommended.

In the case of iron, the duty on which was not half what it now is, he recommended a diminution, under an idea that it was almost a raw material, necessary in every kind of mechanism; and the same with regard to molasses, which we could ourselves distill. At the time he wrote it was necessary to urge with great vehemence upon the attention of Congress this subject of encouraging manufactures in order to have it attended to, so far as might be compatible with the other great interests of the community. But he could not have foreseen this abuse and perversion of his reasoning. He never could have imagined that the time would come when it would be deemed good policy to make the people pay from 30 to 100 per cent. more for goods to the manufacturer than they might otherwise be bought for of the importing merchant.

Your memorialists believe the duties now imposed on foreign manufactures to be fully adequate to any reasonable demand on the part of the American manufacturer. All the cotton and woolen manufactories which have been providently established and well managed are perfectly satisfied with the present rate of duties. From these we hear no complaint; and they are considerably numerous in the Northern and Eastern States. All such as were established without judgment, without capital, and without the aid of any skill whatever, have, of course, mouldered into ruin. Such it cannot comport with the wisdom or policy of Government to attempt to revive and uphold.

Your memorialists believe that the excitement in favor of manufacturers has had its origin rather in the improvidence and rash enterprise of some of our fellow-citizens than in any well-grounded cause of complaint. It may be that between 1812 and 1815 a state of things existed which induced individuals, in great numbers even, to plunge inconsiderately into extravagant and wild schemes in relation to manufactures. But it does not follow that the Government is, at all hazards, bound to uphold, protect, and save them from ruin.

They close that memorial with the following forcible language:

The situation of this country is in no wise similar to that of Great Britain. We have no surplus population that cannot be retained but by such means. We have vacant territory without limit and almost without price inviting cultivation. There they must manufacture or emigrate. And notwithstanding the utmost of their exertions to find employment for their laboring poor, every seventh individual is a pauper and dependent on charity. In this country, as yet, it is not even every hundredth individual that is a subject of charity, and many centuries may elapse before the proportion will be greater, if this manufacturing mania can be kept within bounds.

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The effect of an extraordinary action is to produce reaction. If the manufacturers should now succeed, the consequence will be a deficit in the revenue. A direct tax must ensue, irritation will be produced, and by the time the manufacturers shall have got their great establishments in operation a new tariff will be enacted with a view to revenue solely. When the tariff was settled in 1816 the manufacturers were duly represented. The then Secretary of the Treasury was

from the city of Philadelphia, and partook, it is believed, of all the feelings of the people upon this subject. At any rate, he recommended the tariff at that time with an express view to manufactures, and his recommendations, so far as they affected manufactures, in every instance, it is understood, except in relation to iron, were implicitly adopted. At that time the manufacturers, excepting those of iron, were perfectly satisfied, and in 1818, at the instance of the manufacturers, the duty on iron was increased from nine to fifteen dollars per ton. They at the same time requested that the duty of 25 per cent. on cotton and woolen goods, which had been limited to five years, might be made perpetual. In this, also, they were gratified. Your memorialists expected to have heard no more from the manufacturers about further protecting duties. But the stride they are now contemplating is, to your memorialists, truly astonishing. Nothing now will satisfy them short of $25 per ton upon iron, an article necessary in every piece of mechanism; 35 per cent. upon printed books, by way, it may be presumed, of discouraging science; 10 cents per gallon on molasses, to protect the distillers of whisky; 33½ per cent. upon cotton and woolen goods, and so upon other manufactured articles in proportion, and to crown all, cash payment, without credit, for duties!

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Your memorialists have thus, with the characteristic frankness of fellow-citizens, intimated some of their views and feelings on this all-important subject. Their destinies are in the power of the national Government, on whose wisdom and justice they trust they can rely. It is for Congress to determine whether the great interests of the nation, on which depend its power, its glory, and its resources, shall be sacrificed to the cupidity of a handful of improvident and speculating manufacturers.

Signed by order and in behalf of the convention.

ARTHUR McLELLAN, *Chairman.*
HENRY CLARKE, *Secretary.*

PORTLAND, *October* 19, 1820.

Mr. REED. Allow me to say to the gentleman from Kentucky that we have learned a great deal since then, and have more sense.

Mr. TURNER, of Kentucky. I will say to my friend from Maine [Mr. REED] that the principles of justice are eternal; that those principles which were right then are right now. The Constitution is to-day identically the same upon that question that it was then. I hope that he will profit by the views of those patriotic men who have gone before him. [Applause.]

Mr. REED. Oh, they are altogether too dead.

Mr. TURNER, of Kentucky. In the same year another able memorial of a convention of delegates from Pennsylvania, assembled in Philadelphia, was presented to Congress, containing a full review of the protective-tariff system, and showing its injurious effects, part of which I will read, and regret that I cannot read the whole of it, which is as follows:

Once admit that Congress may use the power of taxing imports *ad libitum* for any other purpose than that of revenue, and you give them, in reality, the power to say to the citizens of these United States—you must devote yourselves to agriculture, commerce, or manufactures, not as you may happen to be inclined, but according to our sovereign will and pleasure. Let it never be forgotten that the question now about to be determined is not so much what may be beneficial to manufacturers, as whether Government has a right to benefit them to the manifest injury both of the agricultural and commercial classes; whether the constitutional provision against taxing exports can be rendered in a great measure nugatory by diminishing at pleasure the value of our exportable commodities through the instrumentality of a tax upon imports; and, finally, whether the direction and employment of individual capital are matters to be regulated and controlled by individual choice or by the will of the national Legislature.

If it be asked who are the rightful judges in regard to the expediency and justice of the proposed tariff, it is surely fair to answer that the payers, who constitute a very large majority of the whole nation, are certainly more competent to decide than the expectant receivers, when the only inquiry is, how much of the money of the former shall be paid to the latter, and to what extent it shall be taken, not only without their consent, but in opposition both to their entreaties and remonstrances. This is the plain, unvarnished state of the case; and let sophists and casuists disguise it as they may, still, whenever it is contemplated, unadorned by the embellishments of geographical parties, and divested of the exaggerations of exclusive interests, it will be seen as a case where, on the one hand, a certain portion only of manufacturers (for very many of them are opposed to it) are importuning the Government to compel all the commercial and agricultural classes to buy their manufactures at enhanced prices or to go without; while, on the other hand, the sons of commerce and agriculture, almost to a man, are begging that they may not be exposed to any such exaction.

I wish that my time would permit me to read this whole memorial, for it presents unanswerable arguments. I wish that it could be read by every man on this continent.

I will now invite the attention of the committee to a unanimous report made by the Committee on Agriculture to the Sixteenth Congress, 1820. The committee was composed of Mr. Forest, of Pennsylvania; Mr. Claggett, of New Hampshire; Mr. Meech, of Vermont; Mr. Richmond, of New York; Mr. Ringold, of Maryland; Mr. Garnett, of Virginia; and Mr. Earle, of South Carolina. That able committee, after an examination of the protective-tariff system, made an elaborate report against the system, from which I will read the following extracts, page 1673, Annals of Congress, same book:

To propose to increase the wealth of the nation by increasing its taxes is enough to revolt the understandings of ordinary men; yet it seems that a mode of doing this has been discovered, and that the whole mystery lies in calling that which was before called tax—tariff. In the opinion of the committee it is the worst kind of tax, carried to the extent that is proposed; and it would be much better to raise a sum of money by direct taxes at once and distribute it in bounties among the manufacturers. We should then escape at least some of the oppressive effects of the system.

And again the committee says:

If the view that has been taken of the manufacturing system be correct, it must not only diminish the amount of national wealth, but must distribute it very unequally. This is by far the worst effect of the two. It taxes one class for the support of another, and, what is worse, taxes the poor for the sake of the rich. It thus produces that inequality which is the bane of republics; for it is, in fact, the influence of the few, or, in other words, aristocracy.

Now, though no just government will interfere by sumptuary laws to restrain the acquisition of wealth and thereby prevent inequality, so neither will any just government, by fostering particular interests at the expense of others, promote inequality. This is the opposite and the worst extreme of sumptuary laws. Nor is the inequality which is produced by the interference of the law by any means as harmless as that which results from different dispositions and different capacities in human beings. While the one may act as a salutary stimulus to industry and its worst qualities are continually neutralized by the alienation and division of property, the other, by creating distrust in the government, produces despair and depresses industry; and the dread of retributive justice, which always accompanies wealth unjustly acquired, so far from giving rise to division of property, inevitably leads to concentration and primogeniture, to legal safeguards, corporations, charters, monopolies, and privileged orders.

The fear that the law which has given may also take away produces the necessity of usurping the law-making power. An alliance between the privileged classes is the inevitable consequence; hence a new accumulation of powers, new pretexts, and new means of oppressing the people. The Government must be rewarded for its protection by an increase of power, patronage, salaries, taxes, and a diminution of responsibility. The various departments of the government will no longer move in their appointed spheres, but usurp each other's authority. The State sovereignties will be merged in the General Government, and the legislative authority in the Executive. Such is the natural consequence of creating separate interests by law; such is the effect of that inequality which is produced by the interference of the law with individual wealth; such the process by which free governments are metamorphosed into aristocracies.

This is true, and we have already realized part of the picture, and I hope we may pause, before we realize the remainder.

Again the committee says, (page 1679, same book:)

It is believed that no candid mind can fail to perceive that the effect of the manufacturing and its kindred systems will be to transfer a great portion of the wealth of the agriculturists to the other classes. If wealth is thus transferred so are the means of education, of knowledge, and consequently of power. This is a subject which demands the serious attention of every agriculturist in the Union.

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The great influence which the manufacturers, scattered as they will be over the whole face of the country, must acquire, will leave the agriculturists little hope that if they once assent to their system it will ever be revoked. Among the means by which their influence in the Government must be increased, the facility which they must derive from our popular modes of election, of directing the suffrages of the persons they employ, is not the least worthy of consideration.

Again, the committee say in regard to the constitutional power of Congress, (page 1679:)

Passing over those constitutional objections which admit of being urged with great force, that Congress cannot lay taxes but for the purpose of revenue, and that this system is equally incompatible with that part of the Constitution which prescribes uniformity of imposts, and with that which forbids taxes on exportation, they will appeal only to that sacred spirit of justice which we all equally venerate and the authority of which we equally acknowledge; and they ask, in the name of that justice, whether it is possible to believe that the Congress of the United States can, without violating every principle on which our republican system is founded, tax one class of the community for the support of another; whether they can debar a man the use of the faculties he has derived from nature; compel him to abandon an occupation to which he has devoted his life and which he understands and to pursue another which he does not understand; whether it can take away the fruits of one man's industry, earned by the sweat of his brow, and bestow them on another who has not earned them? No legislature, much less a limited one, has any such right.

Those who become parties to government cannot be supposed to agree to any other exactions than such as are necessary to defray its just expenses, and to preserve public order and morals. Even, therefore, if it could be made to appear that the effect of the system would be to augment the whole wealth of the nation, this object could not justify a Legislature in taxing particular classes, without their consent, for the benefit of the whole. The object of government is to secure men in the exercise of their faculties, not to restrain or direct them; to secure them in the full and free enjoyment and control of their property, and not to distribute and regulate it by its own arbitrary will. It never could have entered into the contemplation of the States when they agreed to the Constitution that the General Government had a right by its legislation to change their mutual relations toward each other; to enrich one and impoverish another; to strengthen one and weaken another; and to impair, and perhaps ultimately destroy, the wealth, freedom, and happiness of them all.

The committee concludes its report by the following prophetic words, written in 1820 by those patriotic men representing in part the very country now clamoring for "protection of American industry," (so called:)

The people of these States, like the three great occupations that employ them, are united by the strongest ties of reciprocal interest. They feel a just pride in the inheritance bequeathed to them by their ancestors—their common freedom and glory; and they equally appreciate the blessings which they derive from that union, which is the result of their mutual exertions, and which it is mutually their interest to preserve. But these blessings must be seriously impaired without the cultivation of good-will, and the undeviating exercise of justice toward each other. It is by this means only that the temple of our Union can be cemented and consolidated, and that we can preserve it from the fate which the dissoluble fabrics of other governments have shared.

The committee believe that nothing can have a greater tendency to diminish our confidence in the Government of the Union, and to impair our affection for it, than all those measures which distribute its advantages partially and unequally. They believe that such will pre-eminently be the effect of the manufacturing system as proposed by the tariff bill that has been reported, and they fear that this is only the commencement of the system; not that they attribute any unfriendly designs or impure motives to its friends, but that the same reasoning which has begun the policy will dictate its continuance, and that the unsuccessful issue of every effort will be an argument, not for abandoning it, but for making a new attempt.

Sir, we have seen a verification of this, at this session of Congress, and are witnessing it to-day. Although over half a century has elapsed, although the tariff duties have been doubled and imposed on about 2,000 articles, although the manufactories have grown from infancy to manhood, yet they are trying to prevent a reduction of the tariff duties in every way.

I will now invite the attention of the committee to the memorial of the Chamber of Commerce of the City of New York against a protective tariff. It was presented to Congress February 9, 1824. I will read a few extracts from it:

The ship-builder, the carpenter, the blacksmith, the ropemaker, the dyer, the hatter, the shoemaker, the saddler, the machinist, with every other class of mechanics, and all the laboring classes of the community are identified with the merchant and the farmer. Their interests cannot be promoted by an enormous duty on hemp, iron, and wool, or by laws which discourage commerce and navigation. They are the great consumers of the country, and it cannot be supposed that a statute which adds to the price of every article of their clothing, of every agricultural implement, every tool used in their various trades, should be acceptable to

them, especially if intended to give still further benefits to a class of citizens which has already received its full share of the protection and patronage of Government.

Again in the same memorial they say:

Your memorialists have always believed that the true and legitimate object of taxation is revenue, and that the power "to lay and collect taxes, duties, and imposts," which is given to Congress by the Constitution of the United States, was not granted with the intention, nor will it bear the construction, that it may be so exercised as to cherish and elevate one class at the expense of all the other classes of our citizens. The Constitution imposes on Congress the great duty of "promoting the general welfare." To lay taxes which will operate as prohibitions and restrictions on trade, which will promote exclusive interests at the national expense, which imposes heavy burdens on the many, and gives to the few the benefits of a monopoly, cannot be consistent with that sacred duty.

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Another feature of the bill before your honorable body is equally partial and impolitic. The Constitution of the United States was instituted, not only to "form a more perfect union," but to "establish justice," and "promote the general welfare." Hence, the burdens on the people should be as equally distributed as possible, and laws which impose taxes having a sectional bearing ought to be carefully avoided. It is well known that, in a number of the States of our Federal Union, there are few or no manufactories, and that the inhabitants of those States are almost exclusively agriculturists. Is it just, is it politic; will it contribute to promote those feelings of common interest, and mutual kindness, on which this Union was founded, and which are its strongest cement, to lay onerous duties on the consumption of the inhabitants of those States in order to establish great workshops in other parts of our country?

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These sentiments, while they are sincerely entertained, are at the same time perfectly consistent with the opinion that the manufacturer has no more right to the favor and protection of his government than the farmer, the mechanic, the navigator, or the merchant.

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WILLIAM BAYARD, *President.*

NEW YORK, *January* 30, 1824.

This memorial was presented to the Eighteenth Congress, and was a protest against a tariff not half as onerous and unjust as gentlemen are now trying to continue by this bill—by postponing the revision of the tariff.

Mr. WHITE. Does not my colleague suppose that plows are cheaper in his district under the revenue tariff for the last fifty years than they would be had there not been such a tariff?

Mr. TURNER, of Kentucky. I do not think so.

Mr. WHITE. I hope your constituents will read your speech and decide that question for themselves.

Mr. TURNER, of Kentucky. I hope so too, and that your constituents may read it also.

I will read an extract from the memorial of the Philadelphia Chamber of Commerce, in 1824, that was presented to the Eighteenth Congress. It says:

But, above all, will the influence of the new tariff be prejudicial to the interest of the agricultural States. This interest is one with which your memorialists may be thought to have no intimate concern, since their personal relations are exclusively with commerce; but the wealth, the harmony, the deviations of this great Republic are interesting to all its citizens; and they who wish, as your memorialists do, that it may be perpetual, must wish to see it administered upon principles of impartial justice to all, by which alone its perpetuity can be secured. What will be the effect of a prohibition of foreign merchandise as extensive as that now to be effected but an immediate reduction in value of the labor and capital of the cultivator to the whole extent of the increased price that he must give for the American manufacture? The evil to him is without compensation; the value of his crops he loses precisely to the extent in which the manufacturer gains; he has no means of warding off or breaking the blow. His capital is inconvertible—it is fixed forever in the one employment of agriculture. He cannot participate in the golden harvest of manufactures, if it is to be a golden harvest. His habits, his situation, his working hands, are all unfit for the loom and the spindle. He has heretofore sold for as much as he could and bought for as little as he could and at such markets as he pleased, in the enjoyment of that liberty which was the great end of the Constitution. He is hereafter to buy in one market only, at such prices as a market without foreign competition will charge; and he may sell as he can, when foreign nations shall act upon the principle of taking no more from us than we do from them.

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They cannot believe that commerce and agriculture are to sink into insignificance, and that manufactures, like Aaron's rod, are to swallow them both up.

I will now read an extract from the remonstrance of the Chamber of Commerce of New Haven, adopted February, 1824, and presented to the Eighteenth Congress:

The tiring and ironing of carts, wagons, plows, and harrows of the Northern farmer, his chains, his hoes, shovels, spades, scythes, &c., are made mostly of foreign iron. He cannot move in winter and no considerable distance in summer unless his horses and oxen are shod with iron and corked with steel. The quantity of foreign iron used in the single item of shoeing horses and oxen in this section of the country is not inconsiderable. Is it not, then, unequal and unjust that the Northern farmer should pay such an enormous tax on iron, which is to him an article of first necessity?

Much of the foreign iron imported into the United States is used in the construction of machinery and in the manufacture of nails. Bar-iron is emphatically a raw material to almost every other manufacturer except the maker of bar-iron. Iron and steel are the chief materials used in all manufactures of hardware and in fabricating the implements used in all mechanical employments. These metals are principally used and are incomparably more expensive than all other materials which are made use of in erecting the machinery employed in manufacturing cotton and woolen goods. In short, almost all tools and a great proportion of all machinery are made of these metals. Encourage other manufactures by affording to every part of the country the greatest facility in obtaining bar-iron and you will create a demand for bar-iron, but discourage other manufactures by making bar-iron scarce and dear and you will, in a great degree, destroy the demand for bar-iron itself.

A very considerable portion of the foreign iron brought into this country is used in ship-building. If such duties are imposed on iron and hemp as will cause these articles to cost nearly twice as much in this country as they cost in other countries, how is the American merchant to compete with the merchants of other countries in building and navigating ships, the former discriminating duty on foreign tonnage being almost entirely abolished?

In answer to all this, the wealthy proprietors of the iron mines in the interior of Pennsylvania will reply and say, indeed they have already said: "Let the New England people come to us for iron to shoe their horses, build their ships, and carry on their manufactures. We own ore enough to make a sufficiency of iron to supply all America, and it is a shame that it should lie dormant. We want an income from it. We will sell them as much ore for $15 or $20 as will make a ton of iron, provided they will come and dig it out of the earth and refine it. Let the eastern people come here and make their iron, or employ somebody to do it. We have a fine productive soil, also, and can supply them with provisions while they are thus employed. In this way a market will be created at home for our surplus produce, and we shall then be rich and independent. Then money will not be sent out of the country to purchase foreign iron and encourage foreign manufactures." This the proprietor of the iron mines in the interior of Pennsylvania calls "a plain practical view of things *as they should be*." In reply to which your memorialists respectfully ask permission to present a concise view of things *as they are*.

In the first place, money, to any considerable amount, is not sent out of the country to purchase iron. Ships employed in the Russian trade take from the United States to different ports in Europe fish, rice, and the cheaper kinds of ardent spirits, such as New England rums, whisky, &c., and bring back cargoes of hemp and iron. Thus the labor of the fisherman results in the production of the substantial articles of bar iron; and, in this way, a given quantum of labor produces to the country a much larger quantity of iron than could be produced by the same quantum of labor applied directly to working the ores of our own country. Suppose the fisherman to be equally as skillful and expert in making bar iron as he is in taking fish; even in that case he could catch as many fish in one day as would pay a Russian or a Swede for as much iron as he could himself make in three days. Under these circumstances, can it be a wise regulation which shall compel the fisherman to relinquish his occupation and go to making iron in Pennsylvania, in order that he may drink up the surplus whisky which is made there, instead of exchanging whisky and fish for iron and hemp, especially when it is considered that the exchange will produce to the country at least three times the quantity of iron that could be produced by the labor of the fisherman, aided by the strength of the whisky?

Mr. WHITE. Does my colleague mean to say that there is a class of people in Kentucky who have not got beyond 1824? We are legislating for to-day and not for so long a time ago as that.

Mr. TURNER, of Kentucky. If my colleague cannot understand that the Constitution is the same to-day that it was then, and that what was right then is right to-day, then I cannot take time to convince him now. Let us see what they said in Boston in 1824, and I hope my colleague will listen to it and profit by it.

Mr. Chairman, I come now to a memorable document; exceeded by none in sound logic. A remonstrance, adopted at a meeting in Boston, composed of merchants and agriculturists, on the 17th of August, 1824—which was presented to the Eighteenth Congress, from which I will read a few extracts. (Annals Congress, pages 3086 and 3087, Eighteenth Congress, first session:)

The price of manufactures involves the cost of the raw material, the sum paid the owner of the capital employed in working it, and the wages of the workmen. It is when the last are greatest in proportion to the whole price that industry is best paid and most encouraged.

Machines for multiplying the effects of labor may indeed produce a great profit, but it accrues to the owners of them, not to those employed in managing them. Should any one construct a machine so perfect that it would enable a single hand by merely turning a crank to supply the country with broadcloth, the possessor of this curious piece of mechanism would certainly make a fortune; but the laborer who put it in motion would receive not a cent more than the regular wages for turning a crank. The occupations in which money is laid out for complicated machinery, for lands, buildings, and fixtures, to accumulate the raw material, or the means of converting it to use, or keep on hand a great quantity of the articles manufactured, so as to dispose of them most beneficially in the market, may afford a profitable investment for capital, but have no exclusive nor peculiar tendency to increase the price or the amount of labor. The factory at Waltham tends to raise wages no more than every other establishment, however small its capital, which employs the same number of hands; and it is difficult to conceive a case in which industry or its reward can be increased by turning any number of men from one pursuit to another. The machines and implements for the aid of labor, which can be profitably employed with a very small capital, such as the tools of the mechanic, are most useful to the poor; those which require a large capital, to the rich. The former tend to diffuse wealth, the latter to concentrate it. Which is the most consonant to our institutions and character!

BOSTON RESOLUTIONS DRAWN BY DANIEL WEBSTER.

I will now read the resolutions adopted by that celebrated meeting and presented to Congress, and I invite the attention especially of the members from Massachusetts, and the whole committee. They were drawn and the memorial written by that great man Daniel Webster, and presented by him to Congress.

Resolved, That we have regarded with pleasure the establishment and success of manufactures among us, and consider their growth when natural and spontaneous, and not the effect of a system of bounties and protection, as an evidence of general wealth and prosperity.

Resolved, That, relying on the ingenuity, enterprise, and skill of our fellow-citizens, we believe that all manufactures adapted to our character and circumstances will be introduced and extended as soon and as far as will promote the public interest without any further protection than they now receive.

Resolved, That no objection ought ever to be made to any amount of taxes equally apportioned and imposed for the purpose of raising revenue necessary for the support of Government, but that taxes imposed on the people for the sole benefit of any one class of men are equally inconsistent with the principles of our Constitution and with sound policy.

Resolved, That the supposition that, until the proposed tariff or some similar measure be adopted, we are and shall be dependent on foreigners for the means of subsistence and defense is, in our opinion, altogether fallacious and fanciful and derogatory to the character of the nation.

Resolved, That high bounties on such domestic manufactures as are principally benefited by that tariff favor great capitalists rather than personal industry or the owners of small capitals, and therefore that we do not perceive its tendency to promote national industry.

Resolved, That we are equally incapable of discovering its beneficial effects on agriculture, since the obvious consequence of its adoption would be that the farmer must give more than he now does for all he buys and receive less for all he sells.

Resolved, That the imposition of duties, which are enormous, and deemed by a large portion of the people to be unequal and unjust, is dangerous, as it encourages the practice of smuggling.

Resolved, That in our opinion the proposed tariff and the principles on which it is avowedly founded would, if adopted, have a tendency, however different may be the motives of those who recommend them, to diminish the industry, impede the prosperity, and corrupt the morals of the people.

Mr. Chairman, I am aware that gentlemen on the other side will say that Mr. Webster changed his opinions afterward; but let us look at the facts. In 1820 the convention met and adopted these resolutions drawn by Daniel Webster, and they were presented to Congress. After a lapse of four years, in 1824, they held another convention, and after mature deliberation the convention, one of whom was Daniel Webster, readopted the same memorial and resolutions, and Mr. Webster presented them in 1824. The constitutional provisions and the eternal principles of justice upon which these resolutions were based had not changed from 1820 to 1824, and, sir, candor must force every fair-minded man to admit that they have not changed yet. They were true then—framed by the greatest constitutional lawyer that this country ever produced, and reaffirmed by him four years afterward in one of the ablest speeches he ever made in the United States Senate, in which he used this language in regard to what was the true American policy. I commend this especially to my Republican friends on this floor who talked so much about the "American policy." Mr. Webster said:

Sir, that is the truest American policy which shall most usefully employ American capital and American labor, and best sustain the whole population. With me it is a fundamental axiom, it is interwoven with all my opinions, that the great interests of the country are united and inseparable; that agriculture, commerce, and manufactures will prosper together or languish together; and that all legislation is dangerous which proposes to benefit one of these without looking to consequences which may fall on the other.

And in regard to protecting "American industry" this is what Mr. Webster said, from which it will be seen that he did not regard manufactures as the only "American industry."

Mr. Webster said:

Gentlemen tell us that they are in favor of domestic industry; so am I. They would give it protection; so would I. But then all domestic industry is not confined to manufactures. The employments of agriculture, commerce, and navigation are all branches of the same domestic industry; they all furnish employment for American capital and American labor.

These resolutions and his speech stand to-day recorded in the archives of this Government as monumental evidence of the justice and patriotism of the great mind who drew them—as a beacon-light to guide future generations, and are as true and as forcible as the day they were drawn. And I deny that Mr. Webster ever did change his opinions in regard to these resolutions, for in a debate in the United States Senate as late as 1846, with Mr. McDuffie, Mr. Webster said:

Take it in the broadest sense, and I agree to every word of the resolutions of Faneuil Hall of 1821.

And the resolutions of Faneuil Hall are the ones I have read.

Mr. WHITE. Does not the gentleman think that it comes with a bad grace for a Kentuckian to speak to Massachusetts men about not following the doctrines of Daniel Webster when the gentleman himself, claiming to be a representative Kentuckian, is misrepresenting the sentiment of the majority of the people of his State?

Mr. TURNER, of Kentucky. I think the majority in that State entertain entirely different views from those which my colleague seems to entertain. The large Democratic majority in Kentucky proves it. That, however, is unimportant so far as this argument is concerned.

Mr. Chairman, frequent reference has been made to Mr. Jefferson, General Jackson, and other Democrats, but no Democratic President ever advocated such a tariff as we have to-day, or recognized the principles contended for by the protectionists; and Mr. Clay, of my State, to whom frequent reference has been made in this debate, never advocated such a monstrosity as this tariff, forced upon us in the excitement of a civil war under a false pretense of filling the Treasury. Mr. Clay only advocated a tariff of 20 per cent., to be kept up for a few years to foster manufactories in their infancy. They have grown up to manhood, and, as I said before, the broad ocean across which most of the raw material has to be transported and then brought back to this country gives all the protection these manufacturers ought to have.

Mr. WHITE. Was not that in 1815, and did not Mr. Clay in 1832 and 1842 make speeches expressing diametrically opposite views?

Mr. TURNER, of Kentucky. I do not desire to be interrupted, as my time is limited. My colleague has had ample time to express his views, and I did not interfere with him.

The CHAIRMAN. The Chair supposed these interruptions to be acceptable to the gentleman. If they are not he is entitled to proceed without interruption.

Mr. TURNER, of Kentucky. Mr. Chairman, I have read these extracts from the protests of Eastern States and refrained from reading any from the Southern States, although they were equally conclusive in the argument against a protective tariff, because I wanted to show that these very States that are now trying to rivet this system, unjust as it is, on the consumers of this great country, and which is especially unjust and oppressive upon the West and South, were at one time, when they were impartial judges, opposed to this system and that these representatives and memorialists used arguments that were unanswerable, against this system, that, too, when the tariff was only 20 per cent. and on fewer articles, and the present tariff 40 per cent. or over. But now, sir, because their interests have changed they attempt to ridicule these very arguments and deny the facts upon which they are based, because they cannot refute them or successfully answer them. These arguments are as true to-day as they were in 1820 and 1824 and apply with more force, as I have said before. We have lived to see the predictions of those pure patriots who opposed this unjust system and who foresaw its ruinous consequences when once fastened on the country, verified after half a century of protection, after receiving countless millions from the farmers and laborers of this country and other consumers, after growing in power and wealth; yet they are not willing to let go their hold, but are determined to oppress the great majority of the people with a tariff system far more unjust and onerous upon the people than the tariffs that they denounced and protested against in 1820 and 1824.

They want by this bill to retard the modification of this tariff, and, sir, they never will let go their hold until the enraged masses of the people rise in their might and send members here who will regard their rights and trample under foot these monopolies that are impoverishing the honest toiling masses of the country. I hope, Mr. Chairman, to see the day, and I do not believe it is far distant, when even-handed justice will be meted out to the farmers, operatives, and other consumers of this country, who ask no exclusive privileges but demand even-handed justice.

Mr. Chairman, and gentlemen of the committee, I return my thanks for the patience with which you have listened and the attention you have given me.

I append, with the consent of the committee, a table of the tariff duties upon some of the articles upon which a duty is imposed.

	Per cent.
Jewelry	25
Musical instruments	30
Champagne, in pints	47½
Champagne, in quarts, $6 per dozen	50
Still wines, in bottles	32½

Now, let me place against the above what I deem articles of necessity, and see what duty they paid:

Duties paid in 1880, calculated in ad valorem, taken from official returns.

Articles of necessity:	Per cent.
Cleaned rice	95½
Epsom salts	78½
Chicory	103½
Spool thread	76½
Window-glass, common	from 58½ to 73
Band and hoop iron	75
Boiler plates	69
Horseshoe nails	93
Locomotive tires	79½
Steel rails	99
Castor-oil	148
Croton-oil	126
Paris white	240
Balmoral alpaca	91
Blankets, valued at 36½ cents per pound	89½
Woolen hosiery, valued at 60 cents per pound	100½
Bunting, valued at 23 cents per pound	121

The following still further illustrates the point:

Blankets—duty on the cheapest, 90 per cent.; on the dearest, 75 per cent.

Hats—woolen—duty on the cheapest, 84 to 92 per cent.; on the dearest, 63 per cent.

Hosiery—duty on the cheapest, 96 per cent.; on the dearest, 55 per cent.

Dress goods—duty on the cheapest, 70 per cent.; on the dearest, 67 per cent.

Bleached cotton—duty on the cheapest, 47 per cent.; on the dearest, 35 per cent.

Flannel—duty on the cheapest, 89 per cent.; on the dearest, 61 per cent.

The following table presents proof of the prohibitory nature of our tariff, giving the duty collected on the articles named. Many more could be added:

In 1881 the tariff duties produced—	
On cut nails and spikes	$127 00
On cut tacks	15 00
On horseshoe nails	20 00
On lead ore	89 00
On screws	4,890 00
On steel wire	1,761 00
On crude oil	1 50
On petroleum	3,403 00
On flannels	1,129 00
On yarn	3,000 00

The following table shows the articles that paid an ad valorem duty of over 80 per cent. and not exceeding 97 per cent., (spirits, wines, tobacco, and perfumery not included:)

	Per cent.
Cleaned rice	95½
Green copperas	83½
Meerschaum pipes	85½
Wood and porcelain pipes	87½
Silver leaf	95½
Horseshoe nails	93½
Squares, not marked	90½
Steel rails	90
Druggets	88
Balmorals	91½
Blankets not over 40 cents per pound	88½
Blankets valued over 60 cents per pound	92
Flannel not over 40 cents per pound	89
Flannel valued over 40 cents, not exceeding 60 cents per pound	91½
Flannel over 60 cents, not over 80 cents per pound	91½
Worsted hosiery valued at 40 cents and not exceeding 60 cents per pound	94
Worsted hosiery valued at 60 cents and not over 80 cents	92
All other woolen goods valued at 40 cents per pound	94
All other woolen goods valued at 40 cents and not over 60 cents per pound	92
All other woolen goods valued over 60 cents and not over 80 cents per pound	89
Woolen hats valued 60 cents and not over 80 cents per pound	88½
Woolen yarns valued not exceeding 40 cents per pound	89½
Woolen yarns valued 40 cents and not over 60 cents per pound	92
Woolen yarns valued 60 cents and not over 80 cents per pound	88

Tariff duties.

Articles enumerated.	Rate of duty.	Value per pound, yard, &c., exclusive of duty and freight.	Amount of duty per lb., yard, &c.	Average rate per cent. of duty.
Clothing wools:				
Worth less than 32c. per lb.	10c. per pound and 11 p. c.	.237	.126	53.17
Worth over 32c. per lb	12c. per pound and 10 p. c.	.378	.157	41.76
Carpet wools:				
Worth less than 12c	3c. per pound	.112	.03	26.62
Worth over 12c	6c. per pound	.194	.06	30.86
Dress goods:				
Value less than 20c	6c. per yard and 35 p. c.	.169	.119	70.46
Value over 20c	8c. per yard and 40 p. c.	.309	.204	65.81
Blankets, worth 60@80c. per lb.	40c. per pound and 35 p. c.	.682	.638	94.13
Flannels, worth 60@80c. per lb.	40c. per pound and 35 p. c.	.61	.614	100.53
Cloths	50c. per pound and 35 p. c	1.412	.994	70.40
Clothing, ready-made	50c. per pound and 35 p. c.	2.873	1.649	57.42
Hats, worth over 80c. per lb	50c. per pound and 35 p. c.	1.732	1.105	63.86
Yarns, worth 40@60c. per lb	30c. per pound and 35 p. c.	.561	.50	88.49
Leather, tanned	25 p. c			25.00
Gloves and mittens	50 p. c			50.00
Other manufactures of leather	35 p. c			35.00
Cottons, plain bleached, worth less than 20c. per square yard	5½c. per square yard	.121	.055	45.47
Spool thread	6c. per dozen and 35 p. c.	.151	.113	74.62
Earthenware	25, 40, 45, and 50 p. c			41.93
Silk goods	60 p. c			60.00
Linen goods	30, 35, and 40 p. c			35.00
Bar iron:				
Medium size	1c. per pound	.022	.01	45.43
Large and small sizes	1¼c. per pound	.028	.015	51.90
Chains, ordinary size	2½c. per pound	.043	.025	58.25
Cotton machinery:				
Iron	35 p. c			35.00
Steel	45 p. c			45.00
Horseshoe nails	5c. per pound	.084	.05	59.57
Cut nails	1¼c. per pound	.083	.015	17.92
Pig iron	$7 per ton	22.84	7.00	30.65
Iron rails	$15.68 per ton	44.00	14.00	28.65
Steel rails	$28 per ton	44.00	28.00	55.29
Coarse wire	2c. per pound and 15 p. c.	.46	.027	58.66
Pocket cutlery	50 p. c			50.00
Other cutlery	35 p. c			35.00
Steel fence wire	2½c. per pound and 20 p. c.			
Agricultural implements and machinery	35 p. c			35.00
Marble tombstones, tiles, &c.	25c. per sq. ft. and 30 p. c.	.264	.329	124.69
Fur goods	35 p. c			35.00
Common window-glass:				
10x15 or less	1¼c. per pound	.028	.015	52.38
10x15 to 16x24	2c. per pound	.03	.02	67.05
16x24 to 24x30	2½c. per pound	.034	.025	72.65
Above 24x30	3c. per pound	.044	.03	68.18
Linseed-oil	30c. per gallon	.536	.30	55.96
White lead	3c. per pound	.065	.03	46.45
Printing-paper	20 p. c			20.00
Writing-paper	35 p. c			35.00
Salt:				
In sacks	12c. per 100 pounds	.30	.12	39.75
In bulk	8c. per 100 pounds	.10	.08	69.00
Refined sugar	4c. per pound and 25 p. c.	.078	.06	64.12
House furniture:				
Finished	35 p. c			35.00
Unfinished	30 p. c			30.00
Common soap	1c. per pound and 30 p. c.	.057	.027	47.58
Toilet soap	10c. per pound and 25 p. c.	.379	.195	51.34
Slates	40 p. c			
Starch, rice and other	3c. per pound and 20 p. c.	.031	.036	114.73
Millstones	20 p. c			20.00
Varnish	50c. per gallon and 25 p. c.	3.292	1.325	40.18
Vinegar	10c. per gallon	.144	.10	69.25
Lumber, sawed, not dressed	$2 per 1,000 feet	9.745	2.00	20.52
Flooring	$3 per 1,000 feet	12.672	3.00	23.67
Shingles	35c. per 1,000	2.048	.35	17.08
Brussels carpet	44c. per yard and 35 p. c.	1.318	.90	68.38
Rope	3½c. per pound	.143	.035	24.43
Chip hats, bonnets, and hoods	40 p. c			40.00
Needles	25 p. c			25.00
Toys	50 p. c			50.00
Fire-crackers	$1 a box	.815	1.00	122.68
Feathers and artificial flowers	50 p. c			50.00
Dolls	35 p. c			35.00
Combs	35 p. c			35.00
Embroideries	35 p. c			35.00
Diamonds	10 p. c			10.00
Buttons	30 p. c			30.00
Books	25 p. c			25.00
Wall-paper	35 p. c			35.00
Clocks	35 p. c	.333	.183	35.00
Pens, metallic	10c. per gross and 25 p. c.			55.03

	Per cent.
Leather, and manufactures of	28.9
Steel, and manufactures of	45.5
Earthenware and china	42.4
Glass and manufactures	54.8
Spices	55.0
Salt	48.3

[During the delivery of the remarks of Mr. TURNER, of Kentucky, the following occurred:

The CHAIRMAN. The ten minutes yielded the gentleman has expired.

Mr. TURNER, of Kentucky. I would like to finish my remarks. I will state to the committee that my friend from Maine kindly yielded me ten minutes of his time, although I was on the list and had one hour. I would like to proceed until I have concluded my remarks.

Mr. KASSON. How much time does the gentleman desire?

Mr. TURNER, of Kentucky. Not exceeding my hour.

The CHAIRMAN. The Chair desires to say that the present hour is under the control of the gentleman from Maine, [Mr. DINGLEY,] who can yield further time to the gentleman from Kentucky [Mr. TURNER] if he desires to do so.

Mr. TURNER, of Kentucky. That was the understanding with my friend when I took the floor.

Mr. DINGLEY. I desire to reserve the remainder of my hour for myself. I am entirely willing that the gentleman from Kentucky shall proceed. As long as he is upon the list and entitled to an hour, I think perhaps it would be an advantage to allow him to conclude his remarks at this time.

Mr. WHITE. I ask unanimous consent that my colleague be allowed to conclude his remarks.

The CHAIRMAN. The Chair does not consider it necessary to ask unanimous consent for that purpose. The gentleman from Maine [Mr. DINGLEY] does not claim his hour now, and the gentleman from Kentucky can proceed with his hour, including the ten minutes yielded him by the gentleman from Maine; and after that the Chair will recognize the gentleman from Maine for the fifty minutes remaining of his hour.

Mr. ANDERSON. Will that have the effect of extending the time for general debate?

The CHAIRMAN. It will not.

Mr. TURNER, of Kentucky, resumed and concluded his remarks.]

Mr. DINGLEY. Mr. Chairman, when the House was last in committee on the tariff-commission bill, the gentleman from Tennessee [Mr. MCMILLIN] charged that protection had driven American shipping from the ocean. To recall this indictment of the protective tariff of 1861, I will ask the Clerk to read that portion of the remarks of the gentleman which refer to the decline of the American foreign carrying trade.

The Clerk read as follows:

Mr. MCMILLIN. Mr. Chairman, to our shipping we have given the most ample protection that the loudest clamorer for special privileges could wish. We have forbidden the purchase and registration of ships by Americans from any but American builders. The boast was made that we were going to build up our commerce and carry American products in American bottoms; but after twenty years of this exclusive policy, look at our condition! Our ship-building has run down till it amounts to nothing, and our flag is almost a stranger on the ocean. The protective-tariff policy of the United States was abandoned in 1846, and a tariff for revenue adopted. This policy was maintained till the breaking out of the late war, and under it our shipping interests flourished as they never did before, never have since, and never will again under our present suicidal policy. Then American sails whitened every sea, and the American flag brightened every bay where commerce floated. Beginning in 1846 with a tonnage of 2,562,085 it increased till 1861, when it amounted to 5,539,813 tons, which was the highest figure it ever attained.

From then till now it has gone down, down all the time, although every protective prop that legislation could devise has been brought to its support. This, too, notwithstanding the fact that our wealth, exports, and imports are many times greater than they were then. In 1885 we built in American ship-yards 381 sea-going vessels; in 1856, 396. Under this long protection how does this industry flourish to-day? In 1878, 81 ships were built by us, and in 1879, 37—less than one-tenth of the number built in 1855, when we needed not half so many as now. In 1860, with free ships, 75 per cent. of our exports and imports was carried in American bottoms. In 1881, with protected ships, American vessels only carried 16 per cent. Each year we now pay $120,000,000 to owners of foreign ships for carrying our exports, imports, and passengers. And who gets this immense business? England, with her free ships and free trade, gets eighty-four millions of it, more than twice as much as all the other nations of the world. And why all of this? It is because legislation has interfered with commercial freedom. A statute is on our law books which requires the American desiring to purchase a vessel to go to one of the four or five ship-builders of the United States and pay one-fourth more for it than it would cost in England. In consequence of this, when obtained, the cost is so great that he cannot compete with the Englishman who has purchased more cheaply. One says, let us subsidize our ship lines and enable them to compete. Mr. Chairman, this will not give relief. Let Congress declare commercial freedom by repealing those hampering statutes, and the shackles will fall from our commerce as did Peter's chains at the angel's touch.

Mr. DINGLEY. Mr. Chairman, I am at a loss to understand what the gentleman from Tennessee meant when he said that under the tariff of 1846 we had "free ships" and "commercial freedom," while under the tariff of 1861 American shipping engaged in the foreign carrying trade has had "every protective prop which legislation could devise." If he referred to that provision of our navigation laws which restrict the right of American registry to vessels built in this country, I desire to remind him that in this respect there has been no change in our legislation since the foundation of the Government. Free ships—*i. e.*, the liberty to purchase ships in a foreign market and to put them under the American flag, for which the gentleman from Tennessee and the gentleman from New York [Mr. HEWITT] pleaded the other day—were never known in this country.

But this is the only protection which our commercial marine engaged in the foreign carrying trade has had under the tariff of 1861, and precisely the same that it had under the tariff of 1846. What,

then, did the gentleman from Tennessee mean when he said that under the tariff of 1861 this great interest has had "every protective prop which legislation could devise?"

Our coastwise carrying trade is efficiently protected by legislation which restricts participation in it to vessels carrying the American flag. Under this protection the tonnage of American vessels engaged in the coastwise trade has increased from 1,797,825 tons in 1850 to 2,646,011 tons in 1881, notwithstanding the unexampled development of our railroad system has inevitably diverted to the land a very large share of the traffic which formerly was served by water. Under the same protection ship-building, so far as it relates to vessels intended for the coast, lake, and river trade, was never more prosperous than it is to-day.

It is only when we turn to our unprotected and unencouraged foreign carrying trade, and the ship-building interests dependent upon it, that we find decline and discouragement in consequence of European competition. While other industries, efficiently protected against such competition by our legislation, are prospering as never before, this one alone is languishing. The partial protection which restricts the right of American registry to vessels carrying the Stars and Stripes, is almost nullified by the practical workings of that system of maritime reciprocity, free trade on the ocean, to which we unwisely committed ourselves long ago. Under this system of free trade in ocean transportation the American ship-builder and the American ship-owner, with higher cost of labor, compete for the foreign carrying trade with the ship-builders and ship-owners of other countries.

If this "commercial freedom," this "free trade," on the ocean which the gentleman from Tennessee invokes on the land, has disastrously resulted to the American merchant marine engaged in the foreign carrying trade, it has only demonstrated what the same system would do for all our domestic industries. It is claimed, however, that if it had not been for our protective tariff we could have built the vessels required for the foreign carrying trade as cheaply as England, as we did up to 1855, and thus would have been able to maintain and even strengthen our position on the ocean.

Before showing the fallacy of this assumption, I desire to call attention to the concession to protection which it involves. Ninety per cent. of the cost of a vessel is in the labor employed in preparing and putting together the timber and ore, and only 10 per cent. is in the raw materials. Obviously nothing could materially reduce the cost of building an American vessel, except a reduction of the wages of the labor required to transmute the raw materials into the form of an ocean monarch. If vessels could be built more cheaply under the revenue tariff which gentlemen seek, it must be because that system would reduce the wages of labor in this country. I am not prepared, and I believe the American people are not prepared, for any policy which will reduce the wages of the American laborer to the European standard.

Gentlemen who argue that the protective tariff of 1861 has made it impossible for us to build ships in competition with England, as we did up to a few years before the breaking out of the rebellion, entirely ignore the fact that the retrograde in ship-building for the foreign carrying trade began soon after 1855, while the tariff of 1846 was in force, and was due to the great change from wood to iron, and sail to steam, through which ocean tonnage was passing. In 1855 there were built in the United States 381 ships and barks of the class employed in foreign tonnage. In 1857 the number declined to 251; in 1858 to 122; in 1859 to 89; and in 1860 to 110. The decline from 1855 to 1859 was more rapid even than since the war, as 96 ships were built in 1866, and in 1878 the number was 81, with a smaller number since. If the world's commerce were carried on in wooden sailing ships to-day, as it was before the war, we could successfully compete now with England in building vessels, as we did in 1855.

The retrograde movement in American ocean tonnage was not due to tariffs, but was contemporaneous with the great change in ocean transportation wrought by the invention and application of the propeller and the compound engine and the use of iron steamships. Gentlemen ignore also the fact that just as this great change began to attract attention in this country we were prevented from taking early measures to adapt ourselves to the new situation by the war of the rebellion bursting upon us and engrossing all our energies.

They conveniently forget, too, that, in addition to the inevitable drawbacks of war, by the aid of England the Anglo-confederate cruisers directly and indirectly swept one-third of our ships from the ocean, and that when peace returned the difficulties which environed us as legacies of the civil war interfered with measures of relief.

Taking advantage of this opportunity, England redoubled her efforts to seize upon the carrying trade of the world, and by means of government encouragement and aid—to which I shall presently refer—she is rapidly accomplishing her object.

Had it not been for this great change in the foreign carrying trad wrought by steam, iron, and English Government aid, re-enforced by the Anglo-confederate cruisers, the United States would have speedily surmounted the drawbacks of civil war, would have gone on increasing her ocean tonnage, and would have to-day had command of the ocean commerce.

The free-ship advocates tell us that, however well we might have stood if it had not been for the great change wrought in the ocean carrying trade while our hands were tied, yet that we must now accept the situation as we find it and either give up any hope of regaining our position as ocean carriers, or at once permit American merchants to buy ships abroad and give them an American register. This proposition, which has been persistently urged by our free-trade friends, and which has stood in the way of the adoption of a broader, wiser, and more statesmanlike remedy for the decline of our ocean shipping, one which would preserve and encourage our ship-building interests as the essential basis of successful commerce, deliberately proposes that the American people give up all idea of building their own ships, at least for ocean commerce.

To be sure, it holds out to the American people the hope that they may continue to build the vessels necessary for the coasting, river, and lake trade. But after we grant to one class of merchants the right to purchase and give an American register to foreign-built ships, it will not be long before merchants engaged in the coasting, lake, and river trade will demand the same privilege. It is doubtful, indeed, whether, as a question of law, a foreign-built ship purchased by an American and given an American register can be excluded from participation in the coastwise as well as the deep-sea commerce of the nation. In my judgment, whenever our free-trade friends carry their point in the direction suggested the death-knell of the American ship-building industry is sounded.

"Well," say some of our free-trade doctrinaires, "what of it? If our capital can be more profitably employed in other directions, it is not better that other nations should build our ships?"

Mr. Chairman, when I am asked "What of it?" in the event that our ship-building interests are ruined, I reply that the injurious results will be so far-reaching that I shrink from contemplating them.

There will be not simply the destruction of one of the most beneficent of our great industries—an industry employing, or that, properly encouraged, would employ hundreds of thousands of skilled workmen, who will be crowded into other industries, where they are not needed. Our free ship friends will also find that by the destruction of our ship-yards they will have made it impossible to retain the control of the commerce which they seek, and at the same time will have struck a serious blow at our commercial if not political independence.

I only repeat the teachings of history when I say that no people ever became a great commercial nation that did not build their own ships. The Egyptians, the Phœnicians, the Greeks, the Italians, the Carthagenians, the Spaniards, and the Dutch held in turn the empire of the sea; but each only so long as they could build their own vessels. When our carrying trade was thrown open to the world by the civil war, England, France, and Germany wanted it; but the former secured it simply because she could and did build her own ships. Experience has shown that the nation which does not build her ships will not long have the ability to buy them after the door is opened. The nation which confesses its inability to devise any policy by which it may build its own ships, and deliberately sends its people into the market to buy of her neighbors, surrenders her independence, and in war places herself at the mercy of those nations which control the ocean.

The free-ship theory has been so persistently pushed in and out of Congress for the last fifteen years that it has not only stood in the way of the adoption of some truly American policy that recognizes the vital importance of preserving and developing our ship-building interests as the essential basis of commercial prosperity but has also antagonized modifications of navigation laws, framed years ago for an altogether different condition of things, in directions that are necessary to make it possible to successfully run American ships in competition with foreign vessels after they are built. The free-ship remedy entirely overlooks the fact that the American carrying trade suffers less from the alleged excessive first cost of American vessels than it does from the larger expense of running them after they are launched. I have already stated that a first-class oak sailing vessel can be built as cheaply on the coast of Maine as anywhere in the world.

During the last year one hundred and eleven of the finest wooden sailing vessels ever launched, with a tonnage of 58,992 tons, were built on the Maine coast; fifty-five of them in the collection district of Bath, in the district which I represent. Eighteen of these were ships and barks for the foreign carrying trade. If these ships could be run as cheaply after they are built as the ships of other nations, our ship-builders would have their orders doubled and quadrupled within a few years. For, in spite of the furore for iron ships, I am confident that first-class oak sailing vessels are to retain their preeminence where freight is bulky and special despatch is not essential. The large number of iron sailing vessels that have foundered and become a total loss the past year has already caused a reaction, and there is again an inquiry for the first-class oak ships which are built on the Maine coast. Even last year two-fifths of the exports and imports of this country were carried in sailing ships.

But I recognize the fact that whoever commands the ocean carrying trade must depend more upon iron steamships than sailing vessels. According to a statement of Mr. John Roach, the eminent ship-builder, iron steamships can to-day be built in this country at a cost of not more than 15 per cent. in excess of what they can be built for on the Clyde, and that excess all goes to labor. If American iron steamships and sailing vessels could be run as cheaply as foreign vessels, the 15 per cent. extra first cost of the former, which is less than 1 per cent. per annum would not stand in the way of their employment in the

foreign carrying trade. What American who had bought foreign-built iron vessels would put them under the American flag, when by so doing he would make the taxes and running expenses much larger than they would be if he kept them under the English flag? The free-ship programme, therefore, would destroy our ship-building interest, and at the same time would not increase the number of steamships carrying the American flag.

Mr. Chairman, will the gentleman from Tennessee point out a single one of the "protective props which," according to him, "legislation has devised" to aid the American ship-owner in competing for ocean transportation with British vessels? Not a single one has been devised on our part, while England has built up the most elaborate system of protection and encouragement to enable her ship-owners to successfully compete with the world.

Mr. McMILLIN. If my friend will permit me——

Mr. DINGLEY. I do not wish to have the interruption taken out of my time.

The CHAIRMAN. The Chair will state that whatever interruption is made will come out of the gentleman's time.

Mr. DINGLEY. Then I must ask the gentleman to take his own time to reply.

Mr. McMILLIN. I will say that every bit of the iron that goes into the ship is protected.

Mr. DINGLEY. What I am talking about is the running of American ships after they are built. The gentleman has said that even in that connection we have given protection; and I ask him to state in what respect.

Mr. McMILLIN. If the gentleman will permit me to do what he calls on me to do, I will answer him. An American citizen, if I understand the shipping laws, has to buy ships that are built in the United States, or else he cannot have them registered as American vessels.

Mr. DINGLEY. I am speaking about the running of the ships after they are built. Please confine yourself to that.

Mr. McMILLIN. I go back further and show that everything entering into the construction of an American vessel is protected.

Mr. DINGLEY. But I am speaking of the running of the ships after they are built.

Mr. McMILLIN. The expense of doing the carrying trade is made up of various items, one of which is the original cost of the vessel. If you have to pay 25 per cent. more originally for an American-built vessel than you would have to pay for one of English construction, that is a burden on your shipping all the time.

Mr. DINGLEY. But remember, the cost of wooden sailing vessels such as we used before the war is to-day no more, proportionately, than it was then. We can compete with the world in building the same class of vessels now that we built before the war.

Mr. McMILLIN. But even the sails on your sailing-vessels are protected by a high tariff duty. The gentleman will not deny that.

Mr. DINGLEY. While England has built up a most elaborate system of protection and encouragement for her own shipping, we have not only avoided the protection and encouragement of American shipping under the influence of free-trade teachings but we have also neglected to modify our navigation laws so as to remove burdens on the running of vessels which England has removed from her shipping. Let me enumerate some of these burdens which practically discriminate against the American marine engaged in the foreign carrying trade.

Under an old law, enacted at a time when the sailors of our merchant marine were all Americans and recourse to the law infrequent, an American ship which discharges any seaman in a foreign port is required to pay him three months' extra wages—a burden imposed on the ships of no other nation. The sailor may have been aboard but fifteen days; his discharge may have been for misconduct or at his own request; he may be at the port where he lives, or within a few hours' ride; no matter; if his wages are $40 per month the ship must pay $120. And the ship does not pay the money to the sailor but to the United States consul at the port, who, after deducting a liberal fee, pays the balance to the sailor. Indeed, it appears from the official reports that last year over $30,000 of the three months' extra wages exacted from American shipping went into the Federal Treasury. This law has been shamefully abused by men who have incited sailors to leave the ship in order to get hold of the lion's share of the three months' extra wages.

Is this law one of the "protective props which," according to the gentleman from Tennessee, legislation has devised for the encouragement of American shipping?

2. Under the English consular regulations, all services by consuls to English shipping in foreign ports are rendered without charge, the English Government paying her consuls for this service from her own treasury. Under our laws consuls are practically paid by fees exacted of American ships and American merchants. Indeed, it has been made a subject of congratulation that the American consular service, costing $873,229 last year, was not only self-supporting, *i. e.*, supported by such fees, but actually paid a profit of $25,243 into the Treasury.

In the same period England appropriated over $1,000,000 from her treasury to support her consular service, a service which is maintained in every part of the world almost exclusively to aid British shipping and extend British commerce.

And yet the gentleman from Tennessee asserts that we have given to our shipping "the most ample protection that the loudest clamorer for special privileges could wish," while England has left hers to stand alone!

3. Under our system of measurement of vessels the American ship pays one-third more tonnage and other dues than the competing British ship. British measurement includes only that part of the ship's space to be actually occupied by cargo. American measurement includes not only this but also the room occupied by the ship's engines, boilers, and machinery, and the quarters of the crew. Thus a British ship has a registered tonnage one-third less than an American ship of equal freight capacity, and therefore pays one-third less tonnage, light and harbor dues, wharfage, and other charges. As a ship's tonnage means, or should mean, its capacity for freight, is it not time that our laws relating to measurement should be modified so as to not discriminate against American shipping?

Is this another of the "protective props" to which the gentleman from Tennessee referred?

4. The requirements of existing laws as to life-saving apparatus and other fittings of vessels are greater than the requirements of English laws. Either our own requirements should be reduced to the level of English vessels, or else all foreign vessels entering the ports of the United States should be required to come up to our standard in these particulars.

5. We impose compulsory pilotage, or a half pilotage, penalty on American vessels approaching our harbors, notwithstanding their captains or mates are usually perfectly competent to guide our vessels into port.

6. Our laws require that all American vessels shall transport and provide for wrecked sailors for the uniform price of $10 each, regardless of distance or cost, at Government expense. Frequently it costs American vessels several times this amount for rations alone.

Are these some of the "protective props" to which reference was made?

7. Every seaman of an American vessel is required by our laws to pay a hospital tax of forty cents per month, while no such charge is imposed upon the seamen of English vessels. The English Government makes appropriations from its own treasury to support hospitals. As the imposition of the hospital tax on sailors inevitably results in increasing the wages of seamen of American vessels to the extent of this duty, it places American shipping at a disadvantage in competing with English competitors.

Is this another of the "protective props?"

8. There is not a single official service done or official paper issued to an American vessel in either the foreign or coastwise trade in which the fee is not larger than that charged an English ship under British laws.

We even discriminate against American shipping engaged in the foreign trade, which are nearly all sailing vessels, by giving to steamships, mainly foreign, special privileges in discharging cargo, in order to save time and expense, while our laws withhold the same privileges from American sailing vessels competing with English steamships.

We have also discriminated against American sailing vessels by imposing the tonnage tax annually instead of on each entry, thus making the tax on American sailing vessels four times as large as on English steamships in proportion to business done.

Is this "the most ample protection" described by the gentleman from Tennessee?

The application of the principle of protection to our shipping interests would give a rebate of tonnage tax to American shipping instead of a practical discrimination against it.

9. The English ship engaged in the foreign carrying trade takes her own supplies out of bond duty free. The American ship, though compelled to compete with the British ship on the ocean, is required to buy imported supplies without relief from duties.

Mr. McMILLIN. That is where your tariff begins to work the other way.

Mr. DINGLEY. There is where the law should be changed so as to conform to the protective idea. The present law is in accordance with the free-trade idea. Change it to accord with the protective system and then American shipping would be protected.

10. There is no limit to the liability of the American ship-owner for damages. By the laws of England the liability of each part owner is limited to the value of his individual interest in the vessel, and the total liability of all the owners is limited to the value of the vessel at the time of an accident. If we are to compete with England on the ocean we must hasten to modify our laws as England did some time ago, so as to impose no unnecessary burdens on the American ship-owner.

11. American vessels engaged in the foreign carrying trade are unjustly discriminated against in the compensation awarded them for transporting the mails. Our domestic mails are carried by coast and river steamers, railroad and other carriers at rates of compensation fixed by contract, satisfactory to the carrier and always profitable. On the other hand our foreign mails are carried by our ships under compulsion of law, at inadequate rates arbitrarily fixed by Government, and which never exceed the postage on the matter carried. The pay for the former in 1880 averaged 57½ cents per mile; that of the latter only 2½ cents per mile.

While England—yes, free-trade England—is encouraging her foreign steamship lines by generous appropriations for carrying the mails—so generous that they are practically subsidies—we are refusing to pay ours enough to defray the actual cost. Is this one of the "protective props" referred to by the gentleman from Tennessee?

12. But it is in the important item of taxation under State authority that American shipping engaged in the foreign carrying trade is most seriously weighted in competing with English vessels. The English system of taxing income and not invested capital makes taxation bear lightly on shipping, and acts as a bounty to English commerce. An English steamship worth $500,000 and earning 7 per cent., or $35,000 annually, pays an income tax of 1 per cent., or only $350. The same steamship, owned by an American residing in an American city, would be taxed 2 per cent. on its value, or $10,000. Excess of American over English tax on such a steamship, $6,500, and that, too, when taxation per capita is greater in England than in this country. It is gratifying to note that one or two States have already taken hold of this matter of taxation and afforded relief. When that shall universally be done we may congratulate ourselves that we have at least given one "protective prop" to our shipping interests.

The points to which I have called attention are all directions in which we are neglecting to extend the protection and encouragement which free-trade England is extending to her shipping interests. Gentlemen who imagine that England is leaving her merchant marine to struggle for commercial supremacy unaided and unprotected make a great mistake; greater even than that which they make when they assume that we have devised "protective props" to our shipping interests. The Government of England, and more recently those of France and Germany, have taken hold of the shipping question as vital to their national prosperity, and have extended to their marine engaged in the foreign carrying trade most liberal aid.

Among other measures of encouragement to iron-ship building, at a time when we were handicapped by a civil war, England gave the construction of three-fourths of the war-vessels and marine engines required for her navy to private ship-yards at profitable rates. From 1874 to 1879 England paid over $50,000,000 to these ship-yards for the construction and repair of her naval vessels.

Finding that it was necessary to locate her iron-ship yards near her coal fields and iron mines, the English Government paid by a remittance of tonnage dues the $10,000,000 required to dredge and widen the Clyde, so that this inconsiderable stream might become the site of the great ship-yards of the world.

And, most important of all, England gave her foreign steamship lines contracts for carrying the mails at fabulous rates, equivalent to an annual subsidy of between $4,000,000 and $6,000,000.

Beyond this direct encouragement and protection, England has established a board of trade whose president is a member of the cabinet, charged with the special duty of devising ways and means to aid her merchant marine and commerce. Under the advice of the board of trade Parliament has so modified the English navigation laws as to form a complete system of protection and encouragement, the farthest possible from the "let-alone" policy advocated by our free-trade doctrinaires.

On the other hand the navigation laws of the United States remain substantially as they existed before England entered upon such comprehensive measures to extend her foreign commerce and increase her foreign carrying trade. Instead of encouraging we continue the imposition of old burdens which have become discriminating in the changed condition of ocean commerce. While we have created special departments or bureaus to take in charge most other national interests, our commercial marine, especially that engaged in the foreign carrying trade, is left to take care of itself in competition with the merchant marine of England, encouraged, protected, and made the special care of the British Government.

Under such circumstances it is a surprise that our unprotected and neglected marine engaged in foreign commerce has maintained its position as well as it has.

Obviously, the only measures of relief that can overcome the difficulties encountered by American shipping are not free ships and an abandonment of our ship-yards. That would be suicide. But a resolute maintenance of our ship-building interests as the basis of commercial prosperity; and then the same measures of relief and encouragement in the running of American vessels that England extends to her foreign shipping.

The efforts of England to control the ocean carrying trade ought to arouse the American Congress and people to the importance of our shipping interests. This is a question which affects the interior as much as the seaboard, the West as much as the East, the South as much as the North. It is not a local but a national question. It involves the inquiry as to whether we will save to our own people the ship-building industry, which employs tens of thousands of workmen and distributes millions of dollars; whether we shall retain a due share of the $100,000,000 which we annually pay for ocean transportation, with all the avenues of employment which it would open; whether we shall open up wider markets for American products in China, Japan, South America, and the Orient. It covers more than the material interests of the nation, great as these are. It involves questions affecting our commercial independence, our standing and influence as a nation, and even our national security. No nation ever maintained its national importance after it ceased to be a great commercial nation.

To-day our commerce is largely dependent on foreign ships—so dependent that a war in Europe would be more disastrous to us than to the belligerents themselves.

The eyes of the country are turned to the defenseless condition of our coasts in consequence of the weakness of our Navy, for it is an accepted military axiom that whatever nations command the ocean will command the coasts of countries adjacent. But a powerful navy is the offspring of a great merchant marine. Look over the nations of the world and it will be found that navies rise and fall with their merchant marine. Great navies, it has been well said, are never built in navy-yards. The United States have eight navy-yards and almost no navy. England has only three navy-yards and the strongest navy in the world. Only 19 per cent. of her vessels and marine engines were built in navy-yards, and 81 per cent. in private ship-yards. The fleet of English merchant iron steamships, subject to government orders in case of war, in return for the aid they receive, is in itself an effective naval force. The development of our merchant marine is the cheapest, most effective, and most beneficent policy of national defense.

Mr. Chairman, important as are many other questions before this Congress I hold that not one of them is of greater importance and of more far-reaching consequences than this. We are already a Republic of more than fifty millions, and increasing in population and wealth at a rate never before known in the history of any other nation. In 1890 our population will reach sixty-five millions, and in 1910 it will reach one hundred millions, provided we are true to ourselves and our destiny. But unless all history is misleading we cannot hope to retain our present advantages or to extend our prestige as a nation, unless by an efficient system of protection and encouragement we hold and strengthen our position on the sea as we have on the land. As has been well said, the throne of empire rests no less on the rocking waves than on the solid land.

[During the delivery of the foregoing remarks, when Mr. DINGLEY's time had expired,

Mr. RUSSELL said: I ask that the gentleman's time be extended five minutes.

Mr. MCMILLIN. I hope that will be agreed to.

There being no objection, Mr. DINGLEY resumed and concluded his remarks.]

Mr. TOWNSHEND, of Illinois. Mr. Chairman, this bill does not come to us as the deliberate, the free, and the conscientious judgment of the committee having the subject in charge, but comes before us as an edict of King Caucus.

It should more properly be in the care of the gentleman from New Jersey, [Mr. ROBESON,] as the chairman of the Republican caucus, than of a member of the Committee on Ways and Means. Those who vote in favor of it will aid in enacting into forms of law the mandate of a secret conclave which has no legal existence—it is extra-constitutional; but, sir, it is a body more potent in legislation when Congress is under the control of the Republican party than the will of the people and all other legitimate influences combined.

THE TYRANNY OF CAUCUS RULE.

It is a most tyrannical and irreverent body. Its members are forced to surrender their independence and their convictions; yea, they are compelled to sever their allegiance to their constituents. Other political parties have had caucuses, but they were mainly intended to harmonize differences of opinion regarding policy on political questions. This caucus under which we are now operating has arrogated to itself the power of dictation upon questions of conscience, of finance, and of taxation. It permits no freedom of action on the part of any of its members, no matter how young or old they may be, no matter how wise or unwise they are, no matter what their experience and service has been. It binds the Speaker as well as the humblest member. Its power invades the committee-room, deposes the chairman, and usurps all the powers and privileges of the committee. We had a most startling exhibition of the despotism of this invisible power the other day, and a humiliating confession of its potency on this floor. The oldest member of this House in consecutive length of service, a venerable and venerated gentleman, the ablest exponent and advocate of the doctrines of his party to be found in this Hall, the chairman of the most important committee, next in rank to the Speaker himself, yet stronger than the Speaker, because he holds the position of leader of his party in this Chamber—this distinguished statesman, eminent political economist and party leader, differed upon a question of political economy with a majority of the politicians who formed that caucus; differed with them in regard to a subject of which he mainly has charge as chairman of the Committee on Ways and Means. Straightway did they proceed to discipline him, and strip him of his freedom as a Representative, and force him to represent his people, not according to the dictates of his convictions, not as he believed their interests demanded, but according to the will and designs of the caucus. Of course I do not undertake to state the proceedings of the caucus, for they occurred under lock and key, behind guarded doors, and by gas-light, and no member of the conclave dare make known its action; but enough of its secrets have leaked out on this floor to warrant the remarks I am making.

Mr. KELLEY. The gentleman will permit me to say that the tariff-commission bill was not under discussion in the caucus to which he refers, and is not an outcome of that caucus, but is a Democratic measure proposed by a Democratic Senator to a Democratic Senate, and sent by that Senate to this Chamber. It never was alluded to in that caucus, so far as I know; and when I come to speak on it I shall speak of it as it is—a Democratic measure.

Mr. CARLISLE. But the gentleman from Pennsylvania [Mr. KELLEY] will do that Democratic Senator the justice to say that this bill is neither identically the same nor the same in substance as the one passed by the Senate. The gentleman himself voted in committee to strike out one of the features of the Senate bill.

Mr. KELLEY. If the gentleman from Illinois will permit me a moment——

The CHAIRMAN. Does the gentleman from Illinois yield for this colloquy?

Mr. TOWNSHEND, of Illinois. Yes, sir.

Mr. KELLEY. The tariff-commission bill presented to this House by two gentlemen in the early weeks of this session was the printed Senate bill taken from the files. Both copies came to the Committee on Ways and Means. One was considered; and from it, on my motion, was stricken one clause found in one line of the Democratic Senate bill for a tariff commission.

Mr. CARLISLE. That was the clause in regard to the revision of the internal-revenue laws.

Mr. KELLEY. Yes, sir; in relation to internal taxes. As for the action of the Republican caucus on the tax bill, I will say to my friend from Illinois that, like him, I agree with my party when I cannot rule it. [Laughter and applause.]

Mr. TOWNSHEND, of Illinois. So then it is admitted that it is not a Senate bill or a Democratic measure. But I would not do injustice to any man, least of all my venerable friend from Pennsylvania, for notwithstanding he is in my opinion wrong, yet I have no doubt he is conscientious, and I respect him for his zeal, energy, and learning. Therefore, sir, I will let him speak for himself. I will read an extract from the remarks made by that gentleman, made upon this floor, justifying the position that I have taken, that this bill is not the result of a free, deliberate, conscientious action of a committee of this House, but is the fiat of a tyrannical, despotical, political caucus.

On the 10th of this month the gentleman from Pennsylvania used this language:

> I desire to say, sir, with emphasis, that from the time I acquiesced in the conclusion of the Republican caucus I have not for an instant contemplated proposing any amendment to the committee's bill in the way of reducing taxes on spirits, tobacco, or malt liquors. I ask that it be noticed that I use the word "acquiesced." The bill of the sub-Committee on Ways and Means, which was about to be reported, commanded my approval; its provisions were in harmony with opinions I have frequently expressed during the last fourteen years on this floor upon the lecture-stand, and in political campaigns. I believe the conclusion of the committee to have been more judicious and wholesome than that arrived at by the caucus. But, sir, I am here as a Republican; I hold the position of chairman of the Committee on Ways and Means because I was regarded as a representative of the prevalent sentiment of the Republican party on the questions to be submitted to that committee. When I found that the party believed that at least for the time my views were not judicious, I did not abandon my convictions but acquiesced in the conclusion of an almost unanimous majority of the caucus.
>
> This action may bring reproach upon me for inconsistency, for want of courage, for failure to enforce my own convictions. Be it so. I shall not complain.

[Applause on the Republican side.]

These remarks of the gentleman from Pennsylvania, which are applauded upon that side, are an indication to my mind at least that they are prepared to sink their allegience to their constituents, to forget their duty to their country, and yield obedience to the command of a secret conclave known as a Republican party caucus. [Applause on the Democratic side.]

I shall not comment further on these remarks lest I be accused of unkindness and disagreeable personality.

Mr. RUSSELL. Will the gentleman permit me to ask him a question?

Mr. TOWNSHEND, of Illinois. Certainly.

Mr. RUSSELL. Does not the gentleman from Illinois know that the tariff-commission bill before the House was reported by the Ways and Means Committee before that caucus was held?

Mr. TOWNSHEND of Illinois. I have not the time now to engage in debate as to the priority of this mandate of the Republican caucus and the action of the Committee on Ways and Means on this bill.

I have simply attempted to show that the leader of the Republican party upon this floor, the chairman of the Committee on Ways and Means, the gentleman to some extent having the bill in charge, declared before this House and the country that he threw his convictions to the winds, that he abandoned a more wholesome measure and accepted in lieu thereof the behest of the secret caucus of the Republican party, and this he does not deny in his colloquy with me to-day. I have only done my duty in this connection when I call the attention of the House and country to the fact that this bill is the product of a political caucus. But before passing from it let me inquire how many Republicans are here who will assert their freedom, manhood, and courage by serving the best interest of their constituents and disobey the edict of that caucus; and also let me inquire how many Democrats on this floor intend to yield their assent to the command of that caucus? The final vote on this bill will answer my inquiries.

OPPRESSIVE TAXATION.

Mr. Chairman, the tariff which has been in force for nearly twenty years is the most oppressive system of taxation which has ever been legalized in any civilized country. By it the people are oppressively taxed, not for the support of the Government, but to enrich a privileged class. Its effect is to create an aristocracy of the few and a serfdom of the many. It was born of the late war, a war which emancipated the blacks from bondage to southern masters, but which has enslaved white and black to avaricious northern masters whose oppression is felt in every household. It grinds and robs the people. Its chief aim and principle is that the industry of one class shall receive bounty from every other. It is violative of the Constitution, which confers no power on Congress to levy taxes for any other purpose than to procure revenue for the Government. The suffering victims of this monstrous system of fraud and injustice have for years appealed to their Representatives in Congress for relief, but their appeals have fallen upon stony hearts and unheeding ears. Shrewd politicians have availed themselves of the most cunning tricks to avert an alignment of political parties upon a square issue over this question. While one of the parties has always boldly proclaimed itself in opposition to this iniquitous system, the other has, until of late, cowardly dodged the issue and has by vague and equivocal language avoided a direct and open expression of its position, and by raising false issues and pandering to prejudice and passion misled and confused the people; while the tariff robber has pillaged them, and from the spoils wrung from the toiling masses the monopolists have furnished a campaign fund to maintain the dominance of the Republican party in the Government.

The protectionists dare not even yet meet the issue openly and squarely either in the Halls of Congress or before the people. They have resorted to every device and trick their cunning could devise to prevent agitation or action. Of course as long as the Republican party has a majority in Congress or controls the Executive Departments they know full well that their scheme of plunder and extortion will not be interfered with. But in the last Congress a majority appeared in these Halls which favored relief of the people from onerous exactions, and high hopes were entertained that the time was at hand when Congress at least would be mindful of the interest of the masses and endeavor to break the grasp of the tariff monopolists upon the earnings of labor and the welfare of the people; but all who were here then will remember how sadly their hopes were blasted. It was discovered that a majority of the committee usually having charge of such legislation were unexpectedly and strangely enough favorable to the designs of protectionists. They established a blockade around that committee which vigilantly guarded against the emanation therefrom of any measure favorable to the masses, but which demanded that all bills bearing on the revenue should be consigned to it. Those entering there seeking tariff reform, however, knew, as did those who entered Dante's Inferno, that they should abandon hope.

The Republican party, under the leadership of the advocates of monopoly, then resorted to filibustering and other revolutionary methods, not only to prevent any relief through the agency of other committees, but to prevent even a hearing of the grievances of the people. That party then proclaimed "death to tariff legislation or death to all legislation."

THE TARIFF COMMISSION A SNARE AND DELUSION.

Now, since the Republican party has again come into power in Congress the protectionists are not content with possession of the Committee on Ways and Means, but demand that the representatives of the people shall abdicate the power reposed in them and refuse to perform the most solemn and important duty imposed upon them by the Constitution and their constituents, and surrender the sovereign power of taxation and their rights as Representatives into the control of a commission, to be created not by the people, but by the President, a junto unfriendly to the people's interest; for I take it such will be the character of the commission, as the men who control the majority on this floor and the present administration have already demonstrated that no friend of tariff reform, no friend of the people shall be on that commission, but that it shall be composed exclusively of protectionists.

Mr. Chairman, there is not a member of this House who fully comprehends the purpose of this commission that does not know that this bill will result as a means for delay and to postpone the tariff issue until after the next election, when it will be too late for action in this Congress, and also at the expense of the people secure official essays in form of the doctrine of protection. The people demand a revision of the tariff by their representatives in Congress, but you send them to a star chamber of protectionists; they ask for bread, and you give them a stone; they demand plain and unequivocal change in the tariff laws; you set before them this delusion and snare.

We inherited from our English ancestry the principle that the representatives of the people shall be vested with the sole power of levying taxes and raising revenue, and this principle, which cost so much of the blood and treasure of our liberty-loving grand sires, was ingrafted in our original and fundamental law. It was to maintain that principle that our forefathers rose in rebellion and threw off their allegiance to the mother country. How degenerate are their sons of this day

who basely and abjectly surrender that principle at the dictation of sordid and overgrown monopolies!

But putting aside all question in regard to intention, where will we be in regard to tariff legislation when the report of the commission is presented? We will be just where we are now; then, as I have said, it will be too late to revise the tariff during this Congress. The effect of this bill will, therefore, be to postpone tariff revision for two years longer. But our friends on the other side say that this commission will furnish us with information and views which will enlighten our minds and enable us to more intelligently do the work of revision. Sir, are not the same sources of information open to the Committee on Ways and Means as to such a commission? The members of this House have access to the census reports and all means of information open to a commission. Can it be said that members of Congress are incapable of discharging duties which they have assumed and for the performance of which they were elected? He who votes for this bill because he is unwilling or believes he is incapable of intelligently performing his duty in this respect owes it to himself and those he represents that he should resign his seat. When he was elected by his people as their representative it was not intended that a commission should be appointed at an expense of $200 per day to perform his duties.

This dodge to take the issue of tariff reform out of the next election will fail of its purpose. The people will discover the hollowness of this makeshift and they will put your party on trial in the next election for its unfaithfulness and dereliction of duty in this regard.

THE COST OF PROTECTION.

Let us for a while consider the nature and effect of our revenue laws. During the past nineteen years the Federal Government has collected from the people of this country the following amounts from customs duties and internal-revenue taxes, which are in addition to all the other taxes annually collected:

From customs receipts on imports	$3,012,750,929
From internal revenue	2,942,083,859
Total customs and internal-revenue receipts	5,954,834,788

In addition to this vast sum for the support of the Government the people have paid about five times as much into the private purse of the protected industries on manufactures by reason of a protective tariff, being $15,063,754,645, making the grand total of the amount paid by the people for the support of the Federal Government and the protected manufacturers during the past nineteen years the astonishing sum of $21,018,589,433, a sum about ten times as large as the public debt of the United States, nearly four times as large as the public debt of Great Britain, and within four billions as much as the public debt of all the nations of the world.

If this vast sum was now in the hands of the people and distributed equally among the 50,000,000 in this country, each man, woman, and child would have $420. Let us reflect for a moment as to where all this money has gone. Only about one-fourth has found its way into the national Treasury, while the remainder has found a lodgment in the pockets of the protected classes. This is the direct result or cost of nineteen years of protection. These figures are obtained by adding together the customs and internal-revenue receipts for the total taxes, and by multiplying the customs receipts by five for the profits of the protected classes, that being the proportion of revenue to the profits produced by the protective tariff; it being a well-established fact that the domestic manufacturer usually adds the rate of tariff duties to the price of his products.

WHO PAYS THE TARIFF DUTIES.

The Federal Government collected during the fiscal year ending June 30, 1881, from customs duties and internal-revenue taxes $333,424,061.53; of this sum $198,159,676.02 was collected from duties on imported articles which enter into consumption by the people. This sum was collected from every being who buys food and clothing or any of the necessaries and comforts of life. We have no statistics which will show how much of these taxes were paid by each individual. When a person pays his school, municipal, county, or State taxes a receipt is given to him which shows exactly how much he pays for those local purposes.

But such is not the case with regard to the taxes we pay for the support of the Federal Government, because they are collected from the importing merchants at the custom-houses in the ports of entry and to the agents of the Internal Revenue Department. The consumer may never have seen a Federal tax gatherer, yet he never escapes the payment of taxes every year, yes, every month and every day, to the Federal Government. He pays it to the dealer from whom he buys his goods, wares, merchandise, fuel, food, drink, or anything that he has or uses, except the direct gifts of nature. Therefore, one cannot ascertain the amount of taxes he pays annually to the Federal Government, unless he has kept an inventory of everything he purchases for the use of himself or family during the year. If he has done this, and deducts the first cost of the articles and the profit of the merchants or others through whose hands the article has passed before reaching his own, he will be able to ascertain how much taxes he has paid to the Federal Government in addition to all his other taxes.

RATES OF TARIFF.

The rates of duty under our present tariff run from a nominal amount all the way up to 780 per cent. There are two thousand articles on the tariff list upon which duties are charged; 197 of them bear a duty above 40 per cent., and the average duty on all is nearly 45 per cent. I will enumerate a few of them in order that it may be seen that the tax extends to necessary articles of every-day consumption. I shall discard the fractions for convenience of statement:

On rice, from about 86 to 88 per cent.; certain chemicals, 47 to 221; thread and thread-yarn, 54 to 76; porcelain, 45 to 50; window-glass, 60 to 79; articles manufactured out of iron, 41 to 68; cutlery, 50; steel rails and other steel articles, 43 to 105; oils, from 58 to 306; paints, from 45 to 229; salt, 65; silk manufactures, 60; soap, 47 to 51; starch, 48 to 115; sugar, 53 to 71; sugar-candy and confectionery, 127; vinegar, 85; carpets, 45 to 104; dress goods, &c., 66 to 70; blankets, 69 to 104; flannels, 65 to 95; woolen hosiery, 55 to 98; manufactures of other woolen goods, 56 to 118.

Although I give but few articles on the tariff list, yet an examination will show that it embraces nearly every article that enters into the daily use and consumption of the people.

TAXATION CAN BE REDUCED AND THE COST OF LIVING CHEAPENED.

The Treasury report shows that the net revenues were $360,782,292.57, and the net expenditures $260,712,887.59. The excess of receipts over payments was $100,069,404.98, of which $51,401,801.05 was expended in the redemption of the public debt. The balance in the Treasury increased $48,667,603.93, from $203,791,321.88 at the beginning, to $252,458,925.81 at the end of the fiscal year. The debt ran amount expended on account of interest and premium on the public down from $98,552,895.53 in the fiscal year 1880 to $83,569,989.96, a reduction of $14,982,905.57.

Now, Mr. Chairman, if the excess of receipts is over one hundred millions more than is required to meet all the expenses and fixed charges of the Government, while the interest on the public debt is rapidly diminishing and with a balance lying idle in the Treasury of over two hundred and forty millions, why in the name of common sense and common justice is it that the tariff on the necessaries of life are not reduced in order to lighten the onerous burdens now resting upon the people, and thereby cheapen the cost of living when it can be so easily done without detriment to the Treasury? Why is it that the Republican majority which controls this House and every branch of the Government does not reduce taxation on the articles which provide the poor against hunger and cold, the sick with medicine, the farmer with everything he uses except that which he digs out of the soil, the tools of the mechanic and all the household goods and wares of the masses? You have a bill now pending to reduce the tax on banks, bankers, and capitalists which you will pass notwithstanding our opposition. Now, why in the name of mercy do you not, with such an overflowing Treasury, reduce taxation on the necessaries of the masses as well as the wealthy capitalists? We are not left without our answer. It comes to us in plain and unequivocal language. The majority on this floor answer us that they are not willing to allow a reduction on the necessaries and comforts of life, because they desire to protect and foster the manufacturing interest of the country.

POSITION OF THE REPUBLICAN PARTY IN FAVOR OF PROTECTION FOR THE SAKE OF PROTECTION.

As already stated by me, the position of the Republican party on the tariff has, until recently, been hypocritical and evasive, but its leaders now openly favor protection or so laying the Federal taxes that they may result in the protection or subsidizing of certain domestic industries or manufactories as the main object, and the raising of revenue as minor and incidental. But to avoid controversy we will quote the language of some leading Republicans on this floor and in the Senate.

In his speech the other day the gentleman from Kansas [Mr. HASKELL] said:

Tariff for protection on the one hand, or free trade, or "tariff for revenue only" on the other hand, is the issue to-day. But the question whether the revision of the tariff shall result in a tariff for "revenue only," according to the Democratic doctrine, or that when revised the tariff shall remain as it now is, a protective tariff, is unmistakably an issue, as the recent debates in this House clearly show. The Republican party as represented in this House propose to revise the tariff. They propose to do it well; and more, their purpose is, that when it shall have been revised it will be left in effect and in name a protective tariff, free from unjust crudities if possible, but with every industry in the land unharmed.

The gentleman from Ohio [Mr. MCKINLEY] said in debate here—

Then I said that if there was to be any incident about it I would put it in the other form; that I am for a tariff for protection with incidental revenue.

A Republican Senator said the other day:

If there was no public debt, no interest to pay, no pension list, no army and no navy to support, I still should oppose free trade and its twin sister, tariff for revenue only, and favor protective duties.

Now let me quote an utterance from the protective tariff or convention of monopolists which was held in New York several months before the gentleman I mention had proclaimed this doctrine in Congress. This is what a delegate in the convention, a Mr. Ward, said:

I am glad to see this union of interests for the cause of American protection, and I am glad to see here so many able and influential advocates of protection who want to make this policy a success and to put it on a permanent basis. Let us come together and reason together. We may have differences on details; as wise men let us reason together and adjust them. Let us confer together. Let us yield something if necessary to the details of the grand and vital principle of protection to American industry, not for the sake of revenue but for the sake of protection.

There should be no surrender. Stand by that at all times and forever, and with a strong pull, a long pull, and a pull all together you will make the voice of a convention like this so potent that the law-makers of the land will be bound to heed it and to give attention to its recommendations.

Thus it will be seen that the leaders of the Republican law-makers do heed the monopolists. Will the American Congress likewise prostrate itself in the worship of Mammon?

The declarations to which I have invited your attention indicate the real position which the Republican party now or soon will occupy.

POSITION OF THE DEMOCRATIC PARTY.

The fact that we have a large public debt upon us and an immense pension-roll which must be promptly met in good faith, renders absolute free trade impracticable. For these reasons there is no Democrat on this floor who now advocates absolute free trade. Neither are there any here who advocate direct taxation, because, under the Constitution, direct taxation is required to be apportioned among the States in proportion to population, and the poor man would pay as much as the millionaire. In view of all these circumstances no one is found here who is not in favor of a tariff for revenue. And I maintain that we have no moral right or constitutional power to levy a tax or tariff for any other purpose. "A tariff for revenue only," as stated in the Democratic national platform, is the only tariff you can lay without departing from the Constitution and perpetrating a species of robbery under the forms of law.

INCIDENTAL PROTECTION.

The position of the Democratic party, as I understand it, is that the power of taxation cannot be rightly exercised except for public purposes; and that the object of all taxation should be revenue, but if the customs duties can be so adjusted as to aid and encourage our domestic industries without increasing the burdens of the people beyond what would otherwise be necessary, then to that extent protection is admissible; and that such a policy would afford all the protection that any legitimate industry will require. The position of the party since its foundation has been opposition to monopolies and opposition to special privileges and subsidies to any favored classes. When you impose a tax or duty above the revenue point it falls within this anti-Democratic class.

The policy of protection has indeed been favored by the Republican party since its organization, but, as I have intimated, its leaders have never been so bold and open in its advocacy as within the past few years. They formerly concealed their real purpose behind the mask of friendship for American labor, to raise revenue, and other hypocritical pretenses, but now, obeying the behest of the late conventions of protectionists at Chicago and New York, the more advanced leaders announce that they are for protection for the sake of protection, and that the protection of labor and the raising of revenue are but incidents to the main and primary object. For this reason we have heard the declaration made during this debate that if no tariff was required for revenue at all, still a tariff for protection pure and simple would be advocated.

PROTECTION NO BENEFIT TO LABOR.

By the false pretension that protection is a great benefit to labor the protectionists have popularized their scheme among the operatives in the manufacturing districts. I am satisfied that if the question is carefully examined and the difference in the cost of living and the hours of labor are taken into consideration, it will be found that there is very little, if any, difference in the purchasing power of the wages of protected laborers in the United States and England. The cost of everything, except food, entering into the consumption of operatives is from 50 to 75 per cent. less in England than in the United States, and the hours of labor are longer here than in England. The laborers in our manufactories as well as all others are compelled to pay the protective-tariff taxes. A man may receive higher wages as an iron-puddler in the State of Pennsylvania than in England, a hand in a Massachusetts cotton factory may receive a larger rate of wages than one employed in the Lancashire mills of England, but the American laborers have to pay more for what they and their families consume and they work more hours per day than do the laborers in free-trade England.

In proof of these assertions I beg leave to introduce the evidence of a very high authority for those on the other side of this House. It is that of Hon. James G. Blaine, late Secretary of State. In his letter introductory to the reports of consuls in Europe on the cotton-goods trade of the world, dated the 25th of June, 1881, he says:

In commenting on the strikes then imminent in Manchester, Consul Shaw, in the report transmitting the foregoing table, says:

"The plea that the factory operatives are now receiving higher wages in proportion to the time they work than American operatives is urgently made by manufacturers here, and this, together with increasing financial distress among mill-owners, is gradually allaying the discontent among operatives."

The Secretary further said:

The hours of labor in the Lancashire mills are 56, in the Massachusetts mills 60 per week. The hours of labor in the mills in the other New England States, where the wages are generally less than in Massachusetts, are usually 66 to 69 per week.

Undoubtedly the inequalities in the wages of English and American operatives are more than equalized by the greater efficiency of the latter and their longer hours of labor. If this should prove to be a fact in practice, as it seems to be proven from official statistics, it would be a very important element in the establishment of our ability to compete with England for our share of the cotton-goods trade of the world.

In the two prime factors which may be said to form the basis of the cotton manufacturing industry, namely, raw material and labor, we hold the advantage over England in the first and stand upon an equality with her in the second.

Having the raw material at our doors, it follows that we should be able to convert it into manufactures, all things else being equal, with more economy and facility than can be done by England, which imports our cotton and then manufactures it in her mills. The expense of handling, transportation, and commission must be an important item in this regard as compared with our turning in the fiber from the cotton-fields to our mills and shipping it in the advanced form of manufactured goods. Add to this the secondary fact that it costs us no more to handle and manufacture the same than it costs in England, and we stand on an undoubted equality thus far in the race of competition.

It must not be forgotten that the per cent. of cost of labor in the cotton industry is greater in proportion to material and capital used than in any other of the manufacturing industries. Sir, this tariff does not protect labor. It trammels and oppresses the toiling masses of this country, but it does in an enormous degree enrich and protect the manufacturing nabobs.

PROTECTION IS PAUPERIZING LABOR.

In proof of the fact that the cost of living is so great that the wages received by laborers in protected industries barely afford means of subsistence and lower their condition to that of the European laborers, I will read an extract from an editorial which appeared in a late number of the American, a Republican and protective-tariff organ:

The occurrence of strikes in various parts of the country, and in connection with several great industries, is a marked feature of the existing situation. As a rule these have begun with a demand for higher wages caused by the increased cost of living consequent upon the failure of the crops last summer.

The daily papers contain dispatches from the manufacturing regions which show that laborers are striking for higher wages because your so-called protective tariff is pauperizing them while it is enriching the lordly manufacturers.

It is not the purpose of the revenue reformers to degrade the American mechanic by reducing his wages or depriving him of employment. Our object is to reduce his expenses of living by cheapening the cost of the necessaries and comforts of life.

PROFITS OF LABOR AND CAPITAL.

Let us consider for a moment the percentage of value of the manufactured products above the cost of materials received by the brain and muscle of labor and that received by the cunning of capital. My distinguished friend from Kentucky [Mr. CARLISLE] has by his patient research and careful inquiry among official statistics shown to us that under the low or so-called free trade Democratic tariff of 1860, when the average rate upon dutiable goods was 19 per cent. and the rate upon all goods, dutiable and free, was less than 15 per cent., labor received a little over 20 per cent. of the value of the product. In 1870, after ten years of high protection under a tariff when the average rate of duty was 45 per cent., labor received only about 18 per cent. of the value of the product—2 per cent. less than in 1860—while capital received 45.7 per cent. on the whole amount of capital invested. The full statistics of the manufacturing industries for 1880 are not yet ascertained, but the reports on certain industries which are at hand, show that even a greater disparity existed in the receipts of labor and capital.

But, sir, the mask under which protectionists have been parading so long as the friend of American labor has recently fallen from their face, and as their motives and intentions become known, it is already seen how avaricious and merciless they are toward the American laborer, as well as all others. In discussing the remarks of a member of this House during this debate the Philadelphia American, as I have said, a protectionist as well as a Republican organ, said, when discussing the late speech of the gentleman from New York, [Mr. HEWITT,] that—

He assumed, with the sanction of several Republican speakers, that the difference in wages between Europe and America was the reason for protection. From this statement we entirely dissent. It is an opinion into which politicians easily fall; but it has not the sanction of any of the great advocates of the protective policy. Alexander Hamilton, Matthew Carey, Tench Coxe, Henry Clay, Henry C. Carey, William M. Meredith, Stephen Colwell, and Horace Greeley—to say nothing of living men—always treated the advantages to the laborer in point of wages as a reason for protection, but by no means the only reason.

This paper boldly announces the fact that the protection of labor shall no longer be considered as the main object of a protective tariff, but that is only one reason for it, and that paper cites as its authority names of great apostles and teachers of protection, against whom no protectionist dare contend. Need I waste time in repeating what their main reason and purpose is?

PROTECTIONISTS FAVOR CHINESE IMMIGRATION.

But, sir, the cupidity of protectionists does not stop here; they are not content with subordinating the claims of labor to their own greed. They go much further. They threaten the prosperity and morals of the American laborer with the leprosy of Chinese servile labor. A prominent protectionist, the gentleman from Ohio, [Mr. MCKINLEY,] intimated in his speech the other day that "the introduction of Chinese cheap labor would afford all the advantage that the manufacturers would need without the aid of any tariff. He said:

The per diem of slave labor at that time (between 1840 and 1860) did not much, if at all, exceed 20 cents.

This fact is the best argument that can be made, and needs no elaboration. It tells the whole story. With slave labor at 20 cents per day, or Asiatic cheap labor, we need no protection, and save for the purpose of revenue our custom-houses might be closed.

This was doubtless used as an illustration, but I quote it here to

show that there are conditions upon which protectionists seem willing to surrender their demands for a protective tariff, and one of those conditions is the unrestricted introduction into this country of Chinese coolies. These words, therefore, may not be without signification when considered in connection with the position of parties upon the question of Chinese importation. Do protectionists desire to bring the servile labor of China into competition with that of the American laborer, and the consequent impoverishment and degradation of the American laborer?

The action of the Republican protective-tariff leaders in and out of Congress give grounds for fear that an affirmative answer must be given to this inquiry. When discussing the bill recently passed by Congress restricting Chinese immigration I used this language:

HISTORY OF LEGISLATION AGAINST IMPORTATION OF COOLIES.

When, sir, all other means had been ineffectual to restrain the introduction of Chinese cheap labor, threatening as it did the prosperity, the morals, and the social order of the communities on the Pacific coast, when all local efforts had proven ineffectual, the people of the Pacific slope turned to the American Congress and appealed for relief.

In 1869 there was a Republican majority in both Houses of Congress, and a Republican President presided over the destinies of this country. An appeal was made to that, the Forty-first Congress. How was it answered? The Republican party turned its back upon the pathetic appeal of the people of California. It was renewed to the Forty-second Congress, which was likewise Republican. Numerous memorials, resolutions of public meetings, petitions, one containing over 16,000 signatures, were presented, but they were all ignored. The people of the Pacific States appealed to the Forty-third, another Republican Congress, and again relief was refused. It was not until a Democratic House assembled here for the first time since the war that the grievances of the people found a hearing. It was in the first session of the Forty-fourth Congress that a joint resolution was adopted authorizing the President of the United States to open negotiations with the Chinese Government for the purpose of modifying the treaty between the two countries and restricting immigration from China to commercial purposes. That action was followed up in the second session of that Congress by a joint resolution requesting the President to present to the Chinese Government an additional article to the treaty for the accomplishment of that end. The Democratic House in the Forty-fifth Congress passed the "fifteen-passenger Chinese bill." It commanded the support of my friend from Mississippi [Mr. HOOKER] as well as an overwhelming majority of the Democrats of this House. On the passage of that bill, 110 Democrats voted in favor of it, and only 45 Republican members could be found on this floor who were willing to stand up with the friends of American labor. Only 9 Democratic members voted against that bill, while 63 Republicans voted in opposition to it.

What became of the bill? It afterward passed the Senate and was placed before the Republican President, who had it in his power by a stroke of his pen to make it the law of the land. What did he do with it? He vetoed it, and our efforts were in vain and the hopes of the people were disappointed. Now, this bill has come to us from the Senate, and if you will analyze the vote in that body upon its passage you will find that among all who voted against it there was but one Democratic Senator, and of those who voted for it there were but eight Senators on the Republican side; of those Republican Senators who favored the bill there were but two of them who did not come from the Pacific slope.

The first and most deadly assault made upon that bill was an amendment which would permit Chinese emigration after ten years' suspension, and out of one hundred votes cast in favor of it there were only three who are opposed to protection. Among those voting for it were the gentleman from Pennsylvania, [Mr. KELLEY,] chairman of the Committee on Ways and Means, who has so often vaunted himself as the friend of labor, and the gentleman from Ohio, [Mr. MCKINLEY,] who gave us the ominous intimation referred to by me.

The next vote was on the final passage of the bill, and because of some who dodged and others who had changed their position the number against the bill was reduced to sixty-six; but out of these sixty-six votes cast against the bill and in favor of Chinese immigration there were only four Democrats. This bill met at the hands of President Arthur the same fate as its predecessor, the bill passed by the Democratic Forty-fifth Congress, had met at the hands of President Hayes—it was vetoed. Now, permit me to add that of all the votes cast in the Senate during this Congress against the bill restricting Chinese immigration there was only one who can be considered as opposed to a protective tariff, and of those who voted against it in the House only three are opposed to protection. Thus it will be seen that nearly all in Congress who are in favor of the immigration of Chinese cooly labor are in favor of protection; the two influences go hand in hand and seem to be in close sympathy and co-operation. Why should this not be so? Both are built upon and fostered upon the ruins and degradation of American labor. The protected monopolists and the importers of coolies have an interest in common, and therefore we need not be surprised to find them the joint foes of the welfare and well-being of the American laborer, and that his best friend is the Democratic party.

THE VOICE OF CAPITAL AND VOICE OF LABOR ON CHINESE IMMIGRATION.

Recent events emphasize the fact that protected capital is in favor of Chinese immigration. Permit me to call attention to the petition presented here the other day by the gentleman from New York, [Mr. FLOWER,] which he said was signed by two hundred and fifty of the wealthiest citizens of New York, which said petition opposed "any legislation which tends to obstruct and restrict immigration from China." This is the voice of capital. Now, what is the voice of labor? I will inquire even among the laborers of protective-tariff Pennsylvania. Listen to the reading of a dispatch which appeared in all the journals of the 16th instant.

ANTI-VETO MASS-MEETING.

PHILADELPHIA, *April* 15.

A large mass-meeting of workingmen "to express their indignation at the action of President Arthur in vetoing the anti-Chinese immigration bill," was held in this city this evening, and was participated in by from 6,000 to 8,000 workingmen, representing all trades. The meeting was presided over by Frank A. Kaufman, president of the State Labor Council, and addresses were delivered by Hon. THOMPSON H. MURCH, the stone-cutter Congressman from Maine; Charles A. Zimmerman, of the Trade and Labor Bureau of Statistics of New Jersey, and a number of others interested in the movement.

As I said in the speech referred to, "this question draws the line of demarkation between the true friends of American labor and its oppressors." The wealthy aristocrat of New York speaks for the one and the laborers of Pennsylvania speak for the other.

WHAT IS PROTECTION?

Now, what is the real meaning and character of protection? I will give the definition as it is found in McCullough's Commercial Dictionary:

Protection, in commercial legislation, means the protecting or bolstering up of certain branches of domestic industry by prohibiting the importation of the produce of such branches from abroad or loading it when imported with heavy duties.

Let us ascertain more specifically its operation and effect in this country. We will first take for illustration the statistics furnished by the census report for 1880 on the iron and steel industries of the United States.

The total number of hands employed were 140,978. Now, in order that this number of our people may apparently enjoy high wages, and that the owners of these properties may realize large profits, contribution is levied upon the millions who use the products of such works. But the bulk of the profits realized from these industries did not go into the pockets of the hands employed, it went into the well-lined pockets of the owners or manufacturers, as will be seen by this census report. The total amount of capital, real and personal, invested in the iron and steel industries was $230,971,884; the total value of all products made was $295,557,685. The value of the materials used was $191,271,150, and the wages paid for labor was $55,476,785. These figures show a net profit of over 21 per cent. on the capital employed. What other business in the country pays a larger percentage than these infant industries?

A PROTECTIVE TARIFF MEANS PROTECTION FOR CAPITAL ONLY.

The profits of the few thousand who owned the property nearly equal the aggregate amount paid to the 150,000 laborers. When it is remembered that the tariff on iron and steel products ranges from 41 to 105 per cent. it will be seen what an enormous subsidy, through the operations of our tariff laws, the one thousand and five iron and steel establishments were enabled to force out of the pockets of the people in one year. But the figures relating to the manufacture of Bessemer steel rails are still more startling. The number of hands employed during the year 1880 was 10,835; the wages paid amounted to $4,930,349; the amount of capital invested, $20,975,999; total cost of materials used, $36,826,928, and total value of the product was $55,805,210; deducting the cost of labor and materials from value of the product there is left $14,047,933 as a profit for the capital invested, which is about 67 per cent. on the capital invested, whereas labor received only 9 per cent.

But the proportion of laborers claimed to be protected by this tariff is small in comparison with those that are left without protection. This tariff does not protect machinists, skilled artisans, ship-builders, carpenters, shoemakers, blacksmiths, and masons. There were over 1,000,000 of this class, as shown by the statistics of 1870. We have not received the returns for 1880, but it is safe to estimate the number now at 1,500,000. Their product in 1870, as shown by the special report of the Commissioner of Internal Revenue, was $1,000,000,000. It must now be one and a half billions, while that of agriculture was three and a quarter billions. It must be five billions now. The number directly interested in agriculture and who are practically without protection is 25,000,000, one-half of the population of the whole country.

SIXTY-NINE PER CENT. OF THE REVENUE COMES FROM SIX COMMODITIES.

Over 69 per cent. of the $198,000,000 collected under the tariff last year came from six commodities, as will be seen by the following quotation from the report of the Bureau of Statistics:

Of the total amount of duties collected on imports, the duties on sugar and molasses amounted to $47,984,032.84, or 24.79 per cent.; the duties on wool and manufactures thereof amounted to $27,285,624.78, or 14.10 per cent.; the duties on iron and steel and manufactures thereof amounted to $21,462,534.34, or 11.09 per cent.; the duties on manufactures of silk amounted to $19,038,665.81, or 9.81 per cent.; the duties on manufactures of cotton amounted to $10,825,115.21, or 5.59 per cent.; and the duties on flax and manufactures thereof amounted to $6,984,374.90, or 3.60 per cent.

The duties collected on these six commodities and classes of commodities amounted to $133,580,347.88, and constituted 69.01 per cent. of the total amount of duties collected on imports.

The cost of steel rails in this country, according to the latest quotation I have seen, is $57 per ton, being $25.90 more than the English prices put them on board at the ports of shipment, and which is $2.10 less than the amount of duty. Of course no tax was collected by the Federal Treasury on the steel rails made in this country, but the manufacturer added the amount of the tax, $28 per ton, to the price of his product and compelled our consumers to pay it. It is estimated that the bounty paid by the railroads to the manufacturers of this article alone was over $31,000,000, which is refunded by the people with enormous interest annually to the railroad companies in increased charges for freights and passengers.

But look further into the two thousand articles on the tariff list

and you will find still more glaring evidence of extortion by the tariff monopolist.

THE EXTORTIONS OF TARIFF MONOPOLISTS.

It has been seen that all the other articles on the tariff list only pay $60,000,000. Why is it so? It is because the tariff duties are so high, so protective, that but few foreign goods are imported and the Government receives but little revenue from them. But the duty is collected by the manufacturer, who is his own tax-gatherer, for he adds the tax to the price of his articles that the people are compelled to buy, and puts the whole into his own pocket.

The time allotted to me is too short to enable me to call attention to many articles, but I will mention a few. Blankets are used throughout the country; the duty on them is from 85 to 104 per cent. It is estimated that $20,000,000 worth are annually bought in the United States. Yet the statistics show that only $1,239 worth were imported into this country, and only $1,089 of revenue on that article went into the Treasury, while the 100 per cent. of duty was added by the manufacturers to the price, and thereby they took out of the pockets of the people $10,000,000, and put it into their own pockets under the legerdemain of these tariff laws.

There is undoubtedly a much larger sum paid for flannels than for blankets; the duty on them ranges from 88 to 95, and is practically prohibitory, for only $3,082 worth were imported, and the Treasury only received $2,435 in duty, while the manufacturers received millions for the duty which they added to the price. With a duty running from 38 to 64 per cent., the aggregate of all the revenue collected on shot, buck-saws, cross-cut saws, hand-saws, and horseshoe nails, was only $141.

PROHIBITION.

On the following articles the duty is so high that it is prohibitory, there being none, or merely nominal importations and revenue: heavy cotton goods, so universally used by the poor, wool hats, shirts, drawers, knit goods, wire for fencing, screws for wood, cut nails and spikes, galvanized and coated iron, cast and wrought iron hinges, board nails, rivets, and bolts. When it is remembered how extensively these articles are used, and that our people are prohibited from obtaining them from the markets of the world, it will be seen what enormous tribute is levied upon the hard earnings of our people in order to enrich the lordly manufacturer.

THE BENEFITS OF PROTECTION ARE SECTIONAL.

If these manufactories were distributed into every county in the United States it would even then be a hardship—yes, a crime—to compel the farmers and other classes to divide the product of their toil as subsidies to maintain the factories in their midst. Still it might be contended that some degree of compensation would return in the development of home industries. It is impossible for me to see anything but injustice and violation of natural rights in a law compelling John Smith, the farmer, to pay or deliver a part of the fruits of his labor to William Simpson, the iron-mill owner, without fair compensation. The protectionists cannot justify their action even on the principle that you must help your neighbor, for often the tax-ridden citizen is not a neighbor of the protected manufacturer. Where are these factories and pampered industries located for whom you force tribute from the wheat grower of Illinois, the cotton planter of the South, the corn planter of Kansas, or the gold and silver miners of the mountain region? The census report on the iron and steel product prepared by Mr. Swank, secretary of the Iron and Steel Association, shows that Bessemer steel works existed in only twelve States in 1880; therefore all the other States were laid under tribute to maintain and protect the steel industries of those States. Pennsylvania produced more than half—56 per cent.—of all the Bessemer steel ingots produced in the United States. Now, answer me why should the people of Indiana, a State in which no Bessemer steel works exist, be compelled to support the steel works of Pennsylvania and other States where they are located; or in other words, when Indiana wishes to buy steel rails is it just to compel her to pay $57 per ton for them in Philadelphia when she can buy in Liverpool and lay them down in her own State at less than $30, adding cost of transportation under a fair revenue duty? My time will not permit me to present the data in this respect of other protective industries, but the steel industry will suffice as an example.

LEGALIZED ROBBERY.

Mr. Chairman, I will attempt a still more simple illustration of this subject. Suppose of two persons doing business in a county one is engaged in farming and the other owns a woolen factory, and that a person comes along who demands of the farmer a portion of his corn, his wheat, his oats, his pork, and everything else that he produces, for the purpose of donating those portions to his neighbor, the woolen manufacturer, in order to increase his wealth and maintain him in his avocation; what would that farmer say? Would he not answer that all he has is the result of his own labor, and that he needs it for his own benefit or the benefit of his family, and that if the woolen manufacturer cannot maintain himself without taking a part of his hard earnings he had better abandon his present business and pursue some other occupation? But suppose the person who thus makes the demand should further say, the law has authorized me to take from you such a share of all your products and deliver them to this manufacturer without compensation, would not the farmer reply that such a law is unjust, unconstitutional, and is nothing more than legalized robbery? Would that farmer feel that the law was any the less onerous and unfair if he is told that every other farmer, every carpenter, mason, merchant, and person in his county is forced to contribute in the same way for the support of that factory? Would he feel that it was any the less a crime if he is also told that the robbery is general and extends throughout the whole land? Would he not still say this is robbery, and that the moral nature of the crime is not changed by any enactment of Congress?

This is a fair illustration of the nature of the question which now divides the two great political parties on this floor. This is protection in its purity and simplicity.

A bare statement of its real nature will carry with it an unanswerable refutation, based on any other principles than those claimed by the Dick Turpins, Claude Duvals, and Jesse Jameses, or upon the statesmanship of a Machiavelli.

The tariff I have been describing is what our friends on the other side call a protective tariff. So may the highwayman, when he levies his forced contributions from the unfortunate traveler, call it a protective tariff. The principal difference lies in the fact that the one is collected without and the other within the forms of law; the same degree of justice and equity is found in each.

TARIFF HEAVIEST UPON NECESSARIES AND LIGHTEST UPON LUXURIES.

A very unjust and unmerciful feature of the tariff is that its burdens are laid heaviest upon the necessaries of life, which the poor are compelled to have, and is lightest upon the luxuries, which are enjoyed by the wealthy classes. A just and merciful rule of taxation would demand that the highest rate of taxation should be laid upon the luxuries, and so that the largest portion should be raised from those best able to bear it. But an inspection of our present system will show that such is not the rule adopted.

I hold in my hand the official tariff lists, with the rates of duty on each, but to save time will quote from the compilation as prepared and used in debate on this subject at the other end of the Capitol by Senator COKE:

RATES ON LUXURIES AND NECESSARIES.

Discarding fractions, wool hats are taxed 66 per cent. and silks 60 per cent.; salt is taxed 65 per cent and diamonds 10 per cent.; trace-chains are taxed 57 per cent. and treble ingrain carpets 50 per cent.; Brussels carpets are taxed 68 per cent. and coarse blankets 104 per cent.; fine woolen rugs for the lady's parlor and covers to keep the dust and moisture from her piano are taxed 45 per cent., while flannels, to keep the baby warm, to protect the shivering invalid, the strong workingman and his wife, and the aged people alike from the freezing blasts of winter, are taxed 95 per cent.; plain unbleached cotton cloth for shirts and other garments of honest working people is taxed 49 per cent. and the window-glass in their houses 60 per cent., while fine porcelain ware for the rich man's table is taxed only 45 per cent., and artificial flowers and feathers for the adornment of his wife and daughters pay only 50 per cent. Such instances could be multiplied into the hundreds. Medicines and their ingredients are taxed all the way from 30 to 220 per cent.

I appeal to the tariff list in proof of the assertion that the poor people, the working people of the country, who are least able to bear it, pay more than double the amount of taxes under the tariff, in proportion to their consumption, than any other class.

HUMBUGGING THE FARMER—HE SELLS IN THE CHEAPEST AND BUYS IN THE HIGHEST MARKET.

The cunning of the advocates of protection has been taxed to the utmost to find apologies and excuses for the unjust discriminations against our agricultural classes and the burdensome operations of the tariff upon them. Ingenious and specious arguments are employed to deceive and delude them into the belief that protection is beneficial to them as well as the manufacturer; but their efforts will fail. The farmer knows full well that while he is compelled to sell his products in the free-trade market of Old England, the cheapest market in the world, he is compelled to buy what he uses in the protected market of New England, the dearest market in the world. The American manufacturer demands of the farmer that he shall contribute to his aid, in order that he may compete with the products of the pauper labor of other countries, while, in the language of my friend from Kentucky, [Mr. CARLISLE]—

The American farmer is sending his surplus products three or four thousand miles to a market, and competing there with the labor of the lately emancipated serfs of Russia, and the half-naked and half-fed swarms of Hindoos in India, whose wages amount only to a few cents per day. Gentlemen should not be surprised at his inability to appreciate the wisdom and justice of a system which taxes his clothing, his agricultural implements, his means of transportation, and many articles of his food, in order that some other American producer, not more meritorious than he, may be able to conduct his business at a large profit.

Let gentlemen examine all the consular reports and other evidence showing the state of labor in different countries, and they will find that the agricultural laborer in Europe and Asia, with whom our farmers and agricultural laborers are forced to compete, is the worst fed, the worst clothed, and the poorest paid in the world. The wages received by those who are employed in the mechanical and manufacturing industries in the Old World are far higher than the agricultural laborer there can ever hope to earn, and yet we have a system of taxation based upon the theory that it is the duty of the Government to protect one class of our producers against competition with the best paid labor in the world except our own, and to leave another class open to competition with the poorest paid labor in the world.

The price of the wheat, corn, and pork of the farmer is governed by the fluctuations of an European market. The manufacturer pays for the breadstuff furnished him by his farmer neighbor at prices fixed in the Liverpool market less the cost of transportation 3,000 miles. He demands of the farmer that he shall buy his manufactured articles as fixed in the American market with the tariff duty added to other profits.

Sir, is it just that one class of our people shall be enriched with

bounties and special privileges while the other is loaded with burdens? Why is it that he who coins his money by the sweat of his brow in following the plow is not entitled to the protection and encouragement of his Government as well as the manufacturer while plying his comparatively less laborious vocation?

In order to reconcile the agricultural classes to the rank injustice of this tariff, several gentlemen on the other side have time and time again vociferated that there is a tariff on wheat, corn, pork, and some other agricultural products. This is delusive. You cannot frame a tariff on wheat, corn, and pork which will afford any protection to the farmer for the very simple reason that the price of these products is fixed at Liverpool where they come in competition with like products raised in the European countries. You can by the legerdemain of your tariff laws force the farmer to buy your manufactured articles at an unfair and extortionate figure, but you cannot force the buyers at Liverpool to pay one cent more than the price fixed by free competition.

Mr. CHACE. Does not the gentleman know that on the same day the price of oats was ten cents less per bushel in Canada than it was in New York?

Mr. TOWNSHEND, of Illinois. We find no market in Canada for our western oats, corn, or wheat. The Dominion of Canada produces enough of these cereals for her consumption without taking any from us. The Liverpool market regulates the price of our grain, a market where our farmers enjoy no protection and where they are compelled to compete with the cheapest labor in Europe and India, after paying extortionate rates of transportation.

Mr. CHACE. Will the gentleman from Illinois permit me to ask him a question right here?

Mr. TOWNSHEND, of Illinois. My time is very short, but go on; I will hear the gentleman's question.

Mr. CHACE. I wish to ask the gentleman if he knows what the prices of wheat or pork or beef and oats and breadstuffs generally were at the time he is now specifying in Canada?

Mr. TOWNSHEND, of Illinois. I know what they were in Liverpool, which is the real market for our agricultural products.

NO REAL PROTECTION FOR FARMERS.

In order to show that the farmer has protection, the gentleman from Ohio [Mr. MCKINLEY] and others have published with their speeches one of Nimmo's tables, which I hold in my hand. The amount of tariff collected for the year ending June 30, 1881, on wheat, rye, Indian corn, and oats was as follows:

Wheat	$2,116 66
Rye	702 00
Indian corn	7,516 20
Oats	6,527 68
Total collection	$16,862 54

When you remember the quantity of these articles produced in the United States you will perceive at a glance how insignificant is the amount of protection your tariff affords.

Articles.	Bushels produced in 1880.
Wheat	459,479,505
Rye	19,831,595
Indian corn	1,754,861,535
Oats	407,858,999
Total	2,642,029,634

There was collected on wheat $2,116, and we had a production of 498,500,000 bushels, valued at $554,886,003. There was collected $7,516 on Indian corn, and we produced 1,717,434,543 bushels, valued at $940,023,868.

Mr. Chairman, while legislation during the long period which the Republican party has had control of the Government is full of enactments favoring monopolies and corporations; while over a hundred and thirty-three millions of acres of land and millions of the treasure of the people have been voted away by that party in subsidies to railroads and for other purposes; while bankers and manufacturers have fattened and been fostered by your legislation, the farmer has been left to take care of himself.

Thus we have seen how protected classes stealthily reach the hard earnings of the masses. Is it not marvelous that in a free land such tyrannical and iniquitous laws should be placed on the statute-book? Sir, an examination of the infamies of our tariff laws will reveal the fact that the methods of the robber barons, who from their castles four hundred years ago preyed upon travelers, were as honorable as those of the tariff robber who preys upon commerce to-day in this land of boasted civilization and freedom. The villains or farm laborers under the feudal system were not more completely the slaves of their feudal lords than the agricultural producer is to-day the toiling slave of railroads and tariff monopolies. One-half of the product of wheat raised in Illinois is confiscated by lines of transportation in conveying it to its market in Liverpool, and the major part of the other half is filched from him by the artifice of protected monopolies. The legislation enacted since the close of the war has seemed to have but one end in view—the impoverishment of the farmer and the masses and the enrichment of the monopolies.

WHO PAYS THE TAXES.

The dealer in the manufactured articles of this country pays no Federal tax whatever, and a large portion of the raw material entering into the manufactured article is exempted from customs duties, but as soon as the raw materials are transformed into manufactured articles the masses pay not only a fair profit but an average tariff duty of 45 per cent. added, which goes into the pockets of the monopolists. How is it with the farmer? There is an excise tax of three times its actual value on one of the products of his toil and labor, tobacco; and if he dares to exercise the privilege of selling it to the highest bidder without regard to license, a right which ought to be revered as inalienable and unassailable, he may be heavily fined and thrown into prison. We have a statute which forbids under heavy penalties the producer of leaf tobacco from selling his product to any but a licensed dealer. Think of it! The farmer who owns the soil, with his own implements of husbandry, and the sweat of his brow blessed by the favor of Heaven, produces a bundle of tobacco; and yet if he should dare to exchange that bundle of tobacco with a neighbor for bread necessary to save the life of a famishing family, under an enactment of the Federal Congress he can be put into a prison and heavily fined. I can mention a number of farmers in my own district who have been arrested and punished for selling their leaf tobacco to unlicensed dealers. Doubtless there are many members who can do the same in their districts.

And such laws are permitted to remain unrepealed in face of the fact that the aggregate revenue collected from the licensed dealers is very small. If you can secure the monopoly to licensed leaf-tobacco dealers you can do the same for the dealer in corn and provisions. We may be pardoned for expressing the fear that the same party which enacted the one may, if it retains power in Congress, enact the other law.

When we remember that it is from the agricultural class that we draw mainly for the defenders of the Republic in time of war, our revenues for the support of the Government, and the sources from which business and commerce receive their prosperity, it is asking nothing more than the public welfare demands that we should foster this great interest and remove every restriction upon its freedom and success.

IT IS THE FARMER WHO GIVES US PROSPERITY.

Gentlemen over the way presented the tables of exports and used them as the main support of their arguments that it is protection which has brought prosperity to the country by swelling the amount of exports. Why, sir, it is well known to the most ignorant that 85 per cent. of all the exports ($898,152,891) were the products of the plow, and the rapid increase in exports during the last decade was not due to protection but to the improvement in agricultural implements, in the methods of farming, and by reason of the vast area which has been opened in the far West; also by reason of the enormous growth of our population. When the crops are bountiful we have prosperity in the whole country, but short crops are followed by panic and hard times. All know that the short crops of last season produced the hard times and depression and shrinkage of values which have followed. It is the exports of our farm products that are paying your bonded debt so rapidly.

You appropriate over $25,000,000 annually for the Army, and $16,000,000 for the Navy, in times of peace, and yet only $400,000 is bestowed on agriculture, the basis of national and private wealth.

The true theory for us is to reduce the army of tax-eating bayonets and office-holders, and encourage the tax-producing farmers. It is the latter class which brings prosperity to this country and sends bread to the famished in all the world.

I predict that we are rapidly nearing the day when the enlightened public sentiment of this country will be so strong against the injustice and bad policy of protection, that but few public men in or out of Congress, coveting the esteem of the people, will dare to champion such an iniquitous system of extortion and fraud. I will not have time to show how fallacious are the claims that protection produces prosperity in the country. Sir, it does not create wealth among the masses. It absorbs the earnings of the many, and concentrates them in the hands of the few. We had no Goulds or Huntingtons under revenue tariff or Democratic administrations, but we had a contented and prosperous people. We had no labor strikes, but we had low taxes and wages with a purchasing power far greater than those received to-day. We had then the golden era of peace, prosperity, and happiness. We then had a merchant marine which was the pride and glory of our land and the envy of the most powerful nations across the sea. Our products were carried into all the ports of the world, under the protection of a flag which no foreign nation ever insulted with impunity while a Democratic Secretary held the seal of state.

THE BLASTING EFFECT OF PROTECTION.

But while protection has not added to the prosperity of any except those who have received its bounties, yet the statistics reveal to us indisputable evidences of its blasting effects. Compare the condition of our merchant marine and carrying trade under the influence of the protective tariff since 1862 with its condition during the preceding revenue-tariff period. As far back as 1840 the percentage of

our imports and exports carried in American vessels was nearly 83 per cent.; the percentage has fallen to about 16 last year. In 1850 American vessels carried about two hundred and forty millions of our exports and imports, and foreign vessels carried less than ninety-one millions. In 1860, when our merchant marine was in the zenith of its glory, five hundred and seven and a quarter millions were carried in American vessels, while only about two hundred and fifty-five millions were carried on foreign bottoms. But the census returns of the next decade showed how rapidly was the glory of our power on the sea passing away. In 1870 the amount carried on American bottoms had fallen to less than three hundred and fifty-three millions, while that of foreign vessels had increased to about six hundred and thirty-nine millions. But the statistics for 1881 show a far more humiliating condition of our shipping; the amount carried by American vessels had fallen to about two hundred and sixty-eight millions, whereas the amount carried by foreign vessels had increased to the vast sum of 1,378,556,017.

THE DECAY OF THE AMERICAN MARINE.

Thus in twenty years the policy of protection had caused a decay in American shipping of nearly 50 per cent., and had increased the foreign shipping in our carrying trade over fivefold. It had reduced the percentage of American shipping from 66 in 1860 to 16 per cent. in 1881. The tariff has indeed been protective, but its protection has extended to foreign shipping and has been destructive of the American shipping industry.

These figures are so startling that their accuracy might be doubted if they were not obtained from the official documents which lie upon my desk. What a bright day was dawning upon our merchant marine when the fell spirit of tariff monopoly laid its palsying hand upon it! As we had become a great people, we were rapidly attaining the lordship of the seas. Our maritime dominion was extending around the globe. Foreign nations stood in awe and admiration of the growth of the American maritime empire. Its white sails were impelled by the winds of free trade into every sea and bay, and the remotest markets of the world were opened to products borne beneath the American flag. All foreign competitors were falling fast before it. The scepter of that great ruler of the ocean, England, was within our grasp, when the selfish greed of the tariff robber began its work. He captured the American Congress, and by restrictive laws accomplished what every foreign power had attempted in vain; he drove the American flag from the seas and transferred our foreign carrying trade, with its hundreds of millions of profits, to the flags of other lands.

No country can create or maintain a large commercial marine which adopts the policy of a protective tariff, for the reason that commerce does not take place between people who cannot exchange products. If a people prohibit or restrict importations from other lands, those prohibited or restricted will buy from or trade with the people who will take their products. The wise Montesquieu said a long time ago, in his Spirit of Laws, that "commerce is sometimes destroyed by conquerors; sometimes, cramped by monarchs, it traverses the earth, flies from the places where it is oppressed, and stays where it has liberty to breathe." "The history of commerce is that of the communication of people." The permanent prosperity of any nation rests with most absolute security upon the prosperity of its foreign commerce, through which its surplus products reach the markets of the world. And this commerce depends upon the willingness of nations to exchange their products with each other.

To encourage and secure this exchange it is necessary that liberal laws and regulations shall be adopted. Discrimination and prohibition beget discrimination and prohibition. If a nation closes its ports to the commerce and products of the world, every other nation will close its ports against that nation. So, then, sir, this question comes directly home to us. If our farmer could not sell his surplus wheat, corn, and provisions in Liverpool on so favorable terms as other nations, they would become valueless to him, and would cost him more to produce these products than he could realize from them. Instead of converting his surplus readily into cash to buyers at his door, it would rot in his cribs and fields. Will free-trade England always open her ports to us if we continue the policy of exclusion against her? Sir, the welfare of the farmer is dependent upon the freedom of commerce; that of the tariff monopolists is dependent upon protection and prohibition. There is a direct conflict between those two interests. What shall be done? Wisdom dictates the adoption of a revenue tariff so adjusted as to promote the welfare of all legitimate industries.

THE PEOPLE OPPOSED TO PROTECTION.

Time and again it has been boastingly said on this floor by the advocates of protection that the sentiment of a majority of the voters of this country is in favor of a protective tariff, and that it was so expressed in the late Presidential elections. Reference to the result of the last two will demonstrate the falsity of these assertions. On the 27th day of June, in the centennial year of our Republic, the oldest political organization in this Union assembled in convention in the city of Saint Louis. Over seven hundred delegates were present, representing constituencies in every county and parish in all the States. A candidate for President was nominated who pledged that the policy of his administration should be such as had been enunciated in the platform which had been framed by that convention. At the polls in the following November a majority of over 250,000 American freemen ratified that platform and elected that candidate. I shall read one of its planks:

We denounce the present tariff levied upon nearly four thousand articles as a masterpiece of injustice, inequality, and false pretense. It yields a dwindling, not a yearly rising revenue. It has impoverished many industries to subsidize a few. It prohibits imports that might purchase the products of American labor. It has degraded American commerce from the first to an inferior rank on the high seas. It has cut down the sales of American manufacturers at home and abroad, and has depleted the returns of American agriculture, an industry followed by half our people. It costs the people five times more than it produced to the Treasury, obstructs the processes of production, and wastes the fruits of labor. It promotes fraud, fosters smuggling, enriches dishonest officials, and bankrupts honest merchants. We demand that all custom-house taxation shall be only for revenue.

This was the sentiment of the majority of the American people. Has their solemn will been respected or enforced? It might well be asked if this in reality be a free land and governed by the will of the majority. Was the result of that election disregarded? Truth points to the sorrowful fact that returning-board thieves and the enemies of free institutions, in and out of Congress, by means of fraud and crime, deprived the lawfully elected President of his office and put an usurper in his place. Again that same party met in convention at Cincinnati in 1880 and declared as one of its fundamental principles that it was in favor of "a tariff for revenue only."

It is hardly necessary for me to add—for the facts are fresh in the minds of all within reach of the sound of my voice—that notwithstanding timid counselors on the one side prevented a full and fair discussion of this issue, and the corrupt use on the other side of money furnished by protected monopolists and star-route contractors polluted the elections in several States, yet out of a total vote of over nine millions this platform lacked but a few thousand in receiving ratification. Sir, will any intelligent and candid person acquainted with the secrets of the last campaign deny, if a free and unbought election had been obtained upon a full and fair discussion of the policy of protection, that General Hancock would have been elected on the revenue platform adopted at Cincinnati?

Mr. Chairman, as long as the great crime against suffrage remains unatoned and the unjust laws which mortgage the homes, earnings, and energies of our people to monopoly remain unrepealed on our statute-books, the true patriot will feel in his heart the degradation of slavery and will confess with shame that he is but a freeman in name. The people have borne patiently for years with the usurpers and the pillage of tariff robbers. God grant the day of deliverance may not be far off!

It is useless to indulge in hope that action on the pending bill will bring any relief, but we shall soon return to our masters at the polls, where we may demand judgment upon the dereliction of the majority in this Congress. The opportunity is near at hand when the people may save themselves from the piracy to which they have been so long subjected. The remedy is in their own hands and can be applied at the polls next November.

The same party which gave the country these iniquitous laws has signalized its return to power in this House by a bold declaration in favor of an increase of the burdens on the people, and by their open advocacy of a tariff for protection they challenge an issue with the friends of revenue reform. Well, sir, for one I accept the challenge and say, Let us go with this issue to the people. If they prove too weak and fall before the power and cunning of their opulent and unscrupulous foe, I shall be content to fall with them.

THE STRUGGLE WITH MONOPOLY.

I was one of those who favored a revision of the tariff in the last Congress, but we were foiled by trickery and filibustering tactics. Our foes met our demand with vilification, but not argument. I am now gratified that they have at last dared to meet us in the field of controversy, and I sincerely trust that this debate may go on until the friends of reform have so fully laid bare the enormities of this system as to arouse the people to a realization of the wrongs which have been perpetrated upon them. It is said we are delaying some of the appropriation bills. Well, sir, suppose we are delaying the expenditure of the public money. As I conceive it we shall prove unfaithful and deserving the scorn of those who sent us here if we do not strike a blow to free our people from the galling yoke imposed by the tariff monopoly.

Three hundred years ago, under the reign of the most arbitrary and potent and perhaps the wisest sovereign England ever had, monopolists had, as they have now, secured the favor of the ruling power. Queen Elizabeth favored her courtiers, as the Republican party of this day has done, with its favorites, with grants of monopolies for the sale of salt, coal, and other articles of ordinary consumption. The brave statesmen and true patriots in the Parliament of 1579 and 1601 assailed those monopolies with bitter invective. The autocrat who had never before tolerated opposition at first defied and threatened the representatives of the people, but in vain. Then she employed the art of diplomacy to save her subsidized favorites and in supplicating tones "hoped her dutiful subjects would not take away her prerogatives, which is the choicest flower in her garden and the principal and head pearl in her diadem."

But our sturdy Briton ancestry had the nerve and the virtue to press on with the work of tariff reform until they triumphed; they destroyed the monopolies of that day and compelled their haughty sovereign to yield her acquiescence.

I have lately read the debates which occurred in the Parliament of

that day as they are found collated in a work by Sir Simonds D'Estes, published nearly two hundred years ago, which you will find in the Congressional Library. I wish that all here would read the brave utterances and eloquent denunciations of monopolies by the statesmen of that early period. Sir Francis Moore, without fear of the awful potentate who ruled the kingdom, said:

I cannot utter with my tongue or conceive with my heart the great grievances that the town and country for which I serve suffereth by some of these monopolies. It bringeth the general profit into a private hand, and the end of all is bondage and beggary to the subjects.

And he concluded by declaring:

Out of the spirit of humiliation, Mr. Speaker, I do speak it, there is no act of hers that hath been or is more derogatory to her own majesty, more odious to the subject, more dangerous to the commonwealth than the granting of these monopolies.

Mr. Martin denounced the monopolists as "blood-suckers of the commonwealth," as "monstrous and unconscionable." More apt words cannot be applied to the monopolists that afflict the descendants of that glorious ancestry in this country than were heard in Elizabeth's House of Commons.

Mr. Chairman, let us be mindful of this grand lesson given us by our forefathers. If we have their wisdom, courage, and virtue, and their fidelity to the people we will lay the ax of reform to the root of the tree of monopoly, and hew until it shall fall and be cast away from the land of liberty.

Fellow-Representatives, I implore you to be steadfast and falter not. We meet a well-officered foe—relentless, and vigilant. Let us demonstrate our fidelity to public interest. Let courage and determination pervade our ranks and continue this agitation until our awakened people shall, through the agency of the ballot-box, break the power of their oppressors.

[During the delivery of the foregoing remarks the hammer fell.

The CHAIRMAN. The gentleman's time has expired.

Mr. RUSSELL. I hope the gentleman's time will be extended.

Mr. MCKENZIE. I move that the time of the gentleman from Illinois be extended five minutes.

The motion was agreed to.

Mr. TOWNSHEND, of Illinois, resumed and concluded his remarks.]

MESSAGE FROM THE SENATE.

The committee rose informally; and Mr. UPDEGRAFF, of Ohio, having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. SYMPSON, one of its clerks, was received, announcing that the Senate had agreed to the concurrent resolution of the House in relation to the enrollment of House bill No. 3869; also that the Senate had passed with amendment the bill (H. R. No. 721) to authorize the appointment of V. McNally as an ordnance storekeeper in the Army, in which the concurrence of the House of Representatives was requested. The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

A bill (S. No. 469) to provide for the sale of certain Kickapoo Indian lands in Kansas;

A bill (S. No. 506) authorizing the board of commissioners of the Soldiers' Home to sell certain property at Harrodsburgh, Kentucky, belonging to the Soldiers' Home;

A bill (S. No. 1255) to provide for the sale of a part of the reservation of the Omaha tribe of Indians in the State of Nebraska, and for other purposes;

A bill (S. No. 1367) for the relief of H. C. Linn; and

A bill (S. No. 1413) making an appropriation for continuing the improvement of Memphis Harbor, in the State of Tennessee.

TARIFF-COMMISSION BILL.

The committee resumed its session.

Mr. MCKENZIE. Mr. Chairman, it is possible to appreciate, but it is not possible to express the embarrassment under which I labor on this occasion. At the close of the day's debate, and after so many exhaustive speeches upon this subject, I do not expect to say anything either new or novel. The ground has been thoroughly trodden over. The reapers of Boaz have so thoroughly gathered and garnered the field that there is nothing left behind them for a modest and unpretentious Ruth like myself to glean. [Laughter.] I am, then, only going to indulge perhaps in some of the hackneyed phrases which have been worn threadbare in this discussion. I do not think the facts can be too often stated. I do not think that even the scroll of the heavens could contain the enormities, the outrages, and absurd iniquities of this tariff system.

This tariff discussion has been conducted at such great length that I doubt not the outside world is beginning to conclude that Congressmen "think they are under a sacramental obligation to exhaust every subject with a prolixity which scorns consideration of the preciousness of time and the brevity of human life." Yet, notwithstanding the great length to which this discussion has been extended, I shall ask the indulgence of the committee while I state as briefly as possible some of my objections to the bill, and discuss in a general way the subject to which it relates.

We are all familiar with it. It is infamous enough itself; it is a confession in avoidance and a confession *in ignorantia*, and it is a direct assertion that the great body of the American Congress, elected by a constituency as broad as the whole country, is unqualified and incapable of dealing with the great economic questions which are presented for our consideration.

The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That a commission is hereby created to be called the tariff commission, to consist of nine members.

SEC. 2. That the President of the United States shall, by and with the advice and consent of the Senate, appoint nine commissioners from civil life, one of whom, the first named, shall be the president of the commission. The commissioners shall receive as compensation for their services each at the rate of $10 per day when engaged in active duty, and actual traveling and other necessary expenses. The commission shall have power to employ a stenographer and a messenger; and the foregoing compensation and expenses to be audited and paid by the Secretary of the Treasury out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff, or a revision of the existing tariff and the existing system of internal-revenue laws, upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission in the prosecution of its inquiries is empowered to visit such different portions and sections of the country as it may deem advisable.

SEC. 4. That the commission shall report to Congress the results of their investigation, and the testimony taken in the course of the same from time to time, and make their final report not later than the first Monday in January, 1883.

This bill is an organic injustice. It delegates powers of a quasi-legislative character to nine civilians, or experts. And, by the way, gentlemen of the House, the word expert in the last ten years has been made as odious in the American world as the Shakespearean word "occupy." It has a vague, general, indiscriminate signification that is extremely repulsive to all thinking minds.

This bill has one of two objects in view: either to secure delay in the matter of revising the tariff, or to secure a revision in the interest of a high protective system.

I pause here and ask any friend of this bill, any friend of protection, any friend of the existing tariff, if in any of the papers on file in this House the name of a single farmer appears as demanding or urging the passage of the bill. We have without number the petitions of the manufacturing interests of every section, signed, I doubt not, by their own employés, whose bread and meat and the shelter over the heads of whose families depend upon the dictum of their employers. I have no doubt we have cart-loads of such petitions on file here; but I ask gentlemen who are pleading for the passage of the bill to answer if the name of a single producer of the great cereals of America is on file in favor of its passage?

Railroads doubtless petition for it; banks petition for it; the cotton manufacturers petition for it; the spinners of wool petition for it; manufacturers of Bessemer steel petition for it; the manufacturers of iron petition for it; and I ask you gentlemen on the other side who are presumed to be the especial champions of this bill, if in all the annals of the literature of petition on this subject the name of a single American farmer appears? They are satisfied that they have been made for years the victims of this odious system of protection; and every paper on file asking for relief to the muscle that toils in the corn and tobacco fields in this great country asks for relief from the invidious, proscriptive, infamous system that discriminates against their labor and in favor of the capital and the protected industries of the land. There is not very much poetry in this sort of statement, gentlemen, but it is God's eternal truth.

These people who are protected by the present system may go on for a few years in riot, in the enjoyment of the splendid incomes which our present system secures to them; but I say that the time is not far distant when you will be called to an exact account by the American people that have been so long plundered by your infamous exactions. If the Republican party needed nothing else to damn it in the estimation of all right-thinking people, the fact that it is the author of the Morrill tariff bill is enough in the eyes of God and men to consign it to the infamy of an absolute and unconditional perdition. I do not mean the hell that is spoken of in this new translation of the Bible, but I mean the old, orthodox, unconditional hell of King James's version. [Laughter and applause.] I am not a new-translation man; I belive in an orthodox hell; and when I look on that side of the House and contemplate the iniquities of this infernal tariff system I realize the necessity of a hell. [Great laughter and applause.]

This bill, then, delegates the powers that belong to the American Congress to nine civilian experts to be chosen by an accidental President, hostile in his political views to a majority of the American people. It is an absolute surrender of the powers and privileges of this House delegated to it by the Constitution, which provides that all bills for raising revenue shall originate in the House of Representatives. What does it propose? It delegates to nine men powers and duties which by the Constitution of the United States belong exclusively to Congress. Is it not a humiliating spectacle that the representatives of the American people in this the highest deliberative body in the world should make the confession that they are incompetent to execute the high trust confided to them and to discharge the most vital functions of Government which they were elected and are paid to carry into effect?

I say to you gentlemen over on that side of the House that if this bill becomes a law by your votes, in all conscience you ought to contribute out of your salaries enough to pay the expenses of these nine civilian experts. You were sent here to revise this tariff. You were

elected to devise ways and means for carrying on this Government. If you admit your incapacity and delegate your powers and reprogatives to nine paid civilians, by every principle of common honesty known among men you ought to pay the expenses yourselves. That would make an enormous difference, I take it, in the votes on that side if it were tacked on as an amendment. [Laughter.]

Amid all the screaming and howling virtue on the Republican side of this House reduction of salaries is not one of their distinguishing and peculiar characteristics. Seventy-five cents a day would be very fair pay for a man who votes for this bill. [Laughter.] I hope gentlemen will not get impatient with me; I have not occupied the attention of this House more than six hours in six years. [Cries of "Go ahead!"]

Now, let me inquire of gentlemen who advocate the passage of this bill where the members to compose this commission are to come from, and in what manner this extra-judicial commission is to be constituted? Are you to let the Irish have representation? There has been a great outcry in this House about demanding the release of the suspects on the other side of the Atlantic now in British prisons, with which I thoroughly sympathize. Our Irish population constitutes an important factor in our cosmopolite nationality. Are you going to give the German element representation? They believe in personal liberty, and they are afraid of these fanatical people on the other side who advocate temperance bills and take a drink five times a day. [Laughter.]

Those gentlemen also occasionally, in a spirit of unusual and extraordinary morality, advocate the passage of bills for the government of Utah that will wipe out all the iniquities of the polygamic system and leave untouched the plain system of fornication known elsewhere. [Laughter.] But, gentlemen, I do not impugn your virtue; God knows that in my judgment there is not a single man in the House who is not as pure and as immaculate as the icicle that hangs on Diana's temple. [Laughter.] I am not here to make invidious allusions or comparisons; I only know that the Republican party occasionally experiences a spasm of virtue that generally ends in smoke, and nothing else. While they claim to be the God-and-morality party, they have ways very much like an average sinner. [Laughter.]

Again, I ask, are these commissioners to come from the great valley of the Mississippi River, which is the grand food-producing basin of the United States, and whose people are more interested in the free exchange of products than any other people on the face of this hemisphere? Are they to come from protected New England? Are they to come from the growing States on the Pacific coast? And, by the way, I see the benevolent face of my friend from California [Mr. PAGE] beaming on me like an anti-Chinese lantern. [Laughter.] I ask him if he wants the Pacific coast left out in the general make-up of this commission? I ask the Representatives of New England if they want their spindles and their water-power at Lawrence and Lowell to be represented in the composition of this extraordinary quasi-judicial commission which is left to the discretion of President Arthur? Are there to be representatives of all these sections and interests? And, in addition, are they to be the beneficiaries or the victims of the present infernal and iniquitous tariff system?

The English language has too great poverty of expression to properly convey to the American people an idea of the incongruities, the enormities, and the absurdities of the present tariff. Are they to be intelligent and impartial citizens, having no political or sectional interests to subserve, but anxious only to promote the general welfare of the whole country? My God, gentlemen, how rare such a character is to-day! How few of us, (and I speak in a general sense,) how few of us in casting our votes upon any great measure of public policy consider what its effect is to be upon the whole country! Rather do we consider how it is going to affect us in securing our own nominations in the race for seats in this House.

How will this affect, not New England, not the Mississippi basin, not the Pacific coast, but the whole country? And I ask you gentlemen who are fair-minded, it matters not what your political convictions may be, I put it to you personally, if in the adjudication of the great economic questions that are presented for the consideration of the American Congress we give them that broad national scope of observation and regard which by virtue of the high positions we hold here we ought to give them? Or do we narrow to a district what should be designed for the whole country? I want to ask those gentlemen on the other side if the agricultural, the mechanical, and the manufacturing interests shall all be fairly represented on this commission? What assurance have you from President Arthur that it shall be so constituted?

I served here in the Forty-sixth Congress, and remember that it was pretty generally understood among us all what sort of bills Mr. Hayes was going to veto, and what sort he was going to sign. I hope no such era is to be inaugurated under the new *régime*.

I ask you, gentlemen, if these great interests—and I ask you in common fairness if they are not great interests—the mechanical, agricultural, and all the industrial interests of the country will be represented on this commission? Will the farmer? No, gentlemen; the farmer has taken a back seat in this House for the last forty years. He has scarcely an advocate on this floor. How many have appeared here with a bill in the exclusive interest of the great farming industry of the country? You apply for special relief for injustice alleged to have been done to the manufacturing industries; but who ever came before this Congress asking in the name of this great producing energy a single solitary measure for its relief?

I ask, then, again if the farmer is to be on that commission? Do not tell me that the farmers have not intelligence enough to serve on any commission this House could authorize. Do not tell me that the farming interest is not sufficiently vast to require and demand a representation upon a commission so important to the American people as this. Will it be represented?

Will the banker, the merchant, the mechanic, the manufacturer, the railroads, the ship-owners, the ship-builders, the salaried and waged laborers of the country—will they all have representation upon a commission so vital to all their important interests?

And, by the way, gentlemen, the salaried and wage laborers of this country have as much interest in this bill as anybody else. Who pays any attention to them? They represent about eight-tenths of the whole body of the American people. Eight-tenths of our whole population make their living by the sweat of their brows, by tilling the soil, by working in the shops, the blacksmith-shops, the carpenter-shops, and all the varied industries of the land, or depend for sustenance upon the labor of those who are so employed. The salaried and wage laborers of the land are those who need and require protection.

Capital is cautious, conservative, and self-protective. You may put a man with a hundred thousand dollars in the wilds of Senegambia, and he is a comparatively free man, for he can buy all the African princes necessary to secure his safe return to the coast. It is not such men who require the protection of the law.

It is the men who work twelve hours a day to support their wives and children, to supply them with bread and meat, and shelter over their heads, who require the protection of American legislators. They are the people for whom protective laws should be specially designed; not with a view to do any injustice to the moneyed interest; not with a view of doing any injustice to railroad or other corporations, but upon the broad catholic and benign principle that the helpless always demand the strong protective power of the law.

I appeal to you, gentlemen, who differ from me in sentiment, to know if it is not true that the legislation of the past twenty years has been in the interest of banks and bankers and railroad corporations and the great protected interests of the land? I ask any gentleman here to point me to a single statute that adorns the statute-book of our country that is designed expressly and exclusively for the interests of the farming people.

They cannot wine you and dine you. They have no paid and salaried lobby here to protect their interests. The great majority of them are poor. Your corridors are not crowded with the salaried agents of the farming interests. But you cannot start out of one of these corridors without running across a railroad lobbyist; without running afoul of a man who wants to recharter the national banks; without running afoul of the man who wants to protect the salt interest; without running afoul of a man who is in favor of the protection of the iron interest. Not a single farmer is to be heard from, either by himself or his agents, in these corridors. Producing all the wealth of the country, establishing its prosperity, he stands in legislation representing seven-tenths of the whole population of the United States; he stands here without a lobby and comparatively without a friend. I conjure you, gentlemen, to think of the idea of delegating the great and important interests of the farmers of this country to such a set of wet-nurses. [Laughter.] This infant is too nearly strangled and starved by abstemiousness and by ill-feeding to hope that its life can be preserved by surrendering it to such an infernal foundling asylum as that. [Laughter.]

Now, I ask your attention respectfully to another idea. I am not trying to say anything new on this subject, because the ground has been trodden over very thoroughly. I am only attempting, like a good cook, to make the fare of yesterday passable again to-day by a varied dressing. I am putting more sauce into this thing than usual. [Laughter.] Under the provisions of this bill the President may exercise an absolute discretion in the selection of members of the commission. He may, if he chooses, appoint every one of the members from a single protected industry. He may take every one of them from your Bessemer-steel men; he may take every one of them from your wool men; he may take every one of them from the representatives of any of the interests that are here on this floor to-day, or are here through their paid lobbyists in the corridors of this Capitol.

I now come to the consideration of a question which I approach with many misgivings. I do not want to say anything unkind; it is not in my nature. [Laughter.] I have served here a long time; and I appeal to gentlemen on both sides of the House if I have not been uniformly courteous and considerate of their feelings. But I am going to discuss a question which has somewhat of personality in it. I trust I shall be able to deal with it with that degree of deftness which will leave no sting behind. I come to contemplate the Committee on Ways and Means, and I pause in order to allow the average Congressional mind to grasp the vastness of this subject. [Laughter.]

Now I desire to ask why has not the Committee on Ways and Means, that mighty body which is the *arbiter elegantiarum* of this House, and which controls absolutely its economic destinies, why has not this Committee revised the tariff? Is it possible that they

are willing to confess in the face of Heaven and men that they are incapable of grappling with the grand questions which are referred to them by this House? I am not disposed, gentlemen, to entertain as poor an opinion of that committee as they seem by their acts to entertain of themselves, and, God knows, modesty is not the weakness of the average American Congressman. [Laughter.] It seems to me that a sub-committee of the Committee on Ways and Means might be constituted consisting of the gentleman from Pennsylvania, [Mr. KELLEY,] the gentleman from Iowa, [Mr. KASSON,] the gentleman from Minnesota [Mr. DUNNELL] whom I see before me, my colleague, [Mr. CARLISLE,] the gentleman from Virginia, [Mr. TUCKER,] and the gentleman from Illinois, [Mr. MORRISON,] thus embracing three great representatives of each of the two great political parties which are so nearly equally divided in this House and in the whole country.

Here is a sub-committee selected in a spirit of fairness, three of one party, and three of the other, representing the intelligence, the experience, the capacity of the two great political parties that are struggling for mastery in this country. I would have more confidence personally in the recommendations of such a sub-committee than in all the partisan commissions that President Arthur could select during the remainder of his official life. Here are men chosen by the American people, undergoing the cross-fire of adverse political criticism in their own districts, bringing to this House the *prima facie* fact that the people whom they have the honor to represent have indorsed them and expressed confidence in their wisdom, their fairness, and their justice. If we could have a sub-committee like this, consisting of three gentlemen on each side representing the two great political parties in this country, I ask gentlemen of this House if they would not have more confidence in the finding of that sub-committee than in this commission of wet nurses? What say you, gentlemen? I pause for one minute to know if any man in this House, Republican or Democrat, differs from me in that statement. [Mr. WHITE rose.] Oh, John, sit down. [Laughter.] I do not mean any offense to my colleague. "Then none have I offended. I have done no more to Cæsar than you should do to Brutus." [Laughter. Mr. WHITE again rose.] I have given you a sub-committee composed of an equal number of the two great political parties represented on this floor; and I ask whether you would not have confidence in the wisdom of their conclusions?

Mr. WHITE. I beg my colleague's pardon for interrupting him——

Mr. McKENZIE. It is no interruption.

Mr. WHITE. My colleague said he would pause for reply; and I thought if I did not reply he might consider that I was agreeing with him.

Mr. McKENZIE. No, indeed; I did not conclude that; I knew you did not. I knew you too well for that, John. [Laughter.]

Mr. ROBESON. Will the gentleman from Kentucky permit me to ask him a question?

Mr. McKENZIE. With great pleasure.

Mr. ROBESON. I would like to ask the gentleman why, when he makes up his sub-committee of the leaders of the two parties on that committee, he leaves off the representative leader on the Democratic side of the House, its late Speaker?

Mr. McKENZIE. Because it is not usual to constitute a sub-committee out of the whole committee.

Mr. ROBESON. Why, in selecting representative men for his sub-committee, does he not put on that committee the gentleman whom his party selected as their representative?

Mr. McKENZIE. I always make it a rule to pick out the best men I can find. [Laughter.] And by that language I mean to cast no colorable reflection.

Mr. McMILLIN. I suppose, too, that my friend from Kentucky does not want two of them, one-third, from the same State?

Mr. ROBESON. I do not care what State they come from as long as they are the representative men.

Mr. McKENZIE. Kentucky generally sends as good people here as anybody else.

Mr. CANDLER. I should like to ask the gentleman a question.

Mr. McKENZIE. Certainly.

Mr. CANDLER. I should like to ask him if we do not have the advantage of the ability and experience of the gentlemen he has named after we have received the report of the commission.

Mr. McKENZIE. I will answer that by inquiring of the gentleman from Massachusetts what avenues of information are open to this wet-nurse commission that are not equally open to this House?

Mr. CANDLER. I will answer the gentleman. He presents an exaggerated statement, which is not sustained, when he criticises the commission proposed by this bill. We shall have advantages in that commission in seeking information from the farmers whom he refers to as well as from the manufacturers.

Mr. McKENZIE. You use the personal pronoun "we." To whom do you refer?

Mr. CANDLER. When you stated that a wet-nurse commission will be appointed, it is something for which you have no authority. We have a right to believe that the President of the United States will appoint an intelligent commission, one that will command the respect of the country.

Mr. McKENZIE. Is not this an intelligent House?

Mr. CANDLER. After the report of the commission it will be dealt with as it deserves.

Mr. McKENZIE. This body represents the intelligence of the American people. There is as much intelligence outside of it as there is here, and more, too, perhaps. [Great laughter.] But these Representatives were selected because of their intelligence and supposed fitness for their position upon this floor.

Now, I ask the gentleman, in a Yankee way, a question. Does he suppose a finer body of experts can be selected outside of this House than in it?

Mr. CANDLER. I do not want a body of experts. If I could appoint the commission I would appoint, and I hope the President will, men of established reputation and character, who, after they have investigated this matter, will give an opinion which will be of value to the whole country. It is not alone that we want a commission that can make a report, but we want to get the truth from the people, and we can get it in no better way than this.

Mr. McKENZIE. The gentleman will pardon me. It is not the duty or part of the duty of this commission to give opinions, it is simply to collate facts; and I ask him if he is willing to concede the fact that a commission appointed by President Arthur has more capacity to collate facts with the great body of statistics open before us, than any committee that may be appointed by this House?

Mr. CANDLER. No, sir. I believe from this House, Mr. Chairman, we can select men well qualified for that position.

Mr. McKENZIE. Do not take up too much of my time.

Mr. CANDLER. But experience in this House and out of it satisfies us that it requires more time than any committee of this House can have.

Mr. McKENZIE. I cannot yield further. If the gentleman from Massachusetts knew how many more good things I have to say he would not take up so much of my time. [Laughter.]

Mr. CANDLER. That is the reason you want a proper commission to investigate facts in detail and to discriminate.

Mr. McKENZIE. It would take me five years to give the enormities and iniquities of this thing in detail. I am now only generalizing. [Laughter.]

Mr. Chairman, if I had time I would ask the indulgence of this committee while I analyzed this proposition. Here is this Committee on Ways and Means, a committee of thirteen members, consisting of Messrs. KELLEY, KASSON, DUNNELL, MCKINLEY, jr., HUBBELL, HASKELL, RUSSELL, ERRETT, RANDALL, TUCKER, CARLISLE, MORRISON, and SPEER.

If I were to refer to the Congressional Directory, the finest repository of suppressed vanity that God Almighty ever permitted, [great laughter and applause,] I could satisfy you that divine wisdom never permitted a book to emanate from the American press which contained as much modest assumption. [Renewed laughter.] Suppose I were to entertain the House upon the theory that this bill is a confession of weakness, that it is a confession that the Committee on Ways and Means of this House are not equal, intellectually, to the great task of grappling with the subject of the tariff—and I submit to every member upon this floor, in common fairness and justice, if the bill does not show that to be the fact? Suppose, following out that idea, I were to refer to the biographical sketches so kindly furnished to Mr. Ben: Perley Poore by these gentlemen themselves; suppose I were to trace out the intellectual estimates placed upon themselves by these gentlemen—and I presume they wrote the biographies themselves. [Laughter.] But I will not do it, because I have not now time. Still I invite the attention of the House and the country to the modest, shrinking, girlish estimate placed upon themselves by these God-fearing men. [Laughter and applause.]

I had begun to think, Mr. Chairman, that I had manifested a spirit of modesty myself, a sort of shrinking nature upon the floor of the House, but when I came to read these sketches by the members of the Committee on Ways and Means published in the Congressional Directory, I felt that I had been bold, self-assuming, and presumptuous, and was no longer entitled to believe myself a modest man. [Renewed laughter.] I invite attention to them; no more interesting reading exists in the annals of literature since the Canterbury Tales were written. [Laughter.] Look at the ages of these men. They are no spring chickens. [Renewed laughter.] They are about as thoroughly matured a set of individuals as I have ever encountered in this House. I thought I had the whole matter before me here, unless some of them have been too modest to insert it in the RECORD; but I will not take up the time of the committee now by reading them; still, if gentlemen choose to look they will find here about as interesting reading as they ever came across, and they will see that the compiler of this directory has succeeded in getting their ages, I suppose after the fashion of the census officers, who, when they found an old maid who declined to give her age, declared that they would set her down at eighty years, by which they generally managed to get a response. [Laughter.]

As the Represenative of 180,000 people on this floor I demand of these gentlemen who support this bill that they inform this House what necessity exists for making the Executive the autocrat of the legislative department? We have had a good deal of experience in this commission business. In the Forty-fourth Congress we created a commission that did not turn out in a very satisfactory sort of

way. [Laughter.] It succeeded in foisting upon the American people as the President of the United States a man who had as much moral right to the office as I have to a quarter section of land in the moon; and, by the way, it was an administration that will go down in history remarkable for but two things, weak vetoes and cold water at state dinners. [Great laughter.] I will ask the untamed patriots on the Republican side of the House what is the necessity of placing in the hands of an accidental President the power to create the commission? Why not create it ourselves? Have you no confidence in your fellow-members? I have, on this side of the aisle. [Laughter.]

Will not your constituents—and I use the pronoun "your" when I refer to the members who will vote for this enormity—will not your constituents say to you when you shall have enacted this bill into law by your votes, that you have confessed your weakness, confessed your inability to deal with the great economic questions presented for your consideration? Will they not say you have degraded the legislative department of the Government by avoiding the duties which they imposed upon you?

Suppose you had decided to delegate the power to appoint this commission to the Supreme Court of the United States; and I ask my eminent lawyer friend, the gentleman from New Jersey, [Mr. ROBESON,] to give attention to this. If you had delegated the power to appoint this commission to tax the people to the Supreme Court of the United States, under the law, would that not be as much in conformity with constitutional authority? I want my distinguished friend from New Jersey to pay attention; for when I state a legal proposition I turn instinctively toward the Nestor of the profession.

Mr. ROBESON. I will answer if the gentleman will not tell me to sit down.

Mr. MCKENZIE. I ask your attention to it, asserting that I have no disposition to sit down on you. [Laughter.] Well, if you will not answer I will ask you an easier one next time. [Renewed laughter.]

But I invite attention to that broad question. I have been dealing in generalities; now I ask attention to something that comes directly home to everybody who hears me. What will you do with the report of this commission when you get it? What use will you make of the report of these civilian experts when it is made? I have no doubt they will drink as much wine, smoke as many twenty-five-cent cigars, interview as many "leading" manufacturers, visit the hospitable homes of as many people, and be entertained in as sumptuous a manner as they entertain at state dinners. I have no doubt they will visit Mr. Nimmo, and perhaps refer to my speech for their statistical information. [Laughter.] I invite their attention to it. [Great laughter.]

But after it is all done, after this laborious effort is made, I ask you, as representatives of the American people, what are you going to do about it? [Laughter.] Do you intend to adopt it upon the idea that these people know immeasurably more about the true theory of revenue and protection than we do? An angel direct from Heaven could not make a revelation in regard to the general literature of protection that would illuminate some members on that side of the House. [Laughter.] Are you going to admit the conclusions of these people; are you going to admit that their conclusions are wiser than any that could possibly be arrived at by the nearly four hundred representatives sent here by the people to look after their interests? Whence their superiority? They ought to go home and run for Congress. If these people are so much our intellectual and moral superiors, if they are able to deal with these questions, divesting themselves of all partisan prejudices, if they are able to deal with them in a spirit of fairness, justice, and liberality toward every section, then why in the name of all that is wonderful do not the American people recognize their superior abilities and send them here to Congress in place of this Committee on Ways and Means, that solemnly and gravely admits, in the face of God and men, that they have not the ability to tackle this question? [Laughter.] I feel sorry for that committee; I think of it in the night-watches. It excites the commiseration of a heart naturally tender, when I awake at night and think that the American people are here through their representatives, with a Committee on Ways and Means that comes before the House and blubberingly says, "We cannot tackle this thing ourselves, but we have got a gang of fellows outside that are able to do it at $10 per day and found." [Laughter.]

I want to ask you another question on the subject of iron, (and that is where the iron enters into my soul;) on the subject of iron will the consumers or manufacturers be heard or heeded before this august tribunal of nine? On the subject of woolen goods will the ragged and suffering poor that pay the enormous duty on the wool and the manufactured product that constitutes their miserable squalid covering have an audience? Or will the rich owners of the million spindles and the lordly proprietors of the herds upon a thousand hills be listened to and obeyed? Will ear be given to the plaints of the lowly, the stricken, the oppressed, and an effort made to relieve their grievances? Or will these *doctrinaires* be wined and dined by the manufacturing and protected interests, and listen to appeals whereby the thumb-screws of taxation and protection can be so applied as to wring an additional penny from the unwilling hand of penury and want? [Applause.] Will the shivering, ague-stricken people of our malarial bottoms be listened to in their cry for untaxed medicinal herbs, or will the quinine kings of Philadelphia and New York be heard in their effort to restore a tax on quinine which, if ever enacted, should be styled "An act for the promotion of malarial fever?"

These are questions, as Lord Byron said, at once answerless and yet incessant; they appeal to our sense of justice and to all the finer, higher, and nobler instincts and impulses of our better natures.

Little as you may think it, gentlemen, Republicans are not wholly depraved. [Great laughter.] I say this in the interest of humanity; I say this for the general credit of our common country. It is an admission not extorted from me, but voluntarily made because I realize it, and I ask them, notwithstanding the great burden of sin and iniquity that hangs upon them like a cloud, notwithstanding the great dust and smoke that obscure the few good actions they have done, I ask them in the name of the shivering people of our malarial bottoms, I ask them in the interest of the half-naked and half-starved people of the whole country if they are willing to perpetuate a system for mere party supremacy that works so great ill and injustice to that class of our people that needs the protection of your laws. Do not all answer at once, gentlemen. [Laughter.]

Will Wall street have a voice in this business? And the national banks, those blessed institutions that have brought such untold and incalculable benefits upon our poor tax-payers—will they have a voice, together with other moneyed monopolies, to secure relief from the imaginary grievances of which they complain? Or will the hard-fisted farmer, clad in the humble habiliments of hodden-gray that befit his calling, be able to secure audience and obtain redress for the real grievances under which he is now and has for so long a time been laboring?

We hear our friends on the other side howl about the Democratic opposition to the rechartering of the national banks. Gentlemen, if the Democratic party never made any other record that was honorable to it, if it never made any other record in the interests of the whole people rather than a protected few, it is the fact that we have got that national-bank interest as the under dog in this fight, and we intend to keep it there if we have to stay here all summer. [Applause.]

I ask you if you are going to adopt this system as a whole, or will you reject it? or what will you do with it? A distinguished Senator said a few days ago at the other end of the Capitol—I mean Senator ALLISON—that he would vote for this bill because it secured nonaction for two years. And another member of that body, older in service and not less distinguished, said that it was the duty of the American Congress when that bill came before it to adopt it without change and without question. The meaning of all this is that the existing system, cursed of God and abhorred of man, is to be continued indefinitely by a postponement of the subject, or, if changed at all, it is to be made still more protective and oppressive upon the great body of American taxpayers and consumers of manufactured articles.

The time has come when the people of America demand relief from this odious, this infamous protective system. We have a country too broad and too grand for such a miserable and restricted policy. It may do in France, it may do in any country of Europe whose territory is only equal to one of our great States; but for a country like ours, a country bounded on the north and the south almost by the poles of the earth, a country reaching through dozens of degrees of longitude, a country rocked and cradled in the roar of two oceans, the idea of applying a principle so protective, contracted, and proscriptive is ridiculous and unjust, and will eventually be repudiated by the American people. We cannot, as the representatives of fifty million people living under a system of government that guarantees to every man equal rights under the law, afford to foster and protect and further foist upon the people a system that is in contravention of every principle of their laws and of their civilization.

Mr. WHITE. Will my colleague allow me to ask him if he in common with the rest of our delegation did not receive a letter from our own people asking for protection on hemp?

Mr. MCKENZIE. I did not.

Mr. WHITE. And does he not know that the cattle men in our State are very anxious about protection on cattle against the system which has been established in England, and which costs him and me, for we are both farmers, $20 to $30 a head upon our cattle, and which is a total loss?

Mr. MCKENZIE. No; I did not receive any such letter. And I desire to say that I would not be in favor of the protection on hemp even if there was no Republican party in existence. [Great laughter.]

Mr. WHITE. Does my colleague mean to say that he does not want the hemp used on his side of the House?

Mr. MCKENZIE. I stick to what I said. There may be occasionally a Democrat that needs hanging, but it is only the exception, not the general rule. [Continued laughter.]

Mr. WHITE. It is only the exception that gets it.

Mr. MCKENZIE. I hope my colleague will not interrupt me on the question of hemp. If he has no more important question than that to ask, I hope he will allow me to proceed in my humble way until I get through with this thing.

Mr. WHITE. I beg pardon of my colleague. But in all seriousness I desire to say that I have before me a letter asking for protection on hemp.

Mr. MCKENZIE. I know you have, but I have not had the honor

to receive it, and I would not vote for such a thing, if every man, woman, and child who has ever been in Kentucky from 1792 until to-day were to petition me to do it.

Mr. CARLISLE. Will my colleague allow me to make a statement in response to the statement of the gentleman from the ninth district of Kentucky? The growers of hemp in Kentucky in convention passed a resolution declaring explicitly that they agreed with the Kentucky Representatives on the subject of protection; but so long as other articles manufactured in this country were protected they thought they were justly entitled to have at least the small measure of protection that they now have under the law.

Mr. WHITE. Will my colleague allow me to read the resolution, if there is any dispute about it?

Mr. McKENZIE. There is no dispute about it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUSSELL. I move that the gentleman's time be extended.

The CHAIRMAN. For how long?

Mr. ROBESON. I hope the gentleman's time will be extended.

Mr. McKENZIE. I am very much obliged to the gentleman from New Jersey.

Mr. ROBESON. The gentleman is speaking directly upon the subject, and I wish to hear him.

Mr. McKENZIE. Whenever there is the slightest indication that the House wants me to stop, I do not propose to go an inch further. [Cries of "Go on!" "Go on?"] I want the electrician to light up here, for I have some additional facts, as little as you may think it, that bear on this question. [Laughter.]

Mr. WHITE. I ask my colleague——

Many MEMBERS. Oh, no.

Mr. McKENZIE. I cannot afford to be discourteous to my colleague.

The CHAIRMAN. The Chair desires to state the question before the gentleman proceeds. The request is made by the gentleman from Massachusetts [Mr. RUSSELL] and the gentleman from New Jersey [Mr. ROBESON] that the gentleman from Kentucky [Mr. McKENZIE] be allowed to proceed without limit. Is there objection? [After a pause.] The Chair hears none, and the gentleman will proceed.

Mr. WHITE. My colleague was kind enough to allow my colleague from the sixth district [Mr. CARLISLE] to make a statement.

Mr. McKENZIE. And I will yield to you with equal pleasure.

Mr. WHITE. Now, that there may be no misunderstanding about this matter, I desire to read but three or four lines:

Resolved by the hemp-growers of Kentucky, That we are in full accord with our Senators and Representatives in Congress on the tariff question, but desire that, while any other interest is protected by the General Government, the hemp interest of the country shall have that protection; and we respectfully request that they watch this interest in our behalf.

P. P. JOHNSTON, *President*.
R. H. PREWITT, *Secretary*.

That shows clearly that as long as there is any protection in the country they want the same protection on hemp. Kentucky produces 80 per cent. of all the hemp grown in the country, and they want as high protection on that as there is on any other product. I would therefore like to know if the State of Kentucky, as far as hemp is concerned, is not a protective State?

Mr. CARLISLE. It has protection to the amount of 19 per cent. ad valorem, and no more, against 100 per cent. on other articles.

Mr. WHITE. In addition to that, we are assured that we lose $20 a head on our cattle in the European market.

Mr. McKENZIE. Now I come to another hard-pan fact. I ask the attention of both sides of the House when I say that the authors and supporters of this measure mean simply to secure delay in the matter of tariff legislation—to bridge over the time between now and the next Presidential election, when possibly the "old man" will have something to say about what the Republican party shall do. The meaning of all this is, then, that the existing tariff is to be maintained by a postponement of the subject, or if the tariff be changed at all, it is to be made more protective and oppressive.

Mr. Chairman, the Morrill tariff in force to-day imposes an average duty of over 45 per cent. upon all dutiable articles. It is the highest tariff we have ever had during the entire history of our tariff legislation. Besides, it is a war tariff. It was not gotten up in time of peace, for the raising of revenue to carry on the Government, but was adopted in the midst of the greatest civil conflict that ever convulsed a nation in modern times; yet not a single change has been made in it from that day to this, except the effort made in the Forty-sixth Congress to show the beneficent results of free trade, when that drug which relieves tertian ague was put on the free list in the interest of common humanity, and against the protest of some of the protectionists.

Will the House pardon me if I say that I indulge a reasonable pride in the fact that I happened to be the author of that bill, which has secured a reduction of 78 cents an ounce upon an article which is as necessary as flour in the domestic economy of every household? Notwithstanding the howl which went up from the quinine kings of Philadelphia that it would break down their interests, it has secured a reduction of 78 cents upon every ounce of the sulphate and salts of quinine, while at the same time two additional manufactories of those sulphates and salts have been erected since the passage of that bill. In order to show that there has been in fact a reduction of 78 cents per ounce on quinine since the passage of that act, I refer to the following table, prepared by J. S. Moore, esq., a gentleman thoroughly familiar with this subject:

January, 1879, to June 30, 1879, price of taxed quinine	$3 63
July 1, 1879, to December 31, 1879, price of free quinine	3 29
Saving per ounce	34
The year 1877, taxed quinine	3 76
The year 1880, free quinine	3 03
Saving per ounce	73
The year 1878, taxed quinine	3 54
The year 1881, free quinine	2 47½
Saving per ounce	1 06½

Or, if you want it still shorter, the average from January 1, 1877, to July 1, 1879, (two and a half years,) with duty on, was $3.64½. The average price of free quinine during two and a half years, from July, 1879, to December, 1881, was $2.86. Therefore the average reduction was 78 cents per ounce.

While it is not always true that the American manufacturer adds the full amount of the duty to the price of his product, yet it has been estimated by those most competent to judge, and has never been disproved, that upon the average he adds to his price at least two-thirds of the duty imposed upon the foreign article; or, in other words, he stops just short of the point which would permit the foreign article to compete with him, and thus secures absolute possession and control of the home market. In this way he inflicts two evils upon the country and the people. In the first place he prevents the Government from receiving any revenue from the article which otherwise would be imported, and in the second place he compels the American farmer and other consumers to pay him from 25 to 40 per cent. for his article more than it is really worth, its real value being what it would sell for in the open market in competition with like products from every other place.

To illustrate the operation of this rule we may take the article of salt. The very highest quality of salt imported into this country during the last fiscal year cost on an average at the place of production 3 mills per pound, or about 16¼ cents per bushel, while all the other qualities of salt imported during the same time cost 1 mill per pound, or about 5½ cents per bushel. Now the duty on the quality of salt first mentioned is 39 per cent. ad valorem, while the duty on the lower grade of salt, mostly used by farmers in curing meats and for ordinary domestic purposes, is 69 per cent. ad valorem.

There was manufactured in this country during the year 1880 salt to the value of $4,817,636, and the consumers of salt throughout the country have been compelled to pay to salt manufacturers here at home from 20 to 40 per cent. on this sum of $4,817,636 more than they would have been required to pay if salt had been free of duty, for the reason that two-thirds of the duty is always added to the price of the domestic product. So that it will be seen that this enormous bonus or bounty is payable to the salt manufacturer, and the Government gets not one dollar of it.

The product of our domestic manufactures of woolen goods, such as blankets, flannels, cloths, cassimeres, &c., articles of absolute necessity in this climate, amounted during the year 1880 to $266,998,454. The average rate of duty on such goods is over 60 per cent. Now, if 40 per cent. or two-thirds of the duty was added to the price of the domestic article, then the people paid as a bounty to the manufacturers of these goods during that year over $80,000,000; in other words, if this class of woolen goods could have been admitted free of duty, the consumers of such goods could have procured precisely the same quality and same quantity for more than $80,000,000 less than they were actually compelled to pay.

Now, Mr. Chairman, while this war tariff with its burdens on the poor remains substantially the same, (and I defy anybody to contradict me,) the income tax, the stamp tax on documents, the license taxes, and every tax upon the surplus wealth of the country has long since been repealed. The special license tax upon lawyers (and more than two-thirds of the members of this House are lawyers) has been repealed. The burden has been taken off of you, gentlemen, and off of your profession; but I ask you whether the great burdens of this tariff system do not bear with equal hardship to-day upon the great producing interests of the country as they did when this tariff was enacted as a war measure, and the people were assured that, as the original act embraced a tax on bank-checks, a tax on professions, a tax on incomes, the wealth of the country was to be made to bear its correlative proportion of the great burden of supporting that civil conflict, thereby quieting the murmurings of the farmer, the artisan, and the mechanic. I ask you, gentlemen, to-day whether every burden upon the lawyer, the doctor, the banker, the broker, every tax upon the income of the rich has not been repealed while these burdens upon the poor remain substantially the same?

I now come to a beautiful piece of literature which I have collated with great pains. Do we not all remember that since this session began the gentleman from Kansas, [Mr. HASKELL,] whom I do not now see in his seat, acknowledged the infamy and the outrage of this tariff system, and the Committee on Ways and Means concurred in the acknowledgment? Did he not report here from the Committee on Ways and Means, by unanimous consent, a bill to enable some benevolent people in England to send here the half-worn clothes of the effete nobility over there to clothe the shapely limbs of the half-naked negro

children in Kansas who left comfortable homes in Kentucky and elsewhere to go after the *ignis fatuus* of personal liberty, which in a negro's mind means absolute exemption from labor, which they hoped to find in Kansas. Did we not all vote for that measure? And do not gentlemen remember the question which I put to the gentleman from Kansas as a humanitarian; for I know he is not only a man of large ability but a man of strong humanitarian impulses; and I sympathized with him in his efforts to clothe those half-naked negroes. I said to him: "Sir, why not make this measure applicable to the whole body of the American people?" Is not a white man as good as a negro if he behaves himself? [Laughter.]

Is it to go forth to the American people that the poor, half-clad, half-starved operatives of our manufacturing industries, the poorly clad and poorly paid employés of our agricultural industries, are to suffer, with no Congressional enactment to enable them to be clothed without the payment of the duty on wool and its manufactured products? Are we willing to go upon record as asserting that this is a benign and God-like principle applied to a half-naked negro, but that the old system ought to be kept in force as applied to a miserable white man?

Do we not remember Mr. McKINLEY? By the way, I will say of him that he never did me the honor to vote with me in his life, [laughter,] and that is as good a reputation for Republicanism as a man ever made on God's earth. [Laughter.] Mr. McKINLEY, of Ohio, not long since reported to this House a bill to suspend the operation of the tariff laws in order that an invoice of English Bibles might be distributed among the American people. And I allude to California when I say that we have been appealed to in the matter of the admission of steam-plows free of duty to break the tule lands of that State. And here we Democrats, good people as we have always been, are willing to grant these favors as an act of personal benevolence to these distressed people, and it is no more than fair when we come before you pleading for the general welfare, and insisting that the great body of the American people are as much entitled to these favors as the parties for whom these acts were passed, that you shall grant our request. We have been appealed to by the people of the various sections for relief, and in these three instances we have accorded it.

Mr. ROBESON. One other. In the appropriations for the relief of other sufferers in the valley of the Mississippi.

Mr. McKENZIE. I am glad the gentleman alluded to that.

Mr. ROBESON. That only shows——

Mr. McKENZIE. One moment.

Mr. ROBESON. That only shows that when we rise to the height of the necessities of our common humanity we sink out of sight legal principles and sometimes constitutional land-marks; and then we are ready to vote as an act of Christian charity, but not of right, for the relief of suffering humanity, appealing from the valley of the Mississippi or the banks of the Kentucky, as freely and if need be as recklessly as when we find it amid the snow-clad regions and under the hard winters of Kansas.

[Here Mr. McKENZIE stretched out his hand to Mr. ROBESON and they shook hands amid great laughter and applause.]

Mr. McKENZIE. I am glad the gentleman alluded to the appropriation of money which was made by this House and the other for the relief of the flood-stricken people of the South. It was not only an act of charity but it was an act of principle.

Mr. ROBESON. Ay, and an act of public duty.

Mr. McKENZIE. And of public duty.

Mr. ROBESON. Whenever the imperative necessities of our common humanity demand it then constitutions relent, laws are silent, and systems fade out of sight; but the gentleman must not disparage the rule by citing its exceptions.

Mr. McKENZIE. Now, there is too much of this thing. [Laughter.] You are piling it on too thick. [Laughter.]

But I was going to say, Mr. Chairman, that I was glad the gentleman alluded to that act of benevolence, kindness, and justice. God knows that people have suffered enough. The war swept over them, poverty succeeded, starvation has stared them in the face, and after that, as if the wrath of God was unappeased, the flood came and swept the remaining pittance of their subsistence almost from beneath them. But I point with equal pride and gratification to the fact that when fire, with its desolating wings, swept the great city of Chicago, and literally wiped it from existence, the great heart of the South responded with a benevolence unparalleled to the appeal for the relief of a people that had lately been their foes. [Applause.]

Mr. SPRINGER. So did Congress in voting to remit duties on material for rebuilding.

Mr. McKENZIE. I ask you gentlemen to think of a system of laws which prevents benevolence from clothing the naked, and which prevents Bible societies from distributing the Scriptures among the people.

Pay attention to this. Here is an incongruity which possibly has not occurred to the occult mind of the average tariff investigator. I invite the attention of both sides to one of the greatest economic curiosities presented in this great national museum which we have been for two weeks parading before the American people. Under the general law now in force on the subject, the Holy Scriptures, printed in our mother-tongue, are forbidden to enter the ports of the country without the payment of a duty, and yet during the last Congress the Committee on Ways and Means—this committee for which I have such unbounded respect and which in the face of their protestation I have endeavored to defend—through their agent, Mr. TUCKER, of Virginia, reported, and this House passed, a bill to place Bibles printed in the Chinese language upon the free list. [Laughter.]

Now, think of this; it will grow on you the more you think about it. [Renewed laughter.] Thus while we are enacting a law to prohibit the Chinamen from coming to this country we are at the same time legislating to give Chinese Bibles an advantage over both King James's version and the new translation. [Laughter.]

Mr. Chairman, with all your sense of fairness, which I am quite ready to concede, I appeal to you as the organ of this committee, if a more laughable absurdity, incongruity, and injustice in the interest of morals and the reformation of the American people ever was presented than the fact that after we prevent the Chinamen through the aid of my friend from California [Mr. PAGE] and his *confrères* from coming to this country, we admit the Bible printed in his language, which no man born of American parentage ever did or ever will understand, at the same time imposing a duty of 25 per cent. on King James's translation, which has sent all our ancestors to Heaven. [Laughter.]

God knows if there ever was a time in the history of the American people when free Bibles were needed it is to-day. Just look on that side of the House. [Laughter.] I ask any moral reformer, I appeal to Moody and Sankey, I appeal to all the evangelists now living, in the name of mercy to come and exercise their best endeavors just beyond that aisle. [Laughter.] I am willing for the attempt to be made to convert these bold, bad people, notwithstanding I realize the fact that it will be an enormous strain upon the general plan of salvation. [Laughter and applause.]

Mr. Chairman, as long as the present body of Chinamen remain in the the United States I do not want the tariff interrupted in the matter of the admission of their Bibles free. If everything that has been said of these poor people by the gentlemen from California and others is true, they need the soothing and benign influences of the Scriptures just as much as the average type of Republican. I do not mean of course the man that has grown old in his iniquity; I just mean to strike a general average. [Laughter.] These are matters that appeal at once to our sense of justice, our sense of fairness, our sense of morality, our sense of benevolence; and I commend them to all the people and to the American Congress as embodying the cardinal doctrines of the whole tariff system.

I do not mean with reference to a tariff for revenue only. I am in favor of that; and in this connection let me say I would cheerfully vote for such an amendment to the Federal Constitution as will enable this Congress to levy taxes for the support of the General Government upon values, upon property fixed by valuation, just as the assessor fixes it in our counties.

Mr. WHITE. May I ask the gentleman if he is in favor of direct taxation?

Mr. McKENZIE. That is inhibited by the Constitution, except according to population, which is unjust and unequal, but when we get in power in this House, as we will do in the next election, I shall favor the introduction of measures of reform just as radical as that.

Mr. WHITE. That is all.

Mr. McKENZIE. In conclusion—and by the way I desire to say to the House that their kind attention has been such as I had not expected, nor did I deem myself worthy of such attention on the part of such a body—I have endeavored in my weak, feeble way, in a manner perhaps incongruous, in perhaps not logical sequence or connection, in a manner lacking method, to present to the House and to the country what I deem to be the absurdities, the incongruities, and the inequalities of the present system of tariff legislation, and the fact that I am not, for one, in favor of adopting the plan of a commission suggested by the Committee on Ways and Means, and declaring thereby the opinion that this House is not capable of a satisfactory revision of the tariff.

If the Committee on Ways and Means is not competent, if they believe, as I am forced to conclude by their recommendation, that they are not, in the name of human conscience let them resign and let the Speaker have another opportunity to appoint one that can and will do the work; and if he needs any assistance in that regard I could furnish him some valuable suggestions. [Laughter.] I have endeavored to show that this system of revision is not compatible with the Constitution. I have endeavored to show that the commission, when created, is an extra-judicial body, with quasi-legislative powers, and is unknown to the Federal Constitution. I have endeavored to show that the responsibility of tariff legislation rests with the people's representatives in Congress, and that it is our duty, our sworn duty, to perform this legislative act and relieve the people from the burden of which they are loudly complaining. I do this sir, not as a partisan, not from a selfish desire to assist the Democratic party to success, for I would rather see a complete revision of the tariff in the interests of the people, and in the interests of what I believe to be right, under Republican auspices than to see the tariff remain as it is under a Democratic House. I have never been sufficiently imbued with partisanship to wish to see my party succeed at the expense of the great body of American taxpayers, and, if I do nothing else during my unpretentious service here, I shall always

cherish it as one of the proudest reflections of my life that no vote I have ever given and no purpose which I have ever entertained has been inimical to the interests of the oppressed and the poverty-stricken; that every vote I have given has been in the interest of the burdened taxpayers of the country, and not in the interest of those who are protected by law, and whose incomes are derivable from unjust, discriminative, and invidious legislation. I thank you, gentlemen. [Great applause.]

Mr. CHACE was recognized.

Mr. KASSON. The gentleman from Rhode Island [Mr. CHACE] yields to me for a motion that the committee rise. I make that motion.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ROBINSON, of Massachusetts, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws, and had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. KASSON. I wish to ask if any gentleman present wishes to go on this evening. In that case I will ask that a recess be taken.

Mr. SPARKS. It is too late now.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment the joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriation for public printing and binding for the fiscal year ending June 30, 1882.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 5221) to amend section 3066 of the Revised Statutes of the United States in relation to the authority to issue warrants.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HARDENBERGH, till Monday next, on account of important business.

To Mr. WAIT, for one week, on account of important business.

To Mr. KNOTT, indefinitely, on account of ill-health.

LEAVE TO PRINT.

Mr. BURROWS, of Michigan, asked and obtained unanimous consent to have printed in the RECORD some remarks on the Utah contested-election case. [See Appendix.]

MISSISSIPPI RIVER IMPROVEMENT.

Mr. KING, by unanimous consent, introduced a bill (H. R. No. 5901) making appropriations for the construction, repair, completion, and preservation of certain works on the Mississippi River, in accordance with the recommendations, plans, specifications, and estimates of the Mississippi River commission; which was read a first and second time, referred to the Committee on Levees and Improvements of the Mississippi River, and ordered to be printed.

ROBERT M. COHENOUR.

Mr. KASSON, by unanimous consent, introduced a bill (H. R. No. 5902) granting a pension to Robert M. Cohenour; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS P. JOHNSON.

Mr. KASSON also, by unanimous consent, introduced a bill (H. R. No. 5903) granting a pension to Thomas P. Johnson; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ORDER OF BUSINESS.

Mr. TALBOTT. I ask unanimous consent to take from the Committee of the Whole House for present consideration and passage a bill to do justice to an old officer in the United States Navy.

Mr. PEELLE. I call for the regular order.

Mr. BURROWS, of Michigan. I think it better not to enter on the consideration of business now.

Mr. HAZELTON. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and thirty-seven minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ARMFIELD: The petition of citizens of Iredell County, North Carolina, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. BELMONT: The petition of J. N. A. Griswold, H. E. Pierrepont, E. Handley Clark, William Babcock, Ed. Coles, of New York, and 80 others, for the passage of the French spoliation claims bill—to the Committee on the Judiciary.

By Mr. BLISS: The petition of 326 citizens of Hampshire, Steuben County, New York, for the passage of the bill granting a pension to soldiers and sailors of the late war who were confined in confederate prisons—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. CAMPBELL: Paper relating to the claim of Abraham Howard—to the Committee on Invalid Pensions.

By Mr. DEUSTER: The petition of the governor and other State officers of Wisconsin, praying for the passage of the bill for the relief of Michael Ruppert—to the same committee.

By Mr. DEZENDORF: The petition of Mr. Samuel Strong, for relief—to the Committee on the District of Columbia.

By Mr. HOOKER: Memorial of the Legislature of Mississippi, relative to waivers of forfeiture of the grant in aid of the Gulf and Ship Island Railroad—to the Committee on the Judiciary.

By Mr. HUBBELL: The petition of Alexander Pratt and others, citizens of the United States, for legislation to regulate freight and passenger transportation on railroads—to the Committee on Commerce.

Also, the petition of George W. Marshall and others, for the passage of the bill granting pensions to certain Union soldiers and sailors of the late war of the rebellion who were confined in confederate prisons—to the Committee on Invalid Pensions.

By Mr. MAGINNIS: Three petitions of officers of the United States Army, requesting that where officers are restored to the Army by Congressional action they shall be assigned to the first vacancies in the regiments from which they were dismissed—severally to the Committee on Military Affairs.

Also, the petition of E. H. Allison and others, for the reduction of the Fort Buford military reservation—to the same committee.

Also, the petition of 250 citizens of Dawson County, Montana, asking the amendment of an act attaching Dawson County to Custer County for judicial and other purposes—to the Committee on the Territories.

By Mr. McCOID: The petition of Mrs. C. Cameron, postmistress at Morning Sun, Iowa, for payment for stamps destroyed by fire—to the Committee on Claims.

By Mr. McCOOK: The petition of Arthur J. Delaney and 350 others, citizens of New York, in regard to the confinement of American citizens in British prisons—to the Committee on Foreign Affairs.

By Mr. MILLER: The petition of citizens of Crawford County, Pennsylvania, for the passage of bill granting pensions to certain Union soldiers and sailors of the late war who were confined in confederate prisons—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

Also, memorial of the select and common council of Pittsburgh, Pennsylvania, for the establishment of military workshops at the United States arsenal in that city—to the Committee on Military Affairs.

Also, the petition of Walter S. Payne and others, honorably discharged soldiers of Titusville, Pennsylvania, urging the passage of the bill establishing a soldiers' home at Erie, Pennsylvania—to the same committee.

By Mr. MORSE: The petition of M. V. Attwill and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. NEAL: The petition of James A. Bean, for a reduction of special assessment made upon his property—to the Committee on the District of Columbia.

By Mr. O'NEILL: The petition of Paymaster H. C. Machette, United States Navy, in behalf of himself and other officers of the pay corps, protesting against the restoration to the Navy of Edward Bellows—to the Committee on Naval Affairs.

By Mr. RICH: The petition of 227 citizens of Port Huron, Michigan, and vicinity, remonstrating against the passage of any bill providing for the sale to private parties of the marsh lands along the Saint Clair River and Lake Saint Clair, which are valuable only for hunting and fishing—to the Committee on the Public Lands.

By Mr. G. D. ROBINSON: The petition of E. S. Wilkinson and others, for a reduction of taxes on the business of banking—to the Committee on Ways and Means.

By Mr. A. HERR SMITH: The petition of Wm. G. Baker and others, of Lancaster, Pennsylvania, asking that apothecaries and pharmacists may be exempted from taking out a license to sell spirituous liquors as a beverage—to the same committee.

By Mr. J. H. SMITH: The petition of the Washington Frœbel Society, relative to the establishment of kindergarten schools—to the Committee on the District of Columbia.

Also, the petition of the Washington Society for Moral Education, for legislation to define the duties of the National Board of Health—to the same committee.

By Mr. STONE: The petition of the heirs of Jonathan Moulton, for the payment of the French spoliation claims—to the Committee on Foreign Affairs.

By Mr. TUCKER: The petition of the heirs of Robert Ridgeway, for relief—to the Committee on Elections.

Also, the petition of citizens of Campbell County, Virginia, for the increase of the pension of James H. Woodal, a soldier in the war of 1812—to the Committee on Pensions.

By Mr. J. T. UPDEGRAFF: The petition of J. D. Shutt and 53

others, citizens of Covington, Kentucky, in favor of an appropriation for education in Alaska—to the Committee on Education and Labor.

By Mr. URNER: The petition of John C. Kearney, for legislation for the relief of soldiers of the late war confined in confederate prisons—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. VAN AERNAM: The petition of 266 citizens of Chautauqua County, New York, for legislation to regulate immigration, securing protection of immigrants by the Government, to repress, as far as possible, the shipment of diseased and infirm persons, paupers, and criminals, and to provide for the return of such criminals, paupers, and infirm persons to the country whence they came—to the Committee on Commerce.

By Mr. VANCE: Memorial of W. C. Evans, of Cherokee County, North Carolina, relative to the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. YOUNG: The petition of Acker, Merril & Condit, grocers of New York City, for the passage of a bill imposing a tax on glucose—to the Committee on Ways and Means.

The petition of Samuel Hall was reported by the Committee on Naval Affairs, under clause 2 of Rule XXII, and referred to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *April* 21, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. PENDLETON presented a petition of the Board of Trade and Transportation of Cincinnati, and a petition of the Chamber of Commerce of Cincinnati, praying for the passage of the bill (H. R. No. 5380) to authorize the construction of bridges across the Ohio River, and to prescribe the dimensions of the same; which were referred to the Committee on Commerce.

Mr. DAVIS, of West Virginia, presented several petitions of citizens of West Virginia, praying for the passage of the bill providing that all distilled whiskies which are in bond on the date of its final passage shall remain in bond for an indefinite period, instead of being subject to withdrawal within three years as is now the case; which were referred to the Committee on Finance.

Mr. GROOME presented the petition of Philip W. Downes and 40 others, citizens of Caroline County, Maryland, praying for the removal of taxes upon national banks, and the repeal of the law requiring revenue stamps to be affixed to bank-checks; which was referred to the Committee on Finance.

Mr. CALL presented a petition of citizens of Jacksonville, Florida, praying for the removal of New Berlin Shoals in the Saint John's River, in that State; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. BLAIR. I am directed by the Committee on Education and Labor to report back the bill (S. No. 151) to aid in the establishment and temporary support of common schools. I ask that the accompanying report be read, it being but a few lines.

The Acting Secretary read the report, as follows:

The Committee on Education and Labor, to whom was referred Senate bill No. 151, entitled "A bill to aid in the establishment and temporary support of common schools," have considered the same, and have decided to report it back to the Senate without amendment and without recommendation as to the superintendence of expenditure and other details of the bill.

A majority of the committee is in favor of and recommends the appropriation of money from the Treasury to aid in the establishment and temporary support of common schools, the same to be distributed to the several States and Territories for a limited period of time and upon the basis of illiteracy.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar, and the report will be printed under the rule.

Mr. BUTLER, from the Committee on Territories, to whom was referred the bill (S. No. 153) establishing courts of justice and record in the Territory of Alaska, and for other purposes, reported adversely thereon; and the bill was postponed indefinitely.

Mr. BUTLER. I am instructed by the Committee on Territories to report back the bill (S. No. 1153) providing for the organization of the district of Southeastern Alaska, and providing for a civil government therefor; also a memorial of citizens of Alaska, and a memorial of the Board of Trade of Portland, Oregon, upon the subject. The memorials have been considered by the committee in connection with the bill, and I am instructed to report a substitute for the bill, accompanied by a report.

The PRESIDENT *pro tempore*. The substitute will be treated as an amendment to the bill. The bill will be placed on the Calendar, and the committee will be discharged from the further consideration of the memorials.

Mr. DAWES, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1725) for the relief of certain settlers on the Duck Valley Indian reservation in Nevada, reported it with an amendment.

Mr. PLATT, from the Committee on Pensions, to whom was referred the petition of Harriet M. Owen, praying for a pension, submitted a report thereon, accompanied by a bill (S. No. 1759) granting a pension to Harriet M. Owen.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3833) for the relief of Mrs. Maria B. Craig, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 620) granting a pension to Susan Jeffords, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1379) granting a pension to William H. Richardson, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1330) granting a pension to Catherine Greybig, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2148) granting a pension to Catherine Silvey, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1505) granting an increase of pension to John D. Terry, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1024) increasing the pension of Julia A. Chambers, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (H. R. No. 137) granting a pension to the heirs of Captain Christopher T. Dunham, deceased, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1390) for the relief of William H. Hill, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1813) to restore to the pension-roll the name of Martha A. Beerbower, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 380) granting a pension to John B. Stone, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1469) for the relief of Albert Arrowsmith, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Alpheus T. Palmer, praying an increase of pension, submitted an adverse report thereon, which was ordered to be printed; and the committee were discharged from the further consideration of the petition.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2290) for the relief of Robert Pelkey, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1479) granting a pension to Mary C. Thomson, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. GARLAND, from the Committee on Territories, to whom was referred the bill (S. No. 1704) to amend section 1860 of the Revised Statutes so as not to exclude retired Army officers from holding civil office in the Territories, reported it without amendment.

Mr. SLATER, from the Committee on Pensions, to whom was referred the bill (S. No. 1196) for the relief of Mary McMahon, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2031) for the relief of Eli D. Watkins, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4661) granting a pension to Edmund Eastman, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. McMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 4229) to amend the general incorporation law of the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1350) to amend the general incorporation law of the District

of Columbia, asked to be discharged from its further consideration, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 896) concerning the land records of the District of Columbia and for the security of land titles in said District, reported it with amendments.

BILLS INTRODUCED.

Mr. SEWELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1760) for the erection of a public building at Camden, New Jersey; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1761) for the protection of actual settlers against fraudulent homestead entries; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DAVIS, of West Virginia, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1762) to amend the laws with reference to elections in West Virginia; which was read twice by its title.

Mr. DAVIS, of West Virginia. A similar bill has been passed, I understand, by the House. I move that the bill be referred to the Committee on Privileges and Elections, and I ask that that committee take it up at as early a day as they can, and act upon it.

The motion was agreed to.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1763) for the relief of Francis L. Valle; which was read twice by its title, and, together with the accompanying papers, referred to the Committee on Claims.

Mr. MORRILL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1764) authorizing the restoration of the name of Thomas H. Carpenter, late a captain in the Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers; which was read twice by its title, and referred to the Committee on Military Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 5221) to amend section 3066 of the Revised Statutes of the United States.

The message also announced that the House had passed the bill (S. No. 26) to amend section 2326 of the Revised Statutes, in regard to mineral lands, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 5221) to amend section 3066 of the Revised Statutes of the United States, in relation to the authority to issue warrants; and

A joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriation for public printing and binding for the fiscal year ending June 30, 1882.

CENSUS PUBLICATIONS.

Mr. BECK submitted the following resolution, which was read:

Resolved, That the Select Committee on the Census be instructed to inquire into the number and character of subjects being prepared for publication under the direction of the Census Bureau, and to report to the Senate as to the cost of preparing and printing them and the probable time required before they will be ready for distribution, together with such information as the committee may think necessary to lay before the Senate.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. BECK. I ask the indulgence of the Senate to say a word upon this subject. Our attention was on yesterday called pretty sharply to the subject by the deficiency bill in relation to printing, the debate showing that it run up to somewhere near $3,000,000 for the current year, an increase of nearly $1,000,000 over last year, and still more startling information was given by the Senator from Massachusetts, [Mr. HOAR,] in these words:

> Will the Senator from Iowa permit me to say that I have been informed, on what I regard as very high authority, that the printing of the census reports will cost about $2,700,000.

The Senator from Iowa having spoken of it as $1,500,000.

That is the first estimate. I am very much afraid that it will run up to at least double that sum, nearly equal to any of our extravagant river and harbor bills, more than the committee has asked for the improvement of the Mississippi River. What the subjects are which require this great sum to print I think the Senate ought to know. To illustrate why I make these remarks, I hold in my hand a very interesting work from the Department of the Interior, entitled "Tenth Census of the United States, Francis A. Walker, Superintendent." Under the title "Social Statistics of Cities," giving the "history and present condition of New Orleans, Louisiana, and report on the city of Austin, Texas, by George E. Waring, jr., expert and special agent, and George W. Cable, assistant, for New Orleans," I find they take up and illustrate the early history of New Orleans. There are maps and plates showing how the present site of New Orleans appeared at the time of its discovery; how the city appeared in 1708, and in another fine engraving it is shown how it appeared in 1728; how it appeared again some years afterward, in 1763, in 1770, and so on, with a history of all the Indian wars, a history of the war of 1812; a history of everything connected with it, all very interesting, no doubt; but what that has to do with the present census I am not aware. I cannot see what it has to do in a census report.

I happen to live in a very interesting city, and if we are going to have the history of every city written and published by Congress, the history of Lexington would form a very interesting episode in this report. It was named when the news was received of the battle of Lexington, Massachusetts. The story of the struggle between the schoolmaster and the wildcat might be told, and how the great-grandfather of the present Secretary of War shot the Indian chief out of the top of the sycamore tree which still stands near the old Bryan Station fort, and the history of the battle of Blue Lick, and everything connected with it might be written. The writer might go into our celebrated stock of cattle and horses, and show how, after the whisky rebellion of 1792, the Pennsylvania Germans floated down the Ohio to Limestone, now Maysville, and how the Hessians who came along were driven still further on through the settlements in Bourbon and Fayette. A very interesting work might be made in regard to the blue-grass region. I want the committee to say whether the history of each city is to be written, and if so written, I should like the history of Lexington written. I would like to help do it.

Mr. PENDLETON. And with pictures, too; especially of your court-house.

Mr. BECK. Yes; and I want pictures, too, which will show our race-horses and our court-house, which the older farmers yet say, having been good enough for Mr. Clay, is good enough for us. We have tried to have bomb-shells and everything else applied to that relic to get clear of it. It seems to me, all joking aside, that we are going on absurdly, and there must be some check put upon this business of writing local histories at public expense, and the Committee on the Census ought to look into it. I understand everybody now who wants to immortalize himself as a distinguished author is writing a book about almost anything he wants to, and the taxpayers have to foot the bills, and very extravagant bills at that. I am glad I was furnished with this history of New Orleans; it gave me the history of the creoles, of the early Indian wars, and a number of very interesting things which I did not know much about; still it seems to me we are going too far. I hope the resolution will be adopted, and that the inquiry will be made.

Mr. PLUMB. I wish to offer by way of suggestion a resolution which I prepared last evening at the close of the debate, designed to accomplish the same purpose.

Mr. BECK. Perhaps it is better than mine.

Mr. PLUMB. At the close of the debate last night which resulted in the passage of the printing deficiency appropriation bill, I drew up a resolution for the purpose of having it presented then, but in the hurry of adjournment it was not done. I offer it by way of suggestion to cover the same point.

The PRESIDENT *pro tempore*. The proposed resolution will be read for information.

The Acting Secretary read as follows:

Resolved, That the Superintendent of the Census report to the Senate the number of volumes of which the report of the census of 1880 will consist, the subjects of each, the order in which they will be prepared for publication, and as nearly as may be the time within which each volume, including the compendium, will be ready for the Printer, and also the number of pages of each.

Mr. BECK. I think it would be better to let our committee look into the matter and give us the information. They may be able to tell us many things which perhaps the Census Bureau are not at liberty to state.

Mr. PLUMB. I am not going to press the resolution I offered, but only wish to say that I think in the first place we ought to have the information.

Mr. ALLISON. I should be glad to have the resolution of the Senator from Kentucky [Mr. BECK] read in order to see what it is.

The Acting Secretary read the resolution of Mr. BECK.

Mr. PLUMB. I withdraw the resolution I offered.

Mr. SHERMAN. I think there ought to be a limitation added to the resolution prohibiting the publication of any more of these documents of the Census Bureau till the order of Congress.

Mr. BECK. I thought the committee would report on that subject, and we should then be better advised.

Mr. HALE. If the Senator from Ohio will allow me, let me ask, would not what he suggests be more fitting at the time when the Committee on the Census reports upon the subject-matter? Then, on the information given by the committee a prohibition of the kind indicated by the Senator from Ohio may be adopted; but it seems to me it would be better to withhold it till after this investigation.

Mr. SHERMAN. Provided it is done speedily my object will be attained. My attention has been called to the enormous bulk and the great expense of printing these folio volumes containing a multitude of details that are not necessary at all to the census proper.

Mr. BECK. I agree with the Senator from Ohio.

Mr. SHERMAN. I have no objection to the publication widespread of the census returns so far as they relate to population and production, but when they go beyond that and give as they do in one

large folio volume a history of all the debt of the United States, copying and compiling from our common Treasury reports, from the ordinary finance reports of the Government, information that is open to the public and known to thousands, and print it as part of the census report of 1880, it seems to me it is an unnecessary expenditure of the public money. Unless there is some express provision of law about it, I should like to see it limited and controlled.

Mr. PLUMB. It ought to be in fairness stated that the publication to which the Senator refers is only the printing of a limited number of volumes for the use of the Census Bureau itself. Under the law which creates that bureau a limited appropriation of $10,000 was made for the printing of that bureau, and it is not done under the general law providing for printing; so that no other numbers will be printed except those already printed, even if Congress takes no action whatever. The type, I understand, which has been used in printing these volumes has been distributed.

Mr. SHERMAN. The cost of composition must be very large indeed.

Mr. PLUMB. It is large.

Mr. SHERMAN. If these volumes are printed merely for the benefit of the bureau, only a few copies, they ought to be printed in cheaper form and not in the most expensive form which could have been adopted. I do not see myself any object in printing just for the Census Bureau documents so expensive as these, for after the composition the cost of printing a greater number of volumes would not be so great. If they propose to print all these returns first and then distribute the type and reset it again, it would involve us in an expenditure of $2,000,000 or $3,000,000.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution of the Senator from Kentucky, [Mr. BECK.]

The resolution was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. MORRILL, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

SIXTH NORTH CAROLINA COLLECTION DISTRICT.

Mr. VANCE. I ask unanimous consent of the Senate to call up a resolution submitted by me on the 2d day of March last for the appointment of a committee to investigate the affairs of the sixth North Carolina collection district.

The PRESIDENT *pro tempore*. The resolution is in order without asking unanimous consent. It is in order under the Anthony rule if its consideration is requested.

Mr. VANCE. Then I request the Senate to take up the resolution.

The Senate proceeded to consider the following resolution, submitted by Mr. VANCE on the 2d of March:

Whereas the cost of collecting the internal-revenue tax in the sixth collection district of North Carolina is near 60 per cent., being greater than that of any other district in the United States; and

Whereas there are many and serious charges of corruption and misconduct against the officers in charge of the execution of these laws made openly in the newspapers and elsewhere, which charges are generally believed: Now, therefore,

Be it resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the condition of affairs in said State with reference to said charges and complaints, with ample powers to compel the appearance of witnesses, to administer oaths, employ a stenographer and clerk, and do all other necessary things in the premises.

Mr. SHERMAN. I have no objection to any investigation which the Senator desires to make; he shall have his own way in regard to the matter of the investigation; but the preamble ought to be stricken out. That is not necessary at all to the investigation. It recites what is disputed. The collector of that district himself demands the investigation; and while I agree to it, at the same time these recitals ought not to be set out. I therefore wish the preamble omitted, and simply an order made for the investigation.

The PRESIDENT *pro tempore*. The question will be taken first on agreeing to the resolution, and then the question will next be on adopting the preamble.

Mr. SHERMAN. I ask the Secretary to read the resolution by itself.

The Acting Secretary read the resolution.

Mr. SHERMAN. It should read "in the sixth collection district of North Carolina with reference to charges and complaints," instead of "in said district."

Mr. VANCE. I suppose it is necessary to lay some ground for the information of the Senate as the basis of its action; and as the resolution refers to the statement in the preamble, it would involve the necessity of amending the resolution if the preamble were stricken out.

Mr. MORRILL. Only a word or two.

Mr. SHERMAN. We could insert a word or two. The fact that the Senator states that there are some charges made is itself a sufficient foundation for the resolution. I think the resolution should be amended. It is not right to set out such a preamble.

Mr. VANCE. Yes, sir; but I suppose the resolution would have to be amended in order to prescribe the limits and powers of the committee.

Mr. SHERMAN. That can be done by simply saying "charges which have been made," and so on. The Secretary can do that by inserting a single word

Mr. RANSOM. The preamble does not say that the charges are true.

The PRESIDENT *pro tempore*. The preamble asserts that it has been alleged.

Mr. SHERMAN. And is "generally believed." I think it is sufficient first to say that charges have been made. The resolution may be easily modified.

Mr. VANCE. I am willing to have the preamble amended by striking out the words "which charges are generally believed."

Mr. ALLISON. It seems to me it is rather an extraordinary proceeding to have an investigation by three Senators of a collector of a single collection district. I do not understand why we should be called upon to make an investigation, unless there are some very distinct charges openly and fully made in this Chamber.

Mr. VANCE. I can make them to the satisfaction of the Senator from Iowa, on information and belief. I have stated that charges were openly made in the country, and were generally believed, of gross corruption and malpractice in the collection of the revenues of the United States in that district.

Mr. ALLISON. May I ask the Senator what has become of the collector who is charged to be guilty of this corruption? Is he still in office?

Mr. VANCE. That is what I cannot answer. Here are some matters that the Senator might be made aware of if we were in secret session, of which I suppose I cannot speak here.

Mr. ALLISON. What I want to know (and that certainly cannot be a secret) is, is this gentleman who is charged with corruption in office now exercising the duties of the office of collector?

Mr. VANCE. I suppose he is, pending the appointment of his successor.

Mr. SHERMAN. With the amendment I have suggested I have no objection to the resolution.

The PRESIDENT *pro tempore*. Let it be read as proposed to be amended by the Senator from Ohio.

The Acting Secretary read as follows:

Resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the condition of affairs in the sixth collection district of North Carolina, with reference to charges and complaints made against the collector of said district; with ample powers to compel the appearance of witnesses, to administer oaths, employ a stenographer and clerk, and do all other necessary things in the premises.

Mr. VANCE. I would prefer that that amendment should not specify the collector of the district, but the whole subject-matter of the collection of revenue in the district.

Mr. ALLISON. I quite agree with the Senator from North Carolina. I think the amendment he has just suggested ought to be made, so that if there are frauds in this district, and that is the reason why the cost of collection is so great, that matter ought to appear.

Mr. SHERMAN. I have no objection to that.

The PRESIDENT *pro tempore*. It will be so modified.

Mr. VANCE. Let the investigation be into the collection of the revenue in that district.

The ACTING SECRETARY. It is proposed to insert "made against the officers of internal revenue in said district."

Mr. INGALLS. Now read the whole as it is proposed to be amended.

The ACTING SECRETARY. The resolution as proposed to be amended would read:

Resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the condition of affairs in the sixth collection district of North Carolina with reference to charges and complaints made against the officers of internal revenue in said district, with ample powers to compel the appearance of witnesses, &c.

Mr. INGALLS. That will not do, Mr. President. The allegations, as I understand, are that the cost of collecting the revenue of that district is 60 per cent. more than in any other collection district in the United States.

Mr. VANCE. No, sir. The Senator will allow me to correct him.

Mr. RANSOM. Sixty per cent. of the gross amount of revenue collected.

Mr. INGALLS. Then the expenses of collecting, as alleged in the preamble, amount to 60 per cent. of the gross amount received.

Mr. VANCE. Near that.

Mr. INGALLS. And I understand further that an investigation of the facts will show that in consequence of illicit and illegal combinations of persons who are engaged in systematic attempts to defraud the revenue, who are engaged in the illicit distillation of whisky in the mountains of North Carolina, who resist the efforts of the Government to ascertain the facts and to collect the revenue, this expense is necessarily incurred. I do not say that this is the state of facts, but that these are the allegations.

Now, I do not propose, so far as my vote is concerned, to consent that the investigation shall be simply with regard to the action of this collector. I want the facts in regard to the allegations that are made as to the frauds on the revenue also the subject of inquiry, and I ask the Senator to so amend his resolution as to include that branch of the inquiry.

Mr. SHERMAN. I will put in the words "and obstruction to such collections."

Mr. VANCE. I thought I had made it clear to the Senate that I wanted the whole matter in connection with the collection of revenue

in that district inquired into, and if the resolution in its present form does not embrace the matter——

Mr. INGALLS. The resolution does not say so.

Mr. VANCE. I will readily submit to an amendment to it that shall so embrace it.

Mr. SHERMAN. I suggest to insert after the words already inserted in my motion "and to the methods of collection and the obstructions to collection." That would be sufficient, or "to the methods of collection, and obstructions to collection and frauds on the revenue."

Mr. HAWLEY. I would suggest a wording that will perhaps answer the purpose:

That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the manner in which the internal revenue has been collected in the sixth district of North Carolina, with reference to charges and complaints, together with ample power to compel the appearance of witnesses, &c.

That is what the Senator from North Carolina suggested, the manner in which the collection of internal revenue has been collected. Is not that what the Senator wants?

Mr. VANCE. The administration of the affairs of the internal-revenue office in that district, including the charges.

Mr. HAWLEY. I suggest that the matter be laid aside for five minutes, and let the resolution be put in exactly a shape to suit the two Senators from North Carolina and Ohio.

The PRESIDENT *pro tempore*. It can be passed over and taken up again.

Mr. VANCE. I am willing to agree to the suggestion of the Senator from Connecticut.

The PRESIDENT *pro tempore*. The resolution will be passed over.

Mr. BLAIR. As the matter is to be passed over, I suggest to the Senator that he substitute for "the sixth collection district of North Carolina" "the States of North Carolina and Georgia," so that the whole "moonshine" business may be inquired into and the bottom facts ascertained. That would seem to open the whole subject-matter and do justice all around.

Mr. VANCE. I prefer to have a vote in reference to the affairs of the revenue department in my own State.

The PRESIDENT *pro tempore*. Does the Senator yield to the suggestion to have the resolution passed over for the present until it can be arranged in proper shape? and it can be called up at any time.

Mr. VANCE. I would prefer to have a vote on it now, but I will adopt the suggestion of the Senator from Connecticut.

Mr. McMILLAN. Let the resolution be read.

Mr. MORRILL. I will say to the Senator from North Carolina that the Senator from Ohio is just trying to put the resolution in shape as agreed to on both sides of the Chamber. If he will wait one moment it will be ready.

The PRESIDENT *pro tempore*. The Chair would suggest that if the two Senators get together they can arrange the matter without any trouble.

Mr. VANCE. Very well. Can I call it up again at any time?

The PRESIDENT *pro tempore*. At any time at all. The first bill on the Calendar will be called.

Mr. VANCE subsequently said: I now ask to call up the resolution which was under consideration a short time ago. It has been modified so as to be satisfactory.

The PRESIDENT *pro tempore*. The resolution will be read as modified.

The Acting Secretary read as follows:

Resolved, That a committee of three Senators, to be appointed by the President of the Senate, shall be charged with the duty of investigating the administration of the collection of internal revenue in the sixth district of North Carolina with reference to charges and complaints that have been made, and including any frauds or misconduct in either collecting or resisting the collection of such revenue, with power to compel the attendance of witnesses, to administer oaths, and if necessary to employ a clerk and stenographer, and shall have power to sit during the recess of Congress if necessary.

The resolution was agreed to.

L. MADISON DAY.

The bill (S. No. 73) for the relief of L. Madison Day was announced as first in order on the Calendar.

Mr. COCKRELL. That case has been here pending for many years, and was pending in the Supreme Court and decided there some time ago; but I have not had time to look over the reports. There are half a dozen reports which have been made in both the Senate and the House. I do not want the bill to lose its place on the Calendar. I ask that it be passed over to be called up some morning next week.

The PRESIDENT *pro tempore*. It will be passed over without prejudice.

EDGAR HUSON.

The next bill on the Calendar was the bill (S. No. 596) for the relief of Edgar Huson; which was considered as in Committee of the Whole. It proposes to authorize Edgar Huson, of Ithaca, New York, to make application to the Commissioner of Patents for an extension of letters-patent granted to him February 17, 1857, reissued March 5, 1867, for improvements in gearing for wagons, extended by the Commissioner of Patents for the term of seven years from the 17th of February, 1871, as reissued September 28, 1875, for the term of seven years; and upon such application so filed the Commissioner of Patents may consider and determine the same upon the principles prescribed by the acts of Congress of July 4, 1836, and the amendments thereof, governing and granting extensions. If, after hearing the petition, upon due notice to the public, according to the practice of the Patent Office in cases of extension, the Commissioner should decide that the petition ought to be granted, he is empowered to extend the letters-patent for the term of seven years from and after the issue of the extension.

Mr. PLATT. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. HOAR on the 9th of March:

The Committee on Patents, to whom was referred the bill (S. No. 596) for the relief of Edgar Huson, have considered the same, and report:

Edgar Huson, of Ithaca, New York, a blacksmith, obtained letters-patent on the 17th of February, 1857, for an improved gearing for wagons. This is an invention of very great ingenuity, value, and importance. It consists in hanging the body of a wagon upon a platform composed of two splinter-bars connected at their rear ends to a head-block; said frame-work resting upon three springs, two of which are secured upon the axle, the third connecting the rear ends of the former two also, and in the mode of attaching the pole or thills to a draft-bar, which is secured between the splinter-bars.

The specification being defective, a new patent was issued to Huson March 5, 1867.

An extension of said patent was granted to petitioner for seven years from the 16th day of February, 1871. The specification being still defective, he was compelled to surrender his extended patent, and the same was reissued on the 28th of September, 1875.

Huson was unable to bring his invention into general use until 1870, for the reason that the art of making springs suited to his style of wagon was not understood. He used all reasonable effort to introduce his wagon without success, giving rights to territory to induce persons to aid in bringing the invention to public notice, and assigning one-half the patent for a nominal sum, in 1868, to William Halsey, who with fidelity and energy, but without success, exerted himself for its introduction. In 1870 a manufacturer of springs succeeded in making springs by machinery suited to Huson's platform wagon. The invention then for the first time came into extensive use, and about two thousand dollars were received as royalty on the patent. In 1871 a strong and extensive combination was formed to break down the patent, issuing circulars and calling for contributions to break down the patent. Suits were brought against infringers, which resulted in a decree fully sustaining the patent, in the circuit court in New York, in June, 1877. In prosecuting these suits the patentee expended more than all his receipts from the patent.

It appears that, without the slightest fault, the patentee has enjoyed the benefit of his patent less than two years. The committee do not place great stress upon the fact that the original specification was defective. The invention was in advance of the time, and has only become profitable by reason of the ability of the manufacturers of wagon-springs to supply them at a cheap rate. We think it reasonable that the inventor should derive a reasonable reward from the great benefit he has conferred on the public.

Mr. Huson is a poor man, and has had a shock of paralysis which impairs his power of speech and the use of one leg. Mr. Halsey, the owner of the other half of the patent, is insane. Their rights in this patent are their only means of support, with trifling exception.

Mr. COCKRELL. The patentee having had the use of this patent since 1857, a period of twenty-four years, I am compelled to object to the present consideration of this bill.

Mr. HOAR. I wish the Senator from Missouri would withdraw his objection for a moment.

Mr. COCKRELL. Certainly I will withdraw it to hear the Senator.

Mr. HOAR. This bill was reported unanimously from the Committee on Patents in the last Congress, and passed the Senate after a statement, without, I believe, any objection from any quarter. It is a case where the invention was made a great many years ago, but it required a particular kind of wagon-spring which very few blacksmiths knew how to make, and until a proper kind of spring was discovered it did not come into general use, and the inventor has failed to receive any considerable compensation. The present owner of the patent is a person who is paralyzed. There were two owners. One of them has had a paralytic shock, and the other is a widow whose husband, I believe, was confined in an insane hospital for a long time.

The Committee on Patents thought it was an exceptional case, very plainly. It was reported by the late Senator from New York, Mr. Kernan, and it passed the committee when I think they rejected probably 90 per cent. of all such applications which were made without any considerable dissent.

I hope the Senator from Missouri will be induced to allow the Senate to express its opinion upon the bill.

Mr. McPHERSON. I wish to say that if there ever was a case in which Congress should extend a patent, it is in my opinion this case. The invention was seemingly before its time, before it could be utilized for the benefit of the inventor. It was a certain device or invention by which wagon-springs were to be constructed, but it was impossible to get the material and the kind of construction necessary to put the plans into practical use.

As is stated here, the inventor is to-day disabled. He has a family dependent upon him for support. The partner in the enterprise is insane, and the wife of Mr. Halsey and that family is also dependent upon the profits that were expected naturally to result from this patent.

Mr. COCKRELL. Will the Senator answer the question, if it is proposed that the Government shall extend a patent-right because a man happens to be poor or his wife is a subject of charity?

Mr. McPHERSON. I make no such claim; but I say it is incumbent on the Senate and on Congress to pass judgment on the bill. If the Congress of the United States refuse to grant this request, then let them know it, let them understand it. They have been before Congress two or three years. As the Senator from Massachu-

setts said, at the last Congress the Senate passed the bill and it was sent to the House, and insufficiency of time was the only reason why the House did not pass definitely upon it. Now let the Senate vote upon it, and if it is the judgment of the Senate that it is not a proper measure, reject it, and let the parties understand that they can get nothing here. I believe it to be a meritorious case.

Mr. HOAR. Will the Senator allow me before he proceeds to make a suggestion to the honorable Senator from Missouri in answer to his question? The committee did not place the slightest stress upon the fact that one of these owners was paralyzed and another the widow of an insane person, as indicating that it entitled them to any remedy which the wealthiest and most robust citizens would not be entitled to; but they did place stress upon those circumstances in dealing with the fact that during the last two years of the existence of the patent, when there was a combination of infringers to break down this patent, its owners were in this helpless condition. It is one of the facts tending to show that the patentees were in no fault in not having obtained a reasonable compensation for the invention during the life of the patent.

Mr. McPHERSON. I did not intend that the Senator from Massachusetts should occupy my time, and I hope it will not be counted against me.

The PRESIDENT *pro tempore*. It must be, under the rule.

Mr. McPHERSON. The Constitution provides that Congress shall have power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

In this case the circumstances were such that this inventor could not avail himself, within the limited time, of the benefits that would naturally flow from his patent, and I think it is eminently just and proper under all the circumstances of the case, as he has never received a dollar's benefit over and above the amount absolutely expended in contesting his right, that an extension should be allowed. I hope, therefore, the Senate will vote upon the bill and vote favorably.

Mr. PLATT. Mr. President——

The PRESIDENT *pro tempore*. The Chair would suggest that if the Senator from Missouri is going to insist on his objection——

Mr. PLATT. I rose for the purpose of appealing to the Senator from Missouri not to object to the consideration of the bill.

Mr. COCKRELL. I have already withdrawn the objection.

Mr. PLATT. It will lead to no extended discussion, and the vote may as well be taken at this time. I simply wanted to say that this bill was reported last session favorably by the then chairman of the Committee on Patents—Senator Kernan—who knew these parties and knew all about the invention and all about the circumstances, and who was thoroughly convinced that it was right and proper to extend the patent.

Mr. COCKRELL. Will the Senator please explain what this is? What class of people does it affect? Does it affect all the farmers of the great Mississippi Valley who use wagons? We want to know what class of persons it affects.

Mr. PLATT. I was about to say that I never have seen or heard before the committee of any objection to it from any quarter. It has been before Congress certainly for three years; the whole country has known about it, and so far as I recollect there has never been an objection to the extension of this patent. There certainly never has before the committee. If there has been anything it has been some letter written casually to some member of the House or Senate. I do not understand that it is anything which is to impose an onerous tax upon the public or upon wagon-makers.

With these remarks I am perfectly content to take the vote.

Mr. COCKRELL. What is the patent? I have been trying to find out from some member of the committee what this patent-right is.

Mr. HOAR. It is a double system of wagon springs.

The PRESIDENT *pro tempore*. The Senator from Massachusetts is not in order.

Mr HOAR. I do not think it is the function of the Chair to interpose such an objection if the Senator who has the floor does not see fit to do it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts rose to speak. It is the function of the Chair to stop him when he is not in order; and if the Senate expects the Chair to administer this Anthony rule it must allow him to treat all persons alike.

Mr. HOAR. Will the Senator from Connecticut yield to me to answer this question?

Mr. PLATT. I will very willingly yield to the Senator to answer, because he is much more familiar with the invention than I am.

Mr. HOAR. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Massachusetts is not in order to speak upon this question. The Senator from Connecticut cannot yield to him. That Senator has taken his seat and he cannot yield to the Senator from Massachusetts unless by unanimous consent of the Senate.

Mr. HOAR. I did not understand that the Senator had taken his seat.

Mr. COCKRELL. Do I understand that if I have the floor and am entitled to five minutes, and a question is asked me, I cannot yield to another Senator who is more familiar with the subject?

The PRESIDENT *pro tempore*. The Senator speaking yielded the floor when he sat down.

Mr. PLATT. Can I not yield the remainder of my time to the Senator from Massachusetts?

The PRESIPENT *pro tempore*. The Chair supposes a Senator can yield his time.

Mr. PLATT. My time was not out.

Mr. HOAR. Mr. President, I will have no controversy with the Chair on this point. I move to amend the bill by striking out the last word, and I desire to say that if I, in any impatience, made any disrespectful utterance to the Chair I am exceedingly sorry for it. The Chair, however, I think misunderstood me. I did not intend to take the floor; I supposed the Senator from Connecticut was still going on. I simply intended in one sentence, whether regular or irregular, to say that this is a double system of wagon-springs, a mere interpolation into the speech of the Senator from Connecticut.

If the Senator from Missouri will now give me his attention. This is a double system of wagon-springs, by which there is a cross-spring from side to side resting upon two heavy, strong, iron springs hanging from front to rear, a sort of platform on which the wagon-body is placed. It was invented a great many years ago by this blacksmith, but there were no springs which any blacksmith knew how to make which were suitable for this invention. The springs were very costly, and the patent did not get into use until about 1875.

In addition to that, there was a mistake in the patent, so that the original specifications had to be surrendered and amended and the extension had to be surrendered and amended. Then in 1875 there was quite a powerful combination to defeat this patent. The owners of it brought suit, but they did not get a judgment asserting the validity of the patent until two years before it expired, and then one of the owners was insane and the other had a paralytic stroke. Mr. Kernan, the chairman of the Committee on Patents in the last Congress, as has been said, knew all about the facts, and on his statement the Senate then unanimously passed the bill as the Committee on Patents have twice unanimously adopted it.

Mr. MORGAN. I think that I was a member of the Committee on Patents at the time this bill was first reported. There was then no dissension in committee as to the merits of the patent, or as to the fact that the patentee had been deprived by a combination from realizing from his invention anything of value at all. Litigation absorbed more money than he had earned from his invention; and, more than that, as was stated by the Senator from Massachusetts, there was then no machinery in the country for putting this invention upon the market. The inventor became a paralytic and was unable to transact his business. He came to Mr. Halsey, of New York, and sold to him a one-half interest in the invention.

Mr. Halsey was a man of very high character, who was recommended, I remember very distinctly, to me by a letter of Governor Seymour of that State as a man of excellent character. While he was industriously engaged in trying to set this patent on foot and make the invention valuable and remunerative, he was stricken on one occasion while passing on the streets of New York by two or three persons who assailed him for the purpose of robbery, and inflicted a blow on his head which deprived him of his reason, and he lingered on until a recent date, when he died.

By these accumulated misfortunes the patentee has been unable to realize anything from the patent. He deserves the sympathy of the Congress of the United States, and he deserves the generosity of the community for whom he has made a very valuable invention, and out of which he has realized nothing. It is one of those cases against which we are called upon to relieve because of misfortune, which is inflicted by the act of God and not in any sense due to the deficiency or fault of the man himself.

Mr. COCKRELL. How is it the act of God?

Mr. MORGAN. When a man is stricken on the head by a robber and becomes insane, we generally call it the act of God; it is not his own act, to say the least.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and read the third time.

Mr. COCKRELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered and taken.

Mr. JACKSON, (when the name of Mr. HARRIS was called.) My colleague [Mr. HARRIS] is necessarily absent to-day.

The result was announced—yeas 43, nays 10; as follows:

YEAS—43.

Aldrich,	Davis of W. Va.,	Jonas,	Pugh,
Anthony,	Dawes,	Kellogg,	Ransom,
Bayard,	Fair,	Lapham,	Rollins,
Blair,	Garland,	McDill,	Sawyer,
Butler,	George,	McPherson,	Sherman,
Call,	Grover,	Miller of Cal.,	Slater,
Camden,	Hampton,	Mitchell,	Vance,
Cameron of Wis.,	Harrison,	Morgan,	Walker,
Chilcott,	Hill of Colorado,	Morrill,	Williams,
Conger,	Hoar,	Pendleton,	Windom.
Davis of Illinois,	Jackson,	Platt,	

NAYS—10.

Allison,	Coke,	McMillan,	Vest.
Beck,	Groome,	Maxey,	
Cockrell,	Ingalls,	Plumb.	

ABSENT—23.

Brown.	Gorman.	Jones of Florida.	Saulsbury.
Cameron of Pa.	Hale.	Jones of Nevada.	Saunders.
Edmunds.	Harris.	Lamar.	Sewell.
Farley.	Hawley.	Logan.	Van Wyck.
Ferry.	Hill of Georgia.	Mahone.	Voorhees.
Frye.	Johnston.	Miller of N. Y.	

So the bill was passed.

SALT SPRINGS IN CHEROKEE TERRITORY.

The bill (S. No. 1071) for the manufacture of salt in the Indian Territory was considered as in Committee of the Whole.

The preamble recites that certain salines, or salt springs, or deposits on the western plains are located on lands conveyed by patent in fee-simple to the Cherokee Nation, but are so situated as not to have been worked or made in any manner useful or productive; and that the Cherokee Legislature by enactment directed the delegation thereof to take steps to make the same produce some revenue. The bill therefore provides that the Legislative Council of the Cherokee Nation, or a duly authorized delegation thereof, may execute a lease of the salines or salt deposits on the plains, not to exceed three in number, located on the lands of the Cherokee Nation lying west of the ninety-sixth degree of longitude, in the Indian Territory, for a period of years, with right of a highway for ingress and egress and lands therewith, not to exceed for all of such locations five townships, to be reserved for such purpose and to facilitate the manufacture of salt; and the conditions of which lease shall insure the payment to the Cherokee national authorities of a royalty of not less than $1 per ton; the lease being subject to such conditions and to the proper jurisdiction of the Cherokee National Legislature, and the lease and conditions to be subject to the approval of the Secretary of the Interior. The proceeds of such royalty from the manufacture of salt are to be an addition to the educational fund of the Cherokee Nation.

The bill was reported from the Committee on Indian Affairs with an amendment, to strike out in lines 20 and 21 the words "not to be alienated, but remain the permanent property of the Cherokee Nation" and insert "continue subject to any rights of the United States under sections 15 and 16 of the treaty of July 19, 1866, with the Cherokee Indians;" so as to make the proviso read:

And provided further, That said salines shall continue subject to any rights of the United States under sections 15 and 16 of the treaty of July 19, 1866, with the Cherokee Indians; and said lease or leases shall be liable to revocation by the Legislative Council of the Cherokee Nation and the Secretary of the Interior for the non-performance of any of said conditions.

Mr. ALLISON. Let the report be read, that we may see what this bill means.

The PRESIDENT *pro tempore*. There is no report with the bill.

Mr. BECK. Is there no limit to the time of the lease?

Mr. INGALLS. It is subject to the approval of the Secretary of the Interior by the terms of the bill.

Mr. CONGER. I ask whether this bill provides for citizens of the United States taking possession of this Territory and working the salt springs?

Mr. INGALLS. It does not.

Mr. CONGER. Who then? Who is permitted to occupy these salt springs?

Mr. INGALLS. It authorizes the Legislative Council of the Cherokee Nation to execute leases for the manufacture and exportation of this salt.

Mr. CONGER. Persons outside of the Territory, or Indians? Who are to operate the salt springs? Does it provide for whites going in there and occupying this Territory and carrying on this manufacture?

Mr. INGALLS. I do not know what action the National Council of the Cherokees will take. The salt lies south of the southern boundary of the State of Kansas in vast superficial deposits, almost chemically pure, that are now inaccessible in consequence of the non-intercourse act that regulates immigration into and settlement in the Indian country. It is exceedingly important to the rapidly developing packing and other cattle interests that are growing up in that section of the country that some method should be adopted by which these deposits can be utilized; and inasmuch as under existing treaties the consent of the Government is assumed to be necessary to any action the Cherokee Nation might take, this bill is introduced and reported by the committee.

Mr. CONGER. Then I understand the Senator does not know whether it is intended to make an opening for the settlement around these great manufactures of salt of white men who are now prohibited from coming into the Territory, thus opening the way for whites to go into the Indian Territory.

Mr. INGALLS. It is intended to permit the authorities of the Cherokee Nation to execute leases, subject to the approval of the Secretary of the Interior, for the manufacture and exportation of this salt. There is no intention of opening the country to settlement nor promoting colonies of white citizens around these saline deposits. If the arrangement made does not in the opinion of the Secretary of the Interior sufficiently guard the treaty rights of the Indians, it will not be approved, and if at any time there is any invasion of those rights by those who may be there the lease can be abrogated.

Mr. CONGER. Almost every bill that is introduced here reaches out in some way to get possession of Indian territory and to make an opening for the occupancy of Indian lands by the whites, sometimes for agricultural purposes, and, if that fails, it is to cut timber upon lands, sometimes where there is no timber. Now I see it is to work salt springs. There should be some rule adopted in regard to the Indian Territory. It should be understood some time that the Indians are to have their territory with whatever it contains for their own use, or else let us abrogate all laws on that subject.

The principal Indian bills that have been before the Senate since I have had the honor to become a member of it have been apparently to get from the Indians the desirable portion of their territory in one place or in another. There is no report accompanying this bill; nothing to indicate who are to have the right to go into the Indian Territory contrary to the present law, nor to what extent they may go or what violation of the spirit of the treaties and of the laws this may bring about. I for one should desire to have some reference to what laws are changed; what new rights are given to white men by which they can procure from Indians leases of their lands for this purpose or any other purpose, or else let the Senate admit at once that all Indians' lands are open to settlement by the whites whenever there can be a plausible excuse made for the passage of such a bill.

Mr. VEST. Mr. President, this bill is an attempt to secure from the Congress of the United States a recognition of a title in fee-simple to these lands in the Cherokee Indians in express violation of the terms of the patent issued to them and of the treaty under which the patent was issued. It has not been a week since that question was thoroughly investigated and the truth of the statement that I make established beyond any question in this Chamber; and yet this bill is now brought here from the Committee on Indian Affairs with the assertion in the preamble that—

Certain salines, or salt springs, or deposits on the western plains are located on lands conveyed by patent in fee-simple to the Cherokee Nation.

That is absolutely and unreservedly incorrect. I read the other day the patent and I read the treaty, both of which expressly state that these Indians own these lands not in fee-simple, but so long as they preserve their tribal autonomy, and so long as they occupy the lands; yet session after session it is attempted here in all sorts of ways and by all sorts of measures to make this Congress and this Government commit itself to an assertion which is absolutely false. I protest against it. I shall move therefore to strike out in the preamble the words "on lands conveyed by patent in fee-simple to the Cherokee Nation."

Mr. INGALLS. I think the entire preamble might be omitted.

Mr. VEST. Well, I move to strike it all out.

The PRESIDENT *pro tempore*. That motion is not yet in order.

Mr. VEST. Now, another word about this bill, which I see here today for the first time. If it is proposed, as the Senator from Michigan says, that this Government should continue its relation of guardian to ward in reference to the Indian tribes or nations, then this Government should do its full duty as a guardian, and if we propose to oversee and to inspect the contracts under the Indian intercourse laws which are made by the councils of these respective nations and to retain in ourselves this authority, we should do our duty if the duty devolves upon us.

Now, what does this bill authorize? It authorizes these Indians to make a lease of these salt springs for ninety-nine thousand years if they see proper. It authorizes them, if white men can go there and induce them by any sort of means to do so, to convey this land away for an unlimited number of years, and this bill says in so many words—for it amounts to that—that the Indian council can convey this land away forever to any corporation or to any set of white men who go there and offer sufficient inducement to them to make that contract. If we propose to act as guardians no such authority should be given to that council. The lease should be for a limited term of years, and should be for a reasonable time; but I care not so much about that, because I for one do not consider myself a guardian for these Indian tribes in any sense at all. If they are, as their friends claim them to be, independent sovereignties, let them have all the rights of a sovereignty; let them convey their lands; let them assume—and I say that is the solution of this whole question—all the responsibilities and all the duties of American citizenship. Till Congress does that we shall have these questions recurring before us.

What I rose principally to say, however, was to object to this preamble, and to move to strike it out.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the Committee on Indian Affairs.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurrred in.

The bill was ordered to be engrossed for a third reading, and read the third time.

Mr. CONGER. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Missouri [Mr. VEST] that after the vote is taken on the passage of the bill the question will be on the preamble, if the bill be passed.

Mr. VEST. I see no great objection to the bill now. If the friends of the measure will limit the lease, make it a reasonable term of

years, many of us on this side of the Chamber will vote for the bill. If it is left in the present condition, for an unlimited term of years, of course I shall vote against it. I feel no especial concern in it, but I make that suggestion.

Mr. INGALLS. It appears to me that lines 16 and 17 would meet and probably obviate the objection that the Senator from Missouri holds, and that to a certain extent I share with him.

Mr. VEST. Will the Senator read the lines?

Mr. INGALLS. "And said lease and conditions subject to the approval of the Secretary of the Interior." Of course it is to be assumed that where the Indians and the Government are both represented such stipulations will be made as will not interfere with what are supposed to be the respective rights of the parties under the treaty and under any view that might be had of the title by which this land is held. In fact I know but little about this matter, and certainly have no great desire one way or the other, but if the Senator from Missouri desires that a limitation shall be placed in the bill, and he is especially strenuous about it, I should not object to that, although I do not think it is necessary.

Mr. VEST. I am not particular about it.

The PRESIDENT *pro tempore*. The question is, shall the bill pass?

Mr. ALLISON. I ask the Senator from Kansas to insert in line 8 "for a period not exceeding ten years."

Mr. INGALLS. That period is probably too brief. It might be necessary in carrying out these plans for the manufacture and exportation of salt, to construct works that would be more or less permanent, and might require the investment of capital. I should suppose that if a period of limitation were to be prescribed, that which is demanded by the friends of the Chinese restriction would not be unreasonable, say twenty years.

Mr. BECK. Why not make it twenty or twenty-five years?

Mr. ALLISON. Here is a provision which practically——

Mr. MAXEY. I suggest to the Senator from Iowa to insert in line 8, before the word "years," "not exceeding twenty," so as to read, "for a period of not exceeding twenty years."

Mr. ALLISON. I think there should be a limitation on this grant.

Mr. MAXEY. There undoubtedly ought to be a limitation.

Mr. ALLISON. Here is a grant of five townships of land. The Cherokees are entitled to this land except as provided in sections 15 and 16 of this treaty, which provide that other friendly Indians may be placed there.

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate that the vote ordering the bill to a third reading be reconsidered?

Mr. INGALLS. Let the amendment be inserted by unanimous consent.

The PRESIDENT *pro tempore*. The Chair hears no objection to the reconsideration. The vote is reconsidered, and the bill is open to amendment. The Senator from Texas [Mr. MAXEY] moves to amend the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. BAYARD. Mr. President, this is proposed legislation upon the basis of treaty stipulations with the Indians, is it not? Then I would suggest to the Senate that while it may be very preferable to put a limitation upon this power of leasing, it should not transgress the boundary of reasonableness as lately interpreted by another branch of the Government, and twenty years may be considered unreasonable.

Mr. INGALLS. Will the Senator permit me to interpolate an observation?

Mr. BAYARD. That was considered unreasonable in the exercise of an express power under a treaty permitting us to limit or suspend the immigration of Chinese into this country. I think therefore probably you had better make the time ten years.

Mr. MAXEY. I suggest to the Senator from Delaware that I was in favor of twenty years for Chinamen; I thought it reasonable, and I think twenty years is reasonable here.

Mr. BAYARD. I was in favor of twenty years there, and a longer period if we could make it.

Mr. INGALLS. The difference is, that in this case we ask the consent of the Indians to the proposed limitation of twenty years; in the other case you proposed to make it without the consent of the Chinese.

Mr. BAYARD. But in the other case we had the conceded right to fix the term at our own pleasure.

Mr. INGALLS. Making it reasonable.

Mr. BAYARD. And in this case we have not. In the one case we were within the very spirit and meaning, as well as letter, of the treaty stipulation when we put it at twenty years, and in this case we simply take the matter in our own hands. We are dealing with a weak and a friendless people, and I think they are entitled to the consideration of great limitation upon acts of power by the General Government. I shall vote for the twenty years, but I should prefer ten.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Texas to the amendment of the Senator from Iowa.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. MAXEY. I move, in line 3, to strike out "or a duly authorized delegation thereof." I have not any great faith in some of these delegations, but if a lease is made by the Cherokee council then it is subject to revision by that council, whereas from the wording here if the lease is made by an authorized delegation the delegation can make it and the council will be bound by it without ever having had the privilege of seeing it. Therefore I say let the council itself make the lease.

Mr. INGALLS. I have no objection to that amendment.

Mr. MAXEY. I move that amendment, to strike out these words:

Or a duly authorized delegation thereof.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and read the third time.

Mr. CONGER. Since the amendments have been adopted I do not ask for the yeas and nays on the passage of the bill.

The bill was passed.

The PRESIDENT *pro tempore*. The question now is on the adoption of the preamble.

The preamble was rejected.

UMATILLA RESERVATION.

The bill (S. No. 1434) providing for allotment of lands in severalty to the Indians residing upon the Umatilla reservation, in the State of Oregon, and granting patents therefor, and for other purposes, was considered as in Committee of the Whole.

Mr. CONGER. Let the report be read.

Mr. HOAR. If the reading of the report is commenced it will carry the bill over, as it cannot be finished by two o'clock. Would it not be better to consider that two o'clock has come now?

The PRESIDENT *pro tempore*. The Chair thinks the suggestion of the Senator from Massachusetts a very good one. If there be no objection, the Chair thinks the bill had better go over to Monday, and two o'clock be considered as having now arrived.

Mr. SLATER. I shall not object to that.

Mr. CONGER. I have no objection to that arrangement.

The PRESIDENT *pro tempore*. The unfinished business is Senate bill No. 1572, on which the Senator from New Jersey [Mr. MCPHERSON] is entitled to the floor.

OBSTRUCTIONS TO NAVIGATION.

Mr. SAWYER. I ask unanimous consent to call up a bill, if the Senator from New Jersey will give way——

Mr. MCPHERSON. How long will it take?

Mr. SAWYER. But a very few minutes. It is a bill to which there will be no objection, I think. It is in regard to bridges on the Mississippi River mainly, to enable the Secretary of War to make proper regulations as to draws. It is important to have it acted on promptly. It is Senate bill No. 1392.

No objection being made, the bill (S. No. 1392) to provide for the removal of obstructions to the free navigation of the navigable waters of the United States was read.

Mr. ALLISON. Is this bill now up in regular order?

The PRESIDENT *pro tempore*. Yes, sir; no objection was made. Unanimous consent was given to take it up. The Senator from New Jersey who had the floor at two o'clock on the unfinished business yielded to the request of the Senator from Wisconsin that this bill be taken up, and unanimous consent was given.

Mr. MCMILLAN. If the Senator from Iowa will permit me, I will state that this bill has been submitted to the War Department, and the Chief of Engineers has thoroughly examined it. They have insisted upon provisions of this kind being introduced into bridge bills, and recommend the passage of a general bill of this kind. It is merely authorizing the Secretary of War to require the owners of bridges over the navigable streams of the United States to construct sheer-booms where boats and rafts are passing under the bridge, so that accidents may not happen by vessels or rafts striking against the piers. That is the whole provision of the bill. It is one that is required by the interest of navigation, the steamboat and rafting interest of every stream in the country. The War Department have insisted upon it time and again; the Committee on Commerce have considered it, and reported this bill favorably.

Mr. SAWYER. So far as I know, all the bridge owners and the railroad companies desire it because they want to know when they put a guide at a draw that it is there legally and that if they put it there they will not be liable for damages.

Mr. MCMILLAN. And I was informed by the Senator from Missouri that the other day a very serious accident occurred on the Missouri River by which great loss of property ensued in the destruction of a large steamboat on that river. Our rivers in the West all require this protection as they do elsewhere.

Mr. ALLISON. I do not see that this bill has been reported from any committee.

Mr. MCMILLAN. Yes, sir; it is reported from the Committee on Commerce.

Mr. ALLISON. Is there any special reason why it should pass to-day? My attention has just been called to it. I think it is a very important question, affecting a great many interests. I do not wish to impede its passage, but I would like to look it over.

Mr. MCMILLAN. I will inform the Senator from Iowa that there is a special report from the engineer in charge of the Upper Mississippi River printed and laid upon the tables of Senators during the present session.

Mr. ALLISON. I ask Senators to allow the bill to go over for the present. I do not know that I have the slightest objection to it, but I should like to look into it.

Mr. McMILLAN. It was taken up on motion of the Senator from Wisconsin.

Mr. SAWYER. I will not press the bill now if the Senator from Iowa desires to have it go over. I will withdraw the request for its consideration now.

Mr. McMILLAN. Let it be understood that it will be taken up at some time within a short period.

Mr. SAWYER. Let the Senator from Iowa have time to examine it, and I shall move to take it up to-morrow or Monday morning.

The PRESIDENT *pro tempore*. The bill will be regarded as postponed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia; and

A bill (H. R. No. 5541) to extend to sailing-vessels the same privileges in unlading cargo as are now granted to steamships.

The message also announced that the House had passed the bill (S. No. 632) granting a pension to John Taylor.

PRINTING OF A DOCUMENT.

Mr. MORRILL. I ask leave for the Committee on Finance to have printed, when it shall arrive, as I do not expect it will arrive until perhaps late in the evening or to-morrow morning, a communication from the Secretary of the Treasury in relation to bonded spirits.

The PRESIDENT *pro tempore*. If there be no objection, the order will be made.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 1601) authorizing the Public Printer to pay A. Hoen & Co., of Baltimore, Maryland, for the lithocaustic illustrations made by them.

CHINESE IMMIGRATION.

The PRESIDENT *pro tempore*. The Senator from New Jersey [Mr. McPHERSON] is entitled to the floor on the unfinished business.

Mr. MILLER, of California. I ask the Senator from New Jersey to yield to me for a moment. On consultation with a great many Senators in respect to the time when the Chinese bill should be taken up it is thought that the best time will be on next Tuesday, it being supposed that the Mississippi River bill will be disposed of on Monday.

Mr. KELLOGG. Perhaps to-day.

Mr. MILLER, of California. If it is disposed of to-day we shall call up the Chinese bill on Monday. I desire to have an understanding, if possible, with the Senate that the Chinese bill will be taken up on Monday if the Mississippi River bill is disposed of to-day, and if not, on Tuesday, at any rate, whether the Mississippi River bill be disposed of or not.

The PRESIDENT *pro tempore*. The Chair will inform the Senator that there cannot be an understanding about it because notices have been given as to various bills. There may be a struggle. It will depend upon the sense of the Senate at the time. The Senator can give notice that he will ask on Tuesday to have his bill considered.

Mr. MILLER, of California. I give that notice, then.

Mr. FARLEY. I am satisfied that the Mississippi River bill will be disposed of either to-day or on Monday, and on Tuesday the importance of immediate action on the Chinese bill will address itself to every Senator on this floor, and I do not think it will occupy more than one day. It is important not only to our own coast but to the entire country that we dispose of the matter in one way or the other. I hope it will be understood that on Tuesday next, after the morning hour, we shall proceed to take up the Chinese bill.

The PRESIDENT *pro tempore*. At two o'clock the Senator means.

Mr. FARLEY. Yes, sir; at two o'clock.

MISSISSIPPI AND MISSOURI RIVERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

Mr. McPHERSON. Mr. President, I am not in the habit of using much of the time of the Senate in the discussion of questions coming before it, and upon this question, important as it is, I will not depart from my usual custom. I shall present very briefly a few general propositions, and will not follow the line of argument in respect of the comparative merits of different systems of improvement marked out by those who preceded me in this discussion.

Let me say, however, with due respect to those who defend the jetty system and ignore the other, or levee system, or *vice versa*, that the discussion with the light we now have as to future requirements seems to be premature, and it is more properly a subject of experiment and demonstration rather than of argument.

If I understand the Senator from Indiana and the report of the commission, the jetty system is an interior line of solid filling restricting the channel in width and trusting to the increased confined volume of water to wear the channel deeper, and thus relatively raise the banks. Now, that is a simple, plain proposition, as I understand it, if it raises the banks sufficiently, or, what is the same thing, lowers the channel to prevent overflow; but if a given volume and force of current will give a certain result, why dissipate any of the power by which that desired result may be most expeditiously and certainly reached. If to utilize the whole power of the river levees become necessary as an adjunct to the jetties, why limit your appropriation to jetties and thus virtually obstruct the very object we have in view.

I do not know that the jetty system alone will give us good navigation on the river, but taken conjointly with a system of levees we are enabled to utilize all the forces with which nature has supplied us, and failing then we fail absolutely. If the jetty plan will so deepen the channel and relatively raise the banks as to prevent overflow, then we need no levees; but that is still a matter of experiment. The only safe plan is to give the largest liberty in the expenditure of this appropriation until all these facts have been demonstrated.

Mr. President, I shall vote for this appropriation; and as long as I have a vote in this Senate it will be given for further appropriations until the sum appropriated shall equal the sum needed to make this magnificent water-way what God and nature intended it should be—the great artery of commerce.

The valley of the Mississippi is the most magnificent dwelling place prepared by God for man's abode. As we survey the river in its course and comprehend its magnitude from its northern sources to its sourthern outlet, as it makes its way through every variety of climate and every order of production suited to the wants and the enjoyments of mankind, we cannot fail to recognize that our whole country is interested in the progress and welfare of those who do and of those who are to occupy its fertile fields, grow into wealth in its cities, into opulence and affluence by its commerce and its products.

The question of the improvement of the Mississippi has long attracted public attention; public necessities and the public welfare now demand it. It has ceased to be a local question; it is no longer hampered by any of the narrow influences which pertain to local expenditure for local advantages. It has become and is an interstate improvement for interstate transportation, interstate commerce, and national welfare. It is a national question. The Mississippi stops at no State lines, it is measured by no State boundaries, but flows from clime to clime, almost from zone to zone, from the northern extreme of our domains to their southern limit in the Gulf of Mexico. It is sovereign beyond the sovereignty of States, and the question of its improvement is as broad as the territory it drains and as universal as the blessings the wealth of its valley confers.

Whatever plan for this great work may be adopted must be national. No State can undertake it; no State should undertake it. It is not the work of the States through which it runs. They are interested in it, but it is not their property; they have but a divided semblance of sovereignty over it. The Mississippi belongs to the nation; it is the highway of all the States; it was purchased with the common treasure of all; it is the inheritance of all; its channel unites and drains an empire of States to form a common water-course to the ocean; it combines into unity all varieties of climate to bring into exchange all varieties of products. In this unity of interests it is at all times an arbiter for continental supremacy, a mediator for harmonies of purpose, and a never-failing advocate for federal union, linking into one chain of communication nearly half our population, gathering into one current a continent of rivers, and bearing into one outlet thousands of miles of navigable waters capable of transporting the products of the soil, the forests, the mines, and of all the industries of man to their ocean markets. If the work of its improvement is not national, nothing can be national; if it is not of national importance, nothing is of national importance. It is altogether too big to be left in the custody or care of any State. The States are weak and unfit for the work. Nor can they act together. And the work to be done needs for effectiveness and economy one head, one plan, one hand, and perpetual control. If it is done at all, the United States must do it.

Daniel Webster, as early as 1846, when the question of improving its channel was discussed, pronounced in favor of the broadest improvement. He said: "This noble and extraordinary stream, with seven or eight millions of people on its banks and on the banks of the waters falling into it, demands the removal of all obstacles which obstruct its navigation." Fervent with the importance of the question, he demanded to know: "Who shall do this work? Will any one of the States do it? Will all of the States on its banks do it? We know they will not; it is not the duty of any one State or of all the States on its banks to do it; but it is the duty of all the States—their constitutional duty. The improvements must come from the Government of the United States, or they will not come at all. Why, sir," he exclaimed, "what a world is there; what rivers lead into it; what cities are on its borders—Cincinnati, Saint Louis, Natchez, New Orleans, and others that spring up while we are talking of them."

These words were spoken in our own days, and yet the 8,000,000 of people have increased to 23,000,000, and we have but to look upon

the maps of to-day, into the census of our cities and towns, into the tables of our exports, and the regions from which they come, to find that while the Congress of the United States has been debating the extent of the aid which should be doled out to promote this needed improvement, in the very words of Mr. Webster, while we have been talking of them, cities like Minneapolis, Omaha, Dubuque, Des Moines, Davenport, Quincy, Alton, Cairo, and many others have become great centers of trade, and States almost as numerous—with 40,000 miles of railroads and 15,000,000 of people—have been added to this ever-increasing valley.

Since these words were spoken, and fitly spoken, by the immortal Webster, desolating floods have been permitted to overflow this vast and fertile region, destroying each time more than the entire cost of the improvement. It is estimated that the flood which is now subsiding will probably cause a loss of 300,000 bales of cotton in this year's crop. At present prices this would be a loss of more than $18,000,000, besides the homes, products, horses, cattle, everything living, everything dear, all that industry has accumulated, all that care and years have refined into comfort, all of wealth, and almost all of hope ingulfed in the hundreds of miles of uncurbed waters.

The improvement of the Mississippi is demanded by every consideration of national economy which can address an intelligent and progressive people. It directly affects the value and productiveness of the public domain. So long as its waters are permitted to flood and overflow the immense region now submerged, so long as the property, products, and lives of the people who venture into its fruitful valleys are endangered, it never can be and never will be a safe and desirable abode for man.

The value of all lands depends upon two or three normal elements. Safety of life, safety of property, and safety of production are absolute essentials to value. Not an acre of the most fruitful lands in the immediate range of its waters are now safe. Continuous occupancy is impossible. General cultivation cannot exist. The extent of the overflow is the only means of measuring the extent of the region to be reclaimed and brought into cultivation. It stretches for hundreds of miles upon its banks. It covers the richest cotton and sugar lands upon the continent. It embraces a section of country the most fruitful in animal wealth, and the most extensive in its limits to be found on the globe. Every acre added to the producing capacities of the lands of the United States, especially every acre located on the highways of commerce, is a continuing element of natural wealth. It is enough to say that the improvements contemplated, if carried out on a scale equal to the importance of the subject and within the power and means of the Government, will reclaim and bring into cultivation an extent of territory whose annual product above the cost of production would be sufficient to extinguish the entire cost of the improvements.

The whole question if it could be reduced to the pure mathematics of profit and loss would leave no room for debate. It would show that the loss must be certain and continual and often as by the present floods overwhelming, so long as the improvements are unmade. It would show that the profit would be certain, increasing, and munificent as compared with the outlay required.

Senators, it might be asked—it is asked—if all this might of calamity, loss of property, loss of life is not directly attributed to the failure of the Government of the United States to establish bounds beyond which these flood deluges shall not pass. With an overflowing treasury from which to draw the means, longer neglect seems to approach criminality.

Let us then elevate our statesmanship to the level of the importance of the great work. Let us make the comprehension of our duty as broad as the country, as elevated as its destiny, and as positive as the necessities which demand our action. There never devolved on any Congress a higher or more imperative trust in removing formative, physical, and positive obstructions to navigation, to production, to commerce, to demanded progress and to the general welfare of the people than is forced upon us in considering and providing for the improvements on the Mississippi. As legislators we shall fall short of the duty our position imposes if we evade or postpone the removal of every obstruction it is in our power to cause to be removed to the free and unobstructed navigation of the Mississippi and to the peaceful and undisturbed cultivation of its borders.

But I am asked, have we the constitutional power to apply the revenue derived from taxation to reclaim the overflowed lands? My answer is simple and easy. Incidental protection is a very popular phrase in this country, and scares nobody. Make, then, your improvements within the scope of constitutional power contended for by the most strict constructionist, and we will accept without controversy the incidental protection which such an improvement will give to property upon its banks. Limit, if you please, your constitutional power to its military, postal, and commercial necessities, and we will rest our cause on these alone.

The world is beginning to be educated to comprehend the declaration of Napoleon, in 1803, when he said that whoever commanded the navigation of the Mississippi and controlled its valley would become the most powerful nation on the globe.

As a purely military necessity, the free navigation of the Mississippi is an essential beyond any estimate of the costs it would occasion. The importance of its waters during the rebellion is an ample illustration of the necessity of making every navigable portion of the river accessible and available. The difficulties and obstructions in its channel cost the United States more from 1862 to 1865 for military purposes than the whole sum required to improve it. No war can exist in which the Mississippi will not play an important part. It is a continental element of our strength. It is an artery of life-blood to invigorate our land. Everything which intercepts its current or dissipates its force is an impediment to the vigor of our power and to its military importance as the highway of our armies, of our supplies, and of our munitions of war.

POSTAL NECESSITY.

In peace, as in war, the postal service of the United States is one of the necessities we can never abandon and never overestimate as an element of civilization. The improvements on the Mississippi would not only greatly facilitate it but they would protect from injury and destruction the common roads and railroads upon which that service is conducted to and from the river banks and throughout the regions subject to overflow. Entertaining these views in respect of its military and postal advantages, without the power of producing definite estimates based upon established facts to prove the positive accuracy of the conclusions I have reached, I now proceed to examine the question of improvement as it bears upon the question of

COMMERCE AND TRANSPORTATION.

All improvements to be made by the Government of the United States on the Mississippi to be of permanent value must be made with reference to a general plan and to the general utility of that plan. The demand for transportation is as general as the production of the great valley it drains. The great bulk of it must always be interstate or, to coin a phrase, national commerce. That is to say, it must come from points remote from the immediate banks of the river where improvements are most essential—Minnesota, Iowa, Kansas, Missouri, Nebraska, Illinois, Ohio. All the States on its border and all the States united by determinal water-courses to its channel, and all sections connected with it by internal railways and tributary to it and directly interested in its facilities are in the price established upon it for transportation. Hundreds of navigable branches pour their floods of traffic into its channel for market and thousands of miles of steamboat navigation are dependent for their success upon the condition, depth, and freedom from obstruction of its channel.

It cannot be said that it now transports all or a major part of the products of its valleys to the seaboard, but it can with truth be declared that the main reason why they are forced into other and vastly more expensive routes is because it is not improved to perform its legitimate functions, and the want of this improvement costs the people and sections not on its immediate banks more yearly in exorbitant charges for freight than the whole outlay to make its waters permanently available either as a direct route of transportation or as the direct medium of fixing the competitive cost of transportation. Thirteen great interstate railroad lines bridge the waters of the Mississippi and its tributaries, and each of these thirteen carry more products over its waters than its channel bears to its outlets; while its capacity to transport, if improved, is vastly beyond the combined power of all of them, and the difference in cost between floating the products on the river, with a secured and uninterrupted channel, and on rails, is so enormous that it is no longer difficult to estimate the magnitude and certainty of the loss to the people.

During the spring and high-water navigation the railroads are forced to bring their prices to the proximate rates of river charges, but the uncertainty of the duration of high water, the always present certainty of obstructions, prevent the accumulation of facilities for shipment which would never fail if the river were improved into reliable and certain means of transportation. The charge for freights are therefore made to fluctuate exactly as the channel fluctuates. The railroads take advantage of every obstruction to increase from double to ten times the rates which a uniform current and a certain depth of water would establish into uniformity. At the same time the river rates are by reason of this very uncertainty made vastly more than they would be if certainty of channel and depth existed so as to permit certainty of estimate of the demand and cost of transportation.

This question of transportation is to-day paramount over all others connected with subsistence, and subsistence is not only life itself but it is the sum and substance of our foreign trade.

The great grain, cotton, produce, cattle-growing, and wool-producing region of the United States lies in the valley of the Mississippi and its tributaries. Seventy-five per cent. of the whole value of our exports come from its fields, and depend for their value where they are produced upon the cost of transporting them to market. With a soil inexhaustible in fertility, and with modern appliances to aid production, its cost has been reduced to the minimum. With cheap transportation to reach the foreign consumer the demand for our surplus product abroad will be practically without limit. The whole excess above the legitimate cost, and this excess is often oppressive, depends upon the condition of the water transportation upon the Mississippi. In short, the facilities of transport on the Mississippi determine the price of transport on every other route to the Atlantic seaboard. The difference, therefore, between possibilities of transportation on the Mississippi when improved, and present rail transportation to the Atlantic seaboard, which scarcely admits of much

reduction, is the sum of the importance of improving the Mississippi as a mere question of transportation.

Now, what is the difference? The actual cost of transporting grain on long lines of road, with low grades representing the minimum of cost in moving, is said by the highest authorities to be not less than one-half a cent per ton per mile, and to do it for less will require a reduction in the price of coal, iron, and labor—contingencies not likely to happen. Counting Saint Louis to be 1,200 miles from the Atlantic seaboard, at the above rates the cost per bushel of grain by rail will be eighteen cents. This sum represents the actual cost, (and is therefore the most liberal presentation which can be made in favor of rail transportation,) but it does not by any means represent the actual charge the product is required through absence of cheaper competition to pay. This is of necessity left to the rapacity of railroad pools, and may be as extortionate as they please to make it.

The most competent authorities agree that the cost of transporting under such favorable conditions as the improved Mississippi will furnish that same bushel of grain from Saint Louis to tide-water at New Orleans may be represented by a fraction of a penny. In other words, the possibilities of one route compared with the best effort of the other are as one to eighteen.

Confronted by these facts—for myself at least—to longer doubt the propriety of throwing the millions (or so much thereof as may be at present employed) of surplus revenue into the Mississippi is to doubt my power to reason.

The great State of New York has given us an example worthy to be followed. Its wisdom and foresight gave to the country a great water-way from the lakes to the ocean. The liberality of its people rescued the territory from the ocean to the Mississippi from the extortions of corporate greed. It has recently made its great canal—that first great apostle of liberty and enterprise—free from the lakes to the sea.

If the wisdom of its founders is to be measured by its beneficent results, they were wiser than anybody, and the later wisdom in making the canal free of tolls has removed the last shackle upon its commerce. It is—it can be viewed in no other light—a gratuity to the nation.

The commission of engineers appointed by the Government have determined that the improvement for commercial purposes is feasible and the cost thereof not unreasonable. To make it navigable for commerce is to make overflow well-nigh impossible. It is estimated the cost of this great work will not exceed the amount appropriated and practically squandered in the past five years in reforming trout streams, and this amount we should not hesitate for one moment about appropriating as it may be needed for so magnificent a purpose, for an improvement so essential to commerce, to trade, to production, to the preservation of life, property, and the rescuing from annual devastating floods a vast area of land of wonderful fertility, capable of supporting millions of inhabitants and of largely increasing the national wealth.

It is high time the Government looked to the improvement of its own property, especially when followed by the results I have stated. In a few years Congress has given to individuals and corporations more than one hundred millions of money or credit and an area of territory greater than the combined area of ten of the States in this Union. It is estimated that 70 per cent. of this princely gift is held and owned to-day by citizens of other nations.

One-tenth of the present value of that gift would wall the Mississippi with granite from its source to its mouth, secure to it the entire commerce of the great water-shed which supplies it, which commerce, at the present ratio of increase in production, will soon save to the producer an amount greater than the sum now paid annually for transporting our entire exports to Europe from the seaboard. This improvement will so cheapen transportation that the great grain fields west of the Mississippi will determine the cost of living in Europe. California and Minnesota, even at present high freights, now regulate the rates of rental paid by the grain producers of Great Britain, and fix the prices at which they may sell their products. Under like freights the cattle from Texas and Illinois compete with the English herdsmen in every important city in England. In proportion as the supply is increased and cost lessened the demand has increased.

The introduction of American beef into English markets made consumers of people who had never before been able to purchase it. Cheap transportation, coupled with cheap production which we have, means cheap food. Give us cheap transportation to reach the consumer, wherever that may be, and the question of surplus food production, both question and food, is forever disposed of.

Senators, as legislators we may not be obliged to assume the recommendations of the commission as binding upon us. And they are not; but in so far as they come commended to us as the carefully considered result of scientific and practical experiment, recommended to us after years of investigation, consultation, and comparison of experiences, from men whose duty it has been to investigate, and whose glory it has been to win and deserve public confidence, and that, too, upon principles of every-day application, with which we are all familiar, and in which we must all concur, there can be, as I conceive, no variance of opinion.

I am opposed to all half-way measures. I am in favor of the broadest, most liberal, and most effectual measures to consummate any system adequate to meet the end in view. The nation has selected its commission to investigate and to report. They have investigated and reported. I accept their report, for I am satisfied that the plan proposed will bring the waters of the Mississippi into subjection to the demands of commerce, its banks into barriers against destructive floods, its channel into depth for safe and continuous navigation, its border lands into safe and productive fruitfulness, and fructify with advantages to the millions of our people in saving them from the extortions of monopolists in supplying the cheapest transportation it is ever possible to attain.

Let us then so far forget the conflicts of partisan ambition, so far pause in the zeal of political strife as to bring ourselves up to the conception of the magnitude and importance of the duty this subject imposes upon us. Doing this, we shall accomplish a work worthy of our age and our country. Never did there devolve on statesmen the consideration of a physical improvement so vast in its far-reaching and so important in its immediate results as that embraced in the means of making the waters of the Mississippi, as they flow to the sea, minister to the welfare of the people, to the safety, productiveness, and riches of the valley it drains, and to the commerce of the continent. It is a question which addresses itself to all of us; it should invite us all for the common welfare of all. No monarchical throne or combined aristocracy of power presses these States into unity. No military chain of fortresses encircles the people, but united in a government founded in equality of rights, representative in character, and whose highest purpose is to secure the largest degree of benefit to all, we as legislators will fall short of the duty our position imposes upon us if we fail to comprehend the importance of a great common bond of union, without which the Union would be powerless. The Mississippi unites the continent. It blesses it. It must be improved.

Mr. HARRISON. Mr. President, I hope I shall not overtax the patience of the Senate if I ask leave at the present time to submit some remarks on the pending measure.

Reference has been made in the debate to the fact that for a period of about three years I was a member of the Mississippi River commission. I did not allude to that fact myself, because I did not at all conceive that such a relation to the work of the commission had given me any such special information, not contained in the published reports of the commission, as to entitle what I should say here to undue weight. I did perhaps have this advantage, that I heard in the commission the discussions of the engineers upon the first report and upon the second report which was submitted by that body to the Secretary of War, and through the War Department transmitted to the Senate. I had then the advantage simply of some preliminary knowledge, which was afterward accessible to every Senator here who would take the time to examine the published reports of the commission.

In the Senate in what I have said in my previous remarks I have simply taken the same view which, as a member of that commission, I took after listening to the fullest discussion of the able engineers and experts who constitute the body of the commission. I did not suppose that any one could be so unfair as to suppose from anything said in my previous remarks, or from anything done by me as a member of the commission, that I had either then or now brought to the consideration of this question any spirit of sectionalism or partisanship. I am glad to be able to know, as I do know, that there was but a single Senator on the other side of this Chamber among all the distinguished gentlemen immediately representing this afflicted section who found himself willing to put such a construction upon anything I had said or done.

If I know my own mind, I have not now, and have not had, as I expressed myself in my previous remarks, any disposition at all to withhold anything from or inflict anything upon any State of this Union by reason of its participation in the war. I announced then, as I do now, an equal rule for all the States of this Union and all sections; and what gentleman upon the other side of the Chamber can claim more than that the Constitution and the law should have equal application and should bring their benefits evenhandedly to every section of this country without reference to the relation which it occupied to the great conflict? I am as ready to-day to build levees for Louisiana as I am for Illinois, and not a whit more ready. Nor was the Senator accurate when he imputed to me the introduction into this debate of such references to the war. Every word that I said upon that subject, as he knows, was said in response to what he had said and what had been said by the Senator from Missouri, [Mr. VEST.] I undertook simply to combat the idea that we should do something other or more for a State that had been in rebellion by reason of the condition of suffering or poverty which ensued; and I did that in response to the suggestion of the Senator from Missouri that this was a great opportunity for the men of the North to show their magnanimity to the South by voting this appropriation for levees. I am sure, after what I have said, and when my position upon this subject is rightly understood, that no even-minded, fair-minded southern man can claim that I have withheld anything.

I undertook to meet two suggestions, to one of which I have already referred, attributing in some degree the suffering and embarrassed condition of the people in the States on the lower river to the emancipation of the slaves, and their present inability to do what the Senator from Louisiana [Mr. JONAS] said they did do before the war,

maintain a perfect system of levees, and that at a cost which did not seriously embarrass them or trouble them. I need not pursue that subject further.

I say again, as I suggested before, that this question is a very wide one. If we build levees upon the lower river why shall we not build them on the upper river, for there is on what we may call the upper river in Illinois a very wide and very rich section of country that needs to be, and is to-day, protected by levees, and levees that break with devastating effects upon a large section of country. I suggested before that if we were to do it for the Mississippi we must do it for the Red River and all its tributaries that were similarly situated; and I suggested that the condition of the people upon the shores of any of these streams as to their pecuniary ability to undertake this work for themselves could not at all enlarge our constitutional jurisdiction over the subject and could not be the basis of any legislation here. No one is more conscious than I am that in a time of great distress, wide-spreading, involving not merely individuals or families, but communities and counties, so extreme that it drives people from their homes and leaves them shelterless and without food, it seems to be an ungracious task to suggest constitutional limitations or to speak of dangerous precedents.

The Senator from Arkansas [Mr. GARLAND] used against my position the report which I made recommending an appropriation of $100,000 to feed the people upon the lower river. He asked me how I could justify that appropriation and oppose on any constitutional grounds an appropriation of $15,000,000 for levees? I frankly say to the Senator that I do not know how I can justify that appropriation on constitutional grounds. I do not think any Senator stopped to consider that point. I did venture to suggest in the report which I made on the subject that certainly the extent to which the relief given by the General Government could go would be to meet the first urgency of this great affliction, and after that it should be turned over to that charity and public benevolence which have never failed in any section of this country in time of distress, and which have been strong enough to cross seas to the relief of suffering people. But it was not so. We went on and appropriated to the extent of $350,000, besides some smaller appropriations for other specific methods of relief. I frankly say to the Senator that I do not know upon what constitutional provision we can justify those appropriations. I do not think any one stopped to ask that question at all. But it is hardly fair to turn that benefaction against us and to bring our consistency into question when we do stop a moment to inquire whether we shall appropriate $15,000,000 without constitutional warrant. That is the danger of all these things, little or big. When for once, under the impulse of good fellowship and good feeling, under the stir of those sympathies which every kind-hearted man feels, something is done in the way of benefaction, it will come back to trouble us.

I was anxious that, so far as I had it in my power, the Senate should have a clear and distinct idea of the bill reported by the committee, its effects and limitations, and of the amendments which have been proposed to it. The bill itself as reported by the committee, I say in the outset, appropriates practically every dollar, just as many millions, as the commission have asked for all purposes; but it contains a limitation as to the use which may be made of this money, and that limitation is in these terms:

> *Provided*, That no part of the said sum herein appropriated shall be used in the construction or repair of levees for the purpose of preventing injury to lands by overflow, or for any other purpose whatever except as a means of deepening the channels or improving the navigation of the said rivers.

That proviso clearly divides those who in this Chamber desire to vote money for the improvement of the navigation of the river and believe such an appropriation to be constitutional and proper, and those who ask that some part of this appropriation, or an increased appropriation, may be voted either specifically for the construction of levees without reference to navigation, or may be voted under such ambiguous terms of appropriation that the commission may construe it into an appropriation for the construction of levees to prevent overflow.

This bill, as I have said, gives every dollar, but limits the use of it to a specific purpose. We have a clean-cut, a very sharp limitation here that all can understand. The bill itself must be satisfactory to every one who is willing to limit the appropriation to channel improvements, because it puts no restriction upon the use which shall be made of the money except that it shall be used for channel improvements and shall not be used to reclaim lands. Of course those who take the view that the Government should go into the business of reclaiming these lands will be dissatisfied with this restriction; but if it were stricken out and the bill were left otherwise as it stands, what would be the effect of it? We have given here the exact sum which the commission ask for channel improvements and for levees both; and they could not construe it otherwise but as an invitation from Congress to spend $2,000,000 with the express view of restoring what are called in the reports the breaks in the existing system of levees.

Those who intend that would naturally desire to strike out this proviso, but those who believe that the money should be devoted primarily, with the sole object in view of improving navigation, cannot insist that this restriction in any way hampers the proper use of the money.

I like the way the Senator from Arkansas gets at this question. I have been resisting all the time a disposition to slide into the levee project rather than to walk into it. I think I know that in the original act as it was framed defining the duties of the commission there were words very skillfully introduced intended to open the way to that which we have under full discussion to-day.

I like better, I say, the proposition of the Senator from Arkansas when he boldly affirms the power of Congress to appropriate money to build levees to reclaim these lands for the sake of reclaiming them, and asks that we enter candidly and honestly upon the discharge of that duty. Then any suggestions which may be made with a view of weakening this proviso to the bill are only intended to open a track through which that may be accomplished by indirection which the Senate are not authorized directly to do. Therefore, I express the hope that the bill as it stands may pass. It gives money enough and it limits the use of it to right purposes.

The position of the commission upon the report submitted seems to be the subject of difference in this Chamber, and I confess that to me it is strange that it should be so. I think I can in a very few minutes show that I represented in my first speech on this subject the conclusions of the commission correctly and fully. The gentlemen who have spoken upon the other side have read from an appendix which is attached as an exhibit to the last report of the commission; they have read from testimony before a House committee at this session, and they have read what purports to be and is proposed or intended as a report of Captain Eads, a member of the commission. I want to give the Senate, if I can, in a few minutes an exact and clear view of what the commission has said.

Let us understand this matter at the outset. The commission was required to report upon the levee system, and to report estimates of the costs for constructing levees; and the very fact that they have done so, complying with the organic law of the commission, is now used as evidence that the commission recommend these levees. My legislative experience is too short to verify it, but I am told that it is not unusual that the Senate adopts what seems to be rather a harmless resolution of inquiry directing an engineer officer to survey a certain stream and to report the cost of improving it, and when his report comes in it is taken to be a recommendation of the Engineer Department that the work should be done, instead of being as it is a mere response to an inquiry by Congress as to the cost of doing the thing, leaving Congress wholly unembarrassed upon the question whether it will do it or not when the report comes in.

As I have said, the commission was compelled to report upon the levee question, and in its first report may have said, "We do not know what a complete system of levees will cost; but we estimate upon the best information we have that it will cost about two million and twenty thousand dollars to repair existing breaks in levees." What is the last report that comes to us with the message of the President? It is simply an addition saying that "by reason of the floods which have recently occurred in the river our estimates of the amount necessary to close existing gaps of levees must be doubled." That is what it is, and nothing more.

I undertake to say that the commission has not in any report recommended the construction of a system of levees upon the Mississippi River. The commission reported, as it was directed to do, what it would cost, and the question is wholly free from embarrassment to us to-day whether we shall undertake the work or not.

The Senator from Mississippi, [Mr. GEORGE,] whose candid, very careful, and very able discussion of this great question I listened to with deep interest, read at length from the appendix of the last report of the Mississippi River commission. The commission themselves have told us in introducing that appendix, and in the very report to which it is attached, that they are not themselves satisfied with the evidence which it contains, and yet the evidence there contained is brought here and it is asked that the Senate shall be convinced by it when the commission, two members of which submitted this report as a sub-committee on levees, report that they are not themselves satisfied with it. Let me read just a word or two. I read now from page 10 of the report of the commission:

> The utility of levees as a means to "deepen the channel" of the river and "improve and give safety and ease to the navigation thereof," which are other ends enumerated in the act, is a subject on which differences of opinion exist—

That is, exist in the commission—

> and in respect to which the facts collected do not carry equal weight as evidence to the minds of all the members of the commission.

Yet we are asked to regard this evidence as satisfactory here and to act upon it.

> It is considered by all that levees, by confining the flood-waters of the river within a comparatively restricted space, do tend, in some degree, to increase the scouring and deepening power of the current. But the extent and potency of their influence in the improvement of the low-water channel, in respect to which, for the purpose of navigation merely, improvement is most needed, and their value, for that purpose, as compared with other methods of improvement, and as compared with their cost, are regarded as subjects requiring further observation and study, and the accumulation of further and more comprehensive data.

In regard to all the evidence from which the Senator from Mississippi read, and which other Senators introduced here as being before the commission, the commission agree and say that the information which they have, the data they have obtained are insufficient to enable them to pronounce a judgment upon this question; and yet we are urged here by Senators (and I make no complaint of it, because I can

readily understand what pressure is behind them in their States) to act now upon this question, when the commission we have constituted to study it tell us that the very facts which they comment upon are insufficient to justify them in forming a conclusion.

The Senator from Arkansas very kindly said that he did not desire to impute any intentional omission to me, but that in reading the opinion of the commission upon this question I had omitted one clause which he affirmed to be expressive of a decided opinion on the part of the commission as to the effect of the levees. The clause referred to by the Senator from Arkansas reads as follows:

There is reason to believe that during the period when levees were in their most perfect condition, from 1850 to 1858, the channel of the river was better, generally, for purposes of navigation than it has been since that time.

The Senator argued that this was fully committing the commission to the proposition that levees did improve the navigation of the river. After they had collected largely more facts than those which are set out in this minority report, they tell you, in the language I have read, that they still have not facts enough to answer this question; yet the gentleman argued that upon the single expression that it was believed—not demonstrated, but believed—that from 1850 to 1858 the navigation of the river was good and that levees existed at that time, any engineer, yes, any Senator, could from that single fact derive a safe conclusion as to the effect of the levees. I do not know whether there was a comet in any one of those years, but it would be almost as safe to conclude that if there had been there was some connection between good navigation and the comet. Certain it is that upon a single statement like that, not yet well authenticated as a fact, and if a fact it is a single fact that did not take into account the varying condition and effect of that river, it is claimed that any engineer or any Senator could base upon that a conclusion as to the usefulness of levees.

So it is that I come back to the language of the commission. They are not themselves agreed upon this question, and the evidence they have is not satisfactory to them, and so they reported what they had said in the previous report and what I quoted in my first speech, the substance of which is that levees were not "demanded," which is the expression used in one quotation; in another it is said that they are "not necessary" to a system of channel improvement.

The Senator from Mississippi, in discussing the constitutional question, very fairly said that I laid too much stress upon the word "necessary;" that the constitutional power extended beyond that which was in the strictest sense of the term "necessary." I agree that we may adopt reasonable methods; that we may almost go to the extent of convenience in determining whether a matter is or is not necessary or properly connected with navigation; but when we undertake a great work that involves money, and we set before us a single object, which is the improvement of the navigation of the river, then I say, while we may have no constitutional limitation as to spending money in certain directions which may be convenient in connection with navigation, we have the limitation that we shall undertake nothing except that which proximately, in the easiest manner, and at the least cost will accomplish the object we have set before us. Is not that the duty of any engineer? If the Senator from Mississippi had an engineer or an architect employed to do a piece of work for him, and the object to be accomplished was set before him, would he not think he had departed from his duty and obligation if he did not confine himself to those things that would accomplish fully the purpose which he had set before him, but undertook to drag in something else that might have some connection but that was not necessary to the result which was to be accomplished?

The Senator very candidly said that the other thing, drawn in and connected with navigation, must not be drawn in in the nature of a pretext, but must be really and obviously for the purpose of accomplishing the object set before us. I am willing to judge the whole question upon the rule he suggests. If the object is to improve the low-water channel of that river, to give a way for boats, a sufficient depth of water that we may carry cheaply and at all seasons the commerce up and down the river, then what have the commission said? They have said, and I affirm not only upon their reports but upon knowledge, there was not a member of that commission who was not willing to say that these interchannel works which they contemplate would be in themselves, of themselves, and without any help from anything else, efficient to accomplish this purpose. If that is true, how can we justify ourselves in regard to the levees?

The argument of the Senator from Mississippi was ingenious and forcible, and I am sure sincere; yet I would respectfully ask not only that Senator but all Senators whether it is not apparent from the whole debate that the question of levees is looked at by all the Senators and by all the people in those States, not as a project for improving navigation, but as a project of land reclamation. Let me suppose that that stream found its way through land that was not cultivable, does anybody believe that engineers looking to the improvement of the navigation of the river would consider the levee project for a moment? What was it, then, that induced the leveeing of it? What is the real stimulus and motive? Every candid man must admit that it is the reclamation of land. Therefore, instead of regarding the reclamation of land as an incident to something to be done for navigation, the aid to navigation is the incident, and a forced and strained one, sought after with labor, whereas the effect upon the land is the primary and real purpose.

The conclusions of the commission are: first, that these interchannel works are necessary and nothing else can be substituted for them; and, second, that they are in themselves and of themselves equal to the work of the improvement of the channel of the river. But if a great deal of the evidence which was read were to be allowed its full force, it would suggest that we might dispense with the channel works and depend upon levees altogether. If the commission could be satisfied and the Senate could be satisfied that the testimony of the witnesses which was read by the Senator from Mississippi is reliable, and if the construction of levees, sometimes immediately upon the banks and sometimes a mile back, will deepen the channel, as they say it has done in Red River and at some other points, then for one I am ready to say that those who believe that should consistently advocate the abandonment of these interchannel works altogether and depend on levees. The evidence proves too much. These will not go together.

Mr. President, I do not intend to spend much time on the constitutional question. I am not a constitutional lawyer, and in the presence of the members of the Judiciary Committee on this side and on the other side of the Chamber I should tremble to make any assertion with any great degree of confidence upon the constitutional features of this question. Yet I was a good deal surprised at the view taken of the Constitution by the Senator from Arkansas, who is a member of the Judiciary Committee and whose views upon all legal questions, as they have been expressed since I have been in the Senate, I have listened to with the greatest interest. I notice he almost always goes to the books. He gives us frequently references to cases decided by the Supreme Court of the country as the basis of the legal position which he takes. When he is arguing a constitutional question he usually goes to the book and locates himself so that we can know upon what particular clause of the Constitution he stands in his argument. I noticed, however, that in his first discussion of the levee question the Senator brought no books, as I had occasion to say before, except books which related solely to the question of the admiralty control of the Government over the river and had nothing to do with the building of levees for the reclamation of land. But I understood the Senator to affirm that, under some power or grant of the Constitution, Congress had power to appropriate money to reclaim the lands of A, B, C, and D, individual owners of land in his State. I took occasion to ask whether the Senator meant to say that it would be a constitutional use of public money if a law were to be introduced here appropriating $100,000 to drain the Kankakee Swamp in Indiana, now held by individual ownership, and he said he thought it would be a perfectly constitutional use of public money.

I do not know where we have any limits to that sort of legislation. It amounts to saying that we have here as Congressmen the right to donate money to fence men's farms, to build their houses, to enrich them in any way we please, and so an act to appropriate $10,000 to fence John Smith's farm would be a constitutional and valid law.

As I said, I am modest in discussing these constitutional questions, because my practice has not been of that kind, and I have not been brought often in contact with such questions; but if this view is sustained it enlarges my ideas of the scope and power of this Government, and I thought they were pretty wide already. I am a little surprised to find myself discussing a question of this kind as one of those who believe in the big N theory, but still, large as I have been in the habit of making the N with which I spell nation, I had never got it large enough for this.

The Senator from Arkansas referred to the celebrated report made by Mr. Calhoun in 1846, and I confess that I was utterly amazed. I thought I must not only be a very poor constitutional lawyer, but I must be very poorly versed in the political history of the country if it could be possible that John C. Calhoun, the apostle and founder almost of the State-rights doctrine, ever had asserted such views of the Constitution as the Senator from Arkansas affirmed; because when I asked the Senator on what clause of the Constitution Mr. Calhoun put his advocacy of appropriations to build levees I understood him to say that he put it upon the clause which gave power to regulate commerce between the States and that other clause which gave power to provide for the general welfare.

Mr. GARLAND. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Indiana yield?

Mr. HARRISON. Certainly.

Mr. GARLAND. The Senator is mistaken as to what I said, or I was mistaken in understanding him at the time. I understood the question as it seems to be recorded in the RECORD. I said that Mr. Calhoun in making his report—

Analyzed the Constitution from A to Z on this subject, and here is what he says in reference to it.

Mr. HARRISON. Allow me to ask the Senator under what clause of the Constitution, or did Mr. Calhoun refer to any specific clause?

Mr. GARLAND. Mr. Calhoun referred specifically to the clause empowering Congress to regulate commerce between the States, and to do those things needful for the welfare and protection of the people of the Mississippi Valley.

He referred also to other sections, but the question was not, as put to me, upon what ground he placed the power. He placed the power

specifically upon the commerce clause of the Constitution and that alone. He did not place it upon the other two powers on which the Memphis convention in their memorial placed it. That is the distinction.

Mr. HARRISON. I think the Senator is mistaken. I think I shall be able to show in a moment by a reference to the report that Mr. Calhoun did not discuss the question of building levees as in any way connected with the commerce clause of the Constitution, and especially that he did not affirm, as I understood the Senator to say he did, and as was advocated by the Senator himself, that there was power to appropriate under some clause of the Constitution money to reclaim land from overflow that was held by individual ownership. I wish to refer to the report. The Senator has called it an interesting one, and so it is. There had been a convention held at Memphis, Tennessee, which had suggested some very extensive works of internal improvement. Among these was the improvement of the Mississippi River, and other projects contemplated the construction of railroads, and so on. Mr. Calhoun made this report, as I have said, in 1846, and in the course of it these various projects are discussed. I will trouble the Senate to give me a little time, in order to call attention to one or two paragraphs. I want to show just how far Mr. Calhoun did say the power to regulate commerce on the Mississippi went; and I will show the Senate that he put a much more narrow construction on it than I am doing. I will say further that I think he never suggested anywhere in the report the power of Congress to build levees to reclaim private lands; and he did not suggest that the Government should give those lands to the State for that purpose. I find that the fame and the reputation of Mr. Calhoun do not suffer at his own hands when I read his report. I see in the expression which I shall read presently, that John C. Calhoun, as I had appreciated him in history, was true to those sentiments which had been attributed to him. He said:

> Whether the Federal Government possesses the power or not, it is certain it has heretofore acted on the supposition that it did, as the numerous acts of Congress for the improvement of the navigation of the Mississippi, including its principal tributaries, abundantly prove.
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> * * * * * * *
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> Your committee, after the most mature deliberation, are of the opinion that this power does not authorize Congress to appropriate and expend money, except as a means to carry into effect some other specifically delegated. In coming to this conclusion, they concede that the provision not only delegates the power to lay and collect taxes, but also that to appropriate and expend the money collected to pay the debts and provide for the common defense and the general welfare of the United States. Such they believe to be the plain import of the words. Indeed, they cannot see how any other construction can be put on them without distorting their meaning. But they deny—

They deny, Mr. President—

> That there is in constitutional language any general welfare of the United States but such as belongs to them in their united or Federal character as members of the Union. The general welfare in that language is the welfare which appertains to them in that character in contradistinction to their welfare as separate and individual States. Thus interpreted, the general welfare of the United States cannot extend beyond the powers delegated by the Constitution, as it is only to that extent that they are united or have a Federal character. Beyond this they constitute separate and distinct communities, and as such have no union nor common defense nor general welfare to be provided for.

Further, he says, and this is the characteristic language which shows the authorship:

> Ours is a Union of sovereign States, for specific objects. As members of the Union, they constitute not a single State or nation, but a constellation of States or nations, and hence its powers and the objects for which it was formed are appropriately called Federal, and not national. But, whether the one or the other term be used, the reason already assigned to show why the general welfare, in constitutional language, does not extend beyond the welfare of the States in their united or Federal character, that is, beyond the powers delegated by the Constitution, is equally applicable.

He took the ground in this report that we could not improve a river which is in one State; that we could not improve a river which is in two States; that a river must be, some part of it, in three States before the power under the commerce clause could be extended to its improvement. Not only that, but he took the position that we had no right to build levees except as they might improve Government lands, and we had a right to contribute by land or otherwise for their construction because of the benefits which would be received by the United States as the owner of the land. Without detaining the Senate further I come to what is said in the report on the subject of levees. I will read first what the distinguished South Carolinian said as to what is embraced in the power to regulate commerce:

> It has been stated that commerce, in legal and constitutional language, includes transit or navigation as well as trade. It may well be questioned whether it was not intended by the Constitution, as far as it relates to commerce among the States, to restrict it entirely to the letter—

"Latter," I suppose it should be—

> that is, transit by vessels on water. Certain it is that the provisions connected with and having reference to it would indicate that it was so intended; and it may be added that the legislation of Congress in carrying the power into effect, as far as your committee is informed, is confined to the regulation of transit by water to the exclusion of that by land.

Then as to how far they may improve the Mississippi River, Mr. Calhoun said:

> They are of the opinion it extends to the removing of all obstructions within its channel, the removal of which would add to the safety and facility of its navigation, including such as might endanger or impede it by sliding in or projecting from its bank, or islands, over the channel. It includes (to be more specific) the removal of snags, logs, rocks, shoals, sand-banks, bars, including the one at its mouth, and trees projecting over or liable to slide into its channel, where the removal would improve or secure its navigation.

There is the limitation placed upon the power to improve the river, the specification as to the causes to which it would extend, as given by Mr. Calhoun. You see he does not put it on the bank at all; he does not so much as allude to this power as extending beyond the bed of the stream and that which would obstruct a vessel traversing it.

As I promised, I now come to show the Senate what he did say on the subject of levees, and I say again that the Senator from Arkansas is entirely mistaken in supposing that anywhere in this report did Mr. Calhoun consider the levee question as related to any constitutional clause or discuss at all constitutional power in connection with it. What he does discuss is simply a practical and business method by which the question may be disposed of. I will show the Senate that he held just the view which I have advocated here, namely, that lands, which are to be increased tenfold in value by the expenditure of money, having in view that increase, should contribute to the work which is to be done. I believe that is an honest maxim which runs through very many of the laws in all our States, and will commend itself to every unprejudiced man who will think about it. I do not believe there is a Senator representing one of the States who, if he will candidly sit down and discuss this question, will not admit that if this appropriation is to have in view the improvement and reclamation of lands, and their value is to be increased, as the Senator has said, tenfold in value, those lands ought to bear the cost or a large share of the cost, and that it ought not to be distributed over the whole country and paid by those who do not participate in the benefits. Mr. Calhoun said further:

> Having now finished the portion of their report which relates to the improvement of the navigation of the Mississippi, including its great tributaries, your committee will next proceed to the consideration of that portion of the memorial which relates to the reclaiming, by embankments, the public lands—

Notice, Mr. President, "the public lands"—

> which, in consequence of being subject to its inundations, are not fit for cultivation.

The memorial seems to have suggested that the United States should reclaim its own land. Let us see what he said further:

> The subject is one of no small importance. The Mississippi, like most of the other great rivers, has formed by its deposits, in the long course of years, a tract of great extent and fertility in its approach to the ocean, and which is subject to inundations by its floods. There is no data by which the extent of this tract can be ascertained with any accuracy.
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> It is believed by far the greater part may be reclaimed by a proper system of embankment. It is more difficult to estimate with any precision what portion of it is still public land.

He goes on to say:

> Your committee are of the opinion that something ought to be done toward bringing this great body of fertile land into cultivation. While it remains in its present state, with one, and that the larger, portion held by the Union, another (that granted for schools and other purposes) by the States, and a third by individuals, and these several portions not held in parcels or bodies separate and distinct from each other but intermixed one with the other, nothing can well be done toward reclaiming them.

That is what the Senator quoted. Now let me go a little further with the quotation:

> It would require the co-operation of the parties interested, each in proportion to the extent of his interest, to accomplish the object. To obtain such co-operation and fix satisfactorily the amount that each should contribute toward making the necessary embankments would obviously be a work of too much difficulty and complication to be undertaken.

What was the suggestion of Mr. Calhoun? He says the Union, the United States, owns a large quantity of land; the State of Louisiana owns a large quantity of land; individuals own other lands; we cannot tell how much each ought to contribute; every person should contribute in proportion to his interest to the construction of these embankments to reclaim the lands from overflow—and what is his suggestion? His suggestion is that the Government should sell out its land to individual owners at a graduated price, falling at intervals, and when it got down to twenty-five cents an acre the Government should give what was left unsold to the State of Louisiana. There is no suggestion there of the condition which appeared in the subsequent legislation, namely, that the proceeds of those lands should be applied to reclaiming them. Therefore, so far from sustaining the suggestion that the Government had power to build levees, Mr. Calhoun does not discuss the question except as the Government was interested as an owner of the land—not as a sovereign but as an owner of the land; and the project for relieving the question was that the Government should cease to be the owner of the land, and then the cost of constructing the levees could be levied upon the individuals who owned the land.

Mr. President, I have no other feeling in the discussion of this question than to arrive at that which is right. I said before that I believe it would be a great blessing to the people on the lower river that this question should be settled now and settled permanently. So long as they are looking to the Government to do some part of this work, they will themselves do nothing. I believe to-day that if the expectation that out of the public Treasury and without cost to them these levees could be constructed were once dispelled and

put away, there is energy and force enough in those States to reclaim these lands which are described as so magnificent in themselves and capable of such magnificent productions.

The Senator from Mississippi said that this wealth is potential. Potential wealth is available wealth. Any enterprise that can show its capacity to produce the $750,000,000 that he talked about can command the capital of this country to do the work that is necessary to make that potential wealth actual.

I believe that instead of modifying this bill and holding out expectations, we should come upon some understanding with those States now, and either take the levee business on our shoulders, and say to them "we will reclaim your lands and appropriate money enough to do it," or give them to understand now that we will not, and that they must look to their own energy. As long as this question is unsettled, as I have said, it will simply encourage the supineness of those who should stir themselves to this work.

I have already said, Mr. President, that I believe it to be entirely possible and altogether fair that these States should by some method levy a tax for this purpose, and that there are methods by which we may co-operate with them and aid them in connection with the improvement of the river that will greatly lessen the cost of this work to them, and will greatly increase its permanence, and diminish the cost of its maintenance, and I repeat again that so far as there shall be beneficent incidents, so far as there shall be healthfulness and gain to these afflicted people of the South by the discharge of our duty to improve that river, I would welcome the beneficent incident and not stand too close on the edges of it. It is possible for those States to inaugurate a system of legislation by which the help of the General Government may in some proper way be given to them, and at the same time not to put upon the public Treasury and the tax-payers of the whole country the entire burden of building a system of works that is intended to reclaim their own lands.

And now, Mr. President, I hope I have not said anything, either in my remarks to-day or at any previous time, to give anybody, not specially touchy or sensitive, any suggestion that I feel an unfriendly spirit to those people or have failed to enter fully into the afflictions and distresses under which they have been suffering. I am sure that the calm judgment of Senators will prevail upon this question, and that we cannot by reason of the sympathy we feel for them go into a class of legislation which must bind us by precedent to allow our sympathies to take up the sufferings and to relieve the distresses of all people in our country.

Mr. VEST. Mr. President, I have been told that in my absence from the Chamber the Senator from Indiana [Mr. HARRISON] stated that he was induced to make the remarks that he did the other day with regard to the claim of the Lower Mississippi Valley for the leveeing and improvement of the Mississippi River, by a statement I had made to the effect that the people of that section claimed the improvement of the Lower Mississippi on account of the losses incurred by them in the late rebellion.

Mr. HARRISON. The Senator misunderstands me altogether. I quoted in my previous remarks what the Senator had said, as taken from the RECORD, and which simply appealed to the magnanimity of the North to take this great occasion to heal the division. That is what I said.

Mr. VEST. I was not in the Chamber. What I have stated was reported to me. I was singularly unfortunate in what I said if I did make that impression upon any Senator present. I did claim, and I claim now, that the Government of the United States owes it to itself and owes it to the entire country, and not exclusively to the people of the South, that its property, the Mississippi River, should not be an instrument of terror and of annually recurring loss and damage to the people of any portion of this country. I did say then that no moment could be more opportune than the present, when the South in the providence of God had been desolated by war, pestilence, and famine, for the great and victorious and wealthy North, controlling the Government, to hold out a helping hand to them. I say it now, sir, and I undertake to say that in less than fifty years from this moment, and—

> The sunset of life gives me no mystical lore,
> Nor do coming events cast their shadows before—

but I say, believing in the broad catholic nationality of this country and in the progressive ideas of the American people, now in their infancy, in less than fifty years the wonder will be that any Senator from a sovereign State ever stood upon this floor and questioned the right and duty of the National Government not only to improve the Mississippi River, but to reclaim that magnificent alluvial territory from the ravages and desolations created by the property of the Government itself.

Mr. President, I thank the Senator from Maine [Mr. FRYE] from my heart for his patriotic utterances the other day, in which he said what I have always believed, that the people of the North did not hate the people of the South, as I know the people of the South do not hate the people of the North; and what I meant to say then and say now is that there can be no theater, no question, no idea, no argument upon which the two sections can meet upon such common ground with such true and honest and real fraternity of feeling as in the improvement of this magnificent river, the unquestioned property of the whole nation.

Sir, the Senator from Maine spoke of what the North had done for the South. It has been most generous; and when at Vicksburgh that Northern soldier fell a victim to the scourge which was desolating the people whom he had assisted to succor, the last vestige of sectional feeling was eradicated from every true and honest and brave Southern heart; and when the bullet of the assassin struck down the late President of the United States, from every hamlet and township in the whole South came the wail of undisguised and honest grief. And, sir, why should it not have been so, when that Chief Magistrate had spoken so much better than I could ever hope to do the words that I have before me, the same sentiment and expressed the same feeling I have feebly attempted to utter to-day? Said James A. Garfield, when an honored member of the other House:

> I believe that one of the grandest of our material national interests—one that is national in the largest material sense of that word—is the Mississippi River and its navigable tributaries. It is the most gigantic single natural feature of our continent, far transcending the glory of the ancient Nile, or of any other river on the earth. The statesmanship of America must grapple the problem of this mighty stream. It is too vast for any State to handle; too much for any authority less than that of the nation itself to manage. And I believe the time will come when the liberal-minded statesmanship of this country will devise a wise and comprehensive system that will harness the powers of this great river to the material interests of America, so that not only all the people who live on its banks and the banks of its confluents, but all the citizens of the Republic, whether dwellers in the central valley or on the slope of either ocean, will recognize the importance of preserving and perfecting this great natural and material bond of national union between the North and the South—a bond to be so strengthened by commerce and intercourse that it can never be severed. [Applause.]
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> I rejoice in any occasion which enables Representatives from the North and from the South to unite in an unpartisan effort to promote a great national interest. [Applause.] Such an occasion is good for us both. And when we can do it without the sacrifice of our convictions, and can benefit millions of our fellow-citizens, and can thereby strengthen the bonds of the Union, we ought to do it with rejoicing; for in doing so we inspire our people with larger and more generous views, and help to confirm for them and for our children to our latest generations the indissoluble Union and the permanent grandeur of this Republic. I shall vote for this bill.

So speaks the dead President from his grave to-day in letters of gold the language of fraternity, the bond of an indissoluble Union bound together by no coercion, but bound together by the bonds of a confiding nationality which will last as long as the human heart shall beat. I meant to say this the other day—this and nothing more. Sir, I have taunted no State with what this Government has done for it in improvements of rivers or of harbors. The history of this Government has been but the history of every other government and the history of the human race; with political power has come the improvement of natural and material resources. When the Atlantic States held the power the rivers and harbors of the Atlantic States were improved, and as the tide of population gradually poured to the West the improvement of rivers and harbors has gone with the amount of that population. Therefore we find—and I speak it to invoke no sectional distrust or hate; I speak it only to show the just and equitable claims of the section to which I belong; and when I say I belong to a section I mean that I belong to that section only as a part of this great Union—we find that from 1789 to 1873 the New England States received $2,440,388 for river and harbor improvements; the Western States on the Mississippi River received $1,481,464; the Atlantic States received $5,190,179; the Lake States received $5,155,253. During this time the great States of the Mississippi Valley and the northwest tributaries of that river received altogether $1,481,464.

Mr. HOAR. What period was that?

Mr. VEST. From 1789 to 1873. In this time New England received in excess of the Mississippi Valley States $958,924; the Atlantic received more than they by $3,708,715; the Lake States more by $3,673,789.

Mr. President, I again repeat, for I want no mistake in regard to it, that I blame not these sections or these States for improving their rivers and harbors. I simply state these figures here to-day to show the just demands of the States in the Mississippi Valley for like improvements to this great river that belongs to the whole United States.

Mr. President, a word further in regard to the constitutional question——

Mr. FRYE. Will the Senator allow me right there, before he goes further, to ask him a question?

Mr. VEST. Certainly.

Mr. FRYE. Does the Senator think that this appropriation, unanimously agreed upon in committee, of $6,000,000, to be expended in one year on the Mississippi and Missouri rivers, and the expenditure of $150,000 authorized yesterday for Memphis, is a step toward generosity to that section?

Mr. VEST. I do. I do accept it as a step in the proper direction, and appreciate it, as the Senator from Louisiana [Mr. KELLOGG] suggests. If the Senator from Maine means by "generosity" to convey also the idea of justice, I emphatically accept it. I say it is time the Mississippi River should receive these appropriations from the General Government; time, because it is the property of the whole Union; time, because the great States upon its banks, my own State included, are just commencing the formation of an empire that will dazzle the world with its grandeur, feed the world, and in its political influence control this continent.

Mr. President, I could go further, and take the statistics from 1824 to 1876 of appropriations for two States alone—and I say to my friends

from Michigan and Wisconsin again that I mention this not as a reproach to them; I honor those States for having attended to their material interests—those two States received in that time together $9,079,464, and the Lower Mississippi River received during the same time $3,761,941. There is the difference in the appropriations, and so stands the account to-day.

Now, sir, as to the constitutional question, in my mind it simply amounts to this: that the power exists on the part of the General Government to improve its own property, the Mississippi River, in its own way, is as unquestioned in my mind as is my power to improve my real estate in any State of this Union. The Senator from Indiana [Mr. HARRISON] undertakes to convict my friend from Arkansas [Mr. GARLAND] of inconsistency when he says that he asked him a question in regard to the improvement of a swamp in the State of Indiana by the General Government. Ah! Mr. President, that is no fair way to put this question to the country. The General Government has no right to improve my property; the General Government has no right to improve the property of five men, of ten men, of twenty men, of one hundred men; but the General Government has the right under the Constitution, for a national purpose, a national object, to exhaust the Treasury of the United States if it sees proper. In the case of McCulloch *vs.* The State of Maryland, the Supreme Court of the United States announced the doctrine, which has stood unquestioned ever since, that the general powers conferred by the Constitution upon the Congress of the United States carried with them all legitimate powers, all powers that by corollary or deduction could legitimately flow from those great powers.

There are half a dozen sections of the Constitution under which this power exists, but we put it on one alone, and I go not back to Mr. Calhoun to get the authority. I say when the Constitution gives the power to Congress to make all needful rules and regulations in regard to the territory or other property of the United States, it gives the right to improve the Mississippi River. In the Gratiot case, in 14 Peters, the Supreme Court of the United States decided emphatically that the power to regulate was the power to govern and the power to improve; and is not this river the property of the United States? What Senator here denies it? What Senator pretends to say that the Mississippi River is not the property of this whole country, of the Government of the United States, and of every part of it? And if we have the power to improve in the District of Columbia, if we have the power to improve in the Territories of the United States, we have the right to improve our property in this magnificent river of the Mississippi.

Oh, sir, when $83,000,000 of the public money were given to the Pacific railroads that went with their corporate powers to the Pacific Ocean, this question was settled without difficulty—$83,000,000, the interest upon which we are paying to-day. Then no question was started, or a question was barely raised, in regard to the constitutional power of the Government to make these great highways to the Pacific Ocean; and here is another highway, made by the Almighty God for the benefit of the American people; and yet we are told that the Constitution is so lame and so defective that we have no power to improve this property given to us by the beneficence of the Author of nature himself.

But, Mr. President, more than that. I hold it the duty of the Government of the United States to see that its own property is not an instrument of destruction to its own people. I hold that it is a violation of the compact between the Government and the people if the property of the Government is made an instrument of destruction and ruin to the people who own that Government and for whose benefit that Government was made. Sir, the commonest principles of justice and of law require that I shall use my property so as not to injure my neighbor. What different relation exists between the Government and the people of the Mississippi Valley or any portion of the people of this country than exists between the Senator from Arkansas and myself? He has his property, I have mine; he has his rights, I have mine. The Government of the United States is the property of the people and cannot be antagonistic to the people. If the doctrine is ever established in this country that the Government of the United States is so absolutely disconnected from the interests of the people that the interest of one can be antagonistic to the other, then the end and aim of the Constitution and of free institutions is destroyed *eo instanti* and forever. Sir, is it possible that to-day we must learn the lesson in regard to national obligation and national duty from the countries of Europe?

Mr. HARRISON. Will the Senator allow me to ask him a question in reference to his last proposition, that it is the duty of the General Government so to use its own as not to allow an injury to come to others?

Mr. VEST. Certainly.

Mr. HARRISON. Do I understand the Senator to express the opinion that that ought to be applied to all navigable streams in this country, that the Government should guarantee the riparian owners against injury from flood? I lived on the banks of one of these streams when I was a boy; and it would have been greatly to the interest of our family, in the way of crops and fences and lands, if that rule had been in force then. I think it is a pretty wide one, if the Senator will reflect a moment.

Mr. VEST. I understand the object of the Senator from Indiana. He is perfectly ingenuous, but at the same time his suggestion is unavailing in this case. I am a Democrat; it is not necessary to say that. I am a strict constructionist; it is hardly necessary to those who know me to say that. The Senator from Massachusetts [Mr. HOAR] shakes his head; but I am. I believe in a strict construction of the Constitution, and I say it is a strict construction that the General Government has the right to improve its own property, and I say that it requires no latitudinarian construction to come to that conclusion, and it requires a vast amount of anything else but a patriotic construction to come to any different conclusion, in my judgment.

But to return to the question of the Senator from Indiana. He asks me if I apply this doctrine to all the other navigable streams in this country. Mr. President, I declare the doctrine to-day, as I understand it, according to the Democratic creed, as I have been taught to understand it for forty long years, that whatever the States can do they ought to do themselves, and what the States cannot do for the general welfare ought to be done by the General Government. If there is a navigable stream in the State of Indiana, and it is not national in its character, or if that stream can be improved by the State, then the State ought to improve it.

Mr. HARRISON. The Senator will allow me to suggest that that was not quite the point of my inquiry, if it had a point, as I supposed it had. It was to this effect: I understood the Senator to be arguing that it was the duty of the General Government, its constitutional duty, to protect the riparian owners on the Mississippi River from the effects of overflow, upon the ground that the Government was the owner of the stream itself, and therefore it was the duty of the Government to see that its property did not hurt somebody else. I asked him whether he extended that doctrine to all the navigable tributaries of the river, because there are many of those that overflow and work great damage on their banks. Would he be in favor, therefore, or would he hold it to be constitutional that the Government should undertake either to reimburse those losses or to protect the people against them by leveeing the Ohio and the other tributaries of the Mississippi?

Mr. VEST. If the necessity existed; if 23,727,168 acres of the most magnificent soil in the world were annually devastated——

Mr. HARRISON. But the maxim of law to which the Senator from Missouri referred does not relate at all to the number of people injured or to the extent of the injury. The maxim is that a man shall so use his own as not to produce injury to another—it does not matter whether the injury is small or great. If the principle is logically applied to this case, as a constitutional principle, it must embrace the small as well as the great.

Mr. VEST. If the Senator had only waited a very few moments he would have seen that I was proceeding to answer that proposition and to elaborate what I meant to say.

Mr. President, I repeat that under our system of government, as I understand it, looking in all its details, in all its structure, to the one great end of the welfare of the people, who own the States, who own the National Government, the people, the imperial people of this country, under that structure of government, State and national, I hold that when the States can perform the functions which will bring about the largest amount of prosperity to the people, and can levee streams or improve streams and thereby redeem from destruction large areas of territory in the State, when the State has resources to do it it is the duty of the State to do it. When the State has not the power to do it, when the extent of damage is so great, when the area of the country devastated is so immense that it is beyond the resources of a State or of two or more States to accomplish this object, then I say that the clause of the Constitution intervenes which says that Congress shall provide for the general welfare, not of one State, not of one neighborhood, not of one community, but the general welfare of the whole country, whether that welfare consists in the preservation of one section from destruction or of two or more sections.

That is my understanding of the autonomy of this Government; and, sir, it is not possible for one State or for two or more States in the Mississippi Valley to perform this great work of preserving the valley from the annually recurring floods of the Mississippi River. If I needed anything to strengthen my opinion in regard to it, take the message lately delivered by the present President of the United States—

> Having possession of and jurisdiction over the river, Congress, with a view of improving its navigation and protecting the people of the valley from floods—

Does President Arthur stop with the single proposition of improving the river?—

> and protecting the people of the valley from floods, has for years caused surveys of the river to be made, for the purpose of acquiring knowledge of the laws that control it and of its phenomena.

And he goes on then and says:

> The immense losses and widespread suffering of the people dwelling near the river induce me to urge upon Congress the propriety of not only making an appropriation to close the gaps in the levees occasioned by the recent floods, as recommended by the commission, but that Congress should inaugurate measures for the permanent improvement of the navigation of the river—

Does he stop there?

> and security of the valley.

What does the President of the United States mean by the "security of the valley?" Does he not mean that by levees or by revet-

ment, by all the means recommended by the Mississippi River commission, any measure the Constitution authorizes, the security of the valley shall be maintained from the recurring floods of the Mississippi River? But, sir, I hasten to conclude what I intend to say by asking the question, is it possible that to-day, with our boasted civilization, with our vaunt that we of all the nations of the world have progressed further in the science of government than all that have gone behind us and all that can come before us, we have a Constitution so lame and so impotent that the property of the Government is destroying a large portion of the property of the people and we are to stand here with folded arms and bound hands and say "the Constitution of the country forbids us to interfere?" Is it possible, Mr. President, that to-day we must go back to the monarchies of the Old World to learn the true theory of government, which is the welfare of the people and the preservation of their property?

Sir, what are the Netherlands to-day but made land redeemed from the ocean by the levee system that we propose here for the Mississippi River? Not one foot of soil in the Netherlands but would to-day be under the yeasty waves of ocean but for the levee system there adopted. Sir, the facts as stated in a report made to the British Parliament are most suggestive now in the discussion of this question.

The history of the protection and development of the Netherlands—

I read from an interesting pamphlet of Mr. Alexander D. Anderson:

> The history of the protection and development of the Netherlands, (low countries,) an exact parallel in formation to the alluvial lands of the Mississippi Valley, proves very clearly that we have not overestimated the importance of the subject. The United Kingdom of the Netherlands contains but 12,680 square miles, and North and South Holland, two of the eleven sub-divisions of the same, but 2,209 square miles. The whole of the Netherlands are made land, having been formed by protection from the overflow of the Lower Rhine, the Maas, the Scheldt, and other rivers, ninety lakes, and the Zuyder Zee. The total cost of their protection by dikes, embankments, and other works was $1,500,000,000. The annual cost of guarding, protecting, and repairing is stated to be from $2,000,000 to $2,500,000. Probably that country, in proportion to its population, is the wealthiest nation upon the face of the earth. An elaborate review of the same says: "The country is everywhere well peopled, and no population in the world exhibits a more uniform appearance of wealth, comfort, and contentment." Holland not only has capital enough for home use, but the Dutch of Amsterdam are capitalists who have a large surplus to lend for public improvements and large enterprises in other nations.

All the wealth of this rich and commercially powerful people was accumulated in an alluvial country rescued from the rivers, the lakes, and the ocean by the levee system, and the levee system alone.

Mr. President, I shall not detain the Senate by more than mentioning that magnificent empire of alluvial soil which would be reclaimed if this Congress were true to its mission, as I honestly believe it to be under the Constitution of the country—23,727,168 acres of land the possibility of whose production is almost incalculable. Think of the cotton alone which could be raised upon it; think of the corn, of the grain of every description that would spring as if by magic from that land if this Congress would protect it from the ravages of the river that belongs to the Government itself. Oh, the Senator from Indiana tells us, let those States do it; let them, like boys that are flung out in the world, learn to take care of themselves.

Mr. President, that is not what I have heard here for the last two years. Bill after bill has been introduced into Congress to donate money to the Southern States for educational purposes. A bill is now pending here for the purpose of taking the entire internal-revenue tax on alcoholic liquors and giving it to the Southern States for educational purposes. We say, and I say to-day to this Congress, give us the money to reclaim those lands and we will educate the people; give us the material wealth and prosperity that will come from this reclamation, give to the people of the South to-day the assistance that now is worth more to them than untold millions will be worth hereafter, and my word for it the people of that country will be educated, the resources of the country will be developed, and the aggregate wealth of this entire Union will be such that what exists to-day will be a mere fraction of that which shall come hereafter.

Sir, upon constitutional grounds, upon the grounds which should be dictated by statesmanship and by patriotism, I for one, without disguise, say that the Government of the United States should not only levee the Mississippi River from end to end if necessary, but keep those levees in repair in order to bring that magnificent empire into the highest condition of production for the benefit of the Union at large.

Mr. MORGAN. Mr. President, I have not much to say about this bill, but what I do say I desire to speak with due consideration and carefulness, because I regard it as the initial movement of what may turn out to be a very great advantage to the country or else a large expenditure of money without accomplishing anything. I will not undertake to prophesy as to what the result of this investment of $5,000,000 under this bill shall be, for I have neither the experience nor have I the scientific skill to forecast what that result is to be. I am willing to trust the committee of the Senate who have reported this bill, and I am willing to trust the experts of the commission who laid the foundation for this bill in their conclusion that there are some means to be availed of for the purpose of improving the navigation of the Mississippi River.

Mr. JONES, of Florida. Will the Senator from Alabama allow me to ask him a question?

Mr. MORGAN. Certainly.

Mr. JONES, of Florida. How many rivers are there in the southern country to-day subject to overflow and that have lands that need leveeing and protection?

Mr. MORGAN. Inasmuch as the other southern States have never asked for any levees to protect their lands, I have never put myself to the trouble to count how many such rivers there were.

Some doctrines have been advanced here by Senators who advocate the amendments proposed to this bill which I cannot subscribe to, and I think that it is altogether essential that we should now come to a distinct understanding whether these doctrines avowed by Senators are to be adopted in this measure and made the basis of our future action, or whether they are to be discarded. We cannot pass the few hours that will intervene between this time and final action on this bill ignorant of these questions, and we cannot afford when we vote on this bill to leave them undecided.

It has been broadly stated here, both by the Senator from Arkansas [Mr. GARLAND] and the Senator from Missouri, [Mr. VEST,] that the Mississippi River belongs to the United States, and the Senator from Arkansas went so far, in quoting from what he said was Mr. Jefferson's view of this question, as to assert the proposition that when the territory of Louisiana was purchased from the French we acquired the title to all there was under the river and to all the margins of the river, and that that became the property of the United States.

Just there, Mr. President, is a fundamental proposition of law which requires to be better understood. I take issue with the honorable Senators upon that proposition of law broadly and boldly. I do it boldly because the Supreme Court of the United States have frequently considered and fully decided the question; I do it broadly because the issue is a very broad one, and it is one upon which hinges a great deal that is to be done hereafter if the doctrine insisted on by the honorable Senators is to be carried into the legislation of this country in the future improvement of the shores of the Mississippi River.

The Senator from Arkansas, quoting from Mr. Jefferson, not in so many words, but what he understood to be the substance of some statement he had made, which is printed in the ninth volume of his works, said:

> He said in that document, which is a text-book now, I believe, in all schools on this subject, that the king or sovereign, whatever you may call him, owned the navigable waters, the bed, the beach, and the banks of the river; and when he purchased the Mississippi River he purchased all; he did not purchase merely the bed of the river; and though there are riparian owners, yet they cannot own the land upon the bank and use it to obstruct navigation, for the purpose of obstructing commerce, for that is one of the principles of sovereignty which is never surrendered to anybody or by any government.

That is not as clear a statement of doctrine as the Senator is usually in the habit of making; at the same time, it presents the proposition that when we purchased all that domain which we acquired from France, under the treaty made by Mr. Jefferson, we acquired the right to the land under the rivers, to the rivers themselves, and to the shores. This subject happens to have been several times under discussion in the Supreme Court.

Mr. JONES, of Florida. Will the Senator allow me to interrupt him by stating that, under my view of the law, by the admission of the States into the Union whatever sovereign authority the Government of the United States had passed to the States.

Mr. MORGAN. The Senator agrees with the Supreme Court on that proposition. It was decided as far back as the case of Pollard's Lessee *vs.* Hagan, many years ago in the jurisprudence of the United States. I will read from a late case, however, that of the County of Saint Clair *vs.* Livingston, decided in 1874. One single extract from that opinion covers the whole ground. Referring to the authority which I have no doubt the Senator from Florida had reference to, the court say:

> By the American Revolution the people of each State, in their sovereign character, acquired the absolute right to all their navigable waters and the soil under them. The shores of navigable waters and the soil under them were not granted by the Constitution to the United States, but were reserved to the States respectively. And new States have the same rights of sovereignty and jurisdiction over this subject as the original ones.

That seems to cover the whole question. This decision arose upon a construction of the very treaty by which we acquired from France this vast territory. It was argued in that cause that the peculiar language of the treaty conferred upon the United States in the acquisition of that territory, certain rights which could not be yielded by the Government of the United States, but must be held on to notwithstanding States were carved out of the territory and became invested with their respective sovereign powers. The Supreme Court met the argument by saying you cannot make a distinction between the old States and the younger ones; they all stand on the same footing.

It is not necessary to elaborate that proposition; it is not necessary for an American lawyer to try to controvert it. The equality of the States themselves is made to rest upon the decision of the Supreme Court thus regulating the right acquired by each of the States, whether new or old, to the rivers and soil beneath them and the shores of the rivers at the time of their admission into the Union as States. I dismiss that subject without further comment.

But now, sir, I think the committee have acted very wisely in touching this subject as gingerly as they have when they come to

the question of entering upon the shores of the Mississippi River upon those works which have been already established by the States and under their authority.

The Mississippi River has been leveed in part for many years. Year after year these levees have been extended until through some of the States at least there has been a continuous line of levee, as I am informed, constructed on both sides, and very far up the tributary streams also. Whose property are these levees? To whom do they belong? Unquestionably to the States that erected them, and under whose authority they were erected. What right has the Government of the United States to appropriate these levees to its own use, granting, if you please, that it even has a duty incumbent upon it to protect all the lower lands from overflow? What right has the United States Government, even supposing it has the duty of protecting the lower lands in the valley of the Mississippi against overflow, to appropriate these levees erected by the States? You have no system of law by which it can be done; you have not declared that these levees shall be condemned for public use. They were built for public use, and it would be a curious sort of legislation that would take a structure made for public use, the land for which was condemned under the right of eminent domain in these respective States, and now condemn it by an act of Congress to public uses just the same as those for which it was originally constructed. That would be an absurdity.

How is this commission going, against the authority or license of either of these States, to enter on these embankments even for the purpose of rebuilding them? We have no right to do it under the laws of the United States or the Constitution. Sir, when I find that barrier standing in front of me I stop; I do not go hunting about with microscopic eye to see if I cannot find some word or phrase or some hidden meaning in some sentence of the Constitution to justify me in doing that which I very much desire to do. It is my duty—whether as a Democrat or not makes no difference—it is my duty as an American Senator to stop when I find the barrier of the Constitution in my front, and I do stop. If this bill did not contain the express provision that this money should not be used for the purpose of leveeing to protect private property, I would never vote for it though it appropriated $100,000,000 of money and though every friend I had in the South lived on these shores, for I would have no right to do it. I have no right to tear down a Government in order to build a levee. Our fathers, when they constructed this Government and put the proper balance of powers between the States and the Federal Government, knew what they were doing, and the Supreme Court in following it out have done it as with a pencil of light from the beginning of our Government down to the present time, and I shall follow the authorities on questions of this kind, let come what may.

I do not believe that the Government of the United States has the right to levy a specific tax upon the people of the State of Alabama to build a levee to protect the people of Arkansas, of Louisiana, or Mississippi. Suppose you bring in a direct-tax bill here and declare the purpose of it to be to build a levee to protect the property of the people inundated in the Mississippi Valley, and you apportion it between the States according to population, as the Constitution requires you to apportion direct taxes, I should never be found advocating a bill of that sort on the idea that the Government had the right to impose such a direct tax for the specific purpose of protecting the property of the valley of the Mississippi. I could find no constitutional warrant for that, none whatever.

There are two rivers in my State which unite one hundred and twenty-five or one hundred and fifty miles above the coast of the Gulf of Mexico, and from that on down pass through a beautiful alluvial region. It is very fertile; it makes nine crops out of ten better than it would but for the overflow of the Alabama River, very much better. We have never leveed it at all.

Mr. JONES, of Florida. The same thing is true of the Chattahoochee River, in Florida and Georgia. Some of the finest lands in the South border on that river. The only trouble about them is that the river overflows occasionally and destroys the crops.

Mr. MORGAN. I never have thought it would be proper for me to introduce a bill in the Congress of the United States to ask the Government of the United States, or ask the people of Maine and California and Oregon to contribute out of their means to put a dike on either bank of the Alabama River to protect the cotton plantations or the rice plantations there. I never thought of such a thing; and the only distinction between that case and this is that this is a larger river, it is a national river. I admit that distinction. It is "an inland sea," so called. The "inland sea" used to extend to Cairo; it is only a late discovery, I believe, that the Missouri River is an "inland sea," and that the Upper Mississippi is not, and that the Ohio is. I suppose when we get the "inland sea" doctrine extended we shall have it up to the Alleghany and the Wabash, and perhaps into West Virginia, into some of those trout streams up there; they will be "inland seas," because they are tributaries of the Mississippi.

Mr. FRYE. They are now, in the river and harbor bill.

Mr. MORGAN. I have perceived them on the river and harbor bill, and have heard the roar of that "sea" there for some years past, and set myself in vain against it.

Now, Mr. President, I leave that subject, having said upon it all that I desire to say, for I wish to do nothing more than merely to express my view on two questions of law connected with this bill.

The honorable Senator from Arkansas thought that Congress had committed itself to the whole doctrine of leveeing the Mississippi River because it granted to the States certain swamp lands, upon the trust I will call it, the expectation, (never realized, however,) that the proceeds of those lands when they were sold would be applied to the draining of the lands themselves. The Senator from Indiana elucidated that question sufficiently in his last remarks to the Senate.

That was a peculiar law, a very unfortunate law, a total miscarriage in legislation, one of the most embarrassing statutes ever set on foot. A large quantity of land was granted to the State of Alabama for the purpose of drainage. Much of that land has been sold, nearly all of it, and I have never heard yet of a dollar being appropriated by the government of the State of Alabama for the drainage of a single acre. We have no law on the subject; we have actually paid no attention to the subject at all; we have taken the money and applied it to such other uses and purposes as we thought were best for the good of the people of the State at large.

But the authority which is quoted to sustain that proposition of law, while correctly quoted in terms, has been misapplied; that is, the authority of the great Southern statesman, Mr. Calhoun, who was a strict constructionist of the Constitution and who did understand the principles of the Constitution perhaps as well as any American statesmen has ever understood them. But whoever will read the report of 1846 quoted in this debate will see that Mr. Calhoun was trying to bring the lands in the Mississippi Valley within the reach of private ownership and to enable the men who might acquire them at a quarter of a dollar an acre—for that is the sum he mentioned in his report—to become so rich in the intrinsic value of these lands as that they could afford to put up the money to protect them. He was trying to capitalize the swamps in the Mississippi Valley in order that they might be used by private owners as a fund for the erection of these embankments. The argument was this: the lands are here; they are not useful to the Government of the United States because they are overflowed or swamp lands. "Swamp or overflowed" is the language of that statute. I suppose that every foot of land in the valley of the Mississippi really might have been condemned under this grant to the use of drainage of the land so as to prevent it from overflow. "Swamp and overflowed lands." They were of no use to the Government; they could not be sold, or at least for anything like a fair price.

It was understood then, and believed, that the States would provide with the proceeds for reclaiming them from overflow by levees. I am not a convert to that doctrine. I am merely stating what the people at large seemed to think was the true doctrine on that subject. It was assumed that it was necessary to embank the Mississippi River to keep all those lands from being overflowed, and to enable the States to do it what was done with the lands? They were not sold and the money dedicated to be expended by engineers of the United States Government for the building of levees. The Government of the United States, under the swamp-land grant, never undertook the job of building levees. Who will undertake to say that one dollar of the proceeds of the sales of the swamp lands could be employed by agents or officers of the United States Government in building a dike or a dam or a levee anywhere? Nobody could say it. On the contrary, Mr. Calhoun, following out that doctrine which inspired all of his public conduct, provided in this report and in the bill which followed it that these lands should be granted to the States, and might be sold by the States, that the States might be the better able to employ the proceeds for doing this work. So far from his asserting, therefore, the power of the United States Government to build a levee on the banks of the Mississippi River or anywhere else to protect low lands, he expressly abandoned and disclaimed it by placing these lands in the charge of the States upon a gratuity, without consideration, except that they were intrusted to apply the proceeds of the sales to this purpose. He gave them the lands in order that the States might be enabled to build the walls to protect them against the water; not that we held on to the lands and said we will sell them and put our engineers there to build walls to protect them. There he understood, as with a line of light, the distinction between Federal power and State power, Federal duty and State duty; he drew it as no other man scarcely could draw it in that respect, and there it stands a monument to his fame and to his fidelity to principle. Mr. Calhoun, after having turned these lands over to the States and having allowed them thus to enrich themselves that they might thereby become enabled to build these fences against the overflow of the Mississippi River, did his whole duty. If the States have squandered the grant it is their misfortune. But, sir, we have no right in his name and by his authority to undertake to say that because he was willing to grant lands to the States to enable them to make these dikes, therefore the Government of the United States has any such duty or obligation upon it.

Where was his authority for granting these lands to the States? It is the authority which the Government of the United States, as well announced by the Senator from Missouri, possesses over its own. I concede that doctrine. When the Government of the United States owns a piece of property, it has a perfect right to give it away if it

chooses to do so. It may not be right and proper in morals to do it, but as a matter of constitutional power it has the right. The Government of the United States owns the public lands in all the land States; no question of that; and under an express provision of the Constitution directly bearing upon the question it may dispose of the territory. There is no want of power; it is as clear as it can be made by words.

But, sir, that is a different power altogether from taxing the people of Maine or of Alabama or of Oregon or of California to raise money to protect a man's land somewhere in the valley of the Mississippi River, or it may be in the State of Indiana. That is a different power. We may have, and we have, a very clear right over the public domain to dispose of it as we think proper, and we have exercised it freely in various quarters in bounties and bonuses to colleges and public schools and in every other way that we saw proper without stint and without question; but it is a different power altogether, yes, as different as my right hand is from my left hand, from the power to tax the people of the United States to raise money to be expended in the construction of works for the protection of private property against devastation.

That is all I have to say upon that question. I merely desire to say a word further about this measure. I regret that the Senate is in a hurry about passing this bill; really we should not be. We are acting now under the panic produced by this fearful overflow, this extraordinary flood which has poured its waters over the valley of the Mississippi. We are not in a condition to-day in this body for deliberate legislation on this question. We are urged into it by a popular demand which we scarcely have, it seems to me, the courage to withstand. This bill is not a mature bill; it is not a perfect bill. As far as it goes I will go with it, and vote for it, although I must here say, not in the nature of a prophecy but in the nature of a doubt, that I do not believe if you expended $60,000,000 on the Mississippi River you would do much toward improving its navigation or protecting the people against its overflow.

It is a work of ages. God knows how it is to be accomplished, and I think He only knows.

I think the engineering done by the Mississippi River itself when it was left to itself was about the best that was ever done with a view to its own protection, if what the Senator from Mississippi so well remarked yesterday is literally true, as a matter of fact, and and that is that the Mississippi River had by its own action built up walls on either side. He told us that the land, I believe he said within a mile, or some distance back, was fifteen or twenty feet lower than the surface of the water; and yet the banks at its side were on a level with that bed; no human hand touched it; the trees and plants and grass growing on the margin had collected and formed eddies, which deposited the material coming down from above, and the matter thus collected formed banks which overtopped the valley. That is what I understood to be his description of it, and I have heard that from every person I have ever heard speak on the subject from actual knowledge and observation. Therefore, excuse me if I express a doubt whether the tinkering of man with that stream is going to do it any good. I have great doubt about it. Still the judgment of the country is against me; the judgment of scientific men is against me, and, therefore, I am warranted as a Senator in voting $6,000,000 on this experiment.

It is a vast experiment, sir. Six million dollars in one experimental vote is a large sum of money to commence with, and I wish to see a considerable portion of that money spent, and to have a report of some success in the spending of it before I vote any more. I will go the $6,000,000, under the restriction placed by this committee on this bill, that not one dollar of it shall be used for the purpose of leveeing the banks of the Mississippi to protect private property, but use as much of it as you see proper for building levees when you ascertain from your engineers that that is the best way to deepen the channel of the river.

Mr. INGALLS. Mr. President, I propose to submit some observations on this bill, but as the hour is late, and I am appealed to to yield, if the Senate has no objection, I will give way, retaining my right to the floor on the unfinished business.

Mr. ALDRICH. I ask the Senate to take up a bill to which there will be no opposition.

Mr. KELLOGG. Before the Senate does that let me say a word. I desire to inquire if an arrangement cannot be made by which it will be unanimously understood that a vote shall be taken upon the pending bill some time before we adjourn on Monday. I am advised that there are no Senators who wish to speak, save perhaps two or three on this side who desire each to make a few remarks; and I think as the Senator from California desires to call up the Chinese bill on Tuesday, we can reach an agreement to vote upon this bill on Monday.

The PRESIDENT *pro tempore*. There are a great many other bills besides the Chinese bill about which notices have been given.

Mr. KELLOGG. I only mentioned that——

Mr. CALL. I want to be heard on this bill.

The PRESIDENT *pro tempore*. The Chair will submit the suggestion. The Senator from Louisiana wants the Senate to come to an understanding to take a vote upon the pending bill some time during Monday next.

Mr. PENDLETON. I object to any arrangement of that kind.

The PRESIDENT *pro tempore*. Objection is made to any arrangement.

Mr. COCKRELL. I hope, then, that we shall be able to get a vote on Monday very soon after we take up the bill.

Mr. PENDLETON. That may be done; but I object to any arrangement.

GERMAN PROTESTANT ORPHAN ASYLUM.

Mr. ALDRICH. I appeal to the Senate to let me have taken from the Calendar for present consideration House bill No. 3246.

By unanimous consent, the Senate proceeded, as in Committee of the Whole, to consider the bill (H. R. No. 3246) changing the name of the German Protestant Orphan Asylum Association. It provides that the corporation organized and existing in the District of Columbia, and heretofore known as the German Protestant Orphan Asylum Association, shall hereafter be known by the name and style of the German Orphan Asylum Association of the District of Columbia; and hereafter it shall be lawful to have a board of directors composed of eighteen persons, instead of twelve as provided in the charter of the corporation.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 361) for a public building at Frankfort, Kentucky;

A bill (S. No. 26) to amend section 2326 of the Revised Statutes in regard to mineral lands, and for other purposes; and

A bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Indian Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication dated the 15th instant from the Secretary of the Interior with draft of bill and accompanying papers touching the amendment of section 2142 of the Revised Statutes of the United States. The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 21, 1882.

HOUSE BILLS REFERRED.

The bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia was read twice by its title, and referred to the Committee on Privileges and Elections.

The bill (H. R. No. 5541) to extend to sailing-vessels the same privileges in unlading cargo as are now granted to steamships was read twice by its title, and referred to the Committee on Commerce.

EXECUTIVE SESSION.

Mr. HAWLEY. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business, being Senate bill No. 1572, upon which the Senator from Kansas [Mr. INGALLS] is entitled to the floor. The Senator from Connecticut moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at five o'clock and fifteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 21, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER, D. D.

The Journal of yesterday was read and approved.

UNLADING CARGO.

Mr. DINGLEY. I ask unanimous consent to take from the House Calendar for immediate consideration the bill (H. R. No. 5541) to extend to sailing-vessels the same privileges in unlading cargo as are now granted to steam-vessels.

Mr. MCMILLIN. Let the bill be read.

The SPEAKER. The bill will be read, after which objections, if any, will be in order.

Mr. DINGLEY. The bill amends sections 2871 and 2966 of the Revised Statutes of the United States by striking out the words

"steamship" and "propelled by steam" where they occur, and inserting instead the word "vessel;" so that the law relating to the unlading of cargo may apply to sailing-vessels as well as to steamships. If consent is given to take up the bill, at the suggestion of the collector of the port of New York I will propose a substitute for the first section of the bill as introduced by myself, which I will send up. The amendment accomplishes the same purpose as the original section, but reaches it by adding a new clause to another section of the statutes, so as to give the collector discretion in granting permits to sailing-vessels to unlade by night on the same conditions as are now granted to steamships. The collector thinks that section 2871 of the Revised Statutes better stand as it is now; and that the amendment which I have sent up to section 2872 will make that section cover the whole ground, and in such a way as to work well in practice.

As the law stands now steamships engaged in the foreign carrying trade can have dispatch in discharging cargo, and can discharge by night as well as by day, thus saving wharfage and many other expenses. Sailing-vessels are denied this privilege. As steamships engaged in this trade mainly carry a foreign flag, and nearly all American vessels engaged in this trade are sailing craft, the law as it exists is practically a discrimination against our own merchant marine.

Mr. McMILLIN. I am willing to take, in lieu of the reading of the bill, the statement of the gentleman from Maine in regard to the change proposed.

Mr. COX, of New York. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That section 2871 of the Revised Statutes be amended by striking out the word "steamship" wherever it occurs in said section, and substituting therefor the word "vessel," so that said section as amended will read as follows:

"SEC. 2871. The collector of customs, with the concurrence of the naval officer where there is one, of any port at which a vessel from a foreign port or place may arrive, upon or after the issuing of a general order, shall grant, upon proper application therefor, a special license to unlade the cargo of said vessel at night, that is to say, between sunset and sunrise; but before any such special license is granted, the master, agents, or consignees of the vessel shall execute and deliver to the collector a good and sufficient bond, to be approved by him, conditioned to indemnify and save the collector harmless from any and all losses and liabilities which may occur or be occasioned by reason of the granting of such special license; and any liability of the master or owner of any such vessel to the owner or consignee of any merchandise landed from her shall not be affected by the granting of such special license or of any general order, but such liability shall continue until the merchandise is properly removed from the dock whereon the same may be landed. The collector, under such general regulations as the Secretary of the Treasury may prescribe, shall fix a uniform and reasonable rate of compensation for like service, to be paid by the master, owner, or consignee whenever such special license is granted, and shall collect and distribute the same among the inspectors assigned to superintend the unlading of the cargo."

SEC. 2. That section 2966 of the Revised Statutes be amended by striking out the words "propelled in whole or in part by steam," so that said section as amended will read as follows:

"SEC. 2966. When merchandise shall be imported into any port of the United States, from any foreign country, in vessels, and it shall appear by the bills of lading that the merchandise so imported is to be delivered immediately after the entry of the vessel, the collector of such port may take possession of such merchandise and deposit the same in bonded warehouse; and when it does not appear by the bills of lading that the merchandise so imported is to be immediately delivered, the collector of the customs may take possession of the same and deposit it in bonded warehouse, at the request of the owner, master, or consignee of the vessel, on three days' notice to such collector after the entry of the vessel."

Mr. DINGLEY. I yield three minutes to the gentleman from New York, [Mr. COX.]

Mr. TOWNSHEND, of Illinois. I desire to say one word. I find there is some misapprehension in regard to what I said yesterday as to the granting of unanimous consent. I did not say I intended to oppose an objection to granting unanimous consent, but that I wished the House to adopt this rule, that the privilege of asking that bills be passed by unanimous consent be granted to members in their alphabetical order, so that each and every member may have a like privilege.

Mr. DINGLEY. This is the first time I have asked unanimous consent for anything.

Mr. TOWNSHEND, of Illinois. Hereafter we ought to adopt the plan I have indicated.

Mr. ROBINSON, of Massachusetts. But the gentleman from Illinois [Mr. TOWNSHEND] and myself might not be reached at all, as we are far down on the alphabet.

The SPEAKER. No objection being made, the bill is before the House for consideration.

Mr. COX, of New York. This bill is a mere matter of convenience to shippers, and there ought to be no objection to it. It involves the expenditure of no money, and simply puts sailing-vessels in the same position that steamships now occupy. Steamships have had this privilege heretofore because of the necessity of getting the mails on shore at night. This bill only extends to our sailing-vessels the same privileges that foreign steamships enjoy to-day.

Now, while bills are being brought in here from the Committee on Commerce with reference to property and to shipping, I invoke the earnest attention of that committee and of this House to the fact that bills are now pending before that committee which concern the preservation of human health and life. This House did a graceful thing last week by passing a bill, at the request of the gentleman from Wisconsin, [Mr. GUENTHER,] for the protection and safety of immigrants coming from abroad. In other words, this House has been generous as to the health and life of persons.

The bill now pending before the Committee on Commerce, and for which I invoke the earnest attention of that committee and of this House, has reference to the inspection of vessels sailing from our ports under foreign flags, which now escape inspection. While our laws command us to inspect our own vessels, vessels under the British and other flags can sail out of New York Harbor for the West India ports without being inspected; vessels which are nothing but rotten hulks, old blockade runners which have been bought up.

Mr. HAZELTON. Is that in this bill?

Mr. COX, of New York. No, sir; but I am calling attention to a matter which is more important. I again ask, in the interest of human life, as I have asked before on other occasions, that the bill providing for the inspection of these British bottoms which are allowed to take our people to the West Indies, the Bermudas, and other places shall have attention in this House. Such a bill was passed at the last session by the House, but failed to receive action in the Senate. Now let the Committee on Commerce bring in that bill, and let us do something for life as well as for property.

I have no objection to this bill, and hope that it will be passed without objection.

Mr. DINGLEY. I ask the Clerk to read the amendment which I have sent up.

The Clerk read as follows:

Strike out the first section of the bill, and insert in lieu thereof the following:

"That section 2872 of the Revised Statutes be amended by adding thereto the following:

"When a license to unload between the setting and rising of the sun is granted to a sailing-vessel under this section, a fixed, uniform and reasonable compensation may be allowed to the inspector or inspectors for services between the setting and rising of the sun under such regulations as the Secretary of the Treasury may prescribe, to be received by the collector from the master, owner, or assignee of the vessel, and to be paid by him to the inspector or inspectors.

The amendment was agreed to.

The bill as amended was then ordered to be engrossed for a third reading; and it was accordingly read the third time, and passed.

Mr. DINGLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MINERAL CLAIMS.

Mr. CASSIDY. I ask unanimous consent that Senate bill No. 26, to amend section 2326 of the Revised Statutes, in regard to mineral lands, and for other purposes, be taken from the Speaker's table and considered at this time. It is the same bill which I asked unanimous consent the other day to call up, and it was then objected to. I have since explained to the gentleman making the objection the object of the bill, and he does not now object.

Mr. HOLMAN. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That the adverse claim required by section 2326 of the Revised Statutes may be verified by the oath of any duly authorized agent or attorney-in-fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory.

SEC. 2. That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record or before any notary public of any State or Territory.

There being no objection, the bill was taken from the Speaker's table, read three several times, and passed.

Mr. CASSIDY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MARSH. I ask unanimous consent——

Mr. MILLS. I ask unanimous consent that the roll of members be now called in alphabetical order, and that each member as called be allowed to present one proposition for consideration.

The SPEAKER. Is there objection?

Mr. ROBESON. I object.

Mr. MILLS. Then I call for the regular order.

The SPEAKER. The gentleman from Illinois [Mr. ALDRICH] was necessarily absent from the House on Monday last on business of the House when the States were called for the introduction of bills and joint resolutions for reference. He asks now consent to introduce a bill and a joint resolution. Is there objection? [After a pause.] The Chair hears none.

CHARLES G. EDDY.

Mr. ALDRICH, by unanimous consent, introduced a bill (H. R. No. 5904) for the relief of Charles G. Eddy; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENRY WALKE.

Mr. ALDRICH also, by unanimous consent, introduced a joint resolution (H. R. No. 198) tendering the thanks of Congress to Rear-Admiral Henry Walke and the officers and men under his command on the United States steamer Carondelet on April 5, 1862; which was

read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. MARSH. I hope the gentleman from Texas [Mr. MILLS] will withdraw his demand for the regular order.

Mr. CALKINS. I desire to state to the House, having given notice yesterday that I would to-day call up a contested-election case, that for certain reasons I do not now propose to call up any such case either to-day or to-morrow. I desire, however, to give notice that at the earliest possible moment next week I will call up the first contested-election case on the Calendar and try to have it considered by the House. I give this notice that members may be prepared to consider the case when called up.

Mr. BOWMAN. I move to dispense with the morning hour for the call of committees.

The motion was not agreed to; there being ayes 67, noes 46—less than two-thirds voting in the affirmative.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriation for public printing and binding for the fiscal year ending June 30, 1882.

The SPEAKER. If there be no objection, the Chair will at this time lay before the House several executive communications.

There was no objection.

FORT MAGINNIS POST.

The SPEAKER laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committeee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a letter from the Secretary of War, of the 18th instant, inclosing plans and estimates for the completion of the post of Fort Maginnis, Montana Territory, and recommending an appropriation for the purpose of $25,000, as called for by the estimates.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 20, 1882.

RELATIONS WITH MEXICO.

The SPEAKER also laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a note addressed by the minister plenipotentiary of Mexico to the Secretary of State, proposing the conclusion of a convention between the two countries for defining the boundary between the United States and Mexico from the Rio Grande westward to the Pacific Ocean by the erection of durable monuments. I also lay before Congress a letter on the same subject, with its accompaniment, from the Secretary of War, to whom the proposition was referred by the Secretary of State for the expression of his views thereon.

I deem it important that the boundary line between the two countries, as defined by existing treaties and already once surveyed, should be run anew and defined by suitable permanent monuments. By so doing uncertainty will be prevented as to jurisdiction in criminal and municipal affairs, and questions be averted which may at any time in the near future arise with the growth of population on the border.

Moreover, I conceive that the willing and speedy assent of the Government of the United States to the proposal thus to determine the existing stipulated boundary with permanence and precision will be in some sense an assurance to Mexico that the unauthorized suspicion which of late years seems to have gained some credence in that Republic that the United States covets and seeks to annex neighboring territory is without foundation. That which the United States seeks, and which the definite settlement of the boundary in the proposed manner will promote, is a confiding and friendly feeling between the two nations leading to advantageous commerce and closer commercial relations.

I have to suggest that, in accepting this proposal, suitable provision be made for an adequate military force on the frontier to protect the surveying parties from hostile Indians. The troops so employed will at the same time protect the settlers on the border and help to prevent marauding on both sides by the nomadic Indians.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 18, 1882.

LIGHTS ON BRIDGES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Light-House Board recommending that House bill providing for the extensions of the operations of the board be amended so as to provide for the maintenance of lights on bridges by the owners thereof; which was referred to the Committee on Commerce, and ordered to be printed.

INVESTIGATION OF CLAIMS BY QUARTERMASTER-GENERAL.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a statement in response to House resolution of April 14, 1882, relative to agents of the Quartermaster-General's Department now employed in the investigation of claims under the act of July 4, 1864; which was referred to the Committee on Expenditures in the War Department, and ordered to be printed.

GOVERNMENT DRY-DOCK AT DES MOINES RAPIDS CANAL.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting report of Captain A. Mackenzie, Corps of Engineers, in response to House resolution of March 30, 1882, calling for information concerning the building of a Government dry-dock at the Des Moines Rapids Canal, on the Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. COBB, by unanimous consent, obtained indefinite leave of absence on account of sickness in his family.

WITHDRAWAL OF PAPERS.

Mr. PAUL, by unanimous consent, obtained leave for the withdrawal from the files of the petition of J. M. Dutrow.

BRIDGE ACROSS MISSISSIPPI RIVER, KEITHSBURGH, ILLINOIS.

The SPEAKER. The Chair is informed that the gentleman from Texas [Mr. MILLS] withdraws his call for the regular order as against the application of the gentleman from Illinois, [Mr. MARSH,] who desires concurrence in Senate amendments to a House bill.

Mr. MARSH. I ask unanimous consent to have taken from the Speaker's table, for concurrence in the amendments of the Senate, the bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

There being no objection, the House proceeded to the consideration of the amendments of the Senate; which were read, as follows:

On page 4 insert, in line 20, after the word "changed," the words "or removed."

After the words "United States," in line 27, strike out the following: "That the said Mercer County Bridge Company, or the said Keithsburgh Company, whichever of them shall construct said bridge, may execute a mortgage or mortgages thereon, and issue bonds, payable, principal and interest, in gold, the payment of which shall be secured by said mortgage."

The amendments were concurred in.

Mr. MARSH moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTIONS IN WEST VIRGINIA.

Mr. KENNA. I ask unanimous consent to have taken from the House Calendar for present consideration the bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia. This bill provides for the election of Representatives to the next Congress; and if the matter is understood, I am sure there will be no objection. Under the law as it now stands we must have two elections in West Virginia the coming fall, a State election in October and an election of Congressmen in November. This bill proposes simply to avoid the expense of two elections.

The SPEAKER. The bill will be read, the right to object being reserved.

The Clerk read as follows:

Be it enacted, &c., That on the second Tuesday of October, 1882, there shall be elected in each Congressional district in the State of West Virginia one Representative to represent said State of West Virginia in the Forty-eighth Congress.

SEC. 2. That said election shall be conducted according to the laws now in force, except so far as the same relate to and fix the time of such election.

There being no objection, the bill was taken from the House Calendar, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KENNA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLERK OF COMMITTEE ON INDIAN AFFAIRS.

Mr. HASKELL, by unanimous consent, reported from the Committee on Indian Affairs the following resolution; which was referred to the Committee on Accounts:

Resolved, That the Committee on Appropriations be, and are hereby, respectfully requested to make provision in the legislative, executive, and judicial appropriation bill for the ensuing fiscal year, for the clerk of the Committee on Indian Affairs as one of the "annual committee clerks" provided for in said bill.

FLORIDA CONTESTED-ELECTION CASE.

Mr. BELTZHOOVER. Mr. Speaker, I present the views of the minority of the Committee on Elections in the Florida contested-election case of Bisbee against Finley, and ask that they be printed with the majority report for the information of the House.

The SPEAKER. The request will be granted. It is the gentleman's right.

It was ordered accordingly.

ORDER OF BUSINESS.

Mr. DUNNELL. Mr. Speaker, the regular order was called for some time ago.

The SPEAKER. These are privileged matters.

TREATY WITH SPAIN, ETC.

Mr. WILLIAMS, of Wisconsin. Mr. Speaker, I am directed by the Committee on Foreign Affairs to offer the following resolution.

The Clerk read as follows:

Resolved, That the Committee on Foreign Affairs be authorized to have printed certain correspondence relating to the treaty of 1819 with Spain; also correspondence as to the payment of consular fees, for the use of Congress.

Mr. HOLMAN. That goes to the Committee on Printing.

The SPEAKER. This is a matter of printing for the use of the committee.

Mr. HOLMAN. It should go to the Committee on Printing.

Mr. WILLIAMS, of Wisconsin. I have submitted it to the Printing Committee. The matter is before our committee and is mere incidental printing for the use of the committee. The gentleman from Illinois [Mr. SPRINGER] informed me that he would have no objection to it, and the business of the committee is being somewhat delayed for want of this correspondence.

Mr. HOLMAN. I do not object, but I think it should go to the Committee on Printing.

The resolution was adopted.

Mr. WILLIAMS, of Wisconsin, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXCHANGE OF OFFICIAL DOCUMENTS.

Mr. KASSON. Mr. Speaker, a communication was referred to the Committee on Foreign Affairs from the president of the Chamber of Deputies of France in regard to an exchange of official documents, and I am directed to report it back as action is not required further than an acknowledgment by the proper officer of the House of the receipt of the documents. Let it be laid upon the table.

The SPEAKER. The communication will be laid upon the table in accordance with the report of the committee.

It was accordingly laid on the table.

CALL OF COMMITTEES.

The SPEAKER. The regular order being called for, this being Friday, committees will be called for reports of a private nature.

JANE MULLIGAN.

Mr. DUNNELL, from the Committee on Foreign Affairs, reported back adversely the petition of Jane Mulligan; which was laid on the table, and the accompanying report ordered to be printed.

NEZ PERCÉ WAR.

Mr. UPSON, from the Committee on Military Affairs, reported, as a substitute for House bills Nos. 1910, 1937, and 2577, a bill (H. R. No. 5905) for the relief of citizens of the State of Oregon and of Idaho and Washington Territories who served with the United States troops in the war with the Nez Percé and Bannock Indians, and for the relief of the heirs of such as were killed in such service; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ROBERT PEYSERT.

Mr. LACEY, from the Committee on the Post-Office and Post-Roads, reported back adversely the bill (H. R. No. 3083) for the relief of Robert Peysert; which was laid on the table, and the accompanying report ordered to be printed.

CHARLES F. PARIS.

Mr. MATSON, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 4268) granting a pension to Charles F. Paris; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ELECTA L. BALDWIN.

Mr. MATSON also, from the same committee, reported back the bill (H. R. No. 2104) granting a pension to Mrs. Electa L. Baldwin; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JAMES E. GOTT.

Mr. DAWES, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 627) to increase the pension of James E. Gott; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ELIZA J. YARNELL.

Mr. DAWES also, from the same committee, reported back adversely the bill (H. R. No. 4535) granting an increase of pension to Eliza J. Yarnell; which was referred, at the request of a member, to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

NANCY LEONARD.

Mr. DAWES also, from the same committee, reported back adversely the bill (H. R. No. 5087) restoring to the pension-roll the name of Nancy Leonard; which was laid on the table, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. WADSWORTH, from the Committee on Invalid Pensions, reported back adversely the following bills; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 1124) granting a pension to Leonard Weber; and

A bill (H. R. No. 1168) granting a pension to Philip J. Widtmeyer.

EDWARD FARR.

Mr. WADSWORTH also, from the same committee, reported back a bill (H. R. No. 1154) granting a pension to Edward Farr; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HUGO EICHHOLTZ.

Mr. WADSWORTH also, from the same committee, reported back the bill (H. R. No. 5820) granting a pension to Hugo Eichholtz; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

EARL S. RATHBUN.

Mr. JOYCE, from the Committee on Invalid Pensions, reported back the bill (S. No. 891) granting a pension to Earl S. Rathbun; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM R. PERDUE.

Mr. JOYCE also, from the same committee, reported back the bill (H. R. No. 1468) granting a pension to William R. Perdue; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

BILLS ALREADY PASSED.

Mr. JOYCE also, from the same committee, moved it be discharged from the further consideration of the following bills, pensions having been granted at the Pension Office:

A bill (H. R. No. 1542) granting a pension to George Taylor; and

A bill (H. R. No. 1546) granting a pension to Andrew J. Horton.

The motion was agreed to, and the bills were laid upon the table.

JOHN TAYLOR.

Mr. WADSWORTH. Mr. Speaker, I ask unanimous consent, inasmuch as the call of committees has been concluded, to make a report from the Committee on Invalid Pensions. A bill has passed the House and gone to the Senate for the relief of John Taylor. The Senate has passed a similar bill, and I ask unanimous consent that the Senate bill be taken from the Speaker's table and passed.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (S. No. 632) granting a pension to John Taylor.

Mr. SPRINGER. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Taylor, late of Battery M, Third New York Light Artillery, and pay him a pension at the rate of $12 per month, in lieu of the pension he is now receiving, from and after the passage of this act.

The SPEAKER. Is there objection to the present consideration of the Senate bill?

There was no objection.

The bill was taken from the Speaker's table, read by its title a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WADSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOWMAN. I move to dispense with the regular order, which is the consideration in Committee of the Whole of the Private Calendar, and give notice to the House that my object in doing so is to call up for immediate consideration the special assignment, being the bill for the reference of private claims to the Court of Claims, and therefore is a very appropriate subject for consideration on private bill day instead of the Private Calendar.

Mr. HAZELTON. We have only one day in the week which we devote to the consideration of the Private Calendar, and there are certain bills now confronting the House that can never fall under the provisions of the bill to which he refers. I hope this day will be devoted to the legitimate purposes of the Private Calendar and not be permitted to be devoted to other purposes, as we have done on the last two or three Fridays.

The SPEAKER. The gentleman from Massachusetts moves to dispense with the order of business for to-day. That requires a two-thirds vote.

Mr. BOWMAN. I would make a parliamentary inquiry, whether it is in order for me, instead of making that motion, to call up for consideration the special assignment, and whether that will not take precedence under the rules of the regular order of business for to-day?

The SPEAKER. Under Rule XXVI it requires a two-thirds vote to dispense with private business on Friday. But the Chair will state to the gentleman from Massachusetts that a special order, if made for to-day, or a continuing order which comes over from day to day, might properly be called up on this day.

Mr. BOWMAN. Then I call up the special order.

The SPEAKER. If the motion to go into the Committee of the Whole House on the Private Calendar is voted down, then the special order will be before the House.

Mr. HAZELTON. But the consideration of the Private Calendar is the regular order.

The SPEAKER. The regular order is the consideration in Committee of the Whole of the Private Calender, but that business can be dispensed with by a two-thirds vote.

Mr. SPRINGER. The gentleman from Massachusetts can reach his purpose in another way. If he will move to go into Committee of the Whole on the Private Calendar, a majority may vote that motion down; and when it is voted down public business will be in order. The House may then by a majority vote proceed to consider the special order.

Mr. HOUSE. If a motion is made to go into Committee of the Whole on the Private Calendar, cannot a majority determine it?

The SPEAKER. The majority can do so; but the Chair will state that if there is private business not requiring consideration in the Committee of the Whole and any gentleman desires to call it up, it would still be in order to-day under the rule in preference to any other business. Private business on the Speaker's table might be in order if the House desired to go there.

Mr. ROBESON. I desire to make a parliamentary statement. Of course the regular order cannot be set aside on any day except by a two-thirds vote. That is true, but it is every day, when a member can get a hearing, set aside by a two-thirds vote. Now this proposition by the gentleman from Massachusetts has already had its hearing and has set aside the regular order by a two-thirds vote or by unanimous consent at the time when a special day was assigned for its consideration, with the right to continue from day to day; and that special day, with its continuation, runs over the regular order and can never be antagonized except by some other order which has a higher privilege. Therefore I say that a two-thirds vote setting aside the regular order of this day and the regular order of any other day has been already had on the motion of the gentleman from Massachusetts and its adoption when his special order was made; so it is clear that that special order or assignment made by a two-thirds vote or by a unanimous vote has the right to all the common time of this House, when higher privileges do not intervene, until it is disposed of.

The SPEAKER. The gentleman from Massachusetts moves to dispense with private business on this day.

Mr. BOWMAN. I withdraw that motion, and move that the special assignment, being the bill providing for the reference of certain claims to the Court of Claims, be taken up. That is the special order, and I call for the special order.

The SPEAKER. The Clerk will read the special order assigning the business to which the gentleman from Massachusetts refers.

The Clerk read as follows:

Resolved, That the bill (H. R. No. 684) to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government be taken from the House Calendar and made the special order for Tuesday, March 7, after the morning hour, and from day to day thereafter until disposed of, not to antagonize general appropriation and revenue bills; and that all amendments to the bill be in order without regard to clause 4, Rule XXI.

Mr. HAZELTON. Now I desire to raise the question of consideration, and I suppose I can do it by making a motion to go into Committee of the Whole on the Private Calendar.

The SPEAKER. The gentleman can raise the question of consideration by simply stating it. The question is, Will the House proceed to the consideration of the special order named by the gentleman from Massachusetts?

Mr. SPARKS. As I understand, the motion of the gentleman from Massachusetts would be subject to the point of order which I propose to make. This is Friday, and the rules provide that bills upon the Private Calendar shall be considered to-day. That can only be dispensed with by a two-thirds vote, because in doing so you change a rule specifically. Now, the gentleman from Massachusetts makes the motion, this being Friday, to take up a particular bill. He can only do that by first dispensing with the regular order, which is the Private Calendar.

Mr. BOWMAN. It was dispensed with when this special assignment was made.

Mr. ROBESON. I desire to reply to the gentleman from Illinois, [Mr. SPARKS.] Of course private bills are the regular order on Friday, just as ordinary public business is the regular order on other days. But they are the regular order under the rules, and this special assignment has suspended the rules for the purpose of having this bill considered. That has been done by a two-thirds vote, which has made it the regular order for to-day by a two-thirds vote already passed——

Mr. HAZELTON. I would like to see the record of that.

Mr. ROBESON. Or by unanimous consent. The regular order on Friday is private business; but it is no more the regular order on Friday than public business is the regular order on Thursday. And if this bill would come up on Thursday because the rules are suspended against the regular order, then it will come up on Friday because the rules are suspended against the regular order.

Mr. MILLS. Would it come up on Monday also, against the regular order?

Mr. ROBESON. Undoubtedly.

Mr. MILLS. And we would never have any day for introducing bills.

Mr. SPARKS. This question was raised once in a case like this when a bill was set for Friday, and the Speaker ruled on that occasion that the regular order had to be dispensed with even before you could take up a bill set for a special Friday. Now, this bill was set for to-day.

The SPEAKER. That was a different case, as the Chair thinks, if any decision of that kind was made.

Mr. SPARKS. Precisely. It was a stronger case. This bill was not set for to-day but was set for Tuesday. The gentleman from New Jersey insists that as that bill has been set for a particular day, the orders running from day to day, that dispenses with the order of to-day. That will not do under the rule. You must dispense with the consideration of the Private Calendar before you can take up any special order set for any other day, or even for this day.

Mr. ANDERSON. This order dispenses with the regular order on Friday; because while the consideration of the bill was set for a given day, say Tuesday, the order was continuous. Under the order which was adopted by unanimous consent it was to continue Wednesday, Thursday, Friday, Saturday, and until disposed of.

Mr. HAZELTON. If I understand the facts, this special order was assigned for Tuesday and was made a continuing order. Am I right about that?

The SPEAKER. The gentleman is right about that.

Mr. HAZELTON. Now, Rule XXVI says:

Friday in every week shall be set apart for the consideration of private business, unless otherwise determined by a two-thirds vote of the members present and voting.

The very purpose of this rule was that one day in the week, to wit, Friday, should be secured to this House for the consideration of the Private Calendar; and private business can never be set aside without destroying the intent and efficiency of the rule, except when the House determines by a two-thirds vote that that shall be done. As I understand, we have no record that this bill was ever made a special order by any two-thirds vote. The assignment was made originally for a Tuesday. Now it comes over here and these gentlemen confront and strike down this absolute rule which gives us Friday for private business except against a two-thirds vote—strike that down and take away this high privilege under the rule. I say, Mr. Speaker; I defy the gentleman from New Jersey to find an instance or a precedent that will sustain him in striking down this rule in this way.

Mr. BUTTERWORTH. I would like to ask the gentleman from Wisconsin a question. It was competent, was it not, to have assigned Tuesday for the consideration of the bill of the gentleman from Massachusetts by a majority vote?

Mr. HAZELTON. I suppose the House has made assignments by majority votes.

The SPEAKER. The Chair does not agree with the gentleman in that proposition.

Mr. BOWMAN addressed the Chair.

The SPEAKER. The Chair is ready to dispose of this question. The gentleman from Massachusetts [Mr. BOWMAN] proposes to call up a special order fixed by a suspension of the rules on February 20 last. This order was made for March 7, and to continue from day to day until disposed of. The Chair has in no instance entertained a motion to fix a day for the special consideration of a bill except when it was done by unanimous consent or under a suspension of the rules. The resolution making this special order, although it named a Tuesday as the day on which the bill might be called up, was a continuing order, and leaves the bill in the same position to-day as though it had been originally assigned by the order of the House for consideration on this day. It is quite true that as against ordinary business under the rules, Rule XXVI gives the prior right to private business over other ordinary business except in cases where it is dispensed with by a two-thirds vote. But the House having made a special order, which is continuing from day to day without any exception save as against general appropriation and revenue bills, the Chair feels bound to hold that this bill may be called up to-day by the gentleman from Massachusetts. But of course, like all other business before the House on any day, it may be antagonized by whatever is proper to be considered. [Mr. HAZELTON rose.] And the gentleman from Wisconsin, the Chair understands, raises the question of consideration.

Mr. HAZELTON. I do.

The SPEAKER. The Chair will further state that this order having been made under a suspension of the rules, such suspension included Rule XXVI and all others.

Mr. HAZELTON. The question of consideration is decided by a majority vote.

The SPEAKER. Unquestionably; the House always has the right to refuse to proceed to consider any business that may otherwise be in order.

Mr. ROBINSON, of Massachusetts. I have no doubt of the correctness of the ruling of the Chair, but I desire to call attention for future practice to the fact that such ruling will operate of course to set aside even the call of States on Monday.

The SPEAKER. The Chair does not decide that point now.

Mr. ROBINSON, of Massachusetts. I do not ask the Chair to decide it; I only call attention to it so that when any request for such purpose shall be made hereafter the House may understand the effect of it.

The SPEAKER. It is well for the House to understand the oper-

ation of its rules and orders, but the decision just made does not necessarily decide that question. The question now is, Will the House now proceed to consider the special order?

The question was taken; and it was agreed to upon a division—ayes 94, noes 55.

REFERENCE OF CLAIMS TO THE COURT OF CLAIMS.

The SPEAKER. The House will now proceed to the consideration of the bill which has been made the special order, and which will now be read.

The bill was read, as follows:

A bill (H. R. No. 684) to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government.

Be it enacted, &c., That whenever a claim or matter is pending before any committee of the Senate or House of Representatives, or before either House of Congress, which involves the investigation and determination of facts, the committee or House may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims of the United States, and the same shall there be proceeded in under such rules as the court may adopt. When the facts shall have been found, the court shall not enter judgment thereon, but shall report the same to the committee or to the House by which the case was transmitted for its consideration.

SEC. 2. That when a claim or matter is pending in any of the Executive Departments which may involve controverted questions of fact or law, the head of such Department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the Department by which it was transmitted for its guidance and action.

SEC. 3. That the Attorney-General, or his assistants under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be transmitted to the Court of Claims under this act, with the same power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses in like manner as he is now required to defend the United States in said court.

SEC. 4. That in the trial of such cases no person shall be excluded as a witness because he or she is a party to or interested in the same.

SEC. 5. That reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress until the same shall be finally acted upon.

Mr. HOLMAN. I desire to suggest that some arrangement be made by which amendments may now be offered so that members can address themselves to the whole subject.

Mr. BOWMAN. I understand that the gentleman from Tennessee [Mr. HOUSE] has a substitute bill, and the gentleman from Indiana [Mr. HOLMAN] has an amendment to the original bill to offer. I have no objection to those two amendments coming in now, so that they may be considered together with the bill.

Mr. UPDEGRAFF, of Iowa. I desire to offer a substitute.

Mr. HOUSE. I desire to offer my amendment as a substitute both for the original bill and the amendment of the gentleman from Indiana, [Mr. HOLMAN.]

The SPEAKER. The question upon the substitute cannot be taken until after the amendments to the original bill have been disposed of.

Mr. HOLMAN. I offer an amendment to come in after the first section of the bill.

The amendment was read, as follows:

In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores did not give aid or comfort to said rebellion, and was throughout that war loyal to the Government of the United States; and the fact of such loyalty shall be a jurisdictional fact, and the said court shall first inquire into such fact, and unless it shall be shown to the satisfaction of the court and found by the court, on such preliminary inquiry, that the person who furnished such supplies was throughout said war loyal to the Government of the United States, shall without further proceedings be dismissed. But said court shall not have jurisdiction of any case for the destruction of or damages to property or for the rent or occupation of property used and occupied by the Army during said war in the actual military operations of the Army at the seat of war.

The SPEAKER. The Chair will inquire of the gentleman from Massachusetts [Mr. BOWMAN] whether it is his purpose now to allow the presentation of amendments and substitutes regardless of their order, in order that they may be pending? The gentleman from Iowa [Mr. UPDEGRAFF] desires to offer a substitute.

Mr. BOWMAN. In order to prevent this bill getting into a state of confusion and complication, I do not want to consent to any more amendments being offered at present than the two to which I have referred. It is my desire that other amendments shall be offered when the time comes for amendments in general. The amendment of the gentleman from Tennessee [Mr. HOUSE] is a sleeping amendment, a substitute bill, going to the very merits of the case. I therefore thought it proper that that should come in, in order that we might not have a double discussion, one now and another afterward on that substitute.

The SPEAKER. The substitute offered by the gentleman from Tennessee [Mr. HOUSE] will now be read.

Mr. HOUSE. I do not care to have it read in full at this time.

The SPEAKER. Then it will be considered as read and pending.

The substitute is as follows:

Be it enacted, &c., That Congress shall not authorize the payment of any private claim not payable under existing laws until the facts on which such claim is based shall have been judicially established and reported as hereinafter provided.

SEC. 2. Any person having a claim or matter against the United States in respect of which he desires relief by special act of Congress, and of which the Court of Claims could not under existing laws take jurisdiction, may, before applying to Congress for such relief, file a petition in that court stating the facts and grounds on which the relief is sought, and praying the court to find the facts; and the court, under such rules as it may adopt, shall find the facts as established by the evidence, and report the same, with a copy of the petition and answer of the Government, to either House of Congress.

SEC. 3. Whenever a claim or matter is pending before any committee of the Senate or House of Representatives, or before either House of Congress, which involves the investigation and determination of facts, the committee or House may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in under such rules as the court may adopt. When the facts shall have been found, the court shall report the same to the committee or to the House by which the case was transmitted for its consideration.

SEC. 4. In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, or for the destruction of or damage to property by any part of said forces, the petition shall aver that the person who furnished such supplies or stores, or whose property was so taken, destroyed, or damaged, did not give any aid or comfort to said rebellion, but was, throughout that war, loyal to the Government of the United States; which averment shall be investigated, and the facts in relation thereto found and reported by said court.

SEC. 5. All private claims pending in either House of Congress at the final adjournment thereof, involving an investigation or determination of facts shall, with all papers connected therewith, be transferred to the Court of Claims, to be there proceeded with in the manner hereinbefore prescribed.

SEC. 6. No private claim which accrued of the character described in section 2 of this act, prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims, or considered by Congress, or any of the Executive Departments. All other such claims now existing shall be presented to that court, in the manner and for the purpose aforesaid, within two years after the passage of this act, and all claims hereafter accruing shall be so presented within six years after they accrue, in default whereof, in either of said cases, the claims shall be barred: *Provided*, That the claims of married women, which first accrued during their marriage, and of infants, idiots, insane persons, and persons beyond the seas when the claim accrued, entitled to the claim, shall not be barred if the petition be filed in the court as aforesaid within two years after the disability has ceased; but no other disabilities than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

SEC. 7. Whenever there shall be pending before the Department of State a claim in behalf of any alien against the United States, founded on or growing out of any treaty with a foreign power or any international obligation, the Secretary of State may, with the consent of the representative of the government of such alien, refer such claim to the Court of Claims; which shall thereupon have jurisdiction to hear and determine the same upon the principles of justice and international law, and to render such judgment as those principles shall require. From any such judgment, when the amount in controversy is $3,000 or more, either party may appeal to the Supreme Court in the manner provided by law in other cases of appeal from the Court of Claims.

SEC. 8. When a claim or matter is pending in any of the Executive Departments which involves controverted questions of fact or law, the head of such Department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the Department by which it was transmitted.

SEC. 9. The Attorney-General, or his assistants under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be brought in the Court of Claims under this act, with power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses, as fully as he is now required or authorized to do in other cases in said court.

SEC. 10. In the trial of such cases no person shall be excluded as a witness because he is a party to or interested in the same; and any claimant or party in interest may be examined as a witness on the part of the Government, and when refusing so to testify, or willfully testifying falsely, shall not be entitled to relief.

SEC. 11. If it shall appear to the court that in any case referred to it under the provisions of this act testimony has been duly taken by either party, the same, so far as relevant and competent, may be used, subject to such rules as the court may see fit to adopt.

SEC. 12. In every case which shall come before the Court of Claims under the provisions of this act, if it shall appear to said court upon the facts established that it has jurisdiction to render judgment thereon under existing laws, it shall proceed to do so, and report its proceedings therein to either House of Congress, or to the Department by which the same was referred to said court.

SEC. 13. Reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress until the same shall be finally acted upon.

Mr. THOMPSON, of Kentucky. I desire to ask the gentleman who has charge of this bill whether or not it is intended to call the previous question and cut off amendments, or will he allow the bill to be considered in the House as in Committee of the Whole and permit amendments to be offered and discussed under the five-minute rule?

The SPEAKER. The Chair will state that the order of the House making this a special order provides for the introduction of amendments without reference to clause 4 of Rule XXI. How far the gentleman may be willing to extend the matter of amendments before calling the previous question the Chair cannot say.

Mr. UPDEGRAFF, of Iowa. Under that order I desire to offer a substitute for the bill and amendments.

The SPEAKER. That would be in order only after disposing of the pending substitute.

Mr. UPDEGRAFF, of Iowa. I thought that Rule XXI did not apply.

The SPEAKER. That relates only to points of order.

Mr. ROBINSON, of Massachusetts. I infer that my colleague, recognizing the importance of this measure, does not expect to have a final vote on the proposition to-day. I therefore suggest that the different propositions to amend may be printed in the RECORD. I do not care about their being offered now, because that would trespass upon the matter of parliamentary practice, but they can be printed for information in the RECORD. This is a complex matter; we want to proceed safely; and I hope that, without any rights being waived, the House may give consent that gentlemen may send

up their amendments to be printed, so that we may see them in the morning.

The SPEAKER. The gentleman from Massachusetts [Mr. ROBINSON] asks unanimous consent for the printing in the RECORD of such amendments as gentlemen may propose to offer. Is there objection? The Chair hears none. The gentleman from Iowa [Mr. UPDEGRAFF] proposes an amendment——

Mr. UPDEGRAFF, of Iowa. In the nature of a substitute.

The SPEAKER. Which will, under the order, be printed in the RECORD.

The substitute of Mr. UPDEGRAFF, of Iowa, is as follows:

A bill to afford assistance and relief to Congress in the investigation of claims and demands against the Government.

Be it enacted, &c., That whenever a claim or matter is pending before any committee of the Senate or House of Representatives which involves the investigation and determination of facts, the committee may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims of the United States, and the same shall there be proceeded in under such rules as the court may adopt. When the facts shall have been found, the court shall not enter judgment thereon, but shall report the same to the committee by which the case was transmitted for its consideration.

SEC. 2. The committee shall thereupon carefully examine such case and report its opinion thereon, with an appropriate bill or resolution, to the House or Senate, as the case may be; and no bill or resolution allowing any such claim shall be considered in either House until some member of such committee shall state on the floor, or in writing, signed by him and filed with the Clerk or Secretary, that he has personally examined such case and recommends its payment.

SEC. 3. That the Attorney-General, or his assistants under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be transmitted to the Court of Claims under this act, with the same power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses in like manner as he is now required to defend the United States in said court.

SEC. 4. That in the examination of such cases no person shall be excluded as a witness because he or she is a party to or interested in the same.

SEC. 5. In all cases arising before the suppression of the rebellion the court shall inquire into, ascertain, and report whether or not the claimant, or the person under whom he claims, gave any aid or comfort to the late rebellion, or was loyal throughout that war to the Government of the United States.

Mr. STOCKSLAGER. I desire to offer an amendment excepting from the provisions of this bill claims for losses incurred in Indiana and Ohio during the Morgan raid.

The SPEAKER. If the gentleman from Indiana will send up the amendment it will be printed under the order.

The amendment of Mr. STOCKSLAGER is as follows:

Amend section 4 of the substitute offered by Mr. HOUSE, from the Select Committee on Reform in the Civil Service, by adding to the end of said section the following words, to wit:

"Except claims for property taken during the Morgan raid in the States of Indiana and Ohio: *And provided*, That in said claims thus excepted it shall be the duty of the proper accounting officers of the Treasury Department, and they are hereby authorized and directed to receive, pass upon, and settle all claims for property taken and used by the Union forces engaged in opposing or pursuing the rebel forces under General John Morgan while making his raid into the States of Indiana and Ohio, in July, 1863; and said accounting officers are also directed to receive, settle, and pay for all horses taken from citizens of said States by said rebel forces which were afterwards captured, retained, and used by the Union Army; and an appropriation is hereby made, out of any money in the Treasury not otherwise appropriated, to pay the same: *And provided further*, That the said accounting officers of the Treasury shall take and accept as sufficient proof, in all claims so disposed of, the adjudications made by the commissions appointed by said States, respectively, together with the accompanying proofs, which claims, adjudications, and proofs were filed in the offices of the adjutant-generals of said States, respectively: *Provided*, That all claims not so adjudicated upon may be established as other claims and demands against the United States are now established: *And provided further*, That upon the finding of said respective commissions, or other sufficient proof of the taking of horses or mules by the said rebel forces, their capture, retention, and use by the Union Army shall be presumed and admitted by said accounting officers, and adjudication and settlement made for the same in the same manner as if said property had been originally taken by the Union forces: *And provided further*, That the Quartermaster-General is hereby directed, upon the request of claimants or their attorneys, to turn over to the proper accounting officers of the Treasury all claims heretofore filed in his office for property taken from citizens of the States of Indiana and Ohio during the said Morgan raid."

Mr. HOUSE. I wish to make a suggestion. The gentleman from Massachusetts [Mr. BOWMAN] has reported a bill from the Committee on Claims. The bill which I offer as a substitute includes several of the sections of the bill of the gentleman from Massachusetts.

A MEMBER. All of them.

Mr. HOUSE. All of them, I believe. The bill I offer as a substitute is reported from the Committee on Civil Service Reform, and includes a good deal which is not embraced in the bill of the gentleman from Massachusetts. Now, I suggest that the adoption or rejection of my substitute will determine the extent to which the House proposes to go in referring these claims to the Court of Claims. I think that a certain period might be allowed for general debate, and then the bill be considered by sections in the House as in Committee of the Whole, allowing such amendments to be offered as any gentleman may propose.

The SPEAKER. That proposition can be agreed to by unanimous consent.

Mr. HOUSE. I merely suggest it.

Mr. BOWMAN. I give notice that it is my intention to close this debate to-morrow, if I can, by moving the previous question. I have no objection to amendments coming in and being voted upon at any time, consistently with closing up the subject to-morrow, unless I find that the House is in favor of a further extension of the debate.

Mr. KASSON. If it were possible to close the general debate to-day, and allow the five-minute debate to-morrow in connection with amendments, I believe it would better suit the feeling of the House. There are many of us who have no desire to make speeches, but would like to address the House for five minutes on amendments. I should like to offer and explain an amendment, but I do not care to make a speech.

Mr. BOWMAN. Suppose that the general debate be closed to-morrow at two o'clock, leaving the residue of the day for the offering of amendments and for the five-minute debate. Will that be satisfactory?

The SPEAKER. The Chair is ready to submit that request.

Mr. HOUK. We want more than one day's debate on this bill.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the general debate on this bill may be closed at two o'clock to-morrow, and that the bill be then considered by sections as in Committee of the Whole, under the five-minute rule. Is there objection?

Mr. BRAGG and Mr. HOUK objected.

Mr. HUBBELL. It occurs to me that a session could be held this evening and general debate on the bill closed to-day, so that to-morrow we could take up the bill under the five-minute rule.

Mr. CANNON. That is right.

Mr. BOWMAN. If gentlemen want to come here this evening for debate only, and have their speeches go into the RECORD, I have no objection.

The SPEAKER. There is a special order for this evening.

Mr. BRAGG. I hope that a measure of this kind, so general and sweeping in its purposes, which may be so dangerous to the public Treasury, as well as obnoxious to the sentiment prevailing in some portions of this country, may not be put through here under whip and spur, without full opportunity for members to examine and discuss it—not to empty benches, but in a full session of the House. This bill proposes to take all claims of every nature and transfer them to the Court of Claims, subject to the determination of that court. Heretofore, in accordance with the sentiment of the people of the United States, as expressed through their representatives in Congressional acts, there has been a restriction upon the claims which could be considered; and if claims are now to be taken from the consideration of the legislative body and sent to the courts I think that the whole subject should be discussed and carefully considered, so as to insure us against making a great mistake, which, after its commission, it may be too late to remedy.

I desire also to offer a substitute for this bill. It is the bill prepared by the Senator from Vermont, [Mr. EDMUNDS,] which excludes war claims from consideration, fixes a short limitation as to the bringing of actions, and provides for their trial in the courts of the district in which the cause of action may have arisen.

The substitute of Mr. BRAGG is as follows:

A bill to provide for the bringing of suits by citizens of the United States against the Government thereof in certain cases.

Be it enacted, &c., That any citizen of the United States making a claim against the United States which has become complete within four years next before the passage of this act, or which shall have become complete subsequent to that period, in respect of which he would, under similar circumstances, be entitled to redress against another citizen either in a court of law, equity, or admiralty, may, except in the cases named at the end of this section, apply to the Department of Justice for leave to sue the United States for the enforcement of such claim. Such application shall be by petition in writing, signed either by the petitioner or his lawful attorney duly appointed by instrument in writing, setting forth the full name, usual place of abode, and citizenship of the claimant, and the nature and amount of such claim and the circumstances under which it arose, which petition shall be verified by affidavit. But nothing in this section or in this act shall authorize any such petition or suit for or in respect of any injury to or seizure of person or property, real or personal, or the detention or conversion of the same, or any damages in respect thereof, suffered, done, or committed by or under the authority of the United States, or any Department or officer of the Government thereof, during the late rebellion.

SEC. 2. That on receiving such petition the head of the Department of Justice shall cause the same, with the power of attorney, if there be one, to be recorded, and shall examine the same as soon as may be, and shall grant the same unless he shall be of opinion that such claim is frivolous or has already been passed upon by the two Houses of Congress, or by the Court of Claims, or by some court of justice. If he grant or refuse the leave, he shall make an indorsement accordingly on the petition and sign the same, and deliver the petition back to the petitioner or his attorney, and cause a memorandum of his action to be made at the foot of the record of the petition.

SEC. 3. That if leave to sue be granted as aforesaid, the petitioner may bring a suit, as he shall be advised, in the circuit court of the district in which he resides, and if there be no circuit court in such district, in the district court of the same or in the supreme court of the Territory in which he resides, or if he resides in the Indian country, in the circuit court of any district adjoining the Indian country, or if he resides in any other part of the United States in which there is no circuit or district court, or resides out of the United States, in any circuit court, against the United States for the enforcement of the claim stated in such petition, and he shall file in the clerk's office of such court the before-mentioned petition for leave to sue. He shall give reasonable security, to the satisfaction of a justice or judge of such court, for costs, in case he shall fail in his suit.

SEC. 4. That notice of the commencement of any such suit shall be served on the United States by the marshal of the district in which it is commenced, by leaving a copy of the petition for leave to sue, with its indorsements, and of the declaration, bill, or other pleading, as the case may be, together with a summons to appear at the next regular term of such court, with the district attorney of the United States of the district in which the suit is commenced, which service shall not be less than thirty days before such term.

SEC. 5. That it shall be the duty of any district attorney upon whom such service shall be made to report forthwith to the head of the Department of Justice the fact of the commencement of such suit, and he shall appear in such suit for the United States, and, under the direction of the Department of Justice, shall defend the same; and special counsel for the United States may be employed to assist in such defense in the same manner as is now or may be hereafter provided by law in other cases.

SEC. 6. That after such service and appearance the case shall proceed as nearly as may be like other civil cases in which the United States are a party, and such court shall proceed to hear, try, and determine such case according to the principles of law and justice. In every such suit it shall be lawful for the United States to make and have the benefit of equitable defenses, set-offs, and recoupments, as well as other defenses, and to file and have the benefit of cross-bills, bills of interpleader, and every other species of negative or affirmative answer to such suit, according to the nature of the case.

SEC. 7. That interest at the rate of 6 per cent. per annum, in the nature of damages for delay, may be allowed, as in civil cases between citizens, if the plaintiff shall be found entitled to recover, from the day when payment was finally refused by the executive department of the Government of the United States having cognizance of such claims; and costs in such case may be allowed the plaintiff as in cases between citizens in the courts of the United States.

SEC. 8. That writs of error or appeals, according to the nature of the case, shall be allowed in cases brought under this act to the Supreme Court of the United States, under the same conditions and limitations as are now allowed by law in the case of appeals from the Court of Claims.

SEC. 9. That if final judgment shall be rendered against the United States in any such case the amount of such judgment shall be paid out of the Treasury of the United States, unless Congress, or either House thereof, shall by resolution direct the Secretary of the Treasury to suspend the payment thereof, in which case payment shall not be made while such resolution shall continue in force. The money necessary for such payments is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 10. That when final judgment in favor of the United States shall be rendered in any such case, costs shall be taxed against the plaintiff and collected as in the case of suits between citizens in the courts of the United States, and every such claim shall be deemed and held to be finally barred.

SEC. 11. That every claim against the United States capable of being prosecuted under this act which has become completed at the day of the passage hereof shall be deemed and held to be finally barred unless the claimant shall present his petition for leave to sue the same, as provided in this act, within three years next after the passage hereof; and every other claim capable of being prosecuted under this act shall be deemed and held to be finally barred unless the claimant shall present his petition for leave to sue the same, as provided in this act, within four years next after the right to so petition shall accrue.

SEC. 12. That the Supreme Court of the United States shall make all such general rules and regulations relating to procedure in cases provided for in this act as may be necessary from time to time to carry its provisions into effect; and the courts of the United States having jurisdiction of cases under this act shall also have power to make such rules and regulations, not inconsistent with any rules and regulations established by the Supreme Court, or with this act, as may be necessary to the ends of justice in the premises.

The SPEAKER. The amendment of the gentleman from Wisconsin may be printed under the general order on the subject. The pending question is to determine the limit of general debate.

Mr. REED. I suggest to the gentleman from Wisconsin we shall be likely to have a better attendance if the debate be comparatively a short one. If we allow it to drag day by day then we shall have empty benches. If we close it up in two days we shall have members present and intelligent action on this matter.

The SPEAKER. The Chair will again submit the proposition.

Mr. HUBBELL. We want to close general debate to-day.

The SPEAKER. The Chair will again submit the proposition, which is, by unanimous consent general debate be closed to-morrow at two o'clock, and that then the bill shall be considered as in Committee of the Whole House on the state of the Union under the five-minute rule. Is there objection?

Mr. CANNON. I object. I desire general debate to be closed to-day.

Mr. BOWMAN. I ask that general debate be closed to-day at or before six o'clock.

Mr. BRAGG. I object to that.

Mr. CANNON. Say twelve o'clock to-morrow.

Mr. BURROWS, of Michigan. That will give an hour to-morrow for debate.

Mr. BOWMAN. I will agree to one o'clock to-morrow.

Mr. BRAGG. I will object to that. We must spend an hour in the morning on miscellaneous business.

Mr. HOLMAN. Say two o'clock.

Mr. BRAGG. I object to two, but will consent to four.

Mr. BOWMAN. I give notice I will call for the previous question to-morrow at two o'clock.

Mr. BUCK. I offer the following amendment, by direction of the Committee on Indian Affairs:

Amend House bill No. 684 by adding to seventh section:

The Court of Claims is hereby vested with legal and equitable jurisdiction to try, determine, and render judgment on all unsettled or unadjusted claims against the United States of all Indian tribes or nations having treaty relations with the United States, or of individual members of such Indian tribes, or of other persons, growing out of or arising under such treaties, or any law pertaining thereto. And in all actions brought by Indian tribes or nations, or individual members of such tribes or nations, or other persons, in respect of claims growing out of or arising under treaty stipulations or laws relative thereto, the testimony of the individual members of such tribe or nation shall be competent evidence, but the same shall be received subject to such regulations as the said court may prescribe. And it shall be the duty of the Secretary of the Interior, or other officer having custody thereof, upon the order of said court, to transmit to the court the originals, or, in his discretion, certified copies of the originals, of all papers that have been filed in his Department, or any bureau or office thereof, in any case, and all proofs, affidavits, reports, exhibits, or other records or documents which have been or may be filed in his Department, or bureau or office thereof, touching or in any way affecting such case: *Provided*, That such action shall be commenced by petition either by the claimant, or by delegates or attorneys duly authorized thereto, stating the facts, and under what treaty stipulation or provision of law such Indian tribe or nation, or individual member thereof, or other person, claims to recover, and the amount of such claim: *And provided further*, That it shall be the duty of the Attorney-General to appear in behalf of the United States in all actions brought under this section, and from any judgment rendered, when the amount in controversy is $3,000 or more, either party may, within thirty days from the rendition of judgment, appeal to the Supreme Court of the United States in the manner provided by law in other cases of appeal from the Court of Claims. And when legal judgments have been rendered in the Court of Claims, and not appealed from within the time prescribed in this section, or when judgment shall have been rendered in the Supreme Court, the same shall be certified by the court rendering the same to the Secretary of the Interior, who shall transmit the same, with estimates for the payment thereof, to Congress.

The SPEAKER. The gentleman from Massachusetts is recognized.

Mr. BOWMAN. Mr. Speaker, I do not propose at the present moment to discuss the need of a bill of this kind. Everybody in this House and out of this House at all familiar with this troublesome subject of private claims admits the necessity of some bill to sweep out of Congress this vast mass of business and send it to some tribunal which can treat these questions in a proper and legal manner.

The only question before us is whether or not there shall be some bill for the reference of these claims and what kind of a bill it shall be; not whether we shall accomplish this object, but how we shall accomplish it, and I assume there is not a member in this House who is not in favor of some kind of a bill to get rid of these troublesome questions of private claims, questions which block up the business of the House, which crowd our Calendar, and which come into Congress after Congress, and, except in a very few cases, never reach final determination.

I ask the attention of the House, Mr. Speaker, to this bill reported by the Committee on Claims, which I believe to be the only one at present which can be safely passed. The object in presenting this bill is a simple one. We did not try to do all that we might wish to do. Some of our committee thought that the Court of Claims should have final jurisdiction, so that we should have no trouble with these cases. This committee, in this bill, only reported that which they felt sure would pass. We tried to avoid points and objections made against previous bills, and the one upon which most of the previous bills have been shipwrecked was the objection which had always arisen of leaving matters of pure discretion to the Court of Claims.

It has always been said, and very properly, that Congress could not afford to give up this question of discretion and of pure judgment, where there was no legal measure of damages, where the damages were not liquidated, and those questions which sometimes might be regarded as almost of mere benevolence, to another tribunal; that there should rest in Congress alone this great power of the bestowal of public money, unless there was some legal measure of damages and where damages had not been liquidated by contract or otherwise.

This was the snag on which these bills, many of them, for this purpose were shipwrecked, and we desire here only to report a bill which will avoid the objections, and which can be received and meet the favorable attention of the House, leaving to members who desire a broader bill to try the temper of the House themselves, and not endanger this one, which all, I am sure, will desire to have immediately passed, so as to get relief, if possible, in this Congress.

Now, what does this bill provide? It is a simple, short, compact bill, which I find that most members of the House have not studied, and few seem to fully understand. This bill gives no jurisdiction to the Court of Claims to try cases. Gentlemen have asked me the question, and it has been discussed, I imagine, generally, whether the court shall decide certain classes of claims, and whether it shall have jurisdiction extending over those coming from particular sections, or in regard to particular subjects. I desire to state in this connection the true intent and purpose of the bill. It has no reference, as far as the creation of jurisdiction is concerned, to Northern or Southern claims, Eastern or Western. This bill gives the court jurisdiction to decide nothing.

The House bill, I believe, does the same thing; it gives no power whatever to the court, and I need not waste any time in discussing here whether any power shall be parted with by this Congress and given to the Court of Claims. In one sentence I can tell the whole effect of this bill as to the Court of Claims. It merely says, and there is nothing else essential in it, that either House of Congress, or any committee, or any Department of the Government, may (not must or shall, but may) send any claim to the Court of Claims in order that it may not enter judgment, not send a warrant for payment, not send an appropriation bill here for the payment of their judgment, but find the facts simply and report them to the body which sent the case to them. That is all it does. The Court of Claims may do this, and may, as it finds any other fact in any other case before it, decide these cases so far as the finding of fact alone is concerned. You will see at once the only object of the bill. Congress, or a committee of either House of Congress, may transmit such claims with the vouchers to the Court of Claims and ascertain the facts. We cannot find facts in our legislation here; we cannot examine *ex parte* evidence in all the cases, and it is worthless if we do. We cannot sit as a court, and therefore we will delegate these duties to a tribunal having all the machinery of a law court and which can find the facts in a particular way, and with all the safeguards on the part of claimants, and on the part of the United States of cross-examination and otherwise, and with the same power to summon witnesses and obtain evidence that any law court possesses.

That is all there is in this bill, and I think there is not a man on this floor that will oppose it; in fact I am sure there is not, because the Committee on Civil Service Reform, who reported a substitute bill, have adopted the bill of my committee *verbatim et literatim* from beginning to end, and then attached it to several additional provisions which they think ought to pass. So I think I may dismiss the

discussion of the bill reported by the Committee on Claims, because the gentleman from Tennessee, if I understand him, and all other gentlemen in this House, with amendments or substitutes, admit that this bill is correct, and they propose only an enlargement of its provisions. Therefore, until I have notice that this bill is attacked in any way, I do not propose to say a word more in its defense.

Now, Mr. Speaker, it may be ahead of time for me to criticise the House bill as I will term it for convenience, rather than to call it the bill reported from the Committee on Civil Service Reform, as it is generally known by the term the House bill, I say it may be ahead of time to criticise that before the arguments in its favor are made. But to avoid claiming the floor again, I will as briefly as possible state my objections to the bill.

This bill of the Committee on Claims has been carefully drawn, has been examined by the judges of the Court of Claims, and satisfies them, and I think is perfect so far as it goes.

Mr. BUTTERWORTH. Before the gentleman from Massachusetts draws away from his own bill, permit me to ask him whether according to its provisions this does not open the Court of Claims to all claims and to all claimants? They first are required to file their claims in any department, and thereafter, the claims being pending in the Departments, they have a right to go into the Court of Claims.

Mr. BOWMAN. Not at all, sir.

Mr. BUTTERWORTH. I see no restriction in the language here.

Mr. BOWMAN. I think it does restrict, if the gentleman will observe, by the first section. It provides that whenever a claim is pending before any committee of the Senate or House of Representatives, or before either House of Congress, it may be transmitted to the Court of Claims. This is one of the great merits of the bill as contradistinguished from the House bill, because Congress has said as to certain classes of cases that we exclude them on principle and we do not care what the evidence is.

Mr. BUTTERWORTH. The second section of the bill is the one I refer to, and that certainly does not bear out the conclusion reached by the gentleman from Massachusetts, unless possibly I hold the wrong bill in my hand. The number of the bill which has been handed me is 4467.

Mr. BOWMAN. That is the wrong bill; that is the House bill which you have; the number of the bill to which I am referring is 684.

This is the great difference of principle between the two bills; because you rightly say that under that bill, no matter though Congress in regard to certain classes of claims which might be enumerated, but which I do not care to enumerate now, says that they are not to be paid on principle, nevertheless those claims could go into the Court of Claims for an adjudication of the facts.

Now, my objections to the House bill are as follows. I will ask the Clerk to read the first section of the House bill—the bill No. 4467.

The Clerk read as follows:

Be it enacted, &c., That Congress shall not authorize the payment of any private claim not payable under existing laws until the facts on which such claim is based shall have been judicially established and reported as hereinafter provided.

Mr. BOWMAN. The House will notice that under this clause the bill cuts off all cases where facts may have been already found by another tribunal. It obliges a retrial of the case. No claim can be paid until under this law it shall have gone to the Court of Claims. For example, the State of Massachusetts had a claim against the United States. By act of Congress a judicial commission heard the parties, represented by eminent counsel, decided the case and entered up their judgment, which judgment has never been paid. That case must be tried again in the Court of Claims under this bill. Witnesses may have died; evidence may have been lost or destroyed; and yet in all cases claimants must go to the Court of Claims and try their cases over again—cases where claims are admitted and proved by the Departments, if you please; where the Departments may have given certificates that the claims are due; where the Government has not denied the justice of the claims, and does not wish to contest them. All of these under the law, if this substitute bill becomes a law, must go into the Court of Claims.

I think this is a great objection to that clause. It is contrary to the principles of law or justice to make a man try his case twice over. If he has been once to a tribunal and all his facts are adjudicated, he has a right to destroy his evidence if he pleases, to be careless of it, and let it go, to say he has once tried the case and does not expect to be called on to try it again.

There may be in Congress perfectly plain and simple cases; there may be a case of a man who holds a bond, for example, of the United States, or holds an agreement under seal where there is no doubt about the evidence and no question about the propriety of payment; and that man should not be compelled to go to the Court of Claims.

Now I will ask the Clerk to read the second section, and I ask the attention of the House to that section as it is read, because I can make no better argument against that clause than to have it read, provided it is listened to. I think it will refute itself.

The Clerk read as follows:

SEC. 2. Any person having a claim or matter against the United States in respect of which he desires relief by special act of Congress, and of which the Court of Claims could not under existing laws take jurisdiction, may, before applying to Congress for such relief, file a petition in that court stating the facts and grounds on which the relief is sought, and praying the court to find the facts; and the court, under such rules as it may adopt, shall find the facts as established by the evidence, and report the same, with a copy of the petition and answer of the Government, to either House of Congress.

Mr. BOWMAN. Now, as was suggested by the gentleman from Ohio, we come to the objectionable feature, the great objectionable feature in the substitute bill, which I think should prevent its passage.

Mr. BUTTERWORTH. If my friend will allow me, I want to call his attention to the second section, the second section of his own bill; I have already called attention to it. He will observe under its operation every conceivable character of claim, however founded, however it may have originated, may be filed with the several Departments and by those Departments referred to the Court of Claims.

Mr. BOWMAN. May be.

Mr. BUTTERWORTH. "May be," certainly; they probably would be. There is no limitation at all in that as to the character of the claim. Now, it seems to me some limitation should be provided; some jurisdictional limitation for the government of the court in the considering of claims; otherwise the very claims to which my friend would object I am sure would pour into the Departments by the hundred. Some limitation of time or some other should be fixed.

Mr. BOWMAN. We ought to have a protection somewhere, and the only protection I can think of is in the discretion of the Departments. And secondly, if the Departments do as we think they ought not to do, namely, send improper claims to the Court of Claims, which it is not to be supposed they will venture to do in great classes of objectionable cases, then the Court of Claims only finds the facts and sends them back. Now under this clause of the substitute bill which I object to any person whatever, without any preliminary examination by Congress, by the Attorney-General according to the Edmunds bill, or any other restriction, can open the doors of the Court of Claims, and go right in with his case. Speculative cases, cases which may have no foundation, and where the man thinks he will go a fishing to see if he cannot hunt up something, and possibly get a favorable report—claims barred by limitation, claims barred by the policy of the law, and of the statute, claims barred by the custom of Congress, or of committee, Northern claims, Southern claims, Eastern claims, Western claims—all can go right into the Court of Claims and obtain from that court an adjudication of the facts.

I call to the attention of the House that all other bills have had a safeguard. The bill which I believe is pending in the Senate, known as the Senator Edmunds bill, provides, if I remember, that claims can go into the Court of Claims provided they have the consent of the Attorney-General. That certainly strikes me as an extraordinary provision to say that a plaintiff may sue a defendant in a court provided the defendant first files his consent that he may be sued; that a claimant may sue the United States provided the United States consents. Such a bill is blank paper, or hardly worth the expenditure of the ink and the paper-pulp or wood-pulp used in producing it.

Now, there are certain classes of cases, as we all know, which are barred on principle; Congress does not care to investigate them. When they come before a committee of Congress the committee says, "We do not care what are the facts; we find as a matter of national policy, or of law, or in following precedents, that they are within prohibited classes."

For example, there are many claims pending at this time on account of losses occasioned by battle or the necessary results of the war while the Army was in active operation and where the Army was in active operation. Gentlemen on both sides of the House will say that they do not want such claims considered or paid; that they will not allow the claimant to go into a court and obtain a judicial report on the facts and then by working up sympathy with newspapers or with the people try to build up a case here, and when he gets it into Congress says, "You see, I have a report of the Court of Claims judicially saying that this is a case of terrible hardship; all the facts found judicially, and now I call upon you to pay the claim on those facts."

There are certain other claims barred by customs of committees. For example, the Committee on Claims of the present House early decided that all claims of the following character should not receive a favorable report: of officers or employés of the Army or Navy who have lost personal goods by the sinking of a ship, for example, or other casualties. The question was presented to us whether such a claimant was entitled, besides the pay and emoluments of the service, to insurance on his watch and all other personal property. There are hundreds of such cases here; and as a matter of policy it was determined by us that the United States ought not to insure such claims, and we did not care what were the facts.

Mr. BRAGG. Will the gentleman permit me to ask him a question?

Mr. BOWMAN. Certainly.

Mr. BRAGG. Is it not a fact that heretofore at nearly every session of Congress some committee or other of this House has passed just such claims?

Mr. BOWMAN. Yes; but you will not find that our committee has done it.

Mr. BRAGG. Will not other committees do it?

Mr. BOWMAN. We established the principle that such claims

should not be allowed, and I believe we have followed out that rule faithfully.

Mr. BRAGG. But your committee is not a committee in perpetuity.

Mr. BOWMAN. No, sir; fortunately not.

Mr. ROBINSON, of Massachusetts. You hope to be.

Mr. BOWMAN. No, sir; we do not hope to be. We have had enough of it, and that is why we want this bill to go through.

Other claims will suggest themselves to members as barred by policy, by law, or by precedent. For example, the claims under the Southern claims commission, improperly so called, for it was really a general claims commission. Do gentlemen know what that Southern claims commission bill was? Do gentlemen think that that was a bill for the payment of Southern claims? It was not. That bill did not provide for the payment of a single Southern claim of any kind or nature. That bill provided that a certain tribunal called the claims commission should sit—and do what? Do exactly what the Court of Claims will do under this bill; find the facts, adjudicate them, and report them to Congress for its action. This substitute bill is the Southern claims bill almost *verbatim et literatim*. Do I misstate it?

Mr. HOUSE. You do not state it exactly.

Mr. BOWMAN. Let me send up to the Clerk's desk and have read the second section of the bill known as the Southern claims commission bill.

Mr. HOUSE. The portion of that bill relating to war claims is similar to my substitute, I will admit.

Mr. BOWMAN. While the Clerk is reading section 2 of that bill, I ask members of the House to run along in their minds in parallel lines, following, if they choose, with their eyes, the second section of the substitute bill.

Mr. HOUSE. The gentleman perhaps misunderstood me. I said that my bill was similar to the Southern claims commission bill in reference to war claims alone. I understood the gentleman to say that the whole of my substitute was similar to the Southern claims bill.

Mr. BOWMAN. No; I only meant that section 2.

Mr. HOUSE. I do not controvert that. You must necessarily have some such provision.

Mr. BOWMAN. I call the attention of the House, while the Clerk is reading that section, to the fact that this substitute is substantially a re-enactment of the Southern claims commission bill, which I think expired in 1874.

The Clerk read as follows:

SEC. 2. That the President of the United States shall be, and he is hereby, authorized to nominate, and, by and with the advice and consent of the Senate, appoint a board of commissioners, to be designated as commissioners of claims, to consist of three commissioners, who shall be commissioned for two years, and whose duty it shall be to receive, examine, and consider the justice and validity of such claims as shall be brought before them, of those citizens who remained loyal adherents to the cause and the Government of the United States during the war, for stores or supplies taken or furnished during the rebellion for the use of the Army of the United States in States proclaimed as in insurrection against the United States, including the use and loss of vessels or boats while employed in the military service of the United States. And the said commissioners in considering said claims shall be satisfied from the testimony of witnesses under oath, or from other sufficient evidence, which shall accompany each claim, taken under such rules and regulations as the commissioners may adopt, of the loyalty and adherence of the claimant to the cause and the Government of the United States before and at the time of the taking or furnishing of the property for which any claim shall be made, and of the quantity, quality, and value of the property alleged to have been taken or furnished, and the time, place, and material circumstances of the taking or furnishing of the same. And, upon satisfactory evidence of the justice and validity of any claim, the commissioners shall report their opinion in writing in each case, and shall certify the nature, amount, and value of the property taken, furnished, or used as aforesaid. And each claim which shall be considered, and rejected as unjust and invalid, shall likewise be reported, with the reasons therefor; and no claimant shall withdraw any material evidence submitted in support of any claim.

Mr. TYLER. Will the gentleman allow me to ask him a question?

Mr. BOWMAN. Certainly.

Mr. TYLER. In the law establishing the commissioners of claims, what was known as the Southern claims commission, there is a provision that that commission shall examine only the claims of such persons as maintained their loyalty to the Government of the United States during the war. I inquire of the gentleman if he does not think some such provision is required in his bill referring claims to the Court of Claims? I do not see any such provision in his bill.

Mr. BOWMAN. Because these claims cannot go to the Court of Claims at all under my bill unless Congress or a committee of Congress shall send them there by special vote. This Court of Claims commission bill was passed March 3, 1871, expired in two years, and was subsequently prolonged for two years more, I think.

Mr. TYLER. I think it was still further extended, so that the duties of the commissioners as to the adjudication of claims did not expire until 1879.

Mr. BOWMAN. It was extended four years longer instead of two, I believe.

Mr. TYLER. It was extended as to the time during which the commissioners might receive claims; and they adjudicated them long after they had ceased to receive them. Now, as I understand the gentleman, if Congress, or a committee of Congress, or a Department should elect to send a disloyal claim to the Court of Claims, it could do so under this bill.

Mr. BOWMAN. That could be done under the present bill; but I do not see how it is possible to put into a bill the barred classes of cases. We must leave something to the discretion of Congress or the committees of Congress; and it must be remembered that whatever act may be passed, Congress without regard to it can send claims or not to the court as it may prefer. This is simply a measure to point out a road to Congress or a committee of Congress toward getting cases into the Court of Claims if that be desired.

Mr. ROBINSON, of Massachusetts. Congress can refuse to pay the claims.

Mr. BOWMAN. Congress can always refuse to pay; and Congress may provide payment by a bill whenever it pleases, no matter what sort of a measure we may now adopt. This substitute bill, as gentlemen must admit, is in this clause a re-enactment of the bill for the establishment of the Southern claims commission.

Mr. TYLER. I desire the gentleman's view on another point.

Mr. BOWMAN. I am glad to hear any question.

Mr. TYLER. I want to inquire whether in the gentleman's judgment the examination of these claims by the Court of Claims would not be practically an adjudication in the same way as when claims were examined by the commissioners of claims? I do not understand that the adjudication of those commissioners upon questions of fact was ever reviewed even by a committee of Congress; certainly not by the House. The same is true of claims that come up here from the Quartermaster of the Army.

Mr. BOWMAN. I am glad the gentleman asked that question. It reminds me of a point which I might have forgotten. The action of the court in these cases does not amount to a final adjudication. The position of Congress under this bill will be precisely that of the Supreme Court in regard to legal cases coming before the Court of Claims. Cases may be considered as legal or equitable. All legal cases in which damages are due under existing contract go now to the Court of Claims, and may be taken on appeal to the Supreme Court. When the law was first passed the Court of Claims sent up their cases in bulk—evidence, depositions, and all—to the Supreme Court. That court said:

If we undertake to re-examine all the points of these cases we shall be swamped; we can do no other business. We refuse to consider in that way cases coming up from the Court of Claims.

The Supreme Court adopted a rule to that effect; so that the Court of Claims now makes a finding of fact alone, which generally does not cover more than two or three or half a dozen pages of printed matter of the size of our reports; and this finding goes up to the Supreme Court.

Now, as legal cases go up in that way to the Supreme Court from the Court of Claims, so under this bill equitable cases will come up to Congress as a supreme court of claims in regard to such cases. The position is exactly parallel.

Mr. PEELLE. In regard to the reference of claims of persons who are disloyal to the Court of Claims, I wish to say, in answer to the gentleman, that the question of loyalty is also a question of fact to be ascertained by the court.

Mr. BOWMAN. I am glad the gentleman has referred to that; for it brings up one of the features of the law in connection with this bill which demands the very careful and perhaps the prayerful consideration of this House. Let me suppose that a Southern claimant under this substitute prepared by the Committee on Civil Service Reform goes to the Court of Claims. There is no need of mincing matters; we may as well look these things right in the face. A Southern claimant goes to the Court of Claims; that court reports the facts in his case to Congress, showing perhaps a case of peculiar hardship, appealing strongly to our sympathy, and also reports that the question of loyalty under the law or under the decisions of the court was not one of the material facts, although reported on, or was not one on which the court deemed it necessary to make a finding; that loyalty is of no importance as affecting the case. I believe that ground has sometimes been taken by some courts. I am very much misinformed if it has not been.

Mr. HOUSE. That could not possibly be so under our bill, I think.

Mr. BRIGGS. Suppose the court makes the same report upon a claim under the bill of the gentleman from Massachusetts.

Mr. BOWMAN. Ah, but we have the safeguards beforehand.

Mr. BRIGGS. I do not see them.

Mr. BOWMAN. We provide the same safeguards, I submit to the gentleman, that are now provided. No man can claim that this bill of mine diminishes the safeguards. A committee of the House to-day can report on the question of loyalty; but under this substitute bill the Court of Claims, under the decisions of the Supreme Court, may, if they choose, in their finding report as follows, for example, concerning a Southern claim: "We find the facts concerning this claim to be so and so, and although we are required by the law to find also as one of the facts the question of loyalty, we are satisfied, under the decisions of the court in regard to the amnesty proclamation, that that is an entirely immaterial fact."

When we find the fact we find it so and so, and it is immaterial and cannot lawfully bar a claim, and therefore we so report as a fact on that question."

Mr. TYLER. I hope the gentleman will bear with me for one moment.

Mr. BOWMAN. The gentleman says it is a question of law, but

cannot the Court of Claims say they are required to find the question of loyalty as a question of fact, and it having been decided that it is an immaterial fact, they do not deem it necessary to report it? We are making a law for future and unknown judges to act under, as well as the present ones.

Mr. BRAGG. Permit me to ask what will become of such a claim when reported back to Congress? Must not the entire contest be gone over again in this House?

Mr. BOWMAN. Let me ask the gentleman whether he wants to go over that contest in this House when he can stop it?

Mr. BRAGG. Let me inquire of the gentleman again. There never yet was a claim in which the claimant filed a statement of his personal disloyalty in support of it. I doubt whether you ever saw one where the claimant did not file an affidavit of loyalty in support of his claim.

Mr. BOWMAN. That is so.

Mr. BRAGG. If he filed an affidavit from some one that he was loyal during the war, the committee will send it to the Court of Claims and the Court of Claims will have jurisdiction of it. You make it all depend on the statement filed with the claim whether the claimant be loyal or not, and according to that standard there was never a disloyal claimant.

Mr. BOWMAN. I assume in most of the cases the House intends to abide by the Southern claims commission bill, and to regard that as a limitation in all cases.

Mr. BRAGG. Let me inform the gentleman that this House has violated that rule frequently; that this House has reported bills to pay balances rejected by the Southern claims commission.

Mr. BOWMAN. To attempt to bring up isolated or not isolated cases or whole classes of wrong legislation is no answer when we are trying to put additional safeguards in the way; to put additional adjudication by the Court of Claims in the way, when we have nothing to-day but a one-sided *ex parte* adjudication by a committee of Congress which cannot examine the evidence. And when we propose to put up additional bars, to say that beside doing what you have done before you must go to the Court of Claims and obtain a legal adjudication, it is no answer to say that under an inferior mode of proceeding like the present bad cases have received payment.

Mr. TYLER. Will the gentleman from Massachusetts bear with me?

Mr. BOWMAN. I am glad to have gentlemen ask me questions.

Mr. TYLER. I cannot see any objection to having the same safeguard thrown around the Court of Claims in examining these cases that was thrown around the Southern claims commission, so called.

Mr. BOWMAN. Perhaps the gentleman knows what weight is attached to that in the Court of Claims.

Mr. TYLER. That the Court of Claims should first ascertain the loyalty or disloyalty of the claimant, and if disloyal the report should be adverse. Under this bill they are to go on and find the facts.

Mr. BOWMAN. You mean my bill and not the House bill.

Mr. TYLER. They would find whether the claimant was loyal or disloyal, and if disloyal the report should be adverse. They might proceed to examine so as to report the whole case back to Congress. We had an example of that a week ago to-day, where the Committee on Claims reported back a bill where they found the claimant was disloyal but still recommended the passage of the bill. I say there should be a provision which should bar out a disloyal claimant. The first thing which should be examined and adjudicated by the Court of Claims should be whether the claimant was loyal or disloyal, and if disloyal that should be the end of that claim.

Mr. BOWMAN. I do not object to any amendment of that sort, but desire to adopt all of the safeguards, for they will do no harm.

Mr. TYLER. It did no harm in the Southern claims commission to establish just such safeguard.

Mr. BOWMAN. I find I must hurry over the different clauses, as my time has nearly expired.

Now, the fourth section of the substitute bill attempts to set up a protection against this kind of facts or state of law by providing that the court shall find the question of loyalty, but that does not prevent the court finding all the facts and reporting them. Loyalty is one of the facts. In regard to Southern claims, claims for losses which were the necessary result of battle or war; claims for losses by stealing by soldiers; claims for the destruction of buildings or supplies to prevent them falling into the hands of the enemy; in all these cases the court under this substitute bill finds all the facts and reports all the facts which may be established as a foundation for working up sympathy in the newspapers among the people or in Congress, and makes this fact one isolated fact, the question of loyalty. It does not say that the court shall not find and report the facts until it has first found that the claimant is loyal, but it allows the court to find all the facts, one of which is the question of loyalty, and precisely as was provided in the case of the Southern claims commission; and if I am wrong in that statement I would like to be corrected now.

The fifth clause of the bill provides that all claims now pending in either House of Congress at the final adjournment thereof, petitions, bills, resolutions, and memorials, the whole mass pending in Congress, is to be put into carts and teamed down to the Court of Claims and dumped bodily into that court—thousands upon thousands of cases—I think in the last Congress there were about twenty-four thousand of them; I do not mean of the private claims merely, but of all matters before Congress, and of these I do not know how many were private claims, but probably a large majority were. This whole mass is all to be dumped down into the Court of Claims.

Now, I do not know what the court will do, or what provision they will make for taking care of them. The mere indexing, assorting, them, putting them away, docketing the cases, calling them for default or otherwise, would require the service of a largely increased clerical force. Thousands of these claims are utterly worthless. Claims that the claimants themselves never thought worthy of pressing, where the claimants in many cases did not appear before the committees even to press their claims; claims, which have no evidence to substantiate them; worthless speculative cases, fictitious cases, all must go, and notwithstanding this and no matter what their character may be, the whole mass of rubbish must go down bodily to the Court of Claims and impose additional labor and expense upon that body.

The sixth clause is an absolute bar to all claims occurring prior to 1866, and not pending since 1860 in Congress. Now, Mr. Speaker, I want to say here that I have no sympathy whatever for the defense of a claim being stale, which is a favorite defense here, especially on the part of those who may be desirous of having the reputation of being the watch-dogs of the Treasury. I have not the slightest sympathy with that defense, and it weighs very little with me in the consideration of any question. I shall never be satisfied to take the position of an advocate for the refusal of the Government of the United States to pay its honest debts. Many of these claims are barred by the statute of limitations in this bill when the fault is not with the claimant. They have been coming here year after year with their claims, many of which should have been paid years ago. I have no sympathy therefore with the defense that a case is stale, or that a man who has grown old in prosecuting it has abandoned it. Perhaps he was not able longer to prosecute it, and would not or could not come to Congress after useless trials, and for years perhaps had necessarily allowed the claim to slumber. Newly-discovered evidence may be found in support of claims.

The gentleman opposite me brought such a case before our committee within the last few days, a perfectly just claim supported by evidence which had been voted upon in the Continental Congress, a revolutionary claim, and the heirs had just discovered it. There was no possible doubt about the fact that every single cent was due just as claimed. The defense of limitation by the United States where the debt is honest and justly due, (let me assume that always—where it is honestly due, where the evidence shows it to be due,) I say this defense is often a cruel one on the part of a great government, and it is often unjust to set up a plea in defense that the claim has expired by limitation and should not be paid. I do not believe in the justice of such a plea. Let me send to the Clerk's desk and have read an article which I saw the other day in reference to the effect which this statute or doctrine of limitations has had in the case of one of the honest creditors of the United States; in a case where the money was due, where the United States admitted the justice of the claim, and where this claim was barred by this statute of limitations. I ask the Clerk to read the extract which I send to the desk.

The Clerk read as follows:

One could wish, for the honor of our country, that this were the end of the story of the life of Arthur St. Clair. But the saddest tale remains to be told. When he returned from his long service in the Northwest Territory, almost penniless, he endeavored to save something from the wreck of his affairs to support his few remaining years. In the dark days of the Revolution he had advanced from his own means, and at Washington's request, $1,800 for the recruiting service, which helped to save to the Army the Pennsylvania Line, which was its flower; and now, in his great need, and with orphan grandchildren dependent upon him, he asked Congress to repay him that sum. A committee reported that the money had been furnished and expended for the benefit of the United States, but that it was barred by the statute of limitations, and recommended the denial of his petition. Again, in the management of the Indian affairs of the Territory, and to carry out the orders of the Secretary of War, he became responsible for $9,000 of supplies furnished to the Government. He had the assurance of Alexander Hamilton, as Secretary of the Treasury, that this claim should be paid with interest; but when he applied to Congress payment of this just debt was refused, and again because of the statute of limitations.

An English gentleman who chanced to be in Washington during the discussion upon General St. Clair's claim thus described his appearance: "This aged patriot, with clothes which might seem, from their appearance, to have felt the effects of all the seasons for the last ten years, with flaxen hair, tottering limbs, a care-worn countenance, deeply dejected from supposing his country ungrateful, and with one foot in the grave, is now a petitioner to that people in whose service he spent his youth, his treasure, and his blood, aiding them in their emancipation from external dominion, and in raising them into a great and an independent nation." Mr. Smith says Henry Clay was among those who befriended St. Clair on this occasion; but this traveler says the prominent leader against St. Clair's claim was Mr. Clay, of Kentucky, whose argument he listened to. However this may be, all that Congress would do was to allow him a pitiful pension, which an unfeeling creditor seized upon at the very door of the Treasury. He returned to Western Pennsylvania, where all that remained of his property had been swept away by the debt contracted for the Indian supplies, and he went forth, in extreme old age, to dwell in a log cabin, in great privation, until the summer of 1818, when death came to his relief. His remains rest beneath a simple memorial, the inscription on which truly recites that it is "an humble monument erected to supply the place of a nobler one due from his country."

Mr. BOWMAN. There is an example of the effect of this beautiful statute of limitations. Allowing that the money was due, it being admitted by a report of a committee of Congress that the debt was justly due, an old soldier who had fought through the war of the Revolution was allowed to die in his log cabin, in great penury and suffering. There are other cases, many of them. I will only refer

to the somewhat romantic case of General Sutter, that old gray-haired gentleman from California who came before our committee in the last Congress—a man who had lived like a prince in his own dominions, who received and cared for General Frémont and his hardy pioneers and our bands of soldiers on their exploring expeditions to the great West and across the continent; who, with his fort mounted with cannon, with his hundreds of horses and cattle, and his great fields of grain, was independent and prosperous, and a great part of whose province was taken from him and sold by the United States. I might picture this old man, gray-haired and feeble, sinking into his grave, dying as he did last year in disappointment and want, and unable to get a dollar of his money out of the United States Treasury, money that was justly his due. I do not like this statute of limitations against honest claims. The statutes of repose assume that the creditor has failed to recover, and that if he does not it is his own fault or negligence; but no such presumption arises here. How much time have I remaining?

The SPEAKER *pro tempore*, (Mr. ROBINSON, of Ohio.) The gentleman has five minutes of his hour remaining.

Mr. BOWMAN. There is no such presumption here for a statute of repose. A man can come here on his knees and humbly beg that Congress will give him his money, but he cannot sue or compel, and in nine cases out of ten Congress never will give him his money.

The seventh clause of the House bill is a good amendment. I will offer it if no one else does as an amendment to the bill of the committee of which I have charge. It did not occur to us; but the judges of the Court of Claims and others say that it is a good thing that these international disputes between the United States and foreign governments may be sent to this Court of Claims for the finding of the facts.

I will occupy only a few moments more. Here is the great difference between the two bills. The one a permissive bill; a simple, compact bill allowing claims to be sent by committee or by Congress to the Court of Claims; the other a broad, sweeping, open bill, sweeping in all classes of claims without any discrimination and without any bar. All claimants whatever, whether they are going afishing to see what they can get; whether they have speculative claims; whether they have claims barred by principle or by statute or by precedent, all of them can go right into the Court of Claims with their cases, no matter what they are.

I only want to say a word, Mr. Speaker, concerning the absolute need in the interest of justice and in the interest of fair dealing of some bill of this sort passing. I cannot delay long upon this subject. In the first place, as regards the United States, some bill of this sort is necessary. How are cases tried here to-day? There is no security against fraud. The evidence is all taken by *ex parte* affidavits or mere letters; no opportunity to see a witness; no opportunity to confront him; no opportunity to meet him even by a written question; no opportunity to examine him in any way; no examinations for the defense, and no evidence for the United States, unless it is to be found among the records of the different Departments. A good honest deposition looks no better, is written on no whiter paper, has no better penmanship than a fraudulent deposition, and the United States is absolutely without any guard or any security against fraud. But, Mr. Speaker, grievous as are the wrongs and possible injustice toward the United States, they bear no comparison with the wrongs of the creditors of the Government. Every member of this House knows that a private claim against the Government requiring the interposition of Congress is almost worthless; I venture to say that no gentleman of experience upon this floor, if a man came to him and said "I have a contract of the United States; I have an agreement acknowledging in the most solemn terms that they owe me a certain sum of money; all the Departments say and every one acknowledges that the money is due, but I need the interposition of Congress," I say (I think without exaggeration) that, as a purely mercantile transaction, there is no man on this floor that would give ten cents on the dollar for any such clain.

Mr. BRIGGS. Would not that claim go to the Court of Claims now?

Mr. BOWMAN. Not unless it was a legal claim under the law.

Mr. BRIGGS. All claims founded on a contract may go to the Court of Claims.

Mr. BOWMAN. It may be a claim barred by limitations, or there may be other defenses.

Mr. BRIGGS. Then do I understand the effect of your bill to be to remove the limitations?

Mr. BOWMAN. No, sir; not at all.

The SPEAKER *pro tempore*. The time of the gentleman from Massachusetts has expired.

Mr. ROBINSON, of Massachusetts. My colleague from Massachusetts has given a great deal of time to this matter, and the House wants instruction on it. If my colleague wishes to have ten or fifteen minutes more, I think the House will readily grant him that time.

Mr. BOWMAN. I only wish about ten minutes more.

There was no objection, and Mr. BOWMAN's time was extended for ten minutes.

Mr. BOWMAN. I am obliged to the House for its courtesy.

Mr. Speaker, I do not think I can exaggerate the wrongs of claimants. What is the reputation of an individual, rich and able to pay his debts, who refuses to pay them? We say that that individual swindles. That is what we call it; and I say (and I do not believe the expression is exaggerated) that notwithstanding the talk I hear on this floor and elsewhere of the swindles on the Government, I venture this assertion that the Government every year swindles people out of more money than it is swindled out of. I use that expression, offensive as it is, because it is a strong term and may sink into people's minds; and seeing the grievances of claimants, how they come up here year after year, I desire to arouse a public sentiment here at least which will somehow compel these United States to pay their honest debts to honest claimants. I say that the refusal, or rather the neglect, or rather by reason of the amount of business in our hands the impossibility of securing payment for honest creditors, is a public disgrace. Claimants come here year after year. They grow old and gray in the service. When they are once bitten with the tarantula of thinking they can recover a claim here, they will not abandon it and their children will come after them.

The case of Jarndyce *vs.* Jarndyce, dragging along in English courts, is nothing to cases which come up here at every session. Revolutionary claims come before us frequently, honest, just claims, and claims of the war of 1812. Claimants come to us and their heirs and descendants for all the years from the beginning of the Government to the present time. And do they get their pay? Not in one case out of ten. The cases serve as foot-balls between the two Houses of Congress. In one Congress the case goes through the Senate; in the next Congress it goes through the House; in the next Congress, through the Senate; and in the next Congress, through the House; and so for generations cases act as foot-balls and are kicked back and forth between the two branches.

It is absolutely impossible for cases to be properly considered and acted on here in Congress. I call the attention of the House and of the country to the immense mass of business in the Forty-fifth Congress, for example. In that Congress the total number of House bills and joint resolutions were 7,676; of Senate bills and joint resolutions, 2,391; of petitions, about 14,000. The total of matters in the Forty-sixth Congress amounted to the enormous number of 24,067.

Look at this book, [holding it up in his hand,] the Calendar of this House, a veritable tomb of the Capulets, a grave of dead hopes. There are more tragedies bound up within the covers of this book than in any novel or set of novels ever written. That book represents money due to poor widows and children and heirs of revolutionary soldiers, or of other worthy and suffering claimants. It represent hopes that have been abandoned. It represents claimants who have come here year after year praying the United States to pay its honest debts, and it represents the disgrace of the United States in not paying its just dues to honest men and women and children, and to soldiers, and sailors, and to many a one who has deserved better treatment at his country's hands.

The Committee of the Whole House on the state of the Union has on its Calendar 179 cases; it is the Calendar of last Monday. The House Calendar contains 87 cases; the Private Calendar, 324 cases; of special orders, 8 cases; of unfinished business, 14 cases; of Senate bills on the Speaker's table, 170; a total of 782 cases.

We have sat here month after month, and have reached the House Calendar but once during this whole session, and we probably will never reach it again. There are pages on pages of the House Calendar, and we never see it, and probably shall see it but once during this whole Congress. There is the Calendar of the Committee of the Whole on the state of the Union which we almost never get to. I believe we have not been to it more than two or three times during this whole session.

Mr. ROBINSON, of Massachusetts. Will the gentleman allow me to ask him a question right there?

Mr. BOWMAN. Certainly.

Mr. ROBINSON, of Massachusetts. As we are looking for relief, I would like to inquire of my colleague concerning the result of the work of Congress on the reports of the Court of Claims; whether he expects that Congress after receiving such reports will proceed to act upon individual and separate claims; whether such claims will go upon the Calendar separately, or whether they will come before us in bulk, like the quartermasters' claims bill which we passed one day not long ago? If that is to be the result of the operation of this bill, then such claims will receive no consideration hereafter. If we do not pass them in bulk but take them up individually and consider them, will we not have just as large a Calendar as we now have? I do not ask this in opposition to the bill, but in order to get at the facts.

Mr. BOWMAN. I am glad my colleague has asked me the question; though to tell the truth I did not venture or wish to take up this subject in the bill, because I wanted a plain, simple bill that would go through, and which might be improved afterward, if it was found necessary. I will tell the gentleman in a moment what my idea is and what I think should be done.

Taking this bill as it stands, I assume that when the facts, in short printed statements of not more than two pages each in a majority of cases, shall come before Congress or a committee of Congress under the authority of the Court of Claims and after a judicial examination, the committee and the House will adopt such statements of facts and

come very speedily to a conclusion; certainly as speedily as we now do in pension cases, which do not materially delay the House or clog the Calendar at the present session.

Now, what possibly may be done, as the gentleman suggests, is this: when this system shall go into working operation and we shall see, as I anticipate we shall, the good results flowing from it, and we find our committees spend no time in examining evidence in claims; that short and simple reports coming from the Court of Claims are adopted as a sound basis for our action; when this experiment has been so fully tried as to satisfy the House that it is the honest and just and proper mode of disposing of these claims, then it may be that the Committee on Claims under new laws or rules, as the Committee on Appropriations now do, may report a general claims appropriation bill. Some method, if thought advisable, might be adopted by which the Committee on Claims could report a general claims appropriation bill, giving in the report accompanying it a short *résumé* of the facts, in a shape, perhaps, like the ordinary head-notes in our legal reports.

A general claims appropriation bill might be brought in with an accompanying report, stating in a few lines under each claimant's name the gist of his case and what points are involved in it. The whole bill can be taken up and considered as we now consider an appropriation bill for the Army or for the Navy, or for the improvement of rivers and harbors; but all that has nothing to do with this bill.

I do not want that to enter into this discussion, because I do not want gentlemen to say that this is intended as an entering-wedge for the other; that it is intended that all these claims shall be lumped together and passed in that way. All I want this bill to do is to demonstrate to the House that this is the honest and just way to decide claims, both in the interest of the United States and in the interest of honest claimants.

The SPEAKER. The time of the gentleman has expired, and the gentleman from Tennessee [Mr. HOUSE] will be recognized as entitled to the floor.

Mr. ROBINSON, of Massachusetts. I desire to make a single statement, but if the gentleman from Tennessee, [Mr. HOUSE,] who is entitled to the floor, wishes to go on now I will not take up any time at present.

Mr. HOUSE. If the statement is brief it will make no difference.

Mr. ROBINSON, of Massachusetts. I only want to say a word or two in the line of what my colleague [Mr. BOWMAN] has said, in order that we may look through to the end of this thing, as we ought to do in all matters of legislation. It seems to me that we should endeavor as far as possible to anticipate somewhat the result of the proposed legislation.

Under any of these different projects a great body of claims will be sent to the Court of Claims for a report upon the facts. They will come back here in a budget; and we may well contemplate that the amount will run up to a great number of millions—perhaps ten, perhaps fifty—nobody can now tell the amount of money which these claims may involve. Now, I submit for the consideration of every member whether we are likely to get such a safe and careful examination of these claims as we ought to have if they are embraced in bulk in a single bill, different Representatives in the House combining perhaps in support of that bill covering possibly $50,000,000 to be paid in different parts of the country. I question very much whether we shall be able to consider as we ought such a bill. It is not without our experience to see gentlemen on even such a matter as the erection of a public building remaining here until the close of a long day's session in order that one gentleman may support the other, and a third the two, and a fourth the three, so as to have a two-thirds vote to get certain bills through. I will not give such a proceeding its ordinary name. We know what it is. We know how members in that way remain here at the cost of personal discomfort in order to accomplish something that they desire.

Mr. BOWMAN. I hope the gentleman will not discuss that. I avoided striking that snag in the bill——

Mr. ROBINSON, of Massachusetts. I noticed that you did.

Mr. BOWMAN. Because I did not want to have that point raised in connection with this bill.

Mr. ROBINSON, of Massachusetts. It is the very "snag" that is in the stream; it is the first "snag" we see; and I am in favor of knocking it out of the way; or if it is one that we cannot get over or around, let us back water a little and take our bearings.

I only throw out this suggestion in order that gentlemen in discussing this question may come right up to the magnitude of the issue and meet it distinctly.

Mr. BOWMAN. Only one word. The point suggested by the gentleman is not contemplated by the bill. This bill no more contemplates putting all claims together in a single measure than putting all other subjects together. If the House should consider this experiment a good one, it may avoid the possibility which the gentleman speaks of by adopting a new rule. That is the real size of the "snag;" it has no substantial existence.

Mr. ROBINSON, of Massachusetts. But we cannot shut our eyes to results of that kind. The gentleman says that his bill does not approach this question. But I want to meet it. I say that we are called upon to meet it at once here and now. We want to pay honest claims; but let us determine whether we are in danger of doing any thing more.

Mr. HOUSE. Mr. Speaker, all the objections raised by the gentleman from Massachusetts last on the floor, [Mr. ROBINSON,] can, I think, be much better considered when we come to take up this bill by sections for amendment. Whether Congress shall consider these claims in one bill or a hundred bills is a matter for Congress itself to determine. It does not, in my opinion, touch the merits of the proposition to refer these claims to the Court of Claims.

In reference to the objections which the gentleman from Massachusetts [Mr. BOWMAN] has raised to the substitute presented by me, I propose to defer a reply to those objections until we come to consider in their order the several sections to which he objects. I think I shall then be able to show—I hope to the satisfaction of the gentleman from Massachusetts himself—that many, if not all, of his objections are without foundation. I regret very much that he has felt constrained to object to the substitute that has been offered for his bill. As he has stated, the entire bill which he reported from the Committee on Claims is incorporated in the substitute which I had the honor to report from the Committee on Civil Service Reform. But the substitute which I propose has much more extended range than his bill, and I think a range that is necessary in order to accomplish what this House wants to accomplish; that is, to give honest claimants a chance to have their claims heard, and to relieve Congress from the burden of their consideration.

But, as I have said, Mr. Speaker, when the substitute is reached, when it is being considered in the House as in Committee of the Whole, section by section, I shall then take occasion to reply to the several objections which the gentleman from Massachusetts has urged against it. For the present I desire to place before the House the provisions of my substitute and the reasons for its adoption.

Mr. Speaker, the subject of the investigation by Congress of the private claims of citizens against the Government has been for a long time a vexatious and troublesome question and a source of much censure and dissatisfaction on the part of claimants who have been doomed to await for years the action of Congress in their cases until their patience has been exhausted and their lives perhaps worn out in the vain effort to recover what they regard as an honest claim against their Government. From time to time efforts have been made by Congress to relieve itself of the perplexity and burden of the vast mass of these claims that have accumulated upon its hands from session to session and from term to term. But they have increased and multiplied and assumed proportions which dispel all hope that, with its unsuitable and cumbrous methods of dealing with such matters, Congress will ever be able to free itself of the thousands of claims that crowd its committee-rooms and calendars, consuming the time of members that ought to be given to the consideration of questions of public importance and general interest. A just government owes something to its citizens upon whose strong arms and brave hearts it leans for protection in the hour of danger, and upon whose industry, energy, and enterprise it depends for its prosperity. The situation demands that something should be done for the relief both of Congress and the claimant. I am much gratified to be able to state that I believe there is a very general desire in the House to do all in its power at this session of Congress to afford the needed relief, or at least to make an earnest effort to accomplish that object.

It is much easier to see and feel the evil complained of than to devise a remedy. But we can take a step in that direction and, guided by the light of experience hereafter, correct whatever defects and imperfections may be found to exist in any plan which we may now adopt to relieve the situation. A brief glance at past legislation upon this subject may enable us to avoid the mistakes that have marked former efforts and afford us some aid in the task now before us.

In the year 1855 Congress passed an act establishing the Court of Claims. This court was invested with jurisdiction of all claims founded upon a law of Congress or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, and all claims which might be referred to it by either House of Congress. The court was to consist of three judges, to be appointed by the President, by and with the advice and consent of the Senate. This act seems to have been very carefully prepared by some of the most distinguished lawyers in Congress, and but little doubt was entertained by its authors that it would give Congress relief from what was thought even at that day to be a great annoyance and a serious obstruction to the consideration of matters of public and national concern.

But this well-considered and deliberately devised plan, when reduced to practice, fell below the expectations of its friends, and failed to produce the desired results. The act contained provisions which caused considerable friction in its practical operations. It required the court at the beginning of each month during the session to report to Congress the cases on which they had acted, stating the facts of the case, and the reasons therefor, and to transmit with their reports the briefs of counsel and the testimony in each case. Congress was thus made a court of appeals, to review the law as established by the court, and to pass upon all the facts of each particular case, so that when a case was investigated by the court and reported to

Congress it imposed upon Congress all the labor which was necessary to be performed before it went to the court. This, of course, was not intended, but when the act required a complete record of all the proceedings in the court to be returned to Congress, members felt that a duty was imposed on them to examine the record before granting relief. The consequence was that committees were again crowded with the same business from which they had endeavored to escape, and the claimant was compelled to go from Congress to the court, and to follow his claim from the court to Congress again, only to find Congress as helpless to relieve him as before, on account of a want of time to investigate his case.

If Congress had determined to accept the facts as found and the law as settled by the court, its labors would have been so abridged and simplified that speedy relief to the claimant would have followed the report of his case to Congress. Considering the nature of the jurisdiction conferred upon the court, there was really no necessity for any report to Congress at all in the premises. The court was empowered to render judgment, and the judgment of a court of competent jurisdiction ought to have ended the matter and left nothing to Congress but an appropriation of the money to discharge the judgment, and Congress finally came to that conclusion. This but adds another illustration of the difficulty of being able to foresee, in framing a measure, all the imperfections which may be developed in its practical workings, and to provide against them. But a beginning had been made—a court had been established, a tribunal provided to take charge of a large class of cases that had troubled claimants and impeded the legislation of Congress, and it only remained to rectify the mistakes that experience had pointed out to make the machinery provided fulfill the object of its creation.

An amendatory act was therefore passed in 1863. By this act two additional judges were added to the court, making five in all, of which number the court now consists, and an appeal was allowed to the Supreme Court by either the claimant or the Government when the sum in controversy amounted to $3,000. The requirement contained in the former act creating the court, that the records, evidence, briefs of counsel, &c., should be reported to Congress, was repealed, and thus the whole class of cases embraced in the act was eliminated from Congress and their final determination remanded to the courts. After these and such other amendments as the practical workings of the court had shown to be necessary, the Court of Claims moved on in its appointed sphere without difficulty, filling the idea and meeting the expectations of its authors in relieving Congress of thousands of claims which before its establishment had found their way here, because there was no other place to which the claimant could go to obtain relief.

Judge Richardson, of the Court of Claims, in a very interesting article in the Southern Law Review, on the history, practice, and jurisdiction of the court, makes the statement that 12,815 cases against the United States and three hundred and forty-two cases against the District of Columbia had been disposed of by the court from the time of its organization to 31st December, 1881. We might well pause here to inquire how long it would take Congress with its cumbrous and dilatory methods of procedure to dispose of that number of cases. The result has fully vindicated the wisdom of Congress in establishing the court.

But, notwithstanding the large number of cases of which this court has permanently relieved Congress, we still find ourselves so crowded with private claims that Congress calls for relief with a voice as earnest as that of any claimant that knocks at its doors. The question may arise in the minds of some why it is that after Congress has established a tribunal for the trial of private claims all these claims do not seek or are not sent to that court for final adjudication. It must be borne in mind that that court has jurisdiction only of that class of claims founded on a law of Congress, the regulation of an Executive Department, or on contracts express or implied with the Government, and which can therefore be finally disposed of by the judgment of a court, whereas the great mass of claims that are now before Congress are of a character to which the fixed rules of law are inapplicable, and which, therefore, no court can well decide. They are cases founded upon no legal right, but upon what the parties claim is simple justice on the part of the Government toward its citizens. They are therefore addressed to the sense of justice, the generosity, if you please, and the discretion of Congress. Each claimant asks relief upon the peculiar facts and circumstances of his individual case.

It would be impossible to frame a general law which would embrace such cases. They must, therefore, rest for their solution to a great extent upon the discretion or liberality of Congress as applied to each particular case. And unless a court should be clothed with the power to exercise this liberality and discretion, it would lack the jurisdiction necessary to a proper disposition of the case. When the rights of parties are defined by the established rules of law the courts are the proper and only tribunals to which they should be referred. But when cases are presented which lie outside of the rules of law, in the broad and undefined fields of generosity and discretion, Congress alone should judge of the propriety and measure of the relief sought. Of course, Congress would not be willing to confer upon any tribunal, however pure and able, the exercise of a discretion in which millions might be involved. It would be a surrender to another of that guardianship of the Treasury which the people expect their Representatives to exercise themselves. And besides, the Constitution gives to the citizen the right to petition Congress for a redress of grievances.

If this right means anything, Congress must be the final judge of the measure of relief, and cannot properly delegate the right of ultimate determination to any other tribunal. When a legal right exists against the Government, the claimant must go to the forum provided by law for its adjudication, and the right of petition preserved to the citizen in the Constitution must of course relate to those grievances for which no remedy has been provided in the courts of the country. The claims which now fill our committee-rooms and clog the wheels of legislation are cases of which the Court of Claims has not jurisdiction under existing laws. They have been greatly increased and multiplied by causes originating during the war and growing out of that great struggle, until to-day Congress stands appalled at their number and magnitude, and all admit the utter impossibility of ever being able to dispose of them by Congressional action alone. But the vast number of those claims, fearful and disheartening as the array is, does not constitute the only obstacle to Congress in disposing of them. They come before us based on a character of evidence which Congress does not feel willing to accept as conclusive of the facts embraced in their determination. As a general thing they stand on the simple statement of the claimant himself, supported by the *ex parte* affidavits of persons of the claimant's own selection of whose character Congress can know nothing, whose statements have never been tested by a cross-examination, and with no opportunity afforded the Government to introduce any opposing testimony whatever.

All must feel and have felt the unsatisfactory nature of such a presentation of claims for relief and of the danger of acting upon such testimony. Under such proof no means are afforded to sift the false from the true. Congress must necessarily feel, when called to pass upon a case thus authenticated, that it is making a leap in the dark, that its decision, at best, is but a guess which may or may not be correct. This embarrassment has been all along felt to be a very serious one, and various efforts have been made from time to time by committees of Congress to relieve the situation of the difficulty. With this object in view the act of February 3, 1879, was passed. That act authorized any committee of Congress to have depositions taken to evolve the real facts in the cases pending before them, and to have books and papers examined and copies thereof proved before any standing master in chancery of any circuit court of the United States within the judicial district where such testimony or evidence was to be taken. The master in chancery was empowered to issue subpœnas and attachments to compel the attendance of witnesses on behalf of either the claimant or the Government, and provision was made to have the Government properly represented in the taking of such proof. After the depositions were thus taken, it was made the duty of the master to properly certify and seal the same and transmit them to the chairman of the committee under whose order the proof was taken. The authors of this act seem to have fully realized the embarrassment and danger of being compelled to rely on *ex-parte* testimony, and they sought a way out of the trouble by clothing the committees of Congress with the powers of a court in having testimony taken.

But this failed to remove the difficulty or to afford any practical remedy. Committees of Congress of course had not the time to exercise the functions of a court to have testimony taken all over the United States in the thousands of cases before them. The statute proved a dead letter. But its authors were right in one respect; they had discovered the real thing wanted—that is, a judicial investigation of the facts in the cases on which they were called to pass. They made a mistake in imposing the duty of having this done by Congressional committees, incapacitated for other reasons besides a want of time for performing this labor. What the act of 1879 proposed to have done by committees of Congress the bill now under consideration imposes upon the Court of Claims, a tribunal, as I hope to show hereafter, admirably adapted for the cheap and expeditious performance of the work. I feel it altogether unnecessary to attempt any argument to prove the absolute necessity of some measure to accomplish the object proposed by this bill. The treatment which the honest claimant now receives at the hands of the Government would be a disgrace to the civilization of the age if it arose from a deliberate intention to wrong him. But such is not the case.

The number of cases that have found their way to Congress, because they could go nowhere else, together with the character of testimony by which they are supported, have constituted and must continue to present the great barriers to a speedy hearing. Men come here from session to session and from Congress to Congress and importune us for relief. Constituents press their Representatives by letter and otherwise for action in their cases, and without understanding the situation often censure their immediate Representative for inattention to their interests when no censure is deserved. A very few cases, by striking a breeze of good luck, sail through and reach the port of final action. Some succeed in getting their cases on the Calendar, there to sleep until the resurrection trump of a new Congress calls them from their repose to revisit again the scenes of their early life in the committee-room. Others, seemingly more fortunate, survive the malarial atmosphere of the Calendar and run the gauntlet of the House only to find "an illustrious epitaph and a marble

tomb" in the Senate. But by far the largest number sleep, like Egyptian mummies, in the dust and silence of the committee-rooms, unvisited by a ray of sunshine or the breath of Heaven.

Thus one class of claimants are doomed to roll the stone of Sisyphus; another to gaze with longing eyes and thirsty lips upon the unattainable fruit and water of Tantalus, while still another are broken on the cruel wheel of Ixion. Thus from year to year these claims drag their slow lengths along and the claimant finds no relief unless the friendly hand of death, which puts an end to all earthly cares, grants him a sweet oblivion of all anxiety for his claim before Congress. It is no honor to any government to thus treat its honest citizens. If they have meritorious claims they ought to be paid, and the claimant ought to be vouchsafed a fair and respectful hearing; but so many fraudulent claims have slipped through Congress disguised in *ex parte* affidavits that many members have come to regard a man with a claim as *prima facie* a scoundrel who is seeking to swindle the Government, and really regard it as their duty to throw every obstacle in the way of his success.

Such is briefly the situation, and although it may seem a hardship to require an honest claimant who has been praying Congress for relief for many weary years now to go to the Court of Claims to have the facts in his case investigated, he may console himself with the reflection that although it may appear a long road to travel, it is really the shortest way out of his difficulties. He may set it down as a fixed fact that if his claim remains in Congress to be disposed of here on *ex parte* affidavits he will leave whatever interest he may have in such claim to his heirs or personal representative. He may think that Congress ought long before this to have provided a tribunal into which he could go and have his case investigated, and in this opinion I fully agree with him. But the fact that it has not been done heretofore does not and cannot relieve the necessity of doing it now. And as I have before stated, Congress has been making efforts to relieve itself of these claims and to relieve the claimants.

Hon. Clarkson N. Potter, of New York, whose recent death was a national loss, introduced a bill in the Forty-fifth Congress somewhat similar in its provisions to the bill now under consideration, which was known as the Potter bill. This bill passed the House in the closing days of the Forty-fifth Congress, but failed to pass the Senate. In the Forty-sixth Congress, the late lamented Michael P. O'Connor, of South Carolina, to whose memory fitting tribute was so recently paid in this House, introduced a bill similar in its provisions to the Potter bill, but it failed to become a law, as I now remember, for want of an opportunity to have it considered by Congress. This leads me to a more detailed consideration of what is proposed to be done by the measure now before the House. The leading idea of the bill, as its title imports, is to have the facts in cases of private claims judicially ascertained and reported to Congress by a competent court, and to lay it down as the settled policy of Congress to authorize the payment of no money on a claim supported by *ex parte* testimony. It is not proposed to deny to any citizen the right to present any grievance to Congress that he may desire, but he must understand that Congress is under no obligation to grant him relief in a case where the Government has had no opportunity to cross-examine his witnesses or to introduce its own.

We say to the claimant: "If the facts you state are true, your case is worthy of consideration. We propose simply to ascertain whether the facts are as you state them. Your witnesses can tell the truth as well in the form of a deposition and under a cross-examination as they can in the form of an *ex parte* affidavit if they are honest men. And, besides, the Government from whom you seek money has as much right to present its side of the case as you have to present yours, and certainly as much right to protect itself against the perpetration of a fraud as any citizen can possibly have to commit a fraud upon it. When both you and the Government have produced your witnesses and subjected them to the test of a cross-examination, the facts thus established will afford satisfactory ground on which Congress can stand and declare whether you are entitled to relief. But Congress must first learn the facts before it can intelligently pass upon the merits of your case, and those facts it proposes to obtain not from one side, but from both, with the witnesses of both subjected to such tests, as experience has proven to be efficacious in developing truth and exposing falsehood and fraud."

I see no good reason for an honest claimant to object to this; it is fair and just to him and to the Government. Every person who has a claim against the Government of which the Court of Claims has not jurisdiction under existing laws and in respect to which he desires relief by special act is authorized before coming to Congress to file his petition in that court, stating the facts and grounds on which relief is sought, and praying the court to find the facts, and the court is directed to ascertain the facts as established by the evidence, and report the same, with a copy of the petition, to either House of Congress. The party under this provision may in the first instance make his application to the court, and the facts having been ascertained in a manner to elicit the truth and to guard against fraud, the claimant will enter Congress with his case ready for trial.

In reference to claims now pending before Congress it is provided that all such as remain undisposed of at the termination of this (the Forty-seventh) Congress in which an investigation or determination of facts is involved shall, with all papers connected therewith, be transferred to the court to have the facts in like manner investigated and reported to Congress. Should parties still elect for the future to come to Congress with their claims in the first instance before going to the Court of Claims (and under their constitutional right of petition it is not denied they may do this) the bill gives to any committee of Congress to which such claim may be referred, if it involves an investigation and determination of facts, the power to send the claim to the Court of Claims to have the facts judicially ascertained and reported to Congress. It may be said that these provisions of the bill will entail some expense upon the claimant. This may be true, but the expense will be far less than many claimants now incur who, in hundreds of instances put their claims into the hands of claim agents who agree to collect one-half for the other.

It is true the contract generally stipulates that if nothing is collected nothing is to be paid by the claimant. But if the claimant has an honest claim which will stand the test of judicial investigation he can much better afford to incur the small expense of having his proof taken, than to agree to give a claim agent half of it to collect it. If his claim is not a meritorious one, of course he could better afford to employ a claim agent on the terms named, and take his chances to elude the vigilance of Congress under cover of *ex parte* affidavits. The Court of Claims is the cheapest tribunal to which a claimant could be sent, and affords him all the conveniences possible in the nature of the case. In that court there are no costs or fees taxed or allowed, and parties have no bills of cost to pay whether they are successful or unsuccessful. Of course parties will have to pay the costs of taking the depositions of their own witnesses and this is all the expense they need incur. When their depositions are taken they are printed at the Government Printing Office and at the Government's expense. Under the practice of the court, parties living at a distance from the city of Washington can prosecute their claims as well as if they lived in the city where the court holds its sessions. Upon this point I beg leave to again quote from the article of Judge Richardson in the Southern Law Review. He says:

> When a claimant has filed his petition, which he may do by sending it to the clerk of the court by mail or otherwise, he may at his leisure and convenience go on taking the depositions of his witnesses whenever and wherever he can find them, first giving notice to the Attorney-General, that he may be present by himself or by an assistant to cross-examine them.

It seems to me that it would be impossible to furnish the claimant with a less expensive or more convenient tribunal in which to have the facts which support his claim established. And there can certainly be no complaint on the part of the Government on the ground of expense, for the claims go before a court already established, and the Government will not be out a dollar additional in the way of providing this tribunal to relieve Congress of the burden that now rests upon it. But while the method proposed is just to both the claimant and the Government, will it have the effect to relieve Congress? Upon this point I have no doubt whatever. In the first place the number of claimants will diminish marvelously. The fraudulent claimant will

> Fold his tents, like the Arabs,
> And as silently steal away.

He will never ask or permit the light of a judicial investigation to be turned upon the affidavits which have been concocted and cooked in the back room of a claim agent's office. He will shun the exposure and the penalty of detected fraud. His witnesses will respectfully decline to face the music when they reflect that an indictment may follow the crime of perjury. I beg leave to call the attention of the House to a statement of Chief-Justice Drake of the Court of Claims, who appeared before the Committee on Reform in the Civil Service at their request during the investigation of this subject. It was thought doubtful whether that court would be able to dispose of the large number of cases that would be precipitated upon it by this bill, and the Chief-Justice was interrogated upon this point as follows:

> The CHAIRMAN. Will you state to the committee the ability and capacity of the Court of Claims to take charge of all these matters that may be thrown upon it? We have now pending before Congress 3,763 private claims. Suppose we were to throw that avalanche of claims into your court, what would be the effect on the business of the court?
>
> Chief-Justice DRAKE. When the Court of Claims was established very much such an avalanche as that came down from the two Houses of Congress. I was not then a member of the court, but I have been told that when we speak of the quantities of papers that came there by any enumeration of bushels it would convey an inadequate idea of the amount of business that was precipitated on the court. And yet, if you were to go back and examine the amount of business which the court transacted from that great avalanche in the first five years, you would see that in some way or other the avalanche was most tremendously diminished. The number of cases sent down to the court was in some peculiar way enormously diminished, and most of them were never tried. The same thing would be the case now. I have no doubt myself that for a year or two after the passage of such an act (particularly if you should send all the pending claims to the Court of Claims) there would be pretty hard work for the court, but at the end of two years or less we should sift out from all this mass the only claims that the parties were willing to attempt to prosecute in the court. It would be pretty hard work for a year or two to operate on that portion of the great mass, but still we could get through with it.

In the further prosecution of the inquiry upon this subject the following took place:

> Mr. HOUSE. If we were to send 2,500 claims to the Court of Claims and require parties to file their petitions there, do you think that out of that number 500 petitions would ever be filed?
>
> Chief-Justice DRAKE. I do not. I do not believe that more than one claimant in twenty would ever file a petition in the Court of Claims.

But not only would the number of claims be thus greatly dimin-

ished under the provisions of this bill but the labors of Congress would be greatly simplified and abridged in reference to those that remained. The court will find all the facts of each case and report their findings in the nature of a special verdict to Congress. Congress will thus be relieved of all the labor of investigating and reporting upon the facts of each case. All that will be done and embodied in the report of the court. The whole case will thus be presented in a brief and succinct form—the whole matter will be in a nutshell, and there will be but little trouble on the part of Congress in determining the question of what, if any, relief should be granted. For it will be observed that this bill avoids the mistake made in the act establishing the Court of Claims, which required all the evidence, brief of counsel, opinions of the court, &c., to be reported to Congress by the court, thus entailing upon Congress the labor of a thorough examination of all the facts of each case, as well as the correctness of the opinion of the court. The report of the court as to what facts are established by the evidence Congress accepts as conclusive. The court is required to give no opinion on the merits of the case; for when the facts are settled and laid before Congress it does not desire the opinion of any court as to how it should exercise its discretion in the premises. That is a matter which Congress will take care of itself, and the opinion of any court in the premises would be manifestly indelicate, if not improper.

There is a provision in the bill to the effect that if the court should find among the cases referred to it any of a nature of which under existing laws they have jurisdiction to render judgment, they are authorized to do so, and thus dispose of such cases without troubling Congress with them any further.

There is also a provision with respect to what are known as war claims. In all cases of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war, or for the destruction of or damage to property by any of said forces, the petition must allege the loyalty of the claimant to the Government of the United States, and the fact of loyalty is required to be found by the court together with the other facts in the case. It has been the settled policy of Congress to pay none but loyal men for such losses, and this provision of the bill is intended to preserve that policy. In reference to these war claims, I desire from the stand-point of a Southern man to say a word.

There is no subject that ever came before Congress with respect to which there seems to have been a more widespread and general misapprehension among the Northern people than this matter of the payment of war claims by Congress. Southern Representatives have been held up before the Northern people as eager to make raids upon the Treasury to pay this class of claimants amounts equal to, if not exceeding, the national debt. This absurd and unfounded charge has been made to do duty in more than one political campaign, and has been freely made by men to whose intelligence and information I feel I would be paying a poor compliment if I were to say they really believed what they asserted. I have seen my own name paraded in campaign literature, together with the names of other Southern Representatives, with the bills and memorials which we had severally introduced into Congress, with the amounts claimed, and the aggregate held up before the people as the measure of the inroads they might expect upon the Treasury from this direction in case the Democratic party should come into power. Now, what are the plain and simple facts in reference to this matter?

I will take my own case, not because I wish to talk about myself, but because my case represents cases of other Southern members. When I entered Congress I found a great many war claims pending from my district; all, or the most of them having been introduced by Republican members from my State. My constituents applied to me to reintroduce their bills or petitions and have them referred to the proper committee. They claimed to have meritorious cases. All they asked of me as their Representative was to see that their cases got before the committee, where they could be investigated. Of course I knew nothing of the merits of their cases. That was the business of the committee to whom they were referred to ascertain and determine. No member of Congress could be justified in denying a constituent a request so reasonable and proper in itself. For if he should refuse to perform such a service as this he would deny to his constituent the right to have his claim investigated at all.

Of course I never read or undertook to read the voluminous papers that frequently accompanied those claims, and certainly never addressed a committee of this House urging a favorable report on such claims, as it would have been improper for me to do so. I have at times, on receiving letters from my constituents, gone to the chairman of the committee having charge of the claims and requested him to have the same investigated and reported to the House. Whether that report would be favorable or adverse, of course I did not and could not know. Now, this is the whole of the wild and extravagant charges that have caused so many well-meaning people of the North to be troubled in their dreams. The idea that there ever was among the masses of the Southern people any general anxiety or concern about the payment of such claims which constituted a public opinion on the subject is so thoroughly absurd as to banish all respect for the mind that could conceive it or entertain it seriously. It requires but a moment's reflection to expose the silliness and absurdity of such a fancy. Not one in ten thousand of the people of the South ever applied to Congress for the payment of war losses.

Now, why the other nine thousand nine hundred and ninety-nine who have never asked Congress for a dollar, but who lost as much by the war perhaps as the one who has applied, should suffer themselves to be broken of their rest by anxious solicitude to see that solitary claimant succeed, especially when he fought on the other side, is just one of those things, as Lord Dundreary would say, which "no fellah can find out." I know there are those who believe that there are no loyal claimants south of the Ohio River. This is a mistake. There are men in the South—not a great many, it is true, comparatively speaking, but still quite a number—who were as loyal as any man in the North, and perhaps more so, as their surroundings required an exhibition of moral courage in adhering to their convictions which the Northern man was not called upon to display. But I dismiss this subject of Southern war claims with the hope that hereafter a claimant's geographical locality will be no bar to a just and impartial hearing before the American Congress, and that the campaign material on the subject of these claims be allowed to decay amid the *débris* and rubbish of past political conflicts.

The Executive Departments of the Government are also greatly crowded with private claims, and are calling on Congress for relief from the pressure upon them.

In his report to Congress made at the session commencing on the first Monday of December, 1877, the Secretary of the Treasury used upon this subject the following language:

> The attention of Congress is called to the laws imposing upon this Department the adjudication of a multitude of claims. Its organization is admirably adapted for the investigation and statement of accounts accruing in the ordinary course of current business, but it is not adapted to the investigation of claims long since accrued, and supported in most cases by *ex parte* affidavits. The Department has no authority to cross-examine witnesses, no agents to send to examine into alleged facts, and no facilities, such as are in common use by courts, to ascertain truth and expose falsehood. It is respectfully suggested that this class of claims, not already acted upon, be transferred from the Treasury Department, and its business of accounting be confined to current accounts, payable from appropriations made within a short period of time.

In his report made in December, 1878, the Secretary of the Treasury again calls the attention of Congress to this important subject in the following language:

> The attention of Congress is again called to the necessity of some legislation as to the adjudication of claims which are now within the jurisdiction of this Department.
>
> While the Department is well organized for the investigation of accounts accruing in the ordinary course of current business, it is not adapted to the examination of old and disputed claims of a different character.
>
> For the proper investigation of such claims the methods adopted in all our courts for ascertaining the truth are undoubtedly the best. For this purpose a tribunal which will require the best evidence of which the nature of the case will admit, the production of original papers rather than pretended copies, the sworn statement of the witness himself to facts in his own knowledge, and not the hearsay of third parties, the examination and cross-examination of the witness, not his *ex parte* statement privately taken, a public hearing, and a public record of proceedings open to inspection, is essential.
>
> These are some of the safeguards which the experience of the wisest legislators has placed around the judicial investigation of questions of law and fact.
>
> It is evident that this Department cannot furnish these safeguards; and a provision of law which will relieve the Department of all important disputed questions of law and fact is recommended. The Court of Claims is a tribunal well qualified for such jurisdiction. It has the prestige of a court of justice; its judges are appointed for life, and transact their business deliberately, systematically, and publicly. They are governed by the ordinary rules of law, and their decisions are of record, with an appeal in proper cases to the Supreme Court of the United States.

In his report made to the Forty-sixth Congress the attention of Congress is again invited to this subject in the following language:

> The need of some legislation for the adjudication of claims which are now within the jurisdiction of this Department has been called in former reports to the attention of Congress. Proper methods for investigating claims such as are used in courts of justice are not within the power of the Department. A tribunal which may require the best evidence which the nature of the case admits, the cross-examination of witnesses instead of *ex parte* statements, a public hearing and a public record of proceedings, is essential for the proper adjustment of such claims.
>
> Section 1063 of the Revised Statutes contains a provision for sending to the Court of Claims certain disputed cases arising in the Departments. A general provision of law by which all important disputed questions of law or fact might be remitted to that tribunal for trial would greatly relieve the officers of this Department and tend to promote the ends of justice. It may be assumed that the methods adopted by all courts of justice for ascertaining the truth best subserve that purpose.

The present Secretary of the Treasury, in his report to this Congress, uses the following language on this subject:

> The claims against the Government presented to this Department often involve important disputed questions of law or fact, which require for their correct decision the taking of depositions and the cross-examination of witnesses, and sometimes of the parties themselves. For this no provision is made by law. Authority from Congress to refer any such claims as the Secretary may think proper to the Court of Claims would give to the claimants and to the Government a proper judicial trial and judgment; which would not only do justice to the parties but prevent re-examinations which are now urged upon every change of departmental officers.

There is a provision in the bill intended to relieve this pressure upon the Departments by enabling them to send cases before them to the Court of Claims for investigation, which it is believed will in a great measure remove the embarrassment under which they now labor.

Another important provision in the bill relates to the claims of aliens against our Government. It authorizes the Secretary of State, with the consent of the representative of the Government of the

alien, to refer all such claims, founded on treaties or other international obligation, to the Court of Claims, to be heard upon the principles of justice and international law, and the court is authorized to render judgment in accordance with those principles. Either party is allowed an appeal to the Supreme Court of the United States when the amount in controversy is three thousand dollars or more. The propriety of giving this jurisdiction to some court cannot, I think, be seriously questioned when such a method of disposing of cases of this character is compared with the slow, tedious, troublesome, and expensive procedure of mixed commissions to adjudicate them.

These temporary commissions cannot be conveniently appointed until a sufficient amount of claims has accumulated to justify it, thus entailing upon the claimant a long and perhaps ruinous delay. Composed as they are of different individuals selected here and there for the special occasion, they cannot of course be expected by their decisions to build up any uniform system or rules of international law. But the Court of Claims, invested with authority to try all these questions of international law arising out of the claims of aliens, with an appeal allowed to the Supreme Court from their decisions in all important cases, would insure uniformity of decision, and in the course of time a very valuable and important system of international law would be established. This plan would be far more economical than a mixed commission could possibly be. And another consideration to which we cannot be insensible consists in the fact that most if not all the governments with which we have commercial relations have tribunals before which our citizens are allowed to adjudicate their claims against those governments.

There are other minor provisions of the bill under consideration to which I desired to call attention, but deem it not important to do so, as I have already occupied sufficient time upon the subject. Of course I am not sanguine enough to believe that this bill will prove to be perfect in its operation and that no defects will be developed calling for amendment in the future; but I have but little doubt, if it is adopted by Congress and becomes a law, it will result in greatly relieving the present embarrassing situation to both Congress and the claimants before it, corrected and perfected as it may hereafter be in such particulars as experience may show to be necessary.

Mr. HOUK. Mr. Speaker, no more important matter can be brought to the attention of Congress than the question of providing some means of adjusting claims against the United States. It has been assumed by law writers that wherever a right of any kind exists there is a remedy to be found; that wherever a wrong has been committed there is a means of redressing that wrong. But it has occurred to me that these writers had but little conception of the genius and impulse of an American Congress. If they had known a little of the history and character of the American Congress for the last twenty years they would have written their law very differently. They would have said that Governments should provide remedies against itself as well as against individuals. But such has not been the case in this country. If they had been informed in regard to the present condition of things confronting the authorities of this Government and touching the rights of the people, they would have made many important exceptions to the rule thus laid down. Look at the condition of the business of this House. Look at the thousands of claims pending here against the United States. All manner of private claims are being presented for the consideration of Congress. And this body has neither given relief through special legislation nor provided for the adjustment of these claims by a general law conferring jurisdiction on some tribunal or Department of the Government to hear and determine them. Indeed it is almost universally admitted that nothing is more impossible in all the scope of legislation than for Congress to resolve itself into a kind of court to adjudicate the private rights of individuals, and to permit the existing state of things to continue virtually and practically amounts to a policy, on the part of Congress, of an absolute denial of justice to many citizens of the Republic. There are several thousand bills for the relief of individuals now before the several committees of the two Houses of Congress. Some of these are just beyond all doubt. Perhaps many are unjust. But can the great Government of the United States afford to deny its citizens the same redress against itself that it provides by its Constitution and laws one citizen shall have against another citizen?

If one citizen infringes on the rights of another the courts of the country are open to redress the wrong. If a contract exists between two or more citizens, by either express stipulation or implication of law, the Government, State or national, furnishes a tribunal to enforce the rights of the parties; and I believe the Government of the United States enjoys singular distinction in denying the right of its citizens to enforce the collection of an honest debt against itself.

Whatever may have been the ancient law of nations on this subject, the modern rule, certainly in free countries, has been established to give the citizen every right against the government which they have against each other. And this brings us to discuss the right of the Government to refuse to permit itself to be sued in its own courts. That it has the power to say it will not be sued I will not deny, but I affirm that the assertion of that power is wrong. This idea that the Government cannot be sued does not belong to free America; it does not belong to any free government; it has no place in a government where all of its citizens are equal among themselves and where the government has no rights not conferred through the action of its citizens. The ancient doctrine that the government could not be sued was born of kingcraft and personal government; it originated from the so-called divine right of kings. It was founded in the fallacy that the king could do no wrong, and it is now exploded everywhere except in free America and a few of the unenlightened governments of the Old World. This political paradox, this paradox in modern government, should no longer exist in a country like this. The modern practice is to open the courts of the government to the citizen, especially in a representative republic like ours, where it simply amounts to the individual citizen seeking justice against the aggregated citizenship of the state.

But we are told that very many of these claims, provision to adjust and pay which is now asked, are "war claims;" that they originated during the war to suppress the rebellion, and that many of them are unjust, fraudulent, and exaggerated. There are many answers to this assumption, each of them conclusive in their character. For because some man presents a fraudulant claim, possibly backed by perjury, is that any reason why the man who presents his claim, established beyond doubt, and admitted so on the part of the Government itself, should not be paid. I insist it is not.

Let us look this subject squarely in the face. And in order to get at the real issue involved in the discussion of "war claims" let us examine the matter in its true light and bearing on the obligations of the Government. What does it take to constitute "a war claim?" And how many kinds of "war claims" exist? Without stopping to define these questions with legal nicety and technical distinction, and without essaying to enumerate and classify each case in its separate character and outlines, I must be permitted to call attention to the fact that there are now, and have been from time to time, a variety of "war claims" which have been recognized in the most solemn manner, and none of them are any more founded in legal principles and moral right than are those claims which are now sought to be outlawed by the use of a prefix and the exclamation of "war claims," as though that carried with it the blast of death.

When citizens enter into contracts the courts invariably enforce them; but when claims, and especially of that class which I may more particularly refer to hereafter, are presented, then every conceivable objection is presented to them. If they are legal on one point, then there is something urged against them on another. If it is all right here, then we are told there is some error somewhere else. I think, for one, the time has come when this quibbling by a great Government should stop, and especially when it is quibbling against the poverty-stricken, loyal citizens of the country. Instead of oppressing, the Government ought to be prompt to do justice, and should come to the relief of these people, not only in the spirit of justice, but in the spirit of charity.

We are told that these war claims cannot be paid, that it was in the time of war, and whatever was done by the Army for the use of the Government, no matter by whom taken or when taken or under what circumstances taken, they are all war claims, and that war claims cannot be paid under the laws of war. Such doctrine does not belong to this Government. The doctrine that the Government is not bound to reimburse every one of its loyal citizens never was conceived as attached to this Government until recently. Such a doctrine cannot be found in any law-book by any law-writer who had ability enough to conduct an ordinary case in a police court. [Laughter.]

Whatever may have been said and whatever may have been the rule under the ancient law of nations on the subject, the modern rule certainly is, and has been in all free countries, that the citizen shall be given the right to pursue his claim against the Government for any obligation it is under to him. This, I say, is the modern rule which now obtains almost everywhere except in this country, and the modern practice has been consistent with the modern rule, that the citizen shall be reimbursed for whatever has been taken from him. With few exceptions there has been provision made for paying this character of claims.

There is another thought I wish to express. The idea of this great Government providing that it may despoil its citizen, seize his property, and use it, probably that which is absolutely necessary to provide for his wife and children, and there is no power by which he can go into the court and seek redress and be paid is one opposed to the civilization of the age. The idea that in time of war the laws are silent and the Government is entitled to take for its own particular use whatever it pleases without payment, the idea that the Government shall not be sued in connection with the other idea, to which I have just called your attention, that the Government has the right to take whatever it may need from its citizens without payment because it is done in time of war, these doctrines come from that same old claim of the divine right of kings, that everything belongs to him and not to the people. This same idea that the Government cannot be sued grows out of this same kingcraft, that the king can do no wrong and that this Government is the king.

What sort of application can you make of any such doctrine as that in this country? Who is king here? The supreme sovereign power is in the people. What, then, is the suit of a citizen against his Government to redress a wrong inflicted upon him? It is simply one citizen suing the aggregate citizenship of the country in order that a citizen who is equal to every other citizen of the country shall receive his rights and have redress of his wrong. We are told

that very many of these claims are war claims, that they originated during the war to suppress the rebellion, and that many of them are unjust.

Here I would stop to inquire what is a war claim? And to this I desire the attention of the House. I ask every lawyer, every member of this body, what is a war claim? Is it confined to the claims of those poor people who are presenting their demands now to the Government for redress? Not at all. Every claim, the great majority of the obligations of the Government now outstanding are as much war claims as those of the poor man who asks to be paid for a horse taken from his farm for the use of the Army.

Gentlemen should remember that the bonds of the Government, which are acknowledged to be legal and just obligations, and to pay which to the uttermost farthing the honor of the Government is pledged, are but the outstanding evidences of a part of the war debt, and, in the fullest and largest sense, nothing more nor less than "war claims."

How did these "war claims" originate, and I will add by way of inquiry, what is the difference between these and the "war claims" which seem to have such a horrifying effect on certain politicians of the country? If I may be indulged to contrast these different kinds of "war claims," I will suggest this difference growing out of their sectional origin.

Whenever a citizen of a so-called loyal State—and I will discuss State loyalty in contradistinction to individual loyalty a little further along—whenever a citizen of the North had supplies for sale—and mark you, unlike in the case of the Southern and border States they were never forced to give up their property for the use of the Army—whenever they had supplies for sale they contracted them to a quartermaster, followed them to the depot, and received their vouchers, which they cashed, and immediately invested the proceeds in United States gold-bearing bonds, and he has been drawing his gold interest ever since. They received war prices for their supplies, and bought Government bonds with the money, receiving a bond equal to gold for a depreciated currency, thus securing anywhere from 150 to 275 per cent. for every 100 per cent. of actual outlay. While the soldier fought for a greenback dollar worth less than half for which it called, the Northern man who furnished supplies to the Army had the good fortune to turn his property into a bond worth more than twice the amount realized by the soldier for his money.

And so of the Union people of the South. They were unfortunate. I would not make odious comparisons, nor would I indulge in invidious distinctions, but I know I will be pardoned for reminding the House of the ill fortune of "Poor Tray," who was found in bad company. And such was the fate of the Union people of the South. The United States Army was ordered by the national authorities to forage upon and live off the country as it moved South, and it was impossible for its officers to discriminate at the time between the loyal and disloyal whose property was taken and used, and the result was that the loyal whose property was thus taken were told to wait and thereafter present their claims, prove their loyalty, and be paid.

While the "war claim" of the Northern man was thus put in the shape of a bond, the "war claim" of the Southern Unionist remained as an unwritten but equally just obligation against the Government. And now, notwithstanding the Union men of the South were promised payment on proof of loyalty, when they ask the Government to give them their just compensation for their property which was taken from them and used they are met with the cry of "War claim!" "War claim!"

The unwritten debt of the war to suppress the rebellion is not only as binding on the Government as that part of the war debt which is evidenced by United States bonds, but it is as well founded in law as if each claimant held a written promise to pay, and is as sacred an obligation as any resting on the nation, unless it may be the pension of the widow and orphan, which is planted in the grave of the dead husband and father.

But who are these border-State Union men now asking for justice at the hands of their Government? It is useless for me to repeat here what is so well known and has been so often much better expressed than I can possibly hope to express it, that the Union men of the South are equally deserving with the men of the North who stood by the Union; yet I must say that this truth has not heretofore, but as I think should hereafter, receive peculiar emphasis in dealing with them. It was an easy thing to be loyal in the North. It was quite another thing to be loyal in the South. And yet the South gave three-quarters of a million of white soldiers to the Union Army. And it is said that, counting both white and colored, the Southern States gave more men to the Federal than to the confederate army. I notice objection has been made in some of the newspapers that Tennessee has a large number of "war claims," and I saw one complaint that my State had a large number in the bill reported by me from the Committee on War Claims. And such an objection was made on the floor of the House when the bill finally passed without even a division.

The statement of fact has some foundation, but the implication of wrong is wholly causeless.

And right here let me say to my Northern friends that if the South had been solid there would have been two governments in this country instead of one. The part of the country which is attempted to be outlawed by the assumed principle that because a man happened to live in an insurrectionary country he shall not be paid at all gave to the Union Army three-fourths of a million of white soldiers. I have the facts here somewhere which I can show. In addition to that let me call attention to another fact, that the South gave to the Union Army more soldiers to fight under the Union flag than it gave to the confederacy to fight under the confederate flag. We cannot have a war claim paid if it is down South. Just raise the question of a claim, and the very first thing you hear is this cry of war claim; it is the first question that is asked; it is the only argument that is offered.

On this question of disloyal States I want to make some remarks. I do not know that they have any practical applicability to this bill, but I want to call attention to the fallacy—the legal fallacy—of talking about disloyal States. There is no such thing as a disloyal State. There never has been any such thing as a disloyal State of the Union under our form of government.

The individual citizens of the States may become disloyal, but the States in their organic capacity cannot become disloyal. It is an impossibility for them to do so; it is an unmeaning term and has no significance whatever. You may overthrow a State government for a time, its functions with reference to the Federal Government may be temporarily suspended, but the moment it is rehabilitated with its powers of a State it becomes loyal. It can have no effect upon the State as a State. It can have an effect upon the individuals who have temporarily overthrown it, but it has no effect, so far as citizenship under the Government is concerned, when it is rehabilitated with its full powers as a State, because the State assumes the same position it held before it fell and becomes at once *ipso facto* under the Constitution a State neither loyal nor disloyal but simply a State under the Federal Government belonging to the Federal power.

And there may have been, and doubtless are, many principles of international law from which precedents may be drawn on which to found this absurd doctrine of the "loyalty" and "disloyalty" of States. I scout the idea of anything of the kind under the structure of our Government. A State could not become "disloyal." The people of a State could become disloyal, in whole or in part. But the disloyalty attaches to the individuals who committed the crime, and not to the State or community as a whole, unless the whole body of the people by their individual acts perpetrated distinctive offenses. International law, which is applicable to foreign states and wholly independent governments, has no place under our Federal system. The powers of government here are vested in the nation and not in the State.

Suppose there could be such a thing as this. I will only argue this for a moment. Suppose it were possible, and suppose it were legal, for those assuming to represent a State—a Legislature is not the State; the governor is not the State; the President of the United States is not the Government; Congress is not the Government; the great power of the people behind them is the Government. Now, suppose the agents whom the people for the time being have selected to represent them—suppose they convene, pass laws, and provide—to do what? provide to make their State disloyal. Can it be done? Can the vote of the people make it disloyal? It can make those who voted for disloyalty traitors to their State and their country, but it can no more affect the nature of the government, that intangible something that none of us can see, that intangible something which exists by virtue of the power of the people and not by virtue of the power of any constitution of a State, only as the people have granted the temporary power to organize for the purpose of adding an additional power to its own government. But suppose that might be true; suppose the law was that a State could vote itself out of the Union, how could you declare my State disloyal? Where would you find a court within the limits of the United States that would declare the State of Tennessee a disloyal State if the issue was properly made? Even if this—I was about to say law—even if this position was law, a court in finding whether the State of Tennessee was loyal or disloyal would have to go back and inquire the status of her people, would it not?

Now, what was that status? I say Tennessee never was a rebel State. I say a majority of its citizens never breathed a disloyal breath in their lives; and why do I say so? In 1860 Lincoln was elected, and certain parties said that the election of a black Republican was sufficient cause for going out of the Union. South Carolina, Georgia, Louisiana, Mississippi, and other States all around us voted and said they were out of the Union. They sent emissaries among us for the purpose of dragging Tennessee after them into the condition that they called being out of the Union. On the 9th day of February, 1861, the vote was taken. This question was discussed from one end of the State to the other. It was the ablest canvass—gentlemen on the other side of the House will bear witness to what I say—it was the ablest campaign ever conducted in the State of Tennessee. Everybody was heard. Everybody then was free. The whole question of the rights of the Federal Government, and the propriety of secession because of Mr. Lincoln's election, and all these questions that have been so long agitated since, were discussed with an ability that I never expect to live to see again, because some of our great men, and most of them, have fallen.

What was the result? The people went to the ballot-box and with cool deliberation, without coercion, voted to remain in the Union by

over 61,500 votes. What next? The gentleman who was then governor of Tennessee saw proper to convene the Legislature in extraordinary session. Emissaries and ministers plenipotentiary were immediately sent to negotiate with our State administration, with the State as they called it. The State had acted in February. The people were the State. Their agents were false. They sent, as I have said, emissaries to negotiate, and finally finding it would not do to trust to another vote of the people, the then governor of the State appointed a military board to negotiate with Henry W. Hilliard, who was the rebel emissary sent by the so-called confederate government at Montgomery, Alabama. Perhaps some of you remember his name, Henry W. Hilliard, who has recently come home. I hope no more of the same kind will be sent back to represent the United States.

Through Henry W. Hilliard and this military board a league was entered into. They called it the military league. This military board was appointed by the governor, who at that hour was being denounced everywhere for what he was doing. They entered into some sort of a league with Mr. Henry W. Hilliard, which, by some mysterious process that I never understood, was supposed to lash Tennessee on to the Southern confederacy.

What else? The people were still loyal; the people were still true; the people would have voted on that day as readily for the Union as they had done on the 9th day of February. But, under authority of the "league" the governor and this military board—the State was not out of the Union—as they called it, they could not call troops out as confederate troops, but they organized 55,000 troops under the direction of this military board and loaned them to the Southern confederacy for temporary service. The use they were put to was that they should go up into East Tennessee, where there were a great many Union people, to be camped out in the gaps of the mountains, where nobody had ever made a camp before in the world except to hunt deer or wild turkeys. What was this done for? Why, because the Union people of East Tennessee had then seen that their hopes were gone for the time being, so far as their opposition to the establishment of the Southern confederacy existed; that they could no longer live in Tennessee as peaceable citizens. And these camps were placed there to prevent their exit to the State of my friend across the aisle, old Kentucky. And I may say I think the gentleman across the aisle [Mr. CARLISLE] was about the first Kentuckian I became acquainted with.

What else? There were these 55,000 troops put to this use. Alabama, Mississippi, Louisiana, Georgia, and other States sent troops into East Tennessee—for what? I do not remember why they then said they sent them there, but they were sent from Alabama, Louisiana, Mississippi, and Georgia. I do not know whether there were any from South Carolina or not. But they were from five or six Southern States. Their troops were sent into East Tennessee and they were scattered along the mountain passes and in the neighborhoods throughout East Tennessee, where lived the largest number of Union men, for the purpose of seeing that every man who wished to vote to go out of the Union should vote with perfect freedom, and that every Union man who came to the polls should vote according to indications or command of the soldiers, who, as a rule, were little less than a mob.

After all this was done, and I am detailing these things because I want to put this history on the record here. I know you can find it, or much of it, in the Congressional Library, if you will only hunt it up. After all these means had been taken "to have a fair election," what was done? You know that they were always opposed to troops at the polls. And these means were resorted to in order that the Union majority of 61,500 should not be overriden by any wrongful process, but that there should be absolute protection given to every man who wanted to vote.

After these troops were scattered all around in convenient localities where they would do the most good, another election was ordered. We were solemnly told under these circumstances to go to the polls on the 8th day of June and exercise our right of suffrage as freemen, and say whether we were still willing to remain in the Union. Of course under the circumstances that was "a free election."

Now, I say, put all these facts before a court, the fact of the majority that was given for the Union in February, every fact which I have stated—put all those facts in evidence before a court and authorize it to say whether Tennessee ever was out of the Union or ever did anything which would place it in the category of disloyal States, and I say that the court upon its conscience and upon the law of the land would declare that Tennessee never was a rebel State. Therefore I insist that if there ever was any plausibility in the doctrine that a State could become disloyal, Tennessee never became so, and always was in law and fact, and upon every principle that can be adduced, a loyal State to all intents and purposes.

This was the position originally taken by the leaders of the Republican party. But afterward there was some sort of a decision which I shall not characterize, some political excitement that came up, some fear that there would be a war debt settled on the Government; politics intervened in the mean time, and the result was that the decree went forth that the head of the Union men in the South had to fall in order to save somebody in the North.

Before leaving this question I wish to add a word or two; it may hit somewhere; if it does I cannot help it. There is a very great difference shown when you mention a claim as to whether it originated down South or not. The question of loyalty is not the question that first comes up. That is not the first question. It is, Where does the claimant live? Well, up in Maine. Did he really have this property, and what was the value of it? Let us talk about this thing, and see how it looks, and see if there is any foundation for the claim.

Another case comes along. Where is this claimant from? Who owns this claim? It is a man down in Tennessee. Was he loyal? That is the first question. Now I do not believe, and I say it here before God, I do not believe in this method and manner of investigating claims. I do not think many who have had jurisdiction here in Washington for the investigation of these claims have been just and fair. I do not believe the same justice has been meted out to the Union men of the South that has been meted out to the Union men of the North. All the records look the other way.

You bring up a claim here and say, here is a war claim. You are asked, how old is it? Well, it is a pretty old claim; it arose during the war, and cannot help being old. Has it ever been before any Department? Yes, it has been before a Department and been rejected. What for? Now I tell you that in very many cases claims before the Departments have been rejected on some purely technical point. And we are told, if this matter has once been rejected, that the man has had his day in court and ought not to have another.

I have heard something here this afternoon about the Southern claims commission and the law establishing that commission. Now I have as much respect for the *personnel* of that commission as I have for any three men who ever lived. But I know that hundreds of unjust judgments were rendered by that commission; I state it here upon my responsibility. I say to any gentleman on this floor who may join issue with me as a lawyer, that he may take the cases miscellaneously and look over them, and he will find that in a great majority of them they were imperfectly made out and were rejected on some little informal point and the claimant impoverished. There was a case rejected by that tribunal for disloyalty where the man had lost his eyesight while scouting for the Federal Army. When he comes here to Congress he is told, "Oh, you had your day in court; the commissioners were just men, and they rejected your claim." I could enumerate many other cases.

Without pursuing further the thought I was pursuing I will devote the remainder of my time to the consideration of the bill before the House. I want to say that so far as I am concerned I will vote for no bill that opens the door for the payment of any claimant who was disloyal. Many of my best friends took the other side, but they took the risk. It was a question whether they would destroy the Government or lose what they had.

At the end of the war the Government had the undoubted right, as I believe, to have confiscated every dollar's worth of property belonging to the belligerents, to the disloyal people of the South. It elected not to do so, and I am glad of it. But that which the rebel lost during this struggle is gone, and I am unwilling now to turn around and restore that which they lost themselves while they were engaged in an effort to destroy the Union.

In my country, when your armies started in there, they were ordered to forage on the people. And our Union people down there in East Tennessee actually believed that the Government would rather give them something than take away from them what little they had. So they were willing to give up to the Army everything they had to spare, as the word goes, and more, too.

General Burnside, who was in command of the Army, soon organized a commission, by which, if he had remained there, probably all of these men would have been paid. But General Burnside was soon withdrawn from there and the commission was disbanded. The papers in the cases of the claimants became scattered about among claim agents, and not long after our State, through its Legislature, passed a law creating a board of commissioners to examine these claims with a view to the State itself paying them and then applying to Congress for reimbursement. They all filed their claims again. They went first before the Burnside commission, then before the so-called Brownlow commission. About the time the State would have been ready to take action and pay these claimants, with the expectation of seeking reimbursement from Congress, our friends on the other side came into power. The Democratic party coming into power, enacted a law that the secretary of state should send these claims back to the clerk of the county court in each county from which they originated, the claims having been first investigated in the counties. Many of the claimants had to pay for the return claims, although no law on the statute-book authorized the payment of such a fee. Many of these people had spent money in preparing their cases before the Burnside commission and before the Brownlow commission. After that some of them commenced filing their claims in the Quartermaster-General's Department; some went before the Southern claims commission; but the great body of these claimants had become too poor to put in their claims asking payment for a horse or a hog or a few bushels of corn that had been taken from them. Many of them perhaps would be unable to-day to pay the fee of $5 if the successful prosecution of their claims depended upon it. But if a law were passed in which they could have confidence, they could find friends and neighbors who would again help them.

But many of these claimants, after they had failed the second time, became disheartened. And let me mention one reason for this dis

couragement. The demagogues of the Democratic party were going about over the country saying to Union people, "Why are you voting the Republican ticket? That party does not think any more of you than they do of us; you have claims against the Government, but they will never pay you a dollar; have they not fooled you twice already?" In a great many instances such arguments were successful; in many instances perhaps the Democratic party gained converts to their cause. I say to-day that if the Republican party expects to make gains and build itself up in the border States the best, the highest, the noblest thing it can do is to provide through the action of a Republican Congress the means by which these poor men of the border States may receive the few dollars due them for property taken from them, due them as justly as your money would be due you if I should borrow a dollar from you to-day.

Talk about these claims not being just! I know how things were done. There is not an Army officer in the land who does not know, there is not a man who traversed Kentucky, Tennessee, and that southern country who does not know precisely how things went on. We know that the Army was in absolute need of the very things which it received from these people and used. I do not ask pay for pillage; I do not ask pay for what the soldiers stole if anything; but I do ask that the Government shall pay for what it received and enjoyed—for what aided it in putting down the rebellion.

I want to say another word to my Republican friends. I carried my district by over 8,000 votes; but if all my constituents could be in this gallery and hear the debates when some little claim comes up for some poor man who is perhaps in need, it is very doubtful whether that district could be carried; it would certainly lessen the ardor of that patriotic people and render it uncertain for the Republican party. Not that we vote for money; not that we vote for a consideration; but the people of my country vote for that which they believe to be justice, and they think manifest injustice is being done to them by withholding payment of the sums that are due to them.

Mr. Speaker, one further remark and I shall soon conclude. The policy of the United States Government for the past twenty years has been a policy of absolute, unconditional denial of justice to a very large number of its citizens. I appeal to gentlemen on this side of the House. Let us perfect these bills. Both of them are imperfect. Let us frame such a measure as will do justice to every one to whom justice is due. I believe the House will vote for just such a bill. I do not believe that anybody here desires the passage of a bill by which injustice shall be done to any class. The only trouble is that, through prejudice, some gentlemen have the notion that a just claim cannot come from the South.

But the claims of the Union people of the South are founded upon the rock of the Constitution itself. The fifth article of amendment declares that private property shall not be taken for public use without just compensation. And the Supreme Court of the United States has interpreted and applied this clause in such an apt manner that there is no ground for mistake or misconstruction so as to avoid its authority or dodge the responsibility it imposes. And such is the view taken by the leaders of the Republican party.

It was never dreamed by the statesmen at the head of affairs during the war but that all the just claims founded in its prosecution would be speedily paid. And such was the view of the wisest and best men of the Republic following the close of the war. Under the leadership of Republican statesmen Congress inaugurated a policy, both humane and just, at the close of the war, and a long line of special legislation followed, doing justice to the Union people of the South. Many acts of Congress were passed for the benefit of loyal persons living in the seceded States. And I desire in this connection to call attention to the views of some of the most distinguished Republicans on this subject. The present Postmaster-General, Howe, then a United States Senator from Wisconsin, on February 7, 1873, submitted a report to the Senate on the subject of claims, in which he reviews this whole subject and discusses the liability of the Government to its citizens for property taken and used in time of war, with great ability. He presents many authorities to sustain his position, and I do not see how the force of his arguments can be successfully met. I submit the following arguments and analysis of authorities from that report:

Whatever property the Government takes from its own obedient subjects for the more efficient prosecution of the war should be compensated for, no matter whether it be forage fed to the cavalry horses, powder burned, timber used on fortifications, houses removed to make way for such fortifications, or houses destroyed to make them more secure.

Grotius asserts the same doctrine. He says:

"The king may in two ways deprive his subjects of their right, either by way of punishment or by virtue of his eminent power. But if he do so in the last way, it must be for some public advantage and then the subject ought to receive, if possible, a just satisfaction for the loss he suffers out of the common stock."

Again he says:

"The state has an eminent right of property over the goods of the subjects, so that the state or those that represent it may make use of them, and even destroy and alienate them, not only in extreme necessity, but for the public benefit, to which we must add that the state is obliged to repair the damages suffered by any subject on that account out of the public stock."

Mr. William Whiting has discussed the subject of war claims with direct reference to the liabilities of the United States growing out of the late war. He writes with extreme caution, but even he asserts that—

"If the private property of loyal citizens is appropriated by our military forces for the purpose of supplying our armies and to aid in prosecuting hostilities against a public enemy, the Government is bound to give a reasonable compensation therefor to the owner."

Again he says:

"When individuals are called upon to give up what is their own for the advantage of the community, justice requires that they should be fairly compensated for it. Otherwise public burdens would be shared unequally."

Again he says:

"Public use does not require that the property taken shall be actually used. It may be disused, removed, or destroyed, and destruction of private property may be the best public use it can be put to. Suppose a bridge owned by a private corporation to be so located as to endanger our forts upon the banks of a river. To demolish that bridge for military purposes would be to appropriate it to public use."

Speaking again in another part of this report Mr. Howe asserts that the Government is bound to the citizens for property appropriated by the Army, and declares—

The Constitution imperatively requires that the public shall make compensation for it. Judicial authority is not less explicit than that of the text-writers.

In Grant *vs.* the United States, 1 N. & H. Reports, the court says:

"It may safely be assumed as the settled and fundamental law of Christian and civilized states that governments are bound to make just indemnity to the citizen or subject whenever private property is taken for the public good, convenience, or safety."

In that case the United States was held to pay for the property destroyed in Arizona, merely to prevent it from falling into the hands of the enemy.

In the case of Mitchell *vs.* Harmony, reported in 13 Howard, 115, Chief-Justice Taney, delivering the opinion of the court, says:

"There are, without doubt, occasions in which private property may occasionally be taken possession of or destroyed to prevent it from falling into the hands of the public enemy; and also where a military officer charged with a particular duty may impress private property into the public service or take it for public use. Unquestionably, in such cases, the Government is bound to make full compensation to the owner."

Such were the expressions of views and citation of authorities by the present Postmaster-General.

But now let me turn from the living and recall the voice of the dead—the great Indiana statesman, the late Senator Morton. On the 12th day of January, 1869, when this question was under consideration in the Senate, he made the following remarks:

Mr. President, from the beginning of this war we did all in our power to encourage the people of the South to be loyal and to stand by the Government. We promised them protection for life and property so far as it might be in our power. What kind of protection did we promise to accord to them? I take it, the same kind of protection that we would accord to a loyal man living in the North. If it did not mean that it did not mean anything. We promised them that they should have the same sort of protection for life and property if they would remain loyal and stand by the Government that we would give to the loyal man living in a loyal State. What kind of protection is that to a loyal man in the South, where you take his property upon the same terms and conditions that you take the property of a rebel? It is a direct violation of that promise; it is a violation of our whole policy to the loyal men of the South from the beginning of the war.

Why, sir, we have encouraged them by proclamations; we have encouraged them by acts of Congress; we have encouraged them by the general orders of the generals of the Army; we have encouraged them by the very policy mentioned by the Senator from Nebraska, that wherever our officers took property in the South for military purposes they should give a voucher for it conditioned for payment upon the proof of the loyalty of the claimant, and we thereby, at the time our armies were there, encouraged the loyal men of the South to stand by us, by our generals, saying to them, in the form of vouchers: "You shall be paid for this property if you can prove your loyalty when the war is over."

That was the promise we made to the loyal men of the South, in every possible form and from day to day. Our solemn faith as a nation is pledged on this subject, and we cannot adopt the policy that has been advocated upon the floor of the Senate without compromising and violating that faith. Why, Mr. President, have we not pledged this protection to the Union men of the South in every possible form? Have we not obtained political power upon it? Did we not go before the people of this country last year and rehearse the story of their wrongs? Did we not appeal to the people, to their hearts as well as their heads, when we portrayed to them the sufferings and the wrongs endured by the loyal men of the South, how they were plundered of their property, how their lives were made insecure, how they had spent their days in imprisonment or exile? All of these things we have done, and we have acquired political power partly in consequence of it. We have called them friends from the beginning, we have built upon their friendship, we are their friends in every particular until they come to us with a bill for payment, which a northern man would receive payment for under precisely the same circumstances, and when they come to us with such a claim we tell them, "We cannot pay you; we must regard you as public enemies; you had the misfortune to live in a rebel State, and must therefore be regarded as public enemies." Sir, I cannot find language that I am willing to employ with which to describe this proposition.

Sir, it is not for the Republican party to take this ground. Let us leave it to the Democratic party. But to their honor be it said their Representatives on this floor have repudiated it. If this deed is to be done, let it be left to that other party who have not been the friends of the Union men throughout the struggle, whose sympathies were not with them. Let it not be said that that party which has claimed to be the protector of loyalty both North and South, which has appealed to the people for the protection of the Union men of the South, which has excited the sympathy of the nation by the story of their wrongs, have at last played false to those same men and, when peace has come, turned upon them coldly with this old metaphysical doctrine of international-law writers, that they are to be regarded as public enemies.

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Now, Mr. President, the reason given in answer to my question is, that the property of the man that was taken in New York was under the protection of the Constitution and laws of the United States; but the property of the loyal man in Alabama was not under the protection of the Constitution of the United States. I deny that proposition. It is at variance with the whole theory upon which we prosecuted this war. If that proposition is true, then a large part of our legislation in regard to the war is false, unfounded, and unconstitutional. We proceeded upon the theory that the Constitution and laws should protect the life and property of every loyal man in this country wherever he might be found. We proceeded at the same time upon the theory that the property and the lives of the rebels could not be protected, or they could not claim protection under the Constitution that they were fighting against and were laboring to overthrow. Why, sir, the idea that because of a rebellion on the part of a portion of the people of the State of Alabama the protection of the Constitution was withheld from the loyal men of that State, has not got a single leg to stand upon. It has neither authority nor has it reason; but it is in conflict with every proclamation, with every statute, and with every step that we took to put down that rebellion, from beginning to end.

Again says the honorable Senator:

> But when property was taken in the State of Alabama, a State at war with the Federal Government, no such legal liability attached.
>
> Are we prepared now to recognize the doctrine that the State of Alabama, as a State, was at war with the Federal Government? No, sir; never. We did not proceed upon that theory. When we were told at the beginning of the war that we had no authority to coerce a State we said, "We have nothing to do with States, we will coerce the rebel people of that State; with the State as such we have nothing to do." If it shall now be recognized that the State of Alabama, as a State, in her municipal character was carrying on a war with us by means of which the loyal men of that State were deprived of their protection under the Constitution, there are many other consequences which will follow that doctrine which we dare not admit. Sir, that doctrine is heretical. We dare not, we cannot maintain it without overturning the whole theory upon which we have put down this rebellion.—*Congressional Globe*, second session Fortieth Congress, page 358.

Never did any man speak more truth with greater precision and stronger logic than thus spake the noble Morton.

Again, in replying to the fallacy of "disloyal States" working corruption of political faith, and thus making the citizens of such States disloyal in contemplation of law, the great Morton said:

> But, Mr. President, let me take the case of a Union man in the South who has borne the heat and burden of this civil war, who has been persecuted, and who has sustained all those hardships that we know were incident to a Union man in the South during the war. To say that we will treat him as a public enemy, and that we will refuse to pay him for his property deliberately taken by the Government, where under the same circumstances we would pay a man living in the North for his property taken by the Government, is revolting to the plainest principles of justice. I cannot subscribe to any such doctrine. Why, sir, I know that where a camp was organized in the State of Indiana, or Ohio, or Pennsylvania, for the purpose of collecting and preparing troops, the owner of the property was indemnified by the Government for the damage done to it, or where forage and provisions were taken for the purpose of subsisting those troops the parties were indemnified for their property. To say that we will not pay a Union man in the South where his property has been taken under the same circumstances is revolting to the common principles of justice. I would throw to the winds all these technical rules by which the Union man of the South is to be treated as a public enemy, and by which we shall refuse to do him that justice which we would do to a man in the North, of doubtful loyalty, who was living in peace, comfort, and safety.
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> Mr. President, there was one authority referred to, I believe, by the Senator from West Virginia [Mr. WILLEY] which perhaps might even cover all the cases, and I think that was in Vattel. He can correct me if I state it incorrectly. That authority was that even, for example, in a loyal State, or in a part of the country where the insurrection did not prevail, if the Government deliberately took property, as a house or garden, to make a rampart or fortification, or if it took forage or subsistence deliberately, the Government was not bound to make payment. According to that authority, as I understand it, when General Lee invaded the State of Pennsylvania and the army of General Meade was falling back, if in the course of a march or a battle they destroyed the property of loyal men, that would be an act of war for which the Government would not be liable even in a loyal State.
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> And, sir, applying that principle to the Southern States where General Sherman on his march, or in the course of a battle, passed over and destroyed the property of Union men the Government is not liable; but if General Meade in the course of expelling Lee deliberately destroyed property which became necessary for a fortification, or seized the forage and provisions of loyal men around him there, the parties would be paid, and under the same circumstances they should be paid in the South, always upon the condition that they are true and loyal men.
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> Then, does not the rule reduce itself down to simply this, that wherever a loyal man in the North would be paid for his property which was deliberately appropriated by the Government, a loyal man in the South should be paid for his property deliberately appropriated by the Government; and where in the North a loyal man would not be paid for property destroyed in the course of a march, or of a battle, so in the South a loyal man should not be paid for his property destroyed in the same way.
>
> Can we afford to make any other rule on this subject? We might save some money by making another rule; but it would in the end be penny-wise and pound-foolish economy. After having expended some $5,000,000,000 to keep the South in the Union, and after all our labors to build up a loyal party down there, shall we come here making shipwreck in the end by declaring upon the floor of the Senate that the loyal men whose hardships and sufferings we can never estimate shall be treated as public enemies, and that we will not pay them under the same circumstances under which we would pay a man for the taking of like property in the North? I can never consent to it.—*Congressional Globe*, volume 71, page 308.

Perhaps the best possible conclusion of what I wish to say on this particular point will be found in the language of our present honored Speaker, who on the 10th day of May, 1878, declared that—

> Whatever others may do, or believe, I shall advocate on the floor of this House as I have advocated in the committee, and gentlemen of the committee will corroborate me in this statement, a liberal rule as to the payment of claims of loyal men living in the South. I am not to be classed among those opposed to paying claims of this character.

Mr. Speaker, I might continue to quote from the statesmen and jurists of both political parties in support of the position that it is the duty of the Government to pay its loyal citizens for their property which was taken and used by the United States Army. But I turn to another feature of this question, of the payment of "war claims."

We hear a great deal said in these days in regard to repudiation. One set of politicians are denounced, or were a few years ago, when they startled the country and shocked the public conscience by proposing to inaugurate a sugar-coated policy of repudiation by paying off the bonded debt of the Government with fiat money—greenbacks.

Another set of political speculators are charged, and perhaps justly, with desiring to repudiate the pensions provided for the ex-Union soldiers of the country. And still another class have to bear the odium of trying to repudiate the indebtedness of their respective States. Tennessee is just now under fire on account of the repudiating tendencies of some of her political leaders. Shall the Greenbacker be discountenanced for proposing to pay the bondholders in greenbacks and the men honored who refuse to pay the Union men of the South even by a promise? Shall those who would destroy our beneficent system of pensions to our citizen soldiers be denounced for their repudiating ingratitude, while those who refuse to pay for the rations on which the soldiers subsisted during the war receive commendation and praise? Shall Tennessee be dishonored because the leaders of one wing of the Democracy in that State seek to repudiate her bonds, and the Congress of the United States held blameless when it refuses to provide a means of settlement with those to whom it is honestly indebted, as in very many cases in the border States of the South?

If certain States of the Union are to be dishonored for refusing to meet their just obligations to their creditors, what shall be said of the United States for setting the dishonest example? If Tennessee and her people are to be reproached for becoming involved in a large State debt, and then refusing to provide a court in which to enforce payment, what is to be said of the Government of the United States for taking the last horse, the last cow, the last hog, the last bushel of corn, and the last pound of bacon to be found in the smoke-house of her loyal citizens in the South, and then refusing to let its own courts consider the legal liability involved? If one of the things I have mentioned is repudiation, is dishonesty, so is each of the others. If any one act of repudiation is more dishonest and degrading than another, it would be that of the great Government of the United States refusing to pay the debts created to save the Union. And I say here and now that the great Government of the United States cannot afford to repudiate the just claims of its loyal citizens.

But it has got to be a common thing for a certain class of politicians to declare that there was very little loyalty in the South. All I have to say to this is, that there were more unconditional Union men in Eastern Tennessee according to population than in any part of the United States, and I to-day represent more ex-Federal soldiers according to the number of voters in my district than any member on this floor.

No man who is not himself false to patriotism and all its impulses will call the loyalty of a very large Union element of the South in question.

But as a last refuge of those who are determined to force the Government to repudiate the claims growing out of the war due to Union men in the South, we are constantly told that these claimants have had their day in court. We are reminded that the act of July 4, 1864, has been applied to all of the State of Tennessee and two counties in West Virginia; and that the Southern claims commission was organized expressly for the benefit of the Union men of the South. "True, O king"—all of it!

But the act of the 4th of July, 1864, was and has been hedged about with so much cumbersome machinery and so many "red-tape" processes and conditions originating in the peculiar systems of West Point and the regular Army, that it amounted in many respects to an obstruction to instead of the means of reaching justice. And as to the Southern claims commission, the very law creating it was of such a slip-shod character that it put three otherwise dignified jurists to work with about the same system that would characterize the locomotion of a rickety old cart drawn by a blind and balky horse on a stumpy hillside in the midst of a snow-storm.

For any man familiar with the proceedings of that tribunal to call that "a day in court" places himself at once in the front rank of American jokers, where he becomes the rival of Eli Perkins.

To be serious, while I have very great respect for the gentlemen who composed this commission, I do not believe any well-informed person will stake his reputation on an effort to sustain their findings on any known principle of jurisprudence applicable to courts of law or equity. And the delays and clogs connected with the proceedings in the Quartermaster-General's Office, under the act of July 4, 1864, and before the southern claims commission, were such as to permit the bar of the statute to intervene before very many of those interested knew that such means for their relief had been provided.

In conclusion, Mr. Speaker, I will repeat what I said in the beginning, that no more important matter can arrest the attention of Congress than that of providing for the adjustment of claims against the United States, for, in addition to the right and wrong involved in the question, the transfer of these claims from Congress to some other department of the Government will be a real and advancing step in the direction of "civil-service reform." It will lessen the expenses of legislation and permit Congress to pursue its legitimate work as designed by the founders of the Government and expressed in the letter of the Constitution.

These claims ought to be paid, and one of two things ought to be done: the Court of Claims ought to be given jurisdiction over them, or the powers of the Quartermaster-General should be enlarged and the time extended in which to file them, so that justice may be meted out to the people.

And it will not be out of place to add, as a last word, that France, yes, "bloody France," at the conclusion of her late war with Prussia not only paid her citizens for the property taken and used by government, but paid them, as I understand the fact, for all the losses inflicted upon them by the public enemy. If France can thus set so good and generous an example, cannot the United States be as just as France is generous and pay her loyal people for property of which the Government received the benefit? In the name of right and justice, I say the United States should pay all just and loyal claims.

Such was the original purpose of Congress. Such was the intention of all parties, until political leaders conceived the idea of mak-

ing political capital out of the subject by crying, "War claims." The time has come to rebuke this demagogism by the adoption of some just measure for the relief of the people.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed the bill (H. R. No. 5801) to provide a deficiency for the subsistence of the Arapahoe, Cheyenne, Kiowa, Comanche, Apache, and Wichita Indians.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 447) to provide for the allotment of lands in severalty to the United Peorias and Miamies of the Indian Territory, and for other purposes;

A bill (S. No. 596) for the relief of Edgar Huson; and

A bill (S. No. 1071) for the manufacture of salt in the Indian Territory.

REFERENCE OF CLAIMS TO THE COURT OF CLAIMS.

Mr. TYLER. I send to the desk an amendment, which I desire to offer when in order.

The SPEAKER *pro tempore*. The amendment will be printed in the RECORD under the order of the House.

The amendment is as follows:

At the end of the third section of the pending bill add:

"*Provided*, That in the examination of claims referred to the Court of Claims by virtue of this act, the court shall first examine the question of the claimant's loyalty, and if in its opinion any claimant did not remain a loyal adherent to the cause of the Government of the United States during the war of the rebellion, the court shall proceed no further in the examination of his or her claim, but shall report that opinion to Congress or to the Department of the Government from which the claim was referred to said court."

Mr. SPRINGER. Mr. Speaker, I shall vote for the bill reported from the Committee on Civil-Service Reform by the gentleman from Tennessee, [Mr. HOUSE,] and now offered as a substitute for the bill reported from the Committee on Claims, with some amendments thereto. I am very glad that the subject of referring private claims now pending or which hereafter may be brought against the Government to some court for the ascertainment of the facts has at last obtained a hearing in Congress. We have had bills of this kind pending heretofore, but scarcely a moment's discussion has been given to them. The question of considering private claims has become so serious that we are compelled to do something in order to relieve our calendars from the pressure now upon them.

All abuses in Government must be remedied sooner or later by the prominence which those abuses obtain. The evils connected with special and private legislation have become so great that Congress cannot longer shut its eyes to their existence, but must meet and provide for them in some way. It is proposed in this bill to do this by an act of Congress. I have submitted heretofore a joint resolution proposing an amendment to the Constitution denying to Congress the power to pass any private law. I am not particular what remedy shall be adopted, whether a constitutional amendment or an act of Congress. I should hope that an act of Congress would be passed, because we can accomplish that more easily than we can secure the ratification of a constitutional amendment.

The bill now pending provides in the first section that Congress shall not authorize the payment of any private claim not payable under existing laws until the facts upon which such claim is based shall have been judicially established and reported, as provided in the other sections of the bill. What objection can there be to this proposition? What wrong can result from this enactment? It simply provides that Congress shall not pass a private claim until the facts shall have been judicially ascertained.

Gentlemen have said that this will open the door for the allowance of fraudulent claims, rebel claims, disloyal claims, and all sorts of schemes and jobs can be gotten through under such a provision. I cannot see it in that light. On the contrary, this is putting up the barriers and preventing any claim being passed by Congress until after a full knowledge of all the facts upon which it rests.

How are the facts to be ascertained? This bill says judicially, and judicially has a technical signification in this case. The facts are to be ascertained by a court in the ordinary way of ascertaining facts in a court of justice. How do we ascertain them now? Every gentleman is familiar with the practice in Congress of considering private claims. A bill is introduced; it goes to a committee; is referred to one member; sometimes to two, and sometimes to three, as a sub-committee. That sub-committee has placed in its hands certain *ex parte* evidence taken by the party in interest, and that sub-committee considers this evidence in its own way, evidence taken without any judicial investigation whatever. Upon this *ex parte* evidence Congress is called upon to pass bills involving large sums of money.

Now, this bill provides that we shall not hereafter pass upon facts in this way, but that we shall only pass upon claims where the facts have been judicially ascertained, and that after we have judicially ascertained the facts as courts of justice ascertain facts, then we can proceed to determine whether we will grant the relief provided in the bill or not. The other provisions of the bill simply point out the mode of proceeding by the Court of Claims.

I need not refer to the various provisions herein set forth. The honorable gentleman from Tennessee [Mr. HOUSE] who has reported this bill very clearly and forcibly presented the provisions of the various sections of the bill, and I will not recapitulate what he has already so well stated.

There is one section, section 4, to which I do ask the attention of the House at this time. That provides that in case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, or for the destruction of or damage to property by any part of said forces, the petition shall aver the person furnishing said supplies or stores or whose property was so damaged, destroyed, or taken, did not give aid or comfort to said rebellion, but was through that war loyal to the Government of the United States, which averment shall be investigated and the facts in relation thereto found and reported by the court.

Now, in the face of this very positive provision it has been asserted on this floor by gentlemen that the court will not do what is directed to be done, that we cannot require a court to do what is provided in this section. That seems to be a strange doctrine that the court created by act of Congress, clothed with special, not general, jurisdiction, will refuse to exercise the jurisdiction conferred on it in the manner and under the restriction required by the law-making power which gives it existence.

Mr. HOLMAN. Let me ask the gentleman a question in reference to the section which he is now considering. Is it good policy to confer upon the Court of Claims power to hear cases growing out of spoliations of war? Does the gentleman think that is good policy?

Mr. SPRINGER. So far as I am concerned I shall vote against the payment of all claims, whether of loyal or disloyal persons, which originated in the war, for the destruction of or damage to property by any part of the forces of the United States or confederate governments.

Mr. HOLMAN. That section gives the court jurisdiction of that class of claims.

Mr. SPRINGER. It gives the court jurisdiction to ascertain the facts and report to Congress, and Congress will be clothed with no greater power to grant relief hereafter than it has now.

Mr. HOLMAN. It confers jurisdiction on the Court of Claims as to all matters of damage in the destruction of property, all kinds of military spoliations, rents for the use and occupation of property, &c.

Mr. SPRINGER. The provision of the bill is this:

The petition shall aver that the person who furnished such supplies or stores, or whose property was so taken, destroyed, or damaged, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States.

Mr. BRAGG. What bill is that?

Mr. SPRINGER. The bill reported by the gentleman from Tennessee, [Mr. HOUSE.]

Which averment shall be investigated and the facts in relation thereto found and reported by said court.

Mr. HOLMAN. That is the fact in reference to the question of loyalty.

Mr. SPRINGER. That is the jurisdictional fact. The petition shall aver that the claimant was loyal. A petition which is presented and which does not aver this is not brought within the jurisdiction of the court to hear it; it would be excluded under this provision of the bill. It shall aver that the person who furnished the supplies was loyal to the Government of the United States throughout the war.

Now, I repeat, if a petition shall be filed which does not aver that the claimant was loyal the court can dismiss such petition for want of that jurisdictional fact being stated; and the court will be compelled to investigate the question unless I am greatly in error as to the practice established under such a provision. This is an affirmative fact to be found not only to give the claimant standing in court but also the provision, "which averment shall be investigated and the facts in relation thereto found and reported by said court."

Mr. HOLMAN. Certainly that would have to be investigated and the facts in the case reported to Congress. But there is another question which I desire to ask the gentleman. There is a large body of claims which have been pending and considered in various ways, which have been barred in various forms. In a great many cases claims have been allowed in whole or in part, while others have been rejected wholly. Now, does the gentleman propose to reopen all of the cases which were barred and throw them all upon the court again for investigation?

Mr. SPRINGER. This section 6 provides that—

No private claim of the character described in section 2 of this act, which accrued prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims or considered by Congress or any of the Executive Departments.

Here is a bar to all claims wherein the claimant has not presented the claim within the limit prescribed by law.

Mr. HOLMAN. There were some fifty-three—I believe sixty thousand of these claims before the Southern claims commission. They were all acted upon in some form or other. They were allowed in part in some cases or rejected as a whole. Now, there is nothing

here to prevent the reconsideration of all the claims which were rejected entirely or rejected only in part by that commission.

Mr. SPRINGER. I hope the gentleman from Indiana will move an amendment to that effect. I shall vote for it. I shall vote for a provision that this court shall consider no claim rejected by either House of Congress or by a Department of the Government or by the Court of Claims itself or the Southern claims commission.

Mr. HOLMAN. Would my friend from Illinois not go a little further? The law touching the adjustment of claims before the Quartermaster-General's Department or the Commissary-General's Department provided that only such claims should be considered as were presented prior to the date mentioned in the law; and unless they were filed before that date the claim was barred. Now, does my friend propose to reopen all claims which were barred by the act of 1871, and the claims which were rejected by those departments?

Mr. SPRINGER. I will vote for an amendment to the bill to bar all claims which are barred by the act of July 4, 1864. That, I believe, was the date of the act.

Mr. HOLMAN. Yes, sir; that was the date.

Mr. SPRINGER. I should vote to bar all such claims.

Mr. HOLMAN. And give effect to the other bars now existing by law?

Mr. SPRINGER. Yes, sir; I would. I should be very much opposed to opening any of the avenues for the allowance of claims against the Government which are now closed.

But the gentleman from Indiana must understand me. The act of July 4, 1864, had reference to a general class of claims therein indicated; but all other claims barred by the statute of limitations, because the Court of Claims has not jurisdiction to hear them, which are meritorious, I should think ought to have a hearing before that court. I think there should be a hearing upon the question as to whether the party has allowed his right to lapse in such cases through no fault of his own.

I voted in one session of Congress here, I am not certain which one, for a constitutional amendment to bar all war claims, on the general idea that after the war had been closed for so many years it was too late to consider claims which originated during the war. I am not certain whether I was right or not; but I have seen nothing since that time to cause me to regret that I had voted for such an amendment.

I do not desire to open up any facilities for the allowance of claims that grew out of the late war, and generally of claims which have not been in good faith presented to the Court of Claims or to some of the Departments of the Government or to Congress for relief in the only way pointed out to them to seek relief. The Government should endeavor to do justice to its citizens, and that is the reason why I favor some means by which persons having claims against the United States can be heard upon the facts. There is no forum now open for such people except for claims arising upon contracts expressed or implied, which may be sued in the Court of Claims under its general jurisdiction if suit is begun within the time prescribed.

There are many equitable cases arising against the Government that ought to be heard in a judicial way by some tribunal. Gentlemen must reflect that this country is getting to be a very large one. We have mail contracts in every school district of the United States; we have contracts with every railroad company in the United States; we have persons engaged in carrying the mail in every locality throughout the land; we have foreign relations in which the rights of citizens of this Government may be involved. In all the departments and under all the laws of Congress cases may arise where the party ought to have a hearing. Now, he is remitted to Congress, which is worse than no tribunal at all.

Mr. ROBINSON, of Massachusetts. If the gentleman will allow me I will say, not in those cases of mail contracts. I suppose in those cases the party has his remedy now in the Court of Claims.

Mr. SPRINGER. Of course, in all claims growing out of contracts he would have the right to go to the Court of Claims. But there are many questions arising between contractors and the Government, not directly resting on the contracts but growing out of circumstances, too numerous to mention here. There can be no better illustration of the injustice to claimants and the outrage perpetrated by the Government upon claimants than was exhibited by this House on Monday last. A claim was passed allowing about $70,000 to be paid to persons who were engaged on the private-armed brig General Armstrong, a claim which originated in 1814, sixty-eight years ago. The parties interested in that case, or their heirs, have been seeking relief, have been trying to have justice done to them, for sixty-eight long years—more than two generations of the average age of men.

Mr. BRAGG. Was that case ever considered by any tribunal?

Mr. SPRINGER. It has been considered by Congress.

Mr. BRAGG. By Congresses previous to this one. But has it been considered by any other tribunal?

Mr. SPRINGER. I am not advised as to that.

Mr. BRAGG. I think it has.

Mr. SPRINGER. I am not advised as to that. It has been pending for that length of time and was not allowed till last Monday by this House. And the vote passing it by tellers was 136 ayes to 36 who voted against it. I voted against that claim on account of its old age, I am ashamed to admit. I think if it is a just claim it should have been paid by our predecessors more than fifty years ago. They have certainly neglected their duty in the most grievous manner, or else these claimants have at last succeeded in mulcting the Government in a large sum of money which ought not to have been paid.

Mr. ROBINSON, of Massachusetts. Did you refuse to do your duty because your ancestors did not do theirs?

Mr. SPRINGER. I refused to vote for this claim simply because I thought a claim sixty-eight years of age ought to be barred on general principles.

Mr. HOLMAN. And you made no mistake there.

Mr. SPRINGER. I think I made no mistake. I was ashamed to admit by a favorable vote that my Government had refused to pay an honest claim for half a century.

Mr. HOLMAN. Will my friend from Illinois allow me to ask him if the limitations I wish to submit to him cover the ground he has mentioned?

Mr. SPRINGER. If the limitations are not as great upon this bill as the gentleman from Indiana desires them to be, I hope he will move amendments making the limitations as great as he sees fit. I shall certainly co-operate with him in placing in this bill as many restrictions as possible, so as to make it effective for the object we have in view.

The object I have in view in this bill is to remove from the consideration of Congress claims that are now crowding our calendars and are carried over from Congress to Congress, to the annoyance of the members of this House and of the Senate and to the encumbering of us with matters which Congress ought not to be called upon to consider, namely, private claims against the Government of the United States.

I have stated heretofore that I did not believe it was within the power of Congress under the Constitution to adjudicate private claims. I have taken that position from the fact that all legislative power was vested in Congress and all judicial power was vested in the courts. Whether the Government of the United States owes an individual is a fact which ought to be ascertained in a judicial way. There is no opportunity offered to us to consider these cases. They have become so numerous that we are absolutely met with a blockade, and we must do something to relieve it.

Mr. Speaker, I have asked the Librarian of this House, Mr. Smith, to prepare a statement of bills and joint resolutions introduced in each Congress from 1861 to 1881 inclusive, a period of twenty years. I will have this table printed in my remarks. Gentlemen will observe on examination of it that there have been introduced during the last twenty years in Congress 52,164 bills. Most of these were private bills, and they have been printed by Congress at an enormous expense. The table is as follows:

A statement of bills and joint resolutions introduced in each Congress from 1861 *to* 1881, *inclusive.*

Congress.	Senate bills.	Senate resolutions.	House bills.	House resolutions.
Thirty-seventh, 1861–'63	433	137	613	158
Thirty-eighth, 1863–'65	485	128	813	182
Thirty-ninth, 1865–'67	635	184	1,234	305
Fortieth, 1867–'69	980	244	2,023	476
Forty-first, 1869–'71	1,375	326	3,091	522
Forty-second, 1871–'73	1,652	15	4,073	592
Forty-third, 1873–'75	1,362	20	4,891	162
Forty-fourth, 1875–'77	1,293	33	4,708	196
Forty-fifth, 1877–'79	1,865	72	6,549	250
Forty-sixth, 1879–'81	2,224	167	7,257	419
	12,304	1,326	35,252	3,264
		12,304	3,264	
Total		13,630	38,516	
			13,630	
Grand total			52,146	

Very respectfully, yours,

W. H. SMITH.
Librarian House of Representatives.

I have also obtained from the Public Printer a statement of the cost of the printing of these bills from 1862 down to and including the year 1881. The cost for each year is stated in a table which I hold in my hand, together with the letter of the chief clerk of the Printing Bureau. I will have the table and letter printed as part of my remarks, only calling the attention of the House to the aggregate, which was for these twenty years of printing of bills, $459,740. Nearly half a million of dollars have been expended by Congress in the last twenty years in the printing of bills; and the clerk furnishing me with this table says that a large portion of these were private bills.

The letter and table are as follows:

OFFICE OF PUBLIC PRINTER,
Washington, D. C., March 9, 1882.

SIR: I send herewith a statement showing the cost of printing bills and joint resolutions for the House and Senate, respectively, from 1862 to 1881, both inclusive.

We do not keep the cost of bills of a public and private nature separate, but the latter comprises about two-thirds of the whole number printed.

Very respectfully,

A. F. CHILDS, *Chief Clerk,*
For the Public Printer.

Hon. WILLIAM M. SPRINGER,
House of Representatives.

Statement showing the cost of printing the bills and joint resolutions of both Houses of Congress for the years 1862 to 1881, inclusive.

Year.	House.	Senate.
1862	$2,583 62	$2,718 55
1863	924 62	1,620 78
1864	2,429 03	3,999 95
1865	802 62	1,572 58
1866	8,777 70	15,101 36
1867	7,985 17	8,575 42
1868	7,474 62	9,902 53
1869	7,291 09	9,693 00
1870	14,006 05	18,939 28
1871	9,715 77	11,164 64
1872	18,882 32	18,108 49
1873	8,776 86	9,262 96
1874	29,335 34	15,862 86
1875	9,793 60	9,686 26
1876	28,873 98	14,634 01
1877	4,990 61	4,095 66
1878	32,519 90	17,462 40
1879	20,901 66	18,334 30
1880	23,861 30	14,048 18
1881	7,482 40	7,548 64
Total	247,408 26	212,331 85
		247,408 26
Grand total		459,740 11

It will be seen by this table that during the Forty-fifth Congress the cost of the printing of bills amounted to $73,116; and during the Forty-sixth Congress the cost of the printing of bills amounted to $69,000. Members will discover that the cost of printing bills was less in the Forty-sixth Congress than in the Forty-fifth Congress. That was owing to the fact that a new rule, which I had the honor to submit, was adopted on April 9, 1879, which provided that private bills heretofore printed by Congress should not be reprinted until they had been favorably reported from some committee. That little rule, which was enforced during a part of last Congress, saved the Government a very large sum of money in the printing of private bills, the saving amounting to over $8,000.

There were introduced in the last Congress 10,000 bills. There have been introduced during this Congress up to this time in the House 6,103 bills and joint resolutions, and in the Senate 1,818; making a total of 7,921 bills and joint resolutions now pending before this Congress; and we have been in session but a little over four months.

Mr. BRAGG. Will the gentleman permit me to ask him a question?

Mr. SPRINGER. Certainly.

Mr. BRAGG. I would inquire of the gentleman if the bill which he favors places any restriction upon any one sending all these bills back here and having them printed?

Mr. SPRINGER. It will prevent those bills from being introduced hereafter and printed at the expense of the Government.

Mr. BRAGG. Where is that clause?

Mr. SPRINGER. I will read it:

Congress shall not authorize the payment of any private claim not payable under existing laws until the facts on which such claim is based shall have been judicially established and reported as hereinafter provided.

The party must go by petition to the Court of Claims and there set up his claim against the Government, and then the court will proceed judicially to consider it.

Mr. BRAGG. Will that prevent any succeeding Congress from passing any claim it may see proper?

Mr. SPRINGER. It does not; and that is the weak place in all this legislation.

Mr. BRAGG. Exactly.

Mr. SPRINGER. I will come to that after awhile.

Mr. BRIGGS. I was about to propound to the gentleman from Illinois [Mr. SPRINGER] the same inquiry which the gentleman from Wisconsin [Mr. BRAGG] has propounded, as to whether this first section is binding on any future Congress.

Mr. SPRINGER. Of course not.

Mr. BRIGGS. Or on the present Congress, after this bill shall have been passed.

Mr. SPRINGER. Of course not. Nothing short of a constitutional amendment will abolish this private legislation entirely. But I think the rule hereafter will be, when a private claim is introduced in Congress, if this bill shall become a law, that such private bill must provide upon its face for the repeal of this law, in so far as that particular claim is concerned. And as it will propose a repeal of the law it will of course be in order for Congress to consider it.

That is the weak place of all legislation of this kind. Future Congresses must be relied upon to protect themselves against the introduction and printing of these bills at the expense of the Government. That might be done by the adoption of some rule upon the subject. If you should provide that such claims shall come in only through the petition-box, and that when introduced here in that way they shall be referred to the Court of Claims for the ascertainment of the facts stated in the petition, we will in that way remove from the presence of Congress the consideration of private bills and the printing of private bills which now obstruct nearly all other legislation, and compel the party first to establish his loyalty and the facts of his claim in the Court of Claims before he can appeal to us for the payment of what he alleges the Government owes him.

Now, the honorable gentleman from Wisconsin [Mr. BRAGG] and the honorable gentleman from New Hampshire [Mr. BRIGGS] have referred to the fact that future Congresses may repeal this legislation. I regret that such power still exists and will continue to exist until a constitutional amendment upon this subject shall have been passed. I hope that before this Congress adjourns it will adopt and cause to be submitted to the several State Legislatures for ratification a constitutional amendment on the subject of private claims which will in substance provide that no case of a private claim shall ever be adjudicated by Congress.

Mr. BOWMAN. I wish to suggest to the gentleman that the objection which is made to this bill applies to every law passed by Congress, from a tariff bill up or down.

Mr. SPRINGER. Of course. I will ask the Clerk now to read a constitutional amendment which I have introduced into this House.

The Clerk read as follows:

Joint resolution proposing an amendment to the Constitution prohibiting special legislation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein,) That the following article be proposed to the Legislatures of the several States, which, when ratified by three-fourths of said Legislatures, shall be valid as a part of the Constitution, namely:

ARTICLE —.

SECTION 1. The legislative power of the United States is limited to the enactment of laws general in their application and effect to all sections and persons within the jurisdiction of this Constitution. All local, private, or special enactments, hereby prohibited, shall be null and void.

SEC. 2. All claims against the United States shall be adjudicated and determined by such tribunal or tribunals as Congress may establish for that purpose.

Mr. SPRINGER. I ask gentlemen to give attention to that amendment, or to some other which will effectually put a stop to the adjudication of private claims by Congress.

Gentlemen need not be reminded of the fact that of all places under the sun in which a case should be adjudicated, Congress or a Congressional committee is the worst, not only for the claimants but for the Government itself. The Government is entitled to have all claims established against it in some open tribunal, where witnesses can be cross-examined and where the Government will have an opportunity of producing witnesses to disprove the claim set up by the claimant.

Give the Government this opportunity, and this great mass of claims which was represented in the last Congress by ten thousand bills, nearly all of them pending when that Congress adjourned, and which is represented in this Congress by seven thousand bills already introduced—give the Government the right to be heard against these claimants by witnesses, and they will disappear from these halls, at least a great many of them, never to return again.

I am not afraid, Mr. Speaker, to trust our successors in the House and in the Senate to pass upon the questions of fact which may be submitted by the Court of Claims under this bill. I shall assume that our successors will have as much probity, as much regard for the rights of claimants and the interests of the Government as we have exhibited on these subjects, and that when the Court of Claims shall send in their report upon the cases submitted to them under this law our successors will do justice to the claimants and to the Government; and if the facts show that the Government is in honor bound to pay a given sum of money, I cannot see any reason why it should not be paid.

Mr. ATKINS. Does this bill contemplate increasing the number of judges of the Court of Claims?

Mr. SPRINGER. It does not.

Mr. ATKINS. Then how does the gentleman expect the Court of Claims to perform this work?

Mr. SPRINGER. I think that the Court of Claims can in a reasonable time discharge the duties proposed to be imposed upon them by this measure.

Mr. ATKINS. Has not that court now as much business as it can do?

Mr. SPRINGER. I am not certain whether the members of the court are engaged all the time or not. But I understand they have reported to a committee of this House that they can take charge of this business, and will perform it in good faith.

Mr. ATKINS. Would there be a restriction in this bill forbidding Congress to act upon these matters hereafter? I presume of course we could not do that.

Mr. SPRINGER. No, sir; not without constitutional amendment.

Mr. REAGAN. It is very probable that many cases which now come to Congress would never go to the Court of Claims.

Mr. SPRINGER. As the gentleman from Texas well remarks, there are many claims coming now to Congress, because the parties hope to have the investigation take place on *ex parte* testimony, which would not go to the Court of Claims where representatives of the Government would be ready to cross-examine witnesses and to introduce evidence opposed to the claim. Many of these claims, as the honorable gentleman from Michigan suggests, would never see daylight if the facts were required to be exhibited in the light of day before an honest court.

Mr. Speaker, there seems to be an idea prevailing in the minds of some gentlemen that there is but one class of obligations that the Government of the United States should pay—United States bonds. Whenever a man has a bond of the United States we all stop and say, "Yes, the interest and principal must be paid according to the contract." That is right. But some gentlemen seem to stop there. Individuals under our laws are required to pay just claims, even when they have not given their bonds or their notes. Wherever a court hearing a case between man and man finds that one is indebted to the other, no matter whether there be a bond, or note, or anything of the kind, the court enforces payment. I believe the Government should be placed upon the same plane on which its citizens are placed in regard to these matters. If the Government of the United States justly and honestly owes a claim, it is dishonest for it to refuse payment.

The gentleman from New York [Mr. CAMP]—and I am sorry he is not now in his seat—referred on Friday last to the fact that there were certain disloyal claims pending before Congress. I desire to call attention to his language. He said:

> The people of this nation are apprehensive on the question of paying rebel claims. Why, sir, they have been told, and there are many reasons why they should believe, that there are about this Capitol nearly $3,000,000,000 of such claims in committee rooms, in pigeon-holes, and elsewhere, waiting but the advent of the Democratic party to power for their liquidation and payment. Whether this be true or not I am not here now to discuss.

Of course he was not. The honorable gentleman very timidly made the remark that he was not here to say whether the statement was true or not. But why did he not say that it was not true? He left the impression that there was some foundation for the statement. How many claims did he say there were? Three billion dollars of "rebel claims." Where?

> In committee-rooms, in pigeon-holes, and elsewhere, waiting but the advent of the Democratic party to power for their liquidation and payment.

I am sorry the honorable gentleman is not in his seat. I wanted to characterize that statement differently from what I shall now do. But I can say in his absence, and in a parliamentary way, that there is not a particle of foundation for that statement. Mr. Speaker, I have been in Congress nearly eight years, and I have never known a claimant to come to this House and ask to be paid any war claim without basing his petition or claim upon the fact that he was loyal during the war. I have never known a committee to consider such a claim that did not reject it if the disloyalty of the claimant appeared. I do not know any party or any set of gentlemen in this House who are in favor of paying to disloyal persons claims growing out of the war.

There are claims that originated before the war; there are claims with regard to pensions to Mexican soldiers; there are cases that have no reference to damages during the war, or supplies furnished at that time where the question of the loyalty of claimants has been discussed; but I do assert that so far as regards the class of claims embraced within the provisions of section 4 of this bill, for "supplies furnished to the military or naval forces of the United States, or for the destruction of property by said forces," there has been no claim pressed here, so far as I know, on behalf of any person who was disloyal during the war.

Mr. DWIGHT. The gentleman will allow me to ask him whether the statement of my colleague [Mr. CAMP] was not based upon the fact that in the discussion of the bill then pending it turned out that the claimant was a disloyal man?

Mr. SPRINGER. But in that very case (the claim of Edward S. Armstrong for about $1,600) the question of disloyalty was the matter in dispute; it was the question at issue, having been determined differently under different circumstances.

Mr. DWIGHT. The claims that my colleague referred to were those of the same character.

Mr. SPRINGER. No, sir; he speaks here of "rebel claims;" and he says:

> Nearly $3,000,000,000 of such claims are in committee-rooms, in pigeon-holes, and elsewhere, waiting but the advent of the Democratic party to power for their liquidation and payment.

Mr. DWIGHT. It crept out that claim was presented by a man presumed to be disloyal.

Mr. SPRINGER. That was a disputed question.

Mr. DWIGHT. Oh, no, it was not.

Mr. SPRINGER. He was said to be so after the evidence was heard.

Mr. DWIGHT. It is admitted that claim was presented by a man absolutely disloyal.

Mr. SPRINGER. The claim was not a war claim at all; it had nothing to do with the war.

Mr. DWIGHT. Does it make no difference to the gentleman that it was presented by a disloyal man? Such a one is cut off by the statute. This man was admitted to be disloyal, and under the law was not entitled to payment.

I wish to ask the gentleman from Illinois another question, and it is this, whether nearly all that side of the House did not vote for that claim after the claimant was known to be disloyal?

Mr. SPRINGER. No, sir; I do not know any such thing. I did not vote for it.

Mr. DWIGHT. I think the record will show that side of the House nearly all voted for it.

Mr. SPRINGER. I do not know how many voted for it. I state it was not a war claim and had nothing to do with the war. This party was simply claiming so much of his father's estate as came to him; a claim growing out of a contract his father had with the Government of the United States before the war. That is all there was in that case. I am not going into a discussion of it now.

Mr. DWIGHT. The man was in the war against us all the time.

Mr. SPRINGER. I do not know whether he was or not; I voted against it.

Mr. DWIGHT. Was not the man who presented that claim in the rebel army?

Mr. SPRINGER. I do not know.

Mr. DWIGHT. I state that he was. It is shown in the testimony that he was.

Mr. SPRINGER. The honorable gentleman from Ohio [Mr. TAYLOR] who succeeded in this House the late President Garfield reported it and advocated it on the floor of this House. I took it for granted we ought to pay it until the honorable gentleman from Michigan [Mr. BURROWS] made a statement in regard to it, and then I thought it ought not to be paid, and I voted against it. I submit to the gentleman from New York, would he not think a man might be misled on a question of loyalty after a favorable report was made on the case by a distinguished Republican member, the successor of General Garfield on this floor?

Mr. REED. The successor of General Garfield said the man was not loyal.

Mr. SPRINGER. He reported in favor of allowing the claim; but I am not going into the details of all these small claims. It is impossible for any one member of Congress to do it. We have to take them upon the report of the committee. This case came to the House under such favorable circumstances that any member would have been authorized to support it without going into the merits of the matter. After the gentleman from Michigan [Mr. BURROWS] made a speech on the subject, however, I felt satisfied the claim should not be allowed and voted against it. Let this suffice for this case. I hope the honorable gentleman will not interrupt me further on the subject.

Mr. DWIGHT. Did not all that side vote solidly for it?

Mr. SPRINGER. I did not; I voted against it.

Mr. BRAGG. Here is a small fragment who did not vote for it. [Laughter.]

Mr. SPRINGER. And I do not think the gentleman from Indiana [Mr. HOLMAN] voted for it. But here is the record of the vote. The enacting clause was stricken out of the bill by a vote of ayes 71, noes 40. The vote was by tellers. If all the "noes" were Democrats (which was not the case) they would constitute less than one-third of the Democratic members of the House.

Since the gentleman from New York [Mr. DWIGHT] seems so much concerned about the Armstrong case, I will print the report on it in the RECORD as a part of my remarks, in order that all the facts may be known. The report submitted by the gentleman from Ohio [Mr. TAYLOR] as the unanimous report of the Committee on Claims is as follows:

> The Committee on Claims, to whom was referred the bill (H. R. No. 987) amendatory of the act entitled "An act for the relief of the heirs and next of kin of James B. Armstrong, deceased," approved March 3, 1873, having had the same under consideration, beg leave to make the following report:
>
> In 1855 James B. Armstrong made a contract with the Government of the United States for the transportation of men and supplies on the Rio Grande. Armstrong claimed that the Government failed to comply with the terms of said contract, and brought suit against the United States in the Court of Claims to recover damages for the breach.
>
> In this action judgment was rendered by the Court of Claims in favor of his administrator (he having died) on the 22d day of November, 1860, for the sum of $17,846.78. The war intervening, no legislation making appropriation for the payment of this judgment till March 3, 1873, when a law was passed appropriating $13,385.09 for the satisfaction of this judgment of the Court of Claims, the Senate having cut down the sum proposed to that amount. (See Senate report No. 488, Forty-second Congress, third session.) The provisions of this law authorized the payment of the proportion of this amount to each of the heirs of said James B. Armstrong according to their interest in the estate, but required proof of the loyalty, during the rebellion, of each person to whom payment was to be made. On the 7th day of March, 1874, satisfactory proof having been made of the loyalty of all the heirs but one, each, except that one, was paid by the Secretary of the Treasury the sum of $1,673.14.
>
> The one not paid was Edward S. Armstrong, the proof of loyalty in his case not being satisfactory. Only two witnesses testified to this point: one by implication impeaching his loyalty, and the other swearing positively that he was and remained loyal during the war. Edward S. was a resident of Missouri during the war, and as that was a non-seceding and loyal State, the presumption of law would be that its citizens were loyal; yet the known facts of history as connected with this particular subject would not raise a very strong probability of fact as to a particular

individual. It is possible, therefore, that an officer acting under the positive and unyielding letter of the law referred to might be justified in withholding payment from Edward S. Armstrong; but your committee think that Congress will not feel obliged to require strict proof of this fact now that the case is before it for further action, especially as this claim accrued long before the war, is unquestionably honest, and comes to the claimant by inheritance.

On consideration of the whole case, the committee report back the bill with the recommendation that it do pass.

The SPEAKER. Under the order of the House the recess must be taken at half-past four o'clock, and there are a few matters upon the Speaker's table which ought to be disposed of. If the gentleman from Illinois will give way, it will not come out of his time.

Mr. BRAGG. How much time has the gentleman left?

The SPEAKER. Fourteen minutes.

Mr. SPRINGER. Very well; I will yield the floor at this time.

Mr. BOWMAN. I move that the bill under discussion reported by the Committee on Claims, as well as the one reported by the Committee on Reform in the Civil Service, be printed in the RECORD to-morrow morning.

The SPEAKER. That order has already been made, and the two bills will be printed in the RECORD.

Mr. BRIGGS. I move the following amendment:

Amend by inserting after the word "facts," in section 1, line 6, "accruing prior to August 20, 1866." Also insert after the word "matter," in line 1, section 2, "accruing as aforesaid."

Mr. HOLMAN. And I move to strike out the fourth section of the substitute offered by the gentleman from Tennessee [Mr. HOUSE] and in lieu thereof to insert the following:

SEC. —. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

SEC. —. In any case of a claim for supplies or stores taken by or furnished to any part of military or naval forces of the United States for their use during the late war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact, and unless the said court shall, on a preliminary inquiry, find that the person who furnished such supplies or stores, or from whom the same were taken as aforesaid, was loyal to the Government of the United States throughout said war, the court shall not have jurisdiction of such cause, and the same shall, without further proceedings, be dismissed.

The SPEAKER. Under the order of the House both amendments will be printed in the RECORD.

LEAVITT CANCELING-MACHINE.

On motion of Mr. SHELLEY, by unanimous consent, the Committee of the Whole House on the state of the Union was discharged from the further consideration of the bill (H. R. No. 2811) authorizing the Postmaster-General to purchase and adopt the Leavitt letter-canceling and post-marking machine; and the same was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. TALBOTT, until Monday next.

To Mr. HOGE, indefinitely, on account of sickness.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 26) to amend section 2326 of the Revised Statutes, in regard to mineral lands, and for other purposes;

A bill (S. No. 361) for a public building at Frankfort, Kentucky; and

A bill (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road.

HARRIET N. ABBOTT.

Mr. RAY, by unanimous consent, introduced a bill (H. R. No. 5906) granting a pension to Harriet N. Abbott; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CATHARINE A. MAPES.

Mr. HOBLITZELL, by unanimous consent, introduced a bill (H. R. No. 5907) for the relief of Catharine A. Mapes; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The Chair will state that in his absence at the evening session the gentleman from Michigan [Mr. BURROWS] will preside.

Mr. SPRINGER. What is the order of business for the evening session?

The SPEAKER. The consideration of bills reported from the Committees on Pensions, Invalid Pensions, and from the Military Committee for the donation of condemned cannon.

The hour of four o'clock and thirty minutes having now arrived, at which time, by a previous order of the House, a recess is to be taken, the Chair now declares the House in recess until seven o'clock and thirty minutes this evening.

EVENING SESSION.

The recess having expired, the House (at seven o'clock and thirty minutes p. m.) reassembled, Mr. BURROWS, of Michigan, in the chair as Speaker *pro tempore*.

Mr. MARSH. I move that the House take a further recess of ten minutes.

The motion was agreed to.

AFTER THE RECESS.

The House reassembled at seven o'clock and forty minutes p. m.

The SPEAKER *pro tempore*. The Clerk will read the order under which this session is held.

The Clerk read as follows:

Resolved, That until the further order of the House, on Friday of each week the House shall take a recess at 4.30 o'clock until 7.30 o'clock, at which evening sessions bills on the Private Calendar reported from the Committees on Invalid Pensions and Pensions only shall be considered. April 14, 1882, amended, on motion of Mr. JOYCE, so as to include the consideration of bills granting condemned cannon, not to interfere with bills above named: *Provided*, That general debate shall be in order at such sessions, not to interfere with said bills.

Mr. JOYCE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the Private Calendar, Mr. BRIGGS in the chair.

PRIVATE CALENDAR.

The CHAIRMAN. The House is now in Committee of the Whole House on the Private Calendar for the purpose of considering bills under the special assignment of business heretofore made by the House for this evening's session.

ORDER OF BUSINESS.

Mr. JOYCE. Mr. Chairman, there are some seven or eight pensions cases on the Private Calendar which have heretofore once or twice or perhaps oftener been passed over informally, because objected to. The first bill on the Calendar passed over in this way is the bill (H. R. No. 2142) granting arreages of pension to Andrew J. Morrison, a bill that I have charge of. Now, if these other bills that have been objected to from time to time, and which are likely to provoke discussion, can be passed over informally to-night so as to enable us to proceed with the consideration of bills on the Calendar to which there will be no objection, I shall not object to this bill being also passed over informally. I am willing that it shall be passed over as I have said, but only on condition that the others are informally passed over.

Mr. ATKINS. Can the gentleman from Vermont state the ground of objection to these bills?

Mr. JOYCE. Not with reference to all of them.

Mr. ATKINS. Have you an idea as to any of them?

Mr. JOYCE. Yes, sir.

Mr. ATKINS. Are they bills granting pensions to soldiers in the ordinary military service of the country; or are they for the purpose of granting pensions to some other than persons in the military service?

Mr. JOYCE. I think that in one or two cases they are for the purpose of pensioning men who are not, perhaps, considered directly in the military service.

Mr. ATKINS. Then I should myself interpose an objection to any of them being considered.

Mr. JOYCE. There are, I think, seven of these cases on the Calendar.

Mr. ATKINS. Then I shall object to their consideration, because I am satisfied that I know of some gentlemen who wish to be heard upon them. I do not desire myself to say anything in reference to them, but I know other gentlemen who wish to be heard.

Mr. PARKER. I would like to know from the gentleman if he will object to their consideration on the ground that there is no quorum present?

Mr. ATKINS. I have already given my ground of objection.

Mr. PARKER. I suppose a simple objection does not stop those more than any other?

Mr. ATKINS. Yes, sir; it will without a quorum.

Mr. PARKER. Of course if the gentleman opposes their consideration on the ground that no quorum is present he can prevent their consideration.

Mr. MATSON. I would ask the gentleman from Tennessee if he would not be willing to proceed with the consideration of those cases on the Calendar which are not likely to provoke discussion, and take up the cases to which he now refers at a subsequent time.

Mr. ATKINS. I do not desire to make any factious opposition. I have not the remotest idea of that. I believe the soldiers who have served the country faithfully and have become disabled by reason of wounds or disease contracted in the military service ought to be pensioned. I think a country that will not pension its brave defenders when they become maimed in the service is not worthy to live.

But, sir, I spoke of a class. That class the gentleman from Vermont has alluded to. The proposition, as I understand, is to pension certain parties who were not in the military service, and I objected

to that just because I knew there were some gentlemen, members of the House, who would object to those bills passing without discussion. That is all I have to say about it.

Mr. MATSON. I understand, and did understand before, the position of the gentleman from Tennessee very well. I knew he was not here to make any factious opposition. But I want to inform him of the fact that the case, or perhaps the cases—I am not sure but there are perhaps more than two bills of the kind he refers to, including a bill to pension the widows of persons who were in the Life-Saving Service, and that is perhaps the case he refers to—that cases of that class have been called heretofore and passed over, and that if they were called now a discussion would be opened up and the time of this evening's session would be consumed upon them and the other cases would not be reached, there being perhaps nine-tenths of those cases which would not be objected to. I think those cases ought to be reached and that the time should not be occupied in the discussion of those about which there is dispute. I presume that would be satisfactory to the gentleman from Tennessee and to all concerned.

Therefore I move, if it is in order, and I presume it is, that we begin the call of the Private Calendar on page 37, at House bill No. 4101. [After a pause.] I accept the suggestion of the gentleman from Ohio [Mr. DAWES] to begin with bill No. 4444, on page 28 of the Calendar, and ask that we then pass from that to the bill I have indicated on page 37.

The CHAIRMAN. If there is no objection it will be so ordered.

WILSON W. BROWN AND OTHERS.

The CHAIRMAN. The Clerk will read the bill which has just been indicated by the gentleman from Indiana, [Mr. MATSON.]

The Clerk read the bill (H. R. No. 4444) as formerly amended in Committee of the Whole House, as follows:

A bill granting pensions to Wilson W. Brown and others.

Be it enacted, &c., That the Secretary of the Interior is authorized and directed to place on the pension-roll, at the rate of $20 per month, the names of Wilson W. Brown, late second lieutenant of Company F, Twenty-first Regiment Ohio Volunteers; John R. Porter, late second lieutenant of Company G, Twenty-first Regiment Ohio Volunteers; William Bensinger, late captain of Company C, Thirteenth Regiment United States Colored Infantry; John A. Wilson, late of Company C, Twenty-first Regiment Ohio Volunteers; William Pittenger, late of Company G, Second Regiment Ohio Volunteers; Martin J. Hawkins, late of Company A, Thirty-third Regiment Ohio Volunteers; Daniel A. Dorsey, late second lieutenant of Company H, Thirty-third Regiment Ohio Volunteers; Elihu H. Mason, late of Company K, Twenty-first Ohio Volunteers; William H. Reddick, late of Company B, Thirty-third Regiment Ohio Volunteers; and Rachel Slavens, widow of Samuel Slavens, a soldier executed at Atlanta, Georgia, by the confederate authorities, June 18, 1862: *Provided*, That the pensions hereby granted shall be in lieu of all other pensions that have been granted to or are claimed by any of the above-named persons under the provisions and limitations of the pension laws.

Mr. ROBINSON, of Massachusetts. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, having had under consideration the bill (H. R. No. 3486) granting pensions to Wilson W. Brown and others, respectfully report as follows:

The petitioners seeking to be benefited by this bill are known in history as the "Mitchell Raiders." In the early part of April, 1862, General O. M. Mitchell had advanced his column as far south as Shelbyville, Tennessee. On the west the battle of Shiloh had just determined in favor of the Union arms. At the east McClellan, with his Army of the Potomac, was at Yorktown, threatening an advance upon Richmond. Against these two armies of the West and East the South had concentrated their strength. General Mitchell saw then, as a bloody history so fully demonstrated subsequently, the vital importance of seizing and holding Chattanooga as a strategic point on the great railroad line between the East and West, which connected the main armies of the rebellion. The capture of Chattanooga at that crisis of the war involved also the possession of East Tennessee and the probable uprising of a strong loyal element there. The Mitchell Raiders were a body of twenty-one men under command of one J. J. Andrews, selected by General Mitchell to undertake the desperate enterprise of penetrating nearly two hundred miles south into the heart of the enemy's territory and endeavoring to destroy the wooden bridges on the railroad between Chattanooga and Atlanta. This, Mitchell hoped, would cut off the advance of troops from the South while he moved down his army and captured Chattanooga. Judge-Advocate-General Joseph Holt did not exaggerate when he said of this expedition that "in the daring of its conception it had the wildness of romance, while in the overwhelming results which it sought to accomplish it was absolutely sublime."

The account of the raid, following, is borrowed from another writer, and is correct, according to the evidence of participants:

"The soldiers of this forlorn hope, dressed in citizens clothes and representing themselves as good secessionists, set out on foot through the enemy's country by twos and threes, and, after many adventures, came together at Marietta, a point on the railroad a little north of Atlanta. The plan was to take passage on some north-bound train, and, at an opportune moment, overpower the guard, seize the engine, and drive onward with all speed, burning bridges and tearing up track as they went, and leaving a trail of flame and destruction behind them; to dash clean through Chattanooga, and meet Mitchell as he advanced along the Memphis road. It was early in the morning of April 12 when these adventurous travelers, with tickets for different points to avert suspicion, boarded the train, and finally seated themselves in the same car. At broad daylight the conductor called out: "Big Shanty; twenty minutes for breakfast," and at once passengers, engineer, and trainmen all poured into the long eating-room, leaving the engine unguarded, although it was within the lines of the rebel encampment.

"The little band sauntered forward, each falling into his appointed place, when in a twinkling, on a signal given, the passenger coaches were uncoupled, an engineer and fireman of the party sprang into the cab, the valve was pulled open, and the engine, tender, and three cars moved off as the remaining adventurers leaped into the open doors of one of the box cars. A few minutes placed the exulting party beyond what seemed to be the danger of any successful pursuit, for there was no telegraph at Big Shanty, and no other engine at hand. But it was one day too late. General Mitchell had advanced to Huntsville, and his approach was so threatening that all the rolling stock about Chattanooga had been ordered South, and the delay caused by meeting these unscheduled trains was fatal. Andrews, representing himself as a confederate officer of high rank, who had impressed the train for the purpose of running powder through to Beauregard at Corinth, excited no suspicion. But while he was losing precious minutes in waiting for the extra trains, and moving them off the track, the conductor at Big Shanty left his coffee and began the pursuit on foot until he reached a hand-car, and soon after, in a swift locomotive, which, by rare good fortune, had come down to the road, on a private track, from large iron works just in the nick of time. Before the raiders found opportunity for any serious work their pursuers were upon them. A desperate chase ensued, until finally, after a run of nearly one hundred miles, the captured locomotive, now jaded and shattered, was abandoned, and the captors scattered to the shelter of thick woods."

The whole party was captured after enduring the sufferings incident to fruitless efforts to escape their pursuit. It is unpleasant to recall the history of the treatment to which these prisoners were subjected. They were denounced as spies. They were chained together by twos by the neck, marched through the streets of Chattanooga amid the angry jeers of an infuriated crowd, and thrust into a kind of dungeon. This apartment was thirteen feet square and of about the same depth. Twenty-one men were confined here for nearly three weeks. Scanty provision was furnished and no sufficient means afforded for the removal of excrement. If we may credit the statements of survivors of the party, which are as given above, the horrors of this confinement were beyond description. When released from the dark and noisome hole their condition was pitiable, and for hours they were blinded by the light of day. Andrews, the leader, was hung as a spy. The party was removed then to Atlanta, where seven more were tried, convicted, and hanged as spies. One, Jacob Parrot, was whipped, one hundred lashes being inflicted on his back. For six months some of the survivors and for eleven months others of them were in constant apprehension of the same death by hanging as their comrades had suffered. It were better that the story of the sufferings and indignities inflicted on these heroic soldiers were left unrecited, as they were incredibly terrible as told by the survivors.

In considering this case the committee think it very clear that this raid was a military expedition. Judges Baxter and Temple, who it appears acted as attorneys to defend the men who were hanged, have lately written that they considered that they clearly showed before the court-martial that the expedition was a military one under authority and command of General Mitchell, and that the men were not spies. It is evident that the confederate government so regarded the matter, as the further trial of the survivors was stopped after the execution of Andrews and seven of the party. These soldiers, therefore, who undertook and with marvelous energy essayed the task imposed by their commander, suffered an outrage in being treated as spies and worse, which justifies their appeal for consideration.

Jacob Parrot, one of the raiders, by special act of Congress approved March 3, 1879, had his pension increased to $20 per month, as will be seen in the following statement from the records of the Pension Office:

"Persons referred to in bill 3486.

"Wilson W. Brown, pensioner, at $12 per month, for gunshot wound left knee and hand, received at Chickamauga, September 20, 1863.

"William Pittinger, pensioner, at $18 per month, for disease of lungs and liver, contracted while prisoner of war, captured April 15, 1862, on raid.

"Martin Hawkins, prisoner, at $8 per month, for scurvy and debility, contracted in prison at Chattanooga.

"Daniel A. Dorsey, pensioner, (papers out of file.)

"Jacob Parrott, pensioned under general laws, at $8 per month, for injury of back, caused by whipping, while prisoner of war; pension increased to $20 per month by special act, approved March 3, 1879.

"John R. Porter, claimant for pension on account of right hernia, contracted in March, 1865.

"William Bensinger, applicant for pension on account of bronchitis and piles, contracted while captain of Company C, Thirteenth United States Colored Infantry.

"John A. Wilson has not applied for pension under the general law.

"Elihu A. Mason, applicant for pension on account of scurvy and results, contracted while a prisoner of war at Atlanta.

"Rachel Slavens, widow of Samuel Slavens, pensioned under certificate 68918, soldier was executed at Atlanta, Georgia, June 18, 1862."

The committee report a substitute for the bill, which provides that the names of Wilson W. Brown, William Pittinger, Martin Hawkins, Daniel A. Dorsey, John R. Porter, William Bensinger, John A. Wilson, Elihu Mason, and Rachel Slavens shall be placed on the pension-roll at $20 per month, and that this shall be in lieu of all pensions heretofore allowed or claimed to be due to any of said persons, and recommend its passage by the House.

The CHAIRMAN. In the absence of objection the bill will be laid aside to be reported favorably to the House.

Mr. McMILLIN. I call for a vote on the bill. I do not wish it to be understood as going by unanimous consent.

The question being taken, it was decided in the affirmative, and the bill as amended was laid aside to be reported favorably to the House.

Mr. McCOID. I give notice that I will offer some amendments in the House.

ELISABETH BRAY.

The CHAIRMAN. The Clerk will now read the first of the pension bills on the Calendar which have not been heretofore called.

The Clerk read as follows:

A bill (H. R. No. 4101) for the relief of Elisabeth Bray.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elisabeth Bray, widow of E. Bray, late a private in the Eighth Tennessee Volunteer Cavalry.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Elisabeth Bray, having had the same under consideration, would respectfully report as follows:

That Elisabeth Bray is the widow of Edward Bray, who enlisted in the United States service on the 10th day of October, 1863, in Hawkins County, Tennessee, under Major W. W. Willis, of the Eighth Tennessee Cavalry, but before muster into service said Bray was killed in battle on the 6th day of November, 1863, near Rogersville, Tennessee.

No record of his service having been made, her claim for pension was rejected on this ground.

But that Edward Bray was a soldier duly enlisted, though not mustered, is proven by the affidavits of the officers of his regiment and company.

They state, under oath, that he was enlisted on October 10, 1863, and on the 6th of November following, while in line of duty, was killed in battle.

This affidavit is sworn to by William B. Davis, late major of the regiment, L. M. Jarvis, late captain of Company E of the regiment, and F. M. Turner, late lieutenant in the same company. They further swear that from neglect or ignorance of duty no military record was kept of said Edward Bray by the officers whose duty it was to keep the rolls of said command.

In view of these facts, your committee feel that this is a meritorious case for special relief. They therefore report favorably and recommend that the bill accompanying this petition be passed.

The bill was laid aside to be reported to the House with the recommendation that it so pass.

LEWIS BLUNDIN.

The next pension business on the Private Calendar was the bill (H. R. No. 1462) granting a pension to Lewis Blundin.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lewis Blundin, late of Company C, Twenty-eighth Regiment Pennsylvania Volunteers, who was stricken down by disease during Sherman's campaign from Atlanta to the sea, which resulted in paralysis.

The Committee on Invalid Pensions reported the following amendment:

After the word "Volunteers," in line 7, strike out the words:

"Who was stricken down by disease during Sherman's campaign from Atlanta to the sea, which resulted in paralysis."

The amendment was agreed to.

The report was read, as follows:

This committee, to whom was referred the bill of the House No. 1462, have considered the same, and adopt the report made to the Forty-sixth Congress by the Invalid Pension Committee:

"The petition of Lewis Blundin sets forth that he enlisted in Company C, Twenty-eighth Pennsylvania Volunteers, on July 20, 1861, and was mustered out by reason of expiration of term of service on July 20, 1864; that he again enlisted on March 20, 1865, in Company C, First Army Corps, Third United States Veteran Volunteers, for one year, and was discharged March 29, 1866, on expiration of term of service.

"He now claims pension by reason of disability incurred in the service and in line of duty; that his disability is paralysis and chronic rheumatism, the result of exposure, and an attack of typhoid fever; that he was treated for said fever and rheumatism in 1864 in a field hospital near Resaca, Georgia.

"The records of the War Department show service as above claimed, but furnish no evidence of his disability."

"John E. Littleton makes affidavit that he was lieutenant in Company C, Twenty-eighth Pennsylvania Volunteers; swears claimant was disabled about May 15, 1864; that from want of shelter, and from exposure, Blundin contracted typhoid fever, was a patient in field hospital, was returned to duty, and by reason of his weakened condition and exposure was attacked with rheumatism, and again became a patient in the field hospital. The affidavits of five witnesses show their acquaintance to have extended over a period of fifteen years prior to the filing of the claim; were his neighbors; knew him to be a perfectly sound and healthy man at the date of his first enlistment; that on his return home after first discharge he was greatly changed and complained of rheumatism; told affiants that he contracted disability in the service; that his health having somewhat improved he again entered the service, and returned a broken-down man; informed affiants that he had not been able to perform manual labor; and since 1868 has been the worst cripple affiants ever saw, even is an object of pity.

"William C. Todd, M. D., makes affidavit that his knowledge of claimant dates from March, 1868; that he finds paralysis of left side, lower part of body, and visceral organs; that he is incapable of performing manual labor; disability caused by chronic inflammation of the spinal cord, which may have been the result of exposure in the United States Army.

"W. H. G. Griffith, M. D., makes affidavit that he has treated claimant professionally since 1870, for paralysis of left side and visceral organs; believes the disability originated from sickness, medical maltreatment, and exposure while in the United States Army; his habits good and temperate.

"Samuel Lovett, examining surgeon, reports disability, resulting from typhoid fever; paralysis, rheumatism, and spinal disease; in his opinion disability originated in the service; that one side of claimant is useless; the sphincter muscles of the anus and bladder are also paralyzed, has no power over their functions; has rheumatic symptoms; affection of spine is the result of fever.

"The records of the field hospital are not on file in office of Surgeon-General. Claimant is unable to discover the regimental surgeon.

"The committee are of the opinion that the bill should pass, and they therefore recommend the passage of the bill as amended."

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

EMMA A. PORCH.

The next business on the Private Calendar was the bill (H. R. No. 4877) for the relief of Emma A. Porch.

The bill was read, as follows:

Be it enacted &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emma A. Porch, of Centre Town, Missouri, at the rate of $50 per month, for disability contracted while employed as a scout under the direction of general officers in command of the Union forces during the war of the rebellion.

The Committee on Invalid Pensions reported the bill with the following amendment:

Strike out all after the word "Missouri," in line 6, namely, these words:

"At the rate of $50 per month, for disability contracted while employed as a scout under the direction of general officers in command of the Union forces during the war of the rebellion."

The amendment was agreed to.

The report was read, as follows:

This committee, to whom was referred the bill of the House No. 4877, have considered the same, and finding the facts correctly reported by the Committee on Invalid Pensions in the Forty-sixth Congress, adopt said report which shows:

"That the committee find that Mrs. Porch, during the war, was employed by the military authorities of the Federal Army as dispatch-bearer and spy; that in this capacity she was most active, and rendered important and valuable service to the Army in the Department of the Missouri. The Government recognized these services, and Congress, by special act approved June 14, 1878, paid her a moderate compensation therefor after many years of impatient waiting. The evidence submitted to the committee, from her neighbors, the county officials, and her attending physicians, abundantly establishes the fact that when she entered into the military service she was and had always been possessed of a robust constitution and perfect health; that during her said military service she was much exposed to hunger, cold, and rain; that since the war her physical strength and health have been greatly impaired, and have continued to decline, until a few years ago she was stricken with paralysis, which has partially destroyed the use of one side. She is now quite nigh helpless and unable to work, and is a subject of charity, being without any property of consequence, and in constant need of medicine and medical treatment.

"Your committee think her case appeals most strongly to the Government, which she served with such heroic spirit and fortitude in the day of its need, to help her now in her infirmity resulting from military services. No good reason is apparent for her exclusion from the bounty of the Government because she was not an enlisted soldier. Her sex prevented the enlistment, but it enabled her to gain access to the enemy, to pass safely by and through their lines, and thereby to render to the Government a service as valuable as the soldier who bore a musket."

Your committee therefore report back the bill with an amendment, to strike out all after the word "Missouri" in line 6, and thus amended recommend that it do pass.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

NEWTON BOUTWELL.

The next business on the Private Calendar was the bill (H. R. No. 5684) granting a pension to Newton Boutwell.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Newton Boutwell, of Morrisville, Vermont, as a dependent father.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 3127) granting a pension to Newton Boutwell, submit the following report:

This committee have considered House bill No. 3127 and find the following facts:

That the claimant, Newton Boutwell, who resides in Morrisville, in the State of Vermont, now seventy-four years of age, contributed to the Union forces in the late civil war four sons, namely, Thomas N. Boutwell and Robert T. Boutwell, both of Company D, Fourth Regiment of Vermont Volunteers; Rodney M. Boutwell, of Company F, Eleventh Regiment Vermont Volunteers; and William C. Boutwell, of the Sixteenth New Hampshire Regiment.

That the son, Thomas N. Boutwell, died of disease contracted in the service soon after the close of the war, and after his return from the Army to Vermont.

That Robert T. was wounded in the battle of the Wilderness, and died while a limb was being amputated.

That Rodney M. was also wounded in the battle of the Wilderness, and died soon after from effects of wound.

That William C. died in hospital near Baton Rouge, Louisiana, of disease contracted in the service.

That at the time of the enlistment of these boys the said Newton Boutwell was the possessor of considerable property, but was involved pecuniarily and did not call himself worth more than about one thousand dollars, which, on account of failing health and adverse circumstances, he has since wholly lost, and is now absolutely destitute, his property having been swept away by a mortgage upon it at the time of the enlistment of his said sons. That the mother of these boys died when the youngest, Rodney M., was about ten years old. That while in the service the said Rodney M. sent his father, the said Newton Boutwell, a portion of his pay, he at that time being under twenty-one years of age; and that the father, in his mind, had selected this as the son who should remain at home with him and take care of him in his old age.

The fact that at the time of the enlistment and service of these boys the said Newton Boutwell was in comfortable health and could earn a livelihood, coupled with the fact that at that time he had some property, prevents him from obtaining a pension under existing laws. But your committee, in view of the fact of the loss in the service of his four only sons, and of his present complete destitution, and the fact that the said Rodney M. did contribute to the support of his father while in the service, are compelled to look upon this as a case in which Congress may well exercise the power which it possesses and grant a pension to this applicant.

The committee recommend the passage of the accompanying substitute bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ELIZA HUDSON.

The next business on the Private Calendar was the bill (H. R. No. 1554) granting a pension to Eliza Hudson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Eliza Hudson, widow of William L. Hudson, late a captain in the United States Navy, and pay her a pension at the rate of $50 per month during her widowhood, in lieu of the pension she now receives, from and after the passage of this act.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill of the House No. 1554, have considered the same, and beg leave to report that the claimant, Eliza Hudson, is the widow of the late William L. Hudson, captain in the United States Navy, who died on the 15th of October, 1862, of disease contracted in the service in the line of his duty.

The claimant is now seventy-eight years of age, and has no means of support except her pension of $30 per month granted to her on the 15th of October, 1862.

The committee find that Captain Hudson entered the naval service of the United States as a midshipman January 1, 1816, and served in the navy-yard, New York, the brig Dolphin, and sloop of war Cyane until 1825; was promoted to lieutenant in 1826 and ordered to the sloop of war Warren, remaining in her a long cruise, during which he was engaged, with distinction, in the suppression of pirates in the Grecian Archipelago; was wounded during one of the engagements, receiving a bullet in one of his legs, which could not be removed, and the effect of which he felt the remainder of his life.

In 1830 he returned and was on leave of absence until 1833, when he was stationed at the New York yard, where he remained until 1838, and was then ordered to the command of the sloop of war Peacock, engaged in the United States exploring expedition, for a term of four years. November 2, 1842, was commissioned as a commander, and from 1843 to 1847 was executive officer of the navy-yard, New York, rendering efficient service and arduous duty in that position during the Mexican war.

Commanded the sloop of War Vincennes in the Pacific squadron from 1849 to 1852; was again executive officer of the navy-yard, New York, until 1856; promoted to captain September 14, 1855, and in 1856 he was detached from the yard and awaiting orders until 1857, when he was ordered to the frigate Niagara, and the command of the important expedition engaged in laying the first Atlantic submarine telegraph cable. After the successful accomplishment of this famous mission he was ordered as commandant of the naval station, Boston, and remained for three years, during which period the rebellion was at its height, and the duties

performed were unusually arduous and responsible. He was detached from the Boston station April 30, 1862, and appointed light-house inspector of the New York district, on which duty he was engaged up to the time of his death.

The committee recommend the passage of the bill.

Mr. BURROWS, of Michigan. Does this bill provide for the payment of $30 a month?

The CHAIRMAN. From the passage of the act.

Mr. BURROWS, of Michigan. It seems by the report that this person is already receiving a pension of $30 a month. The proposition is to increase that pension to $50 a month. It seems to me that such a bill ought not to pass, unless there is some very special reason for it.

Mr. RANDALL. The death of the husband of this lady can be traced directly to disease contracted while he was in the line of his duty. This widow is a very old lady, now seventy-eight years of age. I am informed that she is in feeble health, and it is not likely that she will live much longer. She is dependent for support solely on her pension, and $30 a month is inadequate for that purpose. We have had other cases of a like character.

Mr. BURROWS, of Michigan. Do I understand that this increase takes effect only from and after the passage of this bill?

Mr. RANDALL. That is all.

Mr. BURROWS, of Michigan. I will not make any objection to it.

There being no objection, the bill was laid aside to be reported favorably to the House.

ELIZABETH F. RICE.

The next pension bill on the Private Calendar was the bill (H. R. No. 5018) granting a pension to Elizabeth F. Rice.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Elizabeth F. Rice, of Osceola, Iowa, formerly of Mercersburgh, Franklin County, Pennsylvania, widow of Perry A. Rice, who died in Libby Prison, Richmond, Virginia, February 28, 1863, having been captured by General J. E. B. Stuart, in a raid through Pennsylvania, on the 10th day of October, 1862, and that she be paid the sum of $8 a month from the date of the death of her husband, and during her widowhood.

The Committee on Invalid Pensions recommend that the bill be amended by striking out the words at the end of the bill "from the date of the death of her husband and during her widowhood."

The report was read, as follows:

Elizabeth F. Rice is the widow of Perry A. Rice. On the 10th day of October, 1862, when General J. E. B. Stuart made a raid on Mercersburgh, Pennsylvania, Rice was captured, with several others, and taken South and confined in Libby prison. After a confinement of five months he took sick and died. His death was the result of the exposure and hardships of his prison life. Rice was a citizen and not in the military service. He was taken and held by the confederates as a hostage to secure the safety of certain confederates held in custody by the United States. This bill puts his widow on the pension-roll at $8 per month. The committee recommend the passage of the bill with the following amendment: strike out the words "from the death of her husband and during her widowhood."

The question was upon agreeing to the amendment reported from the Committee on Invalid Pensions.

Mr. HEPBURN. I hope that the amendment reported from the Committee on Invalid Pensions may not be adopted. This is one of the exceptional cases which it seems to me should receive the favorable action of this committee. There is perhaps no other case like it. So far as my knowledge goes, no other case like it occurred during the whole war.

The husband of this lady was not in the military service. As the report says, he was taken prisoner by the confederate forces and held as a hostage, and during the time he was in Libby prison he died, leaving his family nearly in destitute circumstances. His wife has been able to feed and clothe his children, but not to educate them, particularly the two younger ones, unmarried girls. It seems to me this is a case in which arrearages of pension should be granted, and I hope the Committee of the Whole will take that view of it and not adopt this amendment. So far as the latter words of the clause proposed to be stricken out are concerned, I am not at all particular; but it seems to me that arrearages ought to be granted in this case.

Mr. BROWNE. I would like to have the attention of the committee while I state the facts in this case: In 1862 or 1863, during a raid of General J. E. B. Stuart into the State of Pennsylvania, this man Rice, and five or six other citizens of that State, were captured by the confederate forces and taken South by them, and held as hostages in one of the Southern prisons. During the time that Rice was thus imprisoned he took sick and died. Being a citizen, not a soldier, his widow was not entitled to receive a pension under the general pension laws.

She applied to Congress for a pension some years ago; how long ago I do not now remember. The Committee on Invalid Pensions of the House, in at least one former Congress, reported favorably upon her case, but the bill failed to pass, as bills of this character often do, for want of time to consider it.

The Committee on Invalid Pensions of this House, as is apparent from their report, have acted favorably upon this bill, although in doing so we made a clear departure from the rule to which I think we ought in the main to adhere; that is, this bill puts upon the pension-roll the widow of one who never was in the military service.

The reason why the committee did not in this case act favorably upon so much of the bill as provides arrearages of pension is this: we thought that this widow occupied no higher position certainly, and had a no more equitable claim than the widow of a soldier who had died in the military service in the line of his duty. In all such cases, where the case was not one that the Pension Office could consider and favorably act upon—and we could have jurisdiction only of such cases—I say that in all such cases the Committee on Invalid Pensions, not only during this Congress but during preceding Congresses, have refused to grant arrearages of pension. In other words we have never granted arrearages of pension in such cases by a special act of Congress. We think that where the case is one that does not come within the provisions of the general statutes upon the subject, is a case where an appeal must be made to Congress for special relief, is an exceptional case to the general rule, we do liberally by the claimant if we grant a pension to date from the passage of the act.

There is another reason that I believe I have had occasion to state before; that is, that there went on the pension-rolls before the passage of the arrearages act by Congress the names of nearly 2,000 persons, soldiers in the main, which were placed there by special acts of Congress, to which the arrearages of pension act never can apply; nor can those pensioners ever receive arrearages of pension unless their cases are covered by some general statute to be passed, or unless individual personal acts are passed for the benefit of each; which as a matter of course can never be.

I may state further in this case, for I do not desire to allude to this question again, that even where soldiers or others disabled in the service, or the surviving widows of soldiers who died in the service, or their orphan children, have been placed on the pension-rolls, both before and since the passage of the arrearages of pension act, there are hundreds and thousands of instances that were not benefited by that act at all, nor can they be.

All those who have gone on the pension-roll, or who may go on it hereafter, since the 1st day of July, 1880, I believe go on the pension-rolls without the benefit of arrearages. Of the 270,000 cases now pending in the Pension Office quite 150,000 of them, should they be pensioned under the general laws, must accept their pensions without the benefit of the arrearages act.

I think the principle ought to be adopted that where relief can be obtained only by a special act of Congress the applicant ought to accept such relief from the date of the passage of the act. If we go on granting arrearages in all these cases, I do not know where we shall stop.

Mr. DAWES. While I agree in the main with the propositions of the honorable chairman of our committee, I think they do not altogether apply to this case. It seems to me there is no question of arrearages at all where the man was not a soldier, and never had a title to a pension. The only question here is, What in justice and equity and propriety ought this Government to do? This man, a man of some property, was seized as a hostage, taken to Libby prison, and there died. The question to be considered is what relief ought to be extended to the widow in such a case. Shall we give her the pension to which she would have been entitled from the date of the death of this man if he had been a soldier? I will not presume to say exactly what the measure of relief ought to be. But it seems to me the proposition here presented might be adopted without infringing upon the ground taken by the Committee on Invalid Pensions, and without impugning the principles stated by the chairman of that committee.

The amendment recommended by the Committee on Invalid Pensions was adopted.

The bill as amended was laid aside to be reported favorably to the House.

KATE WILHARLITZ.

The next pension business on the Private Calendar was the bill (H. R. No. 2910) granting a pension to Kate Wilharlitz.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Kate Wilharlitz, mother of Joseph Wilharlitz, late of the Nineteenth Regiment Regulars, United States Army, on the pension-roll, subject to the provisions and limitations of the pension laws.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2910) granting a pension to Kate Wilharlitz, have had the same under consideration, and report:

It appears that the said Kate Wilharlitz is the dependent mother of Joseph Wilharlitz, who enlisted as a private in Company I, Nineteenth Regiment United States Infantry, June 28, 1871, and served five years, when he was discharged by reason of expiration of term of service. In November, 1876, he re-enlisted in said service as a private in Company C, Second Regiment United States Cavalry, and was discharged therefrom on surgeon's certificate of disability, said certificate stating that he had chronic bronchitis.

Said soldier died on the 4th day of July, 1877, less than two months after discharge, and the attending physician states that his disease was consumption.

The claimant files an affidavit that when her son returned from the Army his voice was so weak and feeble it was difficult for him to give utterance to words by which his wants could be made known, and for that reason she failed to gain information from him as to the time and the circumstances when he was first attacked and the names of the witnesses by whom the necessary facts could be proved to entitle her to pension.

The fact of claimant's dependence upon her said son is clearly made out. Her husband is very aged, and she has two deaf and dumb children to support, one of whom is paralyzed.

Her claim for pension was rejected because the certificate of disability under which the soldier was discharged contained the statement that the soldier was a victim of said disease when last enlisted.

The committee are of opinion that the claimant has exhibited a right to pension, and therefore recommend that the bill do pass.

The bill was laid aside to be reported favorably to the House.

HEIRS OF KUNIGUNDA A. MILLER.

The next pension business on the Private Calendar was the bill (H. R. No. 2912) granting relief to the heirs of Kunigunda A. Miller, deceased.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to John Albert, Mary Carr, (formerly Albert,) Michael Albert, and Carrie Miller, heirs-at-law of Kunigunda A. Miller, deceased, and brothers and sisters of Leonard Albert, late a private in Company F, Twenty-sixth regiment Indiana Volunteers, the arrears of pension due and heretofore authorized to be paid the said Kunigunda A. Miller, now deceased, under pension certificate numbered 129461.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2912) for the relief of the heirs of Kunigunda A. Miller, deceased, have had the same under consideration, and report:

It appears that the said Kunigunda A. Miller was the mother of Leonard Albert, who died while in the military service of the United States as a private in Company F, Twenty-sixth Regiment Indiana Volunteers. It appears that after the death of her said son Mrs. Miller applied to the Pension Office for pension, which was granted, and pension certificate No. 129461 forwarded to her; her pension to date from 15th January, 1869.

Kunigunda A. Miller afterward applied for the arrears of pension due her as "mother" aforesaid under acts of Congress of January 25 and March 4, 1879, which were also granted her, and certificate forwarded to her, (No. 129461,) but, by mistake in the Pension Office she is designated widow instead of mother, and the same was not paid on that account by the pension agent at Louisville. Before the mistake could be corrected in the Pension Office Mrs. Miller died, and the claim of her heirs for said arrears was rejected. Said arrears were at the rate of $8 per month from August 30, 1863, till January 14, 1869.

It is fully shown that John Albert, Mary Carr, (formerly Mary Albert,) Michael Albert, and Carrie Miller are the children and heirs at law of said Kunigunda A. Miller, and brothers and sisters of said soldier.

The committee think that the said heirs are entitled to the arrears due their mother, and recommend the passage of the accompanying bill.

The bill was laid aside to be reported favorably to the House.

GEORGE J. WEBB.

The next pension business on the Private Calendar was the bill (H. R. No. 2349) granting an increase of pension to George J. Webb.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of George J. Webb, late of the One hundredth New York Volunteers, for increase of pension to $20 per month.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 2349) granting an increase of pension to George J. Webb, has had the same under consideration, and begs leave to submit the following report:

The petitioner was a soldier of the One hundredth New York Volunteers, and is now the recipient of a pension of $12 per month, granted for a grapeshot wound in the head, received at the storming of Fort Wagner, causing deafness in the left ear, partial loss of vision in the left eye, and cerebral disturbances.

Since the issuance of his pension certificate for $12, granted for causes stated above, the petitioner, having totally lost the sight of his left eye, made application to the Pension Office for an increase of pension on account of the loss of his left eye. The examining surgeons of the Pension Office state that the loss of the eye is the direct result of the grapeshot wound in the head, received in the line of duty.

The Commissioner of Pensions rejected the claim, after a careful examination of the facts in the case and the medical questions involved, on the ground that $12 per month was the full rate of pension he was entitled to under the law for the degree of disability existing from wound in the head, (including the loss of the left eye.)

The medical examination had, under the rejected claim for increase, shows the following disabilities: grapeshot wound of left side of face and head; missile entered left side of face, fracturing the molar bone, and removing one-half of the helix and antihelix of left ear, and causing total blindness of left eye, and total deafness of left ear; cicatrices adherent.

There is some deformity of face and loss of motion in muscles. Sight of right eye considerably impaired, probably due to sympathetic irritation.

It is evident that the disability in this case is greater than that recognized by the Pension Office, and therefore the committee reports favorably on the bill, and asks that it do pass.

The bill was laid aside to be reported favorably to the House.

PATRICK SULLIVAN.

The next pension business on the Private Calendar was the bill (H. R. No. 1873) for the relief of Patrick Sullivan.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension from $18 to $30 per month of Patrick Sullivan, late of Company K, Eighty-second Regiment Illinois Volunteer Infantry, for loss of left leg just below the knee, rendering him helpless as though his limb were amputated above the knee, and also for rupture on the left side, which wholly incapacitate him for the performance of manual labor.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 1873) for the relief of Patrick Sullivan, has had the same under consideration, and begs leave to submit the following report:

Sullivan is a pensioner at $18 per month for loss of leg below the knee. He applied for increase June 29, 1880, on account of hernia, alleged to have been contracted by assisting in lifting wagons at the battle of Fredericksburgh, Virginia. The Pension Office, without affording the claimant an opportunity to establish the claim for the additional disability, rejected the application for increase on the ground that the loss of leg and rupture combined, if the latter were shown to be due to the service, would not disqualify the soldier for the performance of "any manual labor," as required by statute, to give title to a higher rate of pension than that now received by Sullivan.

The petitioner has appeared before this committee, and an examination of the amputated limb "shows that he suffered amputation in the upper third of the left leg, leaving a short stump, which, owing to muscular contraction, is constantly and strongly flexed, and cannot therefore have any artificial limb adapted to it in the usual manner, but the weight of the body in standing rests upon the flexed knee and stump, causing painful irritation and excoriation of the parts." His limb is consequently in even a worse condition than if the limb had been amputated above the knee. He also suffers from inguinal hernia, and, in the opinion of your committee, is entitled to additional pension on that account; and it is therefore recommended that the bill be so amended as to entitle him to increase of pension to $28 per month from and after its passage.

The question being taken on the amendment recommended by the Committee on Invalid Pensions to reduce the proposed pension from $30 to $28 per month, it was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

ARTHUR W. IRWING.

The next pension business on the Private Calendar was the bill (H. R. No. 3048) granting a pension to Arthur W. Irwing.

The bill was read, as follows:

Be it enacted &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Arthur W. Irwing, late a private in Company C, One hundred and fourth Regiment of New York Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 3048) granting a pension to Arthur W. Irwing, have considered the same, and beg leave to submit the following report:

Irwing enlisted May 30, 1861, in the Seventeenth Regiment New York Volunteers, and was discharged January 22, 1862, on surgeon's certificate of disability because of chronic rheumatism, which, according to the surgeon's certificate, had distorted the neck. He re-enlisted March 18, 1862, in Company C, One hundred and fourth New York, and served in that command and the Veteran Reserve Corps until September 5, 1866. It is not very clear from the papers on file when he was transferred to the latter organization; but as a cause for transfer "stiff neck" appears on the rolls. He applied for pension September 7, 1868, on account of curvature of spine, which he alleges followed an attack of typhoid fever in August 1862.

The claim has been rejected by the Pension Office because the record shows the existence of rheumatism, which is accepted as cause for present disability, prior to the service in which its origin is alleged. The claimant's soundness at time of his original enlistment is fully established; that he was attacked with typhoid fever and sent to hospital is also shown by the testimony of comrades, as well as his suffering from rheumatism shortly after recovery. There is record evidence of his admission to the hospital about the time alleged by claimant, and at different times thereafter, but, strange to say, the nature of the disease for which treated is not shown by the records of the several hospitals. In explanation of the record of his first service, claimant states and shows by the testimony of the surgeon of the One hundred and fourth Regiment New York Volunteers, that he was free from rheumatism at the time of his enlistment in said regiment, but that while in said first service he contracted jaundice and swelled neck, from which he thought he had recovered when he re-enlisted.

Medical examination by the Dayton, Ohio, board of surgeons finds that claimant is suffering from rheumatism. His head is thrown forward very much and is permanently fixed in that position. Cannot move his head without moving his entire body. Has considerable lateral curvature of spine, is emaciated, and totally disqualified for performing any manual labor.

In the opinion of the committee the evidence is conclusive that the soldier was sound when he entered the service; that he contracted his disease while in service and, in the absence of any evidence to the contrary, it must be presumed, in line of duty; and that he has been disabled continuously since discharge; they therefore report favorably on the bill, and recommend its passage.

The bill was laid aside to be reported favorably to the House.

SOLOMON J. GRISSON.

The next pension business on the Private Calendar was the bill (H. R. No. 435) granting a pension to Solomon J. Grisson.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Solomon J. Grisson, late a corporal of Company E, Twentieth Regiment Kentucky Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 435) granting a pension to Solomon J. Grisson, has had the same under consideration, and begs leave to submit the following report:

Grisson enlisted November 7, 1861, in Company E, Twentieth Kentucky Volunteers, was mustered January 6, 1862, and discharged January 17, 1865. His claim for pension on account of lung disease, resulting from measles contracted shortly after enlistment, was rejected by the Pension Office because there is no record of alleged disability, and the claimant is unable to furnish the evidence required under the rules governing the adjudication of pension claims.

An examination of the papers filed in the Pension Office shows that considerable evidence has been filed in support of the claim, which, in the opinion of the committee, is entitled to consideration. That claimant was sound at enlistment is clearly shown by the testimony of his neighbors and of the lieutenant of the company. The latter also testifies that Grisson contracted measles before the regiment was fully organized, took cold, and thereafter appeared to be troubled with disease of lungs and chest. Neighbors testify that upon his return from service the claimant was ailing and unable to do full or heavy work. In August, 1866, he came under the treatment of Dr. F. J. Sullivan for disease of both lungs, as appears from the latter's affidavit. Examination had by a Pension Office surgeon shows the existence of lung disease.

The inability of the claimant to furnish the affidavit of the regimental surgeon as to treatment for measles in service is explained by one of the officers of the company, who testifies that he has tried, in the interest of other members of the company to get up correspondence with the surgeon, but has failed to receive any reply.

Believing that Grisson had measles in service, as testified by the lieutenant, and that subsequent exposure resulted in disease of the lungs, from which he is still suffering, the committee reports favorably on accompanying bill, and recommends its passage.

The bill was laid aside to be reported favorably to the House.

JACOB R. M'FARREN.

The next pension business on the Private Calendar was the bill (H. R. No. 369) granting a pension to Jacob R. McFarren.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob R. McFarren, late a private in Company F of the Eighty-sixth Regiment of Illinois Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 369) granting a pension to Jacob R. McFarren, has had the same under consideration, and begs leave to submit the following report:

The said McFarren was a private in Company F, Eighty-sixth Regiment Illinois Volunteers, from August 11, 1862, till discharged for disability, February 12, 1863.

The certificate of disability sets forth that the soldier is unable to perform military duty because of hydropericardium. In his application for pension, McFarren alleges that while in said service and in line of duty, in November, 1862, after forced marching under General Buell, around Louisville, Kentucky, then to Crab Orchard, Kentucky, and immediately after battle of Perryville, Kentucky, he broke down, and as soon as he reached Camp Edgefield, Tennessee, his legs turned purple and swollen and spotted, and he was sent to hospital barracks at Gallatin, Tennessee, when he took bloody piles and dropsy of chest; the swelling of his legs resulted in erysipelas, which has afflicted him ever since, and the piles have become worse. He states that he cannot find his officers and procure their testimony.

The claim was rejected because the Commissioner of Pensions was of opinion that the disability was not incident to claimant's Army service.

Two of claimant's comrades in the service testify that they knew him for three years before his enlistment; that he had always been a sound man physically so far as they knew; that in October, 1862, he broke down on the march to Nashville, and had to be hauled to Camp Edgefield. His legs were spotted and badly swollen; had rheumatism and diarrhea also. Saw him after the war, and he was worse.

R. A. Moore, a comrade in the service, says claimant was sound when enlisted; that claimant broke down in October, 1862, on the march to Nashville; legs spotted and swollen; had rheumatism and diarrhea; limbs broke out with erysipelas, and was sent to hospital at Gallatin; and up to 1870, when affiant last knew him, claimant was still suffering from said diseases.

William M. Reed states that he saw claimant immediately after his return from the Army in 1863. He was then a used-up man, and suffering from erysipelas of legs, diarrhea, piles, and rheumatism.

Dr. P. J. Jennings testifies that he began to treat claimant for abscess, hemorrhoids, and chronic rheumatism in December, 1874; that the abscess yielded to treatment, but not the other diseases. They were only palliated. Claimant is not able to perform more than one-fourth manual labor. The doctor states that he had dropsy also, but had recovered therefrom, and that his habits are good.

Dr. H. T. Cooper testifies that he has known claimant since June, 1877, when he began to treat him for bloody piles and dropsy; that claimant had also suffered since that time from rheumatism.

P. N. Terwilliger testifies soldier was sound when enlisted; since his return from service has had erysipelas, piles, diarrhea, and rheumatism.

There is a great mass of other testimony, professional and lay, all of which is to the same effect as the above.

James P. Dimmuth, examining surgeon, certified September 24, 1878, that claimant is wholly incapacitated for obtaining his sustenance by manual labor, and continues: "I find claimant suffering from external and internal bleeding hemorrhoids, which render him a great sufferer." He says further: "I learn that he has had erysipelas and dropsy, but find no disease at present except that above rated."

Claimant has been unable to ascertain the wherabouts of his officers, or the regimental surgeon who first treated him, therefore cannot furnish the evidence required by the Pension Office. Unfortunately the medical records of the regiment or of the hospital at Gallatin, Tennessee, in which he was treated, as shown by the report of the Adjutant-General, are not on file in the proper department.

In the opinion of the committee there is ample proof that the petitioner was a sound man at enlistment; that he contracted diseases by reason of the exposures incident to a campaign, and that by reason of said diseases he has been to a great extent disqualified for the performance of manual labor ever since discharge, and therefore reports favorably on the bill, and asks that it do pass.

The bill was laid aside to be reported favorably to the House.

HENRY STRAWBRIDGE.

The next pension business on the Private Calendar was the bill (S. No. 240) granting an increase of pension to Henry Strawbridge.

The bill was read, as follows:

Be it enacted, &c, That Henry Strawbridge, late a private in Company G, One hundred and thirteenth Regiment Ohio Volunteers, be, and he is hereby, granted and allowed, from and after the passage of this act, a pension at the rate of $24 per month; and the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of said Henry Strawbridge on the pension-roll at said rate, (in lieu of the pension now paid him.)

Mr. JOYCE. In each of the cases thus far considered, the report has been read; and the Committee of the Whole can thus understand how carefully the cases have been considered by the Committee on Invalid Pensions. I suggest that hereafter the reports be printed in the RECORD without reading, unless in some particular case some member desires the reading of the report.

Mr. PRESCOTT. I wish to hear the report read in this case. The bill is for an increase of pension.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. No. 240) granting an increase of pension to Henry Strawbridge, have had the same under consideration, and submit as part of its report the report of the Committee on Pensions, United States Senate, in the case, as follows:

"The applicant is now receiving a pension, for anchylosis of the knee joint, at the rate of $18 per month, the rate allowed by general law. He desires an increase of his pension to $24 per month, the rate allowed by the law for loss of leg above the knee.

"The evidence shows the disability at the knee, in addition to absolute stiffening of the joint, to be attended with constant pain and acute tenderness, compelling constant care in the movement of the limb to avoid contact with obstacles of any description, thus apparently creating in this case a greater disability than if the limb had been amputated. The evidence is quite full and explicit, showing that the applicant is often confined to his room and bed for days together, by reason of severe pain in the knee, and that the well limb has become much affected because the heavy weight of his body is so constantly supported by it. The case is peculiar, and, we think, much worse than the ordinary disability occasioned either by loss of limb below the knee or permanent stiffness of that joint."

Some doubts as to the origin of the disability having arisen, the committee have examined all the papers on file in the Pension Office in support of the case, and find that upon information adverse to the soldier's title to pension three special examinations were had; the last one, in April, 1878, settling satisfactorily the question of title, as appears from the indorsement made by the then chief of the invalid division, in words as follows:

"The case has a doubtful look as to origin, but as three investigations have failed to obtain anything adverse, and the right to pension has been twice conceded, I think we can let the case rest. The charges against it have evidently been induced by malice, caused by political enmity."

The conclusions reached by the Pension Office on the evidence before them are evidently sustained, and this committee therefore report favorably on the bill, and recommend that it do pass, as nothing sufficient to place in question the deliberate and carefully-guarded action of the Pension Office has been made to appear before them.

Mr. BROWNE. I desire to say, Mr. Chairman, that serious reflections as to the propriety of allowing this pension came to the ears of the members of the committee. I know they came to mine, and I entered upon its investigation. I thought the claim from what I heard of it ought not to be allowed. Not only the sub-committee which reported to the full committee examined all the testimony in the case, but I examined it very carefully myself, although I was not on the sub-committee. I think this report is abundantly supported by the testimony. I think there is no doubt about it, although I thought at the time the investigation was begun that it was a case where there ought not to be favorable action.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MICHAEL MARION.

The next pension business on the Private Calendar was the bill (H. R. No. 1243) granting a pension to Michael Marion.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, at the rate of $15 per month, subject to the provisions and limitations of the pension laws, the name of Michael Marion, late a private in Company A, First New York Volunteers, on account of injuries received and incurred in the Army of the United States and the military service thereof.

The report of the committee was read, as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 1243) granting a pension to Michael Marion, has had the same under consideration, and begs leave to submit the following report:

Marion is a pensioner at $8 per month for gunshot wound of right thigh, received near Alexandria, Virginia, February 2, 1862. At the same time and place his horse fell on him and knocked his hip out of joint. For the latter disability claimant was treated in hospital, but no rating therefor was made by the Pension Office. He applied for increase September 3, 1880, but his application was rejected. The certificate of the examining surgeon shows that the ball struck the left front and passed through the right thigh near its middle, fracturing the femur. Union ensued, leaving a forward curvature of the bone, with considerable enlargement. Owing, doubtless, to the hurt of the muscles, their consequent contraction and agglutination, the knee is partially but firmly flexed, which, with the injury at the hip joint—now a partial dislocation—makes the case a grave one. The leg is about two inches short, and as he stands the right foot rests obliquely across the instep of the left one, indicating clearly the character of the hip hurt.

The disability as above described is, in the opinion of the committee, greater than recognized to be by the present rating, and, therefore, it recommends that the word "fifteen" be inserted after the word "of," in line 5 of the bill, and that the bill thus perfected do pass.

The amendment of the committee was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JAMES B. WHITE.

The next pension business on the Private Calendar was the bill (H. R. No. 1341) granting a pension to James B. White.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of James B. White, late a private in Company B, Sixty-second Regiment of Ohio Volunteers, on the invalid-pension roll, subject to the provisions and limitations of the pension laws of the United States.

Mr. ROBINSON, of Massachusetts. I do not ask for the reading of the report, although I did ask for the reading of the reports in these cases in the beginning. For myself, after listening to every one of those which have been read, I think the House owe to the Committee on Invalid Pensions an acknowledgment of the exact and careful performance of its duties; and relying on that, as I think the House well may, I do not ask the reports to be read, but think they should be printed in the RECORD to go along with each case.

The CHAIRMAN. The Chair hears no objection, and it will be so ordered.

The report of the committee is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1341) granting a pension to James B. White, having had the same under consideration, beg leave to submit the following report:

The committee find, from an examination of the papers originally on file in the pension claim at the Pension Office, that the petitioner was a private of Company B, Sixty-second Ohio Volunteers; that he enlisted October 4, 1861, and was discharged October 28, 1862. His declaration for pension was filed August 1, 1876, he alleging that at the battle of Winchester, Virginia, March 23, 1862, he bruised his leg by a fall on a rock fence while marching up hill, from the effects of which injury his leg has been amputated above the knee. The claim was rejected October 20, 1877, on the ground of "no record of alleged injury; inability to furnish necessary testimony."

Your committee find that there is no record of treatment in the service and no medical evidence of soundness or treatment to date of amputation. Date of amputation of leg, March 29, 1876. The petitioner, in an affidavit to the Pension Office, October 23, 1876, said that he was never treated in any hospital for the disability, but was treated by the surgeon of the regiment, Dr. Hood, who is now dead. He further swears that he cannot furnish medical evidence as to freedom from the injury at enlistment, because of the death of his family physician; nor can he furnish medical evidence as to his condition from date of discharge for the same reason, the death of his family physician. The only evidence he can furnish is that of his neighbors, which he asks may be accepted in lieu of medical testimony.

The testimony of neighbors who knew and had employed the petitioner prior to his enlistment is thorough as to the fact of the petitioner's soundness at the time he enlisted in the Army. One of the affiants states that he had had the soldier in his employ for twelve years prior to his enlistment, and that he was thoroughly sound when he went into the Army, and had no affection of his legs whatever.

Lieutenant Kohler, of the petitioner's company and regiment, swears that at the battle of Winchester, while the regiment was marching upon the enemy, March 29, 1862, the petitioner, in climbing a stone fence, fell and injured his left knee; that since that time, to affiant's knowledge, the knee continuously grew worse until amputation was rendered necessary.

Dr. Charles P. Hildreth, who amputated the limb, says that he—

"Commenced visiting the petitioner in 1876, and found him suffering a great deal of pain in the left knee; joint opened in two or three points and discharging a large quantity of pus; very much enlarged bones composing the joint carious or necrosed, and the structure of the joint disorganized. An effort was made to save the limb for two or three months. It became evident that he must lose his life or limb, and the limb was amputated March 29, 1876."

He further states that—

"The petitioner said to him that he was a cooper by trade and that he had mined coal for two years before he lost his leg, and that the disease in the joint was aggravated by getting cold and wet in the coal bank; that the joint had never been well or sound since he received the original injury at Winchester, Virginia."

The testimony of comrades is that while marching on quick time at the battle of Winchester the petitioner endeavored to cross a stone fence and fell and injured his knee, the comrades making this sworn statement alleging that they were in the rear rank immediately behind the petitioner and saw him when he fell and hurt himself; that they had a knowledge of the continuous and progressive nature of the disease up to the time his leg was amputated. The certificate of disability upon which the petitioner was discharged the service is signed by Dr. Charles H. Hood, the regimental surgeon, and finds him "incapable of performing the duties of a soldier because of his suffering from varicocele enlargement of the epididymis and testicle, both sides being affected, and is the result of exposure and hard living while serving in the pioneer corps of Shield's division."

The evidence proves conclusively to your committee that this soldier contracted the disease of the knee in the service which led to its amputation, although he is unable, through the lapse of time, removal, &c., to present to the Pension Office the necessary evidence required by the rules governing the adjudication of pension claims. The petitioner has filed some additional evidence before this committee corroborative of the statements heretofore made in the case.

After due consideration of all the evidence presented the committee are of opinion that the petitioner is entitled to relief, and therefore report favorably upon the bill and recommend that it do pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

NATHANIEL J. COFFIN.

The next pension business on the Private Calendar was the bill (H. R. No. 3000) granting a pension to Nathaniel J. Coffin.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Nathaniel J. Coffin, as first lieutenant of Company K, Thirteenth Regiment of New Hampshire Volunteers, war of the rebelion.

The report of the committee is as follows:

Lieutenant Nathaniel Johnson Coffin has served his country in two wars. May 4, 1847, at Fort Adams, Newport, Rhode Island, he enlisted as Nathaniel Johnson in Captain John H. Jackson's Company H, Ninth Regiment United States Volunteer Infantry, for the Mexican war. He served as a private until the war ended, and received a medal for gallant conduct at the storming of Chapultepec. An honorable discharge was given him August 2, 1848. Lieutenant Coffin again enlisted, September 27, 1862, as a private in Company K, (Captain M. T. Betton,) Thirteenth Regiment New Hampshire Volunteers, to serve in the late rebellion. He was promoted to be first lieutenant of said Company K early in 1863. Afterward, in May, 1863, while stationed with his company on the banks of the Nansemond River, in Virginia, to check the enemy's advance on Norfolk, he received a wound on the skull, which probably caused a pressure of bone on the brain. Captain Betton certifies in relation thereto as follows:

"I hereby certify that Nathaniel J. Coffin was wounded on his head by a piece of shell, or glance round shot, in the first week in May, 1863, in a picket fight in front of Portsmouth, Virginia, while officer of the guard against confederate General Longstreet's advance. Mr. Coffin was in my command, and was promoted to first lieutenant but two months previous to his being wounded."

This wound, it is claimed, induced severe and continued pains in the head, mental confusion, and a partial loss of memory for several years. At any rate, in consequence thereof Lieutenant Coffin resigned his command, and was honorably discharged June 9, 1863, at Fortress Monroe.

In 1871 he joined the Polaris expedition; served on board the Polaris as ship's carpenter from June 1, 1871, to November 10, 1875, and during this expedition, in common with his comrades, suffered very great hardships.

The records of the War Department fail to show that the claimant was wounded, as testified to by himself and Captain Betton, and his application for a pension has been rejected on the ground that "the claimant seems to be unable to furnish such testimony as to justify this office in taking favorable action in the premises." Lieutenant Coffin is now an old man, in feeble health, and very poor. Without questioning the propriety of the decision at the Pension Bureau and the evidence there filed, your committee are of the opinion that this aged veteran's unquestioned patriotism and gallant conduct, by imperiling his life for his country in two great wars, and by enduring even greater peril and more severe exposure in the Polaris expedition, is fairly entitled, in his old age and poverty, to receive a gratuity pension for the few remaining years of his life.

We therefore recommend the passage of the bill, amended as follows: Strike out "subject to the provisions and limitations of the pension laws," in fourth and fifth lines. Add, at the end of eighth line, "at the rate of $12 per month."

The amendment of the committee to strike out the words "subject to the provisions and limitations of the pension laws," and, in line 8, to add, "at the rate of $12 per month," was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

THOMAS ALLCOCK.

The next pension business on the Private Calendar was the bill (H. R. No. 1188) granting a pension to Thomas Allcock.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place the name of Thomas Allcock, a private in Company F, Third Artillery, during the Florida war, upon the invalid pension roll, at the rate of $8 per month, from the 1st day of July, 1852, and to continue during his natural life.

The report of the committee is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1188) granting a pension to Thomas Allcock, having had the same under consideration, beg leave to submit the following report:

It appears that the petitioner is an invalid soldier of the Seminole war, having served as private, Company F, Third United States Artillery, and honorably discharged after three years' service. He applied for pension in 1852, and was informed that claim was not admissible on the proof under general law. On the 21st of June, 1872, there appears to have been an application filed by him alleging "that he served in said Florida war three years; that he received a sunstroke while in said service, and while on duty as sentry on the 6th day of July, 1839; and that Thomas Haley, mentioned in the annexed affidavit, was present at the time; that in consequence of such sunstroke he was totally blind for six days, and has lost the sight of one eye entirely; that a written discharge was granted him by Major Thomas Childs, at Fort Pierce, Florida, which is in the Department at Washington, filed on application for bounty-land."

The Adjutant-General's Office reports him sick in hospital at the time alleged by him; and there is ample proof in the case to show that it is a just and meritorious one, well worthy of consideration.

The Committee on Invalid Pensions, House of Representatives, reported favorably in the case as far back as February 4, 1858, and say then:

"For this permanent injury to his eyes, rendering them perfectly useless for the remainder of his life, received in the service of his country, the committee think he is justly entitled, in some degree, to the consideration of the Government."

Your committee at this time heartily renew this recommendation and recommend the passage of the bill (H. R. No. 1188) granting a pension to Thomas Allcock.

The amendment of the committee to strike out "1st day of July, 1852, and to continue during his natural life," and in lieu thereof to insert "passage of this act" was agreed to, and the bill as amended was laid aside to be reported to the House, with the recommendation that it do pass.

JAMES K. STURTEVANT.

The next pension business on the Private Calendar was the bill (H. R. No. 1373) granting a pension to James K. Sturtevant.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James K. Sturtevant, late a private in Company B, First Regiment Oregon Mounted Volunteers in the Indian war of 1855 and 1856, for wounds received in action; and that he be paid a pension at the rate of $8 per month from and after the passage of this act.

The report of the committee is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1373) granting a pension to James K. Sturtevant, having had the same under consideration submit the following report:

This claim has been under investigation in the Pension Department, and on the 6th of March, 1880, was rejected on the ground that "claimant was not in the United States service so as to entitle him to a pension under the pension laws."

An examination of the evidence presented to the committee establishes the following state of facts:

First. It is shown by letter of Second Auditor, dated Washington, District of Columbia, 1879, that James K. Sturtevant enrolled October 18, 1855, in Captain O. Humason's Company, B, First Regiment Oregon Mounted Volunteers, and was discharged May 19, 1856, as per General Order No. 32, of that date, and that he performed further service in Captain A. V. Williams's Company, Oregon Mounted Volunteers, from January 18 to August 11, 1856, as shown by the records of the War Department.

Second. James M. Kelley, one of the supreme judges of Oregon, under oath, states that in 1855 he was commissioned lieutenant-colonel of the First Regiment of Oregon Mounted Volunteers, and as such officer was in command of five companies of that regiment, including Company B, Captain Orlando Humason; that James K. Sturtevant was a private in said Company B; and that on the 7th day of December, 1855, an engagement took place with hostile Indians along the Walla Walla Valley, in Washington Territory, in which said Sturtevant was dangerously wounded—so dangerous that the surgeon of the regiment reported he could not recover; that he was sent to hospital and finally recovered; that the said Sturtevant was wounded in said engagement, in the line of his duty, by a gunshot in his breast; and that the captain and first lieutenant of said Company B are both dead.

Third. James McAuliff, on oath, states that he was second lieutenant of Company B, in said regiment, and further fully corroborates the statement of Lieutenant-Colonel James M. Kelley.

Fourth. Stoey Hemenway, M. D., upon oath, states that he had, under an appointment from the Pension Department, personally examined James K. Sturtevant, an applicant for pension, and certified that he had been wounded by a gunshot in right breast, passing through body, which incapacitates him for performance of heavy manual labor.

Fifth. It further appears from the records of the War Department that the First Regiment of Oregon Mounted Volunteers were called into service by order of the governor of Oregon to quell Indian disturbances, and that they were afterward paid by the United States under act of March 2, 1861, granting them the same pay and allowances as regular troops.

The foregoing are the facts, and may be regarded as showing clearly a meritorious case.

It seems the Pension Department, in construing the act of March 2, 1861, have held the term in said act "and allowances" does not include pensions, and for that reason alone have rejected this claim. Without inquiry, or any expression of opinion as to the correctness of that decision, we have no hesitation in saying the records and the proofs submitted to us show that this is a just and meritorious claim, and that the claimant, Mr. Sturtevant, is entitled to a pension.

We therefore respectfully return the bill, with a favorable report, and do recommend its passage.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ELISA A. MURRAY.

The next pension business on the Private Calendar was the bill (H. R. No. 1336) granting a pension to Elisa A. Murray, reported adversely.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elisa A. Murray, dependent mother of Dwight E. Murray, late a private in the Ninth Ohio Battery.

Mr. MOREY. I ask that the adverse report be read.

The Clerk read as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1336) granting a pension to Elisa A. Murray, have had the same under consideration, and beg leave to submit the following report:

The committee find, from an examination of the papers on file in the original pension claim at the Pension Office, that the petitioner is the mother of Dwight E. Murray, who was a private in the Ninth Ohio Battery, and who was killed while

in the service; that he enlisted October 11, 1861, and died September 17, 1863. The mother's application was filed November 10, 1878, and was rejected by the Pension Office August 6, 1879, on the ground that the soldier at the time he was killed was not in the line of duty.

The evidence in the case shows the dependence of the mother upon the soldier and his contributions to her support. The Adjutant-General's report in the case reports him absent without leave since September 17, 1863, supposed to have been captured by guerrillas. He was afterward marked as a deserter on subsequent rolls. The evidence of officers and comrades on file in the case shows that the soldier with one or two comrades started out with the implied permission of their officers upon a foraging expedition while the company was encamped near Tullahoma, Tennessee; that while out upon such an expedition they were killed by bushwhackers, their bodies found, but no record made of their death on the company rolls. Lieutenant Cowles, of the company, states that the soldier came to his tent with one John Wilson, a comrade, and said they were going foraging in the country. The officer further states that he loaned to the deceased soldier his revolver and that they took with them two good horses. Comrades of the deceased soldier state that they had personal knowledge of the deceased and his comrade Wilson starting out on the foraging hunt, and that it was with the implied permission of their officers; that such permission had been allowed to the men of the command very frequently, and that they did not deem it any transgression of orders, inasmuch as their absence was with the full knowledge of the officers of the company. They further show that the soldier was killed while on this expedition, having been shot by bushwhackers, or guerrillas, with whom the immediate country was infested.

In the absence of a record that the soldier was away with leave, the Pension Officer rejected the claim.

The death of the soldier is fully proven, and also the fact that his absence from camp was known to his officers and with their implied permission.

A majority of the committee in this case recommended that the bill be reported adversely.

Mr. MOREY. I desire to say, Mr. Chairman, in support of my motion that this bill be reported to the House with a favorable recommendation, that the report of the committee in this case discloses the fact that this soldier, who lost his life on this occasion, had been in the military service of his country for a period of two years. The report also discloses the fact that he left a mother, to whom he had contributed support and who was dependent upon him for that support. The fact is further disclosed that the Pension Office rejected the application for a pension on the ground that the record of the military history of this soldier did not show he was absent with leave at the time he lost his life.

Now, sir, it is within the knowledge of many gentlemen who are present here to-night in this committee, rigid discipline was enforced in our Army at that period.

It is well known, sir, that at that time our army, and this army to which this soldier belonged, was in the midst of the enemy's country; and that the soldiers were dependent in some degree at least for their subsistence upon the forage they could take in that country. This report shows that this soldier had gone from his camp as many other soldiers had done with the leave, knowledge, and consent of the officer in command; that while out on this foraging expedition, perhaps to get some necessaries for himself and comrades, and perhaps for the very officer who had loaned him his pistol to forage in the enemy's country, he lost his life. Now, sir, I think in view of the fact that this widowed mother had given her son to the service of the country, and that he lost his life while in the service, the mere fact that he had gone from his camp only a short distance, without a written order permitting him so to go, ought not to deprive that dependent mother of the support which she lost by his death. Sir, we have this very evening laid aside for favorable report to the House a bill granting a pension to a man who never was in the military service of the United States at all. It seems to me that the case of this soldier appeals more strongly to the equity and justice of this Government than the case to which I have referred. In that case the action of the House is a mere gratuity; in the case of an enlisted soldier, of one who had entered the military service, and was killed or disabled, the granting of a pension rests upon an implied if not an expressed agreement to care for the widows and the orphans of those who lost their lives.

For this reason I move you that the bill be reported to the House with a favorable recommendation.

Mr. BROWNE. Mr. Chairman, this case is briefly this: the claimant is the dependent mother of a soldier who was killed when foraging upon the country not in the line of his military duty. It is clear that he might have been foraging and also in the line of duty, as foraging parties were often regularly detailed and sent into the country for the purpose of securing supplies. He was not thus detailed. He was not absent in pursuance of an order of a superior officer. It is said in the report that he was absent by the implied consent of his captain, who had loaned him, at the time he developed his purpose to go out foraging, his pistol. That may be an implied permission to go, but it is not an order to go; it is not a detail to go.

Mr. McMILLIN. Nor a legal permission.

Mr. BROWNE. It is not a permission to go in military contemplation. The Pension Bureau——

Mr. ROBINSON, of Massachusetts. I would like to ask the gentleman from Indiana a question in this connection. Suppose it were actually the fact that he had permission, not that the permission was only implied; let us understand how the law would be as applied by the Pension Office. Did he have permission to go on this expedition, and if he had permission, would he, under the practice of the office, be entitled to a pension?

Mr. BROWNE. I will answer the question. The mere fact that the officer allowed him to go, being informed of his purpose to go, or permitted him to go, would not have put him in the line of duty to give him a pension.

Mr. DAWES. Would he not have been absent with leave?

Mr. BROWNE. There is a very great difference between absence from command with leave, and absence from command for the purpose of engaging in a willful disobedience of existing military orders a great, a grave difference. The captain, his commanding officer, could not authorize him to go in violation of a military rule——

Mr. DAWES. In Sherman's army that marched down to the sea?

Mr. BROWNE. I answer the question that in the opinion of a majority of the Committee on Invalid Pensions no worse precedent could be established than to offer a premium to that great source of demoralization—irregular, illegal foraging. My friend, the gentleman from Ohio, knows, as all know who were in the military service, that there is nothing which so demoralizes the Army as this irregular and illegal foraging. I am not here to say that foraging is not only permissible, but right. It ought to be done extensively in the enemy's country, but it ought to be done under rules and regulations.

Mr. HORR. It was generally neglected.

Mr. BROWNE. No, sir; it was not generally neglected. In this case it was nothing more than this, that the soldier and those with him were absent, with knowledge, it is true, according to the testimony, of the captain of the company. But they were absent in indiscriminate foraging in the country, and invited their own fate.

Mr. STEELE. I would ask my colleague if this man was not absent with leave for the express purpose of foraging?

Mr. BROWNE. No, sir. The very best that can be said in the case—and it is said very strongly in the report—is that he went to the tent where his captain was and announced his purpose to go on a foraging expedition, and he and his comrades went. It is not pretended they were detailed. It is not pretended there was any necessity for the expedition.

Mr. STEELE. Was not that a usual way of getting permission?

Mr. BROWNE. I do not know how it was in that portion of the Army in which my friend served so long and so well. I know in the branch of the service to which I belonged there was the strictest possible rule on that subject. No soldier was to go foraging unless he was regularly detailed and put under the command either of a commissioned or a non-commissioned officer. And to say in reference to soldiers who while in camp left their command and went out into the country to forage—whether from friend or enemy makes but little difference—to say under such circumstances when they dared their fate, as all of them knew they were doing when they went to a distance from their camp, and were killed in that way—to say that those who were dependent on them for support are to be pensioned is simply to invite willful disobedience of military authority, and that kind of disobedience I undertake to say that utterly destroys the discipline of an army; and when there is no discipline there is in fact no army.

Mr. DAWES. I am not aware of any armies to be demoralized by this precedent if it should be established, or of any danger to military discipline threatening or imminent at this time.

This soldier, as the honorable chairman of the committee has said, was out with the clearly implied permission of his officers, where it was the universal custom for the soldiers of the Army to go out upon such expeditions. And the honorable gentleman beside me, [Mr. HEPBURN,] who was himself at Tullahoma, Tennessee, informs me that those details were seldom made. And as the honorable gentleman on my left [Mr. MOREY] has said, at that time the army was in a starving condition. If there was any want of discipline who was to blame? The officers commanding that army, and the captain and lieutenants of the company to which this party that went out belonged. This soldier went out and was killed by the enemies of his country, by the greys. They were in the immediate vicinity of his camp, and he may have had a more formal order to go out than appears here in the record. I should think it probable he had from the information that has come to me.

Now, I think, sir, that this poor widow of that heroic soldier who lost his life at the hands of the enemy of his country ought to have this little pension which she has lost from the time of his death until now. I think the Congress of the United States can do that for her and do no more than justice, and not injure the discipline of any army we have now or that future generations may have.

Mr. PEELLE. So great is my confidence in the Committee on Invalid Pensions that I would be willing to vote for the allowance of a claim they might recommend. I believe in this case that this pension ought to be allowed. We cannot ignore the facts that occurred while we were in the Army. I very well remember that at one time when I was in the Army if we had not violated general military orders and gone on a foraging expedition I would most likely have starved to death. That was after the battle of Pea Ridge, and it was when we picked up corn out of the horse-rack. No general permission was ever given that I know of by a commander of an army for general foraging. It was always in violation of general military orders. Nevertheless it was done.

If this man was absent without leave I apprehend if he were to apply to Congress for relief, for the correction of his record, we would perhaps vote to direct the Secretary of War to grant him that relief. And now, Mr. Chairman, whether he was absent by the permission of his officer, implied or not, we must remember that soldiers very seldom went foraging unless they were in search of something to eat; and especially would that be true, as suggested by the gentleman

from Ohio, [Mr. DAWES,] if he were in the midst of traitors. This soldier went on a foraging expedition, and so far as this case is concerned, say he was absent without leave and in the pursuit of something to eat, and he was murdered or killed. It seems to me that the mother dependent upon him for support should have the benefit of the pension which would have been accorded to him had he been in the direct line of duty.

I am inclined to believe the Committee on Invalid Pensions have only made the report they have for the reason of the dangerous precedent which they think it may establish; but I do not believe there are enough of this class of cases to make the precedent dangerous, and for that reason I sincerely hope that the motion of the gentleman from Ohio [Mr. MOREY] will prevail and that this bill will be reported to the House favorably.

Mr. UPDEGRAFF, of Ohio. I desire to say only a word or two in reference to this matter. It seems to me that this report should have accompanied a recommendation for a pension, because if it shows anything it proves conclusively that this soldier was absent, not by implied but by express permission. He came to the tent of his officer with one of his comrades, and said he was going out on a foraging expedition. Did the officer forbid him? Instead of that, he gave him permission. How? By taking his revolver and loaning it to him, and allowing them to take two of his horses.

On general principles, Mr. Chairman, I am opposed to drawing any fine distinctions of this kind against the needy mother of a dead soldier. Oh, it is all very well for us who have plenty here now and comfort and ease and all we want to eat to talk about the violation of military orders by foragers!

Why, Mr. Chairman, it was continually the only way that the soldier had to obtain the means to live. And when he came back to camp, this officer expected to have part of the forage that he procured. It seems to me it is an outrage to draw the line where it is proposed to be drawn here, when the soldier went with the permission of his officer, and carrying the revolver of his officer. If he could have permission, that was a permission.

As almost every man knows who was in the service, it was not at all likely that a soldier who did not need something to eat would go foraging in September, 1863, in Tennessee, in the condition that State was in at that time, filled with bushwhackers ready to take the life of every Union soldier, to shoot him down in his tracks. No, sir, it was a dangerous business. And the kind of men who were ready to risk their lives in that way, to invite danger, as the chairman of the committee has said, the kind of men who were ready to risk their lives in foraging were men who generally were ready the next day to stand in the front ranks when the fighting came. And the men who were not ready to forage were the men who the next day were sick or skulking in the rear.

I had not intended to say a word about this, but I would be ashamed to sit here and hear the character of a private soldier stigmatized when he had the permission of his officer to go out on this expedition, when he took the revolver of the officer by that officer's consent, and went out to find something for the support of himself and his comrades.

Sir, I would grant this man a pension just as soon as I would had he been shot down in the front rank of a charge. [Applause.]

Mr. MATSON. I am very sure, Mr. Chairman, that nobody intends to stigmatize the courage of a dead soldier. This is an adverse report. In the committee I believed, and I believe now, that this case ought to have been favorably reported. Every single fact necessary to entitle the mother of this soldier to a pension, except the one fact that the soldier was not exactly in the line of duty at the time he was killed, has been fully proven even according to the language of this adverse report. And the proof upon that point is so nearly within the purview of the law, is fortified by the additional fact that at the time this soldier started out to do this foraging he started out to do some fighting if necessary, because he took his arms with him and went out ready not to kill Union men but to kill the enemy if necessary.

So I say that in view of all these facts which have been admitted and the further fact of his pursuing this foraging in a fighting line, and the further fact that no one can be blamed about this matter except this officer, I think this committee ought to and will direct this bill to be reported favorably to the House.

Mr. MCMILLIN. The gentleman from Indiana, [Mr. MATSON,] has said that every fact in this case except one has been established. That one fact is the very fact of all others that ought to be established before a pension is granted. There is not one word of proof in this record, and, belonging as I do to the Committee on Invalid Pensions, I investigated this matter before it came here. I challenge the production of one single line of evidence to show that this man was in the line of his duty. It does not exist; it cannot be found in this Capitol to-night. I know it is very convenient to go off into rhapsodies on a question like this, but this, like all other questions, has its two sides. My friend from Ohio [Mr. UPDEGRAFF] in his enthusiasm said that he would vote for a pension in the case of this soldier as quickly as if he had been shot down in the line of battle. Now it is a question of taste whether he will vote as readily for a man killed out of the line of duty as for one killed in the line of duty.

That this man was a soldier is not denied; that he was killed is not denied; that the party seeking the pension bears the relationship alleged is not denied. But that can be said with equal truth of 25,000 persons whose cases have been rejected in the Pension Office, and of thousands whose cases have been rejected by Congress during the many years that Congress has been called upon to grant pensions.

Mr. UPDEGRAFF, of Ohio. What can be said of them? The same as this?

Mr. MCMILLIN. That they were killed, that the parties applying were related to them; all the facts that can be given here.

Now, this idea of giving this man direction to go on a foraging expedition is entirely a matter of imagination, and the record does not bear it out. The most the record shows in this case is that the officer knowing of it winked at his going. I speak subject to correction any minute, subject to interruption any minute, subject to the production of the evidence any minute. Now, to my mind there is a vast difference between a man dying in the line of duty and a man dying out of the line of duty. It is the difference which separates the true soldier from the one who failed to discharge his whole duty.

Mr. STEELE. Will the gentleman allow me to ask him a question?

Mr. MCMILLIN. Certainly.

Mr. STEELE. In a military point of view, was this soldier who went on that foraging expedition with the knowledge of his officer to blame, or was that officer to blame?

Mr. MCMILLIN. They may have both been to blame. The soldier is to blame who leaves his command without the express permission of his commanding officer; not blamable in this case in all probability in a sense that would attach criminality to the act. I do not mean to say that. But you grant your pensions according to special rules. Now, we will suppose the case of a soldier who is furloughed to go home, and while home becomes sick and dies—not in the line of his duty. Do you grant a pension in such a case? Suppose a soldier gets into a personal difficulty and somebody shoots him. In that case do you grant a pension? No, sir.

Mr. UPDEGRAFF, of Ohio. Would you refuse to grant a pension if the soldier while home on furlough was shot because he was a Union soldier?

Mr. MCMILLIN. The law declines to give a pension if the soldier at the time he dies or incurs the injury is out of the line of his duty, I do not care what he is engaged in. If a soldier is sent home by the direction of his officers upon furlough and while there is attacked, even then it is a stretch of authority to grant a pension. A pension has never been granted in this Congress in such a case.

Mr. BROWNE. If the gentleman from Tennessee [Mr. MCMILLIN] will permit me I will answer the question of the gentleman from Ohio, [Mr. UPDEGRAFF.]

Mr. MCMILLIN. With pleasure.

Mr. BROWNE. By the general law which has been on your statute book for twenty years and more a soldier who, while absent from his command on regular furlough, receives an injury is not entitled to a pension except in case of absence on sick leave.

Mr. MCMILLIN. Precisely. When a soldier while in health, as this soldier is shown is have been, is furloughed and dies while on furlough a pension cannot be granted. By granting a pension in such a case you do injustice to a vast number. There may be 10,000 who died under such circumstances whose widows will not get any pension.

As I have stated, in this case the absence of the soldier was simply winked at. Besides, the record does not show that at the time in question there was any destitution of food in the command to which the soldier belonged.

I have no special feeling in this case. I know there can be no just complaint against the committee in this case for failure to make liberal recommendations in behalf of soldiers and their survivors. No complaint can be made against the Government for not making the general law as liberal as it should be. In view of all this, I insist that there ought to be a distinction between a soldier who dies in the line of duty and one who dies out of it.

Mr. DAWES. I wish to occupy only a moment to draw a distinction between this case and such a case as that suggested by the honorable gentleman who has just spoken. Ordinarily when a man gets a furlough he unbuckles his armor and goes to the rear. This man, with the consent of his officers, buckled on his armor and went to the front, in the face of the enemy, to get something to eat, so that he and his comrades might not starve to death. That is probably the whole of this case. As to the justice due from the Government to a soldier there is a broad distinction between the case where a man goes to the rear on furlough, out of the line of duty and out of all danger, and the case of a soldier who goes to the front under such circumstances as those presented here. This man, with the consent of his officers, went to the front bearing his arms, for the purpose of procuring for himself and his comrades something to eat.

Mr. BROWNE. I do not care a fig, Mr. Chairman, so far as I am personally concerned, what the result in this case may be. I have never yet consciously voted a pension for a disability incurred out of the service, especially for a disability incurred in violation of military rule. I do not intend to vote in the future for any such pension. If other gentlemen see the matter differently, I am entirely willing they shall so vote.

But I do not intend it shall go on the record in this case that this soldier was starving and for that reason went upon this expedition. There is not a word or a line in this whole case tending to show any such condition of things. Nor am I willing to believe that those who commanded the armies of the United States were so heartless that in a country where supplies could be had they refused the regular details by which soldiers are sent into the country on foraging expeditions.

I will vote pensions as liberally as any of the gentlemen who have seen cause to censure me for the position I occupy in this case, to soldiers or to the survivors or dependents of soldiers who have been wounded or disabled in the line of duty. But I will not in my representative capacity vote money out of the Treasury of the United States—money contributed in part perhaps by soldiers who were faithful and who have had no share in the distributions of the nation's bounty. I am not willing to vote their money away except in a case which is shown to be deserving under some rule of law or equity. No such case is presented here.

As to foraging, soldiers who sit around me know something about it. It was very extensively practiced in every command where I had the honor to serve. But I repeat what I have so frequently said, that irregular foraging was in violation of military rule and military discipline. If permitted, it would utterly destroy the discipline of the Army, as every man who commanded a company or a regiment knows. It is the right of the commanding officer to know when his men are absent and where they are. It is the duty of a soldier who leaves his command for any purpose to obtain regular permission to do so. Where the soldier leaves his command for the purpose of foraging it is important he should do so under the regular authority of his officer, so that the foraging may be properly done, that it may not be done merely for the sake of foraging.

If foraging was necessary it ought to be done. If there was anything in the neighborhood the Army wanted it ought to have been taken. Now I am not willing to go into a panegyric of those soldiers, many of them the best soldiers in many respects, with fighting qualities equal to any. I am not willing to go into a panegyric of those men who went off on a foraging expedition to gratify their taste for foraging.

A MEMBER. To gratify their taste for something to eat.

Mr. BROWNE. More frequently to gratify their taste for something to drink; but I do not care to pursue this question further.

Mr. UPDEGRAFF, of Ohio. Mr. Chairman, there is only one thing I wish to be distinctly understood, and that is that I do not cast any reflection upon the action of the Committee on Invalid Pensions, because I think no Committee on Invalid Pensions ever has been more faithful to the soldiers that this one of which the gentleman from Indiana is chairman. It seems to me, however, a little hard he should come down so roughly upon this soldier, who had the permission, and indeed I may say the command, of his superior officer to go upon this foraging expedition.

Mr. McMILLIN. Never existed, sir.

Mr. UPDEGRAFF, of Ohio. What did not exist?

Mr. McMILLIN. The command.

Mr. UPDEGRAFF, of Ohio. I am going to show you what I mean by command. I say that when the officer took off his revolver and gave it to this soldier, knowing he was going on a foraging expedition, it amounted to a command, and was nothing short of it. If my boy comes and tells me he is going on an expedition under my command, and I gratify him with the means to go, and supply him with the arms necessary for his defense, he then has my permission and my authority to go.

My friend from Indiana, the chairman of the committee, says there is not a word or line to prove there was any destitution. Now, sir, if there be any force in the logic of the report, then when he had the authority of his officer to go, do you undertake to say that officer would allow him to go upon this expedition when there was no necessity for it?

Mr. BROWNE. No; but I undertake to say when the American Congress proposes to take money out of the Treasury on a particular state of facts there ought to be some evidence those facts exist. That is what I say, that there ought to be some affirmative testimony there was necessity for it.

Mr. UPDEGRAFF, of Ohio. The affirmative testimony is in the fact that the officer, knowing the condition of things at that time, knowing the danger that surrounded his men, knowing the woods was infested with guerrillas, gave this soldier his revolver, and that these men also took Government horses with the consent of the officers. This is affirmative evidence surely that they went, not only with the full knowledge but with the full consent of their superior officers. If that does not furnish affirmative evidence, then this report does not mean anything.

It is easy for us to say foraging demoralizes, and so on, but, Mr. Chairman, foraging was countermanded sometimes, and sometimes it was allowed.

My friend from Tennessee contends this case was winked at. It was a pretty big wink when they gave horses and revolvers to these men to go out for the purpose of foraging for their company.

Mr. McMILLIN. But they were all subject to their superior officers, and knew an inferior could not direct.

Mr. UPDEGRAFF, of Ohio. This soldier was under the authority of his commanding officer, and he went on this foraging expedition with his permission and by the aid of that officer, and hence I claim he went with his full authority.

Mr. HEPBURN. There is one matter which seems to be overlooked by gentlemen, and that is, we are authorized to recognize such things as are known as presumptions. When certain facts are established others should be presumed to exist. Now, it is in proof that by the knowledge and consent of this officer this man went on this expedition; that he was provided with the means for his defense, and also with Government horses to make the expedition effective. Can we not presume from those established facts there was an order for his going upon this expedition and that there was a necessity for it. If you do not agree there was this order and this necessity, then you convict this officer of having committed a crime. I do not think you have a right to presume he has been guilty of any such offense.

Mr. BROWNE. If he were regularly detailed on an order from an officer who had a right to make the detail he would have been in the line of his duty and clearly entitled to a pension. How does it happen that instead of that the Pension Office refused to grant him a pension?

Mr. HEPBURN. I cannot answer that.

Mr. DAWES. The Pension Office said there was no written evidence.

Mr. HEPBURN. As a cavalry officer, the gentleman from Indiana knows not once in a score of times was a detail made, but that cavalrymen were always anxious to engage in this kind of service, and the question was not who should be compelled to go, but who would be permitted to go. Details were not necessary, and were not made.

I think that his experience will bear me out in this statement; and that while there might have been some irregularity, and perhaps with few exceptions in all commands there was, still there was an order from headquarters that foraging should not be permitted. But it was an order that was constantly violated—a violation that all grades of officers winked at and permitted. This had the effect of inducing many men, doubtless, to believe that they were engaged in proper and legitimate service when they were foraging, as I have no doubt in many cases they really were. I think I have answered the demand of the gentleman for proof that these men were engaged in obedience to an order, if we have a right to assume under these circumstances, as I think we have, the existence of that order from the knowledge of the officer who had given them aid in carrying it into execution.

Mr. PARKER. Mr. Chairman, being a member of the Committee on Invalid Pensions who voted for this adverse report, I shall not at all shrink from the obligations placed upon me by that action. I believe the adverse report was eminently proper. I believe it is the duty of the committee to sustain it, and I believe that in framing it they performed nothing more than their duty. If this were merely a question of sympathy, a case where our sympathies were enlisted in behalf of the soldier who lost his life, or of the dependent mother whose support was thereby taken from her, I would vote and vote cheerfully to give her all that was necessary to support her as long as she lived. But here is a question of fact, and a question of law, and not a question of sympathy. The report as submitted states the facts as they were found by the Committee on Invalid Pensions precisely as they would have been found by a court or a referee. Upon the facts thereby obtained the conclusion of the committee was based; and the report is based upon the conclusion that the man so placed shall not be pensioned.

Now, what is the case presented here? Here is a man, being under the control of a superior officer in the confederate country, surrounded by enemies, who went out on a foraging expedition. Did he go by order? The gentleman on my right assumes that he did. In that assumption he admits that he needs the order to sustain this demand for a pension. But the finding of facts in the case on which this report is based is that he had no order. He had an implied consent. Circumstantial proof is given that he had the implied consent of the commanding officer. In what way? Simply by reason of being permitted to use the officer's pistol. Is it possible to believe that an officer, responsible for the lives of the men under him, in an enemy's country, surrounded by foes, would send out two or three men selected at random on a foraging expedition? Does it seem to be a reasonable proposition? It does not, to my mind, present any such case. If they needed supplies, if they were starving as alleged, that condition of things would apply also to the entire command, and not merely to these two or three men who went out. If it was necessary to provide supplies for the command, a detail would most probably have been made for that purpose, and men sent out to supply not only themselves but to bring back supplies for the others; and the question is even then whether they would not have been acting outside of the line of duty.

But let us go a step further. We find a good many cases where a man is acting in the line of duty though not an enlisted man. Now if such a person, acting as a soldier, should go out foraging on his own account or should go out foraging for a soldier in the line of duty, and meet the fate that this man met, would it be claimed that he would be entitled to a pension? You would have to go a little further and say that every man foraging for a soldier ought to have a pension. Where would you stop? There is no stopping-place.

There is no place to draw the line, in the judgment of the Committee on Invalid Pensions, except where the committee has drawn it; and where a man is outside the line of duty, where he is abroad upon an adventure and perhaps simply from the love of adventure, and meets with disaster, the claim for pension has no foundation. I think the report of the committee should be adopted.

The CHAIRMAN. The question is on the motion of the gentleman from Ohio, that the bill be laid aside and reported to the House with a favorable recommendation.

The committee divided; and there were—ayes 16, noes 11.

So the motion was agreed to.

Mr. BROWNE. Now, Mr. Chairman, I want to be candid about this matter. I am willing that this case shall be reported to the House favorably upon this vote, but I want to say that this House will not pass the bill to-night. I want to know the judgment of the House when there is a quorum present. I am entirely willing, as I have said, that it shall go into the House with a favorable report; but it cannot pass to-night without a quorum.

Mr. THOMPSON, of Iowa. I wish to ask the chairman of the Committee on Invalid Pensions whether he has not already stated to the committee in his remarks that he did not care what action was taken in this matter; that he would simply place on record the facts in the case, and was indifferent as to how the House should decide in reference to it? I would like to ask him, that being the fact, whether this is now mere pride of opinion which induces him to interpose this objection?

Mr. BROWNE. If the gentleman from Iowa thinks the chairman of the Committee on Invalid Pensions has nothing to gratify but his own personal desires he is mistaken, very sadly mistaken.

Mr. THOMPSON, of Iowa. I said nothing of the kind.

Mr. BROWNE. I have no feeling in this case personally at all. I do not care whether the bill be voted up or voted down. But it is setting a wrong precedent, in my judgment, when we give a pension to the dependent mother of a soldier who did not meet his death in the line of duty.

The CHAIRMAN. There is no question before the committee.

Mr. CONVERSE. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BURROWS, of Michigan, having taken the chair as Speaker *pro tempore*, Mr. BRIGGS reported that the Committee of the Whole House, having had under consideration the Private Calendar, had directed him to report sundry bills with various recommendations.

BILLS PASSED.

Bills of the following titles reported from the Committee of the Whole House without amendment were severally ordered to be engrossed; and, being engrossed, were accordingly read the third time, and passed:

A bill (H. R. No. 4101) for the relief of Elisabeth Bray;

A bill (H. R. No. 5684) granting a pension to Newton Boutwell;

A bill (H. R. No. 1554) granting a pension to Eliza Hudson;

A bill (H. R. No. 2910) granting a pension to Kate Wilharlitz;

A bill (H. R. No. 2912) granting relief to the heirs of Kunigunda A. Miller, deceased;

A bill (H. R. No. 2349) granting an increase of pension to George J. Webb;

A bill (H. R. No. 3048) granting a pension to Arthur W. Irwing;

A bill (H. R. No. 435) granting a pension to Solomon J. Grisson;

A bill (H. R. No. 369) granting a pension to Jacob R. McFarren;

A bill (H. R. No. 1341) granting a pension to James B. White; and

A bill (H. R. No. 1373) granting a pension to James K. Sturtevant.

Bills of the following titles were reported from the Committee of the Whole House with amendments; the amendments were agreed to, and the bills as amended were ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed:

A bill (H. R. No. 4444) granting pensions to Wilson W. Brown and others;

A bill (H. R. No. 1462) granting a pension to Lewis Blundin;

A bill (H. R. No. 4877) for the relief of Emma A. Porch;

A bill (H. R. No. 5018) granting a pension to Elizabeth F. Rice;

A bill (H. R. No. 1873) for the relief of Patrick Sullivan;

A bill (H. R. No. 1243) granting a pension to Michael Marion;

A bill (H. R. No. 3000) granting a pension to Nathaniel J. Coffin; and

A bill (H. R. No. 1188) granting a pension to Thomas Allcock.

The following Senate bill was reported from the Committee of the Whole House without amendment, ordered to a third reading, read the third time, and passed:

A bill (S. No. 240) granting an increase of pension to Henry Strawbridge.

ELISA A. MURRAY.

The bill (H. R. No. 1336) granting a pension to Elisa A. Murray was reported to the House with the recommendation that it do pass.

Mr. CONVERSE. That, I think, is the bill on which the gentleman from Indiana [Mr. BROWNE] proposed to have a vote in the House.

Mr. BROWNE. I ask for a vote on that bill.

The question was on ordering the bill to be engrossed and read a third time.

The question being taken, the Speaker *pro tempore* stated that in the judgment of the Chair the "noes" had it.

Mr. MOREY. I call for a division.

The House divided; and there were—ayes 17, noes 11.

Mr. BROWNE. I regret very much to make the point that a quorum has not voted.

The SPEAKER *pro tempore*. The gentleman from Indiana makes the point that a quorum has not voted. The Chair will order tellers.

Mr. BROWNE. Oh, no; let it go over.

RECONSIDERATION.

Mr. ALDRICH. I move that the House do now adjourn.

Mr. BROWNE. Before the motion to adjourn is put I desire to move to reconsider the several votes by which the bills already passed have been passed; and I also move that the motion to reconsider be laid on the table.

The latter was agreed to.

ORDER OF BUSINESS.

Mr. JOYCE. I hope the gentleman from Illinois [Mr. ALDRICH] will withdraw the motion to adjourn. The House will recollect that there is attached to the order for the evening session an order to consider bills upon the Calendar donating condemned cannon. I do not know whether that is a continuing order or not. But at any rate it would take but a few minutes to take up these bills and dispose of them. We may as well do it this evening as on any other evening. I hope, therefore, the gentleman from Illinois will withdraw his motion, and I will make a motion that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of taking up these bills.

Mr. ALDRICH. I do not think it best to withdraw the motion. I think at the present stage of our proceedings we cannot do any other business, and that we should adjourn.

The question being taken on the motion to adjourn, it was not agreed to.

Mr. JOYCE. I now move——

Mr. McMILLIN. I hope my friend from Vermont will not insist on his motion. It is shown there is no quorum here. About twenty or thirty members are all we have present.

Mr. RANDALL. There is not one of the two hundred and ninety-three members of the House who, if here, would vote against those bills.

Mr. McMILLIN. I know a number of gentlemen have left believing nothing would be done beyond disposing of the pension bills. Furthermore, it is now ten o'clock and I think it is time to adjourn.

Mr. MOREY. It will take but a few minutes to transact this business.

Mr. ALDRICH. Can the question before the House upon which the point of no quorum was raised be laid aside so that we can now go on with other business?

The SPEAKER *pro tempore*. The gentleman from Indiana [Mr. BROWNE] simply raised the point that no quorum had voted, but tellers were not ordered; and while the appointment of tellers was pending the gentleman from Illinois moved that the House adjourn.

Mr. PEELLE. I ask the gentleman from Vermont if the consideration of the bills donating condemned cannon was not part of the special order?

Mr. JOYCE. It was. I renew my motion that the House resolve itself into Committee of the Whole House on the state of the Union, for the purpose of considering those bills.

Mr. ALDRICH. I did not understand the Chair to say that the business pending when the absence of a quorum was developed has been laid aside.

Mr. RANDALL. Let that go over by unanimous consent, holding its place as unfinished business.

Mr. ALDRICH. If that goes over by unanimous consent I am willing that the proposition of the gentleman from Vermont should be acceded to.

The SPEAKER *pro tempore*. Is there objection to this bill going over until to-morrow?

Mr. MOREY. To come up as unfinished business.

The SPEAKER *pro tempore*. The Chair hears no objection.

The question was then taken upon the motion of Mr. JOYCE, that the House resolve itself into Committee of the Whole House on the state of the Union, and it was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. BRIGGS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the purpose of considering, under the order of the House, bills and joint resolutions granting condemned cannon, &c.

SOLDIERS' MONUMENT ASSOCIATION, BIRMINGHAM, CONNECTICUT.

The first bill granting condemned cannon was the bill (H. R. No. 2195) donating condemned bronze cannon to the Soldiers' Monument Association of Birmingham, Connecticut.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported favorably to the House.

Mr. McMILLIN. I wish to hear the bill read. [Laughter.] I notice that my request that the bill be read causes some merriment. I make the request for this reason: I remember that during the last Congress a bill came up donating cannon, some sixty bronze cannon, I believe. It came very near going through, although had it passed it would have taken sixty bronze cannon off their carriages.

Mr. JOYCE. It is very proper that these bills should be read.

The bill was read as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, four condemned bronze cannon to the order of the president of the Soldiers' Monument Association of Birmingham, Connecticut, to be used in the casting of a statue of a soldier to surmount a monument in process of erection by said association.

There being no objection, the bill was laid aside to be reported favorably to the House.

The next business under the order was the bill (H. R. No. 2202) donating condemned cannon and cannon balls to the Soldiers' Monument Association of Birmingham, Connecticut.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, four condemned cannon and thirty-six cannon-balls to the order of the Soldiers' Monument Association of Birmingham, Connecticut, to be used in connection with a soldiers' monument now in process of erection by said association.

Mr. CONVERSE. Was not the bill which was passed before this a bill for the same association? How does it happen that two bills are on the Calendar granting four condemned cannon to the same association?

Mr. PEELLE. I would suggest that this second bill be passed over informally.

Mr. McMILLIN. It seems to me it should be reported to the House to be laid upon the table, as there seems to be two bills for the same purpose.

Mr. JOYCE. They are two separate bills; one is to grant bronze cannon for a statue and the other is to grant iron cannon.

Mr. PEELLE. I suggest that the bill be passed over informally, as they seem to be for the same association, and the author of the bill is not here.

The CHAIRMAN. If there be no objection, the bill last read will be passed over informally.

There was no objection, and it was so ordered.

GRAND ARMY POST NO. 94, PHILADELPHIA.

The next business under the special order of the House was the bill (H. R. No. 3082) granting condemned cannon to the Anna M. Ross Post, No. 94, of the Grand Army of the Republic, of Philadelphia.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to donate two condemned brass cannon to the Anna M. Ross Post, No. 94, of the Grand Army of the Republic, of Philadelphia.

There being no objection, the bill was laid aside to be reported favorably to the House.

WATERLOO SOLDIERS' CEMETERY, IOWA.

The next business under the special order was the joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls, for decoration of soldiers' cemetery.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he is hereby, authorized and directed to deliver to the authorities of the city of Waterloo, Black Hawk County, Iowa, three condemned cannon and four cannon-balls of a large caliber, for use in decorating the lot in Elmwood Cemetery, in that city, that has been set apart for the burial of ex-soldiers.

Mr. McMILLIN. I desire to ask the gentleman from Iowa, [Mr. DEERING,] who introduced this bill, whether there is any evidence that there are condemned cannon now in possession of the Government?

Mr. ALDRICH. That is the kind they are making now. [Laughter.]

Mr. JOYCE. I called at the War Department this afternoon to find out all about that.

Mr. McMILLIN. How many are there?

Mr. JOYCE. I can give the gentleman the number in a moment.

Mr. STEELE. There are 135 iron cannon.

Mr. McMILLIN. The reason I ask is that I know during the last Congress the report was made to us that there were no more condemned cannon on hand.

Mr. JOYCE. There are 927 bronze cannon, 752 cast-iron guns, 22 cast-iron guns, 42 wrought-iron guns, 8 wrought-iron guns, and 48 steel guns.

Mr. McMILLIN. All condemned?

Mr. JOYCE. Not all condemned now, but they will be in due time.

Mr. McMILLIN. I desire to have an amendment to these bills providing that these cannon shall be from the number of condemned cannon now on hand. I think that ought to be done.

Mr. DEERING. Now condemned or to be condemned?

Mr. McMILLIN. I want my amendment to apply to all these bills, that these donations are to be made out of condemned cannon now on hand. I am informed by my friend on my right here, and my memory so serves me, that last year there were granted more condemned cannon than there were such cannon in possession of the Government. My friend from Vermont [Mr. JOYCE] says that they are not all condemned yet, and my friend from Illinois [Mr. ALDRICH] suggests that they are making no cannon now but condemned cannon.

Mr. JOYCE. They are not all condemned now, but many of them are, and all of them will be, for they are absolutely of no use in case of war. They are good for nothing but for old bronze and old iron.

Mr. ALDRICH. I want to offer an amendment that if there are not enough condemned cannon now on hand to fill these bills the officers of the Government shall be instructed to condemn enough for the purpose. [Laughter.]

The CHAIRMAN. The Chair understands that the gentleman from Tennessee [Mr. McMILLIN] proposes to move an amendment to the pending bill. The Chair will suggest to him to send his amendment in writing to the Clerk's desk.

Mr. McMILLIN. There seem to be some few condemned cannon now on hand, and I will not offer my amendment to this bill but to the next one.

Mr. PEELLE. If the amendment suggested by the gentleman from Tennessee [Mr. McMILLIN] be made to apply only to condemned cannon now on hand, and five days or only one day after these bills shall have been passed there should be more cannon condemned, his amendment would prevent their being donated.

Mr. McMILLIN. I certainly would not pass bills donating condemned cannon if there are none on hand now.

Mr. PEELLE. If they are not condemned now they may be condemned within a few days after these bills are passed.

Mr. McMILLIN. Then the amendment suggested by my friend from Illinois [Mr. ALDRICH] ought to be made.

Mr. REED. All the early bills on the Calendar would get the cannon and those that come afterward would get none, under the amendment of the gentleman from Tennessee. Now, my bill is one of the earliest, and yet I object to the amendment of the gentleman out of charity to the others.

Mr. McMILLIN. I know my friend from Maine [Mr. REED] is a humanitarian; charity beams from every feature of his face. I want to give the gentleman due credit for all the charity he claims.

The CHAIRMAN. If there is no objection, the bill will be laid aside to be favorably reported to the House.

The question was taken, and it was so ordered.

CONDEMNED CANNON FOR TOPEKA, KANSAS.

The next business was the bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, to the city of Topeka, Kansas, four condemned cannon and twenty cannon-balls, to be placed on a monument to be erected in memory of deceased soldiers in the Topeka cemetery.

Mr. ROBINSON, of Massachusetts. I move to amend by adding "also four condemned cannon to the town of Brimfield, Massachusetts, for monumental purposes."

The amendment was adopted.

Mr. CONVERSE. I move to amend by adding "four condemned cannon for the Ferncliff Cemetery, Springfield, Ohio.

The amendment was adopted.

Mr. ROBINSON, of Ohio. I move to amend by adding "four condemned cannon to the Soldiers and Sailors' Association of Delaware, Ohio, for a soldiers' monument."

The amendment was adopted.

Mr. WILLIS. I desire to offer a small amendment, and I will make the number of cannon "three" instead of four. I move to amend by adding "also to the National Soldiers' cemetery at Louisville, Kentucky, three condemned cannon, for the same purpose." I will state that I introduced in the last Congress a bill making a donation of this kind, which received favorable action. But it was announced that there were no condemned cannon then or thereafter to be had, so far as the authorities knew. I therefore withdrew the bill. Now, as there seem to be condemned cannon on hand, I offer this amendment in good faith.

The amendment was adopted.

Mr. MOREY. I move to amend by adding "also four condemned cannon and four cannon-balls to Wetzel Compton Post, Grand Army of the Republic, of Hamilton, Ohio, for the purpose of decorating a soldiers' lot."

The amendment was adopted.

Mr. BROWNE. Now, in order that each of the two hundred and ninety-three members of the House and the eight or nine Delegates may get a donation of four condemned cannon, I move that the committee rise.

Mr. WILLIS. I have offered my amendment in perfect good faith; but if its tendency is to break down the bills of other gentlemen I withdraw it.

Mr. MOREY. I think it is fair that all these amendments should be withdrawn. If we had proceeded regularly we would by this

time have acted favorably upon a number of these bills, and the business of the committee would have been expedited. It occurs to me that to go on in this way defeats the very object for which we resolved ourselves into Committee of the Whole. For my part, I am willing to withdraw my amendment, as I hope other gentlemen will withdraw theirs, and let these bills take their orderly course.

Mr. STEELE. Gentlemen having propositions of this kind should introduce their bills and send them to the Committee on Military Affairs, where there will be no trouble in having them favorably considered.

Mr. BROWNE. I insist on my motion, unless we can arrive at an immediate agreement on this subject.

Mr. ROBINSON, of Massachusetts. I do not see any reason at all why the Committee on Military Affairs should not report a single bill including these different places, so that they may be all treated alike. That we undertook to do in the last Congress. The town named in the amendment I have moved is, as gentlemen know, just as much entitled to a donation of condemned cannon as any other place. There is no reason why one town should have such a donation more than another. We all should stand about alike.

Mr. BROWNE. I can state one reason, if the gentleman will allow me.

Mr. ROBINSON, of Massachusetts. I shall be very glad to hear it.

Mr. BROWNE. It is that other members were vigilant in getting their bills before the Committee on Military Affairs, and obtaining favorable reports. In this respect they stand ahead of the gentleman in equity.

Mr. ROBINSON, of Massachusetts. I was so vigilant that I obtained a favorable report in the last Congress; and my bill got into precisely the same position as this one; when it came up various gentlemen jumped upon it and loaded it with amendments. I do not know whether my friend from Indiana [Mr. BROWNE] helped to do it or not.

Mr. MOREY. As the gentleman "knows how it is himself," he ought not to assist in loading down this bill.

Mr. CONVERSE. I desire to say that in the last Congress a bill reported by the Committee on Military Affairs was passed by this House giving condemned cannon to the Ferncliff Cemetery, but it failed in the Senate. The amendment ought to go upon this bill. We have another cemetery, for which I have not even made a request, where there are at least five hundred soldiers buried. I should be very glad at some time during the session to get a donation of four condemned cannon and the same number of balls for that association. But I insist that this amendment for the Ferncliff Cemetery shall remain in the bill, because a proposition to this effect passed the House in the last Congress and failed in the Senate. The amendment is just as worthy as any of the propositions of this kind that are presented here.

Mr. ROBINSON, of Massachusetts. No proposition of mine shall stand in anybody's way; I do not want to defeat any bill of this kind. Although I do not see why the town I have named in my amendment should not be treated in just the same way as these others. I withdraw the amendment.

Mr. CONVERSE. I hope the gentleman will let his amendment stand. Let the bill pass with the amendments.

Mr. ROBINSON, of Massachusetts. I am willing to leave the amendment in or withdraw it, just as may be deemed best. I do not see why there is not as much merit in my proposition as in any other.

Mr. BROWNE. I concede it has just as much merit as a dozen other propositions which various gentlemen may make. There is in my town of Winchester, Indiana, a soldiers' monument association engaged in good faith in accumulating funds for a soldiers' monument. I had drafted an amendment with a view to offer it, but I saw at once we would defeat the whole object of this legislation donating more condemned cannon than we have, good, bad, and all kinds, and for that reason I thought it was best I should not offer mine. I withdraw my motion that the committee rise.

Mr. ROBINSON, of Massachusetts. I will give mine up also, hoping to get something hereafter.

Mr. CONVERSE. Mine is a meritorious case, and I make an appeal to gentlemen in its favor.

Mr. BROWNE. I cannot discriminate in favor of the gentleman from Ohio.

Mr. CONVERSE. It is not in my district.

Mr. MOORE. I object to its going on unless mine also goes on. Mr. Chairman, there is a soldiers' national cemetery in Memphis with 14,000 soldiers and no monument.

A MEMBER. Introduce your bill.

Mr. MOORE. Nine thousand of them Union soldiers unknown and 5,000 whose names are recorded. There is no monument and we need one. Certainly if condemned cannon are to be donated for soldiers' monuments, the national cemetery at Memphis should be liberally provided.

Mr. MOREY. Introduce your bill.

The CHAIRMAN. Does the gentleman from Ohio withdraw his amendment?

Mr. CONVERSE. I withdraw my amendment.

Mr. McMILLIN. I move an amendment which I think proper should go on, especially in view of the experience of last session, when sixty bronze cannon came near going, worth over $200,000. I move to add the following:

Provided, There are cannon now on hand which have been condemned with which to meet the demands of this act.

Mr. RANDALL. If there are no condemned cannon they will not get them.

Mr. McMILLIN. Then my amendment will not hurt anybody.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' MONUMENT, PORTLAND, MAINE.

The next business was the bill (H. R. No. 605) donating cannon and cannon-balls to aid in the construction of a suitable soldiers' monument at Portland, Maine.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized to deliver, if the same can be done without detriment to the Government, to Post Bosworth, Grand Army of the Republic, Portland, in the State of Maine, four condemned cannon and sixteen cannon-balls, to be used in the construction of a suitable monument to be erected by said post in honor of the deceased soldiers of the late war.

Mr. REED. I move that bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to, and it was so ordered.

CONDEMNED CANNON FOR MONUMENTAL PURPOSES.

The next business was the bill (H. R. No. 679) donating condemned cannon, &c., for monumental and other purposes.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed, if the same can be done without prejudice to the public service, to deliver to the parties herein named the following condemned cannon, &c., for monumental and other purposes, namely:

To the Charles Russell Lowell Post, No. 7, of the Grand Army of the Republic, of Boston, Massachusetts, two condemned twelve-pounder guns and gun carriages, to be used for monumental purposes in the decoration of a free burial ground for ex-soldiers, sailors, and marines who have been honorably discharged from the service of the United States.

To each of the towns of Woburn, Winchester, and Wakefield, in the State of Massachusetts, four condemned cannon, to be used in the erection of a soldiers' monument, or in the decoration of a soldiers' lot in the cemeteries in said towns.

To Post No. 78 of the Grand Army of the Republic, district of Massachusetts, four condemned cannon, to be used for monumental purposes in the cemetery at South Abington, Massachusetts.

To the McPherson Post, No. 73, of the Grand Army of the Republic, district of Massachusetts, four condemned cannon, to be used for monumental purposes in the cemetery at Abington, in said State.

To the selectmen of the town of Paxton, in the county of Worcester, State of Massachusetts, four condemned cannon, to be used in ornamenting the lot upon which the soldiers' monument is erected in said town of Paxton.

To the selectmen of the town of Brimfield, Massachusetts, four condemned cannon, to be used in the completion of the soldiers' monument in said town.

To the William H. Bartlett Post, No. 3, of the Grand Army of the Republic, of Taunton, Massachusetts, four condemned cannon, for the purpose of ornamenting the burial grounds of deceased Union soldiers.

Mr. CONVERSE. I move to insert my amendment for four condemned cannon and four cannon-balls for Ferncliff Cemetery, Springfield, Ohio.

Mr. ALDRICH. Any report in favor of this?

Mr. RANDALL. There has to be; that is the rule.

Mr. HARRIS, of Massachusetts. All these cases were reported favorably last year, but failed to pass. They are reported again this year. I drew the bill myself.

The committee divided; and there were—ayes 15, noes 4.

So the amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' CEMETERY, GALLIPOLIS, OHIO.

The next business was the bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby authorized to furnish such number of condemned cannon as may be required to Colonel L. Z. Cadot, Surgeon William S. Newton, and Major Samuel F. Neal, for the use and adornment of the soldiers' cemetery in the city of Gallipolis and State of Ohio.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' AND SAILORS' ASSOCIATION, BELLAIRE, OHIO.

The next business was the bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to deliver to the Soldiers' and Sailors' Association of Bellaire, Ohio, four condemned brass field-pieces, if the same can be spared without detriment to the Government, to aid in the erection of a monument to the memory of the Union soldiers and sailors of Belmont County, Ohio, killed in the late war of the rebellion.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SAMPSON POST NO. 22, GRAND ARMY OF THE REPUBLIC.

The next business was the bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby directed to turn over and deliver to Sampson Post, No. 22, of the Grand Army of the Republic, of Rochester, New Hampshire, to be placed about the soldiers' monument in said Rochester, four condemned cannon and two anchors.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' CEMETERY, OTSEGO, MICHIGAN.

The next business was the bill (H. R. No. 3333) to donate one condemned bronze cannon to the citizens of Otsego, Michigan.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the citizens of Otsego, Michigan, one piece of condemned bronze cannon, if the same can be spared without serious detriment to the Government, to place in their cemetery, near the soldiers' monument.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MORTON MONUMENTAL ASSOCIATION.

The next business was the joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he is hereby, authorized and directed to give to the Morton Monumental Association of the United States twelve condemned and unserviceable cannon and twenty-five cannon-balls, for casting a statue of Oliver P. Morton, late a Senator from Indiana, to be erected at the city of Indianapolis, Indiana.

Mr. PEELLE. I desire to move an amendment to this joint resolution. It provides for twelve condemned and "unserviceable" cannon. It may be that the cannon are condemned, and yet are not unserviceable. I move therefore to strike out the words "and unserviceable" from the bill in line 5; so that it will read, "twelve condemned cannon and twenty-five cannon balls," &c.

The amendment was agreed to.

The joint resolution as amended was laid aside to be reported to the House with the recommendation that it do pass.

EQUESTRIAN STATUE OF GENERAL REYNOLDS.

The next business was the joint resolution (H. R. No. 38) appropriating thirty condemned guns for the equestrian statue of Major-General John Fulton Reynolds, who fell at Gettysburgh, July 1, 1863.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he is hereby, directed to give to the Reynolds Monument Association thirty condemned cannon, to be used in making the bronze equestrian statue of the late General John Fulton Reynolds, who fell at the battle of Gettysburgh; and that the proper Department be, and it is hereby, authorized and directed to take such measures as shall be necessary to secure the co-operation of the Government in all ceremonies attending the laying of the corner-stone and the final unveiling of the proposed statue.

The joint resolution was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' MONUMENT, MANSFIELD, OHIO.

The next business was the bill (H. R. No. 4585) to donate two condemned bronze cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the mayor of the city of Mansfield, Ohio, for the benefit of said city, two pieces of condemned bronze cannon, if the same can be spared without serious detriment to the Government, to place on the public square of said city near the soldiers' bronze monument recently erected on said public square at a cost of $10,000, the gift of a patriotic and liberal-minded citizen.

The CHAIRMAN. This bill is reported with an amendment. The Clerk will read the amendment.

The Clerk read as follows:

Strike out the word "bronze," where it occurs in the bill, and insert the word "iron;" also amend the title so as to read: "A bill to donate two condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument."

The amendments were agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' CEMETERY, HAMILTON, OHIO.

The next business was the bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to furnish to Wetzel-Compton Post of the Grand Army of the Republic, at Hamilton, Ohio, such number of condemned cannon, not less than four, and of large size, and spherical shot, as may be required, for the use and adornment of the soldiers' cemetery in the city of Hamilton and State of Ohio.

Mr. MOREY. I desire leave to print some remarks in connection with that bill.

There was no objection. [See Appendix.]

The bill was laid aside to be reported to the House with the recommendation that it do pass.

STURTEVANT POST, NO. 2, GRAND ARMY OF THE REPUBLIC.

The next business was the bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby directed to turn over and deliver six condemned cannon to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, to adorn the soldiers' lot in the cemetery at Concord aforesaid.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MILAN, OHIO.

The next business was the bill (H. R. No. 3738) to donate bronze cannon to the township of Milan, Ohio.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the mayor of Milan, Ohio, four condemned bronze cannon, if the same can be done without serious detriment to the Government, for the adorment of the monument erected in the village of Milan commemorating the names of soldiers who devoted and lost their lives in the service of the United States during the war of the rebellion.

The CHAIRMAN. The Clerk will report the proposed amendment to the bill.

The Clerk read as follows:

Strike out the word "bronze," where it occurs in the fifth line, and insert "iron;" and amend the title so as to read: "A bill to donate iron cannon to the township of Milan, Ohio."

The amendments were agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

SOLDIERS' AND SAILORS' MONUMENTAL ASSOCIATION OF LYCOMING COUNTY, PENNSYLVANIA.

The next business was the bill (H. R. No. 3877) donating condemned cannon and other munitions of war to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the public service, to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania, four condemned iron cannon and such other munitions of war as in his discretion may be deemed advisable for the purposes of said association.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

CONDEMNED CANNON, BRANDON, VERMONT.

The next business was the bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town.

The bill is as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized and directed to deliver to the selectmen of the town of Brandon, in the county of Rutland, and State of Vermont, for the benefit of said town, four pieces of condemned iron cannon, if the same can be spared without serious detriment to the Government, to place on the public square of said town near a soldiers' monument to be erected on said square by said town.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

M'LEAN POST, NO. 16, GRAND ARMY OF THE REPUBLIC.

The next business was the bill (H. R. No. 5240) to authorize the Secretary of War to furnish a condemned cannon for the use of McLean Post, No. 16, of the Grand Army of the Republic.

The bill is as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to furnish to McLean Post No. 16 of the Grand Army of the Republic, at Reading, Pennsylvania, a condemned cannon or mounted field-piece of large size, for the use of said post.

The CHAIRMAN. The Clerk will report the amendment suggested by the committee.

The Clerk read as follows:

After the word "condemned," in line 6, insert the word "iron;" so that it will read:

"That the Secretary of War be, and he is hereby, authorized and directed to furnish to McLean Post, No. 16, of the grand Army of the Republic, at Reading, Pennsylvania, a condemned iron cannon or mounted field-piece of large size, for the use of said post."

The amendment was agreed to.

Mr. WILLIS. I desire to offer an amendment to this bill.

The Clerk read as follows:

Also six cannon and cannon-balls to the National Cemetery at Louisville, Kentucky, for monumental purposes.

The amendment was agreed to.

The CHAIRMAN. Without objection, the title of the bill will be amended to conform.

Mr. ALDRICH. I offer the amendment which I send to the desk.

The Clerk read as follows:

Four condemned cannon and twenty-five cannon-balls for the soldiers' burying ground in Oakwood Cemetery, in the village of Hyde Park, Cook County, Illinois, for monumental purposes.

The amendment was agreed to.

Mr. MOORE. I move to amend by inserting:

Six condemned cannon for the national cemetery at Memphis, Tennessee, and twelve cannon-balls.

The amendment was agreed to.

Mr. STEELE. I wish to offer an amendment:

Granting two cannon to General Shunk Post, Grand Army of the Republic, at Marion, Indiana.

Mr. McMILLIN. Not for monumental purposes?

Mr. STEELE. For the same purposes that the others have been granted.

Mr. McMILLIN. They are not for monumental purposes; let the amendment be read again.

The amendment was again read.

Mr. STEELE. You will see that these are for the same purpose as all the others. This bill reads:

To McLean Post, No. 16, at Reading, Pennsylvania, for the use of said post.

Mr. McMILLIN. This does not seem to be for monumental purposes. I will keep my eye on that when it comes into the House.

Mr. RANDALL. Keep your eye on that. That is all right. There is nothing the matter with that.

Mr. McMILLIN. If it is for other than monumental purposes, I will see to it.

Mr. RANDALL. The post, as I understand, have a lot in the cemetery for the burial of their members by their order, and they propose to erect a monument in the cemetery on that lot.

Mr. STEELE. That is as I understand it.

The amendment offered by Mr. STEELE was adopted.

The title of the bill was amended to conform to the amendments, and as amended the bill was laid aside to be reported to the House with the recommendation that it do pass.

SARATOGA MONUMENT ASSOCIATION.

The next business was the bill (H. R. No. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and is hereby, authorized to deliver to the Saratoga Monument Association the following cannon, &c., captured from General Burgoyne at Saratoga, and now on hand at the Watervliet arsenal, West Troy, New York, namely: four twelve-pounder guns, one eight-inch howitzer, one twenty-four pounder howitzer, one eight-inch mortar, and one twenty-four pounder mortar, all bronze.

Mr. NORCROSS. I move to amend the bill by adding four condemned cannon for monumental purposes to the Grand Army post located at Westminster, Massachusetts.

The amendment was adopted.

Mr. CANNON. I move to amend the bill so as to provide for donating four condemned cannon for monumental purposes at Danville, Illinois.

The amendment was adopted.

The title of the bill was amended so as to conform to the amendments, and as amended it was laid aside to be reported to the House with the recommendation that it do pass.

Mr. ALDRICH. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BURROWS, of Michigan, having taken the chair as Speaker *pro tempore*, Mr. BRIGGS reported that the Committee of the Whole House on the state of the Union had had under consideration sundry bills donating condemned cannon, &c., and had directed him to report the same back to the House with various recommendations.

BILLS PASSED.

The first bill reported from the Committee of the Whole House on the state of the Union with a favorable recommendation was the bill (H. R. No. 2195) donating condemned cannon to the Soldiers' Monument Association of Birmingham, Connecticut.

The SPEAKER *pro tempore*. In the absence of objection, the bill will be engrossed and read a third time.

Mr. McMILLIN. Mr. Chairman, I do not think that these bills ought to be passed to-night. We have not a full House, and I would request of the gentlemen in charge of the bills that they be permitted to go over under the previous question and let a full House operate on them to-morrow.

Mr. WILLIS. Does not the gentleman suppose they would pass in a full House?

Mr. McMILLIN. Yes, I think they would pass, but I think it is best when a large amount of property belonging to the Government is being appropriated that it be done by as full a House as possible.

Mr. REED. Do you want to put 290 power on this business?

Mr. McMILLIN. Besides it is nearly twelve o'clock, and we have been here between eight and nine hours to-day. I think it is time to adjourn.

Mr. PEELLE. It was understood this was to be a part of the business to be disposed of to-night.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The following bills and joint resolutions, reported from the Committee of the Whole House on the state of the Union without amendment, were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time and passed:

A bill (H. R. No. 3082) granting condemned cannon to the Anna M. Ross Post, No. 94, of the Grand Army of the Republic, of Philadelphia;

A joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls, for decoration of soldiers' cemetery;

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon-balls to aid in the construction of a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post, No. 22, of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned bronze cannon to the citizens of Otsego, Michigan;

A joint resolution (H. R. No. 38) appropriating thirty condemned guns for the equestrian statue of Major-General John Fulton Reynolds, who fell at Gettysburgh, July 1, 1863;

A bill (H. R. No. 4585) to donate two condemned bronze cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton Ohio;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon; and

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont.

The following bills and joint resolution were reported by the Committee of the Whole House on the state of the Union with amendments; the amendments were agreed to, and the bills and joint resolution as amended were ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. No. 679) donating condemned cannon, &c., for monumental and other purposes;

A joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association;

A bill (H. R. No. 3738) to donate bronze cannon to the township of Milan, Ohio;

A bill (H. R. No. 3877) donating condemned cannon and other munitions of war to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for the use of McLean Post, No. 16, Grand Army of the Republic; and

A bill (H. R. No. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association.

Mr. PEELLE moved to reconsider the votes by which the above bills and joint resolutions were severally passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ALDRICH. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By the SPEAKER: The petition of J. Aretas Prime, for compensation for services rendered in the civil service of the United States—to the Committee on Claims.

By Mr. ATKINS: The petition of citizens of Madison and Henderson Counties, Tennessee, in favor of the construction of a ship-railway across the Isthmus of Tehauntepec—to the Committee on Commerce.

By Mr. BINGHAM: Three petitions of citizens of Philadelphia, Pennsylvania, for the passage of the French spoliation-claims bill—severally to the Committee on Foreign Affairs.

By Mr. BUTTERWORTH: The petition of James C. Hopple & Co. and 20 others, merchants of Cincinnati, Ohio, protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. CARPENTER: The joint resolution of the General Assembly of Iowa, in relation to the duty on steel blooms and wire rods—to the same committee.

By Mr. N. J. HAMMOND: Two petitions, signed by 510 citizens of Georgia, for the repeal of internal-revenue taxes—severally to the same committee.

By Mr. B. W. HARRIS: The petition of D. McDougal, rear-admiral United States Navy, relative to his retirement from the active list—to the Committee on Naval Affairs.

By Mr. HEPBURN: The petition of N. C. Redmour, for an increse of pension—to the Committee of Invalid Pensions.

By Mr. MATSON: The petition of Richard Jobes and 103 others, asking that said Jobes's pension be increased—to the same committee.

By Mr. MULDROW: The petition of T. B. Dalton and others, for an appropriation for educational purposes and for the distribution thereof on the basis of illiteracy—to the Committee on Education and Labor.

By Mr. O'NEILL: Paper of Professor A. L. Kennedy, president of the Pennsylvania Polytechnic College, suggesting certain inquiries to be

made as to the causes of the Mississippi River floods—to the Committee on Levees and Improvement of the Mississippi River.

Also, the petition of citizens of Pennsylvania, for the passage of a bill to settle the French spoliation claims and pay the claimants—to the Committee on Foreign Affairs.

By Mr. PAGE: The petition of Alex. R. Baldwin and others, and of Flint, Peabody & Co., of San Francisco, California, for the passage of the bill for the incorporation of the Maritime Canal Company of Nicaragua—to the same committee.

By Mr. REED: The petition of Maria Delaney, for compensation for destruction of property by authority of the District of Columbia—to the Committee on the District of Columbia.

By Mr. J. S. RICHARDSON: The petition of the Board of Trade of Columbia, South Carolina, relative to the proposed free ship-canal connecting the Chesapeake and Delaware Bays—to the Committee on Railways and Canals.

By Mr. O. R. SINGLETON: The petition of R. H. Camp and others, citizens of Mississippi, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. STONE: The petition of James E. Lothrop and others, of Dover, New Hampshire, and of J. H. Manly and others, of Augusta, Maine, for the survey of Sandy Bay, in Rockport, Massachusetts—severally to the same committee.

By Mr. VANCE: The petition of C. F. Davis for the establishment of a post-route from Coleman, North Carolina, to Merrittsville, South Carolina; also, the petition of H. G. Weaver for a mail-route from Marion to H. G. Weaver's, in the State of North Carolina—severally to the Committee on the Post-Office and Post-Roads.

By Mr. C. G. WILLIAMS, (by request and with the statement that he does not favor the relief asked:) The petition of Orrin W. Dunn and fourteen others, native-born citizens of Irish descent, of Milwaukee, Wisconsin, asking that the laws passed in relation to the importation or immigration of Chinese apply with equal effect to the importation or immigration of Irishmen—to the Committee on Foreign Affairs.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 22, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

LIGHT ON CHICAGO WATER-WORKS CRIB.

Mr. DAVIS, of Illinois. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the joint resolution (H. R. No. 186) authorizing the erection of a light on the tower of the Chicago water-works crib, Chicago, Illinois.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, authorized to cause the erection of a light on the tower of the Chicago water-works crib, Chicago Illinois; and that the provisions of section 355 and 4661 of the Revised Statutes be suspended as regards this light.

There being no objection, the joint resolution was brought before the House, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DAVIS, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOWMAN. I call for the regular order.

Mr. RANDALL. I ask leave to submit a resolution.

Mr. BOWMAN. I must call the regular order.

Mr. HAZELTON, (to Mr. BOWMAN.) Wait a little.

Mr. BOWMAN. Well, I will give notice that in fifteen minutes I will call the regular order.

Mr. TOWNSHEND, of Illinois. Why not now allow the proposition to be submitted to the House and acted on to call the roll of members alphabetically, so that each may submit a proposition to the House.

Mr. ROBESON. I object.

Mr. BOWMAN. I promised yesterday to try and get an order of the House to close debate at three o'clock to-day on the bill referring claims to the Court of Claims. If I am to be held to that promise, I must insist upon the regular order as soon as possible, and I will do so at the end of fifteen minutes.

CULTIVATION OF CINCHONA.

Mr. RANDALL. I ask unanimous consent that the resolution which I send to the Clerk's desk be considered at this time.

The Clerk read as follows:

Resolved, That the Commissioner on Agriculture be requested to inform this House whether any portion of the United States is adapted to the growth of cinchona.

Mr. RANDALL. I have taken this opportunity to introduce this subject so that I may state and have printed in the RECORD my reasons for doing so. The subject is an important one, and I desire to call to it the attention of those who are interested in the growth of this tree in the United States. I have been more directly moved to submit the resolution by a letter, which I hold in my hand, from Professor Alfred L. Kennedy, of the Polytechnic College, Philadelphia. The letter is as follows:

POLYTECHNIC COLLEGE,
Philadelphia, April 20, 1882.

MY DEAR SIR: You are doubtless fully aware that the plantations of cinchona or Peruvian bark, from which the world derives its supply of *quinia*, are in jeopardy, and that Holland and England have with a wise forecast already provided against probable contingencies by establishing in their Asiatic possessions plantations of the tree. It is so evidently the duty of our country to imitate this example, that I beg to suggest the passage by Congress of a resolution requesting the Secretary of the Interior to institute full and careful inquiry, and report to Congress whether any part of the public domain is adapted to the growth of the cinchona, with the view of having that portion reserved from sale until Congress take action on the report.

The tree grows well up in the slopes of the Andes, in a rare and temperate atmosphere. Its cultivation in Asia has already afforded a bark yielding a higher percentage of the active principle than the bark imported from Peru. There should be no opposition to a resolution of this kind, and although you are, I know, very much occupied, I trust that you will find time to prepare and present it at an early day.

Very truly, your friend,

ALFRED L. KENNEDY.

Hon. S. J. RANDALL, M. C., *Washington, D. C.*

The resolution was adopted.

Mr. RANDALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SPRINGFIELD STREET RAILWAY COMPANY.

Mr. ROBINSON, of Massachusetts. I ask unanimous consent that House bill No. 713 be taken from the House Calendar and put upon its passage at this time. It is a bill granting to the Springfield Street Railway Company the right to lay tracks in Mill street in Springfield, Massachusetts.

Mr. HOLMAN. Let the bill be read.

Mr. ROBINSON, of Massachusetts. I think there will be no objection to passing the bill, if members will listen to it when it is read.

The bill was read, as follows:

Be it enacted, &c., That the Springfield Street Railway Company is hereby authorized to lay and maintain its tracks in Mill street, so called, in Springfield, Massachusetts, on land owned by the United States, from Central street to a point opposite Lincoln Hall, so called, with the privilege of hereafter extending its tracks from that point to the limits of the land of the United States, near Walnut street: *Provided, however*, That the said company shall remove said tracks whenever thereto directed by the Secretary of War or any person acting under or by virtue of authority from him: *And provided further*, That the right to repeal, alter, or amend this act is reserved to Congress.

Mr. HOLMAN. I would inquire if this bill has been reported from any committee?

Mr. ROBINSON, of Massachusetts. It has been reported unanimously by the Committee on Military Affairs of this House, and it was favorably reported by the Committee on Military Affairs in the last Congress. It has the indorsement of the War Department, as shown by a letter which I have here, and which I will incorporate in my remarks.

This Mill street is in a thickly settled portion of the city of Springfield. The fee of the street belongs to the United States. Many of the persons living along the line of the street are employés of the Government in the United States armory. The road has already been built under the permission of the Secretary of War, and now requires the indorsement of Congress.

The letter from the War Department is as follows:

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, February 2, 1882.

SIR: In reply to your letter of yesterday, I have the honor to inform you that the amendment to this bill 713, requiring the railway company to keep the street paved three feet outside of rails, was suggested by the commanding officer, national armory, and has been recommended. If the proviso in the bill "that the said company shall remove said tracks whenever thereto directed by the Secretary of War, or any person acting under or by virtue of his authority" surrounds the grant with all the safeguards necessary, I should think a mere explanation would suffice to show that the amendment need not be made.

Respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

Hon. GEORGE D. ROBINSON,
House of Representatives.

There being no objection, the bill was taken from the House Calendar, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBINSON, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ACCOUNT WITH SOUTH CAROLINA FOR ARMS.

Mr. RICHARDSON, of South Carolina. I ask unanimous consent that Senate bill No. 1082 be taken from the Speaker's table for consideration at this time. It is a bill authorizing the Secretary of War to adjust and settle the account for arms between the State of South Carolina and the Government of the United States.

In that connection I desire to make a short statement to the House. This is a bill which has twice passed the Senate, once during the last Congress and now during this Congress. It has been before the Committee on Military Affairs of this House both of last Congress and this Congress, and has received the favorable action of that committee each time. I understand that the bill has been reported favorably by the present Committee on Military Affairs without a dissenting voice. My friend from Illinois [Mr. SPARKS] I think will bear me out in that statement.

The SPEAKER. The bill will be read subject to objections.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to adjust the account for arms between the State of South Carolina and the Government of the United States, and balance the same by so reducing the overcharge made against said State in A. D. 1869, under the act approved the 23d of April, A. D. 1808, and the several acts amendatory thereof, as that the amounts paid on said account by said State for the ten years last past be taken in full satisfaction of the same.

Mr. HOLMAN. I think this bill needs some explanation, so that we may understand it.

Mr. SPARKS. If the gentleman from South Carolina [Mr. RICHARDSON] will allow me, I think I can satisfactorily explain this bill. I examined it when it was before the Committee on Military Affairs, and it was by the unanimous report of the committee that it is now before the House. Some time in 1869 the State of South Carolina, being entitled to about nine thousand dollars' worth of arms from the United States as its quota under the provisions of the law of 1808, "distributing arms to the various States," &c., the governor of South Carolina authorized his adjutant-general, the notorious F. J. Moses, to come to Washington and obtain these arms due to the State. When he came here, instead of obtaining the quota of arms actually due, he obtained by some arrangement about one hundred and twenty-four thousand dollars' worth, thus incurring to the State an indebtedness to the amount of over $115,000, to be paid out of their future arms quota, thereby mulcting the State for over thirty years to come. These were old arms, of course, and, as it was claimed, to make them effective they were taken somewhere and repaired and were then taken to South Carolina and distributed to certain organized bodies of colored men called the militia of the State. I am informed (and by the way, the report of the investigation on this subject instituted by the Legislature shows the fact very clearly) that the State has absolutely lost all these arms. Now they have been sold or otherwise disposed of by the irresponsible organizations of colored men to whom they were distributed, and lost to the State.

Mr. BROWNE. Was not this bill reported adversely by the Committee on Military Affairs of the last House?

Mr. SPARKS. No, sir. The gentleman from South Carolina [Mr. RICHARDSON] has stated that it was reported favorably by that committee; but I think it never was reported at all. I am well convinced, however, that the report would have been favorable. But on account of the lateness of the session General Johnston, who had charge of the matter as a sub-committee, failed, I think for want of time, to report the bill to the general committee. The gentleman from South Carolina informs me this moment that General Johnston informed him that he was directed by the general committee to make the report. However, I have stated the essential facts of the case correctly. There is no question but that the Military Committee of the House in the last Congress did or would have instructed in favor of the bill.

Now, Mr. Speaker, the question arises, could the governor or other officers of the State of South Carolina go on and in that way tie up that State in reference to its annual quota of arms for thirty or forty years in advance? Clearly they could not on any honorable or legal grounds do this. Yet the effect of their action was to do that very thing. Some thirteen years have now intervened; and the State is still behind some seventy or eighty thousand dollars. These people have therefore been deprived of their due quota of arms under this law of 1808 for fifteen years, amounting in aggregate value to perhaps $50,000 to $55,000, and now they are willing to rub out this whole matter and begin anew from the passage of this act. It impresses me, Mr. Speaker, as it did the committee, as being eminently just to do this. The governor of the State, so far as the record shows, never made a demand for this excessive quantity of arms; but it was done by his adjutant-general by arrangement with the War Office. If the governor joined in it it was by verbal authority, because nothing in the governor's written authority to the adjutant-general, as appears from the record, shows any demand made by him for any thing more than the quota then due, which was a little less than $9,000 in value.

Mr. DUNNELL. I must object to the consideration of this bill. I call for the regular order.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage, without amendment, of the bill (H. R. No. 3246) changing the name of the German Protestant Orphan Asylum Association.

AMERICAN CITIZENS IN BRITISH PRISONS.

Mr. ROBINSON, of New York. I rise to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. ROBINSON, of New York. Mr. Speaker, on Monday, January 23, a resolution was referred, under the rules of this House, to the Committee on Foreign Affairs; on the 14th of February the resolution, having been reported, was recommitted with instructions. On the 24th of March I inquired in this House when that committee would report upon the subject. We were informed that we should have a satisfactory report in two or three days. That is a month ago, yet we have heard nothing from the committee since. My present question is, how long must we wait for this Committee on Foreign Affairs to report on a question affecting the liberty of American citizens still held in jail by an impudent and unfriendly government?

The SPEAKER. The Chair is not able to answer that as a parliamentary inquiry.

Mr. HAZELTON. It is not a parliamentary inquiry.

The SPEAKER. It is not a parliamentary inquiry in any strict sense. The rule is as indicated by the gentleman from New York, [Mr. ROBINSON;] but it is not within the power of the Chair to take any action independently of the action of the House with reference to such a matter.

Mr. ROBINSON, of New York. Mr. Speaker, what power has this House? The State Department does not obey us. This House is despised; the Government of England despises this country; and the Committee on Foreign Affairs despises you and me. What are we to do—this is my parliamentary question—to get this question before the House?

Mr. DUNNELL. I call for the reading of the resolution, if there is a resolution before the House.

The SPEAKER. There is no resolution before the House. The gentleman from New York has risen to make a parliamentary inquiry. The Chair can only state that by the rules it is provided that during the call of States and Territories on Monday, "resolutions of inquiry directed to the heads of the Executive Departments shall be in order for reference to appropriate committees, which resolutions shall be referred to the House within one week thereafter." That is the rule.

Mr. ROBINSON, of New York. It is now three months since the resolution was referred.

The SPEAKER. The Chair has no power in the matter any more than any individual member.

Mr. CALKINS. I wish to ask whether a motion to discharge the committee from the further consideration of the question would not bring it back to the House?

The SPEAKER. It would.

Mr. DUNNELL. What is the question?

The SPEAKER. The question of the gentleman from New York was stated as a parliamentary inquiry. The Chair does not think it a parliamentary inquiry in any other sense than to ascertain what the rule is. The Chair cannot enforce it.

Mr. ROBINSON, of New York. I make the motion that the Committee on Foreign Affairs be discharged from the further consideration of the resolution which they have now had in their possession since January 23, three months ago, and that the resolution be brought immediately before the House.

Mr. BOWMAN. I rise to a point of order.

Mr. COX, of New York. I ask the Speaker whether or not it is not a question of privilege? Here are two classes——

Mr. DUNNELL. Is the resolution before the House?

The SPEAKER. Gentlemen will resume their seats.

Mr. COX, of New York. I make it a question of privilege. There are two classes of resolutions. I do not know whether my colleague has confused them or not.

Mr. ROBINSON, of New York. I have not, I am clear on the subject—I know it.

Mr. COX, of New York. One is a resolution of inquiry.

Mr. BOWMAN. That is not a question of personal privilege.

Mr. COX, of New York. Whether it requires the action of the House or a question of privilege to compel the committee within the week specified in the rule to report the resolution of inquiry back, or whether in the other case where the committee is instructed by the House to report back a certain matter, not a matter of inquiry, that is the question I should like to raise in the House as a question of privilege. I think the committee under the rules is bound in one week to report all questions of inquiry of the Departments. Why not? How can you reach them if not by a question of privilege? Your rules require them to do it. They have not done it in this case.

Take the other resolution, which is a resolution instructing the committee to report forthwith to the House certain matters as to the prompt release of these prisoners. And I beg to say a word on behalf of the Committee on Foreign Affairs, as I understood from them they were waiting for the State Department to give them fuller information. I was advised three of the names out of four named in my resolution of instruction had been already discharged; yet we have no authentic information from the committee or from the Department.

Mr. ROBINSON, of New York. Not one has been discharged; not one American citizen on account of anything we have done here.

Mr. COX, of New York. I am entitled to know, and I raise it as a question of the highest privilege, that the rules of the House shall be obeyed by the committee.

Mr. DUNNELL. The gentleman from New York very well knows

that practically it is impossible for committees to report back within a week in a very large number of cases.

Mr. COX, of New York. Never heard of such a case before.

Mr. DUNNELL. The gentleman from New York knows very well the Committee on Foreign Affairs has been busily engaged in carrying out the instructions. The gentleman knows well the English Government has been disposed to concede and accede to the demands of our own Government. Our Government is not at fault, as the Committee on Foreign Affairs will show if it shall be allowed the time necessary for a complete report which will be satisfactory to the gentleman and all other gentlemen.

Mr. COX, of New York. I know no such thing.

Mr. DUNNELL. I object to the arraignment of the Committee on Foreign Affairs in this informal and out of the way manner.

Mr. COX, of New York. I beg to say to my friend from Minnesota——

Mr. DUNNELL. The Speaker has decided it is not a question of privilege.

Mr. COX, of New York. He has not done that; and in answer to what fell from the gentleman I wish to say that I do not arraign the committee, but I am making an excuse for them, if it is possible they can be excused. I think the Chair should decide it is a question of privilege.

Mr. DUNNELL. The Committee on Foreign Affairs will protect itself, and the honor of the House and country, but it must have time.

Mr. COX, of New York. God help the House and country if they are to be protected by neglecting their business. [Cries of "Regular order!"]

Mr. BOWMAN. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. BOWMAN. I make the point this is not in order.

The SPEAKER. The Chair has not decided the question raised on the application of the gentleman from New York, who proposes to have the House take action in relation to this matter. The Chair only indicated it was not within the power of the Chair to enforce the rule, and the inquiry as made to the Chair was not in a strict sense a parliamentary inquiry. But the Chair has not decided that a motion to discharge a committee after it had under consideration a resolution of inquiry for the period allowed by the rule might not be entertained as a question of privilege relating to the business of the House.

Mr. CALKINS. Let me make one suggestion to my friend from New York, that he allow——

Mr. BOWMAN. Mr. Speaker, I have demanded the regular order.

The SPEAKER. The Chair will state that the present discussion is in reference to the order of business.

Mr. BOWMAN. I ask a ruling as to whether this is the regular order.

The SPEAKER. The Chair is hearing gentlemen upon the point presented by the gentleman from New York.

Mr. CALKINS. I wish to suggest to my friend from New York that the motion or resolution which he has submitted embraces two distinct provisions, and it may not be strictly within the rule as a privileged question at this time. I would suggest to him that he permit it to go over until Monday, when it can be divided and brought before the House when it will be in order.

Mr. ROBINSON, of New York. I thank the gentleman from Indiana for his suggestion and will accept that proposition. I withdraw the resolution for the present, but give notice that I shall offer it on Monday morning.

SARATOGA MONUMENT ASSOCIATION.

Mr. BRAGG. The House will bear with me for a moment while I explain an error which occurred in reference to the passage of a bill last evening. I refer to the bill (H. R. No. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association. This bill was reported from the Committee on Military Affairs with an amendment. In the passage of the bill, at the evening session on yesterday, the wrong bill, the original printed bill, was inadvertently handed to the Clerk and read, and not the amended bill that came from the committee. I desire now to enter a motion to reconsider the vote by which that bill was passed, so far as applicable to the bill itself, for the purpose of taking it up and passing it with the amendment reported by the committee, permitting of course the other amendments attached to the bill on yesterday by the action of the House to remain as they are.

The SPEAKER. The Chair will inquire whether the motion to reconsider and lay on the table was made with reference to that bill.

Mr. BRAGG. I do not think it was, although I have not examined closely.

Mr. COX, of New York. I think the motion was made to reconsider and lay on the table.

The SPEAKER. If that be so, it can be taken up only by unanimous consent; and without objection, the motion to lay on the table and all the proceedings back to the engrossment and third reading will be vacated and the bill be considered as again before the House. Is there objection?

Mr. BURROWS, of Michigan. It was utterly impossible to hear the remarks of the gentleman from Wisconsin, or to know what motion he has made.

Mr. BRAGG. I stated that the bill which was passed last evening donating certain cannon to the Saratoga Monument Association was not the bill which was reported from the Military Committee, but the original printed bill, which was read by the Clerk by mistake. The bill of the committee had attached to it an amendment which was not in the bill handed to the Clerk and read and passed by the House.

The amendment is this: this is a bill to turn over to the Saratoga Monument Association, for the purpose of the decoration of their grounds and monument, the trophies captured from Burgoyne at the battle of Saratoga; and in order that the trophies presented might be in a more proper condition to add to the decoration of the grounds, and for the purpose contemplated, the Committee on Military Affairs deemed that the battery of four 12-pounder bronze guns which were captured should be appropriately mounted, instead of allowing them to lie around, as they otherwise would have to do. For that reason the Committee on Military Affairs recommended an amendment to the bill, to the effect that these four 12-pounder guns be mounted on suitable carriages before their delivery.

Mr. COX, of New York. I will suggest to my friend from Wisconsin who reports my bill back that the cannon be mounted precisely as they were when they were captured—in the old English style.

The SPEAKER. The Chair thinks that might be done without the necessity of incorporating a specific amendment in the bill.

Mr. COX, of New York. I have thought over the matter a little and come to the conclusion that it might be well to incorporate it.

Mr. BRAGG. I do not know but that was perhaps in contemplation in framing the amendment, which provides for their suitable mounting.

The SPEAKER. The first question before the House will be, Is there unanimous consent to set aside the order by which the motion to reconsider was laid upon the table, so as to bring the bill before the House? This can be done by unanimous consent only.

There was no objection.

The SPEAKER. The Clerk will now report the amendment proposed by the gentleman from Wisconsin from the Committee on Military Affairs.

The Clerk read as follows:

Provided, That the Secretary of War shall cause the four 12-pounder guns to be mounted on suitable carriages before their delivery.

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOWMAN. I move to dispense with the morning hour for the call of committees.

The motion was agreed to, two-thirds voting in favor thereof.

REFERENCE OF CLAIMS TO THE COURT OF CLAIMS.

Mr. BOWMAN. I now call up the special assignment, being the bill under consideration on yesterday.

The SPEAKER. The unfinished business coming over from yesterday is the bill (H. R. No. 684) to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government. The gentleman from Illinois [Mr. SPRINGER] is recognized as entitled to the floor for fourteen minutes.

Mr. SPRINGER. When the House took a recess last evening I was referring to the remarks made a few days ago by the gentleman from New York [Mr. CAMP] who, I regret to see, is still absent from the House. That gentleman had seen fit to make a most extraordinary statement in regard to the pendency of war claims in Congress. He said that he had been told, and there were many reasons why he should believe, that there are about this Capitol nearly three billions of dollars of such claims in committee-rooms, in pigeonholes and elsewhere, waiting but the advent of the Democratic party to power for their liquidation and payment. Three billions is the amount fixed by the modest member from New York as the amount of claims of this kind which are now pending before Congress and about Congress. I do not know what he means by "elsewhere."

The present war debt is less than two billions of dollars. The gentleman has imagined fabulous claims amounting to one billion dollars more than the present national debt. This is a statement gotten up to frighten small children and is fit only to be retailed in the presence of feeble-minded persons. The idea that any such amount of claims has ever been presented to Congress is absured. The idea that anybody at any time has ever presented or considered such an amount of claims is absurd. There have not been in my opinion ten millions of dollars of private claims of all kinds pending in any one session of Congress in the last twenty years. And the claims imagined by the gentleman from New York are said to be rebel claims, and the parties in interest are said to be waiting but the advent of the Democratic party to power in order that they may be paid this enormous amount of money.

Mr. Speaker, if anybody is waiting about this Hall or in the country anywhere the advent of the Democratic party with the expec-

tation that a rebel claim for one dollar will be paid, that gentleman will wait in vain. The Democratic party has had the opportunity to make a record upon this subject.

Mr. ROBESON. Does the gentleman say we will wait in vain for the advent of the Democratic party? I think so.

Mr. SPRINGER. I say to pay rebel claims.

Mr. ROBESON. If they do not come into power they cannot pay the claims.

Mr. SPRINGER. But you may soon expect the advent of the Democratic party again to power in Congress if we are to believe the signs of the times. I said if any persons are waiting the advent of the Democratic party to power with the expectation that we will audit and pay rebel claims, they will wait in vain. The Democratic party was in the majority in this House during the Forty-fourth, Forty-fifth, and Forty-sixth Congresses. We found upon the statute-book when we came into power the act creating the Southern claims commission, which was passed by a Republican Congress for the purpose of authorizing the allowance of certain war claims.

From the first session of the Forty-second Congress to the second session of the Forty-sixth Congress the Southern claims commission audited and allowed Southern war claims to the amount of $4,500,000. These were paid in pursuance of acts of Congress passed by the Republican party. There was also passed by the Republicans in 1864 the act of July 4 of that year, under which there have been paid large sums of money session after session upon claims which are examined in the Quartermaster's and Commissary's Departments. From 1874 to 1879, during the Forty-third, Forty-fourth, Forty-fifth, and Forty-sixth Congresses, there were allowed claims which had been audited under this act to the amount of $867,000.

For payment of these various claims the Democratic party is in no way responsible. They came to us under laws in existence before the Democratic party was in the majority in this House. There has been no complaint, so far as I know, that the claims audited by the Southern claims commission and through the Departments ought not to have been paid as claims of loyal persons. But there were other private claims allowed not covered by the two acts I have mentioned. I desire to call the attention of gentlemen to bills reported favorably by committees when the Republicans held power in this House and when the Democrats were in power. The bills reported favorably from the War Claims Committee at the first session of the Forty-third Congress, when the Republicans were in power, amounted to $5,912,000; and the number reported favorably at the first session of the Forty-fourth Congress when the Democrats were in power only amounted to $215,000.

During the Forty-fourth Congress my colleague at that time, chairman of the Committee on War Claims, Mr. Eden, made this statement in debate:

> In reply to what has been stated in reference to the number of claims pending before the Committee on War Claims, I wish to state that in the Forty-third Congress there were reported by the committee private claims to the amount of $396,891.63; for the Quartermaster-General, Commissary-General of Subsistence, and commissioner of claims, $1,561,711.76; making the total amount reported, $1,959,603.30. That was a Congress in which our Republican friends had control and there was a larger number of claims before the Committee on War Claims than there was in the Forty-fourth Congress when the Democrats had control. I will state further that in the Forty-fourth Congress the amount of private claims reported amounted to $188,015.30 and the Quartermaster and Commissary Generals, and commissioners of claims, $943,713, the total amount reported being $1,131,828.30. The war claims reported favorably by the Republican committee of the Forty-third Congress exceeds the amount reported by the Democratic committee of the Forty-fourth Congress over $800,000.

If gentlemen will examine the special acts passed in the Forty-fourth, Forty-fifth, and Forty-sixth Congresses they will see they fell far below the amount of similar acts passed in the previous Congresses when the Republicans were in power. I could refer to the figures on this subject, which I have before me, but I only need to state as an example that the reductions in the Forty-fourth and Forty-fifth Congresses, when the Democrats were in power, in the amount of appropriations for private claims, as compared with the appropriations for private claims in the Forty-second and Forty-third Congresses, were $750,000, being a reduction of more than 33 per cent. This included the allowances by the Southern claims commission and under the act of July 4, 1864.

I wish to say once for all, that so far as I know there is no gentleman on this side of the House or upon the other who has ever knowingly presented a claim growing out of the war, and asked for its payment, in which the claimant did not aver his loyalty and offer to prove it. And further, I do not believe there is a gentleman on this side of the House who has ever asked Congress or any committee of Congress to allow a claim growing out of the war unless the claimant had established his loyalty. If there be such a claim, I call upon any gentleman on either side of the House to mention it. I will pause for an answer. [After a pause.] No one can point to such a case.

There are members of Congress before me who have been here for more than twenty years, even before the war began. There are other honorable gentlemen here, notably the gentleman from Tennessee, [Mr. HOUSE,] who has been here eight or nine years, and who has full knowledge of claims of this character. I see also here the late chairman of the Committee on War Claims, the gentleman from Wisconsin, [Mr. BRAGG,] and also the gentleman from Tennessee, [Mr. HOUK,] the present chairman of that committee. I can learn from none of these gentlemen that any claim has ever been pressed upon the attention of Congress or of any committee of Congress in which the claimant was not or did not claim to have been loyal during the war.

In view of this fact, which is admitted here in the presence of the country, which is admitted in the presence of the House from which these slanders have gone out, is it not taxing the credulity of the people to an alarming extent to ask them to believe the wild and reckless statements which have been made on this subject?

Now, in reference to the pending bill, I stated yesterday my fears that this bill would not prove effectual. I believe so from the fact that subsequent Congresses may evade its provisions, should it become a law. There is, in my judgment, nothing that will prevent forever and effectually do away with the vicious system of special legislation except constitutional amendment on this subject.

In the constitution of Illinois, adopted in 1848, there was a provision that corporations should not be created by special act in cases where, in the judgment of the General Assembly, the object of the corporation could be accomplished by a general law. Yet in view of that constitutional provision there were passed in one session of the Illinois Legislature four volumes of special laws, which aggregated 3,355 pages of print. In every session of that Legislature private laws were passed in the face of that constitutional provision, and it was done by declaring at the end of the bill "this act shall be deemed a public act," and therefore the courts held that it was a public act because the Legislature had so declared; and so it will be hereafter in Congress. When gentlemen desire to pass these private bills they will begin or conclude their bills with the statement that "this is a public act and shall take effect from and after its passage." And when the point of order shall be made that such a bill is a private bill and should go to the Court of Claims under the provisions of this law, the mover or introducer of the bill will insist that it is not a private bill because it purports on its face to be a public act.

There are many other ways in which the provisions of this bill can be evaded. Therefore, while I am willing to go as far as any gentleman to procure an enactment which will relieve Congress and the members of this House of the burdens now imposed upon them, I warn gentlemen now that there is but one escape from this enormous evil, and that is through a constitutional prohibition of all special legislation.

Subjects of national interest demand our whole time and attention. The Ways and Means Committee has proposed to farm out the tariff question to a commission, because they have not time to consider the vast interests at stake. The interstate-commerce bill is dragging its slow length along in the Commerce Committee. Questions of improving our water-ways and opening up new avenues of commerce and trade are pressing upon us for consideration. But we have no time. Private claims and correspondence incident thereto, and applicants for office, demand our whole attention. Let us cease legislating for the few and go to work in the interest and for the benefit of the whole people.

I respectfully and urgently request the Committee on the Judiciary to report a constitutional provision on this subject in order that we may submit it to the State Legislatures to assemble next winter. And if this House will not do it, should I have the honor to be a member of the next Congress, I will move it again. I shall continue to urge this subject on the attention of Congress so long as I am a member of it or until it shall have succeeded. If Congress will not act upon the matter, we must go to our Presidential conventions and put it in our platforms and continue to agitate the question until Congress shall divest itself of the great enormity of special and private legislation.

We can stop it now if we will. We could pass this constitutional amendment in fifteen minutes' time under a motion to suspend the rules. Every gentleman understands exactly what provisions will accomplish this object. Let us submit a constitutional amendment prohibiting private and special legislation, and do away with this evil for all time to come.

Mr. BRAGG. I will say in the outset, Mr. Speaker, that I am unalterably opposed to the bill from the Committee on Civil-Service Reform as well as to the bill reported from the Committee on Claims; yet I am favorable to a bill providing for sending to a proper court for proper trial proper cases worthy of their consideration.

This subject which we are now dealing with is a subject upon which the American people are extremely sensitive. And I warn gentlemen who are favoring these bills that they see to it that by their votes they create no jurisdiction which shall have authority to consider and determine cases that the verdict of the American people have set their seal of condemnation upon.

A moderate bill, like the bill introduced by the gentleman from Massachusetts, [Mr. BOWMAN,] representing the Committee on Claims, may be a species of anæsthetic which for the time being will lull us into quiet. But, unless I am much mistaken, if it be carried into effect its results will be such that the men who favor it in this House will call upon the mountains and the hills to fall upon them, that they may hide away from the curses of an indignant and an outraged people.

What are the arguments used in the advocacy of this bill? It is to relieve Congress by creating a judicial commission, which is to

consider these cases in lieu of Congress. And as the bill introduced confers no power upon the court to render a judgment in the case, it seems as if coward conscience had warned the committee to shrink from going that far, but had cautioned them to adopt, to accomplish the same end, this quasi-judicial proceeding, so that when the claim comes back to us from the Court of Claims it will come stripped of the character of a war claim and be foisted upon Congress as the adjudication of a court with all the sacred surroundings attached to the judgment of a court, and then it will pass *pro forma* into an appropriation bill, and the party in power will escape the condemnation of allowing the payment of war claims under the thin guise of the payment of a judgment properly recovered against the United States. But I warn this House that the people are on the alert, and no such flimsy covering will deceive them.

Congress never can be relieved of the annoyance of having claims presented to it so long as the sacred right of petition is preserved. No Congress can prevent its successor from entertaining and considering claims; nor can it prevent any American citizen from presenting to Congress any claim which he may see fit.

We have been told by the gentleman who favors the bill from the Committee on Civil-Service Reform that so long ago as 1854 we established a Court of Claims to which we gave jurisdiction over all claims arising upon contracts. But we are told, and our experience teaches us every day, that that proved a failure in relieving Congress of the pressure upon it. Why? Because the measure of right as it is judged by the claimant is the measure of his demand; and whenever his claim is referred to a court, if that court fails to come up to his measure of right, he appeals from the judgment of the court to the great representative body of the American people, and asks of them relief, not upon the legal ground—these claims are not put upon legal grounds; if they were, the decision of a court having jurisdiction would settle the legality of the claim; but they are put upon the ground of a broad equity, and members of this House and of the other branch of Congress are appealed to day by day and week by week and month by month and year by year upon so-called broad equities, not upon legal rights.

These honest claims which have been spoken of in such pathetic terms by the distinguished gentleman who represents the Committee on Claims are claims that start from mere nothing and after years and years of talk and conversation and description of the merits of the claims by members of the lobby and persons interested in the division of the fund if the claim be paid become wonderfully large and wonderfully honest. These claims, in a great measure, are like wine: they grow richer and better and finer-flavored as year after year rolls over them. They become more and more honest, because the facts against the claim which were familiar to the contemporaries of the claim when it was said to have originated have one by one become dissipated and lost in the lapse of years, while the facts in favor of the claim have been preserved and burnished and polished and added to year by year, until at one end of the claim the facts upon which it really originated are lost, and at the other a glorious presentation made by the claimant and his agents is all that remains to be exhibited to the body to which appeal is made for the exercise of its generosity. Upon the surface of the water, as the poet has described, we see presented to us as it were the bust of a fair and beautiful maiden; but if we follow it down beneath the surface we find the coarse and thick scales of the fish. Yes, most of them are fishy indeed!

It is age that a claim wants to make it prime. Look at the Sutter claim which was gloriously depicted yesterday. What was it? A mere claim of the imagination. The claimant, whose rights were spoken of yesterday, enlisted some men under his command to fight a battle for one of the contesting princes or governors in Mexico. As the condition of rendering this assistance, he required a concession of a large grant of land to be made to him. Under the law that concession required the confirmation by council; but in consequence of the pendency of a battle the council was unable to approve the concession, and it fell, because the troops which this man was hired to vanquish were victorious, and the power that was to complete the grant passed to another and hostile chief. Thus the old man's title failed as his troops failed to achieve victory. Long years afterward he comes to Congress and finds his advocates, the only argument in favor of his claim, which has grown so rich and ripe with age, being that he entertained Frémont most magnificently—that in his own country he entertained with princely hospitality those who called upon him. Look at another one of these honest claimants. I notice it was reported but a day or two since adversely by the Committee on the Judiciary, and laid on the table, yet when that claim was presented to the committee by a distinguished advocate of this District he made its merits so manifest and the defaults of this Government so glaring that without a single objection every member of the sub-committee was ready, as I am informed, to report favorably for the allowance of a claim in excess of $60,000 to this honest citizen of the United States who had been robbed by this cruel and unfeeling Government. But by a mere accident the attention of another member of the committee was called to events which ran back to the period of the war, and in tracing through the Departments the origin of this claim he found that this honest claimant, whose claim had been so gloriously depicted, had been arrested for a conspiracy to defraud the Government out of thousands of dollars and had spent some time in a military prison as a punishment for the fraud he had undertaken to perpetrate. That fact had become lost through the dim vista of years, while the man and his attorney lived to address a committee of Congress and depict in glowing colors the shortcomings of the Government.

I can give you another case which came under my own observation—a peculiarly honest claim from the State of the gentlemen who is to follow me. It was the claim of an old patriot who lived in Baltimore, that hot-bed of secession and rebeldom, (as his papers were pleased to represent;) a man who was the intimate, personal, confidential friend of Abraham Lincoln, (as he claimed;) the man who reached out his hand and saved Maryland from going into secession, (as he alleged.) True patriot was he! Congress was called upon to recognize his services by paying him thousands of dollars for the recruiting of troops and sending to the field Maryland regiments in support of the flag of the Union. I held the papers connected with that claim in my possession during one whole session of the Forty-fifth Congress. It smelled badly, notwithstanding it was garnished with such pretentious representations, but I was for some time unable to detect the precise point of rottenness from which the smell emanated.

The mass of papers was large, almost enough to fill a bushel basket. One day accidentally in shaking up that bundle a paper fell out, and in it a letter. That letter was from the Secretary of War, the Hon. Simon Cameron, stating substantially in reply to a demand for the claim: Sir, we have already paid you vastly more than you are entitled to, and we paid it to you out of consideration for your distinguished service in that rebel city. That begun to open my eyes. I took that for my cue, and I followed that claim until I found way back eighteen years ago Congress had passed a bill under whip and spur paying the man the identical money asked for in the bill I was investigating. That finally disposed of that honest claim, unless it shall turn up in the next half century like the brig Armstrong claim, with a widow and flaxen-haired children interested in it, and then I have no doubt sentimental gentlemen will be found asking remuneration to that distinguished patriot for an honest claim that had been so long unsatisfied by a cruel and unfeeling Government.

These are but a few illustrations of the true inwardness of these very honest claims and claimants that gentlemen are so continually talking about.

It is a source of regret to me that members of this House shall stand here and join in hue and cry against the Government, pronouncing it piratical in its dealings with its citizens, when the Government has a court to which they may all go if they have a legal claim; and the claims which come here to us are claims which are addressed simply to our generosity, having no legal foundation upon which to stand, as the advocates of this bill have from time to time acknowledged.

Again, sir, to illustrate why this bill will afford no relief, I refer to the files of the several committees of this House who have charge of claims, and I venture to say, from my own personal knowledge of what exists in the files of one committee, that there is not a committee having charge of claims in this House but has memorials appealing to this House from decisions of courts of admiralty, from decisions of the Court of Claims, and from decisions of the Supreme Court of the United States.

I myself have had occasion in the last Congress to examine more than a million and a half of claims in amount which had passed through all the courts of the United States and been pronounced absolutely bad, and still they found their way before Congress and were pressed upon committees as claims which should excite not only sympathy but the feeling of indignation against the Government for its neglect to comply with the demand of the claimants.

Mr. HOUSE. Will the gentleman let me ask him a question?

Mr. BRAGG. I will get to your bill presently.

Mr. HOUSE. I wish to understand as you go on. Do I understand the gentleman to be opposed to Congress paying any claims except those based on legal right which can be enforced in a court?

Mr. BRAGG. I will answer the gentleman by saying I am not discussing the right of Congress to pay any claimant now. Neither do I propose to involve in the discussion of this bill the question whether Congress ought to pay any claim or not. I have stated in the outset I am in favor of referring proper claims to proper courts in a proper manner for judicial determination, not findings to be sent back again for us to have the ground all gone over again.

Mr. BOWMAN. I should like to ask the gentleman if he will allow me a question?

Mr. BRAGG. Certainly.

Mr. BOWMAN. Does he mean to define proper claims as used by him as meaning legal claims?

Mr. BRAGG. I will state to the gentleman when I come to that clause of his bill what I mean by proper claims. Now, sir, while I have endeavored to show the effort will be fruitless to relieve the House, I will now endeavor to show that the tribunal which is selected, the method in which the cases are to be considered and the lack of finality of determination will add to instead of diminish the trouble and cares which will fall on this House as a legislative body. In the first place I maintain, Mr. Speaker, that the Court of Claims is not the proper court; and for that I will give my reason. The Court

of claims is located in the city of Washington; the Court of Claims has a rule under which evidence is taken and which governs and controls its transaction of business.

All evidence taken in that court substantially must be taken on commission by written deposition, the court never seeing the witness, and, as was said by the distinguished gentleman from Massachusetts yesterday, the evidence of a thief, the evidence of a convicted perjurer reads as smoothly on paper as the evidence of a man of the most perfect honesty and integrity. The transfer of this amount of business to the Court of Claims must of necessity make an accumulation of business in that court which cannot be properly attended to. For instance, 17,000 claims from the Quartermaster-General's Department, thousands upon thousands of claims from the Treasury, thousands upon tens of thousands which will proceed from the legislative body, all piled in upon that court, some from Oregon, some from California, some from Maine, some from Florida. What force have we in the Department of Justice that can be able to proceed to the localities whence these claims originated and ferret out the details of the claims, looking up witnesses who can testify to the truth of the facts in relation to the claims and bring them back here so their deposition may be taken under the order of the Court of Claims?

Particularly will the difficulty arise when, as this bill provides, you may go back twenty, thirty, forty, or fifty years with your claim. You have here merely the Attorney-General's Office. The people of the vicinage familiar with the claim, familiar with the facts on which it is based, are far remote; the trial is not to take place there; no information can be procured except by proceeding to the vicinage and there verifying the allegations contained in the claim. That cannot be done in the Attorney-General's Office. What will inevitably be the result? The result will be that the Attorney-General of the United States will be utterly powerless to defend the Government from thousands and tens of thousands of cases which will be reached in their order upon the Calendar, and the court and the Attorney-General will be tied hand and foot, because, being practically confined to the facts stated in the papers themselves and the affidavits, all rights which the Government would otherwise have as a defense will be forfeited. If that proves to be the result, as it seems to me it must be, this bill should be entitled "A bill to surrender the Treasury of the United States to the claim agents in Washington." But not only that, it would seem as if the Committee on Claims when they prepared the bill had provided for that by incorporating a provision that this mass of proof, this *ex parte* evidence that has been so thoroughly denounced by the gentleman from Illinois [Mr. SPRINGER] shall be transferred bodily to that court, where the claims are to be docketed and filed, and the court will have every one of these affidavits before them for consideration. So that when a claim is reached and this vast accumulation of fraudulent affidavits is considered, the Government will have no kind of defense against dishonest claims, because it will be replied, "here is a bill prepared by this Congress which forces us to consider these affidavits, and *nem con* the claim must be allowed, unless the Government be prepared with evidence in rebuttal." [Mr. BOWMAN rose.] I see the gentleman from Massachusetts is prepared for a question, but I think I can anticipate it.

Mr. BOWMAN. I hope the gentleman will allow me to put it into words; it will take but a moment. I wish to ask if the gentleman from Wisconsin means to say seriously that he believes that the Court of Claims, when a case comes there, would try it on *ex parte* evidence without examination of witnesses or without evidence being taken by the Attorney-General?

Mr. BRAGG. Do I believe it? Yes. Why will they do it? They will say, "We have no responsibility in this matter. We regard it that the legislation of Congress is of such a character that these parties can come here with this class of evidence and force a judicial determination upon that evidence alone." But it is so written in the book. They will say, "The blame lies with the Congress. They must not say that we did it." There can be no prevention of it because the gentleman from Massachusetts in his bill provides that they shall do it.

Mr. BOWMAN. But does not the bill provide that the Attorney-General or his assistants under his direction shall appear for the defense and protection of the interests of the United States in all cases which may be transmitted to the Court of Claims under this act?

Mr. BRAGG. It does so state. But I say to the gentleman as a lawyer, not as standing here defending the bill and advocating its passage simply because it comes from his committee, but as a lawyer, when a case that has been term after term, with the plaintiff ready for trial, and the other side term after term unable to come to trial, after this extends to three or four terms of the court, the court cannot and will not longer wait, but will say to the Attorney-General, "You have behind you all the power of the Government. If the Government has failed to secure its witnesses (and we have given you ample time) it is not the fault of the claimant or the court," and when the Attorney-General pleads press of business, says he could not do it, says that Congress has devolved such an avalanche of business upon him that his force is utterly inadequate to keep up with the Calendar, the court will reply, "True, Mr. Attorney-General, but these cases must be disposed of; this docket must be cleared." Under such circumstances, how much is the Government protected by the clause in the bill requiring him to be present and defend its interests? All the Attorney-General can do is to be a witness to the rendition of a judgment upon an undefended case, and curse the folly of a Congress that placed him in such an unenviable position!

But it is stated that there is another safeguard. What is it? That committees may or may not send these papers in their discretion. Now, that I will not call by what I think its proper term; but I will say it is a poor excuse to bridge over the difficulty, but it comes very properly from the committee who only yesterday, when speaking through their chairman, who had his attention called to the fact by one of his colleagues from Massachusetts, that this bill might prove a Pandora's box by the bringing back to life millions of rejected and disallowed claims, barred by statute, and giving them a standing in court again to be considered and passed, replied, "Oh, don't mention that; we kept it out of the bill, and we don't want to run upon that snag now." I say that, with this frank avowal from the chairman of the committee, I have a right to claim that this is a very poor excuse, to say the least, that these claims will go to the Court of Claims only by direction of a committee. Do you want to put the work upon some one else?

Does not the gentleman know, does not every gentleman here know, that if a mass of papers is piled up in a committee-room of the House, and a party comes in here asking a recognition of his claim, stating that it involves questions that necessarily require time to examine and investigate, and time to ascertain and establish the exact condition of the facts involved, and you are asked to send it to the Court of Claims or some other commission or board, thereby taking it from you and imposing the labor upon another tribunal or body, if there is a single committee here or elsewhere that would not be willing and anxious to relieve itself of the labor and let it go?

The trouble is the Committee on Claims is like a doctor who asks us to swallow his medicine, and when we ask him what the effect of it is to be upon us, he says to us "Oh, wait and see." I am unwilling to wait and see. I desire to understand now before I do this thing what its effect and what its operation will be; so that when it goes into effect I shall have no reason to regret either that I favored it, if I should do so, or that I opposed it, as I now do.

Now, another objection, and I leave the first section for my last comments upon this bill. This bill refers all disputed questions in any departments of the Government to this court to ascertain the facts and the law. When I was a very young man, which is a good many years ago, I used to think that the moment a man mounted the bench that moment he ceased to be a specimen of humanity and that he ranked akin to the gods. But an experience of thirty-five years' practice before these gentlemen occupying those positions has taught me that a man is a man no matter where you place him; he is subject to all the influences, to all the sympathetic feelings, to all the outside pressures that are broght to bear upon ordinary humanity wherever you may find it. *Humanum est errare* applies as well to the bench as it does to the legislature. And I have learned further, Mr. Speaker, to put a lawyer of mediocrity on the bench did not make him any better a lawyer than he was when he stood practicing at the bar. The only difference is that on the bench he can make the law to suit himself, and on the other his success depended upon demonstrating upon principle and authority what the law was; the latter condition requiring vastly more knowledge and greater brain power than the former.

Why should you send the mooted questions arising between this Government and foreign nations, or between this Government and claimants in the Departments, for judicial opinion to the Court of Claims? Is there a man upon the Court of Claims whose name stands half so high upon the roll of fame in his profession as the distinguished Attorney-General of the United States? Has it belittled him that he has become the head of the Department of Justice; and has it magnified three, four, or five country lawyers in importance or knowledge that they should be mounted up here on a commission of claims to ascertain and audit them as they are presented from the Departments?

Are not the law knowledge and legal reputation of the Attorney-General of the United States better for the Government to rely upon than the decisions of these gentlemen, although they may be called judges of the Court of Claims? In what respect do they excel in legal knowledge, experience, or probity the Attorney-General or his assistant attorneys-general or the several attorneys-general in each Department who furnish their legal opinions upon all questions pending before them? Has the Court of Claims at last absorbed all the legal learning of this day and generation into its body? I should say, Mr. Speaker, if they had I should regret that so learned, erudite a body should, by indirection, in their communications with the committees of this House invite this transfer of business to their jurisdiction. I do not wish to speak otherwise than in terms of respect for the present occupants of the bench, but I cannot resist the impulse which impels me to say that to make a court a committee to do the work of this House and report its findings to this House for its review and action will present an anomaly in the history of the judiciary.

Now, sir, as to the first clause of this bill. The first clause in this bill transfers every imaginable claim, real, equitable, legal, genuine, fictitious, of every and all kinds, and gives it a standing in court with a Congressional indorsement.

Mr. BURROWS, of Michigan. Any claim or matter.

Mr. BRAGG. Any claim or matter. That means all we have and all others that can be conjured up between now and the time we pass the bill. We sanctify what heretofore has never dared show its face in a court by a quasi-indorsement as worthy of consideration by thus sending it to a court and authorizing the court to take its pedigree written by its author as evidence of the truth of the facts stated in it. We do it irrespective of any limitation. Why, sir, the gentleman from Massachusetts [Mr. BOWMAN] says there are limitations. What are they? Why, the reasonable limitations, limitations that are ordinarily known to law, said he. Is that so? Would my friend state that if he were arguing a case under such a statute at the bar? Would he state that there was any objection to it except that it was stale, and instead of being able to plead any statute of limitations, would he not argue that by reason of the staleness of the claim and by analogy to other statutes of limitations the court ought in its discretion to apply a statute? That is as far as he could go; that is all he could say. And what would the court say to him then? The court would say to the gentleman from Massachusetts, "Sir, that might have been the law had this claim come to us without being sent from Congress to be considered and passed upon on its merits; but when you send it to us to determine, you have decided that there is no statute of limitations, else you would not have sent it to us; you yourselves by your action have by implication repealed any statute applicable to it, and we take it as your bantling, not ours, and must decide it upon the law and the fact as we find it."

Mr. BOWMAN. As the gentleman from Wisconsin has pointed to me and asked me a question, will he let me answer now?

Mr. BRAGG. I beg the gentleman's pardon if he thought I pointed to him.

Mr. BOWMAN. Will the gentleman allow me to say a word to him in reply?

Mr. BRAGG. Not in the way of a speech.

Mr. BOWMAN. He asked, "What would the gentleman from Massachusetts say to that?"

Mr. BRAGG. I am perfectly willing to answer any question the gentleman chooses; but I cannot possibly stop in the limited time given me to have incorporated in my remarks a speech by another gentleman. I listened to the gentleman's speech yesterday, and I am now trying to reply to what he said; and he can add nothing to the strength of what he said yesterday by repeating it to-day.

Mr. BOWMAN. If the gentleman was putting an improper construction upon the bill, as I thought, I supposed he would allow me a word, inasmuch as I permitted him several times yesterday to interrupt me.

Mr. BRAGG. Although I am not able at this moment to put my hand on the decisions of the Court of Claims and other courts, I will state that they have ruled precisely as I have said upon that question; that the very fact that we referred a case to them, if it was barred by an express statute, is a Congressional enactment, relieving that case from the effect of the statute and sending it to them to consider and determine, irrespective of the statute. If we intended to rely upon the statute, we would not send it to them, but ascertain the statute and stand upon it. But when we waive the statute and send the case to them, they take it as it comes to them.

Mr. SPRINGER. But under this bill they take it to ascertain facts only; they make no judgment.

Mr. BRAGG. I will come to that in a moment. I will say that I regret that a man who stands here and denounces war claims, as my friend from Illinois [Mr. SPRINGER] does, should put a little anodyne into his conscience so that he can sustain this bill and send every claim of that kind to the Court of Claims. And each such claim will come back, not as a war claim, but as a judicial determination found upon the law and the facts by the Court of Claims. Each such claim will then go into an appropriation bill and when it is challenged—as such a claim was challenged here the other day in the case of an appropriation to pay railroads for carrying mails when one of the conditions of the grant to such railroads was that they should carry the mails free—we will be told that the court has decided in favor of the claim. The Supreme Court of the United States decided that that act was unconstitutional. We insisted here in this House, at least over in this quarter of the House, that we were bound by our construction of our own grants, and out of respect to ourselves we should stand upon that determination. We were told: this is the judicial determination of the courts; do you stand here to repudiate the decisions of the highest judicial tribunal of the land? And that is what will be said when these claims come back here.

What said the gentleman from Illinois [Mr. SPRINGER] the other day, when a bill came in here to appropriate money to pay the claims audited by the Departments? He stood up here and resisted the passage of that bill. He said it was an outrage that such a bill should be allowed to pass, and yet what was the bill? It was a bill to pay the accounts audited under the law by the accounting officers of the Treasury, a bill which had passed a committee of this House, a bill which had been determined to be correct in every particular.

Yet here you are asking us to take not merely $112,000, as that bill did, but hundreds of millions of dollars away from public view and send the claims down to this court with their *ex parte* testimony to be made a portion of the record of that court. And when these claims come back here they will come back not as claims but as judicial findings; so much due A and B, so much due C and D, &c. And if this House ever desires to ascertain the correctness of such findings it will have to go into an examination of the cases *de novo*, just as before they were sent to the Court of Claims. Otherwise we must rely upon the judgment of the court and pass them *nem con*.

This bill makes no limitation of claims for ravages and depredations during the war. It opens the doors of the court to every sort of claim and matter which arose during the war, and sends it for determination to a court that has decided that pardon and amnesty relieve claimants from the disability resulting from the rebellion. That the people who may read my remarks, outside of this grave and distinguished assembly, if any should choose to do so, may know that when I am talking about millions I know a little something of what I am talking about, I will call the attention of this House to one small item of claims that will go before this court for consideration. First, the proceeds of property taken under the captured and abandoned property act. The amount now covered into the Treasury as proceeds of captured and abandoned property is $24,251,269.93. Start with that at the head of your column. The cotton tax, said to be above $60,000,000, comes also in the line.

Now, to show you the class of proof you authorize to be transferred to that court to support these claims, I will call your attention to another item. The cotton captured after June 1, 1865, approximates in value the sum of $5,500,000, as appears from official Treasury documents, representing 50,000 bales of cotton, nearly all seized as owned by the so-called confederate government, which had purchased it of citizens in exchange for confederate bonds delivered to those citizens. Yet on this fund, confessedly arising from cotton of this character, claims are already filed before the Secretary of the Treasury, all individual claims, under the act of March, 1872, covering 136,000 bales, nearly three times the amount seized, and aggregating in value $18,000,000, proven to be property taken, when the amount really taken as the sales show was but about 50,000 bales, aggregating in amount $5,500,000. Yet the felicitous imagination of the claim agent has already expanded the claims for that property to $18,000,000.

Mr. REAGAN. Will the gentleman allow me right there?

Mr. BRAGG. Yes.

Mr. REAGAN. The claims reported——

Mr. BRAGG. I beg pardon. I cannot permit you to make a speech. I thought you wanted to ask a question.

Mr. REAGAN. I do not want to make a speech, but to make a suggestion which ought to accompany your idea, because it misleads as to the truth.

Mr. BRAGG. I am stating not what ought to be allowed, or what has been allowed, but the fund and the amount of claims as they have accumulated in the Treasury of the United States.

Mr. REAGAN. But I want to call the attention of the House to the fact——

Mr. BRAGG. The gentleman from Texas [Mr. REAGAN] misunderstands me.

Mr. REAGAN. I do not misunderstand you. If you will allow me to state——

Mr. BRAGG. The amount of the property taken after 1865 is $5,500,000; confessedly the greater part of it having been cotton, which was transferred to the confederate government by the owners, who received the bonds of the confederate States, the confederate cotton being used to be shipped abroad to be drawn against in support of the then dying confederate government.

Mr. REAGAN. If the gentleman will allow me——

Mr. BRAGG. Against that fund of $5,500,000 there are already filed claims for $18,000,000.

Mr. REAGAN. Will not the gentleman allow me to state what makes a contract, and call his attention to——

Mr. BRAGG. No, sir; not now.

Mr. REAGAN. Because you do not wish the House to understand the truth.

Mr. BRAGG. Mr. Speaker, I deny the right of any member of this House to insist upon making a speech while I am addressing the House. If he desires to ask me a question, I am always ready and willing, if my time will permit it, to allow him to do so.

Mr. REAGAN. I did not undertake to make a speech—simply to state the facts.

Mr. BRAGG. For him to stand here as the representative of that interest, when I am not reflecting upon it at all, but simply seeking to show the class of proof which is filed in support of claims—for him to stand here in an indignant manner and make a fling at me because I will not permit him to occupy my time, is not only unparliamentary but seems to me to be a lack of courtesy that I should have expected from almost any one else in this House sooner than from my distinguished friend.

Mr. REAGAN. Is it worse than to make a statement of fact and refuse to permit a correction?

The SPEAKER *pro tempore*, (Mr. JOYCE.) The gentleman from Wisconsin declines to yield.

Mr. BRAGG. Now, I turn to another item of claim which, perhaps, will not be so disagreeable to my friend to hear referred to. The State of Pennsylvania has filed a claim of $3,450,909 as its share of the plunder. There has just been presented to the Committee on War Claims, and it has received an authoritative support by a report of a committee of this House, the commencement of claims for

payment for damages incurred in the erection of fortifications which were built to protect this capital. After these claims had slept for twenty years, after they have been rejected by the Court of Claims, the claimants now turn round and have discovered that all the cutting of timber, all the destruction of homesteads was done by the engineers of the United States. Their saplings are converted into oak timber; the computation of price is made by the cubic inch and foot; and claims to the amount of thousands and tens of thousands are on their way to address themselves to the generosity of this House. Any one who is familiar with the chain of forts extending around this capital during the war and who will acquaint himself with the bills which have come in asking payment of damages by reason of the construction of those forts must see that $10,000,000 will be a small sum to meet the measure of damages claimed by the people, who say that their homes were destroyed and their forests cut down in the defense of the capital.

I simply allude to these classes of claims without discussing their merits at all, but to say that this bill opens the door of the Court of Claims and gives it jurisdiction to hear, determine, decide, and report to this House the extent of these claims, which, as the House will readily see, must reach millions upon millions of dollars.

This bill opens the door to claims for payment for all the ravages and devastations in Missouri. It opens the door to claims for payment for all damages and destruction of property done in Kentucky. It opens the door to claims from Indiana, to claims from Ohio. They are all waiting now with their noses peering through the crack to get in first. It opens the door not only to Tennessee but to every claim in any insurrectionary State, without limitation or reserve.

I say that this Congress ought never to pass such a bill or to entertain it for a moment, and that any man who votes for a bill which will have such results will in years hence hardly dare to meet his constituents face to face.

As to the other bill, the bill reported by the Committee on Civil-Service Reform, I hope the gentleman who has charge of it will excuse me if I call it a jumble and a hotchpot. I mean no reflection upon the committee; but I mean, as I am going to say with reference to the identical bill under consideration, that no proper conservative bill can be passed if it is made up by amendments as they are shot in by members of the House without due consideration of the measure as a whole. A bill made up as evidently this bill will be made when it passes this House should not pass until recommitted to some committee, who should take all the amendments and suggestions which have been made and revise the bill so as to make it homogeneous in all its parts.

Now, to illustrate what I mean. The gentleman from Tennessee [Mr. HOUSE] reports a bill. This bill as it was originally drawn was homogeneous; it was uniform; it had no crudities or awkward things in it. Somebody moved an amendment, and in the sixth section it reads:

> No private claim which accrued, of the character described in section 2 of this act, prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims, or considered by Congress or any of the Executive Departments.

This is an amendment inserted in the bill; the original bill read "1861;" and with this date the provision would harmonize with other provisions; but the insertion of this amendment makes the bill a hotch-potch. Why? Because section 2, to which this amendment by way of limitation is applicable, does not specify any particular class of cases; whereas section 4 provides specifically for the determination and trial of the identical cases excluded by section 6. It states what facts shall be found, how they shall be reported, and what evidence shall be necessary.

Such is the effect of the incongruous amendment that has been inserted in the bill. It is not the fault of the committee; but it demonstrates the fact that it is unsafe in bills of grave importance to have material amendments shot into the body of the bill without an opportunity to compare them fully with the provisions of the measure.

Mr. HOUSE. The gentleman will permit me to state that these amendments he is talking about were put on the bill by the committee. The bill was first printed and recommitted.

Mr. BRAGG. Then I must say that the committee must have been blind, at least in one eye, because by section 6 you provide that "no private claim which accrued, of the character described in section 2 of this act, prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims, or considered by Congress or any of the Executive Departments."

Section 2 of the act provides:

> Any person having a claim or matter against the United States in respect of which he desires relief by special act of Congress, and of which the Court of Claims could not under existing laws take jurisdiction, may, before applying to Congress for such relief, file a petition.

In section 6, by the amendment, you exclude from the consideration of the court every case that would be covered by the provisions of section 2. Then by section 4 you provide for a specific class of cases, showing apparently that by the construction of the committee the cases specified in section 4 are not within the purview of section 2; and while your limitation would apparently exclude all the cases which arose during the war—from 1861 to 1866—section 4 provides specifically for the determination of all the claims which are war claims and were within that period.

Mr. HOUSE. There is no incongruity. A war claim is a claim in respect to which the party requires a special act of Congress, as in section 2.

Mr. BRAGG. Let us see. If the gentleman means what he says, and section 4 contains what is in section 2, and section 6 by the amendment puts a limitation so no case shall be heard except what is in section 2, why did you put in section 4? If you guard section 4 by the amendment to section 6, why do you re-enact section 4? Why not let section 2 stand and then let section 6 apply, which bars all the claims provided in section 4?

Mr. HOUSE. If the gentleman will allow me—I know he does not intend to misrepresent the bill.

Mr. BRAGG. I am reading the bill.

Mr. HOUSE. Section 4 was put in because it refers to war claims, preserving the policy of the Government in respect to the loyalty of claimants.

Mr. BRAGG. Let me ask the gentleman this question: Does your statute of limitations in section 6 apply to war claims?

Mr. HOUSE. I think it does.

Mr. BRAGG. Why do you put section 4 in? There was no war claim which arose after 1866. Every war claim arose between 1861 and August 1865. Section 6 bars every one of those claims if it is to have the force and effect gentlemen claim for it. If it does bar——

Mr. HOUSE. It accrues prior to the year 1866; I ask the gentleman's pardon.

Mr. BRAGG. Certainly we misunderstand ourselves. Let us read the provisions of section 6: "No private claim which accrued prior to the year 1866 of the character described in section 2 of this act shall be heard." So section 6 prohibits the hearing of any claim which arose prior to 1866, provided that claim be covered by section 2. Section 2 by its general language would cover everything; but when you embodied section 4, "in any case of claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, or for the destruction of or damage to property by any part of said forces, the petition shall aver, &c.," then what would be the construction of that act? Your limitation applies to 2, when in 4 you make a specific case for a particular kind of cases and provide how they shall be tried and determined. The construction of that act must be—for it must be construed so as to stand altogether—that the claims specified in section 4 by the lawmaker were not included under provisions included in section 6, else if they are included section 4 is a nullity and should be stricken from the bill. If section 4 is to be retained in the bill section 4 nullifies section 6, so far as all war claims are concerned, and Pandora's box, with its contents, is reserved to trouble and plague this Government, notwithstanding the form of limitation which this bill purports to have in it.

Now, Mr. Speaker, I have stated in brief my objection to each one of these bills, that they do not accomplish the purpose their framers intend, that they do not fill the measure of benefit which their advocates insist they will, and that they are obnoxious, because they do away with the statutes of limitation and open courts to a class of cases which have never yet been bold enough to demand admission to the courts, and dare not now, except they come in generically under the general term of claims and that we give them a foothold in the courts we ought not to give them and destroy all the protections and limitations which year after year of legislation sustained by public sentiment have caused to be passed and enforced.

And I do not believe there is a single member on either side of this House who is anxious or desirous personally and upon his own consideration that any such door should be thrown open. I do not think any member on this side of the House, any more than any member on the other side of the House, would be desirous to bring down upon this House that flood of claims. Why, sir, that horde of claimants would almost darken the air, and the ravages of the locusts in Egypt would dwindle into insignificance in comparison with their raids upon the Treasury.

The SPEAKER. The gentleman's time has expired.

Mr. BRAGG. I desire, with the permission of the House, to append a few remarks to show why I favor the bill known as the Edmunds bill, which I have offered as a substitute for the pending bill.

The SPEAKER. The Chair hears no objection.

Mr. BRAGG. My reasons briefly are that it closes the door of the courts against claims sounding intort or arising out of implied contract which originated during the war. It imposes a short limitation and it sends the claimant to the Federal court of the district where the claim arose, where the witnesses live, and where the truth or falsity of the claim may be cheaply and readily determined. I have not time to elaborate.

Mr. URNER. I yield ten minutes of my time to the gentleman from Georgia. [Mr. STEPHENS.]

Mr. STEPHENS. Mr. Speaker, I wish, with the indulgence of the House, to submit a few remarks only upon the general principles embodied in the pending proposition. I regard this bill as one of the most important measures that has been submitted to Congress within the last ten years. It involves the great question of how claims against the Government may best be adjudicated.

All governments necessarily incur debts and liabilities, and against all governments unjust claims are likely to be brought, and ours, perfect as it is, and I believe it is the best, is no exception to the general rule. Now, then, how shall claims pending before either branch of Congress or before the Departments of the Government be best adjudicated and settled? That is the question submitted here. I maintain, Mr. Speaker, that all good governments are divided into three divisions of sovereign powers—the law making, the law expounding, and the law executing; that is, the legislative, the judicial, and the executive powers of sovereignty. These are the three potentialities of all good governments, and which constitute the grandeur above all others of our own systems of government, State and Federal. These are like the three potentialities, separate and distinct, which constitute the trinity in unity of that Omnipotence which rules the moral universe with perfect justice and right.

These with us are separate, coequal, and independent. The law-making power has no conflict with the judicial power, neither the law-making power nor the law-expounding power should clash with each other. These three principles on which our Government is based are and should remain forever distinct, separate, and independent of each other.

Now, then, it is the province of Congress to pass laws; it is the law-making power under our system. It is the body clothed by the Constitution with all power necessary to pass laws within its limited jurisdiction under the fundamental law. We are to pass the laws; the judiciary are to expound them, and to adjudge rights to people who have them under the law. Then it is the duty of the Executive to see that the mandates of the courts are carried out.

Now, I say in response to the objections which have been made by the honorable gentleman from Wisconsin to this bill, that I, favoring as I do such a method of adjudicating the rightful claims of persons against the Government, am by no means for opening the doors to any horde of hungry cormorants seeking the Treasury.

I suppose there have been, and will be for all time, unjust claims against the Government. But I am for opening the door for this adjudication of these claims by a judicial tribunal—yes, of all claims, whether they be just or unjust. If they be just, they should be paid; if unjust, they should be rejected. I am for opening the door for a legal hearing to every man who has a demand which under the law he has a right to make. Every man in our Government has a right to have his claim inquired into, and we should establish courts to ascertain, adjudicate, and fix the extent of his rights, if he has any, and reject his claim if it is not based upon a legal right. It is our duty to establish courts to settle all such questions and to which all such matters should be referred. I do not care if we do open the doors, nor how wide we open them. I want them opened wide enough to admit every one, whether high or low, who has a wrong unredressed to have a judicial hearing. Now, it is asserted that there are many claims against the Government, and that many of them have been here for ten or twenty years. The honorable gentleman from Wisconsin has alluded to a great many of that class. That is all true. I know that there are many claims here; but if they are right they ought to be investigated and paid, even though they amount to millions and are covered with a century of years.

I know claims, sir, that I met with when I first came to Congress in 1843. There was the claim of the privateer Armstrong which very recently was allowed by this Congress, a claim founded upon the strictest principles of international law. There was the old French spoliation claim, as just a one as was ever presented, in my judgment. It has been passed by two Congresses. I will not give the history of it, but it was vetoed, chiefly, I believe, for the want of money. That was not a good excuse. Public credit is the basis of national glory. Junius said of it that it was to England what the plumage was to the eagle, that bore it in grandeur to its loftiest heights. Public credit is founded in honesty. The government that will not pay to its humblest citizens what is justly due them affords but little ground on which to base a character for sustaining public credit in the estimation of other nations. Governments are established for the security and protection of private as well as public rights. I am for maintaining the public credit in every respect. I am in favor of paying the honest debts due to individuals, however long standing they may be.

As my time is short I shall not go into the general details of this bill or the substitute offered for it. I do not mean to go into the merits of either proposition. I am for a settlement of these questions by court, and I believe that this reference of them to the Court of Claims is eminently proper and wise. I am in favor, when a man says he has been wronged by the Government or that the Government justlyowes him anything under law, of directing him to a proper judicial tribunal and let him bring his case and evidence before it, have it investigated, and let that tribunal say whether or not he presents a question of right. If he cannot prove his claim let him be turned out of court.

The gentleman from Wisconsin speaks of cases coming all the way from California and other distant places here, and the difficulty of securing evidence to disprove such claims. But the claimant must establish the truth of his claim before any court will allow it. The burden of proof is upon him. When a truth is established it cannot be disproved. Truths never collide. Two truths can never be brought in antagonism to each other. They are immutable and eternal, and when a truth is established it can never be disproved by counter testimony; and if a man presents a claim which is founded in fact, a claim based upon truth and equity, no country and no government can afford to trifle with it or ignore it, however humble may be the individual. That is my answer to him. I would open the door to anybody, invite him to come in and have a hearing and establish his right, if he has any, and if the right is established, pay him his dues.

The gentleman seemed to intimate that he would not trust the court, for it might do unbounded mischief. Mr. Speaker, I hold that the judiciary of this country is the firmest, the soundest, and most lasting of all the special bulwarks that we have for the security of personal rights and protection of constitutional liberty. Others may give way. Your Senate, your House, and your other branches of the Government may give way, but my last hope is in the integrity and firmness of the judiciary; and therefore I would infinitely prefer the reference of all these claims to a court properly created and regulated rather than to Congress.

The SPEAKER *pro tempore*, (Mr. JOYCE.) The gentleman's time has expired.

Mr. STEPHENS. I desire only a moment more.

Mr. TURNER, of Kentucky. I ask that by unanimous consent the time of the gentleman be extended.

There was no objection.

Mr. STEPHENS. I desire simply to repeat that in my judgment the legislative, the law-making power of any country is not the one to adjudicate rights under the laws they make.

We have the law-making power; we have the law-expounding power; that is the judiciary; and then we have the Executive. But I say that everything pertaining to the adjudication of rights should be excluded from the legislative power. It belongs to the judiciary. And I am for such a court properly constituted. I do not know whether these propositions will carry out my ideas. I have only given my general view of the subject and I shall vote for anything in that direction to begin with. [Applause.]

Mr. URNER. I yield three minutes to the gentleman from Tennessee, [Mr. HOUSE.]

Mr. HOUSE. I desire only for a moment to reply to what the gentleman from Wisconsin [Mr. BRAGG] was pleased to term an incongruity in the bill I had the honor to report to the House. The incongruity, Mr. Speaker, is not in the bill at all, but is in the gentleman's misapprehension of its meaning.

The gentleman from Wisconsin says that section 2, section 4, and section 6 are inconsistent with each other. Now, section 2 describes a certain class of cases. What are they? That class of cases in respect to which the party wishes a special act of Congress. Now, that includes a war claim as well as all other claims, because a war claim needs a special act from Congress as well as any other. Then the fourth section goes on to provide that in respect to the war claims you shall do something else than is required in section 2, to wit, you are to prove your loyalty.

And now comes section 6, prescribing a limitation that applies to all cases included in section 2, war claims as well as others:

> No private claim which accrued of the character described in section 2 of this act prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims.

My colleague [Mr. HOUK] yesterday represented my bill as barring all claims that accrued prior to the year 1866. It does nothing of the sort, Mr. Speaker. The claim must accrue prior to the year 1866. And what else? If a claim of that sort has not been pending before Congress or some one of the Executive Departments from the year 1860 up to the present time, why, then, it is barred. We treat it as a stale demand. But if the party has been knocking at the door of Congress he is not barred. There is no incongruity whatever in it. It is all in the gentleman's imagination.

[Here the hammer fell.]

Mr. URNER. I do not think there is any difference of opinion that some legislation is required for the purpose of relieving Congress from the great mass of private claims in our committee-rooms and crowding our calendars. What that legislation shall be, and what kind of claims shall be reached by it, are questions of very great importance.

The gentleman from Wisconsin [Mr. BRAGG] said that the American people are extremely sensitive upon this question of claims. That may be true, Mr. Speaker. The American people are very sensitive upon the question of claims because they do not want any dishonest, any unjust claims to be paid out of the Treasury. But, if I know the sentiment of the American people at all, I do not think they are sensitive upon the question of paying just and honest claims. I believe they want the very best facilities presented to the private claimant to get an adjudication of his claim and a speedy and cheap settlement of it.

This question has been precipitated to some extent and has come up earlier than I supposed it would, and therefore I am not prepared to speak upon it as elaborately as I would have desired, and only have the preparation that I made yesterday while hearing the debates. But there are some facts to which I wish to call the attention of the House. I hold in my hand a volume of the reports on alien claims in the second session of the Forty-third Congress, a book that

is full of most valuable information upon this question. During the administration of General Grant, the hero of our war, the man who had led our armies on to victory in the field and who when the war was over wanted justice to be done in time of peace—I say under his administration an effort was made to ascertain what the practice of other governments was on this question of paying claims of private citizens. Secretary Fish therefore sent communications to our representatives to foreign governments, asking them to get information as to what the practice was in those governments and what facilities were offered to enable the private claimant against his government to have a speedy and early settlement of his claim.

And I find, Mr. Speaker, that in nearly all the civilized nations of the world, and especially in the three great countries of Germany, France, and England, tribunals are established in which the private citizen can go and present his case, furnish his proof, and have his claim investigated and adjudicated when against the government or the crown, with the same facility as if it was against an individual. I shall not take up the time of the House now in reading to any very great extent on this subject; but I desire to call attention first to France, now a republic, to show what that nation did after the Franco-German war.

I read from page 74 of this book containing the information obtained through the efforts of Secretary Fish referred to:

According to the laws of France, an action may be brought against the state by a private individual either before the civil or administrative tribunals, according to the nature of the case. If the state is sentenced to pay a sum of money, such sum is taken from the budget of expenditures, and as it is the duty of the legislative branch to vote the budget, it follows that the legislative branch really provides for the payment.

After the close of that war, during which the citizens of France had suffered not only by the demands made upon them to supply the wants of their own army but also by reason of the requisitions of the German army, one of the first things that the Government of France did was to devise a plan by which their people who had suffered during the war should become indemnified and reimbursed for their losses.

I am prompted to some extent to speak upon this question because my own constituents are immediately interested in it—the question of "war claims"—which whenever mentioned in this House shocks the nervous system of certain distinguished gentlemen on both sides. The gentleman from Wisconsin [Mr. BRAGG] says these claims have no legal standing. If that is true, it is because Congress has been derelict in the discharge of its duty and has not provided a tribunal into which the claimants can go and assert their rights.

In regard to these claims I assert that they are legal according to the well-recognized principles of international law, which should not only govern Congress but will govern the court whenever a bill is passed enabling these claimants to go into the Court of Claims or any other court that may be provided for their adjudication—those principles of international law which are recognized and respected in all civilized countries, and which are so clearly and tersely set forth in the book to which I have already referred and from which I shall further quote. After the close of the Franco-German war, one of the first things the French Government did was to pass laws for the relief of its citizens who had suffered by the war. The following is an enumeration of them according to their respective dates:

Law of June 15, 1871, on requisitions.

Law of September 6, 1871, granting the sum of 106,000,000 francs to the sufferers by the war.

Law of April 7, 1873, providing for an additional grant of 260,000,000.

Law of July 28, 1874, granting still another sum of 26,000,000 to a special class of sufferers.

The law of June 15, 1871, provides:

ARTICLE 1. The bearers of requisition certificates given by the French authorities, civil or military, since the beginning of the war, shall be obliged, under penalty of forfeiting all claim upon the treasury, to deposit, within two months, at the office of the prefect of the department, or at that of the sub-prefect of the district in which such requisitions are made, the said certificates, with a statement of the amounts claimed by them, and the documentary evidence in support of their claims, if the delivery thereof has not yet been made to the proper authorities.

Those persons who had no certificates given them for supplies furnished the army during the war were required to make a statement of their claims, or they would be forfeited; and those claims thus stated were to be investigated according to judicial principles. Here is the law of September 6, 1871, which I will read for the information of the House, and the sentiments of which I commend to the American Congress:

The National Assembly has adopted and the President of the French Republic promulgates the following law:

Whereas in the late war the portion of the territory invaded by the enemy suffered numberless burdens and underwent numberless devastations; and

Whereas the sentiments of nationality which are in the hearts of all Frenchmen impose upon the state the obligation of indemnifying those who have suffered these exceptional losses in the common struggle;

The National Assembly, without intending any violation of the principles laid down in the law of July 10, 1791, and the decree of August 10, 1853, decrees:

ARTICLE 1. An indemnity shall be granted to all those upon whom during the invasion contributions have been levied or requisitions made, either in money or in goods, or who have paid fines or suffered material damages.

ART. 2. The amounts of these contributions, requisitions, fines, and damages shall be verified by the cantonal commissions now acting under the direction of the minister of the interior. A departmental commission shall revise the labor of the cantonal commissions, and shall finally fix the sum of the losses of which evidence may be furnished. This commission shall be composed of the prefect, president, of four councilors-general, designated by the councilors-general, and of four persons representing the minister of the interior and the minister of finance.

That shows clearly that at the close of that war the French Republic recognized the fact that these losses that had been sustained in certain districts had been endured for the benefit of the common cause, and that they appealed to the sentiment of nationality in the hearts and breasts of all Frenchmen to make some provision whereby those losses should be equitably borne by the whole people. No one asks the United States to go quite as far as did the French nation. It cannot be expected that the devastations of the enemy will be paid for, but it is expected and common honesty requires that private property voluntarily taken for public use by our own Government shall be paid for. So also in both England and Germany the individual citizen having a claim against his government is permitted to go into court, and if it is just to have his claim established, to have it adjudicated at least.

The information obtained by Mr. Fish through the legation of the United States at Berlin, with respect to the law and practice of Germany, says:

In the procedure where claims against the Government come up before the administration or judicial tribunals for investigation, and in the procuring of evidence in such procedure, the same rules obtain, in general, as in the consideration, determination, and deciding of such claims when presented against other parties. In exceptional cases only are directions to be found prescribing a particular feature of the procedure in the case of a claim against the empire.

In the report obtained through General Schenck, our then minister to England, I find the following:

With respect to claims made against the Crown, the common law method of obtaining possession or restitution of real or personal estate has, for the most part, been by petition of right, a form of proceeding dating from the time of Edward the First; but in 1860 an act of Parliament was passed (23 and 24 Vic., C. 34) by which provision was made for assimilating as nearly as may be the proceedings on petitions of right to the course of practice and procedure in actions and suits between subject and subject, &c.

At the time of this report it did not seem to be settled whether a petition of right "would lie for breach of contract or to recover money claimed by way of debt or damages, or, indeed, for any other object than specific chattels or land."

That question, however, has been since settled by the case of Thomas *vs.* The Queen, in which it was decided that "a petition of right will be for a breach of contract resulting in unliquidated damages"—a case reported in tenth volume Queen's Bench Law Reports.

But how is it here in this great Republic of ours?

Mr. BLOUNT. Will the gentleman allow me to ask him a question merely for information?

Mr. URNER. Yes, sir.

Mr. BLOUNT. I would like to ask if in those countries there are any statutes of limitation?

Mr. URNER. I am not able to answer that question; I presume there are.

Mr. BLOUNT. I know it has been insisted upon by the Secretary of State in this country time and time again.

Mr. URNER. I say that while the governments of England, France, and Germany, and all other governments, so far as I have been able to ascertain—for as I said a moment ago the time I have had to examine this question has been so limited, and my other engagements have been so multitudinous, that I have not been able to make the investigation as thorough as I would like—while in Great Britain and Germany, with their monarchical governments, the citizen is permitted to sue the Government, in this great Republic of ours, this country whose Government we are pleased to denominate a government of the people, by the people, and for the people, the citizen seems to have no rights as a claimant his Government is bound to respect. When a private citizen has a claim which is not provided for by any law or tribunal now in existence, he is relegated to Congressional action, which, as we all know, amounts in the majority of instances to an absolute denial of justice. I say it is our duty to provide some means by which these claimants can have their cause tried. As I said before, I propose to speak more especially about the class of cases known here as war claims.

Mr. ROBINSON, of Massachusetts. If it will not disturb the gentleman for me to make a suggestion, I would like to do so; if it will, I will not do so.

Mr. URNER. What is it? Do not take much time, please.

Mr. ROBINSON, of Massachusetts. I will speak very rapidly. The gentleman indicates that he would have our citizens go into the courts. Grant that. But after you send these different claimants into the court, as the law now stands no judicial determination can give them any relief. These claimants come here to Congress and ask that a law be passed for each particular case. To grant them relief we must make a law in each particular case, because it is an exceptional case; it does not come under any general law. Being out from the operation of any general law, they want us to legislate for their benefit and to make a new law in each particular case. Now, the courts can give no such relief as that, can they?

Mr. URNER. I will answer the gentlemen. Why, Mr. Speaker, that is just what I am speaking of. I know that they have no relief; a special act of Congress is required for each particular case. That is just what I am complaining of. I want a general law passed, giving to some tribunal the right to adjudicate these cases, to investigate

the facts and report the cases back, as is done in France; so that Congress may make an appropriation of money with knowledge as to what it is appropriating for; and I understand that under the bill before us, if Congress finds that the court has made a mistake it will have the right to withhold the appropriation. [Mr. ROBINSON, of Massachusetts, rose.] I would like very much to yield to the gentleman, but I am pressed for time.

Mr. ROBINSON, of Massachusetts. I would be glad to reply to the gentleman's suggestion.

Mr. URNER. I have already given away part of my time.

Mr. ROBINSON, of Masschusetts. I will not interrupt the gentleman.

Mr. URNER. I hold that these claims, if they are honest and just, and if the claimants are loyal, have just as much right to be paid out of the Treasury as any other class of claims against the Government of the United States.

There are two classes of war claims. I will state them briefly. In the first place there are claims of citizens growing out of the taking, use, and occupation of property voluntarily as distinguished from those claims presented in some quarters growing out of the taking and use of property involuntarily or as a military necessity. Now, according to my understanding of the principles of international law applicable to these cases the former class of claims are just and right and should be paid; the latter class should not be paid. To illustrate, in the district I have the honor to represent both classes of claims exist. The Army was encamped there from the beginning of the war in some capacity or other. Where the Army encamped for the winter it required fuel to keep the men warm, lumber to provide them shelter, corn, oats, and hay for the horses; and when property of this sort was taken under those circumstances the Government is bound to pay for it. Unless it pays it virtually repudiates an honest debt.

But the Army passed through our State on its way to Gettysburgh, to Antietam, and to the battle of Monocacy, when as a matter of military necessity property was destroyed. Wheat was trampled down; timber had to be removed in order to make a place to plant artillery. These and whatever other incidental casualties occurred at the time were involuntary—were a matter of military necessity. The people who suffered losses under those circumstances have no claim against the Government; and so far as I know they have not presented claims.

I want to call attention to a statement of the law on this subject:

> By the principles of universal law, recognized anterior to the Constitution, in force when it was adopted, and never abrogated, every civilized nation is in duty bound to pay for army supplies taken from its loyal citizens, and for all property voluntarily taken for or devoted to "public use."
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> There is no reason why one citizen should furnish quartermaster's or commissary supplies rather than another. The Government can, as to these, exercise a discretion; it can buy from any who may have to sell, or select those from whom it will impress. Here is a deliberate, voluntary taking for public use.
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> The Government has always paid loyal citizens for the use and occupation of buildings and grounds in loyal States when used for officers' quarters, regular recruiting camps, and in cases where the occupation was voluntary and the result of choice, superinduced by no overruling military necessity; and for this the law provides.

While on the other hand—

> In battle or immediately after, and when it may be impossible to procure property in any regular mode by contract or impressment, self-preservation and humanity may require the temporary occupancy of houses for hospitals, for wounded soldiers, or for the shelter of troops, and for necessary military operations which admit of neither choice nor delay. In these and similar cases the question arises whether there is a deliberate voluntary taking of property for public use requiring compensation, or whether these acts arise from and are governed by the law of overruling military necessity.

Now, I make another subdivision based upon territory. There was a portion of the territory of the United States recognized as being in insurrection. The residue of the States were known as the loyal States. In all the States in insurrection the Government of the United States had the right for its own use to take whatever property was there, and in the taking did not make itself responsible for the payment of a dime; and this applied to all the people within that section of territory. I understand that to be the unmistakable principle of international law, and in support of this position I adduce the following:

> As to the eleven States proclaimed in rebellion during the period of flagrant war, it may be said in general terms that the United States, by the strict rules of international law, incurred no liability whatever for property taken, used, damaged, or destroyed therein by Government authority, so far as dictated by the necessary operations of the war, nor by the operations of the enemy. This is well settled by every writer on the laws of war.

Halleck says:

> War * * * makes legal enemies of all the individual members of the hostile states; * * * it also extends to property, and gives to one belligerent the right to deprive the other of everything which might add to his strength and enable him to carry on hostilities, &c.

If within the insurrectionary territory there were loyal citizens who by reason of exceptional circumstances are to be paid, the burden of proof should be upon them to clearly establish not only the taking of their property but everything necessary to show that they should be excepted from the general rule which would authorize the Government to take the property of all the citizens of all that territory without making any compensation. But in the loyal States, where the people at all times claimed to be citizens of the United States, where they recognized no allegiance to any power except their own Government—in those States under the well-known principle of the common law that a man is to be presumed to be innocent until he is proved to be guilty, every citizen is *prima facie* considered a loyal citizen; and when the Government takes the property of such a citizen and appropriates it to its own use under circumstances which would ordinarily make the Government responsible, if the Government withholds payment the burden of proof is upon the Government to show why it does not pay its honest debts and to prove that the citizen has forfeited his constitutional right to be compensated by disloyalty.

Now, I say, Mr. Speaker, that in violation of the principles of the Constitution and the laws we have already in existence, under the act of 1864, and the manner in which it has been executed, great injustice has been done to many people. The principles of constitutional law have not been complied with. Why, I read in the Constitution of my country this language:

> No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

Now, when gentlemen say these people have no legal rights, I say they have legal rights. It is true they may be rights under the Constitution alone, now dormant because of no legal machinery to make them valuable; for you know, Mr. Speaker, the Constitution does not execute itself.

There may be a right recognized in the Constitution, but before that right can be valuable to a citizen the Congress of the United States, the legislative power of the Government, must pass laws and establish a tribunal in which that right, recognized by the Constitution, shall be made valuable.

Then, too, these claimants have rights recognized by the law of nations. It is a principle of international law that the Government is liable to its citizens for the property that is necessary when it is taken voluntarily, as in the case of quartermaster stores taken under the circumstances I have detailed.

Now, sir, when the Government of the United States does not pay, when it withholds payment, it fails to do what it is honestly, morally, and lawfully bound to do.

I stated that in my district parties are located whose property was taken and whose premises were occupied when our forces were encamped there under the circumstances I have narrated, private property voluntarily taken for the public service, and there are many just and meritorious claims which have not been paid and which ought to be paid. Under the act of 1864 the Quartermaster-General sent out special agents. The agent went around through the country where these claims arose—and while I have no reflection to make on any individual, I will say the agent went around, took the testimony *ex parte*, unsworn, not under oath, making his report based on the merest hearsay and *ipse dixit* he could get in the neighborhood in regard to a man's claim and in regard to a man's character, possibly from an enemy, who would take that opportunity thus secretly to stab his neighbor in the back, and yet on that testimony many thousands of claims were considered and disallowed. Not in my section particularly, because we have not that many there. I do not want to frighten gentlemen on the other side, who get scared at figures, by leaving the impression there are so many claims in the sixth district of Maryland. We have, however, many claims in that district, where our forces were encamped during the war.

I was assured by the late Quartermaster-General when I appeared before him in person and asked to have a claimant allowed to offer testimony to prove his case that as the special agent had made his report and on that the claim had been rejected, and, as he stated, there were about thirty thousand cases similarly disposed of, and if he opened this case in this instance, although it might be in the interest of justice to do so, yet to be consistent he would have to open every one of those thirty thousand rejected cases, and therefore could not comply with my request.

I say this provision of the Constitution has not been complied with. I say the Government of the United States owes this money and will never get rid of this honest debt until some provision is made whereby the party can go into some court and have his case investigated and adjudicated. What I read from the French act applies equally here. It is true that some of these gentlemen of the far North, and I am not speaking in any sectional sense, do not have this class of claims. They live in a country where they did not arise.

Those which arose in the State of Maryland in the sixth district, and I believe I represent all the portion of that State where the armies were encamped during the war, the claimants had to suffer for the good of the whole country. They did it voluntarily; they did it willingly and cheerfully, because they were a loyal people and they were willing to make the needed and necessary sacrifices for the benefit of their Government. But while they were doing it at that time they looked to the day when the Government of the United States, actuated and inspired by a spirit of equity and fair dealing,

not to say common honesty, which ought to characterize a great and noble government, would grant them the relief they deserved.

I know the gentleman from Wisconsin [Mr. BRAGG] spoke about a Baltimore claim. I do not know anything about it. It is an old claim, and I have nothing to say about it. If it was fraudulent, of course it should not be paid. It only shows that even in Baltimore there are some dishonest people. It is an easy matter to characterize Baltimore as the hot-bed of secession, for there was a time in the beginning of the war when some people in Baltimore, in a frenzy and state of excitement, did a very ugly thing, and for which I know they now feel deep regret. I refer to the events of April 19, 1861.

But, sir, while there are bad men in all places, and while there are men that will be led away by excitement in all places, and while there were, perhaps, men in the city of Baltimore, as I doubt not there were, who were willing to see the State connect itself with the confederate cause, but, so far as the State of Maryland was concerned, a majority of its people were loyal; and that Monumental City of Baltimore boasts justly to-day of its monuments, its free libraries, its school system, without a parallel, and of its loyalty to the Government in time of war.

It points with pride to the fact that in Baltimore the Christian Sabbath is observed and respected to a degree not equaled in any other city of its size in this land. These are facts for which that city and that people may rightfully feel proud. I have no doubt they regret more than perhaps I can express for them the occurrence of the 19th day of April, 1861. But barring that act of rash madness, to-day they are proud of their achievements and look hopefully forward to a glorious future. My friend from New Hampshire sitting near me suggests that there were disloyal men in other States as well as in Maryland—in States north of Mason and Dixon's line. I am satisfied of that fact. There were men who were opposed to the prosecution of the war in the city and State of New York. There were men opposed to the prosecution of the war in Indiana. There were men opposed to its prosecution all over the North, but when a claim is presented from any State in the North why is it that the question of loyalty is never raised? But when a man from my State presents a claim he is required to come up and by overwhelming proof sustain the fact that he was unquestionably loyal to his Government during the war, or his case will be turned down simply because at the beginning of the war some of our people were opposed to its prosecution.

The burden of proof is thrown upon him. I think, Mr. Speaker, there should be some allowance made for the people of Maryland. You remember, and we all remember, before the war that Maryland was a slave State. You will remember the bitter strife and contention which prevailed in the country growing out of the question of slavery for years before the war began. At the time of the war there were in Maryland not less than 87,000 slaves, and while the people during all of that irrepressible conflict that preceded the war had their sympathies enlisted on the side of the South because Maryland was a slave State, yet when it came to the actual conflict, when the war had actually begun and the soldiers were marching to the front, the majority of the people of that State, notwithstanding the possession of this slave property, stood with patriotic devotion by the old flag. It is true a great many sympathized with the Southern people. They sympathized merely, but were not in great numbers in favor of secession. They were opposed to secession, but they did not want to have a war waged against the Southern people because of their sympathies, and they falsely hoped to see a peaceable solution of the troubles.

But the people of that State were not the only ones who were bound by the prejudices growing out of slavery. Even my distinguished, eloquent, and scholarly friend from Cincinnati, Ohio, remembers, doubtless, in 1836, when that man from the South——

Mr. BUTTERWORTH. My recollection is not very distinct of that time.

Mr. URNER. The gentleman remembers it as a matter of history, doubtless, that in 1836 a man from the South, a former slaveholder who had emancipated his slaves, came to the city of Cincinnati and established there a paper known by the name of the Philanthropist. This paper simply opposed the extension of slavery; and because of this fact the people of that city assembled in public mass-meeting, with the mayor of the city presiding, and appointed a committee of thirteen men to wait upon the publisher of the paper and notify him that he must desist from its publication in opposition to the extension of slavery or take the consequences.

We believe in the freedom of the press in this country, but this committee, headed by Judge Burnet, then ex-Senator of the United States, and a committee composed of the most intelligent, the most influential and wealthy citizens of Cincinnati, told this man that if he did not stop the publication of his paper in the interest of freedom that he alone would be responsible for the consequences. He went on, however, with the publication and did take the consequences, because that night his office was visited by a mob, his type scattered in the street and his presses thrown into the river. They visited his home, intending to do violence to his person, but not finding him they wreaked their vengeance upon the unprotected and unoffending colored people, simply because the paper promulgated anti-slavery principles.

Now, we all know that Ohio is loyal, but yet so strong even in that free State was the sympathy with the slaveholding people of the South that the citizens of their leading city perpetrated this great wrong.

Outrages were committed, and if that could be done in a city and State where slavery never existed, it ought scarcely to be wondered that in Maryland there should be some sympathy shown with slavery and the South.

The great Republican party at that time did not want to interfere with slavery. When they abolished slavery in this District of Columbia, some twenty years ago, they incorporated in the law a provision for the compensation of the owners of the slaves thus liberated.

They recognized then the right of the owners. But I am not here to apologize for slavery. I only speak in behalf of the people of my State—who are not to be wondered at if some of them entertained strong views on that question at that time—and for the purpose of saying before judgment is to be rendered against them, the whole facts in the case should be considered, and you should put yourselves in their place. What did they do when the war went on? Over 55,000 sons of Maryland enlisted in the Army and went to fight the battles of the Union, and were as brave soldiers as ever fired a gun or flashed a sword; and you, Mr. Speaker, so respected, revered, and loved by so many of my constituents who had the honor to fight under your command, as members of the Sixth Maryland Regiment, will testify to the gallantry, courage, and earnest devotion of these men on many a battle-field. Did they shrink from their duty because they were citizens of Maryland? I leave the answer to history.

But Maryland not only did that, it not only filled its quota in the Army, and paid every obligation it incurred thereby, obligations which were assumed in the advancement of the cause of the Union, but, sir, at the close of the war, or rather before the close of the war, in the midst of the war, not waiting for any proclamation effecting it, not waiting for an act of Congress to accomplish it or any constitutional amendment to compel it, Maryland by a vote of its people went to the ballot-box and liberated over 87,000 thousand slaves and placed in her constitution a provision that no payment should ever be made for them. [Applause.]

Now, sir, when the people of my country and the people of my district come here with these claims that have been pending before the Department and before Congress for, lo, these many years, honest claims, claims held by the farmers of that county of Frederick that George Washington once said was the garden spot of America—I say is it unfair that we should ask at the hands of this Congress that some tribunal should be established, that some law should be adopted whereby these people may present their claims, and if they are honest, have them paid, and if they are dishonest, have them rejected and let the claimant pay his costs? I say, Mr. Speaker, if it is true that these claims are just and that they are legal according to the principles of international law, then there is an obligation upon the Government to pay them and we cannot get rid of them by any nervous sensitiveness on the subject of claims.

I want to say a word to my Republican colleagues on this floor. It is one of the cardinal principles of the Republican party that every citizen, whether he is in the State of Maine, or in the State of South Carolina, or in California—I do not care how his home may be hemmed in by State lines—his paramount allegiance is to the Government of the United States; that this is a nation, and that being a nation every citizen owes to his Government his loyalty, his fidelity, and his support in time of peril. Is not that to be reciprocal? Is the citizen, wherever he may be, to render his allegiance to the Government of the United States, and shall that Government be under no obligation to give him protection? Is the money in our Treasury to be expended solely and alone in the payment of interest upon bonds, in the payment of claims growing out of the Geneva award, and those other claims which are pending against the Government before the various Departments and before the various committees? Is the money in the Treasury to be expended alone in the payment of these large claimants, these rich claimants, while the poor honest farmer and the poor man who shod the horses of the Army, putting in honest work for the Government in that way, are turned away because some special agent sent to investigate did not happen perhaps to get acquainted with them, and they did not entertain him so sumptuously as some others. I believe that to be true. As I have said, I have nothing to say against these agents. I might characterize their conduct as I believe it in many instances deserves; but I will not do that.

I say if it is a principle of the Republican party that the citizen owes his allegiance to the General Government, then that citizen has a right to ask and expect that the General Government will give him protection and pay his claim, even though he be but a plain farmer or an humble mechanic.

Mr. Speaker, have I any time left?

The SPEAKER. The gentleman has eight minutes.

Mr. URNER. I promised the gentleman from New York, [Mr. DWIGHT,] to yield him some time. I yield to him whatever time remains to me.

Mr. DWIGHT. It is but little I shall attempt to say in reference to this question in the brief time allotted to me. I must be permitted, however, to say that in my judgment there is no real difference of opinion between honest men in this country in reference to the

payment of all claims that are just. I do not believe there is a man North, South, East, or West that is not ready to pay every honest claim against this Government that shall fairly be established as a just claim. The question is, How shall that be reached, and how shall we ascertain whether a claim be an honest one or whether it be one that should be rejected?

My friend from Tennessee on yesterday made an argument that I have no doubt he felt the force of. I do not know but his constituents have suffered in a way that gave him occasion to make that argument. My friend from Maryland [Mr. URNER] who has just taken his seat has seemed to make an argument indicating that there is a difference of opinion here as to the payment of honest claims. I repeat again that I do not believe that is a proposition that need be presented. I believe that every man in this country, every loyal, true man is willing to admit, and not only willing to admit, but is willing to help to secure to every honest claimant every dollar he may justly claim from this Government, and that he can prove to be a fair and honest claim.

The question comes in, How shall we best reach that end? For myself I believe that of all places where a claimant should not be brought, that place is before Congress. I believe it is the worst body that can possibly be indicated for the purpose of determining and properly adjudicating and settling claims against this Government. The case as presented here is an *ex parte* exhibition. The men who come here with claims are the most ingenious, the most able, the most energetic, if not the most artful of all men who do come here. They come here with all the evidence that can possibly be obtained to show the rightfulness of their claims. But what do we, as members of Congress, know about them? You might as well, Mr. Speaker, go to a grand jury and undertake to take the evidence that is there presented to procure an indictment and convict and bring to judgment and to execute judgment upon that evidence as to undertake to adjudicate a claim on the average testimony that is brought here.

I say, then, let us institute some court. I have not examined the details of this bill very much. But it seems to me that it is defective. It seems to me the gentleman from Wisconsin has rightly characterized some of the dangers that are to be apprehended if this bill should be adopted.

In brief, I would institute a court, and I would institute courts in the different districts of the country where claims shall be brought in the presence of witnesses who understand the facts on both sides of the question; where the living witnesses may confront the court, where they may confront the counsel on either side, where all the facts that are ascertainable shall be ascertained and presented. When such a court shall have decided the case, I would give the right of appeal. I would give to litigants against the Government all the rights which individuals now have with regard to each other. If upon appeal and full hearing the case shall be affirmed, then let Congress make the appropriation. If it is not appealed, then let the case be reported to Congress for the necessary appropriation. I believe that in that way the parties shall have justice and that no claimant will have any occasion to find fault with the Government.

In my judgment, however, there should be a limit to the time when claims may be brought against the Government. I do not know any good reason why the same rules which apply to individuals should not apply to the Government in reference to claims. So believing, in the Forty-fifth Congress I had the honor to introduce a joint resolution proposing an amendment to the Constitution of the United States for the purpose of limiting the time in which claims should be presented. That joint resolution was referred to the Committee on the Judiciary, and I tried again and again to get a report from that committee upon it, but was entirely unable to do so. With your consent, Mr. Speaker, I will read that joint resolution:

A joint resolution to amend the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of each House concurring therein, That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three-fourths of such Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

"ARTICLE XVI.

"SECTION 1. No claim of any character against the United States shall ever be paid unless the same shall have been presented by the claimant to the proper officer, tribunal, or Department within ten years from the time when such claim shall have accrued; and all claims not so presented within said period shall be forever barred.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

Now, I am unable to see why justice to claimants and justice to the Government is not alike involved in such an amendment as this. Certainly a claim that is not presented within reasonable time, by the common consent of the different States and by the consent of all men should be barred on account of limit of time. And for a very good reason. It may be assumed that while the parties are living, while the evidence concerning the facts in the case can be obtained, a claim should be presented and adjudicated. If that is not done, then it is fair to assume that there is something wrong about it. I know of no reason why that principle is not as applicable to the Government in regard to its citizens as between individuals.

Mr. Speaker, I see the hammer is about to fall. Has my time expired?

The SPEAKER. The time of the gentleman has expired.

Mr. DWIGHT. I regret that I am not permitted to occupy a few minutes longer. The vast amount of claims that are now pending before this Congress is alarming, and something should be done to secure protection to the Government and secure justice to all its citizens.

Mr. BOWMAN. I now move the previous question; and I give notice that if it is ordered I shall ask unanimous consent that one hour be given to the consideration of amendments under the five-minute rule, there to be only one speech for and one against each amendment, and no *pro forma* amendment to be offered. Then the succeeding hour is to be taken to close the debate, and I will make such equitable division of that closing hour among gentlemen as will be proper and I think will satisfy them.

Mr. HOOKER. I hope the gentleman will not now call the previous question. This is a very important matter, and should be thoroughly considered and discussed. The bill of the gentleman is a very immature bill.

Mr. THOMPSON, of Kentucky. The gentleman from Massachusetts [Mr. BOWMAN] has consented that I may offer an amendment to the amendment of the gentleman from Indiana, [Mr. HOLMAN.]

The SPEAKER. If the gentleman from Massachusetts [Mr. BOWMAN] consents, the amendment may be considered as offered and pending as an amendment to the amendment.

Mr. BOWMAN. I consent to that.

The SPEAKER. There being no objection, the amendment to the amendment will be considered as pending.

Mr. DWIGHT. I would inquire of the Chair if time was not given by unanimous consent to gentlemen who occupied the floor this morning to an extent that would have otherwise allowed me the ten or fifteen minutes additional which I desire?

The SPEAKER. The Chair cannot tell about that. The question is upon the motion for the previous question.

The question was taken; and upon a division there were—ayes 76, noes 13.

So (no further count being called for) the previous question was ordered.

The SPEAKER. The gentleman from Massachusetts now asks unanimous consent that one hour be given for the consideration of amendments under the five-minute rule, no *pro forma* amendments to be offered, and there to be but one speech of five minutes for and one of five minutes against each amendment.

There was no objection, and it was so ordered.

Mr. DUNN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DUNN. Is an amendment now in order?

The SPEAKER. At this moment no further amendment is in order unless offered as an amendment to the substitute of the gentleman from Tennessee, [Mr. HOUSE.]

Mr. BOWMAN moved to reconsider the vote by which the previous question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DUNN. I desire to offer an amendment to the pending bill. I understand that there is now pending an amendment to that bill, and also an amendment to that amendment. Is that correct?

The SPEAKER. That is correct. And a substitute for the whole bill is also pending.

Mr. DUNN. I desire to offer an amendment to the pending bill, not to any substitute.

The SPEAKER. That would not be in order at present. The first question is upon the amendment of the gentleman from Kentucky [Mr. THOMPSON] to the amendment of the gentleman from Indiana, [Mr. HOLMAN.] The amendment to the amendment will now be read.

Mr. UPDEGRAFF, of Iowa. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. UPDEGRAFF, of Iowa. Is the amendment now to be voted upon an amendment to what is known as the House bill, or an amendment to what is known as the Bowman bill?

The SPEAKER. The Chair will again state that the gentleman from Indiana offered an amendment to the bill reported by the gentleman from Massachusetts, [Mr. BOWMAN.] To that amendment the gentleman from Kentucky [Mr. THOMPSON] offers an amendment. There is also pending a substitute for the original bill, being a bill reported from the Committee on Civil Service Reform by the gentleman from Tennessee, [Mr. HOUSE.] The Chair holds that under the practice of the House all amendments to the original bill must be first considered and disposed of before a vote can be taken on the substitute. Hence the amendment of the gentleman from Kentucky to the amendment of the gentleman from Indiana is first in order.

Mr. HOLMAN. I wish to modify my amendment.

Mr. BOWMAN. I believe the Holman amendment is to my bill and not to the House bill. Am I right?

The SPEAKER. That is correct.

Mr. HOLMAN. I desire to modify my amendment by substituting what I send to the desk.

The Clerk read as follows:

SEC. —. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the

use and occupation of real estate by any part of the military or naval forces of the United States, in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

SEC. —. In any case of a claim for supplies or stores taken by or furnished to any part of military or naval forces of the United States for their use during the late war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact, and unless the said court shall, on a preliminary inquiry, find that the person who furnished such supplies or stores, or from whom the same were taken as aforesaid, was loyal to the Government of the United States throughout said war, the court shall not have jurisdiction of such cases, and the same shall, without further proceedings, be dismissed.

The SPEAKER. The gentleman from Indiana asks unanimous consent to substitute for his original amendment what the Clerk has read. The previous question having been ordered on the bill and amendments, the gentleman cannot without consent modify his amendment. Is there objection?

Mr. THOMPSON, of Kentucky. Yes, sir.

Mr. HOLMAN. Have I not the right to modify my original proposition?

The SPEAKER. Objection being made, the gentleman will have to reach his object in some other way.

Mr. BRAGG. I wish to put a parliamentary inquiry. Would it be in order to move to recommit this bill with the substitute and all the pending amendments to a special committee, with leave to report a bill at any time?

The SPEAKER. The Chair thinks that motion would be in order, with the exception of that portion authorizing the committee to report at any time, which would include the right to have the report considered at any time. But although the motion would be in order, yet as the House has, by unanimous consent, agreed that one hour shall be occupied in the consideration of amendments, the Chair submits that the motion ought not now to be entertained. But before the final vote, substantially such a motion may be entertained.

Mr. BRAGG. It seems to me manifest that a bill made up in this way, by amendments offered in the House, must be incongruous. That is my reason for wishing to send the measure to a special committee.

The SPEAKER. The Chair thinks that the hour given, by unanimous consent, for amendments and debate under the five-minute rule ought not to be taken away except by unanimous consent.

Mr. BRAGG. I give notice of my intention to make the motion I have stated.

Mr. THOMPSON, of Kentucky. I move as an amendment to the amendment of the gentleman from Indiana [Mr. HOLMAN] the proviso which I send to the desk.

The Clerk read as follows:

Provided, That no claimant shall be found disloyal who resided at the time the claim arose or accrued or property was taken or furnished in a State not in rebellion to the United States Government, nor shall his, hers, or their claim be rejected on that account, unless they have been guilty of an overt act of treason, which shall be proven by the testimony of two witnesses who are credible.

Mr. THOMPSON, of Kentucky. Mr. Speaker, I think it high time now, when the war has been over nearly seventeen years, that we should come back to the rule of the Constitution in adjudicating at least upon the claims of citizens of those States which were not in rebellion. The State of Kentucky was a State which to say the least maintained its loyalty to the Government during the war. It furnished toward the suppression of the rebellion in proportion to its population nearly as many men as any other State in the Union, and according to its wealth furnished probably more money, more of the sinews of war, in aid of the cause of the Government than any other State. It is proper, it seems to me, that such a State should be fairly treated seventeen years after the close of the war in the adjudication of claims. I do not like to see applied in the adjudication of these claims a rule for which I do not find warrant in the Constitution.

The Constitution expressly provides that private property shall not be taken for public use unless just compensation be made. It further provides that the property of the citizen shall not be taken except by due process of law. As the Government intervened by force of arms in many instances in the State of Kentucky and seized the private property of citizens, applied that property to public purposes, and has granted no compensation in any way, and as no process of law was resorted to in the seizure of it, I think it now high time that when the Government provides for adjudicating claims of this sort it should at least apply the true theory and principle of the Constitution to their adjudication, so that citizens shall not be deprived of their property except by due process of law.

I might have extended the amendment further, and provided that no man should be deprived of his claim against the Government, which is his property, unless upon conviction of crime, for that is really the theory upon which the Constitution proceeds. But I have not gone so far. I have simply provided that if a man was disloyal to the Government—and by that I mean if he aided or abetted the rebellion—if he was guilty of any treasonable act which can be proved according to the requirement of the Constitution by two witnesses, then the Government should withhold from him the payment of his claim, although he has never been tried and convicted of his crime.

Mr. ROBINSON, of Massachusetts. That is not the effect of your amendment if the party lived in a State not in rebellion.

Mr. THOMPSON, of Kentucky. If he lived in a State not in rebellion, certainly the principles of the Constitution ought to be applied to him, because he was under the ægis of its protection all the time.

Mr. ROBINSON, of Massachusetts. Under the amendment it is no matter what proof there may be of treason, if the party happened to live in a State not in rebellion.

Mr. THOMPSON, of Kentucky. If he lived in a State not in rebellion, then unless he can be proven guilty of some act of treason by two witnesses——

Mr. ROBINSON, of Massachusetts. Your amendment does not allow the second branch to operate as to citizens of States not in rebellion.

Mr. THOMPSON, of Kentucky. Yes, sir; it provides expressly that no man's claim shall be rejected unless he was guilty of an overt act of treason which can be established by the testimony of two witnesses.

Mr. ROBINSON, of Massachusetts. But your amendment provides that no citizen of a State which was not in rebellion shall have his claim barred, nor (this is the second provision) shall any one have his claim barred unless his treason is testified to by two credible witnesses.

Mr. THOMPSON, of Kentucky. The gentleman misunderstands my amendment.

Mr. ROBINSON, of Massachusetts. I think the gentleman had better read it.

Mr. THOMPSON, of Kentucky. I have prepared it very carefully. It does not make the provisions which the gentleman understands; and I am sorry he misapprehends it, because he is a fair-minded man.

It provides expressly that nobody's claim where the party at the time the property was seized or taken by the Government was a resident of a loyal State shall be barred. Because, sir, under the law and under the decisions of the Supreme Court, they went into rebellion by States, and every man who lived in a Southern State, without regard to his personal status, became an alien enemy. So, too, where a man lived in a loyal State, without regard to his status, he was presumed to be loyal because of the fact that he lived in a loyal State—one that did not go into the rebellion. Therefore the party who lived in a loyal State, one that did not go into the rebellion, has a just claim where his property was taken, for he ought not to be deprived of that property unless he was guilty of an overt act of treason, as provided under the Constitution.

[Here the hammer fell.]

Mr. ROBINSON, of Massachusetts. Mr. Speaker, I had not paid any attention to this amendment until it was offered, but in all fairness, which the gentleman from Kentucky accords to me, I wish to discuss it, and with no sharpness of language at all.

The amendment is this: "Provided that no claimant shall be found disloyal who resided at the time the claim arose or accrued, or the property was taken or furnished, in a State not in rebellion to the United States Government"——

Mr. THOMPSON, of Kentucky. That is in a loyal State.

Mr. ROBINSON, of Massachusetts. "Nor shall his, her, or their claim be rejected on that account unless they have been guilty of an overt act of treason, which shall be proven by the testimony of two witnesses who are credible." My friend seems to want to have an amendment like this: no claimant shall be found disloyal who resided in a State not in rebellion, unless his treason is testified to by two credible witnesses. But that is not what he says by any means. His knife is sharpened on both edges.

Mr. THOMPSON, of Kentucky. I am willing to accept any amendment the gentleman from Massachusetts may draft covering the point I wish to reach.

Mr. ROBINSON, of Massachusetts. Then I was right.

Mr. THOMPSON, of Kentucky. No, I think not.

Mr. ROBINSON, of Massachusetts. I think it says that.

Mr. THOMPSON, of Kentucky. A word.

Mr. ROBINSON, of Massachusetts. I want to prove I am right. There are two branches. No man shall be found disloyal who resided, for instance, in Kentucky, if you please. That is what you want to talk about.

Mr. THOMPSON, of Kentucky. Yes, sir.

Mr. ROBINSON, of Massachusetts. No matter what the proof is. That is one branch.

Mr. THOMPSON, of Kentucky. Oh, no.

Mr. ROBINSON, of Massachusetts. The other branch is, "nor unless you shall prove overt act of treason by two credible witnesses." If the gentleman does not mean that, let him have an amendment drafted so plainly we cannot make any discussion about it. That is all I want to say about it.

Mr. THOMPSON, of Kentucky. I will allow the gentleman from Massachusetts to frame the amendment.

Mr. ROBINSON, of Massachusetts. I do not believe in any such an amendment. I want to say right here that if there was a man in Kentucky disloyal to the Government I would treat him just as if he was disloyal in Georgia.

Mr. HOUK. Meaner.

Mr. ROBINSON, of Massachusetts. Would not my friend over there?

Mr. THOMPSON, of Kentucky. What does my friend mean by disloyal?

Mr. ROBINSON, of Massachusetts. Oh! [Laughter.]

Mr. THOMPSON, of Kentucky. Yes; what do you mean by it?

Mr. ROBINSON, of Massachusetts. I will not be drawn into that discussion at this late day. I do no want to get into it. I will let it stay in the past; but if my friend has read the history of the country back to 1861 and does not know what disloyalty was, as understood by the American people, I commit him again to the reading of that history.

Mr. THOMPSON, of Kentucky. I commend you to the Constitution of your country, and let the gentleman from Massachusetts read that.

Mr. ROBINSON, of Massachusetts. We heard a good deal about the Constitution of the country.

Mr. THOMPSON, of Kentucky. And you will hear more about it before you get through with some of the acts committed.

Mr. ROBINSON, of Massachusetts. We know what loyalty was, and what was disloyalty.

Mr. THOMPSON, of Kentucky. All I want is that the Constitution shall apply to my State as it is applied to the other States of the Union; and that is, if a man has a claim there which arises out of the seizure of his property because he was there, and somebody says he sympathized with the rebellion, although he committed no overt act of treason, that that man shall not be plundered by the Government of his property.

Mr. ROBINSON, of Massachusetts. Leaving sentiment out of view and discussing this as a business proposition, because that is what you and I both entered into, you then only want to provide that no person shall be found disloyal, no matter where he lived, except upon the testimony of two witnesses. That is all you ask.

Mr. THOMPSON, of Kentucky. I am willing to put it in that way if the law passes in that shape. But the gentleman knows that in the administration of the law they have drawn a distinction between citizens resident in States which went into rebellion and those resident in States which did not. Every citizen of every State which went into the rebellion *ipso facto* became an enemy of the country, whether he was disloyal or not, without regard to what part he took in the rebellion. The Supreme Court applied the doctrine——

The SPEAKER. The gentleman's time has expired.

Mr. ROBESON. I would like to ask the gentleman from Kentucky a question as to what he means by the expression "shall be found disloyal."

Mr. THOMPSON, of Kentucky. That the court shall not refuse them payment or report them disloyal——

Mr. ROBESON. You mean that, by law, we shall establish a rule of judgment for the court, and you appeal to the Constitution for that?

Mr. THOMPSON, of Kentucky. No, sir; I mean the court shall follow the rule established here.

Mr. ROBESON. That is the same thing. You cannot do it. The Constitution would prohibit it.

Mr. TUCKER. Let the amendment be again reported.

The amendment was read.

The SPEAKER. The question is on agreeing to the amendment to the amendment of the gentleman from Indiana.

The House divided; and there were—ayes 10, nays 65.

So the amendment to the amendment was not agreed to.

The SPEAKER. The question recurs on the amendment of the gentleman from Indiana, which the clerk will report.

The amendment was read.

Mr. HOLMAN. I ask now, Mr. Speaker, to withdraw that amendment with a view to offering another. I believe the bill is still open to amendment?

The SPEAKER. It is.

Mr. HOLMAN. I withdraw the amendment, therefore, which has been read, and submit the following.

The SPEAKER. The amendment can only be withdrawn by unanimous consent, as the previous question has been ordered on the bill and pending amendments, of which this was one. Is there unanimous consent to the withdrawal of the amendment and the substitution of another?

Mr. THOMPSON, of Kentucky. I object.

Mr. ROBINSON, of Massachusetts. I should like to be heard for a moment on the sufficiency of the objection.

Mr. HOLMAN. If this amendment is voted down, then I shall offer another if I am not allowed to withdraw the first one.

Mr. ROBINSON, of Massachusetts. As the House gave unanimous consent for an hour to be occupied in the offering of amendments and debate upon them, I think it will not be held that we are limited to offering the amendments already printed.

The SPEAKER. The Chair does not hold that, but simply holds that as the pending amendments are operated upon by the previous question, which has been ordered, that they can only be withdrawn by unanimous consent. The Chair has not held, however, that other amendments may not be offered.

Mr. HASKELL. Can we not modify that amendment?

The SPEAKER. It may be modified under the rules.

Mr. HOLMAN. If it can be amended by a substitute, then I desire to offer a substitute.

Mr. CALKINS. If the amendment proposed by my colleague from Indiana is voted down will he not accomplish the same thing; and will he then offer the amendment he holds in his hand?

Mr. HOLMAN. Yes, sir.

Mr. THOMPSON, of Kentucky. Have I a right to be heard upon that?

The SPEAKER. The gentleman has unquestionably a right to debate pending amendments within the hour allowed by the House.

Mr. HOLMAN. But that amendment, if I am privileged to do so, I intend to withdraw.

Mr. THOMPSON, of Kentucky. If the gentleman is allowed to withdraw his amendment I have no desire to be heard upon it.

The SPEAKER. The Chair understands that objection has been made to withdrawing the amendment, and will submit the question to the House upon the amendment.

The amendment was not agreed to.

Mr. HOLMAN. I now offer this, to come in after the second section of the bill.

The SPEAKER. The amendment will be read.

Mr. HOUSE. I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOUSE. I understand that the previous question has been demanded.

The SPEAKER. And ordered.

Mr. HOUSE. My substitute was offered as a substitute for the original bill, and for the amendment offered by the gentleman from Indiana. That amendment has now been disposed of; does not my substitute therefore come next in order?

The SPEAKER. The substitute of the gentleman from Tennessee is not in order until the time shall have arrived when the amendments relating to the text of the original bill are disposed of. The rule allows the text of the bill to be perfected before the substitute is voted upon.

Mr. HOUSE. But I offered my substitute to the original bill and to the amendment of the gentleman from Indiana. I do not know of any other amendments that are pending to the original bill. Now, I have a section that covers the ground which is sought to be covered by the gentleman from Indiana in this amendment, except that it does not go so far, and it seems to me if we are going to proceed in this matter intelligently we should first decide this question, whether the House prefers the substitute or the original bill. And when that question is settled we can amend the substitute or the original bill, whichever may be adopted.

The SPEAKER. The Chair states that all the confusion grows out of the fact that after the previous question was ordered, by unanimous consent the bill was open to amendment and debate upon amendments for one hour. The Chair holds that amendments may be offered now to the original text of the bill of the committee reported by the gentleman from Massachusetts. When these amendments are disposed of, then the substitute will be in order.

Mr. HOUSE. We will get into confusion that way, I fear.

The SPEAKER. That is the fault of the order of the House. The Chair thinks, however, there will be no confusion.

Mr. CALKINS. Let the amendment of my colleague be read.

The Clerk read as follows:

To come in at the end of the second section:

"SEC. —. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

"SEC. —. In any case of a claim for supplies or stores taken by or furnished to any part of military or naval forces of the United States for their use during the late war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact, and unless the said court shall, on a preliminary inquiry, find that the person who furnished such supplies or stores, or from whom the same were taken as aforesaid, was loyal to the Government of the United States throughout said war, the court shall not have jurisdiction of such cause, and the same shall, without further proceedings, be dismissed."

Mr. DUNN. I desire to offer what I send to the desk as an amendment to the amendment offered by the gentleman from Indiana, [Mr. HOLMAN.]

The Clerk read as follows:

In section 1, line —, strike out the words "Court of Claims" and insert instead the following: "the district court of the United States for the district in which such claims originated."

In section 3 strike out the words "Attorney-General" and insert instead "district attorneys," and strike out "Court of Claims" and insert instead "district courts of the United States."

In section 5 strike out "Court of Claims" and insert instead "district courts of the United States."

The SPEAKER. Does the gentleman from Arkansas desire to be heard in support of his amendment?

Mr. CALKINS. I want to ask the gentleman a question. Does he not think the amendment should have provided that no question of fact in those cases should be submitted to a jury?

Mr. DUNN. My amendment does not provide that. I understand the pending bill provides for the reference of these claims to the Court of Claims. I simply desire to change the reference so that they shall go to the district courts of the United States.

Mr. BURROWS, of Michigan. The bill does not allow the Court of Claims to dispose of the cases.

Mr. DUNN. I only want to send the cases to the district courts instead of to the Court of Claims.

Mr. BURROWS, of Michigan. The bill does not give to the Court of Claims jurisdiction to dispose of the claims. Does your amendment give the district courts that jurisdiction?

Mr. DUNN. No, sir.

Mr. BURROWS, of Michigan. Then it makes the United States courts throughout the country clerks to a committee of the House.

Mr. DUNN. It requires them to make the investigation in the part of the country where the claim originated.

Mr. CALKINS. I do not know whether this amendment as it is drawn has sufficient guards about it or whether it ought to be adopted, because one cannot tell in the hasty way in which business is transacted what may be the effect of amendments presented in this manner. But I desire to say I am heartily in sympathy with the principle embodied in the amendment presented by the gentleman from Arkansas, for the reason that, if these questions are to be investigated by a court at all, they ought to be investigated by a court that is nearest to the people who make the claims.

Mr. DUNN. That is what my amendment does exactly.

Mr. CALKINS. That is a proposition that I have decided opinions upon. Now, whether any of these claims ought to go to a court is one question. If they are to go to a court, it would be the part of economy and justice to let them go to a court which is nearest the people and the witnesses where the evidence is. But I am not in favor of any amendment that will allow a jury to investigate and pass upon any point that is involved in any of these claims.

Mr. DUNN. My amendment does not do that, I assure the gentleman; but I will speak in reply to him.

Mr. CALKINS. I am somewhat afraid of the amendment the gentleman has offered, and yet it announces a principle with which I am in hearty sympathy.

Mr. DUNN rose.

Mr. BOWMAN. Is not debate exhausted on the amendment of the gentleman from Arkansas?

The SPEAKER. It will be in one minute.

Mr. DUNN. Was the time of the gentleman from Indiana [Mr. CALKINS] taken out of my time?

The SPEAKER. It was.

Mr. DUNN. I understood the gentleman from Indiana [Mr. CALKINS] was recognized in opposition to the amendment.

The SPEAKER. He was recognized; the gentleman from Arkansas yielding to him.

Mr. DUNN. I did not intend to do that. I ask unanimous consent to have five minutes to state my position.

The SPEAKER. Is there objection to extending the time? The gentleman from Arkansas asks five minutes for the purpose of speaking to his amendment. The Chair hears no objection.

Mr. BOWMAN. I object, if it is to come out of the hour, as there are several other amendments to be presented.

Mr. DUNN. This is an extension of the hour.

Mr. BOWMAN. In that case I do not object.

Mr. DUNN. I desire to say that when the bill is read as proposed to be amended it will be found simply to substitute district courts of the United States for the Court of Claims, leaving the matter to be disposed of just exactly as it would be disposed of in the Court of Claims. I require in the amendment that these claims be sent to the district court of the locality where the claim originated. It is in the interest of justice and economy. The Government can get the evidence more certainly and cheaper in the vicinity where the claims originated, and it will be more satisfactory and reliable; it is safer for the Government and fairer and more just to the claimant. Then, sir, I have a very decided objection to conferring this great jurisdiction upon the Court of Claims here. We had the other day a case brought to our attention that ought to stand as a warning to us. It was the case referred to by the gentleman from Maine, [Mr. REED,] in which a claim of $130,000 had gone by default in the Court of Claims, and subsequent developments showed the fact to be that the counsel for the Government and for the claimant had colluded together and had suffered the judgment to go for want of evidence that was accessible.

Let me say, also, there is an all-pervading dominant sentiment in this District in favor of plundering the Treasury; and I desire to take these claims out of the reach of that kind of influence and that feeling. We have recently seen a verdict here that shocked our sense of justice, based upon the idea that the Government would have to pay it in the end. It is undeniable that public opinion here is in favor of reaching the Treasury by any and all avenues. The management of claims is here one of the applied sciences, and the science all runs against the Government. Let their investigation be removed to the vicinity of their origin, where all the evidence *pro* and *con* is accessible and easy to be had.

Protect the Government against *ex parte* and false testimony and the claimants against extortion and black-mail. We now have a committee investigating charges of that character against officials and clerks in a Department of the Government. The spirit of our institutions demand that the citizen charged with crime shall be tried by a jury of the vicinage, and it is but justice that he should also have his grievances investigated by the court in the jurisdiction of which he resides.

The inducements to crime against both the Government and the claimant will be much lessened by such distribution of the adjudication.

Mr. HUMPHREYS. Among those avenues does the gentleman include Pennsylvania avenue?

Mr. BLAND. Does the gentleman from Wisconson think that in any United States court outside of this District Kilbourn could have got a judgment of $100,000; and does not that show that any trial of that kind here is a humbug?

Mr. DUNN. Speaking generally, I contend that these claims ought to be sent to the vicinities where they originated. They are the safest for the administration of justice. There are grand juries in each of those courts to indict perjurers who swear falsely.

The perjurers are in a degree safe from any such prosecution in this District. They may submit perjured testimony taken at distant places, to which your grand jury has no reasonable access at all. Send all claims where justice may be done and where perjury may be punished. It is above all important to take them out of Congress. I am sorry to have to confess that this House is not well fitted for the trial of the class of claims pending before it. According to the views of some gentlemen these claimants more deserve to be hung than to be paid. I think they should have a more impartial and unprejudiced judge to try their rights.

Mr. PEELLE. As I understand the amendment of the gentleman from Arkansas, [Mr. DUNN,] it proposes to transfer claims to the district courts of the United States in the various States. But the gentleman makes no provision for the payment of the costs of the marshals or of the clerks of the court.

Mr. DUNN. Does not the existing law do that?

Mr. PEELLE. There is no cost whatever in the Court of Claims. The gentleman by his amendment would be heaping burdens on the claimants rather than favoring them. For that reason, if for no other, I shall oppose his amendment.

Mr. DUNN. The claimant who does not want to pay his costs need not bring his suit.

Mr. PEELLE. I now yield the remainder of my time to the gentleman from Massachusetts, [Mr. BOWMAN.]

Mr. BOWMAN. This is no place to discuss an amendment or a system of this kind. This bill is for the reference of cases to the Court of Claims to find facts. On a little amendment here we cannot establish a system of trial of facts in the district courts of the United States, nor enumerate rules of practice or proceedings. We can only meet this case as it is represented here, as a bill to enable the Court of Claims to find the facts.

Now, as to this district system, this system of allowing local influences to be exercised in prejudicing the decision of a case and such questions as might arise I propose to say nothing. We cannot discuss that great system here. We must vote on this bill and on the system proposed here by the committee, and vote it up or down.

Mr. MILLS. I think we ought to have some tribunal where a claimant, a citizen of the United States, with a claim against his Government, can have his claim ascertained and determined. I have been all the time in favor of the enactment of some legislation of that kind. But I am apprehensive that the bill which is now before the House is too much of a good thing, and I am compelled to vote against it.

If it attempts to confer on the Court of Claims jurisdiction to reopen all the equities that have arisen in consequence of a war, it will be impossible for the court to render complete justice to the claims of parties who have suffered by that war. It seems to me that the wiser and better policy to pursue is to wave the mantle of oblivion over all these claims.

All have suffered by that war. Not only the men whose cotton may have been seized, or whose house may have been burned, or whose beeves may have been taken to feed the Army, but all have suffered by the war. It will be impossible for this Congress, however anxious it may be to do so, to limit justice, to discriminate, to open the doors of the courts and let some parties come in and obtain judgments which all the balance of the people of the United States will have to pay, while at the same time all the people were equal sufferers.

I think that these claims are mere vague and indeterminate equities that ought to be presented only to Congress; and then, when there are exceptionally hard cases, the equity and conscience of the legislative assembly of the Government should be appealed to.

I think that claims for services rendered to the Government, such claims as arose anterior to 1861 and have arisen since 1865, should be referred to a judicial tribunal to ascertain and determine the facts, and if found to be just they should be paid. But when we attempt to reopen this whole war investigation and all the questions about loyalty and that sort of thing, we will be opening the door to hundreds of millions of dollars in amount of claims, to be determined in favor of the few but paid by the many, when the many have suffered as much as the few.

The SPEAKER. The time for debate upon the pending amendment has expired.

Mr. HOOKER. I ask permission of the House to speak for five minutes on the amendment of the gentleman from Arkansas, [Mr. DUNN.]

The SPEAKER. Is there unanimous consent?

Mr. BOWMAN. I dislike very much to object, but the hour is running, and all these other amendments must be considered.

Mr. HOOKER. I gave notice that I would offer an amendment similar to the one which has been offered by the gentleman from Arkansas, and I ask leave to be heard for five minutes upon it.

The SPEAKER. The Chair hears no objection.

Mr. HOOKER. I suppose the object of the bill introduced by the gentleman from Massachusetts, [Mr. BOWMAN,] and of the committee which authorized him to report it, was to relieve Congress from the burdens which we have all felt to be very great, and of a duty which it is almost impossible for us to discharge; that is the consideration of the innumerable number of private claims which have been presented to this and other Congresses. The object of the bill is to refer those claims to some judicial tribunal to determine whether the Government owes anything to the persons presenting the claims.

I remember that many years ago, before the Court of Claims was established with its limited jurisdiction, I heard that great and eminent jurist of Massachusetts, Judge Story, say that in every other country in the world, even with the most despotic and autocratic of all governments, a citizen of the country had a right to institute in the tribunals of the land a suit against his government to ascertain whether it owed him anything or not, and it was a reproach and a disgrace to this country, which claimed to be the freest of all, that its citizens had no tribunal in which to establish their claims, except by petition to the Congress of the United States.

Now, I suppose that this is the scope and object of the bill, and it is a good one, and I favor it for that reason. But, as I said frankly to the gentleman from Massachusetts [Mr. BOWMAN] a few moments ago, I consider his bill in many respects as very imperfect. I think the proposition offered by my friend from Arkansas [Mr. DUNN] is the correct and true one; to clothe the district and circuit courts of the United States with power to pass upon these questions. Whenever you submit these claims to a tribunal sitting in the immediate viscinage where the losses occurred or where the contracts were made, you will have no fabulous claims presented against the Government of the United States. You will have none presented to this court except such as can be maintained by evidence. If supported by the evidence of people of the neighborhood cognizant of the losses on which the claims are founded the claims will certainly be entitled to fair consideration.

What have you had before the Court of Claims? What have you had before the Departments? The gentleman from Wisconsin [Mr. BRAGG] talked about claims presented from the South against what is known as the abandoned-property fund—a fund originally some $24,000,000, of which some $12,000,000 or $14,000,000 now remain—a fund properly belonging to the men whose property the Government took and sent to the great firm of Drexel & Co., in New York, to be sold, the proceeds being paid into the Treasury. I am now speaking of what went into the Treasury; a great deal escaped by the wayside and never got into the Treasury. The Supreme Court of the United States has repeatedly decided, so far as that special fund is concerned, that it is a fund in the Treasury which never can be commingled with the general moneys of the Government; a fund lying there to be claimed by the rightful owners, just as estates in England lie in the chancery court for centuries subject to the claims of parties entitled to them. Will it be said that we should establish a tribunal here and deny to these men whose property is thus in the Treasury the right to make claim to it? Here were $24,000,000 taken from the people of the Southern States and put into the Treasury. Would you exclude any person from claiming his share of that money?

In addition to that, as a measure of punishment, an unwise and unjust measure of punishment, which your Supreme Court finally determined to be unconstitutional, you raised from the Southern cotton-producing people of this country $68,000,000 which went into the Treasury. It seems to me it would be an admirable act of justice at the present time to return that amount to the overflowed districts of the Mississippi by expenditures for improving the navigation of that great river.

[Here the hammer fell.]

The question being taken on the amendment of Mr. DUNN, it was not agreed to.

The SPEAKER. The question recurs on the amendment of the gentleman from Indiana, [Mr. HOLMAN.]

Mr. BOWMAN. Mr. Speaker, I have no objection to the amendment as perhaps it was intended, and as possibly some member of the House may understand it. I have no objection to that part of the amendment which requires, as a prerequisite for the prosecution of a claim in the Court of Claims, the most thorough proof of the loyalty of the claimant. I would consent to the amendment which the gentleman withdrew, and recommend its adoption. But there is one clause in this amendment which will prevent Congress obtaining the relief that is sought in this bill. I refer to the clause in which the gentleman provides that no claim which is barred by any law shall come before the Court of Claims. Now, if claimants have a legal case, a legal claim, they do not come into Congress; they go into the Court of Claims; so that if the gentleman, by this simple-appearing amendment, means to provide that claimants shall not have the advantage of the law, and Congress shall not have the relief sought, where the claim is not a legal claim, he defeats the whole object of the bill.

I appeal to members of the House to meet this question fairly and squarely; to vote the bill up or vote it down, but not to allow it to be defeated by any insidious amendment, which appears to be innocent on its face, but in reality destroys the force of the whole measure.

I yield the remainder of my time to the gentleman from New Hampshire, [Mr. RAY.]

Mr. RAY. Mr. Speaker, I desire to make a suggestion. The amendment proposed by the gentleman from Indiana, [Mr. HOLMAN,] besides being objectionable in the particulars pointed out by my friend from Massachusetts, [Mr. BOWMAN,] seems to provide for or imply that there shall be two trials of every claim presented in the Court of Claims. That is, the court shall first take testimony and then hear and determine the question of the claimant's loyalty. Secondly, after that question is decided in the claimant's favor, the court shall then proceed to take evidence and try the case on its merits. In my judgment, neither the claimant, the Government, nor the court should be required to go through with more than one hearing in the same cause. It ought to be clearly provided that one trial shall be sufficient to determine each case; that the court, after all the evidence is taken, shall examine first the question of loyalty; and if the loyalty of the claimant be not satisfactorily established the claim shall be dismissed; otherwise it shall be examined and considered upon its merits.

I am requested to state that if this amendment be voted down another of a similar character will be offered, omitting the objectionable features which have been pointed out in the amendment now before the House.

Mr. HOLMAN. Mr. Speaker, my amendment contains two propositions. The first is that the Court of Claims under this bill shall have no jurisdiction of any claim for damage to or destruction by the Army, or for the use and occupation of real estate by the Army during the late war at the seat of war, nor for any claim of property that is now barred by virtue of any law of the United States. The second is that the fact of the loyalty of the claimant shall be found by the court before it shall have jurisdiction of the claim. I understand the gentleman is opposed to that first proposition. If so, I wish to say that if the object of this bill is to open the public Treasury and allow war claims indiscriminately to come in, if that is the object of the bill, let gentlemen vote down that proposition and the Treasury will be thrown wide open. If the gentleman intends to throw down every safeguard and open a free highway to your Treasury, the bill will effectually accomplish the purpose.

If the object is to open up your Treasury to the vast body of war claims that have accumulated about this Capitol from all sections of this country, a more satisfactory measure could not have been devised. If that is not the purpose in view of the general provisions of this bill, the only possible safety against it that is left is the limitations I have proposed on the jurisdiction of the court; and I admonish gentlemen from past experience that if this bill with unrestricted jurisdiction shall pass, when these claims come back from the Court of Claims with the amounts ascertained they will come with the force of absolute and final judicial decisions and sooner or later will reach your Treasury.

Mr. CALKINS. Will my colleague permit me to make a suggestion?

Mr. HOLMAN. I can only yield for a question; I have but a few moments.

Mr. CALKINS. I merely wish to suggest that the amendment would be perfect if he had provided that claims which accrued after April, 1865, the close of the war, should be considered.

Mr. HOLMAN. Does my friend desire to open up all of the limitations?

Mr. CALKINS. No; but to limit them to that extent and let the other claims go to the Court of Claims.

Mr. HOLMAN. I only insist that the bar which has been from time to time provided against claims on the Treasury by virtue of the law shall be sustained, and that all claims coming under the provisions of this bill should be regarded as barred if now by any law barred.

Mr. TUCKER. Will the gentleman permit me to ask him a question?

Mr. HOLMAN. Certainly.

Mr. TUCKER. If the gentleman would bar by law all these claims, how could the claims have been asserted?

Mr. HOLMAN. How asserted?

Mr. TUCKER. Yes. As I understand the provision——

Mr. HOLMAN. Here is a bill expressly conferring jurisdiction without reservation or limitation.

Mr. TUCKER. But if the court has not jurisdiction at all, how could the claims of parties have been asserted?

Mr. HOLMAN. If the gentleman means this bill strikes down the limitation——

Mr. TUCKER. I say so.

Mr. HOLMAN. The limitation on the existing claims, such as the 4th of July, 1864, claims, the claims that were cognizable before the Southern claims commission and formerly by the Court of Claims, all these limitations are proposed to be stricken down by this bill; and the gentleman from Massachusetts is anxious to strike down every limitation in order that all such claims may come in.

Mr. TUCKER. But what I want to ask the gentleman is with reference to the provisions of the bill he objects to, whether he wants to remove the bar of the statute of limitations. Now, he says he wants to retain that bar.

Mr. HOLMAN. I certainly do, and especially on the cotton claims and the others I have named.

Mr. TUCKER. Very well, then, how could parties have asserted their claims prior to the passage of the law?

Mr. HOLMAN. How? They have had tribunals open to them for the claims I have named.

Mr. TUCKER. What tribunal?

Mr. HOLMAN. The Southern claims commission, the accounting officers of the Treasury under the act of July 4, 1864, and Court of Claims as to cotton claims.

Mr. TUCKER. Oh, pshaw!

Mr. HOLMAN. The cotton claims had the Court of Claims opened; the claims before the accounting officers of the Treasury under the act of July 4, 1864, have their tribunal; the Southern war claims had their commission. This limitation I have proposed does not strike down a single claim except those which have had a hearing or were entitled to a hearing before some tribunal authorized to consider and pass upon them. Now, it is simply proposed that Congress shall leave the limitations heretofore created by law unimpaired, and not one of those limitations were created until the claimants affected had a tribunal opened through which, if their claims were valid, they could obtain relief. Is there anything unjust in these statutes of limitations that they should be now repealed?

For the purpose of having the question determined fairly I shall ask for a division of the amendment. I shall ask a vote upon the question of the limitations on the jurisdiction of the court in the first instance, and then upon the question of the preliminary hearing on the loyalty of the claimant. But I warn gentlemen, in the light of past experience, and judging from the bills that are still coming before the House almost daily based on judgments of the old Court of Claims when the facts alone were found and reported to Congress, that when the facts in these cases covered by this bill are found in the Court of Claims, if this bill without limitations shall become law, although they may have been cases investigated years ago in the tribunals I have named, you throw open the doors of your Treasury for their payment, and the now more than ample resources of your Treasury will melt away before the claims for uncounted millions which wait for their opportunity in this Capitol.

[Here the hammer fell.]

Mr. PEELLE. I desire to offer the amendment, which I send to the desk as a substitute for the one offered by my colleague.

The Clerk read as follows:

At the end of the first section add:

"*Provided*, That it shall be the duty of said court to first ascertain as to the loyalty of such claimant under the law as now provided, and that in case such investigation should disclose the fact that such claimant was disloyal no further investigation shall be proceeded with."

Mr. PEELLE. Now, Mr. Speaker, I think if that amendment were adopted in place of the one offered by my colleague it will remedy the defect, and perhaps the only defect in the bill now pending. The amendment of my colleague, if adopted, would have the effect to bar out every claim against the Government; and it is a well-known fact that these claimants can come to Congress and procure the enactment of laws, paying them the amount of their claims, regardless of any bars which may have been previously set up.

In other words, Congress can control that matter; and this bill simply makes it permissive for either branch of Congress or any committee to refer a claim to the Court of Claims for investigation as to the facts. I apprehend that if a claim should be presented to this House that would be manifestly unjust and wrong, or if the claimant were disloyal and known to be so by the House or the Committee, such a claim would not be referred to the Court of Claims at all.

Now, should this amendment be adopted, it will still leave it permissive for us to see what claims should be referred to the Court of Claims; and when referred to that court its first duty shall be to determine the loyalty of the claimant; and if it finds as the first fact that he is disloyal, it reports the fact to the House, and that is the end of the case.

Mr. BUTTERWORTH. I am opposed to the amendment of the gentleman from Indiana [Mr. PEELLE] and am in favor, with a modification, of the amendment of the gentleman from Indiana, [Mr. HOLMAN;] and if the amendment of the gentleman from Indiana [Mr. PEELLE] shall be voted down, I shall move to amend the amendment of his colleague [Mr. HOLMAN] by striking out the first part of his amendment, which provides a bar. The bar I propose to strike out simply excludes from the court the very claims we are trying to refer to that court.

Mr. HOLMAN. If you open that bar the millions of war claims which have gathered around this Capitol will come down upon your Treasury.

Mr. BUTTERWORTH. I propose to give every just claim a day in court. I do not propose that any claim which is just and which is the claim of a loyal citizen shall be barred. Where the claimant has been knocking at the door of Congress and has a thoroughly just claim I propose to establish a tribunal which shall adjudicate that claim. The amendment of the gentleman from Indiana [Mr. HOLMAN] would deprive those claims of a tribunal and prevent the court from hearing the very claims that we propose to refer to that tribunal.

My purpose therefore is if the amendment of the gentleman from Indiana [Mr. PEELLE] should be voted down, to move to strike out the following words in the amendment, proposed by the gentleman from Indiana, [Mr. HOLMAN:]

Nor shall said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

They have no means of legal redress, and we are seeking now to afford them the means of redress to which they are justly entitled. Now, striking out those words prevents the prosecution of the war claims to which we are all opposed in that tribunal, while it permits the claims we desire to have considered to be considered in that tribunal.

Mr. BOWMAN. I think there is no objection to that amendment.

Mr. BUTTERWORTH. In the first place it makes the loyalty of the claimant a question that shall be determined first by the court as a jurisdictional question. That bars out the claims which frighten my friend from Indiana, [Mr. HOLMAN,] while it admits the just claims of men who have been too long trifled with by this Congress and by the Government.

Mr. PEELLE. I will withdraw the amendment which I offered and give way to the gentleman from Ohio, [Mr. BUTTERWORTH.]

Mr. BUTTERWORTH. Then, if I am recognized to do so, I move to amend the amendment of the gentleman from Indiana [Mr. HOLMAN] by striking out the following words:

Nor shall said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

Mr. BRIGGS. I am afraid this House is trying to do something which under the Constitution of the country we cannot do. In the first place, why are your calendars thronged with bills? Because the Constitution of your country says to all its citizens, if you have a grievance against the United States, you have the right to petition. That right you cannot take away. Now, if you had provided a tribunal, none of these claims would have been here. You are trying to do that by this bill.

The amendment suggested by the gentleman from Indiana [Mr. HOLMAN] proposes that a certain class of cases shall not be referred to the Court of Claims or any other court; that Congress shall still retain jurisdiction and control over those claims. I believe that the position occupied by the gentleman from Indiana is right. I believe it is in accordance with the public sentiment of this country.

Why, sir, the amendment proposed by the gentleman from Ohio [Mr. BUTTERWORTH] strikes down your statute of limitations, and every single war claim to-day is barred by those statutes. Do you propose to do that? If you do I cannot go with you. I have the statutes of limitations here applying to these various claims. They have all had their day in court. That day is passed and gone, and I ask you if you propose to renew it?

I have an amendment to propose to this bill which will obviate all these objections. It will not give these claims a day in court, but we can under it provide a tribunal to settle some claims and relieve Congress. By the amendment which I have suggested I propose to modify this bill so that no claim which accrued prior to August 20, 1866, the date when the proclamation took effect, shall be sent to the Court of Claims, but that such claims shall be left where they are.

I know it is said that will not relieve Congress. That is true, but I tell you if you pass this bill and without these restrictions, without these limitations, strike down all the statutes that stand to-day as a bar against them, you will have a bill to relieve the Treasury of the United States rather than to relieve members of Congress.

Mr. HOUK. And it ought to be relieved long enough to pay the honest debts of the Government.

The SPEAKER. The Chair will state that the hour allowed by the House for the introduction of amendments and debate thereon has expired. The Chair has made due allowance for the time given by unanimous consent to two members of the House; so that there has been occupied in all one hour and ten minutes in the discussion of amendments.

The first question is upon the amendment offered by the gentleman from Ohio [Mr. BUTTERWORTH] to the amendment of the gentleman from Indiana, [Mr. HOLMAN.] The Chair will state that the gentleman from Massachusetts [Mr. BOWMAN] is entitled to take his hour to close the debate at this time, or he can do so after the pending amendments have been voted on.

Mr. BUTTERWORTH. I ask that my amendment may be read.

The amendment was read, as follows:

Strike out of the first paragraph of the amendment of Mr. HOLMAN the following words:

"Nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States."

Mr. BUTTERWORTH. How will the amendment read if my amendment shall be adopted?

The Clerk read as follows:

The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction of or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use

and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war.

The question was taken on the amendment to the amendment, and it was not agreed to; upon a division—ayes 28, noes not counted.

The SPEAKER. The question now recurs on the amendment of the gentleman from Indiana, [Mr. HOLMAN.] A division of the question has been demanded, and the question will first be taken on the first proposition of the amendment, which the Clerk will read.

The Clerk read as follows:

SEC. —. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

Mr. SPRINGER. That is susceptible of further division, and I ask that a separate vote be taken on the last clause.

The SPEAKER. The House has just voted on a motion to strike out that clause and refused to do so.

Mr. BRIGGS. Is it in order for me to offer a substitute for that amendment?

The SPEAKER. No additional amendment or substitute is now in order.

Mr. TYLER. I desire to ask a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. TYLER. I wish to ask the gentleman from Indiana [Mr. HOLMAN] if his amendment should not come in after the second section instead of after the first section?

The SPEAKER. That is the proposition of the gentleman.

Mr. BOWMAN. I believe that the hour has commenced which is allotted to me under the rules to close the debate on this bill. I would inquire of the Chair if it is not in order for me to yield two minutes of that time to the gentleman from New Hampshire, [Mr. BRIGGS,] and for him to use that time to offer an amendment or do whatever else he may please?

The SPEAKER. It is not in order for the gentleman to yield at this time for the purpose of allowing amendments to be offered. It is in order for the gentleman to take his hour now, and to yield to whomever he pleases for debate only.

Mr. HOLMAN. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOLMAN. My point of order is this: certainly we on this side of the House, at least members in my immediate neighborhood, understood that the proposition of the gentleman from Massachusetts [Mr. BOWMAN] was that after the previous question was ordered an hour was to be taken for the introduction and discussion of amendments under the five-minute rule. Was it the understanding that in addition to that hour there was to be another hour to close the debate on this bill?

The SPEAKER. It was expressly stated by the gentleman from Massachusetts that after the hour for amendments was exhausted he would take the hour allowed him under the rule to close the debate, and he stated that he would make an equitable division of that hour among members of the House. The gentleman is now recognized for his hour under the rule.

Mr. BOWMAN. I ask consent of the House for the gentleman from New Hampshire [Mr. BRIGGS] to offer an amendment to perfect the bill, to be taken out of my time.

Mr. HOLMAN. If that consent is general I will have no objection.

Mr. HOUK. I object.

Mr. BUCK. I desire to offer an amendment.

The SPEAKER. It is not now in order.

Mr. BUCK. Is it not in order by unanimous consent?

The SPEAKER. It can be done by unanimous consent.

Mr. BUCK. Then I ask unanimous consent to offer an amendment at this time.

Mr. BOWMAN. I must object now.

The SPEAKER. The gentleman from Massachusetts will proceed.

Mr. BOWMAN. I yield ten minutes of my time to——

Mr. BUCK. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. BUCK. I submitted this amendment yesterday, and I understood from the ruling of the Chair that under the order of the House all amendments then offered were to be considered as pending.

The SPEAKER. The gentleman from Connecticut [Mr. BUCK] has fallen into some error on that point. The Chair expressly stated yesterday that the understanding was that the amendments presented were simply propositions which gentlemen designed to offer when occasion offered. To remove any doubt about the matter, the Clerk will read from the RECORD what was said by the gentleman from Massachusetts [Mr. ROBINSON] and by the Chair.

The Clerk read as follows:

Mr. ROBINSON, of Massachusetts. I infer that my colleague, recognizing the importance of this measure, does not expect to have a final vote on the proposition to-day. I therefore suggest that the different propositions to amend may be printed in the RECORD. I do not care about their being offered now, because that would trespass upon the matter of parliamentary practice, but they can be printed for information in the RECORD.

This is a complex matter; we want to proceed safely; and I hope that, without any rights being waived, the House may give consent that gentlemen may send up their amendments to be printed, so that we may see them in the morning.

The SPEAKER. The gentleman from Massachusetts [Mr. ROBINSON] asks unanimous consent for the printing in the RECORD of such amendments as gentlemen may propose to offer. Is there objection? The Chair hears none.

Mr. HASKELL. I ask unanimous consent to offer this amendment, which relates entirely to Indian affairs—Indian treaty stipulations—an amendment which has been agreed to by the Committee on Indian Affairs, and by the committee having charge of this bill. It is not an amendment of the class which the House has been debating. It refers merely to the investigation of Indian claims under treaty stipulations. I ask that it may be considered as pending.

The SPEAKER. Is there objection to the introduction of the amendment at this time?

Mr. STOCKSLAGER. I object, unless I can offer an amendment.

Mr. HASKELL. This amendment has the approval of two committees.

Mr. BOWMAN. I yield ten minutes to the gentleman from New Hampshire, [Mr. RAY.]

Mr. RAY addressed the House. [See Appendix.]

Mr. BOWMAN. I now yield for five minutes to the gentleman from Ohio, [Mr. BUTTERWORTH.]

Mr. BUTTERWORTH. Mr. Speaker, the object of the committee, at least one of the committees having this subject in charge, was to present a bill which would authorize the reference of all claims pending before Congress to a proper judicial tribunal in order that they might be heard and determined. It was the object of the committee, also, to prevent the prosecution in that Court of Claims by any claimant who was disloyal during the late rebellion. That they have attempted to do. Now, the amendment of the gentleman from Indiana, [Mr. HOLMAN,] if adopted in its present shape, thoroughly and effectually defeats the object and purpose of every bill pending before this House which looks to the transfer of claims now pending before Congress to the Court of Claims. I therefore oppose it. Nine-tenths of the claims prosecuted before Congress originated during the war and grew out of the war in some way or other. Whether a majority of those claims are just or not I do not pretend to say, but I do say, and I know I have the sympathy of both sides of the House in saying, wherever there is a just claim it ought to be adjudicated and the claimant paid. The bills pending before Congress seek to accomplish precisely that thing.

My friend from Indiana offers an amendment which seems to be generally acceptable to what appears to me to be a majority of this House, but which absolutely defeats the object and purpose of every bill introduced looking to the establishment of a tribunal for the adjudication of these claims, because his amendment provides, as does the bill of my friend from New Hampshire, [Mr. BRIGGS,] that no claim arising prior to August, 1865, shall be considered by the Court of Claims, and yet 90 per cent. of the claims pending before this House to-day and now in the several committees arose before that date. And it is for the purpose of transferring those very claims to the court that the several pending bills were introduced.

Now, in order that the Government may not be imposed on, we propose that no disloyal claimant shall be permitted to prosecute his claim in the Court of Claims, making his loyalty a jurisdictional question, to be heard and determined in the preliminary stages of the case. If he is disloyal he goes hence without day; if loyal, his claim shall be adjudicated as it ought to be.

It is urged by gentlemen that because many of these claims have been pending a long time they should not be paid; that inasmuch as justice has been long delayed it shall be withheld altogether. Strange proposition, that we shall plead our own wrong as an apology for committing a greater wrong.

There should be some tribunal to hear and determine wherever there is a wrong to be righted or an outrage to be redressed. The fact that Congress has so long refused a tribunal where men could prosecute their claims is a sad commentary upon the justice of Congress.

Mr. BRIGGS. Have they not had a tribunal?

Mr. BUTTERWORTH. Not at all. Wherever the claimant had a tribunal he has presented his claim. The only reason men come here for relief is because the legal tribunals were powerless to grant them relief.

You have a Pension Bureau which is authorized, according to the forms of law, to grant pensions; and yet on every Friday night you pass bills granting pensions to parties who were refused by the Commissioner of Pensions. Why? Because the established tribunal is not competent under the law to do justice. And thus it is with reference to other claims which are prosecuted before Congress. Our object and purpose is not to pay the claims of disloyal men, but to establish a tribunal to which these claims may be sent and sifted and examined, assorting the claims of loyal men and of honest men, and separating them from the claims of disloyal and dishonest men. The honest claims of loyal men will, as they ought to be, be reported favorably; while such as are not of that character will be rejected and thrown out. And the Government is justly censurable if it omits to accord to all men who have claims against it the same rights which are accorded to an individual to prosecute his claim against his neighbor.

And now I only want to say that I think it would be well to adjourn, as there seems to be a misunderstanding of this question, in order

that gentleman may have an opportunity to thoroughly consider it in all of its bearings before final action is taken upon it.

Mr. DWIGHT. A single word. It seems to me that we ought not to adjourn. I have tried as others have tried here to get an opportunity of saying something about the bill for the last two days, and have been shut off. Now, after discussing it clear through, it is proposed to adjourn. I object to that and hope it will not be done.

Mr. ROBESON. That would not prevent the gentleman from being heard. This would simply come up as unfinished business and the time would be reserved.

Mr. BOWMAN. I only want to call the attention of the House to a few facts in connection with the discussion that has taken place, and then I will yield, if the House desires it, for the motion to adjourn. [Cries of "No, let us finish the bill!"]

Mr. Speaker, every one has been saying and the newspapers have been complaining and clamoring that we need some relief from the pressure of private claims upon Congress. The committee which I represent come in here for two days, and bring in a bill which is debated and thoroughly discussed, and I may be permitted to say that I am utterly astonished at the misstatements concerning the bill and the misapprehension which seems to exist in the minds of gentlemen as to its results.

I hear members around me asking what jurisdiction the Court of Claims shall have, and what parties must come within the jurisdiction of that court. I hear other members saying that this bill strikes down the statute of limitations, and I hear others inquiring whether we part with our powers; and when I look at this little, simple bill, with very few provisions in it, I must confess that I am unable to see whence arises all of this misunderstanding. On this side of the House, as well as on the other side, a multitude of amendments and substitutes, which create confusion of ideas and prevent an understanding of what principles are involved, have been offered. Now, what is the bill which I have reported? It simply says this, and not one single other thing: it says, for example, in effect, if a committee of this House have for investigation a claim and they feel that the case is too complicated to enable them to give the time necessary to investigate it, they may say: "We have not time to look at the evidence; we cannot take the evidence properly; what will we do in such a case? Why, here is a bill by which we can send this case to the Court of Claims. We will ask that court to hear the evidence and report the facts existing." That is all there is of it.

I do not believe that there has been a single argument against the real provisions of the bill. That is all there is in the bill; and I would like to ask what objection there can be to that. You have the committees of Congress and you have the departments of the Government for the consideration of claims; they have the testimony, which they may not be able to examine as thoroughly as they should examine it, and they simply refer it to the Court of Claims. We do not allow the court to enter judgment. We do not allow the court to express an opinion. We do not allow the court to report a bill, but simply ask the court to report the facts, and that is all they can do. The facts are found and reported to Congress. These statements contain every answer to every question and argument that has been made, namely, that a committee which does not feel competent to examine the facts simply refers the matter to the Court of Claims to find the facts for them after hearing both sides, and that is all there is in this bill.

Why, the gentleman from New Hampshire says it strikes down the statute of limitations. It does not strike it down. It simply says that the court shall examine and report the facts.

Mr. BRIGGS. I would ask the gentleman to point out that section.

Mr. BOWMAN. Yes, sir; I point the gentleman to the section that says they shall report the facts. And now I ask the gentleman from New Hampshire to point out to me the section that strikes down the statute of limitations.

Mr. BRIGGS. Give me time to answer, and I will do it.

Mr. BOWMAN. The gentleman will not find the section.

Mr. BLAND. Will the gentleman yield to me for a question?

Mr. BOWMAN. Certainly.

Mr. BLAND. I wish to ask the gentleman what is gained by this bill? Do not the committees now examine cases, and are not our calendars filled with cases reported to us—cases which we will never reach? What is the use of referring these cases to the court? You cannot consider those which you now have on the calendars; why undertake to swell the number by setting another tribunal to try cases in the same line?

Mr. BOWMAN. I tell you what we gain. For example, I spent in the last Congress a whole fortnight in reading the depositions and evidence and writing a report upon a case which, if the facts had been before me, I could have decided in three hours.

Mr. BLAND. That is very true; but that is not the point. The committees have now examined and reported a large number of claims. The Calendar is full of them and the House never considers or passes upon them. My question is, What do you gain by instituting another tribunal to give you another report? If that court does not determine anything it merely gives you another calendar, when you do not dispose of the calendars you now have.

Mr. BOWMAN. In a great many of the cases, like that of restoring the record of a soldier the other day, or like the case last week of the record of a man as to disloyalty, the debate here for hour after hour is on the question of facts. Men get up and assert and deny facts and argue the facts back and forth. But when a case comes in here with a concise statement of facts from the Court of Claims, where they have been judicially ascertained, I think Congress can dispose of such a case as quickly as it disposes now of the pension cases.

Mr. BLAND. The committee now make their reports to the House of the facts.

Mr. BOWMAN. We spent two private bill days, if I remember aright, in disposing of one case, and almost the whole argument was on disputed questions of fact. We spent the last private bill day in discussing one case, and the whole argument was on a question of fact.

Mr. BLAND. But the committee had reported those cases, and it would be just as competent to act upon their report as on the report of the court. The whole question would still be open in any case, notwithstanding the report of a court.

Mr. BOWMAN. We have probably in the Committee on Claims a thousand cases to-day that cannot be even examined or the evidence read; and many of them are probably quite as just as any that have passed Congress.

Mr. BRAGG. Will the gentleman permit me to ask him a question?

Mr. BOWMAN. I claim my time. I beg the gentleman's pardon. Yesterday when I spoke I, with I believe my usual amiability, allowed the gentleman from Wisconsin to ask me questions, and everybody else who wished, and I tried to answer all those questions with politeness. And when this morning the gentleman, waving his arms toward me, said, "Does the gentleman from Massachusetts dare to say so and so?" and I got up and said I would like to reply, the gentleman very kindly said he would not allow me to say a word.

Mr. BRAGG. I beg the gentleman's pardon. I think I yielded to the gentleman for a question this morning once, twice, three times; and I offered to yield again for a question, but I declined to yield when the gentleman wished to make a speech.

Mr. BOWMAN. That is all there is in this bill, and I ask members to remember it. When a committee finds the facts in a case too complicated; when it has not the time; when it thinks it ought not to decide on partial evidence; when it wants the facts to be fully and properly tried, that committee of the House shall be allowed to ask a court with its officer, the Attorney-General, to find the facts. That is everything there is in this bill.

I heard the gentleman from Wisconsin [Mr. BRAGG] object to it; and it would be amusing, if it was not exasperating, to hear some gentlemen state their objections to this bill. I cannot answer the arguments of the gentleman from Wisconsin. I acknowledge it. There is no reply to them; for we have no common ground for the basis of argument. The gentleman from Wisconsin goes on the assumption that every one interested in or having anything to do with a claim intends to defraud the Government. He says this bill will defraud the Government. The assumption is that members of Congress are rascals; the examining committees are rascals; the Court of Claims are rascals, and the Attorney-General is a rascal. And when I said to him that we first examine these claims in the committee he, in substance, said, "Oh yes; I know how it is in committees; that is no protection." And when I said that we send it next to the Court of Claims he answers, "They will admit only *ex parte* testimony, and we cannot trust them; they will not hear the case as judges do in a court of law. But when I say there is another safeguard, that the Attorney-General shall be present in every case, the gentleman answers, "Oh yes, I know about the Attorney-General, and you cannot trust him." We have nothing now but Congress and committees, and when I say "we will get the additional safeguard of the Court of Claims and the Attorney-General," he says the object is to defraud the United States; and that those of us who favor this bill for additional safeguards will be buried under mountains of remorse and reproach, or will pray for the mountains to come down and cover us, or something of that sort.

Now, I turn away in despair from the search for an honest tribunal. I think the gentleman may be right. I cannot answer him. The Congress, committees, Courts of Claims, judges, and the Attorneys-General are all combined in gigantic fraud to cheat the United States whenever they can. I turn in despair to the gentleman from Wisconsin, and, hunting like Diogenes with his lantern, in vain for an honest man in Congress, in committee, in the Court of Claims, among the judges, in the Attorney-General's Department, I say to him in utter despair "Whom can we trust; where, oh, where can we find an honest man?" And that gentleman, pointing with pride to his manly breast, says "Behold me; gaze upon the very model of virtue, the only monument of honesty in a wicked Congress. Look upon me, the only genuine and original watch-dog of the Treasury." [Laughter and applause.]

For he himself has said it;
And it's greatly to his credit
That he is an honest man,
That he is an honest man.

Now, if we can only draft a bill here, leaving all these claims to the only honest man in Congress or the courts or the Departments, the gentleman from Wisconsin, [Mr. BRAGG,] making him supreme

and only judge in all these cases, I will cheerfully vote for that bill, because I shall feel so happy to know that we can get rid of all responsibilities and throw them into the arms of the only honest man, the only man who redeems the wickedness of the Court of Claims and its judges, of the Attorney-General's Office, of members of committees, and of all members of Congress. [Laughter.] If it is as he says, that we can trust no one, then I have nothing to say for this bill. But we now have to trust the committees of this House and of the other House; we have to trust Congress, and all I ask for this bill is that it may be passed as an additional safeguard—to obtain the opinion of the Court of Claims on the facts only, and nothing else in regard to these claims.

The question of limitation, I tell the gentleman from New Hampshire, [Mr. BRIGGS,] and he knows it, the question of limitation comes right back here to be decided again. He knows that the question of limitation is to be reported here to Congress. Do we not decide that finally? Do we not say finally whether any claim is a Southern claim; whether any claim is barred by limitation? There is not a single fact that we are precluded from deciding under this bill any more than we are in the first examination of these cases. And when gentlemen say the opposite, I say they are trying to envelop this bill in such a fog and cloud, to so hide the true features of it, that it shall be defeated here by the influence of unfounded passions and unfounded prejudices. Nothing can be simpler than this bill. I ask gentlemen to look at the Holman amendment. That Holman amendment provides, as to the great majority of cases, that only such claimants may go to the Court of Claims under this bill as can go to it already without coming to Congress. I presume that nine-tenths of all the cases before this Congress or in our committees are cases which can be barred out by the amendment of the gentleman from Indiana.

Now, I say it is but fair and honest to our committee who has reported this bill to stand up here and meet it fairly and squarely, and not dodge behind any little amendment which is intended to take the bowels out of the bill, and enable members to tell the country that they wanted to send all claims to the Court of Claims, but there was a little amendment made to the bill of such a character that they were obliged to vote against the bill itself.

As has been suggested, Mr. Speaker, the bill of the Committee on Claims is for relief of Congress and committees. It does not take away one safeguard, not a single safeguard, in relation to the laws of limitation, or in relation to anything else you please. It does not take away one single safeguard, but in addition to the present barriers, over and above the present barriers, we propose to erect two additional barriers—that of the Court of Claims and that of the Attorney-General. And yet gentlemen have the audacity to get up here and say that while we have now two fences to keep off these claims, one in Congress and the other in its committees, we, who favor this bill, are conspirators against the Government, seeking to defraud it, because we propose to put up two additional fences.

Having said heretofore to southern and other claimants, "You shall not obtain one cent of your money until you pass Congress and until you pass the committees of Congress," (that is the way it is now,) we propose to say to those claimants in the future, "Gentlemen, you have to pass Congress and its committees just as before, and you must also pass that one-headed Cerberus from Wisconsin, [laughter,] who goes against almost every claim, good, bad, and indifferent; you have now to pass the three barriers—Congress, its committees, and the member from Wisconsin." And then we say to them, "You must also pass two other barriers which you have never had to pass before. You must pass the judges of the Court of Claims, and see what they say; and if they sit heavily down on you, you can never breathe again. Besides that, you must pass the Attorney-General, and we say to you that if he sits down on you, you cannot breathe again or recover your claim." Yet gentlemen have the huge, sublime, colossal audacity to stand up here and say that we are breaking down the sacred safeguards which have been erected around the Treasury of the United States.

Now that, gentlemen, is all there is in this bill. This bill does not hinder the passage of any general law, any law of limitations, any law you may please to pass for further safeguards. And I do ask this House, if it does not now understand this bill, if members do not believe what I have said, if they have not read this bill in order to see if I state the exact and simple truth in every respect, I ask this House to adjourn and go home, and on Sunday read the bill and perhaps pray over it, if any are of Puritanic stamp. [Laughter.] And then they can come back here on Monday with their minds cleared by needed recreation and worship, and give this bill a good, honest examination and support it, pure and simple, just as it is. Then afterward they can try all the experiments they please about laws of limitation, southern claims, jurisdiction of the Court of Claims, or about sending cases to the district courts or anywhere else.

But I submit that we cannot justify ourselves before the country if we do not pass at least a simple measure like this, without any wrong in it; pass such a bill as this, against which no honest objection has been raised on this floor to-day; against which no single objection has been made that has any foundation whatever, either in fact or in law.

Mr. HAMMOND, of Georgia. Will the gentleman allow me to make a suggestion?

Mr. BOWMAN. Certainly.

Mr. HAMMOND, of Georgia. There is now remaining of your time some twenty-five minutes. It is now getting late, and we would all like to get our bearings upon this matter before voting. With the permission of the gentleman I will move that the House now adjourn.

Many MEMBERS. Oh, no.

The SPEAKER. Does the gentleman from Massachusetts yield for that motion?

Mr. BOWMAN. I will yield for that purpose.

Mr. HAMMOND, of Georgia. Then I move that the House do now adjourn.

The question was taken upon the motion to adjourn, and upon a division there were—ayes 54, noes 73.

Before the result of this vote was announced,

Mr. HAMMOND, of Georgia. I call for the yeas and nays.

The yeas and nays were not ordered.

So the motion to adjourn was not agreed to.

Mr. BOWMAN. Mr. Speaker, I have but a word more to say. All I ask here is fair treatment. I ask the members of this House to look this bill squarely in the face, and either take it as it is or vote it down.

Mr. BURROWS, of Michigan. Will the gentleman please answer the question of the gentleman from Missouri—how this bill can furnish the House any relief?

Mr. BOWMAN. Mr. Speaker, I thought I had answered that question two or three times. In the first place, it will afford the committee relief; and that is worth something.

Mr. BURROWS, of Michigan. That is not needed.

Mr. BOWMAN. The gentleman will excuse me; it is needed. If the gentleman had served upon the Committee on Claims in two Congresses—had worked night and day; had spent weeks in writing reports upon bills which are never reached—he might take a different view.

Mr. BURROWS, of Michigan. I do not mean to intimate that the committees have not hard work to do; but they do more work than this House can dispose of.

Mr. BOWMAN. A committee like the Committee on Claims does not do any work, I might say, as it ought to be done. Every member must know that it is no satisfactory kind of work to take up letters, certificates, *ex parte* affidavits, and, because you can get nothing better, decide a case in that way, and then call it legal work.

Mr. BURROWS, of Michigan. One other question. Is it the intention of the gentleman that the House shall take the reports of the Court of Claims and pass all these claims without examination, as 1,300 were passed the other day in one bill?

Mr. BOWMAN. That was not the judgment of a court.

Mr. BURROWS, of Michigan. My point is this: if it is your purpose to examine these reports when they come from the Court of Claims, no relief will be afforded. If we are not to examine the reports of the court, but its adjudications are to be taken as a final settlement of the facts reported upon, then I am opposed to the bill. I say it ought not to pass.

Mr. BOWMAN. I will answer the gentleman by saying that the committees would do as they do now. Every member according to his conscience would decide as to what extent the case should be re-examined. I ask the gentleman whether it is not safer, even if we do not go behind the judgment of the court, to pass the measure upon the faith of that examination, than to undertake to decide cases here upon *ex parte* affidavits without any cross-examination of witnesses, or anything approaching a judicial investigation?

Mr. BUCKNER. I rise to a point of order. I understood it was unanimously agreed by the House that the time given to the discussion of this bill should be equally divided.

The SPEAKER. The Chair will state to the gentleman that there was no agreement as to the division of time. There was a statement as to how this hour would be divided.

Mr. HOUSE. Mr. Speaker, I certainly understood that the hour was to be equitably divided.

Mr. BOWMAN. It was.

Mr. HOUSE. I desire not to consume time unnecessarily but to show the distinctive difference between my substitute and the bill of the gentleman from Massachusetts. His bill, in my opinion, will give this House no relief whatever.

The SPEAKER. Does the gentleman from Massachusetts [Mr. BOWMAN] yield?

Mr. BOWMAN. How much time have I?

The SPEAKER. Sixteen minutes.

Mr. BOWMAN. Mr. Speaker, I said that this hour would be equitably divided. I meant to divide it among gentlemen who might hand me their names—not to claim it all myself. How much time does the gentleman from Tennessee [Mr. HOUSE] want?

Mr. HOUSE. How much of the hour remains?

The SPEAKER. Sixteen minutes.

Mr. HOUSE. I do not want any more than that. [Laughter.]

Mr. BOWMAN. I will reserve six minutes, yielding the residue to the gentlemen from Tennessee.

The SPEAKER. The gentleman from Tennessee is recognized for ten minutes.

Mr. HOUSE. Mr. Speaker, at this late hour in the evening and

in the present mood of the House I shall not undertake to go into anything like an extended discussion of distinctive differences between my substitute and the bill of the gentleman from Massachusetts. In the first section of the substitute it is announced as the policy of Congress to pay no more money from the public Treasury on *ex parte* testimony. It is then provided that every claimant desiring to do so may, without first coming to Congress, file his petition in the Court of Claims and have the facts of his case judicially investigated—of course at his own expense—so that when he enters Congress with his claim he can exhibit the facts as judicially established in a court where he has had a chance to produce his evidence and the Government has had the opportunity to cross-examine his witnesses.

The bill further provides that every private claim now in the committee-rooms of Congress requiring an investigation of facts shall be sent to the Court of Claims to be investigated. The gentleman from Massachusetts said yesterday that we proposed to send the carts up here and take all these claims out. Yes, I say take them out. They have the dust of ages on them. A ray of sunlight or a breath from heaven has not visited them for years. Take them down to the Court of Claims and all the honest claimants will there have their facts judicially investigated. And my word for it, nine-tenths of them will never be heard of again.

That is what Chief-Justice Drake's opinion is. He says that when the Court of Claims was established in 1855 cart-loads of papers were sent down there, but in some mysterious way they disappeared. Why? Because the fraudulent claimant now before you under cover of *ex parte* affidavits never will dare to have the light of judicial investigation turned upon his claim. Send them all out of here.

The bill of the gentleman from Massachusetts says that a committee of the House may have the privilege of sending them. The committee has to investigate the case before they know whether or not it should be sent there. Your committee-room will be as much crowded in the future as in the past.

What do you want with them here? You are not going to give relief on *ex parte* testimony. Then let them all go there, and men who have honest claims will continue to prosecute them and have their proof taken, and the court will report back to Congress.

In my humble opinion, if this substitute is adopted, you will get rid of this great evil and burden now pressing upon Congress. The gentleman from Massachusetts took occasion to say, yesterday, that the Court of Claims had examined his bill and given it their approbation. I will state that my substitute has been carefully examined by every member of that court, and that it meets their approbation, and will, in their opinion, relieve Congress and relieve the honest claimants.

I believe, if the House will adopt this substitute, you will get rid of the burdens which now press upon you; that honest men will have an opportunity to be decently heard in prosecuting their claims against the Government, and that dishonest men will find it impossible to perpetrate a fraud upon it.

I would like to go through the sections of this substitute, Mr. Speaker, but I did that to some extent yesterday and I have no time to do it now.

Now, in the consideration of this substitute the Committee on Reform in the Civil Service invited all the committees of this House having charge of bills of this character, and there were deputations from the Committees on Claims, War Claims, Judiciary, and perhaps some others, and I understood this substitute met the approbation of all of them.

I do not pretend to say it is perfect; I do not pretend to say in its practical operations imperfections may not be developed which will be required thereafter to be corrected; but I believe it is a step in the right direction, and that if adopted honest claimants will have a chance to obtain relief and these private claims will cease to clog our committee-rooms and our Calendar to the exclusion of the public business. [Applause.]

Mr. BOWMAN. I now yield for two minutes to the gentleman from New Hampshire.

Mr. RAY. Mr. Speaker, I desire to make a remark or two in answer to the question put by my excellent friend from Michigan, [Mr. BURROWS.] I admit if Congress should not act on the reports of the Court of Claims made in cases referred to it pursuant to the provisions of this bill, not much good will come to honest claimants through its adoption. When a reference is made to that court by a committee to find and report the facts in a given case, the witnesses will be subjected to direct and cross-examinations by opposing counsel, and their testimony taken down in writing; then that evidence will be heard and considered by the court, aided by the arguments of counsel, after which the court's record of the facts found is made up and sent back here for final action.

The last section of this bill provides that these findings of fact of the Court of Claims when reported to Congress shall be continued from session to session and from Congress to Congress until the claim is finally disposed of. This would relieve the claimants on the one hand and the Government on the other, as well as Congress to that extent. The testimony all being taken, filed for reference, and a judicial finding of the facts made and recorded, the whole matter comes before Congress for action. If Congress then refuses to act—to perform its plain duty—we cannot help it. It will not be the fault of this House. Such a contingency is improbable and affords no sound reason why we should neglect to act in this important matter and perform the duties devolving upon us. I will not assume that future Congresses will abnegate their duties and therefore omit the performance of my own duty. The same objection may be urged against the bill proposed by the gentleman from Tennessee, [Mr. HOUSE.] His bill provides substantially for the same course of procedure.

Mr. HAZELTON. I would like to ask the gentleman how Congress is to be relieved unless we accept the findings of the Court of Claims?

Mr. RAY. It will not relieve Congress practically.

Mr. HAZELTON. That is what I expected.

Mr. RAY. We must accept these findings or we shall get no practical relief.

Mr. HAZELTON. Then the judgment should be made available and not reported back here at all.

Mr. RAY. Congress will accept these findings and act upon them in a large majority of cases. I see no reason why findings of fact carefully and deliberately made by that court should not receive as much faith and credit as Congress gives to judgments rendered in causes now within that court's jurisdiction. Such judgments, I am advised, are commonly paid without objection by a provision for that purpose included in a general appropriation bill.

Mr. MOORE. Mr. Speaker, I ask for only two minutes in order to say that any refusal of the Government of the United States to at least give its loyal citizens, no matter what portion of the country they may inhabit, an opportunity to present for redress any grievances of which they may complain is a doctrine that cannot receive my indorsement. The government of a great country like this, noted for its enlightened and Christian character, cannot afford to wrong its loyal citizens by any course that will deny to them this right before some tribunal—I am not prepared to say what tribunal is most proper—that will be competent to pass judicial judgment upon the merits of each case.

If the loyal citizens of the South, who during the rebellion suffered all the tortures of the damned, are not worthy, then I am at a loss to imagine any class of people who do deserve any recognition at the hands of a great and good government.

Mr. BOWMAN. In the few minutes remaining to me, Mr. Speaker, I only want to appeal to the House for fair and honest treatment of the committee bill, which I represent. I want to say a few words in conclusion in regard to this bill which has been the result of a great deal of care and attention on the part of the committee, and I ask for it fair and honest consideration on its merits and without prejudice. It has been pointed out that the Holman amendment is like the Trojan horse, by which the enemy came in and destroyed the city. I agree that that amendment would defeat the principal object, or rather benefit of the bill. The Holman amendment renders it almost worthless. It provides in fact that large classes of claims which come to Congress shall not go to the Court of Claims. It has other objectionable features, but in the moment or two I have remaining I cannot point them out. All that is necessary to say is that it is an almost utter destruction of the objects sought to be accomplished by the bill. It will work harm instead of good. I ask the House to vote that amendment down. Then I ask the House to come to a square vote on the House bill, or substitute, and then, perhaps, we can have a vote fairly and squarely to our conscientious convictions upon the bill reported from the Committee on Claims.

If the House desires to vote to allow every claim to go into the Court of Claims and for reviving the Southern claims commission, they will vote for the substitute; but if they do not desire this, if they do not desire to open an unrestricted avenue for the reception of all these worthless and rejected claims, then I ask them to vote that bill down and give us a square vote on the bill reported from the committee. It is a simple, compact bill. I have referred to its provisions and need not now take up the time of the House to again discuss them. I hope they are thoroughly understood, and if they are I believe there will be no objection to the passage of the bill.

I am now ready to ask the House to vote upon the passage of the bill.

Mr. STOCKSLAGER. I desire to be permitted to print some additional remarks upon the pending bill. [See Appendix.]

Mr. KENNA. My colleague [Mr. HOGE] who has given a great deal of attention to this matter, I know desired to present some remarks also upon this bill, and I make the same request in his behalf. [See Appendix.]

The SPEAKER. Without objection, both requests will be granted.

The question now is on the amendment of the gentleman from Indiana, which amendment the gentleman desires to divide and have voted upon separately.

Mr. BRAGG. I move that the bill and pending amendments be committed to the Judiciary Committee of this House.

The SPEAKER. That motion is not in order at this time.

Mr. BRAGG. If we wait until after we have voted upon all the amendments there will be no amendment to commit. When the voting commences, and after the debate has closed, then it seems to me that the proper time has come to make the motion.

The SPEAKER. The gentleman from Wisconsin may make an able argument against the rule, but the rule allows the motion to commit with or without instructions after the previous question has been ordered on the passage of the bill. That condition has not yet been reached. The previous question has been ordered on the bill and pending amendments, which exhausts itself on the third reading of the bill; and the motion to recommit is not in order at this time. The first question is upon the first clause of the amendment of the gentleman from Indiana.

Mr. BRAGG. Will it be in order after we have passed through all the stages up to the point indicated by the Speaker to make the motion?

The SPEAKER. Undoubtedly; that is the rule of the House.

Mr. BRAGG. I am anxious to make that motion, because I see the gentleman from Massachusetts desires to relieve the Democratic party of the necessity of answering for war claims in the next campaign.

The SPEAKER. The amendment of the gentleman from Indiana will be read.

The Clerk read as follows:

SEC. —. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

The SPEAKER. The question is on agreeing to this proposed amendment.

Mr. HOLMAN. I thought the gentleman from Ohio had moved to strike out the first part of that amendment.

The SPEAKER. That motion was voted down.

The House divided; and there were—ayes 54, noes 63.

Mr. BRAGG. I call for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. BUCKNER. I move that the House do now adjourn.

The question being taken on the motion to adjourn, there were—ayes 69, noes 83.

Mr. BUCKNER. I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 15; not a sufficient number.

So the yeas and nays were not ordered, and the House refused to adjourn.

The SPEAKER. The question recurs on agreeing to the first branch of the amendment offered by the gentleman from Indiana, [Mr. HOLMAN,] on which the yeas and nays have been ordered.

Mr. DUNNELL. I ask for the reading of that part of the amendment again.

The SPEAKER. That can only be done by unanimous consent.

Mr. CAMP. I object.

Mr. SPRINGER. There are two distinct propositions enunciated in the first part of the amendment of the gentleman from Indiana. I am in favor of one and not of the other, and I ask for a division of the question.

The SPEAKER. The demand of the gentleman is made too late. The yeas and nays have been ordered.

Mr. SPRINGER. I have a right to demand a division of any proposition on which I am called to vote.

The SPEAKER. The gentleman did not call for a division until the yeas and nays had been ordered on the whole proposition.

Mr. HOUSE. Let the portion of the amendment on which we are to vote be read, that it may be known what we are voting on.

The SPEAKER. It is the first branch of the amendment offered by the gentleman from Indiana, [Mr. HOLMAN.] It has been twice or thrice read. The Clerk will call the roll.

The question was taken; and there were—yeas 103, nays 88, not voting 100; as follows:

YEAS—103.

Aldrich,	De Motte,	Ladd,	Russell,
Anderson,	Deuster,	Le Fevre,	Ryan,
Armfield,	Dingley,	Lord,	Scranton,
Bayne,	Dwight,	Matson,	Shallenberger,
Beach,	Ermentrout,	McCoid,	Sherwin,
Bingham,	Farwell, Sewell S.	McCook,	Singleton, Jas. W.
Blount,	Flower,	McKinley,	Skinner,
Bragg,	Ford,	Miller,	Smith, A. Herr
Brewer,	Godshalk,	Mills,	Smith, J. Hyatt
Briggs,	Gunter,	Morrison,	Sparks,
Browne,	Harris, Henry S.	Morse,	Spaulding,
Buchanan,	Haskell,	Moulton,	Springer,
Buck,	Hatch,	Mutchler,	Steele,
Burrows, Julius C.	Hawk,	Norcross,	Stockslager,
Burrows, Jos. H.	Hazelton,	Orth,	Strait,
Calkins,	Henderson,	Page,	Thompson, Wm. G.
Campbell,	Herndon,	Payson,	Townsend, Amos
Cannon,	Holman,	Peelle,	Townshend, R. W.
Caswell,	Horr,	Peirce,	Tyler,
Colerick,	Humphrey,	Randall,	Updegraff, Thomas
Converse,	Jones, James K.	Ranney,	Van Voorhis,
Cravens,	Kasson,	Rice, Theron M.	Walker,
Cullen,	Kelley,	Richardson, D. P.	Webber,
Davis, George R.	Ketcham,	Ritchie,	West,
Davis, Lowndes H.	Klotz,	Robeson,	Wheeler.
Dawes,	Lacey,	Robinson, Geo. D.	

NAYS—88.

Atkins,	Dowd,	Jorgensen,	Scoville,
Barbour,	Dunn,	Kenna,	Shackelford,
Blanchard,	Dunnell,	Latham,	Simonton,
Bland,	Evins,	Lewis,	Singleton, Otho R.
Bliss,	Finley,	Manning,	Smith, Dietrich C.
Bowman,	Forney,	McClure,	Stone,
Caldwell,	Fulkerson,	McMillin,	Thompson, P. B.
Candler,	Garrison,	Money,	Tillman,
Carlisle,	Hall,	Moore,	Tucker,
Chalmers,	Hammond, N. J.	Neal,	Turner, Henry G.
Clardy,	Harris, Benj. W.	Parker,	Updegraff, J. T.
Clark,	Haseltine,	Paul,	Upson,
Clements,	Heilman,	Pettibone,	Urner,
Cook,	Hepburn,	Phelps,	Vance,
Cox, William R.	Herbert,	Pound,	Van Aernam,
Crapo,	Hewitt, Abram S.	Ray,	Warner,
Culberson,	Hooker,	Reagan,	Wellborn,
Darrell,	Houk,	Reed,	White,
Davidson,	House,	Rich,	Whitthorne,
Dezendorf,	Hubbs,	Richardson, Jno. S.	Williams, Thomas
Dibble,	Jadwin,	Robertson,	Willis,
Dibrell,	Jones, George W.	Robinson, James S.	Wise, George D.

NOT VOTING—100.

Aiken,	Deering,	Joyce,	Ross,
Atherton,	Dugro,	King,	Scales,
Barr,	Ellis,	Knott,	Shelley,
Belford,	Errett,	Leedom,	Shultz,
Belmont,	Farwell, Chas. B.	Lindsey,	Speer,
Beltzhoover,	Fisher,	Marsh,	Spooner,
Berry,	Frost,	Martin,	Stephens,
Black,	Geddes,	Mason,	Talbott,
Blackburn,	George,	McKenzie,	Taylor,
Brumm,	Gibson,	McLane,	Thomas,
Buckner,	Grout,	Miles,	Turner, Oscar
Butterworth,	Guenther,	Morey,	Valentine,
Cabell,	Hammond, John	Mosgrove,	Van Horn,
Camp,	Hardenbergh,	Muldrow,	Wadsworth,
Carpenter,	Hardy,	Murch,	Wait,
Cassidy,	Harmer,	Nolan,	Ward,
Chace,	Hewitt, G. W.	Oates,	Washburn,
Chapman,	Hill,	O'Neill,	Watson,
Cobb,	Hiscock,	Pacheco,	Williams, Chas. G.
Cornell,	Hoblitzell,	Phister,	Willits,
Cox, Samuel S.	Hoge,	Prescott,	Wilson,
Covington,	Hubbell,	Rice, John B.	Wise, Morgan R.
Crowley,	Hutchins,	Rice, William W.	Wood, Benjamin
Curtin,	Jacobs,	Robinson, Wm. E.	Wood, Walter A.
Cutts,	Jones, Phineas	Rosecrans,	Young.

So the first part of Mr. HOLMAN's amendment was adopted.

The following pairs were announced:

Mr. CORNELL with Mr. BUCKNER.

Mr. SCALES with Mr. ERRETT.

Mr. WATSON with Mr. HARDY.

Mr. RICE, of Massachusetts, with Mr. WILSON.

Mr. FARWELL, of Illinois, with Mr. MARTIN.

Mr. HISCOCK with Mr. BLACKBURN.

Mr. WAIT with Mr. HOGE.

Mr. SPOONER with Mr. BLACK.

Mr. WILLITS with Mr. KNOTT.

Mr. HILL with Mr HARDENBERGH.

Mr. MULDROW with Mr. MILES.

Mr. WISE, of Pennsylvania, with Mr. BRUMM.

Mr. LEEDOM with Mr. SHULTZ.

Mr. JOYCE with Mr. CURTIN.

Mr. RICE, of Ohio, with Mr. GEDDES.

Mr. VALENTINE with Mr. ATHERTON.

Mr. WARD with Mr. AIKEN.

Mr. HARMER with Mr. TALBOTT.

Mr. HAMMOND, of New York, with Mr. BELMONT.

Mr. MARSH with Mr. MCKENZIE.

Mr. KING with Mr. CARPENTER.

Mr. MOREY with Mr. CONVERSE.

Mr. ELLIS with Mr. BUTTERWORTH.

Mr. COVINGTON with Mr. CUTTS.

Mr. STEPHENS with Mr. W. A. WOOD.

Mr. NOLAN with Mr. CROWLEY.

Mr. PRESCOTT with Mr. SHELLEY.

Mr. DUGRO with Mr. YOUNG.

Mr. DEERING with Mr. PHISTER.

Mr. LINDSEY with Mr. COBB.

Mr. HUBBELL with Mr. CAMP.

Mr. FISHER with Mr. ROSECRANS.

Mr. CAMP. I am paired with Mr. HUBBELL, of Michigan. Having been informed he would vote "ay" on this proposition, I voted; but being somewhat in doubt, I desire to withdraw my vote.

Mr. HOLMAN. I wish to say my colleague, Mr. COBB, has been called home by sickness in his family.

Mr. CONVERSE. The Clerk in reading the pairs failed to show my pair with Mr. MOREY referred to political questions alone.

On motion of Mr. CAMP, by unanimous consent, the reading of the names was dispensed with.

The result of the vote was then announced as recorded above.

Mr. HOLMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. UPDEGRAFF, of Iowa. I now move that the bill, amendments, and substitute be laid upon the table.

Mr. HOOKER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. Will it now be in order to move that the bill and amendments and substitute be referred to a committee?

The SPEAKER. That motion would not be in order at this time.

Mr. UPDEGRAFF, of Iowa. I insist on my motion that the bill and pending amendments and substitute therefor be laid on the table.

The question being taken on the motion of Mr. UPDEGRAFF, of Iowa, there were ayes 34, noes not counted.

So the motion was not agreed to

The SPEAKER. The question recurs upon the second proposition contained in the amendment submitted by the gentleman from Indiana.

Mr. HOOKER. I move that the House now adjourn.

The motion to adjourn was not agreed to; upon a division—ayes 40, noes 75.

The SPEAKER. The Clerk will now read the second proposition contained in the amendment of the gentleman from Indiana, which is the next question in order at this time.

The Clerk read as follows:

SEC. —. In any case for a claim for supplies or stores taken by or furnished to any part of military or naval forces of the United States for their use during the late war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact, and unless the said court shall, on a preliminary inquiry, find that the person who furnished such supplies or stores, or from whom the same were taken as aforesaid, was loyal to the Government of the United States throughout said war, the court shall not have jurisdiction of such cause, and the same shall, without further proceedings, be dismissed.

The amendment was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BUCK. I now ask unanimous consent to offer at this time an amendment in regard to claims growing out of Indian treaties.

The SPEAKER. That requires unanimous consent. Is there objection?

Mr. BLAND. I object.

Mr. HOLMAN. I hope the gentleman will allow the amendment to be read.

Mr. HASKELL. The amendment has been carefully considered and approved by two committees of this House.

Mr. REED. Let the amendment be read.

The SPEAKER. Objection is made to the amendment by the gentleman from Missouri, [Mr. BLAND.] The question now recurs upon the substitute offered by the gentleman from Tennessee [Mr. HOUSE] for the bill as it has been amended.

Mr. HOLMAN. I offered an amendment last evening, as the RECORD will show, to strike out the fourth section of the substitute and insert the two sections which I have indicated.

Mr. HOUSE. Those sections were offered as an amendment to the original bill.

Mr. HOLMAN. And also to the substitute.

The SPEAKER. The Chair understood that the amendment offered by the gentleman from Indiana was offered for printing in the RECORD, as other amendments were offered to be so printed.

Mr. HOLMAN. No, sir; I claim the power and offered it as an amendment to the substitute.

The SPEAKER. The Chair does not think that when a measure was not under consideration at all, was not before the House at the time, it would be in order to offer an amendment to it.

Mr. HOLMAN. The subject was up for discussion, and just before the recess was taken yesterday afternoon I arose and offered the amendment.

The SPEAKER. There was general debate going on at that time; but the substitute was not then being considered.

Mr. HOLMAN. No objection was then made to its being offered.

Mr. HOUSE. I object to it.

Mr. HOLMAN. If it is not received as an amendment to the substitute, it seems to me that it would be taking a very improper advantage of a member. I offered the amendment in the usual way.

The SPEAKER. The Chair observes, by reference to the RECORD, that at the time the amendment was proposed to be offered, as the gentleman states, the Chair announced to the House that the amendment would be received and printed in the RECORD under the order of the House. The Chair did not understand that it was offered as a pending amendment to the substitute. The Chair does not understand that such an amendment would have been in order at that time.

Mr. HOLMAN. I understood that it was accepted as a pending amendment.

The SPEAKER. Perhaps from some misunderstanding of what the purpose of the gentleman was the Chair regarded the amendment as offered in the same way as a large number of other amendments had been offered. And the Chair directed that under the order of the House it should be printed in the RECORD.

Mr. HAZELTON. Oh, let it go.

The SPEAKER. The question is upon the substitute offered by the gentleman from Tennessee, [Mr. HOUSE.]

The question was taken; upon a division there were—ayes 74, noes 86.

Before the result of the vote was announced,

Mr. HOUSE called for the yeas and nays.

Mr. SPRINGER. Let us have tellers; that will do.

Mr. ROBESON. Oh, no; let us have the yeas and nays.

Mr. HAZELTON. They want the yeas and nays over there, and let them have them.

The question was taken upon ordering the yeas and nays; and there were 36 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

Mr. MILLS. I move that the House do now adjourn.

The motion was not agreed to; upon a division—ayes 66, noes 73.

Mr. HOLMAN. Is it now in order to move to recommit this bill with the pending substitute?

The SPEAKER. It is not in order now.

Mr. HOLMAN. I wish to call the attention of the House to the fact that the RECORD shows clearly——

Many MEMBERS. Regular order! Call the roll!

The SPEAKER. The Clerk will call the roll on the substitute of the gentleman from Tennessee.

The question was taken; and there were—yeas 86, nays 97, not voting 108; as follows:

YEAS—86.

Armfield,	Dunn,	Latham,	Singleton, Otho R.
Atkins,	Dunnell,	Lewis,	Smith, Dietrich C.
Barbour,	Evins,	Manning,	Sparks,
Blanchard,	Finley,	McMillin,	Speer,
Bland,	Ford,	Mills,	Springer,
Bliss,	Forney,	Money,	Tillman,
Blount,	Fulkerson,	Moore,	Tucker,
Buchanan,	Gunter,	Morrison,	Turner, Henry G.
Caldwell,	Hammond, N. J.	Moulton,	Upson,
Chalmers,	Harris, Henry S.	Mutchler,	Urner,
Chapman,	Hatch,	Neal,	Vance,
Clardy,	Herbert,	Orth,	Van Aernam,
Clark,	Herndon,	Paul,	Warner,
Clements,	Hewitt, Abram S.	Pettibone,	Wellborn,
Cook,	Houk,	Phelps,	Wheeler,
Cox, William R.	House,	Randall,	White,
Cravens,	Hubbs,	Reagan,	Whitthorne,
Culberson,	Jones, George W.	Richardson, Jno. S.	Williams, Thomas
Darrell,	Jones, James K.	Robertson,	Willis,
Dibble,	Jorgensen,	Sceville,	Wise, George D.
Dibrell,	Kenna,	Shackelford,	
Dowd,	Klotz,	Simonton,	

NAYS—97.

Aldrich,	Davis, Lowndes H.	Lacey,	Ryan,
Anderson,	Dawes,	Ladd,	Scranton,
Bayne,	De Motte,	Lord,	Shallenberger,
Beach,	Deuster,	McCoid,	Sherwin,
Bingham,	Dezendorf,	McCook,	Singleton, Jas. W.
Bowman,	Dingley,	McKinley,	Skinner,
Bragg,	Dwight,	Miller,	Smith, A. Herr
Brewer,	Ermentrout,	Morse,	Smith, J. Hyatt
Briggs,	Farwell, Sewell S.	Norcross,	Spaulding,
Browne,	Flower,	Page,	Steele,
Buck,	Godshalk,	Payson,	Stockslager,
Burrows, Julius C.	Hall,	Peelle,	Stone,
Burrows, Jos. H.	Harris, Benj. W.	Peirce,	Strait,
Calkins,	Haseltine,	Pound,	Thompson, P. B.
Camp,	Haskell,	Ranney,	Townsend, Amos
Campbell,	Hawk,	Ray,	Tyler,
Candler,	Hazelton,	Reed,	Updegraff, J. T.
Cannon,	Hepburn,	Rice, Theron M.	Updegraff, Thomas
Caswell,	Holman,	Rich,	Van Voorhis,
Colerick,	Horr,	Richardson, D. P.	Walker,
Converse,	Humphrey,	Ritchie,	Webber,
Cox, Samuel S.	Jacobs,	Robeson,	West.
Crapo,	Jadwin,	Robinson, Geo. D.	
Cullen,	Kelley,	Robinson, James S.	
Davis, George R.	Ketcham,	Russell,	

NOT VOTING—108.

Aiken,	Errett,	King,	Rosecrans,
Atherton,	Farwell, Chas. B.	Knott,	Ross,
Barr,	Fisher,	Leedom,	Scales,
Belford,	Frost,	Le Fevre,	Shelley,
Belmont,	Garrison,	Lindsey,	Shultz,
Beltzhoover,	Geddes,	Marsh,	Spooner,
Berry,	George,	Martin,	Stephens,
Black,	Gibson,	Mason,	Talbott,
Blackburn,	Grout,	Matson,	Taylor,
Brumm,	Guenther,	McClure,	Thomas,
Buckner,	Hammond, John	McKenzie,	Thompson, Wm. G.
Butterworth,	Hardenbergh,	McLane,	Townshend, R. W.
Cabell,	Hardy,	Miles,	Turner, Oscar
Carlisle,	Harmer,	Morey,	Valentine,
Carpenter,	Heilman,	Mosgrove,	Van Horn,
Cassidy,	Henderson,	Muldrow,	Wadsworth,
Chace,	Hewitt, G. W.	Murch,	Wait,
Cobb,	Hill,	Nolan,	Ward,
Cornell,	Hiscock,	Oates,	Washburn,
Covington,	Hoblitzell,	O'Neill,	Watson,
Crowley,	Hoge,	Pacheco,	Williams, Chas. G.
Curtin,	Hooker,	Parker,	Willits,
Cutts,	Hubbell,	Phister,	Wilson,
Davidson,	Hutchins,	Prescott,	Wise, Morgan R.
Deering,	Jones, Phineas	Rice, John B.	Wood, Benjamin
Dugro,	Joyce,	Rice, William W.	Wood, Walter A.
Ellis,	Kasson,	Robinson, Wm. E.	Young.

So the substitute of Mr. HOUSE was not agreed to.

The following additional pairs were announced from the Clerk's desk:

Mr. WILLIAMS, of Wisconsin, with Mr. DAVIDSON.

Mr. HOOKER with Mr. KASSON.

Mr. BURROWS, of Missouri, with Mr. BLAND.

The result of the vote was announced as above stated

Mr. ROBESON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BUCK. I ask unanimous consent to offer an amendment to the bill.

Several members objected.

The bill was ordered to be engrossed for a third reading; and was accordingly read the third time.

Mr. BOWMAN. I demand the previous question on the passage of the bill.

Mr. BRAGG. I move to refer the bill to the Committee on the Judiciary.

Mr. SPRINGER. With leave to report at any time.

The SPEAKER. The motion of the gentleman from Wisconsin [Mr. BRAGG] is in order, but not with the addition suggested by the gentleman from Illinois, [Mr. SPRINGER.]

Mr. BOWMAN. I rise to a parliamentary inquiry. Having obtained the floor for the purpose of moving the previous question, I did so. Does the motion to commit take precedence?

The SPEAKER. It does.

Mr. HOLMAN. I move to amend the motion by inserting instead of the Committee on the Judiciary the Committee on War Claims, which I think is the proper committee for the bill to go to.

Mr. BRAGG. I will accept that amendment as a modification of my motion.

The SPEAKER. The Chair thinks the motion of the gentleman from Wisconsin [Mr. BRAGG] is not amendable; but if the gentleman modifies it the Chair will entertain it as modified.

Mr. CALKINS. I hope the gentleman from Wisconsin will not accept the modification.

Mr. BRAGG. I stand by my original motion to refer the bill to the Judiciary Committee, as that seems to be the wish of the House.

The question being taken on the motion of Mr. BRAGG, there were—ayes 84, noes 53.

Mr. BOWMAN. I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. BOWMAN. I raise the point that no quorum voted.

The SPEAKER. The Chair sustains the point. The gentleman from Massachusetts, Mr. BOWMAN, and the gentleman from Wisconsin, Mr. BRAGG, will take their places as tellers.

Mr. CALKINS. I make the point that after the demand for the yeas and nays has been made and decided, it is too late to raise the point that no quorum voted.

The SPEAKER. The result of the vote had not been announced. It is time enough to make the point before the result is announced.

Mr. CALKINS. The point must be made before other business intervenes. There had been a demand for the yeas and nays, which was decided by the House.

The SPEAKER. In the opinion of the Chair the point is made in time.

Mr. CALKINS. The result had been announced—ayes 84, noes 53.

The SPEAKER. The final announcement had not been made. The Chair had merely announced the numbers, not the result of the vote.

Mr. DUNNELL. I move that the House adjourn.

The motion was agreed to, there being—ayes 70, noes 55.

Before the result of the vote was announced the following business was transacted:

ENROLLED BILL SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that he had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 3246) changing the name of the German Protestant Orphan Asylum Association.

LEAVE OF ABSENCE.

Mr. HARRIS, of New Jersey, by unanimous consent, obtained leave of absence for April 25, 26, and 27.

AMENDMENT OF REVISED STATUTES.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committee on Indian Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication, dated the 15th instant, from the Secretary of the Interior, with draft of bill and accompanying papers, touching the amendment of section 2142 of the Revised Statutes of the United States. The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 21, 1882.

TRANSIT OF VENUS.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committee on Appropriations, and ordered to be printed:

OFFICE OF THE PRESIDENT OF THE UNITED STATES,
Washington, April 21, 1882.

To the House of Representatives of the United States:

I transmit herewith a communication addressed to me by the Secretary of the Navy, with accompanying papers, in which an appropriation is asked for the purpose of observing the transit of Venus in 1882. The matter is commended to the favorable action of Congress.

CHESTER A. ARTHUR.

BRANCH POST-OFFICE, WASHINGTON, DISTRICT OF COLUMBIA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Postmaster-General, recommending an appropriation for the payment of rent for a branch post-office in Washington, District of Columbia; which was referred to the Committee on Appropriations, and ordered to be printed.

The result of the vote on the motion to adjourn was then announced; and accordingly (at five o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By the SPEAKER: The resolutions of the New York Chamber of Commerce, on the subject of tariff reform, adopted at a special meeting April 13, 1882—to the Committee on Ways and Means.

By Mr. ARMFIELD: The petition of Elbert Wallace and others, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. BAYNE: The resolution of meeting of Andersonville Survivors' Association, held at Carlisle, Pennsylvania, asking the passage of Senate bill No. 1012, granting pensions to soldiers and sailors of the late war who were confined in confederate prisons—to the Committee on Invalid Pensions.

Also, the petition of the Keystone Bridge Company, of Pittsburgh, Pennsylvania, employing 600 men, and resolutions of the Engineers' Society of Western Pennsylvania, urging the passage of the bill (H. R. No. 4726) providing for the appointment of a board to test the strength of iron, steel, wood, &c.—severally to the Committee on Appropriations.

By Mr. FORNEY: The petition of 1,000 citizens of Colbert and Lawrence Counties, Alabama, for relief, to the laboring classes of those counties whose crops last year were destroyed by drought and who have sustained heavy losses this year by floods—to the Committee on Agriculture.

By Mr. HERNDON: The petition of the Cotton Exchange of Mobile, Alabama, for increased appropriations for the Signal-Service Bureau—to the Committee on Appropriations.

By Mr. MANNING: The petition of J. M. Saunders and 51 others, citizens of La Fayette County, Mississippi, for the construction of the proposed ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. MCCOOK: The petition of James B. Robinson, of New York City, for the passage of the French spoliation claims bill—to the same committee.

By Mr. MORRISON: Papers relating to the private land claim of the heirs of Jean Francis Perry—to the Committee on Private Land Claims.

By Mr. PEELLE: The resolutions of the Indiana State Board of Health, favoring control and regulation of quarantine measures by the General Government—to the Select Committee on the Public Health.

By Mr. THERON M. RICE: The petition of Rowland A. Colby, for relief—to the Committee on Pensions.

By Mr. HENRY G. TURNER: The petition of the Mayor and council of Albany, Georgia, for an appropriation to complete the improvement of the harbor at Brunswick, Georgia—to the Committee on Commerce.

Also, the petition of J. M. Rouse and 39 others, of Worth County, Georgia, for an appropriation for the improvement of the Flint River—to the same committee.

By Mr. J. T. UPDEGRAFF: The petition of Mary E. Raynor and 59 others, citizens of Richmond County, New York, protesting against proposed legislation to enlarge the powers of the National Board of Health—to the Select Committee on the Public Health.

By Mr. WALKER: The petition of Jesse K. Sanborn, for an extension of a patent—to the Committee on Patents.

SENATE.

MONDAY, *April* 24, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

OFFICE OF THE PRESIDENT OF THE UNITED STATES,
Washington, April 21, 1882.

To the Senate of the United States:

I transmit herewith a communication addressed to me by the Secretary of the Navy, with accompanying papers, in which an appropriation is asked for the purpose of observing the transit of Venus in 1882. The matter is commended to the favorable action of Congress.

CHESTER A. ARTHUR.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolu-

tion of April 5, 1882, the report of Lieutenant T. W. Symons, Corps of Engineers, respecting the navigable waters of the Upper Columbia River and its tributaries and the resources of the country adjacent thereto.

Mr. SLATER. I move that the communication be referred to the Committee on Commerce and printed.

The PRESIDENT *pro tempore*. It had better be referred without printing, and the Committee on Commerce can decide whether the communication should be printed.

Mr. SLATER. It is a document of which, when in print, I shall probably move the printing of an additional number.

Mr. HAWLEY. I beg leave to suggest to the Senator from Oregon that it looks like a very formidable document, and he may, by looking over the matter, perhaps dispense with the necessity of printing many parts of it. There is a roll of maps accompanying the communication, the printing of which would be costly.

Mr. SLATER. I am advised as to the contents of the paper. It is a matter of public importance, giving general information in respect to the region of country it refers to. I am satisfied that the printing will be ordered when the document is examined, and I have no objection to referring to the Committee on Printing a motion to order it printed for public distribution.

The PRESIDENT *pro tempore*. As the Senator from Oregon has suggested that he wishes additional copies printed, more than the ordinary number allowed by the rules, the communication will be referred to the Committee on Printing, and the Senator from Oregon may confer with them on the subject.

Mr. SLATER. Very well.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 4th instant, certain papers relative to the construction of a bridge over the Willamette River at Portland, Oregon; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. ALDRICH. I present a memorial of the Providence Board of Trade, in favor of the Lowell bankruptcy bill and in opposition to the bill reported from the Committee on the Judiciary. The memorial contains a carefully prepared report of an intelligent committee of the board, composed of gentlemen who have large experience in the management of insolvent estates. The memorial is not long, and as one of the bills to which it relates is now upon the Calendar, I ask that it may be printed in the RECORD and lie upon the table.

The memorial was ordered to lie on the table and be printed in the RECORD, as follows:

To the honorable Senate and House of Representatives of the United States in Congress assembled:

The Providence Board of Trade at a regular meeting held April 4, 1882, received and approved the report and resolution following, and directed them to be communicated to your honorable bodies:

The committee of the board of trade, to which the board at its last meeting referred the consideration of the bill to establish a system of bankruptcy in the United States, reported by the Judiciary Committee of the United States Senate, and sometimes known as the "Bonney" bill, respectfully report:

That on the 4th day of October last this board passed a resolution recommending and urging the passage by Congress of the bankruptcy bill prepared by Judge Lowell, of Boston, with some few amendments, none of which were of a radical character. That bill appears to have been considered by the board as substantially, and much more than any other, embodying its views as to the wants of this commercial community. This committee has examined the bill referred to them with care, and are decidedly of the opinion that it ought not to be adopted and passed into a law by Congress.

A law intended for general use by the people, and likely to apply to a great number of cases, should be so full and explicit in its language and directions that the great mass of the people, both debtors and creditors, who are to be affected by it may be able to judge of the main part of its applications to cases as they will arise, without the assistance of a lawyer. It should give such plain directions and statements respecting the rights of creditors, the duty of debtors, and the mode of handling the assigned estate by the assignee that all these parties may know what to do. But the bill referred to us does none of these things. It is, indeed, brief, symmetrical, and compact, and these are generally good qualities. But brevity and compactness in this case are attained by the total omission of those directions which the parties in such proceedings need and must have, either from the law or from the court; and by not putting them in the law, but leaving them to the court, the course to be pursued is rendered doubtful, difficult, and uncertain, and the manner of proceeding in bankruptcy cases may have as many varieties under this bill, should it become a law, as there are district courts in the United States. In this respect the Lowell bill is full and satisfactory.

The "Bonney" bill leaves the great mass of proceedings to the notions of what may be expedient that may be held by the several district judges throughout the United States, so that they may not be alike in any two districts, and they can only be made to assimilate by the more or less legislative action by the Supreme Court. On the other hand, all the courts would by the Lowell bill be kept to one uniform and simple course of practice. We do not think it well to put unnecessary legislative power in the hands of any court.

The "Bonney" bill provides for proceedings by a bill in equity, a course which is notoriously cumbersome, slow, and subject to many uncertainties. Proceedings in equity are likely to develop intricacies and subtleties requiring great learning in one who would master them. But the Lowell bill provides for proceedings by a very simple petition, which is clear, intelligible, and very rapid in its movements.

Frauds against the true intention and design of a bankrupt act can be committed under the "Bonney" bill with great ease, and the court would have no power to punish them. The contrivers of such frauds, very likely favored friends of the debtor, would be likely to acquire and possess the debtor's property, perhaps to turn it over after a while to him. Such frauds the Lowell bill punishes as crimes, we think with great justice. By the "Bonney" bill the debtor, after faithfully obeying all the requirements of the law, may be discharged if the court *thinks* proper to discharge him. Nobody can know what a judge will *think* about it. The honest and faithful debtor cannot claim a discharge as a right under that bill, and in this we think the Lowell bill is better. The debtor, if honest and in all respects obedient to the law, should have the right to be discharged.

The "Bonney" bill puts the care, management, sale, and distribution of the estate in the hands of a receiver, who may be appointed by the court against the will of both parties. The Lowell bill gives the creditors, the parties most interested in the property, the right to name the assignee, who is bound to work in their interest, and if he does not they may cause his removal. In this respect experience shows that people will look after their own interests best through an assignee of their own nomination.

The "Bonney" bill does not limit the fees chargeable by the various functionaries who will be employed in the management of insolvent estates "in chancery." We have no hesitation in saying that they will not only differ in each district through the country, but that they will be so large as to cause universal complaint. Under the former bankrupt law they were found to be very large; indeed, so large as to be a potent influence toward the repeal of the law. But the charges of clerks of courts marshals, receivers, and other functionaries, taxed as they ordinarily are in equity cases, would be so burdensome as soon to become unendurable. In this respect the fees and expenses are very reasonably limited in the Lowell bill.

There are several other objectionable points in this bill which your committee have not thought it necessary to point out. They are of the opinion that this bill does not provide for any such law as this community needs, and that it would be vastly better to go without any law on the subject than to have such a one as this bill would make

C. B. FARNSWORTH,
CHAS. H. MERRIMAN,
JAMES. M. KIMBALL,
ROYAL C. TAFT,
Committee.

Resolved, That the Providence Board of Trade urgently request the Senators and Representatives in Congress from Rhode Island to oppose as much as possible the enactment into a law of the bill reported by the Judiciary Committee of the Senate, known as the "Bonney" bill, for the purpose of establishing a system of bankruptcy throughout the United States; and that they be requested to urge the passage of the bill known as the Lowell bankruptcy bill, with such changes as have been heretofore recommended by this board, or a bill making provisions in cases of bankruptcy substantially like the Lowell bill.

CHAS. WARREN LIPPITT,
President.

FREEMAN P. LITTLE, *Secretary.*

Mr. HOAR presented the petition of Francis G. Shaw and 70 others, of Richmond County, New York, praying for legislation to define the function of the National Board of Health; which was referred to the Select Committee to investigate and report the best means of preventing the Introduction and Spread of Epidemic Diseases.

Mr. SHERMAN. I present a petition of the board of education and quite a number of citizens of Columbus, Ohio, with most of whom I have personal acquaintance, setting out that the enfranchisement of the freedmen imposes an obligation upon the Government to qualify them for the full discharge of the duties with which they are charged. The petitioners pray that Congress may make liberal appropriations for the purpose of educating the freedmen in the South. I move the reference of the petition to the Committee on Education and Labor.

The motion was agreed to.

Mr. FARLEY presented a petition of citizens of Calaveras and San Joaquin Counties, California, praying for legislation regulating transportation charges on railroads; which was referred to the Committee on Commerce.

Mr. FARLEY. I present the petition of Walter R. Butt, of Bakersfield, Kern County, California, a graduate of the United States Naval Academy, praying to be relieved from disabilities incurred during the war by entering the confederate service. I move the reference of the petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. HARRIS presented a memorial of Harvey Ritchie and others, citizens of Claiborne County, Tennessee, protesting against the passage of the bill to transfer what are known as war claims to the Court of Claims; which was referred to the Committee on Claims.

Mr. LAPHAM. I present a resolution of the Union League Club of New York City, in relation to the bill restricting Chinese immigration. This organization is presided over by Hon. William M. Evarts, who is probably as familiar with the history of the late treaty with China as any man in the country, and the expression of opinion coming from this organization is entitled to so much weight that I ask that the resolution be printed in the RECORD. It is very brief.

The memorial was ordered to lie on the table and be printed in the RECORD, as follows:

NEW YORK, *April* 14, 1882.

DEAR SIR: At a regular meeting of the Union League Club the following resolutions were unanimously adopted, and a copy ordered to be sent to His Excellency the President of the United States, and to each of the Senators and Representatives in Congress from the State of New York:

Whereas it is the sentiment of the Union League Club that the bill which recently passed Congress, prohibiting the emigration of Chinese laborers into the United States for a period of twenty years and providing a system of passports to be used by all Chinese subjects who may desire to enter the United States for any purpose is in plain violation of the letter and spirit of existing treaties between the United States and China; and

Whereas it is one of the highest duties of a government to keep inviolate its treaty obligations with all nations; and

Whereas the adoption of the policy embraced in said bill would tend to impair the friendly relations between this country and China, which relations have been carefully cultivated ever since the year 1844, and would also tend to place our citizens and merchants in China on a less favorable basis than the citizens and merchants of other commercial countries: Therefore,

Resolved, That this club approves of the veto message of the President, and commends his firmness in interposing his objections to the bill, and his statesmanship in placing this important matter before the country in such a light that the people may be able to study the subject in all its delicate and complicated bearings.

WM. M. EVARTS, *President.*
DAVID MILLIKEN, JR., *Secretary.*

Mr. LAPHAM presented resolutions of the Newburgh Board of Trade, in favor of making Newburgh a port of entry; which were referred to the Committee on Commerce.

He also presented a memorial of the jobbers and manufacturers of the city of Rochester, New York, in favor of what is known as the Lowell bankrupt bill; which was ordered to lie on the table.

Mr. LAPHAM. I am also charged with presenting a petition coming from Mr. David M. Richardson, of the city of Detroit. Mr. Richardson's petition is addressed "to the Senate and House of Representatives," and recites in very brief terms, by way of preamble, that—

It has become a trite saying that peace hath her victories no less renowned than war. The United States being now at peace with all mankind, and being in the midst of great prosperity, the occasion has seemed to me appropriate for a discussion of some of those greater problems of statesmanship the correct solution of which may tend to give to our Government the honored place it should occupy among the nations of the earth and firmly secure to the generations who shall come after us the blessings we now enjoy.

It is with such a feeling that I beg to suggest that, among others, the following subjects should receive the careful consideration of the present Congress, namely:

Our foreign commerce, the interoceanic canal, our Navy, our coast defenses, the improvement of the Mississippi River, including an adequate system of levees, polygamy in the Territories, public schools, the revision of the tariff, and a modification of the internal-revenue laws.

It will be seen from this summary that work is laid out for us, if we are faithful, which may keep us here until we are driven away by the heat of the dog days and the summer solstice; yet, in obedience to my respect for the right of petition, I feel called upon to present this petition to the Senate. There is material enough in it, if it could be subdivided, to place in the hands of each of the committees having cognate subjects in charge a proper portion for its consideration; but as Governor Seward once said of human society, every human society has a continuous identity, susceptible of indefinite prolongation and incapable of division; and as this petitioner has so treated the subject, I therefore leave it to you, Mr. President, to determine to which of the committees of the Senate the petition shall be referred.

The PRESIDENT *pro tempore*. The Chair will consider the subject of reference before he decides.

Mr. ANTHONY. I believe the Judiciary Committee has everything that no other committee wants.

The PRESIDENT *pro tempore*. The petition will lie on the table for the present.

Mr. GEORGE. I present a memorial of the Legislature of Mississippi in reference to the cotton tax, which I ask to have printed in the RECORD and referred to the Committee on Education and Labor. When the order of the introduction of bills is reached, I shall ask leave to introduce a bill to carry out the purpose of the memorial.

The memorial was referred to the Committee on Education and Labor, and ordered to be printed in the RECORD, as follows:

A memorial from the Legislature of Mississippi to the Congress of the United States of America in reference to the cotton-tax money.

Be it resolved by the house of representatives of the State of Mississippi, (the senate concurring.) That the Congress of the United States of America be respectfully asked to enact such legislation as may be necessary to refund and distribute among the various cotton-producing States of the Union the proceeds of the tax levied on and collected from the cotton made by the people of said cotton-producing States, and kept in the Treasury of the United States; that to each of said cotton-producing States be refunded the amount of said money collected from the people thereof; the sum, so far as the State of Mississippi is concerned, to be securely invested at interest, and the interest devoted to the use and benefit of the common schools of the State.

Be it further resolved, That we make this request and urge this measure upon the attention of the Congress of the United States of America, because we believe that the way suggested is the best manner in which the money can be used, inasmuch as it is impracticable, not to say impossible, to repay the money to the persons from whom the same was collected. We have in our State a large school population—the children not only of our white people but also the children of the colored people—all of whom we are desirous of seeing blessed with a good common school education. As it is, they enjoy equal but necessarily limited educational advantages. It is essential that those advantages be increased, not so much by enlarging the course of study as by extending the school term. The term or session in the country districts can last but four months, and often in many counties in this State falls far short of that. This occurs not from any hostility on the part of our people toward the public schools, but from their inability to bear greater taxation than is now imposed upon them. Should this, our request, be granted, the interest on the money collected from our people in the years immediately succeeding the late war between the States would enable us to extend our school term at least two months in every year, and thereby work lasting good to our people and to the whole country.

Be it further resolved, That a copy of this memorial be sent by the secretary of state to each of the Senators and Representatives in Congress from the State of Mississippi, to be by them presented and laid before the Congress of the United States of America.

Approved, March 7, 1882.

Mr. PLATT presented a resolution of the Chamber of Commerce of New Haven, Connecticut, in favor of a resurvey of the waters of Long Island Sound, and asking an appropriation for that purpose; which was referred to the Committee on Appropriations.

Mr. MILLER, of California, presented a memorial of citizens of California, remonstrating against the passage of the bill to apply the revenues arising from the tax upon alcoholic liquors to the support of public schools; which was referred to the Committee on Education and Labor.

He also presented a memorial of citizens of California, protesting against the passage of the bill (H. R. No. 920) proposing a tax of $2.40 per dozen upon American champagne or sparkling wines impregnated with carbonic acid gas; which was referred to the Committee on Finance.

Mr. HALE presented the petition of Harriett Linnell, widow of Elisha Linnell, a soldier of the war of 1812, praying that her name be placed on the pension-roll; which was referred to the Committee on Pensions.

Mr. VANCE presented a petition of citizens of Edgecombe County, North Carolina, praying for the creation and distribution of a fund for educational purposes among the States and Territories; which was referred to the Committee on Education and Labor.

Mr. PLUMB. I present a number of petitions signed largely by citizens of Kansas, requesting that the sum of $50,000 be appropriated to be expended by the Commissioners of Education, under the direction of the Secretary of the Interior, for the establishment of public schools in Alaska. I move that the petitions be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. INGALLS. I present a petition numerously signed by citizens of Washington Territory, representing that they have sustained great injustice and loss by the course pursued by the Northern Pacific Railroad Company in reference to their land grant, and asking that immediate steps may be taken to declare a forfeiture of that portion of the public domain claimed by the company which it has not hitherto earned. I move that the petition be referred to the Committee on Railroads.

The PRESIDENT *pro tempore*. Similar petitions have gone to the Committee on the Judiciary.

Mr. INGALLS. Perhaps that course might be taken in this instance, although as a bill has lately been reported from that committee upon the general subject of declaring these unclaimed land grants subject to taxation, the petition might as well lie on the table.

The PRESIDENT *pro tempore*. The petition will lie on the table.

Mr. CAMERON, of Wisconsin, presented a petition of citizens of the United States, students of the University of Wisconsin, praying for certain reforms in the civil service; which was referred to the Committee on Civil Service and Retrenchment.

Mr. PENDLETON presented the petition of Henry Baer & Co. and other firms and citizens of Zanesville, Ohio, praying for the passage of the bill (H. R. No. 5656) to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses, and the withdrawal of the same therefrom; which was referred to the Committee on Finance.

He also presented a petition of the Board of Trade and Transportation of Cincinnati, Ohio, in favor of the passage of the measure commonly known as the Lowell bankrupt bill; which was ordered to lie on the table.

He also presented the petition of Frank Linck, of Cincinnati, Ohio, and the maltsters of the first, second, and third Congressional districts of Ohio, praying for the passage of the bill (H. R. No. 1079) fixing the rate of duty on barley malt at $2.50 per bushel; which was referred to the Committee on Finance.

Mr. COCKRELL presented a petition of citizens of Cass County, Missouri, praying for the passage of a law regulating transportation charges on railroads; which was referred to the Committee on Railroads.

Mr. WINDOM presented the memorial of William P. Roberts, grand worthy chief templar, and others, citizens of Minnesota, remonstrating against the passage of the bill providing that the revenue derived by the Government from the tax upon alcoholic liquors be used as an educational fund; which was referred to the Committee on Education and Labor.

Mr. MORGAN presented the petition of the officers and members of the Mobile Cotton Exchange, praying for the passage of what is known as the Lowell bill, to establish a uniform system of bankruptcy throughout the United States; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills:

A bill (S. No. 240) granting an increase of pension to Henry Strawbridge; and

A bill (S. No. 1677) to amend the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and mechanic arts.

The message also announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York;

A bill (H. R. No. 3680) for the relief of John G. Taylor; and

A joint resolution (H. R. No. 186) authorizing the erection of a light on the tower of the Chicago water-works crib, Chicago, Illinois.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 3246) changing the name of the German Protestant Orphan Asylum Association; and it was thereupon signed by the President *pro tempore*.

REPORTS OF COMMITTEES.

Mr. JONES, of Florida, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1563) for the erection of a public building at Lynchburgh, Virginia, reported it with amendments.

Mr. VEST, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 239) to provide for the erection of a public building in the city of Quincy, in the State of Illinois, reported it without amendment.

Mr. VANCE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 678) for the relief of J. B. Cornell and others, reported it with an amendment.

Mr. GARLAND. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 700) for the relief of the State National Bank of Boston, Massachusetts, to report it adversely and to move its indefinite postponement. I do not care about the order being now entered. Let the bill go on the Calendar, as the Senators from Massachusetts are probably interested in it.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (S. No. 1653) granting a pension to Henry Thresher, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 3399) granting a pension to E. L. Husted, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1499) granting a pension to Mathias Wondrak, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 5385) granting a pension to the minor children of James Eagle, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

FISHERIES REPORT.

Mr. ANTHONY, from the Committee on Printing, to which was referred the following concurrent resolution, reported it without amendment; and it was considered by unanimous consent, and agreed to:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 10,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1881, of which 2,000 shall be for the use of the Senate, 6,000 for the use of the House of Representatives, and 1,500 for the use of the Commissioner of Fish and Fisheries, the illustrations to be made by the Public Printer under the direction of the Joint Committee on Public Printing, and 500 for sale by the Public Printer, under such regulations as the Joint Committee on Printing may prescribe, at a price equal to the additional cost of publication and 10 per cent. thereto added.

BILLS INTRODUCED.

Mr. SHERMAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1765) granting a pension to William R. Snook; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GEORGE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1766) to refund to the several States the proceeds of the cotton tax, to be devoted to common schools; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. INGALLS (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1767) granting a pension to William Foose; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLATT asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1768) for the relief of L. F. Norton; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1769) granting a pension to Mrs. Philomene Larned; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1770) to facilitate the negotiation of bills of lading and other commercial instruments, and to punish fraud therein; which was read twice by its title, and referred to the Committee on Commerce.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1771) to authorize the appointment of a special commissioner for promoting commercial intercourse with such countries of Central and South America as may be found to possess the most natural and available facilities for railway inter-communication with each other and with the United States; which was read twice by its title.

Mr. COCKRELL. I move that the bill, with the accompanying brief and reasons for its passage, be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1772) granting a pension to Isaiah Mitchell; which was read twice by its title, and referred to the Committee on Pensions.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1773) for the relief of William McGarrahan; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. MILLER, of New York, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1774) authorizing the sale of the land and premises formerly occupied as a site for the post-office in the city of New York; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. WALKER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1775) for the relief of John G. Abercrombie; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. BAYARD asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1776) to provide for the erection of a public building at New Castle, Delaware; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. BUTLER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1777) to refer the claim of Mary E. Carlisle to the Court of Claims; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DAVIS, of Illinois, (Mr. HARRIS in the chair,) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1778) granting an increase of pension for Marian A. Mulligan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. VANCE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1779) for the relief of E. J. Mallett; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Foreign Relations.

Mr. MORGAN (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1780) for the encouragement of closer commercial relations between the United States and the Republic of Mexico, Central America, the Empire of Brazil, and the several republics of South America; which was read twice by its title, and referred to the Committee on Foreign Relations.

HOUSE PENSION BILLS.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 369) granting a pension to Jacob R. McFarren;

A bill (H. R. No. 435) granting a pension to Solomon J. Grisson;

A bill (H. R. No. 1188) granting a pension to Thomas Allcock;

A bill (H. R. No. 1243) granting a pension to Michael Marion;

A bill (H. R. No. 1341) granting a pension to James B. White;

A bill (H. R. No. 1373) granting a pension to James K. Sturtevant;

A bill (H. R. No. 1462) granting a pension to Lewis Blundin;

A bill (H. R. No. 1554) granting a pension to Eliza Hudson;

A bill (H. R. No. 1873) for the relief of Patrick Sullivan;

A bill (H. R. No. 2349) granting an increase of pension to George J. Webb;

A bill (H. R. No. 2910) granting a pension to Kate Wilharlitz;

A bill (H. R. No. 2912) granting relief to the heirs of Kunigunda A. Miller, deceased;

A bill (H. R. No. 3000) granting a pension to Nathaniel J. Coffin;

A bill (H. R. No. 3048) granting a pension to Arthur W. Irwing;

A bill (H. R. No. 4101) for the relief of Elizabeth Bray;

A bill (H. R. No. 4444) granting pensions to Wilson W. Brown and others;

A bill (H. R. No. 4877) for the relief of Emma A. Porch;

A bill (H. R. No. 5018) granting a pension to Elizabeth F. Rice; and

A bill (H. R. No. 5684) granting a pension to Newton Boutwell.

The above bills were severally read twice by their titles, and referred to the Committee on Pensions.

AMENDMENT TO POST-ROUTE BILL.

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 5812) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PUNITIVE DAMAGES AGAINST THE GOVERNMENT.

Mr. GEORGE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Judiciary Committee be instructed to inquire if any legislation be necessary, and if so what, to secure a fair and impartial determination of cases triable in the courts of this District wherein the United States may be interested on account of their liability to make good any recovery which may be had against the defendant therein, or otherwise; and that they also inquire into the existing rules of law as to the allowance of punitive damages in such cases, and whether any change in the same is expedient and proper; and that they report by bill or otherwise at as early a day as practicable.

JULIA A. CHAMBERS.

Mr. VOORHEES. With the consent of the Senator from Tennessee [Mr. JACKSON] I ask to have recommitted to the Committee on Pensions the bill (S. No. 1024) increasing the pension of Julia A. Chambers, reported by him adversely and postponed indefinitely. I make the request with the expectation of throwing some light upon

the case not given to the Senator from Tennessee at the time the report was drawn.

The PRESIDENT *pro tempore*. The order for the indefinite postponement of the bill will be reconsidered, if there be no objection. The Chair hears none, and the bill will be recommitted to the Committee on Pensions.

DAVID WALDO & COMPANY.

Mr. COCKRELL. The bill (S. No. 787) for the relief of David Waldo & Co. was reported by the Senator from Tennessee [Mr. JACKSON] adversely, and at my instance placed on the Calendar. I move that the bill be recommitted to the Committee on Claims, with the additional evidence which I now present to the Senate.

The motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. MAXEY, it was

Ordered, That the Committee on Pensions be discharged from the further consideration of the petition of Catherine Pentenoy, and that she have leave to withdraw the same from the files of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that it had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon and cannon-balls to aid in the construction of a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 679) donating condemned cannon, &c., for monumental and other purposes;

A bill (H. R. No. 713) granting to the Springfield Street Railway Company the right to lay tracks in Mill street in Springfield, Massachusetts;

A bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 2195) donating condemned bronze cannon to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post, No. 22, of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3082) granting condemned cannon to the Anna M. Ross Post, No. 94, of the Grand Army of the Republic, of Philadelphia;

A bill (H. R. No. 3333) to donate one condemned bronze cannon to the citizens of Otsego, Michigan;

A bill (H. R. No. 3738) to donate iron cannon to the township of Milan, Ohio;

A bill (H. R. No. 3877) donating condemned cannon and other munitions of war to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon;

A bill (H. R. No. 4585) to donate two condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio.;

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental and other purposes;

A bill (H. R. No. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association, to the Grand Army of the Republic Post, at Westminister, Massachusetts, and to the Danville Light Battery A, Independent National Guards, Danville, Illinois;

A joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the City of Waterloo, Iowa, three condemned cannon and four cannon-balls for decoration of soldiers' cemetery;

A joint resolution (H. R. No. 38) appropriating thirty condemned guns for the equestrian statue of Major-General John Fulton Reynolds, who fell as Gettysburgh, July 1, 1863; and

A joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

The above bills and joint resolutions were severally read twice by their titles, and referred to the Committee on Military Affairs.

UMATILLA RESERVATION.

The PRESIDENT *pro tempore*. If there be no further routine morning business, the Calendar will be proceeded with under the Anthony rule. The Chair will state that the printers have made a mistake in printing the Calendar for to-day, and the first bill appearing on the Calendar, the bill (S. No. 73) for the relief of L. Madison Day, was passed over on Friday. The first bill on the Calendar is the bill (S. No. 1434) providing for allotment of lands in severalty to the Indians residing upon the Umatilla reservation, in the State of Oregon, and granting patents therefor, and for other purposes; which is before the Senate as in Committee of the Whole. The bill was read when it was reached on Friday, but the report was not read, though then called for. Is the reading of the report now called for?

Mr. SHERMAN and Mr. SLATER. The report had better be read.

The Principal Legislative Clerk read the following report, submitted by Mr. DAWES March 9:

Your committee, to whom was referred the bill (S. No. 1434) entitled "A bill providing for allotment of lands in severalty to the Indians residing upon the Umatilla reservation, in the State of Oregon, and granting patents therefor, and for other purposes," have had the same under consideration, and report as follows:

The Umatilla reservation was created by treaty with the Walla Walla, Cayuse, and Umatilla tribes and bands of Indians, occupying lands partly in Washington Territory and partly in Oregon, which treaty was promulgated April 11, 1859. The reservation contains 268,800 acres of land, of which 150,000 is tillable; the residue is pasture and timber lands.

The Indians upon this reservation have for the most part since their location on the same been peaceable and friendly toward the whites; have made some progress toward civilization; cultivated in 1881, as shown by the agent's report, 4,000 acres, broke during the year 2,000 acres new land, produced 10,000 bushels of wheat, 2,000 bushels of corn, 6,000 bushels of oats and barley, 6,000 bushels of vegetables, cut 900 tons of hay, 75,000 feet of lumber, 1,000 cords of wood, and built 10,000 rods of fence. They have 10,000 head of horses, 50 head of mules, 400 head of cattle, 5 head of swine, and 3,000 head of sheep. They earn by labor in civilized pursuits 65 per cent. of their subsistence and support, procure 12 per cent. by hunting and fishing, and receive in rations from the Government 23 per cent.

The number of Indians on this reservation, as shown by the report of the agent for 1881, is 751: males, 330; females, 421. Of the whole number 504 are wholly clad in citizen's dress, and 123 partly. Two hundred and fifty-two families are reported as engaged in agriculture, and 162 male Indians undertake manual labor in civilized pursuits.

The Indians for some years have in various ways manifested their desire to take lands in severalty and secure titles to homes for themselves and children. In April, 1879, several of the chiefs and head men visited Washington to confer with the Indian Office in respect to making a permanent settlement on their reservation, or, in lieu of such settlement, to remove to some other locality. The matter was to be left to the Indians upon their return to their reservation, which was determined by them the following November in favor of remaining upon their present reservation and taking lands in severalty.

The agent, in his annual report for 1880, referring to this matter, says:

"In November, 1879, I visited the different lodges of the Indians in regard to the agreement entered into with the chiefs at Washington in April, 1879, concerning their future settlement. Five hundred and thirty-nine Indians have decided to take land, thirty-six are still undecided, and nine wish to remove. (List forwarded December 8, 1879, with report.)"

The agent further reports that "on the 15th of January, 1880, a council was held for the purpose of taking into consideration any propositions compatible with the agreement entered into by the chiefs, (April, 1879,) that would have a tendency to improve the condition of Indians taking land in severalty here," at which council the following, among other things, were agreed upon to be requested in their behalf:

"That the laws of inheritance of the United States be extended over all Indians taking lands in severalty on this reservation. Their reason for making the request is to secure to the rightful heirs the real estate and personal property of deceased Indians, so as to prevent the Indian custom of dividing the property among friends of the deceased.

"That each person entitled to one hundred and sixty acres of land be allowed, in addition, forty acres of timber land, if they choose to take it. Their reason for making this request is that some of the best agricultural land on the reservation is devoid of timber; that many are anxious to take this land, but are unable to purchase the timber necessary for building, fencing, and fire-wood.

"That an agent be retained to distribute the money accruing from the sale of land, and to guard their interests against the surrounding whites. They (the Indians) are afraid that the whites surrounding the reservation would be continually interfering and meddling in their affairs if left without an agent.

"That a sufficient amount of money accruing from the sale of land be appropriated to erect and furnish a manual labor and boarding school for their children, and to board them; also, to employ two teachers and a matron, and to furnish the necessary books and stationery.

"To receive in cash all payments made them in money accruing from the sale of the land. They (the Indians) claim to be able to buy and sell judiciously, and prefer to receive money instead of goods.

"To have the reservation surveyed as soon as possible, so as to enable them to locate during the coming summer."

It will be seen that these requests have each and all received proper provisions in the bill now presented. In regard to timber, the bill provides, in section 1, that, in addition to the agricultural lands to be allotted in severalty, pasture and timber land shall also be set apart for these Indians to be used in common, and it is believed that this will better subserve the interests of the Indians than to give additional timber land in severalty, as it will give each and all an equal chance for timber for building, fencing, and fuel.

The amount of agricultural lands required for allotments, upon the most liberal calculations under the provisions of the bill, cannot exceed 68,000 or 70,000 acres. An additional amount of pasture and timber land, to be used in common, is also to be set apart, the whole for all purposes not to exceed 120,000 acres. If there be any fault in the provisions of the bill in this respect, it cannot be urged that too little land is allowed, but rather that too much is given.

It is believed to be wise, however, to make ample provision for pastoral purposes, in which direction these Indians now have considerable interest. The maximum of the diminished reservation will, after all allotments are made, furnish not less than 50,000 acres of timber and pasture lands; and the timber lands upon this reservation are also valuable for pasturage. Besides, it cannot be expected that for many years the agricultural lands to be allotted will be reduced to tillage or inclosed even so that the pasturage furnished in the diminished reservation will be ample for all requirements of these Indians.

The control of the reservation, with an agent to look after the interests of the Indians, will remain as heretofore, and as requested by the Indians themselves.

The establishment of an industrial farm and labor school for the benefit of these Indians commends itself to every well-wisher of the Indian race, and the conditions for the experiment on this reservation is most favorable and encouraging.

The lands belonging to this reservation, over and above the requirements of the several provisions of the bill, will, when sold, secure an ample fund to establish such a farm and school, and, it is confidently believed, leave a considerable sum from the income of which it may derive continued support.

The mode of disposing of the surplus lands of the reservation is believed to be the best under all the circumstances, and will secure to the Indians a just, fair, and reasonable price for their lands, and will prevent moneyed men from purchasing large bodies of it, while men in moderate circumstances will be furnished a fair opportunity of securing a home for themselves and families.

The bill has been very fully and carefully considered by your committee, has been submitted to the Indian Department, and by that Department carefully con-

sidered, and in general recommended as in accordance with its views and policy, with certain suggestions respecting the detail of its provisions, which suggestions, with one exception, have been embodied in amendments herewith proposed, and with these amendments your committee recommend that the bill be passed.

Mr. DAWES. The matter which is involved in the lines on the third page, beginning with the proviso in the fifty-fourth line of section 1, has been discussed several times in the Senate; and to obviate all question about it, to reach precisely what is sought for in that proviso and at the same time avoid any question about the right of the State to tax this land so held by an Indian in severalty, I have prepared a substitute for the proviso, which I have shown to several members—not all, for I have not had time—of the Committee on Indian Affairs, and which I think will commend itself to the Senate. Therefore I move to strike out that proviso and insert what I send to the desk.

The ACTING SECRETARY. It is proposed to strike out, after the word "act," in line 54 of section 1, the following proviso:

Provided, That the title to lands acquired by Indians under the provisions of this act shall not be subject to alienation or incumbrance, either by voluntary conveyance or by the judgment, decree, or the order of any court, but shall be and remain inalienable and not subject to taxation, lien, or incumbrance for any purpose for a period of ten years from the date of patent, and until such time thereafter as the President may see fit to remove the restriction, which conditions shall be expressed in the patent.

And in lieu thereof to insert:

Which shall be of the legal effect, and declare that the United States does and will hold the land thus allotted for the period of twenty-five years in trust for the sole use and benefit of the Indian to whom such allotment shall have been made; or, in case of his decease, of his heirs, according to the laws of the State of Oregon, and that at the expiration of said period the United States will convey the same by patent to said Indian or his heirs, as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.

Mr. DAWES. That, in short, Mr. President, provides that the United States shall hold the title itself to this particular severalty, but in trust for the sole use and benefit of each Indian getting his land in severalty. The Indian, therefore, under the law will be to all intents and purposes the occupant of the land and enjoy all its use, and at the end of twenty-five years the United States will be obliged by the force of this provision to give him or his heirs a patent discharged of the trust and free of incumbrance. It will be impossible to raise the question of taxation under that provision, and that will secure to the Indian his rights in severalty precisely as the other provision would.

The amendment was agreed to.

Mr. SLATER. I offer the following amendment on line 43 of section 2: strike out, after the word "make," to and including the word "Interior," in line 46, and insert:

Any payment when the same becomes due, the Secretary of the Interior shall cause said land to be again offered at public or private sale, after notice to the delinquent; and if said land shall sell for more than the balance due thereon, the surplus, after deducting expenses, shall be paid over to the first purchaser.

The words to be stricken out are:

Payment as required he shall forfeit the land purchased, and the same shall be subject to entry and sale, at the appraised value thereof, at the discretion of the Secretary of the Interior.

So as to make the clause read:

No patent shall issue until all payments shall have been made; and on the failure of any purchaser to make any payment when the same becomes due the Secretary of the Interior shall cause said land to be again offered at public or private sale, after notice to the delinquent; and if said land shall sell for more than the balance due thereon, the surplus, after deducting expenses, shall be paid over to the first purchaser.

The amendment was agreed to.

Mr. SLATER. I offer the following amendment, to come in at the end of section 6:

And shall have power to determine all disputes and questions arising between Indians respecting their allotments, and shall fix the compensation to be allowed to the commissioners provided for in section 2.

The amendment was agreed to.

Mr. SLATER. I offer the following amendment, to come in on line 54 of section 2: Strike out the word "prior," at the end of line 54, so as to read "shall have a right."

The amendment was agreed to.

Mr. SLATER. After the word "right," in line 55 of the same section, I move to insert "at any time after advertisement and before sale at public auction;" so as to read:

Shall have a right at any time after advertisement and before sale, at public auction, to purchase at their appraised value so much of said lands, &c.

The amendment was agreed to.

Mr. CONGER. On page 5, line 11, of section 2, I move to strike out the words "reimbursed the value of such improvements, in money or in other improvements upon his allotment, as shall be determined by the Department," and insert "shall be entitled to an allotment of such land and improvements."

I see that the bill, in section 1, on page 3, provides that the allotment of lands to Indians as made by the commissioners, shall be in as compact a form as possible, and this provision is that if, after having made the allotments in a compact form, some Indians have their farms or their improvements on some part of the ground not within this compact form, those improvements shall be valued or appraised and the additional value shall be given to the Indian who is driven from his farm and his home to enable him to make himself another farm and another home.

Now, what possible benefit it can be to the Indians for the Government of the United States to seize upon the lands which one of them has improved in his first effort at cultivation and civilization and huddle them all together in a compact reservation, compelling them to leave the improvements they have made, and receive some contemplated reimbursement in the shape of aid or of money, God knows, I cannot see at all; and it seems to me that the system of taking away from the Indians generally all the lands they have and giving them forty or eighty or one hundred and sixty acres, a tithe or perhaps a fiftieth part of the lands which we have formerly allowed them, is bad enough, without by law authorizing a commission appointed by this act of Congress to go over all this large reservation and first place the Indians within any portion of the territory, whether it is the best land or the poorest; and if they carry out the provisions of this bill they will make their allotments in a compact form upon the poorest land, for this kind of bill is evidently to give the best lands of the Indians to the whites. I say I cannot see why Congress should authorize by law, at the will and caprice of commissioners, the authority to go and take away from every Indian who has made improvements, has labored, has been encouraged to make himself a home and a farm, and compel him to go on a new piece of land, away from his home, away from the place he has selected within his reservation to live, and give him the uncertain opportunity of receiving something to enable him to make improvements elsewhere. The whole spirit of that proposition in this bill is infamous in my judgment, unworthy of this Government, unworthy of the legislation of this body. I should like to hear it defended if it is possible to defend it against the common judgment, and the common sense, and the common ideas of humanity under which we pretend to be governed in our treatment of the Indian question.

Why not give the Indian his farm? Why not give him the result of his labor? Why drive him off to some other territory and to some new land and leave him to wait until the appraisal of these lands has been made, and then allow him whatever pittance is estimated with which to build a new home? If that proposition was made in regard to the poorest white man that has settled between the Rocky Mountains and the Alleghanies upon the public lands, and the people of the United States knew it, it would meet with universal condemnation. You could not do it to the poorest immigrant that came into this country without exciting the hostility and condemnation of every honorable man in the land. But these Indians that we are legislating for may be driven one after another from their lands, as Chief Joseph was from the home he had built up for himself and his family, and not a voice raised against it.

Now I admit——

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Senator's time has expired.

Mr. CONGER. I think I have said enough. [Laughter.]

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Michigan, [Mr. CONGER.]

Mr. SLATER. Mr. President, I presume if the Senator was as well acquainted with this reservation as I am myself, and as the Indian Department is, he would not have made the objection to this particular clause of the bill that he has made. These Indians are settled compactly now, and it is fair to presume that when this new reservation within the present reservation is set apart by the commission it will include all their improvements; but there were possibilities that one or two, at most three, places with small improvements might fall without the limits of the new reservation, and compensation must necessarily be made to these Indians. It was not considered by the Department or those who prepared the bill to be wise to leave these Indians to be surrounded by the settlements of whites alone, but that their settlement should be compact and among themselves, and as the report says (and it recites the recommendation) they themselves have requested that their domain shall be still continued as a reservation with an agent, in order that they may be protected from their supposed more crafty neighbors. That request is complied with in this very provision. They are to have their improvements appraised, and the value of the improvements is to be returned to them either in money or in new homes, under the control and direction of the Department of the Interior; and to adopt the amendment of the Senator from Michigan would be simply destructive of the entire purpose of the bill.

Mr. CONGER. I move to postpone the consideration of the bill.

The PRESIDING OFFICER. The Senator from Michigan moves to postpone the further consideration of the bill.

Mr. CONGER. Mr. President, I have made that motion simply for the purpose of making a few further remarks. I desire to say, in answer to the Senator from Oregon, that those who have been most familiar with the Indians and their lands and their reservations, those who have been most desirous for their improvement and civilization, have always said, not once or twice, but always said, that the easiest way to bring them into habits of civilization is to separate them from their close community with each other, to allow whites to come in among them to be their neighbors, owning adjoining lands, not to huddle them together in reservations. That has been the strong argument heretofore.

Now, it seems to suit best to get the better of these lands (and I thank the Senator from Oregon for the admission) for the crafty neighbors of these Indians—that was the language he used——

Mr. SLATER. No, sir; I said from their supposed crafty neighbors, those that they supposed were crafty.

Mr. CONGER. I say from their crafty neighbors. It is an admission for which I thank the Senator. This craftiness will apply not only to the good people of Oregon but to the good people of every Territory where there are Indian lands.

It is better if these Indians have their lands in severalty, for their education, for their improvement, for the example around them, that they have their lands scattered here and there among the lands of whites; infinitely better. But this compels them to be huddled together with no chance to observe the improvements all around them of their white neighbors.

But I do not put it upon that. I put it upon the abstract right of every Indian to whom this Government has given land which he has used and occupied and labored upon, to make his home and to endear his home to him by his own labor, that he shall have the right, notwithstanding the legislation of Congress, if he is to have a separate allotment, to take his home and keep it on so much land as the law gives him as his home, together with his improvements.

I said before that if this were attempted in regard to the most obscure and humble white man that settles within our territory, and the facts were made known to the American people, there would be one universal execration of that attempt to drive a man from his own home and land and compel him to take whatever his neighbor or a commissioner saw fit to place him upon.

These are my views. I trust many of these bills on account of the very eloquent and florid and affectionate and earnest speeches of the chairman of this committee, expressing profoundly his regard for individual Indians and for Indians at large. But will he defend this clause in the bill? In view of the sympathy he has expressed for the Indians at large and the individual ones, will he vote to make this new allotment thus to drive Indians from their homes and from their improvements, and put them upon wild, waste land? I may almost say that my confidence in the Senator from Massachusetts would warrant me in withdrawing all opposition to this bill if he will rise in his place and pretend for a moment that such a proposition is right.

I withdraw my motion to postpone.

Mr. SLATER. I hope the Senator will not withdraw his motion for a moment. I hope he will allow it to stand for a moment.

Mr. CONGER. The Senator can renew it.

Mr. SLATER. Very well, I do. Mr. President, the Senator's argument overreaches his proposition entirely. In the first place, in the history of this matter, these Indians sent a delegation to this city two years ago to ask the Department to do just this thing, to let them have lands in severalty, and when they came to consider the matter finally among themselves at home they desired their lands in severalty, but they desired the reservation to remain intact, and what was not occupied for reservation purposes to be set apart and sold for their benefit. You cannot keep up a reservation and scatter the Indians all over the country promiscuously among white people; that is a matter of impossibility. The bill provides for the possibility of some improvements falling without the limits of the new reservation. They have asked this, and the bill provides that before it can go into effect their assent is to be obtained to the provisions of the bill. There can be no harm in this. Their consent must be obtained, and in writing, and by a majority of the male adults of the tribe. I withdraw the motion now.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan, [Mr. CONGER.]

Mr. DAWES. It is in order to renew the motion to postpone. What the Senator from Michigan says in its general application to the treatment of the Indians is perfectly true, and no one desires to gainsay the doctrine that an Indian should not be moved against his will from his location where he has already made improvements upon his land and set himself up in severalty, and has so far advanced in civilization as to be able to take care of himself. But my experience upon this committee has been to me an educating process, and I have come to understand that no general rule applicable to all Indians in this matter of setting up Indians in severalty can be enacted; that each individual Indian must be treated by himself. I had supposed that inasmuch as this bill provided for all this being done by a commission to be appointed by the Department, the commission, upon the ground and understanding the nature of the land, the disposition and desire of the Indians, and the condition of each individual Indian, would come as near securing their rights as possible, inasmuch as before their action could be confirmed it must be reported to the Secretary of the Interior for his approval. On this account I thought we should approximate very nearly to doing as much justice to these Indians as possible by the bill in its present form.

It is supposed that there may be two or three Indians who are residing upon lands that may possibly fall outside of the reduced reservation. What it would be best to do with these Indians the Committee on Indian Affairs, without knowing a great many things that it was impossible for them to know, could not say, and they have trusted that matter to the commission. They have supposed that if there were found three or four of these Indians so situated that it would be better for them to have their improvements paid for satisfactorily to themselves and they given lands with their brethren all together it would be more advisable than to push them out by force into the world. We cannot say whether that will be a blessing to these Indians or a curse to them; therefore the Committee on Indian Affairs were of opinion that on the whole it would be best to trust the whole thing to three commissioners.

I am not going to resist or undertake to controvert the abstract proposition laid down by the Senator from Michigan. It is true that as a rule it is better for the Indian to come in contact as much as he can with the white man, but that depends upon what kind of an Indian he is, and the Senator must know that there are a great many Indians that if you put them among white men, set them up on farms surrounded by white men, will soon have no land. The Senator does not mean to apply any such policy as that to such an Indian. I know there is nothing in his speech that would indicate that. When you come to apply this to a whole reservation, you have got to take that contingency into account. If the Senator believes it possible for the commission to wrong an Indian, he will find me helping him to support any provision that will prevent that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The PRESIDING OFFICER. The Secretary suggests that in the second proviso in the first section, the first having been stricken out, the word "also" should be stricken out after the word "provided." It will be so ordered, there being no objection.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

LANDS IN SEVERALTY TO INDIANS.

The bill (S. No. 1455) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes, was considered as in Committee of the Whole.

Mr. DAWES. I offer the same amendment which I offered to the bill that has just passed, to strike out the proviso on the fifth page, beginning at the third line of the fifth section, down to and including the eleventh line, and insert:

Which shall be of the legal effect, and declare that the United States does and will hold the land thus allotted for the period of twenty-five years in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian or his heirs aforesaid in fee discharged of said trust and free of all charge or incumbrance whatsoever.

Mr. COKE. While I do not see the necessity of that amendment, I cannot perceive that it will do any harm, and am willing, as far as I am concerned, to accept it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. PLUMB. I move to add to section 8, "to be repaid *pro rata* out of any proceeds of the sales of such lands as may be acquired from the Indians under the provisions of this act."

Mr. CAMERON, of Wisconsin. How will it read then?

The ACTING SECRETARY. If amended as proposed, the section will read:

SEC. 8. That for the purpose of making the surveys and resurveys mentioned in section 1 of this act there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $100,000, to be repaid *pro rata* out of any proceeds of the sales of such lands as may be acquired from the Indians under the provisions of this act.

The PRESIDING OFFICER. The question was on the amendment proposed by the Senator from Kansas.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. PLUMB. I ask unanimous consent that the words "*pro rata*" in my amendment be changed to the word "proportionately." I think that expresses the idea better.

The PRESIDING OFFICER. The Chair hears no objection to the modification being made, and it will be so modified.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SUPREME COURT QUORUM.

The bill (S. No. 814) to amend section 673 of the Revised Statutes of the United States, relating to the quorum of the Supreme Court of the United States, was considered as in Committee of the Whole.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, in line 4, after "United States," to insert "provided for by law;" so as to read:

That hereafter a majority of the justices of the Supreme Court of the United States provided for by law shall constitute a quorum thereof.

Mr. PENDLETON. I should like some explanation of the bill. There is no report.

Mr. GARLAND. Under the act of the 10th of April, 1869, section 673 of the Revised Statutes, the Supreme Court of the United States is made to consist of one Chief-Justice and eight associate justices, "any six of whom shall constitute a quorum." It is found that this

has been a very inconvenient statute to comply with on account of the frequent necessary absences of judges either on circuit or on account of sickness. On consultation with some of the judges of that court, the committee have seen proper to change the law, accepting the common rule applied to bodies of that character that simply a majority of them, as they may exist by law, shall constitute a quorum, so that if there are six, eight, nine, ten, or eleven, not a specific number shall be required to be a quorum, but simply a majority, which will insure the holding of the court more regularly and more regular attendance to the business of the court. The quorum will vary as the number may go up or down. A majority of the legal number will be a quorum. The words of the amendment are "provided by law;" so that if the law at any time changes the number from nine to ten or nine to seven, the majority of that number, whatever it may be, will constitute a quorum of the court.

I wish to call the attention of the Senate to an amendment following this, a very important one, and which is not particularly clear to myself, nor was it to the committee; and I shall be frank with the Senate in stating the exact position of the amendment before the committee.

Mr. HOAR. Will the Senator permit me to say to him that if it is the purpose of the persons having charge of this bill to insist on the amendment he is now coming to, which relates to a totally different subject, having no connection with the other, I shall interpose an objection. I will not interpose an objection until he has made his remarks, if he prefers to make them; but I give notice that when his remarks are over I shall interpose an objection to the bill, unless the committee are content to take the provision in regard to a quorum of the court, and not embarrass it with the other.

Mr. GARLAND. Let me say to the Senator from Massachusetts that I will make the statement, as I think it my duty, having the bill in charge, in reference to the whole bill—and I was proceeding to make a very frank statement to the Senate—and then the Senate can do what they please with it, say whether they will consider it now or at a future time.

It is true, as the Senator from Massachusetts suggests, that the last amendment refers to a totally different matter, although it falls within the organization of the court. It was thought an opportune time to put in something with reference to this matter if it needed attention at all.

It is to be observed by every person who reads the decisions of the Supreme Court, and by those who practice in that court, that it is a practice almost invariable that when a case is appealed from a circuit court below to the Supreme Court the record is handed over to the associate justice who presided in the court below. I have not made an estimate; but I venture the assertion that three-fourths of the cases are treated in that manner. Referring an appeal to one of the judges who presided at the trial of the case below, already committed to his decision, with his pride of opinion, with his influence with the court, amounts, in my judgment, to denying the appellant a fair trial in the Supreme Court. It fails to give the appealing party a fair and impartial trial, for he meets at the threshold one of the seven or eight or nine judges, as the case may be, who has already decided the case; who has already prejudged it; and it is simply an appeal "from Philip drunk to Philip sober," or *vice versa*, as the case may be. I have seen and watched and noticed the operation of this rule to be very detrimental in many cases.

It is said that it is necessary for these judges to participate in order to inform the other judges, possibly, of the operation of the local law, the decision of the local court, of what the local laws are particularly as to limitations, as to descents and distributions, and so on; but information on this point is accessible to the other judges through the library of the court, and it is not necessary to put the court in possession of them that the judge who presided in the court below should give them his judgment, already made up, upon this case, for the record shows that at least.

So much for that; upon that point I think it important that something should be done. But here is another point that I want to call the attention of the Senate to. I have my doubts, notwithstanding this was my amendment to the bill in committee. A very close point was presented whether or not Congress can, under the Constitution, do this. I want the Senate now to have the advantage of everything that transpired in reference to the matter. My judgment is that Congress can constitutionally do it, but it is not one of those clear points that can be absolutely affirmed. It is not one of those points that we meet sometimes in the exact sciences where we can put our finger and say "It is here precisely and nowhere else; it is this thing and nothing else." But under the distribution of powers in the Constitution the judicial power is vested in one Supreme Court.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GARLAND. I shall take but a very few moments to explain this report, and I ask unanimous consent to proceed.

Mr. MORRILL. I move that the Senator have leave to proceed.

The PRESIDING OFFICER. If there be no objection, the Senator will proceed.

Mr. GARLAND. The Constitution vests the judiciary power "in one Supreme Court," &c., leaving that court to be provided for by Congress. Then it goes on in the next section and says that the judicial power shall extend to certain cases. After distributing the original jurisdiction it says that appellate jurisdiction can exist in this court "both as to law and to fact, with such exceptions and under such regulations as the Congress shall make." My judgment is that under that section of the Constitution Congress can make provision that a judge who presided in the hearing of the case in the court below shall stand aside when the case is heard in the Supreme Court. Of course the trouble is met there again that in taking away this judge you have but eight judges as the court is now organized. Then under this bill five of these eight would make a quorum. That difficulty is met in that way.

I think the whole bill is just and advisable, and so far as the second amendment is concerned my judgment is—and I have given reasons for it—that Congress has the power to prescribe it.

Mr. BUTLER. Do I understand the Senator from Arkansas to state that the amendment he is now discussing proposes to withdraw the judge who presided below entirely from the consideration of the case in the Supreme Court?

Mr. GARLAND. He is not to participate in the hearing above. Nothing I said as to his conferring with the other judges or his saying this, that, or the other simply as a man; but he shall not be counted as one judge in that case and shall not have a voice in the deciding of it in the appellate court. That is all. So he is excluded from the bench in that case, and necessarily, as there are nine judges, there will be only eight to pass on the case.

Mr. HOAR. Does the Senator from Arkansas mean to imply that if that provision becomes a law he would think it becoming that a judge should converse, a person excluded from sitting or participating in the decision should speak to the other judges about the case?

Mr. GARLAND. I do not think it would be very proper. I simply answered the question of the Senator from South Carolina; I cannot answer two at once. I answered his question that the judge was not excluded from this bill, but I take it for granted no judge under this law would confer about such a case; but the Senator from South Carolina asked me if he was excluded from conversing with the other judges. He does not participate in the hearing; he is not one of the judges to pass upon that case. That is the whole matter of this bill. I have said all I desire to say about it now or hereafter.

Mr. HOAR. Mr. President, I wish to state before this bill passes from before the Senate, in one word, my dissent from its propositions. If this bill goes into effect with the amendments, it would be quite possible that in many instances judgments would be rendered by the Supreme Court against the opinion of a majority of its members. There was a very curious instance of that in the attempt to enforce a provision which I think afterward was abandoned in Great Britain in the case of the court of exchequer chamber. That court was made up of four judges of the King's bench, four judges of the common pleas, and four judges of the court of exchequer, with a provision that the judges belonging to that court from which the question came to the court of exchequer chamber should not sit on the hearing of the exceptions on appeal. The result of that was that of the twelve judges who composed the exchequer chamber the four belonging to the court from which the exceptions came might be one way, they could not sit at the hearing; the other eight determined the case by a majority of five to three, so that seven judges of the court might be against the opinion which became the law of the land as announced by the judgment of the court.

I believe that whole theory in England was abandoned, and it seems to me that it is the height of absurdity to say that the judges of the Supreme Court of the United States shall not have the benefit of the opinion upon a question of law of the judge who has decided it when it first arose and applied it to the facts of the case which occurred before him. It is very often the case that causes go up to that court which are argued imperfectly by counsel on both sides. A case may be argued before a judge like Marshall, or Taney, or Ellsworth, and that cause is to be heard by the tribunal of which Marshall, or Taney, or Ellsworth is the head, he being compelled to sit dumb and hear counsel who cannot comprehend or grasp the reasons which have governed him in his judgment, submit that case to his associates, and they be compelled to decide it upon such a presentation as is made by counsel.

Mr. President, I believe the true theory in legislating, or in framing constitutions, especially in reference to tribunals like the Supreme Court of the United States, is to presume—a presumption which the facts and the history of that illustrious tribunal warrant—the greatness of its members, their capacity to rise above little petty and unimportant considerations like the pride of opinion or the dislike to be overruled. I believe it has always been a characteristic of our greatest judges that they have been as capable of dealing impartially with questions which they have once considered and decided as with questions which have come to them from the decision of others. Of course there may be exceptions. There may be exceptions where the person who is the exception is unconscious himself of the bias, but they will always be guarded against by his associates.

It seems to me that the fear of the inconvenience that a particular judge may be influenced in his second decision by the fact that he has once decided one particular way, so that a small bias creeps into the final judgment of the tribunal, will be very much overbalanced by

the inconvenience of excluding the judge who knows how the question of law was applied to the facts, and who gave the case its original direction, from giving his associates the benefit of his judgment. As I said, if the committee insist on having this, which has nothing to do with the question of quorum, put into the bill where it does not seem to me to belong, I must object to the consideration. I ask the Senator from Arkansas if he will not allow the first part of the bill to pass by itself, and bring this forward in a separate measure?

Mr. GARLAND. I have said all I desire to say about it. I will ask the sense of the Senate on agreeing to the amendment.

Mr. HOAR. I should want to discuss that more than five minutes.

Mr. GARLAND. I should dislike after the committee has reported to agree to let it go.

Mr. HOAR. Then I object.

The PRESIDING OFFICER. The bill goes over, being objected to. The hour of two o'clock has arrived.

HOUSE BILLS REFERRED.

The bill (H. R. No. 3680) for the relief of John G. Taylor was read twice by its title, and referred to the Committee on Finance.

The following bill and joint resolution were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York; and

A joint resolution (H. R. No. 186) authorizing the erection of a light on the tower of the Chicago water-works crib, Chicago, Illinois.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 2538) to amend the act entitled "An act regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes," approved June 7, 1878, and also to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate the proceedings before them.

MISSISSIPPI AND MISSOURI RIVERS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

The PRESIDENT *pro tempore*. The Senator from Kansas [Mr. INGALLS] is entitled to the floor, but at his request the Chair recognizes the Senator from South Carolina, [Mr. HAMPTON.]

Mr. HAMPTON. Mr. President, I thank the Senator from Kansas [Mr. INGALLS] for his courtesy in yielding the floor now, and I shall avail myself of it and tax the patience of the Senate for a very short time. Indeed, sir, it was not my purpose to say anything on the bill now before the Senate, but the wide range the discussion on it has taken, and the intricate questions brought out by that discussion, impel me to define the position I occupy and to give very briefly the reasons which will govern my action.

It has been my fortune to have spent a large portion of my life in that section of Mississippi known as the Yazoo Delta. For many years past all my means have been invested in planting operations on the Mississippi River, and I have studied its characteristics with constant care and anxious solicitude. Many of the warmest friendships of my life were born and nurtured among the generous people of that grand country. Every motive, then, of interest and affection prompts me to extend to them in this their hour of distress and desolation not only my profoundest sympathy but my most active aid. The extent of that aid on my part shall be measured only by what I regard as the limitations of the Constitution; and while nothing could induce me to violate or even to stretch any of its provisions, I hope that ample authority may be found in that instrument to authorize us to extend a generous aid to these suffering people.

The Senator from Alabama [Mr. MORGAN] has presented cogently, as he always does, his views as to the constitutional power of Congress over this subject, and I admit the force of what he said. But waiving for the present all consideration of the constitutional questions involved, I venture to express the hope that the amendments to the bill offered by my friend from Arkansas and by the Senators from Louisiana may be withdrawn. I do this on the ground that the bill as it came from the committee is broad in its scope, liberal in its appropriation, and catholic in its spirit of liberal generosity. It gives to that great country watered by the Mississippi River all that was asked by the river commission, and it leaves to that commission ample discretion to use the funds appropriated in such manner as will best improve the navigation of that river and control its angry waters. The sum appropriated is fully sufficient to meet the present emergency, and it is surely enough to be invested by the General Government in an experiment, for all plans to bring under control the Father of Waters must be at best but an experiment. If in pursuing their investigations to solve the great problem of rendering the navigation of the Mississippi safe this commission, composed of the ablest engineering talents of the country, declares that the erection of levees is an essential part of the system to be adopted, I shall most cordially vote to appropriate any adequate and reasonable amount in order to consummate the plans proposed. It will then be clearly within the jurisdiction of Congress to do this, as it will be an imperative duty; one, too, that there will be, I am sure, no hesitation in discharging.

The whole country is interested in this great national highway of commerce, which bears on its mighty bosom annually a commerce equal to that of our whole foreign commerce; laving by its tributaries more than two-thirds of the States of the Union, stretching its gigantic arms from the Alleghanies to the Rocky Mountains, and binding together, as with links of steel, in its flow from the frozen regions of the North to the tepid waters of the Gulf, a confederacy of great Commonwealths, bound together indissolubly as long as its waters flow in an indestructible union of indestructible States. As it was one of the most serious elements of discord in the late war, there is an eminent propriety that it should now be the great and perpetual bond to bind together in enduring peace the late contending sections. Realizing, therefore, to their fullest extent, all the vast and varied interests connected with and dependent on this river; recognizing the great difficulty of dealing with these complex interests with perfect justice to all, and appreciating fully the magnitude of all the issues involved, I desire that we should be in possession of all possible information before we adopt any permanent policy for the improvement of the Mississippi. As to the best plan to be adopted there are many different and opposing opinions held by men whose experience, skill, and ability justly claim for them very wise consideration at our hands. As to the great engineering problem involved in the reclamation and control of the river, no one can speak with authority except scientific professional engineers; but even these may gather useful hints from laymen, who have had long and large experience in noting the phenomena of the river and in contending with its angry floods. The contribution to this general stock of information which I can offer may be very small, but, as I have had experience of all the great freshets on the Mississippi from that of 1843 to the present, my opinion may not be without interest to some of those who have no personal knowledge of the peculiar formation of the Mississippi Delta and of the effects of a general overflow. It is proper, however, to say that my experience is limited mainly to the east bank of the river, that being the section with which I am most familiar, and I may perhaps be able to give some statistical data touching that part of the country not without interest. All who have studied the geological formation of the Mississippi Delta are aware that most, if not all, of that fertile territory was formerly covered by the Gulf of Mexico, for the mouth of the Mississippi was in the remote past probably where Cairo now stands. As years rolled on the river, bearing constantly its load of soil in partial solution, steadily deposited its sediment, encroaching on the waters of the Gulf, pushing them back and creating for man's use these alluvial lands, more fertile than those watered by the Nile. The process of formation was in accordance with the command of the Almighty, when he said: "Let the waters under the heaven be gathered together unto one place and let the dry land appear; and it was so."

A curious verification of the theory touching the formation of this portion of the country is to be found in some interesting facts established by the investigations of the coast survey. If any one will examine the submarine formation of the Gulf of Mexico he will find that the shoal water follows with close conformity the outlines of the present shore line. This shoal water extends out one hundred miles from the shore, and then the bottom of the Gulf drops suddenly at an extremely steep slope to a depth of 12,000 feet. Why, in the case of Florida, for instance, there is on all sides of it an exact counterpart of the slate under the shallow waters of the Gulf waiting, perhaps, for the Divine command to emerge from the sea. This fact illustrates what was said by the Senator from Mississippi [Mr. GEORGE] in his instructive remarks on the peculiar formation of the banks of the Mississippi. The river itself has made all that vast territory which it has during countless ages rescued from the Gulf, and as it was forming these lands by its constant overflows its greatest deposits were made when its current was first checked. Thus it is that the banks of the river are higher than the adjacent lands, and it is a curious fact that all the drainage in that section is from and not to the river. The lands on the river bank being higher than the rest of the country, are of course considered generally as the most valuable, and this fact, together with the additional one of their greater elevation, offers a strong temptation to have the levees put up too near the stream. Many of the most disastrous overflows have thus been caused by the caving in of the banks, and along with them the levees on them.

On of the most difficult problems which the engineers will have to encounter will be to prevent the caving in of the banks, and until they can meet this successfully all efforts to direct and control the current will be futile. If they can solve this problem the rest of their task will be comparatively easy. There are portions of the river where levees must necessarily form a part of the work to deepen the channel, for in some places the banks are low and levees will be required to confine the stream to its proper channel. Perhaps it may be found after full experiments by the commission that a general and permanent system of levees is absolutely essential to render the navigation of the river safe and certain, and in that event I doubt not that the national Government will extend its prompt, generous, and efficient assistance. Such action on the part of Congress would then receive the general approval of the country, and the people in all sections know the value of this great national highway; they know how greatly it contributes to our national wealth; they know

that the prolific lands it waters could feed and clothe the world, and they will deal with it as national property. Feeling sure of this, I desire to see the Senate act with caution and full consideration before it commits itself to any definite policy in this matter.

In my opinion the engineering skill which we have at our command can perfect a plan which, while making the navigation of the river safe, will go far toward securing the safety of the great Mississippi Valley. I believe that it will eventually be found that to attain these two desirable objects a combination of the levee and the outlet systems will be necessary, for I think that they can be combined to great advantage. I am aware that the outlet system cannot be used in Mississippi, or indeed on the east bank of the river at all, until Bayou Manchac in Louisiana is reached; but I think that it can be adopted to advantage on the west bank. From Memphis to the mouth of the Yazoo no stream enters the Mississippi River, and all the water that falls in that section and all that escapes from the Mississippi on the east returns to the river by the Yazoo just above Vicksburgh. That portion of the river can be securely leveed, because no streams come into the Mississippi, and because the bluffs below Memphis afford a good starting point for the levees.

The difficulty of protecting the west bank of the river is greater, for there several large streams enter the Mississippi, but even on that side the skill of the engineer could overcome the obstacles which nature has placed in the way. I shall not detain the Senate to discuss the details of any plan to accomplish this object, for doubtless the commission will consider and report the most feasible one, and I only suggest in passing that much of the danger to Louisiana below the Red River could be averted by turning the waters of that stream into the Calcasieu, the Vermillion, and the Atchafalaya Rivers. This would not only relieve the Lower Mississippi of an immense volume of water, but would tend to lower the water level of that river for some distance above the mouth of the Red. But all these questions can be more appropriately discussed when we have before us some well-defined and thoroughly digested plan submitted by the commission in whose hands this whole matter now rests. The able gentlemen composing that committee are competent to deal intelligently with this important subject, and I am content to leave it with them until we obtain all the information they can collate. We can then act understandingly for the best interests not only of the Mississippi Valley, but of the whole country. Congress, with entire unanimity and with a munificence never surpassed, has extended already to the suffering people of the valley the most generous and liberal aid; aid that should be doubly welcome because all sections of our common country gave it cheerfully, not grudgingly. Nor has the executive branch of the Government been less liberal in the views expressed than the legislative, for the President has manifested an earnest sympathy for the sufferers from the flood and shown a sincere desire to assist them.

Such exhibitions of fraternal feelings cannot fail to exercise a strong and wholesome influence in obliterating all bitter sectional animosity, and in this aspect, at least, the present dire calamity in the South may prove indeed a blessing in disguise. Before closing, Mr. President, I desire, if possible, to correct some misapprehensions which have obtained here and elsewhere, and which do unintentional but grave injustice to the people of the Mississippi Delta.

It has been asked why these people, who before the war maintained a good system of levees, cannot do so now? There are several reasons why they cannot. Then the labor of the country was thoroughly organized, trained, and disciplined. Every planter was deeply interested in protecting his own land, and in guarding the levees on its front. Whenever any point was threatened, hundreds of laborers could be promptly sent to protect it, for the whole neighborhood turned out. Now, that systematic co-operative labor is wanting, and it cannot be commanded. The negroes, even when their own homes are threatened by the water, will not work on the levees without full pay, and the planters are too poor to give them wages. Before the war all the open land on the river was under cultivation, but now much of this is abandoned, leaving long stretches of levees unguarded and uncared for. The people have not now the means to keep up these levees, and though they have expended vast sums in the effort to do so, they have failed to accomplish the work. Aid in some shape must be given to them or a large portion of that valley, which contributes so materially to the national wealth, will be abandoned.

There is another error prevailing in many quarters to the effect that the people of the Mississippi Delta have not contributed to any large extent to the erection and maintenance of the levees. I cannot say what Arkansas and Louisiana have done in this direction, but some data in my possession will show what Mississippi has expended. The levee board of that State was organized by act of the Legislature in 1858, and issued $500,000 in bonds bearing 10 per cent. interest, and a tax of ten cents an acre on all the alluvial lands was levied. In three years this tax yielded $720,000, and with this fund the levee system from the Tennessee line to the Yazoo River was inaugurated. At the close of the war the debts of the board amounted to $943,666.58, exclusive of interest. In 1867 another board was organized to liquidate the outstanding indebtedness and authorized to fund the principal in bonds bearing 5 per cent. interest. This entire debt, amounting, principal and interest, to $1,400,000, has been paid off with the exception of $120,000, and this balance will be paid during the ensuing year. It will thus be seen that the people of the Yazoo Delta expended on the levees from 1858 to 1867 the sum of $2,120,000 in payment of debts accruing up to the last-named year. Since the war the board have issued bonds bearing 10 percent. interest to the amount of $1,992,937. To liquidate this debt a tax of one cent per pound on all cotton grown in the delta was levied in addition to the tax on the land.

This tax has realized in the three lower river counties, Bolivar, Washington, and Issaquena, since 1865, about $3,500,000, and all the indebtedness of the board up to last January, except about $17,000 has been paid. In 1871 the three upper riparian counties, Coahoma, Tunica, and De Soto, were organized into a levee district and authorized to issue $1,000,000 of bonds. It will be seen from these figures that $5,900,000 have been paid by the people of the Mississippi Delta since the war to keep up their levees. In the face of these facts it is hardly just or fair to assert that they have not done their part manfully to protect their country. I think that they put their shoulders to the wheel before they called for help, and I think that their brave efforts and their suffering entitle them to receive it. There are two other facts in this connection which give them an equitable if not a legal claim upon the assistance of the national Government. During the war five of the largest and most expensive levees were cut by the Union forces, and after the war a very heavy tax of questionable constitutionality was levied for some years on all of their cotton. The Government can therefore afford to be generous; it surely will be just. But under no circumstances would I be willing to see it, while endeavoring to deal generously and justly with the people of the inundated districts, unjust in any degree to the other sections of the country. It has been a source of sincere pleasure to me, Mr. President, to observe that in the discussion of this grave question no partisan feeling has been displayed, no political jealousy has been manifested, no sectional animosity evoked. This is a sign full of hope to the country, for it shows that no party, no sectional lines have here divided the representatives of all the States of the Union. North, South, East, and West join in considering this great national issue on broad, statesmanlike, constitutional grounds, all having in view one patriotic object, that of promoting the welfare and the prosperity of all the people of our great Republic.

Mr. BAYARD. Mr. President, the condition of the great valley of the Mississippi appeals strongly to the Congress of the American people; and the terrible distress that has been witnessed in the last few months in that valley is beyond precedent. I do not think that any such disaster in the way of the destruction of material wealth, and consequent unhappiness to the producers of that wealth, has ever been witnessed in this country, although there have been grievous afflictions. The widespread destruction of property and life in Michigan by the late forest fires, the destruction of so large a portion of the great city of Chicago by fire, and of Boston as well—although such occurrences were appalling in the extent of ruin they wrought, will not bear comparison with the magnitude of losses which the unconfined waters of the Mississippi River and its tributaries have brought to the great tier of States which lie along its banks.

We may call the Mississippi a river, and that is probably its nominal description, but in fact the Mississippi River is the great interior water-front of this continent. The other day I went before a committee of the other House of Congress to discuss appropriations for the improvement of certain rivers and harbors of which locally I had some knowledge. Unlike my friend from Arkansas [Mr. GARLAND], I am disposed to be a strict constructionist of the Federal Constitution, and I never have advised and I never have voted that public moneys should be taken for private use. I believe it to be a heresy peculiarly dangerous under our popular form of government and the written Constitution under which we have arranged the powers of government here. I do not believe that it is anything less than the communistic principle developed for local class, and personal ends. Therefore in giving reasons why upon my conscience I could not ask for appropriations for certain rivers and harbors for the sake of the merely local benefit, I gave them simply because it happens as a geographical fact, that the water-front of the country which I desire to see improved was not the local water-front merely of a State or Territory, but it was equally the water-front of States lying far in the interior and distant from it, that in the great problem and course of transportation, it matters not at what point the obstacle shall be discovered, it matters not at what geographical point the chain of continuity is broken in the course of the transportation of the produce of the country to the markets of the world, the loss caused by the obstruction falls everywhere along the line of communication, and cannot be confined to the spot where the obstruction is found or the break takes place. And just as I said that Maryland and New Jersey and Delaware are the Atlantic termini and ocean water-front of Indiana, Illinois, Ohio, Tennessee, Kentucky, and West Virginia, so on the other hand do I feel that the Mississippi River, coursing for nearly 3,000 miles through the territory of the Union becomes, and is in fact, a great interior water-front of the entire country, as much entitled to the consideration of those who administer the powers of this Federal Government as though that front were on the Atlantic or Pacific Oceans, instead of being in the interior of the country; and I believe as legitimately, justly, and properly, Congress may expend money from the public Treasury for the purpose of preserving

and improving the navigation of that river, as it can of any other water-front of the United States. You may with equal constitutional justification spend the money of the Treasury upon the Mississippi River, as you may upon the rocky channels of Hell Gate, or any other portion of that great commercial water link, Long Island Sound.

It is not just or possible, therefore, to consider that great river, with all its affluents, with all the vast and varied interests that line its banks and which are affected by it, as a local question, or as one confined to mere local interests or results. Ten States of the Union are actually washed by its waters, and four others, equal in extent and importance, are intersected by its chief affluents. The influences and uses of the Mississippi for transportation extend infinitely beyond the great group of States which are either immediately adjacent or almost directly connected with the waters of the river itself.

Thirty-one years ago the Supreme Court of the United States, speaking through the voice of the illustrious and learned Taney, gave such an interpretation to the Constitution as extended the admiralty jurisdiction of the Federal Government over the great chain of lakes and rivers where the tide neither ebbs nor flows. Said Judge Taney, in the case of the Genesee Chief, in considering the English definition of admiralty jurisdiction, confining it to waters within the ebb and flow of the tide, and giving historical and geographical reasons why that was the law in England and was so imported into this country at the time of adoption of the Constitution, he nevertheless by perspicuous reasoning showed that where the reason ceased the law ceased, and that from the very nature of things, and from the relations of the several States of the Union, and the proper government and furtherance of the objects of the Union, a wider, broader, and more comprehensive interpretation had to be given to the powers of the General Government under the Constitution. After referring to the rule that admiralty must have tide-water for its basis and limitation of jurisdiction under the English law, he said:

> The attention of the court was, however, drawn to this subject in the case of Waring vs. Clark, 5 Howard, 441, which was decided in 1848. The collision took place on the Mississippi River, near the Bayou Goulah, and there was much doubt whether the tide flowed so high. There was a good deal of conflicting evidence. But the majority of the court thought there was sufficient proof of tide there, and consequently it was not necessary to consider whether the admiralty power extended higher.
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> But that case showed the unreasonableness of giving a construction to the Constitution which would measure the jurisdiction of the admiralty by the tide. For if such be the construction, then a line drawn across the river Mississippi would limit the jurisdiction, although there were ports of entry above it, and the water as deep and navigable, and the commerce as rich, and exposed to the same hazards and incidents as the commerce below. The distinction would be purely artificial and arbitrary as well as unjust, and would make the Constitution of the United States subject one part of a public river to the jurisdiction of a court of the United States, and deny it to another part equally public and but a few yards distant.
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> It is evident that a definition that would at this day limit public rivers in this country to tide-water rivers is utterly inadmissible. We have thousands of miles of public navigable water, including lakes and rivers, in which there is no tide. And certainly there can be no reason for admiralty power over a public tide-water, which does not apply with equal force to any other public water used for commercial purposes and foreign trade. The lakes and the waters connecting them are undoubtedly public waters; and we think are within the grant of admiralty and maritime jurisdiction in the Constitution of the United States. (The Propeller Genesee Chief vs. Fitzhugh, 12 Howard's Reports, 456, 457.)

I have read this because that decision was one of the great landmarks of judicial interpretation in the history of our Government, which recognized the condition of things as they are, and which exhibited the capacity of the principles that underlie the frame-work of the Constitution to accommodate themselves to the growing recognition of great public necessities and essential public facts.

It was a most important and profound adjudication of the equities of the Union, expanded so as to include every member within its beneficient powers, regardless of geographical position.

I read further from this decision:

> The Union is formed upon the basis of equal rights among all the States. Courts of admiralty have been found necessary in all commercial countries not only for the safety and convenience of commerce and the speedy decision of controversies, where delay would be ruin, but also to administer the laws of nations in a season of war, and to determine the validity of captures and questions of prize or no prize in a judicial proceeding. And it would be contrary to the first principals on which the Union was formed to confine these rights to the States bordering on the Atlantic, and to the tide-water rivers connected with it, and to deny them to the citizens who border on the lakes and the great navigable streams which flow through the Western States. Certainly such was not the intention of the framers of the Constitution; and if such be the construction finally given to it by this court it must necessarily produce great public inconvenience, and at the same time fail to accomplish one of the great objects of the framers of the Constitution; that is, perfect equality in the rights and the privileges of the citizens of the different States, not only in the laws of the General Government, but in the mode of administering them. That equality does not exist if the commerce on the lakes and on the navigable waters of the West are denied the benefits of the same courts and the same protection which the Constitution secures to the States bordering on the Atlantic.

The recommendation of the judicial department has been followed by the Legislature. We have consequently had no question asked as to whether the commerce of the country and the navigation which conducted that commerce were upon tide-water or beyond the reach of the tides. The most conspicuous illustration of this is to be found upon this great river itself. I refer to the jetties erected at the mouth of the Mississippi, the harbor there formed, and the safe and easy access given to the great port of New Orleans under the engineering skill of Captain Eads. There was a clear and most justifiable assumption of control over the channels at and near the mouth of that river by Congress, in making the wise appropriations for the purpose of producing the marvelously beneficial results which have followed.

I do not believe that the results of those jetties, and of the direct commerce with the world which they have already given, and are yet to give, to all that great group of States that lie so distant from the sea, are as yet fully appreciated. Changes in the routes of commerce have frequently occurred in history. At first they are not marked in their results; gradually their influence upon trade and commerce becomes recognized, and how important and essential they are. I believe that the capacity of the river Mississippi, as a factor in the great question and struggle for quick transportation of cereal supplies, has scarcely yet become appreciated by the people of the United States, or by the many millions that lie beyond the limits of this country, and who are affected by the capacity of that river to afford a cheap food supply to the world.

Capital is discovering what an opening for its employment these jetties have created, and the statistics of the increasing grain-trade from Saint Louis are most suggestive of a wonderful future.

The commerce of New Orleans has felt the quickening effect upon every branch of trade, and every industry connected with it.

As to the results of a system of extended and beneficent commerce, of exchanges, of providing foreign markets for the industries and productions of the people of the great Northwest and of all those whose territory is contiguous to the Mississippi River, I believe the picture has not been nor can be now fully drawn. I look back with satisfaction to the part that I have taken, in assisting by my vote and voice, in the proper development of plans to insure the full use of the marvelous capacities of the river Mississippi to aid the commerce, the prosperity, the welfare of the whole country.

The expenditures on the jetties at the mouth of the Mississippi have resulted in great and triumphant success up to this time. It is true that we hear the whispers of adverse criticism—and a vague share in the disasters of the late inundations and overflows is sought to be attributed to them. But condemnation and criticism must in simple justice be suspended, because in dealing with such a power as this mighty current, there must necessarily always be something that is necessarily experimental, in any work even with the aid of the greatest human ingenuity and highest intelligence to devise a plan, and with honesty, ability and care in executing it. I hold that all that may be done by members of Congress in either House is, that they shall carefully scrutinize the amount of appropriations and see that they are just in proportion to the objects in view, and secure, so far as they may, that the moneys so appropriated are honestly expended. I do not think it is within the power of man to guarantee with certainty the success of any of these experiments. The difficulty attending this or any other appropriation for the Mississippi is, that such measures always will be in a great degree tentative. You cannot guarantee their permanent results in advance; you cannot rely upon what the actual result of your expenditures will be. The mysterious and mighty power of that river may sweep away the most carefully-devised and strongest works that man's hand can erect, and may set at naught and laugh to scorn all efforts to confine or control it.

I have myself been a personal witness to the marvelous and uncontrollable power of that stream, and the unexpected course that it will take despite all human experience or expectation. I remember very well in the summer of 1876, being on Congressional duty at Jackson, Mississippi, I went across to spend the day at Vicksburgh to see a cut-off and channel which the river had just established for itself, and which threatened then, and I fear threatens now, disastrous consequences to the city of Vicksburgh. It is well known to the Senate that during the war the best engineering skill of the United States Army, under the command of General Grant, sought to cut a canal across the neck of land below Vicksburgh for the purpose of giving safe passage to vessels and avoiding the batteries which lined the bluffs above the city. No expense was spared; no zeal or skill was wanting. Every reasonable hypothesis would have led one to believe that this canal, opened at the point selected by the best engineers of the Army, would have received instantly the flood and impetus of the main body of water of the river, which would have been prompt to flow through it by a shorter and more direct passage to join the water below. Yet "man proposes and God disposes." The canal was cut at the precise point and angle that was expected to be efficient, and it was labor in vain. The course was open for the water, but the water strangely and stubbornly refused to follow it; and yet some ten or twelve years subsequently to that period all at once, of its own motion, uninstructed by engineers, unexpected and undesired by any one there, the river quietly, and with an irresistible and majestic force, cut its own way directly across this neck of land some distance above the canal that Grant's engineering skill had planned. Within less than a week from the time it cut its way across that neck of land, I passed through the new channel so made, upon a tug-boat, and was informed by those in charge that the channel was at that time one hundred feet in depth, and where that channel then was a cotton plantation had always stood in the memory of man until within a fortnight of its destruction.

I am mentioning but a single fact. Those whose homes lie along the banks of that river could repeat to you its wonderful phenomena. But all the marvels of its history teach in the long run but one lesson. He who would seek to avail himself of the power of the Mississippi must humbly study the laws of its currents, and its mysterious and apparently unaccountable movements and make his attempts at hydraulic engineering and improvements subordinate to the currents, floods, and vast powers of the river itself. If this postulate

be true, how dangerous will it be to embark suddenly upon any wholesale system that is not at every step carefully examined, tested, and reported on by those, who from their special skill can intelligently watch it, and inform us of the results of their experiments?

I have here in my hand the report made last year by an accomplished and able commission, supplemented by a minority report of Captain Eads, who, although a member, was absent at the time of the close of their deliberations, which recommends a large and important expenditure to protect the navigation of the river and keep its waters within their proper course. I have read these reports; and I have read other reports. I find conflict of judgment between the experts which I cannot reconcile; men of experience and intelligence differ *toto cœlo* from each other. We are told that certain plans which conscientious and intelligent men recommend will be worse than useless; that they will only foster and extend the very difficulties which this expenditure of money is meant to meet. In this case what can we do? What is the measure of duty of a conscientious representative in this difficulty?

As I said before, all of these expenditures must be tentative; they must be and are necessarily experimental; but if we do not make the experiment, we will never be able to test the truth and usefulness of the plans of either one side or the other. So, I say, that, justified as I believe myself to have been in the past, in voting the large amount of moneys for the mouth of the Mississippi and to create those jetties, I feel myself justified in following the recommendations of the commission, composed in part of the very intellect and mind that devised so successfully the prior expenditure, and will give my vote in aid of the expenditure to the amount recommended by the bill and the commission, I think, of $5,300,000, which at least shall afford the opportunity of testing the correctness of the plans and views carefully prepared and intelligently reported of the commission of experts to whom the consideration of this subject has been properly intrusted.

They may be in error; the expenditure may prove futile, but this is part of the incompleteness of any human endeavor to deal honestly with a great and difficult problem. In view of the immense public interests that stand waiting our decision, I feel that we have no right to ask that Congress shall still pause and pause forever without making an honest endeavor to commence the attempt to repair and improve the navigation of this river, which is so essential to the safety of so large a share of the country's commerce.

Now, one word in regard to the results. I said as a principle I do not believe that you can justifiably apply public property for private use. It is that doctrine and that belief which prevent me from being a protectionist, so called, upon the subject of the tariff. But, sir, all public expenditures honestly and properly made, necessarily and justly result in private as well as public benefit. If an "incidental protection" shall come to the planters along the bank of that great river, from the works raised by the Government to confine its floods and currents and make it navigable, then I shall only be the more glad to vote for it. It is so much the better for them. It is not *because* it assists these men, so unfortunate in the locality of their homes, that we ought to withhold our proper aid to a great Governmental work. On the contrary, I protest that whenever the two things can be accomplished and the powers of this Government can be exerted and its property expended in furtherance of a great public object, the more of private benefits that follow in its train the better.

I have said thus much, because I feel justified in going to the extent recommended by the board of experts and the committee of this Senate, who I believe have ably and conscientiously performed their duty and made to us a report, not absolutely certain and conclusive in its findings, for it was impossible from the very nature of the subject that it could be so, but nevertheless sufficiently so to justify them upon their character as responsible men in saying, as they have to the Congress of the United States, "We believe that the navigation of that river and the enormous commerce which floats upon it can be permanently and importantly benefited by the expenditure of the sum of money which we have decided to recommend should be appropriated."

There have been a great many propositions stated as the proper constitutional grounds upon which the money can be expended. My friend from Missouri who sits in front of me [Mr. VEST] made one from which I wholly dissent, and I scarcely believe that he made it with absolute approval in his own mind, when he said that the river belonging to and being under the lawful control of the Government of the United States, it was their business and duty to keep their property from invading that of the private citizens. If that be so, then the Government would be as liable, should a drought befall us and prevent navigation from want of water, as it can be from a flood which destroys property by its inundations. The argument cannot stand for a moment, in my judgment; it is not the basis of the responsibility of the Government. But this is the fair and reasonable proposition: the Mississippi River, the great "Father of Waters," is part of the public navigable domain of the United States, and it is the duty of the Congress to deal with it in a fair and just sense of its proportionate value and interest to the whole of this broad Union, and the property it contains.

I am not disposed to ask the latitude or longitude of the locality where the expenditure is to be made. All have an equal right to ask this care of the Government, and wherever you shall make a judicious appropriation in the line of care of a navigable river, or of a harbor, there you have sown the seed of advantage to the entire country, for in the great chain of transportation, as I said in opening, it matters not at what point the obstruction occurs, it is there that the hand of the Government should be employed in removing it.

I hope sincerely that by the expenditure of this important sum, recommended by this board of experienced men of especial fitness and intelligence, enough may be discovered to make it clear to us, us, or make it clear to those who shall succeed us in this place of public duty, that a scheme of improvement with assured and beneficial results may safely be embarked upon, and that the great Mississippi River may receive at the hands of Congress its just proportion of the public money to be spent for public benefit.

For that reason, I shall give my vote in favor of the sum reported and recommended by the commission, and shall not at present go beyond it. The work is experimental, from its very nature it must be in a great degree at least experimental; but we are justified, nay, I would say further in my opinion, we are obliged to follow the unchallenged report and judgment of this commission in making what I consider the large and liberal appropriation which they recommend, and which I hope may be productive of benefit to the great object in view.

Mr. PENDLETON. Mr. President, the magnitude and importance of the Mississippi River, the extent of territory which its waters wash, the greatness of the commerce which it serves, the value of the productions of agricultural labor and mechanical skill which float upon its surface, lie at the very basis of this discussion. They have been described so well, so fully by every Senator who has taken part in the discussion that I do not propose to add a word upon that subject. Eloquence and rhetoric, and facts which seem incredible, and figures which are bewildering, have all been called into requisition, and yet the description does not equal the reality.

When I recall what the Mississippi River was two hundred years ago, when La Salle with his three canoes traversed its length, when its majestic waters rolled, in the silence of the primeval forest, from the lake to the Gulf; when I recall what it was a hundred years ago, when almost impenetrable forests stretching from the Illinois to the borders of the Gulf, unbroken except by the tread of the savage, separated it by five hundred miles and more from the westernmost border of the feeble colonies; when I recall what it was sixty years ago, when the removal of the Cherokees just west of the lands which its waters drain was supposed to place them at a distance such that separation would perform the functions of non-intercourse laws, and they would be secure from the aggressions of the active and energetic civilization of our race; when I see how these Indians are pressed not only by our people but by our railroads; when I see this river draining States which have become empires, and bearing on its bosom the products of farms which have grown up out of these wildernesses; when I look at that drop and this ocean, at that grain of sand and this mighty seashore, it seems as if the dream of possibility had been surpassed. If we look forward into the future, even the immediate future, within the life-time as I hope of most of these Senators who sit beside me, fancy refuses to compete with fact and—

> Imagination's utmost stretch
> In wonder dies away.

Mr. President, I heard a remark from this side of the Chamber in response to a taunt from the other side which seemed to imply a criticism upon the doctrine of strict construction of the Constitution. I regretted to hear it. I am a strict constructionist, I belong to that school; I belong to its straightest sect; and the more reflection I have been able to give to the subject, the more faithful have I become in my adherence to its tenets. The Constitution of the United States has classified the powers of Government and society. It speaks of delegated, prohibited, reserved powers. The delegated powers are those which the Federal Government possesses. It has no other. It has no inherent power; it has no original power. It has only that portion of the power originally belonging to the States which is given to it by the States under the Constitution. The prohibited powers are those which the States themselves have consented not to exercise. The reserved powers form that great residuum of power belonging to every governmental and social organism, belonging to every independent, self-existing, self-controlling, self-maintaining sovereignty, which it has refused either to delegate to the Federal Government or to decline to exercise itself. Two clauses in the Constitution announce its whole philosophy.

> This Constitution and the laws of the United States made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.

This is the provision which gives its supremacy to the Government of the United States within the sphere of its action and the scope of its powers. Alongside of it, supplementing it, completing it, protecting it, is that other provision equally important, even more important still, that—

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

These provisions constitute the rule by which I interpret the Constitution of the United States. "They are the lamp to my feet and the light to my path." When Massachusetts, devoted to home rule, devoted to that democracy which finds its worthy expression in

the powers of her town-meeting and the form of government based upon it, ratified the Constitution of the United States, at the same moment in the same instrument, Massachusetts declared that "in order to remove the fears and quiet the apprehensions of many of the good people of this commonwealth and more effectually to provide against undue administration of the Federal government," there should be an amendment to the Constitution declaring that all powers not delegated by the Constitution are reserved.

Mr. President, I have said that these two provisions contain the whole philosophy of the Constitution, the philosophy of our Government, the philosophy of Federal union, the philosophy of confederated equal republics. They contain the philosophy of a Republic of republics. They express the idea of union as against unity. Sir, they do more; they constitute the hope of the continuance of this Government and form the best safeguard of our liberty. Union is liberty and strength; Unity is empire, despotism, and finally disintegration.

The Constitution of the United States declares that—

The Congress shall have power * * * to regulate commerce with foreign nations and among the several States and with the Indian tribes * * * to establish post offices and post-roads * * * to organize and maintain armies * * * to provide for the common defense and the general welfare.

It is extremely doubtful, if this were a new question, whether those who made the Constitution and put in operation the Government could have found an interpretation of the Constitution by which they were willing to stand, which would have given the authority for the passage of this bill. But it is too late to enter into that discussion now. They found under the provision to regulate commerce with foreign nations and among the States full authority to do—and they did—all which in their judgment was necessary for that regulation. They anchored buoys; they built light-houses; they built break-waters; they built piers; they improved harbors where there were harbors, and made harbors where there were none; they found authority and did all which was necessary to regulate commerce between foreign nations or in the coastwise trade within the limits of the tide-water district of the United States. Although that authority may have been questioned here and there, yet in spite of all opposition it was maintained for fifty years, though limited to the tide-water.

The decision of the Supreme Court of the United States in the case of The Genesee Chief extended the maritime and admiralty jurisdiction of the United States to all the lakes and navigable rivers which washed the shores and carried the commerce of the several States. Since that time, against whatever opposition, it has been maintained successfully, both by the decisions of the courts and the enactments of the legislative authority, that Congress has the same power of regulating commerce upon the great rivers and upon the great lakes as it theretofore had in regulating commerce on the tide-water. In the face of the uniform practice of fifty years before that decision, in the face of the uniform practice of regulating the commerce upon the lakes and the rivers for forty years since that decision was made, in the face of the contributions under one power or another, to the Pacific railroads and to other roads not so extensive as they, it is too late to question that Congress has now, in relation to the commerce of the rivers and lakes, the same power that it ever exercised in reference to the foreign or the coastwise commerce of the country. Even before the decision in The Genesee Chief, Mr. Calhoun, in view of the improvements in the mode of transportation, of travel, and of navigation, declared that—

The invention of Fulton has in reality for all practical purposes converted the Mississippi with all its tributaries into an inland sea. Regarding it as such, I am prepared to place it on the same footing with the Gulf and Atlantic coasts, the Chesapeake and Delaware Bays and the lakes, in reference to the superintendence of the General Government over its navigation.

Considering this great subject two years ago in this catholic spirit, in 1879, the Congress of the United States organized this commission of which we have heard so much. Congress defined the work assigned it and declared that—

SEC. 4. It shall be the duty of said commission to take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods; promote and facilitate commerce, trade, and the postal service; and, when so prepared and matured, to submit to the Secretary of War a full and detailed report of their proceedings and actions, and of such plans, with the estimates of the cost thereof, for the purposes aforesaid, to be by him transmitted to Congress.

I am prepared to maintain that Congress has the power to do every one of the specific and particular things for which the commission were directed in this section to prepare plans and make estimates. It has been said during the course of this discussion that the third provision, "to report specifically upon the practicability, feasibility, and probable cost of the plan known as the jetty system, the levee system, and the outlet system," committed Congress in some way or other upon either the advisability or the constitutional power to undertake some of those works. I feel no such embarrassment, no such committal. I feel not in the least degree committed to go further by the mere demand for information. If I had known at the time that it was utterly beyond the power of Congress to inaugurate those improvements, I would nevertheless be willing in a case like this, involving so much of material interest, to make the investigation. I feel no committal, for if I have taken a wrong step I can easily retrace it. I say that Congress has the power to do each and every one of the things enumerated in this instruction to the commission. Let me read it again:

To take into consideration and mature a plan which will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River and prevent destructive floods—

I have transposed the words—

in order to improve and give safety and ease to the navigation thereof, and to promote and facilitate commerce, trade, and the postal service.

Mr. President, I do believe that Congress has the right, the constitutional power, to do each and all of these things. I do not believe that it has the power "to fence the farm of a farmer," as long ago was said in discussing this very question. I do not believe it has the power to use the public revenue for the purpose of reclaiming the lands of individual owners who are citizens of, and whose lands lie within the limits of, a State. I do not believe that it has power to enter upon a system of public improvements whose only end and aim are to prevent damage in the future or repair the injuries which in the past, have arisen from natural causes over which it has no control.

This commission has made its report. The committee, following in the line of the report and in the line of the action of Congress, has reported this bill appropriating $6,000,000 for the improvement of the Mississippi River under the direction of that commission. It permits the amount appropriated to be expended under the direction of the commission for executing every work of every kind which will materially aid in the improvement of the Mississippi River. It provides that not one dollar shall be expended on any work which does not contribute to that end. I approve that proviso. I would be willing to vote it in a different form. I would be willing to take the amendment offered by the Senator from Louisiana, [Mr. JONAS.] I would be willing to adopt the suggestion made by the other Senator from Louisiana [Mr. KELLOGG,] who sits opposite me. I would be willing to amend it in any way which would make it more clear that Congress means two things—first, that the money shall be appropriated under the judgment of the commission, and according to its discretion, for the repair or the rebuilding or the building anew of levees wherever they are essential to the improvement of the river; and second, that not a dollar shall be expended when the main purpose of repairing or rebuilding the levees is to reclaim the lands of private individuals whose property lies within a State, however numerous or however meritorious those individuals may be.

Mr. President, what will be the action of the commission under this bill? I have read its report; I have examined it with much care; I have examined the various papers whether reports or supplemental reports, or statements which have been presented to the Senate.

Without troubling the Senate by reading the extracts which have been repeatedly read, I have come to the conclusion that the members of the commission do believe that in places, at times, under conditions, the repairing and the construction of levees is an important aid in the improvement of the navigation. They believe perhaps that the levees are never the sole, essential, only means of improving or perfecting the navigation or facilitating the commercial interchanges along the river; but they are sometimes important, necessary, and always appropriate and conducive. I am willing to commit that question to them. It is a matter of scientific examination and experience; it is a question that I cannot for myself solve. I am willing to leave it to this commission. I am willing to appropriate this money so that this commission may use it within their discretion for this particular purpose. It gratifies me to believe that when this money is used for the purpose of improving the navigation of the river, when it is used for the purpose of aiding the commerce that floats upon its bosom, and bears beneficent results to all the States of the Union, that it will also restore to some extent the prosperity of those people whom the floods have almost ruined, and repair the injuries from which they now suffer. It gratifies me; it enables me to vote very heartily for this bill, that the judgment and wisdom and experience of these men who have made this the subject of thought and study, will be able to agree upon plans which while they subserve the main purpose of regulating the commerce and improving the navigation of the river will also accomplish this incidental beneficence.

It is not necessary that I should go further to state the position that I hold upon this bill; but I should like to make a suggestion or two to gentlemen to whom the idea of repairing or building levees seems to conjure up a horrid spectre of unconstitutional action and enormous expenditure. I have heard no man say upon the floor, I believe no man will say, that the power of Congress to regulate commerce upon the lakes and upon these great rivers, the Mississippi and the Missouri, is not the same, equal in extent, *mutatis mutandis*, with the power to regulate commerce upon the high seas. What has been done by Congress in the regulation of commerce upon the lakes? It has improved the means and facilities of transit; it has improved the Saint Clair Flats; it has built enormous works at Sault Ste. Marie. It has done more. It has gone along the shores of the State of Ohio; it has built breakwaters and dredged behind the breakwaters the shallow lake to a proper depth, so that there should be harbors of refuge for vessels caught in a storm on their way from Buffalo to

Chicago. It has done more. It has built piers; it has established light-houses; it has improved creeks running into the lake; it has erected enormous works; it has built costly harbors in order that vessels plying along the lakes might find a secure place in which to unload and to load the freights which the cities themselves and the rich country behind them bring to their docks; it has made ports where there were none; it has improved unsafe ports, and no complaint has been made. It has in many places made out of the bare, shallow shore of a lake, where there was no harbor, where there was no refuge, a complete, handsome, commodious harbor for business, as well as a place of safety for vessels seeking refuge from the elements.

Nobody has objected, nobody has found fault with it. The power of Congress has never been questioned. I want to ask, if it shall become necessary to build a harbor of refuge upon the Mississippi River, so that vessels shall not be cast away by the enormous floods and overflows of that stream, has not Congress as much right to build it, if necessary, there as it has to build it upon the lakes? If it shall become necessary to build harbors and ports in order to accommodate the commerce and the traffic which floats upon that great river, more and manifold more than that which floats upon the lakes, has not Congress authority to build these ports and furnish the convenient facilities for the easy interchange of the commodities which, as I understand it, makes commerce?

I am not saying that here or there or in any particular place it may be as necessary upon the river to make these works of improvement as it is upon the lake, but if the exigency arises and the importance is as great, I want to know whether the power of Congress is not adequate to make the improvements upon the river that it has already without question made upon these great inland seas? What virtue is there in the waters of the lake and the soil of the noble State, which I in part represent, which makes that which is unconstitutional in Mississippi and Louisiana constitutional upon our borders? What quality of vice is there in these States of Mississippi and Missouri and Louisiana, represented so ably by gentlemen who sit around me, which makes that for their benefit unconstitutional, which is constitutional when applied to Indiana and Michigan and Ohio?

Mr. HARRISON. Will the Senator from Ohio allow me to interrupt him?

Mr. PENDLETON. Certainly.

Mr. HARRISON. I think the distinguished Senator from Ohio is combating a proposition which has not been assumed by anybody in this Chamber. I freely concede the power of the Government in the protection of commerce and in the facilitation of commerce to be quite as wide on the Mississippi River as on the lakes or on the sea-coast; and I do not think that any one has advanced any other conclusion than that.

Mr. PENDLETON. Very well, Mr. President——

Mr. HARRISON. But if the Senator will permit me further——

Mr. PENDLETON. Certainly.

Mr. HARRISON. In connection with these landings, these piers, does the Senator think that the construction of a continuous landing on both sides of the river from Cairo to New Orleans could be justified under the plea of building landing places?

Mr. PENDLETON. That is simply a question as to whether the work shall be greater or less. That is simply a method of trying constitutional power by the magnitude of the work required and its cost. If Congress has the power to build piers and make harbors upon the lakes when they may be necessary to commerce, I ask has it not the power, wherever it is necessary for the same purposes, to build them on the river and to use in building those piers the alluvial soil which is at hand rather than the rubble work and the masonry which it may be obliged to use in other parts of the country. If it shall become necessary in the course of time to build harbors of refuge upon the Mississippi, then the Senator [Mr. HARRISON] admits that there is constitutional power to do it. If it becomes necessary in order to the transactions of the commerce which floats upon the bosom of that river to make docks and piers, places of landing, that boats may discharge their cargoes and take on new cargoes, then the Senator [Mr. HARRISON] admits that there is the power in Congress to do it. It is not for me, it is not for him, to limit the constitutional power to build a pier because it must be ten miles instead of ten yards.

I am not fond of anticipating questions. I am not fond beforehand of stating the limits of constitutional power in the Federal Government, but I say to gentlemen that the time will come, and perhaps soon, when this question will be differently stated. It will not be stated as a scheme, for the reclamation of lands, as the Senator from Indiana has stated it, but it will be, as a plan, for the enlargement of the banks of the river for the purpose of protecting the channel of the river, narrowing its boundaries, deepening its waters, providing for the commerce that floats upon its bosom. These gentlemen had better reflect upon the suggestions which I have made and which I have not intended to answer, for the time will come when they will be pertinent to the discussion which will be had and will demand an answer, even if their consideration is not necessary for the determination of the present bill.

Mr. CALL. Mr. President——

Mr. VEST. Will the Senator from Florida yield to me to make a single remark?

Mr. CALL. Certainly.

Mr. VEST. The Senator from Delaware, [Mr. BAYARD,] not now in his seat, I am sorry to say, alluding to a position which I assumed the other day, said that he had no idea that the Senator from Missouri could be sincere or in earnest in that position, or that it had the approval of his judgment, to use his own language, and that the argument could not bear examination for an instant.

Now, Mr. President, I simply wish to say that when I took the position that the Government of the United States, under the Constitution, when it assumed the ownership and property of the Mississippi River, assumed the obligation of all ownership and all property to improve and regulate that river, I asserted what is the deliberate result of long-continued investigation and judgment upon that question; and I state now, in order that it may go upon the record and to the country, that I am prepared to declare, and I believe, to prove beyond any sort of question, that when the Congress of the United States assumes to deepen the channel and to put more water, to use the language of the Senator from Delaware, into the Mississippi River, it logically assumes the duty and the position that it must protect from the results of overflow the country through which the Mississippi River runs.

The gentleman from Delaware congratulates himself that he voted for the jetty system. What was the jetty system, and what is it to-day? It is simply deepening the channel by putting more water in it at the mouth of the Mississippi River. Yet the Senator seeks to belittle my argument to a *reductio ad absurdum* by stating that if I undertake to say that Congress must protect that country against overflow at the same time I say that it must protect it against drought and put more water in the river.

Now, Mr. President, I assert that if you undertake to deepen the channel, to improve the river, to put more water in a particular place in it for the purpose of navigation, the very same argument compels you to the further position, that river being the property of the United States, the right to improve that very property imposes the obligation of its being so regulated and so controlled by the owner as to conduce to the welfare of the whole country instead of the destruction of a part; and when this proposition is answered, then I will concede to the Senator from Delaware the right to speak facetiously of the position I have assumed.

Mr. HOAR. May I ask the honorable Senator from Missouri if he states gravely to the Senate as a proposition of law that ownership of a natural stream imposes upon the owner the duty of protecting anybody else against the natural action of that stream?

Mr. VEST. No; I never dreamed of such a thing; but as I stated the other day, and undertook then to elaborate, the relations between individuals are not the relations between the Government of the United States and its citizens. As I said then, alluding to the Senator from Arkansas, who sat immediately next to me, the relation of the Government of the United States to the people of the lower valley of the Mississippi, or to any portion of the people of the country, is not that between the Senator from Arkansas and the Senator from Massachusetts and myself or between any two individuals, because the Senator from Massachusetts has his separate and distinct individual rights and I have mine, and to a certain extent they are antagonistic; but I go upon the broad, national, catholic ground constitutionally, and that the Constitution of the United States asserts all through that the Government is for the people, to protect the people, belongs to the people, that there can be in the nature of things no antagonism between the Government and the people who own it. That is my position. Therefore this narrow, contracted view, with all respect to the Senator from Massachusetts, that the law applies as between the Government and the people which would apply between individual owners, does not obtain in this case; and if the Constitution in its terms permits the Government to make these improvements, to regulate which the Supreme Court says is to improve, then I say irresistibly the Constitution imposes under the clause to provide for the general welfare the duty to see that its own property does not destroy the property of the people.

Mr. HOAR. Then I suppose the Senator can carry that doctrine to its logical conclusion, and hold that where the Government owns the mountains in any Territory it must protect the people who dwell at the foot from avalanches.

Mr. VEST. I do not understand the Senator.

Mr. HOAR. I suppose the Senator would carry that doctrine to the logical conclusion that where the Government owns the mountains in any Territory it must, of course, protect the people who dwell at the foot of the mountains from avalanches.

Mr. CALL. I am entitled to the floor.

Mr. VEST. I beg the Senator's pardon.

Mr. HOAR. I understand the Senator's proposition is this: he concedes that the ownership of a natural stream in a private person does not impose upon the owner the duty of protecting other persons against the natural action of that stream; that is an act of God.

Mr. VEST. Certainly.

Mr. HOAR. But when the United States becomes the owner of a natural stream, then this being a Government by the people and for the people and of the people, the argument is irresistible that it must protect mankind against the natural action or the action of God as manifested through that stream. Now, I ask the Senator if it is not equally true that when the Government became possessed of the

Sierra Nevadas or any other mountains it must protect the persons who dwell at the foot from the action of avalanches?

Mr. VEST. With the greatest pleasure I reply to the Senator from Massachusetts just this: I reiterate deliberately the proposition that it is the duty of the Government of the United States, notwithstanding he uses the term "the act of God," without committing any blasphemy, constitutionally or otherwise, to protect the people of the United States and their property, in so far as it can, from overflow or from avalanche. If twenty-six million acres of soil lay at the foot of the Sierra Nevadas and an avalanche impended, and this Government owned the mountains and could stop it by an act of Congress, I would stop it and believe that Congress had the right to do it. I answer the Senator unquestionably that either from an avalanche or overflow, if the Government owns the property and can do it, it ought to prevent injury to the property of the people.

Mr. CALL. Mr. President, I propose to examine the question whether or not there is any power in the Constitution and Government of the United States for the protection of one-half the commerce and one-half the people of the United States without reference to and not under the guise of a proposition that it shall be done for the improvement of a navigable river. I maintain that if there is no such power in the Constitution of the United States it is quite time there should be an amendment of that instrument; that if one-half of the commerce and the production of this country, and if the lives and safety of one-half its people may not be protected by an exercise of the powers of government given in the Constitution, it is quite time that there should be an amendment by which the powers of government should be made adequate to some provision for the common defense and the general welfare.

THE VALLEY OF MISSISSIPPI, AND ITS EXTENT.

Mr. President, the Mississippi River, justly named the "Father of Waters," with a vast and mighty current, traverses the whole length of the territory of the United States, while its tributaries gather to its bosom the productions of nineteen States and three Territories, extending from Eastern Tennessee to the commencement of the Pacific slope and the summit of the Rocky Mountains in the west: West Virginia, Alabama, Mississippi, Tennessee, Kentucky, Pennsylvania, Ohio, Indiana, Illinois, Missouri, Minnesota, Texas, Kansas, Wisconsin, Nebraska, Dakota, Montana, the Indian Territory, Arkansas, Louisiana, are all interested directly either in the great river or its tributary streams. Twenty millions of the people of the United States inhabit, with their prosperous industries, the country which it drains, and in the not distant future one hundred millions will find homes and subsistence from its fertile soil. Like the ocean, restless and uncontrolled, it has hitherto defied the control of man, and no power but that of nature's God has prescribed its bounds and said to it, "Thus far shalt thou come, and no farther."

LIMIT OF APPROPRIATIONS FOR IT.

The appropriation for it finds equal difficulty with the great river in keeping within the channel and limits of the ordinary and established rules of constitutional power. As it came into the system of States and became the subject of constitutional power and jurisdiction in defiance of all previous constructions of the Constitution, so it still demands for itself new and peculiar theories and boundaries of constitutional power. As its vast flood submerges and destroys States and threatens a continent and a nation of sovereign States with ruin, it is content with no power of less dignity or more circumscribed extent than that chief and sovereign power which summons all the energies of the Constitution to provide for the common defense and the general welfare when threatening armies in time of war assail with all the engines of death and destruction the national life. In times long gone by it defied and subverted the theories of the most eminent and learned of the school of constitutional power that acknowledged no powers outside of the specific grants of the Constitution, and compelled them to place it beyond and outside of the rivers, whether great or small, and to designate it as an inland sea. So it seems now again intent upon asserting its right to that title.

For myself, recognizing its demands to be to some extent justly commensurate with its great natural powers for good or evil, I wish to examine whether there is in the bounds of the Constitution and our forms of government an authority adequate to meet and curb its rebellious disposition, its defiance of law and order, its threatened appropriation of regions most favorably endowed to be the happiest theater of human toil and to furnish the most abundant and beneficent reward for labor, or whether it is to accomplish by the forces of nature that peaceable secession for which human power and genius was inadequate.

POWER TO REGULATE COMMERCE.

The power to regulate commerce with foreign nations and among the States is construed to be the same as the power to create commerce and the same as the power to promote commerce, and not merely as both the language and the object of the power under a strict construction would indicate, the regulation in the sense of prescribing the terms and conditions upon which an already existing commerce might be conducted. The term regulate in the school of construction means to create not only the opportunities and conditions but also the conveniences, agencies, and instruments of commerce; not only those which are moral but also those which are material highways, constructed or improved by art, both natural and artificial, by sea and by land, are within the reach of the elastic grasp of this significant and useful phrase. Commerce, instead of signifying the exchange of commodities of production, in constitutional philology, means the intercommunication of goods, productions, inventions, language, thought, and people, and all the points of contact and relation in which the human race are placed to each other. Within the germane and just application of the very learned and able Senator from Tennessee's health bill, [Mr. HARRIS,] it embraces the intercommunication of contagious diseases, both among animals and men. And in the argument of the Senators from California it embraces either the admission or the exclusion of the Chinese; in short, it means either intercourse or non-intercourse, either commerce or isolation. The "regulation" of commerce between the States and with foreign nations now encounters a new difficulty in being required to embrace within its capacious grasp the rescue of the lands and subsistence of the people of the Mississippi Valley along the ten thousand miles of its banks and those of its tributaries from a greater ruin, a more devastating conquest than plundering armies or murderous implements of war could effect.

NOT CONFINED BY NARROW CONSTRUCTIONS.

I rest my support of the appropriations necessary for the defense and protection of the citizens of the United States, the subjects of Federal power and Federal taxation, and the just and proper beneficiaries of Federal protection, who occupy and are to occupy the banks of this great river and its tributaries from its devouring floods on no such narrow policies. Such limitations of the source of power when applied to this subject are akin only to the superstition which holds that the swollen torrents of the Nile in its annual flood can only be appeased by the sacrifice of human life, by throwing into its angry waves the tender infant and the aged parent.

I do not regard the power to protect the soil or the people of the Republic from any powers or forces which are beyond the capacity of State power as at all dependent upon any other question. I do not consider that it is necessary to cut out the bottom of the river in order to make it lawful to keep its waters within its boundaries, nor to regard its shores as wharves or conveniences of commerce in order that it shall be lawful to build them as restraints against the overflowing tide with its desolating flood.

SHALL CONGRESS PROTECT THE COMMERCE AND PEOPLE OF THE MISSISSIPPI VALLEY.

We have then, Mr. President, the proposition—ten thousand miles of the States and Territories and many millions of the citizens of the States and Territories of the Republic, many thousands of millions of dollars of values, depend absolutely upon an appropriation of the public money, the taxes and labor of the people of all the States to the construction of such works from its sources to the Gulf as will restrain its angry current within its prescribed bounds. Have we the power to apply the public money for this purpose, have we the power to make levies of men and money, and if necessary to levee its banks from its source to its mouth, for the purpose of protecting the country and its production from the angry and devastating floods of the river and its tributaries bearing to the bosom of the Mississippi the floods of two-thirds of the States as an independent ground, and as distinct from its improvement as a great national highway?

This question may properly be regarded first in the light of constitutional power and of constitutional and legislative duty, and secondly, as a measure of expediency, and thirdly, as a measure adapted to harmonize the object of protecting the country from floods with a proper contribution of the people and property to be benefited toward bearing the burdens of this work.

I propose to endeavor to discuss this question and to try it, if within the limits of my ability to do so, by sound propositions of reason and by a consideration of the just powers and objects of our Government.

NO DISTINCTION IN PROTECTION AGAINST FLOODS AND AGAINST WAR.

I have listened in vain to the argument of Senators to discover some ground of distinction in principle between the application of the public powers, the public money, to the protection of the people of the States of the Mississippi Valley against destruction from natural causes from the floods of the great river, and its application to their protection against invasion in foreign or domestic war.

I have listened in vain to discover from them some specific grant of power in the Constitution under which the ordinary or the extraordinary expenditures of the public money are made.

I have heard from one Senator on another occasion that under the power to regulate commerce a railroad may be built; under the power to establish post-offices and post-roads a railroad may also be built.

Surely if the nature of these powers be thus elastic, some place may be found somewhere for the exercise of a power to protect one-half of the commerce and production of the States of the Union from annually recurring destruction.

ANALYSIS OF THE ARGUMENT.

But, Mr. President, let us bring this discussion within the limits of a clearer and more minute analysis. The objections of the Senators from Indiana and Alabama are, first, an absence of power to appropriate public money for the protection of the people of the Mississippi Valley against the floods poured upon them from the waters of the other States; that such an appropriation of the public money would benefit private property by a reclamation of lands, increasing their value and their profits to their owners. The absence of the power to appropriate public money by the national Government is

deduced by them from the supposed fact that the immediate object and effect of the appropriation is the reclamation or protection of the lands belonging to the States and to individuals; and this would be to appropriate public money for the improvement of private property for the benefit only of the owners of property, or for their private benefit; and, secondly, in the argument of the Senator from Alabama, that this reclamation of these lands is a subject within the power of the States, and therefore beyond the power of the National Government, and with which it has no power to interfere or touch.

I believe I state the question fairly and their argument in its full and just scope and effect. The proposition is, that the commerce, the production, the soil, the safety of nearly one-half of the States and Territories and of the people of the States and Territories require protection against causes and influences beyond their separate powers, and within the reach only of the combined power of all the States. The objection of the argument is that this protection can only be had by work done within the separate States, and by the reclamation of land in each State, the property of the State and of private individuals, which, when reclaimed, will benefit the owners, and which as property and as within the territorial limits of the State is subject to the jurisdiction and power alone of each separate State.

The objections therefore are: first, an absence of national power; second, an interference with the State power; third, an exercise of power for the benefit of private individuals.

IT CONCERNS THE COMMON DEFENSE AND GENERAL WELFARE.

I propose to examine them, and I affirm that no one of these propositions can stand the test of reason or of fair and just argument. It cannot be denied that the annual or quintennial submersion of the vast area of the Mississippi Valley and the expulsion of its population would affect injuriously the commerce with foreign nations and among the States, both now and hereafter. It will not be contended that it would not diminish the taxes and imposts and duties and revenues of the United States. It will not be disputed that it concerns the general welfare and the common defense of the United States.

If it be pertinent and within the just scope of the power to regulate commerce to improve or create or preserve a water-way or a highway as a channel for it to pass over and through, because only that without this highway there could be no commerce, by what argument shall we demonstrate that any other means equally essential for the preservation of that commerce is not equally pertinent to and within the just scope of the power to regulate commerce? As a fact, is not the protection of the area of the Mississippi Valley and its tributaries from the annual recurrence of devastating floods equally necessary for the preservation of commerce as the preservation of the river as a highway for the transportation of its productions?

Is it not evident that to have commerce, production, or something to transport is as necessary as transportation, and that the means and the fact of production must precede the means and the act of transportation?

If it be within the power of the National Government, in providing for the common defense and the general welfare, to acquire territory, to annex States to the Union, is it not necessarily within the purview of the powers under which the soil was acquired and attached to the Union to preserve it in its essential and necessary characteristics as soil, as territory?

Will the honorable Senators from Indiana and Alabama say that if a flood were to submerge the whole of the grand State of Indiana, or of Alabama, it would not be within the power and a just cause for the exercise of the national power to appropriate money to reclaim that territory and to restore it to its purposes as a part of the territory of the Union?

SAFETY OF THE REPUBLIC IS THE SUPREME LAW.

The self-evident rule of interpretation of constitutional and sovereign power is that which the Romans embodied in the maxim, "The safety of the Republic is the supreme law."

Whatever powers, therefore, not hurtful to the political autonomy of the States and the national Government are necessary to the exercise of the functions and the performance of the sovereign duties of either or both are necessarily within the scope and limit of their powers, hence the Constitution in express terms affirms—

Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States.

How shall Congress lay and collect taxes to pay the debts and provide for the common defense and the general welfare with one-half of the soil of the States of the Union submerged and incapable of being taxed?

How shall Congress raise and support armies from a country which has been released from its allegiance to the Union and placed under the dominion of desolating floods and angry waters? How establish justice, insure domestic tranquillity, provide for the common defense, and promote the general welfare in so large an area of the Republic, rendered uninhabitable by causes within the power of the National Government alone to prevent?

POWER CANNOT BE CONSTRUED TO DEFEAT THE OBJECT FOR WHICH IT IS GRANTED.

By what rule of interpretation or what process of reason shall we limit and define the meaning of the words "provide for the common defense" to defense against assaults by and dangers from hostile armies and fleets or combinations to resist the law? The rules of interpretation of the meaning of laws are clear and certain. They are the result of right reason, and properly applied leave no room for uncertainty.

We ascertain the meaning of a law by taking the customary meaning of the words in connection with and subject to and qualified by the object and purpose or spirit of the law, ascertained from its context from the old law and the mischief it was intended to prevent. The object of providing for the common defense is to preserve the territorial integrity, the political autonomy, the production, the persons and lives of the people of the country. If these be endangered upon such a scale or in such form as to affect the people in common and to require the efforts of the people in common to defend them, it is manifest that the objects for which this power is given are attained and that the argument which affirms that the common defense must be limited to defense, not against the evils which hostile fleets and armies cause, but to the hostile fleets and armies themselves, is untrue. But the Constitution proceeds, Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States; therefore, the affirmation of the Constitution is express, Congress shall have power to lay and collect taxes, to provide for the general welfare of the United States.

GENERAL WELFARE INCLUDES THE COMMERCE AND PRODUCTIONS OF MISSISSIPPI VALLEY.

By what argument has it been asserted on this floor, what reason given, that that "general welfare" does not include the lives, the productions, the nineteen hundred millions of annual productions of the vast area of the Mississippi Valley, and the countless millions yet to be produced from it? No reason has been given, no limitations of this express phrase of the Constitution have been assigned. None can be given. Is the "general welfare" of the United States promoted by the prevention of one-half of its production and its commerce from being destroyed, one-half of its soil from being withdrawn from its dominion for all purposes of government?

The question seems scarcely to require an answer, but its mere statement demands and carries with it its certain conclusion. The learned and able Senator from Alabama, whose clear and well-trained mind analyzes thought so clearly, has found in the decision of the Supreme Court of the United States that the banks and beds of rivers belong to the States and to riparian proprietors under State law, and not to the National Government, an objection to the appropriations for the protection of the people and commerce of the Mississippi Valley.

RIGHT TO APPROPRIATE PROPERTY FOR PUBLIC USE ESSENTIAL TO GOVERNMENT.

But, Mr. President, the argument cannot run this way. It is manifest that there can be no government, no sovereignty without dominion, either absolute or qualified, over land and people. These are the subjects of sovereignty; *jus dominium* is the attribute of sovereignty. Qualify and divide it as you may, this is the essential attribute of government, of sovereignty, without which there can be neither.

The Constitution of the United States in affirming in article 6, "this Constitution, and the laws of the United States which shall be made in pursuance thereof, shall be the supreme law of the land," declares this sovereignty, this *jus dominium*, over land and people for the uses and purposes and within the limits of the Constitution; and when it affirms that private property may be taken for public uses, just compensation being made therefor, it asserts for itself that right of eminent domain, restrained and qualified by the limitations and prohibitions of the Constitution and by the rights of the States, which is the necessary attribute of sovereignty, whether qualified or absolute, separate or divided. For the beneficial exercise of the powers of the Constitution for the common defense and the general welfare of the United States, objects which in their nature and by the Constitution are declared to be not hurtful to the autonomy of the States or of the Government but preservative of both, there can be no denial of power, no limitation of exercise, because the *jus dominium*, the right of eminent domain in the banks and beds of the Mississippi River and its affluents is in the States, and because they are the subjects of private property.

NO OBJECTION THAT PRIVATE PROPERTY WILL BE BENEFITED.

Much force has been laid in the argument on this bill on the proposition that the exercise of the public powers of the National Government for the protection of commerce and of the soil and people of the States of the Mississippi Valley would secure the public and general objects referred to, would provide for the common defense and the general welfare by means which would also enrich many land proprietors and private individuals.

Certainly it is true that the burdens and the benefits of this and any other exercise of the powers of government ought to be equalized over the whole people and all the interests of all the States just in that proportion in which they are benefited. But that is a perfection of government never yet reached with precision; still it is true that the measure should be made to attain this end as near as possible. But so far as the fact is concerned that the bill proposes to attain its public ends in and by legally benefiting certain classes of private citizens who happen to be land-owners, and by benefiting certain States who are also land-owners, this cannot be regarded as an objection. The increase of individual property and means under our economic system of property in individuals is the only source from which the Government derives its taxes, imposts, and revenues.

The increase of production carries with it the increase of revenue, and it is by the increase of the wealth of the people of a State that the beneficence of government is attested, and by its decrease that the maleficent results of government and public policies are decided.

As individual prosperity in the general increases, so manifestly increases the taxes and revenues of government, I am not prepared to say that some other system of economic distribution of production and land may not in some future time be found necessary to supply the wants and furnish subsistence and comfort to the densely crowded population who are to inhabit our continent and globe. However this may be, it is surely true of our day, and of the effect of the exercise of our powers of government, that no well-founded objection to any measure can be found in the fact that while it provides for the common defense and the general welfare of the United States it also enriches individuals and increases the production of the soil.

SOVEREIGNTY OF UNITED STATES AND STATES DO NOT CONFLICT.

Mr. President, the Constitution of the United States divides sovereignty and sovereign powers with the States, and reserves to the States and the people thereof all powers not granted. Its single and essential distinction is that in thus dividing sovereignty and assuming granted powers it appropriates to itself only those which concern all the States, and which can be better exercised for the common defense and the general welfare by all for each than by each for itself. Tried by this standard the autonomy of the States can never be interfered with, and that the sovereignty of the States cannot be disturbed the Constitution has been careful to provide that Congress shall have power to levy taxes, to provide for the common defense and the general welfare of the United States. How can any law providing for the common defense and the general welfare affect the autonomy of the States which have reserved authority absolute and potential only over local subjects and domestic rights?

If the owner, whether State or citizen, of the bank of the Mississippi River shall refuse to allow such bank to be used for reclamation of lands, or for the protection of himself and his neighbors and the people of the United States against the floods, the Constitution secures him in his individual right; but the autonomy of the State would be in no wise disturbed, its sovereign power in no way interfered with or lessened by the exercise of the power of the National Government to do there and with his property whatever might be necessary for the common defense and the general welfare. No logic or reason can point out how the sovereignty of the States would be affected or touched by the exercise of power by the National Government to build a levee which would protect the commerce of the United States upon the banks of the Mississippi. The absolute reserved sovereignty of the State over that particular soil would still exist there to tax the increased value of the property, to exert dominion over persons and property, to exercise eminent domain over it, subject still to that higher power of use for the common defense and the general welfare to which it has been applied by the national power.

SPECIFIC MEASURE FOR IMPROVEMENT.

In determining as to the specific measure by which the power of the National Government shall be exercised for the protection of the people and commerce of the United States against destruction by the floods of the Mississippi Valley and its tributary streams, I am of opinion that while the measure of relief should be ample and correspondent with the magnitude of the evil and the end of certain and entire prevention—while Congress should affirm that to be the end and object of its legislation and the scope and purpose of its exercise, I am also inclined to think that such a system should be adopted as would be co-operative with that of the State and the owners of the land, so as to subject the increased and increasing value of their lands to a reasonable part of the burdens of this improvement. I can perceive no objection to and no difficulty in the way of adopting and perfecting such a system by which the powers of the two governments might be made to work harmoniously together for the same end, and by which the appropriations of the National Government might be made dependent upon such State legislation as would at some time return some part of the amount to the United States.

I am, however, prepared to give my support to the bill now before the Senate, or to any other bill which shall affirm the principles and be made in accordance with the opinions I have expressed upon the authority and power of the Government and the necessity for its exercise. I am prepared to vote such sums of money as shall be needed and may be wisely expended for this purpose during the next fiscal year.

In conclusion, Mr. President, I quote the argument of Daniel Webster on this subject in 1846. It covers the subject now, as it did then, in the comprehensive and just view, both of constitutional right and power and of broad and liberal statesmanship.

Mr. Webster said in his speech at a public dinner in Philadelphia:

> We cannot shut our eyes to what is around us. Here we are. This vast country, with the ocean on the east and the Gulf on the south and the great lakes on the north and the west, and these great rivers penetrating it through hundreds and thousands of miles—what are we to do? Is it not of all countries in the world that for which nature has done mighty things, and yet calls most loudly on man to do his part? Providence has given us a country capable of improvement. It is not perfected. We are called on to do something for ourselves; to wake up in this day of improvement and do the deeds which belong to improvement; to facilitate internal intercourse; to furnish harbors for the protection of life and property; to remove obstructions from the rivers; to do anything, all and singular, which a large and liberal policy will suggest to an intelligent people with abundance of means for the advancement of the national prosperity. We live in an age, gentlemen, when we are not to shut our eyes to the great examples set us all over the European continent. I do not speak of England, where private enterprise and wealth have gone so far ahead. But look to Russia, Prussia, Austria, Saxony, Sardinia, everywhere we see a spirit of improvement active, stimulated, and persevering. We behold mountains penetrated by railroads; safe harbors constructed; everything done by government for the people which in the nature of the case the people cannot do for themselves.
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> The improvements such as have been mentioned, whether on the ocean or the Gulf, on the lakes or the rivers, are improvements which, from their nature, no single State nor any number of States can make or ought to be called on to make. All idea of leaving such improvements to be undertaken by the States is in my opinion preposterous. In the second place, as all the revenue derived from commerce accrues to the General Government and none of it to the States, the charge of improving the means of commerce and commercial intercourse by such works as have been mentioned properly devolves on the Treasury of that Government and on that Treasury alone.

Mr. President, I am not afraid to stand there. I believe that whatever promotes the general welfare and provides for the common defense of the production, the commerce, the people of the United States, and is not hurtful to the political autonomy of the States or the Federal Government, is both within the power of this Government and within its duty to do; and I believe that the Mississippi River and its affluents, comprising nearly two-thirds of the great territory of this Government, beyond the power of any State to protect from the annually accumulating floods pouring from all the other States upon the valley of the Mississippi, is a work of national necessity, of national duty, and entirely within the scope and unquestionable power of Congress under the Constitution.

Mr. CONGER. Mr. President, I do not desire to detain the Senate now by any remarks, but there have been such wild statements made in regard to appropriations by the Government for the Mississippi River and its tributaries that I have been at some pains to collect together the facts in regard to that matter, and I propose to give the correct figures.

The appropriations, excluding appropriations for surveys and for the jetties at the mouth of the Mississippi River, as I find them, are many millions more than the statements which we have heard here. I desire to have my statement go in the RECORD for the benefit of those gentlemen who have charged this Government heretofore with making slight appropriations for the Mississippi River and its tributaries and large appropriations for other portions of the country.

I find that aside from the appropriations for the South Pass of the Mississippi River, aside from several hundred thousand dollars appropriated for surveys, this Government has appropriated to the Mississippi River and its tributaries from the commencement of the Government to and including the appropriation of 1881, $36,374,652.68 instead of the $6,000,000 which has been repeatedly stated upon this floor to be the amount appropriated for the Mississippi. Even last year in the river and harbor bill of that year there was appropriated to the Mississippi River and its tributaries $4,770,500, and the year before that, 1880, the sum of $2,871,500.

I desire that these statements may go upon the record, as I believe them to be at least below the actual amount, and very different from the statements which have been made on this floor during this discussion.

Mr. KELLOGG. I submit an amendment to the pending bill which I ask to be printed.

The amendment was ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 2538) to amend the act entitled "An act regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes," approved June 7, 1878, and also to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate the proceedings before them, was read twice by its title, and referred to the Committee on the District of Columbia.

EXECUTIVE SESSION.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty minutes spent in executive session, the doors were reopened, and (at five o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 24, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of Saturday was read and approved.

PUBLIC BUILDING, SCRANTON, PENNSYLVANIA.

Mr. SCRANTON. Mr. Speaker, I move, by unanimous consent, that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4178) to authorize the purchase of a site and the erection of a suitable building for a post-office and other Government offices in the city of Scranton, Pennsylvania, and that the bill be put on its passage at this time.

The bill was read.

Mr. HOLMAN. Let us have the regular order. There is not a quorum present.

Mr. SCRANTON. I hope the gentleman from Indiana will not insist on his objection.

Mr. HOLMAN. I must do so.

AMERICAN CITIZENS IN BRITISH PRISONS.

Mr. ROBINSON, of New York. Mr. Speaker, I rise to a privileged question; the same one that was up on Saturday last, and I will send the following resolution to the Clerk's desk to be read:

The Clerk read as follows:

Whereas on the 23d day of January, 1882, a resolution of inquiry was introduced in this House and was on that day referred to the Committee on Foreign Affairs; and

Whereas afterward, on the 14th day of February, 1882, the same resolution, having been reported back, was recommitted to the Committee on Foreign Affairs with instructions, all of which will more fully appear by reference to the said resolution and instructions hereto appended and to the record of the proceedings of those days; and

Whereas by clause 2 of Rule XXIV every such resolution is required to be reported back by the committee to which it has been referred within one week of such reference; and

Whereas more than one week, to wit, ten weeks, have elapsed since the reference or recommitment of said resolution to said committee, and no report has been made thereon by said committee: Therefore,

Resolved, That the Committee on Foreign Affairs be, and they hereby are, discharged from the further consideration of said resolution, and that the same be now brought before the House for immediate consideration.

[Resolution referred January 23.]

Resolved, That the President of the United States, if not incompatible with the public service, be requested to communicate to this House all correspondence with the British Government on file in the State Department with reference to the case of D. H. O'Connor, a citizen of the United States, now imprisoned in Ireland.

With instructions to add:

And also in reference to the cases of Mr. Chael, of Lawrence, Massachusetts; H. O. Mahoney, of Buffalo, New York, and John McEnery, citizens of the United States, now imprisoned in Ireland, with instructions to request the President of the United States to demand of the British Government the prompt trial of these citizens or their prompt release.

Mr. ORTH. I rise to a point of order.

Mr. ROBINSON, of New York. Let me say there is a part which the Clerk did not read, which was the resolution and instructions referred to the Committee on Foreign Affairs.

The SPEAKER. They will all be printed in the RECORD.

Mr. BURROWS, of Michigan. I rise to the point of order, Mr. Speaker, that this is not a question of privilege.

The SPEAKER. The gentleman from Indiana has been recognized.

Mr. ORTH. I wish to make the point of order, Mr. Speaker, that the resolution offered by the gentleman from New York is not a privileged question.

The SPEAKER. The Chair would be glad to hear from the gentleman from Indiana on that question.

Mr. ORTH. Under the new rules of the House resolutions of inquiry——

Mr. COX, of New York. We cannot hear the gentleman from Indiana.

Mr. ORTH. Before proceeding to present the question of order, Mr. Speaker, I would like to make a request of the gentleman from New York [Mr. ROBINSON]—of both the gentlemen from New York, who are interested in the question—to postpone the consideration of it until to-morrow morning; and for this reason: as the House is aware the Committee on Foreign Affairs has the right to sit during the sessions of the House. We are now engaged in the midst of an investigation with which we are charged, and I am the only member of the Committee on Foreign Affairs on the floor of the House, and I have come here with reference to asking a postponement of the consideration of this question until to-morrow morning, when the committee can be present.

Mr. COX, of New York. These resolutions, which my colleague has charge of now, are resolutions on which a very great question of privilege may arise, especially as to one of them. That is the resolution of inquiry upon which I raised the question of privilege on Saturday. I would like my colleague, if possible, to defer these resolutions at the request of the Committee on Foreign Affairs until to-morrow, only one day. This committee is now engaged with the late Secretary of State in their committee-room. They have leave to sit outside of the sessions of the House. I think it would be no more than grace and propriety to postpone these until to-morrow so we may examine the question of privilege and avoid any long wrangle connected with it.

I desire to say, so far as I am concerned I have no harsh criticism to make of that committee. The gentleman from Minnesota [Mr. DUNNELL] on Saturday put into my mouth words I did not intend to utter and did not utter. I do not arraign the committee. I recognize the fact its organ here from Indiana has been trying to do all he could in this matter. I requested him a week ago to find out who of these suspects were released and who still remain in prison. He said they were busy, but they would the very first opportunity give the House this information. I think it would be no more than fair to that committee to postpone this until to-morrow morning, and I ask my friend and colleague to do that grace to the committee.

Mr. ORTH. The first thing in the morning.

Mr. ROBINSON, of New York. Very well. I will only say in explanation of my resolution that it is now to-day ten weeks since that resolution was sent before the Committee on Foreign Affairs. During that time this committee have been examining into some unsavory subject connected with Peru, which is of no more consequence as compared with this question, relating to the rights of an American citizen and the dignity of the American Government, than one insignificant thing is in comparison with the most important national question. I wish very much that the Committee on Foreign Affairs could be induced to devote some of their spare time to our American citizens groaning in foreign prisons, instead of devoting the whole of it to the products of Peru. However, this question will come up to-morrow morning, and therefore I am willing to accede to the request of the gentleman from Indiana, and shall consent to postpone the demand for the consideration of the resolutions for the present; though it seems to me that the ten weeks which have already expired, and one other which will now probably be taken up, have been sufficient to allow "my dear Granville" to patch up some weak sort of a pretext for imposing upon the American Government, as he has been doing heretofore.

Mr. ORTH. I desire, Mr. Speaker, to say only this in response to the remarks of the gentleman from New York, that the Committee on Foreign Affairs is prepared to give, and will give at the proper time, abundant reasons for their action in this and in any other matter which has been referred to them by the House.

Mr. BURROWS, of Michigan. I suppose it will be understood, if this goes over until to-morrow, that the point of order made against it as a question of privilege will be considered as pending.

The SPEAKER. The point of order will be considered at the proper time.

Mr. COX, of New York. Is the privileged question which I raised on Saturday upon one of the resolutions pending only on one of them as the Speaker will remember, considered as pending?

The SPEAKER. As we reach this question, all questions of order and privilege will be considered in their sequence. As the Chair understands, these resolutions will go over by consent until to-morrow morning.

COLLEGES FOR AGRICULTURE AND THE MECHANIC ARTS.

Mr. CARPENTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. No. 1677) in relation to the donation of public lands to the several States which may provide colleges for the benefit of agriculture and the mechanic arts, and put it upon its passage.

The SPEAKER. The title of the bill will be read, after which objection will be asked for.

The Clerk read as follows:

A bill (S. No. 1677) to amend the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

Mr. SIMONTON. I would like to hear some explanation of this bill subject to objection.

Mr. TOWNSHEND, of Illinois. I shall not object to the present consideration of the bill, but I desire the reasons for its present consideration.

Mr. BLAND. I demand the regular order.

Mr. KASSON. I ask the gentleman from Missouri, in view of the fact that the Legislature of the State of Iowa has expressly desired this action, and the committee have unanimously recommended it, to allow it to be considered at this time. I ask him to withdraw his objection.

Mr. BLAND. I withdraw the objection.

The SPEAKER. The bill will be read.

The Clerk read as follows:

Be it enacted, &c., That section 4 of the act of Congress entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, be amended, and is hereby amended, so as to permit the State of Iowa, which has provided a college in accordance with the act aforesaid, to loan the endowment fund belonging to said college upon real-estate security, under such rules and regulations for its safe investment as the General Assembly shall hereafter provide.

Mr. CARPENTER. The law as at present in force provides that all moneys received from the sale of lands donated by said act shall be invested in stocks of the United States or of the State, or some other safe stocks yielding not less than 5 per cent. upon the par value of said stocks. Now, the State of Iowa, under this law, selected land, and these lands were appraised and leased for ten years, and the fund arising therefrom was invested at 8 per cent. upon the appraised value. The time for which the lands were leased is now expiring, and the money has been paid into the Treasury. Under the limitations of the law at present in force it is impossible for the trustees to invest the funds. Consequently they ask that the law be so amended as to permit them to invest these moneys in real estate; and as real estate is increasing rapidly in value in the West there can be no safer stock.

The bill was taken from the Speaker's table, read by its title a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CARPENTER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN G. TAYLOR.

Mr. CHAPMAN. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 3680) for the relief of John G. Taylor, and that the same be put upon its passage.

The SPEAKER. The bill will be read subject to objection.

The Clerk read as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed, in adjusting the accounts of John G. Taylor, former collector of customs at the port of Annapolis, in the State of Maryland, to allow him a credit of $127 09, being the amount paid by said Taylor as collector of customs as aforesaid to John R. Briscoe, as surveyor of customs at the port of Nottingham, Maryland, on account of salary of said Briscoe, and disallowed to said Taylor by the Treasury Department.

Mr. HOLMAN. Does this bill come from some committee of the House?

Mr. CHAPMAN. Yes, sir; it is the unanimous report of the Committee on Ways and Means. I will say to the gentleman from Indiana that it is only for the correction of an entry in the account of a collector.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CHAPMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BELTZHOOVER. I demand the regular order.

Mr. PAGE. I hope the gentleman will yield for a moment in order to enable me to send to the desk and have read a bill to which I think there will be no objection. This is an important matter which should be acted upon at once, and I hope he will withdraw the call for the regular order and let it be read, at all events for information.

Mr. BELTZHOOVER. I withdraw the demand for that purpose.

REMOVAL OF OBSTRUCTIONS AT HELL GATE.

Mr. PAGE. I am unanimously instructed by the Committee on Commerce to report the bill which I send to the desk, and to ask for its immediate consideration.

The Clerk read the bill, as follows:

A bill making an immediate appropriation for the removal of obstructions at Hell Gate, New York.

Be it enacted, &c., That the sum of $50,000 be, and is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the removal of obstructions in East River, Hell Gate, New York, the same to be expended under the direction of the Secretary of War, and to be immediately available.

Mr. PAGE. I yield to the gentleman from New York [Mr. HEWITT] to explain the necessity for this bill.

Mr. HOLMAN. I presume the measure is all right, but I reserve the right of objection.

The SPEAKER. The right to object is reserved.

Mr. HEWITT, of New York. The necessity for this appropriation will be apparent from the note which I hold in my hand from General John Newton, the eminent engineer, who is in charge of this work at Hell Gate. He says:

We will be obliged to stop work at Hell Gate on May the 31st unless Congress comes to our relief before that time. It would be a misfortune and a pity.

The fact is that the work at Hell Gate is nearly completed. The underground chambers are nearly ready for the final explosion, but in order that the rocks may be blown out of place this year it is absolutely indispensable that the work should go on without interruption. If there be any interruption it will postpone the explosion for twelve months, for the reason that nitro-glycerine, which is the explosive agent used, can only be surely and safely exploded during a period of six weeks in September and October. During the summer the lightning which prevails at that time is apt to produce an inductive current which may discharge the explosive compound; and during the winter the cold weather prevents the explosion altogether; so that any delay in the prosecution of this work will simply delay the entire work for twelve months.

The bill appropriates no more money than will be appropriated in any event. It only provides that the money may be made available in the month of May instead of the month of June.

Mr. FLOWER. I have the same information about this matter that my colleague has. I have received several letters from the gentleman in charge of that work. It is absolutely necessary that this appropriation be made at once.

The SPEAKER. The Chair hears no objection to the present consideration of the bill.

Mr. ROBESON. I desire to know whether this is a report from the Committee on Commerce that properly has charge of this matter.

The SPEAKER. It has been stated that this is a unanimous report from the Committee on Commerce.

Mr. GIBSON. The engineers have asked for it.

Mr. ROBESON. We have millions of dollars asked for by engineers in the Appropriations Committee; but all these demands must be examined before they are granted. If this has not been examined by the appropriate committee I shall object to it.

Mr. GIBSON. It has been examined by the Committee on Commerce.

Mr. HEWITT, of New York. And reported by that committee.

Mr. ROBESON. All right; I have no objection.

The bill (H. R. No. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York, was read a first and second time, ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. PAGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLERK TO COMMITTEE ON MILITARY AFFAIRS.

Mr. DAVIS, of Illinois. I desire to make what I understand is a privileged report from the Committee on Military Affairs. I am instructed to submit for reference to the Committee on Accounts the preamble and resolution which I send to the desk.

The preamble and resolution were read, as follows:

Whereas the important character and great amount of business assigned to the Committee on Military Affairs of this House, only equaled in amount in the cases of three other committees of Congress, and, by reason of division of labor by assistant clerks in some other committees, not equal in number of measures by that laid upon any other committee clerk in either House of Congress, demands the services of a permanent clerk: Therefore,

Resolved, That the Committee on Appropriations be authorized to provide, in their recommendations of legislative appropriations, for such clerk at an annual salary of $2,000.

The preamble, resolution, and accompanying report were referred to the Committee on Accounts.

ORDER OF BUSINESS.

Mr. AINSLIE rose.

Mr. NEAL, and Mr. BURROWS, of Michigan, called for the regular order.

Mr. KLOTZ. I ask unanimous consent to take a bill from the Speaker's table for the purpose of moving concurrence in Senate amendments thereto. It will not take more than one minute.

The SPEAKER. The regular order is called for, which is the call of States and Territories for the introduction of bills.

Mr. SPRINGER. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. Is not the unfinished business of Saturday, the motion to commit the bill referring claims to the Court of Claims, this morning after the reading of the Journal the regular order, the previous question having been ordered on the passage of the bill?

Mr. ROBESON. It was not ordered.

The SPEAKER. The previous question was not ordered; but the demand for the previous question was pending, and it was then in order to move to commit; and that motion was pending at the time the House adjourned.

Mr. SPRINGER. I understood the previous question to have been ordered.

The SPEAKER. It was not ordered, and that matter cannot come up until after the morning hour.

CONTESTED ELECTION—COOK VS. CUTTS.

The SPEAKER, by unanimous consent, laid before the House additional papers in the contested-election case of Cook *vs.* Cutts, of the sixth Iowa district; which were referred to the Committee on Elections.

EXPENDITURES OF NATIONAL BOARD OF HEALTH.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting reports of expenditures made by the National Board of Health for the quarters ending December 31, 1881, and March 31, 1882; which were referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The regular order being called for, this being Monday, the first business in order is the call of States and Territories for the introduction of bills and joint resolutions for reference to their appropriate committees. Under this call memorials and resolutions of State and Territorial Legislatures, and also resolutions calling for executive information, are in order.

TAX ON TOBACCO.

Mr. OATES introduced a bill (H. R. No. 5909) to construe subdivision 8 of section 3244 of the Revised Statutes of the United States so as to exempt farmers from the payment of the tax thereby imposed in all cases wherein they furnish tobacco to their farm laborers and employés in the same manner that other supplies are furnished, and do not engage in the same as merchandise or as a business or vocation; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

MAHALA H. PORTLOCK.

Mr. FORNEY introduced a bill (H. R. No. 5910) for the relief of Mahala H. Portlock; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PRIVATES ON CAPITOL POLICE.

Mr. PHELPS introduced a bill (H. R. No. 5911) making an addition to the number of privates now authorized by law to serve on

the Capitol police; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

ABIGAIL T. BROOKS.

Mr. PHELPS also introduced a bill (H. R. No. 5912) granting a pension to Abigail T. Brooks; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CONSULAR REPORTS.

Mr. SPRINGER introduced a joint resolution (H. R. No. 199) to provide for the publication and distribution of the consular reports; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

ARMY OFFICERS ON DETACHED SERVICE.

Mr. HENDERSON introduced a bill (H. R. No. 5913) to provide compensation for officers of the Army when on detached service as members of military courts, boards, or commissions; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JEAN FRANCOIS PERRY.

Mr. MORRISON introduced a bill (H. R. No. 5914) for the relief of the heirs of Jean Francois Perry; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

CAPTAIN DANIEL W. BURKE.

Mr. STEELE introduced a bill (H. R. No. 5915) to change the date of the commission of Captain Daniel W. Burke, of the Fourteenth Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REDUCTION OF LETTER-POSTAGE.

Mr. ANDERSON introduced a bill (H. R. No. 5916) to reduce the rate of postage on letter matter; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

NATIONAL AGRICULTURAL EXPERIMENT STATION.

Mr. ANDERSON also introduced a bill (H. R. No. 5917) to establish a national agricultural experiment station in the District of Columbia; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

H. C. LINN.

Mr. HASKELL introduced a bill (H. R. No. 5918) for the relief of H. C. Linn; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MANUFACTURE OF SALT IN INDIAN TERRITORY.

Mr. HASKELL also introduced a bill (H. R. No. 5919) for the manufacture of salt in the Indian Territory; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

HOUSTON L. TAYLOR.

Mr. RYAN introduced a bill (H. R. No. 5920) for the relief of Houston L. Taylor; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ASSISTANT SURGEONS IN THE NAVY.

Mr. ELLIS introduced a bill (H. R. No. 5921) to fix the rank and pay of assistant surgeons in the Navy not in the line of promotion; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ASSISTANT TREASURER AT NEW ORLEANS.

Mr. DARRELL introduced a bill (H. R. No. 5922) to amend section 3596 of the Revised Statutes, fixing the salary of the assistant treasurer at New Orleans; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be be printed.

EIGHT-HOUR LAW.

Mr. MURCH submitted the following resolution of inquiry; which was read and referred to the Committee on Education and Labor:

Whereas the law making eight hours a legal working day for the workmen, laborers, and mechanics in the Government employ is unrepealed and disregarded in the Navy, War, and other Departments; and

Whereas for several years the men representing labor have urged to have the law enforced; and

Whereas continued disregard and nullification of this law on the part of the Executive Departments is a source of great public scandal and grievance to a large class of citizens: Therefore,

Be it resolved, That the Attorney-General be directed to report to this House at his earliest convenience his opinion as to the present status of the national eight-hour law of 1868, (section 3738 of the Revised Statutes,) showing in what Departments of the Government the same is obeyed and enforced; in what Departments it is enforced and obeyed for a portion of each year and disobeyed or disregarded during other portions of the year; also what Departments or officials do not enforce or obey this law at any time during the year; also the names of the officials who are responsible for the non-observance of this law, and what rules and regulations are established with reference thereto in the various Departments of the Government and at navy-yards, arsenals, forts, shops, stores, or other public works or places workmen, laborers, and mechanics are employed; also to report to this House his opinion as to whether any further legislation or action on the part of Congress is necessary to secure obedience to the law which makes eight hours a working-day for workmen, laborers, and mechanics in the employ of the General Government.

GEORGE E. PAYNE.

Mr. ELLIS introduced a bill (H. R. No. 5923) referring the claim of George E. Payne to the Court of Claims; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

FLORENCE SIMMONS.

Mr. URNER introduced a bill (H. R. No. 5924) for the relief of Mrs. Florence Simmons; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOSEPH MIDDLEKAUFF.

Mr. URNER also introduced a bill (H. R. No. 5925) for the relief of Joseph Middlekauff; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIZABETH APPLEMAN.

Mr. URNER also introduced a bill (H. R. No. 5926) for the relief of Elizabeth Appleman; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

W. A. HAHN.

Mr. URNER also introduced a bill (H. R. No. 5927) for the relief of W. A. Hahn; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM KILMER.

Mr. URNER also introduced a bill (H. R. No. 5928) for the relief of William Kilmer; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SAMUEL EMMERT.

Mr. URNER also introduced a bill (H. R. No. 5929) for the relief of Samuel Emmert; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENRY SHOW.

Mr. URNER also introduced a bill (H. R. No. 5930) for the relief of Henry Show; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MARY A. V. CLAGGETT.

Mr. URNER also introduced a bill (H. R. No. 5931) for the relief of Mary A. V. Claggett, administratrix; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ISAAC RENNER.

Mr. URNER also introduced a bill (H. R. No. 5932) for the relief of Isaac Renner; which was read a first and second time, referred to the Committe on War Claims, and ordered to be printed.

SEAMEN IN UNITED STATES NAVY.

Mr. HARRIS, of Massachusetts, introduced a bill (H. R. No. 5933) to amend section 1417 Revised Statutes of the United States, relating to seamen in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

PENSIONS.

Mr. HUBBELL introduced a bill (H. R. No. 5934) granting increase of pensions to maimed soldiers, sailors, and marines of the United States for injuries received during the rebellion; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

Mr. HUBBELL also introduced a bill (H. R. No. 5935) to pension officers, soldiers, sailors, and marines who were confined in confederate prisons, and for other purposes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be rinted.

AMASA S. CURTIS.

Mr. RICH (by request) introduced a bill (H. R. No. 5936) for the relief of Amasa S. Curtis; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES DEAREY.

Mr. WASHBURN introduced a bill (H. R. No. 5937) for the relief of James Dearey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM ARTHUR.

Mr. MANNING introduced a bill (H. R. No. 5938) for the relief of William Arthur; which was read a first and second time, referred to the Committee on War Claims, and ordered to printed.

JURISDICTION OF CIRCUIT AND DISTRICT COURTS.

Mr. MANNING also introduced a bill (H. R. No. 5939) to define the jurisdiction of the circuit and district courts of the United States in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

A. C. CRAWFORD.

Mr. MANNING also introduced a bill (H. R. No 5940) for the relief of A. C. Crawford; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MISSOURI STATE MILITIA.

Mr. VAN HORN introduced a bill (H. R. No. 5941) to amend sec-

tion 4722 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

MISSISSIPPI, MISSOURI, AND OHIO RIVERS.

Mr. FORD (by request) introduced a bill (H. R. No. 5942) for the improvement of the Mississippi, Missouri, and Ohio Rivers and their tributaries; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN F. BAIR.

Mr. HASELTINE introduced a bill (H. R. No. 5943) for the relief of John F. Bair; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PARIS MONETARY CONFERENCE.

Mr. BUCKNER submitted the following resolution; which was referred to the Committee on Banking and Currency:

Resolved, That the President be requested to communicate to this House, if not in his opinion incompatible with the public interest, all correspondence that may have taken place between this Government and that of any of the European or other governments since the adjournment of the Paris monetary conference of 1881, touching the reassembling of said conference at Paris during the current year; and also that he inform this House whether any delegates to said adjourned conference have been or will be appointed by this Government; and, if not, the reasons of such non action on the part of the Government of the United States.

ROSE ANN GALBRAITH.

Mr. JONES, of New Jersey, introduced a bill (H. R. No. 5944) granting a pension to Rose Ann Galbraith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN GALBRAITH.

Mr. JONES, of New Jersey, also introduced a bill (H. R. No. 5945) to remove the charge of desertion from John Galbraith; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MARIA L. LEE.

Mr. HILL introduced a bill (H. R. No. 5946) granting a pension to Maria L. Lee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HELEN S. MEADER.

Mr. SMITH, of New York, introduced a bill (H. R. No. 5947) for the relief of Helen S. Meader; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIZABETH R. M'KENZIE.

Mr. SMITH, of New York, also introduced a bill (H. R. No. 5948) for the relief of Elizabeth R. McKenzie; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. M. A. PRESCOTT.

Mr. SMITH, of New York, also introduced a bill (H. R. No. 5949) granting a pension to Mrs. M. A. Prescott; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD M'DONALD REYNOLDS.

Mr. SMITH, of New York, also introduced a bill (H. R. No. 5950) authorizing the Court of Claims to hear and determine the claim of Edward McDonald Reynolds; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

NATIONAL CEMETERY, QUEENS COUNTY, NEW YORK.

Mr. SMITH, of New York, also introduced a bill (H. R. No. 5951) to authorize the purchase of additional ground adjoining the national cemetery in the county of Queens, State of New York; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

"TOWS," HUDSON RIVER.

Mr. BEACH introduced a bill (H. R. No. 5952) to limit the size of tows on the Hudson River, State of New York; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

OBSTRUCTIONS, POUGHKEEPSIE, NEW YORK.

Mr. BEACH also introduced a bill (H. R. No. 5953) authorizing the removal of certain obstructions in the Hudson River opposite Poughkeepsie, in the State of New York; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN MINGUS.

Mr. VANCE introduced a bill (H. R. No. 5954) to restore the name of John Mingus to the pension-roll; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JOHN ALLISON.

Mr. VANCE also introduced a bill (H. R. No. 5955) granting a pension to John Allison; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANN HYATT.

Mr. VANCE also introduced a bill (H. R. No. 5956) for the relief of Mrs. Ann Hyatt; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AMERICAN PEACE CONGRESS.

Mr. COX, of New York, introduced a joint resolution (H. R. No. 200) as to an American peace congress and its extension for the purpose of trade reciprocity; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

JANE M. MESSICK.

Mr. BUTTERWORTH (by request) introduced a bill (H. R. No. 5957) for the relief of Jane M. Messick; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PUBLIC BUILDING, LIMA, OHIO.

Mr. LE FEVRE introduced a bill (H. R. No. 5958) for the erection of a public building at Lima, Ohio; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

LANDON B. GRIMES.

Mr. UPDEGRAFF, of Ohio, introduced a bill (H. R. No. 5959) reissuing the pension of Landon B. Grimes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ENOCH TAYLOR.

Mr. YOUNG introduced a bill (H. R. No. 5960) for the relief of Enoch Taylor; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DELAWARE, OHIO, MONUMENTAL ASSOCIATION.

Mr. ROBINSON, of Ohio, introduced a bill (H. R. No. 5961) to authorize the Secretary of War to turn over to the Soldiers' and Sailors' Monumental Association of Delaware, Ohio, four condemned cannon and four cannon-balls; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM M. BEEBE, JR.

Mr. McCLURE introduced a bill (H. R. No. 5962) for the relief of William M. Beebe, jr.; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CONDEMNED CANNON FOR BLAKE POST, G. A. R., MEDINA, OHIO.

Mr. McCLURE also introduced a bill (H. R. No. 5963) authorizing the Secretary of War to donate three condemned cannon to Blake Post of the Grand Army of the Republic, at Medina, Ohio, to be used for monumental purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MARY TURMINE.

Mr. NEAL introduced a bill (H. R. No. 5964) to authorize the Secretary of the Interior to place the name of Mary Turmine on the pension-roll; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

RECLAMATION OF MARSHES IN POTOMAC RIVER.

Mr. NEAL also introduced a bill (H. R. No. 5965) to provide for the quieting of the title of the United States in certain lands herein described and for the reclamation of the marshes in the Potomac River; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

KATE HATTON.

Mr. GEORGE introduced a bill (H. R. No. 5966) for the relief of Mrs. Kate Hatton; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

BRIDGES ACROSS WILLAMETTE RIVER, OREGON.

Mr. GEORGE also introduced a bill (H. R. No. 5967) to authorize the Oregon Pacific Railroad Company to construct one or more bridges across the Willamette River in the State of Oregon, and to establish them as post-roads; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PENSIONS FOR SOLDIERS IN REBEL PRISONS.

Mr. ROBINSON, of Ohio, introduced a bill (H. R. No. 5968) for pensioning prisoners of war who were confined in confederate military prisons during the late war; which was read a first and second time, referred to the Select Committee on the Payment of Pensions, Bounty, and Back Pay, and ordered to be printed.

CALIFORNIA INDIAN LANDS IN SEVERALTY.

Mr. ROSECRANS introduced a bill (H. R. No. 5969) to provide for settling the Indians of Los Angeles, San Bernardino, and San Diego Counties, California, upon lands in severalty; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

JAMES WEEKS, JR.

Mr. KLOTZ introduced a bill (H. R. No. 5970) for the relief of

James Weeks, jr.; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AARON AND WILLIAM BREWER.

Mr. WISE, of Pennsylvania, introduced a bill (H. R. No. 5971) to pension Aaron and William Brewer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHNATHAN SNIVELY.

Mr. WISE, of Pennsylvania, also introduced a bill (H. R. No. 5972) for increase of pension to Johnathan Snively; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY BEST.

Mr. BELTZHOOVER introduced a bill (H. R. No. 5973) granting a pension to Henry Best; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH KAHL.

Mr. BELTZHOOVER also introduced a bill (H. R. No. 5974) granting a pension to Elizabeth Kahl; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

OLIVE WHITLOCK.

Mr. JADWIN introduced a bill (H. R. No. 5975) granting a pension to Mrs. Olive Whitlock; which was read a first and second time, referred to the Commitee on Invalid Pensions, and ordered to be printed.

TRANSPORTATION OF DUTIABLE GOODS.

Mr. ALDRICH introduced a bill (H. R. No. 5976) to amend section 1 of the act of Congress approved June 10, 1881, entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods, and for other purposes;" which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

GRACE F. EDES.

Mr. SPOONER introduced a bill (H. R. No. 5977) granting an increase of pension to Grace F. Edes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOLDIERS' CEMETERY AT KNOXVILLE, TENNESSEE.

Mr. HOUK introduced a bill (H. R. No. 5978) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Knoxville, Tennessee; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN W. EAKIN.

Mr. HOUK also introduced a bill (H. R. No. 5979) granting an increase of pension to John W. Eakin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

C. B. BRYAN & CO.

Mr. MOORE introduced a bill (H. R. No. 5980) for the relief of C. B. Bryan & Co.; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CESSION OF LOT IN TENNESSEE.

Mr. MOORE also introduced a bill (H. R. No. 5981) to cede to the first taxing district of the State of Tennessee a certain lot of land situated in said State; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

CATHARINE ODLAM.

Mr. MOORE (by request) also introduced a bill (H. R. No. 5982) for the relief of Mrs. Catharine Odlam; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

REPRESENTATIVES OF ABRAM BAZINSKY.

Mr. MOORE also introduced a bill (H. R. No. 5983) for the relief of the legal representatives of Abram Bazinsky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MOSES WINTER.

Mr. JONES, of Arkansas, introduced a bill (H. R. No. 5984) for the relief of Moses Winter; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

MARTHA JANE DOUGLASS.

Mr. ATKINS introduced a bill (H. R. No. 5985) granting a pension to Martha Jane Douglass; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EMILY THEADGILL.

Mr. ATKINS also introduced a bill (H. R. No. 5986) granting a pension to Emily Theadgill; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TAXES ON TOBACCO.

Mr. ATKINS also introduced a bill (H. R. No. 5987) abolishing the taxes on manufactured and leaf tobacco; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

NEW EXECUTIVE MANSION.

Mr. DEZENDORF introduced a bill (H. R. No. 5988) authorizing an appropriation for the purchase of a suitable site and the erection of a proper building, with suitable accommodations, for the residence of the President of the United States, to be known as the Executive Mansion; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

GEORGE COURTNEY.

Mr. DEZENDORF also introduced a bill (H. R. No. 5989) for the relief of George Courtney; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

DANVILLE NATIONAL CEMETERY, VIRGINIA.

Mr. CABELL introduced a bill (H. R. No. 5990) to provide for grading and paving the approaches to the National Cemetery at Danville, Virginia; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

W. H. RUTH, W. H. STRATTON, AND A. H. BEVILL.

Mr. WISE, of Virginia, introduced a bill (H. R. No. 5991) for the relief of W. H. Ruth, W. H. Stratton, and A. H. Bevill; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

MINTHORNE TOMPKINS AND OTHERS.

Mr. KETCHAM introduced a bill (H. R. No. 5992) for the relief of Minthorne Tompkins and others; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

LEGALIZATION OF A TERRITORIAL ACT.

Mr. OURAY introduced a bill (H. R. No. 5993) to legalize a certain act of the Legislature of Arizona; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories is now concluded.

Mr. NEAL. I demand the regular order.

Mr. ROBINSON, of New York. I have a privileged resolution which I desire to submit.

Mr. WILLIS. I desire to introduce a bill for reference.

SYSTEM OF BANKRUPTCY.

Mr. HUMPHREY, from the Committee on the Judiciary, by unanimous consent, reported, as a substitute for House bill No. 3329, a bill (H. R. No. 5994) to establish a uniform system of bankruptcy; which was read a first and second time, recommitted to the Committee on the Judiciary, and ordered to be printed.

PERMANENT AND INDEFINITE APPROPRIATIONS.

Mr. ATKINS. I do not see the chairman of the Committee on Appropriations present, and I will therefore ask unanimous consent that Senate bill No. 403, to repeal certain laws relating to permanent and indefinite appropriations, be taken from the Speaker's table and referred to the Committee on Appropriations.

Mr. RYAN. I hope that will be done.

There was no objection, and the bill was accordingly taken from the Speaker's table, read a first and second time, and referred to the Committee on Appropriations.

FINAL ADJOURNMENT.

Mr. ROBINSON, of New York. I desire to submit a concurrent resolution providing for the final adjournment of this session of Congress. It is a privileged question, I believe, and I ask that it be referred to the Committee on Ways and Means.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives do declare their respective Houses adjourned *sine die* at twelve o'clock on the 22d day of May next.

The resolution was referred to the Committee on Ways and Means.

LAKES, RIVERS, AND HARBORS.

Mr. WILLIS, by unanimous consent, introduced a bill (H. R. No. 5995) to define the jurisdiction and control of the United States over lakes, rivers, and harbors; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ORDER OF BUSINESS.

Mr. NEAL. I call for the regular order.

The SPEAKER. The regular order, under the resolution adopted on the 10th of this month, is business from the Committee on the District of Columbia.

Mr. BURROWS, of Michigan. I ask consent to submit a resolution for reference.

The SPEAKER. If there is no objection the resolution will be received.

CLERK OF COMMITTEE ON TERRITORIES.

Mr. BURROWS, of Michigan, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Accounts:

Resolved, That the Committee on Appropriations be, and hereby are, respectfully requested to make provision in the legislative, executive, and judicial appropriation bill for the ensuing fiscal year for the clerk of the Committee on Territories as one of the annual clerks provided for in said bill.

ORDER OF BUSINESS.

Mr. NEAL. I must now insist upon the regular order.

The SPEAKER. The Clerk will read the resolution adopted by the House on the 10th of this month in regard to the order of business to-day.

The Clerk read as follows:

Resolved, That Monday, April 24, after the call of States and Territories for the introduction of bills and joint resolutions, be set aside for the consideration of such business as may be presented by the Committee on the District of Columbia.

Mr. NEAL. I am instructed by the Committee on Territories to report for consideration at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That Monday, the 8th day of May, 1882, after the call of States and Territories for bills and joint resolutions, is hereby set apart for the consideration of such business as may be presented to the House by the Committee on the District of Columbia.

Mr. ANDERSON. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON. It is whether the special order which is set for to-day and such a special order as is proposed by this resolution takes priority of all previous special orders?

The SPEAKER. The Chair has not considered the pending resolution, but the Chair recognizes the fact that the order of the House relating to the business from the Committee on the District of Columbia was first fixed by a suspension of the rules to take precedence of other special orders. The special order for to-day is fixed for consideration after the call of States, and before a morning hour can begin.

Mr. ANDERSON. But the special order which the gentleman now asks to have made——

The SPEAKER. The Chair will have to decide its rank when it comes up. The question is on the adoption of the resolution.

The resolution was adopted.

Mr. NEAL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. NEAL. I yield to my colleague on the committee, the gentleman from Virginia, [Mr. GARRISON.]

JUSTICES OF THE PEACE IN THE DISTRICT OF COLUMBIA.

Mr. GARRISON. I am directed by the Committee on the District of Columbia to call up for consideration the bill (H. R. No. 2538) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate the proceedings before them.

The bill was read, as follows:

Be it enacted, &c., That justices of the peace of the District of Columbia shall have jurisdiction to hear, try, and determine all pleas and actions, including attachment and replevin, when the amount claimed to be due or the value of the property sought to be recovered shall not exceed $500, but not in cases where the title to real estate is in issue, actions for malicious prosecution, actions against justices of the peace or other officers for misconduct in office, and actions for slander, verbal or written, nor cases of breaches of promise to marry.

SEC. 2. That such jurisdiction shall be exclusive original jurisdiction where the amount claimed to be due or the value sought to be recovered shall not exceed $100, and original and concurrent with the supreme court of the District of Columbia where the amount claimed to be due or the value of the property sought to be recovered is more than $100 but does not exceed $500; and where the sum claimed exceeds $20 either party shall be entitled to a trial by jury.

SEC. 3. That no appeal shall be allowed from the judgment of a justice of the peace in any common law action unless the matter in demand in such action or pleaded in set-off thereto shall exceed the sum of $20, nor unless the appellant, with sufficient surety, approved by the justice, enters into an undertaking to pay and satisfy whatever final judgment may be recovered in the appellate court.

SEC. 4. That whenever any constable shall neglect or refuse to pay over to the party entitled thereto any money collected or received by him on any process issued by a justice of the peace, the justice issuing such process may, upon complaint of such party, summon the constable and the sureties upon his official bond to appear before him at a day and hour therein named, and not less than two days after service of such summons, to answer to the said complaint, and may render judgment against the said constable and his sureties for the amount so collected or received, if not exceeding $500, with interest and costs, and execution may issue therefor without stay except by appeal.

SEC. 5. That any justice of the peace may compel any constable to make due return of any process signed by said justice and placed in his hands for service, by attachment; and for refusal to make such return such constable shall be subject to the same fines and penalties as a witness refusing to obey a summons.

SEC. 6. That in proceedings under the provisions of chapter 19 ("Landlord and tenant") of the Revised Statutes relating to the District of Columbia, where the tenant cannot be found so that personal service can be made upon him, service of process may be made by leaving a copy of such process with some person over twenty-one years of age upon the premises, or in the absence of such tenant or person then process may be served by fixing a copy of the same to a conspicuous part of the premises where it may be conveniently read; and the officer shall, in his return, state the manner of such service.

SEC. 7. That in cases of appeal of certiorari the justice shall retain all original papers, except those filed in evidence, and make and file with the appellate court copies of the papers so retained, certified by himself; and for preparing and transmitting the papers on appeal or certiorari he shall be paid a fee of $1; but the superior court may require the production of the original papers.

SEC. 8. That when personal property is taken on execution or attachment issued by a justice of the peace, and such property is claimed by a person other than a defendant therein, or is claimed by the defendant to be property exempt from execution, and such claimant shall give notice in writing to the constable of his claim to such property, or that it is exempt as aforesaid, the constable shall notify the plaintiff in such writ, or his agent or attorney, of such claim, and shall also notify such plaintiff and the claimant before what justice and at what time and place a trial of the right of property shall be had.

SEC. 9. That the trial of the right of property in such cases shall be before the justice of the peace who issued such writ, or, if he should be unable to attend to such trial, before some other justice of the peace in said District.

SEC. 10. That the justice shall enter such cases on his docket, and the trial shall be had therein in the same manner as in other trials before justices of the peace; and a change of venue may be taken as in other cases.

SEC. 11. That in case the property shall appear to belong to the claimant, or to be exempt from execution, judgment shall be entered against the plaintiff in the execution or attachment for costs, and the property levied upon shall be released. If it shall appear that the property does not belong to the claimant, or is not so exempt as aforesaid, judgment shall be entered against said claimant for costs, including such additional costs as shall have been made by the delay in the execution of such writ.

SEC. 12. That an appeal may be taken as in other cases, and the bond shall be given within ten days from the time of entering the judgment, except when the tenth day falls on Sunday, when the bond may be given on the following day.

SEC. 13. That the judgment in such cases shall be a complete indemnity to the constable in proceeding to sell or return any such property; and in case of appeal the constable shall return such property unless the party claiming, or the defendant in the execution, or his agent, shall enter into an undertaking, with sufficient security, to be approved by the justice, for the delivery of such property to the officer if the judgment of the court shall be against the party entering into such undertaking.

SEC. 14. That the Supreme Court of the District is hereby authorized to make and establish such additional rules of practice and prescribe forms of process and proceedings rendered necessary by this act, and to alter or amend the same as it may from time to time deem advisable.

SEC. 15. That the constable or other officer serving a writ of distraint, attachment, or execution shall set off to the debtor, being a householder or head of a family, the articles exempted by section 797 of the act of Congress, entitled "An act to revise and consolidate the statutes of the United States, general and permanent in their nature, relating to the District of Columbia, in force December 1, anno Domini 1873."

SEC. 16. That civil cases tried by the justice without a jury shall be decided by him, and judgment rendered not later than the fourth day after trial, except when the fourth day falls on Sunday, when judgment may be rendered on the day following.

SEC. 17. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed; but nothing herein shall be construed to take away and limit the jurisdiction conferred upon justices of the peace by chapter 19 of the Revised Statutes of the United States relating to the District of Columbia.

Mr. GARRISON. I call the previous question.

Mr. KLOTZ. I would like to offer an amendment and say a word or two upon it.

Mr. GARRISON. I yield to the gentleman.

Mr. KLOTZ. I have no objection to this bill except that in the amendments incorporated by the committee the amount of suits which may come within the jurisdiction of justices of the peace is increased from $200 to $500. It is true that we have very good justices of the peace in this District, but it is also true that they are not courts of record, and, although not a lawyer, I think that $300 would probably be a better limit than $500. I move to amend by striking out "five" and inserting "three," in sections 1, 2, and 4.

Mr. GARRISON. I now call the previous question.

The previous question was ordered.

The question being taken on the amendment of Mr. KLOTZ, it was agreed to.

The bill as amended was ordered to be engrossed for a third reading, and was accordingly read the third time.

Mr. ROBINSON, of Massachusetts. Mr. Speaker——

Mr. GARRISON. I am directed by the Committee on the District of Columbia to call the previous question on the passage of the bill.

Mr. ROBINSON, of Massachusetts. I rise to inquire whether there are not certain amendments reported by the committee on which the question should be separately taken.

The SPEAKER. The bill is treated as a substitute for the original bill; it is considered as the bill of the committee.

Mr. ROBINSON, of Massachusetts. It is not reported as a substitute. I do not object to so treating it, if the House understands it that way. I do not care particularly about the matter of form. The bill is reported as a bill to which the committee recommend amendments.

The SPEAKER. This is the bill which the committee called up.

Mr. ROBINSON, of Massachusetts. They do not call up the amendments as part of the bill.

The SPEAKER. They call up the bill as reported by them with the amendments.

The previous question was ordered, and under the operation thereof the bill was passed.

Mr. GARRISON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

An amendment reported by the Committee on the District of Columbia, to make the title of the bill read as follows, was agreed to:

A bill to amend the act entitled "An act regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes," approved June 7, 1878, and also to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate the proceedings before them.

POLICE FORCE OF THE DISTRICT OF COLUMBIA.

Mr. URNER. I am instructed by the Committee on the District

of Columbia to report back with certain amendments the bill (H. R. No. 3575) to increase the police force of the District of Columbia, and for other purposes.

The bill, as proposed to be amended, was read, as follows:

Be it enacted, &c., That section 340 of the Revised Statutes of the United States relating to the District of Columbia be, and the same hereby is, amended so as to read as follows:

The police force shall consist of the following officers, namely: one major, one captain, ten lieutenants, twenty sergeants, such number of privates, not exceeding three hundred for the regular service, as the board may deem necessary, and eight detectives; and all promotions to the positions of captain, lieutenant, and sergeant shall be made from the next succeeding grade or rank on the force.

SEC. 2. In the appointment of policemen under this act, the District commissioners shall, when all other qualifications are equal, give preference to those applicants who have been honorably discharged from the volunteer service of the Union Army. No appointment shall be made to the police force of any person who has not been a resident of the District for three months immediately preceding his appointment.

SEC. 3. That the commissioners of the District of Columbia are hereby authorized to appoint one additional clerk for service at police headquarters.

Mr. ROBINSON, of Massachusetts. I desire to inquire whether the bill as just read is the same as House bill No. 3575, which we have in print.

The SPEAKER. It is not the bill as printed. The bill as read contains several verbal amendments, as well as a new section, reported by the committee as a substitute for section 2.

Mr. ROBINSON, of Massachusetts. I ask for a separate vote on the amendments recommended by the committee.

The SPEAKER. The amendments will be read.

The Clerk read as follows:

In line 7, strike out "two captains" and insert "one captain."

In the same line, strike out the word "twelve," before the word "lieutenants," and insert "ten;" so as to read "ten lieutenants."

In line 8, strike out the word "four;" so as to read "twenty sergeants" instead of "twenty-four sergeants."

In lines 8 and 9, strike out "two hundred and fifty" and insert "three hundred;" so as to read "not exceeding three hundred for the regular service."

Strike out section 2, as follows:

"That so much of section 354 of the Revised Statutes of the United States relating to the District of Columbia as requires that 'no person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge' be, and the same hereby is, repealed."

And insert the following:

"In the appointment of policemen under this act the District commissioners shall, when all other qualifications are equal, give preference to those applicants who have been honorably discharged from the volunteer service of the Union Army. No appointment shall be made to the police force of any person who has not been a resident of the District for three months immediately preceding his appointment."

The SPEAKER. The question is on agreeing to the amendments reported to the bill.

Mr. ROBESON. I should like to have a separate vote on the last amendment.

The SPEAKER. The vote will first be taken on the amendments of the committee, excepting the one referred to by the gentleman from New Jersey.

The amendments were agreed to.

The SPEAKER. Section 2 is entirely a new section, and is recommended by the Committee on the District of Columbia.

The amendment was again read.

Mr. ROBESON. Mr. Speaker, section 2 is as follows:

That so much of section 354 of the Revised Statutes of the United States relating to the District of Columbia as requires that "no person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge" be, and the same is hereby repealed.

Now, do we want to repeal that? That is the first question I ask—do the committee ask here this morning that we shall repeal that section of the Revised Statutes under which this police force has been organized since it existed, and throw it open to everybody the commissioners, whoever they are, choose to appoint, without retaining the preference for Union soldiers? And, Mr. Speaker, they do not meet this question squarely, but after striking out the patriotic section, they give us a substitute for it which, if I may be allowed the expression, whips the devil around the stump, [laughter;] if that is unparliamentary, I will take it back, but which, I may say within parliamentary limits, "keeps the word of promise to the ear and breaks it to the hope." There is no objection to that expression, I suppose. [Laughter.]

That is a provision which provides that the commissioners, acting on their own judgment, shall give preference to the Union soldiers. What does that amount to, and why repeal the positive provision to insert this weak substitute? We have already the section which says that all the Departments shall give preference to the Union soldiers; but do they give any such preference, or not?

A MEMBER. No.

Mr. ROBESON. They do not; everybody knows it, and you cannot make them, since it is left to their own executive judgment. This amendment leaves it discretionary with these commissioners, whereas we have now on the statute-book a positive regulation which they dare not violate and for which they may be arraigned if they do. Why should we take away that positive restriction and give them discretion of which they themselves are the sole and final judge? That is what I object to, and I do not think this House is going to vote for it.

Mr. URNER. This section 2, which was in the original bill as referred to the committee, provides for the repeal of that section of the Revised Statutes which requires appointments to be made from those who served in the Army and Navy of the United States. The Committee on the District of Columbia propose to strike out that section repealing the Revised Statutes. They want preference to be given to Union soldiers who served in the Army or in the Navy of the United States. Therefore, sir, in this report of the committee they propose to strike out that clause in the bill referred to, and in place of it to insert a provision that the commissioners of the District, all other things being equal, shall give preference to the Union soldier in the appointment of policemen.

It further provides, in the last part of the section, that all persons employed on the police force shall have been for three months resident in the District.

Mr. MILLER. I want to ask the gentleman a question. The commissioners, I understand, have established a rule that they will not appoint any man on the police force over forty years of age. Let me ask the gentleman, does not that keep out all the men who served in the Union Army? Is it not a fact that every man who served in the Union Army is now over forty years of age?

Mr. URNER. I do not know anything about the rules and regulations of the commissioners on that subject. The substitute we have reported, if adopted, requires the commissioners, regardless of their rules and regulations, because here is an act of Congress overriding their rules and regulations, to appoint to the police force of the District, in preference to all others, men who served in the Union Army or Navy of the United States, all other qualifications being equal.

Mr. ROBESON. Let me ask the gentleman a question.

Mr. URNER. Certainly.

Mr. ROBESON. Here is the provision of the Revised Statutes of the United States, and I will read it:

No person shall be appointed a policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge.

Now, then, you propose to require these commissioners to employ soldiers by repealing that clause and substituting for it a clause which allows them to use their discretion, and merely says they shall give them preference, all other things being equal. The original section permits no regulation to interfere with it. Yours permits the commissioners to say that no man over forty years of age shall be employed and to rule out every man who was competent to be a soldier in the war.

Mr. URNER. The gentleman is entirely wrong.

Mr. ROBESON. I should like the gentleman to show me where.

Mr. MILLER. Let me state to the gentleman from Maryland——

Mr. URNER. I will explain in a moment in reference to this provision which the gentleman from New Jersey objects to.

Mr. MILLER. Just let me state why I made the remark that I did. I accompanied a Union soldier to the office of the commissioners of the District myself and recommended him for an appointment upon the police force of the city. Now, they cited me to a rule adopted by themselves, whether by authority of law I know not, but a rule that no man could be appointed on the police force who was over forty years old. If that is the law it ought to be repealed. If it is a rule established by the commissioners of the District of Columbia they should be so controlled by the law that they could not adopt a rule that would virtually cut out of all competition for the service a vast body of men who are entitled to recognition.

Mr. ROBESON. And shall this committee undertake to control them by repealing the law which now does control their action, and leaving it entirely to their discretion as to what rules they shall establish in this connection?

Mr. URNER. I think the gentleman from New Jersey takes an erroneous view of this question. I wish to call his attention to the fact that the bill which was referred to the Committee on the District of Columbia had in it a section which repealed this section of the Revised Statutes to which he now refers. Now, does the gentleman want us to come in here and bring in a bill to repeal the Revised Statutes, which provide that soldiers should have preference in these appointments? If that is his idea, I will say to him that the committee could not and did not do it. The committee believed it was proper for them to strike out of the bill the section which provides for the repeal of the Revised Statutes in question, and virtually re-enacted it in the substitute, by saying that the commissioners shall give preference to Union soldiers. There was no other way in their judgment by which they could arrive at the result which the gentleman from New Jersey seems to have in view.

Mr. ROBESON. Why not be content with striking out this thing, and not report the substitute, which gives more power to the commissioners? Why strike out a section of the bill which repeals the section of the Revised Statutes, and yet insert in the place of it as a substitute a provision which virtually repeals it? I am willing to strike out section 2, but, Mr. Speaker, I am not willing to insert in its place a provision which loosens, regulates, explains, if you choose, the section of the Revised Statutes which leaves it to the judgment of the commissioners to exercise their discretion solely. Of the million of men who were in the armies of the United States when this rebellion collapsed there are men enough, able, competent, and worthy to fill up the police force of the District of Columbia. There are men enough, able-bodied enough, intelligent enough, active enough, and brave enough for any such purpose. Let the section of the Revised Statutes stand as it is.

Mr. KLOTZ. Mr. Speaker, it is true that the Revised Statutes provide that preference shall be given in all the Departments of this Government to Union soldiers for all appointments rather than to civilians. But it is also true, and the gentleman who has just taken his seat knows it, that all of the Departments here, without exception, have neglected to attend to that duty or have failed to obey the requirements of the law. We know, and it is a matter of public notoriety, that for ten years no attention whatever has been paid to that law. Therefore, when gentlemen get up on this floor and talk about that provision of the statutes which is never enforced, it seems to me to be simple buncombe, especially so when, as my friend will admit, there is no Department of this Government, as I have just stated, that obeys it.

Again, while it is true, and I should be the last man to deny it, that the soldiers should have the preference in all such cases, yet the time may come when it will not be possible to get soldiers qualified, or when the applicants will be too old to perform the service which they are required to perform and physically able to perform the duties which we are now legislating upon. We say, then, in this bill, all other things being equal, that the soldiers shall have the preference; and in the same connection that a soldier living here for three months before the date of appointment, if elligible in all other respects, shall have the preference. That is the intent of the bill as presented.

The gentleman from Pennsylvania, my colleague, has referred to a rule established by the commissioners in reference to these appointments. It is true that we have the law giving the soldier preference, but he must be under forty years of age, he must be over five feet nine inches high, and he must have resided for two years in the city of Washington before he can be eligible. These are necessary requirements, as any gentleman will understand; and I would like to ask the gentleman from New Jersey if he thinks it advisable to pass a buncombe law which claims to give the soldier the preference and then exclude him by such conditions that you know he cannot comply with? How many soldiers from the gentleman's district or from my district will be willing to come here and remain for two years in order to gain the privilege of citizenship to enable them to secure an office that pays $75 a month and permits them to stand out all night in the snow and frost, while your Departments are filled with men and women, loyal people who never carried a musket, from whom no such exacting conditions are required? Do you think you can make the soldiers believe that there is anything but buncombe in that? They are not as stupid as you give them credit for. They are intelligent men generally. They do not ask to be appointed to a position wherein it is assumed that they are not equal to a citizen. If the conditions are equal he wants the preference, that is all. He asks, and he should have it under the law, the chance if he is qualified. He looks to Congress to do what is right, and I am satisfied he would prefer that his Representatives here should quit talking, talking, talking, for the purpose of buncombe only and getting their speeches scattered abroad. They are tired of that, and if you could go to their camp-fires and listen to them they would tell you so. I say under the old law a soldier could not have a position on the force here unless he came here and obtained a residence.

Mr. BRIGGS. That was under regulations of the commissioners.

Mr. KLOTZ. Under the law.

Mr. BRIGGS. I ask the gentleman if the requirement that men should be of a certain age, a certain height, and be two years residents of the District was not under rules which the commissioners themselves had established, thereby abrogating the law requiring them to appoint only Union soldiers to the office; and whether these regulations were not for the very purpose of avoiding the provisions of this law?

Mr. KLOTZ. I say let the Departments in the city of Washington give the soldiers situations under the Government according to law, better than the positions upon the frontier, better than the positions in which these men are out all night in the cold. They are deserving of better treatment. Let the Departments first be filled up with deserving soldiers and soldiers' widows. We see soldiers' widows here starving to death, while two or three from a family who did not serve in the war are in the Departments. Let those who make these objections enforce the old law and I will be glad to vote with them.

Mr. COX, of New York. I believe this is not the first time we have had a discussion about the policemen of this city. I think the Committee on the District of Columbia—and I am very glad to be able to support something from that committee—have shown good, old-fashioned common sense, what I might call horse sense; and of course the gentleman from New Jersey opposes it.

Mr. ROBESON. I am not opposed to horse sense. What I am opposed to is jackass sense.

Mr. COX, of New York. I did not hear exactly what the gentleman said, unless it be that he charges the gentlemen on the Committee on the District of Columbia with being jackasses for bringing this in. What is the position taken by the gentleman from New Jersey? Nearly twenty years have gone by since the war was ended. I believe my friend from New Jersey was not in the war. If he was, in what regiment did he serve?

Mr. ROBESON. In the same regiment in which the gentleman himself served.

Mr. COX, of New York. I belonged to the home brigade. I never sailed the deep like the gentleman from New Jersey. I never navigated the rivers like that gentleman. I never built the vessels and commanded them like that lord high-admiral. But I do believe we should bring to this discussion a little old-fashioned gumption.

What is the point in dispute? After the war has been long ended, and when the soldiers who served in it have become nearly twenty years older, we propose absolutely that none but them shall be policemen here. And the District Committee, in the interest of peace and safety in the Federal city, desire to give a discretion to the commissioners in the appointment of these policemen. What is wrong about that? They will prefer Union soldiers if otherwise they are fit.

What makes up the qualification for a good policeman? The gentleman from New Jersey ought to know. He has tried a good many cases in the courts, and will understand what I mean when I say it does not depend exactly on a man having fought here or there, on one side or the other; but it depends on the question whether he is a brave, capable, prudent man. Is he a strong man? Will he carry out the orders of his superior? Is he capable of discharging properly the duties of the office? If that be so, let him be selected. But if you restrict these commissioners, the responsibility for insecurity in this city will be on us, not on them.

Mr. MILLER. I desire to offer as an amendment to section 2, at the close of the bill, what I send to the desk.

The SPEAKER. That will only be in order as an amendment to the amendment reported by the committee. The Clerk will read the proposed amendment.

The Clerk read as follows:

Provided, That the commissioners of the District shall not be permitted to make any rule or regulation as to age that will discriminate as to honorably discharged soldiers of the Union Army.

Mr. MILLER. That is all I ask. I do not ask that the commissioners shall employ these men if they are not capable, but that they shall be prohibited from making any regulation that will make it impossible for an honorably discharged Union soldier to apply. The rule they have now really discriminates against the Union soldiers and makes it impossible almost for any one of them to be employed on the force.

Mr. KLOTZ. I want to add one word. In this bill that we have reported here we make it a law that a soldier need only reside here three months, instead of a two years' residence being required as heretofore.

Mr. NEAL. I want the House and the gentleman from New Jersey, and every other gentleman who opposes this amendment, to understand that we have now two hundred policemen here. Every one of those, under the law, is required to be an honorably discharged soldier from the Army or the Navy of the United States; not volunteer soldiers, but honorably discharged soldiers or sailors from the Army or Navy. There are now two hundred of these policemen who are honorably discharged soldiers. That is the first proposition. Now, we propose to increase this force one-third; that is, to add one hundred more. What do we say? Not that the law shall be repealed so far as the two hundred already on the force are concerned, but that in making this addition to the police force a discretion may be vested in the commissioners to take persons who have been in the Army, provided they are better men than applicants who have not been in the Army.

As it is now, every policeman who is appointed comes, not from the volunteer soldiers, not from those who bared their breasts to the leaden storm during the four years of hideous war, but from the regular Army; soldiers who were discharged from the regular Army; who are entitled to no consideration from this House or the people of the United States.

The commissioners have, as I think, wisely adopted a rule providing they will appoint no man over forty years of age to this police force. Why? Because the police force of this city is not subject to political changes as it is in other cities of the United States.

Every new administration that comes in here does not change the police force. These men are kept on the force until, by old age or other disability, they are incapacitated from the further discharge of their duties. And heretofore it has been the custom of the authorities of the District to provide easier places for those who have been broken down in the service, and are no longer competent to act as policemen. That is a good and wise regulation. Men who are much over forty years of age are not competent by reason of their age to discharge the duties of policemen under ordinary circumstances.

Mr. ROBESON. Is the present police force of this District efficient?

Mr. NEAL. Is it efficient?

Mr. ROBESON. Yes; that is my question.

Mr. NEAL. I leave that for you to say.

Mr. ROBESON. I am not asking about the number of the force, but the character of its individual members.

Mr. NEAL. It is impossible for me to answer that question.

Mr. ROBESON. Is it efficient so far as the character of the force goes? If it be not, then that would be a different thing. But they have been appointed, I suppose, under the Revised Statutes as they now stand. And in adding one hundred to their number I think we might preserve that principle and leave the statute as it stands requiring the appointment of Union soldiers.

Mr. NEAL. I will ask the gentleman from New Jersey [Mr. ROBE-

SON] before he takes his seat whether he considers that soldiers who have been discharged from the regular Army and Navy furnish the right kind of material for the police force of this District?

Mr. ROBESON. Who said anything about the regular Army and Navy?

Mr. NEAL. They are taken from the regular Army and Navy.

Mr. ROBESON. Oh, no. The statute provides that no person shall be appointed as policemen or watchmen in the District of Columbia who has not served in the Army or Navy of the United States, not the regular Army.

Mr. NEAL. Exactly; in the Army or Navy.

Mr. ROBESON. Does that say the "regular" Army or the "regular" Navy? Will any commissioner of this District undertake to exclude from this force all men who marched under our flag in the volunteer force?

Mr. NEAL. I do not yield for a speech.

Mr. ROBESON. I thought the gentleman wanted me to answer his question before I took my seat.

Mr. NEAL. That provision of the law does not confine the selection of policemen from the volunteer soldiery at all. It provides that they shall be those who have been regularly and honorably discharged from the Army and Navy; not simply from the volunteer force.

Mr. ROBESON. My friend will pardon me. It says those who have served in the Army or Navy.

Mr. NEAL. And the practical operation in this District is to take the members of the force from those who have been discharged from the regular Army or Navy.

Mr. McCOOK. Is not that in contravention of the statute?

Mr. NEAL. It is not.

Mr. McCOOK. I do not know how the commissioners may construe that provision of the statute, but to the mind of the average Congressman I think it would be considered a misconstruction of the statute, to take all these men from the regular Army or Navy.

Mr. NEAL. They have been honorably discharged.

Mr. McCOOK. Of course; and it must apply to the volunteer forces as well.

Mr. NEAL. Certainly; the volunteer forces are not excluded at all. But the practical effect is that all the policemen who are now from time to time appointed to fill vacancies come from the regular Army and Navy, because the material from the volunteer forces is not here in the District from which to make appointment.

But as I have already said, if this bill shall become a law as the committee have reported it, even then two-thirds of the police force of this District must of necessity come from the Army and Navy, because this bill does not interfere with the men who have already been appointed or with those who will be appointed to fill vacancies in that number; it provides only for the addition to the force.

Now, I say there would be nothing wrong whatever for us to provide that other persons than those who were in the Army and Navy of the United States, to the extent of one-third of the police force of this District, if they showed superior ability and superior manhood, might be appointed for that force.

We have a law which requires that for the clerical force in the various Departments of the Government in this city preference shall be given to those from the ranks of honorably discharged soldiers of the Union Army. What is the result? In the Interior Department, one of the largest, 35 per cent. only of such persons are appointed clerks. And if you will go into the other Departments you will find the proportion still less.

In the police force of this city, which above all others should be efficient and faithful, under this proposed law two-thirds must of necessity come from the Army and Navy. Why, then, when the lives and property of persons in the District are at stake, when the people of the District are compelled to pay the taxes to support this police force, should we require of them that which is not required of any other city in the Union; that is, that no man shall be a policeman unless he has been honorably discharged from the Army or Navy?

It seems to me there ought not to be any difference of opinion on this point. The Forty-sixth Congress, when they had this matter under consideration in the code, provided that 75 per cent. only of the entire police force of the District should come from the Army and Navy. That provision met with the approbation of nearly every Republican on this floor, I think, while the bill was opposed in that Congress by my Democratic brethren to a very considerable extent because it did not strike out that clause entirely and leave the commissioners free to select for policemen those who would be most efficient in the discharge of their duty.

The gentleman from New Jersey [Mr. ROBESON] asks me whether or not in my opinion the present police force is efficient. That is a question that he could answer just as well as I can. Whether the police force here is efficient or not there is probably more crime committed in the city of Washington than in any other place in the United States in proportion to population; and that crime is to a very large extent undetected. The papers are filled every morning with accounts of larcenies, burglaries, assaults, and even worse—murders. Whether this prevalence of crime is the fault of the police I am not prepared to say. I do know, however, that whether the members of the force are efficient or not the force is certainly insufficient in numbers for the proper discharge of its duties.

Mr. HAWK. Is the gentleman prepared with statistics to support the statement he has just made in regard to crime in this District?

Mr. NEAL. In the city of New York, which has a territory of only one square mile less than the District of Columbia, there are 2,200 policemen, one for every 450 inhabitants. In this District, in the winter time, when strangers largely increase the population, the estimate is that there is but one policemen to 1,000 inhabitants. A comparison with other cities shows the same disproportion.

I trust, therefore, that whatever may be the fate of this amendment the House will not refuse to pass the bill in some shape, so that there may be protection for the property and lives of the people of Washington, who have to come to Congress with tied hands asking for every character of legislation which may be necessary for their welfare.

Mr. URNER. Mr. Speaker, it seems to me that this bill has got into a little confusion, and perhaps the House does not understand it. I think it due to the Committee on the District of Columbia, and to myself, who have reported the bill by direction of the committee, that I should put both myself and the committee clear upon this question.

In considering this bill, the object that the committee had first in view was to secure the peace, order, and good government of the District of Columbia; to secure a police force of sufficient numbers and of proper character to accomplish that end. The bill, as referred, contained a section providing for the repeal of section 354 of the Revised Statutes, relating to the District of Columbia. I will read that section:

> No person shall be appointed to office, or hold office in the police force, who can not read and write the English language, or who is not a citizen of the United States, or who shall ever have been indicted and convicted of crime; and no person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge.

The bill as referred proposed to repeal this section absolutely. The committee was not willing to do this. They thought that soldiers and sailors of the United States Army and Navy should have the preference in employment as policemen in the District of Columbia. At the same time they wanted to secure to the greatest possible extent the peace and good government of the District. They have therefore proposed as a substitute for the repealing section what is in substance the general law with regard to the employment of persons in the civil service of the Government; in other words, that all things being equal, the Union soldier and sailor shall have the preference.

We do not propose to repeal the section to which I have referred. We want the commissioners of the District to appoint the most efficient men they can get; and we provide that if a Union soldier or sailor possesses the requisite qualifications and desires appointment he shall have the preference.

This goes a good deal further than the amendment proposed by the gentleman from Pennsylvania. He says his amendment provides that the District commissioners shall not discriminate against Union soldiers. Our section provides that the commissioners shall discriminate in favor of Union soldiers. We want to give such soldiers the preference; but at the same time we want to keep strictly in view the good government of the District and the selection of the best men.

Mr. BURROWS, of Michigan. Is the gentleman advised whether the District commissioners have had any difficulty in filling the present force by the appointment of Union soldiers?

Mr. URNER. I have not any information on that subject.

Mr. BRIGGS. Do not the rules which the commissioners have prescribed make certain requirements of age and height as well as two years' residence?

Mr. URNER. I have never heard of those rules before hearing them mentioned here to day. If the commissioners have any such rules they must be rules of their own creation and in contravention of the law. I should not suppose they would adopt such rules.

Mr. BRIGGS. I will say to the gentleman that they have a rule of just the character I have suggested. When I applied to the board of commissioners for the appointment of a Union soldier, who I know would be as efficient an officer as any on the police force of this city or any other, I was referred to the rules which the District commissioners had adopted; and under them this man could not obtain the appointment.

I hope the statute will be retained as it is, and I trust that we shall go further, and take from those commissioners the power which they have exercised to discriminate against Union soldiers.

Mr. URNER. I will stand by the gentleman from New Hampshire upon all legislation necessary to give the most ample protection to the Union soldiers. I will give them the preference all the time.

Mr. ROBESON. Mr. Speaker, as I understand the chairman of the committee, it is not claimed that this section of the statutes providing that no policeman shall be appointed unless he has served in the Army or Navy of the United States and been honorably discharged excludes soldiers of the volunteer army.

Mr. NEAL. Certainly not.

Mr. ROBESON. I say so, too. But the gentleman goes on to say that under the ruling of the commissioners——

Mr. NEAL. Under their regulations.

Mr. ROBESON. Under their regulations nobody gets these appointments but men who have been honorably discharged from the

regular Army, who the gentleman says are entitled to no special consideration from this House. But now, because the Commissioners have thus departed from the intention of the statute, the gentleman proposes to give them wider liberty. Because they do not keep the law as it is now written on the statute-book we will repeal it and substitute a clause which is more lenient and will give to them a wider discretion.

Now, before we increase their power in this respect, I say let us not give them rule over more things in the face of the declaration of the chairman of the committee that they have not been faithful over a few.

The gentleman from New York, [Mr. COX,] whom I always delight to see on the floor, who adorns every subject which he touches with the flight of his fancy and the richness of his imagination——

Mr. COX, of New York. You do not mean me.

Mr. ROBESON. I mean the gentleman who has now interrupted me, and I am not sorry to be able to pay him that tribute. But I trust he will not lose all regard for mere facts in following the corruscations of his own brilliant genius. [Laughter.]

Mr. COX, of New York. What has that to do with this question?

Mr. ROBESON. Nothing at all. [Laughter.] It has nothing to do with the question and nothing to do with the subject. If it had anything to do with the question or anything to do with the subject it would not be an apt reply to the gentleman's speech. [Laughter.]

Mr. COX, of New York. Why then does the gentleman make irrelevant speeches? [Laughter.]

Mr. ROBESON. Now, my friend says he belonged to the "Home Brigade" during the war. I will say that I was myself unfitted by physical difficulty, if not by personal inclination, from entering into the field, and belonged to the same corps; but in those positions which I had the honor to occupy, and upon those fields where I did wield influence, all I had of power and strength and substance was given to sustaining the armies of the Union in the field and supporting their cause before the people and the world. Did the gentleman belong to that particular "Home Brigade?"

Mr. COX, of New York. In reply to the gentleman from New Jersey, Mr. Speaker, I will say that I belonged to the party which the record will show voted for all the money and men to sustain this Government, and the gentleman, who has been prominent in public affairs, knows I voted a good deal of money that was misspent, [laughter,] but nevertheless I never complained of that in a great emergency.

Mr. ROBESON. I am not impugning the personal patriotism of the gentleman, but if he seeks to prove it before the people of this country he will do well to rest upon his individual action, and not upon the conduct and influence of the party with which he was associated.

Now, then, Mr. Speaker, we have been through a great war. We came out from it bleeding but victorious, discharging into the body of the country a million men armed with the weapons of war and accustomed to the looseness of military life. They went abroad into our country and were dispersed along the thousand pathways of life, to regain their status as workingmen and producers in the community, and our country absorbed them without effort or shock. We presented a spectacle which challenges rivalry or comparison from the history of any other country in the world, and is approached only, if approached at all, by the conditions which obtained when Cromwell's Ironsides were disbanded and scattered among the people of England, and were afterward, as the great historian tells us, pointed to with pride when an honest burgher or industrious mechanic was recognized. "That peaceful citizen served in the army of Cromwell." But they brought back into the body of their country none of the license of ribald soldiery and none of the inclination which grows upon men who are bearing arms to overstep or trample upon the laws and liberties of the people.

So at the end of this great rebellion we poured out into our country a million such men, as deserving as any who have ever served a great cause since the world began. We are engaged every day here in passing laws for pensions to support all those who are now found to be incapable of supporting themselves and families by honest industry. And we have always provided as far as we could without taking money directly from the Treasury to ordain and regulate by our law that where this Government, which they preserved, has places of employment and of emolument such as they can fill, they shall receive those places in preference to those who took up arms against it and struck against its life, and in preference to those who, like my friend from New York and myself, did not go into actual service in the ranks.

Now, then, that is the law upon the statute-book, and that is the section which this committee comes here before this Republican House and asks to have repealed. For one I shall never vote for it.

Mr. NEAL. I protest against the gentleman from New Jersey misrepresenting the action of the committee.

Mr. ROBESON. The gentleman may protest, but I point him to the record, and when that committee comes in here and asks to have this section repealed and their attention is called to it they say "No, we do not quite repeal it, but we will repeal it and substitute for it a provision which will leave this matter in the discretion of these commissioners," who out of the gentleman's own mouth have been shown here to-day to discriminate against the volunteer soldiery of this country.

Now, then, Mr. Speaker, I say it is our duty to vote down this measure to strike out and insert—that is a parliamentary proceeding—and then clearly and directly to strike out the second section, thus leaving the Revised Statutes exactly as they are.

Mr. COX, of New York. Mr. Speaker, I shall only occupy the time of the House for a moment——

Mr. NEAL. I want to correct the gentleman from New Jersey about facts.

Mr. COX, of New York. I want to correct the gentleman from New Jersey too. [Laughter.] Why the gentleman from New Jersey on every occasion should be so aggressive on the Democratic side without reason or occasion is more than I am able to explain. Why should the gentleman choose to call my personal record into question here on a mere matter connected with the police of the District of Columbia I do not know. Certainly it has no relevancy to the question. I discussed the matter pertinently. I endeavored to throw what sensible light I could on the municipal question; but the gentleman from New Jersey comes here and opens a tirade of abuse against the war, the memories of which ought to be buried forever. It is an old Roman saying that no trophies survive from the civil war. Time buries them, and for a reason. It is healing. Let no trophies of civil conflict survive the terrible and bloody division between two great communities in this country. We should, in justice to ourselves and in justice to the future, make no invidious distinctions and revive no revenges after the restoration of unity and concord.

Does the gentleman from New Jersey claim that it is in the interest of a good police system for this city—the purpose for which we are legislating—to maintain the sentimental statute which he would preserve? This Committee on the District of Columbia comes here and asks, in the interest of a good police system, that this statute should be so amended as to give discretion to those having charge of the police of the city to select the most available men. Why not? It gives them the privilege of selecting. Why should not the selection be made irrespective of the war and its issues and soldiers? Then comes in the gentleman from New Jersey to arouse the old bloody spirit again. He would bring out the old, thrice repeated, thrice met question, the old terrible trouble. What for? Either for some purpose to be subserved at home or to irritate this side of the House, or possibly to unite the other side in the spirit of hate.

I submit, sir, that while the gentleman compliments my personal record, as a faithful representative of my Government during the war, he has not been just to my associates since the war. While I thank him personally, I cannot do it at the expense of my associates. It was my duty to make, if not the first the second speech in this House against secession. Although I sustained the soldiers in the field, and the sailors on the sea, and voted immense sums of money to sustain them; although I may reproach myself for voting some of that money, because of its misuse, I did vote it all. I did all I could as a member of Congress, then from a Western State here, in behalf of the Union and its unexampled polity and government. This House is now unlike that during the war. It is now made up of members from all the States and sections, and all obnoxious distinctions should cease.

I am not here now to challenge the patriotism of any man who is to be selected for mere police duty. Moreover, Mr. Speaker, this House has settled our future relations to the dead confederacy. This was done when this House was largely Democratic. I think it was some six years ago when it passed the following resolutions presented by myself:

Resolved, That the people of the United States constitute a nation in the sense to the extent, and for the purpose defined in the Federal Constitution.

Resolved, That the Government of the United States is a Federal Union and was formed by the people of the several States in their sovereign capacity; that the rights and powers of the United States Government are defined and limited by the Federal Constitution, and these rights and powers cannot be enlarged or diminished except by an amendment to the Constitution.

Resolved—

All the Democrats voting for it; and many intelligent and just Republicans voting along with them—

That the rights of States have the same sanction of security in the Constitution as the rights and powers of the Federal Government; and that local domestic government by the several States, within the limits of the Constitution, is absolutely necessary for the preservation of the liberties of the citizen and the continuance of a republican system of government.

This resolution which I offered embodies my own belief in the State and Federal relations. These are the sentiments of every honest man who loves the country in its entirety and desires to bury its saddest, direst trial.

Resolved, That the doctrine that any State has the right to secede from the Union is in conflict with the idea of a perpetual Union as contemplated by the Constitution, and should be regarded as being forever extinguished by the result of the recent conflict.

Why not, Mr. Speaker, allow this oblivion to remain? Why disinter the hates which it buried? Some gentlemen smile. Why smile? It is not a happy smile. Would you have voted against it? Oh, no! Many of the gentlest gentlemen on that side voted for it, and every Democrat on this side of the House gave it his sincere sanction. It was a second Declaration of Independence. It made new devotion to our best emotions, and from all sections. It made secession forever obsolete. Cannot we stand on that? Must we resurrect it to make new revenges?

Having purified secession of its troubles and miseries, having

stamped it out of existence forever, and by the consent of its devotees, are we to summon its ghost on every occasion, whenever some man whose record needs strengthening comes here to invoke the bad passions of sectionalism and the spites and diabolism which sometimes—alas! too often—result from civil strife?

I trust, in the name of that Heavenly Father whom we revere and who pardons even the worst criminals, even the thief upon the cross—I trust there is goodness enough on that side of the House to affirm and reaffirm this resolution whenever these malcontents in Congress bring up this question on matters so insignificant as a Washington police bill.

Mr. HOLMAN rose.

Mr. NEAL. I regret very much that, as the gentleman from New York has said, so insignificant a matter as the appointment of policemen should have invoked such a political discussion as this. I have been in the habit of following the gentleman from New Jersey [Mr. ROBESON] to a very great extent, having confidence in his judgment when he knows what the facts are; but when he does not know the facts then I do not think his judgment is entitled to be followed by any person.

What, then, are the facts? And I should be glad if the gentleman from New Jersey, who has misrepresented the chairman of this committee and other members upon this floor, will pay attention to the law. Section 340 of the code of the District of Columbia provides that—

> The police force shall consist of the following officers, namely: one major * * * and such number of privates, not exceeding two hundred for the regular service, as the board may deem necessary.

Then section 354 provides that—

> No person shall be appointed to office or hold office in the police force who cannot read and write the English language, or who is not a citizen of the United States, or who shall ever have been indicted and convicted of crime; and no person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge.

That law applies to the two hundred men now on the police force. So far as they are concerned we do not propose to strike that down or interfere with any one of these provisions.

Mr. ROBESON. Will the gentleman permit me right here——

Mr. NEAL. For a question; nothing more.

Mr. ROBESON. Merely for a question. Are not these policemen dischargeable at the will, day by day, of the commissioners, and are they not put out every day and every week?

Mr. NEAL. No, sir; they are not.

Mr. ROBESON. Are they appointed for a particular term, or for a life term?

Mr. NEAL. They are appointed substantially for a life term.

Mr. ROBESON. I am asking how it is, not substantially, but legally?

Mr. NEAL. Legally, they are appointed during the pleasure of the commissioners.

Mr. ROBESON. And may be turned out, all of them, to-morrow, if the commissioners choose?

Mr. NEAL. But they are appointed substantially for life. There is no policeman, except for dereliction of duty, when he has been tried and convicted, that has ever been discharged since I have been a member of the Committee on the District of Columbia that I have knowledge of.

Mr. BURROWS, of Michigan. Will the gentleman permit me to ask him a question?

Mr. NEAL. Yes, sir.

Mr. BURROWS, of Michigan. If this measure shall pass, would you not be clothing the commissioners with power to drive every soldier out of the police force, and make the entire force of three hundred to be composed of men who were not in the Army or Navy at all?

Mr. NEAL. I suppose they might have that power. But I will say to the gentleman that this does not apply to the old policemen at all. The provision here is as to the one hundred additional. It is expressly limited to them.

Mr. ATKINS. I desire to ask the gentleman one question. By how many policemen does this bill increase the force?

Mr. NEAL. It adds one hundred. Now, Mr. Speaker, here are the facts in regard to the discipline. I will state the number cited before the trial board of the police force. For desertion, one; for gross neglect of duty, six; for insubordination, one; for intoxication, three; for intoxication on duty, five; for neglect of duty, thirteen; for miscellaneous violations of rules and regulations, forty-five.

Here is what the commissioners say in regard to members of the force whose efficiency has been impaired by their many years of active duty:

> They have been faithful and untiring in the performance of the work assigned to them, and are willing to-day to attempt, at least, the same amount of duty which the younger and more able-bodied men are better able to execute. But their age renders their service, to a certain degree, inefficient, and their places should be filled by men whose quick, sharp perceptions are needed in the prevention of crime and in the detection of the criminals when crime has been committed. At the same time it would be a positive wrong to remove these men after twenty years' faithful service without making some provision for their old age.

I want to say, Mr. Speaker, to the credit of the present board of commissioners, who are appointed and removable by the President of the United States, whose ear my friend from New Jersey has perhaps as closely as any member of this House, these men, during the time I have been a member of the District Committee in the Forty-sixth and in this present Congress, have not discharged, so far as I know, one single policeman for anything except for inefficiency in the discharge of duty.

The gentleman from New Jersey says the committee have tried to strike down this provision. We are not trying to do anything of the kind. If there is any single sentence of that amendment which interferes in any respect with the two hundred policemen that are now on duty, or which authorizes the filling of any vacancies which may occur on the present force that will justify anything like the striking down of that provision of law, let the gentleman from New Jersey point it out, and I will at once move an amendment. But it does appear to me that for the efficiency of this service a discretion should be vested in the commissioners to select men who may not have belonged to the Army and Navy, if by so doing they can make a more efficient service. Let any man who favors this come here and tell me what was the fact in regard to his own city and town. I undertake to say there is not a city or town in the United States, whether east or west, north or south, where any such provision is in force as in this. If so, it is a very small one.

I move the previous question.

Mr. ROBESON. I desire to say a few words.

Mr. HOLMAN. I was recognized I believe by the Chair.

The SPEAKER. The Chair recognized the gentleman from Indiana only on the supposition that the gentleman from Ohio [Mr. NEAL] yielded to him for a question. Does the gentleman from Ohio yield?

Mr. NEAL. I withdraw the demand for the previous question.

Mr. HOLMAN. This bill contains two provisions. One increases the police force of this District from two hundred to three hundred policemen, thereby adding about one hundred thousand dollars annually to the expense of this force. If I am mistaken about this I hope the gentleman from Ohio will correct me.

Mr. NEAL. What is the statement?

Mr. HOLMAN. This bill increases the police force from two hundred to three hundred persons, and increases the annual expense of that force by about one hundred thousand dollars.

Mr. NEAL. By $75,000.

Mr. HOLMAN. Seventy-five thousand dollars?

Mr. NEAL. Yes.

Mr. HOLMAN. I am glad to be corrected. Now, on that point, judging from all the opportunities which present themselves to casual residents of this city, I think the present force is very ample, and that there is no public reason why the force should be increased.

The second section of this bill is more remarkable. The law, as it now stands, has stood for a number of years, contains this very proper provision:

> No person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States, and received an honorable discharge.

It is proposed by the second section of this bill to repeal that provision; to repeal it, and that, too, in a House of Representatives controlled by the Republican party. I have very seldom had occasion to refer to the political differences here, but I cannot refrain from doing so in considering such an extraordinary provision as this. The Democrats had control of this House for six years, with ample majorities and ample opportunities, and for a time the control of both House and Senate, yet a proposition to strike down this provision, made in behalf of the Union soldiers and sailors, has never been suggested before, so far as I am informed. It had to wait, so far as the police force of this District is concerned, until the party came into power which professes to monopolize all the loyalty of the country before a measure could be brought forward for the repeal of this law, and it is brought forward at the first session after this party again came into the control of both House and Senate.

What will be the effect of this section striking down this provision in behalf of the Union soldiers and sailors and leaving it discretionary with the three commissioners of this District? It will be simply to supplant the Union soldier and the sailor, and to put local politicians in their places on the police force. Those places pay very well. The salaries range from $900 to $1,000 for the privates on the force and ample salaries for the officers, and they are very desirable positions for men who are even partially disabled, adding very materially in some instances to the small pensions which some of these veterans may have for the support of their families.

At this time there are in this District and in every State of the Union men who served the Government bravely and well during the war for the Union, and who are amply qualified to fill these places. Many of them are poor and need such positions. They are now entitled to these police offices by law, and it is now proposed that they shall not enjoy this right, but that these three commissioners of the District, not one of whom, so far as I am aware, has ever been identified with the volunteer military service, shall have the right to turn them out of office, to supplant them by the appointment of others. I am opposed to that. I am in favor of this law just as it stands. These places are in the main easily filled, in some degree sinecures; pleasant, easy places in a pleasant, quiet city, and well paid, running down from the office of major to privates with $900 a year. I am not willing by any vote of mine that the men who imperiled their lives in defense of the Union shall be deprived of the offices they hold under this law. I am not willing that the law which gives them those offices to the exclusion of others shall be repealed. I am

not willing that these three elegant gentlemen who compose the board of commissioners of this District shall have it in their power to displace these men and put their favorites and politicians in their places.

I apprehend that one object of this proposed repeal may be this: these soldiers on the police force in this District are not all Republicans, they are not all Democrats; some of them are Republicans and some of them are Democrats. In making up such a force like this, where soldiers must be appointed, it is very likely that some Democratic soldiers have obtained employment, for the Union Army was composed of Republicans and Democrats alike patriotic and devoted to their country. I do not wish to see either the Republican soldiers or the Democratic soldiers turned out of office.

Now, by a repeal of this provision of the statutes it is proposed to put it in the power of these commissioners to remove all those men and put the favorites of the commissioners in their places. I am opposed to it. Gentlemen cannot escape the responsibility by saying that it is left discretionary with the commissioners. Will those commissioners give the soldiers the preference? What has been the experience under similar provisions of law scattered all over your statute-books? The experience has been, in matter of appointment, where a discretion was left that the advantages were obtained by civilians, not by men who had served in your Army and Navy, for the reason that the politician is on the alert for office, and your Army and Navy were in the main filled by laboring-men not accustomed to the methods of obtaining office.

Mr. COOK. Will the gentleman from Indiana [Mr. HOLMAN] allow me to ask him a question?

Mr. HOLMAN. Yes.

Mr. COOK. If the same provision applied to the honorable gentleman from Indiana and to other members here who have not served in the Army or Navy, where would he be?

Mr. HOLMAN. I think that neither my friend from Georgia nor myself would be here unless for sufficient reasons our constituents thought our services would be of value. I am speaking of the appointing power.

Mr. ROBESON. Will the gentleman from Indiana [Mr. HOLMAN] allow me to ask the gentleman from Georgia a question?

Mr. HOLMAN. A question simply.

Mr. ROBESON. The gentleman from Georgia was a gallant soldier in the late war. I wish to ask him whether, if he had been wounded, he would come here and ask for a pension? That is the distinction I make. Nobody will deny to me the credit, if credit it is, that I am ready to yield to our Southern brethren who engaged in the last war every right that they have to the very last feather; I am ready to concede everything of personal feeling or of personal concession. But when they come here and ask favors of the Government, we reserve them for our own soldiers and do not feel that we ought to give them to the soldiers on the other side.

Mr. HOLMAN. I cannot yield further.

Mr. COOK. I hope the gentleman will yield to allow me to answer the gentleman from New Jersey, [Mr. ROBESON.]

Mr. HOLMAN. I wish to proceed without interruption. I will answer him myself.

Mr. COOK. I want to say this: that in the time I have been here, in the nearly ten years that I have served in this House, except in one or two instances, there never has been a member on the other side of the House or on this who himself had served in the Army on that side, who has ever offered any insult or indignity to any soldier or man who served in the confederate service. It is only that class of gentlemen whose courage and patriotism kept them far in the rear during the war who now come to the front and seek to insult us and annoy us whenever they can do so. The loyal men on that side who fought in the Army—not like some gentlemen who never saw a rebel during the war unless the poor fellow was in prison—the loyal men on that side are not the men who now come forward in time of peace when our arms are laid down and seek on every possible occasion that presents itself to rise up here and say what they did for the country. We have by our legislation removed two planks from the platform of the Republican party—the Chinese plank and the Mormon plank; and now, after we are done with the "bloody shirt" and the question of disloyal claims, I do not know what some gentlemen will have to bank upon as political capital, certainly not any service that they have rendered to their country during the war.

Mr. HOLMAN. Mr. Speaker, I have not yielded for a speech. I intended to answer the gentleman from Georgia [Mr. COOK] by saying that he holds his place here by virtue of the votes of his people and as their Representative. I hold my position by the same right. But I do not see how his question or the discussion between himself and the gentleman from New Jersey could be pertinent to this discussion. The existing provisions of law giving to Union soldiers and sailors the right to form this police force—a law which Congress had the power to enact—it is proposed to repeal. That is the question and the only question before the House. I am opposed to the repeal. I am opposed to this bill, because it increased unnecessarily the expenses of the District of Columbia to be paid in part out of the public Treasury. I am assured by a gentleman well informed on the subject, and who has been identified with the government of this city, that the increase of expense will be $100,000. I undertake to say, judging from the experience of other cities, that the police force now employed in this city is ample, and there is no excuse or justification for adding to the expenses of the District $100,000.

In addition to that, I will not consent either by my vote or by my silence that the Union soldiers and seamen who by law are now entitled to fill this police force shall be placed at the mercy of three District commissioners to be turned out at their pleasure. No Union soldier shall leave that police force by my vote. These three gentlemen who compose your District commission shall never have it in their power by my vote to say that men who have been honorably discharged from the Army and Navy of the Union shall not hold the positions guaranteed to them by existing law. [Applause.] The pretense that these men are too old to render efficient service is too ridiculous to require answer. These places are easily filled, in some instances almost sinecures; and the salaries, high as they are, have been acquiesced in as a merited compensation to men who have imperiled their lives in the service of the Republic.

Mr. HAMMOND, of Georgia. I wish to ask the gentleman a question. Suppose there were two applicants for a policeman's place, one a discharged Federal soldier, the other a man of twenty-five years of age, the son of a dead Federal soldier. Upon what principle would the gentleman legislate the young man out of office to get the old man in?

Mr. HOLMAN. Legislate him out? There is no proposition of that kind.

Mr. HAMMOND, of Georgia. But it is proposed not to let the young man get in because he never was in the Army. Now, upon what principle will you make a law giving a preference to the old man over the young man? Where in the Constitution have you any authority for making that particular qualification for holding office in this District?

Mr. HOLMAN. Well, there is no limitation upon the power of Congress in legislating for this District; and if the old man who served his country, who bore the flag of the Republic during war, is holding a position, and his son of twenty-five years of age wants to crowd him out, I would not give the son the opportunity.

Mr. HAMMOND, of Georgia. Not his son. In the case I put, I supposed one of the applicants to be the son of a Federal soldier who had been killed in the war.

Mr. HOLMAN. Here is a soldier who has suffered the hardships of war, and is now holding the office of policeman; and another man who has not suffered the perils and hardships of war wants his place. That is the case as I understand the gentleman from Georgia. I say the soldier who bore the burden and heat of the war should not be turned out for the benefit of the man who did not, although the son of a soldier.

Mr. NEAL. I want to know whether the gentleman since he has been in Congress has ever heard of any Union soldier being turned out of the police force here?

Mr. HOLMAN. There is no opportunity, I think, under this law.

Mr. NEAL. Why?

Mr. HOLMAN. How could it be?

Mr. NEAL. Does not the law authorize the commissioners to dismiss policemen at their pleasure?

Mr. HOLMAN. At their pleasure?

Mr. NEAL. Yes, sir.

Mr. HOLMAN. Do they not have to appoint soldiers in their places?

Mr. NEAL. Has the gentleman ever known them to turn out a Union soldier?

Mr. HOLMAN. I have never had occasion to inquire into the matter. I cannot see what motive the commissioners would have to dismiss one soldier who is discharging properly the duties of a policeman for the purpose simply of putting in another soldier. But I do not propose to put it in the power of these commissioners to displace these men. I do not propose to give them the discretion to do it. The existing provision of law seems to me wise and proper; and for my part I am perfectly content with it. These veterans fill these places very well, and I do not wish to invest any commission, however reputable, with the power to remove them while they are able to perform their duties and do perform them faithfully. Let the roll of this force be a soldiers' roll. I think the present law is good enough, wise enough, patriotic enough; and I think the proposed amendments are not.

Mr. NEAL. I am sorry the gentleman cannot answer a question categorically.

Mr. HOLMAN. I have answered it.

Mr. NEAL. I ask have you ever heard of such a case?

Mr. HOLMAN. I have not inquired into the subject.

Mr. NEAL. Have you ever heard of such a case; say yes or no.

Mr. HOLMAN. I will not answer it when put in that way. All I will say to the gentleman is that if he wishes to remove these Union soldiers from that force let him pass this bill.

Mr. NEAL. I wish to ask the gentleman from Indiana a question. Does he know whether there is a Union soldier on the police force?

Mr. HOLMAN. I know nothing about it except what the law provides. I take it for granted these commissioners have not violated the law. If they had violated the law I think we would have heard of it before this time.

Mr. NEAL. Will the gentleman vote for an amendment of this character: that all policemen now upon the police force of the city who have not served in the volunteer service of the United States during the war of 1861–'65 and were not honorably discharged therefrom shall be forthwith discharged therefrom, and hereafter no person shall be appointed thereto who has not served and received an honorable discharge as aforesaid?

Mr. HOLMAN. Is not that the law now?

Mr. NEAL. No; it is not the law now.

Mr. BURROWS, of Michigan. You confine it to the volunteer service.

Mr. NEAL. Certainly.

Mr. HOLMAN. I have no objection to that; I see no reason to oppose that. Will the gentleman now let me ask him a question?

Mr. NEAL. Certainly.

Mr. HOLMAN. Is the soldier who served in the volunteer force entitled to any greater consideration on the score of patriotism than the man who rendered the same kind of service in the regular Army? The gentleman does not think it proper to answer my question. I will put the question again to the gentleman from Ohio in this form——

Mr. NEAL. I beg the gentleman's pardon, I was interrupted and did not hear his question.

Mr. HOLMAN. Suppose one soldier served during the period of the war in the volunteer Army and was honorably discharged, and another was in the service during the period of the war and also honorably discharged from the regular Army, does the gentleman from Ohio wish to discriminate between them? Were they not equally American citizens and American soldiers, and are they not equally entitled to the honor of the country?

Mr. NEAL. Certainly.

Mr. HOLMAN. Why do you then wish to discriminate between them?

Mr. NEAL. I will tell the gentleman why. The appointees on the police force now are, to a very great extent, as I understand from the commissioners themselves, confined to persons who have served since the war in the Army and Navy of the United States. It is that class of persons who, I claim, are not entitled to any consideration in the American Congress. The police force is not made up of the Union soldiers to whom the gentleman refers.

Mr. HOLMAN. I have no objection to the gentleman's amendment as he read it.

Mr. STEELE. Have not the commissioners adopted a rule which practically excludes Union soldiers of the late war from the police force, in the first place by declaring they must have a residence here of two years, and in the next place they shall be under forty years of age?

Mr. HOLMAN. Why did not the gentleman from Ohio repeal those provisions?

Mr. NEAL. I will answer.

Mr. STEELE. I should like to have the gentleman answer. I will yield for that purpose.

Mr. NEAL. It is true there is a regulation which has been in force long before the appointment of the present commissioners. It was adopted when General Ketcham of New York Governor Denison of Ohio, and Captain Phelps of this city, three of as self-sacrificing Republicans as there are anywhere in the United States, were commissioners of this District. They made that regulation because from experience of mankind persons under forty years of age are found to make better policemen than those who are older. In addition to that, it has been the policy of the commissioners of the District, and has been ever since I have had any knowledge of District affairs, to keep in office policemen once appointed until they have been incapacitated by age or disease from discharging their duties.

In addition to that persons incapacitated from active duty are provided for otherwise, by being made station-keepers or put on some light duty, so that their services are not dispensed with entirely.

Mr. STEELE. Let me ask the gentleman a question.

Mr. NEAL. Not now. I want to answer the gentleman from Indiana.

Mr. HOLMAN. I want to ask the gentleman from Ohio another question. Does he propose to repeal the rule which requires policemen to be under forty years of age?

Mr. NEAL. I have not proposed anything of the kind.

Mr. HOLMAN. Does not the gentleman from Ohio know that if he passes this bill, as now proposed, repealing the clause requiring the appointment of soldiers, and leaving this provision that they shall be under forty years of age, that it shuts out nearly every soldier who served in the late war?

Mr. NEAL. I cannot make the gentleman from Indiana understand that this bill does not interfere with a single soldier or appointee who is over forty years of age.

Mr. HOLMAN. That is just what I am complaining of. You allow that rule to remain untouched. The very effect of the rule will be to exclude every soldier who happens to be over forty years of age.

Mr. NEAL. Mr. Speaker, I will endeavor to explain this in such a way that I think the gentleman cannot avoid understanding it. The police authorities appoint no man who is over forty years of age, but they do not turn out a man who has been appointed and served until after he has reached the age of forty.

Mr. HOLMAN. That is exactly as I stated; what I have complained of is you allow the old rule adopted by the commissioners to stand, and make no provision for its repeal, and yet you tell me that a soldier who may happen to be forty-five, fifty, fifty-five, or sixty years of age is not able to serve this city as a policeman, when the fact is well known that the police force is full of sinecures.

Mr. NEAL. Full of what?

Mr. HOLMAN. Sinecures; and there is scarcely a soldier who served in the late war who is not amply qualified physically and otherwise to fill the place, although the great majority of them are over forty years of age, as the gentleman well knows.

Mr. NEAL. If the gentleman from Indiana will show me a single sinecure position on the entire police force of this city I will bring in a bill to have the position abolished.

Mr. HOLMAN. Why, the gentleman must know that in the very nature of things there are many of them. In fact, the very office itself is a sinecure in a measure. Here is a quiet country and town over which their duties extend; a peaceable, law-abiding population with two hundred policemen. A large body of that number, from the very necessity of things, cannot be employed at all. There is no public necessity requiring such a large force of men; and yet, notwithstanding that fact, the gentleman brings in a bill here to increase the number to three hundred men and turns the soldiers out.

Mr. NEAL. The gentleman from Indiana has shown exactly what is the trouble with a great many members on this floor, that he does not know anything about the question he is discussing. [Laughter.] He talks about sinecures on the police force. I will say to the gentleman that there is no city in the United States where policemen are worked so hard as they are here. In this city there is one policeman for about every one thousand people, while in other cities, so far as I have examined, the proportion is, perhaps, one to every five hundred of population.

In New York City they have one policeman to every four hundred and fifty people. There are 2,200 policemen in New York; and in other cities, as far as I know, there is a like proportion to the population, while here in the District of Columbia there is but one policeman to every thousand people. In addition to that the police force of the District of Columbia was created at a time when the population of the city was only about eighty thousand. To-day the fixed population, without taking into account the floating population, is over one hundred and sixty thousand, and if you embrace the floating population in the numbers it is estimated that we have a population of two hundred thousand people. So the gentleman from Indiana shows that he does not understand the situation here when he talks of the place of a policeman being a sinecure, or of their not being employed.

Sir, it is well known by every one who reads the papers at all that the amount of crime here is enormous, while the number of persons arrested is necessarily small in proportion to the number of crimes committed. And that is very easily understood if gentlemen will take into consideration the fact that the present police force is inadequate to perform the duty. The result of it is that we have here the most ineffective police system in the United States. The policeman who has once passed over his beat cannot again go over it, by reason of its length, under four or five hours, and it is easy for burglars and thieves to do their work after the policeman has passed. There is substantially no protection whatever for life or property here. Another thing, this bill, as I have stated, does not interfere with the law as it now stands. The law provides for the appointment of two hundred policemen who must have been honorably discharged from the Army or Navy of the United States. This bill does not interfere with that provision, but only provides that this addition to the force may be appointed by the commissioners, preference being given to persons who have been honorably discharged from the volunteer service of the United States. That is all there is of it. There is not a city in the United States of any size that I know of where the appointment of policemen is so hampered and restricted as it is in this city. Do any of the towns or cities represented by the gentleman from New Jersey make any such restrictions? I guarantee that he cannot point me to any such provision in their laws. We do not propose to strike at the Union soldiers.

This bill was introduced by a prominent Democrat, the gentleman from Connecticut, [Mr. PHELPS.]

A MEMBER. And you approve of it?

Mr. NEAL. The bill, as originally introduced, contained a clause which repealed the law requiring these policemen should be honorably discharged soldiers and sailors from the Army and Navy of the United States. The Committee on the District of Columbia, without any objection on the part of any member, even of those who served honorably in the confederate army, approved of the motion made in the committee to strike out that clause and leave the present law as it now stands in regard to the appointment of the present police force; but they thought, inasmuch as we could get younger men, and abler men probably, by giving some discretion to the commissioners, they should have that discretion, but that the present law and regulations should continue as to the existing force.

Mr. ROBESON. I desire to ask the gentleman one question before he sits down. He says that this does not apply to the old force, and

he founds that argument on the expression in the amendment which says that in the appointment of policemen under this act the commissioners shall give preference to soldiers. Now that provision only applies to the policemen appointed under this act; but at the same time the gentleman undertakes to repeal the section of the Revised Statutes.

Mr. NEAL. Not at all; we strike out that repealing clause. The gentleman can see for himself that is all stricken out as the bill is reported from the committee. Let the gentleman read it for himself.

Mr. ROBESON. You propose to strike out that clause and insert in its place this discretionary power.

Mr. DEZENDORF. I desire to offer an amendment to section 2, as reported by the committee, as follows:

In line 4 strike out the words "give preference to," and insert the word "appoint;" so that it will read:

"In the appointment of policemen under this act the District commissioners shall, when all other qualifications are equal, appoint those applicants who have been honorably discharged from the volunteer service of the Union Army or Navy."

Mr. ROBESON. Is that any better than the Revised Statutes as they now stand?

Mr. RYAN. That amendment is of no consequence.

The SPEAKER. The Chair will state to the gentleman from Virginia [Mr. DEZENDORF] that the amendment offered by the gentleman from Pennsylvania [Mr. MILLER] is first in order. The amendment proposed by the gentleman from Virginia is not in order pending the amendment offered by the gentleman from Pennsylvania to that portion of the recommendation of the committee which proposes to strike out section 2 and insert a new section. The Clerk will read the amendment of the gentleman from Pennsylvania.

The Clerk read as follows:

Add to the section the following:

"*Provided*, That the commissioners of the District shall not be permitted to make any rule or regulation as to age or residence that will discriminate against honorably discharged soldiers and sailors of the Union Army and Navy."

Mr. NEAL. I move the previous question on the bill and amendments.

Mr. URNER. Before that is done I ask unanimous consent to insert the words "or Navy" after "Army." In the new section those words were inadvertently left out by the Clerk.

Mr. ROBESON. I move to strike out section 2 of the bill.

The SPEAKER. The Chair thinks that would not be in order now.

Mr. ROBESON. I move that as a substitute to the proposition of the committee. The committee propose to strike out that section and insert another. I propose to strike it out.

The SPEAKER. The gentleman from Ohio [Mr. NEAL] demands the previous question on the bill and pending amendments, the understanding being that the amendment recommended by the committee, the amendment offered by the gentleman from Pennsylvania, [Mr. MILLER,] and the substitute offered by the gentleman from New Jersey are pending.

Mr. URNER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. URNER. The gentleman from New Jersey moves to strike out the second section of the bill as referred to the committee. I want to know whether that section is before the House. The committee report in favor of striking that out and recommend a substitute.

The SPEAKER. The committee merely recommend striking out that section, but it is still before the House.

The previous question was ordered.

The SPEAKER. The question is first on the substitute offered by the gentleman from New Jersey, [Mr. ROBESON.]

Mr. CAMP. Is it not necessary to perfect the original text first?

Mr. NEAL. I would inquire whether voting down the amendment suggested by the committee would not answer the same purpose as voting on the substitute offered by the gentleman from New Jersey?

The SPEAKER. The Chair will state that the one proposition is to strike out the section and insert; the other is to strike out absolutely. The question is upon the amendment offered by the gentleman from New Jersey by way of substitute for the pending amendment, the proposition of the gentleman fom New Jersey being to strike out section 2 of the original bill.

The question being taken on Mr. ROBESON's substitute; there were—ayes 56, noes 58.

Mr. ROBESON. I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 38.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

Mr. DUNNELL. Will the Chair state what is the question?

The SPEAKER. The question is on the motion of the gentleman from New Jersey [Mr. ROBESON] to strike out section 2 of the original bill.

Mr. NEAL. I ask what will be the effect if that motion prevails. Will not the vote then properly come on the substitute offered by the committee?

The SPEAKER. The Chair will decide that question when it is reached.

The question was taken; and there were—yeas 104, nays 77, not voting 110; as follows:

YEAS—104.

Aldrich,	Dwight,	Lewis,	Robinson, Geo. D.
Beach,	Ermentrout,	Lord,	Robinson, Jas. S.
Brewer,	Farwell, Sewell S.	Mason,	Ryan,
Briggs,	Godshalk,	Matson,	Scranton,
Browne,	Guenther,	McClure,	Sherwin,
Buck,	Hammond, John	McCoid,	Skinner,
Burrows, Julius C.	Hardenbergh,	McCook,	Smith, A. Herr
Burrows, Jos. H.	Harmer,	McKinley,	Smith, Dietrich C.
Butterworth,	Harris, Benj. W.	Miller,	Sparks,
Camp,	Haseltine,	Moore,	Spaulding,
Campbell,	Haskell,	Neal,	Steele,
Cannon,	Hawk,	Norcross,	Stockslager,
Carpenter,	Heilman,	O'Neill,	Stone,
Caswell,	Hepburn,	Orth,	Strait,
Chace,	Hill,	Payson,	Thompson, Wm. G.
Chapman,	Holman,	Peelle,	Tyler,
Colerick,	Houk,	Pierce,	Updegraff, J. T.
Crapo,	Humphrey,	Pettibone,	Updegraff, Thomas
Cullen,	Jacobs,	Pound,	Urner,
Curtin,	Jadwin,	Prescott,	Van Aernam,
Davis, George R.	Jones, Phineas	Ray,	Van Horn,
Dawes,	Joyce,	Reed,	Walker,
De Motte,	Ketcham,	Rice, Theron M.	Washburn,
Dezendorf,	Lacey,	Rich,	Webber,
Dingley,	Leedom,	Richardson, D. P.	White,
Dunnell,	Le Fevre,	Robeson,	Young.

NAYS—77.

Aiken,	Cravens,	Hoblitzell,	Shackelford,
Armfield,	Culberson,	Hooker,	Shelley,
Atkins,	Davidson,	Jones, George W.	Simonton,
Barbour,	Dibble,	Jones, James K.	Singleton, Otho R.
Belmont,	Dibrell,	Kenna,	Speer,
Blanchard,	Dowd,	Klotz,	Talbott,
Bland,	Dunn,	Latham,	Tillman,
Blount,	Ellis,	McLane,	Turner, Henry G.
Bragg,	Evins,	McMillin,	Turner, Oscar
Buchanan,	Finley,	Money,	Vance,
Buckner,	Forney,	Morrison,	Warner,
Cabell,	Fulkerson,	Moulton,	Wellborn,
Caldwell,	Garrison,	Mutchler,	Wheeler,
Cassidy,	Gunter,	Oates,	Whitthorne,
Clardy,	Hammond, N. J.	Paul,	Willis,
Clements,	Hatch,	Phister,	Wilson,
Cook,	Herbert,	Reagan,	Wise, George D.
Cox, Samuel S.	Herndon,	Richardson, Jno. S.	
Cox, William R.	Hewitt, Abram S.	Robertson,	
Covington,	Hewitt, G. W.	Scoville,	

NOT VOTING—110.

Anderson,	Errett,	Lindsey,	Shultz,
Atherton,	Farwell, Chas. B.	Manning,	Singleton, Jas. W.
Barr,	Fisher,	Marsh,	Smith, J. Hyatt
Bayne,	Flower,	Martin,	Spooner,
Belford,	Ford,	McKenzie,	Springer,
Beltzhoover,	Frost,	Miles,	Stephens,
Berry,	Geddes,	Mills,	Taylor,
Bingham,	George,	Morey,	Thomas,
Black,	Gibson,	Morse,	Thompson, P. B.
Blackburn,	Grout,	Mosgrove,	Townsend, Amos
Bliss,	Hall,	Muldrow,	Townshend, R. W.
Bowman,	Hardy,	Murch,	Tucker,
Brumm,	Harris, Henry S.	Nolan,	Upson,
Calkins,	Hazelton,	Pacheco,	Valentine,
Candler,	Henderson,	Page,	Van Voorhis,
Carlisle,	Hiscock,	Parker,	Wadsworth,
Chalmers,	Hoge,	Phelps,	Wait,
Clark,	Horr,	Randall,	Ward,
Cobb,	House,	Ranney,	Watson,
Converse,	Hubbell,	Rice, John B.	West,
Cornell,	Hubbs,	Rice, William W.	Williams, Chas. G.
Crowley,	Hutchins,	Ritchie,	Williams, Thomas
Cutts,	Jorgensen,	Robinson, Wm. E.	Willits,
Darrell,	Kasson,	Rosecrans,	Wise, Morgan R.
Davis, Lowndes H.	Kelley,	Ross,	Wood, Benjamin
Deering,	King,	Russell,	Wood, Walter A.
Deuster,	Knott,	Scales,	
Dugro,	Ladd,	Shallenberger,	

So the motion to strike out was agreed to.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. WATSON with Mr. HARDY.

Mr. RICE, of Massachusetts, with Mr. WILSON.

Mr. WEST with Mr. HARRIS of New Jersey.

Mr. FARWELL, of Illinois, with Mr. MARTIN.

Mr. HISCOCK with Mr. BLACKBURN.

Mr. WAIT with Mr. HOGE.

Mr. WILLITS with Mr. KNOTT.

Mr. MULDROW with Mr. MILES.

Mr. WISE, of Pennsylvania, with Mr. BRUMM.

Mr. LEEDOM with Mr. SHULTZ.

Mr. GEDDES with Mr. RICE, of Ohio.

Mr. VALENTINE with Mr. ATHERTON.

Mr. HAZELTON with Mr. MCKENZIE.

Mr. MOREY with Mr. CONVERSE.

Mr. CROWLEY with Mr. NOLAN.

Mr. FISHER with Mr. ROSECRANS.

Mr. LINDSEY with Mr. COBB.

Mr. PRESCOTT with Mr. SHELLEY.

Mr. COVINGTON with Mr. CUTTS.

Mr. W. A. WOOD with Mr. BENJAMIN WOOD.

Mr. BELTZHOOVER with Mr. BAYNE.

Mr. TAYLOR with Mr. SPRINGER.
Mr. HENDERSON with Mr. TOWNSHEND of Illinois.
Mr. DEUSTER with Mr. WILLIAMS of Wisconsin.
Mr. THOMAS with Mr. HOUSE.
Mr. SHALLENBERGER with Mr. BRAGG.
Mr. KELLEY with Mr. UPSON.
Mr. RANNEY with Mr. WILLIAMS of Alabama.
Mr. SCALES with Mr. ERRETT.
Mr. BINGHAM with Mr. CLARK.

The result of the vote was then announced as above stated.

The SPEAKER. The question is now upon the amendment of the gentleman from Pennsylvania [Mr. MILLER] to the amendment reported from the committee.

Mr. NEAL. Let the amendment be reported.

The SPEAKER. The Clerk will first read the proposed section reported from the Committee on the District of Columbia.

The Clerk read as follows:

In the appointment of policemen under this act the District commissioners shall, when all other qualifications and claims are equal, appoint those applicants who have been honorably discharged from the volunteer service of the United States Army or Navy. No appointment shall be made to the police force of any person who has not been a resident of the District for three months immediately preceding his appointment.

The SPEAKER. The Clerk will now report the amendment proposed by the gentleman from Pennsylvania, [Mr. MILLER.]

The Clerk read as follows:

Add the following:

"*Provided*, That the commissioners of the District of Columbia shall not be permitted to make any rule or regulation as to age or residence that will discriminate against honorably discharged soldiers or sailors of the United States Army and Navy."

The question was taken upon the amendment to the amendment, and it was agreed to.

The SPEAKER. The question recurs upon the proposed section as amended.

Mr. ROBESON. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROBESON. Was not my proposition, which has just been sustained by the House, a substitute for the proposition of the Committee on the District of Columbia?

The SPEAKER. The proposition of the gentleman from New Jersey, which has been adopted by the House, acts simply to strike out section 2. Had that not been adopted, the question would now have been upon the motion to strike out and insert the section proposed by the committee. The motion of the gentleman from New Jersey having been adopted, that does not cut off the right to insert a new section.

Mr. ROBESON. The motion of the committee was to strike out and insert, which motion was not divisible.

The SPEAKER. It was not divisible.

Mr. ROBESON. I moved as a substitute for that motion to strike out the section entirely, and my motion has been adopted.

The SPEAKER. And the section has been stricken out; that is therefore at an end. The right to insert a new section still remains, if the House chooses to vote it in, although the question will not now be presented to the House in the form in which it was reported from the committee.

The question was taken upon agreeing to the proposed section as amended; and upon a division there were—ayes 26, noes 47.

Mr. WISE, of Virginia, and Mr. KLOTZ called for the yeas and nays.

The yeas and nays were not ordered.

So the proposed section was not agreed to.

The bill as amended was ordered to be engrossed for a third reading, and was accordingly read the third time.

Mr. NEAL. I call the previous question on the passage of the bill.

Mr. McLANE. I rise to a parliamentary inquiry. Is not a motion to recommit in order?

The SPEAKER. The gentleman from Ohio [Mr. NEAL] has demanded the previous question; the gentleman from Maryland [Mr. McLANE] may make his motion pending that demand.

Mr. McLANE. I would like the attention of the gentleman from Ohio, [Mr. NEAL.] I propose to move that this bill be recommitted.

Mr. NEAL. Let us pass it or defeat it, one or the other.

Mr. ROBESON. It will have no opposition now.

Mr. JACOBS. I would like to offer an amendment.

The SPEAKER. Does the gentleman from Ohio yield?

Mr. NEAL. No, sir; I do not.

Mr. JACOBS. The gentleman has said all the while that he wanted this qualification of two years' residence corrected.

Mr. NEAL. I will withdraw the demand for the previous question, and give up the management of this bill to some other gentleman.

Mr. JACOBS. I desire to offer an amendment to the first section of the bill.

Mr. McLANE. I have not withdrawn the motion to recommit. I desire the gentleman from Ohio to give me his attention.

The SPEAKER. The gentleman from Ohio has withdrawn his demand for the previous question.

Mr. McLANE. The motion to recommit, with or without instructions, would be in order, I understand, even after the ordering of the previous question. I do not suppose that the gentleman from Ohio, although he shows some impatience at the opposition this bill has received, will object to our sending it back to his committee, that he may have the opportunity——

Mr. DUNNELL. Let the amendment of the gentleman from New York [Mr. JACOBS] be read.

The SPEAKER. The Clerk will read the proposed amendment.

The Clerk read as follows:

Amend the first section of the bill by adding, after the word "force," in the last line, the words "there shall be hereafter no limitation or restriction of place of residence as to any member of the police force, any law to the contrary notwithstanding.

The SPEAKER. The Chair will state that as the bill has been engrossed and read a third time, it cannot now be amended except by unanimous consent.

Mr. NEAL. Then I object.

Mr. McLANE. I now move to recommit the bill to the Committee on the District of Columbia. As the previous question has not been ordered——

Mr. VAN VOORHIS. I move to amend the motion of the gentleman from Maryland, by adding——

The SPEAKER. The gentleman from New York [Mr. VAN VOORHIS] will permit the gentleman from Maryland to state his motion.

Mr. McLANE. I desire to say, Mr. Speaker——

The SPEAKER. The gentleman will state his motion.

Mr. McLANE. I suppose it is in order for me to make any remarks I please upon the motion to recommit, the previous question not having been ordered.

Mr. ROBESON. Is the motion to recommit debatable?

Mr. McLANE. I propose to move to recommit with instructions. That motion is debatable; and I want to say to the gentleman from New Jersey——

Mr. VAN VOORHIS. I rise to a point of order. When the motion of the gentleman from Maryland has been stated I desire to move to amend it.

The SPEAKER. When the gentleman from Maryland yields the floor that will be in order.

Mr. VAN VOORHIS. My point of order is that he has not the floor for the purpose of debate.

The SPEAKER. Under what rule?

Mr. VAN VOORHIS. I think I can refer the Chair to the rule.

Mr. McLANE. I move to recommit the bill to the Committee on the District of Columbia with instructions to provide that when discharged soldiers or sailors of the Union cannot be obtained, the commissioners shall then have authority to appoint whomsoever they please. [Cries of "Oh, no!"]

Now, Mr. Speaker, I do not mean to take exception to the attitude in which the gentleman from New Jersey [Mr. ROBESON] has placed the House, nor to impugn his motives, nor to resent the very ungraceful manner in which he has berated this side of the House.

Mr. VAN VOORHIS. Is the motion debatable?

The SPEAKER. It is.

Mr. McLANE. Carried away by his old war fervor, the gentleman from New Jersey chose to make a discrimination between the honorable gentleman from New York [Mr. COX] personally and the party with which he is associated. He was not on that occasion more logical or more serious than is his habit. For one, I feel that the party with which the honorable gentleman from New York is associated is quite as much entitled to the respect of the gentleman from New Jersey as the honorable gentleman from New York is personally; and I know very well that the honorable gentleman from New York sympathizes with me in that sentiment.

Throughout this whole proceeding I have not forgotten that under the law by which discharged soldiers and sailors may become policemen many more Democrats than Republicans are likely to be appointed.

Mr. VAN VOORHIS. How do you make that out?

Mr. MILLER. Why did you not vote to strike out that section?

Mr. McLANE. I will tell you. Because I have some respect for my responsibility as a member of this House. [Laughter and applause.] I understand, Mr. Speaker, this Congress is charged with the responsibility of governing the District of Columbia, and I cannot imagine a greater dereliction of duty than the principle stated here by the gentleman from New Jersey, [Mr. ROBESON.] And I am only sorry my friend from Indiana [Mr. HOLMAN] followed so bad an example. And I say, Mr. Speaker, that the motive which might lead an honorable gentleman on this side to follow that example is no more respectable than the motive which induced the gentleman from New Jersey in his opposition to the bill.

Mr. ROBESON. The gentlemen will pardon me.

Mr. HOLMAN. Allow me to make an explanation.

Mr. ROBESON. I did not hear exactly what the gentleman said.

Mr. McLANE. I will repeat it.

Mr. ROBESON. Do if you please.

Mr. McLANE. I say I can very well understand the motive which induced the honorable gentleman from Indiana to follow the example of my friend from New Jersey was not more respectable than the original motive.

Mr. ROBESON. Does the gentleman call me his friend from New Jersey and say my motive was not reputable? Is that what the gentleman means?

Mr. McLANE. I do not feel, Mr. Speaker——

Mr. ROBESON. My objection is that a gentleman because he does not agree with me in parliamentary policy should assume to lecture me on motives and say my action puts him in an unpleasant position. I know it does.

Mr. McLANE. Before I answer I will withdraw the term "my friend from New Jersey." [Laughter.]

Mr. ROBESON. And I am glad the gentleman does it before he repeats an expression unauthorized as that.

Mr. McLANE. Very well. Now I withdraw the term, the designation of my friend from New Jersey, if I am taking an unauthorized or improper liberty in adopting it, and I now allude to the honorable gentleman from New Jersey. [Laughter.] He stands here to-day in the open sunlight of observation, and when his motive is transparent why should I not perceive it? How can I avoid perceiving it? And perceiving it, why may not I express it? I am entirely responsible for the expression of it, whether I give offense or not. If I have perceived the motive correctly, I ought not to give offense. The gentleman from New Jersey is not so immaculate, nor, I suppose, are any of us, that we may not sometimes be influenced by motives not strictly those which ought to guide us in the discharge of our responsible duty. And the point of the interruption of the honorable gentleman in front of the gentleman from New Jersey, whom I am not able to designate by his State—— [Laughter.]

A MEMBER. The gentleman from Pennsylvania.

Mr. MILLER. I will call over and introduce myself.

Mr. McLANE. He asked me why I did not vote for it? I told him because I felt my responsibility as a member of this House; and that I think respectable. And when I depart from that and vote without reference to my responsibility as a member of this House, then I think it is not respectable. When I perceive the gentleman from New Jersey, followed in very large part by all his friends on that side of the House, because even the honorable gentleman from Ohio, who told us he could not follow him when he was not stating the facts, did before the close of the polling in this House follow him.

Mr. NEAL. I wish to correct the gentleman.

Mr. McLANE. I am glad to be corrected on that point.

Mr. NEAL. I voted to strike out, because that was right in accordance with the vote of the committee. We voted in committee to strike out and insert. When it came to inserting what the committee had reported favorably I voted for it.

Mr. McLANE. That is all right. I beg the honorable gentleman's pardon for misunderstanding his affirmative vote on the motion to strike out. I did misunderstand it.

Mr. NEAL. It was in accordance with the vote of the committee to strike that out.

Mr. McLANE. I understood that affirmative vote to yield the principle and the opinion which he had stated to the House, and to yield it to the honorable gentleman from New Jersey, when in the earlier part of the debate he said he would not follow him because he was not stating the facts of the case correctly.

Now, when the honorable gentleman from New Jersey proceeded with his objections to that second section and insisted that none but men who had been honorably discharged from the Army of the United States or its Navy should be appointed, and when it was perfectly apparent to me and to every member of this House that that might have for its result an inability to appoint at all, and leave the city without a police force, I did say that the gentleman from New Jersey was proceeding in this matter without regard to his responsibility as a member of this House, and that he was disregarding his duty to provide a police force for this city. This Congress has exclusive jurisdiction over that subject, and if this Congress does not provide a police force no power on earth can appoint it; and if any gentleman under a state of facts which makes it impossible to maintain a police force, and knowing that there is no provision for its maintenance, and knowing that a contemplated provision will effectually defeat the possibility of maintaining a police force, then I hold that he is indifferent to his obligation as a legislator for this District. That is what I meant when I said the motive was not respectable; and if I had not said it this result necessarily follows, and it certainly was not intended to be offensive.

Mr. ROBESON. If the gentleman has concluded I would like to answer him.

Mr. McLANE. I would rather not be answered here.

Mr. ROBESON. Very well; go on.

Mr. McLANE. And certainly I say it was not intended by me to be offensive; but, as I said before, using it as I did use it advisedly with reference to the results, and I had no other signification to give it, when a gentleman on either side of this House votes for a provision which, carried out to its final results, must accomplish the object I have indicated it is clear that he fails to perform his duties to this District, and if he leaves it without a police force simply because a particular character of men he desires to be appointed may not be appointed, such a condition indicates that the partisan dominates over the statesman, and never can a partisan dominate over the statesman without the loss of responsibility and respectability too.

Now, I am ready to answer the gentleman from New Jersey.

Mr. ROBESON. Does the gentleman yield the floor?

Mr. McLANE. I do not yield the floor, but only yield that the gentleman may answer.

Mr. ROBESON. Very well; I would rather answer now and give the gentleman a right to reply. What I desire to say is, that I have sat quietly, if not patiently, under this lecture from the gentleman from Maryland for more than one reason. First, because he is an old and experienced member of this House, who assumes often to call it and its members to order, and we feel some respect to his years, if not for his wisdom.

Second, because I think, and perhaps we all appreciate the fact, that when he rises to speak and indulges his critical taste in the application of epithets to the conduct of others, he is apt to use stronger language than he intends. That is the experience of this House, and more than one gentleman before myself has pardoned it. But I deny the gentleman's right to stand here and say that because I have resisted the repeal of a section that is upon the statute-book, and which has stood there for many years, and have resisted it in a mild and argumentative, though firm and decided manner, that I have been forgetting my responsibilities as a legislator. Let me remind the gentleman that it is a proposition the truth of which all men recognize, that those who have clear motives themselves are rarely found impugning the motives of others. [Applause on the Republican side.] And when I see a man who on every day and on every occasion is willing to express in strong language strong imputation upon the motives of others, and that without cause, it requires as much knowledge of his life and history as I have of the life and history of the gentleman from Maryland to relieve him in my mind from the effects of the principle I have stated, and which is undoubtedly a general one, but to which the gentleman may be, and I trust is, an honorable exception. But no man can say to me before this country and make me flinch from the mark one hair's breadth that I am disregarding my duties as a legislator here because I stand up and resist to the last any attempt to repeal any clause that is written upon the statute-book which looks to the honor, to the dignity, to the comfort, and to the welfare of the American soldier. [Applause on the Republican side.]

I cannot forget that when they marched from their peaceful homes to put down that great rebellion they bore on their bayonets not only the hopes and the safety of their own country and the freedom our fathers gave us, but the hopes and the destinies of freedom and the rights of men all over the world; and were it the last veto I should ever give it would be in earnest and an honest protest against anything that looked like attacking them.

This is my attitude from which I will not yield one hair, and yet while I stand in that attitude no gentleman can truthfully put me in the attitude of attacking any other people. I am not of those who would stand here and pour out the vials of abuse against those who took sides with their section in the South during the war, or who fought in its defense. But they were beaten in the arbitrament of arms to which they appealed, and the legislation of this country is, and must be, in direction and effect, in behalf of the saved country and the men who saved it. And it is no disparagement either of the character or the bravery of other men, that we insist upon standing right here in behalf of our own soldiers.

And now I will not impugn the motives of the gentleman. I understood what he meant when he said that my action had been unpleasant—I know it is unpleasant—I think that was the word.

Mr. McLANE. I used a stronger word than that.

Mr. ROBESON. The gentleman said my action had placed this House in an unpleasant position; and I think it did.

Mr. McLANE. I did not say that.

Mr. ROBESON. But if the principles and the votes of gentlemen place them in an unpleasant position it is not my fault. If the gentleman thinks he can only be true to his party by voting against the interests of the Union soldiers, I cannot help it. It is his party which puts him in that unpleasant position, not I. And when the gentleman rises to move to recommit this bill after it has received a vote, and the attempt to strike the Union soldier has been stricken out by this House I will not impugn his motive, and though it may perhaps be found in the fact that if the bill stands and passes as it now is he will not be able to employ any large numbers of men who vote in his district.

Yet it would be improper for me to impute that motive to the gentleman, and I will not do it, for I say that every man who stands here and takes his position on the floor and before the country in the exercise of his representative rights, responsible to the country and to his constituency, is entitled in the absence of proof to the contrary to be considered honest in his motives and respectable in his conduct. And therefore, in the face of much provocation to the contrary, unlike the gentleman, I yield to him the courtesy of his parliamentary position. [Applause on the Republican side.]

Mr. McLANE. Mr. Speaker, the gentleman from New Jersey overlooks entirely, and it was certainly his duty not to overlook it——

Mr. ROBESON. I would rather the gentleman would not impugn my duty. Impugn my mind, impugn my manners, impugn my temper, but do not impugn my motives in the discharge of my duty.

Mr. McLANE. I shall take no liberties with the honorable gentleman from New Jersey at all.

Mr. NEAL. I rise to a question of order. Is not the question on the recommittal of this bill?

The SPEAKER. The gentleman from Ohio [Mr. NEAL] withdrew his demand for the previous question. The pending question is on a motion to commit, which is debatable.

Mr. GARRISON. And it is too late to make any such point now.

Mr. McLANE. The honorable gentleman from New Jersey has not only omitted all that was material in the first issue, but he has introduced some new matter which it will be my duty to notice. He spoke of my lecture, if lecture it was—I am not conscious of having given any occasion for the application of such a term. The only reason on earth I had to refer to the gentleman from New Jersey at all was that he had taken a very great liberty indeed, which he has entirely overlooked, and yet I stated it as distinctly as I was able to state it. I stated that that honorable gentleman, carried away by his feelings, carried away by his sympathy, carried away by his interest in these veterans of the war, had excluded the political associations of the gentleman from New York, had acquitted him, but had told him in distinct terms he could not do as much for his political associates.

Mr. ROBESON. Will the gentleman permit me one moment?

Mr. McLANE. No, sir; I am replying to you. I yielded all the time the gentleman desired. And when he tells the House to-day and now that he bore this lecture with patience, having given no occasion for it, I say in return to him he gave all the occasion possible. He indulged not only in a gratuitous but in a perfectly unfounded imputation on this side of the House. And now when he comes back upon me and would individualize it and give the suggestion to this House that I could be wanting in any way in sympathy for the Federal soldier or the Federal sailor, and adds to it the insinuation that I might not be so indifferent to one of my confederate constituents, I say that there again he is taking a much greater liberty with me than I am doing with him. And he has overlooked also what I said in that connection; because I told him, Mr. Speaker, that when those commissioners were obliged by law to appoint Federal soldiers and Federal sailors, they would appoint more Democrats than Republicans; and in that remark I did all that was in my power to refute what I considered calumnious if not offensive; because if the gentleman's observation had any sense at all it was that the Democratic party as an association were not entitled to the credit of loyalty, which he conceded to the gentleman from New York. Now, knowing what the gentleman knows, knowing that in his own State of New Jersey and in every other Northern State as many Democrats carried the flag as Republicans——

Mr. MILLER. Oh, no!

Mr. McLANE. I say, oh, yes!

Mr. MILLER. You did not live far enough North.

Mr. McLANE. Let the gentleman from Pennsylvania who interrupts me look at his own State, and let him say in the presence of my Democratic colleagues here, let him say in the presence of that distinguished gentleman known as the war governor of Pennsylvania, that I am not right!

Mr. MILLER. And a Republican all the time.

Mr. McLANE. And a Republican all the time; let him say in the presence of that distinguished gentleman that there were more Republicans in the Army from Pennsylvania than Democrats; let him say so.

Mr. MILLER. I venture to assert that without any fear of contradiction. And I know the fact that when they voted in the Army there were ten to one Republicans, when they voted for the distinguished gentleman from Pennsylvania, [Mr. CURTIN.] I know the fact to be when the distinguished gentleman ran for governor in 1863, and when the Democracy tried to keep the soldiers in the field from voting for him, twenty to one of the soldiers' vote were cast for him there.

Mr. CURTIN. In 1863 the soldiers in the field from Pennsylvania did not have the right to vote, and I did not get one vote from them. [Great laughter.] And I will say also that when contributions had to be made to the Army by conscription, as controlling that conscription for the State of Pennsylvania, I never attempted to draw from one party more than from another. [Renewed laughter and applause.]

Mr. MILLER. I would like to ask the gentleman how he could have done so?

Mr. McLANE. I have often heard these calculations, and these various modes of making calculations. Although it is sometimes said that figures cannot lie, and that may be so, still the greatest lies that can be passed from man to man are oftentimes the deductions made from figures.

Now, when the gentleman from Pennsylvania [Mr. MILLER] undertakes to talk to me about the soldiers' vote, if he was in the war——

A MEMBER. And he was.

Mr. SPARKS. I have the Congressional Directory, and that does not show that he was in the war.

Mr. HOUK. I would ask the gentleman where he was during the war?

Mr. McLANE. If the gentleman from Pennsylvania was in the war and was one of those Pennsylvania soldiers who voted that Republican ticket, he may be able to tell this House how that soldiers' vote was generally manipulated; and if he will, then all these stories about tissue-paper and stuffing of ballot-boxes, whether in South Carolina or Mississippi or Alabama, would fade away into comparative insignificance.

Mr. MILLER. Does the gentleman mean to say—I made a mistake in fixing the year 1863 as the year of the soldiers' vote? It should be 1864. Does the gentleman from Maryland [Mr. McLANE] mean to say that the elections held in the field of 1864 were dishonest, or that the ballot-boxes were stuffed by the men who were then in the Army? Is that what he means?

Mr. McLANE. No; I did not say that.

Mr. MILLER. What does the gentleman mean, then?

Mr. McLANE. I may say what is not entirely agreeable to my friends on the other side of the House; but I want to have credit only for what I do say. I said nothing about stuffing ballot-boxes in the Army. I said that if the true history of the soldiers' vote, as it was cast in nearly all parts of the Army, was stated to this House, then these allegations and these reproaches about tissue-paper tickets and the stuffing of ballot-boxes would fade away into comparative insignificance.

What I had in my mind was that that soldiers' vote was a vote cast, if not under duress, yet in a state of army passion and army associations and oftentimes army management, which deprived it of the principal features of a free ballot. That is what I had in my mind to say. That is what I believe; that is what I have always heard to be the historical fact.

In other words, I was about to proceed to say that the soldiers' vote as cast in the field was no true index of the political character of the voter, and I do not think the gentleman from Pennsylvania will contradict me. That is all I intended to say.

I intended to call his attention, in connection with electoral figures and counts, to another view of the case, to another deduction from the figures. I intended to ask him to explain to himself how it was, when all the soldiers had gone to the war, the votes of the missing Democrats were measured exactly by the increase of the Republican votes at home. [Laughter and applause.] That is what I endeavored to say.

I did not mean, Mr. Speaker, I do not mean now, to enter into any exact calculation or to base my statement on any deduction from the return of votes in the field or votes at home. I mean simply to state what I believe to be a current historical fact; and I challenge any man, whether it be the gentleman from Pennsylvania [Mr. MILLER] or anybody else who lived in that day, to contradict the statement; the fact being that the soldiers of the war and the sailors of the war—I mean now the soldiers of the Union Army and the sailors of the Union Navy—the larger number of them I mean to say were Democrats. That is the fact I mean to state.

Mr. MILLER. I want to ask you one question. Is it not the fact that in 1864 the States of Maine, New Hampshire, Vermont, Pennsylvania, Maryland, Kentucky, Ohio, Michigan, Iowa, Wisconsin, California, Minnesota, and Kansas gave a soldier's vote of 116,870 for Lincoln and only 33,748 for McClellan? And more than 50 per cent. of those who voted for McClellan did so not because they were Democrats, but because of his popularity as a soldier in the Army with the soldiers in the Army? Is not that the fact? And I want to call the attention of the gentleman to the further fact that in 1864 the soldiers' vote of Pennsylvania was 26,712 for Lincoln against 12,349 for McClellan. And how does he explain that? Does he undertake to say that that vote was manipulated? And if manipulated, by whom?

Mr. McLANE. I do not mean to say anything but what I have said. It is not necessary for the gentleman from Pennsylvania to put anything else into my mouth. What I have said may not be correct, but whether it be correct or not I am willing to let it stand. I hope the gentleman from Pennsylvania understands me. What I have said I am willing to let stand. My statement was that in the State of New Jersey and in every other Northern State I believe that the historical fact was that there were more Democrats in the Union Army and in the Union Navy than there were Republicans.

Mr. MILLER. Well, you said before in the whole North; now limit yourself to the State of New Jersey. How about Pennsylvania?

Mr. McLANE. I stated distinctly in New Jersey and the whole North, and then I particularized Pennsylvania.

Mr. ROBESON. The gentleman will pardon me. In New Jersey our soldiers in the field did not vote; the Democratic Legislature did not pass a law permitting them. Therefore, we had no opportunity of testing the matter. But at the first election after they came home they reversed a Democratic majority of 15,000 and elected a Republican governor that very fall by 3,000 majority. And, as the gentleman will remember, that vote, when the soldiers came back, drove that faithful but much-tried Northern Democrat, Petroleum V. Nasby, from New Jersey to the Confederate Cross-Roads in Kentucky. [Laughter.]

Mr. McLANE. As I have stated to the gentleman from Pennsylvania and the gentleman from New Jersey, I do not desire to deduce any opinions from the figures. I am quite willing to let my statements stand, and I am not acquainted with the history of the honorable Petroleum V. Nasby!

Mr. MILLER. I am not willing to let the statement stand without contradiction that the soldier vote in the Army was manipulated.

That is what the gentleman said, and I want it to appear in the RECORD.

The SPEAKER. The gentleman from Maryland is entitled to the floor, and interruption must not be made without his consent.

Mr. McLANE. I had yielded to the gentleman, and am willing to do so again if he desires; but I beg him to get my permission before he interrupts me again.

Mr. MILLER. May I ask the gentleman a question?

Mr. McLANE. Directly you may. All I ask is that you will not do it without my consent, as you have done several times.

I did not desire to sustain *my* assertion by any deduction from figures, either of the vote in the field or the vote at home. I was quite willing to let the statement go as my belief, leaving the gentleman from Pennsylvania free to gainsay it. But as he has chosen to force these figures and his deduction upon me, I have two things to say in reply. First, what I did say about the soldiers' vote. Now, what I have next to say is in reply to his figures. He will find that in the Presidential election to which we have referred Mr. Lincoln's vote was 1,857,000——

Mr. MILLER. I think the gentleman is reading from the figures for 1860.

Mr. McLANE. Now I want the gentleman from Pennsylvania to observe, this being Mr. Lincoln's vote in 1860, he has only to look to the number of soldiers that went into the war from the Northern States, and he will find, for the records of his country will show, that there were 2,600,000 men in the Union Army. Now, if Mr. Lincoln received 1,857,000 votes in 1860, where does the balance come from?

Mr. BINGHAM. The gentleman misunderstands the fact. The statement of 2,600,000 soldiers is upon the basis of service for the entire war.

Mr. McLANE. I am aware of that.

Mr. BINGHAM. I have had occasion to examine that statement.

Mr. MILLER. That includes every enlistment that was had—for three months, six months, nine months, one year, and three years.

Mr. McLANE. Now, Mr. Speaker, the gentleman from Pennsylvania will be good enough to give me his attention while I reply. I not only make to him the point that the difference between 2,600,000 and 1,857,000 was made up of Democrats; but I call his attention to the further fact that when the soldiers had gone to the war, every Northern State voted overwhelmingly the Republican ticket, but when they came back from the war how many of them voted the Democratic ticket?

Mr. MILLER. How many soldiers?

Mr. McLANE. No, sir; how many Northern States voted the Democratic ticket when the soldiers came back from the war? Ohio, New York, Indiana, Connecticut, Rhode Island, California, and Oregon.

Mr. MILLER. When did all that happen? What year?

The SPEAKER. The gentleman from Pennsylvania is out of order unless the gentleman from Maryland yields.

Mr. McLANE. I have begged the gentleman from Pennsylvania not to interrupt me without my consent, and that he shall certainly have if he will allow me to answer one question before he asks me another.

Now, Mr. Speaker, I am sorry that I have been driven to make this issue. I have no doubt that I am entirely correct. As for the agitation and feeling on the other side it is very natural at any time; but under the lashing they have received to-day, under the stimulant that the gentleman from New Jersey has administered to that side of the House, I am not surprised that they should feel somewhat awkward. When it was his pleasure to cast this reproach upon our side and throw out the insinuation against the political organization represented here, it must necessarily be unpleasant for him to find that he has perhaps fewer Union soldiers in his political ranks than we have in ours.

Mr. TOWNSHEND, of Illinois. May I suggest to my friend from Maryland to inquire of the gentleman from New Jersey why a Union soldier was turned out of the position of postmaster of Lynchburgh, Virginia, and a confederate put in his place? [Laughter and applause.] Will the gentleman please ask that question?

Mr. McLANE. No, I would rather not ask that question. I do not want to get further in the mire than I can help.

Mr. BINGHAM. I will answer the question. The gentleman who held that position resigned his commission. I had the honor of being for four years the classmate in college of the gentleman who has been postmaster at Lynchburgh; and with his own lips he told me that he resigned his commission and did not ask or wish a recommission. I have known that gentleman from 1861 up to to-day; and he is as good a Republican to-day, in office or out of office, as any man on this floor.

Mr. WISE, of Virginia. How about Norfolk?

Mr. BINGHAM rose.

The SPEAKER. The gentleman from Maryland, as the Chair understands, declines to yield.

Mr. MILLER. Will the gentleman from Maryland allow me to ask him a question now? He told me that I should.

Mr. TOWNSHEND, of Illinois. Will my friend allow me?

Mr. McLANE. I have yielded to the gentleman from Pennsylvania.

Mr. MILLER. The gentleman stated there were more Democrat soldiers enlisted in the Union Army than Republicans. Will he state to us how many more Republicans there were in the confederate army than there were Democrats? [Laughter and applause on the Republican side.]

Mr. McLANE. I do not hear your question. Ask it over again.

Mr. MILLER. Yes; I did.

Mr. McLANE. Ask your question again. I want the gentleman from Pennsylvania to repeat that question.

Mr. MILLER. I do not understand you.

Mr. McLANE. Repeat your question.

Mr. MILLER. The question I put was this: you stated there were more Democrats enlisted in the Union Army than there were Republicans. I now wish to ask you how many more Republicans there were in the Southern army than there were Democrats, and to prove it by the same figures you did relative to tissue-ballot voting you spoke about occurring in the Union Army?

Mr. McLANE. I have not as intimate acquaintance with the confederate army as I have with the Union Army.

Mr. MILLER. You lived as near to it as you did to the Union Army?

Mr. McLANE. Wait for an answer. I had not as much acquaintance with the condition of the confederate as with the Union Army, for I lived on this side of the line; and I know as much about the Union Army as the honorable gentleman from Pennsylvania. If he will bear with me, I will tell him that in the confederacy there were neither Republicans nor Democrats! He knows very well that there was but one single party in the confederacy. There was no division of opinion in the confederacy—they were all confederates.

Mr. MILLER. What are they to-day?

Mr. McLANE. They were all confederates, even those loyal men whose claims are now pending in the Quartermaster-General's Department in this city. [Laughter and applause.]

Mr. PETTIBONE. Let me ask the gentleman a question. [Cries of "Order!" and shouts of laughter.]

The SPEAKER. Gentlemen must preserve order.

Mr. PETTIBONE. Let me ask the gentleman a question. [Cries of "Go on!"]

The SPEAKER. The gentleman from Maryland is entitled to the floor and the House must be in order.

Mr. McLANE. Now, I have said what I have to repel the insinuations of the gentleman from New Jersey. He chose to make it. He had no justification for making it. It was not in order. It had nothing to do with our deliberations. It was altogether gratuitous. In my judgment, it was altogether unfounded. I will not say it was in bad taste. I am not nice upon such questions. He said I took occasion sometimes to say more than I intended. Well, now, I cannot accept that—perhaps I might call it that excuse, or that apology—for my language! What I will admit is that I have as much party zeal and party pride as he has. That I will admit freely, and neither he nor any other gentleman on that side of the House shall make what I consider a gratuitous and unfounded slur upon the political association with which I am connected unless I resent it, if I have the opportunity.

Mr. CURTIN. Will my friend allow me to interpolate a single remark?

Mr. McLANE. With pleasure.

Mr. CURTIN. I listen to insinuations of the political aspect of the people of Pennsylvania in that war with great pain. I allege neither in the history of the past nor of the present was there ever a great people more thoroughly united than the population of Pennsylvania in support of this Government when it was assailed, and that, too, without reference to politics, religion, or place of birth. There were a few who held back; I wish there had been none. It was the unanimity of sentiment to sustain this Government and to follow that flag that made that great State furnish the contributions for the support of this Government they did, ever to the glory of that great State. [Applause.]

Mr. BRUMM. Permit me to ask one question.

Mr. McLANE. No, sir.

Mr. BRUMM took the floor.

Mr. McLANE. Mr. Speaker, I claim the floor. I have not yielded the floor. Will the gentleman tell me what he wants me to yield the floor for?

Mr. BRUMM. To ask a question of the gentleman from Pennsylvania, my colleague.

Mr. McLANE. The gentleman from Pennsylvania wants to address a question to the gentleman from Pennsylvania?

Mr. BRUMM. Yes, sir.

Mr. McLANE. Address it.

Mr. BRUMM. As to the unanimity of sentiment in Pennsylvania, I wish to ask the gentleman, our late governor, with reference to what is known as the Fishing Creek rebellion in Senator Buckalew's district, why troops were sent there, and how many regiments were sent into Luzerne, Schuylkill, and the anthracite-coal region for the purpose of keeping down the Democratic uprising against the draft?

Mr. CURTIN. I will answer the gentleman by saying that troops were sent into the coal region in 1863 for the same purpose for which they were sent there by the United States in 1877.

Mr. BRUMM. That will not do.

Mr. CURTIN. I do not understand that to have been an uprising

or rebellion against the Government, requiring the presence of troops at all; and no county in Pennsylvania contributed her quota to the service of the Union more fully and more creditably and with more alacrity than the county of Schuylkill. I want him also to understand that Columbia County furnished her quota to the Army. And speaking of politics in Pennsylvania during that great struggle we should not have made our contributions to the General Government for the war, as the gentleman well knows, if we had been much divided. Men were divided in sentiment and had their political views, but I allude to the great body of the people of Pennsylvania. And, Mr Speaker, I should be ungrateful to the confidence and to the trust which that people have reposed in me if I did not do them the justice to say that during that trying season they were filled with a spirit of unity and alacrity in support of the Government which could not have been surpassed in any other State of this Union. [Applause.]

Mr. MILLER. And they opposed everything the gentleman, as the war governor of Pennsylvania, proposed. Everything; and voted against him in 1863 on the war issue.

Mr. McLANE. Now, Mr. Speaker, I decline to yield the floor further. Not only, I say, were a majority of Democrats in the Army and in the Navy but, sir, the commanders of the Army were Democrats. Now, Mr. Speaker, no man on this floor, whether he be from Pennsylvania or from New Jersey, has more respect or a better appreciation of the courage and the skill and the patriotism of the Union Army and the Union generals than I have; and in making this statement I am using a legitimate right, and I have a right to resent any reflection upon my judgment in the premises, whether addressed to me individually or in my political association. The honorable gentleman from New Jersey, at all times so conspicuous on this floor but particularly so at this time, takes it on himself to cast this reflection, an unfounded if not a calumnious one——

Mr. ROBESON. Will the gentleman permit a question right here as to what he means?

Mr. McLANE. I say the gentleman casts that reflection or insinuation on this side of the House, and whether he is solemn and serious or whether he is jocose is to me for the present moment a matter of perfect indifference.

Not only was the country saved, not only was the entire confederacy united to a man to dissolve its connection with it, but throughout these Northern States we would have been absolutely without hope but for the Northern Democracy. The confederate army came twice into the State of Pennsylvania, and no man who respects his own opinion dare say that we could have defended this territory without the support of the Democracy of Pennsylvania.

Mr. KASSON. I rise to a question of order.

Mr. McLANE. I beg the gentlemen not to interrupt me.

Mr. KASSON. I only wanted to say to the gentleman from Maryland, before putting the question of order before the House, that I have waited to enable him to answer everything that he might have regarded as of a personal nature, and after that I think the business of the House demands some attention under the fourteenth rule.

Mr. McLANE. That is a lecture, too.

Mr. KASSON. But if the gentleman from Maryland states that he has not finished with what he regards personal to himself, I shall certainly not make the point of order, but permit him to proceed.

Mr. McLANE. I am not sure but that this is more of a lecture than I addressed to the gentleman from New Jersey, although a somewhat suppositious case. I have not finished. I said not only a majority of the soldiers, but I said further, and this is said in proof of the unity of the people, that if they had not been united the Union would not have been preserved. If the North had not been solid upon the question without regard to party it would not have been preserved. Now, I say that this insinuation which has been hurled against the Democratic party is not true. It is an assertion that has no foundation in fact, and the man who asserts it can have its untruth demonstrated to him by any man who lived in that day.

Mr. BURROWS, of Michigan. Does the gentleman from Maryland mean to assert that the Democratic party as a party during the war was in favor of suppressing the rebellion?

Mr. McLANE. Yes, sir, I do.

Mr. MAGINNIS. And sent as many men as your party did into the Army.

Mr. McLANE. Now, I have the floor and prefer not to be interrupted further.

Mr. BURROWS, of Michigan. Did not the northern wing of the party declare the war for the Union a failure——

Mr. TOWNSHEND, of Illinois. I rise to a point of order.

The SPEAKER. Gentlemen will come to order.

Mr. BURROWS, of Michigan. And demand the immediate cessation of hostilities?

Mr. TOWNSHEND, of Illinois. I want to know whether the rules of this House are to be respected or not by gentlemen on the other side?

The SPEAKER. The Chair has been endeavoring to have gentlemen observe the rules.

Mr. TOWNSHEND, of Illinois. I take notice that when a Democrat speaks in violation of the rules he is called to order by some one on the other side——

Mr. HASKELL. If so, you are a living monument of grace.

The SPEAKER. The gentleman from Maryland [Mr. McLANE] has the floor.

Mr. McLANE. I not only do not mean to say what the gentleman from Michigan [Mr. BURROWS] puts in my mouth but I mean to say that in the war—actually during the war—the Democratic candidate for the Presidency was the most accomplished and skillful general in the Union Army. That is what I meant to say. And although his fame was not recognized by his political opponents, that did not the less make him the peer of any of his own companions in arms. Although McClellan was discredited and persecuted by the political party in possession of the seat of Government, he not only remained the idol of the soldiers, but to this day he possesses the respect of the country. And he was the Democratic candidate for the Presidency during the war.

Mr. BINGHAM. What was the platform? Was it not that the war was a failure.

Mr. McLANE. The war a failure? Does the gentleman from Pennsylvania, [Mr. BINGHAM,] who stands upon his feet and propounds this inquiry to me, consider that the war was a failure?

Mr. BINGHAM. At no period of the war, from the commencement to the end, was it a failure; because it was backed by the Republican loyalty of the North.

Mr. McLANE. I ask the gentleman from Pennsylvania if the war could be considered a failure by those who sustained the hero of South Mountain?

Mr. BINGHAM. It was not a failure with the hero of Appomattox. [Great applause on the Republican side.]

Mr. MAGINNIS. Was he a Democrat?

Mr. ROBESON. Why, yes. [Laughter and great applause on the Republican side.]

Mr. MAGINNIS. Was not Sherman a Democrat? And was not Hancock? Were not Sheridan and Rosecrans Democrats? Was not every distinguished general on that side during the war a Democrat, except Generals McDowell and Pope, who shed no particular glory on their party?

[The Speaker rapped to order, during which Mr. MAGINNIS and Mr. BINGHAM made some further remarks that were not distinctly heard.]

Mr. URNER rose.

The SPEAKER. The gentleman from Maryland on the left [Mr. URNER] is recognized.

Mr. URNER. I demand the previous question on the passage of the bill and on the pending motion to recommit.

Mr. RANDALL. I ask the gentleman from Maryland in charge of this bill to yield to me a few moments.

Mr. URNER. I will have to insist on the demand for the previous question.

Mr. RANDALL. Something has been said here as to Pennsylvania, and I desire to say a word in reply.

Mr. McLANE. Did I understand the Chair to say that my hour had expired?

The SPEAKER. The hour of the gentleman had expired.

Mr. RANDALL. Does the gentleman from Maryland [Mr. URNER] decline to yield five minutes?

The SPEAKER. The gentleman declines.

Mr. VAN VOORHIS. I rise to a point of order. The gentleman from Maryland [Mr. McLANE] moved to recommit the bill. While that motion is pending the previous question cannot be moved.

The SPEAKER. The Chair overrules the point of order.

Mr. MILLER. Mr. Speaker, I ask——

The SPEAKER. The gentleman from Pennsylvania is not in order. The question is on ordering the previous question on the passage of the bill and the motion to recommit, made by the gentleman from Maryland, [Mr. McLANE.]

Mr. VAN VOORHIS. I desire to make a parliamentary inquiry. Is not the motion of the gentleman from Maryland, in that part of it which seeks to instruct the committee, amendable?

The SPEAKER. It is quite immaterial at present whether it is or not. The present question is on ordering the previous question on the passage of the bill and that motion.

The question being taken, there were—ayes 91, noes 70.

Mr. KLOTZ and Mr. RANDALL called for the yeas and nays.

Mr. RANDALL. The object I have in demanding the yeas and nays——

The SPEAKER. The question is not debatable.

Mr. RANDALL. I want a few moments. [After a pause.] I have come to an understanding with the gentleman from Maryland, [Mr. URNER,] and I withdraw the demand for the yeas and nays.

Mr. KENNA. I renew it, unless it is understood that some of us can be heard. [After a pause.] I withdraw the demand for the yeas and nays.

So the previous question was ordered.

The SPEAKER. The first question is on the motion of the gentleman from Maryland to recommit this bill to the Committee on the District of Columbia.

Mr. URNER. I yield five minutes to the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL. I almost hesitate to enter this bloodless arena amid this victorious army of warriors. But the truth ought to be

stated, and ought to be impressed upon the record before the House and the country.

If this is a proposition designed as an assault upon the American soldier or sailor, I call the attention of gentlemen to the fact that it emanates from a committee having a Republican as its chairman and a majority of Republicans in its composition; and, if I am not informed incorrectly, it came from that committee without dissent. So that the reflections that have been sought to be cast on this side have been without the slightest warrant.

Now, as to the gentleman from Pennsylvania from the twenty-sixth district, [Mr. MILLER,] who has sought to reflect upon a portion of his fellow-citizens, I want to say this, that there is not an act of the Legislature of Pennsylvania increasing the powers of the governor, providing means for the support of the government, adding to the Pennsylvania force every man that was necessary, that did not receive the unanimous support of the members of the Legislature of both sides politically.

I want to say more—that I differ with the gentleman from Pennsylvania of the twenty-sixth district when he seeks to say that there was any want of alacrity on the part of the Democratic masses of Pennsylvania in responding to the requirements of the war for the Union. I want to say a little more, that I fear but for the Democrats in the Army a different result might have been from that which, thank God, was reached.

A MEMBER. Which Army?

Mr. RANDALL. I mean, of course, the Union Army; the one I had the honor to be in. Perhaps the gentleman from the twenty-sixth district had not that honor. So far as I am able to read our respective autobiographies, I discover the record does not show either of us was in the Army. My record is left out because of good taste; his may be left out because of necessity.

I had hoped that the time had come when all this character of debate may be put a stop to. I belong to a party that, when the surrender at Appomattox took place, ceased to fight. We then struggled to build up, to make the South what nature had intended her to be, so that she might blossom as the rose; to add to the progress of the American Union, so that the credit of the United States and the welfare of her people might continue to the end of time.

But I have noticed one thing most significant in all these struggles on the floor of the House of Representatives: those warriors who now come to the front and advocate violence and vengeance and bloodshed are generally men who in war were men of peace, and seem now in times of peace to be fierce warriors. [Laughter and applause.]

I thank the gentleman from Maryland [Mr. URNER] for his courtesy in yielding me this time.

Mr. MILLER. I desire a few words in reply.

Mr. URNER. I will yield four minutes to the gentleman.

Mr. MILLER. This discussion was not of my seeking. When the gentleman from Maryland [Mr. MCLANE] arose in his place and stated that there were more Democratic soldiers in the Union Army than there were of Republicans I challenged that statement, and that was all. When the gentleman from Maryland said that the Democracy of the Northern States had done as much as or more to sustain the Union in the years 1861 to 1865 than the Republicans had done, and challenged a contradiction, I contradicted that statement. I recalled the fact that in 1863, when the army of the rebellion was on Pennsylvania soil, besieging Chambersburgh, the Democracy of my own State (and I regret that it was so) was then sitting in convention in Harrisburgh, the capital city. While the rebel cannon was thundering upon the soil of our own State the Democracy, in that convention, passed this resolution:

Resolved, That we have heard with intense alarm and deep indignation that some of our political opponents claim for the President of the United States a power hitherto wholly unknown in America, and never exercised in Europe or Asia except by the most despotic monarchs, namely, the power to arrest free citizens for the expression of their honest opinion on public affairs; and that the President has not only presumed to exercise this power himself, with the moderation and mercy which his own nature might permit, but has delegated it to many subordinates, and they again to others in every part of the country, until its hideous presence is seen and felt all over the United States.

The convention passed this resolution at a time when the reverberations of the enemy's cannon could be heard in the Hall where these representatives of the Democracy of Pennsylvania were assembled. I deny, sir, that there was any foundation in fact on which to base this resolution. Why, then, was it passed if the Democracy of Pennsylvania was, as has been asserted by the gentleman from Maryland [Mr. MCLANE] and the gentleman from Pennsylvania, [Mr. RANDALL,] as loyal as the Republicans of that State? On behalf of the Republicans of my State and of the distinguished gentleman [Mr. CURTIN] who now occupies a seat on the opposite side of this Chamber, but who in that memorable campaign of 1863 was the standard-bearer of the loyal citizens of the Keystone State—on behalf of them and him I challenge the statement. The men who sat in that convention and who placed in nomination for governor the hero of "Fishing Creek" were not as loyal as the men who in 1863 voted for the re-election of Pennsylvania's gallant war governor, ANDREW G. CURTIN. But, sir, that convention did not stop here. It further resolved:

That we heartily thank the lion hearted Democracy of Ohio for the manly vindication they have given to the Constitution against the great crime committed upon it in the arrest and deportation of Vallandigham; and we assure them of our cordial sympathy in the great struggle they are making for their undoubted rights.

And when the "lion-hearted" Democracy of Ohio placed in nomination that arrant sympathizer with treason, Vallandigham, the loyal people of the Buckeye State decided, by a majority exceeding 100,000 votes, that his deportation was not "a great crime" and that they did not give him their "cordial sympathy," even if the Democracy of Pennsylvania, subdued and chastened by the roar of rebel artillery, did in convention assembled.

I fear, sir, that the honorable gentleman from Pennsylvania [Mr. RANDALL] had forgotten this scrap of history, as made by him and the other leaders of his party in 1863, and that the distinguished war governor [Mr. CURTIN] must also have forgotten this when he offered himself as a witness to prove the assertions of the gentleman from Maryland, [Mr. MCLANE.] It was against his party in 1863 that the Pennsylvania Democracy fulminated these charges. Then he stood up gallantly for the Union. Then his eloquent tongue arraigned the party of the gentleman from the third Pennsylvania district, [Mr. RANDALL.] And when the battle of ballots was over on the evening of that October election in 1863, the telegraph bore joyous news to the Union armies, and disheartening news to soldiers on the other side, for it announced that the Pennsylvania Democracy had been again routed—horse, foot, and dragoon—and that the party of the Union had again triumphed. Because of the distinguished services rendered by the Representative of the twentieth Pennsylvania district, [Mr. CURTIN,] the loyal people of his State, while regretting, overlook the fact that he has fallen into such questionable company in these latter days.

But, sir, the war history of the Democratic party does not stop here. The Democracy, in national convention assembled in 1864, again put themselves upon record. In that convention Pennsylvania was represented by no less a distinguished gentleman than Hon. William A. Wallace, the late Democratic Senator. He was on the committee on resolutions, and among others reported the following:

Resolved, That this convention does explicitly declare, as the sense of the American people, that after four years of failure to restore the Union by the experiment of war, during which, under the pretense of a military necessity, or war power higher than the Constitution, the Constitution itself has been disregarded in every part, and public liberty and private right alike trodden down and the material prosperity of the country essentially impaired, justice, humanity, liberty, and the public welfare demand that immediate efforts be made for a cessation of hostilities with a view to an ultimate convention of the States, or other peaceable means, to the end that at the earliest practicable moment peace may be restored on the basis of the Federal Union of the States.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLER. A single moment more.

Mr. URNER. Very well.

Mr. MILLER. I read this not to show——

Mr. SPARKS. I call the gentleman to order; his time has expired.

The SPEAKER. The gentleman is speaking in additional time yielded to him, and will proceed.

Mr. MILLER. If the gentlemen on the other side will compose themselves I will not paint their record any darker than they wrote it themselves. I am only trying to demonstrate that the Democrats were not quite so loyal as were the Republicans during the war, as asserted by gentlemen upon your side who have preceded me. I was about to say that I refer to these resolutions not to demonstrate that the great mass of the rank and file of the Democratic party sympathized with the people of the South, who were in open rebellion, but to show the animus of the leaders of the Democratic party of Pennsylvania during the war. I know, sir, that all the Democrats did not indorse these resolutions adopted at Harrisburgh in 1863, and that many of them, disgusted at the want of loyalty of their leaders, either staid at home on the day of election, or, going to the polls, erased the name of the Democratic candidate and inserted in its place the name of the Republican candidate, thereby swelling his majority.

I know, sir, that not all of the Democrats of my own State in 1864, and of other Northern States, indorsed the resolution of the Democratic national committee which I have just read, and that their votes helped to swell the majorities by which the Northern States were carried for the re-election of Abraham Lincoln to the Presidency; and when gentlemen on the other side assert that during the war the Democratic party, as a party, were as loyal as the Republican party I challenge the statement. When gentlemen on the other side assert that the Democratic party furnished from its ranks as many men to put down the rebellion as did the Republican party I not only challenge but I deny the statement; and I point to the figures for proof that in 1864, in the field, that notwithstanding the great popularity of General McClellan with the soldiers, not one in four voted for him.

The gentleman from Pennsylvania [Mr. RANDALL] need not assert that this side of the House forced this discussion. The gentleman from Maryland [Mr. MCLANE] deserves the credit for this.

[Here the hammer fell.]

Mr. URNER. Mr. Speaker, before asking a vote on this bill I desire in behalf of the Committee on the District of Columbia to call attention again to a mistake which has been fallen into, it seems to me, on both sides of the House. It has been asserted and reasserted that the report of this committee proposed to repeal section 354 of the Revised Statutes of the District of Columbia, providing that—

No person shall be appointed a policeman or watchman who has not served in the Army or Navy of the United States, and received an honorable discharge.

A provision repealing that section was in the bill originally, but the report of the committee struck out that repealing provision. Now, I wish to say that while this debate has been somewhat entertaining, yet the fact remains that the District of Columbia has to look for legislation entirely to Congress; it has but one day in every two weeks; and if, whenever a District bill is called up here for consideration the whole time is to be consumed in political discussion, I ask when shall the people of the District of Columbia get the legislation they so much need? In their interest I now ask that a vote be taken.

Mr. BURROWS, of Michigan. Will the gentleman yield to me for one moment?

Mr. URNER. Yes, sir.

Mr. BURROWS, of Michigan. I desire to call the attention of the House and the country to the declaration of the gentleman from Pennsylvania [Mr. RANDALL] that if the bill presented to-day wrongs in any degree the Union soldier it emanates from the Republican side of this Chamber and from a Republican committee. While the gentleman seems anxious to have that declaration go to the country, he is careful to conceal the fact that when the proposition was made by this side of the Chamber, upon the recommendation and with the full approval of the Republican members of the committee, to strike out the second section of the bill, which contemplated a repeal of that statute which permitted only honorably discharged Union soldiers to be employed on the police force of this city—I say when such a motion was made the record shows the Democratic party voting against it, and therefore in favor of the repeal of that statute favoring the Union soldier, while every Republican, including those on the committee, voted in the affirmative and therefore in favor of the employment of Union soldiers only. Let the country understand that.

Mr. RANDALL. I suppose the respective sides are satisfied with the records they have made.

Mr. URNER. I would like to say one word in reply to the gentleman from Michigan. He has evidently fallen into an error when he says that it was the purpose of the Republican side of the House to rebuke the committee. The Republican side of the House has done no such thing. The Committee on the District of Columbia, in reporting back the bill referred to it, struck out the provision repealing that section of the Revised Statutes which gave protection to the soldier; and when the vote was taken nearly every member of the committee, certainly on this side of the House, voted for the motion of the gentleman from New Jersey, [Mr. ROBESON,] because it accomplished what they wanted. We were opposed to striking out that section of the Revised Statutes.

Mr. BURROWS, of Michigan. I was not criticising the gentleman from Maryland, but simply replying to the gentleman from Pennsylvania.

Mr. URNER. I ask a vote.

The SPEAKER. The question is on the motion of the gentleman from Maryland [Mr. MCLANE] to recommit the bill to the Committee on the District of Columbia.

Mr. MCLANE. I withdraw that motion.

Mr. HOLMAN. I move to lay the bill on the table.

The motion of Mr. HOLMAN was not agreed to; there being—ayes 26, noes 93.

Mr. HOLMAN. I call for the reading of the bill as engrossed.

The Clerk read as follows:

Be it enacted, &c., That section 340 of the Revised Statutes of the United States relating to the District of Columbia be, and the same hereby is, amended so as to read as follows:

"The police force shall consist of the following officers, namely: one major, one captain, ten lieutenants, twenty sergeants, such number of privates, not exceeding three hundred for the regular service, as the board may deem necessary, and eight detectives; and all promotions to the position of captain, lieutenant, and sergeant shall be made from the next succeeding grade or rank on the force."

SEC. 2. That the commissioners of the District of Columbia are hereby authorized to appoint one additional clerk for service at police headquarters.

Mr. NEAL. I understood that the report of the committee proposed to strike out the last section which the Clerk has read.

Several MEMBERS. Oh, no.

The SPEAKER. The third section, as it was in the printed bill, has simply taken the place of the second section, which was struck out. The question is on the passage of the bill.

The question being taken, there were—ayes 91, noes 51.

Mr. ATKINS. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 37, less than one-fifth of the last vote.

Mr. SPARKS. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. ATKINS and Mr. URNER were appointed.

The House divided; and the tellers reported—ayes 43, more than one-fifth of the last vote.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 117, nays 66, not voting 108; as follows:

YEAS—117.

Aiken,	Briggs,	Burrows, Jos. H.	Carpenter,
Aldrich,	Brumm,	Camp,	Caswell,
Bingham,	Buck,	Campbell,	Chace,
Bowman,	Buckner,	Candler,	Chapman,
Brewer,	Burrows, Julius C.	Cannon,	Cox, Samuel S.
Crapo,	Hawk,	Neal,	Smith, Dietrich C.
Cullen,	Heilman,	Norcross,	Spaulding,
Davis, George R.	Hepburn,	O'Neill,	Spooner,
Dawes,	Hill,	Orth,	Steele,
Dezendorf,	Horr,	Parker,	Stone,
Dibble,	Hubbell,	Paul,	Strait,
Dingley,	Hubbs,	Payson,	Thompson, Wm. G.
Dowd,	Humphrey,	Peelle,	Tillman,
Dunnell,	Jacobs,	Peirce,	Townsend, Amos
Errett,	Jadwin,	Pettibone,	Tyler,
Evins,	Jones, George W.	Phelps,	Updegraff, J. T.
Farwell, Sewell S.	Jones, Phineas	Prescott,	Urner,
Ford,	Jorgensen,	Ranney,	Van Aernam,
Garrison,	Joyce,	Rice, Theron M.	Van Horn,
George,	Lacey,	Rich,	Van Voorhis,
Godshalk,	Lewis,	Richardson, D. P.	Walker,
Guenther,	Lord,	Robertson,	Ward,
Gunter,	Marsh,	Robeson,	Washburn,
Hall,	Mason,	Robinson, Geo. D.	Webber,
Hammond, John	McCoid,	Robinson, James S.	White,
Hardenbergh,	McCook,	Russell,	Wise, Morgan R.
Harmer,	McKinley,	Scranton,	Young.
Harris, Benj. W.	Miller,	Sherwin,	
Haseltine,	Moore,	Skinner,	
Haskell,	Morse,	Smith, A. Herr	

NAYS—66.

Armfield,	Cravens,	Holman,	Simonton,
Atkins,	Culberson,	Hooker,	Singleton, Jas. W.
Barbour,	Curtin,	Jones, James K.	Sparks,
Beach,	Davidson,	Kenna,	Stockslager,
Belmont,	Dibrell,	King,	Talbott,
Bland,	Dunn,	Klotz,	Turner, Henry G.
Blount,	Ermentrout,	Latham,	Turner, Oscar
Bragg,	Finley,	Manning,	Vance,
Buchanan,	Flower,	Matson,	Warner,
Cabell,	Forney,	McMillin,	Wellborn,
Caldwell,	Fulkerson,	Mutchler,	Whittthorne,
Clark,	Gibson,	Oates,	Williams, Thomas
Clements,	Hammond, N. J.	Randall,	Willis,
Colerick,	Hatch,	Reagan,	Wilson,
Converse,	Herbert,	Scales,	Wise, George D.
Cook,	Herndon,	Shackelford,	
Cox, William R.	Hewitt, G. W.	Shelley,	

NOT VOTING—108.

Anderson,	Deuster,	Lindsey,	Ross,
Atherton,	Dugro,	Martin,	Ryan,
Barr,	Dwight,	McClure,	Scoville,
Bayne,	Ellis,	McKenzie,	Shallenberger,
Belford,	Farwell, Chas. B.	McLane,	Shultz,
Beltzhoover,	Fisher,	Miles,	Singleton, Otho R.
Berry,	Frost,	Mills,	Smith, J. Hyatt
Black,	Geddes,	Money,	Speer,
Blackburn,	Grout,	Morey,	Springer,
Blanchard,	Hardy,	Morrison,	Stephens,
Bliss,	Harris, Henry S.	Mosgrove,	Taylor,
Browne,	Hazelton,	Moulton,	Thomas,
Butterworth,	Henderson,	Muldrow,	Thompson, P. B.
Calkins,	Hewitt, Abram S.	Murch,	Townshend, R. W.
Carlisle,	Hiscock,	Nolan,	Tucker,
Cassidy,	Hoblitzell,	Pacheco,	Updegraff, Thomas
Chalmers,	Hoge,	Page,	Upson,
Clardy,	Houk,	Phister,	Valentine,
Cobb,	House,	Pound,	Wadsworth,
Cornell,	Hutchins,	Ray,	Wait,
Covington,	Kasson,	Reed,	Watson,
Crowley,	Kelley,	Rice, John B.	West,
Cutts,	Ketcham,	Rice, William W.	Wheeler,
Darrell,	Knott,	Richardson, Jno. S.	Williams, Chas. G.
Davis, Lowndes H.	Ladd,	Ritchie,	Willits,
Deering,	Leedom,	Robinson, Wm. E.	Wood, Benjamin
De Motte,	Le Fevre,	Rosecrans,	Wood, Walter A.

So the bill was passed.

During the vote the following additional pairs were announced from the Clerk's desk:

Mr. POUND with Mr. PHISTER.

Mr. RYAN with Mr. LE FEVRE.

Mr. DE MOTTE with Mr. THOMPSON of Kentucky.

Mr. HOUK with Mr. DUGRO.

Mr. BROWNE with Mr. SINGLETON of Mississippi. Mr. BROWNE would vote "aye."

Mr. RICHARDSON, of South Carolina, with Mr. MOREY.

Mr. DWIGHT with Mr. ROBINSON, of New York.

The vote was then announced as above recorded.

Mr. URNER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPITOL, NORTH O STREET AND SOUTH WASHINGTON RAILWAY.

Mr. PEIRCE, from the Committee on the District of Columbia, moved to take from the House Calendar and put on its passage as it was reported back from that committee the bill (H. R. No. 2871) to provide for the extension of the Capitol, North O Street and South Washington Railway.

The bill was read, as follows:

Be it enacted, &c., That the Capitol, North O Street and South Washington Railway Company is hereby authorized to extend its line, by laying a single or double track, and running its cars thereon, on the following streets in the city of Washington, namely: commencing with the intersection of its present line at Eleventh and E streets northwest, and running east along E to Tenth street; thence south along Tenth to D street; thence east along D to Ninth street; thence south along Ninth street to Louisiana avenue; thence southwest along said avenue to Ohio avenue; thence west along Ohio avenue to its intersection with its present line at the junction of Ohio avenue and Twelfth street northwest.

SEC. 2. That unless said extension is constructed and the cars run thereon within six months from the passage and approval of the act all rights granted hereunder shall be void: *Provided*, That no new track or tracks shall be laid along Ninth street from D street to Louisiana avenue, but said company may use the tracks of the Metropolitan Street Railway Company between said points, upon such terms and conditions as may be provided in the original act of incorporation of said Capitol, North O Street and South Washington Railway Company.

Mr. PEIRCE. The bill has been read as it was amended by the Committee on the District of Columbia. It is for the purpose of extending this line of railway to the general market of the District. It explains itself and there is no objection to it.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. PEIRCE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARYLAND RAILROAD COMPANY IN THE DISTRICT.

Mr. PEIRCE. I am directed by the Committee on the District of Columbia to move that the House Calendar be discharged from the further consideration of the bill (H. R. No. 4842) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia, and it be put on its passage as it was recommended to be amended by that committee.

The bill was read, as follows:

Whereas it is represented to this present Congress that the Southern Maryland Railroad Company, organized under the provisions of the act of the General Assembly of the State of Maryland, entitled "An act to incorporate the Southern Maryland Railroad Company," approved March 20, 1868, desire to extend their railroad into and within the District of Columbia: Therefore,

Be it enacted, &c., That the Southern Maryland Railroad Company shall be, and they are hereby, authorized and empowered to extend their railroad into and within the District of Columbia, by and over the route or routes and from or to the terminal point or points following, that is to say: entering said District near its northeastern angle and proceeding thence in a northwestwardly direction across the Baltimore and Potomac Railroad near Benning's Station, on that road, and across the Eastern Branch of the Potomac River about one thousand feet above and north of Benning's Bridge, and running thence southward of Mount Olivet Cemetery across the Washington Branch of the Baltimore and Ohio Railroad near the southern angle of the National Fair Grounds, and thence across the old Bladensburg road at the head of the National Fair Grounds Valley, and thence to a junction with the Metropolitan Branch of the Baltimore and Ohio Railroad at or near the two-mile post on said Metropolitan Branch of said railroad, which said point of junction shall be the northern terminus of said Southern Maryland Railroad. And the said Southern Maryland Railroad Company are hereby authorized to exercise the same powers, rights, and privileges, and are subject to the same restrictions, in the extension and construction of their said railroad into and within the said District as may be now exercised by railroad companies organized under the general laws in force for the incorporation of railroad companies in the District of Columbia, it being expressly understood that the Southern Maryland Railroad Company shall have power to construct a railroad within the said District only along the routes and from and to the terminal points hereinbefore indicated.

SEC. 2. That nothing herein contained shall be so construed as to authorize the said company to enter upon and take any cemetery, or any part of the property known as the Soldiers' Home, or any lot or square, or part thereof, owned by the United States, within the limits of the city of Washington, for the purpose of locating or constructing said railroad, or for the purpose of excavating the same or taking therefrom any materials, or for any other purposes or uses whatsoever; and the said Southern Maryland Railroad may connect within said District with any railroad or canal company chartered or hereafter to be chartered, by such route or routes within said District as have been or as may be hereafter determined by Congress, and upon such terms as may be agreed upon by the said companies respectively. In crossing the track of any other railroad, said Southern Maryland Railroad Company shall construct its road either above or below the grade of said road.

SEC. 3. That the said Southern Maryland Railroad Company may charge and receive for tolls and transportation of freights on the part of said railroad within the District of Columbia at the same rates that it shall charge and receive therefor on the part of said road without the said District, and the same rate of passenger fare may be established for distances along said road within the said District as shall be established for like distances along said road without said District.

SEC. 4. That said company are also hereby authorized and empowered to make such special contract with any duly authorized officer or agent of the United States for the conveyance of the mail or the transportation of persons or property for the use of the United States on any railroad which shall be constructed by the said company, and on such terms as shall be approved of by such duly authorized officer or agent of the Government as aforesaid.

SEC. 5. That unless the said company shall commence the construction of said railroad within one year, and shall complete the same, with at least one set of tracks, within two years from the passage of this act, then this act and all rights and privileges hereby granted shall cease and determine.

Mr. BLOUNT. I ask attention to the fourth section, that said company are also hereby authorized and empowered to make such special contract with any duly authorized officer or agent of the United States for the conveyance of the mail or the transportation of persons and property for the use of the United States on any railroad which shall be constructed by the said company, &c. Now, as to carrying the mails there is a general law prescribing what shall be paid by the Government to railroad companies. What is the necessity of this provision for special contract?

Mr. PEIRCE. It was in the bill as it was introduced. If there is objection to it the gentleman from Georgia can move to strike it out.

Mr. BLOUNT. I move to strike out the fourth section.

Mr. NEAL. Is it not a fact that the Postmaster-General does make special contracts with railroad companies?

Mr. BLOUNT. No. On the contrary there is a general law on the subject prescribing they shall be paid by weight.

Mr. NEAL. We do not object to the motion to strike it out.

Mr. BLOUNT. I have made that motion.

The motion was agreed to.

Mr. REAGAN. I wish to ask the gentleman if there is a reservation in the bill of the right on the part of the Government to regulate passenger and freight rates?

Mr. BLOUNT. No, sir.

Mr. REAGAN. I desire to offer an amendment to come in at the end of the bill, at the close of the last section.

The SPEAKER. The amendment will be read.

The Clerk read as follows:

Provided Congress reserves the right to regulate the rates on passengers and freight on said railroad.

Mr. RANDALL. I suggest to the gentleman from Texas that that amendment should come in at the end of the third section.

Mr. REAGAN. Very well; I have no objection to that.

The amendment was agreed to.

Mr. PEIRCE. I desire now to offer an amendment.

The SPEAKER. The amendment will be read.

The Clerk read as follows:

Strike out of line 12, in section 2, the words "within the limits of the city of Washington."

Mr. PEIRCE. The reason of that amendment is that the railroad does not enter into the limits of the city, nor does it come within a less distance than three miles of it; and these words are therefore unnecessary.

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PEIRCE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

J. H. MERRILL.

Mr. NEAL. I am authorized by the Committee on the District of Columbia to report for adoption the following bill.

The SPEAKER. The bill will be read.

The Clerk read as follows:

A bill for the relief of J. H. Merrill.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to J. H. Merrill, out of any money in the Treasury not otherwise appropriated, the sum of $41.48, the same being an erroneous charge for special improvements against part of lot 4, square 684, one-half of said sum to be charged to the revenue derived from taxation on the property of the District of Columbia.

Mr. RANDALL. Is that bill in print?

Mr. NEAL. No; it is only a manuscript bill; but I want to state the reason for offering it. The commissioners of the District of Columbia report that this sum has been collected on account of erroneous assessment. The old man is eighty years of age, and the claim should be paid without going through the formality usually required and keep him long waiting.

Mr. KLOTZ. That bill is all right. It ought to pass.

The bill (H. R. No. 5996) was read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. NEAL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OUTSTANDING CERTIFICATES OF ASSESSMENT.

Mr. NEAL. I am authorized by the Committee on the District of Columbia to ask to take up the bill (H. R. No. 5772) to provide for the redemption of outstanding certificates of assessment issued by the late corporation of Washington in cases where the Congress of the United States has since then relieved the property assessed from the lien of said assessment, and for other purposes.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the commissioners of the District of Columbia are hereby authorized and directed to redeem all outstanding certificates of assessment issued under the laws and ordinances of the late corporation of Washington, in the District of Columbia, by issuing to the *bona fide* owners thereof drawback certificates in amount equal to the value of the work actually done and materials furnished therefor upon the improvements ordered to be made and for which said certificates were issued, the value of said work done and materials furnished to be ascertained as near as may be by said commissioners before said drawback certificates shall be issued, together with interest thereon from the completion of said work or the furnishing of said certificates, in all cases where the property against which said certificates were issued have been subsequently released therefrom by operation of law or by act of Congress, which drawback certificates shall be receivable for all arrears of general or special taxes due prior to July 1, 1879.

Mr. NEAL. I will make an explanation of this bill, and I think every member present will see the entire propriety of passing it.

Assessments, as is well known to every member here, were formerly made against property which was improved. In other words, property was assessed for the value of improvements made thereon according to front feet or the appraised value of the property. These assessment certificates were delivered to contractors who did the work. Now, the Government of the United States, after this work had been done, in several instances where property of churches had been assessed, passed a law relieving them from assessment. The improvements were made and the contractors who did the work consequently never received their money. Congress passed laws to release all that property from the amount of the assessment, and con-

sequently, as I have said, the contractors to whom these certificates of assessments had been given in payment could not realize upon them, and therefore could not get their money. Now, we have provided that these outstanding certificates shall bear only 6 per cent. in place of 10 per cent., as they formerly bore, and that the certificates shall be receivable for all arrears of general or special taxes due prior to July 1, 1879, and that where work has been actually done, and the certificates taken therefor, provision is made for relieving the contractors.

Then, instead of paying them money, we simply authorize the issue of drawback certificates, which shall be receivable for arrears of general or special taxes due prior to July 1, 1879. It appears to me it is an act of the sheerest justice, and there can be no possible objection to it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NEAL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS' MONUMENT ASSOCIATION AT BIRMINGHAM, CONNECTICUT.

Mr. PEELLE. On Friday evening, while sundry bills were being passed donating cannon for monumental purposes, I suggested that a bill introduced by the gentleman from Connecticut [Mr. PHELPS] be passed over, thinking it was an exact copy of a bill which had previously passed. My attention was called to it the next morning, and I wish to ask unanimous consent now that that bill, which provides for the donation of four condemned cannon and thirty-six cannon-balls for a soldiers' monument at Birmingham, Connecticut, may be taken up and passed. I ask this that I may, as far as possible, make reparation to the gentleman from Connecticut for my unwittingly asking that the bill be passed over.

There being no objection, the Committee of the Whole House on the state of the Union was discharged from the further consideration of the bill (H. R. No. 2202) donating condemned cannon and cannon-balls to the Soldiers' Monument Association of Birmingham, Connecticut, and it was brought before the House for consideration.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, four condemned cannon and thirty-six cannon-balls to the order of the Soldiers' Monument Association of Brimingham, Connecticut, to be used in connection with a soldiers' monument now in process of erection by said association.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PEELLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HOLMAN. I move that the House adjourn.

The SPEAKER. The Chair will state to the gentleman from Indiana that the gentleman from Pennsylvania [Mr. KLOTZ] desires to ask concurrence in Senate amendments which simply affect a name in a House bill and in no sense go to the merit of it.

Mr. HOLMAN. I withdraw the motion to adjourn for the present.

APPOINTMENT OF ORDNANCE STOREKEEPER.

Mr. KLOTZ. I ask unanimous consent that the bill (H. R. No. 721) to authorize the appointment of V. McNally as an ordnance storekeeper in the Army be taken from the Speaker's table and that the Senate amendments be concurred in.

The amendments of the Senate were read, as follows:

Amend, in lines 2 and 3, by striking out the words "V. McNally, the present chief clerk of the Ordnance Department."

Amend the title so as read, "to authorize the appointment of an ordnance storekeeper in the Army."

The amendments were concurred in.

Mr. KLOTZ moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS FISHER.

Mr. BARBOUR, by unanimous consent, introduced a bill (H. R. No. 5997) for the relief of Thomas Fisher; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NIEL NIELSSON.

Mr. STEELE, by unanimous consent, from the Committee on Pensions, reported back with a favorable recommendation the bill (H. R. No. 3865) for the relief of Niel Nielsson; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

PRISCILLA DECATUR TWIGGS.

Mr. STEELE also, by unanimous consent, from the same committee, reported a bill (H. R. No. 5998) for the relief of Priscilla Decatur Twiggs for an increase of pension; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LANDS IN VIRGINIA MILITARY DISTRICT.

Mr. CONVERSE, by unanimous consent, introduced a bill (H. R. No. 5999) to give effect to patents for lands in the Virginia military district of Ohio, and to construe and define sections 2 and 3 of the act approved March 27, 1880, entitled "An act to construe and define an act to cede to the State of Ohio the unsold lands in the Virginia military district, in said State, approved February 18, 1871, and for other purposes," and to further extend the time for making surveys in said district, and for filing plats, certificates, and warrants, or certified copies of warrants, at the General Land Office, for patent; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SARAH C. GOLDERMAN.

Mr. DINGLEY. I ask unanimous consent to take from the Speaker's table the bill (S. No. 603) granting a pension to Sarah C. Golderman, for reference to the Committee on Invalid Pensions.

There was no objection; and the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

MISSISSIPPI RIVER COMMISSION.

Mr. KING, by unanimous consent, introduced a bill (H. R. No. 6000) making an appropriation for the payment of the surveys and examinations and the necessary salaries and other expenses of the Mississippi River commission for the fiscal year ending June 30, 1883; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

NATIONAL BOARD OF HEALTH.

Mr. KING also, by unanimous consent, introduced a bill (H. R. No. 6001) making an appropriation for the payment of the salaries and expenses of the National Board of Health, and to carry out the purposes of the various acts creating the same, for the fiscal year ending June 30, 1883; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

HONORA KELLEY.

Mr. KING also, by unanimous consent, introduced a bill (H. R. No. 6002) granting a pension to Honora Kelley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MANUEL TIBBS.

Mr. KING also, by unanimous consent, introduced a bill (H. R. No. 6003) granting a pension to Manuel Tibbs; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARGARET M'CORMICK.

Mr. WALKER. I ask unanimous consent to take from the Speaker's table the bill (H. R. No. 3776) granting a pension to Margaret McCormick, returned from the Senate with an amendment, for the purpose of concurring in the amendment of the Senate.

The amendment was to add to the bill the following:

And pay her a pension as the widow of the said Robert McCormick.

There being no objection, the bill was taken from the Speaker's table and the amendment of the Senate concurred in.

Mr. WALKER moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REFERENCE OF CLAIMS TO THE COURT OF CLAIMS.

Mr. MANNING. I ask unanimous consent that the bill in charge of the gentleman from Massachusetts, [Mr. BOWMAN,] to refer claims to the Court of Claims, with the amendments to it adopted on motion of the gentleman from Indiana, [Mr. HOLMAN,] be printed in the RECORD; and also that the substitute offered by the gentleman from Tennessee [Mr. HOUSE] be also printed in the RECORD to-morrow, so that members may be able to see it.

Mr. BOWMAN. I understand that is the bill now before the House, in its final shape, as it has been amended. I understand the gentleman to ask that that be printed in to-morrow's RECORD?

Mr. MANNING. That is my request; that and the substitute of the gentleman from Tennessee.

There was no objection, and it was so ordered.

The bill reported by Mr. BOWMAN, as amended on motion of Mr. HOLMAN, is as follows:

A bill (H. R. No. 684) to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government.

Be it enacted, &c., That whenever a claim or matter is pending before any committee of the Senate or House of Representatives, or before either House of Congress, which involves the investigation and determination of facts, the committee or House may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims of the United States, and the same shall there be proceeded in under such rules as the court may adopt. When the facts shall have been found, the court shall not enter judgment thereon, but shall report the same to the committee or to the House by which the case was transmitted for its consideration.

SEC. 2. That when a claim or matter is pending in any of the Executive Departments which may involve controverted questions of fact or law, the head of such Department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law

shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the Department by which it was transmitted for its guidance and action.

SEC. 3. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

SEC. 4. In any case of a claim for supplies or stores taken by or furnished to any part of military or naval forces of the United States for their use during the late war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact, and unless the said court shall, on a preliminary inquiry, find that the person who furnished such supplies or stores, or from whom the same were taken as aforesaid, was loyal to the Government of the United States throughout said war, the court shall not have jurisdiction of such cause, and the same shall, without further proceedings, be dismissed.

SEC. 5. That the Attorney-General, or his assistants, under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be transmitted to the Court of Claims under this act, with the same power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses in like manner as he is now required to defend the United States in said court.

SEC. 6. That in the trial of such cases no person shall be excluded as a witness because he or she is a party to or interested in the same.

SEC. 7. That reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress until the same shall be finally acted upon.

The substitute of Mr. HOUSE is as follows:

Be it enacted, &c., That Congress shall not authorize the payment of any private claim not payable under existing laws until the facts on which such claim is based shall have been judicially established and reported as hereinafter provided.

SEC. 2. Any person having a claim or matter against the United States in respect of which he desires relief by special act of Congress, and of which the Court of Claims could not under existing laws take jurisdiction, may, before applying to Congress for such relief, file a petition in that court stating the facts and grounds on which the relief is sought, and praying the court to find the facts; and the court, under such rules as it may adopt, shall find the facts as established by the evidence, and report the same, with a copy of the petition and answer of the Government, to either House of Congress.

SEC. 3. Whenever a claim or matter is pending before any committee of the Senate or House of Representatives, or before either House of Congress, which involves the investigation and determination of facts, the committee or House may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in under such rules as the court may adopt. When the fact shall have been found, the court shall report the same to the committee or to the House by which the case was transmitted for its consideration.

SEC. 4. In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, or for the destruction of or damage to property by any part of said forces, the petition shall aver that the person who furnished such supplies or stores, or whose property was so taken, destroyed, or damaged, did not give any aid or comfort to said rebellion, but was, throughout that war, loyal to the Government of the United States; which averment shall be investigated, and the facts in relation thereto found and reported by said court.

SEC. 5. All private claims pending in either House of Congress at the final adjournment thereof, involving an investigation or determination of facts shall, with all papers connected therewith, be transferred to the Court of Claims, to be there proceeded with in the manner hereinbefore prescribed.

SEC. 6. No private claim which accrued of the character described in section 2 of this act, prior to the year 1866, and which has not been pending before Congress or some one of the Executive Departments since the year 1860, shall be heard by the Court of Claims, or considered by Congress, or any of the Executive Departments. All other such claims now existing shall be presented to that court, in the manner and for the purpose aforesaid, within two years after the passage of this act, and all claims hereafter accruing shall be so presented within six years after they accrue, in default whereof, in either of said cases, the claims shall be barred: *Provided*, That the claims of married women, which first accrued during their marriage, and of infants, idiots, insane persons, and persons beyond the seas when the claim accrued, entitled to the claim, shall not be barred if the petition be filed in the court as aforesaid within two years after the disability has ceased; but no other disabilities than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

SEC. 7. Whenever there shall be pending before the Department of State a claim in behalf of any alien against the United States, founded on or growing out of any treaty with a foreign power or any international obligation, the Secretary of State may, with the consent of the representative of the government of such alien, refer such claim to the Court of Claims; which shall thereupon have jurisdiction to hear and determine the same upon the principles of justice and international law, and to render such judgment as those principles shall require. From any such judgment, when the amount in controversy is $3,000 or more, either party may appeal to the Supreme Court in the manner provided by law in other cases of appeal from the Court of Claims.

SEC. 8. When a claim or matter is pending in any of the Executive Departments which involves controverted questions of fact or law, the head of such Department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the Department by which it was transmitted.

SEC. 9. The Attorney-General, or his assistants under his direction, shall appear for the defense and protection of the interest of the United States in all cases which may be brought in the Court of Claims under this act, with power to interpose counter-claims, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses, as fully as he is now required or authorized to do in other cases in said court.

SEC. 10. In the trial of such cases no person shall be excluded as a witness because he is a party to or interested in the same; and any claimant or party in interest may be examined as a witness on the part of the Government, and when refusing so to testify, or willfully testifying falsely, shall not be entitled to relief.

SEC. 11. If it shall appear to the court that in any case referred to it under the provisions of this act testimony has been duly taken by either party, the same, so far as relevant and competent, may be used, subject to such rules as the court may see fit to adopt.

SEC. 12. In every case which shall come before the Court of Claims under the provisions of this act, if it shall appear to said court upon the facts established that it has jurisdiction to render judgment thereon under existing laws, it shall proceed to do so, and report its proceedings therein to either House of Congress, or to the Department by which the same was referred to said court.

SEC. 13. Reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress until the same shall be finally acted upon.

"CUSTOM-HOUSE LOT," BERMUDA HUNDRED, VIRGINIA.

Mr. WISE, of Virginia. I ask consent to take from the Calendar of the Committee of the Whole House on the state of the Union the bill (H. R. No. 4133) to authorize the sale of certain property at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia. I think there can be no objection to it.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury is hereby authorized and directed to sell, either at public or private sale, and on such terms as he may deem best, a certain half-acre lot of unimproved land situated at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia, and known as the "custom-house lot."

Mr. HOLMAN. Is there any report on that bill?

Mr. WISE, of Virginia. It is an unimproved lot which has been owned by the Government since 1790, and has never been used.

Mr. HOLMAN. Is it recommended by the Department?

Mr. WISE, of Virginia. The Secretary of the Treasury recommends it, and it has been reported favorably by the Committee on Public Buildings and Grounds.

There being no objection, the bill was taken from the Calendar and ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. WISE, of Virginia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MOUND CITY NATIONAL CEMETERY, ILLINOIS.

Mr. DAVIS, of Illinois, by unanimous consent, from the Committee on Military Affairs, reported, as a substitute for House bill No. 3586, a bill (H. R. No. 6004) making an appropriation to construct a road and approaches from Mound City, Illinois, to the national soldiers' cemetery, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

EUGENE WELLES.

Mr. BRAGG. I ask unanimous consent that Senate bill No. 416, for the relief of Eugene Welles, be taken from the Speaker's table and referred to the Committee on Military Affairs.

There was no objection; and the bill was accordingly taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

MUSTER OF VOLUNTEER OFFICERS.

Mr. STEELE. I ask unanimous consent to take from the Committee of the Whole House on the state of the Union the bill (H. R. No. 3856) to provide for the muster and pay of certain officers of the volunteer forces and put it on its passage at this time.

Mr. HOLMAN. I hope the gentleman will not press that bill now.

Mr. STEELE. You are interested in that bill for your constituents, and I hope you will not make any objection.

Mr. HOLMAN. I must insist upon the regular order.

Mr. STEELE. This is a bill relating to the muster of volunteer officers.

Mr. HOLMAN. Does my colleague want to pass that bill at this late hour?

Mr. STEELE. Yes; it will take but a few minutes, and you yourself have been urging the bill.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to correct the muster-rolls of the volunteer forces of the United States in the late war so that the muster of officers therein shall cover the whole period during which they were regularly commissioned and actually performed the duties to which they were so commissioned, in all cases where no charges are pending against them, and there was no neglect on their part which delayed their muster-in, and where the commissions bear date prior to the 18th day of June, 1863, or after that date when their commands were not below the minimum number entitling them to such officers at the date of the commission.

SEC. 2. That it shall be the duty of the Secretary of the Treasury to cause to be paid to all officers mustered under the provisions of the preceding section the amounts of pay and allowances to which they would have been entitled if originally so mustered, out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. That all acts and parts of acts inconsistent herewith are hereby repealed.

Mr. HOLMAN. I have no objection to that bill.

Mr. CONVERSE. I object.

Mr. STEELE. I wish the gentleman would hear an explanation of the bill before he objects.

Mr. RANDALL. That bill I understand is reported unanimously from the Committee on Military Affairs.

Mr. STEELE. It is reported unanimously.

Mr. CONVERSE. I withdraw my objection.

Mr. STEELE. I move to amend the first section of the bill by correcting the date from the "eighteenth" to the "twentieth" of

June, 1863, so as to make it correspond with the law; also to insert the words "or were prisoners of war or were in hospital."

The amendments were agreed to, and the bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. STEELE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

KICKAPOO INDIAN LANDS.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 6005) to provide for the sale of certain Kickapoo Indian lands; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MARIAN A. MULLIGAN.

Mr. ALDRICH, by unanimous consent, introduced a bill (H. R. No. 6006) granting an increase of pension to Marian A. Mulligan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PREVENTION OF CRIME IN DISTRICT OF COLUMBIA.

Mr. URNER, by unanimous consent, introduced a bill (H. R. No. 6007) for the better prevention of crime in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

ELIZA M. BASS.

Mr. COLERICK, by unanimous consent, introduced a bill (H. R. No. 6008) to restore the name of Eliza M. Bass to the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WITHDRAWAL OF PAPERS.

Mr. YOUNG asked and obtained unanimous consent for the withdrawal from the files of the House of papers in the case of Benjamin Hawkes.

REGULATION OF STEAM-VESSELS.

Mr. COX, of New York. I ask unanimous consent to have taken up and passed at this time a bill in regard to the inspection of foreign vessels. A similar bill passed the House at the last session, but failed in the Senate.

Mr. PAGE. Has the bill been reported by any committee?

Mr. COX, of New York. It was reported favorably last year, and passed. It simply requires that British vessels running out from New York and other places to the West Indies shall undergo the same inspection to which our own vessels are subjected.

Mr. DINGLEY. The bill is right, and I hope it will be passed.

Mr. HOLMAN. Regular order.

Mr. COX, of New York. The bill does not contain any appropriation. I hope the gentleman will not call the regular order.

Mr. RANDALL. Let us hear the bill read.

The bill was read, as follows:

A bill (H. R. No. 4684) to amend section 4400, of title 52, of the Revised Statutes of the United States, concerning the regulation of steam-vessels.

Be it enacted, &c., That section 4400 of the Revised Statutes of the United States be amended and enlarged by adding thereto at the end of said section, as it now appears, the words:

"And all foreign private steam-vessels carrying passengers from any port of the United States to any other place or country shall be subject to the provisions of sections 4470, 4471, 4472, 4473, 4479, 4482, 4486, 4488, and 4489, of this title, and shall be liable to visitation and inspection by the proper officer, in any of the ports of the United States, respecting any of the provisions of the sections aforesaid."

There being no objection, the Committee on Commerce was discharged from the further consideration of the bill; which was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLLD BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the Committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 632) granting a pension to John Taylor;

A bill (S. No. 240) granting an increase of pension to Henry Strawbridge;

A bill (S. No. 1677) to amend an act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; and

A bill (H. R. No. 3869) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

PERSONAL EXPLANATION.

Mr. WHITE. I rise to a question of privilege.

The SPEAKER. There is a motion to adjourn pending.

Mr. WHITE. I hope the gentleman from Indiana will not insist upon that motion. I will not occupy the attention of the House more than a few moments.

Mr. HOLMAN. I yield to the gentleman.

Mr. WHITE. Mr. Speaker, I desire, before the House adjourns, to call attention to the fact that on the 30th of January last I introduced in this House the following resolution:

Resolved, That the Attorney-General be, and hereby is, directed to furnish this House with copies of all papers on file in his office touching the administration of the United States district attorney, marshal, commissioners, and clerks for the State of Kentucky, together with a statement of the accounts of said officers from January 1, 1870, to January 30, 1882.

Rule XXIV provides that during the call on Monday of States and Territories "resolutions of inquiry directed to the heads of the Executive Departments shall be in order for reference to appropriate committees, which resolutions shall be reported to the House within one week thereafter."

Now, Mr. Speaker, the other day, in discussing the bill providing for the appointment of a commission to revise the tariff and internal-revenue laws, I had occasion to state some very severe facts about a certain lobbyist who is in the employ of the whisky rings that are attempting to dictate legislation for this country. He has seen fit to write a very severe article against me. I will not quote that article now; it is not necessary. I desire, however, to state to the House and to the country that I cannot afford to bandy words with the lobbyists who hang around this House; but when I ask a Republican House to make an investigation, and they throttle me by letting the resolution lie in committee, the delay is no fault of mine. I only ask of the House and the country that they shall wait until an investigation is had, when every charge I have made, and more, will be entirely proved.

The question being taken on the motion of Mr. HOLMAN, that the House adjourn, it was agreed to; and accordingly (at five o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BERRY: The petition of citizens of San Francisco, California, protesting against the passage of the bill (H. R. No. 920) imposing a tax on imitation sparkling wines—to the Committee on Ways and Means.

By Mr. BUCK: Papers relating to the pension claim of Redfield Duryee—to the Committee on Invalid Pensions.

By Mr. COOK: The petition of citizens of Wilcox County, Georgia, for an appropriation in aid of common schools—to the Committee on Education and Labor.

By Mr. CROWLEY: Three petitions, signed by W. J. Humphrey, James H. Loomis, A. J. Warren, and others, citizens of Wyoming County, New York, for legislation regulating emigration—severally to the Committee on Commerce.

By Mr. DARRELL: The petition of citizens of Bayou Goula, Louisiana, for the abrogation of the Hawaiian treaty—to the Committee on Foreign Affairs.

By Mr. ERRETT: The petition of members of the Keystone Bridge Company of Pittsburgh, Pennsylvania, in favor of the bill to authorize tests of iron and steel—to the Committee on Manufactures.

By Mr. FLOWER: The petition of Mary Cutts and others, heirs of Edward Cutts, for the passage of the French spoliation claims bill—to the Committee on the Judiciary.

By Mr. A. J. HAMMOND: The petition of W. F. Killen and others, citizens of Houston County, Georgia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. HARMER: The petition of citizens of Philadelphia, Pennsylvania, for the repeal of internal-revenue taxes—to the Committee on Ways and Means.

By Mr. JACOBS: The petition of Dr. G. Prince and others, for the repeal of the law imposing taxes on banks and bankers—to the same committee.

By Mr. JOYCE: The petition of Caleb Lowe, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

Also, the petition of Jonathan K. Taylor and others, representing the Baltimore Yearly Meeting of Friends, for legislation to prohibit the importation, manufacture, and sale of intoxicating liquors—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. LEEDOM: Papers relating to the claim of Mrs. Sallie A. Palmer—to the Committee on Claims.

By Mr. LUNA: The petition of D. J. Miller and others, citizens of New Mexico, relative to the education of the children of the Pueblo Indians—to the Committee on Indian Affairs.

By Mr. McCOOK: The petition of William Donaldson and A. Day, of Steubenville, Ohio, for an increase of duty on china, porcelain, and earthen ware—to the Committee on Ways and Means.

By Mr. MOORE: The petition of citizens of Bolivar County, Mississippi, for relief—to the Committee on Appropriations.

By Mr. MULDROW: The petition of R. Muse and others, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. OURY: The petition of citizens of Arizona Territory, for the establishment of San Xavier Indian reservation and for the establishment of schools for Indian children—to the Committee on Indian Affairs.

By Mr. PHELPS: The petition of owners, pilots, and masters of

vessels and others, citizens of Bradford, Connecticut, for the survey of the harbor at that place—to the Committee on Commerce.

Also, the petition of manufacturers and other business men, citizens of East Haddam, Connecticut, for the survey of Salmon River—to the same committee.

By Mr. PHISTER: The petition of Mary Jane Conrad and others, of Maysville, Kentucky, for a pension to her as the widow of James H. Conrad—to the Committee on Invalid Pensions.

By Mr. SHACKELFORD: The petition of citizens of Onslow County, North Carolina, for the establishment of a mail-route from Sneed's Ferry to Duck Creek in said county—to the Committee on the Post-Office and Post-Roads.

By Mr. SHELLEY: The petition of the Vicksburgh and Meridian Railroad Company, for relief from the payment of certain internal-revenue tax—to the Committee on Claims.

By Mr. SIMONTON: The petition of Alfred Gardner, for compensation for property taken and used by the United States Army during the late rebellion—to the Committee on War Claims.

By Mr. O. R. SINGLETON: The petition of the citizens of Leake County, Mississippi, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. H. G. TURNER: The petition of L. E. Welsh and 338 others, citizens of Dougherty County, Georgia, for an appropriation in aid of common schools in the States, to be apportioned upon the basis of illiteracy—to the same committee.

By Mr. VANCE: Papers relating to the claim of A. B. and J. J Welch—to the Committee on War Claims.

Also, the petition of J. H. Tweed and 25 other citizens, for the establishment of a mail route from Shufordsville to Old Fort, North Carolina—to the Committee on the Post-Office and Post Roads.

Also, the petition of A. E. Walker and 90 others, for the establishment of a mail route from Ayr post-office to Black Mountain, in the State of North Carolina—to the same committee.

By Mr. WASHBURN: The petition of citizens of the third Congressional district of Minnesota, protesting against the admission of Chinese laborers—to the Committee on Education and Labor.

By Mr. WILLIS: The petition of Otter & Co. and others, protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. YOUNG: The petition of tobacco manufacturers, for reduction of the tax on cigarettes—to the same committee.

Also, the petition of Cincinnati Cigar Manufacturers' Association, for a reduction of tax on cigars, &c.—to the same committee.

Also, the petition of Abram L. Frazer & Co., Andrews, Bates & Co., and other wholesale grocers of Cincinnati, Ohio; of M. B. Callahan and others, citizens of Charlton, New York; of Miles Hughes and others, of Duchess County, New York; of Philip Diehl and others, of South East, New York; of George Brown, a confectioner of Baltimore, Maryland; of H. C. Morris and other merchants of Norwalk, Ohio; of George Young and others, citizens of Utica, New York; and of G. W. Sanders and other merchants of Reading, Pennsylvania, for the passage of the bill pending to tax the manufacture of the adulterant known as glucose five cents per pound—severally to the same committee.

Also, the petition of the Board of Trade and Transportation of Cincinnati, for the passage of bills relating to bridges over the Ohio River—to the Committee on Commerce.

SENATE.

TUESDAY, *April* 25, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

UMATILLA RESERVATION.

Mr. DAWES. I ask unanimous consent to have simply a verbal amendment made in the bill (S. No. 1434) providing for the allotment of lands in severalty to the Indians residing upon the Umatilla reservation, in the State of Oregon, and granting patents therefor, and for other purposes, which was passed by the Senate yesterday. In striking out a proviso the words "and provided further" were left standing in the bill, when it should be simply "provided."

The PRESIDENT *pro tempore*. By unanimous consent the vote by which the bill was passed may be reconsidered.

Mr. DAWES. I ask unanimous consent that it be done for that purpose.

The PRESIDENT *pro tempore*. The vote by which the bill was passed will be reconsidered if there be no objection. The Chair hears none. The vote ordering the bill to a third reading is also reconsidered, there being no objection.

Mr. DAWES. In section 5, line 16, occur the words "and provided further." The first proviso in the section was striken out; it should be "provided," so as to make the bill read properly.

The PRESIDENT *pro tempore*. The Chair hears no objection, and that amendment will be made.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PETITIONS AND MEMORIALS.

Mr. ALDRICH presented a memorial of property owners in square No. 725, Washington, District of Columbia, in favor of an abatement of illegal assessments for opening an alley; which was referred to the Committee on the District of Columbia.

Mr. PENDLETON presented the petition of John Chilcote and 26 others, citizens of Newark and Somerset, Ohio, praying for the passage of the bill (H. R. No. 5656) to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses and the withdrawal of the same therefrom; which was referred to the Committee on Finance.

Mr. MILLER, of New York, presented three petitions of the Stationers' Board of Trade of the City of New York, signed by members of the board and by various merchants, praying for the reduction of the rate of letter postage to two cents; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented resolutions adopted at a meeting of the Chamber of Commerce of New York, in favor of tariff reform; which were referred to the Committee on Finance.

Mr. HOAR presented the petition of Joseph Post and other citizens of Westbury, Long Island, New York, praying that the scope and functions of the National Board of Health may be more clearly defined; which was referred to the Select Committee to investigate and report the best means of preventing the introduction and spread of Epidemic Diseases.

Mr. FERRY presented a petition of members of the Legislature of Michigan and others, praying for the passage of Senate bill No. 1012, on behalf of Union prisoners of war; which was referred to the Committee on Pensions.

He also presented the petition of L. C. Seymour, of Glenn, Michigan, and others, and the petition of G. W. Sheffield, of Johnstown, Michigan, and others, praying for such legislation as will prevent unjust discriminations by railroad corporations and other common carriers; which were referred to the Committee on Commerce.

Mr. JOHNSTON presented resolutions adopted at a special meeting of the council of the town of Danville, Virginia, in favor of an appropriation of $10,000 to construct a road to the national cemetery near that place; which were referred to the Committee on Public Buildings and Grounds.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2202) donating condemned cannon and cannon-balls to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2871) to provide for the extension of the Capitol, North O Street and South Washington Railway;

A bill (H. R. No. 3575) to increase the police force of the District of Columbia, and for other purposes;

A bill (H. R. No. 3856) to provide for the muster and pay of certain officers of the volunteer forces;

A bill (H. R. No. 4133) to authorize the sale of certain property at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia;

A bill (H. R. No. 4684) to amend section 4400 of title 52 of the Revised Statutes of the United States, concerning the regulation of steam-vessels;

A bill (H. R. No. 4842) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia;

A bill (H. R. No. 5772) to provide for the redemption of outstanding certificates of assessment issued by the late corporation of Washington in cases where the Congress of the United States has since then relieved the property assessed from the lien of said assessment, and for other purposes; and

A bill (H. R. No. 5996) for the relief of J. H. Merrill.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 632) granting a pension to John Taylor;

A bill (S. No. 240) granting an increase of pension to Henry Straw bridge;

A bill (S. No. 1677) to amend an act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; and

A bill (H. R. No. 3869) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

REPORTS OF COMMITTEES.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1241) granting an increase of pension to Augustus Lempp, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1340) granting an increase of pension to Andreas Guille, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. JOHNSTON, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 137) for the relief of William Schuchardt, United States commercial agent at Piedras Negras, Mexico, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

Mr. WINDOM, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 1732) to refund excessive duties levied by overvaluation of Austrian paper florin, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the petition of Enoch Jacobs, praying for compensation for care of the United States legation at Montevideo, reported adversely thereon, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 44) authorizing the payment of a portion of the Virginius indemnity fund to the mother of General W. A. C. Ryan, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (S. No. 1409) for the relief of Mrs. Jennie S. Mitchell, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3390) granting a pension to Sally C. Mulligan, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 149) granting a pension to Charlotte McKay, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 402) granting a pension to James Coffey, of Oregon, reported adversely thereon; and the bill was postponed indefinitely.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1239) granting a pension to Francis Reichert, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1665) granting a pension to William Ryan, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. ALDRICH. I am instructed by the Committee on Finance, to whom was referred the bill (S. No. 1259) to refund to the North Carolina Railroad Company certain moneys illegally assessed against and unlawfully collected from it by the United States, to submit an adverse report thereon. I call the attention of the Senator from North Carolina [Mr. RANSOM] to the report.

Mr. RANSOM. Let the bill go on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar, with the adverse report of the committee, which will be printed.

Mr. HARRISON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 298) for the relief of the heirs of William Reynolds, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 54) for the relief of Charles A. Luke, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1102) for the relief of Rufus Ross, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of members of Stover Post No. 1, Grand Army of the Republic, of New Hampshire, praying that they may be granted condemned cannon for erecting a soldiers' monument, submitted a report thereon, accompanied by a bill (S. No. 1781) to transfer six condemned cast-iron cannon to Stover Post No. 1, of the Grand Army of the Republic, at Portsmouth, New Hampshire, for use on monument to deceased soldiers and sailors.

The bill was read twice by its title, and the report was ordered to be printed.

NORWEGIAN BARK ATLANTIC.

Mr. MORGAN. I am directed by the Committee on Foreign Relations, to whom was referred the bill (S. No. 576) to provide for settling by arbitration the question of the liability of the United States for damages to the Norwegian bark Atlantic by collision with the United States steamer Vandalia, and for payment of the same, to report it with an amendment in the nature of a substitute. I am instructed by the Committee on Foreign Relations to ask the Senate to consider the bill at this time. It is a very pressing affair.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Foreign Relations with an amendment, to strike out the bill and the preamble and in lieu thereof to insert:

Whereas, on or about the 31st day of October, 1876, a collision occurred on the high seas between the United States sloop of war Vandalia and the Norwegian bark Atlantic, by which the Atlantic was damaged; and

Whereas the owners of said bark Atlantic, through their government, claim the facts to have been such as would entitle them to recover damages in the admiralty had the said sloop been the property of private parties, which claim is not admitted by the United States; and

Whereas it is desirable that the subjects of a friendly government be granted opportunity to avail themselves of the liability of the Government of the United States in the premises, if any such there be: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claim of the legal owners of the bark Atlantic, her cargo, freight, and personal effects, alleged to have been damaged by collision with the United States sloop of war Vandalia as aforesaid, be, by the Secretary of State, referred (when so requested by the minister of the Government of Sweden and Norway at this capital) to the Court of Claims, to hear and determine the same to judgment, with right of appeal as in other cases: *Provided*, That no suit shall be brought under the provisions of this act after six months from the date of the passage thereof.

Mr. MORGAN. I desire to state that the King of Norway and Sweden, as early as April, 1877, invited the attention of the Government of the United States to this subject. No remedy is furnished by the international law for cases of collision between private ships and ships of war. This ship could not be libeled in any court of admiralty for the alleged collision and damage, and some provision was requisite to be made to meet the demands of the owners of the cargo and ship Atlantic. The administration of Mr. Hayes took the subject into consideration and recommended a bill which was reported and, as I remember, passed at the last Congress. That bill provided for an arbitration. The Committee on Foreign Relations, when the bill was referred to it at this Congress, took the advice of the State Department and the present Secretary of State, Mr. Frelinghuysen, and put the bill in the form in which it is now reported as being less expensive and more expeditious.

There cannot be a doubt that it is our duty to provide some remedy in reference to this alleged collision; and the Court of Claims has been selected by the State Department as the most appropriate court in which this subject can be considered. I hope therefore the Senate will pass the bill.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The title was amended so as to read: "A bill authorizing the Court of Claims to determine the question of liability of the United States for damages to the Norwegian bark Atlantic by collision with the United States steamer Vandalia."

SOLDIERS' REUNION AT BELLE PLAINE, IOWA.

Mr. HAWLEY. I am instructed by the Committee on Military Affairs to report favorably the joint resolution (H. R. No. 185) granting the use of tents at the soldiers' reunion to be held at Belle Plaine, Iowa, in the month of September or October, 1882.

Mr. ALLISON. As that is a local matter, I ask that it be passed. I hope there will be no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. McMILLAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1782) for the relief of Francis B. Van Hoesen; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HALE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1783) making wire-rope subject to the provisions of section 2513 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Finance.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1784) granting a pension to Carrie M. Matthews; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GORMAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1785) for the relief of David Mordecai and J. Randolph Mordecai, composing the commercial firm of Mordecai & Co., of Baltimore, Maryland; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

Mr. GEORGE. My colleague in the House of Representatives [Mr. MANNING] has introduced a joint resolution in that body which meets my approbation. I therefore ask leave to introduce a similar joint resolution in the Senate, so that it may be referred to the Committee on the Judiciary for consideration.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 59) proposing an amendment to the second section of the third article of the Constitution of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HALE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1786) authorizing the construction of a bridge across the Saint Croix River at a point near the city of Calais, in

the State of Maine; which was read twice by its title, and referred to the Committee on Commerce.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1787) to authorize the construction of a bridge over the Saint Croix River between the city of Calais, Maine, and Saint Stephens, New Brunswick; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DAVIS, of West Virginia, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1788) to amend the law relating to the bonds of executors in the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

HOUSE BILLS REFERRED.

The following bills of the House of Representatives were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (H. R. No. 2871) to provide for the extension of the Capitol, North O Street and South Washington Railway;

A bill (H. R. No. 3575) to increase the police force of the District of Columbia, and for other purposes;

A bill (H. R. No. 4842) to authorize the Southern Maryland Railway Company to extend a railroad into and within the District of Columbia;

A bill (H. R. No. 5772) to provide for the redemption of outstanding certificates of assessment issued by the late corporation of Washington in cases where the Congress of the United States has since then relieved the property assessed from the lien of said assessment, and for other purposes; and

A bill (H. R. No. 5936) for the relief of J. H. Merrill.

The following bills were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. No. 2202) donating condemned cannon and cannonballs to the Soldiers' Monument Association of Birmingham, Connecticut; and

A bill (H. R. No. 3856) to provide for the muster and pay of certain officers of the volunteer forces.

The bill (H. R. No. 4133) to authorize the sale of certain property at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia, was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 4684) to amend section 4400, of title 52, of the Revised Statutes of the United States, concerning the regulation of steam-vessels, was read twice by its title, and referred to the Committee on Commerce.

SUITS IN FEDERAL COURTS.

Mr. VOORHEES. I offer the following resolution, and ask for its present consideration:

Resolved, That the Judiciary Committee be instructed to inquire if any legislation is necessary, and if so what, to secure a fair and impartial determination of cases triable in the Federal courts of the various States, and more especially the States of the South, wherein the United States may be a party or in any way interested; and that they also inquire into the existing rules of law for the protection of the citizens of said States in all their just constitutional rights and whether any change in the same is expedient and proper; and that they report by bill or otherwise at as early a day as practicable.

Mr. EDMUNDS. That is a very interesting resolution; I rather think it had better be printed and go over. I will state, however, to the Senator from Indiana that the Judiciary Committee has on former occasions inquired into many of those topics and has reported more than one bill upon the subject, for the protection of the constitutional and legal rights of citizens in all States; but we have not always been so happy as to obtain the votes of the majority of this body to the passage of such bills. I rather think that there might be some advantageous legislation still brought forward that would still further tend to protect every citizen of the United States, in whatever State he might be, in the enjoyment of those rights which the Constitution secures to him—liberty of person, liberty of opinion, liberty of political action in particular; but inasmuch as the resolution does not possibly embrace all that it might be desirable that the committee should explore, I think it had better be printed and go over.

The PRESIDENT *pro tempore*. The resolution will go over for the day, and be printed.

THE BOSTON NAVY-YARD.

Mr. HOAR. I offer the following resolution, and ask for its present consideration:

Resolved, That the President of the United States be requested to communicate to the Senate the title by which the United States holds the navy-yard at Boston, Massachusetts, and whether, in the opinion of the Attorney-General, the land and fixtures of the same, or any part thereof, would be forfeited to the former owners or their heirs by a sale of the same by the United States, or its use for any other purpose than that to which it is now appropriated.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. EDMUNDS. May I call the attention of my friend from Massachusetts to the circumstance that his resolution appears to call for an opinion of the Attorney-General? I am afraid that we shall be informed, as we have been on one or two former occasions, and I rather suspect correctly, that it is not within the constitutional duties of the Attorney-General to give his opinion to the Senate upon any topic whatever. I call the attention of my friend to the fact.

Mr. HOAR. I reflected upon that suggestion before framing the resolution, and it seemed to me that this was the proper way to meet it by addressing the request to the President. There is a suggestion of great public importance that it is expedient to make sale of the navy-yard at Boston, which is a piece of property which I understand cost the Government some fifty millions, considering all the expense upon it, and which now, without being of course of any such value as that, is still worth a great many millions of dollars. The best dry-dock in the country is there; also a rope-walk of great length and value, and a good many other ship-building fixtures.

What I want to know is whether that property can be sold or whether the United States holds it by having originally condemned it for the purpose and received only the receipts for damages of the former owners, in which case it is quite probable that appropriating it for any other purpose would cause it to revert to their heirs? In order to get at that information we must have knowledge as to the title, which is in the Navy Department.

I suppose that it is within the discretion of the President, of course, to require the opinion of the Attorney-General upon any public question. I suppose also that it is within the discretion of the President to obtain that opinion and to communicate it to the Senate if he sees fit. Under the peculiar circumstances of this case I thought it would be exactly proper to ask him to do that.

The resolution therefore requests the President, which is all we properly can, to communicate to us, first, the facts as to the title, and second, the opinion of the chief law officer of the Government upon those facts. It is a matter which the President himself will have to act upon if Congress should pass a law to that effect. I suppose that it is not indecorous under the circumstances to make a request to the President to obtain for us the opinion of the law officer of the Government on the subject of this important public property.

Mr. EDMUNDS. Undoubtedly this method is one which is technically legal. We have a right to request the President probably to give us any information in his power; but whether we have a right to request him to obtain the opinion of his law officer or the opinion of any other head of a Department and give it to us—I do not mean in the mere constitutional sense of our right to pass a resolution about anything, but in the correct sense of the separation of the departments of the Government—is another and more serious question.

Of course, if this method should be followed by a response, whenever we wanted the opinion of the Attorney-General or of the Secretary of the Treasury or any other head of a Department about any public affair, it could be obtained in this way, because the President in responding to such a resolution if he once began would feel it almost a necessary duty of courtesy to continue to take opinions that he has a right to from his heads of Departments and send them to us at our request. That would turn the Government, different from its former practices, into what I think is the government of a good many of the States, where the Legislature have a right to call upon the executive for his opinions and for the opinions of the judges and so on. I only make the suggestion to my friend from Massachusetts.

Mr. HOAR. I see the force of that suggestion, but it does seem to me still that under these particular circumstances the suggestion of the Senator is a suggestion which addresses itself to the sound discretion of the two Houses of Congress, not to make such requests except in very peculiar and proper cases. The Secretary of the Navy has the right to ask this opinion of the Attorney-General. By act of Congress the President himself has that right.

Everybody must know that if this project should commend itself to the two Houses of Congress the President would desire to be informed by the Attorney-General in regard to his action as to the condition of the legal title to this property of so many millions of dollars. It seems to me that it would be yielding to a mere formality and scruple if we should wait to have that opinion communicated to the President after we had acted instead of having the benefit of it before we acted.

Mr. HALE. I should like to ask the Senator from Massachusetts if anything has arisen in his knowledge casting any doubt upon the complete title of the Government to this navy-yard and its appurtenances? I certainly hope that before this session passes some act will go through the two Houses and become a law providing for the consolidation of our navy-yards and the selling of some of those that we cannot only get along without but which, for the convenience and business of the places where they are located, ought to be sold. I only wish, if any questions have arisen about other navy-yards, that the Senator from Massachusetts had embraced them in his resolution, so that if any inquiry is to be made about the complete right of the Government to sell on any act that may be passed by Congress it may be answered when this inquiry is reached.

I do not myself see any great objection to this form of the resolution. We have the opinions of course, as everybody knows, of the Attorney-General upon different subjects called for in one way and another in volumes which every lawyer is somewhat familiar with, which are known from time to time in one way or another; and the opinions are taken as to a degree settling all controverted questions. I hope the resolution will pass. I only wish it had been made broader.

Mr. HOAR. In answer to the Senator from Maine I desire to say that without referring to any matter which it is unparliamentary to refer to, I suppose it is not unparliamentary to say that one branch of the city government of the city of Boston have passed some resolutions, which resolutions affirm that there is a measure pending to dispose of that navy-yard in another branch of Congress.

It is a matter upon which I have absolutely no opinion, so far. There are very wise and intelligent business men in Massachusetts who think it would be for the interest of the Government and the interest of the city of Boston to dispose of and apply that land in the heart of the former city of Charlestown, and now in the heart of the city of Boston, to commercial or business purposes.

Mr. HALE. I suppose that to be the general sentiment there in reference to the matter.

Mr. HOAR. I do not want to go into that. I want the Senator to understand in frankness that I have no opinion to express upon the question at this time. I have not touched bottom in my own examination upon it. But there are three facts that it is very important to know.

First, what is the value of that real estate and fixtures?

Second, whether that property will be forfeited by the United States to the heirs of the former owner if the United States undertake to sell it or devote it to other purposes? I am informed by a very intelligent and respectable gentleman representing Boston in the Massachusetts senate, who has communicated with me upon the subject, that he has examined the title and he finds that the greater part of the land was taken by a process of condemnation of the heirs of one Breed, who I suppose is the person who owned the Breed's Hill where the battle called the Battle of Bunker Hill was fought, and that the only title of the United States is that act of condemnation and the receipt for the damages. If that be true, it presents a very serious question which we want to know something about; I do certainly as one member of the Senate and as a member representing a community specially interested in this subject.

The third question, which is more important than either of the others, is what is the value, in the case of a naval war, of this navy-yard with its arsenal, with the presence of its armored vessels, with its capacity for the repair of vessels in the defense of the great commercial city of Boston, and incidentally also in the defense of the coast where Boston is, and of the still greater commercial city of New York There are some high naval authorities who say that the presence of the navy-yard at Boston, forming a fortress or fortification in the rear, as it were, of any naval force which could be brought to lay it under contribution, would be of the utmost importance to the defense of New York in a naval war. On this question I am as ignorant as the most ignorant person in the community, and in suggesting the question I do not desire to express an opinion upon it until it has been further investigated; but it does seem to me that upon the question of getting at this thing the proper course is the one which I have suggested.

I hope the honorable Senator from Vermont will not see it his duty to interpose an objection of mere ceremonial or form. We want the information from the two Departments of the Government, and the information which is to enter very largely into the final determination of this question, because the President, of course, will ask the opinion of the Attorney-General some time.

Mr. EDMUNDS. I think I can suggest to the Senator from Massachusetts a modification of his resolution that would meet the difficulty that exists about the matter and accomplish all that he desires, if he will kindly hear it. I suggest to make the resolution read in this way:

That the President of the United States be requested to communicate to the Senate any information in the possession of the Executive or the heads of any of the Departments touching the title by which the United States holds the navy-yard at Boston, Massachusetts, and the capacity of the United States to convey a valid title thereto.

That would call upon the President for all the information that he has in his own possession or can obtain from the heads of the Departments. It does not call for an opinion in terms of the Attorney-General, but it calls for all the information that he can communicate to us bearing upon the question; and I have no doubt it will give precisely the same result that my friend would ask for. I should be a little sorry, without further consideration, to commence the practice of calling upon the President in terms for the opinion of the head of any Department upon a question, and as this accomplishes the same result, I ask my friend to accept it.

Mr. HOAR. I have no objection to that modification.

Mr. HALE. I do not want in any way to obstruct the passage of this resolution. Has the Senator from Massachusetts any objection to make the resolution broad enough to include other navy-yards, because if any movement is made in the direction of a consolidation undoubtedly the same questions will arise as to other yards? I would not select different yards——

Mr. HOAR. The Senator from Maine will allow me to interpose by suggesting to him that there is no proposition about other navy-yards up now anywhere. There may some arise; but his suggestion would require the getting of information from the Pacific coast and from Key West, while what I desire may be obtained very promptly. I think, therefore, it would be better to let this resolution go through as it is proposed, and then if the Senator will supplement it by another as to all other navy-yards I will cheerfully support it.

Mr. HALE. Then why not say, "or any navy-yard of the United States upon the Atlantic coast?"

Mr. HOAR. Let that form a separate matter. I would rather have this resolution passed now in the shape proposed.

Mr. HALE. I do not want to interfere with the passage of the resolution, but I think it ought to be broad enough to embrace them all.

Mr. BECK. Let the resolution be read as modified.

The PRESIDENT *pro tempore*. The resolution as modified will be read.

The resolution was read, as follows:

Resolved, That the President of the United States be requested to communicate to the Senate any information in the possession of the Executive or the heads of any of the Departments touching the title by which the United States holds the navy-yard at Boston, Massachusetts, and the capacity of the United States to convey a valid title thereto.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as modified.

The resolution as modified was agreed to.

JAPANESE INDEMNITY FUND.

The PRESIDENT *pro tempore*. The routine morning business is concluded, and the Senate will proceed to the consideration of bills on the Calendar under the Anthony rule.

Mr. MORGAN. The bill (H. R. No. 1052) in relation to the Japanese indemnity fund was passed over without prejudice when it was reached on the Calendar. I ask the Senate to return to that bill and consider it.

The PRESIDENT *pro tempore*. Does the Senator wish to have the bill considered under the Anthony rule?

Mr. MORGAN. Yes; I prefer that it should be considered now.

The PRESIDENT *pro tempore*. The bill is then before the Senate as in Committee of the Whole, and will be read.

The bill was read.

Mr. MORGAN. I desire to have the entire report of the committee printed in the RECORD; but I would not probably be warranted in occupying the time of the Senate by having the report read at the Clerk's desk. The committee have been very careful to select the grounds on which the action of the Senate is sought to be predicated for the passage of the bill, so as not to do any injustice to our own Government or to other governments who were in association with us at the time this indemnity fund was paid by Japan, and so as not to cast any reflection whatever upon the diplomatic policy of the Government of the United States or its ministers in its dealings with Japan on this subject. I will therefore ask that the Senate permit the report to be printed in the RECORD without being read in full.

The PRESIDENT *pro tempore*. The report will be printed in full in the RECORD.

The report, submitted by Mr. MORGAN February 7, 1882, is as follows:

The Committee on Foreign Relations, to whom was referred Senate bill No. 85, relating to the Japanese indemnity fund, have had the same under consideration, and respectfully report as follows:

The whole amount of the fund received in the Department of State, under the convention of October 24, 1864, with Japan, was $785,000.87 in coin. This was paid in several installments.

This fund was invested in bonds of the United States, of which there are now in the Department of State, to the credit of the "Japanese indemnity," the sum of $1,766,750 in bonds and $130.90 in money.

On the 1st of June, 1882, the collections of interest on the bonds will increase the amount to the credit of the "Japanese indemnity" to $1,793,117.64, if the interest collections for February, April, and May are not reinvested in bonds.

The letter of the Secretary of State annexed to this report, dated 11th January, 1882, gives a full history of the manner in which this fund has been managed in the Department of State, and shows that it has been so managed in accordance with the settled practice of the Government in respect of such funds, which has been to keep them invested so long as Congress chooses to leave them in charge of that Department.

Among the earliest statements of the history of the events out of which this indemnity fund arose, made by a committee of Congress, was that reported to the House of Representatives by Mr. Banks, from the House Committee on Foreign Affairs, May 20, 1872, as follows:

"Commercial intercourse between Japan and Christian nations was commenced by Commodore Perry's expedition from the United States in 1852. A treaty of peace and amity between the United States and Japan was signed the 31st of March, 1854. This was the first treaty made between Japan and foreign powers. It opened the ports of Simoda, in the principality of Idzu, and Hakodadi, in the principality of Matsai, to American vessels, and secured to Americans the freedom of the country within the limits of seven Japanese miles from an island in the harbor of Simoda. It also authorized the appointment of consuls for the United States at Simoda. After an absolute prohibition of communication with foreign nations for two hundred years, diplomatic intercourse was established by the United States. The Portuguese and Dutch had enjoyed the privilege of sending one or two vessels a year to Japan from an early period, but with very limited trade and no intercourse with the people. The success of the United States led England and Russia to send expeditions to Japan, and in the year following the negotiation of the American treaty the same advantages were granted to England, Russia, and Holland. A convention negotiated by Commodore Perry, June 17, 1857, opened the port of Nagasaki, in the principality of Hizen, and secured the right of citizens of the United States to reside permanently at Simoda and Hakodadi. In July, 1858, Mr. Townsend Harris negotiated a commercial treaty for the United States upon the basis of that negotiated between the United States and China in 1854. This treaty permitted the residence of diplomatic agents at Yedo, and the appointment of a minister of Japan, to reside at Washington, and consuls at all ports of the United States. The ports of Kanagawa, Nagasaki, Nee e-gata, and Hiogo were opened in succession at different periods of time to American vessels. Americans were allowed to reside at Yedo and at Osaca for purposes of trade. Religious freedom was secured to Americans, and places of public worship were to be protected by the Japanese Government.

"Intercourse was thus established with the principal Christian nations after an isolation of more than two hundred years. Great opposition was made to the new policy of Japan by some of the native princes, who were sustained by their retainers among the lower orders of the people. The period immediately following

the negotiation of the commercial treaty by Mr. Harris was one of violent disorders; the Tycoon was assassinated, one of the principal officers of the foreign legations was murdered, and several legation buildings were burned. The native princes held in their pay masses of the people, who endeavored to intimidate native merchants and destroy the trade with foreigners. Small traders and workingmen were organized against the supporters of the new policy and those engaged in foreign commerce, and some of the most prominent silk merchants were assassinated during the period.

"The rebels against the liberal policy of the Japanese Government seized the forts, and some of the principal naval posts, and made war upon all foreign vessels. The American frigate Wyoming and the merchant ship Pembroke were fired upon in 1863. In 1864, Choshu, Prince of Nagato, who ruled the provinces of Suwo and Nagato, having absolute possession of the Japanese fortifications which commanded the Straits of Simonoseki, and having with him the person of the Mikado, or spiritual ruler, refused to recognize the validity of the treaties concluded by the Tycoon with foreign powers, and closed by force this chief passage to the principal inland sea of the empire.

"In this controversy the Tycoon desired at first to conciliate the anti-foreign party and was disposed to yield to their demands; but he was relieved from that necessity by the support which the treaty powers gave to his government. At his request the forces of the United States, Great Britain, France, and the Netherlands, in Japanese waters, jointly determined to open the straits by force. The campaign opened on the 4th of September, 1864, and lasted five days. The fleets destroyed the batteries commanding the straits, blew up the magazines, threw shot and shell into the sea, carried away seventy cannon, and obtained an unconditional surrender from Prince Choshu, who agreed to pay the expenses of the expedition.

"The treaties were ratified by the Mikado, as they had been before by the Tycoon, thus uniting the two elements of power existing in the Government of Japan, and the liberal foreign policy of the Tycoon was firmly established. The government of the Tycoon, preferring to assume the expenses of the expedition, which Choshu had agreed to pay, entered into the convention of October 22, 1864, stipulating to pay the four powers three millions of dollars, 'this sum to include all claims, of whatever nature, for past aggressions on the part of Nagato, whether indemnity, ransom for Simonoseki, or expenses entailed by the operations of the allied squadrons.' The whole sum was to be paid quarterly in installments of half a million of dollars each."

The lapse of time and the advantages of more perfect means of information prove the accuracy of this statement, and leave only two unimportant errors to be corrected, namely: first, that the Prince of Nagato "had with him the person of the Mikado," in 1864. That prince, with a powerful army, attempted to seize the person of the Mikado, in 1864, shortly before the affair of Simonoseki, but was defeated in his purpose by the forces of the Tycoon, to whom the Mikado appealed for aid. The other error is that the Prince of Nagato "agreed to pay" the expenses of the combined expedition to Simonoseki. In a note to the four powers he intimated his willingness to provide some indemnity, but they refused to hold any diplomatic correspondence with him, and no terms of agreement were suggested, and no such agreement was formulated by him or any of the four powers. Your committee have carefully looked into the history of the connection of our Government with the affairs of Japan during the period above mentioned, and, with the exceptions stated, find it fairly and truly epitomized in the report of Mr. Banks, as above copied.

The convention of the 24th of October, 1864, is in all respects valid, and should be executed in its true spirit and meaning. It has established by treaty the right of all nations, perhaps, at least of all the powers having treaty relations with Japan in 1864, to the free navigation of the inland sea of Japan. And this is a very important result. This question, therefore, and the means by which its solution has been reached, must be considered as settled. The true spirit and meaning of this convention as to the $3,000,000 of indemnity which it provided should be paid by Japan jointly to Great Britain, France, the Netherlands, and the United States, and our duty and just policy as to the disposition we shall make of the portion which the other three powers have, by agreement with our Government, allotted to it, are the only matters that can now be properly open to our consideration.

Your committee are of opinion that the matter of the disposal of this fund is to be determined by our own present sense of duty, and our sentiments of friendship, as a Government, toward Japan, rather than by reference to any fixed policy to be established as a precedent in like cases, or by entering upon a review of the grounds on which the Government acted in this case, with the purpose of reversing or even criticising its conclusions as embodied in this convention.

The return to Japan of so much of this fund, in the custody of the Department of State, as we received from that government, has been kept an open question from the time of the receipt of the first installment, and has been much discussed by our Government from that time to this.

Before the expedition of the four allied powers was sent against Mori Daizen, Prince of Nagato and Suwo, and in the discussion of the terms of the agreement between the four powers, which resulted in the expedition to Simonoseki, and also in the subsequent negotiations which resulted in the convention of October 24, 1864, Mr. Pruyn, our minister to Japan, expressed much solicitude that our peculiar relations of friendship with Japan should not be marred by the possible suspicion on their part that we would accept money from that government as a "salve to wounded honor," or that our policy toward the Japanese people was dictated by mercenary motives.

He recognized the fact that the United States, in 1852, in advance of other powers, and with the highest gratification, had taken Japan by the hand and led her into the circle of the family of commercial nations as a sovereign treaty power, endowed with all the rights and dignity of a great empire.

The just and sensitive respect with which our minister regarded the people and the Government of Japan, in the serious embarrassments which had, in a great measure, grown out of the confidence they had reposed in our Government when they entered into treaty relations with us through the efforts of Commodore Perry, was earnestly felt by the Government and the people of the United States. Mr. Seward expressly instructed him not to make war on Japan. England also gave like instructions to its minister. Our Government was fully conscious of the fact that its newly-established relations with Japan, into which the other great powers had eagerly pressed with claims for equal advantages, was the cause of a complete political, social, and commercial revolution in that empire, which was in rapid progress in 1863 and 1864. Each of the four great organic powers in the Japanese Government—the Mikado, the Shogunate, the feudatory princes, and the people—were struggling for ascendency. And each of the contending factions knew that the treaty with Perry was the cause of this commotion.

Social strife, commercial rivalry, political jealously, court intrigues, partisan conflicts, and destructive wars between each and all of the recognized powers of the empire were prevailing in every part of Japan.

The treaty powers all perfectly understood that the new policy of commercial intercourse with other nations, which they had induced, if they had not forced, Japan to adopt, was the real cause of her then torn and distracted condition.

Under such circumstances a policy of kindness and forbearance toward Japan was entirely becoming on our part, and it was never lost sight of, either by Mr. Pruyn or his successor, Mr. Portman, as chargé d'affaires, or by Mr. Seward, the Secretary of State.

It was essential, in order to meet the exigencies of a situation which seemed to change with almost every day, that a large discretion should be given to our minister in Japan, and that we should act in concert with the other treaty powers. We were engaged in a great civil war at home, and could not spare the ships with which to impress upon the Japanese people a just idea of our power, and for that reason also we did not look very narrowly into the details of the measures that for the time were considered necessary by our minister to compel the Japanese Government and people to observe its treaty engagements with us. Under these circumstances his conduct was approved by the President. Indeed, the President had little discretion in the matter, for the results were accomplished in Japan before they were communicated to him by our minister, owing to the great distance between the two countries.

Our minister, acting by agreement with the representatives of other treaty powers, adopted and carried into effect, without instructions or previous authority from this Government, the most stringent measures against Mori Daizen, a rebellious prince of Japan. He, in conjunction with ministers of other powers, made war on that prince, and held Japan responsible for its cost. He, and the other ministers, concluded the convention of October 24, 1864, and collected an installment of the indemnity which it provided, and remitted it to the United States before Congress had considered the question of its ratification.

Mr. Pruyn, in this unusual and very energetic course of action, was guided by his conceptions of duty to protect the treaty rights of his own Government; and by the consideration (scarcely less important) of still further liberalizing the intercourse of Japan with foreign countries, by gaining additional open ports for their trade, and by removing restrictions upon the exportation of the products of that country.

His conduct was governed by these considerations, and he and the other ministers of the treaty powers were greatly embarrassed by the difficulty in getting reliable information as to the actual political situation in Japan, and in ascertaining the proper authorities upon whom to make demands for the faithful observance of the treaties.

Mr. Pruyn wisely adopted a tentative course in his treatment of the question of the indemnity to be demanded after the success of the expedition to Simonoseki. His real purpose being to cause the opening of additional ports, as well as to keep open the inland sea, and to compel the Mikado to ratify the treaties made by the Tycoon, he, in concert with the other ministers, resorted to the expedient of imposing on Japan a very heavy charge for the expenses of the expedition to Simonoseki—a charge entirely out of proportion to such expenses, and all other losses and indignities suffered by the four powers or their people; and then offered to accept in lieu thereof one or two additional open ports, and the ratification of the treaties by the Mikado.

The government of the Tycoon, with whom all the treaties had been made, eagerly accepted the terms as proposed in negotiating the convention, and proceeded with unusual punctuality to pay the first three quarterly installments.

This alacrity was inspired by a dread of war with the four powerful allies, Great Britain, the Netherlands, France, and the United States, and by the hope that the lapse of time would give the Tycoon the ability to bring the Mikado around to the support of his treaty policy, which looked to the entire emancipation of Japan from the exclusive policy which for centuries had shut her people out from intercourse with other nations. The Tycoon was successful in both respects; the war was arrested, and the Mikado ratified the treaties.

The alternative of substituting the additional open ports for the payment of the $3,000,000 was, by the language of the convention, placed under the option of the four powers, but it is undeniable that this was not the real understanding. Every declaration and act of each of the treaty powers, including Japan, both before and after the convention was signed, is to the effect that Japan had the right to tender additional opened ports in lieu of the money.

The peculiar language of the convention on this point was the result of the apprehension of the Tycoon that if it was left in his power to discharge the money demand by opening the ports, the war which he was then preparing to wage against Nagato and other rebellious princes, to reduce them to obedience, would be regarded by the Japanese people as a war in aid of the foreign powers, and not for the purpose of restoring order and subordination to law within the empire. All the parties to the convention understood that the real purpose was to impose a heavy money demand on Japan to induce all the contending parties there to consent to open other ports to foreign trade.

Mr. Seward, then Secretary of State, understood the situation perfectly, and to keep the duty of the United States fully in the view of Congress and the people, in his letter of January 6, 1868, to Hon. N. P. Banks, chairman of the House Committee on Foreign Relations, he said: "This Government has received from the Japanese Government, without substantial equivalent, as its share of the indemnity stipulated to be paid by that treaty, the sum of $600,000 in gold." Under this impressive denial of our just and equitable right to this money Congress has never attempted to appropriate it to the use of the Government.

This declaration was made before the indemnity was fully paid, and is in perfect accordance with the then well-understood views of our then minister in Japan, and with many express declarations of his predecessor, who took part in framing the convention of October 24, 1864.

The Tycoon and the Mikado, after he had ratified the convention, decided, it is true, to pay the indemnity in preference to opening other ports at the time the demand was made; but it is to be remembered that this was the very question upon which the daimios were then exciting the people of Japan to hostilities against the government of both rulers; and they did not dare at that time to avow their wish to open other ports. The presence of civil war at the doors of the palace of the Mikado prevented him from risking his life and the existence of his government upon that question.

The civil war progressed with great vigor, and the hostile daimios were subdued and reduced in 1868 to the rank of private citizens; and the government, in the convention of July 24, 1878, has agreed to open the port of Simonoseki, and another port to be hereafter agreed upon.

The committee have presented in this brief outline their view of the circumstances under which this convention was made, so that it may be seen that these facts and the recitals of the instrument accord very clearly with the opinion so often expressed by the Presidents of the United States, the Secretaries of State, the committees of the two Houses, and the vote of each House of Congress, that it is our duty to return this fund to Japan.

Ten reports have been made to the two Houses, in which this subject has been carefully considered, and bills providing for the return of this fund have passed each House, but not at the same session of Congress.

While there has been some diversity of opinion in Congress as to the grounds on which our return of this indemnity fund should be based, the duty has been distinctly recognized in all the reports made to Congress on the subject. There has been no adverse report.

The convention is as follows:

"The representatives of the United States of America, Great Britain, France, and the Netherlands, in view of the hostile acts of Mori Daizen, prince of Nagato and Suwo, which were assuming such formidable proportions as to make it difficult for the Tycoon faithfully to observe the treaties, having been obliged to send their combined forces to the Straits of Simonoseki in order to destroy the batteries erected by that daimio for the destruction of foreign vessels and the stoppage of trade; and the government of the Tycoon, on whom devolved the duty of chastising this rebellious prince, being held responsible for any damage resulting to the interests of treaty powers, as well as the expenses occasioned by the expedition:

"The undersigned, representatives of the treaty powers, and Sakai Hida no Kami, a member of his second council, invested with plenipotentiary powers by the Tycoon of Japan, animated with a desire to put an end to all reclamations con-

cerning the acts of aggression and hostility committed by the said Mori Daizen since the first of these acts in June, 1863, against the flags of divers treaty powers, and, at the same time, to regulate definitely the question of indemnities of war, of whatever kind, in respect to the allied expedition to Simonoseki, have agreed and determined upon the four articles following:

"1. The amount payable to the four powers is fixed at $3,000,000, this sum to include all claims of whatever nature for the past aggressions on the part of Nagato, whether indemnities, ransom for Simonoseki, or expenses entailed by the operations of the allied squadrons.

"2. The whole sum to be payable quarterly in installments of one-sixth, or half a million dollars, to begin from the date when the representative powers shall make known to the Tycoon's government the ratification of this convention and the instructions of their respective governments.

"3. Inasmuch as the receipt of money has never been the object of the said powers, but the establishment of better relations with Japan, and the desire to place these on a more satisfactory and mutually advantageous footing is still the leading object in view; therefore, if His Majesty the Tycoon wishes to offer in lieu of payment of the sum claimed and as a material compensation for loss and injuries sustained the opening of Simonoseki or some other eligible port in the inland sea, it shall be at the option of the said foreign governments to accept the same or insist on the payment of the indemnity in money under the conditions above stipulated.

"4. This convention to be formally ratified by the Tycoon's government within fifteen days from the date thereof.

"In token of which the respective plenipotentiaries have signed and sealed the convention, in quintuplicate, with English, Dutch, and Japanese versions, whereof the English shall be considered the original.

"Done at Yokohama, this 22d day of October, 1864, corresponding to the 22d day of the ninth month of the first year of Gengi."

The following analysis of the recitals in the preamble to the convention is believed to present the case fairly, and may assist in coming to a correct interpretation of the agreement:

1. That Mori Daizen was "a rebellious prince;" his rebellion being against the lawful authority of the Tycoon, with whose government we then held treaty relations fully recognizing its imperial power.

2. That the Prince of Nagato had committed acts of aggression and hostility, the first of which was in June, 1863, "against the flags of divers treaty powers," none of which are named.

3. That the hostile acts of "this prince were assuming such formidable proportions as to make it difficult for the Tycoon to faithfully perform the treaties."

4. That the four powers were "obliged to send their combined forces to the Straits of Simonoseki, in order to destroy the batteries erected by that daimio for the destruction of foreign vessels and the obstruction of trade."

5. That "the duty of chastising this rebellious prince" devolved on the government of the Tycoon.

6. That, in consequence, the government of the Tycoon was "held responsible for any damage resulting to the interests of the treaty powers, as well as the expenses occasioned by the expedition" to Simonoseki.

7. That the minister Hida no Kami, "invested with plenipotentiary powers by the Tycoon of Japan," and the representatives of the treaty powers "were animated by a desire to put an end to all reclamations concerning the acts of aggression and hostility committed by said Mori Daizen since the first of these acts in June, 1863, against the flags of divers treaty powers;" and were also animated with the desire "at the same time to regulate definitely the question of indemnities of war, of whatever kind, in respect to the allied expedition to Simonoseki."

8. On this basis of facts, and for these purposes, the agreement was entered into.

Construing these recitals most strongly against Japan, there is nothing in them to indicate why that Government should pay "ransom for Simonoseki," and it is beyond dispute that the Government of Japan had paid in full for all "past aggressions on the part of the Prince of Nagato," to each of the treaty powers, except France, under separate agreements (in each case) not included in this convention. So that nothing was left to be provided for with the $3,000,000, so far as the United States were concerned, besides the "expenses entailed by the operations of the allied squadrons," and the claims of the officers and crew of the Wyoming, and the claim of the United States for injuries sustained by that ship. Japan had apologized in the most humble way for the affront to the flags of the treaty powers, and had disclaimed all participation in the insult so offered.

The convention, therefore, is silent as to that grievance as a ground for pecuniary compensation, in stating the account of "all claims of whatever nature," which the sum of $3,000,000 was intended to cover. It speaks only of "indemnities," the "ransom of Simonoseki, and the expenses entailed by the operations of the combined expedition."

This sum was greatly disproportioned to the expenses of that expedition, so far as the United States was concerned.

We only expended $11,608, including the charter-party of the Ta-Kiang, and coal, and the ammunition expended. We lost no men and sustained no actual damage. The officers and men we sent on the expedition were taken from the Jamestown, and drew the same pay they would on board that ship.

This is the whole case as it appears in the convention.

We selected this ground for our demand of idemnity, and put our case upon it in the preamble to the convention. We had no other available ground to rest it upon; but if we had, we are concluded by the ground thus voluntarily assumed.

If Japan had been then, as it has since become, a nation enlightened in the knowledge of the laws of nations, it might have appealed with effect to those laws upon the question of its liability for the acts of a rebellious prince against powers whose relations with the empire were peaceful.

It is difficult to perceive in such a case how Japan, under the law of nations, could be held bound for such acts, unless that government gave the Prince of Nagato secret encouragement, or, being able to prevent his depredations, neglected to do so. Both these grounds of complaint are negatived by the recitals of the convention; and the contemporaneous history of those events as plainly relieves the Government of Japan from any just ground of censure for the conduct of the Prince of Nagato.

The convention and the statements made in our diplomatic correspondence show clearly that the expedition to Simonoseki was sent out with the express approval of the government of the Tycoon, and with all its consequences and results it was afterward sanctioned and approved by the Mikado.

The combined powers were the friends and allies of Japan, and not its enemies.

They sent out the expedition to wage a war that Japan, in the convention, admitted it was the duty of that government to wage, and the expenses of which it voluntarily assumed, and paid to the United States thirtyfold the amount of injury and expenses it had sustained.

The treaty powers proposed on several occasions to take the port of Simonoseki and the adjacent coasts of the inland sea and deliver them to the Tycoon as imperial territory. This he declined, preferring not so seriously to disturb the ancient order of the government. Being his allies, and having made these overtures, there seems to be no just ground for the mention in the convention of the "ransom of Simonoseki."

The four powers were as much interested in protecting the freedom of the seas as was Japan.

No treaty had ever declared this inland sea open to the ships of the world Grant that it was so open, it was not a treaty obligation of Japan to keep it open. That was the common right of every power, and, by consequence, the duty of every power. But Japan conceded the point of duty to keep it open, and in obtaining the aid of others to perform this duty, she has also conceded the obligation to pay the entire expenses of the expedition. She has bound herself by these means; but the question remains, can the United States afford now to hold her to this obligation and compel her to pay expenses that were never incurred?

Your committee are convinced that we cannot now afford to take that ground with a government which, though many centuries older than the United States, is still our grateful foster-child in the great family circle of nations.

Japan has at great expense uncomplainingly kept in line with the most advanced ideas of our own Government in the adoption for her people of all the beneficent treaty relations between the governments of the world, and in her internal policy has made a progress that is the marvel of the age.

The Tycoon and the daimios, representing a powerful and harsh feudal system, have alike fallen under the effects of the civilization we have been so greatly interested in planting in Japan; and now the empire is about to secure to its people the guarantees of a liberal constitution. This has cost Japan long and wasting civil wars, and has already run up her public debt to a very large sum. The money with which she has paid the three millions indemnity cost her 9 per cent. per annum in London and is not yet all paid.

This convention contains a statement of the objects for which it was made, namely: "The establishment of better relations with Japan, and to place these on a more satisfactory and mutually advantageous footing." It declares such to be "still the leading object in view." It then points out the means by which this object may be obtained, namely: "As a material compensation for the loss and injuries sustained, the opening of Simonoseki or some other port in the inland sea."

As a preface to this declaration, there is an earnest protestation in the third article of the convention, "that the receipt of money has never been the object of said powers."

If the object so earnestly desired by the four powers has been granted without injurious delay, and without any new and unreasonable condition, it should, equitably, be accepted as a satisfaction "in lieu of the payment of the sum claimed," inasmuch as "the receipt of money has never been the object of said powers, but the establishment of better relations with Japan on a more satisfactory and mutually advantageous footing."

These declarations had been frequently made to the government of the Tycoon, and to the Mikado, by each of the four powers, and were understood by the Japanese Government as being continuing offers on the part of the four powers to take the open ports, or some equivalent advantage, in lieu of indemnity. In the negotiations for this convention, the signing of the treaties by the Mikado and the reduction of duties on Japanese imports and exports were more than suggested as topics of discussion. But the convention did not include these demands. It was then too early to insist on these projects, and they were deferred until the power should be gained, by the imposition of exorbitant pecuniary demands upon Japan, then greatly in need of money, to compel that government to yield to these demands. As soon as the convention was signed, then the new demands were pressed upon Japan, while the hope of a release from the $3,000,000 was kept constantly in her view. Japan could not then open new ports, and she eagerly accepted the conditions of a reduction of the tariff and the ratification of the treaties by the Mikado as a means of inducing some leniency in the extension of the time of the payments of the pecuniary indemnity.

The letter of Mr. Pruyn, of October 28, 1864, to Mr. Seward, states further the *animus* of the four treaty powers in levying this "pecuniary fine," as he rightly styles the $3,000,000 indemnity.

In that letter he says, speaking of the convention:

"I am unable to regard it with unmixed satisfaction. * * * The declaration embodied in it 'that the receipt of money has never been the object of the treaty powers, but the establishment of better relations with Japan, and the desire to place them on a more satisfactory and mutually advantageous footing, is still the leading object in view,' met my most hearty approval. It is highly honorable to the treaty powers, and will, in my judgment, if acted on, greatly promote their interests. It would be a great misfortune should the opinion prevail that money alone can atone for injuries.

* * * * * * *

"The British minister and myself, prior to meeting the Japanese commissioners, had agreed on $2,000,000 as the sum to be paid, and would have had no difficulty in its division among the powers interested. But some difference was suggested as likely to arise from the considerations whether the moral support afforded was not entitled to weight in such adjustment, and I did not feel that it was incumbent on me to interpose any objection to this view, as the moral support afforded by the United States was considerably in excess of the material support I was enabled to give. I therefore readily agreed to the reference of this delicate question to the home governments, with the understanding that a memorandum which I prepared should be signed and accompany the convention, so as to provide an equitable basis, if any should become desirable or necessary, by reason of payment of the indemnity being demanded by them. I assented more readily to the proposition of the envoy of His Imperial Majesty the Emperor of the French to fix the amount at three millions of dollars, because I thought it more likely to lead to the substitution of a port as the material compensation for the expenses of the expedition.

"Should the Tycoon be averse to the opening of another port, and fail to make such offer in lieu of the payment of indemnities and expenses, the amount agreed will not be regarded as unreasonable. But should he make the offer, it will be at the option of the four great powers to accept it in full or in part payment, and in that event a moderate pecuniary fine may be imposed.

"In either case provision will be made for a reasonable indemnity for damages sustained by the Wyoming and Monitor, and for the insult to our flag offered by the attack on those vessels as well as on the Pembroke, the owners of which have received from the Japanese Government a sum which covers their loss as estimated by themselves."

France and the Netherlands have constantly indicated their preference for the pecuniary indemnity to the acceptance of additional open ports. The United States have urgently insisted on the extension of their trade with Japan, and have assiduously cultivated every opportunity to prove to Japan that they were honest in the desire to see that country build up in real prosperity, in solid growth, and in national wealth and power.

Great Britain demanded the ratification of the treaties by the Mikado, the opening of the ports, and a reduction of the Japanese tariff on imports to the lowest rate.

The United States, with unwise complaisance, joined in the movement for restricting the tariff laws of Japan, by which that government has almost lost the means of self-support. They have recently found it necessary to attempt an act of justice to Japan by ratifying a convention, subject to ratification by other powers, to restore Japan to her rightful and indispensable authority over her own sources of revenue.

Japan could not afford, until a recent date, to encourage a policy of free intercourse with foreign governments. Her people were religiously wedded to the exclusive system, and she could not venture to force a policy that was so radically opposed to the sentiment of her people. Her troubles and embarrassments on this score have become more apparent by the lapse of time, and we are now better prepared to do Japan justice, in weighing the motives of her conduct, than we were twenty years ago.

It is now known to all civilized nations that she has emerged from the thralldom

of a traditional policy of exclusiveness, to which her people were bound by their religious faith, and by bitter memories of former persecutions and sufferings at the hands of foreigners, with wise and steady steps, and with far greater success than would have been possible if the movement had been more rapid and compulsory. Japan deserves our sympathy and help in her great and unexampled efforts to bring her thirty millions of people up to the full enjoyment of the benefits of a high civilization.

This was the object that we stated to be chiefly in view in the convention of October, 1864.

THE CASE OF THE WYOMING.

This convention makes no specific mention of the visit of the war steamer Wyoming to the Straits of Simonoseki in 1863, nor does it mention the firing upon the merchant ship Pembroke, as events that gave rise to a claim for compensation by the United States. The owners of the Pembroke had been extravagantly compensated for all their losses before the convention was agreed upon.

Our minister, in his dispatch (No. 48) of July 24, 1863, to Mr. Seward, referring to the visit of the Wyoming to Simonoseki, from whence it had just returned, imputed the conduct of Prince Nagato to "the hostility of the daimios," and accusing the Mikado and Tycoon of complicity with him, said "his acts, if justified by the government, constituted war; if disowned, were acts of piracy."

In his letter to the Japanese ministers of foreign affairs of July 20, 1863, our minister says:

"The attack on the Pembroke was an act of piracy which required immediate punishment; as it was also an insult to and a defiance of His Majesty the Tycoon, in treating as enemies those whom he regards as friends. I regret that your excellencies did not propose to inflict the punishment yourselves, or to unite your flag with ours in doing so. This you doubtless omitted to do, as all your forces were required at Osaka for the defense of His Majesty the Tycoon."

On the 22d of July he wrote the same ministers, saying:

"I was happy to hear the above-named governors disavow, on your behalf, these criminal acts of that prince, and it will contribute to a good understanding and the friendship which has thus far so happily existed between the United States and Japan if your excellencies shall give practical effect and value to that disavowal by causing ample reparation to be made for the insult and injury to both the Pembroke and the Wyoming."

Thus it will be seen that we attacked the Prince Nagato as a pirate, exonerated the Japanese Government from criminal complicity with him, still claimed them as friends, and made excuse for their inability, in consequence of the situation at Osaka, to aid us in the attack on Simonoseki. But our minister seemed to overlook the definition of piracy in applying that charge to Nagato. He did not make an assault on our ships *animo furendi*, but to vindicate his asserted sovereignty over the inland sea at the Straits of Simonoseki.

The convention of October 24, 1864, also settled that matter. The battle with the Wyoming was after the 1st of June, 1863, from which date the convention includes "all claims, of whatever nature, for the past aggressions on the part of the Prince Nagato."

As all other claims in favor of the United States or our people had been paid by Japan, except the expenses of the expedition and the "insult and injury" to the Wyoming, and as our minister, on July 22, 1864, "demanded ample reparation to be made for the insults and injury to both the Pembroke and the Wyoming" by the Government of Japan, there can remain no doubt that the indemnities "provided by the convention included the injuries to the Wyoming and her crew."

If this construction of the convention is correct it is conclusive as to our duty to apply the money received, as far as necessary, to the indemnification of officers and crews of the Wyoming and Ta Kiang, and to the expenses of the ships, and for repairs, &c.

The treaty is, to us, the supreme law. But this duty becomes entirely clear when it is remembered that we received $140,000, out of the $3,000,000, above our aliquot part of the fund, in consideration that our ships had been fired upon by the Prince of Nagato.

This was a voluntary concession of the other powers, made to us for this reason, and we so accepted the money.

Japan has no claim for this part of the fund against the United States. Indeed, she has never made a claim for the portion of the $3,000,000 paid to us. But it is well understood that she admires and applauds the conduct of the Wyoming, and freely acknowledges the value of her services in bringing the Prince of Nagato to submission to Japanese laws and to the observance of the rights of the maritime nations, and would be glad to see that the United States had recognized the services and valor of her officers and men, as well as those of the Ta Kiang, in the substantial manner proposed by the bill referred to the committee.

The country has become familiar with the splendid action of the Wyoming in the Straits of Simonoseki, which gives to the history of our naval exploits one of its brightest chapters. But it is proper that this committee should again ask the attention of the Senate to the matter.

The following statement of that engagement is taken from the report of the Committee on Foreign Relations of the Senate, made by Mr. Scott, on the 9th of July, 1870. The committee then recorded these facts with evident and just satisfaction and pride:

"In obedience to the orders of the properly constituted authorities of the United States Government, the Wyoming weighed anchor at Kanagawa on the 13th of July, 1863, and set out on her voyage to the Straits of Simonoseki. She entered the bay of Simonoseki on the morning of the 16th of July. When she approached the entrance of the bay the fort next to her fired a signal gun, which was answered by all the forts and by the ships in the harbor. At this time the Wyoming had no flag up, but upon the signals being fired she hoisted her flag and proceeded into the bay, keeping as close as she could to the northern shore, contrary to the expectations of the Japanese. The first fort immediately opened a heavy fire upon her, and so did all the others, as she moved slowly along shelling the forts with such an effect as to silence such of them as received her fire. The men in the forts which received shells from the Wyoming were observed to rush out and jump from the heights in such a precipitate manner as to lead to the belief that the shells must have told with greater effect and done more damage than the Japanese anticipated.

"The bark and the brig Laurick, the two vessels which fired on the Pembroke, were still there, and another vessel also, the steamer Lancefield. These vessels lay close under the town, the bark being inside, the Laurick next to her, and the Lancefield outside with steam up and a great number of men on board, apparently making preparations to approach and board the Wyoming. Captain McDougal ordered the Wyoming to be taken in between the Lancefield and the Laurick, and prepared to give each of them a broadside in passing. The Laurick fired first, but immediately afterward the Wyoming delivered her broadside on the two Japanese and sent a ball through the stern of the Laurick in such a way as to leave her apparently sinking. The Wyoming moved on slowly, firing into the forts and the town as she went, and making a curve to enable her to return to fire on the ships again; but as she was turning the Lancefield moved on across the track of the Wyoming further into the bay to escape at the western outlet; but the Wyoming, while curving, brought her great pivot gun to bear on the Lancefield in her new position and sent a ball right through her boiler, causing her to blow up and scattering destruction through every part of the vessel. Steam, cinders, &c., were blown out in all directions, and such of the crew as were not immediately overwhelmed jumped overboard. The Wyoming returned under a slack fire from the forts, and, having done all that she deemed necessary for that time, she returned to Kanagawa to report what had taken place. She arrived here about two a. m. on the 20th of July. The engagement lasted an hour and ten minutes. The Wyoming received eleven shots and had four men killed in action and seven wounded, one of whom died on the passage back.

"This is substantially the description of the engagement as it appears in the Japan Commercial News of July 22, 1863."

The official accounts of the engagement are even more flattering to Commander McDougal and his men, since they show that he was in strange waters, in a narrow channel where the current was very strong, with Japanese for pilots, who protested that he could not float his ship on the line he selected, near the shore, to avoid the fire of the batteries, and that his remarkable success was due to the most intrepid courage, and to the highest skill in handling his ship.

In a letter of Hon. George S. Fisher, United States consul at Yokohama at that time, he thus speaks of the value of the ships sunk and disabled and grounded by the Wyoming:

"The vessels destroyed by the Wyoming were the British brig Alert, clipper built, twelve guns, and very superior sailing vessel. She was sold to the Japanese Government for $45,000, Mexican money.

"The British steamer (iron) Lancefield, sold but a few weeks previously ostensibly to the Japanese Government, but really to or for the Prince of Nagato for $160,000, Mexican money, and the American bark Daniel Webster, sold also to the Japanese Government for $22,000, Mexican money.

"These vessels, with the batteries placed upon the Lancefield and Webster, and the other public property of the enemy upon three destroyed, amounted in value to full $300,000, or $550,000 of our money."

It may be that no statute of the United States precisely covers this claim, and permits its recovery as prize-money in favor of the officers and crews of the Wyoming and Ta Kiang. If so, that is a sufficient reason for a special enactment. The justice and equity of the case seem clearly to require that Congress should make a substantial recognition of the exceptional heroism of these brave men.

Many of them, and the widows and children of those killed in battle, or who have since died, are in necessitous condition. Some are very poor. They appeal to Congress for this act of justice which has been delayed now nearly twenty years.

Their claim is based upon the convention by which they were intended to be provided for; upon the fact that $140,000 was set apart for them by the other contracting powers and paid to the United States in virtual trust for them; and upon the precedents in cases analogous to this, where Congress has not hesitated to make provision for the crews of ships that have rendered services to the country of conspicuous merit.

Congress by special acts awarded:

1. To the officers and crew of the United States frigate Constitution, for destruction of the British frigate Guerriere, $50,000, to be distributed as prize-money, (2 Statutes at Large, 818.)

2. To Captain William Bainbridge, his officers and crew, for the destruction of the British frigate Java, $50,000, to be distributed as prize-money, (2 Statutes at Large, 818.)

3. To the officers and crew of the sloop of war Wasp, for the capture of the British sloop of war Frolic, $25,000, (2 Statutes at Large, 818.)

4. To Captain Oliver H. Perry and the officers and crew of his squadron, for the capture of British vessels on Lake Erie, September 10, 1813, $255,000, and $5,000 to Captain Perry in addition to his share of the aforesaid sum, (3 Statutes at Large, 130.)

5. To the officers and crew of the sloop of war Wasp, for the capture and destruction of the British vessels Reindeer and Avon, $50,000, and one year's pay in addition, (3 Statutes at Large, 296.)

6. To Commodore Decatur, his officers and crew, for the capture of Algerian vessels, which were afterward released and restored to the Dey of Algiers, $100,000, (3 Statutes at Large, 315, 316.)

7. To the officers and crew of the United States steamer Kearsarge, for the destruction of the Alabama, $190,000, the full estimated value of the Alabama, (17 Statutes at Large, 9, 53.)

This fund has been in the possession of the Government of the United States since it was received by our ministers. The Government has forborne to appropriate it, because it preferred to await the course of events, which might make it proper to return it to Japan, or else to cover it into the Treasury.

The increasing cordiality of our relations with Japan, and the freedom of commercial intercourse with that country, invite us to a course of corresponding liberality.

The committee report the bill without amendment and recommend that it pass.

APPENDIX.

DEPARTMENT OF STATE,
January 11, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, asking for certain information in regard to the Japan indemnity, and in reply to forward herewith a report on said indemnity, in answer to your several inquiries.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. J. T. MORGAN, *United States Senate.*

[Report.]

BUREAU OF ACCOUNTS, *January* 10, 1882

SUBJECT: JAPANESE INDEMNITY.

Receipts on account—Avails of drafts on Baring Brothers.

Date.	Sterling.	Coin.	Currency.
	Pounds. s. d.	*Dollars.*	*Dollars.*
January 26, 1867	10,000 0 0	48,555 56	65,307 22
March 7, 1867	10,000 0 0	48,000 00	64,980 00
March 16, 1867	10,475 13 10	50,690 70	67,988 90
April 6, 1867	10,000 0 0	48,333 33	64,162 50
April 23, 1867	15,000 0 0	73,000 00	100,740 00
May 10, 1867	15,000 0 0	73,000 00	99,918 75
June 12, 1867	18,406 5 0	89,883 85	123,028 50
	88,881 18 10	431,463 44	586,125 87

The above constituted the first, second, and third installments, the first of which by general consent of the representatives in Japan of the four powers was remitted to the British treasury; the portion belonging to the United States was turned over by the treasury to the United States minister in London, and by him deposited with Baring Brothers, and drawn thence by the agent of this Department.

In June and July, 1867, $585,000 were invested in 10-40 United States registered bonds, at a premium of 2⅞ per cent.

An annual interest, 5 per cent., payable semi-annually, on the 1st March and 1st September, was received on these bonds.

The interest, received in gold, was sold at a premium of about 40 per cent. in 1868; of from 38 per cent. to 32 per cent. in 1869. The March (1870) interest was sold at a premium of only 12¾ per cent.

The fourth and fifth installments, amounting to £54,562 10*s.*, and the sixth installment, £26,984 7*s.* 6*d.*, in all £81,546 17*s.* 6*d.*, were received by the Department of State as follows:

On March 4, 1875, $364,000, 10-40 bonds, and the balance, £6,546 7*s.* 6*d.* in $31,860, coin, making the whole amount received $785,000.87.

The investments continued to be made in ten-forties and in new 5 percents of 1881 (both United States registered bonds) until on the 15th of May, 1879, when $1,208,000 10-40 United States bonds were converted by and at the Treasury Department into $1,208,000 of 4 per cent. consols, and $11,831.78 cash.

From that date the investments of interest were mainly made in 4 per cent. consols until the 6th of July, 1881, when $300,000 United States registered bonds of the loan of 1881 were extended for a like amount of 3½ per cent. United States bonds, similarly registered, and $4,204.04 cash.

Investments since that date have been mainly made in 3½ per cent. United States registered bonds.

The amount of bonds now in the custody of the Department and belonging to the Japanese indemnity is as follows:

Four per cent. consols	$1,418,850 00
Fives, extended, 3½ per cent	347,900 00
Amount of bonds	1,766,750 00
In order to show the amount of this indemnity as it will be on the 30th June, 1882, it is necessary to add:	
Amount in agent's hands	$130 90
Interest which will be due February 1, 1882, on 3½ per cent. bonds	3,044 12
Interest which will be due May 1, 1882	3,044 12
Interest due April 1, on 4 per cent. consols	20,148 50
	1,793,117 64

The 4 per cent. consols are to-day worth a premium of over 17½ per cent. The fives, extended, bear a premium of over 2 per cent.

Investments have been made from time to time under the direction of the Secretary, who enjoined economy in purchases of bonds. Such has been the custom of the Department with reference to the Geneva award, Chinese and other indemnities of lesser importance.

Schedule of 4 per cent. consols of the United States registered in the name of the Secretary of State of the United States, belonging to the Japanese indemnity.

Denominations.	Serial numbers.					Amount.
$50,000	2,174	2,175	2,176	2,177	2,178	$1,300,000
	2,179	2,180	2,181	2,182	2,183	
	2,184	2,185	2,186	2,187	2,188	
	2,189	2,190	2,191	2,192	2,193	
	2,194	2,195	2,196	2,197	2,198	
	5,098					
20,000	1,616	1,912	2,000			60,000
10,000	15,474	15,475	15,476	35,568		40,000
5,000	22,526	23,444				10,000
1,000	81,716	81,717	101,602	102,762	104,274	6,000
	104,275					
500	7,877	33,978	50,946	53,279	53,838	2,500
100	56,961	72,367	125,938			300
50	16,143					50
Amount of 4 per cent. consols						1,418,850

Schedule of 5 percents of 1881 extended at 3½ per cent. United States bonds, registered in the name of the Secretary of State of the United States, belonging to the Japanese indemnity.

Denominations.	Serial numbers.				Amount.
$50,000	3,495	3,496	3,497	3,498	$300,000
	3,499	3,500			
20,000		1,658			20,000
10,000		8,120	12,099		20,000
5,000		4,417			5,000
1,000		8,617	8,618		2,000
500		2,344			500
100	3,491	3,492	3,495	7,840	400
Amount of 3½ percents					347,900

Mr. MORGAN. A brief summary of the facts upon which this report is based, and upon which twelve reports have been made now in the two Houses of Congress, all favorable to the action that is proposed to be taken in the pending bill, is found in one of the first reports, made on the 20th of May, 1872, by Mr. Banks, who was then chairman of the Committee on Foreign Affairs of the House of Representatives.

Mr. INGALLS. Will the Senator have that report read?

Mr. MORGAN. I will read Mr. Banks's report, or, if the Senator prefers, I will send it to the desk to be read there.

Mr. INGALLS. Let it be read by the Chief Clerk.

The Principal Legislative Clerk read as follows:

Commercial intercourse between Japan and Christian nations was commenced by Commodore Perry's expedition from the United States in 1852. A treaty of peace and amity between the United States and Japan was signed the 31st of March, 1854. This was the first treaty made between Japan and foreign powers. It opened the ports of Simoda, in the principality of Idzu, and Hakodadi, in the principality of Matsai, to American vessels, and secured to Americans the freedom of the country within the limits of seven Japanese miles from an island in the harbor of Simoda. It also authorized the appointment of consuls for the United States at Simoda. After an absolute prohibition of communication with foreign nations for two hundred years, diplomatic intercourse was established by the United States. The Portuguese and Dutch had enjoyed the privilege of sending one or two vessels a year to Japan from an early period, but with very limited trade and no intercourse with the people. The success of the United States led England and Russia to send expeditions to Japan, and in the year following the negotiation of the American treaty the same advantages were granted to England, Russia, and Holland. A convention negotiated by Commodore Perry, June 17, 1857, opened the port of Nagasaki, in the principality of Hizen, and secured the right of citizens of the United States to reside permanently at Simoda and Hakodadi. In July, 1858, Mr. Townsend Harris negotiated a commercial treaty for the United States upon the basis of that negotiated between the United States and China in 1854. This treaty permitted the residence of diplomatic agents at Yedo, and the appointment of a minister of Japan, to reside at Washington, and consuls at all ports of the United States. The ports of Kanagawa, Nagasaki, Nee-e-gata, and Hiogo were opened in succession at different periods of time to American vessels. Americans were allowed to reside at Yedo and at Osaca for purposes of trade. Religious freedom was secured to Americans, and places of public worship were to be protected by the Japanese Government.

Intercourse was thus established with the principal Christian nations after an isolation of more than two hundred years. Great opposition was made to the new policy of Japan by some of the native princes, who were sustained by their retainers among the lower orders of the people. The period immediately following the negotiation of the commercial treaty by Mr. Harris was one of violent disorders; the Tycoon was assassinated, one of the principal officers of the foreign legations was murdered, and several legation buildings were burned. The native princes held in their pay masses of the people, who endeavored to intimidate native merchants and destroy the trade with foreigners. Small traders and workingmen were organized against the supporters of the new policy and those engaged in foreign commerce, and some of the most prominent silk merchants were assassinated during the period.

The rebels against the liberal policy of the Japanese Government seized the forts and some of the principal naval posts, and made war upon all foreign vessels. The American frigate Wyoming and the merchant ship Pembroke were fired upon in 1863. In 1864, Choshu, Prince of Nagato, who ruled the provinces of Suwo and Nagato, having absolute possession of the Japanese fortifications which commanded the Straits of Simonoseki, and having with him the person of the Mikado, or spiritual ruler, refused to recognize the validity of the treaties concluded by the Tycoon with foreign powers, and closed by force this chief passage to the principal inland sea of the empire.

In this controversy the Tycoon desired at first to conciliate the anti-foreign party, and was disposed to yield to their demands; but he was relieved from that necessity by the support which the treaty powers gave to his government. At his request the forces of the United States, Great Britain, France, and the Netherlands, in Japanese waters, jointly determined to open the straits by force. The campaign opened on the 4th of September, 1864, and lasted five days. The fleets destroyed the batteries commanding the straits, blew up the magazines, threw shot and shell into the sea, carried away seventy cannon, and obtained an unconditional surrender from Prince Choshu, who agreed to pay the expenses of the expedition.

The treaties were ratified by the Mikado, as they had been before by the Tycoon, thus uniting the two elements of power existing in the Government of Japan, and the liberal foreign policy of the Tycoon was firmly established. The government of the Tycoon, preferring to assume the expenses of the expedition, which Choshu had agreed to pay, entered into the convention of October 22, 1864, stipulating to pay the four powers $3,000,000, "this sum to include all claims, of whatever nature, for past aggressions on the part of Nagato, whether indemnity, ransom for Simonoseki, or expenses entailed by the operations of the allied squadrons." The whole sum was to be paid quarterly in installments of half a million of dollars each.

Mr. MORGAN. That statement of facts is correct with two exceptions. The first incorrect statement is that the Prince of Nagato had with him the person of the Mikado in 1864. That prince, with a powerful army, attempted to seize the person of the Mikado in 1864, shortly before the affair of Simonoseki, but was defeated in his purpose by the forces of the Tycoon, to whom the Mikado appealed for protection. The other error is that the Prince of Nagato agreed to pay the expenses of the combined expedition to Simonoseki. In a note to the four powers he informed them of his willingness to pay some indemnity, but they refused to hold any diplomatic correspondence with him and no terms of agreement were suggested and no such agreement was formulated by him with any of the four powers. In truth, in the convention which we signed and in all of the negotiations which led to the adoption of that convention, the conduct of the Prince of Nagato was characterized as that of a rebellious prince against the Japanese Government. We assumed that he held such a relation as that to the government; and it was for the protection of the interests of the commerce of the world at large that we engaged really in behalf of the Government of Japan and in conjunction to some extent with it in endeavoring to put down this rebellious prince.

I desire to say that the committee, in considering this question and in coming to the conclusions at which they have arrived, and in which, as I have said, they followed ten reports which had been made before in the two Houses, thought that it was best to plant themselves upon the language of the convention itself, which is found in the report on page 6.

Take this convention, read it by its four corners, interpret it according to the context throughout, and there seems to be no doubt left at all that the money that we received from Japan, whether as indemnity or whether as ransom money, or whatever character we may choose to attribute to it, was received upon a condition expressed in the convention. It not only created the expedition but created on our part an engagement that we would not demand or accept this money in the event that Japan would carry into effect the course which had been inaugurated in the treaty with Commodore Perry ten years before, in 1853, for the opening of Japan to the commerce of the world. I will read the convention, in order that the Senate may have a distinct view of the obligations into which we entered with the Government of Japan when we received our part of the three million dollars of money taken from her.

Mr. JONES, of Florida. On that point will the Senator permit me to ask him a question?

Mr. MORGAN. Certainly.

Mr. JONES, of Florida. I desire to know if Japan, through any of

her accredited representatives, has insisted upon the fulfillment of the conditions of which the Senator speaks as entitling her to a return of this money?

Mr. MORGAN. I will state what has been the attitude of Japan on this subject. I state it with some hesitancy, because it sets a much higher example to the civilized nations of the world than they themselves have set upon frequent occasions. Japan has not come to the United States, to the Netherlands, to France, or to Great Britain with any demand, or anything. She has left it to the honor of the people of the United States at the time of the receipt of this money to determine what was our duty in the premises, and also in reference to several other things in regard to which we have had relations with Japan since 1863.

After one-half of the four installments had been received, and before the remaining half was received by the Secretary of State, the House of Representatives, by a very decided vote, resolved that they would not receive the remaining part of the indemnity fund. The bill came to the Senate, where it was lost for want of time to consider it here. The Senate took no adverse action upon that bill, which had passed the House. Japan, during the time that she was paying this money, frequently called the attention of our Government and of the other consorted powers to the fact that she was in very great strait; that she was making every possible effort to comply with the conditions in the convention itself, and beseechingly implored us that we would postpone at least the time of the payment of the balance. Mr. Seward, at the time the first of this money was received, declared, in a communication which was sent to the Congress of the United States, that the Government of the United States was in possession of a certain portion of this fund which had been received from Japan without any just equivalent. No more emphatic declaration could have possibly been placed before the world than that. The Congress of the United States immediately commenced action upon the subject, and, as I have stated, the House passed a bill declining to receive the remaining one-half of this indemnity fund, as it is called.

The Government of Japan of course saw what was the action of the Government of the United States both in its legislative and executive branches; and giving us credit for sincerity, giving us credit for a due respect to the obligations which we had placed in the convention itself, Japan has wisely, prudently, thoughtfully, and decently allowed the Government of the United States to proceed with this matter in its own way, without the slightest intervention or the slightest imploration on its part. Nevetheless that government has been all the time anxiously awaiting our action. [The President *pro tempore* rapped with his gavel.] I will ask the Senate for unanimous consent that I may proceed to explain the bill. I shall not trespass a moment longer than necessary for that purpose.

Mr. INGALLS. This bill is of too great magnitude and involves the consideration of questions of too great importance, both to the Treasury and as a precedent to guide action in similar cases hereafter, to be decided under the operation of the Anthony rule. I shall either object to the consideration of the bill at this time, if the rule is to be insisted upon, or else ask the Senator from Alabama to let it go over until it can be taken up and fully discussed. If the rule can be abrogated by the consent of the Senate, about which I express no opinion, then of course the discussion can proceed; but obviously, in a matter involving the return of more than a million dollars to the Japanese Government, it is grotesque to ask that it shall be considered under the application of the five-minute rule.

Mr. MORGAN. A personal explanation is due to me, after the remark of the Senator from Kansas, for bringing the bill to the attention of the Senate.

Mr. INGALLS. I make no reflection on the Senator from Alabama at all.

Mr. MORGAN. Not the slightest, only as it is "grotesque" to bring such a bill before the Senate, unless I should have done so with the expectation that the Senate by unanimous consent would give to each Senator who desired to debate the bill at least fifteen minutes, which I supposed the Senate would do, inasmuch as we have transacted a large amount of routine business and private business at this session of the Senate, more than was ever known before by half, I believe, to be transacted; and there are so many matters of weighty consideration pressing upon the attention of the Senate in the usual course of business that I thought it was my duty to ask for the consideration of this bill. I thereupon took the advice of the Committee on Foreign Relations, and they concurred with me that perhaps it would be better, inasmuch as the Senate had recently been somewhat indulgent upon this subject, to ask to have this bill considered in the morning hour. I do not think that the debate would last on my part over fifteen minutes.

Mr. BUTLER. I concur with the Senator from Kansas, [Mr. INGALLS.] It seems to me that this is a bill of too much consequence to be considered under the five-minute rule. I therefore suggest to my friend from Alabama that he allow the bill to go over. In the mean time the report will be printed in the RECORD, and the Senate can inform itself more thoroughly on the question involved than it could do even by a debate of the Senate at this time.

Mr. MORGAN. It being understood that the bill goes over without prejudice, I will consent to that course.

The PRESIDENT *pro tempore*. The bill will go over without prejudice.

Mr. MORGAN. I do not wish to thrust the bill upon the attention of the Senate.

The PRESIDENT *pro tempore*. The first bill upon the Calendar in its order will be announced.

E. P. SMITH.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1041) for the relief of E. P. Smith. It authorizes the proper accounting officers of the Treasury, in the settlement of the accounts of E. P. Smith, late an Indian agent, to adjust and settle the same upon the principles of equity and justice, and to award him credit for disbursements which appear to have been honestly made in good faith, and have inured to the benefit of the Indians of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TRESPASSES ON PUBLIC LANDS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1394) relating to the public lands of the United States, and to require payment of costs in certain cases of trespass or conversion of material therefrom.

Mr. INGALLS. I should like to hear some explanation of the bill.

Mr. COCKRELL. I see that there is no report accompanying the bill. I ask for some explanation to show the necessity for such a bill, and the effect of it.

Mr. BLAIR. It is a bill introduced by the honorable Senator from Wisconsin, [Mr. CAMERON.] It has reference to the adjudication of costs in the cases which are specified in the body of the bill itself. The cost of the survey and the scalement of the timber, or the amount of material in other cases of damages to the public lands, it seems would properly be included in the computation whenever the damages are made up against a wrong-doer; it would be included, in other words, in the amount of the verdict. It is to reach that case that the bill is designed. The provisions of the bill are very brief, and they are quite plainly explanatory of themselves.

Mr. COCKRELL. I will state the point.

The bill reads:

> The actual expense of the survey, scalement, or estimate necessarily incurred to ascertain the damages by reason of such trespass shall be proved and included in the costs of the suit and in the judgment entered therefor.

Now, what survey is that?

Mr. CAMERON, of Wisconsin. The survey of the land for the purpose of ascertaining definitely in what description of land the trespass was committed. These trespasses are usually upon wild and uninclosed lands, as the Senator is aware, and it is in order to prove upon what particular description of land the trespass was committed, the section or quarter-section, and it is necessary that the land should be examined and in some instances surveyed.

Mr. COCKRELL. In other words, it will place it in the hands of the prosecuting officer to determine when a survey shall be made upon a piece of land upon which it is claimed a trespass has been committed by a citizen, and he will send the surveying officers there, and they will make the survey and come back and report their expenses, and that is to be taxed against the trespasser should it be proved to be a trespass, regardless of the amount.

Mr. CAMERON, of Wisconsin. The mere cost of the survey and the scalement of the timber shall be included in the costs of the suit.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass?

Mr. COCKRELL. I will not consume the time of the Senate in discussing the bill. I simply desire to say that I am opposed to the principle of the bill and desire to record my vote against it.

Mr. SLATER. I hope the bill will not pass. I come from a State where there is a large amount of public land, and many people there are the subjects of such prosecutions, and I am compelled to say as a general rule the prosecutions are without foundation and are oppressive. This bill would only tend to make the law more oppressive and pile up the costs against the alleged trespassers.

Mr. BLAIR. It is only just, I think, to observe in reply to the suggestion of the Senator from Oregon that nothing whatever is to be taxed against any but the wrong-doer when he is proved to be such, and if he is in the wrong it would seem that the reasonable cost of securing the evidence of the wrong which he has committed should be taxed against him as in other cases. But as there seems to be a disposition to discuss the bill I should like to have it passed over without prejudice.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice.

QUALIFICATIONS OF TERRITORIAL DELEGATES.

The bill (H. R. No. 4162) defining the qualifications of Territorial Delegates in the House of Representatives was announced as next in order on the Calendar.

Mr. INGALLS. I should like to hear the report read.

The PRESIDENT *pro tempore*. There is no report accompanying the bill.

Mr. SAUNDERS. There was no report made in this case. It is a

House bill, and although each House has the right to judge of the qualifications of its own members, it was thought best to have a law that would be a notice to the people of the Territories that in the selection of their Delegates they should not select boys; that they should be at least twenty-five years of age; that they should not select strangers; and persons should be at least seven years citizens of the United States, and that they should be residents in the Territories from which they are elected, and that they should not be guilty of either bigamy or polygamy. The object was, I suppose, to give notice to the people of the Territories of the character of people whom they should select to send to Congress as Delegates. The bill was authorized to be reported without amendment by a majority of the committee who were present at the time it was considered.

Mr. INGALLS. I judge the bill was aimed at an entirely different subject from that indicated by the Senator from Nebraska. It must have been designed for the purpose of reaching the difficulties in Utah. As those have been disposed of practically, I should suppose there could be now no necessity for passing this bill. The provisions relative to the age and habitation of the Delegate are practically the provisions of law now. I think the bill had better go over.

Mr. SAUNDERS. I have no objection to the bill going over as far as I am concerned. I am aware that——

The PRESIDENT *pro tempore*. If the Senator objects, that is the end of the discussion, and the next bill on the Calendar will be called. Does the Senator from Kansas object to the present consideration of the bill?

Mr. INGALLS. If the Senator from Nebraska thinks the bill is of any importance, I will withdraw my objection.

Mr. SAUNDERS. I shall not insist upon its consideration now.

Mr. VEST. I object.

Mr. SAUNDERS. I am willing that the bill shall go over as far as I am concerned.

The PRESIDENT *pro tempore*. The Senator from Missouri objects, and the bill goes over.

CANADIAN GRAIN.

The bill (S. No. 1026) to permit grain brought by Canadian farmers to be ground at mills in the United States adjacent to Canadian territory, under such rules and regulations as may be prescribed by the Treasury Department, was considered as in Committee of the Whole. It provides that grain brought into the United States in wagons or other ordinary road vehicles, by farmers residing in the Dominion of Canada, to be ground by mills owned by citizens of the United States, shall not be deemed to be imported or liable to import duties; but such grain shall be brought into the United States under such regulations as the Treasury Department may prescribe to prevent fraud and evasion, and shall be returned as in like manner provided by such regulations.

Mr. MORRILL. I desire to say that the practice that this is intended to legalize has prevailed for many years. Grain has been brought over all along on the border-line of Canada, to be ground at mills in the United States, but there is no law for it. The Secretary of the Treasury some time heretofore has issued regulations which prevent this being done, but it was found that there never has been any fraud committed. It is a great convenience to the people on the Canada side, and there have been many mills largely dependent upon the patronage that they receive from the Canada side for business. The Secretary of the Treasury recommends the passage of this bill. I send his letter to the desk to be read by the Secretary.

The Acting Secretary read as follows:

TREASURY DEPARTMENT, *March* 10, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, transmitting a bill (S. 1026) to permit grain brought by Canadian farmers to be ground at mills in the United States, &c., and requesting my views as to the propriety of its passage and its effect.

The bill is calculated to revive and legalize a practice which, until lately, existed in several districts along our Canadian frontier, not to treat as importations, within the meaning of the tariff laws, reasonable quantities of grain brought by Canadian farmers to American mills to be ground and returned. In the absence of any legal sanction for such practice, its suppression was necessarily ordered by the Department, although during a long period of toleration by local customs officers no cause of fraudulent introduction of such grain for consumption in the United States appeared to have occurred, while, on the other hand, apparently well-founded representations have been made from time to time by both the local officers and the owners of mills that the cessation of the established usage will result in the ruin of the American milling industry in those localities, and will lead to the building of steam mills in that region of the British possessions, the inhabitants of which have preferred heretofore to patronize our mills, driven by the water-power available only on our side of the frontier.

In view of the facts, the opinion of this Department is favorable to the passage of the bill in question.

Very respectfully,

CHAS. T. FOLGER,
Secretary of the Treasury.

Hon. JUSTIN S. MORRILL,
Chairman Committee on Finance, United States Senate.

Mr. MORRILL. I suggest an amendment, in the second section, by striking out "immediately," and inserting "from and after its passage;" so as to read:

SEC. 2. That this act shall take effect from and after its passage.

Mr. ANTHONY. Does not every act take effect from and after its passage?

The PRESIDENT *pro tempore*. It does.

Mr. COCKRELL. There is no necessity for the amendment.

Mr. MORRILL. The clause is in the bill, and it should either be amended or the whole of the second section should be stricken out.

Mr. INGALLS. It had better all be stricken out.

Mr. MORRILL. Then I move to strike out the second section.

Mr. INGALLS. It is a superfluous appendage.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to strike out the second section of the bill.

The amendment was agreed to.

Mr. MORGAN. I wish to ask the Senator from Vermont if there is any reason why this provision should not be extended to the Mexican border as well as the Canadian?

Mr. MORRILL. I have no information on that subject, and I should prefer that the Senate would get some information before acting upon it. That occupies a very different position to this country, and I do not know anything about the practice of the people of Mexico or of Texas. I think it would hardly be safe to include Mexico, with our present limited information.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ONTONAGON RAILROAD LAND GRANT.

The next bill on the Calendar was the bill (S. No. 192) to quiet title to certain lands in the Upper Peninsula of Michigan.

Mr. CONGER. I ask that the bill may be passed over.

Mr. SAWYER. Then I ask that it be passed over without prejudice.

Mr. CONGER. I desire that the bill may be considered in the Senate out of the morning hour. I wish to make some remarks on the bill at greater length than the five-minute rule would permit.

The PRESIDENT *pro tempore*. The consideration of the bill is objected to.

Mr. SAWYER. It will be passed over without prejudice?

The PRESIDENT *pro tempore*. Of course, if there is no objection, it can be passed over without prejudice.

Mr. SAWYER. I have no objection to taking it up out of the morning hour, but I wish to have it passed over without prejudice.

Mr. CONGER. I cannot deny that I have some prejudice against the bill; and I have stated that I desire longer time for discussion on this bill than the five-minute rule will permit.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice. The Senator from Michigan objects to the consideration of the bill. That objection carries it to the foot of the docket unless the Senator from Wisconsin shall move to take it up and consider it now.

Mr. SAWYER. Does that put it out of the reach of a majority of the Senate?

The PRESIDENT *pro tempore*. Nothing can put it out of the reach of a majority of the Senate.

Mr. HOAR. It puts it out of the reach of the Anthony rule, does it not?

The PRESIDENT *pro tempore*. It puts it out of the reach of the Anthony rule.

Mr. CONGER. It holds its place on the Calendar, and will be reached in regular order.

The PRESIDENT *pro tempore*. As the Senator from Michigan objects, the bill cannot be considered under the Anthony rule, but it can be taken up at some other time.

Mr. SAWYER. Very well.

COURT OF APPEALS.

The next bill on the Calendar was the bill (S. No. 420) to establish a court of appeals.

The PRESIDENT *pro tempore*. The bill will be passed over, and the next bill on the Calendar will be announced.

WILLIAM A. GAVETT.

The bill (S. No. 679) for the relief of William A. Gavett was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay William A. Gavett $3,000, in full settlement of his claim for information and services to the United States in the case of James C. Harris, of Tennessee.

Mr. INGALLS. Let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

The Acting Secretary read the following report, submitted by Mr. FERRY March 14, 1882:

The Committee on Finance, to whom was referred the bill (S. No. 679) for the relief of William A. Gavett, respectfully submit the following:

It appears from the report of the Treasury Department and accompanying papers transmitted in this case that William A. Gavett was connected with the office of the supervisor of internal revenue in Tennessee in the years 1870 and 1871, and specially employed in the investigation of frauds against the United States.

At that time internal-revenue officers and employés were entitled by law to a reward for the detection and discovery of frauds, proportioned to the amount of fines, penalties, and forfeitures recovered, as a result of their information.

During the month of May, 1870, the said Gavett ascertained that frauds were being perpetrated by James C. Harris, a distiller, in the seventh district of Tennessee. He actively engaged in the investigation of the case, and finally caused the seizure of the distillery and all its appurtenances for violations of law. The case remained pending in the United States courts for upward of two years. Finally, in May, 1873, Harris made an offer to compromise on payment of $10,000 and all costs, which was accepted and the money paid into the Treasury.

Under the law and regulations in force at the time Gavett's services were rendered in this case he would have been entitled to receive $2,650 as his reward upon the sum of $10,000 so recovered. The evidence is conclusive that Gavett was the first informant in the case; that he performed the services with zeal, industry, and fidelity; that the investigation and prosecution of the case were attended with considerable personal risk; and that the seizure and successful prosecution were due to his efforts.

By section 179 of the act of June 30, 1864, as amended by section 9 of the act of July 13, 1866, it was provided that the right to any moiety or share for information should not vest or accrue to the informant until the fine, penalty, or forfeiture in such case was fixed by judgment or compromise, and the amount paid, when, it was further declared, the informer should be entitled to his share of the sum received. The apparent object of this provision was to avoid any liability on the part of the Government to pay in cases where the Government received nothing.

After all the services in this case were rendered by Gavett, but before the final compromise, so much of section 179 of the former act as provided for the allowance of shares and moieties was repealed by the act of June 6, 1872, (17 Statutes, 256,) and in lieu thereof the Commissioner of Internal Revenue was authorized for the future to pay such sums, not exceeding the amount appropriated, as might be necessary for detecting frauds. By section 46 of the same act it was further provided that "this act shall not be construed to affect any act done or right accrued * * * under former acts, but every such right is hereby saved." It might, perhaps, be stated that this reservation was intended to save just such equitable, but legally inchoate, rights as Gavett had acquired by his services in the Harris case. But whether this be true or not, those services, rendered in the confidence and expectation of receiving the reward then and for some time after specially authorized by law, clearly entitle him to equitable consideration.

Your committee, however, are of opinion that it will be a better disposition of the case to refer it for final adjustment to the Treasury Department, where, but for the circumstance of the delay in the payment of the money under the compromise, the claim might have been originally settled. They therefore recommend the passage of the bill as amended and herewith returned.

The bill was reported from the Committee on Finance with amendments.

The first amendment was, in line 4, after the word "directed," to insert "to pay William A. Gavett."

The amendment was agreed to.

The next amendment was, after the word "appropriated," in line 5, to strike out the words:

To pay William A. Gavett the sum of $3,000 in full settlement of his claim for information and services to the United States in the case of James C. Harris, of Tennessee,

And to insert:

Such sum as the said Secretary shall be satisfied is equitably due, if anything, for the information and services of the said Gavett in the case of James C. Harris, of Tennessee: *Provided*, That the amount paid shall not exceed $2,650.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH L. STEVENS.

The bill (H. R. No. 1014) for the relief of Joseph L. Stevens was considered as in Committee of the Whole. It directs the proper officers of the Post-Office Department to credit in the account of Joseph L. Stevens, postmaster at Manchester, New Hampshire, $3,285, being the value of certain postage-stamps which were stolen from the safe in the post-office on or about the 16th of June, 1877, without the fault or negligence of the postmaster.

Mr. COCKRELL. I should like to know why this account has not been transmitted to the Postmaster-General for adjudication under the general law which has been passed?

Mr. ROLLINS. It involves an amount larger than that authorized by the law, being over $3,000, while the law limits the amount to $2,000. The bill has already passed the House, and a similar bill heretofore passed the Senate.

Mr. COCKRELL. If it came within the provisions of the general law we should treat it as all other cases which are referred to the Department for settlement.

Mr. ROLLINS. It involves more than $2,000, and therefore does not come within the general law.

Mr. INGALLS. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. MILLER, of New York, March 14, 1882:

The Committee on Post-Offices and Post-Roads, to whom was referred the petition of Joseph L. Stevens, have considered the same, and respectfully report:

Petitioner is postmaster of Manchester, New Hampshire. June 16, 1877, he deposited forty-seven hundred and eighty-five dollars' worth of stamps in a safe in his office belonging to the Government. June 26, 1877, it was discovered that three packages of these stamps, worth $3,285, were missing. He asks to be relieved from the loss. The only persons who had the privilege of access to the safe were the postmaster, the assistant postmaster, and a clerk, who is the postmaster's son. The testimony satisfies us beyond a doubt that all three of these officials have always borne the highest character, and that there is no reason that any suspicion should attach to either of them.

The stamps were kept in one of the compartments of the safe. Spofford, the assistant, testifies:

"On the 16th day of June, 1877, there were deposited in the lower left-hand apartment of said safe postage-stamps of the amount and denomination as follows:

2 packages of 50,000 3's each	$3,000
1 package of 40,000 3's	1,200
1 package containing 20,000 2's, 2,000 6's, 650 10's	585
	4,785

"That on said day I took from said compartments fifty ten-cent stamps for sale, and observed the packages to be all present. I did not have occasion to observe these particular packages again until the 26th of said June, when I discovered that all but one package, containing fifty thousand 3's, were missing. The packages being in the lower part of the safe, their absence would not be so readily discovered as if located higher in the safe, unless attention was particularly called to this apartment; but I am very confident that they could not have been taken any considerable length of time before the discovery of the theft. The three upper packages were taken, leaving the bottom one undisturbed. During business hours it was our custom to leave the safe unlocked, as it is necessary to have access to some portion of its contents at all hours of the day, and it is impracticable to lock and unlock it every time access is had to it."

The Post-Office Department was promptly notified by petitioner of his loss and dispatched a special agent to Manchester, who reported as follows:

"BOSTON, MASSACHUSETTS, *February* 8, 1878.

"SIR: I have the honor to return case No. 2107 B. and to inform you that I have made personal investigation and search relating to the loss of postage-stamps from the Manchester, New Hampshire, post-office.

"I found that the postmaster, J. L. Stevens, took account of the number of his stamps that were kept in the safe in the office June 16, and at that time the amount was correct. On June 26, when he again made an examination, he found that two original packages and parts of broken packages, amounting in the total to $3,285, namely:

200 sheets two-cent stamps	$400 00
900 sheets three-cent stamps	2,700 00
20 sheets six-cent stamps	120 00
6½ sheets ten-cent stamps	65 00

were missing. He at once commenced a thorough search for the same, but failed to find any trace. The postage-stamps were kept by him in the safe at the office, the safe being kept open during office hours. Besides the stamps there were kept in the safe money-order funds, post-office money, and his private funds. Nothing but the stamps was molested. At no time between the 16th and 26th of June (at which latter time he discovered his loss) was the safe without a large sum of money in the same, and yet no money was taken. The safe was located in the office about twenty feet from the office window, where the clerks at all times are employed, and about fifteen feet from a rear door. During the warm weather this door was left open, and at a part of the day (six to seven p. m.) there was at times but one clerk on duty, and at no other time of the day or when the office was open would there be less than four of the employés present.

"The only theory as to the loss arrived at was that during the time there was only one clerk in the office, his attention being called to the window for stamps or money-orders, and back being turned to the safe, some one came into the office through the rear door, stepped to the safe, and stole the packages. As ten days had passed between the time of Mr. Stevens knowing his amount of stamps in the safe and the discovery of his loss, we found it impossible to arrive at any conclusion who the depredator was. Every effort has been made by Mr. Stevens and myself to find some clew to the loss. He has employed private detectives and devoted his own time in following every trace and studying every theory, but without success.

"Mr. Stevens has held the office of postmaster for the last eight years, and has the best of records, is an industrious and energetic man, always at his post, and this is the only serious trouble that has occurred at his office during his term.

"From the thorough investigation made by me, and after a close study of all the facts relating to this loss, I am satisfied that he gave the same care to the Department's property intrusted to him that he did to his own, as at no time but what there were his personal funds and funds to the money-order department in the safe.

"In summing up, I can only add that after a most thorough search and investigation no trace of the stamps or depredators could be found.

"Very respectfully,

"CHARLES FIELD,
"*Special Agent Post-Office Department.*

"DAVID B. PARKER,
"*Chief Special Agent Post-Office Department,*
"*Washington, D. C.*"

We have also examined a plan of the office. We are of the opinion that the petitioner used ordinary care and the same that he took of his own property; he had on hand only the usual amount of stamps; we find that said theft was committed without fault on the part of the claimant in the opinion of your committee; he took prompt and active measures upon the discovery of the loss to find out and apprehend the thief and recover the stolen property, and employed the best detectives at home and in Boston, at large expense, but without avail, and that he ought to be relieved from the loss.

The claim of said Joseph L. Stevens was presented in both Houses of the Forty-fifth Congress, and referred to both the House and Senate Committees on Claims, respectively, by whom the matter was fully heard and investigated, and their conclusions and findings embodied in Senate Report No. 789 (by Senator HOAR) and House Report No. 33, third session, Forty-fifth Congress, (by Representative Ellsworth;) also, in the Forty-sixth Congress, second session, by the House Committee on Claims, Report No. 874, (by Representative Barber.)

All of said committees unanimously recommended the passage of a bill allowing the claim. The Senate bill was duly passed by that body, but failed of passage in the House, being received so late in the session that it was not reached for action.

We report the accompanying bill, and recommend its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE MISSISSIPPI OVERFLOW.

The joint resolution (H. R. No. 161) making an appropriation to enable the Light-House Board to meet the extraordinary expenses consequent upon the flood in the Mississippi River was considered as in Committee of the Whole. It appropriates $10,000 to enable the Light-House Board to pay the extraordinary expenses consequent upon the flood in the Mississippi River, the sum to be immediately available.

The joint resolution was reported to the Senate without amendment, orderd to a third reading, read the third time, and passed.

GEORGE W. SAULPAW.

The next bill on the Calendar was the bill (S. No. 1033) for the relief of George W. Saulpaw; which was considered as in Committee of the Whole. It directs that there shall be paid to George W. Saulpaw $7,000, in full compensation for his steamer Alfred Robb, taken by the United States for the use of the Government during the late rebellion.

Mr. INGALLS. I should like to hear the report read.

Mr. MILLER, of California. It would be better to have a statement of the case made.

Mr. CAMERON, of Wisconsin. The report is a long one.

The PRESIDENT *pro tempore*. The Senator from Wisconsin can probably state the case substantially.

Mr. CAMERON, of Wisconsin. Would that be satisfactory to the Senator from Kansas?

Mr. INGALLS. I would rather have the report read.

The Principal Legislative Clerk proceeded to read the report submitted by Mr. CAMERON, of Wisconsin, March 15, 1882.

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived——

Mr. CAMERON, of Wisconsin. I suggest that the whole report be printed in the RECORD, so that the Senate may have an opportunity of examining it before the bill comes up again.

The PRESIDENT *pro tempore*. It will be so ordered.

Mr. ANTHONY. If the report is a long one it is rather an expensive way to submit it to the examination of Senators.

Mr. CAMERON, of Wisconsin. The reading was nearly completed, and that portion which was read will as a matter of course appear in the RECORD.

Mr. ANTHONY. I make no objection to the request of the Senator from Wisconsin.

The report is as follows:

The Committee on Claims, to whom was referred the bill (S. No. 1093) entitled "A bill for the relief of George W. Saulpaw," have considered the same and respectfully report:

The petitioner has always been a loyal citizen. Before the war he was a member of a firm who were engaged in building railroad bridges. They built bridges over the Cumberland River at Nashville and Clarksburgh, and also some other small bridges. They built a bridge over the Tennessee at Danville, which was completed in November, 1861. Said firm purchased a steamboat called the Alfred Robb, in March, 1860, for the transportation of stone, timber, &c., needed in their bridge-building, for which they paid $8,500. November 21, 1861, said firm dissolved, and petitioner became sole owner of said boat, for which he allowed $5,500. The rebels had then blockaded the Tennessee River near Fort Henry, below said bridge, and the petitioner was unable to get the boat out of the river. He thereupon began running her as a packet from Danville to Eastport, Mississippi, a distance of about one hundred and seventy-five miles, and continued this employment until about February 13, 1862, when the rebels seized her near Eastport by force, and used her as a transport until April 10, 1862. The boat was then lying in Little Bear Creek, near Tuscumbia, Alabama. The rebel General Walker sent orders to have said boat burned and destroyed, as he was about to evacuate the country. The pilot and clerk, who were loyal men, and who had remained on board while she was in the rebel service, succeeded in evading the order and in running the boat down the stream, where she was concealed at a place called Coyer's Island, until April 22, 1862, when she was taken by the Union gunboat Tyler. She was then taken to Cairo, Illinois, and converted into a gunboat, used as such during the war, and was retained by the United States till the summer of 1865, when she was sold at Mound City at the great auction of the Mississippi gunboat squadron, and brought $9,200. The pilot entered into the Government service, and so remained through the war. The clerk and pilot were in the petitioner's employ, he designing to retain them, and paying them, deeming that his boat would be safer and his chance of securing it better by so doing. They intended to save and secure the boat for the owner, and had actually and completely delivered her from rebel control when she was taken by the United States gunboat. The circumstances of the delivery of the boat are proved by the testimony of the pilot, whose character and trustworthiness are established by the evidence of several United States officers with whom he served. The date and circumstances of the capture fully appear in the report of Lieutenant Gwin, commanding the gunboat Tyler, dated April 23, 1862, and forwarded to the Navy Department by Flag-Officer Foote, by report dated April 26, 1862.

The boat was of eighty tons, in good running order, as appears by the report of the officer who captured her. She is fully described in the other evidence, and we think was worth nearly her original cost when appropriated by the United States. Upon these facts we hold that all the owner's original right and title to the boat had revested in him, wholly purged from any effects of the impressment by the rebels. The owner's agents in his behalf and by his authority had completed the escape of the boat from rebel hands. This is not the case of a recapture by our Government of property of its loyal citizens which the enemy had taken and put to a military use. It is the case of the full and complete retaking of the property by the owner himself. It is as if the crew of a merchantman captured by the enemy at sea had risen in the night and retaken the vessel. In such cases we conceive the title of the owner would completely revest.

The foregoing narrative, so far as relates to the time, place, and circumstances of the taking by the United States of the Alfred Robb, is as well established by public official records as any fact can be. Yet, on the 15th of July, 1862, an information was filed in the district court of the United States for the southern district of Illinois, on the relation of George D. Wise, as informer, against the steamer Alfred Robb, her engines, furniture, tackle, &c., setting forth "that on the 15th day of July, A. D. 1862, there was seized on the Mississippi River, below Cairo, and brought into this district, the steamer Alfred Robb, her engines, furniture, tackle, &c. Said seizure was made by George D. Wise. Said seizure was made for the reason that said property was being used, by and with the knowledge and consent of the owner, in aiding the present rebellion, contrary to the act of August 6, 1861, and being so used, it has become forfeited." Every one of these allegations was false. The steamer was not seized July 15, 1862, but passed into the possession of the United States in April. She was not seized on the Mississippi River, and was not seized for the reason that she was being used by the knowledge or consent of the owner in aiding the rebellion. Wise never seized her at all. On this libel notice was ordered by publication fourteen days in a newspaper printed in Springfield, and by posting of a copy of the monition near the place of trial.

Wise was a captain and assistant quartermaster with the United States gunboat flotilla, to which the Alfred Robb then belonged.

A writ of attachment and monition issued, directing the marshal to attach the property, &c., and to detain the same until the further order of the court. The marshal made return as follows:

"I hereby certify that on the 7th day of August, A. D. 1862, I have by virtue of this writ attached the within-named steamer Alfred Robb, and made due proclamation.

"D. L. PHILLIPS, *U. S. Marshal.*
"By ISAAC KEYS, *Deputy.*"

To which is annexed the following receipt:

"OFFICE OF GUNBOAT FLOTILLA,
"*Cairo, Illinois, August* 7, 1862.

"Received from D. L. Phillips, United States marshal, southern district of Illinois, one steamboat called Alfred Robb, which has this day been attached by the said David L. Phillips as aforesaid; the said boat being now in the service of the United States as a gunboat on the Western waters, which I agree to deliver as hereafter may be decreed by the judge of the district court aforesaid, if in my power, and consistent with my duty to the United States.

"GEO. D. WISE,
"*Captain and Assistant Quartermaster.*"

Upon these proceedings a decree of sale was made, and the boat bid off by George D. Wise aforesaid, in behalf of the United States, for the sum of $4,000, of which the court decrees $12.50 to the clerk, $96.82 to the marshal, $100 to the district attorney, and ordered the balance, $3,790.38, to be divided between the United States and George D. Wise, "the informer herein."

The owner of the boat had no notice or knowledge of the proceedings.

There was no actual proof of the allegations of the information, the record alleging a proclamation for all persons interested to appear, a default, and an order "that the allegations of the libel be taken as true against said property."

A request was made at the close of the war to the Quartermaster-General for return of the Alfred Robb, and for such information as the records of the Department might show as to the history of these transactions. The following answer was returned:

"QUARTERMASTER-GENERAL'S OFFICE,
"*Washington, D. C., September* 18, 1865.

"SIR: In reply to your letter of the 20th and 31st of July last, with reference to the claim of G. W. Saulpaw, esq., for the return to him of the steamer Alfred Robb, captured by the western gunboat flotilla in February, 1862, in the Tennessee River, you are respectfully informed that this boat was sold by the United States marshall under a decree of confiscation, having been captured while being used for insurrectionary purposes, and was purchased by the Navy Department, and placed under the charge of Captain George D. Wise, the then quartermaster in charge of the property and accounts of the flotilla, and by him transferred to the Navy Department, October 1, 1862. You are informed that it is beyond the power of this department to assist you in the settlement of this account.

"You are respectfully referred to D. L. Phillips, esq., United States marshal Springfield, Illinois, for any further information concerning this vessel.

"Very respectfully, your obedient servant,

"By order Quartermaster-General.

"GEO. D. WISE,
"*Colonel in Charge Third D. W.*

"R. J. ATKINSON, Esq., *Washington, D. C.*"

The following letter, of which the original is before the committee, is found in the files of that office, which is evidently a first draft of an answer to the foregoing request, from which we think the nature of the transaction can be fairly inferred:

"QUARTERMASTER-GENERAL'S OFFICE,
"*Washington, D. C., July* 24, 1865.

"SIR: Your letter of July 20, transmitting evidence, &c., pertaining to claim of G. W. Saulpaw, esq., of Tennessee, for compensation for the steamboat Alfred Robb has been referred to me by the Quartermaster-General.

"You are respectfully informed that the case of the steamboat Alfred Robb was duly adjudicated before the United States court for the southern district of Illinois, at Springfield, some time in the year 1863. Due notice was given at that time to claimants to show why she should not be condemned, having been used for insurrectionary purposes, but if any evidence was presented it was not considered satisfactory to the court, as she was condemned and sold by the United States marshal, and, after deducting expenses, one-half ($1,895.19) went to the informer, and the other half to the United States Treasury.

"Please read the above and see if it is correct.

"How did the Robb come into our possession after the capture? Who paid for her at the sale of confiscation? I do not remember how I came in possession of the $1,859.19 given me by the marshal. Whom did he get it from? As although I bid the boat in, yet I do not remember to have paid any money for her, and yet received a portion of the sale. If she was sold by the United States marshal and I bid for her I should have paid the amount and taken a voucher from the marshal. Can you explain all this, for it has entirely passed out of my mind and I have no time to hunt up papers, and Mr. Blount is away.

"Yours,

"GEO. D. WISE.

"R. J. ATKINSON, Esq., *Washington, D. C.*"

It is evident that the decree of the district court was entirely without foundation in fact, and the findings upon which it proceeded were erroneous. Under these circumstances, if the decree were technically valid until reversed by proper proceeding and constituted a binding judgment in rem, we do not think the Government ought to avail itself of such a technical defense to avoid repayment to the true owner of the proceeds of his property now in the Treasury.

But the decree is upon its face wholly erroneous and void.

It is settled that under the act of August 6, 1861, as well as under the later similar acts, there must have been an actual seizure of the property by the marshal to make a decree of confiscation valid. "The marshal must take the property under his actual custody and control." Pelham *vs.* Way, 15 Wallace, 202; Brown *vs.* Kennedy, *ib.*, 591; Miller *vs.* United States, 11 *ib.*, 268; Pelham *vs.* Rose, 9 *ib.*, 103. The property must remain in the custody of the marshal, so that he can deliver it to the highest bidder, if it be purchased under the decree of sale. But the return itself sufficiently shows that no such seizure was or could have been made. The gunboat was in the actual service of the United States, in command of an officer who retained possession. The receipt of Captain Wise, made part of the return, declares that "the boat is now in the service of the United States as a gunboat on the Western waters, which I agree to deliver as hereafter may be decreed by the judge of the district court aforesaid, if in my power and consistent with my duty to the United States." It clearly was not in his power or consistent with his duty to make such delivery. This consent or receipt no more transferred the possession of the gunboat from the United States to the marshal than would a like document executed by the cook or cabin-boy.

We think, therefore, the owner's title to his boat has never been lawfully divested.

The boat cost the firm, of which petitioner was a member, $8,500 in March, 1860. In November, 1861, she was valued at $5,500 in the division of the property of the company. She sold for $9,200 in 1865, at a large and extensively advertised auction sale of such property. But it does not appear that the alterations made in her by the United States may not have enhanced her value. The sale to Wise for $4,000 was nothing more than mere form, even if a form were really gone through. The claimant is not entitled to interest nor to compensation for the use of his boat, under the rules uniformly applied to like cases. Under all the circumstances we recommend the payment to the claimant of the sum of $7,000, and report a bill to that effect.

MISSISSIPPI AND MISSOURI RIVERS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business, which is the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

Mr. GARLAND. Owing to very peculiar circumstances surrounding a bill which is upon the Calendar, I ask that the regular order be laid aside informally with a view of taking up the bill and having it passed. I am sure when the Senate understands the facts it will not take ten minutes to pass the bill.

Mr. KELLOGG. If it will accommodate my friend from Arkansas, I have no objection as far as I am concerned.

The PRESIDENT *pro tempore*. The unfinished business will be laid aside informally if there be no objection.

ADDITIONAL JUDGE IN NEVADA.

Mr. GARLAND. I move that the Senate proceed to the consideration of the bill (S. No. 1287) to authorize the appointment of an additional judge for the ninth judicial district of the United States for the State of Nevada.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the President of the United States to nominate and appoint, by and with the advice and consent of the Senate, one other judge in addition to the one now authorized by law for the ninth judicial district of the United States for the State of Nevada, who shall hold his office during life and good behavior. But after the termination of the term of office of Hon. E. W. Hillyer, the present judge of the district, there shall be but one judge for that district.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, in line 5, before the word "judge," to strike out the word "other."

The amendment was agreed to.

The next amendment was, in line 6, before the words "judicial district," to strike out the word "ninth."

The amendment was agreed to.

The next amendment was, in line 8, after the word "office," to strike out "during life and good behavior" and to insert:

According to the Constitution; and such judge shall have and exercise all the powers and duties now appertaining to the office of judge of the district court of the United States for the said district and receive the same salary.

Mr. GARLAND. The present judge, Judge Hillyer, a very competent and worthy judge, as I understand, is incapacitated to perform the duties of his office on account of mental infirmities which have existed now for some time, and are likely to exist for some time longer, if not permanently. I have in my hand very painful recitals from members of his family and from his physician to that effect. The docket is heavy in the district, and business is pressing. The demand in that section of the country for the passage of an act of this sort is imperative.

Mr. BECK. Let me inquire whether Judge Hillyer, so long as he lives, is to draw the salary of a judge in that district?

Mr. GARLAND. In respect to that nothing is said. The matter was discussed, but the committee preferred to say nothing conclusively on the subject. It would embarrass the passage of the bill to say anything in reference to it, and I am not prepared to give a categorical answer to the question of the Senator from Kentucky. It is deemed important out there to have a judge, and a law exists for the assignment of a judge there, but no judge who could be assigned now has the time to go there.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the appointment of an additional judge for the judicial district of the United States for the State of Nevada."

MISSISSIPPI AND MISSOURI RIVERS.

The PRESIDENT *pro tempore*. The regular order is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Arkansas, [Mr. GARLAND.]

Mr. GARLAND. Supposing that those Senators have spoken who intend to speak upon the merits of the proposition as brought out by the amendment that I have offered, I wish to make a statement in regard to it, occupying a very few moments, and then I shall withdraw the amendment. I offered the amendment as I had introduced some months ago a bill upon this general subject of the levees of the Mississippi River, which I introduced in the utmost good faith, believing as I did then, and do now, that Congress had the power to do, not indirectly or by implication but directly, that particular work, and that it had not only the authority to do it but that it was its duty to do it.

I have heard every word that has been uttered in this debate, and I have listened very attentively. My mind as to this power, this right, and this duty has not changed one iota. I think it is as clearly demonstrable that Congress has the power under the Constitution to do this as it has to vote seeds to the people of the country, as it has been voting without any limit, or as we have to build libraries in the District of Columbia, or to build monuments to departed soldiers. But I find it is thought that this is probably too large a dose to take at the present time. Perhaps, too, I am not the very best judge in this matter, directly interested as my constituents are. I have always been in the habit of listening to the counsel and advice of friends and gentlemen who, as well as myself, have investigated a subject. I believe every Senator feels that it is a duty, if Congress can perform it, to do something in this matter at this time. The sentiment, I believe, is about unanimous for the passage of the bill coming from the committee. As that is looking in the right and proper direction, and is, as I conceive, a beginning of this work that must ultimately be completed by the Government—if it be consummated—I do not wish to press my proposition upon gentlemen who have honest convictions differing from my own and against this proposition, nor do I wish any one to strain his conscience in this respect.

For this reason, after this debate and after the question has been now thoroughly presented to the country, in all its length and breadth, with the reasons for and against both the constitutionality of the measure and the necessity of it, I am persuaded that it is best for all concerned that I should withdraw the amendment which in the utmost good faith I offered.

That this work will be done directly in a few years I have no doubt. I am the more convinced of it because the Senator from Ohio, [Mr. PENDLETON,] who claims to be the strictest of the strict—the very *crème de la crème*—for a strict construction, advocates the appropriation without restriction. I say a new day is dawning upon this country in respect to these matters, and that mature reflection is coming upon the country. Meanwhile I hope as little suffering as possible may come to these afflicted people; and we will content ourselves with this appropriation of $6,000,000, which will be spent by the commission having it in charge. I withdraw the amendment.

Mr. MCMILLAN. I should like to offer an amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from Louisiana [Mr. JONAS] is next in order and will be read.

The ACTING SECRETARY. In line 14, it is proposed to strike out the proviso down to and including the word "rivers," in line 19, in the following words:

Provided, That no part of the said sum herein appropriated shall be used in the construction or repair of levees for the purpose of preventing injury to lands by overflow, or for any other purpose whatever except as a means of deepening the channels or improving the navigation of the said rivers;

And to insert:

And may be applied to the immediate repair or construction of such levees as in the judgment of the said Mississippi River commission will assist in deepening the channel and improving the navigation of said rivers: *Provided*, That no part of the said sum herein appropriated shall be used in the construction or repair of levees for the purpose of preventing injury to lands by overflow, or otherwise than as a means of deepening the channel or improving the navigation of said rivers.

Mr. JONAS. The amendment I have offered is almost identical with the proviso in the bill. I think the discussion has demonstrated, as the Senator from Arkansas [Mr. GARLAND] says, that the Senate is disposed to make the appropriation as recommended by the committee for the general purpose of improving the navigation and deepening the channel of the Mississippi River, and that it proposes to place the amount of the appropriation in the hands of the Mississippi River commission, to be used by them as in their discretion they may deem best for this purpose. Believing as I do that the Mississippi River commission consider that the construction or at least the repair of the levees is absolutely necessary for the prosecution of the work with which they are charged and that it is included in their recommendations and in their estimates, and desiring, if possible, to secure unanimity in the action of the Senate on this question, and considering that my amendment differs but slightly from the proviso of the bill, I ask leave to withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn if there be no objection. Does the senior Senator from Louisiana [Mr. KELLOGG] withdraw the amendment which he proposed to offer?

Mr. KELLOGG. In offering the amendment I was actuated by the same motives which actuated my colleague. At first I had some misgivings in regard to the effect of the restrictions contained in the bill as it was reported from the committee, but good lawyers on the floor of the Senate have compared my amendment with that which has been agreed upon, as I understand, by the House Committee on Commerce, and find practically little difference. Regarding the system of improvements to which the Mississippi River commission is committed, I think it will result eventually in deepening the channel of the river and so improving the navigation as to prevent overflows hereafter of the disastrous nature which has recently visited the Mississippi Valley, and thus dispensing with any system of levees as such.

Understanding that the commission is committed to a plan which will result in preventing overflows, and believing that Senators generally hold to the same doctrine, I withdraw my amendment.

Mr. MCMILLAN. I do not desire to be committed to the understanding of the Senator from Louisiana [Mr. KELLOGG] on this matter at all.

Mr. COCKRELL. There is no understanding of any kind with anybody in any respect.

Mr. HAWLEY. I desire that the bill shall speak for itself. We have no understanding with anybody in or out of the Senate as to what should be done for the improvement of lands at Federal expense. We are willing to give all that is necessary within the limits of the Constitution to improve the river, and if it shall help the lands we shall all be glad of it; but I certainly desire to protest against any intimation or concession or understanding.

Mr. KELLOGG. I was simply giving the reasons which actuated me to withdraw my amendment.

Mr. MCMILLAN. The Senator's explanation would seem to imply that all the rest of the Senate agree with him.

Mr. KELLOGG. The record of the debate on this measure will speak for itself.

Mr. HOAR. I desire to put on record an expression of my very earnest desire not to be concluded against the propriety or the constitutionality of some action by Congress hereafter, if it should turn out to be necessary, to relieve the persons whose lands are overflowed by the Mississippi River. We purchased, and found constitutional power to do it, the Territory of Alaska at an expense of $7,000,000, for which we taxed the people of the United States. We purchased originally the Louisiana Territory itself, believing that whatever might be the strict construction of the Constitution, it was an absolute national necessity to acquire and hold the mouth of the Mississippi River. The purchase-money was paid; in point of fact that Territory was paid for very largely at the expense of some claims against France owned largely by citizens of Massachusetts, who never have got their pay to this day. So that I suppose I may say that Massachusetts and the States in the neighborhood were taxed tenfold the proportion of the rest of the Union to acquire the mouth of the Mississippi River.

If it be true that there are a million or more acres of land occupied by persons, many of them in humble circumstances, lately slaves, capable of being added to the resources of this nation as producing sugar, rice, and cotton, maintaining, feeding men, American citizens, I should pause a great while before committing myself to the doctrine that the reclaiming of that territory, adding it to the national domain, whether within or without the territory of States which have already been admitted to the Union, is beyond the national forces which we have authority to wield.

I think these people and these States ought to show when they come to Congress that they have done something, and are ready to do something for themselves, and not simply lie down on the national Government. I think the effect upon the deepening of the channel of the river and lowering its surface at high water in comparison with its banks, and the completion of the system of improvement of navigation proposed in the bill ought to be tried, but if, when it is tried, it turns out that it fails to afford a remedy for this grievance of the overflow, and that that grievance can be remedied by an expenditure of money which is beyond the reasonable burden that the States where it occurs ought to take upon themselves, I believe that I can do nothing which will more gratify the people of the old Commonwealth which I represent than to concur in a proposition to tax them for the sake of relieving those people.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 2313) authorizing the Sioux City and Pacific Railroad Company to construct and maintain a railroad bridge over the Missouri River; in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. No. 721) to authorize the appointment of V. McNally as an ordnance storekeeper in the Army; and

A bill (H. R. No. 3776) granting a pension to Margaret McCormick.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 721) to authorize the appointment of an ordnance storekeeper in the Army; and

A bill (H. R. No. 3776) granting a pension to Margaret McCormick.

HOUSE BILL REFERRED.

The bill (H. R. No. 2313) authorizing the Sioux City and Pacific Railroad Company to construct and maintain a railroad bridge over the Missouri River was read twice by its title, and referred to the Committee on Commerce.

ORDER OF BUSINESS.

Mr. GARLAND. I have given notice to the Senate that I would call up the bill to establish a court of appeals, (S. No. 420,) and I now ask the Senate to proceed with the consideration of that bill.

Mr. MILLER, of California. I must object.

The PRESIDENT *pro tempore.* Cannot the Senator make an arrangement that the bill be taken up and then informally laid aside.

Mr. MILLER, of California. I should have no objection to that if the Senator would agree that we go on with the Chinese bill.

Mr. HOAR. What is the proposition?

The PRESIDENT *pro tempore.* To take up the bill to establish a court of appeals, and then let that be laid aside informally until the Chinese bill can be considered.

Mr. HOAR. I desire to move to take up the bill for the distribution of the Geneva award, and I ask leave to be heard for one moment, and then I shall not antagonize the Senator from Arkansas, [Mr. GARLAND.]

The Geneva award bill was reported from the Judiciary Committee at a very early day in the session. It is a bill which interests many of the best and most highly respected, most loyal and patriotic merchants and shippers of my State. Whether they are right or wrong in their belief as to their title to a share of this fund, they entertain it honestly, they pursue it honestly, they expect honestly to submit it to the decision of Congress as to a court, and to be governed, as they must be, by whatever may be the final judgment of Congress. That question has come up Congress after Congress. Sometimes the reports have come so late in the session that they could not be considered, sometimes a bill in favor of persons whose opinions I especially represent has passed one branch, and sometimes it has passed the other. There has been, I believe, no instance (or if so, but one) in which any expression of opinion in either branch of Congress has not been in their favor. There may be possibly one exception to this statement.

The matter has gone over in consequence, in the first place, of the absence—the inevitable absence—of the chairman of the Judiciary Committee. He left word that he did not desire the bill to be delayed in consequence of his absence, and left it in charge of another member of the Judiciary Committee. That member, on investigating the question, found reasons satisfactory to his own mind which made him prefer not to call up the bill as it came from the Judiciary Committee at that time. Subsequently he was called away by ill health. Now I understand that the chairman of the Judiciary Committee, while not agreeing with the view I entertain, concurs in opinion with those who desire that the matter should be taken up, considered, and disposed of at an early day. I had therefore proposed that at the time this bill was over I should move to take up the Geneva award bill; but I do not think that under the circumstances I ought to antagonize my motion against that of the honorable Senator from Arkansas or against that of the honorable Senator from California.

I understand that the Senator from Kansas [Mr. INGALLS] has a bill under his charge which is of great public interest and importance, and if he made a motion to take that up I should hardly feel at liberty to undertake to antagonize that, but I desire to have my bill stand as a bill entitled to the early, respectful consideration of the Senate.

Mr. DAVIS, of Illinois, (Mr. COCKRELL in the chair.) I have no objection to the consideration of the bill reported in relation to the Geneva award. It has been reported and ought to be considered. But it seems to me that the bill reported from the Judiciary Committee in relation to establishing a court of appeals is the most important bill that could now be considered in the Senate, and I do hope that it will be taken up and the Chinese bill allowed to be interjected, so that that can be considered first, as this will lead to some debate.

The Judiciary Committee has had this court of appeals bill under consideration for some time. I admit what the Senator from Massachusetts [Mr. HOAR] says about the importance of the Geneva award bill, and also the importance of the bill of the Senator from Kansas, [Mr. INGALLS,] although I am diametrically opposed to the position of the Senator from Massachusetts [Mr. HOAR] relative to the Geneva award bill. My views did not receive consideration in the Senate before, and, I am afraid, will not still; but that is no reason why the bill should not be considered.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The motion is to take up the bill to establish a court of appeals. [Putting the question.] The bill is before the Senate.

Mr. GARLAND. I have no objection to the bill being laid aside informally for the present.

Mr. INGALLS. I have.

Mr. VEST. I object to that. It is not just.

Mr. INGALLS. That should not be done by any agreement or understanding that is not in accordance with the views of a majority of the Senate. If the bill is taken up, it ought to be considered.

Mr. VEST. I want to say just this: I have given notice, I think three times, that I desire the Senate to consider at some time or other a bill of very great importance in regard to the interoceanic ship-railway. It has been reported and put upon the Calendar, and is pending here. If this bill is taken up I hope it will be considered. Then, if the bankrupt bill comes up next, let that be considered. But at some time or other I insist that the Senate shall consider the bill I mention, and I intend to call it up after every bill until it is considered.

Mr. FARLEY. I did not suppose that the motion made by my colleague would be antagonized. We all know for what a length of time this Chinese matter has been before the Senate. It has been here very nearly a month. If we have action on that bill at all, it is important that we have it as soon as possible. I do not wish to antagonize the Senator from Missouri [Mr. VEST] or the Senator from Kansas [Mr. INGALLS] or any other Senator, but it is a matter of so much importance to our people at this particular time that I shall insist upon the motion of my colleague to consider the Chinese bill at this time. Other bills have been considered. We gave way the other day. The Senator from Missouri [Mr. VEST] and others were anxious to have the Mississippi River bill considered, and we yielded to the consideration of that bill.

Mr. VEST. The honorable Senator from California [Mr. FARLEY] will understand that I am not antagonizing him. His Chinese bill was considered once, and I am perfectly willing to consider it again provided we go on without interjections, taking up the Chinese bill and disposing of it, and then taking up another bill and disposing

of it, and some time or other getting all the bills disposed of; but a private arrangement I object to.

Mr. FARLEY. It has been the custom of the Senate.

Mr. VEST. Well, it has been an unfair custom, and I object to it.

Mr. MILLER, of California. I thought the arrangement was made openly and everybody understood it. I feel that having given way to the Senator from Arkansas, [Mr. GARLAND,] he ought now to yield to me, and yield to this bill. I therefore make the motion that all pending measures be set aside, and that House bill No. 5804, order of business 579, be now taken up and acted upon.

The PRESIDING OFFICER. The Senator from California [Mr. MILLER] moves that the pending order and all other orders be laid aside, with a view to moving to take up and proceed to the consideration of the bill he has named.

Mr. INGALLS. I submit that the pending question cannot be disposed of in that way. Rule 43 prescribes the motions that can be made when a question is pending. I have no objection to the consideration of the Chinese bill; I am in favor of the consideration of the court of appeals bill; but I object to an arrangement being made by which when one bill has been taken up as an act of favor to some Senator, the floor is yielded and another bill supplants it. It is not just to those who have important measures intrusted to their charge. I therefore insist that the question now pending shall be disposed of in some manner recognized by the rules of the Senate.

The PRESIDING OFFICER. Does the Senator raise a point of order upon the formal motion of the Senator from California, [Mr. MILLER?]

Mr. INGALLS. Yes, sir.

The PRESIDING OFFICER. A motion is made by the Senator from California to lay aside the pending order. The rule requires that a bill pending shall be postponed to a day certain, if postponed at all. The motion would not strictly be in order unless he should move to postpone to a day certain or to postpone indefinitely.

Mr. MILLER, of California. I move, then, to postpone the pending order until to-morrow, with the view of taking up the Chinese bill.

The PRESIDING OFFICER. The Senator from California moves to postpone the pending order until to-morrow, with a view to then moving that the Senate proceed to the consideration of the bill he has referred to, the pending order being the bill to establish a court of appeals.

Mr. INGALLS. Does the Chair hold that if that motion prevails the bill which has been called up by the Senator from Arkansas takes its place to-morrow on the Calendar as the unfinished business at two o'clock?

Mr. VEST. This motion would not carry that proposition, I take it.

Mr. INGALLS. I want to know in what attitude the court of appeals bill will stand if the motion of the Senator from California prevail?

Mr. GARLAND. My judgment is it would be the regular order to-morrow at two o'clock. If it should not be, I should object.

Mr. INGALLS. Would it supersede the unfinished business if the Chinese bill should not be disposed of to-day?

Mr. GARLAND. I think that is the operation of a vote to postpone to a day certain.

The PRESIDING OFFICER. The Chair will not say what has been the ruling heretofore on this point, but it appears to the Chair that if the court of appeals bill were postponed till to-morrow it would come up at the beginning of the regular order at two o'clock.

Mr. BAYARD. Is there any objection to that?

Mr. GARLAND. A motion is made to the Senate to dispose of it. I understand the Senator from California [Mr. MILLER] moves to postpone this court of appeals bill until to-morrow.

Mr. MILLER, of California. Yes, that is my motion; and to-morrow if the Chinese bill is not finished I will make the same motion again.

The motion to postpone was agreed to.

CHINESE IMMIGRATION.

Mr. MILLER, of California. I move now to take up the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDING OFFICER. The Committee on Foreign Relations report various amendments to the bill.

Mr. MORGAN. I desire to say that this bill in its present form did not receive the sanction of the whole committee. There were at least three members of the committee who were opposed to it in its present form as amended. I wish to make that statement in order to avoid any misunderstanding about it.

The Acting Secretary proceeded to read the amendments reported by the Committee on Foreign Relations.

The first amendment was, in section 1, line 3, before the word "days," to strike out "sixty" and insert "ninety," and in line 9, after the word "said," to strike out "sixty" and insert "ninety;" so as to make the section read:

That from and after the expiration of ninety days next after the passage of this act, and until the expiration of ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended; and during such suspension it shall not be lawful for any Chinese laborer to come, or, having so come after the expiration of said ninety days, to remain within the United States.

The amendments were agreed to.

The next amendment was, in section 2, line 1, before the word "master," to strike out "any" and insert "the;" in the same line, after the word "vessel," to strike out "of whatever nationality;" in line 2, after the word "knowingly," to strike out "on such vessel;" in line 3, after the word "the," to strike out "jurisdiction of the;" in the same line, after "United States," to insert "on such vessel;" and in line 4, before the word "permit," to insert "land or;" so as to make the section read:

SEC. 2. That the master of any vessel who shall knowingly bring within the United States on such vessel, and land or permit to be landed, any Chinese laborer from any foreign port or place shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every such Chinese laborer so brought, and may also be imprisoned for a term not exceeding one year.

Mr. FARLEY. I do not see the necessity of that amendment, "who shall knowingly bring within the United States." Why strike out the words "jurisdiction of the?" I object to that amendment, and think it ought not to have been adopted.

Mr. MILLER, of California. The clause was struck out because it was surplusage.

Mr. FARLEY. I think it is not surplusage.

The amendment was agreed to.

The next amendment was, in section 3, line 5, before the word "days," to strike out "sixty" and insert "ninety;" so as to read:

SEC. 3. That the two foregoing sections shall not apply to Chinese laborers who were in the United States on the 17th day of November, 1880, or who shall have come into the same before the expiration of ninety days next after the passage of this act.

The amendment was agreed to.

The next amendment was, after the word "act," in line 5 of section 3, to strike out—

And who shall produce to such master before going on board such vessel, and shall produce to the collector of the port in the United States at which such vessel shall arrive, the evidence hereinafter in this act required of his being one of the laborers in this section mentioned.

Mr. MILLER, of California. That language is proposed to be stricken out as surplusage, but upon reflection I prefer having it in. I do not know that it makes any particular difference in the effect of the act, because I believe that it is pretty well covered in another part; but as allusion is made in another section to this evidence prescribed in the third section——

Mr. BUTLER. We cannot hear the Senator on this side at all.

Mr. MILLER, of California. I think it would be better to leave the bill as it was, and not strike out those words.

Mr. FARLEY. Except the ninety days.

Mr. MILLER, of California. Except the ninety days. That amendment has been adopted.

The PRESIDING OFFICER. The question is upon the adoption of the amendment proposed by the committee.

The amendment was rejected.

Mr. INGALLS. Will the Senator from California [Mr. MILLER] in charge of the bill indicate why the date, "the 17th day of November, 1880," is retained in the early part of that section? "That the two foregoing sections shall not apply to Chinese laborers who were in the United States on the 17th day of November, 1880, or who shall have come into the same before the expiration of ninety days next after the passage of this act."

Mr. MILLER, of California. The reason of that is that the treaty provides that all laborers who were in the United States at that time should have the privilege of coming and going of their own free will and accord. That was the reason the date was fixed on the 17th day of November, 1880, and all those who come in after that date and before the passage of this act, or within ninety days after the passage of this act——

Mr. INGALLS. As I understand this, it is that all Chinese laborers who are in the country up to the expiration of ninety days after the passage of the act are permitted to remain.

Mr. MILLER, of California. Yes.

Mr. INGALLS. Then there is certainly no necessity for the retention of that date, particularly in view of the fact that it has been stricken out where it occurs in every subsequent section of the bill.

Mr. MILLER, of California. It has not been stricken out.

Mr. INGALLS. It has by the action of the committee.

The PRESIDING OFFICER. The Secretary will report the next amendment.

The next amendment reported by the Committee on Foreign Relations was, in section 3, after the word "voyage," in line 15, to insert "to any foreign port or place;" so as to read:

Nor shall the two foregoing sections apply to the case of any master whose vessel, being bound to a port not within the United States, shall come within the jurisdiction of the United States by reason of being in distress or in stress of weather, or touching at any port of the United States on its voyage to any foreign port or place: *Provided*, That all Chinese laborers brought on such vessel shall depart with the vessel on leaving port.

The amendment was agreed to.

The next amendment was, in section 4, line 4, after the word "of," to strike out "sixty" and insert "ninety;" so as to read:

SEC. 4. That for the purpose of properly identifying Chinese laborers who were in the United States on the 17th day of November, 1880, or who shall have come into the same before the expiration of ninety days next after the passage of this act.

The amendment was agreed to.

The next amendment was, in the same section, line 11, after the word "Chinese," to insert "laborer;" in line 13, after the word "Chinese," to strike out "laborers" and insert "laborer;" in line 15, after the word "Chinese," to insert "laborers;" in line 19, after the word "Chinese," to insert "laborers;" after the word "Chinese," in line 20, to insert "laborer;" in line 22, after the word "receive," to insert "free of any charge or cost;" so as to read:

And in order to furnish them with the proper evidence of their right to go from and come to the United States of their free will and accord, as provided by the treaty between the United States and China, dated November 17, 1880, the collector of customs of the district from which any such Chinese laborer shall depart from the United States shall, in person or by deputy, go on board each vessel having on board any such Chinese laborer and cleared or about to sail from his district for a foreign port, and on such vessel make a list of all such Chinese laborers, which shall be entered in registry books to be kept for that purpose, in which shall be stated the name, age, occupation, last place of residence, physical marks or peculiarities, and all facts necessary for the identification of each of such Chinese laborers, which books shall be safely kept in the custom-house; and every such Chinese laborer so departing from the United States shall be entitled to, and shall receive free of any charge or cost upon application therefor, from the collector or his deputy at the time such list is taken, a certificate signed by the collector or his deputy and attested by his seal of office in such form as the Secretary of the Treasury shall prescribe.

The amendments were agreed to.

The next amendment was, in the same section, line 27, after the word "contain," to insert "a statement of;" and in line 29, after the word "Chinese," to insert "laborer;" so as to read:

Which certificate shall contain a statement of the name, age, occupation, last place of residence, personal description, and facts of identification of the Chinese laborer to whom the certificate is issued, corresponding with the said list and registry in all particulars.

The amendments were agreed to.

The next amendment was, in the same section, line 31, after the word "Chinese," to insert "laborer;" and in line 34, after the word "Chinese," to strike out "fails" and insert "laborer shall fail;" so as to read:

In case any Chinese laborer after having received such certificate shall leave such vessel before her departure he shall deliver his certificate to the master of the vessel, and if such Chinese laborer shall fail to return to such vessel before her departure from port the certificate shall be delivered by the master to the collector of customs for cancellation.

The amendments were agreed to.

The next amendment was, in the same section, after the word "Chinese," in line 37, to insert "laborer;" in line 41, after the word "Chinese," to insert "laborer;" and in line 42, after the word "Chinese," to insert "laborer;" so as to read:

The certificate herein provided for shall entitle the Chinese laborer to whom the same is issued to return to and re-enter the United States upon producing and delivering the same to the collector of customs of the district at which such Chinese laborer shall seek to re-enter; and upon delivery of such certificate by such Chinese laborer to the collector of customs at the time of re-entry in the United States, said collector shall cause the same to be filed in the custom-house and duly canceled.

The amendments were agreed to.

The next amendment was, in section 5, line 1, after the word "laborer," to strike out "living" and insert "mentioned in section 4 of this act being;" in line 2, after "United States," to strike out "under the provisions of the treaty between the United States and China dated November 17, 1880;" and in line 6, after the word "receive," to insert "free of charge or cost;" so as to read:

SEC. 5. That any Chinese laborer mentioned in section 4 of this act being in the United States and desiring to depart from the United States by land shall have the right to demand and receive, free of charge or cost, a certificate of identification similar to that provided for in section 4 of this act to be issued to such Chinese laborers as may desire to leave the United States by water.

The amendments were agreed to.

The next amendment was, in the same section, line 12, after the word "certificate," to insert "free of charge or cost;" so as to read:

And it is hereby made the duty of the collector of customs of the district next adjoining the foreign country to which said Chinese laborer desires to go, to issue such certificate free of charge or cost upon application by such Chinese laborer, and to enter the same upon registry-books to be kept by him for the purpose, as provided for in section 4 of this act.

The amendment was agreed to.

The next amendment was in section 6, line 2, after the word "treaty," to strike out "before;" in the same line, after the word "act," to insert "before;" in line 3, after the word "Chinese," to insert "person other than a laborer;" in line 5, after the words "United States," to strike out "except such as resided in the United States on the 17th day of November, 1880, or who shall have come within the United States within sixty days next after the passage of this act, shall obtain the permission of the," and insert "and who shall be about to come to the United States shall be identified as so entitled by the;" in line 11, after the word "case," to insert "such identity;" in line 12, after the word "issued," to strike out "by," and insert "under the authority of;" in line 14, after the word "or," to insert "(if not in the English language);" in line 15, after the word "English," to strike out "showing" and insert "stating;" in the same line after the word "such," to strike out "permission" and insert "right to come;" in line 20, after the word "entitled," to strike out "by" and insert "conformably to;" and in line 24, after the word "customs," to insert "or his deputy;" so as to make the section read:

SEC. 6. That in order to the faithful execution of articles 1 and 2 of the treaty in this act before mentioned, every Chinese person other than a laborer who may be entitled by said treaty and this act to come within the United States, and who shall be about to come to the United States shall be identified as so entitled by the Chinese Government in each case, such identity to be evidenced by a certificate issued under the authority of said government, which certificate shall be in the English language or (if not in the English language) accompanied by a translation into English, stating such right to come, and which certificate shall state the name, title, or official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, and place of residence in China of the person to whom the certificate is issued, and that such person is entitled conformably to the treaty in this act mentioned to come within the United States. Such certificate shall be *prima facie* evidence of the facts set forth therein, and shall be produced to the collector of customs, or his deputy, of the port in the district in the United States at which the person named therein shall arrive.

Mr. FARLEY. With reference to the amendment of section 6, line 9, where it says "and who shall be about to come into the United States," I desire to ask my colleague, who has charge of this bill, why that amendment was put in by the committee? I think it is very indefinite, because it will leave the question an open one. The Chinese who have not yet left China and who talk about coming to the United States might be considered as coming under the provisions of this act.

Mr. MILLER, of California. Then they would have a certificate from the Chinese Government. This is the section which requires the permitted classes, those who are not laborers, to come to the United States on presenting a certificate from the Chinese Government or a certificate issued under the authority of the Chinese Government. I do not know that there was any special reason why those words were inserted, but they certainly can do no harm. A person who is about to leave China and come to the United States can bring a certificate.

Mr. FARLEY. I do not see the necessity of those words at all.

The amendments were agreed to.

The next amendment was, in section 7, line 1, after the word "knowingly," to insert "and falsely;" in line 3, before the word "utter," to insert "knowingly;" in line 6, after the word "conviction," to strike out "of any offense mentioned in this section the guilty person" and insert "thereof;" in line 9, after the word "term," insert the word "of;" so as to make the section read:

SEC. 7. That any person who shall knowingly and falsely alter or substitute any name for the name written in such certificate, or forge any such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in any such certificate, shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined in a sum not exceeding $1,000, and imprisoned in a penitentiary for a term of not more than five years.

The amendments were agreed to.

The next amendment was, in section 8, line 2, after the word "foreign," to insert "port or;" so as to read:

SEC. 8. That the master of a vessel arriving in the United States from any foreign port or place shall, at the same time he delivers a manifest of the cargo, and if there be no cargo, then at the time of making a report of the entry of the vessel pursuant to law, in addition to the other matter required to be reported, and before landing, or permitting to land, any Chinese passengers, deliver and report to the collector of customs of the district in which such vessel shall have arrived a separate list of all Chinese passengers taken on board his vessel at any foreign port or place, and all such passengers on board the vessel at that time.

The amendment was agreed to.

The next amendment was, in the same section, line 14, after the word "government," to insert "or their servants;" in line 15, after the word "by," to strike out "the" and insert "their;" and in line 16, after the word "certificates," to strike out "of other Chinese passengers;" so as to read:

Such list shall show the names of such passengers (and if accredited officers of the Chinese Government traveling on the business of that government, or their servants, with a note of such facts) and the names and other particulars, as shown by their respective certificates; and such list shall be sworn to by the master in the manner required by law in relation to the manifest of the cargo.

The amendment was agreed to.

The next amendment was, in the same section, line 18, after the word "any," to insert "willful;" and in line 19, before the word "master," to strike out "the" and insert "any such;" so as to read:

Any willful refusal or neglect of any such master to comply with the provisions of this section shall incur the same penalties and forfeiture as are provided for a refusal or neglect to report and deliver a manifest of the cargo.

The amendment was agreed to.

The next amendment was, in section 11, line 2, after the word "into," to strike out "or shall aid or abet the bringing or coming into;" in line 4, after the word "shall," to strike out "land or aid" and insert "knowingly aid or abet the same or aid;" in line 6, after the word "Chinese," to strike out "not authorized by law" and insert "person not lawfully entitled;" in line 8, after the word "shall," to strike out "for each person so brought or aided to come into the United States, or so landed," and insert "on conviction thereof;" in line 10, before the word "sum," to strike out "the" and insert "a;"

and after the word "sum" to strike out "of one hundred" and insert "not exceeding one thousand;" so as to make the section read:

SEC. 11. That any person who shall knowingly bring into or cause to be brought into the United States by land, or who shall knowingly aid or abet the same or aid or abet the landing in the United States from any vessel of any Chinese person not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in a sum not exceeding $1,000 and imprisoned for a term not exceeding one year.

The amendments were agreed to.

The next amendment was, in section 12, line 1, after the word "Chinese," to insert "person;" in line 3, after the word "certificate," to strike out "herein" and insert "in this act;" in line 4, after "Chinese," to insert "persons;" in line 5, after the word "Chinese," to strike out "unlawfully entering" and insert "person found unlawfully;" in line 6, after "United States," to strike out "or who shall have unlawfully entered the United States, in any way, either by land or by water;" in line 8, after the word "shall," to insert "be caused to;" in the same line, after the word "the," to strike out "place" and insert "country;" in line 9, after the word "whence," to strike out "they" and insert "he;" in the same line, after the word "by," to strike out "the collector of customs of any collection district in which such Chinese may be found" and insert "direction of the President of the United States and;" in line 12, after "United States," to strike out "under such regulations as the Secretary of the Treasury may prescribe" and insert "after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or remain in the United States;" so as to make the section read:

SEC. 12. That no Chinese person shall be permitted to enter the United States by land without producing to the proper officer of customs the certificate in this act required of Chinese persons seeking to land from a vessel. And any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came, by direction of the President of the United States, and at the cost of the United States, after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or remain in the United States.

The amendments were then agreed to.

The next amendment was, in section 13, line 3, after the word "credentials," to strike out "in the usual form," and in line 7, after the word "Chinese," to insert "persons;" so as to make the section read:

SEC. 13. That this act shall not apply to diplomatic and other officers of the Chinese Government traveling upon the business of that government, whose credentials shall be taken as equivalent to the certificate in this act mentioned, and shall exempt them and their body and household servants from the provisions of this act as to other Chinese persons.

Mr. CALL. Do I understand that this section as to aiding or abetting the landing of Chinese in this country is adopted?

The PRESIDING OFFICER. The amendments to section 11 have been adopted.

Mr. CALL. I wish to say for one that while I am perfectly willing to aid in any legislation of any kind to keep the Chinese out of this country, I think that those terms are not only unmeaning, but are perfectly outrageous. What is "aiding or abetting the landing of Chinese?" Those were terms which were attached to misprision of treason. They attached to a line of language which surrounded conspiracy. They were always odious to English law and to freedom. "Aiding or abetting the landing" of men! What does that mean? It means a great deal. It covers a wide range of possible things. An informer or spy, a court or jury, might find any number of circumstances which, in their opinion, would amount to aiding or abetting. I, for one, dislike everything that looks like an indictment for acts which are not specified, which cannot be understood, and which rest in the bosom of a witness or a court. I do not understand what "aiding or abetting the landing" of a Chinaman would be.

Mr. HAWLEY. Why, Mr. President, that is what is the matter with the whole bill. It reads as if it came from the dark ages. It reads like the old fugitive-slave law. If I, in journeying around the world, find a first-rate Chinaman and bring him to this country as a body servant I am to be punished. And, here, the President of the United States is to turn the poor devil out. It is made the duty of the President to catch this yellow boy and deport him. That is the character of the whole bill. What is the use of arguing the question at all? If we have made up our minds to put this, in the middle of the nineteenth century, on the statute-books of our country, let us do it in silence and in mourning.

The PRESIDING OFFICER. The Secretary had proceeded so far as the amendments to the thirteenth section. The question is on the amendments to that section.

The amendments were agreed to.

The next amendment was to strike out section 14, in the following words:

SEC. 14. That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

Mr. FARLEY. I hope that amendment will not be adopted. For many reasons I do not wish to take up the time of the Senate just now in the discussion of this amendment. At the time that it was put into the first bill I know that some distinguished Senators took the ground that there was no necessity for this provision because the statute already provided for it. But, notwithstanding that statute, the courts have been naturalizing Chinamen; and I shall insist on the rejection of the amendment at this time.

The PRESIDING OFFICER. The question is on the amendment proposed by the committee to strike out section 14.

Mr. FARLEY. On that I demand the yeas and nays.

The yeas and nays were ordered, and the principal Legislative Clerk proceeded to call the roll.

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. HARRIS, (when his name was called.) I am paired upon general questions with the Senator from Ohio, [Mr. SHERMAN,] who is absent to-day. From my memory of his position when this question was under consideration heretofore I should vote "nay," but I decline to vote because I am paired with him.

Mr. SEWELL, (when his name was called.) I am paired with the Senator from North Carolina, [Mr. VANCE.]

Mr. RANSOM, (when the name of Mr. VANCE was called.) My colleague [Mr. VANCE] is paired with the Senator from New Jersey, [Mr. SEWELL.] If my colleague were here he would vote "nay."

The roll-call was concluded.

Mr. COCKRELL. I am paired with the Senator from Georgia, [Mr. BROWN.]

Mr. DAVIS, of West Virginia. I have a general pair with the Senator from Pennsylvania, [Mr. CAMERON.] I saw him in his seat this morning, and shall therefore let my vote stand.

The result was announced—yeas 26, nays 32; as follows:

YEAS—26.

Aldrich,	Frye,	Lapham,	Rollins,
Allison,	Hale,	McDill,	Saunders,
Anthony,	Harrison,	McMillan,	Sawyer,
Blair,	Hawley,	Miller of N. Y.,	Van Wyck,
Conger,	Hoar,	Morrill,	Windom.
Davis of Illinois,	Ingalls,	Platt,	
Dawes,	Kellogg,	Plumb,	

NAYS—32.

Bayard,	Fair,	Jackson,	Morgan,
Beck,	Farley,	Johnston,	Pendleton,
Butler,	George,	Jonas,	Pugh,
Call,	Gorman,	Jones of Florida,	Slater,
Cameron of Wis.,	Groome,	Jones of Nevada,	Vest,
Chilcott,	Grover,	McPherson,	Voorhees,
Coke,	Hampton,	Maxey,	Walker,
Davis of W. Va.,	Hill of Colorado,	Miller of Cal.,	Williams.

ABSENT—18.

Brown.	Ferry,	Logan,	Sewell,
Camden,	Garland,	Mahone,	Sherman,
Cameron of Pa.,	Harris,	Mitchell,	Vance.
Cockrell,	Hill of Georgia,	Ransom,	
Edmunds,	Lamar,	Saulsbury,	

So the amendment was rejected.

The PRESIDING OFFICER, (Mr. PLATT in the chair.) The Secretary will read the next amendment.

The next amendment reported by the Committee on Foreign Relations was, to strike out section 15, in the following words:

SEC. 15. That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

Mr. GROVER. I hope this amendment will not be agreed to. The Chinese embassy declare that they do not desire that artisans shall be excluded. This is proposed to exclude the artisans. If they are not excluded by the terms of this bill it will be found that nearly every Chinaman desiring to come to the United States will claim to be an artisan; and they will all be admitted; and thus the purposes of the late treaty will be avoided and the purposes of this bill will be avoided, unless this amendment is disagreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the committee.

Mr. HAWLEY and others called for the yeas and nays, and they were ordered, and the Acting Secretary proceeded to call the roll.

Mr. HARRIS, (when his name was called.) I am paired with the Senator from Ohio, [Mr. SHERMAN,] and shall not vote. If he were here, I should vote "nay" and he would vote "yea."

Mr. RANSOM, (when his name was called.) I am paired on this occasion with the Senator from Illinois, [Mr. LOGAN.] If he were present, I should vote "nay." My colleague [Mr. VANCE] is paired with the Senator from New Jersey, [Mr. SEWELL.] My colleague, if here, would vote "nay."

The roll-call was concluded.

Mr. COCKRELL. I am paired with the Senator from Georgia, [Mr. BROWN.]

The result was announced—yeas 29, nays 28; as follows:

YEAS—29.

Aldrich,	Dawes,	Kellogg,	Rollins,
Allison,	Frye,	Lapham,	Saunders,
Anthony,	Hale,	McDill,	Sawyer,
Blair,	Harrison,	McMillan,	Van Wyck,
Cameron of Pa.,	Hawley,	Miller of N. Y.,	Windom.
Chilcott,	Hill of Colorado,	Morrill,	
Conger,	Hoar,	Platt,	
Davis of Illinois,	Ingalls,	Plumb,	

NAYS—28.

Bayard,	Fair,	Johnston,	Pendleton,
Beck,	Farley,	Jonas,	Pugh,
Butler,	George,	Jones of Nevada,	Slater,
Call,	Gorman,	McPherson,	Vest,
Cameron of Wis.,	Grover,	Maxey,	Voorhees,
Coke,	Hampton,	Miller of Cal.,	Walker,
Davis of W. Va.,	Jackson,	Morgan,	Williams.

ABSENT—19.

Brown,	Garland,	Lamar,	Saulsbury,
Camden,	Groome,	Logan,	Sewell,
Cockrell,	Harris,	Mahone,	Sherman,
Edmunds,	Hill of Georgia,	Mitchell,	Vance.
Ferry,	Jones of Florida,	Ransom,	

So the amendment was agreed to.

Mr. FARLEY. I give notice that when the bill comes into the Senate I shall renew my motion.

Mr. MORGAN. I give notice that I will reserve a vote on the question concerning skilled and unskilled laborers when the bill comes up in the Senate.

The PRESIDING OFFICER. The bill is still in Committee of the Whole and open to amendment.

Mr. HOAR. Mr. President, I do not think that anything will be gained by entering upon an extended discussion of a measure which has very recently received so thorough and careful an examination at the hands of the Senate. I suppose the bill, either with or without the amendment which has been adopted, is destined to pass. I wish before it passes to put on record my certain conviction that the opinion which has come from a large body of the most intelligent people of the country, from the organs of the great denominations of Christians, from the representatives of the communities which have owed their prosperity, their power, their happiness to the respect in which the labor on which they are based has been held—I say I think this opinion is sure, sooner or later, is sure very speedily, to prevail in reversing the policy on which we now seem about to enter. I believe that the Pacific coast itself will come back very soon to the doctrine of the eloquent resolution framed by my honorable friend from California a few years ago as a representative of the Republican convention of his State, of which he was a leading member. It is impossible, it is incredible that a blow at the dignity of human nature, a blow at the dignity of labor, a blow at men, not because of their individual qualities or characters, but because of the color of their skin, should not fail to be a subject of deep regret and repentance to the American people in the nineteenth century.

I do not, however, rise to reargue this question or to reaffirm my own individual opinion. The conviction with which I have started has been deepened and re-enforced by the expressions of sentiment which have come from the sober, religious sense of this country. It has been strengthened also by the exhibition of the true character of the leaders of the sentiment which has demanded and secured the passage of this bill, which we have seen in the press of the section of country from which it comes.

I wish, however, to refer in a single word to one charge which has been frequently made, and that is that those members of the Republican party who have resisted the passage of this measure have violated the pledges with which they asked the support of the American people at the recent Presidential election. I was in a condition, I think, to know something of the opinion and purposes of the men who composed the great Republican national convention of 1880. I was also in a condition to know something of the opinion of the great statesman and soldier and martyr and lover of liberty, who was the standard-bearer of my political associates in that memorable campaign. It is a dishonor to both to charge that they asked the support of the American people by pledging themselves to the principles upon which this legislation is based.

General Garfield, I believe, would have gone to the stake, he would have put his right hand into the flames like Cranmer, before he would have accepted the Presidency or have subscribed his name to a declaration involving such a blow to the dignity of labor and the dignity of American humanity as is involved in this bill.

This is what the Republican national convention declared. I stand, and am ready to stand in the future, by every word and letter and syllable of the declaration:

> Since the authority to regulate immigration and intercourse between the United States and foreign nations rests with the Congress of the United States and the treaty-making power, the Republican party, regarding the unrestricted immigration of the Chinese as a matter of grave concernment, under the exercise of both these powers, would limit and restrict that immigration by the enactment of such just, humane, and reasonable laws and treaties as will produce that result.

That is, the regulation of immigration and intercourse. Then General Garfield in his letter of acceptance stated the doctrine to which he understands he is committed by accepting the nomination of that party upon that platform. He said:

> The material interests of this country, the traditions of its settlement and the sentiment of our people have led the Government to offer the widest hospitality to emigrants who seek our shores for new and happier homes, willing to share the burdens as well as the benefits of our society, and intending that their posterity shall become an undistinguishable part of our population.

Is that like an enactment that no Chinese shall ever be naturalized in the American Republic?

> The recent movement of the Chinese to our Pacific coast partakes but little of the qualities of such an immigration, either in its purposes or its result. It is too much like an importation to be welcomed without restrictions, too much like an invasion to be looked upon without solicitude. We cannot consent to allow any form of servile labor to be introduced among us under the guise of immigration. Recognizing the gravity of this subject, the present Administration, supported by Congress, has sent to China a commission of distinguished citizens for the purpose of securing such a modification of the existing treaty as will prevent the evils likely to arise from the present situation. It is confidently believed that these diplomatic negotiations will be successful without the loss of commercial intercourse between the two powers, which promises a great increase of reciprocal trade and the enlargement of our markets. Should these efforts fail, it will be the duty of Congress to mitigate the evils already felt and prevent their increase by such restrictions as, without violence or injustice, will place upon a sure foundation the peace of our communities and the freedom and dignity of labor.

Mr. President, I reaffirm for myself, and for the people whom I immediately represent, every syllable of that eloquent declaration. I am willing to join my friends from the Pacific coast in regulating immigration so as to extirpate, root and branch, every form of cooly labor. I am willing to plant at the outer gateways of this Asiatic nation vigilant and competent consular agents, without whose certificate no man shall come to our shores whose labor is not his own property; who does not come with his family, if he has a family; who does not come under the fair promise that he is likely to take upon himself in good faith the responsibilities, the duties, and the opportunities of American citizenship.

Not an evil has been suggested in the petition and complaints that have come from the Pacific coast against which I will not join with its representatives in striking a hard and fatal blow. But I will not strike at an honest, industrious, temperate Christian laborer because I am afraid that his labor is more skillful than mine or than the labor of the men of my race. I will not deny to the Chinaman any more than I will to the negro or the Irishman or the Caucasian the right to bring his labor, bring his own property to our shores, and the right to fix such a price upon it as according to his own judgment and his own interest may seem to him best.

I denounce this legislation not only as a violation of the ancient policy of the American Republic, not only as a violation of the rights of human nature itself, but especially as a departure from the doctrine to which the great party to which I belong is committed in its latest declaration of principles, and to which our great martyred chief, whom we were so proud to acknowledge as our standard-bearer, affixed his declaration in almost the latest public act of his distinguished life.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on concurring in the amendments made as in Committee of the Whole. Shall the question be put on concurring in the amendments in gross?

Mr. CONGER. If in order, before that question is put, I request that the bill may be reprinted with the amendments before we are asked to vote upon it.

Mr. MILLER, of California. I do not see the necessity of printing the bill again.

Mr. CONGER. No man can tell what is in the bill. There are many amendments, some of which were adopted and some rejected. No man on this floor can tell even by hearing it read again the full scope and tenor of the bill with the amendments. Important as the question is, it seems to me the friends of the measure should be willing to have it printed and that action upon the amendments shall be taken after the Senate has had an opportunity of seeing what they are.

Mr. MILLER, of California. If the Senator states that he cannot understand what the amendments are which have been adopted and those which have been rejected, and that there are many other Senators in the same condition, of course it would be the proper thing to print the bill as amended.

Mr. HARRISON. I hope that will be done.

Mr. CONGER. I move that the bill be reprinted with the amendments, and that further action upon it be postponed until to-morrow.

Mr. BUTLER. Is that motion in order, Mr. President?

The PRESIDING OFFICER. The Chair holds that it is in order to move that the further consideration of the bill be postponed until to-morrow, and in the mean time that the bill be printed.

Mr. PLATT. Let me suggest to the Senator from Michigan whether it would not be better to have the amendments acted upon in the Senate, so that we may know what has been the final action of the Senate with reference to amending the bill before the motion to print is made.

Mr. CONGER. If that is preferable I have no objection; but before voting upon the bill I wish to see it printed as it is proposed to be passed.

The PRESIDING OFFICER. Does the Senator from Michigan withdraw his motion to postpone the further consideration of the bill, and that it be printed?

Mr. CONGER. I will adopt the suggestion of the Senator from Connecticut [Mr. PLATT] and withhold the motion until after action is had upon the amendments.

The PRESIDING OFFICER. Then the question is upon concurring in the amendments, and the Chair desires to know whether the vote shall be taken upon concurring in the amendments made as in Committee of the Whole in gross or singly.

Mr. MORGAN. I gave notice that I should ask to have one amendment reserved.

The PRESIDING OFFICER. The Senator from Alabama has reserved the last amendments reported by the committee. Will the Senate concur in the other amendments made as in Committee of the Whole?

Mr. MORRILL. I wish to have the last amendment but one reserved.

The PRESIDING OFFICER. The Senator from Vermont proposes to reserve the next to the last amendment. The Chair would suggest to the Senator from Vermont that that was not an amendment made as in Committee of the Whole. If he refers to the fourteenth section, that amendment was rejected as in Committee of the Whole, and the question does not come up in the Senate.

Mr. ROLLINS. The Senator can move it as an amendment in the Senate.

The PRESIDING OFFICER. It may be offered in the Senate as an amendment.

Mr. ROLLINS. In that way the Senator from Vermont will reach the same object.

Mr. MORRILL. Then I propose to offer as an amendment in the Senate to strike out section 14 of the bill.

The PRESIDING OFFICER. The first question is, Will the Senate concur in the amendments made as in Committee of the Whole with the exception of the last amendment, which has been reserved for a separate vote?

Mr. MORRILL. If the Senate would concur in the amendment restoring the fourteenth section, would it then be in order to move to strike out the same section?

The PRESIDING OFFICER. The Senate is now acting upon the amendments that were made as in Committee of the Whole, without reference to the amendments rejected as in Committee of the Whole. The Chair would hold, if the present occupant should be in the chair, that a motion to strike out the fourteenth section might be presented by the Senator from Vermont in the Senate as an amendment.

Mr. MORRILL. I propose to do that.

The PRESIDING OFFICER. Will the Senate concur in the amendments made as in Committee of the Whole, with the exception of the last one?

The amendments were concurred in.

The PRESIDING OFFICER. Will the Senate concur in the last amendment, which has been reserved, striking out the fifteenth section of the bill? It will be read.

The Acting Secretary read as folllows:

SEC. 15. That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

Mr. MORGAN. Mr. President, the question now before the Senate is on concurring in the amendment by which the Senate, as in Committee of the Whole, agreed to strike out the 15th section of the bill, which is in the following words:

That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

We have had some legislation on the subject of the importation of Chinese into the United States, commencing in 1862, running on through 1869 and 1874 and 1875; I believe 1875 was the last act. It was not in virtue of a treaty that we made with China, but in virtue of a reserved power to protect our own people against the immigration of classes whose institutions and customs differ from our own, we passed an act which is now incorporated in section 2158 of the Revised Statutes, which reads as follows:

No citizen of the United States, or foreigner coming into or residing within the same, shall, for himself or for any other person, either as master, factor, owner, or otherwise, build, equip, load, or otherwise prepare, any vessel, registered, enrolled, or licensed in the United States, for the purpose of procuring from any port or place the subjects of China, Japan, or of any other oriental country, known as "coolies," to be transported to any foreign port or place, to be disposed of, or sold, or transferred, for any time, as servants or apprentices, or to be held to service or labor.

In looking through the remaining statutes which we have enacted on this subject, the word "cooly" is always employed without any definition of the meaning of that word. The word was imported into this country with Chinese laborers. It came with an Asiatic signification; it was adopted into our criminal code of laws with that Asiatic signification. What a cooly is in China or in Japan or in India—for I believe the word had its origin in India—is something that is left to be ascertained by the judicial authorities of this country when they come to execute these criminal laws.

We never had a doubt, it made no difference what had been our relations with China, or Japan, or any other Asiatic or oriental country, of our free right and discretion to prohibit the importation into this country of persons who are called coolies. Where did we derive the authority to enact that statute? From what treaty with Japan, with China, with Great Britain, which controls India, or with any of the other powers in the oriental country have we acquired the right to prohibit the immigration into this country of persons who in that country are called coolies?

These statutes were enacted in the beginning at a time when the immigration of Chinese labor into this country had not become an economic or social question. We commenced then upon the sedate consideration of our rights as a nation or a people to prescribe for ourselves and in regard to all the people of the earth the characteristics and qualities of those who might be admitted to or become adopted into our country. It has never been doubted that we had the right to prevent the importation of pauper labor from the most civilized of European countries. It has never been doubted that we had the right to prevent the importation of those who were diseased, or criminals, or persons who might be in any respect injurious to the body-politic. Whether the matter is to be considered in relation to the rights of labor, the rights of Christianity, the right of protection against disease, the right of protecting the families of the country against the intrusion of abnormal and dangerous elements, it makes no difference in what direction we have seen proper to turn our thoughts and exercise our discretion, the right has not been denied us to legislate for the protection of our country.

The word "cooly" in the statute needs a definition. It must now have a definition, or else we must submit to have the whole spirit of the legislation in which that word was adopted evaded and set aside. When we undertook to prevent the importation from Japan and China and other oriental countries of coolies we regarded them as persons who were brought to this country under a contract made abroad, which held them to service for a term of years, and in consideration of the stipulations of agreement these parties had no power in their own country and under their own laws, neither under our laws, to emancipate themselves from the servile condition into which those contracts placed them.

We said in our statutes that there were those who were imported under agreements for a term of service which should extend for one or more years; that they were being imported by companies, by factors, by agents. Shall I call them slave-traders? If I should I would not apply a misnomer to the men who are engaged in the cooly trade. What we aimed to do in these statutes was to prevent laborers from being brought into this country who, after they arrived here, were held by contract for a term of service to their foreign employers and masters.

California was settled up; Oregon was settled up; the Rocky Mountains commenced yielding their vast treasures of silver and gold, and great inducements to the flow of population from this part of the United States and from the entire world drew all classes of people to that region. This inducement spread its influence across the Pacific Ocean. It reached the ears not of the poor, ignorant, and debased Chinese and Japanese coolies, but of the factors, the agents, the men who made commerce of human labor, and coolies were flooded in upon that country in great numbers. It became necessary for us to legislate against this, and soon it became necessary that some resort should be made by them to an evasion in order to escape the penal inflictions of our statutes. And what was that resort? It was simply that the contract should be kept silent and quiet; that the men who were imported from China should come here apparently free and of their own accord, but in fact and in truth that they came as much bound by the servitude in which they had engaged in China as the coolies ever were.

There never was a time when a cooly was absolutely sold into slavery; there was never a time when one man sold a cooly to another; but there was a time in which coolies were obtained from the vast swarms of population in the oriental countries, and they were there engaged in the stipulations of contracts which were enforced against them in this country. We legislated against that with freedom and with boldness and without question. No man rose in the Senate or elsewhere in the United States to deny or to question the power of Congress to prevent the immigration of these oriental people under such circumstances.

What is the condition now of the Chinese laborer on the Pacific slope? He comes to this country the bondman of some importer of human labor. The honorable Senators from California and from Oregon and from Nevada will sustain me in what I say, and my information was not derived from them, but from the people of California, when I state that vast masses of Chinese laborers who have been imported in the last twenty years to the Pacific slope have come under the obligations of a contract for a long term of service which they are incapable of renouncing. Sir, if you desired, in California, to hire fifty laborers to work upon a railway, no man would think of going to the laborers themselves and proposing his terms of contract and agreement to the man who is to do the labor any more than in the slave times of the southern country would a man have gone to the slave in the field to engage his services instead of to his master. If you want to employ a house-servant, a cook, a laborer of any kind who has been imported from China to the Pacific slope, you must go to the man who has the mastery and the control of him, or else you will never engage his services. When you want to work him it must be under an agreement with that master and controller. When you want to pay for his services you must go to that master or controller in order to make the settlement a valid one, for the Chinaman who does the work will not receive the money from you and give you a quittance.

I am not stating things that rest in the imagination. I challenge the Senate to-day to disprove what I say. Here are Senators who understand the whole subject; and I have been strangely and grossly misled by people in California if what I have stated is not literally the truth. If it be the truth, then the importation of Chinese under the treaties, whether the Burlingame treaty or that which preceded it, of that class and of that caste who are called laborers in their own country, is a mere evasion of the acts which we have put upon our statute-book commencing in February, 1862, and has been intended only to evade those laws. What we have been struggling with for the last four years in the Congress of the United States is really to prevent an evasion of the statute against the introduction of cooly labor.

How do you determine in China, in Japan, in India, or in any oriental country who is a cooly? He is not there a slave; he is a subject with certain rights accorded to him in his own land. He is not a bondman. He is not bound to follow the beck and call of any man who seeks to control him. His condition may be even higher than that of the "peon" in Mexico who can be sold for debt and transferred from one owner to another along with the account which holds him in bondage. But what is he? He is a man no more free, no more independent, no more in the possession and exercise of the rights that belong, as we say, by the decree of Heaven to every man who lives, than the Mexican "peon," and very few more than the slaves we used to own in the North and afterward in the South.

A cooly in the oriental country is a man who is held to labor by his necessities and by his caste. Let us not forget that important fact. Where the swarming myriads of that country have to concern themselves with the most industrious care for the mere maintenance of the life that God breathed in their bodies and where every avenue to success and every aspiration of the human heart is closed against his rising to a higher degree by caste and by social restraints, that man is of all others the most a slave, because he has upon him all the hardships of slavery without care, the affection and guardianship of a master. Coolies are of that character. Coolies are taken from that class. The men who are called laborers in California and who are also called laborers in China and Japan and in India are laborers of the lowest class; men who have no more power to emancipate themselves from the pressure of caste than I would have to emancipate myself from my duties to civilization. We legislated in 1862 to keep these people out, and now it seems that we must legislate no more. We legislated while our treaties were in full force and guaranteed to them far greater rights than they possess now, but still it seems you must legislate no more. The power of the people of the United States to control this institution has ceased; it has vanished and no longer has the great Supreme Legislature of the United States the power now as it had in 1862 to prevent these men from coming in by the evasion of our statutes which we then solemnly enacted, without question on the part of China or any other power in the world. When did we lose that power? At whose bidding has it vanished? Who has snatched the scepter from our hands and who wields it now to our discomfiture and disgrace?

Sir, let me call your attention to a lesson which has been imprinted upon my mind and heart during all my life, for in the providence of God my fortunes were cast in a country that was filled with African slaves. Not that I or my ancestors brought them there; not that we fitted out little ships to sail to the coast of Africa to bring them to these shores; not that we had transferred them to some other people to be held in bondage and slavery; but, like other men of my age and day, I was born to find them in my native land. The men who surrounded me in my infancy were in servitude under the laws and the Constitution of the United States. They were in a servitude to which the greatest government, they say, in the world had given its most solemn sanction. They were there either to live under the law of slavery, under which they were born and reared and under which their ancestors were born and reared, and under which their brethren now in Africa live, or else to live under a different system of law, a law applicable to free men. These men were held in bondage under our Constitution and under our laws; because we felt that we had the conceded and guaranteed right to hold them in bondage by the consent of those who had brought them to this country and sold them to us and to our ancestors, for which we paid them a full consideration. We thought that they were held in rightful and lawful captivity and bondage under the Constitution and laws of a great country; but it turned out that in the opinion of the American people a different description and character of law was to be applicable to the Africans who were brought here, the law of perfect freedom, the law of perfect liberty, the law of perfect equality of franchise and power. The great power of the Government of the United States decreed that that should be the law from that time afterward for the control of this oriental class which had been imported into our country.

There we were, left in the midst of them without the power to control them as they had been used to being controlled; they were made free from a law under which they had been raised, and restored to equal power and dignity with those who had been their owners. We were left to control and guide and govern, to educate and protect and care for this class of people, and we have been held to an awful responsibility in this regard. Not one relenting heart it seems to me has ever yet beat with compassion toward that people who have had this difficult duty to perform, to work the changes necessary to transfer this inferior and oriental race into the high dignity and character and power of American citizenship.

What you may expect from the importation of the inferior classes of Chinese into this country will be precisely the same in results, perhaps not modified in the least, which we have realized in the awful years of the past, since 1865, in the Southern States. If the voice of Thomas Jefferson, a Southern Democrat and a Virginian, could have been heard in the earlier days of this country and in its earlier councils against the further importation and for the expulsion of those who were here, or else for their freedom, the South would have been saved from that one calamity which is greater than all others it ever experienced. That calamity is not the freedom of the negro, not the loss of $2,500,000,000 which they were worth to us at the time of their emancipation, but it is that our fathers, from the North and the East, had brought into our communities an abnormal and irreconcilable element of population. There is where we suffered.

You may think that you can easily manage this question, but when you have drawn from the 450,000,000 of Chinese the lower and worst class of their people, and after you have, in the name of liberty, and manhood, and God, and religion, flooded this country with that horde of pagan adventurers, you may flatter yourselves that you can manage it. Let me inform you, as I speak to-day with anguish and with pain, that it does not rest in the power of man to remove an evil of this character after it has been ingrafted upon a free republic. The power does not exist in this country, and never will, even if the sentiment which I have heard uttered by some gentlemen on the other side were to become the sentiment of the country, to expel the negroes from this land. Although every man in each branch of Congress and the President might concur that it was an absolute moral and social necessity to expel the negro from this land, the power does not exist to do it; and after you have got the Chinese here, and they become incorporated in one way and another with your social, industrial, and political institutions, the power will be found wanting to expel them. You will then have to submit to an evil that you cannot overcome, neither can you avoid it. Your hands will have been tied by a fatal indiscretion, and woe betide the people when that day comes.

For more than four years Congress has been engaged with this question. The magnitude of the evil was such as that it enlisted the most earnest consideration of all classes of thinking men in this country. A measure has been twice voted through Congress, first in the form of a restriction, and afterward in the form, as it is termed, of prohibition by statutes. The feeling that these oriental beggars and lazzaroni should be excluded did not spring from a mere sentiment on the part of the people of the United States. There was no prejudice of color in that question or in that demand. The honorable Senator from Massachusetts reads history in a false light when he supposes that any man who has voted or will vote upon this question has been controlled in his action by a mere prejudice as to color or of race. Who has ever thought of excluding the Mexicans from the United States, and what is their color and what is their race? Who ever dreamed even of prohibiting a Mexican peon from migrating into the United States? No man ever thought of it. There is a deeper question than all that concerned in the exclusion of the Chinese.

There is no mere sentimentality on our side of this question. We are driven by facts, which we cannot resist or avoid, to the conclusion that it has become a solemn necessity on our part to protect the Caucasian race on this continent against the intrusion of the oriental people. We make no war against a man because he is black, or white, or red, or yellow; because he speaks one dialect or another. Ours is the expression of a firm and solid conviction that the Government of the United States under its peculiar organism is designed for a higher class of intellegince and virtue than that which belongs to the people who are migrating to this country from Asia in such swarms. We believe in the sanctity of the patrimony handed down to us by our fathers. We believe in its value morally, socially, and materially. We believe that it is our right and privilege, in competition with the great race to which we belong, to move this continent and this hemisphere to the front of the advanced march of civilization in such manner as to add to the glorious renown which this people have already won in the history of mankind, and we do not wish nor do we propose to be obstructed in this career by the introduction of a class of men who have no claim upon us except upon some vagary of diseased and mawkish sensibility.

The doctrinaires in human philosophy, those wiseacres who think they know better than all the people besides what is best for them, will not be able to convince us that it is our duty to open our peculiar institutions with the wide latitude that they claim, whereby we shall be overwhelmed and destroyed by an influx of population to which our institutions are just as illy adapted as would be a republican government in the heart of Africa to-day.

What has prevented us from checking this tide of pagan immigration? What has checked this solemn expression of the American people? What has obstructed their will? The President says treaty obligations and the honor of the country. Ah, sir, treaty obligations existed and the honor of the country was as high in 1862 as it is now, and yet we legislated not merely to exclude the coolies but to punish any man who would dare to bring a cooly into this country. Those who prate of the honor of the Government of the United States seem to be totally oblivious to the honor of the people of the United States, to the honor of our race, to the honor of our institutions and glorious achievements. They want to maintain a pharisaical appearance of liberality in the presence of the nations of the earth while they obstruct the solemn judgment of the people of this land.

We passed an act in February, 1879, not to prohibit but to regulate and restrict Chinese immigration. That act was passed by both Houses, by a very decided majority, in which I am glad to say both Democrats and Republicans participated. That was one of the questions where we met without any political hostility toward each other. That act was vetoed by the President of the United States, who represented the Republican party. He vetoed the solemn judgment of

both Houses of Congress, deliberately and decidedly expressed, because he thought that a restriction of Chinese importation which confined that importation to not more than fifteen persons upon each ship which might arrive was a violation of treaty obligation and a violation of the rights of humanity.

We did not have the power in the two Houses to break down the veto. We were promised a commission to China which would effectuate the purposes of the veto and at the same time give effect to the purposes of the people as expressed through their representatives in the two Houses. That commission went abroad. The Republican party met in convention and appealed to the country that notwithstanding their President had vetoed a bill restricting Chinese immigration, still they had sent a commission abroad and they had not any doubt at all that the commission would return with all that we desired, a treaty modified, a treaty so enlarged and so shaped as that the Congress of the United States might still have the same power over Chinese immigration that it exercised in 1862, when it passed the law to prevent cooly immigration.

The commission went abroad and arranged a treaty, and they reported it back to the treaty-making power of the country. It was ratified by the Executive and by the Senate and became the supreme law of the land. Thereupon the two Houses of Congress, moved thereunto by a Republican, not by a Democrat, passed another act, sent it to the President of the United States, and that has been returned vetoed.

Thus for four long years we have been struggling with this question in Congress; thus for four years the people have time and again, in both Democratic and Republican platforms and through the action of men of different parties in both Houses, expressed the solemn will and pleasure of the people of the United States in respect to their protection against Chinese immigration. A friend to my right suggests that I should use the word "invasion." It will be an invasion, if it is not now.

Now, let us look at the power which has prevented this. Is there any doubt about the majority of the people of the United States of both parties concurring in the fact that there must be a prohibition, or a restriction amounting almost to a prohibition, if not entirely, of Chinese immigration? Who will dare to rise up and confront the majesty of the voice of the people of the United States thus expressed and to deny its authority in this matter? Only a few. Only those who have thought that it was their God-given prerogative to control this country in all its laws, in all its industries, in all its religions, in all its moral philosophy, and even in its tastes. They have risen up as one man to interpose the ukase of their power to obstruct and destroy thus this solemnly expressed will of the people. They have a great coadjutor in this work, and that is accumulated capital.

They have got the nabobs and the grandees of the country on their side, not only on the eastern but on the western slope. Go to California to-day, and the men who want Chinese labor are the men who own large plantations and large factories. What do they want? The same thing that gentlemen educated in the South wanted, servile labor that they could control at their will and pleasure. A man with legal power, with the power of capital, with any other power by which he can control the destinies of mankind, has always demanded and always will demand from the inferior classes of our country servile labor. He wants a man at his beck and call who dares not resist his will; he wants a man who has not got the money to live without his assistance; he wants a man whose dependence upon him is so absolute that his will is superior to that even of the Czar of the Russias in his control. That is the demand of the supreme classes against the substratum of society everywhere throughout this world; and we but followed in the South the same idea that you follow now when you demand, in virtue of your intellectual supremacy, your capital, and your combined power, that you shall be served with servile labor instead of free labor.

That is what you demand. That is the demand in California and it is the demand in Massachusetts to-day. When the honorable Senator from that State, [Mr. DAWES,] who is chairman of the Committee on Indian Affairs, recently, as I have learned from the newspapers, stated upon a rostrum in this city that he wanted the Indian boys to go to Massachusetts to learn agriculture, and the Indian girls to go there to become trained as domestic servants, he unwittingly uttered the same thought that prevails to-day in opposition to this bill. He wanted this servile class, this lower class of society, to come up into civilization, not by being elevated at one lift but through the slow process of the kitchen and the farm, and whatever else it is that might assist him in his "civilization," as they call it, he, in the mean time, and his friends reaping a harvest from this subdued, servile, and unprotected labor.

Now, let us look at what this veto power is; for in the history of this Chinese legislation we have one of the most important revelations that has ever yet struck upon the attention of the American people in respect of a power which heretofore has not been much drawn in question. What is the treaty-making power of this country? The Executive and the Senate. Who shape the treaties? Who sends the embassadors abroad? The President of the United States, exercising in that behalf so much of the prerogatives of the Crown of Great Britain as entitle the monarch of that country to appoint his embassadors and to make treaties without respect to either branch of the legislative power. We, through our President, send our embassadors abroad, and they shape the treaties, and through the treaties the destiny of this country, not merely in respect to its foreign relations, but, as we see, in respect also of its social relations, its industrial relations and power.

The treaty is made, and this body of seventy-six Senators ratifies it. We have been from three to five and six years away from our constituents. We represent States here more in the character of embassadors than people in the character of their representatives direct. We ratify the treaty and it becomes the supreme law of the land. The President and the Senate do that. The great popular branch of the country have not a word to say about it; the people cannot resist it; they cannot modify it, and of themselves and through their immediate representatives they cannot set it aside. We have with the Chinese Government, through the Burlingame treaty as well as the one that preceded it, arranged for the introduction of the Chinese into this country, not upon terms of reciprocal equality with our people, as I will proceed to show presently by some references to the treaty, but upon terms which are "unilateral," to use the expression of the veto message, and all on the side of the Chinese. The President and the Senate have arranged this programme, and as it stands it has been rebuked twice by the representatives of the people in the most solemn manner. It has been twice rebuked by those who are affected by it, and twice has it been protected by the veto power.

Mark you, here is the power to shape the treaties in the hands of the President of the United States, and in his hands also is the power to protect them by the veto power against Congressional action. Look at that combination and allow it to have its run and its range of power unchecked and unquestioned, and then answer to yourselves and to posterity what may become of this country. A State of this Union, yes, the magnificent empire State of the Southwest, Texas, might by a treaty with Mexico, shaped by the President of the United States and confirmed by a Senate in accord with him by a bare majority of one, be receded to the Government of Mexico, and the people of the United States would have but two remedies. One would be outbreak and war against all organized society and power. The other would be by legislation, and then if the veto power should be brought in to protect what has been done under the treaty power, do we not see how a country might be destroyed by a President and a Senate who were not responsive to public sentiment upon a question of this kind?

Do we not see that the President of the United States by his veto power has twice protected the treaties which he has made with the Chinese Government against the will of the people of the United States? Can any man state a proposition simpler or more true than that? What then becomes of the voice of the people in this great democratic and republican Government of ours? Sir, it is silenced beneath the iron hand of power and dead in a grave dug by its own hands. Presidents come here boasting of their authority when the people are resisting an invasion of the rights of society against which every instinct of their nature rebels. That is the attitude in which we are left.

I am not disposed to inveigh against the exercise of lawful authority by the President of the United States or by any other official of this Government within the purview of his jurisdiction, but it seems to me that on an occasion like this, when the people have twice expressed their abhorrence of Chinese immigration, their dissatisfaction with this inoculation of the virus of paganism into the very heart-blood of their social organization, it is a harsh, unwise, unjustifiable exercise of this veto power by the President of the United States to obstruct it.

He has in this regard too much power to set himself sternly and inflexibly against the will of the people thus solemnly expressed, too much power to be indulged in a course of this kind; and the Senate in its representation of the people through the States, it seems to me, owes it to itself at least to yield to that which the people have voted and have twice demanded, and to say to the Chinese lazzaroni, as they said when they enacted the anti-cooly laws, "You cannot come here any more, treaty or no treaty."

Has the power been denied, or will any Senator here rise in his place and deny it, that the Congress of the United States by the enactment of a statute has the right to repeal any treaty that has been adopted and ratified by the treaty-making power? Will any Senator undertake to say that the treaty-making power of this country is not after all subordinate to the legislative power? If he does, he will deny the whole judicial history of our country, and he will set aside and hold for naught the opinions of the Supreme Court of the United States. It is the right and province of the legislative power of this country to repeal treaties where they are found to contravene the best interests or the general welfare of the people.

I suppose that it will not be necessary for me to do more than to remind the Senate of the state of the relations between China and the people of the United States in one respect. In the first treaty that we had with China, in 1844, five Chinese ports were opened to the access of the people of the United States. In a later treaty, in 1858, two more ports were opened to the access of the people of the United States, making seven in all. What privileges do our people enjoy there? They must not go into the country to trade at any point distant from the open ports; they cannot hold land in fee; they can merely lease or rent land for the time being. They trade with

the people of that country under surveillance and restrictive regulations. If an American citizen should be found anywhere else than in the permitted parts of the region of China, he would be liable to the utmost severity of the Chinese laws.

They profess to tolerate liberty of religious opinion, but that is also confined to the seven ports and to the immediately adjacent countries. They deny that any treaty they have made with us operates to naturalize the American in China or the Chinaman in the United States. They put that in by way of abundant caution, as a denial that they have given consent to their people becoming citizens of the United States, or to our people becoming citizens of China. They go on to prescribe in the treaties the form of approach which shall be used by a free American citizen. For instance, if one of the honorable Senators from Massachusetts, who in China would be a private citizen, might desire to address a Chinese official, it makes no difference whether he is a mandarin of one tail, or of two, or three, they prescribe the method of approach. In cases of exalted official power the approach is by mutual address. Where an American citizen comes down to the grade of a consul or magistrate, or something like that, the approach is to be made by memorial. When he comes down to the character of a private citizen his approach is to be made simply by petition, and he may be just as well kicked as accommodated in consequence of his petition.

They maintain caste against our people in their own country, and they require a man from this country, whether a laborer or not, when he goes to China and undertakes to make an approach to any official there to subordinate himself to the rules of social intercourse and of diplomatic and governmental intercourse in that country.

What freedom have we to go to China to reap the harvest of her trade? We hear it bruited about in the Senate and through the newspapers of the country and in the chambers of commerce and even in the pulpits that it will not do to cut ourselves off from the Chinese trade, because it is so rich, so profitable. We make haste to make unto ourselves friends of the mammon of unrighteousness. The money that is in the case seems to be the whole question. As to what may be the result nobody cares, it appears. The protection of society is a small matter, the competition of a Chinese ladrone or lazzaroni with an American man, an American who is inspired with a sense of the dignity of the character of American citizenship, is a question of no concern to these doctrinaires and philosophers.

I have run very briefly over the comparison between the rights of American citizens in China with the rights of Chinese in the United States. What are their rights in the United States? I desire to call attention to them. They are here, as the provisions of their treaty say, in a different attitude from the people of any other country in the world, for while the right of expatriation is acknowledged in one of the treaties with China, yet the power of expatriation is, as I understand it, expressly denied in terms in the same treaty. They come here as persons enjoying the hospitality of the United States. What can we do with them when they come here? We have said in this bill that they shall not be naturalized by a State or by the United States. We leave them, therefore, in a condition very peculiar, the like of which is not to be found among any other people in the world who visit our country.

There is but one class of people in this country to whom I might liken the Chinese under these circumstances, and that is the Indians who are under our control. The Indians are red men, they are inferior men socially and politically, and in the character of our legislation are so recognized. The Indians are subject to our control; they are neither citizens of the States in which they may reside nor of the United States, and so far as these matters go they are upon a strict parallel with the Chinaman after he arrives in this land. I do not doubt the power of the Congress of the United States to take the Indians from any reservation that they have got, or, to put it in a strong light, I do not doubt the power of Congress, with the consent of the Indians of any tribe, to transfer them to the public lands of Alabama and locate them in the midst of the people of my State upon the public land.

Does any Senator deny that proposition? It seems to me that in law and in logic it is an undeniable proposition. If you may do that with the Indians, why can you not do it with the Chinese who are here subject to your laws? Why has not Congress the power to distribute them at its will and pleasure in any part of the United States where it has got a foothold in the shape of a public domain; or it might even go far beyond that, for the current of authority strongly indicates the power of Congress to regulate people in such conditions and to compel them to migrate from section to section wherever it choses that they shall go.

Here, then, we have a class of population introduced by hundreds of thousands. There are 105,000 laboring Chinamen, they tell us, on the Pacific slope, and I suppose the entire Chinese census in the United States would amount perhaps to two hundred thousand people, all subject to Congress. I have no right and no power to deny that. We exercise over them the control to keep them from our shores, and after they get here we exercise the control to regulate their movements as we see proper.

I wish to call attention to an assertion of power in the veto message of President Arthur which gives me just alarm. It may be supposed by some Senators in the Republican ranks of this body that my opposition to the immigration of Chinamen into this country is based upon the fact that the Republicans of the Atlantic slope are in favor of their immigration and the Democrats on the Pacific slope and elsewhere are opposed to it, and that I am governing my conduct simply by a question of party fealty and allegiance. I beg to assure the Senate that that consideration does not enter into my convictions upon this question. In an earlier part of my remarks I took occasion to show to the Senate in what way and to what extent we have suffered by the introduction of a strange people among us. I have undertaken to show you that after the negro was brought to this country and was manumitted and made our equal in political affairs how terribly difficult it was for us to protect our civilization.

Here is a President of the United States who makes loud professions, as I understand it, of his friendship for the negro race. In speeches, in his letter of acceptance, and in various utterances he has done like a great many of his *confrères* in the Republican party, thundered tremendously in the index, but when he came to the body of his book there was a vacuum where great promises had been made; there was a total failure of compliance where there had been the most solemn pledge that action would be taken. Says the President in his recent veto message:

> The States of the Pacific slope are full of evidences of their industry.
>
> Chinese industry.
>
> Enterprises profitable alike to the capitalist and to the laborer of Caucasian origin would have lain dormant but for them. A time has now come when it is supposed that they are not needed, and when it is thought by Congress and by those most acquainted with the subject that it is best to try to get along without them.

Mark the words, "that it is best to try to get along without them."

> There may, however, be other sections of the country where this species of labor may be advantageously employed without interfering with the laborers of our own race. In making the proposed experiment, it may be the part of wisdom as well as of good faith to fix the length of the experimental period with reference to this fact.

With reference to what fact? That there are parts of the United States where the Chinese can be employed successfully and usefully without being brought into competition with our own race. The President is a pure Caucasian, more English than anything else, with the bluest of the blue blood in his veins. So that when he speaks of our race does he not speak of that Caucasian race which springs up in to beauty and glory wherever the sun shines upon it? Here is a Republican, a negrophilist, a man who has pledged himself heart and soul, so far as pledges can go, to the equality of the negro race with the white race in every respect, who says that there may be places in this country where the Chinese can be properly employed and where the Chinaman will not come into competition with our race. If not with our race, then with what race is he to come into competition? With the negro race. Where are the negroes? They are in the Southern States, in our midst, in that country which they love so dearly that it seems impossible to divorce them from it. Poverty and sickness and distress and alleged persecution, it seems, cannot drive the negro from the old plantation home. There is the negro to be found in vast masses, occupying a rich, a beautiful, and a splendid country, and understanding perfectly the power of his labor to control it. Here is a Republican at the head of the Republican party who cajoles with him all the time, trying to make him believe he is the best friend he has got in the world, who says if the Chinese cannot be profitably employed on the Pacific coast there is a place where they can be employed, and where they will not come in competition with our race, but with the negro race. That is lofty humanity. That is the grand conception of a man born in Vermont. It is the outgrowth of New England philanthropy, that when it is found that the white man on the Pacific slope cannot use the Chinaman any longer as servile and menial to do his work at his bidding he must be shipped down to the South, to come in competition with people who are not of our race—with the negro race.

Sir, I commend that piece of arrant Executive hypocrisy to the profound consideration of the men and the philosophers of this and of coming generations. It will never be surpassed in the annals of history. No example will ever be set again by a President of the United States which so betrays the deep-settled conviction of his own heart that there is after all a race of people in this country who have been elevated to equality with the white race who are not worthy of it, either in respect to social or political power. Picture to yourself the condition of the South with six millions of Chinese there to inhabit that country along with the six million negroes, and the struggles of these untutored and untrained men in their controversies for the possession of the soil and the control of the country, and see how barbarism will be turned loose in that land, already sufficiently persecuted, to the utter destruction of the last vestige of civilization we have there.

I can conceive of nothing more hideous than the strife which must arise between these people. That was not a mere hint or a mere intimation of a Presidential message. He lays facts before us, arguments and suggestions, which we are expected to regard with reverence and respect because they are supposed to come from a source of profound wisdom and of great power. So it is that we are told plainly if the Chinese cannot live on the Pacific slope, if the people in that country will not permit them to stay there, there is a place to which Congress can transfer them with his sanction, where they can go and occupy the territory without coming into competition

with our race. When the matter has taken this shape, and the President has given to his message this distinctive purpose, this emphatic avowal of what he wants to do, you can understand why it is that a Southern man who has been raised in the midst of the Africans, and who now experiences the difficulty of getting along with that class of people, must revolt and turn away with despair at the fate to which the President of the United States would consign us. This, sir, is not the quarrel of the Pacific slope alone; the entire Southern people are involved in it.

Mr. FARLEY. And the Northern States.

Mr. MORGAN. The Northern States are involved in it, too, to a certain extent. But the outlet for Chinese labor and Chinese population has been opened in this Presidential message, the door has been thrown open, and we are invited now to confirm and ratify the act of the President by limiting the time of exclusion, as he has indicated it, to ten years.

I wish to see a limitation of at least fifteen years put into the bill, and I will state my reasons for it. I have the honor to be a member of the Committee on Foreign Relations. When this bill first came before it the junior Senator from California, [Mr. MILLER,] being a member of the committee, submitted twenty years as the proper period of exclusion. That struck upon my mind at first with some degree of harshness. The Senator was invited to state his reasons, and did so, as he frankly stated them on the floor of the Senate when the bill was first considered by this body. What were they? A restriction of twenty years is no exclusion. The honest, hard-handed immigrant who is starting his family in life, the young man with his wife upon his arm who chooses to go to the West and settle himself upon a farm and toil for a livelihood with some expectation of greater growth in later years, will not go to the West because the Chinaman is there. Too well do I know that fact. You cannot persuade the men who come from abroad to go to the South, that beautiful, rich, and salubrious land, because the negro is there. Although I have oftentimes reflected with some severity in my mind upon the purposes of certain leading Republicans in this country who were enticing an exodus of negroes from the South, yet when I came to consider it maturely I have thought that these were blessings in disguise, the like of which had never fallen upon the people before, for every negro that you can relieve us of in the South by fairly enticing him to come into your own midst and to stay with you furnishes a place for an honest white man and a white family—the class alone who give prosperity and strength and power to the country and its institutions.

You will send the Chinese to the South, you will flood our plantations with them, you will engage them by the hundreds of thousands in diking the Mississippi River, you will let them loose upon our society there, and you will expect us to take care of them and of the negroes also. Gentlemen, it is an impossibility. I know there are large planters in the South, men who have heretofore held on to the plantation system almost with the grasp of death, reluctant to give up that which gave them once so much power and ease and comfort, who now desire that Chinese coolies shall be brought there and be subjected to them under contracts ranging from five to fifteen and twenty years, so that they may re-establish the plantation system. But that is against the genius of our country to-day, and it is the greatest damper that could be thrown upon the prosperity of our people. Nothing could be deprecated so much as that by a man who has got any concern for his own blood, for his own race and his own kindred in that land. I therefore participate in every respect and to every extent with the gentlemen who represent the Pacific slope in my abhorrence of the introduction of these people.

The Chinese of the classes excluded by this bill are not a worthy people to be introduced here. I will read a brief extract from an eminent man from Missouri—a man whose vocation was that of preaching the gospel of Christ, and was one of the most brilliant and splendid of the men of that great State. I refer to Bishop Marvin, of honorable and glorious memory. He went "to the East by the way of the West," and he gave to his church and his people a faithful and fair narrative of all that he saw in that journey around the world. I must read you a few extracts from his pen. He went from Japan to China, and he draws a comparison between the Japanese cooly and the Chinese cooly. He says:

> The contrasts appear also in the first sight you get of the people. There is the most striking absence of the cleanliness of the Japanese. There even the coolies have the appearance of being washed; here they look filthy. There the little boats that ply about the harbor for chance jobs, though innocent of paint, are scoured every day, and have the inviting aspect of cleanliness; here they are dirty-looking, though some are painted. Here the clothing of many of the laborers is a mere mass of rags, while there the poorest, even if only half-clad, show an aspect of neatness in the scant garments they have.

He speaks then of the habits of the Chinese in those large cities which they have built, some of which, I believe, have the largest populations to be found in the world. He says:

> But, oh, the filth of a Chinese city! The smells! the smells! the smells! ugh! I have no such mastery of language as will enable me to do justice to this subject, but if I had I would not attempt it, for a civilized man would have to hold his nose to read it.

Speaking of their customs in their domestic affairs, he says:

> All the water the natives use in Shanghai—and I suppose in all other cities or the level parts of the country—is taken out of the canals. Come with me a moment to the bank of the canal. Do you see the mouth of that sewer pouring its filthy contents into it? Just below see that woman washing the foulest vessel. Below her there is a man washing his face and hands, the first time, maybe, for a week. Below him, again, a man is dropping two buckets into the water, the buckets suspended, one from each end of a bamboo pole. His buckets filled he balances the pole on his shoulder and trots off along the narrow streets. Where is he going? To some Chinese gentleman's house, bearing the supply of water for cooking, making tea, drinking, and all other purposes for which water is used. For these domestic uses all foreigners save the water from their roofs, preserving it in huge earthen jars; but the natives, high and low, depend on the canal for all purposes. So delicately cultivated is the celestial palate.

I never read a chapter out of the New Testament that I had more faith in than I have in that statement coming from Bishop Marvin, and every man who ever knew him is bound to say that it is a true picture. In God's name, are we to introduce the laboring classes of these people into this country in such swarms and abundance as will satisfy the demand of the honorable Senator from Massachusetts in his desire to Christianize and civilize them? The Senator might take all the Christianity of Massachusetts and carry it to China and spread it upon a single city and they would not know that anything had happened there. The preachers want them to come here to be Christianized. Ah! they forget Ignatius Loyola, they forget the great propagandist; they spurn men who take the cross in their hands and go with it abroad to preach Christ, according to the commandment, to all the nations of the earth. They want to sit here in their comfortable chapels, supported by their congregations, while they preach the Gospel to the Chinese imported for the purpose of labor.

There is more than that in this question. I will read now from an article from Mr. George H. Seward, lately our consul-general to China, published in the American Cyclopædia, making a standard article which is supposed to be literally and strictly true. Mr. Seward says:

> The domestic and social life of the Chinese has, perhaps, more features in common with western nations than that of other oriental peoples. Although polygamy exists among the wealthier classes, and their women generally live in seclusion, family life is much esteemed and cultivated among them.

It will be gratifying to both Senators from Massachusetts to find that polygamy exists in China chiefly among the wealthier classes. It is the same case in Utah; that is to say, only the wealthy man can support more than one wife.

Mr. Seward says:

> The first wife has the full control of the household, while the concubines are little more than servants and housemaids. The Chinese illustrate the relation by comparing the wife to the moon and the concubine to the stars, both of which in their appropriate spheres revolve around the sun.

Let us stop one moment and review a month of our own history in the Senate. Let us see if we can bring our philosophic contemplation to bear upon our own conduct in this august body just for a month past. Here we have been asserting ourselves before the world as a Christian power *par excellence*, and because we found a few vagabond polygamists in Utah we have punished them by unconstitutional laws, and the House of Representatives has turned one of them out for an offense committed before the act was passed which denounced the crime. But in the very act we passed we authorized a man to have one wife and one concubine, and still to be as good a voter as any man in the country. He could not have more than one concubine nor more than one wife and be a voter. That is the morality of Republican politics in the Senate and in the House. There it stands a bold and ineffaceable picture. Coming generations of Americans will read with shame and disgust that the President of the United States gave his approval to the bill and then turned around and refused to protect our people against the influx of a race who believe that polygamy is a part of the institutions of the great "Sun" from which they sprung, who have no doubt about their right to be polygamists. We invite polygamists to come to this country in any quantity that may suit the fastidious tastes of the Senators from Massachusetts in respect to human liberty, and yet we deny them when native-born the right to vote. That is a chapter in the history of this country which is worthy to be read by men who reflect upon the philosophy of government. It is a reproach and nothing but a reproach upon the sincerity of our actions.

Can we think of any race of men whom we would not sooner invite to this country than the Chinese? I would go and open up the heart of Africa and bring those negroes from the slavery in which they are held to-day by their fathers and their kinsmen, and put them under the guidance and guardianship of the negroes of the South with the expectation of civilizing them and making them good inhabitants of this country and good citizens, rather than to turn loose the hordes of the lower classes of Chinese on this land. Are we to allow a sickly sentimentalism to induce us to violate all that belongs to our race and our Government and our country in order to let these men in here who are to become as servile laborers and slaves, for they are little else, to wealthy men?

I have discussed this question much longer than I expected to do; indeed I did not think I would occupy more than a very few minutes, but it seems to me that it is the duty of the American people again to express themselves upon this subject, and not to bow in humility to the one man who holds the treaty-making power, or the largest part of it, and also the veto power, and say to him "Thy will be done."

I would be glad to see the day in this country when the will of the American people, solemnly expressed, shall at last be sufficient to carry their measures into execution against the veto power of the

President. I will remark again, and in conclusion, that there never was a more dangerous combination of power than that of the treaty-making power and the veto power, through which two Presidents in succession have thwarted and checked and destroyed the will of the American people.

Mr. SLATER. Mr. President——

Mr. VEST. Will the Senator from Oregon yield to me for a motion to adjourn?

Mr. SLATER. Yes, sir.

Mr. VEST. I move that the Senate adjourn.

Mr. CONGER. Before that motion is put, I ask that the bill be printed with the amendments proposed.

The PRESIDING OFFICER. Will the Senator from Missouri withdraw his motion to adjourn, in order that the Senator from Michigan may move that the bill as amended be printed for the use of the Senate to-morrow?

Mr. FARLEY. I hope not. It has already been printed.

Mr. CONGER. If the gentleman will withdraw his motion, I move that the bill be printed for the use of the Senate to-morrow.

The PRESIDING OFFICER. The Senator from Michigan moves that the bill be printed for the use of the Senate to-morrow.

The motion was agreed to.

Mr. BUTLER. Do I understand that the Senator from Oregon [Mr. SLATER] has the floor for to-morrow on this question?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. FARLEY. On this bill?

The PRESIDING OFFICER. On this bill.

DISCUSSION ON JAPANESE INDEMNITY FUND BILL.

Mr. MORGAN. I offer the following resolution, in order to get the opportunity to-morrow to discuss in the morning hour a certain bill:

Resolved, That during the 26th day of April, 1882, while the Senate is proceeding with business under the Anthony rule, the provision limiting debate to five minutes, and that a Senator shall not speak more than once, shall be suspended.

I ask that the resolution lie over until to-morrow.

The PRESIDING OFFICER. The resolution will be printed, and lie upon the table.

Mr. VEST. I renew my motion that the Senate adjourn.

The motion was agreed to; and (at five o'clock and twenty-one minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 25, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

BRIDGE OVER MISSOURI RIVER.

Mr. THOMPSON, of Iowa. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of House bill No. 2313, and that it be now taken up and put on its passage.

The bill, as amended by the Committee on Commerce, was read, as follows:

A bill (H. R. No. 2313) authorizing the Sioux City and Pacific Railroad Company to construct and maintain a railroad bridge over the Missouri River.

Be it enacted, &c., That the Sioux City and Pacific Railroad Company, a corporation existing under the laws of the State of Iowa, or its assigns, are hereby authorized, for the purpose of making a more perfect connection for its line over the Missouri River, to construct and maintain a railroad bridge across said river at the most suitable and convenient point within ten miles of the present crossing between the county of Washington, in the State of Nebraska, and the county of Harrison, in the State of Iowa.

SEC. 2. That said bridge shall be constructed and built without material interference with the security and convenience of navigation of said river beyond what is necessary to carry into effect the rights and privileges hereby granted; and in order to secure a compliance with these conditions the corporation, previous to commencing the construction of the bridge or of the accessory works designed to secure the best practical channel-way for navigation and confine the flow of the water to a permanent channel at said point, shall submit to the Secretary of War a plan of the bridge and of such accessory works, together with a detailed map of the river at the proposed site of the bridge and for a distance of a mile above and below the site, together with all other information touching said bridge and river and accessory works as may be deemed requisite by the Secretary of War to determine whether the said bridge, when built, will conform to the prescribed conditions of this act; that said bridge shall be constructed and built without material interference with the security and convenience of navigation of said river beyond what is necessary to carry into effect the rights and privileges hereby granted.

SEC. 3. That the Secretary of War is hereby authorized and directed, upon receiving such plan and map and other information, and upon being satisfied that a bridge built on such plan and with such accessory works and at such locality will conform to the prescribed conditions of this act, to notify the company that he approves the same; and upon receiving such notification the said company may proceed to an erection of said bridge, conforming strictly to the approved plan and location; but until the Secretary of War approves the plan and location of said bridge and accessory works, and notify the company of the same, the bridge shall not be built; and should any change be made in the plan of the bridge or said accessory works, during the progress of the work thereon, such change shall be subject likewise to the approval of the Secretary of War.

SEC. 4. That the said bridge and accessory works, when built and constructed under this act and according to the terms and limitations thereof, shall be lawful structures; and said bridge shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States, or for passengers or freight passing over said bridge, than the rate per mile paid for the transportation over the railroads or public highways leading to said bridge; and said bridge shall enjoy the rights and privileges of other post-routes in the United States.

SEC. 5. That said corporation may execute a mortgage upon the bridge, its approaches and appurtenances, including said accessory works, and issue bonds secured by the same, bearing such rate of interest, and payable, principal and interest, as such corporation shall determine; and such mortgage shall constitute the first lien upon the said bridge and other property in said mortgage mentioned and described.

SEC. 6. That the United States shall have the right of way for postal telegraph across said bridge.

SEC. 7. That the Sioux City and Pacific Railroad Company may assign all the rights, privileges, and franchises conferred by and contained in this act, if said company shall deem said assignment expedient and for its best interests: *Provided, however*, That said bridge, if built by the assigns of said company, shall be constructed and maintained in all respects on the terms and subject to the conditions, limitations, and restrictions herein contained.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. There is now a general law in regard to the construction of bridges over the Ohio River; and I apprehend that a similar measure of general legislation could be applied to the Mississippi and Missouri Rivers. While I do not object to this bill, I beg to give notice, Mr. Speaker, that hereafter in reference to the bridging of any one of those Western rivers I shall insist it shall be done under a general law, the provisions of which have been carefully drawn and well-considered, and not by the special enactments which are uniformly passed by unanimous consent and without any opportunity to understand thoroughly their provisions.

Mr. THOMPSON, of Iowa. I trust the gentleman will not insist upon his objection to this bill.

Mr. HOLMAN. I do not object to this bill, but give notice I will hereafter object to any other bill.

Mr. THOMPSON, of Iowa. I ask to move an amendment to the bill.

The Clerk read as follows:

Strike out, in lines 7 and 8, in section 4, the words "or for passengers or freight over said bridge," and add to the end of said section the following: "And Congress reserves the right at any time to regulate by appropriate legislation the charges for freight and passengers over said bridge."

The amendment was agreed to.

Mr. THOMPSON, of Iowa. I move the following amendment to the last section.

The Clerk read as follows:

Add to section 7 the following: "Reserving to Congress the right to amend, alter, or repeal this act."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THOMPSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. HOLMAN. Mr. Speaker, I rise to what I believe to be a question of privilege. Yesterday, in the discussion of the bill which proposed among other things to repeal the law securing to soldiers and sailors of the Union Army the right to be appointed on the police force of this District, the gentleman from Maryland, [Mr. MCLANE,] whom I see is in his seat, made use of the following language:

I say I can very well understand the motive which induced the honorable gentleman from Indiana to follow the example of my friend from New Jersey was not more respectable than the original motive.

It is very true that the moment before I used these words, "allow me to make an explanation," but not at that time, and until I read this report I did not understand the purport of the language of the gentleman from Maryland, else I should have at that moment insisted upon the right to be heard. However eminent the gentleman from Maryland may be, I do not recognize his right to fix the standard of respectability in matters of opinion in voting for measures on this floor. I deny the right of that gentleman or any other gentleman to determine for the members of this House what is or what is not respectable in voting for a measure.

Mr. MCLANE. Will the honorable gentleman from Indiana permit me before he proceeds further?

Mr. HOLMAN. Certainly.

Mr. MCLANE. I should like to have his permission entirely to withdraw, not qualify, but absolutely to withdraw that expression.

Mr. HOLMAN. That is entirely satisfactory to me.

Mr. MCLANE. At the same time I ask the gentleman from New Jersey to permit me to withdraw it as to him.

Mr. HOLMAN. I have nothing further to say.

The SPEAKER. The Chair does not think matters of that kind, not noticed at the time, are questions of privilege.

Mr. HOLMAN. I stated that my reason for rising was that the remark was not noticed at the time, that in the midst of the confusion it was not distinctly heard.

Mr. CAMP. I ask that the gentleman from Indiana be allowed to proceed if he desires to do so.

Mr. HOLMAN. I am entirely satisfied with the withdrawal of the offensive remark by the gentleman from Maryland. The explanation I should have made was this: the numerous measures upon the statute-book in behalf of the Union soldiers were put there by Democratic as well as Republican votes, and by no vote of mine will any one of them be repealed.

Mr. McLANE. What I desire to say to the gentleman from Indiana [Mr. HOLMAN] I beg permission also to say to the gentleman from New Jersey, [Mr. ROBESON,] that as to the phrase that the motive of the honorable gentleman was not more respectable than the motive of the honorable gentleman from New Jersey I am very sorry I used a word which was susceptible of a disagreeable if not offensive interpretation. I said yesterday to the honorable gentleman from New Jersey that it was not intended in an offensive sense, and I prefer to withdraw it altogether.

Mr. HAZELTON. That is entirely satisfactory. [Great laughter.]

Mr. ROBESON. Mr. Speaker, I desire publicly to acknowledge the courtesy of the gentleman from Maryland and to thank him for his manly exercise of it. If I said anything disagreeable yesterday, or which the gentleman thinks he has a right in any way to complain of, I beg in the best spirit to take it all back. [Laughter.]

Mr. HUMPHREY. I move that all that was said yesterday be taken back. [Laughter.]

CROW INDIAN RESERVATION.

Mr. MAGINNIS. I move, by unanimous consent, that the bill (S. No. 1045) to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana required for the use of the Northern Pacific Railroad, and to make the necessary appropriations for carrying out the same, be taken from the Speaker's table and put on its passage at this time.

The SPEAKER. The bill will be read.

Mr. MAGINNIS. As it is a long bill, perhaps a word of explanation will save objection.

Mr. RANDALL. A bill to be passed should be read.

Mr. KASSON. As it is a long bill I must object.

Mr. RANDALL. I have a short bill.

Mr. MAGINNIS. I object. I object to all of them. The Territories of the United States are under the jurisdiction of this Congress. A day is set apart for the District of Columbia. We ought to have some rights.

PUBLIC BUILDING, MARQUETTE, MICHIGAN.

Mr. HUBBELL. Mr. Speaker, inasmuch as I shall be compelled to ask leave of absence of the House to-day, to be absent perhaps for some time in consequence of the sickness of my brother, having just received a telegram informing me of the same, and as I would be entitled on Monday next to the floor for a motion to suspend the rules and pass this bill, I now ask the House to permit the bill which I send to the desk to be passed, as I shall probably be kept away two or three weeks. This bill is recommended by the committee and is a good bill and ought to be passed.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (H. R. No. 4174) for the erection of a public building at Marquette, Michigan.

Mr. HUBBELL. I ask that the bill be put upon its passage.

The SPEAKER. The bill will be read, subject to objection.

The bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. I shall be compelled to call for the regular order.

Mr. HUBBELL. I am obliged to go away, and as I would be entitled to recognition on Monday next to suspend the rules I hope the gentleman from Indiana will not insist upon his demand.

Mr. HOLMAN. I demand the regular order on a general principle. I should be very glad to accommodate the gentleman, but bills of this character ought only to be taken up in their order.

Mr. HUBBELL. I appeal to the gentleman to withdraw his objection.

The SPEAKER. The Chair understands the gentleman from Indiana as insisting upon his objection.

Mr. HUBBELL. Then I give notice that there can be no other unanimous consent in this House.

PARIS MONETARY CONFERENCE.

Mr. BUCKNER. I ask consent at this time to present a privileged report from the Committee on Banking and Currency. I am directed by the committee to report back the following resolution, and recommend its adoption.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the President be requested to communicate to this House, if not in his opinion incompatible with the public interest, all correspondence that may have taken place between this Government and that of any of the European or other governments since the adjournment of the Paris monetary conference of 1881, touching the reassembling of said conference at Paris during the current year; and also that he inform this House whether any delegates to said adjourned conference have been or will be appointed by this Government; and, if not, the reasons of such non-action on the part of the Government of the United States.

Mr. BUCKNER. I ask the adoption of the resolution.

The resolution was agreed to.

Mr. BUCKNER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HUBBELL. I understand the gentleman from Indiana says that although he cannot withdraw his objection to the passage of the bill which I have asked unanimous consent to put upon its passage, that he will not object to my asking unanimous consent to suspend the rules and pass the bill to-day, as I would have the right to do on Monday.

Mr. HOLMAN. I have no objection to that.

Mr. RANDALL. I shall have to object to that.

Mr. HASKELL. Then I demand the regular order.

REMOVAL OF AN OFFICIAL REPORTER.

Mr. CARLISLE. I desire to offer a resolution which relates to the construction of a rule of the House, and which will give rise to no debate whatever.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Whereas Mr. Andrew Devine, a member of the official reporting corps, has received the following notification:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,
Washington, April 13, 1882.

SIR: Your services as acting stenographic reporter for committees of the House of Representatives are dispensed with from and after this date. You are not regarded as holding any continuing valid appointment as such reporter for this Congress, but, assuming that you do, you are removed for good and sufficient cause.

Very truly, yours,

J. WARREN KEIFER,
Speaker House of Representatives.

ANDREW DEVINE, Esq.,
House of Representatives, Washington, D. C.

And whereas it is claimed on behalf of Mr. Devine that, while he, like all the other official reporters, is of course removable by the House at its pleasure, with or without cause, the action of the Speaker in the premises does not constitute removal for cause within the true meaning and intention of the rule: Therefore,

Resolved, That the Committee on the Judiciary be instructed to make full inquiry into the case of Mr. Devine and the validity of the action of the Speaker therein, and to report without delay and at any time their conclusions, with such recommendations as they may deem proper.

The SPEAKER. The question is on the adoption of the resolution.

Mr. ROBESON. I shall not object to that resolution. I am not sorry it is offered; because I think it is about time that the employés of this House give up trying their cases by newspaper paragraphs and abuse of members, and appeal to the Judiciary Committee of this House if they have an alleged grievance.

Mr. CARLISLE. I fully agree with the gentleman from New Jersey that the matter should be considered by the law committee of this House; and therefore I move the adoption of the resolution.

Mr. ROBESON. I hope it will pass.

The SPEAKER. The Chair thinks the resolution should pass.

The resolution was agreed to.

Mr. CARLISLE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENTS MADE TO MISSOURI MILITIA.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a report from the Third Auditor relative to the payments made by the State of Missouri since April 17, 1866, to the militia forces of said State for services performed in the suppression of the rebellion, and stating that $234,594.10 is justly due in consequence thereof; which was referred to the Committee on Appropriations, and ordered to be printed.

REFERENCE OF SENATE PENSION BILLS.

Mr. BROWNE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That all Senate pension bills now on the Speaker's table be taken therefrom and referred to their appropriate committees.

Under the above order the following Senate bills were taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions:

A bill (S. No. 163) granting a pension to Hiram Johnson;
A bill (S. No. 165) granting a pension to Mrs. Rose M. Wood;
A bill (S. No. 462) granting a pension to Emma A. Ramsey;
A bill (S. No. 633) granting a pension to Hugo Eichholtz;
A bill (S. No. 725) granting a pension to S. Annie Esterbrook;
A bill (S. No. 802) granting a pension to Mrs. Cornelia F. White;
A bill (S. No. 832) granting a pension to Simeon Crain;
A bill (S. No. 1040) granting a pension to Theodore Rauthe;
A bill (S. No. 1195) granting a pension to William Hazelit;
A bill (S. No. 1218) to restore to the pension-roll the name of Frederick A. Garlick;
A bill (S. No. 1301) granting an increase of pension to George Gans;
A bill (S. No. 1313) granting a pension to Samuel Horner; and

A bill (S. No. 1576) granting a pension to Ellen Lardner.

The following Senate bills were taken from the Speaker's table, read a first and second time, and referred to the Committee on Pensions:

A bill (S. No. 219) for the relief of Rebecca Wright;
A bill (S. No. 230) granting a pension to Angus McAuley;
A bill (S. No. 629) granting a pension to Lemuel Adams;
A bill (S. No. 643) for the relief of Ellen Moore, widow of Allen Moore, deceased;
A bill (S. No. 1401) granting a pension to Elizabeth Gray; and
A bill (S. No. 1532) granting a pension to George C. Quick.

ORDER OF BUSINESS.

Mr. CALKINS. I rise to a question of the highest privilege. I call up the contested-election case of John R. Lynch *vs.* James R. Chalmers, from the sixth Congressional district of Mississippi. I yield for a moment to my colleague on the committee, the gentleman from Ohio, [Mr. ATHERTON,] who desires to make a statement.

Mr. RANDALL. It is understood that by permitting the gentleman to yield to his colleague we do not waive the right to raise the question of consideration.

Mr. CALKINS. I desire my colleague on the committee to be first heard.

Mr. ATHERTON. I understand it is desired to raise the question of consideration against this contested-election case; and I am making no objection to that. I want to suggest, however, to the House, that having been detained for a considerable time by reason of sickness, I arrived here yesterday and was quite unable to make my appearance in the House. I have not had an opportunity to consult with gentlemen representing the minority of the House as to who will discuss the case or as to the manner in which the discussion is to proceed on our side. If it should suit the views of the majority of the committee it would suit me very much to have a slight delay anyhow, whether the question of consideration is raised or not. I hope the House will concede to the minority, so that we may properly present our case, a short delay of not more than a few days in which to make arrangements as to who shall discuss the case and the order of discussion, so that we may be properly prepared for it.

Mr. CALKINS. I understand there are one or two matters which it is important should be considered to-day; and if the case is called up and my colleague, the gentleman from Ohio, does not feel able to go on to-day, after an hour's speech on this side, I will let the matter go over till to-morrow and allow other business to come in after that.

Mr. ATHERTON. Say Thursday, anyhow.

Mr. KASSON. I desire to be heard before any arrangement of that kind is made.

Mr. TOWNSHEND, of Illinois. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. I ask if the unfinished pending business, the consideration of the tariff-commission bill, does not have priority of this contested-election case?

The SPEAKER. The Chair thinks not.

Mr. KASSON. I desire to say to the gentleman from Indiana [Mr. CALKINS] and the gentleman from Ohio [Mr. ATHERTON] that in accordance with notice both publicly and privately given, and an arrangement made long ago, this was the week in which the debate on the tariff-commission bill was to be brought to a conclusion. Gentlemen on both sides of the House have prepared themselves accordingly, and to all questions on this subject last week I answered that early this week, probably on Tuesday, Monday being devoted to other business, I should ask the House to begin the end of this discussion. I believe it will facilitate all public business to adhere to that arrangement, so that we may get the tariff bill out of the way. It is for that reason I have said and desire to say to the gentleman from Indiana that I was under obligations to antagonize other business, and I have assured various gentlemen on both sides that this morning we were to commence the last three days' discussion and finish it. I desire that to be understood in connection with any proposed arrangement as to other business.

Mr. CALKINS. I wish to say I am in discharge of what I believe to be a public duty in pursuance of notice given, a continuing notice given by me on several occasions. I feel it necessary for me this morning to adhere to the notice given; but while I do that, in fairness to my colleague on the committee who is charged with the minority report, I do not want to force him along faster than he feels he can go fitly in his present physical condition. I therefore desire the case to be called up for one hour, and then if the gentleman is not able to go on I will agree that the case shall go over until to-morrow.

Mr. RANDALL. In reference to the understanding reached, and to which the gentleman from Iowa has called attention, as to the discussion on the tariff-commission bill, I want to say that the House or those who desire to speak have already lost four days that should have been under the agreement given to that discussion; and in anticipation of having four days in place of those that have been lost by interrupting business, we may not be able to reach a final vote on the tariff-commission bill on Thursday next, as some time ago was the design on all sides.

Mr. KASSON. The gentleman from Pennsylvania will allow me to state again that the understanding was we should have what we should get of the four days that were to be asked for this discussion this week. We did have Thursday. I tried to get evening sessions, but failed.

Mr. RANDALL. The spirit of the understanding in the committee, and I think on the floor of the House, was that the discussion of the tariff-commission bill was to be allowed to have full sway during last week, except on Monday, which was the day for suspensions of the rules. Surely the minority of the committee so understood it, and with that view it was agreed that the general debate on the tariff bill should be closed on Thursday next.

Now, having lost that which by the spirit at least, if not by the letter, of the understanding we were entitled to have, I fear it will be impossible to reach a vote on that bill on the 27th of this month; certainly not if this report from the Committee on Elections is to be precipitated here at this time.

Mr. CALKINS. There is no precipitation of this question on the House at all.

Mr. RANDALL. One moment; until I get through.

Mr. CALKINS. I thought the gentleman was through.

Mr. RANDALL. I hope the gentleman from Iowa [Mr. KASSON] will adhere to his purpose of raising the question of consideration, so as to raise an issue between the tariff-commission bill and the contested-election case.

Mr. KASSON. I do not desire to raise an issue between the tariff bill and anything else, but to come up to the understanding as far as possible. I therefore shall ask the House to adhere to that understanding.

Mr. CALKINS. I now call up the contested-election case of Lynch against Chalmers.

Mr. BOWMAN. I only want to give notice that at the expiration of the hour which the gentleman from Indiana [Mr. CALKINS] states he will now take on the election case, I shall ask on a question of consideration that the House come to a vote on the claims bill. There is nothing to be done on that bill now but to take it up and vote on it.

The SPEAKER. The Chair will state to the gentleman from Massachusetts [Mr. BOWMAN] that the claims bill would not be first in order at the expiration of an hour from this time and before the morning hour.

Mr. BOWMAN. I supposed that raising the question of consideration was always in order.

Mr. KELLEY. I desire to enforce what the gentleman from Iowa [Mr. KASSON] in charge of the tariff-commission bill has said, and especially what was said by my colleague from Pennsylvania, [Mr. RANDALL.] There was an understanding arrived at in the Committee on Ways and Means that there should be the fullest discussion possible upon the tariff-commission bill, and many gentlemen have prepared with care and deliberation remarks upon that subject. Four members of the Committee on Ways and Means, who have prepared themselves to express their views, have not yet been heard. We were to obtain all the time that could be had last week, and the understanding did imply that we would get time last week; but we had a part of a day only, and that by grace. We were to hold evening sessions if possible, and the gentleman in charge of the bill made repeated efforts to obtain them, but objection was made by gentlemen on the other side of the House.

I ask now that as soon as we can we enter again upon the discussion of that bill, with the understanding that we will proceed with that discussion by day and by evening sessions until the general debate shall have closed. I think that in view of the gravity of the measure we ought to resume the discussion as soon as possible.

The SPEAKER. The gentleman from Indiana [Mr. CALKINS] calls up the contested-election case of Lynch *vs.* Chalmers.

Mr. ROBINSON, of New York. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROBINSON, of New York. Or rather a point of order. On Saturday last I introduced a resolution which some of us considered one of privilege, and I was asked to postpone its consideration until Monday, which I did. On yesterday it came up, and I was asked by the Committee on Foreign Affairs to postpone it again until this morning; and I had the pledge of the committee, represented by the gentleman from Indiana, [Mr. ORTH,] that it should then be considered. I have the RECORD here showing that in his own language he agreed that it should be considered "the first thing to-morrow morning;" that is, this morning.

Now, my point is that I am entitled to the floor on that resolution in regard to the rights of American citizens who have been so long neglected. I wish to be heard a few minutes upon that subject. I consider that it is before the House and should take precedence of all other subjects.

The SPEAKER. The Chair will state that the resolution of the gentleman from New York [Mr. ROBINSON] was offered and a point of order was made against it, and it was agreed between the gentleman from New York and the gentleman from Indiana [Mr. ORTH] that the resolution should go over with the point of order pending.

The Chair also will state that the privileged matter now called up by the gentleman from Indiana [Mr. CALKINS] is one of higher privilege than the resolution of the gentleman from New York, even

assuming that the resolution itself involves a question of privilege. Hence the Chair will entertain the proposition of the gentleman from Indiana as one of higher privilege, without deciding the question whether the other is one of privilege or not.

Mr. ROBINSON, of New York. A word on that point of order. I presume the point of order was pending, and this resolution was put over with that point pending.

The SPEAKER. The point of order will be considered when the resolution shall be reached.

Mr. ROBINSON, of New York. I want the resolution considered now, and if the Chair decides against me, I most respectfully, and with the highest respect for the Chair, must appeal from his decision. I maintain that the resolution is now before the House, and I demand that it be considered, or I must retire from the matter if I cannot be heard upon it.

The SPEAKER. The gentleman from Indiana [Mr. CALKINS] calls up as a question of high privilege the contested election case of Lynch *vs.* Chalmers. The gentleman from New York [Mr. ROBINSON] claims that a resolution introduced by himself on a former day, which by consent was passed over, is also a question of privilege.

Mr. ROBINSON, of New York. And of higher privilege than the other.

The SPEAKER. And of higher privilege, according to his claim.

Mr. ROBINSON, of New York. That is my point.

The SPEAKER. The Chair, without deciding whether or not the resolution of the gentleman from New York is one of privilege, holds that the right of a member to his seat is of higher privilege than the resolution possibly could be. Having so decided, the Chair understands that the gentleman from New York appeals from its decision.

Mr. ROBINSON, of New York. I very respectfully appeal from the decision of the Chair, and believe that the Speaker himself would be glad if his decision was overruled.

Mr. CALKINS. I move to lay the appeal on the table.

The question being put,

The SPEAKER said: In the opinion of the Chair the motion of the gentleman from Indiana is agreed to.

Mr. ROBINSON, of New York. I ask for the yeas and nays.

The yeas and nays were not ordered.

So the appeal from the decision of the Chair was laid on the table.

Mr. CALKINS. I yield for a moment to the gentleman from Wisconsin, [Mr. WILLIAMS.]

Mr. TOWNSHEND, of Illinois. What right has the gentleman from Indiana [Mr. CALKINS] to yield?

The SPEAKER. The gentleman from Indiana can only control the floor for the purpose of calling up the question of privilege.

Mr. WILLIAMS, of Wisconsin. I ask consent to say a single word which will antagonize nobody. The Committee on Foreign Affairs have been arraigned several times in their absence. They have adjourned their session this morning for the express purpose of showing cause in the House. They will join my friend from New York [Mr. ROBINSON] in waiving the point of order and insisting upon the question of privilege so soon as it shall come up; and I have the assurance of the gentleman from Indiana that after this hour the gentleman from New York may raise his question of privilege; and we will second him.

Mr. TOWNSHEND, of Illinois. The gentleman from Indiana has no hour.

The SPEAKER. The gentleman from Indiana has not entered upon the debate.

Mr. KASSON. I wish at the proper time to raise the question of consideration upon this contested-election case.

The SPEAKER. The question of consideration has already been raised by the gentleman from Pennsylvania, [Mr. RANDALL.] The question is, Will the House proceed to consider the contested-election case of Lynch *vs.* Chalmers?

The question being taken, there were—ayes 89, noes 94.

Mr. CALKINS. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 97, nays 121, not voting 73; as follows:

YEAS—97.

Aldrich,	Deering,	Jadwin,	Payson,
Belford,	De Motte,	Jones, George W.	Peelle,
Bingham,	Dezendorf,	Jones, Phineas	Peirce,
Bowman,	Dingley,	Jorgensen,	Pettibone,
Briggs,	Dunnell,	Joyce,	Pound,
Browne,	Dwight,	Ketcham,	Ranney,
Burrows, Julius C.	Farwell, Sewell S.	Lewis,	Ray,
Burrows, Jos. H.	Ford,	Lindsey,	Reed,
Butterworth,	George,	Lord,	Rice, Theron M.
Calkins,	Godshalk,	McClure,	Rich,
Campbell,	Grout,	McCoid,	Ritchie,
Candler,	Guenther,	McCook,	Robeson,
Cannon,	Harris, Benj. W.	Miller,	Robinson, Geo. D.
Carpenter,	Haseltine,	Moore,	Robinson, James S.
Caswell,	Hawk,	Neal,	Scranton,
Chace,	Hazelton,	Orth,	Sherwin,
Crapo,	Heilman,	Pacheco,	Skinner,
Cullen,	Horr,	Page,	Smith, A. Herr
Davis, George R.	Humphrey,	Parker,	Smith, J. Hyatt
Dawes,	Jacobs,	Paul,	Spaulding,
Spooner,	Thompson, Wm. G.	Urner,	Williams, Chas. G.
Steele,	Townsend, Amos	Van Aernam,	Young.
Stone,	Tyler,	Washburn,	
Strait,	Updegraff, J. T.	Watson,	
Taylor,	Updegraff, Thomas	Webber,	

NAYS—121.

Aiken,	Curtin,	Hutchins,	Shackelford,
Armfield,	Davidson,	Kasson,	Shallenberger,
Atherton,	Davis, Lowndes H.	Kelley,	Shelley,
Atkins,	Deuster,	Kenna,	Simonton,
Barr,	Dibble,	King,	Singleton, Otho R.
Bayne,	Dibrell,	Klotz,	Smith, Dietrich C.
Belmont,	Dowd,	Ladd,	Sparks,
Beltzhoover,	Dunn,	Latham,	Speer,
Berry,	Ellis,	Manning,	Springer,
Blanchard,	Ermentrout,	Matson,	Stephens,
Bland,	Errett,	McKinley,	Stockslager,
Bliss,	Evins,	McLane,	Thompson, P. B.
Bragg,	Finley,	McMillin,	Tillman,
Brewer,	Flower,	Mills,	Townsend, R. W.
Brumm,	Forney,	Money,	Tucker,
Buchanan,	Garrison,	Morrison,	Turner, Henry G.
Buckner,	Gibson,	Mosgrove,	Turner, Oscar
Cabell,	Gunter,	Moulton,	Upson,
Caldwell,	Hammond, N. J.	Murch,	Vance,
Carlisle,	Hardenbergh,	Mutchler,	Wadsworth,
Cassidy,	Harmer,	O'Neill,	Ward,
Clardy,	Haskell,	Phelps,	Warner,
Clark,	Hatch,	Phister,	Wellborn,
Clements,	Herbert,	Randall,	Wheeler,
Colerick,	Herndon,	Reagan,	Whitthorne,
Cook,	Hewitt, Abram S.	Richardson, Jno. S.	Williams, Thomas
Cox, Samuel S.	Hewitt, G. W.	Robertson,	Wise, George D.
Cox, William R.	Hill,	Robinson, Wm. E.	Wise, Morgan R.
Covington,	Hoblitzell,	Russell,	
Cravens,	Holman,	Scales,	
Culberson,	House,	Scoville,	

NOT VOTING—73.

Anderson,	Frost,	Le Fevre,	Shultz,
Barbour,	Fulkerson,	Marsh,	Singleton, Jas. W.
Beach,	Geddes,	Martin,	Talbott,
Black,	Hall,	Mason,	Thomas,
Blackburn,	Hammond, John	McKenzie,	Valentine,
Blount,	Hardy,	Miles,	Van Horn,
Buck,	Harris, Henry S.	Morey,	Van Voorhis,
Camp,	Henderson,	Morse,	Wait,
Chalmers,	Hepburn,	Muldrow,	Walker,
Chapman,	Hiscock,	Nolan,	West,
Cobb,	Hoge,	Norcross,	White,
Converse,	Hooker,	Oates,	Willis,
Cornell,	Houk,	Prescott,	Willits,
Crowley,	Hubbell,	Rice, John B.	Wilson,
Cutts,	Hubbs,	Rice, William W.	Wood, Benjamin
Darrell,	Jones, James K.	Richardson, D. P.	Wood, Walter A.
Dugro,	Knott,	Rosecrans,	
Farwell, Chas. B.	Lacey,	Ross,	
Fisher,	Leedom,	Ryan,	

So the House refused to consider the contested-election case.

The following pairs were announced from the Clerk's desk:

Mr. CORNELL with Mr. BLACK.

Mr. RICE, of Massachusetts, with Mr. WILSON.

Mr. WEST with Mr. HARRIS, of New Jersey.

Mr. FARWELL, of Illinois, with Mr. MARTIN.

Mr. HISCOCK with Mr. BLACKBURN.

Mr. WAIT with Mr. HOGE.

Mr. WILLITS with Mr. KNOTT.

Mr. MULDROW with Mr. MILES.

Mr. LEEDOM with Mr. SHULTZ.

Mr. GEDDES with Mr. RICE, of Ohio.

Mr. VALENTINE with Mr. HARDY.

Mr. MOREY with Mr. CONVERSE.

Mr. CROWLEY with Mr. NOLAN.

Mr. FISHER with Mr. COBB.

Mr. W. A. WOOD with Mr. BENJAMIN WOOD.

Mr. HENDERSON with Mr. SINGLETON of Illinois.

Mr. MARSH with Mr. MCKENZIE.

Mr. VAN VOORHIS with Mr. BEACH.

Mr. OATES with Mr. NORCROSS.

Mr. RYAN with Mr. LE FEVRE.

Mr. HOUK with Mr. DUGROW.

Mr. WILSON. I voted under the impression my pair with Mr. RICE, of Massachusetts, had expired. The pair having been announced as still existing I sent for the paper, and I see by looking at it that I have been laboring under misapprehension, and that it continues until further notice. I therefore withdraw my vote.

Mr. HOOKER. I ask unanimous consent to record my vote.

The SPEAKER. That is not allowed.

Mr. HOOKER. Might not the House accord it? I ask it of the House.

The SPEAKER. The Chair is not allowed to entertain the request at all. It is not allowed to put it to the House under the rule.

The vote was then announced as above recorded.

Mr. CALKINS. I think it due to the House to make this statement——

Mr. RANDALL. I object.

Mr. CALKINS. I yield to the majority, but give notice I shall call up the election case each morning hereafter.

AMERICAN CITIZENS IN BRITISH PRISONS.

Mr. ROBINSON, of New York. I wish to make a few remarks on the subject of our American citizens in British prisons. I therefore call up the resolution introduced by me yesterday, and ask for its present consideration.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Whereas on the 23d day of January, 1882, a resolution of inquiry was introduced in this House and was on that day referred to the Committee on Foreign Affairs; and

Whereas afterward, on the 14th day of February, 1882, the same resolution, having been reported back, was recommitted to the Committee on Foreign Affairs with instructions, all of which will more fully appear by reference to the said resolution and instructions hereto appended and to the record of the proceedings of those days; and

Whereas by clause 2 of Rule XXIV every such resolution is required to be reported back by the committee to which it has been referred within one week of such reference; and

Whereas more than one week, to wit, ten weeks, have elapsed since the reference or recommitment of said resolution to said committee, and no report has been made thereon by said committee: Therefore,

Resolved, That the Committee on Foreign Affairs be, and they hereby are, discharged from the further consideration of said resolution and that the same be now brought before the House for immediate consideration—

Mr. KASSON. I raise the question of order. I wish also to raise the question of consideration, if it is to lead to general debate this morning and the consumption of time.

The SPEAKER. The Chair is unable to state whether it will or not.

Mr. KASSON. But there is a question of order pending.

Mr. BLOUNT. I understand not.

Mr. WILLIAMS, of Wisconsin. I am instructed by the Committee on Foreign Affairs to withdraw the question of order and to let the question of privilege be made.

The SPEAKER. The Chair understands that the point of order raised yesterday, that it was not a privileged matter, has been withdrawn.

Mr. KASSON. I make it this morning in pursuance of the understanding.

The SPEAKER. The gentleman from Iowa will be heard on the point of order if he desires it.

Mr. KASSON. I supposed it was argued yesterday in my absence.

The SPEAKER. It was not argued. The point was made yesterday by the gentleman from Indiana, [Mr. ORTH,] but was not argued. The Chair is willing to hear the gentleman from Iowa, otherwise the Chair is ready to decide the question now.

Mr. KASSON. I am willing to submit it without debate, as my object is to avoid long debate except on the proper subject before the House.

Mr. ORTH. Before the Chair rules I wish to say when I made the point yesterday I made it in good faith, and believed it was well taken, but on consultation with members of the Committee on Foreign Affairs we had concluded not to press the matter, but to get the resolution directly before the House for action. I understand the gentleman has not withdrawn the point of order on that question.

Mr. WILLIAMS, of Wisconsin. The gentleman from Indiana not being present I withdrew the point of order.

The SPEAKER. The gentleman from Iowa renews it.

Mr. WILLIAMS, of Wisconsin. And I believe submits it without debate, to get the ruling of the Chair.

Mr. ROBINSON, of New York. Am I in order?

The SPEAKER. Does the gentleman desire to be heard on the point of order?

Mr. ROBINSON, of New York. No, sir.

Mr. COX, of New York. What is the point of order?

The SPEAKER. It is that this resolution introduced by the gentleman from New York is not a privileged matter.

Mr. COX, of New York. There are two resolutions; which one is the point made on?

The SPEAKER. The resolution introduced by the gentleman from New York yesterday for adoption, which the Clerk will read.

The Clerk read as follows:

Resolved, That the Committee on Foreign Affairs be, and are hereby, discharged from the further consideration of said resolution, and that the same be now brought before the House for immediate consideration.

The SPEAKER. The resolution, from the further consideration of which it is sought to discharge the Committee on Foreign Affairs, is a resolution of inquiry, and originally introduced as such and referred to that committee. Upon being reported back to the House it was recommitted to the Committee on Foreign Affairs, with certain instructions. The Chair holds, in the first place, that the resolution upon being recommitted to the committee holds the same relation to the committee, and the same right under the rules of the House to be considered by the committee and reported back in the same time, as if it had been an original resolution of inquiry referred to them at the time of its recommitment. Under the last clause of paragraph 1, of Rule XXIV, the committees of the House are required to report resolutions of inquiry directed to heads of Executive Departments back within one week from the time of their reference. This being so, the question now before us is, is it a question of privilege to ask to discharge the Committee on Foreign Affairs from the further consideration of the resolution of inquiry as recommitted?

The Chair holds that this is a matter affecting the order of the business of the House. There may be perfectly good, wise, and valid reasons why the committee have not reported back the resolution, but the Chair is inclined to hold that the House may control the matter, and after the time has expired for reporting the resolution back the House has a right, as a matter of privilege, to call upon the committee to report it back or to discharge the committee from its further consideration. The Chair therefore holds that the resolution presented by the gentleman from New York, in so far as it seeks to discharge the Committee on Foreign Affairs from further consideration of the resolution of inquiry, is a matter of privilege, and therefore overrules the point of order.

Mr. KASSON. I now, sir, am bound to raise the question of consideration this morning, and do raise it.

The SPEAKER. The question of consideration may be raised. The question is, Will the House proceed to the consideration of the resolution introduced by the gentleman from New York?

The House divided; and there were—ayes 59, noes 78.

Mr. ROBINSON, of New York. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 144, nays 62, not voting 85; as follows:

YEAS—144.

Aiken,	Davis, George R.	Kenna,	Scoville,
Aldrich,	Davis, Lowndes H.	King,	Scranton,
Armfield,	Dawes,	Klotz,	Shackelford,
Atherton,	Deuster,	Ladd,	Shelley,
Atkins,	Dibrell,	Latham,	Sherwin,
Belford,	Dingley,	Lindsey,	Simonton,
Belmont,	Dowd,	Lord,	Singleton, Otho R.
Beltzhoover,	Dunn,	Manning,	Skinner,
Berry,	Dunnell,	Matson,	Smith, J. Hyatt
Blanchard,	Ellis,	McClure,	Sparks,
Bland,	Ermentrout,	McCoid,	Speer,
Bliss,	Evins,	McCook,	Springer,
Bragg,	Finley,	McLane,	Steele,
Brewer,	Flower,	McMillin,	Stephens,
Brumm,	Ford,	Miller,	Stockslager,
Buchanan,	Forney,	Mills,	Stone,
Buck,	Hammond, N. J.	Money,	Tillman,
Burrows, Jos. H.	Hardenbergh,	Morse,	Townshend, R. W.
Butterworth,	Harmer,	Mosgrove,	Turner, Henry G.
Cabell,	Haseltine,	Murch,	Turner, Oscar
Caldwell,	Hatch,	Mutchler,	Upson,
Cassidy,	Herbert,	Orth,	Vance,
Chalmers,	Herndon,	Paul,	Van Horn,
Clardy,	Hewitt, Abram S.	Payson,	Warner,
Clark,	Hewitt, G. W.	Peirce,	Washburn,
Clements,	Hill,	Phelps,	Webber,
Colerick,	Hoblitzell,	Phister,	Wellborn,
Cook,	Holman,	Reagan,	Wheeler,
Cox, Samuel S.	Hooker,	Reed,	White,
Cox, William R.	House,	Rice, Theron M.	Whitthorne,
Covington,	Humphrey,	Richardson, Jno. S.	Williams, Chas. G.
Cravens,	Hutchins,	Ritchie,	Williams, Thomas
Culberson,	Jacobs,	Robertson,	Willis,
Cullen,	Jadwin,	Robeson,	Wise, George D.
Curtin,	Jones, George W.	Robinson, James S.	Wise, Morgan R
Davidson,	Jones, James K.	Robinson, Wm. E.	Young.

NAYS—62.

Barr,	De Motte,	Jones, Phineas	Robinson, Geo. D.
Bayne,	Dezendorf,	Jorgensen,	Russell,
Bingham,	Errett,	Joyce,	Shallenberger,
Blount,	Farwell, Sewell S.	Kasson,	Smith, A. Herr
Bowman,	Garrison,	Kelley,	Smith, Dietrich C.
Briggs,	Grout,	Lewis,	Taylor,
Browne,	Gunter,	Moore,	Thompson, Wm. G.
Buckner,	Hall,	Neal,	Townsend, Amos
Calkins,	Hammond, John	O'Neill,	Tyler,
Camp,	Harris, Benj. W.	Pacheco,	Updegraff, J. T.
Campbell,	Haskell,	Parker,	Updegraff, Thomas
Carpenter,	Hawk,	Peelle,	Wadsworth,
Caswell,	Hazelton,	Pound,	Walker,
Chace,	Heilman,	Prescott,	Ward.
Crapo,	Horr,	Ray,	
Darrell,	Hubbell,	Rich,	

NOT VOTING—85.

Anderson,	Fulkerson,	McKenzie,	Singleton, Jas. W.
Barbour,	Geddes,	McKinley,	Spaulding,
Beach,	George,	Miles,	Spooner,
Black,	Gibson,	Morey,	Strait,
Blackburn,	Godshalk,	Morrison,	Talbott,
Burrows, Julius C.	Guenther,	Moulton,	Thomas,
Candler,	Hardy,	Muldrow,	Thompson, P. B.
Cannon,	Harris, Henry S.	Nolan,	Tucker,
Carlisle,	Henderson,	Norcross,	Urner,
Chapman,	Hepburn,	Oates,	Valentine,
Cobb,	Hiscock,	Page,	Van Aernam,
Converse,	Hoge,	Pettibone,	Van Voorhis,
Cornell,	Houk,	Randall,	Wait,
Crowley,	Hubbs,	Ranney,	Watson,
Cutts,	Ketcham,	Rice, John B.	West,
Deering,	Knott,	Rice, William W.	Willits,
Dibble,	Lacey,	Richardson, D. P.	Wilson,
Dugro,	Leedom,	Rosecrans,	Wood, Benjamin
Dwight,	Le Fevre,	Ross,	Wood, Walter A.
Farwell, Chas. B.	Marsh,	Ryan,	
Fisher,	Martin,	Scales,	
Frost,	Mason,	Shultz,	

So the House determined to proceed with the consideration of the resolution.

The following additional pairs were announced:

Mr. MCKINLEY with Mr. RANDALL.

Mr. CANNON with Mr. SCALES.

On motion by Mr. TOWNSEND, of Ohio, by unanimous consent, the reading of the names was dispensed with.

The result of the vote was then announced as above recorded.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills reported that they had examined and found duly enrolled bills of the following title; when the Speaker signed the same:

A bill (H. R. No. 3776) granting a pension to Margaret McCormick; and

A bill (H. R. No. 721) to authorize the appointment of an ordnance storekeeper in the Army.

IMPRISONMENT OF AMERICAN CITIZENS ABROAD.

Mr. ROBINSON, of New York. Mr. Speaker, over a year ago a number of gentlemen——

Mr. DUNNELL. I would like to hear the resolutions read again before the debate begins.

The resolutions were again read.

Mr. ROBINSON, of New York. Mr. Speaker, over a year ago some gentlemen known as American citizens, recognized by our laws as such, were traveling in Europe or engaged in lawful and proper business, and without having committed any crime, and without any allegation of their having committed any crime, were arrested on mere suspicion, as every American is suspected, and thrown into British dungeons, one after another, and have there been detained ever since. For fifteen or sixteen dreary months these men have lain in loathsome bastiles, damp and badly ventilated, some of them losing their eye-sight, and others with constitutions broken down, all of them appealing to the flag that is known as the starry banner, to which they have sworn allegiance and for which they had shed their blood, to come to their relief in the hour of their despair. I am not here, sir, to-day to make anything of a political question of this. I will give due credit to gentlemen on the opposite side of the Hall by saying that they are faithful and true to the right.

I remember with gratitude, sir, for I observe all these things, that eighteen gentlemen on the opposite side of the House voted to sustain me on the 14th of March last in the only sensible resolution which has been submitted on this question, asking the opinion of the Attorney-General whether if you, sir, went over to Ireland and were thrown into prison under the same circumstances we should allow you to remain there indefinitely; and to get the opinion of the able Attorney-General now in possession of that office as to the law upon that subject. That was voted down by a small majority on the yeas and nays—117 to 102; but I want to give credit to the other side that there were eighteen gentlemen from that quarter who voted for that sensible resolution. I make no imputation against others on either side who voted against it. I have no doubt they were honest in the votes they gave.

But, as I have said, sir, this is not a party question. I do not want to be misunderstood here. I do not come to this Congress, composed of able men from all the States of the Union and from all parts of the country, far more able than I am—I come not here to dictate to them nor to say a word that could be construed into anything like dictation. Nor do I want to appear alone the champion of this cause on this floor. I may have paid more attention to it. Perhaps I owe a deeper debt of obligation to the country where some of those men were born; some of them, I say, for not all were born in Ireland. I understand that among the suspects imprisoned some were native American citizens. I trust I am a good American citizen. I trust that I am a faithful American member of this House of Representatives and of this Congress; and I accord to gentlemen on all sides of the House the devotion to that flag which we ought all to entertain. But, sir, I am afraid that we have been neglecting the subject and getting into wrong ideas in considering these matters; that we have been getting careless of the honor of the flag and the rights of our citizens.

I am not here, sir, to-day to make a set speech. I did intend, owing to the greatness of this subject, to have prepared a speech on this occasion. I went to work and I have some fragments of that preparation here which I cannot use. Other things have interfered with me so that I could not come prepared as I should have been to talk on this subject to-day; but I know the House will bear with me. Even if I make rambling observations I shall try to get in some sensible remarks if I can possibly compass them on this subject and submit them to the consideration of this House. If I had more time I might make them much more brief.

Since the beginning of our Government we have not been fortunate in our representatives to the court of Great Britain. Among the first gentlemen we sent there, the second or third was Rufus King, a native of Maine and a citizen of New York at the time of his appointment. The patriots of the Revolution had awakened the good and common sense of the world to the rights of mankind. The doctrines promulgated by Jefferson with his pen, and vindicated by Washington with his bright and stainless sword, these principles had taken root, and nowhere more deeply than in Ireland, from which came the illustrious men whose swords shed a halo of glory around every battle-field on which Washington struck for liberty.

The people at home, the relatives and correlatives of Stark, of Bennington; of Knox, the organizer of our artillery; of Daniel Morgan, of Ballinascreen, in the county of Derry, in Ireland, who fought the battle of the Cowpens; of the illustrious General Irvine, from Enniskillen; of Mad Anthony Wayne, who took Stony Point; of the distinguished Lewises, of Virginia, noted by five or six noble patriots from that State or Colony who stood by Washington, and their descendants now, honored among the living sons of Virginia, and if the head of that brotherhood had lived he would probably have disputed in the hearts of the American people the supreme love of that people with Washington. He came to this country one of several brothers, and their father, who left Ireland because he had to leave it. And why did he, the head of this grand Virginia family, leave it? Because he had shot a landlord at home.

These principles, I say, were spreading in Ireland among the relatives of these great men, and a number of men, conspicuous in their character and their family connections in Ireland, engaged in what is know in history as the rebellion of 1798. Among those were Thomas Addis Emmet and others, who, after having been long confined in British prisons—not American citizens but Irishmen—were granted the privilege by the British Government to come to this country; and Rufus King, who was then our representative at the Court of Saint James, entered a protest that this country should not be disgraced by letting such criminals come here. Those men Rufus King, our minister, called by the same name that James Russell Lowell is now applying to American citizens in British prisons, and even he has degenerated from King. These distinguished men came here and from them are descended some of the greatest and best men of whom this Republic boasts. Those who go up Broadway and stand in front of Saint Paul's, will find two monuments the most attractive in the city of New York; one on the left hand reared to Thomas Addis Emmet, the other on the right hand to Dr. William J. Mac Nevin, and Montgomery's stands between them. Those two monuments illustrate the history of two of those men whom Rufus King, our minister, would not allow to come to this country for fear it would be disgraced.

And who were those criminals? They were simply criminals like Washington, for we had then just got through the Revolution and established our Government. They were criminals the same as he, Rufus King, himself had been; criminals the same as Thomas Jefferson and the other illustrious men of the Revolution. They were denounced in Great Britain by the British Government as criminals, and unfortunately the American Government was represented there by a man who joined in the British cry, as we now have a man there representing us who joins in the British howl against Irish gentlemen.

Afterward, when Thomas Addis Emmet came here and was one of the foremost lawyers, if not the foremost, at the American bar, and was also attorney-general of the State of New York, Mr. Rufus King and he got into a controversy in the papers. And Rufus King was reminded by this Thomas Addis Emmet that he, King, need not put on airs of superiority over an "Irish criminal," for at one time an ancestor of Rufus King had waited at the back of the chair of an ancestor of Thomas Addis Emmet.

So I say, with all due deference to Mr. Lowell, that the men there in prison are quite equal to him, and some of them superior, and he has no right to look down from the throne of his superciliousness upon these honest American citizens who have appealed in vain for his protection.

Since the time of Rufus King we have had one honest representative of this country in Great Britain, Mr. Jonathan Russell, of Rhode Island, who had the honor, in November, 1811, of demanding his passports to come home that we might "take London and burn it," and commenced the war that was waged against Great Britain on that occasion for the same reason th t war is now threatened—for the unreasonable arrest of American citizens.

And I recall the long list of other distinguished men who were our representatives there; but they were only literary men, and comprehended nothing at all beyond literary matters; respectable, great, and glorious men in their own ways of life: Edward Everett, Washington Irving, George Bancroft, and J. Lothrop Motley, who is an Irishman by descent. They all represented the literary element of this country, and not its political spirit. There was one whom I cannot now pass over without mention, who was a worthy minister sent by General Jackson to England to represent this country. I refer to Louis McLane, the father of the distinguished gentleman from Maryland in this Congress.

But, sir, as I have said, we have had but indifferent luck in the way of representatives in Rufus King and Charles Francis Adams and James Rusell Lowell, who shamefully neglected their duty to protect the lovers and apostles of liberty and the rights of our citizens. Even Reverdy Johnson, the beloved son of Maryland, whom I was permitted to love as a friend and almost worship as a statesman, seemed to limit his conception of American diplomacy to good dinners with the indifferent kind of creatures called the nobility. All our ministers seemed to crawl on their stomachs, except, perhaps, my old friend General Schenck, who went "on all fours"—particularly if they were aces. Our present Secretary of State was commissioned as minister to England, but declined and escaped contamination. Our First Assistant Secretary of State has some time occupied the position of chargé d'affaires. I hope he still retains the manhood of his distinguished father.

I think that Mr. Lowell ought to be recalled, and I have here resolutions which I intend to offer as a substitute at the proper time. I ask the Clerk to read it.

The Clerk read as follows:

Whereas it is known and admitted that certain citizens of the United States are unjustly deprived of their liberty by the Government of Great Britain; and

Whereas the President has demanded of that foreign government the reason of such imprisonment and their immediate release; and

Whereas such release has been unreasonably delayed: Therefore,

Resolved, That the President is hereby urgently and earnestly requested forthwith to use such means and take such proceedings as are designated in the law of July 27, 1868, in such case made and provided.

Resolved, That, in the opinion of this House, James Russell Lowell, our minister to England, having mistaken or neglected his duty as our representative in the case of these unjustly imprisoned American citizens, should be recalled.

Mr. ROBINSON, of New York. Those resolutions are drawn following the language of the statute of 1868. I have no personal feeling against Mr. Lowell, nor do I wish to indulge in any hard language toward him. I think he is a better poet than diplomatist, and I think he had better come home and attend to his poetry. Perhaps he will revive some of the ancient spirit of that poetry if we can get him home where he can breathe American air and get rid of the political filth of his English associations.

Mr. James Russell Lowell about twenty years ago published, among other poetry, his "Bigelow Papers," which represent old Concord Bridge, where the British were whipped by the Yankees in 1775, and Bunker Hill Monument as talking with each other. It was about the time that Commodore Wilkes had taken Mason and Slidell, whom England demanded we should surrender to her. I have here some extracts from the talk of the old bridge, given in Yankee dialect, and if I can "catch the accent," I shall do so. It shows what Mr. Lowell justly thought of England then, and what he should now think of her. Here is the poetry:

I tell ye, England's law, on sea an' land,
Hez ollers ben, "*I've got the heaviest hand.*"
Take nary man? Fine preachin' from her lips!
Why, she hez taken hundreds from our ships,
An' would agin, an' swear she had a right to,
Ef we warn't strong enough to be perlite to.
Of all the sarse thet I can call to mind,
England *does* make the most unpleasant kind:
It's you're the sinner ollers, she's the saint;
Wut's good's all English, all thet isn't ain't;
Wut profits her is ollers right an' just,
An' ef you don't read Scriptur so, you must;
She's praised herself until she fairly thinks
There ain't no light in Natur when she winks;
Hain't she the Ten Comman'ments in her pus?
Could the world stir 'thout she went, tu, ez mus?
She ain't like other mortals, thet's a fact;
She never stopped the habus corpus act,
Nor specie payments, nor she never yet
Cut down the int'rest on her public debt:
She don't put down rebellion, lets 'em breed,
An' 's ollers willin' Ireland should secede;
She's all thet's honest, honnable, an' fair,
An' when the vartoos died they made her heir.
Ef you want peace, the thing you've gut tu du
Is jes' to shew you're up to fightin', tu.
I recollect how sailors' rights was won
Yard locked in yard, hot gun-lip kissin' gun:
Why, afore thet, John Bull sot up thet he
Hed gut a kind o' mortgage on the sea;
You'd thought he held by Gran'ther Adam's will,
An' ef you knuckle down, *he'll* think so still.
Better thet all our ships an' all their crews
Should sink to rot in ocean's dreamless ooze,
Each torn flag wavin' challenge ez it went,
An' each dumb gun a brave man's moniment,
Than seek sech peace ez only cowards crave:
Give *me* the peace of dead men or of brave!

That is "on to London" all the time, and that is the language of James Russell Lowell some twenty years ago.

Early in the present month a literary club, known as the Webster Literary Society, of my own city of Brooklyn, had before them for discussion the question "Have American citizenship and the American flag ceased to be respected abroad?" After full discussion the question was decided in the affirmative. And this reminds me of remarkable expressions made by two Senators during the discussion of the celebrated law of July 27, 1868, in the Senate, Messrs. Stewart of Nevada, and Williams of Oregon. Mr. Williams, afterward Attorney-General of the United States, declared on the 20th of July, 1868, that no nation on the face of the earth had neglected its citizens abroad as we had done, and Mr. Stewart on the same day declared that American citizens traveling abroad had frequently to disguise themselves as British subjects to secure protection and that war with England was not so bad as that kind of American humiliation.

Now, it is to prevent any such accusations as this that I wish to have the House take up this subject and discuss it and end it. I want to get rid of it. I have been all the time getting up here and troubling the House; I do not want to do so any longer. I want it finished. I want a sensible vote to-day which I believe will meet the approbation of gentlemen on both sides—a declaration that our citizens should be permitted to come home if they have committed no crime, and that the law of 1868 should be acknowledged as of some meaning. Having so acted we have discharged our duty, and the responsibility will then be with the Executive, and we mean to hold them to a strict and manly and prompt discharge of their duties, worthy of themselves and of us as custodians of American honor and representatives of American manhood.

I see before me the eloquent Senator from Indiana, [Mr. VOORHEES,] and I will take the liberty of saying in his presence that I listened with admiration to a speech which he delivered in the other end of the Capitol a few days ago. In that speech he deliberately echoed the sentiment of all honest Americans, that the neglect of this subject by the American Government should result in the parties standing before the bar of that Senate on the accusation of this House by impeachment. That declaration was publicly made; it was truly and rightfully made. Such is the degradation which we have been suffering for some time, and from which we can hardly arouse the country.

But it is said, Ireland must be kept down, repressed, because there is crime there. Let me say that this is an English lie. In the language of the celebrated Father Burke, an eminent clergyman who was here a short time ago, it is "a thumping English lie." Let me say that with all the oppression and discontent in Ireland, with all the reasons for anarchy and violence, there is no country upon the face of the earth where life and property are so secure as they are in Ireland. More murders are committed in any State of New England every year than are committed in Ireland. In the city of New York more murders are tried in a month than in Ireland for years.

I repeat, property and life are to-day more secure in that island than in any other portion of the earth. Therefore, the story about crime in Ireland as a reason for repression and oppression is a "thumping English lie" that has been told for the sake of prejudicing the cause of Ireland. You have heard in this city recently, Mr. Speaker, of a man who fired at the assassin of our late President—a cowardly act, in my opinion. A soldier appointed to protect the prisoner fired at him while the prisoner was under his charge; and all over the country people are getting up subscriptions for "Betty and the baby." Yet the very men who are doing this are horror-stricken because somebody shoots at a landlord in Ireland or threatens to do so. Guiteau is a great criminal; I have nothing to say in his behalf; but there are other criminals in the world, if not worse. I think the Irish landlords are the chief of criminals, and if anybody deserves to be killed it is they; and the ancestor of the illustrious Virginia family to which I have referred thought so when he shot one of them before he came away.

I quote a single paragraph from a valuable book just published, "Ireland of To-day," by J. C. McCurdy & Co., of Philadelphia, by M. F. Sullivan, with an introduction by Thomas Power O'Connor, the eloquent member of the British Parliament from Galway, now sitting before me:

Philadelphia is a well-behaved city. It is the "City of Brotherly Love." The tranquil inhabitant of its historic soil possibly suspects that life and property in Ireland are utterly unsafe, yet in Philadelphia, a model city, the "City of Brotherly Love," whose population is 16 per cent. that of Ireland, crime of all kind is very much greater. In Philadelphia in 1879 there were forty-nine homicides. In Ireland there were four persons found guilty of murder.

There are very few criminals in Ireland except the landlords and the English officials. The champion criminal is William E. Gladstone. It is enough to make a hyena laugh or a fiend blush to hear Gladstone and Foster, and the lying press of England and their more despicable lying echoes here, talk of upholding law in Ireland when they themselves have abolished or suspended all law.

Goldwin Smith, a clergyman who has visited this country and who ought certainly to have imbibed some American principles, goes over there and preaches that England must suspend the *habeas corpus*, deny the right of trial by jury, and violate all the laws of civilized humanity in order to crush the Irish. But they have not been crushed and will not be crushed. Ireland has been for seven centuries suffering under a tyranny greater than any other people has ever endured. But still her spirit lives; still her people worship at the shrine of freedom. Unquenchable love of freedom wherever they may be, wherever they may wander! They love the country of their adoption, but they go back with their love to their mother country.

They are complained of that they love their mother country too much. Can any man cease to love his mother? Are not men's hearts large enough to love their mothers as well as their wives? We have an undying love for our mothers as well as for our wives. Hence it is that Irishmen love their adopted land as they love their wives, and are ready to die for it, but they also love their mother land.

But this Goldwin Smith, who represents the cranky English ideas of law, says England has this remedy. Take them all, crush them, bind them to the stake with fetters, extinguish all their rights, amid the wreck and ruin of everything just let the Irish love of liberty be burned out of them. They cannot accomplish it. Never, sir.

It is hard for me sometimes to get the floor. I have fought for it as well as I could, but some time I will try to get the floor again to introduce a bill. I know the House will dispose of this present matter speedily and honorably. Then I have in my mind to introduce a bill, but I am afraid if it be read before I get the floor you will rule it neither privileged nor in order. The title of it shall be "A bill for the relief of England, for the benefit of Ireland, and for the glory of the United States." I am not going to let it out on this occasion. [Laughter.] I have the plan clearly in my mind. If it were done it would end all this trouble, for England has more trouble with Ireland now than anything under her dynasty, and I can show her the way to permanent and honorable peace.

But, sir, returning to our imprisoned citizens, what is the law of the case? It is very clearly laid down.

It is now nearly seven centuries ago that John, by the grace of God King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou, by the articles of Magna Charta, given by his

hand in the meadow which is called Runnymede, between Windsor and Staines, the 15th day of June, A. D. 1215, and in the seventeenth year of his reign, in the presence of God and for the salvation of his own soul and of the souls of his ancestors and heirs, covenanted with the people of England "that no freeman's body shall be taken, nor imprisoned, nor disseized, nor outlawed, nor famished, nor in any way be damaged, nor shall the King send him to prison by force, excepting by the judgment of his peers and by the law of the land, and that the men of his kingdom shall have and hold the aforesaid liberties, rights, and concessions to them and their heirs from him and his heirs in all things and places forever." To show how much more advanced the tyrant John of the dark ages was in liberal ideas compared with the degenerate fraud of the nineteenth century, William Ewart Gladstone, I quote three articles from Magna Charta:

39. No freeman shall be seized, or imprisoned, or disfranchised, or outlawed, or in any way destroyed, nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers or by the law of the land.

40. To none will we sell, to none will we deny, to none will we delay right or justice.

41. All merchants shall have safety and security in coming into England and going out of England, and in staying and in traveling through England, as well by land as by water, to buy and sell without any unjust exactions, according to ancient and right customs, excepting in the time of war; and if they be of a country at war against us, and if such are found in our land at the beginning of a war, they shall be apprehended without injury of their bodies and goods until it be known to us or to our chief justiciary how the merchants of our country are treated who are found in the country at war against us; and if ours be in safety there, the others shall be in safety in our land.

Within a third of a year from signing the Magna Charta, John died, and was succeeded by his son, Henry III, then only ten years of age, and Henry was crowned within ten days of the death of his father, with William Marshall, Earl of Pembroke, as protector, and in less than thirteen months thereafter the youthful King and his sagacious protector renewed the charter with all its original solemnities and formalities and nearly word for word in its text, and made a remarkable addition, addressed to all his faithful subjects settled throughout Ireland, in these words:

Commending your faith in the Lord, which you have always shown unto the Lord, our Father, and are at this day exhibiting unto us and ours, we will give a token of your fidelity, so manifest and so famous to our Kingdom of Ireland, the liberties of our Kingdom of England, granted by our father and ourself out of our grace that you and your heirs may perpetually rejoice; which liberties, distinctly reduced to writing by the common council of all our realm, we send to you, our faithful subjects, signed with the seal of our Lord Gualo, Legate of the Apostolic See, and of our faithful William Marshall, Earl of Pembroke, the guardian of us and of our kingdom.

Here the rulers of England pledged to their subjects of England and to the people of Ireland, including Charles Stewart Parnell, and to citizens and subjects of other nations, including Daniel McSweeny, that no man should be in all future time arrested or imprisoned without legal judgment of his peers, and that all persons, including McSweeny and O'Connor, shall have safety and security in coming into and going out of the realm; and even in time of war, that strangers belonging to the hostile country should be treated as kindly as British subjects were treated in those hostile countries, and should be in safety.

How flagrantly this unparalleled tyrant, Gladstone, who now afflicts Great Britain and offends humanity, has violated all these pledges to England's own subjects and the strangers within its borders which were given by the tyrants of seven centuries ago!

And here, sir, I cannot help contrasting the former glory of England under John and the Henrys and the Georges with her present shame under the Gladstones and Brights and Fosters of our day—her freedom under the Tory Pitt with her slavery under the Liberal Gladstone. Turn to the magnificent oration of the great Irish advocate, Curran, in defense of Archibald Hamilton Rowan on the 29th day of January, 1794, with British soil under Tory Pitt, and ask what could he have said in 1882 with British soil disgraced in the eyes of all mankind by Liberal Gladstone. I shall try to read the contrast in parallel columns:

1794, *under Tory Pitt.*	1882, *under Liberal Gladstone.*
I speak in the spirit of British law, which makes liberty commensurate with and inseparable from British soil, which proclaims even to the stranger and the sojourner, the moment he sets his foot upon British earth, that the ground on which he stands is holy and consecrated by the genius of universal emancipation. No matter in what language his doom may have been pronounced; no matter what complexion incompatible with freedom an Indian or an African sun may have burned upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnity he may have been devoted upon the altar of slavery, the first moment he touches the sacred soil of Britain the altar and the god sink together in the dust, his soul walks abroad in her own majesty, his body swells beyond the measure of his chains, that burst from around him, and he stands redeemed, regenerated, and disenthralled by the irresistible genius of universal emancipation.	I speak in the spirit of British oppression, which makes despotism commensurate with and inseparable from British soil, which proclaims even to the stranger and the sojourner, the moment he sets his foot upon British earth, that the ground on which he stands is accursed and desecrated by the genius of unlimited imprisonment. No matter in what language his liberty may have been pronounced; no matter what guarantees incompatible with oppression he may have secured in other lands; no matter on what victorious battle-fields his citizenship may have been secured; no matter with what solemnities he may have been devoted upon the altar of freedom, the first moment he touches the polluted soil of Britain the prison yawns for his body and the chains coil themselves around his limbs; his soul sickens with the thought of imprisonment without trial; his body shrinks beneath the terror of punishment limited only by the suspicion of irresponsible despots, and he sinks into a limitless torture which has no termination but the unbridled tenure of a tyrant's will.

I hold, sir, that this old Magna Charta of John and its ratification and extension to Ireland by Henry and his successors are our guarantee for the protection of our citizens traveling or engaged in business there, and that whatever outrages they may inflict and the civilized world may permit them to inflict upon their own subjects, they cannot suspend that Magna Charta in time of peace so far as our citizens are concerned. In that instrument foreign nations have the guarantee that for all time their citizens shall have safety and security in coming into and going out of British possessions, in staying and traveling through those possessions—"staying," mark you; no authority to impose conditions never to return excepting in time of war, and even if we were at war with England our citizens are secured in residing there with treatment similar to what we extend to her subjects. These rights are secured to our naturalized citizens by the fourteenth article of the amendment of the Constitution, which provides as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

That article was under consideration in Congress at the time the law of July 27, 1868, was under consideration; and its ratification was announced the day after that law was signed. That law was carefully considered, to prevent just such outrages as Great Britain has been perpetrating upon our citizens for the last twelve or fifteen months. It reads as follows:

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle, this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation is hereby declared inconsistent with the fundamental principles of this Government.

SEC. 2. *And be it further enacted*, That all naturalized citizens of the United States, while in foreign states, shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances.

SEC. 3. *And be it further enacted*, That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

These rights are secured to our naturalized and native citizens both alike by that law and by the treaty of 1870, made with England in pursuance thereof, both of which she is now persistently violating by imprisoning both native and adopted citizens. I think I may be pardoned for a few words on the history of this disputed question of the rights of naturalized citizens.

When the patriots of the Revolution wrung from the grasp of England the independence of their country she yielded with a bad grace. She looked upon the people of the young Republic as inferior beings. The officers of our Army and Navy were frequently insulted by British officers of similar rank and inferior manhood, which led to several duels, in which, among others, that grand model of a naval hero, the son of an Irish mother, Commodore Decatur, taught them manners. Our flag was insulted on every sea by the claims which England set up to our naturalized citizens, whom she frequently impressed into her service, taking them by force from the protection of our flag. For this we waged with her the second war. During that war she threatened to hang as traitors the naturalized citizens whom she had taken in battles fighting for the United States. President Madison and General Scott gave notice that they would hang two of her officers or men for every one of our's that was thus punished, and she had to abandon her brutal designs. After the conclusion of the war two attempts were made to enact laws defining the rights of naturalized citizens and declaring the right of expatriation, but they failed; and so England, after all the waste of war, clung to her feudal doctrine of perpetual allegiance and denied the validity of our naturalization laws.

If any one will turn to the Senate Journal of the second session of the Twenty-seventh Congress for February 18, 1842, he will find on page 176 the following statement:

Mr. Clay presented the memorial of WILLIAM E. ROBINSON, praying that the rights secured to native citizens may be extended to naturalized immigrants from foreign countries; which was referred to the Committe on Foreign Relations.

It will be seen from this that it is now over forty years ago since I commenced urging, as I am doing to-day, the importance of this subject upon Congress, and my prayer was presented by Henry Clay, of Kentucky, to the Senate. I have proved faithful to this cause, and great things have been achieved. About a month afterward I forwarded to Mr. Clay a petition signed by others similar to my own, and his remarks on presenting it will be found in the Congressional Globe, second session Twenty-seventh Congress, 1841–1842, page 365. Those who like to turn to his remarks will find that his

remedy was about the same as my recent "on to London." He then declared that if England treated our naturalized citizens in any way different from their treatment of native citizens, their protection would be by our cannon.

But notwithstanding this declaration of Mr. Clay, England still continued to insult and despise American citizenship, and in 1848, during the threatened rebellion of Smith O'Brien and others, England filled her prisons with American citizens, and I vexed the ears of the State Department with their wrongs until they were released. Mr. Ryan, of Cincinnati, and Mr. Bergen, of Boston, were two conspicuous cases—but there were many others—and the English authorities went so far in their insults to the United States as to issue an order that all Americans, without distinction, landing in Ireland should be arrested. A somewhat angry correspondence ensued between the two governments, in which England insolently acknowledged the issuing of such an order. Mr. Bancroft, our minister, wrote an indignant protest, and after much delay our prisoners were released. I was then editor of a paper in New York called The People, in which these matters were reviewed in a very plain-spoken protest of five or six columns against English insolence and American submission.

In 1866 I was elected to Congress from Brooklyn, and our first session commenced on the 4th of March, 1867. English and German prisons were then full of American citizens. I think there were over a hundred in Ireland. Three days after taking my seat, to wit, on the 7th of March, 1867, I offered a resolution, which was unanimously adopted, calling for information on their arrest and imprisonment. On the 20th of that month the State Department answered that it was deemed inexpedient to give the information. After a recess of some three months Congress again assembled, and on the 10th of July, 1867, I had a resolution adopted by unanimous consent requesting the Committee on Foreign Affairs, of which I was a member, to report immediately whether American citizens had been arrested without charge of crime committed on British soil, quoting an editorial from the New York Herald, rather different in tone from its articles now; and I then said, as I have said in this Congress, that I hoped there was spirit enough in our country and pride enough in the mettle of our Army and Navy to secure the prisoners' release.

On November 21, 1867, I moved the impeachment of Mr. Adams, our minister to England, for neglect of duty in regard to these prisoners. I also moved that the President be requested to telegraph to Mr. Adams to demand immediately his passport and return home. I likewise moved that the Secretary of State be instructed to communicate to this House all correspondence and information on the subject, without reference to its effect, to be considered, if need be, in secret session of this House. I held the floor when the House adjourned from the 21st till the 25th. On the 23d the Manchester martyrs were executed, three of them dying nobly and one now residing in Washington, saved by urgent cable dispatches from Mr. Seward on my suggestion. In closing my speech on the 25th I demanded freedom from arrest of all American citizens who are not charged with the commission of any crime and a speedy trial for those charged with crime. I denounced all attempts to extort pledges from American citizens that they should leave the country and never return, and that the benefit of English law should be as fully extended to native and adopted citizens as to the subjects or citizens of other countries, and urged the immediate consideration of a bill by the Committee on Foreign Affairs such as was afterward reported by General Banks.

It was now nearly nine months since I had first introduced the subject into Congress, and no one had said a word to sustain me. I again spoke on the 2d of December, 1867, the first day of the second session of the Fortieth Congress, and on this day I was ably seconded by Norman B. Judd, of Chicago, who had been our minister to Prussia. His speech will be found in the Congresional Globe, second session Fortieth Congress, commencing on page 7. He opened his speech in these words:

> Mr. Speaker, I have listened with attention to the detail of grievances made by the honorable gentleman from New York, [Mr. ROBINSON,] and I say here and at this time that any member of this House who can listen to that detail of wrongs and not feel his blood flow a little quicker through his veins, is not the American citizen that I supposed him to be.

In the mean time the country had become thoroughly aroused. Mass-meetings were held in the large cities. Two were held at Cooper Institute, at which speeches were made by General Halpine, Chief-Justice Daly, Horace Greeley, General Cochrane, John McKeon, and others, at which thanks were voted to me by name. The State Department finally sent us in the information asked for in my resolutions, which was published in two volumes, with addenda, and on the 27th of January, 1868, the bill now known as the bill of July 27, 1868, or as sections 2000 and 2001 of the Revised Statutes, was introduced from our committee.

And here I wish to call the attention of my colleague [Mr. COX] to a report of his speech delivered at Cooper Institute on the 3d day of the present month, as I find it reported in the Irish World, in which he is made to say:

> By the law of 1868, which was the work of General Banks—all honor to him for it, [applause]—we endeavored by the moral forces of the Federal Congress to compel the Executive to observe this progressive canon of international law.

May I ask my colleague if he is here correctly reported?

Mr. COX, of New York. What is the question of my colleague?

Mr. ROBINSON, of New York. Did my friend from New York say that he gave all the honor in that meeting in the Cooper Institute to General Banks for the passage of the law of July, 1868?

Mr. COX, of New York. He presented the bill and passed the bill; and I say all honor to him for his action in that connection. When I find a man, a member of the old American party, as General Banks was, who came forward and took that stand in reference to American citizens, I say and I repeat, all honor to him.

Mr. ROBINSON, of New York. Did my friend from New York say all honor to General Banks for that bill?

Mr. COX, of New York. I do not remember the exact language that I used.

Mr. ROBINSON, of New York. Is my friend correctly reported at that meeting?

Mr. COX, of New York. I do not remember. I said, in substance, all honor to General Banks for his efforts in that direction. I do not limit my honors. [Laughter.]

Mr. ROBINSON, of New York. And I say all honor for what he did, too, in that direction; and there is no man here who will do more honor to General Banks than I for that; but there are other gentlemen here upon the floor—the gentleman from Indiana, [Mr. ORTH,] with whom I am in a kind of suspended hostility—he did his duty, too, on that question of getting the bill through. How could General Banks pass a bill? He made one step and cast one vote in the direction of what I had been preaching here for years before, amid storms of abuse from the members of this House, and storms of abuse throughout the press of the country and the English press; the same kind of abuse with which I am met now, as I was for twelve months before I succeeded in getting the House and the gentleman from Massachusetts and the gentleman from Indiana to take up and consider a measure affecting, as that did, the honor of the American Government and the rights of its citizens. I labored in order to secure the passage of that measure and to express the sentiment of the American people, and labored alone for many long months amid a storm of opposition. Then, after the matter had been wafted on its way toward perfection, after both parties had put it in their platforms, and after I had stood the storm of abuse and forced the recognition of American citizenship, the gentleman from Massachusetts, Mr. Banks, stepped in and took command, because he was chairman of the Committee on Foreign Affairs, of which I was a member, and the bill was passed through the House. Therefore, Mr. Speaker, I do say that it was not proper for my colleague to use the remark that is attributed to him in that meeting at Cooper Institute, where he gives all honor to General Banks for succeeding in securing the passage of such a measure.

But my colleague will see how unjust to him it would be if some fifteen years hence, when this measure should be referred to and my friend from Wisconsin, [Mr. WILLIAMS,] the chairman of the Committee on Foreign Affairs, shall have proposed some measure on the subject, to say "all honor to Mr. WILLIAMS for it." I doubt not Mr. WILLIAMS will discharge his duty honorably and well, but it would be injustice to Mr. COX as well as to myself to say all honor to Mr. WILLIAMS for the measure in the Forty-seventh Congress which resulted in the release of McSweeny, O'Connor, and others from British jails. Nor would it increase the justice of the thing if some Know-nothing in the future should get all the credit for the great services which my colleague has rendered to naturalized citizens merely because he was a Know-nothing. I do not think it excuses the attempted larceny by proving that it was done for the benefit of a Know-nothing. I have no doubt there were some patriotic though mistaken men among Know-nothings, but if they want laurels they can snatch them from other brows than mine.

There is no man living who appreciates General Banks's noble services on that occasion more fully and generously than myself. But the very meeting at which my colleague was represented as saying "all honor to General Banks," and which until this moment I did not believe he said, as I was present and did not hear him make that declaration, or I should have corrected it on the spot, was called and engineered to take away the credit of this movement here from my colleague and others who deserved it, and to that meeting I was not invited, nor was my colleague, till a very late hour. It is well that neither my colleague nor myself need any manager's invitation to such a meeting in New York.

But the gentleman says he does not limit his honors. I do not object to his disposing of his honors as he likes, but I hope he will limit himself in disposing of mine.

Now, sir, I am just a little jealous on this subject—the honor for the passage of this bill of 1868. My colleague was not then in Congress to help me.

The gentleman from Indiana [Mr. ORTH] in the Cooper Union meeting is reported as saying:

> In 1868 the American Congress formulated for the first time into law the sentiment of protection to American citizens. Now, then, what is that law? It is as sacred to American citizens as any line in the Declaration of Independence. It is as important to the protection of the citizen abroad as the Constitution of the Government is important to the protection of the citizen at home. Under this law we plant ourselves, upon this law we stand, and from this law no power on God's earth can move us. [Tremendous cheering, renewed again and again, the whole audience rising.]

Now, sir, the distinguished and learned gentleman from New York [Mr. HEWITT] a few days since did me full justice. I hesitate to quote

from him, it is so complimentary, but it may as well be referred to for the sake of keeping history correct. Referring to the law of 1868, and its passage through both Houses, Mr. HEWITT says:

After carefully examining the steps by which it was secured, I am prepared to say that he [W. E. ROBINSON] is fully justified in claiming the legislation of 1868 as his work. * * * This was the work of my colleague, [WILLIAM E. ROBINSON,] and there is no man, not even a Republican, who can justly contest his claim to the credit of this great measure of justice and natural right.

He says other complimentary things of this measure, and of me—a measure which he declares, nearly in the words of the gentleman from Indiana, uttered a month later, "a declaration of rights scarcely less important to the freedom of the world than the Declaration of Independence."

I might quote from the speech of the Senator now before me, [Mr. VOORHEES,] to which I have already referred. In speaking of the war with England of 1812, the Senator said:

My prayer is that it may not so happen again, but the true meaning of this great act of July, 1868, for which the credit is so largely due to my distinguished friend from the House of Representatives, now before me, from the Brooklyn district of New York, [Mr. ROBINSON,] contemplates an appeal to force rather than submission to the insolence, outrage, dishonor, and open shame now inflicted on the citizens, the flag, and the name of this Republic. I honor every word and line of this act. I rejoice in its scope and meaning. When this Government no longer violates it, when the American authorities execute it, the American name will be mentioned with reverence and awe where it is now spoken with derision and contempt.

I have received hundreds of letters from distinguished men in this country and Europe, expressing thanks for the work which I have been doing here—presidents and professors of colleges, editors, clergymen, and literary men—which, though they are not made public, console me for the unmerited and unlimited abuse of the lying toadies of British power now too largely controlling the American press. Here is a brief extract from one which I received this morning from Judge Jeremiah S. Black, of Pennsylvania—perhaps the greatest American statesman living:

BROCKIE, (near York,) *April* 24, 1882.

I got your speech since I came home. It came under cover franked by Mr. (Senator) BAYARD. * * * As an American citizen who loves justice and hates wrong, I cannot but admire the man who has done as much as you have to make up and sustain the great issue between free government and despotic rule on both sides of the Atlantic, and therefore,

I am now, and forever will be, yours, most truly,

J. S. BLACK.

Such testimonials as that make large compensation for all the drivcling abuse of the toadies above referred to.

But to return to the law of 1868, so much has been said about it that I shall give a brief history of its passage through Congress. This history is taken from a lecture which I delivered in Cooper Union on the 23d of May, 1870—twelve years ago. The mayor of the city of New York was in the chair and made very flattering remarks on introducing me, which I shall not further refer to:

At the close of our recent war many of our bravest soldiers, made citizens of this Republic both by the pen and the sword, visited the scenes of their childhood in Ireland, some for pleasure, some on business, and some (it were foolish to deny) not unwilling to take a hand in any fight that might be waged for Irish nationality. Those who took any part in any act of rebellion in Ireland claimed no protection from this Government, except that they should have a fair trial under the laws of the realm. But England made indiscriminate arrests of American citizens, without any form of law, on mere suspicion; and about the opening of the Fortieth Congress some hundred American citizens, both naturalized and native, most of them without having said or done anything, except the mere act of landing, were thrown into prison and most cruelly treated. Our consuls were denied access to them. England claimed perpetual allegiance and questioned the validity of our naturalization laws, going so far as to distinctly deny the right of our consul to see or communicate with a naturalized American citizen; and yet the only roar of American cannon heard on the British shores was the salute of Farragut's fleet, whose echoes rang through the prison cells of unconvicted and unaccused American citizens.

Pardon me if I refer to the fact that, for some reason totally inexplicable, the American press, generally so just and generous, belittled the entire subject by abusing its persistent advocate as talking Fenianism and Ireland. If ever there was a purely and proudly American question it was this. Let me call attention to this other fact, that although one man, almost unaided and alone, for about twelve months urged this question upon the people's representatives against the neglect of Congress and the sneers of the press, yet he afterward had the satisfaction of seeing ten to twenty members at once struggling for the floor and screaming for the Speaker's ear when it came fully before the House. Among those who addressed the House upon this subject were Messrs. Banks, Boutwell, Boyer, Brooks, Butler, Dawes, Griswold, Eldredge, Ingersol, Jenckes, Judd, Kerr, Logan, Maynard, Morgan, Orth, Paine, Pile, Van Trump, E. B. Washburne, Wilson, Woodbridge, Woodward, and others, and many of them six, eight, or ten times. So, too, in the Senate, Messrs. Buckalew, Conkling, Conness, Drake, Fessenden, Frelinghuysen, Hendricks, Howard, Morton, Stewart, Sumner, and others spoke, some of them frequently.

IMPORTANCE OF THIS AMERICAN MEASURE.

How great and grand the question was may be seen from the very brief extracts I shall make from some of the speeches delivered upon it in its course through the House.

Mr. Judd, of Illinois, formerly our minister to Prussia, and well acquainted with the question, addressed the House at length on the 2d day of December, 1867. He said he had listened attentively to the gentleman from New York, [Mr. ROBINSON,] and the question was a national one. The honor and dignity of the nation were involved in the question, and to neglect or delay action upon it as it was now presented would sink this proud country almost out of the list of nations. He concluded his remarks by this expressive sentence:

"To settle this conflict upon the basis of Americanism would possess for me more attraction than the reputation of having purchased a hemisphere. I regard the protection of national citizenship as far above the acquisition of territory, and so I believe the future historian will write it."

Mr. Wilson, of Iowa, chairman of the Judiciary Committee of the House of Representatives, in a speech delivered by him January 30, 1868, said:

"We are not now dealing with a mere question of election, nor playing a pleasing game for the votes of naturalized citizens. Whoever views the present occasion through such glasses will greatly mistake the magnitude of the proportions of the subject with which we are dealing. The stern fact that we are breasting the current and immemorial doctrine of most of the nations of the earth, respecting the right of expatriation, should place us on a higher plane of statesmanship than that which consults merely the present and transient effect of its action."

Speaking of the second section of the bill as it was finally adopted, protecting native and naturalized citizens alike, Mr. Wilson said:

"Thus far the section challenges the attention and practice of every nation from which we have drawn the foreign element of our population. It is affirmative, aggressive, and boldly American. Let this be declared as the policy of this country and no one can mistake it. It is a grand assault on the miserable feudal doctrine of non-expatriation. It sounds like the deep-swelling tones of a nation whose origin and growth rest upon the right of expatriation. It is the voice of potential America riving the policies which assert the perpetual allegiance of a man to the place of his birth. It breathes the breath of life into that clause of the Constitution which declares that Congress shall have power to establish a uniform rule of naturalization. It gives vitality to this constitutional power, and elevates our naturalization laws above the level of cheats and snares."

Judge Woodbridge, of Vermont, one of the ablest men in Congress, in his speech of February 12, 1868, said:

"No graver question has ever been presented before the American Congress. * * * In whatever aspect we view it, one of two results must inevitably follow, either successful negotiation, or a foreign war. It is above party. It rises above the making and unmaking of Presidents. It assumes the proportions of a great national question, enunciating the inherent right of expatriation, and the determination of our Government to extend hereafter the same protection of person and property to the naturalized and native-born citizen."

Now, strange it is, is it not, if all Messrs. Judd, Wilson, and Woodbridge here say, be true, that Congressional action was delayed till the Fortieth Congress! Stranger still, is it not, that this national question, so far above the acquisition of territory, this boldly American question, this question that rises above making and unmaking of Presidents, owed its success in the Fortieth Congress to two natives of Ireland, one in the Senate, and the other in the House of Representatives, who gave themselves and their fellow-members no rest until this great American measure, the greatest of the nineteenth century, was accomplished.

PASSAGE THROUGH THE HOUSE.

I propose now to give a very brief sketch of the progress of this great question through both Houses of Congress. I shall claim no praise, attach no blame, put forth or keep back nothing from personal or party feeling. I shall merely state the facts as they occurred, giving the dates of the proceedings which can be read in full in the Congressional Globe. May I not invoke your pardon if in the early stages of its progress I have to refer to myself more frequently than I desire to do.

The question was first introduced on the 7th of March, 1867, the third day after the assembling of the Fortieth Congress. Upon that day Mr. ROBINSON, of Brooklyn, introduced a resolution, which passed unanimously, calling upon the President to communicate all correspondence, documents, and proceedings relating to the arrest, imprisonment, and treatment of American citizens in Great Britain for two years last past. Thirteen days afterward, March 20, 1867, the President communicated to the House a letter from Secretary Seward, refusing to give the correspondence on the ground that its publication might be detrimental to the public good!

Congress adjourned, or took a recess, from the 30th of March and reassembled on the 3d of July. On the 10th of that month Mr. ROBINSON, by unanimous consent, had a resolution passed requesting the Committee on Foreign Affairs to report immediately whether any American citizen had been arrested, tried, or convicted and sentenced in Great Britain for words spoken or acts done in the United States. Mr. ROBINSON read a statement, furnished him by W. F. Lyons, esq., of the New York Herald, together with an editorial from that paper of March 11, 1867, showing that Stephen J. Meany had been so convicted for acts done in New York. Mr. ROBINSON said he hoped there was spirit enough in the country, and that our Army metal was heavy enough to secure the prisoner's release. He also referred to the cases of Nagle, Warren, and others who had been arrested immediately on landing in Ireland on the first day of the previous month. Thaddeus Stevens said he hoped we would not attempt to review the judgment of British courts. This error of Mr. Stevens was one into which many men seemed most willingly to fall while discussing this question. No one pretended that we could here review or reverse the decisions of British courts. But if Great Britain persisted in trying and punishing our citizens for acts committed on our own soil, it was our duty to send a cannon-ball whizzing through those decisions of British courts and through the British Government, which controlled these courts. I utter no new sentiment, for this was just the remedy urged by Henry Clay, in the Senate of the United States, in 1842. England did not pretend to review or pass upon the decisions of the courts of Theodorus of Abyssinia. No; but she sent her armies over sea and land, as we should have done, and amid the smoking ruins of the capital, and over the lifeless body of the sovereign, she not only reviewed but reversed the decisions, as we too should have done. Does any one suppose if any of our courts had passed sentence on Mason and Slidell, after they were taken and brought in by Commodore Wilkes, that England would not have demanded their release or fired her last pound of metal in their protection, and in reversal of the decrees of our courts!

On the 20th of July, 1867, the State Department informed the Committee on Foreign Affairs that there was no such information as was asked by the resolution of the 10th, except the case of McCafferty. Mr. Cullom then reported a resolution from the Committee on Foreign Affairs requesting the President to inform the House whether he had information upon the subject, and requesting him to secure relief to and maintain the rights of our citizens abroad. Upon this resolution Mr. ROBINSON briefly addressed the House, stating that the cases of Meany, Nagle, and others were notorious throughout the world; yet the State Department seemed to have no information from our ministers and consuls abroad.

That same day Congress again took a recess till the 21st day of November, 1867, and upon that day Mr. ROBINSON, finding that nothing seemed to rouse the Government of the United States to a sense of the indignities heaped upon our citizens, offered a preamble and resolution for the impeachment of our minister to England and for the production of the correspondence on the arrest of our citizens by Great Britian, without reference to its public effect, to be considered if need be in secret session of the House. Upon this question, on the 21st and 25th of November, 1867, he spoke an hour, urging immediate protection to our citizens and Congressional action on the right of expatriation. He sketched the preparations just then being made by England to rescue her citizens from the prisons of Abyssinia, and closed by indicating three points on American citizenship which the United States would insist upon and which were in the bill afterward passed through Congress. The day he made that speech a member of the English House of Peers was in the diplomatic gallery, and Rev. Newman Hall, who had opened the House that day with prayer, was an attentive listener. The spirit of the opening prayer was not sustained in the subsequent speech.

On Monday, December 2, the second session of the Fortieth Congress commenced, and upon that day Mr. ROBINSON again occupied the floor for an hour, urging immediate protection to our citizens and prompt action in Congress in declaring by law the right of expatriation and predicting the final triumph of this great American measure.

It was now nine months since the member from Brooklyn had first introduced

the question into the House, and up to this time no other member had made any speech in favor of the movement. This day, however, Mr. Judd, of Illinois, followed Mr. ROBINSON and delivered a speech, from which we have already quoted a sentence, urging prompt action. The whole question was then referred to the Committee on Foreign Affairs.

In the meanwhile the two speeches of Mr. ROBINSON and this of Mr. Judd were published in pamphlet form and extensively circulated throughout the country. Vast meetings were held in New York and all the leading cities of the Union, at which the chief men of the nation attended and spoke. The Legislatures of New York and most of the other States of the Union passed joint resolutions, which were forwarded to Congress by the governors of those States, all demanding that Congress should declare by law the right of expatriation, and that our Government should afford prompt and efficient protection to our citizens abroad. These reports of meetings, resolves of State Legislatures, and the numerous propositions now offered by members were all referred to the Committee on Foreign Affairs. That committee consisted of Messrs. Banks of Massachusetts, ORTH of Indiana, Cullom of Illinois, Washburne of Wisconsin, McCarthy of New York, Blair of Michigan, Myers of Pennsylvania, ROBINSON of New York, and Morgan of Ohio, in the order I have mentioned them; Mr. Banks, of course, being chairman; and by him the bill was afterward reported to the House.

The country had now roused itself and Congress was awake, and every member seemed to have a bill or joint resolution to offer. December 4, 1867, Mr. Cullom; December 9, Mr. Cook; December 20, Mr. Price; January 9, Mr. Wood; January 13, Mr. Burr; January 14, Mr. McCarthy; January 20, Mr. Van Horn, and the same day Mr. Brooks introduced joint resolutions. All those resolutions declaring for the right of expatriation and for protection to our citizens were referred to the Committee on Foreign Affairs.

On the 27th day of January, 1868, the bill which had been matured by the committee was reported by Mr. Banks, providing reprisals as a remedy for the unjust arrest of our citizens. It was not by any means perfect, but it was thought best to report it to the House and invoke criticism and receive propositions for amendment.

On the 28th day of January, 1868, the bill came up for discussion. Mr. Spaulding opposed the reprisal clause, but proposed to make the unreasonable imprisonment of our citizens just cause of war. Messrs. Wilson, Farnsworth, Chanler, and Judd made suggestions for alterations and amendments. Mr. Banks defended the reprisal clause in a set speech. He stated that the immigrants since the organization of our Government and their descendants now number over twenty-one millions, or about three fifths of our entire population, and European laws hold all these people, to the second and third generation, perhaps for all time, to perpetual allegiance.

January 30 the bill was again taken up. Messrs. Banks, Donnelly, Judge Woodward, Wilson of Iowa, Pile, and Myers spoke upon the question; some for and others opposed to reprisals.

February 3 a very exciting debate occurred. Mr. ROBINSON having succeeded, by a vote of yeas 97 to 30 nays, in having the rules suspended, to introduce a resolution requesting the President to demand the release of Nagle, a new trial for Warren and others, and upon refusal to recall our minister and make reprisals. Mr. ROBINSON spoke at length in favor of prompt action. Messrs. Banks and Bingham opposed him. It was finally referred to the Committee on Foreign Affairs.

February 4 the bill was again taken up, Messrs. Bailey, Higby, Butler, and Judd speaking upon it.

February 5 it came up again. Mr. Judd continued and concluded his remarks.

February 6 Mr. Chanler spoke. Judge Woodward followed, denouncing the proceedings of British courts in dealing with suspected Fenians as gross outrages upon our rights of citizenship, which demanded the immediate interposition of our Executive.

February 11 Messrs. Hunter, Cook, Baker, Ashley, Orth, and Clarke spoke upon the question.

February 12 Messrs. Morgan, Judge Van Trump, E. B. Washburne, Wilson, Pile, Jenckes, Judd, Boyer, Higby, Butler, Baker, Eldredge, Pruyn, and Woodbridge spoke upon the bill. Mr. Banks then moved the previous question, but this was lost—yeas 39, nays 78—showing that the House desired amendments.

February 13 Mr. Jenckes spoke at length upon the bill. He stated that, according to a recent English writer, General Grant might be arrested in England for fighting the battles of Vicksburgh and Petersburgh; for, as a British subject of ancestors immigrating since the Revolution, he had no right to interfere in a war between the North and South, both being at peace with Great Britain! The bill was then referred back to the committee with the numerous amendments and substitutes offered, where it remained nearly a month.

In the mean time on the 10th of February, 1868, the President, in reply to Mr. ROBINSON'S resolution of November 25, 1867, sent in the correspondence asked for, which was published in two volumes.

February 17 Mr. Griswold offered a substitute proposing, among other provisions, that American citizens arrested abroad should be tried in ten days after arrest, and Mr. Starkweather introduced a bill February 18, which passed the House in five minutes—yeas 114, nays 29—which was lost in the Senate, appropriating $50,000 for the relief of our citizens imprisoned abroad.

March 10, 1868, Mr. Banks reported from the committee the amended bill. It affirmed that the right of expatriation always existed as a natural right. That naturalized citizens should be protected as native citizens, and if our citizens were wrongfully imprisoned abroad the President should make reprisals. Mr. Banks, Judge Van Trump, and General Morgan made speeches upon it, and then it went over for several days.

March 21 Mr. Wood, of New York, introduced a substitute providing for reprisals.

March 28 the bill came up again, but impeachment was progressing, and it went over till April 20.

Upon that day Mr. Elliot of Massachusetts, spoke and proposed modifications. Mr. Jenckes also proposed a substitute with many provisions for losing and gaining and protecting citizenship. Mr. Paine, Mr. Pile, and Judge Van Trump suggested modifications, and then the previous question was ordered—yeas 71, nays 25. Mr. Banks made the closing speech. After a running debate with Messrs. Elliot, Dawes, Judd, Benton, Jenckes, Coburn, and others, Mr. Banks concluded; the vote was taken, amendments voted down, and the bill passed by yeas 104, nays 4. The nays were Ashley of Nevada, Baker of Illinois, Jenckes of Rhode Island, and Loan of Missouri.

During the entire debate there was no speech made directly against the bill. All were in favor of it; the only division was about the form in which it should pass.

And so, by the order of the House of Representatives of the United States, on the 20th of April, 1868, after mature deliberation, only four votes in the negative, and those not inimical to the general tenor of the bill, the President was to seize the first British subjects he could find and hold them till each American naturalized citizen, who had been denied the protection given to native citizens, should be released.

Pity it is that for a long time, and in some cases even now, the very outrages for which we were to make reprisals existed, and still exist, and yet no demand and no reprisals and no cannon!

Interest in this question now crossed the Rotunda to the north end of the Capitol and beat against the doors of the Senate.

PASSAGE THROUGH THE SENATE.

And here it met much opposition. April 23 it was promptly reported to the Senate from the House and referred to the Committee on Foreign Relations, consisting of Senators Sumner, Fessenden, Cameron, Harlan, Morton, Patterson of New Hampshire, and Johnson. That committee, I believe, had agreed not to act upon it at all, but committees and delegations from several cities visited Washington and urged its prompt passage.

June 15, while the Senate still slumbered over it, Mr. ROBINSON succeeded in passing through the House a resolution declaring that Warren and Costello had been imprisoned and convicted for words and acts spoken and done in the United States, and requesting the President to see to their release with proper ceremonies to our flag. This resolution Secretary Seward sent to our minister, who read it to Lord Stanley July 9, 1868, and one week afterward Lord Stanley announced that England accepted the American doctrine, and abandoned her claim to perpetual allegiance. This was telegraphed by cable, and read by Mr. Sumner to the Senate.

June 25, after it had slept two months in committee, it was reported to the Senate. Two weeks after that (July 8) Mr. Conness, of California, moved to take it up, but the Senate refused, Mr. SHERMAN, of Ohio, objecting. In the mean time both the great political parties had made this question a principal plank in their platforms, and it would not be put aside.

July 10, 1868, Mr. Conness had it made the special order for the next Monday by a vote of yeas 22, nays 8; Mr. Pomeroy, of Kansas, objecting that he would prefer attending to citizens at home—that is, dividing spoils—to protecting them abroad.

July 13 it was the special order, but not in order at all, and it was put off again.

July 16 Mr. Conness moved to take it up, but was opposed and voted down by 28 to 21. The same day, at eleven o'clock p. m., another effort was made to take it up; and then, on motion of Senator Conkling, the Senate adjourned.

July 17 Mr. Conness moved to take it up, but it went over again.

After numerous delays it finally came up for discussion in the Senate July 18, 1868.

Mr. Sumner, chairman of the Committee on Foreign Relations, opened the discussion. The Senate committee had stricken out the clause adopted by the House almost unanimously, which provided that if any American citizen be arrested or detained by any foreign power or government, contrary to this act, upon the ground that naturalization does not operate to dissolve his allegiance to his native sovereign, or if any citizen whose release has been demanded be detained, or unreasonably delayed, or refused, the President should be empowered to suspend commercial relations, wholly or in part, with the offending power; and, if nothing else proved available, to order the arrest and imprisonment of any citizen or subject of the offending power found within the United States, unless he had declared his intentions to become naturalized or was an embassador; and had inserted instead thereof that the President, in such case, should report to Congress for their prompt action. What that prompt action was to be let the cases of Nagle, Warren, Costello, Meany, Halpin, McCafferty, and a hundred others—some released, some dead, and some still pining in British prisons or goaded into madness—let these answer.

Mr. Sumner opened his speech by reading a cable telegram dated the previous day, at London, stating that Lord Stanley had said in a public speech that the English Government was ready to accept the American doctrine. He protested against the House bill as a bolt of war, and exclaimed: "Suppose this bolt is hurled at England; all that various commerce, interchange of goods, shipping, steamers, all the multitudinous threads of business by which the two peoples are woven together, warp and woof, as in a mighty loom, all these to be severed!" At the very moment Mr. Sumner uttered these multitudinous words, England had swept our commerce from the seas by her Alabamas. All that shipping and those steamers of which he seemed so thoughtful were the property of England, whose bad faith with us had driven our ships and steamers from all seas. All those goods were of English fabric. What objections had we if England chose to sever such wicked warpings and woofings rather than abandon her practice of trampling on our citizenship! Even if those steamers and commerce and shipping and goods were our own, would it not be better to sink them all in the depths of the ocean rather than submit to national degradation? Mr. Sumner concluded by expressing the fear that the person seized in the President's reprisals might be Mr. Dickens, Mr. Trollope, or Rev. Newman Hall, all then in this country. And why not, Mr. Sumner? If England wantonly seizes and imprisons our Nagles and Halpins and Warrens, why should not we treat her subjects in the same way? Are not our citizens and soldiers made of as good clay as any of England's Halls or Dickenses, or any of her wandering Trollopes?

Mr. Conness followed, and proposed to restore the House clause, for reprisals, answering Mr. Sumner, and reminding that Senator how he kept the Senate and the country agitated over the colored woman who had been denied the right to ride in a first-class car on the Alexandria road, but for our citizens and soldiers in foreign prisons no action of the Government is urged by him.

Messrs. Howard, Frelinghuysen, and Drake followed. Mr. Drake made this remarkable declaration: "I do not wish—I should feel humiliated as a Senator of the United States—to have it go forth from this Chamber that the United States stood still and allowed an American citizen to be convicted in a British court, and immured in a British prison, merely for words that he spoke in the United States." True for you, Mr. Drake; you should feel humiliated, for the disgraceful fact was just so. The House of Representatives had unanimously and truly said so by adopting Mr. ROBINSON'S resolution of June 15, over one month ago; and the proof of it, printed for your information by Congress, had been lying on your desk six months, and you may well feel a humiliation which is in no way mitigated by ignorance.

July 20 Messrs. Patterson, of New Hampshire, Morton, Stewart, and Williams spoke. Mr. Williams proposed the amendment, afterward substantially adopted, making it the duty of the President to use all means short of acts of war to protect our citizens. He declared that no nation on the face of the earth neglected its citizens abroad as we had done. And Mr. Stewart declared that American citizens abroad had frequently to disguise themselves as British subjects to secure protection, and that war with England was not so bad as American humiliation.

July 22 Messrs. Vickers, Buckalew, and Sumner spoke, Mr. Sumner declaring that the House proposal was unutterable barbarism. The vote was then taken and the House clause for reprisals was stricken out—yeas 30, nays 7. The nays were Senators Conness, Sprague, Nye, Stewart, Thayer, Tipton, and Whyte.

Mr. Williams now renewed his amendment. Mr. Sumner opposed even this; he was willing that diplomatic relations might be suspended. Mr. Williams asked Mr. Sumner why both parties had put this subject into their political platforms if there was no necessity for energetic action. Fessenden replied that he would answer that question. He said "there had been some excitement among our Irish population on the Fenian troubles. Many of our citizens had been arrested in Great Britain; some had done no harm and should not have been arrested. So in Germany some had been arrested for military service. Now, the Republican party was very much afraid it would lose the German votes if it did not do something and the Democrats thought they would gain the votes if they did something. The Democratic party thought they would lose the Irish votes if they did not do something, and the Republican party hoped to get them if they did something." And such, in the opinion of the ablest statesman then in the Senate, were the low motives to action of both parties in advocating this great measure. And after having openly acknowledged that many of our citizens had been, without cause, imprisoned in England, he did not seem possessed of enough sense of national manhood or honor as to even ask, much less demand, their release. Mr. Conness again told Mr. Sumner that he would quickly interfere if the citizens arrested were of a different color. He thought Mr. Sumner's bill was an insult to every naturalized citizen.

Mr. Sumner vigorously returned Mr. Conness's charge and quoted from his

speech in Faneuil Hall November 2, 1855, when few were ready to stand up for emigrants against Know-nothingism, showing how foreigners shone at our bar, bent the muscles to labor, walked in high places of commerce and in the retreats of learning, and were conspicuous among our distinguished living and illustrious dead.

Mr. Conness was somewhat staggered by this quotation, but remarked that he supposed Mr. Sumner, by merely stretching out his hand, could produce some old dissertation of his on almost any subject, but he said when American ideas are brought into conflict with European ideas he would not select Mr. Sumner as the American advocate!

Mr. Buckalew proposed that the President should exert all his constitutional powers to protect our citizens. Mr. Conkling favored this; Mr. Williams contended for his idea. The yeas and nays were then taken on Mr. Williams's proposition. No quorum was discovered. Another vote discovered a quorum, and Mr. Williams's proposition, empowering the President to resort to everything but acts of war to protect our citizens, was adopted by 19 to 15, Conness voting for it and Sumner against it. Mr. Buckalew now proposed his substitute, but, the quorum disappearing, the Senate adjourned.

July 25 debate was resumed and Mr. Williams's amendment adopted the day previous was stricken out, and Mr. Buckalew's proposition that the President should exert all his constitutional powers, which he ought to do without this new law, was adopted by yeas 27, nays 21; Sumner in the affirmative, Conness in the negative.

Mr. Conness said what little vitality had been in the bill was stricken out, and he had now no further interest in it. Mr. Howard also expressed himself dissatisfied and moved to have the withdrawal of our minister as the remedy. Mr. Stewart took the same view. Mr. Sprague declared himself in favor of retaliation, then reprisals, then war in maintenance of the inviolability of American citizenship, for all of which we had illustrious examples in English and American history. He did not mean to commit himself to easy terms of citizenship to foreigners, and might exclude the Irish altogether. Mr. Yates contended that the American flag should be the protection of native and naturalized citizens the world over.

Then Mr. Buckalew's amendment, which had just been adopted, was stricken out, and Mr. Howard's proposition again inserted—yeas 23, nays 19.

Mr. Ferry, of Connecticut, then moved that our citizens should be equally protected under the laws and treaties. Mr. Conness thought this effeminate, and read an article from the New York Sun of the previous day stating that Colonel Warren had forced the question of naturalization on the British authorities and had driven them into a corner from which there was no retreat, and that while they yielded their feudal doctrines they were wreaking their vengeance upon him. Mr. Conkling followed, pitching into the President. Mr. Howard said as the law now stood the President had no power to demand the release of American citizens. Mr. Morrill, of Maine, favored Mr. Howard's proposition.

The vote was then taken on Mr. FERRY's proposition, and it was lost—17 to 32; Sumner for it, and Conness opposed. Mr. Wade, on this question, voted with Conness. Mr. Williams then moved to substitute his own for Mr. Howard's, just adopted. Mr. Fessenden advocated Mr. Buckalew's, so did Mr. Sumner. Mr. Buckalew's proposition was lost by a vote of 21 to 25. Mr. Williams's proposition, which had been previously adopted, 19 to 15, and stricken out to make room for Mr. Buckalew's proposition—27 to 21—was now inserted by a vote of 33 to 14—Conness yea, Sumner nay—in place of Mr. Howard's, which had been inserted in place of Mr. Buckalew's by a vote of 23 to 19.

Mr. Howard felt dissatisfied. Mr. Sumner and Mr. Frelinghuysen thought the first two sections of the bill sufficient, which would cut off all substitutes and amendments.

Mr. Trumbull here, somewhat boldly, moved to lay the bill on the table; but for this only 4—Howard, Morrill of Vermont, Ross, and Van Winkle—voted, to 37 in the negative. The bill then went over till Saturday, July 25, and Congress was to adjourn on Monday, the 27th; and there was therefore but one day to pass it through the Senate, to have the House concur in the amendments, to have it engrossed, passed, and sent to the President for his approval.

Saturday, July 25, the bill so amended as in Committee of the Whole was reported to the Senate and the amendments agreed to—yeas 30, nays 12.

Mr. Ferry then proposed to strike out the first section, declaring the doctrine of expatriation. Mr. Conness opposed and Mr. Howard favored it; but it was voted down—yeas 9, nays 29. This time Conness and Sumner voted together.

Mr Sumner then moved to strike out the third section, (Mr. Williams's proposition) which had been just inserted; this was voted down.

The bill having been read a third time, the question was on its passage. Mr. Howard opposed it on account of the third section; it gave too much power to the President. He said we owed nothing to Fenianism. This Senator, with Mr. Dawes of the House, called American citizenship "Fenianism." Mr. Ferry also spoke against the bill, and denied that perpetual allegiance was inconsistent with the principle of republicanism.

The vote was finally taken, Mr. Drake calling for the yeas and nays, and the bill passed by yeas 39, nays 5. The nays were Ferry, Fessenden, Fowler, Howard, and Van Winkle.

The bill was immediately, and on the same day, reported to the House, and in five minutes afterward was passed as amended by unanimous vote.

It was approved by President Johnson July 27, 1868.

IMPORTANCE OF THE BILL.

It is the most important bill that ever passed our Congress or received the signature of any Executive. This was the opinion of many of the ablest men in both Houses, and though not as good or perfect as it might and should be, yet if executed in its spirit with boldness and vigor will prevent for all future time the arrest of any American citizen, native or naturalized, for words or acts, no matter how boldly spoken or done, in the United States.

This bill was introduced into the House on the 27th of January, 1868, and became a law by the President's signature the 27th of July, 1868. During these six months of its perilous passage through both Houses the continued incarceration of our citizens kept ringing in the ears of Congress. Thus Mr. ROBINSON, in his speech on the 3d of February, 1868, said:

"How long must American citizens be kept in British prisons before we can reach some department that will listen to their cry? Sir, six, nine, twelve months have elapsed since I first called attention to this subject, and these prisoners still rot in jail. * * * in cold, damp British jails, badly fed and poorly clothed, while no man is raising a hand to liberate them or a voice to comfort them or a cup of consolation to their quivering lips. * * * I intend, God giving me strength, to press this subject in every way and without cessation. If I do not succeed now you will hear from me again. * * * I have advocated and will continue to advocate prompt and energetic action."

In a subsequent speech Mr. ROBINSON said to the House: "I promised you that with God's help I should press this subject without cessation, and you shall know no peace till this matter is settled. I shall devise means to keep it before the House, the country, and the world till the prison bars that shut hoarsely upon these American citizens shall ring out the music of their deliverance. Their sorrowing hearts shall brighten in the light of the stars, and their blushes shall be hidden in the crimson of their flag. * * * Sir, I wish to emphasize the declaration that there never was a nation, ancient or modern, strong or weak, civilized or barbarian, that quietly and tamely submitted to such insults to its citizens as we have for years and are to-day enduring. I shall move the impeachment of every one impeachable and censure every one censurable till you act or call me to an account, and then I shall welcome your censure, for I would rather be expelled from this House than remain here if these indignities are to be tamely endured; * * * and if this House still refuse to demand the release of Warren and Costello and others similarly wrongfully imprisoned American citizens, I shall resign my seat here and refuse to become *particeps criminis* in this national disgrace and this shameful dereliction of public duty. My children will point with pleasure to the part I took, and your children will wonder that you hesitated so long to do what you must yet do, demand the immediate release of your imprisoned citizens or summon your Army and Navy to sweep from the sea and vanquish on the land every power that opposes their liberation; * * * and under the united command of Grant and Lee, Hancock and Longstreet, Sheridan and Johnston, strike one blow, effectual forever, for the glory of our flag and the sanctity of our citizenship."

There were other questions of great moment discussed in this Fortieth Congress, some of evil, others of good import. But its crowning glory, the crowning glory of all Congresses is the passage of this great American measure, which had within itself intrinsic strength enough to force its way through both Houses of Congress, into both political platforms, and to overthrow the hoary heresy of seven hundred years; to compel England and Prussia and other nations to recognize its bold Americanism by treaties with us, and to compel even now the British Parliament to succumb; an act having already passed both houses of Parliament, and having within a few days received the royal sanction, for free emigration and the absolute right of expatriation.

Now, I do not mean to say that either this bill or those treaties, or this act of Parliament, are or will be all that is desired, but the chain is broken, the battle is fought, feudal Europe goes down before free America, leaving only the details of the surrender and the proper terms of capitulation.

It is worth noticing that while I was engaged in urging this great measure to its successful completion the same pack of hounds were after me in full cry with the same ferocity that now animates them. A single line from the New York Times, one of the pack then and now in full cry and hot pursuit, of the date of December 3, 1867, will suffice. It is as follows:

ROBINSON opened his batteries. * * * The House is already tired of this subject and listened with impatience.

You will remember, Mr. Speaker, the scene on this floor on the 31st day of January last. The gentleman from Indiana [Mr. ORTH] took occasion to ridicule me because I had cited the example of England in her war with Abyssinia, in which she rescued her prisoners from King Theodorus, the capital being burned and the King being killed. He [Mr. ORTH] insisted on misrepresenting me and in refusing me a single minute to explain, by which the public was misled about my position, and even now stubbornly refuses to be corrected. He represented me as getting a war steamer, armed with many guns, which I named the Bombastes Furioso. I think he had more appropriately given that name to the captain than to the ship. Bombastes was a hero, with the dukedom of Strombelo. He had a sweetheart in Distaffina, and a grateful but tricky king in Artaxominous, and wore a huge pair of Hoosier boots. It did well enough on that 31st day of January to ridicule my humble efforts to liberate our citizens from British jails. But when the country became aroused, when public meetings and legislative bodies had indorsed my movement and my name, and the prairie of public feeling was on fire, the tune was changed, ridicule was silenced, and those who had derided me were quite willing to jump on my wagon.

Well, I went to the meeting at the Cooper Union on the 3d of April. The "Bombastes" was under full headway, and to my great astonishment I found that my friend from Indiana had deposed me from the captaincy of that vessel and had taken full command himself. The cast of characters could not well have been surpassed, even when the play was produced at the Theater Royal, London. There was Artaxominous, King of Utopia, who had installed the honorable gentleman from Indiana in the place made vacant by his dismissal of the member from Brooklyn. There was Fusbos—in fact there were more than one Fusbos running around the King and carrying his commands. There was the whole army, consisting of a long drummer and a short fifer, with a tall and a short soldier. There was Distaffina, with colored chintz gown, open in front, crimson calamanco petticoat, white muslin apron, mob cap, &c., and there was General Bombastes Furioso in full dress—a general's military suit, jack-boots, comic powdered wig and pigtail, long sword, sash, small cocked hat and plume, and gauntlets. That I may do him no injustice I quote from his speech.

I know what I speak of, for I am chairman of the sub-committee that has this matter in charge, and I know that the action that will be taken will be one of the proudest facts in American history. I am not betraying official confidence when I say that within ten days you are likely to be called together either to rejoice over the liberation of these men or for a more serious cause. The President of the United States is moving forward.

Why, this beats Bombastes and Blarney both rolled into one. One of the proudest facts! Well, the battle of Monmouth, the taking of Yorktown, the passage of the batteries below New Orleans, and the bombardment of Vicksburgh are proud facts in American history. Nothing surely could equal them at this day except the burning of London. And then the comfort that the President was not moving backward! And also to think that within ten days from that glorious 3d of April, to wit, the 13th of April, 1882, we should all be called together! Alas, Mr. Speaker, twice ten days are gone, and we are not called together for a jubilee of laughter or of preparation for slaughter.

Who dares this pair of boots displace
Must meet Bombastes face to face.

Hope told a flattering tale—
A tub thrown to a whale.

Now, while my friend here to-day has been frightened almost to death because I have hinted that I might offer a resolution that the President should demand all American citizens unjustly detained, as provided in the law of July 27, 1868, I turn to his speech made three

weeks ago in Cooper Union as reported in the Irish Nation, and I find this sentence:

I tell you that that committee (of which I am chairman) will march right up to the prison doors of Great Britain and demand that those prison doors be opened. We are going to move, and move forward; no backward movement in this matter.

Why, I was ridiculed because I threatened to take London with Sherman and Porter, but here the gentleman from Indiana is going to take it with his sub-committee.

Now, all my critics say that if any American citizen is wrongfully imprisoned by Great Britain we must demand his release. "So say we all of us." But what if England refuses to comply with our demand? I say fight. Washington said to England, "Independence or fight;" Madison said to England, "Give up the right of search or fight;" Jackson said to France, "Pay or fight;" and I say, and this House says, and all true Americans say, "Give our citizens a prompt fair trial or a speedy release, or fight." Even Jones of the Times, and Reid of the Tribune, and Bennett of the Herald say we should make the demand for their release. But will any of this trio tell me what are they going to do if England refuses our reasonable demand? I know nothing in history to illustrate their action; so we must take to fiction, and that rare Irish author, Sheridan, has given us a picture in his unrivaled "Rivals" of the position in which these doughty heroes would be placed if England should refuse. The New York Herald of Saturday last criticises my way, wherein I showed that England, when the King of Abyssinia had wrongfully imprisoned some of her subjects, sent Napier over with force enough to release her subjects, and in doing so the capital of the enemy was destroyed and the King killed, and I said, "I ask no more than that we send over force enough to take our citizens out of British bastiles, and if in getting them out the city of London goes to ashes we shall only be following England's example in a less provoking and less flagrant case." I did not say "On to London!"

I knew there was no necessity. All that was necessary for us to do was to demand the release of our citizens or the passport of our minister and there would have been no war; and if war does come it will arise from our pusillanimity in not showing some pluck from the beginning. But why should we not take London if our national honor demands it? Did we not take Montreal; did we not try to take Quebec when that brave Irishman, Montgomery, fell? Did we not take New Orleans and Vicksburgh and Richmond from a braver army than England can ever put in the field? Is there a fool in the universe who would say that London could not be more easily taken than Vicksburgh was? We need no army or navy from this side of the Atlantic; the army and navy that would take London and Dublin within one month after a declaration of war with the United States are now in Europe. Half of the British army and navy are Irish and the other half have no love for the government that has impoverished and starved them. In less than a month after the first shot fired by England against the United States the Stars and Stripes would be floating from the mizzen-peaks and flag-staffs of their largest ships and strongest fortifications. All this might not be so, but will any one deny that a war with England would result in an American victory? If such an one exists let him step forth and declare it.

Now, when these critics so severely condemn my plan, let us see what theirs is. Your imagination, sir, will immediately recall the name of Bob Acres. That individual made a demand upon one occasion which was refused. Nothing of course could come of it but a fight, unless one of the parties backed down. We will imagine the Herald as Bob Acres, making the demand and being flatly refused by "my dear Granville." He calls in General Sherman or Admiral Porter, whom we shall name Sir Lucius O'Trigger, and issues his challenge for the refusal which Granville so scornfully gave him. Sir Lucius Sherman appeals to Bob's honor, that if he make the demand he must fight, and thus they converse:

Bob. I grow full of anger, Sir Lucius! I fire apace; odds, hilts, and blades! I find a man may have a deal of valor in him and not know it. Your words are a grenadier's march to my heart. I believe courage must be catching. I certainly do feel a kind of valor arising as it were, a kind of courage as I may say. Odds, flints, pans, and triggers, I'll challenge him directly. The thunder of your words has soured the milk of human kindness in my heart. I must be in a passion, Sir Lucius; I must be in a rage! Dear Sir Lucius, let me be in a rage if you love me!

Sir Lucius. (looking at his watch.) Sure they don't mean to disappoint us. Hah! No, faith, I think I see them coming.

Bob. Hey! What! Coming!

Sir Lucius. Ay.

Bob. Well, let them come; hey! Sir Lucius! We—we—we—we won't run!

Sir Lucius. Run!

Bob. No, I say. We won't run, by my valor!

Sir Lucius. What the devil's the matter with you?

Bob. Nothing, nothing, my dear friend, my dear Sir Lucius; but I—I—I don't feel quite so bold somehow as I did.

Sir Lucius. Oh, fie! Consider your honor.

Bob. Ay, true—my honor. Do, Sir Lucius, edge in a word or two every now and then about my honor.

Sir Lucius. Well, here they're coming.

Bob. Sir Lucius, if I wasn't with you I should almost think I was afraid. If my valor should leave me! Valor will come and go!

Sir Lucius. Then pray keep it fast while you have it.

Bob. Sir Lucius, I doubt it is going—yes, my valor is certainly going; it is sneaking off; I feel it oozing out, as it were, at the palms of my hands.

Sir Lucius. Choose your weapons.

Bob. Odds life! Sir Lucius, I'm not going to fight. These are my particular friends. What! quarrel with my dear friend! Zounds, Sir Lucius, you would not have me so unnatural!

Sir Lucius. Upon my conscience, Mr. Acres, your valor has oozed away with a vengeance. Pooh! pooh! you are little better than a coward.

It is time, sir, that we should come to an understanding with the rest of the world as to what an American citizen is. England tells us, and our minister echoes their ideas, that they will molest no American unless he is suspected, (of Americanism.) The brainless throng of folly and fashion that go abroad from this country to spend the money which their fathers got by industry and energy, or from fraudulent contracts, and who feel themselves in the third heaven of happiness if they can bask in the splendor of effete monarchy or touch the hem of the garment of some disreputable lord, try to pass themselves off as the true type of Americanism. How heartily these proud nobles despise these toadies every person of sense knows, but they will never be molested, for these lords and dukes know that there is not enough of American manhood in a ship load of them to manifest itself. They will try to forget American republicanism by fawning and kneeling around the tyrants and oppressors. But they no more represent or typify American manhood than the capon of Bucks county in Pennsylvania represents the game blue hen's chicken of Delaware. There is not a drop of genuine American blood in their degenerate veins.

But a genuine American, who believes in Bunker Hill and the Declaration of Independence, who goes back to visit the paternal home of his ancestors in Ireland, who loves liberty and hates oppression, who sees English insolence and despotism in Ireland and is not afraid to express himself in respectful and legal Yankee language against the tyrant and for the oppressed, he will always be suspected and in danger of imprisonment. An honest, hearty, manly American is as terrible to throned or titled tyrants as dynamite. A true American traveling in Europe is a peripatetic protest against monarchy and monopoly. He will impregnate the air wherever he goes by the healthy perfume of republicanism, and you can no more divest him of that dangerous contagion than you could rob the rose of its perfume, even if you carried it into the infernal regions, where its fragrance would be exhaled from every shriveling leaf. Imagine, if you can, any genuine Yankee visiting Ireland and seeing the heartless landlord evicting the helpless tenant and his wife and children from the little cabin in which his fathers for centuries lived and died, without muttering in poorly-suppressed anger his abhorrence of the oppressor and his sympathy for the victim—and he of course would be a suspect.

Now, that is the kind of Yankee for whom we seek protection. The other kind do not need it and are not worth it. And this protection we must have. There are thousands of Englishmen in every large city who refuse to be naturalized, who have their St. George's societies, and praise up monarchy, and run down republicanism, and we do not throw them into prison as suspects. If we did England would promptly and potentially demand their release. Now, England must give as well as take. If her subjects can mingle in society here and express their preference for monarchy our citizens must be allowed to travel there and express in respectful language their preference for republicanism, unless you intend to give in to England's insolent pretensions, as tersely expressed by James Russell Lowell:

It's you're the sinner allers, she's the saint,
Wat 's good 's all English, all that isn't ain't.

And it must be understood that no American citizen shall ever be forced to accept the degrading terms of leaving the country never to return. If any American citizen violates any law let him have a fair and speedy trial. If guilty and convicted let him be punished according to law; but we say to England now, and she must listen and hear, that we will not allow her to arrest any American citizen on suspicion, and then, when she cannot prove any crime against him, annex degrading conditions to his release, unless she consents that we can do the same with her subjects.

I cannot help contrasting the prompt manner in which our Government went to the relief of some American citizens in Persia when compared with our slow movements for the relief of those in Ireland. On the 20th of November, 1880, Mr. R. R. Dawes, then a member elect of this Congress, wrote from Marietta, Ohio, to our Secretary of State, Mr. Evarts, stating that a number of Presbyterian missionaries, including his sister, her husband and family, were threatened with danger at Oroomiah, in Persia, from the Mohammedan population who accused them, wrongfully as they claimed, with complicity with the Koordish Sheik, whose forces were then confronting Oroomiah. This country had no diplomatic representative in Persia, and so, on the 26th of November, 1880, Mr. Evarts wrote to Mr. Lowell, our minister to London, asking him to solicit the interference of the British minister in Persia to save our citizens. On the 11th of December Mr. Lowell sent a cable dispatch to Mr. Evarts stating that he had seen the foreign secretary, that the secretary had telegraphed to the British minister, and that the Persian Government had instructed its representative at Oroomiah to protect the American missionaries. Mr. Lowell received Mr. Evarts's dispatch on the 7th of December; the same day he wrote to Lord Granville, and on the 10th Lord Granville had an answer back from Teheran, in Persia, which he sent to Mr. Lowell, informing him that the Persian Government had telegraphed to Oroomiah to protect the American citizens. Thus in three days from the receipt of Mr. Evarts's letter Mr. Lowell had secured our citizens in Persia. It takes him twelve months before he can ask for protection to a citizen in Ireland.

At a mass-meeting held in Chickering Hall, in the city of New York,

the 1st of February last, to protest against the treatment of the Jews in Russia, and to express sympathy with them in their sufferings, the mayor of the city presided, and among the vice-presidents were Hamilton Fish, Edwards Pierrepont, Robert Bonner, and other prominent citizens. Among the speakers were Judge Davis, William M. Evarts, Dr. John Hall, and Dr. Howard Crosby. Mr. Evarts, in describing the persecutions of the Jews, drew the following picture, which was more applicable to Ireland than to the borders of the Black and Baltic Seas:

These persecutions, these oppressions, these cruelties, these outrages have taken every form of atrocity in the experience of mankind or which the resources of the human tongue can describe. Men have been cruelly murdered, women brutally outraged, children dashed to pieces or burnt alive in their homes, thousands of families, shelterless and homeless, have been reduced to beggary; even banishment from the boundaries has been exercised in this misery and desolation.

And then he justifies American interference, because this "is the oppression of men and women by men and women; and we are men and women, and it justifies us in limiting, in resenting, in protesting, and in preventing."

And Dr. Hall advocated the idea that we should act "as a sort of external conscience to Russia, and if there be failure, then the Lord God Omnipotent reigneth and the punishment must come." All this is very applicable to England, who stands more than Russia in need of an external conscience.

I have no desire, Mr. Speaker, in discussing this question, to say an unkind word of any gentleman on the committee or of any member of this House. I have no ill feeling toward any one, not even against England, outside of her barbarous and brutal treatment of her own subjects and our citizens. I have a right to complain of delays, and I hope I may be allowed to do so without being considered as attacking or assailing any one. The first day of the present session I had a resolution drawn up in the proper shape, requesting the President to execute the law of July 27, 1868. After several vain endeavors to be heard in order I, on the 16th day of December, 1881, announced then, out of order, as privileged, and told an unwilling House that they should hear from me again. I managed to get over half a column of rulings against me in the RECORD, and this sentence:

Our citizens are suffering unjust imprisonment abroad, and yet nobody can be heard in their behalf. [Cries of "Order!"]

Finding that I could not get a hearing in the House, I gave the resolutions to the associated press, and they were published in the New York evening papers of that day and the daily papers of the next morning. That is now over four months ago, and these men still remain in prison, or did so till within a few days.

On Monday, January 23, my colleague [Mr. COX] introduced the resolution now before the committee; that is, three months ago. They were bound by the rule to report that resolution back again in one week. They kept it there and on the 14th of February, they reported it back with a resolution to lay it on the table. This House voted that proposition down, and the resolution was recommitted with the instructions proposed by my colleague [Mr. COX] appended to the resolution. There it slept again until the 24th of March, when I called the attention of the House to the delay, and was informed by the chairman and another member of the committee that in a day or two we should have a satisfactory report. That was a full month ago yesterday, and here we are again in pursuit of information under difficulties.

Upon the 31st day of January last, now nearly three months ago, this House, by resolutions and petitions presented by Mr. COX, Mr. UPSON, and others, requested the President to obtain a list of all American citizens, naturalized or native born, under arrest or imprisonment in Great Britain, with the cause of their arrest, and all information and correspondence on the subject. I hold in my hand the first answer of the President to this House, the assembled Representatives of the people of the United States. It consists of a single leaf of printed matter, and the only information it gives is contained in ten lines of a note written by the Secretary of State, and it took nine weeks (sixty-three days) to write that, and during all that time, our eagle in the gutter of monarchical insolence, not one line of the voluminous correspondence on file in the Department given in this first answer to the respectful request of this House, and but poorly supplied in the second installment. In place of that we have the unnecessary assurance that between the State Department and the keepers of the bastiles where innocent American citizens are wrongfully imprisoned negotiations are going on in a spirit of entire friendship. While all the real American journalists through their papers, and the leading American statesmen, including ex-members of the Cabinet, Senators, and Representatives, including both presiding officers of their respective Houses, in public meetings, by speeches and letters, are denouncing the unutterable insult of one party and the inexplicable delay of the other, our servants are telling us that things are just as they should be, and entire friendship exists between the oppressor and the serene representatives of the oppressed.

Mr. Speaker, when I first brought this question before the House on the 16th day of December, now over four months ago, I was pleading for immediate attention to the wrongs of American citizens, then and several months before and ever since suffering wrongful imprisonment. That question was, and still is, the most vital American question claiming the attention of an American Congress. In the debate on the question on the 31st of January, the gentleman from Indiana [Mr. ORTH] laid down the law that American citizens were subject to British law the same as British subjects; that is, that our citizens could be arrested on mere suspicion and held without being charged with crime and without trial at the will of the foreign ministry contrary to Magna Charta, *habeas corpus*, trial by jury, and other defenses of liberty of which Englishmen used to boast, but which are all now submerged in the Gladstone mud. I denounced the whole thing as a humbug. I said on this floor that it would take a thousand years of such proceedings to get a fly out of a molasses-cup. Was I not justified in saying so? This resolution went to the Committee on Foreign Affairs nearly three months ago. It should have been reported back in five minutes. The committee should have been instructed to remain in their room without food or drink or sleep till they reported it back to the House for immediate action; but what have we seen in that committee? Day after day that committee has had dreamy sessions and dreary answers to their questions concerning suspicions on the fertilizing exports of Peru. Was this of as much importance as the continued incarceration of a dozen of innocent American citizens, every hour of whose detention was as malodorous as the subject of their Peruvian researches?

Sir, the apostle Paul in his Epistle to the Philippians declared that he accounted all things but dung that he might win Christ. I do not know how that rough Anglo-Saxon word has been rendered in the new version. I was brought up on the old translation, and I have little respect for the new, which knocks "hell" out of the Bible, but looking at the proceedings in the Committee on Foreign Affairs it would seem as if some Americans would risk American honor and sacrifice once again their Saviour to win guano!

There are many other matters and considerations which I should dwell upon, but time and space forbid. I intended to refer to the case of J. C. Wright, recently insulted in Brazil. I just now see in front of me the gentleman from Ohio, [Mr. UPDEGRAFF.] I intended to have copied some extracts from his eloquent speech delivered a few days since in this House. I quote a single paragraph to show what an honest American statesman thinks of that country whose flag some Americans are anxious to salute and whose government they are ready to praise. He says:

Such is the condition to which England's policy—cruel and crushing—has reduced her people. More than *one-thirtieth* of her entire population, by the authority of her own parliamentary returns, are public paupers. From her borders, as they can, they crowd to this country to find honored labor, free homes, open schools, and prosperous industry. To establish and make strong her own grasping policy she has ruined her own agriculture; robbed Ireland—glorious, beautiful, but now stricken Ireland—of its trade and its nationality; holds plundered India, famine-stricken, in the dust, and now, *robber-nation of the earth*, grasps at our industries, and, with measureless audacity, tells us it is to be done, all done, in the sweet name and under the mocking mask of universal brotherhood.

One of the most objectionable things I have seen in this business is the laborious clerical services we are rendering England in detecting flaws in the title of our citizens to their citizenship. M. P. Boyton went to Europe. He was arrested on charge of crime, tried and acquitted; then he was arrested on suspicion, and kept in prison till he grew blind. He claimed protection as an American citizen. He produced his passport with the seal of the State Department. His release or speedy trial should have been instantly demanded. It took our representatives a good while to do it, but they finally proved to themselves and to Europe that the seal of the State Department was a fraud and a lie, and I suppose European despots will be at liberty hereafter to look upon all our passports and documents under the State Department seal as lies and frauds. Just now, it seems by papers recently sent to us from the State Department that our folks are engaged in picking flaws in the naturalization papers of O'Mahoney and McEnery. Is it worth our while to pay ministers and consuls to do this work for the British Government? If such dirty work must be done, let the British Government do it by their own spies and at their own expense. The law as laid down by our own Supreme Court is that we must take the record as correct and not go behind it to pick flaws, and that naturalized citizens should not be called upon always to prove the regularity of the different proceedings by which their passports or naturalization papers were obtained. Lord Lyons in the numerous demands he made on our Government to release suspects in our war never waited to send home for proof of their being English subjects.

I wish to say, sir, and I say it with great pleasure, that I am able to correct an error into which I fell in my first speech, relying on Appleton's Encyclopædia, about Commodore Ingraham, who rescued Koszta in such a brilliant American fashion. The old patriot and hero is not dead, but still living near Charleston, in South Carolina, and might take a hand in the fight if there should be one, as I am informed by his son-in-law in Baltimore, whose wife is not only the daughter of Captain Ingraham but the grand-daughter of that great Irish-American patriot and jurist, John Rutledge, of South Carolina, the first judge appointed by Washington to the Supreme Court of the United States, and afterward appointed by him Chief-Justice of that court.

It is curious to notice that the two governments are unwilling to let Congress and Parliament know what is going on about these suspects. I beg leave to notice the fact, without dwelling on it, that public meetings and the Legislatures of the several States are passing resolutions in favor of the measure on which I am now speaking, and demanding the recall of Minister Lowell.

What shall we do to be saved? Washington warned us against foreign influence. He saw that monarchical representatives mingling with the giddy leads of our society might injure our republicanism. Jefferson wished that a sea of fire rolled between us and Europe. What he feared was the dangerous influence of foreign courts upon our democratic institutions. Shall we withdraw all our foreign ministers and ask Europe to withdraw theirs? Diplomatic dinners make us forget diplomatic duties.

We must not forget our duty to these wronged American citizens, after they are all restored. We must see that ample compensation shall be paid to all of them.

And now, Mr. Speaker, allow me to say in conclusion, feeling the influence of warm hearts on this and on that side of the House, appreciating fully and freely the loyalty and devotion of every member to the flag and the honor of the country, I still think I have a just claim in connection with the success of this measure, going back to the time when I first commenced to urge it upon Congress, over forty years ago, through Henry Clay, down through the history of the law of July 27, 1868, and in my course in this Congress, however irregular or erratic, that there is no man on this side of the House among my party friends, or on that side of the House among my old friends, that would deny me some credit. I think I can claim that if our Government had not proved unfaithful to their duties, they had fallen into neglect, or at least had not sufficiently appreciated the importance of protecting our humblest citizens. I know how little my feeble efforts could have accomplished in this or the Fortieth Congress without the generous and more powerful support of others on both sides of the Chamber. Still I claim that my efforts have not been without good. When I came here I found the American eagle drugged and drowsy, his blood poisoned with political pyæmia, his beak filled with Lowell garbage, and his pinions wet with the mildew of monarchy. I roused him from his ignoble slumber; I brushed the mildew from his plumage; I gave his majestic voice to the music of Liberty and his imperlai wing to fan the tempest and soar to the sun.

Mr. ORTH. I understand the gentleman from New York [Mr. COX] desires to be heard. How much time does the gentleman wish?

Mr. COX, of New York. I think ten minutes will be ample.

Mr. ORTH. I yield ten minutes to the gentleman from New York.

Mr. COX, of New York. My colleague [Mr. ROBINSON] addressed me a question a moment ago. If we are in earnest in vindicating American citizenship, if we mean earnestly that our citizens shall be enlarged from their prisons, I should not say one word here to impede, and everything gracefully to aid, such a laudable object.

Let gentlemen on both sides of this House have proper credit. Let no man assume to himself any special credit in such a laudable endeavor. I am not unfamiliar myself with the practical business of this nature, as many ex-prisoners testify. I would not, sir, be on my feet to-day on this question again as I have been, perhaps, too frequently, were it not that my constituents desire and demand representation on this subject. They have had it from me and I propose always to stand by my resolutions as the exponents of their generous thoughts.

It is no discredit to my colleague [Mr. ROBINSON] that he takes my two resolutions as the basis of his action and endeavors to lift them up into prominence. I am very proud to see him thus notice my efforts in behalf of his countrymen. All honor to him.

Mr. ROBINSON, of New York. I ask my colleague to allow me to contradict him. I give him the fullest credit; I would rather do credit to him than myself; and if I have not done it before I thank him now for the honorable, generous, and able manner in which he has stood by me. And I have never said anything else.

Mr. COX, of New York. And I thank the gentleman for standing by me in all these matters.

Mr. ROBINSON, of New York. Let us stand together.

Mr. COX, of New York. I would if I could and he would—there is hardly room on that brow—place a fitting chaplet for his services to Ireland! I give my colleague all the honors for his indefatigable exertions in 1868 and since. I care not myself for these transient honors. They come and go like rainbows. They make and unmake Congressmen. Let Congressmen come and go! Nor should we care so much how it may concern one race or another, nor how it may affect Ireland in her landed system or otherwise.

I desire, sir, to rise to the height of an American argument, that we are, in passing this resolution for the prompt trial or prompt release of American citizens, vindicating, not Irishmen, not Ireland, not naturalized or native citizens, but citizenship. We vindicate anew Magna Charta. We vindicate citizenship and the bills of right. We stand by citizenship and fair trial and trial by a jury of the vicinage and a jury of peers, or equals.

Consciously I represent the American sentiment expressed by Rufus Choate. He said of our party that he loved the Democracy because it had "gay and festive defiance of foreign dictation."

I need not argue to you, Mr. Speaker—and I think, sir, thanks are due to you for your assistance in endeavoring to bring forward these measures—I need not argue to you, sir, the necessity of vindicating Magna Charta. It is as old as King John and the barons. It is as old as Stephen Langdon, the Archbishop of Canterbury who gave the *anathema maranatha* against those who violated Magna Charta. Was it not this Catholic-Democratic primate of England who had *Te deum laudamus* sung in Westminster Abbey because of the great charter of liberty? What is that charter? Has it been violated? And what is our duty when it is violated in the persons of our citizens? I need not read to you the dead Latin in which it is expressed. I have it here in our most stalwart English:

No freeman—

Says the thirty-ninth article of Magna Charta—

No freeman shall be taken, or imprisoned, or disseized, or outlawed, or exiled, or any wise destroyed; nor will we go upon him, nor will we send upon him, unless by the lawful judgment of his peers or by the law of the land; to none will we sell, to none will we deny or delay, right or justice.

That was said centuries ago, reaffirmed in England more than thirty times, and fixed in our American Constitution as a cardinal idea.

Did not Sir James Mackintosh regard this thirty-ninth article as the most effectual security against oppression? Was there any wisdom devised by man equal to it in the interest of freedom? Does not Hallam term these as essential clauses to protect personal liberty and property? Did he not feel that arbitrary imprisonment and spoliation might be prevented by such declarations? If the House will but regard our Constitution and its forerunners, it would allow no dispossession of the freehold anywhere under Magna Charta.

I said this cardinal idea was fixed in our own Constitution. Here is the language:

Nor be deprived of life, liberty, or property, without due process of law.

It is not a question, as Mr. Lowell makes it, whether the British Government shall care for American citizens equally with British citizens.

The question is whether, when our own citizens are arrested under the infamous "coercion act" which violates Magna Charta and every principle of personal liberty, we shall not raise the standard of our country to cover our own citizens against this attempt to seize, imprison, and detain without trial.

This is the main question. It concerns the German as well as the Celt. We should abrogate the Bancroft treaty, because that treaty breaks the principle. It concerns every man, who, wherever born, gives his allegiance to this country.

Why, Mr. Speaker, I could go back even to Holy Writ and vindicate this measure. Paul's imprisonment is an example for all time. He is the hero for a fight for personal human liberty. But I want to say to the gentlemen on the Foreign Affairs Committee that when they bring this resolution forward, or when the House discharges them from its consideration and my resolution comes to the front, as it will if we discharge them—I wish to say to that committee that I would like them, for their honor and the honor of this House, to place it on high ground. Let us not ask Mr. Lowell to beg Lord Granville as a matter of comity or friendship, in honeyed or poetic phrases, to recognize our American citizenship and to enlarge our citizens, but demand it—demand it in the name of 50,000,000 of free people—demand it as the right of our citizens, having the shield of our country over them.

When, sir, Paul was imprisoned, and when the magistrates sent the sergeants to him, saying, "Let these men go," and the keeper of the prison told the saying to Paul, "The magistrates have sent to let you go; now, therefore, depart and go in peace," what did Paul say?

They have beaten us openly uncondemned, being Romans, and have cast us into prison; and now do they thrust us out privily? nay verily; but let them come themselves and fetch us out.

And the sergeants told these words unto the magistrates: and they feared, when they heard that they were Romans.

"Romans!" The pride of early civism and polity. Have we no desire to emulate such pride? Have we no Hebraic, Christian, or human pride for the glory of personal rights?

And, I say, let the English Government, if they thrust these men out of prison privily, give an account openly; or rather let them do it openly before the world, recognizing our right to demand them as an element of that citizenship in which we are proud to number them.

Mr. Speaker, I fear I have already trespassed too long. I will say, in conclusion, that whatever may be the proposition of my friend and colleague, [Mr. ROBINSON,] if the House votes to discharge the Committee on Foreign Affairs, let us put it in the terse old tough Anglo-Saxon of the Magna Charta translation I have read. Let us demand for the American citizens a trial; no year of imprisonment, but a hearing at once, or otherwise a release, demanding that the American people will do their duty to the men who have stood by our flag, with arms in their hands and with ballots at the polls. [Applause.]

Mr. ORTH. Mr. Speaker, I shall endeavor in the few remarks that I feel called upon this morning to submit to the House to try and bring this question out of the region of poetry and sentiment down to the solid fact, to the important fact that this House is to-day considering one of the most interesting and one of the most delicate questions before this Congress, I might almost say before Congress for many years.

The pending resolution, offered by the gentleman from New York, [Mr. ROBINSON,] is to discharge the Committee on Foreign Affairs from the further consideration of the question pertaining to our imprisoned citizens in Ireland. Ordinarily that is a pretty severe motion to be made in this House in reference to any committee. I

regret that it was made, and especially do I regret that it was made apparently upon the suggestion of one of my colleagues, whom I do not now see in his seat, [Mr. CALKINS.] But the resolution has been presented, and this House must now act upon it.

I desire simply to say here for myself and for the committee that this House will, as I hope and trust, act as its cool and deliberate judgment may dictate. But before that action I beg of the members to inform themselves, if they have not done so already, of the true status and condition of this case and the position in which this House will be placed when you discharge your Committee on Foreign Affairs and then proceed to vote upon and adopt a resolution instructing the President of the United States to make demands of the British Government in reference to certain citizens——

Mr. ROBINSON, of New York. Not instructing; not instructing.

Mr. ORTH. I know what I am talking about.

Mr. ROBINSON, of New York. I am glad of it.

Mr. ORTH. I do not wish to be interrupted.

Mr. ROBINSON, of New York. I will not interrupt you.

Mr. ORTH. I did not interrupt the gentleman from New York, and I trust that so far as I am concerned and he is concerned the "suspended hostility" which he talked about will continue to be suspended for a time at least.

Mr. ROBINSON, of New York. One word.

Mr. ORTH. I do not wish to be interrupted.

Mr. ROBINSON, of New York. I will not interrupt you again. I only want to say that I have no hostile feeling whatever toward you.

Mr. ORTH. I have no more interest in this matter than any other member on this floor, but the House having referred this matter to the Committee on Foreign Affairs, it becomes my duty as a member of said committee to lay the facts before the House, so that it shall be enabled to act understandingly. So far as possible I desire the House to be fully posted as to the consequences of its action. Before you start upon the journey marked out by the resolution see where it will lead you. I beg you not to start upon a journey from which you will be compelled to retrace your steps. The American Government has never yet in her intercourse with other nations taken untenable positions, none from which she has been compelled to retrace her steps.

So far as mere sympathy is concerned, I have sympathy not only with the Irish people, but with all people who seek to improve their condition and who resist oppression. But there is a difference between sympathy and duty. The Irish people are a part of the British Empire, and while we sympathize with them, and have a right to sympathize with them, we must not lose sight of international obligations and of our own honor and dignity. The American Congress or the American people cannot use that sympathy as a mere cloak to foment trouble among the people of a neighboring and friendly nation.

Another thing, and I wish to say it right here. No man has a higher regard for American citizenship than I have. I hold it above all price; and thus holding it, I declare most emphatically that so far as I can by my vote or my influence interpose, such citizenship shall only be used as a shield and never as a sword. It shall be used only for honorable and never for dishonorable or disreputable purposes. Before closing my remarks I shall make practical application of this position.

The motion is made here to discharge the Committee on Foreign Affairs—to pass upon us at least an implied censure. Have we been derelict in our duty? Have we shown ourselves incompetent or unwilling to discharge the trust committed to our hands? Oh, yes, it is said; we have not reported within a week. We have not, I admit, in this most important matter complied literally and technically with the language of one of our rules. We have regarded rather the gravity of the trust than the literal words of the rules, and we have felt ourselves fully justified in this course; but even in doing so we have kept entirely within the spirit of the rules, as an examination of the facts apparent on the record fully demonstrates. Let me invite your attention to these facts. On the 31st day of January, 1882, the House passed a resolution which had prior to that date been reported from the Committee on Foreign Affairs. I ask the Clerk to read it. I beg the House to remember the dates as we progress.

The Clerk read as follows:

Resolved, That the President be requested to obtain a list of all American citizens, naturalized or native-born, under arrest or imprisonment by authority of the British Government, with a statement of the cause or causes of such arrest and imprisonment, and especially such of said citizens as may have been thus arrested and imprisoned under the suspension of the *habeas corpus* in Ireland; and, if not incompatible with the public interest, that he communicate such information, when received, to this House, together with all correspondence now on file in the Department of State relating to any existing arrest and imprisonment of citizens as aforesaid.

Mr. ORTH. I want you to mark the language of that resolution and its date. On the 31st of January, 1882, the President was requested to obtain a list of all imprisoned Americans—"all imprisoned Americans." Does not the greater include the less? Does not all include a part? When "all Americans" are embraced in that resolution, do you not include O'Connor and Hart and O'Mahoney and McEnery? These men are included in the general resolution requesting the President to take action with regard to "all Americans imprisoned." The President has acted; he is acting to-day. Where is the evidence of it? The gentleman from New York [Mr. ROBINSON] yesterday in the exuberance of his patriotism stated that none of these men had been discharged since this action was taken. That gentleman is much mistaken. The President has acted under that resolution. Here is the message that he sent to this House on the 5th of April, containing eighty-eight pages of information in reference to "all Americans imprisoned in Ireland"—not merely O'Mahoney and O'Connor and Hart and McEnery, but all Americans. The President is acting now. This message, communicated to the House on the 5th of April, states that two of the persons embraced in the special resolution of the gentleman from New York [Mr. COX] have already been released.

Mr. COX, of New York. Three.

Mr. ORTH. I beg the gentleman's pardon, two. Mr. Lowell states on the 3d of April that Walsh had already been released. Walsh was not included in the resolution. In addition to Walsh, Hart and O'Connor have been released. Thus two of the four are at liberty. What about the other two? I will state the facts, and gentlemen can draw their own inferences. As regards McEnery and O'Mahoney, the British Government has said to them, "We will open your prison doors, and you may go right back to America."

Mr. ROBINSON, of New York. I do not want to interrupt the gentleman——

Mr. ORTH. I do not wish any interruption. I state what the record will sustain.

Mr. ROBINSON, of New York. The interruption would be worthy your consideration, but you will not listen.

Mr. ORTH. I want this House to know the exact condition of things before it votes to discharge the Committee on Foreign Affairs and take up the resolution calling upon the President to make a demand with regard to four persons, two of whom are already at liberty. I do not express any opinion as to whether these men to whom liberty has been offered on condition of their coming at once to this country ought to accept it; that is another question and is a matter resting entirely in their own discretion. I am stating the fact that the British Government has said to Mahoney and McEnery, "We will open the prison-doors, and you may go back to America on the first steamer." It seems to me that if I were wrongfully and unjustly imprisoned I should refuse a conditional release. I would stay in prison rather than take my liberty on that condition. But I am stating the facts to the House and to the country.

Again, on the 23d of January, eight days before the House adopted the resolution I have had read at the Clerk's desk, this House, upon the motion of the gentleman from New York, [Mr. COX,] adopted the following resolution:

Resolved, That the President of the United States, if not incompatible with the public service, be requested to communicate to this House all correspondence with the British Government on file in the State Department with reference to the case of D. H. O'Connor, a citizen of the United States, now imprisoned in Ireland.

After the House had adopted the general resolution already referred to, embracing all American citizens imprisoned, the Committee on Foreign Affairs reported this resolution to the House with recommendation that it lie on the table. The report is indorsed upon the resolution, and reads:

The Committee on Foreign Affairs have had this resolution under consideration, and instructed me to report the same to the House with a recommendation that the same be laid on the table. GODLOVE S. ORTH

Why? Because the D. H. O'Connor therein named is one of the persons embraced in the resolution to which I have referred, namely, "all American citizens." But the House, instead of agreeing to the report of the committee, recommitted the resolution, with instructions that in addition to the case of O'Connor the committee should also inquire with reference to the cases of Michael Hart, of Lawrence, Massachusetts; H. O'Mahoney, of Buffalo, New York, and John McEnery, citizens of the United States. Were they not all embraced in the general resolution that the President should inquire with regard to all imprisoned Americans? Undoubtedly they were.

Your committee has not made a formal report upon that resolution and instructions, and I will tell you why. In the first place, they were all embraced in the general resolution. In the second place, we were constantly engaged in conference with the State Department, which was in almost daily correspondence with our representative in Great Britain in regard to procuring the release of these identical prisoners named here. I hold in my hand, Mr. Speaker, a document printed for the use of the Committee on Foreign Affairs, but which has long since been made public, containing correspondence between the committee and the Secretary of State, showing our diligence in this matter. I furnished the gentleman from New York [Mr. ROBINSON] with a copy, and hence he cannot be ignorant of its contents and of the work of this committee; yet with all this information before him he introduced into this House a resolution to discharge the committee and bring up this discussion again. Why, sir, I will not refer to any gentleman in particular; but somehow or other it appears to me that there are some gentlemen more solicitous about the Irish in Brooklyn than the Irish in Ireland. [Laughter.]

Mr. ROBINSON, of New York. That is not so.

Mr. ORTH. I did not say that was the case with the gentleman from New York. There is the work of your committee under this

resolution, showing that we have been diligent day after day and week after week in obtaining from the Department of State information upon one of the most intricate and delicate questions that have entered into the diplomacy of this Government since the close of the war.

The American Government had questions of this kind to deal with during the war for the suppression of the rebellion. The Government would occasionally get hold of a British subject suspected of complicity with the rebellion, and put him in jail; the writ of *habeas corpus* having been suspended, Great Britain would make complaint, and we released the British subject when we saw fit to do so. We must not forget our own history in the discussion of this question. The archives of the State Department will bear me out in saying that not a day nor an hour has been lost in attempting to assert the rights of American citizenship against the operations of the "coercion act" in England. We have not been derelict in our duty; the State Department and the Executive have not been derelict in their duty. Yet it is proposed to bring before you (because if the committee be discharged the resolution will be before you) a resolution to do—what? To demand the release of two parties already released, and the release of two others concerning whom this House has not the evidence requisite for intelligent action. Can any member of the House rise in his place and say that he knows McEnery to be an American citizen?

I pause for a reply. And yet if you discharge the committee you will be called upon to vote for a resolution instructing the President to demand the release of McEnery. Suppose Great Britain should refuse your demand? What then? Have you thought of that. Will you "burn London?" Or will you meekly recede from your demand? When one nation makes a demand of another it must be prepared to take the consequences of a refusal of that demand; and that is the question you have before you to-day; and, sir, before its importance your election cases and your tariff commissions sink into utter insignificance.

Now, then, no member has told me that McEnery is an American citizen. Our committee has been trying for the last six weeks to ascertain the fact, if possible, and we have failed to make such discovery.

Mr. ROBINSON, of New York. You have been twelve months at one case.

Mr. ORTH. I will come to that case in a half minute and I will comment on it. It is the case of O'Mahoney, doubtless, to which the gentleman refers. I believe he was at one time a resident of Buffalo, and if the honorable gentleman representing the Buffalo district is in his seat I wish to ask whether he knows O'Mahoney. I do not see him now in his seat, and hence pass on.

Several MEMBERS. He is not here.

Mr. ORTH. You are called on to pass a resolution instructing the President to demand the trial or release of O'Mahoney. Is there a single member within the sound of my voice who can tell you the precise status of O'Mahoney? Can either of the gentlemen from New York tell us his status to-day? Will they affirm on their own knowledge or on reliable information that O'Mahoney at the time of his arrest was *bona fide* an American citizen and entitled to the protection of the American Government? At the time of his arrest he was holding an office in Great Britain under the authority of British law. You say he is an American citizen in whose behalf we must proceed. I wish you now to listen to the report made by Mr. Brooks, our consul at Cork in 1881, in reference to Mr. O'Mahoney. I ask the Clerk to read it. I ask gentlemen, in view of the facts stated in that consular report, whether they are willing to instruct the President to demand, in the absence of further investigation and further testimony, the release of O'Mahoney, who held office under the British Government the very day he was arrested.

The Clerk read as follows:

[Inclosure 23 in No. 331.]

Mr. Brooks to Mr. Badeau.

UNITED STATES CONSULATE,
Cork, Ireland, June 22, 1881.

SIR: In the matter of the application of Henry O'Mahoney, political prisoner, now in Her Majesty's jail at Limerick, in this consular district, for assistance or protection, based upon the claim that he is a citizen of the United States, I have to report the following additional facts:

On Tuesday, the 21st instant, with the permission of F. McG. Eagar, esq., governor of the prison, I had a very lengthy interview with O'Mahoney in the governor's office. I had previously intimated in a personal way to Mr. Macarthy, president magistrate at Limerick, the time and purpose of this interview, and had invited him to be present at it as a representative of Her Majesty's Government. He was not present, however, until the interview had been nearly concluded.

The purport of O'Mahoney's statements was, in brief, as follows:

He was discharged from the United States Navy in the fall of 1865, and had lost his discharge papers. Subsequent to his discharge he remained in the United States, living in Kansas, Missouri, and the Mississippi Valley until 1874, when he returned to Ireland. During this period, in 1866, he made application to the county court, Caddo Parish, Shreveport, Louisiana, for his naturalization papers, basing his application upon his service in the Navy. The papers were not issued, the reason for which failure to issue he did not state.

His return to Ireland in 1874 was occasioned by the "hard times" then prevailing in the United States, and because he had lost money by bank failures as well as failures of contractors for whom he had worked as a sub-contractor in the erection of saw-mills. He remained in Ireland two years, and returned again to the United States in 1876, but returned to Ireland soon after. He was married in Ireland in 1875, and in October of that year obtained a license under the local laws to keep a "public house;" i. e., as a retailer of liquors, spirits, &c. This house and license his wife has kept and used at Ballydehob ever since, and still keeps and enjoys the same. In 1879 he returned to the United States and went to Lockport, New York, and from thence to Buffalo.

In February, 1880, he applied for and obtained naturalization papers in Lockport, a copy of the certificate of which was forwarded inclosed in my dispatch to you under date of June 15, instant.

In January, 1881, he returned to Ireland, for the purpose, as he most emphatically declared, of disposing of his property in Ballydehob and going with his family back to Lockport, where, he says, he now owns a small property. After his last arrival at Ballydehob he took part in the then prevailing political agitation, and being a rate-payer, (tax-payer and voter,) was urged by his neighbors to stand as a candidate for poor-law guardian. He objected to this, but was finally duly nominated, elected, and qualified, after which he entered upon and discharged the duties of his office up to the time of his arrest and incarceration.

He added that he knew the office of poor-law guardian was one of important trust, if not of emolument, and that the discharge of its duties involved the assessment and levy of taxes (striking rates) and the practical administration or execution of the laws of this country.

To the question, "What demand or claim do you wish to prefer or ask of the United States Government?" he answered, "I demand and claim protection the same as the British Government gave to its subjects in New York during the draft riots in the late war. I am an American citizen, and want to get out of this country. I want a fair trial; I want justice and a speedy trial, and I want the protection of the American Government to secure these things to me."

To the further question, "Suppose the British Government were to permit your release from prison upon condition of your immediate return to the United States, would you accept such terms?" he replied, "I cannot promise that, for it would take a year to close up my affairs here and sell out my property; but I do not want to stay in this country, and am willing and anxious to leave it as soon as I can."

O'Mahoney further explained that the foregoing statement of dates or years may not be technically correct, and that he gave it from memory, to the best of his recollection and belief.

In conclusion he repeated his request for the immediate interference of the United States authorities in his behalf.

To conclude the record in O'Mahoney's case it is necessary to state that he stands committed under the so-called "coercion act" as a suspect, on suspicion of having been implicated in an assault with fire-arms, with intent to kill, upon Mr. George Henry Swanton, justice of the peace, Gortnagrough, Ballydehob.

I have to add that before I left the prison I was informed that two or more prisoners were anxious to see me for the purpose of preferring their claims, similar to those of O'Mahoney's. In response to this information, I declared my willingness to take cognizance of their cases upon proper application in due form.

As I have received no instructions up to date in O'Mahoney's case from the legation or other source, I shall, unless otherwise directed, permit the matter to drop here.

I am, sir, your obedient servant,

E. P. BROOKS, *Consul, &c.*

Mr. ORTH. Now, I want the House to bear in mind one or two remarkable facts connected with the case of O'Mahoney. And even in this case of O'Mahoney the British Government has said they will open his prison doors and let him go back to Lockport or Buffalo or anywhere he wants to go, if he will only leave Ireland and not return during the present Irish troubles.

In 1874 he went to Ireland. He remained there, married, his wife rented a hotel, took out a license, and in 1879, when these troubles were commencing in Ireland, he came over to this country and became naturalized in 1880. He returned to Ireland, with his naturalization papers in his pocket, became a candidate for office under the British Crown, was elected, and accepted that office, entered upon its duties, and was discharging the duties of that office when arrested upon suspicion of having been engaged in killing a man.

Without any information whatever you are now called upon, if you follow the lead of the gentleman from New York, [Mr. ROBINSON,] to vote that the President shall demand the release of O'Mahoney. I do not think you are going to do it. I discharge my duty to this House when I bring these facts before it, and the House will discharge its duty, in my judgment, when it will lay this resolution promptly upon the table, unless it should be withdrawn by its mover; and, Mr. Speaker, when the debate is closed I shall claim the floor for the purpose of moving to lay it upon the table.

This troublesome question, Mr. Speaker, is being practically settled by the firm and dignified course of the President under our former resolution. He is discharging his duty honestly and faithfully under said resolution—a resolution which embraces "all American citizens." Do you want any more? Why warn us about A, B, and C? Why have any special case when they are all embraced under the general resolution? There is no reason for it whatever, except to keep up a turmoil and excitement more for the benefit or delectation of certain Irishmen in Brooklyn than for any practical good it will accomplish for those who are alleged to be unjustly deprived of their liberty.

I said a while ago, Mr. Speaker, that American citizenship must be used as a shield and not as a sword. I made that statement with reference to this man O'Mahoney. He is using his citizenship in what manner? Why, by seeking its protection when he gets into trouble? But how does his citizenship claim appear in connection with the fact that he has returned to his mother country, gone apparently into permanent business there; becomes a candidate for office, was elected, and held the office, discharged its duties, put the emoluments of his office into his pocket, and when trouble comes hauls out his naturalization papers. When peace exists in Ireland he uses his hotel license; when troubles come—and come partly through his instrumentality—then he uses his "papers."

I simply throw out the statement for the purpose of impressing upon the House the necessity of acting with caution in a grave question of this kind. Your committee, in the prosecution of this investigation, have moved cautiously all through the case, knowing the gravity of the situation.

Why should we break down the position that Secretary Seward took during our troubles in the time of the rebellion? I need not say to this House that the naturalized foreigners never had a truer

or a better friend in favor of their American citizenship than Mr. Seward. He says here in 1866, in a dispatch to Minister Adams, and I ask attention to this:

It may be expected that some of our Irish-born naturalized citizens who are now sojourning or traveling in Ireland should be arrested on complaint of complicity in seditious proceedings. The situation will, for a time, necessarily become inconvenient and embarassing. I know of no way in which you can meet it more properly than by pursuing the course which you have indicated. Americans, whether native born or naturalized, owe submission to the same laws in Great Britain as British subjects while residing there and enjoying the protection of that government. We applied the converse of this principle to British subjects who were sojourning or traveling in the United States during the late rebellion.

That is the language of a warm friend of the naturalized American. Now suppose you make your demand upon the British Government, what would be the result? Lord Granville would refer you to that part of the diplomatic history of our country during the rebellion when we imprisoned British subjects and held them under a suspension of the *habeas corpus* until we saw fit to release them. You do not want to place yourselves in a position where you are successfully confronted by the principles laid down by our Government in the time of its trouble. The President of the United States is acting carefully, cautiously, and intelligently in this matter, and he deserves the commendations of the American Congress, instead of having here, every week or two, this scene to go out to the country, which leads to false impressions and succeeds only in getting the country into commotion. There is no occasion for it. The President is acting prudently in the matter, and the results will come in time.

And further, Mr. Speaker, I desire to say that I feel authorized in making the statement in regard to McEnery that there are good reasons for the belief that within a short time he will secure his unconditional release; but as to O'Mahoney, that presents a case surrounded by greater difficulties. But if we intend to follow him with the flag and afford him our protection, then let me state to the gentleman from New York [Mr. ROBINSON] that O'Mahoney is embraced in the general release, and no such resolution is necessary in his case. I submit that from the official facts before us, and which the gentleman from New York [Mr. ROBINSON] had an opportunity of reading, because I placed the pamphlet in his hands at least two weeks ago, there is no need for precipitancy; and with these official facts there is also the knowledge that if O'Mahoney was an American citizen there is a question at least worthy of consideration whether, by permanent residence in Ireland and accepting and performing official function as a public officer under British law, he has not by his own acts forfeited his American citizenship. He has not resided in this country sixty days since his naturalization; went abroad, engaged in business, and held office, and yet you are going to demand of the British Government for him that he be unconditionally released.

Let him show by his works that he appreciates his American citizenship. He was not traveling abroad as a gentleman of leisure or residing there temporarily as an American citizen. He was keeping a hotel under a license from the British Government. He was holding an office under the same government, a collector of the poor-rate taxes, and putting the emoluments in his pocket. He was suspected of killing a justice of the peace and imprisoned on account thereof.

Now you want to solemnly pass a resolution that this man is entitled to the active, energetic, and prompt co-operation of this Government in order to have him released. I think not.

I do not know that I have anything further to add to this matter. I recollect that in 1866, during the Fenian excitement, I had some little part in getting some of our Irish friends out of trouble. I stated here a moment ago that Great Britain would open the doors of the prison without delay if O'Mahoney would step aboard a ship at Queenstown and come to this country. I repeat that now. He could be released at once if he desired it. Now here is the way Secretary Seward looked at a similar state of facts in 1866 in a dispatch to Minister Adams with regard to a number of citizens in Irish jails:

Under these circumstances, you will be expected to suggest to Lord Clarendon the expediency of the exercise of clemency to the extent at least of releasing all of the American citizens, native or naturalized, who are in confinement upon the condition of their returning to the United States.

Secretary Seward, the firm, devoted friend of the naturalized citizen, who did more to secure the rights of naturalized citizens than any American official, suggested to the American minister at London to secure if possible the release of American citizens then imprisoned by promising they would come home, and suggested the exercise of his good offices in getting them out, stating:

While such a proceeding on the part of the British Government would seem to be an entirely safe one, it cannot be doubted that it would have a tranquilizing effect here.

I have presented the naked facts in this case as developed by official correspondence to this House. Before you take the action you are invited to take by the adoption of the resolution discharging our committee from the further consideration of the subject see that you are fully posted as to the facts we have presented and the consequences which may flow from such action. If you do so we shall be content, but the unanimous judgment, as I believe, of our committee is that this subject is now progressing satisfactorily, and the result will commend itself to the calm, deliberate judgment of the American people.

I now yield the balance of my time to my colleague on the committee, [Mr. DEUSTER.]

Mr. DEUSTER. Mr. Speaker, there can be no member upon the floor of this House more solicitous and anxious to see amplest protection afforded the naturalized citizen than I am. I looked upon my designation as a member of the Committee on Foreign Affairs more as an evidence of a commendable desire to guarantee our naturalized citizens the fullest protection of their rights while abroad, by placing one of their own number upon the committee, than as a recognition of my own fitness. I agree with the honorable gentleman from New York [Mr. ROBINSON] in demanding speedy investigation into any cases arising in foreign countries in which the life, liberty, or safety of an American is at stake. I am also sorry to confess that I consider half of our treaties hardly worth the paper they were written upon; and in regard to one of them, the "naturalization treaty" with Germany, I have endeavored to secure the influence of Congress with the Executive to have it annulled, rather than disgrace our statute-books any longer, even if we can get nothing better in its place, because under it the most flagrant violations of the treaty were constantly occurring, and because it expatriated an American citizen for no better reason than two years' absence from the United States and temporary residence in Germany.

But in the present case I know that the committee is not at fault in not pushing this investigation more rapidly. The resolution, in accordance with usage, was referred to a sub-committee, and this sub-committee, before proceeding further, was in duty bound to ascertain, first, whether the Executive had complied with the plain provisions of the act of Congress of July 27, 1868, now section 2001 of the Revised Statutes, which reads as follows:

SEC. 2001. Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

A request was made for the official correspondence which had passed between the two governments, and it was not until a few days ago that it was submitted to the committee in printed form. It would be a manifest injustice now to deprive the whole committee of the opportunity to look into this matter and to report, if possible, such remedies for the future as may suggest themselves during their deliberation upon it. I hope the gentleman from New York [Mr. ROBINSON] will take a more favorable view of the matter and withdraw his resolution.

MESSAGE FROM THE PRESIDENT.

Sundry messages in writing from the President of the United States were communicated by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed a joint resolution of the following title:

A joint resolution (H. R. No. 197) making an appropriation to supply a deficiency in the appropriations for public printing and binding for the fiscal year ending June 30, 1882.

AMERICAN CITIZENS IN BRITISH PRISONS.

Mr. WILLIAMS, of Wisconsin, rose.

Mr. ROBINSON, of New York. Will the gentleman from Wisconsin [Mr. DEUSTER] yield to me a portion of his time?

Mr. DEUSTER. I yield the gentleman from New York the balance of my time.

Mr. WILLIAMS, of Wisconsin. If my colleague will reserve his time till I can be heard, I will then yield to the gentleman from New York what time he wants; but I desire to get in a statement before the House completely dissolves this afternoon.

Mr. ROBINSON, of New York. All I want is a few minutes to respond to what was said by the gentleman from Indiana, [Mr. ORTH.]

Mr. WILLIAMS, of Wisconsin. What we may say in this discussion or what we may do on this resolution may be of slight consequence or it may be of the utmost importance. I cast no imputation upon the intelligence of the House. But if any member here fancies that this is a mere moot debate, a mere speculative question upon which votes can be cast on this side or that with safety, I give as my opinion that it may turn out that a vote recorded on this resolution to-day may prove to be one of the most important given in the American Congress at its present session.

It matters little what may have been done in the past. I gladly accord to my friend from New York [Mr. ROBINSON] honesty and earnestness of purpose. I accord to him freely his share of the credit for the legislation placed upon the statute-book relative to the imprisonment of American citizens abroad, and I believe his efforts, as his colleague from New York [Mr. HEWITT] said the other day, "both in order and out of order and more out of order than in," have tended largely to bring this question to the front.

Sir, I believe the President and the State Department in this country and the foreign office in Great Britain realize the importance of this question, whether we do or not. I must assume, as I most sincerely believe, that our friends desire that these men be released and that they with us are working for that result in good faith. But administrations in Great Britain, like administrations in this coun-

try, contend with opposing parties whose greatest desire is sometimes to cripple, and, if possible, overthrow them.

I am accredited with no confidential knowledge to disclose here, but we may imagine parties in England watching every movement of the Gladstone government, and only too glad to have occasion for a pretense to raise the cry of partiality to American citizens over those of Great Britain; possibly to move a vote of want of confidence and overturn the existing government, which means remorseless war on Ireland. If I am allowed the expression, it may be barely possible that the existing government "is between the devil and the deep sea" on this very question, anxions to grant all we ask, yet compelled to move with circumspection lest it be unable to grant anything at all.

If that be so, then I beg the attention of gentlemen to the importance of the question and the delicacy of the diplomatic negotiations which may be passing through the sea while we stand talking here to-day. It matters little what an individual may do or think. It may matter little what a committee of this House may do; but it may be of vast importance how the American House of Representatives, as the direct organ of the American people, shall act on a resolution like this, when important and delicate negotiations are on foot, when practical results have been already achieved, and the final consummation is just within our reach. It is well to pause—and I think gentlemen on both sides of the House will agree with me—well to pause, I say, and consider whether the present is just the time to vote for a resolution couched in the language of demand and defiance to the British Government.

But, sir, we have been summoned as a committee to the bar of this House to show cause why a vote of censure, for it amounts to that, should not be pronounced upon us. The action of the committee may best be judged by what it has done. Whatever may have occurred before this resolution was referred to us we certainly cannot be blamed for. For what has transpired since within the scope of our jurisdiction we hold ourselves responsible; and we now invite the House to judge of our case as we shall present it, and to say whether we have acted discreetly and wisely. On the 16th of December last a resolution was introduced into the House by the gentleman from New York, [Mr. COX.] The committees of the House had not then been appointed. The Committee on Foreign Affairs of course had not been organized; and the resolution was informally referred to that committee for action when it should be appointed. The resolution was as follows:

Resolved, That the President be requested to obtain a list of all American citizens, naturalized or native-born, under arrest or imprisonment by authority of the British Government, with a statement of the cause or causes of such arrest and imprisonment, and especially such of said citizens as may have been thus arrested and imprisoned under the suspension of the *habeas corpus* in Ireland; and, if not incompatible with the public interest, that he communicate such information, when received, to this House, together with all correspondence now on file in the Department of State relating to any existing arrest and imprisonment of citizens as aforesaid.

On the 21st of December the committees of the House were appointed. On the 10th of January the Committee on Foreign Affairs organized, and the above resolution was referred to a sub-committee, of which the gentleman from Indiana [Mr. ORTH] was chairman. On the 26th of January, after the matter had been discussed in committee, and it had been counseled that the sub-committee should confer with the Department of State, the chairman of that committee, under instructions from the general committee, reported the resolution to the House. It was discussed on that day by the gentleman from New York, [Mr. ROBINSON]—fully discussed. All the history of this question was gone into, and all matters of legislation pertaining to it were exhaustively discussed. It was also most ably discussed by the gentleman from New York, [Mr. COX.] Ample time was given, by favor of the committee, to both those gentlemen. It went over till the 31st of January, when it came up as unfinished business, and again it was discussed by the gentleman from Minnesota, [Mr. DUNNELL,] by the gentleman from Indiana, [Mr. ORTH,] by the gentleman from New York, [Mr. ROBINSON,] and by the gentleman from New Jersey, [Mr. ROBESON,] and I believe others. Ample time was again given for discussion, and the resolution was unanimously adopted by the House.

We then thought and still think that that resolution was broad enough to cover every possible case. The resolution was adopted on the 31st of January, and went immediately to the President. What further control had our committee over that? On the 24th of January the gentleman from New York [Mr. COX] introduced the resolution upon which we are called upon to report. It was referred to the Committee on Foreign Affairs. As was stated in the House, we regarded it as superfluous. It had been covered by the broader resolution already adopted and sent to the President. On the 15th of February the resolution was reported to the House by the gentleman from Indiana, [Mr. ORTH,] that it do lie on the table. This was opposed, and my friend from New York [Mr. ROBINSON] again discussed the question. The distinguished gentleman from New York [Mr. COX] proposed his amendment, which was ruled out of order by the Speaker as not germane. The Committee on Foreign Affairs then asked the House to adopt the resolution then and there if it was deemed material by anybody. That was no lack of diligence. We asked to send it to the President. Three members of the committee at least appealed to the House to adopt it.

The gentleman from New York, [Mr. COX,] after some explanation, offered his amendment again, with the motion to recommit with instructions, and the chairman of the sub-committee [Mr. ORTH] said to the House that he hoped the amendment would be adopted, and it was adopted. That is the resolution which is now before our committee, and the motion is now made to discharge the committee from its further consideration, and to bring it before the House. Let us see what that resolution really is. It reads:

Resolved, That the President of the United States, if not incompatible with the public service, be requested to communicate to this House all correspondence with the British Government on file in the State Department with reference to the case of D. H. O'Connor, a citizen of the United States now imprisoned in Ireland.

The gentleman from New York [Mr. COX] moved to recommit the resolution, and, when asked by the Speaker if he insisted upon his motion, replied:

I do, with instructions to insert at the end of the present resolution the following, which I ask the Clerk to read.

The Clerk read as follows:

"And also in the cases of reference to Michael Hart, of Lawrence, Massachusetts; H. O'Mahoney, of Buffalo, New York; and John McEnery, citizens of the United States, now imprisoned in Ireland, with instructions to request the President of the United States to demand of the British Government the prompt trial of these citizens or their prompt release.

What instructions and to whom? Instructions to the Committee on Foreign Affairs? What does it instruct the Committee on Foreign Affairs to do? Nothing, except to add at the end of the resolution the amendment proposed. When that is done it becomes a part of and is embodied in the original resolution. Who then does it instruct? Why, sir, it instructs the President, if not incompatible with the public service, to furnish this information, and also to instruct himself to request himself to demand the prompt trial or prompt release of these American citizens. Read it. It is that or it is nothing.

Mr. COX, of New York. The Committee on Foreign Affairs was instructed.

Mr. WILLIAMS, of Wisconsin. I beg pardon. The committee was instructed to add that to the original resolution, and when added, as the gentleman will see on reading the original and the amendment, it instructs the President to make this demand instead of instructing the committee to request him to make it.

Mr. COX, of New York. The committee has not obeyed the instructions.

Mr. WILLIAMS, of Wisconsin. I will come to that. And we will see why.

Mr. COX, of New York. I would like to hear it.

Mr. WILLIAMS, of Wisconsin. This was on the 14th of February. On the 2d day of March this discussion broke out again in the general debate on the consular and diplomatic appropriation bill and continued for two days. The point seemed to be not so much the release of the prisoners in Ireland as to settle the question, if possible, which party in this country had done the most in the past for the Irish citizen. I make no criticism on that discussion. It was both able and interesting. I only note the fact that it ran for two days and finally ran into the five-minute debate on the consular and diplomatic appropriation bill. Certainly the House has had ample opportunity to discuss this question.

It then rested till Saturday last, when it came up again in the absence of the majority of the Committee on Foreign Affairs, and the gentleman from Minnesota, [Mr. DUNNELL,] one of its members, explained the position of the committee. Yet the matter was pressed, and notice of this motion given to discharge the committee from the further consideration of the resolution and bring it before the House.

Now, we take no exception to this. We simply note in passing that it was the understanding that we should keep the gentleman from New York, [Mr. COX,] and the gentleman from New York, [Mr. ROBINSON,] advised in regard to the state of negotiations, so far as we properly could. Neither of those gentlemen will complain that we did not carry out that agreement faithfully, and I must believe there has been misapprehension somewhere. This is the history of the question in the open House.

Now, let us see what has been done by the committee and by the State Department. On the 22d day of October Dennis O'Connor was arrested and imprisoned in Ireland. On the 10th day of November his brother in Baltimore wrote to the Secretary of State, Mr. Blaine, stating the facts in regard to the incarceration of Dennis O'Connor, and on the very next day the Secretary wrote to Mr. Lowell, requesting him to bring the question of the arrest to the attention of the British Government.

On the 4th day of February Lord Granville replies, regretting that he cannot release him. This is five days after the first resolution was adopted by the House. I take it the Committee on Foreign Affairs were not authorized to do anything until they got this general resolution before them. And then all they had to do was to report it to the House for the House to adopt and send to the President. I repeat, in five days after the adoption of that resolution Granville replies that he regrets that he cannot release O'Connor.

Now, let us take the history of the case chronologically. January 31, as I say, the House adopted the resolution. February 10 it was transmitted by Mr. Frelinghuysen to Mr. Lowell, and he was asked to comply with its terms with as little delay as possible. February 24 Mr. Lowell replies that the resolution calls for the names of all

persons arrested, native and foreign born, and that it is so comprehensive he fears much time must elapse before he can answer.

March 3 Mr. Frelinghuysen cables Mr. Lowell to use all due diligence, especially as to Hart and McSweeney, and report by cable. There was not much negligence in that, not much delay there.

March 4 Mr. Lowell cables as to Hart and McSweeney. The same day the Secretary cables that as to O'Connor, Hart, McSweeney and Dalton—mark the language—the President hopes that without discussion the lord-lieutenant of Ireland will use his discretion under the law to order prompt trials in these cases.

Was not that going as far as diplomatic courtesy between friendly nations would permit; was it not about as direct and urgent as it well could be, and was it not far more effective than to have made some defiant demand by the Executive or House of Representatives in order to vaunt ourselves in the face of England? The result shows that it was.

What was that result? This was on the 4th of March. On the 7th of March Mr. Lowell cables that the dispatch has been communicated to Lord Granville, who informs him it will have immediate attention. On the 16th of March Mr. Frelinghuysen cables that the President does not wish to appear unreasonable, but it would relieve him if he were able to acquaint Congress of the granting of his request without delay. Was there any shrinking from duty, either on the part of the President or the Department of State here? What was the result again? The urgent, almost imperative, request was sent March 16. On the 4th of April the President sends to this House his message conveying the report of the Secretary of State, in which the whole matter is summed up. Here it is:

To the President:

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 31st of January last, requesting the President "to obtain a list of all American citizens, naturalized or native-born, under arrest or imprisonment by authority of the British Government, with a statement of the cause or causes of such arrest and imprisonment, and especially such of said citizens as may have been thus arrested and imprisoned under the suspension of the *habeas corpus* in Ireland, and, if not incompatible with the public interest, that he communicate such information, when received, to this House, together with all correspondence now on file in the Department of State relating to any existing arrest and imprisonment of citizens as aforesaid," has the honor to inform the President, in part response to this request of the House of Representatives, that for some time past active negotiations have been carried on between the two governments. These negotiations have been conducted in a spirit of entire friendship, and it affords the Secretary of State pleasure to acquaint the President that on the 2d instant information was received by the Department of State that all the American citizens held as prisoners in Ireland had been released except three; and that since that date the further information has reached him that O'Connor, Hart, Walsh, Dalton, and White are not now in prison. The negotiations are still being conducted with a view to the release of the remaining prisoners, and the hope is entertained that a result will be reached satisfactory and honorable alike to both governments.

Respectfully submitted.

FREDK. T. FRELINGHUYSEN.

DEPARTMENT OF STATE, *Washington, April* 4, 1882.

If the Committee on Foreign Affairs were charged with anything, if the Department of State had any duty, if the President had any obligation resting upon him, if there was any purpose worthy of the action of this House, it was the practical release of the countrymen of my friend Mr. ROBINSON from the prison-houses of Ireland. Two of the four embraced in this resolution have been released; and when I tell my friends from New York [Mr. COX and Mr. ROBINSON] that, so far as we are permitted to report from the State Department, these negotiations are still going on by cable dispatches, and that if we are given even until next week our committee hope to be able to report back the resolution, with the intelligence that the entire number of imprisoned American citizens have been released, we are met in the House by a resolution that we be discharged and the President be ordered and directed to incontinently slap England in the face and do something worthy of the American eagle! The only question is whether it is wise, in the present advanced state of our negotiations, to do this.

Now, what is the last intelligence? I may say that while the relations of our committee with the State Department are at least quasi-confidential, and nothing from them should be stated in open House, the New York Tribune of last Sunday contains a dispatch of the day before from Mr. Smalley, its London correspondent, portions of which I will read to show the conditions of those negotiations on Friday last, four days ago:

Mr. Lowell again urged Mr. Forster to waive the condition that the Irish-American suspects shall leave the country.

My friend [Mr. ROBINSON] in his earnestness, his honesty, and his zeal, I doubt not would say that if a man is innocent he has a right to stay anywhere; but the gentleman from Indiana [Mr. ORTH] has read from the diplomatic correspondence of 1866, showing that Mr. Seward, then at the head of the State Department, inaugurated these conditions and begged as a favor of the Government of Great Britain that the prisoners be released on the exact conditions that they should return home. Not only in one case, but two, three, four, five cases in which we asked for a conditional release and gladly accepted it.

In 1861, when Great Britain demanded the release of a prisoner of war confined by our Government, it was granted, but the released prisoner was at least in one case put under $2,500 bonds to obey the laws and preserve allegiance to the United States.

My friend here will say that under the legislation of 1868 that policy has been modified; that by the enactment of Congress the President is required to demand the release of prisoners; but would it be strange if Great Britain pleaded the precedent? And yet I am able to say to my friend, at least by what I will read presently, that no such condition has been accepted by our Government; yet gentlemen cannot fail to see how embarrassing the situation is or may be. Mr. Smalley's dispatch reads as follows:

[By cable to the Tribune.]

LONDON, *April* 22.

The continuous pressure upon the British Government during the week on behalf of the Irish-American suspects leaves the situation nearly unchanged. Statements published to-day on this subject are inaccurate in some particulars, although it is true that an interview occurred yesterday—

That was last Friday—

between Mr. Lowell and Mr. Forster. Mr. Lowell again urged Mr. Forster to waive the condition precedent to their release.

The gentleman from Brooklyn would ask nothing more than that. Let me read it again:

Mr. Lowell again urged Mr. Forster to waive the condition precedent to their release that the suspects shall leave the country, on which condition long since release was offered to them, although this fact seems to be imperfectly known here. Mr. Forster, though most desirous to grant the liberation of the suspects, does not see his way to their unconditional discharge.

Now this was on Friday last, and on Saturday this resolution was introduced in the House.

Mr. ROBINSON, of New York. I did not then know the facts the gentleman now states.

Mr. WILLIAMS, of Wisconsin. I thank the gentleman for this frank avowal. It is what we might expect, and it shows the importance of first ascertaining the facts through proper channels. I know there can be no difference—certainly there can be no feeling—between the two gentlemen from New York, the committee, and the rest of the House. The thing we all want is to open the prison door and set the innocent free. The dispatch says further:

The ministers consider themselves unable to grant their unconditional liberation while the existing correspondence which the ministers stand pledged to publish leaves it doubtful on what grounds the American Government claims such release. They consider, further, that unconditional release, after the refusal of the suspects to leave the country, would be equivalent to an implicit permission for dangerous men to remain in the country and resume their mischievous practices. The government in such case would find itself in the dilemma either to rearrest the suspects and renew the diplomatic difficulties or to tolerate whatever the Irish-Americans might choose to undertake. Fresh claims to American citizenship continue to be presented, including those of two suspects who have been imprisoned and remained silent for months.

The pertinacity of the American Government and the unwillingness to accept conditions of release here deemed reasonable and even liberal undoubtedly embarrass the ministry, who find themselves obliged to deal simultaneously with Mr. Lowell's iterated urgent applications and the incessant demands in Parliament for information which, pending the negotiations, cannot prudently be given.

"The pertinacity of the American Government." And yet we are told that the Government is not pertinacious. On this side we have the House of Representatives clamoring for all the details of this negotiation, and on that they have the House of Commons clamoring, while, as we have repeatedly assured gentlemen these negotiations are, as we surely hope, being brought to amicable and satisfactory conclusions.

Now, Mr. Speaker, there can be no difference on the part of the House in regard to the practical point to be accomplished. I am gratified to believe, for once at least, we can rise above partisan and personal feeling here, and do an act of justice to men who ask relief and pray for the protection of our Government. Why, sir, sympathy with Ireland belongs to no party. Sympathy of that kind is born of God and ingrained in humanity. If we are at liberty to discuss that question here, if it were wise to do it, I think you would find that party and those gentlemen who have sympathized with the oppressed everywhere do sympathize with Ireland in her present distress. They could not help it if they would. It is not for me to utter any word here which, even though it were regarded of sufficient importance to be considered anywhere, would irritate in a time like this; but I can say what England's philosophers, historians, poets, and statesmen have said in the past; and I can do it without offense. Speaking in that line, I can but give expression to the belief that the radical difficulty with Ireland to-day is that for five centuries the attempt has been made, if I may not say by brute force, at least by physical might and power alone, to enslave a people whom God never made for slaves. [Applause.]

Even the Norman in his conquest could not absorb the dauntless spirit of the Irishman, but Ireland absorbed and assimilated the Norman. Who shall conquer and stamp out the conquerors? We would be less than human if in passing over the rough and bloody track of Ireland's history our hearts were not stirred to the profoundest depths to-day. The same policy—as Americans we must regard it a mistaken policy—which has been pursued since the fourteenth century culminates in the nineteenth, and Ireland under the domination of one of the leading powers of earth is in anarchy. This is not exceptional but normal. Surely if the crushing weight of power could tranquilize her she should long ere this have been at peace.

There has been but one policy for Ireland, whenever she dared to hold up her head and claim her God-given rights, since the fourteenth century; since Malby, the president of Connaught, boasted that he had subdued her people; that he consumed them with fire and sword; that he spared neither old nor young; that he entered their

mountains and burned all their corn-houses; that he drove them forth in frost and rain; and that they were submissive enough then. Only one policy, Mr. Speaker, since under Elizabeth and James the First Ireland was entered only to be persecuted, when the lord deputy of Ireland declared that famine must consume the Irish and that hunger was more effective than the sword, and boasted that he had ravaged the banks of the Lough even to within four miles of Dungannon, and had killed man, woman, and child, horse and beast, and whatever could be found. Only one policy, since Ireland stretched forth her famished arms to Cromwell, hoping and pleading for mercy and relief, and was answered by confiscation of her lands, by sack and ruin of her cities, her homes given to the soldiery and her people driven west of the Shannon, into the bogs and moorland and mountains of the five western counties; ordered to assemble there by the 1st of May, and forbidden to appear within two miles of the Shannon or four miles of the sea; the homeless, houseless, fever-stricken, and famished people turned out to die, with no shelter above them but the vault of heaven, the very woes of death wafted back upon them by the chill-breath of ocean breezes. Surely Ireland should have been subdued and peaceable if Cromwell's might could subdue her.

No, Mr. Speaker, we on this side of the House are not altogether ignorant of the history, the wrongs, and sufferings of Ireland, whether it be in the mere glimpse of events I have referred to or in the famine of 1830, 1848, and 1879. We do not and we cannot forget these things, and we offer England no offense to-day when we allude to them. Gladstone, only in 1880, told us that eviction was a "sentence of starvation." We must be pardoned for not understanding in America how prosperity can come, how peace can be expected under a system discouraging the tenant from all improvements by increasing rent in proportion to the improvements he makes at his own expense, and the horrors of eviction grow upon us like the specters of the night. We do not and we cannot forget the "crowbar brigade," when seven hundred persons were driven out into the storm, when the roofs were pulled from over their heads, when fever-stricken patients were not even spared, but carried out into the night-air to die!

Is there a just God; and can peace come on such terms? America cannot forget, if she would, when in 1848 Lord Hertford collected $130,000 rent from his famishing tenants. A. T. Stewart, our merchant prince, freighted a ship with provisions at a cost of $25,000 and sent her sailing forth to Ireland on her God-given mission of mercy! How can we fail to feel when we are assured that men, women, and children subsist from April to September in famine years upon potatoes alone, without one particle of bread or milk? The poorest of our laborers have three meat meals a week; Ireland's laborers even now have three meat meals a year! Christmas, Easter, and Michaelmas! Mr. Doherty once said that the people of Ireland were no better fed than the beasts that browse on the fields. If we must sympathize with Ireland, we cannot blame her sons, who have tasted the sweets of American liberty, if they sympathize with her also. No, Mr. Speaker, Ireland may be crushed again under the red hoofs of relentless war, but peace will never come to her through that storm cloud. Starve her no more, but give her small holdings of land. Gratify the Irishman's love of home, if he can secure but five acres of land. Root him to his own soil and he will grow and flourish. Let him feel that he has an interest in his native isle, and he will work for her prosperity and fight for her defense. Then, through just and equal laws, humanely administered and willingly obeyed, Ireland shall enjoy that peace which she has never known, and the blessing of constitutional law shall be hers.

Mr. Speaker, I was compelled to speak thus or not speak at all. But I need not remind the House that Great Britain is our neighbor in the great family of nations, and that however much we may differ from her in the management of her domestic concerns, it is not ours to interfere if we could. We know our responsibilities and we respect her rights. We do not forget our common lineage, or that we have drank from her fountain of literature and law. Our commercial relations are vaster with her than with any other nation of the earth. We know our treaty obligations and what all the conditions of peace with a friendly nation require. While we remember these things to heed them, so too do we remember what should be Ireland's glory. Her genius lights up every page of literature, stands out in history, poetry, and art; her orators have stirred the world, while Irish valor flashes in the vanguard of every war waged for the rights of man. As a government we cannot interfere between England and Ireland. We can only hope, and register that hope here to-day, that, through wise counsel and wise statesmanship and mutual forbearance, that peace and prosperity which so now bless our favored land may shed its benign influence over unhappy Ireland, and that the bright Emerald Isle may emerge from her long night of darkness and distress. [Applause.]

Mr. DE MOTTE rose.

Mr. COX, of New York. I desire to say, Mr. Speaker, in response to what has fallen——

Mr. BLOUNT. I would like to ask, Mr. Speaker, how much time the gentleman from Wisconsin has remaining?

The SPEAKER *pro tempore*, (Mr. MILLS in the chair.) The gentleman has fifteen minutes of his time remaining.

Mr. COX, of New York. The gentleman from Wisconsin, I understand, has yielded the floor to me. I only want about five minutes. If, however, the gentleman from Indiana desires to proceed I will yield to him.

Mr. DE MOTTE. Mr. Speaker, I think I appreciate the gravity of the question which we are discussing. I think also that I appreciate the importance of the vote which we will be called upon soon to cast on this question, and therefore, while I would not criticise the Committee on Foreign Affairs, I feel as if we had not been fairly dealt with in everything connected with this subject.

We are told that if this man O'Mahoney is a citizen at all he is but very little a citizen. I wanted to say, sir, that I recognize no grade in citizenship. The man who is a citizen of this Government for one minute is as much entitled to consideration from the Government and from all the various departments of the Government as the man who is born here and grown to manhood under our flag and who has spent all his days upon our soil. There can be no distinction between them. The very moment he has ceased taking the oath of allegiance to the country there attaches to him everything which dignifies a citizen of the American Republic. And while this is true, it is also true that the duties and the obligations of the nation are as much due to him as they are to every other citizen, no matter who he may be. Again, we were told that we are asked to judge upon this question with only one-tenth of the facts before us which were before the Committee on Foreign Affairs. Why is it that we are called upon to judge if the committee have not given us everything they have that bears upon the subject?

Mr. ORTH. Will my colleague yield for a reply?

Mr. DE MOTTE. No, sir; I cannot yield. I am simply stating the facts as I have understood them from my colleague.

Mr. ORTH. I can explain to the gentleman the meaning of that statement. There were many facts before the committee that are not yet determined.

Mr. DE MOTTE. I refer now to the question of citizenship. The gentleman has stated, as I understood him, that we were asked to determine the question here presented with only one-tenth of the matter which the committee have had. I am aware of the fact that the committee have doubtless had information before them which has not been communicated to the House. I am aware of the fact that there are many things which perhaps may not properly be stated to the House, but I am not aware that there can be anything in the possession of that committee which we are not entitled to have, if it relates to the question of whether this man is a citizen of the United States or not.

Mr. ORTH. If the gentleman is correct in his conclusion why is it that the very language of the resolution itself, and of all other resolutions of a similar character, states in the preamble that the President shall communicate such information "if not incompatible with the public interests?" Now, my colleague must recognize the fact that it is not at all times compatible with public interests to give information touching the diplomatic affairs of the Government to other nations.

Mr. DE MOTTE. I know all that. I recognize the justice of what the gentleman says; but is there anything incompatible with the public interests in telling this House everything that is known by the committee as to whether this man O'Mahoney is a citizen of the United States or not? That is simply what I ask, and I suppose that I must have misunderstood my colleague, for I certainly understood him to say that we did not have all of the facts which the committee had in reference to the question of citizenship.

Now, I say in all justice to the House, when we are called upon to act on this or similar questions the information should be laid before us. I do not believe that it would be wise or prudent, perhaps, that they should give under the circumstances all of the information which has come before them upon the general question; but we are entitled to everything that bears upon the simple fact of whether he is a citizen or not. If there be other facts about his citizenship let us have them, so that we may cast our votes with our eyes open and clearly understand what we are doing. That is what I rose for.

Mr. COX, of New York. Mr. Speaker, I do not see why both sides of the House should not concur in some proper resolution now on this subject, and especially with a view to public business in the future. I therefore propose as a substitute for the resolution of the gentleman from New York, and, if it be in order, as a substitute for my own resolution, which the committee reports back, a proposition which will obviate all of the troubles growing out of the O'Mahoney case or any other case. If Mr. O'Mahoney is not a citizen of the United States, or if by any action of his he has lost his citizenship, or if anybody else who may be now or hereafter imprisoned comes within or without the category of citizenship, I would like to reach him by a general resolution. Therefore I propose a resolution which I think will cover the whole case. It will end this matter; it will save sending it back to the Committee on Foreign Affairs again for any further action.

Resolved, That the President of the United States, if not incompatible with the public interest, be requested to communicate to this House any additional correspondence with the British Government on file in the State Department with reference to the alleged imprisonment of citizens of the United States in Ireland, and that the President be requested to continue his demand of the British Government for the prompt release or prompt trial of any citizens of the United States who may now remain unjustly imprisoned in that country.

I ask the House to adopt that resolution as a substitute for the resolution of the gentleman from the Brooklyn district of New York, [Mr. ROBINSON.]

Mr. KASSON. As a substitute for everything.

Mr. COX, of New York. As a substitute for everything. It gives the emphasis of the House and of our people to this demand.

Mr. ORTH. If this is offered as a substitute for the pending resolution of the gentleman from New York on my right, [Mr. ROBINSON,] I presume there will be no objection from any quarter to its being adopted.

Mr. COX, of New York. Let me say one word more.

Mr. BLOUNT. I ask the gentleman to have the resolution read from the Clerk's desk. I did not hear it distinctly.

Mr. COX, of New York. I will have it read in a moment. I am always very proud to hear my friend from Wisconsin [Mr. WILLIAMS] speak. I like to come upon this side of the House [Mr. COX was speaking from the Republican side of the House] to catch from his lips the burning eloquence with which he discusses these themes of personal freedom. I speak from this side of the House just now because I am in a compromising mood, and besides I lack that eloquent enthusiasm which he possesses. But when my friend from Wisconsin, who is my successor as chairman of the Committee on Foreign Affairs, undertakes to eulogize the Gladstone administration, when he undertakes to say that our action may embarrass the government party in the British Commons, I say that no administration in England from the time of Lord Castlereagh to this time ever placed its iron heel so brutally and so cowardly upon the neck of Ireland as this Gladstone administration. Not content with arresting Davitt and Parnell and Dillon and O'Kelley, members of Parliament, and by a double cloture putting them within the bars, this Gladstone administration, forgetful of Naples and the grand brochure of the premier, arrested women, gave them in mercy twenty-odd hours of solitary confinement; and these were women of intelligence and purity. And is this the administration commended for our example?

Mr. WILLIAMS, of Wisconsin. Will the gentleman allow me a moment? I think my friend must have misapprehended me. I quoted Mr. Gladstone's remarks of 1880, and I called attention to the fact that we were negotiating with the Gladstone government, and it might not be wise to do anything by our action here to-day which would prevent that government from consummating negotiations already on foot. If I went further, I stand corrected by my friend from New York; for that is all I intended.

Mr. COX, of New York. I presume my friend from Wisconsin will see in the report of his remarks that he needs just a little correction, not much, from me.

Mr. WILLIAMS, of Wisconsin. I guess not much.

Mr. COX, of New York. All right. Only I say to him the Irish people in this country and in Ireland would welcome back as a harbinger of peace to Ireland the old, bitter, conservative Tory government as far better than its present administration; for if ever there was cruelty practiced toward any people from the time when the Second Henry began and Elizabeth completed the subjugation, and when the king's writ could not run beyond the pale outside of Dublin, down to this time of perilous discontent, no more brutal and unjust administration in its disregard of peasant, citizen, and foreigner ever existed.

Mr. WILLIAMS, of Wisconsin. Being on this side of the House does inspire my friend from New York. [Laughter.]

Mr. COX, of New York. I believe there is on this side of the House a great deal of liberal, humane, and kindly sentiment. I feel that is the case when I look all around me; and gentlemen will accord to me that I have never undertaken to make this a party question. I love to see you men come up to the help of Ireland in her distress against the mighty. It is not for us here in an American Congress to rally for free land, nor for anything but freedom, in its generous and general sense, such as nations may note.

What vicissitudes has not Ireland had! Through her terrible trial of seven hundred years she may come out at last with her autonomy. Why, even the Parliament of Canada are considering resolutions asking England to give to Ireland a legislature like her own. Why should not Ireland have our sympathy? Why should not the people of our country, who are so tinctured and imbued with the old Celtic spirit of bravery, literature, politics, art, and science—why should not men like my friend from Wisconsin, who can with eloquence and courage lead a crusade against slavery and wrong—raise their voices for free sails, plows, land, and life; and return to Ireland in her calamity the generous echo of this House in the verse of our gifted minister to England in his best days:

> They have rights who dare maintain them;
> We are traitors to our sires,
> Smothering in their holy ashes
> Freedom's new-lit altar-fires.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 576) authorizing the Court of Claims to determine the question of liability of the United States for damages to the Norwegian bark Atlantic by collision with the United States steamer Vandalia;

A bill (S. No. 679) for the relief of William A. Gavett;

A bill (S. No. 1026) to permit grain brought by Canadian farmers to be ground at mills of the United States adjacent to Canadian territory under such rules and regulations as may be prescribed by the Treasury Department;

A bill (S. No. 1041) for the relief of E. P. Smith;

A bill (S. No. 1287) to authorize the appointment of an additional judge for the judicial district of the United States for the State of Nevada;

A bill (S. No. 1434) providing for the allotment of lands in severalty to the Indians residing upon the Umatilla reservation in the State of Oregon, and granting patents therefor, and for other purposes; and

A bill (S. No. 1572) for the improvement of the navigation of the Mississippi and Missouri Rivers.

The message further announced that the Senate had passed without amendment a bill and joint resolutions of the House of the following titles:

A bill (H. R. No. 1014) for the relief of Joseph L. Stevens;

Joint resolution (H. R. No. 161) making an appropriation to enable the Light-House Board to meet the expenses consequent upon the flood in the Mississippi River; and

Joint resolution (H. R. No. 185) granting the use of tents at the soldiers' reunion to be held at Belle Plaine, Iowa, in the month of September or October, 1882.

The message further announced that the Senate had passed a resolution, in which the concurrence of the House was requested, providing for the printing of 10,000 copies of the report of the Commissioner of Fish and Fisheries for the year 1881.

Also, a bill (S. No. 1455) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

AMERICAN CITIZENS IN BRITISH PRISONS.

Mr. CALKINS. I ask that the resolution offered by the gentleman from New York [Mr. COX] be now read.

The SPEAKER. That resolution is not before the House at this time.

Mr. BLOUNT. I hope it will be read.

The SPEAKER. The resolution before the House is a resolution to discharge the Committee on Foreign Affairs from the further consideration of the resolution of inquiry which was referred to them. The resolution of the gentleman from New York, [Mr. COX,] as the Chair understands, is intended as a substitute for the resolution of inquiry now before the Committee on Foreign Affairs, when it shall have been brought back before the House.

Mr. CALKINS. If no point of order is made upon it, the other can be considered as withdrawn.

The SPEAKER. The resolution before the House might be withdrawn and the other adopted.

Mr. CALKINS. I hope that will be done.

The SPEAKER. It could not be offered as a substitute for the other, for the other has been referred to the Committee on Foreign Affairs and is now before that committee.

Mr. BLOUNT. I prefer to go on now.

Mr. COX, of New York. No one makes any point of order on it.

The SPEAKER. The Chair would hardly know what would become of the pending resolution if the other was adopted; it would still be pending before the House.

Mr. COX, of New York. That is under the control of my colleague, [Mr. ROBINSON.]

Mr. BAYNE. Why cannot the one be offered as a substitute for the other?

The SPEAKER. For what other?

Mr. BAYNE. For the resolution offered by the gentleman from New York, [Mr. ROBINSON.]

The SPEAKER. That resolution was held to be in order because it was a resolution to discharge the Committee on Foreign Affairs from the further consideration of the resolution of inquiry referred to them. The resolution to discharge the committee has not yet been acted upon, and the resolution of inquiry is still before the committee. The resolution of the gentleman from New York [Mr. COX] could not be offered as a substitute for the resolution of inquiry until the resolution of inquiry was brought before the House.

Mr. COX, of New York. My colleague [Mr. ROBINSON] will withdraw his resolution if he can be permitted to explain a little.

Mr. CALKINS. It is not desirable to have the committee discharged, but it is desirable to have a resolution adopted as a substitute for the whole matter.

Mr. BLOUNT. I do not yield the floor.

Mr. WILLIAMS, of Wisconsin. I understand the gentleman from New York [Mr. ROBINSON] will consent to withdraw his resolution after making some remarks.

The SPEAKER. The gentleman from Georgia [Mr. BLOUNT] has been recognized.

Mr. BLOUNT. I have the floor and prefer to go on.

Mr. WALKER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WALKER. Is not the resolution to discharge the Committee on Foreign Affairs from the further consideration of the resolution now before them, and to bring that resolution of inquiry before the

House for its action, impliedly, at least, a reflection on that committee?

The SPEAKER. The Chair does not think that is a parliamentary inquiry. The Committee on Foreign Affairs may have a perfectly good reason for not reporting back the resolution of inquiry, and the House may have a good reason for discharging the committee from its further consideration. That is not a parliamentary inquiry, in the opinion of the Chair.

Mr. BLOUNT. Mr. Speaker, I have no committee pride in the consideration of the question now before the House. It is of higher importance than any mere petty pride of success to-day. This is a matter which may involve this country in a tremendous conflict with the British Government. I believe this is the logical consequence of the proposed action, if gentlemen on this floor are speaking, not to the crowd, not to the mob, but addressing themselves to the sense of this House as a deliberative body.

What is the resolution of February 14? After requesting the President of the United States to furnish certain information to the House, there is added to the resolution the following:

And also in reference to the cases of Mr. Hart, of Lawrence, Massachusetts; H. O'Mahoney, of Buffalo, New York, and John McEnry, citizens of the United States, now imprisoned in Ireland, with instructions to request the President of the United States to demand of the British Government the prompt trial of these citizens or their prompt release.

I presume that if the President of the United States shall demand of the British Government the prompt trial of these citizens or their prompt release gentlemen who are now criticising unfavorably the Committee on Foreign Affairs mean in good faith to stand by his administration in that demand; mean in good faith to stand where the honest and earnest gentleman [Mr. ROBINSON, of New York] who is pressing this matter stands, when he says: "If they decline to respond favorably to that demand, I mean war."

The gentleman has referred to complaints and abuses made of himself. I want that gentleman to understand, and I want the country to understand, that I am not complaining of him. I believe that the agitation in this House by that gentleman has produced speedy action on the part of this administration. I believe that for months before the matter had been allowed to lag.

But I believe that at this hour the administration is undertaking to do all that we can reasonably ask of it; and although it be a Republican administration, when I think it is in the honest discharge of its high duty I shall not be found obstructing it in the discharge of that duty, though I shall regret if in my action here I shall find myself differing with many of those with whom I have been accustomed heretofore to act.

How were we circumstanced when this matter was submitted to the Committee on Foreign Affairs? We were informed by the executive department of the Government that important negotiations were pending; that they were likely to result beneficially and in accordance with the disposition of the House when this resolution was referred, and that our citizens were likely to be released, unless by the agitation of the question in the House something should occur which would embarrass those with whom this Government was communicating in Great Britain.

And, sir, when that information, emanating from the highest officer of the executive branch of the Government of the United States, came to the committee, I felt it to be my duty as a Representative to accept that statement as true, and to agree to stand still in this matter. If that is bad faith to this House, if that is neglect of official duty, if I have wronged my country in doing that, I am responsible for it. If I was wrong in responding properly as I considered to a suggestion from the executive branch of this Government to restrain action in view of the pendency of what the President believed to be a successful effort to release American citizens, I am ready to take the consequences. This is all my explanation; and this is why, so far as I am concerned, I was willing to stand still and not report this matter back promptly. I do not know what motives may have actuated other gentlemen.

Now, Mr. Speaker, this discussion has taken a very strange course, considering the magnitude of the parties involved. It is a question demanding something more than harangues upon this floor. The discussion of Magna Charta sanctioned by British authorities for generations has been paraded here; and we are not only demanding, so far as this debate goes, the release of these citizens, we are actually taking the position that the whole British system is wrong on the subject of the rights of humanity. Thus widely have we wandered from the subject-matter before the House. This is a matter between two of the greatest nations of the globe. If war should arise between them it will be no child's play. This generation knows what war means; and the American people I take it do not want war unless it shall come upon just grounds.

The British Government alleges that it has a right to a hearing. It states in its communications to us that in the country governed by its laws there is a class of citizens in rebellion. You and I may think that rebellion right; and so far as I am personally concerned, I admire the spirit that organized it. I trust that it will progress in its struggle, accepting nothing short of absolute independence. I am not of those who denounce the Irish people as turbulent. I admire their turbulence; it is but the sign of that spirit of liberty which it seems to me in any other race subjected to the pressure that has been placed upon them would have been crushed out.

We have nothing to do with the laws that Great Britain may pass for British subjects. She has seen fit to pass a statute of March 2, 1881, suspending the writ of *habeas corpus*. Under that law the lord lieutenant of Ireland may arrest anybody whom he suspects. The right of speedy trial cannot be demanded successfully. These measures are harsh, but Great Britain says (and she has a right to deliberate upon the question) that the circumstances justify such legislation. Sir, would this Government tolerate for a moment the suggestion from any source on the face of the earth that its legislation was wrong, was unchristian, and must be suppressed? By no means. Then I take it that any reasonable man must admit that so far as this legislation goes it is English legislation, for which we are not responsible. The arrest of British subjects may be harsh, but it is no fault of ours. It is not in accord with the policy of our Government that we should assume to interfere.

Now, Mr. Speaker, I have before me a correspondence illustrative of the policy of the American Government under similar circumstances during the late war. I send to the Clerk's desk, and ask to have read three short letters, illustrating the American policy toward British subjects arrested under a suspension of the *habeas corpus* during our late war.

The Clerk read as follows:

DEPARTMENT OF STATE,
Washington, November 11, 1862.

SIR: The instruction of the 16th ultimo from the British foreign office, in relation to the case of Mr. Francis Carroll, which you recently left at this Department, and which is herewith returned to you, having been communicated to Major L. C. Turner, associate judge-advocate, I now have the honor to inclose to you a copy of his reply. It will be seen that an order has been issued by the War Department for Mr. Carroll's discharge, in conformity with the terms suggested by this Government, and acceded to by that of her Britannic majesty.

I have the honor to be, with high consideration, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. WILLIAM STUART, &c.

WAR DEPARTMENT,
Washington City, D. C., November 8, 1862.

SIR: I have the honor to inclose a copy of the order issued by this Department for the discharge of Francis Carroll, (a British subject,) from Fort La Fayette, upon his compliance with the conditions in said order stated; which conditions are in conformity with the "terms" suggested by this Government, and to which her Britannic majesty's government accedes. I have transmitted the order for the discharge of Francis Carroll to the United States marshal in New York, that he may superintend its proper execution. I inclose, also, herewith the instructions from the British foreign office, as requested.

I have the honor to be, sir, very respectfully, your obedient servant,
L. C. TURNER, *Judge-Advocate.*

Hon. WILLIAM H. SEWARD,
Secretary of State.

WAR DEPARTMENT,
Washington City, D. C., November 8, 1862.

SIR: You are hereby directed to discharge from custody Francis Carroll, a British subject, upon his agreeing to leave the United States immediately, and not return again during the continuance of the present rebellious war, and giving security, to the approval of the United States marshal (Murray) that he will perform and keep said agreement; or, upon his giving sufficient guarantee, to be approved by the said United States marshal, for his good conduct as a resident of the United States, and that he will do no act, by word or deed, to aid and encourage the rebels or the rebellion.

By order of the Secretary of War:
L. C. TURNER, *Judge-Advocate.*

Colonel MARTIN BURKE,
Commanding at Fort La Fayette.

Mr. BLOUNT. Mr. Speaker, such was the policy of the American Government at that time in reference to British subjects, and it was acceded to by the British Government. Their citizens were released on the express condition they should leave this country.

In the face of such conduct on the part of the two governments when this was engaged in a great civil war, how would we expect the British Government to meet us turning away from all they conceded to us, refusing this negotiation, refusing even the ordinary diplomatic intercourse, all efforts gradually to approach an agreement, and coming to it with an absolute demand? I take it any man who understands the spirit of our own people or of our ancestors in Great Britain would answer, their manhood would compel them at once to cease to negotiate; that all parties in the British Parliament would unite at once, Gladstone and the opposition, and say, While we are willing to do all we can toward amicable negotiation, while we are willing to observe the precedent established during the American troubles of 1861-'65, yet when it comes in the form of an absolute demand, meaning war, the British lion will not crouch.

I say, Mr. Speaker, this is what this resolution means, if it means anything worthy of this House, and for one I propose in what I shall do to be careful of the responsibility I am taking upon myself. I have before me an act which has been read and commented on as the American policy since the action of the Government during the war, and I desire to call the attention of the House to it. It does seem to me the most arrant humbuggery of the Irish people in this country that could be started, and I do not think gentlemen on either side can claim any amount of credit for the passage of it. I send it to the Clerk's desk to be read.

The Clerk read as follows:

An act concerning the rights of American citizens in foreign states.

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle, this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation is hereby declared inconsistent with the fundamental principles of this Government.

SEC. 2. *And be it further enacted*, That all naturalized citizens of the United States, while in foreign states, shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances.

SEC. 3. *And be it further enacted*, That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

Approved July 27, 1868.

Mr. BLOUNT. The House will observe that the first section of this act simply establishes the right of expatriation. The second provides naturalized citizens shall have the same protection as native-bern, a matter about which there has been no dispute with any country I know of for a great many years. It certainly was not a practical question at the time the law was passed.

The last section is, that "whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress."

There is very little in that, it seems to me, after all that has been said about it. The President is inhibited from any act of war. It leaves the matter where it would have been without it. It leaves it in the hands of Congress. Whether it was passed or not made no difference. I take it that it was guarded in that way for a purpose; that there was a good deal of clamor and a disposition to toady to clamor in certain quarters, and that while it looked very belligerent, it was perfectly harmless.

Now, Mr. Speaker, having said this much as to the policy of this Government during the war and under the statute I have cited, let us come to the complaint suggested by these resolutions. It is proposed that we shall request the President to make an absolute demand for the release of certain citizens or their immediate trial. That is the position in which the gentlemen favoring the proposition now pending would place this Government.

Now, I ask, in the first place, is it necessary, admitting that the policy of the American people is all that you say it is, admitting that there is in this law all the guarantee that is claimed for it and all the protection for individual rights which the statutes can give—I say is it necessary to proceed in the manner proposed here? Let us look at it. Suppose the President of the United States is negotiating with the British Government for the release of these people; suppose he has not gone in the form of an absolute demand, but that he takes a more courteous, diplomatic, and careful method, and approaches the subject in a sagacious, statesmanlike manner; then I ask what else can you desire to be done? Why should this resolution pass? Why this unnecessary provocation? Why, Mr. Speaker, such a resolution as this, if adopted, would absolutely stop negotiations. When this resolution was referred to the Committee on Foreign Affairs, as I have already stated, they were informed by the Department that negotiations were then pending, that there was every evidence of progress being made as rapidly as could be expected between the diplomates of the two countries upon the question, and the correspondence was submitted to the committee. Then why interrupt it? Why bring this matter in the House of Representatives now?

So far as those citizens are concerned there is nothing to be gained by it, and in a few days—four or five I think it was, I do not recollect the dates with accuracy—in proof of what the Department had communicated, two of the men mentioned in this resolution were released. To-day the British Government is saying to the other two exactly what the United States said to British citizens who were imprisoned here during the late war. They tell these men that notwithstanding all of the charges made against them, if they just make their appeal on the ground that they are willing to leave the country they are harmless in this matter. All that is asked of them is that they shall not remain and plot against the government that now holds them in custody. I ask that if that is not doing more for them than is done for British citizens in prison under the same law.

With reference to American citizens they are saying to them: "We respect the American Government, and out of deference to it we allow you to leave without responsibility. But this much we think we have a right to ask at your hands just as America did at the hands of our citizens who were under arrest there in 1861 to 1865, that you acquiesce in our judgment that your presence in the country is undesirable and dangerous, and your liberty will be accorded you on condition that you leave it." What more could we ask?

I take it, sir, that no gentleman who is disposed to deliberate on this matter could hope to obtain more than that. There are people in this country who are interested in peace, interested in law, interested in order, interested in all our great business enterprises, and in the rights of our own people. These are considerations it may be well for us to recognize. Let us then not ask too much. In my own opinion, without any such action as is now moved, we shall obtain all that is reasonable. But suppose we pass this resolution, and the President of the United States, taking us at our word, shall say to Mr. Lowell, "Let these negotiations stop. File your demand on the British Government for the unconditional release of these men. The American people have determined in the American House of Representatives, and the President has deferred to it, that they will not be trifled with any longer. They are going to have the absolute discharge of these men without further delay."

Mr. BLAND. I would like to ask the gentleman if the act which he has read does not say that the President shall make the demand, and that being the case, what is the difference between that law and the resolution now offered?

Mr. BLOUNT. I will answer the gentleman. The act, while it does say the President shall demand, expressly strips him of any power to execute it.

Mr. BLAND. But as I understand the resolution it simply follows the law that the President shall make the demand in conformity with the statute.

Mr. BLOUNT. I have this further to say in that connection, that the statute to which the gentleman refers, it is true, is a statute of the United States, and binds the American people only; and if we can discharge these people without putting ourselves in jeopardy of war with Great Britain, by adopting a different course, why do you prefer to use the language of the statute? Do you expect the statutes that you have adopted here will of themselves wipe out the understanding of the two governments as to the rights of their citizens?

Mr. BLAND. If I do not interrupt the gentleman——

Mr. BLOUNT. Certainly not.

Mr. BLAND. I supposed the whole object of this proceeding was to have the President make some demand or request on the British Government. Now, if the Committee on Foreign Affairs say that no demand is made, they do not want any to be made; that law is a dead letter. If I understand the resolution, it is to carry out the law, if it has not been carried out.

Mr. BLOUNT. The gentleman has not been kind enough to pay attention to what I have been saying. If the executive department of the Government has been, as I have said before, in active communication, and making satisfactory progress with reference to this business——

Mr. SPRINGER. If it has——

Mr. BLOUNT. If it has been making satisfactory progress, why interfere? I do not mean by that what the gentleman from Illinois and myself would like to have done. We would like to have it done in a single moment, but I take it for granted that no country on this earth would do absolutely our bidding without some discussion and some negotiations in reference to it; and that is the only sense in which I have used the expression.

But, returning to my friend from Missouri, [Mr. BLAND,] I say if this progress is being made under present negotiations, why should the gentleman just then and there formulate a demand upon the British Government to release these prisoners?

Mr. BLAND. In answer to that I will say the whole argument against this resolution seems to have been an attempt to frighten us by the danger of an impending war. I do not apprehend any war as the consequence of passing a resolution and making this demand; the law itself makes it the duty of the President to do this. If he has already made the demand the law is carried out. I ask for information if he has done so. If he has not made the demand, let him do it according to law. I see no war in it.

Mr. BLOUNT. If this were part of the international law, regarded by the nations of the earth, we could appeal to that statute in vindication of our action; but I take it, when we shall approach a foreign power upon this question, and shall cite a statute of our own, it will be regarded as a most silly performance on the part of those doing it, or else it will be regarded as a great piece of recklessness and disregard of the rights of other people.

Mr. BLAND. Then I suppose the gentleman considers the law too silly to have been properly enacted, and that if we pass a resolution in conformity to it it will be too silly to be considered.

Mr. BLOUNT. I have already said I regard this act as amounting to very little. The power to enforce it after the demand is made has been actually taken away, and the whole matter comes back to

Congress. Therefore I said that the plain practical view to take of it was that when this word "demand" was used it meant nothing more than a request on the part of the President; for the arm of the President is immediately tied. It is provided he shall commit no act of war but shall communicate the correspondence on the subject and the whole matter to Congress. I say I do not believe that that legislation was enacted in great sincerity. But even if it were, I do not know when the demand is made that it will be regarded in any other light than as offensive by the British Government. And more than that, sir, I doubt very much whether under the Constitution of the United States the Congress has any right to pass any such statute as this. I believe that the President, in spite of the statute, has acted in a perfectly constitutional, legitimate, and prudent manner in endeavoring to negotiate upon this subject.

But, Mr. Speaker, let the House act otherwise; let the President act otherwise; let the absolute demand be made when our prisoners are about to be released—and there is every reason to believe they are to be released—and let the British Government assert its own sovereignty and announce to the people of this country, "We have a right to pass the act suspending the writ of *habeas corpus* in this country; we have a right to make arrests of anybody on our soil disturbing our peace, and when you make an absolute demand you demand at our hands a concession of that sovereign power, and there is no course left for us but an absolute refusal." And then what, sir? My friend from Missouri says there is to be no war. Why not? Such an attitude on the part of Great Britain would not be an reasonable one. Such an attitude would be likely to be taken by ourselves with the sanction of every citizen of America under similar circumstances. Then why no war? When this announcement is made to us do you propose then to negotiate?

Are you going to humiliate yourselves by asking further diplomatic communications and negotiations? Is there any other thing to be done but an absolute declaration of war against Great Britain? I ask, gentlemen, if there is any other thing they can suggest; and if so, I would like to hear the suggestions. I pause for one. I take it that no man on the floor of this House, under such circumstances, would think of any other thing but a state of war with Great Britain in pursuance of that high demand made upon that government.

Mr. BLAND. I understand the statute uses the word "demand," and the President may go further, so that he does not proceed to any declaration or act of war. Hence I can see no harm in this resolution. I do not understand the reasoning of the gentleman. It does not provide the President shall go so far as to bring war upon this country. But if his carrying out an act of Congress and asserting the rights of American citizens brings on a war, I am in favor of that war.

Mr. ORTH. May I ask the gentleman from Missouri——

Mr. BLOUNT. I would like to answer the gentleman from Missouri right there. The gentleman contends—and what a poor plea it is—if you have authorized the President to make a demand, and you say he shall not declare war, there is no danger of war. You have tied his hands. Is that the attitude the gentleman desires this country to be placed in? If so, I take it no other gentleman on this floor will stand by him in that attitude. I am very sure the American people in no section of the country will seek that sort of an escape from war.

Sir, if this demand is made, if it is made in good faith; if it is made out of a desire to take this high ground in reference to American citizens abroad—and I think my friend from New York [Mr. ROBINSON] means it, and I am glad he does not higgle about it—on that question he and I have no controversy, although my friend from Missouri says otherwise; and I ask my friend from New York to take notice now that the gentleman from Missouri does not propose to follow him along that line. I say if this demand shall be made, if this House shall come to this determination, I trust there will be no retrocession from it afterward, and that we shall not make ourselves contemptible with empty boasting. And cruel and costly as war is, whenever we shall have invited it, I trust that no blush of shame shall mantle the cheek of our people in consequence of our retiring from a contest which we have invited.

I have already stated to the House the reasons actuating me in reference to this matter; and I now say to the House that there are things which might be said which I am not at liberty to say, and other gentlemen of the committee will confirm me in that statement, which it would not be proper to communicate on this floor, which came to that committee under the seal of secrecy. And that uncommunicated information has a great deal to do with my action now in reference to this matter. I beg the House at this time, if the attitude of the Committee on Foreign Affairs in reference to this question is correct, to let it stand for a short period. It will not be long before you will know all. It will not be long before a report will be made by that committee, and then you can take such action as you may see fit.

I indulge in these remarks simply in justification of my own course. I have no pride of opinion. I have no committee pride which I think should be consulted by any gentleman on this floor, and certainly it shall not be by myself. But I do ask if I have acted prudently, if the Committee on Foreign Affairs have acted prudently, if you do not feel a distrust of that action, that you will not at the present time take these resolutions from that committee. If, however, you shall determine otherwise, I shall be the last one to complain; and I will follow you in your demand, and to the utmost consequences to which that demand shall lead.

I will now yield to the gentleman from New York, [Mr. HEWITT,] if he desires the floor. How much time have I left?

The SPEAKER. The gentleman has seven minutes remaining.

Mr. BLOUNT. As I do not see the gentleman from New York here, I will yield the remainder of my time to the gentleman from West Virginia, [Mr. WILSON.]

Mr. WILSON. I will occupy the time of this House but a very few moments, in an endeavor to rid this subject of the figures of speech and the poetry which have been thrown around it, and to ask the House to consider the real question before it.

Some months ago we were informed that four naturalized citizens of this country were imprisoned in Ireland. By means of correspondence between the two governments, two of those citizens have been discharged from imprisonment and are perhaps now on their way home. And we are informed that the Government of Great Britain has offered to open their prison doors and discharge the other two prisoners if they will leave that country.

Now, has this Congress the power to say that Great Britain shall discharge those two prisoners and allow them to remain in Great Britain? Or has the Government of Great Britain the power to compel them to leave that country? When we had British subjects in our jails during our late troubles, we imposed upon them the condition that they should leave this country in the event they were discharged. That condition was complied with, and the Government of Great Britain acquiesced.

To show that this Government has also acquiesced in the same policy I desire in this connection to read one paragraph of a letter from Mr. Seward, our Secretary of State, dated June 9, 1866, to our minister in Great Britain, Mr. Adams:

> Under these circumstances you will be expected to suggest to Lord Clarendon the expediency of the exercise of clemency to the extent, at least, of releasing all of the American citizens, native or naturalized, who are in confinement upon the condition of their returning to the United States.
>
> While such a proceeding on the part of the British Government would seem to be an entirely safe one, it cannot be denied that it would have a tranquilizing effect here.

Thus it will be seen that both governments have recognized and adopted that policy. Four of our citizens have been imprisoned by Great Britain; two have been unconditionally and absolutely released; the other two, it is said, can be released at any time if they will consent to leave the country.

Now, I ask will not this Congress put itself in the very ridiculous attitude of repudiating its own policy if it says to the Government of Great Britain that we are not content to have our citizens released upon the condition stated; that we are not willing that Great Britain shall treat our citizens as we treated her subjects?

If this House shall determine to adopt the pending proposition and discharge the Committee on Foreign Affairs from the further consideration of the resolution which has been referred to them I shall enter no protest. But I wish to add my testimony here to the earnest anxiety, and the research and thought which every member of that committee has given to this subject. We have recognized it as one of the most important questions that have been before us.

Ordinarily there is no necessity for Congressional legislation on such a subject as this. Our statutes require that when the President shall be informed that any of our citizens, native-born or naturalized, are in foreign prisons, he shall demand of the government imprisoning them the cause of their arrest. And he may go further, if in his opinion they are improperly held, and demand their release; but that he shall do nothing in this regard amounting to an act of war.

Now, the President did speak on this question, did correspond through the Secretary of State with the authorities of Great Britain, and no good came of it. After that correspondence the subject was brought before this House. And since Congress has had the subject under consideration two of the prisoners have been discharged, and the other two can be discharged upon the condition stated if they desire.

The Government of Great Britain presents to us the coercion act. She claims that under her constitution, under her form of government, under her laws, she has the right and the power to pass this act and apply its restrictions, terms, and conditions, harsh as they are, to her own citizens as well as to foreigners. I read the following brief extract from the speech of the distinguished gentleman from New York, [Mr. HEWITT:]

> Now, let me quote a recent letter of our minister in London in reply to an application from our consul at Cork asking his intervention in behalf of American citizens thus lying in jail in Ireland, and who have been lying there for months untried:
>
> "The 'coercion act,' so called, is an exceptional and arbitrary measure. Its chief object is to enable the authorities to arrest persons whom they suspect of illegal conduct without being obliged to produce any proof of their guilt. Its very substance and main purpose are to deprive suspected persons of the speedy trial they desire. This law is of course contrary to the spirit and foundation principles of both English and American jurisprudence. But it is the law of the land, and it controls all persons domiciled in the proclaimed districts of Ireland, whether they are British subjects or not; and it is manifestly futile to claim that naturalized citizens of the United States should be excepted from its operation.
>
> "Unless I am instructed to the contrary by the Department of State, I must take this view of my duties, and it is proper you should give this intimation to the parties interested.
>
> "J. R. LOWELL."

Now, that is a doctrine to which I cannot subscribe. I reassert that it is the duty of this Government to require of the British Government that these American citizens shall either be put to trial, convicted if they are guilty, and punished if convicted, or else that they shall be released. It is not reasonable that an American citizen who may be as innocent as any gentleman in this House, going to Ireland on lawful business or for his pleasure, shall be taken by the throat, carried to prison and kept there to rot, because the writ of *habeas corpus* happens to be suspended.

The Committee on Foreign Affairs have investigated this subject as fully and thoroughly as was possible for them to do. They have been in almost constant communication with the State Department, and it affords me pleasure to say that that Department has most ably and energetically pressed the matter upon the consideration of the Government of Great Britain, resulting in the unconditional release of two of the prisoners and the proffered conditional release of the other two.

There is no principle, Mr. Speaker, better settled than that each civilized government will interfere in behalf of its own citizens. My friend from Georgia [Mr. BLOUNT] has furnished both precedent and authority upon this subject. We are all familiar with the case of Martin Koszta, whom Captain Ingraham, of the United States Navy, took from an Austrian ship under the menace of his guns. Koszta was a naturalized citizen of the United States, who had been seized by the Austrian Government. This patriotic and daring act of Captain Ingraham was indorsed by his Government and applauded by his countrymen.

But I refer to another and still more remarkable case; not as a case of discharge from imprisonment, but as showing the manner in which the various governments protect their citizens in their rights of person and property. About six years ago a German consul in Nicaragua was assaulted and received personal injuries. I cannot better explain to the House the prompt and efficient action taken by his government than by reading the following version of it, which has been furnished to me by the State Department:

[Report No. 99.]

DIPLOMATIC BUREAU,
Washington, April 4, 1882.

Subject: Outrages committed upon German consular officers at Leon, Nicaragua, by armed forces, on October 23 and November 29, 1876, for which due reparation and an indemnity was demanded of and paid by that republic to the German Government.

The correspondence respecting the "Eisenstuck affair," as it was commonly called, is quite voluminous, and occurred during the years of 1876, '77, and '78. The facts briefly are:

On the night of October 23, 1876, while Mr. Paul Eisenstuck, who was then German consul *ad interim* at Leon, was returning home with his family, several pistol-shots were fired at him. Again, on the night of November 29, 1876, as Mr. Maurice Eisenstuck, the German consul there, was proceeding to his house, accompanied by a party of friends, he was assaulted by a body of armed men.

The assailants on both occasions were headed, it was claimed, by Francisco Leal, a Nicaraguan, married to a step-daughter of Mr. Paul Eisenstuck. During the first attack no one appears to have been injured. At the second, however, the consul, his wife and brother received cuts and bruises. In the *mêlée* Mr. Leal carried off his wife, who, having separated from him, had instituted proceedings for divorce, and who, at the time, was under the protection of her step-father and was one of the assaulted party. The consul, his wife, and brother were led off to prison, but through the intercession of a friend were released before being placed in confinement. Both attacks occurred in the public highways of Leon.

Due and prompt representations were made in these cases to the Nicaraguan authorities by the German Government through its charge d'affaires, Mr. Werner von Bergen, and satisfaction demanded as follows:

"First. Private persons convicted or suspected of the two attacks to be prosecuted and vigorously punished according to law;

"Second. All public functionaries who were in any manner connected with the attempt of the 23d of October to be similarly dealt with and due communication thereof made through the German chargé;

"Third. As a reparation due to the persons of the consular officers and party, for both assaults, Nicaragua to pay the sum of $30,000; and

"Fourth. To publicly manifest its regret at the two assaults and acknowledge its respect due to the official character of such consuls, the German consular flag to be solemnly saluted by a division of the armed forces of Nicaragua."

The Nicaraguan Government sought to show that the affair of the 23d of October had arisen from a family quarrel between Mr. Paul Eisenstuck and Mr. Francisco Leal; and, further, that neither that attack nor the one of the 29th of November was of sufficient importance to assume an international character nor justify the reclamation demanded by Germany, which was considered onerous and her threatened use of force deplored.

Germany, however, pressed her claim with earnestness, and much correspondence ensued to establish the *pros* and *cons* of the issues under consideration.

Finally, the intervention of the United States was sought and obtained; also the moral support and influence of the British Government in pressing the matter in behalf of Germany. These were accorded on the ground that the demands made were just and in view of the delay equivalent to a denial of justice as to the arrest and punishment of the guilty parties.

Accordingly, Mr. Williamson, our minister to the Central American States, was authorized to support, so far as he properly could, the German chargé in carrying out the instructions of his government, a copy of which had been communicated to the Department.

Next, Mr. Williamson and Mr. Von Bergen proceeded to Managua, the capital of Nicaragua, for the purpose of pressing the claim of the German Government. Not being treated by the authorities upon their arrival at Managua in a proper manner, as was claimed, and after having so informed the Nicaraguan minister for foreign affairs, they proceeded to leave that capital June 30, 1877, whereupon the Nicaraguan minister addressed them a note explaining the cause of their non-official reception and disclaiming any intentional slight to either of them or to their respective governments; he also took steps to restrain their immediate and hurried departure, but apparently without avail.

After this event, and on March 19, 1878, the German squadron entered the Bay of Corinto. The same day a captain of a corvette, second in command to the frigate Elizabeth, left for Managua, carrying with him the ultimatum of the German Government.

The four points of demand were as follows:

"1. The Government of Nicaragua will express its regret for what happened the 23d of October and the 29th of November, 1876.

"2. The Government of Nicaragua, within a fortnight, will commence a new process against all the persons implicated in the inferred outrage against Consul Eisenstuck.

"3. Fourteen days after the signing of the protocol the sum of $30,000 will be paid.

"4. A salute of twenty-one guns to the German flag at Corinto."

The above terms were finally complied with by the Nicaraguan Government upon the 31st of March, 1878, a protocol having been signed to that effect by Mr. Commissioner Medina on the part of Nicaragua, and by Mr. Von Bergen on the part of the German Government, on that date, and the Eisenstuck affair was thus settled.

The narration of a very considerable correspondence between Mr. Williamson and this Department, showing his active interest in the matter, has not been attempted; nor has that exchanged between the Department and Mr. Hollenbeck, special agent from Nicaragua to this country, been particularly referred to. The desire has been to give as briefly as possible, consistent with an intelligent understanding of the affair, the principal features of the assault and the practical solution thereof, which the presence of a German war vessel finally made comparatively easy.

Respectfully submitted,

ALVEY A. ADEE,
Chief of Diplomatic Bureau.

We all denounce and condemn the action of Great Britain in arresting and imprisoning without cause citizens of this country. Now that two of them have been released and the other two can be released upon the conditions proposed by that Government, is it wise, is it proper that the matter should be taken out of the hands of the Committee on Foreign Affairs and that Congress should exercise the supreme power in making the demand proposed by the resolution offered by the gentleman from New York, [Mr. ROBINSON?]

What do we demand? What is there left for us to demand but the unconditional release of those two unfortunate gentlemen yet in prison?

As I have stated, this Government has claimed the right to impose the condition upon British subjects which Great Britain now imposes upon those two American citizens.

One word, Mr. Speaker, and I am done. If it shall turn out that the Government of Great Britain shall not release these two prisoners upon such terms as this Government is committed to, or shall not give them the benefit of a speedy trial, I am in favor of making a peremptory demand in the broadest sense of that term. I am in favor of this Government exercising its supreme power in making that demand upon the clear and distinct understanding that if it shall not be complied with we shall follow it up with force, and if war be the result let the responsibility rest where it belongs, on the Government of Great Britain.

Mr. ROBINSON, of New York. Mr. Speaker, I rise to close the debate, and propose to occupy only a few minutes. I do not, however, wish to cut off any other gentlemen. I will first yield for a few minutes to the gentleman from Illinois, [Mr. TOWNSHEND,] and afterward to any other gentleman who may desire to speak.

Mr. KASSON. I want to ask the gentleman from New York whether he does not intend to call for a vote soon. I may perhaps occupy two or three minutes; but I do not wish to delay the vote.

Mr. MILLS. It is five o'clock, and I hope the gentleman from New York will give way for a motion to adjourn.

Mr. TOWNSHEND, of Illinois. The gentleman from New York has kindly yielded to me. I do not take the floor for the purpose of making a speech, but merely to have read at the Clerk's desk resolutions adopted on the 21st of the present month by the senate of the State of Illinois. These resolutions embody the sentiment of the home of Douglas and Lincoln, and the early home of that grand hero of two wars, the late General Shields. I ask that the resolutions be read.

The Clerk read as follows:

Resolved by the senate of the State of Illinois, the house of representatives concurring herein, That it is the duty of the General Government, through its Chief Executive, its Congress, and its foreign ministers, to demand a speedy trial or unconditional release of those American citizens now in prison, and declare in the most emphatic manner that the protection of the Republic shall be extended to all its citizens abroad who are not convicted of violation of law; and that the Department of Government or official who fails in the discharge of such duty deserves censure, and is unworthy of the confidence of the liberty-loving and law-governed American people.

Resolved, That our Senators and Representatives in Congress are hereby instructed to use their best efforts to secure as soon as possible such a recognition of the rights of American citizens abroad as will be consistent with our national dignity and avert future capricious, arbitrary, or unjust interference with them.

Resolved, That copies of the foregoing preamble and resolutions be forwarded to the President and our Senators and Representatives in Congress.

Mr. ROBINSON, of New York. I understand that the gentleman from Iowa [Mr. KASSON] wants to speak for two or three minutes. I yield to him.

Mr. KASSON. I thank the gentleman for his courtesy; but I had intended chiefly to inquire whether we cannot now by some disposition of the question bring this debate to an end, as it is now nearly time for the adjournment.

While on my feet I will simply ask the House to observe the unanimity of feeling on the part of the Committee on Foreign Affairs upon this entire subject. We have known no party lines. We have, with as careful discretion as I ever knew to be exercised in any committee, gone just so far as we thought would not prejudice the great object sought to be accomplished by the gentleman from New York, [Mr. ROBINSON,] by myself, and by all others—the release of American citizens whom we believe to be unjustly imprisoned. We are therefore, I think I may say for all the members of the committee,

indifferent to any supposed censure, because we know that we have acted in the manner most wise to accomplish the end. I have desired no display of oratorical fireworks on this subject; and when we come to act I want such action that no party lines will be drawn here; that the unanimity of the action of the House shall be the most significant feature of the occasion; and in this I know the gentleman from New York [Mr. ROBINSON] will agree with me.

Now, sir, I simply wanted to say that much touching the entire action of the committee, that from whatever side of the House the member of the committee came they have been, so far as I know, unanimous. We desire no action which shall not be unanimous on this floor in behalf of the object we are all seeking.

Mr. COX, of New York. Does the gentleman favor the substitute for the resolution?

Mr. KASSON. I see no objection to the resolution offered by the gentleman, if he deems any is necessary at this particular juncture.

Mr. ROBINSON, of New York. I am anxious that this debate should close, and we should agree to a unanimous vote in a few minutes; but I understood the gentleman from Texas wished to say something.

Mr. MILLS. I do not. I merely wish to ask the gentleman from New York [Mr. ROBINSON] to yield to a motion to adjourn, he still retaining the floor. [Cries of "Vote!" "Vote!"]

Mr. ROBINSON, of New York. I have a few words to say, Mr. Speaker, in closing this debate. It would be very far from my wish, gratified as I am now with this good feeling prevailing and this unanimity; it would be far indeed from my heart, and it would be very ungenerous, to throw anything in the way of the successful conclusion of the effort which I have made in behalf of American citizens confined in British prisons. But allow me to say I take exception, honestly and courteously, to what has been said by some of my friends on this floor. I am not going to raise any new question which will engender any difference on either side of the House at this time. It has been suggested by several gentlemen that by urging this matter now we might endanger the safety and peace of the United States; if we insisted upon pushing too strenuously our claims, if we should insist on extreme measures, we might compromise the country. You will pardon me, Mr. Speaker, for saying that I trust I am a true Irishman; that I love Ireland, my native country, but my allegiance to the country of my adoption is stronger than to Ireland. I stand here to say if anything would endanger the glory of the Stars and Stripes or risk the honor of this country, even if it resulted in the liberation of my own beloved native land, I would pause and vote against it if I thought it would inflict one blot on the American flag. If you tell me that it is necessary for these American citizens of Irish birth to remain in jail twelve months longer; if you want me to say, although I am not authorized to say it, but I believe I can do so, in behalf of these Irish-American citizens, if it is necessary for the honor of the United States that they shall remain, and that one hundred thousand more of our naturalized citizens shall go over and lie in jail to save the American banner from disgrace and the American name from dishonor, we are ready for the sacrifice; or if war shall be proclaimed, and hundreds of thousands of men are needed to sustain our flag, we are ready for that, too. I wish to say that I would be the first volunteer to go at the head of these men to lie in jail for the honor of the American name. [Applause.]

I would be willing to resign my seat here and take my place with O'Mahoney and McEnery and others that are there now and should remain, however unwholesome the prison may be, and die there if it is necessary to preserve the glory of the Stars and Stripes. [Applause.]

I have said enough on that subject, but I now mean to protest most earnestly against the abominable doctrine advocated here to-day that we should put that disgrace and degradation on our people, that they should sneak out of a country with which we are at peace with the brand on them that they shall never return. Give me war and desolation, give me anything but that. That condition can be imposed only in time of open, flagrant war; and much as I esteem the memory of William H. Seward, if he ever countenanced such conditions except in time of war, I denounce it.

If an American citizen going over to England, no matter where born, has violated the law, let him be tried and punished to the fullest extent; but if he is innocent of any crime let him be liberated from unjust imprisonment and undisturbed so long as he behaves himself, without having him marked as a prohibited nuisance. If O'Mahoney has protested against this indignity he has proved himself a true American citizen.

Shall we punish Englishmen who have business here by saying that they shall leave this country and shall never return to it again? Shall we put such a stigma upon them as that? We have a Saint George's society in New York; we have thousands of Englishmen there, respectable merchants and others, who are pursuing their various lawful avocations, holding positions in benevolent societies, perhaps in some sense guardians of the poor. Shall we punish them by casting them into prison on suspicion that their presence is dangerous to republican ideas, and liberate them only on their pledge to sneak out of our sight, and abandon their business and property to flee from the country?

Therefore I say to you, Mr. Speaker, and through you to our friends on both sides of this House, give us contagion, disease, desolation, and death all over the world rather than ask honorable men to submit to this insult and to declare that American citizens violating no law shall be hunted like wolves out of any country in time of peace. I believe that there is now a common feeling on both sides of this House to secure our imprisoned citizens' rights, and to secure them without delay. But, Mr. Speaker, while I say this, I think it is also a disgraceful thing that an American citizen is to be told by the English Government "We will open the prison doors if you leave the country." I protest against that in the name of American manhood and honor. I think we have got a proper idea now of the condition of affairs.

I congratulate all sides of the House on the happy termination of this debate; and now, as it seems to be the unanimous desire of both sides of the House, I shall withdraw my resolution as suggested by my friends on all sides, with this explanation: under the lucid statement of the matter made a few minutes ago by the Speaker, "the resolution before the House is a resolution to discharge the Committee on Foreign Affairs from the further consideration of the resolution which was referred to them. The resolution of the gentleman from New York [Mr. COX] is intended as a substitute for the resolution of inquiry (his own) now before the Committee on Foreign Affairs when it shall have been brought back before the House."

I congratulate the House on the happy termination of this debate, so acceptable to both sides of the House. Had I known before, the character of the speech of my friend from Wisconsin, [Mr. WILLIAMS,] the chairman of the Committee on Foreign Affairs, to which we have all listened with so much delight, so appropriate, so eloquent, and so comprehensive of the whole subject, I should have gladly allowed him to speak for me, and remained silent.

Now, Mr. Speaker, I understand the proposition agreed upon by all parties here to be that I withdraw my resolution to bring the matter before the House, and that the committee will consent that it be before the House by their consent. All I want is to have it before the House, and I do not care how we get it there, whether by consent or by resolution. With this understanding I shall withdraw my resolution, and then the original resolution of Mr. COX is by unanimous consent before the House, and he proposes a substitute for his own resolution, which he and my friend Mr. SPRINGER have drawn up, and which carries out all I have sought to accomplish. It provides that the President shall continue his efforts for the prompt release of our citizens. Now, those efforts, I understand by the discussion to-day, are in compliance with the law of 1868, which provides that the President shall make a demand for the release of any citizen unjustly imprisoned by any foreign government.

If any one will take the trouble to refer to my first speech, made on the 26th day of January, now just three months ago, and published in the RECORD of January 31, he will find my resolution as I then wanted it and as I now want it:

Resolved, That the President of the United States is hereby respectfully requested, if any American citizen be now detained in any British prison without any crime alleged in due legal form against him, forthwith to make the demand for his release, under the law of July 27, 1868, which passed both Houses of Congress by a nearly unanimous vote, including the late and present Secretary of State.

Now, while I consider the resolution which I had proposed to offer, which is simply requesting the President to act and act promptly according to law, as I at first proposed three months ago, better than that of my colleague now offered as a substitute, still as it is the desire of the House and of my friend I shall withdraw my resolution discharging the committee for the sake of producing the harmony desired. [Applause.]

Mr. LORD. I desire to print some remarks on this subject.

There was no objection. [See Appendix.]

The SPEAKER. The question is on the resolution, which will be again reported.

The Clerk read as follows:

Resolved, That the President of the United States, if not incompatible with the public interests, be requested to communicate to this House any additional correspondence with the British Government on file in the State Department with reference to the alleged imprisonment of citizens of the United States in Ireland, and that the President be requested to continue his efforts for the prompt release or trial of any of the citizens of the United States who may now remain unjustly imprisoned in that country by the British authorities.

The resolution was agreed to.

Mr. COX, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MILLS. I move that the House do now adjourn.

The SPEAKER. Pending the motion to adjourn, the Chair desires consent to submit some personal requests of members, and also some Executive communications.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HOUK, for one week;

To Mr. WEST, for one week;

To Mr. LE FEVRE, for ten days; and

To Mr. HUBBELL, indefinitely, on account of sickness.

EXPORTATION OF AMERICAN CATTLE.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Agriculture, and ordered to be printed:

To the House of Representatives:

I transmit herewith a report of the Secretary of State, presented in compliance with the request of the House of Representatives in a resolution of the 16th instant, asking for information touching the existing restrictions on the importation of American neat cattle into Great Britain.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 25, 1882.

ORDER OF BUSINESS.

Mr. MILLS. I insist upon the regular order.

The SPEAKER. Does the gentleman object to the presentation at this time of Executive communications?

Mr. MILLS. I do; they can come in to-morrow.

Mr. REED. Will the gentleman from Texas allow me to present a matter in connection with the business of the House?

Mr. MILLS. I insist upon the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Texas, that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and seventeen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BINGHAM: The petition of the Union Benevolent Association of Philadelphia, Pennsylvania, founded in 1830, requesting the passage of the bill (H. R. No. 4198) establishing postal savings depositories—to the Committee on the Post-Office and Post-Roads.

By Mr. BUTTERWORTH: The petition of Albert Schmill and 25 others, dealers in malt and barley, of Cincinnati, Ohio, praying for change in the duty on malt from 20 per cent. ad valorem to a specific duty of twenty-five cents per bushel—to the Committee on Ways and Means.

Also, the petition of the Cincinnati Chamber of Commerce relative to the enactment of a bankrupt bill—to the Committee on the Judiciary.

By Mr. CABELL: The petition of the common council of Danville, Virginia, for an appropriation of $10,000 to assist in the grading and paving of the approaches to the national cemetery at that place—to the Committee on Military Affairs.

By Mr. ERMENTROUT: The petition of citizens of the eighth Congressional district of Pennsylvania, for the passage of the bill granting increase of pension to soldiers and sailors of the late war who lost a leg or an arm in the line of duty—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. FORNEY: The petition of A. A. Hursh, T. J. Barton, and 40 others, citizens of Cleburne County, Alabama, for an appropriation for educational purposes, to be distributed on the basis of illiteracy—to the Committee on Education and Labor.

By Mr. A. S. HEWITT: The petition of the heirs of Samuel I. Derby, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. HOOKER: The petition of Copiah County, Mississippi, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. MANNING: The petitions of T. L. Landreth, W. J. Cooper, and others, citizens of Marshall County, Mississippi, and of J. W. S. Tate, of the Moline Grange, No. 62, Union County, Mississippi, for the construction of a ship-railway across the Isthmus of Tehuantepec—severally to the Committee on Foreign Affairs.

By Mr. OATES: The petition of John T. Davis and 40 others, citizens of Henry County, Alabama, in favor of raising and distributing an educational fund among the several States according to the illiteracy of population—to the Committee on Education and Labor.

By Mr. O'NEILL: The petition of the Philadelphia Board of Trade, remonstrating against the passage of Hon. A. S. HEWITT's resolution as constituting the basis on which the proposed tariff commission should shape its action—to the Committee on Ways and Means.

By Mr. PAGE: The petition of J. Gundlach & Co. and others, of San Francisco, California, relative to the bill (H. R. No. 920) which proposes a tax upon sparkling wines made under the carbonic-acid process—to the same committee.

By Mr. PAUL: The petition of John M. Dutrow, messenger in the House of Representatives, for increase of compensation—to the Committee on Accounts.

By Mr. PEIRCE: The petition of Lindsey Flemming and 28 others, citizens of Crawfordsville, Indiana, for the appointment of a commission of colored men to inquire into and report upon the general progress of the colored people of this country since the war—to the Committee on Education and Labor.

By Mr. RICH: The petition of 90 citizens of Smith's Creek, Saint Clair County, Michigan, asking Congress to make the Commissioner of Agriculture a member of the Cabinet—to the Committee on Agriculture.

Also, the petition of 90 citizens of Smith's Creek, Saint Clair County, Michigan, for the passage of the bill imposing a tax on incomes—to the Committee on Ways and Means.

Also, the petition of 90 citizens of Smith's Creek, Saint Clair County, Michigan, for legislation for the protection of innocent purchasers of patent rights—to the Committee on the Judiciary.

Also, the petition of 90 citizens of Smith's Creek, Saint Clair County, Michigan, for legislation to regulate charges for railway transportation—to the Committee on Commerce.

By Mr. ROSECRANS: The petition of Jacob Leindecker, of California, for compensation for losses incurred by shipwreck—to the Committee on Claims.

By Mr. RUSSELL: The petition of Jesse S. Pendergrast, for increase of pension—to the Committee on Invalid Pensions.

By Mr. SHACKELFORD: The petition of citizens of Onslow County, North Carolina, for survey of land from Beaufort to New River and White Oak River to Smith Mills, in said county—to the Committee on Commerce.

By Mr. STOCKSLAGER: The petition and papers of Elizabeth Whitesides, for a pension—to the Committee on Invalid Pensions.

By Mr. VANCE: A bill to survey the Broad River, in the State of North Carolina—to the Committee on Commerce.

By Mr. WILSON: Papers relating to the claim of Major James L. Simpson—to the Committee on War Claims.

By Mr. YOUNG: The petitions of George Cox and many other merchants of Indianapolis, Indiana, and of Ordway & McGuire and others, of Nashville, Tennessee, for the passage of the bill taxing the sugar adulterant known as glucose—severally to the Committee on Ways and Means.

Also, memorial of the Chamber of Commerce of Cincinnati, Ohio, urging the passage of the bill (H. R. No. 5380) relating to the erection of bridges over the Ohio River—to the Committee on Commerce.

SENATE.

WEDNESDAY, *April* 26, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, in response to a resolution of February 28 calling for an itemized statement of how, by whom, and under what exigency the $200,000 appropriated for mileage of officers of the Army for the fiscal year ending June 30, 1882, will be exhausted before the end of February, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting the petition of First Lieutenant Gilbert S. Jennings, United States Army, retired, for such legislation as will give him the rank and pay of colonel on the retired list from the date of his retirement from active service, June 28, 1878, together with a report from the Adjutant-General in the case; which was referred to the Committee on Military Affairs, and ordered to be printed.

The PRESIDENT *pro tempore* presented a petition of citizens of Henry County, Georgia, praying for a present reduction and the early abolition of internal taxes; which was referred to the Committee on Finance.

Mr. SEWELL presented the petition of Brigadier-Generals R. Macfeely, S. V. Benét, D. G. Swaim, W. B. Rochester, Brevet Major-Generals Frank Wheaton, August V. Kautz, C. L. Kilburn, and 6 lieutenant-colonels, 11 majors, 24 captains, 26 first lieutenants, and 12 second lieutenants, making a total of 86 officers of the Army, praying for the passage of the bill for compulsory retirement; which was referred to the Committee on Military Affairs.

Mr. LAPHAM presented a memorial of citizens and firms in New York, Boston, Baltimore, and Providence, in favor of the passage of the bill (H. R. No. 2222) to amend section 2983 of the Revised Statutes of the United States, so that the duties paid upon sugars shall be levied upon the quantity delivered from instead of the quantity entered into bonded warehouses; which was referred to the Committee on Finance.

Mr. BLAIR. I present the petition of Hon. E. Spaulding, president of the board of education of the city of Nashua, New Hampshire, and many leading citizens, including those in control of the interests of education in that city, praying for national aid to common schools in the States and Territories, to be distributed upon the basis of illiteracy. I will merely say that this petition represents the evidently universal sentiment of those interested in education in one of the chief cities of our State, and is but an illustration of the universal sentiment, I think, throughout the State. As the petition is very short, I ask that it be read.

The PRESIDENT *pro tempore*. The petition will be read, if there be no objection.

The petition was read, as follows:

We, citizens of Nashua, county of Hillsborough, State of New Hampshire, impressed with the danger threatening our Republic, because of the appalling illiteracy of the voting population as revealed in the last census, for the enlightenment of which many of the States are unable to make adequate provision; and believing it to be the constitutional duty of Congress to provide for the safety of the Republic, no less in time of peace than in time of war; and that the enfranchisement of the freedmen imposes an obligation upon the Government to qualify them for a safe discharge of the duties with which they are charged, do earnestly pray that our Representatives in Congress assembled will take prompt and efficient measures to avert this danger; that moneys raised from such sources as Congress may in its wisdom deem best shall be distributed to the common schools of the States and Territories on the basis of illiteracy, in such manner as shall not supersede nor interfere with, but rather stimulate their efforts, and under such guarantees as shall secure its application to this object with equal justice to all classes of citizens.

Mr. BLAIR. I observe in reading the distinguished names which are appended to the petition that they are entirely without distinction of party. I move the reference of the petition to the Committee on Education and Labor.

The motion was agreed to.

Mr. PENDLETON presented resolutions adopted at a meeting of the Prisoners' Association of Shelby County, Ohio, in favor of the passage of a bill to pension ex-prisoners of war; which were referred to the Committee on Pensions.

Mr. FERRY presented a petition of Henry H. Ladd, of Detroit, and 2,000 others, citizens of the State of Michigan, praying for the passage of Senate bill No. 1012 on behalf of Union prisoners of war; which was referred to the Committee on Pensions.

Mr. MILLER, of New York, presented a petition of citizens of Erie County, New York, asking for the repeal of internal taxes; which was referred to the Committee on Finance.

PUBLIC BUILDING AT FORT WAYNE.

Mr. VEST. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 670) to provide for the construction of a public building at the city of Fort Wayne, in the State of Indiana, to report it without amendment.

Mr. VOORHEES. Inasmuch as a similar bill was reported unanimously two years ago and unanimously passed the Senate at that time, and inasmuch as there is a great public need growing out of one branch of the Federal court being located at Fort Wayne, I ask for the present consideration of the bill. I am quite sure there will be no objection to it.

Mr. SHERMAN. Is it reported from the Committee on Public Buildings and Grounds?

Mr. HARRISON. It is reported favorably by the committee, I understand.

Mr. VOORHEES. Unanimously so.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 670) to provide for the construction of a public building at the city of Fort Wayne, in the State of Indiana.

Mr. JONES, of Florida. Will the Senator from Indiana allow me to make a suggestion to him? I now repeat what I have so often said in regard to the jurisdictional clause in such bills, that it is utterly inoperative for any purpose and ought not to be there. The practice has crept into our committee of inserting a jurisdictional clause requiring the State to cede jurisdiction over the land upon which it is proposed to erect public buildings. You will discover that a reservation there is made in favor of the State for the service of process. There can be but one kind of jurisdiction ceded by a State in cases of this kind, as will be seen from a glance at the Constitution. It is just precisely the jurisdiction that exists in this District, exclusive jurisdiction, constitutional jurisdiction. I am sure that the Senator from Indiana would not want exclusive jurisdiction in the Federal Government for all purposes over a lot of land purchased or obtained for the erection of a public building in his State.

The reason why I say this is because this same reservation clause was in a similar cession in my State, in which a murder was committed by a citizen on another, and the Federal courts held, and the Department of Justice here sustained them, that the offense was one within the exclusive jurisdiction of the United States and the man could not be tried in a State court; and they went so far that he was hung under that judgment. When these clauses have come up here I have always thought it was unwise to incorporate a cession of jurisdiction into them, for there is no necessity for it in the world.

Mr. VOORHEES. I think the better way would be to let the bill pass; and some general provision, perhaps, embodying the ideas of the Senator from Florida, and applying to the whole question, would be well as a matter of separate legislation.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. BUTLER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1789) providing for a coaling dock and naval storehouse at Port Royal, South Carolina; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1790) for the relief of Oscar Eastmond and James W. Atwill; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. MILLER, of New York, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1791) for the relief of Thomas C. Ellison; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1792) to regulate prize-money and pensions in the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. McPHERSON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1793) to pay the widow of William Bishop, late a surgeon United States Navy, for property burned at Pensacola, Florida, in 1862; which was read twice by its title, and referred to the Committee on Claims.

Mr. BUTLER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1794) for the relief of the legal representative of L. R. Wortham; which was read twice by its title, and referred to the Committee on Claims.

Mr. PLATT asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1795) for the relief of Jeremiah D. Plumley; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MILLER, of California, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1796) for the relief of Elizabeth H. Spotts; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT TO POST-ROUTE BILL.

Mr. HILL, of Colorado, submitted an amendment, intended to be proposed by him, to the bill (H. R. No. 5812) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

CERTIFICATION OF BANK CHECKS.

The PRESIDENT *pro tempore*. If there be no resolutions, the routine morning business is closed.

Mr. BECK. The bill (S. No. 976) to punish the unlawful certification of checks by officers of national banks, was passed over the other morning without prejudice. I desire to have that bill considered this morning.

Mr. MORGAN. I wish to inquire whether, if the bill suggested by the Senator from Kentucky is taken up, it will displace the Japanese indemnity bill, which was passed over yesterday.

The PRESIDENT *pro tempore*. Was there not objection to the further consideration of the Japanese indemnity bill?

Mr. MORGAN. No, sir; it was passed over without prejudice. I wish to say——

Mr. BECK. Before the Senator from Alabama goes on, let me say to him that the Senator from Rhode Island [Mr. ALDRICH] has some papers which he desires to file. He is obliged to go away this morning. I do not propose to have the bill finally considered, but just as was done yesterday in some case reached on the Calendar, I desire to have the papers upon which the bill is based and the communications of the executive officers printed in the RECORD, so that Senators may see them, and then without consuming time I will let the bill go over until to-morrow morning, so that Senators may see the papers and be prepared to act upon the bill one way or the other.

Mr. MORGAN. Then I withdraw any objection to taking up the bill.

Mr. BECK. The only object I have is to have this done before the Senator from Rhode Island goes away.

The bill (S. No. 976) to punish the unlawful certification of checks by officers of national banks, was considered as in Committee of the Whole.

Mr. BECK. There is an amendment which I ask to have read.

The ACTING SECRETARY. In line 8, after the words "United States," the Committee on Finance propose to insert "or who shall resort to any device or receive any fictitious obligation, direct or pretended collateral, in order to evade the provisions thereof."

Mr. BECK. There is printed at the end of the bill an amendment, of which I gave notice, to the amendment of the Committee on Finance, to strike out of the amendment the word "fictitious," before the word "obligation," and the word "pretended," before the word "collateral."

Mr. BECK. I merely desire to have the position of the bill stated, and to put upon the record the laws and communications we have had on the subject. Then the Senator from Rhode Island [Mr. ALDRICH] desires to place something in the RECORD which he has from the Comptroller, and then the bill may go over until to-morrow morning, so that the Senate can see these papers in the RECORD.

Mr. SHERMAN. I think it would be better to print them all in document form.

Mr. BECK. I wish to call attention to the laws, reports, and other exhibits bearing upon the propriety of passing this bill merely to have them on the record now, so that Senators can look at and understand them before or when I call it up for final action, as I propose to do to-morrow. This bill is an exact copy, except the amendment proposed, of a bill which was passed unanimously, I believe, by the House of Representatives some ten or twelve years ago on a report made to the House by General Garfield, chairman of the Committee on the Gold Panic, after the Black Friday troubles in New

York, a short sentence of which report will show the necessity for the passage of the law:

The committee find that the custom adopted by some of the national banks of certifying checks which do not represent cash deposits, and which if presented immediately cannot be paid, is a dangerous and pernicious practice, and that the use of such checks greatly aided the conspirators.

Alluding to the Black Friday troubles.

It is in evidence that one bank, the Tenth National, certified $39,000,000 of checks in the course of two days, and with all its cash reserve was unable to make settlement, and only by large loans was saved from breaking.

That bill failed to pass the Senate. I propose if I can to pass it now, believing that the abuses are greater now than they were then. Section 5208 and section 5234 are as follows:

SEC. 5208. It shall be unlawful for any officer, clerk, or agent of any national banking association to certify any check drawn upon the association unless the person or company drawing the check has on deposit with the association, at the time such check is certified, an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against the association; but the act of any officer, clerk, or agent of any association, in violation of this section, shall subject such bank to the liabilities and proceedings on the part of the Comptroller as provided for in section 5234.

That section reads as follows:

SEC. 5234. On becoming satisfied, as specified in sections 5226 and 5227, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association, enforce the individual liability of the stockholders. Such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

No step has ever been taken to enforce the penalties provided by these sections, though the violations of law have been flagrant and often repeated and well known to the Comptroller of the Currency, as his reports show. I propose next to show that the Comptroller of the Currency in 1879, in his annual report, page 25, developed many of the evils growing out of this system, and appended as a note to that report a portion of the Garfield report from which I have just read. He said:

On February 19 and March 3, 1869, two extraordinary acts in reference to the business of banking were passed by the Fortieth Congress, which enactments were subsequently embodied in sections 5207 and 5208 of the Revised Statutes. The first of these sections prohibits the loaning of money upon United States or national-bank notes as collateral security, with the purpose of withdrawing such notes from use, and the latter section prohibits the certification of checks drawn upon any national bank, unless the drawer has the money actually on deposit in such bank.

The violation of the first-named section is made a misdemeanor, and punished by a fine not exceeding $1,000 and a further penalty equal to one-third of the money loaned. The officer or officers of the bank who shall make such a loan are also liable for a further penalty, equal to one-fourth of the money loaned. The penalty for the violation of the last-named section is forfeiture of the charter of the bank and the appointment of a receiver to close its affairs. It seems scarcely credible that it should have been found necessary to prohibit by positive legislation the practice by national banks located in the principal commercial city of the country of methods of business so inconsistent with the principle of good banking. But it was soon found that even this legislative prohibition was not sufficient in times of extraordinary activity in the stock board to entirely prevent the illegal certification of checks. A few months later, therefore, the Committee on Banking and Currency of the House of Representatives, after an investigation which occupied some weeks,* was instructed to inquire if any further legislation was necessary to prevent the improper certification of checks by the national banks, and to report by bill or otherwise.

In compliance with these instructions a bill was reported, which on June 19, 1870, passed the House, and which provided that any officer, clerk, or agent of any national banking association who should violate the provisions of the act of March 3, 1869, relating to certified checks, should be deemed guilty of a misdemeanor, and be fined not more than $5,000, or imprisoned not more than five years, or both, in the discretion of the court. This bill, like similar acts which preceded it, passed the House almost unanimously and with but little discussion. A Representative from New York City, who was also a member of the Committee on Banking and Currency, seemed to reflect the sentiment of the House and also of his constituents when he said: "I concur with my colleagues in regard to reporting this bill, after careful examination of the facts ascertained by the gold-investigating committee and of the statements made by the substantial merchants of New York—not the speculators, either in produce or gold, but the men of solid parts, the men who look to the substantial interests of the people outside as well as inside their city, men of character and propriety."

The House bill of June 19, 1870, failed to pass the Senate, but the action of the House had the effect to largely diminish, although it did not entirely put an end to, this illegal practice.†

No complaints of its renewal reached the Comptroller until recently, when his attention was called to the large increase of certified checks among the clearing-house exchanges, their amount having risen from thirty-one millions on April 4 to forty-four millions on June 14, to sixty millions on October 2, and finally to more than ninety millions on October 30 last. He was also advised of an informal conference of the presidents of some of the prominent banks, with the object of devising some plan to avoid the risk and loss of such overcertifications. It had also, about the same time, been brought to the knowledge of the Comptroller that certified checks, drawn upon an institution which was known to be largely addicted to this practice, had been refused by banks in good standing; whereupon he considered it his duty to exercise whatever power belonged to his office for the arrest and prevention of the custom complained of. He therefore, on the 29th ultimo, directed the national-bank examiner for the city of New York to examine such banks as were believed to be certifying checks illegally, and to report the facts to this office; and a separate letter was transmitted to him on the same day requesting him to consult with the clearing-house committee and to take its advice in reference to the best course to be pursued. The examiner soon after reported that nine of the city banks had at various times certified checks contrary to the provisions of the law, but that only five of them were largely given to the practice; and he added his opinion that the amount of such illegal certifications had been very much overstated by the public press.

I received from a friend in New York a portion of the report made in 1873 by the bank officers spoken of in that note condemning in most emphatic terms this system of overcertification; it is signed by many of the presidents of the leading banks, such as George L. Coe, president of American Exchange National Bank; W. L. Jenkins, president Bank of America; J. M. Morrison, president Manhattan Bank; Moses Taylor, president National City Bank, and a number of others.

I will insert in the RECORD a letter of the Secretary of the Treasury, to whom the Finance Committee sent the original bill for his opinion, together with a statement of the condition of the banks for the years 1877, 1878, 1879, 1880, and 1881, showing to what extent this illegal practice, as I consider it, has been carried on.

The papers referred to are as follows:

Just after the panic of 1873 the Associated Banks of New York appointed a committee of nine bank presidents and cashiers to take into consideration the causes of that panic and to report what reforms were necessary to increase the security of bank business. Among the bank presidents on this committee was Mr. Frederick D. Tappan, of the Gallatin National, who is quoted by the Herald of yesterday as being particularly severe on your bill. This committee reported to a meeting of the Associated Banks on the 11th of November, 1873, and among sins of banking specifically condemned by the committee was this very one of overcertifying of checks. What the committee said was this:

"The practice of certifying checks upon banks as '*good*' has proved a great public convenience, and has, for that reason, grown into extensive use. Your committee approach its consideration with some embarrassment. The custom originated in the natural inquiry of bank tellers respecting the standing and habits of their dealers, and for many years it had little significance otherwise than as giving clerical information. Checks so marked were not regarded as binding upon institutions in the nature of an official acceptance, and were, therefore, not entered upon their books. It was only since about the year 1850 that a new and influential institution deemed it expedient to define the character of an act then vague and uncertain by charging such checks to the accounts of their drawers, since when they have been legally regarded as formal obligations, and have become the medium of the most important transactions. If such writing certified a real fact, that the bank actually had in possession and due from it to the drawer of the check the stated sum, which it thus agreed to transfer to another party, no possible injury but great good will ensue. But when a bank binds itself to transfer what it has not, but only expects to have, it assumes for its dealers, without reason, all the contingencies incident to human transactions, and places its shareholders under perils which they never intended to assume.

"The power of certifying checks is necessarily intrusted to clerks or subordinate officers, who are employed to perform the ordinary and mere mechanical duties of the bank, and who are supposed to be strictly limited in giving to every dealer only what has before been received from him. And the power of bestowing credit is reserved for abler and more experienced men, themselves personally identified with the interests they administer, who gravely deliberate upon every transaction and decide with the light of their united wisdom. But the practice of certifying uncovered checks as pursued in some institutions entirely reverses this established order, and while the responsible council is carefully deliberating over smaller credits, a non-commissioned officer is freely bestowing them in larger volumes without security upon comparatively irresponsible men. So extensively has this practice been pursued by several institutions that the amount of such checks which have passed daily through the clearing-house has reached in some instances to twice and three times, and in one or two to four and five times, their capital stock, and this through long periods of time.

"Every bank in the association is directly involved in the risk attending this practice. It multiplies excessively the sums which such institutions pass through the clearing-house, and the consequent balances of the exchanges with their associates, which the capital of such banks can never adequately guarantee. * * *

"No sufficient reason, in the opinion of your committee, can be given why a corporation should place itself, without compensation and special security, between two parties dealing with each other, and become the guarantor of either in transactions entirely personal to themselves, simply because one or the other is a depositor in the institution.

"We have already stated that the safe custody of money payable on demand is full compensation for its legitimate use, and the risks attending such a business are all that properly pertain to the profession of a banker; and if the rule be invariably observed of certifying checks only when the drawer has the full amount to his credit in the bank, no one can be injured or offended when he is treated in all respects like every other of his fellow dealers. The restriction suggested will work favorably to every interest—to the banks, their shareholders, and their associates—by diminishing the risks now so widely incurred; and it also conforms to and confirms the law which Congress has established upon this subject in respect to national banks.

"Your committee therefore recommend that in no case shall a check or other obligation be certified by a bank unless the amount of it is first found regularly entered to the credit of the dealer upon the books of the institution."

This report was signed by George L. Coe, president American Exchange National; W. L. Jenkins, president Bank of America; J. M. Morrison, president Manhattan Bank; Moses Taylor, president National City Bank; F. D. Tappan, president Gallatin Bank; John E. Williams, president Metropolitan National; J. L. Everett, cashier Broadway National; Robert Buck, cashier Pacific Bank; and John Q. Jones, president Chemical National.

The letter of the Secretary of the Treasury is as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY.
Washington, D. C., February 13, 1882.

SIR: I have the honor to acknowledge the receipt of Senate bill No. 976. My opinion is asked as to the propriety and necessity of the passage of it. It proposes to punish as a misdemeanor the willful violation by certain persons designated therein of a statute of the United States named in the bill. There can be but one opinion, and that affirmative, that it should be declared an offense against the criminal law to willfully violate a public statute that prohibits the doing of an act held by the legislature to be reprehensible. I should have supposed that there existed a general statute making a misdemeanor of the willful violation of any prohibitory law, but an examination of the Revised Statutes, (cursory,) I confess, does not disclose one. Hence I readily state that the passage of the bill into a law is proper.

* Reports of Committees, H. R., Forty-first Congress, Second Session—Gold panic Investigation, page 23.

† The Clearing House Association of the City of New York, which is composed of forty-five national together with thirteen State banks, to which latter associations the legislation named did not apply, took action on this subject in November, 1873, by the appointment of a committee to consider and report upon "reforms in the banking business."

Whether there is a present necessity for the passage of the bill depends upon whether there are present violations of the statute named in the bill, and this depends upon facts which, though they are to some extent in the possession of this Department, present mixed questions of law and fact. That the certification of checks is done to a large extent by the persons designated in the bill there is no doubt. If that certification is a violation of the statute there is a necessity for the bill. It will be found, however, that it is done under such arrangements or agreements as are deemed by the banks and their counsel to bring the act of certification into harmony with the letter of the statute. If that be true, then the bare enactment by Congress that a willful violation of the statute shall be a misdemeanor would not bring about any practical result, and there is no present necessity for the passage of it. I apprehend that the bill submitted to me will not effect the object of the honorable Senator who framed and introduced it. The question will still remain after the passage of the bill, Are the practices of the banks willful violations of the statute? This will be a question for a jury, under the ruling of the trial court, and it is easy to foresee that not much will be effected. In my judgment there should be inquiry into the arrangements by and under which the certifications are effected, and if those arrangements and acts of certification under them are looked upon as reprehensible, a bill should be framed that will define what particular things shall be deemed violations of the law, and they, if willful, be declared misdemeanors.

I suppose that I am not asked or expected to say anything upon the general policy involved in the bill.

Very respectfully,

CHAS. J. FOLGER, *Secretary.*

Hon. JUSTIN S. MORRILL,
Chairman Committee of Finance, United States Senate.

The following is the table to which I called attention:

From quarterly reports of forty-nine New York City national banks, December 31, 1881.

	Capital.	Due depositors, (including banks,) net.	Outstanding certified checks.
Eleven of the principal stock-brokers' banks	$13,200,000	$60,000,000	$100,000,000
The thirty-eight other banks, some of which also have brokers' accounts	38,150,000	228,000,000	50,000,000
Twenty-five of same banks having few or no Wall street accounts	15,750,000	123,000,000	3,800,000

One-half of whole number, being now stock-brokers' banks. Average, $5,000,000 net deposits, $152,000 certifications.

Eleven stock-brokers' banks. Average, $5,500,000 net deposits, $9,000,000 certifications.

Outstanding certified checks of New York national banks by quarterly reports at various dates, showing growth of the practice during past few years.

December, 1877	$29,000,000
December, 1878	30,000,000
December, 1879	64,000,000
December, 1880	137,000,000
December, 1881	130,000,000

Mr. BECK. That is all I care to lay before the Senate at present. The Senator from Rhode Island also desires to furnish some papers, I give way to him, before the bill is laid over.

Mr. ALDRICH. I have no intention to discuss the bill, but I ask that there may be printed with the documents submitted by the Senator from Kentucky a letter addressed to the committee by the Comptroller of the Currency, inclosing a statement in relation to the certification of checks from Mr. Tappan, the president of the Gallatin National Bank.

The PRESIDENT *pro tempore*. The matter will be printed in the RECORD.

The papers referred to are as follows:

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
Washington, March 8, 1882.

SIR: In answer to your request of the 7th instant, I inclose herewith a copy of information in reference to certified checks, which has been furnished by this office in answer to inquiries for information as to this method of doing business. In reply to your inquiry as to the total amount of loss caused by overcertification of checks by national banks since their organization, and its percentage of the aggregate losses of such banks, you are advised that in the semi-annual reports of losses in their business, made by national banks to this office, the losses on account of certified checks are not separated, and it is impossible therefore to give the information you desire. From the reports of examiners of national banks made to this office, it is estimated that the losses arising from this source are very small, as may be seen from the following extract from the report of an examination of a bank with a capital of $1,200,000: "In the matter of overcertification of checks this bank is, from the character of its depositors, undoubtedly subjected to the largest demand in this line of any bank in New York, and the plan they have adopted, after getting the best legal advice on the subject, is this: all parties who may require this kind of accommodation, and to whom the bank may be willing to grant any credit on their personal responsibility, give the bank their note on demand for the amount that may be agreed upon as safe and reasonable, and the amount of this note is at once passed through the books of the bank to the credit of the party borrowing, and at three p. m. of the same day this note is charged to the account of the borrower, and the transaction is closed. These temporary credits vary from $10,000 up to $120,000 only in any one case, and in this way the letter of the law is fully complied with, as they understand it. Every dealer requiring such credit is 'scaled' by the officers at a figure which they deem safe, and no credit is for any thing under this line. From the character of the dealers and of the officers who grant such credits they have, in my opinion, systematized this branch of business upon as safe a basis as it is possible to place a Wall street business of the magnitude of that in which a few of our banks are engaged. The business has been done heretofore without the present limited and cautious scale of figures, and the losses made by the practice are very small and do not begin to compare in amount during a long period of years past to the losses incurred by banks in the regular transacting of what passes as A 1 commercial paper of 'single name.'"

Very respectfully,

JNO. JAY KNOX, *Comptroller.*

Hon. JUSTIN S. MORRILL,
Chairman of Senate Finance Committee, Washington, D. C.

CERTIFICATION OF CHECKS.

A certified check is in form the ordinary check used in business, and when certified has the signature of the paying teller written across its face, inside of a stamp bearing the date of the certification and the name of the bank.

They are always presented in the clearings of the following morning, (the banks in New York not clearing the same day,) except, as may sometimes occur, they are remitted in payment of obligations due at points out of the city, in lieu of bank drafts on banks at such points. A check on a New York bank certified is receivable all over the United States as current funds, but it is not of frequent occurrence that certified checks for large amounts are used for this purpose. They can in no case be treated as a floating currency any more than the ordinary check or draft.

The practice of certification is of very old date, and has been in use for more than fifty years, and therefore antedates the establishment of the clearing-house system. Neither, therefore, is the result of the other. It arose from the multiplicity of banks, all bills receivable, due on any given day, payable on their face at other city banks, whether discounted by the bank or lodged with it for collection, were presented at the banks where the bills were made payable and certified by the bank as good. If the drawers or acceptors are in good standing the bill is certified, whether the amount is to the credit of the account or not. Bills are usually presented at the bank early in business hours in consequence of the large number of banks and their great distance from each other, but the deposits, especially those of merchants, are not made until just before the bank-closing hour, (three o'clock p. m.,) so that they may include in their deposits all checks, &c., which may be remitted to them in the later daily mails. Where bills are not made payable at bank, the banks holding such bills claim and exact in payment either current cash funds or certified checks on banks in good standing. These bills and checks then pass through the clearing-house the following morning with the other business of the day.

"Certification," though not confined to cities where clearing-houses are established, is but seldom used (or necessary) except in localities where there are several banks, and, as has been shown, was originally, and is at present more than ever, an important factor in facilitating the relations of banks with each other and with the business community. It is by no means confined to transactions at the Stock Exchange, though largely used for such purposes. In some of the large cities (Philadelphia for example) it is the custom when a check is presented to a bank for certification for the bank to pay the check by issuing to the payee its own obligation in the form of a "due bill." The principle involved is the same as in the certification of the check. In both cases the bank guarantees the amount to the payee.

When certification may be required in excess of the amount which may at the time be to the credit of the dealer, it is customary for the bank to make a temporary credit to the account covering the amount of certification, which may be needed either by a demand note of the firm needing the accommodation or by a check on another bank in which the firm may have an account. These temporary credits are canceled at the close of business, when the account has been made good. The bank does not charge a commission for this accommodation, but finds its profit in the large balances which brokers leave to their credit in bank, and on which the bank pays no interest. The practice is justified by its immense convenience, not only to the banks but to the business community generally, as by this system the use of cash in all payments may be dispensed with, and though the largest proportion of certification is done for the accommodation of the business of the Stock Exchange, it can be proved that the losses sustained by the banks in this branch of their business is not one hundredth part of the amount lost by them in discounting bills.

Mr. BECK. I am now entirely content that the bill may go over without prejudice, and at some convenient time, after the Senate has examined the papers, we can pass upon it.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice.

JAPANESE INDEMNITY FUND.

Mr. MORGAN. Yesterday I gave notice that to-day I would submit to the Senate in the morning hour a motion to suspend so much of the Anthony rule as confines debate to five minutes and a Senator speaking once, for the consideration of the Japanese indemnity bill, my purpose being to meet the objection, which is a very valid one, made by the Senator from Kansas, [Mr. INGALLS,] that the consideration of a bill of this magnitude should not be had under a limitation of five minutes' debate. If any Senator objects to going on with the bill to-day, I will merely ask the Senate to pass it over again by consent; so that I shall not interfere with the Calendar.

The PRESIDENT *pro tempore*. The resolution submitted yesterday by the Senator from Alabama will be read.

The Acting Secretary read as follows:

Resolved, That during the 26th day of April, 1882, while the Senate is proceeding with business under the Anthony rule, the provision limiting debate to five minutes, and that a Senator shall not speak more than once, shall be suspended.

Mr. GARLAND. I suggest to the Senator to limit the resolution to the pending measure.

Mr. MORGAN. I would prefer myself to have it limited to the pending measure.

Mr. GARLAND. I think there will be no objection to that.

Mr. MORGAN. I merely offered the resolution to give notice that I would ask to have the Anthony rule suspended to-day for this purpose.

The PRESIDENT *pro tempore*. The words "during the pending measure" will be inserted in the resolution.

Mr. COCKRELL. It is modified simply to suspend the five-minute rule for this case only?

The PRESIDENT *pro tempore*. For the pending measure only.

Mr. INGALLS. I hardly think it would be well for the Senate to change its settled policy in regard to the consideration of cases on the Calendar for the purpose of discussing the bill to which the Senator from Alabama refers. I agree with him in thinking that matter

to be one of importance, but it is of no greater importance than many other bills upon the Calendar, and if we depart from the practice which we have established, and which has thus far operated so well, and under which so much business has been transacted, more, I think, than at any previous session since I have been here, we shall, I believe, do a thing that will not comport with the interests of the public service.

I will unite with the Senator from Alabama in an early effort to secure action upon the Japanese indemnity bill. It has passed the House and is now before the Senate, so that a few days more or less cannot be regarded as seriously imperiling final and definite action on the measure. I hope that we may go on with the Calendar; and I trust, upon the suggestion, the Senator from Alabama will see the propriety of that course.

Mr. MORGAN. As I stated, if the bill is objected to I shall not insist upon it. I merely ask that it be passed over again without prejudice.

The PRESIDENT *pro tempore*. The resolution is not insisted on, and the bill will be passed over without prejudice. The first bill on the Calendar in its order will be called.

GEORGE W. SAULPAW.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1093) for the relief of George W. Saulpaw.

Mr. CAMERON, of Wisconsin. The bill and the report accompanying it were read yesterday. A similar bill was passed unanimously by the Senate at the last Congress.

Mr. INGALLS. I understand from a cursory reading of the report in the case that this is a bill to pay the claimant for a steamboat that it appears, so far as I can judge from the evidence, was captured while in the confederate service by a Union gunboat. Unless I listened to the reading of the report imperfectly or have failed to gather the true state of the case from a cursory reading this morning, I should think the Senate ought to hesitate before establishing the precedent that the owner of a steamboat which was in the service of the confederate States and was captured by a Union war vessel is a lawful subject of remuneration out of the Treasury of the United States.

Mr. HOAR. Will it disturb the Senator to have me state at this point that this boat was not captured? That is not the fact. The steamer had been regained by its owner from the confederate authorities and was in his possession when it was taken by the United States for the use of the Government.

Mr. INGALLS. The statement of the colonel in charge is as follows:

> You are respectfully informed that this boat was sold by the United States marshal under a decree of confiscation, having been captured while being used for insurrectionary purposes, and was purchased by the Navy Department, and placed under the charge of Captain George D. Wise, the then quartermaster in charge of the property and accounts of the flotilla, and by him transferred to the Navy Department, October 1, 1862.

The Senator from Massachusetts says that I am incorrectly advised as to the facts in this case. I reply that the facts have been found by a competent judicial tribunal to have been as I stated them; that it is a matter of record both in the judicial and military departments of this country that the transfer was legally made by a sale by a judicial officer of the Government, and that this boat was transferred to and legally held by the Navy Department of the United States. What evidence has been adduced to controvert or overthrow the findings of the court is what does not appear from the report.

Mr. HOAR. This case was examined by the Committee on Claims very thoroughly during the last Congress, and the report is a unanimous one. It has been re-examined at the present session, and the report is a unanimous one.

I will state the facts, and there has not been a case that I know of brought before the Committee on Claims where the facts were made so absolutely clear and strong, certainly not any stronger. This boat was taken possession of by the rebels. The owner left his pilot and clerk, who were loyal men, on it. When the rebels evacuated that portion of the Tennessee River and the surrounding territory where this boat was, they sent orders to have the boat burned and destroyed. The pilot and clerk thereupon, who had remained on board for that purpose, ran the vessel away from the confederate authorities, concealed her in a creek behind an island a number of miles off, and when the Union forces entered upon that territory these persons had their boat in their complete possession without a confederate officer being, I dare say, within a hundred miles. It is a case, as the committee say in their report, where the private owner had completely delivered his boat from rebel control. The circumstances were proved by the testimony of the pilot, whose character and trustworthiness were established by several United States officers with whom he served, and the date and circumstances of the capture fully appeared in the report of Lieutenant Gwin, commanding the gunboat Tyler, dated April 23, 1862, and forwarded and indorsed by Flag-Officer Foote. Then she was taken possession of by the United States Government. Months after—I think three months after; she was in the Mississippi River, and a part of the United States flotilla, being there used—the officers on board, for the sake of getting the informer's share, made a petition to the United States court somewhere in the State of Illinois, I think at Cairo, saying that they had captured this boat; that it had been seized by George D. Wise, and that it was in the confederate service. It had no more been seized by George D. Wise than it had been seized by me. When George D. Wise first saw it and came within a hundred miles of it, it was in the United States service, and had been for months.

The United States court issued its order. In order that the decree in admiralty should be valid there should have been notice to the owners of the boat. There was in fact no notice. The United States marshal was bound by the express terms of the law to take possession of the boat in behalf of the court. [The President *pro tempore* rapped with his gavel.] I ask the Senate to allow me three or four minutes to complete my statement, because it will save the time of the Senate eventually.

Mr. HARRIS and others. Unanimous consent will be granted.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the Senator from Massachusetts may proceed.

Mr. HOAR. It never was taken possession of by the marshal; it never could be taken possession of by the marshal, for it was a part of the United States fleet at the time; and the marshal received a certificate from a subordinate officer of that boat while it was in the United States service that he had taken it and received it as the agent or keeper. That certificate was as invalid as if it had been given by a cabin-boy or a cook; and it was as palpably a fraud on this process. If the Senator will look at the letters where the explanations are asked for of these officers he will see that that must be so. Here is a letter from one of the persons who took part in this proceeding to another. The decree was wholly erroneous and void, as is settled by half a dozen cases cited by the committee from the decisions of the Supreme Court of the United States:

> The property must remain in the custody of the marshal, so that he can deliver it to the highest bidder, if it be purchased under the decree of sale. But the return itself sufficiently shows that no such seizure was or could have been made. The gunboat was in the actual service of the United States, in command of an officer who retained possession. The receipt of Captain Wise, made part of the return, declares that—

The court having declared that there must be a taking possession by the marshal in order to make the decree valid, the receipt of Captain Wise is this:

> the boat is now in the service of the United States as a gunboat on the Western waters, which I agree to deliver as hereafter may be decreed by the judge of the district court aforesaid, if in my power and consistent with my duty to the United States.

The committee go on to say:

> It clearly was not in his power or consistent with his duty to make such delivery. This consent or receipt no more transferred the possession of the gunboat from the United States to the marshal than would a like document executed by the cook or cabin-boy.
>
> We think, therefore, the owner's title to his boat has never been lawfully divested.

The boat remained with its use unchanged to the close of the war, then was sold at a general auction sale of the Mississippi flotilla when the war ended. It does not give the price at which it was sold at auction.

Mr. CAMERON, of Wisconsin. Yes, it was sold for over $9,000.

Mr. HOAR. But we only give $7,000. We say there may have been some repairs which increased the cash value of the boat, and the formal sale had been $4,000 and the actual sale $9,000. We propose to allow $7,000. That is the whole story.

Mr. CAMERON, of Wisconsin. I understood the Senator to say that the report did not state what the boat sold for.

Mr. HOAR. No; I say we have not given it to the claimant by the bill.

Mr. INGALLS. May I have consent to say a few words?

The PRESIDENT *pro tempore*. The Chair hears no objection.

Mr. INGALLS. I desire to suggest, in reply to the observations made by the Senator from Massachusetts, that if the facts are as he states, then there was ample grounds for vacating the proceedings of the court; and that having been done if the property was shown to have passed beyond the jurisdiction of the court, the claimant could then have come here with some reasonable ground for application for relief. But to come here by extraneous evidence and to attempt to controvert and to contradict a solemn declaration and findings of a court of justice which had decreed by due process of law the sale of this property, and say that without any hearing whatever the claimant shall be reimbursed from the Treasury of the United States is establishing a precedent that is vicious in theory and will be pernicious in practice. I protest against it.

Mr. HOAR. I move to strike out the last word of the bill, and on that motion I ask leave to be heard.

The committee carefully considered the suggestion which the honorable Senator from Kansas has just made. I am not sure whether he read the part of the report where we dealt with that. We were satisfied that this being a mere judgment *in rem*, without notice to the owner—for he never had been a party—it was wholly void and erroneous, and it did not require, therefore, from him that he should go to a court in a distant State and make formal application to set it aside.

I think that a clear proposition of law, and I took very great pains to examine and satisfy myself about it, consulting among others the chairman of the Judiciary Committee, who has some knowledge of the parties. We found that the decree was entirely erroneous and void on the authorities cited. But if it was not, then comes the question whether the United States by this evidence coming from

the Departments on which we rest, not being the *ex parte* affidavit of the petitioner or affidavits made by persons in his interest, but official records in the possession of the Government communicated to us by the Navy Department, we thought it to be not proper to insist upon a mere technicality that the man should go first to the court and ask to have set aside the decree of a court of admiralty made years ago when he never was a party, and when the proceeds of the sale of the property by the United States are actually in the Treasury.

Mr. INGALLS. No, one-half went to the informer.

Mr. HOAR. That is partly true and partly not. There was a pretended claim by an informer; there never was any sale by the marshal, but there was nominally a sale for $1,000, so that the informer got his half, $2,000. The sale at the close of the war being for $9,000, that money went into the Treasury. That was an actual sale for which cash was received. We propose to pay the man $7,000, $2,000 less; so that the United States in reality does not lose a dollar, because it sold the vessel for $2,000 more than we give this man. That $2,000 was all the informer got. Candor requires me to say that the Government loses so much as went into that $9,000 of the improvements put on the boat in the mean time for its use by the United States; but against that the owner of the property gets neither interest nor any compensation whatever for the use of this boat for several years by the United States Government. Thus the United States Government is a gainer by this whole transaction.

Mr. INGALLS. What does the Government make out of it?

Mr. HOAR. It makes the use of a valuable gunboat for three or four years. That is what it makes.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CITADEL ACADEMY AT CHARLESTON.

The bill (S. No. 1477) to empower the Secretary of War to audit the claim of the State of South Carolina for rent alleged to be due for the use and occupation of the Citadal Academy at Charleston was considered as in Committee of the Whole.

Mr. INGALLS. Is there a report in that case?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. INGALLS. Let it be read.

The Acting Secretary read the following report, submitted by Mr. HAMPTON March 15:

> The Committee on Military Affairs, to whom was referred the "memorial of T. J. Mackey, in behalf of the State of South Carolina, praying that the Court of Claims may be authorized to adjudicate the claim of said State for rent of the Citadel Academy," beg leave to submit the following report:
>
> After full consideration of the memorial, your committee came to the conclusion that the proper way to have this claim examined and reported on was by giving to the Secretary of War the necessary authority to do so. The committee therefore report by accompanying bill, recommending its passage.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. CONGER. The report gives no statement of the character of this claim. I do not understand what the proposition is in regard to it. I should like to hear some one state what the character of the claim is.

The PRESIDENT *pro tempore*. The bill was reported by the Senator from South Carolina, [Mr. HAMPTON.]

Mr. CONGER. I heard the report read, but the report gives no statement of the nature of the claim.

Mr. HAMPTON. The facts of this case are these: the Citadel Academy at Charleston was occupied as a barracks for some time by the United States troops. During the occupation one wing of the academy was burned down. Several years passed. The question is whether the Government should pay a rental for the occupation of that building. A memorial was presented from the State the other day asking that the case be referred to the Court of Claims. That memorial was referred to the Committee on Military Affairs, and we came to the conclusion that it was best to leave the whole matter with the Secretary of War, and in accordance with that a bill, which met the unanimous approval of the committee, was brought in here which simply leaves the whole power to liquidate the matter to the Secretary of War. I think that is the fairest disposition, the most proper and most expeditious, and I see no objection to it.

The bill was read the third time, and passed.

ALBEMARLE AND CHESAPEAKE CANAL.

The bill (S. No. 1478) for the relief of the Albemarle and Chesapeake Canal Company was considered as in Committee of the Whole. It proposes to direct the Secretary of the Navy to investigate the claim of the Albemarle and Chesapeake Canal Company, for tolls on vessels transporting naval supplies, and to award such sum as he may find equitably due, not to exceed $3,742.20, in full payment of all claims of the company against the Government.

Mr. INGALLS. Let us hear the report read.

The Acting Secretary read the following report, submitted by Mr. MAHONE March 15:

> The Committee on Naval Affairs, to whom was referred the memorial of the Albemarle and Chesapeake Canal Company, asking compensation for the use of said canal for the passage of naval vessels through the same from January 10, 1864, to July 27, 1866, report as follows:
>
> Your committee, after a full consideration of the subject, have agreed to report a bill for the relief of the Albemarle and Chesapeake Canal Company, and have adopted the following report made to the Senate on April 14, 1880:
>
> "The Committee on Naval Affairs, to whom was referred the bill (S. No. 626) for the relief of the Albemarle and Chesapeake Canal Company, report the same for favorable consideration of the Senate. The committee have adopted the report made by the Committee on Naval Affairs February 6, 1878, as expressive of their views. The same is hereby submitted:
>
> "[Senate Report No. 74, Forty-fifth Congress, second session.]
>
> "The Committee on Naval Affairs, to whom were referred the memorial and bill presented by the Albemarle and Chesapeake Canal Company, have had the same under consideration, and submit the following report:
>
> "This subject was duly considered by the Committee on Naval Affairs of the Senate at the first session of the Forty-fourth Congress, and a bill was favorably reported to and passed by the Senate, but failed to pass the House of Representatives. The reasons which governed that committee seem equally cogent now, and this committee adopts the reasoning of the former report, as follows:
>
> "'The Albemarle and Chesapeake Canal Company, as disclosed by the papers, was in process of construction when the war broke out. Much of its capital stock and all of its bonds were held by a Mr. Cartwright and other Northern capitalists. When the Government forces obtained possession of that country between Elizabeth River and Albemarle Sound, after many propositions for the United States to advance money to open the canal and keep it in order, all of which failed, the bondholders put it in condition for use and it was largely used by the War Department and tolls duly paid by agreement. In October, 1862, a specific contract was made, by which the United States was to allow the present rates on tonnage of vessels and boats in full, less 10 per cent. for all troops, &c.
>
> "'The canal company was paid on the Government vessels up to March, 1863. No payment was made by the War Department for tonnage after April, 1863. The use of the canal by vessels in the service of the Navy Department (upon which the present claim is founded) was not considered by the War Department. The canal company now claim as due from the Navy Department for tolls from January 10, 1864, to July 27, 1866, the sum of $4,158, less 10 per cent., making the net claim $3,742.20. The Navy Department refused to pay this claim on account of the act of July 4, 1864, the provisions of which authorized the Quartermaster-General and Commissary-General of Subsistence to examine similar claims, but which have conferred no such power on the Navy Department. While the passage of the act before cited did not, in the opinion of the committee, preclude the Navy Department from passing upon this claim and having it paid, (its correctness being easily verified by the records of that Department,) yet, for the purpose of relieving the case of all difficulty, the committee report the accompanying bill and recommend its passage.'"

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RAILWAY COMPANIES' ACCOUNTS.

The bill (S. No. 150) to provide for the settlement of accounts with certain railway companies was announced as next in order.

Mr. CAMERON, of Wisconsin. That is an adverse report.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts [Mr. HOAR] wish anything done with the bill?

Mr. HOAR. I know no reason why the bill should not be indefinitely postponed.

Mr. HARRIS. At whose request was it put on the Calendar?

The PRESIDENT *pro tempore*. The Calendar does not state.

Mr. CAMERON, of Wisconsin. It was not a unanimous report, and the majority have filed their views in regard to the matter, so that there are two sides to the question.

Mr. HARRIS. Let the bill remain, as we do not know what Senator asked to have it put on the Calendar, and he may not be in his seat.

The PRESIDENT *pro tempore*. The bill will be passed over.

Mr. HOAR. This is a case in which the Senator from Tennessee [Mr. JACKSON] was one of the Senators who joined in the minority report; and he desires to discuss the bill. He is absent in Tennessee. Let it stand on the Calendar without prejudice.

The PRESIDENT *pro tempore*. It will be so ordered.

THE GRAIN-SHOVEL PATENT.

The next bill on the Calendar was the bill (S. No. 1057) for the relief of George Milsom, Henry Spendelow, and George V. Watson.

Mr. CONGER. Let the report in that case be read.

Mr. HAWLEY. I am requested by certain constituents to oppose that bill; and I beg that it may lie over.

Mr. PLATT. I hope my colleague will consent that it go over without prejudice.

Mr. HAWLEY. Certainly.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice.

WILLIAM ORNDORFF.

The bill (S. No. 1283) granting a pension to William Orndorff was announced as next in order on the Calendar.

The PRESIDENT *pro tempore*. The bill is reported adversely by the Committee on Pensions. The adverse report was reconsidered on motion of the Senator from Maryland, [Mr. GROOME,] who is not here. The bill will be passed over.

HYACINTHE ROBERT AGNEL.

The bill (S. No. 602) for the relief of the heirs and legal representatives of Hyacinthe Robert Agnel, deceased, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 9, after the word "ascertained," to strike out "with legal interest thereon from the time of such payment by the said deceased;" so as to make the bill read:

> *Be it enacted, &c.*, That the Secretary of War be, and he is hereby, authorized and directed to examine into, ascertain, and determine the value of the construction of certain quarters at the United States Military Academy at West Point which was heretofore paid for by Hyacinthe Robert Agnel, deceased, late professor of the French language at said Military Academy; and the amount so ascer-

tained shall be paid, out of any money in the Treasury of the United States not otherwise appropriated, to the heirs and legal representatives of the said Hyacinthe Robert Agnel, deceased: *Provided*, That the amount so to be paid shall not exceed the sum of $5,000.

The amendment was agreed to.

Mr. COCKRELL. Let the report be read.

The Acting Secretary read the following report, submitted by Mr. SEWELL March 17:

The Committee on Military Affairs, to whom was referred the bill (S. No. 602) for the relief of the heirs and legal representatives of Hyacinthe Robert Agnel, deceased, have considered the same, and respectfully report:

That the late Hyacinthe Robert Agnel was a professor at the United States Military Academy at West Point; that he did, by permission of the Ordnance Department, construct certain additions to the permanent quarters at said post for the use of his family.

Under an appropriation subsequently made, similar additions to other quarters at that post were constructed at a much greater expense. The cost attending the construction of the additions made to his quarters by Professor Agnel was a saving to the Government of an amount equal to the difference of expenditure between his own and the additions made to the other quarters at that post.

The following communications fully explain the case, and are herewith made a part of this report:

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*Washington, February 4, 1882.*

"SIR: The communication of Hon. WILLIAM J. SEWELL, of Committee on Military Affairs, United States Senate, of the 30th ultimo, submitting for your opinion Senate bill 602, for relief of heirs of Professor H. R. Agnel (deceased) for construction of certain quarters at West Point, is herewith returned, with copies of the following papers, on file in this office, relating to the subject:

"1. The Superintendent to the Chief of Engineers, dated September 24, 1848.
"2. The Chief of Engineers to the Superintendent, dated October 20, 1848.
"3. Professor Agnel to Lieutenant Q. A. Gillmore, dated May 28, 1856.
"4. Lieutenant Q. A. Gillmore to the Superintendent, dated August 29, 1856.
"5. The Superintendent to the Chief of Engineers, dated August 30, 1856.
"6. The Chief of Engineers (indorsement) to Superintendent, dated October 8, 1856.

"Subsequent to the return of the papers to the Superintendent by indorsement of the Chief of Engineers, dated October 8, 1856, there does not appear to have been any further correspondence in relation to the claim until February 20, 1871, when the Superintendent forwarded for the action of the inspector of the Military Academy a petition in behalf of the widow of Professor Agnel for reimbursement of the amount expended by him in the construction of the addition to his quarters. The petition was returned to the Superintendent by the inspector, February 23, 1871, 'the case appearing beyond the reach of any other than Congressional relief.'

"I am, sir, very respectfully, your obedient servant,
"R. C. DRUM, *Adjutant-General.*

"The honorable the SECRETARY OF WAR.

"UNITED STATES MILITARY ACADEMY,
"*West Point, New York, September 24, 1848.*

"SIR: Professor Agnel wishes to put up an addition to the house he occupies at the post. This he proposes to do at his own expense, provided he can be furnished with the stone for the basement or cellar, and have the materials for the whole structure hauled from the public wharf to the ground on which the building is to be erected.

"The addition proposed by Professor Agnel is a tenement of two stories above the cellar, 21 by 26 feet, to be constructed of bricks or wood, and to join on to the main building in a similar manner as Professor Weir's studio is connected with his house.

"As the contemplated structure would become the property of the Government and add to the value of the present building, besides affording more ample accommodations to Professor Agnel, whose family is large, I beg to recommend that permission be granted to put up the addition upon the terms proposed by the professor.

"I have the honor to be, sir, very respectfully, your obedient servant,
"HENRY BREWERTON,
"*Captain Corps of Engineers,*
"*Superintendent Military Academy.*

"As Professor Agnel desires to put up the building immediately, an early answer to this communication is requested.

"HENRY BREWERTON.

"Brigadier-General JOSEPH G. TOTTEN,
"*Chief Engineer, Washington, D. C.*

"ENGINEER DEPARTMENT,
"*Washington, October 20, 1848.*

"SIR: I have the honor to inform you that the recommendation contained in your letter of the 24th ultimo, that Professor Agnel be allowed to put up an addition to the house he now occupies at West Point, has been approved, subject to the conditions and restrictions mentioned by you.

"I am, sir, very respectfully, your obedient servant,
JOS. G. TOTTEN,
Brt. Brig. Gen. and Chief of Engineers.

"Captain H. BREWERTON,
"*Corps of Engineers, Supt. Mil. Academy, West Point, N. Y.*

"UNITED STATES MILITARY ACADEMY,
"*West Point, May 28, 1856.*

"SIR: In compliance with a request of the Superintendent I take the liberty to submit to you a statement of the cost of an addition to my quarters, put up at private expense in 1848. You will please observe that the original contract specifies 'no interior finish to basement.' This basement now consists of a large dining room and convenient pantry, which I subsequently had finished at an expense of $179.59, as per receipts inclosed.

"Cost of addition, at private expense, to the quarters of Professor H. R. Agnel:

For building addition, carpenter's and mason's work, with the exception of finishing basement, as per contract with J. Nixon, of Fallsville (contract and receipt annexed)	$600 00
Deduction for non fulfillment of certain specifications of original contract	100 00
	500 00
To Daniel Sweezy, carpenter, for finishing basement, as per receipts annexed	109 10
To Joseph Coar, mason, for mason's work in basement, as per receipts annexed	70 49
Blinds for addition	40 00
	719 59

"Upon comparison of dimensions it will be found that the wing I have built gives me much more room than would be afforded by the additions now in progress, and this independently of a large basement and adjoining pantry.

"In consideration of these facts I would respectfully request that action be taken upon the statement and vouchers I herewith inclose, with a view to reimbursement from the recent appropriation for additions to professors' quarters.

"I remain, your obedient servant,
"H. R. AGNEL,
"*Professor of French and German, United States Military Academy.*

"Lieutenant Q. A. GILLMORE,
"*Quartermaster, U. S. M. A.*

"WEST POINT, NEW YORK, *August 29, 1856.*

"DEAR SIR: I would like to see the subject of reimbursing Professor Agnel for the expenses of his addition attended to before I leave, as his receipts, &c., have been some time in my hands.

"I think $650 would be a fair and liberal allowance.

"To save time and avoid trouble, I recommend the following method of procedure:

"Estimate for all the materials in the building and purchase them of Professor Agnel at the highest market price. They will probably amount to about $400.

"The balance to be paid out of the post fund, transferring an equal amount from the 'appropriation' for the additions to that for 'repairs and improvements.'

"By this means the price of the addition will be paid from the proper funds.

"The transaction is equivalent to a transfer of about $250 from the 'post fund' to repairs and improvements.

"But as the repairs of the Canterbury road and the improvements at the cemetery might with propriety have been charged to the post fund, I would charge them both to 'repairs and improvements,' and thus keep matters even.

"As a new house is commenced, funds under the latter head should be used with a sparing hand.

"Very respectfully, your obedient servant,
"Q. A. GILLMORE.

"Major J. G. BARNARD,
"*Superintendent Military Academy.*

"UNITED STATES MILITARY ACADEMY,
"*West Point, August 30, 1856.*

"Several years ago Professor Agnel, finding his quarters insufficient for the accommodation of his family, built, with the approbation of the superintendent and War Department, and by the assistance of a friend in New York, who, as he says, advanced him the money, an addition to his quarters, of about the same magnitude as those we have built for Professors Mahan, Bartlett, &c. It is, however, a frame construction, instead of brick, and is therefore less costly than those mentioned.

"Professor Agnel would be entitled to an enlargement of his original quarters from the appropriation recently made for this object. It seems equitable, therefore, that according to his desire the enlargement actually made by him should be assumed and made public property.

"By the papers herewith it will be seen that the original cost of the addition was $719.59. Lieutenant Gillmore, quartermaster, has examined the construction and estimates $656 as a 'fair and liberal allowance.'

"This sum is much less than those we are expending on the quarters of the other professors, and as Professor Agnel will be entirely satisfied with this arrangement instead of another construction, I would recommend that it be adopted.

"If approved, please state in what manner the payment can be effected, so as to cause no difficulty at the Treasury in passing the accounts.

"I am, very respectfully, your obedient servant,
"J. G. BARNARD,
"*Superintendent Military Academy.*

"P. S.—Please return Professor Agnel's papers.

"J. G. B.

"General J. G. TOTTEN,
"*Chief Engineer, &c., Washington, D. C.*

[Indorsement.]

"ENGINEER DEPARTMENT, *October 8, 1856.*

"Respectfully referred to the Superintendent of the Military Academy, who will please furnish to the Department his views on the within proposition.
"J. G. TOTTEN,
"*Brt. Brig. General and Chief Engineer.*

[Third indorsement.]

"HEADQUARTERS DEPARTMENT OF WEST POINT,
"*West Point, N. Y., February 14, 1882.*

"Respectfully returned to the Adjutant-General of the Army.

"The addition referred to was attached to one of the three double sets of stone quarters, occupied by professors, and located at the north end of the post.

"The set formerly occupied by Professor Agnel has been since occupied—first, by his successor, Professor G. L. Andrews; second, in 1874, by Major A. B. Gardner, judge-advocate, then professor of laws, until he was relieved in 1878; and since that time by Professor G. N. Lieber, judge-advocate, professor of law. The addition built by Professor Agnel has been in use by these officers until destroyed by fire on the 30th March, 1881. It has since been rebuilt of brick.

"All the other points of information asked for are contained in the inclosed papers.

"Corresponding additions have existed upon the other stone quarters for many years.

"O. O. HOWARD,
"*Brt. Maj. Gen. U. S. A., Superintendent, Commanding.*"

The committee recommend the passage of the bill with an amendment striking out all allowance for interest on the claim.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AMSTERDAM EXHIBITION.

The joint resolution (S. R. No. 52) authorizing the Government of the United States to accept the invitation of the Government of the Netherlands to take part in a general colonial and export-trade exhibition to be held in Amsterdam in the year 1883 was considered as in Committee of the Whole.

The preamble recites that the Government of the Netherlands has extended to the Government of the United States an invitation to take part in a general colonial and export-trade exhibition to be

held in Amsterdam in the year 1883. The resolution to provide for the acceptance of the invitation and the representation of the United States in the exhibition proposes to appropriate $7,000 to effect the purpose.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

SAINT CROIX RIVER.

The bill (H. R. No. 813) to amend section 5254, title 63, Revised Statutes of the United States, concerning the use of piers and cribs in the Mississippi River, was considered as in Committee of the Whole. It proposes to amend section 5254 of the Revised Statutes by adding, after the words "Mississippi River," in the first line of the section, the words "and the Saint Croix River in the States of Wisconsin and Minnesota."

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHAPLAIN M. J. KELLY AND OTHERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1712) for the relief of Chaplain M. J. Kelly and others. It proposes to direct the proper accounting officers of the Treasury to settle with M. J. Kelly, late a chaplain in the United States Army, and with all commissioned and non-commissioned officers and privates of Company B, Twentieth Infantry Regiment of the United States Army, who lost their personal effects by fire at Fort Ripley, Minnesota, on the 14th of January, 1877, at a sum not to exceed in the aggregate $709.34.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HEIRS OF WILLIAM R. DOWNING.

The bill (S. No. 1340) for the relief of the heirs-at-law of William R. Downing, deceased, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 3, after the word "Treasury," to strike out "in settling and adjusting" and insert "be, and they are hereby, authorized to audit and adjust;" in line 7, before "and," to strike out "be;" in line 9, after "volunteers," to strike out "with" and insert "such amount, not exceeding;" and in line 10, after the word "dollars," to insert "that may be shown he is justly entitled to of;" so as to make the bill read:

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby, authorized to audit and adjust the accounts of William R. Downing, deceased, late a captain and assistant quartermaster of United States volunteers, and are hereby authorized and directed to credit said William R. Downing, deceased, late a captain and assistant quartermaster of United States volunteers, such amount, not exceeding $10,000, that may be shown he is justly entitled to of Government funds received by him from Major R. E. Clarey, chief quartermaster of the Mountain Department, on July 3, 1862, and paid out by him, on the same day, to H. W. Gwinner, collecting agent of the Pennsylvania Railroad Company, for transportation, the proper vouchers for said payment having been lost or destroyed.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HOMESTEAD SETTLEMENTS.

The bill (S. No. 1515) to shorten the time required to acquire homesteads on the public domain was announced as next in order.

Mr. EDMUNDS. Let that go over.

Mr. PLUMB. I should be glad to have the Senator from Vermont state his objection if he has any, and, at all events, let the bill go over without prejudice. It is a matter of a good deal of importance to people living on the frontier.

Mr. EDMUNDS. I do not think five years any too long. There are more frauds committed under this homestead business, I understand, than almost any other department of the public lands, people making locations, as they call them, then pushing out and making another. I would not require of the actual homestead people five minutes, if I knew they were going to stay and really build up a homestead. This is one of those general questions of public policy that I do not think fall within the proper provision of the Anthony rule.

Mr. PLUMB. The Senator is mistaken as to one feature of the frauds there are under the law. It is not possible for a man to take two homesteads under the law as it now is. A man who has once taken a homestead has exhausted his right, and cannot take another one at all——

Mr. EDMUNDS. Unless he changes his name.

Mr. PLUMB. Unless, as the Senator from Vermont says, he changes his name, and commits perjury as well. If the Senator insists on his objection, I ask that the bill remain on the Calendar, subject to be called up at any time. I think it is a very important measure and ought to be passed.

Mr. EDMUNDS. It may be passed over without prejudice, if that does not mean that it is to come up to-morrow morning before I get here.

The PRESIDENT *pro tempore*. It may be called up at any time.

Mr. EDMUNDS. As of right?

Mr. INGALLS. Of right.

Mr. PLUMB. I will say simply so far as I am concerned that I have no objection to the Senator from Vermont being here to state his objection, and I will not call it up in his absence unless he should take a notion to be absent longer than he ought to be.

Mr. EDMUNDS. I never take that notion. With that understanding I have no objection.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice.

DES MOINES RIVER LANDS.

The bill (S. No. 680) to quiet title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes, was announced as next in order.

Mr. LAPHAM. I object to the consideration of that bill.

Mr. McDILL. I hope, then, it will be passed over without prejudice.

The PRESIDENT *pro tempore*. Is the Senator from New York willing that it shall go over without prejudice?

Mr. LAPHAM. I am not. It is impossible to consider this bill under this rule.

Mr. INGALLS. I should like to have the bill acted on. It will not only give peace of mind to settlers on the Des Moines River lands, but to many Senators.

Mr. LAPHAM. I will state one fact which it seems to me ought to control. The Judiciary Committee of the Senate reported unanimously against this bill at the last session, and that is enough of itself to show that it is a measure which cannot be considered under this rule.

Mr. McDILL. I ask that it be passed over without prejudice.

The PRESIDENT *pro tempore*. The Senator from New York objects to that.

Mr. LAPHAM. This bill cannot be discussed under this rule. It will require hours to discuss it.

Mr. ALLISON. This is a very important bill and it ought to be disposed of one way or the other at an early day. Here are four thousand or five thousand people hanging upon a bill pending in the Senate. If this bill is to be decided adversely to them they ought to know it. Therefore I trust, if it is to be taken out of the Anthony rule, that an early day will be agreed upon by the Senate for its consideration. It will not take a great while. I shall be glad to hear the Senator from New York on this question at length, and other Senators who wish to speak about it.

The PRESIDENT *pro tempore*. It is for the pleasure of the Senate to decide what shall be the order of business. The next case will be called. This is passed over generally on objection.

Mr. McDILL. I want to ask a question about the effect of passing it over in this way. Does it go to the foot of the Calendar?

The PRESIDENT *pro tempore*. No, it retains its place on the Calendar, but it is taken out of the operation of the Anthony rule. It must be called up like any other matter.

Mr. McDILL. By a majority vote?

The PRESIDENT *pro tempore*. Yes, sir.

DR. A. SIDNEY TEBBS.

The next bill on the Calendar was the bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs.

Mr. EDMUNDS. I think that involves one of those general questions about the restoration of people engaged in the rebellion to the Army.

Mr. COCKRELL. Let the amendment be read, and the Senate will understand it.

The PRESIDENT *pro tempore*. The amendment reported by the Committee on Military Affairs will be read.

The ACTING SECRETARY. The committee report to strike out all after the enacting clause and insert:

That section 1218 of the Revised Statutes of the United States be, and the same is hereby, repealed.

Mr. EDMUNDS. Will some Senator read section 1218? I think I remember that section. I object to the present consideration of the bill.

The PRESIDENT *pro tempore*. The bill goes over.

Mr. GARLAND. Can it not go over without prejudice?

The PRESIDENT *pro tempore*. It can unless there is objection.

Mr. EDMUNDS. That bill involves a very broad general question in respect to which one committee of this body is now charged with four or five bills to do something that will generalize the whole question; and until that committee reports or is discharged, I do not think we ought to do it piecemeal. Therefore I object simply.

Mr. GARLAND. I move that the Senate proceed to the consideration of this bill.

At the last session of Congress a bill came in here to the same purport to remove the disability of a young man in Maryland whose name I do not now remember, under section 1218. When that came up for consideration the Senator from Vermont said we had better do the thing as an entirety. I then moved on that suggestion a substitute to repeal section 1218. It was recommitted and came back here in the shape this bill comes, but at the solicitation of the Senator from Maryland I withdrew that amendment and the Senate passed the bill for the relief of that young man, Heiskell I believe.

At this session the Senator from South Carolina [Mr. HAMPTON] reported in favor of Dr. Tebbs, and the Senator from Kansas [Mr.

INGALLS] I think made the same suggestion, that if we were going to do this we had better do it as a whole, and not by piecemeal. I then offered an amendment to strike out all after the enacting clause and insert a clause repealing section 1218. Now the question is presented before the Senate as broadly as it can be, and I think we might just as well act on it now as at any other time. I move to proceed with the consideration of the bill.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

Mr. McMILLAN. May I inquire of the Senator from Arkansas whether the subject is not now referred to a committee to pass on the question?

Mr. GARLAND. It has been referred there regularly, I think, for about four months and twenty-six days by a proposition of the Senator from Kentucky, [Mr. BECK,] who makes it his business, I believe, to introduce it the first thing at every session of Congress.

Mr. McMILLAN. The committee have not reported?

Mr. GARLAND. And I do not know that they will report. I have no assurance that they will. The question is here now; let us dispose of it.

Mr. BECK. I have endeavored for four years to get a hearing on this subject, and I think we had better have it now.

Mr. EDMUNDS. Mr. President, as I have asked for the yeas and nays on the question of setting aside the rule to proceed to the consideration of this bill, I will simply read the section which the bill proposes to repeal:

SEC. 1218. No person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

That was the act of July 28, 1866. As this bill proposes to repeal that section, I ask for the yeas and nays on the motion to proceed to consider it.

Mr. BECK. That means this: that no boy who was a page in the Tennessee Legislature can now offer to join the Army of the United States.

Mr. EDMUNDS. I do not propose to discuss the merits of this question on this motion, as it is not in order.

Mr. BECK. That is the case. A Senator can serve here, though he may have been in the confederate army; but a boy who had to work as a page in the legislature is barred by this section from an appointment in the Army.

The PRESIDENT *pro tempore*. Discussion of the merits is not in order on this motion. The motion is, that notwithstanding the objection of the Senator from Vermont, the Senate proceed to the consideration of this bill.

Mr. INGALLS. If that motion prevails, the bill will then be under consideration under the Anthony rule.

The PRESIDENT *pro tempore*. Yes, sir.

Mr. EDMUNDS. No sir, not at all.

Mr. INGALLS. The Senator from Vermont says "No, sir." I think yes, sir.

Mr. EDMUNDS. Under the Anthony rule one objection carries a bill over. Then it is in the power of the Senate, notwithstanding the Anthony rule, and outside of it, to take up any bill it pleases, because the rule says "unless, upon motion, the Senate shall otherwise order." Having, therefore, without the Anthony rule, taken up this bill, it is the business before the Senate, and it is open to discussion and debate in the regular way. That has always been the construction of the Anthony rule down to within a week or two, so far as I know.

Mr. HOAR. This is a very important question, and I desire to say that I never consented, for one, to the Anthony rule, for which I voted, on any other understanding than that stated by the Senator from Vermont. As I understand it, the Senate has from the beginning of the Government insisted upon it that it should not be in the power of a majority to establish a previous question, or a limitation of debate, like an hour rule; that the representatives of the States here were entitled, and that it was for the public interest that they should continue to be entitled, to present their views upon all public questions at such length as the duty of the individual Senator should seem to him to require; that no measure should be passed by this body without that opportunity. When it was proposed by Mr. Clay, in the year 1842, to establish the hour rule, and afterwards to establish the previous question, the Democratic minority threatened to resist by force and unto death, if need be, rather than to submit to that; and the proposition was abandoned.

Now, the Anthony rule is only consistent with that theory so long as the right of every individual Senator to interpose his single objection to the consideration of a case under it is preserved undiminished. If, under the Anthony rule, a measure may be taken up, and in spite of an individual objection the Senate be compelled to proceed under the five-minute limitation of debate, as I understand is the judgment of the Senator from Kansas, then not an hour rule but a five-minute rule is established in this body at the pleasure of a majority.

Mr. INGALLS. There are two aspects of the Anthony rule in connection with which the question of objection arises:

Resolved, That at the conclusion of the morning business for each day, unless, upon motion, the Senate shall at any time otherwise order, the Senate will proceed to the consideration of the Calendar of Bills and Resolutions, and continue such consideration until two o'clock.—

I understand that at the expiration of the morning business, unless there is an expression of a contrary opinion by a majority of the Senate, we proceed to the consideration of the Calendar under the Anthony rule, limiting debate to five minutes, and the objection must be entered at the expiration of the morning business. If it is not interposed then we proceed until two o'clock. Then—

and the objection may be interposed at any stage of the proceedings, unless, upon motion, the Senate shall otherwise order.

That is to say, if any Senator objects to the consideration of a bill upon the Calendar under the Anthony rule the question upon the motion, for instance of the Senator from Arkansas, is, Will the Senate proceed to consider this bill under the Anthony rule, notwithstanding the objection of the Senator from Vermont? That is obviously the only sensible and reasonable interpretation.

Mr. FERRY. But the Senator from Kansas cannot contend that if the Senate otherwise order, it shall be confined to the Anthony rule. The very object of the rule in providing that the Senate may otherwise order is that when the Senate otherwise orders the bill shall be considered outside of the Anthony rule.

Mr. INGALLS. At the expiration of morning business this morning, at half-past twelve, or whatever time it was, there was no objection to the consideration of the cases on the Calendar under the Anthony rule. Therefore the rule became operative, and must by the operation of the previous action of the Senate continue until two o'clock. Then all the rights that any individual Senator had under that rule are by virtue of an objection to the consideration of a particular case, and the rule provides that the Senate may, notwithstanding an objection of an individual Senator, proceed to consider a case that has been reached on the Calendar; but how? Certainly under the provisions of the Anthony rule, because that continues from the expiration of morning business until two o'clock unless otherwise ordered at the expiration of morning business.

Mr. FERRY. The theory of the rules of the Senate is to give the Senate entire latitude in the proceedings of the body. Now, if the position taken by the Senator from Kansas is correct, during the two hours the Senate can be tied up to the Anthony rule. The President will see and the Senate will see that the rule provides that at any stage whatever an objection not only can be made but a motion to consider a bill outside of the Anthony rule. If that be the case, if such a motion has been made, it goes outside of the Anthony rule because it is the order of the Senate. The Senate are satisfied that they are not willing to consider it under the five-minute rule, and therefore order that it shall be considered otherwise. If that is not the case, we are tied up here for two hours, and that is not the object. The very illustration of the Senator from Kansas proves that it is not the object.

Mr. ALLISON. I know, Mr. President, as little perhaps of the rules of this body as any Senator in it; but if the construction put upon this rule by the Senator from Kansas is the true construction, then I shall vote to annihilate this rule at the earliest opportunity.

Mr. MORRILL. It places every bill on the Calendar under the five-minute rule.

Mr. ALLISON. I thank the Senator from Vermont for telling me what I was about to say. Every single bill will be decided under this Anthony rule, if that be true. The Senator from New York [Mr. LAPHAM] a moment ago rose in his place and said he objected to the consideration of a bill which is of great importance to the people of my State. Why? He said it could not be debated under the Anthony rule. I sat down, as did my colleague, quietly after the statement of the Senator from New York, and made no motion with reference to that bill, because I regard it as an injustice to a Senator to force upon the Senate the consideration of a bill under the five-minute rule when longer debate is required. But if we are to have now every question decided under a five-minute debate, I give notice that as soon as the Senator from Arkansas finishes his bill I shall move myself to take up the bill which was just objected to by the Senator from New York and have it considered under this five-minute rule. If we are to have a gag in reference to debate in this Chamber let us have it upon important bills as well as upon bills having no importance in principle.

Mr. FERRY. If the Senator from Iowa will allow me, if this view is to obtain does it not put it in the power of a single Senator to arrest legislation here within the two hours by his objection?

Mr. ALLISON. I only wish to say, in response to the suggestions made by the Senator from Kansas, that when I agreed to this Anthony rule I agreed to it with the understanding in my own mind that it was only to apply to such business before this body as received the unanimous consent of the Senate for its consideration; and if that is not the Anthony rule, then I give notice that I shall move its repeal to-morrow.

Mr. BECK. I know perhaps even less than the Senator from Iowa about the rules; but I know this much, that if the position taken by the Senator from Kansas is not correct I can get up in my seat and dispose of this Calendar in twenty minutes by just saying every time a bill is called "I object; go on." We can call every case on the Calendar before two o'clock and have it disposed of in that way, so that one man can be as great an obstructionist on the other side and a good deal more than he would be if the Senator from Kansas is correct.

Mr. EDMUNDS. If my friend from Kentucky will allow me, I

submit to him that he is mistaken. If one man objects to a bill it only takes it out of the Anthony rule, but then the Senate by a majority vote can take it up under the general rules of the Senate. That does not gag debate, but it enables a majority to stick to that bill until they have disposed of it.

Mr. HARRIS. Mr. President, what is the office of an objection under the Anthony rule? Its whole object and purpose is to stop the consideration of the bill objected to for the time being; but the rule provides that when the objection is interposed, and by that method further consideration is stopped, any Senator may move to proceed to the consideration notwithstanding the objection. If a majority of the Senate shall order that we proceed, I think the construction of the Senator from Kansas is precisely right, to proceed under the rule. The only necessity for the motion is to relieve the Senate from the objection of a Senator, and the only office of that objection is to stop consideration under the Anthony rule. Now, when a majority of the Senate say "notwithstanding the objection we will proceed," I submit that we are proceeding under the general provisions of the rule, subject to each Senator's right to speak once and for five minutes only.

That was the construction of the Chair; for I remember to have raised the question of order myself, and the President of the Senate decided that the Anthony rule prevailed as to the number of times a Senator might speak and the length of time he should speak; and on a very careful examination of the rule afterward I became satisfied that the Chair was right, and I am still so satisfied.

Mr. FERRY. I hope the Senator from Tennessee will not commit the Chair in advance by embarrassing him on the decision of a point of order.

The PRESIDENT *pro tempore*. The Chair is not embarrassed.

Mr. FERRY. I see the Chair is not.

Mr. HARRIS. I am quite sure that the Chair will decide the question according to the convictions of the Chair, regardless of what may be said on the floor.

Mr. FERRY. The Anthony rule is either complete of itself or it is of no force whatever. The Senator from Kentucky has properly stated the force of the rule. It is simply to go to the Calendar and proceed to all cases where there is no objection. If that is not the meaning it puts it in the power of any Senator to prevent the consideration of any question on the Calendar, and, as the Senator from Kentucky has stated, he can clear the Calendar by successive objections to every bill that may be called up. Now, the rule provides that we can consider every case on the Calendar unless otherwise ordered, and the object of that is to leave it to the Senate—not to the judgment of any one single objector, but the judgment of the Senate—to say whether they will, outside of the Anthony rule, consider under the general rules of the Senate a measure to which objection has been raised by one Senator.

Mr. HOAR. I desire to inquire if the Senator from Michigan claims that there is any method by which a majority of the Senate can under this rule pass a measure limiting every Senator to speak but once and that for five minutes? Does he understand that we have made that revolution in the constitution of this body?

Mr. FERRY. I answer the Senator from Massachusetts by saying that simply within the two hours we have, by agreement to the Anthony rule, stipulated that on all measures where no objection is raised discussion shall be limited to five minutes for each Senator.

Mr. HOAR. I agree to that exactly.

Mr. FERRY. Outside of that there is no rule, but it is left to the body of the Senate.

Mr. HOAR. I see that I misunderstood the Senator and that he and I exactly agree. The Senator used the phrase, in imputing to the Senator from Kentucky a certain opinion, that an objection could prevent the consideration of any case on the Calendar. I see now that he must have intended to say, would prevent the preference being given to any case on the Calendar in its consideration at this particular time. That is all. The bill which is objected to stands with the same right which every other measure before the Senate has, to be taken up by the order of a majority of the Senate and discussed at length and considered under the ordinary rules. The objection, therefore, does not make a bill any worse off than the average of the measures before the Senate. It only prevents its being any better off. That is all.

Mr. FERRY. But, as I understand, the Senator from Kansas has made the point that if the Senate "otherwise orders" the Senate shall be confined to the five-minute rule. That cannot be. The Anthony rule is of itself complete; it provides for itself, and that was the intention of the Senator from Rhode Island when he introduced it and made it a part of the rules of the Senate; but when the majority of the Senate "order otherwise," you are then controlled by the general rules of the Senate.

Mr. INGALLS. If the interpretation claimed by the Senator from Massachusetts and the Senator from Michigan is correct, we have no Anthony rule at all; it is a humbug and a pretense and a fraud. The practical operation of it is simply this: when the first case is called on the Calendar after the expiration of morning business any Senator says "I object," no matter whether he has any objection as a matter of fact or not; he says "I object." What is the question then, under the interpretation claimed by the Senator from Michigan?

Mr. FERRY. I can tell the Senator.

Mr. INGALLS. The question is, Shall this bill be taken up? If it is affirmatively decided that it shall be, then the whole rule is abrogated, and upon every bill to which any Senator objects debate becomes unlimited. Therefore, if that interpretation is claimed, it is an interpretation that kills the rule and destroys it and makes it as absolutely ineffectual as blank paper.

Mr. FERRY. Now, as the Senator from Kansas has taken his seat, I will state to him that the object of the Anthony rule was to dispose of cases on the Calendar to which there was no objection, simply to facilitate the proceedings of the Senate and dispose of matter on the Calendar, giving two hours each day for the consideration of it aside from the morning business. Yet at the same time it was not to deprive the right of the Senate which the Senate always retains. There has been an attempt heretofore to curtail the time of debate, and the Senate in every case has rejected the proposition, holding that there should be a body in the United States having freedom of debate. Now, if the Anthony rule applies with its five minutes' restriction, then there is a limitation. I say that when the Senate "otherwise orders," the bill comes under the general rules of the Senate. There cannot be any question in that regard.

The PRESIDENT *pro tempore*. Probably it is for the Chair to decide the point of order.

Mr. MORGAN. No point of order has been made, I understand.

The PRESIDENT *pro tempore*. Was it a parliamentary inquiry?

Mr. ALLISON. There is no question before the body with reference to this rule, as I understand.

The PRESIDENT *pro tempore*. If it is the duty of the Chair to give his construction of this rule, the Chair is ready to do it.

Mr. EDMUNDS. I think, if the Chair please, that it might be well for the Chair to withhold his opinion until we get the bill actually up out of the Anthony rule and the question is raised in such a way that the judgment of the Senate can be taken upon it. Certainly the motion of the Senator from Arkansas to proceed to the consideration of this bill is in order. There is no doubt of that, and on that I have asked for the yeas and nays.

The PRESIDENT *pro tempore*. But the Chair would suggest that the point ought to be settled before the vote is taken. Many gentlemen might vote differently if the effect of the vote is to take the bill out of the Anthony rule. The Chair as a Senator would rarely ever vote to take up a bill that was really objected to by a person, although he might be in favor of the passage of the bill. So the Chair is ready to decide the question now or after the bill is taken up, if it shall be taken up, just as the Senate wish.

Mr. EDMUNDS. Perhaps it will not be taken up.

Mr. CAMERON, of Wisconsin. I suggest that for the information of the Senate we had better have the opinion of the Chair at this time.

The PRESIDENT *pro tempore*. The Chair has been a little amazed at the positions taken to-day about this rule, for in the view the Chair has taken it has seemed to him that the true interpretation could be easily reached. This rule provides that at the expiration of the morning business the Senate may proceed to consider, under the Anthony rule, cases on the Calendar, may take up any bill and dispose of it as they please; but if they do not choose to consider any special case, then they proceed under the Anthony rule with the Calendar in regular order. What does it mean?

The Senate will proceed to the consideration of the Calendar of Bills and Resolutions, and continue such consideration until two o'clock; and bills and resolutions that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and the objection may be interposed at any stage of the proceedings unless upon motion the Senate shall otherwise order.

The understanding of the Chair has been that when an objection was made and no motion was interposed to take the case up, it was taken from without the Anthony rule entirely; but if when the objection was made any Senator moved to consider the case, and the Senate agreed to consider it, it was to be considered under the Anthony rule.

Mr. EDMUNDS. And still subject to objection?

The PRESIDENT *pro tempore*. No, sir.

And the objection may be interposed at any stage of the proceedings, unless upon motion the Senate shall otherwise order.

That is the understanding the Chair has had about it, that if there was an objection the case was taken from without the Anthony rule. Then a Senator moves that notwithstanding the objection the case be considered. How is it to be considered? The majority of the Senate can determine whether they will consider it or not. Objection is allowed; but if the majority decide that they are to consider it, it is to be considered under the Anthony rule. That is, with deference to other gentlemen, the view of the Chair.

Mr. FERRY. How does the Chair accept the objection and yet apply the force of the five-minute rule?

The PRESIDENT *pro tempore*. The objection is made. If there is no motion, then the case is taken without the rule; it goes to the foot of the docket; there is objection; that is the end of it.

Mr. EDMUNDS. I understand the Chair, then, to decide that this bill—and I take this merely to illustrate the general question—being taken up by a majority of the Senate, it is still subject to the limit of five minutes debate?

The PRESIDENT *pro tempore*. It is.

Mr. EDMUNDS. From that decision, with great respect I appeal, and on that appeal I ask for the yeas and nays.

Mr. HARRIS. I do not think any question of order has been made. The Senator from Kansas made a parliamentary inquiry; the Chair has answered that inquiry; but is that the character of case from which an appeal can be taken? If the Senate shall take up the bill, then the question of order can be raised.

The PRESIDENT *pro tempore*. The Chair would rather have it considered now. The Senator from Vermont takes an appeal from the decision of the Chair, and asks for the yeas and nays upon the appeal.

Mr. SHERMAN. As I understand the decision of the Chair, it is this: that if the objection is not made when a bill is called up, it must then be considered.

The PRESIDENT *pro tempore*. It can be made at any stage.

Mr. SHERMAN. If the objection is made after the bill is taken up and is being considered, then it is subject to the five-minute rule?

The PRESIDENT *pro tempore*. The objection can be made when the bill is called up, or at any stage of the proceedings; but when the objection is made, if there is no motion to proceed to the consideration of that objected bill at that time, then that case goes over. But if——

Mr. HOAR. May I put an inquiry to the Chair, in order to understand perfectly his very important ruling? Suppose, when a case is reached an objection be interposed, and then a motion is made to proceed to consider the matter, notwithstanding the objection, does the Chair understand that that motion would be in order?

The PRESIDENT *pro tempore*. Yes, sir. The Chair understands that that motion to proceed to the consideration of a bill, notwithstanding the objection, is in order.

Mr. HOAR. And after that, if that motion prevails, what then?

The PRESIDENT *pro tempore*. The case must be considered under the Anthony rule.

Mr. HOAR. Then it is my duty to give notice that I shall object to the consideration of every case on the Calendar, because I cannot submit to the Anthony rule so interpreted, if I can help it.

The PRESIDENT *pro tempore*. The Senate may think otherwise on the appeal, and of course the Chair will be governed by the judgment of the Senate.

Mr. HOAR. I do not conceive that it is in the power of the Senate, of a majority of the Senate, to declare that measures shall be considered here without debate. I consider it a violation of the constitution of the Senate, and the Senate in the most solemn and exciting condition, at the time of the great contest between Mr. Clay and Mr. Benton, so held. That has been its rule from the foundation of the Government.

The PRESIDENT *pro tempore*. The Chair does not decide any such question. He decides the interpretation of a rule that the Senate has adopted.

Mr. SAUNDERS. Inasmuch as we are to have a vote on this matter we ought to understand ourselves. So far as I understand what is called the Anthony rule, it applies as much to the time of the day or the hour as it does to anything besides. The understanding that I have had of it is that after the morning business has been disposed of, the regular routine business, we then have until two o'clock to transact business under a five-minute rule, and after that the Senate is open for any business that is brought up and may be spoken on as long as the individual sees fit to speak upon it. Then I must agree with the decision that has been made.

The PRESIDENT *pro tempore*. The hour of two has arrived, and the Chair lays before the Senate the unfinished business, which is the bill (S. No. 420) to establish a court of appeals.

Mr. MILLER, of California. I move to postpone that bill until to-morrow.

The PRESIDENT *pro tempore*. The Senator from California moves to postpone the bill.

Mr. INGALLS. I respectfully suggest to the Chair that under the rules of the Senate the bill to establish a court of appeals is not the unfinished business.

The PRESIDENT *pro tempore*. It was so decided yesterday by the occupant of the chair.

Mr. INGALLS. I think not. If that decision was made it was obviously a wrong one, because the mere postponement of a bill until the following day does not make it a special order. That requires a two thirds vote.

The PRESIDENT *pro tempore*. The Chinese bill is the unfinished business. The Chair had no particular thought about it, and the Chair will lay before the Senate as the unfinished business the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese.

THE ANTHONY RULE.

Mr. EDMUNDS. I ask consent to offer a resolution in order that it may be printed and lie over until to-morrow. It is a resolution on the subject of the Anthony rule, and I will read it in order that the Chair may see whether any Senator objects:

Resolved, That the special rule of the Senate for the consideration of matters on the Calendar under limited debate be, and the same is hereby, abolished.

I ask leave to offer it now, and have it lie over until to-morrow and be printed.

The PRESIDENT *pro tempore*. That order will be made.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the act (S. No. 1290) to amend sections 2586 and 2587 of the Revised Statutes of the United States by creating the collection district of Yaquina, in the State of Oregon, and authorizing the appointment of a collector therein.

MARIA B. CRAIG.

Mr. PLATT. Upon a report made by myself, from the Committee on Pensions, the bill (H. R. No. 3833) for the relief of Mrs. Maria B. Craig was indefinitely postponed. I have been requested to ask that that vote be reconsidered and the case recommitted to the committee.

The PRESIDENT *pro tempore*. That will be done, if there be no objection. The Chair hears none.

BOSTON AND PORTSMOUTH NAVY-YARDS.

Mr. HOAR. I was detained accidentally from the Chamber during the morning business; I ask the present consideration of the following resolution calling for information, which I now offer:

Resolved, That the Secretary of the Navy be directed to communicate to the Senate the histories of the Boston and Portsmouth navy-yards by Rear Admiral George H. Preble, now in the Bureau of Yards and Docks.

Mr. INGALLS. What is that, to forward a history of these navy-yards?

Mr. HOAR. Yes, sir.

Mr. INGALLS. That implies, I suppose, a few hundred thousand dollars more of printing. We have been complaining for the last few months about extravagant printing, and here is another attempt, I suppose, to have the history of some navy-yards printed.

Mr. HOAR. The question was somewhat discussed yesterday as to the title and the value for public defense of the Boston navy-yard. Since that discussion I have received from an officer in the navy-yard a statement that he had compiled, at the direction of the Secretary of the Navy, the facts showing the history of these titles. I do not propose to have the document printed unless when it comes here it appears that it is a document which can be properly and cheaply printed. It is now in the possession of the Bureau of Yards and Docks, and I simply ask that it shall be forwarded to the Senate.

The resolution was considered by unanimous consent and agreed to.

TAX ON RAW COTTON.

Mr. VOORHEES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be instructed to furnish to the Senate a statement showing the total amount of the tax collected from unmanufactured or raw cotton since the year 1861, the amount collected in each year, and the amount collected from the cotton raised in each of the several States.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 2627) for the relief of Ann Stuchell; in which it requested the concurrence of the Senate.

The message also announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1014) for the relief of Joseph L. Stevens;

A joint resolution (H. R. No. 161) making an appropriation to enable the Light-House Board to meet the extraordinary expenses consequent upon the flood in the Mississippi River; and

A joint resolution (H. R. No. 185) granting the use of tents at the soldiers' reunion to be held at Belle Plaine, Iowa, in the month of September or October, 1882.

CHINESE IMMIGRATION.

The Senate resumed the consideration of the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese, the pending question being on concurring in the amendment made as in Committee of the Whole striking out the fifteenth section of the bill, in the following words:

SEC. 15. That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

Mr. SLATER. Mr. President, I do not propose to detain the Senate at any length, but before the final vote is taken on the present bill I wish to offer a few remarks in relation not only to the bill itself but also to some political aspects which the debate has disclosed in the discussion of this question. The particular proposition now pending before the Senate is the amendment of the committee striking out that clause of the bill which defines the word "laborer" in the body of the bill. To strike out that clause of the bill will be in effect to destroy all its efficacy as a measure of restriction. It will be practically, for all the purposes which it is intended to accomplish,

a worthless piece of legislation. I desire to call the attention of Senators to the definition of the word "laborer" as given by Webster and Worcester. Webster defines it as "one who labors in a toilsome occupation; a man who does work that requires little skill, as distinguished from an artisan." Worcester defines it as "one who labors; one regularly employed at some hard work; a workman; an operative; often used of one who gets a livelihood at coarse manual labor as distinguished from an artisan or a professional man." Strike this clause from the bill, and all who desire to come from China to the United States will profess and claim to come as artisans. Not only that, but the principal agitation, I may say, which has arisen in regard to the admission of this class of people to the United States has arisen quite as much out of the fact that they are entering into all the lines of employment in direct competition with our artisans. If Senators had informed themselves upon this question and paid close attention to the very able speech of the Senator from California [Mr. MILLER] they would have seen from the statistics which he gave that this is the case and that a bill without this provision in it would be of little use in bringing relief to our people.

Besides, sir, if we examine the history of these treaty stipulations we shall find that our commissioners insisted upon the clause being retained in the treaty itself, or rather they refused to yield to a contrary definition of the word "laborer." Let me call the attention of the Senate to the Chinese proposition and to what was said by our commissioners in that respect. The propositions submitted by the Chinese commissioners were as follows:

ART. II. Chinese who may be desirous of proceeding to any other part of the United States for purposes of labor, excepting only the State of California, shall be allowed to go of their own free will and accord. Persons of all other classes, with the exception of actual Chinese laborers, whose immigration into California will be temporarily regulated and limited by the United States, whether proceeding to California as teachers, students, travelers, traders, or artisans—

This was the proposition of the Chinese commission, in which they directly and in terms asked that artisans should not be included in the excluded classes.

Now turning to the memorandum of what passed between the American commissioners and the Chinese commissioners, we shall find in paragraphs 2 and 3 the following:

2. The United States commissioners feel it their duty to insist upon their definition of Chinese laborers, namely: "The words 'Chinese laborers' are herein used to signify all immigration other than that for teaching, trade, travel, study, and curiosity hereinbefore referred to and provided for in existing treaties." They cannot consent that artisans shall be excluded from the class of Chinese laborers, for it is this very competition of skilled labor in the cities where the Chinese labor immigration concentrates which has caused the embarrassment and popular discontent they wish to avoid. But they are willing to adopt an article providing that the classes who are authorized to come and reside in the United States shall bring the servants who are necessary to their convenience.

3. The United States commissioners cannot consent to the limitation that Chinese laborers excluded shall be those only who are employed by American citizens. This, so far from being a check upon such immigration, would be simply a prohibition of the use of cheap labor by the American citizens. Every other person, that is, any and every resident, French, English, German, Chinese, would have the right to bring into the country and use such labor in direct competition with the American citizen. The United States commissioners can scarcely think that this proposition was fully considered by the Chinese commissioners.

We see from this that it must have been understood that the word "laborer" was to be interpreted, and should be interpreted, when carried into legislative enactment, as including artisans. And, sir, unless we give it legislative construction in the form and manner proposed we shall find when this law goes into operation that we have a drag-net and nothing in it. We shall be again deceived in regard to the limitations we supposed we were placing upon this immigration. It will prove to be ineffective and worthless in execution.

Mr. President, no event in the past twenty years has so surprised and profoundly stirred the people of the Pacific States as the debate, the votes, and the final veto of the late Chinese bill. They had been led to believe that this question had passed beyond the realm of political agitation. They had been led to believe that parties were substantially in accord upon the proposition of limiting or prohibiting Chinese immigration. But now we see from the debates, from the votes which are given here, and from the veto message, that it is a proposition of discord between the two great parties in this country.

Sir, the history of this agitation may be well considered for a few moments. It may be well to look back at the early days when this question was first mooted in the Pacific States and Territories and find there the political aspect of the first agitation. During the debate on the previous bill one of the Senators from Massachusetts, I do not now remember which, referring to the time when the Burlingame treaty was announced and the embassy which Mr. Burlingame headed reached our Pacific shores, made some statement, I do not remember the precise language used, but it indicated that there was a universality of sentiment greeting that embassy and according to it great ovations, which indicated that our people on that coast were entirely satisfied and in accord with the principles of the Burlingame treaty. This, sir, is a serious mistake. It is true capital accorded them great ovations; it is true that capital extended them wonderful receptions and made great demonstrations of satisfaction; but the people did not by any manner of means sympathize with or approve them. To show you how the people regarded this I desire to call your attention to the first and perhaps the most distinct announcement of opposition to Chinese immigration that has been heard from that coast from that day to the present time. I will read from the Democratic platform of the State of Oregon in 1870, promulgated very soon after the passage of this embassy through California. That convention resolved as follows:

That they urge and entreat a repeal of the recent treaty concluded between the United States and China, which guarantees to the latter nation such extensive privileges and immunities without corresponding benefits to American citizens, and offers to its hordes of semi-barbarians such favorable inducements to swarm in upon us, occupying our mineral and agricultural districts, create competition with our laboring masses, establish immoral pursuits, disgusting rites, ceremonies, and practices; discourage and repel the immigration of our own race, decrease the white population, retard thrift, impede the advancement of education and enlightenment, abstract from our resources and send away our valuable mineral wealth, and disorganize and apostatize our community." And they resolve that a party who will sustain a policy so unwise and ruthless as that which upholds such an infamous bargain is unworthy the support of white men.

This was scarcely met on a square issue by the Republicans of Oregon in that campaign. In fact, so far from meeting the question of immigration, of receiving Chinese upon the coast as laborers, their platform was silent; but in order to have some question to partly meet the issue tendered to them they did resolve that they were opposed to the naturalization of Chinese.

The year before that the Democrats in California had made a strong issue upon the introduction of Chinese into that State. If I understand the history of that campaign correctly the Republican party of that State in that campaign evaded the issue, and only resolved against admitting Chinese to citizenship, taking refuge behind the Federal Government and the treaty power in regard to this matter. Two years later, however, they realized their mistake, and put themselves in full accord with the Democratic party upon this question, and from that day to the present time I believe in no State or Territory on the Pacific slope has there been any disagreement between the parties in regard to Chinese immigration; and we had hoped, after the last national conventions of the two great parties of the country, that we had reached a similar condition as to national politics. We had hoped when we saw the pledges given in the platforms of the two parties that we should receive some attention and consideration at the hands of Congress. Just preceding the meeting of those conventions a bill had been passed through the two Houses of Congress by large majorities, and it may be well to refer to that vote. It was there disclosed that that measure in both branches of Congress was substantially carried by the votes of Democrats. On the passage of the recent bill a similar alignment of parties was disclosed. The facts clearly show that the opposition to the restricting of Chinese immigration now and in the past is and has been mainly confined to the Republican ranks. Why, sir, during the late campaign no language was strong enough to portray the feelings of abhorrence with which Republican speakers all over the United States assumed to hold as respected the sentiments of the Morey letter, which had been attributed to Mr. Garfield. Yet, sir, strange to say, in less than eighteen months from that time, the only source from whence we hear any voice in accordance with the sentiments of that letter comes from the Republican side in this body and from the same side in the other branch of Congress.

These facts deserve attention, and they signify that from the commencement of this agitation to the present hour the Democratic party has made and led the contest against Chinese immigration, and is to-day the only party substantially and honestly making resistance and warfare against this Mongolian invasion.

But, sir, if there were any doubt as to the attitude of the Republican party in this respect, it was set at rest yesterday by the Senator from Massachusetts, [Mr. HOAR.] In his remarks he said:

I wish, however, to refer in a single word to one charge which has been frequently made, and that is that those members of the Republican party who have resisted the passage of this measure have violated the pledges with which they asked the support of the American people at the recent Presidential election. I was in a condition, I think, to know something of the opinion and purposes of the men who composed the great Republican national convention of 1880. I was also in a condition to know something of the opinion of the great statesman and soldier and martyr and lover of liberty who was the standard bearer of my political associates in that memorable campaign. It is a dishonor to both to charge that they asked the support of the American people by pledging themselves to the principles upon which this legislation is based.

I ask attention to this particular sentence:

It is a dishonor to both to charge that they asked the support of the American people by pledging themselves to the principles upon which this legislation is based.

The president of the Republican convention which nominated and put into the field the late Republican Presidential ticket, from his seat in the Senate of the United States, tells the people that this legislation is not of the character that they, the Republican party in their platform, promised the people of the Pacific States. Then, sir, I affirm that the promises of the Republican party were deceptions and could have been intended for nothing else than to beguile the Pacific States into the support of the Republican ticket. But he continues:

General Garfield, I believe, would have gone to the stake, he would have put his right hand into the flames like Cranmer, before he would have accepted the Presidency or have subscribed his name to a declaration involving such a blow to the dignity of labor and the dignity of American humanity as is involved in this bill.

This is what the Republican national convention declared. I stand, and am ready to stand in the future, by every word and letter and syllable of the declaration:

"Since the authority to regulate immigration and intercourse between the

United States and foreign nations rests with the Congress of the United States and the treaty-making power, the Republican party, regarding the unrestricted immigration of the Chinese as a matter of grave concernment, under the exercise of both these powers, would limit and restrict that immigration by the enactment of such just, humane, and reasonable laws and treaties as will produce that result."

The assurances of the Senator that he is "ready to stand in the future by every word and letter" of the Republican platform will hardly reassure the people of the Pacific States in the good faith of Republican promises after what has transpired here and at the other end of the Avenue. The debate here and in the other branch of Congress and the votes given for and against this and the former bill, in connection with the veto message, has so completely unmasked the Republican opposition to any effective legislation looking to a proper restriction of Chinese immigration that such promises now given will hardly serve to restore the confidence of our people in Republican good faith.

And here stopping for the moment, let us see what was accomplished by the Chinese commission. The fifteen-passenger bill, as it is commonly known, had a clause in it which repealed the fifth and sixth articles of what was known as the Burlingame treaty, the articles under which this immigration was made lawful. I say the fifteen-passenger act repealed or proposed to repeal or abrogate those two articles. It was a legislative declaration that the relations between the United States and the Chinese Empire as established by those articles should no longer exist. A Republican President vetoed the bill because of that provision. A national election was approaching, and something had to be done to quiet the apprehension of the people of the Pacific States. A commission was appointed after this legislative declaration, with the pledge of the Republican party, through the executive branch of the Government, which it controlled, that this legislative declaration should be respected, the commission, all Republican, was sent to China to negotiate a new treaty touching Chinese immigration, and what was the result? Instead of our commissioners insisting upon what we had a right to expect, and which had been distinctly formulated and declared by legislative expression, both Houses of Congress concurring, one of which is a part of the treaty-making power of the country, instead of the executive department under the control of the Republican party insisting that the legislative will of the country should be carried out and executed, they fell short of the main and principal point and accepted from the Chinese Government a treaty in which the Chinese Government concedes to us, not as a right belonging to us as an independent sovereign people, but as a concession from the Chinese Empire, that we may restrict the coming of Chinese laborers. And now, when we come to put upon the statute-book a statute under the supposed terms of this treaty, we are again met by these same Republicans who quibble about the meaning of a word, a word used too intelligently by that commission—a word which they seem to have understood and which they said in their memorandum to the Chinese commissioners they could not suffer to be construed in a certain way as the Chinese desired to construe it—and yet such a word not having a technical signification unless it receives legislative construction in the bill under which the courts must have jurisdiction, the courts will be bound by the ordinary and usual signification. If such a definition be bestowed upon it, then the principal objects of this bill will be wholly defeated and the measure will be as deceptive as Republican promises have proved to be.

But I will read a little further from the remarks of the honorable Senator from Massachusetts, in order to show fully the grounds of Republican opposition to any measure looking to effective restriction upon this immigration. After quoting the paragraph of the Republican platform, he proceeds to say:

> That is, the regulation of immigration and intercourse. Then General Garfield in his letter of acceptance stated the doctrine to which he understands he is committed by accepting the nomination of that party upon that platform. He said:
>
> "The material interests of this country, the traditions of its settlement, and the sentiment of our people have led the Government to offer the widest hospitality to emigrants who seek our shores for new and happier homes, willing to share the burdens as well as the benefits of our society, and intending that their posterity shall become an undistinguishable part of our population."

Then the Senator proceeds to say, or rather to ask this most significant question:

> Is that like an enactment that no Chinese shall ever be naturalized in the American Republic?

It is the naturalization clause which seems to trouble him as well as restricting Chinese labor; but he proceeds with the letter of acceptance:

> The recent movement of the Chinese to our Pacific coast partakes but little of the qualities of such an immigration, either in its purposes or its result. It is too much like an importation to be welcomed without restrictions, too much like an invasion to be looked upon without solicitude. We cannot consent to allow any form of servile labor to be introduced among us under the guise of immigration. Recognizing the gravity of this subject, the present Administration, supported by Congress, has sent to China a commission of distinguished citizens for the purpose of securing such a modification of the existing treaty as will prevent the evils likely to arise from the present situation. It is confidently believed that these diplomatic negotiations will be successful without the loss of commercial intercourse between the two powers, which promises a great increase of reciprocal trade and the enlargement of our markets. Should these efforts fail, it will be the duty of Congress to mitigate the evils already felt and prevent their increase by such restrictions as, without violence or injustice, will place upon a sure foundation the peace of our communities and the freedom and dignity of labor.

Then the Senator proceeds to say:

> Mr. President, I reaffirm for myself, and for the people whom I immediately represent, every syllable of that eloquent declaration. I am willing to join my friends from the Pacific coast in regulating immigration so as to extirpate, root and branch, every form of coolie labor.

Does not the Senator know that we have experimented in the statutes against coolie labor? Does not he know that our statutes are powerless to effect any restriction in that respect? The history of this coolie legislation has simply been putting statutes formally upon the statute-book. So far as I have ever heard or known, there has not been a single instance where the Chinese immigrant—be that immigrant a coolie, criminal, or prostitute—has ever been refused permission to come upon a vessel bound for the United States, or refused the papers necessary to bring him to California or to Oregon. It is idle to talk of such legislation. It cannot in the nature of things reach the case or prevent the evils complained of.

The term "coolie laborer" is an indefinite term imported into our language and into our literature. It has no practical meaning that can be applied or enforced in statutory provisions.

The Senator from whom I have just quoted seems to be very much concerned about the bill, regarding it as a strike at labor. I do not know that I comprehend the position of the honorable Senator. We who are pressing this bill understand it to be a bill in the interest of labor. We understand it to be a measure to protect the laborer, to keep him from being ground down by the capitalists by employing Chinese labor so cheaply that the white man, or the American citizen, if you prefer the term, is unable to live at the prices for which these immigrants will work, and by reason of this Chinese labor are being oppressed and degraded.

Some time ago in another debate this Senator, in referring to the condition of laborers in the Eastern States, made a statement to which I wish to call attention now as a means by which I may be able to enlighten him and those who think with him on this matter and give him and them some understanding of what the agitation of the Chinese question upon the Pacific coast means, how extensive it is, and how far-reaching in its effects it must become in the future. On the 21st of December last, in responding to some remarks by the honorable Senator from Kentucky [Mr. BECK] touching the tariff commission bill, the honorable Senator said:

> I understand that the great question of tariff or no tariff, and of comparison between the tariff policies of other countries and this, depends upon the question whether the American rate of wages can be maintained.

Precisely what we desire in California and Oregon. We desire to maintain the rate of American wages against Chinese paupers. The Senator proceeded to say:

> The people of this country are its rulers. In the manufacturing States, like the one which I have the honor in part to represent, the operatives in their mills are their rulers. Whatever policy of State government or of national government, whatever policy as to schools, as to churches, as to the construction of railroads, as to finance, as to currency, as to banking, as to the prosperity of commerce, as to the rights of capital and the protection of those rights, prevails, is first argued beforeand then reasoned out by the understandings of the men who do the work in the manufacturing and mechanical establishments of those communities; and some of us mean that whatever else happens, this shall happen, that from the product of their labor there shall be awarded to those operatives a share which will give them an opportunity to put their children to school, to have their wives attend church and lectures decently clad, free to enjoy the luxury of knowledge and the luxuries of social life; and to do that the American rate of wages must be paid and maintained.

The agitation of this question in the Pacific States means that the people of those States have determined that whatever else shall happen it shall not happen that our laboring classes shall be ground down between the upper and nether millstones of capital and Chinese labor. It means that our laboring classes shall have such wages, such compensation for their toil as will enable them to receive and enjoy what the Massachusetts Senator demands his laboring people shall be able to receive and enjoy. Then, I ask him to join with us. He seeks to protect the laborer in the mills and factories of New England. Why not help us to protect the laborer upon the Pacific coast? He appeals to the people of the United States and to Congress to retain protective legislation on the statute-book in order that the wages of the operative class may remain high, yet at the same time he does not favor a measure to prevent an incursion of a class of foreign pauper labor from China, by the side of which the pauper labor of Europe, about which he and those who think with him have so much to say, has no comparison and no relation whatever.

If the Senator does not now know and understand the length and breadth of this question, I assure him that the working classes everywhere upon this side of the Rocky Mountains begin to comprehend it. And they will not fail to see and to understand that the substitution of Chinese as common laborers, and in the trades and arts, for American laborers on the Pacific coast, means also their substitution for and to the detriment and degradation of American and other laborers in the mills and factories of New England, and upon the cotton, rice, and sugar plantations of the South. This agitation will not and cannot be confined to the Pacific States.

Mr. President, it has now been a little over a century since the people of Boston took very strong steps to evade and prevent the execution of certain laws of the mother country in regard to taxation. They resolved that they would drink no more tea, and to be sure that they should keep their resolution they dumped all the tea into

Boston Harbor. The people upon the Pacific coast have resolved that this Chinese immigration must cease. I will not say that in order to keep that resolution we will drive the Chinese into the Pacific Ocean, but I will say to the Massachusetts Senators that the people who live on the Pacific coast, like those who settled on the New England shore, are Caucasians, and in the veins of many of them flows the blood of New England men. They have carried your institutions, the school-house and the church, and planted them upon the Pacific slope. They have reclaimed from a wilderness and from savage control that section of our country—a grand empire of itself, and they will not surrender that beautiful land to become the home of the Asiatic nor to the blight of Asiatic labor. More, sir, they have not only carried the institutions of New England and the older States and the love of liberty to that far distant country, where they have taken permanent root, but they have carried with them that which is better and more important, that which has given Massachusetts the proud record and name which she has always maintained, a quality known only to the Caucasian, an unchanging purpose, born of the race, never to submit to tyranny and oppression.

We have appealed to Congress for lo! these many years. Our appeals have been scouted and derided. Measures for our relief have been twice defeated by Presidential veto. We are here again asking nothing but a small measure of justice, and we appeal to you to give us the little relief this measure will bring, in order that we may stay for the present the scourge that is now upon us until better judgment and better knowledge here shall prevail respecting the evils of this tide of Mongolian immigration.

Mr. HAWLEY addressed the Senate. [See Appendix.]

The PRESIDENT *pro tempore*. All the amendments made as in Committee of the Whole have been concurred in in the Senate except the last one, which was reserved. The amendment will be read.

The ACTING SECRETARY. The Senate as in Committee of the Whole struck out section 15 of the bill in the following words:

SEC. 15. That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

Mr. EDMUNDS. I move to amend the clause now under consideration by striking out all after the word "that," and inserting these words:

The words "Chinese laborers," wherever used in this act, shall be construed to include persons who are usually engaged in manual labor.

Mr. FARLEY. The President of the United States in his veto of the other bill, sent with that message to the Senate a memorandum said to have been furnished the Executive Department by the then Chinese minister, in which that minister objects to the words "skilled labor" in the bill. He uses the language which I shall read; it is part of the President's message, and I refer to it because it purports to be a memorandum from the Chinese minister. He says:

II. The inclusion of "skilled labor" in the bill is an addition to the words and intent of the treaty. It will operate with harshness upon a class of Chinese merchants entitled to admission to the United States under the terms of the treaty. The shoe merchants and cigar merchants of China manufacture the goods they sell at their places of business, and to shut out the "skilled labor" they need would practically shut them out as well, since it would prevent them from carrying on their business in this country. The laundryman who keeps his shop and has a small capital with which to prosecute his trade cannot in any just sense be included in the class of "laborers," and the merchant tailor comes in the same category.

I call the attention of the Senate to the class of persons who are mentioned in this memorandum as not coming within the definition of laborers. The shoemaker, the tailor, the laundryman, and the cigar-maker are, in the strictest sense of the word, laborers, and are so considered by all the communities that I know anything about. Tell me where a man engaged in the business of shoemaking, in the business of keeping a laundry—washing, sending, and taking clothes to various localities to carry on his trade—is not a laborer. Tell me that the man engaged in the tailoring business is not a laborer. These are the classes that our people complain mostly of in California. Tailors have been driven from employment. Why? Because the Chinese work at a much lower rate than they can possibly carry on their business and support their families. The laundry business is one that is taken from those who have heretofore been engaged in that business. The white men and white women of our race have been driven from their employment by reason of the general occupation of that business by the Chinese laundrymen.

Mr. INGALLS. Why do the people hire them if they are so objectionable?

Mr. FARLEY. The people, I suppose, in California are like the people in Kansas or any other portion of the country. They hire those from whom they can get the most work at the least price.

Mr. INGALLS. The people of Kansas do not hire a leprous, diseased, immoral, degraded brute to come into their houses and do work because he will labor for ten cents a day less than an upright, cleanly, moral man.

Mr. FARLEY. I was not aware that the people of Kansas had any lepers and brutes in their State.

Mr. INGALLS. I understood that the people of California allege as one great reason why they wanted this immigration restrained that it is because the Chinese laborers who came to that country were lepers and diseased and immoral and totally unfitted either for employment or citizenship.

Mr. FARLEY. I can only say to the honorable Senator that the people of California have had Chinese in their midst for twenty-five years and upward, and that the universal sentiment there is not that these Chinamen are all of the class that the honorable Senator from Kansas refers to, but that there are those among them of that class. I apprehend that in the State my honorable friend represents there are classes of people, as is the case in all other communities, that perhaps the Senator would not invite to his house to dinner.

Mr. INGALLS. There are some that I would not have in my house to wash my clothes.

Mr. FARLEY. Our people do not invite the Chinamen to their houses to wash their clothes. The Chinamen put up Chinese signs on their buildings throughout the city.

Mr. INGALLS. Are they not employed as servants?

Mr. FARLEY. Sometimes as servants and as cooks.

Mr. INGALLS. And as hostlers and gardeners?

Mr. FARLEY. Yes, and as hostlers and gardeners. I simply stated this proposition to show that that class of men would not be considered skilled laborers under the provisions of this bill as it now stands.

Mr. INGALLS. Why are these people employed? Because they do better work for less money than anybody else?

Mr. FARLEY. The Senator asks me why those people are employed. I cannot answer that. I suppose it is generally understood by every person——

Mr. INGALLS. They are employed because they do better work for less money than anybody else.

Mr. FARLEY. I do not say any such thing. The Senator undertakes to put in my mouth what I never said.

Mr. INGALLS. Why do they employ the Chinese in preference to other people?

Mr. FARLEY. I can only say because they work for less money. As I apprehend, if the Senator were to select as between parties and he wanted labor performed, if he could get a man to do certain work for fifty cents and another for a dollar, he would take the man at fifty cents.

Mr. INGALLS. Does not the Senator believe that if the people of California would abstain from hiring these Chinese they would leave?

Mr. FARLEY. I believe they would.

Mr. INGALLS. Why do you not do it, then?

Mr. FARLEY. That is bringing in a point that cannot be answered, because it is one of those questions which nobody can answer. Why do they not do it?

Mr. INGALLS. You have the matter in your own hands.

Mr. FARLEY. No, we have not the matter in our own hands. When we undertake to exclude the vilest class of people brought there by the vessels and landed upon our wharves, in steps the Federal court and says: "You, by your State authority, by your municipal authority, cannot exercise this right." That is what the Federal courts have said.

Mr. INGALLS. The Senator has admitted that if the people of California would cease to hire these Chinese they would go away.

Mr. FARLEY. I suppose they would.

Mr. INGALLS. If the people would cease to purchase their products they would not manufacture any more. Therefore, I say the people of California have the matter in their own hands absolutely.

Mr. FARLEY. The people of other States have had as difficult problems in their hands as we of California have in regard to the Chinese question. A number of these Chinese were induced to find their way over to New England, they being favorite citizens there. A number of them voted for my distinguished friend from Connecticut [Mr. HAWLEY] as a member of Congress, and he says that they naturalize them in Connecticut. They naturalize them in Massachusetts, as my honorable friend [Mr. DAWES] has said in a debate heretofore carried on upon this subject. A number of them were taken to a place called North Adams for the purpose of engaging in the manufacture of shoes. I asked my friend how it happened that those people did not remain in Massachusetts, did not remain in North Adams and carry on the manufacture of shoes in that city or town? The answer was that they were asking as high a rate of wages as the white people were getting after they had worked themselves up to understand the business, and the reason they were not retained there was that they were asking and getting as much as the white people were, and the manufacturers who were carrying on the business then did not want them and would not employ them, and they left.

Mr. DAWES. I did dot say they left for that reason. I said they left because they could do better elsewhere.

Mr. FARLEY. In other words, when the people of North Adams found that in the manufacture of shoes the Chinamen, becoming skilled laborers I suppose, were asking as much as the white people themselves were getting, the Chinamen did not get employment. They did go away, did they not?

Mr. DAWES. They went away to different places in different employments where they could get more than they or any others could get at making shoes in North Adams; they thought they could improve their condition, and their condition was precisely the same as any other man's condition in the same kind of employment in North Adams; but they believed they could improve their condition

by going into other business. Some of them are there at this moment.

Mr. FARLEY. How many?

Mr. DAWES. Three or four. There never was this alarming number.

Mr. FARLEY. How many went there first?

Mr. DAWES. I believe about fifty went there first.

Mr. FARLEY. Did they not have as many as three hundred in North Adams?

Mr. DAWES. No, sir.

Mr. BUTLER. I ask the Senator if there had been 100,000 Chinese laborers introduced into Massachusetts does he think it would have been a benefit to that State?

Mr. DAWES. I think if 100,000 might have been introduced into Massachusetts it would have been for the mutual benefit of that hundred thousand and the industrious people of Massachusetts, who seek the employment of men that they can employ for the most profit both to themselves and the men they employ.

Mr. BUTLER. I should like to ask the honorable Senator directly whether he thinks the introduction of 100,000 laborers into the State of Massachusetts would benefit the laboring class of that State? I should like him to answer that question.

Mr. DAWES. More than 100,000 come there year after year; a million a year are landing at Castle Garden, in New York, within one hundred miles of Massachusetts.

Mr. BUTLER. Chinamen?

Mr. FARLEY. Not Asiatics?

Mr. DAWES. Not Asiatics. I do not know any particular difference between Asiatic labor and European labor; it is labor, and it never occurred to me that the difference between men was the difference in the places where they were born. I always supposed it was a difference in the character of the men.

Mr. BUTLER. Then I should like to ask the honorable Senator if he thinks it would be a good thing to introduce into any community a large number of very cheap laborers; if he thinks cheap labor is a benefit to any country?

Mr. DAWES. I do not think it would be a good thing to introduce into any country a larger amount of cheap labor than can profitably employ itself or profitably be employed in that community. Beyond that they would not come, any more than there would be a greater supply of skilled labor than there would be a possible demand for, and it would not be cheaper than the rest of the labor, because every man who comes within the borders of this Union will find the best place for himself and will work out his own future if he be left alone by the United States.

Mr. BUTLER. The experience of the people of California and the Pacific coast appears to be very different from that, and so would it be in Massachusetts.

Mr. DAWES. It is just as impossible for the people of California to undertake to put a law against the laws of trade and the laws of right and wrong upon immigration into this country at their ports as it is for any other State.

Mr. FARLEY. I should like to understand who has the floor. I seem to have yielded for a general debate.

Mr. BUTLER. I beg pardon.

Mr. FARLEY. The Senator from South Carolina and the two Senators from Massachusetts are now embarking in this discussion.

Mr. DAWES. I am embarked into this discussion. The Senator from California appealed to me. I had not troubled the Senate in this debate upon this bill until the Senator seemed anxious to get something out of me.

Mr. FARLEY. I simply referred to the Senator for a fact in reference to a statement I had made.

Mr. DAWES. I am very sorry the Senator did not understand that colony which came to Massachusetts better. This is the second time the Senator has demonstrated to the Senate his utter ignorance of the reason why they came, the manner in which they continued there, or the reason why they went away. I tried to make it perfectly clear to him two or three weeks ago, but it does not seem to be possible for the Senator to understand the real state of facts. I regret it exceedingly.

Mr. FARLEY. I am very thankful to the Senator from Massachusetts for attempting now to instruct me as to why those people went there and why they left. Of course I am not well acquainted in that locality and perhaps was somewhat ignorant as to what was the cause that took those people there. I understood that they were employed by manufacturers to go there and engage as employés in the manufacture of shoes.

Mr. DAWES. They were.

Mr. FARLEY. On that point I am not ignorant. The next point I understood was that when these people were asking as high wages as that manufacturing establishment was paying for white labor, then they left; they were not continued in the employment of that manufactory.

Mr. INGALLS. The people of Massachusetts did not ask for the passage of an act of Congress to get rid of them.

Mr. FARLEY. Because the Chinamen did not remain there. That was it. They did not employ the Chinamen, and they went away.

Mr. DAWES. They followed the same law which governs every employé in his relations to his employer in Massachusetts, and everywhere else where the law does not undertake to regulate it. They on their part seek to find that employment which is most profitable to them, and so does the employer; and every man who comes to Massachusetts, whether from Asia or from Europe, is likely to come there and offer his wages at first at a lower rate than the native-born citizen, but he very soon elevates himself by his industry and by his acquaintance and aptitude in the business in which he is employed to a position where he can command as much as any other man, and he does command it; and the foreigner, whether he come from Asia or from Europe, from the Atlantic side or the Pacific side, commands the same wages that the native-born does, and he receives it if he can accomplish as much for his employer. No man in Massachusetts stops to inquire where a man was born before he employs him, or appeals to the Government for a law to protect him against a man because he happens to have been born in one place rather than another, or because the color of his skin is different from that of his own.

Mr. FARLEY. Mr. President——

Mr. EDMUNDS. Will the Senator yield for a motion for an executive session?

Mr. FARLEY. We shall not be able then to conclude this bill today.

Mr. EDMUNDS. Let it be finished to morrow. I cannot stay very long. With the permission of the Senator from California, I move that the Senate proceed to the consideration of executive business.

Mr. FARLEY. Allow me one moment, and then I will yield to the Senator's motion on account of the condition of his health. I had not intended making any extended remarks upon this matter; but certain statements have been made here which I wished to reply to, especially some made by the Senator from Connecticut, [Mr. HAWLEY,] and also some made by the Senator from Ohio, [Mr. SHERMAN,] in a speech on the veto message. I shall ask leave to continue this debate to-morrow.

Mr. EDMUNDS. Certainly, the Senator from California is entitled to the floor.

ROBERT PELKEY.

Mr. HARRISON. Will the Senator from Vermont yield to me to get an order? I ask the consent of the Senate to reconsider the vote on the report of the Committee on Pensions on the bill (H. R. No. 2290) for the relief of Robert Pelkey. That bill was reported adversely by the Committee on Pensions on Thursday. It is in the RECORD of Friday. I ask that the vote by which it was indefinitely postponed be reconsidered, and the bill placed on the Calendar.

The PRESIDENT *pro tempore*. That will be done, if there be no objection. The Chair hears none.

HOUSE BILL REFERRED.

The bill (H. R. No. 2627) for the relief of Ann Stuchell was read twice by its title, and referred to the Committee on Pensions.

AGRICULTURAL APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes.

On motion of Mr. DAVIS, of West Virginia, it was

Resolved, That the Senate insist on its amendments to the said bill disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. DAVIS of West Virginia, Mr. PLUMB, and Mr. HALE as the conferees.

THE ANTHONY RULE.

Mr. HOAR. I move the following resolution, to lie over until to-morrow under the rule:

Resolved, That the resolve known as the Anthony rule shall not hereafter be so construed as to authorize the consideration of any measure under a limitation of debate to five minutes or to speaking but once by each Senator after objection.

The PRESIDENT *pro tempore*. The resolution will go over and be printed.

JAPANESE INDEMNITY CORRESPONDENCE.

Mr. VAN WYCK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be directed to furnish to the Senate copy of a letter of George S. Fisher when consul at Yokohama, relating to the services of the steamer Wyoming and the value of the vessels destroyed by her; also the correspondence of Secretary Seward and minister Pruyn relating to the destruction of property which led to the indemnity made by Japan.

EXECUTIVE SESSION.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-three minutes spent in executive session the doors were reopened, and (at four o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 26, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

PUBLIC BUILDING, LANCASTER, PENNSYLVANIA.

Mr. SMITH, of Pennsylvania. I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. No. 4702) for the erection of a public building at Lancaster, Pennsylvania, and that the same be put upon its passage.

Mr. MILLS. I object.

Mr. SMITH, of Pennsylvania. I hope the gentleman will withdraw his objection and permit me to make a brief explanation.

The SPEAKER. The Chair understands that objection is made to the request of the gentleman from Pennsylvania.

ANN STUCHELL.

Mr. MOSGROVE. I ask unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill (H. R. No. 2627) for the relief of Ann Stuchell, and that the same be put upon its passage.

The SPEAKER. The bill will be read, subject to objection.

The Clerk read as follows:

Whereas Christopher Stuchell, late a private in Company A, Sixty-first Regiment Pennsylvania Volunteers, in his lifetime established his right, under the several acts of Congress granting pensions to soldiers of the war of the rebellion, to invalid pension for total blindness contracted in said service, and had issued to him certificate numbered 122751, dated April 22, 1873, directing the pension agent at Pittsburgh, Pennsylvania, to pay to him $8 per month from July 17, 1862, to August 8, 1866, and from that time until April 22, 1873, $25 per month; and

Whereas said soldier, after the issuing of said certificate and the execution of the necessary vouchers to draw said sum of money then due, but before the receipt of the check of the said pension agent, took sick and died, unmarried and intestate, leaving surviving him his father, Francis Stuchell, and his mother, Ann Stuchell, who were at the time of his death, under the intestate laws of Pennsylvania, his lawful heirs; and

Whereas the said Francis and Ann Stuchell had maintained and cared for their said son from the time of his discharge until his death, and had expended considerable money for his treatment, and so forth, for which he could have reimbursed them had he received said money due him; and

Whereas letters of administration upon the estate of said soldier were duly granted said Francis Stuchell, and demand made by him as such of the pension agent at Pittsburgh, Pennsylvania, for the sum due on said certificate on the day of the death of said soldier, payment of which was refused under section 25 of the act of Congress approved March 3, 1873; and

Whereas the said Francis Stuchell has since died intestate, leaving surviving him as his widow the said Ann Stuchell, now in indigent circumstances: Therefore,

Be it enacted, &c., That the Commissioner of Pensions be, and he is hereby, authorized and directed to pay or cause to be paid to Ann Stuchell, widow of Francis and mother of Christopher Stuchell, the sum of $2,381.22, the amount of pension due said Christopher Stuchell in his lifetime, from the date of his discharge to March 4, 1873, and for which check was issued him payable to his order, but not indorsed by him or paid to him or any other person by reason of his death and the act of Congress aforesaid.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be engrossed for a third reading; and being engrossed, was read the third time, and passed.

Mr. MOSGROVE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CIVIL OFFICES IN THE TERRITORIES.

Mr. BRENTS. I ask unanimous consent to take from the House Calendar for present consideration the bill (H. R. No. 1926) to amend section 1860 of the Revised Statutes so as not to exclude retired Army officers from holding civil office in the Territories.

The bill was read.

Mr. WHITTHORNE. I object.

Mr. BRENTS. I hope the gentleman will not object till the report is read. It is the unanimous report of the Committee on Military Affairs.

The SPEAKER. The objection is not withdrawn.

AGREEMENT WITH CROW INDIANS.

Mr. AINSLIE. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. No. 1045) to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana required for the use of the Northern Pacific Railroad, and to make the necessary appropriations for carrying out the same.

Mr. RANDALL. I reserve the right to object until the bill is read.

The Clerk proceeded to read the bill.

Mr. ROBESON, (interrupting the reading.) I understand that that bill is being read subject to objection. It is too long a bill to go through without examination on unanimous consent.

Mr. MAGINNIS. There is nothing in the world in it except the ratification of an agreement made with the Crow Indians.

Mr. ROBESON. I do not believe any bill interfering with the rights of Indians, recommended I do not care by whom, that comes here and takes half an hour to read, should go through by unanimous consent.

Mr. MAGINNIS. Let me make a brief statement of its provisions.

Mr. ROBESON. We cannot tell anything about it from merely hearing it read.

Mr. MAGINNIS. I ask that the bill may be printed in the RECORD, giving notice that it will be called up again to-morrow morning.

Mr. ROBESON. I have no objection to that.

There being no objection, the bill was ordered to be printed in the RECORD. It is as follows:

Be it enacted, &c., That a certain agreement made between the United States of America, represented by Llewellyn A. Luce, William H. Walker, and Charles A. Maxwell, special agents duly appointed in that behalf by the Secretary of the Interior, of the one part, and the Crow tribe of Indians resident on the Crow reservation, in the Territory of Montana, acting under the supervision and with the approval of the Secretary of the Interior, of the other part, be, and the same is hereby, ratified and confirmed. Said agreement is executed by a majority of the adult male Indians of the Crow tribe occupying or interested in the lands therein more particularly described, in conformity with the provisions contained in article 11 of the treaty with the Crow Indians of May 7, 1868, and is in the words following, namely:

"Whereas by section 1 of an act of Congress approved July 2, 1864, entitled 'an act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast, by the northern route' (13 Statutes at Large, page 365,) the Northern Pacific Railroad Company was authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, namely: Beginning at a point on Lake Superior, in the State of Minnesota or Wisconsin, thence westerly by the most eligible railroad route, as shall be determined by said company, within the territory of the United States, on a line north of the forty-fifth degree of latitude, to some point on Puget Sound; and

"Whereas by section 2 of said act Congress granted to said company the right of way for the construction of said railroad and telegraph line to the extent of two hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary ground for station-buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations; and

"Whereas by said section 2 Congress provided that the United States should extinguish as rapidly as may be consistent with public policy and the welfare of the Indians the Indian titles to all lands falling under the operation of this act and acquired in the donation to the road named in the act; and

"Whereas by treaty between the United States and the Crow Indians concluded at Fort Laramie, May 7, 1868, and duly ratified and proclaimed, (15 Statutes at Large, page 649,) a district of country in the Territory of Montana was set apart as a reservation for the absolute and undisturbed use and occupation of said Indians; and

"Whereas there is no provision or stipulation in said treaty authorizing said company or recognizing its right to construct its road through said reservation; and

"Whereas the said company did, on the 25th day of June, 1881, file in the Department of the Interior a map showing the definite location of its line of railroad from the one hundred and seventh degree of longitude west from Greenwich westwardly through said reservation and adjacent territory to the western boundary of the said reserve, as provided by said act of 1864, the company having first obtained the permission of the Secretary of the Interior to survey its line in said reservation; and

"Whereas the said company desires to construct its line of railroad upon such designated route, and claims the right by virtue of said act so to do:

"Now, therefore, in order to fulfill the obligations of the Government in the premises, this agreement, made this 22d day of August, A. D. 1881, between the Crow tribe of Indians resident on the Crow reservation, in the Territory of Montana, represented by their chiefs, headmen, and heads of a majority of families, and being a majority of all the adult male Indians occupying or interested in the lands hereinafter described, the said Indians acting under the supervision and with the approval of the Secretary of the Interior of the United States, of the one part, and the United States of America, represented by Llewellyn A. Luce, William H. Walker, and Charles A. Maxwell, special agents duly appointed in this behalf by the Secretary of the Interior, of the other part, witnesseth: that for the consideration hereinafter mentioned the Crow tribe of Indians do hereby surrender and relinquish to the United States all their right, title, and interest in and to all that part of the Crow Reservation situate in the Territory of Montana and described as follows, namely:

"A strip of land not exceeding four hundred feet in width, that is to say, two hundred feet on each side of the line laid down on the map of definite location hereinbefore mentioned, wherever said line runs through said reservation between the one hundred and seventh degree of longitude west of Greenwich on the east and the mid-channel of the Big Boulder River on the west, containing 5.384 acres, more or less. An official copy of said map of definite location was, on this 22d day of August, A. D. 1881, produced before said special agents and the Indians in council, was fully explained to said Indians, and is hereunto attached, marked A, and made a part of this agreement. Also the several parcels of land situate along and adjoining the said strip of land hereinbefore mentioned between the one hundred and seventh degree of longitude west of Greenwich on the east and the mid-channel of the Big Boulder River on the west, as defined and described on a map produced before said special agents and the Indians in council on the day and date above mentioned, and fully explained to and understood by said Indians; said tracts being designated on the aforesaid map by the letters A, B, C, D, E, F, G, H, I, J, and K, and containing, respectively, the following area, that is to say: Tract A, 26.23 acres; tract B, 28.54 acres; tract C, 26.23 acres; tract E, 26.23 acres; tract F, 26.23 acres; tract G, 26.23 acres; tract H, 26.23 acres; tract I, 26.23 acres; tract J, 28.32 acres; tract K, 26.23 acres, aggregating 266 acres, more or less, said map being hereunto attached, marked B, and made a part of this agreement; which last-mentioned tracts are intended for the use of said Northern Pacific Railroad Company for station-houses, depots, switches, &c. It is further stipulated and agreed that the United States will not permit the said railroad company, its employés or agents, to trespass upon any part of the lands of the Crow Indian reservation not hereby relinquished, nor permit said company, its employés or agents, to cut any timber, wood, or hay from the lands embraced in said reservation.

"And it is further stipulated and agreed that the Secretary of the Interior, upon such terms as he may see fit to impose, may permit to be constructed, maintained, and used within said Crow Indian reservation wagon-roads not exceeding three in number, in addition to any established wagon roads which may be now in use therein; the said three roads to connect with the line of said railroad at such points as the Secretary of the Interior may designate; all of which wagon-roads shall be under the control of the Government of the United States.

"In consideration for the lands hereby relinquished, amounting in the aggregate to 5,650 acres, more or less, and for the privileges herein granted, the United States stipulates and agrees to pay to the Crow tribe of Indians the sum of $25,000, to be deposited in the Treasury of the United States to the credit of the said tribe of Indians upon the ratification of this agreement by Congress and the necessary appro-

priation made therefor, the sum aforesaid to be expended for the benefit of said Indians in such manner as the Secretary of the Interior may direct; the same to be in addition to any and all moneys to which the said Indians are entitled under the provisions of the treaty of May 7, 1868, hereinbefore mentioned.

"All provisions of existing treaties with the Crow Indians not affected by this agreement are to remain in full force and effect, and this agreement is to be subject to ratification by Congress.

"Executed at Crow agency, in the Territory of Montana, this 27th day of August, A. D. 1881, as witness the following signatures."

SEC. 2. That for the purpose of carrying the provisions of this act into effect the sum of $25,000 is hereby set aside, out of any moneys in the United States Treasury not otherwise appropriated, to be deposited in the United States Treasury to the credit of the Crow tribe of Indians, and to be expended for the benefit of the said Indians in such manner as the Secretary of the Interior may direct.

SEC. 3. That the right of way over the land relinquished by said agreement to the United States for the construction of said Northern Pacific Railroad, and the use of the several parcels of land so relinquished intended to be used for depots, stations, sidings, &c., for said railroad, are hereby granted to said Northern Pacific Railroad Company, its successors and assigns, for the uses and purposes in said agreement set forth; but the land, or any part thereof, relinquished to the United States by said agreement shall not be used for railroad purposes by or for the said Northern Pacific Railroad Company, its successors or assigns, except upon the condition precedent that the said company, its successors or assigns, shall, within sixty days from the taking effect of this act, pay to the Treasurer of the United States said sum of $25,000 hereby appropriated to be paid by the United States for the lands relinquished to the United States by said agreement, and shall within the same time file with the Secretary of the Interior its written acceptance of the conditions of this section; nor shall said land, or any part thereof, be continued to be used for railroad purposes by or for said Northern Pacific Railroad Company, its successors or assigns, except upon the further condition that said company, its successors or assigns, will pay any and all damages which the United States or said Indians, individually or in their tribal capacity, or any other Indians lawfully occupying said reservation, may sustain by reason or on account of the act or acts of said company, its successors or assigns, its agents or employés, or on account of fires originating by or in the construction or operation of said railroad, the damages in all cases to be recovered in any court of the Territory of Montana having jurisdiction of the amount claimed, upon suit or action instituted by the proper United States attorney in the name of the United States: *Provided*, That the said United States attorney may accept such sum of money in satisfaction of any such injury or damages as in his discretion may be just; and if so accepted before suit or action is commenced, no suit or action shall be instituted, and if accepted after commencement of suit or action the same shall be dismissed at the cost of said company, its successors or assigns.

SEC. 4. That all moneys accepted or recovered under the provisions of section 3 of this act shall be covered into the Treasury of the United States, and if accepted or recovered on account of damages sustained by said Indians as aforesaid, they shall be placed to the credit of said Indians in their tribal names, to be expended by the Secretary of the Interior for the benefit of said Indians in such manner as he may deem for their best interest, except in the case of an individual Indian, when the amount covered into the Treasury shall be expended for his sole benefit.

PUBLIC BUILDING AT PENSACOLA, FLORIDA.

Mr. DAVIDSON. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4669) for the erection of a public building at Pensacola, Florida, and that the same be brought before the House for present consideration.

I wish to say that the State of Florida has not had the benefit of unanimous consent during the present session of Congress.

Objection was made.

ORDER OF BUSINESS.

Mr. CRAPO. I desire to bring before the House for present consideration a bill in relation to danger signals at sea. It is of very great practical importance to our merchant marine.

Mr. RANDALL. I insist on the regular order.

INTERNATIONAL FISHERIES EXHIBITION.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which, with the accompanying papers, was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

I transmit herewith for the consideration of the House of Representatives a report from the Secretary of State in relation to the international fisheries exhibition which is to be held at London in May, 1883. Fully approving of the suggestions contained in the report, I would earnestly recommend that favorable action be taken upon the subject at the present session of Congress in order that there may be ample time for making the appropriations necessary to enable this country to participate in the exhibition.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 25, 1882.

ORDER OF BUSINESS.

Mr. HOOKER. I ask unanimous consent to bring a bill before the House for present consideration.

The SPEAKER. The regular order is demanded.

Mr. HOOKER. If this is objected to, I will object to the consideration of any bill by unanimous consent.

Mr. VALENTINE. The objection is made on your own side.

The SPEAKER. The Chair will state to the gentleman from Mississippi that the gentleman from Pennsylvania [Mr. RANDALL] has called for the regular order and insists on it.

Mr. HOOKER. All right; I give notice I will object to the consideration of every bill by consent.

Mr. RANDALL. Somebody ought to do that.

AGRICULTURAL APPROPRIATION BILL.

Mr. VALENTINE. I am directed by the Committee on Agriculture to report back the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes, with amendments by the Senate, and to move that the House non-concur in the Senate amendments.

The SPEAKER. The amendments will be read.

Mr. HATCH. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HATCH. Is it necessary that the amendments, where it is recommended that they be non-concurred in as a whole, shall be read?

The SPEAKER. It is not necessary if the reading be dispensed with. But the better practice is to have all matters read on which the House is called to act.

Mr. RANDALL. I call for the reading of the amendments.

Mr. HOOKER. Is this the regular order?

The SPEAKER. It is.

The Clerk proceeded to read the amendments, as follows:

In line 12 add "five hundred;" so that it will read: "For compensation of Commissioner of Agriculture, $4,500."

In line 13, after the words "chief clerk in said Department," insert "who shall be superintendent of the Department building."

In line 14 add the words "two hundred;" so that it will read: "Chief clerk in said Department, etc., $2,200."

In line 16, after the word "accounts," insert the word "and."

In lines 16 and 17 strike out the words "and superintendent of the Department building."

In line 33 change the total from $59,280 to $59,980.

In line 35 add the words "five hundred;" so that it will read: "For compensation of chief chemist, $2,500."

In line 41 change the total from $9,000 to $9,500.

In line 43 add the words "four hundred;" so that it will read: "For compensation of entomologist, $2,500."

In line 45 strike out "two" and insert "four;" so that it will read: "One assistant entomologist, $1,400."

In line 47 change the total from $7,200 to $7,900.

Strike out from line 49 to 55, inclusive, the following:

"Statistical division:

"For compensation of one statistician, $2,000; one clerk of class 4, $1,800; two clerks of class 3, $3,200; one clerk of class 2, $1,400; four clerks of class 1, $4,800; in all, $13,200."

Strike out from line 78 to 86, inclusive, the following:

"And it is hereby enacted that, in addition to the proper vouchers and accounts for the sums herein appropriated to the accounting officers of the Treasury, the Commissioner of Agriculture shall present a detailed statement of the manner of the expenditure of the amounts hereby appropriated, to accompany his estimates to be presented at the next regular session of Congress: *Provided*, That no part of these sums shall be paid to any person receiving at the same time other compensation as an officer or employé of the Government."

At line 87 insert "division of agricultural statistics."

At line 88 insert the following:

"For compensation of one statistician, $2,500; one clerk of class 4, $1,800; two clerks of class 3, $3,200; one clerk of class 2, $1,400; four clerks of class 1, $4,800; in all, $13,700."

Mr. HOLMAN. I suggest that this reading conveys no intelligent idea to the House. These amendments provide a large increase of salary. I would like the gentleman from Nebraska to explain what salaries are to be increased.

Mr. ATKINS. I desire to hear the amendments read.

Mr. VALENTINE. The motion is to non-concur.

Mr. HOLMAN. To non-concur in all the amendments?

Mr. VALENTINE. Yes, sir.

Mr. ATKINS. I want to hear the bill read.

The SPEAKER. These are amendments of the Senate which the Committee on Agriculture recommend shall be non-concurred in.

Mr. ATKINS. We do not seem to be in a very great hurry to transact public business. I am not in a great hurry, and I want to hear the bill read.

Mr. VALENTINE. I hope the gentleman from Tennessee will not insist upon that.

Mr. ATKINS. I insist on my rights.

The SPEAKER. The gentleman from Nebraska asks the action of the House upon the amendments of the Senate. The Clerk will continue the reading of the amendments. They will be read in their connection with the bill; and if gentlemen insist, they will be voted upon separately.

The Clerk continued and concluded the reading of the amendments, as follows:

In line 98 strike out "$75,000" and insert "$80,000;" so that it will read: "For collecting agricultural statistics, &c., $80,000."

In line 98 strike out "to" and insert "of which sum $10,000 shall be;" so that it will read, "$80,000, of which sum $10,000 shall be immediately available."

Strike out, in line 103 to line 106, inclusive, these words:

"*Provided*, That no part of this sum shall be paid to any person receiving at the same time other compensation as an officer or employé of the Government."

In line 140 strike out the words "expenses of machinery and apparatus, labor, &c., to continue."

In line 142, after "sorghum," insert "beets."

In line 143 strike out "$25,000" and insert "$10,000."

Strike out, in line 143 to 147, the following:

"To be available immediately; and out of the above sum the Commissioner of Agriculture is hereby authorized to pay the chief chemist $1,000 as additional compensation for the next fiscal year."

Strike out, in line 147 to line 149, the following:

"For the continuation of experiments in connection with the manufacture of sugar from beets and for the cultivation of beets; for that purpose, $10,000."

As amended by the last five amendments, the paragraph would read:

For experiments in the manufacture of sugar from sorghum, beets, and other producing plants, $10,000.

In line 178, under the head "library," add the words "five hundred;" so as to make the amount $1,500.

In line 183, after the words "for investigating the history and habits of insects injurious to agriculture" add the following: "And for the orange and lemon and

plants of the citrus family, including the Rocky Mountain locust and the cotton-worm."

At the end of the paragraph strike out the words "to be immediately available."

Strike out from line 190 to line 195, as follows:

"Rocky Mountain locust:

"For continuing the exploration of those portions of the country where the Rocky Mountain locust permanently breeds, with a view to ascertaining and reporting upon the prospects of the locust injury in the Mississippi and Missouri Valleys, $5,000, to be immediately available."

In line 202, in the appropriation for examination of wools and animal fibers, strike out "which shall be available immediately."

In lines 204 and 205 strike out the words "swine, sheep, and other;" so that it will read: "Investigating the diseases of domesticated animals."

In lines 206 and 207 strike out the words "diseases of swine and sheep, and."

In line 208 strike out the word "other."

Strike out, from line 210 to line 216, the following:

"Data respecting the agricultural needs of the country west of the Rocky Mountains:

"For the purpose of enabling the Commissioner of Agriculture to procure and publish data touching the agricultural needs of that portion of the United States lying west of the Rocky Mountains, $5,000, to be immediately available."

In line 218 to line 220, under the head of "reclamation of arid and waste lands," strike out "the reclamation of arid and waste lands lying in certain Western States and Territories, $20,000, to be immediately available," and insert "locating and sinking one artesian well on the plains east of the Rocky Mountains, with a view to reclaiming arid and waste public lands, $10,000."

In line 227, under the same head, strike out the words "to be immediately available."

In line 232, under the head "forestry," strike out the words "to experiment and."

In line 233, under the same head, change the amount of the appropriation from $7,000 to $10,000.

In line 247, under the head "contingent expenses," add the words "$2,000 of which sum shall be immediately available,"

After line 252 add the following:

"For repairing and resurfacing concrete roads and walks on the grounds, $5,000."

Add at the end of the bill the following new section:

"SEC. 2. That no part of the sums herein or hereafter appropriated for the Department of Agriculture shall be paid to any person, as additional salary or compensation, receiving at the same time other compensation as an officer or employé of the Government; and in addition to the proper vouchers and accounts for the sums appropriated for the said Department to be furnished to the accounting officers of the Treasury, the Commissioner of Agriculture shall, at the commencement of each regular session, present to Congress a detailed statement of the expenditures of all appropriations for said Department for the last preceding fiscal year."

Mr. DUNNELL. What motion is now pending?

The SPEAKER. The gentleman from Nebraska [Mr. VALENTINE] reports back this bill with the Senate amendments, and is directed by the Committee on Agriculture to ask that the House non-concur in all the amendments.

Mr. DUNNELL. Let the amendments be printed. I am unwilling to have them passed upon except in Committee of the Whole.

Mr. VALENTINE. The bill has been reprinted with the Senate amendments.

Mr. DUNNELL. I desire that they shall be considered in Committee of the Whole House on the state of the Union.

Mr. VALENTINE. I claim that it is too late to make that point now.

Mr. DUNNELL. I insist that I am in time. I am not willing that all these amendments shall go to a committee of conference without being considered in Committee of the Whole.

Mr. ATKINS. Is there a detailed statement showing what these amendments are?

The SPEAKER. There is none that the Chair knows of. This is not a conference report, but a report from the Committee on Agriculture of the House bill with the Senate amendments. The Chair thinks the point of the gentleman from Minnesota [Mr. DUNNELL] is too late, the House having entered upon the consideration of these amendments.

Mr. DUNNELL. We have not entered upon the consideration of the amendments at all. We have simply heard read the report of the Committee on Agriculture.

The SPEAKER. There is no report from the Committee on Agriculture other than the bill and the amendments.

Mr. DUNNELL. The amendments are very many and very important.

The SPEAKER. The gentleman has the right to insist upon separate votes on these amendments; but the Chair thinks it is too late for him to make the point that the amendments must receive their first consideration in the Committee of the Whole House. The question is upon non-concurring in the amendments of the Senate to this bill.

The question was taken; and the amendments of the Senate were not concurred in.

Mr. VALENTINE moved to reconsider the vote by which the amendments of the Senate were not concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOWMAN. I call for the regular order.

Mr. CALKINS. I rise to a question of the highest privilege, and call up the contested election case of Lynch *vs.* Chalmers.

Mr. SPRINGER. I ask the gentleman to yield to me to submit a resolution for reference to the Committee on Accounts.

Mr. CALKINS. I will yield for that purpose.

CLERK OF JOINT COMMITTEE ON PRINTING.

Mr. SPRINGER, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on Accounts:

Resolved, That the Committee on Appropriations be, and are hereby, respectfully requested to make provision in the legislative, executive, and judicial bill for the ensuing fiscal year for the clerk of the Joint Committee on Printing as one of the annual clerks provided for in that bill, at the same compensation as is now allowed to the clerk of printing records of the Senate.

ORDER OF BUSINESS.

Mr. BOWMAN. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. BOWMAN. I desire to call up the special order for this day, being the Court of Claims bill, and would ask the Chair if that does not take precedence of the business called up by the gentleman from Indiana, [Mr. CALKINS.] It is not only unfinished business, but I call to the attention of the Speaker the fact that it is a special order and comes up in that form, which under the ruling of the Chair it seems to me entitles it to precedence until finished.

The SPEAKER. The Chair thinks the bill, which was a special order and is unfinished business, is not in order at this time, and would be in order only after the morning hour; and it would not then be in order as against the question of high privilege called up by the gentleman from Indiana, [Mr. CALKINS,] being the contested-election case of Lynch *vs.* Chalmers.

Mr. BOWMAN. I would ask whether because it is unfinished business it therefore loses its right as a special order, as an unfinished assignment?

The SPEAKER. It does not lose any rights.

Mr. TOWNSHEND, of Illinois. What has become of the morning hour?

The SPEAKER. The morning hour has not yet been reached.

Mr. TOWNSHEND, of Illinois. Is not that in order now?

The SPEAKER. It would be in order if nothing of higher privilege intervened. The Chair holds that the contested-election case takes precedence of the morning hour.

Mr. BOWMAN. I will raise the question of consideration against the contested-election case, giving notice to the House that I desire to obtain a vote on the Court of Claims bill, which is all that remains to be done with it.

Mr. ROBESON. Can the gentleman raise a question of consideration now in favor of something that is not in order until after the morning hour?

The SPEAKER. The gentleman from Indiana [Mr. CALKINS] calls up the contested-election case of Lynch *vs.* Chalmers. The gentleman from Massachusetts [Mr. BOWMAN] indicates his purpose to raise the question of consideration.

Mr. BOWMAN. I will withdraw that.

Mr. CALKINS. I will yield to my colleague on the Committee on Elections, the gentleman from Tennessee, [Mr. PETTIBONE,] who will open the case.

Mr. BINGHAM. On the 17th instant the House set apart to-day for the consideration of bills from the Committee on the Post-Office and Post-Roads, subject to the qualification that House bill No. 4668 should be excluded from consideration. That order was to take effect after the morning hour of to-day. By the recognition of the Chair the gentleman from Indiana [Mr. CALKINS] calls up a case of higher privilege, which if considered by the House at this time I presume will preclude any morning hour for to-day. I therefore ask the gentleman from Indiana [Mr. CALKINS] to yield to me to submit a resolution indicating another day for the consideration of the business of the Post-Office Committee.

The SPEAKER. Is there objection?

Mr. HAMMOND, of Georgia. I object.

Mr. TOWNSHEND, of Illinois. I desire to inquire of the chairman of the Committee on Ways and Means [Mr. KELLEY] or of some one having charge of the tariff-commission bill, whether that bill has been abandoned or whether it is the intention to call it up to-day?

Mr. RANDALL. I desire to ask what the gentleman from Pennsylvania [Mr. BINGHAM] in charge of the bills from the Post-Office Committee proposes to do; whether he will raise the question of consideration on the contested-election case so as to proceed with that business to-day?

The SPEAKER. That is not a parliamentary inquiry.

Mr. RANDALL. I am putting the question to my colleague [Mr. BINGHAM] through the Chair.

Mr. BINGHAM. The business of the Post-Office Committee was made a special order for to-day after the morning hour, and it cannot come up unless we have a morning hour.

Mr. RANDALL. Then I raise the question of consideration against the contested-election case.

Mr. KELLEY. I ask the gentleman in charge of the election case whether an arrangement cannot be made by which the business of the House may proceed, and the discussion of the tariff-commission bill be brought to a conclusion without the consumption of time daily by the antagonism between the Committee on Elections and the Committee on Ways and Means?

Mr. RANDALL. We cannot hear the statement of my colleague, [Mr. KELLEY.]

Mr. KELLEY. I say, Mr. Speaker, that I have no desire to antagonize the Committee on Elections, but I most earnestly desire that the tariff-commission bill may be considered—considered fully, and the debate terminated. In order to arrive at an arrangement, I ask the gentleman representing the Committee on Elections to say what he proposes to do, and I shall then ask the House to sanction an arrangement by which we may know whether the tariff-commission bill is ever to be further considered, and if so, when and how fully.

Mr. TOWNSHEND, of Illinois. That is right.

Mr. CALKINS. Before I answer the question of the gentleman from Pennsylvania, [Mr. KELLEY,] I wish to inquire of the gentleman from Ohio, [Mr. ATHERTON,] my colleague on the Committee on Elections, who has charge of the report of the minority, how much time is deemed necessary on their side for discussion. I wish an answer so that I may be able to reply to the gentleman from Pennsylvania, the chairman of the Ways and Means Committee.

Mr. ATHERTON. I am inclined to think that four or five hours on our side would be in the neighborhood of what we shall want.

Mr. CALKINS. Then I will say to the gentleman from Pennsylvania that perhaps in two days we can dispose of this case; and I shall then feel at liberty to let the tariff-commission bill proceed without further antagonism. This is all I can say.

Mr. ATHERTON. Why would it not be well to have an understanding with members of the Committee on Ways and Means as to how much time they may desire to finish the discussion of the tariff-commission bill, and then have it understood that without any further effort at delay we shall take up this case and go through with it? Let them finish their business and then let us finish ours.

Mr. KELLEY. I cannot tell what amount of time we may require; for I do not know how many gentlemen desire to speak. I do know that three members of the Committee on Ways and Means, the gentleman from Illinois, [Mr. MORRISON,] the gentleman from Virginia, [Mr. TUCKER,] and my distinguished colleague, [Mr. RANDALL,] have prepared themselves to speak and desire to do so. I hear that other gentlemen are also prepared. This I am ready to say: I shall be grateful to the House if it will agree that when this election case is disposed of in any way—if it be not taken up, or if it should come up and be disposed of—we shall then immediately proceed with the discussion of the tariff-commission bill until it shall be terminated. The House can terminate it at any time. I would ask further that the discussion proceed daily until five o'clock, and that the House take a recess to continue the discussion in the evening, so as to bring the debate to a conclusion as soon as possible.

Mr. HOOKER. I rise to a point of order. I hope that we shall proceed in the regular way, and that we shall not discuss the question as to what time is to be occupied upon any particular measure until we know whether that measure is up for consideration.

Mr. CALKINS. The suggestion is a good one; and as the question of consideration is raised, I ask a vote upon it at once, without further discussion.

The SPEAKER. Does the gentleman from Pennsylvania insist on the question of consideration?

Mr. RANDALL. If we go on with the contested-election case, it shuts out both the tariff-commission bill and the business of the Post Office Committee, which was assigned for to-day. I insist on the question of consideration.

The SPEAKER. The question is, Will the House proceed to the consideration of the contested election case of Lynch *vs.* Chalmers?

The question was taken; and there were—ayes 99, noes 84.

Mr. RANDALL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 115, nays 98, not voting 78; as follows:

YEAS—115.

Aldrich,	Dunnell,	McClure,	Shallenberger,
Anderson,	Dwight,	McCoid,	Sherwin,
Barr,	Farwell, Sewell S.	Miller,	Skinner,
Bayne,	Ford,	Moore,	Smith, A. Herr
Bingham,	George,	March,	Smith, Dietrich C.
Bowman,	Godshalk,	Neal,	Smith, J. Hyatt
Brewer,	Grout,	Norcross,	Spaulding,
Briggs,	Guenther,	O'Neill,	Spooner,
Browne,	Hall,	Orth,	Steele,
Brumm,	Harmer,	Pacheco,	Stone,
Buck,	Harris, Benj. W.	Page,	Strait,
Burrows, Julius C.	Haseltine,	Parker,	Taylor,
Burrows, Jos. H.	Haskell,	Paul,	Thompson, Wm. G.
Calkins,	Hawk,	Payson,	Townsend, Amos
Campbell,	Hazelton,	Peelle,	Tyler,
Candler,	Heilman,	Peirce,	Updegraff, J. T.
Cannon,	Hill,	Pettibone,	Updegraff, Thomas
Carpenter,	Horr,	Pound,	Valentine,
Caswell,	Hubbs,	Prescott,	Van Aernam,
Chace,	Humphrey,	Ranney,	Van Horn,
Crapo,	Jones, George W.	Reed,	Wadsworth,
Cullen,	Jorgensen,	Rice, Theron M.	Walker,
Darrell,	Joyce,	Rich,	Ward,
Davis, George R.	Kelley,	Ritchie,	Washburn,
Dawes,	Lacey,	Robeson,	Watson,
Deering,	Lewis,	Robinson, Geo. D.	Webber,
De Motte,	Lindsey,	Robinson, James S.	White,
Dezendorf,	Lord,	Russell,	Williams, Chas. G.
Dingley,	Mason,	Scranton,	

NAYS—98.

Aiken,	Curtin,	House,	Scales,
Armfield,	Davidson,	Hutchins,	Shackelford,
Atherton,	Denster,	Jones, James K.	Simonton,
Atkins,	Dibble,	Kenna,	Singleton, Otho R.
Barbour,	Dowd,	King,	Sparks,
Beltzhoover,	Dunn,	Klotz,	Springer,
Berry,	Ellis,	Ladd,	Stockslager,
Bland,	Ermentrout,	Latham,	Talbott,
Bliss,	Evins,	Manning,	Thompson, P. B.
Bragg,	Finley,	Matson,	Tillman,
Buchanan,	Flower,	McMillin,	Townshend, R. W.
Buckner,	Forney,	Mills,	Tucker,
Cabell,	Garrison,	Money,	Turner, Henry G.
Caldwell,	Gibson,	Morrison,	Turner, Oscar
Carlisle,	Gunter,	Mosgrove,	Upson,
Cassidy,	Hammond, N. J.	Moulton,	Vance,
Clardy,	Hardenbergh,	Mutchler,	Warner,
Clements,	Hardy,	Oates,	Wellborn,
Colerick,	Hatch,	Phelps,	Wheeler,
Converse,	Herbert,	Phister,	Whitthorne,
Cook,	Herndon,	Randall,	Williams, Thomas
Cox, William R.	Hewitt, Abram S.	Reagan,	Wise, George D.
Covington,	Hewitt, G. W.	Richardson, Jno. S.	Wise, Morgan R.
Cravens,	Holman,	Robertson,	
Culberson,	Hooker,	Robinson, Wm. E.	

NOT VOTING—78.

Beach,	Errett,	Knott,	Ryan,
Belford,	Farwell, Chas. B.	Leedom,	Scoville,
Belmont,	Fisher,	Le Fevre,	Shelley,
Black,	Frost,	Marsh,	Shultz,
Blackburn,	Fulkerson,	Martin,	Singleton, Jas. W.
Blanchard,	Geddes,	McCook,	Speer,
Blount,	Hammond, John	McKenzie,	Stephens,
Butterworth,	Harris, Henry S.	McKinley,	Thomas,
Camp,	Henderson,	McLane,	Urner,
Chalmers,	Hepburn,	Miles,	Van Voorhis,
Chapman,	Hiscock,	Morey,	Wait,
Clark,	Hoblitzell,	Morse,	West,
Cobb,	Hoge,	Muldrow,	Willis,
Cornell,	Houk,	Nolan,	Willits,
Cox, Samuel S.	Hubbell,	Ray,	Wilson,
Crowley,	Jacobs,	Rice, John B.	Wood, Benjamin
Cutts,	Jadwin,	Rice, William W.	Wood, Walter A.
Davis, Lowndes H.	Jones, Phineas	Richardson, D. P.	Young,
Dibrell,	Kasson,	Rosecrans,	
Dugro,	Ketcham,	Ross,	

So the House agreed to consider the contested-election case.

The following pairs were announced from the Clerk's desk:

Mr. CORNELL with Mr. BLACK.

Mr. RICE, of Massachusetts, with Mr. WILSON.

Mr. WEST with Mr. HARRIS, of New Jersey.

Mr. FARWELL, of Illinois, with Mr. MARTIN.

Mr. HISCOCK with Mr. BLACKBURN.

Mr. WAIT with Mr. HOGE.

Mr. WILLITS with Mr. KNOTT.

Mr. MULDROW with Mr. MILES.

Mr. LEEDOM with Mr. SHULTZ.

Mr. GEDDES with Mr. RICE of Ohio.

Mr. MOREY with Mr. FROST.

Mr. CROWLEY with Mr. NOLAN.

Mr. FISHER with Mr. COBB.

Mr. WALTER A. WOOD with Mr. BENJAMIN WOOD.

Mr. HENDERSON with Mr. SINGLETON of Illinois.

Mr. MARSH with Mr. MCKENZIE.

Mr. VAN VOORHIS with Mr. BEACH.

Mr. RYAN with Mr. LE FEVRE.

Mr. HOUK with Mr. DIBRELL.

Mr. HUBBELL with Mr. STEPHENS.

Mr. HOBLITZELL with Mr. URNER.

Mr. MCLANE with Mr. MCKINLEY.

Mr. TOWNSEND, of Ohio. I move, Mr. Speaker, to dispense with the reading of the names.

Mr. HAMMOND, of Georgia. I object.

Mr. CALKINS. Do I understand there is objection to dispensing with the reading of the names?

The SPEAKER. Yes, the gentleman from Georgia objects.

The vote was then announced as above recorded.

Mr. CALKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTESTED-ELECTION CASE OF LYNCH VS. CHALMERS.

The SPEAKER. The House has resolved to proceed with the consideration of the contested-election case of Lynch *vs.* Chalmers.

Mr. ATHERTON. I ask for the reading both of the majority and minority reports.

The SPEAKER. The majority report of the Committee on Elections is up for consideration. The other paper contains the mere views of the minority.

Mr. ATHERTON. I ask to have the views of the minority read, and in all fairness I hope it will not be objected to.

The SPEAKER. The Chair thinks the gentleman is entitled to the reading of the report of the majority, but not to the reading of the views of the minority.

Mr. ATHERTON. Can we not have universal consent to have both reports read.

Mr. CALKINS. It is so unusual in these contested-election cases that I cannot consent. I should like to consent, in order to accommodate the gentleman from Ohio.

Mr. ATHERTON. I am appealing to the generosity of the other side of this House to permit the reading of the views of the minority, as they are a statement of our case.

Mr. CALKINS. I am willing to agree to granting anything that is usual.

Mr. ATHERTON. After the reading of the majority report I give notice I shall ask for the reading of the minority report, and I hope in all fairness it will be granted to me, as I never have asked anything since I have been a member of the House.

Mr. CALKINS. Whatever right the gentleman has I know he will take care of, but whatever is not his right and is unusual I must object to.

Mr. ATHERTON. I am throwing myself upon the generosity of my friends on the other side.

Mr. CALKINS. I am willing to compromise by having neither read.

Mr. ATHERTON. Very well; let us have the report of the majority read now.

The SPEAKER. There is no rule which gives the gentleman that right except when the House comes to vote on the proposition; and then it is a mere matter of practice, and the Chair thinks it is a good practice.

Mr. CALKINS. That question does not arise now.

Mr. MOULTON. I would inquire whether the minority report is not entitled to as much consideration as the majority report so far as the reading is concerned.

The SPEAKER. The gentleman speaks of the views of the minority as a minority report. It is not a report in the proper parliamentary sense of the word, but simply the views of the minority which are usually submitted and ordered to be printed with the majority report. But it is not a report according to the strict use of the term, nor a report presented for consideration which entitles it to be read at any time on the demand of any member. How far the House may consider the views of the minority when the question of voting arises the Chair is of course unable to indicate.

Mr. REED. Does the Chair decide that the report of the majority must be read at the request of a member?

The SPEAKER. The Chair states that the practice has been to permit the reading of a report on the demand of any member. The Chair does not recall any rule, however, which requires it; although the Chair believes it to be the right of a member to have a report read on which he is called to vote.

Mr. REED. Would an objection be good against the reading of the report?

The SPEAKER. The Chair thinks not.

Mr. REED. It seems to be a sheer waste of time.

The SPEAKER. That is a matter with the members themselves.

Mr. REED. Every member is presumed to have read the report.

Mr. HASKELL. If the gentleman from Tennessee, [Mr. PETTIBONE,] who was on the floor, asserts his right to the time I do not see how he could be taken off the floor upon a request to have the report read.

The SPEAKER. The gentleman from Tennessee was not on the floor at the time the request was made.

Mr. PAGE. Is that the right of a member to have a report read?

The SPEAKER. It is the practice of the House at the request of any member to allow the report to be read in any case on which the House is called to vote.

Mr. DUNNELL. Does the gentleman from Ohio insist upon the reading of the report?

Mr. ATHERTON. I do.

Mr. REED. Has he the right under the rules of the House to have it read? This is a long report; and if he has not the right, inasmuch as the reading will simply occupy a great deal of unnecessary time, I object to it.

The SPEAKER. As the Chair has already stated, the practice has been to allow the reading of a report upon the request of a member. It is held to be the right of any member to have the report read upon any question on which he is called to vote.

Mr. REED. Well, when he gets so much information from the speeches it does seem to be really superfluous to take up so much time as this report will take up.

The SPEAKER. The Clerk will proceed to read the report.

The report was read, as follows:

Your committee, to whom was referred the above-entitled contested-election case, having had the same under consideration, beg leave to report:

That the contest in this case was commenced by contestant, and the following facts were set out by him in his notice as the grounds on which he relied to maintain it:

First. He alleges, as a fact, that he received the highest number of legal votes cast in the sixth Congressional district in Mississippi for Representative in the Forty-seventh Congress.

Second. That the true result and return was suppressed and made to appear the other way by reason of frauds and violation of law, more particularly set forth as follows:

a. In Adams County, city of Natchez, Jefferson Hotel and Washington precincts, Republican voters were purposely and fraudulently hindered and delayed in voting until the time arrived for the closing of the polls, leaving several hundred voters standing around the polls, anxiously waiting to vote, of which privilege they were deprived by a systematic course of delay set on foot and carried out by prominent Democrats and the election officers.

b. That in Washington, Kingston, Pine Ridge, and Beverly precincts the ballot-boxes were tampered with and stuffed, and the further violations of the law in refusing to allow the United States supervisors to be present and witness the counting of the votes after the election closed; and at Palestine and Dead Man's Bend precincts, in said county, the election officers fraudulently and unlawfully refused to count the votes polled, whereby 214 votes majority in those precincts were lost to contestant.

c. Jefferson County.—At Rodney precinct, where the contestant received 145 majority, the officer in charge of the returns on his way to the county seat with the papers declaring the result of the election was intercepted, the returns forcibly taken from him and destroyed, whereby that result was lost to the contestant.

d. Claiborne County.—At the precinct of Grand Gulf the United States supervisor of elections was refused the right to be present to witness the count, and the ballot-box was stuffed.

e. Warren County.—That the commissioners of election threw out 2,029 lawful votes cast for the contestant, and refused to count them.

f. Issaquena County.—That the commissioners of election threw out 785 lawful votes cast for the contestant, and refused to count them.

g. Washington County.—At the voting precincts of Stoneville, Refuge, and Lake Washington, 170 votes for the contestant were thrown out. At Greenville, Robb, and Stone precincts the ballot-boxes were taken away and counted in the absence of the United States supervisor of election, and without his consent and against his protest. At the Court-House precinct, as well as at the said precincts of Robb and Stone, ballot-boxes were corruptly stuffed.

h. Bolivar County.—At the precincts of Australia, Holmes Lake, Bolivar Landing, and Glencoe, 678 legal votes for the contestant were excluded by the officers of election without cause.

i. Coahoma County.—That the officers of election excluded and refused to count any of the votes polled in any of the various precincts of that county, except Friar's Point, whereby 700 votes were lost to the contestant.

To this notice the contestee, answering, denied the allegations of fraud in Adams County, and denied specially the other allegations of contestant's notice relative to the various precincts therein, except Palestine and Dead Man's Bend. In those two precincts the contestee alleged that the ballots were rejected strictly in accordance with the laws of Mississippi.

Second. As to Rodney precinct, the contestee admits that there were 247 votes cast for the contestant and 92 for the contestee, and that they were destroyed, but that they ought not to be counted unless it is shown they were in accordance with section 137 of the Revised Code of Mississippi of 1880.

Third. As to Claiborne County, it is denied that the boxes were stuffed, or that the United States supervisor was refused permission to be present at the counting of the ballots.

Fourth. As to the votes in Warren County, the contestee alleges, in answer specially, that 628 of the 2,029 ballots were not counted for the following reasons: *(a)* that at Bovenia precinct 174 ballots were too wide; *(b)* that at the fourth ward precinct, city of Vicksburgh, 214 ballots had marks upon them; *(c)* that at Pryor's Church precinct 240 ballots had marks upon them; *(d)* that at the other precincts in said county there were 1,821 ballots marked in violation of law and were not counted, which makes a total of 2,049, of which 2,029 had on them the name of contestant and 20 the name of contestee.

Fifth. As to Issaquena County, the contestee alleges that the officers of election rejected the returns made from Skipworth, Ben Lomond, Ingomar, and Hays's Landing precincts, because the officers of election did not comply with the law, and that the ballots and tally-list did not correspond by from 40 to 60 votes, and that at Hays's Landing precinct, in addition to the above grounds, the whole crew of a steamboat landed there that day and voted without being registered.

Sixth. As to Washington County, a general denial is put in, and in addition contestee alleges that the Stoneville box was rejected because the officers did not comply with section 139 of the Code of Mississippi, and that the box had been taken out of the sight and control of the officers by one Johnson, a partisan of contestant. The Lake Washington box was not counted because the ballots were not sent up to the commissioners of election, but the statement signed by the clerks and sent up showed a majority of 116 for contestee.

Seventh. As to Bolivar County, contestee makes a certificate signed by the commissioners of election of that county a part of his answer, and affirms, as we understand it, the legality of their action. They report that they threw out the Australia precinct box—59 Democratic and 192 Republican votes—

"Because the returns were not certified to by the inspectors or the clerks. We have thrown out the Holmes Lake precinct because the box was not opened nor the ballots counted by the inspectors and numbered by the clerks, and no returns or tally-sheet made.

"We have thrown out the Bolivar precinct—45 Democratic and 311 Republican votes—because there was no certified return from the inspectors and clerks. The tally-sheets sent in the box show the names of the electors of the Democratic and Republican parties, of James R. Chalmers, John R. Lynch, G. B. Lancaster, M. Rolons, James Winters, ——— Fleming, and James White, but does not show for what office they were voted for. The tally is kept on four different sheets of paper. The total can only be guessed at, but not ascertained correctly.

"We have rejected the Glencoe precinct vote—27 Democratic and 233 Republican votes—because the vote was counted out in part by all the inspectors and clerks and then discontinued until next day, when the count was finished by one inspector and one clerk, and a very imperfect tally-sheet and return sent in by these two not certified to.

"JOHN H. JARNAGIN,
"RILEY ROLLINS,
"W. A. YERGER,
"*Commissioners of Election.*"

Eighth. As to Coahoma County the contestee denies the allegations of contestant and affirms that the acts of the election officers were strictly in accordance with the laws of Mississippi. Appended to contestee's answer the following notice is addressed to the contestant:

"NOTICE TO HON. J. R. LYNCH.

"And now, having answered all of your specifications, you will take notice that I will insist and endeavor to prove and maintain:

"1. That you did not receive a single legal vote in the sixth Congressional district of Mississippi for member to the Forty-seventh Congress of the United States; that all your tickets were marked so that they could be, and were, easily distinguished by persons who could not read from the Democratic ticket and also from the regular Republican ticket printed at Jackson, Mississippi, under the supervision of the executive committee of the Republican party, and that your tickets were illegal because not such as is prescribed by section 137 of the Revised Statutes of Mississippi, 1880.

"2. That these marked tickets were examined and approved by you before they were circulated, and that you paid four dollars per thousand for these marked tickets when you could have procured from the Republican executive committee legal tickets for your district for one dollar per thousand.

"3. That you made false representation to the secretary of state of Mississippi about the printing of your tickets when attempting to prevent him from issuing to me a certificate of election.

"4. That your friends and partisans, in violation of law and contrary to the

very essence of voting by ballot, stood at the polls and kept a list of the voters and how each voted as the ballots were handed in.

"5. That at Stoneville and Refuge precinct in Washington County, your friends and partisans, some of whom were United States supervisors of election, browbeat, bullied, and intimidated a number of colored voters who desired to vote for me, and prevented them from so voting.

"I will insist and maintain that you were unpopular with your own party for many reasons, and especially because you opposed the nomination of General Grant for President, and that a large number of leading colored Republicans supported me on the stump and at the polls; that I was elected, and that you were not.

"JAS. R. CHALMERS."

LEGAL PROCEEDINGS.

It appears from the record that on the 16th day of November, 1880, the contestant went before Hon. J. A. P. Campbell, one of the supreme judges of the court of Mississippi, and acting as chancellor of the chancery court of Hinds County, Mississippi, and tendered his sworn bill of complaint, in and by which he sought to enjoin Hon. Henry C. Meyers, secretary of state, from declaring the contestee duly elected a Representative in the Forty-seventh Congress from the sixth Congressional district of Mississippi. Among other things in his bill of complaint the contestant alleges that the returns filed in the secretary of state's office from the several counties showed that he received the votes following:

Adams County	1,194
Bolivar County	1,715
Claiborne County	288
Coahoma County	1,112
Issaquena County	1,118
Jefferson County	386
Quitman County	83
Sharkey County	175
Tunica County	506
Warren County	2,086
Washington County	1,298
Wilkinson County	814
Total number of votes	10,775

And that the contestee received the following votes:

Adams County	1,419
Bolivar County	403
Claiborne County	1,061
Coahoma County	553
Issaquena County	173
Jefferson County	1,043
Quitman County	153
Sharkey County	484
Tunica County	239
Warren County	1,034
Washington County	1,963
Wilkinson County	1,691
Total number of votes	10,216

He also alleges that there was deducted from the votes thus returned for him in the counties of—

Adams	316
Bolivar	736
Coahoma	760
Issaquena	785
Jefferson	250
Warren	2,029
Washington	526
Total votes rejected	5,402

And from the vote of said Chalmers in the counties of—

Adams	32
Bolivar	102
Coahoma	328
Issaquena	114
Jefferson	92
Warren	20
Washington	356
Total votes rejected	1,044

And he claimed that the deductions made from his vote were unauthorized and unlawful, and he asked the intervention of the court to prevent the issuing of a certificate of election to the contestee.

Judge Campbell made the following indorsement on the bill of complaint:

"I decline to grant the injunction prayed for in the annexed bill, because the House of Representatives of the Congress of the United States is the exclusive judge 'of the elections, returns, and qualifications of its own members,' (made so by the Constitution of the United States,) and a decision of the question as to the election of a member of Congress by any other tribunal would not be authoritative or final. Besides this, the chancery court is not authorized to decide contested elections, and whatever its right, if any, to enjoin in aid of a contest inaugurated in a court of the State, which such court could lawfully determine, it appears to be clear that interference by injunction to prevent an executive officer from performing a duty prescribed by law, in reference to an election as to which no court can decide, so as to conclude any body or thing, would be without the semblance of right.

"J. A. P. CAMPBELL,
"*One of the Judges of the Supreme Court of Mississippi.*

"JACKSON, MISS., *November* 17, 1880."

By the Revised Code (1880) of Mississippi, the following provision is made relative to the writ of *mandamus*:

"SEC. 2542. On the petition of the State by its attorney-general, or a district attorney, in any matter affecting the public interest, or on petition of any private person who is interested, the writ of *mandamus* shall be issued by a circuit court commanding any inferior tribunal, corporation, board, officer, or person to do or not to do an act, the performance or omission of which the law especially enjoins as a duty resulting from an office, trust, or station, and where there is not a plain, adequate, and speedy remedy in the ordinary course of law."

Under this section the district attorney of Tunica County filed his petition in the circuit court of that county against the election commissioners to compel them to reassemble and reject 506 ballots which had been counted for the contestant, Mr. Lynch, and which were claimed to be illegal because they contained marks and devices in violation of the election laws. The petition was denied, and an appeal was taken to the supreme court of the State. The case is reported in 58 Mississippi, 502, and is as follows:

"IRA D. OGLESBY, DISTRICT ATTORNEY,
"*vs.*
"J. I. SIGIMAN ET AL., COMMISSIONERS OF ELECTION.

"Appeal from circuit court, Tunica County, Hon. Samuel Powell, judge.

"On the 9th of December, 1880, Ira D. Oglesby, district attorney for the third judicial district, filed a petition in the circuit court of Tunica County for a mandamus to compel the commissioners of election in that county to reassemble and recanvass the returns made to them by the inspectors of election of the votes cast at the election on the 2d of November, 1880, for a member of Congress from the sixth Congressional district, and to make a statement of the result of such recanvass to the secretary of state within a time to be prescribed by the court. The petition alleged that the commissioners of election had counted 506 ballots which were illegal, because bearing certain marks and devices prohibited by the statute on elections, and prayed that in the recanvass they be required to reject such illegal ballots. The petition was filed under section 2542 of the Code of 1880, and stated as jurisdictional facts that the public is deeply interested in getting a construction of the election law of this State as to the duties of the inspectors and commissioners, concerning which conflicting views are entertained; that these officers are liable to criminal prosecutions, under the laws of the State and of the United States, for any omission or violation of their duties; and that the commissioners of Warren County have already been indicted and arrested for their acts under the election law. A *fac-simile* of the ballots alleged to have been illegally counted was attached to the petition, and is as follows:

REPUBLICAN NATIONAL TICKET.

For President,
JAMES A. GARFIELD.

For Vice-President,
CHESTER A. ARTHUR.

For Electors for President and Vice-President.
Hon. WILLIAM R. SPEARS,
Hon. R. W. FLOURNOY,
Dr. J. M. BYNUM,
Hon. J. T. SIETTLE,
Captain M. K. MISTER, jr.,
Dr. R. H. MONTGOMERY,
Judge R. H. CUNY,
Hon. CHARLES W. CLARKE,

For Member of the House of Representatives from the 6th Congressional District,
JOHN R. LYNCH.

"The writ of mandamus was issued, and the commissioners of election appeared and demurred to the petition on the following grounds:

"First. That they are merely ministerial officers, and have no power to reject ballots that have been counted by the inspectors.

"Second. That the marks on the ballots for which it is claimed they should be rejected are mere printers' dashes, and are not such distinguishing marks as were contemplated by the statute.

"The court sustained the demurrer and dismissed the petition, and the petitioners appealed to this court. The provisions of the election law, code 1880, bearing directly upon the questions involved in this case, are these:

"SEC. 137. All ballots shall be written or printed in black ink, with a space not less than one-fifth of an inch between each name, on plain, white printing newspaper, not more than two and one-half, nor less than two and one-fourth inches wide, without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket; but this shall not prohibit the erasure, correction, or insertion of any name by pencil-mark or ink upon the face of the ballot; and a ticket different from that herein prescribed shall not be received or counted.

"SEC. 138. When the results shall have been ascertained by the inspectors, they, or one of them, or some fit person designated by them, shall by twelve o'clock noon of the second day after the election, deliver to the commissioners of election, at the court-house of the county, a statement of the whole number of votes given for each person and for what office, and the said commissioners of election shall canvass the returns so made to them, and shall ascertain and disclose the results, and shall, within ten days after the day of said election, deliver a certificate of his election to the person having the greatest number of votes for any office, &c.

"SEC. 139. The statement of the result of the election at their precincts shall be certified and signed by the inspectors and clerks, and the poll-book, tally-list, list of voters, ballot-boxes, and ballots shall be delivered as above required to the commissioners of election.

"SEC. 140. The commissioners of election shall, within ten days after the election, transmit to the secretary of state, to be filed in his office, a statement of the whole number of votes given in their county for each candidate voted for, for any office at such election, &c.

"The case was submitted by counsel without brief or oral argument.

"Campbell, J., delivered the opinion of the court:

"This case presents for adjudication three questions, namely:

"1. Whether the commissioners of election have the right to reject illegal ballots cast and counted by the inspectors of election and returned to them with the statement of the result at the precincts.

"2. Whether the ballots which the commissioners of election for Tunica County refused to reject should have been rejected by them as being illegal for having on them a device or mark by which one may be known or distinguished from another.

"3. Whether the action of the commissioners was final, or whether they may be required by mandamus to meet and act in the matter again, as the court may order.

"We think it clear that the commissioners of election have the right, which they should exercise, to reject ballots returned to them by the inspectors of the election as having been cast at any of the precincts of their county which show themselves on inspection to be illegal. The law devolves on the commissioners of election the duty to prepare for the election by revising the register of electors and the poll-books of the several precincts, so that they may show who are qualified electors, and by appointing inspectors and an officer to keep the peace at each voting-place and by distributing ballot-boxes and poll-books. The inspectors are to judge of the qualification of electors so as to receive or reject ballots offered by them, and when the polls are closed the ballots are to be counted and a statement of the whole number of votes given for each person and for what office is to be made, and this statement, certified and signed by inspectors and clerks, and the poll-book, tally-lists, list of voters, ballot-boxes, and ballots are to be promptly delivered to the commissioners of election at the court-house of the county, to the end that they may canvass the returns so made to them, and see that the result of the election at each precinct, as certified to them by the inspectors and clerks, is

correct according to the returns. They are to canvass the returns, that is, they are to scrutinize the acts of those engaged in holding the election at the different places of voting, as shown by the returns made to them in pursuance of law, and determine from such returns who received the greatest number of legal votes, and who is entitled to receive their certificate of election in cases in which they give such certificate, and what return they shall make to the secretary of state.

"It is true that commissioners of election are not judicial officers in the sense of trying causes, hearing evidence, and pronouncing final judgment between parties seeking office, but they are charged with the duty of canvassing returns, which includes the list of voters and list made in counting, and the ballots; and they must examine such returns, and declare the legal result, and certify it. If they find an error in computation, they must correct it. If they ascertain from the lists of voters that persons not registered, and therefore not legal voters, have cast ballots, they cannot correct that, because of inability to ascertain which ballots are legal and which not; but if they find in the ballot-boxes ballots declared by law to be illegal, and such as shall not be counted, it is their plain duty to reject them; and if in canvassing the returns they ascertain that the inspectors in disregard of law have counted ballots it says shall n. be counted, that error should be corrected by the canvassers as certainly as an error of arithmetic should be. The law makes the inspectors judges of the qualifications of electors from necessity, because they are to receive the ballots; and when received and deposited in the box, it is not supposed by the law to be possible to identify them, but the ballots show for themselves whether or not they conform to law, and there is neither difficulty nor uncertainty in rejecting ballots as being illegal, because of what is shown by them upon inspection. We think the effect of section 157 of the code of 1880 is to condemn as illegal, and not be received or counted, every ballot which has on its back or face any device or mark other than names of persons by which one ballot may be distinguished from another.

"This statute does not condemn devices or marks on the outside of a ballot merely, but clearly embraces the face of the ballot as well. That is apparent from the exception contained in it, and a device or mark on the face of the ballot is as much within what we suppose to have been the object of this provision as one on the outside or back of it. It is apparent from the provision that its object is not only to preserve secrecy as to what ballot an elector casts, which is the leading idea of statutes in some other States, which prohibit any device or mark on a ballot folded which betrays the secret of the voter; its object is to secure absolute uniformity as to the appearance of ballots, in order that intelligence may guide the electors in their selection, and not a mere device or mark by which ignorance may be captivated. The legislature was trying to prevent multitudes from 'being voted,' and being guided by a mere device or mark by which they should distinguish the ballots they were to use in the process without a knowledge of the names of persons for whom their ballots were being cast. Elections are a contrivance of government which prescribes who are electors and how they may express their will, and it is a legitimate exercise of power to prescribe the description of ballots which shall be used. Section 157 of the code of 1880 does this, and requires all ballots to be written or printed with black ink, with a minimum space between names, on plain white news printing paper of a certain width, and without any device or mark by which one ticket may be known or distinguished from another, &c.; and it declares that a ticket different from that prescribed shall not be received or counted. Considerations of policy dictated the description of ballots prescribed, and it was deemed of such importance to secure an observance of the requirement that it is declared that ballots not conforming to the description prescribed shall not be received or counted.

"It would have been competent to impose a penalty on the circulation or use of such ballots, but the means by which their use is sought to be prevented is the rejection of the ballot when offered or from the count. It is not penal for an elector to use a ballot differing from the legal pattern, but it shall not be counted, and thus he fails to express his will through such an instrumentality. If the device or mark is external, and observed by the inspectors, they should not receive the ballot. If it is received, and on being opened is discovered to be of the kind condemned as illegal, it is not to be counted; but if the inspectors count such ballots in disregard of law and their duty the commissioners of election, assembled at the court-house, with time and opportunity afforded to scrutinize and correct, as far as may be done by the data furnished by the face of the returns, without a resort to evidence *aliunde*, should reject, as the inspectors should have done, ballots which the law says shall not be counted. The only safe guide as to what ballots are illegal because of devices or marks is the statute. It excludes any mark or device by which one ticket may be known or distinguished from another. A distinction between ballots by means of devices or marks instead of by means of the names on them is what the statute aims to prevent, and we are not at liberty to confine the broad language of the statute to any particular description of devices or marks, for ingenuity would evade any such limit. The law should be enforced as written.

"There is no room for distinction between what is directory and what is mandatory, what is essential and what is not. The requirement that ballots shall be written or printed with black ink, with a space not less than one-fifth of an inch between names, seems to have been designed to guard against confusion and mistake as to names of the persons voted for for the different offices, while the requirement of plain white news printing paper of a designated width within narrow limits, and the exclusion of any device or mark by which one ticket may be known or distinguished from another, must have been intended to secure uniformity in the appearance of ballots, so that ignorance and blind party devotion might not be led to the adoption of ballots by the guidance of some mark and devices, as to which they were instructed by their leaders, and which, instead of intelligent comprehension of whom or what they are casting their ballots for, should determine their selection of ballots to be cast. It was well known that ballots are prepared beforehand under the direction of political managers, and are distributed for use among electors; and it was further known that captivating marks and devices on ballots, appealing to ignorance and blind party zeal, were a favorite resort as an electioneering device deemed legitimate and freely practiced with much effect; and the purpose of section 157 was to stop this pernicious practice, and to make the prohibition effective by prohibiting any mark or device by which one ticket can be distinguished from another, and by rejecting any ballot in violation of its requirements. It was assumed that ballots would still be prepared beforehand by party managers or persons interested in having them legal, and that, as all would be alike, the advantage to one party over another should not consist in tickets, but that ballots must be selected not by devices and marks, but because of the names to be voted for.

"We do not think that the commissioners of election can be required to meet and recanvass the returns of the election. Having made their canvass and declared the result, and transmitted a statement of it to the secretary of state, their connection with the returns ended. Any error committed by them is not to be corrected by requiring them to reassemble and correct it. The legality of their action may be the subject of judicial investigation in case a in which provision is made for contesting the election by an appeal to the courts of the State, but only in those cases.

"The House of Representatives of the Congress of the United States is the judge of the elections, returns, and qualifications of its own members, and the courts of the State have nothing to do with this matter.

"This case might properly have been disposed of without considering any of the questions made by the record except that last mentioned, but the attorney-general informed us from the bar that doubts exist as to the proper interpretation of the election law of 1880, and that criminal prosecutions have been instituted against the commissioners of elections of some of the counties for supposed violations of the law in reference to their duties, and we have complied with his request in declaring our view of the several questions presented by the record.

"Judgment affirmed. To be reported.

"Chalmers, C. J., took no part in the decision of this case.

"I. D. Oglesby, district attorney, *vs.* J. J. Sigman *et al.*

"I concur entirely in the opinion of the court, as drawn up by Judge Campbell. The duty to examine and reject illegal ballots rests on every officer or court required or authorized by law to count them. The statute prohibits the use of any mark or device on a ballot by which one 'ticket may be known or distinguished from another.' That the mark or device adopted is a mere printer's mark, commonly used for ornamentation, makes no difference. The statute prohibits any distinguishing mark whatever, and no court has a right to do away with the effect of the statute by holding that marks which are mere printer's ornaments may be used. It is wholly unimportant whether the marking on the ticket was the result of ignorance or a design to evade the statute. The inspectors and commissioners have no power to inquire into motives; nor has the statute made motives important. It condemns as illegal every ballot or ticket which is so marked 'that it may be known or distinguished from another.' The ticket used in this case and made an exhibit to the petition is thus marked, and should have been rejected. We have nothing to do with the policy or impolicy of the statute. The language is plain and does not admit of construction; and it is the duty of the courts and other officers to obey and enforce it in the sense the words clearly indicate.

"GEO3GE."

We have set out the decision of the Supreme Court in full, and before discussing it we might as well say here that so far as the views of the minority or the decisions of the Committee on Elections in former Congresses on this point is concerned (which have been referred to by the contestee) we fully concur in the views there expressed and adhere to them, with the exception of that part of the report in Yeates *vs.* Martin, in the Forty-sixth Congress, referring to marked ballots. We dissent from the view expressed by the majority of the committee in that case, as did also the minority of the Committee on Elections at the time it was rendered.

It is seriously contended by the contestee that the decision of the supreme court of Mississippi construing the sections of the election laws of that State ought to be followed by Congress, and that it is against the settled doctrine of both Congress and the Federal judiciary to disregard the decisions of State tribunals in construing their own local laws. This is too broadly asserted, and cannot be maintained. It is true that where a decision or a line of decisions has been made by the judiciary of the States, and those decisions have become a "rule of property," the Federal judiciary will follow them. Not to do so would continually place titles to property in jeopardy and disturb all business transactions. The rule as to all other questions is well stated in Township of Pine Grove *vs.* Talcott, (19 Wall., 666-'67,) as follows:

"It is insisted that the invalidity of the statute has been determined by two judgments of the supreme court of Michigan, and that we are bound to follow these adjudications. With all respect for the eminent tribunal by which the judgments were pronounced, we must be permitted to say that they are not satisfactory to our minds. * * * The question before us belongs to the domain of general jurisprudence. In this class of cases this court is not bound by the judgment of the courts of States where the cases arise; it must hear and determine for itself."

There is still another reason why Congress should not be bound by the decisions of State tribunals with regard to election laws unless such decisions are founded upon sound principles, and comport with reason and justice, which does not apply to the Federal judiciary, and it is this: every State election law is by the Constitution made a Federal law where Congress has failed to enact laws on that subject, and is adopted by Congress for the purpose of the election of its own members. To say that Congress shall be absolutely bound by State adjudications on the subject of the election of its own members is subversive of the constitutional provision that each House shall be the judge of the elections, qualifications, and returns of its own members, and is likewise inimical to the soundest principles of national unity. We cannot safely say that it is simply the duty of this House to register the decrees of State officials relative to the election of its own members.

The foundation of this contention is that if the Congress of the United States fails to enact election laws and makes use of State laws for its purposes, it adopts not only the laws thus enacted, but the judicial construction of them by the State courts as well.

We do not agree that this is the rule except as it may apply to a "positive statute of the State and the construction thereof, adopted by the local tribunals, and to rights and titles to things having a permanent locality, such as the rights and titles to real estate and other matters immovable and intra-territorial in their nature and character." (Swift *vs.* Tyson, 16 Peters, 1-18.) As to matters not local in their nature, the Supreme Court of the United States has uniformly held that the decisions of the State courts were not binding upon it.

Election laws are or may become vital to the existence and stability of the House of Representatives, and to hold it must shut itself up in the narrow limits of investigating solely the question as to whether an election has been conducted according to the State laws as interpreted by its own judiciary would be to yield at least a part of that prerogative conferred by the Constitution exclusively on the House itself.

It may be stated generally that the House of Representatives will, as a general rule, follow the interpretation given to a State law regulating a Congressional election by the supreme court of a State, where decisions have been continued and uniform in such a way and for such time as to become the fixed and settled law of a State. The processes of determining the election and all questions relating to the honesty and *bona fides* of ascertaining who received the highest number of legal votes must of necessity forever reside exclusively in the House.

Where decisions have been made for a sufficient length of time by State tribunals construing election laws so that it may be presumed that the people of the State knew what such interpretations were would furnish another good reason why Congress should adopt them in Congressional election cases. But this reason would be of little weight when the election had been held in good faith before such judicial construction had been made, and where there was a conflict of opinion respecting the true interpretation of a statute for the first time on trial.

There is still another cogent reason why this House may, and perhaps should, disregard the decisions of State courts, when such decisions are made in cases where there is confessedly no jurisdiction in the court to pass upon the question which it assumes to pass upon, or where the court assumes to pass upon questions not properly involved in the case before it.

We cannot express in better language the effect which *obiter dictum* in judicial opinions should have on future decisions than that employed by Mr. Justice Curtis in Carroll *vs.* Carroll, 16 Howard, 279-287. After considering the maxim at common law of *stare decisis*, the learned judge proceeds to discuss the thirty-fourth section of the judiciary act in connection with the maxim, and then says:

"And, therefore, this court and other courts organized under the common law, has never felt itself bound by any part of an opinion in any case which was not needful to the ascertainment of the right or title in question between the parties."

Citing some cases, he continues:

"And Mr. Chief-Justice Marshall said, 'It is a maxim not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which those expressions are used.' If they go beyond the case they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented. The reason of this maxim is obvious. The question actually before the court is investigated with care and considered in its full

extent; other principles which may serve to illustrate it are considered in their relations to the case decided, but their possible bearing on all other cases is seldom completely investigated. The cases of Ex parte Christy, 3 How., 292, and Jenness *et al. vs.* Peck, 7 How., 612, are an illustration of the rule that any opinion given here or elsewhere cannot be relied on as binding authority unless the case called for its expression. Its weight of reason must depend on what it contains."

There is abundance of authority running through all the reports of the judicial opinions of the various States, and also through the reports of the Supreme Court opinions of the United States, that they will not be bound by the *obiter* of their own decisions, much less that of other courts. And where there is a conflict in the decisions of a State supreme court, other State courts and the Supreme Court of the United States will adopt not the later, but that line of decisions which best speaks the reason and common sense of the proposition elucidated, except in those cases purely local, as pointed out in Swift *vs.* Tyson, *supra*.

Another suggestion in argument needs greater amplification than we can give it now, which is: that by adopting the machinery of the States to carry on Congressional elections this House stands in the nature of an appellate court to interpret these election laws so far as they relate to Congressional elections; that it ought not in this view to be bound by the decisions of the State courts at all, unless the reasons given by them are convincing to the judicial mind of the House while acting in the capacity of a court.

It need, however, hardly be added that a line of carefully considered cases in the States, in which courts have undoubted jurisdiction, so far as they would apply in principle, would go a long way toward settling a disputed point of construction in any State election law. In fact it may be said that it would probably be the duty of Congress to follow the settled doctrine thus established.

It now becomes necessary to review the opinion of the supreme court of Mississippi in Oglesby *vs.* Sigiman. As will be seen by an examination of the case, it was a mandamus proceeding, under a section of the Mississippi Code, to compel the commissioners of election in Tunica County to reassemble and recount the votes cast in that county on the 2d day of November, 1880, for member of Congress in the sixth Congressional district of Mississippi. The allegations, substantially, are that the election commissioners counted 566 ballots for the contestant in this case, Mr. Lynch, which had upon them marks and devices, and which were illegal under the provisions of section 137, 138, 139, and 140 of the Mississippi Code, and ought to have been rejected, instead of being counted as they were. A *fac-simile* of the ballots challenged is set out on the record, and on the ticket is found certain printers' dashes, which are similar to those challenged in the pending contest, and which are the distinguishing marks complained of. The Oglesby-Sigiman case "was submitted by counsel without brief or oral argument," as we are informed by the contestee's brief. The judge who delivered the principal opinion in this case closes the opinion of the court with this remark:

"The House of Representatives of the Congress of the United States is the judge of the elections, returns, and qualifications of its own members, and the courts of the State have nothing to do with this matter.

"This case might properly have been disposed of without considering any of the questions made by the record except that last mentioned, but the attorney-general informed us from the bar that doubts exist as to the proper interpretation of the election law of 1880, and that criminal prosecutions have been instituted against the commissioners of election of some of the counties for supposed violations of the law in reference to their duties, and we have complied with his request in declaring our view of the several questions presented by the record."

The point, as remarked by the judge, on which the case might have been disposed of, was as to whether the official life of the election commissioners was *functus officio*, and they were therefore incapable of being brought together to perform official duties; which, being determined in the affirmative, the court had nothing to do but to dismiss the petition, as it did when it refused to entertain a petition on behalf of Mr. Lynch, made on the 9th day of December, 1880, to prevent the governor of the State from issuing to the contestee a certificate of election as member of Congress from the sixth Congressional district of Mississippi, on the ground that it had no jurisdiction of the subject-matter of the action.

Had the Mississippi supreme court stopped here, the question of how far the decision of State courts in construing their own election laws ought to bind this House would be free from embarassment; but the court, after remarking upon its want of jurisdiction on the first two points, stated in the beginning of its opinion, and having disposed of the third on the ground that the official duties of the election officers were at an end and that they could not be reassembled, proceeded to construe the law relative to distinguishing marks, and decide what were such by the terms of the Mississippi Code so far as it could do so, the same being confessedly not before it.

It is sufficient to say that if the argument sustaining the conclusions reached by the Mississippi court met our views of the true construction of the law, a further analysis of the opinion would be unnecessary; but, as we cannot agree with the argument or the conclusion of the court, it becomes necessary to give some of the reasons why we do not concur and why we do not feel bound by it.

First. The court declared in terms it had no jurisdiction of the subject-matter embraced in the first and second grounds stated in the opinion. The third ground does not involve a construction of the law, and of course cannot be considered in determining the question raised in the pending contest.

It is with great hesitation and reluctance that we feel compelled to disagree with the eminent gentleman who concurred in the opinion, and we do so in no spirit of unjust criticism, for we would much prefer to follow rather than dissent from it. Had the opinion been rendered before the election of 1880, or become one of settled law of Mississippi, we do not say but that it would have had such weight with us that, though we might disagree with it in logic, we might feel compelled to follow it. We think that the decision is against the current of authority and contrary to the well-settled doctrine heretofore discussed; that it can be regarded as *obiter dictum* merely, and as the opinion of eminent gentlemen learned in the law, but not as a judicial construction of the code. It may happen, should the supreme court of Mississippi adhere in the future to the reasons advanced in this case, in cases where it has jurisdiction, that this House will adopt them; but until the happening of this event we cannot say that the reasons given in the Oglesby-Sigiman case are controlling.

The general doctrine in construing election statutes is that they are to be construed liberally as to the elector and strictly as to the officers who have duties to perform under them. A statute directing certain things to be done by election officers ought to be followed by them with a high degree of strictness, but duties to be performed by the electors, as declared by statute, are directions merely, which, if not observed, it is true, may in some instances defeat his ballot; but when there is an honest intention to obey the law, and the voter is not put in fault by any laches or negligence which he, by the use of reasonable diligence, might or could avoid, or where there is no palpable intention of violating the law apparent, in order to maintain the inestimable right of voting, courts have generally adopted the most liberal construction.

In an almost unbroken line of precedents, from the foundation of the Government, in all the States this rule has been declared. (McCrary on Elections, section 403; Kirk *vs.* Rhoades, 46 California, 398; Prince *vs.* Skillen, 71 Maine, 493; People *vs.* Kilduff, 15 Illinois, 492; Millholland *vs.* Bryant, 39 Indiana, 653; The State, *ex rel.*, *vs.* Adams, 65 Indiana, 393; Pradut *vs.* Ramsey, (5 Morris,) 47 Mississippi, 24, and many other cases not necessary to cite.)

In the present case we find, as a matter of fact, that there was no intentional violation of the law, and we further find, as a matter of fact, that every precaution was taken which a reasonably prudent man would be likely to take under similar circumstances; that the contestant in person applied to those whom he might reasonably believe to be well versed in the art of printing, and, with the law in their hands, discussed the question of distinguishing marks, and was assured that tickets would be prepared and printed strictly within the letter of the statute. After the tickets were printed the contestant was assured that they were lawful, and might be relied upon as not being obnoxious to the law. It does not appear that the printers' dashes which appear on the ticket were observed by the contestant or his friends, at least until the morning of the election, after they were all distributed, and it was too late to furnish other tickets; and when the dashes were discovered it was stoutly contended that they were not distinguishing marks within the meaning of the law. It also appears that there was no intention on the part of any one, either those connected with the printing of them, or those for whose use they were designed, to print the dashes in the tickets for the purpose of distinguishing them from any other ballots of any other party.

It is also proved that tickets precisely similar to those that are questioned in this contest, in so far as the printers' dashes are concerned, were printed and furnished to the opposing party in at least one of the counties in the sixth Congressional district of Mississippi, and were unquestionably voted without a suspicion that they were obnoxious to the law. To further illustrate the entire good faith with which these tickets were printed and used, and how they would be regarded by practical printers, the testimony of Charles Winkley, one of contestee's witnesses, becomes very important; it is as follows:

"Cross-interrogatory 2. Are you a practical printer, and have you critically examined the 'marks,' so called, on the tickets of Lynch, rejected from Warren County? If so, were not these only the usual printers' dashes to be found generally in newspaper articles and upon tickets generally?

"Answer. I am a practical printer; I have not critically examined the tickets, but the dashes used are such as any printer of taste would either put in or leave out, according as he wanted to lengthen or shorten the ticket to suit the paper, or otherwise.

"Cross-interrogatory 3. If you were called upon generally to print tickets, without any special instructions, is it likely that you would have printed the tickets similar to those complained of and rejected from Warren County?

"Answer. I might or might not, just as it might have seemed to strike me at the time.

"And further deponeth saith not." (Rec., p. 261.)

It further appears that printers' dashes, such as were used on the tickets in this case, are universally known among printers as punctuation marks; in fact, most of the characters which appear upon these tickets are set down in Webster's Unabridged Dictionary under the head "marks of *punctuation*." It is known to the most casual reader of print that printers' dashes frequently occur in books, newspapers, and publications of all kinds, and to the common understanding to argue that they are of themselves "marks or devices" would not meet approval.

We have already found that they were not used or placed upon the tickets for the purpose of distinguishing them from any other ballots, nor as a device for that purpose, and not being of themselves devices we cannot say that they are inimical to the statute. It is true that printers' dashes may be intended and used as a mark or device, and so may different kinds of type, or punctuation marks of different kinds. Arrangement of names and heading of tickets may also be made "marks and devices," and it seems to us that the reasonable interpretation of the law would be, first, in the use of these appliances, which are ordinarily used in printing, were they so arranged as that they become "marks and devices?" and were they so used and arranged for that purpose? and, secondly, was the unusual manner of their being used such as might or ought to put a reasonably prudent man on his guard?

This view of the law would be the extreme limit to which we think we would be justified in going under well established principles of construction in like cases. No case has been called to our notice which goes this far.

What we have here remarked does not, of course, apply to the marks or devices ordinarily used on tickets, such as spread-eagles, portraits, and the like; those would be considered "marks and devices" of themselves, and not necessary in the ordinary mechanical art of printing. The use of the latter would be considered a violation of the statute in any aspect of the case, while the use of the former seems to us, in any view of the law, ought to be restricted to an intentional or manifest misuse.

The evident object and intention of prohibitory legislation against "marks and devices" is to secure the freedom and purity of elections, to preserve the secrecy of the ballot and place the voter beyond the reach of improper restraint or influence in casting his ballot, and we cannot better express ourselves upon this subject than by quoting the supreme court of California in Kirk *vs.* Rhoades, *supra*, which is as follows:

"The object of these provisions is to secure the freedom and purity of elections, and to place the elector above and beyond the reach of improper influences or restraint in casting his ballot. When all the ballots cast are similar in appearance, and without any distinguishing mark or characteristic, the most dependent elector in the county may vote with perfect freedom, as his employer or other person upon whom he is dependent has no means of ascertaining for whom he voted.

"It will be observed that there are two classes of things required by section 1191. Over one class the elector can have no control; over the other he has perfect control.

"For instance, whether the paper on which his ballot was printed was furnished by the secretary of state or not, or upon paper in every respect precisely like such paper, or whether it is four inches in width and twelve inches in length, or falls short of this measurement by an eighth, or a sixth, or a fourth of an inch, or whether it is printed in long primer capitals or not, or whether it is single or doubled leaded; these are matters over which the great majority of electors have no control, and about some of which they are entirely ignorant. The ballots are always furnished on the day of election by committees appointed for the purpose by the respective political parties, or by independent candidates or their friends. The elector in but few instances ever sees these tickets until he approaches the polls to cast his ballot, and it would be absurd in the extreme to require him to have a rule by which he could measure and ascertain whether his ticket exceeded or fell short of twelve inches in length by a sixth of an inch, or only by an eighth of an inch, or whether the color of his ticket was of the exact shade of the paper furnished by the secretary of state.

"Again, not one elector in five hundred knows the difference between long primer capitals or any other capitals, or whether his ticket is single or double-leaded. It is impossible that he should know or be able to determine these facts. This very case presents a striking instance of the absurdity of requiring the elector to judge of these facts."

The respondent, Rhoades, by his counsel, objected to counting 22 ballots for Kirk upon the grounds that they were not printed in long primer capitals and that the lines were double-leaded.

Such was this case. Section 1208 expressly required a ballot found in the box not conforming to the requirements of section 1191 to be rejected. This section did not, as the Mississippi law does, omit to state that this rejection should be of the prohibited ballots when and after found in the box, and yet the court held expressly that as to all matters regarding character of the type, the paper, the width and length of ticket, they were matters that ordinarily were not under the control of the voter, and that the statute should be held directory as to such matters, and that the claim of respondent that the 22 votes for Kirk should be rejected on account of not being printed in long primer capitals and that the lines were double-leaded was by the court overruled. In the conclusion of its opinion the court said:

"To defeat the will of the people in any election it would only be necessary to furnish the electors, or a portion of them, with tickets in which the printed lines

were one forty-fourth part of an inch further apart than required by the code—a difference which cannot be detected except by an expert. There are, however, other requirements of the code within the power of the elector to control, and these, if willfully disregarded, should cause his ballot to be rejected. He can see, for instance, that his ballot is free from every mark, character, device, or thing that would enable any one to distinguish it by the back, and if in willful disregard of law he places a name, number, or other mark on it he cannot complain if his ballot is rejected and he loses his vote."

The above language quoted from this case is the language of the court below. The supreme court, after quoting this language in the opinion, closes its opinion in these words:

"We agree with the county judge in his conclusion that the twenty-two ballots spoken of were properly counted for Kirk, and that the motion to strike them from the count was properly denied. Judgment affirmed."

We do not feel called upon to give our reasons why we dissent from much that is said in the opinion in the Mississippi case. It may not be out of place to remark that some of the reasons on which the opinion is based appear to be directly opposed to the current of authority upon which like legislation is maintained. It is remarked that "its object is to secure absolute uniformity as to the appearance of ballots in order that intelligence may guide the voter in his selection, and not a mere device or mark by which ignorance may be captivated."

Our understanding has been that these laws were designed to protect the weak and ignorant against undue restraint by the strong and powerful, to make the ballot secret and free, and place the dependent on the same plane as the most favored; and that laws of this character ought not to be so construed as to become a snare to the very persons for whose protection they were designed. The learned and powerful need no such protection. The laws are designed for the protection of the weak and unlearned. It seems to us that the construction given to this law inevitably establishes a basis of intelligence—of being able to read, at least, for if you strip all ballots of every punctuation mark, and all dissimilarity in print, and make them of the same paper, of the same size, and similarly spaced, the man who is unable to read will be entirely at the mercy of his more favored neighbor, and thus you will defeat the very thing which the law was intended to prevent.

It is urged that the construction given to this law defeats one of the provisions of the constitution of Mississippi, which extends the right of suffrage to all without reference to illiteracy. This point not having been referred to by the court in Mississippi, we infer that it escaped their attention, and we do not care to go into the question. It is quite evident to us that these laws must pass under judicial notice frequently in the future, and we are quite content not to anticipate the results which may be hereafter reached.

We have examined the question of "printers' dashes," in the first instance, because if we arrived at the same conclusion respecting their illegality as the contestee did it was manifest to us from the beginning that we would not have to go farther, as this would control the case. Having arrived at a conclusion adverse to contestee it becomes material to next examine exceptions filed by him to certain of the testimony printed in the record. His exceptions are as follows:

"John R. Lynch, contestant, *vs.* James R. Chalmers, contestee.

"The contestee comes in proper person and excepts to so much of Exhibit D filed as additional testimony in this case, and appearing from page 225 to page 243, inclusive, of the record:

"1. Because there is no such officer as chief supervisor of elections for either the northern or southern district of Mississippi known to the laws of the United States and authorized to make such reports.

"2. Because there is no law authorizing the supervisors of elections to make any reports of the election in any district outside of a city of 20,000 inhabitants.

"3. Because these pretended reports are not signed by both of the pretended supervisors at each precinct.

"4. Because there is no evidence that the parties signing these reports as supervisors were, in fact, appointed United States supervisors of elections.

"5. Because there is no evidence that the parties whose names appear to be signed to said reports actually signed the same.

"6. Because the pretended reports were not presented as an exhibit to contestant's deposition when taken, and were gathered up by contestant and filed here long after the time for taking testimony in this case.

"7. Because the pretended certificate of Orlando Davis appears on its face to have been signed September 13, 1881, long after the time for taking testimony in this case.

"8. Because said papers appear on their face to be filed with the Clerk of the House of Representatives only on the 21st of December, 1881, long after the time for taking testimony in this case, and do not appear to have been transmitted by any authorized officer of law.

"JAS. R. CHALMERS, *Contestee.*"

Before passing upon the question we call attention to the sections of the Revised Statutes bearing on the question of supervisors' returns. Sections 2011 and 2012 authorize the judge of the circuit court, on the application in writing of ten good citizens, to appoint in each election precinct, at which a Representative in Congress is to be voted for, two citizens of different political parties as supervisors of elections. Section 2025 requires the circuit court to designate a circuit court commissioner to act as chief supervisor for the district. Section 2017 specifies the duties to be performed by them, among which is, to personally scrutinize the manner in which the voting is done, and in which the poll-books, tally, or check-books are kept. Section 2018 requires that to the end that each candidate for Representative in Congress shall obtain the benefit of every vote cast for him, the supervisors shall scrutinize personally the count, and canvass each ballot, and make and forward to the chief supervisor (section 2025) certificates and returns of all such ballots as such officer may require.

Section 2026 requires the chief supervisor to "receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals, appointed under the provisions of this title, and of all certificates, returns, reports and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed."

The contestant contends that these sections apply to country supervisors as well as to supervisors appointed in cities of 20,000 or more inhabitants; while the contestee claims that section 2011 is made up partly of the acts of 1871 and 1872; that sections 2012 to 2027, inclusive, are taken from the act of 1871, and have no reference to supervisors appointed in counties or parishes on the petition of ten citizens, and that 2029 is also taken from acts of 1872. Reference is made by the contestee to the Congressional Globe, page 4455, second session Forty-second Congress, to the debate had when this provision was pending in the House.

It is needless to enter into an extended history of this legislation. The disputed question between parties is this: the contestant claims that the statute requires the supervisors of elections in country precincts to make and keep an official record of the result of the votes polled, of the manner of conducting the election, the truth or fairness of the canvass and its conduct, and the honesty of the count, if the chief supervisor shall so direct, and return the same to the chief supervisor, who shall keep and preserve them, and in accordance with law file a certified copy with the Clerk of the House of Representatives; that these returns, or duly certified copies of them, are competent evidence in contested-election cases. We copy the following strong statement made by contestant's counsel in support of this contention:

"That where the law, either statutory or other, makes a document a public record or file, and requires it to be preserved as such, and puts the custody thereof in the hands of an officer there, as a matter of common law, and without statutes authorizing the custodian to certify to copies of such record, the common law will admit the copy certified by the custodian as evidence of what is provable in any case by the original, is a matter of elementary law. The opposing brief seems to controvert this, as, for example, at the bottom of page 29, where it cites section 104 of McCrary's Election Laws. That citation wholly fails to meet or negative the last preceding proposition. That section 104 is a statement simply to this effect:

"'That statute-certifying officers can only make their certificates evidence of the facts which the statute requires them to certify; and when they undertake to go beyond this and certify other facts they are unofficial and no more evidence than the statement of an unofficial person.'"

We admit there is much force in this argument. But the conclusions we have reached do not make it necessary for us to decide this question, and we do not. We present the following analysis of the various precincts upon the view that it is unnecessary to look to the supervisors' reports for any purpose:

ADAMS COUNTY.

The returns from Dead Man's Bend precinct were rejected by the commissioners of election on the ground that there was no list of voters sent up with the returns by the precinct officers. At page 75 of the record, William J. Henderson, one of the commissioners of election, testifies that the vote of that precinct was: For Lynch, 85; for Chalmers, 15. (See also record, page 88.) We think the vote of this precinct should be counted. It was rejected for unsubstantial reasons; no fraud is charged, and it would, to our mind, be the grossest injustice to deprive the voters of their right to participate in a choice for their Representative on this ground.

Palestine precinct.—As to this precinct, Mr. Lynch proves by William J. Henderson, at record, page 75, of his testimony, that the box was rejected because there were 35 more ballots found therein than there were names on the list of voters kept by the clerks. Mr. Henderson says:

"The Palestine returns were rejected because the box contained 35 more ballots than were accounted for in the list of voters as kept by the clerks. * * * To the best of my recollection, the inspectors sent up their returns, stating that there were in the box 17 votes for Chalmers and 270 votes for Lynch, the latter number including 35 votes which were found to be in excess of the list of voters as kept by the clerks."

Lennox Scott, another witness, who was a United States supervisor, testifies, on record, page 187, that to his own personal knowledge 231 votes were cast at this precinct for Mr. Lynch. An effort was made to explain how the excess of 35 votes appeared. The evidence on this subject is not very satisfactory, but we think, on the whole, that Mr. Lynch should receive 231 votes and Mr. Chalmers 17 from this precinct. (See also record, page 191, testimony of H. C. Bailey.)

BOLIVAR COUNTY.

Under section 138 of the Mississippi code the inspectors of elections are required to send up to the commissioners the whole number of votes cast at the poll, and the commissioners, under section 140 of the code, are required to "transmit to the secretary of state, to be filed in his office, a statement of the whole number of votes given in their county for each candidate."

This duty being enjoined by statute, their certificate is evidence of the fact that the number of votes which they certify were given. That return was put in evidence, from which it appears they returned Lynch 979, Chalmers 301. It further appears by a certificate signed by the commissioners of election that they threw out Australia precinct, containing 30 Democratic votes and 192 Republican votes, because the returns were "not certified to by the inspectors or the clerks."

Bolivar precinct.—It appears from the same certificate that in this precinct they rejected 45 Democratic votes and 311 Republican votes for the same reason. Another informality is noted which is that the "tally-sheets" were kept on four pieces of paper, and that they do not show what offices the persons whose names appear on the tally-sheets were voted for. This can hardly be considered to be a good ground when the ballots were before them, and they could have looked and seen.

Holmes Lake precinct.—As to Holmes Lake precinct, it appears that the ballot-box was never opened and the ballots counted by the inspectors and clerks. The commissioners refused to open and count the votes, and perhaps were not authorized to do so by law. The voters of this precinct are deprived of the right to participate in the choice of their Representative by the conduct of their present officers.

Glencoe precinct was rejected because the vote was not entirely counted on the night after the election, and the returns were signed by only two of the election officers, not a majority. The commissioners certify that these imperfect returns show that 27 Democratic votes and 233 Republican votes were rejected on account of this informality. In right and justice these votes ought to be counted, but we do not do so on the statement made by the commissioners.

WARREN COUNTY.

We correct the returns made in this county as follows: The vote as returned to the secretary of state was: Lynch, 57; Chalmers, 1,014. We add the rejected vote: Lynch, 2,029; Chalmers, 20.

The vote returned by the inspectors to the commissioners of election, and by the commissioners of election to the secretary of state, appears in the subjoined tabulated statement:

Counties.	Inspectors' returns to commissioners.		Commissioners' returns to secretary of state.	
	Lynch.	Chalmers.	Lynch.	Chalmers.
Adams	1,214	1,419	898	1,287
Bolivar	1,713	403	979	301
Claiborne	288	1,061	288	1,061
Coahoma	1,221	576	362	225
Issaquena	1,122	174	333	59
Jefferson	383	1,043	156	951
Quitman	83	153	83	153
Sharkey	175	484	175	484
Tunica	506	239	506	239
Warren	2,086	1,034	57	1,091
Washington	1,298	1,963	772	1,607
Wilkinson	814	1,691	814	1,614
Total	10,903	10,240	5,393	9,172
	10,240			5,393
Majority for Lynch	663			
Majority for Chalmers				3,779

The tabulated statement below shows the number of votes rejected by the commissioners of election from the counties named:

Counties.	Votes rejected by commissioners.	
	Lynch.	Chalmers.
Adams	316	92
Bolivar	754	102
Coahoma	869	351
Issaquena	789	115
Jefferson	247	92
Washington	526	356
Total	3,481	1,048

ISSAQUENA COUNTY.

There are two statements in the record which, taken together, enable us with reasonable certainty to arrive at the vote cast in three of the four rejected precincts of this county. The first is the certificates of election made by the commissioners of election to the secretary of state, and found on page 17 of the record.

Hay's Landing.—They say, with regard to this poll, that they find 75 votes reported by the election officers; on four of the ballots all the names are scratched off, and they reject the poll because there was no separate list of voters kept. At page 89 of the record, Richard Griggs, clerk of the chancery court for Issaquena County, certifies, under the seal of said court, that the paper appearing on that page of the record is a true and correct transcript of the election returns made by the election officers as appears of record in his office, by which it appears Chalmers received 34 votes and Mr. Chalmers 29 votes for member of Congress. The commissioners of election for that county certify to the secretary of state that they rejected this precinct return, and the clerk of the court certifies that that return is on file in his office, a copy of which he gives. The two statements taken together are *prima facie* evidence of the vote received at that poll. The highest number of votes appearing on the tally-list as certified by the clerk agrees with the number the commissioners say were returned from that poll. The commissioners are authorized by law to certify as a fact the number of votes cast; and the clerk of the court is authorized by law, as the keeper of public records, to give certified transcripts thereof.

For the reasons given in reference to Hay's Landing precinct, we also count Ben Lomond and Duncansby precincts; by reference to which it will be seen that Lynch's vote was 332 and Chalmers's 20 in the former, (record, pages 17 and 90,) and 371 for Lynch, and for Chalmers 45, in the latter.

JEFFERSON COUNTY.

The only precinct in dispute in this county is the Rodney precinct poll, the vote of which is admitted to be 247 for Lynch, and 92 for respondent. This is shown also by the report of the commissioners, at page 19 of the record. Having come to a conclusion adverse to contestee in reference to marked ballots, we count this poll as returned.

WASHINGTON COUNTY.

The evidence in the record, at page 23, shows that the Stoneville precinct was rejected by the commissioners for want of a statement signed by the inspectors of election. Page 206, John Jones testifies that at this poll there were 315 cast for Mr. Lynch and 60 for Mr. Chalmers. He says: "I saw the votes counted, and know that to be the fact and correct." This testimony is uncontradicted, and is sufficient to put the returned member to proof to show why the vote should not be counted. It was the unquestioned duty of the inspectors to make return of this vote as it was cast. The election appears to have been conducted in a quiet and peaceable manner, and no sufficient reason having been given by the commissioners of elections why they did not return the vote, we think it right and fair to count it as the testimony shows it was cast. As to Lake Washington and Refuge precincts, there is no testimony in the record showing what the vote as cast was. If the supervisors' returns are rejected, and the contestee's exceptions sustained, it leaves us without means to ascertain the true vote at these precincts.

COAHOMA COUNTY.

In this county the commissioners in making the certificate to the secretary of state omit to state what the vote was in the rejected precincts. There were elections held in seven precincts in this county, six of which were rejected by the commissioners and one, Friar's Point, was counted. There is in the record, at page 98, a certificate made by R. N. Harris, clerk at the circuit court, giving a transcript of the tally-lists signed by the inspectors of four precincts: Clarksdale, which shows that Lynch received 307 and Chalmers 117 votes; in Sunflower, Lynch received 32 and Chalmers received 77; Dublin, Lynch 70, Chalmers 63; Magnolia, Lynch 109, Chalmers 23. At the Delta precinct the inspectors and clerks did not count the votes, and this box was, therefore, in the same condition as the one at Holmes Lake. The Jonestown precinct is omitted because the clerk fails to certify. The clerk's certificate is probably evidence that these papers are on file in his office, and that they are the returns sent up by the precinct election officers. As to whether they are evidence as to the fact whether so many voters voted for the persons named for the offices named, is submitted to the House.

FRAUDULENT RETURNS.

At Kingston precinct, in Adams County, it is conclusively shown by the testimony of Jerry Taylor, Henry B. Fowles, Abraham Teltus, Smith Kinney, Harry Smith, jr., and William H. Lynch, that the vote as cast was 350 and for Chalmers 59. The vote as returned by the precinct election officers was, Lynch 160, Chalmers 249. It is shown that there was abundant opportunity for tampering with this box at the noon recess, when it was taken to the residence of one Dr. Farrar, and the Republicans were excluded from the presence of the box, and the aperture was not sealed. The Republican inspector who had the key could not have stuffed the ballot-box in its absence. We think under the evidence this vote should be corrected so as to show the true vote as cast, as testified to by these witnesses who are uncontradicted. We therefore add 190 votes to Mr. Lynch's aggregate and deduct that number from Mr. Chalmers.

The corrected vote of the parties will stand thus:

	Lynch.	*Chalmers.*
Returned vote	5,393	9,172
Add rejected votes:		
Warren County	2,029	20
Dead Man's Bend	85	15
Palestine	231	17
Australia	192	30
Bolivar	311	92
Hay's Landing	39	24
Ben Lomond	332	20
Duncansby	371	45
Rodney	247	92
Stoneville	315	60
	9,545	9,540
From which we deduct		190
And add that number to Lynch's vote to correct the returns in Kingston precinct, Adams County	190	
Which makes total	9,735	9,350
Majority for Lynch	385	

We have not added the vote of the rejected precincts in Coahoma County, as shown by the clerk's certificate, nor have we corrected the vote in Robb's precinct, in Washington County, where it is charged the ballot-box was tampered with, and about which there is a conflict of testimony.

In three precincts in Adams County it is claimed the returns should be thrown out because of mismanagement, misconduct, and abuse of power on the part of the managers in contestee's interests, and peace officers and challengers acting on behalf of and in contestee's interests. And at Washington precinct, in Adams County, they excluded the United States supervisor of elections from the presence of the box from the time of adjournment in the evening to the time of commencing the counting of the vote in the morning. In precincts of Court-House and Jefferson Hotel it is claimed that the Republican voters were prevented from voting by a systematic course of vexatious questions and inexcusable delays, whereby 300 or 400 voters were prevented from voting at all. The evidence on this subject is conflicting, and doubt exists in the minds of the committee whether it is sufficient to exclude these boxes from the count, and we therefore decide to let them stand. As to Washington precinct, it may be gravely questioned whether it ought not go out, but as it can make no difference in the final result, we decide to let it stand.

If the precincts in Coahoma County shall be counted the tabulated statement would be as follows:

	Lynch.	*Chalmers.*
Returned vote	5,393	9,172
Add rejected votes:		
Warren County	2,029	20
Dead Man's Bend	85	15
Palestine	231	17
Australia	192	30
Bolivar	311	92
Hay's Landing	39	24
Ben Lomond	332	10
Duncansby	371	45
Rodney	247	92
Stoneville	315	60
	9,545	9,540
From which we deduct		190
And add that number to Lynch's vote to correct the returns in Kingston precinct, Adams County	190	
Which makes total	9,735	9,350
Clarkesdale	307	117
Sunflower	32	77
Dublin	70	63
Magnolia	109	23
Total	10,253	9,630
Majority for Lynch	623	

If you add the votes as shown by the supervisors' returns, the following table will exhibit the vote:

	Lynch.	*Chalmers.*
Returned vote	5,392	9,172
Add rejected votes:		
Warren County	2,029	20
Dead Man's Bend	85	51
Palestine	231	17
Australia	192	30
Bolivar	311	45
Hay's Landing	39	24
Ben Lomond	332	20
Duncansby	371	45
Rodney	247	92
Stoneville	315	60
	9,545	9,540
From which we deduct		190
And add that number to Lynch's vote to correct the returns in Kingston precinct, Adams County	190	
Which makes total	9,735	9,350
Clarkesdale	307	117
Sunflower	32	77
Dublin	70	63
Magnolia	109	23
	10,253	9,630
Glencoe	231	27
Dumbarton, or Duval	47	26
Jonestown	351	71
Refuge	99	67
Lake Washington	112	229
Total	11,093	10,050
Majority for Lynch	1,043	

These tabulated statements are made for the information of the House. The first tabulated statement shows the result which the undersigned members of the committee all concur in, and upon which the report is based.

Your committee therefore recommend the adoption of the following resolutions:

Resolved, That James R. Chalmers was not elected, and is not entitled to his seat in the Forty-seventh Congress from the sixth district of Mississippi.

Resolved, That John R. Lynch was elected, and is entitled to his seat in the Forty-Seventh Congress from the sixth district of Mississippi.

W. H. CALKINS.
AN. H. PETTIBONE.
FERRIS JACOBS, Jr.
G. W. JONES.
A. A. RANNEY.
S. H. MILLER.
JNO. T. WAIT.
GEO. C. HAZELTON.
WM. G. THOMPSON.
J. M. RITCHIE.
JOHN PAUL.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED.

Mr. PEIRCE, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

A bill (H. R. No. 1014) for the relief of Joseph L. Stevens;

A joint resolution (H. R. No. 161) making an appropriation to enable the Light-House Board to meet the extraordinary expenses consequent upon the flood in the Mississippi River; and

A joint resolution (H. R. No. 185) granting the use of tents at the soldiers' reunion to be held at Belle Plaine, Iowa, in the month of September or October, 1882.

CONTESTED-ELECTION—LYNCH VS. CHALMERS.

Mr. PETTIBONE. Mr. Speaker, in the case now under consideration John R. Lynch, the contestant, claims the seat now occupied by James R. Chalmers, the contestee, on the ground, stated in the briefest manner possible, and stripped of all legal verbiage, that a clear majority of the legal votes which were cast at the election held on November 2, 1880, in the sixth district of Mississippi, were really and honestly cast for him; but that by fraudulent, corrupt, and lawless manipulation of the election machinery; by the throwing out by the county commissioners of election, unjustly and illegally, of the votes thrown for him at a great number of polls; by the rejection of more than 2,000 votes in one county alone, which were honestly given to him, because of dashes, mere punctuation marks, used by the printers in making up the ballots which were voted in good faith by his supporters, and by other fraudulent devices set out in particular in his notice of contest, a *seeming* majority was secured by Mr. Chalmers in defiance of justice and public law, in mockery of the hackneyed words "a free ballot and a fair count!"

All this is denied, of course, by the contestee; and in the investigation of the case the first thing to be seen and understood is to ascertain how the actual fact is. Was a majority of the legal vote actually given to Mr. Lynch? If not, there is then a speedy end to the controversy, and by every principle of justice, and square, honest dealing Mr. Chalmers should retain the seat he now occupies. But, on the other hand, if *a majority of the legal votes* were cast for Mr. Lynch, then *he* should be awarded the seat, unless, indeed, the case of Mr. Chalmers is so buttressed by positive law that the House of Representatives, though the sole judge, by the express terms of the Constitution, of the "elections, returns, and qualifications of its own members," cannot right the wrong done to the fundamental idea which underlies our American system as, indeed, all republican or democratic politics, that the will of the majority should always prevail.

The "official" returns show the result to be: for J. R. Chalmers, 9,172 votes; and for J. R. Lynch, 5,393 votes, which leaves a majority for Mr. Chalmers of 3,779. It will thus be seen that Mr. Chalmers must retain the seat he now holds, *unless* Mr. Lynch can show that *more* than 3,779 votes, honestly cast for him, were improperly rejected. And it is equally manifest that if he can and does, then fraud of the deepest and darkest character can alone account for Mr. Chalmers's great majority as shown on the face of the returns.

The importance of the case; the rights of the parties to the contest; more important still, the rights of a supposed free constituency behind them; and, most important of all, the right of all the people of this Union to know that the elective franchise is not a "mockery and a snare," but that it reflects and ever shall reflect the will of the sovereign people of this nation, all demand in this case a most careful analysis and scrutiny, to the end that the very truth and the very right of this contest shall be seen and known, that equal and exact justice shall be done.

NOW WARREN COUNTY.

In the county of Warren it is charged and admitted that 2,029 votes cast for Mr. Lynch, and 20 votes cast for Mr. Chalmers, were rejected by the county commissioners, to whom the inspectors who held the election in the various precincts of that county (and who had passed on them as valid) had made their certified returns. They were thrown out by the county commissioners on the ground that the ballots cast for Mr. Lynch, a *fac simile* of which is seen on page 48 of the record, were in violation of section 137 of the code of Mississippi, which declares that—

> The ballots shall be without any *mark or device* by which one ticket may be known or distinguished from another, excepting the words at the head of the ticket.

It is also charged, and *admitted*, that in the Rodney precinct of Jefferson County 247 votes were cast for Mr. Lynch and 95 votes for Mr. Chalmers, a clear majority for Mr. Lynch of 152 votes, and that the ballot-box and its contents, after the close of the election, were seized and destroyed. Who did this high-handed outrage the record does not show. It is sufficient to say that no one has yet even hinted that it was done for the *benefit* of Mr. Lynch. It is also charged and admitted that the votes cast for Mr. Lynch at Rodney were of the same character as those thrown out in the county of Warren. The aggregate vote thus lost to Mr. Lynch over that in the same way lost to Mr. Chalmers in Warren County and in Rodney precinct of Jefferson County is 2,161. Subtract this number, as I do for the present, from Mr. Chalmers's certified majority of 3,779, and it would cut down his majority to 1,618 votes.

ISSAQUENA COUNTY.

In the county of Issaquena contestant charges that the commissioners of the county "threw out, and rejected, and refused to make any return of 785 legal votes for him *which* had been duly *polled by the voters*, and duly *received, counted, and returned* by the inspectors who held the election." Respondent denies—what? That the commissioners "threw out and rejected 785 votes which had been duly *revised*, (a new word,) counted, and returned by the inspectors of election." Yet he admits that four boxes of the county—to wit, Skipworth, Ben Lomond, Ingomar, and Hay's Landing—were *not* counted by the commissioners "because the inspectors of election did not make out and return any certified statement of the election *as required by law*."

Now, when we turn to the record, on page 17 we find that the commissioners state they rejected these polls because they "did not find any separate *lists* of the *names* of the voters in the box, as required by section 139 of the Revised Code of the State of Mississippi." That section provides that—

> The statement of the result of the election at each precinct shall be certified and signed by the inspectors and the clerks, and the poll-book, tally-list, *list of voters*, ballot-boxes, and *ballots* shall all be delivered to the commissioners of election.

And on page 89 and following of the record is found a copy of the certificates of the inspectors of these *four* precincts, with a copy of the tally-sheet of each, which show that 785 *votes were cast for Mr. Lynch* and 115 for Mr. Chalmers, which were *not* counted because the *lists* of the voters' names were not sent up with the poll-books, tally-lists, ballot-boxes, and *ballots*.

Thus it will be seen by the record, and not denied by anybody, that in Issaquena County Mr. Lynch *was* deprived of 785 votes, and deducting the 115 votes cast for Mr. Chalmers (which *had to be rejected* in order to reject Mr. Lynch's still larger vote) Mr. Lynch suffers a net loss of 670 in that county—legal, properly cast, properly counted, as the very ballots in the ballot-boxes before these *Democratic* county commissioners showed, but rejected by them because the *Democratic inspectors* failed to send up by accident, or *by design*, a list of the *voters' names*, as the statute directed them to do.

And Mr. Chalmers demands in this case that Mr. Lynch shall suffer for the mistakes (?) or willful frauds of *his*, Mr. Chalmers's friends. And this in a matter where the statute is clearly directory merely, and not mandatory.

ADAMS COUNTY.

Passing now to the county of Adams, it appears from the record that in this county the poll for the precinct of Dead Man's Bend was thrown out by the county commissioners. The reason given is, as sworn to by W. N. Whitehurst, a Democratic county commissioner, (record, page 66,) as follows:

> The only reason I recollect for rejecting the Dead Man's Bend precinct was because no list of voters was sent up.

In this he is corroborated by Thomas R. Quateman, another Democratic county commissioner, who swears, (record, page 69:)

> The Dead Man's Bend precinct box was rejected because of *informality*; the inspectors did not comply with the law and furnished no list of the voters.

William J. Henderson, the Republican commissioner, swears to the same fact and shows, as do the two United States supervisors, one a Democrat and the other a Republican, that the vote at Dead Man's Bend actually cast, received, and counted by the officers who held the election was 85 votes for Lynch and 15 for Chalmers. This gave a clear majority of 70 votes to Mr. Lynch.

In like manner the vote of Palestine precinct was thrown out because 35 more votes or ballots were in the box than the number of names on the "list" of voters signed by the clerk. Here the *list* was sent up, but the tally-sheet showed 39 votes in excess over the list of voters. It showed that 270 votes were given to Lynch and 17 to Chalmers. (Record, page 87.)

Lenox Scott, the United States supervisor, who was present, swears that 231 votes were cast for Lynch. Lynch's supporters voted open tickets. He saw that many *openly voted!* (Record, 189.) He also swears that 17 votes were cast for Mr. Chalmers.

Now, it was to the interest of Mr. Chalmers that the *entire* vote should be thrown out. He would lose 17 votes, but his adversary would lose 231 votes. Any scheme to throw out the entire vote was greatly to his advantage, just as the throwing out of 2,029 votes in Warren County to only 20 of his votes was to his advantage. And the Palestine poll was thrown out! A fraud was perpetrated. Mr. Chalmers's friends had the election machinery in their own hands. These are the simple, undeniable facts. Who perpetrated the fraud in this instance by placing 35 fraudulent votes in the box the record does not absolutely disclose. But it must satisfy any mind that it worked to the advantage of Mr. Chalmers, and the testimony is clear, with nothing contradicting it, that Mr. Chalmers got 17 votes at the Palestine poll, while Mr. Lynch got at least 231 votes—a clear

majority of 214 votes, which added to the 70 majority at Dead Man's Bend makes a clear majority, thrown out by the commissioners on technical grounds, of 284 votes in Adams County over those thrown out which were cast for Mr. Chalmers.

BOLIVAR COUNTY.

In Bolivar County the commissioners rejected and threw out the vote of Australia, Glencoe, and Bolivar precincts. They gave the reason as follows:

Australia, 30 Democratic and 192 Republican votes, *because* the returns were not certified to by the inspectors or the clerks.

Bolivar precinct, 45 Democratic and 311 Republican votes, *because* there was no certified returns from the inspectors and clerks.

We have rejected the Glencoe precinct vote, 27 Democratic, 233 Republican votes, *because* the vote was counted out in part by all the inspectors and clerks, and then discontinued until next day, when the count was finished by one inspector and one clerk, and a very imperfect tally-sheet and return sent in by those two not certified to.—*Record*, page 15.

Thus it will be seen that 102 Democratic votes and 786 Republican votes were thrown out by the county commissioners; and this is *corroborated* by the certified statement of O. Davis, chief United States supervisor, on page 26 of the record. He certifies that the supervisors' returns showed that the vote in these precincts were: Australia, 30 votes for Chalmers and 192 for Lynch; Bolivar, no return for Chalmers, 311 for Lynch; Glencoe, 27 votes for Chalmers, 231 for Lynch. This exactly agrees with the statement of the county commissioners, save in Bolivar no return is made of Chalmers's vote, which Mr. Lynch concedes was 45; and in Glencoe the county commissioners certify there were 233 Republican votes, while the supervisor certifies that Lynch, the Republican candidate for Congress, only got 231 of the 233 Republican votes.

There is in both statements clearly "substantial truth with circumstantial variety." It thus clearly appears that by the throwing out of these three precincts in Bolivar County Mr. Lynch lost over the votes for Chalmers thrown out 632 votes. Let it be observed, there is no pretense that these votes were not *legally cast* by the electors, and legally placed in the box by the inspectors who held the election, and legally and properly sent up to the county commissioners in the ballot-boxes.

In this connection it is wise to see how the action of the county commissioners in rejecting the votes of poll after poll and ballot-box after ballot-box would strike the judicial mind. In the case of the United States *vs.* The Election Commissioners of Warren County, in the district court of the United States for the southern district of Mississippi, the court charged the jury, among other things, as follows:

The *inspectors* of election are, so far as these officers are concerned, the sole judges of the qualification of voters and of the *votes to be counted*.

The commissioners of election for this purpose are ministerial officers, whose duty it is to examine and canvass the returns made to them by the inspectors, and from them to ascertain the whole number of votes cast for each person in the county, with the office voted for.

For the purpose of ascertaining these facts the inspectors are required to send up with the return the ballots, the tally-sheets, and list of voters, to enable the *commissioners to correct* any mistakes which the *inspectors* may have made; but the *commissioners* are not made *judges* of the votes to be corrected. For any mistakes they may innocently make in the discharge of the ministerial duty imposed upon them they are not responsible; but for a neglect of the performance of the duty so imposed upon them *they are responsible*.—*Record*, page 28.

In Biddle and Richard *vs.* Wing (Cl. and H., 504) the court declared:

Indeed, nothing short of the impossibility of ascertaining for whom *the majority of votes were given* ought to vacate an election, especially if by such decision the people must, on account of their distant and dispersed situation, necessarily go unrepresented for a long period of time.

And see McCrary on Elections, 230 *et seq.*

WASHINGTON COUNTY.

Now, passing to Washington County, we find in the record, pages 22 and 23, a tabular vote of said county attested by the county commissioners, by which it appears that against the name of Lake Washington precinct are the words "Rejected from canvass on account of illegal returns;" and against Refuge precinct are the words "Rejected from canvass on account of the returns not being *signed* by the inspectors of elections." Against Stoneville precinct are the words "Rejected from canvass on account of *no statement* of election being returned by inspectors of election."

With regard to the reasons given for the rejection of Lake Washington precinct, wherein it appears the commissioners rejected the vote because in *their* opinion the returns are not legal, though they give no reason for so thinking, but use the general term "not legal," the maxim that "fraud lurks in generalities" seems a most fitting comment.

And in respect to all these three precincts there is no pretense that there was not in each a fair election, that the votes were not honestly cast, fairly and honestly counted, and the poll-books, tally-sheets, ballot-boxes, and the very ballots voted, sent up, as the law required, to the county commissioners. And the question that now and here confronts us is, How did the vote of these precincts stand as between Mr. Lynch and Mr. Chalmers?

On page 239 of the record appears the certified statement of the two United States supervisors, one a Republican, the other a Democrat. Their statement shows that at Lake Washington Mr. Lynch received 112 votes, against 229 votes for Mr. Chalmers. This is corroborated by the certified statement of Mr. J. G. Marshall, the circuit clerk, found on page 97 of the record, who gives the vote as 112 for Lynch and 229 for Chalmers.

In this precinct it appears that Mr. Chalmers loses by the throwing out of the vote 117 votes more than Mr. Lynch. This would seem to break the rule that the rejection of entire ballot-boxes was to the injury of Mr. Lynch, but with this precinct was thrown out the vote in the same county of Refuge and Stoneville precints. As to Refuge precinct, the two United States supervisors, one a Republican and one a Democrat, certify (record, 239) that the vote stood, John R. Lynch 99, and James R. Chalmers 67, giving Mr. Lynch a majority of 32. And as to Stoneville precinct, John Jones, the United States supervisor, certifies on page 26 of the record, that Mr. Lynch received 315 votes, and Mr. Chalmers 60 votes; he *swears*, when called on as a witness, that Mr. Lynch received 315 votes and Mr. Chalmers 60 votes. (Record, 207.) This shows Mr. Lynch got a majority at Stoneville of 289 votes, and adding his majority of 32 at Refuge would make an aggregate majority of 321 votes, as against the majority of 117 of Mr. Chalmers at Lake Washington. And this would show a net loss of 204 votes in the rejection of the three precincts of Lake Washington, Refuge, and Stoneville, which were rejected at the *same* time by the *same* board of commissioners. It shows clearly that where a wrong was done to Mr. Chalmers a double wrong was done to Mr. Lynch.

Mr. CARLISLE. With the permission of the gentleman from Tennessee, I desire to ask a single question at this point.

Mr. PETTIBONE. Certainly.

Mr. CARLISLE. I wish to ask if the gentleman considers and treats the certificate made by the United States supervisors, in districts having within them no city or town containing a population of twenty thousand, as competent evidence of any fact connected with the election?

Mr. PETTIBONE. Not necessarily as to the election of Lynch; but I will come to that in a few moments, as I have my own views and will present them further on.

So much for the present for the county of Washington. And now as to

COAHOMA COUNTY.

All the polls were thrown out in Coahoma County by the county commissioners save Friar's Point, namely: Clarksdale, Sunflower, Jonestown, Dublin, and Magnolia. *Why* they were thrown out the county commissioners do not certify. (Record, pages 15 and 16.) They leave us in most blissful ignorance. But on page 98 of the record we have the certified statement, under seal, of the three inspectors who held the election at Clarksdale. They certify that James R. Chalmers received 117 votes and John R. Lynch 307; a clear loss to Lynch of 190 votes.

Mr. ATHERTON. May I interrupt the gentleman?

Mr. PETTIBONE. Certainly.

Mr. ATHERTON. Do you think now that the votes in Coahoma County which were rejected should be counted?

Mr. PETTIBONE. I will answer fully——

Mr. ATHERTON. I want to call attention to the majority report, and ask the gentleman why, if he supposes now the votes in that county should have been counted, he did not so report?

Mr. PETTIBONE. I will give the answer before I get through, and satisfactorily to the gentleman.

On page 98 of record is a certified statement, signed by all the inspectors and clerks, that at Sunflower Mr. Chalmers received 77 votes and Mr. Lynch 32; a clear loss to Mr. Chalmers of 45 votes.

On page 100 of record the inspectors and clerks certify that at Dublin Mr. Chalmers received 63 votes and Mr. Lynch 70 votes; a loss to Mr. Lynch of 7 votes.

On page 101 of record is found the certificate of W. W. Shelby, one of the inspectors, that at Magnolia precinct J. R. Chalmers received 23 votes and John R. Lynch 109 votes; a clear loss to Mr. Lynch of 86.

And this will give in the precincts of Clarksdale, Sunflower, Dublin, and Magnolia, of Coahoma County, where the actual vote is *certified to* and proven by the very men, *the inspectors*, who held the election, a clear majority of 238 in Coahoma County in favor of Mr. Lynch, but thrown out arbitrarily by the county commissioners, *who do not even deign to give a reason why they did so*, but do certify (record, page 15) that they give "a correct report of the votes cast in the election held in Coahoma County!"

Now, add together these votes—these clear majorities for Mr. Lynch at precincts thrown out by the county commissioners where there is in the entire record no pretense or claim, or *decent* insinuations even, that the election was not fairly held, so far as Mr. Lynch is concerned, the ballots legally cast, properly placed in the box, *honestly counted*, and the will of the electors fairly, honestly, and clearly expressed, and we have—

In Warren County, Lynch's rejected majority	2,009
In Rodney precinct, of Jefferson County, Lynch's rejected majority	152
In Issaquena County, Lynch's rejected majority	670
In Adams County, Lynch's rejected majority	284
In Bolivar County, Lynch's rejected majority	632
In Washington County, Lynch's rejected majority	204
In Coahoma County, Lynch's rejected majority	238
Making a total of	4,189

as against Mr. Chalmers's majority on the face of the returns of 3,779; thus giving a clear, unquestioned, undoubted, undeniable, majority of 310 votes for Mr. Lynch, as certified to by the *very* men—Democrats almost every one of them—who held the election at the various precincts which I have passed in review, who received the ballots from the hands of the voters and placed them in the ballot-boxes, and who sent those ballot-boxes containing those very ballots up to the county commissioners, and with them the very tally-sheets; but they were rejected by those wise (?) county commissioners for the reasons—

First. Because in Warren County and in Rodney precinct of Jefferson County, printers' dashes were used as punctuation marks on the *face* of the tickets which the electors voted in good faith, and concerning which Mr. Charles Winkley, a practical printer, *who was called as a witness by Mr. Chalmers himself, swears* on page 261 of the printed record in this case that "the dashes used are such as any printer of taste would either *put in* or *leave out* according as he wanted to lengthen or shorten the ticket to suit the paper or otherwise." That is what Mr. Chalmers's own witness solemnly swears; or,

Second. Because the inspectors who held the election, by accident (?) or design, failed to send up a list of the voters' names from their polls to the county commissioners, or failed properly, in a technical sense, to sign the returns; or,

Third. As in the case of Coahoma County, because the county commissioners, leaving us in most blissful ignorance, do not even pretend to offer an excuse *why* they threw out the returns of Clarksdale, Sunflower, Jonestown, Dublin, and Magnolia precincts, only just they did so! In the record of this case there is not a hint why they so acted, but in the record of the case of Buchanan *vs.* Manning, from the same State of Mississippi, on page 6, the matter is fully explained.

After the election of 1880, certain gentlemen were indicted for various election frauds in the United States court for the northern district of Mississippi. The county commissioners of the county of Coahoma, as the record in this case on page 16 shows, were *M. B. Collins, W. W. Matthews,* and *Joseph E. Monroe,* and in the record in the case of Buchanan *vs.* Manning, along with a brief transcript of other cases, appears this terse but most suggestive record:

No 1765. United States *vs.* M. B. Collins, Warner Matthews, Joseph E. Monroe, commissioners of election for Coahoma County.

Charge.—Failing to return vote of the county, returning the vote of one precinct as the entire vote of the county.

Plea of guilty by each defendant.

When charged with their malfeasance in open court these pure patriots plead guilty with wonderful alacrity. And we are asked to shut our eyes and take their open, gross, palpable, *self-confessed* frauds as if they were a *thus saith the Lord!*

Now, if these two classes of votes, amounting in the aggregate to 4,189 votes, were improperly rejected, then Mr. Chalmers holds his seat in defiance of justice and public law, and we need look no further. But there are charges of ballot-box stuffing at *other* polls; of false returns by the inspectors; of intimidation, and of conspiracy to stifle the voice of the electors. *These are grave charges.* They justify and demand examination.

At the Washington precinct, in Adams County, the county commissioners certify (record, page 13) that James R. Chalmers received 264 votes and John R. Lynch received 98 votes.

Charles W. Minor, the United States supervisor, certifies that Lynch received about 300 votes, and Chalmers not more than 57. The reason for this ambiguity he gives when on oath as a witness, on page 160 *et seq.* of the record.

The law of Mississippi (Code, section 136) requires the count to be made so soon as the polls are closed. "When the election shall be closed the inspectors shall *publicly* open the box and number the ballots," &c.

Mr. Minor shows that when this poll was closed, at 6 p. m., the inspectors opened the polls and counted *three ballots!* The inspectors then adjourned the count until the next morning, placed the box in the upper room of a private house, pretended to lock the door, and left it. During the night a light was seen in that room, and the next morning the count was completed with the result certified to. Minor swears that about 362 votes were cast; that about 200 voters present and waiting to vote had not voted when the polls closed; that there were about 600 registered voters in that district, of whom only about 80 were white men.

The Democratic challengers asked voters a great many questions, some of which I remember. Voters were asked where they lived, whose place they lived on, where they were staying, when they had registered, where they had registered at, and so on.—*Record,* 160.

Mr. HOOKER. Will the gentleman allow me to interrupt him, as he has referred to Washington County?

Mr. PETTIBONE. Certainly.

Mr. HOOKER. I will state that the gentlemen who are alleged to have committed the offenses referred to were tried before the United States court. I chanced to be one of the counsel engaged in the defense, and in every single instance every man charged with that offense was acquitted by a mixed jury consisting of white and colored.

Mr. PETTIBONE. Still, the evidence before us of what the vote was is the testimony upon which we should make up our minds, instead of taking any outside evidence; although of course I give the gentleman from Mississippi [Mr. HOOKER] the full benefit of his statement.

At Pine Ridge precinct, in Adams County, the returns give Lynch 138 and Chalmers 141, total 279. Alexander Johnson, the United States supervisor, certifies (record, 229) that Lynch received 223 votes and Chalmers 50. He shows that when the polls closed at 6 p. m. the election inspectors refused to "publicly open the box" and count the vote; but against his wishes and protest the box was taken by Mr. E. B. Foster, one of the inspectors, to his private residence and kept all night, and *the next morning* the count was made.

Webster Bowyer, one of the inspectors, testifies that the Republicans tried to vote *open tickets*—clearly their right if they so wished to do—but "*the inspectors would not receive them in that way.*" (Record, 179.) Why should they not? It was the voter's clear right to vote an open ticket. But if all Republicans did so, bystanding witnesses could swear from observation how the vote stood. Forbidding the voting of an open ticket, against law, reason, and common sense, was the complement and necessary counterpart of the unlawful refusal to obey the law and "publicly open the box" and count the vote when the poll was closed.

In Robb and Stone precinct of Washington County we have a repetition of the programme. The county commissioners give Lynch 176 votes and Chalmers 295.

T. B. Cooper, the United States supervisor, certifies that he "actually saw and counted 297 straight Republican tickets put in the box, and was satisfied there were a great many more." (Record, 25.) Sworn as a witness, he testifies:

There were 471 ballots cast at that precinct, but there was not a fair count. In the first place the colored people, or, in other words, the Republicans, *voted an open ticket* solidly Republican from bottom to top, and I, to my personal knowledge, counted 297 of that kind of votes which went into the box. I stood right there and saw them go in. (Record, 207-8.)

At this precinct the inspectors refused at the close of the poll to "publicly open the box" and proceed with the count. They waited four hours, then opened the box and counted out 100 ballots, and then a Democratic inspector, in violation of law, took the box to his home, and the next day at ten a. m. the box was again publicly opened, and Mr. Chalmers got 295, and Lynch only 176 votes!

The witness further swears:

I voted a ticket that had Garfield for President and Arthur for Vice President printed at the top, and General Chalmers's name for Congress at the bottom, and I in the presence of a great many persons scratched Mr. Chalmers's name off and inserted the name of John R. Lynch.

And the witness adds: "If that ticket has ever been counted I never saw it, and I examined every ticket that was counted." (Record, 209.)

Much of the evidence which proves the charge of conspiracy, of intimidation, and ballot-box stuffing, not necessary, happily, in this case to show that Mr. Lynch and not Mr. Chalmers was honestly elected, are the copies of the reports of the United States supervisors of election. And here it is proper to inquire whether such evidence can be looked to. And this must depend on the question whether the county supervisors of election provided for in sections 2011 and 2012 of the Revised Statutes of the United States are covered by section 2018.

By consulting sections 2011 and 2012 of the Revised Statutes it will be seen that two classes of supervisors are provided for, the one to be appointed by the circuit courts of the United States for cities and towns of upward of 20,000 inhabitants, and on the application to the judge in writing of *two* citizens of such city or town.

These, for clearness, may be styled the city supervisors. The other class to be appointed for cities or towns of *less* than 20,000 inhabitants, and for the country generally, on the application of *ten* citizens, and in like manner, for clearness, they may be designated the country supervisors. In section 2012 *both* these classes of supervisors are covered by the same words. They shall, in the language of the statute, "be known and designated as supervisors of election."

Then in section 2017 it is provided that—

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; * * * to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, Territorial, or municipal law, and personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry lists, and tallies or check-books, whether the same are required by any law of the United States, or any State, Territorial, or municipal law, are kept.

Why should "the supervisors of election," whether city supervisors or country supervisors, do all these things? Section 2018 reads as follows:

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates, and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by

any law of the United States, or of any State, Territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

This would seem to cover both classes of supervisors. It is not denied that city supervisors may, and indeed must, make such "certificates and returns" as may be called for by the chief supervisor. But it is denied that the above section 2018 covers the case of the country supervisors, and the reason urged is because the words "in the city or town wherein they may serve" are employed in reference to the supervisors, and logically restrict the power to make "certificates and returns" to the city supervisors. But in reply it is pertinent to say that the words "to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts," &c.—these words constitute merely a descriptive clause of the officer to whom the returns are to be made, *i. e.*, the chief supervisor.

What was the purpose of the section? It is declared at the outset:

To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required, &c.

What *are* they required to do? Why, among other things, to make and forward to the chief supervisor "*such certificates and returns*" as he may direct. But it is insisted by Mr. Chalmers that the words "city or town" cut down the meaning of the section and confine the making of certificates to the city supervisor, and that there were no such supervisors in the "Shoestring" district of Mississippi.

It will not be amiss to call attention here to well established principles of construction:

The purview of an act may be qualified or restrained by a saving clause in the statute. A saving in the statute is only an exception of a special thing out of the general things mentioned in the law; but a saving clause in a statute, where it is directly repugnant to the purview or body of the act and cannot stand without rendering the act inconsistent and destructive of itself, is to be rejected.—*Sedgwick on the Construction of Statutory and Constitutional law*, second edition, page 47.

Again:

Laws which favor what public utility, humanity, religion, freedom of intercourse, and other similar interests, regard favorably, as well as those intended to favor particular individuals, ought to be interpreted with all the liberality to which these interests are justly entitled in an equitable point of view, and ought not to be interpreted severely, nor be applied in a manner calculated to prejudice the persons intended to be favored.—*Domat's Rules in Potter's Dwarris on Statutes*, &c., page 141.

It is the duty of courts so to construe statutes as to meet the mischief and to advance the remedy, and not to violate fundamental principles.—*Ibid.*, page 144.

Statutes must be interpreted according to the intent and meaning, and not always according to the letter.—*Ibid.*, page 144.

The intention of the Legislature may be found from the act itself, from other acts *in pari materia*; and sometimes from the cause or necessity of the statute, and wherever the intent can be discovered it should be followed with reason and discretion, though such construction seem contrary to the letter of the statute. This is the rule where the words of the statute are obscure.—*Ibid.*, page 144.

A thing within the *intention* is within the statute, though not within the letter; and a thing within the letter is not within the statute unless within the intention.—*Ibid.*, page 144.

Now, country supervisors of election are "supervisors" as truly as city supervisors, and *each* of them is required to make "such certificates and returns" as may be called for by the chief supervisor.

Again, frauds *can* be perpetrated as well in the country as in the city. Votes *are cast* in the country as well as in the city. *The object* of the section, declared and undeniable, is to prevent fraud, "to the end that each candidate may obtain the benefit of *every* vote for him cast."

Nor does it antagonize this construction and interpretation of section 2018 of the Revised Statutes that section 2029 declares that "the supervisors of election appointed for any county or parish in any Congressional district, at the instance of ten citizens, as provided in section 2011, shall have no authority *to make arrests* or to perform other duties than to be in the immediate presence of the officers holding the election and to witness all their proceedings, including the counting of the votes and the making of a return thereof," *because* it was already provided in section 2022 that the marshal and his deputies "shall keep the peace and support the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent voting," &c., and in case of flagrant violation of law "to arrest and take into custody, *with or without process*, any person who commits or attempts or offers to commit" any of the offenses prohibited in the act; and the section further declares that "the supervisors of election *shall*, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals."

Now, this power conferred in section 2022 was common to both city and country supervisors. But Congress saw fit to restrict the power of the supervisors *to act as deputy marshals* and make arrests, &c., to the city supervisors. This power *to act as deputy marshals*, clearly conferred in section 2022, was restricted in section 2029 to one class, namely, the city supervisors. But deputy marshals never had the power to make "certificates and returns;" and taking away from the country supervisors the power to act as deputy marshals, conferred in general terms by section 2022, did not take away the power and duty, when called on to do so, as they were in this very case, to make certificates and returns, and which they did, as appears of record in this case.

Again, if the words "in the city or town wherein they may serve," found in section 2018, restrict the power to make certificates to the city supervisors, the words ought to be "in the city or town *of twenty thousand inhabitants or upward*," because in a city or town of *less* than twenty thousand inhabitants the supervisor would rank as a country supervisor merely. And surely it needs no argument to show that there may be cities and towns of less than twenty thousand inhabitants.

And, further, in a large part of our country, as in New England, the term "town" means not merely a village or city, but what in many States is meant by the term "township."

Thus, in the debate in the second session of the Forty-fifth Congress, in the case of Dean *vs.* Field, (CONGRESSIONAL RECORD, volume 29, page 2085,) Mr. B. F. Butler, speaking of this very clause, said: "Our State is divided differently from many others. When we speak of a *town* we mean a certain territorial district having a municipal government for it." And he shows on the same page that the constitution of Massachusetts uses the term "town" in the same sense.

Now, the chief supervisor of election in Mississippi did call on the various supervisors, both for city and country, for return of the vote of the various precincts where they attended on election day. Such reports are printed in the record of this case. Are they evidence? Greenleaf lays down the law thus:

In short, the rule may be considered as settled that every document of a public nature which there would be an inconvenience in removing, and which the party has a right to inspect, may be proven by a duly authenticated copy. (1st vol., § 484.)

And in the next section Greenleaf declares:

Whether a copy certified by the officer having legal custody of the book or document, he not being specially appointed by law to furnish copies, is admissible has been doubted; but though there are decisions against the admissibility, yet the *weight* of authority seems to have established the rule that a copy given by a public officer whose duty it is to keep the original ought to be received in evidence.

The object of the act of Congress was to prevent fraud. That was the object in directing the supervisors to make returns. They have made them. They expose the frauds perpetrated. They are *evidence*. They are not contradicted save by *a most expressive silence*. They must be credited. They demonstrate the frauds were perpetrated in favor of Mr. Chalmers and to the injury of Mr. Lynch, to the corruption of public morals, in defiance of common honesty, in contempt of public right, and in violation of constitutional freedom.

But it is insisted that the votes thrown out by reason of "printers' dashes" appearing on the *face* of Mr. Lynch's ballots were properly rejected. And this demand is buttressed by an opinion of the supreme court of Mississippi in the case of Oglesby, district attorney, &c., *vs.* Sigman *et al.*, delivered, it is curious to know, immediately *after* the election.

To that case Mr. Lynch was no party. The record shows (9-13) that Mr. Lynch had sought an injunction to restrain the secretary of state and prevent the issuing of the certificate to Mr. Chalmers, by which he now holds the seat. But his honor Judge Campbell, of the supreme court of Mississippi, very properly refused to grant the injunction prayed for by Mr. Lynch, in these words:

I decline to grant the injunction prayed for in the annexed bill, because the House of Representatives of the Congress of the United States is *the exclusive judge* "of the elections, returns, and qualifications of its own members," (made so by the Constitution of the United States,) and a decision of the question as to the election of a member of Congress by any other tribunal would not be authoritative or final, &c.

This repelled Mr. Lynch from the State tribunal, because there was a want of jurisdiction expressly declared. Yet in the case of Oglesby *vs.* Sigman, to which neither Mr. Lynch nor Mr. Chalmers were parties, and which Mr. Chalmers kindly informs us, on page 13 of his personal brief, "*was submitted by counsel without brief or oral argument*," the supreme court of Mississippi, speaking through the same judge (Campbell) expressly says:

We think the effect of section 137 of the code of 1880 is to condemn as illegal and not to be received or counted every ballot which has on its back or *face* any device or mark, other than names of persons, by which one ballot may be distinguished from another.

And further, that if *the commissioners "find in the ballot-boxes ballots declared by law to be illegal, and such as shall not be counted, it is their plain duty to reject them.*"

This is the very meat of this decision. And it will be seen that the supreme State court of Mississippi differs widely from the United States district court for the same State. That court held in a case where it *had* jurisdiction that "*the inspectors* (not commissioners) of election are, so far as these officers (*i. e.*, Representatives in Congress) are concerned, *the sole judges* of the qualification of voters and of the votes to be counted."

The supreme court of Mississippi flatly contradicts the United States district court for the same State in a case where it (the supreme court of the State) had *not* jurisdiction. For in the very case of Oglesby *vs.* Sigman, the court, Judge Campbell delivering the opinion, declared:

The House of Representatives of the Congress of the United States is the judge of the elections, returns, and qualifications of its own members, and *the courts of the State have nothing to do with this matter.*

If the court of which Judge Campbell is the mouth-piece had nothing to do with the matter, it would seem that it is no matter what he said. *Obiter dicta* have but little weight anywhere.

And section 137 of the Code of Mississippi, read in the light of well-settled principles, so far as the validity of those ballots which had "printers' dashes" on them is concerned, must be held to be merely directory, not mandatory. It is almost a universal custom in the United States for the tickets or ballots to be printed prior to the election. The voter has no control and in the main little knowledge of the mystery of type-setting. In the case of Kerr *vs.* Rhodes (supreme court of California)—

The court held, and we think upon the soundest reason, that as to those things over which the voter has control the law is mandatory, and that as to such things as are *not* under his control it should be held to be directory merely. (McCrary on Elections, section 403.)

This is the very gist and cream of all the decisions on this subject. And it is a sound maxim of the law that *ratio legis est anima legis*—the *reason* of the law is the *soul* of the law.

What is the reason of the vote by ballot, rather than by *viva voce*? Clearly the main purpose is to preserve the right of the most timid voter to vote as he wishes, unawed and unintimidated. Clearly it is in order that the real will of the people may be expressed, and that the weak shall not be punished by the strong for voting as they wish.

Is there any complaint that those who voted for Mr. Lynch were compelled to so vote *because* of such printers' dashes—mere marks of punctuation—or *prevented* by them from voting either for Lynch or Chalmers as they might desire?

Charles E. Wright, a witness, (record, 24,) swears:

The dash I regard as a punctuation mark, and as such it is described by Webster. There was no mark on the outside of the ticket, and when folded *none was discernible.*

Geo. W. Rogers (record, 441) swears:

Witness examines the ticket marked Exhibit A in Albert Butcher's testimony, and states that the marks are not visible on the outside any more than the letters, and *these are not discernible.*

But further, in a case before the supreme court of Mississippi, when there was *no* question of want of jurisdiction, (Pradat *vs.* Ramsay, 47th Miss., 5 Morris, 24,) Simrall, J., declared—

An election statute ought to be interpreted with *liberality* as providing a mode to ascertain the choice of the electors, as directing machinery to bring out and ascertain the vote. Nor should such omission of forms prescribed or *any* irregularities on the part of those conducting the election invalidate it, unless the effect has been to stand in the way of and defeat the popular preference or the production of satisfactory evidence of it.

* * * * * * *

The people who are electors should not be deprived of the benefit of their votes because those whose duty it was to hold the election were ignorant, incompetent, or willfully failed in some particulars to do their duty, nor should the successful candidate lose his office because of the misconduct of those officials, if he is free from complicity with them and has not gained the office by reason of such misbehavior.

The evidence is clear that Mr. Lynch, who it is notorious is a man of color, desired to *strictly* comply with the very letter of Mississippi law in getting up his ballots; he knew the election machinery was all in the hands of his political opponents. He knew that a large part of his supporters were recently emancipated slaves, landless, and uneducated, and illy prepared to cope in any contest with their trained, educated, disciplined, and landholding opponents. But last, and finally, has any State the right to take from the citizen the privilege of voting for a member of Congress unless a particular kind of ballots shall be voted by him for Representatives in Congress? If *no* State has, then Mississippi has not.

Section 4 of article 1 of the Constitution of the United States provides:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; *but the Congress may at any time by law make or alter such regulations,* except as to the *places* of choosing Senators.

Up to 1871 the matter was left to State control, and up to this time the custom of voting by ballot even was not unusual. The vote by *viva voce* still existed. In 1871 Congress, acting under the above-quoted section of the Constitution, passed the law carried into the Revised Statutes, as follows:

SEC. 27. All votes for Representatives in Congress must be by written or printed ballot, and all votes received or recorded contrary to this section shall be of no effect. But this section shall not apply to any State voting otherwise whose election for Representatives occurs previous to the regular meeting of its Legislature next after the 28th day of February, 1871.

That this act was constitutional will *not* be denied. That it put an end to *viva voce* voting for a Representative in Congress will not be questioned. Having entered the field has Congress excluded any State legislation on the subject?

In the case of Houston *vs.* Moore (5th Wheaton, 1) Judge Washington, speaking for the court, as early as 1820, held that in regard to the militia the States having exercised control before the Constitution was adopted, and not being prohibited by it, could still legislate upon the subject, but that Congress having entered the field *excluded* the States from any control. Or, as stated by Judge Kent:

The doctrine of the court was that when Congress exercised their powers on any given subject, the States could not enter upon the same ground and provide for the same objects. The will of Congress may be discovered as well by what they have not declared as what they have expressed. Two distinct wills cannot at the same time be exercised in relation to the same subject effectually, and at the same time be compatible with each other. (1st Kent, 389.)

In Priggs *vs.* The Commonwealth, a fugitive-slave case, Mr. Justice Story, *clarum et venerabile nomen,* in 16 Peters, 617, 618, declared as follows as early as 1842:

In a general sense this act may be truly said to cover the whole ground of the Constitution, both as to fugitives from justice and fugitive slaves; that is, it covers both the subjects in its enactments; not because it exhausts the remedies which may be applied by Congress to enforce the rights, if the provisions of the act shall in practice be found not to attain the object of the Constitution, but because it points out fully all the modes of attaining those objects which Congress in their discretion have as yet deemed expedient or proper to meet the exigencies of the Constitution. If this be so, *then it would seem, upon just principles of construction, that the legislation of Congress, if constitutional, must supersede all State legislation upon the same subject, and by necessary implication prohibit it.* For if Congress has a constitutional power to regulate a particular subject, and they do actually regulate it in a given manner and in a certain form, it cannot be that the State Legislatures have a right to interfere, and, as it were, by way of *complement* to the legislation of Congress, to prescribe additional regulations, and what they may deem *auxiliary provisions* for the same purpose.

In such a case the legislation of Congress, in what it does prescribe, manifestly indicates that it does not intend that *there shall be any further legislation on the subject-matter.* Its silence as to what it does not do is as expressive of what its intention is as the direct provision made by it. This doctrine was fully recognized by the court in the case of Houston *vs.* Moore, 5 Wheat., 1, 22, 23, where it was expressly held that where Congress has exercised a power over a particular subject given them by the Constitution it is not competent for State legislation *to add to* the provision of Congress upon that subject, for that the will of Congress upon the whole subject is as clearly established by what it has not declared as by what it has expressed.

Again, in Sherlock *et al. vs.* Alling, administrator, 3 Otto, 104, the Supreme Court of the United States, Swayne, judge, delivering the opinion, expressly held:

Whatever, therefore, Congress determines, either as to a regulation or the liability for its infringement, is *exclusive* of State authority.

To the same effect spoke Mr. Chief-Justice Waite, in Hall *vs.* De Cuir, 5 Otto, 489:

Congress, which is untrammeled by State lines, has been vested with the exclusive legislative power of determining what such regulations shall be.

This was a case of commerce between the States.

In *ex parte* Seebold, Mr. Justice Bradley, construing the election laws of the United States, held:

That the regulations of Congress being constitutionally paramount, the duties imposed thereby upon the officers of the United States, so far as they have respect to the same matters, must necessarily be paramount to those to be performed by officers of the State.

And in The County of Mobile *vs.* Kimball, 12 Otto, 700, Mr. Justice Field declared:

The grant of power by the Constitution, accompanied by legislation under it, operated as an inhibition upon the States from interfering with the subject of that legislation.

The result of these authorities must be that Congress, acting under section 4 of article 1 of the Constitution, have, in section 27 of the Revised Statutes, entered upon the field, have legislated, have gone as far as they choose to go, and have *inhibited* any further legislation in regard to ballots for Representatives than is expressed in section 27 of the Revised Statutes. This ends all controversy on the matter of ballots with printers' dashes on them. No "mint, anise, and cumin" of State enactment shall take the place of the weightier matters of the law. But American citizens who vote for a Representative in Congress shall have their votes counted and their voices heard in choosing Representatives to Congress, if only they are legal voters and cast an untrammeled ballot.

Now, to summarize. Without referring to or relying on the statements of the United States supervisors who were present at the various polls and *under oath* reported what they saw—and let it be remembered one-half of them were Democrats—and, where they signed any report at all, agree in the minutest particular with the Republican supervisors, still the testimony is complete that Lynch and not Chalmers was elected. Their testimony is in the main corroborative of what we know already, and without looking to their reports; but their testimony is all we have as to *some* of the polls at which Lynch received large majorities, which were thrown out on quibbles and technicalities as thin as the motes which float in the sunbeam.

And taken with the other testimony they drive conviction home to the mind that Mr. Lynch was elected; that he is the victim of hostile prejudice, natural perhaps, but illegal, unjust, and utterly subversive of the very palladium of American liberty.

I am well aware, sir, that I have gone further than the majority report of the Committee on Elections goes. I agree to the utmost in the conclusions reached by a majority of the committee—*i. e.*, that Mr. Lynch was honestly and fairly and undoubtedly elected.

But there are certain ideas which to me are fundamental. For their expression I am alone responsible to my own conscience and to the constituency which sent me here. On day before yesterday the gentleman from Maryland, [Mr. McLANE,] whom I am sorry not now to see in his seat, declared that all the people within the lines of the confederacy were confederates, even those "loyal men" whose claims are now filed in this city. Under the rules I could not then contradict him. But I tell the gentleman, and I tell this House, that East Tennessee furnished thirty regiments of soldiers to swell the ranks of the Army of the Union in the days of our great civil war. Their bones now molder in unmarked graves on a hundred battle-fields of that fratricidal war. Now, speaking for those who still survive, the brave, unconquered, *loyal* citizens of Eastern Tennessee, the descendants of the men who sought of their own accord the lone mountain wilderness rather than submit to British tyranny in the opening days of the

revolutionary war, and who under Sevier and Shelby charged up the slopes of King's Mountain under the blazing, deadly fire of the soldiers of Ferguson; whose sons in the next generation, animated by their iron leader, Andrew Jackson, drove before them in headlong rout the veterans of Wellington on the swampy plains of Chalmette in front of New Orleans; these men, my constituents, who rallied around Andrew Johnson and William G. Brownlow in the opening days of our great civil war, and who kept, in the darkest hour of our nation's history, the fires of loyalty and liberty burning in the mountains—they have sent me here, and they bid me to stand for equal and exact justice to all men. Voicing their sentiments and their will, I invoke this Congress to give to the honest voters in every part of this Union the firm assurance that the real will of the people as expressed at the ballot-box shall prevail, and that a free ballot and a fair count *shall* be had, even in "the Shoestring district" of Mississippi. [Applause.]

[During the delivery of Mr. PETTIBONE's speech the following proceedings occurred:

Mr. ATHERTON. I desire to make a suggestion. As the gentleman from Tennessee [Mr. PETTIBONE] has intimated that he will have to hurry rapidly over some points, I wish to say I shall be glad to hear all that the gentleman desires to submit to the House; and at the proper time I will ask consent to an extension of his time.

Mr. MOULTON. I am sure there will be no objection to that.

Mr. PETTIBONE resumed his remarks. When he had spoken for one hour——

The SPEAKER *pro tempore*, (Mr. BURROWS, of Michigan.) The time of the gentleman has expired.

Mr. MOULTON. I ask unanimous consent that the time of the gentleman be extended.

Mr. MILLER. I take the floor, and yield the gentleman from Tennessee whatever time he needs.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Pennsylvania. How much time does the gentleman from Tennessee desire?

Mr. PETTIBONE. About fifteen minutes.

The SPEAKER *pro tempore*. The gentleman from Tennessee will be recognized for fifteen minutes in the time of the gentleman from Pennsylvania, [Mr. MILLER.]

Mr. HAMMOND, of Georgia. Does the Chair decline to entertain a motion to extend the time of the gentleman from Tennessee?

Mr. CALKINS. That is unnecessary, the gentleman from Pennsylvania having yielded the time he desires.

Mr. HAMMOND, of Georgia. The Speaker is able to take care of himself. Does the Chair decline to answer my question?

The SPEAKER *pro tempore*. The Chair did not understand a motion to extend the gentleman's time was made by the gentleman from Georgia.

Mr. HAMMOND, of Georgia. I make the motion.

Mr. MILLER. I have been recognized and have yielded to the gentleman from Tennessee.

The SPEAKER *pro tempore*. The Chair recognized the gentleman from Pennsylvania, [Mr. MILLER,] a member of the committee, in his own right, whereupon he yielded fifteen minutes of his time to his colleague on the committee.

Mr. HAMMOND, of Georgia. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HAMMOND, of Georgia. What right has the gentleman from Pennsylvania on that side of the House to take the floor next in order to the gentleman from Tennessee? As I understand the rule, it is that there should be one recognized on either side alternately. I deny the right of the gentleman from Pennsylvania to take the floor the next in order after the gentleman from Tennessee. I submit that to the Chair as a question of order, whether the Chair has the right, under the rules, to recognize the gentleman from Pennsylvania next after the gentleman from Tennessee.

Mr. CALKINS. I wish to suggest that whatever there may be in the suggestion of the gentleman from Georgia, no question of order can arise upon it; because it is a simple question of recognition by the Speaker. I suppose there need be no difficulty about this. If the gentleman from Georgia desires to object——

Mr. HAMMOND, of Georgia. I do not object to the gentleman from Tennessee going on, but to the mode of administering the rule. If the gentleman from Pennsylvania can be recognized next, the Chair may recognize all the gentlemen on that side in order and ignore us until all that side is heard.

The SPEAKER *pro tempore*. The Chair has no disposition to do anything of the kind. The Chair was advised from what had occurred that the gentleman from Tennessee [Mr. PETTIBONE] desired an extension of his time. Instead of waiting for an extension to be asked, the Chair recognized another gentleman on the committee, who yielded to the gentleman from Tennessee fifteen minutes.

Mr. HAMMOND, of Georgia. And I say, if the Chair pleases, that is out of order. The way for the gentleman to get an extension of his time is by a request for unanimous consent on that side or on this. I make the point of order that the Chair has no right to recognize the gentleman from Pennsylvania now, in order that he may yield any time to the gentleman from Tennessee.

The SPEAKER *pro tempore*. The Chair overrules the point of order, and recognizes the gentleman from Pennsylvania, [Mr. MILLER,] a member of the Committee on Elections, who yields fifteen minutes of his time to the gentleman from Tennessee, [Mr. PETTIBONE.]

Mr. HAMMOND, of Georgia. From that decision of the Chair I appeal.

Mr. ATHERTON. In view of the fact that I arose in my place, having been promised recognition next by the Chair, and agreed to make at the proper time the motion for extending the time of the gentleman from Tennessee, and also in view of the universal practice in the House of recognizing members alternately on the opposing sides of such cases, is it proper that some one else should be recognized simply to prevent me from doing that which without suggestion from anybody else I offered to do?

Mr. CALKINS. I respectfully submit that no appeal from the recognition by the Chair of a member has ever been entertained in this House or in any other. It is a mere appeal from the act of the Chair in recognizing a member as entitled to the floor.

The SPEAKER *pro tempore*. The Chair declines to entertain the appeal of the gentleman on the ground that an appeal upon a mere matter of recognition of a member is not in order.

Mr. ATHERTON. Then do I understand from gentlemen on the other side that instead of receiving a courtesy from this side they prefer to obtain the floor in some other way?

Mr. CALKINS. It is not a question of courtesy at all.

The SPEAKER *pro tempore*. The Chair will state that had the Chair recognized the gentleman from Ohio [Mr. ATHERTON] to debate this question, and at the end of his hour he had desired an extension and some gentleman of the Committee on Elections had taken the floor in his own right and for the purpose of yielding his time to the gentleman from Ohio the Chair would have recognized him for such purpose.

Mr. PETTIBONE. I am grateful for the courtesy shown me in extending my time.

Mr. ATHERTON. Having got their hour they must occupy it now.

Mr. PETTIBONE then resumed and concluded his remarks, and taking his seat was greeted with applause.]

Mr. MILLER. I will reserve the balance of my time.

Mr. HAMMOND, of Georgia. I object.

Mr. ATHERTON. I object to that.

Mr. MILLER. Then I will take the floor in my own right and yield it.

Mr. HAMMOND, of Georgia. To whom does the gentleman yield?

Mr. MILLER. To any person who sees fit to take the floor.

Mr. ATHERTON. I propose to take the floor in my own time.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Ohio, [Mr. ATHERTON.]

Mr. ATHERTON. And there will be no time left, as I understand it, for the gentleman from Pennsylvania, [Mr. MILLER.]

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Ohio as entitled to the floor for one hour.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate insisted upon its amendments to the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes, disagreed to by the House of Representatives, asked a conference with the House on the disagreeing votes of the two Houses, and had appointed Mr. DAVIS of West Virginia, Mr. PLUMB, and Mr. HALE as the conferees on the part of the Senate.

CONTESTED ELECTION—LYNCH VS. CHALMERS.

Mr. ATHERTON. Mr. Speaker, it is unfortunate, perhaps, for me and to the cause I represent to be called upon to engage in this discussion without fuller preparation. I agree substantially with the eloquent gentleman from Tennessee [Mr. PETTIBONE] who has spoken on the other side, when he claims that this issue is to be determined by ascertaining, if we can, who received a majority of the legal votes cast in the sixth Congressional district of the State of Mississippi.

There are certain things which we as judges of that election must consider and determine. I hope that each of us may be able to throw off all feelings of partisanship, and to forget for the moment that we are Democrats or Republicans; and that we will endeavor to ascertain how this case stands upon the evidence. I assume that we as the constitutional judges of the elections, of the returns, and of the qualifications of members of this House must, before we find that any contestant is entitled to a seat in it, find that such person was properly elected, that he was properly returned, and that he possesses the proper qualifications for a seat in this body.

Allusion has been made to a supposed prejudice against Mr. Lynch on account of race and color. So far as my prejudice in this case is concerned, being a man of northern birth, living all my life-time in that portion of the Union where freedom only was known, for one I certainly have no prejudice against the distinguished gentleman who comes here as a contestant in this case. I recognize in him a competent officer, an honest man, as I understand it, and a man who is worthy in every respect of a seat in this House if it appears he has been duly elected thereto. Neither his lineage, color, or former condition of servitude will prevent me from doing the fullest justice to him and his cause.

I desire to examine this case simply in the light of the testimony

which is before us, and to ascertain if possible whether the contestant has made out affirmatively a case which will justify us in ousting Mr. Chalmers from the seat which he now holds and permitting the contestant to occupy it.

It is said that we are the sole judges of the election of members of this House. So we are. In an argument (I speak not of the able argument addressed to the House to-day by the gentleman on the other side, but of an argument submitted to the Committee on Elections) it was suggested to us that being the sole judges of election of members we were, because made omnipotent and absolute and free from all supervisory power, absolved from any obligation to stand by the testimony and to decide the case according to the law and the evidence.

Certainly that is not the kind of argument that would be made in the Supreme Court of the United States or in the supreme court of any State, nor is it a reason which would be given to the courts why we should disregard evidence and disregard law because there was no supervisory power by which the judgment and discretion of this body might be controlled.

Now, Mr. Speaker, coming to this case I do not propose in the short time limited to me for the discussion of the legal principles involved to travel outside of the record and report which the majority of this committee have brought here and put before us as the facts which they have found and the conclusions to which they have arrived. I propose to commence the consideration and examination where they left off. They, the majority of the committee, have decided that Mr. Lynch had a majority of 385 votes over General Chalmers. They agreed upon nothing else. They disagree among themselves as to whether the certificates of the supervisors of the country districts were evidence of anything that they contain. The distinguished chairman of our committee [Mr. CALKINS] agrees with me in the proposition that the certificate of a country supervisor is not evidence of the facts it purports to authenticate; that such an officer is not authorized by statute to certify anything, and therefore his pretended certificate is not proof of any fact which it asserts.

When the majority disagree on this proposition I do not undertake to discuss it, but will leave its discussion to other members on this side of the House or to gentlemen on the other side, including the distinguished chairman of the committee himself.

Approaching the result which the majority of the committee have declared, there are several propositions of law which will address themselves so clearly, it seems to me, to every legal mind—several propositions the determination of any one of which in favor of the sitting member must give him the seat—that if I can have the attention of the House, or, as the gentleman [Mr. PETTIBONE] upon the other side said, of the lawyers of the House, and if this case is to be determined by the law and evidence, and is not to be guessed off by reason of suggestions thrown out at the end of the majority report, but which that majority are themselves unwilling to indorse, it seems to me beyond cavil or question the sitting member will be demonstrated to be entitled to his seat.

I am glad, Mr. Speaker, that this opportunity has been afforded to the country to learn something about what is termed the "Shoestring district" of Mississippi. I do not know what may have been the case in all portions of the country; but in Ohio it has been asserted by the whole Republican press that Mr. Lynch was elected by a majority of—I don't know how many—perhaps 17,000. Every fellow who ran a newspaper press had his theory. But all those wonderful tales and false representations are dissipated in the first instance by the report of the majority of this committee; for, instead of claiming a large majority for Lynch, they satisfy themselves with the claim that Lynch, the contestant, has a majority of 385.

Secondly, there is not in the notice of contest filed here by Mr. Lynch a single intimation that any one voter in all the "Shoestring district" of Mississippi has been intimidated or prevented from depositing his ballot by any violence or force.

And thirdly, Mr. Lynch himself made an application for an injunction to the chancery court of Hinds County, Mississippi, on the 16th day of November, 1880, against the secretary of state of Mississippi, in which his highest claim to a majority was 559 votes.

Turning to the question of fraud, in regard to which the gentleman from Tennessee [Mr. PETTIBONE] has talked so eloquently without evidence, I want to meet his charges and confront him by reading what was testified to by Mr. Lynch himself, and is a part of the record in this case. I refer to page 50 of the record, where Mr. Lynch, presenting himself as a witness, was asked as to this matter of fraud:

Q. Do you know of your own personal knowledge any fraud committed by the commissioners in this district by throwing out these votes?—A. My judgment is that the action of the commissioners in this district in throwing out those votes was fraudulent, but whether they acted from pure or impure motives I cannot say.

There can hardly have been fraud if the commissioners acted from pure motives.

Q. Specify now some act of the commissioners done in this district which is fraudulent.—A. The rejection in Warren County of 2,029 votes which were polled for me.

Q. Specify some other act of these commissioners that you claim to be fraudulent in this or other counties in this district.—A. I know no more than the public knows. I do not assert that any frauds were committed by the commissioners of election in Warren or any other county in the district other than by the rejection of votes.

Q. Your assertion that that is fraud is based entirely upon the fact that they rejected the votes?—A. Yes; together with the reasons they assigned for such rejection.

This is all that is asserted by Mr. Lynch himself upon the question of fraud; and this rejection of votes was declared afterward to be legal by the highest court in the State of Mississippi.

Before proceeding to the legal question to which I wish to address myself, there is one thing in the report of the majority to which I desire a moment's attention. It will be observed that on page 21 of the report the majority have added up at a certain point the votes which were originally claimed to be returned for Mr. Lynch, and also the votes originally returned for Mr. Chalmers, together with certain other votes which the majority of the committee unite in declaring ought to be received. The result of this tabulation was that Lynch received 9,545 votes and Chalmers received 9,540. It looked very much as if when this tabulation was made the majority of the committee intended to rest there. But this was a very small majority upon which to seat a man—a majority of five; and then the majority of the committee looked about for the purpose of diminishing the vote for Chalmers and adding something to the vote for Lynch. Upon the same page they say:

At Kingston precinct, in Adams County, it is conclusively shown—

Mark the language—

it is conclusively shown by the testimony of Jerry Taylor, Henry B. Fowles, Abraham Teltus, Smith Kinney, Harry Smith, jr., and William H. Lynch, that the vote as cast was 350—

The words, "for Lynch" are omitted—

for Chalmers, 59.

At this point I wish to call attention for a moment to the evidence which in the opinion of the majority so conclusively proves that these votes were fraudulent, against the well-known presumption that the officers of the law are presumed to have done their duty, and upon this the contestant takes the burden of proof. The majority say that the proof is conclusive. Now, let me turn to the testimony of Jerry Taylor, on page 128 of the record. This is the first witness mentioned by the majority. Among other things, he says:

I am satisfied that there were more Republican than Democratic tickets voted there that day. Not less than 250 or 260 Republican tickets were voted there that day. I am sure there was not less than that, and there may have been more. I saw the name of Lynch on the foot of a great many of these Republican tickets; others came in and called out the name of "Lynch" as they voted. I could tell whether these men voted a Republican ticket by the size of the ticket and the roll of it, because the Democratic ticket was so much longer than the Republican. I could distinguish the Republican ticket from the Democratic ticket when folded, because, being so much shorter, the Republican ticket would make a smaller roll when folded.

It turned out that the Democratic ticket was a half inch or an inch longer than the Republican, and the witness declares he could tell after they were rolled up by the size of the roll whether they were Democratic or Republican. He did not keep any tally of the number of Republican ballots cast. He does not pretend that he kept a tally. He had no means of knowing how many votes were for Lynch except from a general impression, and he makes the general statement that 250 or 260 voted for Lynch, while the majority of the committee give him 350. They give Lynch 90 or 100 votes more than this witness claims were polled for the contestant. Certainly his evidence did not make it *conclusive* even to persons easily persuaded.

Again, to prove it was simply a matter of recollection, and recollection without any reason to recollect, on cross-examination to be found on page 131, this same witness says:

I kept no tally-list that day as the voting was going on. I kept no count that day of the colored persons who, when they came up, called out, "Lynch ticket."

Therefore it was simply an impression, and on page 132 he says again:

What I saw of open tickets, and what the voters said, is my reason for stating in my examination-in-chief that more Republican votes than Democratic were put in the box.

The next witness mentioned by the majority of the committee is Henry B. Fowles, and his testimony will be found in the record, commencing page 132. He is the only man who pretended to have kept a tally-sheet, or to know in any way we can credit how many votes were cast for Lynch and how many for Chalmers. After giving the impression that a larger number of votes were cast for Lynch than for Chalmers he says, on page 133:

Out of the 350 which I have on my tally-sheet, I actually saw and read the name of Lynch on 160 ballots; the balance I took by what the voters said.

This is the only witness, as I have said, who pretends to have kept any tally of this vote; the only witness, and he kept no tally of votes for Chalmers.

This witness having testified that he knows 160 votes were given for Lynch, if you then turn to the report made of that election you will find Mr. Lynch is credited with just 160 votes, the largest number of votes this man swears to from personal knowledge; and it is the largest number any man swears to in this list of witnesses, and seems to be relied on by the majority as showing *conclusively* that 350 ballots were given for Lynch at that poll and only 59 for Chalmers.

To show the amenities and friendship existing between the white and black voters on that day at that election, and the total absence of ill feeling, ill will, intimidation, or violence, I will read another

short quotation from his testimony. He says, and I will read it for my red-hot friend from Tennessee, [Mr. PETTIBONE:]

We had a right-smart of fun there that day. When a voter would come up to the poll he would present his ticket open and say, "Lynch." Then Mr. Higgins would order the clerks to hunt for Lynch in the poll-book, and the clerks, after fooling awhile with the books, would say, "Lynch ain't here." They laughed a bit and then Mr. Higgins would tell the voters to "fold" their tickets, but in place of folding them they would "hold" them up open, and Mr. Jerry Taylor or Mr. Felters would take it and fold it for them.

Mr. CALKINS. What page is that?

Mr. ATHERTON. That is on page 133. I will next read from page 136.

I refer now to the testimony of Mr. Fowles to the same purport and touching some of these 350 votes, and I call the attention of the chairman of the Committee on Elections and the gentleman from Tennessee to this language, and desire to know how it can be claimed in the face of the evidence that 350—all of the votes claimed to be tallied by this witness for Lynch—could have been cast for the latter, when the only witness who kept the tally, and the only one who had the means of knowing, says that a portion of these 350 votes may have been given for the Democratic candidate. He says:

Some of these three hundred and fifty colored voters may have voted the democratic ticket. I cannot say how many did or did not. I am positive that on one hundred and sixty of the tickets I saw I read the name of "Lynch." Beyond that one hundred and sixty I cannot be positive further than that the voters said "Lynch."

He cannot be positive; the witness who was there, and who kept the tally, says that he cannot be positive; and yet in the face of that testimony the majority of the Committee on Elections can be certain beyond all question, and state to the House that it is "conclusively proved" that all these votes were cast for Lynch. They can be more certain than the men who stood about the polls and saw what was going on and from whom alone they obtained all information on the subject. They can find the *conclusive* proof when the very witness whose testimony is here given stated at the same time that a portion of that 350 votes was cast for the Democratic candidate, and all that he can be positive of is that 160 of them voted for Lynch; and Lynch got 160 votes by the returns of the inspectors, and he did not get any more. He was credited with the very highest number of votes that was proved by the doubtful testimony of any one present at the election to have been cast for him, the highest number that is testified to by any person who had any reasonable opportunity of knowing what was taking place.

Now, I come to the testimony of the next witness, Abraham Teltus. He says:

Mr. Henry Fowles was the tally-keeper on the Republican side.

This was the man who says that 160 votes was the number he can positively state was cast for Lynch, and who was the tally-keeper on the Republican side. This witness was afraid that some of the weak colored brethren might be by somebody representing the Democratic side talked into voting that ticket; and was very much afraid that some Democratic serpent might invade this political Eden and entice away some colored Republican saint. Now, the witness says in this testimony:

There could be no tangling up of the tickets from the time the voters left until they came to the voting room, unless they had Democratic tickets also, and Democratic tickets were circulated on the ground. There were Democrats on the ground trying to get the colored people to vote the Democratic ticket.

And turning to the testimony of the next witness, Harry Smith, jr., who likewise feared some tampering with the faithful in the same connection, he says:

I saw no Democratic tickets on the ground until eleven to twelve o'clock, when I saw a bundle of Democratic tickets in the hands of Mr. Dan Ashford, who had quite a multitude of men 'round him—colored men. I made for where they were, and walked in amongst the ranks and pulled one of my tickets out of my haversack and said: "Gentlemen, the understanding that I got from you was that you are to pay no attention to any ticket but our Republican ticket." Some colored men told me to pull out my tickets, and I did so, and said to them: "Gentlemen, beware of false prophets; remember that the tickets in Mr. Ashford's hands are the same color paper and similar printing to our own."

They were afraid that somebody would entice away a colored man to vote the Democratic ticket; and the only one who had an opportunity of knowing—the man who kept the tally-sheets—swears that a certain number of the three hundred and fifty might have been enticed away.

As there is nobody else speaking or testifying on this question, and these men only gave their general impressions of the number voting one way or the other, how can a majority of this committee pretend to say that these 350 votes are conclusively proved to have been given for Lynch at this precinct, and only 59 for Chalmers? They find without proof and are satisfied without evidence when they assert that beyond all question and beyond all reasonable doubt such was the state of the vote. And they say there is no doubt of the fact which they allege, in the face of the admissions of their own witnesses to the contrary, and of the presumption in favor of the honest official action of men whose duty it was to see that the election was properly conducted, that the vote was properly certified.

Under these circumstances, with the witnesses to the fact failing to testify that the 350 votes were cast for Lynch but only 160, the most that any of them testify to, I say how can it be said in view of such a state of facts that you, the majority, are willing to state in your return that 350 votes are conclusively shown to be given for Lynch at that precinct? How can it be claimed that you are to count these votes for Lynch under such circumstances? But it is said in this majority report:

It is shown that there was abundant opportunity for tampering with this box at the noon recess, when it was taken to the residence of one Dr. Farrar, and the Republicans were excluded from the presence of the box, and the aperture was not sealed.

They have failed to point out, and I call the attention of the gentlemen representing the majority of the committee to the fact that they have failed to point out anything in the statute of Mississippi that was violated by taking that box home under the circumstances. The box was locked up and the key was taken by the Republican inspector, and another inspector took the box after it was locked during this recess, and that action is justified by the law of Mississippi.

For the purpose of showing that they were justified, I call the attention of the House to the language of section 126 of the code of Mississippi:

SEC. 126. The commissioners of election in each county shall procure, if not already provided, at the expense of the county, which shall be paid by order of the board of supervisors, a sufficient number of ballot-boxes, which shall be distributed by them to each election precinct of the county before the time for opening the polls, which boxes shall be secured by good and substantial locks, and if an adjournment shall take place after opening the polls and before all the votes shall be counted the box shall be securely closed and locked, so as to prevent the admission of anything into it during the time of adjournment, and the box shall be kept by one of the inspectors and the key by another of the inspectors, and the inspector having the box shall carefully keep it and neither unlock nor open it himself, nor permit it to be done, or permit any person to have any access to it during the time of such adjournment.

And there is no evidence that a single iota, a single provision of that statute was violated by these men at this election. I want to say that is all there is in the report of the majority of the committee relating to any fraud in the Shoestring district. It is the only fraud they have called attention to as affecting that vote.

I now come to another question in this case. It is not necessary, for the purpose of vindicating the rights of General Chalmers to his seat, to prevent these 190 votes being taken from him, or 190 votes being given to Mr. Lynch. But this charge of fraud has been so much the subject of comment in the majority report, that I refer to it for the purpose of calling attention to the fact that it is the only charge of fraud which they pretend affects this election.

I call attention to the next question. On page 20 of the report it is said in reference to Hay's Landing and other precincts, as follows:

At page 89 of the record, Richard Griggs, clerk of the chancery court for Issaquena County, certifies, under the seal of said court, that the paper appearing on that page of the record is a true and correct transcript of the election returns made by the election officers as appears of record in his office, by which it appears Chalmers received 34 votes and Lynch 29 votes for member of Congress. The commissioners of election for that county certify to the secretary of state that they rejected this precinct return, and the clerk of the court certifies that that return is on file in his office, a copy of which he gives. The two statements taken together are *prima facie* evidence of the vote received at that poll. The highest number of votes appearing on the tally-list as certified by the clerk agrees with the number the commissioners say were returned from that poll. The commissioners are authorized by law to certify as a fact the number of votes cast; and the clerk of the court is authorized by law, as the keeper of public records, to give certified transcripts thereof.

For the reasons given in reference to Hay's Landing precinct, we also count Ben Lomond and Duncansby precincts; by reference to which it will be seen that Lynch's vote was 332 and Chalmers's 20 in the former, (record, pages 17 and 90,) and 371 for Lynch and for Chalmers 45 in the latter.

There is no evidence upon which any of these votes can be received unless the clerk of the chancery court for a county in the State of Mississippi has a right to certify to the state of the vote and to certify to what he calls the returns in his possession. It depends upon that alone as to whether the vote from those precincts can be received or counted. Now, we have very carefully collated in the minority report every statute of the State of Mississippi relating to election and bearing upon the question of the right of the clerk of the circuit or chancery court in a county in Mississippi to certify so as to make his certificate legal evidence, and the theory of the law relating to elections in Mississippi where the returns are to be sent and by whom tabulated and kept will be ascertained by looking at the quotations we have made from the code of Mississippi and copied in the minority report at page 27. And in order that there may be no misapprehension as to that, there is a little statement as to that matter, as to what is meant by section 105, because certain words therein used may have a different meaning in some other State.

Remembering that the question we are trying to get at is this: Has the clerk of the chancery or circuit court of a county in Mississippi a right to give a certificate relating to election returns alleged to be in his custody that shall constitute legal evidence? Section 105 provides as follows:

SEC. 105. The books of registration of the electors of the several election districts in each county and the poll-books as heretofore made out shall be delivered by the county board of registration in each county, if not already done, to the clerk of the circuit court of the county, who shall carefully preserve them as records of his office, and the poll-books shall be delivered in time for every election to the commissioners of election, and after the election shall be returned to said clerk.

While a general book of registration is made out for a county in Mississippi, a special document or book, called a poll-book, containing the record of this registration for each poll is made out for every

election precinct in the county, and it becomes the duty of the commissioners of election to see that these poll-books are placed in the hands of the proper election officers, and after the election they are to be returned to the clerk in the condition in which they were sent out by him. No return is made upon the poll-book—no tally made thereon—thus furnished. They go to the clerk and come back to the clerk in exactly the same condition, without any mark upon them at all. After the election is held section 139 shows what is to be done:

SEC. 139. The statement of the result of the election at their precincts shall be certified and signed by the inspectors and clerks, and the poll-book, tally-list, list of voters, ballot-boxes, and ballots shall be delivered as above required to the commissioners of election.

The returns do not go back as records to the clerk of the circuit court, nor to the clerk of the chancery court; they do not go to any clerk at all; but they go to the commissioners of election, who are general officers in the county, whose duty it is to receive the returns. And on the reception of these documents the commissioners of election canvass the vote, and after they have canvassed and tabulated it it is made their duty within ten days to certify the result to the secretary of state. That being the case, they are the custodians of the election returns. If anybody is to give a certificate of election returns that duty must be discharged by the commissioners of election. It is to these officers the law says the returns shall be made, and it is their duty to certify the result, tabulated from all the returns in the county, to the secretary of state.

Such being the case, will anybody say to me that because by some process not authorized by law the returns may have got into the hands of a clerk he can certify them and make his certificate legal evidence? Nobody will pretend to say they are records of the court in which he acts as clerk. They do not even pretend that, as clerk of the chancery court, he has any power to make any certificate relating to election returns that will constitute valid evidence at all. But he having certified as clerk of the chancery court, and they assuming that the clerk of the chancery court and the clerk of the circuit court are one and the same person, they assume to take the certificate of the chancery clerk as proof of the returns. No proof has been made of the state of the vote in these three precincts, except such as is furnished by the certificate of the clerk of the chancery court, and if that is not legal evidence of what it purports to contain these votes must be eliminated and thrown out. That change will of itself defeat Lynch and elect Chalmers. So if you give the former all the votes he claims, except such as are unproved except by the certificate of the clerk of the chancery court, and Chalmers is elected. Are we to decide the case by the well-known rules of evidence, by those crystallized by the wisdom of the ages? They are older and wiser than we.

These rules say that such a certificate is not evidence. In Greenleaf on Evidence it is said in regard to certificates given by persons in official positions:

The general rule is that the law never allows a certificate of a mere matter of fact not coupled with any matter of law to be admitted as evidence. If the officer was bound to record the fact then the proper evidence is a copy of the record duly authenticated. But as to matters which he was not bound to record, his certificate, being extra official, is merely the statement of a private person, and will therefore be rejected.

Now, he certifies in the first place as clerk of the chancery court; but that furnishes no proof that his act was an official act as clerk of the circuit court. But waiving that for the time being, we find by looking at the statutes of Mississippi that the returns never went into his possession as a record of the court; never went into his hands as a public officer charged with their custody as such, or in any other way known to the statutes. Therefore his certificate as a matter of evidence is without legal value, and proves nothing. It is of no more effect than the white paper it was first written upon.

No lawyer can say, unless he can successfully dispute these grounds which I have assumed, and unless he shows that the statutes of Mississippi are different from what I have stated them to be, that such a certificate is proof of what it contains; unless somebody can show that, it will not do to say to any member of this House who has ever been a judge or any one who pretends to be a lawyer that such a certificate proves anything.

In view of it, I repeat, enough votes are affected by this one proposition, even if you give to Lynch what the majority of the committee claim for him, (but rejecting these,) that is, a majority of 385 votes—enough votes are affected by this one proposition to overcome that majority and elect Chalmers by 315 votes, or about that number; by simply rejecting this pretended vote about which there is no legal evidence under the sun, no pretense of evidence except this certificate. And this certificate, as it seems to me, is conclusively shown to be without any legal authority, to be void and proving nothing.

Now, the majority of the Committee on Elections are not slow to apply a rule of this kind when it will lose votes to a Democrat and give them to a Republican. Let me call the attention of members of the House a moment to a report which has been made in another contested-election case, by my distinguished friend from the "hub of the universe," the gentleman from Boston, [Mr. RANNEY.] I say the majority of the committee are not slow in respect to another case in coming to a decision as to the testimony of such a clerk. I refer to the case of Bisbee *vs.* Finley. On page 8 of the report of the majority they say:

As to the testimony of this clerk, it is sufficient to say that there is no law in Florida providing for the preservation of the ballots for the purpose of being used as evidence; the ballots are not evidence sufficient to overcome the testimony of the voters where the question of fraud and tampering with the ballot-box is raised.

In the Florida case, where the attempt is made to unseat a Democrat, the certificate of the clerk is of no value whatever for the purpose of proving legal votes. But in the State of Mississippi, where the proposition is to unseat a Democrat and to seat a Republican in his place, the certificate of the clerk is a very good thing and quite sufficient for the purpose. I hope, however, that the views of the majority in that regard will not be concurred in by members of this House.

Mr. CALKINS. Do you not disagree to that statement as one of the minority?

Mr. ATHERTON. No, I do not. There is no difference between us.

Mr. CALKINS. I thought there was.

Mr. ATHERTON. It may be said in the Florida case that other evidence was adduced in addition to the certificate of the clerk, and that the vote on the evidence should not have been rejected, but the principle we have never disputed. No certificate, no officer's certificate touching a document of which he has not the legal custody, can be received as legal evidence.

Now, to come to the next proposition, which is still clearer, if the one can be clearer than the other. The majority of the Committee on Elections, in order to make up the majority for Lynch which they claim, have restored the pretended returns in Australia precinct and in the Bolivar precinct in Bolivar County, which the commissioners rejected. In Australia precinct they claim for Lynch 192 votes and for Chalmers 30 votes; and in Bolivar precinct they claim for Lynch 311 votes and for Chalmers 45 votes.

Now, let me have the attention of the House to this matter for a moment, in order to see whether any of us disagree as to the principle to be applied to uncertified returns. I desire to call attention to page 19 of the report of the majority. It is there said in regard to to Bolivar County, in the first place:

Under section 138 of the Mississippi code the inspectors of elections are required to send up to the commissioners the whole number of votes cast at the poll, and the commissioners under section 140 of the code are required to "transmit to the secretary of state, to be filed in his office, a statement of the whole number of votes given in their county for each candidate."

This duty being enjoined by statute, their certificate is evidence of the fact that the number of votes which they certify were given. That return was put in evidence from which it appears they returned Lynch 979, Chalmers 301.

I call the attention of the House to this statement for this reason: it is put here as though the votes that were said to be rejected were a part of those certified by the commissioners. Such is not, however, the case. But those votes, 979 for Lynch and 301 for Chalmers, are included in the returned vote and have nothing to do whatever with the rejected vote that follows. And now as to that rejected vote let us see what appears? I read from the same portion of the report:

It further appears by a certificate signed by the commissioners of election that they threw out Australia precinct, containing 30 Democratic votes and 192 Republican votes, because the returns were "not certified to by the inspectors or the clerks."

Again, it appears from the same certificate that in this precinct—Bolivar precinct—45 Democratic votes and 311 Republican votes were rejected for the same reason. Now, for what reason did they reject those votes? They had no proof that any such pretended votes were given at all. The returns were signed by nobody, neither by the inspectors of election, the clerks of election, nor anybody else. They were simply papers coming up in the form of election returns, unsigned by any person on the face of the earth. For anything that the election officers knew they might have been interpolated between the place of the election and the place where they were delivered.

Now, I would like the attention of the lawyers among the majority of the committee. I would like the attention of the distinguished chairman of the committee, [Mr. CALKINS,] and especially the attention of my learned friend from Massachusetts, [Mr. RANNEY,] who prepared the report in the case of Bisbee *vs.* Finley. I would like to see his face here just now, because my beloved friend from the glorious "hub of the universe" has committed himself in the report which he made, and which my friend from Indiana [Mr. CALKINS] signed, to this very proposition. When I read it will not somebody say as I say now, "consistency, thou art a jewel?" and add, may thy glorious beams illumine at some time the work of the majority of this committee!

I hold in my hand the report in the case of Bisbee *vs.* Finley, written and printed before the ink was dry upon the majority report in the present case. I call attention to page 19:

ORANGE COUNTY.

The paper purporting to be a return from the poll in this county known as Fort Christmas is not signed by the officers of the election, as appears from a certified copy thereof in evidence, and it is proven that these votes stated in this paper were included in the official return from the county.—*Record*, pages 1129 and 76.

Such a return is illegal, and no votes stated therein can be counted.—*McCrary on Elections*, sections 174 and 274.

This document states that Finley received 30 votes and Bisbee 3 votes, which we deduct from the count.

Now, let us find out the difference between the two cases. In both cases there were election returns which were not signed or certified

by any officer. In the case of Lynch *vs.* Chalmers the commissioners of election who had the authority to do so ruled out these returns, refused to admit them into the tabulated return. In the case of Bisbee *vs.* Finley these returns were admitted. The chairman of the Committee on Elections in his report in this case, signed by eight or nine Republican members, said that although the returns were thrown out they should be received; and the next day, before the printer's ink had dried on the report in this case, the majority of the committee submit a report declaring that returns of this kind which had been received under similar circumstances should go out. The election officers in the Lynch case did their duty, and ruled out these returns; and the majority of the committee say they shall be put back. In the other case the inspectors of election did not do their duty but admitted returns of this kind; and the majority of the committee in their report propose to throw them out.

Now, is it necessary, is it proper, is it essential that I should stand before this House, composed as it is said, of eighteen lawyers out of every twenty members, to urge upon you that what would otherwise be a return, but is signed neither by a judge of the election nor a clerk, is unauthenticated in every way, and should be ruled out? If it is necessary that so plain a proposition should be bolstered by authority, all I have to do is to refer to the authority presented by the learned gentleman from Massachusetts [Mr. RANNEY] in his report. He refers to McCrary on Elections, sections 174 and 274. I read those sections:

SEC. 174. In Chrisman *vs.* Anderson (1 Bartlett, 328) it was held to be the duty of the House of Representatives in the investigation of an election contest to go behind all certificates for the purpose of correcting mistakes brought to its notice. In the same case, however, it was held that a return not signed or certified by any of the officers of the election was not admissible; and the same point was held in Barnes *vs.* Adams, (2 Bartlett, 760.) It is the duty of the party seeking to avail himself of a vote which is not legally certified or returned to make the necessary proof to supply the place of the usual formal certificate and return; and if he fails to do so, such vote cannot of course be received.

SEC. 274. Where the statute required that the return of the vote of each town should consist of a copy of the town record, signed by the selectmen and attested by the clerk, it was held that a certificate which did not on its face purport to be a copy of the town record, and which was attested by James N. Tilton without anything to show that he was town clerk, was void, and could not be received by the canvassing board. (Luce *vs.* Mayhew, *et al.*, 13 Gray, Mass., 83.) And, of course, if the proper officers omit altogether to sign a return, though it may be otherwise formal, it is void and proves nothing. (Barnes *vs.* Adams, 2 Bartlett, 771.)

That is the authority of my friend from Massachusetts; and I am glad to see it. I know he will vote with us on this proposition, although turning to the majority report in this case I find his name in the list of signers. Now you see it, now you don't.

There are some other propositions of law which the minority in their report quote from the same book:

SEC. 363. The general rule is that when the return is set aside both parties must prove their votes by other evidence.

SEC. 365. It is impossible to state more definitely than we have done the general rule which should govern in determining whether a return should be set aside, and the parties on either side required to prove their actual vote by other evidence.

SEC. 391. It is very clear that if the returns are set aside no votes not otherwise proven can be counted.

It certainly will be admitted that a pretended return not certified to at all would be in no better condition than a vote certified to, but the return of which had been set aside; because if the supposed return be unauthenticated there is nothing upon which the election officers can say it is a return.

The correction of the vote by the exclusion of these votes uncertified altogether is enough to overcome the majority claimed for Lynch and to elect Chalmers. So on that, as well as on the other proposition, you may concede the pretended illegal votes, you may concede these votes unproved except by a certificate of the clerk who had no authority to make it, and still Mr. Chalmers is elected by a very good majority, I do not know exactly how many.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. CALKINS. I move, Mr. Speaker, by unanimous consent that the gentleman's time be extended to the conclusion of his speech.

There was no objection.

Mr. ATHERTON. I am much obliged to the gentleman from Indiana. I prefer to go on by the courtesy of my friends of the House than for my friends to get it by taking the floor in their own right and then yielding it to me as was done on the other side.

The SPEAKER *pro tempore*. The gentleman from Ohio is recognized to continue his speech.

Mr. ATHERTON. I am glad to say, Mr. Speaker, we on this side desire kindness and courtesy from our Republican friends whether those on the other side do or not, and I most especially thank the chairman of the committee for it, from whom I am indebted for so many favors and whose breadth of intellect is only excelled by the goodness of his heart.

Now we come to the consideration of a question, Mr. Speaker, that I do not think has ever been disputed before in a committee of this House, or before any court in all the history of jurisprudence of this country under its complex system of government until the dispute which is made by the majority of this committee, and that is, when a local statute of a State has received the construction of the highest court of that State, the courts of the United States, or a committee of this House, this House itself recognizes its binding authority upon all questions of local statutory construction.

And it is necessary by reason of the complex system of our Government, that it must be so. We give to the Supreme Court of the United States the jurisdiction to construe its Constitution and its laws. A construction of either, when put upon them by the Supreme Court of the United States, is from the time of the enactment of the law to be considered as much a part of it as any of it which may be considered more immediately the work of the Legislature. The construction is ingrafted upon it and becomes a part of the law, and you do not follow it afterward because it is a decision of the Supreme Court, but because it is a part of the supreme law of the land. In like manner each State has delegated to the highest court in that State the construction of its constitution, of its statutes, and when the highest court of a State construes a local statute that construction relates back to the time of the passage of the law and is as much a part of the law from the moment the statute has been enacted as though in express terms that construction was a part of the declaration of the Legislature when the law was made.

And it must be so. For instance, take a case such as this. Here we are trying to find out, not what any court has decided, but we are here for the purpose of learning what is the election law of Mississippi. And how do we find it out? We look to these statutes, and if there is anything for the judicial construction, we look beyond the statute to see what construction is given to that statute by the highest court of the State. Whether the original statute, so to speak, or whether it is an additional idea ingrafted upon it by the judicial construction, it is the law from the moment the statute was enacted. It is a new idea suggested by the chairman of this committee in his report that, in order to make the construction of the statute binding upon anybody, it must continue for sufficient length of time, so the people shall find it out, just as though there could be a construction of the statute that did not bind the parties until after it was made; that is to say, that here we construe this statute, and we do not construe it for those who may be affected by it up to this time, but we construe it for those who are to come after us. Who ever heard of such a claim as to a construction of a statute? The construction is not the enactment of a law, but it is simply declaratory of what the law has been all the time since its enactment. It is as much a part of the law as any other portion of it if it could be divided. It is a mere declaration that such was the law from the beginning.

Otherwise, what condition of things would you have at an election in the State of Mississippi. Here a man comes up with a ballot, and what does he say? That ballot is illegal for any office in the State of Mississippi; it cannot be a valid ballot to deposit for any officer of the State of Mississippi; but it may be a good ballot for a Congressman. It illustrates what I said before, that under our complex system of government you must allow a State to construe its own laws; and so long as the Government of the United States allows the State to make the election law relating to State and Congressional elections, and the courts to construe it, the courts of the United States, the Congress of the United States, and this House are bound by that construction. Such has been the uniform decision all the time from the beginning of our complex system until now, unless we are now to ingraft an exception upon it in the Lynch-Chalmers case. The only pretended exceptions (and they are not really exceptions) are that the United States courts do not follow the decision of the highest court of the State where they are within the domain of general jurisprudence. They do not do it also when by the last decision the courts of a State attempt to overturn former decisions that have become a rule of property.

The majority of the committee attempt also to establish another exception and claim that a single decision of a State court touching the construction of a local statute would not govern the United States courts or this House, and it only a line of decisions that should be followed. If a decision had been made and you do not follow it until there is a line of decisions clearly sustaining it, if it is very thoroughly acquiesced in by the people, there would probably be no other decision like it, because the people indorsed it and no similar case is likely to arise. Therefore, to say this shall be the line of decisions before the courts shall be bound to follow them, and that no construction shall be binding until it has become known, is putting upon and ingrafting into the law a principle unknown to it, which has not been practiced, and in the nature of things cannot be.

If it is necessary to demonstrate how thoroughly this doctrine has been followed, let me call the attention of the House to the ordinary judicial declaration on the subject. In the case of Green *vs.* Neal, 6 Peters Reports, 291, the court say:

The decision of this question by the highest tribunal of a State should be considered as final by this court, not because the State tribunal, in such a case, has any power to bind this court, but because a fixed and received construction by a State in its own court makes it part of the State law.

That bears out exactly what I have attempted to indicate.

Again, in the case of The Tioga Railroad Company *vs.* The Blossburgh Railroad, in 20 Wallace, 143, the court uses this language:

These decisions upon the construction of the statute are binding upon us, whatever we may think of their soundness on general principles.

This is not a question as to whether we would have made the same decisions that the court made, but the point which we are to consider is, Was it a question for judicial construction; was it a con-

struction the court might put upon a statute? And if it was so decided by the highest judicial tribunal of the State, then the courts of the United States have declared their intention to abide by such decisions and stand by such a construction.

Not only has that been the language of the court but much more has it been the language of this House and of its Committees on Elections. Let us see how the Committee on Elections in former reports have spoken on this question, the question as to whether this House should stand by the construction of the highest court of the State in construing their own statutes. I call attention first to what has been called the Tennessee cases, and to the report made thereon by Hon. G. W. McCrary, who has become the author of our standard work on this subject of elections law. He says:

It is a well established and most salutary rule that where the proper authorities of the State government have given a construction to their own constitution or statutes that construction will be followed by the Federal authorities. This rule is absolutely necessary to the harmonious working of our complex government, State and national, and your committee are not disposed to be the first to depart from it.

Now, it was stated in language not quite as strong in the Iowa cases, in the Forty-sixth Congress, in a report signed by Messrs. Field, the present Speaker of the House KEIFER, CALKINS, CAMP, Weaver, and Overton:

We are not disposed to be the first to depart from it, and we certainly think that such a decision, made in good faith and acquiesced in at the time by the people of the State, and followed by a full and fair election, should not be overthrown or questioned, except for the gravest reasons, founded on an undoubting conviction that it was plainly an error, and that the error had worked some substantial injury.

That, I am informed, was not a decision of the court of the State, but referred to a proclamation of the governor fixing the day of election.

Mr. BELTZHOOVER, on the same question, spoke substantially in the same line. He says:

The question whether the constitution of the State of Iowa "must be amended in order to effect a change in the election of State officers" is one which it is the exclusive right of the State to decide. The persons to whom the constitution and laws of Iowa confide this decision have made it, and their determination is a finality and is conclusive on all parties. The committee have not the right to review the decision.

And in the case of Curtin *vs.* Yocum, which turned upon the construction of a statute of Pennsylvania, the minority report, which was made by Mr. CALKINS and signed by our present Speaker and Mr. Weaver, relying upon this construction of a State court, uses this emphatic language, speaking of an unregistered voter:

We think this question, under the present constitution and laws of Pennsylvania, not an open one. The highest court of judicature of the State has decided it; at least it has given a construction to that part of the new constitution under consideration, and we quote therefrom.

This is unequivocal language, and this minority report was adopted by Congress, and a Greenbacker was permitted to retain his seat in a Democratic House.

In the case of Bisbee *vs.* Hull, in the Forty-sixth Congress, the decision of the supreme court of Florida was held to be conclusive by the committee and the House. When the admission of Mr. Hull, who held the governor's certificate, was under discussion, Mr. CALKINS said:

How can this certificate stand, even as establishing a *prima facie* right, when the basis upon which it rests has been swept away by a decision of the supreme court of the State of Florida?

Is it true that a decision of the supreme court of Florida is to receive the fullest consideration and to govern the action of the committee, while the decision of the supreme court of Mississippi is to receive no consideration whatever at the hands of that committee? And in that report Mr. KEIFER uses this language:

The opinion of the supreme court of Florida, pronounced by the chief justice, on the question of canvassing the vote of the county of Madison will be found in the record, page 221.

* * * As already stated, duly certified copies of these returns were put in evidence by the contestee; they are signed by all the officers of the election; they are perfect in form, clear and explicit in the statement of the votes cast, and have all been adjudged by the unanimous opinion of the supreme court of Florida, in a case before it, to be good and valid returns of the election at these polls. (17 Florida Reports, page 17.)

If the supreme court of Florida, speaking upon a matter before it, declares, and that declaration as cited by the Committee on Elections "having been adjudged by the unanimous opinion of the supreme court of Florida in a case before it to be good and valid returns," it ought to bind the committee.

Again, in the case of Boynton *vs.* Loring, the report which was prepared by my distinguished friend, the chairman of the Committee on Elections, contains a clear and explicit announcement of the doctrine I now contend for.

I have only time now to refer to a fact which has been suggested but not argued by the majority of the committee: that the statutes of a State become by adoption the property of the United States in respect to the election of members of Congress, and, being so, this House has the same power as a supervisory board over them as the Supreme Court has over questions of Federal law. But no such distinction was pointed out by the committee or anybody else in respect to the construction of the State statute relating to an election. And it was said in the report of the Committee on Elections in this case of Boynton *vs.* Loring:

But it is not necessary for us to decide this question, and we do not, much preferring that the courts of Massachusetts shall first construe their own statutes, and when they have undergone judicial construction we would follow the decisions of the courts of that State.

Ah, yes; when a Democrat is to oust a Republican we will follow the decision of the State of Massachusetts and retain the sitting member; and when a Democrat is to be ousted by a Republican, we will put our foot on the decision of the supreme court of the State of Mississippi and refuse to be bound by it, and oust the Democrat.

It is not denied in a general way that the rule I have contended for should generally control the action of this House. But it is attempted to be said—and I wish to have the particular attention of the House while I am discussing this proposition—it is attempted to be said this decision of the supreme court of Mississippi is not to guide the House, for two reasons. One reason is, it is said to be an *obiter dictum*. Another reason is, that the court is alleged to have been without jurisdiction to make this decision. Now, if I can have the attention of members of this House, I say it seems to me, however much I may fail in it, that I can demonstrate that this decision is not obnoxious to either of these objections. It certainly is not *obiter dictum*. What is an *obiter dictum*? Let me ask my friends on this side of the House or on the other, what is an *obiter dictum*? Can the court consider and decide the principal points raised in the case and the result be an *obiter dictum*?

Here the supreme court of Mississippi decided three propositions in a case fairly presented. Not for the purpose of determining the Lynch and Chalmers case, but for the purpose of getting a decision on the construction of a Mississippi statute, three questions were presented. The first was whether the commissioners of election, these general county officers, had to receive without question the returns sent up by the inspectors of election, and not purge or correct them, or whether it was their duty to canvass and correct them? The next question was, if it was their duty to canvass them, were these votes, the marked ballots which they had received, legal? The third question was, if they were illegal votes, could the court recall the board of county commissioners for the purpose of doing their work over again, or were they *functus officio*?

Those were the three questions presented, those were the questions fully considered by the court, and those were the questions decided.

Now, I ask, what is an *obiter dictum*? It is simply an expression of the judge illustrating, as he goes along, the proposition he intends to decide. It is something said by way of illustration outside of the real point he decides. Here it was the principal point decided. There were three points decided. The first was that the court did assume to decide that these commissioners of election had the power as a supervisory tribunal to recanvass the votes that were sent up to them; to look at the returns and compare them with the ballots and say what should remain in and what should go out. They said, in the second place, these ballots marked with what are called printers' dashes are illegal; and therefore it was the duty of the officers who received them to have rejected them. But as to the third point they, the commissioners, having exhausted their powers, could not be called together because their powers were *functus officio*, they having first attempted to discharge their duties as they did.

Well, now, if it was not an *obiter dictum*—and it does seem to me if there be any proposition that must be said to have nothing in its favor, as contended on the other side, it is that this decision of the court was an *obiter dictum*—the next question is, Was the court without jurisdiction? Well, whether it was or not is to be determined by the statute and what they did. There was a statute in the State of Mississippi which authorized the attorney-general under certain circumstances to invoke the jurisdiction of the court in any matter in which the public had a general interest. Its language was this, as found in section 2542 of the Code of Mississippi:

On the petition of the State by its attorney-general, or a district attorney, in any matter affecting the public interest, or on petition of any private person who is interested, the writ of *mandamus* shall be issued by a circuit court commanding any inferior tribunal, corporation, board, officer, or person, to do, or not to do, an act, the performance or omission of which the law especially enjoins as a duty resulting from an office, trust, or station; and *where there is not a plain, adequate, and speedy remedy in the ordinary course of law.*

It was said at this time the officers of election had been subjected to arrest for either receiving or rejecting votes under the statute of the State of Mississippi, and the attorney-general, in pursuance of the power conferred upon him by this section, filed a petition in *mandamus* against the election officers in Tunica County, State of Mississippi, complaining they had received votes which were obnoxious to the Mississippi law relating to elections, and insisting that they should be called together for the purpose of undoing the wrong that they had done by the reception of those votes; in other words, being called together, that they should exclude these votes which they had consented to receive It was a question of general interest. It was not a question of Lynch and Chalmers; it was a question relating to the peace and good order of the State of Mississippi. It was a question relating to the powers of this board of election commissioners. It was a question in which there was not a plain and adequate remedy at law, and the jurisdiction of the courts of Mississippi was properly invoked by the attorney-general not for the purpose of

deciding the case of Lynch against Chalmers, but for the purpose of deciding the proper construction of the law and preserving the peace and good order of the State of Mississippi.

He, having commenced this proceeding against these officers of Tunica County, was met by a demurrer. It is attempted to be said here that all the parties to that proceeding were attempting to help Chalmers against Lynch. Yet the very first thing these election officers did, who are supposed to have been in the interest of Chalmers and attempting to help him, was to file a demurrer disputing the jurisdiction of the court, showing that the defendants were making a proper and *bona fide* defense, were making a legal technical defense, and were not doing it for the purpose of aiding in procuring any particular construction of this statute.

The circuit court of the State decided in favor of the defendants, and thereupon the case was appealed to the supreme court of the State of Mississippi; and these questions came up before that court, which are stated here in the report of the minority. I have endeavored to state them before. But in order that there shall be no misunderstanding, I will ask gentlemen to listen while I state what are the questions which were presented to the court, the order in which they were presented, the way in which they were presented, and how they were decided. I quote from the decision:

> This case presents for adjudication three questions, namely:
>
> 1. Whether the commissioners of election have the right to reject illegal ballots cast and counted by the inspectors of election and returned to them with the statement of the result at the precincts.
>
> 2. Whether the ballots which the commissioners of election for Tunica County refused to reject should have been rejected by them as being illegal for having on them a device or mark by which one may be known or distinguished from another.
>
> 3. Whether the action of the commissioners was final, or whether they may be required by *mandamus* to meet and act in the matter again, as the court may order.

Those were the questions. Now, I ask those gentlemen who say that this was a decision made without jurisdiction, (and let me hear the response when we come to hear from the other side,) suppose that the supreme court of the State of Mississippi had determined the second proposition just contrary to what they did determine it. Suppose they had determined that these ballots which the commissioner of election of Tunica County had received were legal ballots and not obnoxious to the provisions of the Mississippi statute, then I would like to ask any gentleman on the other side whether it would have been said that that decision was without jurisdiction?

It was a question which they had as much right to decide as any other. All three questions invoked the jurisdiction of the court to construe the statutes of the State of Mississippi as to elections. Now, the proposition I make—I might make it as to this first question, but I make it as to the second so that I may not be misunderstood—the proposition I make is this: suppose the court had decided that these ballots were legal, and that the commissioners had not done wrong in rejecting them, would anybody say that they had not the right to so decide in this case, and so relieve the defendants by turning them out of court upon the theory that they had done no wrong? Suppose that it was the first question they had to determine, and its determination had been different from what it was. Suppose they had found that the commissioners of election had no right to reject votes that were returned to them by the inspectors of election. Suppose the court had determined in that way. Would they not have had the right to so determine? That would have ended the case, as the determination of the second proposition would have ended the case.

Nobody will pretend that the court was without jurisdiction, because it could determine upon either of the propositions just as fully as it could determine upon the third proposition if that had been first taken up.

Now, let me ask gentlemen on the other side, those who say that this question was determined without jurisdiction, is it not a most peculiar case that the court, the supreme court of the State of Mississippi, has the right to determine the question one way, and you make no point against the jurisdiction when it so decides, but when the court determines the same question the other way you hold that it has no jurisdiction and the determination is void? You will have to come to that conclusion before you can ever say that the court determined the case without jurisdiction. You will have to come to the conclusion that the court had the power to determine the question one way with full jurisdiction, while if it had determined it the other way it had no jurisdiction.

It is said that the court first determined that these commissioners could not be called together again. They did not so determine. But they determined the questions in the following order: Have the commissioners the right to pass upon the correctness of the returns sent up by the inspectors of election? If they had determined that they had not the right, then there would have been nothing to be decided touching these ballots which the inspectors of election received. If they determined that question one way there is nothing further to determine; if they determined the ballots to be legal there would be no need to go further.

But if they determined that the ballots returned by the inspectors and received and counted by the commissioners were illegal, then the third question came up, and that was whether the court could call this board together again for the purpose of undoing the wrong which it had committed. The question was determined just as much, with as full jurisdiction, and is just as much a decision which should bind this Congress and this House as the decision of any question that was ever determined by any State court in construing any statute of a State.

There was not only one decision merely but it was followed by another of like tenor. So the case comes within the rule as prescribed by the majority of the Committee on Elections. Here are two decisions of the same question—a line of like decisions. In a second decision made afterward by the Committee on Elections, by which a Democrat was unseated and a Republican permitted to occupy the place, the same court substantially determined that this statute was not directory, but was mandatory; that it was for the court not to make but to declare the law.

Now, if you will look to the language of that statute you will find upon the very face of it, as it seems to me, that no court could have properly come to any other decision upon the construction of that statute than the one arrived at by the supreme court of Mississippi. A proper construction of that statute, mandatory in terms, required the court to decide that a mark not only upon the back of the ballot shall make it obnoxious to the provisions of the law, but that there shall be no mark upon the face of the ballot; that a mark upon the face of a ballot shall have exactly the same effect as one on the back. The language of the statute is this:

> But this shall not prohibit the erasure, correction, or insertion of any name by pencil-mark or ink upon the face of the ballot.

Gentlemen say that these marks are not obnoxious to the statute, because they were upon the face of the ballot. But the statute says that any mark by which one ballot may be distinguished from another destroys the ballot. It says to the inspectors of election, "You shall not receive any ballot that has anything upon it, either on the face or back, by which one ballot may be distinguished from another in any other way than by the names." It says to the commissioners of election, "If the inspectors of election, in violation of this law, shall have received any ballots with any of these distinguishing marks upon them, you, when you meet as a board having supervisory power over the action of the inspectors, must disallow such ballots."

The statute applies to any marks upon the ballot anywhere; and the proviso, the saving clause, is that this shall not prohibit the erasure, correction, or insertion of any name by pencil-mark or ink upon the face of a ballot, showing that the face of the ballot was the subject of legislative consideration and action as well as the back; that the statute was directed against everything other than the names by which one ballot might be distinguished from another.

As to the decision of the supreme court of Mississippi, I have no mission to perform in the way of vindicating the wisdom of that court. It is enough for us to say that the court had jurisdiction and that it decided this question of statutory construction. If it were necessary to go further and vindicate the wisdom of that decision I might say that the court would have gone outside of its powers as a court construing the law and would have attempted to usurp the powers of legislation if it had not obeyed the law as it found it and made simply that decision which is consistent with the language of the statute.

It is not true, as has been asserted, that no other decision can be found in the same line or the same direction. The minority report refers to decisions, not precisely like this but analogous to it, in the Pennsylvania reports, the Oregon reports, and also a very strong case in the reports of the State of Alabama. These decisions declare in effect that when the law-making power of a State has determined what a statute shall be, it is the duty of the courts to vindicate that legislation and carry it out, not to higgle upon the principles that ought to have influenced the law-making power, but to find out the meaning of the statute and construe it accordingly. But if, as I have said, the construction given by the supreme court of Mississippi in this case is not the construction which you or I would have given; if this construction differs from the construction given to a similar statute in Indiana, or California, or any other State, we are here simply for the purpose of determining what the law is on the subject in the State of Mississippi; and when the highest court of judicature in that State has determined the construction of the statute-law of the State we are bound, in order to maintain our complex system of government, to accept that construction.

But it is said that some other court in Mississippi (though I never heard the statement until I heard the speech of the gentleman on the other side within the hour just past) has made a different decision. If this be so it was much better reason that the matter should have been authoritatively determined by the supreme court of the State. This House is not bound by a decision of the district court which has been reversed. There is no declaration in any of the decisions or in any of the reports of committees of this House that the inferior courts of a State are to declare the proper construction of a statute of the State. The declaration is that the report of the highest court of judicature in the State is to govern the courts of the United States, as well as the action of this House, in the construction of a State statute.

There are many other propositions which, as a matter of course, it would give me pleasure to discuss; but I have taken much more time than I expected, and much more than I ought to have taken, by the courtesy of the House. But the Constitution has made us the

judge of the elections and returns of members; and we are to determine in this case whether one man, who now has a seat in the House, or another, who is seeking a place here, is entitled to the seat. Shall we act as judges? Are we to determine these cases according to legal rule? Are we to be guided by the wisdom of the ages that have gone before? Are we to abide by the determinations of the courts? Or are we to adopt language that I heard used in our committee-room, and to assume that we are judges, uncontrolled except by such rules of law or evidence as we see fit to adopt, and being thus uncontrolled, and subject to no supervisory power, we will do exactly what our notions of right shall indicate without reference to the rules of evidence or the decisions of the courts?

Such a principle simply brings us to a state of anarchy, a condition in which nobody outside of this House would have any respect for our decisions. If we stand by the well-considered determinations we have heretofore made, and by the well-established rules of law, it makes no difference whether one man vacates the chair he occupies here and another takes his place; we have vindicated our manhood; we have asserted the constitutional rights and lawful powers of this House. Whenever we do otherwise we simply bring this House into a state of confusion and anarchy, so that no man here has any known title by the rules of law to the place which he occupies, and his constituency no power to enforce their right to his services. I have misunderstood my mission if I am not to determine this question by the rules of evidence and law heretofore adopted by courts and by the Committee on Elections, and the House itself.

If we do not, then there is no need of suggesting any rule or making any law regarding these contests, because if we have the absolute authority, the supreme power, with nobody to control our action from outside, if for that reason we—and in the language of a former illustrious member of this House, who came in just as the final vote was being taken in a contested-election case, and being told that both contestant and contestee were not particularly good or honest, and were, in the opinion of this person talking, d—d scoundrels, simply said: "Yes, I know, but who is our d—d scoundrel?" and being informed, was in possession of all the knowledge he desired to control his vote—if we are influenced by no higher considerations of duty than that, the country has had enough of our services and we had better quit the business and go home. I want, however, to say that the suggestion above contains no intimation touching contestant or contestee. We have no d—d rascal on our side and charge none as to the other. [Laughter and applause.]

Mr. MOORE obtained the floor.

Mr. ATKINS. Will my colleague, as it is late, yield to a motion to adjourn?

Mr. MOORE. The introduction of my speech was intended specifically for yesterday morning, but I will make it now. I have some interesting reading.

Mr. CALKINS. I will move to adjourn at five o'clock.

Mr. MOORE. I will go on then.

Mr. ATKINS. Very well; as you prefer.

Mr. MOORE. Mr. Speaker, before proceeding to the discussion of this case, with all deference and respect for the older and wiser members of our party who think differently, I wish now and here to enter my solemn protest against the shilly-shally, pig-and-puppy policy of our managers, if we have any on this side of the House. We have a number of Republicans here, who know themselves to have been lawfully elected to seats upon this floor, now and for nearly five months past entreating this Republican House to give them an opportunity to present their claims for consideration. The Democrats oppose it. Of course we are not surprised at this; opposition is their chief accomplishment. But when our own party friends, from whom we have a reasonable right to at least expect some sort of sympathy, deliberately decline from day to day to allow us to bring up the claims of these neglected associates, we think we have a just and valid right to feel deeply aggrieved. We have three contesting members whose cases, after many months of investigation, are now ready to be presented to this House with favorable reports, prepared with such care and cautious investigation as will commend them, we trust, to the judgment and sense of right of every fair man in this House and in this country. We insist now upon their right to be heard. The Republicans of the South, they who have come up through great tribulation, will not longer excuse the party for this dangerous and unjust neglect of the highest privileges of these Representatives, namely, the right to occupy and possess their lawful but now usurped seats upon this floor.

Mr. Speaker, I shall make no threats. I have for twenty years voted and shall continue to vote the Republican ticket, no matter at what personal cost, and that cost is well known to many; but all other men are not so ingrained as I am into the principles of the Republican party; and I warn this Congress to-day and the whole country that unless they do simple justice, and do it reasonably soon, to these Republican contestants who have almost literally fought their way to the doors of this House, it will require no prophetic foresight to see the Forty-eighth Congress in the hands of a round Bourbon majority and led by a Bourbon President. Why, even now Republicans are asking in vain, in many instances, and sometimes in exalted places here, for Republican support because Democrats occupying high positions are permitted to set up prior and superior claims. Can any party be run successfully by allowing its enemies to dictate its policy?

I confess to an incapacity to understand or indorse such tactics. The democratic minority of this House will of course object. That is their business. Opposition is their party shibboleth, and obstruction is the political pabulum on which they live and move and have their being. Let them object; let them even filibuster if they will, but let the Republican majority go on in all proper efforts to conduct the public business, and if they are prevented by the Democratic minority let the facts go before the country, and then let the issue rest where it belongs.

I confess that I am, and I think the country is, growing very impatient with the milk-sop policy of our Republican majority here, and unless we decide soon to first seat the men who have been fairly and honestly elected, and then go on vigorously in the prosecution of the important public business for which we were sent here, I do not hesitate to say that the country will not do what it ought to do if it fails to repudiate our party at the very next election. A word to the wise is sufficient.

Mr. Speaker, what I may say to-day shall be spoken from a business stand-point, and is intended to reach the business ear of the country.

The legal aspects of the question will be left to the lawyers of this House for discussion. All the politics that I have look only to the promotion of the material interests of the country; and any politics or party policy that does not, in my view, tend to promote peace and quiet, law and order, thrift and prosperity, commands neither my sympathy nor support. I desire, therefore, to be recognized as a purely business representative, speaking to the business interests of my own district, my own State, and my own country.

The question at issue to-day is one which should be discussed in a spirit of fairness, without passion, without prejudice, and without partiality. The time is past for crimination and recrimination; the dead past, with its unpleasant memories, should be permitted to bury its dead; and we who are presumed to represent living issues should engage in their discussion with such calm and temperate investigation as fitly become the representatives of a great nation claiming to be built upon the abiding basis of equal and exact justice to all. We should do right if we can: first, because it is right; and, second, because it is expedient. Let all the ends we aim at, therefore, be our country's, and God's, and truth's.

It is our chief boast that the Government of the United States is a "government of the people, for the people, and by the people," and that every man has, or should have, a voice in the choice of its rulers. Is this boast true in point of fact? I propose, with the consent of the House, as briefly as may be, to show that in some portions of our country, at least, the facts do not support the claim. Following up this idea on the opening day of Congress I said: "In the interests of justice, in the interests of common fairness, in the interests of good government and the civilization of the nineteenth century, I respectfully and solemnly protest in the name of the American people against the administration of the oath of office to the Hon. James R Chalmers, of the sixth district of Mississippi, to a seat in the Forty-seventh Congress of the United States."

That protest was made deliberately and advisedly, and although, as will be well remembered, our Democratic friends then thought it exceedingly funny, I wish now to repeat and emphasize it, even at the risk of detaching from the subject that earnest and serious consideration which its gravity demands.

Mr. Speaker, I desire to impress upon this House, and especially upon the people of Mississippi and the nation, that I can have no personal motive of opposition to the occupancy of the contested seat by the honorable gentleman now in it; and am moved solely by a sense of duty and responsibility to the interests of my Government, and my oath of office to faithfully try and serve it.

Whether Hon. Mr. Chalmers or Hon. Mr. Lynch is to hold the seat now contested is a matter of comparatively trivial concern; but whether the candidate lawfully elected shall be kept out of it by unlawful means is a matter of consequence so grave and serious that it cannot be safely passed over by this House without patient, earnest, and faithful investigation.

Was Hon. Mr. Chalmers fairly and lawfully elected? This is the simple question at issue to-day. I do not believe that he was; and furthermore, I do not believe that any fair-minded and unbiased member of this House even on the other side of it, will in his heart of hearts contend for it. The issue is so plain, and has been so generally proclaimed by the American newspaper press, that I presume there are very few general readers in the United States but have already come to the same conclusion irresistibly forced upon myself, and, no doubt, also upon the contestee.

But why do I believe so? By what line of reasoning and argumentation do I arrive at my conclusions? It is due to the occupant, as well as my duty to this House and to the American people, as one of their Representatives, to give the reasons for my action, in order that, if in error, they may be combated by those who, if there be any such, may feel inclined to take the other view.

According to the official census reports of 1880, the State of Mississippi contained a white population of 479,398, and a colored popu-

lation of 650,291, making an excess of colored people in Mississippi of 170,893. The population of the counties composing the sixth district of that State alphabetically stated are as follows, namely:

Counties.	White.	Colored.
Adams	4,796	17,853
Bolivar	2,694	15,958
Claiborne	3,910	12,853
Coahoma	2,412	11,156
Issaquena	826	9,178
Jefferson	4,260	13,054
Quitman	592	815
Sharkey	1,405	4,901
Tunica	1,256	7,205
Warren	8,717	22,521
Washington	3,478	21,889
Wilkinson	3,570	14,245
Total	37,916	151,628

Making an excess of colored people in this district of 113,712, nine-tenths of whom I think it entirely fair to say would vote the Republican ticket if left in the free, voluntary, and undisturbed possession of their rights.

Now, let us examine into the official vote upon which the honorable gentleman claims his right to the contested seat and see if even a semblance of vague probability can be tortured so as to justify his absurd and unjust claims. The official records are as follows, showing, first, the inspectors' returns to the State commissioners; second, the number of votes rejected by the commissioners; and third, the commissioners' final returns to the secretary of state, as per appended tabulated statement, namely:

Counties.	Inspectors' returns to commissioners.		Votes rejected by the commissioners.		Commissioners' returns to the secretary of state.	
	Lynch.	Chalmers.	Lynch.	Chalmers.	Lynch.	Chalmers.
Adams	1,214	1,419	316	32	898	1,387
Bolivar	1,715	403	736	102	979	301
Coahoma	1,235	594	883	369	352	225
Claiborne	288	1,061	.....	.....	288	1,061
Issaquena	1,118	173	785	114	333	59
Jefferson	383	1,043	247	92	136	951
Quitman	83	153	.....	.....	83	153
Sharkey	175	484	.....	.....	175	484
Tunica	506	239	.....	.....	506	239
Warren	2,086	1,034	2,029	20	57	1,014
Washington	1,298	1,963	526	356	772	1,607
Wilkinson	814	1,961	.....	.....	814	1,691
Total	10,915	10,257	5,522	1,085	5,393	9,172

The summing up of the above figures shows that the votes of the district returned by the inspectors of elections to the State commissioners were: for Lynch, 10,915; for Chalmers, 10,257; leaving an original majority for Lynch of 658. The votes rejected by the commissioners were: for Lynch, 5,522; for Chalmers, 1,085; making in favor of Chalmers, 4,437. The votes returned by the commissioners to the secretary of state were: for Lynch, 5,393; for Chalmers, 9,172, showing a majority for Chalmers of 3,779, notwithstanding the fact that the inspectors had already, as before shown, returned a majority for Lynch of 658.

What now, Mr. Speaker, is the inevitable conclusion that irresistibly forces itself upon every fair-minded man concerning the question under discussion?

When we are officially shown that the twelve counties composing the sixth Congressional district of Mississippi contain only 37,916 white population, including women and children, and a colored population of 151,628, or four times as many colored as white people, are we not unreasonably required to strain our credulity when asked by the honorable contestee and his political friends to believe that he received a lawful majority of votes in that district? Suppose, by way of illustration, that we accept the rule which allows one voter for every five persons and apply it to the case in question; by that rule the white vote of the district would amount in round numbers to 7,600. Applying the same rule, the colored vote would amount to in round numbers 30,350, leaving a colored majority in the district of 22,750.

But if the rule of one to five be objected to as in the interest of the colored people, suppose we take the rule of one to six, which, if partial to either white or colored, is certainly in favor of the former. Then while the white vote would be about 6,300, the colored vote would be 25,250, or more than four to one. Now, suppose, further, that one-tenth of the colored voters would if left unintimidated vote the Democratic ticket and that one-tenth of the whites would vote the Republican ticket. This would give an aggregate Republican vote of 23,357 and an aggregate Democratic vote of 8,255, or, in other words, a fair Republican majority in the district under any reasonable circumstances of not less than 17,000, or about three to one.

I will not undertake to speak to-day of the methods known more particularly as "the Mississippi plan," by which the State of Mississippi now sends a solid Democratic delegation to the Congress of the United States; because the discussion of this subject always angers Democrats, and I desire to avoid that, and, furthermore, I deem it altogether unnecessary in the presentation of my case. The simple statement of the official figures is believed to be strong enough to carry conviction with it to every man willing to be guided by truth and justice. It is confidently believed that even a cursory study of the figures above presented will convince any reasonable man, of even the Democratic party, that if fraud and violence and intimidation were not the habits in that district and in some others, also, of the State, the delegation to Congress would be as overwhelmingly Republican as it is now Democratic. The existence of this disordered political condition is not a matter that any fair man will even question; and there are those now on this floor who personally know it to their cost.

It is within the bounds of my own personal knowledge that there are business men in Mississippi, native and to the manner born, who vote regularly with the Bourbon party while secretly despising it, and who are led to do so only because the proscriptive and intolerant spirit of that "rule-or-ruin" party will not recognize the right of opposition, and because also that party teaches its adherents to obstruct in every possible way business transactions with a Republican. One of the oldest and most respectable of that class, socially and financially, has only very recently whispered in my own ear, as if afraid it might be heard outside, that the political practices of that bulldozing party in Mississippi were simply beyond the pale of all Christian and honorable precedent; and it can be easily and philosophically accounted for.

It is a matter of public record that the editor-in-chief of a leading Bourbon newspaper in the great southwestern Mississippi Valley, an organ of that party in Mississippi, has editorially urged that "small-pox should be written over the doors" of business men and merchants, and has actually succeeded, by this diabolical policy, in literally breaking up and driving out of the reach of his pernicious influence reputable and respectable gentlemen, for no other reason than that they were earnest and conscientious Republicans, and yet in the same paper this editor has emptied gallons of ink in turgid appeals for new immigrants to come into his section only to receive upon their arrival the same treatment in case they happened to bring with them their opinions and their manhood. If, therefore, the oldest and most conspicuous editor of this proscriptive party in that section has found profit in publishing such views, is it any wonder if the smaller provincial papers, taking their cue from this demoniac leader, shall fulminate from day to day their seditious imitations? Listen to the utterances of various Mississippi newspapers in the interest of the Bourbons The Lexington Advertiser said:

> Rub up your red shirts, patch up your artillery, and get up a full supply of "enthusiasm" for the campaign this fall. There will be no Federal count at the end of this election.

Hear the Greenville Times. It said in November:

> Stripped to the truth, the Democratic party is not a political organization; it is a vigilance committee.

The Jackson Comet, on October 25, said:

> If there is bloodshed on the 8th of next November, let no colored man say he was not warned in time. If you are satisfied with the government stay at home, for if a conflict should occur you know who will be the victims.

Witness the following utterance in the Charleston News and Courier, one of the most respectable of all the Bourbon organs. It says:

> Killing is not always murder, and violations of law are not always a crime. There is an earlier law than that of the statutes—the law of self-preservation. That law was the guide and master in South Carolina in 1876, and it will be appealed to whenever there is any danger of a return to the vileness of negro rule.

Now, this is what they said when the present contestant was elected, and just what they have said also in Alabama and wherever else the colored voters outnumber the whites. They do not recognize the great American idea of majority rule except when it happens to fit a white constituency; and are satisfied with it only when colored voters cast their suffrage for white Bourbons. The question of whose ox is gored makes to them all the difference in the world. Sir, this it is chiefly that has caused the deplorable condition in that State which we are here discussing. If these editors would but urge their subscribers to read both sides of all political questions, and then go and cast their legal votes peacefully according to their judgment, material prosperity would begin from that good day.

One would naturally suppose that some formal public protest against these outrages would long since have been made by Democratic Representatives, especially by the very able and distinguished senior Senator [Mr. LAMAR] from that State; but if such protest has ever been publicly delivered, notwithstanding he has but just now finished a general State campaign in which he was successful in winning a second term, I have not had the honor to see or hear of it. The country will watch with interest his course during his second term in the United States Senate to see whether the calcium light of his great abilities shall be thrown upon the side of law and order, or, as heretofore, be hidden when that question is at issue under the shadow of a Bourbon

bushel. He is too able, too distinguished, and too prominent a political quantity to safely rest longer under the imputation of silence. No wonder, under this condition of affairs, that less than 1,000 immigrants came into the State during the year just closed, notwithstanding more than 600,000 were distributed during the same time among other States of the Union.

The newly-elected governor of Mississippi makes, in his recent inaugural address, a plaintive appeal for immigrants to come in and help build up the waste places of that naturally rich State. The greatest of all authors makes one of his characters exclaim, "I can call up spirits from the vasty deep," and another to answer him, "Why so can I, or so can any man; but will they come when you do call for them?" Now, it is a very easy matter for Governor Lowry to advertise to the world the great needs of Mississippi, but let him be forever assured that until the policy of his State is so fixed and understood abroad as to protect all shades and all classes in the full and free exercise of their religious and political convictions, immigrants, with sense enough and vigor enough to seek new homes will never select that State as a place in which to raise either their families or their fortunes.

This is an age when freedom is asserting herself, and when the prejudices of the narrow past must give place to the broadening and liberalizing spirit of enlightened progress. If he really desires to see his State grow and prosper, let him first impress the people that the laws must and shall be strictly and impartially enforced upon all classes equally and alike, and that, no matter what the opinions of any man may be, all shall have the free and untrammeled right to openly and freely proclaim them. This is the way to get immigrants and this is the way to make Mississippi rich, powerful, prosperous, and happy.

Only a very short time ago this House was agreeably entertained by the honorable gentleman and accomplished Hibernian orator from New York, Mr. COX, in a very proper defense of the rights of foreign-born and naturalized citizens of his own complexion. He then very wisely said that—

> When a nation is forgetful of its duty to any of its citizens it is in process of decadence. Nay, sir, it is already dead for its primal purpose, for it has lost the exultant spirit of nationality which makes it honored and respected by mankind. When a man ceases to be worthy of the protection of the State, the law ceases to be worthy of respect by its citizens. When our nation fails to give its protection it fails before mankind in its duties, whether it be a foreign-born or a naturalized citizen.

Now, these be brave and commendable words, and the country will watch with some degree of interest to see if the distinguished and honorable gentleman will raise his potential voice to insist upon the same rights for his native-born fellow-citizens who have for so long a time been deprived of them in the sixth district of Mississippi, and for no other reasons than that they honestly believed the Bourbon party to be an enemy to freedom and to progress, and because, furthermore, their skins happened to be of a dusky hue.

I know that when the question of a free ballot has been an issue, our good friends on the other side have had so jealous and sacred a regard for the venerated principle of "State sovereignty" as to oppose all national measures calculated to guarantee American citizens in their lawful franchise. But when, as for instance, a very few days ago, the question of large appropriations for citizens of their overflowed States was an issue, then, indeed, were they ready to vote with a wise and unanimous alacrity to throw "State sovereignty" to the dogs, and to conveniently forget all their constitutional scruples upon that erstwhile favorite, and almost apotheosized hobby. It may not be altogether charitable to press upon our good friends on the other side this eloquent inconsistency, but the opportunity is so inviting as to be quite irresistible.

The almost universal Democratic regard which has been suddenly and unexpectedly developed for the late President of the Republicans, is, if sincere, greatly to be commended; and it is gratifying to see distinguished Democrats on this floor now quoting approvingly from his speeches.

On August 6, 1880, Mr. Garfield said:

> So long as we live we will stand by these black allies. We will stand by them until the sun of liberty, fixed in the firmament of our Constitution, shall shine with equal ray upon every man, black or white, throughout the Union. In this there is all the beneficence of eternal justice, and by this we will stand forever.

Of course every Democrat in this House, particularly from Mississippi, now heartily indorses this utterance.

But permit me just here, Mr. Speaker, to express the opinion that in spite of all this the "Mississippi plan" has at length substantially run its course; and that this House has seen the last solid Bourbon delegation from that State that will ever be witnessed upon this floor. The better people, even of their own party, are becoming heartily disgusted and nauseated with these disgraceful doings; and evidences are daily accumulating of their earnest dissatisfaction with the home situation.

Listen to a late utterance of the Democratic Vicksburgh Herald, which says, in words that every American citizen should read:

> Bourbon virus is the deadly leaven which is working and corrupting the very best elements of the social fabric in Mississippi. If public sentiment does not soon spew it out not many elections will pass by before there will be a bloody revolution. Strong arms will be arrayed against strong arms, and the lies, hypocrisy, and cowardice will bear their legitimate fruits in streams of blood. And we may thank Bourbonism for all this. As certain as fate no good can come of trying to conceal the deadly poison that lurks in the body-politic of Mississippi. Let all parties demand and enforce a change. Let all refuse to support men, no matter how high or influential they may be, if they are the apologists of perjury, hypocrisy, and intolerance. There are ministers of the Gospel in Mississippi who encourage the destruction of the youth and the blighting of the growth of the new South by countenancing this Bourbon damnation. Such a course is enough to vomit the devil with disgust.

Let not the people of that party charge me with speaking plainly. I have said nothing half so severe as this. My residence is very near the line of Mississippi, and my commercial business largely within the territory of the sixth district; and I feel all the more personal as well as political interest, therefore, in the peace, quiet, and order of its people. I am almost as familiar with the business people of the sixth district of Mississippi as I am with those of my own; and wish here to put thus publicly on record what I know to be the views of the better classes, the old Henry Clay Whigs and the Douglas Democrats of that rich and productive district, but who have not now here any one to speak for them. These minority classes are made up largely of quiet, unobtrusive, debt-paying men, who are heart and soul opposed to the Bourbon bulldozing practices, but who, on account of their minority, and fear of violence from the irresponsible and lawless Bourbon majority, submit in silent acquiescence to what they in their hearts despise, simply because of their bodily fear, and because also of the danger to their property from these same pestilent law-breakers and disturbers of the public peace.

But the chief trouble with Democrats is that, although professing to favor law and order, they refuse to aid by their practice in sustaining it. If Republicans allude even amiably to kuklux outrages, they vociferously deny the existence of such an order, even though at the very moment the speakers themselves may be leaders of the gang.

Now, let it be borne in mind that the plaintiff, Mr. Chapline, is not a "Yankee," but a confederate soldier, who fought throughout the rebellion; a native of South Carolina, but who, after the termination of the war, removed to Arkansas with his family. He is an educated, intelligent man, and awaking to the belief that the Republican party promised more henceforth to benefit the country than the moribund Democracy, determined to run as a candidate on the Republican ticket, with what results let the accompanying official records show. I ask the Clerk to read the paper I send up.

The Clerk read as follows:

Circuit court, Monroe County, Ark.—J. B. Chapline, plff., *vs.* T. W. Hooper, deft. In matter of contest of election held in said county for county and probate judge.

Amended complaint.

The plaintiff, by way of amendment to the original complaint filed herein, by leave of the court first had and obtained, states:

I. That defendant, T. W. Hooper, since the filing of the original complaint has received his commission from the gov. of the State as probate and county judge of Monroe County, Arkansas, and has qualified as such judge and has been regularly inducted into said office.

II. Complainant further states that since the filing of the original complaint herein many evil-disposed persons, favoring the course of defendant, have resorted to unlawful and criminal measures for the purpose of intimidating complainant and forcing him to withdraw from this contest and the lawful assertion of his rights. That on the night of the 18th day of September, 1880, a coffin was placed by these evil-disposed persons in complainant's yard and marked thus: "J. B. Chapline, take timely warning. Thus to all damned rascals." That on the night of the 19th September, 1880, an armed mob of twelve men, with blackened faces or black masks over their faces, surrounded the house of Wm. H. Tugwell, one of the judges of the election in Jackson Township, Monroe County, Ark., who was then the lawful custodian of the duplicate tally-sheet and poll-book for that township, and by unlawful force and menace compelled the said Wm. H. Tugwell to surrender and give up to them the said tally-sheet and poll-book; that these unlawful acts have created much fear and alarm in the county of Monroe, and clearly indicate a secret, wide-spread conspiracy to deprive complainant of his lawful rights in defiance of law.

III. Premises considered, complainant prays that defendant's pretended election to the office of county and probate judge of Monroe County, Arkansas, be declared illegal, null and void; that his commission as such judge be declared null and void, and that it be canceled by decree of this honorable court and for nought held; that complainant be declared the duly-elected judge of the county and probate courts of Monroe County, Arkansas, and that a copy of the record in this case be certified to the gov. of the State, to the end that he may commission complainant as such judge, and for all such further relief as the nature of the case may require.

JOHN HALLUM AND
G. W. L. KANAWAH,
Attys for Plff.

STATE OF ARKANSAS,
Monroe County:

J. B. Chapline states on oath that the matters and facts stated in the foregoing amended complaint are true to the best of his knowledge belief.

J. B. CHAPLINE.

Subscribed and sworn to before me on this the 27th day of September, 1880.

HENRY BATEMAN, *J. P.*

Mr. MOORE. And in speaking of "kuklux" I do not mean to assert that there is now in existence an organized band of them. On the contrary, I hope, for the honor of the South, that there is not; but if any Democrat in this House denies their existence in the last Presidential campaign, I ask only his attention to the court records of a Southern State, of ten witnesses, eight of them Democrats, in the bundle of testimony contained in this pile of papers now held in my hand, which I ask may be printed in the RECORD as an appendix hereto, and as occurring within the bounds of my own knowledge. I have no disposition (as I know Democrats will charge) to flaunt "the bloody shirt," alluded to by the honorable gentleman from New York [Mr. COX] on yesterday, but simply to let the country know what the kuklux Democrats are doing. Many good people far away from the scenes of these outrages cannot understand and are not

prepared to realize the possibility of such a condition. I mention them, therefore, that the country may be authentically informed of the official facts.

Mississippi needs peace; she needs repose; she needs a new infusion of fresh enterprise, and this she will get whenever it is understood all over the country that a man is as much a man in that State as in any other part of the nation; that the laws there will jealously guard and protect him in all proper and just conduct, and when the right to vote and have it counted becomes in reality as well as now, in Bourbon phrase, "the right preservative of all rights." When this is done, then indeed may Mississippi expect to begin to bud and blossom as the rose.

But let it never be forgotten that there is no ray of hope for the prosperity of the State under Bourbon rule. That party presents no attractions or inducements to the men of business, the men of enterprise, the men of progress. It is a hinderance instead of help to all men who would go forward. Ever since it was driven ignominiously from power, more than twenty years ago, it has invented nothing, discovered nothing, and done nothing but hinder, and haggle, and obstruct. Without the wisdom or courage to devise or urge heroic measures to benefit and build up the nation, it has spent its feeble though malignant efforts to block the wheels of legislation, and thereby compel Republican consent to Bourbon measures to promote gigantic frauds like those here complained of. In Mississippi it has passed the election laws under which the present contestee has already fraudulently held not only two seats in this body, but is now here illegally and unblushingly claiming a third. In the language of another:

It has done these things in shameless violation of law, with no member representing the minority. In going through the form of appointing a nominal opponent, when they have the grace to even do that, they select some knave who will basely serve them or some idiot who cannot detect their misdeeds. The majority are scared off in some localities, obstructed by tricks in some, and counted out in others. If the crimes committed against the ballot-box are brought to the notice of grand juries all but the most flagrant offenses are ignored. The trial of those indicted is a mockery. Their accomplices and friends sit on the jury and listen to what they know is flat perjury from others of the party. Pleas of guilty are made in Federal courts on the supposition (afterward sustained) that fines will be nominal.

Now, mind you, this is not mine nor that of any other Republican, but the vigorous and earnest language of a Mississippi Democrat who has become tired of the "Mississippi plan" and desires to have it squelched. There are in the United States according to the census reports 6,580,793 colored persons, each of whom under our Constitution is as much a citizen and equally entitled to the rights thereof as any other class within its jurisdiction. Have they even one Representative upon this floor to speak for them? They constitute about one-eighth of our entire population, and yet while, if divided according to numbers, they would have about thirty-six members in this House, now they have not a single Representative save and except the worthy though solitary contestant whom our Bourbon friends in their magnanimity are now trying to bar out only because of his tinted skin and that he votes the Republican ticket. They bring no charges against his character, except that his father is said to have been a white Democrat, and I am sure we can trust to the generosity of gentlemen on the other side to forgive that; everybody says he is a worthy man; even the gentleman employed to defend the contestee admits this. Only a few days ago, before the Elections Committee of this House, Hon. Casey Young, my Democratic predecessor, in an able argument for the contestee, said:

I will say for the contestant that his presentation of his own case before this committee on yesterday was so forcible, able, and admirable that if the argument had then closed without opportunity for reply on our side he would have gained an easy victory. I will say further for Mr. Lynch, from what I know of him and what I have heard, that in point of intelligence, character, honesty of purpose, and mental caliber he is, without a doubt, the foremost man of his race in this country.

Only listen: "in point of intelligence, character, honesty of purpose, and mental caliber, he is, without a doubt, the foremost man of his race in this country." Then why not give him his seat? The only answer is, and be it spoken to the eternal shame of Democracy, he is a man of color!

Sir, if there should happen to be upon the other side of this Chamber any incipient or embryotic candidates for President of the United States, let them pause and weigh well the consequences before casting their votes to keep this lawfully elected contestant out of the seat to which he is fairly entitled. For 1,100,000 colored voters at the next Presidential election will not likely forget or forgive the men who can so far outrage the rights of freemen as to place themselves upon record as enemies of the very fundamental principles of free government. And in this connection it will be interesting to note the remarks made by a distinguished Mississippi Senator [Mr. GEORGE] in the United States Senate on the 6th instant.

In a discussion of the Chinese question, he asserted that "the time may come—it is not here now—when the relations of another race [meaning the negro] to American citizenship must be discussed," &c.; and when he asserted, substantially, the old proslavery dogma that the Government was made by white men only for white men. Now, in view of the high official position of the honorable gentleman, and of the fact that he is credited with being the original author of the "Mississippi plan," and that a large majority of the lawful citizens of his State are now composed of the class for whom the "relations" of citizenship "must be discussed," it becomes a matter of gravest moment to the whole country, the disposition he proposes to make of this six and a half million colored people. Mr. Speaker, if I could catch the ear of her bulldozed people I would say to them, throw off your Bourbon shackles and plunge with us into the resistless current of progress, which is now rapidly carrying our beloved country to heights of grandeur that eye hath not seen, nor ear heard, neither hath it entered into the heart of any Democrat to conceive of.

Now, Mr. Speaker, the remedy for this disgraceful condition of things lies in a public sentiment behind these minority classes that will embolden them to openly assert their rights, and to create this public sentiment I believe it to be the duty of the great Republican party, beginning with the President of the United States, to so shape the national policy and appointments that these honest, hard-working, debt-paying classes may be so protected in their principles, their persons, and their property as that they shall be made unmistakably to see that their every business and political interest is legitimately identified with this great party of fair play and progress—the only party that offers any future, especially to the ambitious and rising younger men of the nation. Send them not only sympathy but substantial assistance.

The Bourbon Democracy offers absolutely nothing to the aspiring men, the live men of Mississippi and the nation. They are simply, to put it as mildly as possible, a party of negation.

They opposed the nationality of the country; they opposed the emancipation of the slaves; they opposed each and all the amendments to the Constitution; they opposed the suppression of the Ku-klux Klan; they opposed first the casting and then the counting of honest, legal votes; they opposed the suppression of polygamy and polygamists; they opposed first the substitution of the present wise for the pernicious old "wild-cat" system of money; and they are now opposing, with whatever bull-headed blindness and stolidity they can combine, all efforts to continue the wholesome existing system of national banking in the hope of reinstating the old and repudiated State-bank system, which rendered it necessary for every man to travel constantly with a counterfeit detector in his pocket. They opposed a national system of education for the ignorant, fearing that thereby the poor negroes might receive a passing proportional benefit. In short, they have ever opposed each and all measures tending in any way to elevate, ennoble, and magnify the greatness, glory, and credit of our nation. God forgive them, for they have not the ability to comprehend the magnitude and splendor of their wicked stupidity.

Finally, Mr. Speaker, I shall make no appeal to the honorable and respected gray-beards, the Ephraims on the other side of this Chamber, because they are already inextricably chained to the mummied and moss-grown idol of Bourbon prejudice; but to the younger members on that side, and generally to the young men of the nation, whose blood flows warm within, and to whom hope, with her taper finger, now stands temptingly beckoning, I would plead to shun, to avoid, to flee from this repulsive party, this party which, if it does not openly advocate, at least secretly connives at, the perpetration of those monstrous crimes that so shamefully characterize this case, and so seriously smirch the good name of Mississippi and the new South; a party whose watchword is obstruction, whose policy is opposition, and whose practice is continued resistance to progress; a party whose touch is contamination and whose principles are poison; a party whose mole-like eyes are firmly set in the back of its head; whose wasted time is dedicated to the memory of the repudiated resolutions of 1798; whose antediluvian and sluggish thoughts are ever groping amid the decayed political ruins of the long-forgotten past, and whose whole existence is sorrowfully spent in vain and futile efforts to resurrect the fossiliferous remains of the paleozoic period. [Applause and laughter.]

APPENDIX.

State of Arkansas, county of Monroe.—J. B. Chapline, plf., *vs.* T. W. Hooper, deft.

Depositions before R. C. Lanford, J. P., in the matters of contested election.

The deposition of W. S. Dunlap, taken in the town of Clarendon, on 21st day of September, 1880, at the office of the circuit and county clerk, in said town, to be read as evidence in the action pending between J. B. Chapline as plff. and T. W. Hooper, defendant, in the circuit court of Monroe County, Ark., at the next term thereof after this date:

My name is W. S. Dunlap. I live in Monroe County, Arkansas. I am 46 years of age. I am clerk of the probate and county courts of said county. I received the returns of the election from Jackson Township on evening of the 8th of Sept., about two or three o'clock, from W. C. Swift, who was one of the judges of the election of that township, (Jackson,) which was held on the 6th of Sept., 1880. There was no tally-sheet returned from that township by said Swift or any one else. According to these returns T. W. Hooper received 109 votes for the office of county and probate judge of the county of Monroe and State of Arkansas, and J. B. Chapline received 94 votes for the same office.

My occupation as clerk of circuit and courts gives me opportunities to be familiar with the handwriting of the majority of men with whom I transact business in this county. I recognize very readily the handwriting of prominent business men of the county. I am acquainted with the handwriting of many different persons in the county. I have examined the figures indicating the total votes received by plaintiff and defendant in Jackson Township, and I find them in a different handwriting from that in which the poll-books were made out, and the ink appeared to be a little darker from that which the poll-books were made with. Upon examination of the poll-books evidence of erasure at the point in the poll-books indicating the votes received by plaintiff and defendant in that township; by holding the paper up before the light I can see that the paper is very much thinner at the point indicating the total vote received by the plff. and the deft. in that township. I do not believe that it would require the experience of an expert to discover that fact.

The poll-books were in this condition when they came into my possession. The total vote received by the plaintiff, J. B. Chaplain, for the office of county and probate judge, as shown by the election returns in my office, is nine hundred and forty-five, and the total vote received by the defendant, T. W. Hooper, as shown by the returns in my office, is nine hundred and fifty-six. Upon the assumption that the plf., J. B. Chaplain, received one hundred and seven votes in Jackson Township, and the deft., Hooper, only ninety-six in the same township, Chaplain would have a majority of thirteen. The defendant, T. W. Hooper, has received his commission as county and probate judge of Monroe County, Ark., and he has been qualified and inducted into office. I have the returns from Duncan Township in my possession also. The returns from Duncan Township are only signed by two of the judges, and the judges make the following statements "under the head of remarks on the poll-books:" "there were found six more tickets in the ballot-box than the total on the poll-books. Seven tickets were not numbered." I have evidence that these unnumbered votes were counted for State officers, but I cannot say whether they were counted for plaintiff or defendant, or not. This evidence I give from the poll-books. As shown by the returns, the plaintiff received two hundred and two votes in Duncan Township and the defendant received one hundred and fifty-six votes in the same township.

The poll-books from this (Duncan) township were signed by only two of the judges of the election in that precinct. But the judges in that township all signed the poll-books as to the total number of votes cast, and only two of the judges certified as to the number of votes cast for all of the candidates. From the poll-books from that township it is evident that six of the unnumbered votes were counted for the State officers, but the poll-books give no evidence that they were or were not counted in the election between the plff. and the deft.

W. S. DUNLAP.

I, R. C. Lanford, a justice of the peace in and for the county of Monroe, do certify that the foregoing deposition of W. S. Dunlap was taken before me and was read to and subscribed by him in my presence at the time and place and in the action mentioned in the caption; the said W. S. Dunlap having been by me first sworn that the evidence he should give in the action should be the truth, the whole truth, and nothing but the truth, and his statement reduced to writing by me in his presence; the attorney for plaintiff being present, and the defendant being absent in person and by attorney.

Given under my hand this the 20th day of September, 1880.

R. C. LANFORD, *J. P.*

STATE OF ARKANSAS, *Monroe County, ss:*

This day personally appeared before me, the undersigned, a justice of the peace within and for Cache Township, Monroe County, Arkansas, Asa Edwards, after being by me duly sworn, deposes and says that on the 21st day of September, 1880, he delivered a true and perfect copy of the within notice to the within named T. W. Hooper.

his
ASA + EDWARDS.
mark.

Subscribed and sworn to before me on this the 21st day of September, 1880.

HENRY BATEMAN, *J. P.*

J. B. Chaplain *vs.* T. W. Hooper. Depositions. Filed Sept. 25th, 1880. W. L. Dunlap, clerk. J. B. Chapline, by John Hallum, his att'y.

In the circuit court of Monroe County, Arkansas—J. B. Chapline *vs.* T. W. Hooper.

In matters of contested elections for county and probate judge.

To T. W. Hooper, defendant in the above-styled cause:

Take notice, that I will, on Thursday, the 23d day of September, 1880, at the store-house of Jacob Johnson, in the town of Holly Grove, Monroe County, Arkansas, within legal hours, proceed to take the depositions of John Johnson and others, before R. C. Lanford or some other officer authorized to administer oaths, to be read as evidence in behalf of the plaintiff on the trial of the above-styled cause, when and where you may attend and cross-examine if you choose to do so. This Sept. 21st, 1880.

All of the witnesses are staunch Democrats, except J. K. Whitson and Augustine D. Bury.

JOHN HALLUM.

State of Arkansas, county of Monroe.—J. B. Chaplain, plff. vs. T. W. Hooper, deft.

In the Circuit Court of Monroe County, in the matter of contested election for county and probate judge.

The deposition of J. L. Johnson, Augustus D. Berry, and C. C. Herring, taken on the 23d day of September, 1880, at the store of J. L. Johnson, in the town Holly Grove, to be read as evidence in an action between J. B. Chaplain, plff., and T. W. Hooper, deft., pending in the circuit court of Monroe County, Arkansas.

The witness, J. L. Johnson, after being duly sworn, deposes and says as follows, to wit:

My name is J. L. Johnson. I am thirty-three years old. I live in Holly Grove, Monroe County, Ark. I am a Democrat, and have been all of my life. I never voted any other but a Democratic ticket. I was one of the judges of the late election held in Duncan Township, in Monroe County, Ark., on the 6th of September, 1880, and I acted as such judge in that election. The other judges were James A. Coak and J. W. Kelly. The clerks were C. C. Herring and A. K. Roberts.

The next morning W. M. Walkup was appointed clerk *pro tem.* in the place of Roberts, to finish counting the ballots, which amounted to 81 votes that were then in the box.

The polls were opened at the usual hour, and the voting continued until the noon recess for dinner. When we adjourned for dinner it was a matter of discussion between us as to where the ballot-box should remain while we were gone to dinner. I was in favor of it remaining at the place of voting, and one of the clerks was in favor of it remaining at the same place, but we were overruled by the other judges. I went to dinner and left the ballot-box in charge of the other two judges. We were gone to dinner about one hour, when we returned to the place of voting; and up to the time of closing the polls three hundred and fifty-nine (359) votes were cast. The ballots were handed to me and I folded them, called the name of the voter, and handed them to the next judge, T. A. Coak, who numbered them and called the numbers, and he passed them to Mr. Kelly, the other judge, and he deposited them in the ballot-box.

I know that every vote cast on that day was numbered, and I know that three hundred and fifty-nine is all that was cast. Mr. Coak, one of the judges, had charge of the key to the ballot-box all day. He locked the ballot-box in the morning before the voting commenced, and put the key in his pocket, and when we went to count the votes he handed the key to me to unlock the box, and I found the box already unlocked; but when, where, or by whom unlocked I can't say.

I took the tickets out of the box as we counted them. I commenced taking them out from the top, and took them out just as I came to them. The first vote I took out was numbered, and out of the first ten tickets counted out of ballot-box and taken from the top, seven of them were not numbered, and I called the attention of the other judges to the fact that the box was unlocked and seven tickets not numbered. When this irregularity was discovered by me we suspended the count for about half an hour. We then got into a dispute about the matter, and I charged that the ballot-box had been stuffed, and Kelly got mad, because he had been in charge of the ballot-box, and I suppose he considered it a reflection on him. These unnumbered tickets were Democratic tickets. These seven unnumbered ballots were all straight Democratic tickets, and they were all cast for the defendant in this cause, (T. W. Hooper,) and they were counted for him at that time. After the votes were all counted out I went out to attend to some private business. This was from about ten o'clock a. m. on the day after the election, until about five or six o'clock p. m. of the same day; and Mr. Coak, one of the judges, came after me to go and sign the poll books. I went with him and examined the poll books, and declined to sign them, for the reason that I knew the fraud related above had been perpetrated, and I did not know to what extent the fraud had been practiced, and I was unwilling to sign any name to anything that was fraudulent.

The Democratic tickets were of two kinds; one kind was on thick white paper, and the other was on rather cream-colored paper, and thinner than the others. The Republican tickets were also printed on two kinds of paper, as follows: one kind was on blue paper, and the other was on the cream-colored paper, like the Democratic tickets alluded to above. I don't know who delivered the poll-books to the clerk. I had nothing to do with that part of it. And further the deponent saveth not.

J. L. JOHNSON.

Augustus D. Berry, being duly sworn, deposes and says:

My name is Augustus D. Berry. I am fifty-five years old. I am a qualified voter, and I reside in Duncan Township, Monroe County, Arkansas. I was in the town of Holly Grove in said township, county, and State on the 6th of September, 1880, and voted in the State and county election held on that day, and I was in town on the day after the election when the judges were completing the count of the ballots; and Mr. J. R. Whitson, the Republican candidate for Representative was also present; and there were seven Democratic tickets in the ballot-box that were not numbered, and Mr. Whitson protested against them being counted, saying to the judges that the unnumbered tickets were illegal; that the election law required every ticket to be numbered. The judges, Coat and Kelly, replied to Mr. Whitson that they would count them. The unnumbered ballots were counted for T. W. Hooper, the Democratic candidate for county and probate judge, and Mr. Johnson, the other judge, refused to sign the poll-books.

his
AUGUSTUS D. + BERRY.
mark.

Attest:

JOHN HALLUN.

C. C. Herring, being duly sworn, deposes as follows:

My name is C. C. Herring. I am thirty-nine years old. I live in the town of Holly Grove, Duncan Township, Monroe County, Arkansas, and I was one of the clerks of the election held here on the 6th of September, 1880, for State and county officers. When the ballots were being counted seven unnumbered ballots were found in the ballot-box. They were counted, and the fact of their being unnumbered was written on the poll-books. I heard Mr. Whitson, the Republican candidate for Representative, protest against those unnumbered ballots being counted, and his protest was disregarded. I do not remember whether those unnumbered tickets were Democratic or not. I was sworn as a clerk of the election to record the names of the voters as their ballots were handed in, and I always do my duty as near as I can, and I did record all of the ballots as they were handed in. I don't know how those unnumbered ballots got in the box. I remember that there was three hundred and fifty-nine (359) ballots deposited that were recorded and that there was six (6) more ballots found in the ballot-box that were not recorded.

C. C. HERRING.

STATE OF ARKANSAS, *County of Monroe:*

I, R. C. Lanford, a justice of the peace for Monroe County, do certify that the foregoing depositions of J. L. Johnson, Augustus D. Berry, and C. C. Herring were taken before me and were read to and subscribed by them in my presence at the time and in the action mentioned in the caption, the said J. L. Johnson, Augustus D. Berry, and C. C. Herring having been first sworn by me that the evidence that they should give in this action should be the truth, the whole truth, and nothing but the truth, and their statements reduced to writing by me in their presence, the attorney for plaintiff and the deponents being present at the examination.

Given under my hand this the 23d day of September, 1880.

R. C. LANFORD, *J. P.*

Summons.—Action by ordinary proceeding.

The State of Arkansas to the sheriff of Monroe County:

You are commanded to summon T. W. Hooper to answer on the 1st day of the next September term of the Monroe circuit court a complaint filed against him in said court by J. B. Chapline, and warn him that upon his failure to answer the complaint will be taken for confessed; and you will make due return of the summons on the 1st day of the next September term of said court.

Witness my hand and the seal of said court this 15th day of September, 1880.

W. S. DUNLAP, *Clerk.*

CLARENDON, ARK., *Sept. 15th, 1880.*

I hereby deputize H. B. Bateman to serve the within summons.

A. McMURTRY, *Sheriff.*

STATE OF ARKANSAS, *County of Monroe:*

I hereby certify that I have, on this the 15th day of September, 1880, duly served the within by leaving a true and correct copy of the within with Mrs. T. W. Hooper, wife of the said T. W. Hooper.

A. McMURTRY, *Sheriff,*
By HENRY B. BATEMAN,
Special Deputy.

STATE OF ARKANSAS, *County of Monroe, ss:*

We, W. H. Tugwell, Nellie Tugwell, his wife, James Tugwell, John Tugwell, L. A. A. Doherty, G. W. L. Kanawah, and John Arthur Wilhite, do severally swear that on this Friday night, Sept. 17th, 1880, we severally and jointly counted the votes as marked on the tally-sheet of the poll-books of the election for State and county officers held in Jackson Township, in Monroe County, Arkansas, on the 6th day of September, 1880, at the house of W. H. Tugwell, on the day and at the time first above written, and we each solemnly swear that said tally-sheet showed at that time that W. M. Mayo, candidate for State representative from said Monroe County, received at said election one hundred and thirteen votes, and that J. K. Whitson, candidate for the same office, received ninety-five votes; and that T. W. Hooper, candidate for county and probate judge of said county, received at said election ninety-six votes, and that J. B. Chapline, candidate for the same office of county and probate judge, received one hundred and seven votes at said election; and that in comparing said votes as specified in detail with the total votes as recorded in said poll-books and as certified to by the several officers of said election showed that W. M. Mayo, candidate for representative in the State Legislature from said county, received one hundred and thirteen votes at said election,

and that J. K. Whitson, candidate for the same office, received ninety-five votes at said election; and that T. W. Hooper, candidate for county and probate judge of said Monroe County, received ninety-six votes at said election, and that J. B. Chapline, candidate for the said office of county and probate judge, received one hundred and seven votes at said election, as was and is shown by the poll-books in the footings of the votes cast for each of said candidates for each of said offices, and that at the time of this comparison and examination said tally-sheet did not show any scratches or erasures in any of the tallies marked thereon, which tallies were footed up in lead-pencil on said tally-sheet.

That the footings on said tally-sheet marked in lead-pencil shows that in the vote for county judge the figures 107 were written over the figures 100. In the footing of the votes cast for J. B. Chapline for that office, when we severally and jointly counted the votes for said Chapline for said office of county judge, the tally showed that one hundred and seven were the proper figures; that in the footings in the poll-books for the several candidates voted for on that day at that election they, the footings, were all in figures, and that none of the figures for any of said offices were scratched, interlined, obliterated, blurred, or written over in any manner whatever, and said footings in said poll-books were all in ink, and were, or appeared to be, duly certified to by the officers of said election.

In witness whereof we have each hereunto severally set our respective hands and seals the day and year first above written.

W. H. TUGWELL.
M. F. TUGWELL.
JAMES W. TUGWELL.
JOHN TUGWELL.
L. A. A. DOHERTY.
G. W. L. KANAWAH.
his
JOHN ARTHUR + WILHITE.
mark.

Sworn to before me this 17th day of Sept., 1880.

P. W. FOSTER, *J. P.*

MONROE COUNTY, *Arkansas:*

I, P. W. Foster, a duly qualified and active justice of the peace, in and for Monroe County, and State of Ark., do hereby certify that I have this day counted the votes for W. M. Mayo, candidate for representative in the Legislature of said State for said county, and the tally-sheet shows that he received one hundred and thirteen votes for said office at the election held in said county in Jackson Township on the 6th day of Sept., 1880, and that J. K. Whitson received ninety-five votes for the same office at said election; and that T. W. Hooper, candidate for the office of county and probate judge of said county, received ninety-six votes, and that J. B. Chapline, candidate for said office of county and probate judge, received one hundred and seven votes, as shown by the tally on said tally-sheet, which votes I severally counted.

And I also certify that the poll-books showed that the totals of the votes for each of said offices, candidates for each of said offices, were as follows: W. M. Mayo, one hundred and thirteen votes; J. K. Whitson, ninety-five votes; J. W. Hooper, ninety-six votes, and J. B. Chapline, one hundred and seven votes, and that each of said totals in said poll-book were written in figures and were not blurred, interlined, erased, or written over in any manner whatever. In witness whereof I have hereunto set my hand and seal this seventeenth day of September, 1880.

P. W. FOSTER, *J. P.*

Monroe circuit court, September term, 1880.—J. B. Chapline, plff., *vs.* T. W. Hooper, deft. Complaint at law.

J. B. Chapline complains of T. W. Hooper and allies; that he is a citizen of the United States and of the State of Arkansas, and for five years last past has been a resident and citizen of Monroe County, in the State of Arkansas; that he is more than twenty-five years of age, a man of upright character, of good business education, and a resident of the State of Arkansas on the 6th day of September, 1880, and for more than two consecutive years prior to said 6th day of September, 1880, and a resident of Monroe County for said time last mentioned; that on the 6th day of Sept., 1880, in the State of Arkansas there was held a State, county, and township election, and at said election J. B. Chapline, the plaintiff, and T. W. Hooper, the defendant, were both candidates for county and probate judge for the county of Monroe, in the State of Arkansas, at the election held according to law on the 6th day of September, 1880, to which office some one was by law elected to fill; that at said election, in the township of Montgomery, J. B. Chapline received for the office of county and probate judge for Monroe County, Arkansas, two hundred and thirty-nine (239) legal votes and T. W. Hooper received ninety-nine (99) legal votes, and the same was so counted and returned by the judges of election; that at said election J. B. Chapline received for the office of county and probate judge for Monroe County, in the State of Ark., in the township of Cache, in said county, one hundred and twenty-nine (129) legal votes and T. W. Hooper received for the same office one hundred and fifty-four (154) legal votes, and the same were counted and returned by the judges of said election; that at said election in the township of Pine Ridge, J. B. Chapline received for the office of county and probate judge for Monroe County, in the State of Arkansas, thirty (30) legal votes, and T. W. Hooper received for the same office one hundred and twenty (120) legal votes, and the same were so counted and returned by the judges of said election; that at said election, in the township of Cypress Ridge, in said county, the plaintiff, J. B. Chapline, received for the office of county and probate judge for the county of Monroe, in the State of Arkansas, seventeen (17) legal votes, and said defendant, T. W. Hooper, received for the same office forty-five (45) legal votes, all of which were counted and returned by the judges of said election; that at said election, in the township of Brinkley, in said county, the plaintiff, J. B. Chapline, received for the office of county and probate judge of Monroe County, in the State of Arkansas, one hundred and forty-four (144) legal votes, and T. W. Hooper received for the same office one hundred and sixty-one (161) legal votes, all of which were counted and returned by the judges of said election; that in the township of Richland, in said county, J. B. Chapline received for the office of county and probate judge for the county of Monroe, in the State of Arkansas, ninety (90) legal votes, and T. W. Hooper, defendant, received for the said office one hundred and twelve votes, all of which were counted and returned by the judges of said election; that at said election, held in the township of Duncan, in said county, the plaintiff, J. B. Chapline, received for the office of county and probate judge for Monroe County, in the State of Arkansas, two hundred and sixty legal votes, and said defendant, T. W. Hooper, received for said office (99) ninety-nine legal votes.

Notwithstanding that the plaintiff received one hundred and sixty-one more legal votes than defendant in said Duncan Township, still two of the judges of said election took the ballot-box away from the place of voting twice during the day of said election, and fraudulently and illegally took out or permitted some one else to take out of the ballot-box fifty-eight (58) legal votes cast for said J. B. Chapline, and substituted therefor fifty-eight ballots that were never cast for T. W. Hooper. And after said fraudulent change was made, said judges of election counted the ballots and declared that said J. B. Chapline received two hundred and two (202) legal votes for the office of county and probate judge for said county, and T. W. Hooper received one hundred and fifty-six legal votes; whereas in truth and in fact two hundred and sixty (260) legal voters cast their votes for said J. B. Chapline for the office of county and probate judge, and only ninety-nine (99) legal voters cast their votes for T. W. Hooper for said office. Said fraud was so apparent that one of the three judges told, in substance, the said judges of election that the ballot had been changed, that the unnumbered ballots and the ballots numbered on this white paper were ballots that were never voted, and he refused to sign the election returns on account of said fraud. The law requires each ballot to be numbered and the party that changed said ballots failed to number seven of the ballots put into the ballot-box as a substitute for the ballots actually voted by the voters of said township, and the remainder of the ballots substituted were upon thin white paper, different from any ballots that were voted at said precinct. Said party also put into the ballot-box six more ballots than were voted, and the judges of election, or a majority of them, counted for the State officers six more ballots than were voted. All of which action in changing ballots and counting the substituted ballots was illegal and a fraud upon the rights of the plaintiff as well as upon the rights of the legal voters of Monroe County.

That at said election in the township of Jackson in said county there were one hundred and seven legal votes cast for said plaintiff, J. B. Chapline, for said office of county and probate judge for Monroe County, Arkansas; and for said T. W. Hooper, for the same office, ninety-six legal votes were cast, and the votes were so counted and announced by the judges and clerks of said election before they dispersed from the place of voting; but after said votes had been so announced one of the judges took the ballots and returns to the county seat of said county and kept it there until all the rest of the county could be heard from, and when all the county was heard from it was found that the frauds in Duncan Township were not sufficient to defeat complainant, so said judge changed or permitted to be changed said returns so as to make it appear that complainant only received ninety-four votes and T. W. Hooper received one hundred and nine votes; whereas in truth and in fact J. B. Chapline received one hundred and seven votes and T. W. Hooper only received ninety-six votes. The returns from Jackson Township show upon their face that they have been "doctored." The clerk of the county, who was in collusion with these fraudulent transactions, neglected to summons the judges of election for Duncan and Jackson Townships to explain the changes and discrepancies in their return, but went ahead and canvassed the same as fraudulently changed and returned and declared that T. W. Hooper had a majority of eleven votes for the office of county and probate judge, whereas in truth and in fact J. B. Chaplaine received for said office one thousand and sixteen legal votes and T. W. Hooper received only eight hundred and six legal votes for said office, which gave J. B. Chapline, the plaintiff, a majority of one hundred and thirty legal votes for said office; so he says by law he is entitled to the office of county and probate judge for the county of Monroe, in the State of Arkansas; and he brings this his action to recover the same.

Wherefore he prays judgment of austere against T. W. Hooper, and that J. B. Chapline, complainant, was elected and is entitled to the office of county and probate judge for Monroe County, in the State of Arkansas, and for damages to the amount of the salary that T. W. Hooper may receive up to the day of trial, and for all other proper relief.

W. W. BENJAMIN, *Att'y.*
JOHN HALLUM, *Att'y,*
For Contestant.

I, J. B. Chapline, do solemnly swear that the matter and things set forth in the foregoing complaint are true to the best of my knowledge and belief, so help me God.

J. B. CHAPLINE.

Signed and sworn to before me this 15th day of Sept., 1880.

W. S. DUNLAP, *Clerk.*

State of Arkansas, County of Monroe.—J. B. Chapline, plff., *vs.* T. W. Hooper, deft.

In the circuit court of Monroe County. In the matter of contested election for the office of county and probate judge.

The depositions of J. R. Whitson, Calvin Green, and Charles Smith, taken on the 25th day of September, 1880, at the store-house of J. B. Chapline, in the county of Monroe, Ark., to be read as evidence in an action between J. B. Chapline, plaintiff, and T. W. Hooper, deft., pending in the circuit court of Monroe County, Arkansas. The witness, J. R. Whitson, after being duly sworn, deposes and says as follows, to wit:

My name is J. R. Whitson. I am forty-four years old. I live in Brinkley Township, Monroe County, Arkansas. I was the Republican candidate for the office of representative from Monroe County, in the State and county election which was held in said county on the 6th day of September, 1880. I was also the Republican candidate in said county two years previous for the same office, and believing that fraud had been perpetrated against me at that election, two years ago, in Duncan Township, in said county, I determined to be present at the election in said Duncan Township, held on the said 6th day of September, A. D. 1880, and accordingly was at the place of voting in said township at said last mentioned time before any votes had been polled; and myself and two friends of mine kept an account of the blue tickets that were voted that day at that Duncan Township; said blue tickets were all Republican tickets, of which the following is a true copy of the printed letters and words on said ticket: [ticket not furnished:] and according to said account there was two hundred and fifty of said blue Republican tickets voted at said precinct on said last election.

There was, in addition to the above-described blue tickets, a number of Republican tickets voted at said precinct on said day, of which the following is a *facsimile* of all the printed letters and words on said ticket: [ticket omitted:] but no account was taken of the number of said last-described white Republican tickets that were voted that day at said precinct.

There was 359 votes cast at said election in said township; of this number I observed but two different prints being voted by the Democrats—one on yellow, cream, or buff colored paper, and the other on thick white paper, some one-half inch wider than the white Republican ticket, pasted on this sheet above.

The judges closed the polls at sundown, certified to the number of votes cast, and went to Jacob Johnson's for supper, and returned to the place of voting after about one hour's absence. Then the key to said box was handed to Mr. Jacob Johnson, one of the judges, by one of the other judges, whereupon he put the key in the key-hole to said ballot-box and turned it, and then tried to open it, but found that he could not do so until he turned the key back as it was when first inserted, when the box-lid was raised without any further trouble, and he began to take the tickets out of the box one by one, and called off the names on each that had been voted for the various offices, and handed them to Mr. Coak, who handed them to Mr. Kelly, who strung each ticket as it was handed him, and as the tickets were thus called off the two clerks, Mr. Herring and Roberts, recorded one mark on each tally-sheet opposite each as it was announced by the judge, and when about ten or fifteen tickets had been thus announced and recorded, Mr. Johnson remarked that there was a lot of tickets he had just called off that had never been voted, assigning as a reason of said conclusion that he would swear that each ticket that had been voted that day had been numbered, but that there was no sign of any numbers on the back of those tickets just referred to.

I then requested the judges to let me count said unnumbered tickets; and as there was no objection Mr. Kelly laid the bunch on the table, when I counted, in presence of the three judges and clerks and several bystanders then present, just seven unnumbered straight Democratic tickets printed on yellow, cream, or buff colored paper, without a single printed name on said ticket being erased or scratched. Mr. T. W. Hooper's name was on each of said tickets and was scored seven times by each clerk, for the office of probate and county judge, as said tickets

was called off by the judge; and notwithstanding my earnest appeals to said judges not to count tickets that they knew had not been voted, yet, nevertheless, these unnumbered tickets were each counted, and by two of the judges were certified up to the clerk as having been cast for the various names thereon, amongst which was the name of the said T. W. Hooper, defendant herein, for the office of probate and county judge, (see poll-books on file in clerk's office, wherein said two judges, Kelly and Coak, certified that the said T. W. Hooper had received one hundred and fifty-six votes;) whereas had they counted only such tickets as had been numbered, they would have been compelled to certify that the said defendant had only received one hundred and forty-nine votes. The following is a *fac-simile* of the printed letters and words on said unnumbered tickets: [Ticket not furnished.]

The count then proceeded, and occasionally Mr. Johnson would call out the number on the back of certain Democratic tickets, printed on very thin white paper, and would set the number down on paper and remark that he wanted to see who that fellow was who voted "against license;" and as these numbers were called out I observed numbers that were down below number twenty called out before fifty votes had been counted, and numbers over three hundred were found down in the bottom of the box, and less than two hundred of the blue tickets were found in, and counted out of, said box.

J. R. WHITSON.

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Calvin Green, being duly sworn, deposes and testifies as follows, to wit:

My name is Calvin Green; I am thirty-one years old; I am a legal voter of Cache Township, Monroe County, Arkansas. On Sunday morning, the 19th day of September, 1880, I was at the plaintiff's house, and I saw in front of the plaintiff's residence a coffin with a paper pinned on it, which had written on the as follows, to wit: "J. B. Chapline take timely warning; thus to all damned rascals." I think I have seen the same coffin in Clarendon before that time, under B. F. Johnson's store. I know that a similar looking coffin remained under the said store for several months previous. Myself and others tracked the vehicle which was supposed to have brought the coffin to plaintiff's house very early on that morning while the dew was yet on the sand and dust in the road, and at that time only two vehicles had passed over the road from Clarendon; one was a buggy going into Clarendon and the other was the mail hack coming out. I carefully measured the track of wagon or vehicle, and noticed very carefully the tracks of the horses attached thereto.

The tracks of the horses were plainly seen and easily recognized. One of the horses made a track a good deal larger than the other; one of the horses made a small round track, the other track was larger, and easily traced and recognized by a kind of scrape or scratch with one of his feet. We traced the track of the wagon and team from plaintiff's house to the lot of Parker C. Ewan, in Clarendon. We measured the track of the wagon-tire and the track of the horses' feet before we left the plaintiff's house, and after tracing them to Ewing's lot we measured the tire of the wagon and feet of the horses, and the measurements all corresponded exactly. We traced the tracks until we found the wagon in Ewing's lot, and saw the tracks of the horses where they had been taken from wagon. The tracks of the horses corresponded with the tracks made by the horses that drew the wagon to and from plaintiff's yard. It was a two-horse wagon. Ed. Lenox, and James Lenox, and Mr. Charles Smith were with me and assisted me in tracing the wagon and team and measuring the tracks. This examination was made at the time, and at the request of the plaintiff, J. B. Chaplain. I suppose there were as many as one hundred persons examined the coffin that day. There was considerable excitement in the neighborhood in regard to it.

CALVIN GREEN.

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STATE OF ARKANSAS, *County of Monroe:*

J. R. Lanford, a justice of the peace for Monroe County, do certify that the foregoing depositions of J. R. Whitson, Calvin Green, and Charles Smith were taken before me, and were read and subscribed by them in my presence at the time and place and in the action mentioned in the caption, the said J. R. Whitson, Calvin Green, and Charles Smith having been first sworn by me that the evidence they should give in the action should be the truth, the whole truth, and nothing but the truth, and their statement, reduced to writing by me in their presence, except the deposition of J. R. Whitson, which was written in part by himself, the plaintiff and the defendant being present at the examination.

Given under my hand this 25th day of Sept., 1880.

R. C. LANFORD, *J. P.*

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STATE OF ARKANSAS, *Monroe County, ss:*

This day personally appeared before me, the undersigned, a justice of the peace within and for Cache Township, Monroe County, Arkansas, Asa Edwards, who, after being by me first duly sworn, deposes and says that on the 21st day of September, 1880, he delivered a true and perfect copy of the within notice to the within-named T. W. Hooper.

his
ASA + EDWARDS.
mark

Subscribed and sworn to before me this 21st day of September, 1880.

HENRY BATEMAN, *J. P.*

—

J. B. Chapline *vs.* T. W. Hooper.

In the circuit court of Monroe County, Arkansas, in the matter of contested election for probate and county judge.

To T. W. Hooper, defendant in the above-styled cause:

Take notice, that I will on Saturday, the 25th day of September, 1880, within legal hours, at the storehouse of J. B. Chapline, in Cache Township, in Monroe County, Arkansas, before R. C. Lanford or some other officer qualified to administer oaths, proceed to take the despositions of J. R. Whitson and others, to be read as evidence in behalf of plaintiff on the trial of the above-styled cause, when and where you may attend and cross-examine if you choose.

This Sept. 21, 1880.

J. B. CHAPLINE,
By JOHN HALLUM, *His Atty.*

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In the circuit court of Monroe County, Arkansas—J. B. Chapline *vs.* T. W. Hooper.

In the matter of contested election for county and probate judge of said Monroe County.

The depositions of W. H. Lugwell and Dr. L. A. A. Doberty and G. W. L. Kanawah, taken in pursuance of the notice hereunto attached, and to be read or used in evidence in the circuit court of Monroe County, Arkansas, at its ensuing October term in an action to contest the election of county and probate judge, held on the 6th day of September, 1880, wherein J. B. Chapline is plaintiff or contestant and T. W. Hooper is defendant, on behalf of said plaintiff, on this 20th day of Sept., at the office of P. W. Foster, a justice of the peace, in Jackson Township, Monroe County, Arkansas:

G. W. L. Kanawah, being duly sworn, deposes as follows: I am 34 years of age; my name is G. W. L. Kanawah; I live in Jackson Township, Monroe County, and State of Arkansas; I was a resident of said township on the 6th day of September, 1880, and acted as one of the clerks of an election held in said township on said 6th day of Sept., 1880, for State and county officers; Rome Cleere acted as the other clerk, and W. H. Lugwell, W. C. Swift, and Richard Miles acted as the judges of said election.

That after the polls at said election were closed deponent proceeded to foot up the tally-sheet kept by him, and Mr. Cleere, the other clerk, proceeded to foot up the tally-sheet kept by him.

That the tally-sheet kept by this deponent showed that at said election T. W. Hooper, candidate for the office of probate and county judge of said county, received ninety-six votes in said township, and that J. B. Chapline, candidate for the same office, received at said election in said township one hundred and seven (107) votes.

That deponent thereupon wrote in the margin of the tally-sheet kept by him, opposite the names of said candidates, in figures, the number of votes cast for each of said candidates as aforesaid, T. W. Hooper having received at said election for said office ninety-six votes and J. B. Chaplain received one hundred and seven votes at said election.

That said figures and tallies were in ink. That after deponent had footed up the tallies kept by him Mr. Cleere, the other clerk, requested deponent to finish footing up the tallies on the sheet kept by him, and to look over his footings as far as made and see if they were correct, as his eyes were weak and he could not finish the footings. Deponent did as requested by said Cleere, and proceeded to finish making the footings on the sheet of tallies kept by said Cleere, and in reviewing the footings on said sheet kept by said Cleere deponent found that said Cleere had only footed up one hundred (100) votes for said J. B. Chapline for said office, while his footings for T. W. Hooper for said office were ninety-six, the same as on the sheet kept by this deponent, making a discrepancy in footings on the respective tally-sheets of said poll of seven votes for J. B. Chapline. Thereupon deponent called the attention of said Cleere and also of W. H. Tugwell, one of the judges aforesaid, to the discrepancy between said footings in the respective tally-sheets; whereupon deponent, in the presence of said Cleere and said judge, compared the tallies as found on each of said sheets, and the tallies on the sheet kept by said Cleere showed that J. B. Chapline had received one hundred and seven votes for said office, instead of one hundred votes, and the discrepancy was owing to an error in the footings as made by said Cleere, and not one of a discrepancy in the tallies; whereupon deponent, in the presence of said clerk and said judge, wrote the figure (7) seven over the last cipher in the number (100) one hundred, which was mutually agreed was the correct number of votes cast for said Chapline. Thereupon both tally-sheets showed that the true number of votes cast at said election for said candidates for said office were ninety-six for Hooper and one hundred and seven for J. B. Chapline.

That the footings made by Clure on his tally-sheet were made in lead pencil and not in ink, and that in the correction of said footings as aforesaid, instead of erasing or rubbing out the cipher in units place in the number (100) one hundred, deponent simply made the (7) seven over the cipher. That the tally-sheet kept by deponent and the footing thereof were made in ink taken out of the same bottle, and was a part of the same ink as is used in writing this deposition, and that in addition to said tally-sheets being ruled horizontally, they were also ruled perpendicular, and after light rulings perpendicularly for twenty five tallies, there were heavy perpendicular lines, and that by some attention to keeping the tallies in the ruled spaces (perpendicular spaces I mean) it was an easy matter to foot up the tallies by twenty-fives. That deponent kept the tallies of twenty-fives within said heavy perpendicular lines, and none of said tallies of twenty-fives overrun said heavy perpendicular lines, while the tallies kept by Mr. Clure were kept in an irregular manner without any special reference to the perpendicular lines of his tally-sheet, and were in a pale and watery ink. That neither of said tally-sheets were scratched in any manner whatever. That after said footings of the votes had been made, I transferred the same to the poll-book kept by myself, showing the exact number of votes cast for each candidate for each of the offices to be filled at said election. That said poll-book kept by myself showed that ninety-six votes had been cast at said election for said T. W. Hooper for said office, and that one hundred and seven votes had been cast for said J. B. Chapline for the same office.

That said footings in the poll-book were made in figures; that none of the figures were written over, blurred, altered, scratched, or erased in any manner whatever; and that Mr. Clure, the other clerk, asked me to transfer the footings from his tally-sheet to his poll-book, which I did in like manner as I had transferred them from my own tally-sheet, that is in figures only; and that footings in his poll-book were not altered, written over, scratched, or blurred in any manner whatever. That the total footings in both of said poll-books were in the handwriting of deponent and were made and written out of the same ink as is this deposition. That after said poll-books had been compared, showing the foregoing facts, they were both duly attested by the officers of said election, and James Hughes, the peace officer of said election, announced the vote to the public from the door of the house wherein said election was held, about one-half past five o'clock on Tuesday morning, Sept. 7th, 1880, it having taken all the night preceding to count said votes. That thereupon Mr. Lugwell, one of the judges, asked me to put my poll-book and tally-sheet into the envelope provided for said purpose, and seal the same and address it to the clerk of said county, which I did in the presence of the officers of said election, whereupon Judge Lugwell delivered the same to W. C. Swift, one of the judges, to carry to the clerk of said county. Mr. Lugwell aforesaid took charge of the poll-book and tally-sheet kept by said Clure and took them to his house. I never saw said poll-book and tally-sheet taken by Judge Lugwell after leaving the polling-place aforesaid on the morning of the 7th of Sept., 1880, until I saw them in the hands of J. W. Langston at the house of said Lugwell on the 15th day of Sept., 1880, and did not then have possession of them. I again saw them at Mr. Lugwell's house on the night of the 17th of Sept., 1880, when Judge Lugwell, his wife, Dr. L. A. A. Doberty, John Lugwell, James Lugwell, Jno. A. Wilhite, and Squire P. W. Foster were present, at which time said poll-book and tally-sheet kept by said Lugwell, in charge, were unchanged, unaltered, and unscratched in any particular, and at that time showed the same state of facts as above enumerated.

I again saw said duplicate poll-book and tally-sheet kept by said Lugwell as aforesaid in the hands of Mr. Lawrence Mayor on Sunday morning, Sept. 19, 1881, at the house of Judge Lugwell, who called at his house and requested to see them. I again saw said duplicated poll-book closed in the hands of Judge Lugwell on Sunday night about twelve o'clock and fifty minutes, (12.50 p. m.,) when an armed mob of about 10 or 12 men, masked, surrounded the house, aroused me by calling for Lugwell and demanding the poll-book and tally-sheet which he had, when I arose and called Mr. Lugwell and told him of the mob and advised him to give them the book. He was somewhat reluctant about surrendering it, whereupon one of the number outside the house said: "Put it out, Lugwell, God damn it, put it out." Lugwell then had the book in his hand, and was near the front window of his house inside, and told the man to come and get it. The man again said in a coarse, harsh voice: "Put it out of the window, God damn it, put it out and don't be long about it. Throw it out." Whereupon Lugwell laid it on the window-sill, (the window being partly raised,) and the person demanding it came and got it. The night was cloudy, with the moon nearly full; about an half hour after this occurrence it commenced raining. I have not seen the duplicated poll-book or tally-sheet so carried away since that time. This deposition is in my own handwriting.

G. W. L. KANAWAH.

Sworn to before me this 20th day of September, 1880.

P. W. FOSTER, *J. P.*

—

W. H. Tugwell, being duly sworn, says as follows:

My name is W. H. Tugwell, aged near forty-eight years. I live in Jackson Township, Monroe County, and State of Arkansas. I have lived in said county for the past twenty years. I was one of the regularly appointed judges of an election held in said township, on the 6th day of September, 1880, for State and county offi-

cers. I noticed the keeping of the poll-books and tally-sheets very closely. I know that J. B. Chapline received one hundred and seven votes at said election for the office of county and probate judge of said county, and that T. W. Hooper, a candidate for the same office, received ninety-six votes, and no more. Mr. Canawah was one of the clerks of the election, and Rome Cheere was the other clerk. Each of said clerks kept a tally-sheet. After the votes had all been counted, J. B. Hughes announced the result of said election publicly from the door of the building wherein said election was held. The separate poll-books and tally-sheets were compared with each other before said result was announced, and they corresponded in the result of said votes. I was an eye-witness of the count and comparison. After the poll-books and tally-sheets had been compared and the result of the election announced, I directed Mr. Kanawah, one of the clerks, to take the poll book and tally-sheet kept by him and put them in an envelope and address them to W. S. Dunlap, county clerk, at Clarendon, Arkansas, which he did in my presence. The poll-book and tally-sheet that were kept by Mr. Kanawah were not scratched, erased, blurred, or written over in any particular whatever at the time of the enscaling of the same as aforesaid. As soon as they were sealed in the envelope I delivered them to Mr. W. C. Swift, one of the judges of the same election, to carry to Clarendon and deliver to the county clerk. I delivered them to W. C. Swift on the morning of the 7th of September, 1880, about 7 o'clock a. m.

I took charge of the duplicated poll-book and tally-sheet kept by Mr. Cleere, the other clerk, and carried them to my residence, being glad to get away. I put them in a trunk. After I had eaten my breakfast that morning I showed the tally-sheet and poll-book, which I had taken charge of, to my wife, and in her presence showed my wife at that time how the vote stood. Among the votes I showed her the statement of the votes which had been cast for T. W. Hooper and J. B. Chapline, candidates for probate and county judge of said county. I distinctly remember that the poll-book showed that T. W. Hooper received ninety-six votes for said office, and that J. B. Chapline received one hundred and seven votes for that office. No one but myself had been in possession of said poll-book or tally-sheet from the time I left the polling-place until I had shown the book and tally-sheet to my wife as aforesaid. After I and my wife had examined them I put them away, and did not see them any more or again until the 15th day of the month. On that day Mr. J. B. or J. W. Langston, one of the candidates for assessor at said election, came to my house about noon and asked if I had possession of one of the poll-books and tally-sheets. I told him I had, and he asked to see them a few minutes. I showed them to him. I was present when he was examining them. He made no marks nor alterations of any kind in them, he never even made a remark about them. He handed them back to me and I took them and put them in my trunk, and then locked them up. On that day Mr. Swift, one of the judges of said election, called at my house and got the poll-book and tally-sheet, and kept them until the next morning, when I sent for them, and on their return I examined them, and found that no alterations of any kind had been made in either of them.

On the night of the 17th of September said tally-sheet and poll-book were compared at my house in my presence, Dr. Doberty, my wife, my two sons and a colored man on my place, 'Squire P. W. Foster, and Mr. Kanawah being present at the time, and the votes for said candidates for said office of county and probate judge were counted in the presence of myself and the other persons named, as recorded on the tally-sheet which I held, and said tally-sheet, kept by said Cleere, then showed that T. W. Hooper had received ninety-six votes, and that J. B. Chapline had received one hundred and seven at said election, and on comparing the tallies with the as recorded in the poll-book the poll-book showed the same fact, and that neither said poll-book nor tally-sheet had been altered in any manner since the election, and they were not scratched nor altered in any respect. I have not the poll-book nor tally-sheet at this time. They were delivered by me to an armed mob, who came to my house last night and demanded them in a violent manner, saying, "Hand them poll-books and tally-sheet out here, and be damned quick about it, too; we want them damned quick, too." That was on Sunday night, (last night,) I think near one o'clock. It was a moonlight night. I have not seen nor heard of them since. They were not altered, erased, changed, or in any manner defaced at the time I surrendered them as aforesaid. This deposition was written by G. W. L. Kanawah.

W. H. TUGWELL.

Sworn to before me this 20th day of Sept., 1880.

P. W. FOSTER, *J. P.*

—

L. A. A. Doberty being first duly sworn, deposes and says: I am a practicing physician, my name is L. A. A. Doberty, M. D. I am about 32 years old. I live in Jackson Township, Monroe County, Arkansas, and board with W. H. Tugwell. I was living with him at the time an election was held in said township for county and State officers on the 6th day of September 1880. I saw the duplicate poll-book and tally-sheet kept by him as one of the judges of said election, on Tuesday afternoon, September 7th, 1880. I noticed some of the votes cast for different officers at that election, Mr. Tugwell was present. I remember having seen among other votes to have seen also those cast for T. W. Hooper and J. B. Chapline, candidate for probate and county judge of said county, as contained on said poll-book and tally-sheet. The number of votes cast for T. W. Hooper for said office were ninety-six, and for Chaplain, for the same office, one hundred and seven. The talleys on said talley-sheet were not scratched, written over, nor erased in any manner at that time. On the night of the 17th of September, 1880, I again saw the same tally-sheet and poll-book at the house of W. G. Tugwell aforesaid, and in the presence of G. W. L. Kanawah, W. G. Tugwell, his wife, his two sons, and Squire W. P. Foster; I saw the vote as recorded on the tally counted, and the count then and there made showed ninety-six votes for T. W. Hooper for the office of probate and county judge, and that J. B. Chaplain, a candidate for the same office, received one hundred and seven votes, and the poll-book on being compared showed the same result, neither one being altered or changed in any particular since the time I first saw on the next day after the election. On last night a mob came to Mr. Tugwell's house, all that I saw of them being armed. I saw seven of the party—they were masked or faces blackened, I could not tell which. They demanded the poll-books and tally-sheet, saying, "Put them out damned quick, throw them out of the window," and after they had got the books they said, "We've got all we want." This was Sunday night, September 19th, 1880, about one o'clock in the night.

L. A. A. DOBERTY, *M. D.*

Sworn to before me this 20th day of September, 1880.

P. W. FOSTER, *J. P.*

—

STATE OF ARKANSAS, *County of Monroe:*

I, P. W. Foster, a justice of the peace in and for said Jackson Township, Monroe County, and State of Arkansas, do hereby certify that the foregoing depositions of G. W. L. Kanawah, W. H. Tugwell, and Dr. L. A. A. Doberty were taken before me and well read to and subscribed by each of said persons in my presence at the time and place named and in the action mentioned in the caption; the said G. W. L. Kanawah, W. H. Tugwell, and Dr. L. A. A. Doberty each having been by me first duly sworn that the evidence they should each severally give in the action should be the truth, the whole truth, and nothing but the truth, and each of their several statements having been and were reduced to writing by G. W. L. Kanawah, at my request and in my presence, the plaintiff above being present by his attorneys at this examination.

Given under my hand and seal this 20th day of September, 1880.

P. W. FOSTER,
Justice of the Peace, Monroe County, Arkansas.

J. B. Chapline *vs.* T. W. Hooper.

In the circuit of Monroe Co., Arkansas, to Sept. term, 1880. In the matter of contested elections for county and probate judge.

To T. W. Hooper, defendant in the above-styled case. Take notice:

That I will on Monday, the 20th day of Sept., 1880, at the residence of Foster, in Jackson Township, Monroe County, Arkansas, and before him or some other justice of the peace in and for said county of Monroe, and at the residence of said Foster, proceed within lawful hours to take the depositions of G. W. L. Kanawah and others, to be used as evidence in behalf of the plaintiff or contestant on the trial of the above-styled cause, when and where you may attend and cross-examine, if you choose to do so.

This Sept. 18, 1880.

J. B. CHAPLINE,
By JOHN HALLUM,
His Attorney.

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STATE OF ARKANSAS, *Monroe County, ss:*

This day personally appeared before me, H. B. Bateman, a justice of the peace in and for said Cache Township, Monroe County, Ark., A. J. Light, who deposed and said, that on the 18th day of Sept., 1880, he delivered a true and perfect copy of the within notice to the within-named T. W. Hooper.

A. J. LIGHT.

Subscribed and sworn to before me on this the 18th day of Sept., 1880.

H. B. BATEMAN.

—

Monroe circuit court, September term thereof, 1880.

J. B. Chapline *vs.* T. W. Hooper.

Know all men by these presents that J. B. Chapline, as principal, and H. B. Bateman and G. A. Garrett, as sureties, are held and firmly bound unto T. W. Hooper in the sum of five hundred dollars, for the payment of which we each firmly bind ourselves, our heirs, and administrators to faithfully pay.

Conditional, however, that whereas J. B. Chapline has commenced a suit to contest the election of county and probate judge for Monroe County, State of Arkansas, as between J. B. Chapline and T. W. Hooper. Now, if J. B. Chapline and his securities shall pay or cause to be paid to T. W. Hooper, contestee or defendant in this action, and the officers of the court such sums of money as shall be adjudged against him in the court in which the trial shall be brought, or in any other court to which it shall be carried by appeal or otherwise, then this bond shall be void, otherwise, it shall remain in full force and effect.

J. B. CHAPLINE.
H. B. BATEMAN.
J. A. GARRETT.

[During the delivery of the above speech, the hour having expired, Mr. MOORE'S time was extended until he had concluded.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of the following bills without amendment:

A bill (H. R. No. 813) to amend section 5254, title 63, Revised Statutes of the United States, concerning the use of piers and cribs in the Mississippi River; and

A bill (H. R. No. 1712) for the relief of Chaplain M. J. Kelly and others.

It also announced the passage of the following bills and joint resolution; in which concurrence was requested:

Joint resolution (S. R. No. 52) authorizing the Government of the United States to accept the invitation of the Government of the Netherlands to take part in a general colonial and export-trade exhibition to be held in Amsterdam in the year 1883;

A bill (S. No. 602) for the relief of the heirs and legal representatives of Hyacinthe Robert Agnel, deceased;

A bill (S. No. 670) to provide for the construction of a public building at the city of Fort Wayne in the State of Indiana;

A bill (S. No. 1340) for the relief of the heirs at law of William R. Downing, deceased;

A bill (S. No. 1093) for the relief of George W. Saulpaw;

A bill (S. No. 1477) to empower the Secretary of War to audit the claim of the State of South Carolina for rent alleged to be due for the use and occupation of the Citadel Academy at Charleston; and

A bill (S. No. 1478) for the relief of the Albemarle and Chesapeake Canal Company.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. SMITH, of Pennsylvania, from to-morrow until Saturday.
To Mr. STEELE, until Saturday.
To Mr. BRUMM, until Tuesday next.
To Mr. DEZENDORF, until Saturday.

ENROLLED BILLS.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 813) to amend section 5254, title 63, Revised Statutes of the United States, concerning the use of piers and cribs in the Mississippi River; and

A bill (H. R. No. 1712) for the relief of Chaplain M. J. Kelly and others.

LEAVE TO PRINT.

Mr. ROBINSON, of New York, by unanimous consent, was granted leave to print in the RECORD some additional remarks on the subject of American citizens in British prisons. [See Appendix.]

BOUNTIES TO FARRAGUT'S FLEET.

Mr. DEZENDORF, by unanimous consent, from the Committee on Naval Affairs, reported back the bill (H. R. No. 4738) to provide for the payment of bounties due to the officers and sailors of United

States vessels under the command of Flag-Officer D. C. Farragut; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

And then, on motion of Mr. HOLMAN, (at five o'clock and fifty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ARMFIELD: The petition of J. D. Hunt and others, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. ATKINS: Papers relating to the claim of W. C. Marsh—to the Committee on War Claims.

By Mr. BRUMM: The petitions of G. W. Bartch, T. A. Foster, and 300 others, citizens of Pennsylvania, for an appropriation of money to States and Territories for educational purposes—to the Committee on Education and Labor.

By Mr. CLEMENTS: Papers relating to the claim of the trustees of the Catholic church at Dalton, Georgia, and of the trustees of the Presbyterian church at Marietta, Georgia—severally to the Committee on War Claims.

By Mr. DEZENDORF: The petition of Margaret T. Higgins, for relief—to the same committee.

By Mr. DINGLEY: The petition of W. A. Robinson and others, of Maine, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. ELLIS: Papers relating to the claim of James Ryback—to the Committee on War Claims.

By Mr. ERMENTROUT: The petitions of citizens of the United States engaged in importing and refining sugars, relative to the duty on sugar—to the Committee on Ways and Means.

By Mr. ERRETT: The petition of Carnegie Brothers & Co., of Pittsburgh, Pennsylvania, for the passage of the bill for testing iron and steel—to the Committee on Manufactures.

By Mr. HARMER: The petition of citizen of the United States, for the passage of bill (H. R. No. 2222) relative to the duties on sugars deposited in bonded warehouses—to the Committee on Ways and Means.

By Mr. LORD: The petition of John Casbry, for compensation for services as custodian at the Detroit arsenal—to the Committee on Claims.

By Mr. McMILLIN: The petition of Prettyman Jones and 35 others, for the passage of a bill to equalize bounties—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. PEIRCE: The petition of Professor William H. Riley and 150 others, citizens of Terre Haute, Indiana, asking the appropriation of money for educational purposes—to the Committee on Education and Labor.

By Mr. PETTIBONE: Papers relating to the claim of Abraham Bazinsky, of Alfred F. Brown, and of James Haws—severally to the Committee on War Claims.

By Mr. PHELPS: The petition of citizens of the United States, relative to the duty on sugar—to the Committee on Ways and Means.

By Mr. G. D. ROBINSON: The petition of Lucinda O. Howard and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. SHACKELFORD: The petition of citizens of Onslow County, North Carolina, praying for appropriation for the improvement of navigation of New River, North Carolina—to the Committee on Commerce.

By Mr. R. W. TOWNSHEND: The petition of citizens of Illinois, for the passage of the bill granting pensions to soldiers and sailors of the late war who were confined in confederate prisons—to the Committee on Invalid Pensions.

By Mr. OSCAR TURNER: The petition of Mrs. Sarah Futrell, for a pension—to the Committee on Pensions.

By Mr. WILLITS: The petition of Oscar Bliss and 42 others, of Rider Post No. 12, Grand Army of the Republic, of Lenawee County, Michigan, in relation to repeal of arrears-of-pension act—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, *April* 27, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

MILEAGE OF ARMY OFFICERS.

The PRESIDENT *pro tempore*. The Chair laid before the Senate yesterday a letter from the Secretary of War, transmitting, in response to a resolution of February 28, 1882, a report from the Paymaster-General and accompanying papers giving an itemized statement of how, by whom, and under what exigency the $200,000 appropriated for mileage of officers for the fiscal year ending June 30, 1882, will be exhausted before the end of February, &c., which was referred to the Committee on Appropriations, and ordered to be printed. As the Chair did not know that the bundle of papers now before him was attached to the communication, he asks that the motion to print be reconsidered, and that the matter be referred to the Committee on Printing.

Mr. ANTHONY. I make that motion.

The PRESIDENT *pro tempore*. There being no objection, the order to print will be reconsidered, and the papers will be referred to the Committee on Printing. The Journal will be corrected in that respect.

Mr. BECK subsequently said: A communication has been received from the Secretary of War, I understand, of which I was not advised until this moment, relative to mileage, and a bag of books or papers has been sent here with it.

The PRESIDENT *pro tempore*. The order to print has been reconsidered, and the papers have been referred first to the Committee on Printing to determine whether they should be printed.

Mr. BECK. I do not desire the printing of such a large amount of documents or papers.

The PRESIDENT *pro tempore*. The matter is referred to the Committee on Printing now.

Mr. BECK. I should like an early report for the printing of an abstract, because it seems to me there was no occasion to send a bag of paper of that sort here, when that Department has plenty of clerks not very busy, and plenty of officers who might perhaps be better employed than they are. I do not understand why they could not have sent an abstract of the papers.

Mr. EDMUNDS. But it is probable, I will say to my friend from Kentucky, that the Secretary of War felt that he was obeying a requirement or a direction of the Senate in sending everything he had.

Mr. BECK. Perhaps he did. I merely mean to say that the only object I have had in view is to get at the facts to see whether the large deficiency was created for legitimate mileage or not. I have had nothing else in view.

Mr. ANTHONY. If the Senator from Kentucky would be kind enough to indicate the portion of the papers which he desires to have printed, it would aid the Committee on Printing very much.

Mr. BECK. There is a mail-bag full, I understand, which I take it for granted are vouchers merely. What I desire to do is to give the Army all they need, but if they are going to send officers down to Yorktown, and if they are going to have grand dress parades all over the country and invite officers all about and pay them mileage and then come here with a deficiency of $52,000, having spent the whole $200,000 we allowed them in eight months instead of twelve, I think they might tell us how they spent it, without going into great detail as to where it went. It was a legitimate inquiry and not intended to embarrass anybody; but I desired to get at the facts.

The PRESIDENT *pro tempore*. Does the Senator make a motion in regard to the matter?

Mr. BECK. No, sir; I do not really know what it is; let it go to the Committee on Appropriations. I call the attention of the chairman of the Committee on Printing to the matter.

The PRESIDENT *pro tempore*. The Secretary can show the Senator the bag of documents which has been referred to the Committee on Printing.

Mr. BECK. It is absurd to send a bag like that here.

The PRESIDENT *pro tempore*. It was referred to the Committee on Printing in order to decide what should be printed. The Chair supposes there is no other way. That is what ought to be done.

Mr. BECK. I have no doubt that it is a sort of threat to show the amount of idle printing that we are required to do, and it is sent here as an evidence of that fact. I simply asked for a single, plain, legitimate fact that a hundred lines can give.

Mr. EDMUNDS. I feel it to be a duty toward the Secretary of War to say that I do not agree with the Senator from Kentucky, and that I do not think he is justified in saying that the Secretary of War intends it as a threat or intimation or anything else, but only a justifiable and lawful obedience to the direction of the Senate of the United States to send this information. If the Senate calls for universal information he must send it if he is an upright officer. He has sent it, and it is not his fault that it is much or little. Perhaps the bag ought to have been silk, or something of that kind.

Mr. INGALLS. In view of the imputation made by the Senator from Kentucky, it seems to me to be reasonable that the resolution of the Senate should be read, that we may know whether the action of the Secretary has been in obedience to it or not. If it appears on the files I should like to have it read by the Chief Clerk.

Mr. BECK. So would I.

Mr. ANTHONY. The Secretary of War does not print the documents; he sends the papers here by our order, and we print them or not, as we see fit. He is not responsible for the expense of printing.

Mr. SHERMAN. The Senate has already referred the matter of printing to the Committee on Printing; and that was the proper thing to do.

The PRESIDENT *pro tempore*. The resolution will be read.

The Acting Secretary read the following resolution, adopted by the Senate February 28, 1882:

Whereas the Secretary of War has officially advised Congress in the estimates for deficiencies that the $200,000 appropriated for "mileage to officers of the Army"

for the fiscal year ending June 30, 1882, "will be exhausted before the end of February," and that "much inconvenience may be caused by the inability of the (this) Department to reimburse officers for expenses incurred while traveling under orders after that date," and asks an appropriation of $52,000 to meet the deficiency: Therefore,

Resolved, That the Secretary of War be, and he is hereby, directed to furnish to the Senate as soon as practicable an itemized statement of how, by whom, and under what exigency or orders the $200,000 aforesaid has been expended in eight months, and whether the estimate of $52,000 will be sufficient for the remaining four months, stating his reasons for assuming that $52,000 will suffice to complete the service for the fiscal year.

Mr. BECK. I do not think that resolution calls for any such voluminous bag of papers as was sent to us. I merely wanted the estimates, the orders given, and how the money was expended. I supposed an itemized statement in a single column would answer every purpose. I do not mean to reflect on the Secretary of War or anybody else. I mean to call the attention of the Committee on Printing, not to print that bag of documents, but merely to print enough to enable us to know how the money has been expended and the reasons why it was so expended, which can be done in a very few minutes, I suppose, instead of sending us a mail-bag full of miscellaneous documents.

Mr. EDMUNDS. You do not know what is in the bag. They may be the very itemized statements the Senator desired.

Mr. BECK. I hope the Committee on Printing will look into it carefully, and give us the information at the least possible expense.

Mr. HAWLEY. The Senator will notice that his resolution calls for an itemized account. If he had simply asked the Secretary of War to give a general statement of the extra expenditures, of the unusual causes for the expenditures, then what he suggests would have answered, but he calls for exactly what I suppose the Secretary of War sent, an itemized account of the expenditure of $200,000.

Mr. INGALLS. What does the bag contain?

Mr. HAWLEY. What I suppose to be an itemized account, which the Senator called for.

Mr. INGALLS. The matter had better be postponed until we know what the bag contains.

Mr. HAWLEY. As stated by my colleague on the committee, [Mr. ANTHONY,] it does not follow that we are going to print all that matter. It may be examined by the clerk of the Committe on Printing in two hours so as to give all the information requisite.

Mr. ALLISON. I think the resolution also calls for the orders under which the expenditures were made. I have no doubt if we were to investigate the bag of documents we should find that it contains all the orders with reference to mileage accounts.

Mr. BECK. I have no doubt that it contains all the vouchers given by the officers, and that they are all regular. I have no idea that the money was stolen by any one, or that anybody was getting more than he had a right to receive, under the appropriation; but what I wanted was simply what the resolution shows on its face, an abstract of the orders to show where the officers were sent, what they were doing, what duty they were performing, so as to enable us to see whether this money was spent in executing the necessary orders of the Army or whether it was spent in junketing. If it was so spent, then I propose before new appropriations are made to seek to limit the right of that Department to make such expenditures. I believe, for example, and I may be wrong, that $20,000 or $30,000 of that money was spent by officers to go to Yorktown for the Centennial celebration. I deny the right of the Secretary of War to send his officers there at public expense. If I am wrong in that, then I am so far wrong. If, in other words, the orders under which the money was spent were in connection with Army affairs, all right; if not, then let us see if we cannot prevent a repetition of that condition of things.

That is all I want, and a single page or two would give it all. I had no idea that a bag of books would come here, and I am amazed that we are asked to print any such mass of papers.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting a communication from James B. Eads, a member of the Mississippi River commission, dissenting from portions of the report of that commission; which, on motion of Mr. COCKRELL, was ordered to lie on the table and be printed.

FOURTEENTH STREET EXTENSION, WASHINGTON.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the commissioners of the District of Columbia, transmitting, in response to a resolution of April 14, information concerning the action taken by them for widening the extension of Fourteenth street, with plans and estimated cost of the proposed improvement. The communication will be referred to the committee on the District of Columbia, and be printed. There are plats accompanying the communication. Shall the plats be printed?

Mr. EDMUNDS. No; that is pretty costly business. I think they had better not be printed, without some investigation.

Mr. INGALLS. The printing of the plats is essential to the correct understanding of the report of the commissioners and to the preparation of an intelligent public document. The plats accompany the statement and ought to be printed. I understand they can be reproduced at a very small expense.

Mr. EDMUNDS. I do not object to it. Probably they may be.

The PRESIDENT *pro tempore*. The plats will be printed also, there being no objection.

PETITIONS AND MEMORIALS.

Mr. DAWES. I present the petition of John Miller & Co. and a large number of other firms and merchants in Massachusetts, in support of House bill No. 5656, providing that all distilled whisky in bond on the date of its final passage shall remain in bond for an indefinite period, instead of being subject to withdrawal within three years. I understand that the bill has been reported. If I am mistaken, I ask that the petition be referred to the Committee on Finance.

The PRESIDENT *pro tempore*. The bill is before the Committee on Finance, and the petition will be referred to that committee.

Mr. SLATER presented the petition of H. H. Wheeler, of Wasco County, Oregon, praying compensation for carrying the mails between The Dalles, Oregon, and Canyon City, Oregon, during the years 1864, 1865, and 1866; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. MORGAN presented a petition of citizens of Colbert County, Alabama, praying for an appropriation to be distributed to the common schools of the States and Territories on the basis of illiteracy; which was referred to the Committee on Education and Labor.

Mr. HALE presented a petition of citizens of Machias, Maine, praying that an increase of pension be granted to Lieutenant James P. F. Toby, late of Company B, Thirty-first Regiment Maine Volunteers; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. ROLLINS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 2871) to provide for the extension of the Capitol, North O Street and South Washington Railway, reported it without amendment.

Mr. COKE. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 1609) making an appropriation for continuing work on the jetties in Charleston Harbor, to report it without amendment. I ask, in view of the importance of the bill and the urgency for its immediate passage, that it be acted upon now.

Mr. EDMUNDS. I must ask that it be printed and go over. We can take it up to-morrow morning.

Mr. BUTLER. I hope the Senator from Vermont will not put the bill upon the Calendar. It is an extremely important matter, and a very urgent one.

Mr. INGALLS. To what does it relate?

Mr. BUTLER. It makes an appropriation of $150,000 in advance of the appropriations to be realized from the river and harbor bill for the jetties in Charleston Harbor, upon the urgent request of the Engineer's Department. Of course the appropriation to be made for that work in the river and harbor bill will be charged with this appropriation. That we expect. We only want it to be available immediately inasmuch as the contract under which the parties have been working is about to expire, and the Engineer Department are of the opinion that if they do not have money to go on the Government will lose very seriously and the work will be very seriously jeopardized. The bill simply makes an appropriation of $150,000 in advance of the money to be realized under the river and harbor bill.

Mr. EDMUNDS. A delay of twenty-four hours will not hurt it much in order that the bill may be printed, and we have time to look at the report of the engineers. I shall not object to the bill being taken up out of order to-morrow, so far as I am concerned.

Mr. BUTLER. I have no objection to that in the world. I did not want the bill to go to the Calendar and away down at the bottom of it.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. SHERMAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1797) to regulate the coinage of the standard silver dollar; which was read the first time by its title.

Mr. ALLISON. I should like to hear the bill read at length.

The bill was read the second time at length, and referred to the Committee on Finance, as follows:

Be it enacted, &c., That so much of the act passed February 28, 1878, entitled "An act to authorize the coinage of the standard silver dollar and to restore its legal-tender character," as directs the Secretary of the Treasury to purchase from time to time silver bullion, at the market price thereof, not less than two million dollars' worth per month, and to cause the same to be coined monthly into standard silver dollars, be, and the same is hereby, repealed, and the Secretary of the Treasury is hereby authorized and directed to purchase, from time to time, silver bullion at the market price thereof, and to cause the same to be coined into such dollars only when in his opinion a further coinage of said dollars is demanded for public use and convenience; and a sum sufficient to carry out the provisions of this act is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1798) to quiet titles to lands in Missouri entered under the graduation act; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FERRY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1799) for the relief of Oliver H. Greenfield; which was read twice by its title, and referred to the Committee on Claims.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1800) for the relief of Mary A. Lee; which was read twice by its title, and referred to the Committee on Claims.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1801) for the relief of Patrick Casey; which was read twice by its title, and referred to the Committee on Finance.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1802) to allow all homestead settlers who have entered only eighty acres of land to homestead eighty additional acres; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1803) granting a pension to P. B. Perry; which was read twice by its title, and referred to the Committee on Pensions.

CHILI-PERUVIAN INVESTIGATION.

Mr. BLAIR. I ask leave to offer the following privileged resolution, and I ask for its immediate consideration:

Resolved, That HENRY W. BLAIR, a member of the Senate, have leave to testify before the Committee of the House of Representatives on Foreign Affairs in the Chili-Peruvian investigation now being made by that committee.

The resolution was considered by unanimous consent, and agreed to.

APACHE INDIAN OUTRAGE.

Mr. CALL. I offer the following resolution, and ask for its present consideration:

Resolved, That the murders and outrages lately committed on citizens of the United States in Arizona by the Apache Indians demand that the entire military power of the United States shall be used, if necessary, for the punishment of the perpetrators of these outrages and for the protection and security of our people in future.

Mr. INGALLS. Let the resolution be printed.

Mr. EDMUNDS. I object to the resolution. Let it go over.

Mr. CALL. Mr. President——

Mr. EDMUNDS. We passed a law, I will say in explaining my objection, a few years ago, in spite of my opposition and that of my Republican friends, which it was thought by some prevented the President from using the Army for any such purpose. I do not say that it did, but I think we had better consider a little before we try to pass a resolution which may fly in the face of the law.

Mr. CALL. I ask that the resolution lie on the table, and I will call it up for consideration to-morrow morning.

The PRESIDENT *pro tempore*. The resolution will be printed and lie on the table.

HILL'S TARIFFS OF THE WORLD.

Mr. MORGAN submitted the following concurrent resolution; which was read:

Resolved by the Senate, (the House of Representatives concurring,) That 2,000 copies of The Tariffs of the World and Analyses Thereof, prepared by Charles S. Hill, and published by D. Appleton & Co., of New York, be purchased at the publishers' rate of $5 per copy, to be distributed as follows: 300 for the use of the Senate, 1,200 for the use of the House of Representatives, and 500 to be used at the discretion of the Secretary of State for the benefit of the consular and diplomatic service of the United States.

Mr. MORGAN. I move that the resolution, with the accompanying papers, be referred to the Committee on Finance, because it is a subject they ought to consider, and afterward it can go to the Committee on Printing.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 4680) to repeal discriminating duties on tea and coffee, the products of the possessions of the Netherlands.

The message also announced that the House had passed the bill (S. No. 1598) to authorize the Secretary of War to donate to the Ladies' Soldiers' Monument Society of Portsmouth, Ohio, four condemned cannon.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 570) to extend the limits of the port of New Orleans;

A bill (H. R. No. 707) to amend section 4233 of the Revised Statutes of the United States, in relation to danger signals;

A bill (H. R. No. 869) for the relief of Thomas J. Wharton; and

A bill (H. R. No. 5387) providing for the pay of Rear-Admiral Roger N. Stembel.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 813) to amend section 5254, title 63, Revised Statutes of the United States, concerning the use of piers and cribs in the Mississippi River; and

A bill (H. R. No. 1712) for the relief of Chaplain M. J. Kelly and others.

ORDER OF BUSINESS.

Mr. EDMUNDS. I move that the Senate proceed to consider the resolution I had the honor to submit yesterday touching the special rule of the Senate known as the Anthony rule.

Mr. BECK. Will the Senator allow me to say a word?

Mr. EDMUNDS. Certainly.

Mr. BECK. I thought yesterday morning, when I had the bill (S. No. 976) to punish the unlawful certification of checks by officers of national banks taken up, and had all the documents published in the RECORD this morning, it measurably made it the unfinished business for this morning.

The PRESIDENT *pro tempore*. The Chair would state to the Senator from Kentucky that there is this provision in the Anthony rule:

That at the conclusion of the morning business for each day, unless, upon motion, the Senate shall at any time otherwise order, the Senate will proceed to the consideration of the Calendar of bills and resolutions.

The words are "unless the Senate shall otherwise order," and the Senator from Vermont asks that the matter to which he has referred be taken up.

Mr. EDMUNDS. I will state to the Senator from Kentucky that in order to relieve ourselves from the embarrassment we were under yesterday as to the meaning of the Anthony rule, I wish to take that subject up and get the conclusion of the Senate upon a proposed amendment, which I think will satisfy everybody.

Mr. BECK. I beg the Senator's pardon. I was not aware that he wished to call that matter up. The papers relating to the bill to which I refer are printed in the RECORD this morning, and I should like to get the action of the Senate upon it.

The PRESIDENT *pro tempore*. If there be no further routine morning business, the morning hour is closed, and the Senator from Vermont has the floor.

THE ANTHONY RULE.

Mr. EDMUNDS. I move to take up the resolution I offered yesterday in relation to the Anthony rule.

The PRESIDENT *pro tempore*. The resolution is before the Senate, there being no objection. It will be read.

The resolution was read, as follows:

Resolved, That the special rule of the Senate for the consideration of matters on the Calendar under limited debate be, and the same is hereby, abolished.

Mr. EDMUNDS. I offered the resolution in that form in order in the shortest way to get the question in a shape in which the Senate could consider it to-day. I now move to amend the resolution by striking out the word "abolished" and inserting—

Amended by adding thereto the following words:

"But if the Senate shall proceed with the consideration of any matter, notwithstanding an objection, the foregoing provisions touching debate shall not apply, but the subject shall be proceeded with under the standing rules of the Senate."

Mr. HOAR. I should like, then, to be permitted to withdraw my resolution; the Senator has expressed so much better what I desire to express in mine.

Mr. PENDLETON. I desire to ask a question for information in regard to the proposed amendment. I understand the Chair to have decided that immediately upon the conclusion of the routine morning business, under the Anthony rule the Senate may proceed on motion to take up any other bill, and that business proceeds then without the limitation of debate. I think that was the ruling made by the Chair the other day. ["No," "No."] Gentlemen around me say that was not the interpretation.

The PRESIDENT *pro tempore*. It is under that ruling that the resolution to amend or repeal the Anthony rule is now taken up.

Mr. PENDLETON. I understand the Chair to have decided that immediately after the conclusion of the routine morning business the Anthony rule goes into operation, but the Senate may on motion take up any bill or resolution and proceed with its discussion under the five-minute rule, before proceeding with the Calendar under the rule.

The PRESIDENT *pro tempore*. No, not under the five-minute rule.

Mr. PENDLETON. Without the limitation of the five-minute rule at that time?

The PRESIDENT *pro tempore*. Without the five-minute rule.

Mr. PENDLETON. Then, after the Senate shall have begun to put into operation the Anthony rule, if an objection is interposed and the bill is taken up, the Chair decided yesterday that the debate then proceeds under the limitations of debate; and now the Senator from Vermont desires that the rule shall stand in full effect except that in the event the objection is overruled the limit upon debate shall not apply. We shall then be able, as I understand it, before the Anthony rule goes into effect, to take up by a majority of the Senate any bill or resolution and proceed without limitation; and if afterward, when in regular order upon the Calendar, any bill is reached under the Anthony rule, then if the Senate, notwithstanding objection, determines to proceed with it, it proceeds under the ordinary rules of debate and without limitation, giving the Senate entire charge, therefore, of its own business.

Mr. EDMUNDS. That states the case.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to the resolution of the Senator from Vermont.

The amendment was agreed to.

The resolution as amended was agreed to.

Mr. EDMUNDS. Then I may as well now, to save time again, ask leave to withdraw the appeal I took from the decision of the Chair yesterday, because this supersedes the matter.

Mr. INGALLS. I should like to have the rule as amended read.

The PRESIDENT *pro tempore*. The rule will be read as now modified.

The Acting Secretary read the rule as modified, as follows:

Resolved, That at the conclusion of the morning business for each day, unless, upon motion, the Senate shall at any time otherwise order, the Senate will proceed to the consideration of the Calendar of Bills and Resolutions, and continue such consideration until two o'clock; and bills and resolutions that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and the objection may be interposed at any stage of the proceedings unless upon motion the Senate shall otherwise order; and this order shall commence immediately after the call for "concurrent and other resolutions," and shall take precedence of the unfinished business and other special orders. But if the Senate shall proceed with the consideration of any matter notwithstanding an objection, the foregoing provisions touching debate shall not apply, but the subject shall be proceeded with under the standing rules of the Senate.

CERTIFICATION OF BANK CHECKS.

The PRESIDENT *pro tempore*. The first case in order on the Calendar is the bill (S. No. 976) to punish the unlawful certification of checks by officers of national banks, which the Senator from Kentucky [Mr. BECK] calls up for consideration.

Mr. ALDRICH. I will state to the Senator from Kentucky that the Senator from Delaware, [Mr. BAYARD,] who is not in his seat this morning, is desirous of being heard upon the bill, and I suggest to him that it go over without prejudice until the return of the Senator from Delaware.

Mr. BECK. I was not aware of that. I understood that the Senator from Delaware did not care to be heard upon it.

Mr. ALDRICH. He informed me that he was anxious to be heard upon it. Possibly the Senator may have some more recent information.

The PRESIDENT *pro tempore*. What is the pleasure of the Senator from Kentucky in regard to the bill? Will he call it up now?

Mr. BECK. I desire to call it up. I have been waiting more than two weeks, first upon one Senator and then upon another. The Senate can do as they like about it.

Mr. ALDRICH. I do not think that the bill ought to be considered under the Anthony rule. In its form as reported by the Committee on Finance it is unobjectionable, but in the form suggested by the Senator from Kentucky it is liable to serious objection. It seems to me that it would be impossible for the Senate to consider the bill under a five-minute rule. So I hope the Senator will consent that the bill may go over and be taken up at some time by a vote of the Senate.

Mr. BECK. Yesterday I laid before the Senate the laws, orders, and reports upon which the bill is based, and the Senator from Rhode Island also laid some papers before the Senate, all of which are in the RECORD this morning. They show upon their face the exact facts. I do not think there can be any trouble in discussing the bill under the five-minute rule or any other rule. The only amendment of which the Senator complains is that I seek to strike out of the amendment of the committee the word "fictitious" before the word "obligation" and the word "pretended" before the word "collateral." That is all that would create any debate.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky ask that the bill be passed over without prejudice until the Senator from Delaware returns?

Mr. BECK. I would rather not have it passed over at all, if I can possibly help it.

Mr. INGALLS. I suggest to the Senator from Rhode Island that under the modification of the Anthony rule which has been adopted this morning all he has to do is to object to the consideration of the bill. The Senator from Kentucky can then move to take it up, and if the majority agree with him, the five-minute rule is abrogated and debate is unlimited.

Mr. ALDRICH. I was aware of that fact, but I disliked to suggest that course. I made the suggestion I did in the hope that some arrangement might be made by which the bill could be taken up in some other way except by a displacement of business under the Anthony rule. The amendment to which the Senator has alluded changes the entire nature of the bill from an unobjectionable bill as it came from the committee to what seems to me to be a very objectionable bill, affecting the entire banking interests of the country in a very serious way. I hope the gentleman will consent to have the bill go over.

Mr. BECK. I desire to proceed with the bill, and if objection is made I shall endeavor to ask the Senate to consider it. It is a very important bill.

Mr. INGALLS. Then, in order to put the amended rule in operation, I object to the present consideration of the bill.

Mr. BECK. I move to proceed to the consideration of the bill, the objection notwithstanding.

Mr. INGALLS. That is right. That is what I wanted done.

Mr. ALLISON. I hope the Senator from Kentucky will not press the bill until the Senator from Delaware returns; which will be in a day or two. I think the Senator from Kansas will withdraw his objection, and there will be no objection made to the consideration of the bill early next week. I think the Senator from Delaware would like to be here when the bill is considered, and he will only be absent for a day or two.

Mr. BECK. I waited some time for the Senator from Rhode Island [Mr. ALDRICH] to get his papers ready. Then I waited for the Senator from Ohio, [Mr. SHERMAN,] who was absent. We shall never get the whole Committee on Finance here, in my opinion, at one time. It is a bill that anybody can understand on one side or the other. It is merely to enforce the law of the land; no more, no less. A bill passed the House of Representatives unanimously ten years ago word for word like this measure. The Comptroller of the Currency certified that the passage of that bill even by the House had for years prevented this illegal action by officers of banks. He reported in 1879 that the whole proceedings were illegal. The Secretary of the Treasury says that such a law ought to pass in some form; that there is no check; that the open certification of checks is a plain, palpable violation of the law, and he was amazed to find nobody was punished under it.

Mr. ALLISON. But the Senator from Kentucky will remember, if he will allow me one moment, that his amendment is the bone of contention.

The PRESIDENT *pro tempore*. This debate is out of order on both sides.

Mr. ALLISON. I know it is.

The PRESIDENT *pro tempore*. Senators cannot argue the merits of the bill on a motion to proceed to its consideration.

Mr. BECK. All the papers are in the RECORD this morning.

The PRESIDENT *pro tempore*. The Senate is proceeding under the Anthony rule, and the debate is against the rule.

Mr. ALLISON. I was only endeavoring to persuade the Senator to postpone the bill.

The PRESIDENT *pro tempore*. Will the Senator from Kentucky agree to have the bill postponed?

Mr. BECK. No, sir, I will not; I desire a vote now on taking it up.

The PRESIDENT *pro tempore*. The Senator from Kentucky, notwithstanding the objection of the Senator from Kansas, moves that the Senate proceed to the consideration of the bill.

Mr. SHERMAN. In the absence of the Senator from Delaware I do not think we ought to take the bill up, although I am perfectly willing to do so at any other time.

The PRESIDENT *pro tempore*. The Senator from Kentucky has been appealed to on that point, the Chair will inform the Senator from Ohio. That matter has been discussed for five minutes.

Mr. SHERMAN. I would not like to take up the bill in the absence of the Senator from Delaware.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky [Mr. BECK] to proceed to the consideration of the bill.

Mr. BECK. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MCMILLAN. Will not this supersede the Calendar?

The PRESIDENT *pro tempore*. It will, if taken up, supersede everything. The call will proceed.

The Principal Legislative Clerk proceeded to call the roll.

Mr. HARRIS, (when Mr. JACKSON'S name was called.) My colleague [Mr. JACKSON] is absent from the city. He is paired with the Senator from Iowa, [Mr. MCDILL.]

The roll-call was concluded.

Mr. MCDILL, (after having voted in the negative.) I desire to withdraw my vote. I am paired with the Senator from Tennessee, [Mr. JACKSON.]

Mr. ALLISON, (after having voted in the negative.) I am paired on political questions with the Senator from Georgia, [Mr. BROWN,] but I voted "nay" with a view of waiting for the return of the Senator from Delaware, [Mr. BAYARD.] If it is a political question I withdraw my vote.

Mr. BECK. The Senator can vote if he likes. The Senator from Delaware, when I assured him time and again that I was waiting for the Senator from Ohio and then another, said he cared nothing about it.

Mr. ALLISON. I withdraw my vote.

Mr. BUTLER, (after having voted in the affirmative.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] I did not recollect it at the time. I feel bound to withdraw my vote.

The PRESIDENT *pro tempore*. The Chair would have supposed there was no politics in this question, but it seems to have been made a political question by the Senator from Iowa [Mr. MCDILL] withdrawing his vote and two or three others following his example.

Mr. HARRIS. I do not think there is any politics in this question, yet the Senate has divided almost, if not entirely, by party lines.

The PRESIDENT *pro tempore*. So it appears.

Mr. HARRIS. And if I was the Senator from South Carolina I would not vote, and I think the Senator from Iowa does the right thing in not voting.

Mr. BUTLER. I expect I had better withdraw my vote.

The PRESIDENT *pro tempore*. The vote of the Senator from South Carolina is withdrawn.

Mr. RANSOM, (after having voted in the affirmative.) I am paired, Mr. President, as you know, with your colleague, [Mr. LOGAN,] on party questions. I do not so regard this, and I cast my vote without reference to my opinions on the bill itself, simply to let the Senator from Kentucky get up his bill. I withdraw my vote.

Mr. ANTHONY, (after having voted in the negative.) I am paired with the Senator from Delaware [Mr. BAYARD] on political questions. I did not regard this as a political question, and so voted, but I see it has the Senate divided pretty much by party lines. I withdraw my vote.

Mr. ALDRICH. I am paired on political questions with the Senator from Maryland, [Mr. GORMAN,] but after consultation with his colleague, not deeming this a political question, I have voted.

The result was announced—yeas 26, nays 27; as follows:

YEAS—26.

Beck,	Garland,	Jonas,	Saulsbury,
Call,	George,	McPherson,	Slater,
Cockrell,	Groome,	Maxey,	Vance,
Coke,	Grover,	Morgan,	Vest,
Davis of W. Va.,	Hampton,	Pendleton,	Walker.
Fair,	Harris,	Plumb,	
Farley,	Ingalls,	Pugh,	

NAYS—27.

Aldrich,	Edmunds,	Lapham,	Rollins,
Blair,	Frye,	McMillan,	Sawyer,
Cameron of Wis.,	Hale,	Mahone,	Sewell,
Chilcott,	Harrison,	Miller of Cal.,	Sherman,
Conger,	Hawley,	Miller of N. Y.,	Van Wyck,
Davis of Illinois,	Hill of Colorado,	Morrill,	Windom.
Dawes,	Hoar,	Platt.	

ABSENT—23.

Allison,	Cameron of Pa.,	Jones of Florida,	Mitchell,
Anthony,	Ferry,	Jones of Nevada,	Ransom,
Bayard,	Gorman,	Kellogg,	Saunders,
Brown,	Hill of Georgia,	Lamar,	Voorhees,
Butler,	Jackson,	Logan,	Williams.
Camden,	Johnston,	McDill,	

So the motion was not agreed to.

L. MADISON DAY.

Mr. JONAS. The bill (S. No. 73) for the relief of L. Madison Day was passed over without prejudice the day before yesterday. I ask for its consideration now.

Mr. INGALLS. I object to the consideration of that bill. The Senator can move to take it up.

Mr. JONAS. The bill was up for consideration a few days ago and was laid over on the objection of the Senator from Missouri [Mr. COCKRELL] that he desired to refresh his memory and prepare himself for the discussion of the bill.

The PRESIDENT *pro tempore*. The Senator from Michigan [Mr. CONGER] objected also, the Chair thinks.

Mr. CONGER. I did not object. I reported the bill myself.

Mr. INGALLS. The Senator from Louisiana can move to take it up.

Mr. JONAS. I move to take up the bill notwithstanding the objection.

Mr. SHERMAN. That postpones the whole Calendar.

The PRESIDENT *pro tempore*. The Senator from Kansas objects to the consideration of the bill called up by the Senator from Louisiana, and the Senator from Louisiana moves, notwithstanding the objection, that the Senate proceed to the consideration of the bill.

Mr. JONAS. I withdraw the motion.

The PRESIDENT *pro tempore*. The first case on the Calendar will be called.

DR. A. SIDNEY TEBBS.

The bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs was announced as first in order on the Calendar.

Mr. GARLAND. That is the case to the consideration of which objection was made yesterday.

Mr. SHERMAN. It was objected to yesterday by the Senator from Vermont, [Mr. EDMUNDS.]

The PRESIDENT *pro tempore*. The Senator from Vermont [Mr. EDMUNDS] withdrew his appeal from the decision of the Chair and objected to the consideration of this bill, and the Senator from Arkansas [Mr. GARLAND] moved to take it up notwithstanding the objection. The yeas and nays were called for on that motion.

Mr. SHERMAN. I appeal to the Senator from Arkansas and other Senators whether it is advisable for us to constantly thwart the operation of the Anthony rule by attempting to take up bills out of their order?

Mr. GARLAND. My motion is in order.

Mr. SHERMAN. It is in order now, because the rule has been amended so that a single objection puts it over, unless the Senate for the day abandons the Anthony rule. I hope we shall go on regularly. I shall vote against taking up every bill that is objected to until we go on under the Anthony rule and dispose of those cases on the Calendar which are not objected to.

Mr. GARLAND. That is the Senator's privilege, but this motion was made yesterday, and stands now. I am content to have the Senate vote upon it.

The PRESIDENT *pro tempore*. The Senator from Vermont [Mr. EDMUNDS] called for the yeas and nays yesterday. The Secretary informs the Chair that they were not ordered.

Mr. EDMUNDS. Then I call for them again.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired on all political questions with the Senator from Pennsylvania, [Mr. CAMERON.] I presume this is one, and therefore I withhold my vote.

Mr. FRYE, (when his name was called.) I am paired with the Senator from Georgia, [Mr. HILL,] though he generously allowed me to vote when I pleased. I think in this case he would prefer to have the pair operate, and therefore I shall refrain from voting.

Mr. HARRIS, (when Mr. JACKSON'S name was called.) I announce once for all the pair between my colleague [Mr. JACKSON] and the Senator from Iowa, [Mr. MCDILL.] My colleague, if he were here, would vote "yea."

Mr. RANSOM, (when Mr. LOGAN'S name was called.) I am paired with the Senator from Illinois [Mr. LOGAN] on all party questions. The Senator from Iowa [Mr. ALLISON] is paired with the Senator from Georgia [Mr. BROWN] on all party questions. The Senator from Illinois and the Senator from Georgia are both absent. The pairs have been transferred so that those two Senators are paired on this question.

Mr. SAULSBURY, (when his name was called.) If this is a political question, I am paired with the Senator from Michigan, [Mr. FERRY.]

Mr. SAWYER, (when his name was called.) I am paired with the Senator from Indiana [Mr. VOORHEES] on this bill. If he were here, I should vote "nay."

The roll-call was concluded.

Mr. ALLISON. I am paired with the Senator from Georgia, [Mr. BROWN,] but, as was stated by the Senator from North Carolina, that pair has been transferred to the Senator from Illinois, [Mr. LOGAN.] I therefore feel at liberty to vote, and vote "nay."

Mr. ALDRICH, (after having voted in the negative.) As this seems to be a political question I withdraw my vote. I am paired with the Senator from Maryland, [Mr. GORMAN.]

The result was announced—yeas 28, nays 22; as follows:

YEAS—28.

Beck,	Farley,	Ingalls,	Pugh,
Call,	Garland,	Jonas,	Ransom,
Cameron of Wis.,	George,	McPherson,	Sewell,
Cockrell,	Groome,	Maxey,	Slater,
Coke,	Grover,	Morgan,	Vance,
Davis of W. Va.,	Hampton,	Pendleton,	Vest,
Fair,	Harris,	Plumb,	Walker.

NAYS—22.

Allison,	Edmunds,	McMillan,	Rollins,
Blair,	Hale,	Mahone,	Saunders,
Chilcott,	Harrison,	Miller of Cal.,	Sherman,
Conger,	Hawley,	Miller of N. Y.,	Windom.
Davis of Illinois,	Hoar,	Morrill,	
Dawes,	Lapham,	Platt,	

ABSENT—26.

Aldrich,	Ferry,	Jones of Florida,	Saulsbury,
Anthony,	Frye,	Jones of Nevada,	Sawyer,
Bayard,	Gorman,	Kellogg,	Van Wyck,
Brown,	Hill of Colorado,	Lamar,	Voorhees,
Butler,	Hill of Georgia,	Logan,	Williams.
Camden,	Jackson,	McDill,	
Cameron of Pa.,	Johnston,	Mitchell,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs.

The bill was read.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That section 1218 of the Revised Statutes of the United States be, and the same is hereby, repealed.

Mr. EDMUNDS. I ask for the reading of that section which it is proposed to repeal.

The Acting Secretary read as follows:

SEC. 1218. No person who had served in any capacity in the military, naval or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

Mr. EDMUNDS. Mr. President, I move, as this bill is now understood, to make this radical change in the laws, and as three or four bills on this subject are pending in the Committee on the Judiciary covering not only this point but various others that enter into this question, to refer the bill to the Committee on the Judiciary in order that the whole subject may be treated of together.

The PRESIDENT *pro tempore*. It is moved that the bill be referred to the Committee on the Judiciary.

Mr. GARLAND. Ordinarily I should not object to the motion made by the Senator from Vermont; but if the Senate will consider the condition of affairs in reference to this question, I think it will at once see the necessity of taking some general definite action on the subject. I have not looked to refresh my mind, but I do not think there has been a session of Congress since I have been in the Senate that we have not relieved some person from disability under this sec-

tion of the statutes; and whenever the question comes up in that shape it is suggested by some Senator that we had better pass a general bill. Heretofore I have made an effort to have a general bill passed repealing this section. This is the second time that this effort has been made, and made each time in response to a suggestion that we had better pass a general bill and not do this work piecemeal.

I do not know that any committee can throw any light on the subject, because of the fact that we have legislated from session to session in reference to special cases. We relieved at the last session, or the session before the last, Mr. Heiskell, of Maryland, from the difficulties and troubles of this very section.

Mr. EDMUNDS. What was the name, may I ask the Senator?

Mr. GARLAND. J. Monroe Heiskell. When that bill came from the Committee on Military Affairs a suggestion was made by the Senator from Vermont [Mr. EDMUNDS] that we had better do this work as an entirety and not legislate by piecemeal for special cases. Concurring in that suggestion, I offered an amendment in the nature of a substitute, identical almost with the proposition now reported. That remained to be considered before the committee, and at the urgent solicitation of the then Senator from Maryland, Mr. Whyte, I did not insist on the amendment, and the original bill was passed for the relief of Mr. Heiskell. Then came a bill exactly of the same character, and I made the same motion to amend that by repealing section 1218, which we do repeal to some extent at least, in each one of these special bills. It certainly seems to me that it is time, and we have sufficient advice upon it, to legislate generally on the subject. And if any Senator knows of any one unworthy, who should not be embraced in the relief, that would make a different case. But we have not failed yet to relieve any person applying. So if we are going to relieve by name in individual cases, I think we might as well adopt a general bill and repeal the statute at once.

Mr. EDMUNDS. Mr. President, the Senator from Arkansas is undoubtedly correct in his idea that all legislation ought to be made as general as possible. Individual legislation is too often favoritism, influence, contrivance, arrangement, and log-rolling—all that is evil in a law-making and law-abiding community, undoubtedly. This section of the statutes, therefore, that he proposes to repeal comes directly into consideration.

In 1866, after a somewhat serious period in our history the Congress of the United States declared that people who had been engaged in attempting to overthrow the Government should not be employed in the Army of the United States. That was in the light of an experience which had shown that from West Point and Annapolis where officers had been educated and trained at the expense of their country for its service, they had taken the earliest available opportunity to turn their skill and knowledge to the destruction of the Government that had reared them and taught them in its most honorable and trusty service. That was rather a bitter experience. I am not proposing to go into a discussion of the political considerations that led to it; but it is bitter for any country that is a country to have the men, in whatever part of it they may live, whom it has reared to defend its flag, desert it and undertake to overthrow it. It matters not how good the motive may be of the man who feels it his duty to do it, for I do not wish to excite any bitterness in this debate; but for the country that feels it, as we still have a country that did feel it, it is rather a heavy and a bitter experience. Accordingly the United States having in despite of these desertions from the Army, these leavings of it—I do not mean desertion in the sense in which the term is ordinarily understood—been able to preserve the existence of the country through the officers and the soldiers who did adhere to what they had sworn to stand by and defend, Congress provided that those who were engaged in the rebellion should not re-enter the Army of the United States.

Now repeal this section, and it is within the competence of the President of the United States and of the Senate, a vacancy occurring, to appoint Mr. Jefferson Davis (and I only speak of him as the representative man of this great disturbance) to be a brigadier-general and commander-in-chief, if there were a vacancy suitably occurring, of the Army of the United States. It may be that Mr. Davis would now prove perfectly true to the flag, and that no temptation of a new rebellion could seduce him into leaving it and setting up another; but what sort of a lesson would such a spectacle be to the future? What sort of an instruction would it hold out to people who are to be taught to love their country and to stick to it through thick and thin, if they were to see hereafter that the only hazard and risk in going into a rebellion against your country is the chance of being kept out of the fat places and good offices that you left before, just long enough to have your political friends or somebody else get an opening and put you back again?

I think that the rebellion being over, and over for good, it is better to preserve some everlasting monument that there was a right side and a wrong side to it. And I think inasmuch as the Government of the United States turned out to be on the right side and to preserve itself, it is well to teach all future generations that the moment the struggle was over we did not forget that there was any distinction in the right and the wrong of that contest. I do not think you can preserve a republican government or any other in any other way; and I say that without any reflection upon the individual motives or careers of persons who may have been on the other side. But there cannot be two right sides to such a question; and as the Government turned out to be on the right side, I think it better that this perpetual statute-book should hold some unextinguished memorial that we knew the difference between one side and the other.

Mr. MAXEY. Mr. President, the section referred to, 1218, in effect declares that no person who held an office, civil, military, or naval, in the late Confederate States, shall be qualified to hold a position in the Army of the United States. The Military Committee have on mature deliberation deemed it to be wise to repeal that section. It was properly committed to that committee because the persons named in that section were proposing to receive an office and were to receive it in the Army alone, and it was presumed that the Military Committee ought to have something to say in respect to the character of men who should go into the Army.

I have no bitterness in regard to this matter. I have no bitterness whatever toward any man in the North who in good faith, honestly believing that he was right, pursued the right as he understood it; and I cannot follow the Senator from Vermont in that portion of his argument or appeal or whatever you may think proper to call it. There are some relics of the war left on the statute-book which in my judgment had better not be there. One is the absurdity that the Senator from Vermont, who I have no doubt was truly loyal and patriotic to the Federal Government as any man in the Union, is bound to take an oath that he was remarkably loyal, extraordinarily true to the flag of the Union, when I do not pretend to have been so, and I am excused from taking that oath which he is required to take. That occurs to me to be a supremely ridiculous statute.

The war has been over for seventeen years, and a man who served in the confederate army or in the civil employment of the confederacy in any capacity whatever or in its navy is declared by this statute to have committed the unpardonable sin. "Stand by thyself, come not near to me; for I am holier than thou." I do not like that sort of sentiment. I do not believe in it. I do not think I am any holier than the gentlemen who saw proper to support bravely and truly the flag which they believe to represent the Union. I do not believe in that kind of thing. It is putting the brand of Cain upon every man who ever served in the confederate army or navy or in civil service of the confederacy during the war, in so far as holding a position in the Army of the United States is concerned. It goes no further. He can be a Senator, he can be a Representative, he can sit in Cabinet council, and hold the most important positions connected with the conduct of this Government; he may be the law officer of the Government, and give his statements in regard to the laws which are to control the entire country; that is all right. He may control the postal affairs of this country; that is all right. He is competent to be President of the United States under the law, or to preside over the Senate, or to hold any position whatever save a position in the Army.

I remember a case which came up from my own State, sent here by General Mackenzie, and I think he is a reasonably loyal man. He is certainly so regarded. A bill was introduced and referred by the Senate to the Committee on Military Affairs. Its examination disclosed that a young man who had entered the confederate army when sixteen or seventeen years old, and served through the war, acquired a fondness for military life, and entered into the United States Army in the cavalry. On account of his soldierly demeanor he was promoted first to be a corporal and then to be a sergeant. Then it was ascertained that that was in direct conflict with this section 1218, and he had to be reduced to the ranks because he could not hold a position in the Army. He was competent, he was qualified to stand on guard; he was competent and qualified to wear the uniform of a soldier, but he was not competent to be a non-commissioned officer; in other words, he could go into the Army, and however good a soldier he might be, however true to the flag he represented, he was not entitled to have that promotion which is the pride of every man, private or officer, in the Army who is worthy to wear the uniform of the Army of the United States.

It occurs to me that that is unwise, and, as was said the other day by the Senator from Kentucky, [Mr. BECK,] you might take a page who served in one of the Legislatures, and under this section he would be disqualified from holding any position in the Army. This bill confers no appointment upon anybody, but it simply says to the President of the United States, if upon a full investigation and a hearing of the character of a citizen of the United States, who pays his taxes and who is as liable to be called into service as anybody else, if the President believes that man to be qualified for a position he shall have the right to put him there, notwithstanding this section 1218. That seems to me to be a fair and just view of the case.

If this discrimination is to be kept up to the end of all time, no man who served in the civil employment of the confederacy, as the honorable Senator from Arkansas on my left [Mr. GARLAND] did, or who served in the military service, as a good many of us did, or in the confederate navy, can hold the most humble position in the Army. If that is to be the sentiment, if it is to be held out to the world that we are so untrue, so disloyal, so much to be feared by the Government that we cannot be intrusted in any position, then let us know it, let us understand it, be fair about it, be candid about it, and let us understand where our people stand in regard to this matter.

I cannot understand that character of speech which tells us, "We do not want to bring up these old things; we do not want to say

anything to arouse feeling," and yet do it and refuse to repeal a section of the law which in its very nature has that effect.

Mr. BECK. Allusion has been made by the Senator from Arkansas to the fact that unless we dispose of this matter in this way there is very little opportunity or prospect of receiving any report in regard to it from the Committee on the Judiciary. I have endeavored for a long time to have this section repealed, because of its flagrant injustice and inherent meanness. I hold in my hand three Senate bills, one dated December 11, 1878, introduced by me, to repeal section 1218 of the Revised Statutes, simply quoting the act it seeks to repeal. It was referred to the Committee on the Judiciary. Another was introduced by me on the 21st of March, 1879, which was read twice and referred to the Committee on the Judiciary, in the same words, and again on the first day of this session, on the 5th day of December, 1881, I introduced a bill to repeal this section, which was again referred to the Committee on the Judiciary. None of these bills have ever been heard of. I introduced bills, as the Senator from Arkansas very properly remarked, persistently, and I intend as long as I am here to continue to introduce them, one to remove the political disabilities of all men, another to repeal the iron-clad oath, which General Grant urged should be done, and in his messages to the Senate denounced more than once as an outrage on American civilization, and bills, as I have said, to repeal section 1218 of the Revised Statutes whereby the young men of the South are sought to be branded forever, laws which are, as the Senator from Vermont said, to be maintained as a perpetual monument of the rebellion.

Why, sir, this is the poorest and most miserable piece of prejudice and injustice that remains on the statute-book. No young man is now authorized or allowed even to present himself before the President of the United States to ask for any position in the Army of the United States "who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion."

Let me state a case that occurred under my own observation. My attention was sharply called to it, because I went to the Secretary of War with as intelligent a young man as I ever saw, from near Clarksville, Tennessee, some three years ago, who had as high qualifications as any person could well have; yet he could not be recommended nor his case considered, because he had served as a page in the Tennessee Legislature when he was a small boy, knowing at the time no more of the action of the body that he was serving than any page on this floor knows of our proceedings; he had been guilty of no act of rebellion, but he happened to be the son of a poor man, whose father could not send him off to college and educate him, as the sons of many Senators around me doubtless were, during the time he was working to make a living. He had to get him employment in the civil service of the State of Tennessee as a page in the Legislature; yet, forsooth, he stands to-day forbidden by our law even to apply for a place in the Army of the United States. What a burlesque it is that such a law should remain in force, in order to maintain and retain an everlasting monument of the rebellion. Shall we keep that discrimination up against boys, for there is no man who was old enough to take any prominent part in the war who is not over age to-day to apply for any position in the Army of the United States, or that the Senate would be likely to confirm if he should apply?

The statutes now provide that the common soldiers when enlisted must be between sixteen and thirty-five. I do not suppose any lieutenant would be appointed who was over that age. A man cannot be made a lieutenant, I am told, after he is thirty-five. There is no man who was over seventeen years when the war ended who could by any possibility be appointed; none of them could have held any position in the confederate army or navy; all older than that are ineligible, so that the only vengeance Congress can work and the only everlasting monument it can raise to perpetuate the vindictiveness of the spirit of the men who raise it is to erect it over the poor boys who were compelled to take service either under the Confederate States or under some State within the confederacy.

Why, sir, I suppose there are many Senators here who had boys of twelve or fourteen during the war who did not place them in any service, and they are eligible to positions in the Army. They held no office; they were not pages; they were not doing menial work; there was no other work during those years of the war except in the service of the Government. I think Southern men will all tell you there was no money to be earned, except either under the Confederate States or under some State connected with the confederacy. Private employment was out of the question. Every human being who could work, even down to the small boy, was either engaged in making powder, or manufacturing blankets, or doing something or waiting on somebody connected with the Army or with some of the States that were engaged in the war, and these are the only classes of persons section 1218 reaches. This fact, therefore, stands upon the statute-book to-day that, while the sons of Senators here who were educated without having to take employment, the sons of the men of wealth, the sons of the leading officers of the army and navy of the confederacy, the sons of the great politicians of the Southern States, all are eligible to Army positions, all can go to the President and perhaps get many gentlemen on the other side to go with them and recommend them for positions in the Army of the United States, and very properly. I am not finding fault with that. The sons of these distinguished gentlemen are beyond question as true men as any in all the country. I do not want to raise an everlasting monument even over them; but you only reach by this section and you only perpetuate by this section a disability upon the boys who were compelled to work for a living, whose fathers may have been conscripted, whose families might have been starving but for the little pittance they could earn by their labor during those years of strife; and now, forsooth, they and they alone are to be excluded from even presenting themselves and asking for a position in the Army of the United States. That statement of the case is a true one, and it is shameful; yes, disgraceful, that such a section should longer remain as a part of the laws of the United States.

Mr. HAMPTON. Mr. President, I reported this bill to the Senate from the Committee on Military Affairs, and I desire to state the history of the case.

The original bill was one for the relief of Dr. Tebbs. The same bill was passed with very great unanimity by the Senate at the last session of Congress and was lost in the House simply because it could not be taken up. Again this year the bill was brought up and reported favorably, and when it came before the Senate the Senator from Arkansas [Mr. GARLAND] put his amendment upon it and the Senate recommitted it to the Committee on Military Affairs. That committee after consideration reported back the substitute of the Senator from Arkansas favorably, and that is now before the Senate for consideration.

I need not say that I have no personal interest in the repeal of this section. It is scarcely possible that I should ever be called upon to enter service in another war, but I do think that the statute as it now stands on the book is a reflection upon our legislation. I think it is a relic of the war legislation. I think it should be repealed, because now, while some young men who were in the confederate army can enlist, and many have enlisted in the United States Army, they are precluded by the statute from any mode of acquiring promotion, though they may have been the most gallant soldiers in the service. I think, therefore, that it is eminently proper that we should wipe that law now from the statute-book.

Mr. HARRISON. Will the Senator from South Carolina allow me to interrupt him for a moment for a suggestion?

Mr. HAMPTON. Certainly.

Mr. HARRISON. The suggestion I desire to make to him is this: I have followed with some minuteness the case of Dr. Tebbs as stated by him before the Military Committee. If I recollect aright, it was the case of a young man who, when only fifteen years of age, went into the confederate service. Now, I suggest to the Senator that he allow the amendment of the committee to be disagreed to and pass the bill as it originally stood, and then let the subject which we are debating now, the proposition for a general modification or repeal of this law, to go back to the Military Committee.

For one I am in favor of amending at least the section which has been referred to. I do not think the subject had as careful consideration in the Military Committee as it ought to have had, and if the Senator will consent to allow the general subject go back we can pass the original bill. It may be, I think it is probable, that there should be some exceptions in this repeal. But by passing the particular bill which was originally introduced and referring the general subject to the Military Committee we shall get early action upon it and have it in a position in which any limitations or restrictions which ought to be imposed upon the repeal can be presented. I hope the Senator will consent to that disposition of the question.

Mr. HAMPTON. I have no authority to agree to any such proposition. I was merely the organ of the committee in presenting the report, and the substitute was offered by the Senator from Arkansas, [Mr. GARLAND.] Of course it is competent for the Senate to make any disposition of the subject it pleases; but I can do nothing at all.

I was about to say that I regretted very much to hear the remarks of the Senator from Vermont. His reading of history certainly makes him know that in the old nations they never erected monuments to any one for triumphs in civil wars, and I was sorry to hear him say that he wanted a class of his fellow-citizens to stand as a monument forever of our unhappy war. Nor do I agree with him in assuming to myself what he has attempted to do—pronounce emphatically who was right and who was wrong. My convictions were as sincere as his, and I hope as honest; but I will recall to him an instance that happened during the war and commend it to his consideration. There was an old gentleman who had two sons, one in the Federal and one in the confederate service. In the providence of God they were both brought home to him dead at one time. He buried them side by side, and the only epitaph he put on their tombs was: "God alone knows who was right."

Mr. EDMUNDS. Mr. President, very likely the Senator from South Carolina is correct in his illustration. God alone knows who is right now. But men who have responsibilities must decide for themselves and their own actions who is right, for that is what God has made us for, as far as I understand it; and I have yet to learn that this Government stood as a common parent of warring States, children, indifferent a feeling for both sides, and when both sides came back the Government was to say "God forgive us all, nobody knows who was right." I had the impression that one or the other of the children, to use the illustration, was making war on his father and his mother

and his creator, and under the Constitution his superior, and therefore there must be a right side and a wrong side.

To be sure the God of battles could only tell which was right and which was wrong, and the God of battles did tell; and the thing that astonishes me is that my good friends on the other side continually insist upon forcing us to say something or to unsay something that obliges us to admit that after all there was not any difference in the sides but that the winning side was just as wrong as the side that lost, and that nobody can tell which way the thing ought to have been determined after all. I cannot agree to that proposition. I do not think the Senator would have agreed to it if the stars and bars were now floating over the Capitol, instead of the Stars and Stripes; there would then have been a winning side and a side that would build its perpetual memorials of its success, not of personal disgrace to anybody—for I do not say that at all—but of the triumph of a government that was to preserve in its statutes somewhere and always that one great truth of the success of a government under a constitution in its own preservation.

It is not the person of this individual who seeks to be an officer, or of any Senator, or of any man anywhere, that I have anything to do with; but I cannot get it out of my mind that the future welfare of this country is in a large measure dependent upon our adhering now to the idea that the Government did achieve the success that it achieved, and that it achieved it upon the principles that it proceeded upon then, liberty and equality, and that are represented in the amendments of the Constitution that grew out of this success, and in the measures of legislation to enforce those amendments that Congress passed. And yet I am not able even to forget as to men these measures that we have taken and to forget the distinction between classes in this country, because year by year and month by month there is one party in this Chamber and in another to which I cannot allude, that whenever it has the power forces upon us and upon the President of the United States as it did three or four years ago measures to repeal and undo everything in the statutes of the United States that have grown out of success over the rebellion and these changes in the Constitution, putting upon appropriation bills riders and threats to the President of the United States that the Government should stop unless every act of Congress that defended civil rights, unless every act of Congress that defended political rights that the Constitution clearly gave, should be wiped out. Still Senators stand up and say how vindictive it is for gentlemen on this side of the Chamber to speak on these matters. If you do not wish these matters spoken of, leave these laws that under your Constitution have been passed to preserve and protect the liberty that the war and the Constitution have now achieved intact and alone, and do not bring forward every chance you have measures to wipe them off one by one or altogether, as you did three or four years ago, and when we resist say "Oh, you are vindictive about the rebellion; you do not allow us at last to win by voting here what we could not win with all our bravery by the sword, and undo everything that has been done."

There is the difference, Mr. President, it is the difference not of personal recollections or dislikes at all. Senators know that; they know that there is not the slightest personal prejudice or hostility on the part of any Senator on this side of the Chamber toward any gentleman who was in the rebellion or who sympathized with it. They know, if they think for a moment, that all we stand for is the doctrine that this Government did succeed upon principles of liberty, that it amended its Constitution accordingly, and passed laws to secure that liberty under that Constitution, and that when they are assailed we mean to defend them if we can. That is all. Is that vindictive? Is that unfair? Is that unkind? It is not, Mr. President. It is not, unless we undo everything and send down to posterity the word to all our children that after all this Union is nothing but what it was claimed to be by those who went into the rebellion, an aggregation of independent States who may separate when they will, and in respect to the citizens of whom even now, under the Constitution, the Congress of the United States has no right to pass laws for the preservation of their constitutional rights.

I am ready to face a question of that kind now and at all times; and my friend from South Carolina and my friend from Kentucky will not misunderstand me, I am sure, in what I am now saying.

I do not wish to take up your time, sir, upon a topic of this sort. I think, as I have moved, that as this measure opened these broad questions not only on this bill but on half a dozen others that are under consideration by the committee of which the Senator from Arkansas as well as myself is a member, it would be wiser to send this measure there for consideration, and I can tell the Senator from Arkansas that so far as I am concerned—and I think I can speak for all my political brethren—we shall be quite ready to meet the whole subject at any time that is agreeable to him.

Mr. HAMPTON. I would make a suggestion which I think will obviate some of the difficulties of the Senator from Vermont, [Mr. EDMUNDS,] and perhaps meet those of the Senator from Indiana, [Mr. HARRISON.] The latter seemed to intimate just now that there was a possibility that, if this statute is repealed, some of those who have been educated at West Point or Annapolis might be restored to the Army. I, for one, am perfectly willing that a proviso shall be put in with regard to that. If it should be offered from the other side, I should have no objection to that.

Mr. MAXEY. I suggest to the Senator from South Carolina that, whatever may be his own individual opinion, that is not the action of the committee, and, as one member of the committee, I should regard it as unjust.

Mr. HAMPTON. I only speak my individual opinion, and not that of the committee, of course. I should have no objection to that, because those persons are all beyond the age for appointment to the Army.

I hope the Senator from Vermont will understand that I attributed no vindictive feeling to him. I thought that he was actuated, and very often is here, by rather a chronic habit of objecting. He remembers perhaps the poem of the great lyric poet of Vermont:

> Our vow is recorded, our banner unfurled:
> In the name of Vermont, we defy all the world.

[Laughter.]

Mr. VEST. Mr. President——

The PRESIDENT *pro tempore*. The Chair would state to the Senator from Missouri that it is within a minute or two of two o'clock. If he wants to speak longer, the bill had better go over until to-morrow.

Mr. VEST. I do not want to detain the Senate. I simply want to say, as one of the class that comes within the ban of the law that is proposed to be repealed, for I served in the military and civil service of the late confederacy, that I do not believe, and I am glad to say that I do not believe that the Senator from Vermont [Mr. EDMUNDS] voices the sentiment of the American people upon this question. I am glad to believe, sir, that the people of the United States, the great body of them, are anxious to obliterate every mark and monument of the late war between the States or between the Government and certain States. I do not believe that the people of the United States in this age and with our civilization desire to erect any monument of that occurrence. Recent events have shown, if they show anything, that the great body of the people of this country, north, south, east, and west, desire, above all things, material advancement and material prosperity without going back to the obsolete ideas of sectional hate and sectional strife.

Mr. President, the Senator from Vermont says that the Government must keep before the people the evidences of its triumphs, that the Government must preserve the fruits of the war. Does that Senator mean to say that this statute is necessary to preserve the fruits of the war, to keep before the people the successes of the United States in that war? Your flag, our flag, waves in triumph in every township of this broad Union. From one end of the Union to the other not one man, woman, or child disputes the national supremacy. Your taxes are collected; your national name is respected. Sir, do the people need anything else to recollect that war except the graves of our common dead and the common gallantry of the soldiers of both sections? Will any Senator on the other side of this Chamber tell me that this statute, conceived in the bitterness of the strife that came just after the war when men's passion were aflame, as sword and bayonet had been aflame throughout the land, is necessary for any purpose except to voice and express the hate that ought to have died with the success of the national Government? Now, I say to the Senator——

The PRESIDENT *pro tempore*. Two o'clock has arrived.

Mr. EDMUNDS. I hope the Senator will be allowed to proceed.

The PRESIDENT *pro tempore*. If there be unanimous consent, the Senator from Missouri may proceed.

Mr. EDMUNDS. There is no objection.

Mr. HAWLEY. The regular order will be resumed at the close of the Senator's remarks

The PRESIDENT *pro tempore*. Certainly, unless the Senate order otherwise.

Mr. VEST. Now I will say to the Senator from Vermont, for one, speaking for myself, why I object to this statute.

When we were received back into the Union—although I believe the dogma of the Republican party is that we were never out of the Union—we came back upon the express terms of equality before the law, or else a fraud was practiced upon the country and upon its history. You meet us to-day as coequals here, representing sovereign States. I ask the Senator from Vermont, if a war should be flagrant now with a foreign nation, would you accept our blood and our arms in defense of this country or not? I ask now the Senate of the United States to say would you expect or would you desire or would you even permit the confederates that fought you in the late war to fight for the country to which they have sworn allegiance or not? If you would, then you should not exclude from the Army and Navy of the United States those whose blood and whose arms are ready for the defense of our common country.

Sir, I do not propose to mince words in regard to this subject now, but I say to the Senator from Vermont that it is useless for him to tell me that he believes my professions of loyalty to this country when he heaps upon my brow the ban of proscription and of hate. It is useless for the Senator to say that he has no personal feeling of unkindness to any Senator on this side of the Chamber, when in the same breath he says, "You are not the equals of the other citizens of the United States; although you say that you are loyal to the Government, we are not willing to trust you."

As I said once before on the arrearages of pensions bill when pending in the Senate, I ask and those who were with me ask nothing

from this Government except the simple concession that we were honest in our devotion to the confederate cause and honest when we swear that we accept all the legitimate results of defeat: and to those who risked all and lost all, every just and generous mind should concede that much.

Sir, to-day the people of the United States want peace, not in terms, but peace in fact. They want the material prosperity of the country advanced. They want the past put behind them, except in so far as it may bind the Union closer between the sections by demonstrating in that great war the gallantry of the common American name and the common American lineage. The Senator asks why revive this question? Sir, we simply ask for the legitimate consequences of what the Senator and his colleagues say when they profess to believe that we are worthy to represent sovereign States upon this floor as Senators of the United States. What inconsistency is it when we are admitted here, and our brain, such as it is, is given to the public service, and yet we are told that our hearts, our blood, our arms are unfit for the military or naval service of our common country?

That is the reason why we object to this statute. I object to it because while the profession is that we are believed to be sincere in our professions of loyalty to the Union, this statute says in so many words, "You are unfit to be trusted in the common defense of this whole Union of which you profess to be loyal citizens."

The PRESIDENT *pro tempore*. The time for the consideration of the unfinished business has arrived. The Chair will, however, take occasion to lay before the Senate some House bills for reference.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 570) to extend the limits of the port of New Orleans; and

A bill (H. R. No. 707) to amend section 4233 of the Revised Statutes of the United States, in relation to danger signals.

The bill (H. R. No. 869) for the relief of Thomas J. Wharton was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. No. 5387) providing for the pay of Rear-Admiral Roger N. Stembel was read twice by its title, and referred to the Committee on Naval Affairs.

CHINESE IMMIGRATION.

The Senate resumed the consideration of the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont [Mr. EDMUNDS] to section 15.

Mr. EDMUNDS. I withdraw that amendment, as I was under a misapprehension when I offered it. I thought that the section stood in the bill, but I understand it was stricken out in Committee of the Whole, and therefore I withdraw the amendment so as to leave the question pending on agreeing to the amendment made in Committee of the Whole striking out that section.

Mr. ALLISON. Was the skilled-labor section agreed to in Committee of the Whole?

Mr. MILLER, of California. Just the reverse; it was disagreed to. The fourteenth section was agreed to.

Mr. ALLISON. That is very remarkable.

The PRESIDENT *pro tempore*. The section in regard to skilled labor was stricken out by a vote of 29 to 28.

Mr. MORRILL. I now move a reinsertion of the fourteenth section.

The PRESIDENT *pro tempore*. An amendment of the Committee on Foreign Relations was to strike out the fifteenth section, and that was agreed to in Committee of the Whole.

Mr. MORRILL. I move to strike out the fourteenth section.

The PRESIDENT *pro tempore*. The question now is, Will the Senate concur in the amendment of the Committee of the Whole striking out the fifteenth section?

Mr. EDMUNDS. The amendment of the committee having been to strike out the fifteenth section?

The PRESIDENT *pro tempore*. Yes, sir; that was agreed to.

Mr. EDMUNDS. The question is on concurring in the amendment made as in Committee of the Whole striking out section 15?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. EDMUNDS. That is the way I understand it, and therefore I withdraw the amendment I offered to section 15, because that section is already stricken out.

The PRESIDENT *pro tempore*. The vote is to be taken on that question.

Mr. HOAR. The Committee of the Whole have merely proposed to the Senate to strike that out. The section is still in the bill. In the Senate it has not been stricken out.

Mr. EDMUNDS. It was stricken out in committee, and if we agree to what the Committee of the Whole has done, it is out.

Mr. HOAR. Certainly.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur with the Committee of the Whole in striking out section 15.

Mr. HOAR An amendment to the section is still in order.

Mr. EDMUNDS. But if the Senate will agree to the amendment made in committee there will be nothing to amend, and if the Senate does not agree to the amendment striking it out, I can then move my amendment.

Mr. SAUNDERS. I intended this morning to call up another matter; but this bill seems to be of considerable importance, and I give way for this bill until it is disposed of.

Mr. FARLEY. Mr. President, I was addressing the Senate yesterday in reference to the amendment that had been reported by the committee in regard to skilled and unskilled labor. I had occasion to remark that the interpretation given by some Senators who had spoken upon that question, and by the President of the United States, and by the Chinese minister, was that that provision in the bill was in violation of the terms of the treaty. Now, sir, I am not disposed to take up the time of the Senate in discussing the proposition as to whether that amendment ought to be adopted by the Senate or not, further than to say that the general sentiment on the part of those on our side of this question, those who are in favor of this bill is that unless that provision is retained in the bill, which has been proposed to be striken out by the Committee on Foreign Relations, the bill will be rendered ineffective for the purposes for which it was introduced. I confess, taking the whole history of the legislation upon this subject, that the party upon whose votes depends the passage of this bill have had very little to do with the preparation of this legislation. In other words, this side of the Chamber, the members of the Democratic party on this side of the Chamber, who have been unanimous in their support of this measure, have not been called into private council to examine or prepare the legislation that was supposed to be necessary in the passage of a law on this subject.

I have been disposed from the outset, I am disposed now, to entirely ignore and lay aside all party considerations in order to obtain this relief which our people so much need. I have not been governed in my action in support of this bill by any party consideration. I have advocated the passage of this measure because I believe that the best interests of the people of the Pacific coast would be subserved by some legislation that would prohibit the further immigration of this element that we complain of as being a curse to our best interests. I, for one, am disposed to ignore party considerations so far as this bill is concerned. But notwithstanding it was a well-known fact that upon this side of the Chamber, so far as this body is concerned, depended the success of this measure, we were not even called into private consultation to determine the character of the bill that might be introduced here; the matter seems to have been conducted in a close corporation; and I am free to confess that there are many defects in this bill, which at this time perhaps it is too late to remedy. On this side of the Chamber there are four Democratic Senators from the Pacific States, neither one of whom has even been consulted as to the character of the bill or its provisions.

Mr. WINDOM. I should like to ask the Senator a question, with his permission.

Mr. FARLEY. Certainly.

Mr. WINDOM. Did not the chairman of the Committee on Foreign Relations specially invite the Senator to come and be heard on that subject?

Mr. FARLEY. I was about to come to that.

Mr. WINDOM. Did not the Senator appear before the committee and express his views? I am surprised at the statement of the Senator that no one had been consulted.

Mr. FARLEY. This will explain what I meant by saying what I did: I did receive a letter from the chairman of the Committee on Foreign Relations to appear before that committee upon—what? There were two bills presented which were before that committee for consideration. One was the bill introduced by my colleague before the veto message had been passed upon, which was in fact a notice—not intended so by my colleague; I am not calling in question his good motives—to those on the opposite side of the Chamber who were opposing the bill and who were disposed to advocate and stand by the President's veto that another bill would be introduced before a vote had been taken on the vetoed bill in this body to determine whether or not we could pass it over the veto.

After the vote had been taken here, and the veto of the President had been sustained, I introduced a bill asking for a limitation of fifteen years on the immigration of Chinese. My colleague had introduced a bill for ten years. Although there was nothing said in the message of the President that indicated that he would sign any bill fixing any number of years as the period of limitation contained in it, yet I supposed information might have been received by those who pretend to know that such a bill would meet the approbation of the President. I have no authority for so stating, but that bill introduced by my colleague has never been reported back to the Senate. A similar bill was introduced in the other branch of Congress, and was put through that body in a manner that gave to those upon whom depended its success a chance to say, if they had been so disposed, "We have not had an opportunity even to give the reasons why we support this bill, or why we opposed certain provisions of it; therefore, if the bill shall turn out to be defective, if it shall fail of its object, if it shall fail to accomplish that which we desire it shall accomplish, upon the heads of those who have taken it into this close corporation to determine its character let the responsibility rest."

Mr. MILLER, of California. Will my colleague yield to me for a moment?

Mr. FARLEY. Certainly.

Mr. MILLER, of California. If the Senator sees any defects in this bill, will it not be his duty to move amendments to cure those defects?

Mr. FARLEY. I am aware of that right which I have.

Mr. MILLER, of California. If the Senator fails to move any amendments and the bill should be inoperative or defective, I think he will be liable to responsibility equal to that of anybody else.

Mr. FARLEY. In answer to the suggestion of my colleague, I want to say that this bill seems to have been considered by the Committee on Foreign Relations, which is composed of very able Senators, and they have given it investigation in such a way that no one on this side of the Chamber has had an opportunity to consider it, unless he was on the committee, beyond a general review of the bill. It is now perhaps too late to secure amendments that might be introduced to make the bill in better condition than it is.

The honorable Senator from Minnesota, who is chairman of the Committee on Foreign Relations, has suggested that I was called before that committee. I understood that I was called there for the purpose of presenting my views in regard to the two bills that were then pending before that committee. I did go before the committee in response to the invitation given by the chairman of the committee. The morning that I was there, there was no quorum present, and no transaction took place; no consideration of either of the bills was taken by the committee, because there was no quorum of the committee present. I received no further notice, and therefore did not again appear before the committee. I learned afterward that the bill was going to be pressed through the House by the gentleman who had assumed or taken control of it, and I saw by the newspaper reports from the Pacific coast that an honorable gentleman in the other branch of Congress [Mr. PAGE] made his report on this bill, and his colleagues from the State of California, two Democrats and one Republican, were not consulted or talked with at all about its provisions, and were not permitted to say one word in reference to its character.

Mr. WINDOM. I want to say, if the Senator will allow me, a single word. The committee traveled out of its usual course in this matter, in order to give to the Senator, who was understood to have a great deal of information on this subject, full opportunity to be heard. I wrote him a general invitation to appear before the committee to give us his views, and to inform the committee as he might think best; and certainly the committee would have been glad to have heard anything he desired to say. We did hear all that the Senator presented that day; and having once invited him to express his sentiments, (and committees do not usually send around to inquire the views of Senators, having traveled out of the usual line of duty,) it seems to me the Senator can hardly complain that he had not full opportunity to be heard before that committee.

Mr. FARLEY. I am not complaining of any want of courtesy on the part of the committee. I hope the Senator from Minnesota, if he so understood me, will take what I say in reference to that matter as being true.

Mr. WINDOM. Certainly.

Mr. FARLEY. I received that courtesy which the Senator has suggested, and I am not particularly complaining of any other proposition, except this, that I took up the Pacific coast papers, some of them, a very small part of them, in which I find dispatches from Washington stating that there is a disposition on the part of the Democrats here to retard and prevent legislation upon this subject. How those dispatches found their way into the press of the Pacific coast States I am unable to say. It is a well-known fact, and known to my colleague, that no Democrat on this side of the Chamber has done any act or attempted to do anything that looked like retarding action on this measure. On the contrary, on the Democratic votes in the Senate depends the success of this measure. I simply say this in answer to these small attempts on the part of a portion, and a very small portion, and not a very highly respectable portion of the public press on the Pacific coast to make party capital out of this question.

Mr. President, I appeal for the support of my statement to the three Democratic Senators from the Pacific coast, who are here and have sustained action in the legislation proposed on this question. The two Senators from Oregon, the honorable Senator from Nevada, [Mr. FAIR,] and myself have never been in any private consultation with either one of our colleagues from the Pacific coast to be advised with as to what legislation was actually necessary on this subject.

While, as I said a moment ago, I do not attach to my colleague any improper motive, I simply say that the action of my colleague in introducing the bill before there was a final vote had upon the vetoed measure, while not so intended, in fact had the effect to mortify those who were disposed to sustain the veto of the President that another bill had already been introduced which might be changed to give them entire satisfaction if the veto should be sustained.

Now, I come to the question of skilled labor, and I wish to notice some remarks of the honorable Senator from Ohio, [Mr. SHERMAN,] whom I do not see in his seat, made when an effort was made to refer the bill vetoed by the President to the Committee on Foreign Relations for consideration. What object the honorable Senator could have had in making that motion I was unable to perceive. I am yet unable to perceive the object, unless it was for the purpose of preventing a vote in this body upon that question—to prevent votes from going upon the record showing how gentlemen stood in reference to that vetoed bill—when there was another bill then pending, and that would have been the excuse, I doubt not, of the Committee on Foreign Relations for not reporting the vetoed bill had it ever gotten into the folds of that committee. I noticed that the honorable Senator from Ohio, in speaking of skilled labor, used this language in his speech made on the 5th of April, found in the CONGRESSIONAL RECORD, page 2609:

> Here is a treaty yielded to us by China for our benefit, not for theirs—they do not claim anything from it—by which they agree that the importation of Chinese laborers shall be suspended for a time in this country.

Yielded to us by the Chinese! They had nothing to gain by it! The honorable Senator forgot to take into consideration that there was also a commercial treaty entered into between the two governments at that time, by which we agreed so far as we could agree to suppress the opium trade. There was a benefit that the Chinese Government claimed to have received; and both treaties that were entered into by the two governments were reciprocal and beneficial to both parties, as was supposed by those who entered into the treaties.

Then said the honorable Senator in that same speech:

> Then you make the word "laborers" embrace a class of people that in no country in the world are classed by the term "laborers."

Let us see.

> A merchant who manufactures and sells his own wares, a mechanic, a blacksmith, the shoemaker at his last who manufactures shoes that he sells himself, the hatter, described by Benjamin Franklin, who makes hats to sell, are included in the term "skilled labor."

The Chinese minister, who objected to the passage of this bill—and his objections were made known to the President, and they seemed to be of so much importance in the view of the executive department that the objections made by the Chinese minister were embodied in the President's veto message—goes to the extent of saying that the laundry business, the cigar business, the shoemaking, the tailoring, the blacksmithing, and all that kind of work is not to be considered as common labor but skilled labor. Now, I say that if that definition is not given by the provisions of this bill as to what skilled labor is or what is intended by the provisions of the bill, we might as well have no bill at all, because every Chinaman that may be shipped to California or to Oregon or Nevada will come as a skilled laborer. That will be the result of it. Therefore I say that the amendment reported by the committee to a very great extent would destroy the effect of this bill. That section was proposed by the honorable Senator from Oregon, [Mr. GROVER,] and it passed and was one of the provisions of the bill that has been heretofore vetoed by the President. It is in the bill of the House, but the committee propose to strike it out.

The honorable Senator from Ohio goes on after referring to this class of laborers, the blacksmith, the shoemaker, the hatter, the tailor, and says:

> I ask if that is a fair construction of the treaty? Is it right? I say it is not, and that some provision ought to be made which would enable Chinamen—

I call attention to the language of the honorable Senator upon this question, and I shall ask the people of the State I have the honor in part to represent and the people of the entire Pacific States to pay attention to the language used by that honorable Senator in favor of referring this bill to the Committee on Foreign Relations—

> I ask if that is a fair construction of the treaty? Is it right? I say it is not, and that some provision ought to be made which would enable Chinamen who are skilled men to come; Chinamen who have a family and have a home and children, educated as many of them are, and we know that some of them are educated as highly as the most refined in our favored land. Why should they be excluded? When they wish to come here as skilled artisans and laborers, wonderfully skilled in certain branches of manufacture, and contribute their labor and mingle with others, why should they not come? All the reasons against cooly immigration cease when you speak of these men. The immigrants that we want to exclude are those men who have no wives, children, or homes, who are mere pauper laborers, who are worse than pauper laborers, who are contract laborers, coolies, a class of men who tend to degrade all labor, who can live so cheaply that no man, white or black, can compete with them. That is the mischief to be guarded against; that is the object to be sought; but now, because we have by the kindness of the Chinese Government—

By the magnanimity of the Chinese Government!—

> made a treaty which enables us to limit the importation of laborers into this country, we declare that all Chinese shall be considered laborers except, forsooth, those described in the thirteenth section of the bill.

If the main portion of that language should be inserted into a bill allowing the entrance of the classes of people mentioned by the honorable Senator from Ohio and the classes mentioned in the memorandum which the Chinese minister sent to the President and which was made a part of his veto message, then I say we had as well have no law at all. The objections made by the Chinese minister in this memorandum which was a part of the President's veto message were:

> II. The inclusion of "skilled labor" in the bill is an addition to the words and intent of the treaty. It will operate with harshness upon a class of Chinese merchants entitled to admission to the United States under the terms of the treaty. The shoe merchants and cigar merchants of China manufacture the goods they sell at their places of business, and to shut out the "skilled labor" they need would practically shut them out as well, since it would prevent them from carrying on their business in this country. The laundryman who keeps his shop and has a small capital with which to prosecute his trade cannot in any just sense be included in the class of "laborers," and the merchant tailor comes in the same category.

The laundrymen, as I said yesterday in the few remarks I submitted to the Senate, are a class of people against whom the most bitter

prejudices exist in our State. They have monopolized the laundry business in the State of California. There is much feeling on the part of those who have been driven from that employment on which depended the support of themselves and their families. Pass through any city or any village throughout the State of California, and I apprehend it is so in Oregon and Nevada but more so in California because we have more Chinamen, and you will find the laundry notice on all their little huts—"Washing." The men and women, mostly poor widows having families dependent upon them for support, who were formerly in that business have been driven out of employment so far as that branch of labor is concerned by the invasion of the Chinese.

Mr. President, I apprehend that it is hardly necessary to say anything further upon that point. I come now to the ten-year clause of this bill. I introduced a bill immediately after the veto of the President, fixing the limitation at fifteen years. I have no disposition, nor do I intend by any act of mine, to prevent legislation on this subject. I am informed, I do not know that the authority is good, that the President would not sign a twelve or a fifteen or a sixteen year bill, but that he would sign a ten-year bill. I do not know who has authority to say that, but I have heard the rumor that the President would sign a ten-year bill, but would not sign a fifteen-year bill. I introduced the fifteen-year bill in good faith, believing that as it had been intimated that the idea of the President was that the twenty years' limitation was too long, and ten years would meet with his approbation, a division would be advisable. In other words, as we say out West, we might split the difference with him, and give him a fifteen-year bill instead of a ten-year bill; but after introducing that bill, finding that my colleague and others were persistent in their ten-year bill, I have not pressed the fifteen-year bill, nor do I intend to do so now. I intend to yield that point, believing, however, as I do believe, that the ten years' limitation will be inadequate to accomplish the objects that we seek by reason of passing a limitation in reference to Chinese immigration. It will leave it an open question, a question to be agitated from now until the expiration of the ten years, upon the Pacific coast, and it will more or less find its way into partisan politics. It will be so not only on the Pacific coast, but I want to assure my friends on this side of the mountains that it will be so here. I notice large meetings of people in Philadelphia, in Chicago, in New York, and other portions of the States on this side of the Rocky Mountains, that are expressing their sentiments on this subject, who do not desire to see this cheap labor brought into our country to come in competition with those who are already struggling for a maintenance for themselves and their families. Even in the old State of Massachusetts, I find to-day in picking up the newspapers, and for the last two or three weeks, accounts of strikes among the common laborers who are engaged in the manufacturing business in some portions of that State. You find them in other States. Why? Because of the very low rate of wages there paid for their services, and the inadequacy of the amount which they receive to support themselves and their families in their every-day life.

I had occasion yesterday to refer to the character of the Chinese, and it came in the line of my thought at the time to refer to a colony that had been sent up to Massachusetts some years ago to engage in the business of manufacturing shoes. The senior Senator from Massachusetts, [Mr. DAWES,] whom I do not now see in his seat, undertook to give me the history in reference to that colonization. I stated that they were the cause of riots even in that staid old Commonwealth. The Senator said that I was mistaken; that I was totally ignorant as to the cause of their going there and the cause of their leaving. He afterward attempted to enlighten me upon that subject. I had not the immediate data before me, but I assert now—I see the junior Senator from that State in his seat—that the presence of those Chinese in the State of Massachusetts, the object of their coming there being known to the people of the town where they were to be employed, had the effect to congregate around the depot where they landed a crowd of people, and that stones were used against those Chinamen, and they had to be protected by the police in marching them to their quarters.

Mr. HOAR. The Senator from California will permit me to say——

Mr. FARLEY. I want any information I can get. If I am incorrect I wish to be corrected.

Mr. HOAR. I do not know what the Senator refers to. Very likely the presence of this oriental colony attracted a crowd, such as would be attracted by Barnum's museum, and such as I think would be attracted by the presence of that very distinguished gentleman, the Senator from California himself, whom our people would be curious to hear——

Mr. FARLEY. Would they be likely to throw stones at me?

Mr. HOAR. I was about to make an observation on that point. Whether any boys in the crowd may have thrown stones at those Chinese I do not know; but that any injury was inflicted upon them, that there was anything in the nature of such mobs as were described in the testimony of the witnesses before the Congressional committee having attacked them in California, I utterly deny. They went peaceably and quietly to their work, they remained at their work, visited freely by all classes of citizens. They came and went undisturbed, unmolested, perfectly protected by law for years in that manufacturing village, and I do know that there was not a tithe or a hundredth part of the violence used toward them which I have known used more than once by Democratic ruffians against Republican torchlight processions in our manufacturing villages in heated political campaigns. And in saying that I do not wish to be understood in the least as imputing to the Democracy in my State any more than to any other class of citizens any remarkable or undue violence or outrage. In England and in Ireland everybody knows that at almost every heated contested election the mob on one side or the other will indulge in some violence and outrage of this kind. It has happened in my own State more than once. While I do not know whether it be true or be not true that from the crowd which assembled from motives of curiosity to see these Chinese men stones were thrown, I do know, I think——

Mr. FARLEY. That they were not? Is that what you mean?

Mr. HOAR. The Senator perhaps had better wait and hear what I was about to say.

Mr. FARLEY. I will wait.

Mr. HOAR. I do know that there was nothing which could properly be described as a mob, mob violence, or endangering those people, or as amounting to a very serious and important molestation.

Mr. FARLEY. Were not the police called into requisition to see that the Chinamen were marched to their quarters?

Mr. HOAR. I do not know whether they were or not. I think it very likely.

Mr. FARLEY. If it was necessary to call out the police to see that these people were safely escorted to their place of abode, there would seem to have been some serious molestation to them.

Mr. HOAR. I should like to ask the honorable Senator from California a question.

Mr. FARLEY. The Senator must excuse me. I asked him a question.

Mr. HOAR. Well.

Mr. FARLEY. Now he turns around and wishes to ask me one. That is the difficulty with a great many of us, I admit. I refuse to answer the Senator's question until he answers mine.

Mr. HOAR. I think I have answered the Senator's question. I do not know whether that particular thing be true or not.

Mr. FARLEY. The question I put to the Senator was this: Was there not apprehension of danger; and if there was no apprehension why call the police into requisition?

Mr. HOAR. I dare say it may have been done; I do not know. I never have heard that the police were called out or were not called out, and I cannot answer; but I am willing, if the Senator has any information to that effect, to assume it to be the case. Now, the question I want to ask the Senator from California is this, if he will permit me to ask him——

Mr. FARLEY. With pleasure.

Mr. HOAR. Does he want the truth about this matter, or does he want to get a perverted statement?

Mr. FARLEY. I want the truth.

Mr. HOAR. Now, does the Senator from California want to know himself the fact which he is asking about? If he does, I can tell him it was just this: when these strange people first arrived from the ends of the earth, there was a crowd assembled at the depot in a thickly settled manufacturing village in Massachusetts, and out of that crowd some two or three boys may have thrown some stones, so that the police attended them to the place where they were to live. Does the Senator want to stop at that, or is he willing also to state to his people and put into his speech the fact which I affirm of my knowledge, and affirm with my colleague who has just come in, now sitting by my side, to whom I might more properly have left this colloquy, that those men dwelt in that town thereafter for years as undisturbed, as unmolested, as safe, as much respected as any other citizens of the place in all their legal rights, earning their wages, raising their wages, and staying in their employment until such time as they could do better elsewhere? Now, will the Senator be kind enough to put that into his speech?

Mr. FARLEY. It is not necessary for me to put it there. The Senator has put it there. Why should I go on and put it there now?

Mr. HOAR. Will he be kind enough to take it into his comprehension?

Mr. FARLEY. I will try as far as I am able to comprehend it, but the Senator has put it into my speech, and therefore it will be unnecessary for me to do so.

The Senator asks me if I wish to know the truth. I have gotten from that Senator and from his colleague their statements, and I must accept what they say as being true. I suppose they were both present and know what took place at that time. That being the case their statement will stand with me; but if there are records that show a different state of facts, while I still would be disposed to take the word of either one of those Senators upon any question, the records perhaps would need to be explained away.

Mr. DAWES. If the Senator has any records I should like to see them.

Mr. FARLEY. I have not myself. I understand that there are records which show that when those people landed at the depot a mob of persons, learning what they had been brought there for, to enter into the business of manufacturing shoes, which would be in competition with those who were engaged in that employment, assembled around the depot, and that the Chinamen were stoned and

the police were called into requisition to protect them; but the honorable Senator from Massachusetts says that was a mistake.

Mr. HOAR. No, sir, I did not say so.

Mr. FARLEY. What did you say?

Mr. HOAR. I asked the Senator if he would not take into his comprehension what I said.

Mr. FARLEY. The Senator says so many things and sometimes contradictory(as I suppose is the case with myself) that it is hard to comprehend him.

Mr. HOAR. What I said was exactly this: that that crowd very probably may have collected from motives of curiosity, but I can neither affirm nor deny——

Mr. FARLEY. Then it is an open question.

Mr. HOAR. Let me finish my sentence. I can neither affirm nor deny whether some boys or mischievous persons in that crowd threw stones and whether the police came and conducted these people; but I am prepared to affirm that if that happened (which I neither affirm nor deny) there was no riot equal in extent or in danger to what frequently occurs in regard to the political processions of one party at the hands of the other party in ordinary excited campaigns. It was a stone-throwing of the most trifling character. It did not endanger the men; it did not affect their moving about those streets in as much safety as my honored colleague who lived in that town formerly would have moved if he had continued to live there. That is what I said.

Mr. FARLEY. Having got to the point that stones were thrown, now we will leave it at that point.

Mr. HOAR. I only said in regard to that that I did not know whether they were or not. Now, what does the Senator from California mean by saying that he has got to the point where stones were thrown?

Mr. FARLEY. The Senator says that perhaps stones were thrown.

Mr. HOAR. I said I did not know.

Mr. FARLEY. Then the Senator does not know but that a number were thrown, and that the Chinamen were in great danger.

Mr. HOAR. Does the Senator mean to affirm from my saying that I did not know what happened, and then taking what I said might have occurred, that I said it did happen?

Mr. FARLEY. You said you were not there?

Mr. HOAR. Yes.

Mr. FARLEY. You said stones were perhaps thrown?

Mr. HOAR. I do not propose to pursue a colloquy with the Senator in that style.

Mr. FARLEY. The statement amounts to this, that the honorable Senator knows nothing about what took place there. He says they lived there afterward. Let that be so. Suppose they did. I understand the reason of their being there in peace was that they were receiving the same rate of wages that white persons were receiving, and, therefore, there was no occasion for the mob to rise. But I should not have referred——

Mr. DAWES. Will the Senator allow me a word?

Mr. FARLEY. Certainly.

Mr. DAWES. I was not in when this discussion arose. I resided in the town where this took place till within a few years, and I now reside within twenty miles of it, and the trains run a dozen times a day between my own residence and that place. The gentleman who employed those Chinamen was a personal friend of mine and my near neighbor for twenty years; he is now my personal friend, and was here in Washington when this discussion arose in the House, and when for the first time in my life I saw upon the RECORD that a Representative stated that there was a riot when these Chinamen arrived there. The first time I ever heard of it was when I saw in the RECORD of the next day that statement by a Representative from Kentucky. The Representative from that district, my successor, was not present in the House at the time, but in a few days afterward he corrected that statement. When the bill was up here originally the Senator from California made some allusion to it, and I corrected it then. Yesterday I told the Senator, so as I am aware, all I knew about the story.

Mr. FARLEY. I have not referred to what the Senator said.

Mr. DAWES. I will state it, then, myself. The Chinamen came to North Adams under these circumstances: a shoe manufacturer there who employed a large number of men, a good many of them, a large proportion of them, a controlling proportion of them, being precisely that kind of men in reference to whom the Senator expressed apprehension here yesterday that they would commit violence in San Francisco, against whose violence the best people were struggling to maintain the peace very properly in San Francisco, men who go by the name, among shoe manufacturers, of Crispins. They had combined and prescribed terms to this manufacturer, upon which alone he was permitted to manufacture shoes, whom he should employ, and whom he should not employ, and how long he should work them. After taking some advice—I will not say how much; I knew what his purpose was myself—he went to San Francisco and engaged some fifty Chinamen, made a personal engagement with each individual Chinaman to come to North Adams and take the place of those men. Those men were not aware of what his business there was, nor was anybody in North Adams; and nobody in North Adams that I know of ever had seen a Chinaman before. When they arrived at the depot all manner of curiosity seized the people of the town, and they rushed down to the depot in crowds. When the Crispins, who had undertaken to prescribe the terms upon which, and upon which alone, this manufacturer could hereafter manufacture shoes, were aware of what the Chinamen came for, they were angry, just as a certain class of people are intensely angry in San Francisco to-day, and they used violent language all around there; and I can tell the Senator that I heard that one or two of them threw a stone into the crowd, but the police—the ordinary police who are about the town and about their business—interfered, and there was not the slightest trouble after that. The Chinamen went in peace through the streets, a sight the people had never seen before, to their quarters, and went about their work, attracting great crowds day after day from different parts of the county to see these Chinamen work. There never was, with the exception of perhaps a stone or two that I told the Senator of, the slightest violence used toward those people. They adapted themselves with wonderful facility to the new work to which they came. The Crispin idea that they could dictate terms faded out in Massachusetts. These fifty Chinamen were indirectly a great blessing to the other laboring-men in Massachusetts and to the capitalists who employ labor in Massachusetts. The time came when, by their adaptation to work, they were able to produce as much as any other workmen, and they demanded an equivalent for it, and then competition in labor had to settle the question. It was either competition in skill or competition in compensation, one or the other, that determined who should be hired. They were hired on the same terms; they worked on the same terms; they continued on the same terms; they accomplished the same results as others, and the foreigners who came from the east, and the foreigners who came from the west, the Europeans and the Asiatics——

Mr. FARLEY. I did not yield for a speech, but the Senator may go on.

Mr. DAWES. If the Senator does not like to have this kind of a speech, be it so. These workmen understood that there was a public sentiment that was stronger than anything else, that upheld every man, wherever he was born, in the right to compensation for his labor, and to the application of that compensation as he pleased; and that was the end of the experiment.

Mr. VEST. May I ask the Senator from Massachusetts a question?

Mr. FARLEY. If Senators will not take up all my time, I can soon get through.

Mr. DAWES. I was called out of a conference committee to listen to the Senator's repetition of that violence in the town that I lived in so long, and I felt it my duty to vindicate history.

Mr. FARLEY. All right.

Mr. VEST. Of course I know nothing about it personally; but I call the Senator's attention to the fact that the New York Tribune, which was then a leading Republican paper as it is to-day, contemporaneously with the occurrence at North Adams, to which he refers made the statement, as will be seen by reference to its files, that Mr. Sampson, the employer of these Chinese, seventy-five in number—the Senator spoke of them as fifty—was compelled for weeks, if not for months, to employ a guard on the premises to protect them from violence, to put up reflectors so that no one could approach the buildings without being seen by night, and that he expressed his determination, and published it, to spend $50,000, if necessary, to have these Chinese stay in Massachusetts.

Mr. DAWES. Have you the files?

Mr. VEST. Yes, sir.

Mr. DAWES. Suppose you put that statement in the RECORD.

Mr. VEST. This is taken from the New York Tribune of June 18, 1870:

> Mr. Sampson determined to sink $50,000, if necessary, in carrying the thing through. He doubles his night-watch, illuminates the grounds about his building by powerful reflectors, laughs at the threats of the Crispins, and is confident of success as of the rising of the sun to-morrow.

In this same connection, in order to vindicate the truth or to demonstrate the falsehood of history, I call the Senator's attention to the further fact that in the New York Herald of June 26, 1870, are the proceedings of a public meeting, said to have been composed of 4,000 citizens of North Adams, Massachusetts, in which resolutions of a very violent and inflammatory character were passed against the importation of Chinese to that community or that State, and that Mr. Henry Wilson, then a Senator of the United States from Massachusetts, afterward Vice-President, introduced about the same time in the Senate a bill prohibiting the importation or the immigration of Chinese to the State of Massachusetts or to the United States. This history, whether false or veracious I know not, goes on further to say that at the meeting referred to—

> Mr. Troup made an enthusiastic speech and suggested the sending of an influential man to Washington to urge Congressman DAWES to look after their interests and hasten the consideration of Wilson's bill.

Whether the messenger arrived or not is within the consciousness of my friend from Massachusetts; but such is the history and I put it in for what it is worth.

Mr. DAWES. Mr. President——

Mr. EDMUNDS. I ask Senators to give way in order that I may request the Chair to lay before the Senate a message from the President of the United States.

Mr. FARLEY. Wait until I get through.

Mr. EDMUNDS. It is as to violation of law in Arizona.

The PRESIDENT *pro tempore*. Will the Senator from California give way?

Mr. FARLEY. I yield.

AFFAIRS IN ARIZONA.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a message from the President of the United States, which will be read.

The Acting Secretary read as follows:

To the Senate and House of Representatives:

By recent information received from official and other sources, I am advised that an alarming state of disorder continues to exist within the Territory of Arizona, and that lawlessness has already gained such head there as to require a resort to extraordinary means to repress it.

The governor of the Territory, under date of the 31st ultimo, reports that violence and anarchy prevail, particularly in Cochise County and along the Mexican border; that robbery, murder, and resistance to law have become so common as to cease causing surprise, and that the people are greatly intimidated and losing confidence in the protection of the law. I transmit his communication herewith, and call special attention thereto.

In a telegram from the General of the Army, dated at Tucson, Arizona, on the 11th instant, herewith transmitted, that officer states that he hears of lawlessness and disorders which seem well attested, and that the civil officers have not sufficient force to make arrests and hold the prisoners for trial, or punish them when convicted.

Much of this disorder is caused by armed bands of desperadoes, known as cowboys, by whom depredations are not only committed within the Territory, but, it is alleged, predatory incursions made therefrom into Mexico. In my message to Congress at the beginning of the present session, I called attention to the existence of these bands, and suggested that the setting on foot within our own territory of brigandage and armed marauding expeditions against friendly nations and their citizens be made punishable as an offense against the United States.

I renew this suggestion: to effectually repress the lawlessness prevailing within the Territory, a prompt execution of the process of the courts and vigorous enforcement of the laws against offenders are needed. This the civil authorities there are unable to do without the aid of other means and forces than they can now avail themselves of. To meet the present emergencies the governor asks that provision be made to Congress to enable him to employ and maintain temporarily a volunteer militia force to aid the civil authorities, the members of which force to be invested with the same powers and authority as are conferred by the laws of the Territory upon peace officers thereof.

On the ground of economy, as well as effectiveness, however, it appears to me to be more advisable to permit the co-operation with the civil authorities of a part of the Army as a *posse comitatus*. Believing that this, in addition to such use of the Army as may be made under the powers already conferred by section 5298 of the Revised Statutes, would be adequate to secure the accomplishment of the ends in view, I again call the attention of Congress to the expediency of so amending section 15 of the act of June 18, 1878, chapter 263, as to allow the military forces to be employed as a *posse comitatus* to assist the civil authorities within a Territory to execute the laws therein. This use of the Army, as I have in my former message observed, would not seem to be within the alleged evil against which that legislation was aimed.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 26, 1882.

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate that the accompanying papers be read?

Mr. EDMUNDS. No, sir; let them all be printed and referred to the Committee on the Judiciary.

The message and papers were referred to the Committee on the Judiciary and ordered to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the following acts:

An act (S. No. 26) to amend section 2326 of the Revised Statutes, in regard to mineral lands, and for other purposes;

An act (S. No. 361) for a public building at Frankfort, Kentucky; and

An act (S. No. 1677) to amend the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1049) to promote the efficiency of the Life-Saving Service and to encourage the saving of life from shipwreck.

CHINESE IMMIGRATION.

The Senate resumed the consideration of the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese.

Mr. FARLEY. Mr. President, I do not intend to take up the time of the Senate for more than a very few moments longer, and I hardly deem it necessary to do so, for I do not know that I can throw any further light on the proposition I have been discussing than I have already attempted to present.

Very strange arguments have been made on the floor of the Senate in reference to this proposed legislation. I find the honorable Senators from Massachusetts, both of them, and the distinguished Senator from Connecticut [Mr. HAWLEY] asserting doctrines that if carried out according to their views, so as to prevent legislation on this subject, would force on us the evils that would necessarily flow from a continuation of the immigration of those people not only to the Pacific coast but to other portions of the United States. In my opinion those evils would be almost incalculable. Look at the very case cited, and admitted so far as the two Senators from Massachusetts are concerned, though neither of them was present. Take the newspaper reports, which were read by the honorable Senator from Missouri, the Tribune and the Herald reports of those meetings. The point has suggested itself to me that if it took seventy-five men for a month or two months to guard and protect those people at North Adams, would it not require the Army of the United States to protect the people in Boston against a proportionate number there?

Mr. DAWES. There is no such statement as that. Seventy-five men!

Mr. FARLEY. The Senator from Missouri referred to a resolution passed.

Mr. DAWES. About seventy-five men in a town of 4,000.

Mr. FARLEY. It required that many policemen to protect seventy-five Chinese. How many men would it take to protect 100,000 in the city of Boston?

Mr. HOAR. How many men would it take to protect a class in school?

Mr. FARLEY. I do not know the number.

Mr. HOAR. I am afraid it would be hard on the masters of the district schools.

Mr. FARLEY. I do not know what the Senator means by class. The Senators from Massachusetts are in the habit of referring to classes. The Senator used an expression which called forth what I have had to say in reference to North Adams, speaking of sand-lotters and the danger of violence in California. Why, sir, I want to say to the Senator from Massachusetts that this question of agitation and danger to the Chinese is not confined to what he terms sand-lotters.

The honorable Senator a few moments ago took occasion to refer to the throwing of stones, and said that at Republican processions stones were thrown by Democratic ruffians. I want to say to that honorable Senator that I suppose there are ruffians in the Democratic party, but I think when you come to number the ruffians you will find as many in the Republican party as you will find in the Democratic party. That is not an expression which I would have used, but it has been used; it is before the country; let it go for what it is worth.

The cry in opposition to this legislation, that it is instigated by the rough elements of California, is without foundation. We have rough elements there as you have everywhere else, but that is not the element that prompts this legislation; it is not the element that is now seeking relief at the hands of Congress. It is the producing element of that country, the manufacturers, the merchants, the farmers, the every-day laborers, the very men who make capital and make wealth, that are the very foundation of wealth. The common laborers are the men who are complaining against this immigration. Why should they be termed "sand-lotters?" I know there were men in that organization who were looked upon as a class of agitators, that were bad men, but in that very organization there were a number of good men. There were some bad elements in it, I admit, but you did find some of the best class of citizens who, feeling that they were suffering wrongs at the hands of the Government without protection of law, entered into that organization for the purpose of relieving themselves from the difficulties and embarrassments by which they were surrounded. The manufacturers and layers of brick and the builders of buildings were members of what was called the sand-lot organization, and some of them are as good men, as I said a moment ago, as you will find in any other portion of the United States of America.

The reason why I referred at all to the North Adams matter was to show that even in Massachusetts you were not free from riot. I did it in answer to the continuous charge that this kind of legislation is only desired by that class of men known as sand-lotters and common agitators in the State of California. I thought that had been effectually answered when it was announced in the Senate in the debate on the passage of the bill which was vetoed by the President, by the statement that out of 161,000 votes polled in the State 154,000 votes declared openly against further Chinese immigration. Yet were they all "sand-lotters?" Are the people of California to be termed a lot of ruffians, Democratic ruffians, who would stone Republican torch-light processions, according to the idea of the honorable Senator from Massachusetts?

The honorable Senator from Connecticut, [Mr. HAWLEY,] in his remarks yesterday, which I hoped to have found in the RECORD this morning, took occasion to refer to this proposed legislation in the most detractory manner. He asked day before yesterday that we proceed to the consideration of this measure in silence and in mourning. Yesterday he referred to the character of the legislation as being that of the dark ages, going back thirty years to pick up a statute which was then passed and quoting that as being a sample of legislation of which this was a piece, and said that that was enacted in the dark ages. It was a statute passed thirty-odd years ago in accordance with a provision of the Constitution of the United States, a statute which had been voted for by Daniel Webster and the great statesmen of that day, and yet the honorable Senator from Connecticut held up that statute as one that would be fit for the dark ages. He drew a picture of those who were violating the law and trampling upon the Constitution, and undertook to show that this character of legislation would be read in the future side by side

with that legislation which he termed to have been passed in the dark ages.

Mr. Pfesident, if these are the sentiments of the Eastern people, the sooner the Western people know it the better for themselves. No people can afford to suffer the evils that we are suffering by reason of this immigration without the appeals which their representatives are making for them in the Congress of the United States. We are a law-abiding people on that coast. We have never violated the law as a whole. There are persons there who violate the law, as elsewhere, but the better class of people stand by the law and by the Constitution of the country. Such assaults upon legislation of this kind are calculated to irritate and agitate the public mind throughout the country, particularly where the evil exists of which we are to-day complaining.

I do not know that I have anything further to say in reference to this matter. I am anxious to have this legislation enacted as soon as possible. I do not know what the President of the United States will do; I do not suppose anybody else does; but if he will sign this ten-years' bill I am willing to take it. I shall not be the cause of defeating any legislation here that will have the effect to bring about the result which we seek. I believe that the ten-year limitation is too short a time; I believe it ought to be put at twenty years. One of the commissioners who negotiated this treaty with China has publicly stated, and it is published in the press of the country, that while the negotiations were being carried on by the Chinese diplomates the understanding was that the limitation should be thirty or thirty-three years. That is what one of the commissioners appointed for the purpose of negotiating this treaty says. Another commissioner differs with him in reference to that statement of fact. I refer to the statement of Mr. John F. Swift, of California, a gentleman who was appointed one of the commissioners for the purpose of negotiating the treaty, in which he says that the Chinese people would not have complained, notwithstanding the protest of the Chinese minister which the President of the United States sent to the Senate in his veto message, if the limitation had been fifty years; that he fully expected it to be not less than thirty years. Yet the President of the United States, perhaps not knowing the views of the commissioner, took the views, I suppose, of the Chinese minister to justify the veto which he sent to this body.

Mr. VEST. Here is the statement.

Mr. FARLEY. The honorable Senator from Missouri has handed me the statement which was made by Mr. Swift, one of the commissioners, which I will read:

The Call——

The Morning Call, of San Francisco, a leading paper of that city—

The Call publishes an interview with John F. Swift, ex-treaty commissioner to China, who says, regarding the twenty years' suspension clause of the Chinese bill, that the commissioners of both countries contemplated a considerably longer period when discussing the terms of the treaty. The Chinese commissioners understood even better than we did the problem of the competition in labor, and were willing to agree to a means of relief. The time of suspension was thoroughly discussed, and it was agreed that a suspension of thirty-three years, or one generation, would be necessary to remedy the evils complained of. "I fully hoped that a suspension would have been proposed for thirty years. The Chinese Government would not have considered the faith of the treaty impaired if it had been for fifty years or more."

Such is the language of one of the commissioners who negotiated this treaty, but it seems that the statement of the Chinese minister had its influence. I do not say that it controlled the action of the President of the United States, for I am very far from desiring to say anything that could be considered improper about the President. I am not one of those who are disposed to assail the President, because it is his right to veto a bill, and he may have acted, and I am willing to concede that he did act, according to his views of propriety, but I think he acted under a mistaken idea. I think it was a misfortune to the country, a misfortune to the entire people, that the veto was ever made of the twenty-years' limitation bill. Be that as it may, we have to meet the exigencies that now present themselves before us. That being the case, I shall ask my friends, I shall ask every Senator here, to vote for the ten-years' bill without any additional time. I believe that we ought to pass a fifteen-years' bill; but rather than jeopardize any legislation on this subject I will consent, and now ask every Senator who has been in favor of passing any bill here to vote for the bill as it now stands, unless other alterations can be made which will improve the bill in many other respects.

I insist and hope that when the vote comes to be taken upon the clause which was originally put in the first bill by the honorable Senator from Oregon, [Mr. GROVER,] the provision defining skilled and unskilled laborers, it will not be stricken out, and that the amendment proposed by the committee striking it out will not be concurred in.

Mr. DAWES. Mr. President, I stated yesterday what I repeat to-day, that I did not intend to trouble the Senate upon this bill. I had submitted the reasons why I could not support the bill when it was up before, and I was willing to rest there and leave the measure, if it must pass, without any embarrassment consequent upon anything I might say. I am on my feet only because of what seems to me to be a very strange effort to involve a portion of the people of Massachusetts in that wild and what appears to me to be mad excitement against the Chinese laborer out of which has come this legislation. Had there been no allusion to those people, I should not have said a word.

To my surprise, and in my absence, the whole matter is renewed again to-day. I desire nothing but the truth in the case, but I desire the truth to go upon the record as far as my own State is concerned; I desire it not only for my State, but for my neighbors, with whom I have lived a great many years, and who would justly hold me accountable if I sat here quietly and heard them slandered as they have been to-day.

I do not know but that the Senators from California and Missouri, having what I have now before me, may have been to some extent justified in some of their remarks, but I come back to reiterate the statement that the charge made is wholly without foundation; that there was in fact no more than what I have stated once here to-day; and that what the Senators from those States have supposed sustained the allegation is, when you come to look at even that, an utter failure. It is based upon two statements reproduced here from newspapers, the New York papers of the time. The first of them is what is said to be a letter from North Adams to the New York Tribune of that day. Who the letter-writer is does not appear. Whether he was sent there to produce some sensation that would excel the accounts in the Massachusetts papers of this novel proceeding does not appear. I assume that the gentleman who used this article in support of the bill in the other branch has selected out of the letter the very worst phrase he could find; and it is this:

Mr. Sampson determined to sink $50,000, if necessary, in carrying the thing through. He doubles his night-watch, illuminates the grounds about his building by powerful reflectors, laughs at the threats of the Crispins, and is confident of success as of the rising of the sun to-morrow.

That does not relate any violence, not enough to disturb a leaf. It relates that Mr. Sampson thought the threats of the Crispins that they would do him some injury justified him in taking unusual precaution, just as when there have been incendiary fires in the community a man feels justified in doubling the watch of his private property. It does not show that the slightest piece of violence was inflicted or the hair of a man's head disturbed. It does show that Mr. Sampson was very calm and very confident, as confident of success as he was of the rising of the sun to-morrow. That is all that it relates, except the fact that these Crispins were put out of employment after having dictated the only terms upon which this manufacturer could proceed, themselves having only a residence in this country by virtue of that generous indulgence which they failed to appreciate when they met a foreigner from another shore. That is all there is to that. Then there is an editorial in the New York Tribune. Lord save us from editorials either in the New York Tribune or the Herald. The next extract is from an editorial in the New York Tribune. The editor I do not think knew any more about it than I do. This is the sum-total of that editorial:

The demonstration of the Crispins, whose strike has compelled manufacturers to import these cheap cooly laborers, was serious at first, but having dwindled to mere threats, will result in nothing else.

It was a serious demonstration. I understood always that they were a good deal ruffled, and that although there were no sand-lots upon which they could gather and harangue the people, they were serious, and there never was a more serious sight taken of their way of improving labor in Massachusetts than that sight presented by seventy-five freemen, not bound by any order or secret association, willing to work where they could get the most and for employers who would pay them the most. It was a serious question at the time, but it did not involve any violence. The editorial goes on further to say:

We are glad to have this experiment tried, but we don't like to see crowded New England made the scene as long as unpopulated and just as rich districts are groaning for laborers.

That is not any very strong evidence of violence in North Adams as I understand testimony. I am not a good hand at weighing testimony, but as I understand it, to the best of my ability, this statement of the New York Tribune, the worst that they could find in the whole editorial, is that when the Crispins saw that their plans were being defeated they were serious about it; and while the New York Tribune was glad the experiment was tried it was sorry it was not tried where laborers were more needed. Then the gentleman who uses this in the other branch and who is called in here to aid this matter goes on further and tells the House what he might do. He does not tell what he does do, but what he might do, and I want to read what he says he might do:

I might also have given the details of an indignation meeting held on June 23, 1870, at North Adams—

I wish he had—

in which, as I find from the New York Herald of June 26, three or four thousand people were assembled and to whom fiery and inflammatory speeches were delivered.

The men, women, and children, all told, in that village are about four thousand. There is not a hall there that will hold one thousand.

Mr. VEST. They might have held the meeting out of doors.

Mr. DAWES. The Senator from Missouri is equal to the occasion; they might have held it out of doors. But this is the trouble:

Among others "Mr. Troup made an enthusiastic speech and suggested the sending of an influential man to Washington to urge Congressman DAWES to look after their interests and hasten the consideration of Wilson's bill."

That man Troup is a new character. I never heard of him before. No such man lives in that town. How he came there I do not know. There is no one in the community that I ever heard of by that name. The distinguished Senator from Louisiana [Mr. JONAS] came to my rescue a moment ago and stated that Mr. Troup was a distinguished Greenback speaker from Connecticut or somewhere else.

Mr EDMUNDS. And he has *troops* of friends. [Laughter.]

Mr. DAWES. He has troops of friends, my friend from Vermont on my right says. He never got as far as Washington. If he did he never introduced himself to me, and I never heard of that meeting before. That is about equal to Falstaff's army, and about as efficient an army, and about as respectable an army, allow me to say.

Mr. Wilson did introduce a bill in the Senate to make the importation of immigrants under labor contracts unlawful. That is the bill which ultimately, as I understand it, became the law punishing the cooly trade. That did not have anything to do with these seventy-five persons who came from San Francisco to North Adams, for I know about them. I not only know Mr. Sampson, but I know in San Francisco the men who engaged these men. I saw them myself in San Francisco, and I know that they made individual contracts with each of these men as a contract is made with day-laborers everywhere in Massachusetts, and having no other element in it; and they came to North Adams upon an agreed price with their employer and went away after they had fulfilled their agreement and he had fulfilled his.

Mr. SAULSBURY. Will the Senator allow me to ask him a question for information?

Mr. DAWES. Yes, sir.

Mr. SAULSBURY. I ask the Senator whether the contract with those Chinese in San Francisco to come to North Adams was at a less rate of wages than were paid to ordinary operatives in those mills in Massachusetts?

Mr. DAWES. The Senator asks me if Mr. Sampson went to San Francisco and engaged men who had never learned the shoe trade at all, men who were not acquainted with the language, to come to North Adams to learn that trade, and if he agreed to pay them just as much as he would pay a skilled man who had already learned it. That is the interrogatory. I do not think he did. I think he provided in the contract that until they learned the trade and were able to make shoes as well as those Crispins who had undertaken to prescribe terms, he would not pay them so much as after they had learned.

Mr. FARLEY. Will the Senator allow me to ask him a question?

Mr. DAWES. Certainly.

Mr. FARLEY. Do I understand the Senator to say that the contract was made with those Chinamen individually?

Mr. DAWES. I trust the Senator understood what I said.

Mr. FARLEY. I say I so understood the Senator. I want to say to the Senator that such contracts in the State of California are unprecedented, for the reason that where that number of Chinamen are hired to do any kind of work they are hired through the Six Companies, or the head of the company to which they belong.

Mr. DAWES. There is a good deal in California that is unprecedented, and a good deal that is more remarkable than this constantly happening in California unprecedented, and which would seem to us unsophisticated Eastern men as wonderfully unprecedented. I do not mean to say that Mr. Sampson himself went individually to each one of these men, of whose language he was entirely ignorant. I do say that he employed a man in San Francisco who did understand their language to make contracts with them. Each individual man had his contract with Mr. Sampson, through his agent, to perform in Massachusetts a particular kind of work described, and it was made as fairly and as openly and above reproach as Mr. Sampson ever made a contract with any other man, and no man ever was fairer than he.

Mr. President, I hope this is the last of this North Adams riot or of Henry Wilson's name being brought in here as attempting to keep an honest and free man from an opportunity upon the soil of the United States of earning his livelihood without legislative hinderance.

One word, and only one word, about some other matters said by the Senator from California. He has cited here in defense of a twenty-year bill to-day the statement of one of the commissioners, whose name he gave, that in his opinion a bill prohibiting the immigration of Chinese for thirty or thirty-five or forty years would not be in conflict with the treaty as it was understood by the Chinese. Alongside of that should be the statement of President Angell, one of the commissioners, that they never dreamt of any seclusion that would exceed more than five years.

Mr. FARLEY. They are both leading Republicans, and it is a question of veracity as between the two.

Mr. DAWES. The Senator is not a Republican.

Mr. FARLEY. No, sir; I am not.

Mr. DAWES. And the Senator's use of it is what I complain of. I do not mean to intimate by that that the Senator is not entitled to credit, he will understand me, because of his politics. I do not mean to intimate that.

Mr. FARLEY. I said it was a question of veracity between those two men.

Mr. DAWES. I do not think the question whether those two gentlemen are Republicans or not has anything to do with the statement the Senator made. The statement is made of the opinion of one of them, and the statement is made of the declaration of the other. I desire to have that go into the RECORD along with the declaration which the Senator makes.

One word more. The Senator complains of the allusions to what are called the "sand-lotters" so frequently here. So far as I have used them I want the Senator to understand that I do not mean to say that the Senators who have advocated this bill from the Pacific coast are of that character, or that the majority of the people of those States are of that character, or that any large number of them are of that character, but what I meant to say when I used the term first, and the only use I desire to make of it, is that the best people of the Pacific States—and I know they are a large majority of those people—the law and order loving people of the Pacific States, the intelligent, generous, enterprising people of those States who have built them up and made them what they are, have surrendered to these few persons. At first they resisted, denounced their agrarianism, denounced their violent speeches, resisted them for a while, but they have gradually yielded to their influence. When I have used that term I have not used it, I trust the Senator will understand, as descriptive of the Senators and others who now are supporting this measure, but I use it as descriptive of the source from which has come this measure, out of which it is born, and to express the regret that these good men, in whose keeping ultimately must be the character and the future and the power and influence of the Pacific slope in this Republic, (they must take care of it,) have not succeeded, as I believe they did try to do in the beginning, in putting down this violent agrarianism, and instead thereof have left themselves under its influence, and have been led themselves into these violent measures because they do not see now how they can rescue themselves from the grasp of this violence. That is the only use I have desired to make of it, and by no means to charge the Senators or anybody here advocating this measure with any such disposition or any such character, but to complain of them that they have not controlled themselves rather than to have been controlled by this element.

Mr. VEST. Mr. President, as this debate seems to have risen to the dignity of a historical discussion as to the public feeling in the State of Massachusetts in 1870, and as I have the greatest respect for that historic State and the greatest unwillingness to do any injustice either to its people or to their honored representatives, I propose, notwithstanding the request of my friend from Massachusetts, to continue the discussion for a moment or two in order to ascertain whether the strictures upon the sand-lotters of California and the people of California are deserved in the light of events that have come down to us by testimony which would be convincing, I think, to any jury of ordinary intelligence, and whether the same feelings, the same opinions, the same prejudice, if the Senators from Massachusetts so term it, exist even in the God-fearing and law-abiding dominion of Massachusetts itself.

With all due deference to the Senator, [Mr. DAWES,] he has not made out his case that the coming of seventy-five Chinese to that State's domain was not the occasion of great excitement, of indignation meetings, of precautions to prevent attacks upon them, and, as I shall undertake to show by the political history of the Commonwealth, the formation of political parties and the enunciation of political platforms based upon the distinctive feature of opposition to Chinese immigration.

I do not know, except from what my distinguished friend from Massachusetts has said, what his idea is of a state of profound popular tranquility and peace. In my State, accused of being given over to border ruffianism, to the James brothers, to mail robbing and murder upon the highway—even there when a gentleman employing seventy-five laborers of any sort finds it necessary to use bull-dogs, policemen, and reflectors, and says he will spend $50,000 in order to carry out the experiment, we assume that there is not a state of profound tranquility such as the Senator said existed then in the State of Massachusetts.

More than that, if the testimony, the contemporaneous testimony, I may say, of the newspapers of that time were manufactured by these editors with mendacious foresight and prophetic lying, and they made the statements as to the Chinese at North Adams knowing at the time that the occasion would afterward arise when it would become pertinent to a discussion in the Senate of the United States, even then, if that be the case, still contemporaneous history shows that there was political excitement in Massachusetts over Chinese immigration, because, as can be found by reference to any political text-book in the same year, in 1870, two conventions were held, and so great was this issue, so salient was this angle in popular opinion which the leaders of those parties sought to reach, that in the two platforms of the two parties were incorporated the planks of opposition to the further immigration of Chinese into the State of Massachusetts.

Aye, sir, more than that; at the following elections the two candidates standing upon these platforms received one-half of the votes of the State of Massachusetts. What other issues were in those platforms it matters not now to inquire; there stood the distinctive issue, because a new issue, not the tariff, not the distribution of the proceeds of public lands, not the United States Bank, none of the

stale, flat, and unprofitable issues of the past created excitement and popular feeling, but a new issue, an issue that in all ages of the world has aroused the passions and inflamed the blood of men, right or wrong, beyond all others, the issue of race.

Sir, is it necessary to go back in history to find how violent is the feeling thus engendered? Look at our steady forefathers of England. When upon the accession of James the First to the English throne his countrymen, the Scotch, came in hordes to partake of his new-found honors, the literature of the day is full of the abuse and even of the proceedings of meetings to denounce the Scotch who were coming to take possession of the fair fields and the wealth of England, and that in a nation proverbial for its law-abiding, conservative spirit, and against a people of the same race, the countrymen of Scott and Burns. No wonder that in Massachusetts there existed feeling and excitement against a race so utterly dissimilar and foreign to the people of New England as the Chinese.

But more than this: to establish the fact that my friend from Massachusetts, and I say it respectfully, is mistaken as to the public feeling in his own State, besides these platforms, besides these votes, the great leader of the Republican party of that day in his State, notwithstanding my friend's request I dare to mention his name again, Henry Wilson, saw proper to come to the Senate of the United States and introduce a measure which prohibited the introduction of cooly labor, my friend says. But he expounded that bill and gave his opinions in a speech which he delivered in 1870 upon this floor; and what said Mr. Wilson then?

I think the time has come when we should have some action upon this subject—

Referring to the Chinese question——

Mr. DAWES. What is the Senator reading from?

Mr. VEST. I read from a speech delivered by Mr. Wilson in the United States Senate on the 23d of June, 1870.

Mr. DAWES. In what number of the RECORD?

Mr. VEST. It is found on page 40 of number 66, the RECORD of March 17—not the one from which the Senator quoted, but another. This was when Mr. Stewart attempted to call up his anti-Chinese bill, Senate bill No. 973. Mr. Wilson said:

I think the time has come when we should have some action upon this subject; for it does seem to me at the present day that there is a conspiracy of capital in this country to cast a drag-net over creation for the purpose of bringing degraded labor here to lower and degrade our laboring-men. And I think it is time to meet that question.

The then Senator from Massachusetts, accurate in the use of language, a statesman who weighed well his words because he was one of the great leaders of the Republican party, does not say cooly labor, but he says degraded labor brought to this country for the purpose of competing with the labor of citizens of the United States. Even if the bill introduced by the Senator from Massachusetts at that day, Mr. Wilson, applied only to cooly labor it established the general principle and was in accordance with the feeling of the people of his State that the Chinese should not come to this country to compete with the laboring classes of America. I stand here to-day to announce that doctrine and to advocate it, and to cast my vote for it. When the junior Senator from Massachusetts, [Mr. HOAR,] for whose learning and eloquence I have the greatest respect, (and I read his speech last night, for I was detained from the Senate at the time it was delivered; I read it with great pleasure and great attention,) declares that this country is to become the great missionary station of the world, that the Declaration of Independence meant that our institutions were made not for Americans and for their descendants, but for the whole world to come here and take possession of this continent, bought with our blood and our treasure and that of our fathers, I deny the doctrine, æsthetical as it may be and much as it appeals to the feeling of missionary Christianity among our people.

Sir, this is a question of practical statesmanship. I am first for my own people against the world. I am first for the American system, which protects the labor and the interests of the American people before all others.

What is this Chinese immigration? Are they citizens of the United States? Do they come here to meet the reciprocal obligation between our people and the Government to which they owe allegiance? I understand the doctrine of government is that government protects the citizen in life, liberty, and property, and the citizen assumes the responsibilities and the duties of allegiance to the government and a part in the government of the country itself. The greatest responsibility and the greatest duty of any dweller in these United States is his share in the Government and the legislation of this great country. Do the Chinese come here to share these responsibilities? They are parasites, like those insects which fasten themselves upon vegetables or upon animals and feed and feed until satiety causes them to release their hold. They come to this country not to partake in the responsibilities of citizenship; they come here with no love for our institutions; they do not hold intercourse with the people of the United States except for gain; they do not homologate in any degree with them. On the contrary, they are parasites when they come, parasites while they are here, and parasites when they go.

But a few weeks have elapsed; a few days I might say, since the velvety ears and silken consciences of gentlemen in this Chamber were lacerated and torn over the crime of polygamy, and we passed a bill of attainder, as I honestly believe, to strike down polygamy upon the plains of Utah. There must be but one wife in our God-loving and God-fearing civilization. Break through the Constitution, tear down its prohibitions, for a man shall have but one wife and one concubine in this God-fearing, God-loving country of ours. But to-day these same gentlemen are here exhausting logic, beggaring rhetoric, tearing the language to tatters to tell you that these Chinese whose religion is polygamy, whose religion it is to have all the wives they can buy and all the concubines they can barter for, shall be permitted to come in hordes to this country. More polygamy in the shape of Chinese, but none for white men who are our citizens. That is the doctrine which is preached to-day.

The Chinese are not only practical polygamists, but it is their religion. There is not an American instinct among them. The emperor is the head of the church and the head of the state, and despotic in everything, both as to church and as to state. They come among us and are fungi upon our body politic, and they take from California $45,000,000 annually to be carried back to the celestial kingdom. Even when dead—as part of their contract and part of their religion—the dead-cart comes to carry back their polygamous ashes to the graves of their polygamous sires.

Yet we are told that the Congress of the United States must legislate to strike down polygamy by means outside of the Constitution even, but the Chinese, the almond-eyed idols of the Senators from Massachusetts, are as sacred as the holy elephants of Siam!

Mr. President, for one I am for my own people first. The adult male population of California to-day is, I believe, some two hundred and sixty thousand. Seventy-five thousand adult Chinese are now in the single State of California alone. Put that proportion of Chinese in Massachusetts, and Mr. Troup's eloquent stump speech made at North Adams would not amount to the first letter in the alphabet compared to the vehement eloquence of my distinguished friends from Massachusetts. Put the same proportion of Chinese at Plymouth Rock and what would avail the memory of the illustrous men who brought with them civil and religious liberty to those historic shores? Resolutions and stump speeches and appeals to Congress would take the place of the æsthetic harangues which we hear to-day.

I say there is not one State in this Union that would not rebel against a population like that inflicted on California. But a few short years or months ago, when the negroes, allied to us by a thousand acts of kindness, mingling with the American people, (a dependent race, gentle, amiable, I shall not say and could not say one word against them, for every tie of infancy, every memory of childhood, is mingled with recollections of that race,) under some strange and phenomenal excitement, undertook to find a new home in one of the great States of the Northwest I well remember the people of that State rose upon the borders where they were about to land and prohibited the steamers from putting them upon their soil. It is true that afterward they went into the back counties, and I trust to-day are peaceable and prosperous citizens; but I mention this to show that the people of California are not alone in their belief that this is under God a country of Caucasians, a country of white men, a country to be governed by white men.

As the Senator from Nevada [Mr. JONES] said, rising above party, your experiment in the Southern States of putting the negro above the white man is a miserable failure, and it stands to-day a monument to the fact that the intellect of the Caucasian race, bayoneted to the earth, plunged into blood up to the chin, will yet rise to the full height of the destiny which God has placed before it. The brains, the energy, the intellect, the sinews and nerves of the race to which we belong will never be trampled under foot by Mongolian, or African, or mixed or Indian blood. Nothing except its own blood, coming with superior force and equal brain, will ever be able for a single instant to make it lower its lofty crest.

Sir, I had not intended to discuss this question. I only wished to emphasize what in my judgment is the great key-note to the whole of it. Not in the learned and eloquent speech of the junior Senator from Massachusetts does he meet the proposition as I have put it. Nowhere in this whole debate in either House of Congress has the evidence been brought that the Chinese come here for any other purpose but to fatten upon the people of the United States and carry their plunder back with them. They are not of us; they are not with us. They cannot be made American citizens by any process known to our laws or even to the laws of God himself. They are made for a different destiny. They are crystallized in their habits and their opinions.

In this morning's paper I saw, copied from a San Francisco journal, that now upon the boisterous waves of the Pacific rocks a vessel filled with Chinese women, brought to this country for what? Brought here to dispense the smiles of wife and mother over happy homes? Brought here in order to be the conservative influences of a healthy civilization? Brought here in order that woman may be elevated and become the great center of all that is holy and refined and loved among men? Oh, no; brought here for the single and sole purpose of ministering to the lust and appetite of those who come here to make money to buy women with. And still our statesmen gagged at polygamy in Utah!

Strike down white polygamy in Utah, but let in the tawny curse through the Golden Gate!

Mr. President, for myself, when my people of the Pacific States, blood of my blood and bone of my bone, call to me, "Deliver us

from the body of this death, deliver us from this incubus and these fungi which are fastened upon us," I shall not be deaf to the appeal. As Prentiss, of Mississippi, said once, "I am first for my own hearth, then for my county, then my State, then for the Union, and then for the world." Sir, in the concentric circles of the human heart comes at last the formation of a great Government and a great State. Take away the individuality, the home feeling, the home love of a man, and what is he? I oppose woman suffrage because it brings down the deity of home, woman, as wife and mother. I oppose it because it destroys all that is conservative and sacred in society.

For the same reason, among others, I oppose Chinese immigration. They have no homes with us; they come here to carry back $45,000,000 annually from the people of California, and leave behind them only the memory of their vile habits and their most infamous doctrines.

To the thrifty German, the generous and gallant Celt, the hardy Scandinavian, to all who come to share the responsibilities and work out the problem of our civilization and destiny, to all who seek home and shelter in our vast domain, fling wide the portals; but to the people that come not for homes or shelter but only for gain, who have no share in our destiny, no love for our institutions, no reverence for our religion, we have the right to say, and do say, "You have no lot or part in this great matter."

Sir, I have no stings of conscience when I am told that I violate the Declaration of Independence. It says that the enjoyment of life, liberty, and property are inalienable rights; but the Constitution of the United States, which I have sworn at that desk to support, says that, in order to form a more perfect Government, we make this Constitution for ourselves, not the Chinese—for ourselves and our children after us. I desire for myself to leave no better legacy than that I have voted for a bill which says to all the world, "if you desire to partake of the blessings you must partake of the responsibilities of American citizenship; but if you come only to prey upon the people of this country without assimilation, without homogeneity, then we say to you in the holy duty of protecting our own rights, our own people, our own industries, go back to the country to which you rightly belong and to the institutions which you prefer to our own."

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole, striking out the fifteenth section of the bill.

Mr. GROVER. There was an amendment offered to that amendment.

The PRESIDENT *pro tempore*. It has been withdrawn.

Mr. GROVER. I will just say one word upon this question. The President has not opposed this clause in the bill, but approves it, so that I will say to the Senate in voting to retain this section they will not vote against the objections of the President.

Mr. HAWLEY. Is there any such expression as that in the message?

Mr. GROVER. There certainly is.

Mr. HAWLEY. That the President approves that section? I ask not that I care, not that it is my duty or business to know anything about it or as affecting my vote at all.

Mr. GROVER. He states as a proper construction of the treaty that we can reject all except those named as permitted. I will call for the reading of that clause of the message of the President.

The Acting Secretary read as follows:

> As to the class of persons to be affected by the treaty, the Americans inserted in their draft a provision that the words "Chinese laborers" signify all immigration other than that for "teaching, trade, travel, study, and curiosity." The Chinese objected to this that it operated to include artisans in the class of laborers whose immigration might be forbidden. The Americans replied that they "could" not consent that artisans shall be excluded from the class of Chinese laborers, for it is this very competition of skilled labor, in the cities where the Chinese labor immigration concentrates, which has caused the embarrassment and popular discontent. In the subsequent negotiations this definition dropped out, and does not appear in the treaty. Article II of the treaty confers the rights, privileges, immunities, and exemptions which are accorded to citizens and subjects of the most favored nation upon Chinese subjects proceeding to the United States as teachers, students, merchants, or from curiosity. The American commissioners report that the Chinese Government claimed that in this article they did, by exclusion, provide that nobody should be entitled to claim the benefit of the general provisions of the Burlingame treaty but those who might go to the United States in those capacities or for those purposes. I accept this as the definition of the word "laborers," as used in the treaty.

Mr. HARRISON. I only want to make a suggestion. In the treaty the word "laborers" is used. I take it that it is not in the power of Congress to enlarge the meaning of that word. Whatever it meant in the treaty it would mean the same thing as used in the law; we cannot make it mean more than that. Therefore, why not let it stand in the law as in the treaty, and let the use of that word include what it will?

Mr. GROVER. I object to the proposition of the Senator from Indiana for the reason that the word can be defined in different ways, and if it is left to be construed by those who administer the law they will have to determine it either one way or the other, or we shall lose the beneficial effects of the law.

Mr. HARRISON. It is possible that the Senator is right in saying that the word may be construed differently; but can we enlarge the meaning of it as it is used in the treaty? That is the question I present. If we use the same word in the law that is used in the treaty we are going as far as we can go, for we cannot enlarge the word as it is used in the treaty.

Mr. GROVER. Then I ask that we put a legislative interpretation upon it to enable those who are unlearned in the law to know what they are doing when they are administering the law.

Mr. MILLER, of California. In the original draft of the bill there was no such provision as this. There was nothing in the bill to define what the word "laborers" meant, it being supposed by the framers of the bill that whatever interpretation might be placed by the courts upon the word "laborers" as used in the treaty would govern, notwithstanding a definition might be given by Congress. In other words, even if we undertook to define the meaning of the word "laborers," that definition would be construed with the treaty by the courts in such a manner as to harmonize the treaty with the act of Congress. We start out with the presumption in the beginning that Congress will not legislate to violate a treaty, so that in fact it is probable that the words of the treaty would govern unless there was a plain intent manifest that Congress intended to violate the treaty or legislate in conflict with it. That intent appearing, there is no question that a subsequent act of Congress would override a former treaty.

These were the reasons why there was no attempt at a definition of the word "laborers." I do not believe that the amendment offered by the Senator from Oregon, which constitutes the section now contended for by him, does enlarge the meaning of the word as used by the treaty. I do not know but that it restricts the meaning. I had no objection to it, because I believe that finally the words of the treaty will govern, but there is the fact to be considered in reference to it that we can arrive very nearly at a definition of what is a skilled laborer. It means, I apprehend, an artisan, a mechanic, or a laborer who is skilled in his employment, whose skill or knowledge or use of his faculties forms the most important factor in his labor. What is an unskilled laborer? An unskilled laborer, I suppose, is one who is totally without skill. I suppose that the man who shovels earth or carries a burden would be called an unskilled laborer. It is true that skill is an element perhaps in all labor, but men are skilled laborers in degree. Between the unskilled laborer who is a man totally or nearly without skill in his employment, and the skilled laborer who is an artisan or mechanic, there is an intermediate class who might be construed to be neither the one nor the other.

I do not say that such an interpretation would be given to this section, but it might be. I think it would be straining a point to do it. I have no objection to these words, because I apprehend that whether they do include all laborers, skilled and unskilled, and the intermediate class, the words of the treaty would finally govern. Our object, of course, is to include in this description all classes of laborers. The truth is, I suppose, that the word "laborers" is intended to be descriptive of a class of people perfectly well known in California and throughout the Pacific coast, and is not intended to include those of any other class, such as traders or bankers or professional men as lawyers or doctors. I imagine there would be no very great difficulty in arriving at what was meant by the commissioners on both sides when they used the word "laborers."

If any one can show a good reason for apprehension that skilled laborers, so called, would come into the country under this bill unless this section were adopted, I should certainly desire to have it adopted. Otherwise I should not care anything about it.

Mr. GROVER. I will read from a journal received this morning, showing the apprehension in California. I read from the Daily Record Union of April 22, which discusses the amendment made by the committee striking out the section when the bill was reported to this body.

Mr. BUTLER. Published where?

Mr. GROVER. Published in Sacramento, the capital of the State of California. Under the heading of "The Chinese Bill" the paper says:

> Among the amendments to the House Chinese bill in the Senate committee is the excision of a provision to the effect that the word "laborers" shall be held to include artisans and miners. * * * The word "laborers" may be construed to mean simply day-laborers or unskilled workmen. That, indeed, is its most obvious signification, and for that reason the addition of the provision struck out by the Senate committee is not only not a redundancy, but it is absolutely indispensable to the effectiveness of the bill. Should it be passed without that clause we are confident that a successful effort will be made to evade its provisions by pretending that all the Chinese who come here subsequently are not "laborers," but skilled workmen or something else which the law does not cover.

Mr. HARRISON. Will the Senator from Oregon allow me to make a suggestion to him? He reads an extract from a paper to the effect that the word "laborers" as used in the treaty, or as used in the law, may be limited by a meaning applied to those who are unskilled. If the courts should so decide, giving that meaning to the word "laborers" as used in the treaty, would the Senator from Oregon be in favor of going beyond what we are authorized to do by our treaty?

Mr. GROVER. I will answer the Senator from Indiana in this wise: the commissioners on the part of the United States who negotiated this treaty are unanimous in their expression that this clause is properly in the bill.

Mr. HARRISON. It reminds me of a will case that I was once trying when the lawyer who drew the will was on the other side. There was a great deal of controversy about its meaning, and he undertook to settle it by saying that he wrote the will and knew what it meant. It seems to me that is a parallel case with our commissioners undertaking to say what the word means.

Mr. GROVER. I will add to what I remarked before that the President of the United States, after considering the protest of the Chinese embassador and reading what the American commissioners said, decided that this clause was correctly in the bill. Therefore, after those two authorities most nearly connected with the negotiations of the treaty have decided that this clause is correctly in the bill, and after the latest expression from California has decided that there will be an evasion if this clause is stricken out, I take the position that the law, if against the judgment of the empire of China, will stand notwithstanding the treaty. If any court should decide that there is a conflict between the law and the treaty, I think the treaty will go to the wall.

Mr. HARRISON. That does not answer my question. Is the Senator from Oregon in favor of driving the treaty to the wall by legislation here?

Mr. GROVER. I think I have answered that sufficiently in stating that the commissioners and the President have given their construction of the treaty. That is the American view of it, and I follow that.

Mr. HARRISON. That does not answer the question at all. The question I asked the Senator is whether if the treaty and the law in the section to which he has referred are in conflict, he still believes in passing the law and driving the treaty to the wall? or in other words trampling upon our treaty obligations?

Mr. GROVER. The Senator presumes a case which does not exist. The strongest authorities which we can cite—those engaged in making the treaty—decide that this is properly in the bill; and I stand by those authorities.

Mr. LAPHAM. Mr. President, I have been of opinion from the commencement of this discussion that the safer way is to use in this bill the language of the treaty, and not to undertake anything by way of change or of definition. That should all be left to the future determination of the two powers entering into the treaty, as will be obvious from a provision of the treaty to which I shall presently call attention.

My main object in rising at this time is to suggest that those gentlemen who have chosen in the course of this discussion to more than intimate that it was improper for the President of the United States to consult with the Chinese minister before determining his action upon the bill which was vetoed, have fallen into a great error with respect to the whole scope and object of the treaty. It will only be necessary for me to read the fourth article of the treaty to show that the action of the President was not only discreet and wise, but called for by the very spirit and language of the treaty itself.

Article 4 of the treaty is as follows:

> The high contracting powers having agreed upon the foregoing articles, whenever the Government of the United States shall adopt legislative measures in accordance therewith, such measures will be communicated to the Government of China. If the measures as enacted are found to work hardships upon the subjects of China, the Chinese minister at Washington may bring the matter to the notice of the Secretary of State of the United States, who will consider the subject with him; and the Chinese foreign office may also bring the matter to the notice of the United States minister at Peking and consider the subject with him, to the end that mutual and unqualified benefit may result.

It will be seen from the language of this provision of the treaty that the whole object of it was to prepare the way for arrangements between these governments which would in the end be mutual and satisfactory to both, and it was the very highest part of executive wisdom for the President to have gone to the Chinese minister or to have allowed the Chinese minister to come to him, and suggest with reference to the bill, before determining whether to affix his signature to it or not; it was within the spirit and scope and intent of the treaty, as understood mutually by the parties before it was agreed upon. This whole article clearly foreshadows that such was to be the policy.

Now, upon the very question of what is the definition of the term "laborer," if we follow the language of the treaty and use the term "laborer," that will be a subject for future consideration between the Chinese minister and the Secretary of State. We cannot here, without violating this treaty, fix an arbitrary definition beyond which we cannot go or behind which we cannot fall. If we do that, we do injustice to its very language and spirit.

Mr. SAULSBURY. I wish to call the Senator's attention to the language of the 4th article of the treaty, which he read, and to ask him whether that does not apply to a bill after it has become a law, of which the Chinese Government may complain? I have no disposition myself to criticize the action of the President, but I understand the Senator to justify the action of the President, before the bill which had passed both Houses of Congress became a law in consulting the Chinese minister to ascertain whether it would be in harmony with the will and wishes and pleasure of the Chinese Government. I understand that provision he has read from the treaty to apply to a measure of legislation after it has become a law, of which the Chinese Government may complain, and not to a law in embryo, which has not yet received the signature of the President.

Mr. LAPHAM. Literally it is true, as the Senator from Delaware suggests, that the specific terms of this section provide in relation to communications which are to take place after the enactment of laws by Congress; the Senator is right in that respect; but that is not the fair spirit and interpretation of this provision; that is adopting the letter which killeth and forgetting the spirit which maketh alive. The object of this provision was to have whatever legislation should take place between the two countries mutual and satisfactory to both, and therefore that action of the Executive, about which so much has been said, I beg to repeat again, and in regard to which it has been more than intimated that he acted unwisely and improperly, was not only wise, but prudent, in view of the provisions of the whole of this treaty.

My only object was to call attention to this by way of suggesting that if we are to have between the Chinese minister and the Secretary of State, or between the United States minister at Peking and the Chinese authorities there from time to time communications with the view of determining what is proper in this respect, for us to undertake here to say what the term "laborers" as used in the treaty shall mean, for us to undertake here in advance to give a definition to that term is an improper and unwise act of legislation on our part.

Mr. SAULSBURY. Mr. President, I concur thoroughly with the suggestion of the Senator from Indiana that we cannot enlarge the meaning of the term used in the treaty by our action here. The term "laborer," whatever it may mean, is used in the treaty, and I apprehend we cannot enlarge what is included in that term without doing violence to the treaty. But it has been shown by the Senator from Oregon that in the negotiations which led to this treaty the negotiators on both sides did understand that that term was to include not only the common laborer, but the skilled laborer, that might desire to come to this country; and the President of the United States, after having examined fully the negotiations between the negotiators, accepts the construction of the American negotiators, that skilled laborers were included in the term "laborers." If that is true, then it occurs to me that it is eminently proper in this bill that we should not only use the term "laborers," but use the term "skilled laborers," because this law is to be put in execution by agents, by some persons authorized by the Government of the United States to put it into effect, and we have provided specific penalties for parties who may be connected with the execution of this provision of law for a violation of it.

For instance, the owner or master of a ship may consider that if he brings skilled laborers to this country they are not included in this general term "laborers," and he becomes amenable to the penalties of this bill for acting upon his construction if he does so. So of custom-house officers or others who aid and abet the landing of persons who are obnoxious to the provisions of this treaty. While they might claim that they were acting under the idea that skilled laborers were not included in the term "laborers," putting their own construction upon the act, they might be subsequently held to the penalties provided in this bill for a violation of its provisions. I think, therefore, that it is eminently proper that in this bill, as it is to be executed by other parties before the action of the courts in the construction of this measure, we should advertise them at once what is meant and intended to be included in the terms employed in this legislation.

So I think it is not only right that we should do it, but it is proper and just to the men who will fall under the penalties of this law for a violation of it unless such a construction may be put upon it. I shall vote for it in the interest of such parties, not believing that it violates the provisions or intent of the general term, and I shall vote for it because I think it is in the interest of ship-owners and ship-masters and custom-house officers and others who will have to superintend the execution of this law, so that they shall be plainly instructed as to what is the intention of the act.

Mr. MORGAN obtained the floor.

Mr. PLUMB. Will the Senator from Alabama yield a moment until I present a conference report?

Mr. MORGAN. Yes.

Mr. PLUMB. I move, then, with the consent of the Senate, that the present order of business be laid aside.

Mr. HOAR. That is not necessary; a conference report is privileged.

Mr. PLUMB. There are some reasons why this report should be considered this evening if possible, which concern the convenience of the other branch of Congress.

The PRESIDENT *pro tempore*. It is a privileged question. The report will be received.

THE POST-OFFICE APPROPRIATION BILL.

Mr. PLUMB. I present the report of the conference committee on the Post-Office appropriation bill, and ask to have it read.

The Acting Secretary read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:
>
> That the Senate recede from its amendments numbered 2, 6, 11, 18, and 20.
>
> That the House recede from its disagreement to the amendments of the Senate numbered 1, 14, 16, and 19, and agree to the same.
>
> Amendment numbered 15:
>
> That the House recede from its disagreement to the amendment of the Senate numbered 15 and agree to the same with an amendment, as follows: Strike out all of said amendment and insert in lieu thereof the following: "For necessary and special facilities on trunk lines, $600,000; said facilities to be extended as far as practicable to the principal cities of the United States;" and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: Add at the end of the amended paragraph the following: "And the Postmaster-General is authorized to designate postmasters at Presidential post-offices as disbursing officers for the payment of the salaries of the officers and employés of the postal service concerned in the transportation of mails or in their distribution in transit, and for such other payments as they are now authorized to make from postal revenues;" and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same, with an amendment, as follows: In lieu of the sum proposed, insert "$1,902,177.90;" and the Senate agree to the same.

P. B. PLUMB,
W. B. ALLISON,
J. B. BECK,
Managers on the part of the Senate.

L. B. CASWELL,
J. G. CANNON,
E. JNO. ELLIS,
Managers on the part of the House.

Mr. PLUMB. I will briefly explain the provisions of the bill as now reported as compared with those as passed by the Senate.

The first amendment which was the subject of controversy was in regard to advertising in the District of Columbia. After consultation it was thought inadvisable to act on that question on an appropriation bill, as it seemed to present some matters of importance with regard to other localities as well, and it was not found practicable to meet the views of the Senate committee upon the question of local advertising without entering upon these other questions which are of larger scope. The Senate therefore recede from that amendment.

It also recedes from an item of $10,000 which was added to miscellaneous and incidental expenses of the office of the First Assistant Postmaster-General.

It recedes from an item in regard to contracts. The Senate provided by amendment that the Postmaster-General, as to contracts hereafter made, might in case the contractor sublet his contract declare the contract off and enter into a contract with the sub-contractor. The Senate recedes so far as that applies these provisions to contracts hereafter to be made, and does that in view of the fact that the amendment of the Senate, leaving the discretion with the Postmaster-General to do this whenever he sees that the interests of the service may require it, is agreed to by the House.

The next difference was in regard to the necessary and special mail facilities. The Senate added to the sum provided for by the House $150,000, making a total of $650,000. The House conferees have agreed to the sum of $600,000, with a change of the provision of the Senate amendment in regard to the distribution of that fund. The Postmaster-General seemed to think that under such construction of the language of the Senate amendment as he would be obliged to give he would not have authority necessarily to make such distribution of this fund as would make continuous service throughout the country, but would perhaps be liable to break up the continuity of the service, and therefore destroy measurably its efficiency. For the purpose of meeting that objection the conference agreed upon the following phraseology:

For necessary and special facilities on trunk lines, $600,000; said facilities to be extended, as far as practicable, to the principal cities of the United States.

After conference with the Postmaster-General, and very extended conference in committee, it was believed that this language would as fully accomplish the purpose had in view as that originally agreed upon by the Senate.

Mr. INGALLS. How much does that enlarge the amount provided for in the House bill?

Mr. PLUMB. It enlarges the amount provided by the House bill $100,000. It adds to the sum appropriated for this purpose last year $175,000, the amount last year being $425,000.

Mr. BECK. It reduces the amount agreed on by the Senate $50,000.

Mr. PLUMB. It diminishes the amount voted by the Senate $50,000.

Mr. BECK. And on the positive assurance that that was all that could be carried at the other end, we thought it better to do it.

Mr. DAVIS, of West Virginia. I understand the Senator to say that the amount appropriated last year was $425,000.

Mr. PLUMB. Yes, sir.

Mr. DAVIS, of West Virginia. My understanding was that it was $500,000.

Mr. PLUMB. No, $425,000.

Mr. DAVIS, of West Virginia. It was stated here in debate, and I believe it to be a fact, that probably fully two-thirds of the sum that has heretofore been appropriated for fast-mail service has gone to the city of New York, and that all the rest of the country gets but one-fourth. I ask my colleague on the committee whether the Postmaster-General or the superintendent of the railway mail service made an explanation of why it was that such a large proportion of the sum appropriated for the purpose of hastening the mails should be given to one city? I understand it to be a fact that there is a train leaving New York and supplying the entire Southwest, going by way of Philadelphia, Baltimore, Washington, and thence to Cincinnati, Saint Louis, Louisville, Indianapolis, and all the Southwestern country, by which the mail can be actually carried several hours quicker than by the train receiving expedited pay. The train of which I speak gets no aid whatever from the Government, while other trains get probably from fifty to eighty thousand dollars for the purpose of hurrying the mail service to those very points. Was that fact, if it be a fact, discussed in committee with the Postmaster-General and the gentleman who has charge of the railway mail service?

Mr. PLUMB. The relative speed and time of trains between New York and Cincinnati over the Pennsylvania road and over the Baltimore and Ohio road was discussed before the committee. It was not developed, I think, that the Baltimore and Ohio trains made the trip to Cincinnati in less time than that made on what is known as the expedited trains of the Pennsylvania Railroad Company. The Pennsylvania Railroad expedited trains made the time between New York and Cincinnati about two hours less than the ordinary time of the Baltimore and Ohio trains, and that point of expedition enabled the mail so carried from New York to Cincinnati to be taken on board the Cincinnati Southern and its connections with the Louisville and Nashville, which would not have been the case if it was carried over the Baltimore and Ohio, though the time was only two hours different.

So far as the expenditure of this sum of money for the benefit of New York City is concerned, without responding directly to the question in that form, I will say that the theory upon which this money has been spent heretofore has been that there should be an initial point, a point from which the service should commence, and from which it should be extended to such portions of the country as could be reached with the money in hand. New York was deemed to be the proper place for that initial point. You must start somewhere. Naturally the expedited service would start from the sea-coast; naturally also, it would start from the principal city on the sea-coast, and there is no question about New York being that place. The question as to whether it should be extended from there up to Springfield, in Massachusetts, or some other point, was incidentally discussed, but the general fact that New York is the proper initial point is not, I think, seriously denied. The question as to the lines of railroad that should be employed to render this service leading out of New York City is another question, and as to that necessarily discretion must be vested in the Postmaster-General.

Mr. MAXEY. I ask the Senator from Kansas if the use of the words of the conference committee, that the Postmaster-General is to fairly distribute the service as far as practicable to different cities, is the slightest restriction on him; whether that will cause him to change his present system of distributing the main portion of this appropriation to the city of New York and routes from that city? In other words, can we get any benefit at all out of the $600,000 according to the wording of the amendment as reported by the committee of conference?

Mr. PLUMB. Under any form of words that may be employed the law gives certain discretion to the Postmaster-General. It is impossible to prescribe it with any reasonable certainty by any form of words that can be devised in the law. We discussed, however, with the Postmaster-General the question of the proper distribution of this money, and we believe that this result which I will mention will be obtained. We believe the time between New York City and San Francisco will be shortened practically two days; that, of course, the intermediate points will gain proportionately; that the region of country of which Saint Paul is the capital will receive a corresponding benefit; that the mail will be carried to Saint Louis on a faster schedule than at present, and that it will be carried from Saint Louis to Kansas City in such a way that the present time between New York and Kansas City will be shortened twelve hours; that that shortening of the time will also be at least that much gained by Denison, and consequently connecting points in Northern Texas; that the benefit of this service will be extended to New Orleans by some connection from the existing expedited line which is now what is called the Atlantic Coast Line, extending from New York by way of Baltimore, Washington, Richmond, Fredericksburgh, Weldon, and so on, to Savannah, we suppose; and that from some point on that line service will be extended by way of Atlanta to New Orleans, and that either from Atlanta or from some other point which will be most available for that purpose the line will be extended from Cincinnati in such a way that the South will have the benefit, not only of the Atlantic Coast Line but of connection with that line to New Orleans, and a connection between Cincinnati and that New Orleans line. That, as we believe, will be about the result to be obtained by the expenditure of this $600,000. Of course, as the cost of this service is to be determined by negotiation between the Department and the railroad companies, this cannot be precisely known, but this is what we expect, and what the committee have reason to believe will be accomplished.

Mr. DAVIS, of West Virginia. I am not quite satisfied that the amount of money appropriated by this bill as now reported is going to be equally and equitably distributed. I believe that there should be a fair distribution of it. The merchants and the commercial men of the city of Baltimore, for instance, ought to have, as they help to pay the taxes, an equal distribution with other cities. Take a merchant in New York and a merchant in Baltimore, Baltimore being the nearest seaport to the southwest, what is the result? The Government pays for the transportation of the mail out of the city of New York in different directions, aiding that city to overcome the difference in distance of which other cities nearer to the producer

should have the advantage. For instance, a train leaves New York, as I have said, to-night at seven o'clock, by the way of Philadelphia, Baltimore, and Washington, for the West. That train, I understand, is probably quicker than any other train that goes to the Southwest, and yet no encouragement is given it whatever. A train starts at the same hour, probably, from New York, but goes by another route, by none of these cities, by the lake route, entirely away from any of the commercial seaports, and $100,000 or thereabouts is given it for quick passage. Is that right? Is that just? Ought it to be?

I believe it would be far better and fairer for the whole country if there was nothing paid whatever, if the whole amount was stricken out, or a fair and equal distribution made among all the people, and not confine it to one special place. For instance, I have in my hand a report from the Department which shows that between New York and Springfield $17,674 is paid for a fast-mail train; again, from New York to Buffalo $40,000; from New York to Chicago $38,000, and so on. I might go on and show that the great bulk of it is for lines from New York and the entire Southwest is entirely neglected. I think it would be to the advantage of the whole country to-day if the entire amount was dropped, and not tax all the people to keep up commercial facilities for a part. New York is a large city entitled to a share, but because she is large and wealthy and powerful is that any reason why the smaller cities should be taxed for her benefit? Is that any reason why the two hundred or three hundred miles she is further off from Cincinnati or the Southwest should be overcome by the payment of money from the people's pockets? It is not right in principle, and it ought not to be tolerated.

I am not on this sub-committee, and I ask my colleague upon the Committee on Appropriations whether or not in the discussion with the Postmaster-General the subject came up generally, and whether or not he intimated or the committee had good reason to believe that a more just and equitable division of this $600,000 would be made?

Mr. PLUMB. The committee do believe that under the expenditure of this sum of $600,000 provided for in the bill as it now stands there will be very much less cause of complaint in the direction the Senator has indicated than heretofore, if that objection is not wholly removed. The seventeenth amendment——

Mr. HARRIS. Before the Senator leaves that point, I should like to inquire if he has reason to believe from the discussion with the conferees of the House that an agreement could be reached if the Senate conferees should propose to strike out that whole appropriation of $600,000, and obviate the whole question by striking it out? That would be equal to all sections.

Mr. PLUMB. I will say in reply to the Senator from Tennessee, that the Senate conferees tendered that proposition to the House conferees, and it was declined. When we doubted our ability to agree upon the amount and the distribution, we fell back upon that as perhaps our first choice; at all events, as something we were willing to do; but that was declined.

Mr. DAVIS, of West Virginia. I ask the Senator whether or not it appeared that the Government was under obligations to continue this fast-mail service with these favored railroad companies longer than the present year?

Mr. PLUMB. Not at all.

Mr. DAVIS, of West Virginia. And whether it reaches into another year; in other words, whether the Government is under contract for any particular time?

Mr. PLUMB. The Government is under contract for no particular time, and can stop it to-morrow, can stop the whole service to-morrow.

Mr. DAVIS, of West Virginia. Then I am inclined to believe it would be better to let the Senate vote on whether or not that whole amount ought not to be stricken out and let the mails of the whole country stand equally and without preference to any particular section. I am very much that way inclined. Unless the Senators who have been specially charged with this bill, with which I do not wish to interfere, believe it better not to do that, I think we had better try that. I shall be glad to hear from the gentlemen who have had the bill in charge on that point.

Mr. PLUMB. I want to call attention to the fact that the other amendments are formal except as to the franking privilege.

Mr. DAVIS, of West Virginia. I understand if we vote down the conference committee's report it will be understood what it is upon, and it will go back to the conference committee with a full understanding in that respect.

Mr. PLUMB. Mr. President——

Mr. BUTLER. Will the Senator from Kansas yield for an adjournment?

Mr PLUMB. It is important that this report should be disposed of this evening one way or the other.

Mr. BUTLER. It is almost five o'clock.

Mr. PLUMB. The next important amendment, and the only one that remained to be considered, was that which the Senate put on this bill restoring the franking privilege. From that the Senate conferees recede.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference.

The report was concurred in, there being on a division—ayes 28, noes 21.

Mr. BUTLER. I move that the Senate adjourn.

The motion was agreed to; and (at four o'clock and fifty-eight minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 27, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

DANGER SIGNALS.

Mr. CRAPO. Mr. Speaker, I ask by unanimous consent that the House Calendar be discharged from the further consideration of the bill (H. R. No. 707) to amend section 4233 of the Revised Statutes of the United States, in relation to danger signals; and that it be passed as proposed to be amended.

The bill, as proposed to be amended, was read, as follows:

That three commissioned officers of the Navy, to be appointed by the Secretary of the Navy, one of whom is to be the chief executive officer of the board herein specified, and two officers from the Revenue Marine Service of the United States, to be appointed by the Secretary of the Treasury, be, and are hereby, created and constituted a board by the name of the marine signal board of the United States.

SEC. 2. That said board is hereby authorized to draft, prescribe, and adopt, subject to the approval of the President of the United States, a code and system of marine light and fog signals and regulations, and from time to time to improve and change the same.

SEC. 3. That upon the adoption and approval of a code and system of signals and regulations as aforesaid, the clauses marked "A," "B," and "C," respectively, in rule 15 of section 4233 of the Revised Statutes of the United States, shall thereupon and thereby be and become repealed and the following substituted therefor:

"(A) Steam and sail vessels under way shall sound a steam-whistle or fog-horn or ring a bell in execution of and conformity to such code and system of signals and regulations, and by means of such apparatus as said board may adopt.

"(B) Sail and steam vessels not under way shall ring a bell or sound a steam-whistle or fog-horn in execution of and conformity to such code and system of signals and regulations, and by means of such apparatus as said board may adopt."

SEC. 4. That any statute of the United States in conflict herewith be, and the same is hereby, repealed; and that this act shall take effect upon its passage.

Mr. CRAPO. One word of explanation to show the urgency and importance of the passage of this bill.

Mr. RANDALL. Reserving the right to object.

Mr. CRAPO. Allow me a word of explanation.

Mr. RANDALL. Certainly; we want to know primarily whether this bill has been referred to the Committee on Commerce.

Mr. GUENTHER. Mr. Speaker, I will state to the gentleman from Pennsylvania that as chairman of the sub-committee of the Committee on Commerce, to which this bill was referred, I was instructed to report it back to the House as amended with a favorable recommendation. It was submitted to the Secretary of the Navy, and he, as well as the Chief of the Bureau of Navigation, heartily and unqualifiedly indorses it. This amended bill was also referred by the committee of the Senate to the Secretary of the Treasury, and he approved it in even stronger language. In addition to all this the President of the United States last week transmitted to the Senate a message, in which he calls attention to subject-matter; that is, to the prevention of collisions at sea, and urges the speedy passage of an adequate remedial measure.

Mr. HOLMAN. I ask the bill be again read, as it was not distinctly heard in this part of the Hall.

Mr. RANDALL. Is there a report accompanying this bill? If there is, it had better be read.

Mr. CRAPO. I think I can state in a word enough to satisfy the House of the importance of passing this bill. The maritime powers of Europe, in connection with some of those of South America, have united in the adoption of an international code with reference to fog and danger signals at sea. That code is in conflict with the regulations of the United States statutes upon the same subject. The result of this is that if two vessels approach each other in a fog at sea, one an American and the other a foreign vessel, the American ship, as in duty bound, obeys the regulations contained in the United States statutes with reference to cautionary signals at sea, or otherwise would incur the penalties provided by the statutes. The foreign vessel follows the international code which has been adopted as I have stated by all the maritime powers of Europe. The result is that if a collision occurs and a question of liability is raised in the courts and adjudicated by a foreign admiralty court, the American vessel is found to be in fault simply because her commander follows the United States statute as in duty bound, and not the international code. Now this bill provides that we shall take steps to bring our code into harmony with the international code, not by adopting that directly but by appointing a board of officers to examine into the question and make a report to the President upon the subject. That is all this bill provides, and it is a matter which, as I have said, demands immediate consideration.

Mr. HOLMAN. Why not make this a permanent board?

Mr. CRAPO. It is, as the language of the first section of the bill indicates, a continuing board, but without additional compensation. It is simply a board authorized to examine into the question and report to the President their conclusions in reference to this system of danger signals.

Mr. HOLMAN. It would seem very appropriate that this should be a permanent board, so that the signals adopted by the other governments by general consent shall be followed by ours. I did not clearly understand this provision of the bill from the reading of it, as it was imperfectly heard here. I therefore ask that it may be read again, so that we may understand it.

The bill was again read.

Mr. CRAPO. It will be seen that this provides simply for a board of three commissioned officers of the Navy and two officers of the Revenue Marine to examine into the subject.

Mr. RANDALL. This seems to be, by the language of the bill, a permanent board, and perhaps it is proper; but I would like to ask the gentleman whether any provision is made for increased pay of those commissioned officers of the Navy who are to serve upon it?

Mr. CRAPO. There is no increased compensation at all in the bill.

Mr. TOWNSHEND, of Illinois. I was not present when this subject came up, and desire to ask the gentleman from Massachusetts what committee reports this?

Mr. CRAPO. It comes from the Committee on Commerce.

Mr. TOWNSHEND, of Illinois. Is it the unanimous report of the committee?

Mr. CRAPO. It is the unanimous report of the committee. It is also recommended by the Secretary of the Treasury, the Secretary of the Navy, and the Secretary of State. There is also a special message from the President before Congress in reference to the subject. I ask the passage of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CRAPO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PORT OF NEW ORLEANS.

Mr. GIBSON. I ask unanimous consent to take from the House Calendar the bill (H. R. No. 570) to extend the limits of the port of New Orleans, and that it be put upon its passage.

The SPEAKER. The bill will be read, subject to objection.

The Clerk read as follows:

Be it enacted, &c., That the port of New Orleans is hereby extended to embrace all that part of the left bank of the Mississippi River within the corporate limits of the city of New Orleans, and to include a frontage and area on the right bank of the Mississippi River as great as that hereby given to it on the left bank, so that the said port of New Orleans shall embrace an equal front and area on both sides of the Mississippi River.

SEC. 2. That it shall be lawful for the Secretary of the Treasury, under such rules and regulations as he shall prescribe, to permit goods and merchandise and all imported commodities to be unladen on the right bank of the Mississippi River at the port of New Orleans.

Amend the title so as to read: "A bill to extend the limits of the port of New Orleans."

Mr. GIBSON. This is the bill as amended by the committee. It makes no appropriation.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GIBSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTRIC LIGHT AT HELL GATE.

Mr. RICHARDSON, of New York, by unanimous consent, from the Committee on Commerce, reported back with favorable recommendation the bill (H. R. No. 2407) making an appropriation for the erection of one or more electric lights at Hell Gate, New York; which, with the accompanying report, was ordered to be printed, and referred to the Committee on Appropriations.

REAR-ADMIRAL ROGER N. STEMBEL.

Mr. TALBOTT. I ask unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill (H. R. No. 5387) providing for the pay of Rear-Admiral Roger N. Stembel, and that the same be put upon its passage.

The SPEAKER. The bill will be read, subject to objection.

The bill was read, as follows:

Be it enacted, &c., That Rear-Admiral Roger N. Stembel, United States Navy, be paid, out of any unexpended moneys in the Treasury, the pay and compensation of a rear-admiral on the retired list from and after June 5, 1874, that being the date of his promotion to the retired list as a rear-admiral.

Mr. RANDALL. Is that bill retroactive in its provision for this payment?

Mr. SPARKS. It provides for payment from the date of his present commission and is eminently just. This brave old officer entered the Navy over half a century ago; has faithfully discharged every duty. During the late war he was so terribly wounded that his recovery was regarded as almost a miracle. He is still suffering from the effects of his wound and can never hope for complete and final relief. There ought to be no objection to the passage of the bill.

Mr. TALBOTT. It fixes the pay only from the date of the commission. He has held the rank without pay, and this provides that his pay shall commence from the date of his promotion.

Mr. HOLMAN. Let the report in this case be printed in the RECORD, to show the ground of our action here to-day.

The report is as follows:

The Committee on Naval Affairs, to whom was referred the memorial of Rear-Admiral R. N. Stembel praying to be allowed the pay of rear-admiral from the date of his promotion from the rank of commodore, having considered the same, respectfully report as follows:

Rear-Admiral Stembel entered the Navy of the United States as a midshipman March 27, 1832; and honorably, and with great credit to himself and country, passed through the various lesser grades of the service up to 1870, when he was promoted to and duly commissioned commodore. In 1871 he was ordered to and commanded, respectively, the north and south squadrons of the Pacific fleets; and subsequently, by order of the Navy Department, commanded the entire naval forces on the Pacific station; thus, as commodore, maintaining all the responsibilities and performing all the duties of a rear-admiral afloat.

Having arrived at the age of sixty-two years, under the compulsory retirement act of the Navy he was retired from active service with the rank and pay of commodore; and subsequently, on the 5th day of June, 1874, under the act of Congress approved July, 1866, he was promoted to and commissioned rear-admiral on the retired list; but which commission did not carry with it the pay of the grade to which, under the law, he was thus promoted.

The case of Admiral Stembel is peculiar and exceptional in this, that while for half a century he has most efficiently and gallantly filled all the grades in the Navy from midshipman to and including that of rear-admiral, without a single charge or breath of suspicion against him or his acts as an officer, but, on the contrary, has received the constant commendation of his superiors in command for meritorious conduct, he now finds himself a commissioned rear-admiral on the retired list, drawing only the retired pay of a commodore, while his comrades of the same service, whose sacrifices have none been greater and many less, and with the same rank as himself, drawing the retired pay of rear-admiral.

This, your committee think, is a hardship to him and an inconsistency in the service which demands correction.

An additional reason for granting relief in this case is that, on the 10th of May, 1862, Admiral Stembel was fearfully and almost mortally wounded while commanding the United States gunboat Cincinnati in an engagement with a fleet of confederate rams near Fort Pillow, on the Mississippi River, from the effects of which wound he was for many months confined to his apartments, subjected to heavy personal expense and intense suffering, and from which he is still a sufferer and at his time of life can have no hope of final recovery.

In the official report of the above action he was commended by the chief commander, the late Rear-Admiral C. H. Davis, United States Navy, as having specially distinguished himself by exceptional skill and gallantry displayed on that occasion, as he was also alike commended by the late Rear-Admiral A. H. Foote, United States Navy, as appears in extracts from letters accompanying his memorial.

In view of which your committee recommend the passage of the accompanying bill.

Mr. TALBOTT. I ask that the bill be passed.

The bill was ordered to be engrossed for a third reading; and, being engrossed, was read the third time, and passed.

Mr. TALBOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS' MONUMENT AT PORTSMOUTH, OHIO.

Mr. NEAL. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. No. 1598) to authorize the Secretary of War to donate to the Ladies' Soldiers' Monument Society of Portsmouth, Ohio, four condemned cannon. A bill identical with this has been unanimously reported by the Committee on Military Affairs of the House.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby authorized to donate to the Ladies' Soldiers' Monument Society of Portsmouth, Ohio, four condemned cast-iron cannon.

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

Mr. NEAL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS J. WHARTON.

Mr. HOOKER. I ask unanimous consent to take from the Private Calendar for present consideration the bill (H. R. No. 869) for the relief of Thomas J. Wharton.

The bill was read, as follows:

Be it enacted, &c., That the sum of $250 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the benefit of Thomas J. Wharton, of Jackson, Mississippi, as compensation for certain professional services rendered by said Wharton in the southern district of Mississippi, under appointment of the then district attorney of the United States for the southern district of Mississippi, in accordance with the statute in such case made and provided.

SEC. 2. That this act be in force from and after its passage.

Mr. HOLMAN. Does this bill come from a committee?

Mr. HOOKER. Yes, sir; it is reported by the Committee on Claims. It has been eight times reported favorably to the House.

There being no objection, the Committee of the Whole House was discharged from the further consideration of the bill, and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOOKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISCRIMINATING DUTIES.

Mr. KELLEY. I am instructed by the Committee on Ways and Means to report back the bill (H. R. No. 4680) to repeal discriminating duties on tea and coffee, the products of the possessions of the Netherlands, with amendments by the Senate, and to move that the Senate amendments be concurred in.

The Senate amendments were read, as follows:

Strike out all after the enacting clause, and insert:

"That section 2501 of the Revised Statutes of the United States, which reads as follows: 'There shall be levied, collected, and paid on all goods, wares, and merchandise of the growth or produce of the countries east of the Cape of Good Hope,

(except wool, raw cotton, and raw silk as reeled from the cocoon, or not further advanced than tram, thrown, or organzine,) when imported from places west of the Cape of Good Hope, a duty of 10 per cent. ad valorem in addition to the duties imposed on any such article when imported directly from the place or places of their growth or production," be, and the same is hereby, repealed, from and after the 1st day of January, 1883."

Strike out the preamble.

Amend the title so as to read: "A bill to repeal section 2501 of the Revised Statutes relating to discriminating duties on productions of countries east of the Cape of Good Hope."

The SPEAKER. Is there objection to the present consideration of these amendments?

Mr. HUTCHINS. I would like to ask the chairman of the Committee on Ways and Means whether the amendment which has been read has been made by the concurrence of the parties interested having large stocks of goods on hand.

Mr. KELLEY. I will give the history briefly of the matter. Under communications from the State Department the Committee on Ways and Means reported a bill to execute our treaty provisions. That bill went to the Senate, and after deliberation and consultation with parties in interest it was amended. The Committee on Ways and Means have fully considered the bill and unanimously recommend concurrence. But before reporting we took measures, through the gentleman from Massachusetts [Mr. CANDLER] and others, to ascertain from parties holding large stocks of goods to be affected by this repeal as to the propriety of the act, and they all concur in saying that by postponing its effect to the time named in the bill no harm can arise to any one.

The amendments of the Senate were concurred in.

Mr. KELLEY moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

P. F. LONERGAN.

Mr. BUCKNER. I ask unanimous consent to take from the Private Calendar for present consideration the bill (H. R. No. 4704) for the relief of P. F. Lonergan.

Mr. SINGLETON, of Illinois. I object.

HOUSE FOLDING-ROOM.

Mr. HAWK. I desire to submit a resolution of inquiry as to the House folding-room.

Mr. SINGLETON, of Illinois. I object.

Mr. HAWK. I hope my colleague will not object to this. It is in the interest of humanity.

Mr. SINGLETON, of Illinois. I have tried for the last six months to get recognition here, and have not been able to get it.

Mr. HAWK. This is a resolution concerning the employés in the House folding-room.

Mr. SINGLETON, of Illinois. I am sorry to object, but I must insist on my objection.

Mr. HOLMAN. I call for the regular order.

LIFE-SAVING SERVICE.

Mr. TOWNSEND, of Ohio. I desire to make a privileged report. I present a report of a committee of conference, which I send to the desk.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1049) to promote the efficiency of the Life-Saving Service, and to encourage the saving of life from shipwreck, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment numbered 2, to insert after the word "Carolina," on line 25 of page 2, (printer's No., 6141,) the words "one at or near Fort Morgan, on the Bay of Mobile."

That the House recede from its disagreement to the amendments of the Senate numbered—

1. To insert, on line 16 of page 2, after the word "Massachusetts," the words "at or near Brenton's Point or Beaver Tail, Rhode Island;" and agree to the same.

3. To insert, after the word "Florida," on line 27, page 2, the words "and three life-saving stations on the Atlantic coast of Florida, one near Key West, one near Jupiter Inlet, one at or near Cape Canaveral, and one on the Gulf coast west of Apalachicola River;" and agree to the same with amendments striking from line 27 the word "three" and inserting the word "two;" inserting the word "and" after the words "Key West," on line 28, and striking from line 29 the words "one at or near Cape Canaveral;" and the Senate agree to the same.

4. To insert, on line 32, page 2, after the word "recommend," the words "a life-saving station at or near Tybee Island, at the port of Savannah, Georgia, one near Brunswick, one near Doboy, and one on or near Cumberland Island or Fernandina, near the line of Georgia and Florida, each of said four stations to be located at such point as the General Superintendent of the Life-Saving Service may select; three life-saving stations on the coast of South Carolina, to be located by the General Superintendent, near the ports of Georgetown, Charleston, and Beaufort;" and agree to the same with amendments striking out all the words of said amendment down to the word "life-saving," on lines 37 and 38, and inserting the word "two;" inserting the words "at or" before the word "near," on line 39; inserting the word "and" before the word "Charleston," on line 40; and striking from line 40 the words "and Beaufort;" and the Senate agree to the same.

5. To strike from line 9, page 4, the words "one thousand eight" and insert the word "fifteen;" and agree to the same.

6. To strike from line 12, page 4, the words "two thousand" and insert the words "one thousand five hundred;" and agree to the same.

7. To strike from line 15, page 4, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

8. To strike from line 18, page 4, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

9. To strike from line 21, page 4, the words "two thousand" and insert the words "fifteen hundred;" and agree to the same.

10. To strike from line 24, page 4, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

11. To strike from lines 27 and 28, page 5, the words "one thousand" and insert the words "and the coast of Georgia and South Carolina, twelve hundred;" and agree to the same.

12. To strike from lines 30 and 31, page 5, the words "one thousand eight" and insert the word "fifteen;" and agree to the same.

13. To strike from line 33, page 5, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

14. To strike from line 36, page 5, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

15. To strike from line 39, page 5, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

16. To add, after the words "per annum," on line 6, page 5, the words "and the Secretary of the Treasury is also authorized to fix the pay of the men employed at the different stations in proportion to the services rendered: *Provided*, The same shall not exceed $50 per month;" and agree to the same with amendments inserting the words "appoint and" before the word "fix," in line 2, page 5; inserting the word "all" before the word "stations," in line 3, page 5; and striking out the words "in proportion to the services rendered," in line 8, page 6; and the Senate agree to the same.

17. To insert the following section after section 6, page 6:

"SEC. 7. That if any keeper or member of a crew of a life-saving or life-boat station shall be so disabled by reason of any wound or injury received or disease contracted in the Life-Saving Service in the line of duty as to unfit him for the performance of duty, such disability to be determined in such manner as shall be prescribed in the regulations of the service, he shall be continued upon the rolls of the service and entitled to receive his full pay during the continuance of such disability, not to exceed the period of one year, unless the General Superintendent shall recommend, upon a statement of facts, the extension of the period through a portion or the whole of another year, and said recommendation receive the approval of the Secretary of the Treasury as just and reasonable; but in no case shall said disabled keeper or member of a crew be continued upon the rolls or receive pay for a longer period than two years;" and agree to the same.

18. To insert after section 7, on page 6, the following section:

"SEC. 8. That if any keeper or member of a crew of a life-saving or life-boat station shall hereafter die by reason of perilous service or any wound or injury received or disease contracted in the Life-Saving Service in the line of duty, leaving a widow, or a child or children under sixteen years of age, such widow and child or children shall be entitled to receive in equal portions during a period of two years, under such regulations as the Secretary of the Treasury may prescribe, the same amount, payable quarterly as far as practicable, that the husband or father would be entitled to receive as pay if he were alive and continued in the service: *Provided*, That if the widow shall remarry at any time during the said two years her portion of said amount shall cease to be paid to her from the date of her remarriage, but shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any; and if any child shall arrive at the age of sixteen years during the said two years the payment of the portion of such child shall cease to be paid to such child from the date on which such age shall be attained, but shall be added to the amount to be paid to the remaining beneficiaries, if there be any;" and agree to the same.

19. To strike from line 1, page 7, the word "seven" and insert the word "nine;" and agree to the same.

20. To strike from line 1, page 8, the word "eight" and insert the word "ten;" and agree to the same; and after the word "of," line 1, page 8, insert the words "district superintendents, inspectors and;" and agree to the same.

21. To strike from line 1, page 9, the word "nine," and insert the word "eleven;" and agree to the same.

AMOS TOWNSEND,
S. S. COX,
JOHN W. CANDLER,
Managers on the part of the House.
O. D. CONGER,
WM. P. FRYE,
J. R. McPHERSON,
Managers on the part of the Senate.

Mr. REAGAN. I want separate votes on the seventeenth and eighteenth amendments.

Mr. TOWNSEND, of Ohio. I now move the adoption of the report.

Mr. DUNNELL. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. DUNNELL. I do not know that I desire to insist upon the point of order, but I desire to call the attention of the House and of the gentleman having this bill in charge to some very novel features which appear in that report. From the reading of the report it would appear that entirely new sections had been inserted into the bill, and were not put in in lieu of what had been inserted by the Senate or in lieu of any matters in dispute between the House and the Senate. I do not understand that a committee of conference can insert new sections, unless they are inserted in lieu of some sections already in. There is a great deal of outright new legislation which has been brought into the bill by the committee of conference.

Mr. TOWNSEND, of Ohio. I beg your pardon.

Mr. DUNNELL. It seems to me that the gentleman from Ohio should explain this matter very fully.

Mr. TOWNSEND, of Ohio. I think I can explain it to the satisfaction of the gentleman.

Mr. DUNNELL. Section 6 seems to be an entirely new section.

Mr. TOWNSEND, of Ohio. If the gentleman from Minnesota [Mr. DUNNELL] will possess his soul in patience until the accompanying statement from the committee on conference has been read, he will find that the bill as it passed the House was amended in the Senate by the addition of those two sections to which he objects, and those sections were properly subjects of conference. I ask the Clerk to read the accompanying statement from the committee on conference.

Mr. DUNNELL. That has been read.

Mr. COX, of New York. Not the statement. I will say to the gentleman that the statement explains the effect of the amendments. The sections to which the gentleman refers were put on by the Senate.

Mr. REAGAN. I do not wish it to be understood that any point of order is waived.

The SPEAKER. The Clerk will read the accompanying statement.

The Clerk read as follows:

Detailed statement as to effect of amendments as agreed upon in conference report on H. R. No. 1049.

No. 1 adds one life-saving station at or near Brenton's Point or Beaver Tail, Rhode Island.

No. 2 strikes out the Senate addition of one life-saving station at or near Fort Morgan, Bay of Mobile.

No. 3 strikes out the Senate provision for one house of refuge at or near Cape Canaveral, Florida.

No. 4 strikes out the Senate provision for four life-saving stations at Tybee Island, Brunswick, Doboy, and Fernandina, respectively, near the line of Georgia and Florida, and one life-saving station at Beaufort, South Carolina.

Numbers 5, 6, 7, 8, 9, 10, 12, 13, 14, and 15 provide respectively for reductions in annual salaries of district superintendents, as follows: first district, from $1,800 to $1,500; second district, from $2,000 to $1,500; third district, from $2,500 to $1,800; fourth district, from $2,500 to $1,800; fifth district, from $2,000 to $1,500; sixth district, from $2,500 to $1,800; eighth district, from $1,800 to $1,500; ninth district, from $2,500 to $1,800; tenth district, from $2,500 to $1,800; eleventh district, from $2,500 to $1,800.

No. 11 increases the annual salary of the district superintendent of the seventh district from $1,000 to $1,200.

No. 16 places the appointment of keepers of all life-saving stations and houses of refuge with the Secretary of the Treasury, and authorizes him to fix the pay of station-keepers at a rate not exceeding $50 per month, leaving out the provision "in proportion to the services rendered."

No. 17 is an additional section placed on the bill by the Senate, which provides for the payment of one year's salary, under proper restrictions, to any person in the life-saving service who is disabled in the line of duty.

No. 18 is an additional section added to the bill by the Senate, which provides that in case of the death from injury received in the line of duty, the widow and children shall be paid two years' salary, quarterly, under proper safeguards.

Numbers 19 and 21 simply change the numbering of the sections.

No. 20 changes the number of the section, and provides that appointments of superintendents and inspectors, as well as others, shall be made with reference solely to fitness.

Mr. REAGAN. I must ask that the report of the committee on conference be referred to the Committee of the Whole House on the state of the Union. A new policy is indicated in two of the amendments of a very important character, and one which has never been submitted to the consideration of the House. I must ask that it go to the Committee of the Whole.

Mr. TOWNSEND, of Ohio. They are very simple and can easily be disposed of.

The SPEAKER. The Chair does not understand fully the point made by the gentleman from Texas.

Mr. REAGAN. I desire that this report be considered in Committee of the Whole.

The SPEAKER. Under what rule? This is a conference report.

Mr. REAGAN. I know it is, and I understand it must be adopted or rejected as a whole. I want two of the amendments considered thoroughly, which have never yet been considered by this House. I do not know the rule exactly upon the point, but I was under the impression that on objection being made the conference report had to go to the Committee of the Whole.

The SPEAKER. The Chair does not think that a point of order would lie against a conference report so as to require it to be considered in Committee of the Whole House on the state of the Union.

Mr. RANDALL. It is important, however, in view of the statement the gentleman from Texas makes, that it should be sustained by the record or contradicted in some way. The gentleman from Texas states that there is in this conference report some matter which neither House of Congress inserted.

Mr. REAGAN. Oh, no.

Mr. TOWNSEND, of Ohio. That is a mistake.

Mr. REAGAN. I said there were two amendments which were new measures of legislation, about pensioning these persons, which measures have never been considered by this House.

Mr. RANDALL. By this House?

Mr. REAGAN. They have never been considered by this House. If there is no other way to reach it I desire to ask the House not to adopt the report.

Mr. RANDALL. You must adopt it or reject it.

Mr. TOWNSEND, of Ohio. I desire to move the previous question on the adoption of the report.

The SPEAKER. The gentleman from Ohio [Mr. TOWNSEND] is recognized in charge of the report; but the Chair will hear the gentleman from Texas on a point of order.

Mr. TOWNSEND, of Ohio. I demand the previous question.

Mr. REAGAN. The gentleman has not the floor for that purpose.

The SPEAKER. The gentleman from Texas makes the point of order that the report must be first considered in Committee of the Whole.

Mr. REAGAN. That having been disposed of, I was proceeding to state my objection to the report——

Mr. TOWNSEND, of Ohio. I do not yield the floor for any such purpose.

The SPEAKER. The gentleman from Texas was recognized to make a point of order; but beyond that the gentleman did not have the floor.

Mr. REAGAN. That is a curious way of doing things.

The SPEAKER. The gentleman from Texas was recognized to make a point of order.

Mr. REAGAN. The gentleman from Ohio [Mr. TOWNSEND] had the floor but made no motion. I made a point of order which was overruled, and then I was proceeding to state my reasons——

The SPEAKER. But the gentleman from Texas was not recognized except on a point of order. The gentleman cannot in that way take from the floor the one in charge of the report. The gentleman from Ohio had the floor and called for the reading of the accompanying statement. The Chair hopes that the gentleman from Ohio will yield to the gentleman from Texas to make his statement.

Mr. TOWNSEND, of Ohio. I shall be glad to yield to the gentleman from Texas [Mr. REAGAN] at the proper time to make such arguments or suggestions as he may deem proper. But at this stage of the proceedings I move the adoption of the report, and on that motion call the previous question.

Mr. REAGAN. Does the gentleman propose to let me have the floor after the bill is passed? [Laughter.]

Mr. RANDALL. I ask for the reading of that portion of this report which in effect creates a civil pension list.

The SPEAKER. The report has been read.

Mr. COX, of New York. I do not want the statement of the gentleman from Pennsylvania [Mr. RANDALL] to go out without correction to create a wrong impression in regard to these two amendments.

Mr. RANDALL. The gentleman from New York may correct me whenever I am wrong, and I will accept the correction and admit my mistake; but in this instance I do not happen to be wrong.

Mr. COX, of New York. I corrected the gentleman a moment ago privately; and I thought he understood this matter. These two sections were prepared by the committee of conference and were adopted by the Senate. The gentleman from Texas [Mr. REAGAN] wishes to address the House on this subject, and I have no doubt he will get an opportunity——

Mr. REAGAN. When?

Mr. COX, of New York. And so will my friend from Pennsylvania.

Mr. RANDALL. The gentleman from New York has no right to stand up here and say that he proposes to correct a false impression which I have made. I only ask that this part of the report may be read, because I am credibly informed that these amendments do inaugurate a civil-pension list.

Mr. COX, of New York. Now, Mr. Speaker——

Mr. RANDALL. The report will show whether I am correct; it is not necessary for us to take the word of the gentleman from New York or anybody else on this point.

Mr. COX, of New York. I do not propose to get into an irascible condition——

Mr. RANDALL. I am calm as a May morning.

Mr. COX, of New York. I would like my friend to be calm on a matter of this kind. I can explain it in three words. There may be a difference of opinion. I am glad to see my friend from Pennsylvania smiling.

The SPEAKER. The Chair will direct the Clerk to read the portion of the report indicated by the gentleman from Pennsylvania.

The Clerk read as follows:

Insert the following as new sections:

"SEC. 7. That if any keeper or member of a crew of a life-saving or life-boat station shall be so disabled by reason of any wound or injury received or disease contracted in the Life-Saving Service in the line of duty as to unfit him for the performance of duty, such disability to be determined in such manner as shall be prescribed in the regulations of the service, he shall be continued upon the rolls of the service and entitled to receive his full pay during the continuance of such disability, not to exceed the period of one year, unless the General Superintendent shall recommend upon a statement of facts the extension of the period through a portion or the whole of another year, and said recommendation receive the approval of the Secretary of the Treasury as just and reasonable; but in no case shall said disabled keeper or member of a crew be continued upon the rolls or receive pay for a longer period than two years.

"SEC. 8. That if any keeper or member of a crew of a life-saving or life-boat station shall hereafter die by reason of perilous service or any wound or injury received or disease contracted in the Life-Saving Service in the line of duty, leaving a widow, or a child or children under sixteen years of age, such widow and child or children shall be entitled to receive, in equal portions, during a period of two years, under such regulations as the Secretary of the Treasury may prescribe, the same amount payable quarterly, as far as practicable, that the husband or father would be entitled to receive as pay if he were alive and continued in the service: *Provided*, That if the widow shall remarry at any time during the said two years her portion of said amount shall cease to be paid to her from the date of her remarriage, but shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any; and if any child shall arrive at the age of sixteen years during the said two years the payment of the portion of such child shall cease to be paid to such child from the date on which such age shall be attained, but shall be added to the amount to be paid to the remaining beneficiaries, if there be any."

Mr. TOWNSEND, of Ohio. Mr. Speaker, I now withdraw the demand for the previous question, in order to give my friend from Texas [Mr. REAGAN] and other gentlemen who may desire it some little time for discussion. But before yielding, I wish to remark that these two sections were placed on the bill in the Senate with other amendments, and were in lieu of such a provision as was demanded from various parts of the country, a provision for pensioning persons disabled in this service and the families of those who may lose their lives in the service. It was thought wise to provide, as proposed in these two sections, that any one receiving permanent injury in the service should be entitled to have his pay continued for a period not exceeding two years, and that the family of any one losing his life in the service should be entitled under certain conditions, to be prescribed by the Secretary of the Treasury, to receive pay at the

regular rates which would have been received by him for not more than two years.

The committee of conference believed these provisions wise, and thought they would be satisfactory to the House. They still believe that upon a fair representation of the matter to the House they will meet its approval.

I now yield to the gentleman from Texas for ten minutes.

Mr. REAGAN. Mr. Speaker, I object to the adoption of the two sections which have been read because they are the inauguration of another class of pensioners, and because the principle upon which this is proposed to be done is not in my judgment justifiable under our system of government, or under any rule of right reason. We already have a large pension list. It includes in the first place those who have been wounded or disabled in the Army or Navy. This is in accordance with the ordinary custom of governments, and of course I have no objection to it. Those who have been disabled in the Army or Navy may rightly be pensioned by the Government upon a just principle of public policy. We have also another class of pensioners—retired officers of the Army or Navy, retired upon pay, not because they have been disabled in the service, but because they have reached a certain age after enjoying till that age the emoluments of a profitable office. This I think is wrong.

Now, it is proposed in this bill substantially to pension those who have been engaged in the Life-Saving Service. We have also before Congress, I believe, propositions to pension those engaged in the marine service, and as I am told by my friend from New York, [Mr. HITCHINS,] who sits near me, it is also proposed to pension members of the police force of the District of Columbia. Upon what principle can these things be justified? We give men positions of public employment; we provide a just and generally a liberal compensation for their services. Men are anxious to obtain this public employment because of its emoluments and perhaps its honors. Now when we have given persons the special advantage of profitable public employment is that to be made an argument for pensioning them upon the Government for the remainder of their lives? What higher claim, what better equity, have such persons than those who in the private walks of life are struggling to support themselves and their families? If in morals or reason there is a distinction, it is not in favor of the man who has had the benefit of public employment upon a liberal salary from the Government but is rather in favor of the distressed and the unfortunate in private life. In view of the numerous drafts upon the Treasury, in view of the burdens of taxation, it seems to me we should not recklessly create a new list of pensioners in violation of principle and of right, with no proper opportunity for the consideration of the question in the House.

It is inaugurating, as my friend suggests, a new policy on that subject. Besides, Mr. Speaker, there is a deeper and more important reason for not doing this. The whole theory of this Government is that there shall be no privileged class, that there shall be no special privileges granted to any particular class. Every time you create civil employments and give the e men in these civil employments emoluments which are to follow them by making provision for their future governmental support in case of disease or accident you go that far in the creation of a privileged class not based on any just public policy.

And in this case, sir, it discriminates in favor of the fortunate and against the unfortunate—not in favor of the unfortunate. You first give a man a civil employment. He seeks it anxiously to get its emoluments. If by accident he gets wounded or dies, this measure proposes to give a pension to him or to his family. Now, suppose the many railroad companies in this country, or the many navigation companies were required to pension the employés now in their service who get sick or die in that service, would any one contend that there was justice or reason in any such course? Yet here we are voting away the public money, of course gratifying to those who get it, but adopting a policy in reference to the Government which no man would assent to in reference to corporations or with reference to any private persons in the United States. I shall therefore, Mr. Speaker, ask the House to refuse to second the previous question, and to refuse to adopt this report of the committee of conference.

Mr. TOWNSEND, of Ohio. I yield now to the gentleman from New York.

Mr. COX, of New York. Mr. Speaker, there is no man in this House who more cordially agrees with the gentleman from Texas than myself on most matters. I desire to agree with him now. I agree with him that it is unwise to fix on our Government a civil list. I am not disposed to add to the roll or roster of civil pensioners. I have voted and spoken against that system, with reason and almost passion, from the beginning. In bringing, sir, this bill before this House I took care to separate the pension clauses from it. The pension portion I had referred to the Committee on Pensions. I did this with a heartfelt wish to disembarrass gentlemen like my friend from Texas. Therefore this bill appeared here and went to the Senate with no pension or even a remote suggestion of a pension clause on it.

The sections to which my friend objects are not pension clauses by any means. They are an avoidance of a pension. It is a persuasive and honest contract with the devotee to life-saving.

In obedience to the general call of the people all over the country these clauses are sent to us from the Senate. Chambers of Commerce from Boston to San Francisco, including Philadelphia and other places, ask for these clauses of generosity. Legislatures of States, including Kentucky and Illinois, west and east, on the coast, on the Gulf, the Atlantic and Pacific, ask for these clauses of kindness. In obedience to this call the Senate supplements my bill with something better than my poor thought.

While cutting down the salaries of the superintendents, which we raised here, the Senate provided that in case of disability and in case of death there should be some temporary pay for men who risk or give their lives to this service. The Senate says to the surfman who hazards his life for others, "If you go into the wild surf to save others at the risk of your life, your wife may be a widow, but the Government will be ever so thoughtful and just to her and hers." It is an incentive and a contract. It is no civil list, no pension, no bounty, no gratuity. It is a contract.

Why, sir, it only takes so much from, or rather adds so much to the pay; one year or more, and not more than two years, of those disabled in the service, and in case of death two years' full pay, to go to the survivors, the widow and children. What can be more gentle, just, and reasonable? Gentlemen say this is a sort of pension. It is a sort of pension. It is thoughtful, *pensée*. Philologically and otherwise it is a thought. In so far as it goes it gives the beneficiaries of this bill some pay; but does it not avoid the other and odious question of a civil list for fancied service which my friend from Texas justly opposes? I would like to say that there have been only twenty-four persons disabled and dead in this service from the beginning; only twenty-five. One would think from the stir just made that some hundreds of thousands were engaged in the struggles in the surf to aid and save human life. Oh, no. Here is the list which Judge Folger, a true friend of this service, sent to Speaker KEIFER on the 13th of February last. (Executive Document No. 74.) It is a short but heroic record:

List of persons who have died "by reason of any wound or injury received or disease contracted in the line of duty in the Life-Saving Service since the origin of the service," so far as shown by the records of the Treasury Department.

Date.	Name.	Grade.	Station.	District.
1876.				
Mar. 1	John R. Gale[1]	Keeper	No. 4	Sixth.
	Lemuel Griggs[1]	Surfman	No. 4	Sixth.
	Lewis White[1]	Surfman	No. 4	Sixth.
	Malachi Brunsey[1]	Surfman	No. 4	Sixth.
	Spencer D. Grey[1]	Surfman	No. 4	Sixth.
	J. Munden[1]	Surfman	No. 4	Sixth.
	George W. Wilson[1]	Volunteer	No. 4	Sixth.
1877.				
Jan. 5	John Parker[2]	Surfman	No. 16	Fourth.
Mar. 30	H. H. Nickerson[3]	Surfman	No. 14	Second.
1877.				
Nov. 25	J. J. Guthrie[4]	Superintendent		Sixth.
1880.				
Apr. 23	William J. Sayers[5]	Surfman	No. 2	Tenth.
	Robert Morrison[5]	Surfman	No. 2	Tenth.
	James Pottenger[5]	Surfman	No. 2	Tenth.
	Dennis Deegan[5]	Surfman	No. 2	Tenth.
	James Nantau[5]	Surfman	No. 2	Tenth.
	Walter Petherbridge[5]	Surfman	No. 2	Tenth.
Oct. 20	Joseph Sawyer[6]	Superintendent		Tenth.
	George Feaben[7]	Keeper	No. 8	Tenth.
Nov. 30	David H. Atkins[8]	Keeper	No. 7	Second.
	Elisha M. Taylor[8]	Surfman	No. 7	Second.
	Stephen F. Mayo[8]	Surfman	No. 7	Second.
1881.				
May 15	David Hitchens[9]	Keeper	No. 11	Fifth.
	George J. Warner[9]	Keeper	No. 8	Fifth.
	Warner Collins[10]	Surfman	No. 10	Fifth.

[1] Drowned while attempting to rescue the crew of the wrecked Italian bark Nuova Ottavia, off coast of North Carolina.

[2] Died out on night patrol.

[3] Fell from aloft and instantly killed while assisting in saving property from Italian bark Papa Luigi C.

[4] Drowned while attempting to go to the assistance of survivors of crew of United States steamer Huron. By act of Congress approved May 25, 1878, Superintendent Guthrie's widow receives the same pension as the widows of deceased captains of the Navy.

[5] Perished in attempting to go the assistance of distressed schooner J. H. Magruder on reef off Point Aux Barques, Lake Huron.

[6] Drowned off Rogers City, Michigan, while making tour of stations in his district.

[7] Drowned off Rogers City, Michigan, with Superintendent Sawyer, while transporting him from station No. 8, tenth district.

[8] Perished while attempting to take ashore crew of stranded sloop C. E. Trumbull.

[9] Reported to have died from disease caused by cold and exposure while in the line of duty.

[10] Reported to have died from disease caused by cold and exposure while swimming to a boat during the gale and tidal wave of October 23, 1878.

Mr. DAWES. We have already reported a bill, and I ask the gentleman to allow the report to be read.

Mr. COX. It will be heard. I am glad to hear from a gentleman who represents my native river, the Muskingum.

Mr. DAWES. It was the judgment of a majority of the Committee on Invalid Pensions that relief should be granted the families. It was considered that the Life-Saving Service is the only civil service where life is necessarily risked to save life. In other civil service peril to person is encountered, but that constitutes no claim to pension such as that of the Life-Saving Service.

Mr. HAWK. The Committee on the Payment of Pensions, Bounty, and Back Pay have reported upon it adversely, but that report has not yet been printed.

Mr. COX, of New York. I take the reports of the two committees together and say that the reason why we should pass this measure is that there is no pension probable or possible. If one committee passes adversely on the pension bill and another for it, it is meet that we should make some provision not obnoxious to objection, and striking the golden mean.

Mr. DAWES. From the reading of the report which I have called for the House will see the necessity of some provision being made.

Mr. COX. Mr. Speaker, this House may not be interested, but the good people of the country are, in the grateful and generous report of the honorable gentleman from North Carolina [Mr. LATHAM] from the Committee on Invalid Pensions. To that committee was referred a bill to relieve the widows of the gallant men who went down beneath the breakers on the North Carolina coast in attempting to save stranded Italian strangers.

May I ask to re-enforce my statement by the honorable gentleman's terse and touching report:

> That on the evening of March 1, 1876, between seven and eight o'clock, or soon after dark, the sea being rough and the surf and breakers high, heavy, and winding, the bark Nuova Ottavia stranded on the reef about four hundred yards south of life-saving station No. 4, on the coast of North Carolina, with her head northwest or before the wind.
>
> That the keeper and crew of station No. 4 (except Surfman John G. Chappell, whose place was supplied by George W. Wilson, a volunteer) immediately manned the boats and started to the rescue of the crew of the ill-fated vessel.
>
> That the keeper, John R. Gale, and Surfmen Spencer D. Gray, Lemuel Griggs, Malachi J. Brumsey, I. Mundin, Lewis White, and George W. Wilson (who volunteered his services in place of Surfman Chappell) lost their lives in the attempt. Only four of the Italian crew were saved.
>
> Captain John J. Guthrie, then superintendent district No. 6, United States Life-Saving Service, who in the following year lost his life off the same coast in attempting to afford assistance to the officers and men of the Huron, and whose widow has been pensioned by the Government, in his report to Captain Merryman, inspector of United States life-saving stations, uses this language: "In truth, all the tragic facts developed by this catastrophe are invested with a sublimity which I cannot portray with any written description, and do not wish to comment upon any of its causes beyond that of not taking the life-preservers on the persons of the lost who went in the life-boat, which seems a fatal mistake when so much danger must have been apprehended. The promptness, however, required under the circumstances probably overshadowed every forethought of personal security, and sad and lamentable as the results were, their noble efforts to rescue the shipwrecked shed a luster over the victims and credit on humanity."
>
> That the widows and children of those who were lost are in very needy circumstances.
>
> Your committee unanimously recommend the passage of the bill.

Yet, gentlemen fear a civil list of such heroes, and vote millions here for—what?—what?

Mr. CONVERSE. I should like to inquire whether the families of the soldiers who lose their lives in the Indian war now going on are pensioned?

Mr. COX, of New York. I do not intend to be drawn into a pension discussion. This bill is not a pension bill. We avoid it on purpose. We do not desire to make a precedent.

Why, sir, gentlemen who are so fastidious voted to pay the families of our own employés around this House something after death. Their widows and children now and then get our moneys to aid them in the immediate emergency. It is so as to members also. I do not expect to draw any precedent from that. I close members' mouths; only this.

Mr. ATKINS. We do not give the descendants of members or of employés any pay.

Mr. COX, of New York. We only pay them in case of death to the end of their term.

Mr. HOLMAN. I should like to ask the gentleman from New York if this civil-pension list is established where he proposes to stop?

Mr. COX, of New York. This is a mere temporary pay to or contract with those who risk their lives for others—a sort of increase of pay, not a pension. Oh, sir, we are about to appropriate a hundred millions of money to soldiers and sailors—we pay millions to pensioners who kill—but when we provide temporary pay for those who risk their lives to save, we are met with these objections. I hope to be patient in meeting such objections.

Mr. HOLMAN. Firemen may lose their lives also in the service here. Does the gentleman propose to pension them?

Mr. COX, of New York. No, sir. I propose only to pension those men who lose their lives in this humane service.

Mr. HOLMAN. But the gentleman should not restrict these provisions. If he wants to embrace one class why not take all? The employés, for instance, of the railway mail-service are sometimes killed in the service. Does the gentleman propose to pension them? And if so, where do you stop?

Mr. COX, of New York. I propose to stop right here with the Life-Saving Service, and so to frame it as to make no dangerous precedent.

Mr. HOLMAN. If this provision is extended to one class it would seem proper that you should extend it to all classes of service under the Government.

Mr. COX, of New York. There is nothing of the kind in contemplation, as the gentleman will see if he reads the bill. These men risk their lives in saving life. They are most exceptional heroes, as the instances I shall give testify.

Mr. HOLMAN. Plenty of men risk their lives.

Mr. COX, of New York. I desire to repeat here and now, in the presence of gentlemen who have voted for similar measures, that the House has adopted as a rule a method of paying the families of deceased employés from six months to one year's pay at the salary they were receiving at the time of their death, and also their medical expenses during their last illness, and funeral bills. Gentlemen vote such bills, do they not? Now, if we are to have a precedent for the pay proposed in this bill, here is one.

But the case I propose is larger than any of our precedents; this is *sui generis*. If the House would only understand that only twenty-four men, or rather their families, in all would be the beneficiaries of this act, there would not be so much hesitation in voting to adopt these two sections of the bill.

Mr. RANDALL. Will the gentleman from Ohio yield to me for a moment?

Mr. ROBINSON, of Massachusetts. I would like to ask the gentleman from New York a question before he concludes.

The SPEAKER. The Chair desires to ask the gentleman from Ohio what length of time he yielded to the gentleman from New York?

Mr. TOWNSEND, of Ohio. I yielded to the gentleman from New York ten minutes.

Mr. COX, of New York. If I have not exhausted the time allowed me I will hear the question of the gentleman from Massachusetts.

Mr. TOWNSEND, of Ohio. I yield five minutes to the gentleman from Pennsylvania.

Mr. RANDALL. I have no objection to the gentleman from Massachusetts asking the question he desires to ask the gentleman from New York.

Mr. ROBINSON, of Massachusetts. I merely wish to ask the gentleman from New York whether this provision does not go further than he contemplates. He says that it applies to only twenty-five men who have lost their lives since 1876. Now, it seems to me, under the general provision set out in the sections as read, that it will include all persons, not only those who lost their lives, but those who may contract disease in the line of service. That is, perhaps, a broad interpretation to give to it; but the language here would make this applicable to all persons employed in the Life-Saving Service just as the pension laws apply to persons in the military service; that is, that those persons who contract disease, the result of injury or exposure in the service, are entitled to pensions. In this case those persons will be construed as being in the line of duty who are upon the rolls and draw their pay. Now, that being the case, I submit to the gentleman from New York whether this would not cover the case not only of those men who, from the exposure to which they are subjected, may contract disease in the line of duty, but also cover a multitude of other cases where disease has been contracted in the service while not, perhaps, in the strict line of duty. Would it not apply to any case where a disease was contracted while in the service?

Mr. COX, of New York. I think not. This list of twenty-four men embraces those who lost their lives as well as those who were permanently disabled in the service. We seek to provide for those who are needy by reason of disability in this service. We seek to make an incentive to enter and an encouragement to continue in the service for a generous purpose. These clauses will do this.

Mr. ROBINSON, of Massachusetts. It would seem from the language here to go much further than the gentleman from New York intended.

Mr. HAWK. I will state, if the gentleman from New York will permit me, that this number, twenty-four, is strictly correct. Twenty-one of these men were drowned in the discharge of their duties, and three of them died from exposure. This is the record from the bureau.

Mr. COX, of New York. Now, Mr. Speaker, by leave of the House, may I not add to my statements some statements of the wonderful benefits of this service? I have referred to the loss of life on the North Carolina coast and the heroism of the surfmen there. May I make a picture of the case of the

NUOVA OTTAVIA.

On the evening of March 1, 1875, the bark Nuova Ottavia, an Italian vessel, stranded soon after dark off Currituck Beach, North Carolina. The weather was cloudy, the air dark, the sea rough, the surf high, heavy, and winding. The keeper and crew of station No. 4, sixth district, saw the vessel. True, it was in the gloom, four hundred yards from shore, but they saw her as she lay aslant in the breakers. A number of her sails were unfurled. Those who saw her tell me she looked like a phantom. Alive to the peril of those on board there was instantly launched the surf-boat, with a haste so generous that the crew did not even stop to put on their cork life-belts. This error of a gallant ardor cost them their lives. What happened has a horrible brevity. The watching group on shore saw the boat go out through the breakers; the lantern is in her bows; it just touches with light the strong figures of her oarsmen. Ten minutes after she is invisible in the darkness and only the lantern is burning low down under the lee of the huge hull. It shows that she is alongside. Suddenly the lantern goes out. There is a frightful scream from the sea. In a few moments the alarmed group on shore see four oars come tumbling in at their feet in the foam; then the surf-boat, bottom up; and then, dark in the surf, the body of a man. This man was one of the life-saving crew.

As the boat came up alongside, the Italian sailors, crazed with excitement, had flung themselves into her in a mass. They capsized her. Nine of them were lost, and the entire crew of the surf-boat, seven in number, also instantly perished. The life-belts, which in their rush to the rescue the surf-boat crew had not paused to put on, would have saved them. They died through the excess of their zeal for humanity. They were all poor; they all left widows and small children; and to this hour these women and children are in utter penury. They do not ask gentlemen to put them on a civil list. Their protectors are enlisted in a better world. They ask to be in some way recognized as worthy of our generous thought.

PEAKED BAR CASE.

Another case I may refer to. It is that of the Peaked Hill Bar crew. It is one of the disasters of 1880. At four o'clock in the morning of November 30, in a darkness blurred with the coming snow and beaten by the northwest blasts, a group of wind-blown figures carrying a boat scrambled down the bluff, twenty-five feet high, which flanks the beach at Peaked Hill Bar, Cape Cod. This was the crew of life-saving station No. 7, (second district.) They were led by their keeper, Captain D. H. Atkins. He had hurried to the relief of a sloop, the C. E. Trumbull. She could be seen with the lights in her rigging, stranded on the outer bar, four hundred yards off, noisily filling the air with the flapping of her sails.

The sloop had six men on board. I need not speak of the ill-fame of this sinister bar which held them. They were in deadly peril. Hardly a moment after the stranding the alert patrol of the station discovers them. The night was all at once ablaze with his scarlet signals. Bounding to the station, he had aroused his comrades. No more lion-hearted men than these ever lived on the rough New England coast, and with heroic spirit they had rushed from the station along the bluff and come tumbling down the ragged bank with their boat, at the first cry that called them to the rescue. A moment, and their oars were propelling their boat, which was heading through over the dangerous swells of the sea. That sea was a series of cataracts and flumes. I know what they are, having been with these surfmen in some of their adventures. In the fierce rush of the chute and the roll of the wild waves, and held in this tempestuous mass of waters was the sloop, rolling convulsively, with a wall of boom and sail dipping perpetually into the sea. This boom and sail, held away by the strong wind, left a triangular space between them and the hull, the only place where the boat could approach the vessel with any degree of safety.

To increase this chance the brave keeper, Atkins, as his boat came seething near, sang out to those on board to cut the main sheet, so as to let the boom and sail swing still farther forward and increase the space into which the boat must enter. He was not obeyed, and as time allowed no delay he pushed up and took off four of those on board. The other two dallied, and as delay would imperil those already in the boat, the keeper gave the order to put to the shore and safely landed them. Then this hero of the icy beach once more grasped the steering-oar and gave the order for the return to save the other two. Once more the vessel was reached and the boat entered the hazardous space between the hull and the dipping spar and sail. A sea suddenly swept around the stern, washing the boat to one side; the boom at that moment dipped, rose with a rush, and as it rose, caught the boat under one of its cork fenders and threw it over. In one moment the gallant life savers were struggling for their lives in the gloom, in the rush of deafening and blinding waters, in the solitude, for as if by some baleful magic the sloop, from which some assistance might have been rendered them, was suddenly released by the bar and darkly drifted away. They clung to their capsized boat. Again and again the brute force of the waters tears them from the bottom. Their cork life-belts assist to sustain them, but do not shield them from the chill of the winter sea, and the last scene in this tragedy shows three of them gaining the beach with souls almost released from their bodies, and the others dying valiantly in a service which gentlemen would place below the service of one of our doorkeepers who may die here in his arduous labors.

Of those three men saved one remains crippled for life; the other two lingered long under their injuries before they fortunately could again be made whole. The gallant keeper, the man of a hundred wrecks and rescues, the model of fidelity, humanity, and courage along that coast, the tried and trusted master of that station for ten years, was among those that perished. He left a wife and two dependent children. His comrades who died with him, and the crippled survivor, were also poor and also had families depending on their lives.

HONORS TO THE HEROES.

Pensions for such men or for those they leave! Rather give to them and theirs what Rome in her heroic days gave to her heroes. No one questioned whether Horatius who kept the bridge in the "brave days of old," when the Volscians charged upon the city, should or could be paid for their patriotic devotion. What did Rome do for her hero?

They gave him of the corn-land,
That was of public right,
As much as two strong oxen
Could plow from morn to night.
And they made a molten image,
And set it up on high,
And there it stands unto this day
To witness if I lie.

Thus sung Macaulay in his lay of the Ancient Roman—whose feat of valor has no comparison with that which I would recognize in this service. It was the play of a child to keep "the bridge" compared with the heroic endeavors of these dauntless dead heroes whose families we are now asked to recognize.

IS THE MEASURE SECTIONAL?

But, Mr. Speaker, the bill which I had the honor to propose, and which is the supplement of other measures near to my heart and service here, has been attacked in the Senate. A Senator from Georgia broke through parliamentary rule and decorum to impeach my advocacy of this humane and generous bill. I see in the RECORD this colloquy:

Mr. FRYE. Is the Senator from Georgia aware that elsewhere (the rules of the Senate do not allow me to say where) a leading Democrat has charge of a bill and is endeavoring to make it a law with the salaries provided in this bill, it being really a pet measure of a leading Democrat?

Mr. BROWN. I will simply say if that is so I disapprove very much of the conduct of that leading Democrat.

It was a terrible trial to my patience to sit in the Senate, anxious for my bill, and hear this censorious disapproval. The bill, however, survives.

It was some compensation for me to hear my friend, Senator FRYE, who used to adorn this House, give the *coup de grace* to these patronizing tones of the Georgian Senator. He regards life-saving as a Democratic measure.

If there were any credit for this measure to a Democrat, "leading" or otherwise, I fear my party has lost more than I have by the attempt of some of its leaders to embarrass this humane system.

Why, sir, this bill was attacked ruthlessly and ignorantly in the Senate as a sectional measure. Is there any rule of decorum which forbids me from replying to these unjust allegations? As one responsible for the system I beg to respond to the Senatorial harangues.

THE LIFE-SAVING SERVICE NOT SECTIONAL.

The charge that sectionalism has been introduced into the Life-Saving Service rests solely upon the disproportionate distribution of stations in the North and South. As the author of the measure of 1878 I desire to repel the charge. These considerations should satisfy any candid mind that this disproportion is necessary:

1.—COAST.

The difference in the character and conformation of the coast. From the Saint Croix River, the northeastern boundary of the United States, as far as Boston, especially along the States of Maine and New Hampshire, the coast is exceedingly jagged and indented, full of rocky ridges, extending out into the sea and forming rugged capes, headlands, points, small islands, and reefs, involving peculiar dangers to mariners; though, on the other hand, these characteristics afford numerous harbors of refuge and places of shelter in tempestuous weather.

The coast of Massachusetts has two dangerous capes, Cape Ann and Cape Cod, the latter a long, barren peninsula of sand extending forty miles into the ocean, and then, bending abruptly upward, continues forty miles further, tales of the terrible shipwrecks upon which are related in almost every household in New England.

Below Cape Cod are Nantucket and Vineyard Sounds, which contain a complete net-work of exceedingly dangerous ledges, shoals, and rips.

The coast of Rhode Island partakes more of the nature of the coast of Maine. From Montauk Point, the eastern extremity of Long Island, to Cape Fear, near the dividing line of the Carolinas, a distance of six hundred miles, the coast has a remarkable and almost uniform feature, namely: an outlying narrow strip of sand, varying in width from a quarter of a mile to five miles, separated from the main land from one to six or seven miles by bays, sounds, lagoons, and other small bodies of water. This desolate strip is intersected by New York, Delaware, and Chesapeake Bays, the gateways to the great marts of New York, Philadelphia, Baltimore, and Norfolk, and is broken up into narrow islands of various lengths by numerous inlets, opening communication, rarely navigable, between the ocean and the bays and sounds. Outside of this sandy stretch are sand-bars lying at a distance of from one to five hundred yards from the shore, which is also the case with Cape Cod, many of which shift their positions with almost every storm. The water over them is so shallow that vessels of any considerable size driven ashore fetch up on them and rarely reach the beach until broken to pieces. Between these bars and the shore is the surf, the power of which in storms speedily crushes and rends into fragments the stanchest vessels.

From Cape Hatteras almost to Florida the coast line tends to the westward, and is distant from the track of vessels not bound to or from the local ports embraced within these points, and below Cape Fear the shores are generally so bold that vessels strike well up on the beach, rendering escape from them comparatively easy.

The coast of Florida is also bold, and persons shipwrecked by stranding usually find little difficulty in getting ashore, but once on shore, as the region is mostly uninhabited, they are greatly exposed to the terrors of starvation and thirst. In the straits of Florida are many low coral reefs and islands, with outlying shoals, which render the passage intricate and dangerous, and wrecks upon them are of frequent occurrence, for the protection of life and property from which, however, in view of the distance from land, the methods and appliances of the Life-Saving Service are not at present adapted.

Along most of the Gulf coast the water is shoal for a great distance out, the soundings regular, and the coast line is generally low, marshy or sandy. Vessels often ground upon the shoals, but life is rarely imperiled except in hurricanes, when life-saving efforts from the shore would be of little use. A large portion of the coast of Texas, however, runs almost directly north and south and is exposed to the effects of the "northers," especially if the wind is a little quartering from the east, and here station operations are applicable. These "northers" are the storms most destructive to shipping in the Gulf, but, except on the western coast of Texas, they drive vessels out into the Gulf and not ashore. The western coast is already supplied with stations. It should be here recollected that the protection afforded by the Life-Saving Service is chiefly against loss of life and property from stranded vessels, and that the service is not equipped with the expensive wrecking steamers and their paraphernalia which are requisite to give relief to disabled vessels distant from the shore.

II.—CLIMATE.

It seems scarcely necessary to call attention to the difference in the dangers to shipping in the rigorous, tempestous, and wintry climate of the North and the mild, sunny, summer climate of the South. One naturally fixes the dividing line at Cape Hatteras, where the warm currents of air which follow the Gulf Stream from the Gulf mingle with the colder currents which sweep from the northern shore and from off the sea and from inland, producing at that point violent commotions and tempests, which have made the name of Hatteras terrible; and it is this region and the coast north of it that has required by far the greatest protection.

III.—SHIPPING.

The shipping exposed to marine disaster in the North far exceeds that so exposed in the South. The statistics of the number of entrances and clearances of vessels at Northern and Southern ports would amply show this if they were at hand; but a moment's thought is sufficient to prove it. All vessels going in and out of Boston must pass between Cape Ann and Cape Cod, and in the case of coasters along the shores of Maine and New Hampshire or those of Cape Cod.

All vessels going in and out of New York, the great commercial metropolis of America, except those navigating Long Island Sound, must pass between Long Island and New Jersey, and coasters must run along these shores; all vessels going in and out of Philadelphia must pass between Cape May and Cape Henlopen, and coasters along the shores of New Jersey, or those of Delaware, Maryland, and a portion of Virginia; and all vessels going in and out of Baltimore and Norfolk must pass between Cape Charles and Cape Henry, and coasters along the shores of Delaware, Maryland and Virginia, or those of North Carolina. It is not necessary to ascertain what percentage of our commerce is embraced in this statement. Below Hatteras, as before stated, all vessels except those bound to or from the local ports between Hatteras and Florida follow lines of travel distant from the coast.

In contrast, therefore, with the commerce of the ports which have been named is to be placed that of Charleston, Savannah, Mobile, New Orleans, and Galveston. It is not necessary to mention the ports of minor importance, such as Portland, Portsmouth, Newburyport, Gloucester, Newport, Providence, New London, New Haven, and other places in the North, and Wilmington, Georgetown, Beaufort, Fernandina, Jacksonville, Key West, Pensacola, and others in the South.

IV.—STATISTICS OF DISASTERS.

On page 244 of the annual report of the Life-Saving Service for the fiscal year ended June 30, 1880, will be found a list of places on the Atlantic and Gulf coasts where vessels have stranded during the last ten years. These statistics are not confined to the domain of the Life-Saving Service, but embrace all parts of the coast, whether within or without the scope of its operations. They are not gathered through the agents of the service, but through an independent source under the provisions of the act of June 20, 1874, which require collectors of customs and other customs officers to obtain wreck reports of the masters and owners of vessels which suffer disaster. This table shows exactly what might be expected in view of the foregoing considerations. It shows that the number of disasters to vessels by stranding are apportioned to the Atlantic States as follows:

Maine	315
New Hampshire	25
Massachusetts	529
Rhode Island	102
Connecticut	45
New York	208
New Jersey	247
Delaware	73
Maryland	65
Virginia	138
North Carolina	134
South Carolina	27
Georgia	19
Florida	88
Alabama	5
Louisiana	15
Texas	97
Total	2,132

If the division between the North and the South be made at Mason and Dixon's line, the total number of vessels stranded on the Northern coast is 1,471, and in the South 661, or 810 more in the North than in the South. But no complaint has been heard that the number of existing stations and those provided for in the bill are not sufficient as far south as the northern boundary of South Carolina. If, then, we make the division at this line, the total number of disasters north of it is found to be 1,875, against 251 south. New Jersey alone has 247, which is within 4 of the whole number south, while Massachusetts has more than twice the number.

DISTRIBUTION OF SERVICE.

Now, while these statistics are very useful and largely guide the officers of the service in considering the distribution of stations when recommending action by Congress, it would be folly to distribute the stations in exact proportion to them. For instance, on the coast of Maine, because of the numerous harbors and sheltering lees heretofore alluded to, and the fact that at many places where vessels strike they go well up on the land as they do in the South, making escape easy, there are but nine stations provided, counting those existing and those contemplated by the bill. For similar and other reasons Massachusetts, although embracing many more disasters than any other State, will have but twenty-one stations when those provided for in the bill are established. New Jersey has forty stations and it has been found necessary to establish two more. For reference here is a statement by districts on the Atlantic and Gulf coasts showing the number of vessels stranded in each district during the ten years ended June 30, 1880, the number of existing stations, and the number of additional stations proposed by the bill.

Districts.	States.	No. of vessels stranded.	Total in each district.	No. of stations.	No. of stations proposed.
First district	Maine	315	340	7	4
	New Hampshire	25			
Second district	Massachusetts	529	529	15	6
Third district	Rhode Island	102	310	37	37
	New York	208			
Fourth district	New Jersey	247	247	40	42
Fifth district	Delaware	73	202	11	6
	Maryland	65			
	Virginia, (part)	64			
Sixth district	Virginia, (part)	74	208	25	2
	North Carolina	134			
Seventh district	Florida	88	88	5	6
Eighth district	Alabama	5	121	6	1
	Louisiana	15			
	Texas	97			
	Mississippi	4			

Mr. Speaker, I have been thus particular in vindicating this bill because if it becomes a law it will require no more or other general legislation for years, except, perhaps, additional stations or houses of refuge and the annual appropriations.

As I am associated with this system, I desire to remove the ungenerous reproach that it is sectional.

The answer to these allegations may be found in the history of the service during the past twelve years. This I have given. Its history the past year is a splendid vindication.

LIFE SAVING THE LAST YEAR.

Two hundred and fifty disasters to vessels occurred within the scope of the Life-Saving Service during the fiscal year ended June 30, 1881. Eighteen hundred and seventy-eight persons were on board these vessels, and 1,854 of them were saved. Twenty-four were lost. In addition to the 1,854 saved from distressed vessels, 16 persons who were not on board of vessels were rescued from drowning by the crews of the service. Four hundred and seven shipwrecked persons were sheltered and cared for at stations, to whom 1,060 days' relief in the aggregate was furnished.

The value of the vessels involved in these disasters is estimated at $2,744,247, and their cargoes at $1,310,505; total value of property imperiled, $4,054,752. Of the total imperiled $2,828,680 was saved and $1,226,070 lost. There were sixty-six vessels totally lost.

In rendering assistance the surf-boat was used two hundred and fifteen times, making three hundred and seventy-six trips. The self-righting and self-bailing life-boat was called into service ten times, making thirteen trips. Seventy trips were made in smaller boats, which were used on fifty-four occasions. The life-car was used once and made three trips.

The breeches-buoy was used fifteen times and made one hundred and thirty-two passages. The wreck-gun was fired twenty-five times, being employed thirteen times. Two hundred and forty-eight persons were landed in the surf-boat, 19 in the life-boat, 20 in small boats, 6 by the life-car, and 98 by the breeches-buoy. Eleven persons were brought ashore by lines cast over vessels, and the surfmen rescued 14 more by dragging them out of the surf and undertow. A surfman swam to one man and rescued him; another was dragged out of the ice; one was taken from the water into which he had fallen, and five others were recovered who had gone overboard from boats and piers.

Vessels were worked off when stranded, repaired when damaged, piloted out of dangerous places, and assisted in various ways by station crews. This work was done by the crews generally alone, but sometimes they were assisted by or worked in conjunction with other wrecking agencies.

By the watchful vigilance of the life-saving crews, 45 vessels were warned of their approach to dangerous places, with the signals in the hands of the patrolmen, and thus saved from disaster.

This, sir, was last year's work; one year only. Does it not in its supreme benefaction rescue from detraction the attempt to place this service along with the business of taking life? Was there ever since God gave gentleness to the human heart and made our race thrill with heroic devotion to rescue and save so noble a system of heroism as this service illustrates?

CONCLUSION.

I have spoken here perhaps too much of this service. I fear to cloud its brightness by words merely iterative. But, sir, there are hearts beating with sympathy awaiting our action here of which the representatives of the people should know more. These hearts seek relief in their human sympathy, sometimes in poetic sensibility.

I have just had presented to me some verses of tenderest melody. May I be permitted to quote the words of the gifted wife of one of our own members, the gentleman from Illinois, [Mr. SPRINGER,] who sings of the Wreck upon the Strand with such sweetness and light as to make our path of duty both plain and beautiful:

How like our mortal life is to the sea!
Its tranquil hours, its storms, its mystery;
Its breaking waves, that ceaseless beat the shore
Like breaking hearts that hope till hope is o'er.
Its drifting sails, that meet upon the main
Like hearts that love an hour then part again.
Its hidden graves, o'er which the waters flow,
Hiding the skeletons that sleep below;
Its drifting sands, that kindly cover o'er
Like passing years, the wrecks that line the shore;
Its songs, that oft at eventide we hear
Like echoes from that world so far—so near!
Its haze, through which we see the distant land,
But most of all its wrecks upon the strand.

It is our consolation and delectation that amid the vicissitudes of the sea and of our life—of which the sea is an emblem—we are enabled to make its catastrophies harmless by the humane legislation of which this bill is an example for all time and to all nations. We bend over the stranded wreck, the Iris not of poetry and hope only, but by our code of gentle laws we send out upon the dark waves the angel of safety. We compensate for grief and danger by the heroism which the Government fosters and sustains by the grant of means under kind conditions to the end that the sanctity of human life may be enhanced and the world ameliorated and blessed.

Mr. RANDALL. I ask the reading of the proposition at issue before the House again, because in the confusion when it was read I was unable to hear clearly or fully understand its effect. Now, I admit that the proposition does appeal to the better feelings of humanity, more especially where men have been drowned or have otherwise lost their lives in this service. But, nevertheless, this general character of legislation perhaps involves the inauguration of a system of civil pensions. When once such a system is inaugurated, how easy it will be to extend this provision from two years to a longer time; or, in any case of disability, to a longer time than one year, or in case of minors for a longer period than sixteen years.

Now, if I am correctly informed, this question has been considered as a question of pensions and the creation of a civil pension list before one of the committees of this House, and has been reported or is about to be reported upon adversely. The gentleman from New York wants to make a distinction of terms between the general character of the bill, asserting in this instance that it is a gratuity, whereas in the instance I have suggested as having been adversely reported upon by the committee it is recognized as a pension list; it does create a quasi pension list; and for that reason I think we should approach the subject with the greatest caution.

This proposition was never considered in the House. It is true, as stated, perhaps, that this provision was added in the Senate; but when it came back to the House it was non-concurred in, if my recollection is correct, and if not the gentleman can correct me.

Mr. COX, of New York. The gentleman is correct. All of the amendments were formally non-concurred in.

Mr. RANDALL. That is my recollection, and the measure now stands before the House simply upon the language proposed by the Senate to be ingrafted upon statutes of the United States. Now, with reference to the families of these men who have lost their lives in the service I have every sympathy. But if the principle sought to be created here is a correct one a man on the police force in this city who loses his life or is disabled in the service should be pensioned; or the men of the revenue-marine service should be pensioned, and, in fact, the Commissioner has made a recommendation to that effect. And so with firemen, who may have lost their lives here, the same claim might be set up for pensions in their cases.

My sole object was to direct the attention of the House to the inauguration of the system upon which we are about to enter, so that if the majority shall decide to adopt it they shall do so with a full understanding of it and with their eyes open.

Mr. HEWITT, of New York. I ask the gentleman to yield to me for a moment.

Mr. RANDALL. I will yield to the gentleman the remainder of my time.

Mr. HEWITT, of New York. It seems to me there is some confusion in the minds of gentlemen in regard to these provisions which have been added to the bill in the Senate. I find that one of the sections provides that any person injured in the service shall continue to draw his pay during one year, and if deemed advisable by the General Superintendent he may continue to draw it for two years. Now, that certainly is a reasonable proposition, and is not to be regarded in the light of a pension. It is in the nature of a temporary relief for a disability incurred in the public service of a peculiarly hazardous character.

As a rule no person engaged in business in this country employing men cuts off their wages if they are disabled in his service until it is determined whether they are permanently invalided or not. It seems to me, therefore, that there can be no objection to that provision.

The second provision, which is called a pension, is not in fact a pension, but an allowance of wages for two years to the widow or family of the person who may be killed or die from wounds or injuries received in the service. So far as this would tend to establish a civil pension list, I might be disposed to object to it.

But when you consider the nature of this service, when you consider that although it is a paid service it is after all essentially a volunteer service, one that existed on the coast of this country long before the Government took it in hand, and these men, although paid, are receiving simply a remuneration for so much time devoted to the service and nothing for the risk and danger attending it, it seems to me it is hardly fair to call a pension this allowance for two years, and discuss it from that point of view. It should rather be regarded as a part of the contract by which he engages in a service exposed to peculiar peril. For myself I shall oppose all civil pensions, but on a careful reading of these sections it seems to me they are not open to this objection, and make but a reasonable and fair allowance for the risk attending this most important and difficult public service. Let it be remembered the allowance in no case is to exceed two years' pay, which is no more than any just man will regard as a moderate pension for a family suddenly deprived of its means of support by the sacrifice of the life of its head in order to save the lives of those "who go down to sea in ships."

Mr. COX, of New York. And is intended as an incentive to induce men to enter this service.

Mr. TOWNSEND, of Ohio. I now yield five minutes to the gentleman from New Jersey, [Mr. HILL.]

Mr. HILL. I hope the report of the committee of conference will be adopted. I believe that some members here lose sight of the fact that the men who are the most exposed in this service and the most likely to come under the operation of the provisions of this bill are the keepers and the surfmen.

If I understand it, the keepers will under this bill receive a compensation of $800 a year for their services, and the surfmen receive at the rate of $50 per month, or $600 a year. Therefore the allowance under this provision of the bill will amount to $1,200 in the case of surfmen, and of $1,600 in the case of the keepers for two years, those men being more exposed than any others in this service on the coast.

I know a little of the exposures and hardships of this service, and have seen a little of the work of these keepers and surfmen. We have a hundred and twenty miles of coast in New Jersey which these men have to look after. We know that during the storms of winter and in the darkness of night they are obliged to patrol the coast, to be subject to the greatest exposure, and when there is a wreck on the coast they must risk their lives in rescuing those persons who may be on the wreck.

I well remember a short time before the reorganization of the Life-Saving Service, near Squam Beach, a wreck came on shore, and there were very few men to be found who were willing to risk their lives in taking a life-boat out to the wreck to rescue those upon it. Volunteers were called for, and a number stepped forward and entered the boat; and some of them lost their lives on that occasion.

Standing by were the wives and children of these men, looking upon their husbands and fathers, and pleading with them not to risk their lives in that service. Amid it all one noble fellow said to his wife, "I have a duty to perform in the line of my service here and I must go." He went in the boat, and there upon the waters before her own eyes she saw her husband washed overboard and drowned, and his body came ashore among the dead who were washed from the vessel, the voice that had so recently spoken to them hushed in death.

I hold that men who risk their lives in that way for the help of others ought to be looked after by this great Government and by the people who are so much interested in having a perfect life-saving service on the coast. We know that during the last few years, since this service has been made more effective than it was in years gone by, there have been fewer wrecks and little loss of life. These men in the storm and darkest nights, bearing their red torches, signals of danger, patrol the coast giving warning to vessels to keep away, that they are too near the land.

The vigilance of the life-saving patrols, who are nightly guarding the beaches, detects vessels, either sailing too near the shore or stand-

ing directly into danger, and in such cases the patrolmen at once fire their red Caston signals, whose vivid flame warns the navigators of their peril, and enables them to wear ship or tack away in time. Thus the patrolman becomes a sort of perambulating beacon, flashing in aid of navigation upon occasion. There have been during the past year forty-five instances where vessels in jeopardy have received this species of warning, and been saved from total or partial wreck, the signal being well understood on the vessels, so perfect is the signal system. This is a class of assistance which deserves special mention, involving as it does all the benefits to commerce and humanity of the more serious operations while unaccompanied by damage or suffering.

They oftentimes are obliged to draw their heavy carriage or car with their apparatus through soft deep sand with ropes over their shoulders, in all weighing twelve hundred pounds, and sometimes have to go to a vessel three or four miles, some of the way waist-deep in the water, carrying their life-saving car, mortar, ropes, &c., and things necessary to get communication with a wreck. Sometimes these men are out sixteen and twenty hours with but little to eat or drink; they thus labor in the line of their duty for the saving of human life and property. At some of the stations on the coast they are allowed to hire horses, if any can be got near by, to hitch to their car and apparatus, and at some stations it is impossible to get them. The service will never be complete until the more exposed coasts are fully equipped with horses to take their loads of apparatus to the place of wreck. It can be readily seen how worn and exhausted and unfit for surf duty are men who have been compelled to draw those heavy burdens through the sand and water three or four miles. One of the provisions of this bill, as has been stated and referred to, and now before this House for adoption, reads as follows:

SEC. 7. That if any keeper or member of a crew of a life-saving or life-boat station shall be so disabled by reason of any wound or injury received or disease contracted in the Life-Saving Service in the line of duty as to unfit him for the performance of duty, such disability to be determined in such manner as shall be prescribed in the regulations of the service, he shall be continued upon the rolls of the service and entitled to receive his full pay during the continuance of such disability, not to exceed the period of one year, unless the General Superintendent shall recommend, upon a statement of facts, the extension of the period through a portion or the whole of another year, and said recommendation receive the approval of the Secretary of the Treasury as just and reasonable; but in no case shall said disabled keeper or member of a crew be continued upon the rolls or receive pay for a longer period than two years.

And also:

SEC. 8. That if any keeper or member of a crew of a life-saving or life-boat station shall hereafter die by reason of perilous service or any wound or injury received or disease contracted in the Life-Saving Service in the line of duty, leaving a widow, or a child or children under sixteen years of age, such widow and child or children shall be entitled to receive in equal portions during a period of two years, under such regulations as the Secretary of the Treasury may prescribe, the same amount, payable quarterly as far as practicable, that the husband or father would be entitled to receive as pay if he were alive and continued in the service: *Provided*, That if the widow shall remarry at any time during the said two years her portion of said amount shall cease to be paid to her from the date of her remarriage, but shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any; and if any child shall arrive at the age of sixteen years during the said two years the payment of the portion of such child shall cease to be paid to such child from the date on which such age shall be attained, but shall be added to the amount to be paid to the remaining beneficiaries, if there be any.

That, in my opinion, does not go far enough. If any class of persons are entitled to aid and care of the Government they are families of keepers and surfmen who may have lost their lives in the Government service, in the work of saving life on the United States coasts. The number of deaths in late years, through the efficiency of the Life-Saving Service, have been very few, and are likely to be fewer in the future, as this service is perfected, but when they do occur the Government ought to look after the families of those who die. December 16, I introduced a bill containing a clause to suit these cases, which reads as follows:

SEC. 7. That if any keeper or member of a crew of a life-saving or life-boat station has lost his life in the performance of his duty, or died by reason of any wound or injury received or disease contracted in the line of his duty in the Life-Saving Service, or shall hereafter lose his life or die by like reason, leaving a widow or a child or children, the widow and child or children of a keeper shall be entitled to receive the same pension as if the husband or father were a lieutenant in the naval service of the United States, and the widow and child or children of a member of a crew shall be entitled to receive the same pension as if the husband or father were a seaman in the naval service of the United States.

The committee saw fit to report another bill, and so the above section did not come up for action, and now this bill under consideration from the conference committee, I understand, cannot be amended. While I would have preferred to have the above bill passed, yet I shall vote for adopting the committee's report allowing two years' salary to families of deceased keepers or surfmen. Another provision in this bill under consideration allows keepers $800 per year and surfmen $50 a month or $600 per year. In the bill I introduced it allowed the surfmen $65 per month, which I think a proper amount. It reads as follows:

SEC. 5. That the Secretary of the Treasury is hereby authorized to cause to be paid to any of the keepers and members of the crews of the Life-Saving Service, upon the recommendation of the superintendent of the district in which such keepers and crews belong, concurred in by the inspecting officer of said district, and approved by the General Superintendent of the Life-Saving Service, one month's extra pay for such extraordinary and gallant services hereafter rendered at any shipwreck as in his judgment shall merit such consideration; the compensation for pay of the keepers to be at the rate of $800 per year, and the compensation for pay of the crews of experienced surfmen at life-saving and life-boat stations at the rate of $65 per month.

When we consider the hard work they perform, the great risk of life attending it, $65 is not too much for the service. I have been on the New Jersey coast at different points, seen many of these men, heard their tales of shipwrecks, know their experience as surfmen who would any time risk their own lives to save others. But few witness their bravery and know of the great risk they run of their own lives. Their present pay is $1.33 a day and find themselves; under this bill they will get $10 a month additional, not the pay of a page in this House for six and eight hours a day. I received not long since a letter from a gentleman of high standing connected with the Life-Saving Service, who writes as follows:

I trust you will pardon the liberty I take in presenting the subject of an increase of salary for our miserably paid Life-Saving Service, and in asking your co-operation and aid in securing legislation necessary to secure it. These men perform the most arduous and perilous service of any class of persons in Government employ, and when we consider that a day means twenty-four hours, and a week seven days, the pay received is entirely inadequate. Indeed, it will not support their families, and they are now serving only in the hope that the long-deferred promise of more liberal compensation will be speedily fulfilled. They can easily earn better pay in other less responsible pursuits; and, should they abandon the stations, years will be required to properly educate and train a class of inexperienced men in the peculiar duties required. New Jersey comprises one of the most exposed districts in the United States, and having been connected with the service six years and become acquainted with the three hundred and twelve men who have faithfully and creditably served the commercial world, and knowing their ability and trustworthiness, I should exceedingly regret to see them leave the service because a Government which annually appropriates millions to improve obscure streams and harbors fails to recognize their claim for a reasonable increase of the meager allowance they now receive;

showing the views of one who lives among them and knows all about their work. I would be glad if the amount asked for in my bill could be paid, but as the committee decided against me I vote for the adoption of the conference committee's report. When this service was reorganized in 1871, it was my pleasure to give my voice and my vote to help perfect and make it more efficient. I have many constituents who are interested in having it sustained and perfected, and as a Representative of New Jersey I feel interested in its success. This service being largely located on the shores of New Jersey, we desire that it shall reflect credit upon the State as well as the whole country. The results of last year's operations of the Life-Saving Service in the United States, as seen in the report ending June 30, 1881, are very gratifying.

There were, according to the reports of the district officers, 250 disasters to vessels within the scope of the service during the year. On board these vessels there were 1,878 persons, of whom 1,854 were saved and 24 lost. Succor was afforded at the stations to 407 shipwrecked persons, to whom 1,060 days' relief in the aggregate was furnished. The estimated value of the vessels involved in these disasters was $2,744,247, and that of their cargoes $1,310,505, making the total value of the property imperiled $4,054,752. Of this amount $2,828,680 was saved and $1,226,072 lost. The number of disasters involving total loss of vessels was 66.

In one hundred and eighty-eight instances vessels were worked off when stranded, piloted out of dangerous places, repaired when damaged, or assisted in similar ways by station crews. In some of these cases the men worked in conjunction with other wrecking agencies, but generally by themselves and the sailors on board alone. In many instances both vessels and crews would have been lost without this aid.

The subjoined table gives a summary of results in the field of life-saving operations for the last ten years, the period since the introduction of the present system:

General summary of disasters which have occurred within the scope of life-saving operations, from November 1, 1871, (date of introduction of present system,) to close of fiscal year ending June 30, 1881:

Total number of disasters	1,347
Total value of vessels	$16,083,320
Total value of cargoes	$8,429,167
Total value of property saved	$14,958,895
Total value of property lost	$9,553,592
Total number of persons on vessels	12,259
Total number of persons saved	11,864
Total number of lives lost	395
Total number of persons succored	2,610
Total number of days' succor afforded	7,050

We give below a table of operations for the last ten years on the coast of New Jersey:

Statistics of disasters from November 1, 1871, to June 30, 1881.

Number of wrecks	283
Total value of vessels	$3,569,450
Total value of cargoes	$1,677,431
Total value of property	$5,246,881
Total value of property saved	$3,345,718
Total value of property lost	$1,901,163
Total number of lives imperiled	2,211
Total number of lives saved	2,177
Total number of lives lost	34
Number of shipwrecked persons sheltered at stations	600
Number of days' shelter afforded	1,736

The report for 1881 shows on the New Jersey coast forty wrecks, and not a loss of life. This is most gratifying, showing the results of the service and its complete efficiency. In striking contrast with the present state of affairs on Long Island and New Jersey coasts, I submit the following extract from the report of 1876, page 61:

Prior to the first attempts of the Government in 1848 for the preservation of life and property upon these shores, it can only be stated that the latter were so ter-

ribly calamitous as to be held in the utmost dread by ship-owners and mariners, and the names of Fire Island, Barnegat, and other localities were synonyms of horror. As has been shown, these early efforts must have been productive of considerable benefit, yet in the discussion in the House of Representatives which preceded the passage of the act "for the better preservation of life and property from vessels shipwrecked on the coasts of the United States," approved December 14, 1854, it was repeatedly asserted by Mr. Skelton, of New Jersey, and Mr. Chandler, of Pennsylvania, that the loss of life by shipwreck on the New Jersey and Long Island coasts was more than a thousand annually, and although there was a vigorous opposition to the bill this assertion was not questioned. The statement seems hardly credible, yet its unchallenged repetition proves that the annual loss of life was notoriously enormous.

Since 1871 accurate reports of all disasters occurring within the range of the operations of the service have been furnished the Department, from which the list above of disasters on New Jersey coast is taken.

The report further states:

The statistics of five years' operations must force upon the mind the striking consideration of the signal triumph gained by the service over the once invincible terrors of our sea board. Prior to 1850, as has been said, there is no record of the frightful mass of calamities, and we can only rely upon common tradition and upon unchallenged assertions made in public debate by dwellers on the shore, such as have been herein referred to. But from 1850 to 1870 we have a few data, and meager and imperfect though they are, they yet afford the basis for some comparison. We know, for example, that during these twenty years, 512 persons perished on the coast of New Jersey and Long Island alone, and though this sum is but a fragment of the fact, and the evidence is extant that the actual loss, though its number is unknown, was far greater, yet even this aggregate yields for that coast an average of over 25 persons lost per annum.

What, now, by the statistics given, has been the loss on the same coast since 1871? Only sixteen persons in five years! Against the average annual loss of 25.6 prior to 1871, the sum being but a fraction of the ghastly reality, the renovated service sets the record of 3.2 per annum, a decrease of 87½ per cent. In other words, where twenty-five persons were annually lost, and doubtless thrice that number, there are now three. Such a record as this has never been surpassed in the annals of efforts for the mitigation of marine disasters. It is the legitimate fruit of organization; and if ever the annual result shall be less proud, it will be because the Government fails to meet the demands made by the natural development of the service.

In 1881, report shows, as already stated, on the New Jersey coast forty wrecks, yet not the loss of a life. Certainly such a service with such results should receive every encouragement at the hands of Congress.

The sea-coast of New Jersey is one hundred and twenty miles in extent. Three-fourths of all passengers and freight from Europe to this country pass along this coast. It is said two-thirds of the United States revenue are collected in New York, which could not be collected unless the vessels in which the importations are made came to the port where the duties are paid, and nearly all have to pass along the New Jersey coast.

Millions of property and hundreds of lives have been saved by the New Jersey coast service since it has been in existence, while millions of the one and hundreds of the other have been lost through the neglect of the Government in the past to give the aid and assistance necessary to make the service a complete success.

It is our duty to protect life and property and leave nothing undone whereby we can make effectual and complete the life-saving service of our sea-coast. This matter is exciting a great deal of attention. All who cross the ocean and do business on the sea, the whole shipping interests of the country, have a deep interest in this matter. The large number of precious lives that are in constant danger, the vast amount of property that is liable to be destroyed on this coast as it approaches or leaves our two great commercial cities, New York and Philadelphia, demand that the service be made thoroughly efficient. Already it stands foremost among institutions of the kind in the world, and the nations of Europe are asking the aid of our Government in introducing upon their shores the American system, yet it has not reached the perfection its managers strive for and predict if Congress will only give the proper encouragement and the adequate means to do with.

This is a question that interests every one, to rescue lives and property, and the men in whose interests this bill is drawn ought to command the favor and sympathy of the members of this House. To understand this matter properly and what these men have to do the members ought to visit one of these life-saving stations, and also to be present in a storm and witness a wreck on the beach. We have before us an extract of a speech delivered by Senator Stockton, when in the United States Senate, which gives a vivid description of a storm and wreck on the New Jersey coast. I quote as follows:

I saw two ships come ashore within four miles of each other, one within a mile of the house I sojourned in on Squan Beach. I was there and saw the mortar fired. I saw the line seized. I was near enough to gaze into the faces of the anxious and suffering ones on board of that ship, women and children as well as men; I could have tossed a biscuit in the ship, and yet they might as well have been ten miles off. I saw the captain's wife put in this car, and helped draw her ashore and to take her safely out of it. And every living human being was saved from that ship. But down below, where the other ship was wrecked, there was no station. I was there and I saw the boldest and the bravest men the world ever saw get into a life-boat, notwithstanding the prayers and entreaties of their own families dependent on them for bread that they would not do so. I saw them start for that ship; I saw the boat overset, and I saw it strike one man of that brave little crew in the back and his lifeless body washed on shore, where wailed his desolate, heart-broken, and impoverished family. Some lives were saved on that occasion; the sea was not quite as high as it was above, but the back of the ship, as it is called, was broken, and many a life was lost, every one of which might have been saved if you had had the apparatus and a station there.

These life-cars are described by a writer as follows:

The life-car is a sort of boat formed of copper or iron and closed over above by a convex deck, with a sort of door or hatchway through it, by which the passengers to be conveyed in it to the shore are admitted. The car will hold from four to five persons. When the passengers are put in, the door, or rather cover, is shut down and bolted to its place, and the car is then drawn to the land, suspended by rings from a hawser which has previously been stretched from the ship to the shore.

The car is suspended from the hawser by means of short chains attached to the ends of it. These chains terminate in rings above, which rings ride upon the hawser, thus allowing the car to traverse to and fro from the vessel to the shore. The car is drawn along in making these passages, by means of lines attached to the two ends of it, one of which passes to the ship and the other to the shore. By means of these lines the empty car is first drawn out to the wreck by the passengers and crew, and then when loaded, it is drawn back to the land by the people assembled there.

Among the wrecks on the New Jersey coast was one described below, which occurred a few years ago, that excited much interest and tested the efficiency of the life-saving apparatus and the bravery and unselfish work of the keepers and surfmen of the Life-Saving Service:

It was in the middle of January and during a terrific snow-storm the ship Ayrshire, with about two hundred passengers, was driven upon the shore by the storm, and lay there stranded, the sea beating over her and a surf so heavy rolling in as made it impossible for any boat to reach her. It happened that one of the stations which we have described was near. The people on the shore assembled and brought out the apparatus. They fired the shot, taking aim so well that the line fell directly across the wreck. It was caught by the crew on board and the hawser hauled off. The car was then attached, and in a short time every one of the two hundred passengers, men, women, children, and even infants in their mothers' arms, was brought safely through the foaming surges and landed at the station. The car which performed this service was considered as fully entitled to an honorable discharge from active duty.

No money paid out of the United States Treasury was ever put for better use and more carefully and economically expended, and to my mind no appropriation has been made by the present Congress so just and for so good a purpose as that called for and appropriated in this bill; and the provision in the bill that provides for families of deceased keepers and surfmen is wise, humane, and just. I hope the proposition to grant them some little consideration will meet with a favorable response by the House, and that the report of the committee of conference will be adopted unanimously.

Mr. TOWNSEND, of Ohio. I yield for a few moments to the gentleman from Massachusetts, [Mr. CANDLER.]

Mr. CANDLER. Mr. Speaker, if members of the House will read these sections and reflect upon them for a single moment, I believe that the report of the committee of conference will be adopted unanimously. The proposition is not to grant a pension; it is simply to pay to men disabled in this service, or to the wives and children of those who lose their lives in the service, the wages the men would have received for not exceeding two years. The class of persons for whose benefit this provision is designed are those who are justly entitled to such provision. When a man loses his life in this service it is proposed that the Government grant to his widow and his fatherless children for two years the pay that the husband and father would have received had he lived and continued in the service. As a general thing these are men in the vigor of life, from twenty-five to forty years of age, with dependent families; and when they lose their lives, the fatherless children, too young to do anything for themselves, are left to the care and support of the mother. I ask gentlemen to look at the question just as it is—a proposition to pay, for the benefit of the widow and fatherless children, compensation for two years at the rate which their natural protector would have earned if his life had not been sacrificed in the service of the Government and for his fellow-men.

I listened with much interest to the remarks of the gentleman who immediately preceded me, [Mr. HILL.] No man in this House who was born by the sea and has seen a life-boat go out into the storm and darkness to rescue persons imperiled by shipwreck can hesitate to vote for and in the most earnest way to advocate the adoption of this report.

I represent a portion of the New England States, and I have presented to this House some of the strongest petitions that could possibly be sent from that section in favor of a provision of this kind. One of these petitions was from the Marine Society of Boston—a society which for almost one hundred years has been sustained by merchants and seafaring men for the support and aid of aged sea captains and their widows—men who comprehend and appreciate the perils of the deep and the heroism of the sailors that man a life-boat in a winter's storm on the Atlantic coast.

These petitions recommend a provision such as that now proposed, both as an act of humanity for the protection of life, and as a wise measure for the benefit of commerce, if it is necessary to consider it in that connection. They represent the sentiment of my section of the country. I advocate the adoption of this report, and hope it will be agreed to, as it should be, without division.

Mr. TOWNSEND, of Ohio. I yield two minutes to the gentleman from Minnesota, [Mr. DUNNELL,] who wishes to set himself right.

Mr. DUNNELL. Mr. Speaker, when the report of the committee of conference was read I was a little too hasty in raising an objection, because I had not heard the statement which accompanied the

report. I desire now to say that I am heartily in favor of the report of the committee of conference. As a member of the Committee on Commerce for four years I became acquainted with this Life-Saving Service; and there is so much in it to win the sympathy and support of any man that I am willing now to vote for this slight pension, if you please to call it such, although it is not that in fact, but simply a just measure of compensation to the very brave and heroic class of men engaged in this Life-Saving Service.

The gentleman from New York has well said that we have precedents for this legislation in cases which, though not precisely like this, involve the same principle. When a member of this House dies we habitually vote to his family twelve or eighteen months' pay for services which he has never performed; and in various other instances we make compensation for service very much less meritorious than that provided for in this bill.

Mr. TOWNSEND, of Ohio. I yield for a few minutes to the gentleman from New Jersey, [Mr. BREWER.]

Mr. ROBESON and Mr. HAWK obtained leave to have printed in the RECORD remarks upon the pending question. [See Appendix.]

Mr. BREWER. Mr. Speaker, inasmuch as the Life-Saving Service of the United States had its inception in my Congressional district; inasmuch as the State of New Jersey has more stations than any other State in the Union—forty-three in all—I feel that I would not be doing my duty to those brave boys on the Jersey shore if I refrained from adding my voice to those already raised in behalf of this bill to protect the men engaged in this perilous work, and, so far as it is possible for me to do, aid in making provision for the widows and orphans of such as may be destined to find in the line of their humane duty a watery grave.

When the promptings of a righteous and humane sympathy impel one to do a duty of this character, no sentimental feeling of economy should influence or have a feather's weight. To me my duty is plain. I shall vote for the bill under consideration and urge with all my heart in securing its enactment into a law. When a public sentiment exists as in this case, when the magnanimous and humane promptings of the people, as manifested by the press of the country on every side, favor any measure, I know we would fail to do our duty here as legislators, will fail to secure the approval of our own consciences and alike of our constituencies if we do not aid in every possible way the passage of this law.

Here is a service for the protection of human life—a system so perfected by the ingenuity of American inventive genius that all the nations of the earth approve alike of its worth and of its humanity. Inquiries pour in every day from other nations whose hearts have been moved by our example and whose admiration has been attracted by our successful appliances, so that it has become a system and a service of which every American is justly proud. We have a service here where fitness for the work and fidelity to the great trust imposed is the only passport. While at one time the existence of the service was in danger, through misconceptions of various kinds, now the man who would raise his voice against the service or against its management would display a most unblushing temerity.

However much we may disagree as to the expediency and mode of protecting human industry or human liberty on our shores, we are all agreed that the first duty we owe to our fellow-men is to protect human life. We all approve of this, and God gives it His benediction. Then, to these brave men employed in this service let us be just. To their widows and orphans, when they shall have laid down their lives for their fellow-men, let us throw about them the protecting hand and sheltering mantle of this truly great Government. It is said that republics are ungrateful, but I do not believe that in this instance, in such an instance, where the humane heart of a righteous public sentiment is made manifest through its representatives here assembled, this Republic will prove ungrateful to these poor, brave toilers and watchers of the sea.

In this service, by its unusual and indiscriminate charity, we have manifest the very genius of our Government. We have here in this broad land of varied climate and of equal laws an asylum for the oppressed of all lands. This is our pride and our boast. If they come fortunately and comfortably to our harbors and our ports we welcome them, protect them, and by aid of social custom and righteous laws strive to make them contented and happy. In this we do not fail. If they are driven on our shores weary, exhausted, and in despair, amid the swash and crash of breakers, tempest-tossed and terrorized, we save and succor them. In this we do not fail. By aid of these public servants we save the lives of thousands every year—our own brave sailors or citizens as well as those from foreign lands. These "toilers and watchers of the sea" are our pickets of mercy, patrolling our long coast, Atlantic and Pacific, as well as the dangerous shores of our great inland seas. They are the soldiers of the tempest; and wherever the battle for life is fought amid the rolling white-capped breakers on our shores there are they found in the midst of them doing battle for human life.

The distinguished gentleman from New York [Mr. COX] well said, when this bill was first before the House, "that no more sanctified bill had ever been presented to this House." Sanctified because it is just and humane in its scope and provisions; sanctified by the brave and manly lives given to this service in the performance of their duty; sanctified by this list of men dying that others might live.

No. 1.—*List of persons who have died "by reason of any wound or injury received or disease contracted in the line of duty in the Life-Saving Service since the origin of the service," so far as shown by the records of the Treasury Department.*

Date.	Name.	Grade.	Station.	District.
1876.				
Mar. 1	John R. Gale[1]	Keeper	No. 4	Sixth.
	Lemuel Griggs[1]	Surfman	No. 4	Sixth.
	Lewis White[1]	Surfman	No. 4	Sixth.
	Malachi Brumsey[1]	Surfman	No. 4	Sixth.
	Spencer D. Gray[1]	Surfman	No. 4	Sixth.
	J. Munden[1]	Surfman	No. 4	Sixth.
	George W. Wilson[1]	Volunteer	No. 4	Sixth.
1877.				
Jan. 5	John Parker[2]	Surfman	No. 16	Fourth.
Mar. 30	H. H. Nickerson[3]	Surfman	No. 14	Second.
Nov. 25	J. J. Guthrie[4]	Superintendent		Sixth.
1880.				
Apr. 23	William J. Sayers[5]	Surfman	No. 2	Tenth.
	Robert Morrison[5]	Surfman	No. 2	Tenth.
	James Pottenger[5]	Surfman	No. 2	Tenth.
	Dennis Deegan[5]	Surfman	No. 2	Tenth.
	James Nantau[5]	Surfman	No. 2	Tenth.
	Walter Petherbridge[5]	Surfman	No. 2	Tenth.
Oct. 20	Joseph Sawyer[6]	Superintendent		Tenth.
	George Feaben[7]	Keeper	No. 8	Tenth.
Nov. 30	David H. Atkins[8]	Keeper	No. 7	Second.
	Elisha M. Taylor[8]	Surfman	No. 7	Second.
	Stephen F. Mayo[8]	Surfman	No. 7	Second.
1881.				
May 15	David Hitchens[9]	Keeper	No. 11	Fifth.
	George J. Warner[9]	Keeper	No. 8	Fifth.
	Warner Collins[10]	Surfman	No. 10	Fifth.

[1] Drowned while attempting to rescue the crew of the wrecked Italian bark Nuova Ottavia off coast of North Carolina.

[2] Died out on night patrol.

[3] Fell from aloft and instantly killed while assisting in saving property from Italian bark Papa Luigi C.

[4] Drowned while attempting to go to the assistance of survivors of crew of United States steamer Huron. By act of Congress approved May 25, 1878, Superintendent Guthrie's widow receives the same pension as the widows of deceased captains of the Navy.

[5] Perished in attempting to go to the assistance of distressed schooner J. H. Magruder on reef off Point Aux Barques, Lake Huron.

[6] Drowned off Rogers City, Michigan, while making tour of stations in his district.

[7] Drowned off Rogers City, Michigan, with Superintendent Sawyer, while transporting him from station No. 8, tenth district.

[8] Perished while attempting to take ashore crew of stranded sloop C. E. Trumbull.

[9] Reported to have died from disease caused by cold and exposure while in the line of duty.

[10] Reported to have died from disease caused by cold and exposure while swimming to a boat during the gale and tidal wave of October 23, 1878.

Sanctified by the great work performed in the wonderful saving of human life—11,864 lives in ten years—never, never was government engaged in such a work before. Nor is this service alone a humane work; it is one of the most arduous under the Government. When we consider that a day means twenty-four hours, and a week seven days, and that day and night these men must patrol the beach through rain or snow, through wind and driving storm—in all weathers—in howling northeasters or the cutting "blizzards" from the northwest, in drenching rains and piercing snow-storms, these sturdy men are required to perform their patrol and other duties with soldier-like regularity and discipline. Again, is this service sanctified by honest toil? No man will say these men do not earn their scanty pay, even as is proposed by this bill; so do they earn the lasting gratitude of the civilized world, and shall we, their employers and chief admirers, not be generous toward them?

Now, let us inquire what this service has done in the past ten years in the way of saving life and property. These figures speak the loudest for the service, and of themselves present the most convincing argument for the promotion and protection in every way of this Life-Saving Service. I read from Superintendent Kimball's report of this year:

General summary of disasters which have occurred within the scope of life-saving operations, from November 1, 1871, (date of introduction of present system,) to close of fiscal year ending June 30, 1881.

Total number of disasters	1,347
Total value of vessels	$16,083,320
Total value of cargoes	$8,429,167
Total value of property saved	$14,958,895
Total value of property lost	$9,553,592
Total number of persons on vessels	12,259
Total number of persons saved	*11,864
Total number of lives lost	†295
Total number of persons succored	2,610
Total number of days' succor afforded	7,059

* In addition, sixteen persons were saved this year who were not on board vessels.

† One hundred and eighty-three of these were lost at the disasters of the steamers Huron and Metropolis—in the case of the former when the stations were not open, and in the latter when service was impeded by distance; and fourteen others in the same year owing to similar causes.

It should be observed that the operations of the service during this period have been limited as follows: season of 1871–'72, to the coasts of Long Island and New Jersey; seasons of 1872–'74, to coasts of Cape Cod, Long Island, New Jersey; seasons of 1874–'75, to the coasts of New England, Long Island, New Jersey, and

coast from Cape Henry to Cape Hatteras; season of 1875–'76, coasts of New England, Long Island, New Jersey, coast from Cape Henlopen to Cape Charles, and coast from Cape Henry to Cape Hatteras; seasons of 1876–'77, and since, all the foregoing, with the addition of the eastern coast of Florida and portions of the lake coasts; and during the past year the coast of Texas.

Now, it will be noticed from the figures and facts just presented that of the 395 lives lost 183 were lost on the wrecks of the Huron and Metropolis. On the Huron 98, November 24, 1877, just six days before the service was permitted under the law to man the stations, and the other, wreck of the Metropolis, January, 1878, between stations eight miles apart, and just where the vigilant officers of the service had asked for a station and been refused by the superabundant wisdom or supercilious economy of Congress. Should not the loss of life in these two instances furnish warning enough to us in that we should not do anything to cripple this branch of the public service? Twelve thousand two hundred and fifty-nine shipwrecked people on the shores of the United States, and only 212 lost where the service was allowed to be effective by Congress; a loss of but 1¾ per cent., very much of this loss caused by accident of falling spars and such other foreign and untoward circumstances, for which the service is not chargeable.

I claim for this army of life-savers magnanimity. I am deeply interested in the fullest protection to this service, because I can bring the matter home to my own district, because I know many of our little army of three hundred and twelve men on the New Jersey coast. These men I know have faithfully served the commercial world. Their life is more exposed than the soldiers, and their hardships in instances even more severe. Shall they not receive protection when worn out with exertion or crippled by disaster? Shall we longer leave them suffer on scanty pay at the most so that when they die it is with the consciousness that after a life devoted to the service of their country their families are left to starve or die in the poor-house?

And this parsimonious Government has forced them to work for $40 per month where every day is twenty-four hours and with no prospect of protection to family in case of death or disability. Should we not remedy this gross injustice without delay? I believe the Department has secured at the hands of this Congress through this bill an appropriation that will enable them to pay better wages. I know many of these men; I know their work, and I say that they should have been treated as they have been through inadequate appropriation is a shame and a disgrace to our legislation of the past. Now, let us rectify it and make amends as far as possible for the sufferings of the past. Let us complete our work in this direction. Let us do our whole duty. Let this Congress have the credit of protecting our life-saving men as justice and humanity demands; nay, more than that, let this Congress have the credit of being generous to this service; and I do believe that every man who supports this service to the fullest extent of every law yet proposed will be satisfied when finished and know that he has done his duty. And the verdict of the people at home will be, "well done, good and faithful servant."

That we may understand what the condition of the public mind really is, I quote from many newspapers in different parts of the country.

Says the Trenton, New Jersey, State Gazette, December 8:

The Government cannot afford to be mean and niggardly to these heroic men.

Says the New York Herald:

Those connected with it, in whatever capacity, are as a rule a brave, intelligent, fearless class of men. The gallant men who keep guard along our coast and peril their lives to save life and property are entitled to the highest rewards and honors.

Says the Northwestern Christian Advocate:

Write to your Congressmen and instruct them to vote liberally for this splendid department.

Says the New York Star, December 10:

The pay for this noble work is absurdly small; Congress ought to double it at once.

Says the Yarmouth Register, Yarmouth Port, Massachusetts, of December 10:

No class of men are so poorly paid as these men, and none are called upon to perform more arduous service, or one of higher responsibility, and calling for the exercise of more heroic qualities.

Says the Milwaukee Sentinel of December 15:

If the coast service is worth having, it is worth paying for to the extent of affording the men engaged in it as ample pay as they would be likely to receive in ordinary employment, where the same kind of ability is required.

Says the New York Maritime Register of January 11:

The country cannot afford to have the efficiency of this service impaired. The pay of these men is miserably small. Congress is to blame for this, and Congressmen should attend to their duty in this matter.

Says the Marine Record, of Cleveland, December 17:

It is a great shame that these brave and hard-working fellows should be expected to support themselves on the mere pittance now given them.

Says the Springfield (Massachusets) Republican of December 13:

The movement for securing adequate pay to the brave men employed by the United States Life-Saving Service receives general indorsement, and there should be no doubt of speedy action by Congress.

Says the Milwaukee Sunday News of December 11:

No class of men is so poorly paid as are these brave fellows, who at midnight, in the face of a blinding snow-storm, are compelled to launch a boat in treacherous breakers and pull through mountainous waves to the rescue of sailors in distress.

Says the Advocate, Provincetown, Massachusetts, of December 8:

It does not appear how the service can be maintained unless the money is provided to pay the men compensation for the severe toil and great perils they undergo.

From Governor Ludlow's (New Jersey) message to Legislature:

There is no class of public servants which is more deserving of encouragement and liberal support than these. They have displayed a heroism and daring worthy of the highest commendation.

Says the New York Maritime Register of December 14:

The station men should be made to feel that the peculiar and dangerous character of their noble work is so fully appreciated that the nation will always make ample provision for them and their families.

Says the Washington Sunday Herald of January 5:

Let this Congress appropriate for proper compensation for their service while living, and pass the bill to keep their children from starvation when they are dead. Let this thing no longer be to shame us.

Says the Trenton (New Jersey) State Gazette of January 18:

The miserable pittance these men receive for their services is disgracefully incommensurate with the hardships they endure, the perils they encounter, and the arduous and disagreeable duties they perform.

Says the Provincetown (Massachusetts) Advocate of December 15.

If Congress turns a cold shoulder now, scores of keepers and surfmen are ready to retire and leave the service in the hands of the inexperienced and incompetent.

Says the Long Branch (New Jersey) Mirror of December 10:

The brave fellows whose life is spent amid hardship and peril get the poorest pay of any employes in the Government service.

Says the Trenton (New Jersey) State Gazette of January 18:

It is high time that justice was done these hardy and heroic men, and we have little patience with any factious and quibbling obstacles that may be interposed thereto.

Says the Long Branch Mirror of December 17:

The objects of the establishment of the Life-Saving Service were and are in the cause of humanity and for a higher, nobler purpose than for subserviency to political machinery.

Says the Detroit Post and Tribune of January 4:

The heroism of these men is something that cannot be weighed in the Treasury's balance; no government can find any equivalent for the risks they run and the price they pay in loss of health and life.

Says the Boston Sunday Herald of December 25:

The men are expected to remain at the station night and day, and the compensation they receive for their arduous and extremely dangerous services is entirely inadequate.

Says the Detroit Post and Tribune of January 4:

This country is rich enough to pay well for such service as these men render, and it deserves all the scorn it is likely to get at home and abroad for its niggardliness to the bravest men in its service.

Says the Buffalo Express of January 24:

It is indecent in so rich and so profuse a Government as ours to demand and expect such services of skill, courage, and endurance for such pittances.

Says the New York Maritime Register of September 21:

In the reach of the Life-Saving Service it is better to be generous in the expenditures than to err on the side of too great economy.

Says the New York Journal of Commerce of November 25:

Considering the meagerness of the pay, it must be said that the Life-Saving Service is one of the most efficient of Government bureaus.

Says the New York Telegram of November 23:

Certainly $8 per week is a very paltry sum to deal out to men who risk their lives and health in a most laborious service. A larger compensation should have been assured to these men long before.

Says the New York Commercial Advertiser of November 23:

The members of the Life-Saving Service are among the most faithful and hard-working men in the Government employ.

Says the New York Nautical Gazette of October 15:

We sincerely trust that the friends of the Life-Saving Service in every section of the country will lose no opportunity of urging upon their members of Congress the imperative necessity of increasing the pay of keepers and surfmen of the Life-Saving Service.

Says the Cleveland Leader of September 8:

Nowhere else in the Government service does the expenditure of so little money produce such an amount of good as in the Life-Saving Service.

Says the Boston Daily Advertiser of September 1:

This department of the Government service is one of the most necessary, as it is one of the most hazardous, now in existence.

Says the Buffalo Commercial of September 2:

The hard-working members of the Life-Saving Department are paid salaries shamefully inadequate to the valuable services they render.

Says the Freehold (New Jersey) Inquirer of November 26:

This service is not only a commercial necessity, but it sets forth the humanity of the national heart. Double the cost of it, and the money will be a recompense in a duty well done, if not in dollars.

Says the Boston Daily Advertiser of September 6:

No class of public servants are paid so poorly.

Says the New York Nautical Gazette of September 24:

These men should be well paid for their services. The nation can well afford it, and Congress should not hesitate to see that simple justice be done to these angels of the beaches.

Says the New York Telegram of November 8:

The life these men lead is one of great hardship, and the compensating pleasures are reduced almost to nothing.

Says the New York Commercial Advertiser of December 8:

Their life is more exposed than the soldier's, and the hardships in instances even more severe. They receive no pensions when worn out with exertion or crippled by disaster, and when they die it is with the consciousness that after a life devoted to the service of their country their families are left to starve or die in the poor-house.

Says the New York Telegram of August 31:

The Government, the interests of commerce, and the cause of humanity are virtually beggars to these guardians of our coasts.

Says the Syracuse (New York) Standard of September 23:

Let Congress at once raise the wages of these noble life savers.

Says the Chicago Inter-Ocean of October 22:

The Government, which employs these brave men, acts entirely to the contrary of every established rule of business precedent, and offers no encouragement whatever to the best brawn to enter its most important and exacting department.

From minutes of the annual session of the National Board of Steam-Navigation, convened at Washington October 5:

Resolved, That it is in the interest of commerce and navigation that the Life-Saving Service shall be preserved in its integrity, and we therefore earnestly recommend to Congress that measures be at once taken to prevent it from falling into a dreary and possible disintegration, by providing for such rates of compensation to its officers and crews as shall insure to it the retention of first-class men.

I regret, Mr. Speaker, that the surfmen could not have been paid at least $60 per month; but the action of the conference committee cannot now be antagonized without serious danger to this bill, and so I am forced to rest content.

Mr. TOWNSEND, of Ohio. I think this matter is now sufficiently understood by the House. I therefore move the adoption of the report, and on that motion I ask the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the report of the committee of conference.

Mr. REAGAN. On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 154, nays 55, not voting 82; as follows:

YEAS—154.

Aldrich,	Farwell, Sewell S.	Latham,	Sherwin,
Barbour,	Finley,	Lewis,	Singleton, Jas. W.
Belford,	Ford,	Lord,	Skinner,
Belmont,	Garrison,	Mason,	Smith, J. Hyatt
Blanchard,	George,	McCoid,	Spaulding,
Bliss,	Gibson,	McKinley,	Speer,
Bowman,	Godshalk,	Miles,	Spooner,
Brewer,	Grout,	Miller,	Springer,
Briggs,	Guenther,	Money,	Stone,
Browne,	Hall,	Moore,	Strait,
Burrows, Julius C.	Hammond, John	Morse,	Talbott,
Burrows, Jos. H.	Hardenbergh,	Mosgrove,	Taylor,
Butterworth,	Hardy,	Moulton,	Thompson, Wm. G.
Calkins,	Harmer,	Neal,	Townsend, Amos
Camp,	Harris, Henry S.	Norcross,	Tucker,
Candler,	Haseltine,	O'Neill,	Tyler,
Carpenter,	Haskell,	Orth,	Updegraff, J. T.
Cassidy,	Hatch,	Pacheco,	Updegraff, Thomas
Caswell,	Hawk,	Parker,	Valentine,
Chace,	Hazelton,	Paul,	Van Aernam,
Chapman,	Heilman,	Payson,	Van Horn,
Clardy,	Hepburn,	Peelle,	Van Voorhis,
Cox, Samuel S.	Hewitt, Abram S.	Peirce,	Wadsworth,
Covington,	Hill,	Phelps,	Wait,
Crapo,	Hoblitzell,	Pound,	Walker,
Cullen,	Hooker,	Prescott,	Ward,
Cutts,	Horr,	Ray,	Washburn,
Davidson,	Hubbs,	Reed,	Watson,
Davis, George R.	Humphrey,	Rice, Theron M.	Webber,
Dawes,	Jacobs,	Rich,	Wheeler,
Deering,	Jones, George W.	Ritchie,	White,
De Motte,	Jones, Phineas	Robertson,	Williams, Chas. G.
Deuster,	Joyce,	Robeson,	Willits,
Dingley,	Kasson,	Robinson, Geo. D.	Wilson,
Dunnell,	Kelley,	Robinson, James S.	Wise, George D.
Dwight,	Kenna,	Russell,	Wise, Morgan R.
Ellis,	King,	Scoville,	Young.
Ermentrout,	Lacey,	Scranton,	
Errett,	Ladd,	Shallenberger.	

NAYS—55.

Atherton,	Colerick,	Hewitt, G. W.	Scales,
Atkins,	Converse,	Holman,	Shelley,
Beltzhoover,	Cook,	Jones, James K.	Simonton,
Berry,	Cravens,	Ketcham,	Singleton, Otho R.
Bland,	Culberson,	Klotz,	Stockslager,
Blount,	Davis, Lowndes H.	Manning,	Tillman,
Buchanan,	Dibble,	Matson,	Townshend, R. W.
Buckner,	Dowd,	McMillin,	Turner, Henry G.
Caldwell,	Evins,	Muldrow,	Vance,
Cannon,	Forney,	Mutchler,	Warner,
Carlisle,	Gunter,	Oates,	Wellborn,
Chalmers,	Hammond, N. J.	Phister,	Whitthorne,
Clark,	Herbert,	Randall,	Williams, Thomas.
Clements,	Herndon,	Reagan,	

NOT VOTING—82.

Aiken,	Dibrell,	Le Fevre,	Rosecrans,
Anderson,	Dugro,	Lindsey,	Ross,
Armfield,	Dunn,	Marsh,	Ryan,
Barr,	Farwell, Chas. B.	Martin,	Shackelford,
Bayne,	Fisher,	McClure,	Shultz,
Beach,	Flower,	McCook,	Smith, A. Herr
Bingham,	Frost,	McKenzie,	Smith, Dietrich C.
Black,	Fulkerson,	McLane,	Sparks,
Blackburn,	Geddes,	Mills,	Steele,
Bragg,	Harris, Benj. W.	Morey,	Stephens,
Brumm,	Henderson,	Morrison,	Thomas,
Buck,	Hiscock,	Murch,	Thompson, P. B.
Cabell,	Hoge,	Nolan,	Turner, Oscar
Campbell,	Houk,	Page,	Upson,
Cobb,	House,	Pettibone,	Urner,
Cornell,	Hubbell,	Ranney,	West,
Cox, William R.	Hutchins,	Rice, John B.	Willis,
Crowley,	Jadwin,	Rice, William W.	Wood, Benjamin.
Curtin,	Jorgensen,	Richardson, D. P.	Wood, Walter A.
Darrell,	Knott,	Richardson, Jno. S.	
Dezendorf,	Leedom,	Robinson, Wm. E.	

So the conference report was adopted.

The following pairs were announced from the Clerk's desk:

Mr. CORNELL with Mr. BLACK.

Mr. RICE, of Massachusetts, with Mr. WILSON.

Mr. WEST with Mr. ROSS.

Mr. FARWELL, of Illinois, with Mr. MARTIN.

Mr. HISCOCK with Mr. BLACKBURN.

Mr. WAIT with Mr. HOGE.

Mr. LEEDOM with Mr. SHULTZ.

Mr. GEDDES with Mr. RICE of Ohio.

Mr. CROWLEY with Mr. NOLAN.

Mr. FISHER with Mr. COBB.

Mr. WALTER A. WOOD with Mr. BENJAMIN WOOD.

Mr. MARSH with Mr. MCKENZIE.

Mr. VAN VOORHIS with Mr. BEACH.

Mr. HOUK with Mr. DIBRELL.

Mr. HUBBELL with Mr. STEPHENS.

Mr. MCLANE with Mr. URNER.

Mr. SMITH, of Illinois, with Mr. TURNER, of Kentucky.

Mr. DEZENDORF with Mr. CABELL.

Mr. BRUMM with Mr. FLOWER.

Mr. STEELE with Mr. BRAGG.

Mr. SMITH, of Pennsylvania, with Mr. ERMENTROUT.

Mr. HENDERSON with Mr. MORRISON.

Mr. PAGE with Mr. BAYNE. Mr. PAGE would vote "ay" and Mr. BAYNE "no."

Mr. VAN VOORHIS. I am paired with Mr. BEACH on political questions, and not regarding this as such, I have voted.

Mr. TOWNSEND, of Ohio. I move that the reading of the names be dispensed with.

The SPEAKER. The Chair hears no objection and it is so ordered.

The vote was then announced as above recorded.

Mr. TOWNSEND, of Ohio, moved to reconsider the vote by which the report of the Committee of Conference was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. COX, of New York, and Mr. LATHAM, by unanimous consent, were granted leave to print remarks on the Life-Saving Service. [See Appendix.]

ORDER OF BUSINESS.

Mr. CALKINS. I call up the contested-election case of Lynch *vs.* Chalmers.

Mr. HAWK. I hope the gentleman will not do that until I can offer a resolution which is important in reference to the condition of the folding-room.

Mr. CALKINS. I must call up the unfinished business.

AGREEMENT WITH CROW INDIANS.

Mr. MAGINNIS. Mr. Speaker, I rise to a question of order. Yesterday by unanimous consent the bill (S. No. 1045) to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana required for the use of the Northern Pacific Railroad, and to make the necessary appropriations for carrying out the same, was called up, and the reading of it was almost finished when the gentleman from New Jersey [Mr. ROBESON] objected, and it was then agreed by unanimous consent the bill should be printed in the RECORD and be called up this morning.

There is nothing in it, Mr. Speaker, more than this: the Secretary of the Interior held that the Northern Pacific Railroad Company had a right of way through this Crow reservation, but claimed as an act of justice, although it had a legal right, it would be better to pay for it. A commission was sent out which made an agreement with these Indians, and the company agreed to pay $25,000, although I believe there is no legal obligation on the company to do it. As this railroad company is trying to do a decent thing toward the Indians, which railroads rarely do, I hope there will be no objection.

The SPEAKER. The Chair will ask for unanimous consent.

Mr. CALKINS. I do not yield for asking unanimous consent. Does it require unanimous consent?

The SPEAKER. It does.

Mr. MAGINNIS. It was understood by unanimous consent it should come up yesterday.

The SPEAKER. It was agreed it should be printed in the RECORD, and it appears there this morning.

Mr. MAGINNIS. I know the RECORD says so, but the bill was printed in the RECORD to be called up this morning.

The SPEAKER. This could only come up at all events by unanimous consent at this time.

Mr. MAGINNIS. I understand that, sir; but my request was not stated correctly yesterday, as gentlemen around me will bear witness. I asked that the bill be printed in the RECORD with the understanding that it was to come up for completion this morning. Of course I understood that the passage of the bill could only be by unanimous consent, but on yesterday objection was made by the gentleman from New Jersey after the bill had been nearly read through, and though I do not now see him in his seat, he reserved, of course, the right to object to the bill.

The SPEAKER. The Chair can only say, in response to the gentleman from Montana, that this bill can come up this morning by unanimous consent alone.

Mr. MAGINNIS. I ask that the bill be put upon its passage.

Mr. SINGLETON, of Illinois. If this requires unanimous consent, I shall object.

Mr. RANDALL. I have been trying for a long time to get a bill up for the relief of sufferers at the Frankford arsenal, where a number of lives were lost, but have been met with objection constantly.

The SPEAKER. The Chair will submit the question to the House. Is there objection to the present consideration of the bill which the gentleman from Montana proposes?

Mr. SINGLETON, of Illinois. I object.

Mr. MAGINNIS. Does the Chair decide that the bill does not come up this morning by consent, in view of what took place on yesterday?

The SPEAKER. The Chair thinks that the bill could only come before the House by unanimous consent to-day, and objection has been made. It was understood that the gentleman was to call it up to-day, but like any other matter it would still be subject to unanimous consent; and the Chair will also state that it could not have the preference under any circumstances, in view of the fact that the unfinished business of yesterday, which is a question of the highest privilege, has been called up.

Mr. CALKINS. I demand the regular order.

PRINTING OF SENATE BILLS.

Mr. REED. I would like to offer an order which has relation to the business of the House.

Mr. RANDALL. Let us hear what it is.

Mr. REED. I offer the following:

Ordered, That the bills of the Senate of a public character now on the Speaker's table be printed for the use of the House.

Mr. RANDALL. That is right.

The SPEAKER. Is there objection to the order?

Mr. HOLMAN. This is simply to print the bills?

The SPEAKER. To print only.

Mr. VAN HORN. Are not these bills already printed?

Mr. REED. In many cases they are not. Where there has been a Senate amendment, or where numerous amendments have been appended to bills, they are sometimes printed and others are not. It is a very difficult matter in many cases to get at the text of a bill, and this order I think is absolutely necessary.

The SPEAKER. Is there objection to the order suggested by the gentleman from Maine?

There was no objection.

REPORT OF COMMISSIONERS OF FISH AND FISHERIES.

The SPEAKER. The Chair will submit at this time a Senate concurrent resolution in relation to printing, which under the law is required to be submitted and referred.

The Clerk read as follows:

Resolved by the Senate, (the House of Representatives concurring.) That there be printed 10,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1881, of which 2,000 shall be for the use of the Senate, 6,000 for the use of the House of Representatives, and 1,500 for the use of the Commissioner of Fish and Fisheries, the illustrations to be made by the Public Printer under the direction of the Joint Committee on Public Printing, and 500 for sale by the Public Printer, under such regulations as the Joint Committee on Printing may prescribe, at a price equal to the additional cost of publication and 10 per cent. thereto added.

Mr. RANDALL. Let that go to the Committee on Printing.

The SPEAKER. It will be referred, under the rule, to the Committee on Printing.

EXPENDITURES, BOSTON NAVY-YARD.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, with accompanying papers, in response to a resolution of the House of Representatives of the 12th of April, 1882, covering a tabulated statement of expenditures in the Boston navy-yard during the last fiscal year; which was referred to the Committee on Naval Affairs, and ordered to be printed.

GILBERT S. JENNINGS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a petition of First Lieutenant Gilbert S. Jennings, retired, for such legislation as will give him the rank and pay of colonel on the retired list from the date of his retirement from active service June 18, 1878, together with a letter from the Adjutant-General in the case; which was referred to the Committee on Military Affairs.

CONTESTED-ELECTION CASE—LYNCH VS. CHALMERS.

Mr. CALKINS. I demand the regular order.

The SPEAKER. The regular order is the further consideration of the contested-election case.

Mr. HAMMOND, of Georgia. The report in this case was made on the 6th of April and printed about a week or ten days afterward. Considering that one of the few Democrats on the Committee on Elections was detained at home while the same was being considered, by serious illness in his family, and considering that this was a measure of the highest privilege, that might be called up at any time, we had a right to suppose that it would not be precipitated upon the attention of the House. We were also informed by the members of the Committee on Ways and Means on this side of the House that that committee had unanimously agreed to occupy all the time until to-morrow in the discussion of the tariff. But as the report contains but few legal questions, and upon them must depend the decision of this case, we complain not, though the matter be before the House sooner than we had expected.

On the first day of the session, after the gentleman from Tennessee [Mr. MOORE] had made the memorable objection to Mr. Chalmers's taking the oath of office, which he recalled in his speech yesterday, and after the objection of the honorable chairman of the Committee on Elections to the swearing in of Mr. DIBBLE, of South Carolina, the honorable gentleman from Indiana, [Mr. BROWNE,] in reply thereto——

Mr. MANNING. We are all desirous of hearing the gentleman from Georgia, but are unable to do so owing to the confusion in the Hall.

The SPEAKER. The Chair will request members to be seated, and will postpone the consideration of public business until the House is in order.

Mr. HAMMOND, of Georgia. During this interruption I desire to say what I forgot to say in the beginning: that on yesterday, seeing a recognition out of the regular order, and not knowing just what it meant, I objected to the gentleman from Pennsylvania [Mr. MILLER] retaining the balance of his hour after fifteen minutes had been yielded to another gentleman. Having learned that it was perfectly proper, I desire to withdraw the objection which I then made. I am requested also, in behalf of the gentleman from Ohio, [Mr. ATHERTON,] who likewise objected, to withdraw his objection.

I proceed now to read the remarks of the gentleman from Indiana [Mr. BROWNE] on the organization of the House, in reply to the chairman of the Committee on Elections. This was the conclusion of his speech:

I say to my Republican friends and all others that we cannot afford to establish bad precedents in cases of this kind. I have seen something of the consequences of bad precedents in election cases. So far as I am concerned, I am determined to make a clean record, and consider these questions as judicial ones, and vote according to my conscience and my judgment.

It is to that class of gentlemen of this House, who have the courage of their convictions, I propose to address my argument to-day. In doing that I beg to say that, necessarily, I will have to go over much of the ground covered by the minority report. It was not printed in the RECORD because of an objection from the other side on yesterday; and, therefore, for me to do so now is pardonable.

STATEMENT OF THE CASE AND THE DECISION OF THE SUPREME COURT OF MISSISSIPPI.

The proper officers of Mississippi certified that Chalmers had a majority of 3,779 over Lynch, his sole competitor for a seat in this House as the Representative from the sixth district of that State.

In a bill in chancery, filed by Lynch on the 16th of November, 1880, to enjoin the secretary of state of Mississippi from issuing to Chalmers the usual certificate of election, Lynch swore that his vote was 10,775, and Chalmers's vote was but 10,216, thus leaving him elected by 559 majority. In it he contended that the commissioners of election in some of the counties had rejected illegally 5,402 votes, which should have been counted for him, and 1,044 votes which should have been counted for Chalmers.

Failing to enjoin the secretary of state (but without a trial of his bill) he began and carried on his contest against Chalmers under sections 105 to 130, inclusive, of the Revised Statutes of the United States. Meanwhile Chalmers having a proper certificate of election, and therefore *prima facie* entitled to the seat, was sworn in and must retain his place unless Lynch has shown that Chalmers was not and that he, Lynch, was elected such Representative. The notice of contest charged improper conduct on the part of Chalmers's friends. But fortunately for us there is no evidence raising those charges up to the dignity of things to be now noticed.

This "Shoestring district" is five hundred miles long, and about forty miles wide. It is without any considerable town except Vicksburgh, and is almost wholly rural. By the last census, in six of the

counties named below there are 5,795 more colored voters than white voters, and in these Chalmers had a majority of 1,762. Lynch, by his sworn bill in chancery, put them down thus:

Counties.	Chalmers.	Lynch.	
Claiborne	1,061	288	See record, p. 10.
Quitman	153	83	See record, p. 10.
Sharkey	484	175	See record, p. 10.
Tunica	239	506	See record, p. 10.
Wilkinson	1,691	814	See record, p. 10.
Five counties	3,628	1,866	

And as to them he utters no word of complaint, and of course the committee make none. It confined itself to the other counties. In them alone did they find matter for investigation. After a long labor their conclusion was this:

The corrected vote of the parties will stand thus:

	Lynch.	*Chalmers.*
Returned vote	5,393	9,172
Add rejected votes:		
Warren County	2,029	20
Dead Man's Bend	85	15
Palestine	231	17
Australia	192	30
Bolivar	311	45
Hays's Landing	39	24
Ben Lomond	332	20
Duncansby	371	45
Rodney	247	92
Stoneville	315	60
	9,545	9,540
From which we deduct		190
And add that number to Lynch's vote to correct the returns in Kingston precinct, Adams County	190	
Which makes total	9,735	9,350
Majority for Lynch	385	

This table shows Lynch elected by only 385 votes. Following it, on page 22 of the report, is another table making Lynch's majority 623, and a third giving him 1,043 majority. But the committee urge only the first as reliable. Their language is:

These tabulated statements are made for the information of the House. The first tabulated statement shows the result which the undersigned members of the committee all concur in, and upon which the report is based.

Your committee therefore recommend the adoption of the following resolutions:

Resolved, That James R. Chalmers was not elected, and is not entitled to his seat in the Forty-seventh Congress from the sixth district of Mississippi.

Resolved, That John R. Lynch was elected, and is entitled to his seat in the Forty-seventh Congress from the sixth district of Mississippi.

W. H. CALKINS.
A. H. PETTIBONE.
FERRIS JACOBS, JR.
G. W. JONES.
A. A. RANNEY.
S. H. MILLER.
JNO. T. WAIT.
GEO. C. HAZELTON.
WM. G. THOMPSON.
J. M. RITCHIE.
JOHN PAUL.

Now, consider that the practice of the committee is to submit the cases to sub-committees, and for the sub-committees to report, and the general committee to join unless they dissent. Consider further that on the sub-committee which considered this case were only three Republicans and two Democrats, and the report loses much of its weight.

The issues between the majority and minority of the committee are not of fact but of law, pure and simple. As put by the minority, they are these:

First. Will Congress receive and count votes of which there is no evidence, except the certificate of a chancery clerk, as to what purports to be a transcript of election returns of record in his office, when there is no law in Mississippi authorizing any record to be made of election returns by any officer, and when neither the chancery nor circuit clerk, nor any other officer in Mississippi, is by law made the custodian of the election returns after they have been counted by the commissioners of election?

Second. Can Congress count votes which were rejected by the county commissioners because they were not certified to by the inspector, as required by law, when there is no other proof of their validity except the fact that the commissioners of election in their statement of the result give the number of ballots so rejected?

Third. Will Congress refuse to follow the construction of a State statute of election given by a State court?

To put them in a different shape and reversing the order, they would be, first, shall the "marked" tickets be counted? Second, shall the votes not certified by the inspectors be counted? And third, shall the votes certified by the chancery clerk be counted? The majority answers each of these questions affirmatively, and the minority answers them negatively. Chalmers is seated. The burden to unseat him rests upon the contestant. If the majority errs as to either of these propositions, their case, as they confess, must fall to the ground.

Let us examine the questions in that order.

REJECTED TICKETS.

Certain tickets for Chalmers were rejected because they had marks upon them. Tickets like them were received and counted. That was because the commissioners of election in the different counties differed as to whether such tickets should be rejected. Many such were cast for Lynch and many of them were rejected. They were as appears by this *fac-simile* copy, namely:

REPUBLICAN NATIONAL TICKET.

For President,

JAMES A. GARFIELD.

For Vice-President,

CHESTER A. ARTHUR.

For Electors for President and Vice-President,

HON. WILLIAM R. SPEARS.

HON. R. W. FLOURNOY

DR. J. M. BYNUM,

HON. J. T. STETTLE

CAPT. M. K. MISTER, JR.,

DR. R. H. MONTGOMERY,

JUDGE R. H. CUNY,

HON. CHARLES W CLARKE

For Member of the House of Representatives from the 6th Congressional District.

JOHN R. LYNCH

It is headed "Republican Ticket." Under those words is a dash three-eighths of an inch long, thus: ——. Then follow "*For President,*" and below them "James A. Garfield." Under that is another dash three-quarters of an inch long, or two dashes like the former, put end to end, with a circle or "o" between them, thus: ——o——. Then follow "*For Vice-President,*" and under that "Chester A. Arthur;" under that is a dash like the first. Then follows "*For Electors for President and Vice-President,*" and the names of the electors with their several honorary titles, as "Hon.," "Dr.," Capt.," and "Judge." Then comes a dash like the second, and after it the following words:

"*For Member of the House of Representatives from the 6th Congressional District.*
"JOHN R. LYNCH."

Whether these tickets were rightfully rejected depends upon the law of the State of Mississippi. The code of 1880 of that State makes the following provisions as to elections, namely: "The board of registration of each county furnishes poll-books to the clerk of the circuit court of the county who shall carefully preserve them as records of his office." From them he shall make up poll-books or lists of registered voters for each precinct, and these poll-books he shall deliver to the commissioners of election in time for every election, who shall return them after the election. In case of change of residence of a registered voter this clerk may erase old registry and reregister him. (See sections 105, 106, 107.) The commissioners of election for each county appoint for each election precinct three inspectors, all of whom may not be of the same political party. The commissioners furnish at each precinct a ballot-box—

secured by good and substantial locks, and if an adjournment shall take place after opening the polls and before all the votes shall be counted the box shall be securely closed and locked, so as to prevent the admission of anything into it during the time of adjournment, and the box shall be kept by one of the inspectors and the key by another of the inspectors, and the inspector having the box shall carefully keep it and neither unlock nor open it himself, nor permit it to be done, or permit any person to have any access to it, during the time of such adjournment.

SEC. 137. All ballots shall be written or printed in black ink, with a space not less than one-fifth of an inch between each name, on plain white printing news-paper, not more than two and one half nor less than two and one-fourth inches wide, without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket; but this shall not prohibit the erasure, correction, or insertion of any name by pencil-mark or ink upon the face of the ballot; and a ticket different from that herein prescribed shall not be received or counted.

SEC. 138. When the results shall have been ascertained by the inspectors, they, or one of them, or some fit person designated by them, shall, by twelve o'clock noon of the second day after the election, deliver to the commissioners of election, at the court-house of the county, a statement of the whole number of votes given for each person and for what office; and the said commissioners of election shall canvass the returns so made to them, and shall ascertain and disclose the results, and shall, within ten days after the day of said election, deliver a certificate of his election to the person having the greatest number of votes for any office, &c.

SEC. 139. The statement of the result of the election at their precincts shall be certified and signed by the inspectors and clerks, and the poll-book, tally-list, list of voters, ballot-boxes, and ballots shall be delivered as above required to the commissioners of election.

SEC. 140. The commissioners of election shall, within ten days after the election, transmit to the secretary of state, to be filed in his office, a statement of the whole number of votes given in their county for each candidate voted for for any office at such election, &c.

The tickets marked as stated were received by the inspectors and returned to the commissioners. But when the commissioners in the several counties came to canvass the returns so made to them and ascertain and disclose the results, in some counties they rejected the marked tickets. This they did because they held that the marks already described violated the section 137, which required tickets to be "without any device or mark by which one ticket may be known or distinguished from another except the words at the head of the ticket," and because the same section concluded with these imperative words, "*and a ticket different from that herein prescribed shall not be received or counted.*"

The commissioners found no difficulty in knowing and distinguishing these tickets from the others, and yet they were *fac-similes* of the others, except as to those dashes. It was by those dashes that they were known and distinguished; they were the devices and marks covered by the statute, as the commissioners thought. Advised of this conclusion, Lynch sought to enjoin the secretary of state from issuing for Chalmers the usual certificate of election, as has been stated. His application was to Judge Campbell, of the supreme court. He declined to enjoin upon the following grounds: "Because the House of Representatives of the Congress of the United States is the exclusive judge of the elections, returns, and qualifications of its own members," (made so by the Constitution of the United States,) and a decision of the question as to the election of a member of Congress by any other tribunal would not be authoritative or final. Besides this, the chancery court is not authorized to decide contested elections, and whatever its right, if any, to enjoin in aid of a contest inaugurated in a court of the State, which such court could lawfully determine, it appears to be clear that interference by injunction to prevent an executive officer from performing a duty prescribed by law, in reference to an election as to which no court can decide, so as to conclude any body or thing, would be without the semblance of right.

The law was new, passed in 1880, and needed construction. In Tunica County the commissioners counted 506 tickets, of which this is a *fac-simile*.

Republican National Ticket.

For President,

JAMES A. GARFIELD.

—o—

For Vice President,

CHESTER A. ARTHUR.

For Electors for President and Vice President,

Hon. WILLIAM R. SPEARS,

Hon. R. W. FLOURNOY,

DR. J. M. BYNUM,

Hon J. T. SETTLE,

CAPT. M. K. MISTER, JR.,

DR. R. H. MONTGOMERY,

JUDGE R. H. CUNY,

Hon. CHARLES W. CLARKE.

—o—

For Member of the House of Representatives from the 6th Congressional District.

JOHN R. LYNCH.

The question was carried to the courts in this way. Section 2542 of the Code of Mississippi provided that—

> On the petition of the State by its attorney-general, or a district attorney, in any matter affecting the public interest, or on petition of any private person who is interested, the writ of *mandamus* shall be issued by a circuit court commanding any inferior tribunal, corporation, board, officer or person to do or not to do an act, the performance or omission of which the law especially enjoins as a duty resulting from an office, trust, or station, and *where there is not a plain, adequate, and speedy remedy in the ordinary course of law.*

Under that the district attorney filed a petition in the circuit court of Tunica County asking a *mandamus* to compel the commissioners of that county to recanvass its vote and reject said 506 tickets because they were so marked, and therefore illegal. The commissioners demurred to the petition upon the grounds that—

> First. That they are merely ministerial officers and have no power to reject ballots that have been counted by the inspectors.
>
> Second. That the marks on the ballots for which it is claimed they should be rejected are mere printers' dashes, and are not such distinguishing marks as were contemplated by the statute.

The court sustained the demurrer and dismissed the petition. The district attorney appealed to the supreme court. The judgment of the court below was reversed. Chalmers, chief-justice, did not preside because his brother, the sitting member, was interested in the question. The opinion was delivered by Campbell, justice, as follows:

This case presents for adjudication three questions, namely:

1. Whether the commissioners of election have the right to reject illegal ballots cast and counted by the inspectors of election and returned to them with the statement of the result at the precincts.

2. Whether the ballots which the commissioners of election for Tunica County refused to reject should have been rejected by them as being illegal for having on them a device or mark by which one may be known or distinguished from another.

3. Whether the action of the commissioners was final, or whether they may be required by *mandamus* to meet and act in the matter again as the court may order.

We think it clear that the commissioners of election have the right, which they should exercise, to reject ballots returned to them by the inspectors of the election as having been cast at any of the precincts of their county which show themselves on inspection to be illegal. The law devolves on the commissioners of election the duty to prepare for the election by revising the register of electors and the poll-books of the several precincts so that they may show who are qualified electors, and by appointing inspectors and an officer to keep the peace at each voting place and by distributing ballot-boxes and poll-books. The inspectors are to judge of the qualification of electors so as to receive or reject ballots offered by them, and when the polls are closed the ballots are to be counted and a statement of the whole number of votes given for each person and for what office is to be made, and this statement, certified and signed by inspectors and clerks, and the poll-book, tally lists, list of voters, ballot-boxes, and ballots are to be promptly delivered to the commissioners of election at the court-house of the county, to the end that they may canvass the returns so made to them and see that the result of the election at each precinct, as certified to them by the inspectors and clerks, is correct according to the returns. They are to canvass the returns; that is, they are to scrutinize the acts of those engaged in holding the election at the different places of voting, as shown by the returns made to them in pursuance of law, and determine from such returns who received the greatest number of legal votes, and who is entitled to receive their certificate of election in cases in which they give such certificate, and what return they shall make to the secretary of state.

It is true that commissioners of election are not judicial officers, in the sense of trying causes, hearing evidence, and pronouncing final judgment between parties seeking office, but they are charged with the duty of canvassing returns, which includes the list of voters and list made in counting, and the ballots, and they must examine such returns and declare the legal result and certify it. If they find an error in computation, they must correct it. If they ascertain from the lists of voters that persons not registered, and therefore not legal voters, have cast ballots, they cannot correct that, because of inability to ascertain which ballots are legal and which not; but if they find in the ballot-boxes ballots declared by law to be illegal, and such as shall not be counted, it is their plain duty to reject them; and if in canvassing the returns they ascertain that the inspectors, in disregard of law have counted ballots it says shall not be counted, that error should be corrected by the canvassers as certainly as an error of arithmetic should be. The law makes the inspectors judges of the qualifications of electors from necessity, because they are to receive the ballots, and, when received and deposited in the box it is not supposed by the law to be possible to identify them, but the ballots show for themselves whether or not they conform to law, and there is neither difficulty nor uncertainty in rejecting ballots as being illegal, because of what is shown by them upon inspection. We think the effect of section 137 of the code of 1880 is to condemn as illegal, and not be received or counted, every ballot which has on its back or face any device or mark other than names of persons, by which one ballot may be distinguished from another.

This statute does not condemn devices or marks on the outside of a ballot merely, but clearly embraces the face of the ballot as well. That is apparent from the exception contained in it, and a device or mark on the face of the ballot is as much within what we suppose to have been the object of this provision as one on the outside or back of it. It is apparent from the provision that its object is not only to preserve secrecy as to what ballot an elector casts, which is the leading idea of statutes in some other States, which prohibit any device or mark on a ballot folded which betrays the secret of the voter; its object is to secure absolute uniformity as to the appearance of ballots, in order that intelligence may guide the electors in their selection, and not a mere device or mark by which ignorance may be captivated. The Legislature was trying to prevent multitudes from "being voted" and being guided by a mere device or mark by which they should distinguish the ballots they were to use in the process without a knowledge of the names of persons for whom their ballots were being cast. Elections are a contrivance of government which prescribes who are electors and how they may express their will, and it is a legitimate exercise of power to prescribe the description of ballots which shall be used. Section 137 of the code of 1880 does this, and requires all ballots to be written or printed with black ink, with a minimum space between names, on plain white news printing-paper of a certain width, and without any device or mark by which one ticket may be known or distinguished from another, &c.; and it declares that a ticket different from that prescribed shall not be received or counted. Considerations of policy dictated the description of ballots prescribed, and it was deemed of such importance to secure an observance of the requirement that it is declared that ballots not conforming to the description prescribed shall not be received or counted.

It would have been competent to impose a penalty on the circulation or use of such ballots, but the means by which their use is sought to be prevented is the rejection of the ballot when offered or from the count. It is not penal for an elector to use a ballot differing from the legal pattern, but it shall not be counted, and thus he fails to express his will through such an instrumentality. If the device or mark is external, and observed by the inspectors, they should not receive the ballot. If it is received, and on being opened is discovered to be of the kind condemned as illegal, it is not to be counted; but if the inspectors count such ballots in disregard of law and their duty the commissioners of election, assembled at the court-house, with time and opportunity afforded to scrutinize and correct, as far as may be done by the data furnished by the face of the returns, without a resort to evidence *aliunde*, should reject, as the inspectors should have done, ballots which the law says shall not be counted. The only safe guide as to what ballots are illegal because of devices or marks is the statute. It excludes any mark or device by which one ticket may be known or distinguished from another. A distinction between ballots by means of devices or marks instead of by means of the names on them is what the statute aims to prevent, and we are not at liberty to confine the broad language of the statute to any particular description of devices or marks, for ingenuity would evade any such limit. The law should be enforced as written.

There is no room for distinction between what is directory and what is mandatory, what is essential and what is not. The requirement that ballots shall be written or printed with black ink, with a space not less than one-fifth of an inch between names, seems to have been designed to guard against confusion and mistake as to names of the persons voted for for the different offices, while the requirement of plain white news printing-paper of a designated width within narrow limits, and the exclusion of any device or mark by which one ticket may be known or distinguished from another, must have been intended to secure uniformity in the appearance of ballots, so that ignorance and blind party devotion might not be led to the adoption of ballots by the guidance of some mark and devices, as to which

they were instructed by their leaders, and which, instead of intelligent comprehension of whom or what they are casting their ballots for, should determine their selection of ballots to be cast. It was well known that ballots are prepared beforehand under the direction of political managers, and are distributed for use among electors; and it was further known that captivating marks and devices on ballots, appealing to ignorance and blind party zeal, were a favorite resort as an electioneering device deemed legitimate and freely practiced with much effect; and the purpose of section 137 was to stop this pernicious practice and to make the prohibition effective by prohibiting any mark or device by which one ticket can be distinguished from another, and by rejecting any ballot in violation of its requirements. It was assumed that ballots would still be prepared beforehand by party managers or persons interested in having them legal, and that, as all would be alike, the advantage to one party over another should not consist in tickets, but that ballots must be selected not by devices and marks, but because of the names to be voted for.

We do not think that the commissioners of election can be required to meet and recanvass the returns of the election. Having made their canvass and declared the result, and transmitted a statement of it to the secretary of state, their connection with the returns ended. Any error committed by them is not to be corrected by requiring them to reassemble and correct it. The legality of their action may be the subject of judicial investigation in cases in which provision is made for contesting the election by an appeal to the courts of the State, but only in those cases.

The House of Representatives of the Congress of the United States is the judge of the elections, returns, and qualifications of its own members, and the courts of the State have nothing to do with this matter.

This case might properly have been disposed of without considering any of the questions made by the record except that last mentioned, but the attorney-general informed us from the bar that doubts exist as to the proper interpretation of the election law of 1880, and that criminal prosecutions have been instituted against the commissioners of election of some of the counties for supposed violations of the law in reference to their duties, and we have complied with his request in declaring our view of the several questions presented by the record.

Judgment affirmed. To be reported.

George, J., concurring:

I concur entirely in the opinion of the court as drawn up by Judge Campbell. The duty to examine and reject illegal ballots rests on every officer or court required or authorized by law to count them. The statute prohibits the use of any mark or device on a ballot by which one "ticket may be known or distinguished from another." That the mark or device adopted is a mere printer's mark, commonly used for ornamentation, makes no difference. The statute prohibits any distinguishing mark whatever, and no court has the right to do away with the effect of the statute by holding that marks which are mere printers' ornaments may be used. It is wholly unimportant whether the marking on the ticket was the result of ignorance or a design to evade the statute. The inspectors and commissioners have no power to inquire into motives; nor has the statute made motives important. It condemns as illegal every ballot or ticket which is so marked "that it may be known or distinguished from another." The ticket used in this case and made an exhibit to the petition is thus marked, and should have been rejected. We have nothing to do with the policy or impolicy of the statute. The language is plain and does not admit of construction; and it is the duty of the courts and other officers to obey and enforce it in the sense the words clearly indicate.

The House should follow the construction of the Mississippi statute made by her supreme court. It is plain, therefore, that the court decided that the commissioners of elections were bound by law "to reject illegal ballots cast and counted by the inspectors of elections and returned to them with the statement of the result at the polls;" that they should have rejected the 506 marked ballots as illegal "for having on them a device or mark by which one may be known or distinguished from another." But the court held that the commissioners, having decided and declared the result, could not be reassembled and made to change that result.

If this construction of the statute is correct, all tickets so marked were illegal and ought not to have been counted in Mississippi and ought not to be counted here. Should the House act upon that construction? We answer in the affirmative. First, because the House should follow the construction made by the highest judicial tribunal of the State whose statute is under investigation. The Supreme Court of the United States is absolutely supreme, answerable to no tribunal and to no constituency. If it would be governed by such a construction surely this House, not a judicial body but accustomed to seek its law in the statutes and reports, should feel so bound. That that court would follow such a construction ordinarily none can doubt. The rule has been uniform from Shelby *vs.* Gray, 11 Wheaton, down to its latest utterances. Since 1789, at its birth, it has acted under the statutory requirement that "the laws of the several States, except where the Constitution, treaties, or statutes of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply." And always it has held that "the laws of the several States" are to be sought for, not in the statute-books only, but in the reports also, and that the construction of a State law by the highest judicial tribunal of that State determines what is that law. (See Green *vs.* Neal, 6 Peters, 291.)

The majority report says:

> It is seriously contended by the contestee that the decision of the supreme court of Mississippi construing the sections of the election laws of that State ought to be followed by Congress, and that it is against the settled doctrine of both Congress and the Federal judiciary to disregard the decisions of State tribunals in construing their own local laws. This is too broadly asserted and cannot be maintained. It is true that where a decision or a line of decisions has been made by the judiciary of the States and those decisions have become a "rule of property," the Federal judiciary will follow them. Not to do so would continually place titles to property in jeopardy and disturb all business transactions. The rule as to all other questions is well stated in Township of Pine Grove *vs.* Talcott, (19 Wall., 666, 667,) as follows:
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> "It is insisted that the invalidity of the statute has been determined by two judgments of the supreme court of Michigan, and that we are bound to follow these adjudications. With all respect for the eminent tribunal by which the judgments were pronounced, we must be permitted to say that they are not satisfactory to our minds. * * * The question before us belongs to the domain of general jurisprudence. In this class of cases this court is not bound by the judgment of the courts of States where the cases arise; it must hear and determine for itself."

That the Supreme Court of the United States will follow a "*line of decisions*" of a State supreme court construing a statute of that State, which have become a rule of property, is true. But it will not wait for such a line of cases before following. Outside of the excepted cases mentioned in 18 Howard, 595, and 8 Wallace, 575, Federal questions, 17 Wallace, 648, it follows any such decision. It will follow the *latest* when they are not in "line." (2 Black, 599; 4 Wallace, 136.)

The constitution of Mississippi, adopted in 1832, forbade the introduction of slaves there for sale. In Graves *vs.* Slaughter, 15 Peters, 449, the United States Supreme Court held that a note given for such slaves could be recovered, because the State had passed no law to give effect to the constitutional prohibition. Afterward, in Brien *vs.* Williamson, (7 Howard, Mississippi Reports,) the supreme court of Mississippi held the reverse, and after that the Supreme Court of the United States changed. This was its language:

> Undoubtedly this court will always feel itself bound to respect the decisions of the State courts, and from the time they are made will regard them as conclusive in all cases upon the construction of their own constitution and laws. (Rowan *vs.* Runnels, 5 Howard, United States Reports, 139.)

Secure in its own grand powers and free from the petty weakness which would make it doubt the integrity or discount the ability of the State courts, it admits that their decisions upon their own statutes are authoritative.

Nor is it confined to "property" in any narrow sense. It covers all rights which may be litigated. Besides, the office of Representative is "property" very valuable to the possessor and sacred to his constituency. (See *Ex parte* Garland, 4 Wallace, and cases cited.)

And the House of Representatives has uniformly not only followed the construction put upon State laws by the State supreme courts but by State executives as well. The rule was well expressed by the Committee on Elections in the Tennessee cases in the Forty-second Congress. We quote it:

> It is a well established and most salutary rule that where the proper authorities of a State government have given a construction to their own constitution or statutes, that construction will be followed by the Federal authorities. This rule is absolutely necessary to the harmonious working of our complex governments, State and national, and your committee are not disposed to be the first to depart from it.

The Forty-sixth Congress followed the construction of Iowa's constitution by her governor and kept in Republican Representatives, though Iowa's Legislature now hold otherwise, and another Congress would follow this last construction. As another escape from this rule the majority report uses this language:

> Every State election law is by the Constitution made a Federal law where Congress has failed to enact laws on that subject, and is adopted by Congress for the purpose of the election of its own members. (Page 10.)

This language is strangely involved. It declares that State election laws are made "Federal law" by the Constitution and "*adopted by Congress.*" It sounds oddly to talk of Congress adopting a constitutional result. But there is no such thing in the Constitution; and if there were the construction of them by the proper tribunals would still fix the law, for in the same sense construction by the State courts would *pro hac vice* become Federal. There is no such thought in the instrument. Its only language on the subject is: "The times, places, and *manner* of holding elections for Senators and Representatives shall be prescribed *in each State by the Legislature thereof*, but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." Congress has not legislated as to the "manner" of the election of Representatives, except to require them to be elected for districts and that the voting shall be "by written or printed ballot; and all votes received or recorded contrary to this section shall be of no effect," (Revised Statutes United States, sections 23-27,) and as to the duties of election supervisors. (*Ib.*, section 2026, &c.)

The majority report continues this language:

> To say that Congress shall be absolutely bound by State adjudication on the subject of the election of its own members is subversive of the constitutional provision that each House shall be the judge of the elections, qualifications, and returns of its own members, and is likewise inimical to the soundest principles of national unity.
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> The foundation of this contention is that if the Congress of the United States fails to enact election laws, and makes use of State laws for its purposes, it adopts not only *the laws* thus enacted, but the *judicial construction* of them by the State courts as well. (Page 10.)

None contend "that Congress shall be absolutely bound" by such decisions. The Supreme Court is not "absolutely bound;" it can disregard them. But it follows them for high considerations of public good. A court of errors is not "absolutely bound" by the verdict of a jury, but will not set it aside unless it "shocks the moral sense." So this House should follow a State construction of the State law, unless it is manifestly absurd. "The constitutional provision that each House shall be the judge of the elections, qualifications, and returns of its own members" means that the judgment should be according to law. That law when Congress has not acted is the State law, and the State law is the State statute as construed by the State supreme court. We know not what the majority means when it says this idea is "likewise inimical to the soundest principles of national unity." Certainly it is not at war with our constitutional national unity.

The next point is that Congress should follow State decisions construing these State statutes only where "decisions have been continued and uniform in such a way and for such time as to become the fixed and settled law of a State." "Where decisions have been made for a sufficient length of time by State tribunals construing election laws so that it may be presumed that the people of the

State knew what such interpretations were would furnish another good reason why Congress should adopt them in Congressional election cases. But this reason would be of little weight when the election had been held in good faith before such judicial construction had been made, and where there was a conflict of opinion respecting the true interpretation of a statute for the first time on trial."

Such has not always been the language of the honorable chairman of the Committee on Elections. In the Forty-sixth Congress he submitted a minority report signed by himself, Speaker KEIFER, and Mr. Weaver. In it he used this language:

We think this question, under the present constitution and laws of Pennsylvania, not an open one. The highest court of judicature of the State has decided it; at least it has given a construction to that part of the new constitution under consideration, and we quote therefrom. (Report, page 41.)

That was a single decision, not "a line" of them, and yet under it a Democrat was refused a seat in a Democratic House.

In the same Congress, in the case of Bisbee *vs.* Hull, from Florida, Mr. CALKINS objected to Hull's being sworn in upon a regular certificate. He said:

How can this certificate stand, even as establishing a *prima facie* right, when the basis upon which it rests has been swept away *by a decision of the supreme court of the State of Florida!*

After Hull was sworn in his case went to the Committee on Elections, and it unanimously followed an opinion of the supreme court of Florida, construing the Florida election laws—only one decision, and that, too, made after the election. Speaker KEIFER drew that report. It contained this language:

The opinion of the supreme court of Florida, pronounced by the chief-justice, on the question of canvassing the vote of the county of Madison, will be found in the record, page 221.

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As already stated, duly certified copies of these returns were put in evidence by the *contestee*; they are signed by all the officers of the election; they are perfect in form, clear and explicit in the statement of the votes cast, *and have all been adjudged by the unanimous opinion of the supreme court of Florida, in a case before it, to be good and valid returns of the election at these polls.* (17 Florida Rep., page 17.)

Mr. CALKINS was a member of that committee, and under that report another Democrat was turned out by a Democratic House.

Mr. CALKINS drew the report in Boynton *vs.* Loring, in the Forty-sixth Congress, in which occurred this language:

But it is not necessary for us to decide this question, and we do not, much preferring that the courts of Massachusetts shall first construe their own statutes, and when they have undergone judicial construction we would follow the decisions of the courts of that State.

And this report was signed by all the committee (including Speaker KEIFER) except Mr. Weaver, the Greenbacker.

And the Mr. CALKINS who, as a member of the Committee on Elections of the Forty-sixth Congress did all these things, is the distinguished chairman of the Committee on Elections in this the Forty-seventh Congress, who prepared this majority report, which so vigorously fights against the principles then laid down. Then he was ready to follow State courts in the construction of State election laws freely. Now he puts it thus gingerly:

It need, however, hardly be added that *a line* of *carefully considered* cases in the States, in which such courts have *undoubted* jurisdiction, so far as they would apply in principle, would *go a long way toward* settling a disputed point of construction in any State election law. In fact it may be said that it would *probably* be the *duty* of Congress to follow the *settled* doctrine *thus* established. (Report, page 11.)

But seemingly afraid that his last enunciation will not be satisfactory he proceeds further to attack the Mississippi decision. He says that this construction of the statute was *obiter dicta*, because, by deciding that the commissioners could not be compelled to recanvass the votes of Tunica County, the court could have avoided the decision of the other points. The construction was not *obiter* even under the citations made by the report. There was a square issue upon each of the questions decided. They were made by a public officer to settle a dispute in which every elector in the State had a direct interest and every elector in the United States had an indirect interest, and the court could not decently pass by any one of them. So avoiding decision of questions, even in ordinary cases, was so great an evil that many States have legislated against the wrong. In Mr. CALKINS's own State since 1851 the constitution has declared: "The supreme court shall, upon the decision of *every case*, give a statement in writing of *each question arising in the record in each case*, and the decision of the court thereon." (Constitution of Indiana, 1851, article 7, section 5.)

In 1872 a statute of Georgia enacted that "the court (supreme court) *shall decide all questions* presented in the record of each case carried up to it for review." (Code 1873, section 4271.) It may be so in many States. And neither in Indiana nor Georgia would the court have any patience with one who would argue that their decision upon any question plainly made in the record was *obiter*, because it was not *necessary* to an adjudication of the rights of the parties.

It is not true, as stated by the majority report, that "the court declared in terms it had no jurisdiction of the subject-matter embraced in the first and second grounds stated in the opinion." All it said was:

The House of Representatives of the Congress of the United States is the judge of the elections, returns, and qualifications of its own members, and the courts of the State have nothing to do with this matter.

If that fact ousted the court of jurisdiction, what becomes of the position that a "line of well-considered decisions," &c., should be followed? A thousand would not change the fact that at last the House was judge, and that "the courts of the State have nothing to do with this matter." Nor does the majority of the Committee on Elections stand to that doctrine. The Republicans invoke exactly the opposite doctrine in their report in the case of Mackey *vs.* O'Connor, made on the 10th of April, 1882. Then, in discussing the duty of election officers under the laws of South Carolina, when that election was held, they used this language:

In the election laws of South Carolina, so far as a member of Congress is concerned, there is absolutely nothing authorizing county canvassers to pass upon the validity of an election, and to decide whether or not the votes there cast are to be counted and canvassed. Such is the effect of the decision of the supreme court of that State, *Ex parte* Mackey *et al. ex.* Canville *et al.*, rendered upon an appeal taken by the contestant upon an application to one of the circuit judges for the writ of *mandamus* to compel the county canvassers of Charleston to count the votes of two of the polls rejected by them.

I cite another memorable case. Three years ago Maine was turned over to a Republican governor and Legislature upon a decision of her supreme court made upon a "solemn question" (not case) submitted.

MARKED BALLOTS VOID.

The marked ballots ought not to be counted, even if we proceed regardless of the construction of the Mississippi statute made by her highest judicial tribunal.

Citations of cases as to the general rule of construing election laws are useless here. None will dispute about that. But let us come down to the very question under consideration.

The election law of Indiana, by section 18, requires the voter to receive his ballot and "put the same *unopened* into the ballot-box," and by section 23 requires that all ballots "shall be written or printed on plain white paper, without any distinguishing marks or other embellishment thereon, except the name of the candidates and the office for which they are voted for, and inspectors of elections shall refuse all ballots offered of any other description; provided nothing herein shall disqualify the voter from writing his own name on the back thereof."

Here the fact that the law compelled the ticket to be voted unopened, without marks or other embellishments thereon, except that the voter might write his name on its back, shows that her courts were right in holding that a mark inside of this unopened ballot, and not seen till the counting of the votes, could not cause the ballot to be then rejected. That the Mississippi statute dealt with the *face* and not the "back" of the ballot is plain from its words: "All ballots shall be written or printed in black ink," "without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket; but they shall not prohibit the erasure, correction, or insertion of any name by pencil-mark or ink upon the face of the ballot; and a ticket different from that herein prescribed shall not be received nor counted." (Section 137, *ante.*)

In Commonwealth *vs.* Woelper, 3 S. & R., 29, the supreme court of Pennsylvania held that such a law must be strictly construed. Tilghman, C. J., delivering the opinion, said:

The tickets in favor of those persons who succeeded in the election had on them the engraving of an eagle. The judge who tried the case charged the jury that these tickets ought not to have been counted. The case is certainly within the words of the law. The tickets had something more than the names on them. But is it within the meaning of the law? I think it is. This engraving might have several ill effects. In the first place, it might be perceived by the inspector, even when folded. This knowledge might possibly influence him in receiving or rejecting the vote. But in the next place, it deprived those persons who did not vote the German ticket of that secrecy which the election by ballot was intended to secure to them. A man who gave in a ticket without an eagle was set down as an anti-German and exposed to the animosity of the party. Another objection is that the symbols of party increase that heat which it is desirable to assuage. We see that at the election some wore eagles in their hats. The case thus falling within the words and practices of this kind leading to inconvenience, I think the court ought not exercise its ingenuity in support of these tickets. Let us at least prevent future altercations at elections by laying down such plain rules for the conduct of inspectors as cannot be mistaken. I am for construing the by-law as it is written and rejecting all tickets that have anything on them more than the names. This objection strikes at the root of the election, for the evidence is that all the tickets in favor of the defendants were stamped with an eagle. Whatever, therefore, may be the law on other points, it is clear, upon the whole, that the defendants were not duly elected.

The law of Oregon required tickets to be written or printed on plain white paper. The officers rejected a ballot because it was on colored paper. Its supreme court, upon a case made, decided thus:

Section 30, page 572, of the code provides that "all ballots used at any election in this State shall be written or printed on a plain white paper without any mark or designation being placed thereon whereby the same may be known or designated." The voter in this instance is conclusively presumed to have had knowledge of this requirement, and to have had it in his power to comply with it by using a proper ballot. It was a matter entirely under his own control, and if he chose to disregard the law he cannot complain if the consequence was that his vote was lost. (The State *vs.* McKinnon, 8 Oregon, 500.)

Ohio has the identical Mississippi requirements as to tickets except that it does not declare that marked ballots shall not be counted. We might cite other election laws from many States and draw comparisons with them, but as this report is signed by a distinguished lawyer from the State of Massachusetts I call attention to her law. Chapter 7 of the Statutes of Massachusetts, 1882, contains her election laws. By section 4 the secretary of state is required to furnish to all election officers self-sealing envelopes of uniform size and color and bearing the arms of the Commonwealth; and no other envelopes can be used at the polls. By section 9 none but registered persons can vote. By section 12 the vote must be presented by the voter in person "in a sealed envelope, or open and unfolded, and so that such officers can know that only one ballot is presented."

By section 14 no tickets are to be printed or distributed when three or more must be voted for "unless such ballots are of plain white paper, in weight not less than that of ordinary printing-paper, and are not more than 5 nor less than 4½ inches in width, and not more than 12½ nor less than 11½ inches in length, and unless the same are printed with black ink on one side of the paper only, and contain no printing, engraving, device, or mark of any kind upon the back thereof. The names of candidates shall be printed at right angles with the length of the ballot in capital letters not less than one-eighth nor more than one-fourth of an inch in height, and no name of any person appearing upon any ballot as a candidate for any office shall be repeated thereon with respect to the same office. Nothing herein contained shall authorize the refusal to receive or count any ballot for any want of conformity with the requirements of this section." Suppose the last clause stricken out, and in lieu of it the words of the Mississippi statute, "and a ticket different from that herein prescribed shall not be received or counted." Suppose on the back of such tickets (for that law deals with the "backs") were two "monkey dashes" and other "printers' marks," would they not be rejected because obnoxious to the prohibition against "printing, engraving, device, or *mark of any kind* upon the back thereof?"

On the 1st of March, 1882, the committee on election laws of Massachusetts reported favorably what seemed to be one of a series of intended amendments to her election laws. Its first section was in these words:

No person shall, at an election for the choice of State, district, county, or city officers, cast any ballot unless the same is at least 4½ inches in length and width, and no such ballots shall be received or counted by the election officers.

The officer who sent me the bill says he understands its purpose to be "to provide against the counting of 'stickers' which have fallen from the tickets or ballots to which they were affixed when cast."

But whatever was its purpose, I cite it as another attempt to compel fair elections by strict regulations. And I call attention to language used by the distinguished Representative [Mr. RANNEY] who is a member of the Committee on Elections in this House, on the 17th of this month, in the report in Bisbee *vs.* Hull. It was this: "It is a fundamental principle as firmly established as any rule of law that votes *must* be cast *as the law directs*," and he adds that votes otherwise cast are "illegal and void." The law of Mississippi directed that tickets should not be counted unless they were "without any device or marks by which one ticket may be known or distinguished from another, except the words at the head of the ticket." Each of these rejected ballots had on it four different marks, by either or any or all of which they could be known and distinguished, and were known and distinguished from other tickets. Will we violate this fundamental principle that these votes may be counted?

In the contested election case of Curtin *vs.* Yocum there was a report, (No. 345, second session Forty-sixth Congress.) I believe none dissented from this language in that report:

The authorities are uniform to the effect that all statutes are mandatory which cannot be disregarded without ignoring the legislative intent. The will of the Legislature cannot be carried out unless the provision of the statute is complied with, and to disregard one of the safeguards which the law-making power of Pennsylvania deemed necessary for the protection of the ballot. (Page 4.)

The same rule is well expressed in Doerflinger *vs.* Hilmantel, 21 Wisconsin. The statute forbade unregistered voters from voting, and declared the votes to be illegal. The court said:

The inspectors cannot receive his vote, and if they cannot it cannot afterward be received and counted by the courts. And next it is to be observed that it is a negative statute. It has been said on very high authority that negative words will make a statute imperative. (Dwarris on Statutes, 715; 7 Law Library, 55, and cases cited.) The words of the act are: "No vote shall be received at any annual election in this State unless," &c. It is difficult to conceive any language more strongly imperative than this.

THE MAJORITY CONFESSES AND AVOIDS.

The only reply by the majority report, is (page 13:)

In the present case we find, as a matter of fact, that there was no intentional violation of the law, and we further find, as a matter of fact, that every precaution was taken which a reasonably prudent man would be likely to take under similar circumstances; that the contestant in person applied to those whom he might reasonably believe to be well versed in the art of printing, and, with the law in their hands, discussed the question of distinguishing marks, and was assured that tickets would be prepared and printed strictly within the letter of the statute. After the tickets were printed the contestant was assured that they were lawful, and might be relied upon as not being obnoxious to the law. It does not appear that the printers' dashes which appear on the ticket were observed by the contestant or his friends, at least until the morning of the election, after they were all distributed, and it was too late to furnish other tickets; and when the dashes were discovered it was stoutly contended that they were not distinguishing marks within the meaning of the law. It also appears that there was no intention on the part of any one, either those connected with the printing of them, or those for whose use they were designed, to print the dashes in the tickets for the purpose of distinguishing them from any other ballots of any other party.

It is also proved that tickets precisely similar to those that are questioned in this contest, in so far as the printers' dashes are concerned, were printed and furnished to the opposing party in at least one of the counties in the sixth Congressional district of Mississippi, and were unquestionably voted without a suspicion that they were obnoxious to the law.

That the marks were used to distinguish the tickets appears by the record. Luther Reed, a farmer, forty-four years old, and an election commissioner of Warren, testified that he and his fellow-commissioners unanimously rejected all marked ballots, where protests against them were filed because they thought them illegal. In testifying as to occurrences at the election, he said, "I saw a squad of colored men standing together, and heard some say, 'these are the marks which I vote by.'" (Objected by the contestant's counsel as hearsay.) Cross-examination continued: "I saw the tickets, but I did not go near enough to see what tickets they were." One of them said, "I voted the 'O' ticket." (Record, page 40–41, and see ticket on page 139 of record.) H. M. Marshall testified as to the election in Warren County, as follows:

Question 4. Did, or not, the Republican officers or challengers at the polls keep a tally of the votes for Lynch and announce the state of the vote when the polls closed and before the votes were counted? A. Yes; Captain Bourne kept a tally, and at the close of the polls announced the result; which, when the votes were counted, hit the exact result or nearly so. (Record, 250.)

The Republican challenger at Kingston precinct, Adams County, Henry B. Towers, testified:

Out of the 350 which I have on my tally-sheet I actually saw and read the name of Lynch on 160 ballots, the balance I took by what the voters said. (Record, 133.) The voters were instructed to turn their tickets toward me as they came into the voting-room. (Record, 137.)

Away with your talk about a secret ballot, an unmarked ballot, when thus your voters are marched to the polls "like dumb driven cattle!"

Nor can the committee escape upon the idea that the voters did not see these tickets till the morning of the election. That objection would be just as valid with any kind of marks on the tickets, as spread-eagles or the like. This contest is not with the voters, but with Lynch. The statute of the United States treats it solely as a case between Lynch and Chalmers. Now, what had he to do with preparing these marked ballots? We stop not to notice that he told the secretary of state that all his tickets were printed at one office, &c., (record, 259,) while the fact was that he employed two offices to do the work. Grant that he was misunderstood, as he claims. (Read at pages 45, 46, 47, 49, 51, 52.) From them it will appear that he had the law and had the proof-sheets of the Democratic ticket and his own before him side by side; he criticised the difference in the type of "heading," and that he swears on the trial that he regarded the utter absence of marks on the Democratic ticket as a device by which they might be known. He thought obedience to the letter of the law a violation of the law.

The record contains no evidence that Mr. Chalmers had any marked tickets made or saw any before they were voted. The record, at pages 42, 43, shows that the chairman of the Democratic executive committee of Issaquena County by letter ordered "2,000 regular Republican tickets, Garfield and Arthur, and electors, but with our candidate for Congress, Hon. James R. Chalmers's name at bottom." And he received them, but the record does not show that any of them were used, I believe.

More than a thousand years before Christ Saul was told to go and destroy the Amalekites, to destroy utterly all of them. He went and brought back the captive Agag and sheep and oxen, and he was called to account by the prophet for his neglect of duty. I can almost see him as he replied: "Why, I brought the king a captive. Have you no pride as an Israelite? And the people have brought back the best of the sheep and the oxen for sacrifice. Do you not believe in sacrifice?" The stern answer was: "To obey is better than sacrifice, and to hearken than the fat of rams."

And shall we be told in this presence, by the law-makers, that laws made, not in the South alone but all over this country—for they are alike—for the purpose of preserving the purity of elections are to be set aside at pleasure? If so, where are you to stop? Would it be permissible to put a black line around this ticket as a symbol of mourning for Garfield? Would it have been permissible to print the face of Lincoln thereon and say "He was the emancipator of the negro race?" Obedience to law shows a plain path; disobedience places you at sea, and God only knows where you will find harbor.

I find, Mr. Speaker, that I will not have time to discuss the certificates of the supervisors, &c., and it is best to leave that to others. But I will attach here as part of my remarks the appendix to one of the arguments before the committee, showing what was said at the time of the passage of the law touching the right of supervisors in county precincts to make returns. I know that with lawyers remarks prior to its passage about what a law means do not always amount to a great deal. But it does seem that in this place and in this presence they are considered.

Mr. RANNEY. Not in the courts.

Mr. HAMMOND, of Georgia. As the gentleman from Massachusetts properly remarks, not in courts. In this place we have had a treaty, "the highest law," as Mr. Webster calls it, absolutely twisted from its meaning, as Congress understood it, by a veto, because of prior talk between the Americans and Chinamen who negotiated the same. Surely, therefore, Garfield's construction of the supervisory law will go down with us to-day. Here is the appendix:

APPENDIX.

When the sundry civil bill of the Forty-second Congress went to the Senate an amendment known as the tenth amendment was put on, extending the law as to supervisors of election to all Congressional districts alike. This was resisted by the House, and after an excited and angry contention between the two Houses a compromise was made providing for the appointment of supervisors in Congressional districts outside of cities of 20,000 inhabitants, but limiting their power as follows:

"*And provided further*, That the supervisors herein provided for shall have no power or authority to make arrests or to perform other duties than to be in the immediate presence of the officers holding the election and to witness all their proceedings, including the counting of the votes and the making of a return thereof."

Mr. Garfield, chairman of the committee, when making the conference report, said:

"The effect of this is that the supervisors authorized by this act stand by and

witness the proceedings of the election, and have the official right to stand by, so that if frauds are being perpetrated the Government of the United States may have as witnesses a member of the Democratic party and one of the Republican party to the facts in the case." (See Congressional Globe, page 4455, second session, Forty-second Congress.)

Mr. SHELLABARGER. Let me suggest to my colleague whether the effect of this amendment may not be to deprive these officers of the power to challenge, and also of the power to make the certificate which they now make under the existing law? I call the attention of my colleague to these words: "shall have no power or authority to make arrests, or to perform other duties than to be in the immediate presence of the officers holding the elections," &c. It seems to me, and I suggest it as an apprehension, that this strips these supervisors or inspectors of the power both of challenge and also of indorsing the certificates of election.

Mr. GARFIELD. That may be true; but, even if it be true, the presence of these officers, appointed by a judge, acts as a moral challenge.

Mr. BROOKS. I understand that they have not the power to give certificates of election.

Mr. GARFIELD. I should say clearly not.

Mr. BROOKS. Nor have they any power to make any return.

Mr. GARFIELD. Nothing of the kind. (Page 4454.)

Mr. GOODRICH. My question is whether the present amendment does not clearly retain to the supervisors appointed by the General Government, through the instrumentality of the court, the duty and the right to make a return or certificate of election contrary to and in opposition to the State officer?

Mr. KERR. Under the language of that amendment I think it is perfectly clear, as a question of law, that these two supervising witnesses will have neither right nor authority to sign or to superintend, or in any way to modify or to change the returns of the election. They may merely stand and see how it is conducted.

Mr. GOODRICH. Now I desire to have that proviso read to the House.

Clerk read as follows:

"*And provided further*, That the supervisors herein provided for shall have no power or authority to make arrests or to perform other duties than to be in the immediate presence of the officers holding the election and to witness all their proceedings, including the counting of the votes and the making of a return thereof."

Mr. GOODRICH. That is it, "and to make a return."

Mr. GARFIELD. Oh, no; that is not it. [Laughter.] They only witness the making of the return.

There are here also certificates of clerks of chancery courts, &c. Now, there is no law in Mississippi that authorizes any clerk to have anything on the face of this earth to do with an election except that the clerk of the circuit court keeps the book of registration and changes the registration where parties move, &c.; and he delivers that poll-book to the commissioners when an election is to be held, and they return that poll-book to him after it is held. I challenge gentlemen who shall conclude upon me to show one word in their statutes enlarging their powers beyond that. I may be mistaken, but that is the way I understand her law. That being true, how do you get such a certificate as evidence here? I read from a standard work on election cases. It is Rogers's Law and Practice of Elections and Election Committees, published in 1837, an English book. On page 84 the principle is laid down thus:

The general rules which apply to evidence in the courts of law apply also to evidence before a committee of the House of Commons. The same witness who, from want of understanding, defect of religious principle, or infamy of character, is incompetent in the one place must necessarily be so in the other. So, also, the policy which forbids husband and wife from giving evidence either for or against each other, and which considers as sacred the communications made to counsel or solicitor, are rules of law inviolably to be preserved in all tribunals. It is therefore unnecessary to treat at any length on such points in a work like the present, though some of them are incidentally noticed hereafter.

On page 117 is this language:

It is a general rule of evidence that the burden of proof lies on the person who has to support his case by proof of a fact of which he is supposed to be cognizant. Upon this principle it has been held that where a class of voters seeks the benefit of exemptions, they must show that they are legally entitled to the benefit of them.

It is always necessary that the best evidence should be given which the nature of the thing admits of. The true meaning of this rule is that inferior evidence shall not be received when, from the nature of the thing, better evidence may be presumed to be in a party's possession or power.—*Ibid*, 117.

On page 119 it is said:

The committee resolved that, in the absence of the poll-book, parol evidence could not be admitted.

On page 121:

Coleraine, P. & K., 508: A list of freemen prepared by a former chamberlain in obedience to an order of the house, but not returned to the house; and a return to the house of the names of the freemen, with the dates of their admissions, made by the present chamberlain, from information derived from the corporation books, held to be inadmissible.

On page 122:

So, also, a certificate of the registry of a deed was rejected as not being the best evidence, the deed not being proved to be lost.—2 *Peck*, 137.

The proceedings are as closely assimilated *as the nature of the subject will admit* to that which usually takes place at the trial of another at law in the ordinary courts.—*Cushing's Parliamentary Reports*, 269, section 657.

The rules concerning the admissibility of evidence have been established chiefly with a view to those tribunals where the department of trying the facts of causes and of expounding and deciding upon the law are intrusted to different persons. When those two provinces center in the same judges, as in election committees, the same strictness hardly seems to be necessary. * * * The law supposes committees to be acquainted with the nature of legal evidence, and therefore it must be presumed that if they do admit evidence which, when they hear it, turns out to be illegal, they will lay no stress upon it in forming their verdict. Juries, on the contrary, by intendment of law are considered as *unacquainted* with the nature of legal evidence. (Notes to the Cardigan Case, 3 Doug., 231, 232, 1775.)—*Wordsworth's Election Reports*, 36; published in 1834.

I mention those as examples of the rigidity of the rule in England. Now, what is our statute on the subject? I do not care to inquire as to the statute of Mississippi, but take the statutes of the United States. Under them this trial is had. First, it must be a certificate by "the keeper of the said records or books." This is section 906, applying to anything but court records. And it must be under his seal of office; and to that must bear the attestation of a judge that it is in due form; and there shall be a further authentication by the clerk or prothonotary—

Who shall certify under his hand and the seal of his office that the said presiding justice is duly commissioned and qualified; or if given by such governor's secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or country aforesaid in which it is made.

Now, there is no such evidence in this case, and the committee would not act upon the informal, illegal certificates. And I only mention it now because the gentleman from Tennessee [Mr. PETTIBONE] yesterday seemed to think it was necessary to fight the committee on these propositions. I suppose he felt that the committee could not get along on their report and needed help by his running on the outside.

I will remark in passing that this side has not shown a very great respect for the reports of committees on that side. But ordinarily we have paid some attention to what their committees have said. It is true that the other day, upon a unanimous report touching the better government of the city of Washington, one or two of the leaders of the other side of the House attacked it fiercely, and one dared to say in his place, when reminded that it was a report from a committee on his own side, "And we rebuke our committee."

Now, gentlemen, when you treat your own committees in that way, you cannot expect us to have so great confidence in them as we might otherwise have.

Now I will allude to some remarks of yesterday made by another gentleman from Tennessee, [Mr. MOORE.] I will state first that the general tone of his speech was an arraignment not only of the State of Mississippi but of the whole South, of every part of the country where there are colored voters. His idea was that there was no honest election simply because Democrats were returned from districts where there were more colored men than white men.

That I believe is a fair statement of his argument. He produced statistics of the district of Mr. Chalmers, and from those statistics he argued that a colored man ought to be here instead of Mr. Chalmers. I do not think that logic good. If it be good, then Mr. Shaw ought to be here instead of Mr. Moore, from Memphis, for Shaw was a colored gentleman who desired to come to Congress from that district, and the district has more colored voters than white voters. Yet when his name is presented Moore says, "Oh, Shaw, it will not do, [laughter;] I want it." He is as kind about giving away other people's places as was Artemus Ward about sending his wife's relations to the war. [Laughter.]

I do not wish to answer the gentleman by mere talk about what the condition of the South is, for he would say it was a Bourbon's evidence, but I will read from authority on his own side, from the reports of the Attorney-Generals of the United States as to the condition of the South. I will read first from the report of Attorney-General Devens, made in December, 1879. He says:

It has been my effort resolutely and fairly to execute all of the laws of the United States protecting the purity of elections, in the same way that other laws are executed, and to bring to justice those who have violated them.

Some addition to the expenses of the Department have been made by the prosecution of offenses committed against these laws by various forms of intimidation and fraud, the more prominent of which latter was the offense familiarly known as "ballot-box stuffing." While convictions have not been obtained in as many cases as could have been desired, I have known of none which was commenced without proper and sufficient evidence to justify them. The number of convictions obtained in the various States, however, authorizes the belief that a more healthy sentiment is developing itself against offenses of this character. That they strike at the very foundation of republican government cannot be disputed.

Now, what did he mean? That the number of convictions at that time satisfied him that there was a more healthy state of public opinion? I have taken pains to collate from the reports of the Attorney-Generals for the last six years all the acquittals, convictions, and nolleprossed in all the States of the Union under the election laws. Let us look first at the year 1879. How many convictions were there during that year? There were forty; and there were thirty acquittals and seventy-six cases nolleprossed. Where were the convictions? There were two in Alabama, four in Connecticut, six in Florida, seventeen in Maryland, five in New York, three in New Jersey, one in Virginia, one in Louisiana, and none in Mississippi.

In 1880, after another election had been held, and when the Attorney-General, like the gentleman from Tennessee, was gathering his facts from newspapers, he wrote a tirade on the subject of the violation of the election laws, and urged that they should be enforced. (See his report, pages 16–17.) (No mention of the matter occurs in his last report.) What was the enforcement? With the power of the Government in his own hands, with officers of his own, and with juries fixed to suit the purpose, so far as they could be according to the law, what were the convictions then? They mounted up pretty largely; Mississippi got fifty-two of them in a year; Texas had thirty-nine; New York, forty; Connecticut, four; Kentucky, one; Missouri, three; Pennsylvania, two; South Carolina, one; Ohio, two, &c.

Now to what was that due? You have seen it stated here that *ad interim* there was a change in the laws of the country. This statute of Mississippi was passed in 1880; its construction was uncertain. These men were indicted at a time when the passions engendered by the strife of the election had not been cooled down.

They went to court, and they said, practically, "You indicted us for not doing our duty. We did our duty as we understood it. Perhaps technically we violated the law and committed a crime, but it involves no moral turpitude, and no man dares charge us with anything of that kind. If you put it upon a mere technicality that we violated the law, that is true and we plead guilty."

Table showing the disposition of all cases in United States courts for violation of the enforcement acts or election laws from June 30, 1875, to June 30, 1877, compiled from the reports of the Attorney-Generals of the United States.

States.	1876.			1877.			1878.			1879.			1880.			1881.			Grand totals for the six years ending June 30, 1881.		
	Convicted.	Acquitted.	Nolleprossed or quashed.	Convicted.	Acquitted.	Nolleprossed or quashed.	Convicted.	Acquitted.	Nolleprossed or quashed.	Convicted.	Acquitted.	Nolleprossed or quashed.	Convicted.	Acquitted.	Nolleprossed or quashed.	Convicted.	Acquitted.	Nolleprossed or quashed.	Convicted.	Acquitted.	Nolleprossed or quashed.
Alabama	1	6	67	1	1	29	.....	.....	.....	2	.....	4	.....	.....	10	1	3	10	4	7	110
Arkansas	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Delaware	.....	.....	3	4	.....	.....	.....	.....	.....	.....	.....	9	.....	.....	.....	.....	.....	.....	4	.....	12
Connecticut	.....	.....	.....	.....	.....	.....	.....	.....	.....	4	.....	4	.....	.....	.....	4	.....	4	8	.....	8
Florida	.....	.....	3	.....	.....	7	.....	1	1	6	2	3	.....	.....	.....	1	11	2	7	14	16
Georgia	.....	.....	14	.....	.....	22	.....	.....	13	.....	.....	.....	.....	1	4	.....	.....	.....	.....	1	53
Kentucky	.....	.....	.....	.....	.....	42	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	1	.....	42
Maryland	.....	28	1	2	1	1	.....	.....	.....	17	6	4	.....	.....	.....	2	3	7	21	37	13
Missouri	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	3	.....	2
Mississippi	.....	.....	4	.....	1	6	.....	.....	2	.....	1	5	.....	.....	6	52	10	22	52	12	45
New Mexico	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	3
New York	1	.....	1	26	3	9	.....	.....	.....	5	2	.....	.....	.....	.....	40	3	41	72	8	.....
New Jersey	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4	1	.....	4	1	.....
North Carolina	1	.....	2	1	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	3
Pennsylvania	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	2	1	.....
South Carolina	.....	.....	1	2	3	53	.....	.....	.....	3	5	.....	.....	.....	.....	1	2	.....	6	10	54
Ohio	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	4	4	2	4	4
Tennessee	.....	.....	12	.....	.....	9	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	1	.....	21
Texas	.....	1	.....	.....	.....	2	.....	3	.....	.....	.....	.....	.....	1	.....	39	3	16	39	8	18
Virginia	.....	.....	3	.....	.....	.....	.....	.....	.....	1	14	1	.....	.....	4	.....	.....	.....	1	14	8
Illinois	.....	.....	.....	.....	.....	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	7	3	1	7	6	1
Indiana	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	5	3	2	5	3
Iowa	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	.....
Louisiana	.....	.....	.....	2	.....	.....	.....	.....	2	.....	1	5	.....	.....	6	.....	.....	16	9	1	29
Totals	3	35	111	38	11	185	.....	6	20	40	30	76	1	2	67	162	48	123	248	131	446

WASHINGTON, D. C., *February* 8, 1882.

SIR: In reply to an inquiry contained in letter of Representative CHALMERS to you of 29th January, I have to say that within the three years that I have been attorney of the northern district of Mississippi only two cases have been prosecuted against citizens of the sixth Congressional district of Mississippi in the Federal court of my district, namely: United States *vs.* M. B. Collins, Warner Mathews, and James E. Monroe, for returning the vote of one precinct as the vote of Coahoma County at the Congressional election of 1880; and they entered the plea of *nolo contendere*, and were fined a nominal amount; and United States *vs.* Dr. Coleman, for stuffing ballot-box at same election, who also filed the same plea, and was subjected to small fine.

Very respectfully,

G. C. CHANDLER,
United States Attorney.

Hon. B. H. BREWSTER, *Attorney-General.*

What was the fine? I have the official statement from the Attorney-General of every one of them. There is but one in the lot who was charged with stuffing a ballot-box or with anything else than failure to comply with the election laws. Every man of them was acquitted on trial, except four, and they were fined $50 each. I insert here the table which I made and the report furnished from the Attorney-General's Office:

Names of defendants.	County.	Offense charged.	Disposition of suit.
William French	Warren	Omission of duty as officer of election.	Verdict, not guilty.
Luther Reed	do	do	Do.
David Butcher	do	do	Do.
M. Marshall	do	Procuring officers of election to omit duty.	Information quashed.
A. W. Brien	do	do	Do.
W. R. Grantham	Washington	Neglect of duty as officer of election.	Defendant left State; nolle pros.
Andrew Jackson	do	do	Plea of nolo contendere; fine, $50; paid.
Clark Dancy	do	do	Do.
George Carter	do	do	Do.
John R. Shields	do	do	Do.
John Compton	do	do	Do.
J. E. Hough	do	do	Do.
J. A. Ewin	do	do	Do.
Reuben R. Tann	do	do	Do.
George T. Rehn	Adams	Depriving voters of suffrage.	Verdict, not guilty.
C. L. Tillman	do	do	Do.
S. S. Menkins	do	do	Do.
John A. Dicks	do	do	Do.
Noah Barlow	do	do	Do.
Lewis W. Bryan	do	Omission of duty as officer of election.	Do.
Henry Adams	do	do	Do.
Frederick Stanton	do	do	Do.
C. S. Bennet	do	do	Do.
Geo. R. Washington	do	do	Do.
W. L. Jackson	do	do	Do.
W. J. Berry	do	do	Do.
Matt Meller	do	do	Do.
John H. Riggs	do	do	Do.
Andrew Johnson	do	do	Do.
E. B. Foster	do	Interfering with supervisor of election.	Do.
H. S. Hendrickson	do	do	Do.

Now, let us look a little further into that matter. How was it easier to make convictions in the South then, even if we have to account for it on other principles? The Attorney-General, in his report for 1879, on page 14, on the subject of witnesses, calls attention to the law allowing witnesses to be subpœnaed for criminals and to be paid by the United States, (Revised Statutes, section 878;) and he adds the following:

A great expenditure is thrown upon the Government by this provision, as large numbers of witnesses are often summoned on behalf of defendants whose presence is apparently not necessary to a fair trial of the case, and there certainly has been much abuse of this privilege, which necessarily entails a large loss upon the Government. I respectfully suggest that it might well be considered whether (except in capital cases) the number of witnesses which the United States shall be required to summon and pay for a defendant should exceed four, and also whether these should be permitted thus to be summoned unless it is reasonably shown that their testimony is to go to the merits of the case.

In 1880 he thought it important to repeat that recommendation, and to add this language:

It should be thoroughly guarded; and *no witness should be allowed to be summoned merely for the purpose of attesting or attacking the credibility of other witnesses, which is one of the most frequent modes of multiplying such witnesses.*

True, Mr. Speaker, this is only a recommendation to Congress to pass such a law; but be it said to the honor of the representatives of the people they have differed with the Attorney-General as to the propriety of such legislation. The same request is repeated in the last report, that of 1881; yet no member of this House has thought of introducing a bill to carry out that recommendation. And yet its repetition serves almost as an order to Federal judges. I know not what are the provisions in other States, but in my own State when a man is indicted he can summon as a witness any man he chooses for any purpose without disclosing to the judge or the prosecuting attorney what he expects to prove. It is certainly hard enough, as that report said, that section 878, Revised Statutes, "gives to persons indicted in the courts of the United States an advantage which few, if any, of the States confer. If any person so indicted makes affidavit setting forth that there are witnesses material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, &c., and that he is not possessed of sufficient means to enable him to pay the expenses of such witnesses, the courts, or any judge thereof in vacation, may order such witnesses, if found within the limits of the district in which the court is held, or within one hundred miles of the place of trial, to be subpœnaed. In such case the costs incurred by the service of process and fees of witnesses are paid in the same manner that similar costs and fees are paid where witnesses are subpœnaed on behalf of the United States."

He must disclose his defense before trial, before he shall have a subpœna. But I submit it would be a very severe rule to say to a man, "Although you may be indicted at the instance of a man who is unworthy of belief, a man whose character places him outside the pale of decent society, and are too poor to pay your own witness fees, you shall not produce witnesses to prove that he is such a man, because it costs the Government a little money."

Here we are day by day rolling out our rhetoric and frowning at the grand old British lion, saying that we will spend millions rather than have a citizen improperly imprisoned in a British jail; yet we

have the Attorney-General saying in 1879, and reiterating it—I think without proper consideration—even in the last official report, in effect, "Imprison as many of our own people as you please, not at home, but away off in the cold regions of Albany, in the penitentiary, for the violation of election laws, though it be upon the oaths of men who are infamous, because the Government objects to paying witness fees even for her citizens indicted, and who swear to their inability to get witnesses because of poverty."

Against the talk of the newspapers, against the abuse which the gentleman from Tennessee bestows upon the people among whom he lives, I present the official statement and the official fact to show that he has slandered his countrymen.

It will not do for gentlemen to say that the officers of the law are not honest. They are your officers. It will not do to say you cannot convict. The records show that you have convicted. There is but one honest way to look at this thing; that is, to look at the records of your courts in the South as you look at them everywhere else; giving them full faith and credit. Assume that it may be true that just after an election many charges may be made, and that when the excitement has cooled the prosecuting officers may discover that there is no proper foundation for the actions they have instituted, and may quash the indictments.

Do not brand the officers of your own choosing, your prosecuting attorneys and your judges, with baseness, but look at the record and find that during six years there have been one hundred and thirty-one acquittals, and four hundred and sixty-six nolleprosses to two hundred and forty-eight convictions, and the conviction in almost every case has been under some local law, some special arrangement, some plea that did not affect the honor of the court, nor of the defendants, but preserved the forms of justice. While speaking of the proceedings in Texas I forgot to state that in all those cases the offense was purely technical, and the judge fined the parties one dollar a piece.

The gentleman from Tennessee [Mr. MOORE] started out yesterday with this language:

> Before proceeding to the discussion of this case, with all deference and respect for the older and wiser members of our party who think differently—

That was put in for politeness—

> I wish now and here to enter my solemn protest against the shilly-shally, pig-and-puppy policy of our managers, if we have any on our side of the House.

Now, it is not my business to defend the other side of the House, but I have some friends over there, and I will remark, without further controversy, that the gentleman from Tennessee ought not to have said that; it was a little more than was deserved. He adds:

> We have a number of Republicans here, who know themselves to have been lawfully elected to seats upon this floor—

The Constitution, as the majority of the committee say in their report, makes *us* the judges in a case of this kind, even above the courts; but the gentleman from Tennessee makes the contestants the judges—makes Mr. Lynch the judge in this case. They know "they ought to have their seats." He says:

> We have a number of Republicans here who know themselves to have been lawfully elected to seats upon this floor, now and for nearly five months past entreating this Republican House to give them an opportunity to present their claims for consideration.

Then he goes on:

> But when our own party friends, from whom we have a reasonable right to at least expect some sort of sympathy, deliberately decline from day to day to allow us to bring up the claims of these neglected associates, we think we have a just and valid right to feel deeply aggrieved.

"We!" That is Mr. Lynch & Co.; not the Republican party, not the country.

He continued:

> We have three contesting members whose cases, after many months of investigation, are now ready to be presented to this House with favorable reports, prepared with such care and cautious investigation as will commend them, we trust, to the judgment and sense of right of every fair man in this House and in this country. We insist now upon their right to be heard. The Republicans of the South, they who have come up through great tribulation—

Without their garments being spotless—

> will not longer excuse the party for this dangerous and unjust neglect of the highest privileges of these Representatives, namely, the right to occupy and possess their lawful but now usurped seats upon this floor.
>
> Mr. Speaker, I shall make no threats. I have for twenty years voted and shall continue to vote the Republican ticket, no matter at what personal cost, and that cost is well known to many; but all other men are not so ingrained as I am into the principles of the Republican party; and I warn this Congress to-day and the whole country that unless they do simple justice, and do it reasonably soon, to these Republican contestants who have almost literally fought their way to the doors of this House, it will require no prophetic foresight to see the Forty-eighth Congress in the hands of a round Bourbon majority and led by a Bourbon President.
>
> * * * * * * *
>
> I confess that I am, and I think the country is, growing very impatient with the milk-sop policy of our Republican majority here, and unless we decide soon to first seat the men who have been fairly and honestly elected, and then go on vigorously in the prosecution of the important public business for which we were sent here, I do not hesitate to say that the country will not do what it ought to do if it fails to repudiate our party at the very next election. A word to the wise is sufficient.

Here is a man representing an important district and proclaiming himself the champion of 6,000,000 of colored people, who stands here in this House, where every member is under oath, and says to members of his party: "If you dare to vote as the gentleman from Indiana [Mr. BROWNE] said you ought to vote, on your conscience and your judgment, you may expect a Democratic majority in the Forty-eighth Congress."

Talk about party lash! The meanest slave-driver that ever disgraced the South did not dare to put the lash so hardly upon the back of his meanest slave.

I know not what the honorable gentleman is, or what his views are, except as I gather them from his speech. In the Directory he remarks simply he was elected over Casey Young, I suppose thinking that was quite glory enough to die on. But in his speech he demonstrates to us that he is not a lawyer; indeed he says so, and the bar will be as gratified in learning that as will the public in learning another thing, that he is not. This speech would indicate he was a very cruel man, a very harsh man. That is not so. He is sleek and fat and good-natured, a very gentleman in manner and a very gentleman in thought, no doubt. He does not mean what he says in his speech. What private grievance he has I know not, but I cannot believe the gentleman in earnest.

When I was a boy, raised in a village, the first time I went to a city I was greatly alarmed at a savage I saw upon the side-walk, with tomahawk in hand, feathers in his cap, and a scalp in his belt. Seeing me alarmed, a friend led me quietly up to it and said: "Why, this is not a savage; tap it, look at it; it is simply made of block tin, painted, and perfectly hollow. There is no danger in it whatever." [Laughter and applause.]

I mention that so the country in reading this speech may know that the gentleman was joking. I mention it seriously, Mr. Speaker, because of his importance in this House. Think of him standing on the mighty river where is his home, with his back to Tennessee, North Carolina, and Virginia. He has no eyes in the back of his head; he turns his back on them thinking they are safe. He casts his eye out over Arkansas and Texas. To his right hand are Missouri and Kentucky. To his left are poor, prostrate Mississippi, Louisiana, and Alabama. To them he speaks, and as the waters bear his voice down toward the mouth of the Mississippi River it is caught up by the Gulf Stream, and skirting the coast of Florida and of Georgia, South Carolina and Hatteras, on up to the North and away over to the downtrodden people of Europe, this man's voice, the champion of the downtrodden everywhere, the champion of those whose rights are neglected, rolls on in mighty volume. I regret it, but I am obliged to tell the world that he is only a champion in disguise; he is posing. [Laughter and applause.]

[During the delivery of Mr. HAMMOND's remarks, before his hour had expired, he said: I should like to know at this point, in order that I may properly shape the remarks which I desire to address to the House, whether at the expiration of my hour I may calculate on being allowed ten or fifteen minutes more if necessary.

Mr. ROBESON. I will move, if that be necessary, to give the gentleman from Georgia fifteen minutes additional.

Mr. CALKINS. And even if the House should not consent to that, I will state to the gentleman that at the close of his hour I will take the floor and yield him fifteen minutes.

Mr. HAMMOND, of Georgia. I am obliged to the gentleman from Indiana for his courtesy.

The SPEAKER. The gentleman from New Jersey [Mr. ROBESON] asks unanimous consent that the hour of the gentleman from Georgia be extended fifteen minutes.

Mr. HAMMOND, of Georgia. I hope I shall not need that extension, and yet I do not know but I may.

The SPEAKER. The Chair hears no objection to the request which has been made, and the time of the gentleman from Georgia is extended for fifteen minutes.

Mr. HAMMOND, of Georgia, then resumed and concluded his remarks.]

Mr. CALKINS. I now ask the contestant be heard.

There was no objection; and it was so ordered.

Mr. LYNCH (the contestant) rose. [Applause.]

Mr. MOULTON. I ask that order be preserved in the galleries.

The SPEAKER *pro tempore*. The House will be in order.

Mr. LYNCH, (the contestant.) Mr. Speaker, in presenting this case to the House and to the country I will not discuss the legal questions that are involved; nor will I review the testimony that has been taken. These points have been and will be forcibly presented by members of the committee who have familiarized themselves with the case. I will content myself with calling public attention to the disreputable system of elections of which the pending case is a natural and necessary outgrowth.

Out of 21,143 votes polled the contestee actually received about 5,000. In the counties of Adams, Claiborne, Jefferson, Washington, and Wilkinson something over 5,000 votes were counted and returned for him that were polled against him. Giving him the benefit of these frauds, he was still defeated by a majority of 663. His pretended claim to the seat is based upon the action of election commissioners or county returning boards in several counties in throwing out over 5,000 Republican tickets that had been received, counted, and returned by the precinct inspectors. Over 3,000 of these tickets were thrown out for the alleged reason that the election officers failed to comply with some technical requirements of the law; such, for instance, as a failure on the part of the election clerks to send up with the returns a list of the names of those who voted.

WARREN COUNTY.

In Warren County all of the Republican tickets except those polled in the first ward of the city of Vicksburgh were thrown out, for the alleged reason that they had on their face the usual and ordinary printers' dashes, which the contestee claimed to be a distinguishing mark. The rejection of these tickets was the most disgraceful act in the whole questionable business. Warren County, which includes the city of Vicksburgh, is the county and city in which General Chalmers now claims to live and where he is presumed to be well, if not favorably known. Although the election machinery in Warren, as in all the other counties in the district, was in the hands of his partisan friends and supporters, but where, I am pleased to be able to say, the election was fair and the count honest, up to the time the returns were made to the county commissioners, the county gave a majority of 1,052 against him. No one supposed for a moment that the commissioners could be induced or even seduced into committing this great outrage, especially as the precinct inspectors had positively refused to reject these tickets in spite of the appeals that were made to them to do so.

But General Chalmers, who seems to be equal to any emergency when his personal interests are at stake, appeared before this board in the person of his law partner, and without notice to his opponent, without allowing the other side an opportunity to take exceptions to the jurisdiction of the board or to present the other side of the question on the merits of the case, insisted upon the commission, without delay, of this great wrong, although they had ten days under the law in which to make their returns to the secretary of state. The opinion is prevalent in Warren County to-day that this board of election commissioners, which consisted of three men of only ordinary intelligence, would not have committed this outrage upon popular suffrage, as one of them frankly admitted to me, had both sides of the question been presented at the time. But the contestee, through his law partner, made them believe that it was their sworn duty to act exactly in accordance with his advice and agreeably to his instructions. In fact it can be truly said that he virtually decided the case himself; and as his modesty is not equal to his ambition, it is perhaps not strange that he decided the case in his own favor.

But there is another fact in support of the assertion that the commissioners acted agreeably to instructions furnished from General Chalmers's law office. The result of the election in the first ward of the city of Vicksburgh was as follows: Chalmers, 168; Lynch, 57. The 57 Republican tickets polled in that ward were exactly like those that were declared by the commissioners to be unlawful, and yet these 57 tickets were declared to be lawful and were therefore counted and returned as such. If all of the other tickets voted by the Republicans in the county were unlawful on account of the printers' dashes, then these were unlawful also, for they were all exactly alike. When the commissioners were asked why they did not throw these out also, their answer was because they were not protested against. The reason they were not protested against is no doubt due to the fact that the contestee had a large majority in that ward. The charge, therefore, made by the Vicksburgh Herald, the ablest Democratic paper published in the State, that the Republican tickets in that county were not thrown out because they had a few printers' dashes on them, but because they did not have the name of Chalmers on them, is unquestionably true. The assertion that the illiterate Republican voters were enabled to distinguish the tickets of the two parties by these dashes is untrue, because every ward in the city and every precinct in the county was supplied with counterfeit Republican tickets, the only difference between the genuine and counterfeit Republican tickets was that the latter had the name of Chalmers instead of Lynch on them for Congress. The printers' dashes, therefore, could not possibly operate to the disadvantage of Mr. Chalmers.

RACE PREJUDICE.

In reading one of Gath's letters to the Cincinnati Enquirer shortly after the election of 1880, I saw the following:

> The Tribune interviewed General Chalmers, of Mississippi, yesterday, who coolly said: "I think about 5,000 votes for Lynch were thrown out in the district, out of 15,000 in all. As self-preservation is the first law of nature, I am in favor of using every means short of violence to preserve the intelligent white people of Mississippi in supreme control of political affairs. They are justified in using every means that wit or money, short of open bribery, can procure. If this is Chalmerism," he concluded, "I am proud of it."

The words "short of violence" and "short of open bribery" were no doubt used for purposes of embellishment and smooth reading. The facts would have been more accurately stated, as expressive of the purposes and methods of the element of which that gentleman is a recognized exponent, had these qualifying words been omitted. But the language the gentleman is reported to have used, as quoted above, is hardly less than a libel upon the most intelligent and respectable white people of Mississippi. That General Chalmers is authorized to speak for the Bourbons of Mississippi, I unhesitatingly admit. That he is authorized to speak for the conservative white people of Mississippi, I most emphatically deny. That he does not and has not expressed their feelings, sentiments, and wishes, either in his utterances or methods, I most positively assert. No one, I presume, will deny that whenever there is a conflict between wealth and intelligence upon the one side and poverty and ignorance upon the other, the former can always wield a controlling influence, or at least hold the latter within legitimate bounds, and that too without resorting to any lawless or questionable means for that purpose. Whenever fraud and violence are resorted to, upon the plea that they are necessary to prevent the ascendency of ignorance over intelligence, the impression that is naturally created upon the public mind is that the order of intelligence is either very inferior or else there is no antagonism or conflict between these elements.

I deny that race prejudice has anything to do with fraud and violence at elections in the Southern States. There is not half as much race feeling at the South as many of the Bourbon leaders of that section would have the country believe. The antagonisms that exist there to-day are not based on antipathies of race, but they are based on antipathies of parties. The race feeling was strong shortly after the war, but it has now very nearly died out. Colored men are not now persecuted in the section from which I come on account of their color, but Republicans, white and colored, are persecuted in many localities on account of their politics. More colored than white men are thus persecuted, simply because they constitute in larger numbers the opposition to the Democratic party. The opposition to me as the candidate of the Republican party for Congress was no more intense than it would have been had the Republicans nominated an aristocrat of the *ante-bellum* period who fought on the side of the confederacy during the late war. The barrier to my success was not due to my color; it was due to my politics.

Bruce, Douglass, Langston, or any other reputable colored man, as the candidate of the Republican party for the Presidency in 1880, would have come just as near carrying Mississippi as did General Garfield. The Southern Bourbons are simply determined not to tolerate honest differences of opinion upon political questions. They make no distinction between those who have the courage, the manhood, and the independence to array themselves in opposition to Bourbon methods and measures. It matters not what name the opposition may assume nor of what elements it may be composed. They may call themselves Republicans, or Greenbackers as in some localities, or Independents as in others, or Readjusters as in Virginia. The fact that they oppose the ascendency of Bourbon Democracy makes them, from a Bourbon stand-point, enemies to the South, to its interests and to its people. All that is needed at the South to-day is the inculcation of a just and liberal public sentiment which will destroy political proscription and intolerance. That being done a full vote, a free ballot, and a fair count will necessarily follow, for it is an indisputable fact that fraud and violence have, as the basis of their existence, proscription and intolerance. [Applause.]

THE SOLID SOUTH.

That the South is solidly Democratic at the expense of the purity of elections is no longer a disputed question. Every intelligent man knows it and every candid man admits it. Many of those who defend the methods of Southern Bourbons, do so upon the plea that wealth and intelligence ought not to be governed by poverty and ignorance, and, as the wealth and the intelligence of the South are identified with the Democratic party, and the poverty and ignorance with the Republican party, it necessarily follows that Democratic success is essential to the ascendency of the intelligent and property-owning classes. According to their reasoning, therefore, the country ought to countenance and justify fraud and violence on their part. Let us inquire into this a little. The claim that the Democratic party at the South embraces within its membership all of the wealth and the intelligence of that section has not the slightest foundation in fact. I know whereof I speak when I assert that the opposition to the Democratic organization, in the State of Mississippi for instance, embraces within its membership a large per cent. of the wealth, the intelligence, and the moral worth of that Commonwealth. It is equally true that the Democratic party embraces within its membership some of the most ignorant and depraved of our population.

True, the Republican party at the South has a larger percentage of the illiterate voters than has the Democratic party, but it is also true that both parties contain a sufficient number of each of these classes to prevent either from being accepted as the exclusive representative of either class. Under the existing order of things it is impossible to make wealth and intelligence the basis of party organization in any one of the Southern States. If it be true that the Democratic organization at the South is the exclusive representative of the wealth and the intelligence of that section, why is it they do not establish by law an educational or a property qualification for electors? I think I can inform the country why it is they have attempted nothing of the kind. It is because they know they cannot disfranchise the illiterate Republican voter without disfranchising at the same time and in the same way the illiterate Democratic voter. It is because they know they cannot disfranchise the poverty-stricken Republican voter without disfranchising at the same time and in the same way the poverty-stricken Democratic voter. This is the "self-preservation" which they consider to be the "first law of nature."

I admit that a much larger number of Republican than Democratic voters would be thus disfranchised, but a sufficient number of Democrats would be disfranchised to create a public sentiment which would destroy the Democratic organization and drive the party from power. As to that party being the exclusive representative of polit-

ical morality, the facts presented in this case have gone far to disprove that claim. I assert with feelings of deep mortification and profound regret that in the official person of the contestee in this case the country is presented with a living monument of rifled ballot-boxes, stifled public justice, and a prostituted suffrage. Although the gentleman has occupied a seat upon this floor during the last five years, yet no one knows better than he does himself that he has never, with possibly one exception, 1878, when the Republicans made no organized opposition, received as many as one-third of the votes polled at any election at which he was a candidate. With all of their boasted intelligence and independence it is an unfortunate fact that Southern Democrats are particularly noted for their subserviency to party leadership. They rely chiefly upon their party leaders and local newspapers for political instruction and direction and they generally do or allow to be done whatever their leaders and party papers advise, whether it be right or wrong, fair or unfair. Under these circumstances it can be truly alleged that the contestee in this case is more responsible for the frauds and outrages that were committed in his behalf and for his benefit than any one else.

I am satisfied that had he gone before the people of the sixth district and told them that while he was ambitious to represent them in Congress, yet as an honorable man he could not afford to countenance or encourage any fraudulent or questionable methods to bring about that result, the election would have been fair and the count honest throughout the district. But it is an unfortunate fact that no such words as these were ever known to fall from his lips. On the contrary, the fraudulent acts that were committed by a portion of his friends and supporters, and which resulted in his being returned to a seat upon this floor, were received by him with either silent acquiescence or public approval. His chief aim, his sole object, seems to have been to occupy a seat upon this floor, regardless of the means by which that result might be brought about. I can assure the House and the country of the fact that it gives me no pleasure to feel compelled, in vindicating the cause of truth and justice, to use such strong language in referring to my distinguished opponent, because, aside from his questionable election methods, he is a gentleman whose ability, eloquence, and genial disposition are calculated to commend him to the appreciation and respect of those with whom he may be officially or socially connected. Gladly would I acquit him of ever having countenanced or encouraged the commission of election frauds if the facts would only warrant me in so doing.

But, Mr. Speaker, must it be assumed that the commission of these crimes and these outrages are encouraged by the wealth and the intelligence of the sixth district of Mississippi? In the name of those who in *ante-bellum* days gave tone and character to Southern society, under the supervision and direction of some of whom I received my early training, and by whom I was taught to seek through a laudable and commendable ambition the realization and accomplishment of those things which can be honorably achieved only by those who are imbued with and actuated by the highest, noblest, and most exalted aspirations, I must enter my earnest and emphatic protest against such an unjust, unfair, and unreasonable assumption. While I admit that the late war, which was disastrous in its results so far as many of the Southern white people were concerned, produced a marked and lamentable decadence in the public morals of that section, yet I know, of my own personal knowledge, that there are, even in the sixth district of Mississippi, white men and Democrats who are admitted by all who know them to be men of honor, character, and integrity. When, therefore, the contestee attempts to make it appear that these men indorse and defend the methods by which he was returned to a seat upon this floor, he thereby becomes a maligner of his section and a traducer of the most intelligent and respectable portion of his own people.

I can assert whereof I know to be a fact that there are thousands of Democrats in the sixth district of Mississippi, many of whom voted for the contestee, but who know and admit that he was fairly and honestly defeated, and that he reflects no credit upon himself, his party, and his State in claiming a seat upon such a flimsy and ridiculous plea as the one set up by him in this case. The worst that can be said about these law-abiding Democrats is, that through a mistaken zeal for the success of their party they remain, as a rule, reticent and inactive, while the ignorant and immoral are allowed to debauch the suffrage in the interest of the Democratic party, and thus bring odium and disgrace upon their State and party.

Both of the great political parties of the day are no doubt anxious to bring about a cessation of the agitation of sectionalism. They differ only as to the basis upon which this agitation shall cease. The Democrats who are in favor of upholding and defending the Bourbon system of fraudulent elections, as illustrated in this case, for instance, are anxious to bring about a cessation of sectional agitation upon the basis of a violent and fraudulent suppression of the popular will. The Republicans, on the other hand, and I am pleased to be able to say thousands of honest Democrats as well, are anxious that this agitation shall cease, upon such conditions as will secure to all citizens the equal protection of the laws, and a willing acquiescence in the lawfully expressed will of the majority. As an humble member of the great Republican party, I have no hesitation in declaring it to be the unchangeable determination of that party to continue to wage a persistent war upon Bourbon methods at the South until the right of every citizen to cast his ballot for the man or the party of his choice and have that ballot fairly and honestly counted shall have been acquiesced in from one end of the country to the other. [Applause on the Republican side.]

Mr. Speaker, so far as this case is concerned it is not a question of party. It is one that appeals to the patriotism and justice of the American people. You are called upon to determine in this case whether or not 10,000 voters of one party in a district shall be allowed through systematic frauds and ballot-box manipulation to be equal to 20,000 voters of the other party in a district where the election is fairly and honestly conducted. You are called upon to determine whether or not in a district containing about 40,000 voters 30,000 of them shall be allowed through the commission and perpetration of flagitious crimes to be practically disfranchised and the 10,000 alone to have voice and representation upon this floor. You are called upon to determine whether or not these grave offenses against law, justice, and public morals shall receive the condemnation or approbation of the national House of Representatives. To the Democratic members of the House who are the chosen representatives of a willing constituency and whose titles are not saturated with the crime of fraud, I have this to say: that you will accept the fraudulent methods and practices that were resorted to in behalf of the contestee in this case as your standard of political morality is what I have been too charitable to believe and too generous to assert. That any considerable number of representatives of any party can give these offenses the sanction of their approval is what I cannot and will not believe until that fact has been unmistakably demonstrated.

I am aware of the fact that Southern Republicans are sometimes reproached because they do not make forcible resistance to the perpetration of these frauds; but it must be remembered that the frauds are always committed under some sort of color of law. The five thousand and more Republican tickets that were thrown out in the sixth district of Mississippi were thrown out by men whose sworn duty it was to make true and correct returns of all the votes polled in their respective counties. In counties where not less than 5,000 votes were counted and returned for the contestee that were polled against him, the frauds were either committed by the sworn officers themselves or by accomplices who had been selected for that purpose. The frauds are always committed either by the sworn officers of the law or by others with their knowledge and approval. What lawful redress have Republicans, then, except to do just what I am now doing?

You certainly cannot expect them to resort to mob law and brute force, or to use what may be milder language, inaugurate a revolution. My opinion is that revolution is not the remedy to be applied in such cases. Our system of government is supposed to be one of law and order, resting upon the consent of the governed, as expressed through the peaceful medium of the ballot. In all localities where the local public sentiment is so dishonest, so corrupt, and so demoralized as to tolerate the commission of election frauds, and shield the perpetrators from justice, such people must be made to understand that there is patriotism enough in this country and sufficient love of justice and fair play in the hearts of the American people to prevent any party from gaining the ascendency in the Government that relies upon a fraudulent ballot and a false return as the chief source of its support.

BRAVERY AND FIDELITY OF THE COLORED PEOPLE.

The impartial historian will record the fact that the colored people of the South have contended for their rights with a bravery and a gallantry that is worthy of the highest commendation. Being, unfortunately, in dependent circumstances, with the preponderance of the wealth and intelligence against them in some localities, yet they have bravely refused to surrender their honest convictions, even upon the altar of their personal necessities. They have said to those upon whom they depended: You may deprive me for the time being of the opportunity of making an honest living; you may take the bread out of the mouths of my hungry and dependent family; you may close the school-house door in the face of my children; yea, more, you may take that which no man can give, my life, but my manhood, my principles you cannot have! [Applause.] Even when the flag of our country was trailing in the dust of treason and rebellion; when the Constitution was ignored, and the lawfully chosen and legally constituted authorities of the Government were disregarded and disobeyed; although the bondman's yoke of oppression was then upon their necks, yet they were then true and loyal to their Government, and faithful to the flag of their country. [Applause.]

They were faithful and true to you then; they are no less so to-day. And yet they ask no special favors as a class; they ask no special protection as a race. They feel that they purchased their inheritance when upon the battle-fields of their country they watered the tree of liberty with the precious blood that flowed from their loyal veins. [Loud applause.] They ask no favors; they demand what they deserve and must have, an equal chance in the race of life. They feel that they are a part and parcel of you, bone of your bone, flesh of your flesh. Your institutions are their institutions, and your Government is their Government. You cannot consent to the elimination of the colored man from the body-politic, especially through questionable and fraudulent methods, without consenting to your own

downfall and to your own destruction. That the colored people of the United States have made and are making material progress in the acquisition of knowledge, the accumulation of wealth, and in the development of a high order of civilization are facts known, recognized, and admitted by all except those who are too blind to see them or too prejudiced to admit them.

The condition of the colored people of this country to-day is a living contradiction of the prophecies of those who have predicted that the two races could not live upon the same continent together upon terms of political equality. In spite of these predictions we are here to day, clothed with the same rights, the same privileges, and the same immunities, with complete political assimilation; loyal to the same Government, true to the same flag; yielding obedience to the same laws, revering the same institutions; actuated by the same patriotic impulses, imbued with the same noble ambition; entertaining the same hopes, seeking the gratification and satisfaction of the same aspirations; identified with the same interests, speaking the same language; professing the same religion, worshiping the same God. The colored man asks you in this particular instance to give effect to his ballot, not for his sake alone, but for yours as well. He asks you to recognize the fact that he has the right to assist you in defending, protecting, and upholding our Government and perpetuating our institutions. You must, then, as I am sure you will, condemn the crimes against our institutions, against law, against justice, and against public morals that were committed in this case.

CONCLUSION.

In conclusion, Mr. Speaker, I regret to be compelled to say that it seems to be the settled determination of the Bourbon party at the South that we must either have a centralized Government or no Government at all. They seem to be determined that if they cannot destroy the Government in one way they will in another; for it is an incontrovertible and indisputable fact that the sanctity and the purity of the ballot is the chief pillar in our governmental structure. Destroy that pillar, and the structure must necessarily fall. I speak to-day not in behalf of my party, but in behalf of my country. I hope that I speak not as a partisan, but as a patriot. If the party to which I belong and to which I feel that I owe allegiance cannot commend itself to the approbation and support of a majority of the American people upon its merits, then it does not deserve success. Political parties under our system of Government are supposed to be organized for the purpose of advocating certain political principles and to carry into effect certain public policies. Upon all such questions we may honestly differ and make such differences the basis of party organization. But upon questions affecting the stability of the Government and the perpetuity of our institutions we are at least presumed to be a united, harmonious, and indissoluble people.

Mr. Speaker, this disgraceful system of election frauds in several of the Southern States through and by which that section was made solid in its support of one of the great political parties of the day ought, must, and will be destroyed. [Applause.] The people of this great country are too intelligent and patriotic to tolerate a continuance of such outrages upon our elective system. Such methods and such practices are contrary to the spirit of the age in which we live and to the civilization of the nineteenth century. That there may exist in all parts of our country—North, South, East, and West—and among all races and classes of our people peace, happiness, concord, and fraternal feeling upon such conditions as will secure to all exact justice and the equal protection of the laws is the aim, the object, the hope, and the aspiration of every patriotic American citizen. For the accomplishment of these grand and noble purposes and the attainment of these commendable and patriotic ends, I invoke, in the language of the immortal Lincoln, the considerate judgment of mankind and the gracious favor of almighty God. [Great applause.]

[During the delivery of the above speech, the hour having expired, the time was, by unanimous consent, extended to its conclusion.]

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, his secretary; who also informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 1017) granting an increase of pension to Charles H. Ordway;

An act (H. R. No. 4202) granting an increase of pension to John F. Chase;

An act (H. R. No. 4786) granting an increase of pension to Dennis Sullivan;

An act (H. R. No. 5383) granting an increase of pension to Mrs. Jane Dulaney;

An act (H. R. No. 365) granting an increase of pension to Levi Anderson;

An act (H. R. No. 4182) granting a pension to Sarah A. Hooper;

An act (H. R. No. 1619) granting a pension to Flora C. McCaslin;

An act (H. R. No. 1769) granting a pension to Mary T. McCawley;

An act (H. R. No. 2258) granting a pension to Richard M. Baker;

An act (H. R. No. 3867) granting a pension to Elizabeth S. M. Finley;

An act (H. R. No. 130) granting a pension to Ann Atkinson;

An act (H. R. No. 1225) granting a pension to Mrs. Rosetta L. McKay;

An act (H. R. No. 1337) granting a pension to Sylvador Jackson;

An act (H. R. No. 1521) granting a pension to Susan R. Johnson;

An act (H. R. No. 4787) for the relief of Benjamin F. Dobson;

An act (H. R. No. 124) to establish distinct United States courts, with distinct officers, in the northern and southern judicial districts of the State of Georgia;

An act (H. R. No. 5221) to amend section 3066 of the Revised Statutes of the United States, in relation to the authority to issue warrants;

An act (H. R. No. 4454) to authorize the construction of a bridge across the Mississippi River at or near Keithsburgh, in the State of Illinois, and to establish it as a post-road; and

An act (H. R. No. 3246) changing the name of the German Protestant Orphan Asylum Association.

ELECTION CONTEST—LYNCH VS. CHALMERS.

Mr. CHALMERS. Mr. Speaker, the contestant began his remarks by the announcement he would not discuss either the law or the facts of this case, and I take it that no gentleman who heard him will differ with him in regard to that proposition. He has not discussed either the law or the testimony as disclosed in the record before this House. What he has said is but a repetition of what has been said time and time again by him and his co-conspirators who have, through the public press of this country, endeavored to destroy the reputation of the white people of the Southern States. Gentlemen who have heard that address will perhaps recall the language of the notice of contest in this case, which was filled full of just such generalities, full of such charges of fraud, violence, and all manner of corruption. And yet when the question came to be tried, when the proof was asked for, when it was adduced before a committee of this House, they have by their report refused to agree with him, except on one single point he made.

He has undertaken to arraign me personally before this House. I ask gentlemen to look at the record which he has brought here himself and see whether there is anything in it, a line or a syllable from the beginning to the end, that casts any personal aspersion on my character. He said distinctly in his speech just made, that in the county of Warren, which is my home, where I lived, the election was as fair and free and the vote as full as it could possibly have been; and his only charge offered was that my law partner presented a legal exception to the counting of the marked ballots cast in this county, and his exception was afterward maintained by the supreme court of the State of Mississippi. That and that alone is the charge he now offers, and none whatever is shown against me in the record he presents before this House.

I am sorry the record does not show the same thing as to himself. If you will look into the record you will find him convicted of having twice contradicted himself by making directly contradictory statements, and making them under oath. This will show you at once how much confidence can be placed in the statements he makes.

When the question first came up about these marked ballots of which so much has been said, he endeavored to persuade the secretary of state to count them for him. In order to convince the secretary that these ballots should be counted for him, he said his ballots were exactly alike in the whole district, and they had been counted in every county except Warren. The contestant was asked the question by the secretary of state whether these ballots were all printed at the same office. His reply was, "No, they were printed at two different offices." When I heard that, I came to the conclusion that it was impossible that such peculiar marks as appeared upon these tickets could have been put upon them, and put upon them in the identical place on each and of the same character, by two different printing offices, unless it was done by design. The secretary asked him the next day, in the presence of a witness, in order to fasten this testimony upon him, the same question. Lynch then said: "You misunderstood me. They were not printed at two different offices. I had them all printed at one office."

That is the testimony as it appears in the record in this case. I do not go outside of it. Notwithstanding his contradiction of his first statement and his statement that they were printed at one office, the record shows conclusively that they were printed at two different offices; therefore the contestant stands convicted of not having spoken the truth, and he is convicted by the record and not by any outside statement of mine. Again, when he offered himself as a witness in this case and was cross-examined, the question was asked if he had examined the proofs of the tickets; he said: "I examined the proofs of those printed at the Miller office, but have no recollection of having examined those that were printed at the Herald office at all. I supposed one examination was sufficient." And yet on the record you will find in another place on the next day he states in detail when he went into the Herald office what he said to the foreman there, and that he then and there compared his tickets with the Democratic tickets which were shown him in that office. Here again he is convicted of making directly contradictory statements. Now, I say you may search that record from beginning to end, and every member of the Committee on Elections will bear me witness to the fact that there is no line or syllable contained in it that will cast one single spot or blemish upon my personal character.

But upon this question of these marked ballots let me say further that my attention was called here to-day to a fact to which I desire

to ask the careful attention of this House. It is pretended, as I have shown, that these tickets were marked in this peculiar manner accidentally, although it was done at two different offices. Now, my attention has just been called to the fact that a majority of the committee undertook to have printed in their report a *fac simile* of one of these tickets, and yet the ticket exhibited in that report is not a *fac simile* of the one used, and I ask the chairman to look and see if in this respect I do not speak the truth. That attempted *fac simile* of this ticket is set out in the majority report of the committee and any gentleman can compare it with the ticket exhibited in the testimony and see for himself that one is not a *fac simile* of the other. Again, in the RECORD of to-day, printed for the use of this House, the majority report is again printed, and again the Public Printer of this Congress attempted, with the report before him, to make a *fac simile* of the ticket appearing in the report, and again he failed to do so; and I ask the chairman of the committee if I am not correct. So we have here two efforts of the Public Printer under instructions to make a *fac simile* of this ticket and yet neither is correct, and the two thus made still further differ from each other.

Mr. CALKINS. Will the gentleman permit me to interrupt him in this connection?

Mr. CHALMERS. Certainly, with pleasure.

Mr. CALKINS. I wish to state that I think it was possibly my fault, and not that of the Public Printer, that this *fac simile* was not made. My impression is that in sending over to the Printer the ticket, which it was desired to have copied exactly, I sent one of the tickets which appeared in your brief.

Mr. CHALMERS. Then that only strengthens the point, because the chairman of the committee admits that he himself and the Public Printer both could not make a *fac simile* of that ticket.

Mr. CALKINS. I only want to say this in justice to the Public Printer, for it was perhaps not his mistake but my own.

Mr. CHALMERS. With all of the facilities afforded by that extensive printing office a *fac simile* of the ticket was not made when attention was especially called to it. Again, as I have said, in the RECORD of this morning, where the majority report of the committee is set out in full, the Public Printer undertakes to give a *fac simile* of the ticket, and I desire to call attention to the fact that again he makes a failure. They have put marks on these tickets in both cases to which I have referred which differ entirely from those on the original ticket, and differing from each other, although endeavoring to make a copy; and yet you are asked to believe that in the city of Vicksburgh two printing offices printed identically the same tickets with four different and peculiar marks upon them, and this was done without any design. And yet we are told there is no fraud and no intention to commit any in printing these tickets. I believe that there is no gentleman who will not admit that these ballots should not be counted if on a candid examination of the facts they believe these marks upon the tickets were put there with intent, and not by accident.

Mr. Speaker, nothing is more difficult to combat than rumor. Virgil said of it, "*crescat eundo.*" It runs with the wind, and gathers strength at every step. This was true of it in the earliest days of the world, and is a thousandfold more true now when it flies on the wings of the telegraph, and is disseminated by the unlimited power of the press. The public mind is quick to believe scandal, and there is a morbid appetite which devours with avidity every tale of outrage and horror. However false the story may be, and however clear and convincing the refutation which comes after, few stop to learn the truth, while the falsehood rolls on like the increasing waters of the Mississippi, until it covers with ruin all who fall victims to its fury. A false and slanderous tale of horror was once told of a confederate fight which shocked the humanity of the civilized world. If it had been true, what was said of it on this floor was eminently true, savages might have sat at the feet of its perpetrators and learned lessons in brutal atrocity; but there are gallant Union soldiers on this floor whom I met often in battle, General BROWNE, of Indiana, and Colonel HEPBURN, of Iowa, who I met not only in fight but under a flag of truce, when we broke bread and tasted salt together, and I think I may safely trust either of these gentlemen to defend me any where against such foul accusations.

A man believed to be guilty or reasonably suspected of being guilty of such barbarity would naturally and readily be believed guilty of any crime that malice, envy, or party prejudice could bring against him. When it was charged that the same man was the head and front of bulldozing in Mississippi, intimidating and driving colored voters from the polls, or the head of ballot-box stuffers, committing the most outrageous frauds upon suffrage and polluting the fountain-head of our free institutions, and when these charges were flashed over the country as Associated Press dispatches, it is not strange that the public believed them. Nor was it strange that a political Guiteau, inspired by these inflammatory newspaper denunciations, should have sought notoriety by attempting in the name of humanity and civilization to assassinate the political rights of such a man. The imbecility or insanity of such a harmless creature is only to be pitied. If he can forgive himself, I can certainly forgive him for his tragic failure.

The passion and prejudice excited by these false charges is the first great obstacle to an honest, fair, and impartial consideration of this case. That Republicans should entertain these preconceived prejudices is not to be wondered at, when there are Democrats on this floor who I asked to look into the record and who answered me that they were afraid to look for fear they might find something they would not like to know.

I have challenged investigation. I have urged gentlemen on both sides of this Chamber to search the record to the bottom, and if they found anything in the record disgraceful to me or my district to decide against me. And I say now, if after a careful examination of the record, the arguments, and the reports any gentleman on this floor, whether Democrat or Republican believes that the contestant has by legal evidence established his claim to a seat in Congress, I hope they will vote for him without regard to politics.

I hope on the other hand that no gentleman here will violate law and disregard long and well-established rules of evidence in order to reach a conclusion or sustain a preconceived opinion founded on rumor.

But, Mr. Speaker, there is another and almost insurmountable obstacle to an impartial consideration by Republicans of this case. Party ties are strong and no man likes to place himself in opposition to his party friends and party associates. It subjects him to the sneers of being a self-religious pretender to more honesty than his neighbors and to the harsh criticism of being a traitor to his political allegiance. It makes him an object of distrust and suspicion among those whose good opinion he prizes and whose confidence he would sacrifice much to preserve.

I know the barriers that stand in the pathway of any Republican who might feel inclined to vote against the majority of his party in this case. It would be as self-sacrificing in a pagan to confess himself a Christian, a Protestant to proclaim himself a Catholic, or a Jew to acknowledge that any good could come out of Nazareth, as for a Republican, in the face of the newspaper clamor on the subject, suddenly to acknowledge that the election of a Democrat in the sixth Congressional district in Mississippi was legal and fair. And yet I have faith enough in humanity to believe that there are some gentlemen on that side of the Chamber who can break through the crust of political prejudice and who, if they can see the truth as it is, will do justice even in a case like this. If they can be made to see and to understand that in order to seat the contestant they must disregard law, and must violate long and well-established rules of evidence, I will not believe until I hear and see it that able and intelligent lawyers will sacrifice their honest convictions on well-settled principles of law at the dictation of newspaper clamor.

I have therefore besought gentlemen on both sides of the House to examine the record thoroughly, and I am proud to say that all who have examined it and have spoken to me on the subject have confessed to me their great surprise at finding how grossly the case had been misrepresented by the press. And some of my Republican friends have gone further and confessed that they were disappointed in not finding clear and convincing proof of fraud, violence, and corruption. But unfortunately few have found time to examine the record or the reports. Some even of the Committee on Elections have acknowledged to me that they did not have time to examine the case, and they relied upon the report of the sub-committee. So it is, the House relies upon the committee, the committee relies upon the sub-committee, and the sub-committee sometimes relies upon one man, so that a member's right to his seat is left to the hazard of a single judgment. The newspapers have harried the committee with a cry for the rejection of Southern Democrats. All the sub-committees have been diligently at work at the same time on different cases, and they come with reports all signed by the whole committee, and yet announcing diametrically opposite opinions of law and conclusions on facts in different cases. The incongruities of these reports would be laughable if the subject was not too serious for laughter.

Three sub-committees were examining three different cases all at the same time. And I say to you that in the Bisbee-Finley case and in the Lynch-Chalmers case three identical questions arose. One sub-committee decides them one way to unseat a Democratic member from Florida, and another sub-committee decides them diametrically the other way to unseat the Democratic member from Mississippi. They are led to this inconsistency because of the fact that they were all examining the cases at the same time.

Now, look at the Florida case—and, by the way, it made a difference of only 27 votes against General Finley. There the question was as to whether certain Republicans had voted for Presidential electors, leaving off the name of the candidate for Congress. It was said a Republican enemy of Mr. Bisbee induced them without their knowledge to so vote. The proof of the voters was brought in; they were ignorant negroes, and could not know what was or was not on the tickets they voted, but they swore that they had voted for Mr. Bisbee. The clerk of the court was called upon to produce the ballots as they were preserved in the ballot-box in his office. Those ballots thus produced showed that the voters had not voted for Mr. Bisbee; that they had simply voted for the Presidential electors.

Now, what does the committee do in that case? They say it is enough to say in reply that there is no law in Florida that requires ballots to be preserved; no law in Florida that authorizes a clerk to have anything to do with the election returns; and therefore they hold that that testimony is of no value. And I think they are right on this point.

Now, when you come to the Mississippi case you see this same question arises: that 742 votes are counted for contestant from Issaquena County, of which there is no earthly testimony except the testimony of the certificate of the chancery clerk, who undertakes to give a certificate as to what he says is the record of the votes on file in his office. Now, I answer the committee, just as Mr. RANNEY says in his report in the Florida case, that it is enough to say there is no law in Mississippi to authorize the ballots to be preserved, and there is no law in Mississippi to authorize the chancery clerk to have anything to do with election returns.

But the gentleman who made the majority report in the Mississippi case says that he attaches that clerk's certificate onto something else. He says that the commissioners reported to the secretary of state that they had rejected so many votes from Hayes's Landing, for instance, 75 votes. And the report says that while that does not of itself show for whom they were cast, in comes the clerk's certificate to supplement that of the commissioners, and the clerk's certificate corroborates and sustains the number of votes thrown out.

Now, if you will examine that certificate you will find that this is not true, and that the clerk's certificate does not correspond with the commissioners'. In the first place, it is said by the commissioners that 75 votes were thrown out by them. If you will look at the pretended certificate of the clerk you will find that it reports only 65 votes cast for Mr. Lynch and Mr. Chalmers. So that the concurrence of statement which the committee rely on does not hold good if you look to the vote for Congressmen. Nor does it hold good when you look to the votes cast for Presidential candidates.

But that ought not to cut any figure in this case, because every lawyer knows that when any certifying officer gives a certificate about that which the law does not authorize him to certify to it is of no value. When he gives a certificate about a record which the law does not authorize him to make every lawyer knows that the certificate so given is of no value whatever. Yet upon that flimsy testimony they count 742 votes for Mr. Lynch. Now, if you strike out those votes he is defeated by 315 majority, for they claim for him only 385 majority.

Again, take Mr. RANNEY's report in the Bisbee-Finley case, in the Orange County precinct, in Florida. Here again he lays down the law correctly, that no returns can be counted unless they are signed and certified by the inspectors; and when once rejected they must be proved by evidence *aliunde* or they cannot be counted. That is what they say in the Florida case, and that is the law. That is sustained by McCrary and every other writer on elections.

But when they come to apply that rule to the Mississippi case you will find that they count 481 votes in favor of the contestant in Bolivar County under worse circumstances than in Florida, for in Bolivar County the commissioners refused to count the vote, in Mississippi, while in Florida the commissioners did count them. Yet in the Florida case they say that those votes must be stricken out because the commissioners counted them, while in the Mississippi case they say they must be put in because the commissioners did not count them; the two standing upon precisely the same testimony. And here again I say that if you strike out those 481 votes the contestant is defeated, even if you give him the 742 votes counted for him by the committee upon the clerk's certificate on Issaquena.

Again, in the Florida case it was determined that when the ballots in the box outnumber the voters the whole poll must be thrown out. That was the old common-law rule. Many of the States, Florida among the number, have corrected it by statute; and yet the committee refused to abide by the Florida statute and purge the vote, while in Mississippi, where the commissioners followed the precise rule which the gentleman from Massachusetts [Mr. RANNEY] and the majority of the committee lay down in the Florida case, they are denounced for having committed a fraud upon the election. In the Palestine box in Adams County there were found 35 more votes than there were voters; there were only 17 Democratic voters altogether. These extra votes could not have been put in by any Democratic ballot-box stuffer. The box was left during the recess in the hands of colored men. When the question was asked whether they were not all Republicans who had charge of the box, old Leonnox Scott answered: "I cannot say they were all Republicans; they were all colored men; but heaps of colored men calls themselves Republicans and they votes the Democratic ticket." There having been found in this box 35 more votes than there were voters, it follows, according to the rule laid down by the gentleman from Massachusetts—the old rule must stand where not corrected by statute—the box should go out. Yet the majority of the committee come in and say in their report it must be counted and thus give 214 majority for the contestant from this box.

Mr. CALKINS. I can now answer the question of my friend from Mississippi which I was not able to answer directly awhile ago. I am now able to state that the mistake in the report of the committee is entirely a mistake of the Printing Office, as any one can see by an examination of the ticket appearing in the original brief of the contestee, [Mr. CHALMERS,] a copy of which was sent to the Printing Office.

Mr. CHALMERS. So then I was right——

Mr. CALKINS. The gentleman was right.

Mr. CHALMERS. That the Printing Office, although instructed to make a *fac-simile*, did not do it, while you would have us believe the Vicksburgh offices did it accidentally and without instructions.

I repeat that three propositions of law are decided one way in the Florida case and the other way in this Mississippi case by this Committee on Elections; and the determination of the Mississippi case will be in favor of the sitting member if either one of the two first propositions laid down in the Florida case is maintained, and both are unquestionably the law. The clerk's certificate was no more than a private paper from Issaquena. And in Bolivar the boxes were properly rejected because not signed and certified. Having once been rejected they must be otherwise proved, and yet no proof is offered except the statement of the commissioners as to the number they rejected. This was no better proof than in the Florida case when the commissioners not only stated the number of votes but who they were for, and counted them. In the Bolivar County case they do not state who the votes were pretended to be for. In truth, in one of the boxes the commissioners expressly say they do not know for what officer the votes were cast, and in the other they simply say so many Democratic and so many Republican votes. This certainly was no proof of the vote *aliunde*.

Again, in the case of Stolboard *vs.* Aiken, the Committee on Elections have laid down the doctrine that in the settlement of these cases they will follow the rules of evidence; and, as suggested by my friend from Georgia, [Mr. HAMMOND,] the House adopted that report; so that the House stands committed to the doctrine that the rules of evidence should be followed in determining election cases. If you follow those rules in this case, it is impossible for any man to say that the contestant is entitled to a seat. The votes counted on the chancery clerk's certificate must unquestionably go out; and that settles the case. The 481 votes in Bolivar County must go out; and that adds to the majority against the contestant.

Now, I ask gentlemen why are they not willing to listen to reason and to law in this case? Why do they come here with their minds made up in advance that they must, as was stated by the contestant, look to the number of colored voters in the district and the number of white voters, and from that determine how many Republican votes and how many Democratic votes were cast? This whole question was distinctly brought up years ago in the Forty-fifth Congress by Mr. Blaine in the Senate, when he introduced a resolution for the purpose of inquiring into the suppression of colored voters in the South. He then took the sixth district of Mississippi as his text, and said he was asked to believe that all the colored voters in that district had been converted from Republicanism to Democracy in the twinkling of an eye. I say now what I said in Mississippi, that if this district had there and then been properly defended in the Senate the heavy load that rests upon my shoulders would not be there to-day. I attempted to get the floor in the House to defend my district but failed. I published a defense in the RECORD; it appears in the proceedings of the last session of the Forty-fifth Congress; yet I venture to say that not half a dozen men in this House ever read it.

I said then, as I say now, that this great Republican majority in the counties forming that district was the fact that brought about the overthrow of the Republican party there. I repeat now the statements I then made. I first call attention to the fact that in Tunica County, the upper county of my district, Captain Manning, a Federal soldier and Freedmen's Bureau officer, the sheriff of the county and my personal friend, had been a prominent candidate for United States Senator, and was defeated by Mr. Bruce, a colored man, who ably represented Mississippi in the Senate. Captain Manning came back under the belief that the colored men had treated him unfairly in that race; and in the next canvass, when Mr. Lynch another colored leader was nominated for Congress, Captain Manning openly opposed him on the stump with all the force of his office, and the result was that while Hayes carried that county by 1,800 majority over Tilden, I had a majority of 600 over Lynch; a majority counted under the supervision of Republican officers. There was the first break in that county.

Take next the county of Coahoma, the home of Governor Alcorn. There a split grew up between the Alcorn and the Ames wings of the Republican party, which grew so violent that it resulted in a riot. Three hundred armed negroes came into the town of Friar's Point for the purpose of assailing Governor Alcorn and burning the town. They were dispersed by a combined force of Democratic and Republican white men. This produced a split in that county, which utterly destroyed the Republican organization there.

Take next Bolivar County. In that county there was a wide split growing out of a contest between two colored men for the office of sheriff. A gentleman on this floor, lately a colored Senator from Mississippi, who lived in that county, knows what I say to be true. These two colored men, Johnson and Ousley, were candidates for sheriff. There were two candidates for clerk, a white carpet-bagger by the name of Florey and a colored man named Stirling. The contest was so great that it brought out the largest vote ever polled in that county. There was a difference of only 15 in the votes of the candidates for sheriff, and of only 1 in the votes of the candidates for clerk. The colored man charged that he was cheated by his carpet-bag opponent, and this produced the utter demoralization and destruction of the party organization in that county.

Take next Warren County. There, in 1872, Grant had a majority of 3,000 over Greeley; yet in the next year, when there was a split

between Ames and Alcorn, Ames carried the county by merely 225 majority. Thus there was a split in the politics of that county.

Come next to Adams County, the home of the contestant. There a split grew up between McCary, a colored candidate for sheriff, and Wood, another colored candidate. Mr. Lynch and his friends supported McCary; the Democrats took up Wood and he was elected. Here again the Republican organization in the county went to pieces.

And immediately after this, the next year, for the first time these counties were put together into a Congressional district. They had no county organization, they had no district organization, and when they met to nominate a candidate for Congress the colored men took possession of the convention and nominated Mr. Lynch. Many of the white Republicans left it in disgust and supported me in the canvass, saying, if the colored Republicans think they can run this district by themselves let them try it.

All these facts are to be found in the record published in the last session of the Forty-fifth Congress. I refer to them now simply to show how all this talk about a large colored majority in my district when sifted to the bottom shows that this of itself was the cause of their downfall. The Democrats took advantage of the splits in the counties and won the victory.

Now, then, in that condition of affairs I was nominated as the Democratic candidate for Congress. It was stated at the time, and it was generally acquiesced in, that I had some popularity in the counties where I had practiced law; and I believe I can refer to the testimony of some gentlemen, and Republican gentlemen, too, who went down the Mississippi River in the Forty-sixth Congress to inspect the levees—I think they will bear witness that they were met by colored men who told them, although they were Republicans, they had voted for me for Congress and would do it again. They so reported to me on their return, and I believe their testimony to be true.

If I may be pardoned the egotism of it, I can point you to two instances which show that the belief of my Democratic friends was well founded. In that same county of Bolivar there were two colored preachers, Nelson Glass, a Baptist, and Simon Daniel, a Methodist. They were both justices of the peace. It was in the early days of colored office-holding. They were under the impression the fines and forfeitures they collected for misdemeanors belonged to themselves, and they pocketed the money. They were indicted for embezzlement. They were prosecuted with great fierceness by the district attorney and by the judge on the bench. I defended them, and it was a scene of intense excitement. The court-room was filled with women and men. The first verdict was brought in about ten o'clock at night. When the jury came in there was a breathless silence in the room. When the clerk read out the verdict, not guilty, there broke out as wild a camp-meeting scene as ever occurred in the woods of Tennessee or Georgia. The old women began to clap their hands and shout "hallelujah!" and "glory to God!" The men began to cheer, and they took me on their shoulders and bore me in triumph from that court-room.

Again, when I was elected to Congress five years ago I started in my buggy to the steamboat landing, and the colored voters of Friar's Point, in the county of Coahoma, took the horse from the buggy and dragged it to the landing themselves. This I say is some evidence I had some popularity with these colored people. Instead of making my canvass with a rifle and shot-gun, as was falsely charged here by the contestant to-day, it is a matter of history I made it with a brass band of instruments blown on by colored musicians, and in a patriotic band-wagon which was painted red, white, and blue. [Laughter and applause.]

In the second canvass I made, as was admitted by the contestant here to-day, I had no opposition. In the last canvass, which is now being considered, I had the additional advantage that I had faithfully served my people in this Congress. I believe every man who served with me in the Forty-fifth and Forty-sixth Congresses will bear witness that I have been as diligent and earnest in looking after the interest of my colored constituents as I have after the interest of my Democratic white constituents. This gave me an additional advantage in that race.

But I had still another advantage. Mr. Lynch was opposed to General Grant in the Chicago convention. The negroes of my district were devoted to General Grant, and some of the best colored speakers in that district, equally as good as the contestant himself, were his opponents on the stump and advocated my election because they charged him with having been a traitor to the great hero who, next to Abraham Lincoln, had won their emancipation and their freedom in this country.

Now, gentlemen, to say under these circumstances that you must claim a solid Republican vote from the colored people is to say that they are not to be moved either by sympathy or reason. It is to say that you deny to them the common instincts of humanity. If you say this it would be to admit that the Republican party had attempted to place the destiny, the liberty, the rights of property, and every other right of the white men of the South under the authority of stocks and stones which could not be moved by anything. Now, you can take your choice: you can believe these voters are moved like other voters, by sympathy and reason, or you must come out and admit you have endeavored to destroy the civilization of the white people of the Southern States.

I have said there is no charge against me personally in this record; but I feel as deep an interest in the honesty and integrity of my constituents as I do in my own. This Committee on Elections undertakes to point out one single case of fraud in the whole district.

I ask gentlemen and appeal to them to examine the record for themselves before they vote on this case, and they will find that so far from contradicting the solemn, sworn returns, as the contestant has said—and mark you it was a solemn, sworn return—instead of contradicting that return the testimony absolutely sustains the count as made by the commissioners of election. Who are the witnesses? The first is the brother of Mr. Lynch himself. He was there on the ground from the morning until the noon adjournment. He says he went there to look and see that there was a fair count, and that he went and looked at the tickets before they were put into the box. He says there were 235 votes polled before he left, and of that number he saw a majority of them. All he saw had the name of his brother on them. If he saw no more it is an evidence that the voters were against him and did not desire him to see their ballots. This is the Kingston precinct. He only claims that he saw a majority of the whole number, and 219 is therefore all that he pretends to swear to having seen. Jerry Taylor swears to only 60. Abraham Felters, the constable who stood at the door to allow the voters to come in, said they generally showed their tickets to him as they came in. They all rely upon the testimony of the Republican challenger. He stood at the polls with pencil and paper, and swears that every voter was instructed to show his ticket before he put it into the box, so that he could make a private tally. Now he puts down 350 votes as having been cast for Mr. Lynch, and yet on examination he says that he could only swear to 160 for Lynch. He is a colored man and a partisan friend of the contestant. Three times he swears positively that he saw only 160 votes for Lynch.

Now, when you look into the returns from this box you find that the inspectors and commissioners have given him exactly this number, 160 votes. If there had been any tampering with the ballots after they were cast, as has been alleged, it certainly is a most remarkable thing that these men who were robbing the ballot-box should have left in it precisely the same number, no more and no less than the partisan friends of Lynch swear he was entitled to and as having been seen cast for him. Now, this testimony sustains the count of the returning officers instead of impeaching it. But suppose there had been a difference between the two counts. If, as they pretend to believe, there was tampering, or if the one count did not sustain the other, which would be entitled to most credit? Now, it clearly appears on the cross-examination, the witness Fowles says that of the 350 votes cast 160 were cast for Lynch, and some of them might have voted the Democratic ticket; but I say, if these witnesses had sworn positively that the 350 votes were all cast for Lynch what would have been the attitude of the case? Are not the sworn officers of election entitled to consideration? Were not the sworn officers, men of intelligence and character, who returned under their oaths 160 votes for Lynch, entitled to consideration?

But you say they are white partisan friends of mine. How was it on the other side—were they not partisan friends of the contestant? I bring out the testimony of the sworn officers of the law. On the other hand is produced the colored partisans of the contestant. They sustain the count which you here complain of. But if they did not, which testimony will you take? Will you take the tally-stick at the poll, kept on the outside, or the sworn return, signed, sealed, certified to by the duly authorized officers who conducted the election?

In order to set aside these returns you must fasten corruption upon the people of Kingston precinct, and who are they? I have the book here, but will not stop to read it. In the history of Mississippi stands the record of the town of Kingston, reaching back one hundred and twenty years. The settlers of Kingston were the descendants of a New Jersey preacher. It is said that they increased in numbers, grew rich and prospered; that they were distinguished for high moral character, and that they were distinguished for refinement and hospitality; and the history of Mississippi will bear it out. The Farrars, the Fowles, the Ashfords, the Swazeys live there to-day, and their names appear in this record. Their history reaches back to New Jersey, one hundred and twenty years ago. Now, what are you asked to believe? That these descendants of distinguished families whose names they still bear, that these men were willing, in order to put me into Congress, to do dishonor to their name and their ancestry, that they were willing to resort to fraud and swindling in the election; and you must believe that upon the evidence of a mere tally-stick, kept by a partisan friend of the contestant who sits on the outside of the polls.

This Congress said the other day that the Chinaman was not a fit associate for the white man of California, that he was not even fit to labor for him there; but this Congress is asked by this contestant and this Committee on Elections to say that the descendant of the African is more honest, more honorable, and more truthful than the white descendants of the New Jersey preacher in Adams County, Mississippi. I appeal to the Jerseymen upon this floor to resent this insult cast upon their people who have made their homes in Mississippi. But, Mr. Speaker, in this case, if I understand the testimony correctly, it makes no difference whether you count the marked ballots rejected in Warren County or not. My certified majority was 3,779, and if you give the 2,000 marked ballots thrown out to the contestant, he is still a good ways from being elected.

But if you refuse to count the marked ballots then you do violence not only to New Jersey's descendants but to a sovereign State of this Union.

Time and time again this Congress has said by its solemn resolution and through its Committee on Elections that it will follow, and that every Federal authority will follow the decisions of the State authorities in regard to State laws and State constitutions. You said that in the Tennessee cases, when under it this House seated Republican members of Congress. You said that in the Iowa cases in the last Congress when you seated Republicans. You followed the decision of Indiana in the case of Neff against Shanks in the Forty-second Congress. You followed the decision of Pennsylvania in a distinguished case that occurred in the last Congress. And again you followed a decision of the supreme court of Florida in the Bisbee-Hull case.

Gentlemen now say that this is a single case. They demand a long line of decisions. When the Speaker of this House was making that report, when the chairman of this Elections Committee was making that report in the Bisbee-Hull case, they never once thought to stop and ask whether it was a single decision or a line of decisions. It was a single decision; and made about that identical case. And strange to say, the Committee on Elections come in here and say they will not follow the decision of the Mississippi court because it is a single decision and because it is in regard to a case now before Congress. And yet when we look into the report in the Mackey-O'Connor case we find that very same Elections Committee, in a report signed by every one of them, has said they would follow the decision of the supreme court of South Carolina because it gave the seat to Mr. Mackey, or because it said that seven precincts in Orangeburgh and Charleston should be counted for Mr. Mackey.

Here, then, we find that for the first time in the history of our Government you are advancing the doctrine that you will not follow a State decision. One of the committee said to me, "We only follow the decision when we approve it;" and they take good care never to approve it, except when it seats a Republican and throws out a Democrat. That is the position they stand in before the House and the country.

Now, Mr. Speaker, I ask the fair-minded lawyers upon that side of the House, men who have said that they would stand by the law in every case, I ask them to look at the law in this case; I ask them as honest Representatives from their own States if they are willing to fix the stigma of shame upon the State of Mississippi? You have followed the decision of every other State; when it comes to mine, then for the first time you find exceptions to the rule.

Many years ago a gifted Representative of Mississippi stood in the Halls of Congress to protest against an outrage which he thought was about to be perpetrated on his State, and his eloquent words are more fit and proper now than they were then; and I repeat them here, that if you do this foul thing, if you refuse for the first time to extend either the right or the courtesy—I do not care which you choose to call it—if you refuse to extend to Mississippi what you have extended to every other State, then, in the language of Prentiss, I say:

> Strike from the flag of the Union the bright star that glitters to the name of Mississippi; but leave, oh, leave the stripe behind, fit emblem of her degradation.

Why, sir, but the other day we heard upon that side the declaration that with or without law, with or without Constitution, the polygamous Mormon must go. That speech was greeted with cheers, and its sentiments were adopted by the majority of this House. Yet when some Southern community rises indignantly and asserts the same doctrine in its self-defense, and in its determination to preserve its civilization, it is denounced from one end of this Union to the other. There was a time when the free-born white men of Mississippi said precisely what was said here; they were inspired by the same higher-law feeling that with or without law, with or without Constitution, the vice, the ignorance, and the superstition of the black man shall not destroy the civilization of the white man. But happily that day has passed away. The contestant himself testifies that it has passed away. We have been endeavoring to educate the colored man morally, socially, and politically.

You believe that that day has passed away, but you believe and you charge that in its place has come a day of fraud. Now, in the name of the sixth district of Mississippi, I deny this charge so far as that district is concerned, and I say that the record in this case proves it is false. I say that these very charges which this contestant has made here to-day were every one of them made before the courts of Mississippi, made before the United States courts, and every man who was brought to trial was acquitted after a fair, honest, and impartial trial before a mixed jury of whites and blacks, except those men from Coahoma County, who confessed exactly what they had done, and the judge said a fine of $1 was sufficient, because it was simply a mistake in their judgment of law. They have been all examined, too, by this Committee on Elections, and the Committee on Elections have failed to sustain the charge made by the contestant.

The contestant has said that the white men of Mississippi have counted out a Republican illegally and fraudulently. He attempted to prove it and he failed. And now the Republicans of this House are asked to stand up in the broad sunlight of Heaven, in the face of this whole nation, and illegally and forcibly to count a Democrat out from this House. Those who ask you to do it, no doubt, expect to sustain themselves by going before the country and appealing to the passions of men and describing in pathetic terms the wrongs of the downtrodden black man; but in my judgment the day has gone by when the people of the United States can be made to weep as we wept in childhood over the Last of the Mohicans and Uncle Tom's Cabin.

The faithless and the drunken savage in the West has knocked all the romance out of the peerless red man, which existed only in the imagination of Fennimore Cooper, and that touching story of gentle Eva has been forever dispelled by the matchless frauds and falsehoods of Eliza Pinkston.

And right here let me say to my friends from Iowa upon this subject of not following the State decisions, you know that the law of Congress requires that members of this House shall be elected in November, unless it is necessary to change the constitution of the State in order to change the time of your State elections.

The SPEAKER *pro tempore*, (Mr. BURROWS, of Michigan.) The time of the gentleman has expired.

Mr. CALKINS. I ask that the time of the gentleman be extended.

There was no objection.

Mr. CHALMERS. I thank the gentleman from Indiana, [Mr. CALKINS.] I shall not trespass much longer on the patience of this House.

I say that those gentlemen from Iowa came here, having been elected in October. Their seats were challenged. They proved to the Committee on Elections of the House that the State authorities had decided that the time of election could not be changed without changing the State constitution.

Mr. TUCKER. The governor had so decided.

Mr. CHALMERS. The governor alone had decided that. The Committee on Elections sustained that decision, or said that they would abide by the decision of the State authority, although it was not the decision of a court; that they would abide by the decision of the governor of your State, and so you gentlemen from Iowa were permitted to keep your seats in this House.

And now what do we see? The last Legislature of Iowa changed the time of holding the elections, and yet the constitution of the State still remains unchanged. Now, one of two things is true: either those nine members from Iowa sat here in the Forty-sixth Congress without legal authority, and by the grace of a Democratic House, because that Democratic House yielded respect to the decision of a State authority, or they held their seats rightfully. If they held them wrongfully, they owed them to the grace of a Democratic House. If they held them rightfully, then when the Iowa members of the next Congress come here, they will have been elected without a change of the constitution of the State. And possibly they may be invited to drink from that bitter cup which they now press to the lips of Mississippi. Gentlemen tell us now that Congress is a law to itself; that Congress must for itself construe State statutes and State constitutions. The next House of Representatives may be Democratic, and when those Iowa members come here they will come to ask that Democratic House to change the rule which is now made by their own Republican friends in this House. It may be possible that they may not be permitted to hold their seats, because they will have been elected under a constitution which has not been changed; and it has been held by the authority of that State that an election cannot be held there except in October without a change of the State constitution.

But let me say here that whatever may be the result in my case, I trust no such thing will ever be done by a Democratic Congress. If a State is to be dishonored, if its supreme court is to be treated with contempt by this Congress, I trust it may stand a monumental example as a warning to future generations—like the portrait of the traitor doge in Venice, which was turned to the wall—to mark an unparalleled crime in the annals of our legislation.

Much has been said in this discussion about when the Supreme Court of the United States would follow the decision of a State court. One decision was cited where a State court had made conflicting decisions; where they had changed the rules of property, had destroyed the rights of property. When that case came before the Supreme Court of the United States its judges said indignantly, "We will not follow the oscillations of a State court; we will not immolate truth, justice, and law, though a State court has erected the altar and decreed the sacrifice."

Now, I trust that when the honest and fair-minded lawyers on that side of the House are asked to set aside the time-honored rule which has been followed by every Congress heretofore respecting the decisions of a State court; when they are again asked to trample upon the rules of legal evidence; when they are asked to take as testimony the certificate of a clerk who was not authorized by law to certify about the matter in issue; when they are asked to lay down one set of rules which will turn out a member from Florida and immediately turn around and reverse those rules in order to turn out a member from Mississippi; when they are asked to take the tally-stick of a Republican partisan against the sworn returns of Democratic officers of elections, I trust that there may be some at least upon that side, some honest lawyers, who will answer in the same indignant spirit of the supreme court—we will not immolate truth, justice, and law, though party has erected the altar and decreed the sacrifice.

But, if I am mistaken; if reason and shame have fled to brutish beasts; if the sacrifice of Democrats—and a hecatomb seems to be prepared—if the sacrifice of Democrats is to be made and I am to be the first victim, then I say to you so be it; you have the power if you choose to exercise it. Let your guillotine fall; you will regret it more than I. If you commit this outrage, I say to you, you may drive me from my seat by force; you may place another in it; and yet whenever you look at him you will be reminded of this day's outrage. Whenever he speaks to you his voice will bring back to you the recollection of this day; and if conscience be not "but a canker" in your breast, in the silence of the night it will hound you with the recollection that truth, justice, and law were immolated, and that you were the high priests who officiated at the unholy sacrifice. [Applause.]

Mr. DE MOTTE. Mr. Speaker, it has been often times said, and is worthy of being said again, that the American people are always willing to be governed by a majority, and that it does not matter how small the majority may be, so that it is a fair one. Want of fairness in any of our elections on the part of any party is a thing which ought to receive, and I believe does receive, the condemnation of the whole people, if properly understood.

There is something in connection with this "Shoestring district," and everything pertaining to it, which suggests continually to me the idea of unfairness. If some intelligent man, knowing nothing whatever about the politics of this country, should take a view of the map of Mississippi, with the Congressional districts as now arranged made plainly visible upon it, he would at one glance make up his mind, if he was a fair man, that there was something wrong in the construction of what is known as the "Shoestring district." I say again, he need know nothing whatever about our election machinery other than the fact that this State had been divided with the view of a representation somewhere.

Mr. HOUSE. Will the gentleman yield for a motion to adjourn?

Mr. DE MOTTE. I would do so very readily, but the House would hardly agree to it. I shall only occupy a few moments at any rate. What makes the conformation of this district peculiar and remarkable to us is, we know, that the larger part of a certain class of people belonging in the State of Mississippi are found within it. Hence those of us who know the situation feel all the time, when viewing the shape of the district, that this strip, forty miles in width and five hundred in length, was made for a political purpose—a purpose which was not a fair one.

We all know that when a State is divided for representative purposes, the proper mode is to have the divisions embrace as nearly as may be contiguous territory. Therefore when we see a district thus laid out, knowing as we do our own political machinery, we are very apt to judge in advance that the party in power had some evil end to accomplish.

There has been no time since the war when there has not been trouble and complaint in regard to the elections held in that district or its immediate neighborhood. I am not here to-day to arraign particularly any party or any man in connection with these evils; but that they have existed ever since the district was formed, that they have been continuously paraded here by contests and throughout the country on account of the frauds alleged to have been committed, cannot be denied. Hence it seems to me that there has been unfairness, not only in the making of this district, but in the manner in which elections have been conducted there.

By the returns of the Democratic election officers there were but 14,565 votes polled at the last election in that district. The gentleman returned as elected has 9,172 votes. Now I remember very well that the candidate who was unsuccessful in my district received about twice that many votes. What is the matter in Mississippi? Why is it that, with a population equal to that of any other district in the United States, only about half the average number of voters is required to elect a member? I have prepared a table, which I will print in connection with my remarks, showing the average number of votes which it takes to elect a member of Congress in the various States of this Union. This table is based upon a House of Representatives of 325 members, and upon the election returns of 1880:

Table showing the average number of votes cast for member of Congress in the various States of the Union.

Alabama	18,938	Mississippi	16,839
Arkansas	21,245	Missouri	28,377
California	27,370	Nebraska	29,118
Colorado	52,532	Nevada	18,343
Connecticut	33,285	New Hampshire	43,181
Delaware	29,353	New Jersey	35,132
Florida	25,809	New York	32,488
Georgia	15,865	North Carolina	26,675
Illinois	31,115	Ohio	34,522
Indiana	36,205	Oregon	40,816
Iowa	29,396	Pennsylvania	31,242
Kansas	28,717	Rhode Island	14,617
Kentucky	24,027	South Carolina	24,422
Louisiana	16,260	Tennessee	24,182
Maine	35,963	Texas	21,962
Maryland	28,703	Vermont	32,549
Massachusetts	23,542	Virginia	21,161
Michigan	32,040	West Virginia	28,178
Minnesota	30,954	Wisconsin	29,685

It appears that the average vote to elect a member of Congress in the various States is 28,335, nearly twice as many as were cast for both candidates in the "Shoestring district" at the election of 1880. The average of the State of Mississippi is 16,839, some 12,000 below the average in the other States, and in this particular district the vote is about 14,000 less than the average of the State. The population of Mississippi in 1880 was 1,131,597; the vote polled there was 117,078. This is but one for every 9.6 inhabitants.

For the sake of contrast let us compare these statistics with the State of Indiana. I know we Republicans have been in the habit in the past of charging our Democratic friends with bringing from Kentucky, where they have a great Democratic margin which they do not need, enough votes to carry the day. When we are successful they return the charge by saying that as the northern end of the State is largely Republican, we draw on our Republican neighbors of Illinois and Michigan for votes in an emergency. Whether there be any truth in that or not, I do not care to say, but I am satisfied with one fact, that in 1880 the election was entirely fair, for no Democratic electioneerer was allowed to go anywhere without a Republican followed him, to watch every movement he made. And *vice versa*. The two parties watched each other continually, and I think both Democrats and Republicans came out of the contest with tolerably clean hands. I know it was a large vote, for we brought all we had to the polls. If a man was sick we had him ready when the polls were opened, for fear he might die during the day. [Laughter.] We voted them early but not often, and took care that every man who was entitled to vote voted.

In Indiana it takes 36,200 votes to elect a member of Congress; that is, one vote for every 4.2 inhabitants. It is rather a remarkable vote, but, as I have said, we were very industrious on both sides.

But some may say that is not a fair comparison, because in Mississippi there is a large margin one way, that it is not a closely-contested State like Indiana. Very well; let us go to Iowa, where they scarcely have Democrats enough left for mournful examples. [Laughter.] There the Republicans have it all their own way, and a comparison would certainly be fair. In Iowa it takes 29,396 votes to elect a member of Congress. That is one vote for every five inhabitants. There is no contest there, as I said before, yet one in every five asserts his right to vote, while in Mississippi, where there has been a contest, as I understand, one side led by a colored man, and the other by a brass band and a wagon with all the colors of the United States on it, [laughter,] and yet but one in 9.6 of the inhabitants exercised their right to vote.

What is the reason of this? Do men care less for their rights there than in Iowa or other States? I would think not after hearing the earnest speeches made by the two gentlemen claiming seats in this House here to-day. It is clear to me that if there are not more voters in Mississippi than the Democratic election officers have returned, one of two propositions is true: there is a great disproportion of women and children in that State or an unfair apportionment.

There is another thing, Mr. Speaker, which I think will aid us in getting an understanding of the situation in this district.

In 1880, as I am informed by gentlemen from that State, a census was taken with a view of legislative apportionment. They base that apportionment on the number of electors. They would be in a sad way if some of the counties were apportioned according to the number of men who asserted their rights at the polls. That census shows there were 240,391 electors in the State of Mississippi in 1880. Out of that number only 117,078 voted, leaving 123,313, a majority of all, who never even attempted to exercise their right of suffrage. The "Shoestring district" now under consideration contained by the same census 46,424 electors, and yet our Democratic returning officers tell us but 14,565 voted—less than one-third of the number.

I think the truth of this matter as it is gathered from the evidence in this contest is that more men voted in that district than these election officers returned. About 21,000 men voted, which is still less than one-half the number that rightfully belonged there, and for some reason over one-fourth of those votes have not been counted. And yet the contestee appeals to us to-day to look at the record and be guided solely by it.

Very well, let us look at it. Who makes that record he is so anxious we shall rely on? At every precinct in that district the election was controlled by Democratic officials. He and his friends had all the machinery of the election in their own hands. There was no one to say nay. The record shows that they organized the election boards, received the votes offered, counted those which were for Chalmers, and threw out those for Lynch. It is their record, not ours; and I see no reason why we should be bound by it.

I do not know how this may look to other gentlemen, but to me there seems an unusual amount of assurance in the contestee standing here before this intelligent body and after having made this record without allowing us anything to say and demanding that we shall all measure ourselves by it. I do not attribute to the gentleman any unworthy means, but I do say, when his friends had it all in their own power and when they deliberately made, not false returns, but useless returns, when they failed to do their duty, failed to make the returns required by law, and then refused to count the votes because of these irregularities, it comes with bad grace from him to demand of us to acquiesce.

And another remarkable fact about the matter is, that every one

of the boxes thrown out were Republican boxes. Now, how easy such a scheme is to organize and carry out. You would simply have to make a mistake, and mistakes are not criminal; we are all liable to make them. They could be made in the places where the vote was against us, and by the letter of the law which is appealed to to-day they could be thrown out. I shall not charge that there has been a conspiracy to do this, but the evidence and circumstances attending this election would fully justify me in so charging.

But we are told there are not so many Republican voters in this district as was supposed. The minority of the committee in their report seem to chuckle over this statement as if it were very pleasant to contemplate.

The contestee alluded to that in his speech with a great deal of gratification, and went on to say how the immense Republican majority of a few years ago had, in his opinion, been dissipated. Of course it was not on account of any unwarranted and unlawful means made use of by the Democrats, but because the Republicans quarreled among themselves. He alleged that there was no longer a Republican majority there.

Now, Mr. Speaker, let us look at this a little more closely. If it be true that the Republicans have not a majority there, what is the necessity of throwing out Republican boxes at each election? If they can just as well carry the district by "painted wagons" and "colored bands," as contestee alleges he carried it this time, allowing every colored man to have his own way and to vote according to his sense of justice and right, what is the necessity for carrying it by throwing out Republican votes?

Does it not seem reasonable, in view of their claim here, that they might just as well have carried the district in a fair manner, and saved the odium of the unusual, unjust, and unseemly means the evidence shows they did resort to?

But we are told these ballots are marked and violate the statute of Mississippi. This is the ballot:

REPUBLICAN NATIONAL TICKET.

For President,

JAMES A. GARFIELD.

For Vice-President,

CHESTER A. ARTHUR.

For Electors for President and Vice-President,

HON. WILLIAM R. SPEARS.

HON. R. W. FLOURNOY

DR. J. M. BYNUM,

HON. J. T. STETTLE

CAPT. M. K. MISTER, JR.,

DR. R. H. MONTGOMERY,

JUDGE R. H. CUNY,

HON. CHARLES W CLARKE

For Member of the House of Representatives from the 6th Congressional District.

JOHN R. LYNCH

The law of Mississippi reads as follows:

SEC. 137. All ballots shall be written or printed in black ink, with a space not less than one-fifth of an inch between each name, on plain white printing newspaper, not more than two and one-half, nor less than two and one-fourth, inches wide, without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket; but this shall not prohibit the erasure, correction, or insertion of any name by pencil mark or ink upon the face of the ballot; and a ticket different from that herein prescribed shall not be received or counted.

The commissioners of election refused to count these ballots because of the dashes under "Republican National Ticket," "James A. Garfield," "Chester A. Arthur," and "Hon. Charles W. Clarke."

The supreme court of Mississippi sustained the commissioners in their action, and say:

The only safe guide as to what ballots are illegal because of devices or marks is the statute. It excludes any mark or device by which one ticket may be known or distinguished from another. A distinction between ballots by means of devices or marks instead of by means of the names on them is what the statute aims to prevent, and we are not at liberty to confine the broad language of the statute to any particular description of devices or marks, for ingenuity would evade any such limit. The law should be enforced as written.

Now, I have always had, and hope I shall continue to have, the greatest respect for the judgment of the highest tribunal of a State. I am compelled to say that I have but little respect for the decision of the supreme court of Mississippi in this matter, very little, indeed; and the reason is that they based their decision (for I cannot go into a discussion of all the points involved) upon a doctrine which, to my knowledge, has never before been announced. They say the object of having the ballots uniform is not only to protect the secret of the voter, but that intelligence shall guide him.

Now, mark you, according to this decision they must take from the ballot everything that an ignorant man can recognize, in order that intelligence may guide him. The intelligence of whom? His own or that of some one else? I think I can see in this a cunningly devised plan, calculated to make the ignorant voter who is dependent upon some other man rely upon him as to how he shall vote, while there is no means of ascertaining whether his friend tells the truth or not. Now, there had been tickets which had something on them that enabled an ignorant man to know what he was doing. They had possibly a spread eagle, a flag, or something of that kind, which appealed to such intelligence as he had. But this new-found law says that there shall be nothing upon it which the intelligence of the voter can recognize, and gives as a reason that "intelligence shall guide" the voter. Therefore I am forced to conclude that it was the intelligence of some other man and not the intelligence of the voter which was to be appealed to.

But are gentlemen on the other side of the House willing to go as far as that decision goes? That decision says—and I shall not undertake to quote it exactly—that any mark, whether intentional or unintentional, whether fraudulent or innocent, upon a ballot, that will enable anybody to tell it from any other ballot, shall vitiate it. I understand that to be the sum and substance of the decision. And I ask gentlemen if they will carry that doctrine out to its furthest extent? Are they prepared to say that the ballot of the honest coal-heaver, for instance, who comes from his hod with his hands begrimed and blackened by his labor, and in handling the ticket shall deface it or besmear it so that it might be picked out from among other tickets, shall not be counted? And yet if you go as far as the supreme court of Mississippi goes you must say so.

And again, suppose by some accident any blot, blur, or mark, no matter how small, for its size is not material, or even if some wandering fly deposits a speck upon it, by which some man on examining would be able to recognize it as different from some other ballot, will you claim that it should also be excluded? The supreme court of Mississippi have so decided, and we are appealed to to govern our action in this matter by the terms of that decision.

No, Mr. Speaker, the trouble with that judgment, in my opinion, lies here, that the same motives actuated these men clad in judicial ermine that actuated the men who made their election returns in such shape that they could not be counted.

I fear the same spirit which has been mentioned here to-day by both speakers, which says that a certain element shall control whether or no, had something to do in dictating that decision. I have always had the ordinary respect for punctuation marks which a boy carefully taught to read would have. I have seen sentences curiously devised, so that by the removal of a comma or placing it in a different position it gave an entirely different meaning to the sentence. Those were literary curiosities, and I have admired them. But I never thought the time would come when a punctuation mark would deprive a citizen of the highest right he has in this Government. I never thought the time would come when a mere matter of punctuation would be urged in this House why the people of Mississippi should not be represented by the man of their choice. And although a punctuation mark is a small thing and does not deserve much attention, yet I think I would be justified in saying to the gentleman who is now occupying that seat, that there are certain other punctuation marks which will some times appear when they are not wanted; and that there is one that will hang over that seat so long as he occupies it; that there is a punctuation mark that will appear there to every fair and honorable and truth-loving man all over the land so long as he sits there, and that mark is an interrogation point—[laughter]—appealing to him, appealing to us, appealing to everybody, why is it that he sits there claiming a seat upon a mere mistake having been made by a voter?

It has been suggested behind me that possibly a period would be put there. That suggested another thought to me. In looking over the law of Mississippi I find no allusion to anything except letters on the ballot. There is no provision for punctuation whatever. Will the gentlemen go still further and say that a period after one of those names shall be a designating mark? Will they say that of the commas which appeared there, because they are no more mentioned in the law than the dashes which the gentleman has made so much of? They are all one and the same thing, put there for the same purpose, and are not such, it seems to me, as any reasonable, fair-minded man would for one moment stop to consider.

Mr. Speaker, I have this to say by way of conclusion: the great mass of the people of this country believe that every qualified voter should be allowed to go to the polls unmolested and cast his vote for whomsoever he pleases, and that his vote shall be counted. Everything connected with this election, from the passage of the statute concerning the ballot, if this statute is properly construed by the

supreme court of Mississippi, to the issuing of the certificate to the sitting member, plainly shows to me that those having the administration of the law in their hands have sought anything else than a full, free, and fair vote, and no word or vote of mine shall help in giving any advantage to such a conspiracy. [Applause.]

ORDER OF BUSINESS.

Mr. CALKINS. I move that the House do now adjourn.

Mr. RANDALL. I desire to submit a resolution which I have shown to the chairman of the Committee on Banking and Currency, and which has his approval.

Mr. CALKINS. I will withdraw the motion to adjourn for the present to allow the gentleman from Pennsylvania and other gentlemen to make some requests for unanimous consent.

SECOND NATIONAL BANK OF CINCINNATI.

Mr. RANDALL, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and adopted:

Whereas the charter of the Second National Bank of Cincinnati will expire on or about the 25th day of May, next; and

Whereas it is alleged that said bank has gone into liquidation and has reorganized to continue its existence as a corporation under existing law: Therefore,

Be it resolved, That the Comptroller of the Currency is hereby directed to communicate to this House any correspondence between him and the officers of the said bank in relation to said liquidation and reorganization, and to inform this House under what existing statutes said reorganization was authorized; and, further, to communicate the manner and form prescribed of such reorganization by national banks.

Mr. RANDALL moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRINT OF GENEVA AWARD BILL AND REPORT.

Mr. BUTTERWORTH. I ask the House for an order to have printed an additional number of the report of the committee on what is known as the Geneva award bill. There are none left. I have had a number of applications for them, and a number of applications have been made to other members, and it is desirable to have some additional copies printed.

Mr. ROBINSON, of Massachusetts. Let the bill also be printed.

Mr. BUTTERWORTH. Very well.

The SPEAKER. The gentleman from Ohio requests that the Geneva award bill and accompanying report be reprinted. Is there objection?

There was no objection, and it was so ordered.

WITHDRAWAL OF PAPERS.

On motion of Mr. ATKINS, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of W. C. Marsh, now before the Committee on War Claims, there being no adverse report thereon.

CONDITION OF FOLDING-ROOM.

Mr. HAWK. I desire to submit for reference to the Committee on Accounts a resolution of inquiry as to the condition of the folding-room.

The Clerk read as follows:

Resolved, That the Committee on Accounts be instructed to inquire into the sanitary condition of the House folding-room, and to report whether the same is not detrimental to the health of those employed therein.

Be it further resolved, That if said committee shall find said folding-room unfit for human habitation, they are hereby instructed to inquire into and report upon what terms more suitable quarters can be obtained.

Mr. HEWITT, of New York. Why should the gentleman propose to refer the resolution to the Committee on Accounts? The more appropriate committee would be that which has charge of the heating and ventilating of this building.

Mr. HAWK. I believe it is usual to send resolutions of this kind to the Committee on Accounts.

Mr. SPRINGER. I think also it would be well to have the committee consider whether this Capitol is not in great danger by having so large an amount of printed matter in the basement of this building, and whether it could not be advantageously removed to some other place.

Mr. HAWK. It is immaterial to me what committee shall make this examination.

The SPEAKER. The Committee on Public Buildings and Grounds is the proper committee to be charged with the matter of obtaining other rooms. If it is a question as to proper ventilation, it would properly go to the Committee on Ventilation.

Mr. HAWK. It is immaterial to me which committee is charged with the duty. I desire to state that there are forty-two persons employed as folders, &c., in that dark, unhealthy place; a place so unfit that no member on this floor would be willing to keep a good horse or mule in it. I think this is a matter of great importance, a matter of absolute necessity. It is immaterial to me what committee the subject may be referred to.

Mr. TOWNSHEND, of Illinois. These persons have been on duty in the place referred to for some time, and I have heard of no mortality among them resulting from it.

Mr. HEWITT, of New York. I have given some personal attention to the condition of things in the folding-room, and I have called the attention of the Architect of the Capitol to the very unhealthy and improper condition of that room. I quite agree with the gentleman who offers this resolution [Mr. HAWK] that this matter demands prompt attention on the score of humanity. But it strikes me that the Committee on Accounts is hardly the proper committee to attend to it.

The SPEAKER. The resolution might be amended so as to direct the Select Committee on Ventilation and Acoustics to examine the subject.

Mr. HAWK. I have no objection to that modification.

The resolutions as modified were then adopted.

Mr. HAWK moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW ALBANY NATIONAL CEMETERY.

Mr. STOCKSLAGER. I ask unanimous consent to submit a resolution for present consideration.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the Secretary of War be, and he hereby is, directed to transmit to this House the correspondence and papers on file in his office touching the construction of a road from the limits of the city of New Albany, Indiana, to the National Soldiers' Cemetery, situated near said city.

Mr. STOCKSLAGER. I desire to state that my purpose in offering this resolution is to obtain these papers for reference to the Committee on Appropriations, with a view to securing the necessary appropriation.

The resolution was adopted.

Mr. STOCKSLAGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PATRICK CASEY.

Mr. PEELLE, from the Committee on Claims, by unanimous consent, reported back the bill (H. R. No. 3692) for the relief of Patrick Casey, and moved that the committee be discharged from its further consideration, and that the same be referred to the Committee on Ways and Means.

The motion was agreed to.

WAGON-ROAD IN OREGON.

Mr. STRAIT, from the Committee on the Public Lands, to which had been referred Executive Document No. 97, relating to a grant of land to aid in the construction of a wagon-road in the State of Oregon, reported the same back and moved that the committee be discharged from its further consideration, and that the same be laid on the table.

The motion was agreed to.

HEIRS OF M. HALLIBURTON.

Mr. SIMONTON, by unanimous consent, introduced a bill (H. R. No. 6009) to pay the heirs of M. Halliburton for property taken and used during the war; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

REMOVAL OF POTOMAC FLATS.

Mr. BOWMAN, by unanimous consent, introduced a bill (H. R. No. 6010) to remove all the Potomac flats from the Washington Harbor; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

ARLINGTON MILITARY CEMETERY.

Mr. DAVIS, of Illinois, by unanimous consent, from the Committee on Military Affairs, reported, as a substitute for House bill No. 3140, a bill (H. R. No. 6011) to improve the public road from the Aqueduct Bridge near Georgetown, District of Columbia, to the Arlington National Military Cemetery; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

NATIONAL CEMETERY AT RICHMOND, VIRGINIA.

Mr. DAVIS, of Illinois, also, from the same committee, reported, as a substitute for House bill No. 3138, a bill (H. R. No. 6012) to construct a road from the city of Richmond to the Richmond National Military Cemetery; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

COMPENSATION OF UNITED STATES DISTRICT ATTORNEYS.

Mr. HUMPHREY, by unanimous consent, from the Committee on the Judiciary, reported, as a substitute for House bill No. 16, a bill (H. R. No. 6013) fixing the compensation of United States district attorneys, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

PAYMENTS FOR MILITARY SERVICES.

Mr. BAYNE, by unanimous consent, from the Committee on Military Affairs, reported back with a favorable recommendation the bill (H. R. No. 4618) approving payments made for military services rendered between April 19, 1861, and August 20, 1866, under orders from the War Department; which was placed upon the House Calendar, and the accompanying report ordered to be printed.

AGRICULTURAL APPROPRIATION BILL.

Mr. VALENTINE. I ask unanimous consent that the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes, be taken from the Speaker's table. The bill has been returned from the Senate, that body insisting upon its amendments disagreed to by the House. I move that the House insist upon its disagreement to the amendments of the Senate, and agree to the conference asked on the disagreeing votes of the two Houses thereon.

There was no objection, and it was so ordered.

The Speaker announced as the conferees on the part of the House Mr. VALENTINE of Nebraska, Mr. RICH of Michigan, and Mr. HATCH of Missouri.

LAWLESSNESS IN ARIZONA.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States; which was read, as follows:

To the Senate and House of Representatives:

By recent information received from official and other sources I am advised that an alarming state of disorder continues to exist within the Territory of Arizona, and that lawlessness has already gained such head there as to require a resort to extraordinary means to repress it.

The governor of the Territory, under date of the 31st ultimo, reports that violence and anarchy prevail, particularly in Cochise County and along the Mexican border; that robbery, murder, and resistance to law have become so common as to cease causing surprise; and that the people are greatly intimidated and losing confidence in the protection of the law. I transmit his communication herewith, and call especial attention thereto.

In a telegram from the General of the Army, dated at Tucson, Arizona, on the 11th instant, herewith transmitted, that officer states that he hears of lawlessness and disorders which seem well attested, and that the civil officers have not sufficient force to make arrests and hold the prisoners for trial or punish them when convicted.

Much of this disorder is caused by armed bands of desperadoes known as cowboys, by whom depredations are not only committed within the Territory but it is alleged predatory incursions are made therefrom into Mexico. In my message to Congress at the beginning of the present session I called attention to the existence of these bands, and suggested that the setting on foot within our own territory of brigandage and armed marauding expeditions against friendly nations and their citizens be made punishable as an offense against the United States. I renew this suggestion.

To effectually repress the lawlessness prevailing within the Territory, a prompt execution of the process of the courts and vigorous enforcement of the laws against offenders are needed. This the civil authorities there are unable to do without the aid of other means and forces than they can now avail themselves of. To meet the present exigencies the governor asks that provision be made by Congress to enable him to employ and maintain temporarily a volunteer militia force to aid the civil authorities, the members of which force to be invested with the same powers and authority as are conferred by the laws of the Territory upon peace officers thereof.

On the ground of economy as well as effectiveness, however, it appears to me to be more advisable to permit the co-operation with the civil authorities of a part of the Army as a *posse comitatus*. Believing that this, in addition to such use of the Army as may be made under the powers already conferred by section 5298, Revised Statutes, would be adequate to secure the accomplishment of the ends in view, I again call the attention of Congress to the expediency of so amending section 15 of the act of June 18, 1878, chapter 263, as to allow the military forces to be employed as a *posse comitatus* to assist the civil authorities within a Territory to execute the laws therein. This use of the Army, as I have in my former message observed, would not seem to be within the alleged evil against which that legislation was aimed.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 26, 1882.

Mr. PAGE. I move that this message, with the accompanying documents, be referred to the Committee on Military Affairs and printed; and I ask unanimous consent that the committee be authorized to report at any time on this subject.

Mr. SPRINGER. I hope that the authority suggested by the gentleman from California [Mr. PAGE] will be given. From personal visits to the part of the country referred to in this message I have some knowledge of the outrages perpetrated there. I know that Indian outbreaks and other disturbances of the public peace are now producing consternation and anarchy in a large portion of the territory of the United States. Up to this time there seems to be no adequate defense for the settlers in that region. A year ago I visited the flourishing town of Galeyville, in Arizona, and remained there a week, among an intelligent and industrious community. By telegrams which have been published yesterday and to-day I learn that that town has been sacked and burned, and thirty of its inhabitants slaughtered in cold blood by bands of Indians. Something should be done to protect our frontier and the brave people who have gone there. In many localities there seems to be utter inability on the part of the civil authorities to deal with the existing disturbances. I hope the request of the gentleman from California [Mr. PAGE] will be granted, and that the Committee on Military Affairs may have leave to report on this subject at any time, so that Congress may take action in the matter promptly.

The SPEAKER. If there be no objection, the message and accompanying documents will be ordered to be printed and referred to the Committee on Military Affairs, with leave to report at any time.

There was no objection, and it was ordered accordingly.

NATIONAL EXHIBITION AT BOSTON IN 1883.

Mr. CANDLER, (by request,) by unanimous consent, introduced a bill (H. R. No. 6014) to admit free of duty articles intended for the exhibition of art and industry to be held at Boston, Massachusetts, during the year 1883; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

SPECIAL ASSESSMENTS IN THE DISTRICT OF COLUMBIA.

Mr. CHAPMAN, by unanimous consent, introduced a bill (H. R. No. 6015) to provide for the correction of certificates of assessment issued for assessments for special improvements in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

IRRIGATION OF SNAKE RIVER VALLEY, IDAHO.

Mr. RICE, of Missouri, by unanimous consent, from the Committee on the Public Lands, reported, as a substitute for House bill No. 5002, a bill (H. R. No. 6016) to provide for the irrigation of Snake River Valley, in the Territory of Idaho, and to promote the settlement thereof; which was read a first and second time, ordered to be printed, and recommitted.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 1598) to authorize the Secretary of War to donate to the Ladies' Soldiers' Monument Society of Portsmouth, Ohio, four condemned cannon; and

A bill (H. R. No. 4680) to repeal the discriminating duties on goods produced east of the Cape of Good Hope.

Mr. CLARK. I move that the House adjourn.

The motion was agreed to; and accordingly (at five o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAYNE: The petition of Carnegia Bros. & Co., of Pittsburgh, Pennsylvania, urging the passage of the bill (H. R. No. 4726) providing for the appointment of a commission to test iron, steel, &c.—to the Committee on Manufactures.

By Mr. CALDWELL: Papers relating to the claim of Smith P. Dreon—to the Committee on War Claims.

By Mr. CAMPBELL: Paper relating to the pension claim of Martin Carney—to the Committee on Invalid Pensions.

Also, paper relating to the pension claim of James Aaron—to the same committee.

By Mr. DOWD: The petition of C. Austin and others, for an appropriation for common schools—to the Committee on Education and Labor.

By Mr. S. S. FARWELL: The petition of 150 business men of Davenport, Iowa, asking for the passage of the Lowell bill, to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. HOOKER: The petition of citizens of Mississippi, for the construction of the ship-railway across the Isthmus of Tehuantepec—to the Committee on Commerce.

By Mr. PHINEAS JONES: The petition of citizens of Mount Clair, New Jersey, for legislation for the suppression of polygamy—to the Committee on the Judiciary.

Also, the petition of Charles M. Holmes, sr., and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. KENNA: The petition of Thomas H. Dennis and 38 others, of West Virginia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. LACEY: The petition of G. W. Sheffield and 118 others, citizens of Barry County, Michigan, for legislation to prevent unjust discrimination of transportation companies—to the Committee on Commerce.

By Mr. MANNING: Papers relating to the claim of William Arthur, of Henry County, Tennessee—to the Committee on War Claims.

By Mr. RANDALL: Papers relating to the pension claim of Sarah Burns—to the Committee on Invalid Pensions.

By Mr. RAY: The petition of Charles McDaniel and 20 others and of Newton Clough and 20 others, citizens of New Hampshire, for legislation to regulate charges for railway transportation—severally to the Committee on Commerce.

Also, the petition of the mayor and common council of Manchester, New Hampshire, for the improvement of the navigation of the Merrimac River—to the same committee.

Also, the petition of Charles McDaniel and 20 others, citizens of New Hampshire, for the passage of a bill to make the Commissioner of Agriculture a member of the Cabinet—to the Committee on Agriculture.

Also, the petition of Charles McDaniel and 19 others, citizens of New Hampshire, for the passage of an income-tax bill—to the Committee on Ways and Means.

Also, the petition of Charles McDaniel and 21 others, citizens of

New Hampshire, for legislation to protect innocent purchasers against fraudulent venders of patents and patent rights—to the Committee on Patents.

By Mr. ROSECRANS: The petition of citizens of California, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. SCALES: The petition of H. P. Stipe and others, citizens of Thomasville, North Carolina, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. SCOVILLE: The petition of T. G. Smith and others, relative to internal-revenue taxes—to the Committee on Ways and Means.

By Mr. SHACKELFORD: The petition of 80 citizens of Onslow County, North Carolina, for an appropriation for the improvement of the navigation of the sounds between Morehead City and New River—to the Committee on Commerce.

By Mr. STEPHENS: The petition of Mrs. Cornelia Bernelle, for relief—to the Committee on War Claims.

By Mr. J. T. UPDEGRAFF: The petition of E. V. Brookfield and 7 others, citizens of Ohio, in favor of Government aid to education in Alaska—to the Committee on Education and Labor.

By Mr. URNER: Papers relating to the claim of Lewis Erndo—to the Committee on War Claims.

By Mr. VANCE: The petition of J. F. Downs and others, of North Carolina; of Dr. A. A. Scroggs and others, citizens of Caldwell County, North Carolina; and of W. M. Tuttle and others, citizens of Lenoir County, North Carolina, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

Also, the resolutions of the Produce Exchange of Wilmington, North Carolina, in favor of reducing the taxes on bank-checks, circulation, and deposits—to the Committee on Ways and Means.

By Mr. MORGAN R. WISE: The petition of Hon. James A. Hunter and 25 others, citizens of Westmoreland County, Pennsylvania, for the better protection of immigrants—to the Committee on Commerce.

By Mr. YOUNG: The petition of Armstrong & Miller and many other business firms of Mount Vernon, Ohio; of John S. Hawley & Co. and 31 other business firms of New York City; of J. H. Smith and 42 others, of Ballston Spa, New York; of G. H. Plumb and 38 other business firms of New Jersey; and of Charles A. Boynton and 36 others, citizens of Brooklyn, New York City, and Hoboken, New Jersey, for the passage of the bill now pending to tax the adulterant known as glucose five cents per pound—severally to the Committee on Ways and Means.

SENATE.

FRIDAY, *April* 28, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

ADJOURNMENT TO MONDAY.

On motion of Mr. ANTHONY, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

PETITIONS AND MEMORIALS.

Mr. ALLISON. I present a petition numerously signed by citizens of Davenport, Iowa, representing commercial interests, merchants, manufacturers, &c., praying for the passage of what is known as the Lowell bankrupt bill. I move that it lie on the table.

The motion was agreed to.

Mr. ALLISON presented a petition of citizens of Vinton, Iowa; a petition of citizens of Grundy Centre, Iowa; a petition of citizens of Belle Plaine, Iowa; a petition of citizens of Sibley, Iowa; a petition of citizens of Davis County, Iowa; and a petition of citizens of Leon, Iowa, in favor of an appropriation for the establishment and maintenance of schools in Alaska; which were referred to the Committee on Education and Labor.

Mr. ROLLINS. I present a petition of David Smith and some 350 others, citizens of Georgetown, District of Columbia, praying for the passage of Senate bill No. 419, concerning the construction of a free bridge across the Potomac River. As the prayer is very short, I would like to have it read; it is only a few lines.

The PRESIDENT *pro tempore*. The petition will be read without the names, the Chair hearing no objection.

The petition was read, and referred to the Committee on the District of Columbia, as follows:

> The undersigned, inhabitants of Georgetown, District of Columbia, being deeply interested in the construction of a free bridge across the Potomac River, at a point where the same can be done not only with the greatest economy but where the public interest will be best subserved, respectfully petition that Senate bill No. 419, now pending before the Senate Committee of the District of Columbia, be speedily passed; inasmuch as the Aqueduct piers, constructed at a large cost, are in excellent condition, and the site of the Aqueduct is in every respect the most suitable location for a free bridge, the present military road to Arlington and the national cemetery passing over it, and in connection with already established roads leading to the adjacent producing counties in Virginia.

Mr. LAPHAM presented a memorial of the Maritime Association of the Port of New York, in favor of the abrogation of the treaty with the Hawaiian Islands in respect to the importation of sugar free of duty; which was referred to the Committee on Foreign Relations.

Mr. LAPHAM. I present a memorial of a very large number of citizens of the city of New York, of nearly all trades and professions, remonstrating against the passage of any bill restricting Chinese immigration. I move that the memorial lie upon the table.

The motion was agreed to.

Mr. HARRIS. I present joint resolutions adopted a few days since by the Legislature of the State of Tennessee, asking that certain franchises be granted to the Saint Louis, Montgomery and Florida Railroad Company. I ask that the resolutions be read at the desk, and referred to the Committee on Public Lands.

The resolutions were read, and referred to the Committee on Public Lands, as follows:

> Whereas there is a bill now pending before the Congress of the United States, granting certain franchise to the Saint Louis, Montgomery and Florida Railroad; and
>
> Whereas the early construction of said railroad will be of great benefit to Tennessee, as well as a great national work:
>
> *Be it resolved by the senate and house of representatives of Tennessee*, That our Senators and Representatives in Congress are requested to use all their influence, consistent with their conscientious discharge of duty to our common country, to further the passage of said bill.
>
> GEO. H. MORGAN,
> *Speaker of the Senate.*
>
> Adopted April 8, 1882.
>
> H. B. RAMSEY,
> *Speaker of the House of Representatives.*
>
> Approved April 17, 1882.
>
> ALVIN HAWKINS, *Governor.*

REPORTS OF COMMITTEES.

Mr. VAN WYCK, from the Committee on Pensions, to whom was referred the bill (S. No. 604) granting a pension to Margaret Beymer, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. McMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 5127) to amend an act entitled "An act to incorporate the Masonic Mutual Relief Association of the District of Columbia," reported it without amendment.

Mr. McDILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1342) authorizing the trustees of the Isherwood estate to amend a certain plan of subdivision of said estate recorded in the land records of the District of Columbia, reported it with an amendment.

Mr. HAWLEY, from the Committee on Railroads, to whom was referred the bill (S. No. 972) creating the Oregon Short Line Railway Company a corporation in the Territories of Utah, Idaho, and Wyoming, and for other purposes, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. MORRILL. I present the bill (H. R. No. 2932) for the relief of Thomas Evans, which appears by the record to have been referred March 28 to the Committee on Finance, although that committee has never received it. It is clear that the bill belongs to the Committee on the District Columbia, and I move that it be referred to that committee.

The motion was agreed to.

Mr. CONGER, from the Committee on Commerce, to whom was referred the bill (S. No. 1402) for the relief of shipping, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. JONAS, from the Committee on Railroads, to whom was referred the bill (S. No. 1147) to release the Memphis and Little Rock Railroad Company from such of the conditions of the several acts of Congress approved February 9, 1853, and July 28, 1866, as unjustly affect said corporation, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

REMOVAL OF OBSTRUCTIONS AT HELL GATE.

Mr. MILLER, of New York. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. No. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York, to report it favorably, and I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $50,000 for the removal of obstructions in East River, Hell Gate, New York, the same to be expended under the direction of the Secretary of War, and to be immediately available.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONGRESSIONAL ELECTIONS IN WEST VIRGINIA.

Mr. HOAR. I am directed by the Committee on Privileges and Elections, to whom was referred the bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia, to report it favorably and without amendment. It is important for the people of that State to know the time of the election of their members of Congress, and I ask that the bill be considered at the present time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that on the second Tuesday of October, 1882, there shall be elected in each Congressional

district in the State of West Virginia one Representative to represent the State in the Forty-eighth Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILL INTRODUCED.

Mr. LAPHAM (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1804) granting a pension to John M. Hudson; which was read twice by its title, and referred to the Committee on Pensions.

IMPROVEMENT OF CHARLESTON HARBOR.

Mr. BUTLER. I ask the Senate to proceed to the consideration of Senate bill No. 1609, which was reported from the Committee on Commerce yesterday morning.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1609) making an appropriation for continuing work on the jetties in Charleston Harbor.

The bill was reported from the Committee on Commerce with amendments, which were, in line 3, to strike out "two hundred" and insert "one hundred and fifty;" after the word "continue," in line 8, to strike out "work on the jetties in" and insert "the improvement at;" in line 10, after the word "appropriation," to strike out "for the next fiscal year;" and at the end of the bill to add "and the sum hereby appropriated shall be deemed an advance upon the amount to be appropriated by the river and harbor act of this session;" so as to make the bill read:

That the sum of $150,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be made available immediately upon the ratification and approval of this act, for the purpose of enabling the Engineer Department of the Army, under the direction of the Secretary of War, to continue the improvement at Charleston Harbor, South Carolina, until the regular appropriation can be made available; and the sum hereby appropriated shall be deemed an advance upon the amount to be appropriated by the river and harbor act of this session.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill making an appropriation for continuing the improvement at Charleston Harbor."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. EDWARD K. VALENTINE of Nebraska, Mr. JOHN T. RICH of Michigan, and Mr. WILLIAM H. HATCH of Missouri, managers at the conference on the part of the House.

LIFE-SAVING SERVICE.

Mr. CONGER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1049) to promote the efficiency of the Life-Saving Service, and to encourage the saving of life from shipwreck, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment numbered 2, to insert after the word "Carolina," on line 25 of page 2, the words "one at or near Fort Morgan, on the Bay of Mobile."

That the House recede from its disagreement to the amendments of the Senate numbered—

1. To insert, on line 16 of page 2, after the word "Massachusetts," the words "at or near Brenton's Point or Beaver Tail, Rhode Island;" and agree to the same.

3. To insert, after the word "Florida," on line 27, page 2, the words "and three life-saving stations on the Atlantic coast of Florida, one near Key West, one near Jupiter Inlet, one at or near Cape Canaveral, and one on the Gulf coast west of Apalachicola River;" and agree to the same with amendments striking from line 27 the word "three" and inserting the word "two;" inserting the word "and" after the words "Key West," on line 28, and striking from line 29 the words "one at or near Cape Canaveral;" and the Senate agree to the same.

4. To insert, on line 32, page 2, after the word "recommend," the words "a life-saving station at or near Tybee Island, at the port of Savannah, Georgia, one near Brunswick, one near Doboy, and one on or near Cumberland Island or Fernandina, near the line of Georgia and Florida, each of said four stations to be located at such point as the General Superintendent of the Life-Saving Service may select; three life-saving stations on the coast of South Carolina, to be located by the General Superintendent, near the ports of Georgetown, Charleston, and Beaufort;" and agree to the same with amendments striking out all the words of said amendment down to the word "life-saving," on lines 37 and 38, and inserting the word "two;" inserting the words "at or" before the word "near," on line 39; inserting the word "and" before the word "Charleston," on line 40; and striking from line 40 the words "and Beaufort;" and the Senate agree to the same.

5. To strike from line 9, page 4, the words "one thousand eight" and insert the word "fifteen;" and agree to the same.

6. To strike from line 12, page 4, the words "two thousand" and insert the words "one thousand five hundred;" and agree to the same.

7. To strike from line 15, page 4, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

8. To strike from line 18, page 4, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

9. To strike from line 21, page 4, the words "two thousand" and insert the words "fifteen hundred;" and agree to the same.

10. To strike from line 24, page 4, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

11. To strike from lines 27 and 28, page 5, the words "one thousand" and insert the words "and the coast of Georgia and South Carolina, twelve hundred;" and agree to the same.

12. To strike from lines 30 and 31, page 5, the words "one thousand eight" and insert the word "fifteen;" and agree to the same.

13. To strike from line 33, page 5, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

14. To strike from line 36, page 5, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

15. To strike from line 39, page 5, the words "two thousand five" and insert the word "eighteen;" and agree to the same.

16. To add, after the words "per annum," on line 6, page 5, the words "and the Secretary of the Treasury is also authorized to fix the pay of the men employed at the different stations in proportion to the services rendered: *Provided*, The same shall not exceed $60 per month;" and agree to the same with amendments inserting the words "appoint and" before the word "fix," in line 2, page 5; inserting the word "all" before the word "stations," in line 3, page 5; and striking out the words "in proportion to the services rendered," in line 8, page 6; and the Senate agree to the same.

17. To insert the following section after section 6, page 6:

"SEC. 7. That if any keeper or member of a crew of a life-saving or life-boat station shall be so disabled by reason of any wound or injury received or disease contracted in the Life-Saving Service in the line of duty as to unfit him for the performance of duty, such disability to be determined in such manner as shall be prescribed in the regulations of the service, he shall be continued upon the rolls of the service and entitled to receive his full pay during the continuance of such disability, not to exceed the period of one year, unless the General Superintendent shall recommend, upon a statement of facts, the extension of the period through a portion or the whole of another year, and said recommendation receive the approval of the Secretary of the Treasury as just and reasonable; but in no case shall said disabled keeper or member of a crew be continued upon the rolls or receive pay for a longer period than two years;" and agree to the same.

18. To insert after section 7, on page 6, the following section:

"SEC. 8. That if any keeper or member of a crew of a life saving or life-boat station shall hereafter die by reason of perilous service or any wound or injury received or disease contracted in the Life-Saving Service in the line of duty, leaving a widow, or a child or children under sixteen years of age, such widow and child or children shall be entitled to receive in equal portions during a period of two years, under such regulations as the Secretary of the Treasury may prescribe, the same amount, payable quarterly as far as practicable, that the husband or father would be entitled to receive as pay if he were alive and continued in the service: *Provided*, That if the widow shall remarry at any time during the said two years her portion of said amount shall cease to be paid to her from the date of her remarriage, but shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any; and if any child shall arrive at the age of sixteen years during the said two years the payment of the portion of such child shall cease to be paid to such child from the date on which such age shall be attained, but shall be added to the amount to be paid to the remaining beneficiaries, if there be any;" and agree to the same.

19. To strike from line 1, page 7, the word "seven" and insert the word "nine;" and agree to the same.

20. To strike from line 1, page 8, the word "eight" and insert the word "ten;" and agree to the same; and after the word "of," line 1, page 8, insert the words "district superintendents, inspectors and;" and agree to the same.

21. To strike from line 1, page 9, the word "nine" and insert the word "eleven;" and agree to the same.

O. D. CONGER,
WM. P. FRYE,
J. R. MCPHERSON,
Managers on the part of the Senate.

AMOS TOWNSEND,
S. S. COX,
JOHN W. CANDLER,
Managers on the part of the House.

Mr. CONGER. I will state to the Senate that the bill as passed by this body with its amendments, with two or three exceptions, was adopted by the conference committee. All the amendments of the Senate, except some two or three stations named in the Senate amendments, were acceded to by the conference committee and by the House. The two sections regarding the payment of wages to surfmen laboring under disabilities, and to their wives and families in case of their death from injuries received, inserted by the Senate, are adopted in this report. The last clauses are merely in reference to the changes of the numbering of the sections. The Senate conferees agreed to recede from the amendment fixing a station at or near Fort Morgan, on the bay of Mobile, to limit the number of life-saving stations on the Atlantic coast of Florida from three to two, to strike out a station at or near Cape Canaveral, and to make two life-saving stations on the coast of South Carolina, to be located by the General Superintendent at or near the ports of Georgetown and Charleston instead of three, striking out the Beaufort station. With that statement I think all the essential changes in the bill have been mentioned.

I will state the reason for striking out the two places mentioned here, one at or near Fort Morgan, on the bay of Mobile, and the other at Beaufort. We find by an examination of the reports that in the last eleven years there have been near Fort Morgan, within any circle where a station there could be useful, but four casualties, four strandings of vessels, and no loss of life. As to a station at Beaufort provided for in one of the Senate amendments, we find that in eleven years there have been within the range of service which could be useful there but two strandings of vessels and no lives lost. There were so many places upon the coast where more casualties occurred and where life had been lost, which the committee had not recommended and could not recommend for life-saving stations, that the Senate conferees unanimously thought it was proper to agree to the House proposition to strike out those two places. The other stations all remain as they were adopted in the Senate, with the exception that the amendment is made that stations may be established "at or near" instead of "at" the places named, so that the Superintendent may make the selection near the places mentioned instead of at the places.

I have stated all the changes which have been made in the bill as it passed the Senate.

Mr. MORGAN. This conference report ought to be printed and laid before the Senate. From the reading of it at the Clerk's desk it is impossible to comprehend and remember the points made in this extensive report.

Mr. CONGER. I have stated the only changes in regard to stations and I have explained why those were not agreed to be left in the bill. One is the station at Beaufort, where there had been but two casualties in the last eleven years and no lives lost, and one at or near Fort Morgan, on the bay of Mobile, where there had been in eleven years but four strandings of vessels and no lives lost, the smallest number of any of the places which were proposed. The conferees have agreed to all the other amendments of the Senate.

Mr. MORGAN. Without any alteration?

Mr. CONGER. Without any alteration as to the places, except to authorize the Superintendent of the service to determine a place "near," instead of "at," as the bill had it, inserting the words "or near" after "at;" and the House receded from its disagreement with the amendment as to appointments with a change that assistant superintendents and keepers, as well as surfmen, should be appointed without reference to their political relations.

I have stated all the changes, I think, that are made in the bill as it passed the Senate. The salaries are all kept the same, and all the places put in for stations or for houses of refuge remain the same, with the exception that there is one less house of refuge provided for, and the stations I have mentioned are omitted.

Mr. MORGAN. I am still unable to understand the entire extent of the changes made in this bill by the conference committee, because I have not been able to hear distinctly all that the Senator from Michigan said; but I will take it for granted that nothing has been changed of a material character, except the stations on the coast of Florida and the one at Fort Morgan, in the bay of Mobile.

Now, I object to that change, and the reason given by the Senator in charge of the bill is not sufficient in my judgment to warrant the Senate in receding from the vote by which it ordered a life-saving station to be placed at Fort Morgan, on the bay of Mobile.

The legislation of the Congress of the United States is getting to be controlled very largely by conference committees. They yield certain amendments which are not agreeable to the gentlemen who happen to be upon the committees, and in conference committees bills oftener than otherwise are shaped directly against the sense of the Senate, I know, and sometimes against the sense of the House expressed after long and deliberate debate. I do not regard this as a constitutional method of legislation. I do not believe either House has the right to delegate to a select committee to meet together and reform a bill contrary to the wishes expressed and the votes taken in the respective bodies.

I had the honor to propose an amendment to this bill when it was before the Senate, providing that a life-saving station should be established at Fort Morgan, and I called the attention of the Senate to the fact that there was not a life-saving station between Key West and Galveston, and there is none yet. There is none at Port Eads; there is none anywhere on the coast of Louisiana; none on the coast of Alabama; none on the western coast of Florida; none on the coast of Mississippi.

It is said that the recommendation of this committee is based on the fact that the reports do not show more than four wrecks near Mobile at that point within the last seven years. Well, the reports are not reliable. These reports are made, I suppose, unofficially. I do not know how they are made; but they are made by men who take no pains to get up the data in respect to the necessity of such establishments, and the Congress of the United States against the protestation of a Senator and, as I notice, the entire solid vote of the State of Alabama in the House, sees proper to allow a conference committee to strike out a life-saving station on that immense circuit of sea-coast reaching from Key West to Galveston, where there is not one station now to be found.

The Senator from Michigan says that there having been no loss of life there the last seven years, that is the best reason for not having a life-saving station there. We must wait there until some great sea tragedy occurs and ships are wrecked and lives are lost before we commence to extend our watchful care in the preservation of life. Somebody must be killed, some ship must be wrecked, some great disaster must occur before the Congress of the United States can see the necessity of putting this protection to commerce at the mouth of Mobile Bay, or at the mouth of the Mississippi River, or at Pensacola Bay, or Tampa Bay, or Cedar Keys, or anywhere else on the Gulf coast. Wrecks do occur not only outside but inside the bay of Mobile, whereby vessels are lost and whereby lives are lost, and the Government of the United States, while expending $600,000 or more than that for the protection of life in other parts of the coast of the North and Northeast, refuses to vote one dollar to establish a life-saving station on the Gulf of Mexico, and the conference committee go very quietly, because they have got as much as they want, and yield up this little demand made in behalf of the bay of Mobile.

Now, sir, I want the Senate to act on that question. I do not propose to have the rights of my people bartered away by a conference committee merely because it suits its members, because they are willing to yield all we get, having secured to themselves all that they claim in the bill. That is not fair legislation; it is not right.

I claim to have as sound a judgment in reference to the coast of my State as any Senator can have in reference to the coast of his own State and the necessities thereof, and I do not come before the Senate of the United States merely to get an establishment upon the coast of Alabama to spend a little money on. I come for the purpose of participating in this right you have undertaken to guarantee the coast of the United States at large for the security of property and of life through the Life-Saving Service. If the Life-Saving Service is worth having at all, it is worth as much to the commercial communities on one coast as on another. Here is an enormous commerce in the Gulf of Mexico, coming to and from Galveston, to and from the mouth of the Mississippi River, to and from the various bays along the coast, including Mobile and Pensacola and other places. It must necessarily have some effect upon the price of insurance that there are no life-saving stations on that coast, that there are no arrangements on that coast by which property can be saved from a sinking ship. By silent neglect you expose our commerce to danger without furnishing to us any of the protection that you furnish at such large expense for yourselves.

I hope there will not be a ship sunk or a life lost in the bay of Mobile in the next twenty-five years; but if lives should be lost and ships sunk on that coast, which is a dangerous coast, a very treacherous coast, the Congress of the United States will have itself to blame for not having heeded the words of admonition which I had the honor to address to the Senate in calling their attention to the necessity of this establishment.

The point upon which Fort Morgan stands at the entrance of the bay of Mobile is nearly fifty miles from Mobile, nearly fifty miles out at sea from that city. Can it be said that the Government of the United States in providing for life-saving stations has no duty laid upon it to have some arrangement there by which life may be saved in the event of disaster? That is the principle on which this bill ought to proceed; not to wait until after lives have been lost and ships destroyed, and then come in and say "Because this has happened, hereafter we will establish a life-saving station in that quarter." Wherever there are seas, especially southern seas, such as the waters of the Gulf of Mexico, which are liable to sudden, terrible storms, which, as I remarked when I had the honor to address the Senate on this bill before, had even driven the entire population from islands lying out from the seaboard, it seems to me that it is our duty to provide in advance, while other portions of the country are being provided for, at least some protection, some arrangement by which we can anticipate such dangers and their evil consequences as far as possible.

Mr. MCPHERSON. Mr. President, while this bill was being considered by the Senate, I voted for the amendment offered by the Senator from Alabama. I did so, believing that it was a proper thing to place a life-saving station at the point named in his amendment. I was afterward appointed one of the conference committee of the Senate to meet a like committee of the House of Representatives with respect to the disagreements between the Houses on the bill. We found it impossible to get the concurrence of the House committee to all the amendments made in the Senate, and therefore some compromise was necessary. One of the objections strongly urged in the committee of conference was that there had been no wrecks on the Gulf coast, particularly at or near the point mentioned in the amendment offered by the Senator from Alabama. I investigated the subject to this extent: I took the coast of New Jersey, and also the Long Island coast, and I found that in a period of ten years, during that portion of the year when it is not considered necessary to maintain the life-saving stations along the coast, namely, during the months of June, July, August, and September, when the life-saving crews are dismissed, when there is no supervision of the coast at all, there had been in the ten years just expired something like ten times more wrecks on both the New Jersey and Long Island coasts than there had been on the entire Gulf coast within the district in which this life-saving station was proposed to be located.

Mr. MORGAN. I will say to the Senator, if he will allow me, that the Congress of the United States has encouraged more ships to go to Long Island, and discouraged more from going to Mobile and the Gulf of Mexico than would account for that difference.

Mr. MCPHERSON. That can hardly be an argument in this case. So far as I am concerned, I am willing to extend the Life-Saving Service everywhere that it will be of benefit; but the Senator is aware that with a long-extended sea-coast it is impossible for this Government to maintain life-saving stations at every point where it may be the pleasure of a Senator or a member of Congress to ask that one be established. If there is any reason in the world why a station should be established at Fort Morgan, in the Gulf of Mexico, there are four times the reasons why the stations should be maintained the whole year round on the coasts of Massachusetts, Long Island, and New Jersey. If the Government can appropriate an unlimited amount of money for the purpose of maintaining these establishments, then let us locate them everywhere where seemingly there may be a necessity for their use. I am informed that on the Gulf coast scarcely ever a vessel is lost. The nature of the coast on the Gulf is such that you do not have the heavy storms that we have on the Atlantic coast, and therefore there is no special necessity for them there.

I concurred in the report of the committee of conference simply because I thought that if there was a necessity for a station at Fort

Morgan there was an additional necessity for maintaining them the whole year round along the whole Atlantic seaboard. There was no disposition on the part of the committee, and seemingly there has been none evinced by either the House or the Senate, to very largely increase the appropriation for maintaining and establishing the life-saving stations. Therefore there was no provision in the bill so fitting on which we should commence our reduction as the amendment offered by the Senator from Alabama.

Mr. MORGAN. Mr. President, we have not asked for the charity of the Senate heretofore, and that is not a proper basis of legislation on such a subject; but the idea of yielding something to others when you have got yourself all you asked for never seemed to suggest itself to the conference committee. Sometimes it will work its way through political pressure, perhaps, on the minds of gentlemen after debate on the floor of the Senate, where the discussion is open and questions can be put and answered; but in the secret conclave of a conference committee, where no one is admitted but the committee themselves and their own peculiar views, of course it is an easy matter to have things your own way. The Senator from New Jersey says that the particular reason why the committee did not make any appropriation for this thousand miles of Gulf coast, reaching from Key West to Galveston, was that if you put a station at all on that Gulf coast a greater necessity exists for keeping up stations all the year round on the eastern coast. I do not believe in the logic of that, or if it be logic, I do not perceive the justice of it. The justice and logic of that proposition rest on the idea that if ships come into the Gulf of Mexico and are wrecked they must be wrecked, and no provision made for saving cargo or life; they must be wrecked, because it happens at a time of year when there should have been a station at this point, that point, and the other point on the coast of Long Island, or the coast of New Jersey. You have suffered, it is true, but the reason you are allowed to suffer is that at the same time we have been exposed to very great sufferings ourselves!

Now, take up the life-saving stations on the coast of the United States, including the Northern lakes, and compare the appropriations on the lakes, those quiet waters, with the appropriations for the coast from Charleston around to the Rio Grande, and it would shock the conscience of any man who did not bend his mind to the purpose of getting out of this Government all he could for the benefit of a certain class and exclude others from any advantages whatever. I understand the Life-Saving Service to be one of the adjuncts of commerce. I understand that we maintain the Life-Saving Service because we wish to encourage commerce on our coast as well as to protect life. We want to secure the maritime men against the loss of their property in case of wreck or disaster. The Constitution of the United States says that Congress in legislating on subjects of this kind shall not discriminate in favor of or against the ports of any State. If the history of the Life-Saving Service, so far as it has any relationship to commerce, is not a history of discrimination against all the Southern coast, then I confess that I have read it without understanding it. It is an unjust discrimination. Is there another thousand miles of sea-coast anywhere, unless it may be in Alaska, belonging to the United States, where there is no pretense made of any provision for the saving of life or commerce?

I called the attention of the Senate, when this bill was before it, to the large number of wrecks that had occurred in the last decade, reported in the last annual report before the present one on this subject. Now we have no additional reports; we shall not get any additional reports. It makes no difference how many ships may sink in the Gulf of Mexico or upon the shores thereof, we shall get no report from the Life-Saving Service until some man wants a place to go down to establish a station for himself and his friends. That is the upshot of this business. There is no justice or fairness in it.

The Senate can dispose of it as it pleases; at the same time I am here to protest against the sort of action which gives away the rights of an entire line of Gulf coast a thousand miles long while it provides everything that this committee wanted for themselves in the northern part of the country.

Mr. CALL. Mr. President——

The PRESIDENT *pro tempore*. The hour of one has arrived, but the conference report will receive the consideration of the Senate unless the Senate otherwise order.

Mr. HARRIS. It is a privileged question.

The PRESIDENT *pro tempore*. It will be continued until the Senate order otherwise. The Chair simply announced that the hour of one had arrived. This is a privileged question. If the Senate choose to postpone the consideration of it they can; otherwise it is before the Senate.

Mr. CALL. I merely wish to say, in behalf of the people of my State and the commerce that passes around the Gulf, that I think this report ought not to be concurred in.

The statistics which have been published were very incomplete, but so far as they go they evidence the fact that a very large portion of the casualties have occurred on the coast of Florida. The records here contain accounts of five or six wrecks during the last year by stranding, collision, and foundering on the coast of Alabama and the coast of Florida. There are fourteen hundred miles of the coast of Florida, more than seven hundred miles being on the Gulf of Mexico. There is no question whatever that the commerce which passes around the coast of Florida is as great as that of any part of the United States, and there is no question that a life-saving service, a very fully equipped and complete service, ought to be on that coast. It interests the people of the West, of the Mississippi Valley, far more than it does the people of Florida. But there is no doubt of the fact that Congress is not doing its duty to that section of the country in not providing more adequate protection to life and property. The statistics, as I have stated, show the fact that there have been a large number of wrecks on and near the coast of Florida, and I repeat that Congress owes it to the commerce of the country to provide a more efficient Life-Saving Service than there is now.

Mr. CONGER. Mr. President, I desire to submit in this connection some statistics in regard to the number of vessels stranded on these different coasts, and some statements which will explain the action of the committee of conference. I desire to have them inserted in the RECORD.

The PRESIDENT *pro tempore*. The Chair hears no objection to the request of the Senator from Michigan.

The papers submitted by Mr. CONGER are as follows:

THE LIFE-SAVING SERVICE NOT SECTIONAL.

1. The climate of the South is much milder and less productive of marine disaster than that of the North.

2. The amount of shipping exposed to the dangers of the Northern coasts vastly exceeds that of the Southern, the vast commerce of Boston, New York, Philadelphia, and Baltimore all passing along the former, not to mention such cities as Portland, Portsmouth, Newburyport, Gloucester, Providence, Newport, New London, New Haven, Wilmington, (Delaware,) and others. Against this is the commerce in the South of Wilmington, (North Carolina,) Charleston, Savannah, Fernandina, Jacksonville, Pensacola, Mobile, New Orleans, Galveston, and a few minor places. The shipping passing out of the Gulf of Mexico up through the straits of Florida, except such as is bound to local ports south of Cape Hatteras, gives the coast of Georgia, South Carolina, and a large portion of the coast of North Carolina a wide berth, the track lying far out to sea in order to clear Cape Hatteras.

3. The comparative dangers of the two sections are best illustrated by the following statement of the number of vessels which have stranded upon the Atlantic and Gulf coast from the year 1871 to 1880, both inclusive, as obtained from the statistics collected from the owners and masters of vessels suffering casualties on the coast of the United States, through the officers of the customs under the provisions of sections 10, 11, and 12 of the act of June 20, 1874:

North of Mason and Dixon's Line.		*South of Mason and Dixon's Line.*	
Maine	315	Delaware	73
New Hampshire	25	Maryland	65
Massachusetts	529	Virginia	138
Connecticut	45	North Carolina	134
Rhode Island	102	South Carolina	27
New York	208	Georgia	19
New Jersey	247	Florida	88
		Alabama	5
Total	1,471	Louisiana	15
		Texas	97
Excess in North	810	Total	661

But the Government has fully extended the protection of life-saving stations as far south as the Cape Fear River, near the southern line of North Carolina, having already in operation twenty-five stations between Cape Henry and Cape Fear. Inspection of the above table shows that south of North Carolina there have been but two hundred and fifty-one cases of strandings, while on the coast of New Jersey alone there have been two hundred and forty-seven, nearly an equal number, and on the coast of Massachusetts there have been more than twice as many.

The life-saving stations on the Atlantic coast are closed from May 1 to September 1, on account of the mildness of the season, and because the disasters during this period are comparatively infrequent and less calamitous. Yet in the last six years, the number of vessels which have stranded on the New Jersey coast alone, during this season when stations were closed, is thirty-eight, just twice as many as have stranded on the entire coast of Georgia during ten years.

The following table shows the number of disasters upon the Atlantic and Gulf coast by life-saving districts, and the distribution of life-saving stations as at present existing:

Number of vessels stranded from 1871 *to* 1880, (*both inclusive.*)

Districts.	States.	No. of vessels stranded.	Existing stations.
First	Maine 315, New Hampshire 25	340	7
Second	Massachusetts 529	529	15
Third	Rhode Island 102, New York 208	310	37
Fourth	New Jersey 247	247	40
Fifth	Delaware 73, Maryland 65, Virginia (part) 64	202	11
Sixth	Virginia (part) 74, North Carolina 134	208	24
Seventh	Florida 88	88	*5
Eighth	Alabama 5, Louisiana 15, Texas 97, Mississippi 4	121	5

* Houses of refuge.

4. The extension of the Life-Saving Service to any portion of the Southern coast was proposed and secured by the efforts of a Northern man, Hon. John Lynch of Maine, who introduced a bill authorizing the establishment of stations on the coasts of Virginia and North Carolina, which was approved March 3, 1873, and all stations established at the South since that time have been proposed by Northern men, with the exception of one, that at Sabine Pass, which was proposed by Hon. JOHN H. REAGAN.

5. In 1878, an act considerably extending the domain of the service was passed June 18. The bill was for a long time in the hands of the Committee on Commerce, of which a Southern man, Hon. JOHN H. REAGAN, was chairman, and of which the majority were of the party affiliating with the South. Many petitions from the South, such as that of the boards of trade at Galveston, New Orleans, and Mobile, the underwriters of those cities, and the owners and masters of vessels, were presented to the House and referred to that committee, asking for the passage of the bill as it was introduced, and never once intimating that there was a desire for more stations on the coast below North Carolina, nor did any one of the committee declare the need of such, with the exception of the one above referred to at Sabine Pass.

The main provisions of the bill are as follows:

The first section of the bill as it passed the House provided for the establishment of life-saving stations and houses of refuge at or near certain points named on the Atlantic, Gulf, and lake coasts. The Senate amended this section by providing for life-saving stations, as follows: one at or near Brenton's Point or Beaver Tail, Rhode Island; one at or near Fort Morgan, on the bay of Mobile; three on the Atlantic coast of Florida, one near Key West, one near Jupiter Inlet, one at or near Cape Canaveral; one on the gulf coast of Florida, west of Apalachicola River; one at or near Tybee Island, at the port of Savannah, Georgia; one near Brunswick; one near Doboy; one on or near Cumberland Island or Fernandina, near the line of Georgia and Florida; three on the coast of South Carolina, near the ports of Georgetown, Charleston, and Beaufort. The action of the committee recommends concurrence in these amendments so far as to provide for the establishment of stations as follows:

One at or near Brenton's Point or Beaver Tail, Rhode Island; two on the Atlantic coast of Florida, one near Key West and one near Jupiter Inlet; one on the Gulf coast of Florida, west of Apalachicola River; two on the coast of South Carolina, at or near the ports of Georgetown and Charleston. The statistics of disasters collected through the officers of the customs under the authority of sections 10, 11, and 12 of the act of June 20, 1864, from the owners and masters of vessels suffering disaster upon the coast of the United States, showing a sufficient number of marine casualties in the neighborhood of these places, taken in conjunction with the nature of the coasts and the amount of shipping exposed thereon, to appear to justify the establishment of the stations named. The action of the committee recommends non-concurrence in so much of these amendments as contemplate the establishment of stations at or near Fort Morgan, on the bay of Mobile; at or near Cape Canaveral; at or near Tybee Island; at or near Brunswick; at or near Doboy; at or near Cumberland Island or Fernandina, and at or near Beaufort, South Carolina—the reasons above given not appearing to the committee to exist in a sufficient degree at these localities to demand the present establishment of stations thereat.

The number of vessels which appear to have stranded during the last ten years at these points is as follows: at or near Fort Morgan, on Mobile Bay, 4; at or near Cape Canaveral, 1; at or near Tybee, 4; at or near Brunswick, 6; at or near Doboy, 4; at or near Cumberland Island or Fernandina, 4; at or near Beaufort, South Carolina, 2. There was no loss of life at any of these strandings, and it may be remarked here that strandings are the form of disaster which the Life-Saving Service is chiefly designed to meet.

The fourth section of the bill as it passed the House fixed the salaries of the district superintendents as follows: for the first, eighth, and twelfth districts, $1,800 per annum, respectively; for the second and fifth districts, $2,000 per annum, respectively; for the third, fourth, sixth, ninth, tenth, and eleventh districts, $2,500 per annum, respectively; for the seventh district, $1,000. The Senate amended this section by reducing these figures to $1,500 per annum for the superintendents of the first, second, fifth, and eighth districts, respectively, and to $1,800 per annum for the surperintendents of the third, fourth, sixth, ninth, tenth, and eleventh districts, respectively; and increased the compensation for the superintendent of the seventh district to $1,200 per annum.

The committee have recommended concurrence in these amendments, believing that while the reduced rates of compensation may not be adequate to the service rendered and the responsibilities of these officers, they are yet probably sufficient to secure competent men for the position, and that the service may not materially suffer on this account for some time to come. As to the increase from $1,000 to $1,200 per annum in the seventh district, it is believed to be justified by the increased number of stations and houses of refuge which the bill provides for the coast under the charge of the superintendent.

The Senate added an amendment to the fifth section of the bill as it passed the House, authorizing the Secretary of the Treasury to fix the pay of the men employed at the different stations in proportion to the services rendered, provided the same shall not exceed $50 per month. Under existing law (section 7, act June 18, 1878) the General Superintendent of the Life-Saving Service is authorized to fix the compensation of surfmen within the provisions of the appropriations, there being no rate or amount of compensation fixed by law. The committee have recommended concurrence in this amendment, with an amendment striking out the words "in proportion to the services rendered," thus leaving the rate of compensation to be fixed by the Secretary of the Treasury in his discretion, within the limit of $50 per month. The committee believe it better that the discretion of the Secretary should not be limited to the consideration of the amount of services rendered, which it would oftentimes be difficult to accurately determine, but that he should be at liberty also to consider the rates of wages current at different places and different times, and perhaps the value in skill and experience of the men. The committee have introduced a formal amendment to the section, providing for the appointment of the keepers of stations, in order to dispose of a possible question as to the authority for their appointment.

The Senate amended the bill as it passed the House by adding, after section 6, two other sections, (7 and 8,) the first providing for the continuance upon the rolls of the service with pay, for a limited period, of any keeper or member of a life-saving crew who may become disabled in the line of his duty; and the second continuing for two years the pay of any keeper or member of a life-saving crew who shall lose his life in the line of duty, to his widow or children under sixteen years of age. The committee have recommended concurrence in these amendments, believing that it is no more than just that some provision should be made for those who suffer from this extra hazardous service, and that it is better to provide for them in this way than by the establishment of a civil pension list. The committee believe that, in addition to the consideration of justice in the premises, the Government would be more than compensated for the expenditure involved in the measure by the increased efficiency which it will secure.

A typographical error in section 9, giving the word "token" as "taken," has been corrected.

Section 8 of the bill as it passed the House (now section 10) provided that the appointment of keepers and crews of life-saving stations should be made solely with reference to their fitness, and without reference to their political or party affiliations. The Senate amended this section by including in its provisions district superintendents and inspectors. The committee have recommended concurrence in this amendment, believing that the same reasons for excluding political considerations in the case of keepers and crews apply equally to superintendents and inspectors.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference.

The report was concurred in; there being, on a division—ayes 28, noes 13.

DR. A. SIDNEY TEBBS.

The PRESIDENT *pro tempore*. The Senate will proceed to the consideration of the business on the Calendar under the Anthony rule. The Secretary will state the first bill in order.

The ACTING SECRETARY. The bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs.

Mr. ALLISON. That bill, I understand, was taken out of the Anthony rule yesterday by a vote of the Senate, so that it has passed away from action under that rule.

The PRESIDENT *pro tempore*. That is a new question.

Mr. GARLAND. If it comes under the Anthony rule, is it subject to five minutes' debate?

The PRESIDENT *pro tempore*. The Chair supposes that like any other case under the rule that is called it is called again to-day, having been undisposed of yesterday. It is now taken up under the Anthony rule, but the limitation as to debate is withdrawn.

Mr. ALLISON. But if it is taken up this morning under the Anthony rule, of course there is a debate of five minutes?

The PRESIDENT *pro tempore*. No. It is taken up in spite of the objection, and it continues under the Anthony rule, but without the limit of debate applying.

Mr. ALLISON. It is the unfinished business of yesterday, then?

The PRESIDENT *pro tempore*. In one sense it is. It is on the Calendar, and is the first case to be called on the Calendar to-day. The Senate have decided that they will hear it, notwithstanding the objection that was interposed, and therefore the limit of debate does not apply to it.

Mr. ALLISON. That is a practical ending of the Anthony rule.

Mr. SHERMAN. That is a very important question, because if that construction prevails it is practically an ending of the Anthony rule.

The PRESIDENT *pro tempore*. But this comes under the Anthony rule now. The Anthony rule has been amended by adding:

> But if the Senate shall proceed with the consideration of any matter notwithstanding an objection, the foregoing provisions touching debate shall not apply, but the subject shall be proceeded with under the standing rules of the Senate.

If this bill had been considered under the five-minute rule yesterday it would come up this morning. This is simply carrying out the Anthony rule. It is in order until two o'clock.

Mr. SHERMAN. I was of opinion that the Chair was right in his construction of the Anthony rule, and would have so voted if that question had been pressed; but that has been changed, and now the rule expressly provides that when the Senate, during the execution of the order under the Anthony rule, interposes by a majority vote to take a bill out of the Anthony rule it shall then be conducted under the general standing rules of the Senate. I understand—and I only wish a correct construction of the rule, so that we shall avoid difficulty and delay hereafter—that upon a motion made by the Senator from Vermont, and upon an amendment adopted on his motion, when a bill is taken off the Calendar under the Anthony rule by a vote of a majority of the Senate, it is then to be conducted as if that rule did not exist and the bill was taken up like any other bill, to be debated and decided under the standing rules of the Senate. The last words of the amendment place it under the standing rules of the Senate. This is a temporary rule, applying only to this session.

Mr. COCKRELL. Will the Senator permit me to ask him a question? The Senate having decided to take up this bill within the morning hour, notwithstanding the Anthony rule, and having proceeded with it up to two o'clock yesterday without having concluded it, does that prevent it from coming up as still the first thing in order under the Anthony rule? If so, the vote to take it up is more fatal to it than an objection. I think it still remains over and comes up as unfinished business under the Anthony rule in the morning hour.

Mr. FERRY. If the Senator from Missouri will allow me, this amendment made by the Senator from Vermont takes it out from the force of the Anthony rule and leaves it under the general rules of the Senate, and when the two hours shall have expired it goes on as the unfinished business.

Mr. COCKRELL. Not at all.

Mr. FERRY. Because it is under the control of the Senate.

Mr. COCKRELL. It is the unfinished business under the Anthony rule, but cannot be the unfinished business of the day.

Mr. SHERMAN. I desire to complete what I have to say.

Mr. GARLAND. I rise to a question of order. What is the question that is being debated?

The PRESIDENT *pro tempore*. The question whether the Tebbs bill is now in order.

Mr. GARLAND. That question has been decided by the Chair.

The PRESIDENT *pro tempore*. The Chair will hear the suggestions of Senators before finally deciding.

Mr. GARLAND. Does the Chair decide it or submit it to the Senate? It is not debatable until the Chair does something of that sort. I want to get rid of the matter.

Mr. SHERMAN. I do not care how it is submitted; the Chair asked the opinion of the Senate.

Mr. GARLAND. Does the Senator from Ohio appeal from the decision of the Chair?

Mr. SHERMAN. The Chair can always take the opinion of the Senate on any question of order that arises.

Mr. GARLAND. I do not understand that the Chair has submitted any question of order.

Mr. SHERMAN. I understood the Chair to invite suggestions on the subject.

Mr. GARLAND. He cannot invite suggestions except by submitting questions under the rule.

Mr. SHERMAN. I do not want to waste time.

Mr. GARLAND. We went over this ground yesterday. If there was a new question now I would not interpose.

Mr. COCKRELL. It is always usual to hear a Senator on such a point.

The PRESIDENT *pro tempore*. The Chair will hear the Senator from Ohio.

Mr. SHERMAN. I do not desire to delay; it is not my habit to delay business by a discussion of these matters; but I want to get this rule settled, so that we may go on without dispute. It does seem to me that when the Senate yesterday set aside the Anthony rule this bill was brought before the Senate under the standing rules of the Senate. Now let me read the words; they are as plain as they can be written:

But the subject shall be proceeded with under the standing rules of the Senate.

What are "the standing rules of the Senate?" They are that debate shall be unlimited, that things shall go on without limit of time as to discussion. They are exactly the opposite of the Anthony rule. Therefore, the very moment a majority of this body decide that a bill shall be considered without regard to limitation of debate, it must be conducted under the standing rules of the Senate. What can be plainer than that?

Mr. HARRIS. Will the Senator allow me to ask him if he thinks that this bill has lost its place on the Calendar?

Mr. SHERMAN. Not at all.

Mr. HARRIS. Has it lost its place by reason of the objection and the fact that the Senate overruled the objection by ordering that the Senate should proceed with the consideration of the bill?

Mr. SHERMAN. Mr. President, what I mean is this: that when an objection is made to a bill it has lost its benefit of consideration under the Anthony rule; that objection is sufficient to prevent its being considered under the Anthony rule. Then the Senate under the express amendment made yesterday may proceed to consider it under the standing rules of the Senate, not under the Anthony rule. Nothing can be plainer than that, it seems to me.

I do not want to delay the consideration of this bill; indeed I want to go on with it, but I say that when the Senate does take a bill out from under the Anthony rule it cannot be claimed that the Anthony rule keeps it on the Calendar in the way of all other business of the Senate; otherwise the Anthony rule might just as well be laid on the table.

Mr. FERRY. And I might add to what the Senator from Ohio has said that when the two hours expire there is no force to the Anthony rule. Therefore, under the order of the Senate, by the amendment adopted yesterday, a bill is taken out of the Anthony rule and considered under the general rules of the Senate; and what are those rules? That it shall continue until disposed of by the Senate, and if it passes the hour of two o'clock the force of the Anthony rule loses its power.

Mr. COCKRELL. Then at the hour of two o'clock it is the unfinished business?

Mr. FERRY. It goes on and continues; but when the Senate adjourns, if it has not been disposed of, it is the unfinished business to be taken up the next day. What force is there in the amendment unless it is to take such a bill out of the Anthony rule? The very point of the amendment is to prevent one Senator from dictating the legislation of this body. Otherwise a single objection here, as stated by the Senator from Kentucky, [Mr. BECK,] followed up successively, would clear the Calendar without any consideration whatever. Now, the object of this amendment is to take out an objected bill and leave it to the majority of the body and they decide that it shall be controlled by the general rules of the Senate. It seems to me it is a clear case. There cannot be any question of it.

Mr. HOAR. I wish I could agree with my honorable friends on my right, for I should like very much to have their view of the case apply at present, but it seems to me that this rule is very clear and that the opinion indicated by the Chair is clearly correct.

In the first place the Anthony rule provides for considering bills in their order upon the Calendar. That is the first thing. Then comes the provision of the Anthony rule that bills not objected to shall be considered under a five-minute debate, and that no Senator can speak but once, and that if there be an objection the bill shall go over to the foot of the Calendar, still retaining its place on the Calendar, but going to the bottom, below the unobjected bills. Then—

But if the Senate shall proceed with the consideration of any matter notwithstanding an objection—

The bill shall then be taken out of the Anthony rule; but—

the foregoing provisions touching debate shall not apply.

That is all. Every other provision of the Anthony rule remains.

But the subject shall be proceeded with under the standing rules of the Senate.

All that is a rule to govern the Senate for the time up to two o'clock.

Mr. FERRY. Will the Senator allow me a word?

Mr. HOAR. Certainly.

Mr. FERRY. Would not the Senate have the power within the two hours to order the consideration of, say, the Chinese bill, or any other bill?

Mr. HOAR. Certainly.

Mr. FERRY. If that be the case, would not the general rules apply to the bill before the Senate; and if so, then if the two hours expire would it not continue? Is that order of the Senate confined to the two hours under the Anthony rule?

Mr. HOAR. All the rules of the Senate, the Anthony rule as well as the general standing rules, leave it in the power of the Senate at any time to lay aside any pending matter and take up any other. The proceeding with the Calendar up to two o'clock is only in case the Senate do not otherwise order. The Senate may at any time otherwise order. This proposition makes the proceeding with this bill a proceeding under the Anthony rule up to two o'clock. The Anthony rule is still in force to give it this priority up to two o'clock and then stops; but—

The foregoing provisions touching debate—

Are the only ones that do not apply, and in lieu of which the standing rules of the Senate, that is the standing rules as to debate, not the standing rules as to the order of business, shall apply. In other words, when a bill is objected to under the Anthony rule it goes to the foot of the docket below the unobjected cases, unless the Senate by a majority vote, still acting under the Anthony rule, takes it up, and when by a majority vote it is taken up under the Anthony rule then it is taken up without the application of the foregoing provisions as to debate, but in that respect substituting the standing rules of the Senate, but in every other particular leaving the Anthony rule in operation.

Mr. INGALLS. Will the Chair state the pending question?

The PRESIDENT *pro tempore*. There is not any pending question. The point was made by the Senator from Ohio that the Senate could not proceed with this bill now, that it could not be taken up, that some other must be taken up, that it had lost its place.

Mr. HOAR. Did not the Chair rule on that point?

The PRESIDENT *pro tempore*. The Chair did rule, but the Chair suggested that he would hear any Senator speak and then decide the point. The Chair is of the opinion that under the Anthony rule this bill is to be considered now, and by the amendment yesterday it remains under the Anthony rule still. As to bills that are objected to, where a majority of the Senate decide that notwithstanding the objection they shall be heard, then the limitation of debate is the only thing that gives that case a preference over any other. That was the object. It is to be considered until two o'clock. If it was anything else, then it meant that a bill so taken up should override any other case, and override the unfinished business. The Chair does not believe that that was the intention of the Senate in passing the amendment yesterday. The mischief at which it was aimed was, as the Chair understood the decision that was made by the Chair, that it was still under the Anthony rule, and must be considered with five minutes' debate. By the amendment of the Senator from Vermont, and the Senator from Massachusetts, both being substantially the same, the limit as to debate was withdrawn; but the bill still continues under the Anthony rule till two o'clock, and is open to unlimited debate.

Mr. FERRY. May I ask a question of the Chair? Then by the ruling of the Chair, the Senator from Vermont, as well as myself, is incorrect that the Senate cannot order the taking up of any question that is not on the Calendar?

The PRESIDENT *pro tempore*. The Senate can by a majority vote decide to take up anything.

Mr. FERRY. Then I would ask the Chair, if that be the case, in the illustration which I suggested to the Senator from Massachusetts——

Mr. HARRIS. Mr. President——

Mr. FERRY. I think I have the floor.

Mr. HARRIS. Has the Chair ruled upon the question of order?

The PRESIDENT *pro tempore*. The Chair has.

Mr. HARRIS. Has there been an appeal from that decision?

The PRESIDENT *pro tempore*. No, sir.

Mr. HARRIS. Then I call the Senator from Michigan to order.

Mr. FERRY. I hardly think the Senator from Tennessee will make that point when I am asking the Chair a question, pending this matter, so that we may understand it and not blunder again.

Mr. HARRIS. If the Senator is only asking a question, I shall not object.

Mr. FERRY. I thought the Senator would not. I was asking the Chair whether it would be in order for any Senator to move during the two hours, or when the Anthony rule is in force, to take up any other question that is not on the Calendar?

The PRESIDENT *pro tempore*. The Chair will not answer any such question as that.

Mr. INGALLS. The Chair is not here for the purpose of answering conundrums, but to enforce the rules of the Senate.

The PRESIDENT *pro tempore*. The Chair decides that this case is within the Anthony rule, and is to be considered without limitation of debate.

Mr. HARRIS. What is the question on the bill pending?

The PRESIDENT *pro tempore*. On the motion to refer it to the Committee on the Judiciary.

Mr. McPHERSON. Do I understand the Chair to rule that it is without limitation of debate?

The PRESIDENT *pro tempore*. Yes, sir. The pending question is the motion of the Senator from Vermont to refer the bill to the Committee on the Judiciary.

Mr. SHERMAN. Mr. President, I have intended when this subject was brought before the Senate to vote for the repeal of section 1218 of the Revised Statutes, which excludes from serving in the Army in any capacity persons who were engaged during the civil war in the rebel service, and also to vote to repeal all provisions of law in regard to test-oaths, and to be liberal also in the construction of the third clause of the fourteenth amendment of the Constitution. I wish it distinctly understood that while at the proper time and with proper modifications I will so vote, I do it upon the firm conviction that these laws when passed were all wise laws, exceedingly liberal, as the basis of concessions and a settlement with defeated insurgents at the close of a great civil war, unexampled in all history for liberality and generosity by the victorious party. The test-oath was adopted in the midst of the war, the act being passed in July, 1862, just when the war was most threatening and imminent. It was intended to guard these Chambers, the House and the Senate, from the admission of persons who would take the oath of office and then violate it. One conspicuous example had occurred in the previous session of Congress; it was then full upon the public mind. A man distinguished in position in one of the States of the Union had taken the oath of office July 4, 1861, and within a month afterward was engaged in armed rebellion against the United States. Therefore that law was undoubtedly properly passed and justified by the circumstances of the case. Afterward it was modified by the act of 1868, so that those who were relieved from disabilities might take a modified oath and come here and participate in legislation.

I do not see any occasion for keeping that law upon the statute-book. It has served its purpose. Perhaps there might be some exceptions properly made in the repeal of that law. If so the Committee on the Judiciary ought to carefully consider them and provide for them, but it seems to me it is incongruous to require persons who are loyal and have always been true to their country to take a long involved oath relating to circumstances that have ceased to exist for seventeen years, and to administer a modified oath in substantially the old original form to those who have participated in the rebellion. If there are any supposed exceptions to be made to this general repeal they should be pointed out by the Judiciary Committee.

So also with the law which was passed just at the close of the war, declaring that no person who had participated in the rebellion should serve in the Army of the United States. That certainly was a proper provision of law at the time it was made. It was passed at the close of the war, when there were discharged from the Army more than one million of men then enrolled in the Union Army, at a time when our armies were being disbanded, and when many soldiers who had served faithfully in the Army were suddenly deprived of their employment and consigned to private life. Then it was declared in this section 1218 that no person who had participated in the rebellion in any form, either in the civil, military, or naval service, should be appointed in the Army. Now seventeen years have rolled around. The young men who entered the rebel service have now reached, say, forty years of age. Very few who were then officers of the Army are now eligible or fitted for active service. No one can now be appointed an officer of the Army except at the foot of it as a second lieutenant, except for certain quasi-civil offices, such as paymasters, surgeons, and the like, few and limited in number. Even now it may be proper and right that some exceptions should be made. When a repeal is had there may be some striking exceptions of classes or cases. Take the class referred to by the Senator from South Carolina. Persons who graduated at West Point or Annapolis and were educated to perform military or naval services should not be permitted under any circumstances to go into the Army. It may be proper to make exceptions of that kind, but the general provisions of the law have no application to this time. It would be a rare case under peculiar circumstances that would induce a President of the United States to appoint to the Army any one who had been prominent in the rebel service.

Mr. MAXEY. I will state to the Senator from Ohio, if he will permit me, although personally I care nothing about it, (I am not applying to get any one in the Army, and I do not want to get any one into it,) you may take the youngest men who were at West Point and they would not be eligible to appointment, by reason of age. I have in mind one who lives now in my town, and who left the Academy when he was about seventeen years old, and became a brigadier-general in the service. He is thirty-seven or thirty-eight years old now. An Army regulation, which has the force and operation of law, controls matters of that kind. A lieutenant cannot be appointed at thirty-eight years of age. Therefore it would be a vain and useless thing to legislate against a class of men who could not receive such an appointment. Again I want to call the attention of the Senator for a moment——

Mr. SHERMAN. The Senator is making a speech, and I do not want to prolong the debate.

Mr. MAXEY. The people may elect as President of the United States a man who was once a rebel if they see proper to do so, if he is now under the flag of the country doing his duty, and he is by operation of law commander-in-chief of the Army; and yet a boy who helped him, who waited on him while he was a rebel, could not be made a corporal. That is simply an absurdity. The whole thing is extremely ridiculous.

Mr. SHERMAN. The Senator from Texas has been able to state much more clearly than I——

Mr. MAXEY. Not at all. I was only in the line of the Senator's argument. I hope the Senator understands me. I agree with the argument he is making. The exception he referred to I think would not be proper or necessary.

Mr. SHERMAN. The law is not congruous, I may say, to the present condition of affairs, but at the same time there may be properly exceptions, or classes of exceptions made even in the repeal of the law.

In regard to the constitutional amendment, the third clause of the fourteenth article, I have never known a case where any person who was subject to the disabilities imposed by that amendment has applied for the removal of those disabilities that it has not been promptly and heartily granted. I believe now it is the standing practice that whenever any one applies for the removal of his disabilities it is at once granted as a matter of course.

The provisions of the reconstruction acts were temporary in their nature; they only applied to the first election or for a short period of years, and they have disappeared; so that all that is left of the provisions growing out of the war affecting any persons who had been engaged in the rebel service are contained in the three enactments to which I have alluded, most of which have spent their force.

When I shall vote from time to time, as I will, for properly framed bills to remove these disabilities I want to impress upon the Senate, and if I can upon Senators from the Southern States who fall within the description contained in those bills, that these laws were wise in themselves, liberal, just, generous, more so than you can find in the records of any civil war in times passed. While we remove these disabilities now, we do not repeal laws unjust when made, but laws that were wise when made, but which have ceased to be operative upon facts as they now exist.

I think that all parties in this country ought to feel and confess that at the close of the war the loyal people of the United States who remained true to the flag were generous and liberal and manly. No man after the war was punished for any act done as a rebel during the war. No fine or disability was imposed after the war was over. No blood was shed. Where else can that be said in any previous history? No property was confiscated; no disability was imposed except one that could be easily removed by an act of Congress. The third clause of the fourteenth amendment only imposed a temporary disability, which was merely a straw to be removed whenever a man who participated in the rebellion would simply say, "please remove these disabilities from me." So this law which was passed at the close of the war when a million of men were disbanded, simply prevents those who served in the rebel army from filling a place in the Army until Congress should repeal the law.

Therefore, I trust (and this is the point of my speech) that the Senator from Arkansas will not press this bill, but will allow it to go to the Committee on the Judiciary or to the Committee on Military Affairs, whichever is the proper one; and let such committee fairly consider it and report such qualifications or limitations as may be deemed proper.

I desire to see this bill passed by the votes of both sides of the Chamber, by Republicans as well as by Democrats. I do not desire to see it passed by the votes of those who are described in the language of these sections. Let it be referred to the Judiciary Committee, and let it be reported, and I trust that it will meet the hearty concurrence of both sides of the House.

It is said that the Judiciary Committee have had these bills pending before it, and have not reported, but we have now the assurance made yesterday by the Senator from Vermont, [Mr. EDMUNDS,] that they will consider this subject and report bills without any unnecessary delay. We may possibly have in a single bill all the provisions that are necessary to relieve all disabilities arising out of the war, with proper reservations and exceptions.

As I said in rising, whenever this question comes up, although I voted for all these sections, supported them honestly, believed them right, and believe them right now, but inapplicable to our time, I shall now vote for their repeal, but I would rather the whole subject shall be presented in a single bill that would enable us on both sides without any division of party to vote for a general relief from disabilities growing out of the war.

Mr. MAXEY. I wish to ask the Senator from Ohio, and he is fair on this question, why should the Judiciary Committee more than the Military Committee pass upon the qualifications of a person to go into the Army? What reason is there for it? The Military Committee is the proper committee to consider the bill and that committee has reported. It relates exclusively to appointments in the Army,

a matter with which the Judiciary Committee has nothing to do whatever.

Mr. SHERMAN. The subject-matter of the removal of political disabilities is rather in the nature of a legal question, and the test-oath question is, I understand, before the Judiciary Committee and is pending there in the form of three or four different bills. To me it is a matter of perfect indifference whether it goes to the Military Committee or to the Judiciary Committee. I think, however, it had better go to the Judiciary Committee, because the laws to be repealed in regard to the test-oath are three or four in number, and they would have to be modified, the bill would have to be carefully framed to meet that question, and in doing that the committee might as well take into consideration the repeal of section 1218, which is only a brief section of two or three lines.

Mr. BECK. Mr. President, I hope this bill will not be referred to the Committee on the Judiciary, and for these reasons: as I stated yesterday, a bill precisely similar to the amendment of the Senator from Arkansas which we are now considering has been introduced by me three several times and referred to the Committee on the Judiciary, first in December, 1878, again the 21st of March, 1879, and again on the 5th day of April, 1881, and at no time has it ever been reported to the Senate. Why should we send them yet another? No amount of investigation can make the simple question before us clearer than it has been made by the statements of Senators on both sides.

The Senator from Texas [Mr. MAXEY] said truly that no young man who was in the confederate service and was over eighteen, or certainly over twenty years of age, at the time the war closed can by possibility ask for anything to which this section relates, or be appointed by the President to any place in the Army. Senators all know that section 1218 does not reach any class of men who are fairly objectionable to any of the laws that were passed in order to punish men for taking part in the war. Take for example the case of the Senator from Virginia, [Mr. MAHONE,] who yesterday voted against considering this bill. It would seem to me impossible for him to vote against it when the question of its repeal is before the Senate. I do not see him in his seat; I use his position only to illustrate my view. How could a man occupying the relation he does oppose it? He was a general in the confederate army and is now occupying a position in this body. He can be President, he can occupy any political position, but the boy twelve or fourteen years of age who was employed by the State of Virginia or by the Confederate States to hold his horse, carry his orders, or wait upon him while he was a brigadier-general in the confederate army, cannot even apply for a place in the Army of the United States.

The idea that a Senator so situated would vote to retain this law in the statute-book is too absurd for men to discuss. When all the heads of the confederate government and its armies, all the so-called offenders, are free, why should young men who had nothing to do with the war except to work in humble places in order to make a living, indeed being about the only class who were compelled so to work, be excluded from applying for a place in the Army of the United States?

The Senator from Ohio [Mr. SHERMAN] said this question ought to be considered along with the test-oath. I see neither necessary nor proper connection between them. I desire to say, however, that the action of the Judiciary Committee in regard to the test-oath makes it still more important that the Senate should not send any more of these political questions to that committee. I have introduced bills ever since I have been here, and referred them to that committee, to repeal the test-oath. I have read briefs, not very able ones I presume, certainly not very convincing, but very strongly fortified, to show that it ought to be done. I am glad that the Senator from Ohio says it ought to be done; yet no report could be had from that distinguished committee.

As early as February 15, 1871, General Grant, then President of the United States, sent the following special message to the Senate and House of Representatives:

> I have this day transmitted to the Senate the announcement that Senate bill No. 218, "An act prescribing an oath of office to be taken by persons who participated in the late rebellion, but who are not disqualified from holding office by the fourteenth amendment to the Constitution of the United States," has become a law in the manner prescribed by the Constitution, without the signature of the President.
>
> If this were a bill for the repeal of the test-oath required of persons "elected or appointed to offices of honor or trust," it would meet my approval. The effect of the law, however, is to relieve from taking a prescribed oath all those persons whom it was intended to exclude from such offices and to require it from all others. By this law the soldier who fought and bled for his country is to swear to his loyalty before assuming official functions, while the general who commanded hosts for the overthrow of his Government is admitted to place without it. I cannot affix my name to a law which discriminated against the upholder of his Government.
>
> I believe, however, that it is not wise policy to keep from office, by an oath, those who are not disqualified by the Constitution and who are the choice of legal voters. But while relieving them from an oath which they cannot take, I recommend the release also of those to whom the oath has no application.
>
> U. S. GRANT.

Yet eleven years after that urgent message was sent, the Committee on the Judiciary refuse to consider or to report bills looking to its repeal or to give the Senate a chance to vote upon it. Why should we again refer these matters to them?

Again, sir, when the old soldiers of the war of 1812 were for a time prevented from obtaining their pensions, because they could not take the oath, the President of the United States in his sixth annual message, December 7, 1874, General Grant being then President, used this language:

> The act of Congress providing the oath which pensioners must subscribe to before drawing their pensions cuts off from this bounty a few survivors of the war of 1812 residing in the Southern States. I recommend the restoration of this bounty to all such. The number of persons whose names would thus be restored to the list of pensioners is not large. They are all old persons, who could have taken no part in the rebellion, and the services for which they were awarded pensions were in defense of the whole country.

Then again he proceeds to comment on the folly of all this class of legislation being continued. The Committee on the Judiciary have another bill before them—it was intimated yesterday that I have been bringing in bills seeking to wipe out all this class of laws. I agree that I have before that committee a bill to remove the political disabilities of all men. That bill was also recommended by General Grant, President of the United States, as early as 1873, in these words:

> I renew my previous recommendation to Congress for general amnesty. The number engaged in the late rebellion yet laboring under disabilities is very small, but enough to keep up a constant irritation. No possible danger can accrue to the Government by restoring them to eligibility to hold office.

On the 8th day of December, 1873, in the House of Representatives, (then Republican by a very large majority,) Mr. Maynard, a Representative from Tennessee, introduced a bill "granting general amnesty, with removal of all political disabilities," repealing the iron-clad oath and prescribing another. I will read the bill. It is as follows:

> *Be it enacted, &c.*, That all disabilities imposed and remaining upon any person by virtue of section 3 of article 14 of the amendments to the Constitution of the United States be, and the same are hereby, removed.
>
> SEC. 2. That the act of July 2, 1862, entitled "An act to prescribe an oath of office, and for other purposes," be, and it is hereby, repealed. And hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, shall, before entering upon the duties of such office, and being entitled to any of the salary or other emoluments thereof, take and subscribe the oath prescribed by the act of July 11, 1868, entitled "An act prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed."

That bill passed the House of Representatives on the 8th day of December, 1873, as is shown by the attestation of Edward McPherson, Clerk, and by the RECORD of December 8, 1873, page 91, by a vote of 141 yeas to 29 nays, and it was passed after discussion. When Mr. Maynard read the bill, Mr. Lawrence put this question:

> Would not that admit Jeff. Davis to a seat on this floor?
>
> Several MEMBERS. Certainly.
>
> Mr. LAWRENCE. Then I object to it.
>
> Mr. G. F. HOAR. I will inquire of the Speaker whether, under the rule applied by him in the last Congress to the Committee on Printing, the Committee on Rules are authorized to report general legislation at any time?

The Chair answered that question.

Mr. HOAR then said:

> I desire simply to have the point of order decided, and then I will waive objection to the consideration of the bill; but I make the point of order.
>
> Mr. BUTLER, of Massachusetts. I must insist on the point of order.
>
> The SPEAKER. The Chair sustains the point of order.

Mr. Maynard then moved to suspend the rules and pass the bill. He then said:

> And in answer to the question propounded by the gentleman from Ohio, [Mr. LAWRENCE,] I tell him frankly that this bill will, if enacted, admit the president of the southern confederacy just as the vice-president has been already admitted, to a seat in either House of Congress, provided the people where he lives shall think proper to send him here. It is general amnesty as recommended by the President; and it also repeals what is called the test-oath, substituting for it the modified oath that we have all heard so often.
>
> Mr. BUTLER, of Massachusetts. I do not object to the bill if it has been considered and reported by a committee.
>
> Mr. MAYNARD. It is reported by the Committee on Rules unanimously.
>
> Mr. BUTLER, of Massachusetts. All right.
>
> The SPEAKER. The bill would require a two-third vote to pass it.
>
> Mr. MAYNARD. I move that the rules be suspended and the bill passed.
>
> Mr. COX. Is there any objection to passing it unanimously? The President recommends amnesty; and let us unanimously wind up this foolish business of taking the test-oath.
>
> The SPEAKER. The gentleman from Ohio [Mr. LAWRENCE] objects, and that is sufficient.
>
> The question was taken on Mr. MAYNARD's motion; and on a division there were—ayes 141, noes 29.
>
> So (two-thirds voting in favor thereof) the rules were suspended, and the bill—

House bill No. 472, which I have just read—

was passed.

When the President of the United States recommended it nine years ago; when a Republican House of Representatives, after full explanation, I may say almost unanimously passed it; when the test-oath has been declared by the President of the United States over and over again to be an unnecessary and odious thing, why should we now refer such questions to committees? Why should not the Committee on the Judiciary give the Senate a chance to act upon these measures which have been so long and often before them? I have been here now nearly five years, I believe, and at the beginning of each Congress I have introduced bills to repeal these discriminating laws. All I want is a hearing. Of course when this bill comes before us, which is one of the series, proposing to strike down one of the distinctions that are still kept up, so that young men cannot apply for positions in the Army, I object to sending it back to the

Judiciary Committee. That committee is the tomb of the Capulets for all such bills. The Senate can take a vote as well without the action of that or any other committee as with it.

Mr. EDMUNDS. Mr. President, the Senator from Kentucky [Mr. BECK] complains so much of the Judiciary Committee that perhaps before the Senate pronounces sentence for its delinquencies, like other culprits brought to the bar for condemnation, it may be heard to say anything why the sentence of the law should not be pronounced against it. I have been a member of the Committee on the Judiciary ever since we have had the pleasure, and it is a pleasure, to see the Senator from Kentucky in this Hall rather than in another one which he graced so much. There has never been a time in all that period when, so far as my voice and vote would go, I have not been ready and willing, and more than willing, to report upon all of this general question and every aspect of it, as I am now.

We had a Democratic Committee on the Judiciary two years ago—strong, eminent, able. Its members of the majority comprised the very best talent of this body, its highest courage, its greatest statesmanship. When the Senator from Kentucky, I remember, a day or two before the change in the political aspect of this body in 1879, dismissed the Judiciary Committee, of which I was then chairman, with the expression that they would now have a Judiciary Committee (I do not quote it verbally but the idea) that would report such good measures as he was for and had introduced, I really felt considerable hope that the leading, primary object of the ambition of my friend from Kentucky for the time being would be accomplished, and that this Democratic committee, which was to hold, with the Senate here, potent sway for two years, making more than seven hundred days, which is a long time in one's life, would find a convenient way to present to this body and to the House of Representatives and to the President of the United States exactly what ground they were willing to occupy upon the eight or ten different points to which these questions apply. As a member in the minority of that committee I waited with patience, sometimes with a suggestive patience that they had better report upon the subject and put into definite form exactly what the Democratic party, whatever that may mean, wanted to do. Yet we never got anywhere, because I think, (and now I am expressing opinions and not stating history,) those wise Democratic members of the Committee on the Judiciary saw that it would not do to follow the logic of the bills of my friend from Kentucky; and what is the Democratic party, Mr. President, unless it is logical? What else has it to stand upon but logic? They saw that if they followed the logic of those bills it would be necessary to say, "now that the war is over and we are all equals and brothers, if the property of Mr. Jefferson Davis, (I have nothing against Mr. Davis personally; I have no reason to doubt that he did not follow his convictions, I am only speaking of him as a type) was destroyed in the course of war, as the property of a loyal citizen was, now that it is over he ought to be paid for it. I have heard that doctrine stated from Democratic lips in this body, and it is the logic of the idea of my friend from Kentucky. So, for more than seven hundred long days these Democratic statesmen, dominating the Judiciary Committee of this body, did not find it convenient to take one of these logical steps, because they did not exactly see where they were going safely to land.

That is the trouble about it. It is the trouble about the whole of this thing that if my friend from Kentucky is right in the principles that he has stated, (I know nothing about this individual case, and of course it is of no practical importance great or small,) if the logic of my friend from Kentucky is correct, then have we not the courage to follow it, and to say that there was no difference in any sense between the right and wrong of that unhappy controversy which we all wish to forget, and now that it is over, no matter on what side a citizen of the United States stood, whatever he suffered in consequence of his acts should be made good to him? There is the trouble, and it is a trouble that men have seen who had the control of the Senate and whose political wishes and sympathies were those of my friend from Kentucky. They did not find it convenient, I repeat, to report any scheme about this business, because they saw to what it would lead.

As the Senator from Ohio has said, and I do not know but that I said it yesterday—I had not thought of the subject yesterday, it sprang up without my knowing it—it might lead to the implication that I should be unwilling in any case to admit to the defense of the country in the Army of the United States a gentleman who had been engaged in the rebellion. If anything that I said yesterday implies that, I wish to retract it, because in the case of a foreign war, and it may be in many other wars, it might be highly expedient that any obstacles which now stand in the way of our brethren on the other side of this Chamber and the people who live in their section of the country from joining with our sons on perfectly equal terms in defending our common country ought to be removed, and I am very glad and willing when I can have an opportunity to consider how it can be done in consonance with principle and with good will. That is what I wish to do.

Now it is proposed to make a sweeping repeal of this section without regard to the other considerations which are involved and without regard to exceptions and classifications that for the honor of the country (because the country did win, and when I say the honor of the country I do not mean the dishonor of anybody else, do not misunderstand it) it is necessary should be in some way maintained. Is it not right to consider it?

All these questions of law of almost every form are before the Judiciary Committee now. That they have not been acted upon and reported, I will say, so far as I can remember, and I think I can remember, cannot be laid at the door of the individual who happens now to be chairman of that committee. I do not think it can be laid at the door of the Republican members of the committee generally; but the intrinsic difficulties of principle and of consequence in the logic that I have been speaking of are not easy to overcome; and so the matter has not been disposed of but is held under consideration.

I think my friends on the other side say that as it regards claims for injuries, they do not propose to put forward this oblivion, and put in the attitude of a claimant upon the Treasury of the United States any of the people who engaged in the rebellion for losses that they suffered in consequence of it, although the Army of the United States, and not the army of the so-called confederacy, committed that injury.

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived, the Chair lays before the Senate the unfinished business.

Mr. COCKRELL. I hope the Senator from Vermont will be permitted to close his remarks.

Mr. HAWLEY and others. Certainly.

The PRESIDENT *pro tempore*. By unanimous consent the Senator from Vermont will proceed.

Mr. EDMUNDS. I will not trespass upon the patience of the Senate. I only wish to persuade my brethren on the other side that this is not a question of feeling, of excitement, with us; but it is a question that, when they consider it themselves, they will find is not easily to be dealt with in a moment and to go off with the suddenness of the inspiration of a discussion of this kind. It requires to be put in an attitude that shall be just to the Government of the United States, that shall recognize the fact that the Government of the United States was in point of public law and of public justice, as men consider it, because the last alternative of trial was resorted to, on the upright side of this contest, and that consistently with that, as we have said over and over again and done over and over again, there is not in any Republican's mind in the State of Vermont, which I represent in part, or that I know of anywhere else, either resentment or dislike, but the reverse of it; and the only thing which astonishes us is these, I should not say persistent but spasmodic, efforts of gentlemen like my friend from Kentucky to force upon us these old questions again by undertaking to wipe out from the statute-books not merely some of those things which may conveniently and justly be erased, but the whole body of those enactments which must stand, unless you overturn everything, as the consequences of war having taken place.

I will not take up your time now, sir, by further discussion about this matter.

CHINESE IMMIGRATION.

The Senate resumed the consideration of the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese, the pending question being on concurring in the amendment made as in Committee of the Whole striking out the fifteenth section.

The PRESIDENT *pro tempore*. The Senator from Alabama [Mr. MORGAN] is entitled to the floor.

Mr. MORGAN. Mr. President, when I took the floor upon this bill yesterday I had no expectation of occupying more than five or ten minutes at the outside, and I do not mean to prolong the debate now. I merely wish to state the facts to the Senate in reference to the treaty under which this bill is framed, which I think ought to have a very important bearing upon the question of the adoption of the pending amendment.

I remarked, when I before addressed the Senate on this bill, that the difficulty that we were in had mainly resulted from the fact that there was no definition in the act of 1862 of the word "coolies;" that that was a term which had been borrowed from India and came with an oriental signification; that it had no American signification properly so called; that there was actually no definition of the meaning of that word in the statute anywhere, although it was a highly penal law. A judge to execute it must go to India or to China to ascertain what the meaning of the term was there. He could not go to any treaty for that purpose, for this legislation commenced before the Burlingame treaty, and I believe before any reference was made in any treaty with China to the importation of coolies. The statute is therefore defective, and I suppose that accounts for the fact that no prosecutions have been had under it. If the same signification had been given to the word "coolies" in the Burlingame treaty or in the statute which we enacted for the purpose of preventing the immigration of that class of population which is now sought to be given by this amendment to the bill, we probably should have had a very different type of society from that which we have received from China, and there probably would have been some indictments and some convictions for a violation of the criminal laws of this country in their importation.

I maintain when we are enacting a penal law of the character which is couched in this bill, a law for the guidance of judgment, for the guidance of men who control ships, for the guidance of the importers of human labor, we owe it to ourselves and to our own people, first, that the law should have such difinition, such clearness of statement

of the nature and the character of the offense as that no one can be well left in doubt about its meaning. Further than that, it is due to the Government of China, which has a duty to perform in preventing the emigration of this class of its people to the United States, that we should inform that government what we mean by the term "laborers" in this enactment.

If we give to the word "laborers" the same definition that was given to it by the negotiators of this treaty we shall not disappoint China and we shall not inflict upon that country any injury whatsoever. The commissioners who reported this treaty in the execution of which we are now proceeding, Mr. Angell, Mr. Swift, and Mr. Trescot, made a report, after the treaty had been signed with China, to the Secretary of State, on the 17th of November, 1880, in which the following statement appears:

> Without going into a detailed history of the negotiations which has been furnished to the Department from time to time in our former dispatches, we may say that the Chinese submitted a scheme which provided:
>
> First. That the immigration should be "regulated" by the Government of the United States, such regulations, however, to be communicated to the Chinese Government for approval before going into effect.
>
> Second. That "artisans" should not be included among Chinese laborers.
>
> Third. That the regulation should apply only to Chinese laborers in the employ of American citizens.
>
> Fourth. That if the regulation should extend to the limitation or suspension of such immigration, the limitation in point of numbers or the suspension in point of time should be specific.
>
> As to the second and third points of this scheme it is unnecessary to repeat the obvious reasons why they could not even be taken into consideration.

The second is that artisans should not be included among Chinese laborers. Our commissioners said it was unnecessary even to state the reason why that subject could not be taken into consideration. Proceeding further in their report to the Secretary of State, they say:

> At this point in the discussion we deemed it best to say that while the details of the treaty and its language were matters in which we would gladly consult the preferences of the Chinese Government, we could not consent to any settlement which did not recognize the entire discretion of the United States in dealing with this subject.

That was a very important statement which was made to the Chinese Government. They could not consent to any settlement which did not recognize the entire discretion of the United States in dealing with this subject. Further:

> We thought that any regulations to be matter of joint arrangement would only raise new questions, and that the administration of any such joint regulations would in practice prove unsatisfactory. Besides which they could only be of force in Chinese ports and would be useless in regard either to Hong-Kong or Singapore. We thought that the simplest, the directest, and the only efficient plan was to give the control of the subject to the Government of the United States.
>
> We therefore communicated to the Chinese commissioners that we would consent to strike out the word "prohibit," provided they would accept the words "regulate, limit, or suspend," being satisfied that these words covered the power to devise and enforce all necessary and proper legislation.

There was a distinct statement on the part of our commissioners to the Chinese Government that they would not accept the Chinese proposition that the word "laborers" should not include artisans, and thereupon that word was put into the treaty with the understanding that the word "laborers" did include "artisans," under the power and discretion of the United States Government to exclude them by statute.

That being the understanding of the definition of the word "laborers" in the treaty, and it being explained in the very communication with which our commissioners laid the treaty before our own Government for ratification, how can it be said that there is no necessity or no propriety in our placing that construction distinctly in the body of this bill? It seems to me that it is a clear duty that we should do so, a duty which we owe to China as well as a duty which we owe to all persons who may be concerned in this country or elsewhere in the effort to bring in such a class of immigration to this country.

Mr. President, I will not undertake to criticise the motives which may lie at the bottom of the objection to this definition of the word in the treaty, but I cannot close my eyes to the fact, as it seems to me, that there is a settled purpose that there shall be still longer doubt left in the construction of our statutes, so that they may be still further evaded. It was the doubt left in reference to the importation of coolies contained in the very fact that there was no definition of the meaning of the word "coolies" that has led to the great evasion which has caused swarms of people to come from China to this country without any construction of our statutes at all; and if we pass a statute of this kind without a construction which does not now define the class of people who may come and those who are excluded, we shall have still further evasion, and the law will become, as the cooly statute has become, a dead letter on the statute-book.

I desire that the bill shall be enacted in such a form as that it will have some efficiency, as that it will at least secure what the people of the United States desire, and have expressed twice by solemn vote given in both branches of Congress. To leave the word "laborers" to be construed by the terms of the treaty is merely to open the statute unnecessarily and unwisely to a construction some courts may put upon it adverse to the views entertained by the friends of this bill, and which they desire to exclude by express provision in the language of the bill itself.

Whatever else we do in the enactment of penal statutes, we should be definite and allow no equivocation; and in a matter of this kind where we see there is so much desire to evade the force of the law we certainly ought to be very careful to so define our meaning as that there shall be little or no doubt left about it. It seems to me the bill will be virtually emasculated if we proceed to enact it without including a definition of the word "laborers," as we understand it, and in the execution of that discretion which is left to us in the treaty so to define our meaning.

The question has occurred to me why it is that there should be any objection to allowing the friends of this measure to place it in a very distinct and unequivocal light before the world. Is it not, after all, a desire that Chinese laborers may be imported here in some form or under some pretext so that those who want a laboring class in the community deprived of the ballot may have an opportunity to be accommodated? We have one vast laboring class in this country to-day who hold the ballot, and it seems that they cannot be used, holding that ballot, for the purpose of preventing strikes among operatives, preventing labor-union leagues combining together on occasions to keep up the price of labor or to prevent capitalists from grinding them into the dust. The men who want to control the laborers of this country absolutely must have a lever by which they can bring pressure to bear upon the substratum of society In this country which we call the laboring classes of the country. it seems to me that the purpose has been made clear and distinct that those who expect to profit by the use of labor in this land, especially in the large factories and upon railways, and where immense numbers of men of this class are to be employed, have set themselves to work to introduce here in one way and another a class of men who can be controlled absolutely, because they have got no ballot to protect themselves with.

I have not heard as yet that anybody wants to give the Chinese the ballot, except perhaps the gentlemen who voted against the fourteenth section of the bill. Others assert that the law as it stands now excludes the Chinese from acquiring the benefits of naturalization in this country, which is attended by the use of the ballot, and that therefore such an enactment is unnecessary. If we have laws upon the statute-book which do exclude the Chinese from naturalization, it seems to me in dealing with this peculiar class of people under this bill we should be still more emphatic and still more decided in the announcement of our position, that they are not to be included in the rights of American citizenship either in the States or in the United States. Therefore, I thought that it was necessary to put that provision in the bill, so that our purpose might be fully and clearly disclosed to China as well as to our own people and the rest of the world; but it seems that some Senators here are opposed to that provision also. They want to leave the question open as to whether the Chinaman may be naturalized or not in the States, or, if you do not call it naturalized, that he may be put in such political condition as that he may enjoy the use of the ballot; still that provision has prevailed. The Senate, concurring with the House, has denied to the States and to the United States the power to confer the rights of citizenship upon Chinese. Then it seems that it became necessary that we should have a statute capable still further of being evaded, in order that a class might be drawn into the United States who would be so servile in their character as that they could be used to control the substratum of society here, the laboring classes, and who had no power to protect themselves by political organizations or an appeal to political forces. I am afraid that there is a good deal of that in the opposition to this bill. I prefer that the bill when it passes shall be passed in such a distinct and clear manner as to all of its provisions that no man here or in China may deny what we mean.

Mr. CALL. Mr. President, I propose to vote for the bill, and I am entirely indifferent whether the bill provides for an exclusion of ten years or one hundred years—whether it excludes the skilled or the unskilled Chinese labor. I think there can be no questioning the proposition that in every State and community in the United States, in every State possessing political power, when the people unanimously resolve that they do not desire a class of foreign immigrants to live among them, when they find in their social customs, their business habits, their personal habits, an antagonism which is revolting to the entire people of the State, it is a duty which Congress owes to protect that people from the settlement among them of a population entirely antagonistic to their habits, their religious beliefs, their political opinions, and their whole social, civil and economic polity.

I can well conceive how there may be such an antagonism—an antagonism resulting from education, resulting from political associations, resulting from habits that have become fixed and dominant among the people. I can readily appreciate the fact that in a community where political power depends upon the individual there can be the gravest reasons of state in addition to the economic and social reasons which would antagonize such a people with those resident and dominant there.

I can see much in this Chinese immigration which naturally produces that feeling, which properly produces that feeling. In the Constitution the language is explicit, and recognizes the right of a State to admit or exclude persons subject to the power of Congress, to prohibit their migration or their importation hither. The un-

questionable power and, in my opinion, the unquestionable duty of Congress in such a case is to exercise that power for the protection of the people.

But when I have said that I have said all. My mind does not assent to many of the economic propositions which are presented here. I do not perceive that the protection of American labor is necessarily dependent upon the exclusion of this or the other class of people. I am not sure but that more powerful causes than the exclusion of any class of foreign immigration here, be they good or bad, are necessary for the protection of American labor against the power of competition. I do not wish to be committed to the economic ideas which are urged in support of the bill and which, in my judgment, will prove to be entire fallacies. The laws which regulate the comfort and well-being of the laborer ought to be the primary subject of consideration with every statesman, but how his condition is to be bettered by extravagant prices in the articles of subsistence, how famine prices dependent upon scarcity are to benefit the laborer, the poor wife and the poor child, or how an abundance and a cheap market of the necessaries of life are to injure him, are questions which have not been answered in this discussion, and I think perhaps it may be difficult to answer them.

Neither am I willing to be committed to the proposition that the virtue of our civilization, the religion of our civilization, can be overcome or even affected by any importation hither of Chinese. I believe as firmly as any in the superiority of the Caucasian race and that civilization which has come from it; and I believe so firmly in it that I believe all the Chinese in the world could not affect it or even corrupt it in the slightest degree. What political considerations might be necessary in order to regulate the status of such a people among us are in reason an entirely different ground for discussion and consideration. Therefore, sir, I am not willing, in supporting this bill to the fullest extent to which the people of the Pacific coast may desire it, to be committed to the proposition that the admission of any class of people into this country as laborers will of itself affect injuriously American labor, either degrade it or cheapen the price of labor. I do not believe as a principle of political economy, of industrial economy, that the proposition is a correct one.

It is demonstrable that where a man has land to work skilled labor, useful labor increasing the production of that land can do no harm to anybody; and even if it reduces the prices of the staples, of the productions which are grown upon it, that only contributes to the general wealth and to the individual wealth, and especially to the class of people who are most to be benefited, the laboring class, whose wages are always scant and less than they ought to be, and to whom the cheapness of the articles of subsistence is a matter of primary importance. But while this is true, the personal characteristics of the Chinese laborers, the personal and social characteristics of the Chinese who are brought here, are certainly very revolting, and are such as would naturally predispose, and properly predispose, any community against their admission in any number among them.

But, Mr. President, in the course of this debate allusion has been made to some similarity of circumstances supposed to exist between the people of the Southern States and their relations to the African in the past, and some supposed evil moral influences resulting from that. No arguments can be drawn from the relationship and the experience of the people of the Southern States with the African race. If the contact of the Mongolian with the civilization of this country, with Caucasian civilization, would have such beneficent effects as the contact of the Caucasian and the African race in the Southern States has had, it would be a most beneficent and happy influence. In no country in the world was there ever developed a higher class of people than the Caucasian, or white people of the Southern States, a people of higher individual character, of greater integrity, of greater devotion to liberty and to learning, of greater humanity, than was developed by the contact of those two races, the African and the Caucasian, in the South. So far as the African was concerned, brought from Africa a barbarian, of a different color and race and of the most opposite characteristics, he became a useful laborer, a member of the social family, and the records of the existence of that institution will exhibit as little of crime, as much of beneficence and of personal kindness as the relations of any people throughout the history of mankind.

While, therefore, the political complications which might ensue from the migration of the Chinese here is a subject certainly worthy of the consideration of statesmen, and while, in my judgment, an absolutely determining consideration for the passage of this bill is the entire unanimity with which the people of the Pacific coast demand this protection, it ought to be separated from these general considerations, it ought not to be placed upon the ground that there is an antagonism between the Asiatic civilization in China and the Caucasian civilization of ours which cannot be overcome and subjected to the needs of our higher and stronger race. For one, I do not give my assent to that proposition.

Again, Mr. President, this bill, while I shall vote for it, contains some features which characterize some of the legislation of this country which I think ought to be condemned. A few years ago a great political disturbance existed in this country in which the most violent feelings were evoked on either side. The result of that great civil commotion is to be found in various enactments which are still the law of this country, enactments which were contrary to the spirit and history of English law and liberty, enactments some of which are incorporated into this bill and of which the criticism may justly be made that it is more dangerous to introduce the Chinese administration of law, the Chinese despotism, the Chinese indifference to justice and right, than it is to introduce the Chinese laborer himself.

The spirit of English law, matured through many ages of resistance to oppression, of resistance to authority, to established authority, which the Senator from Vermont [Mr. EDMUNDS] seems to consider as the determining point of moral and right conduct, the spirit of English liberty formed by resistance to established authority through all the long period of barbarism which followed the decline and fall of the Roman Empire, developed itself into a principle which had its origin in the condemnatory judgment of the lawyers and statesmen of Rome when the Roman Emperor caused his laws to be written in so fine a text that they could not be easily read and suspended them at a height from which they were inaccessible to the people. That principle was intended to prevent and prohibit punishment for crime except where the crime was defined and within the power of the subject of the law to ascertain and become advised of. It became a principle in English jurisprudence and in the law of all civilized peoples that no law for the punishment of crime should allow the act to be punished to rest in the bosom of the judge alone, when the person accused of a guilty violation of the law could have no knowledge of the unlawfulness of the act for which he was to be condemned, but, on the contrary, that it should be defined, it should be made clear, and it was only in the case of treason or offenses against the state, offenses relating to resistance to the divine right of kings, to a denial of established authority, that a criminal case was allowed to exist in intention alone, and to be the subject of arbitrary definition or interpretation by the judge.

In the Constitution of the United States this class of offenses is required to be proved by overt acts and by the testimony of witnesses, and the precept of the law itself was required to be plain and clear, in the words of that article of the Constitution which prohibits the deprival of life, liberty, and property without process of law, which by long-established judicial interpretations had the definite and precise meaning of "an impartial" trial, in which the accused, in the words of the Constitution, should be *informed* of the *nature and cause* of the accusation.

Departing from that rule and following the evil example of the statutes passed after civil war and for the accomplishment of partisan ends, a law is now proposed to be passed providing—and I allude to it because I wish to set myself in opposition to all legislation which would make acts criminal and not prescribe with definite certainty the act which is sought to be made a crime—

> That any person who shall knowingly aid or abet the bringing into the United States by land, or aid or abet the landing in the United States from any vessel of any Chinese person not lawfully entitled to enter the United States, &c.

No person can say what constitutes the act of "aiding and abetting." The judge alone must prescribe that. The judge alone must say when the man is upon trial, from the indictment that charges the act as criminal, whether that be an act aiding and abetting. It is within the objection of the class of legislation which has been condemned, and which is of the very spirit and essence of hostility to that civil liberty which culminated in a principle adopted for the protection of the people against arbitrary power, that there should be no crime that was not plainly expressed and defined, none which rested in the bosom of the judge for its definition, but of this nature was all that class of offenses which were created after the war for the punishment of the white people of the Southern States, and for the purpose of establishing by harsh and severe laws, resting entirely in the interpretation of the judge, the political domination of the African over the Caucasian race, and which are to be found in the Revised Statutes under the title of "Offenses against the elective franchise and civil rights."

I will read some of these enactments in order that we may see whether they are justly subject to the statement I have made and in order that we may compare them with this bill:

> If two or more persons *conspire* for the purpose of *impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;*
>
> If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another for the purpose of depriving, *either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws,* or for the purpose of *preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws.*

Why, sir, all these laws are a disgrace to the spirit of the age, and an express and palpable violation of the Constitution of the United States and of all judicial procedure. There has not been a learned statesman, lawyer, or philosopher from the days of Marcus Aurelius Antoninus to this time who has not condemned the proposition contained in these laws. I ask Senators who defend these enactments to show a single respectable authority in all the ages in which we have any history of laws which justifies a law that leaves the definition and description of the offense in the bosom of the judge; and yet this statute-book is full of it. It is a practice in

American legislation which is destructive of the Government and the liberties of the people, and ought to be condemned by all defenders of law and lovers of liberty—the practice of making public opinion, the clamor of the moment, attain its ends, whether they are those of party or passion, by subverting the fair and just administration of justice and making the judge a perjured prostitute in the exercise of the high duties of his great office, and not the fair and honest administrator of the law. I protest against it, sir, and I ask the learned Senator from Vermont to bring a solitary instance in all his learning of a respectable statesman, lawyer, jurist, historian, in all the ages of the past, who has justified the principle of the legislation contained in every one of those acts by which the act that constitutes the crime is left undecided, unprescribed, undefined; such that a judge may construe it at the moment, and without any previous knowledge of the accused, to be a criminal act.

Mr. EDMUNDS. I did not know that I was the particular promoter of the Chinese bill, and therefore I do not know that I am called upon——

Mr. CALL. The honorable Senator has the reputation of being the author of these laws, against the elective franchise and civil rights to which I referred as well as the provisions of this bill to which I referred.

Mr. EDMUNDS. If I am called upon to answer any defiance, certainly I am not in a fighting mood and I do not wish to answer any defiance; but if my distinguished friend from Florida really wishes me to respond, I will.

Mr. CALL. I do. The Senator can answer.

Mr. EDMUNDS. I understand my friend's point to be that the statutes to which he has referred do not define with precision the acts to be punished, and that it is left to the discretion, arbitrary as he calls it, of the judge to find out precisely whether the act proved falls within the statute or not. I believe that is the point?

Mr. CALL. That is the point as stated by the honorable Senator. I do not say they do not define with precision; I say they do not define at all. They use terms of such broad generality that they leave it in the discretion of the judge to say that a man has committed a crime without his knowing that he was committing it.

Mr. EDMUNDS. Very well, we will take it that way. I do not say whether that is a good point or not, because definitions are extremely difficult things, and when you undertake to make a definition in a statute it is usually quite as difficult to define your definition as it is to define the original proposition.

But my friend says that there is no parallel or precedent in history and so on in all the ages; I believe that was the phrase.

Mr. CALL. I beg the Senator's pardon. I did not say there was no precedent. I said there was no precedent of a distinguished lawyer, statesman, jurist, or judge, who had ever justified such a thing.

Mr. EDMUNDS. That comes then to a question of opinion as to what are distinguished lawyers, statesmen, and judges. When the treason act—I hope I do not offend anybody by using that phrase—when the treason act of 1790 was passed by men who thought themselves patriotic, who had won in civil war and established the independence of this country, men like Washington, and Madison, and Jefferson, and Randolph, and a great array of those names that we have all been taught to revere; when they came to provide laws for punishing according to the Constitution the crime of treason, they used language which was just as incapable of definition otherwise than by judicial interpretation applied to each case, as the language of the statutes that the Senator has referred to. I happen to have in my hand now, that I have turned to since the Senator's eloquence has aroused me to the exertion of opening a book, which says this:

That if any person or persons owing allegiance to the United States of America, shall levy war against them—

There is difficulty number one. Your accused is obliged to decide for himself and at his own peril, if he does anything, first, whether he owes allegiance, and on theories that we have heard expressed here for a few days back, nobody owes allegiance to any country so far as it regards the right to go away from it; a man can clear out from it in the midst of a war; that is one of the natural rights which some people have maintained; or he may think so. That raises a difficulty. Let us go to the next thing:

Shall levy war against them.

What constitutes levying war has puzzled the courts of the United States and every other country that has punished levying war against them by their own citizens. There is doubt number two, that this man is exposed to, that nobody but the judge can solve and the jury under his direction.

Or shall adhere to their enemies.

What is adhering to the enemy? Is it giving your son some bread when he has got on the wrong side and has come home for shelter? That is another of the difficulties that has troubled courts and everybody else.

Giving them aid and comfort.

That is, aiding and abetting them, although "comfort" is a much more indefinable, widespread, elastic phrase than "abetting." What is giving comfort to your enemy? Is it saying that some people in the State of Vermont, away back fifteen or twenty years ago, said that they thought certain people who were making war against the Government of the United States, or the Government of the United States against them, were right? Was not that a comfort to all those who were fighting for that great, now lost, cause, as it is called? Certainly it was a comfort, a great comfort; and yet, I suppose, the judge would have to decide, and he probably would decide, if he knew anything about law, that mere talk, mere opinion, did not amount to anything. And yet the man who is accused must submit to the judge and to the jury who tries his case whether he comes within the definition of having given comfort to the enemies of the United States.

Now we come to the second section of that act which the fathers passed, those great jurists, statesmen, scholars, philsophers, patriots, and taking all the rest of the vocabulary of my friend from Florida, that makes it still more difficult to require the poor culprit not only to know about his own acts, but he must know all the law:

That if any person or persons having knowledge of the commission of any of the treasons aforesaid.

And he is bound to judge at his own peril and decide as a lawyer and a judge whether any of the things that he knows of fall within the construction of the statute—

Shall conceal and not as soon as may be disclose and make known the same to the President of the United States, or some one of the judges thereof, &c.

He shall be sentenced to a severe penalty. There it is. Now I do not mean to say that the people who formed this Government and passed this law in 1790 were statesmen or scholars or patriots; I only say that up in my region of country we have been taught to suppose that they were, and that when they were defining crimes against the United States and providing for their punishment, they were obliged to use language such as they were accustomed to, the English language, and did the best they could, and having done that in describing the offense it must be left for the sake of liberty to the judge and the jury to determine, when the facts were proved, whether the man had committed that offense or not.

So I do not think it does for my distinguished friend to say that there is no human precedent among statesmen and patriots for general language in describing crimes. More mischief has been done everywhere in civilized countries by undertaking to make over-definitions in laws about crimes than there is in using general language.

Mr. CALL. Well, Mr. President, the honorable Senator from Vermont cannot even find a precedent which contains such language as I have read, such as this:

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 and imprisoned not more than ten years; and shall, moreover, be thereafter ineligible to any office or place of honor, profit, or trust created by the Constitution or laws the United States.

The honorable Senator, in the presence of the American Senate and the American people, as a logician and as a lawyer, undertakes to liken the language "treason against the United States shall consist in levying war against them, or in adhering to their enemies, giving them aid and comfort," to that statute, and as a man of reason and argument undertakes to say that there is no difference between the two or between the principle involved in the two. If he undertakes thereby to affirm that "aid and comfort" are not words of technical meaning defined in a thousand decisions through a hundred years of practice, if the honorable Senator means to say as his argument affirms that there is some kind of comparison between the language of the statutes he has read and those to which I have referred, I say again that the language he has cited from the statutes refers to definite acts, and has a well-known and long-established and easily-understood meaning, and no one of them makes an undefined act resting in *intent alone a crime;* no precedent is to be found of a criminal act of that character. Crimes resting in intent alone, without any overt act, the crime of *the purpose of depriving persons directly or indirectly* of the equal protection of the laws, or of *equal privileges or immunities under the laws, or for the purpose of preventing or hindering* the constituted authorities of any State or Territory from giving to all persons the equal protection of the laws, except in the excited animosity and violence of public clamor to which statesmen lend themselves when in times of civil commotion it may gratify the violent public opinion of the day and minister to party success.

I am happy to see the change that has come in the progress of time in the opinions of the learned Senator from Vermont and other Senators who are sustaining this bill. That is one thing that commends it to me. And while I feel it to be my duty to protest against that provision of the bill which makes an act criminal and subjects men to punishment without letting them know what they are punished for, without advising them what it is that they shall avoid doing to keep from being criminal—while I protest against that, I am very glad because in another respect even these provisions indicate a favorable change in the direction of sound legislation and a proper system of laws for the enforcement of justice.

Mr. EDMUNDS. Will my distinguished friend from Florida be good enough to tell me the change he understands to have come over the spirit of my dream, to use an old quotation?

Mr. CALL. I am just going to do it. As I have said before, the

profession and the country and the world, for the fame of the Senator from Vermont is not circumscribed by the limits of this country, attribute to him the authorship of these laws which are found in the Revised Statutes under the head of "crimes against the elective franchise and the civil rights of citizens." I find in one of the sections a provision which I think is a little at variance with this bill, which it is understood comes from the hands of the Senator from Vermont, and is now before the Senate, the bill "to execute certain treaty stipulations relating to Chinese."

Every person who, under color of any law, statute, ordinance, regulation, or custom, subjects, or causes to be subjected—

I will leave out the intermediate lines so as to show the context——

Mr. EDMUNDS. What is the section?

Mr. CALL. Section 5510.

"Every person who, under color of any law, statute, ordinance, regulation, or custom, subjects, or causes to be subjected," any alien or "any inhabitant" being an alien, "by reason of his color or race to different punishments, pains, or penalties on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or by both."

The learned Senator has a very happy way of making everything clear, particularly how infamous it is always to oppose established authority, but I would like to have him tell me how that provision agrees with this section of his proposed statute:

And any Chinese person found unlawfully within the United States *shall be caused to be removed therefrom to the country from whence he came, by direction of the President of the United States.*

Now, I should like him to tell me if he can take a citizen of the United States and by direction of the President of the United States remove him to the country from which he came? He will not say that he can. Here is a statute making it a crime and specially applicable to that people who inhabit the Southern States to do either directly or indirectly that which the Senator to-day proposes to require by law to be done to the Chinese alien inhabitants of States and Territories; that is to deprive them without crime of their liberty, extradite them to their country, and prescribes for them, in the language of his law, "on account of such inhabitant being an alien or by reason of his color and race different punishments than are prescribed for citizens."

In 1871 the honorable Senator, to the end that the white Caucasian race of the Southern States, as a penalty for resistance to the Union, might be subjected to the political domination of the African, whether native or foreign born, or of any other race who might go to these States, enacts a law that if any person, under color of any statute, regulation, ordnance, or custom, should subject, or cause to be subjected, any alien inhabitant of any State or Territory, by reason of his color or race, to different punishments, pains, or penalties than are prescribed for the punishment of citizens, he shall be fined $1,000 and imprisoned not more than one year, or both. Now, to the end that the Caucasian in the Pacific may be the dominant power, the Senator himself proposes to punish the alien inhabitants of the Territory or State by different pains and penalties because of his race and color.

I make this criticism upon this legislation not because I do not concur, for I do most heartily, in the purpose of protecting the inhabitants of the Pacific coast or of any other State requiring such protection from the migration or importation thither of any class of persons from Asia or anywhere else who are essentially hostile to those people, their interests, their sympathies, their religion, their social polity. If as a whole or with great unanimity they demand that their community shall not be invaded by that class of people, they have the right to do it. But I wish that this habit and disposition of American legislation which seeks to make use of the courts, of the temple of justice, of the judicial character, to prostitute the judge and make him a perjured man, to use the powers of legislation for political and party ends, may be rebuked. The exercise of the law-making power should be governed by considerations of the public and general welfare; the strifes of party should not be known in the laws of the country and judgments of the courts; both should be purged and cleansed from these impurities and corruptions.

I hope that the spirit of American legislation will be one of direct purpose, of direct enactment, and instead of affirming in regard to these Chinese that here is a bill to execute certain treaty stipulations with the Chinese, I should prefer the more manly and direct form of declaring the coming of the Chinese here to be an intolerable evil; not to endanger the good order of certain localities but to be an intolerable evil to the social system, and the political and economical system of the people of California and of the Pacific coast, as they understand it, and directly to affirm a prohibition.

Mr. PENDLETON. Mr. President, I think the insertion of the word "skilled" in this bill as applied to "laborers" is essential to a fair and frank and open exposition of the intentions of those who are in favor of its passage. In the papers communicated to us by the President there is the memorandum of the Chinese minister, in these words:

The inclusion of "skilled labor" in the bill is in addition to the words and intent of the treaty. It will operate with harshness upon a class of Chinese merchants entitled to admission to the United States under the terms of the treaty. The shoe merchants and cigar merchants of China manufacture the goods they sell at their places of business, and to shut out the "skilled labor" they need would practically shut them out as well, since it would prevent them from carrying on their business in this country. The laundryman who keeps his shop and has a small capital with which to prosecute his trade cannot in any just sense be included in the class of "laborers," and the merchant tailor comes in the same category.

This explains the understanding of the Chinese minister in relation to the use of the term "laborers" in the bill and in the treaty. He says that all those who labor as shoemakers, or cigar-makers, or washermen, or as tailors, are skilled laborers, and therefore not comprised within the term laborers as used in the treaty. Now, I submit that if the cigarmaker, the shoemaker, the washerman, the tailor, are skilled laborers and not within the meaning of the treaty and the law, then the carpenter, the blacksmith, the painter, the printer, the carriage-driver, the cook, the household servant, the mechanic, any one who has learned any trade, however imperfectly, are equally skilled laborers, and also within the exemption of the treaty. You might go further and say that the man who lays the ties upon the railroad and adjusts the tracks that go to the Pacific coast are skilled laborers also.

Mr. EDMUNDS. Will my friend allow me to ask him a question?

Mr. PENDLETON. Yes, sir.

Mr. EDMUNDS. I can almost assume what the answer will be. My question is whether he does not desire on this occasion to observe good faith toward the Government of China and not go beyond by this legislation what the treaty has provided?

Mr. PENDLETON. I do sincerely desire that.

Mr. EDMUNDS. Most clearly, then, may I not ask my friend, that being so, whether if this law contains the very language of the treaty, you have not certainly got all that the treaty provides for, be it much or little, to be determined in each particular case as it arises?

Mr. PENDLETON. It is very apparent that an interpretation has been put upon the word "laborers" by the minister of the Chinese Government which is entirely different from that put upon it by the people of this country generally and by the gentlemen in the Senate who are in favor of this bill. It appears in such authoritative form that the President has thought it important to send the paper here as part of his veto message. That being the case, that interpretation of the treaty by the highest official which the Chinese Empire has here among us being so formally laid before the Senate in such authoritative form, I think it becomes our duty not to assent to that interpretation; not by silence to give our consent to it; but by a declaration of the highest legislative body in the country to indicate that such is not our understanding of the meaning of the treaty. I think that frankness, fair and open legislation require that we should say, and and say in this authoritative form, that the interpretation of the Chinese authorities communicated to us by the President is not the interpretation in which we concur.

Mr. EDMUNDS. May I ask my friend to tell me again—for I have not understood his answer perfectly—whether he does not think that if we use in the law the very words of the treaty, the law by a just and upright court will be construed to have all the value and the scope that the words in the treaty can possibly have? That is what I should like to understand my friend's view about, because I respect his opinion.

Mr. PENDLETON. It is perfectly plain that if we follow in the law the language of the treaty we get all that under the treaty we ought to have; but it is also perfectly plain that an interpretation authoritative on one side has been put upon this treaty here in our own capital, in our own midst, sent to us under circumstances of a good deal of form entirely different from that which the vast majority of our people and of this Congress believe to be true, and therefore I am in favor of stating in the language of the law our dissent from that interpretation, and not remitting it without our dissent to the courts of the country.

Mr. EDMUNDS. Very good, Mr. President.

Mr. PENDLETON. I will exclude the conclusion that we concur in that interpretation.

Mr. EDMUNDS. Very good, Mr. President. Inasmuch as that interpretation is *ab extra* and not a part of the text of our treaty, our contrary interpretation, also *ab extra*, in our debates and considerations, and not of the text of the treaty, or the law, leaves the two things exactly where they are. That is to say, the Chinese think the treaty means one thing, I will assume; we say it means another. We put the law in the very language of the treaty. Then it comes before our own tribunals, not theirs, because all there is in this law is to have effect in this country of course, to be carried out in this country. Our own tribunals are to say what this treaty and this law mean. On the other hand if we by a definition in the law take up a doctrine that our own tribunals hold is not within the treaty, the law nevertheless stands valid, but we have not kept faith with the Government of China. There is the difficulty. I do not think a court could be in the least influenced by the Chinese interpretation.

My friend will pardon me for taking so long in interrupting him. I do not think any court could by any possibility be influenced in its just decision by any interpretation that the Chinese Government put upon this treaty or any construction of it, when, in our own debates, as my friend is now so well doing, we, following the language of the treaty, not the law, say that we do not admit of that interpretation of the treaty; we hold that those words do not mean that

thing; but it must be left—unless we are to assume that we will overrule the treaty if it turns out to go too far—it must be left to our own tribunal to determine what it means.

Then, if my friend will pardon me, last of all I wish to ask him, and I shall have done and thank him for his kindness——

Mr. PENDLETON. It does not interrupt me disagreeably at all. It is a pleasure to hear the Senator.

Mr. EDMUNDS. How much good do we get by using the words "skilled laborers" or "artisans," or any other term of that kind? Is not that just as difficult of definition as the other, and more difficult, possibly? Is it not safer for our own interests in the protection that our friends on the Pacific coast feel so largely the importance of, to leave those words untouched for application to every phase of circumstances that may arise and with the courts untrammeled by a statute that binds them although they might say the treaty gave them a larger liberty than the statute itself did?

Mr. PENDLETON. Mr. President, I can only repeat what I have already said in answer to the Senator from Vermont, that inasmuch as the President of the United States has communicated to Congress as one of the supports of the veto message this interpretation of the treaty, by the highest authority of China in this land, an interpretation which I venture to say is contrary to that given to it by nineteen-twentieths of the people of the United States, and evidently contrary to the interpretation given to it by two-thirds at least of the members of Congress, it is our duty in the interest of open and frank legislation to put also our interpretation upon the words of the treaty.

I go further. I say that good faith toward the officers of this Government whom we charge with the difficult and delicate duty prescribed by this act; good faith to the Chinamen who may come to this country believing that they are within the exceptions of the law and as to whom we intend to apply the strong measure of deportation; good faith to both these classes requires that we should speak with no uncertain voice and that we should put into this law the interpretation of the treaty which we believe that it can fairly bear. And I have the less difficulty in coming to this conclusion because I find here in the treaty itself a provision looking to the fact that the legislation of Congress may seem to the authorities of China hard, unjust, inconsistent with the treaty, and stipulating that the legislation shall be communicated to the imperial authorities of China by the Secretary of State in order that representations may be made by the Chinese minister to the officials of the United States and a conference may be had to the end "that mutual and unqualified benefit may result."

Therefore it is that I would put into this law our interpretation of the treaty, and if in the opinion of the Chinese authorities such legislation shall seem to transgress the limits of the treaty in any respect, representations may be made to us, which I am sure that the executive department in its diplomatic capacity, and the legislative department will respectfully heed.

Mr. President, I do not like the feature of deportation contained in this bill. It does not meet the hearty assent of my judgment. I yield my objection very reluctantly to the opinions and wishes of my friends who have charge of the bill.

The distinguished Senator from New York [Mr. LAPHAM] yesterday came, it seemed to me, with a good deal of speed to the defense of the President in regard to what he was pleased to call an insinuation of criticism, because the President had introduced into his veto message the memorandum of the Chinese minister. I think the Senator himself gave a very appropriate answer to any such criticism, if indeed it was made, as I did not observe. I think he illustrated a statement I have somewhere seen of fleeing when no man pursueth, and of an uneasy conscience needing no accuser. But there is a passage in the veto message to which I think exception may be fairly taken, and which I intend to read to the Senate. The President in his veto message, in discussing this question of reasonable suspension of Chinese immigration, says:

> I regard this provision of the act as a breach of our national faith; and being unable to bring myself in harmony with the views of Congress on this vital point, the honor of the country constrains me to return the act with this objection to its passage.

The honor of the country! Here are two hundred and fifty out of three hundred members of Congress who have declared upon their oaths and with as high sense of what the honor of the country requires as the President can possibly have that this act is proper and right. The President of the United States says to these members of Congress who have voted for the bill, men who represent the people and the States, men who are bound by the same oath that he is, "You have forgotten the interests of the country, you have tarnished its fair fame, you have violated its plighted faith; I cannot agree with you; I, for the honor of the country, return this bill to you with my veto!"

Sir, if I chose to indulge in recrimination I might well ask who made him to sit in judgment upon the acts of members and to declare that the honor of the country requires that their action shall be condemned. But I do not I remember the injunction: "Thou shalt not speak evil of the rulers of thy people." I content myself with saying that the deduction from the argument made by the President himself, contained in this message and the accompanying papers, is entirely incorrect. I say, further, that such language used by one co-ordinate branch of this Government to another is not calculated to promote the harmonious co-operation which is essential to the good administration of the Government.

The Senator from Missouri [Mr. VEST] yesterday declared—and the suggestive truthfulness of the statement was enhanced by the magnetic intensity of his utterance—that in the concentric circles which lie around the human heart is to be found the true foundation of governments and states. He might have gone further; he might have said that there, and there alone, is to be found the foundation of society which underlies states and governments. The figure which he made use of suggests the necessity of guarding, protecting, purifying, exalting, elevating the aspirations and widening the scope of this human heart, which is the center and the source and the fountain out of which flow all the powers which not only maintain government and society, but give to it the aspiration and the propulsion of ever-advancing, ever-exalting civilization. I recognize that mysterious and almost mystic tie which binds together the nations and the races of the earth. "I am a man, and therefore nothing human is entirely alien to me." I believe in "the brotherhood of man." The very points of repulsion between nations and races are points of contact. These nations and races are scattered over all the world. Under every condition of climate, of habit, of tradition, of history, of association, of institutions, they are working out their several functions in the advancement of their civilizations. Some of them are drinking to the dregs waters that are foul with all the vices and the crimes which the taste and the passions and the utterly depraved imagination of the human heart can invent; others are reaping the reward of attempts, however imperfect, to attain to that divine humanity whose highest expression, in the words of the Master, was "Bear ye one another's burdens." They are all men, they are all human beings; I believe they are all working out, in one form and another, their progress and advancement and improvement. I would do nothing here or elsewhere, as an individual, as a legislator, as a patriot, as a cosmopolitan which I believed would not aid them in this effort.

But, sir, we must remember that contact, association, immigration are not the only means of aiding them. We must remember that you cannot touch pitch and remain undefiled; we must remember that you cannot plant virtue in the midst of surrounding and overwhelming vice and expect it to be uncontaminated; we must remember that you cannot plant the best virtues of the human heart in the foul pollutions of crime and vice and expect them to increase and grow. Mr. President, you cannot put the spot upon the camelia and expect it to retain its unsullied purity and whiteness. The spot will not grow white, but the camellia will be discolored and decay. In our practical life we do not take the pure virgins who are to be the mothers of the next generation and plant them in the haunts of vice in order to reclaim the vicious. We do not take the young men who will come to be the guardians of our civilization almost before we are able to realize the fact and associate them with the corrupt and licentious and depraved in order to win them from their evil ways. We cannot bring in upon our civilization on the Pacific coast the hordes of Chinese devoted to everything which is repugnant to our religion, to our morals, to our habits, to our civilization, and expect it to increase in purity and power there.

Mr. President, there are experiences which every individual and nation and race must make, relying on its own strength and at its own peril. Through the dark valleys of life and of death they must go alone. Look around you. The African race through the wrongs and sufferings and agonies of American slavery has reached to-day its highest advancement. At the very moment that it has developed this result of its pains and its sufferings, Stanley is exploring the interior of the Dark Continent, certainly to show the contrast, possibly to invite them to a congenial home upon their ancestral continent. The Japanese Empire rousing itself into a new life is advancing rapidly in the best direction, not by deporting its people, not by sending them off to other climes, but by making that beautiful empire a fit abode for higher and better civilization and inviting immigration to its shores.

It may be, sir, that this very bill we are passing to-day will awaken the authorities of the Chinese Empire to such an appreciation of the fact that their hordes are down in the very depths of a most degraded corruption—will so startle them with the conviction that we, their best friends and neighbors, can not endure the contact—that they will bring all the resources of government and institutions of education and example, to lift up their people until they shall be also fitted to join in the advancement of the races.

I said that the nations and the races were all working out, each in its appropriate sphere, in different ways, in different conditions, under different circumstances, its own advancement. Everywhere, as far as my eye can reach throughout the domain of the world I see progress. It may be, it gives me pleasure to think, that they are preparing themselves for the time when the common Father shall meet the prodigal son returning from his evil ways and his destitute condition, and shall welcome him to his ancestral home, while at the same time he soothes the susceptibility of the older and the better son by saying to him, "It was meet that we should rejoice when the dead is alive again and the lost is found."

It may be that these nations and races now are members of one body, each performing its functions, some of honor and some of dis-

honor, and only preparing for that time when corruption shall be raised in incorruption and dishonor shall be raised in glory. When Attila, with his barbarous hosts, assaulted Rome, the senate asked, "What shall we give as our ransom?" "Your gold and your jewels, your statues and your pictures, your costly furnitures and luxurious couches, and free your slaves." "What shall we have left?" said the degenerate Romans. The proud, self-reliant, amazed barbarian replied, "I leave you your own souls."

Alison has said "that nations, like individuals, were not destined for immortality; that in their virtues equally as in their vices, in their grandeur as in their weakness, they bear in their bosoms the seeds of mortality; but that in the passions which elevate them to greatness or hasten their decay there is to be found the unceasing operation of those principles of corruption and resurrection which, applicable alike to communities as individuals, compensate the necessary decline of nations by the vital fire which gives undecaying youth to the human race." Ay, sir, "undecaying youth to the human race;" youth, ever hoping, aspiring, daring, doing. Its course is ever upward and onward; upward and onward as the eagle when, soaring on unwearied wing, he looks with unblenched eye into the sun; upward and onward as the aspiration of the human soul when it seeks perfection in the Christian's heaven! And in these efforts of all races, of all nations, of all conditions of men we must remember, as has been said, that "no truth is ever lost, no truth ever perishes from the earth. The flame is undying though generations disappear. Whenever a moral truth has started into life humanity claims and guards the bequest, and each generation, gathering together the imperishable sons of the past, increases them with the sons of light, radiant with a like immortality."

Sir, I believe thoroughly in this advancement of our race; I believe, in the sense in which I have spoken, in its kinship; I believe in the possibility of its development; and I believe through its efforts, through its ambitions, through its aspirations, through its struggles, that the world will finally be brought to a condition such as we may believe the divine Maker, with divine benevolence, intended that it should be. But, sir, if it is to be so, this undying race, strong in perennial youth, will see men and nations and generations and ages failing in the effort, wearied, exhausted. It will mount higher and still higher; it will pass beyond the utmost reach of each advancing generation—

> Still from the sky serene and far
> A voice falls like a falling star,
> Excelsior!

Mr. President, let us, our American nation, our American civilization, lead in the van of that effort, and let us do it by purifying, preserving, maintaining, consecrating the virtues which we have thus far attained, let us not endanger them by association with vice and corruption, which can only contaminate and destroy.

Mr. LAPHAM. Mr. President, I briefly called attention yesterday to the fourth article of the treaty in pursuance of which we are now attempting to frame legislation. We have had two treaties with the Empire of China. Under the operation of the first, which is commonly known as the Burlingame treaty, a constant acceleration and increase in the importance of our intercourse with Chinese has been the result. There never has been any disturbance whatever of our relations with the empire under that treaty. We are now attempting by legislation to carry out the provisions of the second treaty, which was promulgated in October last, the sole object of which was to enable us to regulate the emigration from China to this country; not to destroy it, not to annihilate it, but to regulate it.

The two Houses of Congress passed a bill upon the subject, which was sent to the President of the United States, and the President in some mode, I know not precisely how, obtained the opinion of the Chinese minister resident here as to the views his government would entertain with respect to the provisions of that bill. The objections he made to it were very pointed indeed. What he said with reference to embracing in our law the term "skilled laborer" as one of the definitions of labor has been read by the honorable Senator from Ohio, [Mr. PENDLETON,] and every gentleman on this floor will say that it is a radical objection to the provisions of the bill so far as it attempts to define what is meant by the term "laborer." But this is not all which the memorandum says by way of instruction to us. The fourth clause of the memorandum is in these words:

> If the bill becomes a law, it will leave the impression in China that its government strangely misunderstood the character of the treaty, or that the Congress has violated some of its provisions, and this will tend to prejudice the intelligent classes against the United States Government and people, whom they now greatly admire and respect.

I understand the honorable Senator from Ohio to say that because of this he finds an additional reason for incorporating in the bill this definition as to what is meant by the term "laborer;" in other words he proposes that we shall by this act of Congress defy the interpretation put upon that term in the treaty by the Chinese Government and its authorities. Is that to work harmony between us and China as nations? Is that to work out the beneficial ends which were designed by this treaty and which are foreshadowed in the fourth article of the treaty, to which I called attention yesterday? On the contrary, it would be just as effectual by way of disrupting our relations as would the signing of the first bill by the President in the face of this memorandum or protest, whatever it may be called, if the President had affixed his signature to it and it had become a law. We should pause in view of this expression on the part of the Chinese Government, and see whether we are not hasty in this our first legislation with a view of carrying out the provisions of this treaty.

I turn to the language of the first article of the treaty, and I submit that its interpretation will not justify any such legislation as is contained in the section proposed to be stricken out. "The limitation or suspension," says this article, "shall be reasonable and shall apply only to Chinese who may go to the United States as laborers, other classes not being included in the limitation." They understand by that that the term "skilled laborers" is not within the fair definition of the language of the treaty; and that being the understanding of the Government of China, in the face of this to re-enact this provision would just as grossly insult the views of China in this respect as for the President to have sanctioned the bill against which this utterance was made. Now, suppose the President had signed the bill which was passed by the two Houses and the next day the Chinese minister had come to the Secretary of State in pursuance of the fourth article of the treaty and said, "You have passed a law which is a direct violation of the understanding of my government in regard to this treaty, and I demand that it shall have immediate modification," where would be our relief? Either Congress must recede and amend the law or the two nations must at once be at variance with each other. For us to re-enact the provision which the Chinese minister regards so at variance with the whole policy of this treaty would only tend, instead of rendering this arrangement a beneficial one for the two governments, to produce an alienation between us and the Chinese Government and to deprive us of all the benefits which have resulted from our relations under the treaty which was first framed.

Mr. President, I have looked over the treaty promulgated in October last, and I confess its reading has forced upon my mind the fear that there existed in the minds of the persons who negotiated it an idea that by its operation advantages might be gained over China which China did not contemplate. Sir, I remember that the severest criticism we have ever pronounced upon the Government of Great Britain have been criticisms upon its policy of exercising the arts of diplomacy to gain treaties from the weaker powers of the earth, and then enforcing them at the point of the bayonet. I see how sensitive the public mind is at this moment at the mere suggestion that there was recently a purpose to interfere with the republics of South America in our transactions. Shall we in this manner, against the protest of the Chinese minister, at once enter upon a line of policy which may subject our Government to the imputation of having designed or been guilty of the same purpose? I trust not. I trust, on the contrary, we shall enter into this legislation in the spirit in which the treaty was formed; in the spirit embodied in the fourth article of the treaty; that we will not frame laws which we know are at variance with the wishes, feelings, and views of China in respect to this question. We had better begin in another mode which will lead to the continuance of amicable relations between us and them.

I do not desire to prolong this discussion, but I intend, before the final vote is taken upon this bill, in pursuance of the fourth article of the treaty, to offer, by way of amendment to the bill, a provision which I now send to the Secretary for the purpose of having it read for information, which, it seems to me, is the only one that can prolong our amicable relations with the Chinese Government.

The Acting Secretary read as follows:

> SEC. —. The provisions of this act shall be open and subject to modification from time to time as may be found necessary and as may be assented to by the representatives of the two governments as provided in the fourth article of the treaty proclaimed on the 5th day of October, 1881.

Mr. LAPHAM. In this way, and in this way only, in view of what we have here from the Chinese minister, can we hope to maintain friendly relations and hope for a continuance of our profitable commerce with the great Empire of China. The moment we shut down the door and preclude ourselves from the power to make changes, that moment our relations with them are gone.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

Mr. MILLER, of California. I hope we shall take a vote on this bill.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on concurring with the Committee of the Whole in striking from the bill the fifteenth section.

Mr. EDMUNDS called for the yeas and nays, and they were ordered.

The PRESIDENT *pro tempore*. The section will be read for information.

The Acting Secretary read the fifteenth section, as follows:

> SEC. 15. That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

The PRESIDENT *pro tempore*. The vote is to concur with the action of the Committee of the Whole striking out this section.

The Principal Legislative Clerk proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) On this question I am paired with the Senator from Delaware, [Mr. BAYARD.]

Mr. FARLEY, (when Mr. BAYARD'S name was called.) The Senator from Delaware [Mr. BAYARD] has informed me in writing that he desires it to be understood that if he was here he would vote against the amendment reported by the committee, and is paired with the Senator from Rhode Island, [Mr. ANTHONY.]

Mr. HARRIS, (when Mr. JACKSON'S name was called.) I desire to say that my colleague [Mr. JACKSON] is absent and is paired with the Senator from Iowa, [Mr. MCDILL.] My colleague, if here, would vote "nay."

Mr. GEORGE, (when Mr. LAMAR'S name was called.) My colleague [Mr. LAMAR] is detained from the Senate by sickness in his family. On this question he is paired with the Senator from Louisiana, [Mr. KELLOGG.] If here, my colleague would vote "nay."

Mr. JONAS, (when Mr. MCPHERSON'S name was called.) The Senator from New Jersey [Mr. MCPHERSON] on this question is paired with his colleague, [Mr. SEWELL.] If Mr. MCPHERSON were present he would vote "nay."

Mr. HARRISON. In that connection it ought to be stated in reference to the Senator from New Jersey [Mr. SEWELL] that he would vote "yea" if present and not paired.

Mr. RANSOM, (when his name was called.) On this question generally I am paired with the Senator from Illinois, [Mr. LOGAN.] I do not know how he would vote on this particular branch of the case. I should vote "nay" if he were here.

Mr. ROLLINS, (when his name was alled.) I am paired with the Senator from Florida, [Mr. JONES.] I should vote "yea" if at liberty.

Mr. CONGER, (when Mr. SAULSBURY'S named was called.) The Senator from Delaware [Mr. SAULSBURY] and my colleague [Mr. FERRY] are paired. My colleague, if present, would vote "yea."

Mr. FARLEY, (when Mr. SAWYER'S name was called.) I am authorized by the colleague of the Senator from Wisconsin [Mr. SAWYER] to declare that he is paired with the Senator from Indiana, [Mr. VOORHEES.] The Senator from Indiana, if here, would vote "nay," and I understood the Senator from Wisconsin would vote "yea."

Mr. CAMERON, of Wisconsin. My colleague, [Mr. SAWYER,] if present, would vote "yea."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. JONAS. The Senator from Missouri [Mr. VEST] is paired with the Senator from Kansas, [Mr. PLUMB.]

Mr. ALDRICH. I am paired with the Senator from Maryland, [Mr. GORMAN.] If the Senator from Maryland were present he would vote "nay" and I should vote "yea."

Mr. ALLISON. I do not know that it has been announced that the Senator from Georgia [Mr. BROWN] is paired with the Senator from Missouri, [Mr. COCKRELL.]

Mr. COCKRELL. I was paired with the Senator from Georgia, [Mr. BROWN.] I was paired with him on the question of the passage of the former bill over the President's veto. This bill was not then pending, but I presume it would be right for me to continue the pair.

Mr. FARLEY. I understand that the Senator from Pennsylvania [Mr. MITCHELL] is paired with the Senator from West Virginia, [Mr. CAMDEN.] If the Senator from West Virginia were here, he would vote "nay."

The result was announced—yeas 20, nays 25; as follows:

YEAS—20.

Allison,	Edmunds,	Hoar,	Morrill,
Blair,	Frye,	Ingalls,	Platt,
Conger,	Harrison,	Lapham,	Saunders,
Davis of Illinois,	Hawley,	McMillan,	Sherman,
Dawes,	Hill of Colorado,	Miller of N. Y.,	Van Wyck.

NAYS—25.

Beck,	Farley,	Jonas,	Slater,
Butler,	Garland,	Jones of Nevada,	Vance,
Call,	George,	Maxey,	Walker,
Cameron of Wis.,	Grover	Miller of Cal.,	Williams.
Chilcott,	Hampton,	Morgan,	
Coke,	Harris,	Pendleton,	
Fair,	Johnston,	Pugh,	

ABSENT—31.

Aldrich,	Ferry,	Lamar,	Rollins,
Anthony,	Gorman,	Logan,	Saulsbury,
Bayard,	Groome,	McDill,	Sawyer,
Brown,	Hale,	McPherson,	Sewell,
Camden,	Hill of Georgia,	Mahone,	Vest,
Cameron of Pa.,	Jackson,	Mitchell,	Voorhees,
Cockrell,	Jones of Florida,	Plumb,	Windom.
Davis of W. Va.,	Kellogg,	Ransom,	

So the amendment was non-concurred in.

Mr. EDMUNDS. I move to amend section 15 of the bill by striking out all the words after "that" and inserting:

The words "Chinese laborers," wherever used in this act, shall be construed to mean persons usually engaged in manual labor.

I ask for the yeas and nays on this amendment.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) I am paired on this question with the Senator from Delaware, [Mr. BAYARD.]

Mr. CONGER, (when Mr. FERRY'S name was called.) My colleague [Mr. FERRY] is paired with the Senator from Delaware, [Mr. SAULSBURY.] If he were here, my colleague would vote "yea."

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were here, I should vote "nay."

Mr. ROLLINS, (when his name was called.) On this question I am paired with the Senator from Florida, [Mr. JONES.] If he were here, I should vote "yea."

Mr. WINDOM (when his name was called.) But for my pair with the Senator from West Virginia, [Mr. DAVIS,] I should vote "yea."

The roll-call was concluded.

Mr. SAULSBURY. I am paired with the Senator from Michigan, [Mr. FERRY.] I would vote "nay," if he were present.

The result was announced—yeas 17, nays 25; as follows:

YEAS—17.

Allison,	Edmunds,	Lapham,	Saunders,
Blair,	Frye,	McMillan,	Van Wyck.
Conger,	Harrison,	Miller of N. Y.,	
Davis of Illinois,	Hawley,	Morrill,	
Dawes,	Hill of Colorado,	Platt,	

NAYS—25.

Beck,	Farley,	Jonas,	Slater,
Butler,	Garland,	Jones of Nevada,	Vance,
Call,	George,	Maxey,	Walker,
Cameron of Wis.,	Grover,	Miller of Cal.,	Williams.
Chilcott,	Hampton,	Morgan,	
Coke,	Harris,	Pendleton,	
Fair,	Johnston,	Pugh,	

ABSENT—34.

Aldrich,	Gorman,	Lamar,	Saulsbury,
Anthony,	Groome,	Logan,	Sawyer,
Bayard,	Hale,	McDill,	Sewell,
Brown,	Hill of Georgia,	McPherson,	Sherman,
Camden,	Hoar,	Mahone,	Vest,
Cameron of Pa.,	Ingalls,	Mitchell,	Voorhees,
Cockrell,	Jackson,	Plumb,	Windom.
Davis of W. Va.,	Jones of Florida,	Ransom,	
Ferry,	Kellogg,	Rollins,	

So the amendment was rejected.

Mr. EDMUNDS. I move to amend section 14 by striking out all after the word "that" and inserting:

Nothing in this act shall be construed to change the existing naturalization laws so as to admit Chinese persons to citizenship.

Mr. President, as this section now stands in the bill, it is the first time in the history of this nation that Congress has undertaken to make prohibitions against naturalization. The Constitution provides that Congress may make uniform rules of naturalization, so that no person can be admitted to citizenship without affirmative action by Congress. I do not wish for one to have Congress enact any statute which shall prohibit by affirmative declaration any person from becoming a citizen. He cannot become a citizen until Congress shall affirmatively provide that he may; and as this section now stands, it is absolutely unique, probably not only in the history of this country but of every other, and so I move this change so as to leave the law just as it is now in order to avoid what hereafter will be a very unhappy precedent, I am afraid, for a good many people.

Mr. BUTLER. May we have the section read as it stands in the bill and as it is proposed to be amended?

The PRESIDENT *pro tempore*. Certainly.

The Acting Secretary read the amendment.

Mr. EDMUNDS. Now read the section proposed to be stricken out, so that the Senators can see the difference.

The Acting Secretary read section 14 of the bill, as follows:

SEC. 14. That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. EDMUNDS. Let us have the yeas and nays.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. WINDOM (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.]

The roll-call was concluded.

Mr. ANTHONY. I am paired with the Senator from Delaware [Mr. BAYARD] on this question.

Mr. MCDILL. I am paired on this question with the Senator from Tennessee, [Mr. JACKSON.]

Mr. KELLOGG. I am paired with the Senator from Mississippi, [Mr. LAMAR.] If he were present, I should vote "yea."

The result was announced—yeas 16, nays 25; as follows:

YEAS—16.

Allison,	Dawes,	Harrison,	Lapham,
Blair,	Edmunds,	Hawley,	Morrill,
Conger,	Frye,	Hill of Colorado,	Platt,
Davis of Illinois,	Hale,	Ingalls,	Saunders,

NAYS—25.

Beck,	Garland,	Jonas,	Slater,
Butler,	George,	Jones of Nevada,	Vance,
Call,	Grover,	Maxey,	Walker,
Chilcott,	Hampton,	Miller of Cal.,	Williams.
Coke,	Harris,	Morgan,	
Fair,	Hoar,	Pendleton,	
Farley,	Johnston,	Pugh,	

ABSENT—35.

Aldrich,	Ferry,	McDill,	Saulsbury,
Anthony,	Gorman,	McMillan,	Sawyer,
Bayard,	Groome,	McPherson,	Sewell,
Brown,	Hill of Georgia,	Mahone,	Sherman,
Camden,	Jackson,	Miller of N. Y.,	Van Wyck,
Cameron of Pa.,	Jones of Florida,	Mitchell,	Vest,
Cameron of Wis.,	Kellogg,	Plumb,	Voorhees,
Cockrell,	Lamar,	Ransom,	Windom.
Davis of West Va.,	Logan,	Rollins,	

So the amendment was rejected.

Mr. INGALLS. I move to strike out, in the first line of section 10, the word "master" and insert the word "owner."

Section 10 declares that if the master of any vessel shall knowingly violate any of the provisions of this act the vessel shall be deemed forfeited to the United States. I would respectfully submit that inasmuch as the masters of vessels are subjected to severe penalties for any violation of the act, and inasmuch as provisions are made for returning to the country from which they came the Chinese laborers who are brought here in violation of the act, it is cruel and unusual punishment to say that the innocent owner of a vessel that may bring Chinese laborers to this country should suffer forfeiture for an act for which he is not responsible. It seems to me it is carrying the penalties of this act too far.

Mr. EDMUNDS. The Senate having refused to leave out of this bill the fourteenth and fifteenth sections, I shall not be able to vote for it as otherwise I should.

As to the fourteenth section, this is the first time in the history of this country and I think of any other that the governing legislative power has undertaken to make an affirmative prohibition against the admission to citizenship of any race.

The fifteenth section to my mind is objectionable, not only because it does not follow the fair language of the treaty, be it much or little, to be determined by our own courts, but because it removes the question into still greater doubt than it was before. There is nothing so incapable of definition as a definition itself; and, therefore, if I lived in San Francisco and had all the feeling, wise or unwise, that our friends on the Pacific coast have about this business, and wished to exclude to the uttermost the Chinamen, I should stand by that broad, undefined language of the treaty and try each case upon it.

The Senate has thought it fit to keep both those sections in, and, therefore, I cannot vote for the bill; so that my interest in it has departed; but it is right to say as to the motion of my friend from Kansas that this provision of forfeiture is exactly, I think, like that as to mere smuggling of a package of silks on a French steamship or anything else—where the master knowingly allows smuggling to go on upon a vessel the owner forfeits it. So, then, the punishment, as it is called, is not probably cruel or unusual. I only mention that for the history of the law of the subject for the reason that the Senate has put the bill in a shape that I am unable to vote for it.

Mr. INGALLS. The difference between the case of smuggling and that mentioned in this bill is that in cases of smuggling the Secretary of the Treasury, as I understand, has authority, if in his discretion it is proper, to permit that portion of the penalty to be omitted, and, as a matter of fact, I believe that there is not an instance where a vessel has been forfeited because it bore smuggled goods if it appeared that the owner knew nothing about it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS.]

The amendment was rejected.

The PRESIDENT *pro tempore*. The Senator from New York [Mr. LAPHAM] proposed an amendment, which will be read.

The ACTING SECRETARY. It is proposed to add as an additional section:

SEC. —. The provision of this act shall be open and subject to modification from time to time as may be found necessary, and as may be assented to by the representatives of the two governments, as provided in the fourth article of the treaty proclaimed on the 5th day of October, 1881.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York, [Mr. LAPHAM.]

The amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT *pro tempore*. Shall this bill pass?

Mr. FARLEY. I ask for the yeas and nays.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. ALDRICH, (when his name was called.) I am paired with the Senator from Maryland, [Mr. GORMAN.] If he were present, I should vote "nay" and the Senator from Maryland would vote "yea."

Mr. ANTHONY, (when his name was called.) I am paired on this bill with the Senator from Delaware, [Mr. BAYARD.] If he were present, I should vote "nay."

Mr. CONGER, (when Mr. FERRY's name was called.) My colleague [Mr. FERRY] is paired with the Senator from Delaware, [Mr. SAULSBURY.] If my colleague were present, he would vote "nay."

Mr. KELLOGG, (when his name was called.) I was paired with the Senator from Mississippi, [Mr. LAMAR,] but that pair has been transferred, with the consent of the Senator from Nebraska, [Mr. SAUNDERS,] to the latter. If the Senator from Mississippi were present, he would vote "yea." I vote "nay."

Mr. McDILL, (when his name was called.) I am paired with the Senator from Tennessee, [Mr. JACKSON.] If he were present, I should vote "nay."

Mr. JONAS, (when Mr. MCPHERSON'S name was called.) The Senator from New Jersey [Mr. MCPHERSON] is paired with his colleague, [Mr. SEWELL.] If present, Mr. MCPHERSON would vote "yea."

Mr. HARRISON. It should also be stated that the Senator from New Jersey [Mr. SEWELL] would vote "nay."

Mr. RANSOM, (when his name was called.) I am paired with the Senator from Illinois, [Mr. LOGAN.] I do not know how he would vote on this bill in its present form, but if he were here, I should vote "yea."

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.] I understand from his colleague that if he were here he would vote "nay." I should vote "yea."

Mr. SAUNDERS, (when his name was called.) The pair has been announced by the Senator from Louisiana [Mr. KELLOGG] as having been changed between himself and the Senator from Mississippi [Mr. LAMAR] to myself and that Senator. If the Senator from Mississippi were here, I should vote "yea."

Several SENATORS. So would he.

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] I should vote "nay," but for that.

The roll-call was concluded.

Mr. HARRIS. If my colleague [Mr. JACKSON] were here—he is absent and paired with the Senator from Iowa, [Mr. MCDILL,]—he would vote "yea" on this question.

Mr. FARLEY. I wish to announce that the Senator from Florida [Mr. JONES] is paired with the Senator from New Hampshire, [Mr. ROLLINS.] If the Senator from Florida were here, he would vote "yea."

Mr. SAUNDERS. In the transfer there seems to have been some mistake. I intended to vote "yea" on the bill, and so announced when I stated my pair. I do not understand how the Senator on the other side would vote.

Mr. GEORGE. My colleague [Mr. LAMAR] would vote "yea," if he were here.

Mr. SAUNDERS. Then I had better vote.

Mr. GEORGE. Certainly.

Mr. SAUNDERS. I vote "yea."

Mr. KELLOGG. Now I ask leave to withdraw my vote, and announce the pair between myself and the Senator from Mississippi, [Mr. LAMAR.] He would vote "yea" and I "nay," if he were here.

The result was announced—yeas 32, nays 15; as follows:

YEAS—32.

Beck,	Farley,	Johnston,	Pugh,
Butler,	Garland,	Jonas,	Saunders,
Call,	George,	Jones of Nevada,	Slater,
Cameron of Wis.,	Grover,	Maxey,	Vance,
Chilcott,	Hale,	Miller of Cal.,	Van Wyck,
Coke,	Hampton,	Miller of N. Y.,	Vest,
Davis of Illinois,	Harris,	Morgan,	Walker,
Fair,	Hill of Colorado,	Pendleton,	Williams.

NAYS—15.

Allison,	Edmunds,	Hoar,	Morrill,
Blair,	Frye,	Ingalls,	Platt,
Conger,	Harrison,	Lapham,	Sherman.
Dawes,	Hawley,	McMillan,	

ABSENT—29.

Aldrich,	Ferry,	Logan,	Saulsbury,
Anthony,	Gorman,	McDill,	Sawyer,
Bayard,	Groome,	McPherson,	Sewell,
Brown,	Hill of Georgia,	Mahone,	Voorhees,
Camden,	Jackson,	Mitchell,	Windom.
Cameron of Pa.,	Jones of Florida,	Plumb,	
Cockrell,	Kellogg,	Ransom,	
Davis of West Va.,	Lamar,	Rollins,	

So the bill was passed.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Mr. VANCE, Mr. PLATT, and Mr. MCDILL the committee to investigate the administration of affairs in the sixth collection district of North Carolina, under the resolution of the 21st instant.

The PRESIDENT *pro tempore* appointed Mr. MILLER, of New York, a member of the Committee on Education and Labor, in place of Mr. MORRILL, resigned.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. JOHN BAILEY, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 1598) to authorize the Secretary of War to donate to

the Ladies' Soldiers' Monument Society of Portsmouth, Ohio, four condemned cannon; and

A bill (H. R. No. 4680) to repeal the discriminating duties on goods produced east of the Cape of Good Hope.

PURCHASE OF COPIES OF REVISED STATUTES.

Mr. SHERMAN. I offer the following resolution:

Resolved, That the Secretary of the Senate be directed to purchase for the use of the Senate 25 copies of the Revised Statutes of the United States, to be paid for from appropriations for miscellaneous expenses of the Senate.

Mr. PLATT. I wish the Senator from Ohio would include the supplement.

Mr. SHERMAN. This includes all the Revised Statutes. We are in absolute need of them daily, and must have them.

The PRESIDENT *pro tempore*. It would be better to insert "and supplement."

Mr. SHERMAN. Very well. Say "the Revised Statutes and supplement."

The PRESIDENT *pro tempore*. The resolution will be so modified.

The resolution as modified was agreed to.

THOMAS EVANS AND ALBERT T. WHITING.

Mr. VANCE. I am instructed by the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 2938) for the relief of Thomas Evans, to report it with an amendment, and I ask for its immediate consideration.

By unanimous consent, the bill (H. R. No. 2938) for the relief of Thomas Evans was considered as in Committee of the Whole. It proposes to authorize the auditor of the District of Columbia to issue to Thomas Evans a duplicate certificate for one lost or burned, numbered 21609, of the board of audit, class 6, for $146.20.

The amendment was to add:

And also a similar duplicate certificate to Albert T. Whiting, for one lost or burned, numbered 19555, for $532.48: *Provided*, That they shall each execute severally a bond to the commissioners of the District of Columbia, in double the amount of their respective certificates, with sufficient security, conditioned to save harmless the said District against the possible presentation of said lost certificates; and said certificates shall be received and converted into 3.65 bonds, as all board of audit certificates are, by the Treasurer of the United States, as commissioner of the sinking-fund of the District of Columbia.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Thomas Evans and Albert T. Whiting."

ORDER OF BUSINESS.

Mr. GARLAND. I move that the Senate proceed to the consideration of the bill establishing a court of appeals.

Mr. HARRIS. I desire to appeal to the Senator from Arkansas and to the Senate.

Mr. HOAR. Was not that bill laid aside informally two or three days ago?

Mr. GARLAND. It lapsed under the rule.

The PRESIDENT *pro tempore*. It lost its place. The Senator from Tennessee proposes to supplement the motion with another.

Mr. HARRIS. In view of the fact that the bill referred to by the Senator from Arkansas was displaced, having had the right of way, I am inclined to appeal to the Senator from Arkansas not to antagonize his motion; and also to appeal to the Senate to proceed at this time to consider Senate bill No. 1049, being a bill amending an act entitled "An act to prevent the introduction of contagious or infectious diseases into the United States."

The PRESIDENT *pro tempore*. Does the Senator from Arkansas yield for that motion?

Mr. GARLAND. I am on the committee that reported the bill which the Senator from Tennessee refers to, and I am also on the committee that reported this other bill. I leave it to the Senate which they will take up.

Mr. INGALLS. The Senate cannot decide unless some motion is made.

The PRESIDENT *pro tempore*. The Senator from Arkansas moves to take up the bill to establish a court of appeals.

Mr. HOAR. I waived a bill which I was very anxious to have taken up, and which has been waiting a great while, recognizing the prior claim of the Senator from Arkansas; but I do not wish to recognize his right to mortgage that claim to anybody else.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Arkansas to take up the court of appeals bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 420) to establish a court of appeals.

Mr. MORRILL. The bill being taken up so as to be the unfinished business, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eighteen minutes spent in executive session the doors were reopened, and (at four o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 28, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

RAILROAD LAND-GRANT IN MISSISSIPPI.

Mr. SINGLETON, of Mississippi, by unanimous consent, introduced a bill (H. R. No. 6017) supplemental to an act entitled "An act granting public lands in alternate sections to the State of Mississippi to aid in the construction of railroads in said State, and for other purposes," approved August 11, 1856; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

FORT RICE MILITARY RESERVATION, DAKOTA.

Mr. PETTIGREW. I ask unanimous consent that the bill (H. R. No. 2749) vacating the Fort Rice military reservation, in the Territory of Dakota, be taken from the House Calendar and put on its passage.

The bill was read, as follows:

Be it enacted, &c., That all the lands embraced in the Fort Rice military reservation, in the Territory of Dakota, be, and the same are hereby, opened and made subject to entry as other public lands in said Territory under existing laws: *Provided*, That all persons owning improvements on said reservation at the time of the passage of this act shall have a prior right to enter the lands upon which said improvements are located at any time within six months after this act goes into effect.

SEC. 2. That the Commissioner of the General Land Office be, and hereby is, authorized to issue the instructions necessary to carry the provisions of this act into effect.

Mr. SINGLETON, of Illinois. I object.

Mr. PETTIGREW. This bill has been favorably reported by the Committee on Military Affairs, and is also recommended by the Commissioner of the General Land Office and by the War Department. I have their letters.

The SPEAKER. The gentleman from Illinois objects.

PROTECTION OF USERS OF PATENTS.

Mr. CASWELL. I ask unanimous consent to report from the Committee on Patents for immediate consideration a substitute for House bill No. 784. The bill is simply for the protection of parties using patents which they have purchased in good faith in open market.

Mr. BLAND. What is the bill?

Mr. HEWITT, of New York. We reserve objection until the bill has been read.

Mr. BLAND. I object, if it is for the extension of any patent.

Mr. BURROWS, of Michigan. It is not for that purpose.

Mr. BLAND. Then I withdraw my objection.

Mr. TOWNSHEND, of Illinois. It is for the benefit of the purchaser.

Mr. BURROWS, of Michigan. It is to protect the innocent purchasers of a patented article.

Mr. BLAND. I object, if it is to extend any patent.

Mr. TOWNSHEND, of Illinois. It is to curtail the power of patentees.

Mr. CASWELL. I am directed by the Committee on Patents to report, as a substitute for House bill No. 784, a bill (H. R. No. 6018) to amend section 4919 of the Revised Statutes relating to the recovery of damages for the infringement of patents, which I ask the clerk to read.

The Clerk read as follows:

No action for damages or proceeding in equity shall be sustained, nor shall the party be held liable under sections 4919 or 4921 of the Revised Statutes of the United States, for the use of any patented article or device when it shall appear on the trial that the defendant in such action or proceeding purchased said article for a valuable consideration in the open market.

Mr. SINGLETON, of Illinois. I object.

Mr. CASWELL. I ask the bill and report be printed.

Mr. HEWITT, of New York. I must object to its present consideration.

Mr. BURROWS, of Michigan. Will not the gentleman from New York withdraw his objection a moment to allow an explanation?

Mr. HUTCHINS. It seems to me that a bill of that kind, nullifying the patent laws of the United States, ought not to pass without our understanding it.

Mr. CASWELL. It only prohibits recovery against a party who has purchased a single article, and is using it, and has purchased it for a valuable consideration in open market.

Mr. TOWNSHEND, of Illinois. It is in behalf of the users of patented articles.

The SPEAKER. The Chair understands the objection is withdrawn.

Mr. WILLIS. This is to protect the purchasers?

Mr. CASWELL. It is to protect the users. It applies to any person who has purchased in open market for a valuable consideration, and is using the article.

Mr. ATKINS. Is it in the interest of the users?

Mr. CASWELL. It is in the interest of the user.

Mr. ATKINS. If it is in the interest of the public, I have no objection.

Mr. VANCE. This has received the unanimous consent of the Committee on Patents, and also the approval of the Commissioner of Patents, and it has been petitioned for extensively by the people.

Mr. TOWNSHEND, of Illinois. The same kind of bill was reported in the last Congress.

The SPEAKER. Is there objection to its present consideration?

Mr. HEWITT, of New York. Yes; I object.

Mr. CASWELL. I ask it be placed on the House Calendar and the bill and report be printed.

The bill was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

Mr. CASSIDY. I move by unanimous consent to take from the Speaker's table the bill S. No. 1287, for action at this time. It is a matter of considerable importance to the people of my State.

Mr. DUNNELL. The regular order has been called for.

Mr. JOYCE. And I have been recognized to make reports from a committee.

Mr. SINGLETON, of Illinois. I demand the regular order of business.

Mr. REED. It is absolutely essential to the administration of public justice the bill of the gentleman from Nevada should be passed, and I hope that gentlemen will permit it to be read so they may know what they are objecting to.

The SPEAKER. The regular order is called for.

Mr. REED. Will the gentleman from Illinois withdraw his objection until he hears the bill read?

The SPEAKER. The bill is not here.

Mr. ELLIS. The demand for the regular order is withdrawn.

COMPLETION OF PENSION APPLICATIONS.

Mr. JOYCE, by unanimous consent, from the Select Committee on the Payment of Pensions, Bounty, and Back Pay, reported back the bill (H. R. No. 3887) to extend the time allowed in paragraph 3 of section 4693 of the Revised Statutes of the United States to certain classes of applicants for pensions to complete their applications; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

RATE OF PENSIONS.

Mr. JOYCE also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 5261) to amend title 57 (pensions) of the Revised Statutes; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

NAVIGATION OF THE MISSISSIPPI RIVER.

Mr. TOWNSEND, of Ohio. I move by unanimous consent that the bill (S. No. 1572) for the improvement of the navigation of the Mississippi River be taken from the Speaker's table and referred to the Committee on Commerce.

Mr. ELLIS. I object.

Mr. GIBSON. I hope the gentleman will withdraw his objection.

Mr. ELLIS. The gentleman will not withdraw his objection.

ALEXANDER FRANCESCO, DECEASED.

On motion of Mr. WHEELER, by unanimous consent, the bill (S. No. 1278) for the correction of the military record of Alexander Francesco, deceased, was taken from the Speaker's table, read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MARY J. WEST.

Mr. CULLEN, from the Committee on Invalid Pensions, by unanimous consent, reported back with a favorable recommendation the bill (S. No. 455) granting an increase of pension to Mary J. West; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JUDGE EDWARD W. HILLYER.

Mr. TAYLOR, from the Committee on the Judiciary, by unanimous consent, reported back, as a substitute for House bill No. 3198, a bill (H. R. No. 6019) to authorize the appointment of an additional judge for the judicial district of the United States for the State of Nevada; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

EXTENSION OF THE HALL OF THE HOUSE.

Mr. BOWMAN, by unanimous consent, submitted the following order; which was read, and referred to the Select Committee on Ventilation and Acoustics:

Ordered, That the Select Committee on Ventilation and Acoustics consider and report upon the expediency and the possibility of removing the partitions between the Hall of the House and the lobby, so as to bring the Hall out into the sunshine and air.

PEMBINA-CHIPPEWA INDIANS.

Mr. DEERING, from the Committee on Indian Affairs, reported back with amendments the bill (H. R. No. 1885) to provide for the support and civilization of the Turtle Mountain band of Pembina-Chippewa Indians, and to extinguish their title to lands claimed by them in the Territory of Dakota; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

UTE RESERVATION, COLORADO.

Mr. HASKELL. Mr. Speaker, there is a bill upon the Speaker's table (S. No. 698) relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians, similar in character to one recently passed by the House, and I desire to ask this morning unanimous consent to have this Senate bill, which is a mere order to open the Ute reservation that was agreed to be done under a recent act of Congress, referred to the Committee on Indian Affairs for its consideration, with power to report it back to the House for action at any subsequent time when the business of the House will permit. This is an important matter, and the Committee on Indian Affairs by this request are not asking leave to report at any time, which will conflict with the public business of the House, but would like to have the privilege of presenting the bill at some time when other business will not be interfered with, in order that this matter can receive the prompt attention of the House. It is a subject of so much importance to the citizens of Colorado that I hope there will be no objection to it. I ask for the reference of the bill to the Committee on Indian Affairs, with power to report back at any time.

Mr. SINGLETON, of Illinois. I object.

TESTIMONY IN CONTESTED-ELECTION CASES.

Mr. PETTIBONE, by unanimous consent, from the Committee on Elections, reported back the bill (H. R. No. 5169) authorizing the commissioners of the circuit courts of the United States to take testimony in cases of contested elections of members of the House of Representatives; which was referred to the House Calendar, and the accompanying report ordered to be printed.

INDIAN HOSTILITIES IN ARIZONA.

Mr. OURY. I ask unanimous consent at this time to introduce for immediate consideration a resolution with regard to the Indian hostilities in the Territory of Arizona.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Whereas a hostile Indian outbreak has occurred in the Territory of Arizona within the last few weeks, and the citizens of that Territory are being day by day ruthlessly murdered by the Apache Indians, against whose attacks the people seem to have no adequate protection: Therefore,

Be it resolved, That the Secretary of War be, and is hereby, requested to inform this House of the number of United States soldiers there are now in the Territory of Arizona, and whether the military force stationed in that Territory is sufficient to guarantee full protection to the people; and whether any legislation is necessary by Congress for the prompt and efficient security of the people against the destruction of life and property by hostile Indians.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

Mr. TOWNSHEND, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes.

CHEROKEE INDIAN RESERVATION, ARKANSAS.

Mr. CRAVENS, by unanimous consent, from the Committee on the Public Lands, reported back the bill (H. R. No. 5544) to provide for the disposal of the Cherokee reservation in the State of Arkansas; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

DEBTS OF SOLDIERS AND RECRUITS.

Mr. SPAULDING, by unanimous consent, from the Committee on Military Affairs, reported a bill (H. R. No. 6020) to make certain debts incurred by soldiers and recruits a lien against their pay; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

KLAMATH INDIAN RESERVATION.

Mr. SPAULDING also, by unanimous consent, from the Committee on Indian Affairs, reported back with amendments the bill (H. R. No. 60) for the restoration of the Klamath Indian reservation in the State of California to the public domain; which was referred to the House Calendar, and the amendments and report ordered to be printed.

MEXICAN POTTAWATOMIE INDIANS OF KANSAS.

Mr. SPAULDING also, by unanimous consent, from the same committee, reported, as a substitute for House bill No. 1778, a bill (H. R. No. 6021) to provide for the final settlement with the Mexican Pottawatomie Indians of Kansas in accordance with certain treaty stipulations; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

J. L. BURCHARD.

Mr. AINSLIE, by unanimous consent, from the Committee on Indian Affairs, reported, back with a favorable recommendation the bill (H. R. No. 64) for the relief of J. L. Burchard; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

Mr. CALKINS. Let us now have the regular order.

The SPEAKER. The regular order is the further consideration of the contested-election case of Lynch *vs.* Chalmers.

Mr. BRAGG. Does that come up on Friday?

The SPEAKER. It comes up on Friday or any other legislative day.

Mr. CALKINS. Before entering on the discussion of that case this morning allow me to say to my colleague on the committee, the gentleman from Ohio, [Mr. ATHERTON,] that I had assured this side of the House that a vote would be taken to-day, but owing to reasons which I think sufficient I believe now the House can make an agreement to have the vote taken to-morrow, the debate being closed to-day except the hour after the previous question is ordered. Will my friends on the other side consent to that?

Mr. ATHERTON. I understand what the gentleman from Indiana suggests is that the previous question is to be pending in the morning and the gentleman will have his hour to-morrow.

Mr. CALKINS. Yes, sir; and that the House shall adjourn to-night after the previous question has been moved; not ordered, but moved.

Mr. ATHERTON. We do not object to that.

Mr. CALKINS. I will say I have hurried the case on as much as I can and ask the House to bear with its management. I assure my friends on this side that the best is being done that can be done to have the case disposed of. I ask that the arrangement be made by order of the House as stated.

Mr. ATHERTON. There is no objection to that.

Mr. BROWNE. I desire to ask my colleague from Indiana a question. Does he propose that the House shall adjourn when the previous question has been moved? I will remind him that this is pensions night.

Mr. CALKINS. I am reminded by my friend that this is pensions night. I propose that the House shall take a recess after the previous question is moved so that it may consider pension cases at an evening session under the existing order of the House.

The SPEAKER. The Chair understands the agreement to be that by unanimous consent, at the close of the discussion of this case to-day, the previous question is to be moved, and that the discussion shall then be considered as closed, except the last hour, to be occupied to-morrow.

Mr. RANDALL. If we are to take a recess at half past four o'clock I doubt whether sufficient time will be left for the consideration of this case.

Mr. CALKINS. The recess need not be taken at half past four; but let it be understood that the previous question shall be moved when the House takes a recess.

Mr. ROBESON. It is understood this order vacates taking the recess at half past four, and postpones it till the previous question is moved.

Mr. JOYCE. This order will not cut off the session for this evening.

Mr. CALKINS. Not at all.

Mr. DIBRELL. Before that is agreed to I ask unanimous consent to take up the first bill on the Private Calendar.

Mr. CALKINS. I will yield for that in a moment.

The SPEAKER. By unanimous consent the order for this evening, so far as it applies to taking a recess at half past four o'clock, could be vacated, and the session held to-night at whatever hour the recess may be taken. Is there objection to the proposed arrangement?

Mr. RANDALL. The House by a majority vote might adjourn, and that would cut off the evening session.

Mr. CALKINS. Of course if the House should decide to adjourn it might do so.

The SPEAKER. But under the existing order the House would have to take a recess at half past four o'clock. It is proposed that that part of the order shall be vacated.

Mr. RANDALL. That is not objected to.

The SPEAKER. The Chair hears no objection.

Mr. RANDALL. And no other agreement is made.

Mr. DIBRELL. I ask to take the bill I have indicated from the Private Calendar for present consideration.

Mr. DWIGHT. I object until I understand what is being agreed to. I want to know what is the object of the evening session.

The SPEAKER. That is under a continuing order of the House that there shall be sessions on Friday evenings for the consideration of pension bills.

Mr. DWIGHT. I withdraw my objection.

Mr. DIBRELL. I ask unanimous consent to take from the Private Calendar for consideration at this time House bill No. 1633, being the first bill on the Calendar, for the relief of certain citizens of Tennessee, of Bedford, Rutherford, and other counties.

The SPEAKER. The bill will be read.

The Clerk began the reading of the bill, but before concluding it,

Mr. KASSON said: I must object to this bill unless more information is given than appears to be contained in the bill. Before urging my objection I will ask from what committee this bill comes?

Mr. DIBRELL. It comes from the Committee on Claims and is recommended by Commissioner Raum.

Mr. SINGLETON, of Illinois. I object.

Mr. DIBRELL. I am sorry the gentleman objects. I must leave this city on Monday next, and I desire to have the bill considered before I leave.

Mr. SINGLETON, of Illinois. I withdraw the objection.

Mr. HOLMAN. This bill certainly cannot be well understood from this hasty reading. I desire to reserve the right to object at least until the report can be read.

Mr. CALKINS. I cannot consent to all this consumption of time.

Mr. DIBRELL. I ask that the letter of Commissioner Raum be read.

The SPEAKER. Objection is made to considering the bill at this time.

Mr. DIBRELL. Then I ask unanimous consent that the letter of Commissioner Raum be printed in the RECORD.

There was no objection, and it was ordered accordingly.

The letter is as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 18, 1882.

SIR: I am in receipt of the letter of the 8th instant from the Committee on Finance, United States Senate, inclosing a copy of Senate bill No. 1068, for the relief of certain citizens of Tennessee, addressed to you and by you referred to this office for report.

I have the honor to return the letter and inclosure with the following statement:

The bill is for the relief of certain citizens residing in Bedford, Rutherford, Warren, and Williamson Counties, Tennessee, who were assessed internal-revenue taxes, principally on income for the year 1863, prior to the formation of assessment divisions embracing the counties in which they resided.

With the exception of J. W. Wiggins and Isham R. Peebles, sr., and Isham R. Peebles, jr., the parties named in the bill have presented claims to this office for the refunding of the taxes claimed to have been paid. A claim in the name of Isham R. Peebles was presented, but it was not designated by either "senior" or "junior."

The taxes complained of with the exception of that paid by J. A. Blakemore were all assessed prior to the date of the issue of the regulations, special, No. 16, under the eighth paragraph of which it is claimed the taxes were erroneous.

Bills for the relief of these parties were introduced in the Forty-fourth and Forty-sixth Congresses. A copy of one of these bills, namely, H. R. No. 4819, Forty-sixth Congress, was recently inclosed to this office by Hon. Mr. PEELLE, sub-committee of the Committee on Claims, House of Representatives, with a request for information.

That bill, I think, was more equitable than any for the relief of the same parties introduced in the present Congress.

I have this day forwarded to you Mr. PEELLE's letter with a full report on the bill inclosed by him.

Respectfully,

GREEN B. RAUM,
Commissioner.

Hon. CHARLES J. FOLGER, *Secretary of the Treasury.*

ELECTION CONTEST—LYNCH VS. CHALMERS.

Mr. CALKINS. I now call the regular order.

The SPEAKER. The regular order is the contested-election case of Lynch *vs.* Chalmers, from the sixth Congressional district of the State of Mississippi.

Mr. HOOKER. Mr. Speaker, it was not my purpose to address the House on this contested-election case, for the reason that as my own colleague from my own State was the party whose seat was contested I thought it better, upon consultation with him, to permit other gentlemen from other States, who would look upon this question of course from a different stand-point from that which I occupy to discuss the merits of the case so far as he was concerned. I had, therefore, understood that this discussion on this side of the House would be left to the honorable gentleman from Ohio, [Mr. ATHERTON,] the honorable gentleman from Kentucky, [Mr. CARLISLE,] the honorable gentleman from Tennessee, [Mr. HOUSE,] and others. I did not desire to speak upon this case because I thought it extremely natural that the House would listen with some degree of allowance and probably some degree of caution to what might be said by the immediate colleagues of the gentleman whose seat is contested.

But the case has assumed an attitude different from that which ordinary election cases assume. A wider range has been given to debate than simply the consideration of the question as to what is the true method of settling this case.

I am not altogether unfamiliar, though, with the facts and circumstances attending this election, inasmuch as I am often in the district of my friend, General Chalmers, am familiar with its people, the county in which he resides having once belonged to my own Congressional district, when I was first elected to Congress, and the little property in the form of real estate which I own lying in that county. I am therefore thrown much in communication with the people of that county, and am not altogether unfamiliar with the general aspect of the case as it appeared in that election.

The idea, however, has been advanced, in the speech which was made by the honorable gentleman from Tennessee [Mr. MOORE] a few days since, that inasmuch as there is a colored majority in that Congressional district and in the State of Mississippi, therefore the conclusion must be drawn that there was something illegal and improper in the conduct of that election.

Now, so far as the evidence in the record is concerned in reference to the proceedings in the county of Adams, and particularly to the proceedings at the precinct of Washington in that county, and at

the precinct known as Dead Man's Bend in that county, I am somewhat familiar with it, for the reason that when proceedings were instituted in the United States courts against the holders of the elections in those precincts there was embraced in the indictment a number of gentlemen who were my friends, and among them were also embraced some colored officers of election.

Finding those gentlemen thus indicted, I volunteered my services for their defense in the United States court. I attended the trial of the causes, spoke in one case in common with a number of lawyers who were employed in the other cases. And after we had tried three of these cases out of the fifteen or twenty alleging irregularities and frauds in the elections in that county of Adams; after we had tried three of these cases before a mixed jury composed of seven white men and five colored men, after three verdicts of not guilty had been rendered, I suggested to the court from my place as an attorney in court that I hoped the honorable attorney for the Government was satisfied that his information against these citizens was not properly founded, and that the judge of the court would direct to be entered a *nolle prosequi* in the remainder of the cases. The judge declined to adopt that suggestion, but said he would allow the same jury to take the papers in the other cases, and the result was that there was a verdict of not guilty in every single one of the cases. Now, the proceedings in this election constitute one of the grounds upon which the contestant alleges that there was an unfair election in the county of Adams

I now come to the county of Warren, where 219 votes were thrown out under our statute law—a law, by the bye, that did not originate in Mississippi, but was copied from the Ohio law; a law similar to that which prevails in the State of Maine and in many other States of the Union; a law that has undergone construction by the courts in all of the States where such a law prevails. A similar law was adopted in Mississippi, copied almost *in totidem verbis* from the Ohio law.

Mr. HAMMOND, of Georgia. Copied word for word.

Mr. HOOKER. As my friend from Georgia [Mr. HAMMOND] says, "word for word." This law was in force in Mississippi, and the unbroken current of authority with reference to a directory election law is that you are bound to construe it according to its plain import and terms; that, as with many of our revenue laws, the question of intention does not enter into the matter of its infraction, and a departure from it in any degree, however slight this departure, as all the authorities of all the courts in all the States have uniformly held, vitiates the ballot thus cast. The current of authorities is unbroken to this effect in every State where a similar law prevails.

The commissioners of election in the county of Warren, when they came to canvass the returns from the different precincts in that county, found these marked tickets in the box; they read the law; they looked to the adjudications of other States, and especially to the adjudication in the supreme court of Mississippi upon a similar election, and they felt constrained to cast out these votes.

Now, I wish to put it to every lawyer in the House whether it is not true that if the commissioners of election, acting under oath, as has been well said by the contestant, threw out these ballots, the *onus*, the burden of proof is upon the contestant to show that this action of the commissioners was in violation of law? Will the distinguished chairman of the Committee on Elections, my friend from Indiana, [Mr. CALKINS,] deny that proposition? I take it he will not; and if it is true, then the real question to be decided, the very *gravamen* of this case, the very point in issue is whether the record shows by proper proof that these commissioners acted in violation of law in throwing out these ballots. If it is claimed that they did not act in conformity with the law, the burden of proof is upon the contestant to show *aliunde* that they did not do so; and this proof, I assert, is nowhere to be found in the record. That, then, is the very point of this case.

Thus much for the general aspect of this contested-election case. But it was asserted by the gentleman from Tennessee, [Mr. MOORE,] in the speech which he delivered the other day, that the methods of election in Mississippi were unfair and unjust in every particular, and especially did I understand him to assert that they were so in the elections which have recently occurred in that State. At the opening of the gentleman's speech, when the honorable gentleman from Indiana [Mr. CALKINS] proposed an adjournment, the gentleman from Tennessee objected to it and announced the fact that he had "some interesting reading," thus disclosing that whatever he had to say had been well considered; that it smelt of the oil of the mid-night lamp and was a deliberate, calm utterance of opinion on his part.

He began by delivering a lecture to the honorable gentlemen on the other side of the Chamber—his own party—in which he said:

> Mr. Speaker, before proceeding to the discussion of this case, with all deference and respect for the older and wiser members of our party who think differently, I wish now and here to enter my solemn protest against the shilly-shally, pig-and-puppy policy of our managers, if we have any on this side of the House.

I do not know, sir, which to admire most in these opening remarks of the honorable member from Tennessee, the sublimity of the sentiment to which he gives utterance, or the elegance of the diction in which he chooses to couch it. How this saddle-bag sentence in regard to "shilly-shally, pig-and-puppy policy" is to be distributed I must leave to honorable gentlemen on the other side of the Chamber to whom the epithets were applied.

I have never believed in discussing any question by epithets; and however widely I might differ from my friends on the other side, and however fiercely I might contend against them upon political questions, I should hesitate long before characterizing their conduct in the terms by which it has pleased the taste and the good manners of the honorable member from Tennessee to characterize them. Not only does he start out by giving a lecture to his own party, but he seems to have considered himself a sort of teacher from a politico-business point of view to my own State of Mississippi and the South generally. Let us see how far he possesses that grand prerequisite which every great moral and political lecturer ought to possess before he undertakes to become a public teacher. Let us see how far he understands the question, how far he comprehends the real history and subject-matter upon which he assumes to constitute himself a lecturer before the country. He says, among other things:

> I confess that I am, and I think the country is, growing very impatient with the milksop policy of our Republican majority here, and unless we decide soon to first seat the men who have been fairly and honestly elected, and then go on vigorously in the prosecution of the important public business for which we were sent here, I do not hesitate to say that the country will not do what it ought to do if it fails to repudiate our party at the very next election. A word to the wise is sufficient.
>
> Mr. Speaker, what I may say to-day shall be spoken from a business stand-point, and is intended to reach the business ear of the country.

The gentleman's business interests, as he tells us in a subsequent portion of his speech, make him familiar with the people of Mississippi, particularly in the sixth Congressional district. He says further:

> Following up this idea on the opening day of Congress I said: "In the interests of justice, in the interests of common fairness, in the interests of good government and the civilization of the nineteenth century, I respectfully and solemnly protest in the name of the American people against the administration of the oath of office to the Hon. James R. Chalmers, of the sixth district of Mississippi, to a seat in the Forty-seventh Congress of the United States."
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> * * * * * * *
>
> Mr. Speaker, I desire to impress upon this House, and especially upon the people of Mississippi and the nation, that I can have no personal motive of opposition to the occupancy of the contested seat by the honorable gentleman now in it; and am moved solely by a sense of duty and responsibility to the interests of my Government, and my oath of office to faithfully try and serve it.

Farther along in his speech the gentleman gives us another expression of opinion upon the same subject. He says:

> I will not undertake to speak to-day of the methods known more particularly as "the Mississippi plan," by which the State of Mississippi now sends a solid Democratic delegation to the Congress of the United States, because a discussion of this subject always angers Democrats, and I desire to avoid that.
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> * * * * * * *
>
> It is within the bounds of my own personal knowledge that there are business men in Mississippi, native and to the manner born, who vote regularly with the Bourbon party while secretly despising it, and who are led to do so only because the proscriptive and intolerant spirit of that "rule-or-ruin" party will not recognize the right of opposition, and because also that party teaches its adherents to obstruct in every possible way business transactions with a Republican.

Does the honorable gentleman from Tennessee mean to say to the House of Representatives that the men who constitute his business clientage in Mississippi are afraid to vote the Republican ticket and express the sentiments of a Republican?

Mr. MOORE. Will you let me answer before this House that question?

Mr. HOOKER. Yes, answer the question, but do not make a speech.

Mr. MOORE. I will only answer the question. Ask me the question again, so there may be no misunderstanding about it.

Mr. HOOKER. You said, and I will use your own language, as follows:

> It is within the bounds of my own personal knowledge that there are business men in Mississippi, native and to the manner born, who vote regularly with the Bourbon party while secretly despising it, and who are led to do so only because the proscriptive and intolerant spirit of that "rule-or-ruin" party will not recognize the right of opposition.

Mr. MOORE. Now, Mr. Speaker, I wish to answer upon my personal responsibility as an honorable man, that a gentleman (and I think probably he knows him personally) who has for thirty or forty years been a merchant in Mississippi, told me during my campaign, looking all around to see if anybody was near who might hear him, said he: "Mr. Moore, I am a Republican in heart, but I cannot afford to say so living in Mississippi and selling goods. If I did, the people would not trade with me." I could mention that gentleman's name here, if I thought it was safe to do so. [Laughter on the Democratic side.]

Mr. MANNING. He was trying to buy goods and ingratiate himself with you.

Mr. HOOKER. I undertake to say the gentleman from Tennessee not only is guilty of a mistake, but that he utters a slander upon the bold, honorable, and noble constituency which he presumes to represent here in his mercantile capacity.

Mr. MOORE. That is a mere question of opinion.

Mr. HOOKER. I undertake to assert there is not a man in Mississippi with a white skin who has not the courage, whatever political party he may belong to, to express his sentiments, but in this particular the contestant in this case sets an example to the men whom the gentleman from Tennessee mentions, and which the gentleman from Tennessee would do well to imitate. [Applause.] For he has spoken everywhere in Mississippi during the recent contest unmolested, untouched, with his colored skin on him, wherever he wanted to.

Ay, sir, the convention assembled last year at the capitol of Mississippi. On the senate side the Greenback party assembled and held its convention, and on the side of the house of representatives the Republican party assembled and held its convention. At night they joined their forces together and nominated a sore-head, Democratic, independent man for governor. In that meeting of the Republican party the honorable contestant in this case made a speech which was reported in the papers, and which has never been denied or controverted, but which stands on the record unchallenged to this day.

I call the attention of the Greenback men in the House of Representatives to this declaration, and I also call the attention of the honorable gentleman from Tennessee to it. I say to him that if a colored man could thus speak in the capital of the State, and deliver his opinions in the presence of his party, I cannot understand why any white man in Mississippi should secretly whisper into the ear of the gentleman from Tennessee that he was afraid to vote the Republican ticket. [Applause on the Democratic side.] He said in the course of that convention, speaking to his Republican friends——

A MEMBER. What are you quoting from?

Mr. HOOKER. I am quoting from the speech of Mr. Lynch, the contestant, as reported at that time and never contradicted.

> At the present time I think it unwise in us—

That is for Republicans, for this was a sort of saddle-bags convention, the "Greenbackers" settling in one end, and the Republicans in the other end, of the State capitol, and at night they were both fused together—

> At the present time I think it unwise in us to nominate a full Republican State ticket, but let us take advantage of these disaffected elements for this election, and I will assure you, my Republican friends, that so sure as the sun rises in the east and sets in the west we will at the next election be able to regain for the grand old Republican party that which we lost in 1875 by systematized fraud, plunder, and murder on the part of the Democrats of the State.

Surely, sir, if a colored man could thus speak in the capitol of Mississippi, and brand the people of Mississippi as he did brand them, there could be no white man within the clientage of the honorable gentleman from Tennessee who would not dare to express his opinions. In another portion of this speech the honorable gentleman alludes to the present governor of Mississippi, in which he says:

> The newly-elected governor of Mississippi makes in his recent inaugural address a plaintive appeal for immigrants to come in and build up the waste places of that naturally rich State.

Now I undertake to assert that the convention which assembled at Jackson, Mississippi, and nominated the present executive of that State, Governor Lowry, was one of the most intelligent and able conventions that has assembled for the last twenty years in that State. Governor Lowry was nominated and he made a canvass of the entire State; his opponent, the candidate of the Republicans and Greenbackers, canvassed the State with him, and I assert that in the whole of that canvass not a single bitter word was spoken, not an unkindly expression used, but a fair canvass of the State was made, a fair, honest election was had, and no disturbance or ill-feeling whatever occurred, except an unfortunate difficulty at Marion, in Lauderdale County, where the negroes assaulted the white people, and where two were killed, and afterwards another was killed in the sheriff's posse when he went to arrest the ringleaders. With that single exception there was not a disturbance in the whole State, and I assert this as true, and I challenge contradiction or denial of the assertion, that in the election in which my colleague, Mr. Chalmers, was elected, in which I was elected, and in which my colleagues now upon this floor were elected, not a single disturbance occurred at any point, or at any voting place in Mississippi.

Now, further along in this speech, which I will quote from, it is said by the gentleman from Tennessee that the old-line Whigs of Mississippi and the old Douglas Democrats were afraid to express their opinion or to declare their sentiment, because of the apprehension which existed, as he alleges, amongst them of violence from the Democrats, and yet here I demonstrated that this contestant, a colored man himself, speaking in the capitol of the State of Mississippi, addressing the white people of the State, dared to say what I have quoted from his speech; and if he could say that—a colored man amongst that people—is it reasonable to believe the assertion that the white people of that State were afraid to express their sentiments? I will say further, Mr. Speaker, for Governor Lowry, that during the canvass in that State he devoted himself to discussing the question of developing the material industries and the resources of the State, and that he stands to-day the type of the noblest manhood of the State, elected by some twenty or thirty thousand majority as the executive of the State; and that, as I have shown, during the whole canvass there was nothing but the fairest, open freedom of discussion between himself and his opponents.

But further along in the speech of this gentleman from Tennessee he says:

> The almost universal Democratic regard which has been suddenly and unexpectedly developed for the late President of the Republicans is, if sincere, greatly to be commended; and it is gratifying to see distinguished Democrats on this floor now quoting approvingly from his speeches.

And he finds cause for gratification in the subject, and he quotes from one of Mr. Garfield's speeches in this House the following language:

> So long as we live we will stand by these black allies. We will stand by them until the sun of liberty, fixed in the firmament of our Constitution, shall shine with equal ray upon every man, black or white, throughout the Union. In this there is all the beneficence of eternal justice, and by this we will stand forever.

So said I, sir, long before Mr. Garfield uttered that sentiment. I stood in my place on this floor when the first Presidential message came to Congress, when I was elected by my people to a seat here, and when it was proposed to take the ballot from the colored man in 1880, eight years from this date. When that President's message came here and that proposition was submitted to take that ballot from every colored man who could not read and write at that time, I rose here in my place, as I did everywhere in Mississippi, and entered an earnest, honest, solemn protest against the adoption of such a measure depriving them of the ballot.

It is true that the wisest men of the Republican party, such men as the late Senator Morton, of Indiana, in his speech delivered in Richmond, in that State, advocated the idea that the colored people, then recently emancipated, before being clothed with the rights and responsibilities and duties of citizenship, should go on probation for ten or fifteen years before these responsibilities should be thrown upon their shoulders. But the majority of his party decided otherwise. The colored people were invested with the ballot. They exercised it for some years. They began to understand the use of the ballot. They began to realize that the ballot meant self-protection, self-protection in common with the white people of the same country and equal protection with them. And I entered my solemn protest against the message of the President desiring to rob them of that protection.

I stood up as Mr. Garfield stood up in their behalf and protested against such a wrong; but I had not expected or apprehended that any Southern man with a white skin upon him would have made the innuendo which has been thrown out that the wreath of sorrow which enshrouded the whole country, North, South, East, and West was insincere in the breast of one single citizen of this country. When that great pall fell upon the nation a sorrow which reached from his own immediate family circle, bound to him by ties of blood and kindred, to the remotest States of the Union and the humblest citizen of the land, and everywhere a regret, a deep, profound, intense, all-absorbing regret for the damning act of his taking off was expressed, I assert, in contradiction of the innuendo of the gentleman from Tennessee, that nowhere through this land more earnestly and thoroughly was that sentiment entertained than in the Southern country.

This is the first insinuation that has ever been made by any man claiming to be an American citizen that the country was not sincere and honest in its expression of its regret for the death of the late President.

Again, sir, the gentleman from Tennessee, in the further progress of his remarks, violating a parliamentary rule upon the subject, I will not say violating good taste, in reference to a gentleman who was not present and could not reply to him, uses this expression:

> But permit me just here, Mr. Speaker, to express the opinion that in spite of all this the "Mississippi plan" has at length substantially run its course; and that this House has seen the last solid Bourbon delegation from that State that will ever be witnessed upon this floor. The better people, even of their own party, are becoming heartily disgusted and nauseated with these disgraceful doings; and evidences are daily accumulating of their earnest dissatisfaction with the home situation.

Further along he alludes to a distinguished Senator representing my State in the other end of the Capitol, Senator GEORGE, and says that Senator GEORGE was the author of what he calls the "Mississippi plan." Senator GEORGE is not here to speak for himself, but I am here to speak for him, and I intend to speak for him, and I say that a more lofty, a more noble, a more conservative-minded man does not hold his seat in the other end of the Capitol. He was the chairman of the State executive committee in 1875 and 1876 when we effected a revolution and achieved our freedom in Mississippi from carpet-bag rule and authority.

And I state here now, Mr. Speaker, in contravention of what has been said by the gentleman from Tennessee, that when the Department of Justice sent Hon. Mr. Chase, of Massachusetts, to Mississippi, General GEORGE was in daily conference with that gentleman, that he was in daily conference with the then carpet-bagger governor of Mississippi, and used every exertion that human foresight and human power could call into play in order to avoid that terrible and imminently threatening race conflict that was likely to occur any day. And the dispatches he sent were overhauled by the committee of investigation afterward, and found to show what I have asserted, that no man in Mississippi exercised more influence and exercised more control in that direction or in a more conservative spirit than General GEORGE.

What, then, was the condition of affairs existing at that time? The gentleman talks about the Mississippi plan and about there being no longer a solid Bourbon delegation from Mississippi. Does he want to go back to the reign of carpet-bag power in Mississippi, and would he like to import it into Tennessee, bring again the carpet-baggers and scalawags into power in his own State and in Mississippi, and restore the condition of government that existed in Mississippi from

1865 to 1875? What was that condition of government? Sir, the country has not been left at a loss to know what it was. I will not give my own assertion, but I will give the evidence of one of the leading men of the Republican party as to what was the condition of affairs in Mississippi in those days. I will give the testimony of a man who was afterward in the Cabinet of President Hayes, who held high position there. In order to show the condition of affairs in Mississippi, and to show who was responsible for that condition of affairs, I will send to the Clerk's desk and ask to have read an extract from Mr. Schurz's speech in 1872, showing the then condition of the South. I ask the Clerk to read, commencing with that which is attached to the paper, an extract from a speech made by Mr. Schurz at Buffalo, New York, October 25, 1872.

The Clerk read as follows:

A blight has fallen over the South. It was not so much the war which was the cause of it as it is the shameful corruption which pervades the State governments. Fraud, plunder, shameless robbery—these are the characteristics of the Southern State governments. And who is responsible for it? Was it not Grant's administration to which all these plunderers clung for support? But how could these thieves keep themselves in power? Their most powerful aid was the Federal Government, and their next powerful aid they sought in the ignorant negro vote.

THE THIEVES AND THE NEGROES.

The thieves control these negroes, and it was under their influence that they have been arrayed against the whites. The blacks and the whites stand face to face as enemies, for the negroes are under the influence of the most villainous scoundrels that were ever allowed to disgrace a great and noble country.

The productive labor seems almost exhausted, the very foundations of society are undermined, the States are almost bankrupt. The Republican party is responsible for the present condition of the South. I have been fifteen years a steadfast, faithful worker in the ranks of the Republican party. I would be the last man to reproach the Republican party, with which my highest hopes have ever been identified. But this is a question of conscience.

Mr. HOOKER. The Clerk will please send the paper back and I will read the rest of it myself. It will be seen that that was the condition of affairs in Mississippi in 1872. Further along in the course of another speech made in the same year, in 1872, still further describing the condition of affairs in the South, and fixing the responsibility where he thought it belonged, Mr. Schurz says:

And thus it is—

This was a speech made at Syracuse, New York, in 1872, when the carpet-baggers and scalawags held Mississippi uncontrolled; when that beautiful condition of things existed which the gentleman from Tennessee would be delighted to see return, in order that there might not be what he calls a solid Bourbon delegation from Mississippi.

And thus it is—

Says Mr. Schurz—

that the great name, the great authority of the Republican party in its national capacity is being used this very moment to uphold the most atrocious system of government which this country ever saw. A party which cannot live and prosper unless it be supported by a revival of the old war feeling, and by tearing open again the wounds from which the people of the United States have bled so long, such a party when it has come to that does not deserve to live.

Another extract from a speech by the same gentleman made at Saint Louis, Missouri, sustains the same point:

CAN THE DEMOCRATIC PARTY BE TRUSTED?

Honest Republicans, are you still troubled by doubt? Do you still ask, "Will it be safe to trust them?" A journal of this city addressed the question to me, how the colored people of the South would be protected by legislation in consequence of this movement if the majority in Congress should change? I will answer. We had the same movement in this State; the majority in the Legislature did change; and how were the colored people of Missouri then protected by legislation? No legislation was needed to protect them. They were amply protected by the spirit of the people as it is issued from that movement. I remember the predictions that were made then to frighten us, that the "red-handed rebel" would rise up again in bloody ferocity and make it impossible for Union men and colored people to live in some parts of this State. Well, the people of Missouri were not frightened; they did trust, they "clasped hands over the bloody chasm" in 1870. Their trust was not in vain. The rebels were enfranchised. *They became not only voters, but good citizens again; the rights even of the lowest among us were more secure and sacred than ever, and we have lived as friends and brothers since.* Here it is history. Let the American people profit by the lesson.

I add the following extract from a speech by Mr. Schurz:

MILITARY RULE.

Let us look at the political developments of this country. We have become careless about the institutions of our country. You who have studied history know that in times of extraordinary urgency, in times of war, &c., we allow the Government extraordinary prerogatives which we would not allow the Government in ordinary times. You remember the Romans acted on this principle. When the enemy was before the gates of Rome they invested a consul as a dictator with supreme power. We did the same in the last war. The Government had extraordinary powers. Well, it saved the Republic. That was the chief end, and we all admit that it was accomplished. But during these times of war a bad habit is apt to spring up; the Government is apt to assume greater powers than it was invested with, and the people are apt to accustom themselves to the usurpation. When the war is over the Government ought to surrender these extraordinary prerogatives, which, though they may save the Republic in times of war, may destroy its liberty in times of peace. But what have we seen in this country? Military rule has been prolonged, and the country seems to be under the iron grasp of an all powerful and arbitrary ruler; and to restore the Constitution it may take the blood of thousands of people.

Now, it was against this order of things that the people of Mississippi felt it incumbent upon them to rise in 1875 and assert the right of self-government. The gentleman speaks of the Mississippi plan. Does he mean by that fraud, force, violence, and intimidation? If he does he might go back a little further in the history of parties and the country. From 1865, at the termination of the war, to 1875 the Republican party held the colored vote of the South in a grasp of iron. They ran them up to the polls like sheep in the shambles and voted them, and so long as they obeyed their behests and voted their ticket it was all very well. But when the colored man began to think for himself, speak for himself, act for himself, and vote for himself, you say, "Oh, this is a great outrage perpetrated on the colored man."

I assert, sir, on my honor as a Representative, that I have stood in the capital of my State, in the county of Hinds, for ten long years, and have seen the serried columns of the black voters, led by the "white scoundrels"—as Mr. Schurz terms them—who commanded them, march up to the polls, every man with a rifle or a shot-gun on his shoulder or a revolver buckled at his waist; for ten long years I have seen them march thus in the capital of my State to the sound of drum and fife, and everywhere else throughout the State. For ten years this was done. They talk about our people exhibiting impatience. Why, sir, you would not have allowed such a state of affairs to exist in the State of Massachusetts for two weeks. And as long as the colored men could be compacted together and voted for the Republican party we never heard any opposition to it. But now that they are beginning to be instructed, now that they are beginning to better their condition, now that they are beginning to acquire property, now that they are beginning to exercise the real rights of citizenship, you propose that they shall be deprived of the ballot; now you propose to say that because they exercise the right of suffrage according to their own judgment you will object to it.

Why, sir, these people are becoming now somewhat instructed as to their rights. Within five miles of my own plantation in the State of Mississippi there lives a colored man who is the owner of six hundred and forty acres of land, all paid for, and who has money in the bank. He is a Republican and votes the Republican ticket whenever he chooses. Many others of them are acquiring property in a greater or less degree.

I say here, in the presence of this House of Representatives, that when the charge is made that the colored man meets injustice, wrong, and outrage at the hands of the Southern people, he never finds anything like the outrage and injustice which he received at the hands of the carpet-bagger and the scalawag.

And when the gentleman quoted from a Southern newspaper a warning to the colored people as to the danger of a riot, I ask you why that warning was given? It was because they held in full remembrance the fact that in 1874, when the colored people were induced by the carpet-baggers and the scalawags, who always fled when danger came—when they were induced to march upon the city of Vicksburgh and assert what they considered to be the rights of the colored sheriff of that county, they were met and resisted and many lives were lost on both sides.

They remembered the terrible riot that occurred at Clinton, a year afterward, when three young men of that county were disemboweled, one of them in the presence of his family, by the enraged mob. They remembered that everywhere in Mississippi had been witnessed scenes of violence, bloodshed, and plunder during the whole carpet-bag rule of ten years.

And they know now that from 1875 down to the present time, with the exception of the single instance to which I have referred, at the voting precinct of Marion, in Lauderdale County, there has been peace and quiet, order and law-abiding citizenship, and the colored man has been entitled to full protection and representation everywhere.

It was said by the nominee of the Republican party for governor of the State of Mississippi, the man who was nominated by the Republicans and nominated by the Greenbackers, that they intended to have their rights; and if they could not get them under the "Campbell code," which was the last code of laws adopted in the State of Mississippi, they would have them under the "five-barrel code" of the revolver. That is the only sentiment of that sort that was ever uttered in that canvass, and it came from the candidate of the Republican party for governor.

Mr. MONEY. In his speech of acceptance after the nomination?

Mr. HOOKER. Yes; as my colleague reminds me, it was said by the candidate of the Republican party in his speech of acceptance after his nomination.

The gentleman from Tennessee [Mr. MOORE] further along in his speech was pleased to allude, in violation of parliamentary usage and propriety, to my absent friend, the distinguished Senator from Mississippi, [Mr. LAMAR.] And he expressed the hope, his hope, that that distinguished Senator would be as conservative in the term for which he has just been re-elected by the Legislature of the State of Mississippi as he had been in the past, [Mr. MOORE rose,] or "words to that effect." I will quote you *in totidem verbis* from your own speech. That is the purport of what you said.

I can only say to the gentleman that he need not give himself any concern about that distinguished Senator. He is amply able to take care of himself, to be responsible, not to the politico-mercantile gentleman from the city of Memphis, but to the people of his own State, to the people of the South, and to the people of the whole Union

And just here, by the bye, I may remark as illustrative of the falsity of the position of the gentleman from Tennessee, that it is a remarkable fact, written in a letter by a colored man who is as black as his own coat, a member of the Legislature of the State of Mississippi, elected from the county of Hinds, in which I reside, when Mr. LAMAR was a candidate for the United States Senatorship, although there was a regular nominee of the Republican party, that colored man voted for Mr. LAMAR. He wrote a letter afterward, saying:

I desire to say that I have done this because the people of this county have elected me to the Legislature of the State to represent my colored friends in this county in that Legislature, and I feel it due to the conservative character of Mr. LAMAR, his ability, his statesmanship, his widespread reputation, that he be returned to the United States Senate.

And I will say that Mr. LAMAR now comes back to the United States Senate with the vote of a colored man elected from Hinds County to the Legislature of the State of Mississippi.

So much, therefore, for this assertion that the colored men are necessarily to be voted by and attached to the Republican party. Further on the gentleman says that Mississippi was opposed to the education of the colored people. Now, the condition of the colored people in the South is not very well understood, and I think the gentleman from Tennessee does not very well understand it. There is in the South a condition of affairs with reference to the instruction of the colored people which I undertake to say does not exist in any States of the Union save those of the South. In many States of the North the colored people enjoy for educational purposes only that proportion of the educational fund which they themselves pay out of their own property for school purposes. But in every one of the Southern States the taxes raised for educational purposes are expended in proportion to the number of educable children, without reference to color.

Mr. MOORE. Will the gentleman quote me correctly?

Mr. HOOKER. I will; I will put in the RECORD the extract from your speech. And I will remind you in this connection that you stand a monumental contradiction of your own statement; for, if I understand rightly, you have been an outspoken Republican for twenty years—ever since the Republican party was formed—unless you had some slight predilection to secession in the early part of the war. I do not know how that was. Did you? [Mr. MOORE made a gesture of dissent.] You did not. Very well; then you stand as a monument in contradiction to your own position.

Mr. MOORE. If you will allow me to answer—if I am not disturbing you——

Mr. HOOKER. I simply said I understood you had a proclivity toward secession. Is that so? You can answer yes or no.

Mr. MOORE. I will answer if you will let me.

Mr. HOOKER. At all events the gentleman is a Republican now, and has been a Republican for some time—an open one, I take it.

Mr. MOORE. I voted for Lincoln, and have always since been a Republican, and voted nothing but the Republican ticket. Casey Young said I was "the meanest Radical in America."

Mr. HOOKER. And yet, sir, "mean" as you are, and "mean" as Casey Young said you were, you owe the very food which keeps body and soul together, according to your own confession, to these very people in Mississippi whom you traduce.

Mr. MOORE. I traduce nobody.

Mr. HOOKER. You are a monument of the fact that they do not avoid a business man simply because he is a Republican. You say that people in Mississippi are afraid to say they vote the Republican ticket—afraid to talk in favor of Republicanism; yet they come all the way from Mississippi to the city of Memphis to deal with the most absolute, outspoken Republican in the State.

Now, I go back to the question of education; and I am not to be driven from the consideration of this question in its serious aspects. I assert here now that the best friend of the colored man on the continent of America—I care not from what State he comes—is the white man who was brought up in boyhood with the colored man. The colored people were born slaves without any fault of theirs, as we were born masters without any fault of ours. The war terminated that relation and made them citizens. We were all left in the same boat.

If we made a cheap government and a good government for the white man, were we not bound to make a cheap government and good government for the colored man? Does not the colored man now sit upon the jury? Is he not now a voter? Does he not now hold his property under the same laws as we hold ours. More than that, the extraordinary spectacle is presented to the civilized world of a people already rehabilitated and restored to their relations to the Federal Government, owning almost all the real and the larger portion of the personal taxable property, coming forward and voluntarily agreeing that this property shall all be taxed in common for the education of the children of the country without reference to color. I quote from the census tables to show the existence of this fact in various portions of the Southern States. In Virginia, for instance, there are 4,864 public schools, with a gain of 15,000 in attendance since last year. Virginia has a school population of 314,827 white and 240,980 colored. The value of her school property is $1,177,544. Her receipts from school taxes last year were $596,615. In North Carolina the schools cost last year $362,882, and there were instructed 136,481 white pupils and 89,125 colored pupils. Georgia, with a school population of 433,144, expended $471,000 for educational purposes. Alabama spent $367,093.59, and instructed 107,000 white children and 72,000 colored. Mississippi—much-abused Mississippi, which, as the gentleman said in the conclusion of his speech, is opposed to education, the State which he seems to have taken under his special charge to represent—spent $576,513.61 for the instruction of 112,894 white and 123,710 colored children, showing a majority of colored people of nearly 20,000 educated by the taxes levied upon the people of Mississippi.

Mr. MOORE. The gentleman does not quote me correctly.

Mr. HOOKER. Let us see what you do say. You are speaking of the Democratic party, to which you want to pay especial attention; and you think Mississippi very Democratic—do you not?—you think it Bourbon.

They opposed the nationality of the country——

Mr. MOORE. That is, the Democratic party did.

Mr. HOOKER, (reading:)

They opposed the emancipation of the slaves; they opposed each and all the amendments to the Constitution; they opposed the suppression of the Ku Klux Klan; they opposed first the casting and then the counting of honest, legal votes; they opposed the suppression of polygamy and polygamists; they opposed first the substitution of the present wise for the pernicious old "wild-cat" system of money; and they are now opposing, with whatever bull-headed blindness and stolidity they can combine, all efforts to continue the wholesome existing system of national banking in the hope of reinstating the old and repudiated State-bank system, which rendered it necessary for every man to travel constantly with a counterfeit detector in his pocket. They opposed a national system of education for the ignorant, fearing that thereby the poor negroes might receive a passing proportional benefit.

Mr. MOORE. I spoke of the Democratic party.

Mr. MANNING. If it will not interrupt my colleague, [Mr. HOOKER,] I desire to suggest to him, in connection with the educational system of Mississippi, the fact that there are to-day about twenty-five hundred colored men and women teaching colored schools, appointed by Democratic superintendents of public education; and not $20,000 is realized from the taxable property of all the negroes of the entire State to keep up that system which it costs us annually over half a million dollars to maintain.

Mr. HOOKER. I thank my friend for the suggestion.

Mr. HORR. Right here, if the gentleman permits, I wish to ask for information, because I know his sincerity in this matter. Is it true that you treat Northern girls that go down there to teach Southern schools in a manner that renders it impossible for them to enjoy the society of the white people and remain among you?

Mr. HOOKER. No, sir.

Mr. HORR. Before you answer let me say this: a young lady I know well went to one of the villages in your State, and stated to me your native white people absolutely drove her from the State by the manner in which they treated her, and simply because she was a white woman teaching colored children. Is there anything of that kind down there?

Mr. HOOKER. No, sir.

Mr. SINGLETON, of Mississippi. Name the place.

Mr. HOOKER. I will answer by saying what I know. A young lady, whose residence is only two miles from my plantation in Mississippi, who was born and bred in Mississippi, reared in that State, upon Mississippi soil, taught a negro school and did not think she was degraded by it. They can go there and teach whatever sort of school they want to.

Mr. HORR. That does not answer my question. This girl was from the North, and she was a carpet-bagger. Was there anything of that kind?

Mr. HOOKER. I say no.

Mr. HORR. That is all right.

Mr. HOOKER. Allow me to say in answer to what the gentleman from Michigan has intimated and suggested by his inquiry, that the history of the South shows that is not so, and for good reasons. Before the war the most prominent men in my State were men who migrated from the North. Let me enumerate the men who came from that region. Since that time we have been desirous to encourage migration. White people are welcomed everywhere. They come to our country without a question about their politics. Before the war we evidenced how we esteemed our Northern brethren. Such men as Quitman, the gallant governor of that State and the chancellor of the supreme court, came from the Knickerbocker region of New York; such men as Montgomery and Boyd, the most distinguished lawyers we ever had in Mississippi, who lived and died in Natchez, came from the North; Prentiss himself came from the far-off town of Portland, in Maine, and commenced his career in Mississippi as a school-teacher. No man received higher honors or distinction from the time when he first went there than Mr. Prentiss. And so it has been. Almost all the men of distinction in Mississippi came from the North. Robert J. Walker and John D. Freeman and a host of others were Northern men. They came from the North, sir——

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. HOOKER. I ask that it be extended for a few minutes, so I may complete what I have to say.

Mr. CALKINS. I do not wish to interfere with the arrangement made to-day by the gentleman from Ohio [Mr. ATHERTON] and the

House. With that gentleman's consent I should like to have the time of the gentleman from Mississippi extended.

Mr. MOORE. I hope the gentleman will be permitted to go on.

Mr. MANNING. What arrangement does the gentleman refer to.

Mr. CALKINS. The consent given to close debate to-night.

Mr. HOOKER. I ask that my time be extended fifteen minutes.

The SPEAKER *pro tempore*. The Chair hears no objection, and the gentleman's time is extended.

Mr. UPDEGRAFF, of Ohio. Will the gentleman from Mississippi yield to me?

Mr. HOOKER. Yes, sir.

Mr. UPDEGRAFF, of Ohio. I wish to ask my distinguished friend a question. Allow me to read five or six lines from the authorized Democratic platform of Mississippi in 1877, and ask whether it is correctly reported.

Mr. HOOKER. I cannot give way for any reading, but I will for a question.

Mr. UPDEGRAFF, of Ohio. I will ask a question, then.

Mr. HOOKER. I have only fifteen minutes.

Mr. UPDEGRAFF, of Ohio. Just half a minute.

Mr. HOOKER. I object to the gentleman reading anything. He can ask me a question.

Mr. UPDEGRAFF, of Ohio. Is it a fact in 1877 the Democratic platform of Mississippi declared that all independent office-seekers are inspired simply by a lust for office, and are to be regarded and treated in Mississippi as common enemies of the welfare of the people?

Mr. HOOKER. I think it is likely we had something of that sort in the platform. I have not read it recently. You had an independent candidate, "a Greenbacker" and of every possible variety of hue and color.

Mr. UPDEGRAFF, of Ohio. And you treated them as public enemies.

Mr. HOOKER. They have not hung any of them that I have ever heard of.

Now, let me proceed. I show by this table from the Census Bureau that we educated more colored children by taxation of our property than white children. Here it is:

THE PUBLIC SCHOOLS OF THE SOUTH.

Virginia has now 4,864 public schools, and has gained 15,000 in attendance since last year. She has a school population of 314,827 white and 240,980 colored, and the value of her school property is $1,177,544.86. Her receipts from school taxes this year were $596,515.95. The North Carolina schools cost $352,882.65 last year, and instructed 136,481 white pupils and 89,125 colored ones. Georgia, with a school population of 433,444, expended $471,039.46. Alabama spent $307,093.59, and instructed 107,483 white and 72,007 colored children. Mississippi paid $576,503.61 for the instruction of her 112,894 white and 123,710 colored pupils. Louisiana spent $235,000 upon her school population, one-third colored, 226,709. West Virginia has a school revenue of $620,126.46 and a school attendance of 142,850, out of a school population of 213,441.

But now the gentleman from Tennessee wants no longer to have a Democratic representation from Mississippi. He wants to restore the Republican *régime*, to secure a carpet-bag representation, a scallawag representation from that State. And, Mr. Speaker, in this connection, let me give you a short history of the affairs in that State under the carpet-bag rule during the last five years of its existence there and a corresponding period under the Democratic rule. I read from a certified return by the auditor of public accounts. He shows that the total expenditures during the five years prior to 1876, the total expenditures, were $8,501,437.86, the average annual expenditure being $1,484,699.55. That was under the Republican, or carpet-bag rule. Now the total disbursements by auditor's warrants for the year 1876 under the Democratic rule was only $518,709.03 for that year, or a total within five years of $3,279,268.47 against an average annual expenditure of $1,484,699.55 expended under the Republican rule. The average expenditure under Radical rule for each of the five years prior to 1876 was $1,484,000, and the annual expenditures for the five years succeeding under the Democratic rule, for they came in in 1876, was only $655,853.69. I will print this table with my remarks in order to show that in changing the government the Radical government that Secretary Schurz denounced as the most corrupt that ever existed in the whole world, that we have lessened our State expenditures more than one-half; and in a period of five years have saved to the taxpayers of that State over $5,000,000.

This table is as follows:

FACTS AND FIGURES FOR THE PEOPLE.

ROOMS DEMOCRATIC CONFERENCE EXECUTIVE COMMITTEE,
Jackson, September 28, 1881.

The Democratic Conservative party promised the people of Mississippi to reform the abuses of corruption, extravagance, and heavy taxation that were the prominent features of Republican rule in this State.

The following statistics demonstrate the manner in which these promises have been fulfilled:

REPUBLICAN RULE.

Total disbursements by auditor's warrants for the fiscal year 1870. (See appendix, p. 273.) H. J., 1871, auditor's report	$1,007,249 90
Amount disbursed between January 6, 1870, and March 11, 1870, (appendix, p. 120,) H. J. 1870, $72,195.84, also amount disbursed from January 1 to January 6, 1870, inclusive, $13,598.41—making a total disbursed January 1 to March 11, 1870	85,794 25
Which last amount deducted from total disbursement for 1870, and find disbursements of March 11, to December 31, 1870, inclusive	975,455 65
Disbursements fiscal year 1871, appendix, p. 63, H. J. 1872	1,729,046 34
Disbursements fiscal year 1872, appendix, p. 44, H. J. 1873	1,596,828 64
Disbursements fiscal year 1873, appendix, p. 196, H. J. 1874	1,450,632 80
Disbursements fiscal year 1874, auditor's printed report, p. 16	1,319,281 60
Disbursements fiscal year 1875, auditor's printed report, p. 2	1,430,192 83
Total auditor's disbursements by warrant from March 11, 1870, to December 31, 1875, inclusive	8,501,437 86
Average annual disbursements by auditor's warrants for this time, five years, nine and two-third months	1,484,699 55

DEMOCRATIC RULE.

Total disbursements by auditor's warrants for fiscal year 1876, auditor's report, page 2	518,709 03
For fiscal year 1877, auditor's report, page 12	697,018 86
For fiscal year 1878, auditor's report, page 7	707,022 46
For fiscal year 1879, auditor's report, page 57	553,326 81
For fiscal year 1880, auditor's report for 1880	803,191 31
Total auditor's disbursements for this period of five years from 1876 to 1880, inclusive	3,279,268 47
Average annual disbursements by auditor's warrants for these years.	655,853 69

THE CONTRAST.

Annual average cost of Radical rule	1,484,699 55
Annual average cost of Democratic rule	655,853 69
Difference per year in favor of Democratic administration	828,845 86

STATE DEBT.

The State debt on January 1, 1876, excluding common-school fund and Chickasaw school fund debts, and after crediting it with $424,388.21 cash in the treasury (treasurer's report for 1875, page 21) was	$1,047,409 04
On January 1, 1881, said debt, credited with $880,446.38 cash in the treasury, was	209,707 59

PUBLIC PRINTING.

The cost of public printing during Radical rule was thus shown by records of auditor's office:

In 1870	$53,505 32
In 1871	120,785 20
In 1872	69,791 82
In 1873	74,702 05
In 1874	75,238 36
In 1875	50,803 02
Total	444,825 75

The cost of public printing during Democratic rule—thus shown by records in the auditor's office:

In 1876	$22,295 00
In 1877	18,439 85
In 1878	16,929 67
In 1879	8,149 40
In 1880	15,000 20
In 1881, appropriation	7,000 00
Total	87,814 12
The average annual cost of public printing during Radical rule was	74,137 62
And the average annual cost during Democratic administration was	14,635 69
Showing a difference in annual average cost in favor of Democratic administration of	59,501 93

LEGISLATIVE AND JUDICIARY EXPENSES.

In 1873 the expenses of the Legislature (auditor's report, 1873, page 196) was	153,425 29
In 1880 the expenses of this department were (auditor's warrants) reduced to	60,462 75
The judiciary expenses to the State in 1875 were	230,025 98
In 1880 the disbursements on account of the judiciary to the State were reduced to	78,165 40

The judiciary expense to the State in 1874 was more than $300,000; and 1875 is contrasted with 1880, because in 1875 a portion of the judiciary expenses were placed on the counties, as is substantially the case at present. Biennial sessions of the Legislature make the $60,462.75 the cost for two years.

TAXATION.

During Republican rule the taxes levied by the State and the various counties were onerous to the verge of confiscation.

In 1874 the State tax levied on property was 14 mills on the dollar. Of this, 4 mills were for schools, but none the less a State tax levied by the State government.

School tax, 4 mills, acts 1873, page 10.
General State tax, 6¼ mills, acts 1874, page 46.
Bond tax, 1½ mills, act March 28, 1874, section 8, pages 9 and 10.
Bond tax, 1 mill, code 1871, section 1663.
Bond tax, ¾ mill, act March 28, 1874, page 9, section 6.
Total State tax, 1874, 14 mills.

In 1875, the State tax was reduced to 9½ mills, of which 2 mills were for schools but none the less a tax levied by the State.

The State tax for 1875 was composed as follows:
General State tax, 4 mills, act March 1, 1875, sec. 6.
Bond tax, ¾ mill, act March 28, 1874, sec. 6, p. 9.
Bond tax, 1½ mills, act March 28, 1874, sec. 8, p. 9 and 10.
Bond tax, 1 mill, code 1871, sec. 1663.
State school tax, 2 mills, chapter 16, sec. 8, p. 43, Acts 1875.
Total State tax, 9½ mills.

The reduction from 14 to 9½ mills in 1875 was accomplished mainly by shifting certain judiciary expenses from the State to the counties. (Act March 3, 1875, sec. 6.) But the issue of auditor's warrants for 1875, was greater than in 1874.

From this 9½ mill tax, the Democratic Legislature reduced the State tax in 1880 to 3 mills.

And this enormous reduction to less than one-third the former levy has been accomplished without any injury to the public service and without impairing the usefulness of the educational and charitable institutions of the State.

It is said by some of the opponents of the Democratic party that though the State tax has been reduced, county taxes have increased and that State and county taxes combined are as high as under Republican rule. This is not the case.

The following table, prepared from official records in the auditor's office, shows the truth. This table shows the amount of taxes, State and county, levied in 1874

and 1880, the total of county tax being made up from the average tax levied by the counties, each year being averaged on the same principle:

FOR THE YEAR 1874.

Total amount State tax on property in 1874	$1,568,357 52
Total amount State teachers tax in 1874	627,342 98
	2,195,700 50
Total amount poll-tax	150,783 00
Aggregate county tax in 1874	2,101,598 30
Total tax levied in 1874	4,448,081 80

FOR THE YEAR 1880.

Total amount State tax on property in 1880	345,391 95
Aggregate county tax in 1880	1,474,823 36
Total amount poll-tax in 1880	176,177 00
Total tax levied in 1880	1,996,392 31

Many counties were burdened with debts under Radical rule, which had to be paid by taxation oth erwise there would have been a greater reduction of taxes.

A table of counties showing the per cent. of county levies, published by the Republican and Greenback committees, does *not* show an increase of taxation. Though the *per cent.* on the State tax is *increased*, yet the *decrease* of the latter makes the county tax less in 1880.

Thus, in Adams County, the State tax was 10 mills, with 4 mills for State school tax; the per cent. on State tax, say 10 mills, levied for the county, was 177. The State tax in 1880 was 3 mills and the county levy 633⅓ per cent. Thus, in 1874 the State and county tax in Adams was on $1,000 of property, $31.70. While in 1880, State and county tax on $1,000 was $22.

In order to present an illustration of the contrast, attention is called to the county of *Hinds*, the county levy being in fact made on 14 mill State tax.

In 1874 the State and county taxes levied in Hinds was $224,731.27. In 1880 the State and county taxes levied in Hinds County was $73,869.71, the reduction being $150,861.56.

And in this tax for 1880 was included $4,929.61 on account of N. J. & C. R. R. bond debt.

In an appendix will be seen a table of counties showing the actual total of State and county taxes for the year 1874 and 1880, compiled by Mr. C. F. Hemmingway from the records in the auditor's office and certified to by the auditor.

FORFEITED LANDS.

The distress inflicted upon taxpayers and the destruction of property interests were conspicuously disclosed by the wholesale condemnation of lands in the State.

In 1876, when the Democratic party came into power, the lands forfeited for taxes to the State amounted to 6,000,000 of acres.

This being equal to one-fifth of the entire area of the State of Mississippi.

At the present time, from estimates furnished by the auditor's office, the amount of these forfeited lands has been reduced to 3,000,000 of acres, and is being further rapidly diminished by sales and redemptions.

It is said by some of the opponents of the Democratic party that values have decreased, as shown by the assessments of 1874 or 1875 and 1879.

If there has been an actual decrease of values, it is only another argument in favor of Democratic administration, as notwithstanding that fact, the *rate* of taxation has been reduced.

There has not been during Democratic rule in this State anything to indicate that capital or property fears a Democratic administration, or that they have not had ample protection.

It is a fact that foreign capital is being invested in this State in lands and railroad enterprises. And it is very certain that this will not be *checked* by a continuation of Democratic administration.

THE PUBLIC SCHOOLS.

The year 1872 is selected as the year of largest attendance at the public schools during Radical rule. The records show for that year the average number of children in attendance to have been 125,000, and the expenditure for that year was $1,136,987.95.

In 1880 the average daily attendance of children at the public schools was 156,764. The expenditure for 1880 was $830,704.79. And proof that the colored children are getting a full share of the benefit of the public schools is found in the fact that of the 156,761, only 72,881 are white.

The number of teachers employed in 1872 was 4,800, and in 1880 this number was increased to 5,509; and of this number 2,314 are colored.

To further show the contrast between the former and present cost, the expenses of the office of State superintendent of education in 1872 were $6,523.31, and in 1880 was only $3,044.02. The salaries of county superintendents of education in 1872 were $47,741, and in 1880 were only $11,765.

These figures fairly show that greater educational benefits are provided and actually reach a larger number of children than under Radical rule, and at a greatly reduced cost.

This record deserves the approval of all fair minded people in the State, regardless of party affiliations.

It shows clearly some of the reasons why the Radical party was driven from power in 1875; and it demonstrates as forcibly why the administration of public affairs should not be taken from the hands of the Democratic-Conservative party.

FRANK JOHNSTON,
Ch'n State Dem. Con. Ex. Com.
MARION SMITH,
D. P. PORTER,
Secretaries.

The statistics in the above circular showing the expenses of the State government and the tax levies, are true and correct as shown by the official records of the auditor's office. And the statement showing "average" county taxes for 1874 and 1880 is a fair statement of said average.

J. M. BUCKLEY,
Deputy Auditor.

SEPTEMBER 19, 1881.

I certify from the official collector's rolls in tax collector's office that the State and county taxes (not including polls) levied in Hinds County for 1874 were $224,731.27, and same in 1880, were $73,869.71.

L. F. CHILES.
Deputy Sheriff and Tax Collector, Hinds County.

SEPTEMBER 24, 1881.

I certify that the statement in regard to the amount of forfeited lands in 1876, and the estimated amount at present held for sale or redemption is true and correct, as shown by the land records in auditor's office.

S. GWIN, *Auditor.*

SEPTEMBER 26, 1881.

STATE AND COUNTY TAX.

	1874.	1880.
Adams	$31 75	$22 00
Alcorn	23 00	18 00
Amite	25 00	16 00
Attala	25 00	16 00
Benton	32 50	14 00
Bolivar	30 00	18 00
Calhoun	25 25	30 00
Carroll	25 00	13 00
Chickasaw	34 30	20 00
Choctaw	31 00	13 50
Claiborne	24 50	13 50
Clarke	30 00	15 00
Coahoma	29 00	20 00
Copiah	25 00	13 50
Covington	25 00	19 00
Clay	37 25	17 25
De Soto	19 20	8 50
Franklin	28 00	19 00
Greene	25 00	16 98
Grenada	42 50	19 00
Hancock	32 50	15 00
Harrison	22 60	11 25
Hinds	25 43	11 00
Holmes	25 00	15 00
Issaquena	30 00	15 00
Itawamba	25 00	15 00
Jackson	30 50	14 10
Jasper	21 50	12 00
Jefferson	31 50	13 50
Jones	31 50	15 00
Kemper	32 00	16 80
La Fayette	24 00	12 50
Lauderdale	25 00	15 90
Lawrence	24 00	14 00
Leake	26 50	15 50
Lee	29 00	15 00
Lincoln	24 70	20 00
Lowndes	29 00	10 50
Le Flore	25 00	12 60
Madison	25 00	12 50
Marion	25 00	20 00
Marshall	28 00	11 50
Monroe	25 50	15 00
Montgomery	24 80	15 00
Neshoba	47 00	15 00
Newton	24 00	13 00
Noxubee	28 00	12 50
Oktibbeha	37 70	20 00
Panola	24 00	15 00
Perry	24 00	15 00
Pike	25 85	13 50
Pontotoc	20 20	15 00
Prentiss	22 50	10 00
Quitman	...	16 00
Rankin	24 00	16 50
Scott	24 00	10 50
Sharkey	...	20 00
Simpson	25 50	22 50
Smith	23 00	16 35
Sumner	25 15	26 00
Sunflower	25 00	15 00
Tallahatchie	27 50	21 00
Tippah	31 50	12 00
Tishomingo	35 00	13 50
Tunica	24 00	13 50
Tate	24 05	12 00
Union	25 00	18 00
Warren	28 00	25 00
Washington	27 50	15 00
Wayne	29 50	20 00
Wilkinson	33 00	20 00
Winston	30 00	17 00
Yalabusha	22 00	11 00
Yazoo	24 00	13 00
Average on all counties	27 45	15 81

AUDITOR'S CERTIFICATE.

I, S. Gwin, auditor of public accounts for the State of Mississippi, do hereby certify that the amounts set opposite the names of the several counties in the above statement show the total State and county tax upon each $1,000 assessed in each county severally, when the board of supervisors levied their percentage upon only 10 mills of the State tax for 1874, and where the levies were made upon the total State tax for 1880.

Given under my hand and seal of office, September 27, 1881.

S. GWIN, *Auditor.*

Calhoun County showing an increased tax in 1880, is explained by the following certificates:

I certify the records in auditor's office show that 666⅔ of the 900 per cent. county levy in Calhoun County was on account of two Federal court judgments.

S. GWIN, *Auditor.*

SEPTEMBER 28, 1881.

The judgments against Carroll County were rendered on county bonds issued in 1871. Nugent & McWillie, attorneys at law, were attorneys for the plaintiffs in the suits in Federal court at Oxford.

NUGENT & McWILLIE.

SEPTEMBER 28, 1881.

Now, Mr. Speaker, in the face of these facts is it to be considered as a strange thing if the intelligent colored people of the State of Mississippi were not able to see and to recognize such a difference as this? I have stated everywhere to the colored people of that State that it was the products of labor that pay the taxes, that the man who raised ten bushels of corn and one bag of cotton paid his proportion of the general tax, because it was a tax upon his labor. I have

stated to them everywhere that labor was money and that values were created by labor; that they were the result of the bone and the sinew and the blood and the brain and the muscle of the workingman, and that as the colored people were largely the laboring class that the taxes paid were to a great extent levied upon them and the results of their labor. Is it strange that when they were aware of the fact that we had reduced the taxes from 50 to 15 per cent., that when we showed that we had erected for the education of their children school-houses all over the State, which are magnificent in comparison with that in which I was taught, school-houses for the education of colored children, I say when we showed them this, is it wonderful that the race for one hundred years in contact with us, who have grown up with us, recognized us as their friends, should have rallied to the support of the men who had shown they did what they promised? Is it strange that they have at last come to realize the fact that what was for the benefit of the white man of the South was for the benefit of the negro, that what was cheap for the white man was cheap for the negro?

I think the honorable gentleman from Tennessee is misled by his zeal and misled by his partisan feelings to abuse the people who deal with him, and that he maligns them when he says that they are afraid to vote according to their conviction and dare not openly express their sentiments. And upon the question of Bourbon Democracy as contradistinguished from the ordinary Democracy I wish to say to him that I have never heard of it; and as to the question of the Vicksburgh Herald being unquestionably the leading Democratic paper of Mississippi, I take issue with the gentleman. It was once a paper of considerable importance, made so by the genius, skill, and energy of Hon. William H. McCardle; but I deny that it now speaks the sentiments of the people of Mississippi. I deny that the great public press, the Clarion of Jackson, the Republican of Brandon, the papers upon the sea-coast, the Hinds County Gazette, Port Gibson Reveille, Aberdeen Examiner, and other papers of that kind are not exponents of the sentiments of the people of Mississippi. But I deny also that in the ranks of the Democracy of Mississippi you can find the difference alleged by the gentleman from Tennessee. All are Democrats and they know no distinction between them. Some men and some of the newspapers may be a little extreme in the expression of their sentiments, but the gentleman from Tennessee must stand as a monument for all time for the characterization which he has seen proper to give to that people. I venture to assert that there are fair, liberal-minded men on that side of the House who will not subscribe to the sentiments expressed by that gentleman.

But my time is drawing to a close. I will do the gentleman from Tennessee the justice to attribute his gross misstatements, his absolute perversion of the real sentiments of the people of Mississippi, his perversion of the sentiments of the people with whom he trades and who deal with him—I say I will do him the justice to attribute all of his misstatements, all of his errors, all of his misrepresentations, to his ignorance rather than to his malignity. [Applause on the Democratic side.]

Mr. MOORE. Mr. Speaker, I have no desire to prolong this debate by any reply to the eloquent speech of the honorable gentleman from Mississippi, but am willing now to rest my case, having stated it fairly and truthfully, with the American people, to whose verdict all of us should be willing to bow.

Mr. TUCKER. Mr. Speaker, in the question which is now before the House for its consideration we have presented to us a contest for a seat upon this floor between a gentleman of the Caucasian race and one of the African; and I desire to call special attention to the fact that while this case has its precedent and there have been Africans on this floor as members of this House, they have all come from the South. There is not a case in which the earnest and enthusiastic Republican party of the North in their zeal for the equal rights of the African have ever even found a man of the African race whom they were willing to present for candidacy to a seat in this House. There is not a high office anywhere in any of the Northern States that I have ever heard of that was filled by an African. I venture to say that there is not a Legislature anywhere in the North that has more than one or two Africans in it. I heard lately of one being in the Ohio Legislature a year or two ago.

Mr. PEELLE. There is one in my State.

Mr. TUCKER. Only one?

Mr. PEELLE. In my State.

Mr. TOWNSHEND, of Illinois. We have none in Illinois.

Mr. TUCKER. Only one; hardly enough for seed. [Laughter.] I want to know why it is that gentlemen of the Republican party who hailed with enthusiastic applause on yesterday the advent of the contestant on this floor have never seen a man of the African race north of the Potomac that they held to be fit to take a place in this House. I asked a friend, now dead and gone to rest, some years ago, how that happened, and he said it happened in this way: that in the North, in all the districts and localities in which an election was to be had, there was a majority of white people. I asked him what difference that made; if the African was as fit as a white man to hold a seat on this floor why did not the white people elect him? You are very willing to say elect from the South the African to represent the Southern people in Congress, but there is not a district in the North, with all those white men impatient and ambitious for places on this floor, that presents an example of ever calling the poor African to represent them here. And when I asked my friend that question, and he said the reason was there was a majority of white people in all the districts and voting places north to elect white people instead of black, I said then, "You have got to accept one or the other horn of this dilemma, either the free-school system of education which you adopt in reference to the African in the north has utterly failed to raise the African to a grade which would enable him to rank with any man on this floor, or the system of slavery in the South existing until seventeen years ago is a better educator to statesmanship and positions of political eminence than even the free-school system of the North."

If this is not so you can only account for your not sending African representatives by saying that the white men at the North exclude the African because he is such, and give preference to the white man because he is a Caucasian.

Mr. Speaker, I do not complain that the contestant comes here as a member of the African race. If he is lawfully elected I would vote for him to take a place on this floor. But if he is not lawfully elected I beg gentlemen on the other side of this Chamber not to force upon a Southern constituency a man of African descent when they will not allow any of that race to occupy a seat here from any district of the North. Accord to the South what you claim for the North. I understand the presumption is made by gentlemen who argue the question on the other side of this House that whenever there is a majority of negro voters in any district of the South it is conclusive evidence that if a negro and a white man are running for Congress the negro is elected. Now, on what principle is this, unless it be that the Republican party claim an absolute ownership in those who were emancipated from bondage seventeen years ago? Why, Mr. Speaker, it has been the anxious desire of every thoughtful man from the South for these seventeen years past to see the race-line broken down and a division in which both races shall be divided upon questions and measures of public policy; and that has been done, signally done, in a number of the Southern States. It has been done in my own State. I am here to-day a Representative from my district by the votes in part of negroes in my district. There is no reason why there should not be a division on questions of public policy, why the race-line should not be broken down. But the gentlemen on the other side of the Chamber hold that every colored man must absolutely be counted as a voter for the Republican ticket, no matter what else may be in issue to divide the colored race in giving their votes. This, sir, is a fatal error in the argument on the other side. The question is, Which of these parties has been elected by the sixth Congressional district of Mississippi? The argument on the other side is that Lynch has been elected, because there is a majority of negro voters there, and they must all have voted for him unless they were bulldozed or prevented from voting by fraud or violence. Why, sir, if that presumption is to prevail, then I suppose that whenever a colored man runs in any such district the verdict of the other side of the House would be without reference to the evidence that he was elected to a seat upon this floor.

But, Mr. Speaker, there is another question which has been discussed here. One who had heard this discussion would suppose that the only places on this continent where there had been any of what is called bulldozing, or fraudulent voting, or stuffing of ballots, was in the Southern country; that that was the only district infected by these reprobated proceedings. I beg you, Mr. Speaker, to remember that the ballot itself is a shield which the law has interposed between the weak and ignorant against the powerful and the intelligent. The laboring classes in England and the laboring classes here are known to be so largely under the influences of capital that the old system of *viva voce* voting which we had in Virginia has been done away with all through the North and in England for the purpose of protecting the laboring classes against the influence and the power of wealth in controlling the votes of the masses. Is the South the only part of the country where there have been any evil influences brought to bear on the voters at an election? I remember some years ago, and it has been the case I believe almost as early as I can remember, that there have been just before an election a large number of employés put into the navy-yards in different parts of the country, and the laborers and employés in those navy-yards have been told by those who boss them that unless they voted this or that ticket they would lose their employment. Here, sir, (holding it up,) is a "tape-worm" ticket voted from one of the navy-yards in California. What is that for? It is a device, a mark that power puts upon its vassal to make him vote as it chooses. It is the means devised by governmental power to hold the voter under duress in casting his suffrage. Is not this a fraudulent use of coercion on the free will of the voter?

Why, sir, what is this whole thing of patronage? What do men mean who hold power at the other end of the Avenue, when if a man does not vote for the party in power his political or his official head falls from his body? Why, sir, in my own State, within twelve months past, a one-eyed Union soldier who was left for dead upon the battle-field of Vicksburgh, a good and earnest Republican, lost his official head because he refused to vote with the party in power. Aha! a free ballot and a fair count. [Laughter.]

Why, sir, do gentlemen mean to say that it is only in the South where power exerts itself to be wielded over ignorance and weakness? Do not gentlemen know, and will they not be candid enough

to confess, that in the large manufacturing districts of the North the employés in large factories have to vote as the employer does, or they lose their employment?

Mr. HORR. It is not true in my country.

Mr. TUCKER. Yours is an exception, then.

Mr. CALKINS. Nor in mine.

Mr. HUTCHINS. I will state that a man in my own district was dismissed by his employer in 1880 for voting the Democratic ticket.

Mr. TUCKER. I am glad the matter is getting cured.

Mr. CALKINS. Allow me to say that in our country of all people the most sensitive, when you undertake to control their votes, are the workingmen.

Mr. TUCKER. Then why have you adopted the ballot in the North? Why not have *viva voce* voting?

Mr. CALKINS. You know, but I will not enter into a colloquy on that.

Mr. TUCKER. I want the gentleman to answer the question.

Mr. CALKINS. I will answer it in my own time.

Mr. TUCKER. Very well; I am sorry I cannot have the opportunity to reply.

Mr. CALKINS. You will have time to do so.

Mr. MILLER. I desire to say that it is not true as to my district, where more than eight thousand laboring-men are employed in the iron and coal business. That is all I have to say.

Mr. TUCKER. How do they vote?

Mr. MILLER. They vote just as they please.

Mr. TUCKER. Yes, on the Republican side, the high tariff side.

Mr. MILLER. Many of them are Democrats and many of them are Republicans; and the man who will dare to dictate their votes would have to leave the country.

Mr. TUCKER. I can only say that those employers in the districts which I seemed to have disturbed by my remarks are exceptional. I never knew anywhere—and I only mean to say that it is not less so in the North than in the South—I never knew anywhere that power did not seek to exert its influence at the polls over those whom it could control. Capital, which holds the wages of labor in its hand, will influence the laboring-man, and he will in a large degree yield to that influence, because his head may depend upon it.

Mr. ROBINSON, of Massachusetts. I suppose the gentleman from Virginia does not take it for granted that because we do not get up here and interrupt him we therefore confess his statement to be true?

Mr. TUCKER. I understand. I do not believe my honorable friend from Massachusetts [Mr. ROBINSON] or the other gentlemen who have denied my proposition have ever taken any part in this bulldozing influence.

Mr. ROBINSON, of Massachusetts. Ah! there is more than that.

Mr. TUCKER. And I do not mean to say that they know contrary to their own statements; of course they do not.

Mr. ROBINSON, of Massachusetts. And we do know contrary to yours.

Mr. TUCKER. You do know contrary to mine? Is the gentleman then one of the employers?

Mr. ROBINSON, of Massachusetts. No; but I know what transpires pretty well there.

Mr. TUCKER. Oh, yes!

Mr. ROBINSON, of Massachusetts. I know better than the gentleman from Virginia possibly can.

Mr. TUCKER. I will not dispute with the gentleman as to our means of information; but I say, and I throw out the remark broadcast, that there never has been in the history of any country a system existing where there was a wealthy employer with hundreds or thousands of employés under his control who in some way or other did not bring to bear his own intelligence and his own influence upon the votes of those men when a question was raised that involved his interests.

Mr. ROBINSON, of Massachusetts. That may be all true, and it may not be an improper influence.

Mr. TUCKER. Oh, not improper. And I say it is not improper down here.

Mr. ROBINSON, of Massachusetts. I am not disputing his proposition as to "down here" at all.

Mr. TUCKER. Yes, sir; or there either.

Mr. ROBINSON, of Massachusetts. I simply rose to speak for Massachusetts, about which I know.

Mr. HORR. I would like to ask the gentleman from Virginia [Mr. TUCKER] one question. Is he not familiar with this fact, that all over the North the Democratic party in every district, so far as my experience goes, gets the most of its votes right in the manufacturing portions of the district? Is not that true?

Mr. COBB. It is not true.

Mr. HORR. It is true in my district; it is true in my State.

Mr. TUCKER. I am not aware of that; but to the contrary.

Mr. TOWNSHEND, of Illinois. The mass of the laboring-men belong to the Democratic party, and consequently they would naturally vote in that way.

Mr. HORR. Then, if we compel them to vote as we please, how do they vote the Democratic ticket?

Mr. TUCKER. I have only this to say: I understand it is perfectly true, and well understood, that a large mass of the laborers, of the employés in the iron and steel furnaces and foundries of Pennsylvania, vote for the Republican party and for high tariff. I have always understood, at least since the Presidential election of 1880, that one of the reasons we lost the State of Indiana was on account of the glass interest in one corner of that State; that within a month of the Presidential election the tariff issue was raised for the purpose of rousing the manufacturing districts of the North to vote against the Democratic candidate. How is this unless there is a oneness of feeling and opinion between the laboring-men employed in these manufactories and the manufacturer himself?

Mr. TOWNSHEND, of Illinois. Will the gentleman allow me to suggest that he inquire of the gentleman from Massachusetts whether General Butler stated the fact correctly when he charged that there was bulldozing of the laborers in the manufactories of Massachusetts?

Mr. REED. General Butler said no such thing.

Mr. TUCKER. Mr. Speaker, I have said this much for the purpose of showing that in every country intelligence and property and power and all the influences that center about these three will be brought to bear upon those who are ignorant and those who are in what are called the middle and lower classes of society in all elections. Whether that election grows from intelligence or from anything else, it exists in the North, it exists in the South, and therefore gentlemen have no right to conclude, because a large part of the African vote in the South is now cast for the Democratic ticket that this is due to any impure or fraudulent influences. It is due only to those influences which are brought to bear in the North by the wealth and power and property of the North upon the operatives engaged in industrial establishments there.

Mr. Speaker, after these preliminary statements I come to discuss the real question presented here: Which of these two parties is entitled to a seat on this floor? I do not mean to say that we should guess at who might have been elected by the voters in that district; but looking as we are bound to look at that election, and the returns of that election, through the eyes which the law furnishes to us, who is entitled to a seat on this floor?

It will not do for gentlemen to say, for instance, that the 2,000 votes thrown out in Warren County ought to have been counted for Lynch because they were excluded, as gentlemen may say, upon a mere technicality. The law has thrown around elections, not only for the protection of the elective franchise in the voter, but for the protection of representation in this House, certain safeguards which have to be complied with, or the vote is illegal. As the law is a public one, and therefore every voter must be presumed to know what the law is, and what is necessary to make his vote valid, if he declines to use those guards which the law has thrown around the exercise of his right of suffrage, his vote must be excluded as not having been cast at all, because cast illegally. Now, let me take up the first case involving this question, because if that is decided in favor of General Chalmers there is no longer any question in regard to this contest.

If the 2,000 votes excluded by the commissioners of election in the county of Warren were properly excluded as illegal votes, then General Chalmers is unquestionably entitled to his seat. There is no dispute about that. The question then is, Did those 2,000 voters illegally cast their votes?

I have here, through the kindness of the chairman of the Committee on Elections, the original tickets voted in that election. Upon them there are certain dashes and marks besides the names of the parties voted for; and the question is whether those marks and dashes, or whatever else you may call them, make the ballot an illegal one. Let me look at the statute. It provides in section 137:

> All ballots shall be written or printed in black ink, with a space not less than one-fifth of an inch between each name, on plain white printing newspaper, not more than two and one-half nor less than two and one-fourth inches wide, without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket; but this shall not prohibit the erasure, correction, or insertion of any name by pencil mark or ink upon the face of the ballot; and a ticket different from that herein prescribed shall not be received or counted.

Gentlemen have said that most of these laws refer to the marks on the back of the ticket. Let me dispose of that question at once. Every inhibition in respect to these tickets applies to marks on the face of the ticket. The distances between the names, the marks or devices on the ticket, the erasures or corrections, have all reference to the face of the ticket; and the name at its head must necessarily be on the face of the ticket; so that the law proposes to inhibit these various marks or devices, or whatever else they may be called, on the face and not on the back of the ticket. There can be no question about that.

Gentlemen say that the marks on this ticket are very small—too small to have been noticed. Here, Mr. Speaker, the question is, How large they must be in order to be illegal? If these are too small to be noticed, how much larger must they be in order to be within the inhibition of the statute? As some one once remarked, a rat-hole in the dikes of Holland would let in the ocean. Where the statute inhibits a mark or device on the face of a ticket, the mode of construing the statute is to say it is mandatory—that there shall be no mark at all. But if the gentlemen say that the mark is too small, let me look at another aspect of the question:

> It is obvious that the name of the ticket at its head and the erasures and corrections of names on the ticket referred to in the statute must be on the face of the ticket.

It is obvious if these had not been excepted that the statute would have forbidden everything from being on the Democratic ticket but the names of the parties voted for and the name, as to the Republican ticket, or "The Democratic Ticket" at the head of one and "The Republican Ticket" at the head of the other would have been illegal.

It is also obvious that except for the exception contained in the statute the erasure of a name on either ticket by a mark being drawn through it would have been inhibited by the statute, because the statute says that no mark or device shall be put upon the ticket; but it then adds that this shall not prevent an erasure or correction of a name on a ticket. The erasure of a name on a ticket would have been within the inhibition of the statute if it had not been excepted. And what is that erasure? Merely passing the pen through the name, either pen or pencil. But this would not be as distinct a mark as those to be found on these tickets. Therefore, we have clearly from the words of the statute itself a rule for its interpretation. A mark as delicate as a mark for erasure on the ticket would have been within the inhibition of the statute if it had not been expressly excepted. Now, look at these tickets. There are on these tickets, first, under "Republican National Ticket," a very distinct mark; then, under the name of "Garfield" a very distinct mark and of a different character; then, under the name of "Arthur" another, and under the name of "Charles W. Clark" another. So there is on this ticket one, two, three, four marks other than the names of the parties; each one of which is more distinct and larger than a mere erasure of a name would have been.

What was the purpose of the statute in forbidding these marks? We see the meaning of the statute in the language of the distinguished author of the American book on elections, and I will read a passage for the purpose of showing the ground upon which I rely. Section 402 of McCrary on Elections states as follows:

SEC. 402. Where a statute prohibits the marking of ballots so that they may be distinguished by others than the voter, and declares such ballots void, there is good reason for construing such statute as mandatory. Such marks destroy the secrecy of the ballot, and it is well known that the plan of voting by ballot, instead of *viva voce*, was adopted for the very purpose of securing to every voter absolute secrecy if he desires it, and protecting him therein; and this was thought necessary in order to place the poor and dependent voter in a situation where he may act according to his own judgment, and without intimidation from the rich or powerful.

In Commonwealth *vs.* Woelper (*supra*) the supreme court of Pennsylvania said: "The engraving [on the ticket] might have several ill effects. In the first place, it might be perceived by the inspectors, even when the ticket was folded. This knowledge might possibly influence them in receiving or rejecting the vote. But in the next place it deprived those persons who did not vote the German tickets [which had an eagle on them] of that secrecy which the election by ballot was intended to secure. A man who gave in a ticket without an eagle was set down as anti German and exposed to the animosity of that party. Another objection is that these symbols of party increase that heat which it is desirable to assuage."

You will see that McCrary states the very reason upon which I have relied as the groundwork of the whole ballot system.

If these reasons apply to this statute of Mississippi, on what ground is it that gentlemen shall render that statute nugatory, null, and void, merely because they say these dashes and these marks were not sufficiently large to bring them within its prohibition?

But, sir, there was another reason, and I desire to call special attention to it, because it is stated as one of the reasons which led to the adoption of the statute, in one of the depositions to be found in the record, pages 36, 37, in Tinney's testimony; as follows:

Some of them printed in various colored inks, some with green backs, showing fields and game, and the picture of the candidate; others were printed with spread-eagles and flags, and various devices of that kind at the head of them. When distinguishing marks or devices of that kind were used on a ticket, imitations were frequently gotten up by the opposing candidate. When I speak of imitation tickets, I mean these sort of tickets—tickets bearing these marks or devices.

He speaks of that as the pre-existing evil which led to the enactment of the statute. They were marks by which one man might be deceived by another. You can readily see how that deception could be practiced. Suppose a colored man who was a Democrat was told by my Democratic friend before me, "Here is a Democratic ticket with certain marks on it by which you may know it." Suppose the Republicans found out the marks which were upon the Democratic ticket and would put the same marks upon the Republican ticket; and they would meet a Democratic voter and say, "We know you are a Democrat. You see this is the ticket." [The poor fellow cannot read.] "It is the ticket you are going to vote for." He would be deceived by the marks and vote the wrong ticket. The purpose of the statute, therefore, was to exclude every mark except the names on the ticket, so that the colored man or any other ignorant man who would see the ticket with no mark on it but the printed names (none of which he could read) would go to some friend in whom he could and did confide, and say, "I want to vote the Democratic ticket; tell me whether this is the ticket I want to vote." Then his friend would read out the names to him, which would assure him he was voting according to his purpose. But if there were marks on the ticket, such as he had been assured were peculiar to the Democratic ticket, he would vote on those marks without having the ticket read to him—marks put on the Republican ticket, the same as those on the Democratic ticket. The marks would mislead him. Their absence, if he could not read at all, would induce him to rely on the reading of the ticket as the guide to his intelligent exercise of suffrage. And so *vice versa*.

The purpose of the statute, therefore, was that the ignorant voter should be protected from being cheated into voting a ballot according to marks made upon it, and not according to the names of persons upon it for whom he desired to vote, which he would have read to him by some person in whom he had confidence.

Mr. HORR. That could not occur unless both sides marked their tickets.

Mr. TUCKER. That is true, but you will find that Lynch was anxious, as he states, that his tickets should be made like the Democratic tickets. The only object of this, if both had had the same marks on them, would seem to be in order that this deception could be practiced. I do not mean to charge that that was absolutely the case, but arguing from a legal stand-point the only object would seem to have been to create this possibility, and the very purpose of the statute was to prevent this, so that no voter should vote a ticket upon the mere marks upon it, by which he could distinguish it, but should rely only upon the names read to him by some friend in whom he had confidence. The purpose of the statute was to exclude every mark, not only every device upon the ticket, but every mark of any character by which the ticket might be distinguished otherwise than by the names printed or written upon it. This being the case we see at once that the existence of any marks upon the ticket is a substantial objection to its validity, and the statute which prohibited any marks upon the ballot was violated by every voter who voted the marked ticket.

But one of the most curious things in this report is the view the contestant has taken in this case, and which I desire to call special attention to, but before doing so I will call attention to another fact in connection with these ballots on page 49 of the record in this case. I find that Lynch says in his deposition:

Those dashes must have been on that proof then—

That is the proofs of the Miller printing office—

though if any one had asked me two minutes afterward I could not have answered. I have no recollection of having examined subsequently the proofs of the ticket printed at the Herald office, from the understanding that one proof was sufficient for both.

In other words, that at both offices the tickets were to be printed alike according to the proof he examined, and consequently with these marks upon them. This shows that all the tickets were designed to be uniform in having these marks on them fatal to their legality. Lynch continues:

The understanding was that the tickets were to be printed substantially alike in both offices.

So the purpose evidently was to have the same marks on each and all the tickets. Now, Mr. Speaker, gentlemen have said that there was no purpose in these marks, no fraudulent purpose. I do not desire to charge fraud upon anybody unless I know that fraud is intended, but it is a very curious thing that Lynch and Wright both state in the conversation about the tickets that Wright contracted that he would print the tickets so as to stand against all dispute, and he promised to defend them if disputed. Why, sir, if there was not a doubt in the mind of the parties at the time they were printing the tickets with marks, if it was not in their minds a question of doubtful legality, why did they talk about it? It was the Vicksburgh Herald man who afterward did defend the tickets. In other words, there was a talk between these men, that the tickets should be printed with marks, but so as to be just outside of the prohibition of the law, in order that they might be legal and yet used to their advantage; and this admission is sustained by the testimony in the record, as I have endeavored to show.

Now, I say, and I ask lawyers on the other side of the House if they can fail to agree with me, if these parties have tried as the testimony shows to see how close they could come to the boundary line between legal and illegal tickets by putting these marks upon them, that it is a violation of the statute, and that it is sufficient to invalidate them in the eye of the law?

Mr. HORR. Let me ask the gentleman a question.

Mr. TUCKER. Certainly.

Mr. HORR. Suppose the tickets had been printed, instead of in large-sized type that the Republican tickets had been printed in very small type, would that have been a violation of the statute?

Mr. TUCKER. I do not think it would.

Mr. HORR. Then that would have been a distinguishing device, and would they not have been able in that way to have recognized the tickets?

Mr. TUCKER. They might, but the statute does not prescribe the style or size of the type, but it does distinctly forbid distinguishing marks.

Mr. HASKELL. I want to ask my friend from Virginia what in his mind could be gained by the Republican candidate by having the tickets marked in that way? What advantage would there have been to Mr. Lynch in marking them?

Mr. TUCKER. I am arguing, if my friend will allow me, as to the purpose of the statute in excluding marks of all kinds from the tickets, lest the voter should rely upon certain marks rather than upon the names printed upon the ticket, the object being evidently to prevent the voter from being decoyed into voting against his principles by being imposed upon by designing persons and made to vote a ticket to which he is opposed.

Mr. HASKELL. But these were all Republican supporters of

Lynch, and the marks were on the inside of the ticket, so that when it was folded it could not be seen or the marks recognized.

Mr. TUCKER. The gentleman here assumes the whole proposition. I will come to that directly. I was calling attention to the fact that the statute prohibited all marks of any character. Now, I understand it has been stated by witnesses here that some of the tickets cast for Mr. Chalmers were printed in the same way. That might have been the case, but it does not affect the argument. I mean to say that the reasons why distinguishing marks were excluded by the statute of Mississippi was lest those who were disposed to do so might mislead the ignorant voter; and hence if marks of a character which would indicate the ticket were printed upon them, they necessarily come within the prohibition of the statute.

Mr. Speaker, one of the queerest things in this record, as you will find on page 48, is the singular interpretation given by Mr. Lynch in his deposition, to the statute. After speaking of the Chalmers ticket, he says:

> This, it will be observed, has no rules, dashes, or punctuation. I invite—

He says:

> particular attention to this ticket and shall maintain that the utter absence of all rules, dashes, and punctuation marks of all kinds is itself a device. This ticket is identified, &c.

That is to say, because Chalmers's tickets did not have these dashes and marks which were upon his tickets, he was going to maintain that the absence of these dashes, &c., was a device which would invalidate Chalmers's tickets. Now, Mr. Speaker, I put it to this House if the absence of marks upon Chalmers's tickets which were on Lynch's tickets was sufficient to invalidate Chalmers's tickets, when the absence of marks was not only provided for but enjoined by the statute. How can he escape the conclusion that the presence of those very marks, the absence of which he said would constitute a distinguishing device or mark—that the presence of those very marks, when they were prohibited by the statute, is itself a mark and device within the prohibitions of the statute? I repeat, Mr. Speaker, Lynch says that the absence of these marks is itself a device. Their absence cannot be a device within the prohibition of the statute, because the statute prohibits all marks and devices. Then, if the absence of these devices which is enjoined by the law was a sufficient distinction from his own to constitute a mark which he thinks is within the prohibition of the statute, of course their presence on his ticket when they are prohibited by the statute is a sufficient mark of distinction to bring them within the prohibition of the statute. There is no escaping the conclusion.

Mr. RANNEY. Will the gentleman allow me to ask him a question?

Mr. TUCKER. Certainly.

Mr. RANNEY. Suppose the Democratic ticket, instead of being printed without any punctuation marks at all, had had commas or semicolons distinguishing the names from each other, would that have been a violation of the statute?

Mr. TUCKER. I doubt whether it would have been.

Mr. RANNEY. What is the difference between one punctuation mark and another in this connection?

Mr. TUCKER. Ah! but this is not a punctuation mark. My learned friend from Massachusetts is very astute——

Mr. RANNEY. Is not a dash a punctuation mark?

Mr. TUCKER. I see what my learned friend is proposing. Upon my admission that a comma would not be a device or mark he would say these dashes would not be a device or mark; and then if I admit that, he would say, "Suppose they were made a little bigger, would they then be within the statute; and if not, then if made still a little bigger than that would they be?"

Mr. RANNEY. I would have the gentleman look at the Democratic tickets, on which, or on part of them, he will find the word "ticket" in large letters followed by a large exclamation point. Now I ask the gentleman what is the difference between a large screaming exclamation point as a mark and a dash when simply used for the legitimate purpose of printing?

Mr. TUCKER. I have not examined that. I did not notice the exclamation point. There was no objection made to those tickets that I have heard of.

Mr. RANNEY. The Democratic ticket has got a heading in large printed letters, and after it a large screaming exclamation point. What is the difference between them? The one is horizontal and the other is perpendicular.

Mr. TUCKER. I take the difference to be this: here is a name, "C. P. Nielson." There is a punctuation mark—a period—after each of the initial letters. That is the ordinary mode in which the initials of a name are kept apart in ordinary printing.

Mr. RANNEY. Without a punctuation mark, a comma or semicolon, it would be printed as one name, like an Indian name.

Mr. TUCKER. I say whenever any punctuation mark usual in printing is used, necessarily to indicate a distinction between two parts of a sentence, that would not be in my opinion a mark or edvice within the prohibition of the statute.

Mr. RANNEY. Suppose a dash is used simply as a mark separating the words?

Mr. TUCKER. But that is not the case here. I am not here to go into all the distinctions gentlemen may draw. I repeat, that the argument of the gentleman amounts to this: that if I admit that a punctuation point is not within the prohibition of the statute, then he will enlarge the point; and if I say that is not within the prohibition of the statute, then he will enlarge it still more; and the effect of that kind of construction of the statute would be to render it entirely nugatory. Therefore, I say the place to stop is on the threshold by asserting that where the statute commands that a ticket shall not have any mark upon it or any device, then if it has any mark upon it it is within the prohibition of the statute. I have argued this question thus far upon the mere reason of the rule. If I had been a judge on the bench, from the view I take of this case, I would have said as the supreme court of Mississippi said, that these ballots were prohibited by the statute.

Mr. HOOKER. Without the question of intention entering into it?

Mr. TUCKER. Yes, without the question of intention entering into it at all; because the question is not whether the party had intended it. He must be presumed to have intended to violate the law where his act is a violation of the law.

Mr. RANNEY. Will the gentleman permit me to ask him one other question?

Mr. TUCKER. Certainly.

Mr. RANNEY. I desire to ask the gentleman whether he supposes the Legislature of Mississippi intended in passing that law to have printed such a ticket that an ignorant man who could not read would not know what it was?

Mr. CALKINS. Without getting somebody to read it for him.

Mr. RANNEY. Whether the law intended that an ignorant man should not know what his vote was?

Mr. TUCKER. Yes, sir.

Mr. RANNEY. Does not the constitution of Mississippi permit an ignorant man who cannot read or write to vote?

Mr. TUCKER. Yes, sir.

Mr. RANNEY. Then if he cannot read or write, how in the world is he going to tell his ticket?

Mr. TUCKER. Well, he could get somebody else to read it for him. I understand my friend from Massachusetts [Mr. RANNEY] to maintain (in which I think he gives away his whole case) that these marks were put upon the ticket in order to enable the ignorant voter to know that he was voting the Lynch ticket. If so, then it was a fraud upon the ballot. In other words, I understand my friend to say that a man is not to be guided as to his vote by what is printed on the ticket, but by these very marks. Yet that is the very fraud which the Legislature intended to prohibit.

Mr. RANNEY. Will the gentleman permit me another question?

Mr. TUCKER. Certainly.

Mr. RANNEY. Is it not a special rule of law that every statute should have a reasonable construction?

Mr. TUCKER. Yes, sir.

Mr. RANNEY. And that if a certain construction leads to an absurdity, that construction shall not be adopted?

Mr. TUCKER. Yes, sir; and I say, with great deference to my learned friend, that I think the construction he proposes is, as I have shown, an absolute absurdity.

Mr. RANNEY. One word further.

Mr. TUCKER. Certainly.

Mr. RANNEY. Will you say that anything that is offered for a ballot, which contains only simple, ordinary printing, comes within the purview of that statute?

Mr. TUCKER. I say that any mark, which my friend from Massachusetts [Mr. RANNEY] says is put upon a ballot to enable an ignorant voter to know what ticket he is voting without having it read to him, is a mark or device within the prohibition of the statute. Now, I take his confession as a confession that Mr. Chalmers should retain his seat. And I am very much obliged to my friend for having put the case so clearly, or enabling me to do so.

Now, I have argued this question upon the reason of the law. I say that if the secrecy of the ballot was destroyed, (for these marks could be seen through the ballot,) and any gentleman can see that such is the case if he will examine one of the tickets, and the testimony so shows, if the secrecy of the ballot was destroyed by the use of this class of ballots, then the reason of the law as well as its letter was absolutely violated.

Mr. RANNEY. Will the gentleman permit me one other question?

Mr. TUCKER. Certainly.

Mr. RANNEY. I would ask the gentleman if the object of the law was not to prevent an ignorant voter from knowing what his ballot was, but to compel him to ask somebody else to read it and tell him, how does that preserve the secrecy of the ballot?

Mr. TUCKER. It preserves the secrecy of the ballot from all that the voter does not want to know about it.

Mr. RANNEY. The supreme court says that the object of that was to preserve the secrecy of the ballot; yet the effect of it was to oblige the voter to disclose whom he intended to vote for.

Mr. TUCKER. My learned friend knows that in this case it is shown, as in every other under this ballot system, that a man very often comes up and votes an open ballot. Is that a void ballot? If he choose to disclose it, as I always do when I vote, that does not void the ballot. It is to conceal from anybody that the voter does not choose to admit to his confidence the way he is going to vote. But my friend says the ear-mark is to be put on the voter, and he is to vote as his employer says he shall vote or he is not to vote at all.

Now, as I have said, I have discussed this case merely upon the reason of law. How does it stand upon authority? I think the authorities sustain the views that I have taken. But if the authorities elsewhere do not, how is it in the State of Mississippi? In the case of these very ballots the question has been distinctly tried and has been adjudicated.

I call the attention of my learned friends on the other side of the House to this fact, which they will find by reference to the record of this judicial procedure, that the parties defendant demurred to the petition for a *mandamus* on two grounds, and those two grounds were the grounds which were decided by the court. It is true the court subsequently made a decision on another ground. The two grounds that were stated in the demurrer to the petition for a *mandamus* were the points that were first decided by the court. The third point was the point which the court raised itself, and said that they might have decided it upon that ground alone without going to the other.

Mr. CALKINS. Right at that point I wish to call the attention of the gentleman to one fact, that the demurrer confessed the facts stated in the bill.

Mr. TUCKER. Unquestionably; we all know that is the effect of a demurrer.

Mr. CALKINS. Before you pass from that argument perhaps you might want to notice it, and probably you had better.

Mr. TUCKER. Now, that there may be no difficulty between myself and the gentlemen on the other side, the writ of *mandamus* was finally refused, and the petitioner appealed. I read from the report of the majority, which gives the whole record in full:

> The writ of *mandamus* was issued, and the commissioners of election appeared and demurred to the petition on the following grounds:
> First. That they are merely ministerial officers, and have no power to reject ballots that have been counted by the inspectors.
> Second. That the marks on the ballots for which it is claimed they should be rejected are mere printers' dashes, and are not such distinguishing marks as were contemplated by the statute.

Now, the House will perceive that these are the two grounds which gentlemen on the other side take in reference to this statute. They were the grounds presented by the defendants for decision by the court; and the court in deciding that these dashes were within the prohibition of the statute decided a point which was expressly presented by the demurrer of the defendants.

[Here the hammer fell.]

Mr. CALKINS. Bearing in mind the suggestion of my friend from Kentucky, that the debate conclude to-day, I ask that the time of my friend from Virginia be extended.

Mr. CARLISLE. Whatever arrangement be made in regard to extension, we shall adhere to the arrangement made this morning, that debate close to-day.

The SPEAKER *pro tempore*, (Mr. BURROWS, of Michigan.) How much time does the gentleman from Indiana [Mr. CALKINS] ask that the gentleman from Virginia be allowed?

Mr. CALKINS. I ask that his time be extended indefinitely.

Mr. TUCKER. I will not abuse the patience of the House.

The SPEAKER *pro tempore*. The Chair hears no objection.

Mr. TUCKER. The House is aware that I have been put through a catechism by my learned friends on the other side of the Hall, and therefore my time has been consumed more rapidly than it would otherwise have been.

Mr. Speaker, a great deal has been said as to whether this decision of the supreme court of Mississippi was *obiter dictum*. Now, I apprehend no case can be found where a decision has been held to be *obiter dictum* if the point directly at issue by the pleadings has been decided by the court; and I have shown that upon the petition for this *mandamus* the answer of the respondents was a demurrer upon this very ground, that these dashes and marks upon the ticket did not bring it within the prohibition of the statute; and as that point was raised by the demurrer and decided by the court, how can it be said by any gentleman that it was *obiter dictum*?

But supposing it is not *obiter dictum*, gentlemen say that they are not bound to follow the decisions of the supreme court of the State. A great deal has been said about a long line of decisions. Into that learning I will not go, for it has been so fully dwelt upon by my distinguished friend from Ohio [Mr. ATHERTON] in opening this case that I should merely "gild refined gold" if I attempted to go into it.

But there are one or two general propositions which I desire to state. I hold it has never been decided by the Supreme Court, or any other court, that they would refuse to follow the decision of the State court, except where that decision was clearly wrong.

Mr. RANNEY. While the gentleman is speaking of the question of *obiter dictum*, I would like to hear his view (for I am seeking information) as to whether the court had jurisdiction. I call his attention to the language of the court, on page 9 of the report:

> The House of Representatives of the Congress of the United States is the judge of the elections, returns, and qualifications of its own members, and the courts of the State have nothing to do with this matter.

Why, then, did the judge go on to decide the point? And if he did decide it, how does his decision bind us?

Mr. TUCKER. It needs no ghost to come from the grave to tell me what the supreme court of Mississippi said in that sentence. It could not have said anything else. The final right of decision upon an election case is unquestionably in this House; but the question that was brought to the consideration of the court, whether a *mandamus* should issue in that case to the commissioners of election, was unquestionably within their jurisdiction.

Mr. RANNEY. The gentleman will notice the language of the court: "The courts of the State have nothing to do with this matter." Hence, as I understand, the court does not undertake to decide the question in that case, but goes on to say in substance, "As there are criminal cases somewhere in the State that may possibly some time be tried, and in which the district attorney would like our opinion, therefore we express our opinion." I would like to know how that is a decision in this case—how the matter is within the jurisdiction of the court, and whether the opinion given by the court is not *obiter dictum*.

Mr. CALKINS. The very point being that if this board under the law was *functus officio*, then there was no proper party, and the court was without jurisdiction. Hence how could it pass on the question?

Mr. TUCKER. I admit that at the time the *mandamus* was sought to be brought to bear on the commissioners of election they were *functi officio*. But the question was whether that point and two other points were not raised by the demurrer; and I say that upon the points raised by the demurrer the court decided; and they decided that as the commissioners were *functi officio* there was no longer any ground upon which the court could give them any command to recanvass the vote. Still while this House is the judge of the election of its members the court of Mississippi had jurisdiction to command the commissioners of election under the State law to do their duty in making returns, &c. But while this is so, the court said it lost this jurisdiction when the commissioners were *functi officio*.

I admit that was right, but I say they decided the question raised by the respondent in their demurrer to the petition. Now, sir, unless this House is satisfied the decision of the supreme court of Mississippi was clearly wrong, all the reason of the rule which makes the Supreme Court of the United States follow the decisions of the supreme court of a State apply to this case. Here is a law which applies as well to elections to Congress as to elections for the State. Here is a question, therefore, which if it is decided one way here and decided another way in the State of Mississippi, as to State elections, would bring about that anomalous condition of things in which the same law would be interpreted differently in two classes of elections.

Mr. CARLISLE. At the same election?

Mr. TUCKER. Yes, at the same election. The consequence is the reason upon which the Supreme Court have said they will follow the decision of the supreme court of the State prevails here, that the interpretation given by a State court in reference to what was exclusively within the jurisdiction of the State should be applied to those questions which are within the Federal jurisdiction. In other words, the Supreme Court say if A, who lives at Philadelphia, sues me in Virginia, and B, who lives in Virginia, sues me in Virginia in a State court, on like causes of action, the rule for decision on a State statute should be the same in both cases. If a contest arises in the State of Mississippi as to a State election and the supreme court of the State of Mississippi interprets the law in a particular way, does not the same incongruity arise if we interpret the statute of Mississippi differently from what the court of Mississippi interprets it?

Now, Mr. Speaker, I say, therefore—and I find in the minority report that has been decided by this House again and again—that wherever there has been a decision in the State courts this House has followed it unless that decision was flagrantly an error. And, therefore, if this case is not clearly wrong there is no earthly reason why this House should seek to reverse it. And I say it is clearly right, and, therefore, with the supreme court decision of Mississippi in favor of Chalmers, and the reason of the law being in his favor, there is no ground except one I will not suspect the other side of the House to be guilty of—there is no ground for any departure from the interpretation of the Mississippi statute by the court of Mississippi and apply to Chalmers a different rule from that which would be applied to gentlemen contesting elections in the State of Mississippi.

But, Mr. Speaker, suppose this case as to Warren County were decided against us, there is another ground, and that is in this Issaquena County. Those returns were thrown out because they were not properly certified, and on what ground does the committee admit it. It is admitted the law of Mississippi has not been complied with in the returns being certified and signed by inspectors of election.

Mr. CARLISLE. That is not Issaquena County.

Mr. TUCKER. Very well; in reference to that it is admitted that there was an inherent defect in the returns made to the commissioners, and they were properly thrown out; but it is said that that defect in evidence is supplied by the certificate of the chancery clerk and by some other evidence in the case.

In reference to the evidence of the chancery clerk, it is not a deposition of the chancery clerk, but it is evidence *aliunde*. It is not the evidence of a witness sworn to testify, but it is the evidence of a man who certifies that certain papers are correct copies of other papers filed in the records of his court. I need not say to the lawyers of this House that a man who is not in custody of records to which he certifies has no right to make his certificate evidence of the truth of those records. How are these election returns in his custody? There is no provision of law which makes these returns go to the chancery clerk at all, and all he certifies is they were in his possession. How they got into his possession does not appear, and these returns he certifies to are without any other basis to stand on than he seems to have gotten possession of them, how nobody knows, but it is not such

legal possession as gives him authority to prove them by his certificate. But it is said, and I understand that is admitted by the report of the majority of the committee, that standing on that alone they could not give this vote in Issaquena County to Lynch.

Mr. CALKINS. No, you could not.

Mr. TUCKER. You admit that?

Mr. CALKINS. Not on that certificate.

Mr. TUCKER. What else could you stand on? Upon what other?

Mr. CALKINS. Not standing alone.

Mr. TUCKER. Then my friend says, on neither leg could he stand alone, but upon both; when he could not stand on either, he could support it on both. Upon what principle? I suppose upon the principle that two negatives make an affirmative, and two nothings make something. Well, now, sir, I say that the idea of giving a man a title to a seat upon this floor upon two pieces of evidence, neither of which is legal——

Mr. CALKINS. Both are legal.

Mr. TUCKER. How legal? Had the chancery clerk the possession of the vouchers?

Mr. CALKINS. He says so.

Mr. TUCKER. Why, do I understand my learned friend, the chairman of the Committee on Elections, to say that if I choose to certify that Mr. Chalmers had 2,000 votes in a county in Mississippi, and that Mr. Lynch had only 1 vote, and that upon my own averment that I have the right to make that certificate, he will take that mere *ipse dixit* of mine as legal?

Mr. CALKINS. I do not like to take up the time of the House, because I know that other gentlemen wish to be heard in reference to this case; but I will say to the gentleman from Virginia, if he will permit me to interrupt him, that I do claim, by necessary inference under the law of Mississippi, that the circuit clerk is entitled to the possession of these papers by law. That, I hold, is a necessary inference of the law.

Mr. TUCKER. What law?

Mr. CALKINS. The code of 1880.

Mr. TUCKER. Will the gentleman refer me to the section?

Mr. CALKINS. I cannot go further now, but I will come to that when I have the floor. In this instance the circuit clerk and the chancery clerk are one and the same.

Mr. TUCKER. Where is the evidence of that fact?

Mr. CALKINS. It is a matter of public notoriety just as much as the fact is known that Mr. Lowry is the governor of Mississippi.

Mr. TUCKER. How is it, then, that the evidence is not sufficient? If the gentleman says this clerk is entitled to have the returns, why is it not ample evidence?

Mr. CALKINS. My friend knows the transcript of the custodian of the paper and the proper certificate prove that the papers are on file, and that is all the certificate proves. That gives a division of votes between the parties. The law says the commissioners shall certify the vote; one divides and the other certifies it, that is all.

Mr. TUCKER. The gentleman will find that the tally-sheets Griggs certifies to are copies and not originals. There is not one of these returns in this record that is original. These tallies are merely copies, as I say, and not originals. You have not an original tally-sheet. There is not an original return from Issaquena County which he certifies to at all. Therefore the certificate stands upon nothing but his own statement that he is entitled to make the certificate, and there is no law to prove it.

But, Mr. Speaker, I shall hurry on, because I know that other gentlemen will occupy the time of the House upon the other questions raised here.

Now, sir, there is something else that is relied upon as sustaining this Issaquena claim, and that is the report of the secretary of state; but you will find that the secretary of state says in the paper relied upon that he does not give the votes that were cast for each of the candidates at all. He only states the number of votes given at the polls; but as to the number for each of the candidates, they could not be correctly stated or ascertained.

Now, in reference to Bolivar County, I think there can be no difficulty; for there the votes that were thrown out, if, as is admitted by the majority of the Committee on Elections, they were properly thrown out, would give the election to Chalmers. And if this be so the result will be as I claim, although I may be wrong on the first two points. Now, the only ground upon which the votes of Bolivar County are sought to be counted is that the commissioners in their letter to the secretary of state appended to their return give the reasons for rejecting them and give the votes that were cast, Democratic and Republican.

But they do not pretend to state that these votes were all cast for either Mr. Chalmers or Mr. Lynch. They say there were so many votes for the Presidential candidate, but whether these votes were cast for the Democratic candidate for Congress or not they do not pretend to say; or whether the votes which were cast for the Republican ticket were cast for Lynch they do not state. In other words, they do not say how many votes were cast for Lynch or Chalmers. But then the gentleman insists upon it that the statement of the commissioners rejecting the vote, simply because they show how many votes were cast, is a certificate of the votes cast for the candidates. In other words, that the negation of the votes that were cast out is to be taken as evidence that they were properly cast. How can such a ground be taken?

I hurry to a conclusion, for this question will be discussed by other gentlemen, and upon these last two points more fully.

Now, I put it to my friends upon the other side of this Chamber, if we are to decide this case according to the law, if we are to count no votes but those which were legally cast, cast according to the statutory provisions of the law of Mississippi, how can you count the votes that were excluded in Warren County, that were excluded in Issaquena County, or that were excluded in Bolivar County, for the contestant? And if you exclude either one of them Chalmers is entitled to his seat. And how can you avoid that except on the supposition that these 2,000 votes would really, if they had been legally cast, have been cast for Lynch? We have no right to count any vote as cast for either of these parties that was not cast according to the law of Mississippi. Such a vote is no vote at all. We are not entitled to guess at what would have been the result of the election. We are here only to determine who was elected by the voters who were legally entitled to vote, and who voted as the law prescribed they should vote. Count those votes and General Chalmers is elected. And I ask on what ground is it that the Republican party of this House should exclude General Chalmers from his seat when, according to the law of the case, he is fully entitled to occupy it?

Mr. Speaker, I thank the House for their attention and submit the case as far as I am concerned.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1049) to promote the efficiency of the Life-Saving Service and to encourage the saving of life from shipwreck.

The message further announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York; and

A bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia.

The message further announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 1609) making an appropriation for continuing the improvement at Charleston Harbor.

CONTESTED ELECTION—LYNCH VS. CHALMERS.

Mr. ROBESON. Mr. Speaker, in the examination of this case I shall endeavor to confine my remarks to a presentation of principles of law, upon which I conceive its settlement depends. These are legal questions rather than political, and depend upon the principles of constitutional rather than common law. In the discussion of them we should bring to our aid all that we feel of attachment to law as the great safeguard of our liberties and all that we have of knowledge of its great and governing principles. But we must be wise as well as learned; and we must not forget in the discussion of great principles that there is always a neutral region, where legal maxims melt into legal principles and where rules relax to admit the spirit of the law they are established to enforce. We should indeed be always careful when we tread along that uncertain country, and should endeavor to mark our course and direct our progress by the great ideas which lie at the foundation of the Government, which our action is intended to illustrate. Free government rests for its foundation on the free expression of the people's will. Elections are the accepted and legal methods through which that will is expressed and presented. The machinery of elections, the regulation of ballots and ballot-boxes, of officers, lists, and records, the certifications of inspectors, commissioners, and of governors, are the safeguards of the free and fair exercise of that will and the *prima facie* evidences of its expression and result. They furnish the prescribed and accepted primary evidences upon which, when uncontroverted, is determined the question whether at the election a majority of the qualified voters have cast their ballots for a qualified candidate. Unless the election is free it is no election, since it lacks its very essence. Unless it is controlled by the majority it does not fulfill the idea of representative government. Unless there are officers who may primarily determine who has received the majority there is no means of deciding in the first instance that vital question. Unless they have the power to judge and to certify we have no record of their decision. Unless this *prima facie* evidence, when controverted, is to be subjected to the great tests of legal judgment and human reason, then there is no use of higher courts to consider or superior tribunals to decide.

To preserve the purity of election, and to the end that the will of the authorized voter is not swallowed up and defeated by the action of illegal usurpers of his power, qualifications are provided by constitutional provision to limit and define the classes and the individuals in whom the elective power alone resides. By our Constitution it is provided that—

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

By the fifteenth amendment it is provided that—

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

These are the general qualifications fixed by the Constitution of the United States for the electors of Representatives in Congress. We turn to the State constitution of each State to determine the general qualifications of these electors by finding the general qualifications for electors of the most numerous branch of the State Legislature; and those qualifications under the restriction of the fifteenth amendment make the qualifications of voters for Representatives in Congress, which no law of the State can add to or take away from by direct enactment or indirect provision.

Other clauses of the Constitution provide and fix the qualifications of the Representative. The spirit of our Government embodied in its general system and the provision of the Constitution which I have just cited unite to fix and declare the governing and essential principle that if a qualified Representative receives, at a constitutional election, a majority of qualified votes, he is entitled to his seat. These are the essential, governing, immovable, unassailable conditions upon which rest all constitutional elections. There is the seat provided by the Constitution; there is the qualified member; there is the majority of the qualified voters—the qualified Representative and the qualified majority give the seat. That is the end to be attained, and we only attain the end of free government and accomplish the free representation which our Constitution guarantees to the people when we put in the seat of the Representative the qualified man who has received a majority of qualified votes. These are the great legal pillars of the Constitution, the great foundation supports upon which rests the structure of our Government. They are thus the great objects to be reached. All else—and I hesitate not to declare it as a legal proposition which cannot be successfully disputed—all else is machinery for the accomplishment of these essential objects; all other provisions, whether State or national, are for the purpose of guaranteeing fair elections, surrounding them with proper safeguards, preserving and recording the evidence, providing for its proper attestation to afford the proper *prima facie* evidence of their fairness and result. The great essential conditions, if I have stated and characterized them properly, cannot be overthrown or swept away by the very means which are provided merely to preserve them. The spirit of the Constitution cannot be lost nor the requirements changed or modified by the legal and technical provisions made to record and illustrate them. Therefore, all the machinery which lies between these great landmarks is merely the machinery of evidence provided for the purpose of ascertaining and applying them and recording and proving the results of their application, and they are in their nature subject to attack and to be overthrown by other evidence. Since they are *prima facie* merely, they satisfy the requirements of the law when undisputed; they fulfill the law when, even though disputed, they are not overthrown. But when they are overthrown, it is our duty to disregard them and enforce the truth as otherwise established. If, in the light of other and better evidence, they are found wrongfully to deprive a member of his seat, the right of the member is not thereby lost, but he has a constitutional right to it notwithstanding, and it is the sworn constitutional duty of every man who composes the court that decides the question to consider and pass upon the evidence, and award the seat according to the result, upon his own judgment.

Let me repeat that proposition. The constitutional requirements are absolute; the qualifications are absolute. The necessity for a majority is absolute. The right of the elected man to his seat is absolute. But all the machinery which intervenes between the qualified candidate, elected by the qualified voters, and the constitutional seat is machinery for evidence only and is subject to be met and overthrown and destroyed, whether it be the result of force or of fraud, of intricacy or ignorance. Who denies that proposition? If any man can, I shall be glad to hear him. Let any who deny it take their stand fairly in the face of the Constitution of their country. These are the general principles. Now, how and by whom are they to be applied?

By the fifth section of the same Constitution it is provided "that each House of Congress shall be the judge of the election and returns and qualifications of its own members." That provision makes us the court for the maintenance and application of these principles. If gentlemen desire it, I readily admit that it makes us a court with the duties and only the powers of a court of largest jurisdiction and last resort. I admit that we are to "judge." But we are a court limited only as far as we are by express language limited at all by the word "judge" and the objects to which our judgment is to be directed. Still, we are a court, and, though a court, of last resort and of highest powers. A court of highest general powers known to the spirit of the law in the atmosphere of which we live is a court of original and natural equity; not a technical court of equity, such as in the progress of commercial transactions and business development binds itself to certain formal and technical and fixed rules and modes of evidence and proceeding, but an original court founded upon the broad principles of equity. And these are, says Blackstone, *lex non exacte definet, sed arbitria boni viri permittet*. Not what the law exactly defines, but what the judgment of good men permit. The Constitution creates the court, without limit of power except by the use of the word judge and the mention of the subject-matters to be judged of and determined.

By this action it clothed us with every power known to the spirit of our legal system, for the examination and determination of our questions, and left open to us without technical restraint every avenue for the investigation and establishment of truth.

We are a court, then, of high equity, proceeding according to legal processes to investigate truths, the conditions of which are defined and fixed by constitutional law, but untrammeled and unregulated in the order of our processes or the application of the principles by statute or organic law. We are the highest court on these subjects known to our organic law; to us an appeal lies from all other courts who have or assume jurisdiction of them; and for the settlement of them we have all the powers of all courts. In the exercise of these powers we may not make new principles of evidence, for we are to judge according to the logic of human reason and in the light of civilized knowledge, and these have accepted and fixed certain general sanctions of organized investigation which we may not disregard. But as we are left free by our own Constitution, so we are untrammeled by State laws or State machinery in the investigation of truth and in the application to the principles of evidence. We are not to make new principles, because those principles are a part of the common law established by the centuries of civilization, the fruits of which we enjoy and in the atmosphere of which we live. But we are a law unto ourselves when it comes for the application of the admitted principles of evidence, when it comes to the last text for the establishment of real truth and the actual carrying out of the requirements of the Constitution, whose creatures we are and whose principles we are organized to execute. I do not mean that it is not safer and better for this House, acting as a court, to ascertain the right and establish it if possible by means of the ordinary rules for the investigation of truth practiced in the ordinary courts and accepted by the common people of the country. I do not mean to deny that; but I do mean to say that when the truth is apparent or admitted we are not to be debarred from accepting it and establishing it by the intervention of mere technical rules of evidence or by the local decisions of rule-bound and inferior courts. Now, the governing fact of this case is established, as I understand it, by the admitted fact of a majority of 310 of qualified votes for John R. Lynch, found in the ballot-boxes and returned by the inspectors.

Now, since this is so, I trust my friends will not "stick in the bark" of this investigation, but will permit their views of this case to rise to the height of the great central idea for which the investigation is made, and that they will accept the fact that when the truth is evident or admitted the rules to ascertain it are "functus," and the imperative obligation is upon them to accept it and give to others their constitutional rights and exercise for themselves their constitutional duty.

What is evidence? Evidence is that which convinces the judgment of the court, that which makes truth appear to the tribunal to which it is presented, and when it appears or is admitted to a court which has the constitutional power to do it, that court has not only the power but the duty to disregard conditions which do not affect the substance, to sweep away technicalities, to break through trammels, to tread down formal rules, to accept the truth offered, and reach the very right of the case, and execute that with our power.

What I mean to express, and what is difficult of mere ordinary expression and clear understanding, clogged as we are by our common habit of ordinary and professional life, is that we must not fail to recognize the essential truth of the case, because the very means which have been erected to preserve and establish it stand between us and its light.

I can illustrate this best by a familiar fable. A simpleton in the Greek fable—and I would not of course apply that to my friends—a simpleton, as is told in the Greek fable, meeting a friend, said to him, "Why, I heard you were dead." "But," said his friend, "you see I live." "Oh," said the simpleton, "that cannot be according to the accepted rules of evidence, for you are not competent to bear testimony in your own behalf; and besides, I had the fact of your death from better authority than you are." [Laughter.]

That is just where we come to, my friends, when we attempt to limit things which are true by the means which we provide for ascertaining their truth. And that is exactly what we would do if we denied his seat to the man who had the admitted majority of votes cast at the election, merely because that majority was lost or eliminated in the processes of proof which are by State laws provided for its preservation and presentation. As I have said, the qualifications of voters are fixed by reference to State constitutions and defined by State decisions, unless these are clearly wrong, or absurd, or inconsistent with the requirements of the Constitution of the United States, or tend to defeat the very object of its provisions, or some of the provisions of the laws which the General Government has a right to make and has exercised its powers to make.

There is but one law that has been made on this subject by the law-making power of the United States. It is to be found in section 27 of the Revised Statutes:

> All votes for Representatives in Congress must be by written or printed ballot, and all votes received or recorded contrary to this section shall be of no effect.

In this case, then, we must appeal to the constitution of Mississippi to see who are qualified voters. We must also see that their votes when cast were by written or printed ballot, for the provision which was made to preserve the principle of voting by ballot, namely, the right of secret ballot if the voter chooses to claim and to exercise it. State laws may define the qualifications of voters; that power is given

to the States under the Constitution. They may fix, where the laws of the United States have not fixed, "the time, place, and manner of holding elections." They may of course provide their machinery, their officers, and their modes of certifying and attestation, which shall be *prima facie* evidence, but they cannot impose either upon the voter any other qualification or upon this House any other than the constitutional limit of jurisdiction or any State rule of evidence or construction. No State can say to this House, either in words or in effect, "We fix certificates of attestation; we make them governing and final, and you, Representatives of the United States, in the exercise of your duty under the Constitution, must obey the limits which we fix upon the modes and manner and effect of proof." I say to learned gentlemen fix your own rules of proof; establish your own attestation; make out your primary case; if undisputed it will stand, but if brought to the test of controversy we will try it by those tests of investigation and decision which seem to us to be properly applicable to govern the case and elicit the actual truth.

Who gave to the State of Mississippi or any other State the right to limit the committees of this House in their investigation, or this House in its judgments by their technical rules of evidence, or by the weight which the decisions even of their highest courts give to it? If the qualifications of the electors and the qualifications of the elected and the actual majority are the great immovable and unassailable conditions—if all else is machinery, mere mode for preserving, certifying, attesting, and evidencing the results—then I say that, sitting as a court, in its highest sense, with all the powers of all courts, fixing our own rules for the application of legal principles of evidence, we have the right at all times and at all points to meet the suggestions of these *prima facie* certificates, their defects, their absence, or their falsity, by other proof, and by its force, if effective for that purpose, to correct, suppress, or overthrow them.

Mr. CARLISLE. As I am to follow the gentleman I would like to ask him a question in order to ascertain whether I understand his position. Does he maintain that because Congress in section 27 of the Revised Statutes has declared that all votes given for members of this House shall be by ballot it follows that any attempt upon the part of a State to prescribe the form of a ballot is null and void?

Mr. ROBESON. No; I have not said so. It is not necessary in this case that I should maintain that proposition. But if I chose to do so I could pile up in behalf of it decision after decision of the United States courts of this country from Story and Kent down to the distinguished jurists who now sit upon the bench. I could show that it is declared by Kent that when the United States enters upon the regulation of a subject over which it has control, (and it will not be denied that it has control if it chooses to exercise it over this question,) when it enters upon it and exercises that control by law that exercise of power is not only absolute but exclusive. But I am not now contending that in this case the United States has undertaken to occupy the whole of this field, and I quoted the statute only to show what United States law had fixed as the limit of its essential requirement on this subject, namely, the provision it fixes to secure the secrecy and independence of the ballot, and to say that, in my opinion, when it fixed that limit for that purpose, it occupied the ground of provision for that purpose, and that though other provisions for that purpose by the State might be lawful, yet these other and extra provisions would not be necessary conditions to the legality of a vote for a United States Representative.

Mr. MOULTON. Will the gentleman allow me a single moment? If that doctrine is true, then I would like to ask the gentleman this question: the Government of the United States, having made the law as provided in section 27, and having entered upon that subject, would it not follow that if any voter in any State simply has his ballot in writing or printing, without reference to size—whether it be that size or that [illustrating]—whether it be printed in all the colors of the rainbow, whether it has an eagle upon it or any other device, the voter would have the right to put it in the box and have it counted, anything in the laws of the State to the contrary notwithstanding? Is that the position of the gentleman?

Mr. ROBESON. I am not affirming that proposition exactly, but only the one I have carefully stated. If the vote were not received it would be difficult, perhaps impossible, to count it, but if the vote did not violate the United States provision to secure the secrecy of the ballot, and showed when offered nothing that authorized the inspector to refuse it, then it should stand against objection on that account. I am not saying the provision of the United States statute absolutely excludes the State from taking any other means which it may choose to identify ballots, to secure fair elections, if you please, and to ascertain the result, but I do say that when it appears to Congress that a qualified voter has cast a vote, if it be written with lead-pencil upon a piece of newspaper, Congress is not restrained by State laws imposing additional conditions or bound by any principles of right or justice to declare that by reason of the peculiar form of the ballot that qualified voter has not constitutionally exercised his constitutional right and that the qualified man whom that qualified vote would elect is not entitled to the seat which the Constitution gives him.

Mr. CARLISLE. Then he can vote at any place on any day he pleases, notwithstanding the law?

Mr. ROBESON. No, sir; I did not say that.

Mr. CARLISLE. Why not?

Mr. ROBESON. Because we give the State the right to fix the time and place in the absence of provision on our part. The time is fixed, the place is absolute, to provide an election; not mere provision for proof of it. I did not say the State could not fix an absolute time and place when we have expressly authorized them to do so. These are not like the regulations for the manner of holding, mere safeguard regulations to preserve, prove, and declare the result. I did not say that these provisions were not lawful. I did not say they were not permissible to the State, even obligatory perhaps on the State as a means of *prima facie* evidence and attestation. All that I say is, that so far as they are mere evidence regulations we may meet and overthrow them by other proof, and that we are bound to do so when that proof comes up to the point of proving that at a legal election prescribed under the statute a qualified voter has cast his independent ballot for a qualified member.

Mr. HAMMOND, of Georgia. Will the gentleman allow me to ask him a question?

Mr. ROBESON. Yes, sir.

Mr. HAMMOND, of Georgia. We are anxious to understand you.

Mr. ROBESON. Very well. I hope I make myself understood.

Mr. HAMMOND, of Georgia. You remarked a while ago each House was a law to itself. Now, if this House by the Constitution has the right to judge of the returns, qualifications, and election of its members, how are we governed even by a law of Congress that prescribes the ballot? Can Congress take away from this House its constitutional right under your mode of saying, we throw law to the dogs?

Mr. ROBESON. Because Congress has also the constitutional right and power to prescribe the time, place, and manner of holding the elections, and has, of course, the right to secure as a part of the manner (not of the evidence) the secrecy of the ballot by its provision.

Mr. HAMMOND, of Georgia. Yes; but the Constitution says the State may until Congress changes it.

Mr. ROBESON. Well, I am arguing, or thought I was, that Congress has already changed it by passing a staute on that subject to the extent it thought it was necessary for that purpose, and that if the general principles of law should obtain, then by its exercise it excludes the essential binding force of all State action directed to that particular object. Not the right to make the additional provisions for other lawful purposes, perhaps even for that, but the right to make them effective conditions of the Constitution, which I have already said were that a majority of qualified votes should entitle to a seat. But I do not say, nor mean to say, that each House was "a law unto itself" in election cases; nor did I mean to enter upon that question, however inviting the field. I was merely declaring the general principles which should govern the application of the principles of testimony, as controlled by this House; and when I said each House was a law unto itself, I did not say, that unqualifiedly, or even generally; I said it was a law unto itself for the application of the common principles of evidence admitted or determined under law whose atmosphere we breathe, and the Constitution which created and controls us.

Mr. HAMMOND, of Georgia. How does this House get under the common law? What have we to do with the common law?

Mr. ROBESON. We are not under the common law, actually——

Mr. HAMMOND, of Georgia. That is what you said.

Mr. ROBESON. Yes, I did; and perhaps I was not strictly accurate in my expression; but what I meant to say and what the gentleman understood me to say, I think, was that we live in the atmosphere of that common law which has come down to us from our ancestors, which is the outgrowth of the civilization we inherit, whose definitions we accept, whose spirit we are governed by, and whose organic principles we put in force through its accepted methods unless the very preservation of the principles demands that we should depart from the methods. Now, if these propositions which I have stated are true, even approximately—and I need not for the purposes of this case maintain them to the full extent in which gentlemen have sought to lead me, though my friends know that for myself I am always willing to accept the logical consequences of my own proposition as tests of their truth—then I advance to another controlling position in this case. It is admitted, I believe, that there were returned by the inspectors of election—the original officers who held the election in the sixth district, two-thirds of them admitted Democrats and all of them appointed by a Democratic governor—that the votes sent to the county commissioners by these returns, the returns of the very men who received the votes, there were between three and four hundred admitted majority for John R. Lynch.

Of the votes cast at this election there were returned by the men who received them at the ballot-box 310 majority for Lynch at the lowest calculation, 385 by another calculation, 635 by another, but 310 majority, throwing out all doubtful questions. But it seems that by one means or another, by one process or other known to the law of Mississippi, this 310 majority of votes, admitted to be qualified and returned by Democratic inspectors who received them for John R. Lynch, were lost. The very essence of the election lost in the means provided to preserve it. If that be true—and I believe it will not be disputed, since it was so declared in the contestant's appeal in chancery, sworn to by him, not denied by the contestee, proven before the committee and not denied, and the records in some form or other produced in proof from information—if that be true, what is there of essence that stands between that ballot-box with that admitted constitutional majority and the seat which John R. Lynch seeks? Nothing but the machinery of State laws, the chicanery of State politics,

and the decisions of State courts. If the State court is, as I have said, debarred from declaring any new test for maintaining the secrecy of the ballot essential to its validity, and is confined in its purview to the question of qualification, which is left to the State by the Constitution, how can their decisions stand between? They themselves declare their want of jurisdiction. If they had it, for any purpose, it was lost in the form of the action, since the commissioners were *functi officio*. Their declarations and opinions were then clearly *obiter dicta* and of no binding force. And if they had binding force they did not declare the settled law of Mississippi, but were *ex post facto* to this case. And if theirs was a governing decision, in a case of which they had jurisdiction, then it is the very decision we are now reviewing, and we are of course not bound by it, since we are about the very business of affirming or reversing it.

Nothing stands between but the very machinery by which the State laws provide for ascertaining this very majority. The machinery provided for ascertaining and preserving the testimony which should show to us and to all men this admitted majority avails to destroy it. An admitted majority of qualified voters did cast those votes for Lynch. And will anybody say to me that when that fact appears and is admitted that the very machinery which is provided by law to show the fact shall be used to overthrow it? And that we, the court of last resort, with unrestricted power for the ascertainment of truth have not the remedy? In other words, that we shall not subject the *prima facie* evidence which the State provides to correction by other evidence, to be supplied where it is found defective, to be rectified where wrong, to be thrown out where fraudulent. Who denies to us this right as a principle of law? Why, if this be not so then our rights and liberties are so hedged round with technical defenses that the truth is lost in the intricacy of its own safeguards, and honesty and right have nothing to do but stand shivering outside.

Three hundred and ten at least qualified majority received by the inspectors of election at the ballot-box, two-thirds of the inspectors Democrats, and all appointed by a Democratic governor, and that majority by them returned to the county commissioners. If that be so, is not all that thrust between a mere contrivance and a fraud? Is it not all technically suggested, maintained, and defended to establish a constitutional wrong? Who shall deny it? And are the chosen defenders of the constitutional right bound or authorized to submit? Who shall give this proposition the sanction of his voice? Who shall maintain it by the solemnity of his vote?

But it may be said that some of the returns are defective. Let me, then, declare another principle of law which gentlemen will not dispute, namely, that the absolute right of the honest voter to have his vote counted when cast is never destroyed, when the fact can be proved by outside evidence, on account of defective returns of the election officials——

Mr. CARLISLE. Nobody contends that it can be; but it must be proved by competent evidence.

Mr. ROBESON. Undoubtedly it must be proved by competent evidence. But let me, then, declare another principle of law which may be important, and see if the gentleman will admit that, namely, that these men who by law are made custodians of official proceedings are competent to certify to the papers and facts in their custody, and that their certificates are competent testimony even in courts of law, without an express statute to make them so.

Mr. CARLISLE. You mean the officers of election may certify.

Mr. ROBESON. I mean the custodians of public papers.

Mr. CARLISLE. The legal custodians.

Mr. ROBESON. The legal custodians of public papers.

Mr. CARLISLE. I agree with the gentleman.

Mr. ROBESON. I ask the gentleman that question, because I admit the old law was somewhat difficult to understand upon that point, since it was often held that to make their certificates evidence required a statute, not only making their attestation evidence, but a statute authorizing them to attest; but I say by the law of the country as it now obtains, declared by the Supreme Court and admitted on all hands, it is now accepted that the attestation and certification of the legal custodians of public matters is competent evidence. I do not say conclusive, but competent evidence, though of course liable to be disputed or overthrown by other testimony.

Now, if what I have argued be true there is only one other suggestion of difficulty between John R. Lynch's election and his seat as a member of this House. The supreme court of Mississippi have declared that some 2,000 of these votes were illegal because they had upon their face some printers' dashes, and these distinguishing marks they hold to be against the statute. Suppose the supreme court of Mississippi had jurisdiction, which they themselves say they had not, how could its decision bind us in this case? These provisions are neither essential to the honesty of the vote or the principle of a secret ballot. Suppose the Legislature of Mississippi had passed a law that no ballot should be legal unless it had printed on its face a disavowal of the Government of the United States, would not that have been a thing for us to disregard? I think so. Suppose that the Legislature should pass a law requiring some other not seditious but ridiculous condition for the ballots? I pass now from the region of unlawful requirements and suggest that the Legislature should provide some ridiculous requirements. Suppose it had required to have printed on the face of the ballots some ridiculous or absurd or useless or unessential qualifications to the vote. These commissioners might have thrown it out. This court might have declared that the statute was binding upon them and sustained them in that act, but would that have any binding force upon this court, and deprive an honest voter of his right and an elected Representative of his seat? It would have been a decision of the supreme court of Mississippi, but it would not have been binding upon us. Why? Because it does not strike at the only essential question which their State and its courts are authorized to control, namely, the qualifications of the lawful elector. I give you that as an illustration of the truth of my proposition, which seemed to trouble the gentlemen upon the other side, but the contrary of which will be found to be absurd by every fair test.

Mr. HUTCHINS. Will the gentleman from New Jersey allow me a question?

Mr. ROBESON. Of course.

Mr. HUTCHINS. Speaking of this matter of the regulation of the ballot by State laws, and the power residing with Congress to alter or annul any regulation made by a State; now, if a State chooses to make that regulation, no matter how absurd, it being within our power to correct it by statutory provision, would we not be bound to it by acquiescence?

Mr. ROBESON. We certainly would not in this case, for we have had no chance to correct it. We are engaged in correcting it now.

Mr. HUTCHINS. Certainly since this act was passed Congress has had an opportunity to correct it; and by not doing so we have acquiesced in it. If we had thought it absurd we would have corrected it. The Constitution provides for that; otherwise a State, or several States combined, could prevent an election.

Mr. ROBESON. I hope the gentleman from New York will understand my proposition. It is this. I will repeat it again: there are certain things that are essential, in the face of which we cannot seat a man though he has the majority of the lawful votes, but in the absence of which we are not controlled by the requirements of technical statutes nor governed by technical rules of evidence in arriving at the fact as to whether he has received the majority of the lawful votes or not. Besides this, I hold that for the purpose of maintaining the secrecy of the ballot Congress has acted, and the State power over the character of the ballot for that purpose is gone. True, the qualification of the elector remains to the State, as a matter to be fixed by the State constitution and laws, and perhaps, for illustration, by the State courts if they are not palpably wrong; but what other essential condition is left for the State? The constitutional right to his seat of the qualified Representative, if he has the constitutional majority of qualified voters, is the essential thing, but a right independent of State law. All, besides what I have mentioned, is the machinery of evidence, of malregulation, call it directory if you wish, a legal term to characterize it, but which fades away before the sunlight of truth and hides its diminished head when confronted with absolute right. And that is the very reason why we are constituted without limitation the judges of the elections, qualifications, and returns of our own members, and why it is left to no other tribunal.

Mr. HUTCHINS. Now, if the gentleman will allow me to ask him a question here, because this is the very gist of this matter——

The SPEAKER *pro tempore*, [Mr. BURROWS, of Michigan.] Does the gentleman from New Jersey yield?

Mr. ROBESON. I am willing to answer all questions, but the gentleman from Kentucky [Mr. CARLISLE] is to follow me and I feel that I am occupying his time.

Mr. HUTCHINS. We will sit long enough to understand this thing.

Mr. ROBESON. I have no objection to hearing the gentleman's question except that I think common courtesy to my friend from Kentucky obliged me to say what I have said.

Mr. HUTCHINS. The Constitution provides that the States shall prescribe the manner of an election. Congress has passed an act by which they have provided it shall be by ballot, so far as the manner is concerned. They leave with the States the form of the ballot, and every State in the Union, without exception, or nearly every State—I think every State—has prescribed that form. Now, in the absence of an act of Congress, no matter however absurd this provision by a State may be, Congress having the power to change it—in the absence of an act of Congress upon that subject why are we not bound by the constitutional provision which leaves it within the power of the State to prescribe the manner? That is the point I want to get at. If a State says the ballots shall be of equal size and Congress acquiesces in that, and the Constitution says the State may prescribe the manner, what right have we to overrule the State unless we have a right to overrule the Constitution?

Mr. ROBESON. I started with the proposition, which is the answer that I give to the gentleman, that, given the fixed point from which we must start, namely, the constitutional majority, and the point which we must reach, namely, the constitutional seat, all else is mere regulation or evidence which we may overcome by other evidence if it be not correct.

Mr. HUTCHINS. The gentleman from New Jersey will not understand me——

Mr. ROBESON. I understand the gentleman thoroughly. I think——

Mr. HUTCHINS. The statute says the ballot shall be printed in a particular manner. How do you escape that?

Mr. ROBESON. I said before, and I say again, that if it appears to this Congress that an honest voter, qualified to vote, has cast his

vote in favor of a qualified candidate and that vote elects him, it is the sworn duty of this House, State provision or State laws to the contrary notwithstanding, to put him in his seat.

Mr. HUTCHINS. Then my friend takes the ground——

Mr. ROBESON. Yes, sir; I take that ground and all that it implies.

Mr. HUTCHINS. He takes the ground that although the Constitution provides that the manner of holding an election may be prescribed by a State, if he does not think the manner prescribed is a correct one or one that ought to be observed, then he is the high court over all constitutional law who is to decide.

Mr. ROBESON. Not I, but the Congress of the United States, which the Constitution has made the highest constitutional court in this matter.

Mr. HUTCHINS. That is to say, the Congress of the United States is not to be governed by a provision in the Constitution. That is what the gentleman proclaims.

Mr. ROBESON. All right, if the gentleman thinks that is the result of what I have to say. I do not so think. What I say is this: that the "time, place, and manner of holding" may, as the law now stands, be fixed by the State; that the time is absolute and the place is absolute, but that the regulations as to "manner" are mere regulations of safeguard and evidence to provide the means for ascertaining the result and providing and preserving the evidence of it, to the end that the essential fact of a constitutional majority may have its legitimate, essential end and result, namely, the constitutional seat; that to make the latter surely result from the former is the purpose and object of all these regulations as to "manner," and that as regulations they are in their character regulations to make and preserve evidence, directory only in their provisions and *prima facie* in their result, and liable to be corrected, supplied, or contradicted by other evidence, to the end that the very result that they are provided to preserve and prove may not be lost in the regulations provided to preserve and prove it. I trust that is clearly stated. I can do no better. If I have failed the fault is in me, not in my proposition.

Two questions only remain, which may be objects of regulation by the State: first, the general regulations to preserve the secrecy of the ballot. If these be in their nature essential, which I do not admit, it cannot be denied that this particular object has been contemplated and provided for by the United States itself, and that to that extent and for that purpose section 27 of the Revised Statutes is exclusive. But, second, the State may fix the qualifications of voters. It has done so, and if the action of the supreme court of the States has any foundation at all it must be put on the ground that this ballot is a test of and fixes the qualifications of voters.

The supreme court of Mississippi has thrown out more than 2,000 of these votes given for Mr. Lynch—

Republican National Ticket.

For President,

JAMES A. GARFIELD.

——o——

For Vice President,

CHESTER A. ARTHUR.

For Electors for President and Vice President,

HON. WILLIAM R. SPEARS,

HON. R. W. FLOURNOY,

DR. J. M. BYNUM,

HON. J. T. SETTLE,

CAPT. M. K. MISTER, JR.,

DR. R. H. MONTGOMERY,

JUDGE R. H. CUNY,

HON. CHARLES W. CLARKE,

——o——

For Member of the House of Representatives from the 6th Congressional District.

JOHN R. LYNCH.

because they say that the printers' dashes after the heading and between the names are distinguishing marks within the meaning of the statute; but they have not thrown out any of these ballots, though the vote of a whole county was cast for Mr. Chalmers in this form:

Democratic-Conservative

TICKET!

For President,

Winfield Scott Hancock.

For Vice-President,

William H. English.

For Electors for President and Vice-President,

F. G. BARRY,

C. P. NEILSON,

C. B. MITCHELL,

THOMAS SPIGHT,

WILLIAM PRICE,

WILLIAM H. LUSE,

ROBERT N. MILLER,

JOSEPH HIRSH.

For Member of the House of Representatives from the 6th Congressional District.

JAMES R. CHALMERS.

Look at the heading in capitals and the "screaming" exclamation point after the word "TICKET." Which has the most distinguishing mark on it? It is a mark that may distinguish the ballot, but it will never distinguish the court.

Mr. CARLISLE. Does the gentleman not know it to be a fact that a whole county voted for Lynch on the other ticket and was counted?

Mr. ROBESON. I do not care as to that. I do not complain when they were counted, but when they were not counted.

Mr. CARLISLE. It shows the commissioners did not agree among themselves.

Mr. ROBESON. But the supreme court say that the Lynch ticket was a false ticket. They do not say that the Chalmers ticket was a false ticket, but the application of their principle would make it so. Now, if Lynch's vote is to be thrown out on that account, and we are held to their construction of the statute, why may we not, when we review the case, throw out the whole vote for Chalmers, which is obnoxious to the same objections on the very principles they themselves declare. But on what ground does this court assume to throw out these votes? I will read the ground stated if gentlemen will listen to me a moment.

The court says the statute provides that these tickets shall be unlawful, "in order that intelligence may guide the electors in their selection," and not a mere device by which ignorance may be captivated and be guided by some mere device or mark by which they should distinguish the ballots they were to use in the process of election without a knowledge of the names of persons for whom they cast their votes, so that "ignorance and blind party devotion might not be led to the adoption of ballots by the guidance of some marks and devices, as to which they were instructed by their leaders, and which, instead of intelligent comprehension of whom or what they are casting their ballots for, should determine their selection of ballots to be cast." That is, "all would be alike, and the advantage of one party over another should not consist in tickets, but the ballots must be selected, not by devices and marks, but because of the names to be voted for."

Now, I would like my friends to pay attention to this proposition. They say, "How will you question the action of the supreme court of the State of Mississippi? You are bound by it." My friends will hardly say we are bound by it in this case, when we are sitting in review of it. It is the very case that we are reviewing. And if we are a court of review, we certainly are not bound by a decision of the court which we are reviewing.

It is not the settled law of Mississippi which gives notice to voters, and their disobedience of which may seem to be a willful defiance of law, or a fraudulent attempt to evade it; it is *ex post facto* of this case. Why shall we not review it, if we choose? The Supreme Court of the United States holds, and it is sound law, that generally that court is governed by decisions of State courts on State laws and questions. But it has happened in the past, and will happen in the future, that the occasion will arise when they "will refuse to sacrifice truth, justice, and right, because a State tribunal has erected the altar and demands the sacrifice."

But the decision which I have read is wrong, ridiculously, unconstitutionally wrong, even upon the ground upon which they place it, the ground of intelligence. They have no authority to apply any test of intelligence as to the qualification of the voter. By the eighteenth section of the first article of the constitution of Mississippi, to which we must appeal for the purpose of fixing the qualification of voters, it is provided that "no property or educational qualification shall be required for any elector." And yet this court, driven to the wall, as the only ground upon which they can rest their decision, as a question of qualification, say in effect that this test of the statute is a test of qualification, because it tests the intelligence of the voter, and give that effect of the law because they say he must be able to discriminate between tickets by being able to know and understand the names that are upon them. Then they give effect to the law as imposing a new educational qualification in the very face of their constitution.

I say, therefore, that this decision of the supreme court of the State of Mississippi is not only ridiculous on its face but that it is absolutely and absurdly in violation of the constitution of that State under which it exists, and the law of the State which it attempts to execute. Shall we not reverse it? To sustain it would be a wrong to the free people of Mississippi, whose rights it would invade; an insult to the jurisprudence of the country whose principles it recklessly violates, and an attack upon the Constitution of our country, against which it has aimed its feeble but insulting blow.

Gentlemen, I am done with the argument of this case. May I be permitted for a moment to detain you while I make one further observation? It is this: I fear that this interference with free elections, unknown at the North——

Mr. HAMMOND, of Georgia. There were forty-five men convicted in New York last year of election offenses.

Mr. ROBESON. Oh, I do not mean to say that when you pour into the great cities uneducated, untaught, unrestrained masses accustomed only to despotic governments, and make them citizens in defiance of the period of probation fixed by law, these irresponsible voters under irresponsible leaders may not be led to commit crimes. But in no ordinary community of peaceful citizens at the North does this thing happen.

Mr. HAMMOND, of Georgia. But these were not the voters who were convicted, but they were, I think, the officers of the election themselves.

Mr. ROBESON. What does that prove?

Mr. HAMMOND, of Georgia. Who violated the election laws.

Mr. ROBESON. All I want to say is that I recognize the fact that this attempt to defeat admitted majorities by violence or by chicanery is the growth of an intolerance which is not confined to political questions merely, but is a spirit which always prevails in every community where for generations has been nourished and defended any institution which makes free speech impossible. It is a philosophical and historical fact that so long as there is any subject in the community which may not be discussed, so long free speech is impossible and free discussion gagged on every subject, for intolerance becomes the habit of society, and generations will pass away before impatience of and war against difference of opinion are strong enough often to deny personal and political rights, and sometimes to break through the safeguards of the law itself. It gives color to public sentiment; it controls the public appreciation of right and wrong; it dominates the conduct of administrative officers, and sometimes invades the sacred precincts of the judicial bench.

Now, we have given to the colored men at the South their freedom, as the result and necessity of the great struggle for the life of the nation; and we have given to them political rights because we believed that freedom without political rights was war. I do not mean war in the sense of "the plumed troops and big armies which make ambition virtue." I mean that antagonism of interest, that disturbance of society, that interruption of progress and development which happens in any community where the claim is recognized that the rights of one class of a community rest upon a basis different from those of another.

Thus we gave them political rights for their own and our own benefit, and we gave them also for the benefit of the South itself, that it might have its full measure of development in the practical and effective freedom of all its people; that industry might be free, active, energetic not only, but might be ambitious also; that every man might have behind him the inspiration of the great idea which has made the progress of the world, that he might have encouragement to struggle to lift himself from out of the condition in which he found himself, and rear his children in a condition better than his own.

All that there is or has been of progress in the world since the world began depends upon that one principle which incites and encourages the individual to strike for himself and for his posterity, which inspires and invigorates every feeling of the heart and every faculty of the understanding until the struggle, sacrifice, and achievement of each individual becomes the progress of the nation and the elevation of the race. My friends, the lesson of history is sure and should be heeded. Wherever an insulting and impassable barrier shuts up the career of popular ambition, there all the energies of character are repressed and extinguished.

For these reasons, Mr. Speaker, we gave them these rights under the Constitution of our country; and for these reasons we will maintain them, State machinery, State laws, State decisions, State chicanery, and State wrongs to the contrary notwithstanding. There is the seat of the Representative fixed by the Constitution of the United States; there is the qualification of the member fixed by the Constitution; there is the qualification of the elector fixed by the Constitution; and when it is admitted or is apparent to our perceptions or our reason that a qualified man has received a majority of qualified votes, by that light we will be guided through the intricacy of State provisions till he enjoys his own and the country has her elected Representative. By these broad principles we must be guided for the maintenance of constitutional rights and national integrity, and I declare them now and here, not only for the encouragement of those who would be oppressed by their disregard, but as notice and admonition to those who may seek to antagonize and defeat them. [Loud applause.]

Mr. SPEER. Mr. Speaker, my vote in this case is controlled solely by what I am convinced is the law. No sense of party obligation has any weight with my opinion. I have listened attentively and with impartial attention to the discussion and it seems to me that a very brief statement will sustain my conclusion, which I am conscious is candid and sincere. It is conceded that to unseat General Chalmers and to seat Mr. Lynch, it is necessary to count for the latter the votes in Warren County which were rejected for alleged informalities. It is conceded that these votes were so rejected. If they were properly rejected it is an end of the contention of contestant, for, as stated, from no other source can there come a sufficient accretion of votes to him to overcome the certified majority of Mr. Chalmers.

Now, it is true that Congress is the judge of the election, qualifications, and returns of its own members, and its judgment is conclusive. In arriving at that judgment, however, there are certain well-settled rules of law which it is right to observe, and which the courts observe, and which have almost uniformly been held as paramount and controlling by Congress. One of these settled principles of law is that the judgment of the highest judicial tribunal of a State in construing a State law is conclusive as to the intent, meaning, and effect of that law.

Now, to determine the question raised against the legality of the ballots rejected in Warren County, it becomes necessary to construe the following State law of Mississippi:

SEC. 137. All ballots shall be written or printed with black ink, with a space of not less than one-fifth of an inch between each name, on plain white news printing paper, not more than two and one-half nor less than two and one-fourth inches wide, without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the tickets; but this shall not prohibit the erasure, correction, or insertion of any name by pencil mark or ink upon the face of the ballot, and a ticket different from that herein prescribed shall not be received or counted.

Has the highest judicial tribunal of Mississippi construed this statute? Let us see. I read, sir, from the case of Oglesby *vs.* Sigiman, 58 Mississippi Reports, 502:

Ira D. Oglesby, District Attorney, *vs.* J. I. Sigiman *et al.*, Commissioners of Election.

Appeal from circuit court, Tunica County, Hon. Sam. Powell, judge.

On the 9th of December, 1880, Ira D. Oglesby, district attorney for the third judicial district, filed a petition in the circuit court of Tunica County for a *mandamus* to compel the commissioners of election in that county to reassemble and recanvass the returns made to them by the inspectors of election of the votes cast at the election on the 2d of November, 1880, for a member of Congress from the sixth Congressional district, and to make a statement of the result of such recanvass to the secretary of state within a time to be prescribed by the court. The petition alleged that the commissioners of election had counted 506 ballots which were illegal, because bearing certain marks and devices prohibited by the statute on elections, and prayed that in the recanvass they be required to reject such illegal ballots. The petition was filed under section 2542 of the code of 1880, and stated as jurisdictional facts that the public is deeply interested in getting a construction of the election law of this State as to the duties of the inspectors and commissioners, concerning which conflicting views are entertained; that these officers are liable to criminal prosecutions, under the laws of the State and of the United States, for any omission or violation of their duties; and that the commissioners of Warren County have already been indicted and arrested for their acts, under the election law.

* * * * * * *

The writ of *mandamus* was issued, and the commissioners of election appeared and demurred to the petition on the following grounds:

1st. That they are merely ministerial officers, and have no power to reject ballots that have been counted by the inspectors.

2d. That the marks on the ballots for which it is claimed they should be rejected are mere printers' dashes, and are not such distinguishing marks as were contemplated by the statute.

The court sustained the demurrer and dismissed the petition, and the petitioners appealed to this court. The provisions of the election law, code 1880, bearing directly upon the questions involved in this case, are these:

SEC. 137. All ballots should be written or printed in black ink, with a space not less than one-fifth of an inch between each name, on plain white printing newspaper, not more than two and one-half nor less than two and one-fourth inches wide, without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket; but this shall not prohibit the erasure, correction, or insertion of any name by pencil mark or ink upon the face of the ballot; and a ticket different from that herein prescribed shall not be received or counted.

Campbell, J., in delivering the opinion of the court, said:

We think the effect of section 137 of the code of 1880 is to condemn as illegal, and not to be received or counted, every ballot which has on its back or face any device or mark other than names of persons by which one ballot may be distinguished from another. This statute does not condemn devices or marks on the outside of a ballot merely, but clearly embraces the face of the ballot as well. That is apparent from the exception contained in it, and a device or mark on the face of the ballot is as much within what we suppose to have been the object of this provision as one on the outside or back of it. It is apparent from the provision that its object is not only to preserve secrecy as to what ballot an elector casts, which is the leading idea of statutes in some other States, which prohibit any device or mark on a ballot folded which betrays the secret of the voter; its object is to secure absolute uniformity as to the appearance of ballots, in order that intelligence may guide the electors in their selection, and not a mere device or mark by which ignorance may be captivated. The legislature was trying to prevent multitudes from "being voted," and being guided by a mere device or mark by which they should distinguish the ballots they were to use in the process without a knowledge of the names of persons for whom their ballots were being cast.

Elections are a contrivance of government which prescribes who are electors and how they may express their will, and it is a legitimate exercise of power to prescribe the description of ballots which shall be used. Section 137 of the code of 1880 does this, and requires all ballots to be written or printed with black ink, with a minimum space between names, on plain white news printing-paper of a certain width, and without any device or mark by which one ticket may be known or distinguished from another, &c.; and it declares that a ticket different from that prescribed shall not be received or counted. Considerations of policy dictated the description of ballots prescribed, and it was deemed of such importance to secure an observance of the requirement that it is declared that ballots not conforming to the description prescribed shall not be received or counted.

It would have been competent to impose a penalty on the circulation or use of such ballots, but the means by which their use is sought to be prevented is the rejection of the ballot when offered or from the count. It is not penal for an elector to use a ballot differing from the legal pattern, but it shall not be counted, and thus he fails to express his will through such an instrumentality. If the device or mark is external and observed by the inspectors they should not receive the ballot. If it is received, and on being opened is discovered to be of the kind condemned as illegal, it is not to be counted; but if the inspectors count such ballots in disregard of law and their duty, the commissioners of election assembled at the court-house, with time and opportunity afforded to scrutinize and correct as far as may be done by the data furnished by the face of the returns, without a resort to evidence *aliunde*, should reject, as the inspectors should have done, ballots which the law says shall not be counted. The only safe guide as to what ballots are illegal because of devices or marks is the statute. It excludes any mark or device by which one ticket may be known or distinguished from another. A distinction between ballots by means of devices or marks instead of by means of the names on them is what the statute aims to prevent, and we are not at liberty to confine the broad language of the statute to any particular description of devices or marks, for ingenuity would evade any such limit. The law should be enforced as written. There is no room for distinction between what is directory and what is mandatory, what is essential and what is not.

I read also from the opinion of Justice George:

I concur entirely in the opinion of the court as drawn up by Judge Campbell. The duty to examine and reject illegal ballots rests on every officer or court required or authorized by law to count them. The statute prohibits the use of any mark or device on a ballot by which one "ticket may be known or distinguished from another." That the mark or device adopted is a mere printer's mark, commonly used for ornamentation, makes no difference. The statute prohibits any distinguishing mark whatever, and no court has a right to do away with the effect of the statute by holding that marks which are mere printers' ornaments may be used. It is wholly unimportant whether the marking on the ticket was the result of ignorance or a design to evade the statute. The inspectors and commissioners have no power to inquire into motives; nor has the statute made motives important. It condemns as illegal every ballot or ticket which is so marked "that it may be known or distinguished from another." The ticket used in this case and made an exhibit to the petition is thus marked, and should have been rejected. We have nothing to do with the policy or impolicy of the statute. The language is plain and does not admit of construction; and it is the duty of the courts and other officers to obey and enforce it in the sense the words clearly indicate.

There was no dissenting opinion.

But it is contended that in this decision the supreme court of Mississippi did not have jurisdiction of the questions of construction it decides. If this is true, it is important as affecting the weight of the authority. But is it true? First, was the application for *mandamus* properly brought? What is the law of the State on this subject? Section 2542 of the Code of Mississippi provides—

On the petition of the State by its attorney-general, or a district attorney, in any matter affecting the public interest, or on petition of any private person who is interested, the writ of *mandamus* shall be issued by a circuit court commanding any inferior tribunal, corporation, board, officer, or person to do, or not to do, an act, the performance or omission of which the law especially enjoins as a duty resulting from an office, trust, or station; and where there is not a plain, adequate, and speedy remedy in the ordinary course of law.

In pursuance of this law the district attorney for the third judicial district files the petition. The allegations of the petition clearly present the disputed question concerning the ballots alleged to be invalid. The defendants demur—that is to say, they admit that what is alleged in the petition is true; but though true they say that by the demurrer it makes no case against them, for the reason that the marks on the ticket were not such distinguishing marks as the election law in question condemned. Thus the issue is distinctly made. The court differed with the defendants, and decided with much elaboration of argument from the bench that the tickets were illegal and it was the duty of the election officers to reject them. Now, to recur to the original rule invoked. If it be the duty of Congress to esteem the judgment of the supreme court of a State on the construction of a statute of that State as to its intent, meaning, and effect as conclusive, then this question is concluded, the votes cannot be counted, and General Chalmers cannot be unseated.

Sir, I have, as I think, nothing to do with the impolicy of this Mississippi law. I do not like it, but other States have the same law. A statute almost identical is to-day the law of Ohio:

SEC. 2948. All ballots shall be written on plain, white paper, or printed with black ink, with a space of not less than one-fifth of an inch between each name, on plain, white, news printing-paper, not more than two and one-half nor less than two and three-eighths inches wide, without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the tickets, and it shall be unlawful for any person to print for distribution at the polls, or distribute to any elector, or vote any ballot printed or written contrary to the provisions hereof; but this section shall not be considered to prohibit the erasure, correction, or insertion of any name by pencil-mark or with ink upon the face of the printed ballot. (71 v. 31, § 2.)

It is sufficient for me to know that the supreme court of Mississippi rejects these ballots. It is the policy of our Government to give the greatest sanctity to such decisions of such courts on questions properly belonging to their jurisdiction, and to-day there are pending before committees of the House and Senate propositions to amend the law relating to the election of President and Vice-President, and in either bill it is proposed to make the supreme law court of the State the tribunal which shall decide the validity of the electoral ticket, and that decision should conclude Congress as to the count. This is clearly illustrative of the importance conceded to the judgments of the State courts. I shall not attempt to multiply reasons, when I have given the controlling reason, but I will say that if the election officers improperly rejected these ballots, and failed to include them in their returns, they were subject to indictment and conviction in the Federal court. They were so indicted, they were tried in the Federal court of that district. There was no dispute as to the facts, and yet under the charge of the Federal judge they were acquitted. So it appears that both the supreme court of the State of Mississippi and the Federal court of that district have passed upon these ballots, and they both held that it was not a violation of the election law of the State to reject them.

Mr. Speaker, these are my convictions, and it is a part of my public duty, as I see it, to vote in accordance with my convictions. It does not receive my attention that the contestant is a colored man and the contestee a white man. If the positions of the two gentlemen were reversed I should vote as I do now. Was not the law as it is I should not hesitate to vote for Mr. Lynch on this contest. I am satisfied that the future of the South, the security and happiness of society, and the great promise of material prosperity which is expanding before the eyes of our people, depend largely on exact and equal justice under the law to our colored people; and, sir, as stated by Mr. Lynch in his eloquent address on yesterday, that is the conviction and purpose of the better and more liberal classes of the Southern people, who are a large majority of the Southern people. Under the baneful influences of machine politics this majority is not always felt, but it is there. It is growing. It is beginning to put aside the control of political rings. It will soon be felt throughout the entire South, and the slogan of a "free ballot and a fair count" will not improperly animate the honest masses of the Southern people, who are as patriotic and devoted to the Union and the Constitution as the people of any other section of our common country.

Sir, no man will do more than I for a free ballot and a fair count. My position on the subject is well known. It is approved by overwhelming majorities in the largest white district of Georgia. There are miserable enemies of society, who would wreck every peaceful and prosperous interest of the people to accomplish partisan victories, who sedulously seek to array race prejudice, and race antagonism, and to keep the people in that abnormal and unhealthy state where the color line divides political parties. Some of these creatures are at their dirty and injurious work down there now; but, sir, such men are not the Southern people. The spirit of conservatism and liberalism and tolerance of political opinion is abroad in the land. The State of Georgia is not behind any of her sister States in the possession of these noble virtues of patriotic citizenship.

I trust, sir, that this case will be decided without any partisan feeling or partisan methods. I accord to every gentleman entire sincerity of purpose and conviction, and only claim that I am actuated by the same motives.

Mr. CARLISLE. Mr. Speaker, this House is now engaged in the performance of a duty and the exercise of a power expressly devolved upon it by the Constitution. We are proceeding to judge of the election, returns, and qualifications of one of our own members; and I submit to the distinguished gentleman on the other side who has preceded me [Mr. ROBESON] that the very terms in which the power is delegated necessarily imply that we are to exercise to a certain extent at least judicial functions. We are to judge, not to guess; and I hold, Mr. Speaker, that in the performance of this duty and in the exercise of this power we are under just as high and solemn an obligation to judge according to the law in determining upon the right of a member to a seat as the people or the election officers in a

State are to proceed according to the law in holding the election. I cannot refrain from saying here that I can have no more sympathy with an argument intended to show that we are not bound by the law in deciding questions of this kind presented for our consideration than I have for an argument intended to show that the people of the several districts and the election officers in those districts are not bound by the law in the performance of their duty with reference to this matter.

We are not only bound in my judgment to consider and decide these questions according to the law, but we are under every obligation as a matter of right and justice to decide them according to the law as previously declared, whenever the law upon any given subject has been previously declared. Of course, in all those cases where questions are presented not provided for by previous legislation or previous judicial decisions, we must apply to them such principles of right and justice, and such general rules of law and equity, as we think proper under the circumstances.

The gentleman from New Jersey declares that this House, in determining the elections, returns, and qualifications of its members, is a law unto itself. I submit to him that this is the very definition of arbitrary power—the absolute, arbitrary right in the exercise of an inherent power in the House, if I understand his argument, to decide——

Mr. ROBESON. The gentleman does not wish to misstate my position?

Mr. CARLISLE. Certainly not.

Mr. ROBESON. I said the House was a law unto itself as to the application and effect of fixed principles of evidence.

Mr. CARLISLE. But I understood the gentleman, while asserting that the House was a law unto itself in the application of the fixed principles of evidence, to hold at the same time that it is not bound by legal rules of evidence to the same extent or in the same way that courts of justice are bound.

Mr. ROBESON. I said that, accepting the principles, we were not bound by the rules.

Mr. CARLISLE. In other words, the gentleman proceeded to argue—and he did it very ingenuously—that all the laws in force on this and kindred subjects are merely parts of the machinery or means by which the House in the exercise of its constitutional power should be enabled to accomplish a certain end; and he said that if these means could be so used or perverted as to prevent the House, in the judgment of a majority, from accomplishing what that majority thought ought upon general principles of right and justice to be done in the particular case, then the law, the machinery, the means must be disregarded and the end desired must be accomplished anyhow. I am sure that I do not misrepresent the argument of the gentleman from New Jersey in this respect.

The gentleman would not venture, I am sure, with all his courage, to go into a court of justice and make such an argument. The very object of all courts of judicature in this and every other civilized country is to administer justice in cases presented for their consideration. That is the great purpose for which those courts are organized and maintained; but shall it be said that they are not to administer justice according to law; that if a case shall be presented which in the judgment of the tribunal requires it to disregard the plainest statutes of the country, in order to do justice between the parties before it, it is at liberty to do so, and to make and apply its own rules in the particular case?

I would like to follow the gentleman from New Jersey in his argument upon these and some other questions discussed by him if I had time; but the experience of the gentlemen who have preceded me admonishes me that no one can discuss even the case itself within the limits of one hour, and I can therefore refer but briefly to the argument of the gentleman from New Jersey. The cultivated legal mind of the gentleman from New Jersey discovered immediately, it seems, upon an examination of this report, that there was but one way in which the contestant in this case could be seated, and that was to take the bold high ground which he has announced in his speech that the House is not bound either by statutes enacted by the Legislatures of the States, by decisions pronounced by the courts, or by the rules of evidence recognized in every tribunal where the common law prevails. In that, Mr. Speaker, the gentleman is correct. There is no way by which the contestant in this case can be seated upon this record as made up in the Committee on Elections and presented to the House, except by disregarding the statutes and decisions and all the rules of evidence recognized in the judicial tribunals of the country.

So far in this case no gentleman on the other side of the House, except possibly the gentleman from Tennessee, [Mr. PETTIBONE,] who opened the discussion, has attempted to argue the case upon the record as presented or upon the report made by the majority of the Committee on Elections. We have had general statements and general declamation on the general character of elections in Mississippi; we have had assaults upon the people of that State, assaults upon the supreme court of that State, and assaults upon the election officers; but no gentleman so far has taken up the record in the case and upon the evidence undertaken to convince the judicial mind of the House that there was a case here which required us, on our oaths as members of this body, to unseat General Chalmers and give his seat to the contestant. The majority of the Committee on Elections, after all the labor it could bestow on this case, after every opportunity had been afforded to the contestant and contestee to prepare and present their testimony and to be heard by themselves or by counsel, come into the House with a report which declares, as the only proposition in which that majority could unanimously concur, that the contestant was elected by 385 votes and no more. In order to reach that conclusion the committee was obliged to give its assent to five separate and distinct propositions, no one of which can, in my judgment, be maintained. In the first place the committee was compelled to hold that it would not be bound in this case by the decision of the supreme court of Mississippi declaring the meaning and effect of a statute passed by the Legislature of that State. The chairman of the Committee on Elections I see appears to dissent from this statement, but I have been careful to limit it to the declaration that the committee would not in this particular case be bound by that decision.

Mr. CALKINS. I do not want the gentleman to labor under any misapprehension as to the committee. The position is not stated as it was agreed on in committee. The majority of the committee agreed that this is not a decision of the supreme court of Mississippi at all.

Mr. CARLISLE. I was not undertaking to state the reasons of the Committee on Elections for arriving at the conclusion, but stating simply the conclusion itself. It is true the committee give as a reason why they will not be bound by the decision in this case that in its opinion the court had no jurisdiction of the question presented, and that it was an *obitur dictum*. I do not propose, within the limited time I intend to address the House, to take up the question as to the character and binding force of that decision, nor do I intend to proceed with an argument to show, as I think could be shown, that these ballots cast by the supporters of the contestant in Warren County were obnoxious to the provisions of the Mississippi statute. These questions have been already discussed elaborately and ably by gentlemen on this side of the House, and so far during this discussion they have not been discussed or touched by gentlemen upon the other side, except so far as the gentleman from New Jersey has referred to them this afternoon.

But in passing I desire to call the attention of the House to the language of the statute of Mississippi under which it was held by the commissioners that these were not legal ballots; and I may say here, in response to some propositions stated by the gentleman from New Jersey, that if a State were to undertake by its law to impose unreasonable and absurd restrictions upon the right of suffrage, restrictions or requirements of such a character as to show that the object of the law was not in good faith to protect the right of suffrage, but to deprive the citizen of the right, in violation of the Constitution, I should not feel myself bound to respect such a statute. It would be unconstitutional and void. But I hold that every State in the Union has an unquestionable right to make all such reasonable regulations with respect to the form and character of the ballot to be used as in the judgment of its Legislature may be deemed necessary to secure the free and untrammeled exercise of this great right of suffrage. It is true that it is not a natural right, but it is a very high and sacred right nevertheless. Experience, however, has demonstrated the fact that in order to secure the right itself, and in order to enable the citizen to exercise it freely and in accordance with his own judgment, certain regulations of law are necessary. So far as these regulations are reasonable and not inconsistent with the exercise of the right itself under the Constitution, they are binding upon the voter and upon every tribunal that may be called upon to consider the legality of the election.

The statute of Mississippi declares what the form of the ballot shall be, and that it shall have upon it no mark or device by which one ballot can be distinguished from another. The test then—the very essence of the question—is, has the ballot upon it any mark or device which will in fact enable the voter or other person to distinguish one from another? Under the statute this becomes at once a simple question of fact. The law does not undertake to declare what shall be the character of the mark or device in order to render the ballot illegal; but it prohibits any mark or device, whatever may be its character, by which one ballot can be distinguished from another ballot voted at the same election.

Now, sir, I would like my distinguished friend from Indiana, the chairman of the Committee on Elections, when he comes to address the House, to declare whether he can or cannot distinguish one of these ballots from the other by the marks and devices upon it, even if every name and every letter were stricken out.

Mr. RANNEY. Can you not distinguish them by the names.

Mr. CARLISLE. But the statute expressly allows the names.

Mr. HORR. Why did they not throw out the tickets having the exclamation point?

Mr. CARLISLE. I do not know but they did.

Mr. CALKINS. I think it may shorten the argument of my friend from Kentucky if he will allow me at this point to state my view. It is that anything that is necessary or proper to be used in the mechanical art of printing, not of itself a mark or device, is not within the law.

Mr. CARLISLE. I have just said, Mr. Speaker, which I think anticipated the position taken by the gentleman from Indiana, that the statute does not undertake to prescribe the character of the mark

or device which is prohibited, but makes it a simple question of fact: Has the ticket such a mark or such a device as will enable a person to distinguish one ballot from another? Now the Legislature does not allow a printer's mark, if it be such a mark as that, any more than it allows an eagle or a flag. There are many marks used by printers just as well calculated to distinguish one ballot from another as any device that gentlemen can imagine, and the marks or devices used in this instance certainly came within that category.

But I said that I would not dwell upon this subject, because you may count every one of these marked ballots; the 2,029 marked ballots which were excluded from the computation by the commissioners of Warren County may be included in the computation here, and still General Chalmers is elected, as I shall proceed to show.

Another proposition found by the committee, in order to sustain its conclusion that the contestant was elected by a majority of 385, is that there shall be counted 503 votes for Lynch and 75 votes for Chalmers from two precincts in Bolivar County, although no returns whatever were certified from either of these precincts by the officers who held the election, and there is no legal evidence that either of the candidates received a single vote at either of them. I know this is a very broad statement, but I think that an examination of the record will satisfy the members of the House that it is correct.

On page 15 of the record will be found a statement made by the commissioners of election for Bolivar County and transmitted to the secretary of state, in which they say:

> We have thrown out the Australia precinct box, 30 Democratic and 192 Republican votes, because the returns were not certified to by the inspectors or the clerks. We have thrown out the Bolivar precinct, 45 Democratic and 311 Republican votes, because there was no certified return from the inspectors and clerks. The tally-sheets sent in the box show the names of the electors of the Democratic and Republican parties, of James R. Chalmers, John R. Lynch, G. B. Lancaster, M. Roland, James Winters, Fleming and James White, but does not show for what office they were voted for.

They had from neither of these precincts any certified returns whatever; but in one of the ballot-boxes from one of the precincts they found certain tally-sheets which had on them the names of certain gentlemen, without any designation of the offices for which they were candidates. They absolutely, then, had before them no legal evidence or any evidence of any kind known to the law that there had been even an election held in these precincts. Under the statute of the State of Mississippi it was the duty of these inspectors and clerks of election to make out and certify these returns, and they ought to have discharged that duty, but they did not do it.

Just here I want to repeat what I said in response to the gentleman from New Jersey while he was speaking, that I do not question the truth of the proposition that the voter does not lose his right simply because the election officers fail to do their duty. But if the election officers fail to certify the vote, then I think we are all agreed that in order to entitle a candidate to that vote he must prove it by legal evidence. The gentleman from New Jersey certainly admitted that much.

Now, I want to call the attention of the gentleman who presides over the deliberations of the Committee on Elections, and who made this report, to the declaration that there is not in this record a shadow of evidence of any kind whatever in relation to the election alleged to have been held at Australia and Bolivar precints except the naked statement just read. If I am wrong about this I would consider it a favor if he or some gentleman upon the other side would call my attention to that testimony.

Mr. CALKINS. I cannot do that in your time.

Mr. CARLISLE. Yes, you can.

Mr. CALKINS. I cannot call to your attention just now the specific parts of the evidence which lead the committee to the finding of a fact which is summed up and stated as a fact; but I will do so in my closing argument.

Mr. CARLISLE. The committee itself does not refer to any other evidence. It is not claimed in the majority report that there is any testimony in relation to the vote at Australia and Bolivar precincts, in Bolivar County, except that statement which I have read. There is not even the certificate of a county supervisor of elections; there is not the certificate of a clerk of any kind. There is not, so far as I know or believe—and if I am mistaken gentlemen are invited to correct me—there is not a word of testimony given by any witness in the case on this subject.

The committee stands here upon the naked proposition that the commissioners of elections have said in their report of the election in that county to the secretary of state that certain papers came to them from those two precincts not signed by anybody; that it appeared by the ballots that so many votes were Republican and so many were Democratic; but they do not state, and had no authority to state, that there was a single vote cast for Lynch, or a single vote cast for Chalmers; and if gentlemen will look at these tickets they will have no difficulty in understanding how it was that the commissioners were able to tell how many Democratic ballots and how many Republican ballots were found in those boxes. One ticket is headed "Democratic Conservative Ticket," and the other is headed "Republican National Ticket."

Mr. CALKINS. I have now the testimony. I wish to say to the gentleman that on page 96 of the record he will find a full statement by the supervisors of the ballots cast at each of those polls. And I call attention to the further fact that there is the sworn bill in chancery.

Mr. CARLISLE. On page 96 of the record?

Mr. CALKINS. Yes, sir.

Mr. CARLISLE. On page 96 I find a certificate from O. Davis, chief supervisor, in relation to the election in Coahoma County, and at the bottom of the page I find a certificate from O. Davis, chief supervisor, in relation to the election at Holmes Lake, in Bolivar County. And I have not said anything about Holmes Lake.

Mr. CALKINS. I beg pardon of the gentleman. The certificate refers to all precincts; Rosedale, Australia, Concordia, Terrene, Beulah, Glencoe, Grange Hill, Tupper's Store, and Bolivar Landing.

Mr. CARLISLE. Where is that?

Mr. CALKINS. That is in the middle of the page.

Mr. CARLISLE. I must say in response to the gentleman that this had escaped my attention entirely. I examined the index very carefully for reference to the certificates of chief supervisors and I found, as gentlemen will ascertain by referring to it, that there is in the index no reference to the certificates of chief supervisors from the precincts mentioned. I will come after a while to discuss the question whether or not the certificates of supervisors in country districts, as they are called, (being districts outside of the cities and towns which contain a population of 20,000,) are evidence under the statute.

The majority of the committee itself does not find that such certificates are legal evidence and does not allude to them in this report. So far as the report goes it places this vote alone upon the statement which I had previously read. The majority of the committee in this report expressly say that they do not rely upon the certificates of these supervisors in any case.

Therefore my statement with regard to these two precincts, and with regard to the legal evidence contained in this record to support the views of the majority is correct, with the exception to which my attention has just been called.

Mr. CALKINS. And the sworn bill in chancery.

Mr. CARLISLE. I suppose the gentleman does not call that testimony.

Mr. CALKINS. I call your attention to it.

Mr. CARLISLE. The contestant, Lynch, filed a bill in chancery for the purpose of procuring an injunction against the secretary of state to prevent him from issuing a certificate of election to General Chalmers. In that bill he stated that certain votes were cast in certain counties. I suppose it is not necessary for me to argue that his allegations made in that pleading are not legal evidence against the contestee. I would like at this point to call the attention of gentlemen who believe that colored voters are necessarily Republican voters to the facts disclosed by Mr. Lynch himself in that bill in chancery, and in his notice of contest in this case. The sixth Congressional district of the State of Mississippi is composed of twelve counties, and there is a large colored majority in each and every one of them. In the notice of contest in this case, a paper which usually, as we all know, challenges every fact about which there is the least suspicion or the slightest shadow of a ground for complaint, the contestant does not assail the fairness or legality of the vote at any precinct in four of those counties. These are the counties: Quitman County, Sharkey County, Tunica County, and Claiborne County.

In Quitman County, where Mr. Chalmers received 153 votes and Lynch received 83 votes, there were registered 199 white voters and 217 colored voters. Yet the contestant admits in his notice, and in all the proceedings throughout this contest, that although Mr. Chalmers received nearly twice as many votes as he did, the election in that county was perfectly fair.

In Sharkey County Mr. Chalmers recived 484 votes and Lynch only 165 votes. Yet the voters, as classified by race, were registered as 391 white and 1,252 colored. In Tunica County Mr. Chalmers received 239 votes and Lynch 506; Lynch received the majority, and the voters as classified by race were 451 white and 2,055 colored.

In Wilkinson County Mr. Chalmers received 1,691 votes and Lynch 814, not quite one-half the number, although the voters were classified by race as 855 white and 2,567 colored.

In the county of Claiborne, where the white registered vote was 986, and the colored registered vote 2,566, Mr. Chalmers received 1,061 votes and Lynch 288. But the contestant makes no question about the fairness of the vote or count in that county, except that he says that at one precinct there were from 30 to 50 votes taken out of the box which were cast for him, and a like number of votes substituted for the other side; but there is no evidence to support this charge. In Jefferson County, where Chalmers received 1,043 votes and Lynch 386, there were registered only 951 white voters and 2,419 colored voters, and there is no complaint of the election in that county, except it is said that while the inspectors of election were on their way to deliver the returns to the commissioners some unknown parties intercepted them and took away from them the box of Rodney precinct, which contained 92 votes for Chalmers and 247 for Lynch. General Chalmers at once admitted that the vote ought to be counted; and it is counted. Nobody knows who took the votes away and each party suspects the other.

I call the attention of gentlemen to this, for the purpose of showing that they are not justifiable in concluding, simply because there

is a majority of colored votes in a county or a precinct, that therefore the Republican candidate must have carried that county or precinct.

The next proposition found by the majority of the Committee on Elections is that there should be counted for Lynch 742 votes and for Chalmers 89 votes from three precincts in Issaquena County, on a certificate made by the clerk of the chancery court in that county, although there is no law of the State which makes that clerk the custodian of any paper whatever relating to elections. This is the law:

SEC. 105. The books of registration of the electors of the several election districts in each county and the poll-books as heretofore made out shall be delivered by the county board of registration in each county, if not already done, to the clerk of the circuit court of the county, who shall carefully preserve them as records of his office, and the poll-books shall be delivered in time for every election to the commissioners of election, and after the election shall be returned to said clerk.

Here is a statute which speaks of two kinds of books, and no more. It speaks of nothing but books. The first is the registration-book, which contains the names of all the registered and legally qualified voters in the county. That remains in the office of the circuit court clerk permanently as a part of the records of his office. The other book is the poll-book, which is simply a transcript of the names on the registration-book belonging to each precinct separately. That is to say, just before the election the clerk of the circuit court takes the registration-book and copies from it into another book the names of all the registered voters, for instance, in Australia precinct, Bolivar County; and this is the poll-book which he transmits under the statute to the officers of election in order that they may have before them, when the people come to vote, evidence which will enable them to decide whether a person offering to vote is or is not a registered voter. The officers of the election do not enter anything upon that book; it is merely there for reference, and the statute says that when the election is over it "shall be returned to said clerk." So that according to this statute the only books or papers relating to the holding of elections in the State of Mississippi, of which the clerk of the circuit court, not the chancery court, has the custody or control, are, first, the book of registration, and secondly, the poll-book, which is merely, as I have said, a transcript of a part of the book of registration.

Now, the gentleman from New Jersey put to me the question whether I was willing to concede that a clerk, even in the absence of an express statutory provision authorizing him to do so, might lawfully certify as an instrument of evidence a paper which was legally in his custody as an official. I said to the gentleman that whatever doubt there might have been about that question heretofore, I would admit, not that such an officer could certify the fact that there is such a paper there, but that he can make a transcript of that paper and certify that it is a true copy, and then it would be a legal instrument of evidence. That being the law, it follows that the clerk of the circuit court in Issaquena County has power under this statute to certify copies of the book of registration and the poll-book; but he has no power to certify as to any other paper or book in relation to elections.

What are the other books and papers used in conducting an election in the State of Mississippi? In the first place the officers who actually conduct the election, by receiving the votes, are required to make a list of the voters. When any citizen approaches the polls to cast his vote, these officers are required to put his name down on the list, and when the poll has been closed they are required to make out and certify a statement of the vote cast at their respective precincts. This statement, as gentlemen will see from looking into this record, consists simply of what is usually called a tally-list—the name of the persons voted for with a statement of the votes received. This is the paper which the inspectors and the clerks of the election certify to the commissioners. There is not a line or a word in the statutes of Mississippi which requires or authorizes the commissioners or any other officer in the State to send either of these papers to the office of the circuit clerk or the chancery clerk. If there is, I trust that gentlemen who follow me in this debate will point it out to the House.

These are the papers which the inspectors of election send to the commissioners, and from them the commissioners make up their statement which they transmit to the secretary of state. There is no statute making these papers records in any office whatever in the State of Mississippi.

Now, sir, the statute which I have read makes the clerk of the circuit court the custodian of the registration-book and the poll-book, and nothing else. The majority of the committee has counted three precincts in Issaquena County upon the certificate, not of the circuit court, the only official in the county who has custody of any paper relating to the election, but on the certificate of the chancery court of that county. Why this is done I do not know, except that I have been informed outside of the record that in the State of Mississippi the same person who acts as circuit court clerk acts also as chancery clerk, or may do so; but what difference does that make? In the State of Kentucky, as my colleagues very well know, there is nothing to prohibit the same person from holding both the office of county court clerk and circuit court clerk, and very frequently the office is united in the person of the same man. As clerk of the county court he is the recorder of deeds, mortgages, leases, and other recordable instruments, and has the right to certify transcripts of them to become evidence in the courts. As clerk of the circuit court he has the power to certify orders and records of that court to be instruments of evidence in other tribunals. But suppose he should certify a deed or will from the records of the county court as clerk of the circuit court, would there be the slightest room for difference of opinion on the question whether that was a legal certification? I imagine none whatever, but you have not even that case here. You have a case here where, if the man had certified as circuit court clerk, the only officer who is named in the statute, he would be undertaking to certify to a paper which does not belong to his office under any law of the State and over which he has no control whatever.

The majority of the committee counts the votes from these three precincts, 742 votes, for Lynch upon that certificate of the clerk of the chancery court. The only other evidence referred to by the majority of the committee as to these precincts is this. It is a statement made by the commissioners of election from Bolivar County to the secretary of state, and it will be found on page 17 of the record:

Hon. HENRY C. MYERS,
Secretary of State, Jackson, Miss.:

We, the undersigned commissioners and clerk, having canvassed the returns of the election held on the 2d day of November, A. D. 1880, at the following places in the State of Mississippi, county of Issaquena, report as follows—said report being certified to by us as true and correct—to wit: District No. 1: election held at Duval's Landing. We find eighty-two votes were cast, and that number of ballots were found by us in the box; we did not find any separate lists of the names of the voters in the box, as required by section 139 of the Revised Code of the State of Mississippi. We, the commissioners, decide to throw out the box. District No. 2: election held at Hays's Landing. We find seventy-five votes reported by commissioners and clerks of election at this precinct, and we find in the box seventy-one votes and four ballots, in which all the names were scratched.

We do not find any separate lists of names of the voters in the box, as required by section 139, Revised Code of Mississippi. We, the commissioners, decide to throw the box out. District No. 3: election held at Ben Lomond. We find three hundred and fifty-two votes reported by the commissioners and clerks of the election at this precinct. We find in the box, as counted and tallied by us, three hundred and seventy votes. We do not find in the box any lists, separate or otherwise, of the names of the voters, as required by section 139 of the Revised Code of Mississippi. We, the commissioners, decide to throw out the box.

I call the attention of the House to the fact that the commissioners do not state or undertake to state anything whatever in relation to the character of these votes, whether they were Democratic or Republican, or were cast for Lynch or Chalmers.

I will not read section 139, because it has been read frequently in the hearing of the House.

On the next page of the record we find the following:

District No. 5.—Election held at Duncansby. We find 420 votes reported by the commissioners and clerks of the election at this precinct, and, upon opening the box and counting the ballots, we find 444 ballots in the box. We do not find any separate lists, or lists of any kind, of the names of the voters, as required by section 139, Revised Code of the State of Mississippi. We, the commissioners, decide to throw out the box.

Here, then, are three precincts in the county of Issaquena sent up to the commissioners with no list of the voters accompanying the returns as required by section 139 of the code. Gentlemen will see at once the importance of this list of voters. Unless the election officers send up to the commissioners as required by the statute a separate list containing the names of the persons who had voted, the commissioners can have no means of determining whether the votes had all been cast by one man or by a number of men corresponding to the number of votes. They had no means whatever of comparing the list of persons who voted with the list of persons who were entitled to vote as shown on the registration-book or poll-book sent out to the election precinct for the guidance of the officers of the election.

The papers came up to them then in that condition without any evidence from which they could determine how many men had cast the votes, or whether they were the men whose names were on the list, or perfect strangers in the country, and consequently they rejected them.

But it is not necessary for me to argue the question whether the commissioners were right in rejecting them. They did reject them, and it was perfectly competent for the contestant, if he desired to do so, to prove that the votes were cast for him. I admit that he had that right. He had the right to a certain number of votes which were cast for him, at Ben Lomond for instance, and if they were not counted for him he had the right to show the fact that they were cast for him, the same right that the contestee had under similar circumstances.

The commissioners of election did not certify that there was a single vote cast for Mr. Chalmers, or a single vote cast for Mr. Lynch. They say they found so many ballots in the box, but whether they were cast for Lynch, or Chalmers, or somebody else, did not appear. Upon that statement of the commissioners the majority of the committee have taken the certificate of the clerk of the chancery court that certain papers purporting to be tally-sheets, nothing else—not a list of voters, no ballot-box, or ballots—but that certain papers which purport upon their face to be tally-sheets kept at these three precincts are on file in his office, and he certifies to them. "Of record," he says, "in my office," and he certifies that they are correct transcripts as he finds them on record in his office, and upon that statement the majority of the committee count this vote.

Mr. MASON. Will the gentleman permit me to ask him a question?

Mr. CARLISLE. Certainly.

Mr. MASON. Did the inspectors of elections make returns to the commissioners of election in these three precincts?

Mr. CHALMERS. There is no evidence that they did.

Mr. CARLISLE. I will state the facts. The commissioners in their report to the secretary of state, as I have just read, state that they sent up to them the returns:

> We find 75 votes reported by the commissioners and clerks of election at this precinct, and we find in the box 71 votes and 4 ballots in which all the names were scratched. We do not find any separate list of names of the voters in the box as required by section 139, Revised Code of Mississippi.

Now, my friend from New York will see that the commissioners did not say whether the inspectors or clerks of election have certified anything to them or not. They do say that they find seventy-five votes reported by the commissioners and clerks of election, but nothing else. In what form they were reported the record does not show, and I do not know, but the reason given by the commissioners for the rejection of the vote was that the returns were not accompanied by the separate list of votes in these three precincts.

Mr. MASON. That is under section 139.

Mr. CARLISLE. Yes, sir. Now, as I said before, it does not appear from this statement for whom these votes were cast. It does not appear for what office they were cast. There is a simple statement that they found in the box so many ballots, and that the commissioners and clerks sent a return showing 75 votes, without saying whether they were all for one side or all for the other. Then there is no evidence to show for whom they were cast. They did not count them. They said they could not count them.

Mr. CALKINS. The commissioners of election said they would not count them.

Mr. CARLISLE. I say so. But the majority of the Committee on Elections count them, not upon the returns as they appear from the box, but upon the certificate of the chancery clerk that he finds in that office in Issaquena County certain tally-sheets which he certified, and which are put into this record as evidence. How they got into the office of the clerk of the chancery court nobody knows. Then here are these alleged tally-sheets. Gentlemen will find them on pages 89 to 95 or 96 of this record, showing the number of votes cast. The commissioners make no return of these votes on which a count can be based.

Mr. RANNEY. They agreed with the supervisors' report.

Mr. CARLISLE. Not exactly. The commissioners say they find 420 ballots in the box at the Duncansby precinct. If you look at this tally-sheet we find there were only 417.

Mr. HORR. Are they not substantially the same?

Mr. CARLISLE. There are the papers to show for themselves. How they got into the chancery clerk's office we have no means of knowing, for there is no law which authorizes him to keep or certify the papers. Gentlemen simply assert that because the papers which he certifies are substantially alike, or because in some respects they correspond with the returns of the commissioners, they are the same.

It might have been sufficient if gentlemen had taken oral evidence to prove that these were the genuine tally-sheets; but the only evidence to support them is the certificate of an unauthorized officer. If he has any authority, my friend from Indiana can show it to the House when he comes to make the argument.

Mr. CHALMERS. Will the gentleman pardon me for interrupting him? There is no evidence in the record to show they were the papers sent up by the inspectors.

Mr. CARLISLE. I have said so.

Mr. CALKINS. What is not objected to is admitted. The only objection is they are not certified to by the circuit clerk. The gentleman is making a technical objection now.

Mr. CARLISLE. I am not. I am making a legal and substantive objection; that they come from a place where they had no right to be. I have already said that the clerk of the circuit court even had no right to certify those papers.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. CARLISLE. I will not trespass longer on the time of the House; but I desire simply to say this——

Many MEMBERS. "Go on!"

Mr. CARLISLE. In ten minutes I can say all I wish to say in relation to the question of the competency of the supervisors' certificates.

Mr. ROBESON. You can have unlimited time.

Mr. MOULTON. Go on and elucidate that point.

The SPEAKER *pro tempore*. The Chair hears no objection to the time of the gentleman from Kentucky being extended.

Mr. CARLISLE. The fact has been disclosed since I began my remarks that as to the two precincts in Bolivar County, Australia and Bolivar precincts, there are in the record, in addition to the statement made by the commissioners, certificates from the United States supervisors of election; and, as I understand, it is claimed now, although it is not claimed in the report, that these certificates are legal instruments of evidence in this case.

Mr. ATHERTON. I would like to interrupt the gentleman long enough to say that I do not think the chairman of the Committee on Elections, the gentleman from Indiana, [Mr. CALKINS,] claims any such thing.

Mr. CALKINS. I do not.

Mr. CARLISLE. It has been claimed, not by the gentleman from Indiana, but by the gentleman from Tennessee, [Mr. PETTIBONE,] who opened the discussion on the other side of the House, that the certificates of the supervisors are competent evidence.

Mr. Speaker, there were originally two statutes upon this subject. There was the act of February 28, 1871, which provided for the appointment of a chief supervisor of elections and for the appointment, upon the application of two citizens, of other supervisors to be present when the election is held. This law applied only to cities and towns having a population of 20,000 or more, and it gave to the supervisors in those places the power to be present at all times when elections for members of Congress were to be held, and the power to scrutinize and count the vote and to certify to the chief supervisor of elections all such facts in relation to the election as that officer might require them to certify. It gave to them the power to arrest for violations of law, with or without warrant, the same power as was given to the marshals.

In 1872 that statute was amended, and the United States circuit courts were authorized to appoint supervisors of elections in districts outside of cities and towns having a population of twenty thousand and upward. They were authorized to appoint these supervisors, not upon the application of any two citizens, as was the case with reference to the others, but for any county or parish or district upon the application of any ten persons who might ask for the appointment. But it was expressly provided in this act of 1872 that the supervisors appointed under its authority were simply to be witnesses of the casting and counting of the vote and the making of the returns. I will read the whole provision presently. All the confusion, if there is any confusion upon this subject, arises from the fact that the provisions of both these acts are compiled and printed together in the Revised Statutes. In some sections we find provisions taken from both the original acts, while in other cases we find entire sections in the Revised Statutes taken altogether from one of the acts.

If there were any legal difficulty in construing these statutes we have the authority of the Supreme Court of the United States for saying that it is not only our right but our duty to refer to the original law and see how the matter stood at the time the revision and compilation was made. This is what the Supreme Court said in the case of the United States *vs.* Bowen, in 10 Otto:

> Counsel for Government admitting that it—
>
> Speaking of a statute—
>
> admitting that it has no longer any force independently of the section of the revision which we are called on to construe, insist that a resort may be had to the law which was the subject of revision to interpret anything left in doubt by the language of the revisers.
>
> This principle is undoubtedly sound, and where there is a substantial doubt as to the meaning of the language used in the revision, the old law is a valuable source of information. The Revised Statutes must be treated as the legislative declaration of the statute law on the subjects which they embraced on the 1st day of December, 1873. When the meaning is plain the courts cannot look to the statutes which have been revised to see if Congress erred in that revision, but may do so when necessary to construe doubtful language used in expressing the meaning of Congress. If, then, in the case before us, the language of section 4820 was fairly susceptible of the construction claimed by the Government, as well as of the opposite one, the argument from the provision of the statute as it stood before the revision would be conclusive.

Let us look now at those statutes as they stood before the revision, a revision which the Supreme Court declares must be held to contain the law as it stood in December, 1873.

Mr. RANNEY. Will the gentleman allow me to call his attention to this point? Does he wish to be understood as saying that both those sections as they stand in the Revised Statutes are not to be construed as they stand there; and whether, as the construction of a particular section, this particular matter shall not stand as the law on the statute-book?

Mr. CARLISLE. In the case to which I refer, my recollection is, although my attention was not directed particularly to that point, that the question was as to the construction of a single statute which had been revised and incorporated into the Revised Statutes of the United States.

Mr. RANNEY. Does not the first section of that statute, in regard to supervisors, apply to country and city supervisors? And in regard to the subsequent section to which reference is made both must stand together.

Mr. CARLISLE. I am willing, for the purpose of this discussion, to treat this entire title of the Revised Statutes of the United States as one statute; and I think no lawyer who examines it can hesitate a moment as to its meaning. Surely that is as fair a method of treating it as any gentleman can ask.

Now, let us see. I have already said that there were certain supervisors of election who not only had the power but whose duty it was under the law to certify, upon the requisition of the chief supervisors, any facts that may have occurred affecting the fairness or legality of the election or the vote that was cast at the election; and I have said that those were only the supervisors who were originally provided for by the act of 1871, and that the act of 1872, either by itself or taken as it stands here in connection with the other, has not altered or changed their powers or extended their duties in the slightest respect. The section of the statute which relates to the

certification of facts and votes by the supervisors is section 2018, which I will read:

To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, Territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

In regard to that last clause of the statute, "in order that the facts may become known," the minority of the Committee on Elections of this House, during the Forty-fifth Congress, (Mr. HISCOCK of New York, Mr. WAIT of Connecticut, Mr. Price of Iowa, Mr. Thornburg of Tennessee being among them,) held that the certificates given by these supervisors in cities and towns having a population of over 20,000 were not evidence. That was in the contested-election case from Boston. I think they went a great deal too far. I think that under this statute the certificates given by these supervisors in that class of towns and cities are evidence; not conclusive evidence, but legal evidence of the facts.

Mr. RANNEY. Allow me to see if I understand you. Suppose it is true, and I believe you assume it to be true, that under the first section the country supervisors as well as the city supervisors are required or authorized to make reports. Now, if they are authorized to make reports, are not the reports which they make official, and are they not evidence which this House may rely upon, on the principle of the case in connection with the Signal Bureau, where the signal officer keeps a record of the weather? There is no provision of law that that record shall be evidence, yet the Supreme Court has decided that a certified copy of that record is evidence in court, because it is an official record which the office is authorized and required to keep.

Mr. CARLISLE. If my friend from Massachusetts [Mr. RANNEY] understands me to assume that under section 2018 these supervisors outside of cities and towns having 20,000 inhabitants are required to make reports, then he misunderstands me.

Mr. RANNEY. I understand that they are required to make such reports as the chief supervisor may require of them.

Mr. CARLISLE. Not at all. I say that this statute shows upon its face, independently of the fact previously mentioned by me, that it is taken entirely from the old law upon the subject, and independently of another section of the statute, which I will read presently, that the purpose of Congress was to require this report only from the supervisors of cities and towns. I will read the language again:

To make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, &c.

Mr. RANNEY. Does not that statute comprehend both country and city supervisors?

Mr. CARLISLE. Some part of the statute does.

Mr. RANNEY. And the two should go together.

Mr. CARLISLE. Some portions do. But when we come to see what supervisors shall make reports we find that they are to make reports from the cities and towns wherein they serve. Now, take that in connection with this clear and explicit declaration of section 2029, a later section, if we are to treat this as one statute:

The supervisors of election appointed for any county or parish in any Congressional district, at the instance of ten citizens, as provided in section 2011, shall have no authority to make arrests, or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof.

Mr. RANNEY. Does not that refer to witnessing the returns which the inspectors make; not to returns which they are to make themselves?

Mr. CARLISLE, (reading.)

They shall have no authority to make arrests or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof.

Now, we know something of the legislative history of this law, and what construction was put upon it at the time it was passed. We know that General Garfield, who reported it to this House from the committee of conference, expressly declared in his place that the purpose was merely to make these officers witnesses of what occurred, and that they would have no power to certify any returns. They receive no pay. They are a different class of supervisors altogether from those provided for in the other parts of the statute.

Mr. CHALMERS. The gentleman will allow me to call his attention to the fact that the first class of supervisors are required themselves to count——

Mr. CARLISLE. And certify.

Mr. CHALMERS. And these are required simply to witness the count.

Mr. CARLISLE. It was said when the bill was under consideration that the Government would have reliable witnesses from each party present at the election to testify afterward, if any question should be raised as to the legality and fairness of the election.

Mr. Speaker, this is all I desire to say. I am very much obliged to the House for extending my time. If I could have obtained the floor at an earlier hour it was my purpose to discuss some of the other questions in the case; but I think it a matter of justice to the House and myself that I should not now occupy the floor longer.

Mr. CALKINS. Mr. Speaker, I now, in accordance with the understanding had this morning, move the previous question; and I shall follow that with a motion to adjourn unless the gentleman from Wisconsin [Mr. CASWELL] desires to submit the report of a committee of conference.

POST-OFFICE APPROPRIATION BILL.

Mr. CASWELL. I submit the report of the committee of conference upon the disagreeing votes of the two Houses on the Post-Office appropriation bill. I ask that the report and accompanying statement be read.

The SPEAKER. Does the gentleman from Wisconsin [Mr. CASWELL] desire present consideration of this report?

Mr. CANNON. I suggest that the report be considered the first thing in the morning.

Mr. CASWELL. I accept the gentleman's suggestion. I ask that the report be printed in the RECORD with the accompanying statement; and I give notice that I will call it up to-morrow morning.

The report and accompanying statement are as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 6, 11, 18, and 20.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 14, 16, and 19; and agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

Strike out all of said amendment and insert in lieu thereof the following: "For necessary and special facilities on trunk lines, $600,000; said facilities to be extended as far as practicable to the principal cities of the United States;" and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows:

Add at the end of the amended paragraph the following: "And the Postmaster-General is authorized to designate postmasters at Presidential post-offices as disbursing officers for the payment of the salaries of the officers and employés of the postal service concerned in the transportation of mails, or in their distribution in transit, and for such other payments as they are now authorized to make from postal revenues;" and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert "$1,902,177.90;" and the Senate agree to the same.

L. B. CASWELL,
J. G. CANNON,
E. JNO. ELLIS,
Managers on the part of the House.

P. B. PLUMB,
W. B. ALLISON,
J. B. BECK,
Managers on the part of the Senate.

Statement in explanation of report.

The amendments upon which the two Houses disagree are as follows: Nos. 1, 2, 6, 11, 14, 15, 16, 17, 18, 19, 20, and 21.

The effect of the recommendation of the report, if adopted, will be as follows:

On amendment No. 1: To allow $3,000 of the sum appropriated for mail depredations and post-office inspectors, &c., to be paid the chief post-office inspector.

On amendment No. 2: The provision requiring additional advertising of mail lettings is rejected.

On amendment No. 6: The sum for miscellaneous and incidental items is left at $90,000, as originally proposed by the House.

On amendment No. 11: In the proviso as to contractors or sub-contractors the insertion of the words "on any contract hereafter made" is rejected.

On amendments Nos. 14 and 15: The sum for necessary and special facilities on railroad lines is fixed at $600,000; to be expended on trunk lines leading to the principal cities in the United States as far as practicable.

On amendment No. 16: To fix the sum for railway post-office clerks at $1,700,000; an increase of $50,000 on the original bill.

On amendment No. 17: To fix the sum for route agents at $1,555,000, which is an increase of $180,000 on the original bill, and to authorize the Postmaster-General to designate postmasters at Presidential offices as disbursing officers for the payment of salaries of the officers and employés of the postal service concerned in the transportation of mails, or in their distribution in transit, and for all other legal payments to them.

On amendment No. 18: To fix the sum for mail messengers at $800,000, as originally proposed.

On amendment No. 19: Continues the right to use official stamps.

On amendment No. 20: To reject the Senate proposition in the nature of the franking privilege.

On amendment No. 21: To adjust the conditional deficiency money amount to correspond with the changes agreed upon under report.

Amount in money between the two Houses	$440,000
Senate yielded in conference	110,000
House yielded in conference	330,000
	440,000

ORDER OF BUSINESS.

Mr. CALKINS. I do not make the motion to adjourn because I believe there was an agreement for a recess.

Mr. RANDALL. I make the motion that the House adjourn.

Mr. CALKINS. I have no objection; I merely wanted to carry out the agreement.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia; and

A bill (H. R. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. PHELPS, for two weeks, on account of sickness in his family; and

To Mr. HOBLITZELL, for to-morrow on account of important business.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania, that the House adjourn.

Mr. CALKINS. I hope there will be no objection to the motion. I understand that gentlemen on the other side wish the use of the Hall to-night; and it is a matter of common courtesy that they should have it.

The motion of Mr. RANDALL was agreed to; and accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAYNE: The resolutions of the Coal Exchange of Pittsburgh, Pennsylvania, indorsing and urging the passage of the bill relating to the construction of bridges across the Ohio River—to the Committee on Commerce.

By Mr. BREWER: The petition of Addison, Gage & Co. and others, for an appropriation for the improvement of the Kinkora Creek, Burlington County, New Jersey—to the same committee.

By Mr. BUTTERWORTH: The petition of James Cullen and 10 others, manufacturers of Cincinnati, Ohio, protesting against the imposition of a tax on oleomargarine butter—to the Committee on Ways and Means.

By Mr. CALKINS: The petition of Hon. James S. Hinton and others, of Indianapolis, Indiana, for the passage of a bill authorizing the appointment of a commission of colored citizens to inquire into the material interests and progress of their race in the United States—to the Committee on Education and Labor.

By Mr. CURTIN: The petition of citizens of Pennsylvania, for the establishment of a soldiers' home at Erie, Pennsylvania—to the Committee on Military Affairs.

By Mr. DIBBLE: The petition of O. Holt and others, citizens of South Carolina, for an appropriation to improve the navigation of Edisto River, in that State—to the Committee on Commerce.

By Mr. HARDENBERGH: The petition of Thomas Gannon, relative to a section of the Revised Statutes relating to internal-revenue taxes—to the Committee on Ways and Means.

Also, the resolutions of the New Jersey Annual Conference of the African Methodist Episcopal Church, urging the appointment of a commission of colored men to inquire into and report upon the material interests and industrial progress of the colored people of this country since the war—to the Committee on Education and Labor.

By Mr. HENRY S. HARRIS: The resolutions of the New Jersey African Methodist Episcopal Church, in favor of the appointment of a commission of colored men to inquire into and report upon the industrial and intellectual progress of the colored race since the war—to the same committee.

By Mr. MANNING: Memorial of the Legislature of Mississippi, for legislation to authorize the refunding of the proceeds of the tax levied on and collected from the cotton crop—to the Committee on Ways and Means.

By Mr. PARKER: The petition of citizens of Gouverneur, Saint Lawrence County, New York, for a reduction of letter postage—to the Committee on the Post-Office and Post-Roads.

By Mr. ROSECRANS: The petition of citizens of the United States, for the removal of the tax on cigarettes—to the Committee on Ways and Means.

By Mr. SCALES: The petition of James W. Reed and others, of Wentworth, North Carolina, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. URNER: Papers relating to the claim of Emanuel Mason—to the Committee on Claims.

By Mr. VANCE: The petition of 150 citizens of Macon County, North Carolina, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. WARD: The petition of 18 citizens of Chester, Pennsylvania, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. YOUNG: The petitions of George W. Smith and 54 others, citizens, and firms of Hartford, Connecticut; of James Fernsy and 38 others, citizens of Pittsburgh, Pennsylvania, and of L. D. Garrison and 39 others, citizens of Cortland, New York, for the passage of the bill now pending to tax glucose five cents per pound—severally to the Committee on Ways and Means.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 29, 1882.

The House met at eleven o'clock m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 2938) for the relief of Thomas Evans; and

A bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese.

PLATE-PRINTING PRESSES IN TREASURY DEPARTMENT.

Mr. ROBINSON, of Ohio, by unanimous consent, submitted the following resolution; which was referred to the Committee on Banking and Currency:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to report to this House, in addition to the information already requested of him in the matter of work done on steam-power plate-printing presses in the Treasury Department, the original estimate of the cost of said machines now in use, together with their actual cost; a detailed statement of all repairs and all other expenses thereon; the number of such presses now in operation; the number of impressions printed on the several presses during their operation up to date, and the actual cost of such work from every cause; together with copies of all official reports made on said presses prior to and since their introduction to the Department.

P. F. LONERGAN.

Mr. BUCKNER. I move by unanimous consent that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 4704) for the relief of P. F. Lonergan, reported as a substitute for House bill No. 2984, and that it be put upon its passage.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to investigate the claim of P. F. Lonergan, of Pike County, Missouri, for the sum of $646.48, being the amount of income tax alleged to have been unlawfully collected of him on his salary and compensation as sheriff and collector of the county of Pike, in the State of Missouri; and in case he shall be satisfied that such claim, or any part thereof, was unlawfully collected, he shall refund the same to the said Lonergan, or his personal representatives, out of any money in the Treasury not otherwise appropriated.

There was no objection, and the Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill, and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUCKNER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REFUNDING DUTIES.

Mr. DAVIS, of Illinois. I move by unanimous consent the bill (H. R. No. 176) to refund certain duties paid upon military uniforms imported by and for use of Company G, Sixth Regiment Infantry, Illinois National Guard, be taken from the Committee of the Whole House on the Private Calendar and put on its passage at this time.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to refund to William H. Thompson, colonel commanding Sixth Regiment of Infantry of the Illinois National Guard, the sum of $490.80; said sum being the amount of duties paid by the said William H. Thompson to the collector of customs, port of Chicago, the 27th day of December, A. D. 1880, upon fifty-four uniforms, and appurtenances thereto belonging, imported by and for the sole use (as military uniforms) of Company G, Sixth Regiment Infantry, Illinois National Guard.

Mr. RANDALL. That bill comes from the Committee on Ways and Means, and was in charge of the gentleman from Illinois, [Mr. MORRISON,] who is not now present; but it is all right, he having reported it back favorably.

The Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill, and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAVIS, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASSIGNMENT OF JUDGE FOR NEVADA.

Mr. CASSIDY. Mr. Speaker, I ask unanimous consent——

Mr. HOLMAN. I demand the regular order of business.

Mr. CASSIDY. I ask the gentleman from Indiana to withdraw his demand for a moment, so I may call up a matter of great importance to the people of my State. It will take but a moment. I wish to ask to take from the Speaker's table the bill S. No. 1287, and to put it on its passage. It is to assign a judge to the United States court.

Mr. HOLMAN. You want to retire a judge on full pay.

Mr. CASSIDY. We want to assign an additional judge.

Mr. HOLMAN. I know; but you want to retire a judge on full pay.

FORTIFICATION APPROPRIATION BILL.

Mr. FORNEY. I move by unanimous consent that the bill (H. R. No. 3208) making appropriations for the fortifications and other works of defense, and for the armament thereof for the fiscal year ending June 30, 1883, and for other purposes, be taken from the Speaker's table and the House insist on its disagreement to the amendments of the Senate and agree to the conference on the disagreeing votes of the two Houses as requested by the Senate.

There was no objection, and it was ordered accordingly.

POST-OFFICE APPROPRIATION BILL.

Mr. CASWELL. I wish now to call up the conference report on the Post-Office appropriation bill. It is printed in the RECORD, page 3438.

The SPEAKER. The report has not been returned from the Printing Office.

CHINESE BILL.

Mr. PAGE. Mr. Speaker, I ask by unanimous consent to take from the Speaker's table the amendments of the Senate to the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese for concurrence.

Mr. HOOKER. This is an important measure. I do not know what these amendments are. It is too important a measure to pass in this summary way.

Mr. PAGE. I hope the gentleman from Mississippi will not object.

Mr. HOOKER. I want to know what the amendments are.

Mr. PAGE. Let them be read.

Mr. HOOKER. I withdraw my objection to let the amendments be read.

Mr. RANDALL. I withdraw the demand for the regular order in favor of the proposition, but not afterward.

The Clerk proceeded with the reading of the amendments.

Mr. KASSON. To facilitate action, I ask that the amendments be considered as concurred in as read, unless excepted to.

Mr. ATKINS. They are not being read for action. The bill and amendments should be printed and fully considered.

Mr. HOOKER. I desire to say that my objection to this bill may not exist after I have carefully examined these amendments. It must be apparent to the House that a matter of so much importance with so many amendments should not be hastily considered. I am not opposing it, and probably will not. It will do no harm to let the matter pass over till Monday next. I will suggest to the gentleman that he let it be printed in the RECORD and go over until Monday, when it may come up for consideration.

Mr. PAGE. If the gentleman from Mississippi wants to object to the present consideration of the bill I shall be obliged to let it go over.

Mr. HOOKER. I do object to it at this time.

Mr. PAGE. Then I ask that the bill, with the Senate amendments, be printed in the RECORD. Perhaps it would be well to let the bill be printed as it passed the Senate.

Mr. KASSON. Let the bill with the Senate amendments be printed in full in the RECORD.

Mr. RANDALL. It should appear in the RECORD in the usual form, that is the original bill with the Senate amendments.

Mr. PAGE. Perhaps that would be better, to have the House bill with the Senate amendments printed.

Mr. HOLMAN. I ask unanimous consent that the Senate amendments be printed in italics, so that they may be indicated in the bill at a glance.

The SPEAKER. That is the usual practice in printing bills.

Mr. CASSIDY. I would suggest that the House bill as it originally passed the House be printed, and the bill as it passed the Senate also, so that a comparison can be made between the two.

Mr. PAGE. I think that is unnecessary. Let the House bill with the Senate amendments be printed in the order in which they would appear in the bill, and printed in italics in the usual form.

The SPEAKER. Without objection the bill will be printed in the RECORD, with the Senate amendments in italics.

Mr. HASKELL. I ask that it be printed also in bill form in the usual form with the Senate amendments in italics, and the portions of the House bill stricken out in the Senate printed with a line drawn through them.

The SPEAKER. Without objection both orders will be made.

There was to objection.

The bill with Senate amendments is as follows:

[Parts stricken out are printed in brackets and parts to be inserted in italics.]

An act to execute certain treaty stipulations relating to Chinese.

Whereas in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the expiration of [sixty] *ninety* days next after the passage of this act, and until the expiration of ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended; and during such suspension it shall not be lawful for any Chinese laborer to come, or, having so come after the expiration of said [sixty] *ninety* days, to remain within the United States.

SEC. 2. That [any] *the* master of any vessel, [of whatever nationality,] who shall knowingly [on such vessel] bring within the [jurisdiction of the] United States *on such vessel*, and *land or* permit to be landed, any Chinese laborer, from any foreign port or place, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $500 for each and every such Chinese laborer so brought, and may be also imprisoned for a term not exceeding one year.

SEC. 3. That the two foregoing sections shall not apply to Chinese laborers who were in the United States on the 17th day of November, 1880, or who shall have come into the same before the expiration of [sixty] *ninety* days next after the passage of this act, and who shall produce to such master before going on board such vessel, and shall produce to the collector of the port in the United States at which such vessel shall arrive, the evidence hereinafter in this act required of his being one of the laborers in this section mentioned; nor shall the two foregoing sections apply to the case of any master whose vessel, being bound to a port not within the United States, shall come within the jurisdiction of the United States by reason of being in distress or in stress of weather, or touching at any port of the United States on its voyage *to any foreign port or place: Provided*, That all Chinese laborers brought on such vessel shall depart with the vessel on leaving port.

SEC. 4. That for the purpose of properly identifying Chinese laborers who were in the United States on the 17th day of November, 1880, or who shall have come into the same before the expiration of [sixty] *ninety* days next after the passage of this act, and in order to furnish them with the proper evidence of their right to go from and come to the United States of their free will and accord, as provided by the treaty between the United States and China dated November 17, 1880, the collector of customs of the district from which any such Chinese *laborer* shall depart from the United States shall, in person or by deputy, go on board each vessel having on board any such Chinese [laborers] *laborer* and cleared or about to sail from his district for a foreign port, and on such vessel make a list of all such Chinese *laborers*, which shall be entered in registry-books to be kept for that purpose, in which shall be stated the name, age, occupation, last place of residence, physical marks or peculiarities, and all facts necessary for the identification of each of such Chinese *laborers*, which books shall be safely kept in the custom-house; and every such Chinese *laborer* so departing from the United States shall be entitled to, and shall receive, *free of any charge or cost*, upon application therefor, from the collector or his deputy, at the time such list is taken, a certificate, signed by the collector or his deputy and attested by his seal of office, in such form as the Secretary of the Treasury shall prescribe, which certificate shall contain *a statement of* the name, age, occupation, last place of residence, personal description, and facts of identification of the Chinese *laborer* to whom the certificate is issued, corresponding with the said list and registry in all particulars. In case any Chinese *laborer* after having received such certificate shall leave such vessel before her departure he shall deliver his certificate to the master of the vessel, and if such Chinese *laborer shall* [fails] *fail* to return to such vessel before her departure from port the certificate shall be delivered by the master to the collector of customs for cancellation. The certificate herein provided for shall entitle the Chinese *laborer* to whom the same is issued to return to and re-enter the United States upon producing and delivering the same to the collector of customs of the district at which such Chinese *laborer* shall seek to re-enter; and upon delivery of such certificate by such Chinese *laborer* to the collector of customs at the time of re-entry in the United States, said collector shall cause the same to be filed in the custom-house and duly canceled.

SEC. 5. That any Chinese laborer [living] *mentioned in section 4 of this act being* in the United States, [under the provisions of the treaty between the United States and China dated November 17, 1880,] and desiring to depart from the United States by land, shall have the right to demand and receive, *free of charge or cost*, a certificate of identification similar to that provided for in section 4 of this act, to be issued to such Chinese laborers as may desire to leave the United States by water; and it is hereby made the duty of the collector of customs of the district next adjoining the foreign country to which said Chinese laborer desires to go to issue such certificate, *free of charge or cost*, upon application by such Chinese laborer, and to enter the same upon registry-books to be kept by him for the purpose, as provided for in section 4 of this act.

SEC. 6. That in order to the faithful execution of articles 1 and 2 of the treaty [before] in this act *before* mentioned, every Chinese *person other than a laborer* who may be entitled by said treaty and this act to come within the United States, [except such as resided in the United States on the 17th day of November, 1880, or who shall have come within the United States within sixty days next after the passage of this act, shall obtain the permission of the,] *and who shall be about to come to the United States, shall be identified as so entitled by the* Chinese Government in each case, *such identity* to be evidenced by a certificate issued [by] *under the authority of* said government, which certificate shall be in the English language or (*if not in the English language*) accompanied by a translation into English, [showing,] *stating* such [permission] *right to come*, and which certificate shall state the name, title, or official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, and place of residence in China of the person to whom the certificate is issued, and that such person is entitled [by] *conformably to* the treaty in this act mentioned to come within the United States. Such certificate shall be prima facie evidence of the facts set forth therein, and shall be produced to the collector of customs, *or his deputy*, of the port in the district in the United States at which the person named therein shall arrive.

SEC. 7. That any person who shall knowingly *and falsely* alter or substitute any name for the name written in such certificate, or forge any such certificate, or *knowingly* utter any forged or fraudulent certificate, or falsely personate any person named in such certificate, shall be deemed guilty of a misdemeanor, and upon conviction [of any offense mentioned in this section the guilty person] *thereof* shall be fined in a sum not exceeding one thousand dollars, and imprisoned in a penitentiary for a term *of* not more than five years.

SEC. 8. That the master of any vessel arriving in the United States from any foreign *port or* place shall, at the same time he delivers a manifest of the cargo, and if there be no cargo, then at the time of making a report of the entry of the vessel pursuant to law, in addition to the other matter required to be reported, and before landing, or permitting to land, any Chinese passengers, deliver and report to the collector of customs of the district in which such vessel shall have arrived a separate list of all Chinese passengers taken on board his vessel at any foreign port or place, and all such passengers on board the vessel at that time. Such list shall show the names of such passengers (and if accredited officers of the Chinese Government traveling on the business of that government, *or their servants*, with a note of such facts,) and the names and other particulars, as shown by [the] *their* respective certificates, [of other Chinese passengers]; and such list shall be sworn to by the master in the manner required by law in relation to the manifest of the cargo. Any *willful* refusal or neglect of [the] *any such* master to comply with the provisions of this section shall incur the same penalties and forfeiture as are provided for a refusal or neglect to report and deliver a manifest of the cargo.

SEC. 9. That before any Chinese passengers are landed from any such vessel, the collector, or his deputy, shall proceed to examine such passengers, comparing the certificates with the list and with the passengers; and no passenger shall be allowed to land in the United States from such vessel in violation of law.

SEC. 10. That every vessel whose master shall knowingly violate any of the provisions of this act shall be deemed forfeited to the United States, and shall be liable to seizure and condemnation in any district of the United States into which such vessel may enter or in which she may be found.

SEC. 11. That any person who shall knowingly bring into, or cause to be brought into, [or shall aid or abet the bringing or coming into,] the United States by land, or who shall [land or aid] *knowingly aid or abet the same, or aid* or abet the landing in the United States from any vessel, of any Chinese [not authorized by law] *person not lawfully entitled* to enter the United States, shall be deemed guilty of a misdemeanor, and shall, [for each person so brought or aided to come into the United

States, or so landed,] *on conviction thereof*, be fined in [the] *a sum* [of one hundred] *not exceeding one thousand* dollars and imprisoned for a term not exceeding one year.

SEC. 12. That no Chinese *person* shall be permitted to enter the United States by land without producing to the proper officer of customs the certificate [herein] *in this act* required of Chinese *persons* seeking to land from a vessel. And any Chinese [unlawfully entering] *person found unlawfully* within the United States, [or who shall have unlawfully entered the United States, in any way, either by land or by water,] shall *be caused to* be removed therefrom to the [place] *country* from whence [they] *he* came, by [the collector of customs of any collection district in which such Chinese may be found,] *direction of the President of the United States, and* at the cost of the United States, [under such regulations as the Secretary of the Treasury may prescribe,] *after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or remain in the United States.*

SEC. 13. That this act shall not apply to diplomatic and other officers in the Chinese Government traveling upon the business of that government, whose credentials [in the usual form] shall be taken as equivalent to the certificate in this act mentioned, and shall exempt them and their body and household servants from the provisions of this act as to other Chinese *persons.*

SEC. 14. That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

SEC. 15. That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

POSTAGE ON SECOND-CLASS MAIL MATTER.

Mr. TOWNSHEND, of Illinois. I ask unanimous consent to offer a resolution of inquiry, to which I think there will be no objection.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the Postmaster-General be, and he is hereby, requested to inform this House of the total weight and cost for carrying and the postage collected on second-class mail matter during the fiscal year ending June 30, 1881, together with his opinion of the propriety of abolishing postage on such mail matter.

The resolution was agreed to.

Mr. TOWNSHEND, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The lafter motion was adopted.

ORDER OF BUSINESS.

Mr. RANDALL. I call for the regular order.

Mr. O'NEILL. I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill——

The SPEAKER. The regular order is called for. The gentleman from Wisconsin, the Chair understands, desires to offer a resolution in connection with an investigation now pending before a committee of the House.

Mr. O'NEILL. I want to know if that call for the regular order was made in earnest, or was made simply upon me. If it was made in earnest and with a view of taking up the regular order of the day, I hope the House will proceed with it. Who demanded the regular order?

The SPEAKER. Several gentlemen have demanded the regular order.

Mr. O'NEILL. Then I presume we will go on with the regular order of the day. Is that the idea?

CHILI-PERUVIAN INVESTIGATION.

Mr. WILLIAMS, of Wisconsin. I desire to ask unanimous consent, Mr. Speaker, for the passage of the resolution which I send to the desk, authorizing a sub-committee of the Committee on Foreign Affairs to proceed to New York for the purpose of taking the testimony of witnesses in the investigation now pending before that committee.

The SPEAKER. The Chair thinks that this relates to the business of the House.

Mr. O'NEILL. I had intended to call for the regular order upon every proposition, but this seems to be in the line of the business of the House, and therefore I shall not object to it.

The SPEAKER. The resolution proposed by the chairman of the Committee on Foreign Affairs will be read.

The Clerk read as follows:

Resolved, That the Committee on Foreign Affairs be authorized to send a subcommittee to New York for the purpose of examining witnesses in the Chili-Peru investigation, heretofore ordered by the House.

The resolution was agreed to.

ORDER OF BUSINESS.

Mr. HATCH. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HATCH. The regular order having been demanded, I desire to ask if the first business in order under that call is not the unfinished business coming over from the 18th.

The SPEAKER. The regular order would not be the unfinished business coming over from the 18th. That would come up after the morning hour is disposed of. The regular order is the further consideration of the contested-election case, which takes precedence of the morning hour.

Mr. HATCH. I desire to ask the gentleman from Indiana if he will not give way until the vote can be taken upon the bills now pending as unfinished business, on which a vote has been ordered?

Mr. CALKINS. I will say to the House that I think within an hour, or two hours at furthest, we can close this matter of the contested election, and then the House can take up the other business suggested by the gentleman from Missouri, and devote the remainder of the day to it. I must insist at this time upon the regular order.

The SPEAKER. On yesterday, at the close of the debate upon the election case, the gentleman from Indiana, the chairman of the Committee on Elections, had demanded the previous question on the adoption of the resolution reported by the committee.

Mr. CALKINS. Before that I ask my friend, Judge MOULTON, if he desires now to formally offer the amendment which he suggested, and which properly comes in at this time?

Mr. MOULTON. I move that the resolution attached to the minority report be substituted for the resolution offered by the majority of the committee.

Mr. CALKINS. Then I demand the previous question upon the pending resolution and amendment or substitute.

Mr. HASKELL. He offers the substitute as an amendment to the resolution of the committee.

The SPEAKER. Undoubtedly; but they are to be considered as pending.

Mr. HOOKER. Do I understand the gentleman from Indiana to propose to call the previous question now without allowing further discussion on this side?

Mr. CALKINS. Yes, sir, under the arrangement made yesterday morning in open House.

The SPEAKER. The question is on ordering the previous question on the resolutions of the majority of the committee and the substitute therefor offered on the part of the minority.

The previous question was ordered.

Mr. CALKINS moved to reconsider the vote by which the previous question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENERAL RAILROAD INCORPORATION ACT.

Mr. DUNN. Will the gentleman from Indiana yield to me for one moment?

Mr. CALKINS. I yield to the gentleman from Arkansas, who desires to give a notice to the House.

Mr. DUNN. I desire to give notice to the House I will at an early day introduce a general railroad incorporation act. There are bills pending to grant franchises to certain individuals in certain parts of the country. I am opposed to the principle of granting such franchises to individuals to hawk and peddle over the country, and as a substitute for those bills I shall offer a general railroad incorporation act.

CONTESTED ELECTION—LYNCH VS. CHALMERS.

Mr. CALKINS. Mr. Speaker, in closing this debate I think it proper to depart for a moment from the consideration of the questions which arise upon the record and which this House is called upon to decide to make a reference, in view of the latitude which the debate has taken heretofore, to a historical fact which, however strange, is nevertheless true. No longer in this House or in the country or from the desk or rostrum since the emancipation of the colored race and the clothing them with the rights of cifizenship do we hear it asserted that a negro occupies some anomalous position not quite human nor entirely animal, but somewhere midway between the two, as a sort of connecting-link. Nor do we hear the metaphysical disquisitions of learned gentlemen upon the essential differences in anatomical structure of that race and the white to show that they do not belong to the human family. Nor do we hear any longer upon the floor of this House, as was once heard, that there was such a difference in the formation of the bones of the African's anatomy, particularly shin-bones, which furnished indubitable proof that he was not of the human species.

Mr. Speaker, the world moves, notwithstanding fallacies and sophistries and false prophecies, prejudice gives way to physical facts; and a remarkable one was seen day before yesterday on this floor, the marked attention of this House was given to one of the representatives of this downtrodden race while he discoursed eloquently, not in the defense of his race, not pleading for special privileges for himself or his people, but demanding at the hands of this Congress equal and exact justice; asking for the enforcement of law and order and an equal chance in the race of life, and declaring his belief in the broader doctrine of the universality of the brotherhood of mankind. The world moves. Fallacies and sophistries are disappearing, and the grand idea which is the corner-stone of this Republic, that all men are created equal before the law is fast becoming the accepted doctrine throughout the land and must forever remain the accepted doctrine of the Republic, and this without reference to race, color, or previous condition of servitude.

Mr. HAMMOND, of Georgia. Except as to the Chinese.

Mr. CALKINS. My friend suggests except as to the Chinese. I say to him that whenever the Chinese shall stop the system of servitude which they have adopted and which has been in vogue ever since the servile labor of that race landed upon these shores, no man upon this side of the Chamber will refuse them the fellowship which we extend to all mankind. It is because we do not believe in servile labor as we did not believe in slavery that we oppose the importation of Chinese coolies.

Mr. BUCHANAN. Are they not free when they come here?

Mr. CALKINS. No, sir; that is the difficulty. They bring their laws with them and remain subject to the Chinese laws, which are enforced among them.

Mr. BUCHANAN. Why does not the Government enforce the law of this country?

Mr. CALKINS. Because it cannot. These people, under fear of assasination, commit perjury in our courts and there is therefore no way to enforce the law. But, Mr. Speaker, I cannot be drawn into a discussion of the Chinese question and called away from the questions involved in this contest. I must pass directly to them.

When I first became a member of Congress I resolved never to vote in this House for the exclusion of a member—no matter what his politics was—if he was qualified and received a majority of the legal votes cast for him in his district. That shall be while I remain a member of this House the one controlling principle which shall guide my action. And in this case if I did not believe from the testimony that the contestant received a majority of the legal votes of his district, I would not have reported in favor of seating him.

There is an old saying that when soothsayers met each other in ancient times and looked in each other's eyes they laughed outright. We cannot shut our eyes to certain facts which are known historically to each one of us as well as if they were proven by the evidence of competent witnesses.

Mr. HAMMOND, of Georgia. Will the gentleman yield to me for a question?

Mr. CALKINS. In a moment I will. As I said, we cannot shut our eyes to certain historical facts, and the rule of evidence which controls and has ever controlled this House in the investigation of the elections of its members is not the technical rule applied in the courts. But the fact I desired to call attention to is this: no man can look at that map (holding up a map of the State of Mississippi) and at the lines which show the Shoestring district of that State without making a significant inquiry——

[Several members having requested that the map should be sent to the desk, it was exhibited in front of the Clerk's desk in view of the House.]

The map which I have sent up to the Clerk's desk represents the State of Mississippi as laid off in Congressional districts. And the strip on the west side of Mississippi, which is colored black, represents what is known as the "Shoestring district." It is about four or five hundred miles long, as I am informed, and about forty to fifty miles wide on an average. Now, no man could look at that map and observe the peculiar formation of that sixth district without a very pertinent inquiry being suggested to him at once. That inquiry would be, "Why is this thus?" [Laughter.]

As a part of the history of this country it is well known that that district was so made because it contained a large black population, exceeding by many thousands the white population. I believe each county in the district has a majority of blacks over whites. It is confessedly so made because it eliminates from the rest of the districts of the State a large black vote, and permits them to be felt without the influence of that black vote. It was confessedly made that the district might remain, as it has been familiarly termed, "the black district of Mississippi."

Mr. BURROWS, of Michigan. Will the gentleman permit me to ask him a question in that connection?

Mr. CALKINS. Certainly.

Mr. BURROWS, of Michigan. I would inquire of the gentleman if the black lines running across the map which he has sent up to the Clerk's desk indicate the boundaries of the other districts in that State as they are now constituted?

Mr. CALKINS. I am so informed. I will now pass to another question which is equally important in this case. Why is it that all over the State of Mississippi, except in this particular district, there was no complaint made concerning the returns by the officers of election? It was because in all the other districts a majority of votes cast gave the Democratic candidates majorities, and it is not an open question that the vote as cast and returned by the inspectors to the commissioners of election, who afterward supervised and made returns of those votes to the secretary of state, indicated a majority for the contestant.

Mr. HOOKER. Will the gentleman permit me to ask him a question?

Mr. CALKINS. Certainly.

Mr. HOOKER. Would it be objectionable to the gentleman from Indiana [Mr. CALKINS] if that district, so marked on the map which he has sent up the Clerk's desk, should send a white man to this House instead of a black man?

Mr. CALKINS. The only objection I have to it is the system, known throughout the country as gerrymandering. Such a system is wrong. It was given to us by an old Democrat, and has been improved upon ever since, as this map amply illustrates.

Mr. HOOKER. You have improved upon it in Indiana.

Mr. CALKINS. We have been bad enough in Indiana, but not quite so bad as that map indicates. We can sit at the feet of Mississippi and learn lessons in gerrymandering.

Mr. ATHERTON. Will the gentleman allow me to interrupt him for a moment?

Mr. CALKINS. Certainly.

Mr. ATHERTON. I would inquire of the gentleman if he has any map showing the late gerrymandering in the State of Ohio in reference to Congressional districts?

Mr. CALKINS. If you have any such map as that, hang it on the outer walls and let it be compared with the one I have produced. If your State has beaten this one, it ought to have a patent.

Mr. ATHERTON. It will compare very unfavorably with this.

Mr. CALKINS. Resuming the thread of my argument where I left off when interrupted, I desire to say that it is not an open question that the votes as cast at the polling places and returned by the inspectors to the commissioners of election showed a majority for the contestant.

Mr. HOOKER. Will the gentleman permit me to make another inquiry?

Mr. CALKINS. I will.

Mr. HOOKER. The gentleman appears to object to the formation of the Congressional districts in the State of Mississippi, and particularly to the one which is connected, county by county, along the Mississippi River, and which is open to communication by steamboats along the whole district. Does the gentleman consider that if that was laid off for the black people it was gerrymandering the State?

Mr. CALKINS. I have passed by that, but I recur to it for the purpose of saying that it is as well known in this country as any other political fact that that district was so laid off and named the "black district" of Mississippi——

Mr. HOOKER. It was therefore not gerrymandering against the colored man.

Mr. CALKINS. It was gerrymandering after all; it was gerrymandering all the black voters as far as possible into one district so that the potency of their votes might not be felt as against the potency of the white votes in the other districts.

Mr. HAMMOND, of Georgia. Will the gentleman now allow me to ask the question which he said a few moments ago he would permit?

Mr. CALKINS. I will.

Mr. HAMMOND, of Georgia. The gentleman from Indiana has just stated and reiterated the statement that the sole inquiry he would make was whether the votes of qualified voters got into the ballot-boxes legally. I would inquire of the gentleman if he has not, within the last ten or fifteen days, signed a report that excludes from the ballot-box in the State of Florida——

Mr. CALKINS. I will come to that.

Mr. HAMMOND, of Georgia. I want you to come to it right now. Has he not signed a report which excludes from the ballot-box in the State of Florida the votes of naturalized foreigners who were entitled to vote, simply because they did not have their naturalization papers at the polls to exhibit when they voted?

Mr. CALKINS. If my distinguished friend from Georgia will possess his soul in peace, I will give him an ample answer to that question before I finish my argument, an answer which will satisfy even him, I think, however he may determine to act in the matter.

After having stated these facts, that a majority of the votes as cast were confessedly for the contestant, I pass to the next question, which is the law of Mississippi under which these returns are made. I want to examine that question for just a moment.

I do not disagree to the statement of the law as made by the contestee, General Chalmers, or by the gentleman from Kentucky [Mr. CARLISLE] up to a certain point. I may be excused for again repeating these provisions, so that they will be fresh in the mind of every member.

The first provision of the law with reference to the election is: the governor of the State appoints three commissioners of election, who shall be of different political parties. The machinery of the election is put in the hands of the governor through this power to appoint. The commissioners, in turn, appoint three inspectors for each precinct. Then there are provisions as to how the electors may elect, in case these appointees do not serve, &c. These inspectors receive from the clerk, who is the registrar in the first instance, a copy of the registration list (called the poll-book) for the precincts in which the inspectors are appointed. These inspectors, with this poll-book, open the election. They are required by law to keep, during the deposit of the ballots, a poll-list. They are also required to make out a tally-sheet when they count the votes, and to return the ballots, the ballot-boxes, the poll-books, the poll-lists, and the tally-sheets to the commissioners of election on a day subsequent to the election.

Mr. CARLISLE. The gentleman is mistaken; they are not required by law to keep a tally-list while the vote is being taken.

Mr. CALKINS. I did not say that.

Mr. CARLISLE. They are required to keep a list of the voters.

Mr. CALKINS. A list of the voters; the gentleman is right. These are returned to the commissioners of election. The law thus provides that the poll-book or the poll-list and the ballot-box shall be returned by the commissioners to the clerk of the circuit court. Here comes the difference between the view I have taken of the law and the view which my friends on the other side so strenuously contend for.

I am going to leave this matter for the present at this point, for thus far we agree. When the ballots, the tally-list, the tally-sheets, the poll-book, and the ballot-box get back into the hands of the commissioners of election——

Mr. CARLISLE. And the list of voters.

Mr. CALKINS. And the list of voters. We all agree that of those the ballot-box and poll-books are to be delivered to the clerks of the circuit court——

Mr. MOULTON. In what section of the law does the gentleman find any requirement that the ballot-box shall go to the clerk of the court?

Mr. CALKINS. It is the registration law.

Mr. CARLISLE. I do not agree that the ballot-box goes to the clerk.

Mr. MOULTON. Only the poll-list.

Mr. CALKINS. The law is that the ballot-box shall go as well. I read from section 127:

The ballot-boxes shall be delivered with the keys thereof to the clerk of the circuit court for preservation, and he shall keep them for future use, &c.

Mr. MOULTON. Those are the empty boxes.

Mr. CALKINS. My friend says that they are the empty boxes. I will come to that in a moment. I will ask him to possess his soul in patience till I reach that point. I am going to drop this question now and take it up further on, because we agree up to this point.

Mr. Speaker, I believe with my friend from New Jersey, [Mr. ROBESON,] who spoke yesterday, that neither this House nor its Committee on Elections is or ever has been bound by the technical rules of the admission of evidence such as is applied in the courts. I announce this as a principle settled in the early Congresses, followed all the way down, and acted upon not only by the present Committee on Elections but by every one that has preceded it. Can I make that assertion good? I will commence with the last Congress, because some gentlemen now here were members of the Committee on Elections in that Congress and followed the rule which I now state. In the case of Donnelly *vs.* Washburn what did the Committee do? It is true I did not agree with the majority in that case, because I thought the evidence wholly immaterial.

I did not dispute the fact that the committee had a right to take such evidence as they did; but I disputed the question of its materiality. But what did the majority of the committee do? On page 19 of the report in the last House, a report signed by all the Democratic members, I believe, except one or two—my friend from Mississippi [Mr. MANNING] was the author of the report—the committee said that they would examine "contemporaneous history" for the purpose of determining any question involved in the election. They put into that report an article which appeared in a political newspaper on or about the day on which the election was held; they copied it bodily, although it was not in evidence at all. They considered that a part of the "contemporaneous history" of the election; so they embodied it in their report, and asked the House to unseat a man upon what they thus called "contemporaneous history," a political article from a newspaper! Referring to this article as "contemporaneous history," they say:

It shows it was understood at that time, before any contest could have been contemplated by the contestant, that the numbering of the ballots would result in the intimidation of the workingmen who were in favor of Donnelly.

Observe that, as a link in a chain to prove intimidation, they inserted in their report a newspaper article. I then said that it had no bearing on the case; I say so still. But they, in that case, followed what they understood to be a rule established by the House long ago. There are a great many cases referred to in the report, to which I call attention.

When this country as well as this House was in the midst of an excitement such as was never witnessed before, and I trust to God will never be witnessed again—in the days of the slavery agitation and just before secession, as will be remembered especially by the older members of the House—the celebrated contested election of Vallandigham *vs.* Campbell arose.

It was one of the historical landmarks, one of the mile-stones, which the Democratic party has planted as it passed along on its pro-slavery road. But, sir, it announces certain principles of law, which were followed then and which have been followed ever since. Looking over that debate I find a speech made by Hon. James Wilson from Indiana—and a more eloquent man never represented any part of that State—against that report, and his line of argument and reasons against it are nearly the same given yesterday by the gentleman from Kentucky [Mr. CARLISLE] in behalf of the contestee. The same points were made then with vigor and with great clearness, precisely as the gentleman made them yesterday.

Hon. L. Q. C. LAMAR, now an honored Senator from Mississippi, made a speech in favor of that majority report. Here is what he says—but, before I read it, let me state the point involved in that case. The taking of testimony under the law had closed. Sixty days had shut out the giving of any further testimony by either party. Campbell came forward and asked to take further testimony. The committee said no, and shut the door against it. Then Mr. Vallandigham, nearly eight months after, came forward and asked to prove an important fact, namely, the tabulated returns showing the vote as given for each candidate as returned to the secretary of state, which testimony he had omitted, and he filed with the Committee on Elections a certificate of the election as compiled in the secretary of state's office under the broad seal of the State of Ohio. It was objected to. The minority said you cannot offer any further testimony as the time has closed. You refused Campbell the right to take testimony when he asked it, and now you ask that Mr. Vallandigham shall be permitted to supply this important link in his testimony without which he cannot be seated.

Now, what did Mr. LAMAR say? He said in effect this House was not hampered by the legal technical rules of evidence, and that the law which prescribed sixty days for taking testimony did not apply to such records and such evidence as might be authenticated by the seal of officers such as the secretary of state.

And that is the rule, Mr. Speaker, we followed in the Campbell-Cannon case this session. My friend from Iowa, [Mr. THOMPSON,] and a braver, nobler man does not live anywhere, insisted strenuously the rule was wrong and that we ought to shut out the certificate of the secretary of the Territory of Utah because Mr. Cannon did not put it in evidence at all, but sent it through the Clerk of the House. We said no, that a minority of votes in this country cannot elect anybody, and we will look to it to see what is the truth.

Mr. McLANE. The gentleman from Indiana does not do justice, I think, to the gentleman from Mississippi, [Mr. LAMAR.]

Mr. CALKINS. I am coming to his exact language in a little while. I have it before me now.

Mr. McLANE. Before you comment on it——

Mr. CALKINS. These are my comments, and if they are not right, if they are not proper, I stand corrected as to anything which is not properly deduced from what I read. Here is what Mr. LAMAR said. I read from a part of his speech, as copied in contested-election cases.

Perhaps I ought to read first from the report on that subject. It was objected, he said, in the report, drawn probably by Mr. HARRIS, that the committee ought not to receive and consider the abstract of votes returned to the office of the secretary of state for the sitting member and the contestant, because the document was not obtained within the sixty days limited for taking testimony. I do not read the whole of it, because it is too long. It is as follows:

Congress has, in repeated instances, where the conduct of the returning officers was irregular or the returns of the election informally made out, waived the irregularities and informalities, provided the election itself was fairly and legally conducted; but these precedents are all based upon the broad and obvious distinction existing between the returns of an election and the election itself. The election is the choosing of their Representative by the people in accordance with the law, while the returns are the mere evidence of the result as furnished by the officers, consisting of certificates of boards and commissions. The election is the great fact of which the returns are the mere legal evidence. Now, these returns may be informal, the acts of the officers may be irregular, Congress may set them aside or waive them without affecting the validity of the election itself.

This is the doctrine I stand upon, the "election itself," and not on mere informalities of returning officers.

Mr. McLANE. I have followed the gentleman from Indiana in his argument, as I did the argument of the gentleman from New Jersey——

Mr. CALKINS. Before the gentleman from Maryland proceeds, I wish to insert in this connection the remainder of this portion of the argument of Mr. LAMAR in this contested-election case to which I am now referring. He goes on to say:

The fact of the election still exists, although Congress may ascertain its existence by evidence other than the returns.

Mr. HAMMOND, of Georgia. In this connection let me ask the gentleman from Indiana if that had been a return by the bailiff——

Mr. CALKINS. I will hear the gentleman's question as soon as the gentleman from Maryland concludes.

Mr. McLANE. I do not think that there is any difference of opinion between the gentleman from Indiana and those to whom he refers on this side of the House as to the main fact of our power over such cases as a court having the fullest jurisdiction; and that we are not bound, if you please, by the technical rules of evidence that a court at common law has chosen to prescribe for itself; but just as courts of common law have prescribed for themselves technical rules of evidence, so we must have rules of evidence of our own for the purpose of satisfying our own conscience in such cases, and not assume to exercise a mere capricious and personal discretion, as our judgment in the premises should be a judicial judgment. Now, the gentleman from Indiana has stated clearly that it must be a legal vote that should be counted to constitute a majority.

Mr. CALKINS. There is no doubt of that.

Mr. McLANE. And that if a man is elected by a majority of votes which are not legal he would not report in favor of him.

Mr. CALKINS. Certainly not.

Mr. McLANE. Now, we ask for nothing more.

Mr. CALKINS. My friend from Maryland knows that I cannot yield to him for an argument.

Mr. McLANE. Only a moment. I merely wish to state a general proposition. Rules of evidence made for our guidance, though not the technical rules at common law, must be such as to satisfy our conscience and our judicial judgments. In other words, that in rejecting a vote the evidence on which we act must be of such a character as to satisfy our consciences that we are acting properly in our judicial character.

Mr. CALKINS. I agree to that.

Mr. McLANE. A word more. If there be a majority of votes cast for Lynch which were illegal votes and which if thrown out a majority of legal votes would belong to Mr. Chalmers, then you are bound to seat Chalmers, although Lynch may have had a majority of votes.

Mr. CALKINS. Nobody disputes that proposition. I quite agree with the gentleman. The only thing we will be likely to disagree upon is as to what are legal votes in the first place, and second, as to the evidence of receiving or counting them.

Mr. McLANE. I make no point now upon the technical character of the evidence. I only want the conscience of the gentleman and the judicial mind of the House to be satisfied that they are legal votes under the laws of the State and the Constitution of the United States.

Mr. CALKINS. Now I will hear the question of the gentleman from Georgia.

Mr. HAMMOND, of Georgia. Suppose that return to which the gentleman from Indiana referred a moment since had been the return of the bailiff instead of the clerk, does the gentleman hold that that would have been legal evidence?

Mr. CALKINS. My friend must not anticipate my argument. I am coming to that subject in a moment, and then I will satisfy him, I think, on that point.

Now, in the investigation of these election cases I have been controlled by but one motive, and that was to look to see who had the most legal votes, and I am not in favor and never will be in favor of setting up any technical objection made by a returning board which suppresses or overturns the voice of the people as expressed at the ballot-box.

My whole object has been to sift out the truth and to be guided by the legitimate choice of the people. It is objected that the precincts in Bolivar County should not be counted, and this is the weak point in the case. Nobody knew that better than the gentleman from Kentucky. He knew it at once, and spent his force upon the weak point. He made his strong point against the testimony on the election held in Bolivar County. He asked, and I undertook to give him at the time he asked for it, the evidence upon which the vote was counted by the committee. Bolivar County held an election which it was admitted in argument before the committee by Mr. Lynch in person and affirmed by the contestee in person, that it was a peaceful, quiet election. Both sides affirmed it. There was no dispute about it; it was an admitted fact, and we started with that admission as the basis of our report. There was a peaceful, quiet, calm election held in that county. Men went up to the ballot-box and deposited their votes without question, as they had a right to do. The officers counted them as it was their bounden duty to do. They sent the count of the votes together with the tally-lists and all the papers and the ballots to the commissioners as the law required. What did the commissioners do?

They said, "We have all of those papers which have been sent up, but we throw those ballots out." Why? Because they did not make, a certificate, mark you, of the returns. What is the certificate? You will find a copy of it inserted in the record, a few lines, in which they simply say, we certify that the above is a full, true return, &c., and sign it.

Mr. CARLISLE. But they did not sign anything.

Mr. CALKINS. They did not sign the certificate, but, mark you, the commissioners rejected the vote on that account, and do not say they rejected the votes for any other reason.

The certificates are made a part of the contestee's answer, in which he affirms that they were thrown out, and properly. He admits the vote was cast but was not counted.

Anything that is not denied is admitted. You will find it in the seventh paragraph of the answer of the contestee. Read it. I have not time to read it. In that answer he sets forth the very return which was afterward put in evidence, and makes it a part of his answer. That is not a denial that the vote was cast. It is simply a denial that the officers of the election did not do their duty and thereby these electors are to be deprived of their right to participate in the election.

That is all I am going to say about that. Mark you, the whole force of the argument of the gentleman from Kentucky was not launched against the truth of that fact, but against the manner in which it was proved; not against the thing itself, but against the approaches by which you get there. The whole thing was launched against the machinery, and not against the immutable fact which is undisputed.

Mr. CARLISLE. Will the gentleman allow me just there? I know how disagreeable it is to be interrupted, but I think he will pardon me for a moment.

Mr. CALKINS. I am quite willing to be interrupted by the gentleman.

Mr. CARLISLE. The statement made by the commissioners of election to which the gentleman refers, and which seems to be incorporated in the answer of the contestee to the notice of the contestant, does not show that the inspectors and clerks of election signed any paper; and it does not show there was a single vote cast for Lynch for Congress or for Chalmers for Congress, but that they found in the ballot-boxes so many Democratic and so many Republican votes; that is, so many tickets with the Democratic heading to them and so many with the Republican heading.

Mr. CALKINS. My friend from Kentucky has simply anticipated me in what I was to say. It has been held repeatedly that where evidence was given in a court of law by a voter in a contested-election case to the effect that "I voted the Democratic ticket," or "I voted the Republican ticket," or "the Greenback ticket," that that was *prima facie* evidence that the elector voted for every candidate whose name appeared on the regular ticket, and the burden shifted on the other party to show that such was not the fact.

Now, how is it here? The commissioners say, "We find so many Democratic votes and so many Republican votes, and we reject them because the officers of election did not sign a certificate." That is what they say.

This is only a question as to the convincing character of the evidence. You need not argue that with me. You cannot go to any man outside the Hall of this House, I do not care who, and say to him, "Look here, these fellows down in Mississippi threw out forty-five Democratic tickets and three hundred and eleven Republican tickets at that precinct. Lynch and Chalmers were the only men running for Congress. What do you say?" He would say in fairness at once those tickets ought to be counted for Lynch and Chalmers respectively.

Mr. CARLISLE. But the gentleman misapprehended my argument. My argument was that these commissioners had nothing before them to enable them to declare who put these ballots in the box.

Mr. CALKINS. Bless your heart, it is to be presumed that the inspectors did their duty, and when they sent these tickets up and these tally-sheets it is to be presumed they sent the lawful ones. If sheets were informal it was the duty of the commissioners—to do what? Suppress the vote? No, correct the informalities. If they did not, we ought to do it. If we did not we would be a stench in the nostrils of all right-thinking people.

Mr. REAGAN. Will the gentleman allow me one word?

Mr. CALKINS. Certainly.

Mr. REAGAN. In case of a contested election the contestant, as I understand the rule, has to prove either by the poll-books or by proof *aliunde* that he was elected, and the burden remains on him to prove it. It seems to me, therefore, the gentleman from Indiana [Mr. CALKINS] is not justified in assuming another fact, that is that there was a Democratic and a Republican ticket, and by that assumption throwing on the contestee the burden of proof.

Mr. CALKINS. There could be better proof. I have no doubt he might have made better proof. But that is not the question. When he makes the proof he does what are we to do with it? Are we to shut our eyes to it and thereby "immolate truth, justice, and law because some technical rule has erected the altar and decreed the sacrifice?" However slight the proof it stands uncontradicted. If it is not true, the other party could have shown so easily its falsehood. That is my answer to that.

Issaquena County: It is objected that although the commissioners of election in this county certify the number of votes, they do not say what kind of votes they were, whether Democratic or Republican. The minority of the committee object, and say because these commissioners of election have not separated these votes and said there were so many for Chalmers and so many for Lynch, so many Democratic and so many Republican, therefore you cannot count them. But we find in the record—what? A certificate from the clerk, under the seal of the chancery clerk of Issaquena County, Mississippi. And here I may pause just a moment to say that by the executive documents and records of Mississippi, a copy of which I hold in my hand, and which we may always consider under the head of county officers, I find that Richard Griggs, the man who made this certificate, was elected and commissioned in 1880 for so many years, I think two, and that he is the circuit court clerk and the chancery clerk of the county. Here it is on page 60 of Miscellaneous Documents of Mississippi.

So, now, whatever virtue there is in my argument, it is not without historical evidence which the committee could receive, and my friends admit it, in the fact that Richard Griggs combined in his own person two offices, namely, that of circuit clerk and that of chancery clerk.

Mr. CARLISLE. And I assumed that he did.

Mr. CALKINS. Now, we find a certificate here, which I might as well read, for this is a technical objection, and if gentlemen take the sword they must perish by the sword.

Mr. CARLISLE. Suppose that Griggs had been circuit clerk and also constable, and that he had certified to this as constable. Would that certificate of his as constable be sufficient, and would that committee say it was good evidence on the ground that he was also circuit clerk, even admitting that his certificate as circuit clerk would have been sufficient evidence?

Mr. CALKINS. I will come to that. I will turn to the certificate which has been objected to and read it. Mark you, the exact point is that the commissioners, as certifying officers, having certified to a fact, and in the certification of that fact having made it so blind that you cannot say for whom these votes were cast, therefore, in resorting to other testimony in the record, (which our friends claim is not competent testimony and that it cannot be taken in order to ascertain how to divide that vote) the committee did wrong because it was not evidence that the committee could consider. That is the point. Now, we look to the law, which we have seen says that the ballot-boxes and this copy from the registration list shall be returned by the commissioners of election to the clerk.

Mr. MOULTON. Will the gentleman allow me just a moment right there?

Mr. CALKINS. Certainly.

Mr. MOULTON. My friend falls into a fatal error. There is not a particle of law in Mississippi that warrants the return of the ballot-boxes to the clerks.

Mr. CALKINS. I have just read it from the Code of Mississippi.

Mr. MOULTON. Look at section 126.

Mr. CALKINS. I did not refer to section 126. It is to section 127. I will read it again from the Revised Code of Mississippi, so that there can be no mistake about it. Here is the law:

After each election the ballot-boxes, &c.

I then turn to another section of the Mississippi Code, section 1632, which I will read. That section says:

All public officers in this State having the charge or custody—

Now, my friend will say that means the legal charge or the legal custody. I agree to that. But it may not be by positive statute. If it is inferential it is just the same—

All public officers in this State having the charge or custody of any public books, records, or writings—

That is pretty broad—

are authorized to certify copies of the same; which copies shall be received in evidence in all cases where the original would be evidence.

Now, if we had here before us the original papers upon which these inspectors made up this record, would that be evidence of the fact so as to enable us to determine how these votes should be divided between these two candidates? And that is all we are looking after. What we are looking for is something to determine how the votes should be divided; for we have the fact of how many votes were polled.

Now, would the original papers upon which these inspectors made up this record be evidence of the division of votes between these two candidates? There is no question that they would be.

But you do not launch your objection against the fact that such evidence would aid us to divide the vote, but you object to the manner in which that fact is proved. Now, I say that the ballot-boxes coming by law into the clerk's office, and there being an absence of any law saying that these commissioners or anybody else should preserve these papers, such a construction of that law ought to be given as will preserve these papers for use in just such cases as this.

Mr. CARLISLE. But these were not the ballots.

Mr. CALKINS. I do not care if they were not the ballots; they were a part of the means by which that election was conducted, and under the law of Mississippi, heretofore referred to, it was the custom to have the ballot-boxes contain all these things when it went to the registrar.

Mr. MOULTON. How does my friend construe section 139 of the Mississippi Code?

Mr. CALKINS. You will find by reference to another section of the law that these commissioners acted for only ten days. They are temporary officers; they only have an official life for ten days. In the very case before us, which I will discuss in a moment, they became *functus officio* after they had performed their duty. They do not keep the records. The election papers should go somewhere for preservation. And I say that by necessary inference they go into the hands of the circuit clerk, and he, being the legal custodian of them, can certify them. If the original was here it would be evidence of the manner in which the votes should be divided, and the certified copies are equal evidence. Anything else would lead simply to an absurdity.

Now, that is all I have to say on that point. If any gentleman has so tender a conscience that it will not allow him to receive that as legal evidence, then let him purge his conscience by voting the other way. I do not ask him to vote with me.

I come now to the next precinct seriously attacked, the precinct of Kingston, in Adams County. Now, I admit that I was in favor of throwing out that box entirely. I think now as a lawyer, applying the well-known rules of law, that this box ought to go out, and I will tell you why. As to this box we have this state of facts: first, the only thing on the part of the contestee is the return of the sworn officer. On the other hand we have the testimony of five witnesses with reference to the conduct of the election there. I will admit, as any man must, that a partisan looks at testimony through somewhat jaundiced eyes. I admit also that if I were in the place of my friends on the other side I might conscientiously come to the same conclusion about this that they do.

We all have these deep-seated prejudices which we cannot shake off, do the best we can. But there stands the fact uncontradicted; five witnesses testify, first, that this box before the count was completed was twice taken some distance from the place where the voting was going on; that the aperture into which the ballots were put was not sealed. The law of Mississippi requires that this aperture shall be sealed during any recess or adjournment. That is one fact.

Secondly, these witnesses testify that there were from three hundred and fifty to three hundred and sixty pronounced Republicans at that precinct.

Thirdly, one of these witnesses testifies that at that poll on that day he tallied one hundred and sixty Republican voters whose tickets he saw on his private tally-list, and that as the rest of them came up and voted they said, "Give me a Lynch ticket," and put it in. Now, it is objected that this is hearsay evidence.

Mr. ATHERTON. Let me correct the gentleman. They did not say "Give me a Lynch ticket;" they simply said "Lynch."

Mr. CALKINS. Some of them would say "Lynch;" and the testimony also shows that they came into the room of the witness and said they wanted a Lynch ticket, and then as they came up to the polls they would say "Lynch" as they voted. Now, if you will look at the Vallandigham case and the other cases you will find it settled that what a man says at the time he votes has always been held to be competent evidence as the confession of a party interested. This is the ground upon which the admission of such evidence was put in the Vallandigham case.

Thus the proof is, first, that there were 350 or 360 Republicans in that precinct; secondly, that they voted that day; thirdly, that 160 of them voted open tickets and the rest said "Lynch" when they came up and presented their tickets. Yet we have this surprising result—that only 159 votes are returned there for Mr. Lynch, and the balance for Mr. Chalmers.

Now, I say that upon this uncontradicted testimony that box ought to go out. We did not throw out the box because it makes a difference of only a few votes, about 60, either way. We let it stand, correcting it according to the evidence of the witnesses. The House may do as it pleases on this question. I do not care whether the box goes out or stands.

Mr. HAMMOND, of Georgia. Did not the witness say that the only persons he heard say "Lynch" were three or four?

Mr. CALKINS. Oh, no; he said he knew how "all but three or four voted." I will, in order to satisfy the gentleman, read from the testimony of H. B. Fowles. He testified as follows:

With the exception, possibly, of three or four, the whole of that 350 came into the room and up to me with open tickets. My knowledge of the number is derived from the fact that they came up and showed me the tickets.

Now, Mr. Speaker, I pass from that point to the next question. It is seriously contended that we are concluded in this case, because the supreme court of Mississippi has decided the question; that under the former rulings of this House and under the general rule that in construing the local statutes of a State, or the constitution of a State, the Federal courts and this body will follow the construction given by the State tribunals. It is said we are concluded because the supreme court of Mississippi has decided this question. Before discussing that legal proposition, let me give a plain, unvarnished history of the case, relied upon as it appears in the record.

On the 2d of November, 1880, the election now being contested was held; that is undisputed. On the 16th of November, 1880, Mr. Lynch filed his bill in the chancery court of Mississippi, asking that the secretary of state be enjoined from making a certificate to the governor whereby the contestee in this case should receive his *prima facie* title. That was denied on the 17th of November. On the 22d day of November, 1880—I ask gentlemen to observe these dates, because they are significant—Mr. Lynch served upon the contestee a copy of his notice of contest. On the 9th of December, 1880—nineteen or twenty days afterward—the district attorney of Tunica County, one of the counties in the upper portion of the "Shoestring district," as you will see it exhibited at the desk, filed his petition in the circuit court of that county asking that the commissioners of election be ordered to reassemble and reject five hundred and six ballots cast for Mr. Lynch in this case.

Why? Because he said they had the same marks on them which are complained of in this contest. I use this expression—he did not use it—to call attention to the printers' dashes on the tickets; they are the same. When that decision was rendered I cannot ascertain. It has not any date; but that it was rendered soon after being commenced both by the circuit court and by the supreme court is matter of history because we had it here before the assembling of Congress.

While I remain a member of this House, whether short or long, wherever the State courts have construed their election laws so that they have become a part of the system of the election laws in a State, I will follow them.

I repeat it, wherever the State tribunals have construed their election laws so they have become a part of the system I will follow that construction, even though I cannot agree to the reasoning.

The SPEAKER. The gentleman's time has expired.

Mr. MOULTON. I move that the gentleman be allowed to proceed without limitation as to time.

The SPEAKER. The Chair hears no objection and it is so ordered.

Mr. CALKINS. I thank the gentleman and the House. I will try to be as brief as possible.

There were certain jurisdictional questions necessary in that case which must appear before the court had jurisdiction. The court remarked, as it well might, that this House was the proper tribunal to decide the question of those ballots. Let me read in the presence of this House what that court said in reference to it:

The House of Representatives of the Congress of the United States is the judge of the elections, returns, and qualifications of its own members, and the courts of the State have nothing to do with it whatever.

Why, then, did they proceed to construe the law. Because, as the eminent judge said, it had been suggested from the bar that some

officers had been arrested, and the public was interested, and so the court would construe the law on the request of the attorney-general.

It was done without argument. There was not a brief filed on either side. There was no oral argument on either side, all of which is admitted and in the record. Lynch was no party to the record, and could not be heard. No man opposed to the theory as set out in the bill and admitted by the demurrer was heard. The court itself said it had no jurisdiction of the very question at issue.

What was the real question in issue? You gather that by the fact alleged in the petition. What is the fact alleged? That on the 2d of November an election was held in that county for member of Congress, and that 506 marked ballots were deposited and counted for Lynch, in violation of law. They asked the court to compel the county commissioners to reassemble and reject those votes. The court, in its opinion, stated three questions, and my ingenious friend from Ohio [Mr. ATHERTON] made one of the strongest arguments imaginable, founded upon the questions as stated.

He contended it was no matter how the court arrived at the conclusion it did if the facts properly presented the questions decided, and he said they were because the court had stated the three questions as indicated. The difficulty with my friend's argument is that we are not bound by the manner in which the court presented the questions, and I deny it presented them in the proper way. I claim the first question the court had to decide was by the section of the Mississippi law upon which it is claimed this action is predicated, Are there proper parties here to give us jurisdiction? That is the first thing they had to decide, and if there were no proper parties that was the end of the case.

Mr. Speaker, it is a solecism for a court to say it would decide so and so, and this is the opinion of the court if it had a proper defendant, but the court finds the defendant is dead, and therefore the court does not do anything but give an opinion of what the law would be if the defendant was not dead. That is what the court did here. It found these commissioners had no legal existence; that as officers they were *functi officio*, and the relator could not proceed against them at all, and the court therefore said, we find the law to be so and so, but we have no proper parties here; and that was the end of the case.

The jurisdictional question decided the whole case, and whatever else the judges said may be treated as *obiter dictum*, as the opinion of learned gentlemen. It is not the opinion of the court of Mississippi except as to that one point.

Mr. SPRINGER. Do I understand the gentleman to hold that where a court decides it has no jurisdiction in a particular case, that its reasons for that opinion are not to be held as an opinion of that court?

Mr. CALKINS. I cannot go over that ground again, and I beg my friend from Illinois to allow me to proceed as I am nearly exhausted and wish to conclude as soon as possible.

Mr. SPRINGER. Then, if the gentleman is so nearly exhausted, will he not let me call attention to the position held by the late President, Mr. Garfield, upon this subject, while he is resting?

Mr. CALKINS. I cannot yield to the gentleman.

Mr. SPRINGER. I shall occupy but a very little time.

Mr. CALKINS. Very well, I will hear the gentleman.

Mr. SPRINGER. In the Louisiana case before the electoral commission President Garfield, then one of the commissioners, uses this language:

> He says the Supreme Court in the case of Bonner *vs.* Lynch, twenty-fifth Louisiana Annual Reports, 268, say: "The Legislature has seen proper to lodge the power to decide who has or who has not been elected in the returning board. It might have conferred that power upon the courts, but it did not. Whether the law be good or bad, it is our duty to obey its provisions and not to legislate. Having no power to revise the action of the board of returning officers, we have nothing to do with the reasons or grounds upon which they arrived at their conclusion."

It was held there that the court had no jurisdiction to determine who was elected, as that jurisdiction was conferred upon the returning board of that State.

Mr. CALKINS. That is very probable under the law of the State.

Mr. SPRINGER. Now, the late President, referring to that opinion, said: "The court declares the law valid, and that alone ends the controversy;" showing that the decision, in his opinion, was binding upon the Congress of the United States, upon the electoral commission, and upon all persons.

Mr. CALKINS. Upon another point in the argument I will come to that if the gentleman will permit me.

Mr. SPRINGER. Will the gentleman allow me to send this up and have it read?

Mr. CALKINS. I cannot yield for that purpose.

Mr. SPRINGER. I have no doubt that it will improve the argument of the gentleman to permit this opinion of the late President to be inserted in connection with his remarks.

Mr. CALKINS. I have no doubt that my speech will not be improved by anything that the gentleman from Illinois will see proper to interject.

Mr. SPRINGER. I do not offer my own opinion, but that of the late distinguished President of the United States, who used this language in that connection:

> That the construction given to a statute of a State by its supreme court is binding upon all other States and upon the United States; and that for all practical purposes the construction so given becomes as much a part of the statute as though the language of the court were incorporated into the text of the law.

Mr. CALKINS. Evidently so; but as I will come to that, as I have stated, during the course of my remarks, I think I can convince the gentleman that the point he takes is fallacious as applied to this case. I do not deny the proposition in general, but the question discussed there is referable to another clause of the Constitution not now under consideration, and it cannot be made applicable in this case.

Now, as to this interesting decision of the court of Mississippi, I say that if the supreme court of that State, in cases where it shall have jurisdiction, adheres in the future to the doctrine announced and makes it a part of the system of elections in that State, and I should be a member in the House, however much I should dissent from it, I should feel compelled to follow it.

Mr. HAMMOND, of Georgia. How can they get jurisdiction, the fact remaining always that we are the judges?

Mr. CALKINS. Under this election law, in cases which arise in the State between contestants for State offices. Of course State courts can never usurp our functions as to contests for seats on this floor, but we would or ought to apply the law as construed by the State courts when their decisions are made in cases where they have undoubted jurisdiction. This cannot be the rule where the court deals in *obiter*, and in cases where by the Constitution they are not allowed to decide.

The next question the supreme court of the State attempt to decide is that these dashes upon the ballots are such marks as make them obnoxious to the law. An enunciation of such a doctrine coming from a source less high than the supreme court of Mississippi would be by me considered as of little weight. The universal doctrine throughout the United States is opposed to this decision. The court do not cite a single authority in harmony with this opinion.

There is not one that has been brought to our notice. They overturn and reverse the rule declared in 47 Mississippi, where the court say that all election laws as to the electors are to be construed liberally, and as to the officers and their duties under them mandatory. The Supreme Court in the Oglesby case reverse that rule and say in effect that the law made for the protection of the voter shall be construed strictly, and if he does not comply with everything which the letter of the law requires his ballot shall be void.

That I hold to be a reversal of all the doctrines of elections known in the jurisprudence of this country. The furthest, in my judgment, that a construction of this law can go would be to make the voter responsible for the intent in all cases where there is not a palpable violation of the law. That is as far as we go in civil actions.

Now, I admit that it is competent for the Legislature to say that any distinguishing mark which is distinctly such shall be prohibited and the ballot containing it rejected. That is competent. Everybody knows what that means. Such laws are an inhibition against spread-eagles, flags, portraits, different tinted paper, and the like, whereby the weak, unlettered, and ignorant may be detected in voting and the secrecy of the ballot destroyed. For the purpose of preventing that and to make the ballot secret, thereby protecting the weak, these sort of laws are enacted.

It is on that principle alone that they can be maintained as reasonable regulations. But the supreme court of Mississippi say that this law must be construed strictly against the voter; and though a ticket contains what is confessedly punctuation marks, that they are of themselves such marks or devices as make them obnoxious to the law. It is well, Mr. Speaker, that this decision stands alone in the jurisprudence of this country, and I cannot bring myself to the belief that the opinion will stand long even as the law of that State. It is so subversive of every principle of right, honesty, justice, and fair dealing in elections that the universal voice of the people of this country will and do condemn it.

One thing more, Mr. Speaker. The extreme limit, in my judgment, ought to be that nothing is obnoxious to that law which is necessary or proper in the mechanical art of printing, but that if anything was used for the purpose of being a mark, such purpose shall remain a question of fact, to be tried as other questions of fact are tried.

Mr. HOOKER. May I ask the gentleman a question?

Mr. CALKINS. Certainly.

Mr. HOOKER. Is there not a uniform, unbroken line of authority in all the States and in the Supreme Court that with respect to the revenue laws and laws like this law in Mississippi and Ohio and Maine, and other States, the question of intention never enters, and that if there is an infraction that is regarded as a violation of the law?

Mr. CALKINS. If there is such a violation of the law that the use of the thing, whatever it may be, is palpably within the prohibition—yes. If, however, as in this case, only such arts and appliances as are known to the art of printing and as are generally used throughout the country are made use of—no. You cannot take up a newspaper, or a printed bill of this House, or anything else from a printing office that has not these same dashes upon them.

Mr. HOOKER. If an ordinary mark such as is used in a printing office in printing a public document is a designation and device by which the ticket may be known then is it not embraced in the prohibition of the law?

Mr. CALKINS. No; because if you go that far you would have to say that unless all the names were of the same length, unless the head of the ticket and all the names on the ticket were in the same type, so that there could be absolutely seen on the ticket nothing to

distinguish it from the other, there would be a violation of the law. But when the head of the ticket, the length of the names, the difference of type made use of are allowed by the law, then I say you cannot claim that certain punctuation marks which belong to the mechanical art of printing are obnoxious to it and cannot be used. The heading, a friend suggests to me, is a designation of itself.

Mr. HAMMOND, of Georgia. That is allowed by the statute, and so is the whole printing. What is allowed is right; what is not allowed is wrong.

Mr. CALKINS. But would the gentleman say because the statute did not say you should not have a period or a comma, that those would be distinguishing marks? My friend from Kentucky [Mr. CARLISLE] would not go that far, nor my friend from Georgia, [Mr. HAMMOND.] And if you are to determine between different kinds of punctuation marks, where are you to draw the line? Drawing the line where you do you run into an absurdity.

Mr. Speaker, I say these ballots ought to be counted, and if there is any gentleman upon the floor of the House who believes that these ballots are obnoxious to that law within its true intent and meaning, unfettered and unhampered, as I claim we are, by anything that comes to us as a part of the election system of that State, I say let him vote against this report. But as for me, I have no doubt, none whatever, of the legality of these ballots under the law of Mississippi, and I believe it is a part of the duty of this House to so assert, especially when the very case which was to conclude us was a case growing out of this very election after this contest was pending.

Mr. ROBESON. The claim is, the higher court should be bound by the decision of the lower one when reviewing it.

Mr. CALKINS. I make one of these tickets a part of my remarks. It is as follows:

[This is a fac-simile of the ticket printed on page 130—Lynch vs. Chalmers.]

EXHIBIT A.—JERRY TAYLOR.

Republican National Ticket.

For President,

JAMES A. GARFIELD.

—o—

For Vice President,

CHESTER A. ARTHUR.

For Electors for President and Vice President,

HON. WILLIAM R. SPEARS,

HON. R. W. FLOURNOY,

DR. J. M. BYNUM,

HON. J. T. SETTLE,

CAPT. M. K. MISTER, JR.,

DR. R. H. MONTGOMERY,

JUDGE R. H. CUNY,

HON. CHARLES W. CLARKE.

—o—

For Member of the House of Representatives from the 6th Congressional District.

JOHN R. LYNCH.

The marks and devices complained of are those dashes which divide the head of the ticket from the name of the President, and those dividing the name of the electors from the name of the member of Congress.

I now pass, Mr. Speaker, to answer some of the observations which my friends on the other side made, running hurriedly over them but answering such of them as I think deserve a passing notice in the limited time that I have to review them. And in the first place, in reply to all that part of the attack made by gentlemen on the other side upon Mr. Lynch in regard to the tickets having been printed by him or with his knowledge or consent, for the purpose of being marked with the intent of having distinguishing marks upon them, I say that if human testimony can establish anything it establishes the fact that Mr. Lynch, fearing something of this in the future, knowing what he had to cope with, was particularly anxious that his ticket should be a lawful ticket, strongly within the law, and nothing else.

So thoroughly was he permeated with the idea that there would be some trouble in the future, that he did not trust his own party friends, but went to Democrats who were personal friends, though political enemies, and he said to them, "All I want is a ticket within that law." They sat down together just as reasonably prudent men would do and talked over the law together; and he was assured by Mr. Wright, of the Vicksburgh Herald, and other gentlemen who printed his tickets, that they would print them within that law and would defend them from successful assaults.

Mr. HAMMOND, of Georgia. He went to a printer instead of to a lawyer to learn the law.

Mr. CALKINS. But they said they had taken advice; and they had printed Democratic tickets, and did print them, and they were voted in Issaquena County, according to the testimony of Mr. Myers, with just precisely the same marks upon them as were upon Mr. Lynch's tickets.

They said that they would print a ticket which was not obnoxious to the law; said it not only then but when they were put on the stand afterward; and the ticket was put into their hands and they were asked, "Do you consider that a marked ticket?" And they answered, "No." They testified as to the art and guild of printing. They testified, "We say that is a plain ticket without marks." And when Mr. Chalmers called Mr. Charles Winkley, he testified in effect the same thing; that they were plain tickets. When these experts were called all of them testified that they were plain tickets and were without distinguishing marks.

Mr. MILLER. And who could better testify to that than a printer?

Mr. CALKINS. This testimony was not contradicted. I repeat again that if human testimony can establish anything it establishes beyond peradventure and successful controversy that Mr. Lynch used all the diligence that it was possible for any man to use to get tickets that would be within the law and not obnoxious to it. I say that much in defense of Mr. Lynch.

My friend from Mississippi, [Mr. HOOKER,] my friend from Ohio, [Mr. ATHERTON,] and other gentlemen have referred to the fact that in this contest there was no charge of intimidation or fraud. And my friend from Mississippi, [Mr. HOOKER,] whom I do not now see in his seat, went further than that, and said that since 1876, since that State was redeemed from the thraldom of carpet-baggery and scalawagism, the State had had profound peace.

I am loth to and will not open up a controversy which should be forever sealed. But for the sake of truth I must say that the history of that time has been well preserved. I hold in my hand volume 18 of the CONGRESSIONAL RECORD of the Forty-fourth Congress. At page 22 of the appendix of that volume, in a speech by Governor Morton in the proceedings of the Senate of that date, I find over one hundred newspaper extracts from every part of Mississippi during that campaign, as to the methods that were adopted for the purpose of redeeming that State as it is called from scalawagism and carpet-baggery.

They were words written at the time the acts were committed. They were the testimony furnished by Democratic editors and newspaper men. They have been preserved and will live as a part of the records of this country. They were collated in a speech delivered by Governor Morton in the Senate on that occasion.

I call the attention of all readers of history who desire to become informed of the most outrageous offenses against the ballot-box that perhaps ever took place in any peaceable country to the testimony published throughout Mississippi by the editors. Whatever may have been the result of it, I do not doubt but that history will condemn the means made use of to obtain it.

I affirm that no violence or fraud or mob law, no matter what was intended, was ever right. It was a still greater crime to consolidate intimidation, fraud, and violence and make it a part and parcel of the election system of any part of this country. If Mississippi has a good government now, if that State is now passing on serenely in peace and quiet, nobody rejoices more than I. But the means by which that condition has been brought about remains and will forever remain a crime against the age in which such means were resorted to and such acts were perpetrated. I call attention to the following extracts which I find in that speech.

From the Meridian Mercury:

Rally on the color line, boys, beyond the platform, every man to his color and colors, and make these negro pretenders to govern this great county come down, else put 'em down. What do the young men say to the old man's battle-cry in this political campaign: "Step across the platform, boys, and go for 'em."

From the Westville (Mississippi) News:

"VOTE THE NEGRO DOWN OR KNOCK HIM DOWN."

Does not the very thought boil the blood in every vein? Will you still contend that we must not have a white man's party? Away with such false doctrines; we must and will have a white man's party. We have tried policy long enough. We

must organize on the color line, disregarding minor considerations. The white man's party is the only salvation for the State. Show the negro his place and make him keep it. If we cannot vote him down, we can knock him down, and the result will be the same. Either the white man or negro will rule this country; they cannot both do it, and it is for the white man to say who the ruler shall be. Let us have a white man's party to rule a white man's country, and do it like white men.

From the Columbus Index:

The necessities of the State of Mississippi recall this injunction and give emphasis to the parallel—put none but Democrats in office.

We have gained a great victory—Bull Run or Chickamauga. Let us follow it up to the securing of results.

The white people must be welded into one compact organization. All differences of opinion, all personal aspirations, must be settled within our own organization, and from its decision there must be no appeal. Otherwise each recurring election produces its disorders.

From the Newton Democrat:

Mr. Potter and ex-Governor Brown, of Hinds, think the negro can be reasoned into Democracy, and they have been thinking so ever since the war; but for our part we would as soon reason with a shoal of crocodiles or a drove of Kentucky mules. And so might they, for all the convictions they have produced in the counties of Hinds and Copiah.

From the Yazoo Democrat:

Let unanimity of sentiment pervade the minds of men. Let invincible determination be depicted on every countenance. Send forth from our deliberative assembly of the eighteenth the soul stirring announcement that Mississippians shall rule Mississippi though the heavens fall. Then will woe, irretrievable woe, betide the radical tatterdemalions. Hit them hip and thigh, everywhere and at all times. Carry the election peaceably if we can, forcibly if we must.

I pass next to say that my friend from Georgia [Mr. HAMMOND] referred to the Maine case as being a precedent to establish and maintain the proposition that the highest courts of a State have often been resorted to for the purpose of determining questions of construction arising in the other co-ordinate branches of the Government. One single sentence in regard to that time and to that case.

If I understand correctly the history of that time—I mean the Garcelon controversy—he sought by legal technicalities and quibbles to suppress the honest vote of the State. To the honor of the supreme court of that State be it said that it stood solidly, without reference to the political proclivities of any of its members, for the glory, honor, and good name of their State, and overthrew those legal quibbles and technicalities. If the gentleman from Georgia can get any sort of comfort from that case I willingly accord it to him.

Mr. HAMMOND, of Georgia. The comfort which "the gentleman from Georgia" takes is that that decision being right, the country followed it. I mentioned it as an example of a whole State being revolutionized by a supreme court decision made at the time, to confound the gentlemen who refused to pay any attention to the decision of a supreme court elsewhere at the time.

Mr. CALKINS. The gentleman said that the country maintained that decision. It did so because the decision was right, and the country would maintain the decision of the supreme court of the State of Mississippi if it was right; but the trouble is that it was wrong.

Mr. HAMMOND, of Georgia. But the reason you give for not maintaining it is what I was referring to. That is the point I was discussing. You gave as a reason that it was only one case.

Mr. CALKINS. In the Maine case it was provided by the constitution of that State that the question should be determined by the supreme court of the State. The supreme court had jurisdiction of the question, and it made a decision in a case in which it had jurisdiction. In this case the supreme court of the State of Mississippi itself says that it had no jurisdiction, and it is therefore not a decision of the supreme court of Mississippi.

Mr. ROBESON. Will the gentleman from Indiana permit me to ask the gentleman from Georgia a question?

Mr. HAMMOND, of Georgia. I hope he will.

Mr. CALKINS. I yield to the gentleman from New Jersey.

Mr. ROBESON. I want to ask the gentleman from Georgia this question: If the Supreme Court of the United States has jurisdiction to review the decision of a State court by reason of the character of the parties or the subject-matter of controversy, is the Supreme Court, when it comes to review such a decision of a State court, under the constitutional provision bound by the decision of the court which it is then reviewing? That is my first question.

Mr. HAMMOND, of Georgia. I suppose any school-boy can answer that. No.

Mr. ROBESON. Secondly, when the Supreme Court of the United States in such a case sets aside the decision of the State court, does not that make the law for the State, the decision of the supreme court of the State to the contrary notwithstanding? Does not the decision of the Supreme Court of the United States in a case in which it has constitutional authority to review the action of a State court make the law of the State?

Now, if we have constitutional authority to review, and are in this case reviewing the decision of the supreme court of the State of Mississippi, are we bound by the decision of that court in the very case which we are reviewing? If we are bound by that decision, how are we a court of review? And if in making this review we set aside the action of the supreme court of the State, is not our decision the law for the State of Mississippi?

Mr. CALKINS. I cannot yield further.

Mr. HAMMOND, of Georgia. I ask the gentleman from Indiana how much time will be allowed to me to answer that question?

Mr. CALKINS. The same time that the gentleman from New Jersey has occupied—about two minutes.

Mr. HAMMOND, of Georgia. Well, I will make this remark: if there were in Georgia any school-boy ten years of age who did not know how to answer those questions I would be in favor of abolishing our school system. [Laughter and applause.] The gentleman knows that any decision of the Supreme Court of the United States upon a question of which it has jurisdiction is the highest law.

Mr. ROBESON. Why?

Mr. HAMMOND, of Georgia. Because the Constitution gives it jurisdiction to decide.

Mr. ROBESON. Because the Constitution makes the Supreme Court a court of review. Now go on.

Mr. HAMMOND, of Georgia. While I am going on, I hope the gentleman will keep quiet. [Laughter.] I am answering him. The next question is whether, if we are authorized to make a review, our decision will not be final. I answer yes; but that does not authorize the Supreme Court of the United State to violate the law any more than it authorizes us to violate the law. I admired the grandeur of the posture of the gentleman yesterday when he threw back the lapels of his coat and trampled rough-shod over prostrate States; but I despised his law. [Laughter.]

Mr. ROBESON. Then, according to the gentleman, we are not the judges of the law.

Mr. CALKINS. I yield for a moment to the gentleman from Ohio, [Mr. ATHERTON.]

Mr. ATHERTON. I desire to say that I think the gentleman is mistaken when he says the supreme court of Mississippi declared that it had not jurisdiction. As I understand, the court did not say that, but simply said it was not necessary or might not have been necessary to decide all those questions; that the decision could have been put upon one or another of the several propositions presented. But it is a mistake to say that the court said it had no jurisdiction.

Mr. CALKINS. My colleague on the committee [Mr. ATHERTON] was not present when I discussed that part of the case, and I do not care to go over it again.

Mr. Speaker, I desire to refer to one other remark made by my friend from Georgia [Mr. HAMMOND] on the day before yesterday, and appearing in the RECORD of this morning. I read but a sentence because time will not allow further reference. After quoting from page 10 of the report, he says:

This language is strangely involved. It declares that State election laws are made "Federal law" by the Constitution and "adopted by Congress." It sounds oddly to talk of Congress adopting a constitutional result.

Now, Mr. Speaker, my friend from Georgia was, in my judgment, quite disingenuous in his criticism. That is not the meaning of the report; but if I understand the meaning of language it is that when Congress fails to provide a manner in which elections shall be conducted for members of Congress, then, under the Constitution, the State laws become for that purpose the Federal law. I submit for the consideration of my friend what was said by a distinguished writer about the critic. He said, "A criticism stands as an interrogation point, while logic stands like a monument." I commend the quotation to my friend. If there was nothing but criticism to be indulged, he has failed even in that.

Mr. HAMMOND, of Georgia. The gentleman does not contend that I did not quote him correctly?

Mr. CALKINS. Oh, no; it was the deduction entirely that I was talking about.

Mr. HAMMOND, of Georgia. I was only trying to show that the gentleman was inaccurate, and he is not always accurate in the use of the English language when speaking of the origin of things.

Mr. CALKINS. I wish I had been favored with the privilege of going to school to the gentleman; but I was not.

Mr. HAMMOND, of Georgia. I made that remark for amusement, and perhaps criticism; but I had in my mind at that time this sentence, uttered here by the gentleman on the 5th of February, 1880, when accounting for the origin of what he called the "true Westerner:"

The Cavalier led to the altar the Puritan girl, and their children's veins were tinged with the blood of the earlier colonists from the *rivulets flowing from close springs*.

That was about as satisfactory an explanation of the origin of the Westerner as the language of the gentleman in the present case is of the origin of the law. According to him, Congress became by adoption the father of the child of the Constitution, the Constitution still living.

Mr. CALKINS. That is far-fetched. It does not even provoke a smile. I commend the language and the speech quoted from to the gentleman as worthy to be perused by him some time when he has flights of fancy and not flights of criticism.

Mr. Speaker, I call attention to another portion of the gentleman's remarks, in which he enters into a criticism of a part of the report on page 19. He says he does not understand the language used. Probably I had better read what the gentleman says:

That law when Congress has not acted is the State law, and the State law is the State statute as construed by the State supreme court. We know not what the majority means when it says this idea is "likewise inimical to the soundest principles of national unity." Certainly it is not at war with our constitutional national unity.

Now, my friend says it is impossible for him to understand what was meant in the report by the words that it is inimical to the soundest principles of national unity for this House to be bound by a decision of a State court on a question committed by the Constitution to this House alone.

He does not understand how that can be inimical to the soundest views of national unity. In the sphere in which the States act under the Constitution they are sovereign. In the sphere in which the Government acts it is sovereign. One of the questions which cannot be divided with any tribunal by this House is the one as to the election of its own members. We may adopt the construction of State laws as determined by State tribunals, but the methods and processes of elections must forever be sacredly kept as the exclusive right of this House.

For the preservation of the autonomy of the Government, for the preservation of the House itself, this power must forever reside where the Constitution has put it, beyond State law or State tribunals, except as they may be adopted, as I have before stated.

Mr. Speaker, I quote one remark from the speech of my friend from Virginia, [Mr. TUCKER.] He was speaking about negroes not representing any Northern Congressional districts.

He used the following language:

> And when I asked my friend that question, and he said the reason was there was a majority of white people in all the districts and voting places North to elect white people instead of black, I said then, "You have got to accept one or the other horn of this dilemma: either the free-school system of education which you adopt in reference to the African in the North has utterly failed to raise the African to a grade which would enable him to rank with any man on this floor, or the system of slavery in the South existing until seventeen years ago is a better educator to statesmanship and positions of political eminence than even the free-school system of the North."
>
> If this is not so you can only account for your not sending African Representatives by saying that the white men of the North exclude the African because he is such, and give preference to the white man because he is a Caucasian.

That, although it is left out here, was applauded on the other side.

Now, I am ready at any time, Mr. Speaker, and I challenge comparison with any government in the world of any of its systems with that of the free-school system of the North, but I cannot stand here to-day to insult the intelligence of the North by saying that there can be any comparison between African slavery as an educator and the free-school system of our Northern States, nor do I understand my friend from Virginia to maintain that there is room for any comparison. No, sir; our free schools speak for themselves.

The intelligence of the masses of our people, the little schoolhouses which dot our plains and adorn our hills, the immense revenues we pour out year by year in educating our boys and girls all over the North is the pride of our people and the assured guaranty of the perpetuity of our institutions. In that lies the hope of this Republic. This country must have an intelligent sovereign. The people are the sovereign, and they must be educated.

Mr. Speaker, we need no longer talk of slavery; it has gone forever. Its shackles can never again be fastened upon the limbs of any part of the people of this Republic. The blacks cannot be reenslaved. Once having felt the flame of liberty, they will die but never relinquish it. [Applause on the Republican side.] You may keep them from the polls, you may suppress their voice at the elections, you may run over them and trample them down, but the freedom which they have experienced, and the citizenship which came to them after the war, can never be torn from them. Freemen they will be forever. [Applause on the Republican side.]

Mr. Speaker, it is not true that the education of the blacks in the North is a failure. In spite of the old dogmas and doctrines of the ancient Democracy, they are making gigantic strides in that direction. In the South, as I am informed, the young are exceedingly anxious for an education.

The answer to the proposition of my friend from Virginia that no colored man has been sent to Congress from the Northern States is that from the South, in no district where the colored voters do not exceed the white has one ever come here, and never will, especially while it is under the control of the Bourbons.

Mr. TUCKER. I understand my friend from Indiana to say it is because the white people prefer a white man to a negro that neither section sends them.

Mr. CALKINS. My answer to the gentleman is this: that while we in the North believe in giving to the black man every advantage under the law——

Mr. TUCKER. Except to come to Congress.

Mr. CALKINS. They have every advantage under the law, if they have not got to Congress yet; and if one was elected there he would not be counted out. If the gentleman will allow me I am inclined to believe it will not be long before he will be slashing around through the Old Dominion trying to induce his colored brethren to send him back to Congress. Things are awfully torn up in that State. [Applause and laughter.]

Mr. TOWNSHEND, of Illinois. How will they be doing in Indiana?

Mr. CALKINS. They will do as they do in Illinois, I presume; but no matter about that.

The last question I desire to discuss in connection with this case is the testimony given by the gentleman controlling the Vicksburgh Herald, a leading Democratic paper in Mississippi. Now, I do not say what the condition of things in Mississippi is from personal observation. Personally I know nothing about it. I must judge of that from what I see in the record.

Here is the sworn testimony, not of a Republican, but of a Democrat of a condition of affairs which I say must yield; and I ask, Mr. Speaker, to have the House listen to a small portion of the testimony of Charles E. Wright, as appears in this record, on page 31. He is editor of the Vicksburgh Herald, one of the leading papers of that State, and until recently everybody would have said the leading Democratic paper of that State. He says, speaking of the political course of that paper, on page 33:

> It has differed with some of the extreme papers in this State. I have sustained the Democratic administration of Mississippi, the Democratic judges, and every thing else. It is not true that when I returned from Washington, a year ago last spring, the tone of the paper became changed and differed with the Democratic administration of the State. It never has. I differed with the leaders of the party concerning the issue they made in Congress about that time, and said so editorially half a dozen times. It is not true I have since then denounced the leaders of the Democratic party as "machine politicians," or something of that kind. It is not true that I denounced the leaders of the Democratic party as "Bourbons." I regard Mr. LAMAR——

Now, mark you—

> I regard Mr. LAMAR as the leader of the Democratic party in Mississippi, and I know he does not approve those things I issued with. I never made an issue with the leaders of the party. I refer to fraud and violence as things Mr. LAMAR does not approve of. I have not taken any new departure. I have opposed them ever since I have been editor of a paper. I was the editor of a paper published in Vicksburgh in 1873 or 1874 called the Vicksburgher, and of the paper called the Monitor in the following year.
>
> Q. What fraud or violence have you known committed for running for office since March, 1879?
>
> A. The most prominent affair was in Yazoo, in 1879.
>
> Q. What fraud or violence did you know as being committed in Yazoo in 1879?
>
> A. I do not live in Yazoo County, and know nothing of my own personal knowledge. I only know just like I get other information for the Herald.

Newspaper men know how to get information generally for the papers.

> Q. Do you know of your own knowledge any fraud or violence committed against anybody running for office?
>
> A. I answer as before, I do not know of my own knowledge.

Now, turning to page 35, here is what he says, and here is what I denounce, and shall continue to cry out against until it ceases:

> Q. Please to define what you understand by Bourbonism and Conservatism? (Objected to by counsel for General Chalmers as irrelevant and not re-examination.)
>
> A. The difference, as I understand it, is this: the Bourbons in this State are an extreme faction of the Democratic party; they are willing to go outside of law and the Democratic platform, and anything else, and resort to violence and fraud for the sake of party success. I think the conservative Democrats are opposed to that, and want to let the elections go as the ballots are cast. That is my view of the difference. I regard Senator LAMAR as the leader of the Democratic party in this State and General Chalmers as identified with the extreme men.

Now, Mr. Speaker, the point I want to make is, that this is neither the testimony of negroes nor Republicans. It is the testimony on the record in this case, from one of the brightest Democrats in the State, if I understand it aright, and the point he makes is that he is opposed to that policy which has prevailed in the State which will disregard law, disregard order, disregard the counting of ballots as they are cast, and that is what he cries aloud against, and may God Almighty give him lungs that will be heard throughout the whole South. [Applause.]

The Republican party demands that the ballots shall be counted as they are cast; that when an elector casts one ballot that shall be honestly counted as it was cast. That is the broad platform on which the Republican party stands. And this is the point made by the gentleman from Tennessee [Mr. MOORE] when he said that the better people of the South were in favor of an honest ballot, and counting them according to the law of the land. The liberties of the people depend upon this, for the love of liberty is the love of law, and without law there is anarchy.

In conclusion allow me to say, although it may not be safe to count all of the negroes of the South as voters of the Republican ticket, certainly not in election cases, yet, Mr. Speaker, that it is the universal testimony of almost all the men who have spoken upon the subject, and of those who are competent to speak upon it, and the facts bear out the assertion, that the great mass of the negroes of the South are Republicans. In the very nature of things they ought to be, they must be at least for this generation.

It was that party and the leaders of that party that gave them their freedom. It was that party, and it is the spirit that now animates those who act with it, that took from their limbs the shackles of slavery and made them freemen. It was that party that placed in their hands that badge of sovereignty, that raised them from servitude to the grand plane of citizenship. [Applause.] It was that party that placed, not a tiara upon the head, but the ballot in the hands of a freeman. It was that party that has protected them. It is that party that has stood by them and aided them in all of their troubles. It is that party that will stand by them to the end, whatever may come. [Applause.] Not because they are negroes, but because in the very necessity of things leading to their freedom and clothing them with full citizenship; by the very force of circum-

stances and the protection which that party has thrown around them by its legislation it has given pledge of its fealty to justice.

Having obtained from that party every boon that could have been granted them in their helpless condition they naturally look to that party still for guidance, and it would be cowardly in us to desert them. But the time is coming—I hope it is near at hand—when, not only throughout the North, in every part of the land this same sentiment will be recognized as the intelligent sentiment of an enlightened nation.

And I do now assure my friends that any liberal men in the South that reach out their hands to us who are imbued with this one grand sentiment will be heartily grasped from whencesoever they come. [Applause.] No matter what the past has been, it shall be no longer remembered. Give us a free vote, a fair count, an honest election. That is all we ask. If there has been bitterness between us we put it by as belonging to the past. But do not immolate truth and justice for party success. We stand for liberty and law. And I say to the negroes that the same spirit which secured them these blessings will educate their children, and the good people of all parties will stand by you in every forward step you take toward civilization and say God bless you. [Great applause on the floor and in the galleries.]

The SPEAKER. The Clerk will read the first resolution as reported by the committee.

The Clerk read as follows:

Resolved, That James R. Chalmers was not elected and is not entitled to his seat in the Forty-seventh Congress from the sixth district of Mississippi.

The SPEAKER. The gentleman from Illinois [Mr. MOULTON] moves, as a substitute for this resolution what the Clerk will now read.

The Clerk read as follows:

Resolved, That John R. Lynch was not elected and is not entitled to a seat in the Forty-seventh Congress from the sixth district of Mississippi.

The SPEAKER. The question is on agreeing to the substitute offered by the gentleman from Illinois, [Mr. MOULTON.]

Mr. CALKINS. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 125, not voting 62; as follows:

YEAS—104.

Aiken,	Cox, William R.	House,	Ross,
Armfield,	Covington,	Hutchins,	Scales,
Atherton,	Cravens,	Jones, James K.	Scoville,
Atkins,	Culberson,	Kenna,	Shackelford,
Barbour,	Davidson,	King,	Shelley,
Belmont,	Davis, Lowndes H.	Klotz,	Simonton,
Berry,	Dibble,	Ladd,	Singleton, Jas. W.
Blanchard,	Dowd,	Latham,	Singleton, Otho R.
Bland,	Dunn,	Manning,	Speer,
Blount,	Ellis,	Matson,	Springer,
Bragg,	Evins,	McLane,	Stockslager,
Buchanan,	Finley,	McMillin,	Thompson, P. B.
Buckner,	Forney,	Mills,	Tillman,
Cabell,	Garrison,	Money,	Townshend, R. W.
Caldwell,	Gibson,	Morrison,	Tucker,
Carlisle,	Gunter,	Mosgrove,	Turner, Henry G.
Cassidy,	Hammond, N. J.	Moulton,	Turner, Oscar
Chapman,	Hardenbergh,	Muldrow,	Upson,
Clardy,	Hardy,	Mutchler,	Vance,
Clark,	Harris, Henry S.	Oates,	Warner,
Clements,	Hatch,	Phister,	Wellborn,
Cobb,	Herbert,	Randall,	Wheeler,
Colerick,	Herndon,	Reagan,	Whitthorne,
Converse,	Hewitt, G. W.	Richardson, Jno. S.	Williams, Thomas
Cook,	Holman,	Robertson,	Willis,
Cox, Samuel S.	Hooker,	Robinson, Wm. E.	Wise, George D.

NAYS—125.

Aldrich,	Errett,	Lindsey,	Robinson, Geo. D.
Anderson,	Farwell, Sewell S.	Lord,	Robinson, James S.
Barr,	Fisher,	Mason,	Russell,
Bayne,	Ford,	McClure,	Scranton,
Belford,	Fulkerson,	McCoid,	Shallenberger,
Bingham,	Godshalk,	McKinley,	Sherwin,
Bowman,	Grout,	Miles,	Skinner,
Brewer,	Guenther,	Miller,	Smith, Dietrich C.
Briggs,	Hall,	Moore,	Spaulding,
Browne,	Hammond, John	Neal,	Spooner,
Buck,	Harmer,	Norcoss,	Steele,
Burrows, Julius C.	Harris, Benj. W.	O'Neill,	Stone,
Burrows, Jos. H.	Haseltine,	Orth,	Strait,
Butterworth,	Haskell,	Pacheco,	Taylor,
Calkins,	Hawk,	Page,	Thompson, Wm. G.
Camp,	Hazelton,	Parker,	Townsend, Amos
Candler,	Heilman,	Paul,	Tyler,
Cannon,	Hepburn,	Payson,	Updegraff, J. T.
Carpenter,	Hill,	Peelle,	Updegraff, Thomas
Caswell,	Horr,	Peirce,	Urner,
Chace,	Hubbs,	Pettibone,	Valentine,
Cullen,	Humphrey,	Pound,	Van Aernam,
Cutts,	Jacobs,	Prescott,	Van Horn,
Darrall,	Jadwin,	Ranney,	Walker,
Davis, George R.	Jones, George W.	Ray,	Ward,
Dawes,	Jones, Phineas	Reed,	Watson,
Deering,	Jorgensen	Rice, Theron M.	Webber,
De Motte,	Joyce,	Rice, William W.	White,
Dezendorf,	Kasson,	Rich,	Williams, Chas. G.
Dingley,	Kelley,	Richardson, D. P.	
Dunnell,	Lacey,	Ritchie,	
Dwight,	Lewis,	Robeson,	

NOT VOTING—62.

Beach,	Farwell, Chas. B.	Marsh,	Stephens,
Beltzhoover,	Flower,	Martin,	Talbott,
Black,	Frost,	McCook,	Thomas,
Blackburn,	Geddes,	McKenzie,	Van Voorhis,
Bliss,	George,	Morey,	Wadsworth,
Brumm,	Henderson,	Morse,	Wait,
Campbell,	Hewitt, Abram S.	Murch,	Washburn,
Chalmers,	Hiscock,	Nolan,	West,
Cornell,	Hoblitzell,	Phelps,	Willits,
Crapo,	Hoge,	Rice, John B.	Wilson,
Crowley,	Houk,	Rosecrans,	Wise, Morgan R.
Curtin,	Hubbell,	Ryan,	Wood, Benjamin
Deuster,	Ketcham,	Shultz,	Wood, Walter A.
Dibrell,	Knott,	Smith, A. Herr	Young.
Dugro,	Leedom,	Smith, J. Hyatt	
Ermentrout,	Le Fevre,	Sparks,	

So the substitute was not agreed to.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. GEORGE with Mr. WILSON.

Mr. FARWELL, of Illinois, with Mr. MARTIN.

Mr. HISCOCK with Mr. BLACKBURN.

Mr. WILLITS with Mr. KNOTT.

Mr. PHELPS with Mr. WEST.

Mr. WALTER A. WOOD with Mr. BENJAMIN WOOD.

Mr. MARSH with Mr. MCKENZIE.

Mr. CROWLEY with Mr. NOLAN.

Mr. VAN VOORHIS with Mr. BEACH.

Mr. RICE, of Ohio, with Mr. GEDDES.

Mr. LEEDOM with Mr. SHULTZ.

Mr. HOUK with Mr. DIBRELL.

Mr. HUBBELL with Mr. STEPHENS.

Mr. BRUMM with Mr. FLOWER.

Mr. MCCOOK with Mr. SPARKS.

Mr. SMITH, of Pennsylvania, with Mr. ERMENTROUT.

Mr. SMITH, of New York, with Mr. ROSECRANS.

Mr. WASHBURN with Mr. DUGRO.

Mr. MOREY with Mr. CURTIN.

Mr. HENDERSON with Mr. WISE of Pennsylvania.

Mr. CRAPO with Mr. HEWITT, of New York.

Mr. TALBOTT with Mr. WADSWORTH.

Mr. YOUNG with Mr. BELTZHOOVER.

Mr. HOBLITZELL with Mr. CAMPBELL.

Mr. LE FEVRE with Mr. RYAN.

Mr. KETCHAM with Mr. BLISS.

Mr. WAIT with Mr. HOGE.

Mr. CALKINS. I ask unanimous consent that the reading of the names be dispensed with.

Mr. SPRINGER. I object.

The names of members voting were read.

The result of the vote was then announced as above stated.

Mr. CALKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The question recurs on the resolution of the majority. If there be no objection the two resolutions reported by the majority may be read and voted on together.

The Clerk read as follows:

Resolved, That James R. Chalmers was not elected, and is not entitled to his seat in the Forty-seventh Congress from the sixth district of Mississippi.

Resolved, That John R. Lynch was elected, and is entitled to his seat in the Forty-seventh Congress from the sixth district of Mississippi.

Mr. ROBINSON, of New York. I rise to a verbal correction of the resolution just read. As I understood it, it reads that Mr. Chalmers "is not entitled to *his* seat." If it is *his* seat he ought to have it. [Laughter.]

Mr. HOOKER. I call for a separate vote on the resolutions.

The SPEAKER. A separate vote being called for, the question will be taken now on the first resolution.

The question was taken; and upon a division there were—ayes 109, noes 18.

Mr. ATHERTON. No quorum has voted.

Mr. MCCOOK. I am paired with the gentleman from Illinois [Mr. SPARKS] on this question, but I reserved to myself the right to vote when necessary to make a quorum. I therefore ask that I may be counted in the affirmative.

Mr. ROBESON. You can vote on the yeas and nays.

Mr. CALKINS. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 125, nays 71, not voting 95; as follows:

YEAS—125.

Aldrich,	Burrows, Jos. H.	Davis, George R.	Godshalk,
Anderson,	Butterworth,	Dawes,	Grout,
Barr,	Calkins,	Deering,	Guenther,
Bayne,	Camp	De Motte,	Hall,
Belford,	Candler,	Dezendorf,	Hammond, John
Bingham,	Cannon,	Dingley,	Harmer,
Bowman,	Carpenter,	Dunnell,	Harris, Benj. W.
Brewer,	Caswell,	Dwight,	Haseltine,
Briggs,	Chace,	Errett,	Haskell,
Browne,	Cullen,	Farwell, Sewell S.	Hawk,
Buck,	Cutts,	Fisher,	Hazelton,
Burrows, Julius C.	Darrall,	Ford,	Heilman,

Hepburn,	McKinley,	Ray,	Strait,
Hill,	Miles,	Reed,	Taylor,
Horr,	Miller,	Rice, Theron M.	Thompson, Wm. G.
Hubbs,	Moore,	Rice, William W.	Townsend, Amos
Humphrey,	Morey,	Rich,	Tyler,
Jacobs,	Neal,	Richardson, D. P.	Updegraff, J. T.
Jadwin,	Norcross,	Ritchie,	Updegraff, Thomas
Jones, George W.	O'Neill,	Robeson,	Urner,
Jones, Phineas	Orth,	Robinson, Geo. D.	Valentine,
Jorgensen,	Pacheco,	Robinson, James S.	Van Aernam,
Joyce,	Page,	Russell,	Van Horn,
Kasson,	Parker,	Scranton,	Walker,
Kelley,	Paul,	Shallenberger,	Ward,
Lacey,	Payson,	Sherwin,	Watson,
Lewis,	Peelle,	Skinner,	Webber,
Lindsey,	Peirce,	Smith, Dietrich C.	White,
Lord,	Pettibone,	Spaulding,	Williams, Chas. G.
Mason,	Pound,	Spooner,	
McClure,	Prescott,	Steele,	
McCoid,	Ranney,	Stone,	

NAYS—71.

Atherton,	Colerick,	Matson,	Shelley,
Atkins,	Cook,	McLane,	Simonton,
Barbour,	Cox, Samuel S.	McMillin,	Singleton, Jas. W.
Belmont,	Dibble,	Mills,	Speer,
Berry,	Dowd,	Money,	Springer,
Blanchard,	Evins,	Morrison,	Stockslager,
Bland,	Forney,	Mosgrove,	Thompson, P. B.
Blount,	Hammond, N. J.	Moulton,	Townshend, R. W.
Buchanan,	Hardenbergh,	Muldrow,	Tucker,
Buckner,	Herbert,	Mutchler,	Turner, Henry G.
Cabell,	Herndon,	Phister,	Turner, Oscar
Caldwell,	Hewitt, G. W.	Randall,	Vance,
Carlisle,	Holman,	Reagan,	Warner,
Cassidy,	House,	Richardson, Jno. S.	Wheeler,
Chapman,	Kenna,	Robinson, Wm. E.	Whitthorne,
Clark,	Klotz,	Ross,	Willis,
Clements,	Ladd,	Scales,	Wise, George D.
Cobb,	Manning,	Shackelford,	

NOT VOTING—95.

Aiken,	Dibrell,	Houk,	Shultz,
Armfield,	Dugro,	Hubbell,	Singleton, Otho R.
Beach,	Dunn,	Hutchins,	Smith, A. Herr
Beltzhoover,	Ellis,	Jones, James K.	Smith, J. Hyatt
Black,	Ermentrout,	Ketcham,	Sparks,
Blackburn,	Farwell, Chas. B.	King,	Stephens,
Bliss,	Finley,	Knott,	Talbott,
Bragg,	Flower,	Latham,	Thomas,
Brumm,	Frost,	Leedom,	Tillman,
Campbell,	Fulkerson,	Le Fevre,	Upson,
Chalmers,	Garrison,	Marsh,	Van Voorhis,
Clardy,	Geddes,	Martin,	Wadsworth,
Converse,	George,	McCook,	Wait,
Cornell,	Gibson,	McKenzie,	Washburn,
Cox, William R.	Gunter,	Morse,	Wellborn,
Covington,	Hardy,	Murch,	West,
Crapo,	Harris, Henry S.	Nolan,	Williams, Thomas
Cravens,	Hatch,	Oates,	Willits,
Crowley,	Henderson,	Phelps,	Wilson,
Culberson,	Hewitt, Abram S.	Rice, John B.	Wise, Morgan R.
Curtin,	Hiscock,	Robertson,	Wood, Benjamin.
Davidson,	Hoblitzell,	Rosecrans,	Wood, Walter A.
Davis, Lowndes H.	Hoge,	Ryan,	Young.
Deuster,	Hooker,	Scoville,	

So the resolution was adopted.

At the conclusion of the call the following took place:

Mr. MARSH. I am paired with the gentleman from Kentucky, [Mr. McKENZIE,] with the reservation, however, that I could vote to make a quorum. I have voted on this question; but as there is a quorum without my vote, I will withdraw it.

The SPEAKER. The vote of the gentleman will be withdrawn.

Mr. McCOOK. I am paired with the gentleman from Illinois, [Mr. SPARKS,] reserving distinctly to myself the right to vote to make a quorum, and I have voted. Understanding that a quorum has voted without me, I withdraw my vote.

The SPEAKER. The vote of the gentleman will be withdrawn.

Mr. HISCOCK. I am paired with the gentleman from Kentucky, [Mr. BLACKBURN,] reserving the right to vote to make a quorum. I would like to inquire of the Chair if votes enough have been given to make a quorum?

The SPEAKER. Has the gentleman voted on this question?

Mr. HISCOCK. I have.

The SPEAKER. A quorum has voted and more.

Mr. HISCOCK. Then I will withdraw my vote.

Mr. VAN VOORHIS. I am paired with my colleague [Mr. BEACH] on the same conditions. I have voted to make a quorum, but understanding that there is a quorum without my vote, I will withdraw it.

The SPEAKER. The vote of the gentleman will be withdrawn.

Mr. GEORGE. I am paired with the gentleman from West Virginia, [Mr. WILSON,] with the privilege of voting in case it is necessary to make a quorum.

The SPEAKER. Has the gentleman voted?

Mr. GEORGE. I have; and if a sufficient number has voted to make a quorum I will withdraw my vote.

The SPEAKER. The vote of the gentleman will be withdrawn.

The following additional pair was announced:

Mr. THOMAS with Mr. CURTIN.

Mr. CALKINS. I ask unanimous consent that the reading of the names be dispensed with.

Mr. HOOKER. I object.

The SPEAKER. Objection being made to dispensing with the reading of the names, they will be read.

The Clerk then read the names of those voting; after which the result was announced as above stated.

Mr. CALKINS. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The SPEAKER. The question now recurs on the second resolution reported by the majority of the Committee of Elections. The Clerk will read the resolution.

The Clerk read as follows:

Resolved, That John R. Lynch was elected, and is entitled to his seat in the Forty-seventh Congress from the sixth district of Mississippi.

Mr. ATHERTON. Upon that resolution I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 124, nays 84, not voting 82; as follows:

YEAS—124.

Aldrich,	Errett,	Lindsey,	Ritchie,
Anderson,	Farwell, Sewell S.	Lord,	Robeson,
Barr,	Fisher,	Mason,	Robinson, Geo. D.
Bayne,	Ford,	McClure,	Robinson, James S.
Belford,	Godshalk,	McCoid,	Russell
Bingham,	Grout,	McKinley,	Scranton,
Bowman,	Guenther,	Miles,	Shallenberger,
Brewer,	Hall,	Miller,	Sherwin,
Briggs,	Hammond, John	Moore,	Skinner,
Browne,	Harmer,	Morey,	Smith, Dietrich C.
Buck,	Harris, Benj. W.	Neal,	Spaulding,
Burrows, Julius C.	Haseltine,	Norcross,	Spooner,
Butterworth,	Haskell,	O'Neill,	Steele,
Calkins,	Hawk,	Orth,	Stone,
Camp,	Hazelton,	Pacheco,	Strait,
Candler,	Heilman,	Page,	Taylor,
Cannon,	Hepburn,	Parker,	Thompson, Wm. G.
Carpenter,	Hill,	Paul,	Townsend, Amos
Caswell,	Horr,	Payson,	Tyler,
Chace,	Hubbs,	Peelle,	Updegraff, J. T.
Cullen,	Humphrey,	Peirce,	Updegraff, Thomas
Cutts,	Jacobs,	Pettibone,	Urner,
Darrall,	Jadwin,	Pound,	Valentine,
Davis, George R.	Jones, George W.	Prescott,	Van Aernam,
Dawes,	Jones, Phineas	Ranney,	Van Horn,
Deering,	Jorgensen,	Ray,	Walker,
De Motte,	Joyce,	Reed,	Ward,
Dezendorf,	Kasson,	Rice, Theron M.	Watson,
Dingley,	Kelley,	Rice, William W.	Webber,
Dunnell,	Lacey,	Rich,	White,
Dwight,	Lewis,	Richardson, D. P.	Williams, Chas. G.

NAYS—84.

Atherton,	Cox, William R.	King,	Scales,
Atkins,	Culberson,	Klotz,	Shackelford,
Barbour,	Davidson,	Ladd,	Shelley,
Belmont,	Davis, Lowndes H.	Latham,	Singleton, Jas. W.
Blanchard,	Dibble,	Manning,	Singleton, Otho R.
Bland,	Dowd,	Matson,	Speer,
Blount,	Ellis,	McLane,	Springer,
Buchanan,	Evins,	McMillin,	Stockslager,
Cabell,	Finley,	Mills,	Thompson, P. B.
Caldwell,	Forney,	Money,	Townshend, R. W.
Carlisle,	Garrison,	Morrison,	Tucker,
Cassidy,	Gunter,	Mosgrove,	Turner, Henry G.
Chapman,	Hammond, N. J.	Moulton,	Turner, Oscar
Clardy,	Hardenbergh,	Muldrow,	Upson,
Clark,	Hardy,	Mutchler,	Vance,
Clements,	Herbert,	Oates,	Warner,
Cobb,	Herndon,	Phister,	Wellborn,
Colerick,	Hewitt, G. W.	Randall,	Whitthorne,
Converse,	Holman,	Reagan,	Williams, Thomas
Cook,	House,	Robinson, Wm. E.	Willis,
Cox, Samuel S.	Kenna,	Ross,	Wise, George D.

NOT VOTING—82.

Aiken,	Dugro,	Jones, James K.	Smith, A. Herr
Armfield,	Dunn,	Ketcham,	Smith, J. Hyatt
Beach,	Ermentrout,	Knott,	Sparks,
Beltzhoover,	Farwell, Chas. B.	Leedom,	Stephens,
Berry,	Flower,	Le Fevre,	Talbott,
Black,	Frost,	Marsh,	Thomas,
Blackburn,	Fulkerson,	Martin,	Tillman,
Bliss,	Geddes,	McCook,	Van Voorhis,
Bragg,	George,	McKenzie,	Wadsworth,
Brumm,	Gibson,	Morse,	Wait,
Buckner,	Harris, Henry S.	Murch,	Washburn,
Burrows, Jos. H.	Hatch,	Nolan,	West,
Campbell,	Henderson,	Phelps,	Wheeler,
Cornell,	Hewitt, Abram S.	Rice, John B.	Willits,
Covington,	Hiscock,	Richardson, Jno. S.	Wilson,
Crapo,	Hoblitzell,	Robertson,	Wise, Morgan R.
Cravens,	Hoge,	Rosecrans,	Wood, Benjamin
Crowley,	Hooker,	Ryan,	Wood, Walter A.
Curtin,	Houk,	Scoville,	Young.
Deuster,	Hubbell,	Shultz,	
Dibrell,	Hutchins,	Simonton,	

So the resolution was adopted.

Mr. CALKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CALKINS. The gentleman from Mississippi, Mr. Lynch, whom the House has just declared entitled to a seat, is present. I ask that he be sworn in.

The SPEAKER. That is a question of privilege.

Mr. Lynch was conducted by Mr. CALKINS to the Clerk's desk amid applause from the Republican side, and was duly qualified by taking the oath prescribed by section 1756 of the Revised Statutes.

ORDER OF BUSINESS.

Mr. KLOTZ. I move that the House adjourn.

Mr. BOWMAN. I hope the gentleman from Pennsylvania will not press that motion. Let us have a vote on the bill referring private claims to the Court of Claims. [Cries of "Regular order!"]

Mr. CASWELL. I desire to call up the report of the committee of conference on the Post-Office appropriation bill.

Mr. RANDALL. That does not take precedence of the motion to adjourn.

The SPEAKER. The question is on the motion to adjourn.

Mr. CASWELL. I rise to a point of order. Does not the conference report take precedence?

The SPEAKER. It does not.

The question being taken on the motion of Mr. KLOTZ, it was not agreed to; there being—ayes 50, noes 101.

POST-OFFICE APPROPRIATION BILL.

Mr. CASWELL. I now call up the report of the committee of conference on the Post-Office appropriation bill. It is printed on the last page of to-day's RECORD. I ask that the Clerk read the report and accompanying statement.

The SPEAKER. Does the gentleman from Wisconsin [Mr. CASWELL] desire the report read in full?

Mr. CASWELL. No, sir; I do not care particularly about it.

Mr. RANDALL. Let it be read.

Mr. BLOUNT. Mr. Speaker——

The SPEAKER. The report will be read.

Mr. BLOUNT. I am not objecting to dispensing with the reading; but I desire the gentleman who presents the report to make some statement in explanation of it.

Mr. ATKINS. There is a detailed statement accompanying the report.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] asks that the report be read. The reading can only be dispensed with by unanimous consent.

The Clerk read the report and accompanying statement, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 6, 11, 18, and 20.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 14, 16, and 19; and agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: Strike out all of said amendment and insert in lieu thereof the following: "For necessary and special facilities on trunk lines, $600,000; said facilities to be extended as far as practicable to the principal cities of the United States;" and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows: Add at the end of the amended paragraph the following: "And the Postmaster-General is authorized to designate postmasters at Presidential post-offices as disbursing officers for the payment of the salaries of the officers and employés of the postal service concerned in the transportation of mails, or in their distribution in transit, and for such other payments as they are now authorized to make from postal revenues;" and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,902,177.90;" and the Senate agree to the same.

L. B. CASWELL,
J. G. CANNON,
E. JNO. ELLIS,
Managers on the part of the House.

P. B. PLUMB,
W. B. ALLISON,
J. B. BECK,
Managers on the part of the Senate.

Statement in explanation of report.

The amendments upon which the two Houses disagree are as follows: Nos. 1, 2, 6, 11, 14, 15, 16, 17, 18, 19, 20, and 21.

The effect of the recommendation of the report, if adopted, will be as follows:

On amendment No. 1: To allow $3,000 of the sum appropriated for mail depredations and post office inspectors, &c., to be paid the chief post-office inspector.

On amendment No. 2: The provision requiring additional advertising of mail lettings is rejected.

On amendment No. 6: The sum for miscellaneous and incidental items is left at $90,000, as originally proposed by the House.

On amendment No. 11: In the proviso as to contractors or sub-contractors the insertion of the words "on any contract hereafter made" is rejected.

On amendments Nos. 14 and 15: The sum for necessary and special facilities on railroad lines is fixed at $600,000; to be expended on trunk lines leading to the principal cities in the United States as far as practicable.

On amendment No. 16: To fix the sum for railway post-office clerks at $1,700,000; an increase of $50,000 on the original bill.

On amendment No. 17: To fix the sum for route agents at $1,555,000, which is an increase of $180,000 on the original bill, and to authorize the Postmaster-General to designate postmasters at Presidental offices as disbursing officers for the payment of salaries of the officers and employés of the postal service concerned in the transportation of mails, or in their distribution in transit, and for all other legal payments to them.

On amendment No. 18: To fix the sum for mail messengers at $800,000, as originally proposed.

On amendment No. 19: Continues the right to use official stamps.

On amendment No. 20: To reject the Senate proposition in the nature of the franking privilege.

On amendment No. 21: To adjust the conditional deficiency money amount to correspond with the changes agreed upon under report.

Amount in money between the two Houses	$440,000
Senate yielded in conference	110,000
House yielded in conference	330,000
	440,000

Mr. CANNON. Mr. Speaker, although I signed this conference report, I was not in favor of some of the Senate amendments; but of course the very object of a conference is to reach an agreement, and ordinarily there can be no agreement unless there are concessions on both sides. I certainly would not have agreed to the amendments with reference to special mail facilities if I could have had my way. We have, however, substituted a clause which upon examination will be found an improvement upon the Senate amendment, while it is substantially in harmony with the original House draft. The Senate, which originally proposed to increase the appropriation to $650,000, recedes in this report as to $50,000, and agrees to an appropriation of $600,000. This is the best we could do. For that reason I have concurred with the other conferees in signing the report.

Mr. SPRINGER. I desire to ask the gentleman whether this conference report specifies in what manner the $600,000 appropriated for special mail facilities is to be expended?

Mr. CANNON. I will read the amendment if the gentleman desires.

Several MEMBERS. Read it.

Mr. CANNON. The provision which this conference report proposes for adoption by the House is this:

For necessary and special facilities on trunk lines, $600,000; said facilities to be extended as far as practicable to the principal cities of the United States.

Mr. SPRINGER. What is the present law with regard to the manner of the expenditure of this money?

Mr. CANNON. I understand the present law is substantially the same as this provision, although the latter clause of the amendment is not in the present law. But after all said and done, the expenditure of this money is discretionary with the Postmaster-General.

Mr. BLOUNT. The gentleman has said what I was about to remark, that there is no law at all regulating this expenditure except the discretion of the Postmaster-General.

Mr. CANNON. That is true; and I feel quite sure that the present Postmaster-General will expend this money wisely.

I think it is his intention, as nearly as the committee could ascertain it, to establish a great trunk line leading from the East to the far West, and one from the Northeast to the Southwest, say substantially from Boston and New York to New Orleans and Texas. The committee hope, and believe, after full inquiry, the expenditure of this money will be wisely made by the Postmaster-General. At the same time, as one member of the committee, and I believe the House conferees substantially agree with me, I wish to state that in the beginning this was an unwise appropriation, and to express the hope that Congress at an early day will so amend the law relating to the compensation of railways as to strike this item out entirely.

Mr. ATKINS. Is there anything to prevent the Postmaster-General giving the special facilities to parallel lines of railway?

Mr. CANNON. There is nothing.

Mr. ATKINS. Will he distribute it throughout the United States according to centers of population?

Mr. CANNON. There is nothing to prevent it. I will say to the gentleman that in many of our appropriations there is nothing in the text of the law to prevent the abuse of a discretion. The exercise of discretion depends greatly on the wisdom and integrity of the exective officer and on the supervisory power of the legislative department.

Mr. BLOUNT. While the gentleman is on the matter of discretion, let me say I hope we will find the service between here and New Orleans getting better as the appropriation increases instead of getting worse, as has been the case heretofore.

Mr. CASWELL. I yield now to the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. Mr. Speaker, according to the law as it now stands the appropriation of $500,000 for special mail facilities is applied at the discretion of the Postmaster-General to trunk lines between the city of New York and the city of Chicago. Am I right in that statement?

Mr. CASWELL. What is the gentleman's statement?

Mr. SPRINGER. That the appropriation of $500,000 for the current year is under the discretion of the Postmaster-General, and is applied to trunk lines leading out from New York to the South and West.

Mr. CASWELL. Not altogether toward the South and West.

Mr. SPRINGER. All the roads which receive the benefit of that appropriation center in the city of New York under the law as it now stands.

Mr. CASWELL. Let me say the object of the service seems to be that there should be one initial point of starting at New York and running westerly and southerly.

Mr. SPRINGER. But the appropriation now is $500,000, and New

York is the central point from which the roads run upon which this appropriation is expended. The increased appropriation is $50,000.

Mr. CANNON. One hundred and seventy-five thousand dollars for the current year.

Mr. SPRINGER. One hundred and seventy-five thousand dollars, with the appropriation for the current year, would make $675,000.

Mr. CANNON. It is $425,000 now.

Mr. SPRINGER. And $175,000 is proposed to be added to start new centers from which trunk lines shall be subsidized for special mail facilities.

Mr. CASWELL. Let me say that the Postmaster-General came before our committee and explained to us his intention to have a starting point at New York and to have the line continued through to the Pacific coast, saving nearly two days in service between New York and San Francisco. It was further his intention to start from New York and run a trunk line through to New Orleans for the benefit of the Southwest. It is not his intention to make new starting points, but to have the service started from New York and continued as far as the money will permit.

Mr. BLOUNT. But why with the money already appropriated has not there been better service between New York and New Orleans?

Mr. CASWELL. It only extended to Atlanta, saving twelve hours between New York and that city.

Mr. SPRINGER. I desire to state before I yield the floor that I am opposed to this whole appropriation for special mail facilities. I regret our committee of conference have agreed to a portion of the Senate amendment increasing this appropriation. The object for which these special appropriations are made is to subsidize certain large railroads of the country into carrying the mails. There is no necessity for carrying the mails faster than the ordinary travel of the people. There is no demand for such fast mails in the country as to call for the expenditure of $600,000 a year in order to send mails faster than people desire to go. This has been used heretofore on a few of the great lines of railroad, and we are now about to enter upon a system of extending these fast-mail facilities so every city in the United States will have a train leaving at four or five in the morning in order to carry the daily papers to the rural districts before the country papers can be published.

Mr. HOLMAN. It is in opposition to the country papers.

Mr. SPRINGER. It is a measure to subsidize great railroads, and for the purpose of getting metropolitan newspapers before the people, and is not in the interest of increased communication among the people or in the interest of economy. I shall vote against agreeing to the conference report, and hope the House will disagree to it and insist there shall be no further appropriation of this kind.

Mr. ROBESON. Mr. Speaker, the condition of this increased appropriation, so far as the proposition embodied in this amendment of the Senate means anything, and I suppose it would not have been inserted unless it meant something, is that the whole of the money appropriated by this bill shall be used as far as practicable to open communications with all the great cities throughout the country. Now, then, if you establish fast-mail communication between New York and Chicago, for instance, for the accommodation of the people of those two great cities, you accommodate the people just as much by using one road connecting those cities as if you applied this fund to two different lines.

Therefore the money here appropriated is forbidden to be used on two or more parallel lines terminating at the same points, and cannot in this case be so used, for the reason that the object of the law is to supply the needs of the other cities as well, and to carry that mail on from Chicago to New Orleans, and from New Orleans, if necessary, to Galveston. If, therefore, the Postmaster-General agrees to subsidize—for this is a subsidy, we all admit that—if he agrees to subsidize a certain railroad company for the transportation of the mails of the United States from New York to Chicago, he has no right to use any more of that appropriation between those points than is necessary for that purpose. If that accommodates the mails and the people he can use no more than is absolutely necessary to carry out the law; and he cannot give a like amount to any other rival railroad company. He must take the remainder and apply it under this law to carry the mails to other parts of the United States. With that understanding, which is the only understanding that this clause of the appropriation is susceptible of, and all that it means if it means anything—I say with that understanding I will vote for the report of the conference committee and I hope the House will vote to sustain the report.

Mr. BLOUNT. I wish to ask the gentleman from New Jersey, before he takes his seat, if it is not true that there is no law which prevents using this fund in another way?

Mr. ROBESON. This law is a direction to the executive; and if he wastes double the money that is necessary to facilitate the mails between New York and Chicago, for instance, and by that means deprives other great cities of the benefit of the appropriation, he violates the spirit and intent of the law making the appropriation.

Mr. BLOUNT. The gentleman must furnish the Department, then, with his speech, for the bill does not show anything of the kind.

Mr. ROBESON. Well, the RECORD will show it.

Mr. CASWELL. I yield now to the gentleman from Pennsylvania.

Mr. RANDALL. While this conference report is under consideration by the House, I want to direct attention for a moment to a matter which did not properly come before the conference committee, but which ought to be mentioned in this connection. The original estimate, as prepared by the late Postmaster-General, Mr. James, for the star-route service, after a conference among the Post-Office officials, I am informed was increased in excess of $500,000, and was increased upon the basis of an apprehension that there might possibly arise a combination among the bidders for that service which would make it embarrassing to the Department in letting the contracts if they did not have plenty of leeway, as I may describe it, in the amount of money appropriated for the service.

Since that time these bids have been opened, and the service has been let in many cases, at all events to a sufficient degree to show that the late Postmaster-General was accurate in his estimates, and that the combination which was supposed might be made among these bidders was not really made. The number of contracts which have been let since the estimates were made bear out the original figures of the Postmaster-General. I have brought this matter to the attention of the chairman of the Committee on Appropriations, and I may be permitted to say that I have found him very ready to make in some way the necessary correction which should be made in this appropriation; because he thinks, as I think, that if we give this amount, $500,000, it will all be expended; that the demand for the increase of this star-route service will be such on routes which did not heretofore apply as to exceed the aggregate amount of the appropriation.

Mr. CASWELL. Before the gentleman from Pennsylvania proceeds farther, I desire to correct him, if he will permit me, in his statement. He refers to an appropriation of $500,000 for the star service. This increase was for the railroad service, and not for the star service at all. It does not apply to that at all.

Mr. RANDALL. I am speaking of the amount which was agreed upon in the Department.

Mr. CASWELL. But there is no increase in the star service.

Mr. RANDALL. There was an increase of the amount originally agreed upon in the Post-Office Department before estimate was transmitted to Congress.

Mr. CASWELL. We give the amount estimated for by the Department.

Mr. RANDALL. But the estimates were increased——

Mr. CASWELL. If the gentleman will permit me to interrupt him I will say he is in error; that we reported in the original bill the exact amount estimated by the Postmaster-General.

Mr. RANDALL. That I do not contradict. But I say that the amount as originally agreed upon by Postmaster-General James for transmission to Congress was increased after a conference with other Department officers under an apprehension that there might be a combination among the bidders so that the amount they had originally fixed would be insufficient. And I think I am accurate in my information.

Mr. CASWELL. I will say this. The amount allowed this year and the amount of the estimate is less than the amount appropriated for the current year.

Mr. RANDALL. It was to meet a contingency which did not subsequently arise. I only desire to call the attention of the committee to these facts so that they may on some other bill or in some other way by legislation reduce this half million. I think I am so well informed that I cannot be mistaken, and I would like to hear from the chairman of the committee whether I am not, with the information I have, justified in calling the attention of the House to this particular subject.

Mr. HISCOCK. Some time ago the gentleman from Pennsylvania [Mr. RANDALL] called my attention to the facts which he has stated in his place on the floor. As I understood from him at that time, and I think to some extent I have verified the information which he gave me when the bids were opened, it was found upon the basis of those bids that too liberal an appropriation had been made for the star service. I have investigated the matter to some extent, and I think the gentleman is entirely right in calling the attention of the House to it. And if in the end it appears that there is as large an amount as he seems to think there is, and as there probably is, it may be right upon a future bill to reduce the amount of appropriation which has been made for that service.

Mr. RANDALL. That is all I ask.

Mr. CASWELL. I now yield to the gentleman from Illinois, [Mr. CANNON.]

Mr. CANNON. I only want a moment. I would not ask to be heard again but for the remarks of the gentleman from New Jersey [Mr. ROBESON] touching the item for special facilities. If that appropriation be made at all it is desirable that there be no further limitation placed upon it by debate or otherwise than is placed upon it in the language of the amendment; because in the very nature of things, if we give the Postmaster-General this money to make the best bargain he can to give a good service to reach the principal cities of the United States, we ought not by expression or direction other than is contained in the language of the amendment itself to circumscribe that discretion. It is absolutely necessary if he is to make a good contract or contracts that he be left free, so that he can make the best bargain he can. I only wanted to make that remark in reply to the remark of the gentleman from New Jersey.

Mr. ROBESON. The language is, "to be extended as far as practicable"—as far as practicable, of course.

Mr. CANNON. Of course they are to be extended as far as practicable; but if the Postmaster-General takes this money he will take it in the language of the amendment, without his discretion being further fettered.

Mr. ROBESON. But the construction of the amendment is to be found in the purpose of it, and that is to extend the special facilities to other cities; and the Postmaster-General would not be doing this "as far as practicable" if he stops with taking two routes from New York to Chicago and does not go any further, when by taking one route he can go twice as far.

Mr. CASWELL. I think the Postmaster-General understands the situation and will carry out the object of the amendment.

Mr. BLOUNT. I wish to ask the gentleman how the amount for the star-route service in this bill compares with the amount expended last year?

Mr. CASWELL. I cannot give an exact comparison.

Mr. CANNON. It is greatly smaller than the amount expended last year. I have got the data somewhere in my desk.

Mr. BLOUNT. I do not want the exact data. I suppose, then, this is not an unreasonable amount.

Mr. CANNON. Oh, no; it is not an unreasonable amount.

Mr. CASWELL. There is a growing decrease in the star service on account of the increase in the railway-mail service absorbing to some extent the star routes.

Mr. BLOUNT. I think the gentleman is mistaken as to that. To the extent railroads are built to the places served by the star routes there is a decrease; but the mileage and expenditures of the star routes otherwise are increasing all the while.

Mr. HUMPHREY. We are making more country all the while.

A MEMBER. Not making more country, but filling it with population.

Mr. ATKINS. I understand we only gave the estimate for the star service.

Mr. HISCOCK. We only gave the estimate. As has been said by the gentleman from Pennsylvania, [Mr. RANDALL,] that estimate was too large. He understands it is too large, and the inquiries I have made would seem to verify his understanding upon that subject.

Mr. BLOUNT. I would like to ask the gentleman from New York [Mr. HISCOCK] a question. He says the estimate for the next year is too large. The gentleman from Illinois [Mr. CANNON] says it is not so great as the amount expended last year. Does my friend mean to say by its being too large that he proposes still further to reduce the star service?

Mr. HISCOCK. Oh, no.

Mr. BLOUNT. On what principle is it too large?

Mr. HISCOCK rose.

Mr. TOWSHEND, of Illinois. I suggest that the conference report be printed and that we adjourn now.

Mr. CANNON. The report has already been printed. It is in the RECORD, page 3438.

Mr. CASWELL. I ask for a vote.

The SPEAKER. The question is on agreeing to the report of the committee of conference.

The question was taken; and there were—ayes 68, noes 27.

Mr. SPRINGER and Mr. HOLMAN. No quorum.

Mr. TOWNSHEND, of Illinois. I move that the House do now adjourn.

Mr. REED. We should not do that.

Mr. TOWNSHEND, of Illinois. I withdraw the motion to adjourn.

The SPEAKER. The point being made that no quorum has voted tellers will be ordered.

Tellers were ordered; and Mr. CASWELL and Mr. SPRINGER were appointed.

The House again divided; and the tellers reported that there were ayes 107, noes 38.

Mr. HOLMAN. I call for the yeas and nays on adopting the report of the committee of conference.

The question was taken upon ordering the yeas and nays, and there were 5 in the affirmative.

So (the affirmative not being one-fifth of the last vote) the yeas and nays were not ordered.

The report of the committee of conference was accordingly adopted.

Mr. CASWELL moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HOLMAN. I move that the House now adjourn.

Mr. CAMP. Let us vote on the Court of Claims bill first. [Laughter.]

The SPEAKER. Pending the motion to adjourn the Chair will submit some personal requests; and also some executive documents.

SALE OF UNSERVICEABLE STATIONERY.

The SPEAKER laid before the House a report from the Clerk of the House showing the proceeds of the sale of shelf-worn and otherwise unserviceable articles of stationery; which was referred to the Committee on Accounts.

FORTIFICATION APPROPRIATION BILL.

The SPEAKER announced, as the conferees on the part of the House on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3208) making appropriations for fortifications and other works of defense and for the armament thereof for the fiscal year ending June 30, 1883, and for other purposes, Mr. FORNEY of Alabama, Mr. KETCHAM of New York, and Mr. RYAN of Kansas.

REORGANIZATION OF THE SECOND NATIONAL BANK OF CINCINNATI.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, in response to the resolution of the House of the 27th instant, relative to the reorganization of the Second National Bank of Cincinnati, Ohio; which was referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. HOLMAN. I ask that that communication be also printed in the RECORD.

There was no objection, and it was so ordered.

The communication is as follows:

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE CURRENCY,
Washington, April 28, 1882.

SIR: I have the honor to acknowledge the receipt of the following resolution of the House of Representatives, of the 27th instant:

"Whereas the charter of the Second National Bank of Cincinnati will expire on or about the 25th day of May next; and

"Whereas it is alleged that said bank has gone into liquidation and has reorganized to continue its existence as a corporation under existing law: Therefore,

"*Be it resolved*, That the Comptroller of the Currency is hereby directed to communicate to this House any correspondence between him and the officers of the said bank in relation to said liquidation and reorganization, and to inform this House under what existing statutes said reorganization was authorized; and further, to communicate the manner and form prescribed of such reorganization by national banks."

The Second National Bank of Cincinnati was organized on May 26, 1863, with a capital of $100,000, which was subsequently increased to $200,000. The corporate existence of the bank would continue under section 11, act of February 25, 1863, until the close of business on the 25th day of May 1882.

The President of the bank, Hon. Benjamin Eggleston, called at this office early during the present month, and informed me that it was the desire of the shareholders of that bank to organize a new institution at the time of the expiration of the corporate existence of the bank then in operation, so that the business of the old institution might be, as far as possible, continued by the new. He stated that there would be no opposition whatever to the organization of the new institution, and that all of the shareholders of the bank then in operation would be represented in the new association. Subsequently, on April 11, he addressed me the following letter:

"SECOND NATIONAL BANK OF CINCINNATI,
"*Cincinnati, April* 11, 1882.

"DEAR SIR: The charter of this bank will expire on the 25th of May, and the stockholders wish to form a new association to commence business as soon as the old one goes out of existence, taking the same name, with the same capital, and in the present place of business.

"Our stockholders include many of our leading citizens, namely: Benjamin Eggleston, Warren Rawson, Charles Davis, James B. Wilson, and Joseph W. Wayne, and many others.

"Will you please give us your consent and also send necessary 'blank forms.'

"Any suggestions you may offer will be gratefully received.

"Very respectfully,

"WILLIAM S. ROWE, *Cashier*."

"COMPTROLLER OF THE CURRENCY, *Washington, D. C.*"

To the above letter I replied as follows upon the 13 instant:

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
Washington, April 13, 1882.

SIR: I am in receipt of your letter of the 11th instant, relative to the approaching expiration of the corporate existence of your bank, which takes place at close of business on May 25, 1882.

Under the recent decision of the Attorney-General there is nothing in the present law to prevent the stockholders of national banking associations the franchises of which expire, or which have gone into voluntary liquidation under sections 5220 and 5221 of the Revised Statutes of the United States, from organizing other national banking associations with the same name.

To avoid difficulties which might ensue were you to wait until the expiration of your franchise at close of business on May 25, 1882, the present association should be put into voluntary liquidation by the vote of stockholders owning two-thirds of the stock under the sections above mentioned. The vote may be taken with the understanding that it is to take effect upon some future day—at least thirty days prior to the expiration of the franchise.

A blank form is inclosed for the purpose of notifying this vote to this office, and the manner in which it should be filled up is indicated in pencil.

The form of notice to bill-holders and creditors is also printed on the lower portion of this blank, with directions for its publication. If the day selected for liquidation be April 25, the new association can be organized so as to commence business upon the 26th.

Your stockholders should proceed to organize the new bank in precisely the same way as if there had been no Second National Bank of Cincinnati in existence, paying in 50 per cent. of its capital, &c., as required by the national banking law. The minimum capital required for a national bank located in Cincinnati is $200,000. It will be necessary for the stockholders to pay up $100,000 of this sum before the new bank can be authorized to commence business.

Any of the stockholders, not less than five natural persons, can enter into articles of association for a bank with a capital of $200,000. If any are executors or trustees evidence of their authority to subscribe for the stock of new bank must accompany the papers. They can then execute an organization certificate and open a new set of books.

The necessary blanks for the organization of a new bank are inclosed herewith. They should be executed in duplicate and one original in each case sent to this office. The articles of association and organization certificate can be executed immediately upon the receipt of this letter, and with the oaths of directors, &c., can be filed at once. The certificate of officers to the payment of capital should be filed within about ten days of the liquidation of the old bank, and at the same time

at least $50,000 in bonds should be deposited to the credit of the new bank. After the new bank commences business its capital can be increased from time to time by the directors under section 5142 of the Revised Statutes until all the capital of the old bank is transferred to it. Blanks for certifying such increase to this office are inclosed.

In the new articles of association the maximum of increase should be placed at such amount as may be deemed necessary, as it cannot, after it has been once fixed, be afterward changed.

When the old bank is in liquidation its depositors can be requested to withdraw their accounts from it by check and reopen them with the new bank. Those not wishing to do so must be paid. The assets can then, with consent of the stockholders, be transferred by the board of directors of the old bank to that of the new. The inclosed blank order for circulation can be filled out and sent with the certificate of officers and directors and bonds for deposit. New designs have been determined upon for notes of newly organized banks, and this order will cover the new plates, which will cost perhaps not more than $75 each. The bill for plates will be sent hereafter.

Within a reasonable time after the liquidation of the old bank, its circulation can be provided for by a deposit of lawful money through this office with the United States Treasurer. The deposit may be made with the assistant treasurer of the United States in New York, and his certificate of deposit sent to this office.

Prior to liquidation you can by depositing lawful money in the same manner release sufficient of the bonds of the old bank now on deposit, so that they may be transferred to the account of the new bank. The amount required for this purpose will be at least $50,000, and the lawful money deposit will be $45,000. Blank forms are inclosed for authorizing the withdrawal and transfer of the bonds, which may be executed and sent with the assistant treasurer's certificate and the Treasurer's duplicate receipts for the bonds to be withdrawn. The necessary withdrawal and transfer of $50,000 in bonds may be sent, with the certificate of officers and directors to the payment of 50 per cent. of the capital stock of the new bank, about ten days previous to the date of liquidation.

The new circulation will not be ready until about thirty days after the new bank is authorized to commence business. All the circulation called for by your order will then be ready, and you can then begin to deposit lawful money to retire the remainder of circulation of old bank, and transfer remainder of bonds to the new bank. As fast as these bonds are transferred new circulation will be sent to you.

The difficulties referred to in the third paragraph of this letter are outlined in the decision of the United States Supreme Court in the case of Colby *vs.* National Bank of Selma, (21 Wallace, 609, or Thompson's National Bank Cases, 109-112,) which takes the ground that a national banking association, after the expiration of its franchise, has no existence for purpose of liquidation.

In this decision Justice Field says:

"With the forfeiture of its rights, privileges, and franchises, the corporation was necessarily dissolved as the decree adjudged.

"Its existence as a legal entity was therefore ended, and it was then a defunct institution, and judgment could no more be rendered against it in a suit previously commenced than judgment could be rendered against a dead man dying *pendente lite*. This is the rule with respect to all corporations whose chartered existence has come to an end, either by lapse of time or decree of forfeiture, unless by statute pending suits be allowed to proceed to judgment notwithstanding such dissolution.

"The prolongation of the corporate life for this specific purpose as much requires special legislative enactment as does the original creation of the corporation.

"No such enactment is found in the act of Congress authorizing the creation of national banks and prescribing their powers; nor is there any provision elsewhere that we are aware of which would prevent the dissolution of a corporation from working the abatement of a suit pending against it at the time."

Very respectfully,

JNO. JAY KNOX, *Comptroller.*

W. S. ROWE, Esq.,
Cashier Second National Bank, Cincinnati, Ohio.

The Second National Bank of Cincinnati (No. 32) went into liquidation on the 25th day of April, 1882, under sections 5220, 5221, and 5222 of the Revised Statutes; it deposited $45,000 of lawful money with the Treasurer of the United States and withdrew $50,000 of United States bonds. It filed in this office articles of association and an organization certificate as required by section 5136 of the Revised Statutes; also a certificate of officers and directors, showing that the amount of capital stock as provided in section 5140 of the Revised Statutes had been paid in. The oaths of directors were filed in this office as required by section 5147 of the Revised Statutes. These papers were similar in form to the papers filed by the original bank on May 26, 1863, and such papers as are now required to be placed on file in this office by all associations organizing as national banks. Fifty thousand dollars of United States bonds were also deposited for the purpose of perfecting the organization, and the certificate authorizing the bank to transact business was transmitted to the president in my letter of the 25th instant, which was as follows:

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
Washington, April 25, 1882.

SIR: Inclosed find certificate authorizing "the Second National Bank of Cincinnati" to commence the business of banking, which please publish on the receipt thereof for sixty days in a newspaper, in accordance with the requirements of section 5170, Revised Statutes, and forward to this office one copy of the newspaper in which the same is inserted.

Please have the organization number of your bank (2664) printed in plain large figures on your letter-heads used for correspondence with this office.

Very respectfully,

JNO. J. KNOX, *Comptroller.*

BENJAMIN EGGLESTON, Esq.,
President Second National Bank, Cincinnati, Ohio.

The number of national banks whose corporate existence has expired or will expire during the present month is eleven, in the following month of June sixteen and in the month of July twenty-four.

As it has been considered probable that some legislation would be passed by Congress extending the corporate existence of national banks, no printed circulars have been issued to the banks in reference to this subject, but written instructions in accordance with the opinion of the Attorney-General of the United States of the 23d of February, 1882, have been given from time to time to various banks in reply to their communications, inclosing the usual blanks for liquidation and for the organization of new institutions.

It will be seen that the organization of the new bank in the city of Cincinnati was easily arranged for the reason that the interest of all of the shareholders of the old bank was considered in the organization of the new. Complications will, however, be likely to arise in the organization of new associations designed to succeed those whose corporate existence is to expire, unless some act is passed by the present Congress authorizing the continuance of those national banks whose corporate existence will cease previous to February 25, 1883.

I am, very respectfully, your obedient servant,

JNO. JAY KNOX, *Comptroller.*

Hon. J. WARREN KEIFER,
Speaker of the House of Representatives.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. CASWELL, for ten days.

To Mr. DAWES, for four days, on account of important business.

To Mr. DIBRELL, for two weeks from and after the 1st of May, on account of important business.

To Mr. HAMMOND, of New York, for two weeks from the 1st of May.

CHANGE OF REFERENCE.

Mr. DUNN asked, and obtained unanimous consent, that the papers in the case of Flora Adams Darling, now before the Committee on War Claims, be referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

Mr. HOLMAN. I call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Indiana, [Mr. HOLMAN,] that the House now adjourn.

The motion was agreed to; and accordingly (at three o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BLAND: The petition for the establishment of a post-route from Tuscumbia, Miller County, Missouri, to Vienna, Morris County, Missouri—to the Committee on the Post-Office and Post-Roads.

By Mr. CRAVENS: The petition of citizens of Pope County, Arkansas, for an appropriation for educational purposes, to be distributed among the several States on the basis of illiteracy—to the Committee on Education and Labor.

By Mr. FORNEY: The petition of Hon. I. A. Steele and others, citizens of Marshall County, Alabama, for an appropriation for educational purposes, to be distributed on the basis of illiteracy—to the same committee.

Also, the petition of citizens of Marshall County, Alabama, relative to the grant of land made to the Coosa and Tennessee Railroad Company—to the Committee on the Judiciary.

By Mr. N. J. HAMMOND: The petition of J. M. Rivers and others, of Georgia, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. McCOID: The petition of E. F. Sperry, for an increase of pension—to the Committee on Invalid Pensions.

Also, the petition of Salome H. Seguin, for a pension—to the same committee.

By Mr. MILLER: The resolutions of the Philadelphia Board of Trade, protesting against the renewal of the steam grain-shovel patent—to the Committee on Patents.

Also, the petition of J. L. Selah, S. F. Baker, John W. Fisher, John Ambler, and others, of the Fifteenth Regiment, National Guards of Pennsylvania, for the passage of the bill (H. R. No. 2143) to amend title 16 of the Revised Statutes relative to the militia—to the Committee on the Militia.

By Mr. PETTIBONE: The petition of citizens of Jonesborough, Tennessee, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. SHACKELFORD: The petition of citizens of Onslow County, North Carolina, for an appropriation of $50,000 to improve the navigation of the New River—to the Committee on Commerce.

SENATE.

MONDAY, *May* 1, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair presents a petition of citizens of Chicago, Illinois, praying for the passage of a law providing that appointments to subordinate offices shall be made by competition, and removals from office shall be made for legitimate cause only. The Chair has not counted the number of signers of the petition, but there are many hundreds. He would inquire of the Senator from Ohio [Mr. PENDLETON] if there has not been a report from the committee having the subject to which this petition refers under consideration?

Mr. PENDLETON. A bill has been reported back, and leave was given to the committee to make a written report at any time. That report is now in process of preparation.

The PRESIDENT *pro tempore*. Shall the petition lie on the table, or shall it be referred to the committee?

Mr. PENDLETON. It had better be referred to the committee.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Civil Service and Retrenchment.

Mr. JOHNSTON presented two petitions of citizens of the lead-mines district, Wythe County, Virginia, praying an appropriation on the basis of illiteracy to aid in education in the various States; which were referred to the Committee on Education and Labor.

Mr. DAVIS, of West Virginia, presented a petition of citizens of Morgan County, West Virginia, praying national aid to free schools; which was referred to the Committee on Education and Labor.

Mr. DAVIS, of West Virginia. I present a petition of citizens of Greenbrier County, West Virginia, numerously signed, praying for a reduction in the internal revenue. The petition states that there are now 4,000 office-holders under the internal-revenue acts, which cost the Government over $5,000,000 per annum, and they ask that these taxes may be reduced as rapidly as the condition of the revenues will allow. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. PUGH. I present a petition of several hundred citizens of Fayette County, Alabama, asking Congress for aid to education. As the Committee on Education and Labor has reported a bill for that purpose, I move that the petition lie on the table.

The motion was agreed to.

Mr. LAPHAM presented the petition of J. A. Thomas, by request of members of the Grand Army of the Republic of Moravia, New York, praying for the passage of the bill (H. R. No. 1410) to amend the pension laws and the bill (S. No. 1695) to amend the pension laws by increasing the pensions of soldiers and sailors who have lost an arm or a leg in the service, &c.; which was referred to the Committee on Military Affairs.

Mr. ALLISON presented a petition of citizens of Corydon, Iowa, and a petition of Rev. N. W. Thornton and others, of West Liberty, Iowa, praying for an appropriation for the promotion of education in Alaska; which were referred to the Committee on Education and Labor.

He also presented the petition of General C. S. Bentley and others, citizens of Iowa, praying for a change in the law relating to the distribution of arms in the several States; which was referred to the Committee on Military Affairs.

Mr. GARLAND presented a petition of citizens of Drew County, Arkansas, praying for an appropriation in aid of education in the various States on the basis of illiteracy; which was referred to the Committee on Education and Labor.

Mr. ROLLINS presented the petition of Daniel Donovan, of Washington, District of Columbia, praying compensation as an expert assistant to the attorneys of the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. PENDLETON presented the petition of J. C. Whitehead and 12 others, citizens of Dansville, New York, praying for the passage of what is ordinarily known as the civil-service-reform bill; which was referred to the Committee on Civil Service and Retrenchment.

TRIALS IN CONSULAR COURTS ABROAD.

Mr. PENDLETON. Mr. President, I hold in my hand a paper which purports to be "a record of the proceedings in *Ex Parte* James O'Neil, an application for a writ of *habeas corpus* and permission to prosecute an appeal before Hon. John A. Bingham, United States minister in Japan." This record, if it be true, discloses the fact that an American citizen was tried by a consul for murder, was convicted of manslaughter, and sentenced to twenty years' imprisonment, a portion of which he had already suffered in a jail in one of the towns of Japan—I have forgotten the name—when an application was made for a writ of *habeas corpus* before the minister, which he declined to grant upon the ground that he had no jurisdiction to supervise the proceedings before the consul. Application was then made to him for permission to prosecute an appeal. He denied the permission upon grounds very fully stated in the paper which I present. The prisoner was then, under the direction of the Department of State, landed in California, where he now is.

I desire to say that I think the laws conferring criminal jurisdiction upon the consuls, vice-consuls, consuls-general, and ministers of the United States in the eastern countries are simply a disgrace to the administration of criminal law upon citizens of the United States.

I move that the paper be referred to the Committee on Foreign Relations, to which has already been referred a message of the President of the United States calling attention to this subject.

Mr. EDMUNDS. On the question of the reference of the paper, a copy of which I have seen and inspected, I wish to say that I am not altogether able to agree with my friend from Ohio as to the disgracefulness of the laws conferring criminal jurisdiction upon consuls and consuls-general. The United States I think has no criminal jurisdiction, *in propriâ rigore*, out of its own territory. If any of its citizens commit offenses in any foreign country, they are strictly liable to the law of the foreign country, to be administered by the tribunal of the foreign country, for trial and punishment for that offense.

In the eastern countries, the tribunals, the methods of investigation, and the punishments are in many instances far from being what we consider civilized. Accordingly it has been thought a good thing for the citizens of the United States who may be in the eastern countries to provide by treaty (for that is the only power under which we can touch them at all in those countries) for having crimes which are imputed to them tried in some way under the authority of the United States. This was agreed upon as a benefit to citizens of the United States who were in these out-of-the-way and ill-regulated places. If they are accused of anything, there is only one of two alternatives. They must either submit to whatever of jurisprudence, be it burning at the stake, or being tomahawked, or harakiried, or whatever, that what are called the laws of these countries provide, or else with the consent of the country where they are by treaty something is to be done with them; because it would not do to agree that a citizen of the United States should go absolutely free of all law in any foreign country where he happened to be. Therefore, as a choice of evils, so to speak, it was necessary to provide, and we have provided with Japan, China, Siam, and a variety of these places, that when an American citizen commits a certain class of offenses or is accused of committing them, instead of being subjected to the legitimate authority of the ruler of that country he is subjected to the authority of the United States exercised through its officers and agents, who happen to be there, in a certain way.

I agree that a consular trial is not the best possible means of securing human liberty always; it is not the best possible means of securing people who have been wronged against injustice; it is not the best possible means of punishing crime; but there are only two ways to do it, either under our authority there or under the authority of the country where they happen to be.

The only means at hand in such a country have been the means so far, it has been thought, which have been resorted to; because if you have set up a series of tribunals, judges, jurors, &c., while you could appoint the judges and have them go out and pay them and wait for the instances, which are rare, when you come to our Anglo-Saxon notions of a trial by jury for crime, in nine cases in ten you could not find the twelve men who would be fit to be jurors at all; and there is the trouble. The subject is involved in difficulty. I think we are apt to forget, when we criticise the state of the law now, that it was passed merely as an amelioration to the American citizen against subjecting him to the still more arbitrary and ill-regulated methods of the country where he happens to be.

I shall be very glad to join with my friend, as he knows, in trying to get some better state of things still; but I am not able to concur with any view (which my friend has not expressed, to be sure, but I have heard it expressed; it was expressed by the late Senator Carpenter) that the trial of a citizen of the United States accused of a criminal offense, in a foreign country, before a consul instead of before the tribunals of that country, was a violation of the Constitution of the United States. I confess I am not able to see it. The Constitution of the United States in regard to crimes cannot be in force in foreign countries. If so, the accused must be indicted by a grand jury; he must be indicted in the State or district, which shall have been previously ascertained by law, and so on; I need not enumerate to gentlemen who hear me now. It appears to me that the question is not one of constitutional consideration but simply of finding out (which I am very glad this will present an opportunity for trying to do) if there is any better way of protecting citizens of the United States consistently with the peace and good order of foreign countries where they allow us to try our own citizens than the ones we have. If we can do it consistently, I shall be glad to assist.

Mr. PENDLETON. I concur with the Senator in the idea which he has advanced, that it is better to try our citizens imperfectly under the consular courts than to subject them to the justice which might be administered in the native tribunals according to the laws of the countries in which they reside; but I know of no reason why it is necessary to prevent an appeal from a consular judgment to the jurisdiction of the United States in the district or circuit court of California. I know of no reason why a man should be executed in any of those foreign countries, as has been done, when he was applying to the minister for permission to appeal to the President of the United States for a pardon, which was refused, and the man was executed before he could make that appeal. We have here upon the records of the Senate in a message sent to Congress during this session a statement of outrages committed upon citizens of the United States in those countries, which would shock the Senate if they were thoroughly informed as to the facts.

I desire to perfect this system of consular courts. I desire to perfect the jurisdiction and administration of criminal justice in those countries. I desire to throw around the citizen every safeguard that is possible. I did not desire to introduce into the Senate to-day a discussion as to the question of the constitutional authority to set up any extra-territorial courts. I desired merely, as this seemed to me to be a striking case, to call the attention of the Senate and of the Committee on Foreign Relations, which has jurisdiction of this question under the order of the Senate, to the wrongs which are being committed in those countries upon our citizens, and to invoke the Senator from Vermont, who is a member of that committee, to give his aid, as I knew he would be willing to do, (for this is not a subject not heretofore discussed between us,) to perfect the system of the administration of the law by consular courts. It is because of cases like that to which I have alluded, cases where I think the system as administered does great harm and might be improved, that I have called attention to it in this way.

Mr. EDMUNDS. I am sure my friend from Ohio and I do not seriously disagree about this matter, but I thought it right to say what I did in view of some observations that had fallen from him.

I wish to add now simply that as it regards the action of Mr. Bing-

ham in this particular case, if I correctly read the paper, Mr. Bingham declined to allow an appeal in his judicial capacity for precisely the same reason that courts often decline to allow an appeal, that under his construction (and I am not sure but it was the right one; I rather think it was) of his duty under the treaty and the regulations of law, he had no more right to grant an appeal than any other citizen of the United States had; that is, the law and the treaties did not give him any jurisdiction to grant an appeal; the case was not in a condition where he could grant an appeal.

Then, when you come to the question of applying to the President of the United States to pardon an offense committed in Japan, in order to enable the President to have any efficacious right about it, it must be an offense against the laws of the United States. Whether the particular homicide alleged in this instance was charged to be an offense against the laws of the United States committed in Japan, might be a puzzle to a good many people. The intrinsic difficulty is the one which lies at the bottom: that, in the nature of government, whatever offense, whatever act, is committed within the jurisdiction, on the soil of one government, is an offense against the laws of that government, if it is an offense at all, and usually is not an offense against the laws of any other government. These offenses being committed or alleged to have been committed, the treaty provides that the tribunal shall be changed, that the sovereign of China, for example, abdicates his acknowledged jurisdiction over such a case, and allows the United States to exercise that jurisdiction as it regards its own citizens, in certain instances.

Therefore I think it is not at all clear that Mr. Bingham has erred, or has failed to do anything that he possibly and rightly could.

Mr. PENDLETON. Mr. President, only one word. I was particular in the remarks I made in presenting the paper to say nothing as to the character and conduct of the gentlemen who are administering the law. I know Mr. Bingham, and I would be very unwilling to say an unkind word about him. I believe that he has endeavored to do his duty as he understood it. I spoke of the system by which the criminal law is administered in those countries, and I said that that system, and not the men who administer it, was a disgrace to it and to the people.

Mr. CALL. Mr. President, I feel compelled to say, for one, to the Senate that I think if any minister of the United States has allowed a man to be put to death as a citizen of the United States in a foreign country when appealing to the President for a pardon, it is an act highly criminal in such officer and without any warrant of reason or any warrant of authority.

The proposition advanced by the Senator from Vermont is entirely untenable and without reason, in my judgment. If any foreign government has conceded to this country the right to set up a tribunal there for the administration of justice and the enforcement of law, that is no reason why this Government should not enact such statutes as will require that enforcement of law to be in accordance with the spirit of our Constitution and our modes of administering justice. On the contrary, it is a reason why we should pursue the principles of our Constitution and our forms of procedure.

For one, as a Senator, I undertake to say that if any minister of this country has turned a deaf ear to the appeal of a citizen in confinement under any authority conceded to us to administer the laws, he has been guilty of a grave offense against our form of government and the purposes for which it was designed.

The PRESIDENT *pro tempore*. The paper will be referred to the Committee on Foreign Relations.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. JOHN BAILEY, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York; and

A bill (H. R. No. 5352) to amend the laws with reference to elections in West Virginia.

REPORTS OF COMMITTEES.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (S. No. 464) granting an increase of pension, by way of arrears, to Maria A. Rousseau, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. WILLIAMS, from the Committee on Railroads, to whom was referred the bill (S. No. 1573) to incorporate the Cherokee Central Railroad and Telegraph Company, and for other purposes, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. ROLLINS submitted a written report, to accompany the bill (S. No. 625) to amend section 1556 of the Revised Statutes, giving longevity pay to certain officers of the Navy, heretofore reported; which was ordered to be printed.

Mr. GARLAND, from the Committee on the Judiciary, to whom was referred the bill (S. No. 1000) to prevent and punish the counterfeiting within the United States of notes, bonds, or other securities of foreign governments, reported it with amendments.

AFFAIRS IN ARIZONA.

Mr. EDMUNDS. Mr. President, I am directed by the Committee on the Judiciary, to which was referred the message of the President of the United States of the 28th of April—it is in the RECORD, page 3355, but by some inextricable accident has not yet been printed in document form—touching the condition of things in Arizona, and suggesting to Congress certain legislation by amending the provisions of law as they now stand in the act of 1878 regarding the use of the Army as a *posse comitatus*, to report that the committee has carefully considered the message; and I make the report orally, because, as it is a matter of urgent concern, we have had no time to draw up a written report. The committee instruct me to say that, in our opinion, there is no necessity in the case named for further legislation, and that the President of the United States has now ample power to put down the lawlessness in the Territory of Arizona referred to by him, and to restrain the marauding expeditions to which he refers, organized in that Territory to enter into the territory of the Republic of Mexico.

The reason for our opinion is this: as to expeditions into Mexico section 5286 of the Revised Statutes provides:

> Every person who, within the territory or jurisdiction of the United States, begins or sets on foot, or provides or prepares the means for, any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, shall be deemed guilty of a high misdemeanor, &c.

It might be thought, perhaps, at first view, that these marauding expeditions, armed bands going over merely for robbery and arson and so on, not designed to overturn the government of that country, might not be a military expedition against that people; but the committee have reason to believe that the true construction of that statute has been such, sometimes in the courts, and certainly, as I think, speaking for myself, without them, that any unlawful, organized armed force set on foot within the territory of the United States to invade the country of a friendly state for any purpose whatever, either to burn down a school-house or to rob a store or to steal cattle, is a military expedition and is set on foot against the people of that neighboring country, and that the President of the United States is armed with power, that nobody would criticise in either end of the Capitol or in any court, to repress that.

Then we come to the question of lawlessness in the Territory of Arizona of a domestic character. The message sets forth that:

> This disorder is caused by armed bands of desperadoes known as cowboys, &c. That the civil officers have not sufficient force to make arrests and hold the prisoners for trial, or punish them when convicted.

There is a case then, of course, of unlawful armed opposition to the authority of the United States. It is not a question, as the committee needs scarcely state, of insurrection or disturbance in a State against the laws of that State. There are no laws in Arizona but the laws of the United States. The Constitution does not provide for calling on the President by the executive of the Territory in case of such disturbance, but only in a State; but the Constitution does provide that the President of the United States, just as the State constitutions provide that the governor of a State shall do, shall take care that the laws of the United States are faithfully executed, and he is Commander-in-Chief of the Army, &c. Then come the various statutes on the subject beginning at the beginning of the century, but all crystallized now in section 5298 of the Revised Statutes on this subject, outside of a statute to which I shall presently allude:

> SEC. 5298. Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory, it shall be lawful for the President to call forth the militia of any or all the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

A subsequent section provides that in that case he shall issue a proclamation commanding these evil-disposed assemblages and people to keep the peace and go home and mind their own business, the ordinary riot act as we should call it in our State operations. Then comes the act to which the President refers about the *posse comitatus*, contained in the Army appropriation bill of June 18, 1878, section 15, which is this:

> From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a *posse comitatus*, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress.

When that act was passed, the Constitution and the act of Congress I have previously read, standing just as they do now, made the provision that I have read, which in clear and explicit terms, as the committee think, authorize the President to use the Army and the Navy, all the military force of the United States, and the militia as well, to enforce the laws of the United States in the Territory of Arizona if the state of disturbance there, in his judgment, is such that the ordinary processes of judicial procedure are inadequate to accomplish the end. Of course if they are adequate we do not want any legislation either to authorize the governor to raise volunteers

or to spend money, or for any other purpose. If they are not, the law in explicit terms authorizes this to be done, and the act of 1878 does not prohibit but expressly recognizes the fact that where an act of Congress has authorized this in express terms, it still may be done.

The *posse comitatus* clause referred to arose out of an implied authority to the marshals and their subordinates executing the laws to call upon the Army just as they would upon bystanders who, if the Army responded, would have command of the Army or so much of it as they had, just as they would of the bystanders, and would direct them what to do. In all these cases the President of the United States having the power of employing any part of the Army from three soldiers to three thousand to assist in the execution of the laws in the Territory of Arizona, retains the dominion over this Army himself and the soldiers under command of their own officers to aid the civil authorities, instead of being under the command of the marshal of the Territory.

It appears to us, therefore, clearly—and we all agree upon the subject—that there is no need, for the purpose named in the message of the President of the United States, to change the law upon the subject. The technical *posse comitatus* which is not expressly authorized by law can be dispensed with, the President, as is perhaps best in these far-off places, retaining the command of the troops by his own officers, who are perhaps quite as safe a depository of such power as the marshal himself. He directs them to resist all this unlawfulness, merely first giving notice to these people that there is not going to be any more of it allowed.

So we think that the President is armed with ample power for this emergency already, and that it is not necessary that legislation should be had.

I repeat that we make this report orally for the reason that we had not time to draw it up in writing.

Mr. GARLAND. Mr. President, as this is a very important matter, a matter which touches upon statutes of Congress, I wish to make a very few suggestions in addition to the report made by the Senator from Vermont, the chairman of the Committee on the Judiciary, inasmuch as there is no written report presented.

In October, 1878, the then Attorney-General, in an opinion to President Hayes, had occasion to construe the different statutes referred to by the Senator from Vermont, and he reached a conclusion which I think is correct, and which supports the report made by the Senator from Vermont. It is to be found in the sixteenth volume of Opinions of Attorneys-General, page 162 and following. After referring to the fact that in using the military force of the United States as a *posse* under the act of the 24th of September, 1789, and then the sections of the Revised Statutes 5298 and 5300, the Attorney-General says:

> In this state of legislation I am of opinion that the marshal cannot be aided by the military forces of the United States as a *posse* in the execution of his process, upon the state of facts as it now appears. This state of facts will, however, enable the forces to be used for the enforcement of the laws, if the President shall deem proper to take certain additional steps, and if resistance to the laws shall thereafter continue.

Then he quotes the provisions of sections 5298 and 5300 and continues:

> If, therefore, the facts now present a case which, in the judgment of the President, justify him in so doing, he may issue his proclamation commanding the insurgents to disperse and retire peaceably to their respective abodes within a limited time, and if they shall fail to do so, it will then be lawful for him to employ such parts of the land forces of the United States as he may deem necessary to enforce the laws of the United States.

Under these different sections of the statutes, if the President is satisfied that there is trouble there which cannot be put down by the ordinary civil processes, he may, under section 5300, issue his proclamation for those resisting the laws to disperse. If they fail to do that he may then call on the military force.

That is the unanimous opinion of the committee, and it gives him all the power that is necessary now in the troubles in Arizona.

PAPERS OF BENJAMIN FRANKLIN.

Mr. HOAR. I am directed by the Committee on the Library, to whom was referred a letter from the Secretary of State, transmitting a report of Theodore F. Dwight on the papers of Benjamin Franklin, offered for sale by Mr. Henry Stevens, and recommending their purchase by Congress, to submit a report in writing and to recommend an amendment to the sundry civil appropriation bill. I desire to have the report and amendment printed, and the amendment referred to the Committee on Appropriations.

Mr. INGALLS. What amount do the committee recommend to be appropriated?

Mr. HOAR. Thirty-five thousand dollars. These papers, among other things, contain the archives of the American legation in Paris and the first drafts of the Franklin letters to Congress, to Washington, Vergennes, and a large variety of public persons during the most important and interesting period of our Revolutionary history, and among them also is the original petition to the king, signed by the Delegates in Congress from all the States, and containing the well-preserved signatures of a great number of those persons whose faded autographs were annexed to the Declaration of Independence. Four public-spirited citizens of Boston a little while ago pledged the sum of money demanded for these papers to purchase them for the City Library of Boston. They, as I am told, are still willing to make the purchase. But they think that the archives of the State Department have the first claim to these important documents. That is the opinion of the committee.

The PRESIDENT *pro tempore*. The report will be printed, and the proposed amendment will be referred to the Committee on Appropriations and printed.

BILLS INTRODUCED.

Mr. JOHNSTON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1805) for the relief of the estate of Henry C. Boyd; which was read twice by its title.

Mr. JOHNSTON. I ask that the bill be referred to the Committee on the Judiciary.

Mr. EDMUNDS. What is the nature of the bill?

Mr. JOHNSTON. It refers a claim to the Court of Claims.

Mr. EDMUNDS. Is it a judicial claim or an ordinary claim?

Mr. JOHNSTON. I understand that it is a judicial claim.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on the Judiciary.

Mr. MCMILLAN (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1806) for the relief of Priscilla W. Burwell; which was read twice by its title, and referred to the Committee on Claims.

Mr. LAPHAM (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1807) granting an increase of pension to Joel C. Lathrop; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HAWLEY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1808) granting a pension to Harriet E. Edwards; which was read twice by its title, and referred to the Committee on Pensions.

Mr. JONAS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1809) to fix the rank and pay of assistant surgeons in the Navy not in the line of promotion; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. ALLISON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1810) to authorize the Rock Island and Southwestern Railway Company to construct a bridge over the Mississippi River at New Boston, State of Illinois; which was read twice by its title, and referred to the Committee on Commerce.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1811) to provide for the construction of the Illinois and Mississippi Canal, and to cheapen transportation; which was read twice by its title, and referred to the Committee on Commerce.

AMENDMENTS TO BILLS.

Mr. MAXEY submitted an amendment intended to be proposed by him to the bill (H. R. No. 5559) making appropriations for the support of the Army for the fiscal year ending June 30, 1883, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. HARRISON submitted an amendment intended to be proposed by him to the bill (H. R. No. 5812) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

EDWARD CORNING.

Mr. MCMILLAN. On the 18th of April the Senator from Indiana, [Mr. HARRISON,] from the Committee on Military Affairs, reported adversely the bill (S. No. 1326) for the relief of Edward Corning, which was put upon the Calendar at my request. I ask the Senate to recommit this bill to the committee, which is proposed with the consent of the Senator from Indiana.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the order will be made.

APACHE INDIAN OUTRAGE.

Mr. CALL. Before the regular order comes up I desire to ask the consideration of the resolution I introduced on the 27th of April.

The PRESIDENT *pro tempore*. The resolution is before the Senate.

The Senate proceeded to consider the following resolution, submitted by Mr. CALL April 27:

> *Resolved by the Senate of the United States*, That the murders and outrages lately committed on citizens of the United States in Arizona by the Apache Indians demand that the entire military power of the United States shall be used, if necessary, for the punishment of the perpetrators of these outrages and for the protection and security of our people in future.

Mr. CALL. I have no intention of making a speech in regard to this resolution. I ask for its present consideration, and that it shall be submitted to a vote of the Senate.

It seems to me that nothing is more obvious than that the power and dignity of this Government, indeed of any government that has a right to be a government, require it to protect its citizens from such outrages as have been committed lately in Arizona. There can be no question of the power of the Government to do it, nor of its duty to repress outrages which are revolting in every respect and which are constantly recurring.

The telegraph has brought to us the intelligence of a foray of armed Indians upon the people of Arizona, and the massacre of nearly one hundred persons, men, women, and children, within the last two weeks. I can see no reason whatever why that should be allowed to occur. For one, I wish to say that if it takes every man in the Republic and every dollar of money belonging to the Treasury, I

think it ought to be expended, and there ought to be prompt action on the part of the two Houses of Congress for the suppression of these Indian outrages and their prevention in future.

As I said, there is no question of the power of the Government to protect the people of Arizona, no question of the power of the Government to exterminate every Indian who appears in arms and commits an outrage on the people there, and there is no question of the duty of the Government. I therefore ask that this resolution may be adopted.

Mr. INGALLS. Let the resolution be read. I did not hear it.

The PRESIDENT *pro tempore*. The resolution will be read.

The resolution was read.

Mr. DAWES. Mr. President, I should like to inquire of the Senator from Florida if he has any information which leads him to suppose that the entire power of the Government is not already being exerted for the purpose indicated in his resolution. I quite agree with him that every means at the command of the Government, whether it be military or otherwise, should be employed not only for the purpose of putting an end to the horrible scenes of which we are having accounts every morning by telegraph, but also of preventing their recurrence. Just what those means are I am not prepared to state; but one thing I am quite certain of, that it becomes the Government to see whether it is worth while to go on the way it has for the last twenty-five years, having an annual return of these scenes. Like the opening of the spring comes the account every year of these terrible massacres. I hope the Government will employ its military power, but I hope it will not stop there.

It seems to me to be a scandal upon the administration of public affairs that year after year shall come this annual return of these outrages upon peaceful citizens by a handful of men; that we can devise no method by which to deal with them that shall put an end to it some time or other.

I commend to the Senator not only a desire to put an end to this immediate outrage, but the consideration of some method for the prevention of its repetition. Putting it down by exterminating a handful of Indians does not put an end to it. We have exterminated a handful each year ever since I can remember; but it has not had the slightest effect upon the general question whether the Indian can be so managed as not to repeat these outrages. I hope no one will hesitate in an effort to put this down or any other effort that shall secure peace and tranquillity.

Mr. INGALLS. Mr. President, I do not understand the purpose of the resolution offered by the Senator from Florida. If it is simply the declaration of the general principle that the Government is bound to afford protection to its citizens against wrongs and outrages perpetrated by Indians or any other people, it is not necessary, because that has long been recognized as one of the axioms of government. If it is intended to cast any imputation by indirection or innuendo upon the Executive or upon the Department of the Interior by insinuating that proper measures have not been taken to protect the people of the Territory of Arizona from outrages by Apache Indians, I protest against its adoption until there has been further information obtained from the Department competent to advise us. I therefore move that the resolution be referred to the Committee on Indian Affairs, with directions to inquire and report what further steps are necessary to protect the property of the people of Arizona from outrages by Indians.

Mr. HARRISON. I ask the Senator from Kansas whether the reference had not better be to the Committee on Military Affairs?

Mr. INGALLS. I change the motion as suggested by the Senator from Indiana.

Mr. HARRISON. I think the motion of the Senator from Kansas ought to prevail. As he has said, the resolution would seem to be simply an affirmation of that which every man assents to, but if it be passed in its present shape, there can be no excuse for making such an affirmation unless it is intended to cover a reflection upon the Executive or upon the War Department for not having taken promptly those efficient measures that should have been taken to suppress these hostilities.

Now, sir, so far as we know, and I call upon the Senator from Florida if he has further information than the rest of us, prompt measures have been taken, and as I understand troops from other parts of the country are now being concentrated in Arizona, in order that the Army may be used promptly and efficiently for putting down the Indian bands that are in hostility. It seems to me, then, that it is unjust to those who, so far as we know, have taken prompt measures to suppress these hostilities and outrages, that the Senate should pass such a resolution without inquiry by some appropriate committee as to whether the proper efforts are not already being made. Therefore I hope that the motion of the Senator from Kansas will prevail and that this resolution may go to the Military Committee so that we may ascertain what has been done by the War Department and the President.

Mr. CALL. I wish to say that I had no purpose of casting any reflection on the President of the United States or the Secretary of the Interior. That never entered into my mind, nor does the resolution import such a reflection of itself. It does intimate that somebody, perhaps Congress, perhaps owing to a defect in the laws, perhaps owing to a defect in the system somewhere, has failed to exercise the power that would prevent the murder of the women and children of Arizona, and it does ask an expression on the part of Congress to the practical end, I will tell the Senator from Kansas, like all resolutions, that it may induce in this body and in the other body the bringing in of a bill for the purpose of giving the President, if necessary, such additional military force and such power as will secure the end of protection.

That is all I have to say. Ever since I have been a Senator, week after week information has come here of murders and horrible outrages upon the women and children of the Western Territories by Indians. While I am prepared to go with the Senator from Massachusetts [Mr. DAWES] in all his schemes of education and amelioration, the power of the law, the military power of the country, I say to the Senator, ought to be exerted promptly and upon the moment, and the occurrence of these outrages is a disgrace and a scandal to the power of this Government and its administration of its functions. They ought not to be permitted to exist, and they can be easily remedied.

I hope the resolution will pass.

Mr. HAWLEY. The difficulty is that the Senator from Florida is not proposing to censure the entire people of the United States, ourselves included, but he is proposing virtually to censure the Executive and the Army under the charge of the Executive. I have not the slightest doubt that any investigation we might undertake would show that the President and the officers of the Army in the Southwest have done all within their power, and done it with promptness and with intelligence and with courage. There is an incidental question to be discussed, to be sure, that we might consider more profitably, I think sometimes, and that is whether we have not made our Army too small to properly protect the citizens of the region where the Indians disturb. We are obliged to break the Army up, to keep little fractions of fifty or one hundred or one hundred and fifty scattered over a region some two thousand miles square perhaps, and whenever any serious conflict breaks out there is a heavy bill for transportation, and there is necessarily a considerable delay in getting together a sufficient force to surround and capture those who cause the trouble. We have acted as if we thought it was not fair to bring sufficient numbers against them; as if when one hundred of these men took to the mountains we ought not to send over one hundred soldiers against them, whereas, in my opinion, it ought to be possible to combine a thousand men immediately and surround and cut off the mischief-makers. We have made our Army too small for all these Western purposes of an army. I am utterly unwilling to vote for any resolution here which can impliedly, not to say directly, censure the Executive and the brave and honorable gentlemen at the head of that portion of the Army, who have done all they could.

I hope, certainly, the resolution will be referred.

Mr. GARLAND. Mr. President, this morning the Judiciary Committee made a report, through the Senator from Vermont, [Mr. EDMUNDS,] upon this matter, brought to our attention by a message from the President of the United States, sent in since the resolution of the Senator from Florida was offered. I think that report covers the entire ground and meets everything that the Senator from Florida would desire. The President transmitted to the Senate certain information——

Mr. CALL. That was in regard to civil authorities, not the Indians.

Mr. GARLAND. The whole business. It is with that view that the Committee on the Judiciary made a report that under the existing law, if the civil authorities could not do what is necessary to be done, the President has the authority to call in the aid of the military to bring peace to that country. My information is that the trouble is not confined, as the resolution of the Senator from Florida is, to Arizona alone, because New Mexico is affected in the same way. I think the Senate, so far as any expression of opinion is concerned, should simply give its affirmation to the report made this morning by the Judiciary Committee, and the whole ground will be covered. This message came in after the Senator from Florida introduced his resolution.

The PRESIDENT *pro tempore*. The question is on the motion to refer the resolution to the Committee on Military Affairs.

The motion was agreed to.

DR. A. SIDNEY TEBBS.

The PRESIDENT *pro tempore*. The first case on the Calendar under the Anthony rule will be called.

The bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs was announced as first in order, and its consideration was resumed as in Committee of the Whole, the pending question being on the motion of Mr. EDMUNDS to refer the bill to the Committee on the Judiciary.

The question being put, there were, on a division—ayes 21, noes 19.

Mr. MAXEY called for the yeas and nays, and they were ordered.

Mr. SAULSBURY. I should like to have the bill read, so that we may know what it is.

The PRESIDENT *pro tempore*. The bill has been under consideration for a couple of days. It will be read.

The Acting Secretary read the bill and the amendment reported from the Committee on Military Affairs.

Mr. CALL. Mr. President, I wish to submit a few remarks upon this bill. The Senator from Vermont [Mr. EDMUNDS] in the discussion of this bill said the other day:

I think that the rebellion being over, and over for good, it is better to preserve some everlasting monument that there was a right side and a wrong side to it.

If that be true, if it be a matter of sound policy, if there is any interest to the United States or to the preservation of this Government that this bill ought not to pass, and that the act it proposes to repeal should remain as it is, excluding certain classes of persons who went into the rebellion and civil war from holding military office, then I should not be in favor of its passing; but if, on the contrary, there is no warrant of precedent in history, if there is no truth in the argument that has been made by the Senator from Vermont that there ought to be some everlasting monument of the rebellion, then we ought to pass this bill.

Now, I venture to say that there is neither reason for the proposition he has stated, nor has it the warrant of any precedent in history, nor has it the commendation of any enlightened statesman or the past. Why, sir, the whole history of both Old and New England, which have achieved so much in the tide of time for the advancement of the best interests of mankind, contradicts the proposition of the honorable Senator. The very inception of our American liberty is to be found in a Declaration by which resistance to established authority upon the basis of conscientious conviction is declared to be one of the highest and most commendable of all the acts which human nature is capable of; and I say so far from the proposition of the Senator from Vermont being true, it is absolutely false. The history of this country shows that the very inception of our liberties and our form of Government was in a resistance to established authority based upon conscientious conviction of the propriety of that resistance.

Mr. INGALLS. Does the Senator mean to argue that the war of American Independence was waged from the same platform as that of the rebellion against the Government?

Mr. CALL. Yes, sir; I do.

Mr. INGALLS. I want to understand the Senator.

Mr. CALL. The Senator from Florida not only intends to argue it——

Mr. INGALLS. I believe there have been some monuments erected to the victors in that strife, however.

Mr. CALL. What strife?

Mr. INGALLS. The war of the Revolution.

Mr. CALL. Well, what of that?

Mr. INGALLS. The Bunker Hill monument.

Mr. CALL. What does that amount to?

Mr. INGALLS. The Senator I understand to be arguing against the doctrine that monuments should be erected to the victors in any civil strife.

Mr. CALL. I was not going to argue any such absurd proposition as that.

Mr. INGALLS. I understood that.

Mr. CALL. The Senator from Vermont's proposition was that everlasting monuments should be put up for the purpose of putting to shame a part of the people engaged in that strife because they followed their conscientious convictions. I say no monuments in the shape of legislative proscriptions; as many monuments as you please to courage, to honorable self-sacrifice, and to conscientious convictions of right, but no monuments to punish men for liberty of thought and the heroism of following their convictions. That is what I say.

Mr. President, I find the following names to this Declaration of Independence—of rebellion: Josiah Bartlett, William Whipple, Matthew Thornton, Samuel Adams, John Adams, Stephen Hopkins, William Ellery, and a number of others, and the very beginning and the very monument upon which we have erected our Constitution and our form of government is a declaration of the absolute falsehood of the proposition that the people who engaged in the late civil war or rebellion, because they followed an honest conviction, are to be forever branded as criminal, or to be proscribed in the slightest degree, or to be prohibited from entering into the Army or from eminent civil or military service. I say there is no warrant either for the philosophy or theory of the proposition, or for the practice of it, which is put forth by the Senator from Vermont as a reason against the passage of the bill and the repeal of the law prohibiting men who were in the military service of the United States and of the Confederate States from being restored to the Army of the United States.

Mr. INGALLS. Does not the Senator from Florida know that at the close of the war of the Revolution those who in this country sided with England had their estates confiscated and were driven from the country and prevented from ever taking any subsequent part in the Government? If he does not he is greatly ignorant of the plainest facts of history.

Mr. CALL. The Senator from Florida knows the contrary of that proposition to be true. The Senator knows that while there may have been instances here and there the whole course of our legislation has been from that time to the commencement of the civil war, so far as law was concerned, to allow the same immunities, privileges, rights, and considerations to those who were for and those who were against the independence of the Colonies; and the Senator knows also that some of the most distinguished men and families who have been in the service of this country and of the States were those who took part with England in the war of independence.

Let that be as it may, the Declaration of Independence says:

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

The Senator from Vermont—and it has been the habit on this floor to make similar statements, and I think that it is quite time that it should cease—went on to say:

It is not the person of this individual who seeks to be an officer, or of any Senator, or of any man anywhere, that I have anything to do with; but I cannot get it out of my mind that the future welfare of this country is in a large measure dependent upon our adhering now to the idea that the Government did achieve the success that it achieved, and that it achieved it upon the principles that it proceeded upon then, liberty and equality.

Mr. President, if this Government proceeded in that war upon the proposition of asserting liberty and equality, contrary to the Constitution of the United States and in defiance of its provisions; if the war was to assert liberty and equality, who were the traitors to the Government and the Constitution? Will any man of truth say that the Constitution of the United States in the beginning of the war proclaimed equality and liberty to all the people of this country? We know that it did not; we know that proposition is not true, and we are here to speak the truth, and truth alone; and if the people who were engaged in that war are to be branded for party purposes, let us sometimes have the truth of history spoken. We know that President Lincoln declared in his very first inaugural to Congress, and time and again declared that the institution of slavery—not liberty, but slavery—should be perpetuated if the constitutional obligation of remaining in the Union by the States or returning to the Union was kept.

Why, then, proclaim what we know to be false? We know that the Government in its established policy declared that the war was for the maintenance of the Union, and not for the maintenance of liberty and equality. Why, then, should the Senator from Vermont undertake now to state a proposition of this character? Who proclaimed the "higher law?" Who said from that place which is now filled with so much ability by the distinguished and able Senators from Massachusetts that there was a higher law than the established authority of the Constitution of the country? I am alluding to it for the purposes of reason and argument. Who educated the Southern people to the opinion that if they believed their rights and the rights of the States as guaranteed by the Constitution were violated it was their duty as men to maintain the war?

I say to the Senator from Vermont that to New England, with its culture, its energy, and its great qualities, the moral responsibility of that war is as much due as to anything else. How can you escape it? Who taught the higher law? Who taught resistance to the Constitution? And if the Constitution and Government of the United States had been administered by that party who believed that slavery could be carried into the Territories and they had so affirmed by positive laws, will the Senator from Vermont say that it would have been treason for which an everlasting monument of shame should be erected on the part of the Northern people for believing that slavery was an evil that was destructive to the Government and to the principles of the Government although sustained and sanctioned by its direct provisions? Will the Senator from Vermont say that he would have been found perpetuating forever and extending the institution of slavery and denouncing those men who defied and resisted the established authority of Government for conscience' sake as worthy of everlasting shame? Is it thus that he denounces John Brown?

Mr. President, we know that it is not true. We know that conscientious conviction has made the "army of martyrs," and that it is the touch-stone of meritorious conduct everywhere and upon all occasions throughout the history of the world that men must do what they believe conscientiously to be right, and that they are not to be branded with disgrace, but to be honored for it. I say that earnest, honest, truthful conviction, be it wrong or right, is the great motive power for elevating honorable human action.

But, Mr. President, it has never been in any country, it is not in the history of mankind that in times of conquest, whether the war was created in right or in wrong, whether it was justifiable by one view or to be condemned by another, it is without the sanction of history, it is without the sanction of the approval of enlightened men anywhere, that as monuments of war, shame and opprobrium are, even in the slightest degree, to be attached to those who were unsuccessful. I read from a book which contains, by the acknowledgment of all critics, a collection of the learning upon the subject of war, the rights of the conquering and the conquered, the policies which have been most successful and which are in conformity with wise and with just opinions, Montesquieu in his Spirit of Laws:

As soon as a republic has compassed the destruction of those who wanted to subvert it there should be an end of terrors, punishments, and even of rewards.

* * * * * * *

Under pretense of avenging the republic's cause, the avengers would establish tyranny. The business is not to destroy the rebel, but the rebellion. They ought to return as quick as possible into the usual track of government, in which every one is protected by the laws and no one injured.

Again he says, alluding to the eastern nations, where war has been chronic:

In order to prevent the vanquished nation from falling into despair, the victors from growing insolent and proud, the government from becoming military, and to contain the two nations within their duty, the Tartar family now on the throne of China has ordained that every military corps in the provinces should be composed half of Chinese and half Tartars, to the end that the jealousy between the two nations may keep them within bounds. The courts of judicature are likewise half Chinese and half Tartars. This is productive of several good effects. The two nations are a check to one another. They both preserve the civil and military

power, and one is not destroyed by the other. The conquering nation may spread itself without being weakened and lost. It is likewise enabled to withstand civil and foreign wars. The want of so wise an institution as this has been the ruin of almost all the conquerors that ever existed.

Again, referring to the conduct of Alexander:

He opposed those who would have had him treat the Greeks as masters and the Persians as slaves. He thought only of uniting the two nations and of abolishing the distinctions of a conquering and a conquered people. After he had completed his victories he relinquished all those prejudices that had helped him to obtain them. He assumed the manners of the Persians, that he might not chagrin them too much by obliging them to conform to those of the Greeks.

Nothing consolidates a conquest more than this. Then why is it? Because we seek to affect the popular prejudice, that we seek to perpetuate these distinctions, that we will exclude a man who was in the Army of the United States and educated at West Point. Why? Because he had been taught by the history of this country, by a great political party, by many members of the Republican party itself, that to resist in certain cases was not only lawful in the sense of a higher law of moral duty, but right as a measure of policy. Will anybody venture to say that in the discussions upon the fugitive slave law resistance to authority time and again, based upon conscientious conviction, was not maintained in public and in private action; that resistance to the perpetuation and extension of slavery against the authority of government was not inculcated in every form in which the public mind could be influenced?

We are now in the Senate of the United States; seventeen years have passed; we are to seek truth; we are not to proclaim falsehood; we are to examine propositions in the light of history and with an intelligent judgment. I ask, then, who will undertake to say that there was no authority, that there was no teaching in the examples of the war of Independence for those people who honestly believed that it was necessary for the preservation of themselves and their families and their constitutional rights that they should make a war, that there was anything to be condemned in point of morality? The authority of government in all ages has been that of force, and is properly that of force. The Government of the United States was established by our fathers upon the principle of a rightful resistance to established authority, a resistance based upon conscientious convictions, and that it provided forces by which the power of the Government should be asserted, and those forces were the forces of combined action of military power, and not of moral stigmas or disgrace for courageous adherence to honest belief. In the whole history of this country, in New England or elsewhere, there is no philosophy that teaches that when an honest, conscientious conviction, having reasonable ground, exists, there is anything wrong in maintaining that honest belief even to the sacrifice of life.

Mr. President, the conduct which the act that this bill seeks to repeal stigmatizes with disgrace is the foundation and the inspiring motive, and will continue to be so for all time, of all patriotic devotion to your country. The almighty God alone controls the public mind. He alone can influence the source of thought and belief by the modes of education and training with which his providence surrounds us, and with which we are permitted to surround ourselves.

I read in the history of this country that in the war of 1812 the very doctrines which culminated in our late civil war, in that rebellion of the South for which an everlasting monument of shame is to be preserved in our laws, were proclaimed by a convention of the most eminent and distinguished men of New England. Who can deny it? And if these doctrines were taught, and taught by great statesmen, by judges; if the Supreme Court of the United States stood affirming the constitutional rights of those people to carry and maintain slavery in the Territories, and they believed these authoritative sources of instruction as to the powers and rights of the Government under the Constitution if the whole Government for half a century had been in that line of teaching as to their rights, why should they not believe it? Who shall condemn them for believing that which was taught by the established sources of instruction and authority under the Constitution, and who shall condemn them for following this belief even unto death? Will any Senator here deny that the Supreme Court of the United States instructed the Southern people that they had a right to carry slaves into all the Territories and to be protected by the national power?

It is now gravely insisted that there is no such thing as a right of revolution; that the man who conscientiously believes that he has a right to maintain the status which the Constitution and the laws have conferred upon him, and who follows that conviction to death; that a great public opinion which put the Government to its utmost exertion to subdue is to be treated as a moral disgrace; to those men who were following the teachings and the example of the war of Independence; that the men in the Army of the United States who were governed in their conduct by these authorized interpretations of constitutional power, right, and duty; who, when they found that the portion of the country to which they belonged and from which they had come, to which their families belonged, and in which their interests lay, had adopted a certain course of political action; that when, acting from the most honorable motives, they took part with them they became criminals and must not thereafter be trusted, and that a monument of shame for them must be preserved in the laws. There is no truth in such a proposition. It has not the countenance or approval in the policy of any civilized nation of which history furnishes us a record.

The great civil war originated in a series of causes which have no relation to the personal conduct of individuals. It arose in part from a theory which came from the manner in which our original form of Government was made, came from the fact that these colonies became political entities by virtue of the Revolution, from the fact that they first formed a confederation which was not a government, and that eminent men with great warrant and show of reason upon both sides at different times maintained that construction and interpretation of these facts which resulted in the conclusion that when a State proposed to assume political power again, absolute sovereign political power to itself, there was no authority in the Government to deny it, no authority by force of arms to enforce the authority of the Constitution and the Union. But whether that proposition was right or whether it was wrong does not matter in any degree to the truth of the proposition that those who so believed had a warrant for their belief and a reasonable warrant for it.

Mr. President, whether these men are judged by the standard of high moral conduct, or whether they are judged by a political standard, they are not properly subjects of any stigma or disgrace; their good faith, their loyalty to their convictions of right is not impeached to any extent. Justice to a man who was willing to sacrifice his life for his duty, and who left the United States Army to enter into the service of the confederacy, requires us to respect his convictions as we do those of the man who remained in the Army from a like conviction of duty.

It is the worst of narrow and impotent legislation to attempt to restrain the honest and reasonable judgment and opinions of men. No wise statesman has ever sought to do so, for they have ever seen that the tides of public opinion and individual opinion are moved by causes other than punitive laws, are moved by great principles of belief which have their origin in education, which are prepared by degrees, and which do not in a moment leap into existence in the human heart. He who proposes to so treat a political movement in which millions of men concurred, and in which they engaged with the most profound sincerity of belief and conviction, is a narrow-minded man, and not capable of conceiving the true principles upon which human action and public action are based.

If he seeks, as does the Senator from Vermont, to forbid the human mind from thinking otherwise than as his laws shall direct, or the human heart from acting otherwise than as the high inspiration of duty and right shall demand in obedience to sincere belief, he has indeed undertaken a mighty task and one strangely at variance with all the philosophy and teachings of his own New England.

Mr. President, there is no sound reason for the opposition to the passage of this bill. The time has passed when we should any longer be acrimonious to each other. We should now stand upon a common platform, as far as devotion to our country is concerned, forgetting the war except in the fact to which everything is a monument; that the authority of the Government is re-established, and established upon the basis of perpetuity; that we now have agreed as the result of the trial of war that the Government of the United States is sovereign for the purposes of the Constitution, and may enforce and properly enforce with the combined power of all the States and people the obedience of each individual and of every State to whatsoever its established authorities shall lawfully ordain.

That is the monument which the war has accomplished; and to undertake to treat as a criminal a man because he was educated at West Point and in the Army, who honestly believed it was his duty to join the confederacy, is not the part of wisdom or patriotism. Take the case of Robert E. Lee. Who will deny that he was a man who had no superior in the honesty of his convictions, in his willingness to sacrifice his life and all that was dearer than life to the maintenance of those convictions? Who will deny that Stonewall Jackson was the peer of any in purity of purpose, in sublime devotion to his belief as to what his duty to God and his country required? The man who shall be able to stand in the grand assize of the future by Stonewall Jackson or Robert E. Lee, and lay his hand upon his heart and say, "I was your superior or your peer in all the noble qualities of human nature," I think will have none to make him ashamed.

There is no warrant for this prejudice in any sound argument; there is no warrant for it in any enlightened system of public policy; there is no warrant for it in the history of the past. The war should be treated in the light of the example of other nations who have been conquerors; treated as if it had never occurred so far as the rights, the privileges, and the immunities of every citizen are concerned. In Montesquieu it is said that this wise and humane policy has been carried so far among the most enlightened nations and even the semi-civilized nations of the earth that even in the constitution of the judicial tribunals, as well as the political and the military, the vanquished have had the benefit of their own laws administered by their own courts. Differing from us, they have been careful to select judges from the conquered themselves, and to establish over them for the administration of the laws judges seelcted from their own people, sharing their prejudices, sympathizing with them in their feelings and their opinions. That has been the established policy of all, except those nations that have received the condemnation of every enlightened statesman and jurist; and while this Gov-

ernment and this people have commended themselves, as the Senator from Vermont has said, by a bloodless triumph, and while it is an attestation of the civilization and the improvement of the age, it is also true that under party influence they have kept up and maintained a series of distinctions and disfranchisements and ineligibility to judicial power and civil and military preferment which have no authority in reason, no warrant in precedent, no support in the opinions of humane, learned men in all the history of the world from the time of Cicero to the present day, in which they have sought to perpetuate what they call monuments, of the right or wrong.

Why, sir, who will decide? If we were to undertake a just judgment here, if we were to take New England men, if we were to take Charles Sumner and bring him to the witness stand and ask him if, instead of seceding in 1861, the Southern States had remained with Congress and the Supreme Court, if Mr. Lincoln had died and Mr. Hamlin had been removed by death, and a new President by a union of the Democracy with their large majority, had been elected, and they had maintained with the power of the Government the perpetuation of slavery and its extension throughout the Territories of the country, is there any man who will tell us that Charles Sumner with his declaration of the higher law would not, if he could, have resisted the authority of the Government?

We know that the enlightened opinion of the North, the just judgment of the North, as they saw and understood the question, would have demanded their heroic conviction to duty, their self-sacrifice, the grand character with which New England had impressed herself upon civilization everywhere, would have demanded that they should have done what the Southern people did—oppose in arms the power of the national Government, and resist the extension of slavery under the authority of the Union. They ought to have done it; they would not have been true to themselves and their character had they not have done it; and shall we say now that they would have justly been subject to severe punishment, or to punishment at all, for following those convictions?

Mr. President, there is no reason in this kind of argument; there is no reason why the last vestige of the legislation of the war should not be done away with; there is no reason why all punitive legislation, all differential legislation growing out of the war, should not be carefully stricken from the statute-book. If there is any practical result to be accomplished, if you need punitive laws for the purpose of preserving or protecting the rights in future of any individual, that is one question; but it is not a question that arises because of the war. It is not a question that has its origin in anything that occurred in the war. It is simply a question of present duty. I say, therefore, Mr. President, that I think there ought to be no hesitation in passing this bill. There can be no object in its reference to any committee. A committee can do nothing but recommend either its passage or its defeat. I understand it is unanimously reported now by the Committee on Military Affairs.

Mr. HAWLEY. Oh, no.

Mr. CALL. It does not matter much whether it is a unanimous report or not; it is reported by the committee at any rate; but if it was not reported by anybody, that is no reason why it should not pass. No man can give a reason for saying that a monument of the right or wrong shall be preserved. What monument is it? It is a monument that the Congress of the United States and the President concurring, in the height of the angry feelings of the war, asserted that it should be the law of this country that a man who had been in the military service of the United States, had been educated at West Point, had taken the oath of allegiance, had filled certain positions toward the Government, and was therefore understood to be under greater obligations than others, and who served the confederacy, should never be admitted to a place in the Army or restored to office again, but that he should die with this opprobrium upon him.

What does that say? It says that such a man acted dishonorably and unfaithfully and that he cannot be trusted in the future, and that in order to mark to future generations the public sense of this disgrace, the law shall say, "If you do what the people of New England did, if you do what the people of the Colonies did and what they have transmitted to you as the highest glory and your first duty, if when your people in large numbers and with almost unanimity, constituting nearly half in a country of twenty millions of people, if in a time of great commotion when nearly one-half that people shall conclude, right or wrong, that they are oppressed, that the laws have been wrested from their proper function and are used for their oppression, if you entertain that honest belief, shall follow it out in action, you shall be forever disgraced.

And this though the teachings of the Declaration of Independence are that it will be your duty, your honor, and your glory to so act, and though in all your religious teachings, in the example and precept of those whom we reverence as the noble army of martyrs, in the whole system of our civilization which seeks to inspire correct motives and devotions, you have been so taught, yet we shall punish you by a perpetual monument for not following the opinions of other men's consciences as to your duty and for being true to your own. The whole foundation of our system of religion, of civil government, is in following conscientiously and with devotion, careless of power, careless of life, careless of every sacrifice; following the convictions of our own minds as to right and duty, we seek to educate these aright in order that we may not go wrong. That is the lever, that is the corrective. But no man, no country, no time will ever say that he who in time of a great civil commotion follows his own honest belief in company with a great multitude of his own people and offers his life as a sacrifice, pursues even to death this conviction of his duty, that such a man is other than an example of the highest qualities which constitute the character of a great people, and which are the security and foundation of our American liberties to-day and are necessary to the perpetuity of the Union and the Constitution.

Mr. GEORGE. Mr. President, if this bill can be passed with the general consent of both sides of this Chamber, and by the joint action of all sections of the Union, it would be a great boon to the country. From what has already occurred in this debate I have some fear that this cannot be be done, though what fell from the Senator from Ohio [Mr. SHERMAN] some days ago gives me some hope of a result so much to be desired. Whatever may be its fate I shall support it, regretting that its good effects may be lessened by a want of unanimity in its passage.

It is now more than seventeen years, nearly the life of a generation, since the last gun was fired in the late fratricidal war. During all this time the supreme authority of the Union has been recognized and obeyed everywhere in the South; and that, too, when powers were exercised of doubtful constitutionality and of undoubted severity, not to say hostility to the people of the South. The Federal Government has done everything deemed by the party in power necessary for the security of the Union, or even expedient to perpetuate its own supremacy. There have been local disturbances, it is true, arising out of the extraordinary friction occasioned by the total subversion of the government and institutions of the Southern States, and their reconstruction upon a basis extremely variant from the habits, modes of thought, and traditions of the Southern people, not to say of the people of the whole country.

But during this trying period, when the venality, corruption, incompetency, and want of sympathy, and I may add the hostility of those who exercised the powers of these States, would have produced a revolution in any country inhabited by the Anglo-Saxon race, the national authority whenever and wherever asserted, however ungraciously and however manifestly for mere partisan purposes, was uniformly obeyed. Without intending to reopen a discussion of the events of that unhappy period, without intending to fix and apportion the blame for what then happened, I hope I may be pardoned for saying that I hope no such calamity may again befall any portion of the American people, or in fact any other people however hostile. It gives me no pleasure to take this retrospect. I would rather dismiss it as I would the memory of a horrid nightmare, a dreadful and distressing dream in which the soul had been made to suffer the torments of the damned. If any man shall say we were responsible for this condition of things, I shall not turn aside now to dispute with him; I shall leave him to enjoy what pleasure he may from his imaginings.

The bitterness engendered by war and this unhappy period has now passed, and as I hope forever. This is certainly so as to the business and social relations of the people. Northern and Southern men and women meet and mingle every day without the slightest remembrance of the bitter past. Northern capital seeking new fields of profitable employment is now being freely invested in the South, and the trade and productions of the South are filling the coffers of Northern merchants and manufacturers with almost fabulous wealth. The sentiment of Union, founded on consent and a conviction of its advantages, is stronger now than ever before in our history.

Under these favoring circumstances this bill is recommended by the Committee on Military Affairs, a committee composed of patriotic and conscientious Senators, nearly all of whom were in the late war, able, gallant, and trusted leaders in one or the other of the contending armies. The bill relates exclusively to the Army, and the recommendation to pass it has the sanction of that committee, to whose judgment we are accustomed to defer in such matters. This recommendation is opposed here. Certainly, sir, there ought to be some good reason to justify a rejection of this recommendation. I think there is no such reason.

The bill proposes a repeal of section 1218 of the Revised Statutes, which reads as follows——

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The hour of two o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business.

Mr. SAULSBURY. I move that the Senator from Mississippi be allowed to conclude his remarks.

The PRESIDING OFFICER. If there be no objection, the Senator from Mississippi will proceed.

Mr. HOAR. What is the request?

The PRESIDING OFFICER. That the Senator from Mississippi be permitted to conclude his remarks.

Mr. HOAR. I beg pardon. That does not displace the regular order after he has concluded? ["Oh, no!"]

Mr. GEORGE. I shall occupy but a few moments longer. The statute reads as follows:

> No person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

It has been shown, sir, by the Senator from Kentucky [Mr. BECK] and the Senator from Texas [Mr. MAXEY] that under the rules regulating the ages of appointees in the Army this section can have no practical effect but to exclude from appointment persons who were not exceeding fourteen years of age at the commencement of the war and who at that tender age may have served in some civil capacity, for such persons were too young for military service, except possibly for a few months preceding the close of the war. The statute sought to be repealed is, therefore, directed solely at persons who were beardless boys at the time they are supposed to have committed the sin of civil or military service in behalf of the States in which they were born. This, sir, I repeat, is its sole effect, so far as it relates to the organization of the Army.

It is claimed, however, by the opponents of the bill that the section sought to be repealed has a moral and political effect which justifies its retention on the statute-book. It is argued that there is a right side and a wrong side in the late war, and that this section should be retained as a perpetual monument of the rightfulness of the Northern and the sinfulness of the Southern side. Until I heard this objection I had supposed that the right and the wrong in this matter, as in all others, were to be settled *in foro conscientiæ*, by arguments addressed to reason, and not by an *ex post facto* statute, born of the passions and directed against the fears of men. But however this may be, if monuments perpetual or ephemeral are necessary to show to the world and to posterity the right and the wrong side of the late war, are there not enough for this purpose outside of this section, which, in the spirit of vengeance and distrust, imposes a penalty on the vanquished with no compensating advantage to the victor? On whatever side we turn our eyes we behold monuments which tell the story of victory to the one side and defeat to the other; and so far as might makes right (which I believe is the rule now) they also serve to fix the right and the wrong.

In this city, the capital of the Union, are erected, in enduring bronze or marble, statues of the heroes of the winning side. In every Southern State are costly and magnificent cemeteries, in which a grateful country has deposited the bones of her gallant dead who had fallen on the side of the victor, when, in many instances, not even a rude stone, not a green mound, marks the spot which holds the ashes of the brave men of the South who gave their lives for what was to them a just and holy cause.

If you of the North want monumental *laws* to tell of your victory you have them in the three amendments to the Constitution. You know what they are. I need not repeat them.

On the statute-book there are also many of these monumental laws granting pensions to the Union soldiers—pensions paid out of a treasury supplied by taxation on the South as well as on the North, while the maimed Southern soldier and the helpless widows and orphans of those who fell in battle or died since from wounds, if unable to support themselves, must depend on the charity of an impoverished people or seek refuge from starvation in the poor-house. The South makes no complaint of this. We neither object to the nation's generous bounties to Union soldiers, nor do we ask the national aid for our own. These laws are monuments of Northern victory and Southern defeat; but they are monuments also of beneficence, of gratitude for great services and great sacrifices.

But this law sought to be repealed by this bill is not of that character. It confers no benefits, it bears no testimony of a nation's gratitude, it attests no admiration for heroic services, it breathes no spirit of generosity or magnanimity, it adds no jewel to the chaplet on the victor's brow, but brands, or attempts to brand, with an ineffaceable stain the honor and the faith of 10,000,000 of American citizens. It is only hatred and vengeance. What do you men of the North gain by this degradation or attempted degradation of the South? What does the country gain by it? Is this a united country, or is it divided into discordant and hostile sections? Are we of the South citizens or only subjects? Are we to have a country or are we to be outcasts in the land of our birth, dishonored and distrusted? Do you demand humiliating and degrading concessions as the price of equal American citizenship? If so, we refuse to pay it, even for that great boon.

Sir, we acknowledge no inferiority. We confess to no crime; we profess no repentance; we ask no forgiveness. But we acknowledge our defeat, and we acknowledge also that separation is no longer desirable. We acknowledge the superior power which compelled us to remain in the Union; but we deny the right to make us inferior in political privileges, or less in the dignity and nobility of American manhood than the proudest and best among the victors.

We may have erred, sir; I shall not discuss that now. But if we erred we committed the fault of freemen jealous of their rights. Our cause was just and holy to us, and it was defended with a courage, endurance, and self-denial which bring honor, not shame, on American manhood. If fidelity to the convictions of conscience, if courage and endurance in adverse fortune, if a heroic devotion to principle sincerely entertained, if love of country, if veneration for the memory and example of a great and glorious ancestry, be titles to the respect and admiration of mankind, the conduct of the Southern people in the late war is worthy to be recorded on the same bright page of the history of the human race on which are written the grand achievements of the North. It cannot be made the just ground of a charge of dishonor or infidelity to truth.

Sir, whatever aspirations we may have indulged for separation and independence have been abandoned forever. Whatever hostility we may have had for the Union has been surrendered. You of the North have said that this broad land—all of it—shall be one country. You have said it shall be your country and our country, the common country of the American people. We accept this decree in good faith. We accept it without reservation, in all the length and breadth and depth of its significance. We understand it to mean that the Union shall be yours, and it shall also be ours; that its blessings and its glories are the common heritage of all; that its burdens and its high duties shall alike be borne and alike be discharged by all. Forgetting the bitterness of the past, remembering only that in the late war which honored and ennobled American manhood, we mean to serve the Union faithfully in peace, contributing to our utmost to the progress, prosperity, and happiness of all its people, and to defend it with our lives and our fortunes in war. We make no quarrel with the convictions, the sentiments, and beliefs of our brethren of the North, and we claim a like toleration for ours.

If you, men of the North, will forget the bitterness of the war, remembering only the courage, the sacrifices, the heroic endurance which marked the conduct of both sides, we of the South, citizens of a restored Union, will claim a share in the glories won in that fratricidal conflict by our countrymen in the Union armies, and will yield you a share in the glories no less grand won by the South.

If you are unwilling to do this, then you must remember that while you have a just pride in the achievements of the great and brave on your side, we have no less pride in the achievements of ours.

We are but men, and we have the passions, the sympathies and affections of men. We were vanquished. The fruits of the contest to us have been the overthrow of our institutions, the desolation of our homes, the bitter anguish of the memory of great sacrifices, which brought only defeat and disappointment. Little else remains for us than the melancholy reflection that we deserved, though we did not achieve, success.

This statute is especially irritating to the people of the South, not because there are any great number whom it excludes from appointment in the Army, but because it contains an imputation upon our honor; it asserts that men who served the South in any way during the war cannot be trusted to defend the country now. And then, too, it is said that this statute must be perpetual. If, then, war should come, are the people of the South to be excluded from the defense of the country? Or, if admitted, are they to serve only as privates in the ranks? I scarcely think that Senators who oppose the repeal mean this.

If they do they will reject a leadership in war for troops, who, under it, on a hundred fields of carnage and blood, have illustrated the skill, courage, and endurance of the highest type of American soldiers. If they do not mean this, then they mean to keep the statute in force only in peace, to repeal it at the first blast of war. This would be to say that Southern men cannot be trusted in the Army in peace, but are entitled to full trust in war. To that absurdity does this position lead. I sincerely trust that this bill will pass, as also the bill which proposes to repeal the statute requiring Northern men whose fidelity to the Union has never been questioned to take an oath deny ing all sympathy with what they deem an unjustifiable rebellion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. JOHN BAILEY, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 176) to refund certain duties paid upon military uniforms imported by and for use of Company G, Sixth Regiment Infantry Illinois National Guards; and

A bill (H. R. No. 4704) for the relief of P. F. Lonergan.

The message also announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 3208) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. W. H. FORNEY of Alabama, Mr. J. H. KETCHAM of New York, and Mr. THOMAS RYAN of Kansas, the conferees on the part of the House.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes.

COURT OF APPEALS.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which is the bill (S. No. 420) to establish a court of appeals.

Mr. PLUMB. Before the Senate proceeds to the consideration of the unfinished business I wish to state that I was unavoidably absent on Friday when the vote was taken on the Chinese bill. If I had been present I should have voted for the bill on its passage.

I wish now to give notice that after the pending unfinished business has been concluded I shall move to take up the bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the

amount of land located with military warrants in the States described therein, and for other purposes, commonly known as the 5-per cent. bill.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 420) to establish a court of appeals.

The PRESIDING OFFICER. The bill is reported by the Committee on the Judiciary with amendments.

Mr. DAVIS, of Illinois. Mr. President, I had the honor to submit for the consideration of the Senate a bill to establish a court of appeals. It was referred to the Judiciary Committee, where it was subjected to a severe scrutiny, and I was directed by the committee to report it with sundry amendments. As they do not affect its framework, but are designed by perfecting its details to render its practical working more efficient and acceptable, I presume that every Senator who approves its general scope and design will acquiesce in them. I proceed therefore to consider the bill as if they had been adopted, and ask the indulgence of the Senate to some considerations which, in my judgment, commend it to the favor and support of Congress.

A preliminary question arises as to the necessity of legislation. If the existing organization of our judicial system be insufficient to meet the wants of the country, all will concur that it is the imperative duty of Congress to furnish the needed corrective. Just laws are a blessing, but they cannot be fully enjoyed unless adequate provision is made for the prompt and efficient administration of justice according to law.

Our present system has not been essentially changed since the act of March 8, 1802, was passed after the memorable debate on the judiciary bill. The subsequent modifications will be the subject of remark before I resume my seat.

When the illustrious Marshall entered upon his duties as the head of the American judiciary there were pending for adjudication in the Supreme Court ten cases. The first volume of Cranch, exclusive of the appendix, which contains an elaborate discussion of a question of commercial law, consists of but three hundred and sixty-six pages, and it embraces all the cases adjudged at three terms, commencing with the August term, 1801, and in nearly all of them the arguments of counsel are given at considerable length. In the succeeding years the business increased but slowly, the average being less than sixty cases a year, and at times it hardly seemed to keep pace with the growth and development of the country. In 1810 there were 98 cases on the docket; in 1820, 127; in 1830, 143; in 1840, 92; in 1850, 253; in 1860, 310; in 1870, 636; in 1880, 1,202, and at the present term 1,204. The late Mr. Justice Catron told me that when he was appointed a member of that court in 1837 there were but 37 cases upon its docket of that term. Since the year 1850 they have, as appears by the preceding statement, increased very rapidly.

The reported cases adjudged at the last term fill two volumes, one of seven hundred and eighty-two and the other of nine hundred and four pages, and but a very limited space is allowed for the arguments of counsel. The causes which have led to the extraordinary increase in the business of the court are to a great extent still in active operation and others are constantly arising, so that we cannot, under existing laws, cherish the expectation that its amount will be diminished, or that a case called in its regular order can be determined in much less than three years after it has been docketed. This prolonged delay amounts practically to a denial of justice to individual litigants, and the cases often involve questions of importance to the whole country, the determination of which is unavoidably postponed to the evident prejudice of the public interests.

These acknowledged evils can in no manner be ascribed to the learned justices of that court. No men in the public service are more faithful and laborious than they are. Each session commences in October, and closes toward the middle of May, when they repair to their respective circuits. Notwithstanding their strenuous exertions there is at the close of every year a larger number of undecided cases upon the docket than there was at its commencement.

It may be said that in the supreme courts of some of the States cases equally numerous are either instituted or are removed there by appeal or by writ of error; but the mere number of cases in a State court furnishes no measure by which to estimate the labors of the Supreme Court of the United States. The jurisprudence of each State is essentially homogeneous, and the State judges who administer it are governed by one system of law, in the operation of which, as a general rule, questions arise to which their habitual studies and thoughts have been directed from the commencement of their professional life. Their duties are on familiar ground, and differ signally from that of a judge of our Supreme Court. His labors are not confined to the administration of the jurisprudence of a single State. They extend to all the States and Territories, differing, in some essential particulars from each other in their statutes, their unwritten law, their systems of practice, and their principles of adjudication. The statutes of a State are by Congress prescribed as rules of decision in the courts of the United States when there sitting in trials at law, and must therefore control the Supreme Court when it exercises its appellate jurisdiction in cases where those trials were had. A judge of the Supreme Court is thus not only required to administer the local law of the several States, but admiralty law, equity jurisprudence, patent and copyright law, the laws of nations, and the statutes relating to the revenue, to which may be added the French, the Spanish, and the Mexican land systems, as they apply to the titles to real estate in the territories acquired under our treaties with foreign powers.

And last, but not least, he is frequently called upon to enter on the domain of constitutional law, and to deal with matters exacting for their satisfactory determination, great breadth of thought, and a thorough mastery of the history and workings of our institutions, both State and Federal. Since the close of the civil war, how many novel, complex, and embarrassing questions of vital and enduring interest, to which that unhappy controversy and the recent amendments to the Constitution gave birth, have been presented for judicial determination, and what labor, anxious thought, and learning the just and wise solution of them required. When these arduous duties are considered, it is obviously impracticable to make a more rapid progress in the disposal of the business which can now be brought before that court, and which, with our increasing population, must inevitably accumulate, unless Congress furnishes a remedy.

Various plans have been proposed, some of them during the present session of Congress. The Supreme Court now consists of a Chief-Justice and eight associates. It is proposed by some to add three to that number. This would, in my opinion, subserve no good purpose. I have understood that in the supreme courts of some of the States having crowded dockets the practice of apportioning the cases among the judges prevails. Each judge examines the record of such only as are assigned to him. His conclusion upon the facts is reported to his brethren, and his opinion touching the law applicable to them, if it appears to be right and proper, is then, without their further examination, adopted as the opinion of the whole court. This has never been and, I trust, never will be the practice in our Supreme Court. Whether cases are argued orally or submitted on briefs, it is the duty of each judge by investigating for himself to master the facts, and in every instance to satisfy his own mind as to the law which should govern. The judges then meet in conference, where their respective views are stated, compared, and discussed. Until a result is reached in this form the opinion is not prepared. Where the court is unanimous that opinion, pronounced by one of its members, embodies the results of the separate examination, which each of them has made, and at all events the conclusions which a majority has reached when unanimity has not been attained. Adding, therefore, three members to the bench would give it no relief. They are now as numerous as is consistent with the proper dispatch of business, and the suggested increase, so far from expediting the decision of cases, would rather tend to procrastinate and retard it.

Another plan is to add twelve judges, so that the court shall consist of twenty-one, and to divide them into three sections, to each of which is to be assigned a particular class of cases, excepting those which involve a Federal question. The latter are to be heard by the whole court, whether they originate in an inferior court or are removed from a State court by writ of error. In the execution of this plan, the court may in most of the cases be considered as divided into three sections, and the judgments rendered in any one of them, if concurred in by six-sevenths of those constituting it, are declared to be final. Although to be reported to the full court, they are not subject there to any review. It is only when less than that proportion concurs that another section rehears the case. If these two are in conflict the case may be adjudicated in the third section, or, at the discretion of the court, may be heard by it.

These provisions for hearing and rehearing are so cumbrous, unwieldy, and necessarily attended with such delay that instead of furnishing increased facilities for the speedy disposal of cases they would in practice obstruct it. Where the decisions of the several sections are not subject to the reviewing power of the court, does not the contemplated plan make substantially and practically three distinct and independent tribunals of last resort? It has been so regarded by some of the most thoughtful inquirers, and if their views are correct is it not in palpable conflict with, or at least an adroit evasion of, the constitutional provision which vests the judicial power of the United States in *one* Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish? But even apart from this objection it is obvious that the opinions of a section would not command that moral weight and influence which those of the entire court have heretofore enjoyed and which have secured for it the merited confidence of the people. Conflicts of opinion will almost inevitably arise in the adjudications of the several sections and in the application of those general principles which are common to every class of cases. This cannot but impair the standing of the court. It is true that where, as before remarked, a "Federal question" is necessarily involved the case in which it arises is heard by the entire court. I submit with all becoming deference, however, that a tribunal of twenty-one members is not the best adapted for the consideration of such a question.

Another plan proposed is that there shall be designated by the President two assistant chief-justices, and that they and the Chief-Justice shall respectively preside over three divisions of the court, so that each shall be composed of one chief and two associate justices. It further provides that such a distribution shall, at the beginning of every term, be made by the Chief-Justice, and that he, with the aid of his two assistants, shall assign to the respective divisions, as nearly as may be, an equal amount of the business upon the docket in such manner that to one division all equity causes shall

be assigned, to another common law causes, and to the third all admiralty and revenue causes, and those in which the Government of the United States is directly or indirectly a party. When, however, the matters prescribed by the record require a construction of the Constitution of the United States or a treaty therewith, and causes are brought on a writ of error to the supreme court of any State, they shall be considered in general session.

Under this plan each of the divisions sits separately, hears arguments, and pronounces judgments, and they may sit at the same time. It will be perceived that this does not, in some respects, differ essentially from the plan upon which I have just commented. No additional justices, however, are required to execute it. If two of the divisions before which the cause is argued concur their judgment becomes that of the court itself, unless the latter deems it proper to rehear the cause in general session, and then a majority of those who sit on such rehearing pronounces the judgment of the court. Two judges may therefore, in any given case, except under special contingencies, pronounce the judgment of the court. The objections to the plan are so obvious and insurmountable that I do not deem it necessary to enter upon an extended discussion of them.

Another plan contemplates the establishment of a circuit court of appeals and a national court of appeals, the latter consisting of the chief-justice and associate justices. It divides the national court into two divisions, designated as division 1 and division 2, and provides that division 1 shall consist of the chief-justice and eight or more associate justices, and division 2 of any nine or more associate justices. All the provisions of law now in force prescribing the cases wherein and modes whereby appeals may be taken, or writs of error sued out, for the review by the Supreme Court of a final judgment or decree, except as otherwise provided, apply to an appeal taken to or a writ of error sued out from the national court. It declares that the appellate jurisdiction of the Supreme Court shall not extend to any case unless the value of the property or the amount in controversy, exclusive of interest and costs, exceeds $100,000.

Secondly. In all cases in which the justices hearing or trying the case, in either division of the national court of appeals, cannot come to a unanimous decision thereof, or wherein they are in doubt as to what decision should be rendered, and on that ground refer it to the Supreme Court for determination.

Thirdly. In all cases presenting a question which has been before decided by either branch of the national court of appeals, or by the Supreme Court, and a majority of the justices sitting in the division at the hearing of the case are of opinion that the former decision of the point should be overruled or reconsidered.

Fourthly. In all cases wherein the Supreme Court shall deem the question arising therein to be of sufficient importance to require an adjudication by the Supreme Court, whether such questions arise under the Constitution or any law or treaty of the United States, or otherwise.

Most of the objections which I have mentioned to the other schemes apply, in my judgment, with aggravated force to this one. It provides, it will be perceived, for two courts of appeals, increases the number of the judges of the Supreme Court to seventeen, and requires them to act, in the mode which I have stated, as members of the national court of appeals, in addition to the duties which they are required to discharge, as judges of the court of last resort.

Mr. President, these various schemes attest a widespread conviction that there is a necessity for immediate remedial legislation. I remarked that no essential change of our judicial system had been made since the commencement of the century, when our population was less than five and a half millions. Indeed the organization of the court under the act of September 24, 1789, which provided for a Chief-Justice and five associates, remained unchanged until, by the act of July 24, 1807, another was added. Two were added by the act of March 3, 1837, and the number has remained until the present time, except that from 1863 to 1869 there were nine.

The act of February 16, 1875, provided that thereafter the judgments and decrees of the inferior courts of the United States should not be re-examined in the Supreme Court, unless the matter in dispute should exceed the sum or value of $5,000, whereas by preceding legislation that sum or value was $2,000.

The act of April 10, 1869, provided for the appointment of nine circuit judges. Each has within his circuit the same power and jurisdiction as the associate justice allotted to it. This provision was chiefly designed to lessen the circuit labors of the Chief-Justice and associate justices, but it has neither diminished the number nor accelerated the decision of cases in the Supreme Court. These are the only changes made in the system since its establishment. Our population is now more than 50,000,000. Immense additions have in the intervening period been made to our territory, our manufacturing industry has been largely developed, and a network of railroads constructed throughout the whole country; the mining interests of the Pacific States have reached enormous proportions, and a court has been established for the adjudication of claims against the United States, with the right of ultimate appeal by either party to the Supreme Court.

The claims already passed upon exceed in the aggregate eighty millions of dollars. In view of these facts, it is not surprising that an impression universally prevails that an adequate provision for the prompt and efficient exercise of the judicial power of the United States does not exist. The remedy is in our hands. The framers of the Constitution wisely provided that Congress might establish inferior courts from "time to time." After bestowing much reflection upon the subject, and believing that action should be taken without delay, I have come to the conclusion that the bill which the Judiciary Committee has approved furnishes the most expedient remedy by establishing an intermediate court in each of the existing circuits, and providing for the appointment therein of two additional circuit judges. The proposed court will consist of the associate justice of the Supreme Court allotted to that circuit, the three circuit judges thereof, and two of the district judges, the latter to be designated by the order of the court at each term thereof to serve for the succeeding term. Any four of them, including at least one competent to preside, shall constitute a quorum. Appellate jurisdiction is conferred upon it over the final judgment or decree of any circuit or district court within the circuit when the amount claimed or the value of the property in controversy exceeds five hundred dollars, or when an appeal or writ of error now lies from such judgment or decree, or where the circuit or the district judge shall certify that the adjudication involves a question of general importance. The writ must be sued out or the appeal taken within six months after the entry of the judgment or decree, and the court is invested with power to reverse or modify the judgment or decree, or to render the proper one, or to direct the requisite proceedings to be had in the lower court.

When under the provision of the act an appeal could be taken to the court of appeals from a final decree in equity, an appeal may within thirty days from the date of an interlocutory order granting or refusing an injunction be taken therefrom. The court has authority to issue all writs necessary to the exercise of its jurisdiction; and the laws now in force touching appeals or writs of error, to or from the Supreme Court, are, if not otherwise provided, applicable to the court of appeals.

It will be perceived that the amplest provisions are made for the review of the action of the subordinate courts in civil cases. Under existing laws the appellate jurisdiction of the Supreme Court cannot, except in certain classes of cases, be exercised, unless the sum or value of $5,000 is involved. This bill allows to the dissatisfied party the freest resort to an appellate court, which from the mode of its organization will be peculiarly well adapted for the exercise of the high trust committed to it. Its members will undoubtedly be able and experienced jurists, selected from the circuit, and conversant with the practice and the statutes which there prevail.

A writ of error may, if allowed by a judge of the court of appeals, be sued out within ninety days after a final judgment in a criminal case has been rendered. It cannot, however, be granted after an unsuccessful application therefor has been made to another judge. A singular anomaly will thus be removed from our judicial system. The appellate jurisdiction of our court of last resort is now confined to matters of contract and property and cannot be invoked in a criminal case, although it involves the good name, the personal liberty, and even the life of the accused. A specific question in regard to which the judges of the inferior court disagree may be certified in such a case for the opinion of the Supreme Court. If, however, they do not differ and the cause is within their jurisdiction, their action is final and conclusive. It is true that the prisoner, if a writ of *habeas corpus* in connection with a *certiorari* be awarded him, may cause the record to be sent up if the trial court has exceeded its jurisdiction and acted without authority in pronouncing judgment against him. The writ cannot, however, be made to subserve the general purposes of a writ of error and will not be granted to review the whole case. It lies solely to determine whether the court below had authority to act at all. (*Ex Parte* Virginia, 10 Otto, 339.)

The reasons which confine within such narrow limits the jurisdiction of our highest court in criminal cases and induce Congress to refrain from extending it so as to embrace them need not be discussed. It was, no doubt, believed that a grant of a broader jurisdiction would so cripple the court as to render the discharge of its other duties impracticable. Be that as it may, there can be no just cause for withholding from a convicted offender access to an appellate court. In every free country it is a fundamental maxim that punishment should not be inflicted for an alleged violation of law, unless the judgment of conviction be rendered in strict conformity with law. The bill secures under proper restrictions the right of a prisoner to a judicial review of his sentence, and I regard this provision as one of its most valuable features.

The establishment of intermediate courts in Illinois since the constitution of 1870 took effect has been attended with marked success. It has relieved the Supreme Court of a burden which was becoming too great for it to bear, and their decisions have been in general so satisfactory to the litigating parties that but a comparatively small fraction of the cases that were appealable to the Supreme Court have been removed there for re-examination. Such, I have no doubt, will be the results of a similar change in our system.

Under the provisions of this bill a writ of error or an appeal from every final judgment or decree of the court of appeals will within one year after it has been rendered lie to the Supreme Court, where the value or sum of $10,000, exclusive of costs, is in controversy, or where a Federal question is involved, or where the court certifies that the case involves a legal question of sufficient importance to require

a final decision of it by the Supreme Court. In the two last-mentioned cases the specific question shall be certified to and finally decided by the Supreme Court. The decision which is made thereon is to be enforced in the same manner as is now provided in a case where a question is certified upon which the judges of a circuit court are divided in opinion. Except in cases touching patent rights and copyrights, the appellate jurisdiction which the Supreme Court now exercises without regard to the sum in controversy will not be divested. If within the year after the judgment on the decree has been rendered the party thereto dies, provision is made to enable a writ of error to be sued out or an appeal to be taken without reviving the judgment or decree in the court where it was rendered.

Some persons are of opinion that the sum of $10,000, the limit fixed in ordinary cases wherein the jurisdiction of the Supreme Court can under this bill be called into exercise, is too small; others regard it as too great.

There must be some restrictions to the right of appeal, and the committee were unanimously of opinion that a less sum should not be prescribed. Every case originating in the district or circuit court may by this bill be reviewed in the court of appeals if $500 is allowed, whereas under existing laws $5,000 is required to give jurisdiction to the Supreme Court. In view of the greatly extended privilege of appeal and the high character of the reviewing court, it seemed to the committee that after two tribunals had passed upon a matter in controversy there should not be a re-examination in a third unless the matter in controversy was of the value of $10,000. It may well be questioned whether the amount, if changed, should not be rather increased than diminished.

The decision of the court of appeals upon a question of fact is final. I regard this as a wise and salutary provision. By the original judiciary act a decree of the circuit court could only be re-examined upon a writ of error. The reviewing power of the Supreme Court was limited to questions of law. Until the act of March 3, 1803, no appeal would lie to that court in a case in equity or of admiralty or maritime jurisdiction. It was then provided that the transcript not only of the pleadings and proceeding but of the depositions should be transmitted to the Supreme Court. Since then the re-examination of the facts as well as of the law of a case devolves on the Supreme Court when an appeal, except from the Court of Claims, is taken. Many of the reported cases on appeal involve chiefly disputed questions of fact. The act of February 16, 1875, confined the review by the Supreme Court of the judgments and decrees on the instance side of courts of admiralty and maritime jurisdiction to matters of law arising on the record. The facts found by the circuit court are conclusive.

This act has worked beneficially, and by a recent rule of the Supreme Court all depositions and matters of evidence are excluded from the record of such a case. Two subordinate courts having acted upon the facts, Congress wisely provided that nothing should be presented for review but the law arising upon them and such rulings below as were excepted to and embodied in a bill of exceptions. This provision is incorporated in this bill. Where the circuit court and the court of appeals have passed upon the facts, it is obviously unnecessary, to secure the ends of justice and the rights of the parties, that the Supreme Court should be called upon to pass upon more matters of fact. We know that they do not do so on a writ of error when a jury renders a verdict, or the court, by consent of parties, tries the issue and makes a finding. I regard this provision as of great importance and value.

Although the bill is chiefly designed to relieve the Supreme Court, there are some other provisions to which I may refer. A circuit court is established in every district where it does not now exist. When more than one judge competent to hold it is present, each may hold a separate session thereof. The existing law is thus conformed to that which has been enacted in many States where the court consists of several judges, each of whom is competent to hold it. The supreme court of the District of Columbia is thus constituted. In many of our larger cities such a provision is absolutely indispensable to enable the State courts to dispose of pending cases with the requisite dispatch. There is no doubt that the judges of some of the circuit courts are overworked, and, notwithstanding their energetic devotion to duty, cases remain too long on the docket. Justice to litigants requires that there should be additional judicial force in the inferior courts, and this is accomplished by this bill. Every circuit judge and every district judge is empowered also to hold a district court in any district within the circuit whenever he is assigned to that duty by the circuit judge senior in office, and two or more of them may hold separate sessions thereof.

To avoid unnecessary expense the bill provides that the panel of jurors selected and summoned for the district court shall also be the panel for the circuit court, unless a special order be made by one of the judges of the court at least thirty days before the term.

The only objection that I have heard seriously urged in regard to the appellate jurisdiction which the bill confers and limits is that the court of appeals in the different circuits may rule differently upon the same question in cases where less than $10,000 is involved, and that the question cannot be determined by the Supreme Court. It is supposed that confusion and uncertainty would result from such conflicting decisions, and that irreparable mischief may ensue. The same objection, however, is equally applicable to the appellate jurisdiction exercised by the Supreme Court under existing laws where the subject-matter in controversy is of less value than $5,000. The apprehended evil is rather imaginary than real, for in all human probability the same question will arise in some form in other cases of which the Supreme Court has cognizance.

In Illinois, to whose experience in reference to her intermediate courts I have already referred, no such difficulty has occurred. It will also be recollected that this bill specially provides that the Supreme Court shall have jurisdiction of a case when it is certified by the court of appeals that the questions therein involved are of a sufficient importance to require a decision of them by the court of last resort.

The only expense which this bill will entail is the very inconsiderable sum required for the salary of the additional circuit judges. Were it much greater it would be no substantial objection to a measure which will secure such important benefits to the country.

The PRESIDING OFFICER. The Chief Clerk will state the first amendment reported by the Committee on the Judiciary.

Mr. MORGAN. I have no doubt the Senate would like to have an opportunity to read and study the able presentation of this bill made by the Senator from Illinois. I, for one, confess that I am not prepared now to proceed properly and intelligently with the discussion of the bill or to act upon the amendments suggested by the committee. I very much prefer that the bill may go over. In consequence of interruptions, which no Senator can avoid in this Chamber, I have not been able to hear the argument of the Senator from Illinois, and I do not feel qualified in every sense to pass a judgment on the bill in all its various features until I have had an opportunity to look over the argument which the Senator has submitted.

I therefore ask the Senate informally to pass by this bill and proceed to the consideration of the Japanese indemnity fund bill. I do not think there will be any objection to that order of business.

The PRESIDING OFFICER. Is there objection to the suggestion of the Senator from Alabama that the pending bill be informally laid aside?

Mr. INGALLS. There is objection, Mr. President.

The PRESIDING OFFICER. It is objected to.

Mr. GARLAND rose.

Mr. BUTLER. I hope the Senator from Arkansas will consent that the Japanese indemity bill be taken up.

Mr. GARLAND. I have not said a word.

Mr. BUTLER. I am aware the Senator has not said a word——

Mr. GARLAND. I should like to say something.

Mr. BUTLER. But I desired simply to anticipate what the Senator was about to say, and to second the request of the Senator from Alabama, for this is a very important bill.

Mr. GARLAND. The Senator from Kansas [Mr. INGALLS] has objected.

Mr. BUTLER. I understand that; but it seems to me, as the Senator from Arkansas has control of the bill——

Mr. GARLAND. If the Senator will permit me, I wish to say that the suggestion of the Senator from Alabama I consider as being entirely reasonable and fair. Although under the vote of the committee I am in charge of the pending bill, yet it is the bill originally in the main introduced by the Senator from Illinois who has just addressed the Senate. His speech explanatory of the bill has been made, and I think it would be well for Senators to have an opportunity to look it over and examine it carefully in connection with the bill. I am perfectly willing for the bill to go over if it does not lose its place to-morrow, and I hope that the Senate to-morrow, when it takes it up again, will stay with it until it is finished and either passed or rejected.

Mr. HOAR. Does the Senator expect any opposition to the bill?

Mr. GARLAND. I cannot say that I do.

Mr. HOAR. Suppose we take a vote on it now. I think we shall find no difficulty in passing it now.

Mr. GARLAND. I have no objection; but the Senator from Massachusetts will bear in mind that the Senator from Alabama [Mr. MORGAN] stated a little while ago that he was not ready to vote on the bill. I am ready to vote on it.

Mr. MORGAN. I am not willing to vote to-day on the bill.

Mr. INGALLS. The Senator from Arkansas having charge of the bill, it is proper I should make a single remark. In objecting to the request of the Senator from Alabama I did not assume in any way to interfere with the Senator from Arkansas as to the disposition he should make of this bill, but merely wished to show that I am unwilling that the bill shall be informally laid aside with the understanding that the Japanese indemnity bill shall come up. I will state my reason for that. The Senator from Florida, [Mr. JONES,] who is very much interested in the Japanese indemnity bill and desires to present to the Senate some reasons why it should not pass, is temporarily absent, but will return in a day or two. He said to me before he departed that he specially desired to be heard upon the bill. I therefore ventured to object, not to the temporary postponement of the court of appeals bill, but to its postponement with the understanding that the Japanese indemnity bill should be now considered. I suggest that we might proceed to the consideration of cases on the Calendar if there is a desire to postpone the court of appeals bill for to-day.

Mr. MORGAN. I shall feel bound to object to that. If I receive

no courtesy from the Senate, of course I cannot be expected to extend any.

Mr. INGALLS. The Senator from Alabama is of course not bound to extend courtesy, but in the absence of any business pending before the Senate the Calendar is in order. Therefore it does not require the assent of the Senator from Alabama to consider the Calendar, unless he should object to informally laying aside the court of appeals bill.

The PRESIDING OFFICER. The Senate cannot pass from the consideration of the unfinished business unless by unanimous consent or by postponing the unfinished business. There being no motion to postpone, the Chair will direct the Chief Clerk to report the first amendment of the Committee on the Judiciary.

Mr. BUTLER. I move, then, that the bill be temporarily laid aside. I do not know what I may do when the vote is taken upon the bill; it is quite likely that I shall vote for it; but it is a bill of too much importance, in my judgment, to be passed without the Senate having had an opportunity to examine the argument of the Senator from Illinois made to-day. It is very well understood that we have not been able to hear it, and I want to read his speech in the RECORD to-morrow morning. It is not at all unlikely that after having done so I may make up my mind to vote for the bill. Possibly I may desire to submit some amendments to it. It is a bill of too much consequence, in my judgment, to be rushed through the Senate in this way. Therefore, I move that the bill be temporarily laid aside.

Mr. INGALLS. That cannot be done.

The PRESIDING OFFICER. That motion would not be in order. The Senator may move to postpone the consideration of the bill until to-morrow.

Mr. BUTLER. Then I make that motion.

Mr. INGALLS. In that event the bill loses its place if there be any unfinished business to-day.

Mr. CALL. I hope the Senator from Kansas will withdraw his objection to taking up the Japanese indemnity bill. The Senator from Alabama simply proposes to make a speech I understand.

Mr. MORGAN. The Senator is mistaken about that.

Mr. INGALLS. If that is the purpose of the Senator from Alabama, I shall certainly withdraw the objection.

Mr. MORGAN. No, I expect to have the bill considered. That is all I desire. I do not care about making a speech because I do not expect to speak five minutes upon it.

The PRESIDING OFFICER. Does the Senator from South Carolina move to postpone the pending bill until to-morrow?

Mr. BUTLER. I do; but not with a view to the bill losing its place on the Calendar. I have no such purpose.

The PRESIDING OFFICER. The bill will necessarily lose its place on the Calendar if there should be unfinished business going over from to-day.

Mr. BUTLER. There is no unfinished business.

The PRESIDING OFFICER. If there should be at the adjournment.

Mr. INGALLS. I suggest, as a method of avoiding the dilemma, that the Senator from Nebraska [Mr. SAUNDERS] has a joint resolution upon the Calendar on which he has desired for several days to submit some observations. Why not allow the pending bill to go over informally and take up the joint resolution of the Senator from Nebraska for the purpose of enabling him to submit his remarks? Is there objection to that, Mr. President?

Mr. BUTLER. I have no objection to that.

Mr. COCKRELL and others. There is no objection to it.

The PRESIDING OFFICER. Is there objection to the suggestion of the Senator from Kansas?

Mr. PLUMB. I object.

The PRESIDING OFFICER. There is objection. The question is on the motion of the Senator from South Carolina [Mr. BUTLER] to postpone the consideration of the pending bill until to-morrow.

Mr. BUTLER. I withdraw my motion, and move instead that the Senate proceed to the consideration of executive business.

Mr. PLUMB. I withdraw my objection if the Senator from Nebraska desires to avail himself of what is ordinarily conceded to be a privilege of a Senator to make remarks, of which he had given notice; but I did desire to object to any expedient of the kind suggested by my colleague to relieve the Senate from the dilemma spoken of, because I had a much better proposition, as I thought, to suggest.

Mr. BUTLER. If the objection is withdrawn, I have no objection to the Senator from Nebraska proceeding.

Mr. INGALLS. I give notice, in pursuance of what I formerly said, that upon the conclusion of the pending bill I shall move the Senate to proceed to the consideration of the bill (S. No. 1382) to establish a uniform system of bankruptcy throughout the United States.

The PRESIDING OFFICER. Is there objection to the suggestion of the Senator from Kansas that the bill be informally laid aside for the purpose indicated?

Mr. HOAR. I do not propose to object to the request of the Senator from Nebraska to be heard by the Senate at such time as is convenient to him, but I do propose to object to all other propositions to displace formally or informally the pending business. The Senate will remember that the winter is over and we have now entered on the third month of the spring, the fifth month of the session, and in addition to the most important appropriation bills, which have not yet come to us from the other House, there is a large number of very important public measures which have been matured by the committees of the Senate and are now awaiting action.

It does not seem to be fair to the other interests which those measures affect that a bill having the right of way should take its precedence and then stand as an obstruction to business, not merely for the sake of giving that bill sufficient consideration, but to let in all manner of side matters which are not important enough to obtain the consent of the Senate to give them a place in the business in advance of other measures.

Mr. SAUNDERS. I wish to say that I gave notice about a week ago that on Thursday last I should ask the Senate to allow me to submit some remarks on Senate joint resolution No. 46.

Mr. HOAR. I have no objection to that.

Mr. SAUNDERS. If the objection is withdrawn, I wish to occupy only a few minutes of the time of the Senate.

The PRESIDING OFFICER. Is there objection to the suggestion that the bill be informally laid aside for the purpose of taking up the joint resolution on which the Senator from Nebraska wishes to be heard?

Mr. DAVIS, of Illinois, and others. There is no objection.

The PRESIDING OFFICER. The Chair hears no objection. Before proceeding to the consideration of the joint resolution the Chair will lay before the Senate bills from the House of Representatives for reference.

HOUSE BILLS REFERRED.

The bill (H. R. No. 176) to refund certain duties paid upon military uniforms imported by and for use of Company G, Sixth Regiment Infantry, Illinois National Guards, and the bill (H. R. No. 4704) for the relief of P. F. Lonergan were severally read twice by their titles and referred to the Committee on Finance.

ELECTION OF EXECUTIVE OFFICERS.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 46) proposing an amendment to the Constitution of the United States.

Mr. SAUNDERS. I ask that the joint resolution be read.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein,) That the following amendment to the Constitution of the United States be, and is hereby, proposed to the Legislatures of the several States:

ARTICLE —.

SECTION 1. Congress shall by law provide for the election by the people of postmasters, United States marshals, district attorneys of United States courts, collectors of internal revenue, and other officers whose duties are to be performed within the limits of any State or part of a State, except judges of the Supreme and inferior courts; and all civil officers of the United States except judges of the Supreme and inferior courts, the heads of Departments, and officers whose duties are temporary in their character, shall hold office for a term of four years, unless a longer term shall be fixed by law; but the President shall have the power of removal of any such officer, whether appointed or elected, for any cause affecting the incumbent's character, habits, or other qualifications, excepting political or religious opinions.

SEC. 2. All officers of the United States whose election is provided for in section 1 of this amendment to the Constitution of the United States shall be elected in such manner as the Legislatures of the States shall provide by law.

Mr. SAUNDERS. Mr. President, the subject of civil-service reform has more importance attached to it than, I think, is generally ascribed to it. When the Constitution of the United States was formed and adopted there were only some three millions of people to be governed and cared for, as against fifty millions now. In my opinion, if it could have been foreseen by the framers of the Constitution that the small number of office-holders who received their appointments, either directly or indirectly, from the Administration would so soon have swelled to the number of one hundred thousand, some different plan would have been adopted, and that the President and Cabinet would not have had the work imposed upon them of selecting and appointing so many of them. At the rate at which we as a nation are growing, the work allotted to the President and his Cabinet, even with the aid of Senators and Members of the House, will be so great that they will scarcely be able to attend to settling all the difficulties and dispensing all the patronage, and no time whatever will be left them in which to discharge the real duties of their various offices.

Something, then, should be done to remedy this evil, for it has already become nothing less than an evil, but what that something shall be is the question that requires our careful and candid consideration.

The plan proposed by some Senators of using a board of examiners, which shall be chosen either by the President alone or by the President with the advice and consent of the Senate, may answer the purpose of selecting such officers as are required to do the clerical duties of what is called Department work or who are to act as scientific experts, but beyond that it would, in my opinion, prove nothing short of a farce. And even as to clerks in the Departments it seems to me it would be better to allow the heads of the different Cabinet divisions to select the employés and put them on trial for a given time, say thirty or ninety days, or longer, if thought best, with the understanding that they would be dropped out at the end

of the time if found incompetent to discharge the duties required of them. Competitive examinations do not always secure the best talent for the work proposed, nor does it give a fair chance to all classes who may wish to compete; for, under examinations as now conducted, or at any rate such as have come under my notice, a great advantage is given to those who are highly educated, or those who may be fresh from the schools and colleges, and this, too, when a thorough scholastic education is not necessary. The farmers and the mechanics who devote their time to manual labor more than to the study of mathematics or other higher branches of education stand a poor chance to compete with the student who has had the advantages of a liberal education. And yet the work to be performed may be such as not to require a knowledge of all the branches of education usually taught in our seminaries and colleges. I have a case in point now in my mind. A person was wanted to examine pension papers or applications for pensions, where common sense and good judgment were the main requisites. Of course a reasonably well educated mind was also necessary to aid in carrying out the work. But what sort of tests were applied to the applicant? One I remember very well. It was that he should answer a question something of this kind: How many feet and inches must be taken from one end of a plank, so many feet and inches long, and so many inches wider at one end than at the other, so as to leave exactly so many square feet in the other end? The applicant was what would be called a good ripe scholar, but not having had occasion for years to refer to his knowledge of numerical scales or duodecimals, he, very naturally I would say, failed to answer the question within the given time, and that and a failure as to a few similar questions actually lost him a chance for employment at which I have every confidence he would have proved himself equal to the best in the country. The questions had nothing more to do with the work which he would be required to perform than would a series of questions upon the number and magnitude of the stars that illuminate the heavens. I do not say that all such nonsense would be indulged in by other boards, but this we do know, all of us, that such examinations seldom give satisfaction to the applicants, while probation for a given time such as I have suggested would do greater justice than the other.

But, Mr. President, the joint resolution which I have submitted applies more directly to the officers who are not required to do the Department work, but whose duties lie in the several States and Territories. Of the eighty-odd thousand office-holders now in the United States more than one-half are postmasters, and these are scattered all over the country, so as to make it almost impossible that they could be reached by a board of commissioners who might, under the bills now pending before this Congress, be required to see that competitive examinations were held. Why cannot the people make their own selections of these officers, and also those connected with the collection of internal revenue? Why should these forty or fifty thousand office-holders—who are daily transacting the business of their offices in their respective towns, cities, and districts—have to be selected by one, two, or even half a dozen men at the national capital? That this course has been pursued since the formation of our Government is no good reason why it should be continued any longer, and the sooner we turn all such business over to the people, from whom all our political power emanates, the better for all concerned. The Constitution was the work of remarkable intelligence and foresight, but it was made when we had some three millions of people as against fifty millions now. Then we had less than one thousand postmasters, while now we have more than forty and six thousand.

Since the year 1800 fifteen amendments have been made to the Constitution, and I believe that not a single line of one of them would be blotted out of that glorious instrument if it were a question to be decided by the people to-day. And now, why may we not add another amendment, and one too which will throw back into the hands of the people a work they are so well qualified to perform? I do not believe in changing the Constitution for light or insufficient cause; but as our country grows and expands, both geographically and in population, further amendments may prove necessary, and when the time comes for such a change—and I believe such an occasion has now come—then I say let us go on with the good work and perfect what was necessarily delivered to us incomplete.

But, Mr. President, on one thing I am settled and fixed, and that is, that among the other reforms loudly called for is the fixing of the time during which officers shall hold their commissions without molestation for anything short of a failure to properly discharge their duties. Whoever is qualified to fill an office and in good faith accepts it and assumes its responsibilities and duties, and who gives up other employments to do so, should have a time fixed by law, a reasonable time, during which he should not be subject to removal for any honest opinions he may entertain, or because he may give his personal support to this or that man for office. I do not hold that any President, or other appointing officer, either in making appointments to newly created offices, or in filling vacancies as they may occur, should be bound to appoint his political enemies, but he should be left free to select from his own political friends. I am aware that in proposing political reforms it is urged by some that no distinction of party should be made in selecting officers, but I do not go thus far. I would not by law require a President to appoint to office under him men whose influence and patronage would be wielded against or in opposition to views and opinions of his which he might regard as essential to the prosperity of the country.

In the earlier days of our Republic, and when we had but comparatively few officers to appoint, it did not so seriously affect the interests and business of the country to change the officers at will as it would now do, when the offices to fill border upon a hundred thousand in number. The work is too much for one man, even if his disposition should lead him to desire to undertake it. Indeed the power in time may become dangerous in the hands of one man. But as this change would require the amendment of the Constitution, which necessarily requires a good deal of time, before any binding law can be passed on the subject, I believe the time has come when affirmative action should be had upon the subject.

As appropriate to this part of the subject I make the following extract from a speech delivered in the Senate some time ago by the Senator from Massachusetts, [Mr. DAWES.] The Senator, while speaking of the great amount of labor which now devolves upon the President in looking after and filling the offices of the Government, says:

> If this vast increase of work, this multiplication of duties intrinsically difficult enough in the beginning were all the difficulties that beset the path of a President, it were still well worth the consideration of all earnest statesmen whether the original plan of vesting the appointing power well-nigh absolutely in the hands of one man did not imperatively demand revision. To all this, however, is added an element of embarrassment and complicated labor not contemplated by those who framed the Government. Political considerations have come to play the most important part in the distribution of this vast patronage. I do not stop to consider the origin of this evil, or to charge it upon one political party more than another. I would deal with the fact confessed by all observers and commended by not a few, that "to the victors belong the spoils;" that with each new administration comes the business of distributing patronage among its friends; it has come to be that the work of readjustment, of paying political debts, and discharging political obligations, of rewarding personal friends and punishing personal foes, is the first to confront each President on assuming the duties of his office, and is ever present with him during his continuance therein, giving him no rest and but little time for the transaction of any other business, or for the study of any higher or grander problems of statesmanship. He is compelled to give daily audience to those who personally seek place or to the army of those who back them. He is to do what some predecessor of his has failed to do, or to undo what others before him have done; to put this man up and that man down as the system of political rewards and punishments shall seem to him to demand. Instead of the study of great questions of statesmanship, of broad and comprehensive administrative policy, either as it may concern this particular country at home, or the relations of this great nation to the other nations of the earth, he must devote himself to the petty business of weighing in the balances the political considerations that shall determine the claim of this friend or that to the possession of some office of profit or honor under him.
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> The very office of Chief Magistrate has undergone in practice such a radical change that the President of the Republic created by the Constitution in the beginning and the Chief Magistrate of to-day are two entirely different public functionaries. There has grown up such a perversion of the duties of that high office, such a prostitution of it to ends unworthy the great idea of its creation, imposing burdens so grievous to be borne, and so degrading of all the faculties and functions becoming the ruler of a great people that a change has already come in the character of the Government itself which, if not corrected, will be permanent and disastrous. Thus hampered and beset the Chief Magistrate of this nation wears out his term and his life in the petty services of party, and in the bestowal of the favors its ascendancy commands. He gives daily audience to beggars for place and sits in judgment upon the party claims of contestants.
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> The Executive Mansion is besieged, if not sacked, and its corridors and chambers are crowded each day with the ever-changing but never-ending throng. No Chief Magistrate since the evil has grown to its present proportions but has cried out for deliverance. Physical endurance even is taxed beyond its power. More than one President is believed to have lost his life from this cause. The spectacle exhibited of the Chief Magistrate of this great nation, feeding like a keeper his flock, the hungry, clamorous, crowding, jostling multitude which daily gathers around the dispenser of patronage, is humiliating to the patriotic citizen interested alone in national progress and grandeur.
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> I arraign no President, and I would say nothing to belittle the great office which represents the character, the power, and the influence of this people among the nations of the earth. I speak only of patent facts, facts which I deplore. In these latter days each President steps into a current, the force of which is constantly increasing. He can neither stem nor control it, much less his own course, as he is buffeted and driven hither and thither by its uncertain and unmanageable forces.
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> The necessity of good administration imperatively demands a change. Personal attention to considerations which should control Executive action in the disposition of patronage and in the selection of officials is coming to be an impossibility, and political control, as the guide to such action, is coming to be fraught with demoralization and peril to the Republic. The Executive must be lifted out of this current or be carried away by it.

Again he says:

> The "labor of hearing petitions, examining conflicting pretensions, and distributing offices" as the labor "which never ceases, the exaction of strength and patience which never relaxes its hold, is never satisfied, never tires, never sleeps; which fritters away his powers, and loses in the petty and belittling details of official patronage the grand opportunity for the accomplishment of lasting good by the application to administration of broad and comprehensive statesmanship."

I note also a well written article on this subject in a late number of the Continent, which is from the pen of the editor-in-chief, Judge A. W. Tourgee. He takes no one side on the question, but gives the arguments used for and against such an amendment as is contained in the resolution now under consideration, and in doing so he strengthens, in my opinion, the position taken by the friends of the change. I make the following extract from the article alluded to, which is entitled "Where Two Ways Meet:"

> One of the Senators from Nebraska has introduced a proposition for an amendment of the Federal Constitution so as to allow the subordinate administrative officers of the Government, such as postmasters, district attorneys, marshals, collectors, &c., to be elected by the people of the districts in which they exercise the functions of their respective offices. The Legislature of Minnesota, not long since, instructed its Senators and Representatives to support such a measure, and there is no doubt that a vast majority of the people of all parties would approve

such a measure, were it submitted to them. Indeed, there are many thousands of voters who entertain the idea that this is the real significance of what is known as "civil-service reform." A curious illustration of this occurred not long since. Returning from the obsequies of the late President at Cleveland, on a crowded train on the Lake Shore Railroad, a discussion sprang up on the reform of the civil service as a preventive of like evils in the future. After various remarks a prominent citizen of one of the most flourishing towns of the Reserve remarked, emphatically, "Well, gentlemen, I am in favor of civil-service reform. I would like to know why the people of my town are not just as capable of electing a postmaster as a constable." There were many expressions of approval among the passengers, some smiles, and no dissent.

This idea is the very antipode of the underlying principle of the "civil-service reform" movement, and has been sharply assailed by its advocates as a "demagogic" measure, "designed to create a diversion in favor of the spoils system," and so forth. It should be remembered, however, that hard words are not arguments. "Civil-service reform" must win its way into our system of government not by denouncing those who doubt or even those who oppose, but by intrenching itself in the hearts of the masses. It will not do to insist that all the honesty and all the patriotism are upon the side of those who advocate the peculiar system of organizing, appointing, and controlling the civil administration known as "civil-service reform." The real question is not whether the civil service should be made the best that it is possible to have in a republic, but how that end shall be best attained. The whole country is in favor of the betterment of the service, but the tendency toward such betterment has several branches.

This proposed amendment is one of them. As contrasted with the other it is the democratic idea set over against the monarchical system of administration. The former represents the centrifugal, the latter the centripetal tendency of power. The former is the natural outgrowth of the idea that those chosen to represent the people are their agents; the latter is the corollary of the idea that the voter simply makes a choice of rulers. The former is of the type of democracy that springs from the New England town-meeting; the latter is closely allied to that which prevailed at the South before the war of the rebellion, when only a governor and legislature were elected and they appointed all the administrative officers of the State.

The proposed amendment presupposes that the people are capable not only of choosing men who shall direct the administration of affairs, but also those who shall themselves administer them. It seeks safety in multiplying the responsibilities of the people, increasing the number of elective officers, and bringing the administration and control of affairs closer and closer to the voters' hands.

If the President and his Cabinet and Congress could be relieved from this great burden, great curse I might well say, they would all be enabled to give a more satisfactory account of their stewardships. While so much valuable time is taken by the work of dispensing offices it lessens the chances of success in relation to other duties, especially of Congressmen. Mr. President, the hour is coming, and now is, when something should be done to give relief in this matter. Recent events have greatly contributed to arouse the people to the importance of a change. Action should be taken, and that soon, which will in some way bring relief, and I can think of no better way than to remand this work of filling most of the offices back to the people, who can, as I believe, do the work as intelligently, as honestly, as efficiently, and in every respect more satisfactorily than President, Cabinet, or Congress. Some one has said that "that country which is governed least is governed best," and I believe it. An intelligent and educated people are generally as well qualified to select their own officers as is any officer, however high in power and place he may be.

But some one says, "the people would not select as good men as the President and Cabinet would." Why not? Do not the people in many of the States select not only their governors, treasurers, auditors, &c., but also their judges of the courts into whose hands are committed not only the settlement of questions of property but even of life itself? Why should not the people within the delivery of a post-office elect the postmasters; or within a revenue district select the collector; or in a pension district the pension agent; or in a State its marshal or district attorney? Does the Government in its appointments select better men than the people can? If so, why? These elected officers should be made subject to suspension or removal for cause the same as other officers. The President should in my opinion continue to exercise the right to appoint foreign ministers and consuls, the judicial officers and the territorial and departmental officers at the capital. This would be work enough and power enough for one man.

If the course thus indicated were followed the questions before the people would represent less patronage and more principle. Can any man give me a good reason why the people of a State can select its governor but cannot select its land officers? why they cannot select a marshal as well as a sheriff? On a recent public occasion an intelligent gentleman who was at one time a member of the House of Representatives, when alluding to this subject, said:

> This will stop largely the unseemly and corrupting efforts of designing men at the Presidential elections. The questions before the public will be less those of patronage and more of measures and of principles. The temptations to fraud at the ballot-box will be largely removed. The civil service will be purified. The tests of merit, character, respectability, and qualification will be applied by the people, and the places of responsibility will not be filled as mere pay to enterprising and intriguing tricksters for dirty work done to secure the election of the dispenser of patronage.

Whether we look at the public service as well managed, at the elections as purely conducted, or at political results freed from mercenary entanglements, we must conclude that the choice of the people is the best civil-service reform, better than school-book examinations, better than life terms of office, better than corrupt bargaining for places, better than the slimy hand of patronage. What is the curse of public life to-day but patronage? What brought the appalling catastrophe into the White House but patronage? And yet whose fault is it? No one to blame? It is the fault of the Constitution! It is the fault of our stupidity or our negligence in not amending the Constitution and thus rebuilding a better system!

An intelligent editor of a leading newspaper of the West when descanting on the merits of this resolution makes these remarks, and which, by the way, are entirely applicable to the subject:

> When the Constitution was framed the patronage of the Government was insignificant as compared with the present, and therefore the reasons for a different system from the present were not so apparent as now. In making the experiment of self-government there was, likewise, among many a disinclination to trust the people to the fullest extent. Now we know of no valid reasons why all officers, whether county, State, or national, whose duties are local in their scope, should not be elected by the people whom they serve.

Nor do I, Mr. President. The system of civil-service reform which has been proposed and is based upon the idea of competitive examinations and a continuation of the same person in office is anti-republican in principle and would be in practice if carried out. As has well been said, "You cannot test his industry, his faithfulness, or his integrity by asking puzzling questions." All you can do by the mode proposed by those who favor the competitive system is to find out the extent of their knowledge of grammar, rhetoric, mathematics, or kindred subjects. You learn nothing of their manhood, their honesty, or their moral training or habits.

There is another objection to the system proposed by those who hold that officers should be selected by rules laid down in competitive examinations. The law now provides that a preference in the selection for office shall be given to those who were honorably discharged from the military or naval service, and this class under the proposed rules and regulations would be left out unless they could favorably compete with others in the examinations. They might be fully competent to discharge the duties of the office sought, or might closely contend with others in the examinations, but if those who were fresh from the schools should show a little greater familiarity with the science of numbers the prize is lost and the soldier remains out in the cold.

I have no disposition to weaken the power of my Government and would not take from its head one iota of power or patronage that would in any way be necessary to give force and effect to every law or order which is necessary to support the Government and protect the rights of the people. But there is more now in the hands of a President than one man can reasonably and properly attend to, and he should in some way be relieved, and this amendment which I have proposed to the Constitution will at least take down one of the bars that block his way and will place the power for reform where it ought to be—in the hands of those who are the foundation of all political power, the people.

Not only in the political world do we see the concentration of power in one man, but in the financial as well. Only a few years ago and corporations were known to exist only in the larger cities and manufacturing towns. Now you find the bread you eat, or the butter that is designed to make it more palatable, manufactured by machinery and worked by a company, and that controlled, perhaps, by one man. Look at our great railroad corporations. The president or head of one of these institutions is as much of an autocrat, only on a limited scope, as the Emperor of all the Russias. He can say to this man, "Go, and he goeth," and to another, "Come, and he cometh." This like the other is all right if managed right, but either would be a terror in the hands of a bad or designing man.

As I have said before, in the earlier days of our Republic the present system may have worked well, but the machinery was not, in my opinion, adapted to the large numbers of offices that now have to be looked after.

Why, Mr. President, we barely escaped a civil war over the Presidential election in 1876, and who doubts but President Garfield would be with us to-day but for the patronage he held in his hands. A naturally cold-blooded unprincipled wretch, who, being disappointed in office-seeking, lays wait, and deliberately strikes down his victim, because, forsooth, he had been disappointed in his aspirations and anxieties for office. He had been watching and waiting for recognition until he became maddened at his failure, and, with the hope that the wheel might yet be made to turn in his favor, he coolly and deliberately planned the destruction of the President. True such a disaster may never befall the nation again, (and may God forbid that it ever should,) but who can tell, for men not unfrequently become desperate under disappointments, and when one thinks of the thousands who are constantly hanging about the capital asking for similar favors to that sought by this assassin, who can say that any officer is safe who is required to answer to the tens of thousands of applicants who are hanging on to his skirts and crying give, give? Nay, rather let us remove these temptations, and let these hosts of applicants make their appeal to their own countrymen and their own neighbors, and the inducements to strike down the head of the nation will be removed. Had there been an opportunity for such individuals to learn their true standing by applying to the people for office, and had this one failed, as surely he would, he would never have thought of taking revenge on the people. The fact is the life of a President has become, in place of a high, honorable, and dignified office, with honors resting easy upon him, while, as provided by the Constitution, he is seeing that laws are faithfully executed, nothing more than a channel through which favors and charities in the way of offices are dispensed.

The plan of electing Government officers in the States and Territories must, I think, commend itself to every candid and thinking man, because it is just. To deny this is to dispute the virtue, intelli-

gence, and honor of the people. There is policy, wisdom, and justice in the proposed change. Then let us lose no time in bringing it about. While there may be occasionally a mistake made in the selection under present management of employés of the Government—I speak now more particularly of the employés in the various Departments in Washington and in a few of the larger cities—yet this is nothing when compared to the mistakes made in selecting officers who live at a great distance from the capital, where they cannot be seen or conversed with. I apprehend, Mr. President, if those outside officers were selected and disposed of by the people, that the other portion could be arranged without any trouble. In other words, it is not the clerkships in Washington City that give the great trouble to the Executive. Then let us provide for the election of the list of officers named in this proposed amendment to the Constitution, and no great trouble nor inconvenience will be experienced in taking care of the other employés of the Government.

Mr. President, I now move to refer the joint resolution to the Committee on the Judiciary, and hope that it may receive their careful consideration.

The motion was agreed to.

COURT OF APPEALS.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. DAVIS, of Illinois. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. Before putting the question the Chair will lay before the Senate the unfinished business.

The ACTING SECRETARY. "A bill (S. No. 420) to establish a court of appeals."

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After sixteen minutes spent in executive session the doors were reopened, and (at four o'clock and sixteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 1, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of Saturday last was read and approved.

MAIL CONTRACTORS IN OVERFLOWED DISTRICTS.

Mr. BLANCHARD. I ask unanimous consent to introduce at this time for consideration a joint resolution for the relief of mail contractors in the overflowed districts.

The SPEAKER. The joint resolution will be read.

The joint resolution was read, as follows:

Resolved, &c., That the Postmaster-General may, in his discretion and upon a proper showing made, relieve mail contractors and sub-contractors in the sections recently or at present overflowed by the Mississippi River and its tributaries from forfeitures or deductions from pay incurred by reason of failure to perform service according to contract, where such failure was occasioned by overflow or extreme high water, and the contractors or carriers themselves were not at fault.

Mr. HOLMAN. I would like some explanation of this resolution.

Mr. BLANCHARD. I ask the indulgence of the House one moment for an explanation.

Mr. HOLMAN. Reserving the right to object.

Mr. BLANCHARD. Mr. Speaker, in the overflowed districts it has been impossible for the mail contractors and sub-contractors to perform the service that they had contracted to render. This inability has been occasioned by the roads over which they ordinarily travel being overflowed. The contractors have been at all times ready to perform the service they had engaged to perform. A large number of applications have come from the overflowed districts asking the Postmaster-General to relieve contractors and sub-contractors from the consequences of not being able to comply with their contracts. They state it is not their fault that this service has not been performed; that while they were at all times ready to perform it, it was a physical impossibility for them to do so. They therefore have asked the Postmaster-General to relieve them from the consequence of nonperformance of this service. This consequence would be a deduction from their pay. The Postmaster-General, I have been informed, was willing to grant this request in proper cases, but upon referring the matter to the Attorney-General was informed that the Postmaster-General had no discretion in regard to this matter, and that the deductions or forfeitures must be made. This joint resolution is to the effect that the Postmaster-General may in his discretion and upon proper showing relieve these contractors or sub-contractors from the consequences of their failure to perform the service under the circumstances.

Mr. HOLMAN. I think that relief ought to be granted in a case of this kind; but there certainly must be some provision of law under which such relief can be given, inasmuch as embarrassments of this kind in the delivery of the mails must frequently occur.

Mr. BLANCHARD. I will state to the gentleman that the existing statute is in about this language: That the Postmaster-General "may," in case of failure of contractors or sub-contractors to perform service, make deductions or forfeitures of their pay. The Postmaster-General construing the law, thought, as I am informed, that he had discretion to grant relief in these cases; but upon referring the matter to the Attorney-General that officer, as I am informed, construed the word "may" as having the effect of "must" or "shall;" and he advised the Postmaster-General that under the law as it stands he has no discretion in the matter. Hence the necessity for this resolution proposing to give the Postmaster-General the necessary discretion.

Mr. HOLMAN. Then, as I understand the gentleman, it is now imperative on the Postmaster-General to make the deduction and to enforce the penalty.

Mr. HASKELL. No, sir; the contractors must either carry the mails according to their contracts or lose their pay.

Mr. ROBERTSON. Mr. Speaker, I think I can explain this matter. Between the mouth of the Ohio River and the city of New Orleans the great trunk mail-route is the Mississippi River. The mails are landed at post-offices on either bank of the river and from there distributed into the country, twenty, thirty, forty, fifty, or seventy-five miles by land routes, on which the service can be performed on horse-back or by stage at comparatively small expense. But these routes being now overflowed, the contractors are compelled to carry the mails by steamboats, skiffs, or other modes of water conveyance, at a much greater expense than the ordinary modes of transportation. I have received letters and petitions from these contractors in my section of the country stating that it is utterly impossible for them in many cases to obtain water transportation for the mail service which in ordinary times is performed by stage or on horse-back. This is the difficulty.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. HOLMAN. I wish to inquire what is the present state of the law?

Mr. ROBERTSON. Under the present law these contractors cannot be relieved under circumstances like the present. The law, I understand, does not provide for such a case as this.

Mr. HOLMAN. Why, difficulties of this kind must be occurring all the time.

Mr. ELLIS. The present law authorizes the Department to impose a fine upon the contractors for non-performance of their contracts.

Mr. ROBERTSON. A fine of $250 for each failure.

Mr. HOLMAN. And to remit the fine.

Mr. ELLIS. Yes, if good cause be assigned.

Mr. HASKELL. But the pay of the contractor is on the number of trips, and no matter what obstacles may be in the way, if he does not perform the trips he does not get his pay; and in addition to the forfeiture of pay he is liable under the present law to a fine——

Mr. HOLMAN. Which may be remitted.

Mr. HASKELL. Which may be partially or wholly remitted, but the contractors cannot get their pay unless they perform their trips according to the contract.

Mr. HOLMAN. Now, does my friend believe it right to pay these contractors for work they do not perform? I think there ought to be some time taken for the consideration of this resolution.

Mr. BLANCHARD. I hope the gentleman will not object. I ask that the joint resolution be again read.

Mr. HOLMAN. On a subject of this kind we should not legislate too hastily. It seems to me these men should not be paid for work they do not perform.

Mr. BLANCHARD. For work they are unable to perform. They have their stock on hand and are at the expense of keeping that stock, though it is a physical impossibility to render the service. I ask the gentleman from Indiana not to object.

Mr. HOLMAN. Let the joint resolution be read again.

The Clerk again read the joint resolution.

Mr. HOLMAN. If the power now exists to remit penalties imposed under the law the question is whether it is proper for us, by the passage of this joint resolution, to pay contractors during the time they were unable to perform their contracts. I think we should take more time to consider the subject.

The SPEAKER. The gentleman from Indiana objects.

Mr. ROBINSON, of Massachusetts. Let it go to some committee with leave to report back at any time.

Mr. HOLMAN. Inasmuch as this seems to be a measure which should be considered, let it go to the Committee on the Post-Office and Post-Roads with leave to report at any time.

Mr. BLANCHARD. I assent to that.

There was no objection, and the joint resolution (H. R. No. 201) for the relief of certain mail contractors in the overflowed districts was received, read a first and second time, referred to the Committee on the Post-Office and Post-Roads, with leave to report at any time, and ordered to be printed.

J. J. MURPHY.

Mr. MOORE. Mr. Speaker, I move by unanimous consent that the bill (S. No. 1388) for the relief of J. J. Murphy be taken from the Speaker's table and put on its passage at this time.

Mr. RANDALL. Let the bill be read subject to objection.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury is hereby authorized and directed to ascertain the amount remaining in the Treasury of the moneys received from the sale for direct taxes of the real estate of J. J. Murphy, of Memphis, Tennessee, in 1864, and, after deducting from said sum the amount of said tax and all penalties and all costs and expenses incurred by the United States in collecting the same, to pay over the balance, not exceeding the sum of $1,858.80, to the owner of said estate at the time of the seizure of said property, or his legal representative.

Mr. RANDALL. We still reserve the right to object until some explanation has been made.

Mr. MOORE. The report of the committee accompanying the bill is not long and will take not more than half a minute to read it.

The report was read, as follows:

The Committee on Claims, to whom was referred the bill (S. No. 1388) for the relief of J. J. Murphy, have considered the same, and respectfully report:

That it appears that in 1864, certain lands lying in Shelby County, Tennessee, belonging to Mr. Murphy, were sold for non-payment of United States taxes. It is alleged that the property sold for an amount more than sufficient to fully indemnify the United States for taxes, penalties, and costs. This surplus is sought to be recovered by this bill.

The committee report back the bill, with an amendment in the nature of a substitute, and recommend that it pass.

Mr. COX, of New York. There are other cases of a like character and there should be passed a general law covering them all.

Mr. WHITTHORNE. That is a meritorious matter, and I hope no one will object to it.

Mr. BRAGG. My objection is that the bill does not provide a quit-claim to the Government or any guarantee of title. That is the only objection I make to it.

CALL OF STATES.

Mr. BURROWS, of Michigan. I demand the regular order of business.

The SPEAKER. The regular order being called for, this being Monday the first business in order is the call of States and Territories for the introduction of bills and joint resolutions for reference to their appropriate committees. Under this call memorials and resolutions of State and Territorial Legislatures, and also resolutions calling for executive information, are in order.

UTE INDIAN LANDS.

Mr. BELFORD introduced a bill (H. R. No. 6022) relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

COMMERCIAL INTERCOURSE, CENTRAL AND SOUTH AMERICA.

Mr. BELFORD also introduced a bill (H. R. No. 6023) to authorize the appointment of a special commissioner for promoting commercial intercourse with such countries of Central and South America as may be found to possess the most natural and available facilities for railway intercommunication with each other and with the United States; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

CAPTAIN SAMUEL JEFFREY.

Mr. WAIT introduced a bill (H. R. No. 6024) for the relief of Captain Samuel Jeffrey; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

WILLIAM MAHAFFEY.

Mr. BUCHANAN introduced a bill (H. R. No. 6025) for the relief of William Mahaffey; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

SAMUEL W. TRACEY.

Mr. MATSON introduced a bill (H. R. No. 6026) granting a pension to Samuel W. Tracey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MACADAMIZED ROAD FROM NEW ALBANY, ETC.

Mr. STOCKSLAGER introduced a bill (H. R. No. 6027) to construct a macadamized road from the city of New Albany, in the State of Indiana, to the national cemetery near said city; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PHILIP LESTER.

Mr. STOCKSLAGER also introduced a bill (H. R. No. 6028) for the relief of Philip Lester; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NEAL MEGINLEY.

Mr. HOLMAN introduced a bill (H. R. No. 6029) granting a pension to Neal Meginley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NEWTON J. BURRIS.

Mr. HOLMAN also introduced a bill (H. R. No. 6030) granting a pension to Newton J. Burris; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOEL C. LATHROP.

Mr. CARPENTER introduced a bill (H. R. No. 6031) granting an increase of pension to Joel C. Lathrop; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMANDA M. COOK AND OTHERS.

Mr. FARWELL, of Iowa, introduced a bill (H. R. No. 6032) for the relief of Amanda M. Cook and the heirs and legal representatives of Jasper Fletcher, deceased, for property stolen by the Cheyenne and Arapahoe Indians; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

BARNARD M'NALLY.

Mr. FARWELL, of Iowa, also introduced a bill (H. R. No. 6033) to authorize a payment of the claim of Barnard McNally; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

DAVID HART.

Mr. KASSON introduced a bill (H. R. No. 6034) appropriating $50 to redeem a promise made by the Continental Congress to David Hart, a soldier of the Revolution; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

WAGON-BRIDGE ACROSS MISSOURI RIVER.

Mr. HEPBURN (by request) introduced a bill (H. R. No. 6035) authorizing the construction of a wagon-bridge across the Missouri River between the cities of Council Bluffs, Iowa, and Omaha, Nebraska; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BIGAMY.

Mr. HASKELL introduced a bill (H. R. No. 6036) supplementary to an act entitled "An act to amend section 5352 of the Revised Statutes of the United States in reference to bigamy, and for other purposes;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

KATHARINE BENDER.

Mr. WILLIS introduced a bill (H. R. No. 6037) granting a pension to Katharine Bender; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN D. RAY.

Mr. WILLIS also introduced a bill (H. R. No. 6038) granting a pension to John D. Ray; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM G. FORD.

Mr. ELLIS introduced a bill (H. R. No. 6039) for the relief of William G. Ford; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

STATE NATIONAL BANK OF LOUISIANA.

Mr. ELLIS also introduced a bill (H. R. No. 6040) for the relief of the State National Bank of Louisiana; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

SHIP CANALS.

Mr. GIBSON introduced a bill (H. R. No. 6041) to provide for the appointment of a commission of three engineers from the Army to determine the best route for a ship-canal to connect the Lakes with the Mississippi River, and also to connect the Atlantic with the Gulf of Mexico, across the State of Florida, and appropriating $250,000 for the expenses thereof; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

UPTON DARBY.

Mr. URNER introduced a bill (H. R. No. 6042) for the relief of Upton Darby; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIAS STONE.

Mr. URNER also introduced a bill (H. R. No. 6043) for the relief of Elias Stone; which was read a first a second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM JENNINGS.

Mr. URNER also introduced a bill (H. R. No. 6044) for the relief of William Jennings; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

J. G. MORRISON, JR.

Mr. URNER also introduced a bill (H. R. No. 6045) for the relief of J. G. Morrison, jr.; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENRY M. NIXDORFF.

Mr. CHAPMAN introduced a bill (H. R. No. 6046) for the relief of Henry M. Nixdorff; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LEWIS G. KEMP.

Mr. CHAPMAN also introduced a bill (H. R. No. 6047) for the relief of Lewis G. Kemp; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ROBERT W. SMOOT.

Mr. CHAPMAN also introduced a bill (H. R. No. 6048) for the relief of Robert W. Smoot; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ESTATE OF THOMAS NILES.

Mr. STONE introduced a bill (H. R. No. 6049) for the relief of the estate of Thomas Niles, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DETROIT HOUSE OF CORRECTION.

Mr. LORD introduced a joint resolution (H. R. No. 202) relating to the refunding of certain internal-revenue taxes illegally assessed against and collected from the Detroit House of Correction, in the State of Michigan; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

BRIDGE ACROSS YAZOO RIVER.

Mr. SINGLETON, of Mississippi, introduced a bill (H. R. No 6050) declaring the bridge across the Yazoo River, at Yazoo City, in the county of Yazoo, State of Mississippi, a lawful structure; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ALICE KELLEY.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 6051) for the relief of Alice Kelley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SARAH CARTER.

Mr. DWIGHT (for Mr. HAMMOND, of New York) introduced a bill (H. R. No. 6052) for the relief of Sarah Carter; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MILITARY RESERVATION, PLATTSBURGH, NEW YORK.

Mr. DWIGHT also (for Mr. HAMMOND, of New York) introduced a bill (H. R. No. 6053) dedicating the military reservation at Plattsburgh, New York, to the village of Plattsburgh for a public park; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM WUERZ.

Mr. HARDY introduced a bill (H. R. No. 6054) for the relief of William Wuerz; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CLARK & POWELL.

Mr. DOWD introduced a bill (H. R. No. 6055) for the relief of Clark & Powell; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

NEWMAN & TATHAM.

Mr. VANCE introduced a bill (H. R. No. 6056) for the relief of Newman & Tatham; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

P. B. TATHAM.

Mr. VANCE also introduced a bill (H. R. No. 6057) for the relief of P. B. Tatham; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

I. C. CAMP.

Mr. VANCE also introduced a bill (H. R. No. 6058) for the relief of I. C. Camp; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

S. D. PLEMMENS.

Mr. VANCE also introduced a bill (H. R. No. 6059) for the relief of S. D. Plemmens; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

EASTERN BAND OF CHEROKEE INDIANS.

Mr. VANCE also introduced a bill (H. R. No. 6060) to pay certain expenses of the Eastern band of Cherokee Indians, of North Carolina; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. VANCE also introduced a bill (H. R. No. 6061) to enable the Eastern band of North Carolina Cherokees to litigate their land titles in the courts of the United States; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MRS. H. W. HEDLEY.

Mr. KELLEY introduced a bill (H. R. No. 6062) for the relief of Mrs. H. W. Hedley; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

EXPLOSION AT UNITED STATES ARSENAL, PITTSBURGH, PA.

Mr. ERRETT introduced a bill (H. R. No. 6063) for the relief of the sufferers by the explosion at the United States arsenal at Pittsburgh, Pennsylvania, September 17, 1862; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

SARAH M. RAMSEY.

Mr. SHALLENBERGER introduced a bill (H. R. No. 6064) granting a pension to Sarah M. Ramsey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DRAFTED MEN.

Mr. KLOTZ introduced a bill (H. R. No. 6065) amendatory of an act entitled "An act for the relief of certain drafted men;" which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JETTIES IN CHARLESTON HARBOR.

Mr. DIBBLE introduced a bill (H. R. No. 6066) making an appropriation for continuing the work on the jetties in Charleston Harbor; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JEROME LYON.

Mr. KELLEY introduced a bill (H. R. No. 6067) for the relief of Jerome Lyon; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

R. B. TALFOR AND H. C. RIPLEY.

Mr. JONES, of Texas, introduced a bill (H. R. No. 6068) for the relief of R. B. Talfor and H. C. Ripley; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

PETER WINCE.

Mr. WILSON introduced a bill (H. R. No. 6069) granting increase of pension to Peter Wince; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRANSFER OF INDIAN BUREAU TO WAR DEPARTMENT.

Mr. OURY introduced a bill (H. R. No. 6070) to transfer the Bureau of Indian Affairs from the Interior to the War Department; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

WITHDRAWAL OF MERCHANDISE FROM BONDED WAREHOUSES.

Mr. ROSECRANS introduced a bill (H. R. No. 6071) to amend sections 2980 and 2983 of the Revised Statutes; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

JOHN H. FAULK.

Mr. ANDERSON introduced a bill (H. R. No. 6072) for the relief of John H. Faulk; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IRA HAWARTH.

Mr. ANDERSON also introduced a bill (H. R. No. 6073) to re-examine the homestead claim of Ira Hawarth; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

MEMPHIS AND LITTLE ROCK RAILROAD.

Mr. DUNN (by request) introduced a bill (H. R. No. 6074) to release the Memphis and Little Rock Railroad Company from such of the conditions of the several acts of Congress approved February 9, 1853, and July 28, 1866, as unjustly affect said corporation; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ELIZABETH CONNOR.

Mr. PEELLE introduced a bill (H. R. No. 6075) granting a pension to Elizabeth Connor; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

LAND TITLES IN MISSOURI.

Mr. CLARDY introduced a bill (H. R. No. 6076) to quiet titles to lands in Missouri entered under the graduation act; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

JEMIMA UNDERWOOD.

Mr. CRAVENS introduced a bill (H. R. No. 6077) granting a pension to Mrs. Jemima Underwood; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN D. ADAMS.

Mr. CRAVENS also introduced a bill (H. R. No. 6078) making an appropriation to pay John D. Adams a balance certified as due him for mail service performed; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

S. H. ALLEMAN.

Mr. O'NEILL introduced a bill (H. R. No. 6079) for the relief of S. H. Alleman; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

WILLIAM MAGEE.

Mr. CANNON (by request) introduced a bill (H. R. No. 6080) to authorize the restoration of William Magee to the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EXTENDING NATIONAL-BANK CHARTERS.

The SPEAKER. The call of States and Territories for the introduction of bills and joint resolutions for reference is now concluded.

Mr. CRAPO. I move to suspend the rules and adopt the resolution which I send to the Clerk's desk.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence be taken from the House Calendar and made the special order for the 9th day of May instant after the morning hour, and from day to day thereafter until disposed of, not to interfere with the consideration of general appropriation and revenue bills; said bill to be considered by the House as in Committee of the Whole, shall be open to amendment, including committee amendments and an amendment restricting the deposit of lawful money and withdrawal of bonds at pleasure; also an amendment in reference to the jurisdiction of State courts where a bank is situated in the trial of suits with citizens of that locality; also in reference to loans upon real-estate security; and such other amendments and restrictions as may be germane to the bill, or entire substitutes therefor.

Mr. SPRINGER. I demand a second on the motion to suspend the rules.

The motion was seconded.

Mr. CRAPO. I did not anticipate, Mr. Speaker, that there would be any discussion this morning upon this resolution. I had supposed an understanding had been reached that the resolution would be adopted, as it embraces distinctly a proposition for the submission to the House of the various amendments which have been suggested by gentlemen who are opposed to the bill.

Mr. HATCH. Will the gentleman state with whom any arrangement has been made?

Mr. CRAPO. There has been no arrangement with any particular person; but there has been a general understanding that if certain specific amendments should be submitted to a vote the House would be disposed to consider the bill.

Mr. McMILLIN. When and where and with whom was that understanding arrived at? It was not in this Hall. It does not appear in the RECORD.

Mr. BERRY. Does this resolution permit the bill to be subject to any amendments that may be offered?

Mr. CRAPO. Yes; the resolution is very broad.

Mr. BERRY. I understand the bill to be open only to the specific amendments named.

Mr. CRAPO. And others.

Mr. MILLS. Will the gentleman vote to put the amendments on the bill?

Mr. CRAPO. I think, Mr. Speaker, that if the last clause of the resolution be again read members will see it is broad enough to cover the introduction of all amendments.

Mr. MILLS. I want to know whether the Committee on Banking and Currency or the gentleman from Massachusetts has any parliamentary right, to the exclusion of all other business, to bring this matter before the House every Monday?

The SPEAKER. That is not a parliamentary inquiry.

Mr. MILLS. I thought it was.

Mr. HUTCHINS. I call for the reading of the resolution.

Mr. MILLS. I demand a second on the motion to suspend the rules.

The SPEAKER. A second has been ordered. The resolution will be again read.

The Clerk again read the resolution.

Mr. SPRINGER. I desire to learn from the gentleman from Massachusetts whether he wishes to occupy his fifteen minutes now or after some time has been consumed on this side.

Mr. CRAPO. I was not disposed to occupy the time of the House at all. It seemed to me that the House thoroughly understood the question. I would not present this resolution on consecutive Mondays if I did not feel the urgency of the question, and that the business of the country requires the consideration of this bill. If those who are opposed to the resolution desire to be heard, I will reserve my time to reply.

Mr. SPRINGER. I yield ten minutes to the gentleman from Missouri, [Mr. BUCKNER,] a member of the Committee on Banking and Currency.

Mr. BUCKNER. Mr. Speaker, I feel it due to the position I occupy as a member of the Committee on Banking and Currency that I should say something in reference to this resolution. Twice it has been before the House, and on both occasions the House has refused to suspend the rules for its consideration. I have in accordance with my pledge to the committee, and out of courtesy to the majority of the committee, declined to take any part either in the discussion or in the vote on the question. But it seems now due to myself that I should explain the position I occupy with reference to this bill.

I do not hesitate to say that the bill is unnecessary for any public purpose, from the fact that the Comptroller of the Currency is to-day, and has been for some time past, authorizing in effect a continuation of the charters of these banks as the time arrives when they would go out of existence. I do not doubt, nor does the Comptroller of the Currency, his power in this regard.

I believe, sir, that this bill if passed will turn out to be a delusion and a cheat. The difficulty with the national banks is not that their charters are expiring, but it grows out of the fact that the debt upon which their circulation is based is bound to be paid at the rate of $100,000,000 a year for the next four years at least; for I assume as beyond all controversy that the surplus revenues of the Treasury, notwithstanding any diminution that may be made by any bill that we may pass at this session, will amount to at least $100,000,000 a year. Nothing will be done next Congress for the reason that it is the year of the Presidential election. We have, then, this fact staring us in the face, and it is a fact to which I desire to call the attention of Congress and the country, that this bill if passed in any form will not ward off the danger before the country. Already the banks have decreased their circulation in the neighborhood of $1,000,000 since the 1st of January last, owing to the fact that the 3½ per cent. bonds held by the banks are being called in. Five hundred million dollars of these bonds are now subject to the call of the Government; and one-half or nearly one-half of these bonds are 3½ percents, and only $124,000,000 or $125,000,000 of all other bonds are held by the banks as security for their circulation.

If these bonds are paid, as they will be, one hundred millions this year, and one hundred millions next year, what effect will these two hundred millions of bonds have upon the condition of the currency within the next three or four years? I say that the duty of this Congress to the country, and even to the banks, is, if possible, to find some constituent in place of the foundation being undermined by this determination of the people to pay these 3½ percents in this time. That is what they need, and not this legislation, or anything like it; for, sir, it will delude the people into the idea that everything is going on smoothly when there is danger and great danger ahead of us from the rapid contraction which will necessarily follow from the payment of this portion of the public debt.

Mr. CRAPO. Let me ask the gentleman a question. But suppose you abolish the national banks, how will it remedy the difficulties you are now dwelling on?

Mr. BUCKNER. I do not propose to abolish the banks.

Mr. CRAPO. Suppose you fail to consider this national banking bill, for the extension of the national banks, how will it remedy the difficulties of which you are speaking?

Mr. BUCKNER. There is no way of remedying it except by Congress authorizing some other circulation to be adopted.

Mr. CRAPO. If we fail to consider this national banking bill do you not aggravate the difficulties upon which you are dwelling?

Mr. BUCKNER. Not at all. In my judgment, there is one provision in this bill it would be well to adopt, and that is where the bank fails to reorganize that it may continue its existence for other purposes, by putting it into the hands of a receiver. Beyond that I say it will delude the people into the idea that the business of this country is safe and secure for the next six or eight years, and that Congress has given this as a remedy, when in point of fact it is nothing more than a delusion and fraud upon the people.

My friend asks how is this? I have already attempted to explain it. The difficulty is not from any failure of recharter of these banks, not in their going out of existence, but because the foundation has been taken out from under them by the rapid payment of the public debt. You will see this in the late call for eleven or twelve millions of 3½ per cent. bonds. There you will see really the whole difficulty in this matter, for half of that amount must come from the national banks. They will not buy a 4 or a 4½ per cent. bond at the present rates of premium. They can only buy 3½ percents at anything like par, and they are liable to be called for redemption at any time. As the 3½ percents are redeemed, the banks holding them will give up their circulation rather than pay the market rates for either the 4 or 4½ percents. The recharter of the banks cannot obviate this difficulty under which the banks labor.

Mr. Speaker, this is a grave question. It presents a difficulty as to our currency, which must be most obvious to the most ordinary perception. It is absolutely necessary for the future of our paper circulation that something should be done in the way of relief during this Congress. My apprehensions and fears of the future may be without foundation, but we have time enough, if they are groundless, at the next session of Congress, to take such action as may be found necessary and proper. Eighty-eight national banks will go out of existence between now and the 1st of next December. Let us wait and see what will be the action of this bank and the effect of their action on the circulation, because all the banks that really desire to do so can be reorganized under the law as it now stands by the Comptroller.

Mr. KELLEY. Will the gentleman permit me to ask him a question?

Mr. BUCKNER. Certainly.

Mr. KELLEY. Would not a reduction of the revenues of the Government to such an extent as to check the unwholesome rapidity with which our bonds are being called in leave a basis for the banks?

Mr. BUCKNER. Unquestionably it would. But my friend from Pennsylvania will recollect, as it has been expressed by the House, that there is no more universal sentiment existing in this country

than the determination of the people of the United States to pay off the national debt, without reference to the banks or anything else, as rapidly as the condition of the country will permit. [Applause.]

Mr. KELLEY. Can they pay the debt beyond the four hundred and ninety millions of extended bonds except by buying the fours and four-and-a-halfs at whatever premium may be demanded for them.

Mr. BUCKNER. Of course they cannot, beyond the $500,000,000 of 3½ percents we have now subject to redemption.

Mr. KELLEY. There are $750,000,000 that may be paid in the next twenty-five years at par, and why not reduce our revenues to a point that would bring about a more gradual absorption of outstanding bonds?

Mr. BUCKNER. My friend will recollect there are $250,000,000 which can be paid in 1891. I undertake to say no bill you can pass here is going to affect it. You only ask for the consideration of a bill which will affect the smaller taxes, say to the extent of ten or fifteen million dollars. The reports from the Treasury show that if we were to take off the match tax and the taxes on bank capital and on bank deposits and all other internal taxes except on whisky and tobacco, the reduction would not be equal to more than the difference of our interest account a year ago and what it is now. Necessarily, unless the gentlemen will reduce the taxes—and there is no probability of that at this or the next Congress—we will pay off these bonds that constitute the main support and foundation of the present United States national-bank circulation within the next three or four years.

The SPEAKER. The gentleman's time has expired.

Mr. SPRINGER. I will reserve the remainder of my time, or I will yield it to the gentleman from Missouri if he desires it.

Mr. ROBESON. Let me ask a question in the gentleman's time.

Mr. SPRINGER. I have yielded it to the gentleman from Missouri.

Mr. BUCKNER. I wish to say, Mr. Speaker——

Mr. ROBESON. Let me ask a question.

Mr. HOOKER. Do not be so impatient, gentlemen on the other side of this House.

Mr. ROBESON. I do not wish to take up much time, but merely to ask a practical question.

The SPEAKER. Does the gentleman from Illinois yield his time to the gentleman from Missouri?

Mr. SPRINGER. I yield the remainder of my time to the gentleman.

Mr. BUCKNER. I am very much obliged to the gentleman and shall detain the House but a moment. I only want to call the attention of the House in emphasis of the few remarks which I have made and the opinion I have expressed to the fact that there is no necessity for this bill at this time. I am not able to speak accurately as to the amount of national-bank circulation now in existence. But that has nothing to do with the question, nor is it necessary that we should give it consideration in connection with the pending proposition. That has nothing to do with it.

But in support of the facts which I have cited, I wish to call attention to an article which I find in a Philadelphia paper, showing that within the last two or three weeks two of these banks at all events have given up their circulation because the bonds were called in and they did not want to go into the market to replace them. I find this article in a recent issue of a Philadelphia paper showing that within the last two or three weeks two banks in that city have given up their circulation and retired their maturing bonds for the reason that the bonds had matured, and as they had no others to replace them they determined to settle that much of their circulation; and this withdrawal had no perceptible effect on trade, although some four hundred thousand dollars were thus withdrawn. The article to which I refer is as follows:

> A short time since the Philadelphia National Bank withdrew $400,000 of its circulation. The reason for this, as explained by President Comegys, was that bonds to the amount named had matured, and as they had no others to replace them with it was determined to settle that much of the circulation. Mr. Comegys said this step and the entire cancellation of circulation by some other banks, notably the Western National, did not show that trade was in any way affected.

Mr. KELLEY. Mr. Comegys is not connected with the Western Bank.

Mr. BUCKNER. No, sir. This article goes on to say:

> The concerns prefer to do a general banking business, and hold that their circulation is no material benefit to them. The retirement of the legal-tenders does not affect the volume of currency to any appreciable extent, because of the large production of gold and silver, so no apprehension need be felt in any quarter.

Now, that this proposition is in the interest of the national banks I do not doubt. It will save them from trouble and expense—certainly expense—as to the printing of their notes and making deposits necessary to take up their circulation. But I want to know of this House what interest the people have in this matter and what effect it will have upon them; and that is the only ground upon which Congress can legitimately grant the extension of these charters.

Mr. ROBESON. Will the gentleman permit me to ask him a single question just here?

Mr. BUCKNER. Yes, sir; I will answer the gentleman.

Mr. ROBESON. I wish to ask the gentleman if three hundred and ninety national banks go into liquidation between now and the last of next February——

Mr. MORRISON. They do not want to go into liquidation.

Mr. ROBESON. I am not speaking to the gentleman now.

If these banks go into liquidation will they not necessarily call upon every man who owes them to pay up?

Mr. BUCKNER. Not necessarily; not at all.

Mr. ROBESON. And will not these men who are called upon to pay up call upon every man who owes them to pay up?

Mr. BUCKNER. Not at all.

Mr. ROBESON. And will they not, these latter men, call upon every other man that owes a man that owes them to pay up?

Mr. BUCKNER. No, sir; not necessarily.

Mr. ROBESON. And will not that create a panic?

Mr. MORRISON. There is no panic except in the mind of the gentleman from New Jersey.

Mr. ROBESON. And does not that destroy the value of every man's property?

Mr. BUCKNER. No, sir. It does not affect the currency at all, because it is published to-day in the records and correspondence with the Comptroller of the Currency as to the national banks, in which he says that he has the power to prescribe the forms and rules by which the banks can be reorganized; and that every bank that desired it has been reorganized practically by the Comptroller of the Currency; and if they can reorganize under the powers now conferred by law on the Comptroller, there is no real necessity for the passage of this law, and the failure to pass this bill will produce no such results as the question of the gentleman from New Jersey [Mr. ROBESON] presupposes.

[Here the hammer fell.]

Mr. CRAPO. I yield to the gentleman from New York, [Mr. HUTCHINS.]

Mr. HUTCHINS. Mr. Speaker, I agree with the remarks of the gentleman from Missouri in relation to the necessity for some action being taken by this Congress in reference to the currency of the country. What he says is perfectly true. About two hundred and forty millions of what are called 3½ per cent. bonds, being the substituted bonds for the old 5 and 6 per cent. extended bonds, are being paid off, being bonds which are now used as a basis for the national banking currency. What is to take the place of that currency when these bonds are paid off has not as yet been decided upon by Congress. But, Mr. Speaker, that is not the question before the House. Let us for the time being cast aside prejudices and for one moment consider what is the real question which is confronting us. It is simply this, the consideration of a bill which has been reported by the Committee on Banking and Currency providing the mode of renewal of the charters of national banks which are now about expiring.

It will be remarked that the gentleman from Missouri [Mr. BUCKNER] and the other gentleman from Missouri [Mr. BLAND] do not propose to give up the national banking system, but it is only that they desire to have a change from the national banking currency to the treasury notes of the Government. That question, however, should stand by itself, and we ought to reserve our opinion as to the best mode of reaching a desirable solution of it, for the present considering one thing at a time. My friend from Missouri says it is unnecessary to take action now. I want to say to him that in my opinion the action taken by the House heretofore renders it necessary that we should take action, and favorable action, without delay.

As every gentleman knows who has ever had anything to do with banking and currency, there is nothing so timid as capital. The business men of the country do not understand the situation of this matter; but there is an impression among them in the State of Missouri, as well as in the State of New York, that there is something wrong, and unless action is taken to provide for the extension of bank charters about expiring there will be trouble in the money market. And therefore the wheels of finance are being stopped. There is no doubt about it. Men to my knowledge who had intended to erect buildings have countermanded the order, awaiting the action of this House. Men who were intending to go into operations that called for the expenditure of large sums of money have countermanded the order, waiting to see the action of this House, and there is not a gentleman here who, if he were called upon to enter into a new enterprise involving the expenditure of a large sum of money, not even my friend from Missouri, [Mr. BUCKNER,] but would refuse to enter into it till this question was settled.

Let us fix the time for discussion—I wish we could do it unanimously—and then let us debate this question as it should be debated, and understand it; and I am sure this Congress has the ability, the sense, and the patriotism to arrive at last at a conclusion that will bring continued peace and prosperity to our whole country. [Applause.]

Mr. DUNN. Why not have a commission on it?

Mr. CRAPO. I yield five minutes to the gentleman from New York, [Mr. HARDENBERGH.]

Mr. HARDENBERGH. I am gratified that at last this question is before the American Congress. By mutual understanding it seems to be considered that it shall be open, before the passage of the bill, when a day is named, to any amendment that may be offered.

We are not responsible in this Congress for the existence of the national banking act. It was no creation of ours; but we find it here

in existence. And I must say that in the arguments that have been made upon this question we seem to have lost sight of its whole marrow and its whole pith. If this were a question to-day before the House as to whether the national banking system should be created anew or not, then some of us might understand how to vote. But the national banking system goes on, because your banks can reorganize in a very day, and perpetuate their existence for twenty years. Therefore, by no discussion that you give to this bill, nor by any action of yours do you restrict its provisions or prevent the operations of the system throughout the country.

What, then, is the question before us? What is the difference between the two methods—the reorganization and the extension of the charters? As I remarked in the House the other day, and showed by tabular statements, between now and the 25th of next February three hundred and ninety-one bank charters will expire. The question is whether those banks shall liquidate or whether their existence shall be continued by your action upon this bill. If you force them to liquidate, you produce a contraction of over sixty millions of money that must be called away from the industrial interests of the country, and that just as we are going on conquering and to conquer in all our industrial pursuits.

Mr. BUCKNER. Will the gentleman allow me to interrupt him for a moment?

Mr. HARDENBERGH. I did not interfere with the gentleman from Missouri while he was speaking, and ask him to let me proceed without interruption.

Just as we are trying to aid the industries of our country in every way in our power, up comes this question before us demanding a solution. I desire the attention of the House to this fact: that if the banks must liquidate and their charters are not extended you produce between now and next year a forced contraction of over sixty millions of public credit.

Mr. SPRINGER. Will the gentleman explain in what manner that forced contraction will be produced?

Mr. HARDENBERGH. Yes; I will explain it. I will do so from my own personal stand-point, so that the gentleman can understand it. The bank of which I am president has a capital of $250,000, a surplus of $225,000, loans out to the extent of $1,000,000 on call and on time. Now, if you refuse to-day, or before this Congress adjourns, to say the charter of that bank shall be extended it must immediately contract to recover the $225,000 of surplus to pay the stockholders. They have got to do it.

Mr. SPRINGER. When you have paid this money to the stockholders will it not still be in circulation?

Mr. HARDENBERGH. No; because it will be scattered over a dozen different States.

Mr. SPRINGER. But it will be still in the country.

Mr. HARDENBERGH. While I have been a member of this House I have never stood up here for a single monopoly. I have never voted away one acre of the public lands, and I would allow my right arm to forget its cunning before I would vote for any monopoly. Let me tell you how I would seek to protect the people to-day. We have one hundred and thirty different stockholders in my bank scattered throughout the State of New Jersey and other States. You force my bank into liquidation. Any five men can come forward and write their names for $50,000 each, and you have as perfect a monopoly as ever existed.

Mr. MILLS. Will the gentleman allow me to ask him a question?

Mr. HARDENBERGH. Certainly.

Mr. MILLS. Will your bank have to go into liquidation unless this bill is passed?

Mr. HARDENBERGH. Certainly it will.

Mr. MILLS. Then I make the point of order that the gentleman cannot vote on this bill.

Mr. HARDENBERGH. I have this to say to the gentleman from Texas, [Mr. MILLS:] my relations with him have always been very pleasant; but if he thinks that the ownership of a thousand dollars of stock in the bank in which I happen to be president will control my action here he little understands me or the constituency I represent.

The SPEAKER. The time for debate has expired.

Mr. CRAPO. I now call for a vote.

The SPEAKER. The question is upon the motion of the gentleman from Massachusetts [Mr. CRAPO] to suspend the rules and adopt the resolution which has been read.

Mr. MILLS. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLS. Before the roll is called, I make the point of order that the gentleman from New Jersey, [Mr. HARDENBERGH,] having stated that he was interested as an officer of one of the banks whose charter will expire unless this bill is passed, he cannot vote on this bill.

The SPEAKER. The gentleman must decide that question for himself.

Mr. MILLS. Under the rules of the House he cannot vote where he is directly interested in the question.

The SPEAKER. The gentleman must decide for himself upon the question of his interest; the Speaker cannot decide that question.

The question was taken; and there were—yeas 150, nays 65, not voting 76; as follows:

YEAS—150.

Aldrich,	Dowd,	Kelley,	Russell,
Anderson,	Dugro,	Ketcham,	Scoville,
Barbour,	Dunnell,	King,	Scranton,
Bayne,	Dwight,	Klotz,	Shallenberger,
Beach,	Ellis,	Lacey,	Sherwin,
Belford,	Ermentrout,	Lewis,	Singleton, Jas. W.
Beltzhoover,	Errett,	Lindsey,	Skinner,
Bingham,	Evins,	Lord,	Smith, Dietrich C.
Bliss,	Farwell, Chas. B.	Lynch,	Smith, J. Hyatt
Bowman,	Farwell, Sewell S.	Mason,	Spaulding,
Bragg,	Fisher,	McClure,	Speer,
Briggs,	George,	McCoid,	Spooner,
Browne,	Gibson,	McLane,	Steele,
Buck,	Godshalk,	Miles,	Stone,
Burrows, Julius C.	Grout,	Moore,	Talbott,
Butterworth,	Guenther,	Morey,	Taylor,
Calkins,	Hall,	Morse,	Thomas,
Camp,	Hardenbergh,	Mutchler,	Thompson, Wm. G.
Campbell,	Hardy,	Neal,	Townsend, Amos
Candler,	Harris, Benj. W.	Norcross,	Tyler,
Cannon,	Harris, Henry S.	O'Neill,	Updegraff, J. T.
Carpenter,	Haskell,	Orth,	Updegraff, Thomas
Chace,	Hawk,	Pacheco,	Urner,
Chapman,	Heilman,	Page,	Valentine,
Converse,	Henderson,	Parker,	Vance,
Cox, William R.	Hepburn,	Payson,	Van Aernam,
Crapo,	Hill,	Peelle,	Van Horn,
Cullen,	Hiscock,	Peirce,	Walker,
Curtin,	Hoblitzell,	Pettibone,	Watson,
Cutts,	Horr,	Randall,	Webber,
Darrall,	Hubbs,	Ray,	Williams, Chas. G.
Davis, George R.	Humphrey,	Reed,	Willis,
Deering,	Hutchins,	Rice, William W.	Wilson,
De Motte,	Jacobs,	Rich,	Wise, George D.
Deuster,	Jadwin,	Richardson, D. P.	Wise, Morgan R.
Dezendorf,	Jones, Phineas	Robinson, Geo. D.	Young.
Dibble,	Joyce,	Robinson, James S.	
Dingley,	Kasson.	Ross,	

NAYS—65.

Atherton,	Cox, Samuel S.	Jones, James K.	Scales,
Atkins,	Cravens,	Kenna,	Singleton, Otho R.
Berry,	Culberson,	Ladd,	Springer,
Blanchard,	Davidson,	Latham,	Stockslager,
Bland,	Dunn,	Manning,	Thompson, P. B.
Blount,	Finley,	Matson,	Townshend, R. W
Buchanan,	Ford,	McMillin,	Tucker,
Buckner,	Forney,	Mills,	Turner, Henry G.
Cabell,	Gunter,	Morrison,	Turner, Oscar
Caldwell,	Hammond, N. J.	Mosgrove,	Upson,
Cassidy,	Haseltine,	Muldrow,	Warner,
Clardy,	Hatch,	Murch,	Wellborn,
Clark,	Herbert,	Oates,	Whitthorne,
Clements,	Holman,	Paul,	Williams, Thomas
Cobb,	Hooker,	Rice, Theron M.	
Colerick,	House,	Roberston,	
Cook,	Jones, George W.	Rosecrans,	

NOT VOTING—76.

Aiken,	Fulkerson,	McKenzie,	Shelley,
Armfield,	Garrison,	McKinley,	Shultz,
Barr,	Geddes,	Miller,	Simonton,
Belmont,	Hammond, John	Money,	Smith, A. Herr
Black,	Harmer,	Moulton,	Sparks,
Blackburn,	Hazelton,	Nolan,	Stephens,
Brewer,	Herndon,	Phelps,	Strait,
Brumm,	Hewitt, Abram S.	Phister,	Tillman,
Burrows, Jos. H.	Hewitt, G. W.	Pound,	Van Voorhis,
Carlisle,	Hoge,	Prescott,	Wadsworth,
Caswell,	Houk,	Ranney,	Wait,
Cornell,	Hubbell,	Reagan,	Ward,
Covington,	Jorgensen,	Rice, John B.	Washburn,
Crowley,	Knott,	Richardson, Jno. S.	West,
Davis, Lowndes H.	Leedom,	Ritchie,	Wheeler,
Dawes,	Le Fevre,	Robeson,	White,
Dibrell,	Marsh,	Robinson, Wm. E.,	Willits,
Flower,	Martin,	Ryan,	Wood, Benjamin
Frost,	McCook,	Shackelford,	Wood, Walter A.

So (two-thirds voting in favor thereof) the rules were suspended and the resolution was adopted.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. RICE, of Ohio, with Mr. MARTIN.

Mr. WILLITS with Mr. KNOTT.

Mr. PHELPS with Mr. WEST.

Mr. W. A. WOOD with Mr. B. WOOD.

Mr. MARSH with Mr. MCKENZIE.

Mr. CROWLEY with Mr. NOLAN.

Mr. LEEDOM with Mr. SHULTZ.

Mr. HOUK with Mr. DIBRELL.

Mr. HUBBELL with Mr. STEPHENS.

Mr. BRUMM with Mr. FLOWER.

Mr. MCCOOK with Mr. SPARKS.

Mr. WAIT with Mr. HOGE.

Mr. WASHBURN with Mr. HERNDON.

Mr. LE FEVRE with Mr. RYAN.

Mr. DAWES with Mr. MATSON.

Mr. BARR with Mr. GARRISON.

Mr. REAGAN with Mr. STRAIT.

Mr. MCKINLEY with Mr. CARLISLE.

Mr. SIMONTON with Mr. PARKER.

Mr. POUND with Mr. PHISTER.

Mr. SMITH, of Pennsylvania, with Mr. RICHARDSON, of South Carolina.

Mr. SHELLEY with Mr. CASWELL.

Mr. MONEY with Mr. HARMER.

Mr. AIKEN with Mr. WARD.

Mr. FROST with Mr. WADSWORTH.

Mr. ROBESON with Mr. BLACKBURN.

Mr. HAMMOND, of New York, with Mr. COVINGTON.

Mr. HEWITT, of New York, with Mr. HEWITT, of Alabama.

Mr. UPDEGRAFF, of Iowa. I ask unanimous consent that the reading of the names be dispensed with.

Mr. LADD. I object.

The SPEAKER. Objection being made to dispensing with the reading of the names, the Clerk will now read the names of those voting.

The Clerk read the names, after which the result was announced as above stated.

Mr. HARDENBERGH. As some gentlemen who desired to speak upon this resolution in regard to the national-bank bills have not had the opportunity, I move that leave be granted to members to print remarks on the subject.

The SPEAKER. The gentleman from New Jersey [Mr. HARDENBERGH] asks that leave be granted to such members as desire to print in the RECORD remarks on the resolution just adopted.

Objection was made.

CHINESE IMMIGRATION.

Mr. TOWNSHEND, of Illinois. I move that the rules be suspended and that the joint resolution which I send to the desk be passed.

The Clerk read as follows:

Joint resolution for the abrogation of all stipulations in existing treaties with China which permit the immigration of Chinese into the United States except for travel, education, and foreign commerce.

Whereas the great majority of Chinese who immigrate to this country are detrimental to the welfare of American laborers; and

Whereas they manifest no willingness or capacity or intention to assimilate with our own people and have no appreciation of our institutions; and

Whereas the execution of the fifth and sixth articles of the treaty generally known as the Burlingame treaty endangers the peace and good understanding existing between the United States and China, and interferes with the power of Congress to regulate foreign commerce: Therefore,

Resolved by the Senate and House of Representatives in Congress assembled, That the President of the United States be, and he is hereby, authorized and requested to immediately open correspondence with the Government of China for the purpose of securing a change or abrogation of all stipulations in existing treaties which permit the immigration of Chinese into the United States, except for travel, education, and foreign commerce.

Mr. KASSON. What power to abrogate have we under the treaty?

Mr. HOOKER. I desire to offer an amendment to this resolution.

Mr. TOWNSHEND, of Illinois. I do not yield for the purpose of allowing the amendment.

The SPEAKER. The question is on the motion of the gentleman from Illinois, [Mr. TOWNSHEND.]

Mr. TOWNSHEND, of Illinois. I desire that the House may consider the motion as seconded.

The SPEAKER. No second has been demanded.

Mr. ROBINSON, of Massachusetts. Let the question be taken on seconding the motion.

Tellers were ordered; and Mr. ROBINSON, of Massachusetts, and Mr. TOWNSHEND, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 62, noes 100.

So the House refused to second the motion to suspend the rules.

Mr. TOWNSHEND, of Illinois. I ask for the yeas and nays upon this proposition.

The SPEAKER. That is not in order.

Mr. TOWNSHEND, of Illinois. Although the rules provide that the roll need not be called on seconding a motion of this kind, I make the point that this is a motion to suspend the rules, including that rule as well as all others.

The SPEAKER. But the motion is not entertained by the House.

Mr. ROBINSON, of Massachusetts. The rules are not yet suspended.

Mr. REED. You cannot suspend the rules until you suspend them. [Laughter.]

The SPEAKER. The vote just taken was to determine whether this proposition should be entertained by the House; and the House has refused to entertain it.

Mr. TOWNSHEND, of Illinois. My purpose was to show that but one Republican in this House has voted to sustain the motion.

Mr. ROBINSON, of Massachusetts. The gentleman is not in order. I know he does not wish to make a speech out of order.

JUDICIAL DISTRICTS IN IOWA.

Mr. McCOID. I move to suspend the rules so as to take from the House Calender and pass the bill (H. R. No. 4166) to divide the State of Iowa into two judicial districts.

The bill was read, as follows.

Be it enacted, &c., That the State of Iowa be, and the same is hereby, divided into two judicial districts, in manner following, to wit: The counties of Clinton, Jones, Linn, Benton, Black Hawk, Grundy, Hardin, Hamilton, Webster, Calhoun, Sac, Ida, Monona, and all the counties north of those named shall constitute a new district, to be known as the northern district of Iowa. The remaining counties of the State shall constitute the southern district of Iowa; and the present district court of Iowa, from and after the passage of this act, shall be known as the district court for the southern district of Iowa.

SEC. 2. That the present judge of the district of Iowa is hereby declared to be the district judge for the southern district of Iowa; and the President of the United States be, and is hereby, authorized and directed, by and with the advice and consent of the Senate, to appoint a district judge for the northern district of Iowa.

SEC. 3. That the district attorney and United States marshal for the district of Iowa shall be the district attorney and marshal of the southern district of Iowa; and the President of the United States, by and with the advice and consent of the Senate, is authorized and directed to appoint one person as marshal and one as district attorney for the northern district of Iowa.

SEC. 4. That there shall be appointed by the judge of the northern district of Iowa, with the approval of the circuit judge of the eighth judicial circuit, a clerk for the district and circuit courts in and for said northern district of Iowa. The persons now acting as clerks for the district of Iowa shall be the clerks for the southern district of Iowa.

SEC. 5. That for the purpose of holding terms of court the northern district shall be divided into four divisions, to be known as the eastern, southern, central, and western divisions. The counties of Clinton, Jackson, Jones, Linn, Benton, and Black Hawk shall constitute the southern division, the courts for which shall be held at the city of Cedar Rapids. The counties of Buchanan, Delaware, Dubuque, Clayton, Fayette, Bremer, Floyd, Chickasaw, Mitchell, Howard, Winneshiek, and Allamakee shall constitute the eastern division, the courts for which shall be held at the city of Dubuque. The counties of Grundy, Hardin, Hamilton, Webster, Calhoun, Pocahontas, Palo Alto, Emmett, Kossuth, Humboldt, Wright, Hancock, Winnebago, Worth, Cerro Gordo, Franklin, and Butler shall constitute the central division, the courts for which shall be held at Fort Dodge. The counties of Monona, Woodbury, Plymouth, Sioux, Lyon, Osceola, O'Brien, Cherokee, Ida, Sac, Buena Vista, Clay, and Dickinson shall constitute the western division, the courts for which shall be held at Sioux City.

SEC. 6. That for the purpose of holding terms of court the southern district of Iowa shall be divided into four divisions, to be known as the Davenport, eastern, central, and western divisions. The counties of Scott, Cedar, Muscatine, Washington, and Louisa shall constitute the Davenport division, in which the courts shall be held at the city of Davenport. The counties of Keokuk, Mahaska, Monroe, Appanoose, Davis, Wapello, Jefferson, Van Buren, Henry, Des Moines, and Lee shall constitute the eastern division, in which the courts shall be held at the city of Keokuk. The counties of Johnson, Iowa, Poweshiek, Jasper, Tama, Marshall, Story, Boone, Greene, Dallas, Polk, Madison, Warren, Marion, Clarke, Lucas, Decatur, and Wayne, shall constitute the central division, in which the courts shall be held at the city of Des Moines. The counties of Guthrie, Carroll, Crawford, Harrison, Shelby, Audubon, Adair, Cass, Pottawattamie, Mills, Montgomery, Adams, Union, Ringgold, Taylor, Page, and Fremont shall constitute the western division, in which the courts shall be held at the city of Council Bluffs: *Provided*, That the additional courts at the places in the several divisions provided by this act shall be held in buildings provided for that purpose without expense to the United States.

SEC. 7. That there shall be held in each of the several divisions of the northern and southern districts herein created two terms of the district and circuit courts in each and every year, the times of holding said terms to be fixed by the judge of the district, upon consultation and agreement with the judge of the eighth judicial circuit.

SEC. 8. That the circuit judge of the eighth judicial circuit may, by order, direct the judges of the said northern and southern districts of Iowa to sit together in holding the circuit court in either of said districts; and when so sitting the judge oldest in commission shall preside, and in case of disagreement between them his opinion shall prevail for the time being: *Provided, however*, That a certificate of division may be signed by them with like effect as in cases provided by law for certificates of division between a circuit and district judge.

SEC. 9. That all civil suits not of a local nature must be brought in the division of the northern or southern district where the defendant or defendants reside; but if there are two or more defendants residing in different divisions the action may be brought in either of the divisions in which a defendant resides. When the defendant is a non-resident of either district, action may be brought in any division of either district wherein the defendant may be found. Causes removed from any of the courts of the State of Iowa to the circuit court of the United States shall be removed to the circuit court in the division in which said State court is held.

SEC. 10. That all causes now pending in the courts held in the respective divisions of the State of Iowa shall be continued in the corresponding divisions of the northern or southern districts with the same force and effect as though originally commenced therein.

SEC. 11. That cases taken by appeal or writ of error from any of the sessions of the district court in the northern district shall go to the circuit court held at Dubuque, and in the southern district cases taken by appeal or writ of error from any of the sessions of the district court in the southern district shall go to the circuit court held at Des Moines.

Mr. HEWITT, of Alabama, demanded a second on the motion to suspend the rules.

By unanimous consent the motion was seconded.

Mr. SPRINGER. I desire to give my reasons against the passage of this bill.

The SPEAKER. The gentleman from Iowa [Mr. McCOID] is recognized as controlling the time for debate in favor of the motion, and the gentleman from Alabama [Mr. HEWITT] the time against it.

Mr. HEWITT, of Alabama. I would like to hear the reasons why this bill should be passed.

Mr. McCOID. All I will say at present is that the bill has been unanimously recommended by the Committee on the Judiciary. It divides the State of Iowa into two judicial districts, and is a matter of absolute necessity, as shown by the report. Until I hear what gentlemen have to say in opposition to the bill, I will not occupy further time in favor of it.

Mr. HEWITT, of Alabama. Mr. Speaker, I do not propose to oppose this bill; I expect to vote for it. But I wish to call the attention of the Judiciary Committee in particular to the fact that one of the first bills introduced at this session and referred to that committee was a bill introduced by myself, proposing to divide the northern district of the State of Alabama into two divisions, and to establish a court at Birmingham, in the southern division. That bill has lingered in the committee; it has not yet been reported. At present people in my State are obliged to travel, in some cases, two hundred and fifty or three hundred miles to attend court at Huntsville.

Mr. SPRINGER. I ask whether the gentleman rises to oppose this bill? If not, I want time to oppose it myself. I understand he is not opposing it.

Mr. HEWITT, of Alabama. I have the floor.

Mr. SPRINGER. I desire that time be reserved to be occupied in opposition to the bill.

The SPEAKER. The gentleman from Alabama demanded a second; and the Chair understood that he desired to oppose the bill.

Mr. SPRINGER. I understood him to say that he was in favor of the bill and was going to vote for it.

The SPEAKER. Those who are opposed to a bill ought to have fifteen minutes of the time allowed for debate.

Mr. SPRINGER. I desire to claim that time now, before there is any misunderstanding about it; for I am opposed to the bill and want to state my reasons. It is not fair that those who favor a bill should occupy the time allotted under the rule to those who oppose it.

The SPEAKER. The gentleman should appeal to the gentleman from Alabama for time.

Mr. SPRINGER. I appeal to the House and to the Chair. I cannot control the floor. The Chair has recognized the gentleman from Alabama.

Mr. HEWITT, of Alabama. I hope the gentleman will hear me through. I have a right to oppose this bill in my own way.

Mr. SPRINGER. Is the gentleman in favor of the passage of the bill?

Mr. HEWITT, of Alabama. I will answer that question before I get through.

The SPEAKER. The Chair is obliged to rely upon the good faith of members in this matter, and cannot undertake to indicate how they shall oppose a measure or what they shall say.

Mr. SPRINGER rose.

Mr. McLANE. I rise to a question of order. I call the gentleman from Illinois to order.

Mr. SPRINGER. I am upon the floor to a point of order.

The SPEAKER. The gentleman from Illinois is not entitled to recognition.

Mr. SPRINGER. I am up on a question of order. It is this, that I or some gentleman opposed to the bill is entitled to fifteen minutes allowed under the rule for debate.

The SPEAKER. The Chair agrees with the gentleman from Illinois that those opposed to a measure are entitled to the time in opposition, and the Chair has recognized the gentleman from Alabama [Mr. HEWITT] as opposed to the pending bill.

Mr. SPRINGER. If the gentleman speaks in favor of the bill, I want to know whether some gentleman is not entitled to speak in opposition?

The SPEAKER. That is not the fault of the Chair.

Mr. SPRINGER. I appeal to the Chair for my rights under the rules of the House.

The SPEAKER. The gentleman must appeal to the gentleman from Alabama.

Mr. SPRINGER. It is the duty of the Chair to enforce the rules of the House.

The SPEAKER. The gentleman is not in order.

Mr. SPRINGER. I appeal to the Chair to protect me in my rights to oppose this bill under the rules.

The SPEAKER. The gentleman must appeal to other gentlemen who have their own mode of opposing the measure. The Chair cannot discriminate as to what they shall say.

Mr. KASSON. I rise to a parliamentary inquiry.

Mr. SPRINGER. As we were cut off on the Chinese bill, I want fair play on this bill.

Mr. KASSON. Will it not be proper to inquire of the gentleman recognized to control the time whether he is opposed to the bill?

The SPEAKER. The Chair thinks that would be proper, and the gentleman from Alabama has already stated he would take his own mode of opposing this bill. He has been recognized, and the Chair stated to the House that he was recognized in opposition to the bill, and he proceeded.

Several MEMBERS. Regular order.

The SPEAKER. The Chair cannot go further and say the gentleman shall not proceed in his own way in opposition to the bill.

Mr. SPRINGER. But he stated that he was in favor of the bill and would vote for it.

Mr. BLOUNT. I hope the Chair will take the whole statement of the gentleman from Alabama. He did say that he was going to take his own method in reference to the opposition to this bill; but before saying that, he did say positively that he was for this bill and should vote for it, and commenced to complain of the Judiciary Committee of the House for not reporting the Alabama bill back. He is discussing not this bill, but one before the Committee on the Judiciary. I submit that is not opposition to this bill.

The SPEAKER. The gentleman must appeal to the gentleman from Alabama for a fair division of the time, and not to the Chair.

Mr. BLOUNT. I desire to ask the Chair if under circumstances like these the opponents of a measure have no remedy, except as the gentleman may see fit to tender it himself?

The SPEAKER. The remedy is with the member.

Mr. BLOUNT. So far as this bill is concerned——

The SPEAKER. The remedy is with the member.

Mr. SPRINGER. I make the point of order, and I want to have a ruling on it.

Mr. BLOUNT. What is the remedy?

The SPEAKER. The Chair has already ruled on this on a former occasion.

Mr. SPRINGER. I make the point of order.

Mr. REED. I submit when the gentleman from Alabama has shown he intends really to favor the bill that then the Chair can take notice of his action and can call him to order and cause him to take his seat.

Mr. VALENTINE. I think that should be done.

Mr. REED. I submit, Mr. Speaker, this is to be done in good faith. While the Chair cannot be called on to rule in doubtful matters, while it cannot be called on to rule in opposition to the statement of members, although the task is a difficult and delicate one, yet in order to preserve the rights of the House it would be proper for the Chair to decide whether a member was speaking in opposition under the rules. I am aware of the difficulties, and make these suggestions for the purpose of aiding the judgment of the Chair, and not for the purpose of criticism.

Mr. COX, of New York. There can be no difficulty, Mr. Speaker, if the Chair would ask the gentleman from Alabama on which side he will vote.

The SPEAKER. The Chair does not think the vote necessarily determines the matter. The gentleman recognized having demanded a second, having indicated opposition, having indicated himself that he was in opposition and said he would take his own mode of opposing the bill, the Chair does not think it can interfere and require the gentleman to take his seat.

Mr. COX, of New York. How will the gentleman vote on the bill?

The SPEAKER. That is not necessarily conclusive.

Mr. VALENTINE. He declares he is going to vote for it. Is not that a sufficient declaration of his views on the bill, that he does not oppose it?

The SPEAKER. The Chair, in the execution of the rules of the House, must leave many things of this kind to the good faith of members themselves. The Chair has no more discretion or power in this matter than the individual members upon the floor.

Mr. COX, of New York. We will be troubled until the end of the session unless this question is decided positively one way or the other.

Mr. McCOID. Mr. Speaker, I hope the gentleman will permit this bill to come before the House on its merits. It is a very necessary and meritorious bill, and all we ask is a fair, impartial hearing.

Mr. SPRINGER. That is not on the point of order.

Mr. McCOID. I hope the gentleman from Illinois will not make an objection of that kind, but let the discussion go on and let us have a hearing on the merits of the bill.

Mr. SPRINGER. I will take advantage of all the rules of the House in order to secure my rights to oppose this measure.

Mr. HASKELL. I hope the Speaker of this House in the execution of the rules of this House will not go one inch beyond the line of policy which he has indicated. When a member rises and says he speaks in opposition to a bill, I insist that he shall rule, as he has ruled to the end, that the word of that member is binding and conclusive. He is the one to properly determine that question.

Mr. SPRINGER. But if the gentleman says that he is going to vote for the measure, can he be regarded as opposing it?

Mr. HASKELL. And that the Speaker shall not proceed to pass in judgment upon the merits of the manner of the argument a gentleman may choose to make upon the measure. It may be possible for a man to speak in favor of a bill in such a way as to hopelessly defeat it. It is for his own judgment to determine how he shall discuss any proposition; and when a gentleman on the floor says he rises in opposition to a bill, by all the precedents which have been established in the practice of this House that statement must be conclusive.

Mr. BLOUNT. But the gentleman from Alabama has not stated that he was in opposition to the bill. He has stated that he would vote for it.

Mr. ROBESON. When a gentleman is recognized to speak under the rule, he is recognized to speak either in order or out of order. If he speaks in favor of a bill when he is recognized in opposition to it, he is not speaking in order. If he speaks against a bill when he is recognized in favor of it, he is speaking out of order, and any gentleman on the floor may call him to order.

Mr. HASKELL. That is right.

Mr. SPRINGER. I have asked the Speaker to call him to order; and I do now insist that the gentleman has no right to speak in favor of the bill when he was understood as rising in opposition to it. I call him to order myself; and I ask the Speaker to call him to order under the rule. I ask a ruling of the Chair upon that point.

Mr. COX, of New York. The gentleman can call him to order——

The SPEAKER. The gentleman from Illinois assumes that it is the duty of the Chair to discriminate. Now the Chair decides against that. It is not his duty to discriminate.

Mr. SPRINGER. Then I call the gentleman from Alabama to order myself.

The SPEAKER. The Chair thinks that there may be just grounds of complaint in many instances, but does not of course say that there is any in this instance——

Mr. COX, of New York. There is not; the gentleman has stated clearly his position.

The SPEAKER. For, under the rules of the House, when a mo-

tion is made to suspend the rules and pass a bill, which motion is seconded, there are fifteen minutes allowed in favor of the measure and fifteen minutes against it. The difficulty is that the Chair cannot discriminate and say that a member, if he proceeds with some portion of his remarks which may be construed as favoring a measure when he was understood as rising against it, is speaking in favor of it, or when he was understood as rising to favor it, if some portion of his remarks may be construed as in opposition, that the Chair shall call him to order, and require him to desist. Such matters must rest with the members themselves, and the Chair cannot undertake to discriminate and prescribe what line of argument a gentleman shall follow.

Mr. SPRINGER. What is there to prevent the whole time being occupied by one side, to the exclusion of the other?

The SPEAKER. If a gentleman is called to order who is occupying the time against the measure, the Chair, in the execution of the rules of the House, could only say to the gentleman that he shall proceed in order. But the Chair repeats that it does not undertake to discriminate or decide what method a gentleman may see proper to adopt in the matter of opposing or favoring a measure. That is a question for his own judgment exclusively, and one over which the Chair has no possible control.

Mr. HAMMOND, of Georgia. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMMOND, of Georgia. If, during the course of the remarks of the gentleman from Alabama, it shall turn out that though he was understood as rising to oppose the bill he is in favor of it, can the Speaker, under such circumstances, give the other fifteen minutes to the other side?

The SPEAKER. The Chair thinks not. That would possibly cut off some of those who are entitled primarily to be heard in its favor; and the Chair thinks that would not be fair. The remedy must be with the members themselves who profess to be in favor of or in opposition to the measure.

Mr. HAMMOND, of Georgia. But if the gentleman having the bill in charge and favoring it yields the floor to a member who opposes it, does he not necessarily give up his own right to the time?

Mr. McCOID. I have not yielded my right to the floor. I reserved my time.

The SPEAKER. The Chair will submit that under the rules the gentleman in favor of the measure does not yield the floor to the opponent of the measure for the fifteen minutes allowed under the rule; because a member or some member opposing the measure is entitled to be recognized for that time by the rules of the House.

Mr. HASKELL. I raise the point of order now, and I desire to ask the gentleman from Alabama through the Speaker whether he rises in opposition to the bill or not?

The SPEAKER. The gentleman from Alabama has already stated, but may state again his position.

Mr. HEWITT, of Alabama. While I do not acknowledge the right of the gentleman from Illinois——

Mr. SPRINGER. The point of order I make is this——

The SPEAKER. The Chair would suggest to the gentleman from Illinois to wait to hear the answer of the gentleman from Alabama.

Mr. SPRINGER. I would rather make the point of order, so that the gentleman can speak to it. The gentleman from Alabama has already stated he will vote for this bill, and I call him to order and claim that having so stated he cannot be recognized to occupy the time allowed for opposition to the bill.

The SPEAKER. The gentleman from Alabama will state whether he is in favor of the bill or in opposition to it.

Mr. HEWITT, of Alabama. While I do not acknowledge the right of the gentleman from Illinois or any other gentleman on this floor to inquire of me whether I am for or against the bill—waiving that, I will say to the Speaker and to the gentleman from Illinois that I expect to vote for this bill, and my whole object was simply to call the attention of the Judiciary Committee in particular to a bill which I have introduced, which I think has more merit than this.

Mr. VALENTINE. That has nothing to do with this bill.

Mr. SPRINGER. That is where I make the point of order.

Mr. HEWITT, of Alabama. I yield the balance of my time to the gentleman from Illinois, [Mr. SPRINGER,] who so very seldom addresses this House.

The SPEAKER. The gentleman from Illinois [Mr. SPRINGER] is recognized.

Mr. SPRINGER. I decline to take the time from the gentleman from Alabama. I desire to take the floor in my own right.

The SPEAKER. This question has come up on a former occasion. The Chair thinks that the fifteen minutes allowed for opposition to a measure should be given to those who are fairly in opposition. The Chair does not think they should be taken up in favoring the measure, and that then the gentleman who makes the motion should be cut off. The Chair hopes that hereafter the gentleman who demands a second and claims the right to speak in opposition will look to the rule and be guided by it. The gentleman from Illinois [Mr. SPRINGER] is recognized.

Mr. SPRINGER. I desire to call the attention of the House to some objectionable features of this bill. When these features are understood I do not think a two-thirds vote or a majority vote will be given in favor of its passage.

The bill provides for dividing the State of Iowa into two grand divisions, in each of which there will be four places for holding courts. There will, therefore, be eight places in the State of Iowa for holding courts. At each place there will be two terms of two different courts, the circuit and the district court, making sixteen terms of the two courts, and thirty-two terms for the whole of the courts allowed to that State. There will be, under this bill, a grand jury and a petit jury assembling at eight different times in a year, at eight different places. There must be a place provided at each one of these places for holding these courts; there must be a clerk there; there must be records there; there must be a building there, in which to hold the court; and somebody must furnish fuel and lights, and all the other expenses of holding courts in these various places. The expense of impaneling sixteen grand juries and sixteen petit juries to assemble in these place in the State twice a year will be no inconsiderable sum of money, all of which is to be paid out of the Treasury of the United States.

Sir, if this bill passes, it revolutionizes all the United States courts in this country. We have not been in the habit of regarding the United States courts as circuit courts and the United States judges as circuit-riders, going about into every county in the State and holding a Federal court. There are but seven places for holding courts in the State of New York, the most populous State in the Union; a State having the greatest amount of business. In the great State of Illinois, where we have three millions of inhabitants, and which will have twenty Representatives upon this floor in the next Congress, there are but two places for holding United States courts at which grand and petit jurors are assembled, one in the city of Chicago, the other in the city of Springfield. We have found these facilities ample for the purposes for which the United States courts are organized. The State of Illinois, much larger in population and territory than the State of Iowa, can get along with, and does transact all the business of the Federal courts in two places—at Chicago and in the city of Springfield. I hold, and the facts will show, that there is more business done in the Federal courts of Chicago than in all the State of Iowa, and by one judge of the circuit and one of the district court, which circuit judge must hold courts also in other parts of the country.

Mr. ROBINSON, of Massachusetts. Will the gentleman answer me a question?

Mr. SPRINGER. I will hear the gentleman's question.

Mr. ROBINSON, of Massachusetts. Is there not complaint in the State of Illinois that the United States courts are not sufficiently near the people, and is there not a demand for more places for the holding of court in the State of Illinois?

Mr. SPRINGER. Not so far as I have heard. There has been no bill introduced and no petition sent here for that purpose that I have heard of.

Mr. ROBINSON, of Massachusetts. Would it not be for the convenience of the people of the State of Ilinois if the courts were nearer them?

Mr. SPRINGER. I do not understand the people there are clamoring for a United States court in every county. I hear no clamor of the people for more Federal courts. They have enough of them now. The jurisdiction which it is sought to have exercised by the Federal courts belongs, to a large extent, to the State courts. This is an effort to suppress State jurisdiction and bring all the business of the people in the Federal courts.

Mr. KENNA. May I ask the gentleman from Illinois a question?

Mr. SPRINGER. Certainly.

Mr. KENNA. It is a question in the line of the suggestion of the gentleman from Massachusetts in reference to the convenience of the people. I ask the gentleman from Illinois, is it not a fact that economy will be very largely promoted to the Government itself by allowing this court to go to the people of half the State instead of dragging the people of that half of the State as jurors and witnesses to court?

Mr. SPRINGER. I say no.

Mr. KENNA. Well, I say yes.

Mr. SPRINGER. There are to assemble under this bill sixteen different juries, grand juries and petit juries. They are to be impaneled twice a year for courts to be held at different places in the State. Now, in the State of Illinois there are but two places to hold United States courts, and the juries there transact all the business required. It seems to me that this bill is one to muster into the Federal service as grand jurors and petit jurors a great mass of the people of Iowa. It mobilizes the whole people of Iowa and puts them under pay of the Federal Government as grand and petit jurors.

Mr. THOMPSON, of Iowa. Will the gentleman permit me to ask him a question?

Mr. SPRINGER. Certainly.

Mr. THOMPSON, of Iowa. The gentleman speaks about taking business from the State courts and putting it into the United States court. Does he not know the fact that there is no corporation transacting business, either as a railroad company or as an insurance company, that can to-day go into a State court; not one of them?

Mr. SPRINGER. I admit that our laws permit too great latitude in bringing suits in United States courts; they permit too many of them to be brought in Federal courts which ought to be brought in State courts. But instead of making more Federal courts we should repeal some of the laws which take so many cases into the Federal

courts and require them to be tried at home in the county or immediate vicinage where the people live. That is the remedy I would insist upon and not an extension of the system which throws all the jurisdiction into the Federal courts.

What necessity is there for having so many courts in the State of Iowa when Illinois, a much larger State, can get along with two courts? It would be an enormous expense to the Federal Government to establish this system, and I am opposed to it, and I believe the people of Iowa are opposed to it. It seems to me that when the gentlemen on the other side representing that great State ask for some relief they have asked for much more than they are entitled to. It looks as if they had farmed this matter out so as to give them a court in every Congressional district.

Mr. HEWITT, of Alabama. Will the gentleman permit me to ask him a question?

Mr. SPRINGER. I will.

Mr. HEWITT, of Alabama. I would like to ask the gentleman from Illinois [Mr. SPRINGER] if he is opposed to bringing the courts as near to the people as we can?

Mr. SPRINGER. We have courts near the people. That is just the objection I make to this whole Federal jurisdiction in matters that could be tried in the counties where the people live under a system which is able to afford them all the relief they want.

I refer the gentleman to the efficient judges of the circuit court under the laws of the State of Iowa, where people can get justice at home and not be harassed by being carried out of their counties.

Mr. HEWITT, of Alabama. Will the gentleman permit another question?

Mr. SPRINGER. Certainly.

Mr. HEWITT, of Alabama. I would like to ask the gentleman if he has introduced any bill into Congress to remedy the evil of which he speaks?

Mr. SPRINGER. My colleague from the southern district of Illinois [Mr. TOWNSHEND] has introduced such a bill, and has been pressing it, and I am in favor of that bill. It is not necessary to introduce two bills on the same subject; one good bill will do if you will pass it.

Mr. McCOID. I now yield to my colleague, [Mr. DEERING.]

Mr. DEERING. I wish simply to make a brief explanation. I hold in my hand a large number of petitions received from counties in the northern portion of the State, asking that Mason City may be designated in the bill as one of the places at which these courts shall be held. The petitions did not reach me until after this bill had been considered and reported by the committee, and hence these petitioners have not been heard. In justice to them, they being, as I am, in favor of the main features of this bill, I have prepared an amendment, which if adopted would accomplish the object they seek. I will not offer it and press it here, because it is a proposition which ought to be considered in committee in connection with a map of the State. I will simply ask that it be printed in the RECORD with my remarks, and I will then take it and the petitions to the Senate and endeavor to have the amendment put on the bill in that body.

There was no objection.

The amendment is as follows:

Strike out the entire fifth section of the bill and insert in lieu thereof the following:

"That for the purpose of holding terms of court the northern district shall be divided into three divisions, to be known as the eastern, central, and western divisions.

"The counties of Clinton, Jackson, Jones, Linn, Benton, Black Hawk, Buchanan, Delaware, Dubuque, Clayton, Fayette, Winneshiek, and Alamakee shall constitute the eastern division, the courts for which shall be held at the city of Dubuque.

"The counties of Howard, Chickasaw, Bremer, Grundy, Butler, Floyd, Mitchell, Worth, Cerro Gordo, Franklin, Hardin, Hamilton, Wright, Hancock, Winnebago, Kossuth, and Humboldt shall constitute the central division, the courts of which shall be held at Mason City.

"The counties of Webster, Calhoun, Sac, Ida, Monona, Woodbury, Plymouth, Cherokee, Buena Vista, Pocahontas, Palo Alto, Clay, O'Brien, Sioux, Lyon, Osceola, Dickenson, and Emmett shall constitute the western division, the courts for which shall be held at Sioux City."

Mr. McCOID. I now yield to my colleague, [Mr. CARPENTER.]

Mr. CARPENTER. I do not know that it is necessary for me to make any remarks upon this bill. I desire, however, to say, in answer to some objections which have been made by the gentleman from Illinois, [Mr. SPRINGER,] that the State of Iowa, as at present divided, has four places for holding courts. Three of those places are in the southern half of the State, and under this bill will come in the southern district.

In the northern district, Dubuque, the one place under this bill for holding the courts, is situated on the extreme eastern boundary of the State. Under the old apportionment I represent the northwestern district of Iowa. Territorially I represent one-fourth of the State, and more than 275,000 of its population.

Under existing circumstances, the people in my district are absolutely denied justice in the Federal courts. No man in my district can reach the Federal courts of the State as at present located without traveling from nearly one hundred to two hundred and fifty miles. The bill proposes to establish three additional places in the northern district for the holding of courts.

In regard to making so many divisions in different districts of the State, allow me to say a word. There is no great commercial city in the State of Iowa. The gentleman from Illinois [Mr. SPRINGER] has spoken of the fact that there are only two places in the State of Illinois—Chicago and Springfield—at which United States courts are held. But it is very natural that in the State of Illinois the business should float to Chicago, because that is the great commercial city of the State. But in Iowa we have no great commercial city. We are an agricultural people; and our courts must necessarily be held in the smaller towns. That is the reason for these divisions and the providing of courts in these different towns in the various sections of the State. The object is the accommodation of the people. Let me ask gentlemen on both sides whether it will be more expensive to bring the courts nearer to the people rather than to take the people to the courts as at present located? This is all I have to say.

Mr. McCOID. I yield two minutes to the gentleman from Illinois, [Mr. CANNON.]

Mr. CANNON. Mr. Speaker, in these matters we must accommodate our legislation to the changed condition of the country. The Federal courts, by legislation and otherwise, have now a much larger jurisdiction than they formerly had. The country has been more widely settled. Take the State of Iowa, with its population of nearly two millions.

A MEMBER. All of that.

Mr. CANNON. Take the State of Illinois, with its three millions of people, and more. Now, I undertake to say that when suitors reside hundreds of miles away from the court, and mileage as well as other expenses are piled up in getting to the court, to say nothing of the personal inconveniences, it is frequently an absolute terror to parties to become litigants. I would bring the sessions of the United States courts in the great populous States, and perhaps, also, in the more thinly settled States, somewhere within reach of suitors.

I can readily understand why my colleague, [Mr. SPRINGER,] living in the city of Springfield and representing the capital district of the State, may not feel as do many others of us in Illinois who live from one to two hundred miles away from a United States court. I hope this bill will pass, and I trust a similar bill for the State of Illinois will pass before this session shall close.

Mr. BLOUNT. I would like to ask the gentleman from Iowa [Mr. McCOID] a single question. As I understand, this bill provides against any increase of expense to the Federal Government arising from the multiplicity of courts.

Mr. McCOID. It is to be without expense to the Government.

Mr. VALENTINE. And it saves a great deal of expense in the way of mileage.

Mr. McCOID. I yield for two minutes to the gentleman from Mississippi, [Mr. MANNING.]

Mr. MANNING. Mr. Speaker, I have not heard any substantial objection to the passage of this bill. I favored it in the sub-committee as well as in the general committee, and from what has been said here against the bill I am reassured in so doing I was entirely right. I was at first reluctant to assent to any such legislation, but my sense of justice made me yield to the urgent appeals of the unbroken delegation of the State concerned, supported by the judges of the Federal courts and all the people immediately concerned and thoroughly acquainted with the merits of the matter. From these sources came to us evidence sufficient to fully satisfy us that the majesty of the law and the public weal would be consulted by the passage of the bill. What additional information could be obtained? Who controverts the facts? If the statements cannot be challenged, then the bill should be promptly passed.

As to the objection that there is an increase of jurisdiction given by the bill, if there is any "rhyme or reason" in that statement I fail to perceive it. The jurisdiction of these courts is determined not by this bill, but by the provisions of the organic law and by previous legislation pursuant thereto.

Mr. Speaker, there is in our Constitution a clause which causes the calendars of our Federal courts to be overburdened with a class of cases that do not properly belong to Federal tribunals. The second section of the third article of the Constitution, which gives to the Federal courts jurisdiction of all cases between citizens of different States, should be stricken out. It is because of the operation of this clause that bills of this kind become necessary. I have had the honor of calling the attention of this Congress to the necessity of amending the organic law in the stated respect, and I hope the proposition will be favorably considered by Congress and the different State Legislatures. But let us not play "dog in the manger." Let us not stand in the way of the public business or the proper administration of the law. Let us not impose hardships or unnecessary burdens upon the people. Let us be practical and judicious in what we do. Let us consider the matter as we find it. If our organic law be amended as indicated, then the districts which may be found unnecessary thereafter can be dispensed with.

One other remark I wish to submit. It has been said that this bill provides for eight different court-houses. That statement is without the slighest foundation in fact; and it argues on the part of those who make that criticism that they have not read the bill at all. I do think that common justice to a committee reporting a bill demands that those who oppose it should have at least a speaking acquaintance with both the report and the bill. This bill provides that no expense shall be imposed upon the Government for public buildings; that the additional courts provided for in the bill shall be held in buildings furnished for the purpose without expense to the United States.

[Here the hammer fell.]

Mr. McCOID. I will not occupy time in further debate; but I have here a letter received yesterday from Judge Love, the district judge of that district, which gives very conclusive reasons in favor of the passage of the bill. As there is not time to read this letter I ask that it be printed in the RECORD.

The letter is as follows:

DUBUQUE, *April* 26, 1882.

MY DEAR SIR: As you are now in Washington I beg leave to call your attention, and through you the attention of the Iowa delegation, to the absolute necessity of additional judicial force in the Federal courts for this district.

Let it be borne in mind that there is not another State in the Union of anything like our population and judicial business without at least two district judges. Iowa has more than a million and a half of people, and its Federal judicial business is in far greater proportion to that of other States than its population. Iowa, with a large population, has little accumulated capital; the consequence is that its commercial, railroad, and other business is carried on mainly with foreign capital. Nearly all the great railroad corporations, now representing many millions of capital and a vast network of railroads, stretching north and south, east and west to every part of the State, are, in the sense of Federal law as settled by the Supreme Court, citizens of other States. The business of both life and fire insurance in Iowa is almost entirely in the hands of non-resident corporations. In addition to this many moneyed corporations of other States have agencies here negotiating loans to our citizens on real-estate security. The consequence is that there is a vast and increasing litigation within the jurisdiction of the Federal courts, and the fact is that all non-resident suitors, with trifling exceptions, where the sums involved are over $500, transfer their causes to the United States circuit court. Congress has seen fit to provide for the holding of two terms of the circuit and district courts in this State at four different places, making eight terms of each court per year.

The result is that it has become impossible for one district judge to dispose of the accumulated and accumulating judicial business, and without provision for an additional judge there must inevitably be a grievous delay of justice to the prejudice and in some instances the ruin of suitors. Let it be remembered that the circuit judge has a vast empire within his jurisdiction, embracing the States of Minnesota, Iowa, Nebraska, Missouri, Kansas, Arkansas, and Colorado, with two districts in Missouri; insomuch that in the nature of things he cannot even attend the courts in Iowa except at Keokuk and Des Moines; and even at these places it is impossible for him to remain but a very short time at any term. The result unavoidably is that the judicial business of Iowa in both the district and circuit courts is cast almost entirely upon a single district judge. Is this right? Is it just to the suitors of the court, especially when we consider that there is no right of appeal where the amount involved is less than $5,000.

Let us look at this matter in still another aspect. Mr. Lane, late United States district attorney of this district, informs me that he appeared before the Judiciary Committee of the Senate two or three years ago and proved to their satisfaction by the reports of the Attorney-General that Iowa then was the fifth State in the Union in Federal judicial business.

Thus Iowa, with a million and a half of people and a judicial business greater in amount than any State in the Union except New York, Pennsylvania, Ohio, and Illinois, has but one district judge, while Arkansas, with a third of its population and judicial business, has two judges, Tennessee three, Alabama three, Wisconsin two, Missouri two, Michigan two, Florida two, Georgia two, Mississippi two, North Carolina two, and South Carolina two. Now, compare the population of Iowa with the several States just named and it will be apparent that gross injustice has been done to Iowa with respect to its judicial rights and necessities.

Thus, while Iowa has not less than a million and a half of inhabitants, with a rapidly increasing population, the foregoing States contain, respectively, the following population: Arkansas, 802,560; Tennessee, 1,542,463; Alabama, 1,262,794; Wisconsin, 1,315,480; Missouri, 2,168,804; Michigan, 1,636,331; Florida, 267,351; Georgia, 1,539,048; Mississippi, 1,131,592; North Carolina, 1,400,047; South Carolina, 995,622.

Iowa twenty years ago, when its population was not 500,000 and its business less in proportion than it now is, was put by act of Congress in a class with regard to judgeship and salaries with such States as New Hampshire, Vermont, Connecticut, Rhode Island, Delaware, Michigan, Wisconsin, Maryland, and Arkansas. Some of these States have been by act of Congress divided into two districts, but Iowa with her million and a half of people, (1,624,620,) her eleven Representatives in Congress, and her tenfold increase of judicial business, remains in the class of districts where she was placed twenty years ago.

Allow me to say, in conclusion, that I make my appeal for relief entirely upon public grounds. Personally I ask nothing and expect nothing, and although the simple truth is, that I am made to perform the duties of circuit judge with the salary of district judge of the lowest class, I ask no change in this regard. My doctrine is, and always has been, that the public officer who does not see fit to accept the compensation which the law awards him can surrender his position to some one who may be willing to perform the service upon the same terms.

But what I do say is that common justice to suitors requires that adequate provision should be made for the speedy trial of their causes. At the late term at Council Bluffs, seeing that without some extraordinary efforts many suitors would be compelled to leave the court without a trial of their causes and suffer the consequences of accumulating costs, I held night sessions during almost every day of the term. I am now under the same sense of necessity holding night sessions here, and yet it is manifest that a number of cases in which parties are present with witnesses will have to go over to another term; and I know that at the coming term at Des Moines in May the same evil will of necessity be repeated.

If we had another judge, with or without a division of the State into two districts, there would be no difficulty in disposing of the business in a satisfactory manner.

It has long been our practice, sanctioned by law, where there are two judges at any term to sit separately for the trial of jury causes and the hearing of all matters in equity.

If we had another district judge, even without a division of the State, (if that cannot be accomplished,) the practice referred to would enable the court to dispose, without delay of justice, of all judicial business in the State.

I am very truly yours,

J. M. LOVE.

Colonel D. B. HENDERSON.

Mr. SPRINGER. One word of explanation. I did not state that this bill required eight different court-houses, but that it provided eight different places for holding courts.

The question being taken on the motion of Mr. McCOID to suspend the rules and pass the bill, there were—ayes 102, noes 5.

Mr. HOLMAN. No quorum has voted.

The SPEAKER appointed Mr. McCOID and Mr. HOLMAN as tellers.

The House again divided; and the tellers reported—ayes 149, noes 3.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

LOYAL CLAIMS.

Mr. CHAPMAN. I move that the rules be suspended and the following resolution be adopted.

The Clerk read as follows:

Resolved, That Saturday, the 13th day of May next, be assigned for the consideration of House bill No. 5899 to authorize the accounting officers of the Treasury to consider and pass upon certain claims now pending before them, after the reading of the Journal or the expiration of the morning hour, and said consideration to continue from day to day until disposed of, not to interfere with the consideration of general appropriation bills and revenue bills.

Mr. HOLMAN. I demand a second.

The SPEAKER. Shall the second be considered as ordered?

Mr. SPRINGER. Let the bill be read, so we can understand it. As a part of the resolution I call for the reading of the bill to which reference is made by title.

The SPEAKER. Is debate required?

Mr. SPRINGER. I call for the reading of the bill referred to by title in the resolution as part of the resolution.

The SPEAKER. It is not.

Mr. SPRINGER. How are we to know what the bill is unless it is read?

Mr. CANNON. Have we had a second?

The SPEAKER. The gentleman from Indiana is recognized in opposition.

Mr. HOLMAN. I call for a second, so the House may understand what it is called to vote on. I trust my friend will have the bill read and explain the effect of it. I do not wish it understood I am opposing the measure or that I called for the second for the purpose of opposition. I only desire the House shall understand exactly what it is doing.

The SPEAKER. There being no objection, the second will be considered as ordered.

There was no objection, and it was ordered accordingly.

Mr. HOLMAN. I ask for the reading of the bill.

The Clerk read as follows:

A bill (H. R. No. 5899) to authorize the accounting officers of the Treasury to consider and pass upon certain claims now pending before them.

Be it enacted, &c., That the accounting officers of the Treasury be, and they are hereby, authorized and directed to consider and pass upon the claims now pending before them of loyal citizens mentioned in sections 300 A and 300 B of the Revised Statutes, for the use and occupation of real estate under contract express or under circumstances where an intention to make compensation for such use ought to be presumed, and for materials used in the construction of forts situate in the loyal States taken by the military authorities of the United States during the rebellion: *Provided*, That nothing hereinbefore contained shall be construed to allow compensation for the damage to or destruction of such real or personal estate.

Mr. HOLMAN. Before my friend from Maryland takes the floor I wish to state to the House the effect of this bill. The accounting officers of the Treasury have held, under the second and third sections of the act of 4th July, 1864, under which accounts for quartermaster and commissary supplies are being adjusted and sent down annually to the House for necessary appropriation, that rents for real estate during the operations of the late war were not covered. The object of this bill, as I understand it, is to put a different construction on those two sections, 300 A and 300 B of the Revised Code. The construction proposed to be put on them is that the accounting officers of the Treasury shall consider rents for real estate during the operations of the war as well as other claims.

Mr. SPRINGER. Let me ask what is the probable amount of such claims now covered by this bill?

Mr. HOLMAN. I have seen some statement from the Treasury officials on that subject, perhaps also from the Quartermaster-General, but it is not possible to conjecture exactly what number will come in under this proposed construction.

I presume the gentleman from Maryland can give the House full information on the subject.

Mr. SPRINGER. I should like to have the opinion of the gentleman from Indiana. Does it not amount to millions?

Mr. HOLMAN. I could not say so much.

Mr. WILLITS. Has not the Court of Claims jurisdiction of rents of property under express contract, and does not this propose to give jurisdiction over contracts implied as well as expressed?

Mr. HOLMAN. This is to enlarge the jurisdiction. I will reserve my time until I hear from the gentleman from Maryland.

Mr. CHAPMAN. Mr. Speaker, the gentleman from Indiana does not properly comprehend this subject. The object of this bill is simply to correct the construction which has occurred at the Treasury Department within the last two years. No question had ever arisen until the fall of 1880 as to the authority of the accounting officers to decide claims referred to in this bill. The claims which have been adjudicated by the accounting officers of the Treasury of this class of cases already amount to millions. The number of claims remaining before the accounting officers do not exceed $100,000. It would be an act of gross and manifest injustice, as it appeared to the Committee on War Claims, to say that these few remaining claims now before the Treasury should not be adjudicated on the proofs there filed, which proofs have been put there at the expense of the claimants and by the invitation of the United States Government.

The claims which are referred to in this bill are claims for the use and occupation of property of loyal citizens situated in loyal States by the Government, where there is a contract either expressed or im-

plied on the part of the Government to pay for such use or occupation. I do not believe that there is a gentleman here upon this floor who, if we can properly get the matter before him, will hesitate for an instant to say that these claimants ought to be heard. It is no extension of the jurisdiction already existing over such claims. It brings no new class of claims against the Government before the Department for adjudication. It is only saying that this trouble which arose during the administration of Secretary Sherman shall be remedied, and that the law shall be explicit where there is a question of doubt.

This trouble in 1880 arose with the Secretary of the Treasury and some of his assistants on the ground that the claims that they had been taking cognizance of for the last sixty-three years, since the year 1817, and which Congress had been appropriating money to pay, were not authorized to be considered although millions had already been adjudicated and only perhaps not exceeding $100,000 remain to be considered; and therefore this measure is proposed as a means of settling a doubtful point. It enlarges no class of claims which have heretofore been considered. It opens no new avenue of claims against the Government. It simply provides that the doubt raised in the mind of the Secretary of the Treasury and his assistant secretaries shall be taken into consideration and determined, and there the matter rests. In the report which is now on the files of this House you will see that that is all that is proposed. The accounting officers of the Treasury who have had cognizance of these claims find that the few remaining claims which have not been adjudicated have all the equities and rights which other claimants had whose claims have been settled, and they plainly say so in their reports filed with this bill, but these are now withheld for the reason that I have stated, and this is simply to allow them to have a hearing.

I did not propose to go into the merits of the question to-day, because the object of the resolution which I am directed to offer by the committee for the consideration of the House is simply to grant a day for the consideration of the measure proposed, and when that is done we shall invite careful attention to it, and feel satisfied that there will not be a dozen gentlemen here present who would make any objection to the matter if we can bring it before them in proper shape. We believe the unanimous sentiment of the House will be that it is right and proper that these claimants should be heard. It is not under section 300 A or 300 B of the Revised Statutes. These sections are only referred to because they designate the class of citizens, namely, loyal citizens residing in loyal States, and these would have had judicial construction and settlement as to their meaning.

Now, as I say, millions of dollars have been paid heretofore for lands occupied by the United States forces during the war and at other times under an implied contract to pay rent, and the consideration of questions of that character have gone on in the Treasury until 1880. Millions of dollars have been adjudicated in that way, and probably, as I have said, not more than one hundred thousand remain to be adjusted.

I will repeat, we do not ask any new power or any extension of jurisdiction which has not already existed, but simply ask that the few humble cases remaining before the Department shall be considered by the Secretary as these numerous cases have been already adjudicated prior to 1880. That is all that is proposed, and I do not wish to occupy the time of the House in discussing the merits of the case any further at this time. I did not propose to enter upon it at all, but only rose for the purpose of asking the adoption of this resolution for the establishment of a day for the consideration of the bill, and I can assure the House, as indeed they may take it for granted from the fact that this is a favorable report from the Committee on War Claims, and as they have reported favorably in not more than half a dozen cases it may be assumed that this matter had careful consideration, and should be a passport to the consideration of the House.

This report has the indorsement of nine out of ten members of the committee, and we ask that a day shall be set apart to consider the question, so favorably was the committee impressed with its justice and right. After a full examination of the question the committee have decided to ask that the House fix a day for its consideration. That is all. The House may be sure that the bill presented does not trench upon any grounds which will open up new classes of claims or extend the jurisdiction of the accounting officers, or it could never have passed that committee. It does not bring before the Government any claim that was not properly before it heretofore. It only allows the consideration of claims which have been held in abeyance until the question of doubt is settled.

Mr. WILLIS. Will the gentleman permit me to ask him a question?

Mr. CHAPMAN. Certainly.

Mr. WILLIS. If you pass this bill do you not expect practically to wipe out the statute of limitations?

Mr. CHAPMAN. Not at all. It has no such effect. The bill expressly refers to claims now pending, and does not take cognizance of any new cases whatever.

Mr. WILLIS. But this bill assumes that the Department has not now jurisdiction of these cases, and you propose by this bill to give it jurisdiction.

Mr. CHAPMAN. No, by no means. The trouble, as I have stated, is in the construction of the law as given to it of late by the Secretary of the Treasury. He has a doubt as to the right to consider these cases. That does not exist with the Auditor of the Treasury. He says there is no doubt as to it. All of these cases are already in the Treasury and are being prepared for the adjudication of the Secretary by the subordinate officers, but the Secretary says to Congress, "I have doubts in my mind as to my power to consider them." The statute of limitation commenced January 1, 1880, and no claim arising since that or no claim filed since that date can be considered at all. This bill, therefore, refers only to claims that are now pending, and the statute cannot run against cases already in court.

Mr. CAMP. If the Secretary of the Treasury has jurisdiction, then what is the necessity for passing this bill?

Mr. CHAPMAN. Simply because he has doubt on the question, and we want to remove that doubt.

Mr. WILLITS. Is not the reason because the Court of Claims has jurisdiction over contracts express or implied?

Mr. CHAPMAN. Not at all.

Mr. WILLITS. Has the court not jurisdiction where there is an express contract for rent; where it is a question of rent for a piece of property under express contract? If not, let the gentleman cite the statute that will sustain his position. Under this bill you are giving the Department jurisdiction of subject-matter over which it has no jurisdiction now, and never has had; and not only that but you put a construction on the term "implied contracts" which opens up the whole field.

Mr. CHAPMAN. The gentleman is evidently mistaken. He does not properly apprehend the object of the bill. But here are the words of the Comptroller on that subject:

> There has been much conflict of opinion as to the power and authority of the accounting officers to audit claims of this kind, but during several years past it has been held that the Auditor and Comptroller are not authorized to approve a claim for the use or occupation of real estate in any case except where rent has become due by the terms of an express contract.

If you can establish that the rent has become due by express contract, you relieve them of the trouble as to the jurisdiction.

Mr. WILLITS. Then your bill provides for cases of contracts express as well as implied?

Mr. CHAPMAN. Express or implied.

Mr. WILLITS. Why not stop there? But you go on and give a definition of what constitutes implication.

Mr. CHAPMAN. I will answer that question cheerfully. I am the author of the bill. As originally drawn, the expression used was "contracts express or implied," but some gentlemen on the committee, very punctilious in this matter, and very much afraid the Government might be mulcted in something that it ought not to be, suggested we should use the expression in the bill, and as the idea intended is the same, no objection was made to the change of expression, though not suiting me as well, because the expression "express or implied" is a judicial expression.

Mr. WILLITS. I desire to ask the gentleman another question. You say the Department would have jurisdiction over contracts express but not implied. Now you propose to give them jurisdiction over implied contracts.

Mr. CHAPMAN. And it is exactly that which the Comptroller of the Treasury thinks the Department may not have the authority to consider. Let me read one further remark from the Comptroller of the Treasury.

Mr. VALENTINE. Will the gentleman from Maryland allow me to ask him a question?

Mr. CHAPMAN. Yes, sir.

Mr. VALENTINE. Is it not the intention or object of the bill to change the provisions of section 300 of the Revised Statutes——

Mr. CHAPMAN. Not at all.

Mr. VALENTINE. Which expressly says there shall be no payment of claims for occupation of or injury to real estate, &c.?

Mr. CHAPMAN. Not at all. The gentleman is reading a section that applies to States in rebellion.

Mr. VALENTINE. Would it not have that effect if this bill should become a law?

Mr. CHAPMAN. Not at all. There are now pending, as I have already said, before the officers of the Treasury certain classes of claims, the evidence of them proved and filed. They are for rents and do not touch the two classes of claims referred to by the gentleman from Nebraska. Those are for quartermasters' stores and commissary stores.

Mr. VALENTINE. Why, then, not be satisfied to meet the intention now stated by the gentleman from Maryland? The bill is much wider in its scope than he states its object is.

Mr. CHAPMAN. This bill applies only to claims of loyal citizens residing in loyal States.

Mr. BUCKNER. I will say to gentlemen on the other side the object is to get a day to consider the bill and not to argue it now.

Mr. VALENTINE. I understand that, but if it is such a bill as it seems to me it is, I will vote even against allowing a day to consider it.

Mr. CHAPMAN. It is not such a bill as the gentleman supposes. I beg that gentlemen will be satisfied they are right before they refuse to give a day for its consideration. If they apprehend there is any harm in it, it is because they do not properly understand the bill. As I said before, the Committee on War Claims of this Con-

gress would not have recommended this bill till doomsday if there was any harm in it. It is simply an act of obvious and most righteous justice to claimants who were authorized and invited by the Government to file their proofs. They have done it, and now you say the few remaining claimants shall not be heard when millions have already been paid. This introduces no new claim, no new matter, but simply applies to those claims now pending with the proofs now filed.

I desire to read another passage from the opinion of the Second Comptroller of the Treasury, and I beg gentlemen who have any doubts as to this will give their attention for a few moments. The Second Comptroller says:

As this kind of property—

Going on to speak of rents and engineers' stores—

As this kind of property is not deemed to be quartermasters' stores, within the meaning of section 300 A of the Revised Statutes, it is argued that if the special authority given by that section, and by the succeeding section, was necessary in order to authorize the auditing of accounts for quartermasters' stores and for subsistence, like special authority is necessary to authorize the accounting officers to audit claims for property taken without contract and used in the construction of fortifications; and upon the strength of this argument it is held that this class of claims is not within the jurisdiction conferred. While so holding, I am aware of the apparent inconsistency of making the question of pay depend upon the use to which the property is devoted, when either of two purposes may have been equally beneficial to the Government. The same officer may have been acting as engineer and as quartermaster at the same time, and quantity of timber may have been seized by his orders, and used, in part, for purposes of fortification and in other part as quartermasters' stores. The part used for the purpose last mentioned can be lawfully audited and allowed in pursuance of the statute above referred to, while so much as was used solely for purposes of fortification does not fall within the purview of that statute, nor has it been provided for in any special statute conferring jurisdiction on the accounting officers.

I am of opinion that existing law does not authorize the accounting officers to audit claims for forcible seizure or occupation in either of the two classes above mentioned.

Judge E. W. Keightley, Third Auditor of the Treasury, in several communications addressed to the Committee on War Claims, thoroughly reviewing this whole subject in a masterly and judicious manner (all of which communications are made part of this report accompanying this bill) remarks:

The claimants **should have a remedy**; and doubts having been raised as to the power of the accounting officers in the premises, the proposed legislation appears to me to be wise and just.

Mr. WILLITS. Then it comes right back to the first question. This subject of rent never has been submitted to the Department. The recovery of rent is under the clause in reference to express contracts, and the Court of Claims has jurisdiction of it.

Mr. CHAPMAN. The gentleman is entirely wrong. At the proper time for the consideration of this question I shall invite the attention of gentlemen to the reports of the officers of the Treasury, where they say they have paid millions of dollars on lands occupied under implied contract, and it is an impious denial of the simplest justice on the part of the Government to say now to these claimants, "We have invited you by a construction and course of proceeding for upward of sixty years under a statute passed in 1817 to file and prove your claims before the accounting officers of the Treasury; you have gone to that expense and trouble, and we have paid multitudes of just such claims on the judgments rendered by the accounting officers of the Treasury, and continued to pay them up to 1881; we close this door in your face and you are barred by the statutes of limitations from presenting your claims anywhere else, even if any other tribunal was ever opened to you." This highwayman's justice of "stand and deliver" would not be the verdict of this House, in my humble judgment, if we could secure the attention of the House to the matter.

[Here the hammer fell.]

Mr. HOLMAN. Under the terms of this bill there is of course a new jurisdiction conferred upon the accounting officers of the Treasury; that of course is inevitable. The only question is, whether or not the powers conferred upon the accounting officers of the Treasury by sections 300 A and 300 B of the Revised Statutes shall be enlarged.

Of course the Court of Claims has jurisdiction of all cases of contracts, expressed or implied; and that court would have jurisdiction of the class of claims covered by those two sections of the Revised Statutes if it were not for the fact that that jurisdiction is barred. It is therefore proposed by this bill that the accounting officers of the Treasury shall, in addition to the other claims before them, consider these two classes of claims: first, for rents, and secondly, for material used in the construction of forts. Therefore, one of the main questions is, whether or not upon this subject the statute of limitations shall operate or not.

Mr. WILLITS. It really does open up the statute of limitations.

Mr. HOLMAN. It would necessarily have that effect.

Mr. CHAPMAN. If the gentleman will allow me to interrupt him for a moment——

Mr. HOLMAN. Certainly.

Mr. CHAPMAN. I would inquire how it would have that effect, when it refers solely to claims now pending before the accounting officers of the Treasury and which have been filed for years?

Mr. HOLMAN. The bar of jurisdiction applies to the Court of Claims, not to the accounting officers of the Treasury. Of course if the accounting officers of the Treasury have jurisdiction of these claims, the reason they are barred from going into the Court of Claims is, that the statute of limitations intervenes.

I would say, further, that this bill comes from the Committee on War Claims, and my friend from Maryland [Mr. CHAPMAN] has been authorized to report it. It is not a measure in regard to which I feel at all safe that the jurisdiction might not be opened up too broadly and too widely. It always seems to me to be the safer and the wiser plan not to open the bars heretofore created by limitations.

I however only oppose the measure of my friend, coming from a committee of which I am a member, to the extent of calling the attention of the House to the exact nature of the measure, to the fact that it enlarges by construction the provisions of the two sections of the act of 1864.

The SPEAKER. The question is upon the motion of the gentleman from Maryland [Mr. CHAPMAN] to suspend the rules and adopt the resolution which has been read.

The question was taken; and upon a division there were—ayes 42, noes 50.

Mr. CHAPMAN. I call for tellers.

The question was taken upon ordering tellers; and there were but eight in the affirmative.

The SPEAKER. The affirmative is not one-fifth of a quorum, and tellers are not ordered.

Mr. CHAPMAN. Am I not entitled to tellers? No quorum voted.

The SPEAKER. The gentleman did not make that point, but called for tellers.

So the motion to suspend the rules and adopt the resolution was not agreed to.

ENROLLED BILL SIGNED.

Mr. PEIRCE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes.

MIAMI LANDS IN KANSAS.

Mr. HASKELL. I move that the rules be suspended so as to take from the Speaker's table Senate bill No. 328, to provide for the sale of the lands of the Miami Indians in Kansas, and to pass the same with an amendment, which I send to the Clerk's desk.

The SPEAKER. The bill will be read, and after that the amendment proposed by the gentleman from Kansas will be read.

The bill was read, as follows:

Be it enacted, &c., That the unallotted lands of the Miami Indians in Kansas, including the school sections, shall be disposed of in the following manner, to wit:

That each *bona fide* settler occupying any portion of said lands at the date of the passage of this act, and having made valuable improvements thereon, or the heirs at law of such, who is a citizen of the United States or who has declared his intention to become such, shall be entitled at any time within one year from the passage of this act to purchase the land so occupied and improved by him not to exceed one hundred and sixty acres in each case, according to the Government survey, at the appraised value thereof, as heretofore ascertained by the Secretary of the Interior, in accordance with the provisions of the act of March 3, 1873, under such rules and regulations as the Secretary of the Interior may prescribe. And such persons who are entitled to purchase said lands as aforesaid shall be permitted to make payment therefor in cash or in three equal annual installments, the first installment to be payable on the day of the entry of the land and the remaining two installments annually thereafter, with interest at the rate of 6 per cent. per annum from the date of entry.

SEC. 2. That all lands not purchased by said settlers at the expiration of six months from the date of this act, together with all the unoccupied and unallotted lands of the Miami Indians, shall be offered at public sale in the usual manner under the direction of the Secretary of the Interior, at not less than the appraised value, notice of said sale to be given by public advertisement of not less than sixty days in three newspapers having general circulation in the State of Kansas; and any tract or tracts not then sold, together with such as may be hereafter purchased by said settlers, but wherein default may be made in the payment of any portion of the purchase-money or the interest thereon as herein provided, shall be thereafter subject to private entry at the appraised value of the same.

SEC. 3. That the net proceeds of the sales of said lands, after defraying the expenses of the sale, shall belong to said Miami Indians and shall be disposed of as now provided by law.

The amendment was read, as follows:

Add to the bill the following:

"SEC. 4. That the provisions of this act shall not in any way affect the rights or claims of those individual Miamis or persons of Miami blood or descent who are named in the corrected list referred to in the amendment of the Senate to the fourth article of the treaty of June 5, 1854, or their descendants; and before the proceeds which have been or may be hereafter realized from the sale of said lands shall be applied for any purpose or distributed, the Secretary of the Interior shall obtain the opinion of the Attorney-General as to what rights or interests, if any, the said persons have or had in and to said lands; and if in his opinion they are or were entitled to have parcels of said land allotted to them under the provisions of said treaty, and failed to receive the same, then the said Secretary of the Interior is hereby authorized and directed to pay to each of said persons out of the proceeds of the sale of said lands as aforesaid a sum equal to the value of two hundred acres of said land as appraised for the purpose of making said sale, for and in lieu of their interest in said lands, and that of the surplus of said proceeds which may then remain, if any, that they receive their *pro rata* share thereof the same as other members of said late tribe of Miami Indians."

Mr. HOLMAN. I demand a second on this bill; it is quite an important measure.

The SPEAKER. If there be no objection the second will be considered as ordered.

Mr. HOLMAN. I think we had better have a vote on it.

Mr. HASKELL. I hope the gentleman will not demand a vote, when I tell him that this is a mere extension of an old law. While

it is long in phraseology, it is a bill prepared by the Department and passed by the Senate under the unanimous recommendation of the Committee on Indian Affairs of that body. It is a mere re-enactment of an old law for the purpose of giving settlers additional time to pay for their land.

Mr. HOLMAN. I will consent that the second be considered as ordered by unanimous consent.

There was no objection, and the second was ordered.

Mr. HOLMAN. Inasmuch as this is disposing of Indian lands, I trust the gentleman will not only make a statement of the bill but also show what has been the action of the Commissioner of Indian Affairs.

Mr. DWIGHT. I would like to ask the gentleman how much land is involved in this bill?

Mr. HASKELL. About ten thousand acres. These are not Indian lands; at least they are not occupied by Indians, nor have they been for some twelve or fifteen years past, the Indians having left them years ago and gone to the Indian Territory. This is simply a bill to re-enact an old law and to pay the proceeds of the sale of this land over to the Indians to whom they belong.

Mr. DWIGHT. What are the lands appraised at?

Mr. HASKELL. From one and a quarter to ten dollars per acre. They were appraised by the Department, and are to be sold at the appraisement.

This bill was drawn at the Interior Department. It passed this House in the last Congress, but failed to reach the Senate in time. At this session it has been passed by the Senate. It is unanimously approved by the Committee on Indian Affairs. It is a Department bill. At the request of members from Indiana I have added to it a section designed to preserve the rights of the Miami Indians of Indiana to any of the proceeds of these lands, if in the opinion of the Attorney-General of the United States they should be entitled to any.

Mr. DWIGHT. When were these lands appraised?

Mr. HASKELL. In 1873.

Mr. DWIGHT. Should they not be reappraised now?

Mr. HASKELL. The Commissioner of Indian Affairs thinks not. The lands would have been heretofore sold, and this bill would not now be necessary but for the fact that the appraisement made in 1873 was so high that nobody would buy. When the lands were thrown upon the market under the provisions of the law only one piece of land of one hundred and sixty acres was sold. The settlers are now willing to buy these lands, and the Department asks for their sale. This is a bill of which my friend from North Carolina [Mr. SCALES] had charge, with the exception of the section in regard to the rights of the Miami Indians of Indiana.

Mr. SCALES. I desire to ask whether that last section has been submitted to the Commissioner of Indian Affairs?

Mr. HASKELL. It has been.

Mr. SCALES. Will the gentleman be kind enough to make an explanation about that? The other part of the bill I think is right.

Mr. HASKELL. The last section is with reference to the Miamis of Indiana, who think they have some claim upon the proceeds of these lands. The Commissioner of Indian Affairs does not think they have. The section is so drawn as to require the opinion of the Secretary of the Interior and Attorney-General with reference to this claim on the proceeds.

Mr. DWIGHT. It is nine years since the appraisement of these lands was made?

Mr. HASKELL. Yes, sir.

Mr. DWIGHT. Does not the gentleman think that although the appraisement may then have been too high the lands would be appraised higher now?

Mr. HASKELL. Oh, no, sir. Besides, the cost of reappraisement would counterbalance the increased valuation of the lands, even if a few pieces should now be appraised higher than the former appraisement. Then, again, this land, with the exception of about two thousand acres, is occupied by settlers who have vested rights there. By this bill we simply extend the time of payment; so that there cannot well be a reappraisement except as to those two thousand acres, and any possible advance in the appraisement would hardly pay the cost of a commission.

The question being taken on the motion of Mr. HASKELL to suspend the rules and pass the bill with the amendments, it was agreed to, two-thirds voting in favor thereof.

Mr. COLERICK. I ask leave to have printed in the RECORD remarks upon the amendment to the bill just passed.

There being no objection, leave was granted. [See Appendix.]

TAX ON NATIVE WINES.

Mr. CLARDY. I move to suspend the rules so as to discharge the Committee of the Whole House on the state of the Union from the further consideration of House bill No. 920, and pass the same.

The bill was read, as follows:

A bill (H. R. No. 920) to amend section 328 of the Revised Statutes of the United States, in relation to the tax on native wines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3328 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 3328. On all sparkling wine made in the United States, except that made by the regular process of natural fermentation of carbonic acid gas in the bottle and on all imitations, there shall be levied and collected a tax of ten cents per bottle or package containing not more than one pint, and twenty cents per bottle or package containing not more than one quart, and at the same rate for any larger quantity of such merchandise, however the same may be put up or whatever may be the package; also on all compounds of wines and liquors by the infusion of any matter to be sold as a substitute for wine. Still wines made from grapes, currants, rhubarb, or berries grown in the United States, not compounded with any foreign substance, shall be exempt from special tax. The Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps, denoting the tax herein imposed, to be affixed to each bottle or package containing imitation wine, by the person manufacturing, compounding, or putting up the same, before removal from the place of manufacture, compounding, or putting up; and said stamps shall be affixed and canceled in such manner as the Commissioner may prescribe; and the absence of such stamp from any bottle or package containing such merchandise shall be *prima facie* evidence that the tax thereon has not been paid, and such merchandise shall be forfeited to the United States. Any person counterfeiting, altering, or reusing said stamps shall be subject to the same penalties as are imposed for the same offense in relation to proprietary stamps."

Mr. WILLIS. I ask a second on the motion to suspend the rules.

Mr. MILLS. We want a second that the bill may be explained.

The SPEAKER. Shall the second be considered as ordered?

Mr. CAMP and others objected.

The SPEAKER. The gentleman from Missouri [Mr. CLARDY] and the gentleman from New York [Mr. CAMP] will take their places as tellers.

The House divided; and the tellers reported—ayes 102, noes 49.

So the motion was seconded.

The SPEAKER. The gentleman from Missouri [Mr. CLARDY] is recognized to control the time in support of his motion.

Mr. COX, of New York. The gentleman from Kentucky [Mr. WILLIS] represents the opposition to the bill.

The SPEAKER. The gentleman from Texas [Mr. MILLS] demanded the second.

Mr. CLARDY. I ask that the report of the Committee on Ways and Means with reference to this bill be read.

The SPEAKER. The report will be read in the gentleman's time.

The Clerk read as follows:

The Committee on Ways and Means, to whom was referred the bill (H. R. No. 920) to amend section 328, Revised Statutes, in relation to the tax on native wines have had the same under consideration, and respectfully make the following report:

The committee received from the Commissioner of Internal Revenue a letter approving of the principles of the bill and the manner provided in it for a protection against adulterated and imitation wines.

The committee invited Messrs. J. A. Bridgeland, of Indiana, and Isaac Cook, of Saint Louis, to address the committee and present arguments in favor of the passage of the bill. We deem it proper to submit, as a part of our report, the statements of these gentlemen, which are as follows:

"Mr. J. A. Bridgeland, of Richland, Indiana, appeared before the committee by invitation, and made the following statement:

"Mr. Chairman and gentlemen: In my eight years' experience as United States consul at Havre my attention was called especially to the character of the wines exported from France to the United States. Being satisfied for the last several years that there were not grapes enough grown in France to furnish wine to her own population of 37,000,000 of people, I cast about to see by what means the large exports of wine were made to the United States, Russia, and other parts of the world, and the investigation which I made resulted in the discovery of the fact that all manner and kinds of wines from Spain and other regions were imported into France to be manipulated by French compounders. Ship-load upon ship-load of a low grade of Spanish wines arrive weekly at Havre, Bordeaux, and other points in France. These wines are manipulated by putting a very small quantity of French wine with them, the introduction of alcohol, extract of logwood, and other substances. My attention was called to the purity of our own wines in comparison, by having used some of our American wines in France, which astonished French connoisseurs by their quality. In fact, I sent from Havre a bottle of the champagne made by the American Wine Company of Saint Louis to General Noyes, our minister at Paris, about two years ago, and asked him to have it analyzed by a Government chemist there, which was done, and the certificate of the chief chemist reported it a perfectly pure wine, with but 9 per cent. of alcohol, and fully mediocrity in quality, which satisfied my mind that it was first class wine, as the French people are not likely to give any article manufactured outside of France credit for being better than it is.

"On my return home last September I took a trip to California, and paid special attention while there to the subject of grape-growing and wine-producing, more particularly because I had seen samples of California raisins only six weeks before in Malaga, Spain, which, I am glad to say, by reason of their superior body and general quality alarmed the Spanish raisin-grape producers. From what I saw of the grape-growing interest in California I believe that if our grape-growers and wine-makers are given due encouragement by proper legislation against adulterated wines, foreign and domestic, the day is not far distant when the grape grown for wine-making purposes will be one of our most important land products. The failures of the crops of grain in Europe for the last four years have given us a good demand for our surplus; but, in my opinion, unless we diversify our crops at home more than we have done heretofore, with two or three consecutive good grain crops in Europe we shall find that we have too much land in wheat and corn. I sincerely trust that the bill now before your committee, providing that all spurious wines of domestic manufacture shall be labeled as such and a tax imposed upon the same, may meet with your hearty approval as well as that of Congress. With proper care I believe that within a very few years we shall be able to ship in immense quantities the wines of our country to consumers almost everywhere throughout the world. Pennsylvania, Ohio, Missouri, and in fact nearly all our Middle, Southwestern, and Western States are, in my opinion, deeply interested in this subject."

Mr. Isaac Cook, of Saint Louis, addressed the committee as follows:

"Mr. Chairman and gentlemen: It is a well-known fact that the wines of this country are commanding the attention of the wine trade not only in the United States but also in France, Germany, Great Britain, Italy, and Spain. Even when the soil and climate of this country were first recognized as favorable to the growth of superior grapes, the more experienced growers abroad felt that the years of their profitable American trade were numbered, and that at no very distant day they would find the American wine crop challenging comparison with their home productions at their own business doors; and they were right. With the energy which has marked the development of other commercial interests in this country, those in the grape-growing districts who looked forward to the production of luscious wines secured the most experienced aid in cultivating grapes for wine that could be found, and the result was the production of our superior American wines,

"As soon as any particular brand of wine gets a reputation hundreds of poisonous inventions are manufactured and the good wines are thereby seriously ruined. It is much easier to adulterate wine than ale or beer, especially beer; and nothing so exasperates a lover of the pure wine, well and properly made, as to know that instead he has drank a vile imitation, and he is sure to know it soon from its bad effects. I have given the matter some attention simply to guard against adulterations for my own sake, and I sincerely hope for the success and prosperity of our native wines, especially the American champagne. Many of the so-called American champagnes are impositions on the public. They are imitations of the genuine article, and are manufactured from poor grapes and berries. While only a few weeks old this 'wine' or liquid is bottled green, and pretended age is given by charging it with carbonic-acid gas and other sleight-of-hand preparations, the peculiar effect of which, in connection with this 'wine,' is to create a rank poison in the human system. Let any doubter make a business of drinking it and he will soon be convinced.

"Now, I take the ground that champagne made in the old natural way, fermented in bottle, is as good in this country as the best made in Europe, especially if produced from the Catawba grape, grown to perfection and properly handled by experienced wine-makers, with suitable cellars and appliances. The experience of the manufacturers of the pure article who are now actively engaged in making a pure champagne from thoroughly ripe Catawba grapes, without gas or adulteration, shows that if native wines are to be run out of the market by foreign brands it will be solely on account of the adulterations made by speculators, who thereby ruin the reputation of American productions. The raw wine is cleared by the use of aluminum, gelatine, and alum, the latter imparting to it great brilliancy, and it is treated with a flavoring sirup which is charged like soda water with carbonic acid, by filling the bottle under a fountain. In this process the wine is liable to be impregnated with both lead and copper, which have the effect of disorganizing alike the wine and consumer's stomach. Nausea and headache are among the ill results of drinking 'sparkling wine' thus prepared, or any of the adulterated still wines which are 'doctored' to suit the taste. All adulterated wines are injurious to the human system, and of course they are destructive of the reputation of pure wines, because they are palmed off upon the people as the genuine article."

Your committee report back the bill with the recommendation that it do pass.

Mr. CLARDY. Mr. Speaker, the principles of this bill are commended by the Commissioner of Internal Revenue; and it has had the unanimous approval of the Committee on Ways and Means. It provides that spurious wines shall be labeled as such, and that a tax shall be imposed upon them. That it is in the interest of the great grape-growing region of the country will, I think, be made manifest by the gentleman from Minnesota, [Mr. DUNNELL,] who reported the bill, and to whom I now yield my time.

Mr. DUNNELL. How much time remains for the affirmative?

The SPEAKER. Three minutes.

Mr. DUNNELL. I will reserve that until gentlemen have been heard on the other side.

The SPEAKER. The Chair recognizes the gentleman from Texas, [Mr. MILLS.]

Mr. WILLIS. I understand the gentleman from Texas does not desire to occupy the time, and, if so, I will occupy a few minutes.

The SPEAKER. The gentleman from Kentucky [Mr. WILLIS] will be recognized in opposition to the motion.

Mr. WILLIS. Mr. Speaker, I do not represent a wine-making constituency. What I shall say upon this bill, therefore, will be prompted not by the fear that any pecuniary interest of my district or State will be injuriously affected by its passage, but by the belief that it is wrong in principle and will work great private and public injustice.

What is the effect of this bill? What is its scope and purpose? Is this House prepared upon one hasty reading by the Clerk to answer these questions? Does the report of the committee answer them? I have read it repeatedly, and I say to the members of this House without fear of contradiction that there is neither an explanation nor justification for this legislation to be found in it.

It has just been read, and what is it? Simply the statements of two gentlemen who appeared before the committee, one of whom, and the only one whose statements are directly pertinent to the bill, is, as I shall presently show, the direct if not the only beneficiary under it. And what are their statements when examined? Only this, that Europe has been sending large quantities of adulterated wines to this country, and that these adulterated wines are injurious to the human system. *Ergo*, such importations should be stopped. To this I presume every gentleman here would give his prompt assent, and if the bill had been limited to this and its provisions properly guarded, I for one should have given it my hearty support. I recognize it to be both the right and the duty of Congress to enact laws which will prevent the adulteration of food and drink. There is crying need for such legislation. But let us not be misled by our desire to secure pure drink into the advocacy of a bill such as this, which I claim goes far beyond such objects and practically builds up a great monopoly.

What are the words of the bill? Are they limited in their meaning to merely spurious or adulterated wines? Are they aimed only at the impure and worthless article? I do not so understand them. They are broad, comprehensive, and far-reaching in their significance. Here are the words of the bill: "On all sparkling wine made in the United States, except that made by the regular process of natural fermentation of carbonic-acid gas in the bottle, and on all imitations, there shall be levied," &c. Also, "on all compounds of wines and liquors by the infusion of any matter to be sold as a substitute for wine." Is any one here prepared to say how far such descriptive words as these reach? Is any one prepared to state the practical effect of such legislation? I think not.

We have heard only an hour ago most eloquent and forcible denunciations of the national-bank act, because of the exclusive privileges which it secures. Will those gentlemen who so strongly denounced exclusive privileges when that interest was appealing to us now right-about-face and support a bill which grants an exclusive privilege not to all men under certain conditions, but, as I am informed, gives a monopoly to one single individual out of the fifty million people of these United States?

This bill, instead of being designated as it is, should be entitled a bill for the benefit of Isaac Cook, of Saint Louis, Missouri.

Mr. SPRINGER. In what respect?

Mr. WILLIS. The effect of this bill will be to exclude all the native wines of this country which are subjected to the process of impregnation by carbonic-acid gas. Are the representatives of the people ready to enact a law which gives the exclusive manufacture and the monopoly of the wine interest of this country to one man? If so, let them cast their votes in favor of this bill.

Mr. SPRINGER. Will the gentleman let me ask him whether this bill interferes with the right of any person in the United States to manufacture pure champagne wine?

Mr. COX, of New York. What is pure?

Mr. WILLIS. It does not in terms.

Mr. SPRINGER. By natural process.

Mr. WILLIS. But it declares that certain wines shall be free from tax, and it so happens in the mysterious providence of things that the only man who manufactures wine in a way which does not come within its prohibition is Mr. Isaac Cook, of Saint Louis, Missouri.

Mr. HATCH. That is not so; the gentleman never fell into a greater error in all his life. I am sorry that he has made that statement on the floor of this House.

Mr. WILLIS. Then I most cheerfully withdraw it.

I would not knowingly do Mr. Cook or any other citizen any injustice. I know that this bill is currently known in the country as the "Cook bill." I have seen it so alluded to in the papers, and have heard it so referred to repeatedly around this Hall by its friends, and hence I made the statement. My objections to its passage are neither increased nor diminished by the information that Mr. Cook is not its exclusive beneficiary. I know that in terms it declares all wines which are impregnated with carbonic-acid gas shall be excluded.

Mr. SPRINGER. Taxed.

Mr. WILLIS. Shall be taxed. This will impose an unjust burden upon all manufacturers of wine who differ with Mr. Cook in their process. Why should such a discrimination be made against them and in favor of the Cook process? What right have we to make such a distinction? The California wines and all dry wines, when subjected to the process of impregnation by carbonic-acid gas, would come within this bill. Does any gentleman deny that? Werner's Extra Dry, a very popular wine manufactured in the city of New York, would come under the ban of this bill. Will any one dispute that? Why should the American Congress attempt to drive from the market—to exclude from use—these wines? Will it be contended here that they are injurious? I deny it.

I say to this House, on the authority of one of the most distinguished physicians in the city of Louisville, one of these wines thus excluded, Werner's, has been recommended in cases of sickness in preference to the best foreign champagnes.

If it were necessary I could refer to the testimonials of the most distinguished chemists of the country in favor of these wines. Will it be said here that a little carbonic-acid gas renders them unhealthy? If so, then you had better pass a law to tax and prohibit soda-water, because, as I am informed, it is manufactured upon the same principle. Let us not, under the cry of adulterated wines, commit an unjustifiable wrong. Let us not by our legislation deprive the indigent sick of wines which are equally beneficial as imported champagnes, and which can be bought for one-fourth the price. Let us say to all manufacturers of wine that they must stand upon their own merits.

Let us legislate for the interests of the many and not to build up the fortunes of a few. "Equal rights to all, exclusive privileges to none," is sound, old-fashioned, Democratic doctrine, and I hope by the vote upon this bill will be demonstrated to be also sound Republican doctrine. I will now yield to the gentleman from New York, [Mr. COX.]

Mr. COX, of New York. Mr. Speaker, I wish there were more time to consider this bill, because underlying it is a principle of discrimination in favor, I will not say of one man, but of one class of men and against another class of men.

Two kinds of wine are made in this country. One is said to be pure, because made by natural fermentation; the other is said to be imitation or impure, because carbonic-acid gas is injected into it by machinery, the same as soda fountains are impregnated with it.

The question for gentlemen here to decide is whether they will give the sanction of the United States Congress to an additional tax, with our large surplus, to increase our internal-revenue system to that extent, so as to make a discrimination in favor of one class of wine-makers and grape-growers and against other wine-makers Why should we do it now? Men who live North and South, in New York and San Francisco, are making these cheap wines. They are innoxious. They have been so decided, and if the committee had heard other men here they would never have reported this measure. I have in my hand the certificate of the most eminent chemists and physicians in New York City stating there is nothing unwholesome, nothing injurious about these wines of Werner & Co., which are sought to be stricken down by this bill by adding a tax on them and reliev-

ing others from taxation. Let me call attention to that certificate. It is as follows:

Reasons why the bill proposing an amendment to section 3328, Revised Statutes, whereby a tax is imposed on "carbonated wines," should not receive the sanction of the Committee on Ways and Means, respectfully submitted by A. Werner & Co., 308 Broadway, New York.

1. That this tax would bear with great and peculiar hardship upon the grape-growers, who would be compelled to dispose of their grapes to the great corporations, who alone conduct the manufacture of sparkling wines by the fermenting process. These wealthy corporations could at pleasure depress the prices of grapes, as by this tax they would be relieved from the competition of buyers of grapes who make sparkling wine by the new process.

2. That it would in effect tax a process and not the product—a measure which would be contrary to the sound public policy, as it would tend to retard inventions and progress of useful arts.

3. That it would work discriminately between citizens of different States, as both processes convert the same native product into a sparkling wine.

4. That it would tax the process only without distinction as to being made from native or foreign wines.

5. That it would open the door for fraud by importation of wines made by the same process in Europe, and irresponsible parties manufacturing here, who might, by attaching a label similar to well known foreign brands, evade this tax, and also by parties who might manufacture by both processes in order to pass the bulk of their manufacture as untaxable goods.

6. That it would be ossible imp to detect such frauds, as the product of both processes cannot be distinguished by analysis or any other means known to science.

7. That artificially aerated wines are wholesome, as far as aeration is concerned, is proven by the enormous consumption of different aerated beverages in the United States. The most eminent physicians recommend these beverages.

8. We substantiate these statements by references and certificates, on the following page, of the highest chemical authorities, who have devoted great attention to this special branch of science, and which certificates have been submitted to the Committee on Ways and Means in 1874 and 1880.

9. That this tax would yield little or no revenue, as the new process is yet in its infancy, and could not survive this oppressive tax if wines made sparkling by the old process were not subject to a similar tax.

10. We do not desire to avoid payment of a tax. If in your judgment it should be necessary for revenue, we would cheerfully pay any tax imposed, if such tax did not discriminate unfavorably against sparkling wines made by the new process in favor of the old process. We ask that a tax on native sparkling wines, if imposed, shall be upon all sparkling wines, without regard to any process of preparation.

To the Committee on Ways and Means, House of Representatives:

GENTLEMEN: Having been informed that it is proposed to place a tax on wines impregnated with carbonic acid artificially on the ground that they are unwholesome, I take the liberty of addressing you to say that this statement is untrue.

Carbonic acid gas produced artificially is in no way unwholesome, and in the impregnation of wines with gas prepared by chemical agents is not objectionable.

Moreover, no chemist could decide by analysis whether the gas contained in a sparkling wine had been produced naturally by fermentation or artificially by chemical agents. The enforcement of a discriminating tax based on this distinction would therefore be practically impossible.

Very respectfully, yours,

C. F. CHANDLER, *Ph. D., M. D., LL.D.,*

President of Health Department, New York; Professor of Analytical and Applied Chemistry in the School of Mines, Columbia College; Professor of Chemistry in New York College; Professor of Chemistry in the College of Physicians and Surgeons, New York.

The following authorities have certified to the wholesome properties of mineral waters and other beverages artificially impregnated with carbonic-acid gas:

The late Professor John Torey, of the United States Assay Office, formerly professor of chemistry at the College of Physicians and Surgeons; Dr. Walter Gibbs, professor of chemistry at Cambridge; Dr. Benjamin Silliman, professor of chemistry at Yale College, New Haven; Dr. Charles A. Joy, professor of chemistry at Columbia College, New York; Dr. George T. Barker, professor of toxicology and physiological chemistry of the University of Pennsylvania; Dr. Julius G. Pohle, professor of chemistry of the faculty of the American Institute.

The Metropolitan Board of Health of New York, composed of eminent physicians and chemists, declared by resolution adopted May 24, 1866, that carbonic-acid water (water artificially impregnated with carbonic-acid gas) was an innocent beverage.

This paper shows that these eminent professors and scientists certify that these wines are entirely wholesome, and they are recommended to persons for medical purposes in many instances. Now, Mr. Speaker, why discriminate against them? Why should Congress at this time go out of its way to strike down an existing industry and elevate another at its expense, when they should all stand upon the same foundation? Why, Mr. Speaker, chemistry is just to-day doing almost as a science what nature often requires years to accomplish. Chemistry will tell you that there are short methods of doing things which are done sometimes by natural processes, but which require years to accomplish. The method of injecting this carbonic-acid gas into our native wines is entirely in consonance with the higher refinement of chemistry, and our action with reference to this matter should be in consonance with the higher refinement of legislation in the interest of all the people of this country.

Mr. WILLIS. I now yield the remainder of the time to the gentleman from California, [Mr. ROSECRANS.]

Mr. ROSECRANS. Mr. Speaker, I have received letters and petitions from a large number of wine manufacturers in my State protesting against the passage of this bill. I am not yet sufficiently informed of the motives which induced the framing of this bill to be able to speak any further than this, as to the objects or the effects of it; but I believe that among all the wine-growers that I know of in California, certainly all that I have any communication with, there is scarcely a single one who does not inject into these native wines carbonic-acid gas by artificial processes. I do not presume that any member of this House can be induced to think that there is any injury to health by following that process, or entertain the slightest idea that there is any poisonous or deleterious effect produced by it. I am not prepared to say how many of our California wine-growers would be affected by this bill, but I have one petition signed by ten of the leading firms, the largest in fact in the State, who protest against its passage.

Mr. CLARDY. Will the gentleman permit me to say that I am in receipt of a telegram which I have shown several members of his delegation from the Vinicultural Society of that State unanimously recommending the passage of the bill?

Mr. SPRINGER. Let the telegram be read.

Mr. ROSECRANS. I can only say that it has not been presented to me and I know nothing whatever of it. In support, however, of what I have said, and in deprecation of any hasty action, I will repeat that from San Francisco, where are congregated some of the largest houses engaged in this business, and where the greatest amount of capital in the manufacture of native wines is owned, is a very significant fact that I have not one letter in favor of the Cook bill—not one.

Now, it may be my misfortune not to have been communicated with by my constituents on that subject, but I think it very strange certainly that I have not received something from some one of the many persons engaged in that business which would indicate that they favored this measure, especially if they have communicated with other gentlemen upon that subject.

I have petitions signed by eight or nine responsible manufacturers, who have large capital invested in the business, protesting against it. That, I believe, is all I desire to say upon the subject. Permit me to repeat, however, that it is a strange thing, in my mind, that I have no information excepting in opposition to this measure. I do not believe that the bill should be voted for without further information. For one I shall certainly not do so without looking further into it, as this wine-growing interest is one of the largest and most important in California. I do not doubt that spurious wines are imported, but I shall not vote for this bill until further advised upon the subject. I hope it will not be adopted without mature consideration.

Mr. DUNNELL. There are three minutes remaining on this side. I yield one minute to the gentleman from California, [Mr. PAGE.]

Mr. PAGE. Mr. Speaker, I was not aware that this bill was coming up for consideration to-day. I have received letters from both interests in California, some advising me to vote for this bill and some protesting against its passage. I believe the Vinicultural Society of California represents the largest wine-growing interest in that State, and I am informed that the gentleman from Missouri [Mr. CLARDY] has been sent a petition by that society in favor of the passage of this bill. I know this society. I know its plan of operations. I am acquainted with its business.

I believe that the great bulk of the champagne manufactured in California is manufactured by the regular process of fermentation. I believe that Congress has the right to prevent the adulteration of wines, liquors, and food; and for that reason I shall vote for this bill, believing that in doing so I conserve the best interests of my constituents.

Mr. COX, of New York. Will the gentleman permit me to ask him if he would vote to tax the method and not the article itself?

Mr. PAGE. Whenever a subject-matter of that kind comes up I will answer the gentleman.

Mr. DUNNELL. I was instructed to make the report which has been read from the Clerk's desk in support of this bill. The committee gave a hearing to both sides, to those in favor of the wine made by natural processes of fermentation, and to those representing wines manufactured by the use of carbonic-acid gas. The hearing was satisfactory to me, at least, and to a majority of the committee; I do not remember whether the committee was unanimous or not.

The gentleman from New York [Mr. COX] admits there are two classes of wine in the market. And he, inadvertently perhaps, says that one is the pure and the other the impure. I will not say that much. The one is a quality of wine produced by the natural processes of fermentation; the other is produced by the use of carbonic-acid gas, and it is generated by the use of marble dust.

There is in the country everywhere a call for the pure as against the impure wine, and the grape-growing States, so far as I have been informed, are unanimously in favor of this bill, believing that by its passage these manufactured wines, these low-grade champagnes, will be substantially driven out of the market, and there will come into use the wines not made simply by Mr. Isaac Cook, of Saint Louis, but made in other parts of the country; wines which may be made everywhere and anywhere and by everybody in the country; wines made out of the juice of the grape, the product of natural fermentation.

The report of the committee has been read, and the evidence that was brought before the committee very plainly shows that there is in the market a very large amount of impure wines, grossly adulterated wines. The gentleman from New York says, "Why strike at a recognized industry?" An industry that is in hostility to other industries must yield if less worthy of support than the other industries. The production of wine by the pure processes of nature should rather receive protection than the production of the adulterated, artificial, and far more hurtful wines.

The question being taken on the motion to suspend the rules and pass the bill, there were—ayes 66, noes 60.

Mr. HATCH. I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 23, not a sufficient number.

Mr. SPRINGER. I call for tellers on the yeas and nays.

The question being taken on ordering tellers, there were—ayes 20; not one-fifth of a quorum.

So tellers were not ordered, the yeas and nays were refused, and the rules were not suspended, two-thirds not having voted in favor thereof.

PUBLIC BUILDING IN DETROIT, MICHIGAN.

Mr. LORD. I move that the rules be suspended so as to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. No. 4701) to provide for the erection of a public building at Detroit, Michigan, and that the bill be passed.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and is hereby, authorized and directed to purchase a suitable lot of land in the city of Detroit, and cause to be erected on the ground so purchased a building suitable for the accommodation of the courts of the United States, of the custom-house, post-office, pension-office, and other Government offices in that city: *Provided*, That if the said Secretary shall deem it advisable and economical to do so, he may, instead of purchasing an entire lot, buy sufficient land adjoining the ground on which the United States Government building now stands, and erect the building herein provided for on said land, using such portion of the said building, or material thereof, as may be profitably done: *Provided further*, That no money appropriated for this purpose shall be available until a valid title shall be vested in the United States, nor until the State of Michigan shall cede to the United States exclusive jurisdiction over the land so purchased, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein; and the site shall be of sufficient extent to leave an open space on all sides of the building to be erected, including streets and alleys, of at least forty feet.

SEC. 2. That the Secretary of the Treasury, in case he shall select and purchase a lot of ground of sufficient extent, irrespective of and not including the site now occupied by the United States as a post-office site, shall be authorized and directed to sell, at public sale, for cash, after thirty days' advertisement of the time, place, and terms of sale, and after the erection of the building provided for in the preceding section, the property in the city of Detroit now owned by the United States and occupied by the United States courts, the custom-house, the post-office, and other offices of the United States; and the money received from such sale shall be covered into the Treasury of the United States: *Provided*, That the Secretary of the Treasury, in any and every case of an attempted sale, shall be authorized and empowered to reject any bid which in his opinion shall be less than the value of said premises, and reoffer them for sale in the manner above provided for until the said premises shall bring a fair price.

SEC. 3. That the cost of the lot of ground, in case an entire new lot shall be purchased, and the building to be erected thereon as herein provided, shall not exceed the sum of $600,000; and in case the Secretary of the Treasury shall purchase adjoining ground to that on which the Government building now stands, the cost of such additional ground and building to be erected thereon shall not exceed the sum of $500,000.

Mr. HUTCHINS. I call for the reading of the report.

Mr. HOLMAN. I demand a second.

The SPEAKER. Shall a second be considered as ordered? [After a pause.] The Chair hears no objection.

Mr. HUTCHINS. Now I call for the reading of the report.

The SPEAKER. Does the gentleman from New York take the floor in opposition to the bill? The report can only be read in the time allowed for debate.

Mr. HUTCHINS. I do not rise to oppose the bill or to take the time allowed for opposition from the gentleman from Indiana or any one else. But as the bill calls for an expenditure of $600,000, I should like to hear the report read.

The SPEAKER. In the absence of objection the report can be read in the time allowed for supporting the bill.

The report was read, as follows:

The committee have taken House bill No. 745 into consideration, and find the following facts:

There is now a public building at Detroit, but it is wholly inadequate and unsuited to the purposes of the Government. The appropriation for purchase of site and erection of said building was made more than thirty-five years ago, and was at the time sufficient, but not in any degree in excess of the then necessities of a city of about forty thousand inhabitants.

Before the building so provided for was ready for occupancy in 1861, the population had reached forty-five thousand, and with such an advancing tendency as to make it even then apparent that the time would soon come when the accommodations would be entirely inadequate.

The city has now reached a population of 125,000 and more, and is environed with suburbs which comprise altogether 150,000 inhabitants dependent upon the Federal office at Detroit for post-office facilities, and all transactions connected with custom-house, United States courts, United States engineers, United States internal revenue, Life-Saving Service, Signal Corps, Marine Hospital Service, Light-House Board, United States marshal, United States district attorney, pension office, United States land office, and paymaster United States Army.

For several years past thirteen different office rooms, or suits of rooms, have been rented in different parts of the city by the Government of the United States to accommodate such of its officers as could not find quarters within the present Government building.

This entails great inconvenience upon the several officers, much greater inconvenience on the public, and charges the Government with an expense for rents of $6,000 per year.

The city of Detroit is now increasing its people and its business more rapidly than ever before, and if an appropriation for a Federal building shall be made at this session, the population will approximate closely to 200,000 before it can be erected and ready for occupancy.

While the growth of the city has much to do with the necessity of enlarged provision for Federal offices, the growth of the State is also to be considered, as is also the vast increase of commerce on the lakes, a very considerable portion of which, whether belonging to Michigan or other States, has business to transact at the Government building at Detroit.

In 1860, when the present building was approaching completion, the population of Michigan was 749,113. It has now more than doubled, being 1,684,059.

For custom-house purposes, Detroit represents one-third part of the State; for pension-office purposes, the whole of it; for internal-revenue collections one-fourth part, and in amount of business nearly two-thirds; as to the Federal courts, one-half the State, and for all the other offices named, except the post-office, the whole of it.

The magnitude of the business transacted at Detroit on account of the Government of the United States will, in part, appear from the following:

The total receipts at the custom-house for ten months of 1881 to October 31	$390,550 53
Value of exports and imports, same time	$7,651,684 00
Vessels arrived and cleared during 1880	11,396
Tonnage	2,419,052

This is nearly equal to the tonnage of American vessels entered at all the seaports of the United States in 1881, which is reported by the Treasury Department to have been 2,919,149.

The amount of internal revenue collected at Detroit in 1881 was $1,223,504.44.

The business of the post-office at Detroit is vastly in excess of its facilities. It collects, irrespective of its money-order business of two and one-quarter millions for 1881—

For postage, including envelopes, cards, and stamps sold	$286,837 92
At an expense of	69,771 19
Affording a net income to the United States of	199,066 73
The money-order business involves, for 1881, orders issued to the amount of	$2,226,777 67
And orders paid	$1,248,734 29
The number of registered letters and packages received or forwarded in 1881	760,458
Number of letters delivered and number collected by the carriers and otherwise	14,919,809
In its mailing department it has transmitted letters, cards, papers, and packages to the number of	29,884,548

Beside 1,161,663 pounds of other mailable matter.

The committee therefore report herewith a substitute for the original bill, with a recommendation that it pass.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Michigan [Mr. LORD] to suspend the rules and pass the bill.

Mr. HOLMAN. Was the time occupied in the reading of the report taken from the time of those favoring the bill or of those opposing it?

The SPEAKER. From the time of those favoring it.

Mr. HOLMAN. I wish to call attention to the fact that while the city of Detroit is a large city, with an extensive and growing commerce, still it has a public building that in the main hitherto has answered for the purposes for which such a building is required by the Government. If this bill had been recommended by the Treasury Department, the Post-Office Department, the Department of Justice—the three Departments of the Government interested in the construction of public buildings—I would yield my own convictions on the subject very cheerfully and vote for the bill. But I must insist that the passage of bills of this kind through this House in such large numbers as we are likely to pass them, without any reference to the demands of the public service, without any recommendation by the heads of Departments interested, is the most unwise policy possible.

We do not act on this principle in regard to any other business. We consult the heads of Departments in reference to other matters of business placed under their direction. But we erect public buildings with reference to the demands made by the different cities and the views of the citizens and their local interests, without any reference whatever to the requirements of the Government.

Mr. SINGLETON, of Illinois. I wish to ask my colleague the question, whether the facts stated in the report are not sufficient to enable the House to determine the propriety or necessity of this building as well as the Post-Office Department or Treasury Department could do so?

Mr. HOLMAN. My friend is a member of the Committee on Public Buildings and Grounds of this House, and has been a member of more than one committee; and he must know that the reports made to the House are almost uniformly based on information furnished by gentlemen who, to say the least of it, are exceedingly anxious for the success of the measure.

Mr. SINGLETON, of Illinois. Let me ask my colleague another question. Cannot the House get at reliable information as well as the Treasury Department or the Post-Office Department?

Mr. HOLMAN. I think these Departments can furnish the most accurate information. We are calling for it every day, and we regard it as exceedingly valuable information. My friend from Illinois [Mr. SINGLETON] ordinarily will hesitate to act upon a subject affecting one of the Departments of the Government until he gets full information.

Mr. SINGLETON, of Illinois. If my friend will permit me to say——

Mr. HOLMAN. Certainly.

Mr. SINGLETON, of Illinois. As one of the committee I have examined with great care all the statements contained in this report, and I believe every one of them to be reliable.

Mr. HOLMAN. I have no doubt but that my friend believes them.

Mr. VAN VOORHIS. Do you not think that this particular bill is one that ought to be passed?

Mr. HOLMAN. I could select four or five out of the sixty bills that are now before the House, to which perhaps there would be no special objection. But with some sixty bills, ranging all the way from $60,000 to $600,000——

Mr. VAN VOORHIS. Is it not better to let each bill stand on its own merits?

Mr. HOLMAN. With such a large number of bills pending gentlemen are driven to the necessity of either supporting them all or opposing them all. I am not at all supprised that my friend from Illinois [Mr. SINGLETON] wishes somewhat to escape from the responsibility of this great body of bills, the largest number of such bills ever before any Congress. There are some sixty bills pending for public buildings, as though we were anxious to find methods to expend the surplus in the Treasury.

Mr. SINGLETON, of Illinois. I think the gentleman greatly overestimates the number of bills. I have not counted them, but I do not think there are that many.

Mr. HOLMAN. I mean those that have come from the Senate as well as those reported from the committee of the House.

Mr. SINGLETON, of Illinois. Many of those from the Senate are duplicates of the House bills.

Mr. HOLMAN. I concede that some are duplicates; but the bills from the Senate and those reported from the committee of the House mount up to the neighborhood of sixty bills all told. Now, for a people in debt as we are, and heavily taxed as we are, to appropriate money in such vast sums without recommendations from the heads of the Departments, as though we were seeking means to deplete the Treasury, is a policy which I cannot indorse.

Now, if there had been only five or six bills of this kind reported for buildings at important points, and appropriating only moderate sums of money, I should be inclined to acquiesce in them. But almost all of these bills appropriate at least $100,000 each, many of them appropriate exceeding $200,000, where a plain, solid, substantial building, at a cost of forty or fifty or sixty thousand dollars, is all that is required so far as the public interest is concerned.

Now, if you wish to embellish our cities, to erect stately marble palaces all over the country as monuments of the resources and inexhaustible treasures of the American people, then I concede this policy would be well enough. But for a plain republican government, which to be honest must be frugal, in my judgment this system of expenditure is entirely without justification or excuse.

I have seen none of these buildings so far erected that indicate any economy on the part of the Government; on the contrary, extravagance seems to be the controlling motive. Gentlemen regard themselves as exceedingly forbearing if they ask a small sum for any such purpose. I am aware that bills of this character uniformly pass when they come before the House. All I can do is to seek to perform my duty as a member of this House and under the responsibilities that devolve upon me as an individual.

Now, while I might support this bill with a moderate appropriation of money, inasmuch as it has been stated that the present building in that city is not sufficient for the purposes of the Government, still I must protest against these magnificent appropriations of the public money for the embellishment of our cities as entirely un-American, and as imposing taxes on the whole people for the benefit of some favored localities.

The SPEAKER. The question is upon the motion of the gentleman from Michigan [Mr. LORD] to suspend the rules and pass the bill which has been read.

The question was taken; and upon a division there were—ayes, 121, noes 14.

So (no further count being called for, and two-thirds having voted in the affirmative) the rules were suspended and the bill was passed.

PUBLIC BUILDING AT JACKSON, TENNESSEE.

Mr. ATKINS. I move that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee, and that the same be passed at this time.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the United States circuit and district courts, post-office, and other Government offices, at the city of Jackson, Tennessee. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for the site and building complete the sum of $50,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for said building shall be vested in the United States, nor until the State of Tennessee shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Mr. HOLMAN. For the purpose of having the report read I demand a second of the motion to suspend the rules.

The SPEAKER. If there be no objection the second will be considered as ordered.

There was no objection, and the motion to suspend the rules was seconded.

Mr. HOLMAN. I now call for the reading of the report.

The report was read, as follows:

In presenting a substitute for the bill providing for the erection of a public building at Jackson, Tennessee, the Committee on Public Buildings and Grounds herewith beg to submit the following statement of facts:

In the city of Jackson, Tennessee, there are annually held two terms each of the United States circuit and district courts for the counties of Benton, Carroll, Decatur, Gibson, Henderson, Henry, Madison, McNairy, Hardin, Dyer, Lake, Crockett, Weakly, and Obion, representing a large portion of the population of the State.

There is now no public building in Jackson for the holding of said United States courts, as the supreme court of the State, the common law and chancery court, and the county court occupy the court house, a State building, almost the entire year. The erection of this public building will also afford quarters for the post-office, which is now inadequately accommodated in a rented building, and could also be utilized for the accommodation of the internal-revenue office of the eighth district of Tennessee, which should be removed to Jackson, as it would there be located more centrally and easy of access to the people of the district.

Jackson is a rapidly-growing city, geographically nearly the center of the western grand division of the State. It has large and rapidly-developing commercial and manufacturing interests, being now the crossing of two trunk lines of railway, and is the terminus of other projected railroads soon to be built.

The sum asked in this bill, $50,000, does not contemplate any extravagance or large expenditure, but is merely sufficient to provide suitable accommodations for the United States courts and post-office, and the convenience of the large population transacting business therein. Your committee, therefore, recommend its passage.

The question was taken upon the motion of Mr. ATKINS, and it was agreed to, two-thirds voting in favor thereof; and accordingly the rules were suspended, and the bill was passed.

PUBLIC BUILDING AT DENVER, COLORADO.

Mr. BELFORD. I move that the rules be suspended so as to take from the Speaker's table and pass at this time Senate bill No. 24, for the erection of a public building at Denver, Colorado.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to procure a proper site and cause to be erected thereon a suitable building, with fire-proof vaults, in the city of Denver, Colorado, for the accommodation of the United States district and circuit courts, post-office, land office, and other Government offices in said city, at a cost not exceeding $300,000, including cost of site, which site shall be such as will afford an open space between the building hereby authorized and any other building of not less than forty feet; and the sum of $100,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose herein mentioned: *Provided*, That no money shall be used or applied for the purpose mentioned until a valid title to the land for the site of such building shall be vested in the United States; and no expenditure of money shall be made on the building proposed to be erected on said site until the State of Colorado shall duly release and relinquish to the United States the right to tax or in any way assess said site or the property of the United States that may be thereon, and shall cede jurisdiction over the same during the time that the United States shall remain the owner thereof.

Mr. HOLMAN. For the purpose of having the report read I demand a second of the motion to suspend the rules.

The SPEAKER. This is a Senate bill.

Mr. BELFORD. There is no report here accompanying this Senate bill.

Mr. HOLMAN. Has it not been considered at all by the House Committee on Public Buildings and Grounds?

Mr. BELFORD. They have reported a bill similar to this.

Mr. HOLMAN. Is there not a report accompanying that bill?

Mr. SINGLETON, of Illinois. There is a report accompanying the House bill.

Mr. HOLMAN. May not that report be read?

Mr. CAMP. It is not worth while bothering with the report. [Laughter.]

Mr. HOLMAN. I insist upon the reading of the report.

Mr. MANNING. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANNING. It is quite manifest that nothing will be accomplished by the suggestion of the gentleman from Indiana [Mr. HOLMAN] except to delay action on this bill. As I am opposed to delay, I want to inquire of the Chair if the gentleman has any right to call for the reading of a report which was made on a bill not now before the House?

The SPEAKER. The Chair did not understand that a second had been demanded.

Mr. HOLMAN. Yes, sir; I demanded a second.

The SPEAKER. If there be no objection the second will be considered as ordered.

There was no objection, and the second was ordered.

Mr. HOLMAN. I stated to the Chair that my object in demanding a second was that the report might be read. If there is a report accompanying the House bill, which I understand is identical in form with the Senate bill, I ask that the report be read.

The SPEAKER. It will be read in the gentleman's time.

The Clerk read as follows:

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 81) to provide for a public building in the city of Denver, Colorado, have had the same under consideration, and respectfully report:

That the said building is intended to provide accommodations for the United States circuit and district courts, the post-office, land office, and other Government offices in said city. The city of Denver is the capital of the State of Colorado, and contained, according to the census of 1880, 35,629 inhabitants, while in 1870 it had but 4,759. It is at present growing rapidly; the buildings are of a very permanent character, either stone or brick, and property and rentals both rapidly advancing in price. It is the commercial metropolis of the State, as well as of the region known as the eastern slope of the Rocky Mountains. The present rentals for Government offices, as learned from the Secretary of the Treasury, amounts to $3,700. These leases were taken several years ago, when property was much lower in renting, and leases could not probably be renewed for less than double that sum.

The court-rooms are over store-rooms in a noisy part of the city, the ceiling 12 feet, size of room 40 by 36, ventilation very bad. The third floor is occupied by the marshal's office and other offices, and the continual tramping above and noise around greatly trouble the sessions of the court, which are held in May and October, usually three months, more or less, each term. The cases tried are important, often involving large interests and long trials.

The business of the post-office furnishes probably as reliable data as can be had of the rapid growth and present importance of the city. From a statement sub-

mitted by William N. Byers, postmaster, it appears that the general business for the past five years is as follows:

Total receipts, 1877	$62,018 45
Total receipts, 1878	90,229 96
Total receipts, 1879	138,005 84
Total receipts, 1880	214,954 93
Total receipts, 1881	260,535 22

The net profit to the Department in 1881 was $96,392.01; receipts on money-orders in the year 1881, $564,276.39. Total number of pieces mailed, including letters, postal cards, newspapers, and packages of merchandise, 11,580,500 in the year 1881.

Your committee is informed that no expenditure has ever been made by the United States for public improvements in the State of Colorado, except for the purchase of a small building for the purposes of a mint, many years ago.

In view of the rapid appreciation of property in the city of Denver, the increase of rentals, the absolute necessity for increased accommodations, and the fact that it is the capital of the State, your committee recommend the erection of a suitable Government building, and report back the bill by substitute, and ask its passage, limiting the ultimate cost to $200,000.

The question being taken on the motion to suspend the rules and pass the bill it was agreed to, two-thirds voting in favor thereof.

PUBLIC BUILDING, GREENSBOROUGH, NORTH CAROLINA.

Mr. SCALES. I move to suspend the rules so as to discharge the Committee of the Whole House on the state of the Union from the further consideration of House bill No. 5546, and to pass the same.

The bill was read, as follows:

A bill (H. R. No. 5546) for the erection of a public building at Greensborough North Carolina.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the United States courts, post-office and other Government offices, at the city of Greensborough, North Carolina. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for the site and building complete the sum of $50,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for said building shall be vested in the United States, nor until the State of North Carolina shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Mr. HOLMAN. For the purpose of having the report read, I demand a second on the motion to suspend the rules.

By unanimous consent a second was ordered.

Mr. HOLMAN. I now call for the reading of the report upon the bill.

The Clerk read as follows:

The Committee on Public Buildings and Grounds, to whom was referred the bill for the construction of a public building at Greensborough, North Carolina, beg leave to submit the following report:

Greensborough is situated in the western judicial district of North Carolina. This district embraces an area of about 25,000 square miles, and its population is about 537,454. It is larger in extent of territory than the State of South Carolina; larger than the four States of Vermont, Rhode Island, New Hampshire, and Connecticut, and more than three times as large as New Jersey or Massachusetts. The population of the city is about 6,000, and it is a growing place. The business done in the courts, district and circuit, during the last five years amounts to about 3,273 cases; the number of cases on the dockets of said courts during that time aggregated 4,092, not including business done at chambers. About 744 cases are returned yearly, and the greater part of the work necessary to dispose of them is done in Greensborough. There are two regular terms of the district and of the circuit court held here each year, lasting two weeks each term, and these are not sufficient, and frequent special terms are held to dispose of the business.

The district judge resides here, and his courts at chambers are frequent and important. The court is most accessible and convenient to all parts of the district. There are now four railroads leading to Greensborough, and by midsummer there will be another.

For ten years the county court-house and jail have been used by the Federal courts and officers free of charge. If a reasonable rent was exacted, as is done in other places, the rent for these houses would amount to near $800. The clerk now rents an office at $100; the marshal rents an office at $150; the register in bankruptcy has an office; the collector of internal revenue had his office here for twelve years; it has been removed about twenty-eight miles away, but must eventually be here, and an office would cost the Government not less than $200; the judge of the court must have an office; the postmaster rents an office, but pays the rent himself, at about $125.

All the papers and records of the courts in bankruptcy are on file here and exposed to damage and to loss, and there is no fire-proof building or vault in which to preserve them.

The amount of revenue from the post-office for the first quarter of 1879 was $1,341.30; for third quarter, 1879, $1,206.97; the aggregate amount per annum is about $4,800 or $5,000, according to statements furnished by the Post-Office Department.

The amount of revenue collected in the counties composing this judicial circuit, embracing the fifth and four-fifths of the fourth revenue districts, is about $1,813,775. About this amount has been paid by the people of this district annually for the past ten or twelve years. Less than 3 per cent. of one of these annual collections would furnish the sum asked for in this bill. There never has been expended one dollar of public money for the improvement of any part of this district.

Your committee therefore conclude that it would be for the benefit of the public service to authorize the erection of a substantial public building in the city of Greensborough, and recommend the passage of the bill by substitute herewith submitted.

The question being taken on the motion of Mr. SCALES to suspend the rules and pass the bill, it was agreed to—two-thirds voting in favor thereof.

PUBLIC BUILDING, COUNCIL BLUFFS, IOWA.

Mr. HEPBURN. I move to suspend the rules so as to discharge the Committee of the Whole House on the state of the Union from the further consideration of House bill No. 4177, and pass the same.

The bill was read, as follows:

A bill (H. R. No. 4177) for the erection of a public building at Council Bluffs, Iowa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the post-office, internal-revenue offices, and other Government offices at the city of Council Bluffs, State of Iowa. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for the site and building complete the sum of $100,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for said building shall be vested in the United States, nor until the State of Iowa shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Mr. HOLMAN. In order that the report may be read I demand a second on the motion to suspend the rules.

By unanimous consent, the motion was seconded.

Mr. HOLMAN. I call for the reading of the report.

The Clerk read as follows:

Council Bluffs is the metropolis of Western Iowa; its population about eighteen thousand inhabitants. There are in this city terms of the United States circuit and districts courts, the Government paying to the county of Pottawattamie a rental of about five hundred dollars per year for the use of the county court-house. This building is inadequate and very unsafe, as in case of fire, or even burglary, valuable papers of much importance would be wholly unprotected. The other offices of the Government, register in bankruptcy, marshal, and United States attorneys, are endangered by the same exposure. The Council Bluffs post-office is of very great and growing importance, as may be seen by exhibit attached, and the building now used and occupied by the Government, at a rental of $900 neither affords protection for the property in the office and valuable passing through, nor convenience for clerks and other employés of the Government. The city of Council Bluffs has a railroad system that contributes largely to its wealth and prosperity, it being now the terminal point of eight trunk railroads—two now in course of construction and to be finished within a few months; machine-shops in connection with these roads are located in the city. We find that Council Bluffs is a distributing point for a large portion of Iowa, an important part of Nebraska and the Territories north, and are convinced a city of such business resources, evidencing rapid progress, and promising stability in the future, is entitled to a public building for the use of courts, post-office, and such other Federal offices as are now, or may hereafter be, established in that city, and your committee recommend the construction of such building at a cost not exceeding the sum of $100,000.

The exhibit of business in the Council Bluffs post-office for the year 1881:

Stamps sold		$12,794 03
Envelopes sold		5,608 02
Postal cards sold		2,331 40
Newspaper and periodical stamps sold		815 88
Postage-due stamps sold		260 53
Box rents collected		2,537 00
		24,346 86
General expense account	$3,551 00	
Postmaster's salary	2,900 00	
		6,451 00
Net income of post-office		17,895 86

Your committee submit a substitute for the House bill No. 308, and recommend its favorable consideration.

Mr. THOMPSON, of Kentucky. I move that the House adjourn. I think we have passed bills enough to-day. [Cries of "Oh, no!"]

The question being taken on the motion of Mr. THOMPSON, of Kentucky, there were—ayes 23, noes 69.

Mr. THOMPSON, of Kentucky. I call for tellers.

Tellers were not ordered.

Mr. THOMPSON, of Kentucky. I call for the yeas and nays.

The yeas and nays were not ordered.

So the motion of Mr. THOMPSON, of Kentucky, was not agreed to.

The SPEAKER. The question recurs on the motion of the gentleman from Iowa [Mr. HEPBURN] to suspend the rules and pass the bill which has been read.

Mr. HOLMAN. Mr. Speaker, there seems to be a marvelous similarity in these reports, except as to the names of the places and the amounts of money to be expended. This bill proposes an appropriation of $100,000, but notwithstanding the glowing language of the report it seems to me that an appropriation of $50,000 would be very ample for all purposes, if the two bills last passed are fair samples of what would be reasonable and proper. I do not know what explanation the committee gives for making this discrimination. I should hardly think it would be more expensive to erect a public building in Iowa than in North Carolina; yet the difference in the amount of money to be expended is very material, while the wants of the Government in the two places are substantially the same.

The necessities of many of our counties in the various States for public buildings and offices, including the court-house, are far greater than the necessities of the United States Government in connection with public buildings. The Government can require at most only a court-room, a post-office, an internal-revenue office, a custom-house, and in rare cases a pension-office—five offices in all. In our different counties an appropriation of $50,000 is generally regarded as a handsome provision for all offices required in the administration of our local affairs, the offices required being much more numerous than those needed by the Federal Government, yet the lowest sum named up to this time in any of these bills has been $50,000, and in some cases the amount has reached $600,000.

If the earnings of the people coined into revenue and paid into the public Treasury must be squandered in embellishments, let us at least be a little modest in the character of those embellishments. The Government in these cases needs a plain, substantial, sufficient building—nothing more; and any gentleman can see that if the needs

of a growing town in the West are amply supplied by a public building costing $50,000, a structure for the purposes of the United States Government should not cost more. Yet this bill proposes an appropriation of $100,000. Are we simply to pass these bills as reported without the exercise of any judgment on our own part? Why, sir, I could name town after town in my own State having stronger claims for a Federal building than any of these places, except one, for which we have provided buildings to-day—towns paying much larger revenue, and having at least equal demands for a Government building.

I am aware that any opposition to this class of bills is futile; that they pass as a matter of course. But I desire to enter my protest against the passage of them without any legislative consideration whatever. For all practical purposes we might just as well take the sixty public-building bills pending upon the Calendar and pass them by a single vote.

Mr. HOOKER. Mr. Speaker, in reply to what the gentleman from Indiana [Mr. HOLMAN] has said, I wish to remark that whenever a proposition comes here for the erection of a public building in a sparsely-settled section of the country it meets opposition from some quarter. It is not our fault that we have not a greater population than we have.

It is not our fault, Mr. Speaker, our country is not more populous than the region from which the gentleman from Indiana comes. Whenever a proposition is made here to erect a public building anywhere in our country the opposition is made to it that we do not pay the same tax, internal-revenue or otherwise, that is paid in other sections of the country. I want to say, and I think the House will sustain the proposition, that inasmuch as we do pay our proportion of the taxes of the country we ought to have our proportion of the expenditures for the purpose of accommodating the public offices. I think the gentleman from Indiana, who opposes this or any other bill of a like character, should not take up the time of the House by having a response either on that or this side of the House, but that members should vote either for or against a proposition as it comes up, and appeal to the judgment and sense o f justice of members.

The rules were suspended, (two-thirds voting in favor thereof,) and the bill was passed.

PUBLIC BUILDING, LYNCHBURGH, VIRGINIA.

Mr. TUCKER. I move, Mr. Speaker, to suspend the rules and discharge the Committee of the Whole on the state of the Union from the further consideration of the bill (H. R. No. 4199) for the erection of a public building at Lynchburgh, Virginia, and the same be passed.

Mr. BURROWS, of Michigan, moved that the House adjourn, and subsequently withdrew the motion.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the United States courts, post-office, and other Government offices at the city of Lynchburgh, Virginia. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for the site and building complete the sum of $100,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for said building shall be vested in the United States, nor until the State of Virginia shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Mr. HOLMAN. I demand a second on the motion to suspend the rules.

The SPEAKER. Shall a second be considered as ordered? The Chair hears no objection, and it is ordered accordingly.

Mr. HOLMAN. I ask for the reading of the report accompanying that bill.

Mr. TUCKER. Everybody knows this is an excellent case.

Mr. HOLMAN. I ask for the reading of the report accompanying that bill.

The Clerk read as follows:

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 1785) to provide for the erection of a public building for the use of the United States courts, post-office, and other Government offices at the city of Lynchburgh, in the State of Virginia, have duly considered the same, and submit the following report:

That Lynchburgh is one of the most growing and prosperous cities of Southwestern Virginia. It is the only place in the western district of Virginia where a circuit court of the United States is held. The docket is a very large one, the district embracing eleven counties. The house in which the courts are held is the only one obtainable, which is regarded by the judge and officers of the court as rickety and unsafe, and in other respects wholly unsuited and insufficient.

The amount of internal revenue collected for the year 1881 was $1,812,377.13.

The population, 15,000; and is the fourth city in the State of Virginia.

For these and many other good and sufficient reasons appearing among the papers submitted, of which, to avoid tedious detail, mention is omitted, your committee report the bill back with a substitute and recommend that the substitute do pass.

Mr. HOLMAN. I move the House adjourn.

The House divided; and there were—ayes 38, noes 63.

So the House refused to adjourn.

The rules were suspended, (two-thirds voting in favor thereof,) and the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill; and it was passed.

PUBLIC BUILDING, PEORIA, ILLINOIS.

Mr. LEWIS. I move, Mr. Speaker, by unanimous consent that the rules be suspended and the bill (S. No. 238) to provide for the erection of a public building in the city of Peoria, in the State of Illinois, be taken from the Speaker's table and passed with an amendment.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with commodious fire-proof vaults, for the accommodation of the post-office, the United States courts, custom-house, bonded warehouse, internal-revenue offices, and other Government offices, at the city of Peoria, in the State of Illinois; which site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of at least fifty feet, including streets and alleys. The site, and the building thereon, when completed upon plans and specifications to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of $400,000: *Provided*, That no money to be appropriated for this purpose shall be available until a valid title to the site shall be vested in the United States, and the State of Illinois shall have ceded her jurisdiction over the same.

SEC. 2. That the sum of $100,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be used and expended for the purpose provided in this act.

The amendment was read, as follows:

Strike out $100,000 and insert in lieu thereof $225,000.

The report was read, as follows:

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 179) for the construction of a public building at Peoria, Illinois, for the accommodation of the postal, internal-revenue, and other business of the United States transacted there, having considered the same, respectfully report:

That Peoria is a city of about thirty-five thousand inhabitants, situated on the Illinois River, and near the geographical center of the State of Illinois. Twelve railroads converge there, and others are in process of construction. It is in the midst of one of the most fertile and best improved tracts of country in that State, and has an unlimited supply of bituminous coal. In addition to the twelve converging railroads before mentioned, the city has the advantages for transportation furnished by the Illinois River and the Illinois Canal.

A large internal revenue is paid the Government at Peoria. From the year 1872 until 1882 the gross sum collected there was $76,545,902.85, and for the last half of the year 1881, $7,271,643.57. These figures show an average monthly collection of about $1,125,000, and a daily collection of about $400,000. This large business requires that about $2,000,000 worth of revenue stamps and a large amount of valuable papers and records be kept at Peoria. In the district in which this large internal-revenue business is conducted, the United States owns no building whatever. Buildings poorly adapted to the purpose, furnishing no proper protection from fire or theft, have been, and are now, occupied by the eighty internal revenue officers stationed at Peoria, involving an annual expenditure for rent of $——.

The net revenue received from the post-office at Peoria during the fiscal year 1879 was $24,569.66; in 1880, $33,104.18, and in 1881, $39,617.29. The building now occupied by the post-office is inconveniently located and poorly adapted to the transaction of the business and the accommodation of the public. The rent paid by the Government for said building is $1,500 per annum.

In view of the foregoing facts, your committee recommend the erection of a suitable Government building at said city of Peoria, and report back the bill by substitute and ask its passage, limiting the ultimate cost at the sum of $225,000.

Mr. BRAGG. Would it not save time to begin and call the Calendar. [Laughter.]

Mr. HOLMAN. I demand a second.

The SPEAKER. The gentleman from Indiana is entitled to the floor in opposition to the bill, having demanded a second.

Mr. COX, of New York. Is this for another public building?

Mr. HOLMAN. It is.

Mr. COX, of New York. We are making our own graves by rushing through in this way these appropriations for public buildings.

Mr. ROBINSON, of Massachusetts. There was so much confusion during the reading of the bill that perhaps I misapprehended it; but if I understood it correctly it provides for a building for the accommodation, besides other offices, "of the United States courts."

Now, unless I misunderstood the debate which was participated in by the gentleman from Illinois, I am informed there are not any United States courts there.

Mr. HOLMAN. There are none.

Mr. ROBINSON, of Massachusetts. Then I do not know why the bill should sail under false colors.

Mr. SPRINGER. If we are going to have United States courts in every village we may have one at Peoria after a while.

Mr. ROBINSON, of Massachusetts. Why put it in this bill for the accommodation of United States courts at Peoria, Illinois, when there are no United States courts at Peoria, Illinois?

Mr. SPRINGER. Peoria has a population of 40,000. It manufactures more whisky than any city in the world.

Mr. CAMP. That settles it. They ought to have a United States court there. [Laughter.]

Mr. CANNON. Mr. Speaker, I want to say a single word in reply to the remarks of the gentleman from Massachusetts. I have no doubt that the United States courts will be held there in time, but whether or not they are ever held there, this city of Peoria is the second city in size in my State, and $15,000,000 of internal-revenue taxes are collected every year, and have been for years past.

Mr. SPRINGER. Not quite that much, but about a million a month.

Mr. CANNON. Well, about that much in round numbers.

Mr. TOWNSHEND, of Illinois. The city of Peoria pays more internal-revenue taxes than the whole State of Massachusetts, or in fact more than all the New England States combined, and more than the State of New York, including the city.

Mr. ROBINSON, of Massachusetts. I merely want to meet that whisky argument which has been made by my friend upon the opposite side. It is always brought up here in support of such cases as this; and because a place produces a great deal of whisky we must understand, therefore, that it ought to be specially considered in such matters.

Mr. SPRINGER. They do not drink it all there.

Mr. ROBINSON, of Massachusetts. Then I do not know that they contribute to the support of the Government.

I do not wish to be understood as opposing this special bill. But I want to call sharply to the attention of the House exactly what we are doing. I want them to know what we are about to do.

Mr. VAN VOORHIS. We do understand it.

Mr. ROBINSON, of Massachusetts. Gentlemen say they do understand it. Now, this bill proposes to put up a United States court-house in a place where, as we have been informed to-day, no United States court at all is held; and yet gentlemen say they know what they are doing. I want to know whether we are to put up public buildings of this character in places where there is occasion only for a post-office; and if so, the Committee on Public Buildings should state it. It may be in this case, and I do not wish to be understood as saying that it is not a case of necessity for a public building. I am not opposing this particular instance; but I do oppose any bill that under a false pretense is admitted to be put through this House. Let it show clearly what it is, and let us know what we are doing.

Mr. SPRINGER. There is no false pretense here.

Mr. ROBINSON, of Massachusetts. I do not say positively that there is; but this bill proposes to erect a public building for the United States courts at a point where we were told to-day no United States courts are held, and yet gentlemen say there is no pretense, no sailing under false colors in the erection of a court-house and public building in this city.

Mr. SPRINGER. There are nearly one hundred persons employed there in Government business who have no offices except those that they rent, and they are unsuitable.

Mr. ROBINSON, of Massachusetts. I do not pretend to take issue with the gentleman on that point. But why erect a court-house where no courts are held? If there is no need for a court-house, why are we called on to pass such a bill?

Mr. TOWNSHEND, of Illinois. Let me say a word right here.

Mr. ROBINSON, of Massachusetts. Let me say my say first.

Mr. TOWNSHEND, of Illinois. I only want to correct the gentleman.

Mr. ROBINSON, of Massachusetts. Let me have my say first; it will only take a minute.

Mr. TOWNSHEND, of Illinois. Very well.

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. ROBINSON, of Massachusetts. Undoubtedly, from the statement of the Committee on Public Buildings and Grounds, there would seem to be occasion for this building. I do not take issue with gentlemen on that point; but it ought to be stated in the bill what the exact purpose is, and not have the House indorse something that is not a fact. That is all I want to say.

Mr. TOWNSHEND, of Illinois. Now, I will say in response to the gentleman from Massachusetts, that there are eighty clerks employed there in the collection of internal revenue, and there is not a public building for that purpose in the city.

Mr. CAMP. Do not the internal-revenue officers pay their own rent?

Mr. VAN VOORHIS. No, sir.

Mr. TOWNSHEND, of Illinois. Not always.

Mr. DUNN. Will the gentleman from Illinois permit me to ask him if he expects this building to be erected before the internal-revenue tax on whisky is abolished?

Mr. TOWNSHEND, of Illinois. The building is needed for many other purposes.

Mr. HOLMAN. I yield my time to the gentleman from New York, [Mr. COX.]

Mr. COX, of New York. Mr. Speaker, I oppose all this system of legislating for the erecting public buildings. It is the old log-rolling steal over again, only done individually. We must draw the line somewhere——

Mr. TOWNSHEND, of Illinois. Do not draw the line on Illinois.

Mr. COX, of New York. I draw the line on you. [Laughter.] You say that there are eighty clerks actually employed in that city in this system of collecting whisky taxes. Now, I want to abolish that whole system of collecting taxes. It is worse than the tariff. The idea of erecting a public building in Peoria at a charge of several hundred thousand dollars for the collection of a whisky tax is not one that I can submit to. I oppose the whole business. Let us abolish this whisky business altogether.

Mr. MORRISON. And have no taxes at all? [Laughter.]

Mr. COX, of New York. No, sir; but cut down the administration of the Government to a frugal point, and not make raids upon the public Treasury for public buildings where there is no need for them.

Mr. TOWNSHEND, of Illinois. I know my friend from New York does not want to misrepresent me.

Mr. COX, of New York. I am your friend, therefore do not interrupt me. [Laughter.] The gentleman from Illinois has stated that there are over eighty clerks employed there in collecting whisky taxes.

Mr. TOWNSHEND, of Illinois. I used that as an argument in favor of the bill. I repeat that the fact is Peoria pays more taxes into the national Treasury than the whole State of New York and even New England.

Mr. COX, of New York. But whoever drinks the whisky pays the tax, and the gentleman from Illinois knows it.

Mr. DUNNELL. Do not other gentlemen know it, too? [Laughter.]

The SPEAKER. The question is on agreeing to the motion of the gentleman from Illinois, [Mr. LEWIS.]

The question being taken, there were—ayes 101, noes 35.

Mr. HOLMAN. No quorum.

The SPEAKER. A quorum not having voted, the Chair will appoint as tellers the gentleman from Indiana [Mr. HOLMAN] and the gentleman from Illinois, [Mr. LEWIS.]

Mr. HOLMAN. I move that the House do now adjourn.

Mr. BRAGG. I call for the yeas and nays on the motion to adjourn.

On the question of ordering the yeas and nays there were ayes 30.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

Mr. TOWNSHEND, of Illinois. Let us vote down the motion to adjourn.

The question was taken; and there were—yeas 47, nays 127, not voting 117, as follows:

YEAS—47.

Atherton,	Cox, William R.	Hardy,	Orth,
Barbour,	Cravens,	Harris, Benj. W.	Randall,
Bayne,	Dingley,	Hewitt, G. W.	Robinson, Geo. D.
Bragg,	Dowd,	Holman,	Rosecrans,
Browne,	Dugrow,	Humphrey,	Speer,
Buchanan,	Dwight,	Jones, James K.	Thompson, P. B.
Buckner,	Gibson,	Kelley,	Townsend, Amos
Caldwell,	Godshalk,	Kenna,	Turner, Henry G.
Camp,	Grout,	Ladd,	Whitthorne.
Clark,	Gunter,	Latham,	Williams, Thomas
Clements,	Hall,	McMillin,	Wise, George D.
Cox, Samuel S.	Hammond, N. J.	Oates,	

NAYS—127.

Aldrich,	Dunn,	Lynch,	Smith, Dietrich C.
Anderson,	Dunnell,	Manning,	Smith, J. Hyatt
Beach,	Ellis,	Matson,	Spaulding,
Belford,	Ermentrout,	Miles,	Spooner,
Bingham,	Evins,	Moore,	Springer,
Blackburn,	Farwell, Chas. B.	Morrison,	Steele,
Blanchard,	Farwell, Sewell S.	Muldrow,	Stockslager,
Bland,	Finley,	Norcross,	Stone,
Bliss,	Fisher,	O'Neill,	Talbott,
Briggs,	Ford,	Parker	Thomas,
Buck,	George,	Payson,	Thompson, Wm. G.
Cabell,	Harris, Henry S.	Peelle,	Tillman,
Campbell,	Haseltine,	Peirce,	Townshend, R. W.
Candler,	Haskell,	Prescott,	Tucker,
Cannon.	Hatch,	Ray,	Turner, Oscar
Carpenter,	Hawk,	Reed,	Tyler,
Cassidy,	Heilman,	Rice, John B.	Urner,
Chace,	Henderson,	Rice, William W.	Valentine,
Chapman,	Hepburn,	Rich,	Vance,
Clardy,	Hill,	Richardson, D. P.	Van Aernam,
Colerick,	Hoblitzell,	Ritchie,	Van Horn,
Converse,	Hooker,	Robertson,	Van Voorhis,
Cook,	Hubbs,	Robeson,	Walker,
Cullen,	Jacobs,	Robinson, Wm. E.	Warner,
Curtin,	Jadwin,	Scales,	Watson,
Cutts,	Jones, George W.	Scoville,	Wellborn,
Darrell,	Jones, Phineas	Scranton,	White,
Davidson,	Ketcham,	Shallenberger,	Willis,
Davis, George R.	King,	Sherwin,	Willits,
De Motte,	Klotz,	Shultz,	Wilson,
Dezendorf,	Lewis,	Singleton, Jas. W.	Young.
Dibble,	Lord.	Skinner,	

NOT VOTING—117.

Aiken,	Flower,	Martin,	Robinson, James S.
Armfield,	Forney,	Mason,	Ross,
Atkins,	Frost,	McClure,	Russell,
Barr,	Fulkerson.	McCoid,	Ryan,
Belmont.	Garrison,	McCook.	Shackelford,
Beltzhoover,	Geddes,	McKenzie,	Shelley,
Berry,	Guenther,	McKinley,	Simonton,
Black,	Hammond, John	McLane,	Singleton, Otho R.
Blount,	Hardenbergh,	Miller,	Smith, A. Herr
Bowman,	Harmer,	Mills,	Sparks,
Brewer,	Hazelton,	Money,	Stephens,
Brumm,	Herbert,	Morey,	Strait,
Burrows, Julius C.	Herndon,	Morse,	Taylor,
Burrows, Jos. H.	Hewitt, Abram S.	Mosgrove,	Updegraff, J. T.
Butterworth,	Hiscock,	Moulton,	Updegraff, Thomas
Calkins,	Hoge,	Murch,	Upson,
Carlisle,	Horr,	Mutchler,	Wadsworth,
Caswell,	Houk,	Neal,	Wait,
Cobb,	House,	Nolan,	Ward,
Cornell,	Hubbell,	Pacheco,	Washburn,
Covington,	Hutchins,	Page,	Webber,
Crapo,	Jorgensen,	Paul,	West,
Crowley,	Joyce,	Pettibone,	Wheeler,
Culberson,	Kasson,	Phelps,	Williams, Chas. G.
Davis, Lowndes H.	Knott,	Phister,	Wise, Morgan R.
Dawes,	Lacey,	Pound,	Wood, Benjamin
Deering,	Leedom,	Ranney,	Wood, Walter A.
Deuster,	Le Fevre,	Reagan,	
Dibrell,	Lindsey,	Rice, Theron M.	
Errett,	Marsh,	Richardson, Jno. S.	

So the motion to adjourn was not agreed to.

The following additional pairs were announced:
Mr. GIBSON with Mr. RICHARDSON of New York.
Mr. TAYLOR with Mr. TURNER of Georgia.
Mr. LORD with Mr. WISE of Pennsylvania.
Mr. MILLER with Mr. DAVIS of Missouri.
Mr. CRAPO with Mr. HEWITT of New York.
Mr. RICE, of Ohio, with Mr. GEDDES.
Mr. UPDEGRAFF, of Iowa, with Mr. COBB.
Mr. BUCKNER with Mr. KASSON.
Mr. MCLANE with Mr. WADSWORTH.
Mr. FORNEY with Mr. WAIT.
Mr. HOUSE with Mr. PETTIBONE.
Mr. UPSON with Mr. CALKINS.

Mr. ROBESON. I ask unanimous consent that the reading of the names be dispensed with.

Mr. BRAGG. This is an important vote, and there may be some error in it. I think the names should be read.

The names of members voting were read, and the result of the vote was then announced as above stated.

The SPEAKER. The question recurs on agreeing to the motion of the gentleman from Illinois [Mr. LEWIS] to suspend the rules and pass the bill.

The question being taken, there were—ayes 98, noes 10.

Mr. BRAGG. I do not think so much money should be voted away with less than a quorum. I make the point of no quorum.

The SPEAKER. A quorum not having voted, the Chair appoints as tellers the gentleman from Illinois [Mr. LEWIS] and the gentleman from Wisconsin, [Mr. BRAGG.]

The House again divided; and the tellers reported—ayes 131, noes 17.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Texas [Mr. JONES] is recognized.

Mr. BRAGG. I move that the House do now adjourn.

Mr. JONES, of Texas. I desire to move that the rules be suspended, that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 3858) for the construction of a public building at Galveston, Texas, and that the bill do pass.

The SPEAKER. The question is on the motion of the gentleman from Wisconsin [Mr. BRAGG] that the House do now adjourn.

The question being taken, there were—ayes 58, noes 74.

Mr. BRAGG. I call for tellers.

On the question of ordering tellers there were—ayes 20; not one-fifth of a quorum.

So tellers were not ordered.

Mr. BRAGG. I call for the yeas and nays.

On the question of ordering the yeas and nays there were—ayes 22.

The SPEAKER. In the judgment of the Chair, a sufficient number have not voted to order the yeas and nays.

Mr. BRAGG. Count the other side.

The other side was counted; and there were noes 89.

So (the affirmative not being one-fifth of the whole vote) the yeas and nays were not ordered.

On the question of ordering tellers, there were—ayes 19; not one-fifth of a quorum.

The SPEAKER. Tellers on the yeas and nays are refused, the yeas and nays are not ordered, tellers on the motion are refused, and the motion to adjourn is not agreed to.

PUBLIC BUILDING AT GALVESTON, TEXAS.

Mr. JONES, of Texas. I move to suspend the rules so as to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. No. 3858) to provide for the construction of a public building at Galveston, Texas, and that the same be passed at this time.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the custom-house, internal-revenue offices, and other Government offices, at the city of Galveston, in the State of Texas. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for the site and building complete the sum of $125,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for said building shall be vested in the United States, nor until the State of Texas shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

Mr. BRAGG. I demand a second of the motion to suspend the rules.

Mr. STEELE. I move that the House now adjourn.

Mr. VAN VOORHIS. That motion is not in order.

The SPEAKER. The gentleman from Indiana [Mr. STEELE] moves that the House do now adjourn.

Mr. STEELE. I will withdraw the motion.

Mr. BROWNE. I renew it.

The motion to adjourn was not agreed to, upon a division—ayes 26, noes 63.

The SPEAKER. The question recurs upon the motion of the gentleman from Texas [Mr. JONES] to suspend the rules and pass the bill which has been read.

Mr. BRAGG. I demand a second of the motion to suspend the rules.

The SPEAKER. Shall a second be considered as ordered?

Mr. BRAGG. I object to that.

The SPEAKER. A second is demanded, and the gentleman from Texas [Mr. JONES] and the gentleman from Wisconsin [Mr. BRAGG] will take their places as tellers.

The House proceeded to divide, but before the tellers had completed their report,

Mr. BAYNE moved that the House adjourn.

The SPEAKER. That motion is not now in order.

Mr. BAYNE. I call for a report from the tellers; abundant time has been given them.

The SPEAKER. The tellers have reported to the Chair, but have not completed their report.

Mr. BROWNE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWNE. When is it competent for the House to have a report of the vote by tellers?

The SPEAKER. When a quorum has voted the Chair will announce the result.

Mr. BROWNE. If no quorum is here——

The SPEAKER. The tellers have discharged their duty; they have reported to the Chair as fast as members have voted.

Mr. BROWNE. Suppose that no quorum appears; are we to be kept here all night?

Mr. WILSON. Nothing is in order now but a quorum, and I call the gentleman to order. [Laughter.]

The SPEAKER. There is evidently a quorum in the Hall, and gentlemen are requested to vote.

Mr. SINGLETON, of Illinois. I move a call of the House.

The SPEAKER. The gentleman from Illinois [Mr. SINGLETON] moves a call of the House. Those in favor of the motion——

Mr. REED. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. REED. If it is not in order at this time to move an adjournment, it certainly is not in order to move a call of the House.

The SPEAKER. One motion to adjourn, pending the motion to suspend the rules, has been made and voted down.

Mr. RANDALL. It requires a quorum to suspend the rules. Now we are without a quorum.

Mr. ROBESON. We do not know that.

Mr. RANDALL. The rules require that when a quorum does not appear a motion for a call of the House or a motion to adjourn shall be in order.

The SPEAKER. The Chair thinks a motion for a call of the House is in order.

Mr. RANDALL. The Constitution states that less than a quorum can adjourn from day to day. That is the condition of the House now. I submit that under existing circumstances, no quorum being present, a motion to adjourn is not in the nature of a dilatory motion at all.

The SPEAKER. The rules provide for that.

Mr. KELLEY. I desire to inquire of the Chair whether, if the House should now adjourn, this motion would come up as unfinished business on the next day for individual motions to suspend the rules?

The SPEAKER. The Chair thinks it would.

Mr. BAYNE. Very well; I move that the House adjourn.

Mr. KELLEY. I move that the House adjourn.

Mr. BRAGG. I would not like to have the Chair decide in advance what he would rule when the question shall come up.

The SPEAKER. This motion would not come up until the class of business to which it is related comes up again.

Mr. BRAGG. No previous question has been ordered.

The SPEAKER. But it would be unfinished business like other unfinished business.

Mr. VAN VOORHIS. I move that the House now take a recess.

The SPEAKER. The tellers have further reported. They report—ayes 137, noes 10; and the motion to suspend the rules is seconded.

Mr. BRAGG. I move that the House now adjourn.

The SPEAKER. That motion is not now in order.

Mr. SKINNER. I move that the House take a recess until to-morrow morning at ten o'clock.

The SPEAKER. That motion is not in order. The question recurs on the motion of the gentleman from Texas [Mr. JONES] to suspend the rules and pass the bill which has been read, which motion has just been seconded.

The question was taken; and upon a division there were—ayes 120, noes 9.

Mr. BRAGG. No quorum has voted.

Mr. HOLMAN. I move that the House now adjourn.

The SPEAKER. The motion to adjourn is not now in order. The point having been made that no quorum has voted, the gentleman

from Texas [Mr. JONES] and the gentleman from Wisconsin [Mr. BRAGG] will take their places as tellers upon the motion to suspend the rules and pass the bill which has been read.

Mr. BRAGG. I would like to know why we cannot adjourn.

Mr. CANNON. I ask the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and there were—yeas 130, nays 16, not voting 145; as follows:

YEAS—130.

Anderson,	Dibble,	King,	Scranton,
Atkins,	Dowd,	Klotz,	Shallenberger,
Barbour,	Dunn,	Lacey,	Sherwin,
Bayne,	Dunnell,	Latham,	Singleton, Jas. W.
Beach,	Ellis,	Lewis,	Smith, Dietrich C.
Berry,	Ermentrout,	Lindsey,	Smith, J. Hyatt
Bingham,	Errett,	Lord,	Stockslager,
Blanchard,	Evins,	Lynch,	Talbott,
Bland,	Farwell, Sewell S.	Manning,	Thomas,
Bliss,	Finley,	McCoid,	Tillman,
Blount,	Fisher,	McMillin,	Townsend, Amos
Briggs,	Ford,	Moore,	Townshend, R. W.
Burrows, Julius C.	Grout,	Morrison,	Tucker,
Butterworth,	Gunter,	Muldrow,	Turner, Oscar
Cabell,	Haseltine,	Norcross,	Urner,
Campbell,	Haskell,	Orth,	Valentine,
Candler,	Hatch,	Parker,	Vance,
Cannon,	Hawk,	Peelle,	Van Aernam,
Carpenter,	Hepburn,	Peirce,	Van Horn,
Cassidy,	Herbert,	Prescott,	Van Voorhis,
Chace,	Hewitt, G. W.	Ray,	Walker,
Chapman,	Hill,	Reed,	Ward,
Clardy,	Hiscock,	Rice, Theron M.	Warner,
Clark,	Hooker,	Rich,	Watson,
Colerick,	Horr,	Richardson, D. P.	Wellborn,
Cook,	Hubbs,	Robertson,	White,
Cravens,	Jacobs,	Robeson,	Williams, Thomas
Cullen,	Jadwin,	Robinson, Geo. D.	Willis,
Darrell,	Jones, George W.	Robinson, Wm. E.	Willits,
Davidson,	Jones, James K.	Rosecrans,	Wilson,
Davis, George R.	Jones, Phineas	Russell,	Wise, George D.
De Motte,	Kelley,	Scales,	
Dezendorf,	Kenna,	Scoville,	

NAYS—16.

Atherton,	Cox, Samuel S.	Hardy,	Hutchins,
Browne,	Cox, William R.	Harris, Benj. W.	Ross,
Buchanan,	Curtin,	Harris, Henry S.	Springer,
Clements,	Dugro,	Holman,	Steele.

NOT VOTING—145.

Aiken,	Flower,	Matson,	Shackelford,
Aldrich,	Forney,	McClure,	Shelley,
Armfield,	Frost,	McCook,	Shultz,
Barr,	Fulkerson,	McKenzie,	Simonton,
Belford,	Garrison,	McKinley,	Singleton, Otho R.
Belmont,	Geddes,	McLane	Skinner,
Beltzhoover,	George,	Miles,	Smith, A. Herr
Black,	Gibson,	Miller,	Sparks,
Blackburn,	Godshalk,	Mills,	Spaulding,
Bowman,	Guenther,	Money,	Speer,
Bragg,	Hall,	Morey,	Spooner,
Brewer,	Hammond, John	Morse,	Stephens,
Brumm,	Hammond, N. J.	Mosgrove,	Stone,
Buck,	Hardenbergh,	Moulton,	Strait,
Buckner,	Harmer,	Murch,	Taylor,
Burrows, Jos. H.	Hazelton,	Mutchler,	Thompson, P. B.
Caldwell,	Heilman,	Neal,	Thompson, Wm. G.
Calkins,	Henderson,	Nolan,	Turner, Henry G.
Camp,	Herndon,	Oates,	Tyler,
Carlisle,	Hewitt, Abram S.	O'Neill,	Updegraff, J. T.
Caswell,	Hoblitzell,	Pacheco,	Updegraff, Thomas
Cobb,	Hoge,	Page,	Upson,
Converse,	Houk,	Paul,	Wadsworth,
Cornell,	House,	Payson,	Wait,
Covington,	Hubbell,	Pettibone,	Washburn,
Crapo,	Humphrey,	Phelps,	Webber,
Crowley,	Jorgensen,	Phister,	West,
Culberson,	Joyce,	Pound,	Wheeler,
Cutts,	Kasson,	Randall,	Whitthorne,
Davis, Lowndes H.	Ketcham,	Ranney,	Williams, Chas. G.
Dawes,	Knott,	Reagan,	Wise, Morgan R.
Deering,	Ladd,	Rice, John B.	Wood, Benjamin
Denster,	Lessom,	Rice, William W.	Wood, Walter A.
Dibrell,	Le Fevre,	Richardson, Jno. S.	Young.
Dingley,	Marsh,	Ritchie,	
Dwight,	Martin,	Robinson, James S.	
Farwell, Chas. B.	Mason,	Ryan,	

The following additional pairs were announced:

Mr. CONVERSE with Mr. DWIGHT.

Mr. SKINNER with Mr. RANDALL.

The SPEAKER. On this vote the yeas are 130, the nays 16. The Chair votes in the affirmative, making a quorum; and the motion of the gentleman from Texas [Mr. JONES] to suspend the rules and pass the bill as read is agreed to.

Mr. ATHERTON. I move that the House adjourn.

Mr. BRAGG. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BRAGG. Did the Chair ask that the reading of the names be dispensed with, or were they read in full?

The SPEAKER. The reading was not dispensed with; they should be read.

Mr. BRAGG. I simply wanted to know why the Speaker proceeded to the next order of business before completing the preceding order.

The SPEAKER. The names will be read.

Mr. BRAGG. I have no objection to dispensing with the reading of the names. My objection was to the anxiety that an announcement should be irregularly made.

The SPEAKER. Is there objection to dispensing with the reading of the names?

Mr. BRAGG. I have no objection.

The SPEAKER. In the absence of objection the reading of the names is dispensed with; and the result will stand as announced.

Mr. REED. I move that the House adjourn.

ENROLLED BILL SIGNED.

Mr. WARNER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 1049) to promote the efficiency of the Life-Saving Service and to encourage the saving of life from shipwreck.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SIMONTON, for two weeks.

To Mr. RICE, of Ohio, indefinitely, on account of sickness.

To Mr. SPARKS, indefinitely, on account of sickness.

To Mr. SPAULDING, for one week, on account of sickness in his family.

The question being taken on the motion of Mr. REED that the House adjourn, it was agreed to; and accordingly (at five o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARBOUR: The petition of Emanuel E. Downham and Henry Strauss, of Alexandria, Virginia, for relief—to the Committee on Claims.

By Mr. BELFORD: The petition of George Q. Cannon, asking for the salary of Delegate in Congress for the Forty-seventh Congress—to the Committee on Elections.

By Mr. BELMONT: The petition of J. T. Metcalf and others, and of Samuel B. Tuck and others, of Williamsburgh, Long Island, New York, for the passage of the French spoliation claims bill—severally to the Committee on Foreign Affairs.

By Mr. BERRY: The petition of citizens of San Joaquin County, California, praying for the establishment of a postal-telegraph system—to the Committee on the Post-Office and Post-Roads.

By Mr. BUCHANAN: A bill to establish a post-route from Mountain Hill to Hargett, in Harris County, Georgia—to the same committee.

By Mr. CLARDY: The petition of merchants of Saint Louis, Missouri, protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. COOK: The petition of citizens of Irwin and Montgomery Counties, Georgia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. DUNNELL: The petition of citizens of Minnesota for the establishment of a post-route—to the Committee on the Post-Office and Post-Roads.

By Mr. ERRETT: Paper relating to the pension claim of Thomas E. Wilson—to the Committee on Invalid Pensions.

Also, the letter of F. J. McKalep concerning the explosion at the arsenal at Pittsburgh, Pennsylvania, September 17, 1862—to the Committee on Claims.

By Mr. C. B. FARWELL: The petition of Gould, Hall & Co. and others, protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. FORNEY: The petition of C. J. Teague and others, for an appropriation for educational purposes to be distributed on the basis of illiteracy—to the Committee on Education and Labor.

By Mr. HARDENBERGH: The petition of E. F. C. Young and others, for the passage of a bill to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. HATCH: The petition of 275 citizens of Hannibal, Missouri, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. HOLMAN: Papers relating to the pension claims of Newton J. Buris and of Neal Meginley—severally to the Committee on Invalid Pensions.

By Mr. KING: The petition of police jury of East Carroll Parish, Louisiana, relative to the improvement of the Mississippi River—to the Committee on Commerce.

By Mr. MILES: The petition of citizens of Bridgeport, Connecticut, for the improvement of Black Rock Harbor—to the same committee.

By Mr. MORSE: The petition of John J. Newcomb and other merchants of Boston, Massachusetts, for the sale of the Charlestown navy-yard—to the Committee on Naval Affairs.

Also, the petition of Crocker Brothers and other merchants of Boston, Massachusetts, protesting against the sale of the Charlestown navy-yard—to the same committee.

By Mr. ORTH: The petition of citizens of La Fayette, Indiana,

protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. PEELLE: The petition of Robertson & Perry and others, merchants of Indianapolis, Indiana, protesting against the repeal of the tax on matches—to the same committee.

By Mr. ROBERTSON: The petition of citizens of Fridge's Store and Magnolia, Louisiana, for the restoration of fractional currency—to the Committee on Banking and Currency.

Also the petition of citizens of Fridge's Store and Magnolia, Louisiana, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. SIMONTON: The petition of the board of health of Tennessee, for Government aid to prevent overflow of the Mississippi River—to the Committee on Levees and Improvement of the Mississippi River.

By Mr. STOCKSLAGER: The petition of 200 citizens of Clark County, Indiana, asking that a pension be granted to John Rial—to the Committee on Invalid Pensions.

By Mr. THOMAS: Papers relating to the bill to authorize the payment of prize-money to the captors of the steamboat New Era No. 5 and cargo—to the Committee on Naval Affairs.

By Mr. H. G. TURNER: The petition of W. M. Adams and 354 others, citizens of Miller County, Georgia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. UPSON: The petition of citizens of San Antonio, Texas, for an appropriation for educational purposes—to the same committee.

By Mr. WILLIS: The petition of Katharine Bender, and of John D. Ray, for a pension—to the Committee on Invalid Pensions.

By Mr. WALTER A. WOOD: The petition of citizens of Troy, New York, for the passage of a bill to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. YOUNG: The petition of J. & M. Custy and H. W. Hoops, of New York City; of Shryock & Co. and 29 other business firms of Louisville, Kentucky; of A. Berga and 18 other business firms of Kansas and Missouri; of C. B. Yetzgor and 23 other business firms of Pennsylvania; of George Parsons and 34 other business firms of Illinois and Kentucky; of Frank E. Block and 47 other business firms of Atlanta, Georgia; of Samuel Robinson and 8 other business firms of Providence, Rhode Island, and of S. C. Biggs, of Chicago, Illinois, and 4 other business firms in the State of Ohio, for the passage of bill to tax glucose five cents per pound—severally to the Committee on Ways and Means.

SENATE.

TUESDAY, *May* 2, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. ALLISON. I present resolutions of the city council and the Board of Trade of Mason City, Iowa; the petition of W. V. Lucas, auditor of the State of Iowa, H. G. Parker, State senator, and other citizens of Iowa; a petition of 18 members of the house of representatives of the State of Iowa; a petition of 20 citizens of Hancock County, Iowa; another petition of 20 citizens of Hancock County, Iowa; a petition of 33 citizens of Worth and other counties, Iowa; a petition of 20 citizens and business firms of Osage, Mitchell County, Iowa; a petition of 20 attorneys and business men of Marshalltown, Marshall County, Iowa; a petition of 54 citizens and business firms of Winnebago County, Iowa; a petition of the attorneys of Eldorado, Iowa; a petition of 21 citizens and business firms of Winneshiek County, Iowa; a petition of the attorneys of Ackley, Iowa; a petition of 38 citizens and business firms of Franklin County, Iowa; a petition of 7 attorneys of Hampton, Franklin County, Iowa; a petition of 17 citizens of Franklin County, Iowa; a petition of 13 citizens of Floyd and Cerro Gordo Counties, Iowa; a petition of 23 citizens of Floyd County, Iowa; a petition of 20 citizens of Floyd County, Iowa; a petition of citizens of Clayton County, Iowa; a petition of 20 citizens of Greene County, Iowa; a petition of 20 citizens of Butler County, Iowa; a petition of 19 citizens of Black Hawk County, Iowa; a petition of 32 citizens of Waterloo, Black Hawk County, Iowa; a petition of 20 citizens and business firms of Black Hawk County, Iowa; a petition of 42 citizens of Buchanan County, Iowa; a petition of 30 citizens of Delaware County, Iowa; a petition of 26 citizens and business firms of Dubuque County, Iowa; a petition of 16 citizens of Chickasaw County, Iowa; a petition of 51 citizens of Cerro Gordo County, Iowa; a petition of 19 citizens and business firms of Cerro Gordo County, Iowa; a petition of 16 citizens of Cerro Gordo County, Iowa; a petition of 19 citizens of Cerro Gordo County, Iowa; a petition of 20 citizens of Cerro Gordo County, Iowa; a second petition of 20 citizens of Cerro Gordo County, Iowa; a third petition of 20 citizens of Cerro Gordo County, Iowa; another petition of 19 citizens of Cerro Gordo County, Iowa; a petition of 17 citizens of Cerro Gordo County, Iowa; a petition of 22 citizens of Allamakee County, Iowa; the petition of M. V. Burdick and others, of Allamakee County, Iowa; and the petition of Judge C. T. Granger and three attorneys of Allamakee County, Iowa, praying for the passage of the bill for the establishment of a term of the United States district and circuit court in Mason City, Iowa. As the petitions relate to a bill now pending before the Judiciary Committee, I move their reference to that committee.

The motion was agreed to.

Mr. PLUMB presented three petitions of citizens of Kansas, in favor of an appropriation for education in the Territory of Alaska; which were referred to the Committee on Education and Labor.

Mr. SEWELL presented the petition of Surgeon-General Joseph K. Barnes, Adjutant-General R. C. Drum, Inspector-General D. B. Sackett, Assistant Surgeon-General C. H. Crane, Chief Medical Purveyor J. H. Baxter, and 5 lieutenant-colonels, 7 majors, 14 captains, 6 lieutenants, making in all 37 officers of the Army, praying for the passage of the bill for compulsory retirement; which was referred to the Committee on Military Affairs.

Mr. DAVIS, of West Virginia, presented a petition of citizens of Monongalia County, West Virginia, praying for national aid to common schools; which was referred to the Committee on Education and Labor.

Mr. ANTHONY. I present resolutions of the General Assembly of the State of Rhode Island, stating that they recognize the paramount importance of an intelligent ballot, and view with serious apprehension the growth and extension of the illiterate vote of the country, and recommending such legislation as will enable the States of the Union, in proportion to their illiterate population, to establish and maintain a sufficient number of schools for the education of youth. I move the reference of the resolutions to the Committee on Education and Labor.

The motion was agreed to.

Mr. FERRY presented the petition of Lucy T. Stansell and other residents of Manistee, Michigan, praying for the passage of a law for the adoption of a sixteenth amendment to the Constitution extending to women the right of suffrage; which was referred to the Select Committee on Woman Suffrage.

He also presented the memorial of Lucy T. Stansell and other residents of Michigan, protesting against the admission of Dakota into the Union as a State unless the right of suffrage therein be conferred upon women; which was referred to the Committee on Territories.

Mr. HOAR presented the petition of Bridget Adams, of Worcester, Massachusetts, praying for the removal of the charge of desertion against her husband, Daniel Adams, late a private in the Thirty-first Regiment Massachusetts Volunteers, and that she be allowed a pension; which was referred to the Committee on Pensions.

COMMITTEE ON MILITARY AFFAIRS.

Mr. HARRISON. I am directed by the Committee on Military Affairs to ask leave of the Senate to sit during the sessions of the Senate. There are some matters pending before it which make the request necessary.

The PRESIDENT *pro tempore*. Is there objection to the request of the Senator from Indiana? The Chair hears none, and leave is granted.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1731) to authorize Dr. Walter Reed, of the United States Army, to receive the pay allowed by law for discharging the duties of physician to the White Mountain Apache Indians on the San Carlos Indian reservation, Arizona, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1645) to authorize Dr. C. E. Price, of the United States Army, to receive the pay allowed by law for discharging the duties of physician to the Hoopa Valley Indian reservation, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1600) authorizing recruits in the Army to purchase on credit certain articles necessary for their cleanliness and comfort, reported it with amendments; and submitted a report thereon, which was ordered to be printed.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (S. No. 561) for the relief of Robert Stodart Wyld, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. PLATT. The Committee on Pensions, to whom was referred the petition of Mary C. Thompson, widow of the late Dr. Fillmore Thompson, of Hot Springs, Arkansas, praying to be granted a pension on account of services rendered the United States by her husband during the late war, have instructed me to report unfavorably upon it, but the Senator from Arkansas [Mr. GARLAND] desires that it shall be placed on the Calendar. I do not know exactly what there is that can go on the Calendar at the present time, but I desire to accommodate him in that respect. I suppose the report may go on the Calendar.

The PRESIDENT *pro tempore*. A petition cannot be placed on the

Calendar, but the report may be accompanied by a resolution, which may go on the Calendar.

Mr. PLATT. I will put it in proper shape to go on the Calendar.

The resolution was ordered to lie on the table, as follows:

Resolved, That the Committee on Pensions be discharged from the further consideration of the petition of Mary C. Thompson, widow of the late Dr. Fillmore Thompson, praying for a pension.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2260) granting a pension to Thomas J. Cofer, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1795) for the relief of Jeremiah D. Plumley, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (S. No. 690) for the relief of Harry I. Todd, late keeper of the Kentucky penitentiary, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1288) granting a pension to Mary Blowers, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. BLAIR. I am directed by the Committee on Pensions, to whom was referred the bill (H. R. No. 1430) granting a pension to Cornelia A. Shultz, to report it unfavorably. I ask that the bill be placed on the Calendar. There is a Senate bill, also reported unfavorably by the committee, on the Calendar, and I should like to have the two considered together.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. SLATER, from the Committee on Pensions, to whom was referred the bill (S. No. 1470) for the relief of Caroline E. Cole, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (S. No. 1091) granting a pension to John F. Reeves, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 662) authorizing a duplicate check in payment of pensions to William A. Gardner, of Frederick County, Maryland, in lieu of one lost, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3071) for the relief of Charles H. Frank, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 335) to extend the time for filing claims for horses and equipments lost by officers and enlisted men in the service of the United States, and for other purposes, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 773) for the relief of Eugene C. Johnson, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1717) for the relief of Eliza Francesco, reported it with amendments; and submitted a report thereon, which was ordered to be printed.

Mr. MCDILL, from the Committee on Public Lands, to whom was referred the bill (S. No. 1272) to create an additional land district in the Territory of Dakota, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. SEWELL, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1957) for the relief of Wallace W. Screws, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 804) for the relief of John F. Clancey, reported adversely thereon; and the bill was postponed indefinitely.

Mr. CAMERON, of Wisconsin, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1703) to cede to the first taxing district of the State of Tennessee a certain lot of land situated in said State, reported it with amendments.

Mr. MITCHELL, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2141) granting a pension to Martha A. Lewis, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. VAN WYCK. I am instructed by the Committee on Pensions, to whom was referred the bill (S. No. 1642) granting an increase of pension to William H. McMahon, to report it unfavorably, for the reason that the applicant has not made an application to the Commissioner of Pensions for increase of pension. I move that the bill be postponed indefinitely.

The motion was agreed to.

Mr. BAYARD. I am directed by the Committee on Finance, to whom was referred the bill (S. No. 1393) for the relief of the Grand Trunk Railway Company of Canada, to submit an adverse report thereon.

Mr. CONGER. I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. At the request of the Senator from Michigan, the bill will be placed on the Calendar.

Mr. BAYARD. Let the report be printed.

The PRESIDENT *pro tempore*. The report will be printed, as all reports are printed.

CUSTOM-HOUSE LOT AT BERMUDA HUNDRED.

Mr. PLUMB. The Committee on Public Lands have had under consideration the bill (H. R. No. 4133) to authorize the sale of certain property at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia, and have directed me to report it favorably, and to submit a report thereon. I believe I will ask for the immediate consideration of the bill. It has passed the House. It involves the sale of a half acre of ground only at Bermuda Hundred, which has been the property of the Government since 1790, and which has been rented during the time which has elapsed since then for merely a nominal rental. The Government has no use for the ground, as shown by the communications of the Government officials, and the bill ought to be disposed of now.

By unanimous consent, the bill was considered as in Committee of the Whole. It directs the Secretary of the Treasury to sell, either at public or private sale and on such terms as he may deem best, a certain half-acre lot of unimproved land situated at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia, and known as the "custom-house lot."

Mr. PLUMB. The report had better be read.

The PRESIDENT *pro tempore*. The report will be read.

The Acting Secretary read the report, as follows:

The Committee on Public Lands, to whom was referred the bill (H. R. No. 4133) providing for the sale of a certain lot of ground located at Bermuda Hundred, Virginia, belonging to the Government, having considered the same, respectfully report:

That the property in question consists of a half-acre lot of unimproved ground belonging to the Government, located at Bermuda Hundred, Virginia, and commonly known in that vicinity as the custom-house lot, it having been deeded to the United States in April, 1790, and set apart for a site for the erection of a custom-house, which it was then supposed would be needed at or near that place. The Supervising Architect of the Treasury Department, in a letter which is submitted herewith, reports that this property has not been occupied for any Government purpose for many years, and has been leased at a nominal rental of $1 per annum for some time. He also states that it appeared some years since that there was no probability of its ever being required for any Government use, and the supervising architect, in his annual report for 1875, recommended its sale. The present supervising architect makes a similar recommendation, and thinks it would be for the interest of the Government to sell the property, as there is no likelihood of its being required by the Government for any purpose. The property is desired for the terminus of a railroad, running from the coal mines in Chesterfield County, Virginia, and the committee think it would be for the interests of the Government to authorize the sale of the property, under proper restrictions, and they therefore report back the bill, and recommend its passage.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
February 3, 1882.

SIR: I have the honor to acknowledge the receipt by your reference of the 31st ultimo of a communication addressed under date of January 24, 1882, to the honorable G. D. Wise, of the House of Representatives, by James T. Werth, superintendent and treasurer of the Brighthope Railway Company of Richmond, Virginia, with reference to obtaining permission for the said company to occupy with its tracks a certain tract of land belonging to the United States, known as "the custom-house lot," located at Bermuda Hundred, Virginia.

In obedience to your instructions the following statement with reference to this property is respectfully submitted, namely:

The premises consist of one-half acre of unimproved land. The deed conveying the property to the United States bears date April 27, 1790, and as the grantee on behalf of the United States is the collector of the district of Bermuda Hundred, it is presumed that the property was acquired for customs purposes. It has not, however, been occupied for any Government use for many years, and has been leased at a nominal rental of $1 per annum for several years. It appeared some years since that there was no probability of its ever being required for any Government use, and Supervising Architect Potter, in his annual report for 1875, recommended its sale. The corporation making this application made a similar request in March, 1881, which was declined by Department letter dated April 11, 1881, for the reason that the permission asked "could not be granted without authority from Congress." This property is of little value, is of no use to the United States, and as there is no likelihood of its being required at any future time for Government purposes I am of the opinion that it would be in the interest of the Government to sell it, and to this end would suggest that you recommend to Congress the passage of an act authorizing its sale.

Very respectfully,

JAS. G. HILL,
Supervising Architect.

Hon. CHARLES J. FOLGER, *Secretary of the Treasury.*

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 10, 1882.

DEAR SIR: Several weeks ago I introduced a bill for the sale of a half-acre lot of land at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia. The owners of a railroad running from coal mines in Chesterfield County to the James River are very anxious to secure this lot, and in their interest I am anxious to have a report as early as possible. The lot was granted to the Government for a custom-house in the early days of the Republic, but has never been used for that or any other purpose, and never will be. The report from the Treasury Department accompanying my bill is full in explanation, and will convince the committee that it is in the interest of the Government to authorize the sale of the lot. As the railroad alluded to is used solely in connection with large mining operations, I respectfully request an early consideration and report upon my bill.

Very respectfully,

GEO. D. WISE.

Hon. WILLIAM S. SHALLENBERGER,
Chairman Committee on Public Buildings and Grounds

TREASURY DEPARTMENT, *February* 4, 1882.

MY DEAR SIR: I hand you herewith a paper from one of the bureaus. I do not like to make suggestions for legislation save in an annual report, and so do not care to follow out the concluding recommendation in the paper. Yet it may, I think, aid you before a committee if you feel inclined to introduce a bill for the sale of the land.

Respectfully, &c.,

CHAS. J. FOLGER,
Secretary of the Treasury.

Hon. G. D. WISE, *M. C.*

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MORTON MONUMENTAL ASSOCIATION.

Mr. COCKRELL. I am instructed by the Committee on Military Affairs to report back to the Senate favorably, with amendments, the joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

Mr. HARRISON. I ask the consent of the Senate to pass the joint resolution at once.

Mr. COCKRELL. I hope the request will be granted. It is a House resolution, with slight amendments, and will have to go back to the House.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution which was reported from the Committee on Military Affairs with amendments, in line 5, after the word "condemned," to insert "cast-iron," and in line 6, after the word "for," to strike out "casting;" so as to make the joint resolution read:

That the Secretary of War be, and he is hereby, authorized and directed to give to the Morton Monumental Association of the United States twelve condemned cast-iron cannon and twenty-five cannon-balls for a statue of Oliver P. Morton, late a Senator from Indiana, to be erected at the city of Indianapolis, Indiana.

The amendments were agreed to.

Mr. INGALLS. I have no objection to the passage of the joint resolution, but I think it would interest the Senate, in view of the extraordinary number of bills and resolutions which have been reported in this same direction during the present session, to know how many condemned cannon there are at the disposal of the Government, if the Senator from Missouri can inform me.

Mr. HARRISON. The Senator from Missouri can state.

Mr. COCKRELL. I can give the exact information. The bronze cannon, it is estimated by the Secretary of War, have all been provided for; that is, appropriations have been made consuming all the condemned, obsolete, or useless bronze cannon.

Mr. INGALLS. They have all been donated for monumental purposes?

Mr. COCKRELL. Yes, sir; those which have not heretofore been used for other purposes. There are no brass cannon; there are fifty wrought-iron cannon, seven hundred and seventy-four cast-iron cannon, and forty-eight steel cannon. The bronze cannon are worth sixteen cents a pound, the cast-iron cannon are worth a cent and a quarter a pound, and they are utterly useless. The Government cannot use them by breaking them up or putting them in any shape. The wrought-iron and steel guns, of which there are fifty wrought-iron and forty-eight steel guns, are worth ten cents a pound. They can be to some extent utilized.

Mr. HARRIS. Are those all condemned?

Mr. COCKRELL. They are all useless, obsolete, or condemned cannon.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 4166) to divide the State of Iowa into two judicial districts;

A bill (H. R. No. 3858) to provide for the construction of a public building at Galveston, Texas;

A bill (H. R. No. 4177) for the erection of a public building at Council Bluffs, Iowa;

A bill (H. R. No. 4199) for the erection of a public building at Lynchburgh, Virginia;

A bill (H. R. No. 4701) to provide for the erection of a public building at Detroit, Michigan;

A bill (H. R. No. 5546) for the erection of a public building at Greensborough, North Carolina;

A bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee; and

A bill (H. R. No. 4176) for the erection of a public building at Quincy, Illinois.

The message also announced that the House had passed the following bills with amendments, in which it requested the concurrence of the Senate:

A bill (S. No. 238) to provide for the erection of a public building in the city of Peoria, in the State of Illinois; and

A bill (S. No. 328) to provide for the sale of the lands of the Miami Indians in Kansas.

The message also announced that the House had passed the bill (S. No. 24) for the erection of a public building at Denver, Colorado.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1049) to promote the efficiency of the Life-Saving Service, and to encourage the saving of life from shipwreck; and

A bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes.

BILLS INTRODUCED.

Mr. HOAR asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1812) for the relief of Michael H. Collins; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Patents.

Mr. GROOME asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1813) for the relief of Edmund Wolf; which was read twice by its title, and referred to the Committee on Claims.

Mr. MCMILLAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1814) vacating the Fort Rice and Fort Randall military reservations, in the Territory of Dakota; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PLUMB asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1815) for the relief of William D. Matthews; which was read twice by its title, and referred to the Committee on Claims.

Mr. JOHNSTON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1816) to confirm private land claim reported as No. 79, for the Arroyo de San Lorenzo tract, in the Territory of New Mexico; which was read twice by its title, and referred to the Committee on Private Land Claims.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1817) to give the Court of Claims jurisdiction to audit and settle claims for damages to real estate in the city of Washington occasioned by reason of public improvements or the opening and grading of streets; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1818) for the relief of John F. Riley, collector of the estate of Samuel R. Hamill, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. FERRY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1819) granting a pension to Mrs. Elizabeth B. Custer; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LAPHAM asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 60) proposing an amendment to the Constitution of the United States; which was read twice by its title, and referred to the Select Committee on Woman Suffrage.

WILLIAM J. POLLOCK.

The PRESIDENT *pro tempore*. If there be no further morning business, the morning hour is declared closed.

Mr. BAYARD. I ask the unanimous consent of the Senate to consider at this time the bill (S. No. 1549) for the relief of William J. Pollock. Mr. Pollock was formerly collector of internal revenue for one of the Pennsylvania districts, and has lately been reappointed. This bill is for his relief for the absence of certain special tax stamps which were stolen. The stamps are of no good to the finder and no loss to the Government, but they nevertheless affect the balance of his accounts, and as he is about to go into office again it is proper that the report, which was a unanimous one from the committee, should be approved by the Senate, and the bill for his relief passed.

I ask, therefore, that the Senate proceed to the consideration of the bill. It will take but one moment. I think it will lead to no debate. The report in his favor is unanimous.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Finance with an amendment, after the word "amount," in line 6, to insert "not exceeding the sum of $3,433.33;" so as to make the bill read:

That the accounting officers of the Treasury be, and they are hereby, authorized, in settling the accounts of William J. Pollock, late collector of internal revenue for the second district of Pennsylvania, to credit said Pollock with the amount, not exceeding the sum of $3,433.33, of the unused coupons attached to the stubs of special-tax stamps deposited by him in the post-office at Philadelphia, February 12, 1875, but lost in transmission to the Commissioner of Internal Revenue, in the city of Washington.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSION BILLS.

The PRESIDENT *pro tempore*. The first case on the Calendar will be called.

Mr. PLATT. If it is in order, I should like to ask the Senate to consider the pension cases on the Calendar.

The PRESIDENT *pro tempore*. That is in order. The Senator can move that before proceeding with the consideration of the Calendar under the Anthony rule the pension cases shall be taken up.

Mr. PLATT. There are perhaps fifteen pension bills on the Calendar which have been reported favorably from the Committee on Pensions.

Mr. INGALLS. Including those reported this morning?

Mr. PLATT. Not including those, but those previously reported.

Mr. INGALLS. Why not consider all of them?

Mr. PLATT. I move to take them up at this time.

The PRESIDENT *pro tempore*. It is moved that the Senate proceed to the consideration of pension bills reported favorably.

Mr. INGALLS. Including those reported this morning?

The PRESIDENT *pro tempore*. The Chair hears no objection, and the consent of the Senate will be regarded as having been given. The first pension case on the Calendar will be called.

EMMA H. COLLINS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 984) increasing the pension of Emma H. Collins.

The bill was reported from the Committee on Pensions with an amendment, in line 6, before the word "dollars," to strike out "fifty" and insert "forty;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Emma H. Collins, widow of Frederick Collins, late a lieutenant in the United States Navy, a pension at the rate of $40 a month during her widowhood, and from the passage of this act.

The amendment was agreed to.

Mr. COCKRELL. I ask the Senator from Connecticut, the acting chairman of the committee, if $40 a month is the amount regularly allowed in such cases?

Mr. PLATT. It is not.

Mr. COCKRELL. What are the reasons for fixing a different amount?

Mr. PLATT. The amount allowed by law would I think be $20. Lieutenant Collins was a lieutenant in the Navy, and the rate of pension for a lieutenant in the Navy is the same I think as that of captain in the Army, which is $30. Perhaps the report in this case had better be read, when it will be seen on what grounds the committee recommended an increase.

The Principal Legislative Clerk read the following report, submitted by Mr. VAN WYCK March 28:

The Committee on Pensions, to whom was referred the bill (S. No. 984) granting an increase of pension to Emma H. Collins, having carefully considered the same, make the following report:

That Emma H. Collins is the widow of the late Lieutenant Frederick Collins, of the Navy; that the said Lieutenant Collins entered the Navy July 24, 1863, and served continuously until the date of his death, which occurred at the city of Washington, D. C., on the 27th day of October, 1881; that death resulted from remittent fever, which originated in the service of the United States; and that the said Emma H. Collins received a pension of $25, commencing November 5, 1881.

The services of Lieutenant Collins are shown to have been of a highly scientific and brilliant character. In January, 1870, Lieutenant Collins joined the first of the expeditions for the survey of the Isthmus of Panama, and upon his arrival at the Isthmus Lieutenant Collins was transferred from the duty of guarding the working parties, stores, &c., to the different labors of the scientific corps, which accompanied the expedition. On the 14th of July, 1870, Lieutenant Collins was detached from the Darien survey and placed on waiting orders. More extensive surveys of the Isthmus in search of a practical canal route being contemplated, Lieutenant Collins was ordered to report to Captain Shufeldt for duty with the Tehuantepec Canal survey on the 20th September, 1870. At this time he was suffering with isthmus fever, and unable to report for duty, but a month later he was ordered to San Francisco on duty connected with the second Darien Canal expedition; thence he proceeded to Panama in January, 1871. He was given in charge of an important branch of the survey; his work in connection with this field of labor was, in point of ability, of a character above his rank. Lieutenant Collins then returned to Washington to assist in the preparation of the report of the surveys for publication.

On February 20, 1872, he was ordered to prepare the wind and current chart of the Pacific, which subsequently had so great an influence in deciding the question as to the merits of the various canal routes. In December, 1872, he was again ordered to the survey of the Isthmus, ranking as second in command of the expedition, and was ordered to assume command on account of the illness of his superior officer, who was delayed in joining in the work. At this time the said Collins was but twenty-five years old, and his ability and zeal were well illustrated by the character of his work.

After some time he returned to Washington and engaged himself in the preparation of data, &c., for a complete report of his labors. He was for a brief period employed as an instructor at the Naval Academy at Annapolis, but in November, 1874, he was ordered to command the fourth expedition to Darien, where he began and completed the most exhaustive survey of the Napipi route. After this he served some time in the Hydrographic Office. In December, 1876, he commanded the expedition to prepare the coast pilot and sailing directions for the Atlantic coast of the United States south of Cape Henry. This duty occupied his time, with the exception of some time spent on work on Chesapeake Bay, until July, 1879, when he was obliged to relinquish the command of this work on account of isthmus fever recurring. He afterward returned to this work and completed it.

His last work was as a member of the Naval advisory board, being engaged on that board at the time of his death.

During all this work the said Collins was frequently prostrated by isthmus fever, contracted in the early part of his labor at Darien, and from which he never recovered, and which ultimately caused his death.

The character of the attainments of Lieutenant Collins are vouched for by Admiral Porter, Rear-Admirals Rodgers, Worden, Howell, and Ammen, and many other high officials of the Navy.

Your committee are of the opinion that in view of the distinguished services of Lieutenant Collins his widow should be granted an increase of pension, and therefore report bill S. No. 984 with the following amendment, viz: Strike out the word "fifty," in line 6, immediately following the words "at the rate of," and insert in lieu thereof the word "forty."

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SALLY HALL.

The bill (H. R. No. 4344) granting a pension to Sally Hall was considered as in Committee of the Whole. It places on the pension-roll the name of Sally Hall, of South New Market, New Hampshire, widow of Andrew Hall, late a private in Captain Hersey's company of New Hampshire militia in the war of 1812, to take effect from the time of the filing of her application for a pension.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAVID G. HUTCHINSON.

The bill (H. R. No. 638) granting a pension to David G. Hutchinson, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of David G. Hutchinson, of Lincoln, Maine, dependent father of William H. Hutchinson, late a corporal of Company E, Seventeenth United States Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH FULKS.

The bill (H. R. No. 1579) granting a pension to Elizabeth Fulks, was considered as in Committee of the Whole. It places on the pension-roll the name of Elizabeth Fulks, widow of Elcanah Fulks, deceased, late a private in Company A, Ninth Regiment Tennessee Cavalry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CECIL CLAY.

The bill (H. R. No. 5381) granting an increase of pension to Cecil Clay, was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, before the word "dollars," to strike out "forty-two" and insert "thirty;" and at the end of the bill to add, "said increase to commence from the passage of this act;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of Cecil Clay, late a captain in the Fifty-eighth Regiment Pennsylvania Volunteers, to $30 per month, in lieu of the pension now received by him, said increase to commence from the passage of this act.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MARY SHAW.

The bill (H. R. No. 2250) granting a pension to Mrs. Mary Shaw was considered as in Committee of the Whole. It places on the pension-roll the name of Mrs. Mary Shaw, widow of Philip J. Shaw, late a private soldier in Company G, One hundred and twenty-sixth Regiment Illinois Volunteer Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN WATSON.

The bill (H. R. No. 531) for the relief of John Watson was considered as in Committee of the Whole. It directs that the name of John Watson, late a corporal of Company D, Thirty-third Regiment Kentucky Volunteer Infantry, be placed upon the pension-roll, on account of injuries received while in service.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HARRIET M. OWEN.

The bill (S. No. 1759) granting a pension to Harriet M. Owen was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of Harriet M. Owen, widow of Ira Owen, who was a private in Captain Timothy Hubbard's company in the war of 1812.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SUSAN JEFFORDS.

The bill (H. R. No. 620) granting a pension to Susan Jeffords was considered as in Committee of the Whole. It places on the pension-roll the name of Susan Jeffords, dependent mother of Edmund Jeffords, late a private in Company I, First Regiment Maine Heavy Artillery, at $8 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATHERINE SILVEY.

The bill (H. R. No. 2148) granting a pension to Catherine Silvey was considered as in Committee of the Whole. It places on the pension-roll the name of Catherine Silvey, mother of Francis E. Silvey, late of Company D, Ninety-ninth Regiment New York Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HEIRS OF CAPTAIN CHRISTOPHER T. DUNHAM.

The bill (H. R. No. 137) granting a pension to the heirs of Captain Christopher T. Dunham, deceased, was considered as in Committee of the Whole. It places on the pension-roll the names of the following heirs of Captain Christopher T. Dunham, late of Company F, Ninety-second Regiment of Illinois Volunteers, namely, Sheldon Theodore Dunham, Mary F. Dunham, Stephen W. Dunham, and William A. C. Dunham.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. HILL.

The bill (H. R. No. 1390) for the relief of William H. Hill was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of William H. Hill, late a lieutenant in the One hundred and tenth Regiment of Pennsylvania Infantry Volunteers, at the rate of $36 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELI D. WATKINS.

The bill (H. R. No. 2031) for the relief of Eli D. Watkins was considered as in Committee of the Whole. It increases the pension now paid Eli D. Watkins, late a private in the Fifth Regiment Kentucky Cavalry Volunteers, from $31.25 per month to the rate of pension allowed by law for the loss of both legs.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANDROS GUILLE.

The bill (H. R. No. 1340) granting an increase of pension to Andros Guille was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 6, before the word "dollars," to strike out "fifty" and insert "thirty;" so as to make the bill read:

Be it enacted, &c., That the pension of Andros Guille, late a corporal of Company K, Ninety-seventh Regiment of Ohio Volunteers, of $18 per month, for an injury to his hand, be increased to $30 per month by reason of an additional wound received in the line of duty, at the battle of Missionary Ridge, from a bursting shell, which carried away his entire nose, upper lip and teeth, and part of his upper jawbone; and that the Secretary of the Interior is hereby authorized and directed to place his name on the pension roll at said increased rate.

Mr. SHERMAN. I hope the Senate will not concur in the amendment of the committee. The condition of this soldier is of the most wretched character. He has a wife and eight children, and his face was shot off by a shell; so that he is an object of pity to all the people in his town. I have been written to in his behalf by several leading citizens there who had noticed the reduction of the pension proposed by our committee. I hope the Senate will allow the bill to stand at the rate fixed by the House, which is low enough.

Mr. PLATT. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. GROOME April 25:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1340) granting an increase of pension to Andros Guille, have considered the same, and report:

That Andros Guille was a corporal in Company A, Ninety-seventh Ohio Volunteers, and that on November 25, 1863, at the battle of Missionary Ridge, he was wounded by the bursting of a shell, which shattered the bones of his left hand, and rendered it permanently and almost entirely disabled, and carried away his nose, upper lip, a number of his front teeth, and a part of his upper jawbone. These wounds in the face not only very greatly disfigure him, and render it necessary for him to wear an artificial nose, upper lip, and mustache, as is shown by an ample amount of testimony, but, according to his statement, they very greatly inconvenience him in eating and drinking, and render him unable to speak distinctly, as it seems probable they would. In addition to the wounds already mentioned, Guille was seriously wounded in the right shoulder by a piece of the shell.

The said Guille is now receiving a pension of $18 a month, which the bill referred to your committee proposes, in view of the number and very serious character of the wounds from which he is suffering, and in view of his great personal disfigurement, to increase to $50 a month.

Your committee are of the opinion that Andros Guille, upon the case presented, should be allowed an increase of pension; but not to the extent proposed by the bill passed by the House. They therefore recommend that the bill referred to them be amended by striking out the word "fifty," in line 6, and inserting in place thereof "thirty;" and as so amended they recommend the passage of the bill.

Mr. PLATT. If I correctly recollect this case, the committee of the House reported in favor of increasing this pension to $36, and the House in its generosity or enthusiasm, whichever you may please to call it, made it $50. It seems to me that this pension ought not to be $50. I do not know that I would object to $36. There was some difference in our committee as between $36 and $30; but I think perhaps the committee would assent to $36, at least a majority of them; but $50 is all that a man gets to-day by general law if he is paralyzed in both legs and both arms and cannot move or feed himself, or dress himself, and requires the constant and regular aid and attendance of another person. Now to take this case and make the pension the same that the law allows for a person utterly and totally helpless, so as to require the personal aid and assistance of another person, did not seem right to the committee. I am aware that the fact that he has been so disfigured in his face appeals to the sympathy of Senators, but at the same time the committee felt that there must be justice as between different pensioners of the same degree of disability, and that it was not fair to take a person of a less disability and give him the same pension which the law provides for a person sustaining a far greater disability.

The PRESIDENT *pro tempore*. The question is on amendment of the Committee on Pensions.

Mr. PLATT. I move that the bill be amended by inserting "thirty-six" in place of "fifty." That is an amendment which I think the committee would recommend at the present time.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The question being put, a division was called for; and the ayes were 14.

Mr. PLATT. I call for the yeas and nays.

Mr. SHERMAN. If the yeas and nays are to be called I simply wish to read a paragraph from a letter I have received from a gentleman of standing. I am sure if Senators could see this man in his condition as described to me they would rather lose both legs and both arms and be entirely helpless provided they had the ability to eat and drink and live. This man's face was shot off largely; his nose was taken and his upper jaw. He has to live on liquids and be fed, both arms being partially disabled and paralyzed. It seems to me a more helpless position cannot be imagined. He is a man of very high standing, who was wounded in the service. He has a wife and eight children, and I am appealed to by gentlemen of the highest standing whom I know in Zanesville, Ohio, in his behalf.

I trust the Senate will do as the House did, construe this matter liberally, and give him a pension for total disability, for he is not only totally disabled, but he is a wreck. A leading lawyer writes to me:

If the committee could realize the disfigurement and other disability they would not refuse him the increase allowed by the House.

Again he says:

Allow me to make this second appeal for him as an earnest one.

I trust the Senate will allow the $50.

Mr. GROOME. Mr. President, I examined this case carefully and drew the report. It is a most aggravated case so far as personal disfigurement is concerned, but the Pension Bureau, acting under the general law, after considering all the man's disabilities, allowed him a pension of but $18 a month. The committee of the Senate in view not only of the disabilities, but of the personal disfigurement and the mortification incident thereto, determined that it was proper that a higher rate of pension should be granted, and by a divided committee, the committee being divided between $36 and $30 a month, they reported in favor of $30 a month. Upon further consideration to-day the majority of the committee have determined that they will not oppose $36 a month, if the Senator from Ohio will be satisfied with that rate. That was the amount agreed upon by the House committee.

While I have the utmost possible sympathy for this man, or for any man in his unfortunate situation, I feel that in this matter of pensions we must be governed by some general rule. It will not do to give way to sympathy, no matter how aggravated may be the injury. Under the general law a man who has lost both arms or both legs, or who is totally blind, or who is otherwise totally disabled, and requires the constant care and attention of another person, is only entitled to $72 a month. I think when Congress give to this man, in view of his personal disfigurement, one-half of that rate per month, they are dealing by him with very considerable liberality.

I hope, therefore, that the provision to make this pension $50 a month will not prevail, but that the Senate will be governed by the opinion not only of its own committee but of the committee of the House of Representatives, that the rate ought not to be higher than $36 a month, for which latter rate I propose to vote.

Mr. PENDLETON. I simply desire to say that this is one of the most extraordinary cases of disfigurement I have ever heard of. A great part of the man's whole face was carried away by a shell; his mouth, nose, lip, and the upper part of his face are gone. Death would have been a blessing to him; he cannot get employment because his face is so terrible to look at; he cannot pass along the streets without boys jeering at him; he is in a more terrible condition than, as my colleague has said, if he had lost both arms and legs. He is a perpetual mortification to himself, a perpetual distress to his wife and family.

I hope the Senate will concur with the House in giving him a pension of $50 a month.

Mr. MAXEY. I listened to the report in this case with a great deal of care. I have had some observation of wounds, and I do not believe that in all my life I have ever heard of any man wounded who was so thoroughly disfigured as this man was. It is stated by the Senator from Ohio [Mr. PENDLETON] that he is so fearfully disfigured that he cannot even get employment. It is stated by the Senator

from Ohio across the way [Mr. SHERMAN] that he had to have a false nose, a false lip, and wear a moustache to hide as far as possible this great disfigurement. Every one can see how a man must suffer in feeling by being regarded by the whole community as an object of abhorrence.

It seems to me that the action of the House is right. While I am as much in favor of a reasonable and proper guard upon pensions as any gentleman, this is one of those cases that meet my sympathy, and I shall vote with the House for the $50 a month, believing it to be right.

Mr. PLATT. I called for the yeas and nays, but since this matter has been discussed and the Senate has given its attention, I presume the vote will be sufficiently full to disclose a quorum, and if so I do not insist on the call for the yeas and nays.

The PRESIDENT *pro tempore*. The call for the yeas and nays is withdrawn. The question is on the amendment of the Senator from Connecticut to the amendment reported by the Committee on Pensions.

Mr. INGALLS. I was unfortunately out of the Chamber when this matter was discussed, and do not exactly understand its attitude. I understand that the House passed a bill giving this man $50 a month. I should like to vote to sustain the House bill, and I desire to be advised now as to what my vote should be on the amendment pending.

Mr. SHERMAN. Vote against all amendments.

Mr. INGALLS. Very well.

The amendment to the amendment was rejected, there being on a division—ayes 17, noes 30.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Pensions to strike out "fifty" and insert "thirty."

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JENNIE S. MITCHELL.

The bill (S. No. 1409) for the relief of Mrs. Jennie S. Mitchell was considered as in Committee of the Whole. It places on the pension-roll the name of Mrs. Jennie S. Mitchell, widow of the late Brigadier-General Robert B. Mitchell, at $50 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SALLY C. MULLIGAN.

The bill (H. R. No. 3390) granting a pension to Sally C. Mulligan was considered as in Committee of the Whole. It places on the pension-roll the name of Sally C. Mulligan, mother of James S. Mulligan, late first lieutenant of Company I of the Twenty-first Regiment New York Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANCIS REICHERT.

The bill (H. R. No. 1239) granting a pension to Francis Reichert was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Francis Reichert, late of Company I, Fifth Missouri Volunteers, and Company K, Fourteenth Illinois Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET BEYMER.

The bill (S. No. 604) granting a pension to Margaret Beymer was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Margaret Beymer, widow of Elias J. Beymer, late lieutenant and adjutant of the One hundred and thirty-sixth Illinois Volunteers, and acting deputy provost-marshal of the eleventh Congressional district in the State of Illinois.

The bill was reported from the Committee on Pensions with an amendment to add "and pay her a pension at the rate of $17 a month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSION BILLS.

The PRESIDENT *pro tempore*. The pension bills reported this morning will now be taken up, those on the Calendar having been disposed of.

Mr. PLATT. I hardly think it necessary or advisable to take up the bills reported this morning, and I think it is a bad practice. It will only make a day or two's difference, I presume, in the time they will be passed, as I have no doubt the Senate will permit them to be taken up immediately after the printing of the reports. I do not insist on this, but I rather prefer the bills reported to-day should not be now considered.

The PRESIDENT *pro tempore*. They will not be called.

MISSISSIPPI JUDICIAL DISTRICTS.

Mr. GARLAND. The Senator from Mississippi [Mr. LAMAR] was called home some two weeks since on account of sickness in his family. He had reported, before he left, a bill from the Judiciary Committee in which he felt a very great interest, and he addressed me a letter asking to have the Senate act on the bill at as early a time as possible. It is Senate bill No. 1168, in relation to courts in the State of Mississippi. It was unanimously reported from the Committee on the Judiciary. The Senator from Mississippi has not troubled the Senate at this session at all, and he now requests the Senate to consider the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1168) to amend the several acts in relation to the division of the State of Mississippi into judicial districts, and further to amend the several acts in relation to the northern judicial district of the State of Mississippi, and to provide for the times and places of holding the United States district courts in said northern district.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, in section 6, line 2, after the word "bankruptcy," to strike out "and all criminal and other prosecutions;" so as to read:

That all causes and proceedings in law, equity, or bankruptcy now pending in the district court of the northern district of Mississippi, where all the defendants (or the plaintiffs, where the jurisdiction is derived from the residence of the plaintiffs within the district) shall reside in the eastern division of said district, shall be transferred to the court of such eastern division of said northern district.

The amendment was agreed to.

Mr. SHERMAN. I should like to ask if this bill is reported from the Committee on the Judiciary?

The PRESIDENT *pro tempore*. The bill was reported unanimously by the Committee on the Judiciary. It was reported by the Senator from Mississippi, [Mr. LAMAR.]

Mr. SHERMAN. All right; I have no objection, then.

The PRESIDENT *pro tempore*. It is simply in relation to the times of the terms of the courts.

Mr. GARLAND. It is upon the plan of the Kentucky court bill and two or three others we have established.

Mr. SHERMAN. Does it establish a new judge?

Mr. GARLAND. Oh, no.

Mr. SHERMAN. All right.

The PRESIDENT *pro tempore*. It is a similar bill to one proposed for the court at Toledo, Ohio.

The next amendment reported by the Committee on the Judiciary was, at the end of section 7, to add:

All prosecutions for crimes and offenses heretofore committed shall be commenced and prosecuted as if this act had not passed.

The amendment was agreed to.

The next amendment was, in section 8, line 1, before the word "causes," to insert "civil;" in the same line, after the word "causes," to strike out "civil or criminal;" in line 6, before the word "causes," to insert "civil," and after the word "causes" to strike out "civil or criminal;" so as to read:

SEC. 8. That all civil causes now pending in the United States court for the southern district of Mississippi against parties residing in that part of the Territory of said southern district by this act annexed to and incorporated in the aforesaid northern judicial district, and that all civil causes now pending in the United States court for the northern district of Mississippi against parties residing in that part of the territory of said northern district by this act annexed to and incorporated in the aforesaid southern judicial district, may remain and be finally disposed of, respectively, in the courts in which they are now pending.

The amendment was agreed to.

The next amendment was to strike out section 11, in the following words:

SEC. 11. That the said district judge of the United States for the State of Mississippi and the district attorney for said northern judicial district of the State of Mississippi shall receive, in addition to the sums already allowed them by law, for their extra compensation under this act, the former the sum of $1,500 per annum and the latter the sum of $100 per annum, to be paid in the manner heretofore provided for the payment of said salaries.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. GEORGE. I desire to say that I think the bill ought to pass as a measure of relief to the people of the district, to whom it will be a great convenience.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DR. A. SIDNEY TEBBS.

The PRESIDENT *pro tempore*. The first case on the Calendar in regular order will be stated.

The consideration of the bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs was resumed as in Committee of the Whole, the pending question being on the motion of Mr. EDMUNDS to refer the bill and amendment to the Committee on the Judiciary.

Mr. PLUMB. I voted in committee for this bill in its original shape, which was to waive the statute so far as it concerned the individual named, Dr. Tebbs; I think I should have been willing to vote for the bill in its present shape, desirous as I have been that all the restrictions and differences which have existed growing out of the late war might be taken out of the way so far as the law was concerned; but some of the utterances in this debate have led me to conclude that, on the whole, it is just as well to wait. I think perhaps the Senator from South Carolina, [Mr. HAMPTON,] who expressed doubt the other day as to which side was right, may gain

something by a little delay; he may ascertain more certainly after a while which side was right.

Possibly he may have some of his constituents in the same frame of mind. In view of the utterances made by that Senator and by the Senator from Florida [Mr. CALL] on this subject, and for the purpose of getting a better view of the situation as it is to-day among the constituents of the Senators on the other side of the Chamber, I think it is just as well that this matter should go over; not go to the Judiciary Committee for the purpose of any investigation as to the propriety of it, but simply to lie there and wait. That will develop public sentiment which shall enable the persons who are to come here to represent the different States in this assembly of States to determine precisely what their view is about the merits of that trouble. I shall vote to refer the bill.

Mr. MAXEY. Mr. President, as a member of the Committee on Military Affairs I approved the action of the committee, and expressed that approval in a few words addressed to the Senate the other day. I have studied the matter over since, and if I had had the slightest idea that gentlemen from other portions of the Union than that where I live would oppose a measure of this kind I should not have proposed to offer such a bill as that reported by the committee.

I believed it to be a bill in the interest of peace. I believed it to be burying in the dead past a statute which kept in perpetual memory the troubles which had taken place between the North and the South. I believed that all history stood in favor of the action of the committee, and I took the trouble, for I remembered something about it, to look back at the record to see what had been done.

I found a bill introduced on the 2d of December, 1872, by Mr. Charles Sumner, whose ability no one will question, in my judgment the ablest man whom New England has sent to the Senate of the United States since the days of Mr. Webster, from whom I differed as widely as I did from any man living in politics, yet I find sagacious statesmanship, learning, ability, and kindliness of heart displayed in the bill to which I refer, and I think it would be well now to look at it. It is entitled "A bill to regulate the Army Register and the regimental colors of the United States," and proceeds:

Whereas the national unity and good-will among fellow-citizens can be assured only through oblivion of past differences, and it is contrary to the usage of civilized nations to perpetuate the memory of civil war: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the names of battles with fellow-citizens shall not be continued in the Army Register, or placed on the regimental colors of the United States.

The spirit which underlay this bill is the precise spirit which underlies this report of the Committee on Military Affairs. For that expression of Mr. Sumner he was arraigned by the Legislature of his State, and on the 9th of January, 1873, there were laid on the table of the Senate resolutions of the Legislature of Massachusetts, which recited that—

Whereas a bill has been introduced in the Senate of the United States by a Senator from Massachusetts—

Name not given—

providing "that the names of battles with fellow-citizens shall not be continued in the Army Register or placed on regimental colors of the United States;" and

Whereas the passage of such a bill would be an insult to the loyal soldiery of the nation and depreciate their grand achievements in the late rebellion: Therefore,

Resolved, That such legislation meets the unqualified condemnation of the people of this Commonwealth.

Resolved, That the governor be requested to forward to our Senators and Representatives in Congress copies of these resolutions.

Here was a resolution passed in the midst of excitement by the Legislature of Massachusetts, condemning one of the ablest and, in my judgment, one of the purest men that that State ever had as her representative on the floor of the Senate Chamber of the United States; but time passed by, and it was found that that Legislature in that action did not represent the true sentiment of the State of Massachusetts; that it was done inconsiderately, and the Legislature, to its honor be it said, and to the honor of the State be it said, at a subsequent time passed a resolution rescinding the one which I have just read. I find in the CONGRESSIONAL RECORD, volume 2, part 3, Forty-third Congress, first session, March 10, 1874, the resolution of that Legislature, laid before the Senate by Mr. Boutwell, to this effect:

Resolved by the senate and house of representatives in general court assembled, That the resolution passed on the 18th day of December, 1872, at the extra session of the Legislature of that year, relating to a bill introduced in the Senate of the United States concerning the Army Register and regimental colors of the United States, be, and hereby is, rescinded and annulled.

It was an honorable act on the part of the State of Massachusetts to rescind that resolution of condemnation against one of her ablest Senators, who was guided and actuated not, as any one can see, through a spirit of demagogy, but through a spirit of broad and enlightened and sagacious statesmanship, and who did utter there two truths of the utmost moment and magnitude:

Whereas the national unity and good-will among fellow-citizens can be assured only through oblivion of past differences.

That is a grand truth that we should all take home to us, and it was one of those great truths which he gave as the reason for the introduction of his bill; and the other is:

And it is contrary to the usage of civilized nations to perpetuate the memory of civil war.

It only needs a knowledge of history to show that that is literally true.

I find further that was not introduced in a spirit of mere emulation. When he introduced that bill he gave notice that he would deliver a speech giving his reason in full for it; but the condition of his health prevented that he should carry out that intention, though we have at a later period his reasons given. I find in the "Life of Charles Sumner" this in writing to a friend, and the autograph letter is here to show that it is not a mistake. He says, writing to that friend: "Never was I more sure of any proposition than that for which I am assailed. When well enough I will place it beyond all question, showing reason, history, and every civilized nation for it. The Emperor of Germany has just adopted it."

This bill, as I believe, carries out that great idea of Charles Sumner. It is ten years since he introduced that bill. There was for a time a spirit of excitement and indignation, but that happily died away, and his own State recognized it by the rescinding of the resolution of censure against him for the introduction of the bill. Ten years have passed by since that time, and the whole country is trying to get together. So far as I know, so far as I can judge from the general spirit of the people, as evinced by the press, in the pulpit, upon the stump, in the two Houses of Congress, everywhere, a disposition is manifesting itself that there should be an oblivion of the past, and that from this point on we should go forth not only a Union in name but a Union in fact, a Union in spirit and in truth, all of us united together under a common flag and having a common destiny, and all marching to the grand and glorious perfection of what our forefathers started, the sublimest Union of free and independent States that the world ever saw.

Everything that is done which retards that is against the highest and best principles of statesmanship. The spirit which underlies the bill of Mr. Sumner is patriotic, sagacious statesmanship, and it evidences a perfect and thorough knowledge of the history of all ages past and present, and the action of all times and countries in measures following a great civil war.

It was with these views that this bill was introduced, so far as I know. If there was any objection in committee I did not hear it. I believed it to be wise, I believed it to be just. If this statute was passed, as it was, at a time when there was a reason for it, the reason for the law, which was temporary in its nature, having failed, the law should fail with the reason. The time for it has passed by. It was but a temporary law made for a temporary purpose, and that purpose has long since been subserved, and there is now no need for perpetuating it as a monument on the statute-book. Everything of that kind is against the best interests of the country; in the language of Mr. Sumner, "National unity and good-will among fellow-citizens can be assured only through oblivion of past differences," and it is equally true that "it is contrary to the usage of civilized nations to perpetuate the memory of civil war."

Having that view, actuated by what I believe to be pure motives, having no earthly interest in this matter whether it succeed or fail, having no kith or kin to go into the Army, having especial concern for only two boys in the world, and neither of them will ever go into the Army except their country calls them in time of war, certainly never in peace, I supported this bill because it is right, because I believed that the better spirit of brotherhood has dominated the spirit of passion, and that the time has come when we could all meet and by a unanimous vote repeal a statute passed for a purpose, which purpose has seventeen years ago been accomplished.

Mr. HAMPTON. Mr. President, I confess to very great surprise at the remarks of the Senator from Kansas [Mr. PLUMB] just made, for I think he has placed an entirely wrong construction upon the few words I said the other day. I expressed no opinion as to who was right or who was wrong, which side was right or which was wrong in the late war. It was expressly to disclaim anything of that sort that I rose. I said that, unlike the Senator from Vermont, I did not arrogate to myself the infallibility of pronuncing upon a very grave question. I certainly said nothing that would indicate that I presumed to express any opinion upon that point.

The Senator from Kansas, in what he says, seems to agree with the opinion of Napoleon that Providence always fights on the side of the heaviest battalions. Now, sir, no great question of right was ever settled in the world, and none ever will be settled as long as the world lasts, by the sword. I put that question entirely behind me. I simply said that my convictions were as honest and sincere as those of the Senator from Vermont, and I repeat now that they were as sincere and honest as those of the Senator from Kansas. I have not impunged his patriotism, his integrity, or his sincerity, and I trust nothing that I said the other day had a tendency to rouse sectional animosity or to rekindle the fires which are so happily dying out.

Mr. CALL. Mr. President, in reply to the Senator from Kansas I would say that neither here nor elsewhere has he ever heard or have I ever heard any discussion upon the rightfulness of the war on the part of the national Government; that question has never been raised nor discussed. I have never heard any one deny that every government has the right and that it is its duty to preserve its territorial integrity and its political autonomy. The Senator from Kansas cannot predicate his objection to the repeal of this law upon anything that I have said, for I go as far, and the argument goes as far, and every man here goes as far, as any upon that side in admit-

ting the national authority to preserve the national life. But the rightfulness of, the conduct of, individuals has been the subject of discussion here; the question whether men who were taught by the example of our fathers and taught by the example and the public teachings of many eminent men had some warrant for the opinions which they entertained, and whether it is right or wrong for a man to follow the honest and conscientious belief which he has formed. That is the question which the Senator from Kansas must answer and which has been in discussion here, whether a perpetual stigma is to be attached to men who simply did what others before them had done and what they believed was right. I agree that the national Government in the war had a right to preserve the national life, the right to enforce its authority, to preserve its political integrity, as every other government has. Every one that I have heard discuss the subject, in this Chamber or out, believes the same.

The PRESIDENT *pro tempore*. The question is on the reference of the bill, with the amendment, to the Committee on the Judiciary, upon which the yeas and nays have been ordered.

The Acting Secretary proceeded to call the roll.

Mr. CAMERON, of Wisconsin, (when his name was called.) I am paired on this question with the Senator from North Carolina, [Mr. VANCE.] If I were at liberty to vote, I should vote "yea" and he would vote "nay."

Mr. GARLAND, (when his name was called.) I am paired on this question with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, he would vote "yea" and I should vote "nay."

Mr. RANSOM, (when Mr. LOGAN'S name was called.) On this question the Senator from Illinois [Mr. LOGAN] is paired with the Senator from Georgia, [Mr. BROWN.]

Mr. MILLER, of New York, (when his name was called.) I am paired with the Senator from Maryland [Mr. GROOME] on political questions.

Mr. MITCHELL, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. CAMDEN.] If he were present, I should vote "yea."

Mr. ROLLINS, (when his name was called.) I am paired with the Senator from Florida, [Mr. JONES,] but I have transferred the pair to the Senator from Virginia, [Mr. MAHONE,] and will vote myself, having reserved that right. I vote "yea."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. ALDRICH. I am paired with the Senator from Maryland, [Mr. GORMAN.]

Mr. FRYE. On this question I am afraid I am obliged to recognize my pair with the Senator from Georgia, [Mr. HILL,] and therefore shall not vote.

Mr. PENDLETON. I was requested by the Senator from Virginia [Mr. JOHNSTON] to say that he was paired on this and other questions to-day with the Senator from Massachusetts, [Mr. DAWES.]

The result was announced—yeas 23, nays 25; as follows:

YEAS—23.

Allison,	Ferry,	Ingalls,	Plumb,
Anthony,	Hale,	Lapham,	Rollins,
Cameron of Pa.,	Harrison,	McMillan,	Saunders,
Chilcott,	Hawley,	Miller of Cal.,	Sherman,
Conger,	Hill of Colorado,	Morrill,	Van Wyck.
Davis of Illinois,	Hoar,	Platt,	

NAYS—25.

Bayard,	Farley,	Maxey,	Vest,
Beck,	George,	Morgan,	Voorhees,
Butler,	Grover,	Pendleton,	Walker,
Call,	Hampton,	Pugh,	Williams.
Cockrell,	Harris,	Ransom,	
Coke,	Jackson,	Saulsbury,	
Fair,	Jonas,	Slater,	

ABSENT—28.

Aldrich,	Edmunds,	Jones of Florida,	Mahone,
Blair,	Frye,	Jones of Nevada,	Miller of N. Y.,
Brown,	Garland,	Kellogg,	Mitchell,
Camden,	Gorman,	Lamar,	Sawyer,
Cameron of Wis.,	Groome,	Logan,	Sewell,
Davis of West Va.,	Hill of Georgia,	McDill,	Vance,
Dawes,	Johnston,	McPherson,	Windom.

So the motion to refer was not agreed to.

The PRESIDENT *pro tempore*. The hour of two o'clock has arrived, and the Chair must lay before the Senate its unfinished business. He will, before doing so, however, ask leave to present certain House bills that they may be referred.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Public Buildings and Grounds:

A bill (H. R. No. 3858) to provide for the construction of a public building at Galveston, Texas;

A bill (H. R. No. 4177) for the erection of a public building at Council Bluffs, Iowa;

A bill (H. R. No. 4199) for the erection of a public building at Lynchburgh, Virginia;

A bill (H. R. No. 4701) to provide for the erection of a public building at Detroit, Michigan;

A bill (H. R. No. 5546) for the erection of a public building at Greensborough, North Carolina; and

A bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee.

The bill (H. R. No. 4166) to divide the State of Iowa into two judicial districts was read twice by its title, and referred to the Committee on the Judiciary.

PUBLIC BUILDING AT QUINCY, ILLINOIS.

The bill (H. R. No. 4176) for the erection of a public building at Quincy, Illinois, was read twice by its title.

Mr. VEST. This is in the language of a bill that was reported by me from the Committee on Public Buildings and Grounds in the Senate, and it is the identical bill which has already been reported to the Senate, and is on the Calendar. I ask for its present consideration.

The bill was, by unanimous consent, considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. The Senate bill on the same subject, being the bill (S. No. 239) to provide for the erection of a public building in the city of Quincy, in the State of Illinois, will be indefinitely postponed.

PUBLIC BUILDING AT PEORIA.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the bill (S. No. 238) to provide for the erection of a public building in the city of Peoria, in the State of Illinois, returned with an amendment from the House. The Senate passed the bill, providing that $400,000 should be the cost of the erection of this building. It has been amended in the House by inserting $225,000 instead of $400,000. The Senator from Missouri [Mr. VEST] asks that the amendment be now concurred in.

The amendment of the House of Representatives was, in line 11, to strike out "four hundred" and insert "two hundred and twenty-five."

The amendment was concurred in.

MIAMI INDIAN LANDS.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 328) to provide for the sale of the lands of the Miami Indians in Kansas.

Mr. INGALLS. I move that the bill and amendments be referred to the Committee on Indian Affairs for further consideration.

The motion was agreed to.

INTEROCEANIC ISTHMIAN COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Navy communicating, in compliance with the resolution of the 17th of March last, such information as has been collected by the Bureau of Navigation relating to the problem of interoceanic communication by the American Isthmus.

Mr. WINDOM. I suggest that as both the Committee on Foreign Relations and the Committee on Commerce have reported on that subject, the communication lie on the table and be printed. I make that motion. I call the attention of the Senate to the fact that the documents are quite voluminous, but they are important.

The PRESIDENT *pro tempore*. The Chair thinks they ought to go to a committee.

Mr. WINDOM. Let the motion to print be referred to the Committee on Printing.

The PRESIDENT *pro tempore*. The motion to print will be referred to the Committee on Printing.

NAVIGABLE WATERS OF UPPER COLUMBIA.

Mr. SLATER submitted the following concurrent resolution, which was referred to the Committee on Printing:

Resolved by the Senate, (the House concurring,) That 10,000 copies of the report of Lieutenant T. W. Symons, Corps of Engineers, respecting the navigable waters of the Upper Columbia River and its tributaries, and resources of the country adjacent thereto, be printed, 1,000 for the use of the War Department, 3,000 for the use of the Senate, and 6,000 for the use of the House.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 1st instant, approved and signed the act (S. No. 1598) to authorize the Secretary of War to donate to the Ladies' Soldiers' Monument Society of Portsmouth, Ohio, four condemned cannon.

The message also announced that the bill (S. No. 185) for the relief of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, administrators, agents, or assigns, having been received by the President on April 20, and not having been returned by him to the House of Congress in which it originated within the ten days prescribed by the Constitution, has become a law without his approval.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 880) to provide for the erection of a public building in the city of Hannibal, in the State of Missouri; in which it requested the concurrence of the Senate.

COURT OF APPEALS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDENT *pro tempore*. The amendments of the Committee on the Judiciary will be read.

Mr. MORGAN. Before the amendments of the Committee on the Judiciary are read I desire to submit some observations upon this bill.

At the proper time, in the course of proceedings on this bill, I intend to offer a substitute.

Mr. INGALLS. I hope the Senator will give us the benefit of his reflections now so that we may consider it.

Mr. MORGAN. Mr. President, I intend to send it to the desk and ask that it be read as part of my remarks, prefacing, however, that I am not the author of this proposition, which was drawn up by a member of the bar of Washington City, Mr. Maury, who I think is a very able lawyer, who has bestowed close attention for a long time to this subject. I prefer his arrangement of this court of federal appeals, as he terms it, to that contained in this bill for sundry reasons, which I will state after the substitute has been read.

The general theory of Mr. Maury's bill, as I may call it, which I have the honor to offer as a substitute, and all the bills now pending before the Senate is very much the same. The difference relates to the number of judges to be appointed and the distribution of the district judges in this court of federal appeal; and in fact this bill requires less machinery than that of the committee. I do not commit myself as to all its details; but I present it at this time and ask that it be read in order that the Senate may be possessed of the proposition. Probably there are other plans which can be submitted that have not yet been laid before the Senate.

The PRESIDENT *pro tempore*. The proposed amendment will be read.

The ACTING SECRETARY. It is proposed to strike out all after the enacting clause of the bill and to insert:

That henceforth the Supreme Court of the United States shall hold its sessions annually on the second Monday in October and February, and shall have jurisdiction to review and re-examine, by writ of error or on appeal, the final judgments and decrees of the circuit and district courts of the United States, the supreme courts of the Territories, and the supreme court of the District of Columbia, in all civil cases involving questions arising under the Constitution, laws, or treaties of the United States, or the laws of nations, the determination of which shall be necessary to the decision of such cases, in all civil cases where the United States or any officer thereof suing under the authority of any act of Congress are plaintiffs, and in all other cases in which the amount or thing in controversy is of the sum or value of $15,000 or upward, exclusive of interest and cost; and the said jurisdiction shall be exercised in accordance with the laws now in force, except in so far as the same may be incompatible with this act; and shall have jurisdiction to review, by writ of error, the judgments of the said courts in criminal cases, under the limitations hereinafter prescribed.

SEC. 2. That a court is hereby established to be known as the court of federal appeals, to be composed of two divisions, to be designated respectively the first and second divisions; and there shall be appointed for each of the said divisions a presiding judge and four associate judges.

SEC. 3. That the said court shall hold its sessions at the seat of government annually on the second Monday in October and February, and shall have jurisdiction to review and re-examine, by writ of error and on appeal, the final judgments and decrees of the circuit and district courts of the United States, the supreme courts of the Territories, and the supreme court of the District of Columbia in all cases in which the amount or thing in controversy shall be greater than the sum or value of $1,000, exclusive of interest and costs, and less than the sum or value of $15,000, exclusive of interest and costs, and not necessarily involving questions arising under the Constitution, laws, or treaties of the United States, or the law of nations, and in which the United States or any officer thereof suing under an act of Congress are not plaintiffs; and shall have jurisdiction to review, by writ of error, the judgments of the said courts in criminal cases, under the limitations hereinafter prescribed. And each divison of the said court shall hear and determine such cases as may be allotted to it from time to time by the presiding judges of the said divisions, who in making such allotments shall not allot to either division a case in which a judge of such division had sat in the circuit court; and the judgments and decrees of the said divisions, respectively, shall be entered as the judgments and decrees of the court of federal appeals. And the jurisdiction in civil cases hereby vested in the court of federal appeals shall be exercised in accordance with the laws now in force regulating writs of error from and appeals to the Supreme Court of the United States, except in so far as the said laws may be inconsistent with the provisions of this act.

SEC. 4. That the defendant in a criminal case deeming himself aggrieved by any ruling of the court on the trial thereof may except to such ruling and tender his bill of exceptions, which shall be settled and allowed according to the truth, and signed by the judge, and thereupon it shall be a part of the record of the case.

SEC. 5. That within one year from the time of entering judgment in a criminal case, and not after, the defendant may petition any justice of the Supreme Court, in term-time or vacation, if such judgment involves necessarily a question arising under the Constitution of the United States or the law of nations, or any judge of the court of federal appeals, in term-time or vacation, if no such question be necessarily involved in such judgment, for a writ of error, who may allow the same unless he deem the judgment complained of plainly right, and may order that such writ shall operate as a stay of proceedings under the judgment; but the allowance of the writ shall not so operate without such order. The justice allowing such writ of error shall take a bond, with sufficient surety or sureties, that such writ shall be prosecuted to effect, and that the defendant shall abide the judgment thereon. And if such writ shall be allowed to operate a stay of proceedings under the judgment, bail may be taken, in a case not capital, by a judge of the court to which the writ of error is directed, for the appearance of the defendant in such court at such time as such judge shall appoint, and that he will not depart therefrom without leave of the court. And a writ so allowed shall be returnable to the next term of the court from which it issued, and a copy thereof shall be served on the Attorney-General of the United States, by leaving the same at his office. And to the end that speedy justice may be done, the courts aforesaid, respectively, shall advance such writs of error on their dockets; and in case of affirmance of a judgment proceedings under which have been stayed, the court in which such judgment was rendered shall again pronounce final sentence and award execution thereon; and if such judgment be reversed, such further proceedings in the case shall be had as the court of error shall direct.

SEC. 6. That when an injunction is granted or continued, by an interlocutory order or decree, in a cause in which an appeal from a final decree could be taken under the provisions of this act, an appeal may be taken from such interlocutory order or decree to the Supreme Court or the court of federal appeals, as the case may be; but such appeal shall be taken within thirty days from the entry of such order or decree, and shall not be a supersedeas, nor shall the same be effective unless the appellant shall give security for costs, as now provided by law, within the said period of thirty days; and an appeal may, in like manner, be taken from any such order or decree dissolving an injunction, and such appeal shall be a supersedeas as to such order, but shall not have effect unless the appellant shall, within the said period of thirty days, give good security for costs and to indemnify and save harmless the sureties on the injunction bond, such security to be given in the way now provided by law; and the proceedings in the court below shall not be stayed except as next hereinbefore provided.

SEC. 7. That the Supreme Court shall from time to time allot the Chief Justice and associate justices of the said court, and the presiding and associate judges of the court of federal appeals, among the circuit courts, in such manner as will best promote dispatch in the administration of justice and as the demands of business in the said courts may require; and whenever a change in the allotment of any of the said justices or judges becomes necessary during the vacation of the Supreme Court, by illness, death, or resignation, such change may be made by the Chief Justice; but a circuit court may not be held by more than two justices or judges; and the judges of the court of federal appeals, when sitting in the circuit courts, are hereby invested with the powers of circuit justices, except that when one of said judges is sitting with a circuit justice the opinion of the latter shall prevail in case of disagreement between them. And the justices and judges empowered to hold circuit courts may hold separate sessions of any circuit court, or sessions of several circuit courts, at the same time: *Provided, however*, That a circuit justice shall sit only in cases in which the Supreme Court might have appellate jurisdiction. And the defendant in any such case where the jurisdiction depends on the citizenship of the parties may have the judgment or decree therein reviewed by the Supreme Court in the way provided by law, although the amount or value of the thing involved in such judgment or decree, as to such defendant, be less than $15,000 and more than $1,000, exclusive of interest and costs; and the court of federal appeals shall not have jurisdiction in any such case.

SEC. 8. That the court of federal appeals shall have power to issue all writs which may be necessary to the exercise of its jurisdiction and agreeable to the usages and principles of law; but the said court shall not have power to issue the writ of prohibition.

SEC. 9. That the court of federal appeals shall have the jurisdiction heretofore vested in the Supreme Court, and hereby abrogated, to review the judgments and decrees of the circuit courts in civil cases in which the judges of the circuit courts shall be divided in opinion; and such jurisdiction shall be exercised in accordance with the laws now in force.

SEC. 10. That neither the Supreme Court nor the court of federal appeals shall dismiss a cause for want of jurisdiction if the same be within the jurisdiction of the other court, but shall order the same to be transferred to such court, where it shall be proceeded with and be in the same condition as though originally brought to said court; and the court making such transfer is hereby empowered to enter judgment against the plaintiff in error or appellant for costs, including the costs of such transfer.

SEC. 11. That the provisions of law defining the duties and powers of the Supreme Court when less than a quorum is in attendance shall be applicable to each of the divisions of the court of federal appeals.

SEC. 12. That the law now in force authorizing the Supreme Court to hold adjourned and special terms shall be applicable to the court of federal appeals.

SEC. 13. That the process of the court of federal appeals shall bear teste of either one of the presiding judges thereof, and be under the seal of the court and signature of the clerk of the court.

SEC. 14. That the rules of the Supreme Court of the United States for the governance of its appellate jurisdiction shall be the rules of the court of federal appeals until the presiding judges of said court, who are thereto empowered, shall make other rules.

SEC. 15. That the Supreme Court of the United States and the court of federal appeals shall have power to make such orders from time to time touching the security given in any writ of error or appeal as the ends of justice may require.

SEC. 16. That the court of federal appeals shall be a court of record, and have a seal such as the presiding judges may prescribe; and the presiding judges shall appoint a clerk of the said court and one or more deputy clerks, who shall be removable at the pleasure of the presiding judges, and one of whom shall attend the sessions of each of the divisions of the said court.

SEC. 17. That the presiding judges of the court of federal appeals shall appoint a marshal of the said court, who, with the consent and approval of the presiding judges, may appoint assistants and messengers, who, together with the said marshal, shall have the same duties and receive the same compensation respectively as the marshal and assistants and messengers of the Supreme Court of the United States. And the laws applicable to the clerk, deputy clerks, and marshal of the Supreme Court of the United States shall be applicable to the clerk, deputy clerks, and marshal of the court of federal appeals in so far as the said laws are not inconsistent with anything herein contained.

SEC. 18. That any three of the judges of a division shall constitute a quorum; and in the absence of the presiding judge of a division the associate judge senior in commission, or where two or more commissions bear the same date the associate judge senior in age, shall be vested with all the powers of the presiding judge.

SEC. 19. That the judges of the court of federal appeals shall, before entering upon the duties of their office, take the same oaths as are required to be administered to the justices of the Supreme Court of the United States; and each of the presiding judges shall receive an annual salary of —— dollars, payable monthly, and each of the associate judges shall receive an annual salary of —— dollars, payable monthly.

SEC. 20. That the appellate jurisdiction of the circuit courts is hereby abolished, except in cases in error or on appeal now pending in said courts and the supervisory jurisdiction of said courts in bankruptcy.

SEC. 21. That the circuit courts shall have power to make such rules as may be necessary to give effect to this act as to said courts.

Mr. MORGAN. Mr. President, I do not know whether it is a reproach to the people of the United States that they may be termed the most litigious people in the world if we count the number of cases that are decided in the courts of justice. Perhaps, instead of its being a reproach, it is a compliment to the people, for it proves that they have a disposition to test their rights upon all proper occasions, and that they are desirous of appealing to tribunals of entire impartiality which may decide controversies between them, rather than to force or wager of battle, and rather than a slavish submission to wrong.

Ours is a very complicated, a very difficult system, particularly with reference to the judiciary. When that statement is made it should give rise to a just concern on the part of men who regulate the legislation of the country to provide every proper facility for

the speedy and correct adjudication of all questions that may arise. That we are a litigious people does not argue at all that we have overweening avarice, or that we desire to transgress the law, or that we invade the rights of our neighbors more than any other people. It merely argues that we have great interests at stake which are protected by the only tribunals which the people can properly resort to on all occasions for the adjustment of their rights. There is no point in which government, whether it is local, municipal, or federal, touches the people so nearly as through the judiciary. We enact laws in Congress and in the State Legislatures, and in the different municipal governments throughout the country. They are intended to regulate men in all their relations to society, civil and criminal; they dispose of all the positive rights and all the equities that may exist between the people throughout the length and breadth of this great country.

After we have enacted the laws under the Constitution they pass into the hands of executive officers of the Government for direct application to the people. Before the laws can be administered under our system directly upon or against the people in this country, there must be an intervention of some judicial tribunal; and that may be accounted as one of the greatest safeguards of our liberties that the people have a right to claim, that a judicial tribunal of some character shall intervene between them and the hands of executive or legislative power. Our people may be said to have the best possible protection for their rights and their liberties. They are more interested in the courts than in any of the other tribunals of the country, because they are held more directly responsible to them. A man's life is to be disposed of by the judgment of a court in the case of accusation against him of a high crime. His property is likewise subject to be disposed of in this manner; his liberty, his character, his family relations, and indeed all that goes to make up the man as a social being must be disposed of under our system through the decrees and judgments of the courts of the country. It has, therefore, become an axiomatic principle in our Government, applicable more particularly to ours than to any other form of government with which I am acquainted, that justice shall be administered speedily, and without sale, denial, or delay.

No proposition can be stated that is more intrinsically true or important in our system than the one I have just quoted. It therefore becomes the very highest duty of the legislator in the National Government, as well as in the local government, to see that justice is speedily administered, and that it is done without sale, denial, or delay.

We fall very far short of the performance of our constitutional duty when we allow any serious embarrassment to intervene to prevent the speedy administration of justice. By the speedy administration I do not mean the hasty and hurried administration which oftentimes results in evil, but I mean that administration of justice which is attended with celerity, and at the same time with due deliberation, so that the decrees of the courts, when they are pronounced, may be referred to a just consideration of all that is involved in the case, as well as to a speedy ascertainment and determination of the rights in controversy in all matters in litigation.

We have arrived at that condition in our Federal Government where such a speedy administration of justice has become impossible, and it has become the highest duty that the Congress of the United States owes to the people to remove those impediments which have produced this clog. I cannot conceive of anything connected with the duties of the Congress which is higher, more important, more immediately important, than to provide for the due administration of justice among the people according to the laws and Constitution of our country.

We heard yesterday from one of the wisest and best-informed of the jurists of this country that not merely the Supreme Court of the United States was overburdened with cases which it had not the power to dispose of within a term of three years, but that all or at least a large number of the inferior courts both in the States and in the Territories were under like embarrassment. Cases are piled up on the dockets for sheer want of power to dispose of them to that degree that justice may be said to be denied to the people of the United States. If the people have the right to resort to the courts for the adjudication of their rights, and we refuse or delay to furnish them sufficient facilities for having those rights determined, the charge may be justly laid at the door of Congress that we deny to the people justice. That appears to be a grave accusation, and yet it is no more grave than true. In our numerous engagements, calling our attention to the diversified interests of fifty millions of people, and in a country that is now merely springing into existence, as we may say, a country which has now over one hundred and fifty different forms of government within its borders to deal with, we omit to provide for that most essential and fundamental matter, the speedy administration through the courts of the laws of the land.

Why, sir, I had the honor to make a report the other day in reference to a great land court in the United States, the General Land Office, and there appeared to be pending in that one court alone—for it is only a court—150,000 undisposed of cases, cases in which land titles are brought in question, cases where the titles to the homes of the people are dependent upon adjudications to be made hereafter, and these causes have been accumulating there since the year 1825. I cite this not as being exactly pertinent to the matter now before the Senate, but as an illustration of the danger of delay in the administration of the law among the people who have controversies to be decided.

I will not enlarge upon this topic, Mr. President, because it is so entirely obvious that it has engaged the attention of almost all the thinking men in the different parts of the Union. As we have learned from the remarks of the honorable Senator from Illinois yesterday, a number of plans have been devised through the thoughtfulness and care of many distinguished jurists to provide relief against this prominent evil. We have at last taken up this subject and I do not know whether we shall have the courage or the patience to go to the bottom of it. I am afraid we shall not. I am afraid that we shall substitute some temporary expedient which in the end may prove more injurious than otherwise, and which, instead of curing the evil under which we are now laboring, may only add to our difficulties. It was with a view of presenting another phase of this subject that I thought I would have the bill read which, as I have said, Mr. Maury, of this city, prepared, and which I think is a very wise project in connection with this subject.

I said that I was afraid we should not have the patience and the courage to go to the bottom of this matter and to do what it appears to me is most essential to be done to relieve ourselves of the difficulty. I would begin by removing the cause of the difficulty.

In thinking over this subject my mind has been drawn forcibly to a parallel which exists between the condition of our jurisprudence in the United States and the recent outbreaks of the Mississippi River. The subject has recently broke beyond all control.

So it is in reference to our judicial system. We have, through acts of Congress, been flooding in upon our courts, and especially upon the Federal courts, new elements of jurisdiction, new questions, new matters of adjudication which have at last produced a flood of cases in the Supreme Court and in the inferior Federal courts which we are now trying to relieve against. In this time of great emergency my plan would be to cut down the jurisdiction of the Federal courts and relegate those subjects to the State courts where they were at the time our fathers framed our institutions.

I believe that the difficulties we are under have been the result of unwise legislation in the constant endeavor on the part of the Government of the United States to bring within the jurisdiction of its judges a large field of authority and power which our fathers never intended they should have. Whether we shall be able ever to return to the States any of this jurisdiction is a question that I am almost afraid to express an opinion upon. I am afraid that the Congress of the United States can never be induced to reverse its action upon this subject and to return to the States any part of the power which has been usurped through legislative action in Congress in favor of the Federal judiciary.

If this were a bill to return to the States jurisdiction that properly belongs to them under our federative system, I should be only too happy to advocate it. It will be for the Senate to determine whether this course is to be pursued or whether we are to adopt some plan of relief against this accumulation of business which we cooper up to meet present emergencies. If the Senate shall resolve that this broad scope of jurisdiction shall remain within the control of Federal tribunals, then nothing will remain to us but to devise the best system we can to work off this surplus accumulation of business.

Without dwelling longer on the proposition as to the necessity of taking from the Federal courts a large portion of the jurisdiction that they have recently received through legislative action in Congress, I will proceed to consider comparatively some of the measures which have been suggested to relieve the country of this burden.

The Senator from Illinois yesterday gave us a historical statement of the increase of the business of the Supreme Court of the United States, which I will read for the purpose of again bringing the attention of the Senate anew to it:

> The first volume of Cranch, exclusive of the appendix, which contains an elaborate discussion of a question of commercial law, consists of but three hundred and sixty-six pages, and it embraces all the cases adjudged at three terms, commencing with the August term, 1801, and in nearly all of them the arguments of counsel are given at considerable length. In the succeeding years the business increased but slowly, the average being less than sixty cases a year, and at times it hardly seemed to keep pace with the growth and development of the country. In 1810 there were 98 cases on the docket; in 1820, 127; in 1830, 143; in 1840, 92; in 1850, 253; in 1860, 310; in 1870, 636; in 1880, 1,202, and at the present term, 1,204.

That presents a condition of affairs which renders it absolutely impossible that either nine judges or twenty-nine judges can ever dispose of the docket in the sense of administering justice without delay—administering it speedily. Here we are confronted with something that we must acknowledge to be an insuperable difficulty under our existing system. The arithmetic progression with which these dockets have piled up since the organization of the Supreme Court places it beyond all dispute that we are compelled to furnish some remedy to the country against this evil, or else we are compelled to abandon a constitutional duty which we are sworn to observe, which I believe to be one of the highest and most sacred we have left in our charge.

Not less difficult or embarrassing is the condition of the public business in the inferior courts, the circuit and district courts of the United States. There are many of the circuit and district courts in

which there is an accumulation of business that the present force of judges would be incapable of working off in two or three or four years to come.

Consider for a moment the enormous expense that that brings to the clientage which appears before those courts. Here witnesses must be called from term to term; costs must necessarily accumulate. No man, whether he is plaintiff or defendant, can afford to assume that his case is not going to be heard at a particular term unless there is a stipulation in advance to that effect. The enormous waste of time of the witnesses who attend the courts, expenditure of money necessarily attendant upon the slow administration of the business of the courts, is one of the heaviest burdens of taxation that these people have to sustain; and then there are mileage allowed to marshals and to witnesses, fees to jurors, costs to clerks, the records increasing from day to day. After one has got his case through a circuit or district court of the United States (he may have spent all the time from two to ten years in getting it decided in the court below) he brings it to the Supreme Court without the hope of its being reached upon the docket short of a period of three years. That is a denial of justice to the people. We cannot afford to go before the country and say to the people, when we have got $150,000,000 of surplus revenue annually drawn from them by taxation, "We have not the ability to furnish the tribunals necessary for the decision of these causes."

I am arguing upon the assumption that Congress will not cut down the jurisdiction of the Federal courts; that they will maintain the system as it is now, and perhaps go on to increase and broaden that jurisdiction. I am, therefore, arguing in the presence of a difficulty which it is our duty to remove if we have the power to do it. This subject ought not to be allowed to rest until this great embarrassment upon the country has been provided for.

I had a friend this morning to procure for me a statement of the reports of adjudicated cases in the United States, taking the State courts and the different Federal courts together. In Alabama there are 88 volumes; in Arkansas, 36; California, (that young State,) 58; Colorado, 4, (that is in the Territory;) Connecticut, 55; Dakota, 1; Delaware, 12; the District of Columbia, 9; Florida, 17; Georgia, 7; Idaho, 1; Illinois, 108; Indiana, 84; Iowa, 61; Kansas, 26; Kentucky, 77; Louisiana, 107; Maine, 83; Maryland, 95; Massachusetts, 133; Michigan, 52; Minnesota, 27; Mississippi, 62; Missouri, 81; Montana Territory, 3; Nebraska, 11; Nevada, 15; New Mexico, 1; New Hampshire, 62; New Jersey, 76; New York, 550; North Carolina, 89; Ohio, 66; Oregon, 8; Pennsylvania, 219; Rhode Island, 12; South Carolina, 97; Tennessee, 79; Texas, 66; Utah, 2; Vermont, 61; Virginia, 67; Washington Territory, 2; West Virginia, 17; Wisconsin, 64, and Wyoming, 1. Of United States circuit and district court reports there are 157 volumes; of United States Supreme Court reports there are 103 volumes. The Court of Claims reports are to be added. The aggregate of all these reports from the States is: State reports, 3,117 volumes; United States district and circuit court reports, 157 volumes; United States Supreme Court reports, 103 volumes. The total aggregate is 3,377 volumes; and I might add that no two of them are alike.

In these 3,377 different reports of the different courts of the Union, nearly all of them claiming to be a supreme court, law can be found in any shape and style that one may call for. I can find not one decision but many decisions on any side of any question that any man can suggest. Yet numerous questions remain still to be considered and decided; they are arising continually under our changing legislation and under a great variety of circumstances which bring new matters into litigation between the people.

Look at that enormous mass and answer the question, what will it be in a hundred years to come? With our progressive increase of population and wealth, which leads necessarily to an increased litigation, with all the new questions that must arise, what will be the volume of the legal decisions of this country in another century or in another half century? It is a startling proposition to any one who has ever reflected on this subject, and it seems to be one of the matters that is almost beyond control. I have thought that if this system of government should ever be dissolved it would result from the fact that we have such different systems of jurisprudence within the several States, and that our decisions are so variant upon general matters of public right as well as of private right.

Justice in the United States is an expensive luxury. At the same time we must deny the very organic principles of our Government if we do not provide for its speedy and safe administration. We cannot prevent litigation by legislation; we can only provide, under our system of Government, that there shall be a right of a speedy hearing. Perhaps the right of appeal which has been so universally accorded, in all manner of cases, as a part of the justice of our judicial system is, of itself, largely responsible for this great mass of litigation which has gone into the appellate courts and which has added to the expense of the people, and greatly to the confusion of our judicial system; but there stands the evil and we have it to deal with. The question recurs, Which is the best plan?

The honorable Senator from Illinois yesterday stated various plans which have been proposed. Some of them, he said, provided for an increase of the numbers upon the Supreme Court bench. The reasons which the Senator gave in opposition to an increase of the judges of the Supreme Court, the mere numbers of the bench, and for dividing them into sections, as is the case now in the supreme courts of France and of England, it seems to me, are entirely true, and are based upon the necessary construction of our Constitution.

If there is one proposition connected with our judicial establishment which is absolutely true it is that we have but one Supreme Court. In that Supreme Court the Constitution says that the judicial power of the United States is lodged. Now, what is the judicial power of the United States? It is *all the power* to administer justice that belongs to any government, except so far as it is limited by the express qualifications in the Constitution. The judicial power of a State, which is unlimited except by the provisions of the Constitution of the United States, extends to every question of judicial inquiry, whether it is civil or criminal. The judicial power of the United States extends to every question of judicial cognizance, whether civil or criminal, unless an exception is created by some of the other provisions of the Constitution.

It has been argued that the appellate jurisdiction of the United States Supreme Court is given by a statute. It seems to me that no proposition could be more fallacious than that; that jurisdiction is given by the Constitution of the United States, subject to regulation and control by statute. We can carve out of that jurisdiction what we please. We can deny to the Supreme Court by an act of Congress the power to exercise appellate jurisdiction in cases where we think it should not exercise appellate jurisdiction, but the power was in the Constitution originally lodged in the courts subject to the modification and control of Congress. That does not destroy the unity of the Supreme Court of the United States, nor does it in the slightest degree impair its supremacy as an appellate tribunal. The Supreme Court of the United States is not to exercise such appellate power only as we may dole it out to the courts, for it has appellate power, but it exercises that power in subordination of the legislative will. That is the true statement of the proposition.

Therefore it is true that the Supreme Court of the United States is one supreme court, and any measure by which it may be undertaken to divide that Supreme Court into different sections will be, in my judgment, an unconstitutional invasion of the unity and authority of that great tribunal.

I know that a number of distinguished jurists in the United States differ with me in this opinion; still I cannot reason myself out of the conviction that the Supreme Court is one of the co-ordinate departments of this Government fixed in the Constitution and that we have no right to legislate in reference to that department, except to the extent that is provided in the Constitution itself, for the qualification or modification of its powers or in reference to the manner of their exercise.

I am, therefore, entirely in harmony with the views of the Senator from Illinois on that branch of the proposition, and the bill of Mr. Maury is also in harmony with those views. I would regret to see the day when we would divide the courts into sections and require three or four judges to sit upon one class of cases and three or four upon another class of cases, and to have their decision entered upon the record of the court. No judge ought ever to be compelled to give his sanction to a decision in any cause unless he is entirely familiar with it and unless he participates in the judgment; and he must participate just as fully as any other judge does in hearing the cause. That is the elementary and indispensable requisite of a correct judicial decision to be made by a court consisting of more than one judge. Each judge on the bench must consider the cause for himself, and the parties litigant before that court as well as the country at large have the right to the wisdom, the industry, the careful investigation, and the conscience of every judge trying a cause upon every question which is made in the case. A judge may concur with the majority, or he may dissent, but still it is the right of the parties litigant before the court to have the judgment of every judge upon every question that comes before it, and nothing can be said to be a perfect administration which does not go to that extent.

I therefore recognize the constitutional impossibility as well as the practical impossibility in view of a wise administration of justice in the Supreme Court by merely increasing the members upon the bench. You may add to that bench as many judges as you please, and the judges themselves will decide that the court is a unit, and that every judge must hear every case that is presented to it. That has been the practice in the Supreme Court of the United States from its first organization.

It is not proper, I think, that we should venture upon an experiment of that kind when the judges would meet our law, after we had enacted it, with the answer "We are a unit, and you cannot divide us up into different tribunals and assign the power of rendering a final judgment to two, three, or four men in this tribunal." There must be one judgment, and to be one judgment it must be the judgment of every man upon the bench; it must be the judgment expressed *pro* or *con.*, the judgment of every man who participates in the investigation.

We come to the proposition that we cannot relieve that court merely by increasing its number. In fact we would only increase the difficulty of deciding causes in the Supreme Court by an increase of the numbers. If you had a court of thirty members it would require the investigation of thirty different minds upon thirty records

and briefs, and a consultation among this large number, where I think we should be sinking wisdom in numbers rather than gaining strength or safety from a multitude of counsel.

It is true in the experience of the great jurists of the earth that the smaller tribunals are the stronger and more powerful as courts. Bring a question of law before the Senate in which a large majority of the body are trained lawyers and ask them to decide it by a vote, and oftener than otherwise you will find them divided in nearly equal numbers upon either side of an intricate question of law. Take the debate on the Geneva award fund, if you please, which has been before the Senate ever since I have had the honor of a seat on this floor. Who has ever come to a conclusion, or even a guess, as to what the Senate would do in the decision of that case? Yet it is a question of law, or a question of equity based upon law. It is the very number of minds engaged here in thinking over these questions that produces the difficulty. I can pick a committee of five out of the Senate of its most enlightened jurists and lay the Geneva award question before them and get a decision satisfactory to the entire country after they have heard argument upon both sides; but neither the Senate nor the House of Representatives nor the country perhaps will ever be satisfied with the decision that we shall make upon the law of that intricate and involved question. I mention this to show the difficulty of getting large bodies into harmony of action on judicial questions.

Another very serious difficulty in the bill under discussion is that it divides the responsibility between too many. There is nothing which brings a man's mind right down to his duties so quickly and firmly as to burden him with a great responsibility which rests upon him exclusively or upon a very few associated with him. There is nothing like it. If you want safe and wise judgments in the courts, that will stand the test of time, you must have men to render them who have imposed upon them all the weight of responsibility that you can bring to bear on their minds and consciences.

I do not look to an increase of the number of judges on the Supreme Court bench with any hope of relief from the difficulties to which I have adverted. We must take some other plan. What other plan can be suggested besides an intermediate court of appeals? None that I can think of; none that the wisest men in this country have as yet been able to bring forward.

I therefore heartily concur with the honorable Senator from Illinois in his project of having an intermediate court of appeals, but I think he has too many intermediate courts of appeal. I think that we shall have much the same difficulty as now, in kind if not in degree, in having nine organizations in the United States as courts of appeal. We have too many now. It is proposed to add nine others, and these other nine will all be in the exercise of exactly the same jurisdiction. We shall have eight chances to one of inextricable confusion in the decisions of these courts, to increase year after year as we progress with this system.

We have one Supreme Court, whose adjudications are an honor to the American people, of which they may be justly proud. I will not deny that on some occasions that court even has been influenced to make decisions which perhaps will not stand the test of future investigation. That court has sometimes found itself compelled to overrule some of its own decisions. It has always done so boldly and freely, and with a view to the ultimate security of justice according to law; but if that court had been divided into sections, one sitting in Maine, one in California, and one in Florida, if they had been considering the questions apart from each other, deprived of the advantage of conferring upon great and difficult questions which have been presented to it for consideration in the past, we should have had confusion and trouble instead of harmony and strength in its decisions.

I cannot bring my mind to believe that nine courts of federal appeal intermediate between the Supreme Court and the circuit and district courts of the United States would ever agree in their lines of decision, even upon great and important topics, in such manner as would put questions at rest. I think we have a plan in this bill which will result in greater confusion than we now have and in the mere addition to the contradiction and contrariety of decisions which are now a burden upon the jurisprudence of the United States.

Why do we want to have nine courts? For no other reason than for the accommodation of the bar. Being a member of that profession, I can speak freely upon the subject and against their being accommodated at the expense of the country. You would go to New Orleans with a court because that is a great commercial center and nearly the center of a district. You wish to go to New York, to Saint Louis, to Chicago, to San Francisco with another for the same reason—all for the accommodation of the members of the bar.

Appellate courts do not have people brought before them to be heard in open court; witnesses do not attend. The record is made up in the court below and transmitted to a clerk. It is printed in the appellate court along with the briefs of counsel. A few lawyers assemble, just as we see every day in the august tribunal that sits in this Capitol. A few lawyers attend to make their arguments before the court according to its rules of practice. The clients are far distant, it may be beyond the seas, and never feel that it is necessary to come to Washington to look after their causes. No one attends but the lawyers engaged in the cases.

The question whether we shall have nine courts or one court is a question that involves nothing except the convenience of the bar. If there is anything else in it I cannot see it or understand it. The precise issue upon that branch of the bill is whether we shall have nine courts, with the danger of leading to this confusion in our judicial system, or whether we shall have one intermediate court, located here or where it may be more convenient.

I am in favor of one court. I am in favor of Mr. Maury's proposition in this respect, because it provides for the appointment of ten judges instead of eighteen. We would relieve ourselves to the extent of eight judges by taking a court located at Washington or located anywhere that you please, instead of a court of eighteen judges to be appointed in addition to those who are upon the bench now.

If the Congress will do full justice by this subject, if they will consult the welfare and interests of the people of the United States instead of a particular class of professional men, we shall find no difficulty in having a court of appeals here which will answer not only all the purposes designed in the bill of the honorable Senator from Illinois but answer them in a very much better manner, I think, than his bill provides for. The bill of the honorable Senator takes the circuit and district judges who are now in office and eighteen judges, to be added to them, two for each circuit, and groups them in different circuits in nine courts of appeals.

I will not dwell longer upon what the course of action would likely be between these various courts leading to conflict and confusion. I will now call the attention of the Senate to a topic that I beg them to consider in the light in which I intend to present it, as an honest and faithful review in part of the existing judicial system in the United States. I do not intend to cast reproach unnecessarily upon any man, and I do not intend to arouse any feeling about this business.

We have nine circuit judges in the United States. I have no remarks to make about them except that some of them were appointed in times of high political excitement, and they seem to feel that it is a part of their judicial duty to respond on all occasions where opportunity is afforded to the sentiment which led to their appointment. I am not overstating the case in this matter. No Senator here can deny to his own conscience, I think, the fact that judges now upon the bench in the United States have been appointed not merely because of their political opinions, but because of their intensity in the service of their party; because it was expected of them when they got upon the bench that in all cases which might arise that had any political significance they could be counted on to give a decision in favor of the views of the party which appointed them to office.

That is a grave accusation to make against any government or any people, but I make it in the light of the facts. History bears me out in this statement fully and completely; and now that we are passing into a better state of feeling in this country, I appeal to Senators on all sides that in the further increase of the bench we shall have an opportunity to get men fresh from the country, who will have a chance to come to the bench free from the exacerbation of feeling on political subjects, which, I think, has too often led to serious injustice on the bench.

This political partisanship is more particularly true, I think, in reference to the district courts than it is as to the circuit courts. I believe that more of the district judges have been appointed in consideration of their extreme party bias than of the circuit judges, in proportion to their numbers, and they have responded to the motives that led to their appointment by various acts upon the bench, some of which an American ought to blush to be compelled to recite before the Senate of the United States.

I prefer that the President of the United States, Republican as he is, with the Senate, Republican as it is, should have the selection of the ten judges who will compose this court, out and out, from the people who are qualified to occupy these places, to taking up the old fossils who are upon the bench, and who have become indurated in the service of their party rather than in the service of their country. Above all things, let us have a judiciary upon which the people can lean in confidence, and feel that they can submit their controversies to them without the expectation of party bias or feeling intervening to affect the judgment of the courts. No disgrace like that can be inflicted upon a country without the most serious injury to all classes of people.

I speak upon this subject not only with knowledge but with feeling, because in the State where I live district judges since the close of the war have been the mere tools of party. I do not wish to see men of that class put upon the court of appeals. Some of them have not quite the ability to preside in the district courts and to conduct the business of that court in a proper way. What have they in the way of talent or learning or ability of any kind for a court of federal appeals? They would be a mere drag and an incubus upon it. Why should we go to them and invite them into a court of appeals? Every reason that occurs to me is against it. They are the very judges that a court of appeals is needed to control. I believe in the independence of the judicial system in all of its gradations of authority as well as in its independence of legislative or executive control. I believe that a great deal of the power and influence of that court depends upon its constitutional and legal independence. I have had great doubts about the propriety of permitting the judges of the Supreme Court to preside in the circuits at all. The only argument in favor of it that I can think of is that they have an opportunity of understanding the people of the country, of mixing with

them and understanding the different local systems of jurisprudence throughout the States in which they may chance to preside, but I now believe that it would be better if no judge of the Supreme Court of the United States should ever be permitted to sit upon a cause on a circuit.

Mr. President, I have said that I had a right to know something about the fitness of some district judges to sit in a court of appeals. I have a painful right to know it. Justice has been perverted in the district courts of the United States in Alabama, it seems to me, in an arbitrary and tyrannical manner. Do you remember—of course you do—that no appeal is allowed to the Supreme Court of the United States in any criminal cause? Appeals are allowed to the Supreme Court of the United States in all that concerns a man's property, provided he has got five thousand dollars' worth in a controversy. In every constitutional question and in every question of the construction of a United States statute which concerns a man's property, he may have an appeal to the Supreme Court of the United States, but when you come to take his life from him by decree or judgment of a Federal court, or to imprison him for any period of years, or to impose fines and penalties upon him, no appeal is allowed under our judicial system.

What was the reason assigned for it by the honorable Senator from Illinois yesterday? That the court could not bear the burden which appeals in criminal cases would impose upon it; that the court would find it impossible to decide questions of life and liberty, and therefore this great tribunal must be confined simply to questions of property, and that too only when the amount in controversy exceeds $5,000. All that class of people who do not happen to own five thousand dollars' worth of property, all that class of people who may be subjected to political persecution, all who may be the victims of wrong and outrage, must go unrequited of justice in the great appellate tribunal organized by the Constitution, and for the only reason that if they were allowed to come here with their complaints the court would be so clogged with business that it could not afford to undertake the job of administering justice.

When the honorable Senator, who has had so much experience upon the bench, was reciting that fact to us, I could but wonder what posterity would think of us, fifty or a hundred years to come, when it should be announced to them and reflected upon by them that the Government of the United States had denied to every man in the United States the protection of the Supreme Court in all matters of life and liberty, and merely because Congress could not find a method by which these questions could be considered. It is a reproach to our judicial system, and has been from the foundation of the Government. There is not a lawyer, I think, who ever examined the question who has not felt that it was a wrong.

The judges have the virtual decision of all cases in the district and circuit courts. Only a few days ago a case occurred in Alabama under the election laws of the United States, and which shows the power of the judges. Three men had been appointed inspectors of election at Huntsville, in Alabama. One was a Greenbacker, one a Democrat, and one a Republican. A contested election was pending in the House of Representatives—it is pending there now—and it became necessary to have a decision of the Federal courts that certain ballots which had been excluded by the inspectors as being contrary to the statutes of the State of Alabama were after all valid ballots, and that the men who had excluded them had violated the laws of the United States. An indictment was found. A jury was summoned, and at the head of that jury stood a man whose intelligence and character would entitle him to a seat on the floor of the Senate. I know him well. He is a thoroughly conscientious gentleman. Associated with him upon that jury were Republicans, Greenbackers, and Democrats. The witness who was examined for the Government was one of the inspectors. He was the Greenbacker and a relative of the gentleman now contesting the seat in the House. He testified that when the inspectors opened the box and examined the ballots they found that there were certain prints upon some of them which in their opinion rendered them invalid under the laws of Alabama, but not being quite certain of that they took legal advice, the best that could be had, and after due consideration, upon their oaths as inspectors they decided that a certain number of those ballots cast for the Democrats were invalid and certain other of those ballots cast for the Greenbackers were invalid, and they threw them out. It turned out that the larger number of ballots thus inspected and thus thrown out had been cast in favor of the Greenbacker. The indictment was predicated upon that state of facts and this gentleman was brought in to testify. He swore to these facts. He stated that neither himself nor his coinspector so far as he knew had the slightest idea of violating any laws of the United States. He said they were acting under oath as inspectors, and under the laws of the State of Alabama they believed they had the right to reject these ballots; if they were mistaken in their opinions it was only a mistake of judgment; nothing more. The judge who presided in that case, knowing that no superior tribunal could control him, after the district attorney had signified his purpose to abandon the case and said that there was really nothing in it, charged the jury that if the jury believed the evidence in the case the defendants were guilty.

Now, what chance did those defendants have? What is a court? A court for the trial of a criminal cause under the Constitution of the United States is a judge and twelve jurors, and the judge can no more convict a man of an offense, or acquit him either, without the jury than the jury can without the judge. The two constitutional tribunals or powers combined together under the law comprise a court, and without either there can be no court. Each have their rights, their privileges, and their duties. Here the judge, against whose decision there could be no appeal, said to the jury: "If you believe the evidence in this case, the defendants are guilty." Thereupon the foreman of the jury arose and asked the court: Have we a right to apply the law in this case to the facts? In the event that we find the defendants in this cause were not influenced by any corrupt or improper motive, but honestly believed that they were doing right, have we a right to take that into consideration? Said the court: Yes, you can take that into consideration, but I have charged you if you believe the evidence in this case you must find the defendants guilty. The jury went out and they refused to find them guilty; they found a verdict of not guilty. In that one instance, if there is no other to be recorded in the history of this country, that jury nobly vindicated the rights of juries under the Constitution and laws of this land, and for that reason they were immediately and indignantly discharged for the term by that judge.

I have recited the facts of this case, as I am assured they are true. I say that the conduct of this judge was influenced by no other reason than because there was a contested case pending in the House of Representatives. The judge made a decision of that kind against the validity of the action of the inspectors, so that his friend might be seated in the House.

Mr. BUTLER. May I inquire the name of that judge?

Mr. MORGAN. His name is Bruce. Now, I will give you another case decided by that judge, and you will see what sort of a court-of-appeals judge he would make. He is a district judge, who has the right to exercise circuit court powers whenever the circuit court judge is not there, and in conjunction with him when he is there. He is not the presiding judge in any sense, but he has got all the powers and jurisdiction of the circuit judge when the circuit judge is not present. The fifth circuit comprises the States of Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas.

Mr. INGALLS. How long has he been on the bench?

Mr. MORGAN. He has been on the bench about ten years, I think.

Mr. GEORGE. He is the successor of Busteed.

Mr. MORGAN. Yes, he is the successor of Busteed, but not so talented a man as Busteed.

Mr. INGALLS. Is he a native of the district?

Mr. MORGAN. He is a native of Scotland, as I am informed. He was never in the district until he came there among that elect band that we call "carpet-baggers" in the South. But I do not wish to speak of him in that connection; I am speaking of his acts on the bench. I am speaking now to convince the Senate, if I can do it, that there are some men on the district bench who are not proper men to be carried into a court of appeals, men who have not the wisdom or the qualifications in other respects to entitle them to preside in a court of such dignity and power. I do not want to add anything to the power of such men. If I am compelled to endure them, as I suppose I must be, with patience and resignation, I will not be a party to increasing their powers in any contingency or under any circumstances.

I have a record of the Supreme Court of the United States here in another cause that came from that judge. This was a suit upon coupons detached from bonds which had been issued by a town in Alabama, the city of Opelika. The party in bringing his suit upon these coupons, he holding the bonds at the time, had detached a little over five thousand dollars' worth of the coupons, and included them all in his action. The defendants pleaded various pleas of *non est factum*, to which demurrers were sustained by the court. Thereupon there was what we call there the sworn plea of *non assumpsit*, which puts in issue the *factum*, the instrument sued upon, and requires the plaintiff to prove its validity throughout. It is the general issue sworn to under the practice in Alabama, which has obtained there for a great many years, long before I came to the bar in that State.

The court had pronounced its opinion upon these demurrers, and the parties went to the jury. The plaintiff introduced his coupons and the defendant introduced all the records of the proceedings of the city of Opelika upon which a plea was predicated, that the action of the authorities in that city was *ultra vires*, and the bonds were therefore void. The parties argued their cause and the judge charged the jury to the effect that if they believed the evidence they must find for the plaintiff, the defendant undertaking to protect himself by asking charges just the converse of those which had been asked by the plaintiff. After the case had gone to the jury the plaintiff asked leave not to enter a *retraxit*, a discharge, or a release of a part of his cause of action, but to withdraw a certain number of the coupons from the suit, so as to bring the verdict that the jury must render within the sum of $5,000. It was objected by counsel on the other side that such a course would cut them off from all opportunity of appeal to the Supreme Court of the United States, and that was the design of the motion. The plaintiff did not ask leave to enter a *retraxit* or release of the sum over $5,000, but to amend the pleadings and exclude these coupons, which its counsel might select

from this action, and leave them, of course, in condition to be again sued upon. The effect of that judgment was, of course, to validate beyond all dispute and denial thereafter every coupon cut from the bonds and the bonds themselves. The bonds amounted to about twenty-five thousand dollars, and the coupons, which had matured and been sued upon, amounted to over $5,000. The point was made before the court that the object of the motion was only to deprive the defendant in this case of the right of appeal to the Supreme Court. The court against that objection thus made openly in court allowed the coupons to be withdrawn, and the jury thereupon were instructed to bring in a verdict for $4,765.64, and the man's appeal was taken away from him.

I do not know how to characterize a thing of that sort with proper deference to the tribunal before which I am now speaking. A man who will undertake to deny to a party the right to review his decisions on the bench can never be a qualified person, in my judgment, to sit in a court of appeals.

I have got another case to illustrate the unfitness of this judge to preside in any court. It was another action upon coupons cut from bonds issued by the county of Chambers, in Alabama. A judgment was obtained in favor of some Cubans; thereupon a motion was made in the circuit court of the United States for a writ of *mandamus* to compel the commissioners of the county of Chambers to levy a tax, in accordance with the statutes of Alabama, for the collection of the judgment out of the people of that county. The board of county commissioners, the president of which was the judge of probate, obeyed the order as far as the statutes of Alabama authorized; that is to say, they levied a tax in precise conformity to the statutes of Alabama. However, the order of the judge contained another requisition upon them, not only that they should levy a tax, but that they should collect the money. That they had no power to do. No statute of Alabama or of the United States authorized them to collect the money. That is the duty of a tax collector, not of a court.

It was their duty to levy a tax but not to collect it. Hence they could not perform the duty, and did not undertake to perform it; but in the most respectful manner they certified their action to the court. Thereupon the court ordered an attachment against them under a rule to show cause why they should not be punished for a contempt. They came forward and made their answer to the writ of attachment. They set up that they had complied with their duty to the court, and in the most respectful manner undertook to show the court in their return that they had done all they could do. At the preceding term the court had pronounced judgment against them, that they were in contempt for not collecting the money, and stayed that judgment until the next term of the court, expressly, as stated in the judgment, that they might have the opportunity, not to collect it out of the people, but to pay it. The next term of the court passed away and it was suggested that the debt had not been paid. Thereupon a writ of attachment issued against them. They came forward and made further answer, setting forth that they had done all that the law authorized them to do; that no statute had authorized them to collect money from the people, and they would be trespassers if they undertook in person to collect it. The court thereupon sentenced the remaining commissioners to imprisonment in the common jail of Montgomery County, (two of the commissioners had died,) and they were to remain there until that debt was paid. I wish to read to the Senate the judgment in that case:

Dix & Co. *vs.* P. M. Rowland, judge of probate of Chambers County, D. C. Shutze and R. C. Germany, members of the court of county commissioners of said county of Chambers, in the State of Alabama. November 21, 1881, proceeding by attachment for contempt.

In this proceeding by attachment for contempt all the parties this day appeared in this court, and were further heard by this court touching the matters of contempt involved in this proceeding.

And it appearing to the court that at the last term of this court, to wit, on July 16, 1881, the respondents, the said Rowland, Shutze, and Germany, were fully heard as to the said matters of contempt in disobeying the said peremptory writ of *mandamus* duly issued out of this court, theretofore to them, and duly served on them, and that upon said hearing the said respondents were duly and properly adjudged and found by this court to be guilty of contempt of this court in relation to said peremptory writ of *mandamus* mentioned in this proceeding for contempt, and in disobeying said last named writ, but that said respondents were required to appear in this court on the first day of this term, to receive such sentence as this court may deem meet to pronounce in the premises; and it is now made further to appear to this court that said respondents have not obeyed said peremptory writ of *mandamus*, nor certified any such obedience, but still continue to disobey said writ of peremptory *mandamus*, and that said respondents are guilty of said contempt in disobeying said peremptory writ of *mandamus*, and that the judgment of said Dix & Co. mentioned in that writ, and in respect to which that writ was issued, remains wholly unpaid and unsatisfied and of full force, and that the amount due upon said last-mentioned judgment, including the principal and lawful interest thereon, and the costs up to this day, is $3,152:

It is, therefore, considered, ordered, and adjudged, by this court, that the said respondents, the said P. M. Rowland, D. C. Shutze, and R. C. Germany, are guilty of said contempt in disobeying as well as in continuing to disobey the said peremptory writ of *mandamus*, and the order and command of this court therein, and that for said contempt each of respondents is here and now sentenced by this court to pay to the United States, as a fine for his said contempt, the sum of $1,088, and to be and to stand imprisoned in the common jail of Montgomery County, in the State of Alabama, until the said fine hereby imposed upon him, and all the costs of this proceeding for contempt are paid; that in addition to said fines hereby imposed upon each of said respondents respectively, the sentence of this court also is, that said respondents pay all the costs of this proceeding, and stand imprisoned, as aforesaid, until the whole of said costs shall be paid. But the court further orders and adjudges, that if the said judgment of said Dix & Co., under and in respect to which said peremptory writ of *mandamus* issued, and also all the costs of this proceeding and of the proceedings in which said peremptory *mandamus* issued, shall hereafter be paid and satisfied in full, and such satisfaction be entered on the execution docket or minutes of this court before the said fines are paid, then and in that event all further proceedings under said sentence of this court shall thereupon cease, and the said respondents shall thence be discharged from imprisonment under said sentence.

Now, what is that? Each of these men was fined to the extent of exactly one-third of that judgment, interest and cost. In favor of whom is the fine imposed? The Government of the United States; but the court provided in its judgment that even after the court had adjourned, and the question of the collection of that fine had passed clear beyond the power of the court, if the prisoners would pay the judgment of Dix & Co., the fine in favor of the United States should be remitted, and they should be discharged from imprisonment, thus using the criminal power and the majesty of the law of this land to extort from men who were locked up in prison, in the common jail of Montgomery County, a sum of money under the pretext that it was imposed as a fine to be paid over to Dix & Co., and if paid to them then the Government of the United States was not to receive any part of the fine.

Here is a contempt of court, so called. Here is a judge who fined three men for a contempt of court. He imposed a penalty upon these men because it was alleged by the court that the honor and dignity of the judicial tribunals of the United States had been violated by their contempt of the order of the court, and after thus parceling out the fine in these exact figures, dividing the sum of $3,152 by 3, and finding that that was the measure of the contempt inflicted upon the Government of the United States, the court made provision that the Government should lose its fine, and then the contempt against it should be expurgated, in the event that the prisoners would pay the judgment to Dix & Co. A State judge was locked up in a county jail with two of the commissioners of Chambers County, under a void order of the district judge, for a term of imprisonment to which no limit was fixed in the sentence of the court.

I think that no plainer instance of judicial tyranny than that was ever recorded in the books. The Supreme Court of the United States considered this question, and after these men had lain in jail from the middle of November until late in January, told them to go hence without day; that this judge had acted beyond his powers in the imprisonment that he imposed upon them.

What is the liberty of a citizen of the United States worth in a court of that kind? There was no appeal from that decision, no law of Congress authorizing an appeal. There was no writ by which it could be reached except the writ of *habeas corpus* attended by a *certiorara;* and the Supreme Court of the United States really had to invent a means by which they could correct this great outrage upon these men. Mr. Rowland, the judge of probate in that suit, is as venerable a man as any who sits upon this floor, a man of the highest possible character and a man who suffered in his feelings as well as in his person beyond the power of description by the incarceration.

Am I to be invited by this bill to take the man who made that decision and put him on the court of appeals, and put more power into his hands? I am not responsible for his being on that bench, but I would be responsible if I did not rise in the Senate of the United States and state these reasons, and put them on record here, why that man should not go upon a court of appeals. This is a painful duty for me to perform, for I scarcely know him, but I could not reconcile it to my honor as a Senator to remain silent while a bill was pending here to propose in any event or any contingency to take that man and give him more power and put him on the bench of a high court of appeals.

There may be others like him; it is not for me to say. I speak within the bounds of the records and of my knowledge and information upon this question. The facts are undeniable. I give but one instance of the unfitness of a judge; there may be others. I believe that there are others quite as conspicuous as that.

It is one part of the evil of the times that the people have had judges put upon them who were unworthy of the position, and that being a fact which we must confront and cannot get rid of, we ought not to increase the evil by calling these men in to preside in a court of appeals.

You may say we can control them or that the other judges will control them. I do not know whether they will or whether they will not; but, sir, it is not proper material for a court of appeals. I very much prefer Mr. Maury's plan, which selects men that the party in power is now willing to indorse after the fury and rage of party hatred which grew out of our late struggle have somewhat passed away. I will not vote for a bill that has got such a provision in it. I will undertake to modify it in the course of the consideration of the amendments which may be offered here, but if this class of men are to comprise a part of the court of appeals to which this great power is given by the proposed enactment, I can never give my consent to it.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on agreeing to the first amendment reported by the Committee on the Judiciary, which will be read.

The ACTING SECRETARY. The first amendment of the committee is, in section 2, line 3, after the word "error," to insert "from the district courts;" and in line 5, after the word "eighty," to insert "two;" so as to make the section read:

That the several circuit courts of the United States shall have and exercise no jurisdiction in cases of appeals or writs of error from the district courts allowed,

taken, or sued out after the 1st day of September, 1882, except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction, may be had as heretofore provided.

The amendment was agreed to.

The next amendment was, in section 3, line 9, after the word "designated," to strike out "for each term of the court by the circuit judge who is senior in office, upon due notice in writing" and insert "by an order of the court at each term thereof to serve for the succeeding term;" and after the word "any," in line 12, to strike out "three" and insert "four;" so as to read:

The said court of appeals shall consist of the justice of the Supreme Court assigned to the circuit, and of the circuit judges thereof and two of the district judges, to be designated by an order of the court at each term thereof to serve for the succeeding term, the designation to be made as far as practicable in rotation, any four of whom, including at least one judge competent to preside, shall constitute a quorum.

The amendment was agreed to.

The next amendment was, in the same section, line 15, after the words "absence of," to strike out "the justice of the Supreme Court, or of either circuit judge, or of;" and in line 17, after the word "designated," to strike out "in manner aforesaid" and insert "by the judges then present;" so as to read:

In case of the absence of a district judge so designated, another district judge may be designated by the judges then present to serve as long as such absence shall continue.

The amendment was agreed to.

Mr. BUTLER. I have an amendment which I should like to offer to section 3, if it is now in order.

The PRESIDING OFFICER. It is usual to consider the committee amendments first. After they are disposed of the Senator can offer any amendment.

Mr. BUTLER. Very well, sir.

The PRESIDING OFFICER. The reading of the reported amendments will be proceeded with.

The next amendment of the Committee on the Judiciary was, at the end of section 5, to add:

Nor shall the maximum compensation of the marshal, including all his fees and emoluments, exceed that allowed by existing law, nor shall the clerk receive for his entire compensation more than the sum of $3,500 per annum.

The amendment was agreed to.

The next amendment was, in section 6, line 13, before the word "appeal," to insert "such;" and in line 14, after the word "within," to strike out "ninety days" and insert "six months;" so as to read:

No such appeal shall be taken or writ of error sued out except within six months after the entry of the order, decree, or judgment sought to be reviewed.

The amendment was agreed to.

The next amendment was, in the same section, to strike out the following clause between lines 34 and 42:

In case the decision or determination of such court of appeals shall so modify or reverse such order or decree of the court below as to cause the same to become a final decree, an appeal from such direction of the court of appeals shall be allowed to the Supreme Court of the United States, in the cases and according to the manner hereinafter provided for appeals from decrees in equity entered by the direction of the court of appeals.

The amendment was agreed to.

The next amendment was, to strike out "SEC. 7" and the words "that the Supreme Court shall from time to time, as may be necessary, adopt;" and, in line 52, after the word "and," to strike out "promulgate rules to regulate;" so as to read:

All provisions of law now in force prescribing the cases in which appeals may be taken or writs of error sued out for the review by the Supreme Court of the final judgment or decree of a circuit or a district court shall, except as modified by this act, apply to an appeal taken or a writ of error sued out under this section; and the manner of taking such appeal or suing out such writ of error, or of staying proceedings in the inferior courts.

The amendment was agreed to.

The next amendment was, in section 6, [7,] line 55, after the word "courts," to insert:

Shall be governed by the laws now in force touching appeals from the circuit court to the Supreme Court and writs of error from the Supreme Court to the circuit court.

The amendment was agreed to.

The next amendment was, in the same section, line 58, before the word "section," to strike out "the sixth" and insert "this;" and after the word "section," to strike out "of this act;" so as to read:

Subject to the provisions of this section as to the time of taking such appeal or suing out such writ of error.

The amendment was agreed to.

The next amendment was to change "section 8" to "section 7."

The amendment was agreed to.

The next amendment was, in section 7, [8,] line 4, after the word "eighty," to insert "two;" in line 6, after the word "cases," to strike out "which shall be pending in any circuit court on said day upon appeal or writ of error" and insert "wherein, on or before said day, an appeal has been allowed by a district court, or a writ of error sued out from any circuit court;" so as to make the section read:

SEC. 7. That all appeals and writs of error taken, allowed, or sued out upon or from any judgments or decrees of the circuit and district courts, entered after the 1st day of September, 1882, shall be taken, allowed, or sued out under and according to the provisions of this act, and not otherwise; but all cases wherein, on or before said day, an appeal has been allowed by a district court, or a writ of error sued out from any circuit court, shall be heard and determined by such circuit court in the same manner as if this act had not been passed.

The amendment was agreed to.

The next amendment was, in section 8, [9,] after the word "writ," to insert "nor after a refusal to allow the writ by one such judge shall it be allowed by another judge;" so as to read:

SEC. 8. That a writ of error, if allowed by a judge of the proper court of appeals, may be sued out of that court from the final judgment of a circuit or district court in any criminal case to such court of appeals within ninety days after the entry of such judgment; but such writ shall not operate as a stay of proceedings, except in capital cases, unless it is so ordered by the judge who shall allow the writ, nor after a refusal to allow the writ by one such judge shall it be allowed by another judge.

The amendment was agreed to.

The next amendment was, in the same section, before the word "section," in line 11, to strike out "eleventh" and insert "tenth;" so as to read:

The judgment upon such writ shall be final unless certified as hereinafter provided in the tenth section of this act, and shall be remitted to the circuit or the district court appealed from, to be enforced according to law.

The amendment was agreed to.

The next amendment was, in section 9, [10,] line 12, after the word "eighty," to insert "two;" in the same line, after "1882," to strike out, "at which time it shall, by an order to be entered of record, fix the times at which it shall be thereafter held, which times may be from time to time changed by the court" and insert "and on the second Tuesdays in May and first Tuesdays in November thereafter;" so as to read:

The first term of said court shall be held at each of said places on the first Tuesday in November, 1882, and on the second Tuesdays in May and first Tuesdays in November thereafter.

The amendment was agreed to.

The next amendment was, at the end of section 9, [10,] to strike out "at least two terms shall be held in each year."

The amendment was agreed to.

The next amendment was, in section 10, [11,] before the word "costs," in line 10, to strike out "interest and;" in line 11, after the words "construction of," to insert "either;" and in the same line, after the word "or," to insert "the construction or the validity of;" so as to read:

But a review upon the law may be had upon writ of error or appeal in the manner now provided by law to the Supreme Court of the United States from every final judgment or decree of the court of appeals, where the matter in controversy exceeds the sum or value of $10,000, exclusive of costs, or where the adjudication involves a question upon the construction of the Constitution or the construction or the validity of a treaty or a law of the United States, or where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court.

The amendment was agreed to.

The next amendment was, in the same section, line 18, after the words "Constitution or," to insert "the construction or the validity;" so as to read:

But in the two last mentioned cases the court of appeals shall state the specific question arising upon the construction of the Constitution, or the construction or the validity of such treaty or law, or the specific legal question that the adjudication involves.

The amendment was agreed to.

The next amendment was, in the same section, line 25, after the word "opinion," to strike out:

And in patent and copyright cases in equity a review by the Supreme Court may be had, without regard to the sum or value in dispute, upon the questions both of law and fact affecting the validity or the infringement of the patent or the copyright: *Provided*, That the court of appeals shall certify that a question is involved of sufficient importance to render it proper that the final decision thereof should be made by the Supreme Court.

And insert in lieu thereof:

Provided, That in all cases in which by existing laws the Supreme Court may now exercise appellate jurisdiction without regard to the sum in controversy, except in cases touching patent rights and copyrights, the Supreme Court shall continue to have and exercise such jurisdiction in the manner now provided by law.

Mr. PLATT. Mr. President, I wish that some member of the Judiciary Committee would explain why this amendment is proposed, by which, as I understand, the Supreme Court of the United States is divested of jurisdiction in cases touching patent rights and copyrights and the jurisdiction is left in the court of appeals.

Mr. DAVIS, of Illinois. The Supreme Court now has jurisdiction in patent-right and copyright cases without regard to the amount in controversy in actions at law. The original bill recognized that. That is amended by the committee. They thought that cases involving the construction and validity of patents or of copyrights should fare no better than other cases, that they should be governed by the amount in controversy as to the right to go to the final appellate tribunal. If the amount involved is $10,000, of course there is an appeal to the Supreme Court. The committee were not unanimous on the subject, but a majority of the committee were of opinion that patent-right and copyright cases should not fare as they have done heretofore, better than others, and go to the Supreme Court without regard to the amount in controversy. There has been a great deal of complaint in that respect throughout the country. There seems to be no reason why those cases should be considered by the Supreme Court without regard to the amount in controversy, whereas a matter

involving the property of A B or of C D cannot go there unless at least $5,000 be involved.

The amount now is $5,000; nothing is appealable to the Supreme Court under $5,000 in ordinary cases; but cases involving the construction or the validity of patents and copyrights are excepted from that rule. The majority of the committee were of opinion that they should not be so excepted, that they ought to fare the same as other cases. That is the reason of the amendment.

It is proper probably for me to say that in introducing this bill I recognized that these cases should be heard without regard to the amount in controversy, but the Judiciary Committee overruled me in that particular.

Mr. PLATT. There are certain other cases besides patent-right cases and copyright cases, in which the Supreme Court has jurisdiction without reference to the sum involved.

Mr. DAVIS, of Illinois. That is so as to revenue cases.

Mr. PLATT. The jurisdiction of the Supreme Court is still preserved in those cases by this bill.

Mr. DAVIS, of Illinois. They are altogether cases in which the Government is concerned.

Mr. PLATT. With great deference to the Committee on the Judiciary I wish to make this suggestion: as was said by the Senator from Illinois yesterday, the principal objection which has been urged to this bill and which had most force in his mind is that there may be different decisions in the different courts of appeal throughout the country and that there may be confusion arising from that fact. Now, does not the Senator think that patent-right cases are precisely the cases in which confusion is most likely to arise by reason of different decisions in different circuits throughout the country?

Mr. GARLAND. As was stated by the Senator from Illinois, the committee was not unanimous in this view of the matter, and for one I am very much disposed to favor the view of the Senator from Connecticut. I wish to put the Senate exactly in possession of the ideas that occur to me, and that occurred to the committee as I recollect.

One great difficulty in patent and copyright cases, when you come to speak of the amount, is how you are going to find out the amount in controversy exactly, because the very contest itself is always predicated upon a doubtful state of the case as to the result. It would be impossible in many instances to make an estimate really of what is in controversy in a contest of this character. I was disposed for one for that reason to leave the jurisdiction untrammeled so far as the amount is concerned in patent and copyright cases.

Then there is another reason which occurs to me. In effect the Government granting the patent or copyright is a party to the suit, and she has never been trammeled in her legislation in reference to any amount she shall litigate.

I shall not object, for one, to this amendment going out; but yet, as stated by the Senator from Illinois, a majority of the committee thought it was best to put the jurisdiction, as in other cases, upon the amount actually involved, though really it is very difficult, in nine cases out of ten, to tell what is the amount involved.

Mr. HAWLEY. I wish to supplement the remarks made by my colleague by saying that he is unquestionably right, and I wish he had enforced his view with more vigor, because he is familiar with the practice of patent law. He is unquestionably right in saying that there is great importance in this question in having a uniform rule throughout the United States, and that very serious embarrassments and a multiplication of litigation is apt to come from contradictory decisions in different courts of appeals. So that his suggestion looks to the prevention of litigation. There should be an appeal to one central tribunal, where the lawfulness of a patent may be established once for all. Under any other system there may be half a dozen conflicting decisions, and the patentee then does not know what his rights are. He is either involved in litigation all over the country or he has to abandon a right guaranteed to him by the laws of the United States.

Now, as to the matter in controversy, there are a multitude of patents in which the royalty obtained by the patentee is perhaps five or ten or fifteen or twenty or fifty cents. He is threatened by trespassers, and brings a suit. He brings a suit according to the damage in that particular case. He may bring it upon one article, perhaps, or fifty or one hundred. The same trespassers manufacture a thousand articles, we will say. The damage to the patentee is only $100 in such a case. There are very few patents where the royalty runs up to $100, or $500, or $1,000, or $5,000, so that it is next to impossible ever to get a case in the Supreme Court and get this much desired uniformity of ruling throughout the country under this bill as the committee have brought it before us now.

The Senator from Massachusetts [Mr. DAWES] suggests to me that the matter in controversy is not the number of dollars involved in that particular suit with John Doe, but the existence and validity of a patent which may be worth a million dollars, or may be worth $50,000, nobody knows what.

Mr. PLATT. May I interrupt my colleague?

Mr. HAWLEY. Certainly.

Mr. PLATT. The practice now is largely in this way, not that a suit is brought at law to recover damages for the infringement of a patent, but an injunction suit is brought to determine the validity of the patent. The value of the patent may be $50,000. The petition for an injunction is brought to test the validity of that patent, and very often the damages are merely nominal, and in that case are agreed to be nominal; there never is really any reference to a master to ascertain the amount of damages; so that in the most valuable patent under the practice as it exists to-day the matter in dispute in one view of it might be but a dollar.

Mr. HAWLEY. I sincerely hope the Senate will concur in—I had almost said the suggestion of the two members of the Judiciary Committee rejecting the amendment and leaving the original bill as it was, in which case the court of appeals can certify that a question is involved of sufficient importance to render it proper that the final decision shall be made by the Supreme Court. I think that would be just, and would satisfy every reasonable interest.

Mr. HOAR. Mr. President, I had thought of proposing an amendment to this bill which would answer to some extent the point made by the Senator from Connecticut; but my dislike to meddle with a measure which has been so carefully framed by so distinguished a lawyer and so distinguished a jurist as the gentleman who has this bill in charge made me desist. But it seems to me that this system would be very much improved by a clause in the bill which would authorize the carrying up of questions to the Supreme Court of the United States, when the court of final resort in any two circuits had differed, so that the permanent rule of law established by the circuit court differed in different circuits, that there might be some general provision which in all cases would enable us to have the security of uniformity in the administration of certainly the Federal laws, like the patent law, in all the districts, or the commercial law so far as it is administered by the Supreme Court of the United States. And if this bill remains before the Senate for some time, I wish the honorable Senator who has it in charge would reflect upon the question whether that cannot be provided for a little more than it is now. That would answer the point of the Senator from Connecticut in regard to patent cases.

Mr. HAWLEY. But I submit that the rejection of this amendment would answer it very much better. The suggestion of the Senator from Massachusetts would seem to intimate that in order to justify a man's patent, to defend it successfully, he should be required to go through two suits.

Mr. HOAR. No; not of the particular patent.

Mr. DAVIS, of Illinois. To answer my friend from Massachusetts, I do not apprehend that there will ever be any difficulty in relation to different decisions in the different courts. They know very well what is decided; they compare views together as is done by the intermediate courts that have been established in the several States. I have no objection to any provision such as the Senator from Massachusetts suggests. If the general scheme of the bill is correct, the bill was thought to be by the chairman of the Judiciary Committee, who did not want any bill at all on the subject, as perfect as it could be made.

I appreciate what has been said by the Senator from Connecticut on the subject of patents and copyrights. Of course, unless the appellate tribunal where there was a difficult question should certify it to the Supreme Court, there would be very many questions arising in patent cases that could not be got to the Supreme Court at all under the limitation of $10,000. There is no doubt of that. There is one argument in favor of cases involving the construction or validity of a patent, or a copyright, being appealed to the Supreme Court, which is this: the United States is the grantor; and on that account the Senator from Arkansas, who was directed to report this bill, and some others of the committee, thought that this amendment ought not to be made, but a majority of the committee agreed to it, and those gentlemen will give their views on the subject. Of course we ask that the bill shall be adopted as it is, but if this question comes up separately individual action is free.

Mr. INGALLS. Mr. President, without questioning the propriety of what is in common language called giving the amendment away by the Senator who has charge of this bill, and who announces that although the majority of the committee concurred in the amendment, yet really upon the whole he is disposed to think that perhaps it might as well be abandoned, in which he is joined by the Senator from Arkansas, who adds the force of his great example to the illustrious precept of the Senator from Illinois——

Mr. DAVIS, of Illinois. The Senator from Arkansas has charge of the bill. He reported it.

Mr. INGALLS. The Senator from Illinois introduced it and made the principal speech upon it.

Mr. DAVIS, of Illinois. The Senator from Arkansas reported it.

Mr. INGALLS. The Senator from Illinois is the author and promoter and finisher, if I may so say, of the scheme. But passing that, I wish to ask what there is of peculiar sanctity, what there is of peculiar qualification about a suit for the infringement of a patent right or a copyright that separates it from any other property which may be the subject of litigation? A patent right of course is to a certain extent an impalpable and imponderable thing; it is something that is a direct emanation from the intellect; and the same may be said of a copyright which an author obtains for the production of his brain in the way of a book, or a poem, or a piece of music; but that does not in law separate it from any other property that is tangible and ponderable, that can be weighed and measured and divided and apprehended by the senses.

The majority of the committee were unable to see what reason there was in view of the enormous embarrassment, the complication, the burdens upon industry that are inflicted by the continual multiplication of patents and the vexations attending their enforcement and the attempts to evade their infringement, that rendered it desirable or proper that suits for the infringement of patent rights and copyrights should be segregated from the great mass of litigation that is brought to enforce rights in courts of justice; and I have yet to hear an argument presented by either of the Senators from Connecticut who oppose this amendment, or by the Senator from Illinois or the Senator from Arkansas who give away the amendment, that is in any sense whatever a justification of the course that is proposed.

I hope, sir, before this matter is passed upon, in view of the weight that has been given to this, what may be called backing down on the part of the most prominent members of the committee, that we shall hear some argument advanced, some justification why a man who owns a patent right or a man who owns a copyright should not be subjected to the same rules of law that govern the man who owns a horse, or a case of boots, or any other article of property that may be a subject of litigation.

As a matter of fact this whole question of patent right and copyright is surrounded by too many complications already. There is an attempt on the part of law-makers and legislators to protect these men who are laying burdens upon the industry and upon the development of the industrial resources of this country, and when it is seriously urged here that there is something peculiarly sacred, sacrosanct, about a patent right or a copyright as differing from any other species of property, I hope the Senate will pause before they fall in in consequence of the suggestions made by the Senators from Illinois and Arkansas. I hope certainly they will not do it without some reasons being presented or some argument being offered why it is necessary that this class of property owners should be protected by some peculiar guardianship of a statute like this which is now before the Senate.

Mr. PLATT. May I ask the Senator from Kansas what he understands by this section 10 as to the question of whether if it passes with the amendment a patent-right case may go to the Supreme Court of the United States upon a certification "that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court?"

Mr. INGALLS. That is what we agreed to strike out.

Mr. PLATT. But I find in section 10 from line 9 onward that appeals may be had to the Supreme Court of the United States "where the matter in controversy exceeds the sum or value of $10,000, exclusive of costs, or where the adjudication involves a question upon the construction of the Constitution or the construction or the validity of a treaty or a law of the United States, or where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court."

I had supposed that the effect of this amendment was that that provision should not apply in a patent case, so that instead of any efforts here to give patent cases an advantage which other cases do not possess, it was the effort of the committee to put them in a different category from that of other property. That is what I understood. I do not know but that the Senator understands the construction of it to be different.

Mr. DAVIS, of Illinois. Oh, no; that is not the meaning at all. The language—

Where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court—

applies to the cases of patents as well as others.

Mr. INGALLS. There is no discrimination against patents and copyrights.

Mr. PLATT. But the committee, in striking out the clause proposed by this amendment to be put out, strikes out a provision that "the court of appeals shall certify that a question is involved of sufficient importance to render it proper that the final decision thereof should be made by the Supreme Court." Under the bill as it stood no patent case could go to the Supreme Court unless the court of appeals certified that a question of sufficient importance was involved to take it there. That has been stricken out, for what purpose I do not know.

Mr. DAVIS, of Illinois. The purpose was this: in patent right and copyright cases in equity a review may be had without regard to the sum or value in dispute of the questions both of law and fact. We are making a new law. The court of appeals is to be the final judge of the facts entirely; it finds the facts, and upon that finding, as the original bill was, an appeal might be had to the Supreme Court without regard to the amount in controversy, provided "that the court of appeals shall certify that a question is involved of sufficient importance to render it proper;" so that a frivolous case should not go there. But the committee decided to strike that out, and provide that the laws as they now exist with reference to cases that may go before the Supreme Court without regard to the amount in controversy shall continue, except in patent and copyright cases; and those shall not go without regard to that amount. That is the amendment.

Mr. HAWLEY. The Senator from Kansas perhaps forgets—he appears to—that the wisdom of our patent laws and our system on that subject has been established and justified by the legislation and practice of the country for some eighty or ninety years. I think it is rather late now to argue that it is not well to give patents for inventions.

Mr. INGALLS. I did not say so.

Mr. HAWLEY. I thought the Senator did; I thought he seemed to intimate that on the whole it was doubtful whether our patent system was wise.

Mr. INGALLS. I think its administration is exceedingly injurious and burdensome, and that it requires very important revisions.

Mr. HAWLEY. He made this remark: "In view of the burdens patents imposed." I do not know what burdens they impose particularly. If a valuable improvement be made, no citizen need buy it unless he can make money by buying it. If there be an improvement in reapers, in a mowing-machine, in any one of the ten thousand fields of industry, no citizen of the United States is under any obligation or necessity to impose upon himself any burden whatever, but he looks at the new machine, he sees it costs perhaps fifty cents more than the old one, and that it is a great improvement, and that he can make the fifty cents in a week or a day or an hour, perhaps, and he buys it. I do not see where the burden comes in there. After a certain limited time the patent becomes common property and the country is benefited.

So during these ninety years invention after invention has been heaped in and heaped into the common fund of the wealth of this country, until our extraordinary, our marvelous progress in manufactures and in agriculture is due very largely to the great ingenuity of our people. We have a better patent system than they have in any other country, one better devised, and one cheaper, so that the poor mechanic can get a patent for $25 or $50 expense. The upshot of it has been an enormous benefit to the country.

The Senator asks why they should have peculiar privileges. Sir, we are not asking for peculiar privileges; we are only asking for the common privilege of having a patent granted by the United States decided in the highest court of appeal. The Senator sees perfectly well how impossible it is in advance to state precisely the value of the matter in controversy, a mere song we may say, and yet there have been mere songs of four, six, or eight lines that have brought a man fifty or one hundred thousand dollars.

There was no burden imposed on the community; nobody was required to pay for a copy of that song; but yet it was so fascinating to the general popular ear that the people bought it by the millions, and the penny apiece that went to the writer made him a fortune. Suppose a suit arises, suppose an injunction is sought against a rival publisher in a matter of a mere song, how are we to say that there are $10,000 involved?

Mr. INGALLS. Unless we can, why should we say that he shall have the right to go to the Supreme Court any more than the man who owns a horse worth $100, or a grindstone worth fifty cents?

Mr. HAWLEY. I do not say in advance that he should have the right to go to the Supreme Court, but I say the original draft of this bill was just and right in saying:

Provided, That the court of appeals shall certify that a question is involved of sufficient importance to render it proper that the final decision thereof should be made by the Supreme Court.

Mr. INGALLS. The Senator does not seem to be aware that that right exists now under this bill with this clause stricken out.

Mr. HAWLEY. I doubt very much whether it does.

Mr. INGALLS. It was the intention of the committee to have it so, and if not we shall be glad to insert it. The Senator will observe the previous provision, that a question of law in a patent and copyright case can be reserved as well as in any other case.

Mr. HAWLEY. The phrase referred to by the Senator is this:

Or where the adjudication involves a question upon the construction of the Constitution—

Which would hardly arise in the case of the song I speak of—

or the construction or the validity of a treaty—

Certainly not there—

or a law of the United States—

The case I suppose touches the validity of a law of the United States, or its construction—

or where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court.

Mr. McMILLAN. That is it.

Mr. HAWLEY. They can in that case go to the Supreme Court?

Mr. INGALLS. They can, irrespective of value.

Mr. McMILLAN. If the Senator from Connecticut will recur to the clause in the original bill stricken out here, he will see that it refers to the review of patent and copyright cases both upon questions of law and of fact; so that if the certificate is made that there are questions involved of importance it takes to the Supreme Court questions both of law and of fact, and makes the Supreme Court a court of review as to both fact and law. In other cases the court of appeals decide the questions of fact, and their decision is conclusive.

Mr. HOAR. The Senator does not quite state it, I think. As the

bill is with the clause stricken out to which the Senator refers, as the bill is left by the committee, the question must be certified by the lower court to be of sufficient importance to warrant its revision by the Supreme Court. In that case, though there may be twenty questions of law in the case, only that one question of law so certified goes up, leaving all the other questions of law as well as the questions of fact settled. In the cases provided for by the clause stricken out, if the court of appeals say that there is one question in the case of sufficient importance to be revised, the Supreme Court have not only got to revise that question, but have got to revise the whole law and facts of the case.

Mr. MCMILLAN. That is the difference. So far as the report of the committee is concerned, it seems to me that the bill as a whole must be taken as the report of the committee, and that if the committee, or any member of the committee, have abandoned a portion of it, it leaves the whole bill without any report from the committee sustaining it, because so far as I am concerned my vote in favor of this bill was given as it is amended, and if any portion of it is to be abandoned I shall feel at liberty to vote as I please in regard to the whole bill.

Mr. DAVIS, of Illinois. The bill is of no more concern to me than it is to anybody else, but if the Senator supposes that I have abandoned it he is mistaken. That I was originally in favor of the clause now proposed to be changed is very evident, because I introduced the bill in that shape; but I intend to support the bill as it was reported.

Mr. MCMILLAN. I was not in the Chamber when the Senator from Illinois' remarks were made upon which the Senator from Kansas made his remarks, but if the Senator from Kansas is correct, and any of the members of the committee have abandoned the report so far as this amendment is concerned, and this amendment be not sustained by the Senate, I shall feel at liberty to vote as I please on the final passage of the bill.

Several Senators addressed the Chair.

Mr. HAWLEY. I did not intend to abandon the floor; and if gentlemen will allow me a moment longer, I shall be through. I was interrupted by Senators making inquiries. I am willing to accept the favorable construction suggested by the Senator from Kansas and the Senators from Minnesota, and I trust that the bill will be found no more mischievous than they intimate in their explanation; but I confess that I am a little suspicious when I find the distinguished Senator who has just spoken saying that if this amendment in italics shall be rejected by the Senate he will feel at liberty to oppose the whole bill, a bill of vast national importance, organizing a court of appeals, greatly needed; and yet he says this amendment is of no particular consequence so far as my point is concerned, but if it is lost he will be at liberty to oppose the whole bill.

Mr. MCMILLAN. The Senator will permit me to suggest in this connection that this very amendment affects materially the power of the court of appeals and the power of the Supreme Court as organized under this bill. That is the reason why it affects my action on the bill.

Mr. HAWLEY. I very much prefer the bill as offered by the Senator from Illinois.

Mr. BUTLER. It is perfectly obvious that we shall not be able to get through with this bill this evening, and if the Senator in charge of it will permit, I should like now to present two amendments to the bill and have them printed, so that they can be considered to-morrow morning. The Senator from Alabama has suggested a very important amendment, in fact has suggested another bill as a substitute for the bill under consideration. It seems to me that it would be very proper that the Senate should have the benefit of that amendment, and I should like very much before the amendments of the committee have been disposed of to give notice of these amendments of mine and have them printed, and then move an adjournment.

The PRESIDING OFFICER. The amendments may be received informally and be ordered to be printed.

Mr. BUTLER. Mr. President——

Mr. HOAR. Will the Senator from South Carolina allow me to say to him, before he moves an adjournment, that I desire to ask a favor of the Senate.

Mr. BUTLER. I certainly shall not press the motion now. If it is agreeable to the Senator from Arkansas, I will offer these amendments with a view of having them printed after they are read.

The PRESIDING OFFICER. The proposed amendments will be read and then ordered to be printed.

Mr. VEST. I suggest to the Senator from South Carolina that I have an amendment which I shall ask to have printed.

Mr. BUTLER. I should like to have my proposed amendments read.

The PRESIDING OFFICER. The amendments will be read by the Secretary.

The ACTING SECRETARY. The Senator from South Carolina proposes the following amendment:

The circuit judges (the present incumbents in office and those to be appointed under this bill) shall succeed each other in rotation on the courts of appeals herein provided for in the nine circuits as now organized; and the Supreme Court of the United States shall make the necessary rules and regulations to effectuate such rotation, but no circuit judge shall serve longer than twelve months consecutively in any circuit.

Mr. BUTLER. I desire that to come in at the end of section 3 as a part of that section. Then I propose an additional section to come in at the end of the bill, which I hope will now be read.

The Acting Secretary read as follows:

SEC. —. That after the establishment of the courts of appeal herein provided for, there shall be no additional appointments to the Supreme Court of the United States until the number of said Supreme Court shall be reduced to six members.

The PRESIDING OFFICER. These proposed amendments will be ordered to be printed.

Mr. VEST. I submit the amendment which I send to the desk to be read.

The ACTING SECRETARY. At the end of section 3 it is proposed to add:

Provided, That no circuit or district judge before whom a cause or question may have been tried or heard in the district court shall sit on the trial or hearing of such cause or question in the court hereby created, and the places of such judge or judges so disqualified shall be filled by the other judges then present, as hereinbefore provided in cases of absence.

Mr. HOAR. I desire to ask unanimous consent of the Senate to lay aside the pending measure for a moment for the passage of a bill. The Secretary of War has sent to the Senate a communication indicating that Plymouth Harbor, in the State of Massachusetts, is in danger of immediate destruction by the carrying away of some works in that harbor, and suggesting an appropriation of $14,000 to be immediately available, for the purpose of saving the harbor. I ask that the bill may be read and the letter from the Secretary of War. The whole case is very brief and very plain. I desire to have the bill passed and sent to the House.

Mr. GARLAND. Before that is taken up, I wish to say that I have no objection to the suggestion of the Senator from South Carolina to have the various amendments which he offers and also that of the Senator from Missouri printed. I should like any other Senator who has an amendment to offer to present it now, so that it may be printed.

Mr. CALL. I submit an amendment.

The PRESIDING OFFICER. The amendment will be read and ordered to be printed.

The ACTING SECRETARY. The amendment proposed by the Senator from Florida [Mr. CALL] is, in section 8, [9,] to strike out, after the word "cases," in line 6, to the word "judge," in line 9.

Mr. GARLAND. I am willing now that this order of business shall be laid aside informally for the purpose indicated by the Senator from Massachusetts.

The PRESIDING OFFICER. The Chair hears no objection, and it will be laid aside informally. Is there objection to considering the bill of the Senator from Massachusetts?

Mr. INGALLS. Is it reported from any committee?

Mr. HOAR. After the bill has been read for information I will state the point.

The PRESIDING OFFICER. The bill will be read for information.

PLYMOUTH HARBOR.

Mr. HOAR asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1820) for the protection of Plymouth Harbor, Massachusetts; which was read the first time by its title and the second time at length.

Mr. HOAR. The Secretary of War has sent in a communication to which my attention and that of my colleague has been called by the chairman of the Committee on Commerce. Long Beach, in Plymouth Harbor, is a very long strip of land nearly invisible at high water, but which furnishes the entire protection to that harbor. That beach is protected in its turn by an old work partly of rubble and partly of wood. That has been carried away by a violent storm, and the danger, according to the Secretary of War and the report of the engineer, is that the whole harbor will be destroyed unless this little sum can be appropriated and expended at once. I ask for the reading of the Secretary's letter. The bill has not been before the committee, but the chairman of the committee and the Senator from Michigan of the committee have had their attention called to it. I ask for the reading of the letter of the head of the War Department.

The Acting Secretary read as follows:

WAR DEPARTMENT,
Washington City, April 7, 1882.

SIR: I have the honor to inclose herewith a letter from the Chief of Engineers of the 5th instant, and accompanying copy of one from Colonel George Thom, Corps of Engineers, reporting serious damage to the work of the United States for the protection of the outer end of Long Beach, Plymouth Harbor, Massachusetts.

It is represented that the preservation of this harbor depends entirely upon the maintenance of Long Beach, and any action of the sea thereon likely to seriously injure it should be at once arrested.

The cost of the required protection is estimated at $14,000, and an appropriation by Congress of which amount is respectfully recommended.

Very respectfully,

ROBERT T. LINCOLN,
Secretary of War.

Hon. S. J. R. MCMILLAN,
Chairman Committee on Commerce, United States Senate.

Mr. HOAR. Now read the accompanying report from the engineers.

The Acting Secretary read as follows:

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., April 5, 1882.

SIR: I beg leave to submit the inclosed copies of a letter dated March 30, from Colonel George Thom, Corps of Engineers, reporting serious damage to the work of the United States for the protection of the outer end of Long Beach, Plymouth Harbor, Massachusetts.

The preservation of this harbor depends entirely upon the maintenance of Long Beach, and any action of the sea thereon likely to seriously injure it should be at once arrested. I have accordingly to recommend that the subject be brought to the attention of the Committees on Commerce of the Senate and House of Representatives through their respective presiding officers.

The estimated cost of the required protection is $14,000.

Very respectfully, your obedient servant,

H. G. WRIGHT,
Chief of Engineers, Brigadier and Brevet Major-General.

Hon. ROBERT T. LINCOLN, *Secretary of War.*

UNITED STATES ENGINEER OFFICE,
Portland, Maine, March 30, 1882.

GENERAL: I have the honor to report that owing to the several storms that have occurred during the past winter, and more especially the *unusually* severe storms that occurred on the 22d of February, and on the 17th and 18th of March, much damage has been done to the Government works built for the protection and preservation of the outer (northern) end of Long Beach. This damage has been for the most part sustained by the crib-work, bulkhead, and jetties, (some of which were built about fifteen years ago,) which have become rotten and broken up, and in consequence the beach has been much abraided and weakened to an extent greatly endangering its preservation.

Long Beach is a narrow strip of land that extends about two and three-quarter miles out from the main land in a northwesterly direction, nearly parallel to the shore of the town of Plymouth, Massachusetts, and distant from it about one mile, and affords to the harbor its only protection from easterly storms, so that the existence of the harbor depends entirely upon the protection and preservation of this beach.

The works hitherto built for this purpose by the United States Government have consisted of wooden bulkheads of various forms and jetties which fully answered the purpose for which they were intended up to the present time, except on the outer (northern) extremity of Long Beach, where it is the most exposed to storms. During the past few years this perishable crib-work has (in part) been replaced by a rubble-stone bulkhead and jetties, in view of their probable early destruction. Owing to the present condition of these wooden bulkheads and jetties, it has become necessary, in my opinion, to continue the stone bulkhead along the western shore of Long Beach for an additional distance of 1,000 feet, so as to protect in a more permanent manner this the present weakest portion of that beach. It is, moreover, highly important that this work should be built at once, to prevent the further destruction of the beach to which it is now much exposed.

This work would require about 5,000 tons of rubble-stone, (large and small,) the estimated cost of which placed in position is, at $2.50 per ton, $12,500; adding for engineering and other contingent expenses, say $1,500—total, $14,000.

I would respectfully recommend that the attention of Congress be called to this matter, in order that provision may be made for completing this work as soon as practicable.

Very respectfully, your obedient servant,

GEO. THOM,
Colonel of Engineers, Bvt. Brig. Gen., U. S. A.

Brig. Gen. H. G. WRIGHT,
Chief of Engineers, U. S. Army, Washington, D. C.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

Mr. PLUMB. I object.

Mr. HOAR. Why?

Mr. PLUMB. I will state my ground. If one river and harbor is a bad thing, as we have been told, I think thirty or forty are so much worse. This has remained one month awaiting the slow arrival of the War Department at some conclusion about its necessity; it can wait twenty-four hours, until the proper committee of this body can examine it. At all events it cannot pass now, if one objection will carry it over.

Mr. HOAR. If my honorable friend from Kansas will permit me to make a statement, this harbor which has so much of interesting historical associations, to say nothing else, is a very important harbor of refuge for vessels bound to the port of Boston. They run in there frequently in great storms. Its final destruction occurred in the storm of the 17th of March, only a short time since.

Mr. PLUMB. About six weeks ago.

Mr. HOAR. The chief officer who makes this report desires that the appropriation be made at once. A personal examination of the harbor has been made and of the estimate of the engineer, and now this comes in, by special message, from the Secretary of War. It is called to our attention by the chairman of the Committee on Commerce, who called the attention of the Massachusetts Senators to it. The bill has the support of the members of the Committee on Commerce who have seen the bill. I hope my friend will permit it to go through, and not require the Senate to go over it again. It is a very small sum.

Mr. VEST. I should like very much to say a word. I think the precedent is certainly objectionable. I am a member of the Committee on Commerce, and I never heard of this bill until it was introduced here. I understand the chairman and the Senator from Michigan saw it, but that is not the way to do committee work. I do not know but what the bill is all right.

Mr. McMILLAN. The Senator from Missouri will permit me to interrupt him for a moment. This communication from the Secretary of War was made on the motion of the Department, sent to the Committee on Commerce, and was laid before the committee by the chairman, and the direction was given that the papers be communicated to the Senators from Massachusetts that they might be advised what course to take.

Mr. VEST. I understand that, but this bill has never been before the committee.

Mr. McMILLAN. No, sir; the bill was never before the committee.

Mr. COCKRELL. The report was made on the 7th of April.

Mr. RANSOM. I suggest to the Senator from Massachusetts to have the bill referred to the Committee on Commerce. I favor the bill from what I have heard of it, but at the same time it ought to be referred.

Mr. McMILLAN. If the Senator from Massachusetts will have the bill referred, it can be considered on Thursday morning when the committee meets.

Mr. PLUMB. The letter of the Secretary of War has been in the hands of the chairman of the committee almost four weeks, and I think after the committee have had this communication for four weeks without acting on it, it is rather trenching on the Senate to ask it to act on it in a few minutes.

Mr. HOAR. Let the matter be referred.

The bill was referred to the Committee on Commerce.

Mr. BUTLER. Our friends are evidently becoming very much excited, and, in the interest of peace, I move that the Senate adjourn.

The PRESIDING OFFICER. Before putting the motion to adjourn the Chair will lay before the Senate a bill from the House of Representatives.

HOUSE BILL REFERRED.

The bill (H. R. No. 880) to provide for the erection of a public building in the city of Hannibal, in the State of Missouri, was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

The PRESIDING OFFICER. The bill to establish a court of appeals being before the Senate as the unfinished business, the Senator from South Carolina moves that the Senate adjourn.

The motion was agreed to; and (at four o'clock and fifty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 2, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings having been partly read,

Mr. SINGLETON, of Illinois, said: I ask unanimous consent that the further reading of the Journal be dispensed with. It is simply a repetition to the end; and nobody listens to it.

There being no objection, the further reading of the Journal was dispensed with.

The Journal was then approved.

PUBLIC BUILDING, QUINCY, ILLINOIS.

Mr. SINGLETON, of Illinois. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4176) for the erection of a public building at Quincy, Illinois, and that the same be now put on its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected thereon, a suitable building, with fire-proof vaults therein, for the accommodation of the post-office, United States courts, custom-house, bonded warehouse, internal-revenue offices, and other Government offices, at the city of Quincy, Illinois. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for the site and building complete the sum of $175,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than forty feet, including streets and alleys; and no money appropriated for this purpose shall be available until a valid title to the site for said building shall be vested in the United States, nor until the State of Illinois shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owners thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. HASKELL. I do not think we ought to take up by unanimous consent bills for public buildings.

Mr. SINGLETON, of Illinois. I hope the gentleman will not object.

Mr. HASKELL. I think the House is now too thin to take up a bill of this kind. Nobody knows anything about it.

Mr. SINGLETON, of Illinois. This bill is in precisely the same form as the other bills for public buildings which have been passed by the House. The committee adopted a form, and has not varied from it in any bill reported.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BURROWS, of Michigan. Can we not hear the report read, the right to object being reserved?

The SPEAKER. The right to object will be reserved until the report has been read.

The Clerk read as follows:

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 218) for the erection of a public building at Quincy, Illinois, beg leave to report that they have had the same under consideration, and report in lieu thereof the substitute herewith presented.

They find that Quincy is a growing and prosperous city, located in the midst of the most densely populated, fertile, and productive portions of the State of Illinois, and is widely known as one of the most beautiful and promising cities of the West, admired by all for the solidity, permanence, and attractiveness of its improvements. It contains within its present confined limits 30,000 inhabitants, besides a large suburban population doing business in said city.

The city of Quincy is penetrated by the following lines of railroad: the Chicago, Burlington and Quincy; the Quincy, Carthage and Burlington; the Quincy, Alton and Saint Louis; the Quincy, Missouri and Pacific; the Keokuk, Quincy and Saint Louis; the Wabash, Saint Louis and Pacific, and the Hannibal and Saint Joseph, making in all seven railroads.

The products of the shops, mills, foundries, machine-shops, and other manufacturing establishments within the boundaries of said city amounted, during the year 1881, to a fraction less than $15,000,000. Its jobbing sales of foreign and domestic goods (other than such as were manufactured in the city) amounted for the same year to $14,745,000. The revenue paid to the Government of the United States during the same period amounted to $1,188,669.13. The annual rental for post-office and other necessary offices is $2,500.

While a less sum than that asked for by the bill might serve the purposes of to-day, and accommodate the present population and business, we must bear in mind that such a city as Quincy has an assured future increase of population and business, and it is a wise economy, fully proven by experience, that in providing buildings for the use and convenience of the Government, the probable future population and prospective wants of new and growing cities is entitled to consideration and weight [illegible] that in meeting a present want we may anticipate and provide for a not distant future necessity.

The committee recommend the passage of the substitute herewith presented.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. HOLMAN. In view of the policy adopted yesterday, I will not object to this bill coming before the House, but I shall insist upon a vote on the passage of the bill.

There being no objection, the Committee of the Whole House on the state of the Union was discharged from the further consideration of the bill; which was ordered to be engrossed for a third reading, and was accordingly read the third time.

The question being taken on the passage of the bill, there were—ayes 79, noes 7; no quorum voting.

Mr. HOLMAN. I think a quorum should vote on a bill of this kind.

Tellers were ordered; and Mr. SINGLETON, of Illinois, and Mr. HOLMAN were appointed.

The House divided; and the tellers reported—ayes 140, noes 12.

So the bill was passed.

Mr. SINGLETON, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. SCRANTON. Mr. Speaker, I move that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4178) to authorize the purchase of a site and the erection of a suitable building for a post-office and other Government offices in the city of Scranton, Pennsylvania, and that it be put on its passage at this time.

Mr. RANDALL. I demand the regular order of business.

Mr. PAGE. Let me appeal to the gentleman from Pennsylvania to withdraw his demand for the regular order of business so I may call up the Senate amendments to the Chinese bill. It will not take but a moment, as the amendments have all been printed. I shall move concurrence in all the Senate amendments.

The SPEAKER. The regular order has been demanded.

Mr. PAGE. I hope it will not be insisted on. It will not take a moment to concur in the amendments of the Senate to the Chinese bill.

Mr. RANDALL. I withdraw my demand for the regular order for that purpose, and that only, and shall renew the demand as soon as it is disposed of.

The SPEAKER. The gentleman from Pennsylvania withdraws the demand for the regular order, and the Chair recognizes the gentleman from California for the purpose of calling up the amendments of the Senate to the Chinese bill.

Mr. O'NEILL. Mr. Speaker, my colleague [Mr. SCRANTON] has the floor, and his bill should be first disposed of.

The SPEAKER. The regular order was called against that bill.

Mr. PAGE. The gentleman from Pennsylvania demanded the regular order, but afterward yielded to me to call up for concurrence the Senate amendments to the Chinese bill.

Mr. O'NEILL. I ask my colleague from the third district to withdraw his demand for the regular order, so my other colleague [Mr. SCRANTON] may proceed with the consideration of his bill for the erection of a public building in the city of Scranton, Pennsylvania.

Mr. VAN VOORHIS. I rise to a point of order.

Mr. BRIGGS. Mr. Speaker, it is time to stop these unanimous consents, unless there can be some fairness in the recognition of individuals.

The SPEAKER. Gentlemen will resume their seats.

Mr. HATCH. I rise to a parliamentary inquiry.

The SPEAKER. The House will come to order. The Chair will state to the gentleman from New Hampshire [Mr. BRIGGS] that the gentleman from Pennsylvania [Mr. SCRANTON] was first recognized, but the demand for the regular order of business took him off the floor.

Mr. HATCH. I ask whether the gentleman from Pennsylvania can object conditionally?

Mr. BRIGGS. I say that to permit the gentleman from California to proceed now would not be doing impartial and exact justice to other members, for he has been recognized frequently, while other members have not yet received a single recognition. Unless this favor of recognition can be more fairly and equally distributed I shall have to object to all of them.

The SPEAKER. The gentleman does not mean to intimate the Chair was not fair in his recognition?

Mr. BRIGGS. No, sir.

Mr. HATCH. I wish to know, Mr. Speaker, whether the gentleman demanding the regular order can withdraw that demand conditionally. I hold that when he withdraws his demand for the regular order the recognition is then with the Chair and not with the gentleman from Pennsylvania.

Mr. RANDALL. I withdrew my demand for the regular order, because I believed the public interest required the Senate amendments to the Chinese bill should be considered and disposed of, and the bill passed. I gave notice, however, that after that was done I would again call for the regular order of business. That was in no sense a condition.

The SPEAKER. The Chair will state that a conditional withdrawal could not be made; but when the demand for the regular order was withdrawn the gentleman gave notice that he would again call for the regular order as soon as the Chinese bill was disposed of. The Chair then recognized the gentleman from California. As the regular order is again demanded, the Chair will state that the morning hour begins for the reception of reports from committees.

Mr. PAGE. Mr. Speaker, I understand that the gentleman from Pennsylvania has withdrawn his demand so I may call up the Senate amendments to the Chinese bill.

The SPEAKER. But the Chair understands the gentleman from New Hampshire insists on the regular order.

Mr. BRIGGS. The gentleman from California has been recognized half a dozen times this session while others have not received a single recognition.

Mr. PAGE. I hope the gentleman from New Hampshire will not attempt to cut me off because the regular order was called on him. Yesterday the whole day was taken up in suspending the rules and passing bills for public buildings, all of which I agreed to. Now I ask to proceed to the consideration of some public business, and certainly no one here, I certainly never have, objected to any motion on this floor proceeding in the regular way by unanimous consent. This is an important public business, and I hope the gentleman will withdraw his demand. It will take but a moment to concur in the Senate amendments. I appeal to the gentleman from New Hampshire to withdraw his demand.

The SPEAKER. The Chair understands the gentleman from New Hampshire to decline to withdraw his demand for the regular order of business.

Mr. KASSON. As the regular order has been demanded, I now move to dispense with the morning hour so that the House may proceed with the consideration of the tariff-commission bill.

The House divided; and there were—ayes 104, noes 8.

So the motion was agreed to, two-thirds voting in favor thereof.

Mr. BLOUNT. I wish, Mr. Speaker, by unanimous consent to introduce a bill for reference at the request of my colleague, [Mr. BLACK.]

Mr. REED. And I wish to make a report.

Mr. ANDERSON. I would like to know from the gentleman from Iowa having in charge the tariff-commission bill if he can indicate how much time that tariff-commission bill will take before it is disposed of. I wish to call up for consideration the Agricultural Department bill.

Mr. KASSON. It has been agreed that the continuance of the debate shall not continue beyond three days. If a less time will do I will cheerfully avail myself of the opportunity to demand a vote.

Mr. REED. Cannot the gentleman move that all debate on the question shall be closed at a certain day, so we may have an end of it? I submit it stands now as an incubus to the consideration of all other public business.

PUBLIC BUILDING, HANNIBAL, MISSOURI.

The SPEAKER. The morning hour having been dispensed with, the bill (H. R. No. 880) to provide for the erection of a public building in the city of Hannibal, in the State of Missouri, comes up as the unfinished business, the pending question being on the passage of the bill.

Mr. HATCH. I demand the previous question on the passage of the bill.

Mr. CANNON. I desire to say a word before the previous question is demanded.

Mr. HATCH. I cannot yield for that purpose.

Mr. CANNON. I ask the House to vote down the demand for the previous question, because if members know the facts they certainly will not pass this bill. I only want five minutes.

Mr. HATCH. I will give the gentleman from Illinois five minutes after the previous question is ordered.

Mr. CANNON. Very well.

Mr. KASSON. I rise to a question of order. I made a motion to go into Committee of the Whole House on the state of the Union to consider further the tariff-commission bill, and discovered in the midst of the confusion that some question was raised about a previous order of the House. I do not understand that can be in order pending the motion which I have made to go into Committee of the Whole.

The SPEAKER. The Chair will state to the gentleman from Iowa that the motion to go into a Committee of the Whole was not entertained, for the reason that the regular order, which was demanded, takes precedence. The regular order is the bill referred to by the gentleman from Missouri. He now calls up the unfinished business, a bill which had been ordered to its third reading on a previous day, for final action. This bill has been ordered to be engrossed and read the third time, and the question now recurs on its passage. That is the first business in order at this time.

Mr. HATCH. I now demand the previous question on the passage of the bill.

The House divided; and there were—ayes 78, noes 3.

Mr. HOLMAN. No quorum has voted.

The SPEAKER. The Chair will appoint tellers.

Mr. HATCH and Mr. HOLMAN were appointed tellers.

The House again divided; but before announcing the result of the vote in the affirmative, Mr. HOLMAN stated that a quorum having voted he would withdraw the demand for a further count.

So the previous question was ordered.

Mr. HATCH. I yield now five minutes to the gentleman from Illinois, [Mr. CANNON.]

Mr. CANNON. I would like to have the attention of the House for a few moments. This is a bill for the erection of a public building at Hannibal, Missouri. I do not know whose district it is in. I only know from the report and from the revenues of the post-office there what is required and what we are asked to do. The report in this case is misleading, as I think I can show to the satisfaction of the House. There is no United States court held there.

I believe it is set out in the report that a revenue office is established at that point; and it is further stated that from the date of the passage of the internal-revenue laws the taxes collected at that place amount to in the neighborhood of some three or four millions of dollars. I have not time to read the report which sets forth these different facts, but I refer to it in a general way. It is also stated that in 1877 the postal revenues were $70,000, and a little over that for 1878 and 1879.

The facts are that in 1878, as I have here in a statement from the Sixth Auditor's office, the gross postal receipts in 1878 were only about $13,500; in 1879, $14,000; in 1880, $16,000; in 1881, $17,000; and to make these postal receipts as much as stated in the report, that is, to reach the gross amount of $70,000, they have to take in all the postal money-orders sold there for these years and count them as postal receipts. This letter of the Auditor to which I refer I will incorporate with my remarks, and gentlemen can see the statement for themselves. It is as follows:

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., April 24, 1882.

SIR: I have the honor to inform you that the gross revenue from postal receipts at Hannibal, Missouri, during the fiscal years named were as follows:

Year ended June 30, 1878	$13,514 68
Year ended June 30, 1879	14,369 63
Year ended June 30, 1880	16,227 97
Year ended June 30, 1881	17,168 96

Respectfully,

J. H. ELA, *Auditor.*

Hon. JOS. G. CANNON, *House of Representatives.*

Now, if Hannibal is entitled to a public building, if an expenditure for this purpose shall be made by this Congress, then every city like Decatur, in Illinois, and my own city of Danville, Illinois, and quite generally all the cities in the United States of from six to twelve thousand inhabitants would be entitled to public buildings, and many of them would be clamorous for their erection. We are extravagant enough in the construction of public buildings. Towns that ought to have them, where the public necessities justify the expenditure, certainly deserve consideration; and places where large revenues are collected, where the courts of the United States are held, should be considered in making provision for their accommodation. But I do not believe we are justified in constructing public buildings to accommodate post-offices where the annual gross revenues only amount to $17,000.

Generally I will vote where a United States court is held to erect a public building. The proposed cost of this building is $75,000, and the rent that the Government now pays at Hannibal amounts to only $400 a year. The clerk hire in the post office there amounts to about $2,500 per annum, about the same amount that is paid in other towns of from six to ten thousand people.

Now, Mr. Speaker, this is not a question of the welfare of the gentleman from Missouri, if it is in his district; nor is it a question of my welfare, if such a building were proposed in my district; nor is it a question of the welfare of the few people who are to be benefited by it, but it is a question of whether we can afford to embark upon a policy that will spend millions from the public Treasury where there is no sufficient public return for it, and where a suitable building for the post-office can be leased at a moderate price.

[Here the hammer fell.]

Mr. HATCH. Mr. Speaker, I am satisfied the gentleman from Illinois has not taken the pains to acquaint himself fully with the facts to which he invites attention, or he would not have made the statement which he has made on this floor to-day with reference to the public business at Hannibal, Missouri.

The gentleman from Illinois lives about one hundred and twenty-five or one hundred and forty miles east of Hannibal, and ought to have known enough about that section of the country in which he lives to have prevented him from making any such statement. The gentleman has read extracts from a report that was made two years ago. The city of Hannibal is not as large in population as some of the cities that have public buildings granted to them. [Mr. CANNON rose.] I will be willing to answer all the gentleman's questions when I have got through. Let me state my facts. I did not interrupt the gentleman.

Mr. CANNON. The gentleman from Missouri, I am sure, does not want to misrepresent me. I wish to say that I read from the report that accompanies this bill.

Mr. HATCH. I will explain about that to the gentleman before I finish. He is correct, but the statistics were taken from a report made two years ago.

The city of Hannibal to-day, as I am informed by recent letters from the mayor and other officials, is estimated to contain nearly fourteen thousand people.

Mr. HORR. What was its population according to the last census?

Mr. HATCH. I have sent for the report so as to be able to give the exact figures. The census showed a population short of twelve thousand. But we were in the same predicament at Hannibal as the people of Saint Louis were. We had an imperfect census. The vote polled for the last three years in that city shows we were entitled to a population of about fourteen thousand people.

But that is not the point. Hannibal is the third largest mail-distributing point in the State of Missouri. Outside of the city of Saint Louis and Kansas City it handles more mail than any other city in the State; and there is no city in the Mississippi Valley containing its population where the same amount of postal business is done as is done in Hannibal. Twenty-three mail trains come in and go out of that city every twenty-four hours, and the receipts up to the present time show that the office will pay during the present fiscal year $21,000 to the Government.

I have a letter from the Postmaster-General, dated March 11, 1882, giving a detailed statement, an extract from which I will have printed with my remarks, and is as follows:

Our revenue is gradually increasing: January sales, $1,553.70; February sales, $1,858.53; (stamps only, of course;) total, $3,382.23. Add, say, for March, (which is a bad, stormy month,) $1,325, and box-rent already collected, $482, will make a total of gross receipts for this quarter about five thousand two hundred dollars; or for the nine months of the fiscal year of over $15,000. I have the United States assistant treasurer's receipt for $3,305 deposited during January and February, stamps and box-rent. This is healthy growth for "Uncle Samuel."

In addition, I may say that Hannibal is the most important railroad and commercial place of its population upon the Mississippi River. Let me say to my distinguished friend from Michigan [Mr. HORR] that Hannibal handles more salt from his State to-day than any single city with the same population in the United States. It distributes more lumber than any other city of its population in the United States. It is the largest lumber distributing point on the Mississippi River between Saint Paul and New Orleans of any city of its population. It handles more of the products of the gentleman's State and of the great Northwest, and handles more coal oil from Ohio and Pennsylvania than any other city of its population in the Mississippi Valley. Its commercial importance should not, therefore, be judged by population alone. I would have been glad if my earnest friend from Illinois [Mr. CANNON] had asked me for the business statistics of Hannibal. I will publish a statement of these with a memorial from the mayor and city council as part of my remarks. Let me call the attention of the House to a few of them. They are embodied in a letter signed by the mayor of the city, addressed to Captain Mackenzie, the Chief of Engineers of the United States Army, in charge of the work of improvement of the Upper Mississippi River and by him forwarded to the War Department.

One hundred and forty millions of feet of lumber were piled there during the last season. Fifteen millions of logs were sawed into lumber there during the last season. Some idea of the railroad business concentrated there may be gained from the fact that last year there passed over the Hannibal bridge 9,901 trains.

Mr. HASKELL. May I ask the gentleman from Missouri a question?

Mr. HATCH. Certainly.

Mr. HASKELL. What does the Government pay of rent per annum?

Mr. HATCH. I thank the gentleman for calling my attention to that. Four years ago the Government of the United States, to its discredit, went into the city of Hannibal, and, in an effort to locate a post-office building, allowed the merchants of the city of Hanni-

bal to raise a bonus, as is stated to me by the postmaster, and the Government accepted a lease and pays the pitiable sum of $400 per annum for a building insufficient and insecure; one that has been condemned by the postal authorities, and the merchants and business men interested in the location on two blocks pay the balance for the Government.

Mr. HASKELL. Is there any other rental paid, except the post-office rental?

Mr. HATCH. There is, I think.

Mr. HASKELL. What is it?

Mr. HATCH. The collector or deputy collector of internal revenue has had an office there ever since the revenue laws have been in operation.

Mr. HASKELL. What rental is paid for his office?

Mr. HATCH. I have a statement from the deputy collector, Mr. Heywood, which I will find in a moment, and print in this connection:

UNITED STATES INTERNAL REVENUE,
DEPUTY COLLECTOR'S OFFICE, THIRD DISTRICT, MISSOURI,
Hannibal, Missouri, February 23, 1880.

DEAR SIR: Being absent from home your letter of the 16th instant has but just come to hand. The statement referred to I most positively mailed to you on the 1st instant. I send you inclosed herewith a "duplicate," as requested. It is impossible for me to furnish you with a statement giving the exact amount collected in this district since the revenue law went into operation, as the records containing that information are at the general office, Louisiana, packed in large boxes with other papers and stored away, with the exception of the last few years; but I can come very near to it, which I think will answer your purpose. If anything more should be wanted that it is in my power to furnish advise me and it shall be promptly sent to you.

From September, 1862, to August, 1865, inclusive, the collections in this district were over $360,000 per annum.

From September, 1865, to September, 1868, inclusive, over $600,000 per annum.

From October, 1868, to June 30, 1879, over $300,000 per annum.

In other words, this district since the revenue law went into operation has paid over six and one-quarter millions of dollars to the Government, of which at least four and one-quarter millions was collected by me at Hannibal.

Hoping the above may prove satisfactory. I am yours truly,

C. P. HEYWOOD.

Hon. W. H. HATCH, *Washington, D. C.*

In addition I desire to state, in reply to the gentleman from Illinois, [Mr. CANNON,] a sub-committee of the Judiciary Committee of the House for the second time have reported favorably a bill to the committee giving to the city of Hannibal two terms of the United States district and circuit courts for the northern division of the eastern district of Missouri. That bill will be reported as soon as the gentleman from Iowa [Mr. MCCOID] can get the floor for that purpose, and will go upon the Calendar. It has been reported the second time, as stated, and I am satisfied the House, when the bill is considered, will pass it. That division embraces seventeen counties; is larger than six States of the Union in the number of square miles; larger in population than six States of the Union; larger in population than any single Territory of the United States where district and circuit courts are now held.

Mr. HASKELL. I would like to have my friend from Missouri state to the House the total amount of rent paid in Hannibal by the Government, so that the House may see what sum of money may be invested in a building the interest on which at 4 per cent. would be equivalent to the saving in rent that would be effected by the erection of a building.

Mr. HATCH. I propose to publish, as before stated, a statement signed by Mr. C. P. Heywood, the deputy collector at Hannibal, in which will probably be the information the gentleman desires. Since the internal-revenue law went into operation that district has paid to the Government over six and a quarter millions of dollars. He does not give the amount paid for rent, but I will endeavor to obtain it and publish it in my remarks.

I want to state this to the House: that the present postmaster at Hannibal and other well-informed citizens have written to me that as soon as the Government lease expires it will be utterly impossible for the Government to rent a building in Hannibal suitable for the post-office at less that $2,000 or $3,000 a year; that unless some public-spirited man shall erect a building there will not be one there suitable for the purpose at a less rent than the amount he names. Two years ago, in his letter which I will print as a part of my remarks, the postmaster said that "a building suitable for our wants, if it could be obtained and a contract made for a term of years, could probably be obtained for say $1,200 to $1,500."

The rapid increase of business and consequent demand for business houses since that time, with increase in rents generally—I am sure a suitable and safe building could not now be had for any such price.

WASHINGTON, D. C., *March* 19, 1880.

MY DEAR SIR: I have the honor to acknowledge the receipt of your letter of inquiry of this date, and in answer thereto would say that the present rental paid by the Post-Office Department for the building now occupied by us is $400 per annum. The low rent at which it was obtained being the chief and only recommendation for present location, and this figure only being obtained in consequence of the owners of property adjacent to our present location giving the owner a bonus, or rather supplementing the amount paid by the Government by enough to make what would be a fair rental even for the present building, which is wholly unsuitable for our wants for the reason that we have only the first or lower story, the second story being a "tenement story" and the occupants of questionable character, that we are required to have persons sleep in the office, which cuts off a small bed-room, and with six employes in a building about eighteen by sixty feet and a mailing department requiring almost all the time two men, and storage room required for delayed mail received from our trunk lines, it is utterly impossible to transact the business properly and accurately. And at the present time we have twelve mail-trains to arrive and thirteen to depart daily, except Sunday, when the number is reduced about one-half. Since my connection with the office it has been burglarized twice in the past year, greatly endangering the safety of Government funds and property, which you will observe is not far from $200,000 per annum, including receipts and payments. A building suitable for our wants, if it could be obtained and a contract made for a term of years, could probably be obtained for say $1,200 to $1,500 per annum, but considering that lumber and stone are two of our principal articles of export, it seems that it would be economy on the part of the Government to erect its own building, in which all of its business could be transacted.

I have the honor to be, colonel, very respectfully, your obedient servant,

W. F. CHAMBERLAIN,
Acting Postmaster, Hannibal, Missouri.

Hon. W. H. HATCH, *M. C.,*
Twelfth District, Missouri.

I do not know why, after the passage of so many bills for the construction of public buildings, (and I do not criticise any of them,) I should take up the time of this House any longer. I certainly have stated facts enough to induce a majority of this House to vote for the passage of this bill, and unless the gentleman from Pennsylvania [Mr. SHALLENBERGER] desires some time I will call a vote on the bill.

To the honorable Mayor and City Council of the city of Hannibal:

GENTLEMEN: Your committee, to whom was referred the matter of the erection of a Government building at this place, after a due consideration beg leave to submit for your consideration and approval the following memorial, and ask that it be forwarded to our Representative in Congress, Hon. W. H. HATCH, in Washington, District of Columbia, to be laid before Congress, and that he be and is hereby instructed to use all honorable means in his power, as also his influence and eloquence with Congress and the committee to secure such an appropriation as will be adequate to erect such a Government building in the city of Hannibal, Missouri, as is absolutely necessary to the growing interests and demands of Northeast Missouri.

The city of Hannibal, Marion County, Missouri, is located about one hundred and twenty miles north of Saint Louis and about sixty miles south of Keokuk, Iowa. The counties of Clark, Lewis, and Marion are north, and the counties of Ralls, Pike, and Lincoln are south of Hannibal on the Mississippi River. Three counties to the west of these six counties form or constitute the wealth, power, and strength of Northeast Missouri.

No section or equal portion of country in the United States is superior in fertility and productiveness of soil, alluvial plains, abundance of timber, water and pasturage, or have a more healthy congenial climate.

The vast resources of Northeast Missouri are rapidly developing, and the production of corn, wheat, oats, and other cereals, the great droves of horses, mules, cattle, sheep, swine, raised and shipped yearly are simply enormous. The counties of Marion and Ralls alone show per returns: 64,716 swine, 33,500 neat cattle, 24,378 sheep, 12,969 horses, and 3,498 mules, about four million bushels corn, and one and one-half million bushels wheat. To these great productions add the counties of Clark, Scotland, Schuyler, Adair, Knox, Lewis, Shelby, Linn, Macon, Monroe, Pike, Audrain, Boone, Callaway, Warren, and Lincoln, with their immense productions and herds of stock, and we can safely assert that Northeast Missouri is not surpassed, if equaled, by any other section of the State of Missouri, or the United States.

On the west bank of the Mississippi River, on the east and nearly center north and south in North Missouri, in Marion County, near Ralls County line, stands the city of Hannibal, with about fourteen thousand inhabitants, the principal and most important city in Northeast Missouri, and the shipping point for this vast territory and far beyond to the west. Hannibal as a city is protected by an efficient fire department against fire; a well organized police force, preservers of law or order; the city is lighted by gas and has water-works (just finishing) on both the reservoir and Holly system plan; a telephone exchange and street railway. One of the finest and best hotels is now being completed, equal to any in the West (now finished.) Improvements are made in all parts of the city, and as a business point or center Hannibal stands unrivaled in this section of Missouri. As a lumber market Hannibal excels any other city north of Saint Louis. Actual figures for the past year show receipts of 124,630,145 feet of lumber, 55,437,000 feet of shingles, 33,657,000 laths, and sash and blinds to the amount of $120,000, sufficient to load 13,628 cars. Employment is given to 821 men, and wages paid amounting to $326,800, in our lumber business. Two hundred thousand barrels salt, 1,250,000 gallons oil, 230,000 barrels of superior white lime, made here; 200,000 barrels of choice flour, manufactured by three of the best flouring mills out of the wheat raised in this section. And all the above distributed from Hannibal. Cattle, horses, mules, sheep, and swine are shipped from Hannibal by river and rail, and about twenty-five thousand hogs slaughtered and packed here.

As a railroad center Hannibal stands pre-eminent. The old reliable Hannibal and Saint Joseph Railroad, leading two hundred and six miles to the west, the Missouri, Kansas and Texas Railroad to the southwest, the Saint Louis and Keokuk Railroad (short line) south-southwest, the Saint Louis, Keokuk and Northwestern north and south, the Toledo and Wabash to the east, the Chicago, Burlington and Quincy Railroad to Chicago north to east, and with the various connections of these railroads, make the city of Hannibal a great distributing point north, south, east, and west.

From the north are received portions of the crops raised in Iowa and Minnesota, in wheat, oats, barley, and potatoes, which are shipped from here west and southwest. Wisconsin sends its fleets of lumber to Hannibal, which are drawn, piled, dried, and shipped rail per to the great West and Texas. From the South groceries and southern fruits and productions are received and sold here or reshipped north and west. From the East salt, coal, oils, and general merchandise are received in large quantities, and shipped to Western Missouri, Nebraska, Kansas, Texas, and other localities. From the West grain, stock, and other productions are received here and shipped to other markets. Thousands of car-loads of cotton and other productions are received from Texas and southwest, thus, like the dial of time, pointing to Hannibal's future.

Northeast Missouri stands unrivaled in all the elements to make a country prosperous and a people happy. The city of Hannibal is the great emporium of Northeast Missouri, and is making giant strides and great efforts to furnish and offer to the people of Northeast Missouri and our neighbors in Illinois every facility to promote their interest and welfare, and to give them a market for all that is produced by honest industry and labor. The city of Hannibal, from its locality, business facilities, and easy access to the various railroads reaching out like fingers from the human hand to all parts of Northeast Missouri and the West, has a right, and may justly claim, for the reasons and facts stated and others not dwelt upon, that the General Government, by a liberal policy toward the people of Northeast Missouri, will appropriate such an amount of money toward the erection of a public Government building in the city of Hannibal as the situation and great importance of Northeast Missouri demands.

A Government building for Government purposes, such as post-office, a collector's office, and a United States district court for this portion of Missouri, would greatly facilitate and promote business and the interests of our people.

The importance of a substantial Government building in the city of Hannibal for the purposes stated, namely, a United States district court, collector's (assistant) office, and other public offices, and the great need of a new, safe, and secure post-office, as is ably shown by Captain Chamberlain, assistant postmaster, in the annexed report as to the amount and volume of business done at the present insecure building used as a post-office.

Respectfully submitted,

W. B. DRESCHER, *Mayor.*
G. M. HARRISON,
D. M. DULANY,
J. T. K. HAYWARD,
C. H. MOORE,
JOSIAH LEAMON,
Special Committee.

STATE OF MISSOURI,
County of Marion, City of Hannibal, ss:

I, William E. Forman, clerk of the city aforesaid, hereby certify that the above is a copy of the original report of the special committee appointed by council touching the question of the erection by the United States Government of a public building as the same appears on file in my office, the office of city clerk of the city of Hannibal.

In testimony wherof I hereunto set my hand and official signature and affix the common seal of said city this 3d day of February, 1880.

[SEAL.] WILLIAM E. FORMAN,
Clerk C. H.

Operations of Hannibal post-office in 1879.

Number of domestic money-orders issued	6,629
Number of foreign money-orders issued	68
Total	6,697
Amount of domestic money-orders issued	$71,621 72
Fees	763 00
Amount of foreign money-orders issued	1,742 00
Fees	46 15
Total	74,172 87
Amount recieved for box-rent	1,745 45
Amount received for postage	13,249 59
Total receipts	89,167 91
Number of domestic money-orders paid	4,208
Number of foreign money-orders paid	41
Number domestic repaid	52
Total	4,301
Amount of domestic money-orders paid	$62,900 52
Amount of domestic money-orders repaid	656 77
Amount of foreign money-orders paid	1,285 35
Total	64,842 64
Number pouches received	12,905
Number pouches dispatched	12,795
Total number pouches handled	25,700
Total receipts in 1877	$70,159 69
Total receipts in 1878	$89,224 65
Total number pieces originating in office in 1879	1,985,152

HANNIBAL, MO., *January* 30, 1880.

DEAR SIR: In compliance with your request, I have the honor to herewith give you statement of the business of this office for the year 1879.

I would say, however, that a full idea of the large amount of business done in this office (other than that represented by dollars and cents) cannot be accurately given, for the reason that in dispatching to and receiving mail from twenty-two trains per day, with delayed matter to be worked almost daily, no opportunity is afforded for giving actual number of pieces handled. I might institute a favorable comparison in this respect with offices of much larger pretensions who handle less matter, either in number of pieces, pouches, or canvas sacks, than we do, and where good buildings have been erected, and every facility given for the transaction of the postal business. I would especially call your attention to the increase of receipts of this office, from all sources, in 1879 over the two, or, in fact, any previous years, but only 1877 and 1878 are given.

You will readily agree with me in the statement that our present post-office building is very unsuitable for the business of the office, and was selected almost entirely on the grounds of the lowness of rent, the charge to the Department being only $400 per year, a bonus being given the owner by the persons owning property adjacent to the present location of the office. Not only this, but the story immediately over the office is occupied by private families, greatly increasing the liability to fire, and in many instances, as well known to yourself, the character of the tenants is such that our present location is very unfortunate, both for the Department and the patrons of the office, and most of all to the postmaster, who stands pecuniarily responsible.

I have the honor to be, my dear sir, very respectfully, your obedient servant.

RICHARD DRANE, *Postmaster.*

Hon. W. B. DRESCHER, *Mayor.*

The appended communications explain themselves, namely:

UNITED STATES ENGINEER'S OFFICE.
Rock Island, Illinois, January 11, 1882.

DEAR SIR: You are respectfully requested to furnish this office with some statistics of the business of Hannibal during the year 1881. The information is wanted for our annual report in reference to the improvement of the Mississippi River at Hannibal.

Very respectfully, your obedient servant,

A. MACKENZIE,
Captain of Engineers, U. S. A., General Superintendent Upper Mississippi River Improvements.

His Honor the MAYOR, *Hannibal, Missouri.*

MAYOR'S OFFICE, HANNIBAL, MISSOURI,
January 23, 1882.

DEAR SIR: In obedience to your request of the 11th instant, I inclose you the following statement, which has been somewhat delayed from causes which we could not prevent.

The business of Hannibal for the year 1881 has not been kept with the accuracy of cities which have a board of trade, but in the most important departments the data returned is undoubtedly correct, while that estimated is more likely to be below the truth as omitting important operations.

The annual report of the Hannibal Bridge Company shows that there passed the draw about 370,000,000 feet of manufactured lumber and 24,000,000 feet of logs, of which 140,000,000 have been taken out of this city and 15,000,000 feet manufactured from the logs.

Tabulated, the business of the city will show as follows:

Business.	Firms engaged.	Amount.	Car-loads.	Value.
Saw-mills	1	15,000,000 feet logs	1,500	$300,000
Lumber dealers	9	140,000,000 feet	14,000	2,800,000
Lath dealers	9	75,000,000	1,700	200,000
Shingle dealers	9	50,000,000	700	175,000
Door, sash, and blind dealers	10		100	150,000
Planing-mills	8			175,000
Lime	3	250,000 barrels	2,000	200,000
Plaster and cement	4	6,000 barrels	80	15,000
Hair	4	300,000 pounds	20	60,000
Merchant flouring-mills	3	123,000 barrels bran and shipstuff.	1,200	900,000
Custom mills	1			50,000
Ice	10	80,000 tons	6,000	150,000
Breweries	3	5,000 barrels; 350 tons castings.	79	40,000
Iron foundery	1	5,000 car-wheels	130	80,000
Machine-shops	2	Largely repairs		25,000
Boiler-shops	1			10,000
Wagon and carriage shops	6	700		50,000
Soap factory	1			12,000
Pork-packers	4	4,000,000 pounds	160	375,000
Tobacco factories	2	60,000 pounds		30,000
Cigar factories	7	2,000,000		60,000
Printing and blank books	2			75,000
Daily newspapers	2	2,500 circulation		
Weekly newspapers	4	3,000 circulation		
Cooperage	8	300,000 barrels	300	150,000
Bakeries	4	No data		
Candy factories	2	No data		
Brick-yards	3	No data		
Salt	1	250,000 barrels	3,020	350,000
Coal-oil	1	200,000 barrels	3,500	1,200,000
Hard coal	2	8,400 tons	700	60,000
Soft coal	2	56,000 tons	4,000	168,000
Wood-yards	2	30,000 cords	3,500	100,000
Wholesale groceries	3	$1,000,000 sales	1,000	1,000,000
All other wholesale houses		500,000 sales	500	500,000
Retail houses, all kinds	500	2,225,000 sales	2,000	2,225,000

The Mississippi is here spanned by a railroad and wagon bridge and is also crossed by a steam ferry. The land on the opposite side is an immensely fertile bottom, partly protected by a levee which is not adequate for the purpose. It has, however, since its construction, materially deepened the channel and improved navigation in the portion of the river opposite.

The entire city is protected and supplied with water-works situated two hundred and forty feet above the river.

Hannibal has one of the best public houses (hotel) in the State.

Five railroads make this city the terminus of a division, with accommodations for engines and cars. The Hannibal and Saint Joseph Company have here their principal machine shops and general offices, employing four hundred men, and doing a large amount of new work as well as repairs.

The lumber business of the last year would have been materially larger but for the exceptional high water of last fall, which prevented operations for over a month. The only limits which can now be placed on this business are the opportunities and facilities for handling the lumber, as the railroad transportation from here to the West and Southwest is less than from any other point on the river.

For the same reason this has become a large depot for putting up ice, which industry will be largely increased.

The amount of wheat consumed here was between six hundred thousand and seven hundred thousand bushels.

Ralls and Marion Counties, in Missouri, corner here, while Pike County, in Illinois, is directly opposite. By the last census these three counties raised nearly two million bushels of wheat, and its quality is not excelled. Much of this is marketed here and much more would be with improved facilities. There is one elevator here for handling grain by cars or river, capacity about two hundred and fifty thousand bushels, with two smaller ones on this side of the river and one directly opposite.

This has been made the principal depot from which salt and coal is distributed to the West and Southwest.

Some idea of the railroad business centered here may be gained from the fact that last year there passed over the Hannibal bridge 9,101 trains, of which eight were regular daily passenger trains and the rest were freight. For more than a month this business was mostly cut off by unusually high water. The 6,000 freight trains passing over the bridge were all of the Wabash Railway and would make over 100,000 cars, while nearly or quite as many more were handled by the Chicago, Burlington and Quincy and Keokuk and Saint Louis roads that did not pass over the bridge. The earnings of the several roads west of the river on their freight business to and from Hannibal are thought to be not less than $2,000,000 yearly, the greater portion of which originated or ended here.

The nature of the business is largely such as depends upon the port and river facilities for its profitable handling. With a good harbor and an improved river a very large portion of the produce west of us could be brought here and stored or handled and shipped south to or past Saint Louis for less than the cost for yard-room and switching at that point.

The business of Saint Louis has already outgrown her facilities for handling, and railroad freights are in a chronic state of blockade, which must soon seek relief by other routes. Some will seek the river at Memphis, while much of this business may be best accommodated at Hannibal.

All of which is most respectfully submitted.

Yours, truly,

JOSEPH ROWE, *Mayor.*

A. MACKENZIE,
Captain of Engineers, U. S. A., General Superintendent Upper Mississippi River Improvements, Rock Island.

Mr. SHALLENBERGER. On this question of the propriety of erecting a public building at the city of Hannibal, Missouri, I confess there may be a difference of opinion. I do not regard it as one of the strongest and most meritorious cases which have been reported from our committee. But this bill has been favorably reported by the majority of the committee, has been placed on the Calendar of the House, and now in the pending discussion I desire to say a word or two in reply to the animadversions which have been made upon the action of the committee, and upon the action of the House, which has within the last few weeks almost unanimously indorsed our committee.

And first, I do not agree with my friend from Kansas [Mr. HASKELL] when he intimates that the only question to be considered by the Committee on Public Buildings and Grounds is the question of rental, the amount of rent now paid by the United States Government for such rooms as may be occupied by its officers at the present time. That is not a fair test, as I think I can show the House in a very few minutes.

I have a city in my own district which now leases the finest room in the city for the Government post-office at the nominal rent of $1 a year. That lease will soon expire. Does any gentleman on this floor suppose that that lease can be renewed indefinitely for $1 a year?

Mr. CANNON. I desire to ask the gentleman a question.

Mr. SHALLENBERGER. In one moment, when I have finished my statement.

Mr. CANNON. It is right in that line.

Mr. SHALLENBERGER. I say that the temptation offered United States officials to locate the post-office where it will benefit not the community at large perhaps so much as a few merchants and a few leading business men—the temptation held out for those merchants and business men to club together and say to the postmaster that if he will locate his office in a particular part of the city which will suit them they will give him the use of a building for the purpose at a nominal rental—is not necessarily a consideration sufficient to justify the Department in locating a post-office, nor should it prejudice the rights of any community to have a public building eligibly located in the interest of all the people.

Mr. CANNON. A question right there.

Mr. SHALLENBERGER. Certainly.

Mr. CANNON. I desire to ask the gentleman from Pennsylvania [Mr. SHALLENBERGER] if he does not know that it is a part of the policy of the Post-Office Department to get up this competition throughout the length and breadth of the country in different towns for the location of the post-offices in those towns, so as to get rooms for the use of those offices at a nominal rent? And if we cease to follow that policy the rent of buildings for the use of post-offices that now cost, comparatively speaking, a very small sum will amount to multiplied millions of dollars. Now, I wish to ask the gentleman if he is ready to advise the abandoning of the present policy on the part of the Post-Office Department?

Mr. SHALLENBERGER. In answer to that I will say, first, that I do not admit the premise that it will cost the Government untold millions of dollars. I say, further, that if the Post-Office Department undertake to stimulate in this country that kind of competition, it is acting outside of the law and outside of justice and of decency.

I say the same principle would lead the Department to tempt bidders from the State of Maine, for instance, to try and obtain little local post-routes in my county as against persons living in the county, men of honor and of honesty, who will promptly and faithfully perform the duty.

Mr. HORR. Will the gentleman permit me to ask him a question?

Mr. SHALLENBERGER. Not at present, until I have finished a sentence or two. It is a policy which tempts men to come in and compete for the location of our public business where perhaps it should not be. This great Government is abundantly able, as is any business man, to locate its offices where it most needs them and to pay a proper price for them. I say that a government like ours ought to locate its court-houses and its post-offices where they will be most convenient to the public at large, and should not be swerved from that purpose by competitive bidding of localities.

Does the gentleman from Kansas [Mr. HASKELL] or the gentleman from Illinois [Mr. CANNON] say that if a banker or a merchant were to go into the city of Hannibal he would be tempted by a combination of citizens owning real estate to locate his business house on the outskirts of that town, because he could thereby save a hundred dollars in rent? No, sir. What we want as a government is to go into a rising city like Hannibal, if you please, where the ground increases in value double in every ten years, and purchase the most eligible square or corner lot in that city, and there build a structure for the use of the Government, not ornate in architecture, but sufficiently large to accommodate all the Government business, and then let the Government property appreciate in value with the other property in the city. Let the Government plant its flag there, if you please; teach all sections to appreciate the dignity of the General Government, and uphold and sustain it as it ought to be sustained.

Will the gentleman tell me that the Government should go "jayhawking" all over a city every two or three years merely to save $100 in the rent of a post-office?

Mr. HORR. I wish to ask the gentleman a question. I have been following pretty implicitly the reports of the Committee on Public Buildings and Grounds; and I want to know whether that committee adopts the rule of recommending the erection of a public building simply for a post-office where there are no courts or anything of that kind, and merely taking into account the size of the town. For instance, yesterday I should have voted against the bill for a public building at Jackson, Tennessee, had there not been a United States court at that place. Now, has the gentleman any idea how many cities there are in the United States that pay more postal revenue and have a larger population than the city of Hannibal, and that can present in favor of the erection of a post-office building every possible reason that can be urged in the case of Hannibal? I wish to know whether the committee adopts the policy of recommending a post-office building in every such city as that?

Mr. SHALLENBERGER. In answer to the gentleman I will say that our committee does not adopt the policy of recommending the construction of a public building at every city where there is simply a post-office.

Mr. HORR. I said every city as large as Hannibal.

Mr. SHALLENBERGER. Every city as large as Hannibal. Nor does the Committee on Invalid Pensions undertake to pension every deserving soldier in the country, simply because we have a few pension bills on our Calendar. We cannot consider at once the claims of all who are deserving of pensions. So I do not undertake to say that there are not in the district of the gentleman from Michigan, [Mr. HORR,] or the gentleman from Illinois, [Mr. CANNON,] cities as much entitled to a public building as the city of Hannibal. But I say that they have not presented their claims to our committee. Nor do I say that this city is more deserving than other cities whose claims are now before our committee. I do not say that I heartily agree to the report that has been made in this case; I always reserve the right to dissent from any report. But my committee instructed one of its members to report this bill favorably; and I am only defending the general principle which I assert, that whenever the Government finds itself needing accommodations which will cost $2,500 or $3,000 a year in the way of rent; when it has revenue offices and other offices which must be accommodated permanently and should be in fire-proof rooms; when this is the case in a growing city where rents are increasing materially every year, I say that then there ought to be, in my judgment, a public building sufficiently large to accommodate these public offices.

The bill passed yesterday for a court-house at Jackson, Tennessee, was certainly deserving of consideration. Some complaint was made yesterday about a bill which passed the House in which the term "court-house" was used when in fact no court is held in that city at present. I did not then get the opportunity to say what I say now, that the bill was not reported from our committee, but was a Senate bill passed under a suspension of rules. We as a committee are not responsible for the phraseology of that bill. We eliminate the word court-house when a bill comes before our committee unless courts are understood to be authorized and need accommodations. I would be glad if we had an hour or two hours for the discussion of every bill like this. I want to see a bill that cannot stand on its merits voted down after discussion, and a bill that can stand on its merits go through. I wish to see every unworthy bill, if there be such bills carelessly agreed to in committee, eliminated from our Calendar, and every worthy bill passed.

We have presented to-day in the city of New York an illustration which justifies the Government in owning property in growing cities. In 1860 the United States Government purchased in that city a building for its post-office. Two hundred and fifty thousand dollars was paid, of which the citizens contributed fifty thousand. The Government has owned that property from that date to this, escaping meanwhile the payment of large rentals which would otherwise have been necessitated. To-day we have on our Calendar a bill proposing to sell that property and turn the proceeds into the United States Treasury; and from that little lot which cost the Government $200,000, we expect to realize possibly $800,000 or more, leaving a surplus of $600,000 or more to go into the Treasury. This, I think, is a sufficient vindication of the principle which we now seek to inaugurate in reference to growing cities like Detroit, Minneapolis, Denver, and all other cities where property, especially eligible lots, which the Government may now purchase, will in a generation double or treble in value. But, which is more important, there the national Government may transact its legitimate business without being at the mercy of State authorities or subjected to the extortionate demands of private citizens, who compel the Government to pay, in the shape of rentals, local taxes, insurance, and a high interest besides, as in this city.

Mr. HATCH resumed the floor.

Mr. WILLITS. I would like to ask the gentleman from Missouri [Mr. HATCH] a question.

Mr. HATCH. Certainly.

Mr. WILLITS. The gentleman has referred to the fact that in two Congresses a report from the Judiciary Committee has been made in favor of a United States court at Hannibal——

Mr. HATCH. The gentleman misunderstood me.

Mr. WILLITS. I wish to know whether one of the inducements offered to the committee in both instances was not that the citizens of Hannibal should pay the expense of the court-room?

Mr. HATCH. A provision of that kind has been in every court bill reported by the Judiciary Committee—to operate, of course, until the Government has a building of its own.

Mr. WILLITS. I wish to protest here to-day against the proposition made by some gentlemen here that because a court is held in a place, therefore the Government ought to have a public building there. I admit the general doctrine that the Government ought to have a court-room at every place where it holds court. I say for one, if we enter upon that policy I shall in the future scrutinize every claim for an extra court in the United States. I am willing to bring these courts as near home to the people as we can, but we know that as soon as such a bill passes then comes in another for a public building. It was so in the last Congress, and the one before that as well as in this. The prime move is to get a court and the next to get a building to put it in.

Mr. HATCH. The gentleman from Michigan asked me to yield to him, and I will do so for a question.

Mr. HORR. I wished to make a few desultory remarks.

Mr. HATCH. I hope the gentleman will not press his demand at this time.

The SPEAKER. The question is on the passage of the bill.

The House divided; and there were—ayes 93, noes 37.

Mr. CANNON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 52, not voting 113; as follows:

YEAS—126.

Aiken,	Dibble,	Klotz,	Smith, Dietrich C.
Aldrich,	Dowd,	Lord,	Smith, J. Hyatt
Anderson,	Dunn,	Manning,	Speer,
Armfield,	Dunnell,	Mason,	Springer,
Beach,	Ellis,	McCoid,	Stockslager,
Belmont,	Ermentrout,	Moore,	Stone,
Bingham,	Evins,	Morse,	Talbott,
Bland,	Finley,	Mosgrove,	Thomas,
Bliss,	Fisher,	Moulton,	Thompson, Wm. G.
Blount,	Ford,	Muldrow,	Tillman,
Briggs,	Forney,	Mutchler,	Townshend, R. W.
Buchanan,	Fulkerson,	Norcross,	Tucker,
Burrows, Jos. H.	Garrison,	O'Neill,	Updegraff, J. T.
Butterworth,	Gibson,	Paul,	Upson,
Cabell,	Harmer,	Peirce,	Valentine,
Calkins,	Harris, Henry S.	Phister,	Vance,
Campbell,	Haseltine,	Pound,	Van Voorhis,
Carpenter,	Hatch,	Reagan,	Wait,
Cassidy,	Herbert,	Reed,	Walker,
Clark,	Hewitt, G. W.	Rice, Theron M.	Warner,
Colerick,	Hill,	Rich,	Watson,
Converse,	Hoblitzell,	Robinson, Wm. E.	Wellborn,
Covington,	Hoge,	Rosecrans,	Wheeler,
Cravens,	Hooker,	Scales,	White,
Culberson,	House,	Scoville,	Williams, Thomas
Curtin,	Hubbs,	Scranton,	Willis,
Darrell,	Humphrey,	Shackelford,	Wilson,
Davidson,	Jones, George W.	Shallenberger,	Wise, George D.
Davis, Lowndes H.	Jones, James K.	Singleton, Jas. W.	Wise, Morgan R.
De Motte,	Jones, Phineas	Singleton, Otho R.	Wood, Walter A.
Deuster,	Kenna,	Skinner,	
Dezendorf,	King,	Smith, A. Herr	

NAYS—52.

Buck,	Guenther,	Matson,	Robinson, James S.
Candler,	Hall,	Miller,	Ross,
Cannon,	Hammond, N. J.	Morey,	Sherwin,
Clements,	Hardy,	Orth,	Spooner,
Cox, Samuel S.	Harris, Benj. W.	Payson,	Steele,
Cox, William R.	Hawk,	Peelle,	Strait,
Crapo,	Heilman,	Prescott,	Taylor,
Cutts,	Holman,	Randall,	Turner, Henry G.
Dingley,	Hutchins,	Ranney,	Updegraff, Thomas
Dugro,	Jacobs,	Rice, William W.	Urner,
Dwight,	Kasson,	Richardson, D. P.	Webber,
Farwell, Sewell S.	Kelley,	Ritchie,	Whitthorne,
Godshalk,	Lynch,	Robinson, Geo. D.	Willits.

NOT VOTING—113.

Atherton,	Cullen,	Knott,	Ray,
Atkins,	Davis, George R.	Lacey,	Rice, John B.
Barbour,	Dawes,	Ladd,	Richardson, Jno. S.
Barr,	Deering,	Latham,	Robertson,
Bayne,	Dibrell,	Leedom,	Robeson,
Belford,	Errett,	Le Fevre,	Russell,
Beltzhoover,	Farwell, Chas. B.	Lewis,	Ryan,
Berry,	Flower,	Lindsey,	Shelley,
Black,	Frost,	Marsh,	Shultz,
Blackburn,	Geddes,	Martin,	Simonton,
Blanchard,	George,	McClure,	Sparks,
Bowman,	Grout,	McCook,	Spaulding,
Bragg,	Gunter,	McKenzie,	Stephens,
Brewer,	Hammond, John	McKinley,	Thompson, P. B.
Browne,	Hardenbergh,	McLane,	Townsend, Amos
Brumm,	Haskell,	McMillin,	Turner, Oscar
Buckner,	Hazelton,	Miles,	Tyler,
Burrows, Julius C.	Henderson,	Mills,	Van Aernam,
Caldwell,	Hepburn,	Money,	Van Horn,
Camp,	Herndon,	Morrison,	Wadsworth,
Carlisle,	Hewitt, Abram S.	Murch,	Ward,
Caswell,	Hiscock,	Neal,	Washburn,
Chace,	Horr,	Nolan,	West,
Chapman,	Houk,	Oates,	Williams, Chas. G.
Clardy,	Hubbell,	Pacheco,	Wood, Benjamin
Cobb,	Jadwin,	Page,	Young.
Cook,	Jorgensen,	Parker,	
Cornell,	Joyce,	Pettibone,	
Crowley,	Ketcham,	Phelps,	

So the bill was passed.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. ROBESON with Mr. BLACKBURN.

Mr. WARD with Mr. AIKEN.

Mr. HAMMOND, of New York, with Mr. PHELPS.

Mr. RICE, of Ohio, with Mr. MARTIN.

Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York.

Mr. HENDERSON with Mr. CLARDY.

Mr. BARR with Mr. GARRISON.

Mr. MCKINLEY with Mr. CARLISLE.

Mr. MCLANE with Mr. WADSWORTH.

Mr. DAWES with Mr. MATSON.

Mr. MCCOOK with Mr. SPARKS.

Mr. STEPHENS with Mr. HUBBELL.

Mr. WASHBURN with Mr. HERNDON.

Mr. CRAPO with Mr. HEWITT of New York.

Mr. HOUK with Mr. DIBRELL.

Mr. BRUMM with Mr. WISE of Pennsylvania.

Mr. SIMONTON with Mr. PARKER.

Mr. SHELLEY with Mr. CASWELL.

Mr. BLANCHARD with Mr. LEWIS.

Mr. PHELPS with Mr. WEST.

Mr. MARSH with Mr. MCKENZIE.

Mr. CROWLEY with Mr. NOLAN.

Mr. LEEDOM with Mr. SHULTZ.

Mr. HAZELTON with Mr. ATHERTON.

Mr. MONEY with Mr. HARMER.

Mr. WAIT with Mr. HOGE.

Mr. HORR with Mr. COOK.

Mr. RUSSELL with Mr. MILLS.

Mr. DAVIS with Mr. CALDWELL.

Mr. BROWNE with Mr. MCMILLIN.

Mr. PAGE with Mr. ATKINS.

Mr. WEST with Mr. KNOTT.

Mr. TURNER, of Kentucky, with Mr. LACEY.

Mr. BELTZHOOVER with Mr. BAYNE.

Mr. GUNTER with Mr. BURROWS of Michigan.

Mr. JACOBS with Mr. BENJAMIN WOOD.

The vote was then announced as above recorded.

Mr. HATCH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TARIFF COMMISSION.

Mr. KASSON. Mr. Speaker, I now renew the motion that the House resolve itself into the Committee of the Whole House on the state of the Union to proceed with the consideration of the tariff-commission bill; and, pending that motion, I move that all debate be closed on Thursday next.

Mr. RANDALL. I understand that as serving notice on the House, I do not think myself it is possible to get through with the debate in that time, certainly not before Saturday. As a mere notice I hope it may produce what the gentleman desires.

Mr. REED. If the gentleman from Iowa will move a definite time, I think perhaps the House would support him.

Mr. KASSON. I think, in accordance with the understanding that was made when this question was first brought to the attention of the House, that the manner in which I have indicated to close the debate would perhaps be more satisfactory to both sides of the House. At that time the sense of the House can have been fully tested as to whether it desires to prolong the debate.

Mr. TOWNSHEND, of Illinois. If this requires unanimous consent, I object.

Mr. KENNA. Will the gentleman from Iowa permit me to make an inquiry with reference to the disposition of the time remaining? Some gentlemen on this side of the House who favor the bill desire to be heard upon it. I myself would like to be heard for a few minutes.

Mr. KASSON. I can safely say to the gentleman from West Virginia that at least half the time, and possibly more, will go to that side of the House.

The SPEAKER. The motion of the gentleman from Iowa is, that the House resolve itself into Committee of the Whole House on the state of the Union——

Mr. RANDALL. It is understood that there is no committal about Thursday.

The SPEAKER. And pending that, the gentleman from Iowa moves that all general debate upon the bill be closed in Committee of the Whole on Thursday next.

Mr. REED. Will the gentleman from Iowa fix an hour?

Mr. KASSON. I think it would be preferable not to specify an hour.

Mr. TOWNSHEND, of Illinois. I have already objected to this arrangement if unanimous consent is required.

The SPEAKER. The Chair does not think that unanimous consent is required to determine the time for closing the debate upon this question.

Mr. REED. Then I move to amend the motion of the gentleman from Iowa by inserting three or four o'clock, I am indifferent which; but let us fix some hour when this debate will close.

Mr. RANDALL. I move a further amendment by fixing Saturday as the date when the debate shall be closed.

Mr. KASSON. I hope the gentleman from Maine will not insist upon fixing an hour upon Thursday to close the debate.

Mr. KELLEY. I think it would be in violation of the repeated understanding upon the floor of this House.

Mr. REED. I never entered into any understanding of that kind.

Mr. KELLEY. I desire to be heard on this point——

Mr. THOMPSON, of Kentucky. I desire to ask the gentleman from Iowa if it was not understood that the debate was to be unrestricted.

Mr. KELLEY. That is my recollection of the arrangement which twice received the decided sanction of the House. I believe that by Thursday, if the agreement to devote the time exclusively to this subject shall have been lived up to, the debate may close at least by Thursday afternoon.

Mr. THOMPSON, of Kentucky. Then I will suggest to fix no specific hour, but to let the debate continue until Thursday, and then the House will have it in its power to determine whether it is ready to close the debate or not.

Mr. KELLEY. And especially do I object to fixing an hour on Thursday. The chairman of the Committee on Ways and Means is expected to sum up the general debate, and it is within my personal knowledge that many gentlemen have alluded to particular points on which they desire to hear an explanation, and about which there will necessarily be some discussion. And taking the example of this House to-day, Mr. Speaker, here is more than an hour and a half of our time already exhausted, and little business has been transacted. Now, you fix the hour of three o'clock on Thursday to close this debate. Other business will necessarily intervene, and the chairman of the Committee on Ways and Means may be given the summing up at that debate at the end of the day's session within twenty or thirty minutes of the time fixed for closing the debate. And for what? Why, that the hour named by the gentleman when this business is to be ended shall have arrived to enable the House probably to adjourn. You can as well give to the subject the balance of the day as to attempt to close it within a limited number of hours, and fix a specific time when it must be closed. I hope the effort will not be made, and that if the House shall determine to close the debate on Thursday no time will be fixed for it.

The SPEAKER. The Chair will state that the question is not debatable.

Mr. REED. I think it very proper that I should be allowed to say a word in response to the gentleman from Pennsylvania. My object in proposing three or four o'clock was for the reason that I am satisfied it would meet the approval of the House to come to a vote at a specified time upon this question. I sincerely believe that the House wants to debate further, while many members are ready to vote upon the question, but at the same time it will welcome a reasonable deliverance; and if that cannot be secured by naming a time, and it seems to be the impression of those gentlemen around me that it cannot, then I will withdraw the motion to fix an hour and take a vote upon the proposition to close the debate on Thursday without reference to the hour.

Mr. KASSON. I will add, if it is very desirable in order to accommodate other gentlemen who desire to speak, that I shall ask the House to fix one or two evening sessions, as the case may be. But I am satisfied from what I know that gentlemen are generally ready to dispose of the question now, and that if the time fixed is devoted to debate the House can be content and will be content to close the discussion on Thursday. I ask that order be made.

Mr. KENNA. I hope the gentleman from Iowa does not understand me as desiring to prolong the debate. I shall only want a few minutes myself.

Mr. KASSON. I have no doubt the gentleman will have all the time he desires.

The SPEAKER. The Chair will submit the question to the House. The gentleman from Iowa moves that all general debate be closed in Committee of the Whole House on the state of the Union on Thursday next. The gentleman from Pennsylvania moves to amend by making it Saturday next.

Mr. KASSON. Oh, no; that is not part of the understanding.

Mr. CARLISLE. I desire to make a single statement. When there was an understanding arrived at in the Committee on Ways and Means that the general debate on this bill should be closed on last Thursday, it was also understood, as has been frequently stated on the floor of the House, that we should procure all the time possible for debate during the week preceding this. As a matter of fact, by reason of the intervention of the Committee on Elections, we secured only a part of one day during that week for the discussion of this measure.

Now it is proposed to close this debate on Thursday; that is, at the same time during this week that it would have been closed last week had we procured the time we expected to procure during the week preceding.

I think the gentleman from Iowa ought to let the debate go on for two or three days at least, that we may see whether gentlemen on the floor who desire to speak have had an apportunity to do so. I do not think there is the slightest desire, so far as I know, to prevent the close of the general debate at the earliest possible moment after gentlemen on both sides have been heard. But to fix a day now on which the debate shall certainly close would almost inevitably have the effect of preventing some gentlemen on one side or the other, and possibly on both sides, from being heard; which of course will cause dissatisfaction.

Mr. REED. I think the amount of suffering which will be caused by some gentlemen not being heard is a serious matter for the consideration of this House.

Mr. CARLISLE. This is a great public question. It is of as much importance as any other question pending before this Congress, in my opinion.

Mr. HUMPHREY. And it has consumed more time than any other three questions together have done.

Mr. RANDALL. So it should.

Mr. KELLEY. So it did in the last Presidential campaign, and so it will in the next.

Mr. HUMPHREY. There was not a tariff commission before the people during the Presidential campaign; but the tariff question was before them.

Mr. RANDALL. I want to apprise the House what the effect will be of adopting Thursday as the day to conclude general debate on this bill. It is well known that the committee members who have not yet spoken must have, or will desire at least, two days; and the effect of fixing Thursday at this time will be to exclude every member here, except members of the committee, after to-day.

Mr. KASSON. I desire to be allowed a single word in reply to the suggestions of my friend from Kentucky, [Mr. CARLISLE.] My recollection, to which my memorandum corresponds, is that no part of the week which we lost was designated as actually coming to us. We were to get what was convenient under the notice that we must give way to general business if we did not come to a vote that week. We did have one entire day. I offered two or three evenings, which the other side did not desire to take. That part of the agreement was carried out entirely according to my understanding of it. And this week is to be substituted for that week in order to carry out that understanding in good faith.

Since that agreement was made the House will remember we commenced our sessions an hour earlier each day. Consequently we are getting an hour more on each of the three days this week.

I believe my colleague from Pennsylvania [Mr. RANDALL] is in error in saying the gentlemen who specially desire to be heard will not be heard under the arrangement now proposed. For I have noticed and noted on my list those who have expressed that special desire, and there is ample room for that; I find room for more, indeed, according to my estimate of the time.

Mr. COX, of New York. I desire to say one word.

Mr. TAYLOR. I call for the regular order.

The SPEAKER. This question is not debatable except by unanimous consent.

Mr. COX, of New York. The Chair has allowed other gentlemen to debate.

The SPEAKER. The Chair has done so because the regular order was not called.

Mr. COX, of New York. I desire to say only one word. The gentleman from Iowa [Mr. KASSON] knows I want to speak and have intended to speak on this question. The House, however, broke the continuity of the debate by the contested-election cases, appropriation bills, &c. We are now almost in the middle of this week, and there will be no full opportunity for debate if it is closed on Thursday. I ask my friend from Iowa not to press his motion now. There is no disposition on this side of the House to prevent a vote being taken if we are treated as we ought to be treated. The gentleman from Maine makes a reflection on this side——

Mr. REED. Will the gentleman allow me to interrupt him? I have no reflection to make on one side or the other. My remarks were not political. They had reference simply to the transaction of the business of the House and the saving of time of members. Every one possessing the experience of the gentleman from New York knows we can bring this thing to an end consistent with the rights of all the members if we give notice three days beforehand that we will close the debate on a particular day. By doing so we will save ourselves the discomfort of sitting here in the hot summer months.

Mr. COX, of New York. But you do not give three days' notice. You propose to close this debate really on one day's notice.

Mr. REED. We have to-day, to-morrow, and Thursday.

Mr. COX, of New York. A large portion of to-day is gone, and the chairman of the Committee on Ways and Means will take up Thursday. Let me say, however, that I would be content to vote for having the debate closed on Saturday.

Mr. KASSON. Saturday is an inconvenient day for many reasons. I desire to take the sense of the House on the question.

The SPEAKER. The Chair will state the question.

Mr. TOWNSHEND, of Illinois. I move to amend the amendment so as to fix Tuesday next for the close of the debate.

The SPEAKER. The gentleman from Iowa [Mr. KASSON] moves that the general debate on the tariff-commission bill shall be closed in Committee of the Whole House on the state of the Union on Thursday next. The gentleman from Pennsylvania [Mr. RANDALL] moves to amend that motion by fixing Saturday instead of Thursday. The gentleman from Illinois [Mr. TOWNSHEND] moves to amend the

amendment by fixing Tuesday next. The question is first on the amendment offered by the gentleman from Illinois.

The question was taken; and there were upon a division—ayes 34, noes 74.

So (no further count being called for) the amendment of Mr. TOWNSHEND, of Illinois, was not agreed to.

The SPEAKER. The question now recurs upon the amendment of the gentleman from Pennsylvania, [Mr. RANDALL,] that general debate be closed on Saturday next.

Mr. RANDALL. I think that will be agreeable to both sides.

The question was taken; and upon a division there were—ayes 73, noes 86.

Mr. RANDALL. I call for tellers.

The SPEAKER. A quorum has voted, and the gentleman calls for tellers.

Mr. RANDALL. I will call for the yeas and nays at once.

Mr. KASSON. It is suggested that as an adjustment of this difficulty I agree to Friday next; and to settle that question now I am willing to say Friday.

Mr. ANDERSON. I would like to inquire whether the gentleman means simply to close the general debate on Friday or to take a vote at that time?

The SPEAKER. The question is upon closing general debate.

Mr. ANDERSON. And does the gentleman mean to take a vote at that time?

Mr. KASSON. I mean all that can be implied in the order.

Mr. REED. I suggest that the order be to close general debate at 4 o'clock on Friday next, so that we can have a vote on this subject on Friday.

Mr. BLACKBURN. That is fair.

Mr. RANDALL. The easiest way is the best. Let us do this in harmony. Saturday will be satisfactory.

Mr. REED. I submit that there should be some harmony toward this side; not all toward the other side.

Mr. KASSON. I want to say to the gentleman from Pennsylvania that Friday was accepted by several gentlemen on that side before I made the offer. I hope the gentleman will not insist upon Saturday.

Mr. RANDALL. Those gentlemen may have communicated with the gentleman from Iowa; they have not with me. So far as I can hear from the majority on this side, we desire to have Saturday.

Mr. KENNA. I hope this side of the House will insist upon Saturday.

Mr. KASSON. That is more than the agreement, and in that case I must insist upon a vote being taken upon my proposition to close general debate on Thursday next.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] calls for the yeas and nays on his motion to substitute Saturday for Thursday as the time for closing general debate.

The question was taken upon ordering the yeas and nays, and there were 41 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 89, nays 94, not voting 108; as follows:

YEAS—89.

Armfield,	Davidson,	Holman,	Shackelford,
Barbour,	Davis, Lowndes H.	Hooker,	Singleton, Jas. W.
Beach,	Deuster,	Hutchins,	Singleton, Otho R.
Belmont,	Dibble,	Jones, James K.	Springer,
Beltzhoover,	Dowd,	Kenna,	Talbott,
Bland,	Dunn,	King,	Thompson, P. B.
Bliss,	Ellis,	Klotz,	Tillman,
Blount,	Ermentrout,	Ladd,	Townshend, R. W
Buchanan,	Evins,	Le Fevre,	Tucker,
Buckner,	Finley,	McMillin,	Turner, Henry G.
Cabell,	Flower,	Morrison,	Updegraff, Thomas
Cassidy,	Forney,	Morse,	Upson,
Clark,	Fulkerson,	Mosgrove,	Vance,
Clements,	Gibson,	Moulton,	Warner,
Cobb,	Hammond, N. J.	Muldrow,	Wellborn,
Colerick,	Hardy,	Mutchler,	Whitthorne,
Converse,	Harris, Henry S.	Phister,	Williams, Thomas
Cox, Samuel S.	Hatch,	Randall,	Wilson,
Cox, William R.	Herbert,	Reagan,	Wise, George D.
Covington,	Hewitt, Abram S.	Robinson, Wm. E.	Wise, Morgan R.
Cravens,	Hewitt, G. W.	Ross,	
Culberson,	Hoblitzell,	Scales,	
Curtin,	Hoge,	Scoville,	

NAYS—94.

Aldrich,	Dezendorf,	Hawk,	Moore,
Anderson,	Dingley,	Heilman,	Morey,
Bayne,	Dugro,	Hiscock,	Neal,
Bingham,	Dunnell,	Hubbs,	Norcross,
Bowman,	Dwight,	Humphrey,	O'Neill,
Briggs,	Errett,	Jones, George W.	Page,
Buck,	Farwell, Chas. B.	Jones, Phineas	Payson,
Burrows, Jos. H.	Farwell, Sewell S.	Kasson,	Peelle,
Campbell,	Ford,	Ketcham,	Peirce,
Candler,	George,	Lacey,	Pettibone,
Cannon,	Godshalk,	Lord,	Pound,
Carpenter,	Grout,	Lynch,	Prescott,
Chace,	Guenther,	Mason,	Ray,
Crapo,	Harmer,	McClure,	Reed,
Cutts,	Harris, Benj. W.	McCoid,	Rice, William W.
Deering,	Haseltine,	Miles,	Rich,
De Motte,	Haskell,	Miller,	Richardson, D. P.
Ritchie,	Smith, A. Herr	Thompson, Wm. G.	Walker,
Robinson, Geo. D.	Spooner,	Townsend, Amos	Webber,
Ryan,	Steele,	Updegraff, J. T.	White,
Scranton,	Stone,	Urner,	Williams, Chas. G.
Shallenberger,	Strait,	Valentine,	Wood, Walter A.
Sherwin,	Taylor,	Van Aernam,	
Skinner,	Thomas,	Wait,	

NOT VOTING—108.

Aiken,	Davis, George R.	Leedom,	Robinson, James S.
Atherton,	Dawes,	Lewis,	Rosecrans,
Atkins,	Dibrell,	Lindsey,	Russell,
Barr,	Fisher,	Manning,	Shelley,
Belford,	Frost,	Marsh,	Shultz,
Berry,	Garrison,	Martin,	Simonton,
Black,	Geddes,	Matson,	Smith, Dietrich C.
Blackburn,	Gunter,	McCook,	Smith, J. Hyatt
Blanchard,	Hall,	McKenzie,	Sparks,
Bragg,	Hammond, John	McKinley,	Spaulding,
Brewer,	Hardenbergh,	McLane,	Speer,
Browne,	Hazelton,	Mills,	Stephens,
Brumm,	Henderson,	Money,	Stockslager,
Burrows, Julius C.	Hepburn,	Murch,	Turner, Oscar
Butterworth,	Herndon,	Nolan,	Tyler,
Caldwell,	Hill,	Oates,	Van Horn,
Calkins,	Horr,	Orth,	Van Voorhis,
Camp,	Houk,	Pacheco,	Wadsworth,
Carlisle,	House,	Parker,	Ward,
Caswell,	Hubbell,	Paul,	Washburn,
Chapman,	Jacobs,	Phelps,	Watson,
Clardy,	Jadwin,	Rauney,	West,
Cook,	Jorgensen,	Rice, John B.	Wheeler,
Cornell,	Joyce,	Rice, Theron M.	Willis,
Crowley,	Kelley,	Richardson, Jno. S.	Willits,
Cullen,	Knott,	Robertson,	Wood, Benjamin
Darrell,	Latham,	Robeson,	Young.

So the amendment of Mr. RANDALL was not agreed to.

The following additional pairs were announced:

Mr. BUTTERWORTH with Mr. HOUSE.

Mr. JADWIN with Mr. BRAGG.

Mr. WILLITS with Mr. KNOTT.

Mr. VAN VOORHIS with Mr. TUCKER.

Mr. SMITH, of Illinois, with Mr. TURNER, of Kentucky.

Mr. TYLER with Mr. OATES.

Mr. BROWNE with Mr. FROST.

Mr. ROSECRANS with Mr. FISHER.

Mr. CALKINS with Mr. STOCKSLAGER.

Mr. SPAULDING with Mr. WHEELER.

Mr. RUSSELL with Mr. MILLS.

The result of the vote was announced as above stated.

The SPEAKER. The question now recurs on the motion of the gentleman from Iowa [Mr. KASSON] that general debate in Committee of the Whole on the tariff-commission bill terminate on Thursday next.

The question being taken, there were—ayes 64, noes 2.

Mr. RANDALL. No quorum.

Tellers were ordered; and Mr. KASSON and Mr. RANDALL were appointed.

The House again divided; and the tellers reported—ayes 64, no 1.

Mr. RANDALL. No quorum.

The SPEAKER. The tellers will resume their places.

Mr. KASSON. I am bound to recognize the fact that though there is a quorum in the House gentlemen desire to make an issue by not acceding to the wishes of the majority in fixing a day.

Mr. RANDALL. There was a bare majority against fixing Saturday. We consider that to allow the debate to run until that time is only reasonable, and that if agreed to it will result in no further delay.

Mr. KASSON. I must say that in view of the repeated statements made in public as signifying the understanding at which we arrived, that there should be only three more days for general debate, I do not see the propriety of this demand. But in order to allow opportunity for reaching, if possible, a satisfactory arrangement, I withdraw, with the permission of the House, my motion to fix a day for terminating debate; and in order to save time I move that the House now resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the tariff-commission bill.

The motion was agreed to.

TARIFF COMMISSION.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. ROBINSON, of Massachusetts, in the chair,) and resumed the consideration of the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws.

Mr. CHACE addressed the committee. [See Appendix.]

MESSAGE FROM THE PRESIDENT.

The committee rose informally, and Mr. HASKELL took the chair as Speaker *pro tempore*.

Two messages in writing from the President of the United States were communicated to the House, by Mr. PRUDEN, his Secretary, who also announced to the House that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 721) to authorize the appointment of an ordnance store-keeper in the Army;

An act (H. R. No. 813) to amend section 5254, title 63, Revised Stat-

utes of the United States, concerning the use of piers and cribs in the Mississippi River;

An act (H. R. No. 3869) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department;

A joint resolution (H. R. No. 161) making an appropriation to enable the Light-House Board to meet the extraordinary expenses consequent upon the flood in the Mississippi River; and

A joint resolution (H. R. No. 185) granting the use of tents at the soldiers' reunion to be held at Belle Plaine in the month of September or October, 1882.

TARIFF-COMMISSION

The Committee of the Whole resumed its session.

Mr. HERBERT. Mr. Chairman, in this age the claims of science are everywhere recognized. Not a ship is sailed, not a bridge is constructed, not a shaft is sunk without consulting its lessons. And I believe that when this Congress undertakes to pass a tariff law, or to amend our tariff laws which reach down to the homes of all the people of this country and affect every man, it ought to recognize the claims of science, if there be any science bearing on the subject.

I have been taught to believe, and I do believe, that political economy is such a science. Now, I am well aware that the practical statesman will not construct laws solely according to theory. It is our duty when we come to legislate to consider the situation of the country, the circumstances which surround us, the condition of all our industries. And yet it is equally important that the theory upon which we proceed shall be correct.

I received the other day, as other members of this House did, a pamphlet which advises us in reforming or attempting to reform or change our tariff laws to disregard the lessons of science, of political economy, as taught in books and in the schools. I have thought that I might give a new turn to this debate by attempting to answer this pamphlet.

I hold it in my hand. It is entitled "Tariff Tract No. 4, 1882." It is published by the American Iron and Steel Association, at No. 261 South Fourth street, Philadelphia, "where copies of this tract may be had for distribution. Address James M. Swank, secretary."

Now, we are not advised that the colporteur will carry this tract around for the enlightenment of the heathen. But it is intimated that all who wish to put it in the hands of the unconverted have only to apply to Mr. James M. Swank, where copies of it can be had freely and without price.

From the fact that this pamphlet is so circulated by this association, and from the fact that it is by the gentleman from Pennsylvania, [Mr. KELLEY,] the ablest, the oldest, the most distinguished advocate of protection on this floor, I take it that it says about all that can be said in the brief space of a magazine article in favor of that theory and against the theory of free trade. The author of that pamphlet has been kept in this House by his constituents for more than twenty years to defend their peculiar interests. He is able and faithful. He has devoted laborious days and nights to the study of the question he takes up in this article.

The article is a carefully-prepared, well-considered paper; and if anything can convince us that political economy is not a science, but a fraud, and that the "Cobden Club" and the devil are one and the same thing, we certainly shall find it in this pamphlet. It has the taking title, "A science based on assumptions;" and it is a grave attack on political economy as taught in all the schools almost without exception since the day when Adam Smith wrote his "Wealth of Nations," now more than a hundred years ago. The gentleman, as the basis of his attack, as the text of his article, attributes this expression to John Stuart Mill. He says:

> John Stuart Mill declared political economy to be a science based on assumption.

The argument then proceeds on the assumption that this extract fairly expresses the idea of the great author. No reference is given by the gentleman from Pennsylvania to show from what part of the writings of Mr. Mill this sentence is extracted, but I take it that the gentleman means to quote from a book which I hold in my hand, published in 1844, and from a chapter devoted to "the definitions and methods of political economy." Nowhere in the writings of Mill do I find any expression which would justify this text, unless it be that which is found at page 144 of that book. The text as I find it there reads:

> It [political economy] reasons, and as we contend must necessarily reason, from assumptions, not from facts. It is built upon hypotheses strictly analogous to those which, under the name of definitions, are the foundation of other abstract sciences.

Now, mark you, Mr. Chairman, the author does not give this as definition, he does not say, as Judge KELLEY says, that political economy is a science founded on assumptions; but he says it reasons from assumptions, and he goes on to explain what he means by this expression.

"Geometry," says Mill, "presupposes an arbitrary definition of a line, 'that which has length but not breadth.' Just in the same manner does political economy suppose an arbitrary definition of a man," &c.

Again: "No mathematician ever thought that his definition of a line corresponded to an actual line. As little did any political economist ever imagine that real men had no object of desire but wealth," &c. In the same article Mill says, page 133: "Political economy, therefore, presupposes all the physical sciences; it takes for granted all such of the truths of those sciences as are concerned in the production of the object demanded by the wants of mankind," &c. In other words, the author means that political economy assumes the facts of physics and the well-known laws of human nature and reasons from these.

Now, I challenge the gentleman from Pennsylvania to prove that any one of the assumptions of the political economists is as unfair as his assumption that the quotation with which he heads his article gives a fair idea of the position of John Stuart Mill. If the gentleman wishes to destroy the science, let him assail some one of the assumptions, the postulates, the premises on which it is founded.

If he does this successfully, then he may succeed. He cannot do so by the *ad captandum* use of a single phrase wrenched from its place in a chapter of forty-four pages devoted to the definition and method of political economy, and even then not quoted literally. But Judge KELLEY says the reasoning of the political economists is entirely *a priori* as contradistinguished from the inductive method pursued by Bacon, Newton, and others.

On page 149 of this same chapter Mill says:

> The desires of man and the nature of the conduct to which they prompt him are within the reach of our observation. We can also observe what are the objects of those desires. * * * Knowing, therefore, accurately the properties of the substances, we may reason with as much certainty as in the most demonstrative parts of physics from any assumed set of circumstances.

In other words, Mill says political economists arrive at the laws, the premises, the assumptions from which they reason by observation. This is precisely the mode adopted in all science. It was thus Newton discovered the law of gravitation. He saw an apple fall. He reflected that other heavy objects everywhere fell in the same direction—toward the center of the earth. He therefore assumed the law of gravitation, and subsequent observation everywhere has confirmed the assumption. Now, the philosopher takes this assumption of Newton as a postulate; takes it to be a law and reasons from it by the *a priori* method to practical results. So all the laws of astronomy were first discovered by observation or assumptions from circumstances. When these assumptions are verified they are accepted as laws. Reasoning from these laws downward by the *a priori* method, man is enabled to predict the comets as they come, and to weigh the planets as they roll through the universe. So the political economists have their laws, their assumptions, to reason from. These laws or assumptions no man can successfully deny. They may, like the physical laws of nature, be subject to disturbing influences. The apple will not always drop straight toward the center of the earth. In a wind-storm it may be blown to the east or the west.

So one of the assumptions of the political economists is that man in his business affairs will do that which he thinks it his interest to do. He may be influenced now and then by natural affection, by friendship, by patriotism; but in the absence of such disturbing causes the general law of self-interest will operate. Reasoning from this general law, the political economist would say that iron companies and steel companies formed themselves into the Iron and Steel Association of America to promote their business interests. Will the gentleman say this assumption is untrue? He would also say that this iron and steel association paid its money to print and circulate Judge KELLEY'S article, because it was believed that with all its assumptions the paper was among the best that could be written in defense of protection. Will the gentleman deny this?

Mr. Chairman, all the assumptions, the postulates upon which political economists are agreed, are just like and just as unanswerable as this.

The gentleman states the position of the two conflicting theories thus:

> The professed aim of political economy is cosmopolitanism, while protectionists labor to secure to each nation industrial and commercial independence and the enjoyment of its resources and autonomy.

That free trade, like liberty, is cosmopolitan, is true. The scientists who advocate it would have all men help all other men—each nation contribute whatever it could to every other nation—all climes, all seasons, all soils helpful to all men who would help themselves. And protection, when logically carried out, seeks to make each nation shut itself up within its own borders, so that each may become industrially independent and commercially independent of every other nation.

I lived a portion of my life, Mr. Chairman, in a country that was commercially independent. We had no commerce with foreign nations. We were industrially independent. Our labor could not come in conflict with the so-called "pauper labor of Europe." Whatever we ate, whatever we drank, whatever we wore, whatever we enjoyed, we produced at home. We were completely protected; protected at sea by ships of war closing up every port, on land by walls of bayonets all around us. The late confederacy was a practical illustration of the beauties of protection. We emphatically lived at home. We had no coffee, but we made it of corn and of rye and of potatoes. I remember to have tried coffee made of acorns. Nevertheless, though it was a home product, I did not admire acorn coffee. I was proud of our native oaks that struck their roots so deep into the soil and lifted their branches so grandly in the air, yet I craved coffee from South America.

Salt with us was sometimes so scarce that a sack which across the line was worth $1 was equal in value to a bale of cotton which across

the line was worth $200. We had cotton in abundance; it was rotting often for want of shelter; but we had a system of protection that would not permit us to sell or exchange. That system of protection—and protection means prohibition—gradually starved the confederacy to death. All that time the North was fighting for free trade; it wanted to sell us its wares and its notions, and get our cotton in exchange. The West was fighting for free trade; it wanted the Mississippi free to the sea; it wanted to sell us its corn, its flour, and its bacon. Will any gentleman tell me why, if it is desirable that the farmers of the West should have a market for their produce in the South, it is not also desirable, when they have stocked that market, they should have a market in Europe? Will any gentleman tell me why, if these same farmers should desire to bring back in exchange for their products cotton, tobacco, and oranges from the South without toll and without duty, it is not also desirable for them to bring back from Europe blankets and clothing free of toll and free of duty?

Why do we rejoice at the completion of every railroad that connects the North and the South, or the East and the West? Simply, sir, because it gives us freer trade, more commerce with each other, more liberty of exchange. Why is there a sentiment abroad among the people that compels us to vote millions to our rivers and harbors? Simply and solely that we may have more transportation and that we may free our commerce from the restrictions, the tolls, the tariffs placed on it by railroad monopolies. But, sir, of what avail is it that we should dredge out our rivers that run down to the sea if at the ocean's mouth we are to put a custom-house officer to forbid foreign articles from coming up those rivers to supply the wants of our people? Will gentlemen say that we are to have cheap transportation for our products down to the sea that we may export and sell but no liberty to buy and import? Remember, sir, we are now discussing the theories of free trade and protection. Which theory is right?

Judge KELLEY says that while free trade is cosmopolitan protection seeks to secure to each nation commercial and industrial independence. He is seeking to show that under wise statesmanship every nation would secure for itself this inestimable boon. Under this system, if adopted by all nations, England would cease to depend upon America for cotton. She would shut her ports to our great Southern staple and rely upon India. Every nation in Europe would shut out the corn and the wheat and the beef and pork and cheese and butter, and all the products of our Western farms. The land-owners in England and France and Germany would exclude all the natural products of our soil under the cry of protection against the cheap lands in America. The people of different nations can only cease to depend on each other when they cease to rely on each other for anything. Under Judge KELLEY's system, that each nation should be commercially independent and industrially independent of every other nation, not a ship would cross the ocean. The commerce of the world would be dead, for all peoples would be living at home, buying and selling only within their own borders.

It is no wonder that every scientific student who sits in his closet and speculates for the good of his fellow-man, who is perfectly unbiased and has no favored class behind him, no associated capital whose interest he is bound as a representative man to represent, is opposed to a theory that would strike such a blow at the progress of civilization.

The gentleman, who I am sorry to see has left his seat, will say that I am reasoning on assumptions. I am; on the assumption simply that all nations should carry out the policy recommended by the gentleman from Pennsylvania. But I admit, sir, that the assumption is absurd, simply because the theory on which it is founded, as tested by the wants, as tested by the necessities, as tested by the experience of mankind is itself absurd, as applicable to nations at peace with each other. When we leave out of consideration the dangers of war between nations and the question of revenues for the support of Government, the theory of protection—which means interference with the liberty of the citizen, a denial to him of the natural and God-given right to sell where he can sell highest and buy where he can buy cheapest—is, from a purely scientific stand-point, the baldest fallacy, the grossest violation of natural right ever yet attempted by associated capital to be propagated in a free country.

Mr. Chairman, I know that the practical statesman cannot disregard the lessons of experience; but neither can he disregard the teachings of science. On this point I quote again from the same author and the same essay quoted as authority by Judge KELLEY. Mill says:

> No one who attempts to lay down propositions for the guidance of mankind, however perfect his scientific acquirements, can dispense with a practical knowledge of the actual modes in which the affairs of the world are carried on, and an extensive personal experience of the actual ideas, feelings, and intellectual and moral tendencies of his own country and of his own age. The true practical statesman is he who combines this experience with a profound knowledge of abstract political philosophy. Either acquirement without the other leaves him lame and impotent if he is sensible of the deficiency; renders him obstinate and presumptuous if, as is more probable, he is entirely unconscious of it.

I do not, sir, disregard or forget the lessons of experience. I know very well if the confederacy had been filled with machine-shops, with wagon factories, with factories of all kinds, it would have been able to make a better fight for independence than it did. But we are in a different situation now. This nation numbers fifty million people, brave and warlike, with every cause of domestic dissension removed, with a Union absolutely indissoluble, with our industries in an advanced state, and reserving the condition of industries for consideration when we come to adjusting duties, the simple question in this discussion of the theory is how far and to what extent does the danger or possibility of a war in the future with some foreign nation justify us in departing from the principle of free trade or of a tariff for revenue?

I think all men will admit that we could, (perhaps I should not say all men will admit it,) but I believe it to be demonstrably true that with less than the cost of a high protective tariff we could build up a navy that would ride the seas against all the powers of the world, and we could support an army of one hundred thousand men. But all men will agree that we do not need any such navy or any such army, and it seems to me that there is an end of the argument for a high protective tariff as a war measure. But I will pass on to this pamphlet. I am now merely discussing and endeavoring to answer the argument of the gentleman from Pennsylvania, who seeks to prove that the teachings of political economy are of the class of airy nothings bodied forth by the poets.

Beyond his contention that political economy is a science based on assumptions, how does he seek to prove this assertion?

He makes an attack on England and English policy. Suppose he proves, as he attempts to do, and as we must admit the fact to be, that England has been and is selfish and grasping; that she has not always practiced free trade; that since she has professed it, now not more than forty years, she has not always allowed other nations or peoples to reap its benefits, does that prove that Judge KELLEY's assumption is true that the "beautiful and seductive theories" of our Sumners and Perrys "must be classed with the airy nothings bodied forth by the poets?" Why, sir, we may admit all the crimes he charges on England to be proven, and this does not touch the question. Suppose we admit that prior to the establishment of our independence England, by unfair legislation and hostile edicts, prevented the establishment of manufactures in these colonies; suppose we admit that even since England has adopted free trade as her own policy she has denied it to her colonies, does that prove that free trade would not have benefited those colonies? Why, sir, the gentleman himself disproves his own theory and absolutely demonstrates the theory he is opposing by what he says about India.

I send to the Clerk's desk and ask him to read the passage marked on pages 14 and 15.

The Clerk read as follows:

> So late as August, 1875, when trade in Manchester was peculiarly depressed, the British Viceroy, in the face of a vote of his council against the destructive measure, abolished the slight duty remaining on cotton goods, and by the same edict imposed an import duty of 5 per cent. on long-staple cotton (a vital element of their manufactures) imported into India. The Calcutta Englishman of August 5, of that year, said:
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> "The new tariff bill is about as infamous a measure as ever a subservient legislature sought to impose upon a voiceless people. An import duty on raw material is, under any circumstances, one of the worst modes of raising revenue that can be devised; but the duty which the Government is about to impose on a particular quality of her cotton imported into this country is nicely calculated to produce the greatest amount of injury that could possibly be inflicted by such an impost.
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> * * * * * * *
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> "They have put a prohibitive duty on the raw material necessary to enable the Indian mills to spin the finer counts of yarn and weave the finer makes of cloths, and thus secure to Manchester a continuance of her present monopoly of these classes of goods. None but an alien government, or a despotic and ignorant government, bent on filling its coffers for the nonce at any cost, would have adopted such a course as this. No free people would have thus drawn the knife across their own throats."
>
> The Bombay Gazette of the 10th of the same month denounced the measure with equal severity. The Indian chambers of commerce appealed to the Viceroy, but appealed in vain. The modern cotton mills of India were doomed. I challenge history and literature for a parallel to the grim irony involved in professions of devotion to the freedom of trade by the English Government and people, who are responsible for the condition of India and Ireland.

Mr. FISHER. Will the gentleman from Alabama allow me to ask him a question?

Mr. HERBERT. Yes, sir.

Mr. FISHER. If I understand the line of the gentleman's argument, he admits that the southern confederacy could have made a better defense if she had been better supplied with founderies and factories and had protected her salt interests, &c., and the gentleman contends that now, inasmuch as we have increased within the last twenty years till we have become a people of over fifty millions and have developed our manufacturing interests to a greater extent, it would be the true policy of this country, after developing under the protective system, to cast it aside and become a free-trade nation. Is that the line of the gentleman's argument?

Mr. HERBERT. Is the gentleman through with his question?

Mr. FISHER. Yes, sir.

Mr. HERBERT. I started out in my argument with saying I was discussing the theory of free trade as contradistinguished from the theory of protection; that I believed it was the duty of this Congress, when undertaking to legislate, to take into consideration the situation of the country, the circumstances by which it was surrounded, the condition of its industries also, and that, having these all in view, then it was important to start out upon a correct theory. We cannot have free trade, because we must have an immense revenue. This revenue I favor collecting by a tariff. That tariff, properly adjusted, will afford protection. I am not in favor of violent measures

that would bring distress in any quarter of our common country. I am combating what I consider an incorrect and fallacious theory advocated by the gentleman from Pennsylvania, [Mr. KELLEY.] I think that is the answer to the gentleman.

But I do not want to be diverted from my argument. I sent that extract up to the Clerk to read to show how the argument of the gentleman from Pennsylvania destroys his own theory. He attributes the ruin of the cotton manufactures of India to the fact that a 5 per cent. tax was put upon long-staple cotton, which was simply one of the ingredients necessary to the manufacture of cotton goods in India. He showed that the burden on that one single article of 5 per cent., in other words the negation to India of the right of free trade in cotton simply by putting on long-staple cotton a 5 per cent. tax ruined the cotton interests of India. And then he challenges history for a parallel to the conduct of England toward India. I can give the gentleman a parallel which extends its lines beyond the crime he denounces.

Iron ship-building has revolutionized the carrying trade of the world. Before the late war, in the days of wooden vessels, we built more ships than any other nation. But since the advent of iron vessels our carrying trade, which is a measure of our ship-building, because we cannot carry in foreign-built vessels, has been steadily passing into other hands. From 1865 down to the present, the percentage of American commerce carried in American bottoms has been going down year by year. Why is this? We have taxed everything going into an iron vessel—the iron, the steel, the ropes, the copper, and all on an average of more than 40 per cent. If a tax of 5 per cent. on one of the products entering into the manufacture of cotton ruined India, how much more certain is it that a tax of more than 40 per cent. on everything going into the make-up of a ship has ruined ship-building in America? I take the following from our Consular Reports, published for February, 1882:

The American Flag on the Mediterranean.—Consul Rice, of Leghorn, in his report for the quarter ending September 30, 1881, writes concerning the absence of the American flag from that port:

"It is with deep regret I am forced to inform you of the fact that another quarter has expired without my being able to note the arrival or departure of a merchant vessel bearing the American flag, thus making three consecutive quarters during which our flag has not been seen flying in the port of Leghorn, except on board of our men-of-war during their occasional visits to protect a commerce which does not exist, and I predict that within the space of two years, unless Congress comes to the relief of American ship-builders and ship-owners, our Navy will comprise the only ships which help read our renown to the outside world.

"I read with much pleasure the able and masterly report of my colleague, Hon. William L. Scruggs, consul at Canton, published in the Consular Reports, under date of April 2, 1881, referring to the present state of our merchant marine; and what he states of Chinese waters is equally true with regard to those of the Mediterranean, and the universal cry is, cannot something be done to restore our carrying trade?"

If England played the stepmother to India by imposing a tax of 5 per cent., what shall we say of the conduct of the protectionists toward the ship-building interests of America? And the gentleman talks about our high tariff securing our independence. Independence! Why, we are the most dependent nation in the world, simply because we have no shipping of our own in which to do our own carrying. Our commerce depends not only on keeping the peace ourselves but on peace or war between other nations. Our commerce would be ruined by a war between England and any of the other great maritime powers of the world.

Again, the gentleman attributes the condition of Ireland to free trade. To prove this he cites an extract from a speech of Thomas Francis Meagher, in which he arraigns England, among other things, for destroying Irish manufactures. I have before me the speech of Mr. Meagher. Nowhere in it does he say all these evils came from free trade. He is arguing for the right of Ireland to govern herself.

Elsewhere he puts the wrongs of Ireland in a comprehensive manner. In a speech delivered in Conciliation Hall on the 6th of April, 1846, he says:

"The archbishop of Dublin is an Englishman," writes the Evening Mail, "the chief administrator of the Irish poor law is an Englishman, the paymaster of the Irish civil services is a Scotchman, the chief commissioner of the Irish public works is an Englishman, the teller of the exchequer is an Englishman, the chief officer of the Irish post-office is an Englishman, the collector of excise is a Scotchman, the head of the revenue police is an Englishman, the second in command is a Scotchman, the persons employed in the collection of customs, &c., are English or Scotch in the proportion of thirty-five to one." Thus, you see, that while the Irish belong to Ireland, Ireland does not belong to the Irish.

This was first-class carpet-baggery. "When the stranger rules, the people mourn."

I read from another Irishman, discussing the causes of the Irish famine. Henry Giles, one of the most eloquent of the sons of that unhappy isle, says, in 1848:

The landlords are the owners of the soil, who expend no capital and who take even more than the profit. The land cannot support these two classes as at present related. The landlord must have state and luxury, not expending time or labor or money, though the tenant, spending time and labor and money, has not subsistence. The best of the produce, animal and vegetable, is exported—

Exported, mark you, because the landlord is an absentee—

to meet the landlord's demands; the worst is retained to supply the cultivator's wants. The cultivator must pay or quit. He sells his wheat, his oats, his stock to pay. He reserves the potato on which to exist. The potato fails; the cultivator becomes a pauper or a corpse.

Judge KELLEY says, on page 12 of his pamphlet, speaking of the reasons why the resources of Ireland are undeveloped, and famine and distress have come upon her:

These blessings she owes to the fact that the articles of union between Ireland and Great Britain, executed by Castlereagh and other Irish traitors, inflicted upon her that system of British free trade which is vindicated by the science based on assumptions.

Judge KELLEY ought to know, for it is the plainest page in history, that Ireland's woes came upon her before England adopted free trade, before Adam Smith wrote, and before Richard Cobden was born into the world.

Henry Giles, the same author from whom I have quoted, in a lecture on the spirit of Irish history, says: "Under the sway of Elizabeth Ireland lay in tempest and in waste." And further on, in the same lecture, speaking of the era from the death of Mary to that of James I:

While Europe was thus rejoicing in spreading grandeur, the fairest island on its western border, with every means of prosperity and glory, lay like a ruin at moonlight, where pirates had assembled to divide their plunder in blasphemy and blood.

I refer to another author, who deals in facts and figures. James J. Clancy, in Ireland as She Is, as She Has Been, and as She Ought to Be, published in 1877, in his seventh chapter shows why Ireland has no manufactures. He quotes the statutes passed in 1710, in 1732, in 1750, in 1765, in 1781, in 1785, and in 1789, by which England discouraged and prohibited manufactures in Ireland. The author, in the concluding paragraph of the chapter, says:

But have not most of these prohibitory statutes been repealed or allowed to lapse into dead letters? * * * Quite true; but deceptive. Where is the use of haltering a dead horse? He cannot run away.

And it is to such a carcass as this, leached by carpet-baggers, by landlordism and absenteeism, and finally starved to death by high taxes and prohibitory laws, that the gentleman from Pennsylvania appeals to justify him in imposing high taxes and prohibitory laws on free America. And he calls political economy that says Ireland ought to have had free manufactures, which she was denied; free export and import, which she was denied; free trade and fair play, which she was denied, a science based on assumptions.

His argument that Turkey was ruined by cheap British goods is just as unfounded and just as far-fetched. He says England made a treaty with Turkey in 1579 which "stipulated that the duty on British goods imported into Turkey should be fixed at 3 per cent.; and that provision, by subjecting the industries of Turkey to unrestricted British competition, wrought the overthrow of the power that had just threatened the conquest of Europe." Solyman the Magnificent, he says, twenty years before had caused all Western Europe to tremble at the tread of his armies. I venture to say that not a single historian can be found among all the three hundred thousand authors whose writings adorn our Congressional Library, who, writing simply to tell the truth of history and not for the purpose of vindicating a political theory, attributes the downfall of the power of Turkey to England's cheap goods.

Appleton's Encyclopedia says:

The reign of Solyman marks the zenith of the military power of Turkey, which began to decline after his death, his son, Selim II, being the first of the sultans who did not command the troops, but who led the life of a vuluptuary.

I suppose the gentleman will say that he loved cheap goods.

After conquering Cyprus he lost in 1571 the great naval battle of Lepanto. He was succeeded by a series of still more inefficient rulers, under which the janizaries became omnipotent, despite the decline of their military organization, and murders and conspiracies in the seraglios and revolts of pashas in remote provinces more and more frequent.

That is what the encyclopedia says. Then I have here another book, Blochwitz's History of Turkey. He shows in this history that the decline of Turkey began before the date 1579, that the causes existed during the reign of Solyman, and he quotes from the Turkish jurist Kotshibeg, who enumerates the causes of the decline of Turkey, beginning on page 74 of this history. This eminent Turkish jurist, undertaking to enumerate these causes, nowhere attributes them to such an insignificant and, I beg the gentleman's pardon for saying, such an absured cause as the cheap goods of England. Extravagance, immorality, ruinous and unlawful taxation, conspiracies, rebellions, assassinations, and the enervating tendencies of Mohammedanism, these were the inside influences. Wars with Russia and Austria and other European powers—these were the outside causes that combined finally to make Turkey the Sick Man of Europe. Now, if Henry C. Carey teaches that cheap goods wrought the ruin of Turkey, then no wonder, as the gentleman states, that his works have no place in the schools of America.

But perhaps the argument most relied on in this paper is, that Great Britain seeks to subjugate by diplomacy and cheap goods nations it cannot subdue by arms. This was one of the most powerful arguments used in the last Presidental campaign. I have been told by a gentleman from Illinois, who witnessed it himself, that clubs of farmers, who, the statistics show, were paying 40 per cent. tariff imposition on the very clothing they wore, actually carried banners bearing the inscription, "No free-trade for us." The argument was that British gold was being used to force on them cheap goods, and they did not propose to submit to the indignity. The Western Farmer of America, a pamphlet written by Augustus Mougredieu, a member of the Cobden Club, was being circulated among them to

convince them that they were paying too high for their goods. This was said to be done by British gold to further British cupidity. When they see this tract of Judge KELLEY's circulated among them, paid for by American gold, to convince them that they should perpetuate a system that will compel them forever to pay high prices, what will they say? Mr. Chairman, that much maligned Cobden Club was formed to perpetuate the memory of Richard Cobden, who by the repeal of the corn-laws of England gave the right to our Western farmers to carry their corn and their wheat free of duty into England. It is a noble institution. Its motto is "Free-trade, peace, good-will among nations." It numbers among its honorary members many of the ablest, the broadest-minded, the most philanthropic and far-sighted men of America, belonging to both the great political parties. I hold the list in my hand. I need only cite such names as Charles Francis Adams, George Bancroft, S. S. Cox, Charles Nordhoff, Theodore Woolsey, William Lloyd Garrison, Carl Schurz, and James A. Garfield.

Judge KELLEY argued, and I state it as fairly as he can desire, that British manufacturers frequently sell their goods below cost in order to break down rival factories. That manufacturers in their greed for money do have a natural desire to shut out competition I am bound, as a believer in the political economy and in the ordinary motives that govern mankind, to admit. But, reasoning from the same postulate that manufacturers are governed by motives of self-interest, which the gentleman from Pennsylvania calls an assumption, I am bound also to conclude that they would not cut their own throats to kill off their rivals. I have known a merchant in a town of 2,500 inhabitants to attempt to kill off his rivals by selling goods for a season at a loss.

The result was when the season closed the consumers had enjoyed cheap goods; the merchant had lost money, and still had his rivals; so that he did not try it again. But I never heard of such an attempt being made in a large city; and I think that the argument certainly is not entitled to much weight that in the present condition of our industries, if we bring down our tariff and admit British goods for less duty than we do now, British manufacturers could afford so to cut down their prices for this country, when they are in competition with all the world, as to break down our industries.

Mr. Chairman, the advocates of protection will say to me that if we reduce the tariff the rising industries of the South, just beginning to flourish, will be stricken down. This argument, together with the statement that British manufacturers will flood the country with cheap goods, is leveled at all Southern and all Western Representatives to frighten them into sustaining a high tariff on their farming constituents, in order to build up manufactures in the South and West. Whence comes this new-born zeal for the industries of the West and the South? And would gentlemen have us believe that the persons engaged in these favored industries, when they express so much solicitude that we should engage in these same industries, are governed solely by motives of patriotism and brotherly affection? I am glad to admit, Mr. Chairman, that there is much kind feeling between the North and the South. I wish there was even more of it. But, sir, human nature is the same everywhere. Manufacturers in America consult their own interests just as manufacturers in England do.

If British manufacturers, because they have capital and are established, could afford to sell goods at a loss for such a length of time as would be necessary to break down American industries, and if it could be proved to me that they would do it, I should be very much afraid, as a friend of the rising industries of the South, to put up such a tariff as would permanently shut out all foreign competition, because, sir, I should fear that the old established manufactories of America, when this country was permanently fenced in by a fixed high tariff, would combine and break down all the weaker factories in order that they might have the whole field to themselves. With the moderate taxation necessary to raise revenue, judiciously distributed, we would secure such protection and such fair competition as would be at once an element of strength to our rising industries in the South and a safeguard against combinations of the strong to break down the weak.

Mr. Chairman, free competition always lessens the danger of combinations. When prohibitory and restrictive laws give to great establishments large profits, then they have the margin on which to break down their rivals—either to buy them out or crush them. And just here, sir, I wish to prove that the very association which pays its money to print this pamphlet I am answering has itself, as the agent of the Bessemer steel companies, been guilty of the very crime for which it arraigns British manufacturers; and I shall prove this, not by hearsay, but out of the unwilling mouth of its own witness. It is well known that these steel makers have been making immense profits. Protected from British competition by the high tariff they made something like 70 per cent. profit last year. When the profits they were making were not as large as they desired they actually paid the Vulcan Works not to manufacture steel.

I read from a printed report of hearings before the Ways and Means Committee in February, 1880. Dr. Felton, president of the association, was on the stand. Hon. Fernando Wood was chairman of the committee:

The CHAIRMAN. How long has it been since your association made an arrangement to close the Vulcan Iron Works at Saint Louis?

Mr. FELTON. We did not make any arrangement to close the Vulcan Works at Saint Louis at all. The Vulcan Works were bankrupt, I suppose, when they could not raise money to pay their men.

The CHAIRMAN. Do you intimate that Commodore Garrison was bankrupt?

Mr. FELTON. No, sir; I speak of the corporation, and not of the individuals composing it.

The CHAIRMAN. It has been alleged here that the works have been stopped through the operation of existing mills?

Mr. FELTON. Not at all.

The CHAIRMAN. State what you know on the subject.

Mr. FELTON. I only know that the Vulcan Works got into financial difficulty; were not able to pay their debts and were obliged to stop in consequence.

It appears here that Dr. Felton knew very little about "the subject." But Mr. CARLISLE renewed it. It will be noticed that he put his questions in a very searching manner, and then Dr. Felton did know something about the subject. I read from pages 59 and 60:

Mr. CARLISLE. I understood you to say in reply to a question put by the chairman that the association of which you are president has not furnished any moneys to compensate the Vulcan Iron Works at Saint Louis for remaining idle?

Mr. FELTON. No, sir; the association as such has not.

Mr. CARLISLE. Do you know anything as to whether the other mill-owners have furnished anything for that purpose?

Mr. FELTON. I will tell you the whole truth about that. The Vulcan Works, as I said, stopped in consequence of their inability from the profits of their work to pay their men and to pay their honest debts. While they were in that condition some of the other steel manufacturers took up the question in a pure business point of view, and agreed to pay a certain sum to the Vulcan Works to enable them to tide over the then hard times. They were under mortgage of a million dollars, the interest of which was about seventy thousand dollars a year, and they would have been sold out and sacrificed, and the property scattered to the four winds of heaven, the same as the Freedom Works in Pennsylvania were, if it had not been that other persons who were engaged in the same business came to their relief and paid them about seventy thousand dollars a year, by which the Vulcan Works paid the interest on their debt, saved their property, and were ready when the demand should be greater than the supply to start afresh.

Mr. CARLISLE. Was it or was it not a part of that agreement that the Vulcan Works should not operate within those years that they were being paid $70,000?

Mr. FELTON. They were to operate whenever the time came that the demand for steel rails was equal to the supply, (including the supply of the Vulcan Works,) and they were notified that they would receive this money no longer.

Mr. CARLISLE. That is, these other mill-owners have the right to notify the Vulcan Works that they may resume operation?

Mr. FELTON. Yes; and they have been notified.

Mr. CARLISLE. Was it not a part of the understanding that the other mill-owners should have a right to notify them?

Mr. FELTON. I do not know that there was any particular understanding about it, but that was done.

Mr. CARLISLE. How long were the Vulcan Works closed under that arrangement?

Mr. FELTON. Something over a year.

Thus these Bessemer steel companies were paying the Vulcan Works $70,000 a year to keep their mill idle and their laborers out of employment.

Now, sir, what became of these laborers—these people the gentleman from Pennsylvania is so anxious to protect, and who probably with their wives and little ones numbered at least 2,000? By these monopolists and capitalists who are protected by patents and a high tariff they were turned adrift, thrown out of employment to starve or beg employment elsewhere, and I have never yet heard the gentleman from Pennsylvania rise here and denounce them as unjust.

Mr. KELLEY. I do not think that Mr. S. M. Felton, not Dr. Felton, admitted that any payments had been made for the purpose of closing the Vulcan Works. They were in a bankrupt condition; and the company paid what would prevent their sale, until by a revival of trade the property should become valuable again. This is the same concern that the gentleman from Minnesota referred to when he said the other day he had been informed by a Saint Louis manufacturer of Bessemer rails that rails could be profitably manufactured under a duty of $14 per ton.

Mr. HEWITT, of New York. The bargain was that they were to pay a certain number of dollars per ton as long as they made no steel rails.

Mr. HERBERT. And it is admitted here that the Vulcan Works could not go to work so long as the $70,000 a year was paid and until notified that they might go on with work.

Mr. KELLEY. Not go on manufacturing at a loss until the whole property should be swamped.

Mr. HERBERT. The gentleman cannot get out of it in that way. Why should this company, if the manufacture was unprofitable, be paid for remaining idle? If the manufacture of Bessemer steel was a losing business, is it reasonable to suppose that these companies would squander $70,000 a year to prevent its manufacture?

Mr. KELLEY. Bessemer rails could be bought within $40 a ton, and there was no market at that time for either domestic or imported rails.

Mr. HERBERT. It is very strange, then, that they should have paid $70,000 for stopping a branch of manufacture in which there was no money at best.

Mr. KELLEY. Why, the gentleman from New York said the other day that for six successive years he had sunk $100,000 a year in his concern. Better to do that than let valuable property go to decay. But he said that in a single year afterward he had recouped all of his losses, as he hoped the Bessemer steel companies are doing.

Mr. HEWITT, of New York. They have done it.

Mr. HERBERT. But here are Bessemer steel companies sinking $70,000 per annum in order to prevent another company from manufacturing at a loss. Is not that remarkable? [Mr. KELLEY rose.] Now, I cannot yield any further. I have but a few moments remaining.

Mr. KELLEY. I do not want the gentleman to yield. I only want to explain what seems to have been a misapprehension in his mind.

Mr. HERBERT. Mr. Chairman, I want to see the Southern manufactories freed from the danger of other establishments that by special privileges make so much money that they can buy out or crush out their rivals at pleasure. I am the friend of manufactories and iron industries in the South. But I do not believe it is necessary to rob other classes to build them up. With our natural advantages all they want is fair play. In the revision of the tariff I would give them fair play. I would not only pay regard to them in adjusting the tariff imposed for the collection of revenue, but I would put all machinery, every implement with which they carry on their work, on the free list, and I would not anywhere make such violent changes as to stop industries and throw laborers out of employment.

I want to elevate labor—all labor. We have in the South abundance of cotton and water-power and coal and iron and limestone and wood, everything necessary to diversify our industries. And we have cheap labor—aye, too cheap. I wish to raise wages, increase the purchasing power of wages by lifting the burdens from the back of the laborer. Why is it, Mr. Chairman, that labor at the South is so cheap? Why is it that the colored man who works in the field for money wages can get only $10 or $12 a month? It is not because of any combination against him. Planters bid against each other as much as they can afford to pay. Why is it that the white man or the black man who labors on his own farm winter and summer can scarcely make both ends meet? Our people cannot be said to be idle. They work day in and day out; yet they are not prosperous. The argument is made in almost every speech on this floor in favor of protection that this country is prosperous; and these gentlemen attribute this assumed prosperity to the high tariff. The fallacy of the argument as applicable to the West has already been pointed out.

Such prosperity as has come has come in spite of the Morrill tariff, just as it came in spite of pestilence and crime. We have been able to bear high taxes because our people have worked, because God has blessed our fertile lands with sunshine and rain, because of new and improved methods of farming, because everywhere the advancing intellect of man has invented machinery to help him labor and minister to his wants. These improvements have wonderfully increased man's productive capacity. It is a favorite pastime of gentlemen on this floor who advocate protection to select some articles which are cheaper now than they were twenty years ago and argue as if they were cheapened by high taxes instead of by machinery. But ask one of these gentlemen if he is willing to put these articles on the free list, and he will tell you no. He is unwilling to let in competition, because he knows you can get them cheaper still where there is no high tariff. But notwithstanding the increased producing capacity of man, the cost of the articles used in the family of the laboring man is higher in America to-day than twenty-five years ago. And this brings me to the proposition I regret to be obliged to assert, that the argument for protection based on the prosperity of the country is not true as to the South. Our farmers are not prosperous. They are scarcely in better condition to-day than they were ten years ago. Wages have risen very little; lands have advanced very little in value; and this is the test of the prosperity of a country. Lands which in 1860 were worth $40 an acre can be bought to-day for $10 an acre. Why is this?

We had no more manufactures then than we have now—not so many. We had no more diversity of interests and pursuits then than we have now. During the decade from 1850 to 1860 lands were continually rising in value. The country was in a prosperous condition. Men had only to go in debt judiciously, buying property on credit, and they got rich. Now debt hangs like a millstone about the neck. What is the cause of the difference? It cannot be attributed to the fact mentioned by the gentleman from Rhode Island, [Mr. CHACE,] that a large amount of the precious metals was poured into the country, and the circulation much increased from 1850 to 1860. That is not the cause. The portion of that money we got at the South came from our cotton industry, as we depend mainly upon that now.

[Here the hammer fell.]

Mr. HEWITT, of Alabama. I move that the time of my colleague [Mr. HERBERT] be extended.

Mr. KASSON. How much more time does the gentleman want?

Mr. HERBERT. Twenty minutes.

Mr. KASSON. In view of the pressure put upon me, I desire very much that this debate shall go on without any extension of time; but as an extension was granted to my friend from Rhode Island, [Mr. CHACE,] I will not object in the present case, but suggest that the gentleman from Alabama accept the same additional time that was given to the gentleman from Rhode Island—fifteen minutes.

The CHAIRMAN. Is there any objection to extending the time of the gentleman from Alabama for fifteen minutes? The Chair hears no objection. The gentleman will proceed.

Mr. HORR. I wish to ask the gentleman whether the fall in the value of real estate in the South was not brought about by the abolition of slave labor and by the general effects of the war?

Mr. HERBERT. I am glad the gentleman asked me the question, because it is a question I have prepared myself to answer. The result of the war did unsettle our labor system and depress values, but why should this continue for seventeen years? Why should we not have recuperated? Since the war we have made larger crops and received more money for them than before the war. I have had a table compiled by the chief of the Bureau of Statistics, who at my request has tabulated here, excluding the period of the war, the cotton production of the South from 1855–'56 to 1881, inclusive.

Mr. HORR. I admit all that; but did not this fall take place right after and during the war? Has it not been going up since that? Is not land higher than in 1868 in your country?

Mr. HERBERT. I think not. In 1868 and 1869 land was as high if not higher than to-day.

Mr. HEWITT, of Alabama. Do I understand my colleague to say that the war had no effect on the price of lands in Alabama?

Mr. HERBERT. No; I do not say so.

Mr. HEWITT, of Alabama. Do I understand him to say that the freeing of the colored man from slavery had no effect on the price of lands in the negro belt?

Mr. HERBERT. I do not say so. I will tell the gentleman what I do say, and that is this: that the principal industry before the war in the South was cotton, and the principal industry to-day is cotton——

Mr. HEWITT, of Alabama. I should like to ask another question.

Mr. HERBERT. Let me get through with this and then you may ask me another question.

I admit fully the distress and depression that followed the war, but why have we not recovered? I want to state facts that will show why, facts that will demonstrate that the high prices a high tariff has compelled us to pay have kept the South poor. Our principal industry before the war was cotton. Now it is the same.

The table is as follows:

Cotton year ended August 31—	Production.	Average net weight of bale.	Gross weight.	Annual average price.*	Gold value of crop.†
	Bales.	*Lbs.*	*Lbs.*	*Cents.*	*Dollars.*
1855–'56	3,645,345	420	1,622,907,594	10.30	167,159,482
1856–'57	3,056,519	444	1,438,520,102	13.51	194,344,066
1857–'58	3,238,962	442	1,517,518,476	12.23	185,592,510
1858–'59	3,994,481	447	1,892,664,987	12.08	228,633,930
1859–'60	4,823,770	445	2,275,372,309	11.00	250,290,954
1860–'61	3,826,086	477	1,934,545,603	13.01	251,468,383
1861–'62‡					
1862–'63‡					
1863–'64‡					
1864–'65‡					
1865–'66	2,228,987	441	1,041,962,263	30.76	320,507,592
1866–'67	2,059,271	444	969,175,303	22.40	217,095,268
1867–'68	2,498,895	443	1,173,431,114	17.77	208,518,709
1868–'69	2,439,039	437	1,129,811,645	21.09	238,277,276
1869–'70	3,154,946	434	1,451,401,357	19.45	282,297,564
1870–'71	4,352,317	438	2,020,693,736	15.03	303,710,269
1871–'72	2,974,351	439	1,384,084,494	18.31	253,425,871
1872–'73	3,930,508	440	1,833,188,931	15.84	290,377,127
1873–'74	4,170,388	439	1,940,648,352	15.18	294,590,420
1874–'75	3,832,991	439	1,783,644,032	13.32	237,581,385
1875–'76	4,669,288	436	2,157,958,142	11.41	246,223,024
1876–'77	4,485,423	438	2,082,492,190	10.87	226,366,901
1877–'78	4,811,265	450	2,294,973,405	11.00	252,447,075
1878–'79	5,073,531	443	2,382,428,687	10.83	258,017,027
1879–'80	5,761,252	453	2,771,797,156	12.02	333,170,018
1880–'81	6,605,750	456	3,197,183,000	11.24	359,363,369

* Per pound of middling upland cotton at New York, gold values.
† Computed upon the basis of price of middling upland at New York.
‡ War periods.
NOTE.—The annual average price per pound is taken from "Cotton Movement and Fluctuations," prepared by Messrs. Latham, Alexander & Co., bankers and cotton commission merchants, New York.

The table I speak of gives the cotton crops and the prices realized from 1855 down to present time, gold values. I had it prepared to enable me to compare the amount of money received by the South for a given period before the war with that received since. Allowance is to be made for the fact that New York prices are given and low middling taken as the standard, but as the same standard is applied to both periods the table will serve for the purpose of comparison.

Where has all this money gone? Over four billions three hundred millions paid to the South for cotton since the close of the war! If we compare the six years preceding the war with the six years preceding this we find that, according to this table, the South received $397,882,089 more in the six years ending in August, 1881, than for the six years preceding the war. If we make allowance for the difference in Southern and New York prices and for the grade of low middling, which is above average, the sum cannot be below $330,000,000 for these six years. In other words, the South has received on an average $55,000,000 in gold every year for the last six years more than for the six years before the war. I repeat the question, Where has all this money gone?

These figures are absolutely appalling. The difference cannot be attributed to manufactories, because there were few then and we have more now. How, then, can you account for the difference? The farmers who made all this money have nothing to show for it, and if they have nothing to show for it they must have spent it. If they have spent it, then they have spent it in paying high prices for goods.

Mr. HEWITT, of Alabama. I should like to ask my colleague another question right there.

Mr. HERBERT. Very well; go on.

Mr. HEWITT, of Alabama. Do not the farmers or planters in the South get as high prices for cotton now as before the war?

Mr. HERBERT. This table will show.

Mr. HEWITT, of Alabama. I want to know what implements the farmer purchases in the South he pays more for now than he did before the war?

Mr. HERBERT. All I have to say in reply to that is that any farmer in the West or any farmer in the South knows, and no gentleman on this floor can convince him differently, that his average expenses have been higher since than before the war.

Mr. HORR. The gentleman's exhibit is a flattering one, I think, but is not this the reason why you have not any surplus? Have you not divided the proceeds of the cotton sold among the hundreds or thousands of men who raised it more equitably, whereas from 1855 to 1860 it went into the pockets of a few planters, and the men who did the work did not get anything? They did not get any wages.

Mr. HERBERT. So far as that is concerned practically all the people of the South, bond and free, were supported by cotton before the war. All, white and black, have been supported by cotton since the war. There was a surplus before the war and the South prospered; there is none now and the South is not prospering. It does not matter, for the purposes of my argument, who spent this money—whether the blacks had a larger share of it than when they were slaves or not. It has been spent, and I am speaking for the black man as well as the white man. I want them all protected—while we are talking about protection—I want them protected against high-tariff prices. As I said, the money to the South for cotton since the war in gold amounts, according to this table, to more than $4,321,000,000. If we make a liberal allowance for the difference between the price in New York and in the home markets, and for the fact that cotton does not average low middling, and deduct seven hundred and twenty-one millions for these causes, then we have fully three billions six hundred millions received by the South in gold for cotton in the period since the war—and spent, gone, with nothing to show for it. How much of this is attributable to the high tariff that is lauded as such a blessing? The distinguished gentleman from Kentucky, [Mr. CARLISLE,] in his carefully prepared estimate made on this floor recently, calculated the increased cost of living to the laborer attributable to the tariff at 32 per cent. And what is 32 per cent. of $3,600,000,000? Just $1,152,000,000. If we allow $100,000,000 for debts paid to the North, due at the close of the war, and $152,000,000 for fertilizers, we have $900,000,000, equal to the value of three large cotton crops. Another deduction should be made. The South consumed a large amount of Western corn and bacon before the war, but it has consumed more since. I have no means of estimating this excess of such consumption accurately, but suppose we put it at $200,000,000 and deduct this from the $900,000,000. Then we would have $700,000,000 as the extra price the farmers of the South paid by reason of the present tariff. In other words, but for this tariff every person in the South might have eaten exactly what he has eaten, worn exactly what he has worn, consumed everything he has consumed for the past seventeen years, and the savings would have been $700,000,000. This sum, I estimate roughly, would build ten times as many factories and foundries as there are in the South, and farmers would own stock in these factories. The colored laborers in the field might have saved out of their earnings money enough to buy their own stock and make themselves comfortable at home. I know, Mr. Chairman, that an increase in taxes has been necessary to pay our war debt, but I am answering the argument that protection develops the country and showing where the development comes from; and it is the fact that not more than one dollar out of four taken by this Morrill tariff out of the pocket of the consumer ever goes to the Government. The Government gets nothing for the increased price paid on articles manufactured in the United States; and it is the fact that the consumer, until competition among the favored classes brings down the prices, always pays the increased price. I will mention one fact that proves this absolutely. The duty on Bessemer steel rails is $28 per ton. General John C. Brown, vice-president of the Texas and Pacific Railroad, recently stated in this city that steel rails from England were being delivered over his road, on Mexican soil, at Laredo, for $40 per ton, and that his road, an American enterprise, could not lay down steel rails at El Paso, with 300 miles less transportation, for less than $67 per ton; that engines were being delivered at Laredo at $10,500 each, and the same engines delivered on American soil at El Paso cost $15,500 each.

The same thing is true to a greater or less extent of all the articles on which a tariff is laid. We have a tariff that lays burdens on all consumers unnecessarily and invidiously, by taxing, practically without exception, everything they consume except their own productions.

The Constitution imposes on us who were elected by the people the duty of making laws and amending laws. Why cannot we amend the tariff laws? I represent farmers, and mechanics, and railroad employés, and other consumers. It is my duty to look to their interests. All they want, all they demand, is justice. They have no lobby members here. The consumers, the persons who have no especial privileges, who have no prohibitive laws enacted in their favor, constitute seven-tenths of the people of this country, and they only demand that legislation shall be fair and just to all. The manufacturers have their representatives here, and together we could if we would enact a tariff law that would be just and fair to all classes and grant to none privileges that would be oppressive to others. But those who advocate this bill say that the subject is so difficult that we should not undertake it, that we have not the necessary information, that the President must appoint a commission of nine to inquire into the facts and report to us and tell us how to legislate. Mr. Chairman, if we are not competent to legislate on this subject we should resign our commissions and say to the people who sent us here, "Send others in our places; send those who can understand and perform the duties imposed on them." Information, gentlemen say, we want. Why, what was the census taken for? Why did we spend nearly $4,000,000 of the people's money if it was not to get information to enable us to legislate intelligently?

The census of 1880 was in many respects the most comprehensive and complete that ever was taken in any country. At the head of it was General Francis A. Walker, a man too scientific, too learned to be anything else in theory but a free-trader. But at the same time he was so able and so pure a man that his appointment was satisfactory to all parties. He had been connected with the Census Department of the Government for more than ten years. He had a thorough acquaintance with the leading men of all industries in all parts of our country. He subdivided the subjects of inquiry and appointed at the head of each the best men he could select. No man will dare to say that Professor Pumpelly and Clarence King were not competent to take the statistics of mining industries; that Professor Waring was not competent to take the statistics of cities; that James M. Swank, the secretary of the Iron and Steel Association, was not competent to take the statistics of iron and steel; and that those who took all the statistics of all the industries and all the resources were not competent to the tasks assigned to them. Those tasks have been performed; the information has been obtained; it is at hand. Why do we not utilize it?

Gentlemen say that the details are not given; that we do not know what effect a duty on this or that article may have on our manufacturing interests. If we need any information on these questions we have only to open our doors. The men who are sending around these pamphlets to indoctrinate us will be on hand to give us their views. We will not lack for what they can tell us. Our difficulty will lie in the other direction, to watch and see that the farmer, the mechanic, the laborer, the artisan, all the great masses of the people, have fair play.

Mr. Chairman, I would rather trust to information gathered by a committee of members of Congress, chosen by the people and responsible to the people, than to information gathered by a committee appointed by the President.

Mr. Chairman, all who are in favor of a high protective tariff favor this bill. Why is this? Do they vote for a commission the labors of which they expect will result in changing this tariff in the interest of the consumer? I say, no, sir. The strength of our tariff is not in its merits, nor in its excellence, but in the combinations it has formed. Why was it that when we arraigned this system on the floor of this House in the Forty-fifth Congress and attempted reform it escaped the condemnation of Congress? It was because there were "too many of the jury who had some of the beef." I do not mean to assail the motives or the honor of gentlemen then or now upon this floor. I do not mean that any of them were bribed. I do not believe they were. But too many members represented these favored interests, interests that by this tariff law were protected against competition. Salt men wanted high prices for salt, sugar producers wanted high prices for sugar, and so with the producers of hundreds of articles. Capital that represents and owns great industries is always intelligent, always vigilant, always active in pushing its interests. It takes a part in primary meetings, in nominating conventions, and in elections. It not only sends around pamphlets, but sometimes it sends men and money into Congressional districts.

Four years ago I had the honor to make a speech here against a scheme that was intended to bind the people and this Government for $38,000,000. By the corporation that was asking the subsidy, men and money were sent into the district I had the honor to represent to influence public sentiment against the views I contended for. It may be that this will be repeated now by those whose views I am opposing, and it may be with effect. But whenever I retire from public life I shall bear with me to my home among the people the proud consciousness that on every measure I have voted to give the people, the consumers, rich and poor, white and black, fair play in the race of life by attempting to rid them of unequal and unjust taxation.

But this is a digression. I was endeavoring to show that the strength of the system fastened on us by this war tariff lay not in its excellence but in the varied interests it could call to its support. We saw the same thing in the Forty-sixth Congress. Then we attempted to attack the system in detail; but except in the single instance of quinine we failed. The tax on scarcely a single leading article could have stood on its own merits; but the protected interests saw their danger and combined. In this combination lies the strength of the system.

Does any gentleman seriously believe that when this commission,

which is to be voted for by every protectionist on this floor, makes a report, the protectionist will throw away any of the support on which the high protective tariff has heretofore relied for its continuance? I believe the protectionists will control the commission; that it will report in favor of reducing some of the more glaring abuses and reconciling some of the inconsistencies of the present system, but that it will seek to fasten on us a very high tariff as a permanency; and that to accomplish this and gain strength it will extend the tax to articles not now taxed and increase the tax on others.

Why, sir, only last week a resolution was read in this House, passed by the Kentucky hemp-growers, that, while they were opposed to protection, if the system was to be continued, they wanted protection for their hemp; in other words, while the beef was going they wanted some of it too. Other interests are sending up petitions of similar import almost daily. Will those who are seeking to fasten their system perpetually on the American people neglect these sources of strength? Sir, I warn the farmers of the North and of the West and of the South, who cannot have protection because they must export and must sell their corn and their wheat and their meats and their cotton partly in foreign markets and compete with foreign products, that they cannot expect relief at the hands of this commission, but that they must expect additional burdens to be imposed upon them and taxes to be placed on articles now on the free list.

There is no relief, sir, and there can be none for the people except at the ballot-box, and I trust that next November they will speak out in a voice that will be heeded in these halls, and that they will demand a reform of the tariff and a reduction of duties, not from a commission which will visit the manufacturers in their splendid homes, and ask what other interests shall be taken into the combination that now exists to keep up a high tariff, but from representatives sent here and charged with the duty of seeing that this free people shall have freer trade and fairer play in the markets of the world.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. SPRINGER having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. No. 238) to provide for the erection of a public building in the city of Peoria, in the State of Illinois.

The message also announced that the Senate had passed with amendments the bill (H. R. No. 5381) granting an increase of pension to Cecil Clay, and a joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association, in which amendments the concurrence of the House of Representatives was requested.

The message further announced that the Senate had passed without amendments bills of the House of the following titles:

A bill (H. R. No. 4176) for the erection of a public building at Quincy, Illinois;

A bill (H. R. No. 137) granting a pension to the heirs of Captain Christopher T. Dunham, deceased;

A bill (H. R. No. 531) for the relief of John Watson;

A bill (H. R. No. 620) granting a pension to Susan Jeffords;

A bill (H. R. No. 638) granting a pension to David G. Hutchinson;

A bill (H. R. No. 1239) granting a pension to Francis Reichert;

A bill (H. R. No. 1340) granting an increase of pension to Andros Guille;

A bill (H. R. No. 1390) for the relief of William H. Hill;

A bill (H. R. No. 1579) granting a pension to Elizabeth Fulks;

A bill (H. R. No. 2031) for the relief of Eli D. Watkins;

A bill (H. R. No. 2148) granting a pension to Catherine Silvey;

A bill (H. R. No. 2250) granting a pension to Mrs. Mary Shaw;

A bill (H. R. No. 3390) granting a pension to Sallie C. Mulligan;

A bill (H. R. No. 4133) to authorize the sale of certain property at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia; and

A bill (H. R. No. 4344) granting a pension to Sallie Hall.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

A bill (S. No. 1759) granting a pension to Harriet M. Owen;

A bill (S. No. 1549) for the relief of William J. Pollock;

A bill (S. No. 1409) for the relief of Mrs. Jennie S. Mitchell;

A bill (S. No. 984) increasing the pension of Emma H. Collins; and

A bill (S. No. 604) granting a pension to Margaret Beymer.

TARIFF COMMISSION.

The Committee of the Whole resumed its session.

Mr. HEWITT, of Alabama. Mr. Chairman, I shall not attempt to make any reply to the very able and very eloquent speech of my colleague, [Mr. HERBERT.] In much that he has said I agree with him. In part I disagree, and in the course of my remarks I will call attention to that part of his speech from which I dissent.

Mr. Chairman, it has been admitted by all who have addressed the committee on this subject that the tariff ought to be revised and readjusted at as early a day as practicable. The present Morrill tariff thus far has had no defenders here. Twenty years have passed since it was enacted. Since then great changes in productions and prices have occurred. What then may have been a judicious tariff is now a very unjust one. The public burdens it imposes are unequal and in many cases are unnecessarily onerous.

The people everywhere of every interest demand its readjustment. When I entered the Forty-fourth Congress this tariff was one of the principal questions presented for the consideration of the representatives of the people. Then the party to which I have the honor to be an humble member had almost a two-thirds majority in this House. The Ways and Means Committee of the Forty-fourth Congress was not organized in the interest of protection. The distinguished gentleman, Mr. MORRISON, of Illinois, was at its head, and he was ably aided by the late Fernando Wood, of New York, and the accomplished and distinguished gentleman from Virginia, Mr. TUCKER.

The Forty-fourth Congress expired, leaving the Morrill tariff in force, with all of its unequal and unjust burdens. The national Democracy met in convention in Saint Louis in 1876, and declared for a tariff for revenue. The Forty-fifth Congress was subsequently elected and organized with a Democratic Speaker, and with a majority of fifteen or twenty upon this floor, the country and the Democratic party still demanding a revision of the tariff. The Forty-fifth Congress expired without a readjustment of our tariff system. The Forty-sixth Congress was also organized with a Democratic Speaker, and there was a Democratic majority in both Houses. The country was still demanding relief from the Morrill tariff. The question was again referred to the Committee on Ways and Means. It was not able to agree upon a report.

A Democratic Senate after having waited long for action upon the part of the House passed what is known as the Eaton commission bill, which was in all material respects the same as the one now under consideration, and sent it to this House for its approval. The gentlemen who now clamor for an early revision of the tariff refused, or at least failed to pass the Eaton bill, and the Forty-sixth Congress adjourned without effecting any revision of the tariff.

If we on this side of the House were not able to pass a bill for a revision of the tariff when we had control of the House for three successive Congresses, how do we now expect to accomplish it when we are in a minority in both Houses? Had the Forty-sixth Congress passed the Eaton bill, we might by this time have passed a bill readjusting our revenue system so as to equalize the public burdens in the interest of our toiling people. And now, when it is again apparent that there can be no action taken by this House toward any revision of this iniquitous tariff until the necessary or alleged necessary information is procured through a commission, gentlemen who claim to be for early action propose to repeat the folly of the Forty-sixth Congress and thereby aid, unintentionally though it may be, those who do not want any reform in our revenue system.

If we take no action, as the Forty-fourth, Forty-fifth, and Forty-sixth Congresses did, we leave the tariff undisturbed. If we pass this bill, though it may not be what we would prefer, it is at least a step in the direction of the object we desire to accomplish. Its passage now may, and probably will, enable us to intelligently and wisely readjust the tariff during the next session, so as to equalize the public burdens and to give the necessary encouragement to our productive industries, and thereby promote every interest in the whole Union.

It is clear and indisputable that neither this House as a body nor the Ways and Means Committee, at this late day, can perform the labor of an intelligent revision of the tariff during this session. Therefore, whatever may have been the intention of the authors of this measure, whether for delay or otherwise, it is now beyond all controversy a measure in the interest of expedition rather than delay of revenue reform.

Gentlemen may charge that this measure is for delay, but the country, looking at the past history of the Forty-fourth, Forty-fifth, and Forty-sixth Congresses, will not so interpret it. I will not charge that any member of this House favors delay for the purpose of keeping the question before the country for political purposes, but I fear there are those elsewhere who are anxious that nothing shall be done, so that a purely business question may be made a political issue in 1884.

The extreme protectionists on the other side declare that it is a political question, in order to drive with the party lash revenue-tariff Republicans of the West to the support of their views. And there are those on this side of the House who take the other extreme, who desire to make it a party issue so as to force those of their party who take a medium ground and who stand firmly by the teachings of the fathers of Democracy to the support of their free-trade heresy. With these gentlemen on either side, I fear, it matters not how much the business interests of the country may suffer or how long the people may groan under unnecessary burdens so they forward their respective party interests. I am a Democrat from principle; but I protest against any attempt here or elsewhere to make this question a party issue.

It is the interest of the country as well as the interest of the Democratic party that this question shall be kept out of party politics, and that it shall be finally settled upon a basis just to all the interests of the country at as early a day as practicable. I do not agree with those gentlemen who say that this bill is unconstitutional. I deny their premises. It delegates no legislative power to the commission. It proceeds solely upon the idea that in order to effect a judicious revision of the tariff this House should have certain information relating thereto. It therefore sends out a commission, not to

make a law to lay and collect taxes, but to gather up information for the guidance of Congress when it comes to execute the powers conferred upon it by the Constitution.

I therefore see no constitutional objection to the bill. I vote for this measure, not because I prefer it to an immediate revision of the tariff by the House, but because I am satisfied that its defeat would delay all revision until the Forty-eighth Congress. It is my ardent desire to relieve my people from unjust and unnecessary burdens which impels me to vote for this measure.

I here and now repeat that every gentleman on this floor who desires an early settlement of this question ought to support this bill. I am unwilling, Mr. Chairman, to take my seat until I shall have defined my position on the tariff. I am neither for a tariff for protection nor for a tariff for revenue only. I do not deny the power of Congress to protect the productive industries of this country. I dissent from my friends on this side of the House who deny this power. Nor do I agree with the gentleman from Georgia [Mr. TURNER] who the other day, while ably and eloquently discussing this question, asserted that the gentleman from Ohio [Mr. MCKINLEY] was the first who had ever declared for a tariff for protection and incidental revenue.

If the eloquent gentleman had been well posted in the early history of Congressional legislation and debates he would not probably have fallen into that mistake. The first man who advocated a tariff for protection without even incidental revenue was a Democrat from the good old Commonwealth of Virginia in the First Congress after the adoption of the present Constitution. On the 15th day of May, 1789, while a bill was pending in the Congress of the United States laying duties on goods, Mr. Bland, of Virginia, probably a relative of our Mr. BLAND, said:

He thought that very little revenue was likely to be collected from the importation of this article, [beef,] and as it was to be had in sufficient quantities in the United States, perhaps a tax amounting to prohibition would be proper.—*Lloyd's Debates of Congress*, volume 1, page 97.

Here a Virginian advocated a prohibitory tariff for the protection of growers of beef cattle.

Mr. Sinnickson on the same day declared himself a friend to the manufacturer of beer, and thought if a duty was laid high enough to effect prohibition the manufacture would increase and of consequence the price would be lessened. (Lloyd's Debates.)

Here we have the doctrine of a prohibitory tariff for protection asserted, because it was thought by Mr. Sinnickson that such a duty would stimulate the production of beer in this country, and thereby, under the idea that supply and demand govern prices, the supply being greatly increased, the price would fall notwithstanding the tariff. It was well for Mr. Sinnickson's reputation that this old fogy doctrine of supply and demand regulating prices was asserted before such men as Madison and his compeers in the First Congress, for if he had uttered such nonsense in this House he would have been subjected to the ridicule of the free-trader on this floor.

The old Democracy understood how prices could be reduced by stimulating the production of commodities by a tariff, and he who will carefully read the history of the tariff and its effect upon prices will see how it has constantly and gradually reduced the prices of all manufactured articles in our country, while the products of the farm are to-day higher than they were in 1860. Those who study the tariff from books and the science of political economy, and who never stop to look at its practical effects upon the country, cannot see how a tariff upon an article can reduce its price.

I have, however, digressed from the line of my argument. This doctrine of a tariff for protection only was asserted in the presence of Mr. Madison, who had taken a leading part in the convention which had framed the Federal Constitution, and who, like our friend, the distinguished gentleman from Virginia, [Mr. TUCKER,] was a strict constructionist of that instrument, and he did not dissent therefrom. The great apostle of Democracy declared that—

To cultivate peace, maintain commerce and navigation, to foster our fisheries, and protect manufactures adapted to our circumstances, are the landmarks to guide ourselves in all our relations.

Such was the language of Mr. Jefferson in his message of 1802. But, lest gentlemen may say that Mr. Jefferson did not mean to give protection by custom duties, I will quote again from his message of 1808.

Speaking of manufactures, he said:

And little doubt remains that establishments formed and forming will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us—

And mark the language—

and protecting duties and prohibitions, become permanent.

Here we see the great founder of the Democratic party advocated duties on imports, not for revenue only, nor even for revenue, but for protection and the encouragement of our domestic industries.

Mr. Madison also advocated the protective system, and wrote a strong letter, in 1828, to his friend Joseph C. Cabell, maintaining the constitutionality of a protective tariff. I will print his letter in full as an appendix to my remarks, and I will ask those gentlemen who in this debate have denied the constitutional power of Congress to protect our home industries, to a careful consideration of that letter. Mr. Madison says:

The power to protect our productive industries is proved by the use made of the power for that object in the first session of the First Congress under the Constitution, when among the members present were so many who had been members of the Federal Convention which framed the Constitution and of the State conventions which ratified it.

* * * * * * *

It does not appear from the printed proceedings of Congress on that occasion that the power was denied by any of them.

* * * * * * *

A further evidence of the constitutional power to protect and foster manufactures by regulations of trade, an evidence that ought of itself to settle the question, is the uniform practical sanction given to the power by the General Government for nearly forty years; with the concurrence or acquiescence of every State government throughout the same period, and it may be added through all the vicissitudes of party which marked the period. No novel construction, however ingeniously devised or however respectable and patriotic its patrons, can withstand the weight of such authorities or the unbroken current of so prolonged and universal a practice. And well it is that this cannot be done without the intervention of the same authority which made the Constitution. If it could be done there would be an end to stability of government and laws.

* * * * * * *

And may it not be fairly left to the unbiased judgment of all men of experience and of intelligence to decide which is the most to be relied on for a sound and safe test of the meaning of the Constitution, a uniform interpretation by all the successive authorities under it, commencing with its birth and continued for a long period through a varied state of political contests; or the opinion of every new legislature heated as it may be by the strife of parties or warped, as often happens, by the eager pursuit of some favorite object or carried away possibly by the powerful eloquence or captivating addresses of a few popular statesmen, themselves perhaps influenced by the same misleading causes. If the latter test is to prevail every new legislative opinion might make a new constitution as the foot of every new chancellor would make a new standard of measure.

The power is expressly conferred upon Congress to lay and collect taxes, impost duties, and excises, by the Constitution. It is said, however, that this is a power to tax for the purpose of raising revenue for the support of the Government, and not to give protection to any industry. That I shall not question; but every nation has the unquestioned right under international law to exclude foreign goods from its markets, or to prescribe upon what terms they may be admitted. Says Chancellor Kent:

Every nation has the right and is disposed to exercise it of judging for itself in respect to the policy and extent of its commercial arrangements. The general freedom of trade, however reasonably and strongly it may be inculcated in the modern school of political economy, is but an imperfect right, and necessarily subject to such regulations and restrictions as each nation may think proper to prescribe for itself. Every State may monopolize as much as it pleases of its own internal trade, or may grant to other nations with whom it deals distinctions and particular privileges as it may deem most conducive to its own interest.

Here the broad doctrine is asserted of the right of every nation to prescribe the terms upon which it will trade or permit its citizens to trade with other nations. This power includes, undoubtedly, the right to lay customs duties beyond the revenue standard for protection. But it may be said that the United States is not a nation. In part I admit this is true. In its relation to the States it is not national but federal; in its relation, however, to foreign governments it is national and not federal, possessing all the powers in this respect which the States held prior to the adoption of the Constitution.

Each of the thirteen original States were sovereign nations, possessing the power to exclude foreign goods or to admit them upon such terms as each might deem most conducive to its own interests, and each had exercised this right. This undoubted power was by each of these States delegated to the General Government by the ratification of the Federal Constitution, by that clause which confers upon Congress the right to regulate trade or commerce with all foreign nations, thus conferring the power upon the Federal Government of admitting foreign goods upon such terms as it may deem most conducive to its own interests.

The power of Congress to regulate commerce with foreign nations is unrestricted and as broad as the subject to which it relates.

The power—

Says the Supreme Court of the United States—

is complete in itself, and may be exercised to its utmost extent, and acknowledges no limitations other than those which are prescribed in the Constitution.

What is commerce? The Supreme Court of the United States says that "it comprehends intercourse for the purpose of trade in any and all its forms, including the transportation, purchase, sale, and exchange of commodities of citizens of one country and the citizens or subjects of other countries, and between citizens of different States."

The power to regulate commerce clearly confers the power to levy protective duties. In this view I am supported by Madison and Jefferson, Jackson and Story. President Jackson, in his second message to Congress, December 7, 1830, speaking of the power of Congress to lay protective duties, said:

The power to impose duties on imports originally belonged to the several States. The right to adjust these duties with the view to the encouragement of the domestic branches of industry is so completely identical with that power that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relating to their inspection laws. This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them, and consequently if it be not possessed by the General Government it must be extinct. Our political system would thus present the anomaly stripped of the right to foster their own industry and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case; this indispensable power thus surrendered by the States must be within the scope of the authority on this subject expressly delegated to Congress.

Mr. Story, in speaking of the power of Congress to lay protective duties under the power to regulate trade, says:

If ever, therefore, contemporaneous exposition and the uniform and progressive operations of the Government itself in all its departments can be of any weight to

settle the construction of the Constitution, there never has been and there never can be more decided evidence in favor of the power than is furnished by the history of our national laws for the encouragement of domestic agriculture and manufactures. To resign an exposition so sanctioned would be to deliver over the country to interminable doubts, and to make the Constitution not a written system of government, but a false and delusive text upon which every successive age of speculatist and statesman might build any system suited to their own views and opinions. But if it be added to this that the Constitution gives the power in the most unlimited terms, and neither assigns motives nor objects for its exercise, but leaves these wholly to the discretion of the legislature acting for the common good and general interest, the argument in its favor becomes as absolutely irresistible as any demonstration of a moral of political nature ever can be. Without such a power the Government would be absolutely worthless, and made merely subservient to the policy of foreign nations, incapable of self-protection or self-support; with it the country will have the right to assert its equality and dignity and sovereignty among the other nations of the earth.

Mr. Monroe also favored a protective tariff. "It is deemed," said he, "of importance to encourage our domestic manufactures." We have heard much during this debate about an unrestricted commerce. Hear what Mr. Monroe said on the same subject:

Satisfied I am, whatever may be the abstract doctrine in favor of an unrestricted commerce, provided all nations would concur in it, and it was not liable to be interrupted by war, which has never occurred and cannot be expected, that there are strong reasons applicable to our situation and relations with other countries which impose on us the obligation to cherish and sustain our manufactures.

"I recommend," said Mr. Monroe, "a revision of the tariff for the purpose of affording such additional protection to those articles which we are prepared to manufacture or which are immediately connected with the defense and independence of the country." (Message of December, 1823.)

Thus it will be seen, Mr. Chairman, that the four first and greatest of the Democratic Presidents, supported by the great constitutional expounder, Story, asserted the authority of Congress to protect the domestic industries of the country and approved the policy of a protective tariff, or what is now called by some gentlemen on this floor the public plunder or robber policy.

If a protective tariff be robbery, then Washington, Jefferson, Madison, Jackson, Monroe, Clay, Webster, and Calhoun were robbers, for they have all supported the protective system. He that denounces this system as robbery and public plunder necessarily implicates every gentleman who has supported or who now supports the protective system as a robber and public plunderer. It will be hard to convince the people of Virginia, at least, that Madison and Monroe were public plunderers. The people of Tennessee will require strong and irresistible evidence before they will believe that the old hero of New Orleans was a robber. The mere declarations of a thousand honorable Congressmen would not satisfy the American people that the immortal George Washington had ever supported a measure of public plunder.

While I am no defender of the present Morrill tariff, yet I protest most earnestly against this wholesale denunciation, not of the Morrill tariff, but of the protective system as robbery and public plunder. I enter my protest against the denunciation of a system which was organized and put in operation by that great party which controlled the legislation and administered the laws of this country for seventy-five years. The history of this party from Jefferson till its overthrow by the Republican party in 1860 is full and replete with great measures for the country's good; but none has promoted the general prosperity of the country to a greater extent than the system of protection of American labor and American industries recommended by Jefferson, inaugurated by Madison, confirmed by Monroe, and reaffirmed by Jackson. These great men being Americans devoted themselves to the interest of America, and not of England or any other foreign government.

The decisions of the Supreme Court which have been cited by gentlemen on this floor and at the other end of the Capitol to prove that a protective tariff is unconstitutional, not one of them touches the question at issue. All these decisions are predicated on cases arising under State tax laws, and not one has any application to our protective tariff system. I shall not stop to review these decisions, for I am sure no lawyer would quote them as authority against the views which I have presented of the constitutional authority of Congress to levy protective duties under the power to regulate trade.

Mr. Chairman, while I maintain the right of Congress to lay duties for protection under the power to regulate trade, and while I approve of the protective policy of Jefferson, Madison, Monroe, and Jackson, when necessary to protect our industries against the pauper labor of England or elsewhere, I do not advocate a protective tariff at this time, because I believe that so long as we have to raise $200,000,000 or more of revenue from customs duties, a revenue tariff judiciously adjusted in its details will give adequate protection to all our interests.

Mr. Chairman, I do not favor a tariff for revenue only. A tariff for revenue only, if the word "only" has any signification whatever, means a tariff discriminating against our domestic manufactures. It is a tariff adjusted and arranged in its details solely and exclusively for revenue. It is a tariff laid on such articles and commodities as are not manufactured or produced in this country, and which we are compelled to purchase from abroad. It means a transfer to the free list of all kinds of iron, steel, cotton, and woolen goods, and in fact everything which we manufacture or produce in this country, and laying duties on tea, coffee, &c. I am opposed to such a tariff because it is both anti-democratic and anti-American.

The State which I have the honor in part to represent on this floor is exceedingly rich in iron, coal and copper. She has over five thousand square miles of the best bituminous coal, which is just now beginning to be mined and worked. Located in Alabama is the most wonderful mineral curiosity on the American continent—an iron mountain extending from within a few miles of Tuscaloosa to the northeastern part of the State, over one hundred miles in length. The iron and coal of Alabama are inexhaustible. There the world might be supplied for many hundred years with coal and iron if they were properly worked.

For the last two years capital from abroad has been invested in the iron and coal industries there. The city of Birmingham, located in the center of this great and wonderful mineral region, has sprung up like magic and bids fair in a few years to rival Pittsburgh, Pennsylvania. There has been put in operation in this city in the last year and a half two large coke furnaces, and two or three others are now in process of construction. Within six miles of Birmingham there are two other large coke furnaces in full blast. Many men of capital and skilled workmen are being attracted thither from all portions of the United States and Europe. Cotton factories are also being put in operation in different portions of the State. All these industries are in their infancy and embryo and need the care and protection of the Federal Government. The General Government has for many years given protection to New England and the Middle States. Their manufactures have taken deep root and are established upon a firm foundation. They may be able to stand alone but the infant establishments of Alabama need to lean upon the strong arm of the Federal Government for a few years at least. Mr. Chairman, adopt a tariff for revenue only, discriminating against these infant manufactures, and refuse them that incidental protection which a tariff for revenue properly adjusted would give them, and you most effectually destroy them.

I present to this committee the infant establishments of Alabama like those which the great Kentuckian, Henry Clay, so eloquently urged the country to protect and foster; the same like infant establishments which Madison and Jefferson recommended to the fostering care of the Government. The great establishments of the North do not need this protection; but withdraw it from the infant establishments of Alabama by your tariff for revenue only and they could not, I fear, weather the storm.

I repeat, Mr. Chairman, for I do not wish to be misunderstood, I do not favor a tariff for protection. I shall support a tariff for revenue adjusted and arranged in its details so as to equalize as far as possible the public burdens, but discriminating in favor of American labor and American productions so as to give them adequate protection, yet harmonizing, as far as practicable, the agricultural, mining, manufacturing, commercial, and mercantile interests. All these different interests are of great importance, and should have equally the fostering care of the Government. In laying discriminating duties I would, however, be careful not to lay them to benefit the wealthy to the detriment of the laboring-men, by taxing lowest articles used by the rich and highest those consumed by the poor.

The burdens of government should be equally distributed among all classes of our people so far as it can be done, and if any discriminations are made at all they should be made in the interest of the poorer class. It has been alleged in this discussion that the agricultural interest has not received that attention and care from the Government which have been bestowed on the manufacturing interest. This complaint is urged more by the politicians than by the farmers, though doubtless there is some cause for it. The Government protects many of the products of the farm which I will not stop to enumerate, as it has been done by others during this debate.

In 1789, when the cotton planter needed, or was supposed to need, protection from foreign competition, Congress did not hesitate to give him protection at the rate of 3 cents per pound on his cotton. While all manufactured goods and implements used in agriculture are much lower than in 1860, the products of the farm through protection command as high or higher prices now than they did then. What the farmers need in Alabama and elsewhere is the establishment of manufactures alongside of their farms, so as to give them a market at their own doors for all they have to sell and all they wish to buy.

The farmers of Alabama are as much interested in the development of the coal and iron interest and the establishment of cotton factories and other industries in the State as any other class of persons. The agricultural interest flourishes best in those States where there are the most manufactures. There is no doubt of this. The last census report demonstrates it beyond all controversy. I have no personal interest in manufactures. I have not a dollar invested in any industry save agriculture. I was born and reared on a farm. I know the wants of the farmers of my district, and I would not advocate any measure I believed would be unjust to them.

I recognize the fact that "a flourishing agricultural population is the very basis of the prosperity of the nation," but agriculture cannot flourish alone. No purely agricultural people can prosper, as the farmers of Alabama can verify from sad experience. "The variety of occupation open to the people utilizes all human gifts and talents. Let agriculture have manufacturing industry side by side, and you have everywhere occupation fit for everybody. Here is appropriate employment for stolid strength, for manual skill and dexterity, for inventive genius, for the active and sedentary, for childhood, youth, and mature age."

Thus it will be seen how manufactures prove beneficial to agricult-

ure. They reduce the prices, as I have said, of all manufactured articles which the farmer has to consume, and increase the prices of all the products of the farm, as well as the value of the farm itself.

My colleague [Mr. HERBERT] asked the question, why the farmers in Alabama were not prosperous? If he had opened his eyes and looked around him, if he had gone to New England and Pennsylvania and seen how the farmers prosper there, that would have given him the answer. They have prospered because they had manufactures around them, and they have a market at their door for all they have to sell and all they have to buy.

The reason why the farmers of the South are not prosperous is, they have to pay the expense of shipping their cotton to New England to be spun in New England mills, or to England, and then have to pay the freight back on everything they consume. That takes off the profit, and that is why they are growing poorer and poorer every year.

Mr. KELLEY. While the gentleman pauses for a moment I would like to ask him whether the diversification of our industries has not nearly doubled the value of the cotton crop by the grinding of it into oil and oil-cake?

Mr. HEWITT, of Alabama. I should think it has. There is no doubt that it has added much to the value of the cotton crop. I think if we had an unrestricted commerce, and turned all these people that are working in the mines and in manufactories loose and put them in the cotton-fields, England would have cheap cotton.

Mr. COX, of North Carolina. May I ask the gentleman from Alabama a question?

Mr. HEWITT, of Alabama. Yes, sir.

Mr. COX, of North Carolina. If you take away protection from New England manufacturers, would not Southern manufacturers get a decided advantage by reason of the saving in transportation of the raw and manufactured materials?

Mr. HEWITT, of Alabama. We have that advantage with or without protection. My opinion is, the Southern manufacturer needs protection a great deal more than the New England manufacturer. The old idea was that infant establishments needed protection. That was the idea of Henry Clay, whose words have been quoted in this debate. That is the doctrine of every gentleman who has spoken. Gentlemen who have supported what they term free trade have acknowledged that when you had your infant establishments you needed protection. I ask my friends if the establishments in the South are not in that condition? New England has had the protection of the Government for one hundred years, and now when the South is about to receive some of the benefits of protection Southern Representatives reject it.

A tariff for revenue, discriminating in favor of manufacturing interests, will prove a blessing to the farmers of Alabama, as it has to those of Pennsylvania and other States of the Union.

I deny most emphatically that the consumer pays all the duties which are laid on the goods consumed by him. In many cases the American goods can be purchased here as cheap as in England, notwithstanding the tariff. Suppose the duty on coarse cotton goods was 50 cents per yard, does any one believe the consumer would have to pay 50 cents per yard for such goods?

The price would not be regulated by the amount of the duty, but by the cost of production and supply and demand. So with any other article. Cut nails bear a duty of 1½ cents a pound; yet cut nails sell as cheaply here as in England.

Mr. HERBERT. May I ask my colleague a question?

Mr. HEWITT, of Alabama. Certainly.

Mr. HERBERT. If that is the case, what is the use of any tariff any longer?

Mr. HEWITT, of Alabama. I answer my colleague's question in this way: it is necessary to prevent England in times of depression of trade from throwing her surplus productions, which she cannot sell elsewhere, upon our market at prices far below the cost of their production and thereby cripple, if not totally destroy, our home industries.

Mr. HERBERT. How can England throw anything upon our market when we already undersell her, according to your statement?

Mr. HEWITT, of Alabama. England can afford to sell her surplus products, which in times of depression of trade cannot be sold elsewhere at prices below cost. And in addition to this I will say to my colleague that a tariff, in the language of Andrew Jackson, in such case is necessary "to counteract the selfish and destructive policy of England." History teaches us that England is and always has been the most selfish nation in the world. She has ruined the material prosperity of every country with which she has an unrestricted commerce. Her statesmen, after the close of the war of 1812, urged her manufacturers to throw their goods upon our market at prices below cost in order to destroy our domestic industries, under the idea that when American competition was destroyed English manufacturers could demand their own prices and thus more than make up all losses sustained by underselling and destroying our industries. English statesmen, if I remember history correctly, advocated the subsidizing the English manufacturers by the government to enable them to undersell in our markets our manufacturers, and thus destroy them.

Mr. SPRINGER. If this tariff is so good, why do you want to revise it?

Mr. HEWITT, of Alabama. I say it needs revision because it is unequal in many particulars. It was made twenty years ago, and since then there have been changes in prices and cost of production. There are some articles on the free list that ought to pay duties, and some articles that now pay duties which ought to be put on the free list. I have not and do not defend the present tariff. This you would have seen had you given attention to what I have said. As you increase the supply by stimulating production you lower prices and give cheaper goods.

Gentlemen may appeal to books and the science of political economy and may produce a thousand speculative theories, but the fact will still remain undisturbed that prices are not governed by the duties laid upon the foreign article, but by the cost of production and supply and demand in this country. I appeal for its vindication to the history of the tariff and to the common observation of all practical men. I ask the farmers of the country if they do not purchase farming implements and all other manufactured goods that they consume much cheaper now than in 1860. Why are they so much cheaper?

The answer is that a tariff which has given adequate protection to American industries and American labor has stimulated American inventive genius and American industries until American manufacturers by the aid of improved machinery are able to supply goods far below the prices of 1860. "I plant myself," said Henry Clay, "upon this fact of cheapness and superiority as impregnable ground."

I may not be able to answer the theories and arguments of those who have studied this question from the writings of English statesmen and the science of political economy, but, like the blind man of the Gospel who had been restored to his sight by the Great Physician, who, not being able to answer the questions propounded to him by the scientist of Judea as to how he was healed, exclaimed, "There is one thing I do know, that whereas I was blind, now I see." Thus I answer these learned theorists and college professors that while I may not be able to tell how it is that a tariff has proven a blessing to our people and country when I open my eyes I see everywhere a thousand incontrovertible evidences of it. At my own home, in the beautiful hills and salubrious climate of North Alabama, may be seen evidences as strong as Holy Writ of the great benefits to our people of all classes which have flown from our protective system, evidences which of themselves overthrow and destroy all your learned theories and all your modern schools of political economy upon this subject.

But I repeat, Mr. Chairman, that so long as our Government has to raise a revenue of $200,000,000 by customs duties a tariff for revenue properly adjusted will give ample protection to all our industries, and no reasonable man would ask more.

While a few gentlemen who have addressed the committee on this question seem to deplore that the framers of the Constitution did not have the wisdom or patriotism to proclaim a universal brotherhood of nations and an unrestricted commerce with all the world, none has been so bold as to advocate the burning of our custom-houses and a resort to direct taxation, unless it be the gentleman from Kentucky, [Mr. MCKENZIE.] This gentleman, for whom I have the highest respect, in answer to a question as to whether or not he was in favor of a resort to direct taxation in order to raise the revenues of the Government, answered:

> That is inhibited by the Constitution, except according to population, which is unjust and unequal; but when we get in power in this House, as we will do in the next election, I shall favor the introduction of measures of reform just as radical as that.

This language, when taken in connection with what immediately preceded it, very clearly to my mind commits my friend from Kentucky in favor of a constitutional amendment which would authorize Congress to raise the revenues for the support of the Government by a direct tax upon the property of the people of the States from a valuation fixed by Federal authority. This view is strengthened by the eloquent remarks which fell from the lips of Henry Watterson a few weeks ago at the Iroquois Club at Chicago, at the anniversary of the birth of Andrew Jackson. Hear him:

> The Democrat who is not a free-trader should go elsewhere. He should join the Republicans. The Democratic party will make a free-trade fight in 1884. * * * We spit upon compromises, and propose to neither ask nor give quarter.

These are strong and bold words, and fully support the gentleman from Kentucky [Mr. MCKENZIE] for sending swarms of tax-assessors and collectors into every county in the States to assess and collect Federal taxes upon the same property and in the same manner that the States now assess and collect State taxes.

I admire the frankness of the gentleman from Kentucky, for he boldly proclaims that he at least is ready to revolutionize the revenue system of the fathers of Democracy, and to substitute in lieu thereof that system which they repudiated in the Federal convention which framed the Constitution.

The proposition of the gentleman from Kentucky, if carried into execution, would authorize Federal tax-gatherers "to go into your houses, your kitchens, your cellars, and examine into your private concerns." It would authorize a Federal tax-assessor to examine the books of your merchants and shop-keepers. It would enable him to put his own valuation upon your property for taxable purposes.

The construction of the laws imposing the taxes upon your people

and directing the collection of them, and questions arising thereon, together with the conduct of the officers and collectors who will be appointed to execute the law, as well as the conduct of the citizens of the States in reference thereto, will be conferred upon the Federal courts. Innocent citizens will be arrested upon trumped-up charges and dragged a hundred and fifty and in many cases two hundred and fifty miles from home and friends for no other purpose than to fill the pockets of marshals and deputies with fees and mileage. There would be continual conflicts of jurisdiction between the State and Federal collectors; the tax being assessed upon the same property would necessarily bring the two in conflict with each other.

The Federal Government could cripple or even destroy the States by taking from them all revenues for their support. The power to go into the States and to tax the property from which the States derive their revenues is unquestionably a power to destroy them. The Republican party has never given State rights so hard a blow as would the policy of the gentleman from Kentucky if adopted. The framers of the Federal Constitution preserved the State governments "as the most competent administrators of their local and domestic affairs," while they committed to the General Government certain specific and definite powers for the common defense and general welfare of all. And in order to guard this dual government and to prevent conflicts of jurisdiction as far as possible the General Government was granted exclusive power to collect revenue from customs duties, the States having retained the power to collect their revenue from property located within their respective jurisdictions.

The power was also granted the General Government to lay and collect excises; but it is clear from the debates in the conventions of the States which ratified the Constitution that it was never intended that a resort should ever be made by the General Government, either to excises or direct taxation, except in extraordinary emergencies. It was intended by the framers of the Constitution that the General Government should raise its revenue from customs duties in order to prevent conflict of jurisdictions between the States and Federal Government, as well as to give the States means for the support of their respective State governments.

This tax would fall mostly upon real estate. Experience has taught us that personal property generally escapes taxation in the States. There is no probability that the General Government would be more successful in reaching it than the States have been. The great moneyed interests, which are invested in stocks and bonds, would bear but little if any part of this tax. The gentlemen who claim to be the peculiar friends and guardians of the agricultural interests propose a system of taxation which would fall heavily and unequally upon the farmers, who own the greater portion of the real estate of the country.

But this is not all. Suppose the system of taxation proposed by the gentleman from Kentucky and his free-trade allies should be adopted; what will then take place? A tax will be laid upon all real estate limited only by the wants of the Government and the will of Congress. The crops from some cause may fail, as they frequently have, in the South; a Federal tax falls due; the farmers may have no means to pay this tax; the tax-gatherer comes around and demands the tax; it is not paid; the land is sold for its payment; some Vanderbilt or Gould purchases it; and thus one little humble home after another from time time will be sold for Federal taxes and purchased by some landed ring, till the greater portion of the agricultural lands of the South especially will have passed into the hands of a few hundred wealthy men.

The original owners will be forced to become tenants, and the purchasers landlords and landed aristocrats. Then hard times may overtake these poor tenants, and they may be unable to pay their rents; then an effort may be made by the landlords to evict them; then will be formed as in Ireland a land league; then a force act may follow; and then—I shall not attempt to prophesy what will follow.

Let the farmers of this country think of this picture of free trade and direct taxation. The men or set of men who should be instrumental in carrying such a measure into execution, however honest and patriotic they may be, and however pure may be their motives, would be appalled at the dire consequences, and they would assuredly receive the bitter curses of a ruined and miserable people.

If gentlemen desire to create a great landed aristocracy in the South; if they desire to see the South converted into an Ireland, let them go on with free trade and direct taxation and they will most assuredly realize, in the course of time, their desire.

The people of the South could not pay their proportion of the $200,000,000 of revenue now raised from customs duties in addition to the State, county, and municipal taxes. It would inevitably impoverish the people, and, in my opinion, would kindle a civil war more horrible and devastating than the late civil strife.

I tell the gentleman from Kentucky that if the Democratic party in an evil and unguarded hour should be persuaded by the eloquence of my friend from Kentucky, and other advocates of a universal brotherhood of nations and an unrestricted commerce, to adopt the policy foreshadowed by him in his very able and humorous speech delivered in this House a few days ago, that it would be the greatest error ever committed by any party in this country, and it would sound the death-knell of the best and grandest party that has ever controlled and governed a nation of freemen, and with its downfall I fear the last hope of local State governments would expire. Thousands of citizens who are devoted to the Democratic party, and who are proud of its pre-eminent achievements and its imperishable history, when it shall have so far departed from the paths trod by its fathers as to adopt the policy of the gentleman from Kentucky, believing as they would that its adoption would bring wide-spread disaster and ruin upon the American people, and especially upon the people of the South, as destructive as war, famine, or pestilence, would be impelled with sad and bleeding hearts to abandon its cause. Not that they loved their party less, but that they loved their country more.

But, Mr. Chairman, the Democratic party will never adopt free trade, nor the policy of sending swarms of Federal tax-gathers into the States to harass and worry the people. Free-traders will have to seek some other party if they expect an adoption of their heresy. They will have to form an alliance with the Mahoneites or some other political faction. No true Jeffersonian or Jacksonian Democrat can be a free-trader so long as your Government has to raise $250,000,000 of revenue. The Democratic party is not going to commit suicide by making a free-trade fight in 1884.

The true Democracy does not spit upon compromises. The Federal Constitution, the grandest work of the human mind, is a monument to the wisdom of the spirit of compromise. The late fraternal strife, with all its horrors and sufferings and loss of blood and life, could have been avoided and the Union saved if the party in power had not spit upon an honorable compromise offered by the Unionists of the South and sanctioned by the national Democratic party. The true Democracy will not wantonly drive any good and patriotic Democrat from its folds by any novel dogmas of a radical departure from the teachings and traditions of the party.

The lessons taught by the Charleston convention of 1860 are not yet forgotten by the true Democrats of this country. The patriotic men of the party will not permit the free-traders to play the part in 1884 that W. L. Yancey and his followers played at Charleston in 1860. The folly of Yancey and others at Charleston in 1860 cannot be repeated in 1884 by those who hold to the heresy of free trade. The men who make war upon the business interests of the country cannot be permitted to take control of the great Democratic party. Those who desire to see constitutional government restored, the liberties of the people secured, and the material prosperity of the country promoted should counsel harmony in the ranks of the Democratic party, and should not seek to force issues upon the party which are not democratic, and which one-half of the party cannot and will not support. The Democratic party can be united on a platform which declares for "equal and exact justice to all men;" "the support of the State governments in all their rights as the most competent administrators of our local and domestic affairs, and the surest bulwark against anti-republican tendencies;" "the preservation of the Federal Government in its whole constitutional vigor as the sheet-anchor of our peace at home and safety abroad;" "fair elections and an honest count;" "economy in the public expenditures that labor may be lightly burdened;" an honest payment of the public debt and a sacred preservation of the public faith; a tariff for revenue, discriminating in its arrangement and adjustment so as to give adequate protection to American labor and industries, but avoiding monopolies, or of giving to one industry an unjust advantage over another, and equalizing as far as possible the public burdens; public officers held to a rigid accountability; a mild and safe correction of the abuses which have crept into the legislation and administration of the Government for the last fifteen years; a repeal of all internal taxation; a sound and honest currency. Upon such a platform all good Democrats and conservative citizens could unite. With such a platform the Democracy would harmonize and would march shoulder to shoulder and hand in hand against the Republican party in 1884 to a grand and glorious victory, which would secure to the country an honest administration of public affairs.

Mr. Chairman, I favor a repeal of all internal taxation. There is no longer any necessity for this odious war tax. It serves as a constant reminder of the unhappy fraternal strife. It employs an army of officers and spies and involves millions of dollars as expenses in its collection. It clogs the courts of justice with prosecutions and fills our prisons with its victims. It has caused in many portions of my district wide-spread distress and suffering. The law is odious to our people and its execution in the Federal courts in Alabama has been disgraceful and tyrannical.

The down-trodden and oppressed people of Ireland have no greater cause for complaint against England than the citizens of Winston, Walker, Marion, and Fayette Counties in my district have against this Government for the oppressive and tyrannical manner in which this law has been executed in those counties. The law imposes unnecessarily heavy burdens upon the people. To wring from the hard earnings of the people $150,000,000 in excess of the wants of the Government is a monstrous wrong. A repeal of internal taxation will necessitate a revision of the tariff upon a revenue basis. Every dollar raised by this tax which may be necessary for the support of the Government can be replaced by a reduction of the tariff to a revenue basis, and thus the people can be relieved of the burdens of internal taxation, and such relief cause a reduction of the tariff. I have said all I desire to say at this time on this question.

I have shown that this bill does not confer any legislative functions upon the commission. I have shown that it violates no pro-

vision of the Constitution. I have shown that it is not a measure of delay but of expedition. I have shown that a tariff for protection is not unconstitutional. I have shown that Jefferson, Madison, Monroe, and Jackson all advocated a tariff for protection. I have shown that a tariff for revenue only means an adjustment of the duties on imports so as to discriminate against American labor and industries. I have shown that a revenue tariff properly discriminating in favor of American industries will give adequate and ample protection. I have shown that all internal taxation ought to be repealed. I have shown that an adoption of the policy of free trade and direct taxation would destroy the State governments and impoverish the people.

I vote for this measure, Mr. Chairman, because I am earnestly in favor of an early revision of the tariff, and because I believe by the passage of this bill we will expedite that revision. Mr. Chairman, I have presented the views, sentiments, and aspirations of the South, regenerated by a baptism of blood and refined by the tribulations and sufferings of a mighty and terrible war. This new South, while making no apologies for the past, joins the great North in maintaining the national faith and sustaining and building up the material interests of the whole Union. This new, living, progressive South, forgetting the miserable past and burying in oblivion forever all sectional prejudices and animosities, joins the great North in hand and heart and moves forward shoulder to shoulder with her on the march to future greatness and glory.

MONTPELIER, *September* 18, 1828.

DEAR SIR: Your late letter reminds me of our conversation on the constitutionality of the power in Congress to impose a tariff for the encouragement of manufactures, and of my promise to sketch the grounds of the confident opinion I had expressed that it was among the powers vested in that body.

The Constitution vests in Congress expressly "the power to lay and collect taxes, duties, imposts, and excises," and "the power to regulate trade."

That the former power, if not particularly expressed, would have been included in the latter as one of the objects of a general power to regulate trade, is not necessarily impugned by its being so expressed. Examples of this sort cannot sometimes be easily avoided, and are to be seen elsewhere in the Constitution. Thus the power to "define and punish offenses against the law of nations" includes the power, afterward particularly expressed, "to make rules concerning captures, &c., from offending neutrals." So also a power "to coin money" would doubtless include that of "regulating its value," had not the latter power been expressly inserted.

The term taxes, if standing alone, would certainly have included duties, imposts, and excises. In another clause it is said, "no tax or duties shall be laid on exports," &c. Here the two terms are used as synonymous; and in another clause, where it is said, "no State shall lay any impost or duties," &c., the terms imposts and duties are synonymous. Pleonasms, tautologies, and the promiscuous use of terms and phrases, differing in their shades of meaning, (always to be expounded with reference to the contract, and under the control of the general character and manifest scope of the instrument in which they are found,) are to be ascribed sometimes to the purpose of greater caution, sometimes to the imperfections of language, and sometimes to the imperfections of man himself. In this view of the subject it was quite natural, however certainly the general power to regulate trade might include a power to impose duties on it, not to omit it in a clause enumerating the several modes of revenue authorized by the Constitution.

In few cases could the "ex majori cautela" occur with more claim to respect. Nor can it be inferred that a power to regulate trade does not involve a power to tax it, from the distinction made in the original controversy with Great Britain between a power to regulate trade with the colonies and a power to tax them. A power to regulate trade between different parts of the empire was confessedly necessary; and was admitted to lie, as far as that was the case, in the British Parliament; the taxing part being at the same time denied to the Parliament and asserted to be necessarily inherent in the colonial legislatures, as sufficient, and the only safe depositories of the taxing power. So difficult was it, nevertheless, to maintain the distinction in practice that the ingredient of revenue was occasionally overlooked or disregarded in the British regulations, as in the duty on sugar and molasses imported into the colonies. And it was fortunate that the attempt at an internal and direct tax in the case of the stamp act produced a radical examination of the subject before a regulation of trade with a view to revenue had grown into an established authority.

One thing at least is certain, that the main and admitted object of the parliamentary *regulations* of trade with the colonies was the encouragement of manufactures in Great Britain. But the present question is unconnected with the former relations between Great Britain and her colonies, which were of a peculiar, a complicated, and, in several respects, of an undefined character. It is a simple question under the Constitution of the United States whether "the power to regulate trade with foreign nations" as a distinct and substantive item in the enumerated powers embraces the object of encouraging by duties, restrictions, and prohibitions the manufactures and products of the country? And the affirmative must be inferred from the following considerations:

1. The meaning of the phrase "to regulate trade," must be sought in the general use of it; in other words, in the objects to which the power was generally understood to be applicable when the phrase was inserted in the Constitution.

2. The power has been understood and used by all commercial and manufacturing nations as embracing the object of encouraging manufactures. It is believed that not a single exception can be named.

3. This has been particularly the case with Great Britain, whose commercial vocabulary is the parent of our own. A primary object of her commercial regulations is well known to have been the protection and encouragement of her manufactures.

4. Such was understood to be a proper use of the power by the States most prepared for manufacturing industry, while retaining the power over their foreign trade.

Such a use of the power by Congress accords with the intention and expectation of the States, in transferring the power over trade from themselves to the Government of the United States. That was emphatically the case in the Eastern, the more manufacturing members of the confederacy. Hear the language held in the convention of Massachusetts:

By Mr. DAWES, an advocate for the Constitution, it was observed: "Our manufactures are another great subject which has received no encouragement by national duties on foreign manufactures, and they never can by any authority in the old confederation."

Again: "If we wish to encourage our own manufactures, to preserve our own commerce, to raise the value of our own lands, we must give Congress the power in question."

By Mr. Widgery, an opponent: "All we hear is that the merchant and farmer will flourish, and that the mechanic and tradesman are to make their fortunes directly if the Constitution goes down."

The convention of Massachusetts was the only one in New England whose debates have been preserved, except a portion of the convention of Connecticut. But it cannot be doubted that the sentiment there expressed was common to the other States in that quarter, more especially to Connecticut and Rhode Island, the most thickly peopled of all the States, and having, of course, their thoughts most turned to the subject of manufactures. A like inference may be confidently applied to New Jersey, whose debates in convention have not been preserved. In the populous and manufacturing State of Pennsylvania, a partial account only of the debate having been published, nothing certain is known of what passed in her convention on this point. But ample evidence may be found elsewhere, that regulations of trade for the encouragement of manufactures were considered as within the power to be granted to the new Congress, as well as within the scope of the national policy. Of the States south of Pennsylvania, the only two in whose conventions the debates have been preserved are Virginia and North Carolina, and from these no adverse inferences can be drawn. Nor is there the slightest indication that either of the two States farthest south, whose debates in convention, if preserved, have not been made public, viewed the encouragement of manufactures as not within the general power over trade to be transferred to the Government of the United States.

If Congress has not the power it is annihilated for the nation; a policy without example in any other nation, and not within the reason of the solitary one in our own. The example alluded to is the prohibition of a tax on exports, which resulted from the apparent impossibility of raising in that mode a revenue from the States proportioned to the ability to pay it—the ability of some being derived in a great measure not from their exports but from their fisheries, from their freights, and from commerce at large; in some its branches altogether external to the United States, the profits from all which, being invisible and intangible, would escape a tax on exports. A tax on imports, on the other hand, being a tax on consumption, which is in proportion to the ability of the consumers, wheresoever derived, was free from that inequality.

If revenue be the sole object of a legitimate impost, and the encouragement of domestic articles be not within the power of regulating trade, it would follow that no monopolizing or unequal regulations of foreign nations could be counteracted; that neither the staple articles of subsistence nor the essential implements for the public safety could under any circumstances be insured or fostered at home by regulations of commerce, the usual and most convenient mode of providing for both; and that the American navigation, though the source of naval defense, of a cheapening competition in carrying our valuable and bulky articles to market, and of an independent carriage of them during foreign wars, when a foreign navigation might be withdrawn, must be at once abandoned or speedily destroyed; it being evident that a tonnage duty in foreign ports against our vessels and an exemption from such a duty in our ports in favor of foreign vessels, must have the inevitable effect of banishing ours from the ocean.

* * * * * * *

That the encouragement of manufactures was an object of the power to regulate trade is proved by the use made of the power for that object in the first session of the first Congress under the Constitution, when among the members present were so many who had been members of the Federal Convention which framed the Constitution and of the State conventions which ratified it, each of these classes consisting also of members who had opposed and who had espoused the Constitution in its actual form. It does not appear from the printed proceedings of Congress on that occasion that the power was denied by any of them. And it may be remarked that members from Virginia in particular, as well of the anti-Federal as the Federal party, the names then distinguishing those who had opposed and those who had approved the Constitution, did not hesitate to propose duties and to suggest even prohibitions in favor of several articles of her productions. By one a duty was proposed on mineral coal in favor of the Virginia coal pits; by another a duty on hemp was proposed to encourage the growth of that article; and by a third a prohibition even of foreign beef was suggested as a measure of sound policy.

A further evidence in support of the constitutional power to protect and foster manufactures by regulations of trade, an evidence that ought of itself to settle the question, is the uniform and practical sanction given to the power by the General Government for nearly forty years, with a concurrence or acquiescence of every State government throughout the same period, and, it may be added, through all the vicissitudes of party which marked the period. No novel construction, however ingeniously devised, or however reputable or patriotic its patrons, can withstand the weight of such authorities or the unbroken current of so prolonged and universal a practice. And well it is that this cannot be done without the intervention of the same authority which made the Constitution. If it could be so done, there would be an end to that stability in government and in laws which is essential to good government and good laws, a stability the want of which is the imputation which has at all times been leveled against republicanism with most effect by its most dexterous adversaries.

The imputation ought never, therefore, to be countenanced by innovating constructions without any plea of a precipitancy or a paucity of the constructive precedents they oppose; without any appeal to material facts newly brought to light; without any claim to a better knowledge of the original evils and inconveniences for which remedies were needed, the very best keys to the true object and meaning of all laws and constitutions.

And may it not be left to the unbiased judgment of all men of experience and intelligence to decide which is most to be relied on for a sound and safe test of the meaning of the Constitution, a uniform interpretation by all the successive authorities under it, commencing with its birth and continuing for a long period through the varied state of political contests or the opinion of every new Legislature, heated as it may be by the strife of parties, or warped, as often happens, by the eager pursuit of some favorite object, or carried away, possibly, by the powerful eloquence or captivating addresses of a few popular statesmen, themselves perhaps influenced by the same misleading causes? If the latter test is to prevail, every new legislative opinion might make a new constitution, as the foot of every new chancellor would make a new standard of measure.

Mr. SPRINGER obtained the floor.

Mr. KELLEY. If the gentleman from Illinois [Mr. SPRINGER] will yield, I will move that the committee do now rise.

Mr. SPRINGER. I will yield for that motion, retaining my right to the floor.

The CHAIRMAN. That will be understood.

Mr. KELLEY. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, Mr. ROBINSON, of Massachusetts, reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. No. 2315) providing for the appointment of a commission to examine the question of the tariff and the internal-revenue laws, and had come to no resolution thereon.

HENRIETTA H. COLE.

Mr. ROBINSON, of New York, by unanimous consent, introduced a bill (H. R. No. 6081) for the relief of Henrietta H. Cole; which was

read a first and second time, referred to the Committee on Patents, and ordered to be printed.

ROSANNA CAMPBELL.

Mr. ROBINSON, of New York, also, by unanimous consent, introduced a bill (H. R. No. 6082) granting a pension to Rosanna Campbell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHINESE IMMIGRATION.

Mr. PAGE. I ask unanimous consent to take from the Speaker's table the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese, returned from the Senate with sundry amendments, for the purpose of concurring in the amendments of the Senate. While I do not desire to take advantage of a thin House, yet I think this bill is one of such importance that no gentleman can object.

There was no objection, and the bill, with the Senate amendments, was taken from the Speaker's table.

The SPEAKER. Is the reading of the amendments called for?

Mr. PAGE. They have already been read, and they have been printed in the RECORD. I move that the amendments be concurred in.

The motion was agreed to.

Mr. PAGE moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. KELLEY. I move that the House now adjourn.

Mr. HOLMAN. I expect to be absent from the House next Monday, and I ask leave to introduce a bill for reference.

Mr. KELLEY. I will yield for that purpose.

JAMES A. RODMAN.

Mr. HOLMAN, by unanimous consent, introduced a bill (H. R. No. 6083) for the relief of James A. Rodman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EMANUEL E. DOWNHAM AND HENRY STRAUSS.

Mr. BARBOUR, by unanimous consent, introduced a bill (H. R. No. 6084) for the relief of Emanuel E. Downham and Henry Strauss; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

ISRAELITES IN RUSSIA.

The SPEAKER laid before the House the following message from the President of the United States; which was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 30th of January last, calling for correspondence respecting the condition of Israelites in Russia, I transmit herewith a report from the Secretary of State and its accompanying papers.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *Washington, May 2, 1882.*

INTERIOR DEPARTMENT BUILDING.

The SPEAKER also laid before the House the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a letter from the Secretary of the Interior, in which he requests that an appropriation of $108,000 be made for constructing a fire-proof roof over the south and east wings of the building occupied by the Interior Department.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *Washington, May 2, 1882.*

PROFESSORS OF MATHEMATICS IN THE NAVY.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, in response to a resolution of the House of April 18, 1882, relative to the examination and appointment of professors of mathematics in the Navy since January 20, 1881; which was referred to the Committee on Naval Affairs, and ordered to be printed.

REFORM SCHOOL OF THE DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a letter from the commissioners of the District of Columbia, transmitting a communication from the secretary of the board of trustees of the Reform School of the District of Columbia, giving estimates of the cost of permanent improvements required at the school to increase its efficiency; which was referred to the Committee on Appropriations, and ordered to be printed.

NATIONAL CEMETERY, NEW ALBANY, INDIANA.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, in response to the resolution of the House of April 27, 1882, copies of all correspondence and papers on file in the War Department relative to the construction of a road from the limits of the city of New Albany, Indiana, to the national cemetery near that place; which was referred to the Committee on Military Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. TURNER, of North Carolina, for ten days.

Mr. KELLEY. I now renew my motion, that the House adjourn.

The motion was agreed to; and accordingly (at five o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred, as follows:

By Mr. BELMONT: The petition of Owen E. Wood and 832 others, for an appropriation for deepening the harbor of Port Jefferson, Long Island, New York—to the Committee on Commerce.

By Mr. BELTZHOOVER: The petition of citizens of York, Pennsylvania, asking Congress to make liberal appropriations for the promotion of popular education—to the Committee on Education and Labor.

By Mr. BOWMAN: The petition of 400 citizens of Massachusetts, for the passage of a bill providing that appointments to subordinate executive offices, with such exceptions as may be expedient, shall be made from persons whose fitness has been ascertained by competitive examination open to all applicants, properly qualified, and that removals from such offices shall be made for legitimate cause only, such as dishonesty, negligence, or inefficiency, and not for political opinion or for refusal to render party service—to the select Committee on Reform in the Civil Service.

By Mr. BREWER: The petition of Mary E. Doane and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. J. H. BURROWS: The petition of F. P. Hall and others, citizens of Knox County, Missouri, for the restoration of fractional currency—to the Committee on Coinage, Weights, and Measures.

By Mr. S. S. COX: The petition of James Gleason, for compensation for commutation of rations, &c., when a prisoner at Andersonville—to the Committee on War Claims.

By Mr. W. R. COX: The petition of the Cotton and Grocers' Exchange of Raleigh, North Carolina, for the repeal of the tax on banks—to the Committee on Ways and Means.

By Mr. HOGE: The petition of Robert E. Guthrie and others, citizens of Springfield, West Virginia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. MANNING: The petition of R. O. Prewitt, W. A. Boyd, and 100 others, of Tippah County, and of E. D. Martin and 150 others, citizens of Marshall County, Mississippi, for an appropriation to be distributed to common schools of the several States and Territories on the basis of illiteracy—severally to the same committee.

By Mr. PETTIBONE: The petition of Mrs. Lucinda Welsh, for relief—to the Committee on War Claims.

By Mr. ROSECRANS: The resolutions of the Chamber of Commerce of San Francisco, California, representing the necessity for the erection of a fog-whistle at Fort Point, in the harbor at that place—to the Committee on Commerce.

Also, the resolution of the San Francisco Chamber of Commerce, recommending a suitable appropriation for the Hydrographic Office, Bureau of Navigation—to the Committee on Naval Affairs.

By Mr. SCALES: The petition of citizens of Davidson County, North Carolina, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. J. T. UPDEGRAFF: The petition of William M. Potter and 26 others, citizens of Cincinnati, Ohio, in favor of Government aid to education in Alaska—to the same committee.

Also, the petition of Rev. E. J. Gantz and 123 others, citizens of Barnesville, Ohio, in favor of aid by the Government for the education of freedmen in the South—to the same committee.

By Mr. WHEELER: The petition of W. W. Phillips and others, citizens of Limestone County, Alabama, praying Congress to donate money for the education of freedmen and other illiterate persons—to the same committee.

By Mr. YOUNG: The petition of F. Blackman, of Whitehall, New York, for the passage of pending bill taxing the adulterant known as glucose—to the Committee on Ways and Means.

SENATE.

WEDNESDAY, *May 3*, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate of the United States:

I transmit herewith, in response to the resolution of the Senate of the 18th ultimo, a report of the Secretary of State, with copies of certain diplomatic correspondence with Spain in 1876, called for by that resolution.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *Washington, May 2, 1882.*

PETITIONS AND MEMORIALS.

Mr. ALLISON presented a petition of citizens of West Union, Iowa, praying for an appropriation providing for the education of the native people of Alaska; which was referred to the Committee on Education and Labor.

Mr. JONAS presented a petition of citizens of Louisiana, praying

for the forfeiture of the land-grant made by the act of 1856 to the New Orleans, Opelousas and Great Western Railroad; which was referred to the Committee on Railroads.

Mr. McPHERSON presented a petition of citizens of New Jersey, and of boards of trade, commercial exchanges, and chambers of commerce throughout the country, praying for the passage of the Lowell bill for the establishment of a uniform system of bankruptcy; which was ordered to lie on the table.

Mr. CAMDEN presented a petition of James H. Stevens and 45 others, of Upshur County, West Virginia; a petition of B. E. Stevens and 73 others, of Jackson County, West Virginia; and a petition of S. Patrick and 121 others, of Mason County, West Virginia, praying national aid to free schools; which were referred to the Committee on Education and Labor.

MILEAGE OF ARMY OFFICERS.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred a motion to print certain papers transmitted to the Senate by the Secretary of War in pursuance of a resolution of the Senate of February 28, to report it adversely. I think it is proper, in justice to the Secretary of War, to read the resolution under which the papers were transmitted to the Senate. It is as follows:

> Whereas the Secretary of War has officially advised Congress in the estimates for deficiencies that the $200,000 appropriated for "mileage to officers of the Army" for the fiscal year ending June 30, 1882, "will be exhausted before the end of February," and that "much inconvenience may be caused by the inability of the (this) Department to reimburse officers for expenses incurred while traveling under orders after that date," and asks an appropriation of $52,000 to meet the deficiency: Therefore,
>
> *Resolved*, That the Secretary of War be, and he is hereby, directed to furnish to the Senate as soon as practicable an itemized statement of how, by whom, and under what exigency or orders the $200,000 aforesaid has been expended in eight months, and whether the estimate of $52,000 will be sufficient for the remaining four months, stating his reasons for assuming that $52,000 will suffice to complete the service for the fiscal year.

It will be noticed that this resolution calls for "an itemized statement of how, by whom, and under what exigency or orders" the amount named was expended. The Secretary of War has furnished a tabulated statement of how, by whom, under what authority, and the amount paid; and he has transmitted herewith copies of the orders. This the Secretary of War was directed to do by the Senate. He has done this, no more. He could do no less. It was not for him to decide whether the information called for was necessary or expedient; it was his duty to obey the direction of the Senate. This he has done. If he had replied to the resolution of the Senate that the information was unnecessary, expensive, cumbrous, and voluminous, it would be difficult for me to dispute his assertion, but he certainly would have incurred the censure of the Senate.

This reminds me of the frequency with which we call upon the Departments for information without being fully advised of the cost of furnishing that information and the value of it when obtained. I had the honor at one time to introduce a proposed rule of the Senate requiring that all such resolutions should be referred to the appropriate committees, but it did not meet with the favor of the Senate.

The Secretary of War is fully exonerated in sending these documents, and he would have been to blame if he had not done it.

Mr. BECK. Do I understand that the committee decline to have anything printed?

Mr. ANTHONY. They recommend not to print any of the papers.

Mr. BECK. Why?

Mr. ANTHONY. Because the papers furnish no information to the Senate. They were referred to the Committee on Appropriations, and this is a long tabulated statement of how, by whom, under what authority, and the amount ordered for these expenditures. The papers are mere formal papers giving the copies of the orders. If the Senator desires to have them printed I certainly have no objection, though I think it would be a very useless expense, and it was a useless expense to have them prepared and sent here.

Mr. BECK. I do not want any useless papers printed. I have not examined the mass of papers sent to us; they were referred to the Committee on Printing for examination. Of course I have not had an opportunity to see them. I desire now to state, in answer to what was said by the Senator from Rhode Island about the useless expenditure involved in printing this report, that the Committee on Appropriations had allowed, according to my recollection, (I have sent for the exact data,) $200,000 to cover the mileage of Army officers traveling under orders for the current year. The chairman of the committee will perhaps correct me. Was that the amount allowed?

Mr. ALLISON. That was the amount.

Mr. BECK. That $200,000 was expended in eight months, according to the report of the Secretary of War. Now, either the Congress of the United States did not allow the Army a sufficient amount for mileage, or it was expended, in part at least, in ways that Congress did not intend that it should be.

Being a member of the Committee on Appropriations, and desiring to give to the Army just what was needed for the fiscal year for which we are now about to appropriate, I thought it was very important that we should know the exact facts in regard to this mileage matter. If the money was improperly expended it would become important for us to take care that proper checks and guards against wrongful expenditure should be made in regard to the appropriations for next year. If it should be made to appear that Congress had not allowed the Army what was necessary for the service then it would be important to know what the truth is, so that we could increase the amount up to what was actually necessary, and if an improper use had been made of past appropriations we should take care to guard against abuses hereafter.

That was the whole object I had in view in asking for the information called for in the resolution passed by the Senate. The Secretary of War, and indeed the General of the Army seem to think—as I received information to that effect from the General of the Army before he went West—that I was reflecting upon their action or upon them individually. Perhaps something I said at the time about how little the Departments cared for the acts of Congress may have induced those gentlemen to think that I did. I desire now to say here that nothing was further from my purpose than to reflect upon the Secretary of War. I did not know that he had even seen the bundle of papers sent to us. I supposed they were sent by somebody in the Department, and I did not desire or intend to make any reflection on the Secretary. I desired information to guide us in the future, so that the public interests might be intelligently and economically conducted in this as in all other regards; and I did not think such a pile of papers were necessary to give the desired information. I am satisfied that the answer of the Secretary was made in absolute good faith and in strict accordance with what he thought the resolution required. It was perhaps broader than I intended, as it was written at my desk, without much time for reflection.

I never have doubted that the present Secretary of War is doing the very best he can to manage his Department in the very best way he can. I have not only great confidence in him, but absolute faith in his integrity of purpose and in his desire to do right; but I know how men in official station are imposed upon; I know how the heads of bureaus run on, and perhaps never tell the head of the Department until the very last minute how they are spending money. I do not know that they have been doing wrong in this regard in the War Department, but I desired the information in order to ascertain to my own satisfaction at least whether they were or not.

If a reference of all the papers sent by the Secretary to the Committee on Appropriations without printing will enable the committee intelligently to understand what is best to do in the future and how to do it, that is all I want. I was not in the Senate when the papers were referred to the Committee on Printing, and I did not know what the object was in having them printed. I was not aware that they had been sent to the Committee on Appropriations at the same time, as I now understand they were. I am a member of that committee and I can obtain the information myself out of the papers. I have no doubt either I or the chairman can summon whoever has charge of that matter in the War Department before us to explain all the facts to the committee, and the committee can explain them to the Senate. Perhaps it is better to take that course, and not print them now.

As I said before, at some remarks which I made in which I happened to mention General Sherman he took some offense, perhaps properly. Indeed, I rather think he was right, because I find that I intimated that much of the money was spent in junketing, and the record shows that I said that perhaps was going off then in palace-cars at Government expense. I did not mean to intimate that I had any information that General Sherman did any such thing. I was seeking to illustrate by speaking of possibilities. On the contrary, I am bound to say, as I have said on the floor of the Senate before, that whenever I, as a member of the Appropriations Committee, saw any extravagance going on in Army matters, or anything improper about to be charged to the Army, no matter whether it was in relation to the building of bridges, the building or laying of telegraph lines, the building of extravagant barracks, or anything anywhere that appeared to be wrong, the first person that I always sent for was the General of the Army; and in nine cases out of ten he stops all jobs if he sees anything that he thinks is wrong or extravagant; he announces with great emphasis that it shall not be done with his consent, and the committee relies on him with great confidence. I have found him, so far from expending money unnecessarily, always endeavoring to stop more things that ought to be stopped than any other officer there is in the Army, and I rely upon him and his judgment and courage more than on anybody else.

I make these remarks only to show that I was not seeking to reflect upon him, even if I was unfortunate in the language used, but I do want to compel the Departments to obey Congress. If Congress does wrong I want all executive officers to come before us and tell us that they cannot get along with the appropriations we have made for them, stating the reasons why, and give us a chance, but I will never consent to allow them to go on and spend the appropriation intended or allowed for a year in eight months, when there are four months yet to run, as was done in this case. Make an absolute demand for more as a matter of right. Each Department and bureau of the Government ought to be made to depend upon us, and if we do wrong let us be held responsible to the country. I do not intend, if I can help it, to allow any of them to defy us. It was to make that issue and that alone that I endeavored to get this information. The Army behaves better generally in this regard than any other depart-

ment, therefore I perhaps felt more like making a fuss than I would with habitual offenders who care nothing for what we do or say.

If the Committee on Appropriations can reach it, as it is to be referred to us, and we can thus save the cost and delay of printing even the tabulated statement, all well; I do not ask any more, as the Army bill is now before us. I see the chairman of the Committee on Appropriations on his feet. If he desires any part of the matter printed, or if the chairman of the Committee on Printing thinks any part of it ought to be printed, let it be done; if not, let the papers go to the Committee on Appropriations, and we will look into them ourselves and invite the Secretary of War or some of his officers to come before us and tell us briefly just how the matter stands. We can then take proper steps to guard against a repetition of wrongs or blunders, if any are found to exist.

I have believed that part of the mileage appropriation for this year was spent wrongly. I do not think, for example, that the Secretary of War or anybody else had any right, or that any officer of the Government, for I do not know who attends to this mileage business, had any right to send officers to Yorktown and spend $20,000 or $30,000 in that way for mileage. If they want to go to any grand parade or jubilee of that sort, let them go as I have to go, as the Senator from Rhode Island has to go, paying their own expenses; they will be glad to get a chance to go on these terms. When they are on legitimate Army duty I propose to let their mileage be paid, but I am afraid, and I believe, because I do not know any better, that a good deal of the mileage money was paid for mileage to Army gentlemen who were not detached from their places on business of the Government, but went for their own pleasure. If that is the case I intend to have something done, if I can, that will in the future prevent that sort of expenditure.

Mr. ALLISON. I have made some examination and investigation into this question of mileage, with a view to do justice in the Army appropriation bill now pending in the Committee on Appropriations. I think the resolution of the Senator from Kentucky has had a beneficial effect on the Army. The difficulty with reference to the question of mileage is that every commanding officer has an opportunity of ordering officers to perform specific duties, and when these duties are performed and travel is involved, of course they are paid mileage. The Paymaster-General kindly furnished me with a statement of the monthly cost of mileage during the present fiscal year so far as it has passed, or for nine months. It is a very careful table, showing the amount expended for mileage, and is as follows:

Amount of mileage expended.

Periods.	Months.	Amount.	Average per month.
From July 1, 1881, to November 30, 1881	5	$105,642 36	$21,128 47
From November 30, 1881, to January 31, 1882	2	34,068 68	17,034 34
From February 1, 1882, to February 28, 1882	1	14,596 96	14,596 96
From March 1, 1882, to March 31, 1882	1	15,704 36	15,704 36
	9	170,012 36	18,890 26

I find from this table that the total expenditure for mileage for the nine months ending March 31 has been $170,000.

Mr. BECK. The Secretary of War announced to us officially that the $200,000 appropriated would be exhausted by the 28th of February, at the end of eight months.

Mr. ALLISON. That statement, however, was based on the expenditures of the first five months.

Mr. BECK. That included Yorktown, I presume?

Mr. ALLISON. If the Yorktown celebration was within five months from the 1st of July, 1881, of course it included Yorktown. The average expenditure for the first five months was $21,000 a month, and for the first six months it was at the rate of $122,000 for the year. If that expenditure had continued during the whole year, the deficiency asked for by the Secretary of War, who made the request undoubtedly upon the information received from the Paymaster-General, would have been required; but the Paymaster-General informs me that the $20,000 already appropriated will most likely run through the entire fiscal year, so that no additional appropriation will be required. Upon inquiry he states to the sub-committee that the sum of $220,000, the amount appropriated this year, will be ample for next year's service.

Therefore, I think, while it is unnecessary perhaps to print any portion of this report, some good has resulted from the inquiry made by the Senator from Kentucky, and the result will be beneficial.

Mr. BUTLER. Will the Senator allow me to ask him a question in connection with that statement? Is the $170,000 in full for transportation of officers traveling with troops, or is it simply mileage for officers on detached service?

Mr. ALLISON. It includes only the mileage of officers on detached service. It is the sum expended under the appropriation of $200,000 for the current fiscal year, and the Paymaster-General says he is quite satisfied that the $20,000 which we appropriated in February will last for the remainder of the fiscal year. I think, on the whole, the Committee on Appropriations can secure the necessary information to enable them to act intelligently without printing the papers which we have now before us.

Mr. BECK. That is all I desire. The chairman seems to have more information than I had relative to the subject. I have no doubt that the Secretary of War himself will be very glad, if anything has been developed by looking into this matter, to do anything that will enable him in the future to put restrictions on practices which perhaps have been going on for years and may have grown into a custom which can be restrained hereafter. I do not know, but I believe from the official statement, $200,000 having been spent in eight months, that $100,000 apparently would be necessary in the remaining four months; but if they can manage to get along with the $20,000 additional until the beginning of the next fiscal year, we shall then be able to look into the matter and have some guide for the next appropriation.

Mr. PLUMB. I wish to state what I think is the material thing about this whole question. Congress substantially said at the last session that $200,000 should be the entire amount used for the purpose of transporting officers in the discharge of the duties which might be specially devolved on them. The War Department disregarded that direction and made such expenditures that more than that amount of money became necessary. It is not a question as to whether $200,000 was enough or whether it was too little; it is a question as to whether the executive branch of the Government is to receive its direction from the legislative branch or otherwise.

I think myself that when Congress had fixed the amount at $200,000 it was the duty of the Secretary of War to inform his subordinates that the expenditures must come within that sum, and that they must so order the duties of their respective divisions or departments as that the amount to be expended would come within the appropriation.

It may be supposed that the $200,000 was to be the entire amount expended for Army transportation, but I call attention to the report of the Quartermaster-General for 1881, in which he shows that the amount expended for ordinary Army transportation was over $1,800,000. The appropriation of $200,000 was only to send individual officers from station to station in the performance of court-martial and other duties to which they might be assigned.

I think I state that which every Senator here knows when I say that a very considerable portion of this expenditure is absolutely unnecessary, that it is done for the convenience of officers, that they are ordered from station to station as a matter of convenience to themselves, and not as a matter of duty to the Government at all. There are to-day over one hundred officers of the Army on duty in Washington, ordered here for various purposes. While I do not say that there are very conspicuous violations of law involved in these orders, at the same time it is a fact well known and understood that favoritism in the Army will enable officers to obtain an order for transportation in certain cases when in other cases it cannot be had at all.

I say that whenever Congress has fixed $200,000 or any other sum as the gross appropriation which shall be applied for this purpose, it is the duty of the Secretary of War to bring himself within it, and it is not only his duty, but it is absolutely within his power to do it. It does not involve the transportation of troops necessary to put down Indian hostilities, it does not involve the transportation of troops from station to station, affecting in a larger way the efficiency of the Army, but it is largely a question of personal convenience of Army officers, and if the sum were fixed at $50,000 it would be perfectly easy for the Secretary of War to carry on the Army administration, give it all the efficiency it has to-day, and expend no more than the sum of $50,000.

I do not object to the amount, but I do object to the constant assumption of the Executive Departments of the Government of their right to expend far beyond the direction of the legislative branch, and say that notwithstanding we appropriated $200,000 they can expend all that in nine months of the year and then come to us and with a round turn say, "If you do not give us more of course the ordinary operations of the Army or of the Post-Office Department, or of the Navy Department, as the case may be, have got to be stopped." It is well enough to put down a peg first as well as last, and say that when after mature deliberation Congress has said a certain amount is necessary only that amount shall be expended, and some one of the officers of the Executive Departments of the Government charged with the expenditure of the money shall at least feel himself under a responsibility to limit the expenditure within the amount thus prescribed.

Mr. HAWLEY. Mr. President, I have not heard all of the debate, but I wish to make a remark or two, with the indulgence of the Senate. In the first place, I think the Senator from Kentucky [Mr. BECK] is entirely right in his desire to know why the Army has gone beyond the $200,000 set apart for mileage.

This debate runs upon the purely incidental question as to whether it is worth while to print this large mass of papers sent here in answer to the Senator's resolution. The papers are rightly sent here, because he called for an itemized account. The Secretary of War was obliged to obey literally, of course, and faithfully, and he has done so. The itemized account, it so happens, really does not give the Senator the information he desires. That can be obtained, however, and far better, from a few hours' conversation with the Secretary of War and three or four of the leading staff officers, because they know

why they have been obliged to give more orders or permits for mileage than usual.

As I say, this does not give him the information. Here are some fifty pages of what the printers call costly rule and figure work, which if set up would probably make one hundred or one hundred and fifty pages in a book, which would not be worth one farthing for the purposes of inquiry. For example, here is the first line, and the others are all like it: Captain John Putnam, paid by C. J. Sprague $28, under special order No. 36, Watertown arsenal; Major George W. McKee, paid by Sprague $45.12, under special order No. 271, headquarters of the Army. I read at random. Captain Henry O. Perley, paid by Paymaster Sprague, under special order No. 274, headquarters of the Army, $61.28. Those are separate lines in this report, and if you desire to know why the officer was sent or what duty he was sent upon under that special order, here are the whole of the special orders in this large package before me.

Mr. ANTHONY. It is not one-quarter of them.

Mr. HAWLEY. No, it is not one-quarter of them; I beg pardon, here are the others. How do they read? Here is one of them:

Captain E. B. Kirk, assistant quartermaster United States Army, will proceed without delay to Saint Louis, Missouri, on public business connected with the repair and payment of the crew of the United States steamer General Sherman. On the completion of this duty Captain Kirk will return to his station.

Again, dated "Headquarters Department of Dakota, Fort Snelling, Minnesota," is an order directing Major Alexander Sharp, of the Pay Department, to proceed to pay the troops stationed at Forts Randall, Hale, Sully, and Bennett, Dakota Territory. Here is an order directing "First Lieutenant John Carland, Sixth Infantry, having reported to the Adjutant-General of the Army in compliance with orders No. 114, July 13, 1881, camp on White River, Colorado," to return to his station, camp on White River, Colorado. So you read through by the week a dreary mass of detail sending officers back and forth on their stations, and it would not appear once out of a hundred times that there was any special favor to any officer in it, as suggested by the Senator from Kansas, [Mr. PLUMB.] I beg to say that I think he was quite unjust in that. It may, of course, sometimes happen that in administering the affairs of the Army an officer will be ordered to some place on a particular duty because he has a wife or a mother or a sweetheart there and he would like to go on that particular duty, and they manage to combine pleasure and family duty with the orders of the Army. That, of course, sometimes happens; and it may happen, and I do not say that it does not once in a while, that some very pleasant inspecting duty is invented for the purpose of gratifying some officers who desire to go over some of these posts. Here is an order which directs an officer to inspect a large number of posts. I have no doubt it was necessary in the general management and government of the Army.

I therefore simply protest that the Senator from Kansas is liable to do injustice by his rather sweeping declaration that a large part of this is done simply to please certain officers, and I do not think that his $50,000 would approach the necessities of the service. He is quite unjust in suggesting that amount, for having a small Army and having it scattered over at least 3,000 miles in width and 2,000 or more miles in breadth, it is absolutely necessary to incur a very considerable expenditure in the way of mileage and transportation.

Mr. PLUMB. Let me ask the Senator who is the judge of that necessity?

Mr. HAWLEY. The War Department is to a large extent the judge of it, but it cannot always govern it.

Mr. ALLISON. It is done under the commanding officers.

Mr. HAWLEY. Certainly, under the general laws and regulations of the Army. General Hancock is responsible for a considerable portion of the expenditures, as well as General Terry, in Minnesota, and whoever happens just now to be commanding at San Francisco; I have forgotten who it is.

Mr. CAMERON, of Pennsylvania. General McDowell.

Mr. HAWLEY. In short, the chiefs of the several departments, the Quartermaster-General and Surgeon-General, and all the officers charged with subdivisions here, have authority to send an officer, and of course they must have authority to send an officer on special duty.

Mr. PLUMB. I ask the Senator, ought that authority to properly exist with them instead of the Congressional authority, which makes the appropriation?

Mr. HAWLEY. I think as a general thing Army officers consider these appropriations as an absolute order; and here comes in the only suggestion I will trouble the Senate with: that looking in advance, looking over the necessities and duties of the twelve months, it is quite impossible to lay the figure down with absolute certainty. The pay of the Army you can get very nearly right in your appropriation act, because you count your roll, and you know your aggregate will not vary two hundred in the course of the year. You can get very nearly right on that, and so with the food and clothing of the Army; but in appropriating for all this detailed work it is impossible to make an accurate estimate, and if the War Department officers begin to perform their duties faithfully, it will sometimes happen at the close of six, seven, or eight months that, to their surprise and I venture to say always to their regret, they are running up to their appropriation, and they will have to stop at the end of ten months unless they get a little more extra money.

Mr. PLUMB. The only comment I have to make on what the Senator from Connecticut [Mr. HAWLEY] has said is that it is quite competent for the Secretary of War and his subordinates to say that Congress having adopted a certain amount as the maximum, they shall bring their expenditures within that sum and leave the responsibility with Congress. I may say that a little less family duty and a little more military duty within the ordinary purview of these orders is something I think which would result just as well as the present system. I said $50,000 would do; and I say now that the ordering of officers from post to post and from various posts to Washington has become an abuse. No one can say that there is duty today for one hundred officers in Washington, as there are here now. There is no such necessity; there never did exist any such necessity for that work. This thing of giving to some one person who may have a family here or a family there, a sweetheart here or a sweetheart there, an order because he wants to go, and which does not cost anything to the person who puts his name to the order, is something which has gone beyond the limits of ordinary patience, and when that exceeds the legislative authority named in the appropriation act giving it it becomes something which ought to be the subject of Congressional investigation.

Mr. ANTHONY. I thought the debate upon the reference of this question to the Committee on Printing attributed some blame to the Secretary of War and that it was right in his vindication that the resolution should be read to show that he had done all the Senate directed him to do, and nothing more. The remarks of the Senator from Kentucky, in exoneration of the Secretary are precisely what I should expect from the frankness and the manliness of his character.

I said that these papers had been referred to the Committee on Appropriations. The motion to refer to the Committee on Appropriations was reconsidered and the papers were referred to the Committee on Printing. I will therefore ask that the Committee on Printing be discharged from their further consideration and that they be referred to the Committee on Appropriations. If the Committee on Appropriations desires anything printed they can ask for it.

The PRESIDENT *pro tempore*. The Committee on Printing will be discharged from the further consideration of the subject and the papers will be referred to the Committee on Appropriations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese.

REPORTS OF COMMITTEES.

Mr. HARRISON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 432) to amend section 1190 of the Revised Statutes of the United States, relating to paymasters' clerks of the United States Army, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. HARRISON. I am also instructed by the same committee, to whom were referred two bills which relate to the same subject, to report them adversely, and to ask that they be indefinitely postponed, as the subject is covered by the bill just reported.

The bill (S. No. 588) regulating the employment of civilian clerks for disbursing officers of the Army, and the bill (S. No. 457) to amend section 1190 of the Revised Statutes of the United States, relating to paymasters' clerks of the United States Army, were postponed indefinitely.

Mr. HARRISON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 846) for the relief of A. G. Peabody, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1638) for the relief of the heirs of Major D. C. Smith, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 783) for the relief of Francis Gilbeau, reported it with amendments; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 907) for the relief of John Fletcher, asked to be discharged from its further consideration and that it be referred to the Committee on Indian Affairs; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 1800) for the relief of Mary A. Lee, asked to be discharged from its further consideration and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. PENDLETON, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1706) for the relief of George H. Carlyle, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

Mr. GEORGE, from the Committee on Claims, to whom was referred the bill (S. No. 708) for the relief of Mrs. Ellen Call Long and Mrs. Mary K. Brevard, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

THE SOLDIERS' HOME INVESTIGATION.

Mr. SEWELL. I am instructed by the Committee on Military Affairs to submit the testimony taken in the investigation ordered by

the Senate into the Soldiers' Home at Washington, and also to submit a report on the same.

The report, with the testimony, was ordered to be printed.

Mr. CONGER. May I ask if the report includes the testimony?

Mr. SEWELL. The report includes all the testimony.

I offer the following resolution for the printing of extra copies of the report alone:

Resolved, That 1,500 copies of the report of the Committee on Military Affairs on the Soldiers' Home in addition to the usual number of copies be printed for the use of the Senate, independent of the testimony relating thereto.

Mr. COCKRELL. The resolution only covers the report itself. Let the report and testimony be printed—the usual number—and then the resolution will cover simply the report.

The resolution was referred to the Committee on Printing.

Mr. SEWELL. I am instructed by the Committee on Military Affairs to report an original bill on this subject.

The bill (S. No. 1821) prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes, was read twice by its title.

MIAMI INDIAN LANDS.

Mr. INGALLS. Senate bill No. 328, to provide for the sale of the lands of the Miami Indians in Kansas, passed the House of Representatives with an amendment, which was yesterday referred to the Committee on Indian Affairs. That committee, after consideration, direct me to report it back to the Senate with a recommendation that the amendment be concurred in. I ask that it may be read.

The Acting Secretary read the amendment of the House of Representatives, which was to add to the bill the following:

SEC. 4. That the provisions of this act shall not in any way affect the rights or claims of those individual Miamis or persons of Miami blood or descent who are named in the corrected list referred to in the amendment of the Senate to the fourth article of the treaty of June 5, 1854, or their descendants; and before the proceeds which have been or may be hereafter realized from the sale of said lands shall be applied for any purpose or distributed, the Secretary of the Interior shall obtain the opinion of the Attorney-General as to what rights or interests, if any, the said persons have or had in and to said lands; and if in his opinion they are or were entitled to have parcels of said land allotted to them under the provisions of said treaty, and failed to receive the same, then the said Secretary of the Interior is hereby authorized and directed to pay to each of said persons out of the proceeds of the sale of said lands as aforesaid a sum equal to the value of two hundred acres of said land as appraised for the purpose of making said sale, for and in lieu of their interest in said lands, and that of the surplus of said proceeds which may then remain, if any, that they receive their *pro rata* share thereof the same as other members of said late tribe of Miami Indians.

Mr. INGALLS. I move that the Senate concur in the amendment made by the House of Representatives.

Mr. PLUMB. I hope my colleague will explain the effect of that amendment.

Mr. INGALLS. It relates to an existing unsettled controversy between members of the Miami tribe of Indians. The amendment does not propose to settle that controversy, but leaves the Secretary of the Interior and the Attorney-General to take cognizance of the matter hereafter; and in case it shall be decided that the claimants have any rights it declares in what manner the proceeds of the land shall be distributed.

Mr. PLUMB. It is a controversy between that branch of the tribe remaining in Indiana and that in Kansas.

Mr. INGALLS. I understand that to be the fragment of the tribe that is intended to be benefited by the amendment of the House.

The amendment was concurred in.

BILLS INTRODUCED.

Mr. HALE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1822) granting an increase of pension to George E. Wilder; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SEWELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1823) for the protection of fisheries on the Atlantic coast; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. PUGH (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1824) to provide for the settlement of an account with the Vicksburgh and Meridian Railroad Company for internal-revenue tax, and to refund the amount of said tax erroneously assessed and collected; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRISON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1825) making appropriation for the purpose of constructing a road from the city of New Albany, in the State of Indiana, to the national cemetery near said city; which was read twice by its title, and referred to the Committee on Military Affairs.

THOMAS PILGRIM.

Mr. COKE. I offer the following resolution, and ask for its present consideration:

Resolved, That the Acting Secretary of the Senate be, and is hereby, instructed to pay to Mrs. A. L. McIntyre, of New Jersey, out of the funds for contingent expenses of the Senate, the sum of $84, in trust for the infant child of Thomas Pilgrim, deceased, said sum being the balance due said Pilgrim as late clerk of the Committee on Indian Affairs.

The resolution states the fact that that sum is due to Thomas Pilgrim, late clerk of the Committee on Indian Affairs, who died recently, leaving an infant child, the only member of his family, who has been left in charge of Mrs. McIntyre. The resolution simply authorizes the Acting Secretary of the Senate to pay the amount due.

Mr. INGALLS. Has the matter been referred to the Committee on Contingent Expenses?

Mr. COKE. It is a small amount. I ask for the present consideration of the resolution.

Mr. INGALLS. It is customary—and I think the precedent is a valuable one—that resolutions appropriating money out of the contingent fund should be referred to the committee on that subject for inquiry and in order to avoid difficulty that might arise. I am very sure the committee will report it promptly to-morrow. I suggest that the resolution take that course.

Mr. COKE. I am satisfied.

The resolution was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

ORIGINAL PORTRAITS OF WASHINGTON.

Mr. VOORHEES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency and propriety of purchasing 5,000 copies of the work entitled Original Portraits of Washington, by Elizabeth Bryant Johnson, for distribution to the public libraries throughout the United States.

ALLEGATIONS OF IMPROPER INFLUENCE.

Mr. VOORHEES. I offer the following resolution:

Resolved, That a committee of five Senators be appointed by the Chair, whose duty it shall be to investigate and ascertain whether any corrupt or improper influences have been brought to bear on any member of this body in regard to House bill No. 5656, now pending before the Senate Finance Committee, being a bill to amend certain laws on the subject of distilled spirits in special bonded warehouses; and said committee shall also inquire whether any attempt of any kind has been made to bring such improper or corrupt influences to bear on any member of this body in order to secure the passage or the defeat of said bill; and said committee shall have power to send for persons and papers, and shall report the result of such investigation at as early a day as possible.

I do not care to say a word at this time further than that I think this a very proper resolution, in view of certain publications which have been made, and I think it is the proper way to meet them.

I hope the Senate will adopt the resolution.

The PRESIDENT *pro tempore*. Is unanimous consent given to the present consideration of the resolution?

Mr. MORRILL. I know nothing about this subject. This is the first intimation I have heard that there was any necessity for any such investigation. I hardly think there is now, unless the Senator knows of some fact.

The PRESIDENT *pro tempore*. Does the Senator object to the present consideration of the resolution?

Mr. MORRILL. I merely ask the Senator from Indiana if he knows of any fact himself that would justify an investigation of this kind?

Mr. VOORHEES. I know no fact at all. On the contrary, it is for the purpose of investigating things that are said that are not facts to my certain knowledge. It seems publications have been made to the effect that certain persons claim to control certain Senators' votes or influence in that committee and on this floor, assertions that are as utterly false to my personal knowledge so far as I am concerned as that word can convey. I think it best that an investigation shall take place, and silence this talk or make those who indulge in it make charges direct.

Mr. MORRILL. I am perfectly willing that the newspapers should make any clamor that they see fit about any member of the Committee on Finance. I do not believe a word of it, nor do I think it necessary that we should have such an investigation as this. So far as I am concerned I treat it with entire contempt. I shall object to the passage of the resolution.

The PRESIDENT *pro tempore*. The hour of one has arrived.

Mr. VOORHEES. Let the resolution be printed and I will confer with the chairman of the Committee on Finance between now and to-morrow.

The PRESIDENT *pro tempore*. The resolution will go over, and be printed.

MISSISSIPPI JUDICIAL DISTRICTS.

Mr. GEORGE. I wish to correct a clerical error in a bill which was passed yesterday. The bill (S. No. 1168) to amend the several acts in relation to the division of the State of Mississippi into judicial districts, and further to amend the several acts in relation to the northern judicial district of the State of Mississippi, and to provide for the times and places of holding the United States district courts in said northern district, which passed yesterday, by a clerical error has omitted one county of the northern district. I desire to have it corrected.

The PRESIDENT *pro tempore*. Has the bill been transmitted to the other House?

Mr. GEORGE. I understand not. I move to reconsider the vote by which the bill was passed, so that the correction may be made.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which the bill was passed.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. It is now moved to reconsider the vote ordering the bill to be engrossed for a third reading.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now before the Senate and open to amendment.

Mr. GEORGE. I move that the word "Lee" be inserted in the ninth line of the first section, after the word "Oktibbeha."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DR. A. SIDNEY TEBBS.

The PRESIDENT *pro tempore*. The Senate will proceed to the consideration of cases on the Calendar under the Anthony rule.

The consideration of the bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs was resumed as in Committee of the Whole.

Mr. INGALLS. Let the pending amendment be read.

The PRESIDENT *pro tempore*. The pending amendment is the amendment reported by the Committee on Military Affairs, which will be read.

The ACTING SECRETARY. The committee report to strike out all after the enacting clause of the bill and insert:

That section 1218 of the Revised Statutes of the United States be, and the same is hereby, repealed.

Mr. INGALLS. Do I understand the Chair to say that that is a committee amendment?

The PRESIDENT *pro tempore*. Yes, sir; the amendment reported by the Committee on Military Affairs.

Mr. INGALLS. It is susceptible now of amendment, I suppose.

The PRESIDENT *pro tempore*. Certainly.

Mr. INGALLS. I move to amend the amendment by striking out, after the word "hereby," in the second line, the word "repealed," and inserting the words—

Amended by inserting after the word "who" in said section "having previously served in any capacity in the military, naval, or civil service of the United States, requiring the taking of an oath of allegiance thereto, and subsequently."

So that the section, as amended, will read:

No person who, having previously served in any capacity in the military, naval, or civil service of the United States, requiring the taking of an oath of allegiance thereto, and subsequently has served in any capacity in the military, naval, or civil service of the so-called confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

I ask for the yeas and nays on the amendment.

Mr. ROLLINS. I move that this bill and the pending amendments be committed to the Committee on the Judiciary, and on that motion I ask for the yeas and nays.

Mr. HARRIS. That motion was acted on yesterday on the yeas and nays.

The PRESIDENT *pro tempore*. An amendment has been offered since; the Chair supposes that changes the status of the case.

Mr. ROLLINS. The motion is in order?

The PRESIDENT *pro tempore*. It is in order.

Mr. ROLLINS. I demand the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. BUTLER. I should like to offer this as an amendment to the amendment.

The PRESIDENT *pro tempore*. It is not in order yet.

Mr. INGALLS. An amendment in the second degree is now pending.

Mr. BUTLER. I should like to read my proposed amendment:

And the class of persons excluded hereby shall be exempt from taxation, and in the event of a foreign or other war shall be exempt from military duty in the Army or Navy of the United States.

I propose to offer that as an amendment to the amendment of the Senator from Kansas.

Mr. SAULSBURY. Mr. President, I cannot understand the reluctance gentlemen on the other side of this Chamber manifest to meeting this question directly. It is proposed to repeal a certain section of the Revised Statutes, the import of which everybody understands. Section 1218 now prohibits any person who was in the confederate service from going into the Army of the United States, and it is conceded that the only persons now to be affected by it were young persons at the time of the war—boys perhaps—who might have been engaged in some capacity. Perhaps it may affect one or two, or half a dozen, young men who were at West Point; but it applies mainly to persons who were too young to take any real part in the late war. The only persons to be affected by it are those who had no connection whatever with the rebellion.

Now why should that remain any longer? The Senator from Ohio [Mr. SHERMAN] the other day said that he thought this section and some other provisions of law might very well be repealed, while he interposed objections to meeting the question now, and preferred its reference in order that it might be considered in connection with other matters. Here, however, is a simple, plain proposition whether section 1218 ought to be repealed, and we ought to meet that question without any reference whatever to any committee. There is not a gentleman in the Senate Chamber but what fully understands what is to be done; and wherefore the necessity of any reference to any committee? Can any committee enlighten us in reference to the import of that section? If not, why should it go there in order that we may have their judgment as to whether it ought to be repealed or not? We all understand what is to be done, and we have all made up our minds. There is not a Senator here but what has his own conviction of what is right and proper to be done in the premises. Why, therefore, should we refer it to any committee? Why should we hesitate to meet the question directly? Why should we try to send it to any committee, or why should we weaken this measure as is proposed to be done by the Senator from Kansas? Let us vote directly on the question. If it is right that the section should be repealed, let us repeal it. If it is improper that the section should be repealed, let us say so by our votes.

Mr. GARLAND. I am the author of the amendment which the Committee on Military Affairs has reported and which is now the subject of debate, and therefore I shall trouble the Senate again to say a few words upon it, because I wish to direct attention to the real question, as I conceive, that is in issue and the real motive that I had in introducing this measure. I think if the Senate will look at it carefully and dispassionately and try to consider it for a moment so far as it can, as if we had never had a war, there can be no good reason assigned for keeping this statute alive any longer.

I expressly disavowed all intention or all wish or desire in introducing this measure to excite any feeling at all in reference to the late war, to build up or to tear down any monument, or to break any household god connected with that war. I have not troubled myself with that; in fact I think that human life is too short to consider the question as to who was right in that controversy. My own deliberate judgment is that both sides were guilty of a great deal of wrong, and I am very desirous for one to help to repair that wrong which was done by both sides, and I disavow all intention of exciting another rebellion by the introduction of this measure which the Committee on Military Affairs have reported favorably.

I ask Senators now to look at the exact status of the question. The section reads:

SEC. 1218. No person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

If this was intended as a restriction either by way of punishment, or anything else that you may choose to call it, on those who served in the rebellion, so far so good; but what restriction grows out of this statute, I may ask Senators. The single and the only one of serving in the Army. You have gentlemen upon this floor, you have gentlemen upon the floor of the other House who served the confederacy signally and well, who make laws to control your Army, who make laws to control the purse of the country, who make laws to control the President, and from him down to the lowest officer in the country; and yet he cannot enter the Army under section 1218. Yea, sir, the people can elect one of these gentlemen President of the United States, and he then is commander-in-chief of the Army. He can take your Army and lead it to the other side of the earth if he pleases, but yet he cannot hold a subordinate office in it under section 1218!

I say to Senators it is no restriction at all in effect. It is contradictory and inconsistent. If it were a punitive statute or a restrictive statute that comprehended the entire service of the country, it might rest on some reason; but you permit men of this class to go into your Navy, you permit them to come into Congress, you permit them to go into the Cabinet, you permit them to be made President or Vice-President, and yet they cannot hold a small Army office under this section 1218.

Mr. President, while I have not been clamorous about these punitive statutes in general, while I have not troubled myself considerably about them, yet here stands a statute that has not in itself a proper meaning at this day and time, when we consider that all the other restrictions have been taken away; and the amendment offered by the Senator from Kansas does not reach the difficulty, in my humble judgment. It simply keeps this very matter here, of which I complain, merely as to your Army, when all the other doors to office are open to these men.

Now further, as stated by the Senator from Delaware, its principal effect is upon those who were beardless boys at the time the war came on. Nearly every session we have bills introduced here for the relief of A or B or C, as the case may be, under this section 1218. We have never refused to pass one of those bills for the relief of a particular person. Why keep the statute here if we are going every session to relieve these persons, and whenever a bill of this character is presented we are asked by some Senator, "Why not do it entirely and not by granting this relief by piecemeal?" and this is the second time that I have made the effort, and the second time, too, that we have had a favorable report to repeal this statute, so as to relieve us hereafter of this work for the relief of A, B, C, and D.

This is the whole case, and it is the whole reason that operates on me in offering the proposition which the Military Committee now propose to incorporate in this bill. I offered it once before as an amendment to the bill for Mr. Heiskell, of Maryland. It was reported favorably. I offer it again now in reference to Dr. Tebbs, and it is reported favorably. No committee can give us any further advice about it. The statute is plain; it is before us; it needs no interpretation. If any Senator knows of any one who should not be excepted from the operation of the statute, let him put that case in this bill, showing that the party has done something that makes him unworthy of relief; but as we are relieving these persons by special

nets, let us take the statute out of the way entirely, and have no more trouble with it.

Mr. INGALLS. Mr. President, I agree with the Senator from Delaware and the Senator from Arkansas that it is not necessary to refer this subject to a committee for consideration. I offered an amendment to the amendment proposed by the committee, in effect that any person who had taken an oath of allegiance to this Government and deliberately violated it and entered the service of a hostile power for the purpose of overthrowing it, should not hereafter be appointed to service in the Army of the United States. The Senator from South Carolina [Mr. BUTLER] treats that as a joke.

Mr. BUTLER. No, sir. I beg the Senator's pardon. I am in dead earnest.

Mr. INGALLS. He treats it in a jocular and sneering manner, intimating that if those persons who having taken an oath of allegiance that they have deliberately violated are not to be again appointed to the Army, they shall be exempted from taxation and from military service in case of another war.

Mr. BUTLER. There is as much sense in the one as in the other.

Mr. INGALLS. There is exactly the difficulty with the Senator from South Carolina and the Southern statesmen with whom he is associated; they have never been able to understand that the war meant anything.

Mr. BUTLER. Well, Mr. President, when I go to apply for information and understanding, I shall certainly not apply to the Senator from Kansas. I think I understand exactly what the war meant as well as he does, and a great deal better, and it is not the correct and proper thing for the Senator to be lecturing the Senator from South Carolina about what he understands and what he does not understand.

Mr. INGALLS. The great difficulty, Mr. President, with the Senator from South Carolina, and those who think with him, is that they believe the war was fought about a point of constitutional etiquette, and was to be ended by a polite apology.

The Senator from Kentucky, [Mr. BECK,] the Senator from Texas, [Mr. MAXEY,] and others have protested passionately against test oaths and the statute of exclusion, upon the ground that they are monuments to the triumph of the victors in a civil strife, and they serve to perpetuate the desolating memories of an epoch that, having been forgiven, should also, as they assert, be forgotten.

I am one of those who have always sympathized to a great degree with the appeal that has been made in this direction, for I recognize the truth that, if the Republic is to endure, it cannot be made permanent by acts of Congress against disloyalty, and if the union of States is to be perpetual it must be because it stands upon the patriotic devotion and affection of its citizens of all parts of the country.

But, sir, the arguments employed by the Senators from South Carolina and Texas and Missouri are unfortunate; they render it impossible for men who believe as I do that the war having closed for seventeen years ought to be regarded as a controversy of the past, and that we should go forward into the future for the purpose of accomplishing new national results to vote with them. If the Senators from South Carolina and Missouri and Texas suppose that the North is magnanimous and willing to ignore what has been done because they have any doubts as to who was right in that great struggle, they are very much mistaken—very much mistaken indeed, sir.

The junior Senator from South Carolina [Mr. HAMPTON] asserted the other day in a pathetic peroration that notwithstanding all that had been done, notwithstanding the assumption that has heretofore been made that the war settled something, that God alone knew who was right in that controversy. My reading of history teaches me that the South fought in that contest to perpetuate human slavery and the North fought for the purpose of securing universal liberty; and the Senator from South Carolina says God alone knows who was right. The South fought to dismember and destroy the Union; the North fought for the indissoluble Union of the States. The Senator and his associates, now having again sworn to support the Constitution and its amendments, say that the Union ought to be preserved and maintained; and yet when these questions are revived they assert that notwithstanding their four years' of contest, God alone knows who was right; whether it was right to fight for the Union or against it; whether it was right to fight for human slavery or universal liberty. It is still an open question, notwithstanding four years of war, notwithstanding seventeen years of debate that have since followed, notwithstanding the amendments that have been imbedded in the organic law of the land. Even now God alone knows who was right!

Mr. HAMPTON. May I ask the Senator a question?

Mr. INGALLS. Yes, sir.

Mr. HAMPTON. I understand him to say that the North fought for universal liberty.

Mr. INGALLS. Yes, sir.

Mr. HAMPTON. Was that the ground taken by the North during the war and at the beginning of the war? Was that the ground that was taken when Congress passed a resolution declaring what the war was fought for? Was there any time up to nearly the close of the war when the North would not have recognized the existence of slavery had the South been content with the preservation of the Union? But I do not wish to discuss dead questions.

Mr. INGALLS. There is the difficulty with the Senator from South Carolina; he asserts that these questions are dead. They are not dead. Slavery is worse than liberty, and union is better than disintegration. In asserting that there is no such thing under our political system as loyalty, as patriotic devotion to the Union, as love of liberty and of freedom, the Senators from the South render it impossible for those who believe as they assert that by-gones should be by-gones to concur with them in attempting to obliterate the dissensions and allay the differences of opinion and policy that arose after that conflict was closed. It does not sound agreeably to men representing Northern constituencies to hear, as I have heard repeatedly on this floor, declarations by Southern Senators that Jefferson Davis stood on the same plane with John Hampden and George Washington; and if the Senator from South Carolina believes that, I tell him that no man in the North believes it, no matter what may be his convictions as to the course that ought now to be pursued toward those who were lately in rebellion.

Mr. BUTLER. The Senator looked at me. I have not expressed any opinion about that or anything else.

Mr. INGALLS. I heard during a debate on the Mexican pension-bill within the past three years Senator after Senator on that side of the Chamber arise in his place and deliberately affirm that Jefferson Davis in patriotism, in devotion to human liberty, and as a representative of the greatest attributes in human nature was the peer of John Hampden or George Washington.

Mr. BUTLER. Why did the Senator apply it to me?

Mr. INGALLS. I think the Senator from South Carolina was one of those who joined in that debate. If he was not I regret to have made the allusion.

Mr. BUTLER. As I said a while ago, I do not remember what I said in that debate, but I am quite satisfied I uttered no such sentiment as that.

Mr. INGALLS. I will abide by the RECORD.

Mr. BUTLER. The Senator is now, as he has been always doing, putting up a man of straw simply for the sake of having something to knock down; that is all.

Mr. INGALLS. Mr. President, within the last forty-eight hours in this Chamber the representative of a Southern constituency has stated that Robert E. Lee was in patriotism and devotion to country and loyalty the peer of any man who ever fought on American soil.

Mr. BUTLER. Well, Mr. President, had not that Senator a right to that opinion?

Mr. INGALLS. I say he had. I am not denying the right of individual opinion.

Mr. BUTLER. Is the Senator going to get mad with another Senator because he differs with him in opinion?

Mr. INGALLS. I am very much pleased; I am not enraged. If I were a vindictive partisan, as I am not, upon these matters, I should be very glad to have such speeches made here every day in the week and every week in the year.

Mr. BUTLER. Then why does the Senator complain?

Mr. INGALLS. Because neither the Senator nor any of his associates have disavowed it.

Mr. BUTLER. Am I to get up and disavow every sentiment uttered here?

Mr. INGALLS. During all the debates on these questions in this body for the last nine years, when such allegations have been made, I have never heard a Senator rise and disavow disbelief in them.

Mr. BUTLER. That is the most extraordinary proposition I have ever heard in my life from an intelligent man.

Mr. SAULSBURY. Allow me to ask the Senator a question?

Mr. INGALLS. Certainly.

Mr. SAULSBURY. I believe a short time ago the Senator from Nevada, [Mr. JONES,] in the discussion of the Chinese question, referred to the policy of the Republican party in reference to the colored people in the South and announced that it was a failure. I did not hear the Senator from Kansas dissent from that conclusion, and according to his argument he is responsible for that opinion.

Mr. INGALLS. The reason the Senator did not hear me dissent is because I never have been the champion of the policy pursued by the Republican party in the South. In many respects it was an irreparable blunder, and we have since been paying the penalty for it. I do not propose to discuss that now.

I say to the Senators from South Carolina and the other Southern States——

Mr. BUTLER. I have not said anything in this debate, and I do not see why the Senator should be addressing himself to me. He selects me out.

Mr. INGALLS. I referred to the Senator's colleague.

Mr. BUTLER. I beg pardon. I thought I had been as mild as possible.

Mr. INGALLS. I referred to the Senator's colleague.

Mr. BUTLER. I beg pardon, then.

Mr. INGALLS. Arguments and appeals addressed to Republicans and Northern Senators for the obliteration of these statutes of exclusion, based upon the idea that there was no right and wrong in that controversy, that the men who fought against the Union were just as good as those who fought for it, will never find any response whatever in Northern hearts. The North made during that four years of controversy incredible sacrifices for personal liberty, fo

freedom of conscience, for the independence of the States, and for the integrity of the Union.

Mr. BUTLER. The Senator seems to be fighting against the freedom of conscience now.

Mr. INGALLS. And so long as any one is found to assert, or any party is found to maintain that there was no difference between the parties to that contest, so long will the North by enactment and by elections of representatives at the ballot-box continue to assert and maintain that what the North fought for in the war was right, and so long as these truths are denied by those upon the other side, so long these statutes in some form or other must stand.

Now, Mr. President, I have felt called to make these remarks not from any desire to appeal to sectionalism or to perpetuate the memories of the war, because I have avowed myself repeatedly the friend of a liberal and generous policy upon these subjects; but the utterances that have been made, notably by the Senator from Florida and by the Senator from South Carolina, compel me to say that unless this proposition as reported by the committee is amended it will never receive my assent.

Mr. VOORHEES. Mr. President, the opposition to the repeal of this section of the statutes must have some special reason to sustain it. This section of the statutes provides that no one who was in the United States Army when the rebellion broke out and joined the confederacy, and no other person who rendered any service to the confederacy in any capacity, shall hereafter be appointed to a position in the Army. That is substantially its provision.

Now, to show what an arrant humbug the opposition to the repeal of this section is, it is only necessary to call the attention of the Senator from Kansas to the fact that, with his entire approbation, old Army officers who were in the Army when the rebellion broke out and resigned their commissions, just as General Lee did, have been holding office during the entire ascendancy of the Republican party since the rebellion was put down.

Mr. INGALLS. Not in the Army.

Mr. VOORHEES. Take the case of General Longstreet as a distinguished instance, not meaning to say a single disrespectful word of him. As soon as he joined the Republican party, although he was an old Army officer that had committed this unpardonable sin in the light of this section, he became good enough for any office in the gift of the Republican party, and they would have put him in the Army likewise just as well had it not been that it would be a precedent for some one else to get in.

Now, what is the difference between appointing a man to a big office in civil life and appointing him to an office in the Army? The opposition to the repeal of this section, and in fact the section itself, proceeds, I suppose, on the idea that there was a peculiar perfidy, a peculiar dishonesty, a peculiar treachery, a peculiar disloyalty to the Government in an Army officer wearing the uniform laying down his sword and turning his back on the Government which had educated him and which he had undertaken to defend. Therefore, according to the reasoning of this section, he should never be employed in like manner again because of his treachery, because of his perfidy; but cannot a man be treacherous in some other place as well as in the Army? Take for instance a judicial officer; there are instances to-day in the judiciary where men betrayed their trust and resigned their positions when the war broke out, and when the war was over made their peace with the ruling powers and had their positions back again. Is it less injurious to this Government to place a man as its representative at a foreign court with the honor of this country in his hands than to place him back in the Army? The Senator from Kansas, and so did every other Senator on that side, voted to confirm General Longstreet as minister to an important court abroad where he was to hold the honor of this country, and where if he was so perfidious, so treacherous, and had been proven so by his resignation of his old Army command, he could have stabbed the honor of this Government to its heart.

There is no logic in this opposition at all. If men who were in the Army when the war broke out and resigned their positions are fit for one position they are fit for another. If they are fit for high positions on the bench, fit for foreign appointments, fit for Cabinet places, they are fit for these likewise. Will it do to say that you will not trust such a man in one place, but will trust him in all others? There is an incongruity about this, and the sooner this section is swept away the sooner we shall have no more scenes like these.

The Senator from Kansas complains of those who on this side of the Chamber say that these issues are dead. He says that they are alive; that the North fought for universal liberty and, to use his own language, the South fought to establish slavery. Both propositions are wrong; neither statement is correct. The South found slavery established; they did not fight to establish it. It was among them, placed there by your ancestors as well as theirs; placed there by a common government. I can go to the Congressional Library this day and pick out old newspapers and read advertisements for runaway slaves in papers in Massachusetts. The institution of slavery was all over the land. It was an evil. I say here in the midst of my Southern friends it was a frightful evil, a terrible disorder, but it spread over the North as afterward it spread over the South. The North got clear of its slaves when they ceased to be profitable. The South held on to theirs because they were profitable, and in a moment of needless alarm, I say, committing a great mistake in history, they sought to make a separate and independent government. I am glad they did not succeed. This Government divided, there would have been a bloody line from the Atlantic to the Pacific Ocean, where war would have raged perpetually. I believe that a great overruling, overmastering Providence settled the question correctly on the basis of a restored Union and with slavery no more in this land. But when Republican Senators arise here and say that they fought for universal liberty, I know better.

I was a member of Congress during every hour that a gun was fired on this continent in that great civil war. I was in the lower branch of Congress from the firing on Fort Sumter to Appomattox, and I know that resolution after resolution passed in the shape and nature of a protest to convince the South that we were not fighting to liberate their slaves. Was I not in that body that dark lowering day next after the first battle of Bull Run when our broken troops poured back into this capital, and when the sky, shrouded in gloom, was the darkest I ever saw; when we huddled together in the House of Representatives and the venerable and distinguished patriot and statesman from Kentucky, John J. Crittenden, offered the resolution which bears his name in order to calm the apprehensions if possible of those who thought the Government was going to run into a wild anti-slavery crusade—a resolution protesting that this war was to be conducted not for the destruction of established institutions, but for their preservation; not for the destruction of the power of the States over their domestic affairs, but to keep intact that power? And if there was a Republican on that floor who voted against that resolution, I fail to remember him.

That resolution came over to this Chamber in hot haste, for there was hurry that day; there was agitation in the very air; it was carried on a run. That resolution was adopted unanimously in this body. The distinguished Senator opposite me from Ohio [Mr. SHERMAN] was in this body at that time; he can correct me, and I ask him to do so, if I state incorrectly when I say that that resolution passed this body without one dissenting vote, protesting to the world, advising your own countrymen, and advising the nations of the earth that you were not doing that which the Senator from Kansas just now said you were, but proclaiming; and the records of course proclaim it to this hour, that the contrary was true. The statement of the Senator from Kansas that you were fighting for universal liberty is an afterthought; it was not true at the time the fighting was going on, and it was never declared to be true then. That protest was never taken back.

I well remember when Mr. Greeley addressed Abraham Lincoln on the subject of making the destruction of slavery a part of the war programme. He said, "No; I would save the Union; that is my object; I would save it with slavery." Thus he spoke the specific words: "I would save it with slavery, or I would save it without." No crusade for universal liberty then!

Mr. President, I had not the slightest idea of engaging in this debate, but as we glide along on the river of time toward the final close, sometimes there are attempts made to make history so grotesque and out of harmony with the truth that even I cannot sit still and hear them go without protest. This is one of the occasions. With the offices of this country filled by the votes on that side of the Chamber, with men who betrayed the Government as much as anybody did, for them now to make a clamor against the repeal of this section is one of those incongruities that I want to point out. And when Senators rise here and assert as a cause of the war on either side that which is an absolute variance from the facts of history, it ought not to go unchallenged.

Mr. HAWLEY. Mr. President, I in some respects greatly regret that this debate has arisen. I have kept silent when there were many things to which I would have been glad to reply. A sectional discussion, or rather a discussion reviving the issues of the war, has been precipitated upon the Senate, not by the action of any Republican Senator. The original bill for the relief of Mr. Tebbs, which would have permitted him under the usual proper regulations to enter the service of the United States, would have passed this Chamber without an objection. It was an exceptional case of a man who had engaged in the war, on the confederate side, in the days of his extreme youth, and who is believed, according to the representations of his friends, to be a man of excellent character and qualifications. I know of nobody who would have objected to his becoming an Army surgeon; but thereupon comes a Senator, excluded himself by section 1218 from an opportunity to take service in the Army of the United States—he may not desire it, but he is excluded by law—and moves to repeal that statute.

Speech after speech has been made upon it on the Democratic side; only two Senators (and they very briefly indeed) have said anything upon this side to revive these old questions. I am willing to let them rest. Time is disposing of many of them without argument. But we have heard from a number of gentlemen affected by this particular section appeals to us to wipe this statute off, not upon the ground that time has made it unnecessary, but upon the ground that it was originally wrong. It is not repeal that they ask, but repentance. The moment they take that ground they sound the long roll and call into line the forces that organized twenty years ago for and against the Union. I say the war for the Union was right; I say the war against the Union was wrong; but there are men here who have tried to make us believe that it did not make much difference which

side they were on, and that by this time it does not make any difference how the Senate of the United States votes as to which was right and which was wrong.

The Senator from Indiana tells us we did not fight for human liberty. I am greatly tempted to devote three or four minutes to brushing away some common trash upon that subject.

The Congress of the United States, representing the North and the loyal sentiment of the whole country, was perfectly willing to see the rebels lay down their arms and the flag wave triumphantly and peacefully over the whole Union, even if slavery did continue to exist. That is true, and one cannot infer more than that. Mr. Lincoln voiced the loyal sentiment of the country when he said that he was willing to restore the Union even if slavery remained——

Mr. VOORHEES. I may have misunderstood the Senator. Does the Senator represent me as saying that the North did not fight to restore the Union?

Mr. HAWLEY. No. This was the Senator's expression—I wrote it down at the time—that the North "did not fight for universal liberty." On that point the Senator took issue with the Senator from Kansas.

Mr. VOORHEES. Yes.

Mr. HAWLEY. Now, sir, let us deal frankly and truly with this question. I never was either a Whig or a Democrat, but an old Abolitionist and a Radical from the beginning. I do not know what the word "Stalwart" implies, but very likely I am not stalwart enough. I never belonged to any party that did not fight slavery from the time I became a voter, in the autumn of 1847. A great deal of nonsense is talked on this subject. The issue that shook this continent and the world was one between human liberty and human slavery. That is exactly what it was; disguised, diverted, in many ways concealed, sometimes denied, that was the issue at the foundation of the great struggle.

The sentiment of the free people of the country said that slavery must not go into the Territories; it said that the repeal of the Missouri compromise was an outrage upon the plighted faith of the nation; and that sentiment carried the Presidential election of 1860 under constitutional forms. A portion of the country undertook to secede. Even those with whom I united and sympathized, even the Abolitionists themselves, were perfectly willing to leave the destruction of slavery to legitimate natural causes and political influences under the Constitution; but they were never willing to say that they desired that slavery might live, never willing to accept it, never willing to give slavery any color of natural right; and when the war broke out and Congress did make the declarations to which I have referred, that if the rebels would come back here and lay down their arms the North would let slavery alone as it was, they simply meant that they would kill it in their own peaceful way. That is what they meant and they never should have told the South anything else, because anything else was not frank and candid. They did deny the right to extend it into the Territories. They claimed that the Constitution and policy of this country fundamentally and generally were in favor of universal liberty; that slavery was a local exception; that it had some measure of toleration; that they were willing to see it abolished by means of various measures of gradual emancipation in obedience to the moral and religious sentiment of the world. All that they said; but that they were willing to guarantee it they never said, nor could you have ever got the loyal sentiment of this country to promise that slavery should live one hundred years, or fifty years, or twenty-five years as the price of saving the Union. When the lines were drawn, to tell the truth before God and man, it was essentially a war between slavery and liberty.

The champions of the Union postponed the time of the proclamation of universal emancipation—delayed, and delayed, and delayed measures to that end, hoping, and hoping, and hoping for union without resort to radical action; but the time came when they proclaimed freedom, and from that moment on there was a new fire in the heart of the people of this country, and when they sang the song of John Brown it was not mere sentiment. It put red-hot blood in every vein of the soldiers of our Army; and old Democrats, old Whigs, old Freesoilers joined in it. The first regiment I heard of as singing that famous refrain was one commanded by Fletcher Webster, son of the great expounder and defender. From that time the war went on. It was three years before this Northern people were in earnest. They drew their lines and adopted again and again the simile of Winfield Scott—the anaconda drawn around the Southern confederacy would strangle it. They waited and they temporized and they paltered. It was not until the winter of 1863-'64 that the conviction really came to the people of the North that the whole South—many of us knew it well long before—was dead in earnest in this matter. It was not, I may say, until the spring of 1864 that the nation really rallied with all its full power; and, sir, if we had not won in 1864 we should have continued it in 1865; if we had not won in 1865 we should have continued it till 1868, because if I may judge by those around me we had but begun to fight and but begun to die so long as the Union was not preserved.

Let us talk sincerely and candidly. My Southern friends, after we had taken this ground—the Union must and shall be maintained, there is no institution or system of any description whatever that shall stand in the way of it—if we were right certain things logically and necessarily followed. We say we were right. How are we ever going to decide? Some Senator says God only knows. I bow reverently and admit it; but there are certain ways of arriving at that which must be accepted as right among men, and the last awful and great resort is the tribunal of war. We could go no further. We submitted to that, and that which we of the Union call right won; and therefore, so far as human laws and institutions and duties are concerned, leaving further judgment to the Judgment Day, so far as we practically are concerned, our side was and is right.

Nor will I vote for any measure, however trifling in importance it may appear, which demands that I shall repent of anything that was a logical incident to the one grand purpose. It was right to raise troops, it was right to incur debt, it was right to proclaim emancipation, it was right to disfranchise rebels, it was right to confiscate, it was right to forbid rebels holding office in the Army, it was right to do every one of a hundred logically incident things that we did do to carry out the one great purpose.

I know that as time passes we are willing to modify and we ought to modify. General Grant did not wait to ride through Richmond nor Petersburgh, he hardly waited to brush the dust or take a meal before he telegraphed from Appomattox to Washington to stop recruiting, and then followed peace and the rapid disbandment of the great Army, and then came the painful duties of reconstruction, more embarrassing than the necessities of war, and measure after measure was passed. It was a queer time, a strange time. There were problems that puzzled the statesmen of the world, and we blundered perhaps. So we did; I will admit it; we stumbled and staggered along, but yet nevertheless with the great resolute purpose to establish the Union and establish universal liberty, I affirm that we did the best we could, and as to all the great chief measures, I say more than that, we did right, and whatever our kindly feeling may be toward any human being, I submit that the most ardent confederate——

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The hour of two o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the unfinished business.

Mr. HOAR. I ask unanimous consent that the Senator from Connecticut may conclude his remarks. ["Go on!" "Go on!"]

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Connecticut will proceed.

Mr. HAWLEY. All these measures of reconstruction, all the chief and principal measures I hold were right, and I was about to appeal to the most resolute and earnest confederate, and the bravest and ablest soldier and statesman among them with this question: Would you ask me to give any vote here that would say that we in the field or those who legislated here were wrong?

Mr. BUTLER. Has anybody asked the Senator to do so?

Mr. HAWLEY. Yes.

Mr. BUTLER. Where and when?

Mr. HAWLEY. In the appeals made on this very bill.

Mr. BUTLER. Why, Mr. President, has anybody asked the Senator to do anything of that kind? I confess, after all this discussion, I do not see on the face of the earth what that which he has been talking about has to do with it. Because I get up on the floor of the Senate and say that I think it is unwise for a statute to remain on the statute-book, whatever may have been its rightfulness or wrongfulness at the time, because I say I think it is unwise to continue it, the Senator lashes himself into a fury.

Mr. HAWLEY. No, no.

Mr. BUTLER. He reads us a lecture; he talks about prosecuting the war to abolish slavery, and about destroying people. There is nothing on the face of the earth to justify the discussion that I can see. I have taken no part in this debate because I do not think it is a matter of consequence.

Mr. HAWLEY. Is that the question?

Mr. BUTLER. But the Senator called for my question.

Mr. HAWLEY. I claim the floor.

Mr. BUTLER. Because I said——

The PRESIDING OFFICER. The Senator from Connecticut declines to yield further.

Mr. HAWLEY. I yielded for a question.

Mr. BUTLER. I have propounded the question: has anybody asked the Senator to say what he has stated he is called on to say?

Mr. HAWLEY. I propose to go on to show it. I deny being lashed into a fury or lashing anybody else into a fury. I never was more careful or more deliberate in what I said. That I speak with feeling I trust is excusable. That I am as extreme as those on the other side I deny. The Senator from South Carolina says that nobody has asked us to repeal this section on the ground that the original enactment was unwise or was wrong.

Mr. BUTLER. No; the Senator said we could not ask him to vote that it was wrong. Nobody asked him to do anything of the kind: I have not heard it.

Mr. HAWLEY. Very well; state it in the way most acceptable to the Senate. I assert that we have been invited to repeal the statute on the ground that it was originally wrong.

Mr. BUTLER. No, sir; I have not heard that proposition.

Mr. HAWLEY. On the ground that it was enacted in the heat of the sectional feelings of the war. That was one expression used in

regard to it. An expression used again and again was that it was a monument of hate; and again it was said that the statute is a reminder of sectional strife and sectional bitterness.

Mr. BUTLER. Who said that?

Mr. HAWLEY. There was expression after expression to that effect made here, that it was a thing unjust to do and ungenerous to do, after we had accepted the surrender of the confederate officers and largely admitted them to the enjoyment of civil rights. I justly state, as every Senator must concede, the spirit of the debate. I say, sir, that this particular measure was right and wise at the time, and was one of those things that were inevitable concomitants and incidents of our legislation, after the war, if we desired to maintain and preserve that which we had won.

Gentlemen speak sometimes as if, because we admit their honesty therefore we admit our injustice. It is one thing to admit, as we do very candidly, that they were to a great extent entirely honest and sincere, but it does not follow therefore that we were wrong. It does follow that we should treat them with courtesy and with kindness, considering and acknowledging their perfect personal sincerity; but that did not absolve us from the duty of legislating and even from the duty even now of maintaining some things that look in the face of them to be severe and harsh. It is not through personal unkindness; it is not through ill will toward them personally, but because it was a great war, because it buried hundreds of thousands of men, and we may not trifle with what was won by it. If it was not right, very right, and an awful and imperative duty, then it was murder, and that it was not. That it was right we left to the God of battles, and the decision happened to be with us, and that we must maintain.

I read long ago what seemed to me a very wise rule in cases of this kind to this effect: we must judge men by the light they had, but measures by the light we have. I judge the gentlemen who were engaged in that war by their life-long education and that of their ancestors under the influence of slavery; I judge them by the teaching of the doctrine of secession which they heard in their academies and in their law schools. I am willing to give to them all possible concessions and pay them all their just dues in the matter of personal regard for their belief in principle and for their gallantry in the field in defense of their ideas; but it remains for me to judge of the right and the wrong, and of the great constitutional and legislative measures necessary to sustain the war. Upon that judgment I must stand, and I cannot vote in any other way.

There are many other things that occur to me, but I am not going to enter upon this broad field of general questions any further than I have done. I am glad to make from time to time relaxations of the rigid rules adopted during and after the war; time shows that we can dispense with many of them. I think we can modify this. If the bill had come from the Judiciary Committee even accompanied with certain modifications of the test oath prudently devised, and appearing to be—for a great deal depends upon appearance in this thing, a great deal, as you will find——

Mr. BUTLER. I want to ask the Senator——

Mr. HAWLEY. Let me finish my statement; you will confuse it if you interrupt me now. If a bill or a series of bills had come from the Judiciary Committee, reviewing this field of restrictive measures, reported deliberately and carefully by such a man as the Senator from Vermont, [Mr. EDMUNDS,] chairman of the Judiciary Committee, and based upon ground that time and all its mellowing influences showed that these things might well be relaxed for the good of the country; such a measure or measures deliberately presented and supported, as they would have been, by able arguments, would have passed *nemine contradicente* through both Houses of Congress. But the very moment a measure is proposed and a virtual demand is made by men themselves engaged in the rebellion—do not ask me whether I regard them kindly or not, that is another question—the moment a virtual demand is made by them that these things shall be repealed because they are evidences of sectional strife and monuments of hate, and because they reflect upon the honor of gentlemen who happen to be affected, then you draw the lines and compel me to fall back on my position, that what we did to carry on that war was right, and that the incidental measures of legislation and action resulting from the general purpose were right. The moment that position is taken I wait for the time of relaxation and repeal; I simply say, "No, sir; those things were right, and until we argue on a different ground I cannot vote with you."

COURT OF APPEALS.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business of yesterday, which is the Senate bill No. 420.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 420) to establish a court of appeals, the pending question being on the amendment reported from the Committee on the Judiciary in section 10, [11,] line 25, after the word "opinion," to strike out the following words:

> And in patent and copyright cases in equity a review by the Supreme Court may be had, without regard to the sum or value in dispute, upon the questions both of law and fact affecting the validity or the infringement of the patent or the copyright: *Provided*, That the court of appeals shall certify that a question is involved of sufficient importance to render it proper that the final decision thereof should be made by the Supreme Court.

And insert in lieu thereof:

> *Provided*, That in all cases in which by existing laws the Supreme Court may now exercise appellate jurisdiction without regard to the sum in controversy, except in cases touching patent rights and copyrights, the Supreme Court shall continue to have and exercise such jurisdiction in the manner now provided by law.

Mr. DAVIS, of Illinois. Supposing, Mr. President, that something which I said yesterday tended to justify the comment of the Senator from Kansas [Mr. INGALLS] that I proposed to give away the amendment which is now under consideration, I wish to disabuse the Senate upon that point. I am in favor of the bill exactly as it came from the Judiciary Committee; that is, in favor of the scheme of the bill, and also of all amendments which were put on it by the committee. The bill as reported is the matured thought of the committee. Of course, nine gentlemen meeting together will have differences of opinion. These differences have been stated, compared, and the bill itself as amended is the general result of the best judgment of the committee in relation to this subject.

It is true that when I introduced the bill it contained the provision which is now under consideration to be stricken out if the Senate agree with the views of the committee upon that subject. When this bill was reported I agreed to give up any preconceived notions that I may have had on that subject, and I cannot now say that the views of the committee are not the wisest.

The scheme of the bill is that the Supreme Court shall not find the facts in any given class of cases, that the cases shall go up to them upon the law from the intermediate court of appeals. This is one of the great means of remedying the evils which now exist in the Supreme Court preventing them from hearing cases. If they can hear the law of the case, and do not have to find the facts, they can get through with four or five times as much business as they do now. The committee thought that there was no reason why a man who sued upon a patent should have any more right than anybody else who brought suit, for instance, in admiralty, in which the facts really are the main thing to be found, the law of the case being very simple. That was the reason they excepted from the provision here inserted patent and copyright cases, which have been heretofore brought before the Supreme Court on the law and the facts and without regard to the amount in controversy; and they thought, too, that if a patent right was heard in the court of original jurisdiction and then in the court of appeals, after the facts were found, and there was any question connected with it which had not been decided by the Supreme Court, it would be certified to the Supreme Court by the appellate tribunal. Everything goes up to the Supreme Court from this appellate tribunal that involves $10,000, or a Federal question, or a question of law without regard to the amount involved on which the court of appeals believe there should be a decision by the Supreme Court.

The facts are found by the court below entirely. When two courts have passed upon a question of fact, one the court of original jurisdiction and the other the court of appeals, this bill proceeds upon the theory that there should be an end, and that the Supreme Court should pass only upon questions of law arising out of the record.

Now, sir, I cannot say that the scheme of this bill as reported is not better than the scheme of the bill that I introduced on that subject. The committee thought that equality should be preserved, equality in legal rights, and that no one who had a claim to sue should be preferred to another, unless it be the Government, where of course for obvious reasons the matter should be considered by the Supreme Court without regard to the amount in controversy. The committee considered that the facts of the case should be found below, and that no person suing in any capacity, unless he recovered a certain amount of judgment, should have a right *per se* to appeal, but if the court below thought the question involved was of sufficient importance to go to the Supreme Court, it ought to be allowed to go, and the court of appeals would necessarily send it. That is all I wish to say.

Mr. PLATT. Mr. President, I do not propose to do anything to endanger the passage of this bill, and if the Judiciary Committee felt, as was expressed by some Senators here, that the failure to adopt this amendment would endanger the passage of the bill, I should hesitate very long before expressing, as I have done in a very humble way, my reasons for thinking that the amendment is not desirable. I shall vote for the bill with the amendment or without the amendment, because I think it is a measure which is very much needed and of very great importance. Neither do I desire to discuss the question of the usefulness of patents or the influence which they have upon our development or progress. That I shall be willing to do on another occasion. I trust I shall be able to show, if the time and opportunity should ever come, that they are not burdens upon our industries, but that our industries have kept steady pace with the growth and development of the inventions of this country, and that the country owes to-day more of its prosperity, more of its strength, to the inventive genius of its people and our patent system than to any other one source. I do not go into that now.

But it was said yesterday that no reason could be shown why this amendment should not be adopted; that no reason could be shown why there should be final jurisdiction in the Supreme Court of the United States rather than in the court of appeals which is provided for by this bill. Now, it does occur to me that there are many rea-

sons. In the first place, such has been the settled policy of this Government, adopted I cannot but believe for good reasons. The property in a patent differs from all other species of property, and if it be attacked it is attacked in every circuit of the United States simultaneously. It is one which the Government grants, and therefore the Supreme Court of the United States should, as it seems to me, take final jurisdiction of all questions arising under the patent law, the same as they do of all questions arising under the revenue law or of all questions against officers who have been collecting under the revenue law. In a certain sense the Government itself is a party, because it has granted the right and is bound to defend it.

But the principal objection to this amendment lies, as I suggested yesterday, in the very great confusion which must inevitably arise if the final jurisdiction in patent cases is left to this court of appeals. This court is to sit in nine different circuits. Questions relating to the infringement of any patent or the validity of any patent are likely to arise, and must if the patent is valuable inevitably arise in every one of these circuits; and when we reflect upon what was said by the Senator from Alabama, [Mr. MORGAN,] that in the different reported cases in this country you may find different decisions upon every legal question which is raised, when we reflect upon the condition of public sentiment with reference to patents, and when we reflect that a suit may be tried well in one circuit and poorly tried in another, it is inevitable that there will be different decisions upon precisely the same state of facts in the different circuits and in the court of appeals in the different circuits. What have you then? You have, say, four of the courts in the nine circuits holding that a patent is valid, five of them perhaps holding that it is invalid, or *vice versa*. The inevitable effect of it is to destroy the value of the patent. Take, for instance, the invention of the telephone—and I use that because it is one of the most valuable inventions of the present age, and one which I apprehend can excite no prejudice. There are contending parties as to who is the inventor; there are different patents; they are the subject of present litigation; but the question will be the same in each of these circuits, and before each of these courts, as to whether a certain telephone patent is a valid one, or as to whether a certain machine infringes that patent. Now suppose that in two of the circuits where the question is sure to arise it shall be decided, for instance, that Mr. Bell's telephone patent is valid and that a certain machine infringes it; it will be decided in two other of the circuits that it is invalid or that the machine does not infringe it; what is the value of the telephone invention to the patentee? It is destroyed and gone. I cannot conceive why there ought not to be the right of a final decision in the Supreme Court in all these cases.

All that I ask is that the court may certify questions of importance like these, questions of conflicting decisions like those I have suggested, to the Supreme Court of the United States, to the end that they may be settled finally; and it is as much for the interest of those who use the patent as for the interest of those who invent it that there shall be some method by which all this uncertainty, this confusion of conflicting decisions, can be avoided in such cases. It seems to me that nothing else than this will protect the right which the Government solemnly, under its Constitution, grants to its citizen.

As I said before, I shall vote for the bill without the amendment or with the amendment, but I should like an expression of the Senate upon the subject.

Mr. GARLAND. Mr. President, yesterday the Senator from Kansas [Mr. INGALLS] intimated that the Senator from Illinois [Mr. DAVIS] and myself, who were somewhat in charge of this bill in the Senate, had given away the amendment which is now under discussion. In order to place myself in a proper light before the Senate in reference to the matter, I will simply state, not transgressing the rules in reference to proceedings before committees, that the amendment was put in the bill against my conviction and against my vote, and with an express reservation of my right to vote on the amendment in the Senate as I pleased; to oppose it or move to modify it in any way I might see proper. So, while advocating the passage of the bill, I have thought the preponderating reason was against this amendment. At the same time, like the Senator from Connecticut, I expect to vote for this bill with or without this amendment. I do not regard its adoption as being a *sine qua non* to the passage of the bill.

Now, I beg leave of the Senate in a few words to explain definitely my view about it, which I did not do as fully yesterday as probably I should have done.

In the 20th volume of Howard's Reports—I will take just one out of the many cases—in the case of Brown *vs.* Shannon and others, the opinion in which was delivered by Chief Justice Taney in 1857, it was held:

> Where a bill is filed to enforce the specific execution of a contract in relation to the use of a patent right, this court has no appellate jurisdiction, unless the matter in controversy exceeds $2,000.

The court goes on to show in this cause the great difficulty that exists in reference to fixing absolutely the amount involved, by what standard, by what criterion this is to be estimated. Some asserted that the bond was sufficient, but the court held that was not the test; and finally they wind up by denying a man the right of appeal because there was not an absolute showing that as much as $2,000 was then involved. That was the sum fixed as the maximum under which an appeal should not be granted under the act of Congress prevailing at that time. It was afterward raised to $5,000.

The court in this opinion shows the difficulty in reference to these cases. If the Senate will examine the debates that brought about the passage of the statute, to which I shall refer in a moment, it will be seen that it was produced in a great measure by the difficulty that the court announce in this and in cases previous to this when Taney was Chief-Justice of the court. The statute is:

> SEC. 699. A writ of error may be allowed to review any final judgment at law, and an appeal shall be allowed from any final decree in equity hereinafter mentioned, without regard to the sum or value in dispute:
>
> First. Any final judgment at law or final decree in equity of any circuit court, or of any district court acting as a circuit court, or of the supreme court of the District of Columbia, or of any Territory, in any case touching patent rights or copyrights.

That statute was passed on the 8th of July, 1870, after this decision by Chief-Justice Taney in the case I have just referred to, and the debates on its passage referred to the previous decisions of the court and show the difficulty under which the court always labored in fixing this matter of appeal, because at the time of an application for an injunction against the infringement of a patent no right has accrued, no fruits have accrued from the invention, the matter is entirely *in futuro*, and it is not within the power or compass of the plaintiff to show what amount is involved. That statute was passed in 1870, twelve years ago. The Supreme Court have adjudicated numbers and numbers of cases under it without ever inquiring into the amount involved. I think this amendment is an innovation not justifiable in this great interest going before the courts in cases arising from patents and from copyrights. That is the ground upon which I place my opposition in committee and the ground on which I place it now.

The argument of the Senator from Kansas yesterday as to the way this patent business is managed is entirely apart from this question. That is one question; this is another question. I am not familiar with, in fact I have very little knowledge in reference to that matter, but since it is a governmental grant, since it is a matter that the sovereignty of the Government carries to the party, it seems to me in addition to the fact of the difficulty that courts have labored under in fixing the amount involved under this statute that we may as well leave the law as it is in this regard. I therefore prefer this feature of the bill as it was originally introduced, the part which the committee have struck out, in preference to the amendment proposed to be inserted. Of course it is for the Senate to say. I shall not stand upon the matter so far as the bill is concerned, but I prefer the language of the bill in its original shape to this amendment.

Mr. HOAR. Mr. President, I agree with the Senator from Connecticut in a purpose to vote for this bill whether this amendment is retained or not. I do not think that I am quite as earnest in my desire for the rejection of the amendment as he is, although I think the bill would be better, wiser, and more just as originally framed.

The Senator from Kansas put this question yesterday to the Senate: What is there of so much sacredness in a patent which requires a different policy or a different privilege to be extended to the owners of the property in a patent right which is not extended to the owner of a horse or a farm? The answer to that question is a very simple one and a very clear one. Usually it is not often the case that the owner of a horse or a farm is disturbed by more than one claimant. Persons are not tempted to attack men's property in horses or farms unless they have a good title, or at least a good show of title on which to rest their attack. But a patent right is a constant and perpetual subject of attack the Union over.

Every man whose property consists in the exclusive right to his own invention is exposed to attacks from every other man who desires either to use or manufacture that invention in his business. The settlement of the question with one man very frequently does not settle it in the least with any other wrong-doer or infringer; and the result is that we have, I presume, hundreds, certainly dozens, of applications made to Congress based on this condition of facts, a condition of facts thoroughly proved, that during the entire seventeen years' life of a patent a person to whom letters-patent have issued, and who is the unquestioned owner, derives no benefit, but on the contrary is impoverished by the fact that infringers, conspirators, wealthy manufacturers, pirates, or sometimes misled and honest men who believe honestly that they have rights, have consumed the entire life of the patent and the entire substance of the patentee in lawsuits which did not come to a final and conclusive determination until nearly or quite the close of the whole period of seventeen years. So that the finding by a lower tribunal in one circuit of the facts in a suit with A does not in the least benefit the owner of the patent or protect him against a contrary finding on the facts before a tribunal in another circuit and in a suit with B; and there is no class of property except patent and copyright to which such considerations apply.

But on the other hand, in legislating, representing as I do a community crowded with inventors, what is my duty? Within ten miles of my residence have lived men whose inventions have increased the wealth of this country by hundreds and thousands of millions. The great wire-fence invention, which has made it possible to enclose the fields and farms over vast spaces on this continent where there is no timber; the cotton-gin, which multiplied by three the value of every acre of cultivable land throughout the entire South, or a large part of it; the sewing-machine; the great agricultural inventions have had their origin in that community; but still I am per-

fectly aware that in legislating to protect these rights we must have great regard to the public sentiment of other sections of the country where the population is made up largely of persons who are purchasers of these patented inventions, who have not made them themselves and who complain bitterly of the royalties which they are obliged to pay, sometimes quite unreasonably, and they are sometimes the victims of designing sharpers who undertake to fleece them and black-mail them by pretending to have patent rights which they really have not.

Mr. President, the patent law must be so framed as to work itself and to commend itself to the favor of the public sentiment of these portions of the country. The agricultural regions of the Northwest and the South must learn—the patent law must be imperfect, must conform to their desires in some of these respects until they do learn—the value of the protection of patent property to them and to their communities. A great State like Iowa or Indiana, full of educated brain, full of farms, to be full of manufactures and of manufacturing interests, will learn soon enough not to prevent some inconvenience, not to prevent some injustice, but practically soon enough to secure a wise and judicious policy for the protection of the patent interests of this country, that their own interests are bound up and are best promoted by it.

The South is learning it already, and some of the most wise, liberal, and judicious minds that have dealt with the patent laws in recent years in this country have been Senators of Southern States who saw the importance to the great communities which they represent, of encouraging the inventive genius which would improve their capacity for agriculture, and will bring also to their own doors the manufactures which will enable them to make the profit in manufacturing the raw material that they create. So it is to be very soon with these great States.

Almost all of the new woolen machinery which is being erected in this country is being erected in the Northwest. The manufacture of agricultural implements, one which gives rise more than almost any other occupation to new inventions, and which has so much stimulated the inventive genius of this country, the class of manufactures in which this country is far superior to any country on earth, from which we drive out in countries like Austria, like Australia, and South America the long established manufactures of England—these manufacturers of agricultural machinery are leaving their home and origin in New England, and are being established in the great States of the Northwest. The tanning business, the manufacture of shoes, already the most important single industry in my own State, are colonizing and our great shoe manufacturers are establishing already their branches in those States where the hides are to be found at their doors.

I have no fear, therefore, that sooner or later a just and fair and liberal patent system will commend itself to the judgment of the representatives of these States, and that no wise man will be found putting himself on record in favor of any permanent and flagrant injustice to the inventors of the country.

I do not therefore care to make for myself (although I agree with my friend from Connecticut) any serious or earnest controversy with the policy upon which this section in the bill is founded.

Mr. CALL. Mr. President, the principles upon which the jurisdiction of the Supreme Court is extended in any case are those which should determine the fact whether the given case should come within its appellate powers. The magnitude of the interest involved, subject to the constitutional jurisdiction, is the determining point. Now, no person can say that where a right to a patent is concerned the magnitude of the interest involved is not sufficient to give that court jurisdiction. It in most cases is very large. In the individual instance, it may be very small; but so far as the validity of the patent is concerned which is involved in any suit for the infringement of it, the value of it cannot be estimated. There can therefore be no argument and no reason given why the appellate jurisdiction of the Supreme Court in every case affecting the validity of a patent or its infringement should not be a matter of right. I venture to assert that proposition.

There is a mode of testing things by reason, and not by mere assertion. Senators have said here that there was no reason why a patent should be placed in respect to the jurisdiction of the case upon a different ground from anything else. I say that there is a reason, and the same reason upon which this bill gives the appellate jurisdiction in all other cases, and that is the magnitude of the interest involved. If we are to discuss this, there is no reason that can be given in support of the bill as brought here by the committee which predicates the appellate power of the Supreme Court upon the magnitude of the interest involved, which does not apply here. What greater magnitude can there be than a question that involves a monopoly, a patent right, or the infringement of a right conferred by law and extending over fifty millions of people.

I concur fully in the arguments which have been made by the able Senators from Massacusetts and Connecticut, with both of whom I have the honor to serve upon the Committee on Patents. I recognize the wisdom of the law, and the beneficial effect of it, securing to inventors a compensation, whether you put it in the shape of an exclusive right to use their invention, or a moneyed compensation, in any form whatever. I say that human intellect, that genius, that invention is something that concerns the nation; that it is the public interest to encourage it, and that the greatest facility should be extended to those who create valuable inventions, who make productions cheaper to the mass of mankind, who make labor produce far greater results. That is an object of wise and beneficial legislation; and the inventor, the creator of this public benefit, should be protected by laws best adapted for his compensation and for his protection. How can you do it if you limit his appeal to the supreme judicial power in the country when he cannot determine with certainty his right to compensation from this, his invention, the creation of his mind? Why, sir, in my judgment the case of patents and of copyrights stands upon its own distinct and independent foundation, and the appellate power of the Supreme Court should be made in respect to that class of cases entirely easy and accessible to all. It should be retained upon different grounds and not limited by the specific amount which may be involved in the given case.

The PRESIDING OFFICER. The question is on the amendment.

The question being put, a division was called for.

Mr. HAWLEY. I ask for the yeas and nays, the Senate is so thin; I would not take the question otherwise.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, I am a member of the committee that reported this bill, wherein the question was very much debated. It is perfectly clear that there are questions of fact in patent suits which are used as test cases, in which the amount immediately involved in the action is comparatively small, but the settlement of the principle upon which the amount is allowed reaches to an enormous amount, a most important sum. Very frequently the settlement of a single case of contested patent results in preventing a wide class of litigation.

Wherever you can test the principle and settle it clearly in a patent case, there is consent; acquiescence follows, and litigation is prevented. The principle can be tested just as well, and perhaps with more safety, where the amount involved is small, than where it is great; but whether the amount in the individual case is great or small is not so important as it is that the principle upon which that patent is contested, or its claim rests which may extend to a principle of patent law, (speaking generically of patent law, not restricted to the identical case,) should be settled if naturally its application would be expanded to a great class of cases in amount, and you can prevent litigation by allowing a single case to decide the whole of that family of cases. There it is obviously wise and proper, and in accordance with sound public policy that it should be done. If an interappellate court, a court which is not the court of final resort, upon which the public mind rests perhaps with less satisfaction as to its decrees, is to be reached and the case stopped there, then you will certainly have multiplicity of suits, a thing to be avoided and in no case to be desired.

It was for that reason, it is proper I should say, that I in the committee approved rather of the words which have been canceled in the bill as printed than the words which are here printed in Italics. The majority of the committee thought otherwise and the bill was reported as it stands. I remain of the opinion that in actions on patent rights and copyrights, presenting a single case where a principle may be settled for the whole family of cases connected with the patent, upon a certification by the interappellate court that the question involved is of sufficient importance to render it proper that a final decision thereof should be made by the Supreme Court, the Supreme Court ought to have cognizance and the appeal or the writ of error ought to lie to it.

Mr. INGALLS. Does the Senator understand that that is not the case in the bill under the amendment proposed by the committee?

Mr. BAYARD. Yes, I understand that it is even broader in the amendment.

Mr. INGALLS. The Senator does not quite understand me. He states that he thinks, irrespective of value, the question of the validity of a patent right ought to be made the subject, under certain circumstances, of review by the Supreme Court.

Mr. BAYARD. Yes, the principle of the case.

Mr. INGALLS. Does the Senator understand that that is not the case in the bill now?

Mr. BAYARD. I understand that as the law now stands any such case can go up without the certification of a court; that in copyright cases and patent cases there is an exclusion of the disability arising from a small amount involved in the controversy.

Mr. INGALLS. Then how is the [illegible] obnoxious to the Senator's criticism?

Mr. BAYARD. For the reason that the clause which was stricken out gave the interappellate court a control over that question, and did not allow a small case, what I may call a petty case, of contested patent to be set before the Supreme Court. The object of the bill is to interpose this interappellate court as a kind of sieve, so to speak, so as to catch all the cases that are not over $10,000 in amount; but where contested questions of patent are heard which may affect either a principle applied to the family of cases affected by that patent or the principle of patent law that would run through the whole system of the adjudication of patents, then the court, no matter what may be the amount, shall in their discretion certify to the Supreme Court, I will not say the case but the principle involved in the case, for the decision of the Supreme Court of the United States. I prefer that that discretion of the court as to the importance of

the case shall apply, because I think we should not open this floodgate, so to speak, of copyright and patent cases which the present status of the law allows. As the bill was originally printed, no patent case, no copyright case, which did not involve $10,000, could be taken to the Supreme Court of the United States. I propose that that should be to some degree remedied, and wherever in the opinion of the interappellate court a principle is involved of sufficient importance in the opinion of the court to justify its removal to the Supreme Court for final decision, they shall have the right to do it.

Mr. INGALLS. Will the Senator permit me to interrupt him one moment there?

Mr. BAYARD. Certainly.

Mr. INGALLS. I ask the Senator's attention to the provision upon page 9 of the bill, commencing in line 13, which is in these words:

Or where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court.

Under that provision is it not apparent that if the legal question is of sufficient importance, a patent-right case or a copyright case can go up like any other, irrespective of the question of value?

Mr. BAYARD. I have no doubt that is true. I supposed the object of the language on page 9 was from excess of caution directly to repeal more than it implied, the present language of the statute which exempts cases of copyright and patent right expressly from limitation as to amounts. The law as it now stands in the Revised Statutes allows a case of copyright or of patent right, regardless of amount, to pass to the Supreme Court upon appeal or by writ of error. It is intended to put a sieve, as I said before, upon cases of a certain pecuniary magnitude, and I suppose that the repetition of that language is meant expressly to repeal the existing provisions of law respecting copyright and patent-right cases, and to subject them to the discretion of the court and the discrimination of the court so that such cases alone shall pass up under $10,000 in amount as the court shall certify to the Supreme Court to obtain the decision of the Supreme Court upon.

That is my understanding, and I confess that it should be so, because there may be cases of copyright and there may be cases of patent right which involve nothing on earth except the sum of money in question, involving no principle at all, being a mere contestation over a set of facts or some mere construction of a statute or of patent rights unimportant in principle. With a desire to relieve the Supreme Court from the burden of accumulated work growing out of just such cases as that, cases unimportant in principle and unimportant in amount, we provide now that cases that are over a given amount, that is to say $10,000, shall go to the Supreme Court, and that cases important in principle shall go there also in the discretion of the court of appeals. That is the reason why I prefer that the language which has been canceled should remain in and that the language in Italics should be stricken out. I shall vote against the amendment in Italics, which is the question now before the Senate, and shall vote in favor of the restoration of the language which has been canceled.

Mr. PLATT. Mr. President, I shall be brief, for I do not desire to occupy the attention of the Senate any more than is necessary upon this question; but it seems to me that the original bill went far enough in the matter of limiting or changing the jurisdiction of the Supreme Court in patent and copyright cases. Practically the bill as it stood would take away from the Supreme Court of the United States all patent and all copyright cases, except those few cases in which it should be certified that a question was involved of sufficient importance to render it proper for the final decision of the Supreme Court.

Mr. BAYARD. That would be a repeal by implication, but not very positive implication.

Mr. PLATT. But I think that would be the construction if the language were not stricken out as proposed.

Mr. BAYARD. The language which follows on page 10 would not interfere with that interpretation, but would simply affirm it.

Mr. PLATT. I am now speaking of the language on page 10. By the present law an appeal is allowed in equity cases to the Supreme Court of the United States in relation to patent rights and copyrights. That appeal takes up both the law and the fact. But the bill as it stood before the amendment was proposed by the committee would divest the Supreme Court of the United States of its final jurisdiction in all that class of cases, so far as facts were concerned, unless the court of appeals should in those cases certify that a question was involved of sufficient importance for the adjudication of the Supreme Court. The bill as it stood before the amendment was proposed did in a very great degree have the effect of relieving the Supreme Court of the United States from all patent-right and copyright cases, and only left the provision that where a question of sufficient importance was, in the opinion of the inferior court, involved, so that it ought to be decided by the Supreme Court, that case might be sent there. It does seem to me that that was going far enough.

Mr. INGALLS. The bill contemplates two cases in which appeals may reach the Supreme Court; one in which the amount involved exceeds $10,000, and the other in which a point of law is of sufficient magnitude in the opinion of the court below to justify certification. I wish to place patent and copyrights on exactly the same plane in regard to those two points as every other species of property. Those who agree with me will vote in favor of sustaining the amendment offered by the committee.

Mr. HOAR. I wish merely to say in one word I do not propose to make any question about this amendment, but I think it ought to be stated, after the two brief speeches of the Senator from Kansas, [Mr. INGALLS,] that it would be impossible to put a patent or copyright in the same condition with any other species of property. It differs in its very nature, because when an inventor brings a suit against a Massachusetts man of course it can be determined there, but his patent right is the subject of attacks all over the country; when one infringement is put down twenty more spring up in all parts of the country, in other districts.

It seems to me, therefore, that it is very reasonable there should be some means by which a tribunal whose judgment is final for the whole country should be the tribunal to decide upon the validity of the patent right. We have case after case, as I said before, where for the whole period of fourteen years and seven years under the old law, for the whole period of seventeen years now, a patent which is clearly the property of the inventor is made useless and the inventor ruined by combinations of infringers all over the country.

But at the same time I propose to submit myself to the judgment of the majority of the committee, of which the Senator from Kansas is one, and will not attempt to interfere with the frame-work of the bill.

Mr. SAULSBURY. Mr. President, I do not care particularly about the pending amendment. I shall vote against the bill; and I think this is as proper a time for me to make the announcement of that purpose as any that will arrive.

The bill is based upon the idea that the Supreme Court is overcrowded with work and that something must be done to relieve the court of the burden. I have no doubt it is true that there is a very large docket in the Supreme Court, and that litigants will be put to very great inconvenience providing the present condition of affairs continues; but I am not clear that this bill provides the best means by which to relieve the Supreme Court and the litigants therein. In my opinion, some other plan might be devised which would not be so cumbrous as that included in this bill, whereby the evil complained of might be remedied.

This bill proposes to increase the Federal judiciary by adding eighteen circuit judges. It occurs to me that there is a sufficient number of Federal judges in the country to-day to do all the business which ought to go to the courts. I do not know exactly what plan might be formulated to utilize the services of the circuit and district judges in connection with the judges of the Supreme Court whereby the present business that now reaches the Supreme Court might be lessened, but I am very well satisfied that a bill may be properly framed to devolve many duties that now pertain to the Supreme Court upon an intermediate court composed exclusively of circuit and district judges without any increase whatever of the Federal judiciary.

I wish to be frank, and I will state here frankly one other objection that I have to the pending bill. So far as I know there is not to-day a single circuit judge in the United States, but one judge of the Supreme Court, and but very few district judges but what are members of the same political party, and if this bill passes an addition of eighteen judges of the same political faith will be placed to try the issues that will come up from the country before these courts. I do not believe, while that is the case, that the decisions of those courts can or ought to command the respect which the judges of the Federal judiciary, if divided between the political parties, ought to command.

Mr. ALLISON. Does the Senator from Delaware assume that all these appointments will be made from one political party?

Mr. SAULSBURY. I do so assume; and I think I have abundant reasons so to conclude. There have been judges nominated for the Supreme Court during the present session belonging to the political faith of the Senator from Iowa. I do not suppose any one anticipated that any but judges of that faith would be nominated; and I heard no objection to it from the Senator from Iowa or any one on that side of the Chamber. Whatever may be the virtues of the present Executive, I apprehend that he is as much of a partisan as other Presidents who have preceded him and will appoint from his own party these eighteen additional judges.

When such a court has to try quasi-political questions growing out of the amendments to the Constitution and the legislation of Congress soon after the war based upon the amendments of the Constitution, however honest they may be, I do not believe its members can avoid having their judgments to some extent affected by their preconceived notions upon the political questions which will necessarily come before them. Not believing that they can divest themselves of their prejudices, I honestly believe that the court in its composition ought to be divided between the great parties of the country.

While I would not have any judge carry his political prejudices upon the bench, yet knowing the infirmities of humanity, and knowing that it is done to a greater or less extent, I am unwilling to see the Federal judiciary increased unless there can be some partition of power on the bench between the respective parties of this country. I shall for this reason, as well as others, vote against this bill.

I believe that if the Committee on the Judiciary would go to work again it might, out of the present number of district, circuit, and Supreme Court judges, constitute an intermediate appellate court which would relieve the Supreme Court of part of the duties which now devolve upon it. The jurisdiction of the Supreme Court might be restricted in some respects at any rate. There are classes of cases that go to the Supreme Court when there is no special reason that they should go there. Take, for instance, suits brought by national banks, which can take every question arising in which they are interested to the Federal courts. The national banks of any State, instead of suing in the State courts, may now if so disposed sue in the Federal courts. If you would change the national banking law so as to compel them to sue in the State courts of the State where they are located instead of the Federal courts you would to that extent relieve the jurisdiction of the Supreme Court and the pressure upon it. I think there might be such a revision of the jurisdiction of the Supreme Court as to take away from it some of the duties which now pertain to it without increasing the Federal judiciary. If this, however, is not advisable, an intermediate appellate court might be constituted out of the present circuit and district judges. This is all I desire to say on the pending bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee, on which the yeas and nays have been ordered.

The Principal Legislative Clerk proceeded to call the roll.

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont [Mr. EDMUNDS] on this amendment. If he were here, he would vote for it, and I should vote against it.

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.] I do not know how he would vote upon this particular amendment.

Mr. VAN WYCK, (when the name of Mr. SAUNDERS was called.) I desire to state that my colleague [Mr. SAUNDERS] is paired with the Senator from Kentucky, [Mr. WILLIAMS.]

The roll-call was concluded.

Mr. FAIR. I am paired with my colleague, the Senator from Nevada, [Mr. JONES.]

Mr. WILLIAMS, (after having voted in the affirmative.) I inadvertently voted. I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] I withdraw my vote.

The result was announced—yeas 28, nays 28; as follows:

YEAS—28.

Allison,	George,	Kellogg,	Ransom,
Beck,	Grover,	McDill,	Sawyer,
Cameron of Pa.,	Harris,	McMillan,	Slater,
Cameron of Wis.,	Harrison,	Maxey,	Van Wyck,
Cockrell,	Hill of Colorado,	Miller of Cal.,	Vest,
Coke,	Ingalls,	Pendleton,	Voorhees,
Davis of Illinois,	Jackson,	Plumb,	Windom.

NAYS—28.

Aldrich,	Conger,	Hawley,	Mitchell,
Anthony,	Dawes,	Hoar,	Morrill,
Bayard,	Farley,	Johnston,	Platt,
Blair,	Frye,	Jonas,	Pugh,
Butler,	Groome,	Lapham,	Rollins,
Call,	Hale,	McPherson,	Sewell,
Camden,	Hampton,	Miller of N. Y.,	Walker.

ABSENT—20.

Brown,	Ferry,	Jones of Nevada,	Saulsbury,
Chilcott,	Garland,	Lamar,	Saunders,
Davis of W. Va.,	Gorman,	Logan,	Sherman,
Edmunds,	Hill of Georgia,	Mahone,	Vance,
Fair,	Jones of Florida,	Morgan,	Williams.

So the amendment was rejected.

The PRESIDING OFFICER. The Secretary will continue the reading of the amendments reported by the Committee on the Judiciary.

The Acting Secretary read the next amendment reported by the Committee on the Judiciary, which was, in section 10, [11,] after the word "law," in line 46, to strike out "*Provided*, That."

The amendment was agreed to.

The next amendment was, in the same section, line 50, after the word "may," to insert "within one year next after the proof of the will or appointment of the administrator, or within one year next after the death of the ancestor in the case of an heir;" so as to read:

If, within the year after the entry of the judgment or the decree sought to be reversed, any party shall die, the personal representative or heir, as the case may require, may, within one year next after the proof of the will or appointment of the administrator, or within one year next after the death of the ancestor in the case of an heir, sue out or be made a party to, a writ of error, or take an appeal, or be made a party thereto, without reviving the judgment or decree in the court in which the same was entered.

The amendment was agreed to.

The next amendment was, in section 11, [12,] line 3, after the word "upon," to strike out "the certificate of the clerk of the court" and insert "his written certificate;" so as to make the section read:

SEC. 11. That any district judge who, in pursuance of the provisions of this act, shall attend the court of appeals held at any place other than where he resides, shall, upon his written certificate, be paid by the marshal of the district in which the court shall be held his reasonable expenses for travel and attendance, not to exceed $10 per day, and such payment shall be allowed the marshal in the settlement of his accounts with the United States.

The amendment was agreed to.

The next amendment was, in section 12, [13,] before the word "designated," in line 6, to insert "previously;" so as to make the section read:

SEC. 12. That appeals taken and writs of error sued out from a decree or a judgment of the supreme court of any Territory entered after the said 1st day of September, shall be taken and sued out as provided by this act, and shall lie to the court of appeals sitting in such circuit as shall be previously designated by a general order of the Supreme Court of the United States.

The amendment was agreed to.

The next amendment was, in section 13, [14,] line 4, after the word "jurisdiction," to insert "and shall perform the same duties;" so as to make the section read:

SEC. 13. That there shall be appointed for each circuit, by the President of the United States, by and with the advice and consent of the Senate, two additional circuit judges, who shall have the same powers and jurisdiction, and shall perform the same duties, and be entitled to the same compensation, as the circuit judge appointed under existing laws.

The amendment was agreed to.

The next amendment was, in section 14, [15,] line 1, after the word "district," to strike out the words "the circuit judge who is senior in office shall appoint the clerk of;" in line 2, after the word "court," to insert "shall appoint the clerk thereof;" and in line 3, after the word "thereof," to strike out "and shall designate in what districts of the circuit the circuit judges shall, from time to time, hold the circuit court;" so as to make the section read:

SEC. 14. That in each district the circuit court shall appoint the clerk thereof.

The amendment was agreed to.

The next amendment was, at the end of section 14 [15,] to add:

And the circuit judges of said circuit shall, as a body, determine, from time to time, which of them shall hold the circuit court in the respective districts.

The amendment was agreed to.

The next amendment was, to strike out section 16, in the following words:

SEC. 16. That when, from the accumulation of business in the court of appeals, in any circuit, the administration of justice therein is unduly delayed, it shall be the duty of such court to certify the facts, under the seal of the court, to the Supreme Court of the United States, and the Supreme Court may thereupon make an order transferring a portion of the causes pending in such court of appeals to one or more of the courts of appeals of other circuits where such accumulation of business does not exist, and each of the courts of appeals of such other circuits shall thereupon hear and determine such causes in like manner, and with the like effect, and in the same order as if the causes so transferred had originated in its own circuit.

The amendment was agreed to.

The next amendment was, to strike out section 17, in the following words:

SEC. 17. That this act shall take effect on the —— day of ——, 188-.

The amendment was agreed to.

Mr. GARLAND. I wish to offer an amendment to which I suppose there will be no objection. At the end of section 10, after the word "entered," I move to insert:

But appeals taken and writs of error sued out to the Supreme Court under existing laws before the passage hereof shall not be affected by this act.

The purpose of the amendment is that appeals now taken on writs of error to the Supreme Court until this measure becomes a law, if it should ever become a law, may still have their place on the Supreme Court docket and shall not be dismissed. On looking again this morning at the decision of the court in the celebrated McArdle case, I have very grave doubts whether the phraseology of the bill now would leave those cases protected in the Supreme Court; in other words, if they did not amount to $10,000, nor come under the other conditions of this bill, they might be dismissed, notwithstanding the appeal would be regular under the existing law. I therefore offer the amendment.

Mr. DAVIS, of Illinois. There can be no objection to it. I thought it was provided for in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas, [Mr. GARLAND.]

The amendment was agreed to.

Mr. ALLISON. In the first line of section 11 I move to strike out the word "district" before "judge." I think where judges attend the appellate courts at different places from where they reside they ought to be allowed the mileage and per diem provided for in the eleventh section. I do not think the provision ought to be confined to the district judges, as it is now.

Mr. INGALLS. I see no objection to the amendment proposed by the Senator from Iowa.

The PRESIDING OFFICER. The amendment will be stated.

Mr. INGALLS. It is simply to make the provision for the payment of mileage and expenses applicable to all judges, whether of district or circuit courts.

Mr. ALLISON. I think it is a just provision, and ought to apply to all the judges.

Mr. GARLAND. I do not suppose there is any particular objection to the amendment. The proposition was considered, and it turned upon one point. A district judge has a very limited salary, $3,500 generally, while a circuit judge receives $6,000. That was really the reason which controlled us. There are some very distinguished judges, however, who have been writing here that the word "district" should be stricken out, and I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa, [Mr. ALLISON.]

The amendment was agreed to.

Mr. GARLAND. There are some amendments to be offered by the Senator from South Carolina, [Mr. BUTLER,] and also by the Senator from Missouri, [Mr. VEST.]

Mr. BAYARD. It had better be understood that the right to offer amendments is retained in the Senate.

Mr. COCKRELL. Why not offer them as in Committee of the Whole?

Mr. BAYARD. Let the right be reserved that they may be voted upon in the Senate.

Mr. DAVIS, of Illinois. The amendments referred to by the Senator from Arkansas have been printed and are at the Clerk's desk.

Mr. BAYARD. I do not care to ask a second vote upon any amendments now at the desk; I merely desire to be certain that the substitute offered by the Senator from Alabama [Mr. MORGAN] may not be excluded from consideration. I do not mean to say that I shall approve it, but the substitute has just been printed, and as it involves a great deal, I am inclined to examine it before I vote upon it.

Mr. GARLAND. The Senator from Delaware is mistaken about the substitute having just been printed. It was printed long ago. It was before the committee for four months, and was considered in connection with this bill.

Mr. BAYARD. It was never brought to my attention there, and I was not aware that it was ever discussed in committee. I need not disclose what passed in committee, but I was not aware that it was discussed there at all.

Mr. JONAS. I wish to offer a substitute for the bill.

Mr. DAVIS, of Illinois. It seems to me that the substitute offered by the Senator from Alabama yesterday should be considered after the text of the bill is perfected. He is not here now.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. JONAS] offers an amendment, which will be read.

The ACTING SECRETARY. It is proposed to strike out all after the enacting clause of the bill, and to insert:

That the first section of the act of Congress entitled "An act to determine the jurisdiction of circuit courts of the United States and to regulate the removal of causes from State courts, and for other purposes," approved March 3, 1875, be, and the same is hereby, amended so as to read as follows:

"That the circuit courts of the United States shall have original cognizance, concurrent with the courts of the several States, of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of $500, and arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority, or in which the United States are plaintiffs or petitioners, or in which there shall be a controversy between citizens of different States or a controversy between citizens of the same States claiming lands under grants of different States, or a controversy between citizens of a State and foreign states, citizens or subjects; and shall have exclusive cognizance of all crimes and offenses cognizable under the authority of the United States, except as otherwise provided by law, and concurrent jurisdiction with the district courts of the crimes and offenses cognizable therein. But no person shall be arrested in one district for trial in another in any civil action before a circuit or district court. And no civil suit shall be brought before either of said courts against any person by any original process or proceeding in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving such process or commencing such proceeding, except as hereinafter provided; nor shall any circuit or district court have cognizance of any suit founded on contract in favor of an assignee, unless a suit might have been prosecuted in such court to recover thereon if no assignment had been made. And the circuit courts shall also have appellate jurisdiction from the district courts under the regulations and restrictions prescribed by law."

SEC. 2. That the act entitled "An act to amend an act entitled 'An act for the removal of causes in certain cases from State courts,' approved July 27, 1866," which was approved March 2, 1867, be, and the same is hereby, repealed.

SEC. 3. That the circuit courts of the United States shall have the power to issue writs of *mandamus* to Federal officers to compel the performance of duties prescribed by law, but shall have no original jurisdiction to issue writs of *mandamus* in any other cases whatsoever.

Mr. GARLAND. The Senator from South Carolina [Mr. BUTLER] is now in his seat, and as a mere way of orderly business, his amendments would come in properly before that of the Senator from Louisiana.

The PRESIDING OFFICER. Any amendment proposing to perfect the part proposed to be stricken out is in order, and will take precedence. The first amendment of the Senator from South Carolina will be reported.

The ACTING SECRETARY. At the end of section 3, it is proposed to add:

The circuit judges (the present incumbents in office and those to be appointed under this act) shall succeed each other in rotation on the court of appeals herein provided for, in the nine circuits as now organized; and the Supreme Court of the United States shall make the necessary rules and regulations to effectuate such rotation; but no circuit judge shall serve longer than twelve months consecutively in any circuit.

Mr. BUTLER. I shall not detain the Senate by any remarks upon my amendment. I shall simply ask for a yea-and-nay vote if I can succeed in getting a second.

I had two objects in view in presenting the amendment. One was to make the system more effective, and the second was to enable certain localities in this country to get rid, temporarily at least, of very unworthy judges. I am very frank to make that admission. The circuit judge of the circuit in which I live is, in my opinion, utterly unfit to discharge the duties that he is now discharging, and I can never by my vote consent to give his court additional power unless there is a prospect of getting rid of him and having his presence certainly not more than once in nine years.

In addition to that, I believe that the amendment which I have offered would give efficacy to the whole scheme of the bill and improve it. I shall, therefore, do no more than ask for the yeas and nays upon my amendment.

Mr. GARLAND. I will state the theory upon which this bill is predicated, so far as it is intended to be of real service to the country. These courts are to be localized and brought home to the bosom and to the business of the people. The circuit judges who are to hold these courts now exist to some extent, and it is intended by the bill that the courts shall be held to a particular locality so that the judges may familiarize themselves with the jurisprudence, the law, and the whole judicial policy of that particular section of country.

It is not worth while to send a judge in Texas familiar with the laws there up to Maine to acquaint himself with a new system of laws altogether, to preside in the courts, nor would it be worth while to send a New York judge, to sever him entirely from the jurisprudence which he was acquainted with, to South Carolina to learn law.

This question was debated once in the Senate very ably upon a bill that Mr. A. P. Butler, then a Senator from South Carolina, introduced to remodel the whole judicial system. Mr. Douglas introduced a substitute, in many of its features like the bill we now have under consideration, and he had a section in that bill to alternate the Supreme Court judges; there were no circuit judges then. He argued with his usual ability, and his argument is presented on page 194 of the volume of the Congressional Globe which I have in my hand; but the vote of the Senate was against him decidedly at that time, the main bill being supported by Senator Butler as reported from the committee by him. There were strong reasons for alternating the Supreme Court judges, which do not exist for alternating the circuit judges under this bill, because they would go out to bring back annually their law to decide upon general cases that were brought here from all parts of the Union; whereas these circuit judges are intended for a good purpose, simply to preside over the particular judicial system where they live.

I sympathize, from my heart, with the Senator from South Carolina, as well as the Senator from Alabama, who addressed the Senate yesterday, in their desire to get rid of bad judges, but I do not know when we shall ever do that. If the Senator from South Carolina will reflect that we get an additional force upon such a judge there to hold him in check or to review or to examine his acts, he will see that with that addition he has a safeguard which he did not have before.

As a matter of course, when it is said that we may have just such judges appointed, that is something on which I have no authority to speak, something I know nothing about, but those are the chances we have to take in a republican form of government, where the appointing power is vested in a President elected by the people. I think upon the original proposition the reason is not a good one for alternating these judges.

Mr. BUTLER. I was not aware of the proceedings had to which the Senator from Arkansas refers. I did not know that a bill had been introduced like this or an amendment like mine on a previous occasion, and I have not read the arguments of the very distinguished Senators to whom he refers.

The Senator from Arkansas says it would be unwise and injudicious to transfer a judge from Texas to Maine to learn law. It seems to me that a judge who is appointed to this high position ought to be informed of the laws of this country before he is appointed. He is not put upon the bench to study law or to learn law. This is essentially a Federal system, and I believe that it would conduce very much to the efficacy of this appeal court if it could be made migratory and transferred from one circuit to another. Believing that it would improve its efficiency, I have introduced in perfect good faith this amendment to require the judges to be transferred from one circuit to another, under rules and regulations to be provided by the Supreme Court of the United States. The idea which I had of getting rid of incompetent, worthless, and infamous judges was an incident, and, I confess, a very strong one, because I see no way of getting rid of them otherwise.

The Senator from Alabama [Mr. MORGAN] in illustrating his argument yesterday pointed to the performances of a judge in that circuit which are simply disgraceful. I think I shall be able to demonstrate at the proper time that similar performances have been made by a judge in the circuit in which I live, and that proceedings are now being had there which are simply disgraceful to American liberty and American citizenship.

Therefore, while that is one of the objects of my amendment, the primary controlling influence was that in my opinion it would improve this bill by having the amendment in it.

Mr. INGALLS. I do not know what are the particular acts of the judge in South Carolina of which the Senator from that State complains as being a disgrace to justice, but I suppose he alludes to the rulings in connection with the election cases in that State, which, if the testimony that is disclosed is true, are a much greater disgrace to justice and to liberty than has ever before been perpetrated on this continent. If that is what the Senator bases his argument upon why his amendment should prevail, I submit that it must fall.

Every lawyer is aware that different systems of law and practice prevail in the different States in the Union, and the courts of the United States are bound to follow, as far as possible, the practice in

the different States in the decision of causes that arise before them. In Louisiana and in some other Southern States we have the civil practice; in others the common law prevails; in the Western States and in New York we have a codified system of laws.

The object in localizing these courts under the bill that is reported by the committee is to secure an efficient, vigorous, and prompt administration of justice by a court that is familiarized by observation and practice with the laws that there prevail. If this court is to be put on wheels and made peripatetic and migratory, so that after having become familiar with the laws of one section of the country or one circuit the judges are to be sent off to become familiarized with the laws of a section which has entirely different systems of procedure, the advantages to result from a localized system of administration would be entirely lost.

I hope the Senate will understand that the object that is avowed by the Senator from South Carolina in advocating his amendment is to avoid the administration of one judge who is obnoxious to the people of his State. If that is a sufficient reason, it may be said, as was stated by the Senator from Arkansas, that two judges are to be added to the court in that district, so that if the judge is as obnoxious as the Senator states he will be in a minority, no matter what class of cases may come before him.

Mr. BUTLER. I only desire to make a response to one remark made by the Senator from Kansas. He says he does not know of what I complain unless it is something that is transpiring in the election trials in Charleston. The Senator, as a matter of course, now, as upon all occasions, knows very much more about those trials and about what is being done there than I do. I acknowledge that. I acknowledge the supremacy and the superiority of his information and ability upon those questions; but I think I shall be able to demonstrate to him and to the Senate at the proper time—and this is not the proper time—that a certain circuit judge of the United States has been guilty of conduct that is disgraceful to American jurisprudence, the opinion of the Senator to the contrary notwithstanding.

Mr. SHERMAN. I ask if the Senator did not refer to Judge Bond?

Mr. BUTLER. I did, sir. He is the judge to whom I referred.

The PRESIDING OFFICER. The question is on the amendment of the Senator from South Carolina, on which the yeas and nays are demanded.

The yeas and nays were ordered; and the Principal Legislative Clerk proceeded to call the roll.

Mr. JONAS, (when his name was called.) On this amendment I am paired with the Senator from Massachusetts, [Mr. DAWES.] If he were here, I should vote "yea."

Mr. RANSOM, (when his name was called.) On this amendment I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were here, I should vote "yea."

Mr. PUGH, (when Mr. SAULSBURY'S name was called.) The Senator from Delaware [Mr. SAULSBURY] requested me to state that he is paired with the Senator from Michigan, [Mr. FERRY.]

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. KELLOGG, (after having voted in the negative.) I desire to withdraw my vote. I am paired with the Senator from North Carolina, [Mr. VANCE.] If he were present, he would vote "yea" and I should vote "nay."

The result was announced—yeas 17, nays 33; as follows:

YEAS—17.

Beck,	Farley,	Morgan,	Vest,
Butler,	George,	Pendleton,	Voorhees.
Call,	Grover,	Pugh,	
Camden,	Hampton,	Slater,	
Coke,	Johnston,	Van Wyck.	

NAYS—33.

Allison,	Garland,	Lapham,	Plumb,
Anthony,	Hale,	McDill,	Rollins,
Blair,	Harris,	McMillan,	Sawyer,
Cameron of Pa.,	Harrison,	Maxey,	Sewell,
Cameron of Wis.,	Hawley,	Miller of Cal.,	Sherman,
Chilcott,	Hill of Colorado,	Miller of N. Y.,	Windom.
Conger,	Hoar,	Mitchell,	
Davis of Illinois,	Ingalls,	Morrill,	
Frye,	Jackson,	Platt,	

ABSENT—26.

Aldrich,	Fair,	Jones of Nevada,	Saulsbury,
Bayard,	Ferry,	Kellogg,	Saunders,
Brown,	Gorman,	Lamar,	Vance,
Cockrell,	Groome,	Logan,	Walker,
Davis of W. Va.,	Hill of Georgia,	McPherson,	Williams.
Dawes,	Jonas,	Mahone,	
Edmunds,	Jones of Florida,	Ransom,	

So the amendment was rejected.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. BUTLER] proposes to offer a second amendment, which will be read.

The ACTING SECRETARY. At the end of the bill it is proposed to add as an additional section:

SEC. 16. That after the establishment of the courts of appeals herein provided for there shall be no additional appointments to the Supreme Court of the United States until the number of said Supreme Court shall be reduced to six members.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was rejected.

Mr. BUTLER. I desire to offer another amendment. At the end of section 8 of the bill I move to add:

And no criminal case or cases shall be begun or instituted in any United States court by information, except revenue cases and cases of admiralty and maritime jurisdiction; but all criminal cases in said courts, save those excepted above, shall be instituted and prosecuted in said courts by indictment on the presentment of a grand jury duly drawn and regularly impaneled according to law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina, [Mr. BUTLER.]

Mr. BUTLER. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Principal Legislative Clerk proceeded to call the roll.

Mr. CONGER, (when Mr. FERRY'S name was called.) I desire to announce that my colleague [Mr. FERRY] is paired with the Senator from Delaware, [Mr. SAULSBURY.] I make this announcement for all the votes to-day.

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.] I do not know how he would vote on this question. If he were present, however, I should vote "yea."

Mr. JONAS, (when his name was called.) I am paired on this amendment with the Senator from Massachusetts, [Mr. DAWES.] I would vote in favor of the amendment if he were present.

Mr. RANSOM, (when his name was called.) I am paired on this amendment with the Senator from Illinois, [Mr. LOGAN.]

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. ROLLINS. I am paired on political questions with the Senator from Florida, [Mr. JONES.] His colleague [Mr. CALL] thinks this is a political question, and therefore I decline to vote.

The result was announced—yeas 24, nays 30; as follows:

YEAS—24.

Bayard,	Coke,	Hampton,	Pendleton,
Beck,	Davis of W. Va.,	Harris,	Pugh,
Butler,	Farley,	Jackson,	Slater,
Call,	George,	Johnston,	Vest,
Camden,	Gorman,	Maxey,	Voorhees,
Cockrell,	Grover,	Morgan,	Walker.

NAYS—30.

Aldrich,	Davis of Illinois,	Lapham,	Plumb,
Allison,	Frye,	McDill,	Sawyer,
Anthony,	Hale,	McMillan,	Sewell,
Blair,	Harrison,	Miller of Cal.,	Sherman,
Cameron of Pa.,	Hawley,	Miller of N. Y.,	Van Wyck,
Cameron of Wis.,	Hill of Colorado,	Mitchell,	Windom.
Chilcott,	Hoar,	Morrill,	
Conger,	Ingalls,	Platt,	

ABSENT—22.

Brown,	Groome,	Lamar,	Saulsbury,
Dawes,	Hill of Georgia,	Logan,	Saunders,
Edmunds,	Jonas,	McPherson,	Vance,
Fair,	Jones of Florida,	Mahone,	Williams.
Ferry,	Jones of Nevada,	Ransom,	
Garland,	Kellogg,	Rollins,	

So the amendment was rejected.

The PRESIDING OFFICER. An amendment is proposed by the gentleman from Missouri, [Mr. VEST,] which will be read.

The ACTING SECRETARY. At the end of section 3 it is moved to add:

Provided, That no circuit or district judge before whom a cause or question may have been tried or heard in the district court shall sit on the trial or hearing of such cause or question in the court hereby created; and the places of such judge or judges so disqualified shall be filled by the other judges then present, as hereinbefore provided in cases of absence.

The question being put, the Chair declared that the "noes" appeared to prevail.

Mr. VEST. Do I understand the committee to object to that amendment.

Mr. GARLAND. The committee does not. I am in favor of it so far as I am concerned. It is a principle for which I have been contending for some time, and have been trying to ingraft on this bill.

Mr. VEST. I hardly think there can be serious objection to the amendment.

The PRESIDING OFFICER. Does the Senator demand a division?

Mr. VEST. Yes, sir; and I want to make a statement in regard to it. I hold and have always held as a lawyer that an appellate court means a new court; that an appellate tribunal is a tribunal created for the purpose of reviewing the proceedings of the court below, in order to correct its errors or to examine its judgment with an unbiased, with an uninfluenced opinion. Every lawyer who has ever tried a cause before a *nisi prius* judge, who afterward sits in banc on the same case, knows that he tries it in the latter court before a man who must rise above the pride of opinion, or else he becomes an advocate for his own opinion against the counsel that pleads before him. I undertake to say—and I believe the Senator from Illinois [Mr. DAVIS] in front of me now will corroborate my opinion—that in not one case out of a thousand was a judge ever found, no matter how distinguished, who, sitting in banc, was in favor of reversing his own judgment delivered in a *nisi prius* court.

I speak with some experience on this question, because in my own State just after the war, about 1867 or 1868, in order to relieve the supreme court of Missouri of a press of business similar to that from which it is now sought to relieve the justices of the United States Supreme Court, we organized, copying the New York practice, what was known as the district court, an intermediate court between the circuit courts of the State and the supreme court. Under that organization five circuit court judges constituted the district court in each district, and they sat in banc upon the decisions which had been rendered in those five circuits. The result was that the circuit judge who delivered the opinion in the court below invariably became the counsel and advocate for his opinion when he presided in the district court, and he answered the counsel who tried the same case before him below from the bench; and when the judges went into the consultation-room in an *ex parte* proceeding he had it all his own way; in his pride of opinion, and honestly perhaps, he impressed upon the other judges the necessity of affirming the judgment rendered before him. The result was that ninety-nine cases out of one hundred were affirmed. The further result was that the court was almost unanimously done away with very soon.

I say now that in the Supreme Court of the United States this defect exists, and every lawyer knows it. Take an associate justice of the Supreme Court who tries a case on the circuit; let it come to the Supreme Court afterward, and the comity of the court, to use the expression of "comity" between judges, gives his opinion an undue influence. I do not mean corruptly; but I mean to say that in the absence of counsel in the consultation-room, in the argument of the judges before the opinion, the judicial comity causes the opinion of that judge nearly always to prevail. I have heard it stated by a distinguished Supreme Court judge, stated to me, that in twenty-odd years upon the Supreme Bench he never knew a judge but in two cases to reverse his own opinion.

As public men we can see the almost irresistible tendency of this sort of practice to destroy in an appellate court just exactly what the law contemplates, and that is a trial *de novo*, a trial before judges who look at the record unbiased and who can therefore correct the errors, if any have been committed by their associates. But put the same man there and what does he do? He says, "that is my opinion; I am correct," and the other judges yield to him, and I say because out of courtesy and comity he is there as counsel and advocate. For that reason I hold that this amendment is proper; and I cannot vote for this bill unless some such amendment is incorporated in it.

I will add another thing before sitting down. The practice that prevails now of allowing the *nisi prius* judge to sit in banc on a case is destructive absolutely to young lawyers and to modest lawyers. I do not mention this as having a personal application, because there never was any degree of modesty that was my characteristic. I therefore do not complain from any personal experience; but take a young man and a modest man and let him go to a court in banc to argue for the reversal of a judgment rendered by one of the judges, and I will not say he is afraid, but he is unwilling to attack that judgment in the presence of the judge who rendered it. To a certain extent he is overawed in the Supreme Court or in the court of appeals by the presence of the very judge clothed with the judicial ermine who is there to defend the opinion previously rendered and antagonize him at every step. That does not apply to old practitioners; but I have seen young men in a court in banc who absolutely lost their cases because, as they told me afterward, "Well, I did not want to attack the judge and make him mad, and have him argue the case afterward in the consultation-room, and therefore I left so much out of my argument."

The whole system is wrong, vicious, and it ought to be done away with.

I ask for the yeas and nays upon the amendment.

Mr. HALE. I certainly hope, Mr. President, that this amendment will not be adopted. All of my experience and all of my theory about judges differ from that of the Senator from Missouri. To me it is plain that any man who is competent and fitted to be a judge is fitted and competent to sit in review over his own decision. I cannot conceive that any man of prominence and eminence enough at the bar to be appointed either to a circuit judgeship or a district judgeship of the United States can be in any way influenced by such considerations as have been presented by the Senator from Missouri. A judge must live and learn as any other man; and if he is fitted to pass first upon a case, surely he is fitted, on association and conference with his brethren of the bench, to revise his opinion.

In my own State we have tried this for years. The judges of our supreme court, the highest court in Maine, hold the term at *nisi prius*, pass upon all questions of law arising at the trial, admit and exclude evidence, and exceptions are taken to their decisions and certified to the court sitting as a whole court, and all the judges participate in the conference and in the final decision; and it is no unwonted thing in the State of Maine for a judge who has heard a case at *nisi prius*, who has made a ruling from which exceptions have been taken, in the upper court to be intrusted with rendering the decision overruling the law as he had laid it down in the lower court. Anybody who will peruse the Maine reports will find that this is by no means a rare instance.

I say again that I cannot conceive that a man of the dignity and loftiness of character competent to hold one of these high judicial positions would feel afterward that on conference with his brethren he ought to maintain what was his own opinion, and thus in fact represent one side of the case; and the information and the knowledge of law that he carries to the conference of the upper court from having passed through one trial of the questions involved, to me make him more valuable as an associate.

So I hope this amendment will not be adopted.

Mr. HOAR. Mr. President, my experience, which has not been a very small one, agrees entirely with that of the Senator from Maine. I do not believe that in the supreme court of Massachusetts I ever detected any sign that a judge who had tried a case at *nisi prius* was affected in the decision of the case when he sat with his associates in banc. There are numerous instances, in fact it is not uncommon, when a decision of a judge is overruled in our State, to commit the preparation of the opinion to the judge whose decision at *nisi prius* was overruled, if he concur with his brethren.

I remember one remarkable instance in regard to a law which very much excited the feelings of a very large portion of our citizens, the law known as the Maine liquor law, where that law declared that a stock of liquor kept for sale contrary to law should be a nuisance, and thereupon certain citizens, under the assumed common-law right of every citizen to abate a common nuisance, met together and destroyed the stock of a liquor seller. Chief-Justice Shaw at *nisi prius* held in a suit brought by the liquor seller against the wrongdoers that that statute made that act lawful. Afterward the case was argued with a vigor and pungency of argument rarely equaled, before the bench over which that great magistrate presided, and he himself gave a masterly judgment overruling his own decision.

I think in our statutes with regard to the judiciary, as I said the other day, we should assume that the judges are great men, wise men, learned men, men free from small and petty prejudices and small motives; and that assumption tends in itself to preserve and elevate the judicial character. The judge on the bench of the Supreme Court of the United States goes into the presence, when he goes into the consultation room, of eight men, chosen from among the ablest and purest and greatest jurists and citizens of the Republic. He desires to maintain his judicial character and his judicial fame, not only with the public at large but with the men with whose presence he decides these causes when the doors are closed; and that would be a very reckless man who should present himself to the eight men, with whom his life is to be passed and in whose estimation he would desire to stand high, in the attitude of an angry, earnest, unfair partisan of an opinion merely because in the necessary haste of a trial at *nisi prius* he had ruled one way or the other.

I entirely concur with the position so clearly stated by the Senator from Maine, and the result is that in every trial, if this proposition is carried out with reference to the Supreme Court of the United States and to these courts, you are likely to deprive the tribunal of the benefit of the opinion and of the aid in consultation perhaps of the very greatest judge who sits upon the case—a law question, a principle of great, permanent, far-reaching public consequence to be decided, not for the case but for every like case. You disqualify perhaps the ablest judge upon the bench merely because the question happened to be presented to him in the first instance for a *nisi prius* ruling.

Just think, Mr. President, of excluding from the history of the United States the great opinions of Chief-Justice Marshall in McCulloch *vs.* Maryland, or in the Dartmouth College case, or in Gibbons *vs.* Ogden, because it happened that that question had been first brought before him for a *pro forma* ruling at *nisi prius*. I think the gentlemen on the other side of the House, I think my honorable friend from Missouri would be very sorry to strike out from the jurisprudence of this country some of the great judgments of Chief-Justice Taney if they happened to come up from the central circuit of this country where that judge was holding the circuit court.

If the judge goes into consultation with a pride of opinion and manifesting an undue zeal, that very fact weakens rather than strengthens the weight which he will have with his associates in the consultation, and the court can be trusted to take care of the matter and prevent any injustice.

Mr. DAVIS, of Illinois. Mr. President, the Judiciary Committee cannot properly object to the amendment of the Senator from Missouri. I would propose to him that the latter clause of the amendment should be changed. The word "circuit" should be inserted before "district."

Mr. VEST. I have no objection.

Mr. DAVIS, of Illinois. The Judiciary Committee acted on this subject in reference to a bill for the Supreme Court of the United States. I do not know whether it was a unanimous opinion or not. The bill was up the other day, when the Senator from Massachusetts opposed it under the Anthony rule; it passed over under an objection, and could not be considered under the Anthony rule. That bill, reported by the Senator from Arkansas, provided that no judge of the Supreme Court who had tried a cause below should sit in that cause in the Supreme Court. There is a difference of opinion in the bar of this country in relation to this subject. Many of them are very earnestly opposed to an appellate judge sitting on a case which he himself has once tried. They say that the infirmity of human nature is such that, great man though he be, he is exceedingly anxious to maintain the judgment which he was instrumental in giving

in the court below. I think that in the region of country from which I come the sentiment is very strong against a judge of an appellate court deciding a cause, and not only deciding it, but participating in the hearing of it, having anything to do with it if he decided it below; that the appellate tribunal ought to be an entire body that never heard the question at all. On the contrary, there are many lawyers who believe that the judge who tried the cause ought to be in the appellate court to give the benefit of his counsel and advice to the judges who are to decide it there with him.

As I said before, I do not think that the Judiciary Committee who reported this bill can object to this amendment of the Senator from Missouri in consequence of the action that was taken in reference to the Supreme Court, because if the different judges of the Supreme Court should not sit in any case that they tried below, the circuit judges and district judges should not sit in the intermediate appellate court in any case that they tried below.

I have thought proper to say this much for the Judiciary Committee.

The PRESIDING OFFICER. Will the Senator from Illinois please state so that the Secretary may get the exact modification in the amendment of the Senator from Missouri.

Mr. DAVIS, of Illinois. I send the modification to the desk.

The PRESIDING OFFICER. The amendment as modified will be read.

The ACTING SECRETARY. After the word "district," in line 3 of the amendment, it is proposed to insert "or circuit;" in line 4, before the word "court," to insert "appellate;" and to strike out from line 4 to the end of the proviso; so that the whole amendment will read:

Provided, That no circuit or district judge before whom a cause or question may have been tried or heard in the district or circuit court shall sit on the trial or hearing of such cause or question in the appellate court.

Mr. ALLISON. Is the remainder struck out?

Mr. DAVIS, of Illinois. Yes, sir; there is no necessity for it.

Mr. PLATT. I presume that the opinion of Senators on this question is very likely to follow the practice in their own States. In the State of Connecticut it is now provided by statute that no judge shall sit to revise a decision which he has made on the circuit. That has been the statute law in Connecticut for a long time, and it was the practice before that. In our earliest reports, when the names of great judges like Sherman and Baldwin, and later Ellsworth, appeared, you will find at the close of the decisions, "Sherman, J., did not sit, having tried the case in the court below." It has been our practice, I think, ever since the foundation of our courts, and we like it.

Now, I do not propose to enter into the question as to whether a judge should be trusted or not. That is not the question, but it is that there shall be upon every court of last resort judges who have not formed an opinion in the case before they hear it. I think that is right, and so thinking, I shall vote for the amendment of the Senator from Missouri.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri, upon which he has asked for the yeas and nays.

The yeas and nays were ordered.

Mr. GEORGE. Mr. President, this amendment proposes a very radical change in the practice of the United States courts, and there ought to be a very good and substantial reason for its adoption before we adopt it. It contains an imputation against the members of the Supreme Court of the United States, who have from the foundation of the Government participated in the decisions which have been rendered on the circuit, contrary to the rule attempted to be prescribed by this amendment. I have heard no complaint until to-day, either that any member of that tribunal has been improperly influenced in his own judgment, or that he has attempted improperly to influence the judgment of his associates——

Mr. VEST. Does the Senator mean to say that I said any such thing?

Mr. GEORGE. No, sir.

Mr. VEST. He says he never heard it till to-day.

Mr. GEORGE. I understood it to be said that judges did that sort of thing.

Mr. VEST. Improperly? I said judges were simply men like the rest of us.

Mr. GEORGE. I withdraw the word "improperly." I have not heard that there was any disposition on the part of any member of the Supreme Court to influence the decision of his associates and of the court otherwise than by the presentation of proper arguments for their consideration.

The Senator from Massachusetts gives us the experience of his State. The members of the supreme court of that State, as I understood him to say, hold the *nisi prius* courts, and then in general term each judge sits upon the decision that has been made. I can say this with reference to the decisions of that court, that however they may be brought about, however they may be influenced, the decisions of no court in this Union stand higher with the profession than the decisions of that court.

Again, Mr. President, it has been the practice of the country from which we derive our judicial institutions, England, for five hundred years that the judge who decides a cause at *nisi prius* should sit in the court in banc when that decision was reviewed. Under that practice a system of common law and of equity law has grown up which is the admiration of the world.

Let us look at the objection as presented by the Senator from Missouri. If I understood him correctly, it is this: that there is a sort of comity between the members of the court which may influence them in reviewing the decision of one of their associates. Does not that feeling of comity exist just as strongly whether the member whose opinion is on review is present or absent? Does it add anything to the reluctance with which the other members of the court would overrule a decision made by one of the court, that he is not permitted to be present and to give his reasons for the opinion or judgment which he had rendered? I think not, sir; and if the judges are so weak, if they have in the consultation room more care for the feelings of their associate, more care for their own reputation than they have for the adjudication of the law as it is, then, sir, the objection will apply just as strongly whether the judge whose opinion is under review be present or absent. So I think there is nothing in that to justify us in departing from a practice which has existed from the foundation of the Government to the present day.

Then, again, as was suggested by some of the Senators who have addressed the Senate on this question, it is to be presumed that the judge who tried a case in the court below has some special information concerning it, some special knowledge of the law or of the facts, which would enable him to decide more intelligently and more correctly than he otherwise would. Ought we to deprive his associates who sit in review of his decision of the benefit, of the advantage of this knowledge and of this information? I think not.

It was suggested, I believe by one of the Senators who has addressed the Senate, that the judges ought to come to the trial of the case without any preconceived notion as to the law applicable to it. That is a very good rule for a juror, but I cannot see how you can apply that rule to a judge, unless you get a judge such as we have had sometimes in late years in the South, who was entirely impartial upon all questions of law simply for the reason that he had no knowledge of any principle of law at all. So I see nothing in that objection.

Now, Mr. President, I have another reason which induces me to vote against this amendment. I understand this amendment is to be a precedent for another bill or for a similar provision to be applied to the Supreme Court of the United States. We have nine judges on that bench. The result will be that in every single case in which is under review the decision of one of the judges we shall have a court composed of only eight members, and therefore liable to be equally divided in its judgment, and thus we shall have no decision at all of the rule of law in controversy. I think that would be an unfortunate result of applying this rule to the Supreme Court.

There is another reason which influences me as a Democrat and as a partisan, and that is this: there is only one member of the Supreme Court who is supposed to entertain opinions on constitutional questions in accord with mine. He has a circuit in which constitutional questions of grave import may originate, and the result will be that when he has decided them on the circuit he will be prevented from participating in the final decision of such causes when they come to the Supreme Court for revision.

For these reasons, sir, I shall vote against the amendment.

Mr. MORGAN. Mr. President, as was said by the Senator from Illinois, the amendment of the Senator from Missouri is as old as our system of jurisprudence. In the fourth section of the judiciary act of 1789 it is provided that—

A district judge sitting in a circuit court shall not give a vote in any case of appeal or error from his own decision, but may assign the reasons for such decision.

The founders of our judicial system understood this question as well as we do, I think. They put that provision in the law as applicable to the district judges. I do not see any reason why we should abandon it now; and if it applies to the district judges, I do not see why it should not be as well applicable to the circuit judges. They are all apt very much to be the same kind of men. The district judges, as the Senator from Texas [Mr. MAXEY] suggests to me, constitute a part of the circuit court and have for a number of years been permitted to hold the circuit court and sit with judges of the Supreme Court on the circuit bench. I see no reason now for abandoning this principle. If the amendment offered by the Senator from Missouri, or something like it, should not be adopted, we should repeal this statute, because if we find a district judge on the court of appeals we find him disqualified from sitting on a cause he has decided, while a circuit judge similarly situated would not be disqualified. We shall be compelled to undo what has been done since 1789 unless we adopt the amendment of the Senator from Missouri. It seems to me it ought to be adopted.

Mr. GARLAND. Inasmuch as there is a bill on the Calendar reported by myself from the Committee on the Judiciary on the subject of the Supreme Court judges in relation to this matter, which has been alluded to by the Senator from Mississippi, I wish to say but a very few words.

I am rather of the opinion that it was an oversight in the Committee on the Judiciary not to have the provision contended for by the Senator from Missouri in this bill.

It was certainly an oversight on my part in not attempting to put

it on. The idea is not founded as much on the pride of opinion of the judge as it is upon a pure, simple question of justice to the litigant who appeals. When he appeals a case, as he would in this court, to six judges, he opens his case in the appellate court with one of the six against him, and to that extent he is denied a fair trial.

Jurisprudence is the administration of justice according to law. In the best days of the Roman jurisprudence they tried all cases by a formula; that is, under fictitious names. Hence originated that formula in the civil law of Seius *vs.* Titius, like John Doe against Richard Roe. This is but a symbol at last of the idea of justice being painted blind. An upright judge has nothing in the world to do about knowing the parties in the court below; the less he knows about them the better it is for justice.

This bill proposes six judges to try his case, and he has one to begin with against him. When you impanel a jury to try a man for an alleged crime, you ask each juryman "Have you formed or expressed an opinion about this case?" and here is a judge who goes in to try this case in the last resort who has not only formed an opinion, but has expressed it. I do not care how able he may be, from Marshall down to the smallest man that ever disgraced a bench, it is human nature at least to contend for one's own opinion.

Mr. HOAR. I desire to ask the honorable Senator if he thinks that when the question arose in the Supreme Court of the United States what was the local law of Maine, that principle would apply to the determination of a question where the late Judge Clifford had expressed an opinion?

Mr. GARLAND. Since the Senator has asked me that question, let me say to him this, and I will answer him frankly, as I always attempt to do. I knew Judge Clifford well; I had a very high respect for him, and I respect his memory; but I do believe, if any man would ever fight for his opinion on the Supreme Bench on an appeal from him from the court below, he was the man, and I believe he would die fighting for it if it was necessary. I honor him the more when I think that, because I do not understand, when you ask a man to spend his days and nights on your circuit investigating a thing, and he says the decision is thus and so, you should ask him to reverse it and write himself down an ass because the case goes into a higher tribunal. I say it is to the honor of the man that he should contend for his opinion that he has matured when he has made up his mind on the circuit, after argument of counsel, by investigation.

You ask him to reverse it. Sometimes it is done; but a very attentive reader of the decisions of the Supreme Court of the United States says the case is very rare where such a thing has happened. It is human nature, whether in a constable or justice of the peace in a township in Arkansas or a judge of the Supreme Bench of the United States; and that is the principle that I contend for, which I should have illustrated a little further the other day but for the objection of the Senator from Massachusetts in reference to the Supreme Court bill.

I repeat that you are putting a man in this high tribunal for the last throw, the last cast of the judicial die, with one man out of six against him. It is not fair, and no human logic can make it fair.

Mr. MAXEY. Mr. President——

Mr. INGALLS. Will the Senator yield to a motion to adjourn?

Mr. MAXEY. I shall only take a few minutes.

The opinion expressed by the Senator from Connecticut that our views on this question are colored by the practice in our own State courts is doubtless true. It is not a question in my judgment of pride of opinion; but if a judge who presides in a court below is honest and capable, his rulings upon the pleadings upon the evidence, as the questions may arise, and upon the law applicable to the case, are the matured, deliberate results and product of his judgment. His charge to the jury is deliberately framed after full argument of counsel. It expresses the convictions of his mind; he has conducted the case according to law.

When that man comes into the court of appeals his opinion is deliberately formed; and it is a part of justice that the judge should be perfectly impartial. It is idle to say that there is that difference between a juryman and a judge that a juryman can be set aside however intelligent he may be, because he has formed an opinion or because he has expressed an opinion, and that a judge is made of so much purer clay that, although he has formed and expressed an opinion, and has done it under the solemnity of an oath, yet that will not affect or color his judgment when he goes into the appellate court.

Mr. President, it is not pride of opinion in the judge that I think the turning point in this case; but if a judge is worthy to wear the ermine he has that respect for the convictions of his mind which caused him to render his judgment as he did render it in the court below that will follow him into any court. That is my judgment.

The Senator from Mississippi says if you exclude the judge who has given the opinion in the circuit court from the Supreme Court, you have eight men left, and you may have a divided court, and thus no result. Suppose you carry that one step further, you have four judges who entertain one view of the question in the Supreme Court, and four judges who take the other; what then do you do? You let the man on the Supreme Bench confirm his own decision. That is what you do. He becomes then the Supreme Court of the United States to affirm the decision which he rendered as circuit judge.

Mr. President, the statute of 1789 which was read by the Senator from Alabama shows that our forefathers regarded man as fallible. There may be men in some portions of this country who are so exalted that they are not controlled in their judgment by what their deliberate convictions were when presiding over the court below, or acting as a judge at *nisi prius;* but as an average a judge is a human being, nothing more, nothing less, and will be warped, as all of us are warped, by his opinions and convictions. I do not pretend to say that if I had deliberately formed a judgment upon conviction, as the mature result of my convictions, I could be easily changed. I do not think I could be, and therefore the point comes in which was made by the Senator from Arkansas, and it is true that the judge should be as he is represented; he should be blindfolded and hold the scales of justice equipoise; he should know neither the *actor* nor the *reus;* he should know neither side of the question and come in with his mind perfectly clear to form a judgment upon the law and the evidence.

But, sir, when he has already formed his judgment upon the law and the evidence, I would wipe that out; I would take it away. It has so often occurred in *nisi prius* courts that a piece of evidence has got before the jury somehow, and wrongfully got there, but still it is there, and the judge says "That is excluded from the jury;" but I should like to know what judge on this earth has ever been able to exclude that evidence from those jurymen's minds. You cannot do it. And so it is in the mind of that judge when he comes on the bench under oath deliberately, "I affirm this conclusion; I gave this ruling on this piece of evidence; I decided on this question of pleading thus and so, and I rendered this charge to the jury, and I did it conscientiously and after mature deliberation and full consideration, and I believe I was right." At all events, a man who has not got any firmness of opinion and purpose is unworthy to be a judge, and if he has that firmness of opinion and purpose an honest man could not well get rid of his convictions, and he carries those convictions with him into the appellate court.

Therefore I say that, in my judgment, the point made by the Senator from Missouri in his amendment is right. In my own State, while we have no statute on the subject, it is the invariable rule, as will be shown by the foot-note to every opinion where a judge was the judge of the *nisi prius* court and the case comes up and he has become a judge of the supreme court, having been the judge of the district court where the case was decided, he does not participate; he will not act upon it. I would be as much opposed to his giving his counsel and his argument as to his giving his vote.

I trust the amendment will be adopted.

Mr. INGALLS. Obviously the debate cannot close to-day. Important amendments are pending to which other Senators desire to address themselves. I move that the Senate do now adjourn.

The motion was agreed to; and (at four o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May* 3, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

Several members addressed the Chair.

Mr. RANDALL. I call for the regular order.

Mr. SPEER. I ask unanimous consent to present and have printed in the RECORD a short petition on the subject of education.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] has called the regular order.

Mr. SPEER. I understand the gentleman withdraws that call to enable me to present this petition.

Mr. BRIGGS. If the gentleman from Pennsylvania withdraws it, I renew it.

Mr. RANDALL. I have not withdrawn it. I believe we should go right on and devote as much time as we can to the discussion of the tariff-commission bill.

LAWLESSNESS IN ARIZONA.

Mr. HENDERSON. I desire to make a privileged report.

The SPEAKER. A privileged report is in order.

Mr. HENDERSON. The Committee on Military Affairs, to whom was referred the special message of the President of the United States relating to lawlessness in Arizona, have instructed me to report the same back with an accompanying bill, of which they recommend the passage.

Mr. RANDALL. Has the gentleman the right to make this report at this time under the rules?

Mr. HENDERSON. I have stated that it is a privileged report, because I understand that when the message was referred to the Committee on Military Affairs they were authorized by the House to report at any time.

Mr. RANDALL. What is the subject?

Mr. HENDERSON. The special message of the President relating to lawlessness in Arizona.

Mr. RANDALL. That will involve much discussion. It relates to the use of the Army as a *posse comitatus* in the Territories. I have no objection to the printing of the bill and report, so that we may have an opportunity to examine it.

The SPEAKER. This is a privileged matter.

Mr. RANDALL. The consideration of it is not.

The SPEAKER. The Chair thinks it is.

Mr. RANDALL. The right to report at any time carries with it, of course, the right to consider; but I shall raise the question of consideration. Let the gentleman make his report now and have it printed.

The SPEAKER. The gentleman from Illinois reports from the Committee on Military Affairs the bill which will be read.

The following bill (H. R. No. 6085) to amend section 15 of the act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, was read a first and second time:

Be it enacted, &c., That section 15 of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, be so amended as to allow the military forces to be employed as a *posse comitatus* to assist the civil authorities within any Territory of the United States to execute the laws therein when requested by the governor of such Territory.

Mr. RANDALL. Does the gentleman from Illinois [Mr. HENDERSON] desire to have this subject considered now?

Mr. HENDERSON. I desire to have it considered now, or at least that it shall not lose the right of consideration at some early day.

Mr. RANDALL. I raise the question of consideration.

Mr. HENDERSON. Mr. Speaker——

Mr. RANDALL. Debate is not in order pending the question of consideration.

The SPEAKER. Debate is not in order. The gentleman from Illinois reports from the Committee on Military Affairs the bill which has been read. The gentleman from Pennsylvania raises the question of consideration.

Mr. RANDALL. This matter will involve considerable discussion.

Mr. KASSON. How is this a privileged report?

The SPEAKER. It is privileged, because at the time the President's message on this subject was referred to the Committee on Military Affairs and ordered to be printed the committee by unanimous consent of the House was authorized to report at any time; and the right to report at any time carries with it the right to present consideration when the report is made.

Mr. KASSON. Allow me to ask the gentleman from Illinois [Mr. HENDERSON] whether this report is one that will call naturally for debate?

Mr. RANDALL. Yes, sir; a long debate.

Mr. KASSON. The emergency we all understand; and if this measure is acceptable to the House without discussion, I should not object to its being voted on now; but if it is to involve any considerable debate I hardly think it ought to be brought up this morning.

Mr. HEWITT, of New York. Is the gentleman from Illinois aware that a report has been rendered by the Judiciary Committee at the other end of the Capitol stating that there is no necessity for this legislation?

Mr. HENDERSON. Yes, sir; and I am satisfied, with all due respect to the Judiciary Committee of the Senate, that they are in error in this regard.

The SPEAKER. The gentleman from Pennsylvania raises the question of consideration.

Mr. KASSON. I ask that an order be made for the printing of the bill and report; and then the gentleman from Illinois can perhaps have the measure recommitted with the same privilege of calling it up at any time hereafter for consideration.

Mr. RANDALL. He can withdraw the report.

Mr. ROBINSON, of Massachusetts. I desire to make a parliamentary inquiry. There is no doubt that the right to report at any time carries with it the right of consideration at the time when the report is made. But suppose the report be made and consideration of it refused now, will it retain its right to consideration at any time when the gentleman may propose to call it up?

The SPEAKER. It will retain the right to be called up as privileged.

Mr. ROBINSON, of Massachusetts. At any time?

The SPEAKER. At any time.

Mr. COX, of New York. Has not the gentleman from Illinois the right to have this report printed and recommitted without its losing its privilege?

Mr. HENDERSON. I think that might be done.

The SPEAKER. It will lose no right by being printed and recommitted.

Mr. COX, of New York. I suggest that the matter take that course.

Mr. KASSON. Let it be printed in the RECORD and recommitted, the gentleman from Illinois reserving his right.

The SPEAKER. The gentleman from Illinois asks that the bill, together with the report, be printed——

Mr. RANDALL. I object to the continuation of the right to report at any time, if that requires unanimous consent.

Mr. COX, of New York. It does not require unanimous consent, as unanimous consent has already been given.

The SPEAKER. The Chair thinks the right to report at any time has already been granted.

Mr. RANDALL. The gentleman from Illinois has already under that unanimous consent reported this bill to the House.

Mr. HENDERSON. If this bill be recommitted to the Committee on Military Affairs, will not the right to report at any time continue under the former order of the House?

Mr. RANDALL. I will reserve that point of order.

Mr. KASSON. I wish to call the attention of the gentleman from Pennsylvania to the fact that this concerns the safety of lives.

Mr. RANDALL. I wish it understood that this bill does not come back unless by unanimous consent.

Mr. KASSON. It concerns the safety of lives.

Mr. RANDALL. There is a difference of opinion among lawyers even, and we find the most eminent in the country asserting publicly and in official form that no such necessity exists as is claimed for the enactment of this bill.

Mr. KASSON. Nevertheless, so long as it is doubtful, the safety of lives demands something should be done by this House.

Mr. RANDALL. I am advised the Government is now taking every precaution as to the safety of life.

The SPEAKER. The Chair understands the gentleman from Illinois to move that the bill and report be printed and recommitted.

Mr. HENDERSON. With the right to report at any time.

Mr. RANDALL. And on that I reserve the point order.

The SPEAKER. That right has already been given by unanimous consent.

Mr. HASKELL. Let me ask whether this bill has not been read, and whether that does not insure its printing in the RECORD; therefore it need not be recommitted at all, but having been reported to the House, it is subject to be called up at any time, no point of order lying against it.

The SPEAKER. The Chair is following the request of the chairman of the committee who reported the bill to the House.

Mr. HENDERSON. I have no objection under the ruling of the Chair to have the bill and report printed and recommitted.

The SPEAKER. The gentleman will state what he desires, and the Chair will submit the motion to the House.

Mr. HENDERSON. I consent that the bill and report may be printed, if I do not lose my right to call it up at any time. If the Speaker says I shall be entitled to that privilege I consent to the printing and recommital of the bill and report.

Mr. TOWNSHEND, of Illinois. Let the bill and report be printed in the RECORD, and that will avoid all difficulty.

Mr. HASKELL. Subject to be called up at any time.

The SPEAKER. The Chair is not going to give direction except as the gentleman having the bill and report in charge may wish. Is there unanimous consent to the printing of the bill and report in the RECORD? The Chair hears no objection, and it is ordered accordingly.

The bill and report were ordered to be printed, and recommitted.

The bill and report are as follows:

An act to amend section 15 of the act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, be so amended as to allow the military forces of the United States to be employed as a *posse comitatus* to assist the said authorities within any Territory of the United States to execute the laws therein, when requested by the governor of such Territory.

The Committee on Military Affairs, to whom was referred the message of the President of the United States in relation to disorders and lawlessness in Arizona, having considered the same, respectfully report that in the opinion of your committee it is expedient to amend section 15 of the act of June 18, 1878, chapter 263, as suggested by the President in his said message, so as to allow the co-operation with the civil authorities of a Territory of a part of the Army as a *posse comitatus*; and believing that a necessity exists for such amendment, your committee report the accompanying bill to amend said section 15, and recommend the passage of the same.

ORDER OF BUSINESS.

The SPEAKER. A number of gentlemen have bills they wish to introduce for reference only, and others have reports which they desire to make in order they may be referred and printed. Is there objection to granting unanimous consent for this purpose?

Mr RANDALL. If the tariff debate is to close on Thursday next, I demand the regular order.

Mr. JOYCE. I have reports to submit from the Committee on Invalid Pensions which should be printed and ready for consideration next Friday evening.

CALL OF COMMITTEES.

The SPEAKER. The morning hour now begins, and committees will be called for reports.

GEORGETOWN BRIDGE.

On motion of Mr. FORNEY, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of

the message of the President of the United States transmitting a communication of the Secretary of War recommending an additional appropriation for the construction of a bridge over the Potomac River at Georgetown, District of Columbia, and the same was referred to the Committee on the District of Columbia.

JURISDICTION OF LIGHT-HOUSE BOARD, SAINT JOHN'S RIVER.

Mr. PAGE, from the Committee on Commerce, reported, as a substitute for House bill No. 4796, a bill (H. R. No. 6086) to extend the jurisdiction of the Light-House Board over the Saint John's River, Florida, and making an appropriation therefor; which was read a first and second time, referred to the Committee on Appropriations, and, with the accompanying report, ordered to be printed.

LIGHT-HOUSE, MOUTH OF DETROIT RIVER.

Mr. PAGE also, from the same committee, reported back the bill (H. R. No. 5444) for the construction of a light-house at or near the mouth of the Detroit River with amendments; which was referred to the Committee on Appropriations, and the accompanying report ordered to be printed.

BRIDGES ACROSS THE RED AND OTHER RIVERS.

Mr. McLANE, from the Committee on Commerce, reported, as a substitute for House bill No. 3214, a bill (H. R. No. 6087) to authorize the Texas and Saint Louis Railway Company of Missouri and Arkansas to construct bridges across the Red, the Ouachita, the Arkansas, and White Rivers, in the State of Arkansas; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

BRIDGE ACROSS ARKANSAS RIVER.

Mr. McLANE also, from the same committee, reported back with favorable recommendation the bill (H. R. No. 3216) to authorize the construction of a bridge across the Arkansas River at the town of Van Buren, Crawford County, Arkansas; which was referred to the House Calendar, and the accompanying report ordered to be printed.

SIGNAL SERVICE, UNITED STATES ARMY.

Mr. McCOOK, from the Committee on Military Affairs, reported back with amendments the bill (H. R. No. 2253) to increase the efficiency of the Signal Corps of the Army; which was referred to the House Calendar, and the accompanying report ordered to be printed.

COMPULSORY RETIREMENT.

Mr. HENDERSON, from the Committee on Military Affairs, reported, as a substitute for House bills Nos. 206, 1307, 1573, and 2569, a bill (H. R. No. 6088) to amend sections 1243 and 1244 of the Revised Statutes of the United States, chapter 2, title 14, relating to the Army; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

CANNON FOR MONUMENT ASSOCIATION, PORTSMOUTH, OHIO.

Mr. HENDERSON also, from the same committee, reported back the bill (H. R. No. 5321) to authorize the Secretary of War to donate to the Ladies' Soldiers' Monument Association of Portsmouth, Ohio, four condemned cannon; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report ordered to be printed.

ALBERT F. PADEN.

Mr. HENDERSON also, from the same committee, reported back the bill (H. R. No. 134) to remove the charge of desertion from the military record of Albert F. Paden; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report, ordered to be printed.

CANNON FOR MONUMENT ASSOCIATION, STONEHAM, MASSACHUSETTS.

Mr. HENDERSON also, from the same committee, reported back the bill (H. R. No. 5609) donating condemned cannon to the town of Stoneham, in Massachusetts; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

PARROTT GUNS TO CITIZENS OF WATERVILLE, MAINE.

Mr. HENDERSON also, from the same committee, reported back the bill (H. R. No. 5302) to donate four Parrott guns to the citizens of Waterville, Maine; which was referred to the committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

JAMES M. BACON.

Mr. HENDERSON also, from the same committee, reported back with amendments the bill (H. R. No. 2894) for the relief of James M. Bacon; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HOMESTEAD LANDS.

Mr. RICE, of Missouri, from the Committee on the Public Lands, reported back with amendments the bill (H. R. No. 3699) to amend an act entitled "An act to grant additional rights to homestead settlers on public lands in railroad limits," approved, March 3, 1879; which was referred to the House Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. RICE, of Missouri, also, from the same committee, reported back with an adverse recommendation the bill (H. R. No. 842) to amend an act entitled "An act relating to public lands of the United States," approved June 15, 1880, and the bill (H. R. No. 834) to reduce the price of public lands within railroad limits; which were severally laid on the table, and the adverse reports ordered to be printed.

JURISDICTION OF JUSTICES OF THE PEACE.

Mr. DUGRO, from the Committee on the Territories, reported back the bill (H. R. No. 3506) to amend sections 1926 and 1927 of the Revised Statutes of the United States so as to extend the limitations of the jurisdiction of justices of the peace in the Territories of Washington, Idaho, and Montana; which was referred to the House Calendar, and the accompanying report ordered to be printed.

CENTENNIAL CELEBRATION, NEWBURGH, NEW YORK.

Mr. DE MOTTE, from the Committee on Public Buildings and Grounds, reported back with amendments the joint resolution (H. R. No. 176) authorizing the Secretary of War to erect at Washington's headquarters, in the city of Newburgh, New York, a memorial column, and to aid in defraying the expenses of the centennial celebration to be held at that city in the year 1883; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

RAILROAD COMPANIES IN TERRITORIES.

Mr. ROBINSON, of Ohio, from the Committee on Pacific Railroads, reported back with a favorable recommendation the bill (H. R. No. 5219) to authorize the consolidation of railroad companies in the Territories of the United States; which was referred to the House Calendar, and the accompanying report ordered to be printed.

EDWARD L. WALKER.

Mr. SPOONER, from the Committee on Patents, reported, as a substitute for House bill No. 1852, a bill (H. R. No. 6089) for the relief of Edward L. Walker; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

RALPH P. FORD.

Mr. JOYCE, from the Committee on Invalid Pensions, reported back with a favorable recommendation the bill (H. R. No. 984) for the relief of Ralph P. Ford; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HENRY N. GUNN.

Mr. JOYCE also, from the same committee, reported back with an amendment the bill (H. R. No. 2635) granting an increase of pension to Henry N. Gunn; which was referred to the Committee of the Whole House on the Private Calendar, and the amendment and report ordered to be printed.

NORTON L. NEWBERRY.

Mr. JOYCE also, from the same committee, reported back with an amendment the bill (H. R. No. 2634) for the relief of Norton L. Newberry; which was referred to the Committee of the Whole House on the Private Calendar, and the amendment and report ordered to be printed.

JAMES R. GORDON.

Mr. JOYCE also, from the same committee, reported back the bill (H. R. No. 1544) granting a pension to James R. Gordon, and moved that the committee be discharged from the further consideration of the same, the pension having already been granted by the Pension Office.

The motion was agreed to; and the bill was laid on the table, and the accompanying report ordered to be printed.

CEPHAS E. ANDRUS.

Mr. JOYCE also, from the same committee, reported back the bill (H. R. No. 1545) granting an increased pension to Cephas E. Andrus, and moved that the committee be discharged from the further consideration of the same, the increase of pension having already been granted by the Pension Office.

The motion was agreed to; and the bill was laid on the table, and the accompanying report ordered to be printed.

CHARLES H. DAY.

Mr. CABELL, from the Committee on Invalid Pensions, reported back with an adverse recommendation the bill (H. R. No. 3133) granting arrears of pension to Charles H. Day; which was laid on the table, and the accompanying report ordered to be printed.

ALICE DE KALB SHATTUCK.

Mr. CABELL also, from the same committee, reported back with an adverse recommendation the bill (H. R. No. 4137) for the relief of Alice De Kalb Shattuck; which was laid on the table, and the accompanying report ordered to be printed.

JOHN F. ELLIS.

Mr. MATSON, from the Committee on Invalid Pensions, reported back with amendments the bill (H. R. No. 4888) increasing the pension of John F. Ellis; which was referred to the Committee of the Whole House on the Private Calendar, and the amendments and report ordered to be printed

NICHOLAS HIBNER.

Mr. MATSON also, from the same committee, reported back with an adverse recommendation the bill (H. R. No. 941) granting an increase of pension to Nicholas Hibner; which was laid on the table, and the accompanying report ordered to be printed.

WILLIAM H. CROOK.

Mr. THOMPSON, of Iowa, from the Committee on Claims, reported, as a substitute for House bill No. 904, a bill (H. R. No. 6090) for the relief of William H. Crook; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ESTATE OF JAMES RILEY.

Mr. THOMPSON, of Iowa, also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 4777) for the relief of the estate of James Riley; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

RICHARD H. AND JAMES PORTER.

Mr. BUCHANAN, from the Committee on Claims, reported back with a favorable recommendation the bill (H. R. No. 4540) for the relief of Richard H. Porter and James Porter; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ABRAHAM BRAFMAN.

Mr. BUCHANAN also, from the same committee, reported back the bill (H. R. No. 2943) to relieve Abraham Brafman from a forfeiture under the internal-revenue laws, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on the Judiciary.

The SPEAKER. In the absence of objection, the bill will be referred to the Committee on the Judiciary.

Mr. KASSON. I do not speak from any desire to get the jurisdiction of those bills, but I call attention to the fact that bills for the refunding of internal-revenue taxes, duties, &c., uniformly go to the Ways and Means Committee. I do not desire the jurisdiction of them at all, but I give notice that that is the proper disposition to be made of them.

The SPEAKER. The Chair was simply following the suggestion of the gentleman from Georgia, who at the instance of his committee desired the reference of the bill to the Committee on the Judiciary.

Mr. KASSON. I shall not oppose his desire.

Mr. TAYLOR. I think the bill should go to the Committee on Ways and Means.

The SPEAKER. Unless a different motion be made, the Chair will allow the bill to be referred to the Committee on the Judiciary.

Mr. PAGE. I move that it be referred to the Committee on Ways and Means.

The SPEAKER. The Chair will state, in these matters where a committee considers the question of reference, it always feels bound to follow the committee's suggestion unless objection is made. The gentleman from California moves that the bill be referred to the Committee on Ways and Means.

The question being taken, Mr. PAGE's motion was agreed to; and the bill was referred to the Committee on Ways and Means.

BEN HOLLADAY.

Mr. RAY (for Mr. CROWLEY, chairman of the Committee on Claims) reported, as a substitute for House bill No. 551, a bill (H. R. No. 6091) for the relief of Ben Holladay; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

P. L. WARD.

Mr. WISE, of Virginia, from the Committee on War Claims, reported back with a favorable recommendation the bill (H. R. No. 3469) for the relief of P. L. Ward, executrix; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

BANGS, BROWNELL & CO.

Mr. HALL, from the Committee on War Claims, reported a bill (H. R. No. 6092) for the relief of Bangs, Brownell & Co.; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to beprinted.

B. F. MARTIN.

Mr. RANNEY, from the Committee on War Claims, reported adversely the petition of B. F. Martin, asking compensation for the use and occupation by a portion of the United States Army of his warehouse, dwelling, kitchen, and stables during 1864 and 1865; which was laid on the table, and the accompanying report ordered to be printed.

KIRK W. NOYES.

Mr. UPDEGRAFF, of Iowa, from the Committee on War Claims, reported back with a favorable recommendation the bill (H. R. No. 5653) for the relief of Kirk W. Noyes; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MARY BULLARD.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 2317) for the relief of Mary Bullard; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

RICHARD MIDDLETON.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 2302) for the relief of Richard Middleton; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LEWIS D. ALLEN.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported adversely the bill (H. R. No. 1871) for the relief of Lewis D. Allen; which was laid on the table, and the accompanying report ordered to be printed.

SARAH M. THOMAS.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported back adversely the bill (H. R. No. 1870) for the relief of Sarah M. Thomas; which was laid on the table, and the accompanying report ordered to be printed.

JOHN M. HARBISON.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported adversely the petition of John M. Harbison, asking compensation for property taken and used by the United States Army during the late rebellion; which was laid on the table, and the accompanying report ordered to be printed.

ANTHONY IHMS.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported adversely the petition of Anthony Ihms, of Virginia, asking compensation for property taken by the Army; which was laid on the table, and the accompanying report ordered to be printed.

CHILDREN OF WILLIAM S. HEMINGWAY.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported back the bill (H. R. No. 1911) for the relief of the three orphan children of William S. Hemingway, and moved that the committee be discharged from its further consideration, and that the same be referred to the Committee on Indian Affairs.

The motion was agreed to.

ALEXANDER D. SCHENCK.

Mr. UPDEGRAFF, of Iowa, also, from the same committee, reported back the bill (H. R. No. 5767) for the relief of Alexander D. Schenck, and moved that the committee be discharged from its further consideration, and that the same be referred to the Committee on Claims.

The motion was agreed to.

JOHN J. KEY AND W. G. M. DAVIS.

Mr. MANNING, from the Committee on the Judiciary, reported back with a favorable recommendation the bill (S. No. 63) for the relief of John J. Key and W. G. M. Davis; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Mr. ROBINSON, of Massachusetts, submitted the views of the minority in the same case, which were ordered to be printed with the majority report.

NAVAL CONSTRUCTORS.

Mr. MORSE, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (H. R. No. 5827) to amend section 1402 of the Revised Statutes relative to the appointment of naval constructors and assistant naval constructors in the United States Navy; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

JOHN N. QUACKENBUSH.

Mr. HARRIS, of Massachusetts, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (H. R. No. 5303) to confirm the status of John N. Quackenbush, a commander in the United States Navy; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

EDWARD BELLOWS.

Mr. HARRIS, of Massachusetts, also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 5674) for the relief of Edward Bellows; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

H. D. AND H. S. WALBRIDGE.

Mr. CASSIDY, from the Committee on the District of Columbia, reported back adversely the bill (H. R. No. 4371) for the relief of H. D. and H. S. Walbridge; which was laid on the table, and the accompanying report ordered to be printed.

CHRISTIAN RUPPERT AND OTHERS.

Mr. CASSIDY also, from the same committee, reported, as a substitute for House bill No. 3011, a bill (H. R. No. 6093) for the relief of Christian Ruppert and others, trustees; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM BOWEN.

Mr. DEZENDORF, from the Committee on the District of Columbia, reported back with a favorable recommendation the bill (H. R. No. 1768) for the relief of William Bowen; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

PAY OF WORKMEN UNDER BOARD OF PUBLIC WORKS.

Mr. NEAL, from the Committee on the District of Columbia, reported back with amendments the bill (H. R. No. 5058) to amend and extend the provisions of a certain clause in the act of Congress approved June 20, 1878, making appropriations for sundry civil expenses of the Government, and to provide for the payment of workmen under the late Board of Public Works in the District of Columbia; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

M. G. EMERY ASSESSMENTS.

Mr. NEAL also, from the same committee, reported, as a substitute for House bill No. 2939, a bill (H. R. No. 6094) to refund the assessments made under the administration of M. G. Emery while mayor of the city of Washington, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

COLLECTION OF TAXES IN THE DISTRICT OF COLUMBIA.

Mr. NEAL also, from the same committee, reported, as a substitute for House bill No. 5845, a bill (H. R. No. 6095) to provide for the collection of taxes in the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

SLAUGHTER OF ANIMALS FOR FOOD.

Mr. NEAL also, from the same committee, reported back with amendments the bill (H. R. No. 5634) to provide for the care and inspection of all animals to be slaughtered for food purposes in the District of Columbia, and to incorporate the Washington Stock-Yard, Abattoir, and Rendering Company; which was ordered to be printed and recommitted.

AMENDMENT OF REVISED STATUTES.

Mr. BUCK, from the Committee on the Revision of the Laws, reported, as a substitute for House bill No. 3, a bill (H. R. No. 6096) extending the punishment provided for in section 4596 of the Revised Statutes of the United States; which was read a first and second time, placed on the House Calendar, and, with the accompanying report, ordered to be printed.

ADDITIONAL PAY OF CENSUS SUPERVISORS.

Mr. PRESCOTT, from the Committee on the Census, reported a bill (H. R. No. 6097) for additional pay to the supervisors of the tenth census; which was read a first and second time, referred to the Committee on Appropriations, and, with the accompanying report, ordered to be printed.

LITTLE ROCK AND FORT SMITH RAILROAD.

Mr. REED. The Committee on the Judiciary, to whom were referred sundry bills relating to the forfeiture of land-grants to certain railroads, having had the same under consideration, have directed me to report in part as to the Little Rock and Fort Smith Railroad Company.

The SPEAKER. What recommendation is proposed?

Mr. REED. This report is a statement of facts in relation to the Little Rock and Fort Smith Railroad Company, which seems to have complied with the provisions of the grant, but owing to the fact of the question being before Congress the company has been unable to obtain patents which had already been indicated by the Secretary of the Interior, who desired that Congress should express an early opinion as to the state of facts in order that he might, with all courtesy toward Congress, dispose of the matter. The committee have come to the unanimous conclusion that there is no reason why the patents should not be issued; and they now report that state of facts.

The SPEAKER. The report will be printed and laid on the table.

COMPENSATION OF INTERNAL-REVENUE GAUGERS.

Mr. DUNNELL, from the Committee on Ways and Means, reported back with a favorable recommendation the bill (H. R. No. 5642) to define the limitation of compensation of internal-revenue gaugers; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

SILAS Q. HOWE.

Mr. CARLISLE, from the Committee on Ways and Means, reported back with a favorable recommendation the bill (S. No. 565) for the relief of Silas Q. Howe, surviving partner of William T. Pate & Co.; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ELECTION OF PRESIDENT AND VICE-PRESIDENT.

Mr. UPDEGRAFF, of Iowa. The Select Committee on the Law respecting the Election of President and Vice-President have directed me to report back with amendments the bill (H. R. No. 5569) to carry into effect the provisions of the Constitution respecting the election of President and Vice-President of the United States. I ask that the bill and report be printed and recommitted. Our object is to call the bill up in the near future as a privileged matter; and hence we desire not to place it upon the House Calendar, but to retain control of it in the committee.

The SPEAKER. The bill as amended and the accompanying report will be ordered to be printed and recommitted.

GEORGE G. COBB, DECEASED.

Mr. ERRETT, from the Committee on Ways and Means, reported back the bill (H. R. No. 5536) to reissue a Treasury draft originally issued to George G. Cobb, an assistant assessor in Alabama, deceased, to J. E. Cobb, custodian of the minor children of said decedent; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

The SPEAKER The call of committees for reports has been concluded.

SABINE PASS COLLECTION DISTRICT.

Mr. REAGAN, by unanimous consent, introduced a bill (H. R. No. 6098) to establish a collection district at Sabine Pass, in the State of Texas; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

GEORGIA JUDICIAL DISTRICTS.

Mr. STEPHENS, by unanimous consent, introduced a bill (H.R.No. 6099) to transfer certain counties from the southern judicial district to the northern district in the State of Georgia, and to divide the northern district in said State into two, to be known as the western and eastern divisions of said district, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CLERK TO COMMITTEE ON ENROLLED BILLS.

Mr. ALDRICH, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That the Committee on Appropriations be, and are hereby, respectfully requested to make provision in the legislative, executive, and judicial appropriation bill for the ensuing fiscal year for the clerk of the Joint Committee on Enrolled Bills, as one of the annual clerks provided for in that bill, at the same compensation as is now allowed the clerk of the Committee on Commerce.

PERSONS CHARGED WITH CRIMES AS WITNESSES.

Mr. UPSON, by unanimous consent, introduced a bill (H. R. No. 6100) to amend an act entitled "An act to make persons charged with crimes and offenses competent witnesses in the United States and Territorial courts," approved March 16, 1878; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARY SWEENY.

Mr. HUMPHREY, by unanimous consent, introduced a bill (H. R. No. 6101) for the relief of Mary Sweeny; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PUBLIC LANDS COMMITTEE.

Mr. POUND. I ask by unanimous consent that the Committee on Public Lands may be permitted to hold its sessions during the sittings of the House.

There was no objection, and it was ordered accordingly.

ISA C. REMSHART.

Mr. BLOUNT, by unanimous consent, (for his colleague, Mr. BLACK, who is confined to his house by illness,) introduced a bill (H. R. No. 6102) for the relief of Isa C. Remshart; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ORDER OF BUSINESS.

Mr BELMONT. I ask by unanimous consent to introduce a resolution for reference.

Mr. RUSSELL. I call for the regular order.

Mr. COX, of New York. I hope there will be no objection to my colleague submitting a resolution for reference only.

The SPEAKER. The gentleman from Massachusetts demands the regular order of business.

TARIFF COMMISSION.

Mr. KASSON. I move that the House resolve itself into the Committee of the Whole House on the state of the Union to resume the consideration of the tariff-commission bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, (Mr. ROBINSON, of Massachusetts, in the chair,) and resumed the consideration of the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws.

The CHAIRMAN. The gentleman from Illinois is entitled to the floor.

Mr. SPRINGER. Mr. Chairman, every gentleman who has spoken on this question has conceded the necessity for a revision of the tariff. I can understand the position of the honorable gentleman from Kentucky, [Mr. CARLISLE,] the honorable gentleman from New York, [Mr. HEWITT,] and others who oppose the passage of the "bill to provide for the appointment of a commission to investigate the question of the tariff." They desire a revision of the tariff because they think the duties are too high. The average on dutiable articles is about 45 per cent. ad valorem according to the existing law. But I do not know why the advocates of this bill desire revision. I would like to obtain some information on this subject.

Do the friends of this bill desire to revise the tariff by increasing the average rate of duties; or do they desire to decrease the average rate of duties? If the former, I would ask this question: Do you desire to increase the revenues of the Government, or will increased duties decrease the revenue? If you desire to increase the revenues of the Government, or, by delay, desire to preserve the present rates, I call attention to the fact that the present revenues exceed the Government's necessities by about one hundred and fifty million dollars annually. I assume that the advocates of this bill desire to revise the tariff by increasing the existing rates of duties, and their theories lead to the further conclusion that increased taxes or tariffs will produce increased revenue.

If I am wrong in this let any gentleman on the other side of the House correct me. There is already a bill largely increasing certain duties, which has received the approval of a majority of the Committee on Ways and Means, introduced by the gentleman from Ohio, [Mr. MCKINLEY,] the passage of which, I understand from the gentleman's speech, is to be pressed at this session.

Mr. KELLEY. Is it not the gentleman's theory, and that of free-traders generally, that to reduce duties on imports would increase importations and consequently increase revenues?

Mr. SPRINGER. I will answer by asking whether that is the gentleman's theory?

Mr. KELLEY. No, sir. It is my theory to this extent, that at first importations are increased, and revenue also, and consequently this would not relieve the present exigency of which the gentleman complains; but ultimately by destroying the earnings and consumptive power of our producing classes, importations fall off, revenue shrinks, and the Government becomes bankrupt or presently insolvent.

Mr. SPRINGER. I will let the gentleman's answer stand for his view of the question. I will answer for myself further on in my argument.

THE SURPLUS IN THE TREASURY.

The surplus revenues of the Government now amount to about $3 a head for every man, woman, and child in the country. The amount of such surplus revenue for each Congressional district is over $500,000 per annum. Every family of five persons is required by existing laws to pay to the General Government about $15 a year beyond the necessities of the Government, and this, too, in addition to the revenue necessary for its support, and all State, county, and local taxation.

The Secretary of the Treasury in his last annual report estimates the revenues for the present fiscal year at $400,000,000. This fiscal year will close June 30, 1882, and hence the whole amount of this vast sum will soon have been collected. This will amount to an average tax on the people of each Congressional district of $1,365,000 for this year for the support of the General Government in addition to all direct taxes imposed under State authority. This Federal taxation amounts to $8 a head to the whole fifty millions of population. A man who has a wife and three children, the average family, is required to pay under existing laws, and does pay through the articles which he consumes, $40 a year for the support of the General Government.

Mark you, the General Government does not levy its taxes upon the principle that every person should pay according to his abilities to pay. Adam Smith over a hundred years ago laid down the following maxim for equal taxation:

> The subjects of every State ought to contribute to the support of the Government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the State.

Our State governments have adopted as nearly as possible this maxim in levying taxes for State, county, and local purposes. But the Federal system of taxation is based solely upon consumption. The poor man pays in proportion to what he eats and wears. The rich do the same. If the tastes and comforts of life of all the people were the same, Federal taxes would fall upon all exactly alike. The tax would then practically be so much per capita.

As it is, the difference between the amount of Federal taxes paid by the poor and the rich is exactly in proportion to their respective consumption of the necessaries and luxuries of life, and not in proportion to their abilities to pay.

These considerations will remind the people how nearly equal per capita the burdens of the Federal Government are imposed upon them. A tax which requires the average family to pay $40 a year is too onerous to be borne without serious results to the country. According to the census report for 1880 on the iron and steel industry, the average wages of skilled and unskilled laborers in that branch of business was $393.51. These wages are perhaps higher than paid in any other branch of industry. To require each laborer having a family of five persons to pay $40 is to exact more than a tithe of all he earns for the support of the General Government.

Do the advocates of the tariff-commission bill desire to continue these burdens on the people by postponing action; and when the commission finally reports will they advocate increased burdens? These are important questions which I would like to have answered.

It seems to me that a hundred and fifty millions of surplus revenues, a Treasury already overburdened with taxes wrung from labor and present depression in manufacturing and other business interests, should admonish the majority in Congress that the immediate reduction of taxation is imperatively demanded.

A measure of relief and reduction of taxes should have been passed ere this. Congress has been in session about five months, and little or nothing has been accomplished. No committee has as yet reported a bill to reduce taxation. And the pending bill postpones the subject until next December in order to get the facts.

Sir, we have facts enough before us to enable us to reduce taxation. Delay means to continue existing burdens which ought to have been reduced months ago.

Speaking of the onerous taxation now borne by the people, the Secretary of the Treasury, Mr. Folger, used the following language in his message to Congress last December:

> The result upon the public revenue is to embarrass this Department in disposing of the surplus in a lawful way and with regard to economy.

And further:

> Meanwhile the daily receipts from the community by the Treasury continue, the surplus over its needs increases, and money lies idle. It seems that the plan most just for giving relief is to reduce taxation, and thereby diminish receipts and surplus. (Executive Document No. 2, page 18.)

How has this wise and timely recommendation of Secretary Folger been met by his party in Congress?

The Republican caucus has resolved not to reduce or abolish taxes on whisky or tobacco, and the Committee on Ways and Means of this House have stricken out of their committee bill the clause requiring the investigation and revision of "the existing system of internal-revenue laws," and have embodied their declared policy in a bill to refer the tariff question to a commission of nine civilian experts, to report next December. To report what? Merely the facts upon which there may be based hereafter, no one knows when, a revision of the customs duties.

The Secretary of the Treasury informs Congress that the surplus revenues embarrass the Government, and the money lies idle in the Treasury. He recommends the reduction of taxation. The growing business depression in the country, the strikes which are every day announced, the closing of many great manufacturing establishments, and the reduction of the days and hours of labor, all remind us that the best interests of the country demand the immediate reduction of Federal taxation. But the dominant party in Congress confesses its inability to afford relief; it asks time to consider; it wants more facts, greater delay, more surplus revenue, more idle funds in the Treasury, and continued burdens upon the people.

REVISION OF TARIFF DEMANDED.

In view of the present condition of the Treasury, its surplus revenues, the enormous burden of Federal taxation, and the depressed condition of many of the business interests of the country, I am in favor of a revision of the tariff and the internal-revenue laws; not next winter, or next year, or by the next Congress, but now, at this session. The Committee on Ways and Means should have reported a revised tax bill two months ago, instead of the pending bill to create a roving commission to gather facts and report next December.

Why has not this committee reported a bill to reduce taxes? I will let the honorable gentleman from Iowa, [Mr. KASSON,] who has reported this bill as the organ of the Committee on Ways and Means, answer this question. I am afraid I might do him and the committee injustice if I should undertake to formulate their excuse in my own language.

THE SUBJECT TOO VAST FOR THE COMMITTEE.

The honorable gentleman, in his speech in this House on the 28th of last March, explaining why the Committee on Ways and Means

had not reported a bill for the revision of the tariff in the ordinary way, said:

It has become too vast a subject for any committee to grasp in the ordinary course of business. Your Committee on Ways and Means, chiefly composed of politicians, does not win the confidence of the country in dealing with exclusively business interests.

I venture to say that not a tariff bill could be presented here by any number of men upon this floor now getting together and preparing such a bill that would not call forth complaints of the country that some interest had been omitted, injuriously affected, others destroyed, and still others unduly benefited. That would be inevitable, because the information we get in ordinary forms is partial and the result of personal interests in contradistinction to national interests.

What would you gain if, as proposed by some gentlemen, we should combine with this expert commission, so called, a representation of the Senate and the House, having three members of the House, two Senators, and four civilians? The same objections exist, because the majority of the elements of the commission would be subject to the same prejudices and the same political influences as our own committees are here, and their action would not advance us a step in the revision beyond that of the civilian commission.

An additional reason for our objection to both the first and the second methods which I have named is this: our Congressional election comes off this year. How many members of this House are willing to devote their entire time from now till December next in the pursuit of these inquiries? How cool and persistent would they be in that pursuit during an exciting electoral contest involving their own political fortunes? Sir, every day of the vacation is required for the commission to reach results. Your Committee on Ways and Means—and I should have given this reason before—devotes an hour and a half twice a week, or three hours a week, to the consideration of this question. Suppose they devoted the same time each day for six days in the week to this sole work, that would be but nine hours a week for this far-reaching investigation.

This is a most remarkable statement, or series of statements. When our fathers adopted the Constitution of the United States they provided (article 1, section 7, clause 1) that "all bills for raising revenue shall originate in the House of Representatives." But they never anticipated such a decline in public intelligence as would result in the election of a House of Representatives incapable of originating a revenue bill "in the ordinary course of business." If, in the heat of debate, I had ever been betrayed into making so serious a charge against the Republican majority in this Congress, I would have taken the first opportunity thereafter to make a public retraction.

In all probability my words "would have been taken down," or the Speaker, in his zeal to preserve order, might have "named" me—whatever that may imply! At least I should have fully expected to have been called to order by some member on the other side, who would have hurled back upon me the offensive language, denied indignantly the allegation, and defied the allegator.

The honorable gentleman from Kentucky [Mr. MCKENZIE] took occasion to criticise rather sarcastically the Committee on Ways and Means in his speech in this House a few days ago. I confess that I thought the gentleman bore down on the committee too severely. But he was mild, and in fact complimentary to the committee, compared with the assault made upon it by its own organ. The gentleman from Iowa says the Committee on Ways and Means is "chiefly composed of politicians."

I never would have believed it had not the honorable gentleman himself, in his official utterance, so frankly confessed it.

"For he himself has said it!" Will any other member of that honorable committee make the humiliating confession?

Chiefly composed of politicians! I thought the committee was composed of statesmen, any one of whom could originate a revenue bill in less time than it requires to prepare a speech on the tariff.

The other excuses offered by the honorable gentleman may be satisfactory to him and to the Committee on Ways and Means, but will hardly be to the country. "Our Congressional elections come off this year." It is more important to look after "their own political fortunes" than to relieve the enormous burdens of taxation from the people. But the concluding reason for a tariff commission, the one which the honorable gentleman apologized for withholding so long, is the most remarkable of all. He says: "Your Committee on Ways and Means devotes an hour and a half twice a week, or three hours a week, to the consideration of this question!"

Is that all? No wonder nothing has been done. Three hours a week to this "far-reaching investigation." That will be news to their constituents, who have supposed that their faithful Representatives were here consuming midnight oil, devising measures for their relief, and were spending their days defying the malaria of Washington and fighting wicked Democrats. Not so. This committee is "chiefly composed of politicians," who devote three hours a week to the great and far-reaching tariff question, and then, finding the subject too vast to grasp, "in the ordinary course of business," bring in a bill to authorize the appointment of nine civilian experts "to grasp" the subject for them.

But suppose this bill should pass, the nine civilian experts appointed and started on their search for facts. They will have a messenger to run down witnesses and a stenographer to take down the questions and answers, and the Public Printing Office in which to print them. They will go to Philadelphia, to New York, to Lowell, to Lynn, to Boston, Pittsburgh, Chicago, and Cincinnati, and perhaps to Georgia, for I understand that "there are some important iron interests in Georgia."

When Congress reassembles next December, and the Ways and Means Committee, fresh from "an exciting electoral contest, involving their own political fortunes," shall have returned to their elegant quarters in the committee-room, they will find piled up on their long table the facts collected by this roving commission, printed in the best style of the Government Printing Office, together with the full reports of the tenth census, covering 18,000 printed quarto pages and waiting to be "grasped" by the politicians, who chiefly compose the committee, chiefly referring, of course, to the majority of the committee. When the "grasping" of those stubborn facts begins, "in the ordinary course of business," and the committee "devotes an hour and a half twice a week or three hours a week to the consideration of this question," what will be the probable length of time required by them to complete this far-reaching investigation? The session will last but three months. In twelve weeks after we reassemble in December next our legislative days as members of the Forty-seventh Congress will have been numbered. At the end of that time the Committee on Ways and Means will have spent just thirty-six hours in "grasping" the facts in this "far-reaching investigation," that is if they proceed "in the ordinary course of business," and I presume the usual programme will be pursued. It would be taxing our credulity too severely to ask us to suppose for one moment that a tariff bill would be evolved, reported, and passed during these thirty-six hours which the Committee on Ways and Means could devote to the subject during the short session of this Congress.

Mr. Chairman, do you not now begin to "grasp" this far-reaching investigation? It is certain to reach far beyond the official life-time of this Congress. I may therefore be permitted to suggest the following as the proper title of this bill, namely: "A bill to indefinitely postpone the revision of the question of the tariff." And as the subject must go over to be dealt with by the next Congress, I trust that the people, in the election of our successors, will keep in view the fact that those who urge the reference of the tariff question to a commission acknowledge their inability to originate revenue bills, and will send as their successors gentlemen who can and will perform their duties under the Constitution.

COMPOSITION OF THE COMMISSION.

If we must have a commission appointed by the President, I shall insist that its members should represent as equally as possible all the great interests of the country.

Section 1 of the bill provides for a commission, to be called the tariff commission, to consist of nine members; and section 2 provides that they shall be appointed by the President, by and with the advice and consent of the Senate, from civil life, and shall receive for their services $10 per day while engaged in active duty, and their actual traveling and other necessary expenses. They shall have power to employ a stenographer and a messenger.

Section 3 is as follows:

SEC. 3. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff, or a revision of the existing tariff, upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission, in the prosecution of its inquiries, is empowered to visit such different portions and sections of the country as it may deem advisable.

I concede that all these interests should be fairly considered, and in order that they may be fairly considered they should be fairly represented on the commission. This representation should be, as far as possible, in accordance with the number of persons engaged in each interest and the importance of such interest. I would therefore suggest the following amendment to the bill:

The President shall appoint as members of said commission well recognized representatives of the various interests of the country as follows:

Four commissioners to represent agricultural interests.

One commissioner to represent the persons employed in the building and operating of railroads.

One commissioner to represent the persons employed in the manufacture of iron and steel and of cotton and woolen goods.

One commissioner to represent the manufacturers of such goods.

One commissioner to represent the persons employed in other mechanical occupations.

One commissioner to represent the manufacturers of agricultural implements, stoves, and the various kinds of machinery.

I have put the agricultural interests down as entitled to four members of the commission. In this connection I call attention to the most reliable data that I can procure. The Commissioner of the Census at my request has furnished me the information contained in the following letters:

OCCUPATIONS OF THE UNITED STATES 1870–'80.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., April 12, 1882.

SIR: Your letter of the 10th instant is received. In reply I beg to state as follows, namely: number of persons engaged in the railroad business, 403,153; number of hands employed in the manufacture of agricultural implements, 49,180; lumber, sawed, 225,288; iron and steel, 140,978; cotton goods, (including the administrative force,) 187,714; woolen goods, 86,448; carpets, 20,437; felt goods, 1,524; worsted goods, 18,803; wool hats, 5,446; hosiery and knit goods, 28,804.

The above figures represent the greatest number of hands employed at any one time during the census year. They are preliminary figures, however, and still subject to such revision as the office may deem necessary by reason of the receipt

of additional information. I regret to be unable at the present time to give you the figures requested for the other industries, as they have not yet been compiled.

Very respectfully,

C. W. SEATON,
Superintendent of Census.

Hon. W. M. SPRINGER, *M. C.*,
House of Representatives.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., April 19, 1882.

SIR: In compliance with your verbal request I have the honor to submit the following estimate of the increase since 1870 in the number of persons engaged in occupations classed under the four general heads of agriculture, professions and professional services, trade and transportation, and manufactures, mechanical and mining industries:

Classes of occupations.	1870.	1880, (estimated.)
Agriculture	5,922,471	7,699,212
Professions and professional services	2,684,793	3,490,230
Trade and transportation	1,191,238	1,548,609
Manufactures, mechanical and mining industries	2,707,421	3,519,647
All occupations	12,505,923	16,257,698

The above estimate is based on the ratio of increase in the total population of the United States as returned at the census of 1880 over that of 1870, applied to the number of persons engaged in each of the four general classes of occupations, as obtained from the census report of 1870.

Very respectfully,

C. W. SEATON,
Superintendent of Census.

Hon. W. M. SPRINGER,
United States House of Representatives.

AGRICULTURAL INTERESTS.

From the foregoing letters it will be seen that the persons engaged in agriculture number nearly one-half of all the occupations of the country. It is therefore only fair that they should have four representatives of their interests on the commission. I wish to call special attention to the interests which the farmers and producers of the country have in the revision and reduction of the tariff.

As I have suggested, the persons engaged in agricultural occupations number nearly one-half of all engaged in industrial pursuits, and these persons represent nearly one-half of the whole population. They contribute over 80 per cent. of all our exports, as will appear by the following table taken from the last annual report of the Chief of the Bureau of Statistics for 1881, page 41:

Values of exports from the United States of domestic merchandise, and of the exports of the products of agriculture, and the percentage which the exports of such products bear to the total value of exports of domestic merchandise, for the years mentioned.

Year ended June 30—	Value of exports of domestic merchandise.	Value of exports of products of domestic agriculture.	Per cent. of products of agriculture.
	Dollars.	*Dollars.*	*Per ct.*
1870	455,208,341	361,188,483	79.34
1871	478,115,292	368,466,011	77.07
1872	476,421,478	368,796,625	77.41
1873	575,227,017	446,900,004	77.69
1874	633,339,368	501,371,501	79.16
1875	559,237,638	430,306,570	76.95
1876	594,917,715	456,113,515	76.67
1877	632,980,854	459,734,148	72.63
1878	695,749,930	536,192,873	77.07
1879	699,538,742	546,476,703	78.12
1880	823,946,353	683,010,976	82.90
1881	883,925,947	729,650,016	82.55

The importance of these statistics cannot be overestimated. Large as these exports are, they bear a small proportion to the value of the total productions of agriculture. The cereal productions for the year 1879, compiled from the census of 1880, were as follows:

Indian corn	bushels	1,754,861,535
Wheat	bushels	459,479,505
Oats	bushels	407,858,999
Barley	bushels	44,113,495
Rye	bushels	19,831,595
Cotton	bales	5,737,257
Tobacco	pounds	472,661,159

The foregoing represents only the leading products of the farm. The average value of the crop of Indian corn for the past ten years has been over $500,000,000 each year, or over $5,000,000,000 for the ten years. The aggregate value of the wheat produced during the past ten years was $3,774,000,000, or $377,400,000 per annum. Oats, $1,110,000,000 for ten years, or $111,000,000 per annum. The barley produced was worth $24,000,000 a year; rye, $12,000,000; buckwheat, nearly $7,000,000; potatoes, $73,000,000; hay, $330,000,000; cotton, $240,000,000, and tobacco, $22,000,000.

Mr. ATKINS. As the gentleman is alluding to the value of the wheat crop of the United States and the number of bushels raised annually, it might be well to inquire what number of bushels was consumed by the manufacturing States proper, to wit, the New England States, New York, Pennsylvania, and Ohio, over and above their own product in 1881.

Mr. SPRINGER. My attention has not been directed especially to that fact.

Mr. ATKINS. The nine States mentioned, in 1881, raised 80,192,904 bushels, and at the rate of five bushels per capita of the population, those nine States lacked only about 10,000,000 of bushels of raising enough to supply their own demands. Thus showing that the farmers of the West, in the great wheat-growing sections of the country, found scarcely any home market whatever for their large surplus of wheat.

Mr. SPRINGER. I thank my distinguished friend from Tennessee for the valuable statement which he has made.

In Mr. Spofford's valuable almanac for 1882, page 32, will be found a table showing the leading agricultural crops in Europe and in the United States. From this table it will appear that the United States produced more wheat than Russia, France, or any other government in the world. Of course our country is unrivaled in the production of Indian corn, there being no other country in which this valuable cereal is produced to any considerable extent. In many other of the cereals the United States holds a leading rank with the agricultural products of other countries of the world.

THE RESOURCES OF ILLINOIS.

To the wealth of the country the great State of Illinois, which I have the honor in part to represent, largely contributes. In 1879 Illinois produced 325,000,000 bushels of Indian corn, 51,000,000 bushels of wheat, and 63,000,000 bushels of oats. In all of these products that State produced more than any other State in the Union. In this connection I may be pardoned for reading a few extracts from the recent work on "The West," by Mr. Robert P. Porter, special agent of the tenth census, page 177. The facts stated by Mr. Porter are based upon the statistics obtained from the tenth census, (1880,) and the references to Illinois are principally from the reports of the State board of agriculture. Mr. Porter says:

The total values of the farm products of such a State as Illinois in a single year scale up into numbers that are really grand. According to the estimate of Secretary Fisher, of the State board of agriculture, the corn, wheat, oats, rye, and barley produced in 1880 reached a total of 373,649,888 bushels, worth $145,186,736; the hay and potatoes were valued at $26,278,039 more; the orchard products at $8,176,480; the horses, cattle, sheep, and hogs at $50,182,654, and the dairy products at $27,000,000. Adding $6,000,000 for poultry and eggs, $450,000 for honey and wax, and about $6,000,000 for the buckwheat, hemp, flax, broom-corn, tobacco, sorghum, grass seeds, beans, peas, roots, and other farm and garden produce, covering fully 500,000 acres, we have a grand total of more than $269,000,000, gold, as the value of the farm products of Illinois in 1880.

On page 178 Mr. Porter further says, in regard to the resources of Illinois:

But, great as is the magnitude of this State's agricultural interests, they are now rivaled by its manufactures and commerce. The rate at which these have developed has of late even outstripped the increase of its farm products. Geographically and geologically considered, the State is most favorably situated for the indefinite continuance of this rapid industrial and commercial growth. In addition to its inexhaustible coal beds and the abundant crude materials of its own forests, fields, and mines, it possesses unrivaled advantages in geographical position and natural and artificial means of transportation for obtaining the rich iron, copper, lead, and silver ores of Michigan, Missouri, and Colorado, and the forest products of Michigan, Wisconsin, and Indiana; it has the grain and other farm products to feed the workmen while they are manufacturing these materials, and it has the same means of transportation, together with the mercantile capital and combinations for distributing the manufactured goods.

No revelation of the census of 1880 will more strikingly impress the nation at large than the evidence of the westward migration of certain great industries, to which I give special consideration in another chapter. As shown there, Illinois has taken the lead in the manufacture of farm implements, in distilling, and in certain other lines of production, and is following close after the old-time leaders of the Eastern States, in rolled, wrought, and cast iron. She now stands next to Pennsylvania in the number and product of her Bessemer steel establishments. Of every 100,000 rails of all kinds manufactured in the United States in 1878, Pennsylvania made 46,026; Illinois, 22,226; Ohio, 9,915; Wisconsin, 3,274; Indiana, 3,274; Kansas, 1,437; Colorado, 181; while Missouri (standing nineteenth) made but 41, and Michigan (twenty-first) but 1.

In slaughtering and pork-packing her pre-eminence is beyond all comparison, the product of Chicago alone aggregating last year more than $81,000,000 in value. Men's clothing manufactured in Chicago exceeded $17,000,000, besides men's furnishing goods, hats, caps, and furs, boots and shoes, and millinery and ladies' wear, swelling the total to $30,000,000. Bridges, cars, and railway stock manufactured and repaired overran $8,000,000. Iron, rolled, cast, and wrought in the city, exceeded $15,600,000; the furniture, planing-mill, carriage, coopering, and other wood-working establishments, turned out products worth more than $21,000,000; while tanning and currying, and three other lines of factory work not hitherto named, each produced goods worth from five to six million dollars.

Mr. Porter then proceeds to point out in detail the many great industrial and agricultural interests in the State of Illinois.

Mr. Porter closes his chapter on Illinois with the following paragraph:

Nor can the people of Illinois rest until the union of the Mississippi and the great lakes is perfected at the wharves of Chicago. Even now a convention is called to adopt means to this end without delay. Considering that the State is now virtually out of debt; that the expenses of the State government are, for the most part, permanently provided for from this time forward out of its share of the earnings of the Illinois Central Railroad; that public buildings, bridges, roads, and other improvements of over $50,000,000 in value, have been constructed, and the local indebtedness incurred for the last of these has been largely reduced, while a constitutional provision interdicts excessive municipal debt-making in future; that, while the

products of the field rapidly increased the products of the factories of Illinois more than doubled between the beginning of 1870 and the close of 1880; that the ratio of home capital in all kinds of enterprises was enormously augmented, while foreign capital poured in much more rapidly than ever before; that commerce outran all previous records by hundreds of millions; that all who seek employment here find it; and that all the potent forces described above are ceaselessly at work to extend and multiply the achievements and accumulations of the past—it would be presumption in any one to undertake to say what the history of Illinois for the next ten years may bring forth. It is impossible, however, to suppress expectation of a growth of grand proportions; a growth more remarkable, if possible, than anything in the past, however much like a magician's tale this would sound in any other age than ours, or in any other region than the West.

In view of these glowing yet truthful accounts of the resources, present and prospective, of the great State of Illinois, it is scarcely necessary for me to add anything further on the subject. But I may be permitted to say that the author has not overstated the facts. If those living amid the barren hills of Pennsylvania or struggling with the sterile soils of New England for a meager support would visit the State of Illinois and see for themselves the wonderful richness of her soil, experience the salubrity of her climate, and learn the vast and incomparable advantages of her location for the building up of great manufacturing industries, they would at once quit their present abodes and take up their habitation in the midst of this great empire of the West.

TARIFFS AND AGRICULTURE.

In view of the great resources and interests of the State which I have the honor in part to represent, I may be pardoned for considering the effects of the present tariff laws upon agriculture. It is well known that our tariff laws furnish no protection whatever to agriculturists, notwithstanding the statement to the contrary by the honorable gentleman from Ohio [Mr. MCKINLEY] in his speech in this House on the 12th of April, and printed on page 6 of the RECORD of that day. That gentleman says:

> They talk about the farmer not being protected. Why, sir, he is protected in nearly everything he grows or raises, and protected just as much as he wants to be, just as much as he asks to be. He is protected in his horned cattle, in his hogs, in his sheep, in his bacon, in his hams, in his cheese, in his pork, in his corn, in his wheat, in his cotton, his tobacco, his sugar, and his wool.

I am surprised that such a statement should have been made by a gentleman who is a member of the Committee on Ways and Means.

He then proceeds to specify the rates of duty imposed by the tariff law upon the various products of the farmer which he has mentioned. Hogs, horned cattle, &c., 10 per cent.; bacon and ham, two cents per pound, &c., throughout the list. This statement of the honorable gentleman is calculated to deceive, and does deceive all who are not better informed upon the subject than he is. He must have known that his statement which I have quoted was calculated to deceive. Except on the articles of sugar and wool, the products of the farm above mentioned are not protected by the operations of the tariff laws. It is true that the rates are levied in the law as he states, but he knows and the statistics show that the amount of such products imported into the country and the duties collected upon them are insignificant, and furnish no protection whatever to the producers thereof.

Mr. ROBERTSON. Do I understand the gentleman from Illinois to say that the sugar interests of this country are protected by the tariff?

Mr. SPRINGER. By the terms of the law.

Mr. ROBERTSON. The gentleman is entirely mistaken. The sugar interests of the country are not protected by the law. The refiners of sugar get all the benefit.

Mr. SPRINGER. Two and a half cents a pound ought to furnish some protection to the producers of sugar. But the gentleman from Louisiana ought to know better than I do what the practical workings of the tariff on sugar are. I will not take issue with him.

I call the attention of the committee and that of the country to the reports of the Chief of the Bureau of Statistics upon this subject.

Mr. Nimmo's report on imported merchandise entered for consumption in the United States for the year ending June 30, 1881, page 11, shows the amount of duty collected upon the various articles imported into this country. From this table it will be seen that the whole amount of duty collected upon cattle was $76,000 for the year ending June 30, 1881; on hogs, $766; on horses, $100,000, and on sheep, $194,000, and on all other animals not specified, $7,000. The tariff on horses and sheep is no protection to the farmer, but, on the contrary, a burden upon him, the horses and sheep imported not coming here to compete in the markets with our own, but being generally imported by farmers and stock-raisers for their own use. There is a considerable importation of barley, owing to its being brought from Canada, to be used in the manufacture of beer; but even on this article less than a million and a half dollars of duty was collected for the year mentioned.

The duty collected on Indian corn was only $7,516.20, and on cornmeal, $71.93. On oats the duty collected was $6,500, and on oatmeal, $4,500. The duty collected on rye was $702; on wheat, $2,116, and wheat flour, $512. Imported bacon and hams paid a duty of $1,548, and imported beef a duty of $1,640; imported butter, a duty of $9,500, and cheese, $146,000. Imported pork paid a duty of $286, and so on throughout the list. Such are the duties collected on the products of the farm, and which the gentleman from Ohio paraded with such assurance. He knows perfectly well that no matter what the duty imposed by law should be upon agricultural products, except wool, sugar, and barley, such duties would not affect the outward movement or exports of the vast products of the farms of the country.

When a government like ours is in a condition to export each year agricultural products to the amount of $729,000,000, as was done in 1881, being 82 per cent. of the entire exports of the country, and when, at the same time, the amount of agricultural products imported into this country was so inconsiderable as scarcely to be worth mentioning, except upon sugar, wool, and barley, the items which I have indicated, what importance is to be placed upon tariffs purporting to protect our farmers from competition with the products of the farms of other countries? It is time all this talk about farmers being protected in their products ceased. There is no foundation whatever for the assertion, except the statute which proposed to collect duties upon products, which, we all know, do not come in as imports, but which in immense volume go out, forming the great part of our export interest.

The American farmer must sell his surplus products at prices fixed in Liverpool in competition with the products of the pauper labor of Europe. The price, not only of the surplus which is exported but that which is consumed at home, is fixed by the export price. The manufacturer of New England pays the Illinois farmer no more for his corn, breadstuffs, and provisions than do the manufacturers of England, of France, or of Canada. If the Canadian manufacturer were permitted to trade freely with the Illinois farmer he would pay him two yards of cloth for a bushel of wheat, while the manufacturer of Massachusetts or Rhode Island only pays him, under the operation of this protective tariff, one yard of the same quality of cloth for the same bushel of wheat.

In this way is the Illinois farmer protected. It will not satisfy the American farmer to tell him that the protective tariff will build up for him a home market; a home market will not answer all of his purposes. The farmers of the country can supply the home market, and do supply it, and, at the same time, send abroad $729,000,000 of their products, being 82 per cent. of all exports, furnishing business for ships upon the seas and funds in Europe with which to pay for the immense amount of products of other countries which annually flow into our ports.

TWO COINCIDENCES OF AGRICULTURAL PROSPERITY.

The great prosperity which farmers enjoyed during the past two or three years has been frequently referred to as an evidence of their flourishing condition under the operation of a protective tariff. In this debate statistics have been produced to show how prosperous the farmer was and how much he owed to a protective tariff which furnished him no protection whatever. The great prosperity which the farmers enjoyed during the past three or four years resulted from two coincidences which rarely happen at the same time to any branch of industry. A recent article in the Mercantile News, of New York, explains these two coincidences. They were, first, abundant crops with liberal surplus to sell, a strong foreign market resulting from scarcity abroad and enabling him to command high prices for all his products; and, secondly, there was a state of domestic trade at home which enabled him to produce his harvests at the least cost, buying cheaply not only the implements he requires but supplies of every kind necessary for the maintenance of his farm and the support of his family. The article referred to says:

> It may be thought that such a condition of circumstances as this requires so many fortunate accidents as to be simply impossible. It is in truth anomalous and exceptional, and has happened only once in the whole history of our nation; that one incident of its occurrence covering a period of several years from its inception to its termination, we have recently beheld; and it will be long, we fear, before we shall look upon its like again.

The article then proceeds to point out the range of prices which the farmer was enabled to realize upon his products beginning in 1875 and continuing to 1880. It shows that the prices were not extraordinarily high, yet taken in connection with the volume of the export trade and other circumstances, they were an index of enormous revenues. From the exhibits produced it was shown:

> First, as to the prices which the farmers of the United States received for their products during the year succeeding the panic; and secondly, as to the prices at which they were able to buy the articles required for their use by the enhancement on one side and the depression on the other, both of which were directly in their favor, they enjoyed an advantage equivalent to from 10 to 20 per cent. on the aggregate of their production. For a series of years, during which they were benefited no less by the deficient harvests in Europe than by the abundance of their own, they had the peculiar and enviable luxury of buying in a cheap and selling in a dear market.

The value of the total product of this country of cereal grains, potatoes, tobacco, hay, and cotton for the year 1875 is stated in this article at $1,740,000,000. For the year 1880 it is reported in round numbers for all classes of agricultural products at $2,500,000,000. The average annual production between these years is placed at $2,000,000,000 or $12,000,000,000 for the period of six years. The article says further:

> This was the genesis of the boom. In this phenomenal order of things it had its birth and grew in stature and potency until it lifted all the industrial, commercial, and monetary interests of the country out of the demoralized state into which they had fallen.

And, again:

Such were the fruits of a singular and fortunate convergence of influences which may not repeat itself in our history in the life-time of the youngest reader of this journal. That our commercial and industrial affairs should be so ordered that we can sell at high prices and buy at low, with an assured market for our surplus products, an active foreign and domestic trade, a transportation system of which no enlargement seems too great for the demand upon its capacity to supply the world, and gathering its wealth into our coffers, and thus realizing alike the fondest dream of the patriot and the wisest scheme of the political economist, is a strange and happy coincidence which we may be thankful to have witnessed, but of which we can scarcely hope for a renewal.

From these facts it will be seen that so far from protective tariffs having benefited the American farmer during the last four or five years, he has prospered in spite of the tariffs, and the agricultural productions, enhanced and made profitable by the coincidences which I have mentioned, not only enriched the farmer for the time but also lifted the manufacturing interests from the disasters which had come upon them, and which a protective tariff could not avert, and caused them to flourish and also gave life and vigor to all the other interests of the country. The agriculturists of the country, with their great and unparalleled products, relieved the distresses of the crisis which 1873 produced, lifted our distressed and protected manufacturing interests out of their embarrassments, and placed the whole country again upon the high road to prosperity. During these years, the farmer enjoyed precisely the conditions which commercial freedom offers to him, namely, an enlarged market in which to sell his products and a cheap market in which to buy the articles which he needs.

THE GERMAN PROTECTIVE TARIFF.

The example of Germany as one of the governments which has adopted the protective system has been frequently referred to in this debate. The first uniform tariff law passed by Germany was in October, 1870. It was amended in 1873 and superseded by the law of July 15, 1879—the law now in force—which law took effect January 1, 1880. The policy of Germany up to 1879 was virtually that of free trade. The acts of 1870 and 1873 placed such low duties on imported articles as scarcely to affect their prices. The law of 1879, which took effect January 1, 1880, is protective in its operation, and has changed radically the whole policy of Germany on this subject. But as the law was passed in the interest of certain powerful manufacturers, it avoided as far as possible tariffs on native products and raw materials.

Metals, (excepting iron,) raw skins, and hides; raw cotton, wool, and silk; coal, charcoal, and peat; pitch, tar, and animal oil, &c., are placed on the free list. Pig iron is taxed 1 mark per kilogram, or $2.37½ per ton; the duty on meats is $28.50 per ton; on preserved fruits, $142.50 per ton; on cheese, $56 per ton; on wheat and rye, $2.37½ per ton, and on flour $4.75 per ton; while the wearers of silk hats (stove-pipes) must pay $1,425 per ton, and the ladies who wear silk dresses must pay at the rate of $2,137.50 per ton for the luxury. Verily, the German law-makers have "sat down" on silk hats and silk dresses. The effect of these taxes upon provisions, breadstuffs, and other necessaries increased the price of living in Germany without any corresponding increase in wages. What has been the result in Germany? The friends of the measure have been disappointed at the unfavorable effects produced in that country.

Instead of increasing the wages of labor the protective tariff destroyed the demand for labor in many localities and largely increased the price of living. The reports of the German chambers of commerce for the year 1880 have been published, in which the effects of the tariff in many localities are pointed out. In Brandenburg the report is that the new law has been "absolutely ruinous to the local industry, which is cloth-making." I read from a summary of these reports published a few days ago in a New York paper: "At Sorau it is feared that the high duties on raw material will have an increasingly damaging effect on the linen manufacture, the chief industry of the place."

Insterburg, a frontier town of West Prussia, reports that the immediate effect of the new tariff has been to pauperize the population by destroying the trade across the border. Memel, Tilsit, and Königsburg make the same complaint, the latter in very bitter terms. As to the sea-port towns, Elbing reports that the wheat trade has been hurt, and no other branch of commerce is thriving; Stettin declares "the necessary result of the new regulations is a decline in trade;" and in Stratsund "the whole maritime population is suffering from continued and intensified depression."

The free cities of Hamburg and Bremen both speak in strong terms against the tariff; and in all Silesia only two little manufacturing towns are found to have a favorable opinion of the tariff. Breslau sees no good result from it, and Grünberg declares that "the only hope for trade lies in return to the customs policy of 1865, if only to relieve the pressure on the necessities of life."

All through Saxony the iron and machinery interest are "suffering under severe pressure." The reports from Altona and Bielefeld say that their industries find no increased home demand for their products, and they declare for "free trade with reciprocity." In Barmen and Elberfeld trade has "suffered severely," and Frankfort-on-the-Main makes a similarly unfavorable report. Zittau "has become convinced that the burden imposed by the new duties rest on German and not on foreign shoulders. In Stuttgart trade is as "stagnant as it has been for the last five years." Offenbach-on-the-Main says "the new tariff has pauperized the laboring classes," an evil which Mayence also deplores; while its chamber of commerce expresses the opinion that "the policy of abandoning the principles of free trade was based on an erroneous theory, and has not been attended with benefit to the general interests of the nation."

Such have been the effects of the establishment of a protective system in Germany. The already poorly paid laborer soon began to realize that the tariff which was enacted ostensibly to protect German labor was crushing out the laboring interests of the country. He found his income was inadequate to purchase the necessaries of life as heretofore. Increased cost of living without increased wages was just the same in effect as a reduction of the wages which were barely sufficient to support himself and family. Something must be done; starvation and want began to stare him in the face; his native country could no longer furnish him with the means of living, he turned his eyes toward America, and a stream of emigration set in to this country hitherto unparalleled in history. Behold the result. I produce herewith a statement prepared by the chief of the Bureau of Statistics of the number of emigrants arriving in this country from 1876 to the present time.

The following gives the number of immigrants arrived in the United States from Germany for each calendar year from 1876 to 1881, inclusive; also from January 1 to March 31, 1882:

1876	31,323
1877	27,419
1878	31,958
1879	43,531
1880	134,040
1881	249,572
January 1 to March 31, 1882	36,589

From this it will be seen that the German emigrants arriving in this country during the year 1876 amounted to only 31,000; and for the year 1879, immediately preceding the taking effect of the tariff law, the German emigrants arriving in this country were only 43,531. The protective-tariff law took effect January 1, 1880, and during that calendar year the stream of immigration swelled from 43,000 in 1879 to 134,040. But the full force and effect of a tariff to protect German laborers had not yet been realized. During the year 1881 the tide of immigration was swelled to the enormous figure of 249,572, being an increase of over 600 per cent. of the immigration of the year 1879, before the law took effect.

The increased immigration from Germany in two years over and above the ordinary immigration from that country has been about 300,000, and the cry is "still they come." The laborers, in whose interest this tariff law of Germany it was claimed was enacted, are fleeing from its effects as from a pestilence. All civilized nations of the world have united in the severest condemnation of the Government of Russia for permitting persecutions upon the Hebrews of that country, persecutions which have caused a large increase of immigration from Russia to this country. But that immigration, caused by the religious fanaticism and persecution which is so severely and justly condemned by all the enlightened governments of the world, is as nothing compared with the exodus from Germany produced by the imposition of a protective tariff.

This German protective tariff drives more German laborers from that country than the persecution of the wicked Russians drives Hebrews from Russia. It is worse than war, pestilence, and famine. It is driving Germans from the homes of their fathers, from their native land, by hundreds of thousands to seek remuneration for their toil and means of living in a new world. But the German laborers, deprived of adequate wages at home, may flee to the virgin fields of America and thus better their future condition. But the American laborer who is now inadequately paid under our protective policy has no place else to go. He must strike for higher wages or strike against threatened reductions of his pay; he must then be locked out, and at last be starved into submission, and forced to deprive himself of the luxuries and many of the necessaries of life.

Mr. KELLEY. Will the gentleman from Illinois permit a question here?

Mr. SPRINGER. Certainly.

Mr. KELLEY. Was not the protective tariff to which the gentleman refers passed in 1879, in mid-summer, after a period of free trade which had prostrated all German industry, a tariff which is not yet thirty months old?

Mr. SPRINGER. The law took effect the 1st of January, 1880, and the number of immigrants arriving in the United States has gone on constantly increasing until it was last year 249,000, because of the operations of that tariff. It drove immense numbers of laborers from their native country to this country.

Mr. HEWITT, of New York. Two thousand landed yesterday at Castle Garden.

Mr. SPRINGER. Yes, sir; as the gentleman from New York says, 2,000 landed at Castle Garden yesterday, and they will continue to come until Germany reverses this policy, or submits to the loss of a large and valuable part of her industrial population.

Mr. Chairman, I have prepared at considerable labor some statistics upon the subject of the

TARIFF ON WOOL.

In 1867 the wool-growers of the country and the manufacturers of woolen goods succeeded in inducing Congress to impose protective duties on the importation of foreign wools, and also to impose such additional duties upon importations of foreign woolen goods as would compensate them for the loss they would sustain by reason of the duties on the raw material. The tariff upon wool prior to 1867 had been fluctuating under various acts of Congress from 1824 to 1865. Some of these acts place the duties very low. From 1858 to 1861 wool costing 20 cents per pound or less was on the free list, and all other wools paid a duty of 24 per cent. ad valorem. From 1862 to 1864 the duty on wools costing 18 cents per pound and less was but 5 per cent. ad valorem; and over 18 cents and less than 24 cents it was 3 cents per pound; and over 24 cents per pound in price, 9 cents per pound in duty.

Between 1865 and 1866, the tariff on wool costing 12 cents per pound and less was 3 cents per pound, and costing over 12 cents up to 24 cents per pound the duty was 6 cents per pound, and between 24 cents per pound and 32 cents per pound the duty was 10 cents per pound and 10 per cent. ad valorem; and on all wools costing over 32 cents per pound the duty was 12 cents per pound and 10 per cent. ad valorem. The act of August 22, 1866, slightly changed these duties, but they remained substantially the same until the taking effect of the act of March 2, 1867, the law now in force. I will not recapitulate the various tariffs imposed by the act of 1867. The classification prepared for Government experts embraces one hundred and sixty-eight different standard samples of wool to be taxed under this law. The duties, however, vary from 18 to 110 per cent.

These burdens are very unequally distributed on the different classes of wool, carpet wools being taxed at the rate of from 18 to 39 per cent. ad valorem, while fine wool pays from 37 to 88 per cent. in the grease, and from 31 to 96 per cent. if washed, and from 73 to 110 per cent. if in scoured condition. It will be seen that the high tariff upon fine washed and scoured wools has had a marked effect upon the manufacture of woolen goods in this country, and has worked greatly to the injury of both the wool-growers and manufacturers, as will be seen as I proceed further.

The wool-growers felicitated themselves after the passage of the act of 1867 upon the success which had attended their efforts in securing a protective tariff on their product; but we will see how far their expectations have been realized. Their object in securing tariff legislation was to prevent foreign wools from competing with their products. They desired to practically exclude many classes of wool from our markets in order that they might receive greater prices for all they might raise. I shall be able to prove that, so far from realizing their expectations, the market has actually been depressed; that in the States east of the Mississippi and Missouri Rivers the number of sheep has vastly decreased, and that the price of wool has averaged less per pound since the high tariffs were imposed than prevailed previously under low tariffs.

The American wool-growers are not the only persons who have been disappointed in this respect, and our Government is not the only government that has imposed protective duties on wool at the instance of wool-growers to realize later that the object had in view was not only not accomplished but the opposite of public expectation occurred. The history of protective tariffs on wool in this country and in France and England shows how wrong in theory is the idea that tariffs of themselves control prices. Tariffs may contribute to raise or to lower, as other circumstances may contribute to produce results, but they are not the sole cause of high prices or low prices. It has frequently happened in the history of our country, and in the history of other countries, that protectionists have secured high tariffs on particular articles only to realize low prices at home for articles intended to be protected; while, on the other hand, free-traders hoping to secure low prices by taking off duties have been disappointed to find the prices higher after than before. I have the authority of Mr. Bastiat (Sophisms of Protection, page 211) for the following information in reference to protective tariffs on wool in France and in England:

Says Mr. Bastiat—

> For instance, in France, to protect the farmers, a law was passed imposing a duty of 22 per cent. upon imported wools, and the result has been that native wools have sold for much lower prices than before the passage of the law. In England a law in behalf of the consumers was passed exempting foreign wools from duty, and the consequence has been that native wools have sold higher than ever before.

History has repeated itself in the United States on this subject; and this leads us to consider how prices are affected by tariffs. The reason a protective tariff may result in diminishing the price of the home product is from the fact that while the supply may have diminished by cutting off the foreign importation of the raw material the embarrassment to manufacturers resulting from this may have caused a diminished demand; and if the demand should diminish in greater proportion than the supply should diminish the price would fall instead of increase. On this subject I may be permitted to quote again from Mr. Bastiat. He says:

> 1. Prices rise either on account of augmented demand or diminished supply.
> 2. They fall by reason of an augmentation of the supply or diminution of the demand.

There are two kinds of dearness and two kinds of cheapness. There is a bad dearness, which results from diminution of supply, for it implies scarcity and privation. There is a good dearness, that which results from an increase of demand, for this indicates the augmentation of general wealth.

There is also a good cheapness, resulting from abundance, and there is a baleful cheapness, such as results from the cessation of demand or the inability of consumers to purchase.—*Sophisms*, page 214.

Applying these general principles to the facts in relation to the wool interest of the United States the complications concerning the subject will be easily understood.

I have stated that since the passage of the protective tariff act of 1867 up to the present time, a period of fifteen years, the price of wool in this country has been less than it was for the fifteen years next preceding that time. This proposition is not left to conjecture or speculation. Fortunately for the position which I assume, the most accurate and reliable data upon this subject have been preserved, and herewith I present for careful examination the following statement furnished by the chief of the Bureau of Statistics of the Treasury Department.

Statement showing the average price of medium American washed clothing fleece wool from 1824 *to* 1881, *inclusive.*

[United States Economist and Dry Goods Reporter, January 31, 1880, data furnished by Mauger & Avery, 49 West Broadway, New York City.]

Year.	Average price.	Year.	Average price.
	Cents.		*Cents.*
1824	44¼	1853	33½
1825	42	1854	43
1826	39	1855	37½
1827	32¼	1856	45
1828	36	1857	46½
1829	36½	1858	36½
1830	45½	1859	47
1831	61½	1860	47½
1832	47¼	1861	38¼
1833	50¼	1862	50½
1834	54	1863	75½
1835	56½	1864	87½
1836	60½	1865	82
1837	50½	1866	63
1838	42	1867	50½
1839	49¼	1868	46
1840	41½	1869	49
1841	44½	1870	46½
1842	37½	1871	55
1843	30	1872	70½
1844	35¾	1873	55½
1845	37¼	1874	54½
1846	32½	1875	51¼
1847	40	1876	44
1848	34½	1877	42¾
1849	34½	1878	40½
1850	38½	1879	37½
1851	41½	1880	46
1852	38½	1881	40

JOSEPH NIMMO, JR.,
Chief of Bureau.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
February 3, 1882.

The average price for the fifteen years preceding 1867 was 52.8 cents per pound.

The average price for the fifteen years succeeding 1867 was 48.6 cents per pound.

From these figures I have prepared an average for the fifteen years preceding 1867, and find that the average price of wool during those years was 52.8 cents per pound, and for the succeeding fifteen years the average was only 48.6 cents per pound, showing a loss to the wool-grower of 4.2 cents per pound on every pound of wool grown from 1867 to 1881, a period of fifteen years. This is no small loss to the American wool-grower when we consider the value of the product of the wool in this country. I have before me a table published in the speech of the honorable gentleman from Ohio, [Mr. MCKINLEY,] which will be found in the CONGRESSIONAL RECORD of April 12, on page 10, showing the quantities of wool produced, exported, and retained for consumption in the United States from 1861 to 1881, inclusive.

From this table it will be seen that the whole amount of wool produced from 1867 to 1881 was 2,796,750,000 pounds, upon every pound of which the wool-grower has averaged a loss of 4.2 cents per pound. The average production for each year, according to this statement, would amount to 186,450,000 pounds, and the average annual loss would amount to $7,830,900, while the grand aggregate of fifteen years' loss to wool-growers by reason of a protective tariff, which was secured by their own efforts to better their condition, amounts to the immense sum of $117,463,500. But the injury was not confined to the loss on the price of wool produced. There has been a corresponding loss, and even greater loss, in all the States east of the Mississippi and Missouri Rivers on the number of sheep owned by the wool-growers, and also there has been great depression almost continually since 1867 among the wool-manufacturers

themselves, who then hoped to profit by this unholy alliance with the wool-growers for the bettering of their mutual interests.

I present herewith a statement of the number of sheep in the principal sheep-growing States east of the Mississippi and Missouri Rivers at stated periods between 1866 and 1880, the last column of figures having been taken from the census of 1880. This statement has been prepared from reliable statistics, and to it I call the special attention of the advocates of protective tariffs on wool:

Statement of the number of sheep in States named at the dates given below.

States.	February, 1866.	February, 1867.	February, 1869.	January, 1877.	January, 1878.	January, 1879.	Census, 1880. June 1.
Ohio	6,568,052	7,159,177	6,300,000	3,900,000	3,783,000	4,040,000	4,902,486
Michigan	3,473,075	4,028,767	3,553,371	2,100,000	1,750,000	1,820,000	2,189,389
Pennsylvania	3,230,440	3,456,568	3,045,581	1,607,000	1,607,000	1,666,000	1,776,598
New York	5,117,148	5,373,005	4,247,359	1,897,700	1,518,100	2,121,000	1,715,180
Indiana	2,783,367	3,033,870	2,622,780	1,175,000	1,092,700	1,039,500	1,100,511
Illinois	2,446,081	2,764,072	2,380,694	1,258,500	1,258,500	1,089,000	1,037,073
Wisconsin	1,260,900	1,664,338	1,749,104	1,151,100	1,323,700	1,313,000	1,336,807
Iowa	1,950,752	2,399,425	2,332,241	1,680,500	560,000	745,000	455,359
Totals	26,829,815	29,879,222	26,231,130	14,769,800	12,893,600	13,533,500	14,513,403

From this statement it will be seen that the total number of sheep in the States of Ohio, Michigan, Pennsylvania, New York, Indiana, Illinois, Wisconsin, and Iowa in 1867 was nearly 30,000,000. On March 2 of that year the present tariff law took effect. The number of sheep in the States named began to fall off as if visited by a pestilence. In 1869 the number was 26,000,000; in 1877 the number was less than 15,000,000; in 1878 less than 13,000,000; in 1879 13,500,000; and in 1880 only 14,500,000—being less than one-half of the number of sheep in the States named when the protective tariff on wool took effect. In this connection let me call the attention of the gentleman from Iowa [Mr. KASSON] to the effect produced upon his own State.

In 1867 there were 2,399,000 sheep in Iowa. The tariff law of that year struck the flocks of that State like a northern blizzard. At any rate the number of sheep has fallen off until, by the census of 1880, but 455,000 sheep remained to tell the story of the wrongs they have endured by reason of a protective tariff on wool. The gentleman from Iowa, [Mr. KASSON,] in the closing remarks of his speech upon this bill, grew eloquent in extolling the beauties of protective tariffs. He showed what great results they had accomplished, and pointed out how his ear had been charmed with "the hum of the spindle, the sharp ring of the anvil, the whistle of the plane, the crash of the great roller upon masses of iron and steel;" but he failed to state the effect of a protective tariff upon the sheep of the State which he has the honor in part to represent. His partiality for manufacturing interests and disregard of sheep husbandry remind me of the shepherd boy in the comic opera of Mascotte, wherein he sang: "You more than sheep I love;" and he might have added in his beautiful peroration that the music of the manufacturers' machinery was more fascinating to him than the plaintive "baa" of Iowa sheep, groaning under the burdens of a protective tariff.

It is true that there has been a large increase in the number of sheep grown in the States west of the Mississippi and Missouri Rivers. This is owing to the fact that Texas and California and other Western States and Territories have been found well adapted to the raising of sheep; but if you take the whole United States in 1867 you will find the number of sheep then in existence in the United States to have been 42,000,000. (See Agricultural Report for 1871, page 39.)

Between 1867 and the census of 1870 there was a decrease in the number of sheep in the whole country amounting to over 13,500,000. It is important to keep this fact in mind in comparing the census of 1870 with that of 1880. The whole number of sheep in the United States according to the census of 1870 was 28,477,951. In 1880 the whole number of sheep in the United States was 42,381,000, as will appear from the following letter from Mr. Seaton, Superintendent of Census, and the accompanying table. This letter, it will be seen, is addressed to the honorable gentleman from New York, [Mr. HEWITT,] to whom I am indebted for many of the statistics which I have submitted upon the subject of the tariff on wool:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., February 18, 1882.

DEAR SIR: In compliance with the request contained in your letter of the 6th instant, I have the honor to hand you herewith a table compiled from the agricultural schedules of the census of 1880, showing by States the number of sheep on farms on June 1, 1880. This does not include the "spring lambs," but is in fact the number of animals on farms from which fleeces were taken at the spring shearing of 1880. To obtain the total number of sheep in the country at date of the census it is necessary to add to these figures the number of sheep characterized as "ranch stock;" that is, the sheep on public or unoccupied lands, the enumeration of which could not well be made by the regular enumerators in the ordinary farm-to-farm method.

The statistics in regard to these animals have been gathered by a special agent, whose final report is not so far advanced as to enable me to give definite results. For the States of California, Oregon, Nevada, Texas, and Idaho Territory the compilation is complete, and the number to be added as ranch stock for those States is 5,439,733, and it is probable that New Mexico, Arizona, Utah, Montana, Colorado, and other grazing sections will show an additional increase above the numbers on farms of at least 1,750,000.

Making these additions, we have the following:

Enumerated on farms	35,191,656
Ranch sheep, (in five States)	5,439,733
Ranch sheep in other States and Territories, (estimated)	1,750,000
Total sheep at date of census	42,381,389

The delay, which I greatly regret, in replying to your letter has been due to the endeavor to render the estimate in regard to the numbers upon ranches as complete as possible.

Very respectfully,

C. W. SEATON,
Superintendent of Census.

Hon. ABRAM S. HEWITT, M. C.,
House of Representatives.

Sheep and wool at the tenth census of the United States; sheep on farms June 1, 1880, exclusive of spring lambs, (ranch stock not included.)

States and Territories.	Number of sheep.	Wool clip of 1880.*
		Pounds.
Total United States	35,191,656	155,684,834
Alabama	347,538	762,207
Arizona	76,524	313,698
Arkansas	246,757	557,368
California	4,152,349	16,798,036
Colorado	746,443	3,197,391
Connecticut	59,431	230,133
Dakota	30,244	157,025
Delaware	21,967	97,946
District of Columbia		
Florida	56,681	162,810
Georgia	527,589	1,289,560
Idaho	27,326	127,149
Illinois	1,037,073	6,095,056
Indiana	1,100,511	6,167,498
Iowa	455,359	2,971,975
Kansas	499,671	2,855,852
Kentucky	1,000,269	4,592,576
Louisiana	135,631	406,678
Maine	565,918	2,776,407
Maryland	171,184	850,084
Massachusetts	67,979	299,089
Michigan	2,189,389	11,858,497
Minnesota	267,598	1,352,124
Mississippi	287,694	734,643
Missouri	1,411,298	7,313,924
Montana	184,277	995,484
Nebraska	199,453	1,282,656
Nevada	133,695	655,012
New Hampshire	211,825	1,060,589
New Jersey	117,020	441,110
New Mexico	2,088,831	4,019,188
New York	1,715,180	8,827,195
North Carolina	461,638	917,756
Ohio	4,902,486	25,003,756
Oregon	1,083,162	5,718,524
Pennsylvania	1,776,598	8,470,273
Rhode Island	17,211	65,680
South Carolina	118,889	272,758
Tennessee	672,117	1,917,268
Texas	2,411,887	6,928,129
Utah	233,121	973,246
Vermont	439,870	2,555,113
Virginia	497,289	1,836,673
Washington	292,883	1,389,123
West Virginia	674,769	2,681,444
Wisconsin	1,336,807	7,016,491
Wyoming	140,225	691,650

* Ranch clip, fall clip of 1879, and "pulled wool" not included

It will be seen from these statistics that after fifteen years of protective tariffs on wool the number of sheep in the country is practically the same as it was when the law of 1867 was passed. While the population of the country has increased over 30 per cent. and railroads have penetrated all the Western States and Territories and immense agricultural interests have grown up everywhere, the number of sheep has not perceptibly increased. Contrast these facts with the sheep interests in Great Britain. I have the authority of the executive committee of the American Woolens and Wool Association for the statement that the whole number of sheep in Great Britain in 1866 was 25,795,000, in 1874 it was 35,000,000, an increase in eight years of 35 per cent. under absolute free trade in wool, and with an area no greater than some of our larger States.

I desire to explain as clearly as I am able to do the remarkable results following the passage of the protective tariff on wool in 1867. I know that protectionists are slow to believe facts so unwelcome to them as those which I have presented, but facts are facts and must be accepted as true. These facts are consistent with all other facts which have taken place since the passage of the act of 1867. I have stated that prices are sometimes affected by other causes than by the imposition of customs duties to protect the home product; but in the case of the tariff on wool passed in 1867, which instead of increasing the price of the home product diminished it, the explanation is found in connection with other facts to which I will call attention. As I said before, prices may be enhanced by diminishing the supply, and prices may be reduced by limiting the demand; in other words, prices are controlled by the inexorable law of demand and supply. In the case of wool the tariff produced a greater effect in diminishing the demand than it did in diminishing the supply, and hence there was a falling in price. I have already referred to the table printed in the speech of the gentleman from Ohio, [Mr. MCKINLEY.]

I refer again to that table. It will be seen that for the first year after the tariff of 1867 went into effect there was an increase in the native product of 8,000,000 pounds of wool and there was a decrease in the amount required for home consumption to the extent of 54,000,000 pounds. Here was not only an increased production of wool immediately following the passage of the tariff act, but there was a decreased demand, and the decrease of demand and the increase of the home supply had a double and disastrous effect in depressing prices. The amount required for home consumption fluctuated from 1867 to 1875, but did not equal the demand in 1866 up to that time in any year, except for the year 1872. There was also a fluctuation in the production of wool between 1866 and 1874, but the average was not increased greatly until after the effects of the panic of 1873, namely, in 1877 and thereafter.

The amount of wool imported immediately fell off between 1866 and 1867 from 76,000,000 pounds to 16,000,000 pounds, and it was not until 1872 that the imports exceeded the imports of 1866. For 1872 the imports were 122,000,000 pounds, but a decline gradually followed up to 1879 when the imports were only 39,000,000. The imports for 1881 were but 55,000,000, being 21,000,000 less than the imports of wool in 1866. And our exports of wool, which in 1866 amounted to nearly a million pounds, and even in 1862 exceeded a million pounds, have dwindled down to 71,000 pounds in 1881. Such is the condition of the woolen interest of the United States.

I have said that the manufacturers of wool have not been benefited by the present tariff law. In 1874 a committee of the New York Wool Trade made a report to the committee of the Chamber of Commerce of New York on the revision of the tariff, in which it was stated "that our woolen interest is depressed and suffering and that in reality it has never reached that degree of stability and security which would be commensurate with its magnitude and importance; that the amount of capital invested in it and that the indomitable energy which has so far preserved it from serious decline are facts too well-known to require any proof at our hands." This report then proceeds to explain some of the difficulties which beset the wool interests of this country. It says:

Our manufacturers are prone to rush into the production of such classes of goods as a momentary demand has rendered profitable, and the invariable result is an overproduction of those fabrics. Such an overproduction sometimes happens to manufacturers in Europe, but they can relieve themselves of their surplus stock at a comparatively small sacrifice by consigning their goods to foreign markets, where their cheapness has already introduced them. Our manufacturer, having made his goods out of highly taxed wool, has no such outlet for them, and is compelled to await the slow operation of time or submit to a heavy sacrifice by forcing his surplus on the home market in competition with his similarly situated neighbors.

This argument applies with equal force to all other manufacturing interests. But I quote further from the same report:

Before we enter upon an examination of the effects of our tariff on the wool-growing interest it will be well to consider that neither our country nor any country in the world does or can produce to advantage wools of all kinds and grades. It must further be borne in mind that in order to produce the endless variety of woolen fabrics demanded by our times, with the highly improved machinery now in use, and with the active competition among all manufacturing nations, the free and unrestricted selection of the most suitable classes and grades of wool has grown to be a matter of much more importance to the manufacturer of every country than it used to be in old times. Nor will it be denied that but few of our mills can at this day be run to advantage without using to some extent wools of such working quality as cannot be produced in this country, or are not produced here in sufficient quantity. The simple fact that even under our present tariff we have annually imported from fifteen to sixty million pounds of fine wool sufficiently proves these positions. The question of duty on fine wool can therefore never be a simple question of protection or no protection to the wool-grower.

The report points out wherein the tariff of 1867 failed to accomplish the object for which it was established, as follows:

These facts show most conclusively that the object ostensibly aimed at by the tariff of 1867, namely, the protection and encouragement of the wool-growers, has most signally failed. The wool-grower must be blind, indeed, if by this time he has not learned the lesson that he cannot prosper as long as the woolen interest does not flourish; why should he not also understand that our industry cannot permanently flourish until it is relieved of the present heavy burden of obstructive tariff legislation? By helping the manufacturer he would certainly help himself, and secure a better reward for his labor and investment than he could ever expect to derive from the illusive protection of any tariff.

The conclusion reached by this report is as follows:

Facts, indeed, as well as sound reasoning, call loudly for the abolition of all duties on wool. In the light of past experience it is clear that neither the wool-grower nor any other special interest ought to plead any injury as likely to result in our country from a policy that has had the most encouraging effect in all other parts of the civilized world. No perfectly safe and solid ground will be reached until wool takes its permanent place on the free list, and this must be the goal of the manufacturer as well as of the wool-grower—in fact, of the whole people.

The foregoing report was published in 1874. In 1878 the leading manufacturers of woolen goods in the United States united in a petition to Congress in favor of a revision of the tariff on woolen goods, in which they requested that the duties on all wools may be largely reduced, if not wholly removed; that wools not produced in this country be put on the free list, and that the duties on woolens may be fixed at a moderate rate, corresponding with the scale adopted in other manufactures.

They represented to Congress in their petition that for several years past their industry had "suffered great and general depression;" also that "many failures have occurred, many mills have stopped, and many others continue to run without adequate remuneration to their owners." They say:

We believe that one great cause for this widespread depression is to be found in the present high rates of duty on wool.

And again:

High cost of our fabrics has limited consumption and entirely prevented exportation, while low-cost foreign goods have forced their way into our markets through both legitimate and illegitimate channels.

After pointing out the facts that the shrinkage of values since 1867 had impaired the ability of consumers to pay the high prices contemplated by the tariff; that the number of those who can afford to purchase at a given price is lessened; that the wool-growers had not realized the advantages from the act of 1867 which they expected; that the depressed condition of woolen industry had given the wool-growers a poor market; that the production of fine wools has absolutely declined; that manufacturers of woolen goods must be left free to select their raw materials with reference to the goods they wish to make, the petitioners conclude by expressing their "deliberate conviction, after ten years' experiment, that the tariff of 1867 has not promoted the interests of the wool-manufacturers, has not promoted the interests of the wool-growers, and has been a great burden upon all the consuming classes, in return for which it has yielded no adequate revenue to the Government."

This petition is dated at Boston, January 17, 1878, and is signed by over 100 of the leading woolen-manufacturing establishments in the United States.

What more could be said against any tariff law than the leading manufacturers of the country have said in this petition. When the manufacturers, for whose benefit the high tariffs have been enacted, learn from sad experience that their coveted protection has ceased to protect, the great mass of consumers and tax-payers may hope and confidently expect relief.

The honorable gentleman from New York [Mr. HEWITT] recently addressed a letter to one of the leading woolen manufacturers of the country, and requested his opinion as to the rate of duty which might be imposed on woolen goods. He has kindly permitted me to make use of the answer which he obtained. I am not permitted to use the writer's name, but I can assure the committee that his opinions deserve highest consideration, and he can be called before the tariff commission or the Committee on Ways and Means of this House if desired. He says:

If duties on wool were taken off, it is my opinion that manufacturers could submit to a lower duty than the Government could afford to levy. If a duty of 25 per cent. ad valorem were put on woolens and the duty on wool taken off entirely, I think manufacturers and wool-growers would both be better off. I think that rate would compensate for any disadvantage which the American manufacturer would be under. I say the wool-grower would also be better off, for we should soon export certain kinds of wool, and he could direct his attention to those kinds which brought the highest prices.

This gentleman concludes his letter by saying:

Some branches of the woolen business paid no profit the past year. The margin is a small one. It requires all the appliances of skill, care, and economy, combined with taste and ability, to produce desirable styles to make the business pay. As a whole, I do not think the business can be described as extremely prosperous, and the ideas of those who consider that the tariff is piling money into the pockets of wool manufacturers are entirely erroneous. What the tariff puts on at one end it cuts off at the other. This is conclusively shown by the fact that while we are overproducing some goods to the point of loss, large quantities of other woolen goods are imported, and the prospect of profit from making them is so small that no manufacturer can be found to put his machinery on them.

This is the testimony of one of the largest and most experienced woolen manufacturers in the country. "What the tariff puts on at one end it cuts off at the other." Then who is benefited by the tariff except it be levied for revenue only, and submitted to as a necessary demand for the support of the Government?

I have given this extended examination of the wool interest from the fact that the magnitude of the interests involved demand immediate and intelligent consideration. I have also had in view the illustration of an important fact, namely, that what a tariff on raw materials and manufactured products puts on at one end it cuts off at the other; or, in other words, that such protection does not protect.

There is another fact which I desire to impress upon the committee, namely, that whenever any manufacturing industry has reached that magnitude that it is capable of producing more than the home demand it can only flourish thereafter upon such conditions as will enable it to produce at prices which will commend its products to the markets of the world. The great advantage of the present posi-

t on of the agriculturists of the country is in the fact that, not having enjoyed any protection upon their products, (except wool, sugar, and barley,) they are enabled to sell their surplus in foreign markets, and thus they furnish over 80 per cent. of the exports of the country. If their products were burdened with local taxes, so as to increase the price above the demand for export, they would be exactly in the position which the woolen and many other manufacturers are now in—namely, burdened with overproduction, but shut out from foreign markets.

HOW TARIFFS AFFECT PRICES.

There has been much said during this debate concerning the effect on prices produced by reason of protective tariffs. The honorable gentleman from Iowa, [Mr. KASSON,] in his speech, advanced the doctrine that an "enlarged market inevitably advances prices." In other words, that free trade, which implies an enlarged market, will increase the prices of manufactured articles, and that protection will in the end reduce prices. This doctrine has been maintained, I believe, by all the gentlemen on the other side of the House. The honorable gentleman from Michigan [Mr. HORR] showed how the price of salt has been reduced by protection. He published a table of facts and figures to prove it.

The gentleman from Iowa [Mr. KASSON] presented the figures to show how the price of Bessemer steel had been reduced under the operation of a protective policy, and how the price of silk had also been reduced, and how the prices of blankets, woolen goods, cotton goods, nails, &c., had been reduced. The honorable gentleman from Pennsylvania, [Mr. ERRETT,] a member of the Committee on Ways and Means, in his speech on the 29th of March last, said: "High duties on steel, it will thus be seen, instead of increasing the price has reduced it." Another member of that committee, the gentleman from Ohio, [Mr. MCKINLEY,] argued long and ably to prove the same proposition. It may, therefore, be taken as an accepted doctrine among protectionists that protective tariffs reduce the price of the manufactured articles. Let us consider this proposition for a moment.

It must be conceded that the lower the selling price of a manufactured article, the less must have been paid for the labor which produced it, and the less must be the profits of the manufacturer. Protectionists assure us that protective tariffs will reduce prices, hence they must necessarily reduce wages and profits. It is only necessary that the manufacturers and laborers of the country should be convinced of the truth of this doctrine and of the truth of the further proposition that free trade increases prices, and they will at once become free-traders. I am not going to stop to deny these propositions, but am willing protectionists should have the full benefit of their own teachings. In fact there may be some truth in the statement. I am quite certain that the protective tariff of 1867 did reduce the price of wool, as I have already shown.

There is a further fact that I gather from the census of 1870 and that of 1880 in reference to the wages of labor. The wages paid in 1870 in the manufacture of iron and steel averaged $522.40 to each hand. In 1880 the average wages in the same industry was only $393.51, showing a loss of $128.89 a year to each laborer, or about 25 per cent. The gentleman from Iowa [Mr. KASSON] says: "Taking the year 1880 against 1868, the fall in price [of Bessemer steel] has been from $158.50 to $67.50 [per ton] under the operation of this protective 'robbery' involved in your tariff." Of course, the manufacturer cannot pay as high wages in 1880, when he must sell his steel at $67.50 per ton, as he did in 1868, when he sold at $158.50 per ton. He stated also that the price in February last fell to $55. In view of these facts wages must come down still lower, or production must cease for a time, and hands must work on reduced time.

Is this the boasted "protection to American labor" which the advocates of high tariff propose to secure? After fifteen or twenty years of protective and prohibitory tariffs the advocates of the system inform the country that it was intended to produce low prices, and consequently low wages and small profits. They have introduced elaborate tables of figures to prove the reduction of prices under the operation of protective tariffs. It is easier to agree with your adversary than to disagree. In this instance the protectionists make so strong a case that I would rather agree with them than to disagree and give my reasons. For the purposes of this debate, desiring to remove as many disputed points as possible, I will agree to all they claim. Something has produced reduced prices in many articles.

Protectionists say "the protective tariff did it." Then I charge the advocates of this protective tariff from their own stand-point with a conspiracy against American laborers, with advocating a policy which, in the end, will reduce the prices of home productions, the wages of labor, and will reduce our labor to the level of the pauper labor of Europe, if not below it. The greater success attends their efforts to reduce prices of manufactured articles, the greater will be the reduction of the wages of labor engaged in such manufactures. Perhaps the significant words "in the end" are about to be realized.

I am in receipt of a letter from one of the largest iron and steel manufacturers of the country. He writes me as follows:

> Just now the rail business, and in fact all our business which depends upon the railroad demand, is very much depressed. There is next to no demand at all. In consequence our rail mill is idle and so are our steel works, and we have not orders enough to keep our bar-mill going on half time. Very near all our men have been laid off and the prospect is very uncertain.

This is not an isolated case. The same condition of things prevails from Boston to Chicago. But the high tariff is still in force, and has been for twenty years, and it is not threatened with an immediate change. The passage of this bill to create a commission to investigate the question of the tariff is certainly no menace to the business interests of the country. What, then, is the cause of the present depression and the many strikes which are occurring in all parts of the country? Certainly free trade, or a tariff for revenue only, has had nothing to do in bringing about the present situation. The tariffs are as high as the friends of protection desire to make them. And yet there are signs of distress.

I would do nothing to increase the danger or depression. I would avert it if in my power. Cannot this Congress, before we adjourn this session, do something to avert the threatened distress? I have not the honor to be a member of the Committee on Ways and Means; but I have patiently waited for that committee to bring forward a measure of relief. But my waiting has been in vain. In the mean time the honorable gentleman from New York [Mr. HEWITT] has brought forward a proposition, which, it seems to me, has much to commend it to this House and to the country. We must deal with things as we find them. His proposition, in short, is the placing of raw materials, as far as possible, on the free list, and that no higher rate of duty shall be imposed than shall be necessary to compensate for the difference in the cost of the labor at home and abroad.

He is one of the largest manufacturers in the country, and we may presume that he will not advocate a measure which would injuriously affect the business interests of the country. I am willing to accept his proposition as a compromise, as a step in the right direction. It has received the commendation of the Chamber of Commerce of New York, of the independent press, of large mass-meetings, of political organizations, and of thousands of business men and manufacturers all over the country. As forcibly expressed by another, his proposition is "radical in principle, but conservative in methods," and "that radical truths conservatively applied cause all peaceful progress."

Mr. HEWITT, of New York. Permit me to say in this connection that I hold in my hand a petition signed by eight hundred of the leading business firms of the city of New York, praying this House to adopt the resolution which I have proposed to offer, namely:

First. The repeal of the duties on raw material.

Second. The proportionate reduction of the duties on articles manufactured from the raw material thus placed on the free list.

Third. No duties exceeding 50 per cent., except those on luxuries.

The gentlemen who sign this petition are men who rarely sign their names to petitions; and I may be permitted to say that I have seldom, if ever, held in my hand a document which embodied more weight, intelligence, and influence than this which I shall propose to offer in open House at a future time.

Mr. SPRINGER. I thank the gentleman for this confirmation of my statement, that his proposition had received the indorsement of the leading business men of the country.

THE ISSUE BEFORE THE COUNTRY.

Mr. Chairman, the real issue presented to the country in this debate has been greatly misunderstood or willfully misstated. It is not between free trade and protection. I know of no party in this country or in this House who proposes free trade as a remedy for existing tariff abuses. The issue is not one between the advocates of free trade and the advocates of protection. On the contrary, the issue is between those who desire an immediate revision of the tariff and the reduction of its excessive and prohibitory duties, and especially the removal of those burdens which are causing factories, mills, and workshops to be closed for the want of a market for their products, and depriving thousands of laborers all over the country of employment, producing strikes, lockouts, and low wages; and those who desire to postpone tariff revision indefinitely and thus preserve existing taxes, fearing a change might result in depriving a few favored interests of the advantages they now have.

In short the issue is clearly between those who desire to bring immediate relief to the country through revision and reduction of duties and those who desire postponement and the present unequal and oppressive system. The opponents of this tariff-commission bill are in favor of immediate revision and a large reduction of many of the existing duties such as I have already indicated.

MUST NOT DISTURB BUSINESS INTERESTS.

I concede to the fullest extent the necessity of so adjusting the tariff as not to disturb the business of the country or oppress or embarrass any of our great industries. Such policy does not imply a departure from correct principles. The whole business interests of the country and the prices of nearly everything that we consume are affected more or less by the present protective tariff laws. To suddenly disturb these prices by violent change of our system might produce distress, if not financial calamity, such as we have not witnessed hitherto in the history of the country. The needed changes must be brought about in the most careful and considerate manner. This can be done so as to produce, as each change takes effect, increased vigor in manufactures, renewed confidence to the capital of the country, and increased wages to labor.

CONCLUSION.

Mr. Chairman, it should be our highest aim as legislators to adopt such measures as will protect the people in the enjoyment of all the great blessings of freedom which our fathers secured to us by their sacrifices and their blood. Our statutes should be so framed as to guarantee to every citizen, rich or poor, native or foreign born, the greatest personal liberty consistent with good order and the well-being of society.

Let all have freedom to think, to speak, to write, to print, and to vote. Freedom to worship God, or not, according to the dictates of conscience. Freedom to buy and to sell, and freedom to come and go at pleasure throughout the land—

Land where our fathers died!
Land of the Pilgrims' pride!
From every mountain side
Let freedom ring!

APPENDIX.

The following is the statement, printed with the speech of Mr. MCKINLEY, of Ohio, to which reference has been made:

Quantities of wool produced, imported, exported, and retained for consumption in the United States in 1850 *and from* 1861 *to* 1881, *inclusive.*

Year ended June 30—	Production.*	Imports.	Total production and imports.	Exports.			Retained for home consumption.
				Domestic.	Foreign.	Total.	
	Pounds.	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*
1850	52,516,959	18,695,294	71,212,253	35,898	(†)	35,898	71,176,355
1861	75,000,000	(†)	(†)	847,301	(†)	(†)	(†)
1862	90,000,000	42,131,061	132,131,061	1,153,388	332,953	1,486,341	130,644,720
1863	106,000,000	73,931,944	179,931,944	355,722	708,850	1,064,572	178,867,372
1864	123,000,000	90,464,002	213,464,002	155,482	223,475	378,957	213,085,045
1865	142,000,000	43,840,154	185,840,154	466,182	679,281	1,145,463	184,694,691
1866	155,000,000	76,532,274	231,532,274	973,075	851,645	1,824,720	229,707,554
1867	160,000,000	16,558,046	176,558,046	307,418	618,587	926,005	175,632,041
1868	168,000,000	24,124,803	192,124,803	558,435	2,801,852	3,360,287	188,764,516
1869	180,000,000	39,275,926	219,275,926	444,387	342,417	786,804	218,489,122
1870	162,000,000	49,230,199	211,230,199	152,892	1,710,053	1,862,945	209,367,254
1871	160,000,000	68,058,028	228,058,028	25,195	1,305,311	1,330,506	226,727,522
1872	150,000,000	122,256,499	272,256,499	140,515	2,266,393	2,406,908	269,849,591
1873	158,000,000	85,496,049	243,496,049	75,129	7,040,386	7,115,515	236,380,534
1874	170,000,000	42,939,541	212,939,541	319,600	6,816,157	7,135,757	205,803,784
1875	181,000,000	54,901,760	235,901,760	178,034	3,567,627	3,745,661	232,156,099
1876	192,000,000	44,642,836	236,642,836	104,768	1,518,426	1,623,194	235,019,642
1877	200,000,000	42,171,192	242,171,192	79,599	3,088,957	3,168,556	239,002,636
1878	208,250,000	48,449,079	255,449,079	347,854	5,952,221	6,300,075	249,149,004
1879	211,000,000	39,005,155	250,005,155	60,784	4,104,616	4,165,400	245,839,755
1880	232,500,000	128,131,747	360,631,747	191,551	3,648,520	3,840,071	356,791,676
1881	264,000,000	55,964,236	319,964,236	71,455	5,507,534	5,578,989	314,385,247

* In the column of "Production" the amount placed opposite the fiscal year is the production of the preceding calendar year. †Quantity cannot be stated.

Mr. BURROWS, of Michigan. Mr. Chairman, I anticipate it will be somewhat of a surprise when I announce that I propose to discuss the bill before the committee. I remember Mr. Webster began one of his incomparable speeches in this wise:

When the mariner has been tossed for many days, in thick weather and an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude and ascertain how far the elements have driven him from his true course.

Would it not be prudent for us, sir, after these many days of unrestrained debate upon the tariff question, during which every sea of fact and speculation has been explored, to return to the harbor whence we departed, and before further venture determine at least the purpose of the voyage and the direction of our course?

A stranger, listening to this discussion, and ignorant of the provisions of the bill before the committee, would assuredly have fallen into the error of supposing that some proposition was being considered which, if formulated into law, would change our entire tariff code, or so materially modify it as to amount to a substantial revision. The course of the debate would certainly have justified such conclusion. Recurring, however, to the express terms of the measure which has provoked this agitation, the delusion is instantly dispelled and the astounding fact revealed that there is nothing, absolutely nothing, in the bill before us, from its opening to its closing section, which, by any possible construction, can be tortured into a modification of one single provision of our present tariff code. Crystallize its language into law and stop there, and you have left untouched and unchanged every syllable of our revenue statutes.

Why, sir, you yourself, Mr. Chairman, in the beginning of this debate, when it was sought to give to this bill some advantage over other measures on the Calendar under that rule of the House which awards precedence of consideration to bills for raising revenue, held, and in my judgment most correctly, that it was not in any sense a revenue bill; from which opinion no member of this House had sufficient courage to appeal. The distinguished gentleman from Kentucky, [Mr. CARLISLE,] whose knowledge of parliamentary law is second to none in this body, ably supported and fully approved the judgment of the Chair, and yet he, who usually hews sharply to the line in debate, yielded the judgment of the logician for the tactics of the partisan, and led off on the Democratic side of the Chamber in a general crusade against our tariff system, in utter disregard of the real issue involved.

And so the debate has continued with few exceptions from the beginning, covering not only the entire range of the tariff but our whole system of internal taxation, exhausting the experience of men and the philosophy of the schools, (and well-nigh the patience of the House and the country,) leaving untouched and unconsidered only the bill of the Senate. And so this measure, simple, yet comprehensive, conceived in the highest wisdom, approved by the Senate and commended by the public judgment, has been dragged through the slough of a political debate, for political purposes, in utter disregard of the great interests of the country it was intended to subserve.

The incongruities which have, in some instances, grown up under our present tariff, which no foresight could avoid, conceded by all and defended by none, to correct which this very measure is formulated, are with partisan avidity seized upon and held up to public derision, for the purpose, not of furthering any judicious measure of relief, but rather to inflame the public mind and, if possible, shake its confidence in the governmental wisdom and capacity of the Republican party. Nay, more; to so far deceive the people as to instil into their minds, if possible, the belief that Democratic ascendency is a necessary prerequisite to revenue reform.

Such, sir, has been the scope and purpose of this debate. Now, for myself, however inviting the field over which others have traveled, whatever trophies might be won, I am content to discuss the bill before the committee, postponing whatever I may have to say upon the tariff until such time as the commission proposed by this bill, if it shall become a law, shall make its final report and the Ways and Means Committee have formulated a bill which in direct terms proposes a change in our tariff code.

Let us recur, then, to the terms of the Senate bill, consider its scope, and mark its exact boundaries. The first and second sections contemplate and provide for the creation of a commission, to be known as a "tariff commission," consisting of nine persons taken from civil life and appointed by the President, by and with the advice and consent of the Senate. The duties of this commission are prescribed by the third section of the bill in the following terms:

SEC. 3. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff, or a revision of the existing tariff, upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission, in the prosecution of its inquiries, is empowered to visit such different portions and sections of the country as it may deem advisable.

The remaining section of the bill imposes upon the commission the duty of causing the testimony taken by it to be printed, from time to time, and distributed to Senators and Representatives, and that its final report, together with the evidence taken, shall be made to Congress by the 4th of December next.

This is the entire range of the bill. The field for legitimate debate, therefore, is circumscribed within very narrow limits. But two questions are involved. First, the necessity for a revision of the tariff; and, secondly, the propriety of creating the proposed commission as an auxiliary to such revision. That is all there is of this question.

Upon the first proposition, to wit, the necessity for a revision of the tariff, there seems to be no contrariety of opinion. All parties, men of every shade of belief, from the high protectionist to the extreme free-trader, all unite in demanding a readjustment of the present tariff. We are relieved, therefore, from discussing the first proposition, being one upon which we are all in substantial accord. The necessity or propriety of a revision is not denied.

Upon the second branch of the controversy, namely, the wisdom of creating the proposed commission as an auxiliary to tariff revision, entire harmony of opinion does not prevail. Here is the issue, and the only issue. It becomes necessary, therefore, to enter somewhat into detail touching the reasons to be advanced in support of this commission and to reply briefly to some of the objections urged against it.

Two methods for revision are open to us. The one proposed in this bill is to employ the services of nine men, men of affairs, from civil life, of ripe experience, mature judgment, divorced as far as possible from the considerations of party policy and advantage, looking only to the highest advancement of the Republic, conversant with our manifold and complicated industries, who shall devote themselves to the investigation of all questions touching the diversified interests of the people, so far as is necessary to the establishment of a judicious tariff or a wise revision of the old, and report the result of such examination to Congress as a preliminary step to entering upon the onerous and delicate task of revision; in other words, to employ this means to become possessed—not the Ways and Means Committee alone, but every member of Congress—of all the information obtainable upon this subject, so that when we enter upon the work of revision we do it understandingly, comprehending the effect of every modification, however far-reaching it may be in its consequences. That is the plan of the majority.

The other course insisted upon by the minority is for the Ways and Means Committee to bring in at once a tariff bill of some character, sufficient to open the door for amendments, and then trust to the House in the heat of debate and on the threshold of a political campaign to amend, modify, and patch up, as will best subserve the political advancement of each individual member, some measure, and thus attempt the perfecting of a work which requires for its successful accomplishment the most considerate judgment and unselfish patriotism. This is the other proposition.

I submit, in choosing between these two methods there ought not to be the slightest hesitation. For myself, I am for the commission, and it seems to me the reasons to be urged in its support are most cogent and unanswerable. In the first place, it will be conceded that anything like hasty or inconsiderate legislation touching the tariff would be extremely hazardous. The interests involved are so vast and multifarious, the tariff laws touching these interests so complicated and far-reaching, that the slightest disturbance in any particular is felt throughout the entire system. A distinguished author has expressed this thought in such apt and forcible phrase that I venture its reproduction:

If you have ever seen—

He says—

when a spider touches a thread of his web how the whole net-work will tremble, you have an illustration of the manner in which all the fibers of all the different kinds of industry carried on in this country are interwoven together, so that a shock given to one part is transmitted to another and runs through the whole texture. If the price of flour is raised the cost of bread is increased, and with it the cost of living, and with that the cost of labor, and hence the cost of all the results of labor. Whatever, then, affects the price of flour will therefore extend its influence over almost all branches of industry. Proceed by a similar process to trace out the connection of any art or species of industry, as of printing, iron manufactures, and those of lead, copper, wool, cotton, hemp, leather, and if you have not gone through the same process before you will be astonished to find with how many others it is directly or remotely connected, on how many others it depends, and how many others depend upon it.

Mr. Chairman, this is not an overdrawn statement. Indeed it would be difficult, if not quite impossible, to magnify this phase of the subject. The connection between our various industries is so intimate and delicate that the slightest disturbance in any part is quickly felt throughout the entire body. It is believed that if a single planet should grow unsteady or waver in its allotted course all nature would feel the shock and give instant sign of approaching chaos. As well expect the universe to be insensible to the loss of a world and move on in undisturbed harmony as to hope for a readjustment of these great laws of trade without affecting the entire range of our immense industries. If it be true, therefore, that a modification of our tariff laws, however trifling, involves consequences so momentous, is it not of the highest importance that whatever change be made shall be after the fullest examination and most considerate judgment?

The practical question then is, whether the proposed commission would be a valuable help to Congress in formulating and perfecting a wise tariff code. If it would, then it should be authorized; if not, all thought of it should be at once abandoned and the work of revision immediately entered upon. Now, I grant that the proposed commission is wholly unnecessary if every member of this House, or a majority thereof, can honestly say that they are in possession of the requisite information to enable them to act intelligently upon every phase of the tariff question—if there is no modification to be suggested the consequences of which they could not readily comprehend, and point out with unerring precision, the exact extent to which it would affect the manufacturing interests of the country. Who is bold enough to arrogate to himself such knowledge?

I believe, therefore, in the first place, that the proposed commission would be a valuable help to the Committee on Ways and Means. Certainly it is not derogatory to the high character of that committee to say that this commission would at least be able to collect a mass of material which would be of incalculable value in framing a wise tariff measure. Instead of imposing this labor upon the Committee on Ways and Means we employ this commission. This commission would stand in the place of, and be substituted for the Committee on Ways and Means, from the hour of its appointment until the opening of the next session of this Congress, in so far as the examination of witnesses and the hearing of arguments is concerned, and the results of its labors would be as valuable to the committee as though performed by itself. Practically this is but continuing the work of the Committee on Ways and Means, during the recess of Congress, so far as it relates to the tariff question. What possible objection can there be to that.

Again, no Committee on Ways and Means of this or any House can perfect a wise tariff measure without some such assistance. It will not, I am sure, be regarded as in any sense a reflection upon the committee, under the leadership of its distinguished chairman, to assert that it is impossible for that committee, during a single session of Congress, to properly discharge the necessary duties imposed upon it and at the same time give to the preparation of a tariff bill in all its details that consideration which its importance demands. Such an achievement is beyond the reach of human capacity. The proposed commission, however, prosecuting its investigation throughout the summer and autumn would so relieve and supplement the labors of the committee that we could have presented to us at the next session of Congress a measure so happily conceived and of such seemly proportions as to command the regard of Congress and the country.

But I favor this measure chiefly because of its advantage to the members of this body. It is provided by the bill that the commission shall cause to be published from time to time and distributed to the members of Congress the results of its investigation, and the consequence will be that the mind of the legislator will be specially directed to this subject during the months of the recess. The question of the tariff will more or less enter into his thought and speech during the approaching campaign, and from necessity his fund of information will be largely augmented, and he will be better prepared to enter upon the work of intelligent revision.

While it is not anticipated that the labors of this commission will convert a "free-trader" into a protectionist, or a protectionist into an advocate of a "tariff for revenue only," yet the direct tendency will be to produce a harmony of views from the height of statesmanship touching the details of a tariff bill. It is just here that I am constrained to believe the services of this commission will be most valuable. Grant, if you please, that the Committee on Ways and Means is now fully prepared to report a wise and comprehensive measure of reform. Yet, does not experience teach that it will be impossible to forecast the fate of such a measure when once launched upon the turbulent and uncertain sea of partisan debate? It is well understood that the moment such a bill is introduced, however judiciously framed, it will be the signal for opening the flood-gates, through which would pour a torrent of amendments, beneath which it would be hopelessly submerged, or if rescued, rescued only to be interred.

Gentlemen representing every section of the country, with its diversified and sometimes seemingly conflicting interests, might be tempted to lose sight of the general good, and, under the pressure of the demands of their immediate constituency, influenced by the hope of personal advancement, lend their support to measures that might needlessly prostrate a growing industry or imperil the public weal. It is to avoid this danger more than aught else that I would invoke the services and secure the helpful guidance of the proposed commission.

Mr. HEWITT, of New York. May I ask the gentleman a question?

Mr. BURROWS, of Michigan. Certainly.

Mr. HEWITT, of New York. How does the gentleman propose to exempt the bill that may be prepared by the commission from all the difficulties he has so ably recited?

Mr. BURROWS, of Michigan. From the difficulties of amendment?

Mr. HEWITT, of New York. From the difficulties of amendment, discussion, &c.

Mr. BURROWS, of Michigan. It will not be entirely relieved from those difficulties. But if the gentleman has followed the thread of my argument——

Mr. HEWITT, of New York. I have been trying to do so.

Mr. BURROWS, of Michigan. He will observe I am only contending that we shall be better prepared, when possessed of the information to be derived through this commission, to consider and vote upon amendments than we could possibly be if called upon to act upon amendments, on the instant, and without such information.

While the arguments in support of this commission might be multiplied almost indefinitely, yet I will trespass no further upon the indulgence of the committee than to supplement what I have said in

support of this measure by the opinions of some of the foremost Democrats of the country. The opposition to this measure comes from the Democratic side of the Chamber. It may have escaped the attention of the public, yet it will not be surprising to know that but recently the Democratic party, if the opinions of its leading men are to be regarded, was as heartily in favor of this commission as it is now strenuously opposed to it. It is one of the peculiarities of modern Democracy that the principles it avowed yesterday it repudiates to-day. The cause it espouses to-day it will abandon to-morrow. Indeed it may well be questioned whether as a party it has any fixed and abiding convictions. Its history for the last twenty-five years is a history of vacillation, insincerity, and folly.

In 1872 it demanded a speedy return to specie payments; in 1876 it denounced the resumption act and demanded its repeal. In 1868 it demanded the payment of the interest-bearing obligations of the Government in irredeemable paper; in 1872 it denounced repudiation in every form and guise. In 1868 it demanded the abolition of all instrumentalities designed to secure negro supremacy; in 1872 it recognizes the equality of all men before the law, of whatever race or color. From 1860 to 1865 it wielded its party power to obstruct the successful prosecution of the war for the Union; in 1882 it proclaims itself the chief instrument in accomplishing its successful results. In 1868 it publicly thanked Andrew Johnson for exercising the veto power in resisting the aggressions of Congress; in 1880 it declares that the use of the veto power insults the people and imperils their institutions. In 1860 it drove labor to the shambles and sold it at public auction; in 1880 it declares itself the friend of the laboring-men. In 1868 it is for a Democrat for President; in 1872 it enlists under the banner of a Republican. In war it follows the leadership of a peace general; in peace it supports a general who was for war. One of your own number, the distinguished gentleman from Texas, [Mr. UPSON,] has fitly characterized the course of the Democratic party as follows:

It can succeed, he says—

If the Democratic party will be true to its time-honored principles, true to itself, shake off its spell of vacillation and lethargy, cease its cowardly trimming at every doubting whisper, quit dodging at every flitting shadow, stop tweedling every political crank, and drag itself from the meshes of that drag-net policy, thrown out to catch the followers of every new-fangled ism and popular whim.

And so the Democratic party for a quarter of a century, without chart or compass, has been cruising in every sea, intent upon and anxious only to avail itself of any breeze from any quarter that might fill its sails and carry it into political power. I thank God that I belong to a party that in storm or sunshine has kept steadily on its course. [Applause.]

Upon this question of the commission scarcely two years have gone by since the leaders of the Democratic party were its open and avowed champions. We have only to turn back the pages of history to 1880 to find the strongest Democratic sanction of this measure both in act and speech. It will be remembered that this bill was conceived by a Democratic Senator, Senator Eaton, of Connecticut, brought forth in a Democratic Senate, and christened in a Democratic committee. In the Forty-sixth Congress, and on the 17th day of September, 1879, it was introduced into the Senate and referred to a committee. On the 13th April, 1880, it was reported back to the Senate with a favorable recommendation by that distinguished Democrat from Delaware, Senator BAYARD, taken up for consideration on the 27th May, 1880, and on the 3d of June, 1880, passed the Senate by a vote of 31 yeas to 14 nays. Of the thirty-one Senators voting in the affirmative sixteen were Democrats, and their names are as follows:

Senators Bailey, Bayard, Brown, Butler, Eaton, Groome, Hampton, Hill of Georgia, Kernan, McPherson, Morgan, Pendleton, Ransom, Slater, Vest, and Withers.

Of these sixteen Senators voting for this bill, permit me to quote the language of some of the most distinguished, which will suffice, I trust, to demonstrate the wisdom of this commission and refute some of the frivolous objections I have heard urged against it upon the floor of this House.

Senator GARLAND, of Arkansas, then chairman of the Committee on Territories, speaking of this commission and the wisdom of it—this commission which gentlemen now say is abrogating our constitutional functions and impeaching our capacity—says:

Just about two years ago, struck with the importance of an inquiry of this character, I introduced in the Senate the bill that I now have in my hand, to raise a commission upon the subject of the tariff, to examine into that matter in all its length and breadth, and all of its details, and to report to Congress the result of that examination and inquiry, with such suggestions as that commission might see proper to make, with the view that Congress could with more propriety, upon the information thus furnished, legislate upon this among the most important subjects of legislation before the country.

* * * * * * *

For myself I do not hesitate, nor did I when I introduced the bill, to admit that I am in a woful condition of ignorance upon this subject of the tariff.

* * * * * * *

We heard upon the floor of the other House, we heard upon this floor, gentlemen who had been in these Houses during the war, and before the war, and had this subject in hand, disputing absolutely as to some of the most minute and some of the simplest things in reference to the tariff system of the United States.

Impressed then, Mr. President, as I was proceeding to say, with the lack of sufficient information upon this subject to legislate properly upon it, I proposed this measure, being unwilling myself to embark upon a sea of legislation with the very limited information and the very few lights that I had before me. Indeed on any of these great subjects that affect every section of the country in all the ramifications of their different interests, the theory of commissions to get up the necessary information and report to Congress must necessarily be a favorite, as in the instance of the silver commission.

* * * * * * *

We all agree that some tariff system suitable to the interests of the country and properly adjusted to them should be adopted at the earliest possible time. I believe no one with whom I have conversed on this subject pretends that he understands the tariff system as it now exists in the United States, and to read the different speeches that have been made in the Senate explanatory of it, in my humble judgment, according to my experience, only makes "confusion worse confounded."

I desire now to read from the speech of Senator BAYARD, of Delaware, who was at that time chairman of the Committee on Finance, and certainly his opinions are entitled to consideration. Senator BAYARD says:

In my judgment it is better that this whole commission should come from civil life and not be connected with Congress. In the first place, what we want is widespread knowledge, representing every view of taxation, representing every great interest of the country which is the source of taxation, that men should be chosen for this purpose who have made political economy, the gathering and arrangement of statistics, and the philosophy of trade and commerce the special study of their lives. It is proper in this commission that the great interests of the cotton-growing States, of the sugar-growing States, of the wheat and grain-growing States, the tobacco interest; in other words, that the great agricultural interests of the country, its manufacturing interests, its mining interests, all should have their intelligent representative upon this board of nine men, in order that the plan submitted by them shall be truly an explanation and a grouping of the facts essential for a proper understanding and execution of the great task which Congress is to undertake.

But further: our opinions, our thoughts, our studies will all be given I trust in the measure of our capacity to a proper solution of this question, and what we ask and what we need is light from other quarters brought to us, and which we can obtain only through the employment, under the authority of law, of individuals who have made these subjects their peculiar study.

Mr. HEWITT, of New York. Is that from the speech of Senator GARLAND?

Mr. BURROWS, of Michigan. It is from the speech of Senator BAYARD. He says further:

Since I have been a member of this body, now well-nigh twelve years, I have been assigned to duty upon the committee to whom this subject of revenue in its various shapes has been submitted. The question of tariff duties, the question of excise duties, has therefore become in some degree familiar to my mind. It has been a constant subject of my thought; it has been a constant subject of my examination, and far and wide, as far as my opportunities have permitted, I have endeavored to gather knowledge upon the subject and to apply proper principles and the great principles of government to make that knowledge useful, and I feel to-day that we need in Congress the independent counsel of educated men.

Now, sir, on this subject we are not committing ourselves blindfolded to the decree of this unknown body of experts, but we are by this measure taking the step needed to give ourselves that information, derived from a source entitled to our respect, which will command our confidence, and which we do think will be a basis of a proper scheme of legislation. The more independent such a commission is of Congress and of party and of section, the better and the more valuable will be its counsels. I for one want them. I can learn from my associates in this Chamber their views; I can obtain them by my private intercourse, and I can gather them from them in debate; but I have not the advantage of learning from these nine other men occupied each in his own pursuit unless we shall call them into public service and obtain from them the knowledge which they are so competent to give.

Senator KERNAN, of New York, then chairman of the Committee on Patents, also gave his views on the subject in the following language:

Mr. President, I am in favor of the appointment of a commission to investigate the question of the tariff and report to Congress.

* * * * * * *

I recognize the fact that to establish a system of imposts which shall approximate to fairness and justice toward all classes and all industries and give the requisite revenue requires great familiarity with economic laws and with the practical business workings of the country. I do not think that Congress should act upon the subject without the aid of men who have made this subject a study, men who have made political economy and the subject of taxation by imposts a study, based as their information is upon the careful gathering together and examining of statistics. I do not think we can wisely act upon the subject without the benefits of this information, these figures, and the views of men who have made this subject a study, as well as of practical men engaged in the business industries of the country. I wish to express my opinion very strongly that it is wise to have this commission appointed, and that it should be appointed now, or at least there should be provision made by law for appointing it now.

Senator MCPHERSON, then chairman of the Committee on Naval Affairs, spoke very strongly in support of this commission. In the course of his remarks he said:

I am willing the tariff shall be revised; I am willing to have a tariff to secure a sufficient revenue for the country, and I want an intelligent commission who will present to the Congress of the United States such a tariff. While I have as much confidence perhaps in the integrity and ability of the individual members of the Senate as any other Senator on the floor, I do aver that there is no member of the Senate as competent to deal with this great question as a man who has given a whole life-time of study to it. I do not underrate the intelligence of the Senate. When the report is made to you, you will have it to consider; you will have the whole question brought before you, and if you can present a better system of revision than that presented by the commission, you can do so. I will join the honorable Senator in any revision that will seem proper and necessary. But the idea that a committee of this Congress can in the very short time allotted to them secure a revision of the tariff that will commend itself to the gentlemen of the Senate and to the whole people, is to my mind positively absurd.

Senator EATON, of Connecticut, then chairman of the Committee on Foreign Relations, advocated the bill at length. I quote the following from his remarks:

Mr. President, it is not my purpose to discuss the question of the tariff. This is not the object, as I understand it, of the bill which I had the honor to introduce.

* * * * * * *

I want nine intelligent men to examine this question with great thoroughness and make their reports to Congress so that Congress may act intelligently.

* * * * * * *

I drew the pending bill without consultation with a single man in the world save one friend in Connecticut.

* * * * * * *

I may be mistaken, but I believe that there is not a Senator on this floor who can give his time to this question. That is the first thing. Can my distinguished friend from Delaware, the head of this committee, give six months' time, a year's time, to this work? No. Can my friend from Georgia? No. Can my friend from South Carolina? No. Can my friend from Missouri? No; not one man of you can do it. It is impossible. One would suppose, to hear my distinguished friend from Texas, that all that was needed was a little jaunt, to go to Saratoga or Long Branch or somewhere else and eat dinners, and that would be all. That does not help to discriminate between all the great interests of the country. It relates to consumption, as my friend from Delaware suggests. The gentlemen who have this matter in charge have got to take up and examine four thousand different articles; have got to see what enters into the manufacture of every great thing in this country.

* * * * * * *

Another argument which has been used is that Congress should not debar itself from its power. Mr. President, I do not understand the force of that argument. Congress will not debar itself from any power. We seek information; we seek it as the French Chambers seek it; we seek it as the British Parliament seek it. Again and again, on great, overshadowing questions that have been brought before the British Parliament, they have sent to an outside commission to report to Parliament.

Senator HILL, of Georgia, then chairman of the Committee on Expenses of the Senate, said, in the course of his speech:

No members of Congress can take up this subject and master it themselves. They have to go outside to get information. Why do they go outside to get information? Because there are others who have devoted more attention to the subject than they have. There are men outside who are experts in the various branches of industry. They have made it the business of their lives and they know all about it. So I do not think the fact of calling in outsiders to give Congress information is at all improper or unusual or unsafe.

* * * * * * *

We are not appointing a commission to enact a law. If this was a proposition to appoint a commission of nine gentlemen outside to enact a law which they could report to the President and the President approve, I would appreciate the force of the objection made by the Senator from Florida. But we are simply adopting this as a method of getting information for the action of Congress. Congress reserves absolute control of the whole matter. Congress can use this information in its legislation as it pleases. It is the only power that can use it, as my friend from Delaware says. Why on earth there should be an objection to a system of this kind to get information to enable Congress to act the more intelligently and more efficiently I confess I cannot see for my life. If it shall be so that the President shall appoint a commission who are incapable to do this work, of course we are not bound to confirm them. It would be a mistake, and it would be a mistake on our part as well as the President's, for I presume the Senate will not confirm men unless it is satisfied that they are competent to do this work; and when we get this information then Congress may take the information and enact a law.

We get information every day. Do we not use the works of all great writers on every subject that comes before us? Are we not every day using the works of Story and Cooley and the works of many others on the great constitutional questions, availing ourselves of the information they give us? I do not see any impropriety in it.

Such is the forcible language used by leading Democratic Senators in advocacy of this commission.

But if there is nothing in all this of sufficient weight to command the respectful consideration of the Democratic portion of this Chamber and induce you to desist from your opposition to this measure I am quite certain that you will not turn a deaf ear to the voice of that illustrious soldier who, as the chosen leader of your party in 1880, guided you so gallantly to defeat. Your latest candidate for the Presidency is committed to this bill, and if there is any one subject upon which that gentleman has convictions more pronounced than another it is the tariff question. [Laughter.]

It will be remembered that the exigencies of the Democratic campaign for 1880 made it necessary that General Hancock should make some kind of a demonstration upon the tariff question. [Laughter.] The field of his exploit was Paterson, New Jersey, and his achievement was so brilliant that it not only startled the denizens of that peaceful hamlet but filled the whole Democratic party with consternation and dismay. Before the shattered forces of the Democracy could recover from the blow a friend of the General's, and one of the sufferers from the raid, solicited an explanation of what seemed to him to be an unpardonable blunder. I have before me the letter and the reply. Permit their reproduction:

MORRISTOWN, NEW JERSEY, *October* 11, 1880.

MY DEAR GENERAL: My attention is called to-day to an interview, or a reported interview, had with you by a person representing the Paterson Guardian, of this State. As I read the report it seems to me you were very imperfectly understood or very indifferently reported. I come to this conclusion because of my knowledge of your views upon the tariff question. The report does you injustice. The subject is one which our manufacturing friends are very solicitous about and very properly so. I regret that your views upon the tariff question, as I understand them to be, had not found fuller expression in your letter of acceptance. If the misrepresentations of your tariff views continue would it not be wise and just to take some occasion to put yourself right?

Very truly, yours,

THEO. F. RANDOLPH.

Gen. W. S. HANCOCK, *Governor's Island.*

General Hancock replied as follows:

GOVERNOR'S ISLAND, NEW YORK, *October* 12, 1880.

MY DEAR GOVERNOR: I have received your favor of the 11th instant. In my letter of acceptance I expressed my full sympathy with our American industries. I thought I spoke plainly enough to satisfy our Jersey friends regarding my tariff views. I am too sound an American to advocate any departure from the general features of a policy that has been largely instrumental in building up our industries——

Mr. HORR. Why, is it possible that he could have said that? [Laughter.]

Mr. BURROWS, of Michigan:

and keeping Americans from the competition of the under-paid labor of Europe.

If we intend to remain honest and pay the public debt, as good people of all parties do, and if we mean to administer the functions of government, then we must raise revenue in some way or other.

With a reunited and harmonious country we shall certainly in time pay off the public debt; but the necessity of raising money for the administration of the Government will continue as long as human nature lasts. All parties agree that the best way for us to raise revenue is largely by the tariff. So far as we are concerned, therefore, all talk about free trade is folly. But the tariff question—

Now, mark you; I desire specially to call the attention of my Democratic friends to this—

But the tariff question will probably be treated with justice to all our interests and people by some such bill as Eaton's.

The tariff-commission bill. This was in October, 1880, while you were supporting him for President.

Mr. TOWNSHEND, of Illinois. It was a different bill from this.

Mr. BURROWS, of Michigan. Only in including the internal-revenue clause; and not one of the speeches of the Democratic Senators from which I have read referred to internal taxation as a reason for creating the commission. And General Hancock is only speaking of the tariff. He continues:

I believe that a commission of intelligent experts—

Let me repeat—

I believe that a commission of intelligent experts, representing both the Government and American industries, will suggest tariff measures that will relieve us of any crudities and inconsistencies existing in our present laws, and confirm to us a system which will be judicious, just, harmonious, and incidentally protective as well as stable in its effect.

I am, truly yours,

WINFIELD S. HANCOCK.

THEO. RANDOLPH, *Morristown, New Jersey.*

And thus we have, in support of this measure, superadded to the indorsement of the most trusted lieutenants of the Democracy, the open approval of its late distinguished leader. May I ask, if eighteen months ago the commission was so wise and prudent, what has since transpired to convert it into a measure of iniquity and folly?

Mr. TOWNSHEND, of Illinois. You emasculated the bill by leaving out all that relates to the internal revenue.

Mr. BURROWS, of Michigan. I have answered you upon that point already.

Certainly no reason can be assigned for this entire change of front but that weightiest of all reasons with the Democracy, the hope of temporary political advantage. For the commission in 1880, against it in 1882. When in power it served your party purposes better to favor it; now you think it to your advantage to prevent the commission; prevent the majority from taking, if possible, the only practical step toward revision of the tariff, and then parade its acknowledged incongruities and inequalities as a reason why the Republican party should be overthrown. Is not that your party policy this year, shortsighted and inconsistent as it is?

And here I close what I desire to say touching this commission; and here the debate upon this bill might have ended. The gentleman from Iowa, however, [Mr. KASSON,] in opening the discussion, thought it wise to go beyond the strict requirements of the occasion and enter upon a general consideration of the tariff question; and others upon both sides of the Chamber have followed that lead. Now, if I felt at liberty, or able to divine the motives of the gentleman in charge of this bill in thus going beyond the limits of legitimate debate, I should say it was for the express purpose of drawing from the Democratic party a fresh avowal of its views upon the general question of protection and free trade, that the country might be apprised of the opinions held by that party in 1882. I suspect that was the object. If such was the purpose of the gentleman from Iowa, he has been eminently successful.

The people of this country to-day of all classes are much more interested in knowing how the two leading parties stand upon the great questions of protection and free trade than they are about the details of any tariff measure. As between these two policies the public judgment is made up. The party of free trade in this country will go to the wall. Therefore it is that I am extremely gratified that the gentlemen upon this side of the Chamber have not only had the opportunity to meet and answer the sophistries of free trade but have been able to draw from the Democratic party a fresh avowal of its views upon this great national question. Such a declaration will be of service in the approaching campaign. It was needed for 1882, for while the conviction is growing in the public mind that the Democratic party is drifting toward free trade, or that equally dangerous and barren shore, a "tariff for revenue only," it might be possible for the party to escape such judgment if it was left at liberty to refer only to its uncertain and ever-changing record. By its record it could prove anything, protection, free trade, or utter indifference to the subject altogether. Its course upon this great economic question is utterly amazing and sufficient to destroy public confidence in the sincerity of its convictions and awaken widespread alarm in business circles at the faintest suggestion of its return to power.

Glance for a moment at its vacillating and disgraceful record upon this question for the last quarter of a century. In national convention, in 1856, it makes this resolve:

The time has come for the people of the United States to declare themselves in favor of * * * progressive free trade throughout the world, by solemn manifestations to place their moral influence at the side of their successful example. (Resolve 1.)

[Laughter.]

Mr. HEWITT, of New York. What was the verdict of the people on that platform?

Mr. BURROWS, of Michigan. I am speaking of your record, not of results.

Mr. HEWITT, of New York. That is the question the people decided.

Mr. BURROWS, of Michigan. In 1860 the Democratic party broke in twain, and the Douglas wing of the party declared "that Democratic principles are unchangeable in their nature when applied to the same subject-matter," and reaffirmed the platform of 1856. The Breckinridge wing of the Democracy resolved as follows:

The time has come for the people of the United States to declare themselves in favor of * * * progressive free trade throughout the world, by solemn manifestations to place their moral influence at the side of their successful example. (Resolve 1.)

That justice and sound policy forbid the Federal Government to foster one branch of industry to the detriment of any other, or to cherish the interests of one portion to the injury of another portion of our common country. (Plank 4.)

I have not been able to find, for some reason, any declaration of the Southern Democracy on the tariff question in 1864. [Laughter.] And the Northern Democracy, in the spirit of economy, declined to make any suggestions about revenue for the support of the Government in 1864, of whose continued existence they then entertained the gravest apprehensions. We have this, however, to console us, that "Democratic principles are unchangeable in their nature when applied to the same subject-matter." In 1868 the Democracy are in favor of incidental protection to American industries, and declare in national convention as follows:

A tariff for revenue upon foreign imports, and such equal taxation under the internal-revenue laws as will afford incidental protection to domestic manufactures, and as will, without impairing the revenue, impose the least burden upon and best promote and encourage the great industrial interests of the country. (Plank 6.)

Here we have protection to American industries one of the cardinal principles of Democracy; yet "Democratic principles are unchangeable in their nature when applied to the same subject-matter." [Laughter.]

In 1872 the Democratic party nominated the most pronounced and ultra protectionist in the whole country, and for the Morrill tariff, then in full blast, denounced now as "legalized robbery," they had no word of censure, and the whole question of the tariff ceased to be a matter of national concern, and was committed to the several Congressional districts as has been suggested, to "go as you please."

Listen to the third plank of their platform in 1872:

Recognizing that there are in our midst honest but irreconcilable differences of opinion with regard to the respective systems of protection and free trade, we remit the discussion of the subject to the people in their Congressional districts, and to the decision of the Congress thereon, wholly free from Executive interference or dictation.

[Laughter.]

What a record for a great party! This will be a good time for the gentleman from New York [Mr. HEWITT] to inquire about the "verdict of the people" that year; yet "Democratic principles are unchangeable in their nature when applied to the same subject-matter."

Mr. HEWITT, of New York. Oh yes; the object was to spike Greeley's gun, and we did it.

Mr. TOWNSHEND, of Illinois. Tell us about the verdict in 1876.

Mr. BURROWS, of Michigan. In 1876 they demand that all custom-house taxation shall be "only for revenue," and in 1880 a tariff "for revenue only." So for twenty-five years the party, as a party, upon this question as well as upon others, has been "all things to all men," that it might gain some votes.

Mr. TOWNSHEND, of Illinois. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. BURROWS, of Michigan. I cannot; my time is nearly out.

Mr. TOWNSHEND, of Illinois. When did your party advocate protection in its national platform?

The CHAIRMAN. The gentleman from Illinois has not the floor.

Mr. BURROWS, of Michigan. I hope the gentleman will not be impatient.

Now, if this is not sufficient to demonstrate the utter lack on the part of the Democratic party of any abiding convictions upon the tariff question, and to prove that it is ready to adopt any policy which will serve its immediate political ends, it will only be necessary to quote the declarations of its last Presidential candidate.

General Hancock again expressed himself on the tariff question. Now it is an overshadowing issue. Eighteen months ago it was not of so much consequence. General Hancock was interviewed by the editor of a Paterson, New Jersey, newspaper, and this question was addressed to him:

There is one thing, General, I desire to speak about. The tariff question is creating a good deal of talk in Paterson, particularly among the manufacturers and working classes. Now, how is that going to work?

Here is General Hancock's reply:

That question cannot affect the manufacturing interests of the country in the least.

My election could make no difference either one way or the other. There has to be a certain amount—millions of dollars—raised by a tariff that can be got in no other way, and that must necessarily give protection to the manufacturing interests of the country. The election of a Democratic President or the election of a Republican President cannot interfere with or influence that in the least. The Paterson people need have no anxiety whatever that I will ever favor anything that interferes with the manufacturing or industrial interests of the country. They will have just as much protection under a Democratic administration as under a Republican administration.

The tariff question is a local question.

[Laughter.]

The same question was brought up once in my native place in Pennsylvania.

[Laughter.]

It is a matter that the General Government seldom cares to interfere with, and nothing is likely ever to be done that will interfere with the industries of the country.

So much for the public declarations of the Democratic party only eighteen months ago. Then the tariff question was only a matter of local gossip in an obscure town among the mountains of Pennsylvania. Now it has assumed national proportions, and, in the judgment of the Democracy, become the overshadowing issue of the hour.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURROWS, of Michigan. I would like the indulgence of the committee for, say, ten minutes more.

Several MEMBERS. Let the time be extended.

Mr. RUSSELL. Owing to the desire of the House to dispose of this bill, and in view of the large number who still desire to speak, I feel obliged to object.

Mr. BLACKBURN. If the gentleman from Michigan will indicate how much time he wants, I will cheerfully yield it to him out of my time.

Mr. BURROWS, of Michigan. Not to exceed ten minutes.

Mr. BLACKBURN. I yield the gentleman ten minutes.

Mr. BURROWS, of Michigan. I am greatly obliged to the gentleman from Kentucky for his courtesy.

The CHAIRMAN. The gentleman from Michigan will proceed for another ten minutes.

Mr. BURROWS, of Michigan. But what is the opinion of the Democratic party to-day, in 1882, upon the great question underlying the revenue system? Is it in favor of protection or free trade, or that twin folly, a tariff for revenue only? For answer I will take the open avowal of those gentlemen upon the other side of the Chamber who are presumed to reflect the sentiment of their party.

Mr. AIKEN, of South Carolina, says:

I must ask permission of the gentleman from Iowa for time to make a correction in what he has said. He is evidently placing my colleagues in a false light, and as one or two of them are absent from the House at this time, I wish to say they are opposed to protection, but at the same time they know, as sensible men, we must have revenue to carry on the Government, and that that revenue must be collected by duties on imports. They are in favor, of course, of raising revenue to defray the expenses of the Government by duties on imports, but anything else in the shape of protection does not meet with anything like encouragement from me or from my colleagues.

Mr. TURNER, of Georgia, says:

Under the present necessities of the Government absolute free trade is impracticable. If we did not owe two thousand millions of dollars, if we had no pension roll, I should be found among those who fight under the flag of an unrestricted commerce.

Mr. MCMILLIN, of Tennessee, says:

But what I do insist is that we ought to so adjust our tariff laws as to raise the greatest amount of money with the least discrimination.

Mr. CARLISLE, of Kentucky, says:

I am one of those who believe that the power of taxation can be legitimately employed only for public purposes, or, in other words, that the object of all taxation should be revenue, revenue only, if you please.

I say that the duty and the power of the Government extend only so far as to impose a tax for the purpose of raising revenue for public purposes. But I hold at the same time that no tax or duty can be possibly imposed without affecting to a greater or less extent some or all of the industries of the country; and for my part I would rather help them than hurt them.

Mr. HEWITT, of New York, says:

The Democrats, when they planted themselves upon a tariff for revenue only, declared through their leading men and by every authority whose utterances are worth considering that their only intention was to remove the obstructions to the growth of industry by making raw materials free.

Mr. TURNER, of Kentucky, says:

He knows that a large majority of the Democratic party of this House stand upon the Democratic platform of a revenue tariff opposed to a protective tariff.

Mr. COX, of North Carolina, says:

Why not have as near free trade as practicable, to wit, a tariff for revenue?

Mr. DUNN, of Arkansas, says:

Where revenue ceases robbery begins, under the operations of our tariff system. Protection as a principle is not only without constitutional warrant or authority but it is also unwise, unsound, unjust, and ruinous as an economic national policy.

Mr. ARMFIELD, of North Carolina, says:

I believe, Mr. Chairman, that free trade is the *summum bonum* of all commercial law; that it ought to be hoped for and prayed for by every patriot and philanthropist, as the millenium is hoped for and prayed for by Christians.

Mr. TOWNSHEND, of Illinois, says:

The fact that we have a large public debt upon us and an immense pension roll which must be promptly met in good faith, renders absolute free trade impracticable. For these reasons there is no Democrat on this floor who now advocates absolute free trade. "A tariff for revenue only," as stated in the Democratic national platform, is the only tariff you can lay without departing from the Constitution and perpetrating a species of robbery under the forms of law.

Mr. MOULTON, of Illinois, says:

What reason is there why the people should not buy where they can purchase the cheapest, and sell where they can get the best price for the productions of their labor?

The protected class say that unless Government protects us by a tariff and thereby enables us to charge a higher price for our goods we cannot go on and must close our business. Foreign competition must be shut out or we die. Suppose this is true. Upon what principle of justice has the iron, steel, cotton, or woolen manufacturers the right to compel the citizens of the whole country to pay them a gratuity, bonus, or premium to enable them to do business and make enormous profits at the expense of the people?

Mr. MULDROW, of Mississippi, says:

Sir, the principle of protection for the sake of protection is wrong.

Mr. SIMONTON, of Tennessee, says:

I, for one, cannot understand how it is a reproach to us who oppose the doctrine of protection as applied in our fiscal system, that the deductions of profound inquirers, seeking only the ascertainment of truth or the weight of authority among the ablest writers on political economy, or the great body of professors in our institutions of learning, should concur in our views. I welcome such reproach as this.

Although these citations might be multiplied, yet these are sufficient to show the current of thought and opinion entertained by the Democratic party in 1882 upon the tariff question. It is a matter of congratulation that the Democratic party has at last come to anchor upon this subject and raised the banner of free trade. It is to be hoped that you will not strike your colors before the engagement ensues.

This year the party is for a tariff for revenue only, adverse to protection, with its tendencies all in the direction of free trade. This is the issue you have sought—this the issue you have made up, and upon it we go to the people and await their verdict with the utmost confidence and composure. [Applause.]

Mr. BLACKBURN. Mr. Chairman, in what I shall have to say at the end of this long and tedious debate I shall endeavor to avoid the example of my friend from Michigan, [Mr. BURROWS,] who has just preceded me, in making a political speech to this House under cover of discussing a bill relating to the revenues of the Government; but I shall endeavor to confine myself as closely as may be to the discussion of the pending measure and the general question of the tariff, a revision of which it at least proposes to provide for.

The gentleman from Michigan has wandered through the political history of this country for several decades in order to demonstrate to this House that the Democratic party has no convictions, and is without a party record upon this or any other question. He has charged amid the merriment of his side that that organization has been constantly in the market seeking to make dicker and trade with all the fag-ends of American politics. If he had been as fair as I mean to try to be, he would at least have supplemented his indictment by the admission that if she had been so persistently engaged in these efforts she had met with but poor success. If you will take the votes of that very respectable but numerically small independent organization that is represented upon this floor, they furnish no evidence of barter, or trade, or league with the Democracy.

But whatever sins that party may have committed in that direction, and I doubt not that she is amenable to criticism, for no party is perfect, no party is absolutely pure, there is one consolation which every Democrat recalls with constant and abiding satisfaction. That is that there is one political degradation to which the Democratic party has never yet sunk. She never did go into league with the fag-ends of a Commonwealth's politics, without regard to antecedents or history, gathering up the confederate and the Union elements, black spirits and gray, and making a conglomeration like Hecate's hell-broth of "tongue of dog and toe of frog," and supplementing it with the dishonest repudiators of honest debts in order to gain ascendency in a Federal Congress. She never, by an open alliance with repudiation, befouled the untarnished escutcheon of a proud old Commonwealth upon which during a century had been traced the story of a nation's glory. [Applause on the Democratic side.] She never held power in either House of the Federal Congress as the inevitable product of such a foul and unnatural coalition. [Continued applause.]

I am not going to discuss politics; I mean to discuss this bill. I mean to comment upon the action of the committee that dares to bring it here and fling it into the face of this House. But it is impossible to enter into a discussion of this bill without treating to some extent the general tariff system of this country, for which the advocates of this measure pretend that it is meant to provide a revision, but which some of us believe it is simply intended to perpetuate. I do not believe that the Congress of the United States has any power to levy a duty for protection. I confess that under the eighth section of the first article of the Federal Constitution Congress is empowered to lay taxes by way of impost duties for the raising of a revenue. But I assert that a tariff for revenue is a tax, and I assert that a tariff for protection is pillage and robbery.

There is no judicial dicta to be found emanating from any court upon this continent that warrants the levying of a tariff tax for the purpose of protection. A tax is described and declared and defined to be the imposition of an exaction laid upon the property of the citizen for the support of the State. Taxation is an attribute of sovereignty; it is the grandest of all sovereign powers. The highest judicial tribunal of the land has declared it to be the power to destroy. I deny that under the provision of this Federal Constitution Congress holds any power to levy any tax for individual gain or private advantage. Protection was never dreamed of by the framers of the Constitution, unless it was that incidental protection which follows inevitably from the laying of a tariff for the purposes of a revenue.

I do not mean to dwell upon the constitutional question that is involved. I do not mean to trench upon the patience of this committee by asking it to listen to my protest, as I feel I have the right to do under the seventh section of the first article of the Constitution, against the Senate ever originating a bill like this. It never belonged there; it belongs exclusively within the jurisdiction of this House.

I do not forget that the present occupant of the chair ruled, and with perfect candor and impartiality I am sure, that this bill was not a revenue bill. That was before this discussion began. But I do insist that the Senate had no power under the seventh section of that article of the Constitution to originate this bill, or any bill like this.

However that may be, it is here, and we must deal with it, and deal with it in the light of the tariff and its operations as we find it to-day. I am glad that this discussion has at least proven that we are all united in reference to the necessity of a revision of the existing tariff.

It finds no advocate upon this floor. None so poor to do it reverence. No one yet has proven himself bold enough to clamor for its retention in its present shape. I hazard nothing in the assertion that this war tariff under which we live to-day stands without precedent or parallel in the history of this or any other country. No tariff, from the organization of this Government till now, under which labor has ever groaned, was so sweeping in its embrace, so severe in its exactions, so repugnant to every sense of fair dealing or right, as the one that we have this day.

I do not fear to declare that from the organization of society down till now there never was a scheme emanating from human ingenuity so deftly put together, so cleverly constructed, so utterly subversive of every principle of justice among men as the present protective-tariff system of this land. To make it palatable it has encircled in its slimy coils the rice of the Carolinas, the sugar of Louisiana, the hemp of Kentucky and Missouri, and the wool of the South and the West—all sops thrown to an insatiate Cerberus—stool-pigeons used for the purpose of perpetuating the class legislation by which protected Eastern industries batten and fatten upon the labor of other sections, and to gain allies from quarters where they had no right to look for succor. I will not leave the gentleman from Michigan in doubt, when I have done, as to where at least one member of the Democratic party stands upon this tariff issue.

This tariff so drafted, so working, is not defended, but it is excused. Its crimes are sought to be palliated by those who tell us that it has but one purpose, and that the protection of American labor from competition with the pauper labor of foreign countries. This is specious, this is false; and I cannot believe that those who declare it are sincere in their utterances. No man will deny that more than 85 per cent. of all our exports are the product of the agriculturists of this country and that they are forced to find sale in foreign countries. No man will deny that the manufacturer sends abroad less than 1 per cent., less than one-half of 1 per cent., less than one-third of 1 per cent. of his products to these foreign markets. No man will deny that the foreign market of necessity determines the price at home. No man will dare deny that under the operation of this tariff you have built up a home market in which the Eastern manufacturer sells 99¾ per cent. of all his products where a protective tariff excludes the competition of pauper labor, and forces the great wealth-builder, who digs and delves in the earth for its return, into that foreign market in open competition with all the pauper labor beneath the sun.

Is this protection to American labor? We buy from England twenty-five millions of her manufactured goods annually, and send her in return less than three millions of ours; the difference must be made good by delivery of the farmer's product to the English consumer at such price as may be had in the English market. Do you gentlemen who advocate this bill undertake to tell the country that in your vocabulary no man upon the American continent is entitled to be enrolled upon the scroll of honor as a producer or a laborer unless he is one of those white slaves who toil out their lives in the factory or the machine shop of his commercial master?

I have before me the very able and exhaustive speech which the gentleman from Massachusetts, [Mr. RUSSELL,] a member of the Committee on Ways and Means, made upon this bill on the 29th day of March last. That gentleman tells us that we need not worry ourselves about a reduction of tariff rates, because he says that the adoption of such a course will not reduce the price of the manufactured article. He tells us in this speech that we have but one hope, and that is to be based upon home competition. Now, Mr. Chairman, I have a right to deal with the issue as the gentleman from Massachusetts presents it. I have read carefully that and other speeches made from the same stand-point. I do not believe that the gentleman from Massachusetts shows less ability than any of his colleagues on the committee or any of the gentlemen who have spoken from his side. Equally able, thoroughly informed, he is at the same time more candid and more fair in many respects than others that I might cite.

He tells us in this connection that we are to depend upon home competition for a reduction of the price of manufactured goods; that

a reduction of the tariff will have no effect whatever in that respect. Yet he stands the avowed champion and protector of American labor. Now, let us see where his theory will lead. How will home competition ever reduce prices until the home supply has overreached the home demand? There can be no reduction of price so long as combination among manufacturers is possible. There can be no reduction of price until the demand at home falls below the supply which the home producer offers. When that happens I grant you a reduction of price will come. But what else will come? As certainly as night follows day there must be other results—a diminution of employment and a reduction of wages; otherwise the manufacturer must pocket that reduction of price himself; and I know no instance in which his philanthropy has ever permitted him to adopt such a policy. A reduction of wages and a diminution of employment must come at the same instant that a reduction of price is brought about by home competition. And thus we find the self-constituted champion and defender of American labor reducing the laborer to the very condition from which he promised and avowed he would save him.

There is nothing but sophistry in all this argument. We know some things by intuition, and they do not need to be demonstrated. We know it is not a fair system of legislation when the earnings of one man are transferred without consideration to the pockets of another.

You tell me—I heard the gentleman from Rhode Island [Mr. CHACE] yesterday assert that his policy was to protect all American industries. You cannot protect one man except at the expense of another man. If you protect every diversified interest and labor in this country and protect them equally, what good, I beg of you, has come of that? You have robbed me for that man's benefit and plundered him to give me back that which you took from me. That is arguing in a circle. It is illogical. It is sophistical. It is an insult to the intelligence of the House or the country.

Mr. CHACE. Did I understand him a few moments ago to say that 84 per cent. of the agricultural products——

Mr. BLACKBURN. If the gentleman did so understand me either he failed to catch my language or I failed to make myself clear. He understood me to say that 86 per cent. of all our exportations went from the agricultural and producing classes of the country. That is what I said. If I did not, I certainly meant to say it.

The gentleman from Pennsylvania, [Mr. BRUMM,] who prompts the gentleman from Rhode Island, should ask his own questions and not attempt to do it by substitute.

Mr. BRUMM. Will the gentleman yield to me for a question?

Mr. BLACKBURN. Certainly.

Mr. BRUMM. What per cent. is that of the entire agricultural products of the whole country?

Mr. BLACKBURN. I will give the gentleman the whole of it. I do not wish to go into the detail of figures. I tell you that 70 per cent. of the six millions of bales of cotton raised in this country find their market abroad. I tell you that 34 per cent. of all cereals raised in this country are sold outside of the limits of this land. You do not deny—no man will—that the price fixed in the foreign market determines the price at home. So you force the producer, who is, as I have declared, the wealth-builder of this land, to sell his whole product, whether at home or abroad, upon the price that is fixed and determined in the open markets of the world. You let the home manufacturer sell 99⅞ per cent. of all his product in a protected market with an average of 43 per cent. in the nature of royalty and bounty to his pocket. That is what I mean to say.

More than two-thirds of our annual importations are subject to tariff rates ranging from 10 to 780 per cent., making an average for the last fiscal year of 43¼ per cent.; and this you term protection to American labor! Why not be fair; why not call things by their proper names; why not tell the truth and say, that under this guise of hypocrisy you seek to protect nothing and do protect nothing except the capital invested in manufactures; and further, that such protection is secured only at the expense of all the productive industries of the land?

If you are honest and mean to tell the truth when you say that you seek to protect American labor, why not make your duties on raw material proportionate to your duties on the manufactured article? You strive to protect the labor employed in the manufacture of the article, why not protect equally the labor employed in the production of the article?

Mr. CHACE. The gentleman must know that the New England manufacturer has to pay more for his agricultural products on account of the duty on those articles.

Mr. BLACKBURN. The gentleman, I hope, will not make a speech in my time, for he has had his hour and I have given away a part of mine, and to his own side, when it would not allow one of its advocates to go on.

Now, Mr. Chairman, what I mean to say is this: this is not fair-dealing and you cannot persuade the people of this country that it is. The American people will not be long in wearying of such driveling selfishness, such transparent hypocrisy, such maudlin nonsense. Do you want evidence and proof conclusive? I am going to leave it for the members of the Committee on Ways and Means to furnish all the details that are necessary in the discussion of this question. They may be able to do that. They have well told us by this bill that as to the general features of the management of the tariff question they were compelled to plead the infant act. They have told us they were not able to deal with the tariff under which this country's revenues are to be raised, but they may be able to furnish the data they propose this commission shall gather.

It is a pitiable confession for a committee to make, parading before this House and this country its lack of ability, its incompetency, its imbecility. It is a degrading confession which, in the estimation of all people, will stamp this Committee on Ways and Means as even worse and weaker than either of its immediate predecessors, and Heaven knows this exhausts comparison. Of course, when I speak of the present Committee on Ways and Means, I speak of the majority side, excluding from all criticism the honorable gentleman from Minnesota, [Mr. DUNNELL,] for to him I tender my acknowledgments and thanks for the able, honest, bold, and manly speech which he delivered in opposition to this measure.

But take the general results. Under a revenue-tariff system of 23 per cent., in the decade beginning in 1850 and ending in 1860, the great agricultural producing State of Illinois shows a disproportionate accumulation of wealth as against the State of Pennsylvania.

But take the decade beginning in 1860 and ending in 1870, and you find the six New England States under the operation of this war tariff, with Pennsylvania, New York, and New Jersey added, making nine in all, being the oldest States on this continent, whose reservoir of population was full, which had no lands to open, no additional resources to develop, with constantly dwindling population, gathering wealth beyond all precedent. You find from the census of 1860 that of the $16,159,616,068 that constituted the national wealth, $5,591,607,424 was located in these nine States, or an average of 34.60 per cent. of the whole. That was in 1860, but under the operation of a high protective tariff in 1870 the wealth of this country had nearly doubled. It was $30,068,518,507. How stood it with our nine Eastern protected States? They surely should have been content if they were able to maintain their percentage of one-third as against the expanding, undeveloped, and growing West and South. But mark all of you, that these nine States in 1870 held $15,290,032,687 of the $30,068,518,507 which constituted the aggregate wealth of this country in 1870, showing, instead of 34 per cent. of the whole wealth of the country, in ten years, under a protective tariff, they had gone to 50.85 per cent.

This is the table which the Bureau of Statistics terms "the true value." I have the assessed values here before me, as well as the true value, which I have given, and it is officially dated, not twenty-four hours old, from the chief of the Bureau of Statistics. So that in ten years' time these nine States went from about one-third to more than one-half of the aggregate wealth of the whole country. The census for 1880 is not out. Its tables are not furnished. We cannot undertake to state authoritatively what the last decade may show to be the condition of this people, but I take it that he would not be a bold man who would declare his honest conviction that within the next three months, when this information will be given to the country, you will find the same nine States have reached at least 66⅔ per cent. of the aggregate wealth of the thirty-eight States comprising this Union. Will some advocate or some apologist of the protective-tariff system tell me why that should be so? Assuredly New England did not make these gigantic and disproportionate strides to wealth by reason of any natural advantages which she may possess.

I do not mean to make war upon New England or to make war upon her people. She has much of which she has just cause to be proud; the energy, the inventive genius, the cultivation, the intelligence, the perseverance, and the virtues of her people; but we know that unaided by any other than the natural resources of the soil and climate of that section she could not come in open competition with the rest of this country, and without their assistance starvation and decay would overtake her instead of this abnormal accumulation of wealth transferred to her through abnormal channels. She has not the fertility of soil, she has not the generous climate, nor has she the natural resources that would enable her even to keep pace with the great development of this great country. And yet we are confronted by figures like these that I have quoted; we are looking straight into the face of results which cannot be explained except by means of that class legislation—unfair, unjust, illiberal—which transfers one man's earnings to another man's pockets; a system of exaction that takes from honest toil to enrich dishonest jugglery.

Mr. Chairman, against this abnormal condition of affairs we mean to protest. But our friends who are advocating this bill tell us that we are in a condition now where we may lighten the load and lift a part of the burden that bears so heavily upon the people of this land. They say we are in a condition where our Treasury is overflowing with surplus revenues, and that our taxation may be abated. Although pressed to give relief to the country by a repeal of the unjust exactions of the tariff, the leading men who favor that system tell us no; they are going to strike down the internal-revenue system. This Government, Mr. Chairman, has but two sources of revenue—its import duties and receipts from internal revenue. The time was when we were told that these manufacturing industries needed to be fostered and protected by the Government because of their very infancy; and there are those yet surviving who make this puling cry for struggling infant industries—industries that are now passing into the

second century of their existence, and still unable to put off their swaddling clothes.

I suggest to gentlemen upon the other side of the House that it would be well to change the note of this music. Let them break up the monotony and give us a rest. Shift your plea and ask now of this country for a continuation or perpetuation of your protection system upon the ground of age instead of infancy. Tell the country that we have fostered your industries until they have grown hoary with age and are tottering beneath the accumulated burdens which you have allowed them to gather from the struggling people of this country. Tell them that they are no longer self-sustaining and must go down unless protection shall be made permanent.

But, Mr. Chairman, I have said that this Government has but two sources of revenue. Its Treasury relies only upon the duties derived from imposts and the collections from the internal-revenue system of taxation. We know no others. Now, our protectionist friends in this House tell us that they will give us relief from a portion of the burdens by striking down the internal-revenue system of taxation, but will not touch the tariff. My cherished and much venerated friend from Pennsylvania [Mr. KELLEY] will agree to that, I am sure. He bows his assent. I knew he would; and why? Because it is the only desperate chance left for him and his colleagues to maintain their cherished idol of pillage and plunder at the public expense. Strike down your tariff system and——

Mr. KELLEY. If I do not interrupt the gentleman I would like to ask him a question—the same question I asked the gentleman from Illinois.

Mr. BLACKBURN. Certainly.

Mr. KELLEY. I wish to ask the gentleman whether a reduction of duties, by stimulating importations, does not as a first effect increase the revenue?

Mr. BLACKBURN. It depends altogether upon the method of reduction you adopt. But I will answer the gentleman more at length hereafter. Now, let us see whether you strike down this system of internal revenue in order to relieve the overtaxed people. I grant that it is an offensive system of raising revenue. Like the tariff, it too was born of a state of war. It is inquisitorial in its very essence. It is inequitable in its operations. It is unfair and unjust in its distribution of public burdens.

But let us see if it is not yet, in spite of all that, the lesser of the two existing evils. The internal system of taxation has paid into the coffers of this Government from the date of its establishment in round numbers as much as your tariff system has done in the same length of time. They have each paid in about $3,000,000,000. There was a time when your internal-revenue system of taxation yielded you $300,000,000 annually; to-day it yields about $135,000,000; while your receipts from customs are now about $200,000,000 annually.

Why strike down the one and leave the other intact? In the dark hour of this country's history and trials, in the midst of its calamities, when the besom of war's wild destructive breath was sweeping over this land, you called the internal-revenue system into existence, and it has served your purpose faithfully and well. It has raised millions of revenue annually and beggared fewer people than has your tariff system. But you say now it should be abolished.

Now, let us deal fairly with this question of the tariff; let us be perfectly frank in testing its results. Suppose you abolish the internal-revenue taxes; you will have lessened the revenues of this country by $135,000,000 annually, and to that extent and no further you will have relieved the taxpayers of this country.

But suppose that on the contrary you let the internal taxes stand and revise your tariff until you cut down its receipts $135,000,000 annually, you will have taken not a dollar more from the Treasury than the other method would have done; but you will have lightened the burdens of taxation on the people, not to the extent of $135,000,000 of money only, but to an extent variously estimated at from two to five times that amount.

It has been estimated by an eminently competent authority that under your protective-tariff system the people of this country since 1861 have paid $12,000,000,000 as a bounty or royalty to home manufacturers, not one dollar of which ever found its way into the Federal Treasury. This is more than double the aggregate cost of the late protracted war.

Now, I ask if these two constitute the only resources that the Government knows, if they together and jointly are furnishing the revenues of the country, then if the overtaxed and overburdened people of the country are justly clamoring for relief, tell me, in common fairness, and employ naught but common sense, which is it to the interest of the people to do?

Mr. KELLEY. Will the gentleman allow me to ask him another question?

Mr. BLACKBURN. With pleasure.

Mr. KELLEY. Is there any impost duty that amounts to the rate of taxation that the spirit tax imposes on every bushel of corn before permitting its first grade in manufacture to be put on the market?

Mr. BLACKBURN. I will answer the gentleman.

Mr. KELLEY. There is imposed on a bushel of corn a tax of $3.60 before its grower can put its first result in proof spirits on the market.

Mr. BLACKBURN. I will answer the gentleman and tell him "no." But I will tell him further, that he is mistaken if he expects to swear me in as a recruit to advocate and vindicate the establishment of his internal-revenue system. I answer his question "no," because that very article to which he refers, in which my State and my people are so largely interested—my own district paying into the Federal Treasury more than a million of dollars annually as a tax levied on that one manufactured article—I tell him that the article is taxed 300 per cent. on its actual value. The whisky is worth but 30 cents a gallon when first made, and it is taxed at the rate of 90 cents a gallon.

My people are bearing that burden, and I speak for them; not for them alone but for the people of all this broad country. I declare that iniquitous as that tax is you had better leave it, if you will reduce this tariff and correct its unjust exactions, because in that direction you will give more relief to the people. [Mr. KELLEY rose.] The gentleman I know need not be assured that I want to be perfectly courteous to him, but he will remember how little time I have. However, I will yield to him.

Mr. KELLEY. A bushel of corn makes four gallons of spirits.

Mr. BLACKBURN. Then the tax is a still more grievous outrage. I have sought to be fair. Some say that for every dollar that is paid into the Treasury two dollars are paid by the people. I am one of those who say that for every dollar of money that is carried to the Treasury through this tariff system, five more are placed on the already bowed backs of the taxpayers of this land.

But the gentleman from Massachusetts [Mr. RUSSELL] tells us that a tariff in order to be protective must be prohibitory. I am sure that I am not misquoting him; but if he thinks I am I will send his speech to the Clerk's desk and ask that the marked passages be read. He says this:

Therefore a tariff cannot be adjusted on a certain article to serve the double purpose of revenue and protection. It must either be at a point to check importation and thus protect, or it must be at a point low enough to admit importation and thus produce a revenue. That is, when fixed at a revenue point it ceases to protect, and when fixed at a protective point it ceases to yield a revenue.

Mr. RUSSELL. I only ask that if the gentleman quotes from my definition of the tariff he will quote the whole text of that definition, or at least insert it in his speech.

Mr. BLACKBURN. I will agree that the gentleman from Massachusetts may indicate what shall be inserted. I have myself been made the victim of garbled quotations before now, where gentlemen did not hesitate to stop at semicolons or commas. I tell the gentleman now that I have read three full sentences from his speech. I am willing that he shall indicate what further he wishes to be quoted.

Mr. RUSSELL. I have here a copy of that speech and will ask that the following be inserted:

This term is ambiguous and misleading—an ingenious one for its purpose. It is interpreted in sections inclined to free trade to mean free trade, and in sections inclined to protection (and there a dangerous doctrine for party success) it is claimed that it has in it elements of protection.

The Senator from Texas [Mr. COKE] in his recent speech, after paying a high compliment to the superiority of our workmen and machinery, says, "Can it be possible that this people thus conditioned need more protection than a strictly revenue tariff will give to preserve their home market and their home manufactures?" How deceptive! There is no protection in a strictly revenue tariff—that is, to an American manufacture; for if a revenue is to be derived from an imported article it must be imported, which certainly involves its manufacture elsewhere, and the rate of duty must be so fixed as to invite its importation. Therefore a tariff cannot be adjusted on a single article to serve the double purpose of revenue and protection. It must either be at a point to check importation and thus protect, or it must be at a point low enough to admit importation and thus produce a revenue. That is, when fixed at a revenue point it ceases to protect, and when fixed at a protective point it ceases to yield a revenue.

A tariff for revenue and protection requires the division of articles of import into two classes, one for revenue and one for protection, adjusting the duty upon the various articles of merchandise we have facilities to and desire to manufacture here to the protective point, or to that point that will enable our manufacturers to pay American wages and compete with the foreign manufacturer with foreign wages; and selecting such articles of necessity or luxury as cannot well be produced here, upon which to impose a duty for revenue.

A protective tariff not only involves the manufacture of the necessaries of civilized life in our own country by our own citizens, but makes it possible, through higher wages, to maintain our working classes on a higher plane of civilization than is enjoyed by any other people. This is the principle involved in a protective tariff—nothing more, nothing less.

It is neither necessary nor politic to fix a protective tariff so high as to encourage combinations for unreasonable profits, although we have passed that period in the history of this country when such combinations can exist. Our industries are too widespread, capital is too eager for investment, skill and enterprise too ready, to permit for any length of time unreasonable profits. In fact, an over-high tariff would bring about an unhealthy competition among ourselves. No wise protectionist asks it.

Mr. BLACKBURN. Now, I do not believe that a tariff to be protective must be prohibitory. On the contrary, I believe that no tariff can provide a revenue without giving some degree of protection. I do believe, however, that more than 100 years have gone by without evolving from the brain of man a more valuable and irrefutable contribution to the science of political economy (if indeed it has ever reached the plane of the sciences) than the declaration of Adam Smith in his "Wealth of Nations," when he declared that "where protection begins there revenue ends." Protection does not bring revenue. To that extent the gentleman from Massachusetts is right. But revenue must of necessity bring protection. And now, in order to be distinctly understood by my friend from Michigan, [Mr. BURROWS,] I will tell him that this is the only species of protection I would ever be induced to submit to or to favor—that which you cannot avoid, which comes of necessity from the very effort that

you make for the raising of revenue. I would agree to that much protection and none other.

If this country was in a normal condition, if this Government was not in debt, if it was not compelled to impose customs duties and internal-revenue taxation not only for the defraying of its current expenses but the meeting of the interest on the public debt and the creation of a sinking fund to discharge the principal at maturity, if we were as a Government in a normal condition, I openly declare that I would be an avowed and an absolute free-trader. I would not raise revenue by crippling commerce or putting the producers of my country at a disadvantage with the labor of the earth.

But we are in a situation from which we cannot at present extricate ourselves. We are told that capital is very timid, and that the country is afraid if the Democratic party should return to power that it would disturb the vast sums which have been invested in the manufacturing industries of the land. I do not believe that the country entertains such fears. It would not be the part of prudence or wisdom, the act would be lacking in the essentials of justice if we should adopt any policy that would cripple the investments made in that direction. I believe that this tariff should be revised, looking to bringing it to a point for the raising of revenue only, with a fixed purpose to make it a revenue tariff and not a protective tariff. I believe that this is the true policy; and I mean to advocate it.

The gentleman from Massachusetts told us that this tariff had done many great and good things for the American people. He has made, in my judgment, (and I state it in candor and in justice to him,) the strongest and most plausible presentation of his case that has been submitted from his side in either House. He has praised this tariff for good deeds that it never did; he has sought to excuse it for sins and crimes that it has perpetrated. He told us that the war had swept the shipping interests of this country from the sea. Now, in Heaven's name, Mr. Chairman, the war did enough that is to be deplored; but it never did that, and you know it. Your enrolled and registered tonnage was as heavy in 1865 when the war ended as it was in 1861 when the war began. There was but an infinitesimal difference. The war did not sweep the shipping of this country from the seas.

Mr. RUSSELL. The ocean carrying-trade decreased; but the coast-bound trade increased.

Mr. BLACKBURN. Oh, yes; and the gentleman will not deny the figures which I hold; for I quote from the speech of a very distinguished Senator of the gentleman's own party, made in the other wing of this Capitol, and which passed unchallenged. Your enrolled and registered tonnage was as heavy when the war ended as when it began. You lost your tonnage after 1865, and you know why you lost it. You lost it by reason of the provisions of your protective tariff, which threw its sheltering ægis over the iron screw steamship in the war that it made upon the wooden ships. Cancer-like it ate out the very vitals of this great established American industry. Do not charge that to the war.

The gentleman tells us that it is time now for the South to come up to the doctrine of protection. I trust not. He points to different sections of that portion of the country, and says that light is dawning upon them, and they will soon fall into line. He tells us that the South has been neglected, or, rather, has neglected her own opportunities, and failed to take advantage of the workings of protection.

Mr. Chairman, it is not necessary for me to protest my absolute and entire devotion to that people or that section. That is a matter of record. There is no sacrifice that I ever failed to make for the South when she called for it to be tendered. There is no sacrifice that I will not now gladly make to contribute to the material prosperity and the building up of the commercial power of that people. But I do not want even my own section to grow rich if she must do it by the plunder of her neighbors. I do not want New England to continue to grow rich by pillage practiced upon the West and the South. I do not want the West to advance her interests at the expense of the South or the East. The question upon which these sections divided has been disposed of.

I am truly thankful that there is not left in the political horizon of to-day a single sectional question to be discussed or to be determined. All such questions have been eliminated from American politics. We are not here to legislate for sections. This issue was referred to the stern arbitrament of battle. The sword has traced in blood its irrevocable decree declaring that this country is and shall continue to be indivisible. If I cherish one aspiration or one ambition now, I do declare it is by fair dealing to contribute even my mite to the promotion of the welfare and the advancement of the material interests of a common country, in which I and mine, as no man will deny, hold again a common interest. [Prolonged applause.]

He tells us this is a party question. So say I. You do not throw down that gage of battle one instant too soon for me. I so declare, and to the extent of the last atom of power I possess it shall be made, and it shall be held and continued as the dividing line of parties. He says that the speeches in the other wing of the Capitol and the votes on this bill and the speeches in this House demonstrate it is a party issue. I say so too.

I want to see that line drawn as sharply as it is possible to define it. I want to see the fighting forced on that line. I want to see the Republican party on one side declare that in future Congresses it will lay claim to no adherents save those who advocate a protective tariff, and the Democracy declare it has no interest or claim upon the man who traces his politics to such a creed. I want that. This issue was thrust upon us toward the close of the last national campaign in the States of Ohio and Indiana. The boldness, if not the reckless courage that marked the conduct of our opponents extorts our admiration. The ill-considered prudence, the timidity with which our leaders slunk away from its discussion then excites no feeling but contempt.

The gentleman from Massachusetts comes here advocating the passage of this bill. Mark you what he says of it! He says he was opposed to this bill in the Committee on Ways and Means. He says he resisted its adoption in that committee: "It is for this reason I urge early action on the tariff, because it needed revision, but your Committee on Ways and Means in reporting this bill virtually, so far as they are concerned, delegated the whole matter to the commission. I therefore shall vote for the commission bill in the House as the now speediest way of reaching a result." If there is any authority I have a right to quote as to what the scope of the pending measure is as to its objects, purposes, and results, tell me if I do not find warrant for assuming the gentleman from Massachusetts has given it to us correctly. He says so far as the Committee on Ways and Means is concerned it has delegated this whole matter to the commission which this bill proposes to raise. What whole matter? The whole matter of a revision of a tariff.

Mr. McLANE. That is not so?

Mr. BLACKBURN. If that is so, then I ask you to find within the limits of that Federal Constitution the authority this House has to delegate its exclusive power over the matter of raising the revenue for this Government? You are acting outside of the Federal Constitution, and every man within the sound of my voice knows it. It is not only extra-constitutional, it is anti-constitutional, if the gentleman from Massachusetts has fairly and correctly interpreted the provisions and purposes of this bill. I believe he is right, I mean practically, and I want to enter a protest in the shape of a prediction right now that if you pass this bill, if you raise this commission, it will take this testimony and make its report predicated and based on *ex parte* evidence, and when it is brought into this House we will be told we must not touch it; that its provisions have been adjusted relatively to each other; that the whole field has been covered by nine employed and hired experts; and that not a scintilla of tax there proposed but what bears its relation to each and every other provision of that report.

You will be told, if Congress undertakes to tamper with it, that it will find itself at sea; that it will mar the symmetry of the whole structure; that it will be acting imprudently, hastily, ill-advisedly, and unwisely; and under such appeals as that, that side of the House will undertake to rush that report through and crystallize it into law. The gentleman from Massachusetts is right. The passage of this bill is the parting forever by the American Congress with its power over the system of taxation.

Mr. RUSSELL. The bill itself will define the duty of the commission, and not anything I have said. Of course the committee will have to revise any report they make and formulate a bill, though certainly not at this session of Congress if in fact they have time in the next session.

Mr. BLACKBURN. Yes, sir; I have the bill before me, but I choose to take the interpretation of the gentleman from Massachusetts, which was deliberately uttered, put into the records of this House, and which I cordially indorse and fully agree with.

Now, Mr. Chairman, I do not intend to trench on the patience of this House or to exceed my time. I do not expect to have the slightest influence on the vote of a member of this body. I do not expect to do more than satisfy my own conscience in entering a protest against what I believe to be ill-considered, hasty, dangerous, and unconstitutional legislation.

I do not want the sovereign power of this great Government of fifty millions of people to be parted with and doled out to a lot of irresponsible men, no one of whom is to be named on this floor to-day.

I do not want a packed jury to pass upon this issue. I do not want a lot of broken-down political hacks to become the repository of the sovereign legislative revenue power of fifty millions of people. I wish simply to plead for an honest, judicious, wise, prudent, and gradual reduction of the tariff exactions. I want it to come from this House. I want it to come from the organization of the House to which this business is committed.

If you gentlemen of the majority are afraid to trust your side, wipe out your present Committee on Ways and Means and let the Speaker make another. I do not, in the light of the introduction of this bill, believe he could make it much worse. When the committee pleads its own stultification and says it is not able to grapple with the question which the Constitution of the country and the rules of the House have put in its keeping, I am for one willing they shall go into retirement. Our side on this question is more than willing to leave in the hands of the minority of that committee these great vital interests of the people.

The CHAIRMAN. The gentleman's time has expired.

Mr. BURROWS, of Michigan. I move it be extended.

Mr. KENNA. I will take the floor, and cheerfully yield fifteen minutes of my time to the gentleman from Kentucky.

Mr. BLACKBURN. I sincerely thank the gentleman from Michigan [Mr. BURROWS] and the gentleman from West Virginia [Mr. KENNA] for their courtesy and kindness. I shall not go further in the discussion of these issues, but I will ask permission, however, which has been accorded to gentlemen who have preceded me, to incorporate what I have not been able to say in my printed remarks as they will appear in the RECORD.

Now, the gentleman from Iowa, in his speech on this measure, presented to the House, it seems to me, a peculiarly glowing view of what we might expect from a continuance of the system, but which, I beg leave to say to the gentleman, this country has never yet enjoyed as a result of its operation.

I protest that I cannot agree either with him or with his colleague from Massachusetts on the Committee on Ways and Means that the passage of this bill means a speedy revision of the tariff. We will have no revision of that tariff under this measure, and no revision will ever come as a product of this commission. No gentleman believes that it is intended for that purpose. I know it is ungracious to deal with private motives. I believe this is a measure of delay. I believe that its results will accord with its attributed purposes. I believe it was fairly characterized the other day by one of the most brilliant men on this continent, himself a staunch Republican, as "an affidavit for a continuance." That is my estimate of this measure, its purposes and its results.

Mr. RUSSELL. Will the gentleman from Kentucky state if he thinks that was the intention of the gentleman who originally introduced this bill in the Senate?

Mr. BLACKBURN. I will say to the gentleman from Massachusetts that I was as much opposed to this bill when it emanated from the hand of that honest, staunch, sturdy old Connecticut Democrat in the Senate as I am now when it is left in the charge of the gentleman from Iowa, the gentleman from Pennsylvania, and the gentleman from Massachusetts in this House.

But the gentleman from Iowa, in the handsome peroration with which he concludes his able speech on this bill, tells of all the benefits that were to come, and of the thrift and prosperity and the universal happiness which were to be spread throughout the land as a condition of our allegiance to the present high protective tariff system. He even furnished the music in order to set off the scene. He tells of the fabled music of the spheres, which never as yet greeted mortal ears, and his anxiety to produce it by reason of judicious and wise revenue legislation. He tells of the whir of the engine, the hum of the spindle, the ring of the anvil; but the great body of American laborers are not made to play any part, nor are their voices heard in this grand chorus.

I, too, Mr. Chairman, would like to have the country made vocal with the music of multiplied industries. But I would have no jarring or discordant notes to mar its symphony. I, too, would have the whir of the engine, the hum of the spindle, and the ring of the anvil; but I would mingle with it the joyous song of the contented plowman as he follows from dawn till dark the turning glebe which must at last give food and sustenance to all. [Applause.] I would have that grand and glorious melody supplemented by the ringing laugh of happy childhood as it gathers at close of day about the farm-house door, the vine-clad cottage of the mechanic, and the humble home of the delving miner. I would wreathe the face of every honest toiler with the smile that comes of content and thrift, instead of leaving it wet with tears. I would make each citizen of this great land believe that he is the equal of his fellow; I would have him know that he is free—commercially free, as well as politically free, wearing no shackles, standing erect, receiving protection from rendering loyal homage to his country upon exact equality with all. [Applause.]

I would make each citizen of ours love his country, not as a mere sentiment, but because of its just and equal laws. I would have him feel that he rested secure in his every right beneath the broad protecting ægis of a great, a just, a powerful Republic. I would write that Republic's motto and blazon it upon her shield and give it to the world; I would make it so broad and catholic that parties should not divide upon it, and no man might gainsay. I would make it read: Protection for each citizen abroad, justice and equality for each citizen at home. [Prolonged applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. PAYSON having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. No. 328) to provide for the sale of the lands of the Miami Indians in Kansas.

The message further announced that the Senate had passed a bill (S. No. 1168) to amend the several acts in relation to the division of the State of Mississippi into judicial districts, and further to amend the several acts in relation to the northern judicial district of the State of Mississippi, and to provide for the times and places of holding the United States district courts in said northern district.

TARIFF-COMMISSION.

The Committee of the Whole resumed its session.

Mr. KENNA. Mr. Chairman, in a service of four or five years in this House, I do not remember to have known a measure involving so simple and short a proposition to provoke so wide and extensive a discussion. I regret exceedingly that members who have preceded me in a four weeks' debate have not found it to their convenience and to their taste to discuss the particular bill and the special measure by which this House for that length of time has been confronted, instead of discussing the tariff question as an abstraction. Now, if I may be pardoned by the House, I propose in the few minutes which I shall occupy to-day to confine myself to this bill; and if I may be further pardoned, I propose in the discussion of the bill to deal with equal frankness with both sides of the House in stating the facts which shall control my action.

I deny that the question of high protection or of tariff for revenue or of free trade is involved in the measure which is now presented for our consideration. It does involve the proposition that the existing tariff of this country shall be revised. And I am glad to hail the time at last in the history of the House of Representatives when a proposition heretofore denied, on one side at least, now meets with universal concurrence and acceptance here.

I remember the time when a bill pending before this House for a revision of the tariff, and which had been reported by the Committee on Ways and Means, was met with a proposition to strike out the enacting clause. I remember to have voted against striking out the enacting clause of that bill for the reason that I then favored, as I now favor, a revision of the tariff.

And I remember further that in the campaign in my district which followed I was met everywhere by a letter emanating from a member of that committee and a gentleman who now has the honor of presiding over its deliberations, in which it was avowed that a vote cast in this House against striking out the enacting clause of that bill was essentially a free-trade vote, and that a vote for striking out the enacting clause was a vote for protection.

The issue was thus sought to be made that the tariff as it is must be accepted and that the protectionists of the country would accept no other. I need hardly undertake to establish a fact so well understood in this House at the time, that the effort to maintain the existing tariff without change or revision was practically an effort to perpetuate a system that was and is sectional in its character and unequal and unjust in its operations. I believed then and I believe now that no man can justify a tariff, whether based on a protection or a revenue idea, which is so devised as to impose all its burdens on one section of the country and to confer all its benefits on another. Whatever may be the differences of opinion on the subject of protection and free trade, the large revenues demanded by the necessities of the Government will require the imposition of duties on so many articles of importation as to give practical protection to a great variety of interests. I am not alarmed at the surplus accruing to the Treasury. I am glad to see it and I hope to witness its application to the extinguishment of the public debt, so that our bonds, instead of flooding the markets in competition with every private borrower, may be paid as rapidly as the nature of the obligations will allow, thus sending into active industries and to general employments the vast amount of capital they have served to lock up in the vaults. But the tariff as it now exists is sectional. It gives benefits to the North and East which have made them rich while it imposes burdens on the South and West which have kept them poor.

I am glad, therefore, to hail the time when members may rise here and avow their purpose to support measures looking to a revision of the tariff, without being confronted with the naked declaration that the man who ventures to raise his voice against the existing order of things must essentially be on one side or the other in reference to protection or free trade. I have been impressed by the fact, in the course of the lengthy discussion upon this measure, that no one now dares to defend the existing tariff. It is condemned by the protectionist and free-trader alike and its revision universally demanded.

Mr. KELLEY. I would like to ask the gentleman something about the letter which I understood him to say I sent into his district.

Mr. KENNA. It was a letter signed W. D. Kelley. It was written to a prominent Greenbacker in my district, and used in support of the Greenbacker, who was the candidate against me of the combined Republican and Greenback parties. It was made use of to give the interpretation of others and not my own interpretation to my vote, and it served to mislead many well-meaning people with reference to that vote.

Mr. KELLEY. I hear of it now for the first time. I have no recollection of having written such a letter. I will say more, that I have never written a letter, to my recollection or knowledge, and sent it into the district of any gentleman who was a candidate on either side. I have gone into districts and spoken. I am inclined, therefore, to think that the letter was a forgery. I regret that the gentleman did not bring it to my attention at the time.

Mr. KENNA. I am glad to have the disavowal of the gentleman from Pennsylvania with reference to that letter. It is a fact that is well known throughout my district that such a letter as I have described was published and sent broadcast through the district and used with reference to the sole issue that I have mentioned.

My purpose, however, in referring to the matter at this time, as I trust the gentleman will understand, was not to criticise him in connection with that letter, but to emphasize the proposition that from the condition of things then existing in this House and in this country there has been a change which brings us now to confront

the fact that this House is a unit in favor of a revision of the existing tariff. No man defends it, and it is a matter of some gratification to me to realize that my vote for a revision of the tariff in 1878 is vindicated by the general demand on both sides of the House for a revision now.

Mr. KELLEY. If the gentleman will permit me, in justice to myself, I will say that in my long Congressional career I can remember having written two letters used in Congressional campaigns. One was for one of the colleagues of the gentleman, and the other was for a gentleman then a candidate in Illinois, who was elected. I wrote those letters to them upon my own convictions, but upon the suggestions of the gentlemen who used them and for whose advantage they were used. I can remember no third letter.

Mr. KENNA. I am very glad to have given the gentleman an opportunity to repudiate a letter which was ascribed to him at that time. I felt, as far as I was personally concerned, totally indifferent as to what expression came from anybody with reference to the real issue involved in that vote. I am proud of the good opinions of my fellow-men, but I declare, I trust without any element of egotism or disregard of the good will of others, that I shall always feel indifferent as to the opinion of any man or set of men about my votes in this House, so far as any regard for such opinions might induce me to cast a vote that did not have the concurrence of my judgment and my conscience. I have alluded to this changed condition of things to remind gentlemen around me that the time has passed when in this House or elsewhere any man will rise up to defend the present tariff in this country. It is condemned for its excesses by the free-trader. It is discountenanced for its injustice by the revenue-tariff man, and it is repudiated for its inequalities and sectional discriminations by the protectionist himself. Its revision and readjustment are universally demanded, and if this bill never accomplishes a better object, it has demonstrated that fact to the satisfaction of the country.

I desire now to discuss the bill with reference to the simple question involved in it—a question of method. In 1874, when what was known as the tidal wave swept over this country, it resulted in returning a Democratic majority to this House. I have taken the pains to-day to examine the RECORD with a view to ascertaining precisely what was the Democratic majority on this floor at that time, and I find that it was 64.

The Democratic party of this country at that day demanded, as it now demands, a revision of the tariff. That House undertook a revision of the tariff. Bills were introduced and referred to the Committee on Ways and Means, and the result was a report of a bill by that committee. That bill was discussed, the discussion of it continuing and being prolonged until finally that Congress ended, and the bill died, and there was then no revision.

In the next Congress there was likewise in this House a Democratic majority. That Congress undertook a revision of the tariff. Bills were introduced. The Committee on Ways and Means spent weeks and months, as my recollection goes, in the preparation of a bill which was finally reported to this House—the bill to which I made allusion a while ago, known as the "Wood tariff bill." I was then in favor of a revision of the tariff, although I never said and am not now prepared to say that I would have been willing to accept the Wood bill as that revision. I voted, however, against striking out its enacting clause, because I wanted this House to have a full opportunity to consider it by sections, to perfect and mature it; and I hoped that such perfection and maturity would be brought about as to enable me to support it. It, however, died the death at the threshold.

The Democratic party had a majority in this House in the Forty-sixth Congress; and whatever may have been done by the Committee on Ways and Means having jurisdiction of these subjects, whatever efforts may have been made, whatever of energy may have been bestowed upon the subject, we are all aware that no bill for the revision of the tariff was ever reported by that committee in that Congress.

Now, in the face of the fact which I assert as historic truth, let it affect whom and what it may, that Democratic majorities in this House in three successive Congresses failed utterly to secure the passage of a bill revising the tariff, I want to know how any man can undertake to assert that there is any better prospect of securing a revision by the same method in this Congress when it is well understood that the Republican majority up till a very recent time denied even the propriety of any revision at all. A majority of the present House is Republican. A majority of the present committee is Republican. They have given us this bill as an ultimatum.

I will state frankly to this side of the House and to the other that as a choice between this proposed method of revising the tariff and a revision by the more direct method which I conceive to be the proper one, I am unhesitatingly in favor of a revision by the House itself, and now. But I say with equal candor, equal frankness, and equal earnestness of purpose, that as a choice between the proposed revision by the aid of a commission and no revision at all, I am for this commission.

I do not like, Mr. Chairman, the effort that has been made by some gentlemen here not only to give political character to the issue which this bill presents but to attach even to the political character thus given to it their own peculiar views as a standard by which other men are to be measured. I would admonish gentlemen on both sides who have indulged in extravagance of expression that the time never was in this world's history when intolerance of opinion was accepted as the best evidence of wisdom. I have endeavored to cultivate a proper respect for the opinions of others, but I say to those who hear me to-day that unless this commission bill pass, unless this commission shall revise the tariff, reporting their revision to be acted on by this House and the other, and unless such report in some form with proper amendments be accepted in the end, I will not undertake to predict the day when any living man will see a revision of the existing tariff. We have demonstrated by six years of Democratic supremacy in this House that we could not do it in the face of the opposition, and it will require very little effort to demonstrate that in any length of time of supremacy of the other political party they will not do it.

Mr. MORRISON. Will it interrupt the gentleman if I ask him a question?

Mr. KENNA. Not at all.

Mr. MORRISON. I wish to ask the gentleman whether he does not know very well why nothing was done with the tariff in the second session of the Forty-fourth Congress?

Mr. KENNA. I answer that I do. I am perfectly aware that the electoral trouble coming on in the short session of that Congress prevented action then. I am not aware, however, that it prevented action during the long session; and I have never heard any reason suggested that did prevent it, except that with the great variety of interests involved a bill could not be agreed on and sufficient strength secured in this House to support and pass it. I will yield cheerfully to the gentleman if he desires to state any particular reason affecting the matter; for I certainly wish to avoid anything like a misstatement, or any correct statement which is liable to misconstruction.

Mr. HEWITT, of New York. If the gentleman from West Virginia will allow me, I think I ought to state in justice to the gentleman from Illinois, [Mr. MORRISON,] who was the chairman of the Committee on Ways and Means in the Forty-fourth Congress, that a Presidential contest was pending during the long session, and it was not deemed to be nor was it a propitious time for undertaking a revision of the tariff. [Laughter and applause on the Republican side.] Subsequently, in the short session, the electoral controversy prevented the consideration of any such measure.

Mr. REED. I think the statement of the gentleman from New York explains the matter very thoroughly.

Mr. KENNA. I desire to say, in the line of the suggestion of my friend from New York, that this House has never during my experience found a time which in its judgment was "propitious" for revising the tariff. The revision has been wanted all the while, but every effort to secure it has failed, and failed in my judgment because of the inherent difficulty which naturally belongs to so vast and complicated a subject.

Mr. MORRISON. Probably I ought to say, in my own justification, having made some effort toward correcting the abuses in the existing tariff, that I introduced in the Forty-fourth Congress a bill which was considered by the Committee on Ways and Means, and was reported to the House substantially as introduced, at least so far as it affected the older and better organized industries; I mean the manufactures of cotton, wool, iron and steel. After it had been reported and had been considered to the extent of a few speeches being made on it, we got up the controversy about the reduction of the expenditures of the Government; and I spent the last six weeks of the session upon a conference committee with the gentleman from Iowa in making the attempt to reduce those expenditures, in which we met with some success. The tariff bill was ready for consideration at the next session; and we all know what happened then to prevent any further action being taken upon it.

I met those gentlemen who helped me to revise the tariff, some resisting it, at New Orleans, and our attention was called to another question which I do not wish to introduce now.

Mr. REED. I think the explanation of the gentleman from New York satisfies all sides of the House.

Mr. MORRISON. The gentleman from New York was not in charge of the bill.

Mr. REED. I think it had better be left there.

Mr. KENNA. I am good natured, Mr. Chairman, and disposed to yield as much time as gentlemen may desire, if I have it to yield, but I fear I will yield myself off the floor unless I proceed without further interruption. I have promised the gentleman from New York [Mr. COX] half of my time.

The CHAIRMAN. If the gentleman declines to yield further the Chair will protect him in his rights.

Mr. KENNA. Mr. Chairman, let me not be misunderstood, either in the statement I made with reference to the various failures of this House to secure the passage of a bill to revise the tariff, or in the purpose of that statement. The point I intended to make is embraced in the fact that in my judgment, with the multitude of duties by which members are surrounded, with the handicapped manner by which the rules of the House bring measures into it for consideration, with the thirteen general appropriation bills which come ruthlessly at any and all times to take other measures from the floor, with the Calendar filled from one end to the other with private claims with no practical result whatever, engrossing a large part of the time of Congress, and with the thirty letters which bring daily

the demands of our constituents for attention to their mail and other matters in the Departments, the difficulty is inherent in the condition of the House and the character of the work to be done, a difficulty for which, in my judgment, the Democratic party has been in nowise responsible.

Now, what is the bill under consideration? It reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created to be called the "Tariff Commission," to consist of nine members.

SEC. 2. That the President of the United States shall, by and with the advice and consent of the Senate, appoint nine commissioners from civil life, one of whom, the first named, shall be the president of the commission. The commissioners shall receive as compensation for their services each at the rate of $10 per day when engaged in active duty, and actual traveling and other necessary expenses. The commission shall have power to employ a stenographer and a messenger; and the foregoing compensation and expenses to be audited and paid by the Secretary of the Treasury out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff, or a revision of the existing tariff, upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission, in the prosecution of its inquiries, is empowered to visit such different portions and sections of the country as it may deem advisable.

SEC. 4. That the commission shall make to Congress final report of the results of its investigation, and the testimony taken in the course of the same, not later than the first Monday of December, 1882; and it shall cause the testimony taken to be printed from time to time and distributed to members of Congress by the Public Printer, and shall also cause to be printed for the use of Congress 2,000 copies of its final report, together with the testimony.

At the very threshold, Mr. Chairman, we are met with the proposition that the appointment of this commission is a relegation of the authority and power of this House to a body of irresponsible men. I deny it. They have no power; they can make no law; they investigate; they report to us as our committees every day report. But if their suggestions ripen into law, it must be at our hands. It has been likened to the electoral commission. I deny that it is similar to it in any element of organism or power. The electoral commission was made master of the situation. It gave final decision and bound the House and the country. This commission is without power and can only make itself felt in proportion as its work commends its report to the good sense of those who are to receive it.

We are told it will not do for this House to undertake by this method, or by any other, to derive information from outside sources in aid of the performance of its duties. If that be the case, God help this country!

This is to be a commission of nine men. I assume, and I think I have a right to assume, that they will be appointed with due regard to the broadness and the scope of labor which they are to perform. I will say to my Democratic friends here and now that if they be not so selected, if they fail in the performance of their duty, in a generous, equal, and fair spirit, there will be a power here, and you need not be uneasy on that score, to defeat the consummation of their work. I will say to my Democratic friends, on the other hand, that if that commission be fairly appointed by the President, if men be selected with a view to their ability, with a view to their probity, and especially with reference to their fitness for the peculiar work they are to perform, I have no fear that the result of their labors will excite hostility here or elsewhere.

But the suggestion is made that although the President may not do it the passage of this bill will put it into his power, if he chooses to do it, to select nine men to represent his own or his party's views in reference to the tariff. The answer to any such statement is complete and asolutely convincing, that under the bill I hold in my hand the President of the United States, who will make these selections, can exercise no power in the organization of that commission of nine which the Speaker of this House belonging to his own party cannot exercise in the organization of a committee of this House to deal with the same subject.

Mr. BRIGGS. They are to be appointed by and with the advice and consent of the Senate.

Mr. KENNA. It is suggested they are to be appointed by and with the advice and consent of the Senate. That is true, but I say in so far as the President is concerned, and I do not mean to intimate that he will do otherwise than act fairly in this matter, yet if he do so, and the Senate should permit it, I am ready to help for one to defeat the result of his work.

I trust, and I will go far enough to say I believe, the President will select these men fairly and with due regard to his obligations. He certainly can exercise no power in their selection, he can certainly make no discrimination in their selection, he can certainly accomplish no purpose in their selection, which the Speaker of this House cannot accomplish by the appointment of the Ways and Means Committee.

No bill to revise the tariff can be considered here under the rules of this House unless that committee reports it. That committee of the present House has refused and failed to report such a bill. Expressions from a majority of its members during the pending discussion indicate unmistakably that no such bill can be expected from that committee in this Congress. Hence the inevitable fact that I have endeavored to impress upon the House, that we must accept the proposition to appoint a commission or be content for an indefinite period to submit to the exactions, the sectional discriminations, and the injustice of an existing system which no man, either protectionist, free-trader, or revenue-tariff man has been bold enough to defend. But I repeat that the appointment of a commission yields no power to that body of men. They can only inquire and gather facts and information, and report them to Congress for action by that body.

And, Mr. Chairman, since we can in no other way secure a revision of the tariff, it seems for the same reason likely that we will in no other way secure a revision of the internal-revenue laws of the country. I have struggled with others for years here to find some relief for the tobacco growers from the burdens which oppress them. On more than one occasion a majority of this House has expressed itself favorably toward that relief. Once upon a bill of my own, and again on a bill offered by Mr. HATCH, of Missouri, has such a vote been given, but under the exactions of our arbitrary rules the relief has failed. The internal-revenue system cannot be abolished all at once. I am willing to leave the whisky tax for the present as it is, but the burden upon the producers of tobacco is an enormity, and this Congress ought to hasten to their relief. Failing in every other effort I would direct this commission to make inquiry upon that subject and report a modification of the tobacco law with the rest of their recommendations. In that way we may procure a result which we have failed to realize in any other way, and every tobacco grower in the country would bless the day when the commission was appointed. I shall vote for the appointment of this commission by Congress, and with leave to its members to sit during the session and during the vacation. I would prefer that course, because with the information they gather they can come with their report and be heard on the floor. Failing in that, I shall support the bill as it is.

It will not do for gentlemen to go home and tell their people they opposed this bill because they wanted revision of the tariff now. I tell you that you will get no revision now, and you know it. No man here present will undertake to assert that he believes it possible to secure here at this session of Congress the passage of a bill to revise the tariff. You cannot get it now, and I repeat that you know it.

Mr. CONVERSE. If my friend will allow me I would like to call attention to the fact while he is on this point that his neighboring State in its Democratic State convention last year resolved in favor of this commission for the purpose of procuring data and information for the action of this Congress.

Mr. KENNA. I am obliged to the gentleman from Ohio for the suggestion, and I will add in this connection a fact which is perhaps well known, that the first time this commission bill passed either House of Congress it passed a Democratic Senate. It emanated from Democratic quarters. It was originated by a Democrat. It was first considered by a Democratic body. It passed the Senate, and I most respectfully deny the right of any man to undertake to draw party lines in this House with respect to its consideration here.

We are confronted by the solitary, naked question, of which men who have practical ideas must take cognizance in its application to their respective constituencies, that under the circumstances surrounding us the tariff must be revised by the instrumentality of this commission or it will not be revised.

It is not a choice between methods. It is a choice between the method presented or no revision at all. That is the question which confronts us, disguise it as you may. With nearly six thousand bills pending in this Congress, with every committee overcrowded with measures, with this House under its Republican management further behind than I have ever known it in the consideration of its regular work, with several of the annual appropriation bills, the sundry civil bill, the legislative, executive, and judicial bills, the river and harbor bill, and others unreported, and yet to be considered and passed before the end of the present fiscal year, and with the thousand demands upon time and attention which our daily duties both in and out of the House present, I cannot discover the ground upon which the most sanguine member can hope for favorable action by this House upon the proposed tariff revision at this session or the next. On the contrary, if the commission be appointed with due regard to the letter as well as the spirit of the bill, men must be selected with such qualities of mind and heart as to beget for them the confidence and command for their work the acceptance of the country. Thus we may have in the coming winter, if the commission make report which deserves and receives our favorable consideration, a revision and readjustment of the tariff, which will relieve many unjust burdens, recognize fairly and equitably the interests and the rights of all the classes and sections, and by the correction of existing inequalities and abuses, promote the welfare, the opportunities, and the happiness of our people.

Mr. COX, of New York. Mr. Chairman, there is a surplus in our Federal revenues. To the unreflecting this is a sign of wealth. To the reflecting it is perilous. To the deliberative, it is a sign of poverty, in several senses. Party conventions denounced such a surplus. Economy calculated its ultimate losses. Morality deplored the greed and denounced the corrupting devices by which this surplus has accumulated, and is to be grasped. Good men plead for its retention in the pockets of the people as General Jackson advised, and for a speedy demolition of this too conspicuous fiscal monument

raised to attract spoliation. The Secretary of the Treasury earnestly asks for its reduction. Even the gentleman from Ohio [Mr. MCKINLEY] confesses that there are excrescences to be removed, incongruities to be corrected, wrongs in interpretation to be corrected at once, and other matters to be remedied and without delay; and yet he follows the protection sentiment, which has but one voice for a commission, one voice for the resignation of our office on this most important duty of legislation!

Excesses in anything are bad. Excessive taxes are very bad. Excessive cost for fuel, shelter, clothing, and food are worse. But all are embraced in an excessive tax or tariff.

Our Federal courts may decide in favor of revenue taxes and against all taxes raised to help trade principally or incidentally. (20 Wallace, 665.) Our financial ideas may be outraged by the leeches who, under the shibboleth of protection, drain industry of its wage and reward; but, sir, no politician of average cunning or brain, unless he live in a locality utterly prostituted by fallacy and selfishness, but will know that the present surplus revenue is an evil and a load. When, therefore, advocacy was made in this House for setting down this bill for action, I knew that it was the intention of those who deftly managed it to continue the present condition of surplus. Especially the mongers in iron, with plausible theory, meant to continue the excesses.

So, Mr. Chairman, when you see a member voting even to take up a bill which is sure to pass, like this, you may know that he is a "business" man and full of sarcasm about *doctrinaires* and theory. These, sir, are the men who gave and who perpetuate the atrocious system which we are striving to ameliorate or abolish.

Sir, the amount collected for the frugal administration of the Government is in excess of our needs. The excess is over a hundred millions. It is taken out of the popular pocket. It is put here into a big building on Pennsylvania avenue. I emphasize Pennsylvania, for it is the Pennsylvania avenue to the Treasury. [Laughter.] The interest on the debt, not counting sinking fund for the present fiscal year ending June 30, 1882, will be more than a hundred and forty millions beyond our extravagant expenditures. Likely we will have some millions more than I count, and if a tenth of the bills before us become law we will be bankrupt even with the extraordinary surplus.

ESTIMATES AND BILLS.

The total estimates and their additions for the forthcoming appropriations amount nearly to $400,000,000. I trust that they will not be exceeded. But what a pell-mell rush after our surplus do our Calendars present? I have had one of our clerks make a statement by going over all the bills thus far presented. He counted 5,664 bills and 185 joint resolutions. These ask for $627,431,936.62. In addition to this is $16,380,000 for public buildings. There were in further addition on the Speaker's table last week bills amounting to $730,014.26. Still there is to be added 1,190 pension bills!

I say, Mr. Chairman, the largest drain made on this patient people is the drain on their credulity. They are expected to believe that these surpluses are beneficent and needed. They are expected to approve of our postponement and delegation of our duties in reference to this gravest matter of urgent legislation.

May I ask, Mr. Chairman, to place in a brief way before the committee some of the points against this commission? I know commissions are hateful since 1876–'77, when much demoralization ensued by their creation. Because, sir, we gave away our power to a court of high dignity and resort then, on a popular question concerning majorities in a Presidential election, does it follow that we should give it away to a business commission interested only in dividends made out of the interference of Government in the business of the people?

THE COMMISSION.

These are some of the points as I see them against the commission bill:

1. There is an immediate necessity for curtailing the Government revenues. Reason: If we do not, we must use the surplus in one of two ways:

First, in schemes of extravagance, an alternative not to be thought of; not alone because of the injustice of bleeding an overtaxed people for reckless wasting, but also because such wasting is corrupting to every energy of government.

Second, to redeem the bonds. But the Government bonds are the standard security of the country. Our whole financial system (of banks of deposit, banks of issue, trust companies, savings-banks, insurance companies, and general trust funds) is built on the bonds. It will be dangerous to draw away that foundation suddenly. *Ergo*, we must not pay off our national debt too fast until our financial system is changed. I know what to say when such a change is before us.

2. There is an immediate expediency in reducing taxation. Taxes stand for more than the amount of the burden represented in dollars. They enter into the cost of production; and supposing they enter into the cost of the raw material, they make part of an initial value, which is added to at each change and sale—both by profits, interest, and expenses—until when the finished article reaches the consumer the "tax" may have been rolled up to ten times its original bulk. The industries of the country are even now having strikes and a struggle to live, and especially to make their way in the world's markets; they need immediate relief from needless taxation.

3. While it is easy to bring about a conviction that the tariff is a very complex structure and needs experts to understand it, it is absolute folly to say that glaring abuses are not apparent to the eye of even a superficial analyst. It needs no expert testimony to prove that the duty on steel rails is a fraud. The present rate was put on when the cost of manufacturing rails was five times as great as it is to-day. The duty on copper and copper ore is an obvious swindle. We have the most productive copper mines in the world, and American copper is actually sold cheaper to Englishmen than to Americans. The duty on raw wool is a sop to the farmers which is as much a sham as the duties on wheat; American wools have ruled lower in price since the duty was on than before. The duties on wool and copper are fatal to the extension of our trade with the River Platte countries and Australia.

In a word, there are numerous cases where the slightest examination would discover the advisability of reduction or abolition of duties. Take these now, reduce or abolish them at once; and let your commission go to work too, if you wish!

4. The findings of the commission would be of no more value than the findings which may be now brought out by the opposing discussions of free-traders and protectionists in Congress. Free-trade Congressmen are of course bound to insist that one side of every tariff case is already made up—namely, the side of the people. The reasons for the abolishment of the duty are established by the universal principle. The only testimony, then, is the testimony of the defense, and it is safe to trust those interested to be at Washington in full force to present their views. [Laughter.]

If you would know who will serve on this commission read the petitions sent here for the "Eaton bill." The men who represent the commission in advance represent trades and business, not consumers or farmers—not the people. It is wool, silk, iron, steel, pottery, shoe and leather, cotton and woolen manufacturers, book-pirates, textiles, glass, lumber, salt, paper, cotton, machinery, and those interested to get more out of the people than prudent, unprotected business can honestly produce.

My friend from Kentucky, in an interview, placed the whole matter in its proper light, with a gleam of felicitous *facetiæ*. Mr. KNOTT was asked as to his opinion of the proposed tariff commission:

"Of course I would not presume to criticise the action of any one else," he said, "especially in advance; but if I should vote for such a measure I think I should feel very much as if I had stultified myself, for I really think that if the chosen representatives of the people feel that they so far lack the capacity to mature wholesome legislation on any subject as to render it necessary to call for the assistance of outsiders to perfect it for them they had better resign and let those come here who have it. I consider the whole protective system as a cunningly devised scheme to rob Peter in order to enrich Paul, and I think the main object of this proposed commission is to convince poor Peter that he is robbed for his own good, and that he ought to feel very happy when he sees Paul growing rich at his expense. Not to put too fine a point on it, in my judgment the sole purpose of the proposed commission is to collate a batch of specious protection sophisms in the form of a 'report,' to be printed at the public expense and circulated by the million through the mail under the frank of members of Congress just in time for the next Presidential campaign; and I think that will be precisely the result should the bill become a law. A very smart trick, well worthy of the sagacity of a set of sharp-sighted patriots who can see a three-cent piece farther with the naked eye than an honest farmer can the full moon through a telescope."

The men who will be on this proposed commission are already in the public mind. They create and subsidize politics. They expect their compensation. All creations of this nature are symbolic, but the creator is greater than the symbols.

> Great are the symbols of being, but that which is symboled is greater;
> Vast the created and beheld, but vaster the inward creator;
> Back of the sound broods the silence, back of the gift stands the giving;
> Back of the hand that receives thrill the sensitive nerves of receiving.

Whose nerves will thrill with the delight of receiving is already fixed by those who support the commission, and whose trades are represented in their petitions for the Eaton bill.

DOWN WITH THE INTERNAL-REVENUE MACHINERY!

I favor openly and boldly the entire abolition of the cumbrous, corrupt, and spying system of the internal revenue. It is not necessary to say that its officers are corrupt; it is the system. Its officers pursue the voter into his cigar and tobacco shops and into stills, breweries, and factories with threats, and it has its army of 5,000. Worse than the janizary or the mameluke, it undertakes by its occult machinery to intimidate and defraud. Away with it! Every speck of it on our body-politic is a cancer. I am willing to meet this issue at the polls, and woe be to that member who upholds it to overfill our Treasury that the greedy may riot in the people's hard-earned means collected by its officials. Indeed it seems a part of the plan adopted by the dominant party to allow no reduction in any shape. The surplus is to be piled up year after year, and this is the issue we are to meet.

My friend from Georgia [Mr. SPEER] has expended some of that pure elocution with which he graces our fervid hours here upon the "excise system as an infernal one." It is in its details and execution bad enough; but it has the virtue of directness, with all its harshness of espionage and seizure. He quotes with favorable comment the resolution of the gentleman from Pennsylvania years ago [Mr. KELLEY] which passed, 106 to 6, for its abolishment. He places me rightly at that time as an opponent of that attempt. He does me the honor to quote a resolution of mine looking to two objects: first, frugality in expenditure and reduction of taxation; second, the abolishment of

the internal-revenue system and the sum required from it to be collected by the States.* I believed in this plan then and I believe in it, somewhat modified, now. It would have worked like a charm. But other counsels were then dominant and are dominant now. Protectionists were not in favor of reducing the taxation by tariff or for the frugalities which I commended; but they were in favor of a hasty riddance of the internal-revenue system. I gladly favor this riddance to-day. Let the additional sum we need for frugal administration, if raised by internal-revenue laws, not only be reduced on many articles and objects, but let it be collected by the customs officers. Why not? If we retain these revenues on tobacco and spirits and let their rates be reduced, the reduction will increase the revenue—which gives 90.6 per cent. of the internal revenue—sufficient for frugality. As in the past so in the future, for when the whisky tax has been raised the revenues have decreased, and *vice versa*. There was a loss in 1880 of $16,000,000 of revenue by the increase under the rate of 1875 of 90 cents a gallon. A return to the lower tax of 50 cents per gallon would again increase the revenue millions. These facts are authentic. (North American Review of 1881, page 609.) But the Republican caucus has ruled otherwise. The chairman of the Ways and Means [Mr. KELLEY] follows not his own judgment, but the caucus. The issue is made. Let us follow it to the end.

WHY HAS NOT THE TARIFF BEEN REVISED?

The tariff we seek to revise is a monument of war necessity, and of subsequent treachery. It was promised to be reformed after the war when the internal taxes were reduced on home manufactures. The protectionists know that it stands on shaky ground. They would postpone its modification, because one link in the common bond which binds its selfish enactments and mutual aggrandizement once severed the whole chain falls to pieces. Hence they are anxious for changes, but do not want to begin. The commission is a convenient expedient with which to promise and not perform.

The committee which reports this commission measure had promised us, in the words of the member from Kansas, that we would have a tariff bill so as to amend its details. They gave us three little bills, and we allowed them unanimous consent to put them through the House. I shall refer to them hereafter as the sum of the immense deference which this committee has shown to the House.

Nor is it any reason for postponing a revision of the tariff that the Democrats had the power for two Congresses and failed to repeal its war features and restore those of 1846 and 1857, as administered by Robert J. Walker and James Guthrie. For one I am not responsible for this criminal negligence.

In answer to what has been said by gentlemen to-day, and especially by the gentleman from Michigan, [Mr. BURROWS,] I say that I know that less than a score of Democrats united in former Congresses with the entire body of the opposition to prevent a revision of the tariff. His criticism is just on some of our party, but not on all. But I do not make this a party question. To me it is economic only.

I see the gentleman from Rhode Island [Mr. CHACE] observing my remarks. He is a business man. He is thereby unfitted for tariff legislation in the general interest, just as a "business" commission would be. I beg to say I learned my political economy in Rhode Island, at Brown University, from Dr. Wayland. He taught me the morality of the question. This I shall never forget in my votes here.

When we attained power in 1875 we found a small free list and a monstrous burden on 2,000 articles made abroad which compete here. It was protection, complicate and tyrannous. Even the flag was made to pay 112, woolens over 80, and cottons from 45 to 71 per cent. Specific duties rendered it still more complex and unequal. It remains a monumental load. It destroyed commerce to build up at its expense manufactures. The consumer was fined to help the maker of unsalable goods. It pirated on farms to help forges. Even General Garfield cried aloud against its commercial despotism, and for liberty to trade more freely, until his voice was stifled in the smoke of torment which came from the furnaces in Northeastern Ohio. Our merchant marine went under the deluge of selfishness and meanness. The millions that sank with it were found in the coffers of the Pennsylvania and their kindred philosophers. My district in New York City, that used to rejoice in ship-building, and when men by the thousand answered the summons of the "old bell," is now deserted. The grass is growing where the boiler-makers worked. The docks and engines of happy labor are pitiable to behold. The tariff has done it all. No relief has come, and our flag is unknown upon the sea. The prophecy of De Tocqueville as to our supremacy on the ocean, it is now laughable and lamentable to read.* What excuse is given for this condition of things? Wages! Wages! Let me answer this fallacy of wages.

WAGES QUESTION.

The assertion that protection makes wages high is probably the most potent defense which protectionists at this time possess. It appeals, and very properly, to the bread-and-butter instincts of the masses. It lays hold of the generous impulses of the well-to-do. The aim professed to be achieved by protection, high wages, is indeed so absolutely desirable that the wonderful thing is not that the masses wish to support the system which promises such a result, but rather that anybody can be made to believe that tariff reformers or free-traders want to make wages low, yet multitudes do beleive it. Why, else, such floods of eloquence in the halls of Congress to demonstrate the desirability of good pay to the toilers? Why, else, such ponderous enginery of logic to prove that starvation among the workers is not an element of national prosperity? Multitudes do believe it. They accept without a shade of incredulity the stupid assertion that there are men in this country actually roaming at large who wish to reduce our wage-earning citizens to the condition of slaves of the soil.

Free-traders do not want to reduce anything, excepting taxation, scarcity, and hardship. They are in favor of high wages, as everybody is. The difference is, that the free-traders maintain that wages will reach their highest under liberty. Why not? Why should not every man, being free, use his energy in his own way? Why should he not select the most fruitful fields whereon to use the most efficient methods, and to exchange the products of his energy wherever he can get the most for them? The protectionist claims to make wages high by artificial contrivances and restrictions, by turning industry in this direction or in that, according to the mere plans of a council of philosophers who undertake to run the machinery of civilization.

Mr. Speaker, I have spoken of the proposition, "protection makes wages high," as an "assertion." It is an assertion purely; and it is a most preposterous assertion. So utterly bare of argument is this favorite postulate that the moment you attempt to combat it with argument the protectionist stops his ears, shuts his eyes, and opens his mouth to shout "Theory!" Logic is "theory;" reason is "theory;" to think at all is to theorize, when the question "Does protection raise wages?" is propounded. The protectionist solemnly appeals to "facts," and the "facts" put forward are unauthentic, unverified, undigested statements, which, even were they as true as truth, could not possibly prove anything at all.

The usual thing is an elaborately constructed table—figures arranged in symmetric columns; for do they not carry an air of authority? Are they not wonderfully effective even with those who do not read them? The usual thing, I observe, is an elaborate table, professedly comparing wages in England and the United States. It exhibits a low scale of wages for England and a high scale for the United States. And thus runs the wonderful syllogisms:

1. Major premise: England has free trade. Minor premise: England has low wages. Conclusion: Free trade produces low wages.

2. Major premise: The United States has protection. Minor premise: The United States has high wages. Conclusion: Protection produces high wages. [Laughter.]

Really, Mr. Speaker, this sort of logic is very easy. There is no end to the propositions we might prove. Thus:

3. Major: England has a queen. Minor: England has low wages. Conclusion: Queens make wages low. [Laughter.]

4. Major: The United States is infested with snakes. Minor: The United States has high wages. Conclusion: Snakes make wages high. [Laughter.]

"But this is nonsense!" says the protectionist. "Exactly so," responds the free-trader; "as pure nonsense as the stock protection

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*The following is Mr. COX's resolution:

Whereas the Government of the United States was established by the people for their own protection and benefit, and should be administered upon the strictest principles of frugality and economy in its expenditures, and that no money should be taken from the people by taxation, except to supply the necessary wants of the Government administered upon such principles; and whereas, at the present time the ordinary expenditures of the Government, exclusive of the payment of the interest on the public debt and a reasonable sum to be applied in the reduction of said debt, should not exceed the sum of $100,000,000 annually; and whereas the money annually raised by taxation upon the people should not exceed the sum of $250,000,000, said sum being amply sufficient to provide for the ordinary expenditures of the Government, the payment of the interest of the public debt, and $25,000,000 to be applied in liquidating the principal of said debt; and whereas it is believed that the existing internal-revenue system should be abolished, and the sum deemed proper to be raised by internal taxation assigned in just quotas or proportions to the several States to be collected by the authorities thereof and paid into the national Treasury, thereby dispensing with the expensive, corrupting, and annoying machinery now in force for that purpose, &c.

*From the Bay of Fundy to the Gulf of Mexico the coast of the United States extends for nearly nine hundred leagues. These shores form a single, uninterrupted line; they are all under the same rule. There is no nation in the world which can offer to commerce ports with greater depth, greater width, and greater safety. * * * Europe is, then, the market of America, as America is the market of Europe; and maritime trade is as necessary to the inhabitants of the United States, to bring their agricultural produce to our ports, as to take our manufactures to them. The Anglo-Americans have at all times shown a decided taste for the sea. Their independence in breaking the commercial links which bound them to England gave a new and powerful impulse to their maritime genius. Since that time the number of the ships belonging to the Union has increased nearly as fast as the number of its inhabitants. At this day it is the Americans themselves who carry to their homes nine-tenths of the imports from Europe. It is the Americans, too, who carry to the consumers of Europe three-quarters of the exports of the New World. The ships of the United States fill the ports of Havre and Liverpool. One sees but few English or French ships in the port of New York. Thus, not only does the American merchant brave competition on his own soil; he competes successfully with foreigners on theirs. * * * I think that nations, like men, almost always show from their youth the powerful features of their destiny. When I see the spirit with which Anglo-Americans carry on trade, the facilities they possess for doing it, the success which they attain in it, I cannot help believing that they will one day become the first maritime power of the globe. They are impelled to take possession of the sea as the Romans were to conquer the world.—*De Tocqueville's Democracy*, 1835, volume 2, chapter 10.

The ships of the United States are not one-fourth, or, if steam is taken into account, not one-seventh of those of England! And while American ships carry less than one-fifth of the whole trade of the United States, British ships carry much more than one-half of that trade!

argument about wages." The thing you pretend to do is to prove that the alleged low wages of England result from free trade, and you simply assert it. You are asked to prove that the high wages which exist in the United States are the result of protection, and again you simply assert that such is the case. Why do you not carry out your pretense of reasoning? Of all the advanced countries of Europe England pays the highest wages. Wages are higher in England than in France; higher in France than in Germany. Why do you not treat your followers to this sort of argument:

In England, free trade and high wages. In France, protection and low wages. Therefore: Free trade makes wages high, and protection makes wages low.

What country in the world has more protection from the outer barbarian than China? If protection can make wages high, the Celestials should be Vanderbilts and Astors. Why do not our friends "appeal to facts" in this direction, and blazon the results before "free-trade fanatics" and their deluded followers?

Do I, therefore, maintain that comparison of facts is meaningless? Not at all. I say only, first get your facts; and secondly, put them fairly on grounds of comparison.

Everybody admits that this country is prosperous. Every American glories in the fact. But when the protectionist calmly ascribes our magnificent progress to his patent process of invisible taxation some of us object. Has the fertility of our soil done nothing? Has the wealth of our mines gone for naught? Does the cunning skill of our artisans count for nothing in industrial development? Has American genius in mechanical invention been spent in fruitless vagaries? What an insult to American brains and American brawn these pretenses of protection really are. "Protection did it all! Were it not for protection we would have been hewers of wood and drawers of water!" Does anybody believe it? No one even dreams of stating it in plain words. The protectionist seems not to have the wit to turn his stock propositions over and see that in reversed terms they make just this preposterous assertion.

I would suggest to protectionists who are fond of comparisons that they compare the condition of the working-people in England under protection and under free trade, or in America under a low tariff and under a high tariff. As to what they would find in England, the facts are too well known to need citation. The corn-laws were abolished because the working people were reduced to the verge of revolution. The tearing down of the entire fabric of tariff protection was followed by such a sudden and tremendous rise of industrial prosperity as the world has never seen. The truth is so notorious that protectionists, compelled to admit it, actually strive to drum it into service on their side of the question. "Yes," they say, "free trade is the true system. But you must lead the way up to it by a system of protection. That is what England did. It carried out protection for centuries, and then cunningly adopted free trade and swept the world!" As if one should point now to the growing prosperity of the South and say, "Slavery did it. The institution of slavery was maintained for generations, and then, all things being ready, the change was made to freedom, and behold the result!" Protectionists, I say, are compelled to acknowledge that prosperity has followed free trade in England. How could they do otherwise?

Between 1805 and 1825, while England was yet under the protective policy applied to the uttermost, her exports rose from $190,000,000 to $194,000,000—a gain of only $4,000,000; or about $200,000 per annum.

Between 1825 and 1842, under a tariff somewhat reduced, the rise was from $194,000,000 to $237,000,000; gain per annum, $2,400,000; rate of increase, twelve times as great as before.

Between 1842 and 1846, a period of partial free trade, the increase of exports was $52,000,000; rate of increase sixty times as great as under the system of ultra protection, five times as great as under the reduced tariff.

From 1846 to 1876, a straight free-trade period, the exports rose from $289,000,000 to $1,000,000,000, showing an annual gain of $33,700,000; rate of increase, three times as great as under partial free trade, twelve times as great as under moderate protection, and a hundred and sixty times as great as under stringent protection.

The workingmen necessarily, as these facts show, shared in the wonderful progress; wages doubled in forty years; crime diminished, pauperism was checked, the scale of comfort among the masses was raised, and the savings of the people increased in the banks.

What as to the United States? Few in this Hall would have the hardihood to quote rosy Presidential messages as proof of prevailing prosperity at any particular period. These are favored sources of evidence among protectionists at large, but I doubt if any man who has seen public service will put a very high value, as proof, on the rosy pictures drawn by his most gracious excellency of the condition of the country during his administration. I would as soon think of quoting a Centennial or Paris exposition report of merit, or a speech by an obsequious Commissioner of Agriculture!

We want something more reliable than partisan sketches. The census valuations of property, with all their imperfections, are in the true line; and these show, in round numbers, that during ten years of low tariff, from 1850 to 1860, the wealth of the country increased from $7,000,000,000 to $16,000,000,000, while from 1860 to 1880, twenty years of high tariff, the rise was only from $16,000,000,000 to $35,000,000,000. In other words, under low tariff property doubled in ten years; under high tariff it took twenty years to double.

Again, take the test of population. For convenience I put this in form of a table:

Table showing increase of population by decades, with nature of tariffs in force.

Years.	Tariff.	Increase of population.
		Per ct.
1790–1800	Revenue	35
1800–1810	Revenue	36
1810–1820	Revenue for six years	33
	Protective for four years	
1820–1830	Protective	33
1830–1840	Protective for three years	34
	Compromise for seven years	
1840–1850	Protective for six years	34
	Revenue for four years	
1850–1860	Revenue	35½
1860–1870	Protective	22
1870–1880	Protective	29

In every case, the injection of the protective element repressed the growth of population. And the growth of population is acknowledged to be one of the surest indices of the condition of the great mass of the people. But there is stronger evidence in existence than inferences from general conditions. In 1842 inquiry was made among manufacturers as to wages paid in the iron industries. A protectionist Congress wanted the information, and hoped for support from the facts. But if you will consult Saltonstall's Report, March, 1842, you will see that the manufacturers, with everything to induce them to strain a point if possible to make out a case of high wages, responded that the rates paid were about the same as in 1828.

No increase of wages in fourteen years! And what of these fourteen years? Were they fourteen years of low tariff? Fourteen years of tariff for revenue only? Fourteen years of "British free trade?" No. On the contrary, the stiffest protective tariff we have ever had was passed in 1828, and had been in operation from that time!

In 1845, we had a Secretary of the Treasury who was not infatuated with Chinese economy, and he instituted inquiries as to the effect produced on wages by the protective tariff of 1842. Did the protected manufacturers leap to this opportunity of revealing themselves as the benefactors of the workingman? Not at all. They went into the sulks. They regarded such investigation as impertinent. It needed no answer to show the truth that wages had actually gone down. Of all the responses given none declared any advance in pay, and some who gave the highest rates on the list admitted that reductions had been forced upon them.

From 1850 on, we have the census exhibits of wages to guide us. What story do they tell?

In 1850, the average of wages paid per year was $248. After ten years of low tariff the average had risen to $290, an increase of about 20 per cent. Then came ten years of protection, and the paper rate of wages was $377 for which the gold equivalent was about $250, a decline under protection of more than 13 per cent; bringing wages to just about the point at which they were left by a "tariff for revenue" twenty years before.

The statistics for 1880 are not yet compiled, but if the indications of the advanced bulletins are sustained, protection had better speedily change its tactics—forswear "facts" and once more, as of old, turn its attention to theory.

Now, Mr. Chairman, I want to get down to the A B C of this question of wages. The assertion is that protective tariffs make wages high.

What is a "protective tariff?"

It is a system of import taxes, so laid as to prevent or restrict the importation of certain commodities. The direct object is to keep out foreign goods, or to handicap them in the market by adding the amount of the duty to their natural cost. The ultimate aim is to cut down competition and enable the home manufacturer to put higher prices on his wares than he could get under a free system.

This "protection" to the manufacturer, it is claimed, is necessary to his existence—he could not make his iron, his cottons, his woolens without it. I do not admit this as a fact. On the contrary I deny it most emphatically. But thus runs the protectionist plea; the American manufacturer must have this privilege of extorting more than the market rate for his goods, or he will not be able to continue in business.

Let us have no muddling of facts here. The manufacture for which protection is demanded is prevented as being naturally a losing business; that is, taking materials as they are, taking capital and brains as they are, taking wages as they are, taking prices as they are, the American cannot make and sell the goods at a profit. The cost of manufacture is too great. He must have protection. For what? With most consummate audacity the protectionist tells us "to increase wages." That is, to make the cost of manufacture greater still! Can any one be deceived by such hollow pretenses? Obviously he needs protection, if he needs it at all, in order that he may cover the loss which his methods of manufacture entail. He must

make good the margin between the natural selling price and the advanced price which he needs to bring him out whole. That is all there is in protection, excepting always the robberies for which the system is so good a cover.

I do not say that the protectionist might not add something for the workingman when he arranges for a tribute from consumers for his own benefit. Indeed, such benevolence would seem the most natural thing in the world, since the credit would redound to the protected manufacturer while the cost of it would be laid upon the people. I contend only that it requires a great stretch of even American credulity to imagine a Pennsylvania iron-master deliberately adding to the difficulties of his contest with British competitors. But let us grant, for the sake of argument, that the manufacturer, finding it impossible to do business at a profit, does actually petition Congress for means not to relieve himself but to increase the cost of his operations. Let us suppose that the protective tributes go to the workingmen engaged in the protected manfactures, how many workingmen are there who receive the benefit?

The census of 1870 divides the working population of the country as follows:

	Per ct.
Agriculture	47
Professional and personal services	22
Trade and transportation	9
Manufacturing, mechanical, and mining industries	22

The division of the tribute will obviously be confined to the latter class. So that, at the first examination, we find that the proposition "protection increases wages" must at least be denied as regards four-fifths of the working population.

One man in five probably has an increase of wages, under the theory we are considering. But investigate further. The class of manufacturing, mechanical, and mining industries includes a host of arts not touched by the tariff, except to burden them by additions to the cost of their materials and tools. Blacksmiths, carpenters, engineers, masons, milliners, painters, plumbers, printers, and so on through the alphabet, where is the protection for these? Not a thing they make is protected, nor could be protected; yet all their tools and all their materials are weighted with taxes for the benefit of the protected few.

Again, there are scores of mechanical arts nominally protected, but really beyond protection. Who speaks of protection to American sewing-machines? American clocks? American tools? American wagons?

If reckoning be made among all these, and the workingmen counted out from the general class under consideration, we shall find the 22 per cent. dwindle to something like 5 per cent. We must seek among this 5 per cent. of the working people of America for those whose wages, on our supposition, may possibly be advanced. That is to say, under the protection theory we are discussing, the employers of 5 per cent. of our workmen are enabled by the tariff to pay better wages than the market rate—if they choose to do so.

Now, I wish to offer here a curious bit of figuring. Suppose that this reasoning from protection premises is correct, and that the 5 per cent. of our workingmen do actually get the higher wages. The number of our working population to-day is not far from 15,000,000. Five per cent. of these gives us 750,000. Now, the lowest estimate I have ever been able to make of the total tax paid by consumers on protected goods is $750,000,000 per annum. But $750,000,000 among 750,000 men would be just $1,000 apiece. Whence it would appear that we might just as well have free trade and pay the "protected" workingmen $1,000 a year for remaining idle!

SILK.

The protectionist is fond of scoffing at such general illustrations as being woven of airy nothings. Let me call their attention to something more specific in the same line. I have before me the preliminary report (Census Bulletin No. 69) on the silk manufactures of the United States. It is prepared under direction of the manufacturers themselves. The total product of silk manufactures for 1880 is put at $34,410,463. Silk is protected by 60 per cent. duties. Taking the protective element in the total product at no more than 50 per cent., we have $11,000,000 as the price which we pay annually "to make wages high" in silk factories. But what was the total amount of wages paid in 1880 by these silk factories? The report gives it $9,107,835. So, then, had we bought our silks abroad in 1880, we might have supported all the silk operatives in idleness, and had $2,000,000 left to apply to the fund for the relief of indigent manufacturers.

This being the state of things, one might naturally infer that the wages paid to silk operatives were noble wages indeed! The shows ing of the Bulletin, however, is that the average number of hand-employed was 31,299; so that when you divide up among them this wage fund of $9,107,835, you give them only $290 apiece. Two hundred and ninety dollars a year! It is to give our skilled artisans these princely wages that we shield them from the pauper labor of Europe.

Returning from this digression: only 5 per cent. of our working people, as I have shown, can possibly gain any increase of wages from the protective system, for the very good reason that only 5 per cent. are engaged in those industries which share in the protective offerings.

The gentleman from New Jersey [Mr. BREWER] has made a speech which does him credit for research. He gives us the facts of the specialty he represents—silk. They are interesting, and his speech is the best one that can be made upon the fallacy he defends. He leaps into the arena here for the first time, and bears the laurels in this losing cause. He seems to say to us:

> Consider me, if you can,
> A matter-of-fact young man;
> An alphabetical, arithmetical,
> Every-day young man.

But does he give any reason why we should think the silk employés shared the increase our bounty gives?

Now, what reason is there for believing that even these workmen received any increase? Do employers fix the rate of wages on benevolent impulse? or is it fixed for them by the conditions of the labor market? Supposing that the silk manufacturers of Paterson were able to pay their operatives $10 per day; does any one dream they would do it? If the market rate were $1 a day they would pay the dollar and shake hands with each other over the $9 as profit. They would probably use some of it to go on to Washington and petition for more protection.

It is the unprotected industries whose steadiness of profits and products enables them to pay the best and steadiest wages. When we tax expenses and not income, it is the workingman who suffers, not capitalists.

In short, the protected industries, like all other industries, take the rate of wages as they find it, and the rate obviously cannot be fixed by a demand which covers only 5 per cent. of the field. Wages are made high in this country by the 95 per cent. demand—by the unprotected grain of the West, the unprotected cotton of the South; by the wonderful bounty of nature to this fruitful land, and by the intelligent brains and cunning hands of all our people.

WAGES AND PRICES—MASSACHUSETTS FIGURES.

No more reliable report of the welfare of our workingmen can be found than that given in the statistics of labor of Massachusetts by its chief, Carroll D. Wright. The volume for 1882 is just out. In considering the relative ease with which the workingmen of that State procure the means of subsistence and the relative amount of comfort attainable for a given outlay of time and effort, the chief has given us reliable statistics of wages and cost of living. No economic discussion is complete without considering these data and their comparisons from year to year. Accordingly in the tables presented (pages 420 *et seq.*) the average weekly wage of 1881 is compared with 1860, 1872, and 1878; and on page 429 the prices of commodities of these years are given; on page 430 the purchase power of money.

I have left the volume at my room; and cannot read from it.

Mr. HEWITT, of New York. I have it here for my colleague.

Mr. COX, of New York. I think, under the general rule, I may print enough of the extracts. The advance on groceries, provisions, fuel, rents, and board is given, boots only falling 1.6 per cent.; but the average increase of these elements of living was 21.2 per cent. But the table on wages shows an average increase of only 6.9 per cent. below that of the cost of living. In boots and shoes, cabinet-making, carpetings, carriages, rubber and straw goods, there is a positive decrease. The economist may make his inference. If the tariff does affect wages, it is to depress. As to the comparison between the same classes of labor in Old England and New England, the report makes it clear that in spite of our rich products of provisions, &c., excepting vegetables, there is no inference in favor of a protective tariff.

Here and now I deny and defy the accuracy of the figures produced here as to wages here and abroad. I wrote to Mr. Nimmo, the Commissioner of Statistics. He asserts that no comparisons are of such value as to be used here with the confidence gentlemen use such tabulation.

Wages are the laborer's scale of comfort. That is, or ought to be, axiomatic. They are criteria depending on the varying costliness of the articles which the laborer consumes. Wages may be low nominally and yet high really; and *vice versa*. If with all a man earns, like the weaver at Cohoes, who works thirteen hours, he cannot buy the necessaries, the wages are not a criterion of comfort.

Wages are said to be 50 per cent. greater here than in Great Britain. This is a mistake. From 1815 to 1875 wages in Great Britain in many trades were higher than here. Immigration actually went home. When we have higher wages they are accounted for on other grounds. Our natural advantages and ingenious machinery and skill beget high wages. They always did from the first. The wages depend on the product. In farming we pay higher wages than formerly, and yet we outsell foreigners in their own market. The average annual wages of men, women, and children employed in manufactories in 1850, as taken from the United States census just after taxation was reduced on the necessaries of life, was $247.37; average annual wages in 1860, after fourteen years of a low tariff for revenue, $289.02; increase of $42.65. Average annual wages in gold in 1870, after ten years of a high tariff, $283.23; decrease, $5.79. Difference in favor of the lower tariff, $48.44. Protectionists say that wages are higher here than in Europe. So they are now, but in 1875 they were lower. Many skilled mechanics went back to England and Scotland then. The tariff was nearly the same. But the high tariff raises the price of everything workingmen have to buy. Beef cost in 1860, 10 cents; now, 16. Mut-

ton then, 8 to 10; now, 9 to 14. Corned beef then, 8; now, 11. Bacon then, 10; now, 13. Lard then, 12; now, 15. The same is true of rent, clothing, and all the necessaries of life.

Let us compare the wages paid in the cotton industries of the two countries; which comparison, as given by Consul Shaw, is as follows: English weavers are paid from $3.85 to $8.64 per week; Massachusetts weavers from $4.82 to $8.37; English spinners, $7.20 to $8.40; American, $7.07 to $10.30. In the Lancashire mills, for January, 1881, the average wages of men were $8 per week; of women, $3.40 to $4.30; in the Massachusetts mills, men $8.30, women $5.62; the hours of work per week are, in Lancashire fifty-six, in Massachusetts sixty.

It is claimed that the labor market in Massachusetts was glutted when these figures were taken, while in England there was a scarcity of labor, owing to immigration to the United States. Still, giving the protectionists the benefit of this statement, and it will be seen that the condition of the English artisan is much more favorable, at least so far as the cotton industry is concerned, than that of the American, for the reason that in England house-rent and clothing are from 50 to 100 per cent. cheaper than in the United States, while the difference in the prices of provisions is almost nominal, on account of the strength of American competition and the construction of through lines of traffic between the two countries.

As to wages, I know that they constitute but a small part of the value of the finished product. In most, iron, cotton, and wool products, they are not in excess of 20 per cent.; and allowing 50 per cent. difference in wages at home and abroad 10 per cent. would be ample protection on the wages score for most articles. I favor therefore an amendment: that in any adjustment of duties proposed with a view of compensating the American producer for any difference in the cost of labor in favor of the foreign producer no rate of duty shall be recommended in excess of 50 per cent. of the entire value of the labor directly entering into the market value of any article, and the standard for estimating the value of such labor product shall be the average wages paid for its production in the country that is the chief source of foreign supply for the competitive import.

I do not know that I make it quite clear, but I think gentlemen will see the point. If we must consider wages at this time, it is best to know what shall be the standard for estimating and compensating for differences in the cost of labor. Shall it be Chinese or Russian, French or English? Let us not fall into a trap by not knowing how small a proportion of the value of any finished product of large consumption is directly represented by labor's wages.

Moreover, I would instruct the commission that all things which are not made by any process of skill or handicraft, and that need only to be gathered, or transported to be used for manufacturing, and are the gifts of nature, shall be free. So long as we tax such things the cost or necessity of protection cannot be measured. Neither can any judgment be formed of the conditions when protection will be a necessity. We must, in other words, if we are to have intelligent protection—I use the words as seriously as I can—have some basis.

Again, as the manufacturer of chemical preparations does not depend so much upon the skill of artisans as upon favorable supply of materials, the limit of duties on such should be uniformly low, not over 10 per cent. But if a system based on any such fundamentals should be reported, Congress would break in on it by a combination of interests in respect to particular products. So really the only way to go to work is as we did in 1872, namely, to take articles up one by one and have the duties cut down, as on copper, coal, salt, wool, Bessemer steel, &c. Some free-traders think that tariff reform would be promoted by our failure to do anything. Experience has not yet been severe enough to make the interest in reform very general or ardent. It will be more imperative a year from now than at present. A sweeping deduction of 10 per cent. as proposed by my friend from Illinois, Mr. MORRISON, on all the tariff taxes and a greater reduction of articles to be taxed and reduced rates on internal taxes and the abolition of its costly machinery would, in my judgment, be a good thing to do just now for a beginning, in default of anything else.

STRIKES.

If protection is making the workingmen so very content with high wages, how does it happen that now, with a tariff averaging over 40 per cent., there is so much discontent with wages, lack of employment, and strikes? Why are the "unions" drawing their well-ordered organizations closer in the bonds of honest sympathy against their despoilers? Almost every art and trade from one end of the land to the other is in distress. They cannot make a living, much less lay up anything for a rainy day or the schooling of their children. They know when it pinches if they do not always know what pinches. They are told it is a corner in provisions. Our legislation ought not to leave them at the mercy of grain-sharks. It may be the increased cost of provisions, clothing, and rent. These are enhanced by combinations of moneyed men, corporate harpies, who can show them fifty millions cash in or out of a corner, men who prey upon the people in rates of transportation and through watered stock and in escaping that taxation which they foist on the shoulders of labor, the source of all wealth.

MONOPOLIES.

Do you not see that this tariff, which hangs as an incubus on labor in country and city, is one of the monopolies by shameless legislation, by purchased and interested nabobs? What have you done to lighten the labors of the poor? You would keep up a great surplus by continued taxation. You make provisions dear by making transportation dear, by Bessemer steals. You would perpetuate the mean little taxes on matches and checks and keep it uneconomically high on spirits and beer, by the aid of a pestilent internal system of spies and informers. You are safe while your commission sits, for your exactions continue. You fail to give relief as to the hours of labor or by removing the competition of striped scoundrels in the penitentiary. You force them into "unions," and then, with pretexts of mob and violence, with bayonet and bullet, drive them into desperation. You have legalized oil companies in a gigantic form of greed to grease the wheels of liveried coaches. You would take river fronts in great cities to increase your corporate gains. You create great overland routes and allow them to be gutted, watered, and handled so as to defy and defraud the Government which gave them land and bonds. You make them the supple instruments of heavy interest and a privileged, expensive, political banking system; you have done it by your votes; and when the devil you have harbored turns and rends in its desperation, you stand here and ask for a commission to report to you, at the end of two years or more, some plan of relief, which will be when reported seven other devils of despair. The men who raise your products, make your cloths, roll your iron, and build your houses are entitled to a fair share of the inheritance of the earth and the blessings of government. They will have their inheritance or know "the reason why." [Cheers.]

INSTRUCTIONS TO THE COMMISSION.

This tariff commission will result in nothing. There will be no agreement if the two sides are represented; and if one side only, it will be partial about any important matter. And Congress at last will simply have to inquire anew for itself.

Now, as to instructions. They will be ruled as not in order to the pending bill, except in so far as they instruct the commission. I suppose as this is not a "revenue measure," so called, the point of order on all amendments directing the Committee on Ways and Means to report a tariff measure, or in any way changing or revising it, will be ruled out. Not being able to vote for any amendment dealing in the rise and fall of wages, and taking my ideas from Silas Wright and Robert J. Walker, the great economists of 1846, I cannot vote for the unequal system of specific duties unless they be discreetly arranged so as to protect the poor man.

SPECIFIC DUTIES.

As to the specific duties I care not on what basis of valuation or what average, they have no charm for me. What! tax the poor man's tea the same per pound as the rich man's tea, which costs double the price! Have a fixed average of three years on the cotton or wool of the poor man's clothing, irrespective of its ad valorem! Even Horace Greeley denied the equity of such specifics. There are cases where specifics are useful, but the value is best, as Robert J. Walker held. Let me quote from him as to the general and specific effect of the present tariff:

> We denounce the present tariff levied upon nearly four thousand articles as a masterpiece of injustice, inequality, and false pretenses. It yields a dwindling not a yearly rising revenue. It has impoverished many industries to subsidize a few. It prohibits imports that might purchase the products of American labor. It has degraded American commerce from the first to an inferior rank on the high seas. It has cut down the sales of American manufactures at home and abroad and depleted the returns of American agriculture, an industry followed by half our people. It costs the people five times more than it produces to the Treasury, obstructs the processes of production, and wastes the fruits of labor. It promotes fraud, fosters smuggling, enriches dishonest officials, and bankrupts honest merchants. *We demand that all custom-house taxation shall be only for revenue.*

In 1880, at Cincinnati, the Democracy reaffirmed all the specifications of 1876. They are for revenue only. Upon this, whether my party fail or not, I stand.

Let not Democrats or Republicans here be misled by "business men" as to the specific system. Rather let us declare with Robert J. Walker that—

> There is another insuperable objection to the specific system, namely, that it unnecessarily and invariably taxes labor vastly more than capital, and the poor in a much greater proportion than the rich, upon the goods consumed. Under the system of specific duties of so much per pound, or yard, or gallon, &c., the specific duty is the same. The rich, who purchase the costly article bearing only *the same specific* duty, pay, in proportion to value, less than one-half what is paid by the poor, who purchase a cheaper and less costly article. If we take all the costly articles purchased by the rich bearing under the present tariff the same specific duty as the inferior article bought by the poor, we will find the difference against them exceeds $20,000,000 a year. Such is the immense additional tax exacted from labor under the system of specific duties.

The Senator from Kentucky [Mr. BECK] roundly and soundly characterized the injustice of the specific system in answer to the author of the Morrill bill. Let me quote:

> Perhaps the Senator is proud of the fact that he has invented a system under which the laboring-man pays 90 per cent. tariff tax on the only kind of blankets he can afford to buy, while he and his lordly friends pay less than 60 per cent. tax on such as they use, and in like proportion for all else. How long would a law stand in the State of New York that taxes the residence of Mr. Vanderbilt or Mr. Stewart, worth $2,000,000, no more than the residence of their coachman, worth $2,000? That is specific taxation. Ad valorem, or a fair per cent. tax on each according to its value, is the system adopted by the American people in all their State governmental affairs, and is the only just system. Mr. Walker but expresses the views of all disinterested intelligent men when he says:
>
> "Our present system of taxation is the most onerous ever imposed upon any people, and is utterly destructive of the prosperity of our country.

"Our present tariff is also most unequal, oppressive, and unjust. It is grievously onerous upon agriculture, commerce, navigation, ship-building, &c. * * * The present tariff, besides the tax of $150,000,000 a year upon imports, the duties on which are paid by the people into the Treasury in gold, exacts another tax of at least $350,000,000 a year in the enhanced prices of rival protected domestic articles. This can be readily proved by comparing the prices current in gold of such domestic articles with the prices of similar articles produced in other countries."

Already have I ciphered here the excesses of the tariff when gold was at a high premium, and when a thousand millions represented moneys of the people which never saw the Treasury, but went into the pockets of the subsidized, bounty-fed paupers. The methods by which my result was attained are of record. They have never been answered, and cannot be answered.

I have learned from Judge Montgomery Blair that the tariff of 1846 was the product of the brain of our great and popular New York statesman, Silas Wright. He has left a proud record for human freedom in other regards; but I desire now to quote from the letter of Robert J. Walker, of the 30th of November, 1867, vindicating the tariff of 1846. Upon his platform we may stand to-day. We need no more revenue than he estimated. We should derive it from the sources he indicated. Here is his programme:

This revenue of $244,000,000 a year, as a maximum, I would derive from three sources alone:

1. By a tariff for revenue.
2. By an excise on wines, malt and spirituous liquors, and tobacco; abolishing all other internal taxation.
3. By a tax on our national banks, based upon just and fair equivalents.

* * * * * * * *

A tariff for revenue, as experience has shown, instead of depressing improves all industrial pursuits, including manufactures, and vastly augments the wealth of the country. Under the tariff of 1846, as shown by the census, our wealth increased, from 1850 to 1860, 126.45 per cent.; whereas from 1840 to 1850 the increase was only 64 per cent.; from 1830 to 1840, 42 per cent., and from 1820 to 1830, 41 per cent. So, also, from 1850 to 1860 our agricultural products increased 95 per cent. and our manufactures 87 per cent., being in both cases nearly double any preceding ratio of increase. So, also, our exports, imports, and revenue nearly tripled in the same period of time, and our domestic trade rose nearly in the same ratio. This augmented ratio is not the result of increase of population, which from 1850 to 1860 was less than 36 per cent. The Irish famine was supposed by my opponents to account for the increase the first year, although the decreased price paid abroad that year for our cotton nearly equaled the additional sum paid by England for our breadstuffs and provisions. But the *next year* and *the next*, before any gold had reached here from California, our exports and revenue went on augmenting in a corresponding ratio, rising in eight years from $22,000,000 under the tariff of 1842 to $64,000,000 under the tariff of 1846.

PREJUDICES AS TO FREE TRADE.

The first prejudice to be overcome is that so often answered. It is verbal. It relates to the phrase "free trade." "God save us!" said an eminent man, "from the evil spirit and from metaphors!" It is idle to explain that freedom and trade in themselves, together or separately, are not obnoxious to any one. No one champions slavery and isolation. Free-traders have but one object: to be rid of that state of affairs which forbids nations to exchange with each other their various products, untrammeled by hostile and prohibitory tariffs. Free trade would remove hinderances. It would do it, while affording proper support, by customs dues, to the Government. All agree that if free trade were universal it would confer great blessings on mankind. It is therefore worth approximating to it, if we cannot reach it. Our trade is only free as to exports; on our imports the exactions are laid, and as a consequence their prices are raised. If, as I claim, free trade thus considered would achieve the greatest production at the least cost, who ought to complain? France, Germany, Russia, and the United States are the victims of the opposite idea, with what results as to population and wealth in comparison with Great Britain the statistics amply demonstrate. Free trade enables a country to obtain commodities which it cannot produce at all, or at a disadvantage. It is the most productive employment of the forces of the world. It would have every country produce that which will bring the greatest quantity of commodities. The amount of our losses by protection is to be measured by the excess of the price at which commodities are produced over that at which they can be imported. This can be proved by bills of lading and the expenses and percentages until the consumer receives the article, through many *media*, from the producer abroad.

GRADES OF OPINION.

There are three classes of opinion here:

1. Those who are for bounties outright and are bold enough to say it. These are high protectionists.

2. Those who would regulate wages and relieve in part, by certain amendments on raw materials. Those are protectionists of the same idea, but of a timid quality.

3. Those who stand by the constitutional and economical idea of raising revenue, and revenue only.

Those who are of the latter class are popular champions, and have the courage of their opinions. They neither duck down to the clamor of the interested nor violate the rules of constitutional interpretation. They believe that this Congress has nothing to do with regulating wages or prices. Wages and labor are in the market, to be had under the inexorable law of supply and demand, and those who tinker with them generally do it to harm labor. They have no business to bring the shop into Congress.

RAW MATERIAL.

The argument for free raw material is valid; and if good, is good for the manufactured article. Besides, sir, who is to judge of what is raw and what not? The argument of Hamilton that no duty should be laid on the materials of a manufacture——

Mr. McLANE. You do not mean Hamilton. He was not——

Mr. COX, of New York. Yes; I will put it right, in print, if not now.

Mr. CARLISLE. You are right.

Mr. COX, of New York. Yes. Hamilton even intended to help one class of manufacturers, the maker of raw materials, to the discomfort of another. Is salt raw? Yes, in one sense. It enters into manufacture. It is the chief material of alkali, and alkali of glass. Is leather raw? If not, what are boots and shoes? What is the test? The labor employed? There may be more labor in getting coal, or in growing wool, than is required to turn the raw into the manufactured article. Perhaps, a farm-house is raw, the tools of trade, the clocks, and the human machine which requires caloric as much as an engine. It is hard to tell what is raw and what product. Bastiat happily hits the fallacy (chapter 16) as to the admission of the raw and keeping out the manufactured product. The illusions which he dispels on this topic are worth perusal.

So, in regard to American ores—their miners demand equivalent protection, if the manufacturers are cared for. It is complained that they cannot compete with the Irish, Spanish, and African ores, owing to cost of labor, which are transported for a nominal freight, if not as mere ballast. The very mining is at stake.

Out of these interferences between grades of labor springs a healthy conflict out of which the body of the people, the consumers, may get their dues from Government.

It touches wool. "Why," says Colorado and Vermont, "why let in the raw wool? Is it not prohibited by the tariff of 1868? Is it not a product of our grazing factory? Our money is invested." Just so, the early cotton raisers demanded a tariff on its importation. How can they compete against foreign raw cotton? "True, the cotton-pod suited our natural elements of growth, and the cotton-gin came along to help, and we undersell the world." This argument is as good for protection on the raw material as on its product, but no better. "Tax our manufacturers more, our raw material less, and thus," exclaims the mild protectionist, "we will prosper." "No," exclaims the bounty-fed gorged manufacturer, "tax all out; and our millenium is nigh."

If the duty on the manufactured product reduces the price, as some one here argued, why not keep the duty also on the raw material? It is *vice versa*.

There are men here who are not mealy-mouthed protectionists. I see one who believes and is not afraid to say that the tariff is to be made as a bounty. So much cash subsidies drawn from sweating toil should be handed over to certain persons engaged in certain manufactures. These are the highway robbers, unmasked, the Jesse Jameses, who give out false lights, stop or wreck the train, and boldly go through the passengers. They are honored when shot, buried in the sweet consolations of religion amid admiring friends, while the sneak-thieves generally receive the loathing even of their pals in crime. Nor do I see any prospect of permanent relief in the plan proposed by my colleague. His is a sort of compromise. All compromises on this topic will fail. Natural laws and liberty fight against them. It is no mere fatuity or fancy that the stream of freedom will cease to flow on because a few clever business men are shivering on the bank, wondering whether to plunge in, or to put on their clothes again and hurry homeward.

I join with all in the attempt to relieve raw materials; but let us not forget the product. I should be glad to vote in the direction of freedom, even if limited. It would be a great relief; but if it stops there it might as well never have begun, for its modicum of relief only adds clamps to the system of protection. Especially anxious to get at the details of the tariff, I disfavor all attempts to be partial in the final relief which justice and equity demand. Nor can I ever cast a vote for the inequity of the specific duty. I stand on the ground of 1846 as it was laid down by Robert J. Walker, already cited, and so ably defended by Mr. Senator BECK.

I agree with gentlemen that we have no more right to let in scrap-iron or foreign ores than the rails or other manufactured product; and I demand as much freedom for one as the other. It smacks a little of partiality in piling up taxes on the foreign manufacture and relieving the raw material. If there be any principle in the resolutions of my colleague, I would be glad to find it. Certainly my colleague is not a protectionist in the intense sense. He would have an adequate revenue, on the average of years, to give all the protection needed. What is that protection he demands? Rates sufficient to compensate for the difference in the wages of labor here and abroad. He would have an "equivalent compensation in the form of protective duties or of a bounty from the public Treasury."

But I do not criticise my colleague, [Mr. HEWITT.] He has had enough of that from the out-and-out bounty-men. It is to his credit that they attack him. The clubs under his tree show the sweetness of the fruitage which he would bring to the liberties of interchange. Let us welcome him, going out even half way to his succor. Like David A. Wells and others, who were protectionists of the old school, when the impulse and momentum, with these attacks, grow under the incentive of his generous nature, he will lead us to those quiet pastures by the still waters which he pictures as the finality of the free trade doctrine

RECIPROCAL BRIGANDAGE.

Only one advantage we have now—debate. We cannot amend the pending bill so as to revise the tariff in any particular. I need not say, Mr. Chairman, that I am an advocate of the thorough revision of the tariff. I have fought that fight here under worse auspices than now. I would not temporize with middlemen, straddling men, or "business" men.

This is my thesis: no more revenue than is needed for frugal administration and to pay the interest on our debt. No branch of industry protected at the expense of others.

The incidental protectionist is an incidental bounty beggar. If the incident is good so is the principal. An apple is still an apple, though called a russet apple. If a rogue steals my watch and chain it is called robbery. The watch is the principal thing; it keeps time. The chain is only an incident; it is ornamental property. How can one be virtuous incidentally? He who is for "revenue only" is opposed to stealing generally. He is therefore on my platform, and with those incidentally off that platform I have nothing in common on this topic; no more than with the principal brigand.

I have heard it argued here by a gentleman whose views are against protection that he would vote for it because he would make reprisals. He would have a bounty for his local occupations because others were grabbing from him, and he must get even. I have seen even Kentucky just have a little temptation to get even with Michigan on copper, protected 45 per cent. Kentucky wants cheaper copper for her Bourbon stills, and gets back one-half in a bounty on hemp, foreign grass, jute, of over 20 per cent. Maine is content to allow her old ship-yards to go to grass, for her lumber is protected over 17 per cent. Massachusetts groans for cheap Nova Scotia coal, which Pennsylvania denies; but she makes up for the loss of the caloric for her mills in other ways. She wants a market against protective Canada, but is content with a steal on dress goods, worsted, &c., of 60 or 70 per cent., and on cottons of every kind of make-up of from 35 to 58 per cent. Louisiana, not without reluctance, rolls a sweet morsel under tongue with the 50 per cent. and more. [Laughter.]

But we must allow North Carolina something on pea-nuts [laughter] and Connecticut 35 per cent. on corsets and hair-pins! Pennsylvania, ever dear and expensive, makes coal. Out of coal she gets a quarter of a dollar protection out of every dollar imported. In fact, she allows no coal to come in except a half million worth. Science has drawn out of the coal-tar exquisite aniline colors for dresses and ribbons to decorate the beautiful women of my Congressional district. [Laughter.] They might be called "blooms of carbon!" [Laughter.] Upon these raw materials thus manufactured she gets a duty of 68.48 per cent., so mixed, specific and ad valorem, as to stick worse than the original tar! If Massachusetts growls at this, Pennsylvania feeds the industrious infant on a fish diet of sardines at 45 per cent. Wheeling and Pittsburgh are unhappy because their glass is not protected enough. They get 110 on a certain size of plate glass and from 32 to 80 on other kinds; but still they see through a glass darkly, till California and Illinois come along to fill it with high spirits, running up on the scale of patriotic fuddlement as high as 325 per cent. [Laughter.] Tin is a product that ought to be as cheap as sugar or potatoes or salt; but tin-men complain of the tariff as hurting them on the "raw." Carpets—ah! was there ever so grand a larceny? From 50 to 75 yards are taken at the custom-house for every 100 brought in, and all that might come and does not has its effect to aggrandize the robbery. We know who gets these bonuses.

When it comes to this reciprocal bounty, there is a loving kindness between adverse interests. It is so charming. It reminds one of the song in Mascotte. The shepherd swain sings to his Phyllis, "More than turkeys I love you." [Laughter.] She responds, "More than sheep I you love." [Laughter.] And one sings, "Gobble, gobble, gobble!" [Laughter.] And the other responds, "Bah-h!" And the country echoes "Gobble!" and "Bah!" and they silently steal away. [Great laughter.]

In many instances these reciprocities of larceny are wanting. The nickel is limited, like the copper, to one man or a firm, and silk to a Jersey city. Bessemer is held by a few persons, like paper pulp; and the codfish by a limited class, which does not even allow a hog to come in and be cured with free salt, and only protects the latter 14.1 per cent. on his bristles. [Laughter.] A man is shaking with the chills out on the Maumee, or in Egypt, Illinois—I observe my good friend [Mr. TOWNSHEND] shaking now [laughter]—when lo! a firm in Philadelphia is caught stealing about four pills in ten of the man's quinine. [Laughter.] The firm was not compelled to disgorge; but it was caught and told not to do it again, or do it so as not to be caught flagrantly doing it. That was well; but it is only one of hundreds of articles in these tariffs in which the larceny is both mutual and continued.

BUY, IF YOU WOULD SELL.

But, Mr. Chairman, when you answer the various fallacies of protection, including the wages sophism, the protectionist shifts his ground. He says: "Oh, wages are a reason, but not the reason for protection. Hamilton, Carey, Greeley, and others placed it upon surer foundations, namely, protection promotes more association among our people, develops home trade, creates more interdependence, and gives greater variety to employment." This fallacy has been exploded a thousand times. I do not believe in the idea of making a tariff to affect wages. The tariff has reference to our trade abroad as well as at home. The great grievance is that we are giving foreigners the pretext to cut us off from selling to them. Our pork is diseased, our breadstuffs too cheap, our manufactures too ingenious, or some other pretext will be made to kill the trade which brings to us foreign gold. Sir, to sell, you must buy. I have argued that barter is the only continuous and prosperous kind of exchange.

Buy, if you would sell. Thus Great Britain grows great in tonnage and commerce. In ten years up to 1879 she increased her tonnage by 7,000,000, and we lost 140,000 tons. As to commerce, where is ours as an exporting nation? Twenty-four millions of dollars against Great Britain's four hundred million. Even at our doors in North and South America they undersell us. Why? Because she does not burden her commerce with exactions.

Our adversities in commerce and navigation make it imperative that we should look abroad for our trade. That trade must be barter. If we sell our surplus abroad, we must, in the end, to keep the market, buy. This is the principle of political economy laid down by John Stuart Mill. (Cap. 21, Principles of Pol. Econ.)

It is undeniable that without imports there can be no exports, and *vice versa*. There is no economy in exporting as much as we can and bringing nothing back except money. Trade will cease if there be not real compensation. There must be two parties to be benefited, otherwise trade will die.

Antagonism when aroused leads to retaliation. It is stronger than self-interest. "You are getting it all; we so little in return. We will punish you. If you are not prohibited altogether, you shall be restricted." It is the substance of Canning's dispatch, which is the spite of one who deems himself unfairly treated:

> In matters of commerce, the fault of the Dutch
> Is giving too little and asking too much;
> With equal advantage the French are content—
> So we'll clap on Dutch bottoms twenty per cent.

[Applause and laughter.]

The argument that we must look only to a home market has also been answered a thousand times. It presupposes free trade limited—limited among the States. It forgets that what is good among the States is good among the nations. If it be an economic argument, irrespective of patriotic self-sacrifice, this would be valid as a reason. But if good between Ohio and New York, Texas and Missouri, why not between Canada and the United States, Mexico and the United States? There should be no limitation except for revenue. Judge Douglas once favored a Zollverein of American nations for this purpose. I have proposed that the congress of such nations, including the Dominion, which the President may call, should consider this unity of our general interests in this hemisphere.

OBSTRUCT ALL TRADE!

This idea of obstructing and fettering trade was properly illustrated by my colleague from the saline district of New York, [Mr. HISCOCK.] In a short response to an argument for removing impediments to our commerce he stated with boldness and perspicuity of view, and in a comprehensive, calm, and philosophic manner, his idea of a tariff. No raw material disturbed the lofty serenity of his economic thought. He would obstruct in order to protect. Let me quote his remarks. On the 5th of March, 1882, (RECORD No. 57, page 5,) my colleague is reported to have said that "all the burdens that are imposed upon the importations to this country were in the direction of protecting the industries of the United States;" and referring to the burdens of the consular-system, he said its cost was "precisely of the same character of protection with the imposts that we lay upon those goods."

Should not this precious statesmanship be preserved. Let me help it to some illustrations. The first that occurs to me is that used by the countryman of Adam Smith, [Senator BECK.] My colleague may not see its pungency. When the Ohio River freezes up there is a coal famine in Cincinnati and prices go up, and the coal-fields of Western Virginia, Ohio, and Pennsylvania rise in price. This is an obstruction to trade; and my colleague, if he had lived in Cincinnati, as I have, during a winter, would appreciate the value of uninterrupted trade, but if he were a coal merchant or proprietor he would not. By parity of reasoning he would oppose the good appropriation bills for rivers and harbors, while he would favor the bad, since the good removes obstructions and the bad destroys navigation, yet we do not find him making discriminations.

The protectionist would tear down our colleges, because the teachers cannot in teaching ethics fail to teach the liberalities and not the slavery of interchange. He would destroy the inductive philosophy, which Bacon originated and Newton and Farraday and Adam Smith practiced, because it holds that an aggregation of facts enables reason to generalize. Does not free trade poison the fountains of knowledge? He would bury the dead Latin of Bacon's inductive philosophy, whose translation is that there is nothing practical unless theoretical; because he would not have the facts except in mangled *disjecta membra*, scattered and incongruous fragments, with no philosophy as the "theory."

He should rejoice in the snags of the Missouri, the crevasses of Louisiana, tear away the jetties at the mouth of the Mississippi, and glory in the overflow of that Father of Waters; but he does not, because his heart relents when he sees human suffering and scarcity,

though on the tariff he would obstruct commerce. In one case he is a philanthropist; in the other, an economist. By the same process of reasoning, he would have our phosphates turned over to foreigners; for would it not obstruct vegetable growth; our forests burned; would it not make shelter more costly; our mines flooded and spoiled; would it not make less easy and more costly to obtain the tools of trade and the needs of life? Would he not make the sky brass, and close the windows of heaven that crops should fail; for is not abundance the cause of woe? Would he not rob his own loved Onondaga wells of their 64 per cent. on salt in bulk by obscuring the sun, which evaporates their waters, and allow the pork of Cincinnati equally with the codfish of New England to have salt free from abroad?

The theory of my colleague is that of obstruction, scarcity, monopoly. When we theorize upon a basis of facts, they say: "Oh, your theories are beautiful and true; they are fine; fit for commonwealths of angels, but not for practical society. It is the same old nonsense." So said my friend from Michigan, [Mr. HORR;] but I ask him, is it old or new nonsense which says that the same protection puts oats up and salt down at the same time? When we thus theorize, they call it the same old "nonsense." To be sure, we must repeat; we can not with every morn vary the multiplication table, or change the precession of the equinoxes. There is an order and a law in nature supreme. If we say two and two are four, it is the same old nonsense; we ought to call the result seven. It would be so novel and striking. We say abundance is a blessing and scarcity a curse; it is old nonsense, as old as the famine of Egypt. We ought to say that famine makes scarcity, and scarcity, high prices, and that plenty begets cheapness, and low prices are detrimental to industry.

INSECTIVOROUS ANNOYANCES.

Protection is insectivorous. It feeds on the larger body. It is parasitic. It was said by Professor Riley, a naturalist of the Smithsonian, in a humorous illustration, that there are birds of ill omen who tear holes in cows and sheep and deposit their eggs therein. These hatch out lizards. They fatten on the animal just as protectionists fatten on agriculture. But the animal does not die at once. The lizards in time are driven off the body and buried in the ground and come forth again in the form of birds like their parents. It is the analogue of protection. It may not kill, owing to the native strength of the cow or sheep, but it is very troublesome. [Laughter.]

This clamor of protection is a croak; it is not a rational speech. It began after developing its infantile ways as a tadpole in search for worms and insects. It grew so in damp weather, in the land, that people thought it rained frogs. After a surfeit, the infant began to appear in public as a leader of fashion; he works out of his old skin deftly and swallows it, then he begins to croak again at the satisfaction of consuming a part of himself. [Laughter.]

LITERATURE AND POTATOES.

Let me instance some of the objects to be secured at once without a commission. Take newspapers, periodicals, and magazines. The removal of the duty will increase the revenue. The duty now is $30,000 per year, while it costs the Government $38,000 per year to carry that portion which comes in free of duty by mail. The postal treaty estops the compensation. The leap from periodicals to potatoes is quite a long one, but the tariff bridges the abyss. There is quite an importation of German cabbages and Irish potatoes going on. It is part of the paternal care of the Government. The quotations at Boston when I saw them last month were for wholesale of the principal kinds; the retail quotations being 20 to 30 per cent. higher than the wholesale: Early Rose and Prolifics, $1.10 to $1.15; Chenangoes and Jacksons, 90 to 95 cents; *imported* Irish potatoes, 85 to 90 cents—all per bushel of 60 pounds each. But for Ireland what chance would there be for a poor man to indulge in the luxury of potatoes? The crop in this country is entirely inadequate to the demand, and this has been the situation for some years past. The great bulk of potatoes received at Boston, New York, and Baltimore are imported from the British maritime provinces, and yet our Government continues to exact 15 cents per bushel on every bushel so imported, and this on a prime necessity.

CONDENSED MILK.

A company proposes to make condensed milk; they find that they can make it here better and cheaper than in Switzerland. Why do they not? The condensed milk contains about 32 per cent. of its weight of pure sugar; the tariff adds 4 cents a pound to this sugar; the tin-plate tariff comes in to burden the cans, and the natural advantages exhale! This is the system which the Agricultural Bureau heralds as "firmly fixed" on the American Government.

COPPER RING.

A copper ring, with nickel and lead, made a tariff raid. They got enough to make the trade nearly prohibitory. Copper keeps up the price 15 per cent. above the English price. They have a surplus which they send off to cheap markets, and take a bond of the purchaser for its consumption in Europe. Somebody here is hurt, the cartridge-maker perhaps most; but one copper company, on a capital of $2,000,000, declares 80 per cent. dividend. You want this fact to go to a commission, and a commission made up of infants and paupers who cry out for more.

Mr. KELLEY. Will the gentleman from New York allow me a question?

Mr. COX, of New York. No, sir; my time is limited. I draw the line of prohibition on you.

Mr. KELLEY. I only wanted to say that the last Democratic Committee on Ways and Means could not dispose of the single subject of sugar alone during the whole Congress.

Mr. COX, of New York. The gentleman from Pennsylvania [Mr. KELLEY] is speaking; but I do not *value* his remarks specifically. [Laughter.] In fact he is prohibited. [Laughter.]

Mr. TUCKER. He is smuggling.

Mr. COX, of New York. He is an instance of all high tariffs. It leads to smuggling, even in debate. [Laughter.] The gentleman's policy taxes little children, babies even.

Mr. KELLEY. Not yours. [Laughter.]

Mr. COX, of New York. I have no doubt somebody has lost something by the fact of my not being perpetuated; but before I call attention to these taxes on the babies, I desire to say that if I had a child and he did not oppose these high-tariff bounties I would disown him. [Laughter.]

TAX ON CHILDREN, MENAGERIES, ETC.

The little girl cannot play with her doll, nor the boy whiz his top, nor the mother wash her offspring with soap, except at an expense of from one-third to one-half of their cost for the domestic privilege. [Laughter.] If the mother gives her child castor-oil she pours down 148 per cent. ad valorem, [laughter;] if the child does not enjoy the dose, there is a 25 per cent. bowl as the recipient of the contents of its tender stomach. And though she "wash it with niter and take to it much soap, yet the iniquity is marked before me, saith the Lord," for the soap is taxed 40 per centum! God help the child!

Mr. TOWNSHEND, of Illinois. How about candy?

Mr. COX, of New York. I am coming to that in a moment, my honey. [Great laughter.]

If she wraps the little dear in a plain bleached cotton night-shirt, it has a nightmare of 5½ cents per square yard specific, [laughter;] when the child awakes in the morning fretful, she combs its little head at 35 cents ad valorem, [laughter;] if she would amuse it, she rolls it over a Brussels carpet at 90 cents per square yard, or gives it confectionery made of refined sugar at 4 cents a pound tax, and 25 per cent. ad valorem; if it tears its little panties, the gentleman from Pennsylvania [Mr. KELLEY] sews them up with spool-thread taxed at three-quarters of its value. [Laughter.] Why, if she used a shingle to bring the little "toddling wee thing" to its senses, as the honorable gentlemen can recall, the cost would be enhanced at the rate of 17 per cent. taxation. [Laughter.]

If the youngster has a patriotic inclination on our Fourth of July, his fire-crackers are taxed as a patriotic luxury at $1 extra a box, and the bunting which furnishes the flag, though but 23 cents a pound, costs 121 per cent. extra, while the band plays on instruments taxed at 30 cents. She takes him to the menagerie to study natural history. There is the zebra, symbolic of a mixed ad valorem and specific, [laughter,] and the stately giraffe, high protection, [laughter,] the royal tiger, and unicorn of Holy Writ at 20 per cent. And the procession of elephants! Every one 20 per cent. True, Jumbo, for purposes not to be mentioned, is excluded by the affidavit of a consistent protectionist! but the log-chain that holds his huge legs binds the monster in protective chains! [Laughter.]

WHAT RELIEF HAVE WE HAD?

From these insectivorous exactions some attempt has been made here as a remedy. The remedy is almost laughable, when the quantity of the insects is considered. We have had free-trade reports on little matters from these protectionists on the Ways and Means. The relief was almost an infliction—it was so small. But we have borne them. Our consolation is that which Pope found, when he said of the English in their regard for the colonies: "We can always bear the afflictions of others with Christian fortitude." Yes the principle of free trade was established by these very few bills on small subjects.

> Think naught a trifle, though it small appear,
> Small sands the mountain, moments make the year,
> And trifles life.

CHEAP CLOTHING.

In the RECORD, No. 26, page 2, it appears that the gentleman from Kansas reported a bill to make free of duty clothing from abroad for colored people. This was done out of charity. It was a good object. I endeavored to extend its blessings and to cover white persons. It gave no revenue and no protection. It was entirely free trade, and it is a monument to the principle.

BIBLES FREE.

It appears also that my eloquent friend from Georgia, [Mr. SPEER,] in No. 47, page 26, sought to refund the duties on 2,100 copies of the revised Bible. His fine classical speech is a tribute to our principle, but it is partial.

Why not as well discriminate in favor of one book of the New Testament of one revision as another? Why not let in Luke free since he employs the purest Greek, and place Matthew, Mark, and Paul at 20 per cent., since their dialect is more Hebraic? Why disallow the original papyrus copies from coming in free along with the glue by which the pulp of the papyrus plant, after being rolled into paper, is stuck together. Besides there are apocryphal books; let

this commission decide about them. Let them ascertain to a certainty whether Paul wrote the epistle to the Hebrews. Some commissioner in the Bessemer steel business might inform this vulgar, heathenish Congress on that head. If we are to have discrimination in this reform, some commissioner in the printing-paper business should point out whether the uncial or cursive characters are the fountains of the version. Then what will the commission, unless we have a theologian on it, do with the palimpsests? These are scratched sheets, which have been restored. Will they be taxed? They are now free. What inquiry will they make as to the authenticity of the old codices out of which the revision is drawn? As a Representative of a Catholic constituency I want to know if His Grace Cardinal McCloskey could not be on the commission, since we have favored the Protestant revision, and keep the tax on the Douay edition, the English standard in the Catholic Church, from which it is drawn. Give me leave also to have my old college mate, Dr. Fisher, of Yale, associated with his grace, that Saint Jerome and his vulgate may not fall under the ban, so that we may discreetly inquire whether the Latin editions made by the great Dalmatian should be specific per page or ad valorem. What, sir, as to Luther's edition of 1522? Why should King James's edition be taxed? It has already gone through a commission of scholars. Macaulay calls it a stupendous work, which, if everything else in our language should perish, would suffice to show the whole extent of its beauty and power. Even the skeptical Huxley could not admire it enough. You allow the correction of its 120,000 defects to come in free; but the great original cannot come. I believe this House has allowed a Chinese Bible to come in free. Is that so?

A MEMBER. Yes; that's so.

Mr. COX, of New York. Well, then, even the Chinese edition of the Bible has been made free by our protective Congress; but other tea-box literature with Chinese is cumbered. [Laughter.] I think I can hear the learned discussion of our commission on this biblical tariff. They must renew the terrible philomachy of the learned doctor's question: Was it a dish or a charger, namely, a war-horse, on which the damsel brought in the head of John the Baptist? This is mooted. My friend from Georgia favors the dish. The gallant gentleman from the blue-grass country would naturally favor the horse. Is the unicorn a wild ox or a rhinoceros? This should be referred to Forepaugh or Barnum, on the commission. Were the men that were cast into the fiery furnace in their coats, their hosen, their hats, or in their trowsers, their tunics and their mantles? This is a hefty theological disputation. Is it demon, satan, or devil?

Mr. MORRISON. They leave Hell out of the revised Bible and let it in. [Laughter.]

Mr. COX, of New York. Yes. They are not partial to Hell; else why raise the question, Is it Hades or Hell? [Laughter.]

But I forbear—the Committee on Ways and Means might give us a bill settling these questionable points, so as to educe from their quiet repose the scholars of this House, and not leave these questions to the mongers in iron and the owners of spindles.

PAPER AND PULP.

What a solemn farce, this freeing of a certain Bible, when we tax paper and to make knowledge dear. Besides, we neutralize all the natural advantages of a protection on paper-making by other burdens; 60 per cent. on felt; 48 on the copper-wire cloth; 16 per cent. on soda-ash, and from 30 to 60 per cent. on coloring materials, and keep out crude fibers of wood to help a paper-pulp monopoly, one of whose advocates finds my generous arguments too much for him, because too general.

WILD-ANIMAL TAX.

The distinguished gentleman from Pennsylvania, [Mr. KELLEY]—Where is he? He seems to have left. [Laughter.] I want to show that he is an incidental free-trader. He will not deny that on occasions he has reported bills to allow animals to come in free. True they were for a show, or, as he advised me, to teach zoology. But he is none the less a free-trader, but he does not go far enough. The tax on the noble king of beasts is 20 per cent., and it is the same on the anthropoid. Why not discriminate in favor of the bear against the lion, for, as the song says:

> The bear he never can prevail
> To lion it, for want of tail.

The editor of the New York Times was shocked at my playful remarks when the bill came up about free clothing for poor blacks. He disliked any humor on these topics; but I have here his editorial arguing that bears are chargeable with 20 per cent. because composed of grease; or perhaps 10 per cent., because "unspecified grease," and "hair unmanufactured." When he saw, however, that "lead in pigs and *bars*" was 2 cents a pound he was disposed to increase the duty. He wants to know whether foreign bears on the vine-clad hills of France have not had lead put into them? The gentleman from Pennsylvania [Mr. KELLEY] would free *bears* and load down "*pigs*," and both for Pennsylvania, because pigs are iron in Pennsylvania and animals elsewhere. [Laughter.]

When I asked the gentleman why he granted this limited relief he said it was to teach natural history. This is a confession that the present tariff on wild animals is a burden on zoological knowledge.

It is a tax on zoology. If it were a fair tariff it should tax all animals which enter our ports; not merely man with the iron in his blood, but the monkey from which he is said to be derived. It should not merely tax the cattle and sheep of foreign meadows, whose fat and lean are made by that cheap labor called the sun, but the fishes which swim in the waters, whether canned like sardines in a box or casked like whales in their blubber. There is difficulty in drawing the line in the animal kingdom. We call some animals vegetables, because built up by organic food, like the Venus's flytrap, which lives on the fly; or whether with sensation and voluntary motion they consume oxygen and give off carbonic acid. Mushrooms sometimes exhale carbonic acid instead of consuming it. Let the mushroom be taxed as a warning to scientists. Besides, should there not be a tax levied proportionate to their digestive, absorbent, circulating, respiratory, and especially the excretory systems? Why not tax a mollusk as well as a vertebrate? You tax the brain product, books, revised editions of the Book, why not tax the brain itself according to its value? Why not tax the ulna and phalanges? You tax phosphates. The body is full of them. So of carbonates, sulphates, and chlorates of soda and oil. Let them all be taxed, if any.

If Jumbo can come in free for breeding purposes, let his incident be taxed, ivory and his trunk be examined by vigilant custom-house officers. Or let him be referred to a commission; they will then have two elephants on their hands. One elephant at a time is enough for the gentleman from Pennsylvania, [Mr. KELLEY.] [Laughter.]

The gentleman from Pennsylvania [Mr. KELLEY] introduced to the last Congress a joint resolution to refund to the society of the Sons of St. George, Philadelphia, $1,440.25 in gold, being the amount paid upon the colossal statue of St. George and the Dragon. (H. R. No. 151, second session Forty-fifth Congress.) He had already freed from the tariff cage all wild animals when imported by zoological societies. What did this tribute to free trade signify? Who is this patron saint of England, always associated with the dragon, whose image is to be admitted free into this country? Well, he is a saint, and about as much of a saint as the present English rulers who capture and detain our citizens. He began his career about the fourth century, in Cilicia. I had the pleasure of seeing his birthplace. It is said that he was a parasite in his early career of so mean a type that he would sell himself for a cake. He became a contractor to supply bacon to the troops, and cheated the government and barely escaped death. He was a high protectionist and favored native industry in Egypt. [Laughter.] When in Egypt, he embraced Christianity and became a Greek bishop. His pliancy gave him power and he began persecution against the Trinitarians. He raised a rebellion and had to leave, but was allowed to return to Egypt, where he showed himself very cruel. He was finally dragged out of prison and torn to pieces and his remains burned. His admission to this country with his effigy of the dragon is a pretty contribution to free trade under the auspices of protection. It looks as if Philadelphia were corrupted by British gold. [Laughter.]

BIG BURDENS—COTTON-TIES.

While they were about it, relieving wild animals and mythic dragons, and revisions of the Bible, why did they not relieve on larger matters? Let me illustrate the greed of overprotected manufacturers and their supreme indifference to the rights of others and that general good which they profess. This illustration concerns our great product of cotton. Few facts are more strongly in point than the recent repeated assaults on the Treasury Department to extort a high-tariff ruling in regard to cotton-ties. What is the iron cotton-tie? It is a recent invention. It is a strap of hoop-iron, provided with a sort of buckle. It has many advantages over the old-fashioned rope used in baling cotton. When the existing tariff was enacted this tie had no existence. It had not yet been invented. The tariff could not and did not provide for it, excepting under that convenient clause and cloak—"not otherwise provided for."

The cotton-tie was obviously a manufacture of iron not otherwise provided for. As such its legal rating for duty was clearly 35 per cent. ad valorem. But at first it was rated as hoop-iron, 1½ cents per pound, equivalent to about 70 per cent. ad valorem. It continued to be so rated until some inquisitive person, doubtless urged by bribes of "British gold," made the discovery that a manufactured article invented twenty years after the tariff was framed must be an article "not otherwise provided for;" and the Treasury Department treacherously sustained this un-American view. The tax was reduced to 35 per cent. This was the signal for a conflict. That conflict still rages. The manufacturers rush to Washington. They clamor for help. They propose a bill for the infant. They have been protected a hundred years on the plea of being aided in infancy. They must have pap—pap—pap. They cannot yet make a simple iron strap without a protection of 35 per cent. ad valorem! What did I say—35 per cent.? They demand 70 per cent.! They have 35, yet they languish under it, or pretend to. "A tax of 35 per cent. is not enough for our necessities; give us the privilege of screwing 70 per cent. from the planters on our goods or we shall perish!"

In their pleadings before the Secretary of the Treasury these infants of tender years find a guardian *ad litem* in my friend from Ohio, [Mr. MCKINLEY.] They pray for a mere bagatelle in the way of a bonus. Said one of them: "A decision in favor of the manufacturers would make a difference of perhaps ten or twelve cents per bale of cotton to the planter." Ten or twelve cents a bale! What a pitiful matter

to refuse! Where is the boasted large-heartedness of the Southern planter that he haggles over a pittance like this!

Unfortunately, however, the Southern planter ciphers on a slate. He is as deft as the Yankee manufacturer. The cotton crop now runs to 6,000,000 bales. Ten cents a bale is $600,000. The little trifle, then, which the manufacturers want over what the tariff now gives them is $600,000 a year. The whole tax which they ask the Southern planter to bear on the single item of cotton-ties is twice that sum, or $1,200,000 annually. This impudence deserves monumental bronze. It is none the less brazen when applied to farmers as well as planters.

ARE FARMERS INTERESTED?

You give the farmer a little *douceur* on his oats, but you tax his trace-chains nearly 60 per cent. The elegant gentleman shines in his carbonic gem at only 10 per cent; but the vast repertory of carbon which God has pressed out of vegetable nature into coal through the cycles of time is taxed at 60 per cent. for caloric to run the mill and warm the shivering. The gentleman from Rhode Island [Mr. CHACE] stands up here arrayed in rubies and pearls, at 10 per cent., but his carpenter constituent pays on an average 50 per cent on his saws.

Mr. CHACE. I trust the gentleman will allow me a word just here. Those saws to which he refers sell for less money in this country than they sell for in any other country on this earth.

Mr. COX, of New York. Take the tariff off and see how much less they will sell for.

Mr. CHACE. The Disstons export them to all parts of the world, and they are sold as cheap here as they are in Great Britain.

Mr. COX, of New York. Then why do you want a tariff?

Mr. CHACE. If you had been here yesterday and heard my speech you would have heard why.

Mr. COX, of New York. Thank you. I will read it; it will be one of my surprises hereafter. [Laughter.]

I meant to ask why the worker on "Providence Plantations" is to be charged, in addition to the tax on his tools, 58 per cent. for sitting down on a carpet-tack. [Laughter.] Oh, yes! you give the farmer of Maine, who raises potatoes, his 15 cents a bushel to come out of the poor man of my city; but you tax his plow and shovel 45 per cent.

"Every product of the farm is protected," sings a sweet chorus here. Such a chorus reminds me of the verse as to the frogs:

> Sons of the swamp, with lungs of leather,
> Let us raise one voice together!

[Laughter.]

One member picks out oats, another grain, another, of a gentle turn, sheep; another, of a ruder type, hogs; and so they say that the farmers are protected, and that, too, with their great crops and big surplus, the price regulated by the foreign demand for the surplus and the independence of the farmer assured by the demand! Farms protected! Why, if there be anything that neither has, nor asks for Government aid in the way of bounty, it is the farming product. There is a perpetual *vendue* for him at home and abroad. Look at his list. Take the typical American wools, the great staples of beef, pork, corn and wheat, butter and cheese, cotton and hay, lard and tallow, fruits and vegetables fresh and canned. Who asks to protect petroleum, turpentine, rosin, ordinary hardware and agricultural implements, coarse cottons, starch, and scores of other articles, which, if the tariff were off, would not be increased in importation, and which, if we had free trade, would seek foreign markets?

If the market for agricultural products have not had a better market under protection than under a revenue tariff the question is settled. For twenty years the farmers who produce the great bulk of our product have waited for a better home market. Have they had it? In 1860 our agricultural exports were $295,000,000, or 78.81 per cent. of the whole amount; in 1870 they were $391,000,000, or 79 per cent. of the whole amount; in 1880 they were $685,867,000, or 83¼ per cent. of the whole amount; in 1881 they were $730,000,000, or 83 per cent. of the entire exports. To secure this *home* market—home market—they paid at least 25 per cent. more for domestic goods than they would have paid but for protection. On five billions' worth of goods $1,125,000,000 more have been paid than they could have been imported for, and all for the home market. To secure this home market the little surplus of $730,000,000 was foreign export. It requires much patience to argue this over and over again.

It is enough to make every pig on every farm grunt in derision; every bull in every pasture bellow in laughter! [Laughter.] A protective tariff to prevent Canada and France competing with us in bread and meat-stuffs! Hah! hah! he! he! ho! roars out universal nature! No wonder the Mississippi lost its channel at the ridiculous suggestion. Old ocean, bearing on its bosom to the needy of Europe our immense surplus of the farm, from the cheese and apples of New York to the cotton and corn of the South and West, thundered its ironic fun at the ridiculous suggestion!

Farming in New England and New York does not pay? Who asks to protect them against the rich soil of the West? Their farms are in some places deserted, and what is cultivated is running into larger farms; but the little tub thrown to the whale is in the shape of protection against foreign potatoes and Canada grain. The idea! It would make Adam Smith or even Horace Greeley turn over and laugh in their graves.

GREATER REVENUE BY LESS RATE.

Gentlemen may think that the larger the duty, and the larger the catalogue of duties, the more the revenue. No more puerile statement was ever made. In 1880 your tax on tannic acid, 196 per cent., gave $693 revenue; on your tax on chloroform, 119 per cent., we get $638; chicory is 102 per cent. and yields $7,352 revenue; out of acetate of soda, 222 per cent., we get $20; and how many scores of articles from which you get nothing as revenue, even at lower rates than these. A certain article is used for painting—whiting and Paris white; it is taxed 240 per cent., out of the importation of which we raised $18,000 revenue, and to it we add, as protection, the heavy freight. It will be found no insect of a tax. It annoys, but it burdens as well.

The history of the repeal of the English tariffs will illustrate the increase of the revenue by the reduction of rates and articles.

CONCLUSION.

Mr. Chairman, I have come to this debate with no very sanguine hope. The commission bill will pass. We are speaking at a funeral, but it is a funeral which suggests the resurrection and the hope of liberty. A good crop abroad, a poor crop here, will startle the farmer and planter into heedful thought. Our prosperity and the influx of gold as a consequence of our good crops and their profitable outlet have made the people believe that we are doing well because of our tariff. We have done well in spite of it. We have met the reform of the tariff with bated breath, like the man in the fable who prayed to Jupiter. He was advised not to pray so loud, for Jupiter might hear him. Now, we have gained courage by the voice of the people. The selfish legislation of man cannot always defeat natural laws or the dispensations of God. I will not indulge in Utopian dreams of a near future of unfettered liberty to trade. The intense material and greedy system will take time for its uprooting. But the time has come when even Republicans in this House and old-time Democrats, too, who, forgetting for a season the beneficent tariff of 1846 and 1857, championed protection, are coming within the fold. They come cautiously; they find irrational pretexts; they argue about compensating tariffs to arrange wages, but they are coming. Once seeing the light, even though it but glimmer, they will be leaders in that principle which would augment the common stock of human blessing to the detriment of none. At this moment a brave statesman of Spain, Sagasta, with the aid of liberty-loving Castelar, is endeavoring, against open revolt in Catalonia by the misguided protectionists of the manufacturing regions to proclaim liberty of trade so as to better the condition of the Peninsula. He will enforce it; and we stand in this boasted land of liberty clamoring for more bounties to the favored and gorged few. America, sir, may yet pioneer the way among the nations in the cultivation and elevation of science, art, manufactures, taste, and amenities which are the result of that intellectual and moral condition that flows from unrestricted interchange, when the differences of soil, climate, production, and society will be so far obliterated that the human race will be advanced in its spiritual and loftier aspirations.

This progress commands the inner and solemn agencies that mark our own race, land, and era. The pauseless energy of steam and the fleet forces of lightning are harnessed for the triumph of liberty—liberty to the plow, the loom, and sail—liberty to dispose of one's labor, the precious pearls of which upon the brow of this century are set as crown jewels of democratic-republican exaltation of individual and national life.

Is it not time for the toilers of our time, so fruitful in progressive thought, to recognize the idea that the greatest economy and morality is to be found in freedom? If, sir, to conserve law with liberty burdens must be laid upon labor, then, let it be remembered, when we create taxes and tariffs, that

> All that freedom's highest aim can reach,
> Is but to lay proportionate loads on each.

[Applause.]

[During the delivery of the foregoing remarks the hammer fell.

The CHAIRMAN. The gentleman's time has expired.

Mr. KENNA. I yield the remainder of my time to the gentleman from New York.

Mr. COX, of New York, then resumed and concluded his remarks as above.]

Mr. FLOWER. Mr. Chairman, to my mind there is something incongruous and almost ridiculous in the long and wordy discussion we have passed through in order to determine whether we shall create a commission to discuss our ways and means of raising revenue before we revise them, or shall both discuss and revise them ourselves. Now, there is to me no excuse for either the discussion or the bill. We are peculiarly situated as to our financial necessities, and as far as I can judge we are aware of our situation. Our wants are of two kinds, or rather, we need money for two purposes: first, to support the Government, and second, to pay our debt. To the end that we may meet these wants we employ two means, the one tariff, the other internal taxation, and it appears that these taxes are not only producing sufficient revenue to meet the requirements of our debt and the Government expenditures, but that they far exceed all legitimate expenditures, and consequently are so far unauthorized and illegal.

Our interest-bearing debt amounts to the sum of $1,500,000,000,

of which $511,000,000 are now payable, $250,000,000 falling due in 1891, and the remainder in 1907. From now to 1907 we can only pay $761,000,000 of debt, or less than $30,000,000 per annum for the twenty-six years. We are now paying at the rate of over $150,000,000 per annum, and unless our taxes are reduced we will soon be compelled to pay even more. To me, as a business man, the proceeding is absurd. No one feels more than I do that it is incumbent on this nation to meet its obligations promptly. No one knows better than I know that it is the duty of this House to provide for the nation's solvency. I believe in paying the debt as fast as it is due, but I have no hesitancy in saying that it would be folly to pay debts at 16 to 21 per cent. premium before they are due; no fear of contradiction in denying our right to collect more than can be legitimately expended.

We can only use seven hundred and sixty-one millions of surplus in paying our debt for the next twenty-six years. At the present rate of taxation we will be forced to buy and pay off our bonds before they are due, that is, while they are at a premium, or to let the wealth we are drawing from the people accumulate in the Treasury to the demoralization of enterprise, and as an inducement to lavish expenditure. When I say that our surplus of revenue over expenditure is over one hundred and fifty millions per annum, and that for the next twenty-six years we need less than thirty millions per annum to satisfy our creditors, I am reluctant to think any one will desire further explanation to understand our position. Over and above the necessities and extravagances of the Government, over and above interest on our debt and the requirements of the sinking funds, over and above the amount we ought to pay to our creditors, we are collecting from the people one hundred and twenty millions annually, grinding them unnecessarily, piling up in our vaults each day one-third of a million more than the Government, lavish as it is, can spend.

This ought not to continue; it has lasted too long already. The country and this Congress recognize the fact that there is an evident need of immediate legislation to reduce our income to its proper proportions. There cannot be immediate reduction; that would be disastrous to vested interests; but when the people are being unnecessarily mulcted of a million every three days there is no excuse for procrastination in the arrangement of the preliminaries to their relief. But what are we doing to relieve our people from this crying evil? What measures are on foot for its dislodgment from our body-politic? Nothing; none.

The Committee on Ways and Means come to us with a bill repealing twenty-three millions of our internal revenue, and another relegating the revision of the chief sources of our revenue to a commission; proposing procrastination where it is neither advisable nor admissible; advocating delay where it is plainly their province to formulate measures of relief. With the groans of an overburdened nation assailing our ears simultaneously with the propositions of Treasury robbers, with the cries of those who are assessed alternating with information as to how our overflowing vaults can be depleted, with innumerable bills and petitions for a reduction of taxation, we are, forsooth, informed that it will be well to abolish a few minor stamp taxes and let the rest of the matter be decided upon by some nominees of the Executive.

Whatever the committee may think, I am unable to reach such a conclusion. I believe that prudence and justice to our constituents call upon us for some more effective policy and more sweeping reductions. The twenty-three millions of the committee is not equal to one year's increase from internal taxes. It is a mere pluck at a leaf of a weed which should be pulled up by the roots. Except as regards distilled spirits and the circulation of the national banks, the internal-revenue system is oppressive and no longer necessary. This House can provide for its repeal. It can provide that all internal taxes, except those on distilled spirits and circulation of national banks, shall be abolished on the 1st of January next. It can provide that the taxes on distilled spirits shall be collected after that date by customs officers, and it can give an opportunity to the hordes of tax-gatherers who now infest this country and draw five millions in salaries annually to discuss civil-service reform from the stand-point of private citizenship.

Such a proceeding would be prudent. It would leave sufficient income to meet all the expenses of the Government, even at a more extravagant rate than the present. It would enable us to have a yearly surplus sufficient to our indebtedness, and it would leave a margin broad enough for all contingencies. In New York City this internal revenue has reduced the number of cigar and tobacco manufacturers from 15,000 to 1,500. It has given such a monopoly to a few match manufacturers that they readily buy out at his own price any one who has the audacity to compete with them. It has driven millions of capital from this country. Its collectors patrol our streets and dictate to our tradesmen, and its inspectors invade the privacy of every home and office and store and factory when the slightest suspicion of excuse is afforded.

All over the country the same influence is at work, and the same feeling of law-breaking and deception is engendered. Spying, lying, cheating, fear, hatred, and lawlessness are its outgrowth. You can scarcely enter the room of the chief officer of any of the districts without finding a lot of informers busy with him, or meet an honest business man who has had the honor of a visit from an inspector who does not feel something of the spirit of Wat. Tyler boil within him. We have had enough of these things. We are past needing them. Let them go with all other reminders of our late struggle. If we make provision now for a sweeping reduction, if we fix a date for the death of this pest, then all will have time to get ready; all will be relieved and benefited. If we allow it to live much longer we will have to choose between lavish expenditure, more lavish than the present, or the heaping up in the Treasury of sums which might elsewhere be employed in hiring labor and developing the resources of this country.

It is proper and possible for us to settle all questions of customs and revenue here and now. The House of Representatives is fully able to deal with the subject; it is composed of men who are daily studying the questions at issue from the most enlighted stand-point. Its efficient bureau of statistics and its power of summons will enable it to obtain all the information necessary. It is primed at all points, and its inaction is due rather to unwillingness than to inability, so far as I can judge. The country, too, is ready and eager for a revision. Our revenue laws are defective, as has been tacitly confessed by the committee in bringing in this bill. The only controversy is as to what preliminaries and formalities are necessary to our final judgment.

Shall we relegate to another age and condition of things the very instrument by which that age and condition may be ameliorated? Shall we turn over to an irresponsible body of men the consideration of a matter which properly belongs to us that they may work over it and draw salaries, and finally return it to us in much the same state as before?

If, in the face of a desire for revision as expressed by the representatives of the people and in spite of the necessity for speedy reform as is shown by our financial position, and without regard to the fact that we are the only authorized arbiters of these matters, we do this thing, then with equal or superior justice we may return home, and let commissioners appointed by the President do the residue of our work for us with a view of relieving the people from paying two sets of salaries at the same time for the same service.

Mr. CANDLER. Mr. Chairman, I have been requested to yield for a motion that the committee rise. If it be the wish of the committee I will yield the floor for that purpose, and resume it when next we go into Committee of the Whole.

Mr. KELLEY. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair Mr. ROBINSON, of Massachusetts, reported that the Committee of the Whole House on the state of the Union, having had under consideration the bill (H. R. No. 2315) providing for the appointment of a commission to examine the question of the tariff and internal-revenue laws, had come to no resolution thereon.

Mr. WILLIS. I desire to state that yesterday, when the votes were taken in reference to the limit of general debate upon the tariff-commission bill, I was paired with the gentleman from Pennsylvania, [Mr. WATSON.] The announcement of the pair was not then made.

SOUTH PACIFIC SQUADRON.

Mr. BELMONT, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on Foreign Affairs:

Resolved, That the President be requested, if not incompatible with the public interest, to send to this House complete copies of any and all orders and instructions from the Navy Department to the commanding officer or officers of the South Pacific squadron during the year 1881; and also copies of any and all letters, communications, or reports of such commanding officer or officers to the Navy Department during the same period.

MORTON MONUMENTAL ASSOCIATION.

Mr. PEELLE. I ask unanimous consent to take from the Speaker's table the joint resolution of the House No. 96, granting condemned cannon to the Morton Monumental Association. The joint resolution has been returned from the Senate with amendments, in which I wish to ask concurrence. When the joint resolution passed the House it provided for granting condemned cannon without specifying the kind of cannon. The amendment of the Senate is to insert the words "cast-iron" between the words "condemned" and "cannon;" also to strike out the word "casting."

There being no objection, the joint resolution was taken from the Speaker's table, and the amendments of the Senate were concurred in.

Mr. PEELLE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LONGEVITY PAY OF OFFICERS IN THE NAVY.

Mr. TALBOTT. I ask consent to report from the Committee on Naval Affairs at this time with amendments the bill (H. R. No. 1384) to amend section 1556 of the Revised Statutes, giving longevity pay to certain officers of the Navy.

Mr. RANDALL. I object to that.

Mr. TALBOTT. It is only for reference to the Calendar.

Mr. RANDALL. Let it come in in regular order.

EVENING SESSIONS.

Mr. HISCOCK, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on Rules:

Resolved, That on Mondays, Wednesdays, and Fridays the House will, at five o'clock in the afternoon, without further order, take a recess until seven o'clock and thirty minutes in the evening of each day, for the consideration, for the remainder of that legislative day, of special orders of the House for business.

PUGET SOUND COLLECTION DISTRICT.

Mr. BRENTS, by unanimous consent, introduced a bill (H. R. No. 6103) authorizing the deputy collector of customs stationed at San Juan Island, in the Puget Sound district, to enter and clear vessels and collect duties; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

LAND LAWS.

Mr. BRENTS also, by unanimous consent, introduced a joint resolution (H. R. No. 203) for the printing of more copies of House Executive Document No. 47 and subsequent land laws; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

EDUCATION.

Mr. BUCHANAN. I ask unanimous consent to have printed in the RECORD the body of a petition of citizens of Heard County, Georgia, upon the subject of education, and that the petition be referred to the Committee on Education and Labor.

There was no objection, and it was so ordered.

The petition is as follows:

We, the undersigned, citizens of the county of Heard, State of Georgia, deeply impressed with the dangers which threaten our institutions because of the appalling illiteracy of the voting population, as revealed in the last census, for the enlightenment of whom many of the States are unable to make adequate provision, and believing it to be the duty of Congress to provide for the public safety, no less in time of peace than in time of war, and that the enfranchisement of the freedmen by the United States Government imposes upon that Government the obligation to afford liberal aid to the States in their effort to prepare this class of citizens for the duties of citizenship, do earnestly pray that our Senators and Representatives in Congress assembled will take prompt and efficient measures to avert this danger; that moneys raised, in adequate amount, and from such sources as Congress may in its wisdom deem best, shall be distributed among the States and Territories, on the basis of illiteracy, and for the support of common schools conducted under local laws, under such guarantees as shall secure their application to this object with equal justice to all classes of citizens.

EDWIN WILKINSON.

Mr. GARRISON, by unanimous consent, introduced a bill (H. R. No. 6104) to rerate the pension of Edwin Wilkinson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REFORM OF THE TARIFF.

Mr. HEWITT, of New York. I have here a petition, with some eight hundred signatures, upon the subject of a reform of the tariff. I ask that the body of the petition, which is very brief, be printed in the RECORD, and that the petition be referred to the Committee on Ways and Means.

There was no objection, and it was so ordered.

The petition is as follows:

To the honorable the House of Representatives of the United States of America:

The undersigned, believing that a judicious and thorough reform of the tariff in the direction of commercial liberty cannot be delayed without disastrous effects to the prosperity of the country, respectfully petition your honorable body to pass a bill which shall be framed on the following principles:

1. Repeal of the duties on raw materials.
2. Proportionate reduction of the duties on articles manufactured from the raw materials thus placed on the free list.
3. No duties, excepting those on luxuries, to exceed 50 per cent. ad valorem.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 24) for the erection of a public building at Denver, Colorado;

A bill (S. No. 238) to provide for the erection of a public building in the city of Peoria, in the State of Illinois;

A bill (H. R. No. 137) granting a pension to the heirs of Captain Christopher T. Dunham, deceased;

A bill (H. R. No. 531) for the relief of John Watson;

A bill (H. R. No. 620) granting a pension to Susan Jeffords;

A bill (H. R. No. 638) granting a pension to David G. Hutchinson;

A bill (H. R. No. 1239) granting a pension to Francis Reichert;

A bill (H. R. No. 1340) granting an increase of pension to Andros Guille;

A bill (H. R. No. 1390) for the relief of William H. Hill;

A bill (H. R. No. 1579) granting a pension to Elizabeth Fulks;

A bill (H. R. No. 2031) for the relief of Eli D. Watkins;

A bill (H. R. No. 2148) granting a pension to Catherine Silvey;

A bill (H. R. No. 2250) granting a pension to Mrs. Mary Shaw;

A bill (H. R. No. 3390) granting a pension to Sally C. Mulligan;

A bill (H. R. No. 4133) to authorize the sale of certain property at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia;

A bill (H. R. No. 4176) for the erection of a public building at Quincy, Illinois;

A bill (H. R. No. 4344) granting a pension to Sally Hall; and

A bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HOLMAN, for one week, on account of sickness;

To Mr. HILL, until Saturday next, on account of important business;

To Mr. SMITH, of Illinois, for one week, on account of important business;

To Mr. LADD, for ten days, on account of important business; and

To Mr. PAUL, for four days, on account of important business.

Mr. KELLEY. I move that the House now adjourn.

The motion was agreed to; and accordingly (at five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BAYNE: The resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, for the passage of House bill No. 5380 with the amendment, relating to the construction of bridges—to the Committee on Commerce.

Also, the resolution of the Chamber of Commerce of Pittsburgh, Pennsylvania, for the passage of the bill to establish a soldiers' home at Erie, Pennsylvania—to the Committee on Military Affairs.

By Mr. BERRY: Three petitions of citizens of Stanislaus County, California, praying for the establishment of a postal telegraph system—severally to the Committee on the Post-Office and Post-Roads.

By Mr. DEUSTER: The petition of the heirs of Samuel Hill, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. ELLIS: Paper relating to the claim of the owners, their heirs, and assigns of the steamboat Saint Maurice, which vessel was lost while in the service of the United States during the war of the rebellion—to the Committee on War Claims.

Also, the petition of citizens of Mandeville, Louisiana, relative to the improvement of Bayou Castaing, in that State—to the Committee on Commerce.

By Mr. ERRETT: The resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, relative to the construction of bridges over the Ohio River—to the same committee.

By Mr. GARRISON: The petition of C. B. Morton, for relief—to the Committee on Claims

By Mr. GUENTHER: The petition of the board of supervisors of Outagamie County, Wisconsin, and citizens of the Lower Fox Valley, relative to the overflow of Winnebago Lake and the high stage of water in the Lower Fox Valley—to the Committee on Commerce.

By Mr. HARMER: The petition of the Cotton Exchange and Board of Trade of the city of Houston, Texas, praying that the city of Houston be made a port of entry—to the Committee on Ways and Means.

By Mr. HEILMAN: The petition of Heimann & Kahn and other manufacturers of Evansville, Indiana, protesting against the repeal of the stamp tax on matches—to the same committee.

By Mr. LORD: The petition of citizens of Plymouth County, Michigan, for an appropriation to promote popular education—to the Committee on Education and Labor.

By Mr. PEELLE: Papers relating to the pension claim of Elizabeth J. Moncrief—to the Committee on Invalid Pensions.

By Mr. PEIRCE: The petition of Joseph Strong and others, wholesale grocers of Terre Haute, Indiana, in opposition to the repeal of the stamp tax on matches—to the Committee on Ways and Means.

By Mr. REED: The petition of Hon. S. L. Milliken and others, citizens of Belfast, Maine, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. D. P. RICHARDSON: The petition of F. G. Babcock and others, for the enactment of law for the regulation of immigration—to the Committee on Commerce.

By Mr. SHACKELFORD: The petition of citizens of Onslow, New Hanover, and Columbus Counties, North Carolina, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. TUCKER: The petition of Carrie L. Ryals and others, for compensation for supplies furnished the United States Army during the late war—to the Committee on War Claims.

By Mr. VANCE: The petition of Dr. George E. Young and 35 others, citizens of Rutherford County, and of S. V. Pickins and 300 others, citizens of Henderson County, in the State of North Carolina, for an appropriation to promote popular education—severally to the Committee on Education and Labor.

By Mr. WILLIS: The petition of S. C. Scheffey and others, for the passage of the bill now pending permitting goods to be sold by sample without State interference—to the Committee on Commerce.

The petition of Leopold Karpeles was reported from the Committee on Military Affairs under clause 2 of Rule XXII, and referred to the Committee on Pensions, Bounty, and Back Pay.

SENATE.

THURSDAY, *May* 4, 1882.

Prayer by Rev. W. C. Cattell, D. D., President of Lafayette College, Pennsylvania.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a letter from the Secretary of the Interior, in which he requests that an appropriation of $108,000 be made for constructing a fire-proof roof over the south and east wings of the building occupied by the Department of the Interior.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *Washington, May* 2, 1882.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Director of the United States Geological Survey, communicating, in response to a resolution of April 18, information in regard to the mineral, agricultural, and other resources of Alaska; which was referred to the Committee on Territories, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, in answer to a resolution of April 26, covering a statement from the Internal Revenue Office, showing the amount of tax collected on raw cotton, &c., from 1862 to 1868; which was referred to the Committee on Finance, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting certain correspondence relative to the necessary enlargement of the military reservation of Fort Missoula, Montana Territory; which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of the Lower Fox River Valley, Wisconsin, praying that the complaints against the dams of the Lower Fox River should be fully investigated by Congress, with the reports of the engineers, before any definite action is taken; which was referred to the Committee on Commerce.

Mr. MILLER, of New York, presented a petition of the Life-Saving Raft Company of New York, praying for an extension of their patent for what is known as the "Monitor life-raft;" which was referred to the Committee on Patents.

Mr. SHERMAN presented two petitions of citizens of Ohio, praying for liberal appropriations by Congress for educational purposes; which were referred to the Committee on Education and Labor.

Mr. DAVIS, of West Virginia, presented a petition of citizens of Keyser, West Virginia, praying for a distribution of public funds for educational purposes on the basis of illiteracy; which was referred to the Committee on Education and Labor.

Mr. GORMAN presented the petition of H. C. Smith and others, citizens of Baltimore, Maryland, praying for the passage of a bill for the establishment of a uniform system of bankruptcy; which was ordered to lie on the table.

Mr. JOHNSTON. I present a memorial of citizens of Broadway, Rockingham County, Virginia, remonstrating against the discontinuance of the post-office at that place. I understand that Broadway is a town of about four hundred population, situated in Rockingham, one of the richest counties in the State, and that the post-office there has been discontinued because some persons who live in the town deposit letters in the postal-car instead of in the post-office. I move that the memorial be referred to the Committee on Post-Offices and Post-Roads, so as to have the matter looked into and to see whether a whole community is to be punished for the act of a few persons which I do not understand to be unlawful.

The motion was agreed to.

Mr. MITCHELL presented a memorial of the Philadelphia Board of Trade, remonstrating against the passage of the resolutions introduced in the House of Representatives by Hon. A. S. HEWITT as constituting the basis on which the proposed tariff commission should shape its action; which was referred to the Committee on Finance.

Mr. MILLER, of California, presented a resolution of the Chamber of Commerce of San Francisco, California, in favor of a suitable appropriation for the Hydrographic Office, Bureau of Navigation; which was referred to the Committee on Appropriations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 24) for the erection of a public building at Denver, Colorado;

A bill (S. No. 238) to provide for the erection of a public building in the city of Peoria, in the State of Illinois;

A bill (H. R. No. 137) granting a pension to the heirs of Captain Christopher T. Dunham, deceased;

A bill (H. R. No. 531) for the relief of John Watson;

A bill (H. R. No. 620) granting a pension to Susan Jeffords;

A bill (H. R. No. 638) granting a pension to David G. Hutchinson;

A bill (H. R. No. 1239) granting a pension to Francis Reichert;

A bill (H. R. No. 1340) granting an increase of pension to Andros Guille;

A bill (H. R. No. 1390) for the relief of William H. Hill;

A bill (H. R. No. 1579) granting a pension to Elizabeth Fulks;

A bill (H. R. No. 2031) for the relief of Eli D. Watkins;

A bill (H. R. No. 2148) granting a pension to Catherine Silvey;

A bill (H. R. No. 2250) granting a pension to Mrs. Mary Shaw;

A bill (H. R. No. 3390) granting a pension to Sally C. Mulligan;

A bill (H. R. No. 4133) to authorize the sale of certain property at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia;

A bill (H. R. No. 4176) for the erection of a public building at Quincy, Illinois;

A bill (H. R. No. 4344) granting a pension to Sally Hall;

A bill (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese; and

A joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

REPORTS OF COMMITTEES.

Mr. INGALLS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 2538) to amend the act entitled "An act regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes," approved June 7, 1878, and also to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate the proceedings before them, reported it without amendment.

Mr. CONGER, from the Committee on Commerce, to whom was referred the bill (S. No. 193) for the relief of certain employés on the work for the improvement of the Des Moines Rapids of the Mississippi River, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. GORMAN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 4842) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia, reported it without amendment.

Mr. HARRISON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 903) for the relief of the First Minnesota Mounted Rangers Volunteers, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. VANCE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1551) for promoting the efficiency of the corps of chaplains of the United States Navy, reported it with amendments; and submitted a report thereon, which was ordered to be printed.

Mr. PUGH, from the Committee on Claims, to whom was referred the bill (H. R. No. 2156) for the relief of certain owners of the steamer Jackson, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

LIGHT-HOUSE AT POINT PATTERSON.

Mr. CONGER. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 1013) for the erection of a light-house at or near Point Patterson, on the northern shore of Lake Michigan, to report it favorably, and with it a letter from the Light-House Board, recommending the passage of the bill. I ask, as it is a small matter, for the immediate consideration of the bill.

Mr. COCKRELL. What is the necessity for the present consideration of the bill?

Mr. CONGER. The object of passing the bill immediately is that the light-house may be erected this season. If the work is postponed for any considerable time it cannot be done. It is a small light-house necessary at that point, the only one provided for the business on the northern shore of Lake Michigan, and if the bill can be passed the light-house can be erected and will be ready for the fall service.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $15,000 for the erection of a light-house at or near Point Patterson, on the northern shore of Lake Michigan, in the State of Michigan, under the direction of the Light-House Board.

Mr. CONGER. I ask that the letter of the Light-House Board be read.

The Acting Secretary read the letter, as follows:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, February 15, 1882.

SIR: The Light-House Board has the honor to acknowledge the receipt of Department letter (E. W. C.) of February 14, 1882, transmitting, for the views of the board thereon, S. bill No. 1013, providing for the erection of a light-house at or

near Point Patterson, on the northern shore of Lake Michigan, this bill having been referred to the Department by the Senate Committee on Commerce for suggestion.

In reply I beg to say that this matter has been considered by the board, and that the conclusion has been reached that the interests of commerce and navigation require that a light should be established at or near Point Patterson, as contemplated by the bill referred to.

The letter of transmittal of the Committee on Commerce and the bill, S. No. 1013, are herewith returned.

Very respectfully,

JOHN RODGERS,
Rear-Admiral, United States Navy, Chairman.

The honorable the SECRETARY OF THE TREASURY.

Mr. CONGER. I will state that the bill is reported unanimously by the committee.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the the third time, and passed.

BILLS INTRODUCED.

Mr. SHERMAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1826) for the preservation of the woods and forests of the national domain adjacent to the sources of the navigable rivers and their affluents in the United States; which was read twice by its title.

Mr. SHERMAN. This bill was prepared by gentlemen of distinction and character who are interested in the subject-matter. It has recently been the subject of a congress of citizens convened in Cincinnati. It organizes a commission of officers of the Army, and does not involve any expense. The object of the measure is apparent to every one. I think it is of the very highest importance, probably as important as any subject which can receive the consideration of Congress. The subject of the preservation of forests, the planting of trees, &c., has not yet been maturely considered. This bill proposes to organize a commission for that purpose. I think the proper committee to which it should be referred is the Committee on Agriculture, as it relates mainly to that subject. I move its reference to that committee.

The motion was agreed to.

Mr. SHERMAN (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1827) to give effect to patents for land in the Virginia military district of Ohio, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WINDOM. I ask leave to introduce a bill. It is very voluminous, and I will call the attention of the Senate to it. It is a bill prepared by the State Department at the request of the Committee on Foreign Relations. I desire to have the bill and the accompanying papers from the State Department printed.

By unanimous consent, leave was granted to introduce a bill (S. No. 1828) concerning the exercise of the jurisdiction conferred upon the United States in places out of their territory and dominion, and to amend the Revised Statutes from section 4082 to 4130, inclusive; which was read twice by its title, and, together with the accompanying papers, referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. MILLER, of California, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1829) to amend an act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; which was read twice by its title.

Mr. MILLER, of California. The bill relates to the disposition of the proceeds of the public lands, and I move that it be referred, with the accompanying papers, to the Committee on Finance.

The motion was agreed to.

Mr. CHILCOTT asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1830) to amend section 2325 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Mines and Mining.

Mr. MILLER, of New York, (by request,) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1831) for the relief of Edward Tattersall; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1832) granting a pension to Leonard Weber; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1833) correcting the pension granted to Lieutenant George W. Graham; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GROVER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1834) for the relief of citizens of the State of Oregon and of Idaho and Washington Territories who served with the United States troops in the war with the Nez Percé and Bannack Indians, and for the relief of the heirs of such as were killed in such service; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MORGAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1835) for the relief of William A. Cowles; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

AMENDMENT TO APPROPRIATION BILL.

Mr. HAWLEY, from the Committee on Civil Service and Retrenchment, reported an amendment intended to be proposed to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

INDEMNITY FOR LOST CALLED BONDS.

Mr. ANTHONY. I offer a resolution which I send to the Chair, and I ask for its present consideration.

The resolution was read, as follows:

Resolved, That the Committee on Finance be, and it is hereby, directed to inquire into the expediency of providing by law for the payment of called or overdue bonds of the United States to the true owners thereof in cases in which any such bonds shall have been lost, stolen, or destroyed, and under suitable regulations for the security of the United States against any loss in such cases, and that said committee report by bill or otherwise.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. ANTHONY. I beg to call the attention of the chairman and members of the Committee on Finance to the importance of the law suggested in the resolution. There are many persons, innocent creditors of the Government, who are kept out of their just claims by reason of the evidences of the indebtedness having been lost or stolen. Certainly the Government does not wish to retain the money of its citizens without consideration. The objection made to paying these claims heretofore has been that the bonds were not called. I believe the lawyers hold that the bonds of the Government pass from hand to hand like currency, and that if bonds stolen or alleged to be destroyed should turn up they would be a just claim against the Government; but now that the bonds have been called they would not be paid upon presentation if there was any protest filed against it in the Treasury.

Mr. MORRILL. I will say to my friend that there is an existing law now which provides for indemnity where the loss is proved clearly and unequivocally and the owners are able to describe the bonds, and will give sufficient security to the Government against their presentation hereafter. Such a law is already on the statute-book.

Mr. ANTHONY. That only applies to the cases of bonds which have been destroyed. This resolution directs an inquiry into the matter of indemnity to persons who have had bonds stolen.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

PURCHASE OF CONGRESSIONAL RECORDS.

Mr. ANTHONY. I offer the following resolution:

Resolved, That the Acting Secretary of the Senate be, and he is hereby, authorized and directed to purchase twenty sets of the CONGRESSIONAL RECORD: *Provided*, They can be had for fifty cents per volume, the said books to be placed in the Senate Library for the use of the Senate, and to be paid for from the contingent fund of the Senate.

I ask for the present consideration of the resolution.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. COCKRELL. What is the necessity for that number of sets? Have we not saved enough for our own use?

Mr. ANTHONY. There are only ten sets in the Senate Library. Those are frequently all out, and Senators call for them and they cannot be supplied. The resolution proposes to supply twenty more sets to our Library.

Mr. COCKRELL. How many sets are required to be kept in the Senate Library?

Mr. ANTHONY. Ten.

Mr. COCKRELL. Then ought not the committee of which the distinguished Senator from Rhode Island is chairman to report some provision by which the number can be increased, instead of going into the market and buying these copies from second-hand book-sellers?

Mr. ANTHONY. I hold in my hand a resolution to provide for more copies of the future publication, but this is for the past sets. They can be bought for fifty cents a volume, which is less than it would cost the Government to bind them.

Mr. COCKRELL. Then perhaps we had better dispense with the ten sets we have and buy them all, if we can get them cheaper.

Mr. ANTHONY. If the Senator objects——

Mr. COCKRELL. I do not object. I want the number requisite; but if we can buy them cheaper than we can print them, we had better stop the printing of them.

Mr. INGALLS. How many volumes are there?

Mr. ANTHONY. The volumes since the RECORD was printed by the Government.

Mr. INGALLS. Since the publication of the Globe ceased?

Mr. ANTHONY. Since the printing of the Globe was given up. We can buy them of second-hand book-sellers.

Mr. DAVIS, of West Virginia. I ask the Senator why is it that he makes the appropriation out of the contingent fund of the Senate? That is very low now I understand, not enough to cover the ordinary expenses, and it looks to me as if we were trespassing upon that fund very often when we ought not to do it.

Mr. ANTHONY. These volumes are for the Library of the Senate, and I think it is very proper that the payment should be made out of the contingent fund of the Senate.

Mr. DAVIS, of West Virginia. I think it ought not to be an appropriation out of the contingent fund. We have been passing resolutions here from time to time to take money out of the contingent fund when there is hardly any in it. We passed resolutions probably taking $20,000, or in that neighborhood, out of that fund, in one day to pay election expenses. It appears to me that such payments belong to the general fund and ought to come out of the Treasury. The contingent fund is made up generally by the financial clerk as close as he can get it to pay the ordinary expenses of the Senate, and when a trespass of this kind is made upon it we are always deficient, and other meritorious things have to go over and cannot be paid.

Of course I make no special objection to the resolution, but I suggest to the chairman of the Committee on Printing that these books ought to be paid for out of the general fund by an appropriation made for that purpose, which can be provided for in some appropriation bill, so as not to have it come out of the contingent fund, for the money, as I understand, is not there for all these things.

Mr. ANTHONY. That would require the passage of a bill through both Houses.

Mr. DAWES. I did not hear distinctly the answer of the Senator from Rhode Island to the inquiry of whom the Government would buy these sets of the RECORD.

Mr. ANTHONY. Second-hand book-sellers.

Mr. DAWES. Could the Committee on Printing devise no method by which they could keep the Government from selling them to the second-hand book-sellers in order to have them bought back?

Mr. ANTHONY. You would have to give great power to the Committee on Printing to restrain the second-hand book-sellers from buying books of any who have them for sale.

Mr. DAWES. I speak of the Government. I suppose the Government sells them to the second-hand book-sellers in order to have them bought back. Is not that the fact?

Mr. ANTHONY. No, sir. The Government sells no books, except on order given in advance of the publication.

Mr. DAWES. How do the second-hand book-sellers get all these copies of the RECORD that are needed now, when the Government makes them itself?

Mr. ANTHONY. Partly because Senators and Representatives sell their books to second-hand book-sellers.

Mr. DAWES. And then come here and vote to buy them back. Is that it?

Mr. ANTHONY. I do not know whether those who sell them are those who vote to buy them back, but I think it is but justice to those who sell their books to say that they are not always sold for money, but are exchanged for other public documents. For instance, some Senators and Representatives require books relating to mechanics, while other Senators and Representatives require books relating to agriculture, and they exchange their books sometimes.

Mr. DAWES. Exchange them with second-hand book-sellers. I do not see that that helps it along any. The second-hand book-sellers must get them from the Government in order to have them to exchange.

Mr. ANTHONY. I am not responsible for the fact. It is the fact that books printed by the Government can be bought at the second-hand book-stores for much less than the cost of publication.

Mr. HALE. Does the Senator from Rhode Island know of any other way that these volumes can be obtained now except from second-hand dealers?

Mr. ANTHONY. Only by paying the full price which it would cost the Government to print them.

Mr. DAWES. I am opposed to the encouragement of this traffic. I think that this resolution will directly encourage the business of the Government or somebody else selling to the second-hand book-sellers the books that we come in here and vote to buy back from the second-hand book-sellers. Certainly the second-hand book-sellers would be pretty busy if all they can get for a song they can sell to the Government back again for the full price. I am opposed to the whole proceeding.

Mr. HAWLEY. I am unwilling to leave that unfavorable impression on the Senate which is created by the Senator from Massachusetts. He does not know of a book so precious and so costly printed to the number of ten copies anywhere in the world, by anybody, Government or private individual, that will not get into the hands of second-hand book-sellers sooner or later. Men die and their libraries are dispersed; men fail and their libraries are sold; and in a thousand imaginable ways second-hand dealers get hold of everything precious in the world; and Congressional documents are not very precious in general in money, a large portion of them. They get hold of them in perfectly legitimate ways, and then they begin to act as brokers. I have had them come to me and say, "Now, you have not an agricultural district, let me have five hundred of your Agricultural Reports, and I will give you something your people care more about;" and various offers of that sort are made. I have had very little occasion to deal with them, but I have frequently gone to them and bought such books, and I have bought them at less than they cost the Government. That is what we go to the second-hand book-sellers for, in general. Their trade is perfectly legitimate, unless they induce some Senator or Representative to commit some sort of a crime, of which I have no knowledge in the world.

Mr. DAWES. I have no desire to make any unjust charge or to have any unjust suspicion raised upon this worthy class of people, but it is not worth while for the Senator from Connecticut to attempt to cover up a fact which is just as plain as noonday. Second-hand book-sellers are engaged in the business of gathering up out of members of Congress the books which we are called upon by resolution to vote to buy back of them; and there is no need of attempting to cover it because it will not be successful. The people see through this thing if the Senator from Connecticut does not. The exchange by members of books that they desire to exchange is one thing, and it cannot be confounded with the traffic that is going on here in this city, which is quite another thing.

Mr. ALLISON and Mr. WINDOM addressed the Chair.

Mr. HAWLEY. Let me reply to that, Mr. President; I think I ought to have the floor. The Senator from Massachusetts is perfectly well aware that I am covering up nothing; that there is nothing to cover up.

Mr. DAWES. I am aware of it.

Mr. HAWLEY. Why did he insinuate that I was endeavoring to conceal or cover up something? It is but a few days since in the Senate I spoke of this very thing as indicating that we published more books than were needed of certain classes.

I reaffirm that so far as second-hand dealers are concerned, their business is as legitimate as that of the gentleman when he practices his profession in Berkshire County, Massachusetts, and that inevitably every book, of all sorts, some time or other, like every valuable picture, and every other work of art, gets into the hands of second-hand dealers.

This is a simple matter of economy. You can print these books yourself at a cost of from one to three dollars a volume, from the old plates at the Printing Office, or you can go here to some of these men and get them for fifty cents a volume.

Mr. DAWES. I would not insinuate that the Senator from Connecticut is trying to do anything wrong or that these second-hand book-sellers are engaged in an unlawful business. The only thing is that we had better call it by its right name. That is all I desire about it. This attempt to put in other words with the vain idea of thinking that it is not understood, is all I object to.

Mr. WINDOM It strikes me that the statements made by the Senators from Rhode Island and Massachusetts involve a pretty serious matter. If Members and Senators are really selling to second-hand bookstores books that are printed for distribution among their constituents, I think it ought to be known, and I think the names of the men who do it in either House ought to be known. I hope that some resolution will be offered investigating this question. It may not of itself be very important, but it certainly contains a grave charge against members of the Senate. I do not know how the dealers receive their books; I know they are there for sale; but if they do obtain them as suggested by the Senator from Rhode Island, the names of those who furnish them ought to be published.

Mr. ANTHONY. The Senator from Connecticut, as he generally does when he makes a good speech, anticipated precisely what I intended to say. These second-hand book-sellers have agents all over the country, and persons to whom we send the books sell them to the agents of these second-hand book-sellers and they are transmitted to Washington. In that way, as the Senator says, everything that is printed, however valuable, or every work of art, however precious, goes into the hands of second-hand dealers.

But, Mr. President, I do not think it is advisable under this resolution to attempt to reform the practice in this respect. The Senators are suffering for the lack of these volumes of the RECORD. They send to the Library for them and they are all out. They can be bought for fifty cents a volume. We have a number of the Globes that were purchased of Rives & Bailey, but they are not generally bound, and it would cost more to bind them than it would to buy them of the second-hand book-sellers. However, this resolution does not apply to the Globe; it only applies to the RECORD, and I think it is advisable that we should accommodate ourselves by passing the resolution.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

NUMBER OF RECORD FOR SENATE.

Mr. ANTHONY. Now, Mr. President, I have a cognate resolution, which I offer, and ask for its reference to the Committee on Printing.

The resolution was read, and referred to the Committee on Printing, as follows:

Resolved by the Senate, (the House of Representatives concurring.) That the Public Printer be directed to furnish, commencing with the first session of the Forty-seventh Congress, 3,425 copies of the CONGRESSIONAL RECORD for the use of the Senate, instead of 3,100 copies, as ordered by the concurrent resolution of June 4, 1879.

ALLEGATIONS OF IMPROPER INFLUENCE.

The PRESIDENT *pro tempore*. If there be no further resolutions the morning hour has closed.

Mr. JOHNSTON. Mr. President——

Mr. VOORHEES. I wish to call up the resolution offered by me yesterday.

Mr. JOHNSTON. If the morning business is through, I desire to ask the Senate to take up and pass the bill (H. R. No. 4199) for the

erection of a public building at Lynchburgh, Virginia. The bill has passed the House and been reported favorably by the Senate Committee on Public Buildings and Grounds. I think there will be no objection to it.

Mr. VOORHEES. Does not my resolution come up under the head of morning business?

The PRESIDENT *pro tempore*. The resolution of the Senator from Indiana may be called up before bills on the Calendar are considered. It will be read.

The Acting Secretary read the following resolution, submitted yesterday by Mr. VOORHEES:

Resolved, That a committee of five Senators be appointed by the Chair, whose duty it shall be to investigate and ascertain whether any corrupt or improper influences have been brought to bear on any member of this body in regard to House bill No. 5656, now pending before the Senate Finance Committee, being a bill to amend certain laws on the subject of distilled spirits in special bonded warehouses; and said committee shall also inquire whether any attempt of any kind has been made to bring such improper or corrupt influences to bear on any member of this body in order to secure the passage or the defeat of said bill; and said committee shall have power to send for persons and papers, and shall report the result of such investigation at as early a day as possible.

The PRESIDENT *pro tempore*. This resolution is taken up under the Anthony rule.

Mr. WINDOM. I wish to propose an amendment to the resolution. After the word "bill," in the third line from the end, I propose to insert:

And also whether any money has been raised by contributions or otherwise from parties in interest for the purpose of securing the passage or defeat of said bill, and if so, for what uses it has been expended.

Mr. VOORHEES. I accept the amendment.

The PRESIDENT *pro tempore*. The amendment is accepted by the mover of the resolution.

Mr. WINDOM. After the word "papers," in the second line from the end, I move to insert "and employ a stenographer."

Mr. VOORHEES. I accept that also.

The PRESIDENT *pro tempore*. The resolution will be so modified. The resolution will be read as now modified, so that the Senate may understand it.

The Acting Secretary read as follows:

Resolved, That a committee of five Senators be appointed by the Chair, whose duty it shall be to investigate and ascertain whether any corrupt or improper influences have been brought to bear on any member of this body in regard to House bill No. 5656, now pending before the Senate Finance Committee, being a bill to amend certain laws on the subject of distilled spirits in special bonded warehouses; and said committee shall also inquire whether any attempt of any kind has been made to bring such improper or corrupt influences to bear on any member of this body in order to secure the passage or the defeat of said bill, and also whether any money has been raised by contributions or otherwise, from parties in interest, for the purpose of securing the passage or defeat of said bill, and if so for what uses it has been expended; and said committee shall have power to send for persons and papers, and to employ a stenographer, and shall report the result of such investigation at as early a day as possible.

Mr. VOORHEES. Mr. President, it is but just to the Senate to say that I have not the slightest reason to believe that any of these improper practices have taken place. It is just to the Senate, and to each member of the Senate, to say that this resolution is offered because my own name has been used in a slanderous connection, not as imputing a want of integrity to me, but an aspersion that influences were placed that might affect my vote on this question. I have nothing to leave, when I leave this world, except my name; I have not grown rich in the service of the Government, and I do not intend now to allow, and I never have allowed an aspersion, however remote it may be, to rest upon my reputation as a public servant. Hence, I felt that this was the best method to meet it.

I can say truthfully that there has not been the slightest approach, direct or indirect, immediate or remote, to me on this or on any other bill, of an improper character, since I have been a member of this body, or while I was a member of the other House.

I can say further that I never have been asked how I expected to vote on this bill, because it was perfectly well known when the bill known as the Carlisle bill came from the House that I was ranked as one of its friends, and it was not necessary for anybody to make inquiry as to my position, nor is my position difficult to find on any question when inquiry is made. But when newspaper statements take a man's name and spread it broadcast over the country, although not making charges, it is as well to investigate and see what can be proven and what cannot, and for that reason I introduced this resolution.

Mr. BAYARD. Mr. President, I was not in the Senate yesterday when my friend from Indiana introduced his resolution; nor had I, or any one else so far as I know, the slightest intimation that he meant to offer it; but I have read to-day the remarks that accompanied the resolution and the resolution itself, and I am constrained to say that I regret that a gentleman so well known, who has the personal respect and confidence of those who know him, whether they may agree with his opinions or not, should have thought it worth his while upon the baseless and anonymous articles in a newspaper to ask for the services of a committee of five members of this body.

Mr. President, I sympathize thoroughly with the feeling of resentment that my friend has expressed against these miserable and base calumnies. A public man becomes the target for the vile abuse of secret foes, and nothing that he may do can possibly protect him against such statements. He will live them down, and these poor shafts will fall broken at his feet, for truth is omnipotent and public justice certain. Upon that phrase and upon the comfort of that phrase, I would have my friend from Indiana rest with me and with his brethren in this Senate who know him.

There has been nothing and can be nothing in anonymous scribblings for newspapers to put a member of this Senate upon his reply and upon his defense. We are here for public ends. Our time ought to be and I believe usually is occupied in the faithful transaction of important business. We cannot afford to allow that time to be consumed and occupied by investigating these idle, groundless, nameless, fatherless, sponsorless charges. It cannot be; they make no weight upon that great tribunal to which we all must appeal, the honest public opinion of our fellow-countrymen. Therefore it is that I hope five Senators of this body will not be set to the task of examining charges absurd upon their face, and without a single trace of responsibility in their authorship.

Does any man stand up here and say that there is the slightest ground for them? Has he heard even from any one of respectable character—I was going to say of any character—that he has knowledge of these things, or reason to believe they are true? Or is not this another specimen of the idle scandal which for want of honest occupation finds pleasure in casting slurs upon those who are made by their public position the targets for such abuse?

I trust that this resolution will not be adopted. No man is a judge in his own case. My friend from Indiana is not perhaps a judge in his. I better prove the kindly feeling and the high esteem in which I hold him, by saying here that there is nothing that makes such an investigation needful, either in regard to himself or any other member of the Senate or of the committee in question with relation to this matter. I hope the Senate will not vote in favor of this resolution.

Mr. MORRILL. Mr. President, if the Senator from Indiana had consulted with me I should have advised him against introducing the resolution; I do not believe there is anything at the base of it; but the Senator having thought it necessary to introduce the resolution, I shall vote for it because he asks it and for no other reason.

Mr. FERRY. Mr. President, the Senator from Indiana has felt it his duty to introduce this resolution. As a colleague with him on the Committee on Finance, I shall vote against it. I have known the Senator for many years, not only in this branch of the legislative department of the Government, but in the other, and while I have radically differed with him upon political questions, regarding him a partisan of the most stalwart type, I as well on the other side, and it may be we have made some comments on each other, yet, upon a question that touches his integrity as regards questions of legislation with which he is intrusted, I should be false to my manhood if I did not stand by the Senator from Indiana. He could not well do otherwise, I admit, than introduce the resolution, but I trust the Senate will vote it down. He has, for his just vindication, done his duty. If each of this Senate is to be subject to flippant irresponsible criticism upon a question of integrity as regards duty here in Senatorial responsibility, I think it is high time for us to take the stand that will at least be my pleasure in voting against the resolution and sustaining, so far as I know, the integrity of the Senator from Indiana.

If political differences are to blear our eyes and blunt our consciences to the duty we owe to the honor, integrity, dignity, and manhood of fellow-members of this high legislative body, then partisanship is not the honorable method which I am allied to and which I have long cherished as my weapon of political warfare.

Mr. WINDOM. Mr. President, I trust the Senator from Indiana will not for a moment believe that in offering my amendment I meant to make in the most distant way any indorsement of the truth of the charges against himself to which he refers. If there were nothing in the resolution but what was contained in it when he offered it, I should vote against it, but the Senator from Indiana has accepted the amendment which I proposed, and therefore I shall vote for the resolution. I vote for it because I believe upon information which has been presented to me—although I cannot vouch for its accuracy or reliability—that a large sum has been raised by the whisky ring, so called, for the purpose of procuring the passage of this bill through Congress. I believe that, I say, upon information which has been given to me which I cannot vouch for, but yet which is sufficient to induce me to inquire into it. I believe this thing ought to be inquired into further, because this bill presents opportunities for the operation of a whisky ring which will pale into utter insignificance the whisky ring of a few years ago. I believe that if this bill pass, this country will within the next two or three years be shocked by the development and operation of a whisky ring in comparison with which the former one will be utterly insignificant. There are $67,000,000 now owing to the Government for taxes on whisky in bond, and this bill proposes in substance to relieve the ring from the inconvenience of those bonds, and give it an opportunity to raid upon that immense sum of Government money. I am informed that money has been raised to carry that thing through. I know nothing personally of the truth of this charge, but I want the Senate to investigate it, and let us go to the bottom of it.

Mr. FERRY. I am very glad that the Senator from Minnesota [Mr. WINDOM] in his closing remarks has placed the matter in its proper light. I am a member of the Committee on Finance, before which this subject comes. I am prepared in advance to say that so

far as advised I am against the unlimited bonded proposition which the Senator from Minnesota has condemned. At the same time I am not willing to allow any comment or criticism unchallenged upon the integrity of any committee colleague or member of this body when I know him by association and work to be honest in his legislative relations. For that reason, while I do denounce any outside attempt to control legislation, if that be the case—though I know not of it in this matter—and while I have my own convictions upon the subject mentioned and substantially concur with the Senator from Minnesota, yet albeit a Democrat even of the rankest type as the Senator from Indiana is known to be, (and we have had passages at arms a little here on political questions,) still on a question of legislative integrity and as his colleague on the committee I will stand by his fidelity to the duties and responsibilities of that committee, especially when I believe him to be intentionally honest, as I believe myself to be intentionally honest in the discharge of Senatorial functions.

Mr. BECK. Mr. President, I shall vote in any way that the Senator from Indiana desires, though I think he can well afford to withdraw the resolution; but I have never believed or suspected, until the Senator from Minnesota made the announcement just now, that there was any "whisky ring" here seeking to corrupt anybody in regard to the passage of the House bill which has been alluded to. If that is the case, or if there is any reasonable ground to believe it, it makes it absolutely imperative that an investigation should be had, not so far as the Senator from Indiana or any member of the committee is concerned, but if there is any ring connected with this bill improperly seeking to control legislation let us go to the bottom of it.

I desire, because Mr. CARLISLE, a member of the House from Kentucky, sent it to me a few moments ago, indeed I received it while the Senator from Minnesota was speaking, to read a telegram which he desired I should hand to the Senator from Indiana, but I now think it best to read it to the Senate. Much of the newspaper talk on this subject grew out of what was alleged to have been said by a gentleman in Louisville, Mr. Atherton, one of our ablest, most reliable, and best business men, who sent this dispatch.

LOUISVILLE, KENTUCKY, *May* 4, 1882.

Hon. J. G. CARLISLE.

House of Representatives, Washington, D. C.:

Statements and opinions expressed by myself concerning the pending whisky legislation have been greatly exaggerated and misrepresented. I will publish correct statement over my own signature. Meanwhile please assure Senator VOORHEES that I never heard his name, nor the name of any member of either House of Congress mentioned by any lobbyist or agent in connection with the bill, and have never stated anything inconsistent with this fact.

J. M. ATHERTON.

I think Mr. CARLISLE intended that I should merely hand this to the Senator from Indiana, but in view of what has just transpired it is very well to read it to the Senate. It will, I doubt not, be entirely satisfactory to the Senator from Indiana, and disposes of much of the criticism which some newspapers have seen fit to indulge in. I consider the Senator from Indiana as needing no vindication from any quarter, but since it is charged on this floor that there is an organized scheme of fraud connected with this bill, of a magnitude that will make all the other rings that have ever been organized pale before it and appear insignificant, now is the time to have a prompt investigation made.

I am one of those who believe that the House bill is an honest measure mainly because the Committee on Ways and Means of the House of Representatives, after as careful a consideration as bills usually receive, unanimously reported it, because they believed it to be an honest bill in the interest of business and in the interest of the Government. I know the gentlemen who compose that committee, and I know that there are men on it who stand as high, both as regards ability, integrity, and care for the public interest, as the Senator from Minnesota, or any Senator on this floor. I believe every one of them is just as honest and as free from jobbery as any of us. I believe, too, that the bill as framed by them not only will not produce or facilitate fraud, but that it is based upon the only true principle of taxation, and that is to impose and levy the tax upon consumption. And it is approved by the very able and intelligent Commissioner of Internal Revenue.

Distilled spirits alone of all domestic products are required to pay tax before they are put on the market. Let me show how it works; I only state this as an example. I was told by a gentleman the other day, speaking of the distilling business in the city of Peoria, that in that city there were forty thousand bushels of corn used every day for distilling and other purposes. The product of a thousand acres of the best land in Illinois, at forty bushels to the acre, is consumed in that business every day. It is as honest and legitimate business as any other. What can those men do with that corn otherwise? They cannot send it abroad; it will not bear the cost of transportation abroad in the shape of corn. If they do send it there they cannot buy with the money they get for it what they want. Our laws forbid that in order to protect somebody here. They have to use it in some form at home. The Government can only properly or continuously receive or require the tax on what can be consumed during each year; yet all distillers everywhere are required now to pay ninety cents on each gallon they make before they can make a sale, or whether they can find a market or not. Cut off from the foreign market, their home market destroyed or crippled by threatened legislation, all they ask is that they shall be allowed to place all their produce in the hands of a bonded Government officer, let him hold it, and keep the key of the warehouse. They do not want even to look at it in his absence; they do not want to be allowed even to enter their own house without the consent of the Government officer; but they ask you not to force them when they are pursuing a legitimate business, now depressed by overproduction and threatened legislation, to pay ninety cents a gallon on whisky before they can sell it, or upon an amount of whisky that, by evaporation or from any other legitimate cause, does not exist when they do sell it. They insist, and I agree with them, that the tax should be collected upon consumption, and upon the amount consumed, and upon the article when it goes into consumption. Congress has no right, in my opinion, to tax anything else. Any other mode of taxation is a tax on production, which is unjust, unequal, and in violation of the fundamental principle of equality of taxes.

The Senator from Minnesota has intimated in the charge he has made that the men who are seeking this relief are guilty of organized fraud, therefore he wants an investigation. I avow here that so far as I understand the bill, and I have tried to understand it, it is an honest bill. I expect on the floor of the Senate to develop that fact, and to show that the Government will not lose nor be cheated out of a dollar by it, and I propose to show to the satisfaction of the Senator from Minnesota that neither the men who are engaged in that business, whether they live in Kentucky, Indiana, Illinois, or anywhere else, are seeking to organize any ring or to defraud the Government, but on the contrary, that they are as honestly engaged in as honest business as any business man in this Senate is engaged in, and that they are as honest men as any of us. If I am mistaken in that I shall be very much surprised. I think the Senate will agree with me after I have explained my reasons for the votes I expect to give; still, in view of what has been said, I want the investigation made promptly, fully, and thoroughly.

Mr. WINDOM. I hope the Senator did not understand me as saying or intimating in the most distant manner that any member of the Senate or of the House was in any "ring" on the subject.

Mr. BECK. I did understand that the Senator said there was a ring here to carry it out and that he intimated that every man who is not a fool must know it, and that every man who votes for the bill is voting in the interest of fraud.

Mr. WINDOM. Oh, no!

Mr. BECK. I want that investigation made.

Mr. WINDOM. The Senator assumes quite too much. I merely said that I believed there was a ring; that ring I believe is outside of these bodies; and I believe that that bill passed through the House without the least consideration; that it never was debated. Under the previous question it was passed, and no discussion was ever had upon it.

Mr. BECK. I said that every member of the Committee of Ways and Means of the House had thoroughly considered it.

Mr. SHERMAN. Mr. President, I will not be led into the discussion of a bill that is now pending before a committee of this body. It has been there pretty well considered for two weeks, and there has not been the slightest sign of a lobby or influence brought upon that committee or, so far as I know, upon any member of it. The committee will probably divide upon the subject of the passage of the bill and report their views to this body in due time. So far as I have seen, there has not been even the usual excitement in regard to such a bill before the Committee on Finance. I have not seen the slightest evidence of interest in it except that we have received letters and telegrams in regard to the bill on both sides of the question. Many of us now have made up our minds about it; but I do not think the question of the merits or the demerits of the bill ought to be alluded to here, because they must be brought before the Senate of the United States for trial hereafter.

Now, in respect to the question presented by the Senator from Indiana, I intend to be governed entirely by his wishes. If he thinks, after reading the statements made in the newspapers, that they impute to him any act of dishonor, or reflect in the slightest degree upon his good character, it is his right—and no man ought to dispute that right—to demand an investigation; and if he asks for it he shall have it, if my vote can give it to him. It is the only defense that he can offer. He must either submit in silence and in patience to a false accusation to grow into a calumny, or he must demand to meet his accusers face to face. I shall therefore be guided entirely by his wishes in regard to the adoption of the original resolution.

As to the proposition made by the Senator from Minnesota, I think that ought to be considered as a separate thing. If the Senator from Indiana insists upon his resolution I shall vote for it. Although I have read the papers and have read the extracts in the papers upon which this resolution is founded, I must say that there is not even a charge in those papers of an act of dishonor or discredit to the Senator from Indiana; there is not even an imputation upon his conduct, and therefore I do not think, as an original proposition, there is a sufficient base for this inquiry into his conduct or that anything has been said in the newspapers that affects him in the slightest degree.

That is my opinion, and I know from my observation of his con-

duct in regard to this matter and other matters in the Committee on Finance that there is not the slightest ground for it. But still if he, wounded in his sentiment of honor, thinks there is, I shall vote for the investigation.

The charge brought to us by the Senator from Minnesota, not upon his own information but upon the information of others, I think is one which should be investigated whether the other is or not. I would rather separate the two than mingle them together. It will be difficult for anybody to vote against the inquiry proposed by the Senator from Minnesota now, since he has made the accusation upon information that he believes to be correct. If large sums of money have been collected together from persons interested in this bill to influence the conduct of either House, or to influence the surroundings of either House, it is the duty of the respective Houses to investigate into that matter. That is an accusation made by a Senator upon his responsibility as a Senator upon information that he gives credit to; but the other accusation, upon which the resolution of the Senator from Indiana is founded, is the mere idle carping of a newspaper correspondent; from whom no one knows; by whom no man knows; what interest he has, or what motive impels him, no man knows. The paper does not say that the Senator has done anything wrong, but that somebody has said that he can influence the Senator to vote for or against a certain bill. It seems to me that there is not enough in that accusation to justify the Senate of the United States in appointing a committee, unless the Senator himself is satisfied that it tends to injure him, and if so I wish to give him the benefit of a clear and full investigation.

Mr. INGALLS. Mr. President, the allegations made by the Senator from Minnesota are grave, direct, and serious, and as such they form the proper basis of an inquiry by the Senate; and it is his duty, in my judgment, after the assertion that he has made, to ask that a committee may be appointed to investigate those facts which he has said he has information are true and believes to be true. But I am one of those who believe that the anonymous and impersonal calumnies of an irresponsible newspaper put no man on the defensive, and I am unwilling that allegations of the gravity of those which have been made by the Senator from Minnesota should be appended as an amendment to a resolution like that offered by the Senator from Indiana. Stung by what he believes to be an injury to his honor, but which is believed by no man who knows him either personally or by reputation, he has risen here and asked that these unjustifiable calumnies may be made the subject of inquiry for the purpose of removing any stain that might rest upon his honor. I think, sir, that he has done what is not required to be done. I shall wait with impatience to vote for a committee upon the allegations made by the Senator from Minnesota as an independent proposition; but as to the resolution now pending, I move that it be indefinitely postponed.

Mr. MORRILL. I suggest to my friend from Kansas that since the telegram read by the Senator from Kentucky from the only witness, as I understand, in this case, or the only one upon whose testimony any charge has been made upon the Senator from Indiana, it would be proper to strike out all down to the proposition made by the Senator from Minnesota.

Mr. INGALLS. No, sir; I want an opportunity to vote on the creation of a committee to investigate the allegations made by the Senator from Minnesota, and I shall not consent to any modification of the resolution offered by the Senator from Indiana. I ask that it be indefinitely postponed.

Mr. HARRIS obtained the floor.

Mr. BECK. Will the Senator allow me to make a suggestion to the Senator from Vermont?

Mr. HARRIS. Yes, sir.

Mr. BECK. I desire now the Senator from Vermont, the chairman of the Committee on Finance, to be kind enough, in view of the charges made by the Senator from Minnesota, to read the petition signed by every banker in the city of Louisville, in the city of Lexington, many from Cincinnati, with regard to this bill, and I think it will at least help mitigate some of the bold assertions of "whisky rings" and fraud made by the Senator from Minnesota.

Mr. HARRIS. I will yield in a moment for the reading of the paper. As a member of the Committee on Finance, and one who has attended its every meeting, one who has advocated from the beginning and expects to advocate to the end the passage of the bill in question, I desire to say that the Senator from Indiana has been less pronounced in respect to the matter perhaps than any member of the committee. I may perhaps say that without impropriety in respect to the actions of the committee. I desire to say more, that any intimation or insinuation that the Senator from Indiana or any other member of that committee has ever been approached by rings or other people with improper motives or reasons to be used to influence his action is so utterly absurd that, for one, I will never consent to dignify such an intimation or insinuation by making it the subject of investigation or inquiry. The reputation of that Senator and of every other Senator who holds a position upon that committee places him immeasurably above the possibility of such an intimation as the one that has been published affecting his reputation before the country, in my opinion, in the slightest degree; and for that reason I shall very cheerfully vote for the motion of the Senator from Kansas to postpone indefinitely this resolution, while I am ready to vote for a resolution incorporating the views and seeking the investigation that the Senator from Minnesota has asked for if he desires to introduce a resolution for that purpose.

Mr. WINDOM. Mr. President, I think——

The PRESIDENT *pro tempore*. This resolution is being considered under the Anthony rule, but there is a motion to indefinitely postpone.

Mr. WINDOM. I ask unanimous consent——

Mr. HARRIS. I ask that the paper may be read that was called for by the Senator from Kentucky.

Mr. WINDOM. I ask unanimous consent to be allowed——

The PRESIDENT *pro tempore*. Unanimous consent is not necessary; the Senator has the right to speak on this motion.

Mr. WINDOM. I do not wish to speak just now; I wish to ask unanimous consent of the Senate that the amendment which I proposed be withdrawn.

Several SENATORS. That is right.

Mr. WINDOM. I wish to withdraw it with a view of offering it as a separate resolution after the other resolution shall have been acted upon. I have felt a great deal of delicacy in intruding it upon the other resolution; and no one entertains a kinder feeling or a higher regard for the Senator from Indiana than myself; but I would prefer to have the matters separated. Therefore I ask unanimous consent to withdraw that amendment, and I will renew it afterward as a separate proposition.

Mr. FERRY. Then I hope the Senator from Kansas will withdraw his motion to indefinitely postpone, and let us vote against the resolution.

The PRESIDENT *pro tempore*. The amendments proposed by the Senator from Minnesota are withdrawn, the Chair hearing no objection.

Mr. VEST. Does that leave now the original resolution of the Senator from Indiana alone pending?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. VEST. Now, in regard to that, just one word. The Senate is not without precedents in regard to matters of this kind, and I call the attention of my friend from Indiana—and he knows that I am his friend under all circumstances—to the action of the Senate, and particularly of our side of the Senate, in regard to a similar request preferred some time ago by the Senator from Louisiana, [Mr. KELLOGG.] That Senator called the attention of the Senate to an attack made upon him in a newspaper, compared to which this is a mere zephyr to a cyclone; and at that time the late Senator from Ohio, Mr. Thurman, announced what was considered by a large majority of the Senate the proper and correct doctrine. I recollect distinctly one of his expressions, which I thoroughly indorse, was that if the precedent were to be established in the Senate, that as a matter of courtesy, as the Senator from Vermont [Mr. MORRILL] now announces it, any Senator could rise and demand a committee of investigation in regard to an anonymous or journalistic attack upon him; any Senator could have the monopoly of the entire time of the Senate, to the exclusion of all public business, and we should be turned into a regular systematized organization of investigating committees. A large majority of the Senate indorsed that proposition and voted down the resolution then offered, and I believe my friend from Indiana voted with me.

That is one aspect of the case, and, much as I respect the Senator from Indiana—and almost love him—I may be permitted to say I cannot vote for a resolution of this sort, believing that the public interests are antagonistic to it.

The proposition of the Senator from Minnesota is entirely different. As my friend from Kentucky suggests, the Senator from Minnesota in his proposed resolution covers the entire investigation, as I understand. When a Senator of the United States rises here in his place and says that he has information, which he believes, that there is an organized system of corruption in regard to any committee or any member, there is but one thing to be done; that is, to have an investigation. That affects the integrity of this entire body, its legislation, and the public interests. But a personal matter coming from an anonymous source is a matter of investigation by the courts of the country. If the Senator from Indiana, or any other Senator, considers himself aggrieved by a libel the law of the land protects him as it does every other citizen; but the time of the Senate belongs to the country and the people.

Mr. BAYARD. Mr. President, the remarks of the Senator from Minnesota have put a very different phase upon this question. As to all of the resolution that relates to the Senator from Indiana, I have nothing to add to what I said before, and in regard to that my opinion and my action will be unchanged, with this condition, that it is understood that the Senator from Minnesota will upon his own responsibility, as stated here in the Senate, offer a resolution of inquiry in order to have the fullest investigation of the very alarming condition of facts which he has stated here to have been charged and in which he believes. That is enough for me. When a Senator on this floor shall state that the fountain of legislation is sought to be corrupted or is in danger of being corrupted, then there can be no higher duty and no better employment of public time than to carry that question down to its very roots, and I propose to aid in that. I have not changed my judgment in regard to the base scurrility with respect to my friend from Indiana, and I shall not object to voting down his application for a committee on that subject. I only

do it now with the understanding that the Senator from Minnesota will renew this question and will ask for a searching investigation in regard to the important facts to which he has drawn the attention of the Senate.

I will say further that this measure is to-day pending before a committee of the Senate; it came to the Senate a few weeks ago from the other House; it has been the subject of consideration in that committee; counsel have appeared before the committee. It is not improper to mention that Mr. Wharton, the late district attorney of the United States for Kentucky, has appeared before the committee and made and filed a very able and intelligent argument in favor of the passage of the bill. It still lies there for consideration, undecided, unvoted upon. We presumed and intended to-morrow to have a special meeting of the committee to continue the consideration, but I think that prior to that consideration, or at least concurrently with it, there should come the examination suggested by the Senator from Minnesota, in which I most heartily concur.

Therefore I wish it understood that while I shall not vote to have the accusation against my friend from Indiana rise to the dignity of a Senatorial investigation, I shall vote for the proposition of the Senator from Minnesota.

Mr. WINDOM. In order that I may be distinctly understood, Mr. President, and in response to the statements of the Senator from Delaware, I will say that to-morrow morning I will offer the resolution; and while I am on my feet I wish to repeat, a little more distinctly perhaps than I did before, that I have no personal knowledge of this, but the information is brought to me by a person in whom I have confidence. I believe in it sufficiently to be willing to investigate it, and I believe it ought to be investigated. That is my exact position.

Mr. BAYARD. That is sufficient authority, to my mind.

Mr. VOORHEES. I ought to say one word before this matter passes away. The publications in the press which use my name purport to be based upon statements by gentlemen at Louisville, Kentucky, not, as I said a while ago, impeaching my integrity, but asserting that some one here, or some number of persons, had represented that they could control my vote on this question. I did not feel the necessity which a gentleman feels for vindication when his integrity is directly impeached, but I did feel that an investigation ought to take place to find whether the statements of this gentleman, made in Kentucky, were true or not. Consequently, as soon as I saw it I thought, as I think now, that it was a thing proper for investigation. Yesterday I introduced the resolution asking for an investigation. The result of the introduction of that resolution is very apparent. This morning the Senator from Kentucky [Mr. BECK] lays before the Senate an elaborate dispatch from Louisville, which is a complete exoneration of me; a statement by those gentlemen who are used as authority for these newspaper articles, that they had never mentioned my name at all in that connection.

That amounts to all the vindication that anybody need desire, a retraction of the basis of this statement; and I will say, therefore, to the Senate, that it is with the Senate now to do just as their own good judgment may dictate; and I have but one word further to say, and that is to thank, with a grateful, warm heart, those gentlemen with whom I have served, the Senator from Delaware, [Mr. BAYARD,] the Senator from Michigan, [Mr. FERRY,] the Senator from Ohio, [Mr. SHERMAN,] and all the rest for their kindly expressions of confidence in me; not forgetting the Senator from Vermont, [Mr. MORRILL,] the chairman of the Finance Committee, with whom I served twenty years ago in the other House, and my distinguished friend from Missouri, [Mr. VEST.] Their words of confidence and kindness will never be forgotten as long as memory lives with me.

With this statement I am perfectly willing to let the Senate dispose of this subject as it pleases, agreeing entirely with the Senator from Delaware and the Senator from Minnesota that that branch of the matter which was brought forward as an amendment should be fully and thoroughly investigated. So far as I am personally concerned the disclaimer from Kentucky is very satisfactory to me, and the matter may be disposed of as the Senate now think fitting.

Mr. BECK. Will the Senator from Indiana allow me to ask him, does he not believe that a resolution will be offered by the Senator from Minnesota covering the whole ground which will really reach everything?

Mr. VOORHEES. Undoubtedly it will cover every phase of this question.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution of the Senator from Indiana.

Mr. ALLISON. The Senator from Kansas moved to postpone the resolution indefinitely.

The PRESIDENT *pro tempore*. The Chair thought that was withdrawn.

Mr. INGALLS. No, sir; I did not withdraw it. I offered the motion not formally, but with the intention to dispose in that way of the resolution.

Mr. FERRY. Before the vote is taken, then, in order to explain myself, I wish to say that I shall vote against the indefinite postponement, because I prefer that the Senate should vote directly upon the resolution of the Senator from Indiana. I shall vote against the indefinite postponement, and then vote against the resolution of the Senator from Indiana.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the resolution indefinitely.

Mr. McPHERSON. Let the resolution be read again.

The PRESIDENT *pro tempore*. The resolution will be read as originally introduced.

The Acting Secretary read the resolution as offered by Mr. VOORHEES yesterday.

The PRESIDENT *pro tempore*. The motion is to postpone the resolution indefinitely.

The motion was agreed to.

DR. A. SIDNEY TEBBS.

The PRESIDENT *pro tempore*. The business on the Calendar will be taken up under the Anthony rule. The first case will be stated.

The consideration of the bill (S. No. 296) for the relief of Dr. A. Sidney Tebbs, was resumed as in Committee of the Whole, the pending question being on the motion of Mr. ROLLINS to refer the bill and pending amendments to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. Upon this question the yeas and nays were ordered yesterday.

The Principal Legislative Clerk proceeded to call the roll.

Mr. ALLISON, (when his name was called.) I am paired with the Senator from Georgia, [Mr. BROWN.]

Mr. BUTLER, (when his name was called.) On this question I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were here, I should vote "nay."

Mr. CAMERON, of Wisconsin, (when his name was called.) I am paired upon this vote with the Senator from North Carolina, [Mr. VANCE.] I should vote in favor of referring, and he would vote against it.

Mr. FRYE, (when his name was called.) I am paired with the Senator from Georgia, [Mr. HILL.]

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. SHERMAN, (when the name of Mr. JONES, of Nevada, was called.) I am paired with my colleague [Mr. PENDLETON] to-day, with leave to transfer the pair. By arrangement it has been transferred on this vote to Mr. JONES, of Nevada. I am therefore at liberty to vote.

Mr. RANSOM, (when Mr. LOGAN'S name was called.) The Senator from Illinois [Mr. LOGAN] is paired on this matter, by a transfer of pairs, with the Senator from Georgia, [Mr. BROWN.] I am paired generally with Mr. LOGAN, but a transfer has been made, and the Senator from Iowa [Mr. ALLISON] is at liberty to vote.

Mr. ALLISON. Then I vote "yea."

Mr. JONAS, (when Mr. PENDLETON'S name was called.) The Senator from Ohio [Mr. PENDLETON] is paired with the Senator from Nevada, [Mr. JONES.] If present, the Senator from Ohio would vote "nay."

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.] If he were present, I should vote "nay."

Mr. SHERMAN, (when his name was called.) I again repeat that I am paired generally with my colleague, [Mr. PENDLETON,] but on this vote my colleague is paired with the Senator from Nevada, [Mr. JONES.] I vote "yea."

The roll-call was concluded.

Mr. ROLLINS. I was paired with the Senator from Florida, [Mr. JONES,] but I have the right to transfer the pair, which I have done, to the Senator from Massachusetts, [Mr. HOAR.] If the Senator from Massachusetts were present he would vote "yea."

The result was announced—yeas 29, nays 28; as follows:

YEAS—29.

Aldrich,	Hale,	Mahone,	Sawyer,
Allison,	Harrison,	Miller of Cal.,	Sewell,
Anthony,	Hawley,	Miller of N. Y.,	Sherman,
Blair,	Hill of Colorado,	Mitchell,	Van Wyck,
Chilcott,	Ingalls,	Morrill,	Windom.
Conger,	Lapham,	Platt,	
Davis of Illinois,	McDill,	Rollins,	
Dawes,	McMillan,	Saunders,	

NAYS—28.

Bayard,	Fair,	Harris,	Pugh,
Beck,	Farley,	Jackson,	Ransom,
Call,	George,	Johnston,	Slater,
Camden,	Gorman,	Jonas,	Vest,
Cockrell,	Groome,	McPherson,	Voorhees,
Coke,	Grover,	Maxey,	Walker,
Davis of W. Va.,	Hampton,	Morgan,	Williams.

ABSENT—19.

Brown,	Ferry,	Jones of Florida,	Pendleton,
Butler,	Frye,	Jones of Nevada,	Plumb,
Cameron of Pa.,	Garland,	Kellogg,	Saulsbury,
Cameron of Wis.,	Hill of Georgia,	Lamar,	Vance.
Edmunds,	Hoar,	Logan,	

So the motion to refer was agreed to.

The PRESIDENT *pro tempore*. The next case on the Calendar will be called.

Mr. HAMPTON. Does the vote just adopted carry with it the bill as well as the amendments?

The PRESIDENT *pro tempore*. It carries the bill and all the amendments to the Committee on the Judiciary.

BILLS PASSED OVER.

The next bill on the Calendar was the bill (S. No. 357) granting a pension to Horace S. Spear.

Mr. INGALLS. There is an adverse report on that bill.

The PRESIDENT *pro tempore*. It will be passed over.

The next bill on the Calendar was the bill (S. No. 449) for the relief of William B. Whiting.

The PRESIDENT *pro tempore*. The bill is reported adversely and will be passed over.

Mr. CAMERON, of Wisconsin. The Senator from New Jersey [Mr. MCPHERSON] who made the adverse report in the Whiting case is making some further investigation in regard to the claim, and I desire, and he assents to it, that the bill retain its place on the Calendar.

The PRESIDENT *pro tempore*. It does that. When a bill is simply passed over in this manner it does not go to the foot of the Calendar, unless there is a special objection to its consideration.

Mr. CAMERON, of Wisconsin. Very well.

The next bill on the Calendar was the bill (S. No. 1438) to equalize the pay of the officers of the Navy.

The PRESIDENT *pro tempore*. This bill having been reported adversely, will be passed over.

EDWARD K. WINSHIP.

The bill (S. No. 97) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy, was considered as in Committee of the Whole. It proposes to direct the accounting officers of the Treasury in settling the accounts of Edward K. Winship, acting assistant paymaster, United States Navy, to credit him with all stoppages charged against him, amounting to $5,098.15.

Mr. SHERMAN. We ought to hear the report.

Mr. INGALLS. Let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

The Acting Secretary read the following, submitted by Mr. JONES, of Florida, March 22:

The Committee on Naval Affairs, to whom was referred bill S. No. 97, report as follows:

Edward K. Winship was appointed in 1862 an acting assistant paymaster in the United States Navy, and served in that capacity continuously until 1864, when he resigned and rendered his final accounts for settlement. Fourth Auditor Tabor says of Mr. Winship's accounts, under date of June 4, 1878: "Your accounts were always well kept and promptly rendered."

Years after their final rendition these accounts were audited, and when so audited checkages, errors, and discrepancies were found against him amounting to $5,098, for which amount the United States have proceeded to judgment against Mr. Winship on his bond, and it is to be relieved from this judgment, and to have the accounting officers authorized to settle his accounts, that the bill referred to is before the Senate.

Your committee find that Mr. Winship, in the two years he served as acting assistant paymaster, was on duty on the supply ship Massachusetts, and engaged in furnishing all manner of supplies, including large sums of money, to the various vessels of our blockading fleet; that he was compelled to pass over to the paymasters of the various vessels, in the hurried passage of his ship, packages of money amounting to large sums, as well as stores of every kind and description needed by our blockading squadron, and that his accommodations on board ship were inadequate for the duties he was compelled to perform. His disbursements, in money alone, amounted to near two million dollars, and, quoting the language of Auditor Tabor, in the letter above referred to, "Your expenditures on said ship, in money, clothing, small-stores, and provisions were exceedingly large, and that you were doing duty both as paymaster and as storekeeper."

Your committee are of the opinion that no adequate protection was afforded Mr. Winship against the great risk he was compelled to take, and that the chances are largely that loss was occasioned by money passing from him to some one else, in some of his numerous transactions, without proper voucher. It is sixteen years since Mr. Winship rendered his accounts, and in the judgment of the committee the relief asked for ought to be granted.

Your committee are largely induced to the above conclusion from the very high character of the gentleman seeking this relief. He resigned his position in the Navy to accept that of cashier of the Philadelphia United States sub-treasury, where he served considerable time. His accounts and his conduct in that position were faultless. We find from inquiry at the Treasury no suspicion attaches to Mr. Winship, and we believe it is fair to say that this loss, in the opinion of the committee, is without negligence or criminality on his part, and we recommend the passage of the bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN G. ROBINSON.

The bill (S. No. 648) for the relief of William G. Ford, administrator of John G. Robinson, deceased, was considered as in Committee of the Whole. It provides that the claim of William G. Ford, administrator of John G. Robinson, deceased, for the interest of the American legatees of Robinson, which were not provided for in the award of the mixed commission, under the treaty of Washington of the date of September 24, 1873, shall be referred to the Court of Claims, relieved from the bar of the statute of limitations. The Court of Claims is authorized to receive as evidence, at its discretion, the testimony already taken by said mixed commission in the case, as though taken over again; and either party may take further and additional testimony, under the order and rules of the court, as in other cases; but before final judgment shall be rendered Ford shall duly execute, according to law, a new administration bond, in such penalty and with such sureties as the court shall deem sufficient and approve.

Mr. SHERMAN. Is there a report? The bill does not show what the claim is for.

Mr. CAMERON, of Wisconsin. The report was made by the present Secretary of the Interior.

Mr. SHERMAN. But the bill does not state what it is about. The report had better be read.

Mr. CAMERON, of Wisconsin. Very well; it is not long.

The Principal Legislative Clerk read the following report, submitted by Mr. TELLER March 22:

The Committee on Claims, which has had under consideration the bill (S. No. 648) for the relief of William G. Ford, administrator of John G. Robinson, deceased, having had the same under consideration, submit the following report:

This case was reported favorably from this committee during the second session of the Forty-sixth Congress.

The committee readopt that report, as follows:

"It appears from the depositions taken and certain record evidence submitted to the mixed commission that John G. Robinson was a British subject resident in the city of New Orleans, Louisiana, and was engaged in the business of a cotton broker, doing a business of from 100,000 to 120,000 bales annually for many years prior to 1863, and up to the time of his death in 1869.

"That on the 4th of May, 1862, the following order was issued and published in the city of New Orleans:

"'[General Orders, No. 22.]

"'HEADQUARTERS DEPARTMENT OF THE GULF,

"'*New Orleans, May 4, 1862.*

"'The commanding general of the department having been informed that rebellious, lying, and desperate men have represented, and are now representing, to the honest planters and good people of the State of Louisiana that the United States Government, by its forces, have come here to confiscate and destroy their crops of cotton and sugar, it is hereby ordered to be made known, by publication in all the newspapers in this city, that all cargoes of cotton and sugar shall receive the safe conduct of the forces of the United States, and boats bringing them from beyond the lines of the United States forces may be allowed to return in safety, after a reasonable delay, if their owners so desire: *Provided*, They bring no passengers except the owners and managers of said boat and of the property so conveyed, and no other merchandise except provisions, of which such boats are requested to bring a full supply for the benefit of the poor of this city.

"'By command of Major-General Butler.

"'GEORGE C. STRONG,

"'*Assistant Adjutant-General.*'

"And on the 16th February, 1863, the following order was issued and published in the same city:

"'CUSTOM-HOUSE, NEW ORLEANS,

"'*Collector's Office, February 16, 1863.*

"'The United States military and other authorities at New Orleans permit cotton to be received here from beyond the United States military lines, and such cotton is exempt from seizure or confiscation. An order is in my hands from Major-General Banks approving and directing the policy. The only condition imposed is that cotton or other produce must not be bought with specie.

* * * * * * *

"'GEORGE S. DENISON,

"'*Special Agent of the Treas. Dep't, and Acting Col. of Customs.*

"'Approved.

"'D. G. FARRAGUT, *Rear-Admiral.*'

"It further appears that the said John G. Robinson purchased from one Robert B. Hurt, of Madison County, Tennessee, two hundred and thirty-eight bales of cotton, which were invoiced by the said Hurt to the said Robinson, and the purchase-money receipted for by the said Hurt, at Ponchatoula, Louisiana, on the 7th day of March, 1863, and that said cotton was put on two schooners, the Alcyon and General Worth, at Owl Bayou, in Louisiana, about six miles from Ponchatoula, consigned by the said Hurt to the said Robinson at New Orleans, and bills of lading taken for the same, on the 20th March, 1863; and on the morning of the 21st March, 1863, the officers of the said two schooners were taken prisoners, and the cotton seized by the United States military authorities and taken to New Orleans, where the cotton was sold, and the proceeds held by the authorities of the United States.

"It further appears that immediately after the seizure of this cotton the said Robinson applied to the British consul at New Orleans, who, with the said Robinson, made several applications to the military authorities at New Orleans, first to restore the possession of the cotton to the said Robinson before it was sold, and after the sale to pay to the said Robinson the proceeds, all of which failed, however; and on the 6th January, 1864, the consul made it a subject of a special communication to Lord Lyons, the minister plenipotentiary, &c., of Great Britain at Washington, detailing the facts and sending to the minister the bills of lading and invoice of the cotton; and on the 29th January, 1864, Lord Lyons transmitted the papers to Mr. Seward, the then Secretary of State, asking that Mr. Robinson be paid the value of said cotton. On the 10th February, 1864, Mr. Seward informed Lord Lyons that 'I have commended the case to the attention of the Secretary of War.' And from this time until the death of the said Robinson in 1869, it was a matter of correspondence between the British minister and the Department of State; but the War Department appears never to have acted upon the claim further than to suggest, in 1867, that a remedy would probably be found in the Court of Claims.

"In 1869 the said Robinson died, leaving a will, by which he gave one-fourth of his estate to his brother, William Robinson, and one-fourth to his sister, Mary G. Baker, each residing in England, and one-fourth each to two American citizens resident in New Orleans, and soon thereafter William Robinson died.

"William G. Ford administered upon the estate, and in March, 1872, filed before the mixed commission on British and American claims, under the twelfth article of the treaty of May 8, 1871, a claim for $88,260, more or less, being the proceeds of the sale of the said two hundred and thirty-eight bales of cotton. The claim was vigorously and ably contested by the attorney for the United States upon the ground of want of jurisdiction, want of title to the cotton in Robinson, regularity and legality of the administration, &c.; but after a full hearing, on the 24th September, 1873, the commission made the following award:

"'William G. Ford, administrator, &c., *vs.* The United States. No. 328.

"'We award the sum of $29,638 to be paid in gold by the Government of the United States to the Government of her Britannic Majesty, in respect of so much of the above claim as relates to the interest of Mary G. Barker, or her representatives, under the will of John G. Robinson, deceased, bearing date October 8, 1858.

"'L. CORTI.

"'RUSSELL GURNEY,

"'*Commissioners.*'

"No opinion was filed by the commission, but from the points made in the case it is clear that the award was based upon a recognition of the justice of the claim and the right of Ford, as administrator, to prosecute it, and that the petition was dismissed without prejudice, so far as the interests of the American legatees were concerned, for want of jurisdiction. William Robinson, one of the legatees in England, having died a short time after the testator, was not mentioned in the award. Before the creation of the mixed commission John G. Robinson made an earnest and continuous effort to collect this claim through the agency of the Brit-

ish minister, but without avail. The administrator, after the death of Robinson, believing it to be a proper case for the mixed commission, filed it there, and the commission awarded relief as to the legatee, who was a British subject, but dismissed as to the American legatees for want of jurisdiction. It was then too late for the administrator to sue in the Court of Claims to recover what is due, if anything, the two American legatees. Hence he now asks authority to commence suit in said court, relieved from the bar of the statute of limitations, and the committee is of opinion that under the circumstances of the case it should be granted.

"The committee finds, upon examination, that this claim was considered by the House Committee on Claims of both the Forty-fourth and Forty-fifth Congresses, and a favorable report in each Congress. The bill passed the House on the 5th May, 1876, but was not considered by the Senate. In the Forty-fourth Congress there was an adverse report by the Senate Committee on Claims, but upon a careful examination of that report the committee is satisfied that it is based upon erroneous conclusions as to several material facts.

"Believing, as the committee does, that there is merit in this claim, and that if allowed to test the questions of law and fact in the Court of Claims nothing will be allowed by the court unless the case is clearly made out, the committee report the bill back, with the recommendation that it pass."

Mr. McMILLAN. I should like the Senator from Wisconsin, the chairman of the Committee on Claims, to state as briefly as he can the substance of this report, that we may understand it a little more distinctly than from the reading of the report by the Secretary. I think he can state it briefly, perhaps.

Mr. CAMERON, of Wisconsin. The facts of the case are these: John G. Robinson was a British subject resident in the city of New Orleans. He was engaged prior to the war in that city in business as a cotton broker. He continued to reside in that city, and continued engaged in that business until his death in 1869. In 1863, after the Federal forces had taken possession of New Orleans, the two orders which are included in the report were made by order of General Butler. Under his orders persons were at liberty to bring into the city of New Orleans provisions and cotton. This Mr. Robinson purchased 238 bales of cotton in Tennessee and shipped that amount on board two vessels in the upper part of Louisiana. Before the vessels reached New Orleans, however, they were seized by the revenue officers and the cotton was sent to New York and sold and the proceeds went into the Treasury. Mr. Robinson, being a British subject, applied to Lord Lyons, the then British minister in Washington, for relief. The matter was made the subject of correspondence between the American and British Governments. The justice of the claim was admitted by Mr. Seward, at that time our Secretary of State. The matter was afterward referred to the British and American mixed commission under the treaty of 1871. In the mean time Mr. Robinson——

The PRESIDENT *pro tempore*. The Chair did not announce the arrival of two o'clock, supposing the bill would be finished in a moment.

Mr. HARRIS. I was going to ask unanimous consent to continue it, as the report had been read.

Mr. SHERMAN. Part of the claim has been allowed.

Mr. CAMERON, of Wisconsin. Part of the claim has been allowed.

The PRESIDENT *pro tempore*. The Chair will not interrupt the Senator from Wisconsin unless it is insisted on.

Mr. SHERMAN. I called for the explanation. I have read the report, and I am not disposed to ask for any further explanation

Mr. CAMERON, of Wisconsin. If no further explanation is desired, I will not say anything more.

Mr. HARRIS. I carefully examined the case, and made the report two years ago. I do not think there can be any doubt about it.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

NUMBER OF MEN IN THE NAVY.

Mr. ROLLINS. I ask the indulgence of the Senate to take up the next bill in order on the Calendar. I shall be called out of the Senate to-morrow on special business, and the bill will occupy but a few moments' time, I think.

The PRESIDENT *pro tempore*. Is there objection to taking up the next bill on the Calendar, though the hour of two o'clock has passed? If there be no objection the Chair will presume that unanimous consent is granted.

The Acting Secretary read the bill (S. No. 1529) to amend section 1417 of the Revised Statutes of the United States, relating to the Navy. It proposes to amend the section by striking out the words "eight thousand two hundred and fifty" and inserting in lieu thereof the words "eight thousand seven hundred and fifty."

Mr. COCKRELL. Why is that change?

Mr. ROLLINS. It increases the number of men in the Navy five hundred. The necessity for it will be seen by reading the letter of the head of the Bureau of Equipment.

Mr. COCKRELL. I must object to the consideration of the bill until we have more time to discuss it.

Mr. ROLLINS. I submit that the objection is altogether too late.

The PRESIDENT *pro tempore*. It may be interposed at any time.

Mr. BUTLER. Is there a written report?

Mr. COCKRELL. I object, Mr. President.

Mr. ROLLINS. The Chair asked consent of the Senate to have the bill called up, and said he would presume consent unless objection was then made. No objection was made.

Mr. HOAR. I do not rise to object, but I rise in the interest of the Senate to say, that when the regular order is informally laid aside in this way it may be resumed at any time on the call of any Senator.

Mr. COCKRELL. Certainly.

The PRESIDENT *pro tempore*. The objection can be interposed after the bill has been called up.

Mr. ROLLINS. Very well.

Mr. SHERMAN. It stands at the head of the Calendar.

Mr. ROLLINS. It is the first time I have asked such a favor of the Senate during the session.

The PRESIDENT *pro tempore*. The bill will be at the head of the Calendar to-morrow morning.

PUBLIC BUILDING AT LYNCHBURGH.

Mr. JOHNSTON rose.

The PRESIDENT *pro tempore*. The Chair lays before the Senate unfinished business, which is the bill (S. No. 420) to establish a court of appeals.

Mr. JOHNSTON. I ask that the pending order be informally laid aside until I can have the Senate consider a House bill to erect a court-house and public building at Lynchburgh, Virginia, a thing that is very much needed. The bill has passed the House, and been reported favorably by the Senate committee.

Mr. SHERMAN. How many people are there in Lynchburgh?

Mr. JOHNSTON. About twenty-two thousand.

Mr. ROLLINS. I should like to inquire where the bill is.

Mr. JOHNSTON. Here, sir.

Mr. ROLLINS. According to my recollection it was referred to the Committee on Public Buildings and Grounds.

Mr. JOHNSTON. There is a Senate bill on the Calendar reported by the committee. The House bill is in committee yet, I believe.

Mr. ROLLINS. The Senate bill and House bill are unlike.

Mr. JOHNSTON. In what respect?

Mr. ROLLINS. Several respects. I object.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of the bill.

Mr. COCKRELL. Oh, no.

The PRESIDENT *pro tempore*. The House bill has not been reported back from the Committee on Public Buildings and Grounds. The unfinished business will be proceeded with.

COURT OF APPEALS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from Missouri, [Mr. VEST,] upon which the yeas and nays have been ordered.

Mr. MORGAN. I desire to hear the amendment reported.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The amendment will be read.

The ACTING SECRETARY. At the end of section 3 it is proposed to add:

Provided, That no circuit or district judge before whom a cause or question may have been tried or heard in the district or circuit court shall sit on the trial or hearing of such cause or question in the appellate court.

Mr. LAPHAM. Mr. President, the question presented by this amendment has been very much considered in the State which I have the honor in part to represent. Up to the constitutional convention of the State of New York held in the year 1846 the judges of the county courts, the supreme court, and the court for the correction of errors, as it was then called, except the senators sitting in the court of errors, were appointed by the governor, by and with the advice and consent of the senate; but in the convention of 1846 all those officers were made elective by the people. The fact that they were thus chosen by the popular vote, and likely to be candidates for re-election to the various offices for which they had been chosen, led to an elaborate discussion of this very proposition, whether it was discreet or wise to permit a judge who had once presided at the trial of a case to sit in the court of review when it was being reconsidered upon an appeal or writ of error.

There was a division of sentiment among the members of the bar of New York upon this question. The late Judge Bronson, in one of the leading opinions written by him in the court of appeals, said of the subject, "if a judge be wise enough to discover that he has made an error in his ruling at *nisi prius*, honest enough to acknowledge the error when he has discovered it, and firm enough to follow his convictions when the error has been disclosed, he is the very best of all persons to sit in review of his decision."

But, Mr. President, this was regarded by the people as a refinement upon the subject, and with great unanimity they adopted, in substance, what is embodied in this amendment, that no judge should sit in review of his own decisions upon error or appeal. Instead of responding to the sentiment of Judge Bronson they responded to the sentiment of another judge of the same State, expressed in more homely but no less vigorous language, that "taking human nature as we find it, a judge who has once made up his opinion in a case is very apt to adhere to it."

There was another consideration which weighed with us, and that was the necessity of having justice so administered, if possible, as that the people would be satisfied with its administration at the earliest possible moment. To illustrate, suppose a case is tried at the circuit and is taken to the general term of the Supreme Court for rehearing, and the judge who presided at the circuit takes part in its determination and the judgment is affirmed. The parties to the action, the public interested in the question, would be prone to

say, "If the judge who presided at the circuit had not been there the judgment would not have been affirmed." So that there was an unrest in the public mind growing out of the idea that a judge who had once formed an opinion should be permitted to take further part in the determination of the question. This system, which has been in operation for a great many years in the State of New York, has worked to the entire satisfaction of suitors and of the public.

It is now regarded as one of the wisest provisions in our system that whenever a case is taken from one court to another it shall come before minds that are entirely uncommitted and unprepossessed upon the questions involved.

For these reasons, Mr. President, I am heartily in favor of this amendment.

The Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired generally with the Senator from Pennsylvania, [Mr. CAMERON.] I am not advised how he would vote on this amendment, and therefore I shall withhold my vote.

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.] I do not know how he would vote, if here, on this question, but I shall withhold my vote. If I were at liberty I should vote "yea."

Mr. JONAS, (when Mr. PENDLETON's name was called.) The Senator from Ohio [Mr. PENDLETON] is paired with his colleague, [Mr. SHERMAN.] If here, the Senator [Mr. PENDLETON] would vote "yea."

The roll-call was concluded.

Mr. CONGER. I desire to say that my colleague [Mr. FERRY] is paired with the Senator from Delaware, [Mr. SAULSBURY.]

Mr. SHERMAN. I am paired on this bill generally with my colleague, [Mr. PENDLETON.] I understand that he, if here, would vote for this amendment; I should vote "nay."

The result was announced—yeas 39, nays 14; as follows:

YEAS—39.

Beck,	Frye,	Jonas,	Ransom,
Call,	Gorman,	Lapham,	Saunders,
Camden,	Groome,	McDill,	Sewell,
Cameron of Wis.,	Grover,	McPherson,	Slater,
Cockrell,	Hampton,	Maxey,	Van Wyck,
Coke,	Harris,	Miller of Cal.,	Vest,
Davis of Illinois,	Harrison,	Miller of N. Y.,	Walker,
Davis of W. Va.,	Hawley,	Morgan,	Williams,
Fair,	Jackson,	Platt,	Windom.
Farley,	Johnston.	Pugh,	

NAYS—14.

Aldrich,	Blair,	George,	Morrill,
Allison,	Chilcott.	Hale,	Rollins.
Anthony,	Conger,	Hill of Colorado,	
Bayard,	Dawes,	Hoar,	

ABSENT—23.

Brown,	Hill of Georgia,	Logan.	Saulsbury,
Butler,	Ingalls,	McMillan,	Sawyer,
Cameron of Pa.,	Jones of Florida,	Mahone,	Sherman,
Edmunds,	Jones of Nevada,	Mitchell,	Vance,
Ferry,	Kellogg,	Pendleton,	Voorhees.
Garland,	Lamar,	Plumb,	

So the amendment was agreed to.

The PRESIDING OFFICER. The amendment offered by the Senator from Florida [Mr. CALL] is next in order. It will be read.

The ACTING SECRETARY. In section 8, line 5, it is proposed to strike out, after the word "judgment," the word "but" and insert "and;" and after the word "shall," in the same line, to strike out "not;" and after the word "proceedings," in line 6, to strike out all down to and including the word "judge," in line 9, as follows: "except in capital cases, unless it is so ordered by the judge who shall allow the writ, nor after a refusal to allow the writ by one such judge shall it be allowed by another judge."

Mr. CALL. The amendment is intended to amend the section so that it will read as follows:

That a writ of error may be sued out of that court from the final judgment of a circuit or district court in any criminal case to such court of appeals within ninety days after the entry of such judgment; and such writ shall operate as a stay of proceedings.

That is the reading it is intended to give the section. It is proposed to make the writ suspend the execution of the sentence whenever taken. I think the liberty and the life of a citizen is as important, far more important, than any mere question of property. As the courts are now constituted they are absolute in criminal cases. As the bill proposes to give them power, it vests in the judge of the circuit who grants a writ of error the right to say whether the sentence shall be suspended or not. Of course in capital cases the writ operates as a suspension *per se*, but in all other cases the sentence goes on for execution.

Now, if a man has the right of appeal and is not to be concluded by one judgment, certainly that right ought to be operative absolutely. It ought to suspend the execution of the sentence. The character which these courts have under the circumstances which have existed since the war is not such that we should vest in them, without the absolute right of appeal or a writ of error, the power to punish criminally. They have been too often the instruments of mere political opinion. Without undertaking to say anything against any particular judge, I say that under the circumstances which have existed and which still exist to some extent the ends of justice are not attained by subjecting a citizen to punishment by the verdict of a partial jury and upon the opinion of a partisan judge, without the right of appeal.

It has been the case always in the history of this country that public opinion has found its way into the courts; it has been the history of all countries. I have heard a great deal said about reverence for the character of the judiciary, about respect for the judges. Well, sir, I am disposed to accord to them a reasonable degree of respect, but I do not see why we should be blind to the facts of history. I think we should guard, and guard with a great deal of care, the liberty and the lives of the people who are subject to judicial power.

I heard yesterday, on the subject of the exclusion of a judge who had sat in the court below from sitting in the court above, a great many arguments urged to the effect that the judge was selected from the best class of persons, subjected to the best influences, and was removed from the reach of the improper influences which affect men in other stations of life. My observation of judicial tribunals, my reading of history, has not led me to the conclusion that the judges are infallible or that they are beyond the reach of political or of party opinion. I am confirmed a good deal in that by the opinions of a very learned and distinguished man who sat in this Senate, and who, while differing very broadly from the opinions which I entertain in many respects, has spoken with a wisdom and a learning upon this subject that commends itself to the enlightened opinion of men everywhere. I read, sir, from Mr. Sumner's speeches the following:

For myself let me say that I hold judges, and especially the Supreme Court of the country, in much respect, but I am too familiar with the history of judicial proceedings to regard them with any superstitious reverence. Judges are but men, and in all ages have shown a full share of human frailty. Alas! alas! the worst crimes of history have been perpetrated under their sanction. The blood of martyrs and of patriots, crying from the ground, summons them to judgment. It was a judicial tribunal which condemned Socrates to drink the fatal hemlock, and which pushed the Saviour barefoot over the pavements of Jerusalem, bending beneath his cross. It was a judicial tribunal which, against the testimony and entreaties of her father, surrendered the fair Virginia as a slave, which arrested the teachings of the great apostle to the Gentiles, and sent him in bonds from Judea to Rome; which, in the name of the old religion, adjudged the saints and fathers of the Christian church to death in all its most dreadful forms, and which afterwards, in the name of the new religion, enforced the tortures of the Inquisition, amidst the shrieks and agonies of its victims, while it compelled Galileo to declare, in solemn denial of the great truth he had disclosed, that the earth did not move round the sun. It was a judicial tribunal which, in France, during the long reign of her monarchs, lent itself to be the instrument of every tyranny, as during the brief reign of terror it did not hesitate to stand forth the unpitying accessory of the unpitying guillotine.

Ay, sir, it was a judicial tribunal in England, surrounded by all the forms of law, which sanctioned every despotic caprice of Henry the Eighth, from the unjust divorce of his queen to the beheading of Sir Thomas More, which lighted the fires of persecution that glowed at Oxford and Smithfield over the cinders of Latimer, Ridley, and John Rogers; which, after elaborate argument, upheld the fatal tyranny of ship-money against the patriot resistance of Hampden; which, in defiance of justice and humanity, sent Sidney and Russell to the block; which persistently enforced the laws of conformity that our Puritan fathers persistently refused to obey; and which afterward, with Jeffries on the bench, crimsoned the pages of English history with massacre and murder—even with the blood of innocent woman. Ay, sir, and it was a judicial tribunal in our own country, surrounded by all the forms of law, which hung witches at Salem—which affirmed the constitutionality of the stamp act, while it admonished "jurors and people" to obey.—*Sumner's Speeches*, pages 405, 406.

Mr. President, I recognize in that presentation of Charles Sumner a truth applicable to the judiciary everywhere. It is not exempt from the clamors of public opinion; it is not above the reach of political and partisan opinion. It has generally been on the side of tyranny and against the liberties of the people. The great orator and statesman of Massachusetts in the line of history presented facts which the history of our own country attests. I say, then, that as legislators, and I appeal to my brethren in the Senate, we should throw around the citizen's life and his liberty in criminal proceedings the greatest protection that we can. If a writ of error or appeal be allowed, and the sentence be suspended until it is heard again and decided by another court, there is some greater security than where the opinion of a single judge and a jury can be suspended only by the consent of one other judge.

Mr. DAVIS, of Illinois. Mr. President, I regret very much that my friend from Florida [Mr. CALL] has introduced this amendment, which, if adopted, I think would be exceedingly mischievous. This bill, if it passes, produces a radical change in many things. For instance, as the law now is, a man can get but one hearing in a case that involves $5,000. By this bill he can get a hearing by an appellate tribunal, which I venture to affirm will be nearly equal to the Supreme Court in all cases, from $500 up. No person who is presented on criminal information, or indicted, can get any hearing at all in the Supreme Court now. By this bill, everybody who is convicted of a criminal offense—and that means misdemeanors as well as the higher grade of offenses—can have an appeal to this appellate court if a writ of error is allowed by the judge. The writ of error may be allowed or it may not be allowed. The case may be such as will not warrant a writ of error. It may be that there should be no stay of proceedings at all; that justice would not require that there should be a stay of proceedings; that the case itself would be of such minor importance that there ought not to be a stay of proceedings; and in a vast number of cases, as revenue cases, it might be very improper that there should be a stay of proceedings.

You must leave discretion somewhere; you must leave it with the judges to decide whether there shall be a stay of proceedings. These

judges are to be supposed to be able men. We insert in the bill the provision that the granting of a writ of error shall not *per se* operate as a stay of proceedings. It is so in every State that I have any knowledge of, it is so everywhere, that the judge who grants the writ has the discretion to say whether it shall operate as a *supersedeas* or not in a criminal case. The Judiciary Committee in its liberality says the writ "shall not operate as a stay of proceedings, except in capital cases." Of course it operates as a stay of proceedings there, unless the judge so orders. You must trust it to the judge. He has to allow the writ of error, and you must presume that he is possessed of the requisite degree of legal knowledge to decide whether the case comes within the purview of cases in which a stay of proceedings ought to be allowed.

There is another provision here about which it might be well enough to say a word:

> Nor after a refusal to allow the writ by one such judge shall it be allowed by another judge.

That was put in by the Judiciary Committee after full consideration. In the State of New York a few years ago there was a scandal in regard to the various stays of proceedings in civil cases and in criminal cases. One judge would refuse such an application, and then the applicant would go to another judge and he would grant it; so that it got to be in the time of Judge Barnard and other judges a scandal to the whole country. That has been stopped in the State of New York. We thought it proper to put this provision here as a guard and protection, although we suppose that no judge appointed under this act would do it.

I really believe that the Senate would be doing a very unwise thing to adopt the amendment proposed by the Senator from Florida.

Mr. CALL. If the Senator from Illinois had the appointment of these judges, or if he were the judge himself, I should be perfectly satisfied to leave the question in his hands; but unless we are sure that the judge to whom the application for the writ is made is a man in all respects above and beyond the reach of partisan opinion or prejudice or improper motives, and is possessed of the capacity and the ability as a jurist and a lawyer to apply the law properly, it affords little or no protection to the accused, and is in effect saying that a man convicted of crime shall have the right of hearing upon alleged errors of law provided the opinion of the first judge to whom he submits the application shall affirm that there is a matter of error of law in the record. I can see no reason pertinent to the protection of the person on trial against an oppressive use of judicial power in thus limiting and qualifying his right to revision of errors and a delay of punishment until such revision is had.

In my own observation I have known juries deliberately selected for the purpose of preventing an impartial trial. In view of the particular circumstances of this country, of the character of judiciary, which has been appointed, as we know, for political and partisan reasons, judges, some of whom have been influenced by the desire of promoting the success of their political party, the public opinion of the country being advised of that fact, to say now that in the case of a trial and of a trial for a political offense the judges selected because of their known partisanship, selected for the very reason that they have been identified with particular political views, shall be allowed the absolute power of convicting a man, depriving him of his liberty, is in my judgment a grave imputation upon the system of adjudication which is proposed.

I therefore have proposed this amendment. I have seen in my own life two boys of fourteen years of age convicted and sent to the penitentiary for an alleged conspiracy to deprive a man of civil rights secured under the Constitution of the United States, and in a case where, in the judgment of the lawyers and in my own judgment and opinion, there was abundant error in the record. I have seen in a record of that kind these children torn from their parents and sent to prison, there being no means whatever for their release except the pardoning power of the President.

I think in any case there ought to be an absolute right of appeal or writ of error, and that it should operate *per se* as a supersedeas under the circumstances which have existed throughout a large section of this country. Such a provision can do no harm at least; and I can see no reason why, under the widely extended range of Federal jurisdiction, under the unrestrained power which the laws give the Federal judges of construing the most innocent acts of life into crimes, there should not be special care to secure the right of revision and suspension of execution.

Mr. DAVIS, of Illinois. I cannot, for the life of me, see how any person living where the Senator from Florida does should not be in favor of the provision of the bill in relation to criminal matters. We cannot go further and say that every case that is tried below shall be appealed to the intermediate court, and that is really the meaning of the Senator's amendment. This proposed law must be executed through instrumentalities, and the instrumentalities are the judges.

I believe that now, seventeen years after the war, judges satisfactory to everybody can be appointed in all parts of the country. I hope so, I believe so, I trust so; but in any event we must trust to the judges or some of them. There are a supreme court judge and three circuit judges to be appointed. You must leave it to the judge to decide whether there shall be a stay of proceedings or not. Otherwise you make really a town-meeting of the criminal business, and nothing else. He must decide it; and we have left it in that way for him to say whether there shall be a stay of proceedings. In half the cases there may be no necessity for it, and to have it go up in the way proposed would fill the docket of the intermediate court, when there would be no occasion for it, for when the case got there it would be found that there was no point in the case whatever. Such a practice does not prevail in any State in this Union.

Mr. CALL. I ask the Senator from Illinois to answer me this question. Suppose that under his bill there should be a writ of error and an appeal——

Mr. DAVIS, of Illinois. There is no appeal, only a writ of error in criminal cases.

Mr. CALL. We will call it a writ of error.

Mr. DAVIS, of Illinois. There must be a writ of error.

Mr. CALL. It goes up to the appellate court, and the sentence continuing to be executed the court decides that there is error in the record and sets aside the judgment or sentence below. Why should that man have been imprisoned for that length of time under an erroneous judgment? Is it not better that the records of the court should be increased and the judges be put to some inconvenience than that innocent people convicted improperly in the court below should be confined and deprived of their liberty?

Mr. DAVIS, of Illinois. The judge who tried the case is not the person that the criminal would be supposed to apply to for a writ of error. He goes to another judge. You must suppose that that judge knows the law, and if there is any question in any human probability by which the case should be reversed or modified above, he would grant a stay of proceedings; of course he would not do so otherwise. The bill proceeds on the theory that the judges who are to be appointed will be possessed of reasonable judicial knowledge, and that they will be possessed of the common instincts by which we are all governed, to let every man accused of crime have a fair hearing. You must trust the responsibility somewhere. The judge who tried the case would probably not be the proper person to apply to for the writ of error, but there are to be five other judges of the court, and you can apply to any one of them.

Mr. CALL. This is a very serious matter; it concerns a large number of people. I do not wish to say anything invidious against the character of any particular judge, and I do not wish to be understood as alluding to the judges in my own State in my remarks; but the point in the matter is simply this: a man is on trial, and, we believe, in a great many cases is improperly convicted by judges who know they ought not to have so applied the law, and by juries who have been carefully selected for the purpose of conviction. He applies to a judge of similar political feeling, interested, as was the judge before whom he was tried, in promoting by the use of his judicial power the success of a political party—I do not care which party it is—and he refuses the application.

In some parts of this country the people have no confidence in the judicial integrity of some of the men who exercise judicial power. The honorable Senator from Illinois possesses the confidence and respect of all the people of this country. Everybody would accord to him unlimited and absolute acknowledgment of propriety of intention, of humanity, of wisdom and learning in the discharge of either judicial or political functions.

But it is not so everywhere. The public opinion of the country regards some of the judges, in whom probably the discharge of these functions will be vested, as men capable of any prostitution of judicial power. As honest men, with the best judgments that they possess, observing carefully the judicial proceedings of which the newspapers give us intelligence, the country is convinced of that fact. They believe that there are judges who would not hesitate to convict innocent men for their own purposes. Therefore in preference to having men convicted by such means held in prison until the judgment is reversed by the instrumentality which the Senator from Illinois proposes to create in this bill, why not provide that they shall not be imprisoned, that they shall not be punished until the superior court upon the writ of error has examined the proceedings. I ask the question again is it not better, if the upper court shall find there was error and set aside the judgment, that the man shall not be imprisoned and punished under an erroneous or unlawful judgment? This much at least might be conceded to the people in favor of that liberty and equality of which we hear so much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida, [Mr. CALL.]

Mr. MORGAN. I ask for the yeas and nays.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] Therefore I decline to vote.

Mr. GARLAND, (when his name was called.) On this question I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, I should vote "yea" and he would vote "nay."

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. RANSOM, (after having voted in the affirmative.) I ask leave

to withdraw my vote. I voted under a misapprehension. I am paired on this amendment with the Senator from Illinois, [Mr. LOGAN.]

Mr. ROLLINS. I am paired with the Senator from Florida [Mr. JONES] on political questions, but I suppose this is not a political question. Therefore I will vote "nay." [Mr. CALL rose.] If the Senator from Florida [Mr. CALL] thinks I am in error in the matter I will withdraw my vote.

Mr. RANSOM. I did not withdraw my vote upon the ground that this was a political question at all, for manifestly it is not.

Mr. ROLLINS. I withdraw my vote.

The result was announced—yeas 21, nays 28; as follows:

YEAS—21.

Beck,	Farley,	Jackson,	Slater,
Call,	George,	Johnston,	Vest,
Camden,	Groome,	Jonas,	Walker.
Coke,	Grover,	Maxey,	
Davis of W. Va.,	Hampton,	Morgan,	
Fair,	Harris,	Pugh,	

NAYS—28.

Aldrich,	Conger,	Hill of Colorado,	Miller of N. Y.,
Allison,	Davis of Illinois,	Hoar,	Mitchell,
Anthony,	Dawes,	Ingalls,	Morrill,
Bayard,	Frye,	Lapham,	Platt,
Blair,	Hale,	McDill,	Plumb,
Cameron of Wis.,	Harrison,	McMillan,	Sewell,
Chilcott,	Hawley,	Miller of Cal.,	Windom.

ABSENT—27.

Brown,	Gorman,	McPherson,	Sawyer,
Butler,	Hill of Georgia,	Mahone,	Sherman,
Cameron of Pa.,	Jones of Florida,	Pendleton,	Vance,
Cockrell,	Jones of Nevada,	Ransom,	Van Wyck,
Edmunds,	Kellogg,	Rollins,	Voorhees,
Ferry,	Lamar,	Saulsbury,	Williams.
Garland,	Logan,	Saunders,	

So the amendment was rejected.

Mr. MORGAN. In section 3, line 11, before the word "court," I move to insert the word "supreme;" after the word "court," to strike out the words "at each term thereof;" before the word "succeeding," in the same line, to insert the word "next;" and after the word "term" to insert "of said court of appeals;" so as to read:

By an order of the Supreme Court to serve for the next succeeding term of said court of appeals.

Striking out the words following:

The designation to be made so far as practicable in rotation.

The purpose of the amendment is to have the district judges who may comprise in part this court of appeals selected by the Supreme Court of the United States instead of by the court of appeals itself, and also to strike out that feature of the bill which provides for the rotation as far as may be practicable of the different district judges upon this appellate court, my reason being that it is our duty to provide that the best talent, the largest experience, and highest character shall be selected out of the district judges for the court of appeals, and that they shall not be compelled or permitted to rotate upon the bench.

There are certain judges of the district court of the United States in the different parts of this country who are known to the Supreme Court of the United States as able jurists, men who have high character and have established it by a series of years of able adjudications. It is our duty to supply the very best material we can get upon this court of appeals, and the Supreme Court being the tribunal which best understands the qualifications of the district judges, I assume it to be the best tribunal to make the selection, and a far better tribunal than the court of appeals itself.

I further contend that it would be an injury rather than a benefit to compel a rotation in the selection of the district judges. I want the authority for presiding over this court to come from the highest source that we can get next to the President. I want it to be understood by the country, by the judge who is elevated to this position upon the court of appeals, that it is done in consideration of his high character and great ability. I do not wish it to be understood that merely because a man holds a commission on a district bench, therefore he is in rotation entitled to go upon the court of appeals, and preside, it may be, for a single term.

The qualifications of a judge of a court of appeals must necessarily be higher than the qualifications of a judge merely of a court of *nisi prius*, and the experience which two district judges would reach upon the bench of the court of appeals after several years of comparison of opinions and investigation of causes in connection with the associate justice of the Supreme Court and the three circuit judges who would with him comprise the court, would be very valuable to him and to the country.

It is not the mere fact that we want to get a membership of the court—somebody to make a quorum. The selection should be made only with reference to the man's abilities, and he should be allowed to be kept upon that bench a sufficient length of time to accomplish himself as far as possible in all that is necessary for the discharge of the high duties confided to him.

It must be remembered that we are taking from the Supreme Court of the United States a large part of its existing jurisdiction and conferring it upon these nine courts of Federal appeals. We therefore ought to strive to get upon these nine courts the very best material that we can find in the whole judicial establishment of the country. The Supreme Court stands far above and independent of the court of appeals and of the district and circuit judges. It would be likely to make a selection more with reference to the accomplishments of the judges and their fitness for the place than the court of appeals itself would be.

I think it is a much safer plan to adopt the amendment I have proposed to the bill than to allow the court of appeals to fill up its numbers by appointment, and especially under the system of rotation. We have just voted down an amendment requiring the judges of the circuit court to rotate. I do not know any good reason for voting down that amendment, unless it may be that some parts of the country are not willing to take the judges that have been imposed upon some other parts of the country. I have frequently heard matters of this kind discussed in regard to my own State, where measures were up for the purpose of compelling the judges to rotate upon the circuits, and the protest was usually entered, "You have got some very bad judges in some of the circuits in Alabama, and we do not wish to spread those around over the community at large; confine them to the places for which they have been elected, make your people responsible at the ballot-box for the character of the men they elect, and let them have those they have chosen." We are not quite within the reach of any relief on this question in many parts of the Southern States. There are some judges in Southern States who in Northern States would not be allowed to preside in a court, particularly if they behaved there as they do with us. I do not know but that the old English practice of dragging them by the heels would be applied if they should undertake it.

Such men, as I argued the other day, are not fit to go upon the appellate court bench; they were never selected with reference to their fitness for such high offices, and when we allow the court, as it will do in the practice of a certain comity, to go around in a circle, to take judge after judge, and put these men on for a single term as a mere compliment to them, we shall put the interests of the people and the right administration of our judicial system in jeopardy by such a course as that. I contend that the law should be so framed as that every time we shall get the best material upon it, and we ought to have the selection made by that court which stands above all other courts in the country.

Mr. INGALLS. Mr. President, this bill is not designed to correct temporary evils in the administration of justice of which any portion of the country may justly or unjustly complain, but to establish as far as possible an additional or supplemental system to that already in force for the purpose of correcting difficulties of which all complain.

It is obvious that the present courts are totally inadequate to perform the duties that devolve upon them. While I sympathize with the sentiments expressed by the Senator from Alabama in regard to the propriety of correcting evils in certain localities if they are admitted to exist, yet I respectfully submit to him that arguments addressed to this bill, which is intended to apply to the whole country and for all time, ought not to be controlled by mere temporary and local considerations.

The design is to make this court of appeals consist of the justice of the Supreme Court assigned to the circuit and the circuit judges thereof, and two of the district judges to be designated by an order of the court at each term thereof to hold for the succeeding term; and because there have been wrongs committeed in the administration of justice in certain localities, the Senator from Alabama insists that the whole scope of the bill shall be changed, and that the definitions which it contains shall be so modified as to affect different sections of the country injuriously where no such grounds of complaint obtain.

Of course the Supreme Court is the highest tribunal recognized by the statutes and by the Constitution, but in the attempt that is made in this bill to localize the administration of justice, to offer tribunals where cases can be decided in a forum near to the person and near to the acts about which litigation is invoked, where is the justice of referring the constitution of this court of appeals back to the Supreme Court sitting here in Washington?

I fail to see any strength in the argument advanced by the Senator from Alabama as bearing upon this question. The judges of the court, as provided in the bill, are the proper persons to designate the district judges who shall sit for the purpose of making up the court of appeals before whom these cases are to come. The objection made by the Senator against the practice of rotation appears to me to be without foundation, because the purpose is to so distribute the labors that will fall upon the court as to make the whole system uniform and compel all the judges, who are assumed to be competent men, and just men, and patriotic men, to bear their share of the burdens that are imposed by the administration of justice.

I submit to the Senator, admitting all he says to be true about the wrongs that the people of the South or of certain portions of the South have suffered, why should the entire scheme of the bill, which is intended to apply to the whole country and for all time to come, be bent and distorted and twisted and warped out of shape to enable people of a certain locality to escape from evils of which they complain but which we may hope soon hereafter will be remedied by the ordinary methods of justice?

Mr. BUTLER. May I ask the Senator a question before he sits down?

Mr. INGALLS. Yes, sir.

Mr. BUTLER. I ask the Senator if under this bill a district judge, we will say for the district of Illinois, may not be transferred to a district in some other State?

Mr. INGALLS. Of course a district judge from one State can be transferred to another State in the same circuit.

Mr. BUTLER. That is the point of my inquiry.

Mr. INGALLS. That is undoubtedly true.

Mr. BUTLER. Therefore he may go from one State to another?

Mr. INGALLS. Although it is not defined as distinctly as I should like to see it in the bill, the purpose of the framers of the bill was to limit the selection of the district judges to the circuit where the court of appeals sits; but the circuit embracing more than one State, of course the circuit judges can call upon the district judges of different States in the same circuit.

Mr. BUTLER. Therefore a district judge in the State of Virginia, for instance, may be sent to North Carolina, with the laws of which State he is not at all familiar?

Mr. INGALLS. Supposing North Carolina and Virginia are, as I suppose them to be, in the same circuit.

Mr. BUTLER. One of the arguments presented against my amendment yesterday, providing for rotation in the circuit judges, was that they were necessarily local, and that therefore a circuit judge familiarizing himself with the laws of his circuit would not be at home going into some other circuit embracing different States. Now, I understand the Senator to say that a district judge hitherto confined to one State, and having familiarized himself with the laws of that State, may be transferred to an entirely different State.

Mr. DAVIS, of Illinois. Oh, no; that was not the purpose of the bill at all.

Mr. BUTLER. Does it not have that effect? The Senator from Kansas, I understand, says that is the effect.

Mr. DAVIS, of Illinois. In the same circuit.

Mr. INGALLS. That is exactly what I said.

Mr. BUTLER. Precisely; but the circuits are composed of several States, and now Senators are applying the very same doctrine to the district judges which they denied yesterday as applicable to the circuit judges. If the reason prevails for the transfer of district judges from one State to another, so much the stronger does it exist when it comes to the circuit judges.

Mr. McMILLAN. The argument of the Senator from South Carolina in regard to circuit judges, under his amendment yesterday, embraced the whole United States, and the circuit judges would traverse every circuit in the country. The district judges are those which are embraced within the circuit. They cannot go out of it. That principle is as nearly local as can be enforced in a general bill of this character.

Mr. BUTLER. Then I understand that, a circuit being composed of five or six States, a district judge may go into each one of those States?

Mr. INGALLS. That is evidently the effect of the bill, and that is the law now.

Mr. DAVIS, of Illinois. That is the law now.

Mr. BUTLER. A district judge may be transferred from one State to another?

Mr. DAVIS, of Illinois. Yes, sir; in his circuit. That is the law now, and has been for twenty years.

Mr. MORGAN. The Senator from Kansas took an illustration that I used for the purpose of proving my argument, and he made the argument to rest entirely in the illustration. My point is that the judges of the district courts to be selected on the court of appeals ought to be selected with reference to the permanency of the position, first, of course, for their talents, abilities, character, and long service on the bench, and then that they should not be selected to rotate as far as may be practicable according to the language of this bill. I do not understand that on a high court of appeals like this we want a judge to come directly from the circuit and sit one term and at the next term have another judge in rotation. We should be apt to get an admixture in that way of a bad element if there should be any, but would not be likely to obtain the good element so as to make use of it in the composition of the court of appeals. It certainly is very much better that we should have the best judges selected, and that after they have been selected the Supreme Court should keep them in the position as long as they think they are competent and better fitted for that station than any one else.

Why should the Supreme Court be resorted to for the selection of these judges? Because it is a court which stands apart from the intermediate court of appeals. The Supreme Court owes no comity to intermediate courts of appeal or to any member upon the bench particularly, and the judges of the Supreme Court would be very apt to select those men from the district bench who would make the best officers to preside in the intermediate court of appeal.

I submit that my proposition does not twist the bill out of shape at all; it does not alter the general scheme of the bill; it is the amendment of one solitary item in it. I wish that the Supreme Court of the United States shall select these two district judges instead of the court of intermediate appeals, believing that they will do better for the country than the court of intermediate appeals would do, being less under the constraint of courtesy or comity, and that in all respects we should have a much better court of appeals than if we intrusted the intermediate court to select its own membership.

I do not much believe in giving the power to any tribunal of that kind to fill up its membership by selection. I think there is some danger in allowing a thing of that sort to take place. A judge of the circuit court, knowing the opinions of a judge of the district court upon certain questions where he has committed himself, and where he may have pride of opinion, wants to have that district judge selected to go upon the appellate bench, and it is easy enough for him to manage it; and it would be done in some instances. Whether it should ever be done at all, this is a proper guard to place here in the bill. Remove the temptation, and let that court which has the final arbitrament of all these cases, when they come within the range of its jurisdiction, and which stands supreme above all the other courts of the country, designate the men from time to time that, in the opinion of that court, would be competent men to preside over the intermediate court of appeals.

It would be a great compliment to a judge of the district court to be selected by the Supreme Court of the United States for such work as this, and he would strive to prove himself honorably and rightly entitled to the distinction; but if it is to be a matter of rotation, and a judge is to go upon the bench according to fixed principles of law, and he must go whether qualified or not, "as far as practicable," says the bill, "in rotation," then you compel us to take judges sometimes that are bad men, and we must necessarily take them when we know them to be such. The court has no power to exclude them. There is a little too much Democracy in that provision even to suit my taste. I claim to be a pretty fair Democrat, but I am not in favor of running the principles of the Democratic party into the judiciary except upon constitutional questions. It is not likely that we shall have a very large element out of these eighteen judges appointed from the Democratic party. I venture that the honorable Senator from Illinois will not now undertake to say that he believes one-half of the eighteen judges will be selected from the Democratic party.

Mr. DAVIS, of Illinois. If I were the appointing power, I would appoint one-half.

Mr. MORGAN. It has been the misfortune of this country for the last fifteen or twenty years that the honorable Senator from Illinois has not been the appointing power.

Mr. DAVIS, of Illinois. I have great faith that the judges who are to be appointed will prove satisfactory to the Senator from Alabama.

Mr. MORGAN. I have no doubt the strength of the honorable Senator's faith is very great, but it is not of that sort to remove mountains, and these are mountains fastened upon us which we cannot remove. I was in hope when I put the question to the honorable Senator that he would be able to say right out that he knew there would be something like a division of these officers between the different parties in this country.

Mr. BUTLER. I think it quite likely that if we were to postpone action upon this bill for three or four years perhaps we might have the pleasure of having the appointing power in the person of the distinguished Senator from Illinois.

Mr. MORGAN. In such a case as that we should have it as nearly equally divided as possible.

Mr. DAVIS, of Illinois. The Senator bows his acknowledgments, but does not accept the compliment.

Mr. MORGAN. I have no doubt the Senator from Illinois will freely say, however, that he does favor the selection of these eighteen judges if we pass the bill through both Houses, with some reference to a division between parties.

Mr. DAVIS, of Illinois. I have just stated that if I were the appointing power I would divide them. What more would you have me state?

Mr. MORGAN. You put it upon a condition which in your own opinion seemed impossible, and I thought I would have the remark without any condition at all.

Mr. DAVIS, of Illinois. I have given you that; but I do not want this bill ruined by amendments.

Mr. MORGAN. This bill can be very much improved by amendment, if it did come from the Judiciary Committee, and the lawyers of this country will understand that after they have read it with care. A man, I care not how great he is, is always the poorest judge of his own children, and it will be found upon close, critical analysis of this bill that there are some very severe clauses in it which need amendment. I do not wish to destroy the bill. I want to vote for a substitute for it which I think is a better plan. I announced the other day that I was not opposed to the bill because it created a court of intermediate appeals. When the Congress of the United States shall pass beyond to the proposition of reducing the jurisdiction of the Federal courts, which I think is the very proposition we ought to address our attention to now, and comes to consider the means by which justice can be more conveniently and speedily administered, I would take the Senator's bill in the absence of a better provision; but this bill has in my opinion a dangerous provision in it, the one

to which I have addressed my amendment, and the words ought to be stricken out as I have proposed. You compel us by law to take men upon the appellate bench merely because they are on the district bench, without any reference to their qualifications for presiding in the appellate court, for you say that they must rotate as far as practicable. I wish to strike that out. If the court of intermediate appeals must make a selection of the district judges who are to preside in that court, let it be done without the compulsory arrangement that it shall be by rotation. Let that court have some option of selecting the men who are to go upon the court of appeals.

I think I have set before the Senate sufficient reasons why some men in this country ought not to be intrusted with power like this. I cannot vote for any bill which contains any increase of the power of those particular men. The bill, as you have got it, compels me, if I shall vote for it, to increase the power of men who I know are unworthy and incompetent for this place.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama, [Mr. MORGAN.]

The amendment was rejected.

Mr. DAVIS, of Illinois. If there be no further amendment to be proposed to the text of the bill, the next amendment is the substitute proposed by the Senator from Louisiana, [Mr. JONAS.]

The PRESIDING OFFICER. The Senator from Louisiana [Mr. JONAS] moves to strike out all after the enacting clause of the bill and to insert what will be read at the desk.

Mr. DAVIS, of Illinois. It was read yesterday.

The PRESIDING OFFICER. The proposed amendment was read yesterday and will not be read again unless desired.

Mr. JONAS. Mr. President——

Mr. GARLAND. I wish to make a suggestion to the Senator from Louisiana before he proceeds with his remarks. I am in favor of the amendment offered by the Senator from Louisiana, as is known by all the members of the Judiciary Committee, and I have been struggling ever since I have been a member of that committee for something to that effect. But the Senator from Louisiana will encounter one trouble: he offers his amendment as a substitute for the bill. His proposition looks to defining and withdrawing jurisdiction. The most of the bill now under consideration is a bill organizing tribunals. If we strike out all the bill and enact his amendment we shall have no courts organized, but shall simply limit and modify the present jurisdiction. I suggest to the Senator instead of offering his amendment as a substitute, that he offer it as a separate section, and when that is done, at the proper time I shall make some remarks upon it.

Mr. JONAS. I have no objection to the proposition.

Mr. President, the amendment which I have offered (as the Senator from Arkansas has suggested) is for the purpose of diminishing the jurisdiction of the circuit courts, and necessarily of the Supreme Court, in case of appeal, which enlarged jurisdiction, I think, has brought the present enormous glut of business upon the Federal courts which the judges seem unable to grapple with. The proper course is to go to the root of the evil, and to ascertain whether the jurisdiction of the United States courts has been providently increased, whether the amendments which have been enacted in the last few years, and which have increased their business to such enormous proportions, were wisely adopted, and whether it is not better for us to go back in our work of legislation and to withdraw a portion of the jurisdiction which has been conferred upon the circuit courts by the amendments to which I wish to call the attention of the Senate.

The first great opening of the flood-gates was by the passage of the act of March 3, 1875, the first section of which I propose to amend. The section of the judiciary act, amended by that act, and which, although no longer the law, is retained as section 629 of the Revised Statutes, reads:

> The circuit courts shall have original jurisdiction as follows:
> First. Of all suits of a civil nature at common law or in equity, where the matter in dispute, exclusive of costs, exceeds the sum or value of $500, and an alien is a party, or the suit is between a citizen of the State where it is brought and a citizen of another State: *Provided*, That no circuit court shall have cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents if no assignment had been made, except in cases of foreign bills of exchange.

The act of 1875, to which I have referred, re-enacted this section of the judiciary act, (section 629, Revised Statutes,) with this amendment:

> Nor shall any circuit or district court have cognizance of any suit founded on contract in favor of an assignee unless a suit might have been prosecuted in such court to recover thereon if no assignment had been made, except in cases of promissory notes negotiable by the law merchant and bills of exchange.

Thus directly changing the exception contained in the original act, and admitting the assignee or the payee of a promissory note to sue in a circuit court, whether the original payee could have brought his suit there or not. The result of this was to cause a large majority of suits upon commercial paper to be brought in the United States courts, which formerly had jurisdiction of but a very limited number of them.

Under the former law, if the payee of a promissory note or the drawee of a bill of exchange was a citizen of the same State as the maker or drawer of that note or bill of exchange he could not sue in the United States courts necessarily, neither could the assignee holding by his indorsement. Consequently, until the passage of this act in 1875 but a very limited number of promissory notes or bills of exchange found their way into suit in the United States courts, but after the passage of that act the indorsee of a promissory note could sue in a United States court if he was a citizen of a different State from the maker or indorser of the note, whether the original payee or indorsee could bring suit there or not.

The result of this change has been to increase the jurisdiction of the United States courts in a manifold degree. It has been the means not only of adding an immense amount of legitimate and proper jurisdiction to the United States courts under the law as amended, but it has also been the means of perpetrating legal frauds on the jurisdiction of United States courts to an enormous extent, as I will proceed to show.

Shortly before the passage of this act the Supreme Court decided that bonds payable to order were negotiable instruments. Therefore when this amendment was made all bonds falling due which had been transferred by indorsement could be sued upon in the United States courts, although the original parties to whom they had been issued could not have brought suit in that forum. It followed that parties who held bonds or promissory notes who were citizens of the same State as the payees of those instruments, and who held them by indorsement, if unable themselves to sue in a United States court passed them into the hands of other parties who could bring suit in those courts. The result has been to enlarge what was intended to be the legitimate jurisdiction of the circuit courts. I do not believe that it was ever the intention of Congress to so enlarge the jurisdiction as to permit anybody but the legitimate holder of the note by indorsement to bring suit in a United States court, yet the result has been that the holder of the note, if unable to sue in a United States court, has put it into the hands of somebody who could sue in that court, and the question of the right or title of the holder is not permitted to be inquired into.

Consequently, the creditor holding the note of a party living in the country, and who does not desire to put that note in suit where the debtor lives, which is an inconvenient locality, a different domicile from his own, transfers it to some non-resident party for suit in the Federal courts. For instance, a creditor residing in New Orleans, who holds the promissory note of a party residing in Shreveport, in the same State, places his note in the hands of a merchant or friend residing in New York, and the suit, instead of being instituted in the parish in which the city of Shreveport is located, (where the defendant should have a right to defend his case in his own domicile, before his own court, and before his own jury,) by this simulation will be brought in the circuit court in the city of New Orleans, three hundred miles distant from his home, and he will be required to defend it there, in a different jurisdiction, where a different system of practice prevails, before courts and juries which are not his own, and in a manner entirely different from that which was contemplated at the time the contract was made.

I know in my own practice, and I presume every Senator here knows, at least those who have practiced law in the South, that this proceeding is largely resorted to, and choses in action of this kind are put out of the hands of their holders and real owners in order that jurisdiction may be given to the United States court, it being a more convenient forum, at least for a creditor.

In addition to the inconvenience of locality, in addition to the fact that the debtor may be brought into a court for trial two, three, four, or five hundred miles from his domicile, the rules of practice, the rules governing execution, the modes of trial in the United States courts, may be entirely different from those prevailing in the State courts of the debtor's residence.

I do not know how it may be in other States, but in the courts of my own promissory notes are not tried by a jury unless the plea of *non est factum* is entered. That is the only question which can be inquired into by a jury in a suit upon a promissory note; but in the United States courts all cases must be tried by jury, unless the jury is expressly waived. In my State the right of appeal exists where the amount involved is over $1,000.

In a United States court the party cast cannot appeal under the present law unless the amount involved is over $5,000, and if we pass this bill unless the amount is over $10,000. Consequently either by the effect of this legislation, or by the frauds and simulations which may be perpetrated under it, debtors residing in the same State as their creditors may be deprived of the right to be sued before the courts of their domicile, may be deprived of the right to have their cases tried according to the laws of their State, and may be deprived of the right of appeal which is given to them by the laws of their State, all of which rights may have entered into their consideration at the time when they made the contract which forms the subject of litigation.

When you add to this the fact that bonds are now considered negotiable instruments, you find that every city, that every county, and every railroad company with overdue bonds are liable to the suit of their creditors who are citizens of the same State in the Federal courts. True, their contracts were made with bankers or others residing in the same State, and who could not sue upon them except

in the courts of the State; but they have only to pass those bonds, as they do in almost every case, into the hands of bankers or brokers residing in New York or other money capitals of the country, and suits are invariably brought upon them in the United States courts, thus depriving debtors of the benefit of the local jurisdiction in which they made their contracts, thus depriving them of the right of appeal in many cases, and thus changing the whole intention of the contract at the time it was made and entered into, besides adding enormously to the volume of litigation in the circuit courts and necessarily in the Supreme Court of the United States by way of appeal.

I ask why should there be this distinction made between promissory notes and bills of exchange and other choses in action? Is there any reason why bills of exchange and promissory notes should be favored over other obligations? If I make a contract with a citizen of Louisiana, and I default in my contract, if the instrument is simply assignable, the assignee can only sue me in the courts of the State. If the contract is evidenced by a negotiable note, why should the holder have a greater right?

Why, let me ask, was this amendment introduced in the act of 1875, which opened the flood-gates of litigation in the courts of the United States to suits upon promissory notes, bonds, and bills of exchange? It certainly was and is not for the benefit of the debtor class, who constitute the largest portion of the people. There certainly exists no reason of public policy why the holders of promissory notes and bills of exchange, who hold a far higher order of security in case of litigation than a simple, especially a verbal contract, should be so favored, or why they should be permitted to bring their suits in the courts of the United States, while the holders of all other choses in action are left to pursue their remedy in the State courts.

It has fallen within my own experience since the passage of that act to see jurisdiction of the United States courts sought and obtained upon many occasions under the most flimsy pretenses. A man residing in New Orleans holds a promissory note made by a citizen of New Orleans. He is unwilling to go into the State courts. The amount involved may be under $5,000. He wants to avoid an appeal to the State supreme court. Therefore, and it has happened in innumerable cases, he transfers his domicile. Still residing in New Orleans, still carrying on his business, still occupying his home there, it still being his residence for all purposes, he goes to one of the watering-places across the lake in the State of Mississippi, spends two or three weeks there, buys himself a fishing cabin or locates at a boarding-house, and comes back and styles himself a citizen of Mississippi, and brings a suit upon the note in the Federal court. Such cases have happened repeatedly in my practice, and when a denial is made of his citizenship of course he swears it through, and upon the flimsiest pretenses jurisdiction is maintained by the court. I have never seen such a claim of citizenship set aside; it is in every case maintained.

I do not know how it is elsewhere, but the United States courts in my State never relax their grip upon jurisdiction when they once get hold of it, or when a suit has been once begun. Thus with this nominal citizenship he obtains a judgment for three or four thousand dollars in a court of the United States, which the defendant cannot appeal from; but if the suit had been brought in the courts of the State it could have been appealed to the supreme court of the State if the amount involved was over $1,000. This gross injustice is of constant occurrence, and is the fruit of the law which I desire to amend.

In respect to political corporations, especially the city of New Orleans, I wish to show the damage and great injustice that is effected by this enlargement of jurisdiction. The law of the State of Louisiana provides that no execution shall issue against the city of New Orleans. It has been the law for a long time. It antedates probably any of the obligations of the city of New Orleans, and was known to all parties who took those obligations or made contracts with her. Another plan of settlement is provided for by law. When judgments are obtained against the city of New Orleans they must be registered with the comptroller of the city and placed upon the budget of expenditures for the succeeding year, to be provided for by taxation. This rule is altogether disregarded in the circuit courts of the United States in New Orleans, although it is just as much the law as any portion of the Revised Statutes, and just as much the law of the United States courts as it is the law of the State courts, because section 916 of the Revised Statutes provides that—

> The party recovering a judgment in any common-law cause in any circuit or district court shall be entitled to similar remedies upon the same, by execution or otherwise to reach the property of the judgment debtor, as are now provided in like causes by the laws of the State in which such court is held, or by any such laws hereafter enacted which may be adopted by general rules of such circuit or district court; and such courts may, from time to time, by general rules, adopt such State laws as may hereafter be in force in such State in relation to remedies upon judgments, as aforesaid, by execution or otherwise.

This act, originally of June, 1872, was re-enacted in 1875. At the time it became the law of the United States it found the State law prevailing in Louisiana which exempted the city of New Orleans from execution, and yet the United States circuit courts treat this State law as a dead-letter, notwithstanding that it has been repeatedly brought to their attention and repeatedly plead in efforts to restrain executions against the city of New Orleans, from which unfortunately they have never been able to appeal to the Supreme Court of the United States. It is treated, I say, as a dead-letter.

Therefore, if a judgment is rendered against the city of New Orleans in the State courts it cannot be executed, but must be settled in the manner provided by law; but if a judgment is rendered in the United States circuit court on precisely a similar obligation against the city of New Orleans the court proceeds to execute it first by permitting an execution to issue which may be levied upon any property of the city of New Orleans when it can be found, and if none can be found by issuing a *mandamus* to compel the levy of a special tax for the purpose of paying the judgment. That is a matter of every-day process. Therefore, these judgments against the city of New Orleans are obtained on bonds by parties residing in the city of New Orleans. Parties really citizens of the city of New Orleans, parties who a few years ago when they took their obligations could not have sued the city of New Orleans except in the courts of the State of Louisiana, because there was no jurisdiction given on the bonds or promissory notes which they held, these parties by simply transferring their choses in action into the hands of other parties living in New York, Philadelphia, Boston, or Cincinnati, or by simply pretending to transfer their citizenship to some other State, even if but fifty or but seventy-five miles away, acquire the right to go into the United States courts, obtain judgments, and execute them against the city of New Orleans in the face of laws which exist on the statute-books of that State for the protection of that city from execution.

These are things I speak of from my own knowledge, because, having been attorney for the city of New Orleans for several years before I came to the Senate, I am familiar with all these proceedings, and have in vain endeavored to stop their consummation in courts of justice.

Again, by a provision of the charter of the city of New Orleans, which also antedates nearly every contract which she has in existence, or on which she has defaulted, the city is relieved from the obligation of giving security in any legal proceeding. She can appeal to the supreme court of the State without giving bond. Therefore, in all cases in which the city of New Orleans desires to go to the supreme court, she takes an appeal without giving bond, it operating as a supersedeas. If the city of New Orleans is sued by her own citizens in the courts of the State, she can carry the suit to the higher courts of the State without giving bond, but being sued in this manner, either by the transfer of these negotiable notes or bonds to parties living outside of the city, or by the simulated acts of her own citizens, when judgment is rendered against her in the circuit court, she is debarred from going to the Supreme Court, being unable, like most insolvent cities, to give that good and sufficient security which would be required to obtain a supersedeas on either an appeal or writ of error to the Supreme Court of the United States.

Therefore these acts of injustice result to the debtor class, whether individuals or corporations residing in my State, and I presume the same is the case in other States, from the passage of this little amendment, which opened the flood-gates of litigation, which overwhelmed the circuit courts with a new jurisdiction, and which in my opinion has been perverted far beyond the intent of the original legislation.

There is another and large number of cases which even under this legislation could not go to the courts of the United States. It was found necessary by litigants who held obligations that they wished to carry to that court to devise some other scheme or plan by which jurisdiction should be acquired and their causes transferred, and that was found in the act to amend an act entitled "An act for the removal of causes in certain cases from State courts," approved July 27, 1866, and the second section of the substitute which I have presented provides for its repeal. That act provides:

> That where a suit is now pending, or may hereafter be brought in any State court, in which there is controversy between a citizen of the State in which the suit is brought and a citizen of another State, and the matter in dispute exceeds the sum of $500, exclusive of costs, such citizen of another State, whether he be plaintiff or defendant, if he will make and file in such State court an affidavit stating that he has reason to and does believe that, from prejudice or local influence, he will not be able to obtain justice in such State court, may, at any time before the final hearing or trial of the suit, file a petition in such State court for the removal of the suit into the next circuit court of the United States to be held in the district where the suit is pending, and offer good and sufficient surety for his entering in such court, on the first day of its session, copies of all process, pleadings, depositions, testimony, and other proceedings in said suit, and doing such other appropriate acts as, by the act to which this act is amendatory, are required to be done upon the removal of a suit into the United States court; and it shall be, thereupon, the duty of the State court to accept the surety and proceed no further in the suit; and the said copies being entered as aforesaid in such court of the United States, the suit shall there proceed in the same manner as if it had been brought there by original process; and all the provisions of the act to which this act is amendatory respecting any bail, attachment, injunction, or other restraining process, and respecting any bond of indemnity, or other obligation given upon the issuing or granting of any attachment, injunction, or other restraining process, shall apply with like force and effect in all respects to similar matters, process, or things in the suits for the removal of which this act provides.

This act passed in 1866 was doubtless in some sense a war measure or a reconstruction measure. A great many persons from the North were making their homes in the South, engaged in planting and in other occupations, and it perhaps was feared that there might be some prejudices growing out of the war which might result in a dis-

crimination against these parties in matters pending in the courts of the State when under the control of the people of the State. It has no reference to proceedings under the civil-rights bill, because that was provided for in a subsequent statute, which still remains on the statute-book, and to which I do not propose to refer. But what has been the effect of this enactment? I have never known, at least in the State in which I reside, of a single case being removed from the State court to a Federal court under the provisions of this act because truthfully of local prejudices existing in a community within which the suit was brought against either party, plaintiff or defendant, but I have known repeated instances of transfers of suits under color of this law which were a complete fraud upon its intentions and a fraud upon the jurisdiction conferred by the statute. That is another reason why the dockets of the Supreme Court are so greatly overladen with business.

Before the passage of the act of 1875, which permitted the holders of negotiable paper to bring suit in a United States court, whether the original assignee or payee could have done so or not, it was found necessary for the holders of bonds and obligations falling due to institute suit, and in many cases which came under my supervision, these creditors being citizens probably of some State in the North, holding obligations which were payable to the order of a party residing in the same State as the payee, holding them in many instances by a simulated title, holding them merely for purposes of litigation and in order to bring suit in the United States court, their first process was to institute suit in the courts of the State, because, holding under assignment, the United States court had no jurisdiction. They would bring the suit in the court of the State, and before an answer was filed, before the defendant had entered any appearance, they would make an affidavit and file the bond required by this act and move the case to the courts of the United States on the ground that through local influence or prejudice they could not obtain justice in the courts of the State. This was done while the obligations upon which suit was brought were actually held by fellow-citizens of the payees, and the makers of the obligations.

This was done by parties bringing suit against whom no local prejudice could possibly exist, men who were wholly unknown in the community where suits were brought. It was done when the obligation on which they sued was not such as to create any prejudice, when there was no feeling against the enforcement of the obligation. It was done simply for the purpose of avoiding the statute and of getting a case into the United States courts, which had no original jurisdiction of the subject-matter. This was done upon promissory notes; it was done upon bonds; and a large number of the bond cases which came from the South, and which have been recently passed upon by the Supreme Court of the United States, came into the Federal courts and were originally tried under transfers effected through a perversion of the provisions of this act.

Why, Mr. President, it became customary for corporations residing in the city of New Orleans who desired to use the vehicle of the courts of the United States, in order to sue upon their choses in action, to have at hand some party or some stockholder who claimed to be a citizen of another State, and who could carry their suits into the courts of the United States by an averment that, through local influence and prejudice, he, as an individual or corporator or party holding stock in a corporation, could not get justice in the very community where his corporation was domiciled, and from whose people it derived its patronage and support; and in every case when the verity of these affidavits was tested, when the defendant who came to file his answer in the State court, and discovered for the first time that the cause had been removed by an affidavit setting forth that through local prejudice justice could not be obtained in that court, when the suit was upon a promissory note, or when the suit was upon a bond, and when his answer was a simple general denial or a plea of want of consideration, when he sought to have that case restored to the State court in which it was originally brought, and to controvert the statements in the affidavit, and to assert that there was no local prejudice to prevent the State court from rendering a just judgment, in every case, I say, which has come under my observation, the circuit courts of the United States have refused to enter into the question at all, and have considered the affidavit conclusive and sustained the jurisdiction of the Federal courts.

It has become, at least where I live, a common thing for parties who do a large business in bills of exchange, in bonds, in promissory notes, and negotiable instruments, either themselves to keep or to have some person or agent to whom these can be transferred, who, while living in our midst, while exercising all the privileges of citizenship, except perhaps that of the elective franchise—because the right to sue is considered by such individuals as a more valuable franchise than the right to vote—in every other respect being citizens of the community in which they have resided for years, they retain this false or foreign citizenship for the purpose of suing in the United States courts. The result is this immense flood of litigation, so that from this and the other cause to which I have alluded, from the city in which I reside, the number of cases that come to the Supreme Court of the United States are probably twenty times as many as they were before the passage of these acts, and the circuit court located in that State almost monopolizes its litigation. It is now a question how lawyers are to live who reside one hundred miles from the location of a United States court. Litigation tends so to the circuit court, the means are so many and are made such wide use of to enter the jurisdiction of that court, they are so used by the creditor class for the purpose of securing judgments upon their obligations, that, as I said before, lawyers residing one hundred miles from the city in which a Federal court is located find themselves starving for want of practice and the State courts are almost absolutely deserted.

There is a third cause for this immense increase of litigation, and I have included it in one of the amendments which I have offered, and that is the power to issue writs of mandamus by the circuit courts of the United States. One would be struck, if he examined the reports of the Supreme Court of the United States for the last twenty years, with the remarkable number of *mandamus* cases which have been heard by that court, with the immense proportion which they form of the whole number of cases decided every year in comparison with the very small and limited number which ever reached that court before the year 1860. The jurisdiction of the circuit court to issue writs of *mandamus* is found, if found at all, in section 716 of the Revised Statutes, being section 14 of the judiciary act of the 24th of September, 1789, which provides that—

> The Supreme Court and the circuit and district courts shall have power to issue writs of *scire facias*. They shall also have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law.

Although I am concluded by the established jurisprudence of the Supreme Court, still I cannot help thinking it was never intended by this section to confer power to grant writs of *mandamus* on the circuit courts. I think so because the same judiciary act in express terms (re-enacted in section 638 of the Revised Statutes) granted to the Supreme Court the right to issue writs of *mandamus* in certain cases, because in section 3562 of the Revised Statutes a special jurisdiction is granted to the circuit courts to issue writs of *mandamus* in other cases, because I find by the act of February 27, 1875, the circuit courts are authorized to issue writs of *mandamus* to officers in other cases; and I find nowhere else, in a careful examination of the statutes of the United States—and I do not think it will be found anywhere else, except in this section 716—any power to the courts of the United States to issue writs of *mandamus;* and I think if it had been intended to confer that power by section 716 it would not have been specially conferred on the Supreme Court, (because this section applies to the Supreme Court as well as to circuit courts,) by another clause of the same act, and Congress would not have felt called upon at different times since to grant power to issue writs of *mandamus* in special cases.

I admit that the established jurisprudence of the Supreme Court of the United States has settled that they not only have the right, (if established jurisprudence gives the right,) but that they exercise it on all occasions, and that a large proportion of their opinions and decrees are rendered in the enforcement of applications for writs of *mandamus* to compel the payment of debts and obligations; but I find on examination that this power, if it exists, slumbered for some sixty years. The first case where the question arose of the right of the Supreme Court to issue the writ of *mandamus*, that I am able to discover, is reported in 7 Cranch, 504, the case of M'Intire *vs.* Wood. In that case an attempt was made to compel by *mandamus* a register of the land office in Ohio to issue a patent for lands, and the Supreme Court in a very brief decision decided:

> Independent of the particular objections which this case presents, from its involving a question of freehold, we are of opinion that the power of the circuit courts to issue the writ of *mandamus* is confined exclusively to those cases in which it may be necessary to the exercise of their jurisdiction. Had the eleventh section of the judiciary act covered the whole ground of the Constitution there would be much reason for exercising this power in many cases wherein some ministerial act is necessary to the completion of an individual right arising under laws of the United States, and the fourteenth section of the same act would sanction the issuing of the writ for such a purpose. But although the judicial power of the United States extends to cases arising under the laws of the United States, the Legislature have not thought proper to delegate the exercise of that power to its circuit courts, except in certain specified cases. When questions arise under those laws in the State courts, and the party who claims a right or privilege under them is unsuccessful, an appeal is given to the Supreme Court, and this provision the Legislature has thought sufficient at present for all the political purposes intended to be answered by the clause of the Constitution which relates to this subject.

Thus denying a *mandamus* even to compel a ministerial officer to comply with the law. This opinion, which was subsequently modified, would show that the Supreme Court shortly after the adoption of the judiciary act almost doubted their power to grant the writ of *mandamus* at all, and certainly only for the purpose of carrying out and enforcing their jurisdiction.

I find that in 1825, twelve years after, in the case of Wayman *vs.* Southard, 6 Peters' Cond., 4, the Supreme Court were called upon to decide whether under a judgment rendered by the circuit court of the United States and affirmed by the Supreme Court execution could issue. Thirty-five years after the passage of the "judiciary act" it was questioned in the courts of the United States and questioned for the first time and decided for the first time in the Supreme Court, that the courts of the United States had power to issue writs of execution upon the judgments which had been rendered by them. It was contended that with rendition of the judgment the power of the

courts ceased and they could go no further, and that the party who had received the benefit of the judgment must resort to other process in order to collect his money.

It was not until the case of the Board of Commissioners of Knox County *vs.* Aspinwall *et al.*, reported in 24 Howard, page 376, and decided in 1860, that the Supreme Court for the first time decided that the circuit courts of the United States had the right to issue writs of *mandamus* in aid of the execution of their judgments, and the case was so new and so original that, although the arguments of the counsel on both sides are given in full, they could refer to no precedent, they could refer to no decision. It was a virgin pasture of litigation untouched. They could only refer to and comment upon the case decided thirty-five years before, in which the power of the courts of the United States to issue writs of execution had been called in question. And yet the organ of the Supreme Court, Mr. Justice Grier, seems to treat it as a matter of no doubt, and the Supreme Court granted the writ of *mandamus* to compel the board of commissioners of the county to levy a tax for the purpose of paying a judgment which had been rendered in the circuit court for the State of Indiana. The court ask—

> Why should not the circuit court of the United States be competent to give to suitors this only adequate remedy?
>
> By the common law, the writ of *mandamus* is granted by the King's Bench, in virtue of its prerogative and supervisory power over inferior courts. The courts of the United States cannot issue this writ by virtue of any supervisory power at common law over inferior State tribunals. They can derive it only from the Constitution and laws of the United States.
>
> The jurisdiction of these courts is, by the Constitution, extended to "controversies between citizens of different States." Congress has authority to make all laws which shall be necessary and proper for carrying this jurisdiction into effect. The jurisdiction of the court to give the judgment in this case is not disputed; nor can it be denied that by the Constitution Congress has the power to make laws necessary for carrying into execution all its judgments. (See Wayman *vs.* Southard, 10 Wheaton, 22.) Has it done so?
>
> By the fourteenth section of the judiciary act of 1789 it is enacted "that courts of the United States shall have power to issue writs of *scire facias*, *habeas corpus*, and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions and agreeable to the principles of the common law." Now, the "jurisdiction" is not disputed, and it is "necessary" to an efficient exercise of this jurisdiction that the court have authority to compel the exercise of a ministerial duty by the corporation, which by law they are bound to perform, and by the performance of which alone the plaintiff's remedy can be effected. The fund to pay this judgment, by the face of the contract, is a special tax laid and to be collected by defendants. They refuse to perform a plain duty. There is no other writ which can afford the party a remedy, which the court is bound to afford, if within its constitutional powers, except that afforded by this writ of mandamus.
>
> It is "agreeable to the principles of the common law," and consequently within the category as defined by the statute. (The Board of Commissioners of Knox County *vs.* Aspinwall *et al.*, 24 Howard, pages 384, 385.)

I say, Mr. President, that this was the first case in which the Supreme Court had ever asserted this power in the courts of the United States, and this was in 1860, nearly seventy years after the passage of the judiciary act. After a long and varied litigation, for the first time in 1860, the Supreme Court decided that the courts of the United States had the power to issue writs of *mandamus* in furtherance of the execution of their judgments.

I say, notwithstanding the repeated decisions of the Supreme Court since affirming this case of Knox County *vs.* Aspinwall, we can well doubt whether this latent power would have been allowed to slumber for seventy years if it had been generally believed to exist. With all the great lawyers who assisted in the formation of the Constitution and in the passage of the judiciary act, who practiced in the early days of the Supreme Court, and who were engaged in the great litigations of those times, if they had deemed that any such power existed in the courts of the United States, would they not have so declared? But it has been affirmed over and over again, it has been affirmed ten, twenty, perhaps fifty times, in nearly every volume of the reports which have been published since it has become the ordinary process of the Federal courts, and that is the reason why holders of negotiable notes and holders of bonds resort to the United States courts for the purpose of having their obligations placed in judgment.

Utterly unbridled is the jurisdiction we have given to the United States courts, and through a perversion of that jurisdiction nearly every holder of an obligation of this kind against a county, against a city, against a political corporation or a municipal corporation, against a private corporation that has issued obligations or bonds, on their falling due contrives by hook or crook to get them into the United States courts to obtain judgment, and to follow that judgment by an application for a writ of mandamus to compel the levy of a tax for the purpose of paying the judgment, and the writ of *mandamus* comes to the Supreme Court whenever the debtor is able to give bond, and the power is exercised remorselessly and ruthlessly by the lower court when he is not able to give bond for an appeal, and even if he was permitted by the laws of his State to take an appeal without giving bond.

Thus the city of New Orleans, with a large bonded debt, if pursued by the original holders of its bonds, whose contract was that they should sue in the State courts on default, and if they should be left to their remedies as they existed, and perhaps morally and legally exist now, they would be compelled to resort to the State courts for judgment, and if judgment should obtain the city of New Orleans, if she thought proper, could appeal to the supreme court of the State without giving bond, but if the judgment was affirmed by the supreme court of the State no execution could issue, but the judgment was to be settled according to the provisions of the charter and the laws made in pursuance thereof. On the other hand, jurisdiction being transferred to the United States courts, either honestly or by simulation, judgments are obtained to a large amount which she cannot meet, and, being insolvent, she cannot give bond to appeal. Therefore execution issues, and the execution being returned "no property found," a *mandamus* issues to compel the city of New Orleans to levy a tax for the purpose of meeting the judgment, and all the laws of the State of Louisiana and all the enactments passed by the State of Louisiana for the protection of that municipal corporation, and which existed, most of them, before these bonds were issued or put upon the market, are disregarded by the courts of the United States, and a different justice is meted out to those who are fortunate enough to bring their suit within the purview of the courts of the United States as against those who bring their suits in the courts of the State.

But if the courts of the United States have this jurisdiction, as the Supreme Court has decided that they have, if this jurisdiction which slept for seventy years and then woke up to be so enormous and so overwhelming, still exists, there is all the more reason why we should withdraw it, and leave the courts of the United States only that jurisdiction in writs of *mandamus* which would allow them to issue such writs to ministerial officers to compel them to perform duties imposed on them by law, and to leave the execution of their judgments as the execution of judgments in other courts are left, to the sheriff or the marshal.

If this system is to prevail any longer every county and every city in the country will be put up at auction. The communities of the West and South are all in debt, and their obligations are falling due, and those obligations, in every instance when suit is necessary, find their way into the hands of foreign creditors, and under the purview of these laws are put in the United States courts, and they are dragged through those courts to Washington, a *mandamus* to levy a tax to pay the judgment is issued, and they are deprived of the benefit of a local jurisprudence, are deprived of the benefit of their local courts, are deprived of the benefit of their local juries. The jury in United States courts in my State—we have two districts now—hitherto has been selected entirely from citizens of New Orleans, and people were brought there from three hundred miles distance to try their causes before a jury none of whom were of the vicinage. I say if this thing is to continue the whole country will suffer, and I do not know where it is to end. Railroad corporations, towns, cities, counties, are all liable to be brought into the United States courts and subject to be *mandamused*, and I do not know how long it will be before States are put under the same process, for an attempt is being made now against the State which I represent in the Supreme Court of the United States to claim original jurisdiction for the benefit of citizens of the State of New Hampshire and the State of New York, who have transferred their obligations to the States in which they reside, and those States claim the right to bring suit for the benefit of their citizens and to enforce a jurisdiction, which will drag the State of Louisiana before the forum of the Supreme Court in spite of the provisions of the eleventh amendment to the Constitution.

Mr. President, I think these things are worthy of consideration. I do not think it is in the interest of the people of this country so much that the labors of the Supreme Court shall be reduced as that the jurisdiction of the United States courts shall be reduced, that the jurisdiction of the Supreme Court shall be reduced, and citizens of the same State shall be permitted to sue each other in the courts of their own States, and that these laws, allowing transfers, allowing choses in action to be passed from hand to hand, by which the judiciary act and its real intent and meaning are defeated, should be repealed. That is the best way to relieve the Supreme Court and to relieve the circuit courts of this enormous jurisdiction and the enormous number of cases now pressing upon them.

It is proposed to relieve the Supreme Court in this bill by increasing the appealable interest, by providing that no one shall carry a case to the Supreme Court of the United States unless the amount involved is $10,000. A similar effort was made a few years ago, when the appealable amount was changed from $2,000 to $5,000. That caused a great deal of complaint. The people have important causes, men with small fortunes have interests that are as much entitled to consideration as the interests of men with large fortunes. In the country in which I live there are few men who have cases involving $10,000, and yet the principles involved are frequently of vast consequence and entitled to be heard by the first court of the nation.

I ask whether it is in the interest of the people of this country that the Supreme Court should be converted into a tribunal only to hear the causes of those whose interests are large, and not to hear the causes of those whose interests are small, although the principle involved may be just as important in the one case as the other? If we go on with this system we may increase from year to year, it may be necessary to make the limit $20,000 or $25,000 or $50,000, and as the tendency in this country unfortunately is for a few large fortunes to accumulate vastly, and for other fortunes to be reduced, as every day there is a class of rich men in this country growing richer and

richer, and the majority of the people growing poorer and poorer, the supreme tribunal may one of these days be left to try the case of Jay Gould *vs.* Vanderbilt, or of some great railroad corporation against another, while the interests of the citizens of this country, scattered throughout all the States of the Union, will be too small for their consideration, because the amount involved does not reach the appealable limit.

I say, Mr. President, we had better reduce their jurisdiction rather than increase the appealable interest. Preserve the right of the humblest citizen to go before that court. I do not wish to attack any judge or any court. I wish to express no opinion about the courts in my own section. I have my opinion. I agree in much that has been said by the Senator from Alabama and the Senator from Florida. There are incompetent judges on the bench in that section of the country, and who will remain on the bench if this bill passes, and who will form a part of this court of appeals. Is it to be said that because the amount of interest involved in a case is not $10,000 the people of this country who have vast and important interests, who have interests at least vast and important to them, which involve their homes, which involve all they have, which involve all their rights—that they shall not be heard before the Supreme Court?

These courts of appeal will be necessarily inferior courts, and in the opinion of many of the people incompetent courts; and shall they not be permitted to carry their causes beyond the courts of appeal and to the Supreme Court of the United States, because the amount involved, although it is their all, is not $10,000?

I do not think such legislation will be popular with the people of this country. I do not think we can afford to legislate always for the benefit of the creditor class and against the debtor. I think the courts of the country should be open to all. I think the present amount fixed as a limit for appeals is high enough. I think the important interests which are involved among our poorer citizens should have a hearing in that august tribunal as well as the contests between millionaires and capitalists and great corporations. I think that in order to lighten the labors of that court, which I admit are excessive, we should take off some of this jurisdiction which is improperly conferred upon it, which is for the benefit of the creditor class, and for the extension of and preference given to which I can see no good and sufficient reason.

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of executive business.

Mr. GARLAND. I have no objection to that motion, but I wish to take the floor on the pending question.

The PRESIDING OFFICER. The Chair will recognize the Senator from Arkansas as entitled to the floor when the consideration of this bill is resumed to-morrow. The Senator from Pennsylvania moves that the Senate proceed to the consideration of executive business.

Mr. VAN WYCK. Will the Senator from Pennsylvania allow us to call up a bill?

Mr. CAMERON, of Pennsylvania. There are some nominations that ought to be acted on to-day.

Mr. VAN WYCK. It will not take five minutes to dispose of the bill I wish to have considered.

Mr. CAMERON, of Pennsylvania. The Senator can get up his bill to-morrow.

Mr. VAN WYCK. With the understanding that it shall be done to-morrow, I withdraw my suggestion.

Mr. CAMERON, of Pennsylvania. Very well.

The PRESIDING OFFICER. The Senator from Pennsylvania moves that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seventeen minutes spent in executive session the doors were reopened, and (at four o'clock and thirty-eight minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 4, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

Mr. KASSON. I call for the regular order.

Mr. DUNNELL. Before the regular order is proceeded with, I would like to ask the gentleman from Iowa [Mr. KASSON] whether some time may not be fixed when amendments to the tariff-commission bill may be presented and printed? I have been asked frequently when amendments might be presented, so that they could be read by members before Saturday, when I understand it is expected the vote will be taken.

Mr. KASSON. They can be presented at any time, I suppose, in connection with the statements of gentlemen, and printed in the RECORD, if they desire. The usual time for considering amendments is of course immediately after the close of the general debate. In this connection, I wish to say that from present information it is believed that general debate on the part of members who have not yet spoken, other than members of the Committee on Ways and Means, may be terminated to-day, even early to-day, so that gentlemen of that committee who have not yet spoken may even to-day begin their remarks in conclusion of the debate. I move, therefore, to dispense with the morning hour.

The motion was agreed to; two-thirds voting in favor thereof.

Mr. KASSON. I beg further to say that I hope for a vote on Saturday in the House upon the report of the Committee of the Whole.

ENROLLED JOINT RESOLUTIONS.

Mr. WARNER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

TARIFF COMMISSION.

Mr. KASSON. I move that the House resolve itself into the Committee of the Whole House on the state of the Union to resume the consideration of the tariff-commission bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, (Mr. ROBINSON, of Massachusetts, in the chair,) and resumed the consideration of the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws.

Mr. CANDLER. Mr. Chairman, for many years I have advocated as a private citizen the principle and the policy involved in the bill which is now directly before us for the "appointment of a commission to investigate the question of the tariff." As an officer in commercial associations I have urged the measure, and repeatedly presented resolutions for the appointment of such a commission to inaugurate its revision. I appreciate that this House is wearied by the extended discussion we have had, and feel somewhat oppressed that I am obliged to consume any more of its valuable time, yet I am so earnestly in favor of the bill that I desire not only to record my vote but ask your indulgence while I very briefly give some of the reasons for my conclusions—some of the arguments that influence me to advocate its passage.

We all, Mr. Chairman, bring into this Hall the convictions which we have acquired in the varied walks of life that we have followed. Possibly no class of men are impressed more or taught more by experience and observation than those who represent the business and commercial interests of the country. We cannot plan a venture by land or sea without scanning with great care all the circumstances of the past and the present, and anticipating even the future if we would insure safety and success. It seems to me that a measure so important and complicated as the revision of the tariff should be considered in the same spirit, and that in solving the difficult problem every reasonable opportunity for detailed as well as general information should be availed of.

Before I entered this Hall as a member of Congress I was satisfied from my experience that the wise and judicious method of revising the tariff was first through the work of a commission. And, sir, this plan has not been advocated by a few individuals scattered here and there. It has been indorsed by boards of trade and the commercial associations of the country. The most influential classes interested in the question have constantly made appeals to the Congress of the United States that in changing or revising the tariff they should do it with care, with precision, with wisdom, through the efforts of a commission appointed from civil life by the Government.

Mr. Chairman, as we have listened to a single manufacturer on this floor [Mr. HEWITT, of New York] who has asked for summary legislation and opposed this bill, I desire to call attention to a petition which I hold in my hand in favor of the measure before us:

FEBRUARY 15, 1882.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The undersigned respectfully represent that in April, 1880, they sent to your honorable bodies a communication as follows:

"The undersigned, persons engaged in the manufacture of cotton yarns and fabrics and the dyeing, coloring, bleaching, and printing of the same, and holding various opinions upon the tariff question, respectfully represent that they have observed with great interest the bringing in of a bill to the Senate of the United States by Mr. Eaton, which was read twice and referred to the Committee on Finance, and reported by Mr. BAYARD, with amendments, April 13, 1880, entitled 'A bill for the appointment of a commission to investigate the question of a tariff;' that they have carefully considered the provisions of said bill, and are earnestly in favor of the passage of the same and the appointment of a civil commission as contemplated therein, believing that in no other way can the requisite information be secured for the use of Congress when considering a revision of the tariff.

"The industries above mentioned consume approximately 1,500,000 bales of cotton annually, operate 10,000,000 spindles, and employ over $200,000,000 of capital."

And the undersigned beg again to express their confidence in said bill and in the bill now before the Senate (S. No. 22) reported by Mr. BAYARD January 10, 1882, and to say that they do not advocate the appointment of a commission to investigate the tariff for the purpose of delaying action, as has been alleged, but on the

contrary with the desire of furthering the revision of the tariff at the earliest possible date.

CHARLES H. DALTON,
Treasurer Merrimack Manufacturing Company, Lowell, Massachusetts.
HENRY SALTONSTALL,
Treasurer Pacific Mills, Lawrence, Massachusetts.
JOHN C. PALFREY,
Treasurer Manchester Mills, Manchester, New Hampshire.
CHANNING CLAPP,
Treasurer Amoskeag Manufacturing Company, Manchester, New Hampshire.
C. W. AMORY,
Treasurer Amory Manufacturing Company, Manchester, New Hampshire.
A. D. LOCKWOOD,
Treasurer Lockwood Company, Waterville, Maine.
ARTHUR T. LYMAN,
Treasurer Lowell Manufacturing Company and Hadley Company.
JAMES A. DUPEE,
Treasurer Appleton Company and Hamilton Manufacturing Company.
WILLIAM A. BURKE,
Treasurer Lowell Machine Shop, Lowell.
GEORGE ATKINSON,
Treasurer Massachusetts Cotton Mills, Lowell.
EDMUND DWIGHT,
Treasurer Boston Manufacturing Company, Waltham, Massachusetts.
EDMUND DWIGHT,
Treasurer Stark Mills, Manchester, New Hampshire.
GEORGE DEXTER,
Treasurer Pepperell Manufacturing Company and Laconia Company, Maine.
HENRY D. SULLIVAN,
Treasurer Naumkeag Steam Cotton Company, Salem, Massachusetts.
LUCIUS M. SARGENT,
Treasurer Lawrence Manufacturing Company, Lowell, Massachusetts.
AUGUSTUS LOWELL,
Treasurer Boott Cotton Mills, Lowell, Massachusetts.
FRANCIS CABOT,
Treasurer Cabot Manufacturing Company, Brunswick, Maine.
FRANCIS CABOT,
Treasurer Norway Plains Company, Rochester, New Hampshire.
JOHN WEBSTER,
Treasurer Newmarket Manufacturing Company, Newmarket, New Hampshire.
J. EDWARDS,
Treasurer Bates Manufacturing Company, Lewiston, Maine.
JOSEPH SAWYER,
President Burlington Woolen Company, Winooski, Vermont.
A. T. PERKINS,
Treasurer Chicopee Manufacturing Company, Chicopee Falls, Massachusetts.
HENRY F. COE,
Treasurer Washington Mills, Lawrence, Massachusetts.
HENRY S. SHAW,
Treasurer Pemberton Company, Lawrence, Massachusetts.
WILLIAM B. WOOD,
Treasurer Continental Mills, Lewiston, Maine.
O. H. SAMPSON,
Treasurer Palmer Carpet Company, Palmer, Massachusetts.
MOSES W. RICHARDSON,
Treasurer Lewiston Mills, Lewiston, Maine.
W. G. SALTONSTALL,
Treasurer York Manufacturing Company, Saco, Maine.
WILLIAM GRAY, JR.,
Treasurer Atlantic Cotton Mills, Lawrence, Massachusetts.
WILLIAM GRAY, JR.,
Treasurer Indian Orchard Mills, Springfield, Massachusetts.
A. P. ROCKWELL,
Treasurer Great Falls Manufacturing Company, Great Falls, New Hampshire.
EUGENE H. SAMPSON,
Treasurer Everett Mills, Lawrence, Massachusetts.
JAMES S. AMORY,
Treasurer Lancaster Mills, Clinton, Massachusetts.
FREDERICK AMORY,
Treasurer Nashua Manufacturing Company, Nashua, New Hampshire.
FREDERICK AMORY,
Treasurer Jackson Company, Nashua, New Hampshire.
SAMUEL G. SNELLING,
Treasurer Lowell Bleachery, Lowell, Massachusetts.
WILLIAM WHITMAN,
Treasurer Arlington Mills, Lawrence, Massachusetts.
H. STOCKTON,
Treasurer Cocheco Manufacturing Company and Salmon Falls Manufacturing Company, New Hampshire.
F. L. RICHARDSON,
Treasurer Hill Manufacturing Company, Lewiston, Maine.
C. W. AMORY,
Treasurer pro tempore Langdon Manufacturing Company, Manchester, New Hampshire.
NATHANIEL WALKER,
Treasurer Androscoggin Mills, Lewiston, Maine.
JOSHUA BALLARD,
Treasurer Hamilton Woolen Company, Southbridge, Massachusetts.
R. M. BAILEY,
Treasurer Hooksett Manufacturing Company, Hooksett, New Hampshire.
J. HOWARD NICHOLS,
Treasurer Dwight Manufacturing Company, Chicopee, Massachusetts.
H. DUMARESQ,
Treasurer Oriental Print Works, Apponaug, Rhode Island.
JAMES C. FISK,
Treasurer Fiskdale Mills, Massachusetts.
C. H. JOY,
Treasurer Ocean Mills Company, Newburyport, Massachusetts.

They ask for the appointment of a commission from civil life. The signers of this petition state that they represent industries employing $200,000,000 of capital; that they consume annually 1,500,000 bales of cotton and operate more than 10,000,000 spindles in the industries of the United States. I wish to impress upon this House the strength and importance of this petition, representing nearly fifty manufacturers, every one of them the peer in experience and intelligence of the gentleman who, as a manufacturer, has opposed this bill. I shall print with my remarks this petition, that the members of the House may be impressed from its consideration that it is true that there is a sincere, earnest, and intelligent call for the passage of this bill from the manufacturers of New England; that they do not urge the passage of this measure for the purpose of delaying action upon the revision of the tariff, as charged by the gentleman from New York.

Mr. Chairman, not only in the experience of private and business life, and outside the walls of Congress as a citizen, have I been impressed with the importance of the appointment of this commission, but as a civilian coming before the Committee on Ways and Means of the House of Representatives on repeated occasions in the discussions of questions concerning the tariff I have been impressed with the fact that the committee is not adequate to the task which this House and the country in the past have expected it to perform. I have been impressed with the fact that notwithstanding all their intelligence and ability members of that committee have neither the time nor the experience to treat a question like this in the detailed manner that is required. More than that, without reflecting upon the honesty of purpose or their motives, I have found that the prejudices of parties, the influence of sections were not without their effect upon their opinions. They naturally adhere to the theories which for years they have fostered and encouraged; they cannot break away from the influence and the convictions which have surrounded them in their own sections of the country.

Again, sir, the class of men who appear before them are not such as would supplement by facts and figures in detail from the people the general information required for an intelligent and careful revision of so important and elaborate a measure as the tariff. They reach the same men who are quoted here in the general discussion on the tariff, the statisticians, the compilers of statistics, the representatives of boards of trade, the men who represent the great monopolies, or who represent corporations with large interests. They should reach, beside, the people—those who have studied not only the statistics of the decades, but are practically familiar with the present facts from all classes, that are required properly to adjust and formulate a wise and discriminating tariff. They do not secure a general representation of enterprise and labor.

The convictions and the impressions which I acquired in private life and from observations as a civilian before this committee have been confirmed since I have been honored as a member of Congress and had some experience in these Halls. I do not think that the Committee on Ways and Means at this session of Congress, whatever their ability, have more time than is required to adjust the duties on a very few articles. I believe it to be absolutely impossible to revise our tariff, which comprises thousands of articles and involves the interests of a great nation with fifty millions of people.

In the construction and formation of the important committees of this House we find that many are selected from the leaders of their parties, and members of this Committee on Ways and Means have not only to revise the tariff but to consider and report upon a large number of important matters for legislation of equal consequence to those particularly interested in them. They are expected to be present here also, to deliberate with us, and take part in the discussions. There is in addition detailed work which comes to each member of Congress. It is not possible, physically or mentally, in my judgment, for the Committee on Ways and Means of the House of Representatives properly to revise the tariff of the United States and to give us such a tariff as the country demands and requires at the present time. I do not wish to have it understood, Mr. Chairman, that I underrate the ability of the Committee on Ways and Means. I have the highest respect for the individual members of that committee, not only for those who agree with me on the political questions of the day, but for the opponents of the Republican party on the other side of the House. I have not only enjoyed their acquaintance but the friendship of some of them for many years.

I do not underrate the House of Representatives, for no man can come here and remain a year and depart hence without a higher respect for the ability, the honesty, and the industry of the representatives of the people who assemble upon this floor.

But the fact is, Mr. Chairman, we are not called on to revise a tariff that can be arranged in a simple manner upon general principles alone. We are not called upon to pass a free-trade tariff, or a tariff for revenue, or a tariff that is to levy its duties by a certain percentage of 10, 20, 30, 40 or 50 per cent. or easily arranged specific duties. That is not the kind of tariff the American people demand to-day, that the interests of the country call for to-day, or that the majority of this House is in favor of.

If that were the case, some simple proposition upon general principles that could be drawn from the general information we have had laid before us in our voluminous debates, or we could get from almanacs and statistical reports, might easily be perfected. If that were the kind of tariff we needed, I then might concede that the Committee on Ways and Means could deal with it effectually. But, sir, let us for a moment, while we speak of the revision of the tariff, ask ourselves what is the work before us? Let the members of the House of Representatives, as the business men of the country do, consider the duty they have to perform and wisely and deliberately determine how they can discharge the trust most satisfactorily to themselves and to the people they represent.

I will not enter into an extended argument to prove to you the complications of the present tariff. The country, after careful discussion throughout the last political campaign, have voted for a tariff "that discriminates in favor of American labor." I think the people

have decided that the wisest course is not to change the policy of the Government hastily. They will not disregard the vested rights and industries that have been developed and fostered under our present policy. I believe the majority of the country at the same time are determined to have a tariff which shall be simple and uniform, under which can be collected the largest amount of revenue with the least burden to the people. And such a tariff cannot be arranged except by the careful consideration and investigation of all the present circumstances connected with it.

Mr. Chairman, the necessity of revision has been conceded everywhere. I could take the speeches on this side of the House or as well on the other side of the House and demonstrate it. I simply refer, therefore, to some of the complications connected with the tariff to illustrate, to enforce the assertions which I have made in regard to the proper action for its revision.

We have a tariff that embraces two thousand five hundred different articles, and I quote from the speech of the gentleman from Kentucky, [Mr. CARLISLE,] who opposes the commission, the statement that the percentage of duties levied ranges on different articles from 10 to 780 per cent.

We have a tariff that levies a duty upon foreign manufactured goods to obtain a revenue and protect our own industries, and we levy a duty for the same purpose on the raw material. It is complicated, and it is necessary we should adjust the scale with careful discrimination so that the changes shall apply with uniformity and do justice to manufacturers and producers, and to the great mass of the people who are overtaxed upon the prime necessities of life.

To illustrate the complications connected with one single branch of manufacturing, I will refer again to the speech of the gentleman from Kentucky, [Mr. CARLISLE,] which I hold in my hand:

Let us begin with woolen goods; and for the sake of brevity I will omit the specific rate and give the equivalent ad valorem rate as it is officially reported to us from the Bureau of Statistics for the last fiscal year.

On dress goods, women's and children's wear, worth at the place of production 17.3 cents per square yard, the duty is only a fraction less than 70 per cent., while on the same kind of goods, but of finer quality, and worth $1.75 per pound, the duty is less than 63½ per cent. On the coarse woolen blankets, such as the people of small means are compelled to use, worth 54 cents per pound, the duty is 90½ per cent., but on the fine blankets, worth $1.37 per pound, the duty is 71½ per cent. On flannels worth 44½ cents per pound, the duty is only a fraction less than 103 per cent., while on the finer flannels, worth $1.64 per pound, the tax is 65½ per cent. On woolen hosiery worth 55 cents per pound, the law imposes a duty equivalent to 89½ per cent. ad valorem, but if the article is worth $2.41 per pound the duty is less than 56 per cent.

On all woolen goods not otherwise provided for in the law costing at the place of production less than 40 cents per pound the duty is 84½ per cent., but if they cost $1.47 per pound the duty is 69 per cent. On coarse hats of wool worth only 65½ cents per pound the specific duty imposed is equivalent to 96 per cent. ad valorem, but on the finer qualities, costing $2.15 per pound, the duty is only a little more than 58 per cent.

The finest and most expensive carpets imported into this country, worth $2.24 per square yard, are subject to a duty of 50 per cent., while druggets, bockings, &c., worth 40 cents per square yard, are subject to a duty of nearly 96½ per cent., and carpets worth 68 cents per square yard pay a fraction less than 76 per cent.

I am aware that the gentleman referred to these articles with a different purpose from that which leads me to call attention to them at this time. I am arguing in favor of the commission and endeavoring to impress upon the House the complications of the tariff, and to prove that by no other method can we so intelligently deal with its revision. With this thought in my mind, and that I might call attention at the time to this fact and to the excessive duty manufacturers paid upon wool, I asked the gentleman when he was addressing the House the question, "What is the duty on wool, on the raw material that enters into the manufacture?" The gentleman thought I "misunderstood the purpose of that part of his argument." I did not wish to interrupt him by enlarging upon it at that time, but to complete the comparison I now present to you the wide range of heavy duties levied on the wool, on the raw material imported into this country. It seems to me that no exact comparison of duties on manufactured articles is complete without careful scrutiny of the tariff on the raw material:

Tariff 1867.

Fair average type, various countries.	Foreign cost, gold.	Rate now.		Equal to ad valorem.
		Ad valorem.	Specific.	
	Per lb.	*Per ct.*	*Per lb.*	*Per ct.*
Scoured Australian	51	33	30	92
Washed Australian	46	22	20	67
Greasy Australian	30	11	10	44
Scoured Cape	36	33	30	116
Snow-white Cape	48	33	30	97
Greasy Cape	14	11	10	82
Buenos Ayres, unwashed Russian, French, and Spanish Merino	13	11	10	88
Lincoln Hogg, washed	34	10	12	45
Lincoln wethers	31	11	10	43
Canada combing, washed, and English breeds				
White East India, Oporto, and Persian	28		6	21
White long combing, Donskoi	22		6	28
Unwashed East India, Smyrna, Crimean, Russian, Valpar	11		3	27

With this comparison, I urge the necessity of detailing information. I ask the members of this House if they believe there is a man on the floor they think qualified to take up that single article of trade alone and do justice to all the interests involved in its production and manufacture, without giving weeks to its investigation, and obtaining additional and different information from that which has been given to us in the protracted debate we have listened to upon the subject.

I will refer to another article, which is one of the most important on the list. If the Committee on Ways and Means should undertake to revise the tariff on sugar I do not believe they can have a satisfactory investigation and hearing upon that single article and have it legislated upon after giving their information to the House in a month's time. The country demands that duties on this article shall be revised and reduced. On account of the complications connected with the duties and Treasury regulations in regard to it, the merchants and refiners have been oppressed by lawsuits and exactions, and under a recent decision of the Supreme Court about $2,000,000 has to be refunded from the Treasury to the men from whom it has been illegally exacted. Forty-five millions of dollars a year is wrung from the people as a tax upon this article of prime necessity to every class. If the people understood and comprehended how unjust and excessive it is, the mechanics and laboring-men would be relieved from this burden.

The process of refining sugar has constantly improved, and the article can now be refined in the United States at as low a cost as in any part of the world. Some, interested in this department of our industries, claim that it can be more cheaply done in this country, on account of the skill and perfection of the processes and machinery applied and used by them.

There have been twelve different rates of duty levied since 1789, embracing both the specific and ad valorem principle.

From 1846 to 1857 we had an ad valorem duty of 30 per cent.; from 1857 to 1861 an ad valorem duty of 24 per cent.; from that time we increased the duty from three-quarters of a cent per pound to three, three and a half, and four cents per pound in 1864, and these rates were in force until 1870, when we adopted the present rates, to which we have added since 25 per cent. The great increase of duties was made as a war measure at first, and only justified in 1870 by the necessities of taxing the people very heavily to meet the interest and reduce the principal on the immense debt that burdens the country.

The duties on sugar at the present time are as follows, grading them by the Dutch standard of color on the grades of raw sugar principally used by the refiners in producing the qualities of sugar used for consumption:

Melado tank bottoms, &c., 1½ cents per pound, plus 25 per cent.
Not above No. 7, D. S. in color, 1¾ cents per pound, plus 25 per cent.
Not above No. 10, D. S. in color, 2 cents per pound, plus 25 per cent.
Not above No. 13, D. S. in color, 2¼ cents per pound, plus 25 per cent.

Or to calculate it exactly, giving the trade designation or places where produced, the rates are as follows:

Country and grade.	Test by polarization, giving the degrees of saccharine strength per pound, taking pure crystals as the basis at 100°.	Cost of sugar free on board ship at the shipping port without freight or charges, per pound.	Present duty per pound.	Percentage of duty calculated upon a basis of 7/8 cents per pound for good refining West India muscovado sugar, duty paid here.
China	76.78	$2 65	$2 20	83
Manila, superfine	78.81	2 88	2 20	76
Iloilo	82.84	3 38	2 40	71
Manila, extra superfine	86.87	3 87	2 45	63
Pernambuco	88.90	3 88	2 50	64
Bahia	83.85	3 50	2 25	64
Muscovado, fair refining, W. I	87.89	4 23	2 50	59
Java	93.95	5 06	2 60	51
Centrifugals	93.94	5 30	2 60	49
Centrifugals, W. I	95.97	5 68	2 81	49

The practical working of the tariff, however, at the present time is not according to the intention of the law upon the centrifugal sugars of high test from the West Indies, as the producers in making their sugar allow the surface of the crystal to be burned to a dark color below No. 10 Dutch standard, or even below No. 7, so that these sugars actually pay only the same duty as low-grade sugars of 76° to 82° strength. They are in reality partially refined in Cuba at a much higher cost, which we pay for, as we can do the same work at a less cost here and find more employment for our own workmen.

The late Secretary of the Treasury, the Hon. John Sherman, tried to collect the duty by a polariscope test, claiming that the colorization was fraudulent, but the Supreme Court has decided that the regulation and the collection of duties under it were illegal. The scale

of duties on the lighter-colored sugars graded according to the Dutch standard of color above No. 13, is as follows:

No. 13 to 16, (low grade,) common brown sugar, 2¼ cents and 25 per cent., 3.43 cents per pound.
No. 16 to 20, common brown sugar, 3¼ and 25 per cent., 4.06 cents per pound.
Above No. 20, refined, white and crystals, 4 cents and 25 per cent., 5 cents per pound.

The present tariff levies duties on sugar in favor of the rich and against the poor. It discriminates against the raw sugars that when refined give to the poor man the largest percentage of saccharine or sweetening strength for the lowest price, as the refiner can buy the lower grades of raw sugar and refine them up to the grade called Scotch or brown sugars at a less proportional cost to the consumer than by extending his process and extracting the sirup or molasses retained in that grade, which must be taken out to produce a white crystallized article; and if the duties upon the lower grades of sugar were proportionally at the same rate with that on the higher grades or stronger sugars, such as the Java and centrifugal, the poor man's sugar would be produced at a proportionally less cost, and they who preferred the white crystals would pay as they should for the luxury. It is not necessary to make comparisons on sugars as to their cost between the present time and previous years; the production of sugars, the processes of refining them, and the kinds of sugar that enter into consumption have so changed the conditions.

The facts we would study and examine are those that exist to-day. Do the people of this country understand all the duties that are exacted upon this article from the rate on the lowest grade of the raw product of $2\frac{28}{100}$ cents per pound to the highest, a duty of five cents upon every pound of the white crystallized, granulated, or powdered sugar, such as is used in daily consumption?

With this detail, with the facts before us in regard to single articles, the gentleman from New York [Mr. HEWITT] in a summary way proposes to recommit the "bill creating a tariff commission to the Committee on Ways and Means, with positive instructions to report a bill covering the whole tariff within thirty days."

In my judgment the proper course to pursue is for this House to pass this bill for the appointment of a tariff commission, and then, without further delay, for the Committee on Ways and Means to report a tariff bill, to be passed at this session, reducing the duties on some raw materials, in justice to the people, and increase the free list where it can be done without injustice to any. I believe the majority of this House will indorse the proposition and that the country demands it. If the Democratic party oppose, let us have them placed upon the record, that the people may know who favored and who obstructed and defeated these measures.

But, Mr. Chairman, it is not alone the revision of the tariff so far as the figures are concerned, or so far as the discriminating purposes of the tariff are concerned; it is not alone on account of the work required in the revision of the tariff that I advocate and favor a commission. I have heard so many misrepresentations and exaggerations in regard to my section of the country, I have heard so many false assumptions applied to the manufacturing interests of this country that I desire the people of the country, men of the West and of the South, shall know what the purposes and the wishes of the manufacturing interests of New England are.

The speeches that I have listened to on this floor convince me that there are men who represent constituencies here who require new light in regard to the wishes and the demands and the necessities of the people of other sections. I have heard the speech of the gentleman from Kentucky, [Mr. TURNER,] that came down to us from preceding generations, and that of his colleague, [Mr. MCKENZIE,] with all its exaggerations and misstatements, and I desire the people of Kentucky to know, from the information we will give them through this commission, that their leaders are not properly qualified to lead them as prophets in their own country, with their present information, to wise and just national legislation on the tariff. I believe, sir, that nothing can be of more service to this country than the expression of the opinions of the labor and enterprise of the country as it will be given through a commission. I desire not only that the manufacturers shall be heard, but I desire that the producers and the agriculturalists shall be heard upon this question. In no way can it be done excepting through a commission. I desire, too, that the laboring-men, the men who toil from the rising to the setting sun, so worthy of their hire, shall be heard before this commission upon this question in regard to their wages, their cost of living, all the advantages they enjoy in this country compared with others, as well as to the burdens that taxation places upon them. I would seek through this commission to get at the facts and the truth.

Sir, there is another argument still in favor of this commission. It will create a public opinion in the United States. The question of the tariff has been dragged down into partisan politics. Now, let us have the information from the people and see if we cannot lift it up as a question of political economy to be discussed by the Congress of the United States with the evidence before them.

Mr. Chairman, as I stated at the commencement of my speech here to-day, I shall be as brief as it is possible for me to be and at the same time to express my strong and earnest and decided conviction in favor of this commission. We have had a great many speeches upon the subject. I cannot understand how any man can feel satisfied that he is prepared to act with the information before him. But of all the speeches that have been delivered to this House I agree with the gentleman from Rhode Island [Mr. CHACE] that the most unsound proposition and to me the most unsatisfactory reasoning was found in the speech of the gentleman from New York, [Mr. HEWITT.] All the arguments, all the suggestions, all the comparisons I have offered apply more strongly against the proposition which he presented to the House than to the general propositions which have been made by some others who have addressed the committee. He has a summary way of dealing with the question. He disregards all the expressed opinions that have come from, I say, the most intelligent associations of the country, and he proposes summarily to recommit the bill with a substitute back to the committee with instructions to report that substitute, or substantially that, in thirty days. He proposes in thirty days to settle, so far as some of the great vested interests are concerned, this whole question. Let us read his resolutions:

Mr. HEWITT, of New York, said:
Mr. CHAIRMAN: I send to the Clerk's desk to be read a resolution which, at the proper time after the discussion is closed, I propose to offer.
The Clerk read as follows:
Resolved, That the bill creating a tariff commission be recommitted with instructions to the Committee on Ways and Means to report within thirty days, or an earlier date if it be practicable, a bill based upon the following instructions:
First. That all raw materials, meaning thereby all materials which have not been subjected to any process of manufacture, and all waste products, meaning thereby all waste materials which are fit only to be manufactured, and all chemicals which are not produced in this country, and alcohol for use in manufactures, shall be placed upon the free list.
Second. That so far as possible specific duties shall be substituted for ad valorem duties, and that in determining such specific duties the average dutiable value of imports during the last three years shall be taken as the standard of value, upon which no higher rate of duty shall be imposed than shall be necessary to compensate for the difference in the cost of the labor at home and abroad expended in the production of such products, after making due allowance for the expenses of transportation, and that the rate of duty shall not in any case, except on luxuries, exceed 50 per cent. of such average dutiable value.

I predict, sir, that if the proposition submitted by the gentleman from New York was adopted, if we had any change of tariff at all, we should launch upon the country a crude unsatisfactory measure, and that the Congress of the United States would be called upon to tinker and change it at every session for a series of years, until they were forced to finally adopt the plan of a commission. I do not believe it is possible to have it adopted. It is a proposition for delay. I wish to call attention to its unsoundness. As I read his speech it seemed to me that the proposition and his argument were not in accord; while he proposed this summary operation of disposing of the tariff in thirty days, when you cannot discuss any three articles of it in half that time, he incorporates in his speech a statement asking you to do something else. His argument is really against his resolutions. He tells us in his speech that we must proceed slowly, that we must take up this matter with deliberation. He says:

We must therefore proceed slowly so as not to interfere with the occupations of people, and not to dislocate industry to such an extent that men are compelled to seek new occupations by a sudden stoppage of those in which they are engaged. This has happened in Germany, where the new revenue system of a highly protective nature has positively destroyed many branches of business and reduced whole towns to a condition of destitution. In lowering the duties I would be careful to avoid these calamitous consequences, for, as I have said, there is no evil in a community equal to the lack of employment for those who desire work. Persons out of work not only become demoralized, but they compete with others who are employed, reducing the standard of comfort and lowering the moral status of the entire community. They are not only paupers themselves, but they breed pauperism—a social disease so persistent when once permitted to get a foothold that no amount of moral quarantine is ever adequate to remove it.

Shall we accept his proposition, or shall we stand upon his argument? If you follow his speech through, what do you find? That he closes it with one of the most exaggerated statements that I have listened to for a great while. I will read to you a few words from that portion of his speech to which I refer:

With a failure, however, to comprehend the situation it will come through convulsions and revolutions, from the suffering and horrors of which I prefer to turn away in silence.
But there is one aspect of the case to which I cannot shut my eyes. The whole structure and genius of our Government must be changed in order to meet the primary necessity which will thus arise for preserving social order. With the general occurrence of strikes and lockouts will come, as in the case of the railroad riots in 1877, the demand upon the Federal Government for the presence of its troops to maintain order and put down violence and mobs; force will be met with force; a larger standing army will be demanded by public opinion and conceded by Congress; the power and rights of the States will be subordinated to the superior vigor and resources of the National Government; the duties of governors will be merged into the prerogative of the President. With the large standing Army acting as a national police, under the directions of an Executive whose authority will thus be as omnipotent as his troops will be omnipresent, the era of free government will have passed away, and the reign of despotism will have commenced. The sacred privileges of individual citizens will be lost in the general demand for a strong government, and all that freedom has gained by the heroic struggles of our forefathers for a thousand years, and by our resistance to tyranny for three centuries in the New World, will be put in peril.

Does he mean if we do not vote for his proposition, if we do not instruct the committee to report in thirty days, that the direful consequences that follow in his statement are to come upon us? No, sir; of course he does not intend that construction, as he says, "with a failure, however, to comprehend the situation it will come through convulsions and revolutions." Logically we have a right to expect that an argument made in support of a proposition should have some reasonable connection with it or the counter propositions. His does not apply to either, for the necessity of a revision of the tariff is advo-

cated and admitted, and it is only a difference of opinion in regard to methods. The dreadful results, then, must be expected if the people of the United States insist on a protective tariff instead of free trade. In other words, if they are not sufficiently enlightened to make their own laws the Republic will prove a failure and despotism follow. I recognize the truth of some of the general propositions brought forward in the speech, but the gentleman takes counsel of his fears in his conclusion.

He does not consult his experience, and he seems to have little faith in the permanence of republican institutions or the stability of a republican government if he deems it necessary to introduce into a discussion like this such an alarming appeal to the lowest elements of society. I do not mean to make a personal application; but I do say that the gloomy picture he presents reminds me of the wailings of croakers and the extravagant declarations of demagogues in their stump speeches throughout the country at every election we are called upon to take part in. I wish that he had some of the faith that we are born with and that abides with us in the old Bay State. We find nothing in the history or traditions of the country, from the days of Plymouth Rock through all our troubles down to the present time, that leads us, in the discussion of such a question as this, to predict that the pillars of the temple are to be thrown down, or that the genius of the people is to be changed. This appeal of the gentleman, if it means anything, is an appeal for the Democratic party, presenting an exaggerated statement, to be used in partisan warfare if we do something or we do nothing, should there be any slight complication or disaster in the business relations of the country.

I have no sympathy for the men who in the halls of Congress legislate for this country with the doubts and fears so fastened upon them that in a tariff debate which concerns material interests, entirely under the control of the suffrages of the people who may change their opinions every decade, tremble lest "all that freedom has gained by the heroic struggles of our forefathers for a thousand years, and by our resistance to tyranny for three centuries in the New World, will be put in peril."

Let us rather appeal to the common sense and intelligence of the American people. Let us stand by the truth, without unsoundness or exaggeration. Let us admit that we shall make mistakes, that we shall have panics and failures, that life is a struggle with men and nations.

But differences of opinion on revenues and tariffs will not turn back the ages. Political differences of men or parties cannot arrest the upward and onward progress of our nation or change its civilization into barbarism. We cannot turn back into darkness the first light of the morning or stop the twinkling of the stars. I have faith in the great mass of the people.

I intended that my speech should be brief that I might allot a portion of my time to the gentleman from Pennsylvania, [Mr. GODSHALK.] I will conclude with saying that while I advocate a tariff commission, and stand upon the platform of the Republican party and insist that a change of policy should be a growth and not a revolution, I claim it is the duty also of a commission of an intelligent people and the Congress of the United States, while they study the interest of our country, to investigate the wants and the productions of other countries, and, so far as it is consistent with the interest of our own, to arrange and adopt a tariff that will encourage an exchange of commodities with other nations of the world in the interest of commerce and civilization. I favor a conservative, wise, and judicious policy. We have not only to arrange a discriminating tariff, but to inaugurate a system sufficiently simple and comprehensive so that changes can be made without injustice, and we can learn when discrimination or protection becomes a monopoly. There have been many theoretical propositions from the other side that I do not dispute. We cannot shut ourselves up as individuals or a nation from the rest of the world. The days of the ascetic and recluse have passed away. Men no longer seek for the philosopher's stone in the solitude of the hermit's cell or the seclusion of the cloistered monastery; the healthiest minds and the most progressive thought is found in busy life in contact with the world, in the friction of mind with mind. As individuals or a nation we cannot live unto ourselves alone either in our commerce or our civilization.

The manifest destiny of the Republic is not alone to bless and elevate the people who live upon the soil and under the flag of the United States, but to extend her beneficent influences to the whole human race wherever they may dwell. [Applause.]

I now yield the remainder of my time to the gentleman from Pennsylvania, [Mr. GODSHALK.]

Mr. GODSHALK. Mr. Chairman, the title of the bill under consideration is a bill to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws. This bill has given rise to a very protracted discussion, a very small part of which only has been devoted to the bill itself.

I want to say generally, before I proceed to the discussion of this matter, that I am in favor of this commission, believing that in order to intelligently deal with the subject of the tariff we need additional light; we need all the information we can get through this commission. Believing that, I shall vote for this bill very cordially, and I am satisfied that a majority of the House, as soon as we can reach a vote, will vote in favor of this bill.

The discussion has been mainly upon the general policy of the Government as to a tariff. I want to read an extract from the report on manufactures by Alexander Hamilton, made December 5, 1791, in the early days of the Republic:

> This idea of an extensive domestic market for the surplus produce of the soil is of the first consequence. It is, of all things, that which most effectually conduces to a flourishing state of agriculture. * * * To secure such a market there is no other expedient than to promote manufacturing establishments. Manufacturers, who constitute the most numerous class after the cultivators of the land, are, for that reason, the principal consumers of the surplus of their labor.

Fisher Ames, of Massachusetts, in the debate on the first tariff bill in the House of Representatives in 1789, said:

> I conceive, sir, that the present Constitution was dictated by commercial necessity more than any other cause. *The want of an efficient Government to secure the manufacturing interest* and to advance our commerce was long seen by men of judgment, and pointed out by patriots solicitous to promote our general welfare.

Now there can be no dispute that we have had a great deal of discussion upon this tariff question. Ever since I have noticed anything in relation to political matters this subject of the tariff has been discussed. We have had any amount of theory upon the subject, and a person who had nothing more than theory, nothing more than the different views that have been held upon this subject, to form an opinion upon, might be in doubt up to the present time. But in addition to all that has been written and spoken upon this subject we have had ocular demonstration; we have seen this system tried, both sides of it.

This country has had low tariffs, has had tariffs for revenue, and also has had tariffs for protection, and that is the kind of tariff which is now in existence. Now, does any man pretend to say, who has lived for forty years and has observed the operation of these different systems upon the prosperity and happiness of the country—does any man pretend to say that we have succeeded better under a tariff for revenue alone than we have under our protective-tariff system?

Before proceeding further in the discussion of this question, I wish to say right here that I am in favor of a tariff which will secure to the American manufacturer the home market; and I would secure this not for the purpose of benefiting particularly the manufacturer or the laborer under him, but for the common good. My experience and observation have taught me to believe that all classes of the community share equally in the advantages resulting from a protective tariff.

It will be found, I apprehend, before long that the most difficult problem of statesmanship in this country will be to provide for labor at remunerative wages. We are receiving from foreign countries six or seven hundred thousand people every year. Of necessity we must have a great expansion of labor. We must find something for these people to do. How shall this end be attained? Why, sir, let us continue to encourage and expand home manufactures, and to increase our home products. A large proportion of emigrants will no doubt seek homes in the new States and Territories, and soon add largely to the agricultural productions of the country.

Look at the expansion of manufactures in this country under our present system. Many people undertake to say that manufacturers are a privileged class, enjoying great advantages over other portions of the community. What truth is there in that statement? Look at the progress of any particular branch of manufactures in this country that may be designated, and you will find that in its commencement it labored under great difficulties; it has progressed gradually. Often it has been retarded by unwise legislation. The consequence is that the capital which has been invested in manufactures in this country has not reaped a greater percentage of profit than has been yielded in other branches of industry.

Take the great staple of iron. Look at its history as we find it detailed in the census reports. Many and many attempts which have been made in the direction of producing and manufacturing iron have been attended with failure after failure. Great amounts of capital have been thus swallowed up and lost; yet we have to-day iron manufactures extended, with a production unequaled perhaps by any other nation on the face of the earth; and this result has been accomplished by continued effort, by wise legislation, looking toward the promotion and fostering of these industries. The constantly increasing uses to which iron is being adapted will insure a still larger consumption of it from year to year as time goes on, if home enterprise and competition continue to enlarge the production and cheapen the price.

Look at the great State of Pennsylvania; I take pride in referring to my own State in connection with this particular subject. I wish we had to-day the full returns of the census in regard to the manufactures of this country. They will show, I think, when they come to be published, an amount of progress and development that has never been equaled in any ten former years or any other country. They will show that we have great and important duties to perform here when we undertake to deal with this tariff question.

I have noticed that when Congress has been called upon to revise the tariff system it has generally, to use a homely phrase, "put its foot in it"—has made things worse than they were before. For that reason I am in favor of this commission, because we want more information on this subject before we undertake to reduce tariff duties on the ground that we have at the present time too much revenue, and that present duties are oppressive to the great mass of our population.

I was speaking of the iron industry of my own State. I believe that we are at this time producing 46 per cent. of all the iron manufactured in the United States. That is a great interest. It has grown up, as I have said, within the last one hundred years. It has grown from trifling importance until to-day there are in my Congressional district, in the county of Montgomery alone, five and a half millions of dollars invested in the iron business and three thousand hands employed, receiving annually $1,310,610 as wages, while the products of this manufacture are valued at $7,194,000. These are the statistics as to the county of Montgomery alone. The whole State presents probably the best specimen of the advantages of a protective tariff system to be found anywhere on the face of the globe within an equal area. The statistics will show that we are now manufacturing more iron than any other country, perhaps with the exception of Great Britain.

But there is still another subject to which I want to call attention. I have but a few minutes, and I do not propose to discuss this subject at any length, because I think that when we shall have something tangible before us in the shape of a tariff bill we may be better able to discuss details as to the rates of duties on specific articles. But it is contended, by gentlemen on the other side of the Chamber and those who favor a reduction of the tariff rates, that such reduction would be for the benefit of the farmer. This is the only basis upon which an argument for the reduction of tariff duties can be based with even plausibility. It is contended here that there should be great haste, that the tariff should be immediately revised, because of its great burdens upon the people. Now, what evidence have we that this tariff is a burden upon the people? Are there any petitions here to that effect? Do we hear of any petitions before the Committee on Ways and Means complaining that the tariff is an oppressive measure and must be changed? Not at all; I know of nothing of the kind. The farmers are certainly not complaining. They have no reason to complain of the present tariff. I take the ground, Mr. Chairman, that a protective tariff is of no less importance to a farming community than to a manufacturing community. Certain it is that in no other part of the world are agricultural implements of such superior design and workmanship in common use as they are among us or can be obtained for the same outlay of money.

But for the ingenuity and enterprise of American mechanics, fostered and encouraged by our protective system, we should still in our agricultural operations be using the scythe and cradle of fifty years ago.

I suppose that this argument in favor of a reduction of the tariff is intended to be addressed mainly to the farmers occupying the new States of the far West and Northwest, because it is to that region alone that it could apply with any force. It is a fact, Mr. Chairman, and one which cannot be doubted, that only from States having a comparatively new soil, where farming can be carried on without the expense of manure or fertilizers, can the exportation of grain, even at present prices, be made profitable. It is a fact well known to all the farmers of Pennsylvania, at any rate, and I have no doubt to all the farmers of the Northern States generally, that in order to prosecute agriculture with any success there must be a home market, a market near at hand for the products of the farm. We do not pretend to compete with the farmers of the West in the price of grain. They can at present produce cheaper than we can. But there are so many manufacturing towns and cities in Pennsylvania needing constantly agricultural products of a varied character, fruit, vegetables, butter, cheese, pork, and other products of a high state of agriculture, that in this direction the farmers in my section of the country look for their revenues. Through all my life it has been the fact that whenever manufactures in the city of Philadelphia, for example, are at a low ebb, farm products are cheap and difficult to sell.

When men were employed at liberal wages they had means to buy, and they were not hard to deal with, but, on the contrary, were willing to pay good prices for agricultural products. As it was in Pennsylvania, so it was everywhere else.

In order to be made profitable, agriculture must have a market near its products. If any man supposes that agriculture in this country can be made profitable by the shipment of grain abroad, he labors under the greatest imaginable delusion. This, to my mind, is a proposition so clear that it needs but little argument.

There is another matter, Mr. Chairman, to which I wish to call the attention of this House. Suppose it should become the policy of this country to enter upon the prosecution of agriculture with a view mainly to the exportation of the products of the soil, what would be the effect? In a pamphlet which I have before me, written by Dr. Peter Collier for the Agricultural Review and Journal of the American Agricultural Association, dated April, 1882, and entitled, "Is our soil being exhausted?" I find the following very suggestive and important statement:

> From the data already presented in this article it appears to be established almost beyond question that, despite the very great inequalities of productiveness in the several sections of the country, which inequalities are doubtless largely due to inherent and original differences in the character of the soil, in part also to climatic conditions favorable or unfavorable to agricultural production, and in part also to better agricultural methods obtaining in some sections than in others, still it appears beyond doubt true that over large and most productive areas of our country the fertility of the soil has suffered appreciable diminution.
>
> If we contrast the New England and Middle States, for example, with those of the Central or the Northwestern and Western States, we shall find that although the former were but a few years ago surpassed in productiveness by the latter, during the short period of fifteen or twenty years the yield of the latter has fallen off, while that of the New England and Middle States has increased, so that at present the acreage yield of these New England and Middle States surpasses that of the Northwestern and Western States and of the Central States.
>
> We have then obviously one solution as to the important question. "How shall exhaustion of our lands be prevented?" The answer the above facts force upon us is: increase so far as possible home consumption of our agricultural products, and carefully preserve and return to our lands such portions of those products as are either not fed to the animal, or if fed, are not assimilated.
>
> None need to be reminded that this practice has been repeatedly urged upon the farmer, and indeed thousands of practical illustrations abound proving that profitable agriculture and productive lands are closely connected with flocks and herds.
>
> But if our present methods shall continue and our exportation of cereals increase, the time must come, unless our experience is to be wholly unlike that of other countries, when to increase the production of our lands we must at least have recourse to the same methods which have long obtained in Great Britain and upon the Continent, and in the New England, Middle, and Atlantic States of our own country, namely, the application to our soils of those mineral constituents which now are being so rapidly removed. When that time comes, as come it assuredly must without some modification of our methods, it will be found that the profitable production of the cereal crops at the prices we now obtain for them will be an impossibility. Indeed, already in many parts of the country the continued production of corn, as in the past, is found to be almost without profit, and there have sprung up many factories, hoping by its manufacture into other products to increase the profits in its production.

Now, Mr. Chairman, this condition of things is attributable mainly to the fact that a large portion of the United States has been farmed with a view to the exportation of our agricultural products. There has been no home market established, and as wheat and corn have been raised for exportation chiefly, the inevitable consequence has been that the fertility of the soil has become, in a measure, exhausted. If manufactures had been established universally throughout the country agriculture would have been profitable everywhere. Agriculture could be made profitable in the South if the South were to engage in manufactures as well as in agriculture.

While I am on this point, Mr. Chairman, let me call to the attention of the House that almost ever since the foundation of the Government two ideas have dominated the minds of Southern statesmen. One was the idea of the supremacy of State rights, and the other the doctrine of free trade. They continue even to the present day. We find most of the advocates of free trade come from that section of the Union.

Now, I do not wish to make any invidious comparisons between any sections of the country. I have no purpose to hurt the feelings of any single member representing any district, whether in the North or the South, the East or the West. My only purpose is to state what I believe to be palpable facts, so that whatever injury may have been done in the past may be remedied in the future. It is apparent that free-trade doctrines as taught in the South have kept that section of the country from advancing as rapidly as it should have done. They had, and can have, no diversified agriculture in the South until they have established manufactures in their midst.

I believe they can have no general prosperity until they open their coal fields, develop their mines, and invite labor and capital for the establishment of manufactures. Then that country, so favored by Providence with a mild climate and with fertile soil and almost unbounded resources of every character, will make an advance heretofore undreamed of. As one of the Representatives of the State of Pennsylvania I should be glad to see the South enter upon such a course of prosperity. It would inure not only to the benefit of that section but to the advantage of the whole country. We would then have something like unanimity of sentiment on this complicated subject of the tariff.

It is a somewhat curious fact, and one we ought to notice, that a reduction of the tariff is asked at this time in order to promote the importation of foreign goods, when if we carefully study the statistics of the United States we will discover we are receiving into this country at the rate of $800,000,000 of foreign productions every year. It seems to me that ought to satisfy even the great city of New York, through which most of that business is done. We ought not to consult the wishes and interests of the importers of the great city of New York alone, but we ought to consult as well the interests and welfare of our vast country and millions of people outside of that city.

The fact is, at this time the balance of trade is tending rapidly against the United States. The foreign goods which are imported every year will absorb the agricultural exports, and unless some favorable change soon takes place we may find, as in the panic of 1873, gold exchange will be against us. After that panic, as soon as the country recovered and exportations began to exceed importations, the shipment of gold began to be made to this country. Exchange now is in such a condition that it is very likely shipments of gold will begin to be made from this country to Europe. That may be the case this very week in the city of New York. We do not appreciate the great interests of the fifty millions of people engaged in every industrial avocation of life as we ought to do. We do not see them in their diversified labors. They are, however, the main stay of this country, and they should not be dominated by the selfish wishes of one or two commercial cities who want to see the tariff so changed that foreign goods may flow into this country in such vast proportions as still more largely to increase their enormous profits.

On the contrary, I am in favor of a policy that will give, as I said a moment ago, the home market to our own manufacturers; and in doing that we benefit every and all classes; we shall build up our

manufactures, afford new fields for our labor, and by increasing the demand for labor we necessarily enhance its value and make all happy and prosperous.

I will be pardoned a little State pride when I say that I should be glad if every gentleman here interested in these questions would travel through Pennsylvania and get a bird's-eye view of what is going on there, and they will get a better idea of what the legislation of the country should be touching these great interests.

We talk here of the importance of this subject or the importance of that subject, but I venture to say that no man on this floor who will give the manifold questions which are more or less directly connected with the tariff the slightest attention can fail to come to the conclusion that we are now dealing with the most important interest that can possibly come before us. When the proposed commission have completed their labors, and we have their report before us, we shall have the satisfaction of knowing that we have done what we could to be fully informed as to the whole subject of tariff revision. Congress will not be bound to accept any of the conclusions at which the commission may arrive, but will still have absolute control of the whole matter.

Mr. FINLEY. Mr. Chairman, if we confine the discussion of the pending bill within the scope of its declared provisions we shall be relieved, for the present at least, from the consideration of the many details which must necessarily enter into any well-matured measure looking to the revision of the tariff.

I will not attempt to add to the reasons already so sufficiently presented in the progress of this debate why the Senate bill now under consideration should not be sanctioned by this House. Nor will I presume to anticipate the difficult and delicate task of reconstructing our tariff laws, which, in my judgment, should be devolved on Congress through the aid of the Committee on Ways and Means. In the remarks I propose to submit my endeavor shall be, without going over the ground already occupied, to show, if I may, that there are a few plain and simple rules logically deducible from the Constitution itself which should at all times be recognized, and which should govern and control in all tariff legislation, both now and hereafter.

From the very beginning of our Government, down to the present hour, the laying of impost duties has been a vexed question in American politics and one upon which public opinion is as much divided to-day as at any former period of Federal legislation. Hitherto the debates on this question, both in and out of Congress, have not only been conducted with great zeal but too often with bitter acrimony between the advocates of what is popularly known as free trade on the one hand and the friends of what is known as high protection on the other, both of whom, in my judgment, have abandoned the field of practical legislation and have lost themselves in the bewildering mazes of theoretic speculation.

Now, Mr. Chairman, I frankly confess my inability to unravel the tangled thread of sophistry that runs through all the arguments of extremists on either side of this perplexing question, and I am profoundly convinced that we shall never arrive at safe and reliable conclusions until we escape from the beclouded region of mere speculative theory into the clear atmosphere of practical knowledge and experience.

It is admitted on all hands that the present tariff should undergo revision and reduction. Indeed it needs no argument to show that it is utterly impossible to devise a tariff law which will not require modification and revision from time to time, so as to accomodate its provisions to the varying conditions of the industries of the country and to the constant and unavoidable fluctuations in the commerce of the world. But I insist that these changes and modifications of our tariff system should be and can be regulated and controlled by a well-defined principle, which should never be disregarded.

As free trade, pure and simple, would drive the Government to the only remaining alternative of raising revenue by direct taxation, which may safely be assumed to be impossible in American legislation, it would be a needless waste of time to discuss it.

The advocates of high protection for protection's sake contend for a tariff that will enable our own manufacturers to drive from the home market all foreign competition. It would therefore, in my judgment, be injudicious and unwise to base American policy upon the views of either the advocates of free trade or of high protection. In this, as in all other cases characterized by extreme and contrary opinions, the only safe course will be found in the middle ground from which these extreme opinions diverge, and I submit that it is the duty of Congress to search for and find this middle ground, and having found it, to base all tariff legislation upon it.

Now, Mr. Chairman, all who have carefully examined and weighed what has been said and written by speakers and pamphleteers on the subject of the tariff must have seen that the policy advocated by the free-trader tends to the monopoly of our home market by foreign producers, and that the policy of extreme protection as certainly tends to prohibition, and consequently to a monopoly of the home market by the domestic producer. In either case there would be a monopoly of supply which would enhance the price to the consumer and would so continue until such time as the supply shall exceed the demand. Whenever and as often as this is the case prices fall; but so long as either the domestic or foreign producer shall control the supply, prices will rule high until the demand shall fall below the supply.

Much has been said and written about a tariff for revenue only, and after a careful examination of the subject I have arrived at the conclusion that under the Constitution no tariff which exceeds the demands of revenue can be justified.

Now, if this be true, it becomes a matter of the first importance to inquire into the extent of the constitutional power of Congress to lay and collect taxes for revenue. The power to lay and collect taxes, as well as the methods by which it may be done, is clearly defined in the first clause of the eighth section of the first article of the Constitution, which reads as follows:

> The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States.

Now, it is clear and indisputable that whatever taxes are levied and collected for the purposes enumerated in this clause of the Constitution, by either of the methods therein provided, are strictly taxes for revenue alone.

Under this grant of power it devolves on Congress to provide the ways and means for the payment of the debts of the United States. The amount necessary for this purpose being a matter of simple arithmetical calculation leaves no room for question or debate; and necessarily all taxes collected for this purpose will be revenue within the meaning of the Constitution.

Congress is also clothed with the power to determine the amount necessary to be raised for the "common defense and general welfare." Now, the power to levy and collect taxes being limited to these purposes by the Constitution, it follows as an inevitable conclusion, resulting from the soundest philological interpretation of the language employed in that instrument, that the power to determine the amount of taxes necessary for such purpose lies in the sound discretion of Congress, and it also follows that whatever amount is thus collected will be in the strictest sense of the word for revenue.

If, then, Congress, under the Constitution, can alone determine the amount of revenue necessary to be collected for the payment of the debts and providing for the "common defense and the general welfare" of the United States, the question as to how much shall be collected for these purposes must necessarily rest in the sound discretion of Congress, and, keeping within the limitations of the Constitution, it becomes one of expediency and not of constitutional power. It is precisely at this point that divergent and conflicting opinions arise.

To illustrate: a bill has been reported to the House by its Committee on Naval Affairs (which I most earnestly hope may become a law during the present session) to increase and improve our Navy for the "common defense and general welfare," and it will devolve upon Congress to determine upon the expediency of such a measure, and if it shall be passed by both Houses and be approved by the President, whatever tax it may be necessary to levy and collect for such purpose will be a tax for revenue within the meaning of the Constitution. And so in regard to our coast defenses, the improvement of our rivers and harbors, and in aiding in the restoration of our merchant marine by giving compensation to American-built and American-owned iron or steel ships for carrying the mails to and from foreign ports, provided they are constructed under the direction of the Secretary of the Navy, upon such models and of such material as will enable them to be readily converted into efficient ships of war when needed by the Government for such purpose, and to be sold to the Government at a reasonable price when so needed.

Appropriations made for these and for other purposes necessary for the "common defense and the general welfare" would be within the power conferred on Congress by the Constitution, and would be for revenue. Unless, therefore, Congress should transcend the power conferred by the Constitution by laying and collecting taxes outside of those enumerated in that instrument, its action must necessarily be within the revenue limit.

If this view of the question be correct, then it will be safe to conclude that the ascertainment of the amount of revenue that is necessary to pay the debts and to provide for the common defense and the general welfare rests in the discretion of the two Houses of Congress, and that in the exercise of that discretion they can only be controlled by the Constitution; and if they overstep the limitations of the organic law they may be checked by the executive veto and the judicial power of the Supreme Court of the United States.

The framers of the Constitution, so far as they could, provided against hasty and improvident legislation by clothing the Executive with the veto power, and by requiring frequent elections, when the people have it in their power to correct any abuse growing out of unwise legislative enactments. It is, as I have already said and now repeat, when Congress undertakes to determine what is necessary for the "common defense and the general welfare," that we find ourselves embarrassed by widely differing and conflicting opinions, which differences and conflicts are liable to be renewed and intensified at every change in the administrative policy of the Government, and are, perhaps, as sharply defined at this very moment as at any former period in our national history.

In this state of things all thoughtful minds are inquiring what is best to be done. This is a question which to-day appeals to the judgment and patriotism of every member of Congress. It is no party question. It should not be made a party question, and I do

not hesitate to proclaim that, in the present state of public opinion, if the tariff should be made the issue in a national election it would disintegrate if it did not disrupt existing political parties. There is one proposition, however, upon which all the political parties are agreed, and that is that the present tariff should undergo revision and reduction, and if the Congress in performing the task of revision shall confine its action within the constitutional limit of revenues, the only question which would remain open for debate would be as to what industries and to what extent the principle of incidental protection under a revenue tariff should be applied. It is not only the province but the duty of Congress to decide this question, and at as early a day as is consistent with a cautious examination of the subject in all its details, which task in my judgment can be performed through the appropriate committee of the House much sooner than through an outside commission to be appointed for that purpose; and I will add quite as thoroughly and intelligently, as all the facts and all the sources of information would be alike accessible to both committee and commission.

If in the performance of this duty Congress should overstep the limitations of the Constitution its action would be subject to the restraining power of the Executive veto, and, failing in that, it would have to stand the test of scrutinizing judicial investigation, and would be controlled by the judgment and decision of the Supreme Court of the United States. And so, also, hasty and improvident legislation may be arrested by the Executive veto, and can be corrected by the people at the ballot-box. With these salutary checks, it is almost impossible for Congress to make any permanent departure from the path of constitutional legislation.

But, confining the power to lay and collect taxes within the revenue limit, it remains for Congress to determine the measure of incidental protection to be given to such domestic industries as most need it, and, in the revision and readjustment of our tariff system, it should not be lost sight of but constantly kept in view.

Of our productions, manufactured and agricultural, amounting in value to about fourteen thousand millions of dollars, only between eight and nine hundred millions are exported to other countries, thus leaving thirteen thousand millions to supply the home demand.

These figures indicate the vast demand for our productions in the home market and for domestic consumption, and cannot fail to impress the minds of thoughtful statesmen with the importance of diversifying and encouraging our home industries.

Of course I do not suggest, nor do I advocate a policy, even if such a thing were possible, which would cause our domestic market to absorb all our productions. With a boundless area of land not yet reduced to cultivation, and a rapidly and ever-increasing supply of labor to reclaim it from the wilderness and make it productive; with inexhaustible mines teeming with undeveloped wealth, and with the marvelous expansion of our manufacturing industries, it is safe to conclude that our productions will increase in a ratio equal to the increase of our population, and that about the same relation between the home demand and our exports will be maintained in the future, and that whatever fluctuations may occur to disturb the equilibrium between them in any given year or series of years will result more from temporary causes, such as short production at home and abundant production abroad, or abundant or short production in both, as the case may be, than from any permanent changes in our commercial relations.

Whenever we have a surplus beyond domestic demand, that surplus will, as a general thing, be attracted by foreign demand, and by this unerring indicator we shall easily find the measure of exportation.

In considering this subject, therefore, we should be careful not to undervalue the importance of our home market, for this is the market which is least exposed to the contingencies and consequences of an ever possible disturbance of our foreign commercial relations.

Now, Mr. Chairman, I confidently affirm that with our rapidly increasing labor it is impossible to increase the home demand for our surplus without distributing this increased and ever-increasing labor among different and diversified industries, so as to bring them all under the healthful operation of the law of demand and supply, and maintaining as near as may be possible the desired equilibrium between the two. This policy, if adopted and encouraged by the legislation of Congress, through a wise application of the principle of incidental protection within the limits of revenue, would doubtless result not only in increasing but in imparting stability to our home market.

How the home market can be best encouraged, maintained, and increased, and by what legislative policy this desirable end can be most surely accomplished, is a problem which can only find its solution in the action of the American Congress, and the sooner we enter upon a sober and careful investigation of the subject, the sooner we may hope to arrive at sound conclusions and judicious legislation. While no new policy should be entered upon rashly and inconsiderately, and so be left to all the chances of a wholly untried experiment, we may, in the light of past experience, and aided by a careful examination of the relations which our varied industries hold with trade and commerce, both foreign and domestic, be enabled so to apply the principle of incidental protection as to divert much of the labor of the country from less profitable employment into new channels of production, which would necessarily and therefore certainly strengthen and increase our home market, for the simple reason that the farmer must be clothed and the mechanic and manufacturer must be fed. To bring this about is, of course, beyond the power of arbitrary legislation—for there is no power in Congress to compel one man to produce any given raw material and another to convert it into forms adapted to the every-day uses of life. From this it will be seen that the only way in which Congress can contribute to the multiplication of employments is to legislate in such a manner as to encourage the redundant labor employed in any particular industry to engage in some other.

This, I know, will always be found to be a delicate and difficult task, and in some cases it may be impossible, in extending incidental protection, to avoid altogether the appearance of partial discrimination against some of the industries of the country. But it should be remembered that no laws of human enactment can be absolutely perfect, and if all legislation should be suspended until infallibility shall be reached every government on earth would be compelled to surrender the law-making power. Yet, because finite legislators cannot enact perfect laws is no reason why we should not attempt the nearest possible approximation to it.

The highest pinnacle to which national prosperity can climb will be attained in the ample production of everything required for domestic use and comfort, and beyond this the largest surplus possible to create in every branch of industry for the markets abroad, and the only way to encourage and aid in bringing about this desirable state of things by legislation, which I have been able to discover, is to apply the principle of incidental protection to such industries as cannot be born, or if born cannot maintain vitality and healthful growth without the fostering but prudent and guarded aid of legislation.

A new industry, confronted in its very birth with a monopolizing foreign competition, is like a new-born infant. We must feed it if we would have it live; we must nurture it if we would have it grow. To such an industry Congress is the wet-nurse, and upon it rests the maternal duty to provide it with proper food. It must neither be underfed nor overfed. If it be underfed, it will dwarf into a sickly existence and die; if it be overfed, it will grow into the ravenous monster called monopoly, and will ruthlessly prey upon all surrounding interests and industries. If we wish to utilize our undeveloped resources we must shape and adjust our legislation so as to bring them into fair and equal competition with foreign productions of a like class. To nurture our domestic industries to this extent is necessary to their healthful growth; to go beyond this would enable them to impair or destroy other interests that are equally entitled to the protecting care of the Government.

Now, Mr. Chairman, after all that has been said and written on the subject it is competition, however brought about, that cheapens the price to the consumer. Protection that drives away foreign supply gives monopoly to the domestic producer until domestic competition shall diminish prices. While on the other hand free trade, which opens wide our markets to the cheaper goods of the foreign producer, will give to him a monopoly of our domestic trade, the necessary tendency of which is to relieve importations of competition and thus enhance the price to the consumer.

Thus legislative encouragement to the extent indicated would not only give to the consumer the benefit of a healthful foreign competition, but would gradually and certainly bring into existence a domestic competition, which would lessen prices to the consuming class whenever and as often as supply shall equal or exceed demand. In other words, prices are controlled by the law of supply and demand. There is no escaping the force of this inflexible law of trade, and no legislation can relieve this or any other country from its inexorable demands.

I venture to lay it down as an unanswerable proposition that it is impossible to place a tariff duty upon any goods imported from abroad, for which there is a demand here, without affording protection to a greater or less extent to like goods manufactured in this country, which protection will continue until increased American production shall bring about a salutary competition among domestic producers. Now it must, I think, be apparent to every thoughtful mind that protection should never be carried to the extent of prohibition, nor even beyond the point necessary to create and maintain a healthful competition between domestic and foreign producers, and this, I confidently affirm, should be made the governing and controlling principle in the enactment of all tariff laws, both now and hereafter, Congress at all times confining its action within the limits of constitutional revenue.

To determine where this point lies will tax to the utmost the wisdom and experience of our ablest statesmen. It is, indeed, the most difficult and embarrassing task that can devolve on Congress, requiring, as it does, a familiar knowledge with all the varied industries of the country, their mutual relations and dependencies, and also a thorough acquaintance with foreign markets and productions, so that we may intelligently direct our efforts to the common advancement of our own interests and industries with the least possible hardship or injustice to any. One should not be fed and another starved, but all our industries should be encouraged and fostered by the judicious and wise action of Congress in applying the principle of incidental protection within the limits of a constitutional revenue, and upon the basis of that benign maxim "to live and let live," which should pervade all the relations of life, and of society, and of business as well.

To bring the various industries of the country into that nice adjustment which shall make them helps instead of hinderances to each other will be no easy task, and may perhaps be impossible of perfect accomplishment; but this is no reason why a constant and earnest effort should not be made in the legislation of the country to bring every wheel in the complicated machinery of labor, capital, production, trade, and commerce into harmonious and helpful co-operation.

I undertake to affirm that much may be accomplished in this direction by wise and timely legislation, and deem it not only appropriate but safe to leave this important work in the hands of Congress, which can through its committee call to its assistance the knowledge of the most experienced financial and commercial minds of the country; and in this connection I do not hesitate to declare that if we hope, through the medium of legislation, to aid in the great and important work of harmonizing all our material industries and producing interests, we must withdraw from the field of speculative theory and come squarely down to the practical teachings of experience.

Have we any resources not yet developed which might be made to contribute to the wealth and prosperity of the country? Are the products which might be derived from them in demand among our own people? If so, why do they remain dormant? The answer is, that the demand for them is supplied by the foreign producer cheaper than they can be made here. Why is this so? It is because the cost of production is cheaper abroad than at home. How is this inequality to be remedied? I answer, it is, at least to some extent, to be remedied by affording incidental protection within the limits of a revenue tariff until the home products shall be brought into fair competition with the foreign product.

It is said, and truly said, that the cost of transportation for the foreign product is itself a protection to the home product; and I am ready to admit that in many cases and in regard to many industries it affords all the protection that is needed, but there are other domestic industries that cannot, even with the advantage of transportation in their favor, successfully compete with the foreign. In all such cases, in my judgment, incidental protection should be added to transportation until a fair and equal competition shall be brought about between the domestic and foreign product, not more for the benefit of the producer than for the ultimate advantage of the consumer, who will in the end realize all the benefit which must necessarily result from competition.

It is urged that the consumer pays the duty, and doubtless this is generally the case, although it is well known that this is not always or necessarily the case. But suppose it to be true, that the consumer pays an enhanced price to the extent of the protection given, would it be wise; would it be provident to leave any resource of our own which is capable of yielding what we want and what we consume to a devouring foreign monopoly to the extent of the sum total of American demand? With the rapidly multiplying millions of our population, which by the end of the next century may (as I trust without Chinese immigration) equal that of China at the present time, would it be wise to adopt such a legislative policy as will strangle American enterprise by preventing the multiplication and vigorous growth of our own industries?

I do not mean to say that American industries are to be fed perpetually on protection pap, nor do I mean to say that protection should be given through an import tax outside of strictly revenue limits; but I do mean to assert most emphatically that within those limits a judicious and reasonable discrimination ought to be made in favor of infant industries until they grow into a sturdy maturity, which will enable them to leap into the arena of trade and commerce full armored and equipped for a fair and equal contest with all foreign competitors. We must not recoil from a policy that looks to the advantage and prosperity of our common country in the future simply on account of a present inconvenience. We must remember that we are not living for the present generation alone. We must consider that the unborn millions who are to come after us will receive as a heritage the country and its interests, as each preceding generation shall leave them, and that every generation will sit in judgment upon those that have gone before, and will hold them responsible for the manner in which they have discharged their duties and obligations to posterity.

We must learn to look through and beyond the immediate effect of any given policy to its ultimate results, and not be deterred from making the effort to secure a final and permanent good to the whole country by mere temporary inconvenience.

Now, Mr. Chairman, in conclusion I wish to state by way of recapitulation the several propositions submitted in the remarks I have made. They are as follows:

1. That it is the duty of Congress to revise the present tariff with as little delay as is consistent with an intelligent execution of so important a task.

2. That the extreme views which are entertained on both sides of the question would be unwise and unsafe as a basis for tariff legislation.

3. That the free-trade policy if carried to its logical results would expose us to a ruinous competition with the cheap labor production of foreign countries.

4. That protection when it goes beyond the point of fair competition with foreign labor and production tends to monopoly of the home market to the disadvantage of the consumer, and will continue to do so until domestic competition shall reduce prices.

5. That there is a medium between free trade and high protection which, if adopted and carried out in our legislation, will foster our domestic industries and encourage the development of our internal resources by placing our productions on a fair and equal footing with those of foreign countries, thus giving to the consumer in this country all the advantage arising from the healthful operation of the well-known laws of trade.

6. That fair and equal competition, whether it be domestic or foreign, is the only thing that can be relied on to keep down prices to the consumer, and that a tariff that either destroys or seriously impairs such competition cannot do otherwise than increase the price to the consumer.

7. That the shifting and ever-changing relations of our trade with foreign countries, influenced as those relations must always be by the inexorable operation of the law of supply and demand, and other causes, it will be impossible to establish a permanent system of tariff duties, but we must expect from time to time to be obliged, as we are now, to modify, revise, and change it.

8. That all tariff legislation, both now and hereafter, should be based upon a constitutional revenue "to pay the debts and provide for the common defense and general welfare of the United States," with incidental protection to encourage a diversity of labor employment, and the development of our internal resources, and so to increase and render more stable our home market, upon which our prosperity must always mainly depend.

Mr. HATCH addressed the committee. [See Appendix.]

Mr. HATCH, on concluding, yielded the remainder of his time to Mr. CABELL.

Mr. CABELL. Mr. Chairman, in the short time allowed me I shall attempt no lengthy disquisition upon the science of government or the teachings of political economy as expounded by modern reformers, nor yet will I weary the House with a long array of facts and figures. I wish only to give expression to a few of the practical ideas that strike "a man from the country" upon consideration of the subject presented. Upon examination of this bill, I might ask what do the movers of it wish us to do? And then promptly answer, nothing. For that, Mr. Chairman, seems to be plain. If we pass it, what do we accomplish? Delay; nothing more. The bill provides for the appointment by the President of a commission composed of nine gentlemen to consider and report a revision of the present tariff laws.

Every fair man admits that the tariff laws should be revised, that the present system compels the consumers of the South and West to pay a tribute of from 38 to 104 per cent. more for the goods of Northern and Eastern manufacturers than for goods imported under wholesome laws. No intelligent man can fail to see that the Northern and Eastern States have grown rich and powerful from the bounties levied in their interest upon the labor of their Southern and Western neighbors, and that the great body of the people have been reduced to the condition of "hewers of wood and drawers of water" for the manufacturers and monopolists who dominate the country through the operations of the protective-tariff system.

No one in this advanced age except an infatuated protectionist can understand why the people of this country should be compelled to pay the domestic manufacturer an extreme rate for goods when the importer, under prudent regulations, could offer the same or better articles for less money. Why should one portion of the people be required to build up and enrich the other when that other makes no return in kind? Or why should the great farming interest be grievously taxed to sustain the manufacturing interest when the latter makes no corresponding return? True, they ought all to labor together for the common good; but that is contrary to the very essence of the protective system, which requires the agricultural and laboring classes to pay exorbitant rates to the manufacturers of the country to the end that the latter may not be undersold by the importer.

What boots it to the laboring-man whether he buys of the domestic manufacturer or the importer? He wants the goods, he has them to pay for, and if the manufacturer will not sell on reasonable terms, he should be allowed to buy where and from whom he can buy cheapest. But it is said unless you "protect" the manufacturer he cannot do business, cannot increase the trade and commerce of the country, and cannot give employment to labor. All business should be reasonably protected, but a business which cannot sustain itself in this day and time ought to go down. If men do business they should conduct it at their own cost, unless they share the profits with those who contribute to their success, and ample and profitable employment for labor can always be found when the application is inspired by enterprise, and the community of profit is the principle. Labor is never dignified and is never properly or profitably employed when there is no community of interest between the employer and employé, when the one is elevated to the position of monopolist and the other reduced to poverty by starvation wages.

But we must have a commission, a body of experts, to settle this business. Where did we get the authority to create this commission? What did we come to Congress for? What did the people send us here for? Why were we clothed with great legislative and

representative trusts except for the discharge of the people's business? Have not the subjects of finance and the tariff been the issues mainly discussed before the people for several years? Did not every man in this House hold himself out to his constituents as an "expert" in matters of tariff, and an adept upon the subjects of banking and currency, and as willing to assume and able to perform every duty incumbent upon a respectable representative of an intelligent people? Some of those promises, I admit, may have been imprudent and rash to the last degree, but still they were made by "willing souls," and relied upon by trusting constituencies, "else many of us had not been here."

Now, after all these promises and assertion of ability to discharge lofty trusts, to right wrongs, and reform abuses, it hardly looks decent for us to turn around and confess to our constituents and the country that a mistake was made, that the wrong men were sent to Congress, that in fact we are unable to grapple with the tariff, to compass any reforms, to lighten any burden, and to abolish that war-born, devil-christened system of internal taxation which hangs like a nightmare upon an oppressed and long-suffering people. No, Mr. Chairman, we have had one commission in the history of this country. That "eight to seven" business was quite enough. The American appetite craves no more. The results of this commission will be no more palatable than those of the former, even if worked out by "five to four." Again, Mr. Chairman, I cannot regard this desire for a tariff commission in any other light than as a scheme for delay. It is but a mere pretext to put off that labor which it is our present duty to perform.

Gentlemen who are opposed to any revision or reduction of tariff duties seem all to favor this commission. Refer the question this session, if you please, to the chosen nine; when you return next session you will find the work unfinished, or, if finished, so crudely and imperfectly done, according to the estimate of those who want delay, that the results will be rejected or another commission formed, and finally, after much delay, the country suffering the meanwhile all the troubles of the present obnoxious system, it will be concluded, what we all know now, that Congress has no right to abdicate its powers and prerogatives or to evade its duties and turn them over for performance to a roving commission of nine gentlemen, a majority of them appointed perhaps in one interest only, and whose work, if adopted, when completed may leave us in a worse condition than now.

The idea is becoming too common that when a difficult question presents itself Congress must evade its duty, avoid the labor, and impose it upon a committee or commission of "experts." The people are not so blind as many suppose, and they are beginning to see what is going on here. I tell you, gentlemen of the Republican side of the House, who are the main advocates of this commission bill, that if you continue much longer to "do those things which you ought not to do, and to leave undone the things which you ought to do," for example, if you fail to aid us in reducing taxation and insist upon resigning our trusts to others, as by this bill you propose, the next election will produce an "old-fashion shaking up," which will result in the selection of others than those now gracing seats in this Hall, and I would commend this goodly admonition to some of the "erring brothers" on our own side of the House.

Mr. Chairman, it is absurd to say that Congress cannot attend to and properly dispose of this matter. I know it involves labor, but the Committee on Ways and Means should be required by this House and the country to formulate a proper bill and present it for consideration. That committee, composed of eminent gentlemen of rare abilities and varied attainments, can surely present a measure of reform preferable to the present bill of abominations known as the "Morrill tariff." The fact is, Mr. Chairman, any change of laws, any system of reform of the subject, would be hailed as healthy and of benefit. The action of the Ways and Means Committee in presenting this bill is, I humbly submit, unjust to the House and country and unworthy that great committee itself. It is idle to say that the committee is unequal to the task of revising the tariff. The failure to present measures of relief and reform by the committee is due to the indisposition of the Republican party, in the majority in Congress, to revise the tariff in the interests of the toiling masses of the people rather than to the want of necessary information and ability upon the part of the members of the committee.

Mr. KELLEY. Will the gentleman allow me to ask whether the influence of which he speaks controlled the action of the Forty-fourth, Forty-fifth, and Forty-sixth Congresses, in which the Republican party was in the minority and the Democrats in the majority?

Mr. CABELL. Unfortunately, during the time spoken of, we had an element in our party in Congress in sympathy with the bad tariff ideas of your Republicans, and who in company with your party prevented us from accomplishing many good things which we desired and the country greatly needed.

Mr. KELLEY. Do not hold the Republican party responsible for the action of your bad "black sheep;" that is not fair.

Mr. CABELL. It avails nothing to speak of the "black sheep" in the flocks of long ago; we are far more concerned in looking after the actions and watching the maneuvers of the flock of "black sheep" which you have in charge now.

Mr. SPRINGER. Whose wool is presumed to be protected at the rate of 45 per cent., which does not protect at all.

Mr. KELLEY. To borrow the eloquent expression of my friend from New York, it was the Democracy, not the Republicans, that cried "baa!" "baa!" through those Congresses.

Mr. CABELL. Yes, and many of the sheep of your party are crying that now, while the remainder are upholding a miserable system which is dragging this country to ruin.

Mr. Chairman, the country demands tariff reform now. A tariff which is prohibitory in many of its features, which tends to the building up of monopolies and monopolists, which takes from the farmer and the mechanic the proper returns for their labor, which enriches the few at the expense of the many, which paralyzes industry and robs labor of its honest toil, should be considered, revised, and modified at the earliest possible day.

What with parching droughts, failing crops, overflowed lands, widespread ruin, and withering taxes, our people are in no humor to longer tolerate oppressive laws. We have an overflowing Treasury. The Government is rich, the people are poor. Last year we had some $62,000,000 surplus in the Treasury; this year we will have from one hundred and twenty-five to one hundred and fifty millions. The Government's debts and liabilities are daily decreasing; its income and revenues are hourly increasing. Why, then, not inaugurate some measures for the country's relief now rather than be looking up new and useless modes of expenditure? Let Congress act now, and make the system a tariff for revenue only. I know that we cannot have absolute free trade, but we can lay the taxes to the extent of the Government's wants, and no more. The industries of the country require no other protection than that which will incidentally result from a well and justly regulated tariff system. Abolish now and forever that obnoxious and degrading system known as the internal-revenue laws of the country. Especially, take the tax from tobacco and spirits. Free the products of certain sections from impositions not levied upon those of others. Call in the political pimp, the spy, the informer, the gauger, the collector, and the marshal, and give once more freedom and rest to a people long harassed by the galling workings of a system born of the suggestions of civil commotion and executed since in the light of all the bad passions engendered by an unhappy fratricidal war. If we fail, the country will seek to know whose fault it is that needed reforms are not made, and will place it where it belongs, upon the Republican party, now in control of every department of the Government. In the canvass of 1880 the tariff and internal-revenue laws were largely discussed, and it was well understood that persistent efforts were to be made to reform those laws by whichever party succeeded to power. The Republicans prevailed. Congress assembled. Instead, however, of reform, we have had nothing but an effort at delay.

The outcome of all the labors of our Ways and Means Committee has been this tax-commission bill, nothing more. The efforts of our Democrats upon the committee, aided, perhaps, by one or two liberal Republicans, to reduce taxation have been thwarted and stifled. It is true that a sub-committee of the Ways and Means at one time agreed to report a reduction upon tobacco and spirits; and it is also true that the whole committee, or a majority of all, would have agreed to report the measure to the House, but party exigencies directed otherwise. All of a sudden—whether at the instance of I know not, but certainly in the interest of monopolists—and to the great damage of the taxpayers of the country, the caucus of the Republican party in Congress, on the 15th day of March last, determined that taxation upon tobacco and spirits should be neither abolished nor reduced the present session. Why, sir, the old and experienced chairman of Ways and Means, [Judge KELLEY,] who seemed much interested, and was regarded as one of the leaders of the movement for the abolition or reduction of these onerous taxes, at the first crack of the caucus whip turned a nimble somersault, falling among and upon the very bosoms of his late opponents, and was soon gracefully leading the members of his committee in their "advance backwards" upon the hopes and promises which but a short time before they had been holding out to the country.

The responsibility for the failure to report any tariff bill and to reduce or abolish internal taxation must rest upon and remain with the Republican majority in Congress. They have the power of the Government; they control legislation; they have refused and still refuse either to revise the tariff or to reduce taxation, notwithstanding the times, the circumstances, and the means, to say nothing of the pleadings of the people for relief, all conspire to call for prompt remedial legislation.

Mr. Chairman, the Republican party of this country cannot escape, and should not be permitted to escape, the fearful responsibility which its members and representatives in Congress assumed when they refused as the people's agents to lighten the people's burdens.

Mr. BRIGGS. Mr. Chairman, it is not my purpose to follow the example of many of the gentlemen who have preceded me in this debate and engage in the discussion of the relative merits of free trade, a tariff for revenue only, or of a protective tariff. These have all been subjects of discussion at times during the entire history of the Government. They have engaged the attention of the ablest statesmen of the nation, and this whole field of debate has been traversed over and over again. I can add nothing new upon this old and interesting subject. Such a discussion when the tariff bill itself is under consideration will be proper and legitimate, but to-day it is

entirely outside of the object I have in view in addressing the committee. My purpose is to speak to the pending bill and the propriety of its passage. What is that bill? What are its provisions?

When amended, as it is proposed to be by the Committee on Ways and Means, it provides that the President, by and with the advice and consent of the Senate, shall appoint a commission, consisting of nine members, to be called the tariff commission. Those members are to be selected from civil life and are to receive for their services, when engaged in actual duty, $10 per day each, with their traveling and other necessary expenses. They are authorized to appoint a stenographer and messenger. The compensation and expenses of the commission are to be audited and paid by the Secretary of the Treasury. The duties of said commission are to take under consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff, or a revision of the existing tariff upon a scale of justice to all interests. For this purpose the commission may visit different portions or sections of the country. They shall make their final report of the results of their investigation, and of the testimony taken, not later than the first Monday of December, 1882; but the testimony taken by them is to be printed from time to time and distributed to the members of Congress by the Public Printer. Such, in brief, are the provisions of the pending bill.

In determining whether it should receive the favorable consideration of the House, the first question to settle is this: Is there any necessity for a revision of the existing tariff laws? Upon this question there can be but one opinion. The act of June 30, 1864, found in volume 13 of the Statutes at Large, page 302, and covering some thirteen pages of that volume, is the basis of the present tariff system. It imposes duties upon a great number and variety of articles. At the time of its passage the nation was engaged in a gigantic civil war, the continent trembled with the march of contending armies, and the national life depended upon the result of the conflict. We were overwhelmed with a great and constantly increasing debt, the imperative necessities of the Government demanded money, and this act was passed to supply in part that demand.

In the selection of the articles upon which duties should be imposed, and in fixing the rate they should pay, the framers of that law kept constantly in view not only the revenue which was to be derived therefrom, but also the encouragement of American industries and the protection of American labor. The grand results which have followed from its passage have abundantly vindicated the wisdom and the statesmanship of its authors. But, sir, although its provisions were well adapted to the time and the circumstances under which they were passed, yet after the lapse of eighteen years, with the great and marvelous changes which have taken place in the nation, it is natural and reasonable to suppose that some modification is necessary to adapt it to the changed condition of the country. Let me not be understood as asserting that no changes have been made in the tariff laws since June 30, 1864. Amendments from time to time have been made, but no such careful and thorough revision as the great importance of the subject and the changed condition of the nation and of our various industries require. Had I the time and you the patience, I could point out and call attention to some of the defects and incongruities of the present laws, but, sir, that seems unnecessary for the purpose of this argument.

It is conceded by all that these laws need revision. Those who favor free trade, or a tariff for revenue *only*, or a tariff for revenue with incidental protection, or a tariff with high protective duties—all admit there are imperfections in the existing laws that demand correction. Duties in some instances might be increased, in others reduced. Articles now admitted free should, perhaps, pay duties and many that are now paying duties should be placed upon the free list. In many particulars the laws are uncertain, indefinite, and ambiguous. One construction is claimed by the importers, another by the Treasury Department, and, as a result, the dockets of our courts are crowded with cases in which the true construction of these laws are in issue; thus embarrassing the Treasury Department in their execution, annoying and delaying importers, and disturbing the business of the country. This condition of things ought not to continue, and it is the duty of Congress at the earliest possible moment to correct the evils which exist in the present laws.

How shall this be done? It is claimed by some of our Democratic friends on the other side of this Chamber that the Committee on Ways and Means should at once and without delay begin the work. If so, what reasonable excuse, let me ask, can they offer to this House and the country for their failure to modify and amend these laws? In the Forty-fourth, Forty-fifth, and Forty-sixth Congresses their majority in this House, where under the Constitution all revenue bills must originate, was unquestioned; their power was supreme. The same errors, inequalities, and ambiguities existed in the tariff laws which exist to-day; yet, in the six years they were in power, with the single exception of placing quinine on the free list, they left these laws as they found them—unchanged, unimproved, and there they stand as a monument to their insincerity to-day, or to their incapacity or inability to deal with this subject in the past. Now they arraign a Republican Committee on Ways and Means and a Republican House for not doing at its first session what they failed to perform during the six years they were in power. Every argument offered both against this commission and in favor of a revision of the present tariff by the Committee on Ways and Means is either an admission that the Republicans are superior to them in wisdom or that they in the last three Congresses were culpably guilty of negligence in the performance of an important public duty. Take which horn of the dilemma they choose, they are impaled upon the one or the other.

But to return to my question: How shall these tariff laws be revised? Shall it be done by the Committee on Ways and Means without or with the aid of this commission? The proper answer to this question will depend upon the policy which is to be adopted by the Government. If we believe in the doctrines enunciated by many of the gentlemen upon the other side of this House who have addressed the committee, that our true policy as a nation is to adopt free trade, then I frankly admit this commission is unnecessary. A simple act could be passed repealing all laws imposing customs duties, discharging all customs officers, closing all our custom-houses, and opening all the ports of the country to the free and unrestricted importation of the products of all countries and climes, and at the same time imposing direct taxes upon the people to supply deficiency in the revenue occasioned by the loss of import duties, and the work would be accomplished. We certainly need no commission for this; and I concede that from a free-trade stand-point opposition to this measure is consistent and legitimate.

Again, sir, if in the contemplated revision of these laws, as it has been claimed, revenue and revenue only is the sole object to be attained, the only end to be kept in view, and that all else is outside of our constitutional limits, and therefore must be ignored and excluded, then, also, the creation of this commission is unnecessary. Those gentlemen upon the other side of this Chamber who have expressed such views and opinions and have advocated the adoption of such a policy are justified in their opposition to the passage of this bill. To secure the object they desire it is only necessary to ascertain from the various Departments the amount of revenue required to meet the current expenses of the Government, to pay our large and constantly increasing pension-roll, and the interest on our public debt; then enact a law imposing a duty upon a few articles not produced in our own country which our people must necessarily have—such as tea, coffee, and the like—and fix the rate of duty so as to encourage importations, and thereby produce the revenue required. But, sir, neither the doctrine of free trade nor a tariff for revenue only is to become the settled policy of this Republic.

In the last Presidential contest the issue between the American system of protection and free trade and a tariff for revenue *only* was sharply defined, thoroughly discussed by the press and upon the stump, and a verdict rendered by the American people in favor of the former by the triumphant election of Garfield and Arthur. This result was an emphatic indorsement of the principles long held and advocated by our party; and the Republican majority in this House now, as in the past, will stand firmly by these principles in their legislation upon this subject. In any revision of these laws made by them they will seek not only to secure the requisite amount of revenue to answer the purpose of the Government, but will also seek, not to prevent or destroy, but to create and develop new industries; not to cripple and embarrass, but to encourage and promote those already established, and above and beyond all will they seek to protect American labor, no matter in what department of industry it may be employed, from competition with the cheap and servile labor of foreign countries. Such a revision at this session, I am well satisfied, cannot be made. Before we enter upon this great work the most careful and thorough investigation of all questions—in the language of this bill—relating to our agricultural, commercial, mercantile, manufacturing, mining, and industrial interests, so far as the same may be affected by the legislation proposed, should be made and the results of that investigation laid before Congress.

We should be furnished with all the information attainable in relation to every industry to be affected, of their dependence one on the other, and of their relation one to another, so that no part of our complicated industrial system should suffer or be sacrificed by the change. To perform this great work wisely and well we need all the knowledge and all the light that we can possibly obtain; and I believe, through the instrumentality of this commission, the facts and statistics upon these various subjects, which shall be collected and laid before us, will be of incalculable benefit to the Committee on Ways and Means and to this House when the work of the tariff revision is under consideration. Favoring, as I do, a careful, well-considered, and thorough revision of our tariff at the earliest practicable moment, believing that no such revision will or can be made at the present session, I shall cheerfully vote for this commission with the fullest confidence that the result of its labors, when laid before the House and the country, will afford ample justification for its creation.

Mr. MARTIN, addressed the committee. [See Appendix.]

Mr. DAVIS, of Missouri, addressed the committee. [See Appendix.]

Mr. McLANE. Mr. Chairman, I have very little respect for the bill which is now the subject of discussion, and I should have less if it had originated in this House, for I concur in the general sentiment that it is the duty of this House to originate revenue bills. That the former Congress, or the Congress before that, or the Congress before

that, failed to originate or perfect a measure for the reform of our tariff system is no excuse for us.

I am content for one to feel that the Committee on Ways and Means as now constituted could very well have performed this duty. I do not care how the President may constitute this commission, he never could find a protectionist more perfectly confirmed in his opinion than the honorable chairman of the Committee on Ways and Means, [Mr. KELLEY.] And when the President comes to select a representative of the commercial and the agricultural interests of the country upon this commission, as he will be bound to do by the terms of the measure, I do not believe he can find anywhere a better qualified gentleman for membership of the commission than we have on the Ways and Means Committee in the person of the honorable gentleman [Mr. CARLISLE] who led off in opposition to this bill.

And for one I think the honorable chairman, if he was in favor of this commission rather than an act for the immediate revision of our tax system, made a fatal mistake, looking to the dignity and character of this House.

I confess I am not surprised to find men willing to escape any responsibility for legislation in this House, for we have reached a point when it seems almost impossible to perfect any measure, whether it be the fault of our rules or the administration of our rules, or whether it be because we all bring to our legislative work only representative opinions. I am inclined to think it is quite as much the latter as the former.

I have been very much struck, Mr. Chairman, with this whole course of debate. I have not heard from any honorable member on this floor what I consider a practical discussion of this question. I say it with all reserve and with great respect for the honorable gentlemen who have participated in this debate; but I confess when I find at this period of our public life an endless discussion of the abstract theory of free trade, or of the abstract theory of protection, and day after day exhausted in that discussion, I not only mourn the absence of novelty, but, except in a few instances of those honorable gentlemen gifted with wit and humor, who have been able to give a more or less ludicrous exhibition of our revenue system, and a more or less ludicrous exposition of its details, with those exceptions I have not only found no novelty but I have found a discussion which, whether on this side of the House or on the other side of the House, exhausted itself in the abstract theories of the schoolmen and political philosophers. What is the alternative if we adopt the free-trade theory? Where will we all land if we take the argument of certain gentlemen on this side of the House, who, if left free to follow their own opinions and their own consciences, would give us absolute freedom of trade? In this view of the question, where would you get your revenue? Would you resort to direct tax? How many honorable gentlemen on this floor are ready to-day to raise $350,000,000 by direct tax? I address myself especially to my own political friends and associates; how many of you are willing to raise $350,000,000 by direct taxation? How many are willing even to raise it by an income tax, supposing an income tax is not a direct tax?

Mr. Chairman, the honorable gentlemen who introduce that opinion would lead us to the very result of the honorable gentlemen on the other side who go for protection *per se*. What is to become of this Government if you follow out the principle of protection? If there be no limit, if you may take the bill you have now upon the statute-book and carry into all the items the rule which you have applied to your wool tax and your iron tax, what is to become of your revenue? As often happens in life, these extremes meet, but no statesman in this country, as far as I am acquainted with its history, ever committed himself to any such mode of adjusting tariff taxation. We may take the father of the American system, and all the bright and distinguished men who followed in his wake, and who for twenty years led a great political party on that issue, and not one of them, either in the tariff of 1816, or 1824, or 1828, or 1832, ever presented to you such a monstrous example as we now have in the tariff of 1866, and which finds its defenders on this floor.

No man who ever lived in the history of this country and was recognized as a commanding statesman, capable and fit to give opinion to the country, ever entertained the idea of prohibitory taxation. A few wild, illogical, inconclusive enthusiasts, who represented the opinions of their districts, who came to this floor to recommend themselves to a single constituency, whether it was a manufacturing constituency of iron or of wool or of cotton, a few such men have proclaimed their willingness to levy a tax to prohibition, and, if need be, to waft the money to the waves if it was not wanted in the Treasury. I have heard of such enthusiasts as would lay the tax for the sake of protection, although they had to give the money away, whether to the States or to wasteful schemes of expenditure. But such men stand as monuments of wild folly in legislation and without the respect of the country for practical statesmanship.

And I consider precisely the same result would be produced by those who, forgetting or ignoring the practical lessons of the day, go to take refuge with these schoolmen, whether of Rhode Island or Connecticut, whether professors of Harvard or of Yale.

Are we to receive our political lessons from these schoolmen and professors, or are we to receive them from our own experience as practical legislators under our own responsibility to raise the revenue necessary to maintain the credit of the country?

Mr. Chairman, I look upon it as a great responsibility, and I consider the credit of this country of infinite value to it. I consider that my first duty as a legislator is to look to the credit of the Government, and therefore it is my first duty to look to revenue for the country.

And when I come to look for a revenue I have but one question to consider, and that is how shall I best obtain it, whether by one system of taxation or another? Shall I have it by direct taxation, by internal-revenue taxes, or by a tax on imports? That is the only question I am called upon to consider.

Now, just here I am frank to say that of the three systems I prefer the impost tax; and I never knew in the history of this country a public man who made any other choice. There is not to be found in the history of this country a statesman who ever lived, and who reached the responsibility of government, who did not prefer the tax on imports to either a direct tax or internal-revenue taxes.

The objection I take to this bill is that it does not proceed to revise the tariff or reform the revenue laws. That is what this House ought to do. This House should without delay, before it adjourns, give us a revenue tariff. Give us a revenue system of tariff where every article shall be taxed according to the revenue it produces, and, if you please, according to the maximum of revenue which it produces.

Mr. KELLEY. Will the gentleman yield to me for a single question at this point?

Mr. McLANE. I will yield to the gentleman for any question or correction which he desires to make, but I want my time.

Mr. KELLEY. I will guarantee to the gentleman that his time shall be extended beyond any that I may consume.

Mr. McLANE. Very well.

Mr. KELLEY. You have spoken of the two systems. Now, my belief is that the internal-tax system involves in this country, as it does in England, countervailing duties, and that a revision of the tariff would not be permanent until the internal taxes shall have been levied so as not to require a large class of countervailing duties.

Mr. McLANE. Mr. Chairman, I do not think I will wander very far from that statement of the gentleman from Pennsylvania. I was about saying that it was the duty of that honorable gentleman as chairman of the Committee on Ways and Means, if he could obtain a majority vote in the committee, to bring in a bill here to revise both the tariff on imports and the internal-revenue system, and to produce that harmony between the two which is easy to produce; and not only to do that, but to give the country an assurance that the internal-revenue tax should be effaced altogether as soon as it possibly could be.

Mr. KELLEY. Amen.

Mr. McLANE. And I say to the gentleman from Pennsylvania, long as his public service has been closely identified with this system, he would have done himself in my opinion far more honor if he had relieved the country of the internal-revenue tax than he has ever in his past life obtained by imposing upon it these excessive imposts. He will stand responsible for the one through all time, and he will never have the credit for the other. He has missed his only opportunity, and we who would have followed his lead stand here to-day with no other right than that to protest against his weakness if he yielded his own judgment and his error if he did not see the truth.

Mr. KELLEY. One moment, if the gentleman pleases. It is not well to write epitaphs until the subject be dead. But if I might dictate mine, it would be, "Here lies a man who, when war required it, taxed everything from which money could be extracted, and who lived long enough to have led a movement for obliterating every war tax in the nature of excise." [Applause.]

Mr. McLANE. Gentlemen had better not applaud too soon. I would add to that, for fifteen years after the war he struggled to the utmost to maintain all those war taxes.

Mr. KELLEY. The gentleman mistakes. I, without any aid on the Democratic side, have agitated for the repeal of those taxes during the whole fifteen years.

Mr. McLANE. I am not talking about the internal-revenue taxes now. I had passed that topic and I was talking about the tax on imports; and I said that fifteen years after the war the honorable gentleman from Pennsylvania had stood against all reduction, or against the material reduction of those war taxes. They stand there to-day. This tariff of 1866, abominable as it is, is the war tax which the honorable gentleman from Pennsylvania has sustained for the last fifteen years.

Mr. KELLEY. The tax to which I refer is that of 90 cents upon the farmer who ventures to manufacture a peck of his corn; a tax of 90 cents on a peck.

Mr. McLANE. And the tax I refer to is the tax of 90 per cent. on the poor man's blanket which the gentleman from Pennsylvania has steadfastly maintained for the last fifteen years.

Mr. BLAND. The one is on the poor man's whisky; the other is on his blanket.

Mr. DINGLEY. How about the poor man's sugar?

Mr. McLANE. I was saying when I was interrupted by the gentleman from Pennsylvania that I wanted a tariff composed as a revenue tariff. I want every article taxed to the revenue standard, if need be to its highest standard; when I say "if need be," I mean if that much revenue is required; and inasmuch as I am in favor of repealing the internal-revenue tax as soon as it can be repealed, I

understand very well that my revenue tax on imports must be almost a maximum tax. Now, I say that maximum tax is in many cases less than one-half the present tax.

Mr. Chairman, there are twelve articles at least in that tariff which are taxed over 100 per cent. They yield as much revenue as their original cost. There are more than twenty-five articles taxed over 75 per cent. They yield as much revenue nearly as their original cost. There are over one hundred and fifty articles in that tariff taxed over 50 per cent., and they yield two-thirds of their cost. I believe that the revenue maximum point is below either 50 or 80 or 100 per cent. But I say it is not difficult to ascertain that maximum revenue point. Why, sir, the Bureau of Statistics, if it chooses, could give us that information in twenty-four hours. In twenty-four hours they could send us here a list of articles now bearing duties of 100 or 80 or 50 per cent., and they could show us the revenue on each of those articles went on increasing up to a certain point that checked importation; and as the point was reached where importation was checked the revenue would decrease. The maximum would be ascertained as easily as the temperature is indicated by the thermometer, and we could take those articles, put the revenue duty on them, and we would nearly double the revenue of the country.

Those articles to which I have referred taxed over 50 per cent. yield a revenue, I think, of about $80,000,000, the value of the articles on which that amount of duty is levied being about $120,000,000. I may not give the figures quite accurately; but what I do know is that when the revenue point is reached on these articles the revenue from them would be increased $40,000,000; so that, for one, when I talk of revising the tariff I talk of reducing taxation and increasing revenue.

I have at my hand—and if I do not refer to them in detail it is because I want to conclude what I have to say in my time—I have at my hand the statistics of 1873, when there was 10 per cent. taken off the tariff. The tax was reduced 10 per cent. in 1873, and then it was put on again in 1875. We had two years with a reduction of 10 per cent., and what was the effect? Why, sir, the tax was reduced on six classes of manufactures about $10,000,000, and taxation was lightened $54,000,000; a reduction of revenue from salt, leather, iron, steel, woolens, and cottons of eight or nine millions lightened the cost of those articles consumed by the people fully $45,000,000, which is more than five times the amount surrendered by the Treasury.

That is why I stand here to-day advocating a revision of the tariff by Congress and not by the commission. But I have never had any difficulty about voting for the commission. Although I have entire respect for the opinion of other gentlemen, I have some for my own. I cannot be made to believe that that commission bill is going to give the protectionists the advantage in argument or to lose time in the revision. If we do not revise the tariff now, if we let this Congress pass, if we let this debate go by, if we let the vote on this bill go by without accomplishing anything, we will never as a Congress revise the tariff. We therefore lose no time with a commission.

As for the composition of the tariff commission, I do not care who the President puts upon it. I know he is bound to put on it a representative of the commercial interests of the country, a representative of the agricultural interests, and a representative of the manufacturing interests. I have no doubt he will do his duty. I am not going to assume, at all events, that he will not do his duty. But whether he does it or not, I do not care about their report. I am very sure if they reported from now until doomsday they would not be able to report more or better tariff literature than we have already had from the other side of the House, and from as able men as can ever go on that commission.

I am very sure that no man can be put on that commission as a revenue reformer who will do more justice to this question than has already been done by my friend from Kentucky, [Mr. CARLISLE,] and as I have no doubt will be done before this debate closes by his Democratic colleagues on the Committee on Ways and Means.

So far, therefore, as the tariff commission is concerned, and as electioneering pamphlets are concerned, it does not give me any concern. And I was going to say that I can vote for it just as easily as I can vote against it, and I can do either.

Mr. BLAND. I would ask if the gentleman believes the object of this tariff-commission bill means no reduction of the tariff before considering the internal-revenue question?

Mr. McLANE. I understand the gentleman's question.

Mr. BLAND. My point is this: the idea is to postpone consideration of the tariff until we have considered the internal-revenue question, and reduce the internal revenue in order to increase the tariff.

Mr. McLANE. My honorable friend must pardon me. I have not the slightest idea that the design or the purpose of the other side of the House in pressing this bill is at all sinister or illegitimate.

Mr. DUNNELL. Will the gentleman repeat his last statement? I did not exactly catch it.

Mr. McLANE. I said that I had not the slightest idea that the design or the purpose of the other side of the House in pressing this bill is at all illegitimate or improper. Does the gentleman understand me?

Mr. HAZELTON. He is satisfied. [Laughter.]

Mr. McLANE. More than that, and I must say it to my friends on the other side, I do not hold them responsible at all for that bill, whether it is a good bill or a bad bill. It is a bill devised by Hon. Mr. Eaton, a Democratic Senator from the State of Connecticut. I think it was not a very wise device on his part. I think he was looking a great deal more to the public sentiment of Connecticut than he was to the public sentiment of the whole country.

It is a fair subject on which gentlemen may differ. Some may think it will take the subject out of politics. When that bill was introduced two years ago, I owe it to frankness to say that I was perfectly ready to vote for it. I saw no harm in it. I did not give it much attention. I confess I was somewhat influenced by the political condition of the country. I thought it was an easy way to dispose of a question that could not then be brought to a conclusion.

I was then sitting in this House by the side of the predecessor, as chairman of the Committee on Ways and Means, of the honorable gentleman from Pennsylvania, [Mr. KELLEY,] and was urging him from day to day, as his political friend and associate, to deal with this question of a revision of the tariff. I was urging upon him that his fame as a public man was involved in it; that he ought not to shrink from the full responsibility resting upon him. Day after day I urged him, and heard him say over and over again that it was impossible for him to get through this House or even through his committee any bill for the revision of the tariff.

I thought then as I think now that it was the duty of the House to do it. Discouraged by the House not doing it, I was willing—I never had occasion to say so then, but I say it to-day because it is in the line of my public duty to say it—I was willing to vote for it then. I was far more willing to vote for it then than I am to vote for it now.

And my friends on this side will make this distinction; while in the last Congress I would have been quite willing to have had a commission to revise the tariff when we had not power over legislation, although we had a majority in Congress, I now feel very differently. I now see a Republican House and a Republican President. The Republicans have control of the Government, and if they choose to do their duty they could revise the tariff.

And just at that point, catching the eye of my honorable friend from Iowa, [Mr. KASSON,] I will say I do not accept his apology, I do not accept his explanation, why the Committee on Ways and Means do not report a revision of the tariff. He says they are politicians. Ay, but politicians ought to be statesmen, and ought to know what should be done, and especially in the person of my honorable friend from Iowa. It does not rest with him properly to make such an excuse as that for the committee. He and they together have failed in their duty.

And that is why I do not want to vote for this bill now. I am perfectly willing to vote for it, however, if it will lead to a revision of the tariff. I am perfectly determined to vote for it if in my opinion it would lead to a revision of the tariff. No extravagance of opinion on either side of the House would deter me from voting for it. If I supposed that was my only hope for a revision of the tariff I would vote for it as cheerfully as the honorable chairman of the Committee on Ways and Means, however I might differ with him as to how the tariff ought to be revised. And I shall vote for it if all other efforts to revise the tariff shall fail in this House.

Now, a word more and I shall not detain the committee longer. I have said that I was in favor of a repeal of the internal-revenue tax, and I do not want to qualify that in the least degree. I only want to make my statement harmonize with my argument. I do not want to repeal internal-revenue taxation nor the duties upon imports, if by so doing I destroy the revenue of the Government. My first obligation, in my judgment, is to maintain the credit of this Government absolutely. But it is not necessary to have the $100,000,000 or more of surplus that we have to-day.

Mr. KELLEY. One hundred and fifty million dollars this year.

Mr. McLANE. It is not necessary to have $100,000,000 of surplus, still less to have $150,000,000. The argument for me is a surplus of $100,000,000, because that was the surplus last year; and I do not mean to go into any speculation or guess-work. Having this surplus, I would make proper allowance for extraordinary charges upon the Treasury; and I regret to say there are extraordinary charges to be made upon the Treasury. There is an element of uncertainty growing out of the arrearages of pension act. The amount required under that act might be more than $50,000,000 or $60,000,000 or $70,000,000; indeed, without the most conscientious administration of the Pension Office, it will be. Therefore, respecting that indebtedness just as much as I respect any other, I would not repeal internal-revenue taxation beyond that point. Up to that point I would repeal internal-revenue taxation.

I would reduce largely our internal-revenue taxation. I would reduce the tax on whisky to 50 cents a gallon; and, by the way, I know no practical expert who believes that this reduction would diminish the revenue at all. It would reduce taxation, but it would not reduce revenue. I would take off one-half of the present tax on tobacco; and I think I could take off one-half the tax on malt liquors. These three reductions would come within the $100,000,000; they would amount to between $80,000,000 and $90,000,000. I am prepared to vote to-day for a proposition—indeed, I mean to move an amendment to this bill—providing that internal-revenue taxation shall be reduced somewhere within $100,000,000. I feel that we can go to that point, knowing that the consumption of the country is increasing daily with its population and that our revenue from im-

ports will not fall off. Having accomplished this much, I would look forward, Mr. Chairman, to reducing within a reasonable time not only the tariff duties on imports, but to dispensing with the residue of our internal taxation.

If the Democracy of this country can harmonize upon all these great economic questions which has so divided them, which divide them still—if they can harmonize upon these great economic questions including the question of the currency, which embraces the question of the banks—if thus harmonizing we can take and hold this Government, I have no doubt at all that its expenses which are to-day $340,000,000 can be reduced well-nigh one-half. I have no doubt that is the true policy for the Democratic party. We should reduce our expenditures for the Army and Navy; we should maintain the public credit by paying off the national debt as rapidly as our revenue will permit.

Up to this time I have not said a word which implies that I desire to reduce the revenues beyond this surplus. I do not.

I would make any sacrifice rather than do that. If I am wrong in my opinion that we can reduce taxation and maintain revenue, I would then hold on to the revenue from internal taxation. I am basing my arguments upon a conviction that we can do both the one and the other. I have no doubt at all that the Committee on Ways and Means could bring us in to-day a bill in which there should be no taxation at greater rate than 50 per cent. One honorable gentleman, in his speech on this bill, indicated 40 per cent.; but he suggested that as a sort of horizontal rate, and it was connected with specific duties; and if I do not give it the concurrence of my judgment it is because of those two facts. I want no horizontal scheme of taxation; and I want no specific duty where an ad valorem duty can be successfully collected.

While I am speaking, Mr. Chairman, there comes to my mind the tariff of 1846. I want no better tariff, no better standard than that. It was a tariff constructed with infinite skill. Why, sir, the tariff of 1866, artistic as it is, fades away in comparison with the tariff of 1846. In that tariff honorable gentlemen would not find, I think, except upon liquors and one or two articles of luxury, any higher rate of duty than 40 per cent. The average rate was about 35 per cent. What was its effect upon the country? There was a greater increase of material wealth under the tariff of 1846 than has resulted from the tariff of 1866. We sometimes talk of our wonderful, our fabulous growth under the tariff of 1866. This idea has been presented to us over and over again from the other side of the House. Why, sir, we increased in material wealth, in the results of home industry more rapidly under the tariff of 1846 than we have done under the tariff of 1866.

I have before me the figures, and I can make good the assertion. I have called this tariff of 1866 an abominable tariff; I might call it a hybrid tariff, because as population and wealth increased revenue under this tariff does not proportionally increase, and in some years it has actually fallen off. In 1873 you modified the tariff by a reduction of 10 per cent., and in 1875 you restored the 10 per cent.; yet under the increase your revenues fell off. Nobody ever saw such a result as that from the tariff of 1846.

Now, we can all stand together, I believe, on the tariff of 1846, and for one that would be my counsel. I speak to my own political friends. Let us all stand together upon the principle of the tariff of 1846. Let us seek to ascertain the true revenue point, which, as I have said before, ought not to be difficult to ascertain. I am no expert any more than my honorable friend from New York, [Mr. COX,] but taking the Treasury returns for the last ten years upon the articles imported into this country, we can find the point from which the revenue begins to decrease; and that is the highest revenue point. The Committee on Ways and Means can in a week bring in a bill based upon the revenue principles of the tariff of 1846, and if they do not bring it in it is because my honorable friend from Illinois [Mr. MORRISON] is in a minority on that committee and cannot do impossible things.

But the other side of the House have the majority and they have the Government. They cannot only pass a law but they can get a law signed, provided it is not a law against Chinese immigration, and that they cannot get signed. But they can get a tariff signed; and it is their duty to have it signed.

And when we have that tariff law of 1846 opposed to them, to compare between that and any tariff they have ever established, or ever will give their sanction to, then we have an issue to go to the country upon. Then we will have no divisions in our ranks, and we will find it an easy thing to come to an understanding on all collateral questions. Those collateral questions gave us some embarrassment in the past, but they give us none at all at this time.

The eloquent gentleman from Missouri [Mr. HATCH] who preceded me in this debate—he and I might have differed in the early part of the Forty-sixth Congress on the currency question. I do not see how we can differ now, because he believed then that "greenbacks" were as good as gold. He never thought them better. Now I think they are better in certain respects. We have to-day no division of opinion as to silver, or gold, or greenbacks. We all recognize the obligation of the Government to pay the people or the creditor either the one or the other just as he prefers. If the "greenback" is not better it is far more convenient, and as long as it represents the bonds of the United States, worth 120 in the market, and a gold reserve, it would not be extravagent to say it was as good as gold.

Therefore I see no difficulty on that question. As for the other question which disturbed us so the other day, that question of fixing the day to consider the rechartering of the banks, it ought not to disturb us either. The banks have by existing law twenty years to live. That is nearly as long as the debt which they have to hold as security for their notes, and the only question which can become a practical question is, whether we will embarrass the banks in reorganizing or whether we will facilitate them. The national-banking system exists, and it will exist, whether we want it to exist or not. We have no responsibility for the system. It belonged to the war; it belongs to the debt. It must necessarily exist as long as the debt exists. Our political friends own bank stocks just as much as Republicans do. We all own it. I do not mean to measure out whether we have as much of it, but I have, for one, the same respect for the small stockholder as for the great, and I would make the same sacrifice of opinion to maintain the tranquillity and peace of the men who own but $100 or $1,000 of bank stock as of the men who own $6,000,000 of it, and I know those who own $6,000,000 of it.

For one, I shall vote to give the same consideration and same security to one as to the other. And I mean to say by that that I will give perfect consideration to both classes of bank stockholders during the twenty years the banks have the right to live, so that neither can lay at my door the reproach I did him injury. He shall live his whole twenty years in peace, as long and as often as the law permits.

I not only have no responsibility for such banking system, but I never will have. No Democrat on this floor will take on that question more radical position than I would. I would never vote for any bank connected with the Government. I never would give the Government any connection with the banking interests of the country. But what have I not submitted to as the result of that war that I should hesitate in supporting this banking system, which I must say in passing gives the people satisfaction and security? And my objection to it is not that it is not secure and safe, but it is that any connection between this Government and the banks is bad for the Government if not for the banks.

Therefore, for one, I would counsel we should let the banks live their natural life, giving them every facility to deal with the people, doing no man any wrong. If they have a right to reorganize let them reorganize. Let them live as long as the debt lives, but let us shorten the life of the debt. That is the policy I would recommend to the Democratic party. Shorten the life of the debt, maintain the public credit, leave unharmed all the material interests of the country, stand by a revenue tariff, eschew protection and eschew free trade.

Let schoolmen occupy themselves with that question; it is a beautiful topic, none more beautiful. Adam Smith is not unknown to the humblest, and no man who knows the first elements of finance can say a tax on imports is the most equal tax. Every man knows when he supports a tax on imports he supports a tax though not the most equal yet the most convenient that can be conceived of. The question of equality is sacrificed to the question of convenience, and that convenience is established by experience. We have had already the internal-revenue tax and a direct tax twice in this country, and every man knows the country was impatient to get rid of them at the earliest practicable moment.

We have had debts before, and every man in the country was impatient to get rid of the debt. I never knew a respectable public opinion in favor of retaining the debt that we might retain the banks; never, and I hope I never will. Therefore I conclude my words of counsel, not invoking any duress, not invoking any pressure. I do not say to any Democratic member on this floor, you shall think with me or stand outside; far from it. I have spent my life, and a long life, too, in close and intimate communion with the Democratic party of this country. I have had no occasion to wander away from it. I never knew a Democratic administration in this country which was not illustrated by some man who was at least an incidental protectionist.

We used to think Van Buren's administration was a sound administration, and we all thought James K. Polk's administration was sound. So it was, sound to the core; and yet James Buchanan, his Secretary of State—and Pennsylvania never will demand a more devoted champion to incidental protection, if not a protectionist *per se*, than he was—and yet we elected him President. Now that he is dead and gone and that I can honor him even more freely than I did while living, I wish to say that I do not know a sounder or more experienced statesman—intimately acquainted with all these economic questions, intimately allied with the theory of tariff.

But before Mr. Polk we had Van Buren——

Mr. COX, of New York. Pennsylvania gave Robert J. Walker.

Mr. McLANE. I think Mississippi did.

Mr. COX, of New York. No, sir; born in Pennsylvania.

Mr. McLANE. Pardon me; born in Mississippi; educated in his youth in Pennsylvania. But he came to that administration from Mississippi as hot for a revenue tariff as any man who represents Mississippi to-day in either House of Congress. No; Robert J. Walker was a true representative of the Southwestern sentiment, and he not only gave a revenue system, but he gave that great empire of Texas, extending our borders to the Rio Grande. Van Buren gave us Mah

lon Dickerson, of New Jersey, who in his day was as true and loyal to the Democratic party as any man who ever lived, and he was a protectionist *per se*. And George M. Dallas, who was the associate of Polk on the Presidential ticket in 1844, never in all of his life faltered in his support of incidental protection.

No, Mr. Chairman, if I may drop the parliamentary tone in its reference to my political associates on this floor, I would appeal to them not to separate or differ on these economic questions. I, for one, do not care—I speak with warmth because I love the associations—I only care for the perpetuity of the party with which I have been so long associated; I am prompted by affection. It has done for me all that I could have wished done. All the pride I have had in politics that party gave to me. Though I am not three score and ten, I hope I may give my counsel; but it is more in the way of legitimate argument on this question that I address it than as counsel. I am responsive, responsive absolutely to honorable gentlemen who have spoken upon this subject. I understand their views and wishes. I am responsive to them, and we must stand together on this question. We must stand, or we will not prevail in this House or in the country. As I said before, I will vote with you against or for the bill; and I will vote with you for every amendment that rallies this House to the principles of the tariff of 1846, and on those principles we can safely go to the country on this bill. I have no doubt at all that we will have the support of the best sentiment of the country.

I have in my hand here the resolutions of 1876—there are none better—modified in style a little in 1880, but modified in style only to confuse it. It stands out in the resolution of 1876 as clearly as the sunlight, a tariff for revenue, and only for revenue. It does not say a tariff for revenue only, but a tariff only for revenue, a return absolutely and unqualifiedly to the principles of 1846—against the present system in all its purposes. With that crest on its banner and perfect harmony upon all these incidental questions we will prevail. Let the war alone; let the war measures alone; let the war debt alone.

Our business is to maintain the credit of the country; and I say, Mr. Chairman, and I know it, and every philosophical statesman on this floor and in this country knows it, that no party will receive the support of this country, or deserve it, that does not command the confidence of the people—none. They must have confidence in your wisdom as well as in your integrity. You must be statesmen as well as politicians; and as I said to the honorable gentleman from Iowa, politicians ought to be statesmen and are statesmen, and when they are not statesmen they do not deserve to be called politicians. It was a most unfortunate expression for that honorable gentleman, because the country at least receive it as embracing himself as well as ourselves; a reproach not intended as a reproach, but still in expression a reproach. It discredits us and we must further discredit ourselves when we fail to do this work.

I had intended to connect with this subject one other.

The CHAIRMAN. The time of the gentleman has expired.

MESSAGE FROM THE SENATE.

The committee rose informally, and Mr. REED took the chair as Speaker *pro tempore*.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 97) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy;

A bill (S. No. 648) for the relief of William G. Ford, administrator of John G. Robinson, deceased; and

A bill (S. No. 1013) for the erection of a light-house at or near Point Patterson, on the northern shore of Lake Michigan.

TARIFF-COMMISSION.

The Committee of the Whole resumed its session.

Mr. MORRISON. Mr. Chairman, the purpose of the bill under consideration is to continue the present tariff. As a people we have made great progress, but we have grown faster in nothing than in the use of the taxing power. When the First Congress assembled the country was grievously burdened with the debt of the war for Independence, then but six years past. No system of taxation had been provided. To raise a national revenue duties and taxes were laid on imported goods. Duties now 35 to 75 were then but 5 and 7½ per cent. These low rates were fixed after considering the question of "encouragement and protection of manufactures," then said to be in their infancy.

Seventeen years from our own civil war the country, still indebted, is burdened with a system of war taxation yielding a surplus. The Forty-seventh Congress stays and avoids its duty. Professedly it waits for nine men wiser than itself to consider if temporary war taxes, excessive and unnecessary for revenue, are not essential for the encouragement and protection of manufactures.

In the ninety or more intervening years from the First to the Forty-seventh Congress more than ninety tariff bills were considered, some increasing others reducing duties and taxes, all resulting in the same conflict of opinion and purpose.

The honorable chairman of the Ways and Means Committee, (Mr. KELLEY,) in the International Review, says the advocates of the protective policy "have recognized the fact that national and individual life is not governed by a system of equations, but influenced by cupidity, ambition, and all human emotions and passions."

Mr. Chairman, only a national life so influenced can render the tribute which individual life impelled by like motives may demand. When our national and individual life shall be less influenced by cupidity we will have less of the protective policy. By exchanging part of our abundant harvests for goods made by those our high-tariff men designate as "foreign paupers," we sell them what we do not want to eat, and buy of them what we need to wear. Each may work for his own interest, while we serve each other. We recognize that better law of doing unto others as you would have them do unto you.

This commission we are assured is not for delay, but to systematize and give stability to our customs laws—a duty enjoined upon this House which the advocates of this scheme assert the House is unfitted to perform. Whatever may be said of the plan itself, the apology for it is new. Those who make it were in control of the House, where all revenue measures must originate, sixteen successive years ending March 3, 1875, and the laws enacted by them to increase duties outnumber the years of their continuous control. The first, the Morrill tariff, passed before the war, its author said gave adequate protection to all industries, but it was speedily increased 50 per cent., with the semblance of justification. It was supplemented with temporary war duties under the alleged necessity for revenue. The war with its temporary necessities has long since passed, but the temporary duties remain. An import duty was laid on raw cotton, in consideration for which cotton manufacturers asked and were given a compensating additional duty on cotton goods. The duty on cotton was repealed, and the cotton manufacturer with free raw material holds fast to his increased duty. In the hour of the country's severest trial an income tax and a tax on domestic manufactures was imposed, in compensation for which the duty was increased on all imported manufactures. The income-tax and tax on domestic manufactures were removed, and now, after thirteen years, those who have so long profited and continue to profit by advantages obtained under such circumstances refuse to surrender them. In any forum, or before any tribunal not dominated by the protective policy, longer retention of duties so imposed would be condemned as a breach of public faith. Here the authors of a scheme to continue these duties and exactions claim for themselves superior statesmanship.

In 1872 a 10 per cent. reduction in the duties on manufactured goods was made. Three years later, in March, 1875, the advocates for more protection were yet in control of Congress and all departments of the Government, but a Democratic majority had been chosen to the next House. There was general business depression, with labor unemployed and a deficit in the Treasury. The earnings of the people and their ability to pay taxes were greatly reduced. Public expenditures had to be largely diminished or taxes increased. Those who claim to be the especial friends of labor whenever the opportunity offers for increased tariff taxes had no difficulty in determining to lay them on; others had already been imposed during the session, and then in its closing hours the professed friends of labor reimposed the 10 per cent. duty, largely increased the cost of manufactured goods, and at the end of two years the revenue from customs had fallen twenty-seven millions.

TARIFF PROTECTION.

Taxes by duties, excises, or in whatever form laid, are rightly laid and collected to pay the public debt and the expenses of good government. The encouragement or protection which manufactures and all other industries receive from taxation they rightly receive as the result of taxes so laid and collected. And the encouragement or protection thus afforded is ample for the prosperity of all our industries and will best provide for the general welfare of the United States. So it was substantially declared at Saint Louis in 1876, and Cincinnati in 1880, simply this: that our tariff policy must be governed more by a system of equations and influenced less by cupidity.

When the Morrill tariff of 1861 was considered Senator SHERMAN, then a member of the House, said:

I vote for the Senate amendments, and have voted for this bill as a revenue measure simply.

Mr. MORRILL said:

The principles upon which the bill is founded do not necessarily raise the question of protection. * * * The highest duties fixed upon have been so fixed more with a view to revenue than protection, and would place our people on a level of fair competition with the rest of the world.

It would place them on this level, because under the revenue tariffs of 1846, 1857, and former tariffs, Mr. MORRILL said:

We have made more rapid strides in cheapening manufactures and therefore lessening the necessity for incidental protection than ever England herself made in any equal period of time.

Mr. Chairman, the duties fixed by the Morrill tariff have been increased and supplemented with others double in form and double in rate; twenty years have been added in the process of cheapening manufactures, and therefore lessening the necessity for "incidental protection." The friends of tariff reform now demand such reduction as will still leave the average rates as high as those fixed by the Morrill tariff. What answer is made to this most reasonable demand? The answer is that we are revolutionists; that we would at once destroy the manufacturing interests of the country and undo

the policy of its earlier and better statesmanship. The answer is a shallow pretense, which can deceive no one.

TARIFFS OF OUR FIRST STATESMEN.

The earlier statesmen of the country were not all of one opinion as to the best methods for diversifying its industry and increasing the productive power of its people. Impelled by patriotic duty to provide a national revenue, something was often yielded by them to that protective selfishness which since then has obtained so much. But that they gave assent and support to the protective policy as now advocated and practiced is mere assertion, and finds no justification in history, and none in fact. Those who shaped our institutions and made them republican in form were scarcely less mindful of the injustice and oppression of trade restrictions than of restraints on their liberties. In the first Congressional debate Mr. Madison said:

I am myself the friend of a very free system of commerce, and hold it as a truth that commercial shackles are generally unjust, oppressive, and impolitic. * * * All are benefited by exchange, and the less the exchange is cramped by government the greater are the proportions of benefit to each. The same argument holds good between nation and nation, and between parts of the same nation.

In his first message Mr. Jefferson said:

Agriculture, manufactures, commerce, and navigation, the four pillars of our prosperity, are the most thriving when left most free to individual enterprise. Protection from casual embarrassments, however, may sometimes be reasonably interposed.

In his last annual message President Monroe said:

The principles upon which the commercial policy of the United States is founded are to be traced to an early period. This policy was free and equal reciprocity. That principle has pervaded all the acts of Congress and all negotiations of the Executive on the subject.

And such, Mr. Chairman, were the views of General Jackson, Mr. Benton, and at one time of Mr. Webster.

The tariff convention of 1831, assembled in New York, was quite as able and at least as honest in the expression of its purposes as similar conventions of more recent date. That convention said of the men who formed the Government that "they offered free trade to all nations; but the nations with one accord rejected it."

That convention conceded that all our laws up to that time restricting commerce were no part of an original policy, but countervailing measures to compensate for regulations and restrictions on our ships and products by nations which had rejected our offers of free commerce.

Now, sir, other nations have made some advance toward that freedom of commerce and exchange to which our first statesmen invited all nations a century ago. We stay a century behind and are asked to retreat.

To show how the right to exchange products was valued in the early history of the country, I need do no more than point to the sacrifices made to secure it. To secure this New England voted in the convention which framed the Constitution that persons might be imported for twenty years and sold into slavery. And yet such was the hatred of New England for slavery that before another twenty years expired she began to hedge it about with a view to its ultimate extinction. Later on, to secure a profitable foreign traffic, she insisted upon a low revenue tariff only on Jamaica molasses as a raw material for making rum, and this, too, with an aversion to intemperance equal to her hatred of slavery. There is much in history which justifies the belief that rum was exchanged for the persons sold into slavery.

Mr. Clay, the credited father of the American system, was the author of a bill as late as 1833, approved by General Jackson, reducing the highest duties to 20 per cent. The professed adherents of Mr. Clay's policy in this House will not permit a vote on a bill to reduce duties to 50 per cent. If the proposed commission reports a bill in which the highest duties do not more than double Mr. Clay's, it will find its Congressional cemetery in the Ways and Means Committee, and never receive the consideration of this House. As late as 1842 Mr. Clay said:

I am not advocating the revival of a high protective tariff. I am for giving the country a revenue which may provide for the economical wants of the Government and at the same time give an incidental protection.

Thus it will be seen that this great tariff leader made revenue the paramount object of a tariff.

Mr. Hamilton is called in this debate "after Burke the profoundest statesman of his age." His arguments favoring the protection of manufactures, it is said, were and remain unanswerable. Most of the duties proposed by Mr. Hamilton were below revenue-tariff rates, many times less than the present rates. These he proposed to supplement with bounties to be paid from the public Treasury. He knew what protection meant, and offered it in the simplest form. He knew it meant then what it means now—bounty to the manufacturer. His methods and most of his arguments have gone into disuse. His professed followers look in vain to anything he said or did in support of the argument which is to-day their chief reliance. He never advocated protection as a means of increasing the wages of labor. That is an invention not in use in his time. Whatever erroneous views he entertained he practiced no indirection to make them acceptable to others.

The form of government proposed by Mr. Hamilton was not adopted, and is not the one under which we live. He said in the convention to form the Constitution:

All communities divide themselves into the few and the many; * * * the rich and well-born, * * * and the mass of the people. The people are turbulent and changing; they seldom judge or determine right. Give, therefore, the first class—the rich and well-born—a distinct, permanent share in the Government. They will check the unsteadiness of the second—the mass of the people—and * * * will ever maintain good government. Nothing but a permanent body can check the imprudence of democracy.

Thus it will be seen that, great as Mr. Hamilton was, he believed none but the few he called the rich and well-born capable of governing and maintaining good government. His form of government was rejected, but are we not drifting to its substance? How else are we to account for the growing popularity of his opinions? No one knew better than he that laboring-men are never legislated into his governing class, and that men do not attain riches from the labor of their own hands, but from the profits of the labor of other men. The hardship of this truth is not helped but aggravated by tariffs and by any and every system professedly in the interest of any class. The real friends of labor never attempt such legislation but from mistaken views. In every race for legislative benefits labor obtains less, capital more than its share. Individual enterprise and the legitimate accumulation of capital cannot be interfered with, but legislation which helps an unjust distribution of property or an unfair division of the proceeds of labor is a great public wrong. Aside from land, the value of which depends upon the use made of it, all the capital or the savings of labor in the richest State never exceeds three years' consumption, and as to food we are always nearer than a year to starvation. The earnings of both capital and labor must be paid from their joint product. When capital takes too much, labor receives too little. Official statistics show that under this system in many industries capital takes to itself four times the earnings of its ordinary employment, the rates of interest, and leaves to labor less than its legitimate earnings. (Appendix 1.)

If Mr. Hamilton desired to foster and perpetuate divisions in society and the fortunes of men, the protective policy was wisely selected for the purpose. That I do not misjudge the effect, if not the purpose, of the system now so strenuously insisted upon, attention is called to the argument upon which it is supported where laboring-men have no votes:

Sir Leonard Tilley, the Canadian minister of finance, argues that it is an excellent feature of the new tariff policy in the Dominion; that it helps a few men to build up colossal fortunes, for those enjoying them will be sure to expend a large percentage of their incoming millions in various forms of luxury which will give employment to many.

How, sir, will the Canadian minister's high tariff help a few men to build up colossal fortunes to spend in luxury and to employ many unless these few take more than they give back? If a few take more from than they return to the many by means of a protective tariff, whom does it protect and benefit? These questions the nine wise men of the tariff commission will never answer.

ENGLAND'S POLICY—EMIGRATION.

With the apparent purpose of prejudicing a fair consideration of this subject our opponents reproduce the crimes of England against the trade of other nations when her policy was protective and identical with ours, differing only in methods and the selection of its victims. England's protective policy led her into distant seas, where she despoiled all countries for her own. Protective America is not itinerant. Her favorites prey upon her own children. Nor is it true as asserted that the friends of tariff reform either borrow or copy the policy of England. When she placed high tariffs and other restrictions on commerce Patrick Henry was pleading for commerce free as air; Jefferson and Madison were offering free trade to all the world, and this a half century before England adopted her present policy. The present system had advocates, but no footing until it obtained it incidentally to the necessities of war in 1816. To the extent it is a fixed policy it became so from the alleged necessities for revenue in the late war, the good faith of which allegation may now well be questioned.

The crimes of England against the rights and liberties of the Irish people are summoned to the support of fetters on the liberty of trade and the freedom of commerce. But these crimes began and were even greater when England was protected as we are now. Under her present commercial policy Ireland's condition, grievous and deplorable as it still remains, was made for a time at least better than it had long been. It is not the commercial policy of England which she adopted only in 1846, but her landed policy or system of land tenures centuries old which has desolated Ireland's homes and oppressed her people.

The facts concerning emigration, especially from Ireland, are first perverted, then called to the aid of the present tariff, which is said to encourage emigration. The year 1857, in fact, the period from 1846 to 1860, has been styled "the Democratic free-trade era," during which the low tariff, it is asserted, repelled emigration from our hospitable shores. The average annual emigration was larger from 1846 to 1860 than from 1861 to 1880. It was one hundred thousand more, chiefly from Ireland, in 1857 than in 1877; larger in 1857, 1858, and 1859 than in 1877, 1878, and 1879. That more emigrants came in 1880 than in the three previous years, under the same tariff, would convince any one but protectionists that emigration was influenced by

causes not dependent upon rates of duty, but reasons that address themselves to the higher aspirations of men. To believe that emigration is induced alone by the possibility of pecuniary gain, is to believe that the people from whom we are descended have no remaining aspirations akin to those we inherited from them; aspirations which peopled this New World and gave it a place among the nations of the earth. This protective policy seems to understand no law but that which addresses itself to the lower appetites of men. Since the adoption of the German tariff emigration from that country has largely increased. Germans could find in Mexico a country abounding in resources with a tariff double our own, but they prefer a home here with a kindred people and freer institutions.

REVENUE TARIFF, 1846-1860.

In 1857 the revenue was excessive and the tariff was reduced. Financial depression came in that year and the revenues fell short of the average ordinary expenditure of the four previous years. And so under the present tariff, with financial depression in 1877 and 1878, the revenues fell below the average expenditure of the four previous years, exclusive of all payments on account of the public debt and pensions. Protectionists will never cease explaining how low tariff was the cause of the financial embarrassment in 1857 to 1859, and how the high tariff was not the cause of that from 1873 to 1878. Neither nations nor men are in great danger of financial distress for want of being taxed, and exactly how low taxes and low duties brought financial embarrassment to both in the Democratic revenue tariff era ending in 1860 has never been satisfactorily explained. The most plausible theory would seem to be one advanced in this debate that under a low tariff our markets are made a dumping-ground for England's surplus and our people buy themselves poor. This is good enough for theory but has no fact to support it. In 1860 and previous years the importations were 15 per cent. (to the person) less than in 1880. This dumping-ground argument is a fallacy, but then it is as true as any other used for the same purpose.

In the conditions following the war, and which were probably inevitable, our bonds went abroad, prices were inflated, importations were large. We went above our financial level and came down in the crash of 1873. Having a country of endless resources and a people of matchless industrial energy and skill, we recovered in six years, in 1879. With less tariff and less taxes we could have recovered sooner. It may be stated upon the authority of the honorable chairman [Mr. KELLEY] that half the decade from 1870 to 1880 was a time of universal depression and despondency, when failure upon failure of the most experienced iron-masters was announced from day to day, with wages so low that workers in iron and their families could scarcely escape destitution and starvation, and yet history will correctly transmit that as an era of substantial and wonderful national progress.

The condition of the country from 1873 to 1879 was much the same as 1857 to 1859. Banking with no money to bank on and the discovery and mining of gold were followed by increased prices and large importations, resulting in the same financial condition in 1857 which followed 1873. The mischief was done in the former period, before the reduction of the tariff in 1857, as it was in the later period before 1873—the effect came afterward. Congress could have done in 1857 as the gentleman from Iowa and the honorable chairman did in 1875—increased the tariff in the interest of their already protected friends with loss of revenue to the Government and increased cost of living to the people. In 1857 Congress waited for that recovery which was sure to come, and did come in 1860. In growth of population, in the increase of wealth and in the wages of labor, in the abundance of harvests, in the industry, contentment, and happiness of the people, in all that attends the progress of a great country, the period from 1850 to 1860 may challenge comparison with any period in the history of this or any other country. These are enduring facts not to be changed by the want of candor to admit them.

California, Nevada, Arizona, New Mexico, and part of Colorado are but one of the rich treasures of the so-styled "Democratic era of free trade." Without its statesmanship their untold wealth of mine and field would be the product of a neighboring nation, with your impossible wall of protective duties forbidding its exchange for our high-priced goods. Their annual yield of gold and silver far exceeds the wages of all our workers in iron and steel. Colorado's population added to those now in manufacturing industries would make all the goods the country can consume. In fact, it is now said by intelligent iron-masters that the iron and steel industry can supply the demand of the whole country; and the same is true of cotton and woolen industries; and which way shall we now lay our course?

PROTECTION AT HOME MEANS EXCLUSION ABROAD.

Protesting, but four years ago, against modification of the tariff as it exists to-day, the honorable chairman [Judge KELLEY] said:

> The loom and the spindle stand still. * * * The fires are out in the forge, the captains of industry by thousands are passing into bankruptcy, and the laboring people into want, if not into absolute pauperism.

Now himself and associates insist this tariff must be maintained to prevent the fires going out in the forge and to save the laboring people from want. This they assert will be the result to the iron industry in Ohio and throughout the country unless this tariff is continued "to protect labor."

In the Hocking Valley, the chief iron region of Ohio, iron is produced for $12 per ton. My colleague on the committee, Mr. CARLISLE, has already shown by the census report that the total amount paid for wages to make a ton of iron, including that paid for mining the ore, was less than $8. Iron cannot be carried from the furnace to and across the sea and from the sea to Ohio for $8, and this sum, which exceeds all the wages paid in making iron in Ohio, the importer must pay if he pays no revenue duty before he comes in competition with Ohio iron. Hence it will be seen that it is not labor protectionists would protect. Manufacturers diversify industry and greatly augment its productive power, but the argument on which the necessity for protection is based makes them helpless infants always. If iron cannot be manufactured at a profit in Ohio with a protecting sea giving it $8 over its competitors without any protecting duty, it cannot be sold at a profit in a foreign market to reach which it must pay $8. The cost of importation is always so considerable as to give our own manufacturers greatly the advantage in our own markets, aside from the additional advantage necessarily resulting from a revenue tariff. And whatever cannot be sold with profit in our own markets without a duty, either for revenue or protection, cannot be profitably sold in any other country. If we must protect our manufactures against foreign competition in our own markets, they are forever excluded from foreign markets where they are unprotected.

If this be true, then, with all our superior intelligence and skill, with our gain from fertile soil, genial climate, iron and coal all over the land and nearly on the surface, this 50,000,000 of people cannot contribute one piece of handiwork to the wants of their fellow-men in any country but their own, and here we must have a tariff to prevent our being supplied cheaper than we can supply ourselves.

REVENUE DUTY EXCEEDS WAGES.

With what sincerity can it be said that the manufacturing industries of the country will be either destroyed or injuriously affected if the present tariff is not maintained, and especially if it is reduced to a revenue basis. To pay the war debt, including pensions, will require $4,000,000,000, and the ordinary expenditures are and will continue to be greater in proportion to population than in the revenue-tariff period. Looking to the opportunity these vast sums afford for gathering taxes if for revenue only, why should protectionists refuse to be comforted? They admit in this debate for the first time that in all else but the cost of labor we can manufacture and compete with all the world, but still insist that we must protect to compensate for the difference in the wages of labor.

Under the revenue tariff of 1846 the duty on iron was 30 per cent. The tariff of 1857, for which Stephen A. Douglas, Charles Sumner, and Henry Wilson voted, reduced it to 24 per cent. This tariff and the Morrill tariff of 1861 were approved by Mr. Buchanan, a protectionist, and it is this 24 per cent. tariff which is always produced as a witness that a revenue tariff will destroy the iron industry in Ohio and throughout the country. Yet it appears in the census statement (1) that the total wages paid for labor in iron and steel mills and factories was less than 19 per cent., or $19 for every $100 worth of iron and steel made; under a 24 per cent. tariff the importer must pay $24 to import iron valued at $100, or $5 more than all the wages paid to produce the home-made iron. The total wages paid in all our iron mines and works in the census year was $65,000,000; the product was 4,000,000 tons. The freight on a like quantity from the works in Great Britain to the sea, thence to the United States, thence to the center of population, is at least $8 per ton, or $32,000,000. Suppose rates of wages in Great Britain are but half the rates here, this cost in freight alone compensates for the difference.

The value of our whole iron and steel product in the census year was $296,557,685. Suppose a 24 per cent. revenue tariff, as low as that of 1857, when we had no war debt or pension list, was adopted. The 24 per cent. duty to be paid to import what we make would be $71,000,000. That is to say, the importer under a 24 per cent. duty, before he comes into competition with our iron and steel, must pay $71,000,000 or $6,000,000 more than all the wages paid for the whole iron and steel product in the United States. The people who consumed the iron and steel product of 1880 could have imported it, paid all the wages paid in iron works and mines, and saved $6,000,000, while the workers would have been left free to follow other pursuits.

Two years ago the manufacturers appeared before the committee to resist any reduction of the twenty-eight-dollar duty on steel rails. One of the ablest of them, Mr. Wharton, who never understates anything which will help his interests, stated that the difference in the cost of making steel rails in this country and in England does not exceed 25 per cent. When it was proposed to fix the duty at $15 per ton, which was at least 50 per cent. on the foreign cost, it was resisted by Mr. Wharton, by the American Iron and Steel Association, and by the friends of protection here and everywhere as an effort to destroy our industries. The bill introduced by me in the Forty-fourth Congress reduced duties on cotton goods to the average rate of 30 per cent. That was called a tariff for revenue only, and those who seek to continue the present tariff opposed it under the pretense that it did not sufficiently protect labor and would destroy the cotton industry. The census shows that all the wages paid in cotton-mills in 1880 were less than 23 per cent., or less than $23 for every $100 of cotton goods made. Raw cotton is the article of chief value in cotton goods; in all the heavier and coarser goods it is more than half the value, but not near so much on finer and lighter goods.

The foreign manufacturer buys our cotton, two-thirds of all we

grow, carries it to and over the sea, to the mill and back again to our people when made into cloth, and pays, under a 30 per cent. duty, $30 for every $100 worth of cloth returned. And this we are asked to believe would destroy our cotton industries. Not only does the foreign manufacturer come to us for cotton but he must go to Iowa, the center of the grain-growing and provision-producing region, a thousand miles from the sea, for food. While the chosen representatives of cotton industries were here protesting against a reduction of duties, asserting that the present high tariff must be continued to protect them or they would be crushed out and perish in our own markets, our cotton goods were selling unprotected in foreign markets in free competition with the rest of the world. Last year cotton goods of our make sold in China valued at $3,600,000.

In view of these facts the oft-repeated assertions that a reduction of the tariff to a revenue basis will destroy or injuriously affect the cotton industry is too absurd for belief even by those who make them. A reduction of the tariff to a revenue basis will benefit the manufacturer to the extent it cheapens the cost of material and production, and benefit the laborer to the extent it cheapens the cost of the necessaries and comforts of life, while the importer must still pay more in duty on imported goods than the manufacturer pays for wages in making domestic goods. It will increase rather than diminish the wages of labor by extending and multiplying markets for the products of labor. As well manacle men for self-defense as to circumscribe markets for the products of labor to increase wages.

TARIFF COMMISSION—ITS ORIGIN AND PURPOSE.

Just before the last Presidential election an attempt was made to reduce duties, which was resisted, as every effort in the same direction has been resisted by the friends of this tariff-commission scheme. The late President, General Garfield, insisted the bill then proposed violated two principles recognized in our tariff legislation, and in the report of the minority, said:

> The undersigned are not opposed to a general revision of the tariff, or to a reduction of rates, whenever this can be done in harmony with the principles herein set forth.

This declaration went to the people as a campaign document over the signature of the late President. His friends propose to keep his pledge that he was not opposed to a general revision of the tariff or a reduction of rates by the appointment of a commission, as the bill provides, to consider the tariff "upon a scale of justice to all interests." Such a commission would be representative and familiar with the conditions of each, and each would be represented in proportion to its magnitude. Such a commission might revise the tariff with justice to all interests, but would greatly disappoint those who first fell upon this scheme to revise a tariff they seek to perpetuate. In March, 1879, shortly before the Eaton bill was presented, Mr. D. J. Morrell, of Pennsylvania, was made president of the American Iron and Steel Association. On taking the chair he advised the association to—

> Demand that the subject shall be intrusted to a commission not of owl-eyed college professors, but of business men and statesmen appointed by the President of the United States, with instructions and authority to ascertain the condition and wants of all our industries, and to examine the tariff legislation of this and other countries with reference to its influence upon national welfare, and demand also that Congress shall refrain from legislation upon the subject until the presentation of the report of this commission. If no other good results from this, we shall at least have what the country most needs, a little rest.

Protection fears college professors. What, sir, must be thought of an assumed governmental policy which dreads the scholarship of the nineteenth century?

Mr. Morrell was a member of this House when the tariff on steel rails was raised to $28 per ton. He is largely interested in iron and steel works and has resisted every effort to revise and reduce the tariff. His plan contemplates no delay, but "what the country most needs, a little rest" only.

What its advocates here expect from his commission is fairly inferred from the McKinley bill, adopted by the majority of the committee and given to the press in advance of the adoption of this bill to accomplish a like purpose. That bill reduces no duty, but increases duties now 30, 35, and 45 per cent. to 75, 125, and 200 per cent. Of the duties so to be increased, are those on iron for hoops used in baling hay and for cotton-ties, rods for wire fence and binders, steel in some forms, and some manufactures of steel and other articles of iron and steel unnumbered and undescribed essential for use in the various arts of life by mechanics, farmers, builders, and in the production of other manufactures. The annual cotton product already pays a duty of $500,000 on imported cotton-ties, and this increase of duty adds an additional $500,000 to be paid on the ties when imported.

Mr. Sherman, an intelligent and reliable manufacturer of wire fence at Chicago, in a statement to the committee fixed the increased cost of wire fence at $3,000,000 per annum as the result of this bill, and said that he and other manufacturers already pay $15 per ton royalty to the owner of the wire-fence patent which is added to the cost.

PROTECTIVE DUTIES.

I will append statements (2) taken from the census and Bureau of Statistics reports for 1880, which show that the existing tariff places our manufactures above the level of fair competition and how the prices to be paid by the consumer for domestic and imported goods are increased as the result of high protective duties.

For that year the import of sugar and molasses amounted to $77,052,639, and the duty paid to the Treasury was $42,203,915, the average duty on sugar 59 per cent. and 35 per cent. on molasses. That this duty was added to and made part of the price paid by the people is not questioned.

The quantity of sugar and molasses produced in this country was less than one-seventh of the quantity imported. But for the tariff it could have been imported for $11,103,466, and cost of importation with freight added. Commercial rates establish the fact that it was sold for more than $16,719,970, a price equal to the value of the foreign article with duty added—that the price to the consumer was increased $5,616,504, which was a bounty to the planters. The whole increase in cost to the consumer resulting from the tariff, which on sugar and molasses is largely a revenue tariff, was $48,820,418, which was so divided that the Treasury received $7.51 of revenue while the planter received $1 of bounty.

The requirements of the Government neither demand nor justify the collection of such a tax on sugar, an article so generally used by all classes. The duty ought to be largely reduced, but it would be little less than a crime to reduce this duty, which gives the Treasury $7 to $1 in bounty, while we retain duties which give $7 in bounty and but $1 to the Treasury.

The duty on hoop-iron was $31.66 per ton. The price of the domestic article was $14.61 more than the price of the foreign article, including cost of importation, which was an increase equal to half the duty. The Treasury received $500,986, and the manufacturer $1,414,876, or $2.82 for $1 to the Treasury. On bar-iron the average duty was $22.66 per ton; the value and price of the home product was $7.40 in excess of the cost of the imported article, including cost of importation, an increase equal to but one-third of the duty, and the manufacturer received $4,907,761 bounty; the Government, $1,641,453 in duty—$3 to manufacturer, $1 to the Government. Iron rails pay $16.68 duty. The increased cost over the foreign article was $11.33, or two-thirds of the duty. The cost of iron rails was increased by the tariff $6,114,916, of which $5,290,119 went to the manufacturer, and $824,747 to the Treasury; $6.41 for bounty to $1 for revenue.

The value of steel rails was $50.48 or $16.85 per ton more at our mills than the cost of imported rails, an increase equal to two-thirds of the duty, $28 per ton. The tariff increase of the price for rails used that year was $1,478,659 of revenue to the Government and $12,497,157 to the manufacturers, who received $8.45 while the Treasury received $1. In this statement the values of domestic products given in the census returns are accepted as true. The price of steel rails is stated at $50.48 per ton, which is $15 or 30 per cent. below the price for that year. It is an undisputed fact that the market price was $65, and therefore the increase in prices resulting from the tariff, as given from the official report, appears less than the actual increase. An examination of the officially reported prices of other articles, where their description and classification afford means of comparison, shows the same undervaluation as in steel rails, and to the extent of this undervaluation the increase in prices resulting from the tariff is made to appear less. It was doubtless with a view to official statements like these the gentleman from Kentucky [Mr. CARLISLE] said of Mr. Swank, an officer of the Census Bureau, employé and representative of the iron and steel associations, that "his report is doubtless as favorable to their interest as he could honestly make it." It is but just to say that Mr. Swank may have to rely upon the values reported to him and for the entire accuracy of which he is not responsible.

Accepting as correct the census statements of prices and values it is not always true that the price of the domestic article is increased to the extent of the rate of duty on the foreign article. In fact it is true that a duty may be levied without affecting the price of the home article. This often results from active competition among our own people and from causes entering into the cost of production and by which we can produce them cheaper than they can be produced elsewhere. This is true of coarser cotton goods and many articles of comparative cheap production. It is true of cotton and nearly or quite all agricultural products. The rule is the other way and it is not always a matter easy to determine the actual increase in the cost and price of articles of domestic manufacture resulting from the duty on imported articles.

Professor Perry of Williams College, where the late President Garfield was educated, estimates that the tariff has so increased prices as to cost the people since 1861 $600,000,000 per annum. On the basis of this estimate the tariff has yielded $4 in bounty to the manufacturers while bringing $1 into the Treasury. Mr. Walker, author of the tariff of 1846, estimated that the present tariff gave $1 to the Treasury with $2.33 to the manufacturers, yielding them $350,000,000 per annum in excess of the price for which the goods could be imported at the time, and so much I understand the gentleman from Iowa [Mr. KASSON] substantially concedes. The census statements given present the enormity of the system and its oppressive results.

Railroads are now being built through Texas into Mexico, and the Mexican Government is encouraging that industry by admitting rails and materials free. It is within my own knowledge that a locomo-

ave of foreign make costs the builders of these roads $3,000 less than one of our make; and that steel rails cost them $25 less per ton when imported than when purchased here. The result is that the same company builds and equips its road for 25 per cent. less in Mexico than in Texas with the same cost for labor. Estimating the cost of building and equipping a railroad at $20,000 per mile, 25 per cent. or $5,000 per mile of this cost results from the tariff. We have built 65,000 miles under this tariff, which has added $5,000 per mile or $325,000,000 to the cost of roads built since it was enacted. Railroads must be renewed once in twelve years. That is, the cost of keeping them up for twelve years is equal to the first cost. We have now 102,000 miles of railroad, and the annual cost of maintaining them equals the cost of building 8,000 miles, from which it appears that this tariff increases the cost of keeping up railroads $40,000,000 per annum. All these additional millions of money which this system contributed to the original cost of railroads, and to the cost of keeping them up, was and will continue to be paid from the product of labor. I know it is said that railroads are monopolies, whose prices are not influenced by the cost of building them, but wholly regulated by competition. To the same extent, and in the sense that railroads are monopolies, manufactories are monopolies. But, sir, competition itself is dependent on its cost. Competition which does not yield profit is short-lived. No system yet devised for regulating railroads has ignored the question of their cost, the cost of their construction and maintenance; the people pay both and a profit on both.

High tariff has reduced prices, say its advocates, who support the assertion by a comparison of present prices with the prices in 1865 when the difference in currency would account for a difference of one-third in prices. Statements carefully compiled by Mr. Burchard, Director of the Mint, and Mr. Spofford, Librarian, show agricultural products lower and most manufactures higher in 1880 than in 1860, though the difference is not important. The average price of wheat from 1850 to 1860 was $1.38 per bushel; from 1870 to 1880 it was $1.25. From 1850 to 1860 the average price of corn was 71 cents; it was 61 cents from 1870 to 1880. These prices are taken from the prices of exports of the Bureau of Statistics. Cotton and woolen goods are lower than in 1860, but not nearly so low as compared with prices in foreign markets, or as compared with the improved means and reduced cost of production in this and other countries.

The real question is, What does protection cost the consumer? How much does it increase the price he pays for the necessaries and comforts of life at the time he buys them? Not what they might have cost ten or any number of years ago. What is the difference in cost in our market and cost in foreign market with the cost of importation added? I have already shown from official reports that it is at least half the rate of duty, which averages 22 per cent., and it is in fact much more on all articles affected by the tariff. It was stated substantially in Mr. Clay's time, and it has been more fully stated by Mr. Young of the Statistical Bureau, on unquestioned authority, that in 1815, by reason of changes in machinery and methods of production first inaugurated in Great Britain and since then greatly improved in our own country, one person could do with machinery what two hundred spinners did fifty-five years before; that, by reason of these improved methods, the cost of production had been so reduced that cloth sold then in 1815 for three shillings which fifty years before sold for thirty. I have already shown on the authority of Mr. MORRILL that under our various tariffs previous to the adoption of the present one we had made more rapid strides in cheapening the prices of goods than England had ever made in the same length of time. When the First Congress met one person in every family of six had to spin and weave; now one person with machinery can do the same work for thirty families. Forty years ago one factory hand could weave thirty yards of cotton cloth per day; now one can weave a hundred yards per day. And so the cost of production has been reduced from causes common to all the world. Tariff did not give these results to us, but made them more costly, and has not permitted us to share equally in them.

England, for whose commercial policy protectionists affect derision, has since the adoption of our tariff largely increased the wages of labor and so reduced the cost of manufactures that they sell in our markets loaded with a duty double the wages paid here to produce the same articles. More goods to the person are imported now, paying 43 per cent. duty, than in 1860, paying 19 per cent. duty. The reduction in prices abroad has been therefore at least 25 per cent. more than with us.

The cost of carrying on the sea, where our tariff policy has given England superiority, has been reduced more than one-half. The cost of railroad transportation, an unprotected industry, has been reduced in like proportion. Agricultural products are grown at reduced cost; and but for foreign markets and the reduced cost of reaching them by land and sea they would sell at one-third less than present prices, or waste in the field.

Certainly the present tariff has not paralyzed our people and made them to forget their cunning. All progress in the intelligent use of capital and labor, which creates abundance—abundance in the necessaries and comforts of life—did not end with its enactment. And it may safely be said that to-day the cost of manufacturing goods is 30 per cent. less than it was in 1860. This a protective tariff gives to its favorites; revenue reform will distribute it to all the people.

Results are the real test of merit of opposing policies, say our opponents. This is true when tried under like conditions; not otherwise. Counted in rates per cent. and to many people, Appomattox compared with Yorktown is magnificently grand. With no Yorktown there could have been no Appomattox, and there always will be some people who believe Washington's generalship as great as Grant's. To which shall we credit the price of corn and calico in 1860 and in 1880? Substantially to this question the gentleman from Iowa [Mr. KASSON] addresses himself. Protectionists credit themselves with results naturally following seventy years of growth and development of this magnificent country under superior statesmanship. Development, growth, and the conquest of nature's forces have been going on and on, so that at the end of each succeeding year we are better prepared for the next, with increased power for multiplying results. Why will protectionists persist in comparing our own country with England after her ten centuries of war and waste? Is this any fair test of the merits of the protective system, and are its friends compelled to resort to such shifts to justify themselves? It is but thirty-six years since England was partially freed from the doctrine still advocated and practiced here. Since then she has doubled rates of wages, (Appendix 3) lessened crime and pauperism, and greatly improved the condition of her people. Whatever lesson is to be learned from her is fairly obtained from comparing her with other densely populated countries or with herself when she taught and practiced our present policy.

TARIFF BENEFITS AND BURDENS.

Having now stated some of the hardships of this system in increased prices and cost of living and the additional burden it entails upon the whole people, let us consider the census facts, (1,) indicating the more general results of the system and how it distributes its benefits to the few and its burdens to many. These facts present results in the cotton, woolen, iron, and steel, three of the oldest and best organized, and silk, one of the most productive, industries. Taken together they will fairly present the results of the protective system. In these the real and personal capital invested is $624,002,630, and the hands employed are 524,726, or one laborer to $1,190 capital. Together they produce goods valued at $810,522,286. After deducting the cost of material used, the remainder is divided $300.16 to each laborer and $300.16 to each $1,166 of capital, which leaves to capital 25 per cent., after deducting amounts paid for wages and materials. It is answered that earnings are not all profits, that depreciation of capital and taxes must be deducted. This answer takes no account of the undervaluation of the product, which is all profit. There is not much profit in the $300 yearly wages to the operative after maintaining himself and family, and he is more taxed than his employer. An impost or tariff tax is an income tax of the baser sort, for it taxes the whole income of the laboring poor, while it taxes only so much of the income of others as they expend in the necessaries, comforts, and luxuries of life. The rates of wages in 1880 were less than in 1870, allowing for difference in currency. The number of establishments were 284 less than in 1870; a great number of smaller establishments have been crushed out by the stronger. And with our help in developing industries the establishments have increased in the iron industry, largely increased in silk, a new industry. The number of cotton establishments decreased. The woolen establishments are 770 less than in 1870. The tariff on woolens shuts out foreign competition and kills it at home. We must have a tariff that will give us both competition in price and competition in quality. The account of materials used in woolen manufactures show that our woolen goods are not quite half shoddy and cotton. The aggregate results of the four industries are given. The tables will explain how they differ each from the other. The average annual wages include the wages of laborers skilled and unskilled, males and females, and, except as to the cotton industry, clerks, bookkeepers, and superintendents. Workers in iron and steel receive per day (300 days in the year) $1.31; in wool, 98 cents; silk, 88 cents; in cotton, 81 cents. Besides the 141,000 laborers in iron works there are 32,000 iron miners, who receive $1 per day, and the average wages for the 173,000 men working from ten and a half to twelve hours per day in iron and iron mines, 32,000 of them under ground, was $1.25 per day. This was in the year of exceptional prosperity, 1880. There were at least five years between 1870 and 1880 when these men received less than 90 cents per day. Wages are higher in this than in any other protected industry. After ninety years of protection—sometimes by a protective tariff, sometimes by a revenue tariff—this system gives to the laborer this pittance of 90 cents to $1.25 per day. It appears from official statements that since the period of low wages in 1878 in Massachusetts, the richest State in the Union, wages have increased but 7 per cent., while the cost of living has increased 21 per cent. The most prosperous mills in that State have recently reduced wages from 90 cents to 68 cents per day. One of the honored Representatives of that State asks legislation on another subject, among other reasons because of "the daily accounts which come to us of strikes in various parts of the country."

With these facts before us as a result of this system, the friends of this commission who profess so much concern for the rights and rewards of laboring-men will surely add to it some provision which will give them some portion of the bounties which it is the object of the commission to continue. The average earnings of a laborer, $300.16, in the protected industries are no more than equal to the wages paid in other industries. This bounty system adds nothing to the earnings of labor, but it gives to each $1,166 of capital $300.16.

A fair business profit of 10 per cent. would give it but $116.60. Is this the "justice to all" which the friends of this commission bill are so anxious to continue?

Who, sir, are the favorites of this system and the beneficiaries of this tax on labor and the products and wages of labor? The manufacturers, who counted themselves 42,000 in 1870 and to-day do not number 55,000, if so many.

WAGES.

The final and flimsiest apology protection makes for its exactions is the wages of labor, which it claims to increase by increased taxation. This argument is purely American and is used not because it is true, but because here laboring-men are a political power. Germany and France like ourselves are attempting to supply the waste of war by the waste of a protective tariff. What are they protecting themselves against? Is it the cheaper labor of any competing nation, or the better paid labor of England, or still better paid labor of our own country? This policy credits itself with the fact that wages are higher here than in densely populated countries of the Old World where people are in each other's way, but it takes no account of the fact that wages are lowest in Germany and France, where the system is enforced, and highest in England, where it does not exist. It takes no account of the fact wages here are as much higher than in England or on the continent of Europe in all other employments as in the protected industries, a fact which shows that the difference in wages in this and other countries is not the result of tariff rates, but of other causes. Mr. Young, of the Bureau of Statistics, tells us that when Ireland's population was less by reason of emigration, those who remained received higher wages; not because of any tariff changes, but because there was less labor and proportionally greater demand. No system of taxation, though it be called protection, can permanently increase the wages of labor or otherwise affect it, except to burden it.

The railroad industry, which is unprotected by any tariff, employs 490,000 men and pays them $237,000,000 wages. This industry alone pays higher wages and more wages than the cotton, woolen, silk, flax, iron and steel, pottery and glass, and all the highly protected industries together. What have the professed friends of labor who urge the maintenance of the tariff under pretense of protecting labor and increasing wages done, and what do they propose to do, to increase the wages of workers in agriculture on railroads and in other unprotected industries? Nothing but tax their earnings by taxing their necessaries and comforts of life. That they propose nothing to protect labor not employed in manufacturing industries ought to convince the most incredulous that to benefit labor and increase wages is not the object of a protective tariff. The unnumbered thousands of mechanics, blacksmiths, carpenters, and artisans who constitute so important a part of the great preservative industrial forces of the country, are not correctly classed as "operatives" of manufacturing industries.

The highly protected manufacturing industries do not sustain 10 per cent. of our people. Rates of wages are fixed by what is earned by nine men employed in agricultural, railroad, and other industrial pursuits, not by the one in manufactures. Changes from one employment to another for any cause often bring with them some hardships, but laboring-men have the intelligence common to their fellow-citizens. If wages are higher in one industry than another protected or unprotected under like conditions, labor goes from one industry to another and thus wages are equalized in all. When labor is oppressed in the Old World its only escape is to the New, over what is too often an impassable sea. It is compelled to accept the wages offered by its taskmaster, and wages therefore are low. In this newer and better country democratic statesmanship blazed the trees to the other ocean toward which laborers find homes and profitable employment, and therefore wages are not so low. When we have no more cheap lands labor will be lower.

In protected and unprotected industries employers pay what will obtain the needed service and no more. In the financial troubles beginning in 1873 there was not profitable employment for all the establishments, and it appeared from the admission of those who came before the committee to prevent the reduction of the tariff that one establishment, the Vulcan Iron Works, was paid a large bonus by the other mills to stand still to prevent a reduction of prices by competition among themselves—the tariff protecting them from foreign competition—but the laborer received no part of the bonus. The men, members of the American Iron and Steel Association, who paid the Vulcan Works to stand still and leave laborers without employment, perhaps without the necessaries and comforts of life, are to-day urging this commission professedly in the interest of labor, and honorable gentlemen rise here and say they believe them. These gentlemen are so credulous themselves they declare it is labor we would protect, and actually look as if they expected to be believed. The gentleman from New York [Mr. HEWITT] seems to be one protected manufacturer—no doubt there are many—who continued his business in the interest of labor at the expense of his own interest, and this is not the only inconsistency of which he is accused. Both politician and manufacturer, he is actually accused of abandoning the protective policy which those who accuse him say is supported by the majority of all the people.

Sir, let us all take courage, when the protective era produces a man, both legislator and manufacturer, who can be accused of devoting himself to the public interest at the expense of his own.

HOME MARKET.

The opponents of revenue reform convert untruths a century old into arguments by restating them. Their first argument was based on a home market for farm products as one of protection's promised results. In 1860 we sent to foreign markets 4,153,153 bushels of wheat, and 153,252,795 bushels in 1880. The value of grain, flour, and meal exported was $23,493,510 in 1860 and $284,126,760 in 1880, with other agricultural products in like increased proportion. The price for our surplus in foreign markets regulates the price of the entire product sold at home or abroad. Two of every three bales of cotton go to a foreign market and one-third of our wheat. Large as our harvests have grown, we must find a foreign market for a larger proportion than before the enactment of the present tariff, and each succeeding year finds us farther from the promised home market. Less than one-fifth of our population produces the manufactures which all consume. Protected or unprotected, the country can sustain less than one-fifth of its population in manufacturing for its own consumption.

At our second centennial, when our people number two hundred millions, manufactures can sustain but forty millions. The value of our agricultural export, now $730,000,000, will be then twice two thousand millions to be sold in competition with the product of the cheapest labor in the Old World, whose cheaper goods our agricultural labor is not permitted to buy in exchange for its own products.

And then, as now, the advocates of this doctrine will produce from the protective storehouse of broken promises and false pretenses arguments based on the necessity of protecting our infant industries, to provide a home market for farm products.

INVENTIVE GENIUS INSPIRED BY TARIFF.

The protectionists, who credit this tariff with all they consider good and see nothing but evil in every proposed reduction, present us with a long list of useful inventions, the alleged result of genius inspired by a tariff which puts a tax on salt for cattle and hogs and makes it free for fish, gives bounty to the manufacturer of the iron and steel in the plow, to be paid by him who holds it. Statistics are not so complete as to justify an estimate of the number of useful discoveries to be credited to the manufacturer who receives bounties and the number to be credited to those whom they pay 68 cents for a day's labor. When that list is furnished I venture the prediction that the useful inventions to be credited to highly-protected manufacturers will be made up chiefly of useful inventions and methods for producing Congressional legislation, so largely as to justly entitle our tariff system to the dignity of a science, the science of winning ways.

NEW INDUSTRIES—THE NEW SOUTH.

This paternal policy now affects great solicitude for new industries. It asks us to believe it would develop new industries, or old industries in new homes, and is especially concerned about the undeveloped resources of the new South. If the South needs protection from Old England, who will protect her from the New? Who from Pennsylvania's one-hundred-year old and long-established industries and her capital accumulated from the bounties of a century? When capital invested in manufactures ceases to be pensioned on our own people it will successfully contend for the world's commerce, depending, it may be, upon the difference in cost of one-eighth of a cent per yard or one-twentieth of a cent per pound. Then capital will avoid waste and must go to the cotton and the ore. The manufacturing industries of the country, chiefly in the older States, are nearly or quite equal to the production of what all our people can use. If it be true that manufactures to prosper or survive must be protected in our own markets, as protectionists assert, and they cannot therefore compete in the world's markets, what is to become of our old "infant industries" in Massachusetts and Pennsylvania when new "infants" are born in Georgia, Alabama, Illinois, and Iowa? Who, then, will pay for Massachusetts school-houses and the musical instruments upon which the honorable chairman [Judge KELLEY] has his laboring people playing whenever he does not have them starving? The anxiety of Pennsylvania and Massachusetts to cut off their own markets in the interest of the new South is another evidence that protection quickens inventive genius and develops resources for securing Congressional legislation.

CONCLUSION.

In conclusion, sir, this question in its higher aspects is not a party but a political question, affecting the distribution of property and the proceeds of labor and going back to the foundation rocks of our political system. But it is also a business question. In this view what we need is a business settlement of a business question—reasonable and practical treatment to avoid excessive changes, and we must begin at once, for our surplus revenue is becoming the great corruption fund of the age.

Wages in shops and mills are the same as in other works of like kind or less. Wages are not the criterion of cost; it is efficiency of labor that counts. Our wages are higher, they should be, and our cost is lower because the labor is more effective. When the courage of our textile manufacturers and our iron and steel makers is equal to their skill they will demand freedom from commercial shackles and bring the world's commerce to their feet.

APPENDIX 1.—*Table showing relation of capital to labor in the manufacture of cotton and woolen goods, silk and silk goods, and iron and steel.*

Silk and silk goods.	1870.	1880.	Increase, 1880.
			Per cent.
Number of establishments	86	383	345.35
Capital invested, (real and personal)	$6,231,130	$18,899,500 00	203.31
Hands employed	6,649	34,440	417.97
Wages paid	$1,942,286	$9,107,835 00	368.92
Value of materials used	$7,817,559	$22,371,300 00	186.17
Value of products made	$12,210,662	$40,975,285 00	235.57
Value of labor in each $100 of products, (22.2 per cent.)		$22 20	
Earnings of each $100 capita invested, (45.5 per cent.)		$45 50	
Average wages per year, (skilled and unskilled)		$264 00	
Average wages per day, (skilled and unskilled) counting 300 days' work		$0 88	

Iron and steel.	1870.	1880.	Increase, 1880.
			Per cent.
Number of establishments	808	1,005	25.97
Capital invested, (real and personal)	$121,772,074	$230,971,884 00	40.43
Hands employed	77,555	140,978	55.02
Wages paid	$40,514,971	$55,476,785 00	20.07
Value of materials used	$135,526,132	$191,271,150 00	36.27
Value of products made	$207,208,696	$296,557,685 00	13.79
Value of labor in each $100 of products, (18.7 per cent.)		$18 70	
Earnings of each $100 capital invested, (21.6 per cent.)		$21 60	
Average wages per year, (skilled and unskilled)		$391 51	
Average wages per day, (skilled and unskilled,) counting 300 days' work		$1 31	

Cotton goods.	1870.	1880.	Increase, 1880.
			Per cent.
Number of establishments	956	*948	
Capital invested, (real and personal)	$140,706,291	$215,391,176 00	53.08
Hands employed	135,369	188,071	8.93
Wages paid	$39,044,132	$45,672,295 00	6.98
Value of materials used	$111,736,936	$113,580,023 00	1.65
Value of products made	$177,489,739	$206,190,862 00	16.17
Value of labor in each $100 of products, (22.2 per cent.)		$22 20	
Earnings of each $100 capital invested, (21.8 per cent.)		$21 80	
Average wages per year, skilled and unskilled		$242 84	
Average wages per day, skilled and unskilled, counting 300 days' work		$0 81	

Woolen goods.	1870.	1880.	Increase, 1880.
			Per cent.
Number of establishments	3,456	2,684	22.34
Capital invested, (real and personal)	$132,382,319	$158,740,070 00	19.91
Hands employed	119,859	161,237	34.52
Wages paid	$40,357,235	$47,244,736 00	17.07
Value of materials used	$134,154,615	$164,058,928 00	22.29
Value of products made	$217,668,826	$266,798,454 00	22.57
Value of labor in each $100 of products, (17.7 per cent.)		$17 70	
Earnings of each $100 capital invested, (34.9 per cent.)		$34 90	
Average wages per year, (skilled and unskilled)		$293 02	
Average wages per day, (skilled and unskilled) counting 300 working days		$0 98	

* Decrease, .84 per cent.

NOTE.—Wages and profits differ in cotton, woolen, silk, iron, and steel industries. Together they make $810,522,286 worth of goods. After deducting cost of materials used, the balance is divided $300.16 (average) to each laborer, and $300.16 (25 per cent.) to each $1,166 of capital.

APPENDIX 2.—*Statement of the quantity, value, &c., of domestic and foreign hoop (band and scroll) and bar iron, iron rails, and steel rails, sugar and molasses produced and imported into the United States during the year ended June 30, 1880.*

[From reports of Census Bureau and the Bureau of Statistics.]

	Hoop (band and scroll) iron.		Bar-iron.		Iron rails.		Steel rails.	
	Domestic production.	Foreign imports.	Domestic production.	Foreign imports.	Domestic production.	Foreign imports.	Domestic production.	Foreign imports.
Tons	96,843	15,823.76	663,211	71,800.12	466,917	52,598.69	750,810	52,809.24
Value	$6,094,484 00	$720,903 82	$35,302,431 00	$3,111,218 43	$20,978,637 00	$1,635,980 00	$37,892,075 00	$1,643,701 00
Value per ton	62 67	45 56	53 23	43 33	44 93	31 10	50 48	31 13
Rate of duty per ton		*31 66		*22 86		15 68		28 00
Amount of duty received		590,986 01		1,641,453 82		824,747 49		1,478,659 00
Freight on foreign (estimated) per ton		2 50		2 50		2 50		2 50
Cost per ton with freight added		48 06		45 83		33 60		33 63
Bounty paid by consumer per ton	14 61		7 40		11 33		16 85	
Bounty paid by consumers on domestic production	1,414,876 22		4,907,761 40		5,290,169 61		12,497,157 00	
Bounty paid by consumer on domestic production is to duty received by the Treasury as	$2 82 to $1		$2 99 to $1		$6 41 to $1		$8 45 to $1	

* Average.

Sugar and molasses, year 1880.

Articles.	Foreign.				Domestic.			
	Quantities.	Values.	Rate of duty.	Amount of duty received.	Quantities.	*Values, (estimated.)	Rate of bounty.	Amount of bounty paid, (estimated.)
Sugar	lbs., 1,625,971,302	$68,052,639 55	av., 2.44c. per lb.	$39,739,306 49	lbs., 198,962,278	$13,191,200 02	av., 2.44c. per lb.	$4,854,679 58
Malasses	gals., 39,433,745	8,978,008 50	6¼c. per gal.	2,464,609 00	gals., 12,189,190	3,528,770 51	6¼c. per gal.	761,834 38
Total		77,030,648 05		42,203,915 49		16,719,970 53		5,616,503 96

* The values are estimated upon the value of the foreign article, with the ad valorem rate of duty added thereto.

APPENDIX 3.

Hon. John Bright, the English liberal, in a speech delivered November 18, 1881, at Rochdale, England, said:

There was an actual doubling of the wages of the laborers in Lord Beaconsfield's own county of Buckingham. Perhaps some of you may recollect a letter which was published almost immediately after Lord Beaconsfield's death, which he wrote to a gentleman who had sent him a book about the condition of the population in the southwestern counties of England, and Lord Beaconsfield said he thought he underrated the improvement in the condition of the farm laborers; that according to his opinion the rise in the wages of the farm laborers had been at least 40 per cent.; that is, 10*s.* of wages per week had risen to 14*s.* per week. I believe, indeed, that in many parts of the country the wages of farm laborers, taking into account the hours which they work and all particulars, are doubled since the free-trade policy was established. [Hear! Hear!] Now, take the other class of men. I walked down from the Reform Club through the park to the House of Commons one day in the past summer, three or four months ago, and a man—an intelligent, respectable looking workingman—joined me and addressed me by name. I asked him how he knew me. He knew me because, he said, "I have been a good deal in Birmingham, and have attended your meetings there, and so I know you very well." [Laughter and cheers.] I talked to him a little about his business. He said he was then getting 7*s.* 6*d.* a day as a bricksetter, and, he added, "formerly I used to work for 4*s.* a day." There is a jump. From 4*s.* to 7*s.* 6*d.* is a considerable leap.

ADVANCE OF WAGES IN THE COTTON TRADE.

Now, I should like to tell you of something that has happened nearer home, for I suspect there are many persons in this meeting who have not the least idea of the actual increase of wages that has taken place among the factory operatives in this neighborhood during the last forty years. I was looking the other day at one of our wages books for 1840 and 1841. I will tell you what I found in it and what I find in our wages book now. The figures are taken over an average of two months at that time and over an average of two months now, and therefore are a fair statement of what happened then and what happens to-day. Many persons here know, of course, all about the interior of a cotton factory, and therefore I shall speak as if it were in a mill and looking over the different people at work. I find that in 1839 the throstle piercers—I need not explain who they are—were receiving 8*s.* a week, and they were working twelve hours a day. I find that now the same class of hands are receiving 13*s.* a week at ten hours a day. If they worked for twelve hours, and were paid at the same rate, it would be 16*s.* a week, or exactly double what they received in 1839, 1840, and 1841. [Cheers.] The young women who worked at the drawing frames at that time had 7*s.* 6*d.* a week; they have now 15*s.*, and that is without reckoning the fact that they are working two hours a day less. The rovers and slubbers got 8*s.* a week then, and they are getting 14*s.* a week now.

The doffers—[laughter]—are considered a class whose wits are a little too sharp—[laughter]—and are sometimes not very manageable. They used to have 5*s.* 6*d.* a week, and they now have 9*s.* 6*d.* The warpers in those days, as far as my recollection serves me—I am speaking of our own business—were all women. They earned on the average of the two months 17*s.* 6*d.* a week. The warpers now are all men, and they have earned in the two months an average of 35*s.* 6*d.* a week. [Cheers.] Well, at that time we had a very clever man as blacksmith, whom I used to like to see strike the sparks off; his wages were 22*s.* a week. Well, our blacksmith now has wages of 34*s.* a week, and that only for factory time, which is ten hours, whereas the man of 22*s.* a week worked the then factory time, which was twelve hours. Now, you see the enormous change to the people in these factories. They have two hours' leisure which they had not before, and their wages are nearly double.

* * * * * * * * *

I think it impossible to account for this extraordinary improvement in the wages of agricultural laborers, of bricksetters and carpenters, and all your factory operatives and all your mechanics, upon any other theory than this, that the new policy with regard to trade, which has made your trade fourfold, has been the cause which has made this stupendous and unimagined improvement in the condition of the people. [Cheers.]

* * * * * * *

The law was altered so that the bread could come here, and a great many things beside bread. Trade has extended and you have added, in Great Britain alone, more than 10,000,000 to your population in forty years.

* * * * * * * *

And yet, with all that increase of population, you have had the demand for labor more steady, employment better paid, the time of labor shorter. The man must be absolutely blind, or worse than blind, who cannot see and will not acknowledge that the great mass of the people, in physical condition, are enormously better off than they were forty years ago.

[During the delivery of Mr. MORRISON'S remarks the hammer fell.

The CHAIRMAN. The hour of the gentleman from Illinois has expired.

Mr. KASSON. In view of the arrangement made for closing the debate and the hour, I feel bound to ask that an exception be made for the gentleman from Illinois, and that he be allowed to finish his speech.

The CHAIRMAN. The gentleman from Iowa asks that the time of the gentleman from Illinois be extended. Is there objection?

There was no objection.

Mr. MORRISON resumed and concluded his speech as above.]

Mr. RANDALL rose.

Mr. KASSON. I will ask the gentleman from Pennsylvania if it will be more agreeable to him to go on to-night or the first thing to-morrow after the reading of the Journal? If it would be more agreeable to him I will move the committee rise.

Mr. MCKINLEY. Go on to-night.

The CHAIRMAN. Does the gentleman from Pennsylvania yield for a motion that the committee rise?

Mr. RANDALL. I do not desire to go on to-night.

Mr. KASSON. I move that the committee do now rise.

The motion was agreed to.

The commitee accordingly rose, and the Speaker having resumed the chair, Mr. ROBINSON, of Massachusetts, reported that the Committee of the Whole House on the state of the Union, having had under consideration the bill (H. R. No. 2315) providing for the appointment of a commission to examine the question of the tariff and internal-revenue laws, had come to no resolution thereon.

EDUCATION.

Mr. SPEER. I ask unanimous consent to have printed in the RECORD a short petition from my State on the subject of education. The petition is but eight lines in length and has attached to it eighteen names.

There being no objection, the petition and the names attached to it were ordered to be printed in the RECORD. They are as follows:

PETITION TO CONGRESS.

We, the undersigned citizens of the county of Rabun, State of Georgia, deeply impressed with the dangers which threaten our institutions, because of the appalling illiteracy of the voting population, as revealed in the last census, for the enlightenment of whom many of the States are unable to make adequate provision; and believing it to be the duty of Congress to provide for the public safety, no less in time of peace than in time of war; and that the enfranchisement of the freedmen by the United States Government imposes upon that Government the obligation to afford liberal aid to the States in their effort to prepare this class of citizens for the duties of citizenship, do earnestly pray that our Senators and Representatives in Congress assembled will take prompt and efficient measures to avert this danger; that moneys raised in adequate amount, and from such sources as Congress may in its wisdom deem best, shall be distributed among the States and Territories, on the basis of illiteracy and for the support of common schools conducted under local laws, under such guarantees as shall secure their application to this object with equal justice to all classes of citizens.

JOHN A. GREEN.
D. J. DUNCAN.
W. J. GREEN.
M. M. MARSANGILLE.
D. T. DUNCAN.
J. H. PITCHFORD, *Attorney at Law.*
Rev. C. A. JAMISON.
C. D. GARLAND.
T. N. MCCONNELL.
G. W. DUNLAP.
WM. WALL, *P. M.*
F. A. BLECKLEY.
M. L. GILLESPIE.
S. W. DOVER,
Pres. Co. Board of Education.
J. F. GODFRY, *Sheriff.*
B. I. JONES, *County Surveyor.*
W. E. POWELL, *Clerk S. C.*
J. W. GREEN, *Former Ordinary.*
LA FAYETTE WALL,
Ordinary and Co. School Com'r.

CLAYTON, GA., *April* 25, 1882.

ORDER OF BUSINESS.

Mr. DINGLEY. I ask unanimous consent to substitute on the Calendar of the Committee of the Whole House on the state of the Union for House bill No. 1720, now on that Calendar, the Senate bill No. 861, to provide for a commission on the subject of the alcoholic liquor traffic, now on the Speaker's table. I do this by request of the committee charged with that subject.

Mr. RANDALL. I move the House do now adjourn.

ENROLLED BILL SIGNED.

Pending the motion to adjourn,

Mr. PEIRCE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 328) to provide for the sale of the lands of the Miami Indians in Kansas.

FORT MISSOULA MILITARY RESERVATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting certain correspondence relative to the necessary enlargement of the military reservation of Fort Missoula, Montana Territory; which was referred to the Committee on Military Affairs.

TROOPS IN ARIZONA.

The SPEAKER also laid before the House a letter from the Secretary of War, and accompanying papers, in response to a House resolution of April 28, calling for information as to troops in Arizona, &c.; which was referred to the Committee on Military Affairs, and ordered to be printed.

GEOLOGICAL SURVEY OF ALASKA.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a letter from the Director of the United States Geological Survey, in response to a resolution of the House of April 14, 1882, relative to an extension of the operations of the survey into Alaska; which was referred to the Committee on Appropriations, and ordered to be printed.

UNITED STATES NAVY.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting additional information relative to the Navy, as called for by a resolution of the House of the 17th of January last; which was referred to the Committee on Naval Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. ROBINSON, of New York, for five days, on account of important business;

To Mr. FULKERSON, for six days, on account of important business;

To Mr. PETTIBONE, for ten days, on account of ill health; and

To Mr. JADWIN, for one week, on account of important business.

The motion of Mr. RANDALL was then agreed to; and (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ARMFIELD: Ten petitions from citizens of North Carolina, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. BEACH: The petition of citizens of Sullivan County, New York, for the enactment of a general law regulating emigration—to the Committee on Commerce.

By Mr. CLEMENTS: The petition of citizens of Cherokee County, Georgia, for an appropriation for the aid of common schools, to be distributed on the basis of illiteracy—to the Committee on Education and Labor.

By Mr. GUENTHER: Two petitions of the citizens of Lower Fox Valley, relative to the unprecedented high stage of water in the Lower Fox River—severally to the Committee on Commerce.

By Mr. HASELTINE: The petition of L. B. Perkins and 344 others, citizens of Missouri, for the enactment of such laws as will prevent the further importation of Chinese laborers—to the Committee on Education and Labor.

By Mr. A. S. HEWITT: The petition of 800 business firms of the city of New York, in favor of a revision of the tariff on the basis of free raw materials—to the Committee on Ways and Means.

By Mr. HOGE: The petitions of William Gerhardt and others, citizens of Berkeley County; of Jackson Cooper and others, citizens of Upshur County; and of D. B. Purenton and others, citizens of Morgantown, West Virginia, asking an appropriation of public money to the schools of the States and Territories on the basis of illiteracy—severally to the Committee on Education and Labor.

By Mr. JOYCE: The petition of Mrs. Hannah T. Avery and others, urging the passage of the bill for the relief of Dr. Leonard Thresher—to the Committee on Claims.

By Mr. MORSE: The petition of Elizabeth A. Blaney and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. MULDROW: The petition of J. M. Jordan and others, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. ORTH: Paper relating to the claim of Captain Samuel Moore, of Indiana—to the Committee on Military Affairs.

By Mr. PETTIBONE: The petition of Andrew Bowman, for a pension—to the Committee on Invalid Pensions.

By Mr. SPEER: The petition of W. F. Hill, Jasper Poindexter, and others, of Gilmer County, Georgia, for an appropriation to promote popular education—to the Committee on Education and Labor.

By Mr. J. T. UPDEGRAFF: The petition of W. G. Fuller and 31 others, citizens of Gallipolis, Ohio, for an appropriation to promote education in Alaska—to the same committee.

By Mr. URNER: The petition of Helen A. Newlin, for relief—to the Committee on War Claims.

By Mr. VANCE: The petition of R. T. Barton and 150 others, citizens of Haywood County, and of C. B. Justice and 200 others, citizens of Rutherford County, North Carolina, praying Congress to appropriate and distribute moneys for the benefit of common schools—severally to the Committee on Education and Labor.

By Mr. YOUNG: The petition of Thomas M. Hunter and 21 others, citizens and business firms of Adrian, Michigan; of Bray & Hayes and 40 other business firms in the New England States; and of Henry Interman and 18 others, citizens of New York City, New York, for the passage of the bill pending to tax the adulterant known as glucose five cents per pound—to the Committee on Ways and Means.

SENATE.

FRIDAY, *May* 5, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. SAUNDERS. Mr. President, I present a petition of the Board of Trade of Omaha, Nebraska, in favor of an appropriation of a sufficient sum of money to protect and improve the navigation of the Missouri River, and at the same time protect a large amount of property now liable to loss on account of a change of the channel of the river opposite to the city of Omaha. In 1877 the river broke through a narrow neck of land at that point and a great bend of about five miles in length was cut off by this break. Congress at the next session made a small appropriation for the improvement of the river at this point, but the work done was temporary in its character, and the great flood of 1881 carried the most of it out. I move the reference of the petition and the maps and plans which accompany it to the Committee on Commerce, and will ask of that committee a careful consideration of the subject, and the recommendation of such sum as may be necessary to do the proper work.

The motion was agreed to.

Mr. PLUMB presented two petitions of citizens of Kansas, praying for an appropriation for the extension of education to the native people of Alaska; which were referred to the Committee on Education and Labor.

Mr. BLAIR presented a petition of certain Government employés in the Post-Office Department, praying to be allowed an increase of compensation; which was referred to the Committee on Appropriations.

REPORTS OF COMMITTEES.

Mr. McMILLAN, from the Committee on Commerce, to whom was referred the petition of Arthur L. Fish, bondsman of A. Boschke, contractor in dredging the estuary at Wilmington Harbor, California, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. FRYE, from the Committee on Claims, to whom was referred the bill (S. No. 1465) to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. WINDOM, from the Committee on Transportation Routes to the Seaboard, to whom was referred the bill (S. No. 337) to authorize a preliminary examination and survey of the passes between the affluents of the Upper Missouri and Columbia Rivers, for the purpose of ascertaining the distances between the navigable waters of said rivers and the practicability of uniting said rivers by canal or otherwise, reported it with an amendment.

Mr. MORRILL. I am directed by the Committee on Finance to report back adversely the bill (S. No. 1732) to refund excessive duties levied by overvaluation of Austrian paper florin. I will state that the existing law provides that—

> The value of foreign coin as expressed in the money of account of the United States shall be that of the pure metal of such coin of standard value; and the values of the standard coins in circulation of the various nations of the world shall be estimated annually by the Director of the Mint, and be proclaimed on the 1st day of January by the Secretary of the Treasury.

By this section of the Revised Statutes, section 2564, it would appear that the Director of the Mint makes the estimate annually, and if there should be a fractional variation or change in the course of the year, and Congress were to be called upon to rectify any such changes or mistakes, it would cause an infinite amount of work and trouble. Therefore the committee are unanimous in reporting the bill adversely. I move the indefinite postponement of the bill.

The motion was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (S. No. 328) to provide for the sale of the lands of the Miami Indians in Kansas; and it was thereupon signed by the President *pro tempore*.

BILLS INTRODUCED.

Mr. JONAS (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1836) for the relief of Mrs. Eliza Morris; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. COKE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1837) for the relief of Clark Hayner and his sureties; which was read twice by its title, and referred to the Committee on Finance.

Mr. MITCHELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1838) granting a pension to Ellen Gillespie; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1839) to amend an act relating to the bonds of officers of the Pay Department of the United States Army, and for the settlement of their accounts; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. MORGAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1840) for the relief of Benjamin T. Reilly; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. GEORGE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1841) supplemental to an act entitled "An act granting public lands in alternate sections to the State of Mississippi to aid in the construction of railroads in said State, and for other purposes," approved August 11, 1856; which was read twice by its title, and referred to the Committee on Railroads.

AMENDMENTS TO A BILL.

Mr. MILLER, of California, submitted an amendment intended to be proposed by him to the bill (S. No. 172) to authorize the auditing of certain unpaid accounts of the Indian Bureau by the accounting officers of the Treasury; which was ordered to be printed.

TAX ON DISTILLED SPIRITS.

Mr. WINDOM. In accordance with my notice of yesterday, I submit the following resolution and ask for its present consideration:

> *Resolved*, That a committee of five Senators be appointed by the Chair, whose duty it shall be to inquire whether any money has been raised, by contributions or otherwise, from parties in interest, for the purpose of promoting the passage or defeat of House bill No. 5656, now pending before the Senate Committee on Finance, being a bill to amend certain laws on the subject of distilled spirits in special bonded warehouses, and, if so, for what uses said money has been expended; and said committee shall have power to send for persons and papers and to employ a stenographer, and shall report the result of such investigation to the Senate.

The resolution was considered by unanimous consent, and agreed to.

NUMBER OF MEN IN THE NAVY.

The PRESIDENT *pro tempore*. If there be no further morning business, the morning hour is declared closed, and the Senate proceeds to the consideration of bills on the Calendar under the Anthony rule.

The bill (S. No. 1529) to amend section 1417 of the Revised Statutes of the United States, relating to the Navy, was announced as first in order.

Mr. INGALLS. Is there a report accompanying the bill?

Mr. ROLLINS. There is no report, but there is a communication from the Secretary of the Navy and the Chief of the Bureau of Equipment and Recruiting of the Navy Department, forwarded by the President of the United States. I ask that the correspondence be read.

The Acting Secretary read as follows:

NAVY DEPARTMENT,
BUREAU OF EQUIPMENT AND RECRUITING,
Washington, March 3, 1882.

SIR: I have the honor to submit the inclosed draft of a resolution authorizing an increase of five hundred enlisted men in the naval service.

The number at present allowed by law is 8,250, which includes seven hundred and fifty boys authorized to be enlisted annually.

After deducting the number of apprentices under training and the men required to supply the Coast Survey, Fish Commission, Naval Academy, training squadron, Arctic-search expedition, and other vessels on special service, and also the receiving-ships at the several navy-yards, the effective force required for the regular cruisers of the Navy is very seriously impaired.

This was notably the case during the past year, when, as there were in the service the full number of men allowed by law, it became necessary to detain vessels commissioned for sea until other ships were put out of commission and their crews discharged, in order to supply them with men.

The same condition will exist should it be desirable to commission, at an early date, the vessels recently repaired and now about ready for sea service, unless relief be had by legislation.

Five hundred men are required, as the least possible number, to meet the absolute necessities of the service, and the bureau submits for your consideration the inclosed draft of a bill for the purpose of securing the much-needed legislation on the subject.

Very respectfully, your obedient servant,

EARL ENGLISH,
Chief of Bureau.

Hon. WILLIAM H. HUNT, *Secretary of the Navy.*

Mr. BUTLER. I inquire if there is a report accompanying the bill?

The PRESIDENT *pro tempore*. There is no report.

Mr. BUTLER. Is what has been read the only information in regard to it?

Mr. ROLLINS. This was supposed to present as good a statement of the case as could be prepared, stating very concisely the absolute want of the Department. I am informed that there are not men enough to man even the few vessels we now have in the Navy.

Mr. BUTLER. May I inquire of the Senator what was the action of the Committee on Naval Affairs upon the bill?

Mr. ROLLINS. It is a unanimous report from the Committee on Naval Affairs.

Mr. SHERMAN. What does the Secretary of the Navy say in transmitting the letter of the Chief of the Bureau of Equipment and Recruiting?

Mr. ROLLINS. Let the letter be read.

The Acting Secretary read as follows:

NAVY DEPARTMENT, WASHINGTON,
March 6, 1882.

SIR: I have the honor to inclose a copy of a communication, dated the 3d instant, from the Chief of the Bureau of Equipment and Recruiting, recommending the passage of an act to increase the number of enlisted men allowed in the naval service, and submitting a draft of a bill to accomplish that purpose.

The proposed increase meets with the approval of this Department, and I beg leave to suggest that the matter may be brought to the attention of Congress.

I have the honor to be, very respectfully, your obedient servant,

WILLIAM H. HUNT,
Secretary of the Navy.

The PRESIDENT.

Mr. PLATT. If we are to have a navy, I should be in favor of having men to serve it; but if we are not to have a navy, I think we have men enough. It seems to me useless to increase the enlisted force in the Navy until we have some ships constituting a navy and something for those ships to do.

Without some explanation more than has already been made in reference to this bill, I shall feel it my duty to vote against it. I confess that I do not know what we want enlisted men for, in the present condition of our Navy, certainly any more than we have. We are diminishing vessels all the while; vessels are going out of service, and those that are in the service are not fit to stay in. What is the use of manning them?

Mr. HALE. What is the bill?

Mr. SHERMAN. It is a bill to increase the enlisted force of the Navy.

Mr. HALE. Is the bill reported by the Committee on Naval Affairs?

The PRESIDENT *pro tempore*. It is reported from the Committee on Naval Affairs unanimously.

Mr. HALE. How does it come up?

The PRESIDENT *pro tempore*. Under the Anthony rule.

Mr. HALE. In regular order?

The PRESIDENT *pro tempore*. In regular order; the first case to-day.

Mr. HALE. Who reported the bill?

Mr. ROLLINS. I reported the bill from the Committee on Naval Affairs. It was a unanimous report of the committee, recommended in the first instance by the Chief of the Bureau of Equipment and Recruiting, Commodore Earl English, recommended by the Secretary of the Navy, and the correspondence forwarded by the President of the United States. The truth is simply that at least five hundred men are needed to man the ships that are in the Navy to-day. There are not enough men to do it. That is all there is about it.

Mr. BUTLER. May I inquire of the Senator whether the Secretary of the Navy made any recommendation in his annual report in reference to an increase of the enlisted force of the Navy?

Mr. ROLLINS. I do not remember. I have not examined the report with reference to that point. The Senator has heard read the letter of the Secretary of the Navy forwarding the communication of the head of the bureau to the President of the United States, and by him forwarded to the Senate.

Mr. ALLISON. I ask that the bill go over to-day without prejudice.

The PRESIDENT *pro tempore*. The bill will go over for to-day without prejudice.

BRIDESBURGH ARSENAL EXPLOSION.

The bill (S. No. 847) for the relief of the sufferers by the explosion at the United States arsenal at Bridesburgh, Pennsylvania, was announced as next in order on the Calendar.

Mr. INGALLS. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. CAMERON, of Pennsylvania, March 22:

The Committee on Military Affairs, to whom was referred the bill (S. No. 847) for the relief of Edward Shields and others, have had the same under consideration, and submit the following report:

This is a bill which appropriates the sum of $8,000, to be disbursed by the Secretary of the Treasury in such proportions as he may deem just and equitable, to certain sufferers by the explosion which occurred at the United States arsenal at Bridesburgh, Pennsylvania, on the 7th of August, 1875.

The papers on file with the committee, consisting of a report of United States officers convened to investigate the circumstances of the explosion at the laboratory at the Frankford arsenal at Bridesburgh, and affidavits from the sufferers show that a number of persons were employed in the arsenal at the time of the explosion breaking up unserviceable metallic cartridges, and that the explosion was occasioned by one of the operatives tapping on the head of a cartridge-case and causing an explosion of the fulminate. The report of the board of investigation censures the officers in charge for allowing the large amount of powder to accumulate in the building at one time.

The explosion was so terrific as to blow several of the operatives entirely out of the building, killed three outright, and so severely burned and injured others as to make them cripples for life and incapable of supporting themselves.

The affidavits of the sufferers are accompanied by photographs of their persons, showing their injuries. Some of these sufferers are still under the physician's care.

In view of the fact that the cause of these people being injured appears to have been the result of the carelessness of the Government officials in charge, in allowing a magazine of powder to accumulate in the room where the operatives were working, and that they were thus subjected unnecessarily to extra risk of life and limb, your committee are of opinion that these sufferers have a claim upon the consideration of the Government.

The following letter, addressed to Hon. George E. Spencer, chairman of the Senate Committee on Military Affairs, by some of the sufferers, appeals to the sympathy of your committee and to Congress:

FRANKFORD ARSENAL, PENNSYLVANIA, *February 1, 1879.*

DEAR SIR: There is now pending in Congress a bill for the relief of the sufferers by explosion at Frankford arsenal, August 7, 1875, by which accident some of us have lost our only sons, to whom we had been looking with fond hopes that in our declining years we would have them with us as helpmates and comforters, while others of us have left to us crippled children that will ever be dependent upon us.

We all of us have served in the Army for periods ranging from eighteen to thirty-two years, or are the widows of old soldiers, who are now left in a helpless and destitute condition, and thus appeal to you to give whatever assistance to the bill that your just and humane feelings may dictate. Accompanying the bill you will find photographic pictures of the surviving sufferers, showing the character and extent of their burns, and what must have been their great sufferings during the many months of their recovery.

With great respect, your obedient servants,

MICHAEL FARRELL.
HUGH McLAUGHLIN.
HENRY STEGER.
EDWARD SHIELDS.
ELLEN BUTLER.
MARY WILLIS.

Hon. GEORGE E. SPENCER.

Appended will be found the petition of the sufferers, with a statement of precedents in cognate cases; also a brief statement of persons killed, wounded, and maimed by this explosion:

WASHINGTON CITY, D. C., *January 8, 1879.*

GENTLEMEN: Your petitioners respectfully state that they are sufferers by the explosion in Bridesburgh arsenal, August, 1875.

We submit herewith a copy of the official report of the explosion; also extracts from the newspapers of Philadelphia referring to the accident.

Our individual statements inclosed will inform you of the terrible suffering, physical and mental, this dreadful accident has caused us, and we earnestly pray your honorable body to give us such relief as has been given sufferers in similar cases, and receive the grateful thanks of the afflicted, crippled, and widowed victims of this explosion.

EDWARD SHIELDS.
RICHARD J. WILLIS.
JOSEPH N. FARRELL.
HERMAN H. STEGER.
DANIEL ROSS.
CHARLES DEARDEN.
WM. H. McMILLAN.
HUGH McLAUGHLIN.
ELLEN BUTLER.
NICHOLAS ZILLIER.
J. VAN SANT.
WM. DEAL.
FREDERIC H. KLOTZ.
ALFRED ALTEMUS.

The honorable COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

P. S.—Your attention is respectfully invited to the act of Congress approved March 17, 1866, (volume 14, United States Statutes at Large, page 351,) which makes appropriation for the relief of the sufferers by the explosion at the arsenal in Washington, D. C. In this connection we are informed that nearly if not all of the sufferers were provided with good positions under the United States Government, besides receiving the amount appropriated. You are also referred to the act

approved July, 1876, (volume 19, United States Statutes at Large, page 455,) appropriating $3,000 each to John T. King and L. B. Cutler, employés of the United States Senate, who were injured by an explosion of gas. The amount placed in the original bill only covered four cases. Since its introduction all of the claimants, fourteen in number, have joined in the application and filed affidavits of injuries herewith. The amount should be proportionally increased and the additional names inserted in the bill.

Brief of statements of persons injured by the explosion at the Bridesburgh arsenal.

Joseph Farrel, aged eleven years at the time of the accident, was blown out of the building and burned in the most shocking manner both internally and externally. His memory is impaired, and in all probability he will be a sufferer for life. Under a physician's care for ten months. Is entirely helpless.

John McLaughlin, killed, had escaped from the building, but was struck by a piece of timber. He was a bright, intelligent lad of fifteen or sixteen years of age. His father is an old soldier of thirty-two years' service in the United States Army, and makes a strong appeal to Congress for some compensation for the loss of his main support and reliance.

Charles Dearden was blown out of the building and so seriously burned as to render him incapable of pursuing any occupation for over one year.

Herman H. Steger, seventeen years of age, seriously burned about the face and neck. Was under the care of a physician for nine months, and is a cripple for life. Says that 80,000 filled cartridges were stored in the room they were working in. The room was "a powder magazine."

William H. McMillan was blown out of the building and so badly injured that he is a cripple for life.

Richard J. Willis. His mother, who is the widow of a soldier, says he was fourteen years old at the time of the accident. He was so severely injured that he is a cripple for life. He was eighteen months under treatment at her expense. He and three other children are dependent entirely upon her for the necessaries of life. She makes a strong appeal to Congress for relief from her almost destitute condition.

Edward Shields, jr., was about thirteen years old at the time of the explosion. His father says he was injured in the most terrible manner, lost the entire use of one arm, and will in all probability become totally blind. Is at this date (December, 1878) still under medical treatment. His father is an old soldier, and earnestly asks for relief from Congress. Young Shields's affidavit, herewith, substantiates his father's statement, and says: "I cannot explain my case any better than by saying that I am afflicted for life through no fault of my own."

Daniel Ross, under oath, says: "I was sixteen years old when the explosion occurred." He was badly burned on his left arm and breast; was an invalid in consequence for eighteen months. His arm is deformed and the muscles so badly shattered that it is almost useless.

Ellen Butler, under oath, says she is the mother of John A. Butler, who was killed at the arsenal explosion. He was thirteen years old at the time of his death. Her husband was so shocked by his death that he became insane and has remained so ever since. She was left by this accident destitute and helpless, with two small children and a deranged husband to support. She makes a pitiful appeal for Congressional aid.

George B. Zillier, aged sixteen, killed while in employment at arsenal. Claim made by parents.

J. E. Van Sant, burned so as to be disabled from work for six months.

William Deal, injured for life; could not work at all for five months; never will fully recover.

F. Klotz, so badly injured as to be incapable of work for three months.

Howard Altemus, severely injured and kept from work.

The premises considered, your committee report back the bill with certain amendments and corrections of names in accordance with the papers on file, and earnestly recommend that the same do pass.

Mr. INGALLS. I object to the consideration of the bill.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over.

LOUIS A. VAN HOFFMAN AND OTHERS.

The bill (S. No. 595) for the relief of Louis A. Van Hoffman and William A. Mertens, under the firm name of L. Van Hoffman & Co., and William H. Newman was considered as in Committee of the Whole. It proposes to pay to Louis A. Van Hoffman and William A. Mertens, trading under the name of L. Van Hoffman & Co., and William H. Newman, $18,430.67, in full for the use of the Pioneer Mills in Alexandria, Virginia, by the United States authorities during the war.

Mr. JONES, of Florida. Is there a report in that case?

The PRESIDENT *pro tempore*. There is. The report will be read.

The Principal Legislative Clerk read the following report, submitted by Mr. HOAR March 22:

The Committee on Claims, to whom was referred the bill (S. No. 595) for the relief of Louis A. Van Hoffman and William A Mertens, under the firm name of L. Van Hoffman & Co., and William H. Newman, have considered the same, and respectfully report:

This case has been previously under consideration by this committee, and we adopt the report made in the second session of the Forty-fifth Congress, which is hereto annexed:

"The Committee on Claims, to whom was referred the bill (S. No. 752) for the relief of William H. Newman and Louis A. Van Hoffman, have considered the same, and respectfully report:

"The loyalty of the petitioners and their title to the property occupied by the United States are proved beyond controversy. The property, known as the Pioneer Mills, at Alexandria, Virginia, consisted of a warehouse and mill of 80 by 122 feet, and four and a half stories or about 72 feet in height; an engine and boiler-house of 30 by 22 feet, containing two engines and six cylinder boilers; a cooper's shop, with slate roof, of the dimensions of 30 by 100 feet; a vacant lot, and a spacious wharf on the Potomac. The cost of these structures was upward of $140,000. They were on land leased from the city of Alexandria, for which a ground-rent was paid of $1,720 a year. The property was mortgaged to three trustees to secure bonds of $75,000 in amount. One of the trustees was disloyal, but he had only a naked title, having no interest whatever in the debt. He was removed and a successor appointed, who sold the property under legal proceedings, when it was purchased in for the benefit of the holders of the bonds, who were Newman and Van Hoffman, the petitioners. Their loyalty is abundantly proved. They were residents of New York City, and subscribed liberally to aid in raising troops and other loyal undertakings.

"The property was assessed at $75,000 for the purposes of taxation.

"December 17, 1861, Major Bell, commissary of the United States Army, called upon L. J. Anthony, who was in charge of the property as agent of the owners, and informed him that the Government needed it. Anthony replied that the owners would consent, provided they were to receive compensation. Commissary Bell replied that they would receive a fair rent if they were loyal. Anthony thereupon gave him the keys and he took possession of the property for the United States. Possession was retained by the United States until August 25, 1865.

"Five thousand dollars a year is an extremely low rent for this property during this period. The owners were then paying ground rent, $1,720, and taxes and insurance to an amount of several hundred dollars more, so that there would inure to them less than $3,000 per annum.

"The committee report the accompanying bill and recommend its passage."

The committee therefore recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JULIA A. NUTT.

The bill (S. No. 1472) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased, was considered as in Committee of the Whole. It directs the Quartermaster-General to examine, adjust, and settle the claims of Julia A. Nutt, widow and executrix of Haller Nutt, deceased, late of Natchez, Mississippi, growing out of the occupation and use by the United States Army during the late rebellion of the property of Haller Nutt during his lifetime, or of his estate after his decease, including live stock, goods, and moneys taken and used by the United States or the armies thereof.

Mr. INGALLS. How much does Julia A. Nutt claim?

Mr. McMILLAN. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. GEORGE March 22:

The Committee on Claims, to whom was referred the bill (S. No. 1472) for the relief of Julia A. Nutt, have considered the same and make the following report:

This claim has been reported favorably on in the House of Representatives by the Committee on War Claims—once on 14th February, 1877, once on May 1, 1878, and again on 14th February, 1881. The last report, made by Mr. Tyler, is as follows:

"[H. Report No. 251, Forty-sixth Congress, third session.]

"The Committee on War Claims, to whom was referred the bill (H. R. No. 1528) for the benefit of Julia A. Nutt, widow and executrix of Haller Nutt, deceased, submit the following report:

"Julia A. Nutt is the widow and executrix of Haller Nutt, late of Adams County, in the State of Mississippi, deceased, who was, at the commencement of the rebellion, a man of great wealth. He was the owner and in possession of several plantations, two of them in Tensas Parish, in the State of Louisiana, called 'Evergreen' and 'Winter Quarters,' and others in the State of Mississippi. The two plantations above named were heavily stocked with horses, mules, and cattle, and heavy crops were growing upon them.

"Mr. Nutt was always a firm advocate of the Union and opposed to secession. He was so well known as a Union man that the officers in command of the Union Army, including General Grant, General Sheridan, General McPherson, General Gresham, and others, furnished him with safeguards for the protection of himself, his family, and his property. One of the papers in the case hereafter referred to bears the certificate of General Grant of Mr. Nutt's unquestionable loyalty. The commissioners of claims said on this point:

"'As to the loyalty of Mrs. Nutt and her deceased husband the proof is ample. Mrs. Nutt's own evidence was very clear and full to show the earnest Union feelings of herself and husband from the beginning of the war. General McKee, at present a member of Congress from Vicksburgh, says that he was in command of the Union forces which first entered Natchez in July, 1863, and that Mr. Nutt was the first man to step forward and welcome them and to announce that he was a Union man. General McKee was afterward provost-marshal there; it was his duty to ascertain who were loyal. General Grant, in indorsing the report of the commission, says: "I am acquainted with Mrs. Nutt. She has at all times been a loyal citizen of the United States, as I had every reason to believe, as was also her husband up to the time of his death."'"

On the advent of General Grant's army in that country in the spring of 1863, when the other planters fled away, taking their flocks and herds and other movable property with them, Mr. Nutt remained at home, welcomed the Army, and abided the consequences.

Grant marched his army from Young's Point down the west side of the Mississippi River, in his movement to invest Vicksburgh, and passed over the plantations "Evergreen" and "Winter Quarters," on Lake Saint Joseph, not far from Bruinsburgh, where he crossed the river.

The Army was compelled by necessity to disregard the safeguards that had been granted to Mr. Nutt; it occupied his plantations and appropriated to its use a large amount of property upon them. Incident to the occupation by the Army his dwelling-house was considerably injured; cotton-gins and cotton were destroyed; out-buildings were injured, and miles of fences were taken down for the use of the Army. The supplies thus obtained were of great assistance in enabling Grant to continue his march.

It is also claimed that these plantations were subsequently occupied by the Marine Brigade under the command of General Ellett, when another large amount of property was taken therefrom, so that finally they were left denuded of everything movable, and the lands and buildings were greatly injured. Mr. Nutt, in his extremity, went to his bank in Natchez, Mississippi, where he had about nine thousand dollars deposited, which was about all he had left in the world except his devastated plantation, when he found that that had been taken from the bank by order of General Brayman, and, as it is alleged, applied to the use of the Federal Army.

Mr. Nutt died in 1865. In October of that year General Grant ordered a commission to be appointed to investigate and ascertain the amount and value of property taken. That commission was appointed by General Davidson, under orders of General Canby, "to investigate, prove, and assess the property taken from the plantation of Mrs. H. Nutt, on Lake Saint Joseph." This commission, or board of appraisers, as they were called, was composed of Captain J. W. Scully, assistant quartermaster United States Army, James Gillespie, and Thomas Bowie, who proceeded to the discharge of their duties, and on January 20, 1866, made a report in which they recommended the payment of $112,472.16 upon certain articles of property therein named; but this did not include all that was taken on those plantations; nor did it include any part of what was taken from Mr. Nutt or his estate in Mississippi. The report was presented to Lieutenant-General Grant, who, on May 17, 1866, strongly indorsed it, and concluded his indorsement as follows:

"I know that large quantities of supplies were taken from her plantation and used by the United States Army, but cannot state amounts or value. I recommend the payment of this claim under General Order No. 109, of 1862, at the rates paid for the same articles by the Government at the time these were taken."

On presentation of these papers to the War Department, the Quartermaster-General and the Commissary-General of Subsistence decided that they had no authority to act in the premises.

When the Southern claims commission was organized, Mrs. Nutt, as executrix, presented her claim to that tribunal, which allowed her thereon $56,368.25. This reduction from the amount of her claim, as presented, was made by striking out

certain items over which the commissioners thought they had no jurisdiction, and the reduction of amounts as to others, which the executrix thinks was not warranted either by the facts or the proofs. Mr. Blair, of Michigan, chairman of the Committee on War Claims in the House of Representatives, when presenting the bill for an appropriation to pay this allowance made by the commissioners, expressed himself very strongly in favor of a much larger allowance. Up to the time when Mrs. Nutt had presented this claim to the Southern claims commission, she had supposed that all the property taken from these plantations had been for the use of the army immediately under the command of General Grant, but she afterward discovered that a great deal was taken by the Marine Brigade, commanded by General Ellett; but this discovery was made too late to enable her to present it to the commission. The claim for the money taken from her by order of General Brayman was not presented there by her under a misapprehension that the Department would pay it on presentation of the papers. This has been refused her.

It is quite probable that some of these claims for losses of and injuries to property will have to be set down to the account of depredations by soldiers, but the committee are convinced that a considerable portion thereof are just claims against the Government.

The evidence before the committee is not definite enough as to amounts and value of property taken to enable us to report in favor of the allowance and payment, and we therefore report back a substitute bill, referring the claim to the Quartermaster-General for investigation and settlement.

We adopt this report and recommend the passage of the accompanying bill, being Senate bill No. 1472.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HADLEY HOBSON.

The bill (S. No. 124) for the relief of Hadley Hobson was considered as in Committee of the Whole. It provides for the payment of $1,648 to Hadley Hobson, of Salem, Oregon, or his legal representatives, in full payment for 13,733½ pounds of beef furnished the public authorities in the "Oregon and Washington Territory Indian war of 1855 and 1856."

Mr. INGALLS. Is there a report?

The PRESIDENT *pro tempore*. There is; it will be read.

The Principal Legislative Clerk read the following report, submitted by Mr. GEORGE March 22:

The Committee on Claims, to whom was referred the bill (S. No. 124) for the relief of Hadley Hobson, beg leave to report as follows:

On February 4, 1856, the petitioner sold to the United States military authorities 13,733½ pounds of beef, at twelve cents per pound, amounting to $1,648, for supplies to the troops in Oregon engaged in the Indian war. He presents a proper voucher for the same. It appears that the papers were intrusted to a party who died, and who was employed to prosecute the claim. It has never been paid. It is now refused payment in the Treasury Department, because of non-presentation to a military board, and because it is not within the act of Congress allowing that Department to adjudicate on such claims. This is no reason why the claim should not be paid by the United States. Its justice is clearly established by the papers accompanying the petition. The committee therefore recommend the passage of the accompanying bill.

Mr. SAULSBURY. Does that bill allow interest upon the claim?

Mr. GEORGE. No, sir; it allows no interest.

Mr. SAULSBURY. It is a pretty old claim.

Mr. GROVER. The claim accrued more than twenty years ago, and no interest at all is allowed on the claim.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ADJOURNMENT TO MONDAY.

Mr. ANTHONY. I move that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to—ayes 46, noes not counted.

B. B. TAYLOR.

The bill (S. No. 746) for the relief of B. B. Taylor was considered as in Committee of the Whole. It provides for the payment to B. B. Taylor, of Murfreesborough, Tennessee, of $906, in full compensation of a set of regular vouchers, form 12, issued to him in 1863 by Lieutenant George F. Kurtz, of the Seventy-ninth Pennsylvania Volunteers, acting assistant quartermaster, for forage, &c., purchased for the use of the Army.

Mr. ALLISON. I think there ought to be some further explanation of this bill than I find in the report.

Mr. CAMERON, of Wisconsin. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. GEORGE, from the Committee on Claims, March 22:

On January 30, 1863, Lieutenant George F. Kurtz, acting assistant quartermaster of the United States Army, purchased from the claimant, B. B. Taylor, corn, hay, and fodder to the amount of $906, and gave a proper voucher therefor. This claim was refused by the commission on claims by reason of the disloyalty of the claimant. At the time of the purchase the United States Army was in full and undisturbed possession of that part of Tennessee where the claimant resided, and where the purchase was made. The claim is fully established, and under the circumstances the loyalty of the claimant is not material. We recommend the passage of the accompanying bill.

Mr. ALLISON. Is not this a new rule that is proposed to be established by this report?

Mr. COCKRELL. Not at all.

Mr. ALLISON. Is it an existing rule in reference to this class of claims?

Mr. COCKRELL. It is a question of contract merely.

Mr. GEORGE. The purchase was made for the Quartermaster's Department.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORT UNION RESERVATION.

The next bill on the Calendar was the bill (S. No. 1030) to authorize the United States to secure a title to certain military and timber reservations.

The bill was reported from the Committee on Military Affairs, with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of War is hereby authorized and directed to cause an inquiry to be made into the ownership of the Fort Union military and timber reservations in the Territory of New Mexico, and if he shall find that the title thereto is not in the United States, then to negotiate with the owner or owners thereof for the purchase of so much thereof as may be necessary for the future use of said military post, and to surrender the residue thereof to the persons entitled. He shall also audit any account that may be presented by the owners of said lands for the use thereof by the United States after the title of such claimants was established.

SEC. 2. That the Secretary of War shall report to Congress his proceedings under section 1 of this act, together with such facts as to the character and value of said lands, the use which has been made thereof by the United States, the detriment, if any, caused by such use to the lands or the owners thereof, and whether such use was with the consent of the owners.

Mr. PLUMB. Unless the Senator who reported this bill has some personal interest in having it considered now, I think I shall object to it.

Mr. HARRISON. I have no personal interest whatever in the bill, yet I think it is a bill that for public reasons ought to be acted on now. There was a military reservation at Fort Union, in New Mexico, located many years ago by the Government on the supposition that the land on which it was located was public land. It turned out that a Mexican grant extended over the entire reservation, and that the title was in the individual who held under that grant.

The original bill, which has been before Congress for several sessions, provided for giving the owners acre for acre the same amount of public land to be selected by them anywhere in the world. We report against that, and provide that the reservation shall be reduced. I think there is an expression of opinion from the Secretary of War or the General of the Army that one section would be enough for the reservation. There are Government buildings on it that have cost, perhaps, $300,000. This bill as amended provides that the reservation shall be reduced by the Secretary of War to the lowest necessary limit, and that he shall return the remainder of the land to the owner and cause inquiry to be made as to what compensation, if any, should be made for the use of it since the individual title was established.

I think it is important to the public interest that this bill should pass. I do not think the individual claimant has now very much interest in it in the shape in which the bill stands as reported by the committee.

Mr. PLUMB. The post of Fort Union is seven or eight miles distant from a railroad line, which is now the only practicable method of transportation in that country. It is therefore of no possible use as a depot of supplies. It is on the contrary a disadvantage to the Government. Every pound of Government freight carried from the railroad to Fort Union by wagon has got to be carried back again to the railroad in order to enable it to be distributed to the posts to which it should go. It is not of any advantage, therefore, to the Government to continue this military post as a depot for distribution, or for any other purpose whatever; and while these buildings probably have cost $300,000, I think I am entirely safe in saying that they are not worth to-day to the Government, for any purpose whatever, $10,000, and if they were put up at public sale to be sold to any person they would not bring that sum.

I have a conviction on this subject, growing out of some knowledge of this bill and of the circumstances surrounding this transaction, which has led me to believe that the best thing the Government can do and all it ought to do would be to surrender to the claimants of this land, if they have any claim whatever, the improvements there are on the ground, in consideration that no further claim shall be made by them against the Government. While I do not think the bill is quite as guarded as it ought to be for the purpose of protecting the Government, I will propose an amendment to be added at the close of the first section.

The PRESIDENT *pro tempore*. The Senator withdraws his objection?

Mr. PLUMB. I withdraw the objection for the time being. I move to amend the amendment of the committee by adding to the first section of the substitute this proviso:

Provided, That the Secretary of War shall also consider and take into account the protection afforded to said reservation by the presence of the United States forces thereon, and also whether it would not be proper to surrender all improvements on the same to the claimants in lieu of whatever claim for use may be set up for the use of said land.

Mr. SAULSBURY. I should like to inquire of the Senator from Indiana whether there is any person actually claiming these lands. So far as I see from the reading of the bill it simply authorizes the Secretary of War to initiate an inquiry as to whether somebody is not entitled to the lands. Is there any evidence that there is anybody claiming the land or any part of the land on which this fort is established?

Mr. HARRISON. There certainly is not only that, but the title has been recognized by an act of Congress, and the Interior Department has reported that these lands are in individual ownership. At

the same time, in framing the amendment I did not propose to conclude the Secretary of War upon that question, and but provided that if he should find that there was any defect he might recognize it.

Mr. PLUMB. I presume it is true that this military post is located upon a reservation which belonged to certain claimants under a Mexican grant, which by the treaty of Guadaloupe Hidalgo the United States was required to recognize. A bill of particulars was presented to a former committee of the Senate in regard to the damages claimed on account of the occupation by the United States of this reservation, which embraced certain timber or wood which was assumed to have been taken by the Government, and also a certain quantity of grass claimed to have been cut by the Government, which figured up a very large sum, and which seemed to me to be entirely without foundation, and I think the committees have been constantly regarding it as entirely without foundation.

I believe myself that the occupancy by the Government of a portion of this reservation has been a protection to the estate, that it has prevented the despoiling of it, and that instead of the Government being a trespasser, and required to pay under any proper circumstances of the case damages to the owners of this estate, the Government would be entitled, on a fair statement of the account, to a claim against these owners for having protected it; and I do not want now to assume in anything that may be done that the Government should pay damages to these people on account of timber that may have been cut, or on account of occupancy of land that was not worth twenty-five cents an acre, and on account of hay that might have been cut upon it which otherwise would have simply gone to waste. I do not want in anything that may be done here to seem to authorize the Secretary of War to audit a large claim for damages against the Government. My belief is that the Government ought to-day to surrender the possession, give it up, not merely as a matter of comity or right to the persons who own this estate, but as a matter due to itself that the occupancy of this post, which may have cost $300,000 and is seven or eight miles away from the railroad station, is every day a damage to the Government, on account of the expense of transporting supplies from the railroad to this post, much more than makes up the interest on the value, whatever it may be, of the buildings which have been erected from time to time at this place.

It cannot be used as a depot for distributing supplies to any advantage, because in order to make use of it you have got to haul by wagons everything this distance, and haul it back again. It ought to be abandoned.

The Army clings to it with some degree of affection, because every Army officer who has been stationed there, taking into account the comfort and convenience of the occupancy of the quarters he has had, thinks of them as having a great value, while they really have no value at all. The best thing for the Government to-day would be to take them down or abandon them and leave them entirely. They are nothing but adobe buildings any way. They cost a great deal when they were built, because labor was high and transportation was extravagantly high, but they are of no value to-day even as a shelter. They have to be kept up at great expense. I think the true solution of the whole trouble would be for the Government to give up Fort Union, and say to these people, "We will give up these adobe buildings, we will surrender all our improvements, in case you will quitclaim to us all claim you may have against us on account of damage for the occupancy." I believe that would have been the fair and decent thing to have been done, decent and fair to the claimant and decent and fair to the Government. I do not think any other thing would have been fair.

Mr. VAN WYCK. May I ask the Senator from Kansas if he knows the extent of this Mexican grant as claimed?

Mr. PLUMB. It is claimed to be several hundred thousand acres; I do not remember the exact number.

Mr. VAN WYCK. Very largely outside of the land occupied by the Government?

Mr. PLUMB. Fifteen or twenty times more than the Government occupies.

Mr. VAN WYCK. Can the Senator further tell us to what use the remainder of this land has been applied by the claimants, how they had used the land previously?

Mr. PLUMB. They have not used it at all.

Mr. VAN WYCK. Then where is the foundation for any claim for grass that may have been cut?

Mr. PLUMB. If I understand the Senator from Nebraska, the persons who claim this land had a grant from the Mexican authorities which they had not set up or had confirmed, or, if not, had not asserted against the Government when the reservation was made. It not only includes the ground on which Fort Union is situated, but also the timber and grass and land of all the surrounding country to the extent of 400,000 or 500,000 acres.

Mr. HARRISON. I do not want to detain the Senate. I have no objection at all to the amendment of the Senator from Kansas directing the Secretary of War to negotiate with these parties upon that subject and to report his views to Congress. If he shall be of opinion that it would be better for the Government to surrender the whole of this reservation, or the whole of the improvements that have been put upon it, that that is the cheapest and best way out of it, I have no objection that he shall so inform us. As to the bill brought against the Government which the Senator says was a bill for grass and timber, and so on, I do not know what action may have been taken by the Military Committee before, except as I find it in their reports; and I find that the committee at the last session of Congress, I think it was, reported in favor of a measure like that now proposed, which gave these claimants acre for acre, without any exception, even of the double minimum lands of the United States, turned them loose to select one hundred and ten square miles of the best unoccupied public lands in the country. Now, we have stricken that out. If we occupy a man's lands he is entitled to such compensation as may be just; no one can deny that.

I cannot assume that the Secretary of War or any one who may be appointed to look into it would allow such a claim as that which has been referred to by the Senator from Kansas. I think, therefore, it is right that he should look into this claim, cut down the reservation to the lowest necessary limit, and I have no doubt myself that it would be better for the Government to retain these buildings and pay for a section of land than to give up the buildings. There are divers reasons. They may be needed for an Indian school. They are large, extensive, substantial buildings erected by the Government at a cost of $300,000. Still, I have no objection to the amendment because we may get information from the Secretary of War on the subject.

Mr. VAN WYCK. Is there any other authority sustaining this claim except the act of Congress referred to?

Mr. HARRISON. There was an act of Congress directly establishing the grant, and it has been recognized by the Secretary of the Interior and the General Land Office. I desire to suggest an amendment at the end of the first section. The clause reads that the Secretary of War "shall also audit any account that may be presented by the owners of said lands for the use thereof by the United States after the title of such claimants was established." I propose to add "and report the amount that in his judgment should be paid."

The PRESIDENT *pro tempore*. That will be in order after the present amendment is disposed of.

Mr. VAN WYCK. "After the title of such claimants was established." By whom does the bill contemplate its establishment? By the Secretary of War?

Mr. HARRISON. The title has already been established and recognized by the proper Department of this Government, but desiring to still leave it open if anything should show that there was an error, the bill is so framed that the Secretary of War may inquire whether that title has been established, and if it has been, then he proceeds to buy so much as is needed.

Mr. VAN WYCK. It says the Secretary of War "shall audit." He will consider that to be a direction to allow the claim, I suppose. I do not know whether the committee intend to go as far as that, to direct him to allow the claim. If the bill used the word "examine" instead of "audit," it would be less objectionable.

Mr. HARRISON. The amendment I have just proposed avoids the objection the Senator suggests to the phraseology of the bill. The Secretary of War is to report to Congress the amount that he thinks ought to be paid.

The PRESIDENT *pro tempore*. The amendment of the Senator from Indiana will not be in order until the amendment of the Senator from Kansas is disposed of.

Mr. PLUMB. I have no objection to accepting that as part of my amendment, and I ask to amend my own amendment, and then will consent to the amendment of the Senator from Indiana being part of mine. I propose to add to what I have already moved:

And no action taken hereunder shall be construed as binding the Government to any payment whatever.

Mr. HARRISON. I have no objection to that.

Mr. PLUMB. Then I have no objection to the amendment of the Senator from Indiana being a part of my amendment.

The Acting Secretary read the amendment as modified:

At the end of section 1 add:

"And report the amount that in his judgment should be paid: *Provided*, That the Secretary of War shall also consider and take into account the protection afforded said reservation by the presence of the United States forces thereon, and also whether it would not be proper to surrender all improvements on the same to the claimants in lieu of whatever claim for use may be set up for the use of said lands; and no action taken hereunder shall be construed as binding the Government to any payment whatever."

Mr. MCMILLAN. I understand from the statement of the Senator from Indiana that there has been some legislation in regard to this land, which, it is claimed, is a recognition of the title of the present claimants. I should like to ask the Senator what is the character of the legislation to which he refers?

Mr. HARRISON. It was an act of Congress. I did not examine the act myself, but only the reference to it made in the papers presented to the Department. There was an act of Congress ratifying and confirming this grant.

Mr. MCMILLAN. The act of Congress is not referred to here, and I have never examined that matter. I should like to know whether any examination of the measures previous to the passage of the act is familiar to the Senator from Indiana, whether it has been before committees of the Senate and been reported upon.

Mr. HARRISON. I did not look into that, nor do I by this amendment conclude the Secretary of War upon that subject, but it is left open for him to examine still as to the title, and whether this reserva-

tion is embraced within the grant. It is only in the event that he finds that this reservation is embraced, and I have no doubt in the world it is, under a grant that has been duly confirmed, that he is to proceed.

Mr. McMILLAN. Perhaps the Senator from Kansas is familiar with the proceedings in regard to this act of Congress referred to, and can state the history of it.

Mr. PLUMB. I understand, without being able now to give dates and times, that a grant has been confirmed to sections of land which embrace this post, Fort Union, called the Mora grant. Now the question is whether the Government, having occupied it, ought to respond in damages to the owners of the grant. My own belief is, from a somewhat thorough investigation, that the Government possession has been of great advantage rather than disadvantage to these people, and that if you were to have a fair and decent accounting to-day the owners of this grant would owe the Government something rather than the Government owe them anything. But they have set up a claim and assumed, because there were so many troops quartered on this reservation at certain times, from month to month and from year to year, a certain amount of timber must have been used, and that there were certain horses there fed upon grass and hay, and so on, and that constitutes a claim for hay and grass amounting to a very large sum of money. That has been the claim from time to time set up before Congress.

I believe, as I have from the beginning, that the Government ought simply to say, "We do not want this reservation any longer; here are certain buildings that we cannot use except at a loss;" every single day we occupy that reservation we are doing it at a loss to the Government. It is not that we want that reservation; it is not that we want a depot there. The Government ought to say simply, "Gentlemen, we have occupied this reservation, protected it from time to time and kept it from private spoliation, and we give you now whatever we have got upon it that is of no use to us in consideration that you will release any claim you may have for our occupation." That has been my belief from the beginning of this entire controversy, which has been here for the last six years to my personal knowledge. I would rather to-day that this phraseology should be so changed that instead of the Secretary of War auditing a claim which by this legislation is assumed to exist, we should simply say we will consider whether we have damaged the thing at all, and, if we have not, whether or not we will give it away.

Mr. HARRISON. Would the Senator from Kansas deal with a private citizen in that way if his land had been occupied and certain improvements put upon it by the Government? Ought the Government to say, "We will give you your land back and the improvements simply." Is it not a question of what is fair and just in the way of compensation? I agree that no such compensation as has been named as claimed should be allowed; but if the Government has occupied a man's land, ought it not to pay a fair compensation for the use of it, and can we arbitrarily say without negotiation with the man, "Take these improvements that we have on it, and we will pay you nothing?" I admit that it is a fair subject of negotiation, and therefore I accepted the amendment. If that is the better way out of it in the opinion of the Secretary of War, let us do it.

Mr. PLUMB. The value of the land at best is nominal.

Mr. HARRISON. I know that.

Mr. PLUMB. It is not worth twenty-five cents an acre, all told.

Mr. HARRISON. I agree, and therefore I would not give a large amount for it.

Mr. PLUMB. The Government to-day is occupying this land at a loss; every day it occupies it it is a loss. I believe that long since if the Government had said, "We will give you all these improvements, though we have made some use of them," (and we cannot at all except at a loss,) we could have settled the entire controversy and have had a release of whatever claim these parties may have on account of our occupancy, our nominal trespass.

Mr. INGALLS. Mr. President, I am familiar from personal observation with the property that is affected by this bill. It is in a magnificent valley and comprises one of the most picturesque, fertile, and valuable reservations of the entire Southwest. The subject is too important to be dealt with in the manner proposed by this bill; the interests are very great; and the Senate are not in possession of sufficient information to enable them to vote intelligently upon the subject. I therefore object to the further consideration of the bill.

Mr. HARRISON. Will the Senator from Kansas allow me? He speaks of personal observation of this. I have none, but I do know that after the military reservation and the timber reservation, about fifty square miles each, were declared, in order to get agricultural lands to be used in connection with the post an agricultural reservation of five thousand acres, several miles distant from the main reservation, was declared, and I take that to be evidence that the bulk of the reservation was not very fertile land.

Mr. INGALLS. I have been there, sir.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over.

L. MADISON DAY.

Mr. JONAS. I ask to call up the bill (S. No. 73) for the relief of L. Madison Day. It is No. 338 in the Order of Business, and was passed over without prejudice the other day.

The PRESIDENT *pro tempore*. Does any Senator object to the consideration of the bill?

Mr. COCKRELL. I would suggest to the Senator, as I suggested before, not to take it up at this hour. It retains its place on the Calendar, and it can be called up any morning. It will probably take an hour or an hour and a half to consider it. It ought to be called up the first thing some morning, and not consume the rest of the morning hour with it now without finishing it. That is the only suggestion I make.

The PRESIDENT *pro tempore*. The Senator from Louisiana may give notice that he will call it up.

Mr. JONAS. Very well; I give notice that I will call it up on Monday.

Mr. COCKRELL. No notice is necessary.

CHARLES M. BLAKE.

Mr. GROVER. I ask that the bill (S. No. 1015) for the relief of Charles M. Blake, which was passed over without prejudice in my absence, be now taken up.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That all payments made to Charles M. Blake as post-chaplain, United States Army, from and after the 14th day of May, 1878, be, and the same are hereby, confirmed, and the proper accounting officers of the United States are hereby authorized and directed to audit and allow payments made to him as post-chaplain from and after said date.

Mr. COCKRELL. That bill was formerly reported by the Senator from Oregon, [Mr. GROVER,] from the Committee on Military Affairs; it was reached in its regular place upon the Calendar, and was passed over on the objection of the Senator from Illinois [Mr. LOGAN] and myself. Upon the first reading of the bill, speaking of "restoration," each one of us misunderstood it; at least I presume the Senator from Illinois did, and I know I did; and we did not think we had assented to a bill of that kind in the Committee on Military Affairs. On examination we find that the Senator from Oregon was directed to report a bill, but the particular phraseology that we objected to had entirely escaped our observation, and therefore the objection was made. The original intention of the bill, as first reported by the Senator from Oregon, was to do precisely what is done now, and that met the approbation of the Senator from Illinois and myself; and it was because of the wording and phraseology of the bill that objection was made. The relief granted by the amendment is unanimously agreed to by the committee.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Committee on Military Affairs.

Mr. FRYE. I had some papers in that case which I have mislaid. I do not agree with the amendment which the committee reports. If I had my papers present I should be prepared to discuss it to-day; but as I remember the case, Chaplain Blake resigned when he was insane, and his resignation was accepted while he was insane. It was a long time afterward discovered that it was a resignation offered in insanity and accepted while insanity continued——

The PRESIDENT *pro tempore*. The Chair would interrupt the Senator to say that the Chair understands that the Senator from Oregon [Mr. GROVER] is willing that the case shall go over until Monday.

Mr. FRYE. I should like to have it go over, because I wish to find some papers that I desire to use.

Mr. GROVER. If it can be taken up the first case on Monday morning, I will assent to its going over.

The PRESIDENT *pro tempore*. That will be the understanding.

HOMESTEAD AND PRE-EMPTION ENTRIES.

The next bill on the Calendar was the bill (S. No. 858) to amend an act entitled "An act to provide additional regulations for homestead and pre-emption entries of public lands," approved March 3, 1879.

Mr. CAMERON, of Wisconsin. I should like to have some member of the committee from which this bill was reported state what change it proposes to make in existing laws.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The Senator from Kansas [Mr. PLUMB] reported the bill.

Mr. SAUNDERS. The Senator is not here.

Mr. INGALLS. Let it go over without prejudice until my colleague returns.

Mr. SAUNDERS. Let it be passed over without prejudice.

The PRESIDING OFFICER. The bill will be passed over without prejudice.

Mr. INGALLS. To be called up again this morning when my colleague returns.

THOMAS H. REEVES.

The bill (S. No. 279) for the relief of Thomas H. Reeves was announced as next in order.

Mr. GROOME. That is reported adversely.

Mr. COCKRELL. Let it be passed over.

The PRESIDING OFFICER. The bill will be passed over

ALEXANDER SWIFT & CO.

The bill (S. No. 417) for the relief of Alexander Swift & Co., partners, and Alexander Swift & Co. and The Niles Works was announced as the next in order.

Mr. FRYE. I understand that that bill as well as the following one, (S. No. 1072,) for the relief of Nathaniel McKay, George M. Clapp, and the heirs of Donald McKay, will be very likely to provoke discussion, and that there is to be opposition to the passage by the Senate of these two bills. They touch the iron-clad claims so well known in the Senate. Two others have been reported from the same committee by the Senator from Nevada, [Mr. FAIR,] and they have been passed over. If there is to be a discussion—and the Senator from New Jersey [Mr. MCPHERSON] notified me that there would be—they cannot properly be discussed or intelligently discussed under the five-minute rule. Therefore I will ask that these two cases be passed over without prejudice, and at some future day I will agree with the Senator from Nevada [Mr. FAIR] upon a time when we shall ask that all four may be taken up.

The PRESIDING OFFICER. Such will be the order as to this bill and Senate bill No. 1072.

GUY V. HENRY.

The bill (S. No. 1483) for the relief of Guy V. Henry was considered as in Committee of the Whole. It provides for the payment to Guy V. Henry, a major of the Ninth Cavalry, $200, being the amount of his loss for clothing burned at Ogden, in the Territory of Utah, in May, 1881, while lying in the railroad freight-house at that place awaiting transit, without the fault or neglect of Henry or the railroad company, and for the loss of which he has no remedy at law.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LADY OF THE LAKE.

The bill (S. No. 263) for the relief of George H. Plant was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, to strike out all after the enacting clause, and insert:

That the petition of George H. Plant for damages sustained by the Lady of the Lake, in 1874, by a collision with the United States steamer Gettysburgh, be, and is hereby, referred to the Court of Claims, with power and jurisdiction hereby conferred on said court to entertain the same; that said court ascertain whether said collision was in consequence of any fault of the Lady of the Lake contributing thereto, and, if not, that they allow the petitioner the actual damages done to his vessel, but no damages for loss of business or trade.

Mr. MCMILLAN. I suppose the passage of this bill recognizes the liability of the Government for all injuries done by the vessels of the United States to the property of citizens. These captains of vessels, then, are recognized as the agents of the United States, and the Government is held liable for their acts, whatever they may be. I do not understand that to be the existing law. I do not understand that the Government is liable for any trespass of this kind committed by an officer of a vessel. If we are to make that change in the law, if we are to recognize this responsibility of the Government, then it should be by a general law, and not by these special acts introduced in this way.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. MCMILLAN. Certainly.

Mr. JONES, of Florida. Is not the owner of a vessel attached to the commercial marine responsible for a collision made on the high seas by such ship? Even though it be the fault of the master, is not that ship liable for the consequences of the act of the officer, although the property may not belong to him?

Mr. MCMILLAN. The Government is not liable for any trespass committed by an officer of the vessel.

Mr. JONES, of Florida. I do not think this is a trespass of the officer.

Mr. MCMILLAN. This was on the Potomac River, as I understand.

Mr. JONES, of Florida. I do not think it can be said to be a trespass of the officer. It is caused by a collision produced by a public armed vessel, and while the vessel is exempt as the Government is from all liability to the citizen for everything; for nobody pretends to say that the Government can be sued except by its own consent. The Government is liable for nothing in any court; but I say that it is not equitable for the Government to allow its own ships to perpetrate an injury upon the property of a citizen and then seek to escape liability upon the ground that the Government cannot be sued.

Mr. HOAR. I concurred in this bill as a member of the committee, but I observed what seems to have been an oversight in the expression, and the Senator who reports it will agree to an amendment. The bill as drawn requires the Court of Claims to ascertain whether the collision was the consequence of any fault of the Lady of the Lake, and if not that they allow the petitioner the actual damages done to his vessel. That would cover the case of the collision being a pure accident with no fault on either side; it would give the damages although there was no fault to anybody. I move to amend, after the word "vessel," in line 11, by inserting "if any, caused by the fault of the said steamer Gettysburgh."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts to the amendment of the Committee on Claims.

Mr. GEORGE. I do not exactly understand the way this bill will read if amended.

The PRESIDING OFFICER. It will be reported as it would read if amended by the proposition of the Senator from Massachusetts.

The Acting Secretary read as follows:

That the petition of George H. Plant for damages sustained by the Lady of the Lake, in 1874, by collision with the United States steamer Gettysburgh, be, and is hereby, referred to the Court of Claims, with power and jurisdiction hereby conferred on said court to entertain the same; that said court ascertain whether said collision was in consequence of any fault of the Lady of the Lake contributing thereto, and if not that they allow the petitioner the actual damages done to his vessel, if any, caused by the fault of the said steamer Gettysburgh, but no damages for loss of business or trade.

Mr. GEORGE. I have no objection to that amendment.

Mr. JONES, of Florida. I am at a loss to understand why, after jurisdiction is given to the Court of Claims in this case, it should not be permitted to adjudicate it upon the same principles that govern cases of collision. We have a class of cases well understood, well regulated by judicial precedent; and why should not this case be decided according to the principles which control such cases?

Mr. MCMILLAN. If the Senator from Florida will allow me to state my view of this bill I think it goes far beyond any principle of that kind. It does not involve and cure merely the question of the inability of the citizen to sue the Government, but under the provisions of the bill this captain of a Government vessel may have intentionally attempted to destroy that boat and succeeded in doing so, and you make the Government responsible for the damages of his act. I do not believe that that principle exists in law, and I do not believe the Government should be held responsible for torts of captains of vessels.

Mr. JONES, of Florida. As I understand cases arising in the commercial marine, if one ship is at fault in a collision with another, that ship may be libeled and proceeded against in the admiralty court and held responsible for any damages ensuing to the property that it has destroyed or injured, without regard to the intent of the master of the offending vessel.

Mr. HOAR. If the Senators will listen to me I think I can remove their objection. The committee have examined carefully all the evidence about this matter, and they therefore proceed to frame this bill in reference to a case the facts of which they have already ascertained, there being a dispute between the two vessels as to the use of their signals. There is no pretense existing in the case of any purpose, of anything but negligence on the one side or the other. The Senator from Florida, I think, will see by a moment's reflection that it could not possibly be allowed that the practice in admiralty should be introduced in a case of the United States, because in a court of admiralty the first thing is to libel the vessel and the next thing is for the marshal of the court to take possession of the vessel.

It is a judgment *in rem*, and a judgment *in rem* always implies, in an admiralty court, the possession by the court of the vessel against which the adjudication is made, as we were saying the other day in another case. That is impossible in the case of a naval vessel, so that it is impossible to have the ordinary admiralty practice extended here.

Mr. JONES, of Florida. I understand that; but that is only as to the remedy. The right is behind that.

Mr. HOAR. This bill does confine the liability of the United States, it is true, and the United States ought not to be liable on the principle of master and servant for such torts; and therefore the liability ought not to extend beyond the value of the man-of-war, of the vessel. We have drawn a bill in which we say that the United States shall be liable for the amount of the loss; but the committee know very well that the amount of the injury to the Lady of the Lake, which plies on this river, is not very large, and it is not a thousandth, certainly not a hundredth part of the value of this ship of war.

It is a mere question of phraseology, and not of substance. That is, the committee have ascertained and report that here is a case where a small river boat has sustained some damage. It is a question whether it is by the negligence of the managers of this boat or the negligence of the United States steamer Gettysburgh. We cannot of course say that the steamer Gettysburgh should be libeled, and it would be of no sort of importance to say to the United States that it should be liable beyond the value of the steamer Gettysburgh, because that is manyfold in value the value of the entire boat which was only partially injured. Therefore, the bill practically meets the objection of both Senators, as I understand it.

Mr. FRYE. The Senator from Florida will allow me to add to what the Senator from Massachusetts has said, as he thinks there are no precedents for this legislation, that within my personal knowledge two such acts have been passed by Congress before.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to submit to the Court of Claims the petition of George H. Plant for damages done to the steamer Lady of the Lake by collision with the United States steamer Gettysburgh."

JAMES M. WILBUR.

The bill (S. No. 98) for the relief of James M. Wilbur was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, to strike out all after the enacting clause and to insert:

That the claim of J. M. Wilbur for compensation for putting in the floor, sidewalk, and raised platforms of the New York post-office be referred to the Court of Claims; and that said court be, and is hereby, authorized and directed to take jurisdiction of said claim, and to allow to said Wilbur an amount which shall be equal to the benefit received by the United States in the illuminated tiling put in the floor, sidewalks, and raised platforms in said building being thicker and stronger than was contracted for. Said allowance shall be on the basis of actual benefit received by the Government, and not on the basis of prorating the extra work according to contract price.

Mr. INGALLS. Let the report be read.

Mr. SAULSBURY. Is there a report in that case?

Mr. CAMERON, of Wisconsin. Yes; there is a report.

The PRESIDING OFFICER. The report will be read.

The Principal Legislative Clerk read the following report, submitted by Mr. GEORGE, from the Committee on Claims, March 22:

That in 1875 Bartlett, Robins & Co. made a contract with the United States to do certain work on the post-office building in New York. They made a subcontract with Wilbur to put in illuminated tiling in the floor, sidewalks, roof, and raised platform. The glass in this tiling was to be in this sub-contract put in according to a sample submitted, and was different from the glass agreed to be put in in the original contract of Bartlett, Robins & Co.; but it was accepted by the agents of the Government in lieu of the contract tiling.

It appears that Wilbur put in tiling thicker and heavier than that called for by his contract with Bartlett, Robins & Co., or by their contract with the Government. Whether this was done by an agreement made between Wilbur and the assistant superintendent, Steinmetz, is not clear. There is evidence both ways. But this is not material, as Steinmetz had no power to make the change.

The heavier and stronger tiling put in the roof was of no more benefit to the United States Government than if it had been put in according to contract. On the contrary, it was rather an injury, as the contract tiling was strong enough, and making it heavier increased the weight of the roof without any corresponding advantage.

The increased strength of the tiling in the floor and in the sidewalks and raised platforms was an advantage to the Government. For this advantage or benefit, whatever it may be, the petitioner has an equitable claim on the Government. In order to ascertain this it will be necessary to examine many witnesses, which can be better done in the Court of Claims. We therefore recommend the passage of the following bill as a substitute for the original bill referred to us.

Mr. SAULSBURY. It seems to me, according to the reading of the report, that here was a gentleman, Mr. Wilbur, who had a contract with the Government to do certain work, and then with some agent of the Government agreed to put in different material, more costly and stronger, and now he comes here, after having violated his own contract, having changed the contract, as I understand, from that which he had with the Government, and asks to be indemnified for any loss which he has sustained by departing from the contract which he had made with the Government, alleging that he had an understanding with some agent of the Government in reference to it.

I believe in holding contractors with the Government strictly to their contracts, and if they see proper to depart from their contracts and incur an additional expense they should pocket the loss, and we should not be required to indemnify them.

Mr. GEORGE. I will state for the benefit of the Senator from Delaware that he has not given the exact facts of the case. Variations of the contract were made by Steinmetz, who was acting as superintendent on behalf of the Government. It was the act of the superintendent who had the direction of the building. Whether he had power to do it or not is another question. There is no doubt in the world that the alteration in some parts of the work was of material benefit to the United States, while in other parts it was no benefit. The bill confines the compensation to that part of the work which was a benefit to the United States and rejects that which was not.

Mr. SAULSBURY. The objection which I made was that the contractor had departed from his contract with the Government. The Senator from Mississippi says he did that by the consent of an agreement with a certain Steinmetz, who was an agent of the Government; but the Senator from Mississippi says it is not clear that Steinmetz had any authority to authorize any such variation of the contract. This contractor did not even take the pains to ascertain whether he might depart from his contract by authority of any one authorized to make the contract with him, or to permit a deviation from it, but simply by an agreement with an unauthorized agent he departs from his contract, incurs additional expense for the Government, and now comes here and asks to be indemnified for the additional expense which he incurred. That is a very loose way of doing business.

I think that the true policy of Congress is to hold gentlemen strictly to their contracts; otherwise there will be a variation and a deviation from contracts by every one who enters into contracts with the Government. Let us hold them strictly to their contracts, and then we shall have a better service, I have no doubt, eventually, than we have at present.

Mr. HOAR. It seems to me that this man is held strictly to his contract; he has not got anything that he is not entitled to under the contract at all; but it seems to me also that the United States ought at least to be in the position that an ordinary builder of a large building is in to this extent: There is no private builder of a house or block of stores who does not find that as the work goes forward a great many things which are suggested, which the experience of the work points out, would be great improvements, and which they would have put in the original contract if they had thought of them and had known their advantage at the time the original contract was made. It is constantly the case that such a contract is modified.

The United States, for good reason, does not give any such authority to its agents, but it is pretty hard if the United States cannot at least go so far as this, and why if a change in the structure of a building is so clearly for its advantage that the man who builds the building is willing to take his luck of a voluntary payment to him by the Government by act of Congress if he makes an advantageous change he should not be permitted to do that.

Here is a case where a change in the contract was of so much apparent advantage to the Government that the man says, "I will put it in; I will make the change and Congress may pay me or not as it has a mind to." Congress looks into it and says, "We will let our court, under the circumstances, see not how much it cost you but how much it actually benefited us, and we will voluntarily pay you."

Mr. INGALLS. The Senator from Massachusetts makes a very plausible and specious statement of the claim of the beneficiary of this bill. He could not have done it better if he had been presenting his case in court as an attorney. The difficulty is that the facts do not bear him out. There is from the report of the committee no equity whatever in behalf of this claimant.

It appears by the report that by the terms of the original contract the material that was called for was sufficiently strong for the purposes of the United States. For some reason that is not explained, but probably because he wanted more money, he increased the weight of the tiling on the roof, so that, as the report says, the Government was damnified, the walls that were erected only with sufficient strength to support the tiling called for in the original contract were unable to sustain this weight, and have been weakened, so that the Government has been seriously injured by it. Thus far, at least, there can be no equity.

If the case stopped there, the Government would have a right of action against this party for having violated his contract and injured the United States; but, says the Senator from Massachusetts, and those who favor this bill, in regard to the tiling used over the sidewalk and over the floors of the substructure, to admit light into the basement, the weight was increased and the thickness increased, so that although it was thick enough under the original contract for all practical purposes, and so agreed upon, yet the Government was benefited. How? If the original contract was sufficient, how was the Government benefited by having varied its terms so as to secure greater thickness in part of this material? I fail to see the slightest shadow of equity anywhere. On the contrary, the proof is clear and conclusive that by a departure from the original terms of the contract the Government suffered very serious loss.

Mr. JONES, of Florida. Mr. President——

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The hour of two o'clock has arrived, and the Chair will lay before the Senate the unfinished business.

JAMES REA.

Mr. LAPHAM. I desire to ask the indulgence of the Senate to take up and dispose of a very short bill, which is a case of real necessity, and which will take but a moment. The party interested is here with his family and they are reduced to almost absolute want. It is important to him that the bill should be disposed of.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1128) to authorize the Secretary of State to allow for expenditures within named to James Rea, late consul at Belfast, Ireland. It instructs the Secretary of State to allow to James Rea, late consul at Belfast, Ireland, for clerk-hire and other expenses incurred by him as consul, such sum as he may find just and equitable, not exceeding $1,500 per annum for the period during which he held the office of consul of the United States at Belfast, and also the further sum of $600 expended by Rea in boarding and defending certain destitute American seamen at Belfast while he was consul.

Mr. LAPHAM. This measure is in full accordance with the recommendation of the State Department under two Secretaries of State. There is no question about the justice of the case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 4th instant approved and signed the following acts:

An act (S. No. 240) granting an increase of pension to Henry Strawbridge; and

An act (S. No. 632) granting a pension to John Taylor.

COURT OF APPEALS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Louisiana, [Mr. JONAS,] on which the Senator from Arkansas [Mr. GARLAND] is entitled to the floor.

Mr. GARLAND. Mr. President, the amendment as offered day before yesterday by the Senator from Louisiana [Mr. JONAS] to the

bill now before the Senate was an amendment that diverted to some extent the object and purposes of the original bill.

Mr. DAVIS, of Illinois. Is it not proposed now as an additional section?

Mr. GARLAND. I understand that the Senator from Louisiana will present it in that form. The original bill is a bill establishing a court of appeals and providing the machinery necessary for the carrying on of the court, and has little or nothing in it with regard to jurisdiction except the matter of amount, fixing the limit as to an appeal and also as to certain important questions arising under the Constitution, treaties, and laws of the United States that may be certified by the court of appeals to the Supreme Court of the United States.

The question of changing the judiciary act in many respects was brought to the attention of the committee, but it was deemed best by those who favored a change of jurisdiction in many important respects that it should be deferred and brought forward in a separate bill and should not be made part of this bill organizing these tribunals. That was pretty much the unanimous opinion of the committee; but whatever I may have thought of that question myself, the Senator from Louisiana seeing proper to present his amendment now looking to a change of jurisdiction very materially of the circuit courts, I cannot refrain from expressing my opinion in reference to his amendment; and, offered as an additional section or sections to the bill, I say that I favor his amendment, and favor even doing more than his amendment undertakes to do.

I would have preferred to have had the bill organizing the court of appeals go through by itself, and then bring the other proposition forward as a separate measure; but inasmuch as the question is presented, we of course should meet it fairly and squarely and openly, in all its length and breadth, and deal with it now and presently. While favoring it as an amendment I could not favor it as a substitute for this bill, for I will undertake to show the Senate before I finish my remarks that, while it is necessary in my judgment to curtail a great deal the jurisdiction of these courts, in other words, while I consider it necessary to unload to a very great extent, yet even that done and accomplished, the large and the diversified business of the country requires additional force in these courts.

Let me not be misunderstood; I say that if this amendment of the Senator from Louisiana should be adopted, yet the legitimate and proper business arising before the Federal tribunals, confined within the jurisdiction as it was originally, before the innovations of the act of 1875, is of sufficient importance and sufficient weight and so exacting as to require additional force in the United States tribunals. It then becomes a practical question whether it requires all the force that is provided for by the bill establishing the court of appeals. Early in my Senatorial career, now nearly four years since, I introduced the following bill in the Senate, and had it referred to the Committee on the Judiciary:

A bill to amend the judiciary act as to suits against certain corporations, and for other purposes.

Be it enacted, &c., That the judiciary act, approved March 3, 1875, entitled "An act to determine the jurisdiction of circuit courts of the United States and to regulate the removal of causes from State courts, and for other purposes," be, and the same is hereby, amended as follows, namely: after the first section of said act, insert, "but no city, town, village, county, or other municipal or public corporation shall be sued in the courts of the United States;" and at the end of section 2 of the same act insert, "private companies or corporations existing and organized in one State, but doing business in another State, if sued in the courts of the latter, shall not have the privilege of removing the case to the United States court."

I introduced that bill again two years after that time. The committee to which it was referred has never reported upon either bill; it has remained quietly in the committee. The Senate will see from the reading of the bill that it is looking exactly in the direction of the amendment of the Senator from Louisiana. It goes a little further than the portion of his amendment pertaining to this particular question seeks to go.

The importance and the gravity of the question cannot be overestimated. We are now dealing with a very weighty subject, and if the country is interested at all in any public question, certainly it is interested in this.

I wish to show that the repeal of all jurisdiction of the United States courts over these municipal and quasi-municipal corporations is demanded by the necessities of the times and is in strict accord with the judicial system of the United States as organized by the Constitution and the act of 1789 in pursuance of the Constitution; that the jurisdiction assumed over them was by a strained construction; and that, however long it may have stood and may have been tolerated, it is not the proper construction under the Constitution and the original judiciary act of 1789. If I succeed in showing that, or if the Senate becomes convinced of that from any other source besides myself, the particular portion of the amendment of the Senator from Louisiana in relation to mandamuses against State officers and State officials will be superseded by this proposition which I would ask him to accept as an amendment *pro tanto* to his.

The first time the principle became ingrafted and settled that corporations came within the meaning of the word "citizens" in the Constitution and in the act of 1789, was by the decision of the Supreme Court in 1844 in the case of the Louisville Railroad Company *vs.* Letson, reported in 2 Howard's Reports. I may be a little tedious in calling the attention of the Senate to that case, because there is the starting point of this jurisdiction, a jurisdiction which I think was unfortunately decided by the court to belong to these tribunals, a jurisdiction, too, which was established in the face of and to the utter overthrow entirely of two of the long-standing decisions which had the sanction and the seal of approval of Chief-Justice Marshall and the entire court over which he presided. I read from 2 Howard's Reports, page 497:

A suit, then, brought by a citizen of one State against a corporation by its corporate name, in the State of its locality, by which it was created, and where its business is done by any of the corporators who are chosen to manage its affairs, is a suit, so far as jurisdiction is concerned, between citizens of the State where the suit is brought and a citizen of another State.

This is the language of Judge Wayne in delivering the opinion of the court:

The corporators, as individuals, are not defendants in the suit, but they are parties having an interest in the result, and some of them being citizens of the State where the suit is brought, jurisdiction attaches over the corporation; nor can we see how it can be defeated by some of the members, who cannot be sued, residing in a different State. It may be said that the suit is against the corporation, and that nothing must be looked at but the legal entity, and then that we cannot view the members except as an artificial aggregate. This is so, in respect to the subject-matter of the suit and the judgment which may be rendered; but if it be right to look to the members to ascertain whether there be jurisdiction or not, the want of appropriate citizenship in some of them to sustain jurisdiction cannot take it away when there are other members who are citizens, with the necessary residence to maintain it.

But we are now met and told that the cases of Strawbridge *vs.* Curtis, 3 Cranch, 267, and that of The Bank of the United States *vs.* Devaux, 5 Cranch, 84, holds a different doctrine.

The judge proceeds then to review these cases, and admits that they do hold a different doctrine, but says the doctrine is wrong, and proceeds to establish what I have just read, that a corporation is a citizen within the meaning of the Constitution and the act of 1789, and therefore the jurisdiction vested in the circuit court where this suit was brought.

This decision was not concurred in by the entire court; it was not a unanimous decision; but it received first the sanction of the court in 1844. The matter came afterward before the Supreme Court in the case of Marshall *vs.* Baltimore, in 16 Howard, and the doctrine was announced again there, but it was obstinately combated, and with signal ability, by the minority of the court, consisting of Judges Campbell, Daniel, and Catron, in a dissenting opinion, which, if Senators desire to be informed and have their memory refreshed as to this matter, they will look at, and I think they will concur with me in saying that it completely overthrows the idea that one of these municipal corporations is a citizen within the meaning of the Constitution and the original judiciary act.

The question was presented again in 20 Howard in the case of Covington *vs.* Shepherd. These same judges still fought it obstinately and referred to their dissenting opinion in 16 Howard's Reports, but still it went forward as a doctrine. In the mean time the court had changed its complexion very materially. The principle was presented again in 1 Black's Reports, and there it seems to have received the unanimous opinion of the court; there was no dissenting opinion in that case. But Senators will bear in mind whenever this question has been broached there is no commentator upon the jurisprudence of the United States yet who does not dispute and does not hold in doubt the propriety of the decision in the Louisville Railroad Company *vs.* Letson in 2 Howard's Reports. Besides being in conflict with the two early cases to which I have referred it was directly in the teeth of that celebrated case which came from the State of Alabama, Earl *vs.* The Bank of Augusta, in 13 Peters, the opinion in which was delivered in 1839, to which Judge Wayne refers in an after part of his opinion, but I will not detain the Senate by calling specific attention to it.

When the word "citizen" was written in the Constitution and in the judiciary act of 1789, if the framers of those two instruments had meant to include a corporation in that definition, there would have been no trouble and no difficulty in their announcing it in so many words, but it simply stands on the word "citizen," which is left to define itself according to our understanding of the word in our own country, and in that country from which we derive most of our institutions, and that meaning is clearly delineated by the dissenting opinion in the case I have referred to in 16 Howard's Reports.

I have now stated to the Senate the current of decision upon this question. The earlier decisions, those nearest to the period of the adoption of the Constitution and the passage of the act of 1789, those that come near being contemporaneous with those two eras, hold explicitly that such corporations are not citizens. This subsequent decision overthrew the early decisions, but even yet let me call the attention of the Senate to the case of Paul *vs.* Virginia in 8 Wallace, when an insurance company sought exemption in a State under that clause of the Constitution which guarantees the immunities and privileges of a citizen of a State to citizens of the several States. The Supreme Court of the United States speaking through Judge Field said that they were not citizens within the meaning of the Constitution to get the benefit of those immunities and privileges guaranteed under article 4, section 2, clause 1, of the Constitution.

Thus we have it decided by the Supreme Court that they are citizens and that they are not citizens. The case of Paul *vs.* Virginia was afterward affirmed in the celebrated case of Railway Company *vs.* Whitton, in 13 Wallace, where the opinion was delivered by Judge

Field also. According to the force of human language, it would seem clear that corporations must be either citizens or not citizens. If they are citizens they are citizens, and they take everything that the Constitution carries to citizens. The Supreme Court says they do not; that they are only citizens for the purpose of judicial jurisdiction to be sued in the courts of the United States.

We have these contradictory decisions before us for us to determine whether the one position be right and the other wrong, or *vice versa*. It is a jurisdiction that comes at last by construction, for there is nothing in the Constitution or the original judiciary act that gives this jurisdiction *eo nomine*.

If, then, it comes by construction, as Congress gives this jurisdiction, Congress can take it away, and there is no question that can be raised, so far as that point is concerned, of the power of Congress to take this jurisdiction from the Federal courts. Now, what is the reason lying at the bottom of this, why these corporations made under State law, these municipal or quasi-municipal corporations, as Judge Dillon designates them in his work on corporations, should have a place in the United States courts? They are made under State laws; they are purely parts and parcels of the State machinery for the purpose of local government. They are not migratory; they cannot in the strict sense of the term take up their bed and walk and change their domicile as a citizen, properly speaking, can; and being institutions organized by the State laws for local purposes, a familiar principle lies at the bottom of it, that he who contracts with them contracts always with reference to the law of their creation, the law of their domicile. That is a principle of law recognized by every nation that has a code of laws at all. It is a principle of universal law that the municipal law of the State is the law of the contract made and to be executed within the State; that it travels with it wherever the parties to it may be found, unless it refers to the law of some other country or is immoral or contrary to the policy of the country where it is sought to be enforced.

In your State, sir, [Mr. CAMERON, of Wisconsin, in the chair,] you have your municipal corporations, and when you contract with them in the State of Wisconsin you contract in reference to the State law that organized those corporations, and not in reference to any United States law or the law of any other State. By that law the contract is to be determined, to be interpreted, to be enforced. The United States courts at last take the decisions of the State courts upon these local matters; they adhere to them in every instance until they get out into the general domain of jurisprudence, as the authorities term it.

Then why the necessity of going into the courts of the United States, when you simply change your forum? You have your contract still interpreted and enforced according to the law of the State whose tribunal you avoid. Why change the forum? That is the question. You simply go from one forum to another to interpret the same law, and when you go into this new forum it is to see how the State authorities have expounded the law pertaining to this particular question. That is one of the reasons, and a very strong one too, why the dissenting judges in the case in 16 Howard said it was useless to go into the courts of the United States, aside from the fact that the word "corporation" was not included in the term "citizen" under the Constitution and the judiciary act of 1789.

But we are told that what brought this about and made it solid as part of the judicial jurisdiction of the United States is that the non-resident holders of bonds, or notes, or contracts, or whatever they may be called, were without any remedy in the State courts. Let us see, as a matter of fact, if that be true. I have shown you that you must recur to the State laws in reference to these contracts, no matter what forum you are in. If the laws of the State or the obstructions of the State, whatever they may be in the mind of the creditor, affect the contract, he is not cut off from his right of appeal to the Supreme Court of the United States. Of course the State may change its remedies, but in changing its remedies it must leave as good a remedy as existed before. If it takes away all remedy then your contract is impaired, and you have an appeal from the highest court of the State to the Supreme Court of the United States.

So, take it in any way you please, you have your remedy at last, the only remedy you could have legitimately and properly under the Constitution, to review this decision or this action of the State authorities through the Legislature or what not that obstructs your contract, that retards its enforcement, or does anything else to defeat it. A case was presented before Judge Dillon (Harrison *vs.* Hadley, 2 Dill. 229)—there are numerous such cases, but I will read from him because this was a strong case—that appealed to the court for the exercise of its jurisdiction, and his position as a judge and jurist is well established in the country, too well for me to need to speak about it. The complainants in this case sought the jurisdiction of his court because what was complained of was a violation of certain acts of Congress. The plea was insisted upon that there was no other jurisdiction, no other remedy but this. This eminent judge said:

> It does not result that because Congress has not vested in the courts of the United States original jurisdiction in cases where rights and benefits are claimed under the Constitution of the United States, and acts of Congress passed under its authority, that a citizen loses these rights and benefits. The State courts are open to him, and in such a case the rule of decision in the State courts is precisely the same that it would be in a court of the United States. In the case at bar, for instance, whatever rights or benefits the complainant may be entitled to under the Constitution and laws of the United States, must be adjudged to him in the State courts. This rule is imperative, and is found in the words of the Constitution, which declare, "this Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."
>
> If it is suggested that the State courts might misinterpret the Constitution and laws of the United States, and a suitor in those courts might thus be deprived of the rights and privileges claimed under the Constitution and laws of the United States, there is a ready and satisfactory answer. Congress has wisely provided for such a contingency by declaring that in all such cases the judgment of the State court "may be re-examined and reversed or affirmed in the Supreme Court of the United States." (Judiciary act, section 25.)

So that if the party holding a contract against a municipal corporation says that he has a remedy which the State courts will not enforce because they misinterpret it or misconstrue it under the Constitution of the United States, he has an appeal to the Supreme Court of the United States. If he has a right against one of these corporations, granted him by an act of Congress, by the Constitution, or by a treaty of the United States, he has his right of appeal at last from the final decision in the State to the Supreme Court of the United States. So, upon any ground you may take it, as a pure question of right these institutions should never have a place in the courts of the United States. They should not be permitted to be sued there or remove there suits brought against them in the State courts when those suits are brought in the particular location where they are created by the States.

A familiar principle in the conduct of this Government in all its branches is that the United States acts always through and by its own agents and by its own officers. Here, then, we have the unseemly spectacle of the officers of a State being commanded by the process of the United States, when if the Constitution intended anything it was that they should be kept separate and apart forever. We have the United States through its courts commanding commissioners and town councils and assessors of counties, all of these different officials, to assess and to levy and collect taxes. The thing is an anomaly and a contradiction; it is inconsistent upon its face, for if there is one thing that the framers of this Government tried to stamp upon it, it is always to act by and through its own agents and its own officers; and the danger, however much we may try to guard against it, however much we may say it does not exist, is that this thing practiced will some time produce a collision that may be fatal to the liberties of the country, the General Government, and all the States at once.

We had the spectacle but a few days since in the State of Alabama of judges of that State, judges, too, of a superior jurisdiction as I understand and read the constitution of Alabama, brought before the bar of the courts of the United States to know why they did not do thus and thus, which they should or should not have done, as they interpreted the laws of Alabama. Mr. President, we cannot always prevent collisions, but we can certainly take every necessary precaution to avoid them, and this is a precaution that I think the Congress of the United States should take. Especially as it stood so long without this jurisdiction before the courts construed that they had it, and as we see that the remedy is ample and sufficient already, why allow it to remain? As was shown yesterday by the Senator from Louisiana, for sixty years there was no such thing as the courts of the United States mandamusing a State official, and until the case of the Commissioners of Knox County *vs.* Aspinwall, that came from Indiana, in 24 Howard, the thing never was heard of. On the contrary, in the early decision of McIntire *vs.* Wood it was repudiated. That case was fought so obstinately and with such signal ability that the court at last yielded and said it could force municipal corporations by a *mandamus* to pay a judgment already rendered by the court in a previous volume, 21 Howard. Twenty fourth Howard was issued very soon after the war began.

Mr. JONAS. The decision was rendered in 1860.

Mr. GARLAND. I know it was rendered at the December term, 1860, which term ran into May, 1861; but 23 Howard was the last volume issued before the war began. The twenty-fourth volume of Howard's reports was issued during the war. The matter slept, and we had no more implications of this kind of jurisdiction until 4 Wallace, which reported the decisions at the December term, 1865. There we have two cases, The Supervisors *vs.* The United States, and Von Hoffman *vs.* The City of Quincy. The court took full liberty in those two cases, and made one leap to the final result, planting its decision upon the judgment in 24 Howard; and from that time until this we have had a perfect torrent of that kind of decisions in the United States Supreme Court. There is scarcely a volume of reports in which there is not one, and in some volumes there are six or eight decisions of that character. The very last volumes we have contain in 102 United States Reports the case of Louisiana *vs.* Wood, and in 103 United States Reports the case of Wolf *vs.* The Mayor and Administrators of the City of New Orleans; and there are several such decisions now in manuscript ready for the next volume.

This is the presentation in short of the rise and growth and progress of this jurisdiction; and for the past ten or fifteen years the circuit courts, particularly in the Southern and Western States, have done little else than wreck the towns and counties and cities within their jurisdiction. In 1879, out of two hundred and forty-five cases on what is called the common-law side of the docket of the United

States court at Little Rock, one hundred and twenty-three cases were of this character.

Mr. SAULSBURY. Will the Senator right there allow me to ask him one question, on which I would like to be informed. If the jurisdiction of the Supreme Court and of the Federal courts generally over the matters of which he has been speaking, especially as to municipal corporations, was divested would there be any necessity for the creation of the intermediate appellate court as proposed in this bill?

Mr. GARLAND. The Senator from Delaware has asked a very pertinent question, but probably he was not in his seat when I opened my remarks by stating that I believed, notwithstanding we sheared down this jurisdiction, which I was in favor of doing, we should need this intermediate court; but the practical question presented itself whether we needed it with all the force this bill provides, of which I shall speak somewhat at length before I get through.

I was proceeding to say that for the past ten or fifteen years, in the Southern and Western States, the United States courts have done little less than through their processes to wreck these municipal and quasi-municipal corporations in the way I have indicated. In some of the States the officers have resigned, but that does not effect anything and ought not to, because it only throws the writ on their successors in office. In some States the Legislatures have abolished counties, and the State courts have held that they could not do that.

So there is no danger, any way you look at this question, of the creditor or the alleged or supposed creditor being defrauded of his rights by waiting for the State tribunals, because these suits existed in the United States before the act of 1875 was passed. Now, I want to give a very strong illustration to the Senate on this matter. It was contended for a long time that a circuit court of the United States in rendering judgment against the estate of a deceased person could order execution and have an execution issue from its own court and enforce it, notwithstanding the estate of that deceased person was in the course of administration in the surrogate's court, or probate court, or court of descents and distribution, or whatever it may be called in the particular State. The allegation was not without plausible reason to sustain it, because the common-law idea is that when a court renders a judgment it has the power to enforce it. That was fought for a long time, but at last, in 21 Wallace, in the case of Yonley *vs.* Lavender, the Supreme Court held unanimously that notwithstanding you have got your judgment in the circuit court against the administrator of a deceased party, it had to be certified to the court of probate, by whatever name it was called in the particular State, to be there enforced in the process of administration. Beyond getting his judgment the creditor has no remedy in the United States courts; he is remitted to the State court, the court of probate at last, to have his judgment paid in the course of administration. It was claimed that a non-resident creditor might go with his execution and take the estate by the hair of the head, so to speak, and lift it out of administration, and appropriate it to himself, but the Supreme Court held otherwise, and said, "You must go into the local tribunal that has jurisdiction of the administration of this estate, and get your payment through and by its process."

Is that any harder case than the other? Is one case more imperative in the demands of justice than the other? Suppose now that this municipal corporation is a deceased person and has an administrator; no non-resident creditor can go into the United States court and ask for execution on a judgment against it. If the jealousy of the non-resident creditor is so great that he must go into the United States court to have his judgment enforced against a living debtor, why should he not have it there enforced against a deceased debtor as well? After long years of contention the Supreme Court have settled at last that you must go into the local tribunal to have your judgment enforced in the case of a deceased person. I think that is a parallel case and should settle it forever, because the estate of the deceased person is no more the fit subject of local jurisdiction than the municipal corporations that are made by local laws and for local purposes.

I heartily concur with everything that the Senator from Louisiana has said in reference to this jurisdiction in *mandamus*. The bill that I have read goes one step further and prevents any such suits at all, and then there will be no occasion for any *mandamus*. The bill that I read refers to another feature which is not urged by the amendment of the Senator from Louisiana. I want to get rid of this matter of a corporation created by the State of Kentucky, for example, domiciled there and having its place of residence there, and having an agent possibly in every other State, having the right, if that agent is sued in the State of Kansas or Arkansas, because this corporation is domiciled in Kentucky, to take the case out of the State courts and carry it into the United States courts. That is an abuse which has become shameful and that never received the direct sanction of the Supreme Court until a case that came from Pennsylvania, that of Schoenberger, reported in 96 United States Reports.

According to that decision, a corporation created in Kentucky, for example, can be a citizen in every State of the Union, while a citizen like myself, for instance, can be a citizen of but one State, and for a long time I was not a citizen of any State; and as is suggested to me, in connection with that, by the Senator from Alabama, an Indian cannot be a citizen of a State in which he lives. Now, this is a little too much citizen for corporations. This Kentucky corporation that I am referring to as a mere matter of example may have a suit in every circuit court of the United States, in every State of the Union. That should be prohibited. I hope it does not need any argument to show that that ought to be stopped, because the corporation has its remedy, as I have illustrated already, by saying that the corporation, municipal or quasi-municipal, has an appeal to the United States Supreme Court if any really Federal question is involved. I am speaking now directly in reference to private business corporations which are carried on upon a large scale.

That, now, is the purport of the bill I have read, which I introduced several years since, and which I should desire to take the place of a certain portion of the amendment offered by the Senator from Louisiana.

I have given you the reasons, Mr. President, why I introduced the bill at that early day and why I advocated it then and do now; and if we are going into the business of fixing the jurisdiction at all I shall insist that the Congress of the United States should now take a step in this direction. I believe that I have said all I desire to say in regard to the amendment offered by the Senator from Louisiana and the bill that I have read which I wish to put in as an amendment to his. Now, I wish to say something with reference to the bill properly before the Senate, which will be a response to the question propounded to me by the Senator from Delaware. That question is, if this jurisdiction is limited and defined as we claim here, is there a necessity for any more courts? I think that there is, and I have thought of the subject deliberately and long and patiently, and I will proceed now to give my reasons why.

As early as December, 1816, Mr. Madison, in his message to Congress, recommended "a remodification of the *judiciary establishment.*" These are his own words: "On account of increase of business and widening scope of the country," and as one of the means of helping in that direction he recommended the retiring of the supreme judges "from *itinerary fatigues*, and the more convenient organization of subordinate tribunals."

Mr. Madison spoke "of the widening scope of the country" and the "increase of business" as early as 1816. This was when we were working under the original act of 1789, with the very few amendments which had been made in that time, with the appellate jurisdiction of the Supreme Court limited to $2,000. The "widening scope of the country" since that time and the "increase of business" have been not four or five but tenfold in proportion to what they were up to the time Mr. Madison spoke. So the legitimate business under the original judiciary act, with the limitations we seek now to place upon the jurisdiction, with this widening scope of country and with the increase of business, requires more force to transact it, in my opinion.

With this vast addition of territory to the country, with all these questions as to public lands, questions of commerce brought about by the railroads and telegraphs and such institutions, I do not believe that the present judicial force will be sufficient even if the jurisdiction be sheared away as I have suggested.

And now I go further in the historical review of the matter. No definite action was taken for some years, except now and then amending the judiciary act, and making more circuits and more districts, till Mr. Butler, of South Carolina, in 1855, reported a bill from the Judiciary Committee of the Senate, the title of which was "A bill to relieve the supreme judges of circuit duty, and for other purposes." That was what Mr. Madison meant when he said it was necessary to relieve them "on account of increase of business and widening scope of country, and retire supreme judges from itinerary fatigues." To this bill of Mr. Butler, reported from the Judiciary Committee, Mr. Douglas proposed an amendment, to which I referred the other day in a short debate with my friend from South Carolina, [Mr. BUTLER,] much like the present bill that we have before us, with some features different from it. No definite action was taken upon that bill, but every Senator who spoke upon it, Mr. Douglas and Mr. Butler and Mr. Geyer and all the prominent men of that time in the Senate, said it was important that something should be done to add to the judicial force of the country. That was in 1855. Nothing definite was done then.

Then, after the war came the acts of 1869 and 1871, establishing the circuit-court system as it is now, with some amendments from time to time. It was then supposed that by establishing the circuit-court system it would relieve for a long time to come the difficulties that had been experienced. But that hope was very temporary. The business of the country increased. I am speaking now of the natural legitimate business that I consider proper for the United States courts even with the amendment of the Senator from Louisiana and with my suggestions adopted. Then came the acts of 1872 and 1875. I think the act of 1875, as the Senator from Louisiana thinks, was a great error, particularly in reference to allowing assignees of negotiable paper to sue when the original holder could not sue; but step by step these necessities have grown upon us, and ever since I have been in the Senate, a little over five years, we have been flooded with petitions and applications from gentlemen all over the country, lawyers, non-lawyers, judges, mercantile establishments, alleging that there should be more force added to the judicial system of the country, and at every session of Congress since I have been in the Senate bills looking to this have been introduced by different members of both Houses; and finally we are brought to the fact,

traveling through this history very briefly, that the Supreme Court, with twelve hundred cases on its docket as it meets at each term, when it adjourns in May has just as many, and the circuit judges are able only to spend a day or two at each particular place of holding court. I believe Judge McCrary does not honor the city of Little Rock with his presence but once a year, and then only for two or three days. Something has to be done by way of securing more working force, by way of labor-power added to these courts.

This bill does not embody my plan by way of relief, as is known to the members of the committee, but I have agreed to it as the best the committee could get, and we have taken all the sentiments for and against the various propositions and compared them and voted upon them. I believe, after long and anxiously looking into this matter, that this is the best we can do, next to the system which I proposed and which the Committee on the Judiciary voted down, and now I will state briefly to the Senate what that was.

I was in favor of taking the Supreme Court judges entirely away from the circuits, as Mr. Madison proposed in 1816 and as the bill of Mr. Butler, of South Carolina, proposed in 1855, to hold them here in this city nine months in the year, and to require them to decide cases brought to them by appeal, and nothing else; for I believe upon a fair construction of the Constitution they are meant to be an appellate court, and an appellate court only, and that its judges are not to go around upon circuit and sit at *nisi prius*, notwithstanding the early judiciary act did so fix it. In reference to the appellate jurisdiction, they are appellate judges, properly speaking, and should not be mixed up with original trials in the courts below.

I favored also, as I stated the other day, the suggestion of the Senator from Missouri, [Mr. VEST;] for I do not believe an appellate court ought to know anything about the parties or the litigation below. I would rather, as I said the other day, the appellate judge should be blindfolded and let the case before him stand as that of Seius *vs.* Titius, or John Doe against Richard Roe.

Then I was in favor, in addition to that, of judges of the Supreme Court not being permitted to deliver any dissenting opinions in any case. They have become a curse to the country, in my judgment, because the time that is taken up in writing those opinions and delivering them would measure about one-third the time that the court devotes to business, and certainly nearly one-third of the volumes in which they appear is given up to them.

Mr. President, think for a moment of the purpose of a court. It is not to establish abstract principles of law; it is not to find the ideal standard of right and wrong, but it is simply to say what is the law in a given case. It is not to write law-books for the profession; it is not to encourage litigation. If the opinion goes out as the unanimous opinion of the court, you build up around it a respect and a confidence for it which does not otherwise exist. I am sorry to say that our judges are too much given to writing law-books for the profession, commencing in every case with "the law is a rule of action commanding so and so and forbidding so and so," then going on to the particular questions involved in the case. I would take the opinions, if I had my way, back to the time of Coke, simply declaring that the facts in the case are such, and such and such is the law; and I would not compel the judges to search from California to Arkansas and then to New York for some authority on the particular case, and perhaps when it is found it does not apply to it and has reference to an entirely different state of case. The purpose of a court is to establish what the law is in the particular case and where the right is. It makes a man's head swim to hear the recital of the Senator from Alabama the other day as to the way the law-books are growing in this country.

I believe the third volume of Wallace was the first that came out after the war. That was seventeen years ago. There are twenty-three volumes of Wallace altogether, so that there are twenty volumes of Wallace since the war and thirteen volumes of Otto, and we are now to 103 United States Reports. The thirteen and the twenty make thirty-three volumes in seventeen years of the decisions of the Supreme Court of the United States, almost precisely two volumes a year. No man on earth can keep up with them. A man cannot buy a library. It is an old saying that a man with one book is a dangerous man, and those of us who practice law shall have to be remitted back, after a while, to that condition. There are opinions of the Supreme Court now awaiting publication more than sufficient to make the one hundred and fourth volume of United States Reports. So we shall have before this year passes away two volumes for each of the seventeen years since the war, and much of them is taken up by the dissenting opinions of the judges. I think that is an evil that ought to be suppressed; and with continuous work here and withholding those dissenting opinions, and publishing opinions directly upon the case, and not writing legal essays for the profession at large, I think the Supreme Court would be enabled to get along much more rapidly and much more easily than it does, and by confining it strictly and truly to its appellate duties in cases that come up from the courts below, the business would soon be brought up so that cases could be promptly heard.

The committee did not see proper to agree to these propositions. Then what else shall be done? We have had, I undertake to say, a dozen or various propositions introduced by different Senators. We have had suggestions and propositions that were never introduced in the Senate, and sent to us directly, which we considered. We had the bill of a Mr. Maury, which has been offered as a substitute by the Senator from Alabama, and which he has maintained before the Senate so ably. That was considered maturely in connection with all these different propositions. The committee finally agreed upon this bill for the reasons indicated the other day by the Senator from Illinois, [Mr. DAVIS,] who introduced the original bill, and which I will not attempt now to elaborate; but I will state, for the reflection of the Senator from Alabama and others, the controlling motive with me about it.

I think if we are going to establish these systems or any of them, we should bring them as near to the people as possible. We bring the circuit court, for instance, of which my State forms a part, to Saint Louis; New Orleans is the place for another circuit court, Richmond for another, and so on—nine different points throughout the Union.

These courts are more convenient for litigants and for the attorneys than an appellate court here on the plan of Mr. Maury would be, in my judgment, and it brings the circuit judges from the particular circuit who are acquainted with the system of laws, the jurisprudence of those particular sections, to see and consult and act together The bill of Mr. Maury was presented before the committee in an able argument by himself, strong and convincing, too, in many respects.

The Senator from Louisiana complained yesterday of the feature of the bill fixing $10,000 as the limit for appeals to the Supreme Court. Under the Constitution this appellate jurisdiction is given subject to such rules and regulations as Congress may establish. You have got to fix some limit, and any limit is to a certain extent more or less arbitrary. There was complaint that $2,000 used to be too large a sum, that it cut out the poor man.

There was great complaint after that that $5,000 was too much; that made an appeal too much a rich man's luxury. By this bill we have an intermediate court whose decisions I think in a great majority of the cases the parties litigant will be satisfied with and will not ask to have a third hearing before the Supreme Court of the United States. Some limit must be fixed; and if you fix it at $1,000, $5,000, or any other sum, there will be complaint as a matter of course. You must stop at some point; and considering that these courts are put between the Supreme Court and the subordinate courts of original jurisdiction, we thought that $10,000 was a proper and sufficient limit. There is another reason to which I ask the attention of the Senator from Louisiana. Under this bill any important case, any case of sufficient importance in the estimation of the judges, may be certified to the Supreme Court for its opinion.

Mr. BAYARD. That is not the provision in the bill now, I think.

Mr. GARLAND. Yes.

Mr. BAYARD. As I understand, that is confined solely to cases of copyright and patent.

Mr. GARLAND. No. I was going on to say that it applies to causes under the Constitution, laws, and treaties. In the same section that confers the original jurisdiction any question of importance that arises under the Constitution, treaties, or laws of Congress may be certified by the court of appeals for the opinion of the Supreme Court. Inasmuch as we had to stand upon some particular sum, with these precautions and safeguards, it strikes me we have come to about as equitable a standard as we could fix.

If what I am contending for with the Senator from Louisiana, limiting the jurisdiction of these courts, can be accomplished, I do not think we need all the force that this court-of-appeals bill gives us. I think we can cut it down about one-half, establish these intermediate courts with one more circuit judge appointed in each circuit, make the quorum three instead of four, and have the court consist of five instead of six. Then I believe our judicial system will be about as complete and about as fair as we can get it.

I know that any bill we can pass will meet with objections. I know it will meet with difficulties; all bills do. This is something of a pioneer experiment; it is something of an experiment almost entirely; it is yet to be tested; it is to be tried in the crucible yet, to see whether or not it will stand. After long and laborious examination of the question I have laid before the Senate (though at more length than I expected to do when I rose) my honest convictions in reference to the entire question, and of course it is with the Senate to say what they will do with the measure.

I wish to make one more remark, and that is in reference to the judges. We have all in the Southern States to some extent suffered from the troubles of which the Senator from Alabama and the Senator from South Carolina have complained. But if there have been evils of that sort existing in any State, I think the passage of a bill like this in putting men in these courts of appeal to supervise the rulings and the acts and doings of the judges who are complained of will secure relief in that respect. We have not the appointing of the judges; and I cannot stand and wait for events to take place, because the business of the country must go on. The administration is here and there is a crying necessity all over the country, the lawyers in my State of both parties and both the judges are clamoring for some relief to be given. Adopting the amendment of the Senator from Louisiana with the suggestion of the bill of my own, I believe sincerely and honestly that this bill with the force possibly sheared down to about one-half, as I have indicated, will be a measure that will bring relief for some time to come; how long we can-

not tell, because this country is growing, and it will grow and must grow; and it is an illustration at last of the fact that governments are not made but governments grow as the country grows. If we get rid of the fiction in these courts of a municipal corporation being a citizen, we shall have made a long stride in the proper direction, because, as was said by Judge Curtis himself in reviewing this very question, the jurisdiction comes at last from a miserable fiction.

This is all I shall have to say probably on the bill at all. I have stated honestly, fairly, and candidly to the Senate my views; and with the additions and suggestions I have stated incorporated in it I hope the bill now before the Senate will pass.

Mr. FRYE. Mr. President, bills for the relief of the courts of the United States have been before Congress for a good many years, and my recollection is that there has never been one agreed upon before by a Judiciary Committee of either House. For the first time, then, we have this condition of things, as stated by the Senator from Arkansas. All of the various propositions have been submitted to the Judiciary Committee of the Senate, made up of the ablest minds of the country; they have expended great time, care, research, and investigation, and have finally unanimously, as I understand, agreed upon a bill for this court of appeals.

Now, for the first time, I say, since the war we are in the condition of having a unanimous Judiciary Committee for a court of appeals, every man admitting that the Supreme Court must be relieved in some way. I confess it was with great pleasure that I heard the Senator from Illinois introduce this bill and finally speak to it from the floor of the Senate. It seemed to me that the hour had come when something was to be effected. Now the whole thing is dead at once. The Senator from Louisiana offers an amendment, and as he offered the amendment it provided for striking out the whole of this bill except the enacting clause and substituting a bill touching the jurisdiction of the United States courts. On the suggestion of the Senator from Arkansas, however, he proposes to offer it as a separate section and an amendment by way of addition to the pending bill. If the proposition originally made by the Senator from Louisiana had been adhered to and adopted by the Senate, it would have had no more effect upon the pending bill than it will have upon it if the Senate adopts it as a separate section. It will be the death at once of this bill which has received such care and examination on the part of the Senate Judiciary Committee. And yet the Senator from Arkansas approves of it, accepts the reasons for it, and even states that he had a proposition of his own to the same effect!

Mr. President, propositions of this kind have been before these two Houses for a score of years. There has not been a session of Congress for fifteen years at least that there have not been bills pending before both Houses touching the jurisdiction of the United States courts. When I was a member of the Judiciary Committee in the other branch, I remember I was on a sub-committee with a Representative from Texas, Mr. CULBERSON, one of the best lawyers in the House of Representatives, too, and Mr. CULBERSON and I sat down faithfully to prepare a bill repealing certain acts which had created new jurisdiction for the courts of the United States. We spent one solid month in careful examination and in careful consideration of a bill to that end; and finally we agreed, he from Texas satisfied, I from the other end of the country satisfied too, and we reported that bill to a Democratic House, and it is not a law. A Democratic Senate was here; it did not become a law. And yet as I say it was as carefully considered a bill touching the jurisdiction of the United States courts and limiting that jurisdiction as such gentlemen as he and I could draft after a month of care bestowed upon it.

Here is a proposition to take this bill providing for a court of appeals, which necessarily will meet with certain opposition in and of itself, and ingraft upon it another proposition which has heretofore met with so much opposition even in a Democratic House and a Democratic Senate that it never yet has become a law.

Mr. JONAS. Will the honorable Senator permit me to ask him a question?

Mr. FRYE. Certainly.

Mr. JONAS. What has politics got to do with this matter? What difference does it make whether the House was Democratic or the Senate was Democratic? Is there a question of politics in the amendment I have offered?

Mr. FRYE. It makes this difference, if the Senator will allow me, and he knows the difference it makes as well as I do, that the provisions conferring new jurisdiction upon the United States courts have been ingrafted upon our law through and following the war, from the necessities of the war, from the circumstances of the war and the years following the war; and, therefore, it is perfectly natural that Senators and Representatives in Congress from the South should be the Senators and Representatives desiring the repeal of these sections. That is why to a certain extent politics comes in. I never have heard Senators and Representatives from the North demanding the repeal of these sections. I have heard, and I know, and I myself concur with the Senator from Louisiana that that jurisdiction needs amendment in very many respects.

I recognize that the circumstances have passed away; I recognize that the necessities do not exist to-day; and, as I said when I commenced to speak, I agreed with the distinguished representative from Texas as to what portions of that jurisdiction should be taken away from the courts of the United States. It is not of that that I complain; I believe that the law should be modified; but what I complain of is that it should be put upon this bill providing for a court of appeals, that when a distinguished committee like that on the judiciary has spent a month in considering this bill providing for a court of appeals, the Senator from Louisiana, rising here in his seat, without any investigation by the committee, without any examination by the Senate, should propose to ingraft upon that bill a provision which, though carefully considered before and reported to both branches of Congress, met with that amount of opposition that defeated it; for the Senator from Louisiana must know, the Senator from Arkansas must know, that to put that as an amendment on this bill under these circumstances will simply defeat both measures.

Mr. JONAS. I should like to ask the honorable Senator a question, if he will yield.

Mr. FRYE. With pleasure.

Mr. JONAS. I ask whether I have not a right to offer amendments to a pending bill with a view of perfecting or improving that bill if in my judgment I think it proper to do so?

Mr. FRYE. The Senator is exceedingly sensitive. I have not questioned his right to offer amendments.

Mr. JONAS. I am not sensitive at all; but I ask the honorable Senator whether it is not a legislative privilege, a legislative duty on my part, to try to perfect legislation as much as possible before voting upon it?

Mr. FRYE. Unquestionably.

Mr. JONAS. Then why does the honorable Senator complain of it?

Mr. FRYE. But I do not understand it to be a legislative duty to offer an amendment to a bill providing for a court of appeals, which under strict parliamentary rule is not germane to the bill itself.

Mr. JONAS. We are not discussing an appropriation bill now. Everything is germane.

Mr. FRYE. Everything may be germane in the Senate. I admit that. I have come to the conclusion that almost anything is, and almost anything is within the rules in the Senate. It would not be germane in some other bodies that I have served in.

I hope the Senator will understand me. I am not opposing his proposition; I am simply opposing the loading a carefully prepared bill to provide for a court of appeals, which this country needs, with this amendment which has not been considered by any committee of the United States Senate. That is the only objection I make to it. It is shown that it needs much more examination than can possibly be given to it in this debate. The Senator from Arkansas says that he has a bill to the same effect with divers other provisions touching the jurisdiction of the United States courts. Now, there are bills to-day pending before the Judiciary Committee of the House and bills pending before the Judiciary Committee of the Senate touching the jurisdiction of the United States courts. Why is it not better for the Senate to leave those bills to themselves, to leave them to the committees having them in charge; and then when those committees have investigated and reported to the Senate, to pass upon them by themselves, rather than to have us at any rate lose this bill for a court of appeals by undertaking to ingraft them upon this?

Mr. President, I wish to be distinctly understood as not discussing the question of the jurisdiction of the United States courts, as not raising any question about the amendment of the Senator from Louisiana, as not agreeing or disagreeing with him or pretending to touch his measure, but as only asking the Senate to let us take the considered bill and vote upon that, and when the question of jurisdiction is presented to us by any other considered bill let us then vote upon that.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Louisiana.

Mr. MORGAN. I move that this bill go over until Tuesday next at two o'clock. My reason for it is that I am informed that the American Bar Association, through a very able committee, of which Mr. Merrick and other gentlemen are members, have had the subject of the change in our judicial system under consideration for some months, and are about to print a report, and that for some reason or other it has been delayed in the publication until Monday, of which we have not the benefit. I have seen proof sheets of that report, and it has impressed me very greatly, particularly on the question of the constitutional power of Congress to divide the Supreme Court into sections. I think it is worth while that the Senate should pause and hear the bar association, representing the intelligence of the bar of the United States, before we undertake to have final action on this bill.

Mr. DAVIS, of Illinois. I sincerely hope that the motion of the Senator from Alabama will not prevail. The bar associations of nearly all the States of this Union, the Western States particularly, have petitioned Congress to pass this bill for intermediate courts. The American Bar Association are divided upon this question, and their committee is divided equally. They are divided upon the question of whether to increase the number of judges of the Supreme Court or to have an intermediate court of appeals. This American Bar Association consists of a few gentlemen who meet at Saratoga; I was with them last summer, and very few were there. A committee was appointed to take up this subject of law reform. Four of them, as I understand, embracing Mr. Merrick, Mr. Evarts, Mr. Phelps of Vermont, and one other gentleman, advocate an increase in the number of judges of the Supreme Court. Mr. Hitchcock,

of Saint Louis, Chief Justice Bradley, formerly of Rhode Island, who is now, I think, a Professor at Harvard, Mr. Rufus King, of Cincinnati, and another gentleman whose name I do not recollect, advocate this bill as the proper measure of relief.

Now, is the Senate of the United States going to postpone a measure of this kind to get the views of these gentlemen on one side or the other? Are we not competent to decide it? Have we not had this subject under consideration as long as they have? Cannot we ourselves determine this question as well as they? If there is any gentleman who thinks there ought to be an increase in the number of judges of the Supreme Court, and that that is the proper mode of reaching the evils complained of, he ought to vote against this bill. If, however, a majority of the Senate believe that the system of intermediate courts is the proper remedy to adopt, then they ought to vote for this bill. I know that the judges of the Supreme Court of the United States with one exception are in favor of this bill, and as I understand that gentleman has yielded his opinion on the subject; I know that all the rest are for it. Shall we adjourn this case to Tuesday in the Senate of the United States to get the opinion of any gentlemen, no matter how respectable they are? Those who are in favor of an increase in the number of judges of the Supreme Court, who touch upon this question of the constitutionality of dividing it, are very respectable gentlemen, and so are those on the other side, from the American Bar Association who were appointed to consider this subject of law reform.

The Judiciary Committee of the Senate have had the views of everybody on the subject. The bar of Saint Louis, the bar of Missouri, the Legislature of Wisconsin, the bar of Wisconsin, the bar of Indiana, the bar of Illinois, I recollect distinctly, all petitioned Congress in favor of this bill; and now, after it has been considered by the Judiciary Committee, after all these plans have been taken into consideration, shall we postpone this bill for two days to get the opinion of three or four eminent lawyers in the United States? It strikes me that it is an unheard-of proposition, and I sincerely hope it will not be agreed to. I am not asking the Senate to finish the bill to-day if they are not ready to do so, but I want the bill considered just as any other bill is.

Mr. BECK. I shall vote for the postponement. However well advised the Committee on the Judiciary may be, the differences of opinion developed among them and the very great importance of the amendment offered by the Senator from Louisiana, make it necessary for some of us who have not had the same opportunity to get the information we may obtain, even from gentlemen who form a committee that is equally divided. I think the Senator from Illinois must agree that if it is important for the Congress of the United States to wait two years till they get information from a body of somewhat interested experts before they can act upon the subject of taxation, we can afford to wait two days till we can get valuable information from a disinterested body of experts relative to a much mooted question.

I do not think there will be any great incongruity in that, and I should like to ask some of these gentlemen who are experts at the American bar how it has happened that for twenty years there has not been a man attached to the party I belong to who has been found fit either to occupy a place on the Supreme Court bench or the circuit or the district benches, and we might perhaps get some reason assigned why somebody who was not a strict partisan should be allowed to sit on the bench. A day or two, I think, would not hurt on that point.

Mr. DAVIS, of Illinois. Why should the matter of the appointment of judges be brought up now? I was a member of the old Whig party; and when I was a Whig the Democrats had possession of the power of this country and no Whigs were appointed on the bench. There has been no instance in the history of this country since its formation that the party in power did not appoint judges who were in sympathy with the political views of the party in power. I believe that one-half these judges ought to be appointed from the minority; but it is not a matter of right in any case. I do not recognize that the minority have a right to demand any such thing from the party in power; and the party in power have always from the foundation of this Government appointed judges from those in sympathy with them; but I do not think it is a wise thing to do. I myself would break it up if I had the power to do so, and I would divide these judges. There are eighteen, and I would give one-half to the party in opposition and one-half to the Republicans, if I could have my own way about it. I do not know what will be done; but if I had the advising of the appointing power, I should advise him to do that. But that has not anything to do with the question of the postponement of this measure until next Tuesday.

Mr. BECK. It has this to do with it: Everybody for at least twenty years, as I know, that has been selected for any position has been selected because of his politics. If the proposition of the Senator from Louisiana prevails, and we repeal many of the laws that have been giving jurisdiction to the Supreme Court, and do away with jurisdiction that has been seized by the Supreme Court, if you please, for all courts lean in favor of their own jurisdiction and extend it all they can——

Mr. DAVIS, of Illinois. It is not so of all courts.

Mr. BECK. I know of course it is not so if the Senator asserts it; but I never knew a court, from a justice of the peace up to the Supreme Court of the United States, that would not extend its own powers and jurisdiction where it could.

Mr. DAVIS, of Illinois. The Senator is very unread in the law.

Mr. BECK. I am not quite as well read in the law as the Senator from Illinois, I admit, but I think I have as much practical knowledge of the common sense of things as he has; and I know that is the way the world goes, and I never knew an instance to the contrary.

Mr. DAVIS, of Illinois. The books are full of such instances.

Mr. BECK. If ever there was a case where any of them did not assume all the jurisdiction they could get and hold on to it as long as they could, I do not know the instance; and I do not think the Senator from Illinois would be any exception to that rule, and I do not think I should be if I were in a place of that sort. I know of no court from Judge Bond up or down that is not seizing jurisdiction and, when they can with impunity or think it will favor their purpose, abusing it.

The proposition made by the Senator from Louisiana will curtail jurisdiction, will prevent assignees who are living in other States from suing when they have no legal interest, except that of mere stake-holders on bills of exchange and bonds assigned, where the original parties both live in the same State, and where jurisdiction is assumed because a transfer is made, perhaps nominally, to a man who lives in another State. If this can be adopted, and other transfers that have been authorized can be repealed, and we can get relief in that way while maintaining the present condition of things or extending it in a modified form, I prefer doing that rather than have the courts of the States absorbed by the Federal courts, making it to the interest of everybody to look to this great political system of courts radiating from Washington regardless of the States, degrading the courts of the States and the bars of the States, in order to make this a great paternal government, or a nation spelled with a wonderfully big N. A little time taken in order to see if we can accomplish the same object and give relief by curtailing the present powers of the United States courts and cutting off their abuse may not be misspent. That would surely be as well as to extend the system by eighteen more judges, who it is admitted will be politicians as the Senator from Illinois says they always have been, and I assume that what always has been always will be. Time taken for a couple of days to get the advice or information from a very able body of men on such a matter will not be time thrown away.

Mr. DAVIS, of Illinois. This able body of men will not give any information on that subject at all. It is a pretense, then, to postpone this bill until Tuesday to get the views of those gentlemen, because they do not discuss this question at all. They do not go into the question of the jurisdiction of the courts. I happen to know about that, for I know what their views are. They simply speak of the creation of courts under the two antagonistic systems. They do not go into details, and they do not discuss jurisdiction. One side is in favor of enlarging the number of judges of the Supreme Court, and the other is in favor of the intermediate courts; but they do not discuss the question of jurisdiction. The Senator from Alabama and the Senator from Kentucky want to continue this case, not to get the views of these gentlemen, but to consider this question further. Are they not as able to decide on the question to-night as at any other time? If they want to vote for it, cannot they vote on that amendment just as well to-night as on Monday or Tuesday? Is any Senator likely to change his views on the question of whether the amendment of the Senator from Louisiana should be adopted or not?

The whole question of the jurisdiction of the Supreme Court of the United States and of the circuit courts needs revision, but it is an improper thing to put into a bill which creates a court and says nothing upon the subject of jurisdiction. The court created by this bill is an appellate tribunal, nothing else in the world. The jurisdiction of the circuit court and the jurisdiction of the Supreme Court is not altered one whit by this bill. Now all appeals and writs of error go immediately to the Supreme Court. By this bill appeals and writs of error will go to an appellate, which has appellate jurisdiction entirely and no original jurisdiction at all, and from that court certain cases will go to the Supreme Court of the United States, where the amount involved is $10,000, where a Federal question is involved, or where the court shall certify that the question is of such importance that the Supreme Court of the United States should make a decision upon it. That is the whole bill, nothing else in the world.

The judiciary act was changed and jurisdiction given during the war and since the war. In many respects I think it was wrong policy to have given the jurisdiction which was given; but those who acted upon that subject were wise in their day and generation, and I may be wrong and they may be right; but I am unwilling now to take up in an immature condition and decide upon that subject in this bill. It needs thorough investigation. The whole subject must be taken all in. It needs the thorough investigation of a competent committee after having heard all the arguments upon it and considered it fully. No committee has decided the question of jurisdiction. It is unusual to introduce a question involving the jurisdiction of courts in a bill that has no other object than the creation of courts. That is the reason I am opposed to this amendment.

There are some portions of it that I should vote for cheerfully and

willingly, if introduced as a separate measure; and I know that the chairman of the Judiciary Committee has had his attention attracted to this subject, and after action is taken on this bill, as he told the Senator from Arkansas and myself, he will be ready to consider this subject. We have considered it in relation to national banks, we have been considering it in relation to railroad corporations that are created in one State and do business in another. Those who are opposed to the bill, I can see well enough, may seek to have this thing interpolated in the bill; but ought those who are really friendly to the bill do it?

Mr. President, if this bill now fails here, that is the end of any relief to the Supreme Court, or an end to any relief for the evils complained of, for the next three or four years, till after the next Presidential election in any case. If this bill does not pass at the present session of Congress I do not think any bill will pass until after the next Presidential election.

Mr. BECK. Mr. President, when the Senator from Alabama made his motion I supposed he made it in good faith, for the purpose of obtaining information, and I rose to say that I would be glad to vote for it for the same purpose. When the Senator from Illinois chooses to say it is a pretense merely, I beg leave to differ with him.

Mr. DAVIS, of Illinois. The Senator from Kentucky did not urge any reason but that he wanted to learn what these gentlemen knew on this question. Now, I advise him that they do not discuss this question at all.

Mr. BECK. How does the Senator from Illinois know what information the Senator from Alabama, or myself, or anybody else can obtain from these distinguished gentlemen? They are competent to consider other things besides the report that was looked over after dinner at Saratoga. Their capacity was not exhausted by that occasion, I presume, but they have the power and have the ability to give information that may be valuable.

I am one of those who believe that before a court of eighteen new judges is to be established, the question of jurisdiction is a very proper question to be determined, because, if the jurisdiction is to be curtailed, as the Senator from Illinois thinks in many respects it ought to be, a smaller court than eighteen would be sufficient to act under that curtailed jurisdiction. And if many of these laws were improperly passed, or if the occasion for them has passed away, and they can be modified or repealed so as properly to curtail the jurisdiction, then the court that is now proposed under the existing condition of the laws may be greatly modified and the necessity for the services of additional judges greatly diminished when proper legislation is had touching that question of jurisdiction which is brought up so sharply by the amendment of the Senator from Louisiana.

Mr. MORGAN. Mr. President, I am informed that a committee consisting perhaps of seven or eight or nine was selected by the American Bar Association to take into consideration this whole subject, that they have been laboriously engaged upon it for a long time. The names of the committeemen who have come to my attention impressed me with the opinion that they were about as able as any of the jurists in the United States, whether they have been on the Supreme bench or not; as the name, for instance, of Mr. Edward J. Phelps or Mr. William M. Evarts, to say nothing of other gentlemen as Judge Hitchcock, of Missouri, and Judge Bradley, of Rhode Island. Now, it is asserted by the Senator from Illinois, who seems to be better informed about this than I am, that the committee is divided equally.

Mr. DAVIS, of Illinois. So Mr. Hitchcock told me the other day.

Mr. MORGAN. The committee is equally divided, he says. I have as much interest in knowing what Mr. Hitchcock's opinion is, and the gentlemen who coincide with him in opinion, as I have in knowing the opinion of the other side, for as I stated, as far as I have heard the opinions on the other side they are in consonance with the view I expressed to the Senate the other day as to our power to divide the Supreme Court into sections. I desire therefore to hear from both sides. The Senator from Illinois seems to think that that is a pretense of mine to delay action on this bill. I regret very much——

Mr. DAVIS, of Illinois. I said that it was a pretense of the Senator from Kentucky from the argument that I had heard in relation to the amendment of the Senator from Louisiana. I did not say anything about the Senator from Alabama using it as a pretense. I withdraw that remark, however, because it was not a proper remark to use here. The Senator from Kentucky argued about the amendment all the time, and did not say one word about what these gentlemen did, and I told the Senator that these gentleman did not speak on the question of the amendment of the Senator from Louisiana.

Mr. MORGAN. Now, suppose I should be rude enough to say that I thought the Senator from Illinois was afraid to have this argument printed.

Mr. DAVIS, of Illinois. I have no fear about it.

Mr. MORGAN. Would he not think that was a very rude speech? And yet we should have the same right to draw that inference against the Senator that he has to draw that inference against the Senator from Kentucky.

Mr. DAVIS, of Illinois. I withdrew the word "pretense."

Mr. MORGAN. I know it is withdrawn, and I withdraw what I said about the other suggestion. [Laughter.] So we are even about that.

But this is a question of too much gravity to be forced through in a hurry. I may not have the capacity to understand it rightly as I should. It is a very great question, and there are some views of it that very strongly impress themselves upon my mind. The first one I took occasion to express the other day in opening some remarks to the Senate, that the best way to get rid of the difficulty of the accumulation of business in the Federal courts, whether in the inferior courts or in the Supreme Court, was to reduce the jurisdiction, relegate back to the States those questions which have been taken from the States either by Congressional action or by judicial usurpation. I think there have been two very broad fields of jurisdiction carved out of the jurisdiction intended by our fathers to belong to the State courts simply by judicial usurpation. Whoever attended to the argument of the honorable Senator from Arkansas to-day must be satisfied not merely that he was able to defend that proposition, but that he had the support of some of the brightest intellects that have ever sat on the Supreme Court Bench of the United States that in respect to the citizenship of corporations, which has drawn into the Federal courts and into the Supreme Court of the United States a very large mass of unnecessary litigation, the decision made upon which that usurpation of jurisdiction was based was one that will not stand the test of the common-sense of this country. And so in respect of the other assumption of jurisdiction which has caused this country so much of evil already; that is attempting to enforce through a writ of *mandamus*, which the Supreme Court decides is not an original power of the circuit court but a mere collateral or incidental power, an authority against State officers which tends to the breaking up of State governments, which in my own State incarcerated a judge of probate—one of the most important officers in that State, having the broadest jurisdiction and the most useful to the people at large—from the middle of November until the last part of the month of January, on a void order of a judge of the circuit court of the United States.

These things are not to be passed by without some consideration; and if the honorable Committee on the Judiciary of the Senate have considered them and have not reported a bill to remedy them when it is admitted on all hands that the evils exist and demand remedy, why should that committee undertake to bring a bill forward for the purpose of accommodating our judicial functions and our judicial machinery to an immense broad field of jurisdiction when they themselves admit that that jurisdiction has been wrongly usurped and ought to be cut down? I am not in favor of inventing more machinery and machinery of larger capacity for the decision of causes in the Federal courts, whether the Supreme Court or inferior courts, to accommodate a jurisdiction that has been usurped by those courts, and which we ourselves owe it as a duty to the country that we should curtail. Hence I think that the proposition to curtail the jurisdiction comes naturally and necessarily first.

If we want to serve the people of the United States rather than some political party, if we want to save the people the sum of $500,000 a year in expense, instead of putting it in the power of your President to appoint eighteen judges, and perhaps nine more marshals, and nine more clerks, and the like, we had better devote our attention to the curtailing of the jurisdiction which has been thus unlawfully usurped by these courts, rather than in providing machinery for the accommodation and for the administration of that unlawfully widespread jurisdiction.

Now, sir, this is not a question that can pass from my mind at least without serious consideration. Very few Senators have participated in this debate on the other side of this Chamber, I have noticed; not because these questions are not interesting; not because they do not understand them, for they comprehend them as well as Senators on this side, but they remain silent except to help the organization up, to keep the question in compact form, so that they may lay their hand to the President of the United States with a majority in this body upon eighteen men selected from the Republican party to administer—what? Justice, not according to law, but according to party behests.

That is going to be the fruit of it. We are to judge a tree by its fruits. We understand exactly what this tree will produce. I understand the bitterness of it. I understand the gall and the wormwood that comes out of this production. The honorable Senator from Illinois must not suppose that either by taunts or otherwise he can silence the voice of a man who wants to speak for the people of this country in opposition to a bill even that the honorable Committee on the Judiciary may have brought forward.

When you come to the verbiage of this bill, those who have legal acumen and understand the meaning of words will probably find some of the most important lawsuits couched in the very language of the bill itself; not that I claim to be a critic, but with an eye unskilled as mine I can see holes in it that you could drive a six-horse team through, it seems to me, in matters of construction. The bill is to be hurried through; it is to be put upon its passage whether or no; and while, as has been remarked here, we are searching the world over with commissions upon whisky to get the evidence about drunkenness in the country, commissions upon the tariff to find out how much the people are taxed, how much they ought to be taxed, and in what way they should be taxed, commissions on woman suffrage, and such things as those, we cannot afford to stop for two days to find out the opinion of men who have been engaged in questions of this kind for months and months together.

Mr. President, I have made this motion in good faith; the Senate can dispose of it as they see proper to do; but it is my opinion that the wish to pass the bill before the American Bar Association can get their opinions before the country smacks more of a desire to avoid the discussion which they will bring forward than it does of haste, or intemperance, or impertinence on our side in trying to get the benefit of such testimony.

Mr. BUTLER. I trust the Senator from Illinois will not antagonize the proposition of the Senator from Alabama. I do not see what harm or injury can befall this bill by waiting——

Mr. DAVIS, of Illinois. Will the Senator let me interrupt him?

Mr. BUTLER. Certainly.

Mr. DAVIS, of Illinois. There is no expectation of disposing of the bill finally to-day. Why not let the discussion go on next Monday for a reasonable length of time, and if there is then any wish to postpone it until the day following, well and good; but I do not want the bill to go over until Tuesday. There are two or three Senators who desire to address the Senate on the pending amendment, and we can certainly come to a vote upon this question, with which the views of the bar association have nothing to do on earth.

Mr. VOORHEES. Then if Senators will yield now, I will move that the Senate proceed to the consideration of executive business.

Mr. VAN WYCK. Will the Senator from Indiana withhold his motion a moment for the consideration of a bill to which there is no objection in order to accommodate my colleague.

Mr. VOORHEES. I yield to the Senator from Nebraska.

Mr. SAUNDERS. I ask the Senate to take up Senate bill No. 835. It will take but a very few moments to dispose of it.

The PRESIDING OFFICER. The pending bill will be informally laid aside, if there is no objection. The Chair hears none.

FORT NIOBRARA MILITARY RESERVATION.

Mr. SAUNDERS. I ask unanimous consent that the Senate proceed to the consideration of the bill (S. No. 835) to open to settlement and entry certain lands in the State of Nebraska, withdrawn by executive order for military purposes.

The PRESIDING OFFICER. The bill will be read.

The ACTING SECRETARY. The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of War be, and hereby is, directed to restore to the Secretary of the Interior the custody, control, and disposition of the following-described parcels and tracts of land embraced within the limits of the Fort Niobrara military reservation, in the State of Nebraska, as declared in executive order of December 10, 1879, and enlarged by executive order of June 6, 1881, to wit: all of sections numbered 29, 30, 31, and 32, and the west half of section numbered 33, all in township numbered 34 north, of range numbered 27 west, and all that part of section numbered 8, in township numbered 33 north, of range numbered 27 west, within the said limits of said reservation.

SEC. 2. That the Secretary of the Interior shall dispose of said tracts and parcels of land under the public-land laws in the same manner as if said tracts and parcels had never been embraced within the limits of said military reservation; and such persons as have settled or made improvements thereon prior to December 10, 1881, shall have priority of claim thereto under the public-land laws: *Provided*, That they file their respective claims according to law at the proper land-office within three months after the said lands become subject to disposition under the public-land laws.

Mr. INGALLS. Is there a report in that case?

Mr. SAUNDERS. There is.

Mr. INGALLS. Let it be read.

The PRESIDING OFFICER. The report will be read.

Mr. VOORHEES. If this matter is going to occupy time, as it seems it will, I must insist on my motion.

Mr. VAN WYCK. It will not occupy any time. It was reported unanimously from the Military Committee.

Mr. INGALLS. We might as well understand this in advance. Here is a military reservation in Nebraska, on which unauthorized settlements have been made by trespassers as if it were public land, and this is an attempt——

Mr. COCKRELL. I beg the Senator's pardon; his statement is without foundation of fact.

Mr. INGALLS. Let us go on with the report, then; I may have been misinformed.

The PRESIDING OFFICER. The bill has not yet been taken up. Is there objection to taking up the bill for consideration at this time?

Mr. INGALLS. I do not object to its consideration.

The PRESIDING OFFICER. The Chair hears no objection, and the bill is before the Senate as in Committee of the Whole. The report will be read.

The Acting Secretary read the following report, submitted by Mr. COCKRELL April 4:

The Committee on Military Affairs, to whom was referred Senate bill 835, have duly considered the same, and submit the following report:

Your committee referred said bill to the Secretary of War for information and report, and received from him the following letter:

WAR DEPARTMENT,
Washington City, March 30, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th ultimo, referring, for the views of this Department thereon, Senate bill 835, to open to settlement and entry certain lands in Nebraska, supposed to have been included in the military reservation of Fort Niobrara.

In reply thereto I inclose herewith a report from the Adjutant-General on the subject, dated the 25th instant, and beg to state that there is no objection on the part of this Department to releasing sections 29, 30, 31, 32, and the west half of section 33, in township 34 north, range 27 west, and all that portion of section 8 in township 33 north, range 27 west, included within the limits of the Fort Niobrara military reservation, declared in Executive order of December 10, 1879, and enlarged by Executive order of June 6, 1881.

With the exception of the above-mentioned sections, no portion of the Fort Niobrara military reservation can be given up without detriment to the military service.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. F. M. COCKRELL,
of Committee on Military Affairs, United States Senate.

From this letter of the Secretary of War it is clearly apparent that the portions of said military reservation described therein are of no possible use for military purposes, and should be at once restored to the public domain for disposition by the Secretary of the Interior under the general laws.

Some citizens of the United States prior to December 10, 1881, settled and made improvements on certain portions of said tracts, not needed for military purposes, and in the disposition thereof should have priority of claim thereto.

Your committee have prepared and herewith submit as a substitute for and in lieu of said Senate bill No. 835, a bill to restore those portions of said reservation described in said letter of the Secretary of War as of no use for military purposes to the public domain for disposition by the Secretary of the Interior under the general land laws, giving priority of right to such persons as have settled or made improvements thereon prior to December 10, 1881, provided they file their claims within three months after said lands are subject to disposition, and recommend the passage thereof.

Mr. INGALLS. Do I understand the Senator from Missouri to say that all these rights had accrued before the military reservation was established?

Mr. COCKRELL. No; the old military reservation was established, as the record which has been read shows, some time ago. Recently, the reservation was extended very largely so as to take in an immense area of country. These parties went and settled not upon the old reservation, but upon the portion that was included within the new reservation, before they knew that the reservation had been made.

Mr. INGALLS. Did they settle on the reservation before or after it was legally established?

Mr. COCKRELL. Some of them settled before and some of them after it was legally established, but before they had knowledge of it.

Mr. INGALLS. Does the question of knowledge affect the question of right?

Mr. COCKRELL. Nobody else is claiming it. It is an immense prairie country. Persons have gone there and settled upon the land; they have built their little houses. The reservation was extended so as to embrace that portion of the country, but I suppose there will be no controversy at all in regard to it. As I understand, it has been the universal rule after persons have settled in good faith upon land in that way and it was not extraordinarily valuable or anything of that kind, when they settled innocently, to give them the priority of perfecting their title to it; and for that very reason priority is given to these parties as a matter of simple justice and right.

Mr. INGALLS. Is the reservation abandoned?

Mr. COCKRELL. The reservation is not abandoned. We only give up precisely what the Secretary of War says the Government has no use for and that portion which was covered by the extension of the reservation.

Mr. VAN WYCK. Let me say one word to the Senator from Kansas. As has been stated, the original reservation was largely extended and for the purpose of securing the timber, but in extending the lines of the reservation they took in, as has been stated by the Senator from Missouri, a very large extent of country, including the upland prairie, which was not required for any purpose by the Government.

The only object of the Government—and it was so proclaimed in the act and so publicly understood—was to draw a sufficient amount for timber purposes. Therefore it was reserved; but persons located upon this high level upland territory, to which they did not suppose at the time, neither did the general public suppose at the time, that the Government sought to attach any claim, as the Government was only seeking to extend a timber reservation.

Mr. INGALLS. I withdraw any objection I made to the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported from the Committee on Military Affairs.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to restore certain portions of the Fort Niobrara military reservation, in the State of Nebraska, to the public domain, and for other purposes."

C. D. DE FORD & CO.

Mr. VOORHEES rose.

The PRESIDING OFFICER. The Senator from Indiana moves that the Senate proceed to the consideration of executive business.

Mr. VOORHEES. Upon the suggestion of others about me I will withdraw that motion and move that the Senate adjourn.

Mr. GROOME. Will the Senator allow me to ask consent to take up a bill?

Mr. VOORHEES. Oh, of course; I never refuse anything.

Mr. GROOME. I ask the Senate to proceed to the consideration of the bill (S. No. 1513) for the relief of Orville Horwitz, trustee for C. D. De Ford & Co.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. COCKRELL. Let it be read for information.

The Acting Secretary read the bill.

Mr. INGALLS. Is there a report?

The PRESIDING OFFICER. There is a report.

Mr. INGALLS. Let the report be read.

Mr. HARRIS. I can perhaps state the points of the report in a manner that will save time and be satisfactory to the Senator.

Mr. INGALLS. The report had better be read. These matters are important as precedents.

Mr. HARRIS. Certainly the Senator shall have the privilege of hearing the report if he desires. The report contains all that I intended to say and more.

The Acting Secretary read the following report, submitted by Mr. HARRIS April 11:

The Committee on Finance, to whom was referred the bill (S. No. 1513) for the relief of Orville Horwitz, trustee for C. D. De Ford & Co., having considered the same, submit the following report:

When the act of July 20, 1868, was passed, George T. De Ford and William Y. De Ford were tobacco merchants in the city of Baltimore, Maryland, trading under the firm name of C. D. De Ford & Co., and had on hand at that time a large stock of manufactured tobacco and cigars, upon which all taxes imposed under the laws as they then existed had been fully paid.

But the ninety-fourth section of that act required that all tobacco and cigars manufactured prior to the passage of the act, and remaining unsold on the 1st day of April, 1869, should have tax-paid stamps affixed to the packages before being sold, or offered for sale, even though a tax had been paid on the same under the provisions of former laws.

On the 1st day of April, 1869, the said firm had on hand a large lot of cigars unsold, but upon which all taxes required by laws prior to the act of July 20, 1868, had been fully paid, and shortly after that date the said firm of C. D. De Ford & Co., in order to put a portion of these cigars on the market, under protest, purchased tax-paid stamps of the collector of internal revenue at Baltimore, amounting to $1,347.25.

Soon thereafter said firm conveyed its property and assets to the claimant, Orville Horwitz, in trust for the benefit of its creditors. When the said trustee took possession of the stock he found a large lot of cigars on hand upon which it is alleged that all taxes had been paid prior to the passage of the act of July 20, 1868; but in order to put them upon the market he was compelled to purchase from the collector tax-paid stamps to the amount of $3,306.50.

The committee referred the bill to the Secretary of the Treasury with the request that he give the committee such information on the subject as the records of the Department could furnish, with such suggestions as he might see fit to make.

In answer the Secretary forwarded to the committee the following statements from the Commissioner of Internal Revenue and the collector at Baltimore:

TREASURY DEPARTMENT, *April* 8, 1882.

SIR: In reply to your letter of the 21st ultimo, inclosing bill (S. No. 1513) for the relief of O. Horwitz, &c., and asking for information and suggestions in regard to the same, I have the honor to inclose herewith the letter of the Commissioner of Internal Revenue of the 6th instant, and accompanying papers, giving a history of the claim.

In addition to what is therein stated, I suggest that the bill should be amended so as to require proof that the tax had been previously paid on the cigars, by inserting in line 12 of the bill, after the words "upon which," the following words: "he or they shall prove to the satisfaction of said Commissioner that."

Very respectfully,

CHARLES J. FOLGER,
Secretary.

Hon. ISHAM G. HARRIS,
Of the Committee on Finance, United States Senate.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, April 6, 1882.

SIR: I have the honor to return herewith Senate bill 1513 "for the relief of Orville Horwitz, trustee for C. D. De Ford & Co.," and the letter of Hon. Isham G. Harris, of Subcommittee of Finance, of the 21st ultimo, to you, which you referred to this office on the 23d ultimo, for my opinion upon the merits of the bill, and such information as the files of this office furnish.

The bill provides that the Secretary of the Treasury be "directed to pay to Orville Horwitz, assignee in trust of William Y. De Ford and George T. De Ford, copartner, trading as C. D. De Ford & Co., the sum of $4,653.75, or so much thereof as the said trustee shall prove to the satisfaction of the Commissioner of Internal Revenue that he or the said firm have expended in the purchase of revenue-stamps used by him or them to stamp packages containing cigars upon which a tax had been previously paid under the revenue laws in force at the time of manufacture and sale, but which were made liable to be stamped under the act of July 20, 1868.

The tax on all cigars was required by that act to be paid by stamps. All cigars manufactured prior to the passage of the act, and remaining unsold on the 1st day of April, 1869, were required to have the tax-paid stamps affixed before being sold or offered for sale, although a tax may have been already paid on the same, under the provisions of former laws. (Sec. 94, 15 Stat., 164.)

Messrs. C. D. De Ford & Co. were dealers in tobacco and cigars, in Baltimore, and had on hand a large stock of cigars, upon which they allege the tax had been paid under the provisions of law existing prior to the passage of the act of July 20, 1868.

A large portion of their old and unstamped stock remained on hand April 1, 1869, and under the provisions of the new law they were obliged to purchase stamps and affix the same to the boxes containing said cigars.

The case appears similar to that of Messrs. Hibben & Co. and R. Loewenthal, of Chicago, for whose relief acts were passed in 1876, and also to that of James E. Montell, of Baltimore, respecting which I addressed you December 31, 1881.

A bill for relief has recently passed Congress in the similar case of Rosenfeld & Co.

A copy of a report relative to the case of C. D. De Ford & Co., from R. M. Proud, esq., collector third district Baltimore, Maryland, dated the 1st instant, is inclosed.

It seems just and equitable to give these parties the same relief that has been afforded others similarly situated.

I have the honor to be, very respectfully,

GREEN B. RAUM,
Commissioner.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury, Washington.

OFFICE COLLECTOR INTERNAL REVENUE,
THIRD DISTRICT MARYLAND,
Baltimore, April 1, 1882.

Respectfully returned to the honorable Commissioner of Internal Revenue, Washington, with the following information:

At the time of the passage of the act of July 20, 1868, imposing taxes on distilled spirits, tobacco, &c., Messrs. C. D. De Ford & Co. were dealers in tobacco and cigars in this city, and had on hand a large stock of cigars upon which the tax had been paid under the provisions of law existing prior to the passage of that act, which act changes the mode of collecting the tax on cigars, requiring the boxes containing them to have stamps affixed thereto denoting the tax-paid cigars, the tax on which had been paid under the provisions of former acts, were allowed to be sold unstamped until the 1st day of April, 1869, after which date, by the terms of section 94, all cigars of every description were to be taken to have been either manufactured or imported after the passage of said act, and should be stamped accordingly. Messrs. De Ford & Co. made monthly inventories as required by section 94, and on April 1, 1869, still had on hand a large portion of their old unstamped stock which they had been unable to dispose of, and upon which they were afterward obliged to pay the tax a second time by purchasing stamps to be affixed to the boxes under the provisions of the new law.

Mr. R. M. Smith, my immediate predecessor, was collector of this district at that time, and when making such purchases of stamps from him Messrs. De Ford & Co. were in the habit of making formal protests against the second payment required. A copy of one of those protests now on the files of this office and a copy of one of the monthly inventories of Messrs. De Ford & Co. are transmitted herewith, marked respectively A and B.

The members of the firm of C. D. De Ford & Co. stand high in this community as men of integrity and of strict honesty in their business dealings.

R. M. PROUD, *Collector.*

A.

[Charles D. De Ford & Co., manufacturers of leaf-tobacco and cigars.]

NO. 37 SOUTH GAY STREET,
Baltimore, December 30, 1869.

DEAR SIR: We hereby protest against the payment of $50 this day paid to you for stamps to be applied to packages containing cigars which have already paid the tax required by the laws of Congress imposing the same, believing as we do that the exaction of a second tax upon the same cigars is unconstitutional and in violation of every principle of right and justice.

We remain, very respectfully,

CHAS. D. DE FORD & CO.

ROBERT M. SMITH, Esq.,
Collector Internal Revenue, District of Maryland, Baltimore.

B.

[United States Internal Revenue.]

TOBACCO, SNUFF, OR CIGAR DEALER'S INVENTORY.

Inventory of manufactured tobacco, snuff, or cigars of all kinds held or owned by Charles D. De Ford & Co., at 37 South Gay street, in Baltimore, in the third collection district of Maryland, on the 1st day of December, 1868.

Description.	Pounds.
Chewing tobacco, fine-cut, plug, or twist	3,038
Smoking tobacco with portion of stems removed	2,065
Cigars.....thousands..	1,149,475

CHAS. D. DE FORD & CO.

I, George T. De Ford, do swear that the above is, to the best of my knowledge and belief, a complete and correct account of all the tobacco, snuff, snuff flour, and cigars held or owned by Chas. D. De Ford & Co. on the 1st day of December, 1868, and that I have taken all the means in my power to make this account complete and correct in each and every particular.

GEO. T. DE FORD.

Sworn and subscribed before me this 2d day of December, A. D. 1868.

J. E. LAMB, *A. A., Second Division.*

I hereby certify that I examined the several items herein stated, and found them correct.

J. E. LAMB, *A. A.*

December 1, 1868.

In view of the facts stated by the Commissioner and collector the committee recommend that the bill be amended as suggested by the Secretary of the Treasury, and that it pass.

Mr. INGALLS. I have no further objection to the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Finance with an amendment, in line 12, after the word "which," to insert "he or they shall prove to the satisfaction of said commissioner that;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Treasury of the United States be, and he is hereby, directed to pay to Orville Horwitz, assignee in trust of William Y. De Ford and George T. De Ford, copartners, trading as C. D. De Ford & Co., the sum of $4,653.75, or so much thereof as the said trustee shall prove to the satisfaction of the Commissioner of Internal Revenue that he or the said firm have expended in the purchase of revenue-stamps used by him or them to stamp packages containing cigars upon which he or they shall prove to the satisfaction of said Commissioner that a tax had been previously paid under the revenue laws in force at the time of manufacture and sale, but which were made liable to be stamped under the act of July 20, 1868.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RIO GRANDE RIVER BRIDGE.

Mr. COKE. I ask unanimous consent to call up the bill (S. No. 1620) to authorize the construction of a street-railway and wagon-road bridge over the Rio Grande River, between the city of El Paso,

Texas, and Paso del Norte, Mexico. It is a very short bill and will produce no discussion.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, at the end of section 1, to add "which charge shall be subject to revision and regulation by the Secretary of War from time to time;" so as to make the section read:

That the El Paso Street Railway Company, a corporation organized and created under and by virtue of the laws of the State of Texas, be, and is hereby, authorized and empowered to construct, own, maintain, and operate a street-railway bridge over the Rio Grande River between the city of El Paso, in the State of Texas, and the city of Paso del Norte, in the State of Chihuahua, Mexico, at such point as may be most convenient to said corporation to unite and connect the street railroad to be constructed by them in the said city of El Paso with any street railroad that may be constructed by any person or company in the said city of Paso del Norte, and to build and lay on and across said bridge ways for the passage of animals, foot passengers, and vehicles of all kinds, for the transit of which said corporation may charge a reasonable toll, which charge shall be subject to revision and regulation by the Secretary of War from time to time.

Mr. SAULSBURY. Is it not a very singular clause to provide that the Secretary of War shall be charged with the duty of revising the tolls imposed by a private corporation in the State of Texas? It seems to me that that is imposing upon the Secretary of War a novel duty, at any rate, and one that I apprehend does not pertain to his office as Secretary of War.

Mr. COKE. I would suggest to the Senator from Delaware that this bridge is to be built across a river which is a national boundary, and that the Texas company will co-operate with the Mexican company in building it. There should be some authority having the power to supervise the rates of toll and charges for crossing the bridge, and the committee thought that the Secretary of War would be as good as any other. It is a very common provision, I think.

Mr. VOORHEES. It is done in all such cases.

Mr. INGALLS. Will the Senator from Texas inform us if the river is navigable at the point where this bridge is proposed to cross?

Mr. COKE. The river is not navigable there.

Mr. INGALLS. Then what is the necessity of invoking the action of Congress on the subject?

Mr. COKE. The necessity exists because the river is a national boundary, and the Texas company which proposes to build this bridge will co-operate with a Mexican company, chartered under Mexican authority, on the other side of the river. It was supposed, as the river had been the subject of treaty between the Republic of Mexico and this country, that when it was crossed it would be better that the assent of the national Government should be had. Indeed it is one of the requirements of the charter granted to the Mexican company that this Government shall give its consent to the building of the bridge, so far as the Texas company is concerned.

Mr. INGALLS. It appears to me that the fact that one terminus of this bridge is on foreign soil would not render it necessary that consent should be given by the United States Government to build a bridge across the river unless it is navigable.

Mr. COKE. The river is not navigable at that point, but if the Senator will reflect for a moment he will see that as this is a boundary between the United States and Mexico——

Mr. INGALLS. Yes; but the fact that it is a boundary is no more than if it were an imaginary line run by surveyors.

Mr. COKE. The Senator will remember, however, that the center of the Rio Grande River is the boundary line between the Republics of the United States and Mexico, and that the treaty stipulations provide that there shall be no obstruction of the navigation of that river. While this point is above navigation it does not seem that any citizen or any company could assume, without the consent of Congress, that it is not navigable and build bridges that might obstruct the river if at any time it should turn out that it was navigable.

Mr. COCKRELL. It is a navigable stream, but the bridge is to be built at a point above what is now navigable.

Mr. COKE. It is really navigable, but it is navigable much lower down than this point. This point is above the head of present navigation.

Mr. INGALLS. It is several hundred miles above, I understand.

Mr. COKE. I suppose it is four hundred or five hundred miles above.

Mr. INGALLS. Then the terms of the bill are insensible, because it is stipulated that the span shall be so constructed as not to interfere with navigation. That is an absurdity. If there is no navigation why should the requirement be inserted that the bridge shall be so constructed as not to interfere with navigation?

Mr. COKE. It is not used now for any navigable purposes. It is not, in the general and usual practical sense, navigable, but I presume there are seasons of the year when there is water enough in the river there for navigation.

Mr. INGALLS. That would be true of Pennsylvania avenue. We have occasionally seen that enough under water to float boats.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

Mr. INGALLS. Let the amendment be reported again.

The amendment was read.

Mr. INGALLS. If the theory on which this bill is based is that it is an international structure, and that the assent of the Mexican Government is necessary to have it builded, how can we provide that the Secretary of War of the United States Government shall regulate the tolls over it?

Mr. BUTLER. He can regulate the tolls on this side of the river, certainly.

Mr. COKE. So far as the jurisdiction of this Government extends.

Mr. INGALLS. So far as our country goes; that is, to the middle of the stream?

Mr. COKE. So far as our country goes. The bridge is to be built by two companies, one organized under the laws of Texas and the other under the laws of Mexico, and the company cannot commence operations under the Mexican charter until the consent of the national Government of the United States is given.

Mr. BUTLER. We regulate the Indians sometimes on the other side of the international line.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, in section 2, line 4, before the word "water," to insert "high;" so as to read:

That said bridge may be built with unbroken and continuous spans, and of the following dimensions, to wit: Six hundred feet in length, twenty feet in width, ten feet in height above high-water level, and with twenty-eight spans, twelve of which to be thirty feet in length and sixteen of which to be fifteen feet in length; that said bridge when completed in the manner herein specified shall be deemed and taken to be a legal structure.

The amendment was agreed to.

The next amendment was, in section 2, line 18, after the word "bridge," to insert "or for any other reason;" so as to read:

That Congress reserves the right to withdraw the authority and power conferred by this act in case the free navigation of said river shall at any time be substantially or materially obstructed by said bridge, or for any other reason, and to direct the removal or necessary modifications thereof.

The amendment was agreed to.

The next amendment was, at the end of the bill, to add:

At the cost and expense of the owners of said bridge; and Congress may at any time alter, repeal, or amend this act: *And provided further*, That the consent of the Mexican State of Chihuahua and of the proper authorities of the Republic of Mexico shall have been obtained before said bridge shall be built or commenced.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CUSTOM-HOUSE LOT IN MEMPHIS.

Mr. HARRIS. I ask the Senate to proceed at this time to the consideration of the bill (S. No. 1703) to cede to the first taxing district of the State of Tennessee a certain lot of land situated in said State.

Mr. SHERMAN. I do not know anything about the bill, but I trust the Senator will let it go over so that we may adjourn.

Mr. HARRIS. If it takes any time I will consent that it may go over; but I do not think it will take five minutes, and, as a question of time, if the bill is to pass it is important that it should be passed at once.

Mr. SHERMAN. Very well; I will consent that it be proceeded with, reserving the right to make a motion to adjourn.

Mr. VOORHEES. I have a motion pending to adjourn. I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The bill will be read.

The Acting Secretary read the bill, and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, in line 11, after the word "successors," to insert:

And if the said trustees shall find that the said lot is not suitable for the purpose of a public-library building, then the same may be sold and conveyed by the said taxing district, and the proceeds of such sale reinvested in a lot suitable for such building, which shall be held in trust as aforesaid;

So as to make the bill read:

Be it enacted, &c., That the lot or parcel of ground situated on the southeast corner of Jefferson and Third streets in the city of Memphis, in the first taxing district of the State of Tennessee, now owned by the Government of the United States, and upon which it was formerly intended to erect a post-office, custom-house, and United States district and circuit court-rooms, be, and the same is hereby, ceded to the first taxing district of Tennessee, to be held in trust for the use of the board of trustees of said public library and their successors; and if the said trustees shall find that the said lot is not suitable for the purpose of a public-library building, then the same may be sold and conveyed by the said taxing district and the proceeds of such sale reinvested in a lot suitable for such building, which shall be held in trust as aforesaid; and if the said board of trustees shall fail to erect a suitable building for a public library upon said lot within three years from the passage of this act, then said lot shall be held in trust by said taxing district for the use and benefit of the public schools of said taxing district.

The amendment was agreed to.

Mr. INGALLS. I should like to hear some statement of the facts in regard to this bill.

Mr. HARRIS. I will state the facts in brief. A number of years ago a lot 148 feet square in the city of Memphis was purchased as the site for a custom-house, court-house, and post-office. The house was

not built, and I believe the original appropriation, after the purchase of the lot, lapsed. Some five or six years ago an appropriation was made for the purchase of a site and the construction of a building for a custom-house, court-house, and post-office in the city of Memphis. This lot, having been perhaps ten years previously purchased, was found wholly unsuited.

In the first place it was not sufficiently large; in the second place it was not sufficiently centrally located, the building up and population and business of the city having floated to the south and east. Therefore a new site had to be procured. In endeavoring to procure a new site it was found difficult to get one that could be obtained on what were thought to be fair and reasonable terms. The city of Memphis donated a lot three hundred and fifty feet square, in the very heart of the business of the city, a lot that I am quite satisfied I can safely say is worth twenty, perhaps fifty, times as much as the lot in question.

Mr. HOAR. Why is not the lot granted to the city of Memphis?

Mr. HARRIS. Because the name of the locality and people is changed, the act of incorporation having been repealed, and the same territory, or about the same territory, incorporated under the present name.

Mr. HOAR. Is there any city of Memphis now?

Mr. HARRIS. There is not.

Mr. ALLISON. What is it?

Mr. HARRIS. It is the first taxing district of the State of Tennessee.

The city having given to the Government this three hundred and fifty-feet lot, according to the representation of my late colleague in the House who had the management of the matter, with the understanding that it was to be exchanged for the smaller lot, this bill proceeds upon the idea that the Government ought to cede to that people this lot. The present necessity is that a large donation has been offered for the establishment of a public library, on condition that the taxing district will furnish a lot and build a suitable building, and we want to utilize this lot for that purpose.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The Committee on Finance proposed to amend the preamble by striking out the following clause:

> Whereas said last-mentioned lot owned by the United States is centrally located and admirably situated for the purpose of a public library.

The amendment was agreed to.

The preamble as amended was agreed to.

Mr. VOORHEES. I move that the Senate adjourn.

The motion was agreed to; and (at four o'clock and twenty-nine minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May* 5, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

ORDER OF BUSINESS.

Mr. DUNNELL. I ask unanimous consent of the House that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 2415) to fix the term of office of collectors of internal revenue, and that the same be considered in the House at this time. It is the unanimous report of the Committee on Ways and Means, and is recommended by the Commissioner of Internal Revenue.

Mr. KASSON. I am obliged——

Mr. DUNNELL. Hear the bill read.

Mr. KASSON. I am obliged, under the promise made, to object to any business being done at this time in order that we may finish the programme to-day in reference to the debate on the tariff-commission bill.

Mr. BURROWS, of Michigan. That is right.

Mr. KASSON. I therefore move to dispense with the morning hour.

Mr. ATKINS. I would inquire of the gentleman from Iowa [Mr. KASSON] if he expects to get a vote to-day on the tariff-commission bill?

Mr. KASSON. That depends upon the gentlemen who are to speak.

Mr. TOWNSHEND, of Illinois. How many are to speak?

Mr. KASSON. There are three who are to speak to-day.

Mr. TOWNSHEND, of Illinois. A number of gentlemen wish to know if there is to be a vote to-day.

Mr. KASSON. There may be a vote this afternoon on the amendments to the bill, if there is time enough. I wish to lose no time.

Mr. TOWNSHEND, of Illinois. I think it had better be understood whether there will be a vote to-day.

Mr. BURROWS, of Michigan. I call for the regular order.

Mr. RANDALL. The probabilities are that some amendments may be voted on in Committee of the Whole at four o'clock to-day. I understand that the gentleman from Iowa [Mr. KASSON] reserves his final hour for debate until the bill is reported to the House.

The SPEAKER. The question is upon the motion of the gentleman from Iowa to dispense with the morning hour for to-day.

The motion was agreed to.

Mr. TOWNSHEND, of Illinois. As it is very apparent that there will be no vote to-day, I think it had better be understood at the start.

Mr. REED. Oh, no; we do not want to waste any of to-day.

ILLINOIS AND MISSISSIPPI CANAL.

Mr. FARWELL, of Iowa, asked and obtained consent to have printed in the RECORD as a portion of the debates of the House some remarks which he had prepared on the bill (H. R. No. 2248) providing for the construction of the Illinois and Mississippi Canal. [See Appendix.]

ORDER OF BUSINESS.

Mr. KASSON. I now move that the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. ROBINSON, of Massachusetts in the chair.

TARIFF-COMMISSION.

The CHAIRMAN. The House is now in Committee of the Whole, and resumes the consideration of the bill (H. R. No. 2315) providing for the appointment of a commission to investigate the question of the tariff and internal-revenue laws. Upon this bill the gentleman from Pennsylvania [Mr. RANDALL] is entitled to the floor.

Mr. RANDALL. Mr. Chairman, it is my purpose in this debate to be as brief and practical in the expression of my views as possible, preferring, for obvious reasons, the postponement of all general discussion of details of necessary legislation until the revision of the present tariff shall be directly under consideration. It is a subject at all times, and in every country, full of difficulty and embarrassment, and yet it is as old as government itself, and has exhausted, as we know, the highest mental efforts of the most celebrated statesmen. Some few points have been settled and accepted generally, but they are not many. Hallam, the justly esteemed constitutional historian, in his "Europe During the Middle Ages," lays down this axiom, which our experience as a people justifies and which will not be disputed:

> It is difficult to name a limit beyond which taxes will not be borne without impatience when they appear to be called for by necessity and faithfully applied; nor is it impracticable for a skillful minister to deceive the people in both these respects. But the sting of taxation is wastefulness. What high-spirited man could see without indignation the earnings of his labor, yielded ungrudgingly to the public defense, become the spoil of parasites and peculators? It is this that mortifies the liberal hand of public spirit; and those statesmen who deem the security of government to depend not on laws and armies, but on the moral sympathies and prejudices of the people, will vigilantly guard against even the suspicion of prodigality.

It is equally true that excessive taxation, even when it is successful in securing excessive revenue, is ultimately destructive of the sources of labor from which it is drawn; while at the same time it engenders extravagance, corruption, and decay. For when the Government sets the example of extravagance, it is soon followed in every walk of life, and one does not need to be a prophet to foretell the general ruin which must inevitably result. Frugality and economy never destroyed any government, while they have built up the most powerful empires the world has ever witnessed.

So much for general statement. Revenue laws have been a subject of discussion, agitation, and anxiety from the earliest days of our political history. Indeed, Sabine, in his "Loyalists of the American Revolution," states positively his convictions after careful study of documentary history and state papers that they "teach nothing more clearly than this, namely, that almost every matter brought into discussion was practical, and in some form or other related to labor, to some branch of common industry." He states further on there were no less than twenty-nine laws which restricted and bound down colonial industry.

The manner of raising the necessary revenue for the support of the Government has been, as I have said, at all times in the United States the cause of irritation to the people. And we need not be surprised at this, when we consider the vast extent of our domain, and the almost endless diversity of productions of the soil, and of manufactures, and every branch of human industry.

The existing overflowing Treasury brings a demand for reduction of the tariff and internal-revenue taxes. In my opinion, in such a condition of our finances reduction of taxation should at once begin. Unnecessary taxation is injurious to the interests of the people in many directions. Government has no justification for the collection of burdensome taxes in excess of the sum requisite for the support of its proper administration. What have we seen in this Congress? The excess of our resources has induced the presentation of every conceivable scheme to deplete the Treasury, and our expenditures, unless checked in time, will reach enormous proportions and bring back again, as prior to 1874, a saturnalia of extravagance and disgrace.

In the matter of taxation we are acting under a written Constitution. "Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States." I need not enlarge upon our traditional history in this regard, and it will be accepted as true that only at periods of great necessity and urgency have excise or internal taxes been resorted to. Our present internal-revenue system grew up out of the necessities of the war, and when those necessities cease that taxation should disappear. When the framers of the Constitution granted the power to impose excise duties it was a point of serious dispute and was agreed to finally only as a resort in case the Government should be involved in war, and not to be exercised as a permanent mode of raising revenue.

I will not enlarge upon this; I believe it to be incontrovertible, however men may change sides because of other considerations affecting other questions; and I do not forget that Thomas Jefferson, the author of the Declaration of Independence and the founder of the Democratic party, brought about the repeal of internal or excise taxes as one of the very first acts of his administration as President of the United States.

I favor, therefore, as speedily as possible, a total abolition of our internal-revenue system, and I am ready to join hands with any and all in this House in favor of an equalization of our duties on imports. No one who understands the existing tariff laws will deny the justice and necessity of revision. The present duties were for the most part levied during war and for the purpose of raising a large war revenue. It will suffice in this connection to quote the Industrial League as unanswerable in this regard, as it is an admission on the part of those who favor the highest protective duties:

> They consider such revision desirable for the interests both of the industries affected and those of consumers, partly on account of some original imperfections in the present tariff, and partly on account of the modifications which are demanded by the changes which have occurred in conditions of production and commerce.

There should be, however, no vicious assault on these laws. Changes should have a firm foundation in reason, and especially should we avoid mere experimental and purely speculative efforts on this vital subject. Our excess of revenue now approaches in amount the annual receipts from internal or excise taxes. If proper economy be exercised in expenditures they can be made to be within the limits of our ordinary resources of taxation, enabling us without jar or friction to repeal internal-tax laws, which are inquisitorial and offensive in the highest degree. These taxes reach vexatiously every citizen in his business, in his household, and in the affairs of everyday life until they have become almost unendurable. There is no longer an excuse, in my opinion, for their continuance.

The objection to direct taxes is equally strong to internal taxes; and either or both are justified only by stern necessity. They are irritating and dangerous, and internal-revenue taxes entail upon us the keeping up, as at present, somewhere near five thousand officers engaged in their collection, distributed in every county of every State, tainting, as we know, the source of all power in this Republic, the elections of the people. Who favors direct tax? No one; and if the internal taxes were not now imposed by law, is there a man who would risk his political future by asking that the system should be put into operation? I sincerely believe that there is not a man.

I did hope when this Congress assembled that before the adjournment of this session a very large reduction of internal taxation would have resulted from our labors. The Committee on Ways and Means seemed to favor a reduction of $70,000,000, but the fiat of a Republican Congressional caucus overruled that good intent. Thus the majority of the Representatives in this House of one political party, and of a party representing a doubtful majority of the people even at the time of its election, regulates the current of remedial legislation, and in this instance on a subject which should be non-partisan. Thus the opportunity of relieving our tax-annoyed and tax-burdened constituents may be lost.

The reduction as now recommended by the Committee on Ways and Means reaches in great part those most able to pay, leaving the great body of consumers without relief. How long the latter will permit this state of things to continue will probably be determined at our next Congressional elections. With the repeal of internal or excise taxes will come a resort exclusively to duties on imports as the main supply of our resources, and I maintain if our expenditures be kept within just and reasonable bounds we can from this source derive adequate revenue for the administration of the Government in all its constitutional and legitimate functions.

The estimates for the fiscal year ending June 30, 1883, of the amount to be raised from duties on imports is $217,000,000, and from all other sources, leaving out internal taxes, $30,000,000; so that the total abolition of excise taxes would still leave to the Government in the neighborhood of $250,000,000.

It must be recollected, however, that while our current annual payment of interest on the public debt has been reduced to $61,000,000, (which will continue to decrease,) yet there will be a greater increase in liabilities on account of pensions. Taking the years ending June 30, 1877 and 1878, as a criterion, this amount of receipts would still, with prudence and frugality, leave a sufficient revenue. Let me recapitulate: the net ordinary expenditures for year ending June 30, 1877, $144,209,963.28; the net ordinary expenditures for year ending June 30, 1878, $134,463,452.15. In the latter year no appropriations were made for rivers and harbors. The amount of appropriations for these objects for the former year was about $5,000,000, so that a fair average of the net ordinary expenses based on these two years would be $142,000,000. Let us to this amount add on account of interest $61,000,000, and for sinking fund about $45,000,000 per annum, a sum which I deem sufficient in amount each year toward liquidation of the aggregate amount of the debt, and we have a gross sum of expenditure of $248,000,000.

There will equitably stand to the credit of the sinking fund for the year ending June 30, 1883, taking the bonds already called for payment up to July 1, 1882, $40,423,700. The sinking fund for the current fiscal year and arrearages for prior years were fully provided for by calls which matured March 13 last and prior to that date. The bonds in calls maturing from that date to June 30 next are not applied to the sinking fund, because it is full. While the bonds included in calls maturing from March 13 to June 30, being calls 108 to 112 and part of the one hundred and seventh, amounting to $40,423,700, are not applied to the sinking fund, yet as arrearages have been in the years past continued to be counted on book accounts there is no reason why the payment of our bonds in excess of the legal requirements of the sinking fund should not equitably be credited, thus protecting us against a deficiency in the event that the internal taxes are largely reduced or altogether abolished.

In my opinion $75,000,000 of payment on account of current pensions and arrears is as much each year as can be safely made with due protection against frauds. Until the arrears are all paid—say $45,000,000 per year in addition to appropriations of years 1877-'78—we might be required to continue the tax on whisky, say at 50 cents per gallon, or we could encroach upon and reduce our now excessive unemployed balance in the Treasury. Admitting there might be a moderate deficiency, we have—to meet such deficiency—now in the Treasury $136,000,000 above and beyond every claim on the Government dollar for dollar.

It is thus made plain that with economical expenditures and reduced appropriations for the year we are fully provided.

As I have already said, a heavy reduction or the abolition of internal taxes would compel immediate revision of our tariff laws. How that can be done with most expedition is the question which most directly concerns us.

I do not favor a tariff enacted upon the ground of protection simply for the sake of protection, because I doubt the existence of any constitutional warrant for any such construction or the grant of any such power. It would manifestly be in the nature of class legislation, and to such legislation, favoring one class at the expense of any other, I have always been opposed.

In my judgment this question of free trade will not arise practically in this country during our lives, if ever, so long as we continue to raise revenue by duties on imports, and therefore the discussion of that principle is an absolute waste of time. After our public debt is paid in full our expenditures can hardly be much below $200,000,000, and if this is levied in a business-like and intelligent manner it will afford adequate protection to every industrial interest in the United States. The assertion that the Constitution permits the levying of duties in favor of protection "for the sake of protection" is equally uncalled for and unnecessary. Both are alike delusory and not involved in any practical administrative policy. If brought to the test I believe neither would stand for a day. Protection for the sake of protection is prohibition pure and simple of importation, and if there be no importation there will be no duties collected, and consequently no revenue, leaving the necessary expenses of the Government to be collected by direct taxes—for internal taxes would interfere with the protective principle, and when the people were generally asked to bear the burden of heavy taxation to sustain class legislation and the interests of a portion of our people at the expense of the great bulk of our population there would be an emphatic and conclusive negative. So, too, with free trade, there is hardly a man in public life who advocates it pure and simple. Nobody wants direct taxation, although it would bring taxation so near and so constantly before the people that Congress would hesitate long before it voted the sums of money it now does, if not for improper, at least for questionable purposes.

Let me cull a few sentences from recent debates to show the feeling on this subject.

Ex-Governor Hendricks says:

> A horizontal tariff is impossible.

Senator JAMES B. BECK says:

> Nobody asks or expects this Congress to establish free trade, or tear down custom-houses. * * * In adjusting taxation on imports with a view only to obtain revenue or "for revenue only," we never thought of discriminating against American industries, or of depriving them of the incidental benefits or protection a proper revenue tariff would afford.

Senator BAYARD says:

> The power to tax by laying duties upon imposts may be so exercised as to do what it has done ever since the foundation of the Government, and that is to give an advantage equivalent to the amount of the tax to the American producer or manufacturer over his foreign competitors in the same line of production or manufacture, and this becomes his protection.

Senator WILLIAMS, of Kentucky, says:

> Nobody is for free trade just now.

Senator COKE, of Texas, says:

As an inevitable consequence domestic manufacturers and producers of the articles upon which such revenue impost duties are laid are to that extent protected against foreign competition.

Mr. CARLISLE, of Kentucky, in substance reiterates these sentiments. So they all say, with rare exception. The real question which is presented and in controversy is the revision of taxes, so we may hold the control of the markets of the world for the benefit of our excess of productions over the home consumption.

I favor what Mr. Jefferson declared to be "discriminating duties," what General Jackson described as "a judicious tariff," and what Silas Wright designated as "incidental protection." To accomplish these ends wisely and well requires the greatest circumspection and the exercise of the most careful judgment.

I favor a commission "to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff."

It will, in my judgment, bring about a revision, absolutely essential, at an earlier day than in any other way now feasible. If I did not sincerely entertain this conviction, no member on this floor would be more opposed to the pending proposition than myself. I believe that the arrangement of our system of tariff duties should not rest upon any partisan policy regulated by existing parties, but that, on the contrary, it should in a measure be divorced from politics, and not be a bone of periodical contention in and out of Congress. It should occupy the higher level and command the best efforts of statesmanship of every party. Menschikoff, one of the ablest as well as one of the most successful ministers of modern times, said: "Statesmanship is a practical knowledge of a State's resources."

A judicious and properly laid tariff is the measure of those resources. It should be framed so as to give stability to our business at home and our trade abroad. Unnecessary and causeless changes are injurious both to the revenues and to the industries and commerce of the people. Remedial measures to cure defects and equalize burdens and benefits are of the greatest advantage when promptly and properly enacted. It would be a blessing of incalculable value if we could so arrange our legislation as to readjust in the main duties on imports only once in every ten years, and then have them based upon the statistics and widest information of our census tables. In this way business men in every branch of production and commerce would know how safely and judiciously to conduct their transactions great and small.

We now really have only a choice between no action and this proposed commission. It was originally introduced into Congress by a Democrat. A bill for such a commission was passed during the last Congress by a Democratic Senate. It has again passed the Senate this year with the aid of Democratic votes. It was very generally approved upon the "stump," in my section at least, during the recent Presidential contest. More recently the Ohio Democracy affirmed in the following language the propriety of its adoption:

A tariff for revenue, levied and adjusted in its details with a view to equity in the public burdens and the encouragement of protective industries without creating monopolies; and we favor the appointment of a commission to suggest a method of revision which shall accomplish this result.

Let me quote from one whose views are accepted by those who claim reform in the direction of free trade, as they are set forth in the North American Review of December, 1881, in an elaborate article by Mr. David A. Wells. After discussing fully the subject of "Reform in Federal Taxation," he says:

What, then, is to be done? There is but one answer. There must, or ought to be, a compromise, on the basis of patriotism and common sense, of all antagonizing interests in furtherance of a reform which has become imperative; and such a compromise is practicable by all parties agreeing to urge upon Congress to do at its next session those things only in respect to which a majority of all parties may agree should be done. At first thought, such a proposition may seem absurd and impracticable, but a little reflection will soon convince to the contrary. In the first place, no one is likely to object to the appointment of a commission to investigate and report on the whole subject of Federal tax reform, although Congress, judging from all precedents, is not likely to be much influenced by any report or recommendations which such commission may make, unless public attention has, in the mean time, become largely interested in its work and recommendations.

The public attention to which Mr. Wells alludes has already been very fully called to this subject, and to an extent which he himself did not expect when he penned that article.

The Senate has shown at this session an indisposition to respond to any effort which might have been made in this House, for it has anticipated the House in the creation of a tariff commission by an overwhelming vote. It has been frequently charged in this debate that the object of this bill was delay. There is no justification, in my opinion, for such an assertion. Its inevitable tendency and effect must be in the nature of things to hasten a thorough and speedy final adjustment of all questions in dispute as to tariff amendment and reform. When the ground of action is uncertain and the elements of the problem are not fully known, or are vaguely and imperfectly understood, legislation is generally injurious. Indeed it may be said in such cases that when it escapes doing serious injustice to the industries of the people or to the revenues of the Government, it has the result always to be avoided by wise and prudent legislators, of irritation and excitement, disturbance of values, and oftentimes individual ruin.

Self-interest controls the world, however much men may turn fine periods and grow eloquent in swelling sentences about abstractions; and while men will suffer patiently and yield willingly to stern necessity, they will not submit quietly to what is causelessly and idly to their loss and annoyance.

When every element which can enter into tariff revision is known; when every interest, large and small, is scanned and measured; when proper objects of taxation are reached and adjusted in their proper relations; when those items are eliminated which only embarrass and produce confusion, then indeed tariff legislation is made easy and sure and of happiest consequences.

The charge that we are improperly parting with our constitutional functions in the passage of this bill is invalid and should have no influence upon our deliberations and action.

The duties delegated to the commission do not extend beyond the power of recommendation. Yet I hope and believe their review when presented will be of so broad, comprehensive, and catholic a character as to command as a basis of action in reform of taxation the approval of thinking men of all parties.

The fourth section of the bill provides that the commission shall make its final report of the results of its investigation and the testimony taken in the course of the same not later than the first Monday of December, 1882, and it shall cause the testimony taken to be printed from time to time and distributed to members of Congress by the Public Printer, and shall also cause to be printed for the use of Congress 2,000 copies of its final report, together with the testimony.

Can language be more explicit to prevent delay? It means tariff revision, intelligent and just, at the earliest practical moment. I trust that after the passage of this act—of which at present there seems but little doubt—authority will be given to the Committee on Ways and Means by this House to enable it to assemble about the 10th day of November next, and proceed immediately to formulate a bill based upon the testimony taken, and which they will have with all other members received from time to time. Then at the opening of the session in December that committee will be ready to report forthwith its measure of relief to the House for action before the Committee on Appropriations will require the time for general appropriation bills.

I have given notice of a purpose to offer an amendment providing that this commission shall be composed of two members of the Senate and three members of the House, with four civilian experts, the latter to be appointed by the President, by and with the advice and consent of the Senate. My purpose in favoring a mixed commission is that there may be upon the floor of each House some responsible sponsors for the report who will feel it incumbent upon them to see that it does not go for naught, but is supported and pushed to practical results.

Now, I might add that while I have no direct assurance of the fact, yet I am led to believe that the President will, in the composition of this commission, whether exclusively of civilians or only partially, select men who have given a life-time to the study of the history and philosophy of tariff taxation.

And now, Mr. Chairman, when the attempt is made to draw party lines on the subject of the tariff, I am strengthened in the conviction that in what I have said to-day I am sustained by the solemn and deliberate declarations of the Democratic party in national convention for more than forty years. It will be a fitting conclusion, therefore, to recall some of the words of wisdom of the statesmen of former times.

Seeing what the great men of the past have done, we may take heart and tread the path of triumph by emulating their worthy actions. I submit the expressions of the conventions alluded to, as far as they relate to revenues and expenditures. The first plank of the platform of the Democratic national convention which met in Baltimore May 5, 1840, is as follows:

Resolved, That it is the duty of every branch of Government to enforce and practice the most rigid economy in conducting our public affairs, and that no more revenue ought to be raised than is required to defray the necessary expenses of the Government.

The Democratic national convention which met at Baltimore, May 27, 1844, was to the same purpose.

The platform of the Democratic convention at Baltimore, May 22, 1848, contained the following declaration of Democratic faith:

Resolved, That it is the duty of every branch of the Government to enforce and practice the most rigid economy in conducting our public affairs; and that no more revenue ought to be raised than is required to defray the necessary expenses of the Government and for the gradual but certain extinction of the debt created by the prosecution of a just and necessary war, after peaceful relations shall have been restored.

The platform of the Democratic convention at Baltimore, June 1, 1852, contains the following words as to the revenues and expenditures:

Resolved, That it is the duty of every branch of the Government to enforce and practice the most rigid economy in conducting our public affairs; and that no more revenue ought to be raised than is required to defray the necessary expenses of the Government and for the gradual but certain extinction of the public debt.

The same resolution was adopted at Cincinnati, Ohio, June 2, 1856; at Charleston, South Carolina, April 23, 1860, and at Baltimore, June 18, 1860.

The Democratic convention of 1864, at Saint Louis, on August 29, passed no tariff resolution.

The Democratic platform of 1868, in New York City, has the following resolution:

And a tariff for revenue upon foreign imports and such equal taxation under the internal-revenue laws as will afford incidental protection to domestic manufactures, and as will, without impairing the revenue, impose the least burden upon and best promote and encourage the great industrial interests of the country.

The national Democratic convention of Baltimore, July 9, 1872, resolved as follows:

We demand a system of Federal taxation which shall not unnecessarily interfere with the industry of the people, and which shall provide the means necessary to pay the expenses of the Government, economically administered; the pensions, the interest on the public debt, and a moderate reduction annually of the principal thereof; and recognizing that there are in our midst honest but irreconcilable differences of opinion with regard to the respective systems of protection and free trade, we remit the discussion of the subject to the people of their Congressional districts and to the decision of the Congress thereon wholly free from Executive interference or dictation.

The Saint Louis convention of 1876 declared as follows:

Reform is necessary in the sum and mode of Federal taxation, to the end that capital may be set free from distrust and labor lightly burdened.

We denounce the present tariff levied upon nearly 4,000 articles as a monster piece of injustice, inequality, and false pretense. It yields a dwindling, not a yearly rising revenue; it has impoverished many industries to subsidize a few; it prohibits imports that might purchase the products of American labor; it has degraded American commerce from the first to an inferior rank on the high seas; it has cut down the sales of American manufacturers at home and abroad and depleted the returns of American agriculture and industry followed by half our people; it costs the people five times more than it produces to the Treasury, obstructs the processes of production, and wastes the fruits of labor; it promotes fraud, fosters smuggling, enriches dishonest officials, and bankrupts honest merchants. We demand that all custom-house taxation shall be only for revenue.

The platform of 1880 at Cincinnati declared "for revenue only."

These utterances of the Democratic party, assembled from all parts of the United States in national convention, teach their own lesson to the present generation and need no commentary at my hands. It will not do for any public man to narrow his mind on such a momentous question as that which affects not only the integrity of the Government, but brightens or darkens the home of every citizen just as we shall legislate. Speculative philosophers have contrived the most fascinating forms of government, but wherever they have been subjected to the touch-stone of practical operation they have gone most shamefully to pieces. It will not do for men to say, I have laid down this theoretical landmark and you must not go beyond it.

> There's a divinity that shapes our ends,
> Rough-hew them how we will.

If Canute had not moved his chair upon the sea-shore the incoming tide would have overwhelmed him and his weak advisers under the mighty waves of the sea.

We are no longer a few scattered, isolated colonies of three millions of people, hugging the coast from Massachusetts to Georgia. In 1880 we were a united nation of fifty millions of inhabitants, with industries of the greatest diversity, and grown to such size and power as to contest the markets of the world, and with a military prestige that has surprised and kept in awe the most warlike nations.

In the year 1903 we are told that, according to the ordinary rate of increase, we will have one hundred millions of people. Is there any human mind that can foresee all the possibilities of a free republic of such vast proportions, leading the coming century in wise legislation? Is there one so foolhardy who will stand up and say he knows all about it, and that the wondrous ways of God shall bend to his peremptory dictation? If there be, he can vote against this bill. [Great applause.]

Mr. RANDALL, upon concluding his speech, yielded to Mr. WHITTHORNE and Mr. CURTIN.

Mr. WHITTHORNE, Mr. CURTIN, and Mr. TUCKER severally addressed the committee. [See Appendix.]

[Before Mr. TUCKER concluded, the hammer fell.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KELLEY. I move that the gentleman's time be extended.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to fix any time?

Mr. KELLEY. No, I do not desire to fix a time. I move that it be extended not to exceed one hour.

The motion was agreed to.

Mr. TUCKER resumed and concluded his remarks.]

The committee rose informally, and the Speaker resumed the chair.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House, by Mr. PRUDEN, his Secretary; who also informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 1014) for the relief of Joseph L. Stevens;

An act (H. R. No. 1049) to promote the efficiency of the Life-Saving Service and to encourage the saving of life from shipwreck;

An act (H. R. No. 1712) for the relief of Chaplain M. J. Kelley and others;

An act (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes;

An act (H. R. No. 4680) to repeal the discriminating duties on goods produced east of the Cape of Good Hope;

An act (H. R. No. 5352) to amend the laws with reference to elections in West Virginia; and

An act (H. R. No. 5908) making an immediate appropriation for the removal of obstructions at Hell Gate, New York.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 124) for the relief of Hadley Hobson;

A bill (S. No. 263) to submit to the Court of Claims the petition of George W. Plant for damages done to the steamer Lady of the Lake by collision with the United States steamer Gettysburgh;

A bill (S. No. 595) for the relief of Louis A. Van Hoffman and William A. Mertens, under the firm name of L. Van Hoffman & Co., and William H. Newman;

A bill (S. No. 746) for the relief of B. B. Taylor;

A bill (S. No. 1128) to authorize the Secretary of State to allow for expenditures within named to James Rea, late consul at Belfast, Ireland;

A bill (S. No. 1472) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased; and

A bill (S. No. 1483) for the relief of Guy V. Henry.

TARIFF-COMMISSION.

The Committee of the Whole resumed its session.

Mr. KELLEY addressed the committee. [See Appendix.]

Mr. KASSON. I move that the committee rise.

Mr. TOWNSHEND, of Illinois. Before the committee rises, I desire to inquire of the gentleman from Iowa to what extent he proposes to admit amendments to be offered.

Mr. KASSON. I think that can best be settled in the House.

The motion of Mr. KASSON was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, Mr. ROBINSON, of Massachusetts, reported that the Committee of the Whole House on the state of the Union, having had under consideration the bill (H. R. No. 2315) providing for the appointment of a commission to investigate the question of the tariff and internal-revenue laws, had come to no resolution thereon.

Mr. KASSON. I move that the House again resolve itself into Committee of the Whole House on the state of the Union to consider the special order. Pending that motion I move that all debate upon the bill and amendments that may be offered be closed in one minute after going into Committee of the Whole.

Mr. RANDALL. Let us understand that motion. Of course it does not cut off amendments.

The SPEAKER. As the Chair understands, it has no relation to anything except closing the general debate.

Mr. KASSON. I go further. After conversation with gentlemen on both sides of the House I desire this motion to cover the entire debate, leaving gentlemen free to offer their amendments, so that we may at once proceed to vote.

The SPEAKER. The Chair did not so understand. The motion, as the gentleman now explains, is to close all debate in one minute.

Mr. TOWNSHEND, of Illinois. All general debate.

The SPEAKER. All debate, as the Chair now understands from the gentleman from Iowa.

Mr. RANDALL. I so understood the gentleman at first.

The SPEAKER. The Chair has corrected its statement of the motion of the gentleman.

Mr. RANDALL. I only want to say to the gentleman from Iowa that there ought to be a few minutes—say two, or three, or five—allowed for debate on each amendment *pro* and *con*. I make this suggestion with no purpose of delay whatever. It is only just to the subject-matter of the amendments.

Mr. KASSON. If that be the desire on that side, as it has been my purpose, and the gentleman is aware of my purpose, as we discussed this thing in advance——

Mr. RANDALL. There will be no effort for delay on this side.

Mr. KASSON. If that be the desire on the other side of the House, then I am ready to accommodate gentlemen by modifying my proposition so that there shall be on each substantive amendment, not including amendments to amendments or merely *pro forma* amendments, a debate limited to five minutes on either side.

Mr. SPRINGER. The rule provides for that.

The SPEAKER. The gentleman from Iowa moves that the House resolve itself into the Committee of the Whole on the state of the Union, and pending that motion moves that all debate on the bill and amendments which may be offered thereto may be limited to one minute, except that on substantive amendments there shall be five minutes on either side.

Mr. SPRINGER. I object. That is provided for in the rules now.

Mr. KASSON. The rules now provide that there may be debate on *pro forma* amendments, while my proposition is that there shall be only on substantive amendments five minutes on either side.

Mr. SPRINGER. The rule governs all but the closing of general debate, and the point I make is that there can be no amendment of the rules in that respect without unanimous consent.

The SPEAKER. The Chair thinks that under the rule at any

time prior to entering on the consideration of the bill under the five-minute rule the five minutes' debate cannot be limited unless by unanimous consent. All general debate can be closed as it is proposed by the gentleman from Iowa without unanimous consent.

Mr. KASSON. I want the five minutes' debate also to be closed by unanimous consent.

The SPEAKER. The gentleman from Illinois objects.

Mr. RANDALL. The rule will not permit us to cut off the five minutes' debate on amendments offered until we have entered on that five minutes' debate.

The SPEAKER. The Chair understands the rule in the same way.

Mr. SPRINGER. I object to any modification of the rule at this time.

The SPEAKER. The gentleman from Iowa moves that when the House resolves itself into the Committee of the Whole on the state of the Union all general debate shall be limited to one minute. That motion is in order and is the one now pending.

Mr. KASSON. I ask that all debate be limited to five minutes on each side of any substantive amendment, not including *pro forma* amendments.

The SPEAKER. The Chair will again put the question to the House. Is there objection?

Mr. SPRINGER. Yes; I object.

Mr. KASSON. I hope the gentleman will not insist on his objection, as that is only fair and meets the wishes of the other gentlemen of the Ways and Means Committee.

Mr. SPRINGER. There is no disposition to filibuster or delay action on this bill; but if we desire, when we have entered into five minutes' discussion, a longer time, we ought to have it, as the rules provide.

Mr. BLACKBURN. I call the attention of the gentleman from Illinois to the fact that the minority of the Committee on Ways and Means do not object to this or ask any further debate.

Mr. SPRINGER. But I have a right to object, and I do object.

Mr. BLACKBURN. No one questions the gentleman's right.

Mr. SPRINGER. I wish to offer amendments, and I wish to have the opportunity under the five-minute rule to debate them.

Mr. BLACKBURN. You have it under the arrangement proposed by the gentleman from Iowa.

Mr. SPRINGER. The rule provides for it.

Mr. KASSON. I wish to corroborate the statement of the gentleman from Kentucky, that my proposition is acceptable to all the members of the Committee on Ways and Means. The House must have observed I have tried in every way to accommodate myself to the wishes of our friends on the other side. I think the proposition I have submitted is a fair one and ought not to be objected to.

Mr. SPRINGER. The rules provide for five-minute debate, and that is all I ask for.

The SPEAKER. Does the gentleman object to the proposition?

Mr. SPRINGER. I do not object to a proposition that there shall be five minutes' debate on either side, as that is all I have asked for.

The SPEAKER. The proposition of the gentleman from Iowa is that debate under the five-minute rule shall be limited to five minutes on either side of a substantive amendment. Is there objection?

Mr. BLACKBURN. That is all we have asked for.

Mr. KASSON. The intention was to cut off debate on *pro forma* amendments.

The SPEAKER. The Chair hears no objection, and it is ordered accordingly.

Mr. KASSON. I now move the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. TURNER, of Kentucky. I object to the proposition of the gentleman from Iowa.

The SPEAKER. The gentleman's objection comes too late.

Mr. BROWNE. I desire to call attention to the fact that at half-past four o'clock there is to be a recess until half-past seven, by a special order of the House, the evening session to be devoted to the consideration of pension and other bills provided for in the order.

Mr. KASSON. Could not that order be waived for this afternoon by substituting another evening?

Mr. BROWNE. It is important that the order of the House shall be executed.

Mr. RANDALL. The gentleman from Iowa now has the bill in such situation that the recess will not interfere with it. It will come up for consideration hereafter, with the same privileges it now has.

The SPEAKER. Does the gentleman from Iowa insist upon the motion to go into Committee of the Whole on the state of the Union?

Mr. KASSON. I do insist upon it. I renew the motion.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. ROBINSON, of Massachusetts, in the chair.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union for the further consideration of the tariff-commission bill. By order of the House all general debate upon the bill is limited to one minute.

Mr. KASSON. Let the first section of the bill be read.

The Clerk read as follows:

Be it enacted, &c., That a commission is hereby created to be called the "tariff commission," to consist of nine members.

Mr. RANDALL. I offer the amendment I send to the desk.

The Clerk read as follows:

Add to the end of section 1 the following:

"Two of whom shall be members of the Senate, and be appointed by the President *pro tempore* of that body; three of whom shall be members of the House of Representatives, and be appointed by the Speaker of the House; and four of whom shall be from civil life, and be appointed by the President of the United States, by and with the advice and consent of the Senate."

Also, strike out lines 1, 2, and 3, and the first seven words in line 4 of section 2.

Mr. RANDALL. I will reserve the five minutes allowed for debate upon this amendment.

Mr. KASSON. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, Mr. ROBINSON, of Massachusetts, reported that the Committee of the Whole on the state of the Union, having had under further consideration the tariff-commission bill, had come to no resolution thereon.

Mr. KASSON. I move that when the House next resolves itself into Committee of the Whole on the state of the Union on the tariff-commission bill all debate upon the bill and pending amendments be limited to five minutes.

Mr. SPRINGER. I object to that.

The SPEAKER. The Chair understood that an arrangement had been arrived at which met the views of the gentleman from Iowa, that debate should be allowed on substantive amendments for five minutes on each side.

Mr. KASSON. I was under the impression that gentlemen on the other side desired to offer only the one amendment which is pending.

Mr. SPRINGER. No, there are other amendments to be offered.

Mr. KASSON. Then of course under the arrangement the debate would proceed in Committee of the Whole for five minutes for and against each substantive amendment which may properly be presented. Now, if gentlemen have other amendments they desire to offer, I would suggest that they be printed in the RECORD for information.

Mr. CARLISLE. I was about to suggest to the gentleman to allow all amendments to be printed in the RECORD.

Mr. KASSON. I hope that will be done for information. I do not want any misunderstanding in reference to these amendments. It is understood they are printed only for reference, not to be considered as pending amendments.

The SPEAKER. The Chair does not consider them as pending, but printed only for information.

Mr. McLANE submitted the following proposed amendment:

To recommit with instructions to report a bill for the repeal of all internal revenue taxation except the tax on spirits, fermented liquors, and tobacco, and for the reduction of the tax on whisky to fifty cents per gallon and for the reduction of the tax on fermented liquors and tobacco 10 per cent. per annum until the same shall cease absolutely, and that the President is hereby authorized and required to reduce the clerical force now employed in the collection of internal revenue to the extent which in his judgment can be effected without prejudice to the public interests, and with the further instruction to report a bill reducing all existing duties on imports to a maximum revenue standard.

Mr. SPRINGER. I give notice that at the proper time I will offer the following amendment to the tariff-commission bill, namely:

Amend the third section by adding thereto the following:

"The President shall appoint as members of said commission well recognized representatives of the various interests of the country as follows:

"Four commissioners to represent agricultural interests.

"One commissioner to represent the persons employed in the building and operating of railroads.

"One commissioner to represent the persons employed in the manufacture of iron and steel and of cotton and woolen goods.

"One commissioner to represent the manufacturers of such goods.

"One commissioner to represent the persons employed in other mechanical occupations.

"One commissioner to represent the manufacturers of agricultural implements, stoves, and the various kinds of machinery."

APPROPRIATION FOR FUEL, LIGHTS, ETC.

Mr. HISCOCK. I am instructed by the Committee on Appropriations to present the joint resolution which I send to the desk, and ask that the same be printed in the RECORD and also in the usual form, as I hope to call it up for consideration to-morrow morning.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

Joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, &c., for the fiscal year 1882, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to supply a deficiency in the appropriation for fuel, lights, water, and miscellaneous items required in the proper care of all the public buildings under control of the Treasury Department, the sum of $60,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the service of the fiscal year ending June 30, 1882.

For contingent expenses of the office of the Secretary of War, such as blank-books, stationery, labor, books, maps, gas, and miscellaneous items, $2,000.

For contingent expenses of the office of the Adjutant-General of the Army, such as fuel and gas, ice, office furniture, painting, glazing, and plumbing, and repairs for building numbered 1725 F street northwest, $500.

That the commissioners of the District of Columbia may apply the amounts appropriated for the payment of the salaries of teachers of public schools for the present fiscal year in conformity with the schedule of salaries recommended by the board of trustees of public schools, and approved by the commissioners, and under which the teachers for the present fiscal year were appointed and have received monthly payments from September to February last, inclusive.

The joint resolution was read a first and second time, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The Chair will state that the gentleman from Michigan, Mr. BURROWS, will preside at the evening session of to-day. The hour of half past four o'clock having now arrived, the Chair, in obedience to the previous order of the House, declares the House in recess until seven o'clock and thirty minutes p. m. to-day.

EVENING SESSION.

The recess having expired, the House (at seven o'clock and thirty minutes p. m.) reassembled, Mr. BURROWS, of Michigan, in the chair as Speaker *pro tempore*.

Mr. JOYCE. I move that the House take a further recess of ten minutes.

The motion was agreed to.

AFTER THE RECESS.

The House reassembled at seven o'clock and forty minutes p. m.

The SPEAKER *pro tempore*. The Clerk will read the order under which this session is held.

The Clerk read as follows:

Resolved, That until the further order of the House, on Friday of each week the House shall take a recess at 4.30 o'clock until 7.30 o'clock, at which evening sessions bills on the Private Calendar reported from the Committees on Invalid Pensions and Pensions only shall be considered. April 14, 1882, amended, on motion of Mr. JOYCE, so as to include the consideration of bills granting condemned cannon, not to interfere with bills above named: *Provided*, That general debate shall be in order at such sessions, not to interfere with said bills.

Mr. BROWNE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the Private Calendar, Mr. BRIGGS in the chair.

PRIVATE CALENDAR.

The CHAIRMAN. The House is now in Committee of the Whole House on the Private Calendar for the purpose of considering bills under the special assignment of business heretofore made by the House for this evening's session.

ORDER OF BUSINESS.

Mr. BROWNE. As there are some five or six invalid pension cases on the Calendar to which objections have been made heretofore, I ask that the committee by unanimous consent commence the consideration of causes at House bill No. 1442, at page 37 of the Calendar, the case of William Rickards.

Mr. BEACH. I ask the gentleman from Indiana to so modify his request as to permit taking up for immediate consideration the second bill on page 36. This bill was laid over the other night on objection from the gentleman from Indiana [Mr. HOLMAN] now absent, under a misapprehension. It will take no time. A bare statement of the facts will show it is a very meritorious bill, and I think it will require no argument or discussion.

Mr. BROWNE. I have no objection to that bill being taken up if such be the disposition of the committee.

Mr. JOYCE. There is one case on the Calendar previous to that, to which I would like to get the attention of the committee for about a minute. It is on the twenty-third page, the second bill from the top. I can state the facts connected with it in a moment.

Mr. BROWNE. In order to obviate the necessity of having a multitude of motions of this kind I withdraw my proposition.

Mr. McMILLIN. I hope the gentleman from Indiana will not do that, because there are cases on which there will certainly be controversy.

Mr. BROWNE. I withdraw the motion, with the distinct understanding that I will ask that cases likely to cause discussion be passed over when we reach them.

Mr. JOYCE. After I have made a very brief statement, if any member of the committee objects to the bill I have indicated I will let it go over.

ANDREW J. MORRISON.

The CHAIRMAN. The Clerk will read the title of the first pension bill on the Calendar.

The Clerk read as follows:

A bill (H. R. No. 2142) granting arrearages of pension to Andrew J. Morrison. Adverse.

Mr. JOYCE. This bill provides as follows:

That the pension authorized for Andrew J. Morrison by the act of Congress approved February 7, 1879, shall commence from the date of the disability for which the same was authorized, in the same manner as if said pension had been allowed and authorized by the general laws regulating pensions.

I will not stop to read the report which I hold in my hand, but will merely state that Colonel Morrison enlisted in the Army, went into the service, and served until the spring of 1862, when the time of the command to which he belonged expired. He was then on the Peninsula with the Army of the Potomac. I think it was about the 1st of May that his time expired.

Rather than leave the service and go home Colonel Morrison continued in the service. Without being mustered in or without a commission he was a volunteer aid upon the staff of General Palmer, and served in the Peninsula campaign until the 25th of June, when he was severely wounded. He continued to serve with General Palmer in that campaign from that time down to September 16, 1862, when he was ordered by the War Department home to recruit a regiment, and he did go home and recruited a regiment of cavalry.

In 1879 Congress by a special act granted Colonel Morrison a pension, which of course dated from February 7, 1879, the date of the passage of the act. This bill is brought to grant him the same pension from June 25, 1862, the day he was wounded, down to the time that that law gave him a pension. It gives him the same pension he would be entitled to if he had been a regularly-enlisted man.

That is all there is of this case. Colonel Morrison would not go home when his time expired, but remained there with us upon the Peninsula, and fought through that campaign down to the 16th of September, 1862, the day of the battle of Antietam, or within a day of that battle, and then he was ordered home to recruit the regiment I have spoken of.

This bill is nothing but an act of justice to that gallant officer. I know Colonel Morrison, and have known him for years; and I not only know him as a gentleman, but I know he was a brave soldier. And in view of the fact that he remained with that command during that time without being mustered in, and not only that, but furnished his own horse and his own equipments during that time, I say this is nothing but an act of justice. If I remember aright, Mr. Chairman, the Committee on Invalid Pensions would have granted this officer the pension that he asked for had it not been for the fact that a rule had been established to grant arrearages of pension.

Mr. MATSON. Did he serve without pay?

Mr. JOYCE. He served without pay during the time I have spoken of, from the early part of May, 1862, down to the 16th of September. I do not think any gentleman on the committee will have any objection to granting Colonel Morrison this pension, which it seems to me he is most justly entitled to.

Mr. VAN VOORHIS. Is it a bill to grant arrears?

Mr. JOYCE. It is in the nature of arrears not to the present time but only to 1879.

Mr. BROWNE. I do not doubt the gallantry of Colonel Morrison. But to grant this pension will be against the report of the committee of which I have the honor to be chairman, and I must support the action of the committee and object to the consideration of this bill, unless it can be done by a quorum of the House.

The CHAIRMAN. If there is no objection, the bill will be passed over informally. Is that satisfactory to the gentleman from Vermont?

Mr. JOYCE. No, it is not satisfactory to me, because I think the bill ought to pass.

Mr. BRIGGS. Does the gentleman from Vermont desire a vote upon the bill?

Mr. JOYCE. Not at all; that would be useless. There are only about a dozen members in the House.

The bill was then passed over informally.

ORDER OF BUSINESS.

The next pension bill on the Calendar was the bill (H. R. No. 1218) for the relief of the widows of John R. Gale, Spencer D. Gray, Lemuel Griggs, Malachi J. Brumsey, I. Munden, Lewis White, and George W. Wilson, of North Carolina.

Mr. BROWNE. This is one of the cases that I must ask to be passed over informally.

Mr. LATHAM. There has already been passed by both Houses of Congress a bill for the benefit of persons of the Life-Saving Service, and it only requires the signature of the President to become a law.

In view of the fact that this bill proposes to give these persons much less than is contemplated to be given to persons in the Life-Saving Service in the future, surely there can be now no objection to its passage. The bill already passed both Houses does not cover the cases of these particular persons. That bill proposes to give in the future to persons disabled in the Life-Saving Service one year's full pay, and in some cases two years' pay. This bill proposes merely to give to these persons a pension equal to that given to seamen in the Navy, $8 a month. I would like very much to have this bill passed to-night if possible.

Mr. BROWNE. I will state to my friend from North Carolina [Mr. LATHAM] that I am personally in favor of this bill, and the Committee on Invalid Pensions reported favorably upon it. But it is useless to call it up to-night; it cannot be passed under the circumstances, and will simply interrupt and delay the other business of the evening. I hope, therefore, there will be no objection to its being passed over informally.

The bill was accordingly passed over informally.

The next pension business on the Calendar was the bill (H. R. No. 1976) granting a pension to the minor children of Aaron Sheridan, deceased.

The CHAIRMAN. That is one of the bills which was passed over informally the other evening, and the Chair supposes that it will take the same course this evening.

There was no objection, and the bill was passed over informally.

The next pension business on the Calendar was the bill (H. R. No. 1736) granting a pension to Horace S. Spear.

Mr. MATSON. For the purpose of getting this bill off the Calendar, and I think, perhaps, with the full consent of the gentleman

from Vermont [Mr. JOYCE] who reported it, I will move to strike out the enacting clause.

Mr. JOYCE. What bill is that?

Mr. MATSON. The Spear case.

Mr. JOYCE. I wish the committee would pass that over informally.

Mr. MATSON. Very well; I will withdraw my motion.

The bill was accordingly passed over informally.

The next pension business on the Calendar was the bill (H. R. No. 2328) granting a pension to Joseph R. Benjamin; reported unfavorably from the Committee of the Whole and recommitted to the committee.

Mr. BROWNE. I will move to pass over informally all the pension bills down to House bill No. 1147, on page 36 of the Calendar, granting a pension to Elizabeth Vernor Henry.

There was no objection.

ELIZABETH VERNOR HENRY.

The next bill considered by the Committee of the Whole was the bill (H. R. No. 1147) granting a pension to Elizabeth Vernor Henry, which had been amended at the former session of the Committee of the Whole to read as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Vernor Henry, orphan sister of the late Commander Edmund W. Henry, of the United States Navy, and to pay her a pension of $25 a month.

The CHAIRMAN. This bill at the last evening session for pension bills was amended so as to read as the Clerk has now read the bill. The question is upon laying the bill aside to be reported favorably to the House.

Mr. BEACH. I will state in regard to this bill that under existing law the sister of a deceased officer is not entitled to a pension. If she was there would have been no occasion for this bill.

This aged lady now appeals to Congress for relief under peculiar circumstances. Her brother, Commander Edmund Wilkes Henry, served for thirty years in the Navy and died from diseases contracted in the service. I have in my hand from the files of the Navy Department his naval history, beginning with his appointment as a midshipman in 1842, showing his various promotions up to the rank of commander and ending with his death in 1873. He was a gallant officer and performed distinguished services during the late war.

When he died he left neither father, mother, widow, nor children. His only relative was this sister, unmarried and an orphan, who had been supported by him during his lifetime. Now that he is dead she appeals to Congress for this pension, inasmuch as she is far advanced in years and in a very dependent condition.

Mr. PRESCOTT. How old is she?

Mr. BEACH. Fifty-five years of age. The bill was reported favorably by the committee of the Forty-sixth Congress, and it has also been reported favorably in this Congress by a unanimous committee. I think the House will agree with the committee in the opinion that in view of the valuable services rendered by the brother of this petitioner, and the fact that he left no immediate relative save her, this is a proper case for a gratuity pension.

Mr. BROWNE. I presume there is no objection to this case.

The bill was laid aside to be reported favorably to the House.

ORDER OF BUSINESS.

Mr. BROWNE. If the Committee of the Whole will indulge me again, I ask unanimous consent that we pass in the Calendar to House bill No. 1442, on page 37, the intervening bills having been reported adversely.

There being no objection, it was ordered accordingly.

WILLIAM RICKARDS.

The next pension business on the Calendar was the bill (H. R. No. 1442) for the relief of William Rickards.

The bill was read, as follows:

Be it enacted, &c. That the Secretary of the Interior be, and he is hereby, authorized and directed to liquidate and pay to William Rickards, jr., late colonel of the Twenty-ninth Pennsylvania Volunteers, out of any money in the Treasury not otherwise appropriated, such sum as shall be found to have been withheld from him by reason of a reduction of his pension from 1866 to 1871.

The report is as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 1442) for the relief of William Rickards, has had the same under consideration, and begs leave to submit the following report:

The pensioner was allowed total in rank $30 per month from date of discharge November 2, 1864, for severe gunshot wound of left breast. Under the biennial examination of 1865, the rate was reduced to three-fourths of total, $22.50. Dissatisfied with that rate he applied for increase December 10, 1870. It was evident from the medical examination under the claim of increase that the disability was total, and $30 were allowed from the date of the examination, February 11, 1871. This action was proper under the law. That the disability has been permanent in a total degree ever since discharge cannot be doubted. The reduction made by a surgeon inexperienced in the rating of disabilities, and the inability of the Pension-Office to correct the error except through an application for increase, has deprived the pensioner of a part of his pension to which he was justly entitled because of the severe nature of the wound.

The committee is clearly of the opinion that injustice has been done in the case, and therefore reports favorable on the bill, and recommends that it do pass.

The bill was laid aside to be reported favorably to the House.

ALBERT O. MILLER.

The next pension business on the Calendar was the bill (H. R. No. 1543) granting a pension to Albert O. Miller.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Albert O. Miller, late a seaman on board the United States steamship Bienville, and pay him a pension at the rate of $50 per month from and after the passage of this act.

The amendment recommended by the committee, to strike out at the end of the bill the words "and pay him a pension at the rate of $50 per month from and after the passage of this act," was agreed to.

Mr. McMILLIN. Let the report be read.

The report was read, as follows:

The committee have duly considered House bill No. 1543, and report that they find the facts as set forth in report made in this case in the Forty-sixth Congress, as follows:

"That Albert O. Miller enlisted as a seaman in the United States Navy on the 23d day of September, 1864; that on the 15th day of January, 1865, while in such service and in line of duty, he participated in the capture of Fort Fisher; that after the capture of the fort the boats from which he and others had disembarked were found beached and partly filled with sand and water; that an attempt was made to bail the boats and prepare them for use, in which said Miller became drenched with the surf, and that he remained on the beach all night thoroughly wet by the exposure; that in consequence he suffered a severe attack of neuralgia and rheumatism, and that he has since suffered continuously from such rheumatism so contracted up to the present time; that his physical condition is now such by reason of said disease that he requires the regular aid and assistance of some other person, on account of total physical disability; that said Albert O. Miller was honorably discharged from the Naval service of the United States; that he has made due and regular application for a pension (Naval claim No. 3286), and has fully established his right to a pension of the amount named in the bill, save that he has failed to establish the facts of the time, place, and circumstances under which he contracted his said disability; that on account of such failure his application has been rejected by the Interior Department; that such failure has been by reason of the inability of said Miller to ascertain the whereabouts of his mates, the seamen who were present and had actual knowledge of said facts, and such failure has been notwithstanding diligent efforts on the part of said Miller to ascertain the whereabouts of such persons."

The committee, believing the case to be meritorious, recommend the passage of the accompanying bill as amended.

The bill as amended was laid aside to be reported favorably to the House.

THOMAS W. ROTHROCK.

The next business on the Calendar was the bill (H. R. No. 1451) granting a pension to Thomas W. Rothrock.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas W. Rothrock, late of Company G, Eighth Regiment Pennsylvania Volunteer Cavalry, on account of disabilities incurred while in the service and in line of duty; said pension to commence the 27th day of January, 1863, that being the date of his final discharge from the United States Army.

The report is as follows:

That the committee have duly considered the bill (H. R. No. 1451) and find the facts as stated in a report made in the Forty-sixth Congress by the Committee on Invalid Pensions, which is as follows:

"We find from an examination of the petition and of papers on file in the original claim at the Pension Office that the petitioner was a bugler of Company G, Eighty-first Pennsylvania Cavalry; that he enlisted September 3, 1861, and was discharged January 27, 1863; that he filed his application for pension May 7, 1870, and that the case was finally rejected by the Pension Office December 27, 1879.

"The petitioner, in his declaration of pension, alleges a rupture on the right side, received the latter part of September, 1862, by being thrown on the pommel of his saddle on the march to Snicker's Gap, Virginia.

"The testimony presented in the case shows, by his family physician, that the petitioner was free from hernia at the time of his enlistment. The evidence of two comrades is, that while in the line of duty and on the march aforesaid, the petitioner was ruptured; that they had personal knowledge of the injury; saw it occur while the petitioner was jumping his horse over a ditch; that they helped him off his horse and found the disability. Another comrade testifies to the same facts, and further that he took charge of the petitioner's horse and led him to the captain's quarters. The captain of the company testifies that about the time the petitioner alleges he received the injury he was reported to him as having been injured, and that he was unable to ride his horse; that he ordered him sent to hospital; that at the time the petitioner entered the service and up to the time he was disabled he was apparently sound and certainly free from hernia. The captain further states that he firmly believes the disability was contracted in the service.

"The petitioner also swears that he received no treatment while in the Army, nor did any surgeon examine his rupture.

"His family physician states that upon his return home he found him laboring with an irreducible hernia. Two neighbors and associates state that they knew the petitioner from his boyhood up; that they were members of a brass band with him; bathed with him, dressing and undressing in each other's presence; that they know positively that up to the time he enlisted the petitioner was free from hernia or any other disability.

"The records of the Adjutant-General's Office show by the rolls for September and October, 1862, that the petitioner was on duty service at camp near Knoxville, Maryland; November and December, 1862, and January and February, 1863, he was sick in hospital at Washington. He was discharged for disability January 27, 1863. It further states: 'Upon re-examination this man is reported on the monthly roll of Company G as absent in hospital; place and date cannot be determined. Company return for August, 1862, does not show him absent. Company morning reports from August to December, 1862, furnish no information.'

"The certificate of disability gives as the ground of his discharge 'total loss of teeth, preventing him from blowing his bugle.'

"Two boards of the examining surgeons of the Pension Office, one at Philadelphia and one at this city, find the petitioner ruptured with hernia, the last-named board rating him at $8 per month. The ground of rejection by the Pension Office is that the records do not show him present with his company at the time he alleges he was disabled. The records do show him on detached duty at camp within twenty-five or thirty miles of the place where he alleges he received the injury. As the company rolls cover a period of two months at the time, and as the petitioner's company was ordered out on a quick march, it is fair to presume that his services

as bugler being needed, he joined his company and was present, as he alleges, at Snickersville, Virginia, notwithstanding the fact that the record does not show it.

"Your committee is impressed with this idea, in view of the fact that three comrades, whose veracity is unquestioned and whose presence is verified, swear positively that he was present as alleged and that he was injured as alleged. We are of the belief that the discrepancy existing between the records and the sworn testimony of three comrades and a commissioned officer should not militate against the petitioner's right to a pension. From the evidence before us we are satisfied that he is a worthy subject and entitled to the benefits of the provisions of the pension laws, notwithstanding the technical objection of the Pension Office."

We therefore report favorably upon his claim, and recommend the passage of the accompanying bill, "granting a pension to Thomas U. Rothrock" as amended.

The amendment reported by the committee, to strike out at the end of the bill all after the words "in line of duty," was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

ELIZABETH S. SEELEY.

The next pension business on the Calendar was the bill (H. R. No. 450) for the relief of Elizabeth S. Seeley.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Elizabeth S. Seeley, widow of Sherman M. Seeley, late a captain in the Twenty-seventh Regiment of New York Volunteers, upon the pension-roll of the United States, and to pay her a pension at the rate of $17 per month, commencing from the —— day of ——, 18—.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 450) for the relief of Elizabeth S. Seeley, have had the same under consideration, and beg leave to submit the following report:

It is satisfactorily established by the papers on file that the petitioner is the widow of Sherman M. Seeley, who enlisted as a private in the Sturgis Rifles June 15, 1861, and served with that command until May 21, 1862, when he was transferred to the Twenty-seventh New York Volunteers, in which he was commissioned as a first lieutenant. During the engagement at Crampton's Gap, South Mountain, Maryland, he was wounded in the right thigh, and on this account received a leave of absence for twenty days, which was afterward extended to sixty days, at the end of which he returned to his command in a feeble condition and requiring the use of a cane and crutch. Medical evidence of the officer's condition during his absence from his regiment shows the wound to have been a serious one, the ball having traversed the tissues of the thigh for upward of five inches, and that numerous abscesses formed in the neighborhood of the injured parts, which required repeated surgical interference. The officer's general health suffered in consequence, and the attending physicians testify that he suffered from blood-poisoning.

After his returning to his command his condition gradually improved, although he had not fully recovered his health when he took part in the siege of Fredericksburgh, where he suffered much from fatigue and exposure, and was in consequence prostrated by an attack of pneumonia, which disabled him for many weeks, and from which the evidence is conclusive that he never recovered.

It is in evidence that Seeley was a faithful soldier and officer, and that his widow, who devoted herself faithfully to him until his death, is in destitute circumstances.

J. P. Taylor, of Labette County, Kansas, testifies that he knew Captain Sherman M. Seeley well, and was his comrade, and that before receiving his wound he was a sound and robust man; that he took good care of himself as a soldier, and was temperate and prudent in his habits. That he last saw said officer at the Brainard House, Elmira, New York, (immediately after he had been discharged from the Army.) He was then very low and unable to speak in his usual voice.

Dr. J. H. Page, acting assistant surgeon, says: "In my opinion Captain Seeley's health was greatly impaired by long-continued and exhausting discharge from his wounds, complicated with pyemia and abscesses."

Dr. John M. Johnson, of Atlanta, Georgia, the attending physician at the time of his death, testifies that Seeley's health had been previously impaired and his constitution broken down.

It seems well proved that Seeley was sound and vigorous when he enlisted, and after his promotion to a first lieutenancy, and in fact until he was wounded. That he had only partially recovered from the effects of the wound when he was attacked with pneumonia, and that from the latter he never fully recovered. He sought health by changing his residence to Chicago, to Kansas, and finally to Atlanta, where in 1873 he succumbed to an acute attack of fever, which was in all human probability fatal only because it found him in a condition of debility caused by his chronic ailments, to which he would have succumbed a little later.

The claim has been rejected in the Pension Office on the ground that the acute disease was not contracted in the service. Your committee, however, believe that it is reasonably certain that his death was due to acute disease attacking a man already nearly at death's door because of disease contracted in the service, and in the line of duty, and therefore beg leave to report the bill back favorably with the recommendation that it do pass, so amended as to provide that Elizabeth S. Seeley receive a pension at the rate of $17 per month from and after the passage of this bill.

The amendment recommended by the committee, to strike out, at the end of the bill, the words "from the —— day of ——, 18—," and insert, "from and after the passage of this act," was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

LOUISA BAINBRIDGE HOFF.

The next business on the Calendar was the bill (S. No. 526) for the relief of Louisa Bainbridge Hoff.

The bill was read, as follows:

Be it enacted, &c., That from and after the passage of this act there be paid, out of the Navy pension fund, to Mrs. Louisa Bainbridge Hoff, widow of the late Rear-Admiral Henry K. Hoff, United States Navy, the sum of $50 per month during her widowhood, the same to be in lieu of her present pension.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. No. 526) for the relief of Louisa Bainbridge Hoff, have considered the same, and make the following report:

The Senate at this session reported this bill favorably, and we adopt that report, which is as follows:

"The Committee on Pensions, to whom was referred a bill for the relief of Louisa Bainbridge Hoff, having examined the same, report:

"That both the Senate and House Committee on Pensions have heretofore made favorable reports upon this case, and the bill increasing Mrs. Hoff's pension to $50 per month has once passed the Senate. The last favorable report by the Senate committee was made to the second session of the Forty-sixth Congress. Your committee concur with the former action of the committee and Senate, and adopt the last report made to the Senate, as follows:

"'That Commodore Henry Kuhn Hoff served for many years in the United States Navy with great distinction, and died of disease contracted in the service and in the line of duty, in the year 1878, he holding at that time the rank of commodore.

"'The bill grants a pension to his widow at the rate of $50 per month, instead of $30, the rate now allowed by law.

"'In consideration of the great length of time during which Commodore Hoff served his country, and of the distinguished character of his services, the committee recommend the passage of the bill.'

"This bill has been favorably reported and was passed by the Senate, and favorably reported by the House committee at the last session of Congress, but was not reached in the call of the Calendar before adjournment."

The bill was laid aside to be reported favorably to the House.

JUSTUS BEEBE.

The next pension business on the Calendar was the bill (H. R. No. 800) granting a pension to Justus Beebe.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Justus Beebe, late of Company G, Eighth Michigan Volunteer Infantry.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 800) granting a pension to Justus Beebe, have had the same under consideration, and report:

This case was favorably reported by this committee at the last Congress; that report is fully sustained by the evidence, and is as follows:

"The evidence in this case shows that Sergeant Justus Beebe enlisted in the service of the United States at Flint, Michigan, in Company G, Eighth Regiment Michigan Volunteers, to serve three years or during the war, and was discharged August 18, 1862, for disability. The certificate of discharge gives hernia as cause of disability, and that said Beebe was ruptured at time of enlistment.

"On this statement the claim was disallowed. But there is no other evidence to support the statement of the surgeon who made this certificate for discharge, showing that claimant was ruptured at time of enlistment, but, on the contrary, Dr. Samuel Lathrop testifies that he has known Justus Beebe for the last past twenty-five years, and has been the family physician of Justus Beebe's father's family for that period of time; that he treated Justus Beebe prior to enlistment in the United States service for inflammation of the bladder, and that he is positive he had no hernia, for the reason that he made an examination at that time. Dr. Lathrop further states that immediately after his (Beebe's) return from the Army he knows he was suffering with hernia that opens into scrotum, and has been ever since his discharge.

"The evidence further shows that claimant alleges scrotal hernia of left side, caused by a fall down stairs while on ship Vanderbilt, going from Annapolis, Maryland, to Hilton Head, with his command, about December 15, 1861, and was in line of duty when the accident occurred. His statement is corroborated by two comrades, William Christian and Sylvester W. Eccleston, who were with him at the time. Christian testifies that he detailed Sergeant Beebe to take command of the guard on that day, and that after his fall he was so injured that he had to relieve him from duty, and that after that time, while in the service, he was not able to do duty in the ranks, but had to be detailed on light duty.

"Dr. Hulbert B. Shank, surgeon of the Eighth Michigan Regiment Infantry Volunteers, testifies that some time in the winter of 1862, while the said regiment was quartered at Beaufort, South Carolina, the said Justus Beebe applied to the deponent for medical treatment, and upon making examination found that he was suffering from incipient inguinal hernia, and adjusted a truss for such trouble and excused him from duty on account thereof.

"Your committee are of opinion from the foregoing evidence that the disability did originate in the service, and therefore recommend the passage of the accompanying bill."

The bill was laid aside to be reported favorably to the House.

MERRITT LEWIS.

The next pension business on the Calendar was the bill (H. R. No. 801) to increase the pension of Merritt Lewis.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Merritt Lewis, late a private in Company K, Seventh Regiment Michigan Volunteer Infantry, and that he receive a pension at the rate of $50 per month.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 801) to increase the pension of Merritt Lewis, having had the same under consideration, make the following report:

This claimant was a member of Company K, Seventh Regiment of Michigan Volunteer Cavalry. At the battle of Gettysburgh he received a wound which resulted in the amputation of his right leg above the knee, and while in Camden Street Hospital, Baltimore, he was attacked by scarlet fever, causing total deafness. He receives a pension of $24 per month for the loss of his leg. The Pension Office has decided that under the law the above sum is all that can be given him. The present Commissioner says this case is one that should have special relief at the hands of Congress. If Lewis had lost his leg at the hip-joint he would be entitled to a pension of $37.50 per month, or if he required the assistance of another person he would receive $50 per month. We think his disability is quite equal to the loss of a leg by amputation at the hip-joint. We recommend the passage of the bill, with amendments, as follows:

Amend, in the sixth line, by striking out "infantry" and inserting "cavalry."

Amend, in the seventh line, by striking out "fifty dollars" and inserting "thirty-seven dollars and fifty cents."

The amendments reported by the committee were agreed to.

The bill as amended was laid aside to be reported favorably to the House.

LABAN CONNOR.

The next pension business on the Calendar was the bill (H. R. No. 803) granting a pension to Laban Connor.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Laban Connor, late of Company E, Eighth Michigan Volunteer Infantry.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 863) granting a pension to Laban Connor, have had the same under consideration, and report:

A bill granting a gension to this claimant was favorably considered by the Committee on Invalid Pensions at the second session of the Forty-sixth Congress. We have again examined the evidence in the case, and find the report made to the Forty-sixth Congress fully sustained. The report is as follows:

"It appears that Laban Connor was serving in Company E of the Eighth Michigan Volunteers; while in the service and in the line of duty, on the 15th day of June, 1864, at Petersburgh, Virginia, while the regiment was charging the enemy the company had to seek cover in a deep rifle-pit; that he fell just at the edge of said rifle-pit, rolling into it, and before he could raise himself up the men who were just behind him jumped on him and injured his back so that he could not get up or away without help. A few days after he was injured he was sent home to Michigan, receiving his discharge and a pass before he left Petersburgh. On his way home he lost his discharge, how or where he does not know; he was not treated in any hospital for this disability, but came on to his home in Michigan, where he was treated by Dr. Isaac Wixon, his family physician, who also testifies that he was acquainted with claimant and has been since 1858, and before he enlisted and went into the service in 1864 he was a strong, healthy, and sound man.

"The Commissioner of Pensions rejected the claim on the ground that he was not mustered into the service. While the records in the War Department do not show his service as an enlisted man, the testimony of Captain E. M. Hovey, of said regiment, is to the effect that he saw the claimant mustered into the service. This is corroborated by the testimony of Edward Marum, captain of Company E, and Benjamin F. Pearse, orderly sergeant of Company G, same regiment, and their testimony also proves conclusively that the claimant received the disability at the time and place alleged. And Dr. G. E. Wolers, examining surgeon at Fentonville, Michigan, certifies that he has examined the claimant and finds that the disability originated, as stated by claimant, in the service and in the line of duty, and that the disability is permanent and will continue to increase. He says:

"'I find soreness, on pressure, in the spine between and below the shoulder blade; also curvature of the spine. There is a pain extending from the spine to the right side just under the breast. The head and shoulders are thrown forward so much that he cannot stand erect. The curvature is on the increase. There is extreme weakness in the spine, so much so that it is difficult for him to rise when down.'

"In addition to the preceding testimony in regard to the service of Laban Connor in the regiment and company in which he served, Corporal William S. Jewell, of the company in which Conner served, testifies under oath that—

"'He is personally acquainted with Laban Connor, late a private of Company E, Eighth Regiment Michigan Infantry; knew him before he enlisted; saw him in the lines at the city of Flint, where he was mustered, together with myself and others. While drawn in line the paymaster called each man's name in the order in which it came, and he heard Laban Connor's name called, and saw him draw one month's pay and first installment of bounty, amounting in all to $73, and saw him make his mark to pay-roll, and knows that he drew his clothing, gun, and rations; he saw him in the battle of the Wilderness, and the fight in front of Petersburgh, and the battle of Spottsylvania. He knows of him being disabled and discharged for his present disability.'

"And he further testifies that said Connor was a good, faithful soldier, never shirking his duty. Captain Edwin M. Hovey, captain of the company, testifies to substantially the same thing, as does Corporal Jewell, and says, in addition, that when Conner drew his first month's pay and part bounty, in all $73, he gave it to him (Captain Hovey) for safe keeping. He also testifies to the faithful service of the soldier, and to the fact of his being disabled as stated and being discharged in consequence of the disability.

"John Reason says on oath that he was the neighbor of Laban Connor, and when he enlisted in the Army he went with him to the city of Flint, and was there when he was enlisted and sworn into the service, and saw him after he received his bounty and first month's pay, and received from Captain Hovey, of the company in which Conner had enlisted, the said sum of $73 mentioned in the affidavit of Captain Hovey, on the order of Connor. This seems to prove clearly the service of the soldier; and the fact that his name is not on the rolls of the War Department seems to be an omission or neglect on the part of some one which has worked a great injury to this claimant.

While the claimant may not have a legal right to a pension, in consequence of this omission in the records, he has an equitable one; and as he served faithfully as a brave soldier in the Army and obtained his disability while in line of duty, and his officers and comrades all testifying to his general worth as a soldier, and the medical testimony proving that his disability is such that demands a pension, your committee feel that this is a meritorious case, and waive the fact that the records in the War Department do not show his enlistment, and report in favor of the bill granting said Laban Connor a pension. They therefore report back the accompanying bill and recommend that it do pass.

The bill was laid aside to be reported favorably to the House.

BETSY A. SMITH.

The next pension business on the Calendar was the bill (H. R. No. 5805) granting a pension to Betsy A. Smith.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and hereby is, instructed to place on the pension-roll the name of Betsy A. Smith, widow of Mark Smith, late an ordnance-sergeant in the United States Army, who died while on duty at Fort Griswold, Connecticut, September 30, 1879; said pension to date from the death of her husband, and to be in accordance with the provisions of the general pension law governing such cases.

Mr. BROWNE. As no gentleman representing the Committee on Pensions appears to be present, I ask that the report in this case be read.

The report was read, as follows:

The committee have considered the petition of Mrs. Betsey A. Smith, widow of the late Mark W. Smith, and find satisfactory testimonials and evidence that the said Mark W. Smith was in the United States service for fifty-three and three-quarter years, occupying the position of ordnance sergeant the most of the time and at his death, and that he died from the effects of disease contracted while on duty at Fort Griswold, Connecticut; and that during the late war he had six sons in the service, two of whom lost their lives in the service. He was always known as a faithful soldier. The petitioner, Mrs. Betsey A. Smith, is now very old and feeble, with no one to depend upon for her support. Therefore we report favorably the bill for her relief, and recommend that a pension be granted her, commencing at the date of the death of her husband, September 30, 1879, to be in accordance with the provisions of the general law governing such cases.

Mr. BROWNE. I must insist that the usual amendment be made in this case. I move to amend by striking out the words "death of her husband" and inserting "from the passage of this act."

The amendment was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

FRANK S. SOWERS.

The next pension business on the Calendar was the bill (H. R. No. 5808) to rerate the pension of Frank S. Sowers.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized to rerate the pension of Frank S. Sowers, formerly a first lieutenant in the Third Regiment of Ohio Cavalry Volunteers; the said rerating to be made according to the discretion of the Secretary of the Interior.

The report is as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 3747) granting a rerating of pension to Frank S. Sowers, has had the same under consideration, and begs leave to submit the following report:

Sowers was discharged on account of disability June 2, 1863, and applied for pension September 21, 1878. His claim was allowed April 9, 1879, at one-fourth of total from date of discharge, and at three-fourths of total from November 13, 1878, the date upon which claimant was first examined by a Pension Office surgeon. He immediately applied for increase, and was allowed total pension $17 per month, in accordance with the rank, that of first lieutenant and quartermaster of the Third Ohio Cavalry Volunteers. The disability for which pensioned is chronic diarrhea. He asks that he be allowed total pension from date of discharge.

Under the practice of the Pension Office a less rating than that made by the first medical examination is usually given in cases of progressive disability for the period intervening between the date of discharge and the date of the first medical examination. The surgeon who first examined this soldier rated the disability at total, while the examination under the claim for increase, following closely upon the original adjudication of the case, showed a still greater disability.

It would seem from the evidence on file that the pension should have been rated higher, and the committee therefore recommend the passage of the accompanying substitute for the bill H. R. 3747, which authorizes the Secretary of the Interior to rerate the pension in his discretion. The necessity for the passage of the bill exists in the fact that the Secretary has the power to rerate pensions only in cases of gunshot wounds.

The bill was laid aside to be reported favorably to the House.

ISADOR ROHRER.

The next pension business on the Calendar was the bill (H. R. No. 1237) granting a pension to Isador Rohrer.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, to date from the time of his discharge from service, subject to the provisions and limitations of the pension laws, the name of Isador Rohrer, late a private in Company H, Second Illinois Light Artillery, on account of injuries received in the military service of the United States, in the war of the rebellion, April 20, 1864.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1237) granting a pension to Isador Rohrer, having had the same under consideration, beg leave to submit the following report:

It appears from the evidence in the case filed in the Pension Office that the petitioner was a private in Company H, Second Illinois Light Artillery; enlisted September 15, 1861, and discharged July 29, 1865, and filed declaration for pension October 12, 1869, alleging "disability from an injury to left shoulder by the fall of his horse while on the Cumberland River, Tennessee, April 20, 1864. He was on his post in the night-time, his horse stepped in a hole and stumbled, throwing claimant over his head and injuring him as above, producing partial paralysis." In affidavit filed November 16, 1872, "that he was treated for injury by hospital surgeon at Clarksville, Tennessee; was not in general hospital."

The Pension Office (May 22, 1874) rejected the claim on the ground—

"No record of alleged injury; inability to furnish the testimony of a surgeon or medical testimony showing condition at date of discharge."

The Adjutant-General reports:

"Roll for May and June, 1862, covering date of alleged disability, says: 'Absent on sick furlough.'"

* * * * * * *

The Surgeon-General reports:

"The regimental register for Company H not on file."

The petitioner's captain, Henry C. Whitemore, says, in affidavit filed November 16, 1872:

"Claimant, while in the line of his duty, while on a scouting expedition on White Oak Creek, between Cumberland and Tennessee Rivers, on or about August 8, 1864, was accidentally thrown from his horse, falling on his left shoulder, and receiving a severe injury of his shoulder at that time."

Lieutenant James Eckdale confirms his statement, and also says when he first knew claimant in the Army he was in good health and sound in body to all appearance.

Edward Clapham, M. D., late surgeon Seventh Michigan Veteran Volunteer Infantry, in affidavit, (filed November 16, 1872,) says:

"I have examined claimant. He is still suffering from an injury received on a scouting expedition on White Oak Creek, between the Cumberland and Tennessee Rivers; his horse getting his foot into a hole, he was thrown violently on his left shoulder, giving rise to but slight inconvenience at the time, but proving subsequently much more painful, and eventuating in partial paralysis of the left shoulder arm, and undoubted injury to the circumflex nerve, part of the brachial plexus of nerves, which chiefly govern the movements of the deltoid muscles and shoulder arm; and, having spent all his means in medical advice, presents himself for admission into the Soldiers' Home, for which I cordially recommend him as a very proper recipient of the bounties of the institution.

"ED. CLAPHAM,

"*Formerly Surgeon Seventh Michigan Veteran Volunteers,*

"*Professor of Anatomy, Medical College, Keokuk, Iowa.*"

J. L. Wood, M. D., (filed April 23, 1873,) testifies he "has treated claimant for injury to left arm and shoulder for nine months during the year 1872."

Thomas McEwen, M. D., (filed December 15, 1873,) says that "during the year 1873 he has examined claimant, and finds that he has diseased shoulder, giving rise to neuralgia, which is aggravated by damp weather. His disability is of a permanent nature."

A. B. Allen, M. D., (filed December 15, 1873,) says that "during the year 1873 he has treated claimant for neuralgia, and believes that the predisposing cause is from wounded trunk of some of the nerves of the left shoulder; that shoulder is much smaller than the other."

The petitioner states, (filed April 28, 1873:)

"All physicians to whom he applied for treatment having told him that it was unnecessary, that he could not be cured, excepting Dr. Wood. That after his discharge Dr. Cooper treated him for a short time for his injury, and said he could not be cured. He has made every effort to find Dr. Cooper, but cannot do so."

The petitioner has been twice before the examining surgeons of the Pension Office, and their certificates are included here, namely:

J. B. Samuel, M. D., Orleans, Morgan County, Illinois, June, 1872, who says:

"He is three-quarters incapacitated; disability uncertain as to time; his present condition was caused by a fall from a horse, the left shoulder becoming badly strained, which has resulted in the injury of upward and backward motion of the arm, which renders him unable to do hard work without producing considerable pain, and increasing in some degree the paralysis, which is only slight; the arm has lessened somewhat in size."

Joseph O. Hamilton, M. D., ex surgeon, Jerseyville, Jersey County, Illinois, April 1, 1874, says:

"One-half disability; indefinite duration; rheumatism of the deltoid trapezius and supraspinatus, causing stiffness and debility of the above-named muscles."

It may be well to note here the fact that the petitioner says he was "treated by hospital surgeon at Clarksville, Tennessee," and the Surgeon-General reports, "The regimental register for Company H not on file." It is therefore very probable that the claimant's statement is correct.

Your committee are of the opinion that this is a meritorious case. The claimant's allegations are substantiated in every important particular. While he does not prove clearly continuous treatment from time of discharge to the time he was examined in 1872 and 1873, by Dr. Wood and Dr. McEwen, yet they found him suffering from the identical injury received in the service, aggravated by time, and more severe than when treated for it originally. Dr. Samuels, ex-surgeon, Pension Office, finds it still existing and rates him for it.

Your committee therefore report favorably upon the claim and recommend the passage of the bill (H. R. No. 1237) granting a pension to Isador Rohrer.

Amend as follows, namely: To strike out of lines 4 and 5 the words "to date from the time of his discharge from the service."

The amendment recommended by the committee, to strike out in lines 4 and 5 the words "to date from the time of his discharge from service," was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

ALBAN H. NIXON.

The next pension business on the Calendar was the bill (H. R. No. 5703) to increase the pension of Alban H. Nixon.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to increase the pension of Alban H. Nixon, late captain of Company K, Eighty-fourth Pennsylvania Volunteers, to the sum of $36 per month, and to pay him a pension at said rate from and after the passage of this act.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill H. R. No. 5703, have had the same under consideration, and beg leave to report as follows:

Alban H. Nixon enlisted as a private in the Third Regiment of Pennsylvania Volunteers on the 18th day of April, 1861, and was honorably discharged from that regiment on the 30th day of June, 1861. He immediately began recruiting for the Eighty-fourth Regiment Pennsylvania Volunteers, and enlisted as a private in that regiment. On the 3d of March, 1862, he was made second lieutenant of that regiment; subsequently he became first lieutenant, and on the 3d day of May, 1863, he was promoted to captain. He was honorably discharged from this service on the 15th day of November, 1864, having lost his arm at Coal Harbor, Virginia, on the 1st day of June of said year. While serving as above he participated in seventeen battles and was seven times wounded, twice severely. He lost his left arm, as above stated, at the battle of Coal Harbor, and it was first amputated on the 9th of July, 1864. A second operation was performed on the 10th day of October, 1864, and on the 15th day of February, 1865, Dr. D. W. Bliss, of Washington, District of Columbia, performed still another operation, and took one of the bones of the forearm away from the elbow-joint, which leaves the elbow-joint perfectly stiff and useless. A wound was received by him at the battle of Mine Run, Virginia, which, to a considerable extent, disables his right arm.

This soldier is now pensioned at $30 per month. He asks for an increase to $36 per month. The committee believe he ought to have $30 per month, and recommend that the bill be amended by striking out the word "six," in line 6 of said bill, and then ask that it pass.

The amendment reported by the committee, to strike out "thirty-six" before the word "dollars" and insert "thirty," was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

THOMAS M'MANNUS.

The next pension business on the Calendar was the bill (H. R. No. 4966) for the relief of Thomas McMannus.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Thomas McMannus, late of Company A, One hundred and fifty-second Pennsylvania Volunteers, at the rate of $8 per month, commencing at the date of the discharge of said solddier.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4966) for the relief of Thomas McMannus, have had the same under consideration, and beg leave to report as follows:

Thomas McMannus was a private soldier in the Third Regiment of Pennsylvania Artillery, (One hundred and fifty-second Volunteers,) and as such made an excellent record. At the time of his enlistment he was a person of unusual physical strength and vigor. He is now, and has been ever since his discharge, totally disabled for the performance of manual labor, and has been the object of the charity of two sisters, who are illy able to support him. He was seriously hurt while in the service of the United States, and his application for a pension was refused upon the ground that he was not in the line of duty at the time he received the injury. His disability is clearly traceable to this injury received while in the service; and the proof establishes every fact necessary to entitle him to a pension, beyond any possibility of dispute, except the fact that he was in the line of duty. Here there is a conflict of evidence.

At the time he was injured he was on detached service with what was known as Graham's Naval Brigade, this soldier having been detailed because of his great physical strength. At the moment of the injury there was no one present but his assailants. He was struck upon the head with some hard and heavy weapon and knocked senseless to the ground, and afterward beaten and kicked so as to produce the permanent injury as stated above. This happened in the city of Fredericksburgh, Virginia, in the early part of March, 1865. This naval brigade at that time made a raid upon said city and captured a large quantity of tobacco and loaded it upon the boats. After this was done this soldier while in the said city was attacked as aforesaid and received the serious injuries which have been described.

The evidence as to his being in the line of duty is somewhat conflicting; but the most reasonable statement, and that upon which your committee prefer to rely, is that made by one J. W. Hague, who makes his from a diary kept at the time, and who did not testify in this soldier's behalf until since the Pension Office rejected this claim. He states that the men, after they had loaded the tobacco they had found upon the boats, were detailed to go over the city to look for other tobacco which was supposed to be concealed there, and that McMannus was so engaged at the time he received said injury. With this view of the evidence, which, to some extent at least, reconciles the conflict in the testimony, your committee do not hesitate to report favorably upon this bill, and recommend that it pass with this amendment: Strike out all after the word "volunteers," in line 6 of said bill, and insert these words: "subject to the provisions and limitations of the pension laws."

The amendment recommended by the committee, to strike out at the end of the bill the words "at the rate of $8 per month, commencing at the date of the discharge of said soldier," and insert "subject to the provisions and limitations of the pension laws," was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

WILLIAM M. MEREDITH.

The next pension business on the Calendar was the bill (H. R. No. 2877) for the relief of William M. Meredith.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to date the application of William M. Meredith, late a captain in the Seventieth Indiana Volunteers, for a pension as filed with the Commissioner of Pensions on the 5th day of June, 1880, and that in the adjudication of his said claim for a pension his declaration be treated as filed on said date.

The report is as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 2877) for the relief of William M. Meredith, has had the same under consideration, and begs leave to submit the following report:

Petitioner makes oath that on or about the 24th day of June, 1879, he executed a declaration for invalid pension before the clerk of the court of Marion County, Indiana, which he intrusted to his attorney, Benjamin D. House, of Indianapolis, Indiana, to be mailed to the Commissioner of Pensions.

Benjamin D. House swears that William M. Meredith intrusted him with an application for invalid pension for mailing to the Committee on Pensions; that on the following day the same was inclosed by him in an envelope, securely sealed and plainly directed to Hon. John A. Bentley, Commissioner of Pensions, at Washington, District of Columbia. Affiant remembers his action in the matter from the fact that the said William M. Meredith was unable to walk at the time, except by the aid of crutches.

This declaration, however, never reached the Pension Office, and its loss was not discovered by the claimant until after the expiration of the limitation for the filing of pension claims under the arrears act.

The Commissioner of Pensions, in a letter to this committee, states that testimony has been brought before his office, satisfactory to him, that Meredith's declaration was mailed in sufficient time to have reached his office prior to July 1, 1880, had it not been lost in the mails.

Meredith was captain of Company E, Seventeenth Indiana Volunteers, and claims pension on account of hernia contracted in the service. So far as lay in his power he complied fully with the requirements of the law by properly executing a declaration for pension and placing the same, through his attorney, in the possession of the Government for safe delivery at the bureau charged with its consideration in time sufficient to carry with it title to arrears under the provisions of the act of March 3, 1879. Its loss in the mails was through no fault of the claimant, but must be charged directly to the Government. Unless the relief asked for be granted the claimant will be deprived of the pension for the period intervening between the date of his discharge and the date upon which a second declaration reached the Pension Office.

The committee is clearly of opinion that the execution and mailing to the proper office of a declaration for pension by the petitioner, as well as its loss while in the hands of the Government, is fully established, and that such loss should work no hardship on him, and therefore reports favorably on the bill and asks that it do pass.

The bill was laid aside to be reported favorably to the House.

JACOB HUMBLE.

The next pension business on the Calendar was the bill (H. R. No. 5809) for the relief of Jacob Humble.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to adjudicate the pension claim of Jacob Humble, late a private in Company F, Sixth Indiana Cavalry, (Seventy-first Volunteers,) as if the same had been duly filed in the office of the Commissioner of Pensions on the 5th day of August, 1879.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the House bill No. 2256, have had the same under consideration, and report as follows:

Jacob Humble was a private in company F, Sixth Indiana, and served a three years' enlistment as such. Near Atlanta, Georgia, he was taken prisoner in July, 1864, and was confined at Andersonville and in other prisons until March, 1865, when he was paroled and ordered to the prison camp at Camp Chase, Ohio. While there he met with a severe accident by the falling of his bunk, situated in the barracks at said camp, by which his spine was injured, and from which he has never recovered. For six years past he has been unable to stand and has not left his bed. On or about the 1st day of August, 1879, he made out an application for an invalid pension on account of said injury, and delivered the same to his neighbor, Dr. William Williams, to be by him delivered to his attorneys, McKnight & Johnson, at Spencer, Indiana, with instructions to file the same at once in the Pension Office. These papers did not reach the Pension Office, and the said Humble was not informed of that fact until in the year 1881, about two years after he had, as he supposed, complied with the requirements of the law by which he would be entitled to the arrears.

Humble files his affidavit, stating that he made out his application on or about the 1st day of August, 1879, and delivered the same as aforesaid to Dr. William Williams, to be delivered by him to his aforesaid attorneys at Spencer. Franklin R. Drake swears that he saw said Humble at said time so deliver said application to said Williams. Dr. Williams swears that he did on said day so deliver the said application with said instructions; that he saw one of said attorneys, Alex. McKnight, at once place said declaration in an envelope, seal it, and start in the direction of the post-office, and in a few minutes thereafter the said McKnight informed him that he had mailed the same. McKnight testifies that he did at that time duly stamp and regularly mail said declaration as he was instructed to do; that it

was plainly directed to the Commissioner of Pensions, Washington, District of Columbia, and that neither he nor his partner were informed that the same had not reached the commissioner aforesaid until in the year 1881.

It appears to be as certain as human testimony can make any fact that this declaration was lost in the mails in some way; that the soldier was not in any fault; that he complied with every requirement of the law; that it was then notorious that the adjudication of pension cases was greatly delayed, and for that reason he might rightly have remained silent for so long a time, expecting that his claim would be settled in due course of business in said office when it could be reached; that this soldier was then in such a condition of physical health that he could not leave his bed, and in fact so remains. For all these reasons your committee believe that he is entitled to the relief he asks, and therefore report the accompanying substitute bill, and recommend that it do pass.

The bill was laid aside to be reported favorably to the House.

LEWIS LEWIS.

The next pension business on the Calendar was the bill (H. R. No. 3761) granting a pension to Lewis Lewis.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lewis Lewis, late a private in Company F, Seventy-eighth Regiment Pennsylvania Volunteers.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 3761) granting a pension to Lewis Lewis, beg leave to make the following report:

Lewis Lewis was a private in Company F, Seventy-eighth Regiment Pennsylvania Volunteers, and claims a pension on the ground that he received a bayonet wound in the groin, which caused permanent hernia, while in the line of duty at Nashville, Tennessee, September 28, 1862, said wound being inflicted in a quarrel with the provost guard at that place. The ground on which the application was rejected by the Pension Office was that there was not sufficient evidence to show that the disability was incurred strictly in the line of duty.

Dr. Charles B. Gillespie, who was captain of Company F, Seventy-eighth Regiment Pennsylvania Volunteers, in his sworn statement before Special Agent M. C. Fosnes, at Freeport, Pennsylvania, on June 2, 1881, says:

"Lewis was sent up town by Lieutenant Torbett to post some letters for members of the company. He asked for a pass, but the lieutenant told him it was not necessary, being train guard, and he therefore started without a pass. He had performed his errand and was returning to the depot when accosted by a provost guard belonging to the First Pennsylvania, who demanded his pass. He repeated what Lieutenant Torbett had told him in regard to a pass not being necessary. The provost guard then attempted to arrest him. He resisted or tried to get away, and a scuffle ensued in which the guard knocked him down and stabbed him in the abdomen.

"This was the version of the affair told affiant the next day by members of the company, and which he always believed to be true, but cannot say who told him."

In regard to the claim that the applicant was suffering from rupture before entering the Army, Dr. Gillespie says that on the day following the wounding of Lewis he visited him in the hospital and found him suffering from a punctured wound in the abdomen. The wound had been sewed up, so that affiant could not testify as to the depth, &c., but he examined the man carefully, and is absolutely certain that he was free from hernia at that time. When Lewis returned to his company he complained of his wound, and on examination it was found that his bowels protruded through the gash made by the bayonet, and that there was a well defined ventral hernia then existing.

There are other affidavits of a similar nature in regard to the wounding of Lewis, one stating, however, that he was probably drunk at the time of the fuss.

M. C. Fosnes, special examining agent, says:

"This is one of those cases in which the testimony of eye-witnesses is not obtainable."

And further on in his report:

"The applicant is a simple and ignorant man. Everybody speaks of him as honest and conscientious, and that is the way he impressed me. Indeed, I consider him both morally and mentally incapable of telling a lie and sticking to it under cross-examination. I questioned him very fully and carefully, but he showed no hesitation, uncertainty, or confusion at any time. So far as I could judge, the man told the truth."

The applicant is now an old man, being sixty-seven years of age, and is entirely unable to earn a living for himself and wife.

The bill was laid aside to be reported favorably to the House.

JESSE F. PHARES.

The next pension business on the Calendar was the bill (S. No. 915) granting a pension to Jesse F. Phares.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jesse F. Phares, late a scout under General McClellan.

The report of the committee is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. No. 915) granting a pension to Jesse F. Phares, have carefully examined the same, and report favorably the Senate report in this case:

"That they find the facts of the case are fully stated in the report of the Committee on Pensions made to the Senate during the second session of the Forty-sixth Congress (S. R. No. 228) but that they do not agree with the conclusion arrived at in that report. It also appears that the Senate at the same session, disagreed with the report of the committee, and passed the bill granting a pension to the claimant.

"Your committee recommend the passage of the bill."

So much of the Senate report in which the committee concur as states the facts in this case is as follows:

"The facts in the case are few and clearly proven. At the outbreak of the rebellion the claimant was a resident of Randolph County, in the State of Virginia; that he entered the service of the Government about the month of June, 1861, as a scout, serving under Generals McClellan, Milroy, Kelly, and others, and by reason of his intimate knowledge of the country and his intelligence, zeal, and daring, rendering very valuable service to the Union cause. In April, 1863, the confederate General Imboden advanced upon the Union forces at Beverly, West Virginia, commanded by Colonel George R. Latham, commanding Fifth West Virginia Cavalry. In the advance, Phares, who was then on duty outside the Union pickets, was surprised by a party of confederate troops, and refusing to halt when ordered was shot through the body, but retained his saddle until he reached the Union lines. The following are extracts from the affidavits of Colonel George R. Latham, Fifth Regiment West Virginia Cavalry, (Union,) and of Lieutenant-Colonel Elihu Hutton, Twentieth Regiment Virginia Cavalry, (confederate.)

"Colonel Latham says:

"'On the 23d day of April, 1863, I was in command of the Federal forces stationed at Beverly, West Virginia, and said Phares, then scouting outside my picket, was cut off by a party of the enemy then advancing under General Imboden to attack me, and in endeavoring to dash past them was badly wounded by a musket-ball passing through his body, through the lungs, from the effects of which he is almost wholly disabled, and is failing rapidly in strength and general health. Though so badly wounded he retained his saddle until he reached my pickets, and gave the first intimation that I had of the advance of the enemy. I was compelled to evacuate Beverly and Phares fell into the hands of the enemy. He had at the time several thousand dollars' worth of goods and personal property, all of which was taken from him, leaving him and his family in very destitute and distressed circumstances, from which they have been unable to recover.'

"Lieutenant-Colonel Hutton says:

"'During the late civil war I was lieutenant-colonel of the Twentieth Regiment Virginia Cavalry, (confederate service,) and served principally on the West Virginia frontier, where it was well known who were acting as scouts and guides for the Federal forces in that vicinity, and said Jesse F. Phares was well known to be one of the most active and dangerous scouts and guides operating against us. His knowledge of the country was thorough; he was smart, daring, and vigilant, and capable of great endurance. In consequence of the knowledge we possessed of this fact, every possible exertion was made on our part to capture him, but without success until the 23d day of April, 1863, when General Imboden advanced upon the Federal forces then stationed at Beverly, commanded by Colonel George R. Latham.

"'In order to cut off all scout that might be outside the Federal pickets, we sent by night a party of men through the woods to gain the road near the outside Federal picket post before daylight on the morning of April 23, 1863. About daylight said Phares, who was thus cut off, approached said party of men on horseback and was ordered to halt, but dashed forward, and passed the men, when he was fired upon by them, one ball taking effect, passing through his body—through the lungs—from the effects of which he is now almost wholly disabled. He retained his seat, however, until he reached the Federal picket and gave information of our advance.

"'Beverly was evacuated the same day by the Federal forces and occupied by the confederates, and Phares fell into our hands.

"'He was cared for by me personally about fifteen days, but a large amount of goods, general merchandise, groceries, &c., household furniture, and other personal property, to the value of several thousand dollars, fell into confederate hands and was used or destroyed by them, leaving him and his family in very destitute circumstances, in which condition, principally in consequence of his disability, they remain to this time. He has four children living, and one, his oldest, a daughter, died of consumption in 1870, induced by hardships and exposure, and his wife is worn down by care and labor.

"'Said Phares is about forty-three years of age, and has been for several years failing rapidly in physical strength in consequence of the wound above referred to.'

"J. R. Blair, an examining surgeon for the Pension Office in the State of West Virginia, certifies, under date of December 24, 1879, that he has carefully examined Phares and finds 'that his left hip was entered by a musket-ball, which passed upward through the region of the lower part of the left lung and out near the stomach. The effect of the wound is to weaken and partly paralyze the entire left side, and, in my judgment, produces at least a two-thirds disability, which will increase."

The Senate bill and report are adopted by the Committee on Invalid Pensions, and reported to the House with the recommendation that said Senate bill pass.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARGARET KEARNS.

The next pension business on the Private Calendar was a bill (H. R. No. 1103) granting a pension to Margaret Kearns.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Kearns, mother of James Kearns, late a sergeant of Company G, Ninety-fourth New York Infantry.

The report of the committee is as follows:

This claim was before the Forty-sixth Congress, and was reported favorably upon by the Committee on Invalid Pensions. Your committee adopt that report, which is as follows:

"It appears from an examination of the papers in the case on file in the Pension Office that the petitioner is the mother of James Kearns, sergeant Company G, Ninety-fourth New York Volunteers, who died July 20, 1864, at Petersburgh, Virginia, of wounds, at the time serving out a re-enlistment.

"The petitioner filed application May 18, 1868, which was rejected November 7, 1871, by the Pension Office, on the ground, 'As claimant was not dependent upon her son at his death, the claim is rejected.'

"There is a long affidavit filed by the claimant, and a large number of persons testify in the case. From them we glean these facts: that at the time of the soldier's death his mother was in a great measure dependent upon him for support, as her husband was suffering with rheumatism and weak eyes, as shown by L. McKay, M. D., June 3, 1869, who says he has 'this day made a careful examination of Dennis Kearns, father of James Kearns, who was a sergeant in Company G, Ninety-fourth New York Volunteers, and who died in the service.' Deponent further says that he has attended and prescribed for said Dennis Kearns for over eight years last passed; that during said time he has treated said Kearns for fever and ague, rheumatism, and weak eyes—the two latter he is now suffering—and chronic troubles on account of old age and infirmities.

"Eliza O. Grady testifies that she has been acquainted with claimant's family over thirteen years, and that before enlistment James Kearns was a shoemaker and worked at his trade, and that she knows of her own knowledge that he contributed what was necessary out of his earnings to the support of his father and mother.

"Margaret Ryan, another neighbor, corroborates the evidence of last witness. Mrs. Margaret McNearey and Ann McMeniman, in a joint affidavit, testify substantially to the same facts.

"There is an original letter among the papers from the deceased soldier, dated Rappahannock Station, August 18, 1863, addressed:

"'Dear parents: This day, by the chaplain of our regiment, I send you $20 by Adams Express.'

"The soldier's remittances seem to have helped the old people to get a small domicile for their declining years."

In view of the facts as developed by the evidence, your committee believe that the petitioner was in a great measure dependent upon her deceased son, and therefore report favorably upon her prayer, and recommend the passage of the bill (H. R. No. 1103) granting a pension to Margaret Kearns.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

EMELINE PINK.

The next pension business on the Calendar was a bill (H. R. No. 4914) granting a pension to Emeline Pink.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he hereby is, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emeline Pink, widow of Charles Pink, late of Company B, New York State Heavy Artillery, and who served as a soldier in the Union Army during the rebellion.

The report of the committee is as follows:

The Committee on Invalid Pensions, to whom the bill (H. R. No. 4914) granting a pension to Emeline Pink was referred, beg leave to submit the following report:

The Claimant, Emeline Pink, is the widow of Charles Pink, late corporal of Company B, Sixth New York Heavy Artillery. The deceased soldier was appointed corporal September 15, 1862. He was wounded at the battle of Spottsylvania, Virginia, May 19, 1864, and was mustered out July 3, 1865. He was then transferred to the Veteran Reserve Corps for gunshot wound in the back, the ball entering the right hip, passing inward and backward, and emerging through the upper part of the corresponding nates. In May, 1864, after fatiguing marches and heavy duty for several days, and being exposed to the sun, the deceased was overcome with the heat, and his brain became affected. He was also afflicted with noises in the head, pressure upon the brain, and deafness; acted in an abstracted manner and showed symptoms of sunstroke. No improvement appeared in his case, and he died about July 12, 1866. His death was occasioned immediately by being upon the track of the Harlem Railroad, and being struck and killed by a locomotive. At the inquest the jury stated as follows:

"The jury further believes that the said Charles Pink was at the time of the accident laboring under some derangement of mind."

The deceased soldier was in good health and strength when he entered the service. His habits were good, and no indication exists that the accident occurred by reason of intoxication.

The deceased never made application for a pension, and no application has been presented to Congress in behalf of his widow previous to this one.

It is apparent that the accidental death of the deceased was the result of derangement of the mind, arising from the effect of the sunstroke before mentioned, and was the direct effect of the injury received by the soldier while in the line of his duty.

This committee are therefore of opinion that the widow should be granted a pension, and recommend the passage of the accompanying bill.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARTHA WESTERVELT.

The next pension business on the Calendar was the bill (H. R. No. 1098) granting a pension to Martha Westervelt.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martha Westervelt, mother of William Westervelt, formerly a private in Company K, Third New York Cavalry.

The report of the committee is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1098) granting a pension to Martha Westervelt, having had the same under consideration, beg leave to submit the following report:

It appears from an examination of the papers in the case on file in the Pension Office, before your committee, that the petitioner is the mother of William Westervelt, late a private in Company K, Third New York Cavalry, and who died while a prisoner at Andersonville, Georgia, on or about July 23, 1864, as alleged in the mother's application for pension. The application was rejected by the Pension Office June 24, 1869, on the ground, "soldier not in line of duty when captured, (and died when in rebel prison;) got drunk on apple-jack; was left on the road by his officers, and captured by the enemy."

"The certificate of Captain Samuel C. Pierce, of claimant's company, says William Westervelt was with his company on a march made about the 7th day of May, 1864, from City Point to rear of Richmond. That on the 10th of May the company was at Coal Fields Station, on the Danville Railroad. That while the company was engaged in tearing up the track and destroying the buildings the said Westervelt was seized with sudden sickness. That immediately after the track of the road was destroyed the regiment was ordered to move, and there was no means of bringing said soldier with the command, and I was obliged to order him left at a house near the road. This is the only thing I know personally about the case, but I have been informed that said soldier was afterward seen in prison at Andersonville, Georgia, and Florence, South Carolina, and that he died while in prison.

"The Adjutant-General's report says 'left in the road, by order, on account of drunkenness, near Coal Field, West Virginia.'

"The deceased soldier was enrolled January 5, 1864. The case shows that his intoxication at the time of his capture was his first offense of the kind while in service. He died leaving no widow or children or father surviving him.

"The evidence in the case is conclusive that the petitioner was dependent upon the soldier for her support; and she had been supported by him for a long time before he entered the service.

"There is positive proof in this case that the deceased soldier was a very steady man previous to his enlistment, and that he was captured just after doing duty (if not at the precise hour) with his comrades in destroying the enemy's property. He may have succumbed to the insidious effects of 'apple-jack' at the time mentioned, but he was proven to be, ordinarily, a very steady man. He was captured, suffered a lingering death as a prisoner of war, and his aged, widowed mother needs, in lieu of his services, his country's bounty to help her declining years."

Your committee conclude to report favorably upon the prayer, and to recommend the passage of the bill (H. R. No. 1098) "granting a pension to Martha Westervelt.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

LAURINDA G. CUMMINGS.

The next pension business on the Calendar was the bill (H. R. No. 4345) granting an increase of pension to Laurinda G. Cummings.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Laurinda G. Cummings, widow of Brevet Brigadier-General Gilbert W. Cummings, and pay her the sum of $60 per month instead of the pension she now receives; but nothing in this act shall entitle the said Laurinda G. Cummings to arrears of pension.

The report of the committee is as follows:

The claimant, Laurinda Garfield Cummings, aged 54 years, is the widow of Gilbert W. Cummings, who was mustered into the service as colonel of the Fifty-first Regiment Illinois Volunteers, February 14, 1862. He was in action April 30, 1862, and from that date until October 30 was absent on sick-leave. He resigned in 1862.

He was brevetted brigadier-general "for gallant and meritorious services during the operations before and capture of the enemy's forces at Island No. 10, in the Mississippi River."

In March, 1862, said Colonel Cummings, with his regiment, in the line of his duty, marched from Bertrand, Missouri, to New Madrid, marching from Sykeston about twenty miles in a drenching rain, and during four days said regiment, with said colonel, were without tents or cooked food, and exposed to two rainstorms of twelve to fifteen hours each; and during the first ten days of April, 1862, said colonel, with his regiment, went to the Kentucky side of the Mississippi River to intercept the confederates' retreat from Island No. 10, and again were without equipage or cooking utensils, and passed one night in a cold, drenching rain, and often wading; and after and in consequence of this, said Colonel Cummings became sick, and remained with his regiment sick for some time and then left upon sick-leave, so much disabled that he had to be transported upon a cot.

Said Colonel Cummings was a well and sound man when he entered the service. He died in March, 1877, of paralysis.

General Eleazer A. Paine states that he commanded the division in which said Cummings acted as brigade commander April, 1862, and that said Cummings was in fact the officer who captured Island No. 10, April 6, 1862, although the surrender was made to another officer. It also appears that said Cummings also suffered other severe exposure about the same date as that above detailed.

The letter of resignation of said Cummings is dated September 12, 1862, and August 1, 1862, the post-surgeon, B. M. Vickers, certifies that he had carefully examined said colonel and found that he had suffered greatly from a long course of fever and dysentery and that the latter had become chronic, and suffered great general debility, weakness of the spine, and had little use of his lower limbs.

The said Cummings continued to suffer from said debility as long as he lived. He had attacks of fever, continued partial loss of use of the legs, his spine became affected, and also the head, so as to produce mental derangement; became subject to cerebro-spinal oxis, was unfitted for all manual labor, had several attacks of paralysis, in one of which he died—all of which resulted from the strain and exposure before detailed, in March and April, 1862.

The said Cummings received no pension in his lifetime. His widow receives a pension of $30 per month. She is a confirmed invalid, and testifies that her debility was occasioned by her hard service in taking care of her husband during his aforesaid debility. There is no prospect of her becoming in better health. She has a chronic disease of the spine, and her condition is such that she needs the continual care of an attendant. She has also dependent upon her a daughter of her said husband, who is a partial invalid.

The husband's protracted illness used up the property possessed by him, the applicant is very poor, and the $30 per month is insufficient to support her.

Your committee are of the opinion that, considering the valuable services of the deceased husband, and the long and expensive sickness which he suffered, and especially the fact that he bore that expense himself, without receiving a pension, and the fact that the present disability of applicant is nearly total and is permanent, and was probably occasioned by her labors in taking care of her husband, further relief should be granted to applicant, and they recommend the passage of the bill, amending the same by striking out the word "sixty" in the seventh line and inserting the word "fifty" in lieu thereof.

The amendment of the committee was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ELIZABETH T. DUBOIS.

The next pension business on the Calendar was the bill (H. R. No. 1102) granting a pension to Elizabeth T. Dubois.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth T. Dubois, widow of Theodore B. Dubois, late a volunteer acting lieutenant-commander in the naval service of the United States.

The report of the committee is as follows:

The bill in this case provides only for placing the name of the petitioner upon the pension-roll, subject to the limitations of the pension laws. In the second session of the Forty-sixth Congress this application came before the Committee on Invalid Pensions, and the following report was made, namely:

"It appears from the evidence in the case in the Pension Office that the petitioner is the widow of T. B. Dubois, late an acting volunteer lieutenant-commander in the United States Navy, who served as follows:

"October 28, 1861, appointed an acting master and ordered to report to Flag-Officer Goldsborough; commanded the Albatross; June 5, 1863, promoted for gallant conduct in battle to acting volunteer lieutenant, still commanding Albatross.

"November 26, 1864, promoted to acting volunteer lieutenant-commander.

"April 21, 1865, detached by Acting Rear-Admiral Thatcher, commanding West Gulf Squadron, and ordered to duty in saving public property from the Milwaukee and Osage, which were sunk by torpedoes in Mobile Bay.

"October 7, 1865, detached and granted leave of absence.

"February 6, 1866, he was honorably discharged, and died December 13, 1874, at Kings County lunatic asylum, New York."

Fleet Captain E. Simpson, United States Navy, writes to the deceased officer, under date of October 14, 1865:

"'Your satisfactory reports about the Althea and Osage are at hand, and orders have been sent for a batch of engineers to report to you for duty on board the Osage; this is on the supposition that you will be able to take command of the vessel that you, and you alone, have rescued from her watery grave. Your orders have not been sent, because I desire the authority of your surgeon before I order you to the trying duty. When the Tritonia returns here I expect her to bring your report as to your physical efficiency, when your orders will be issued.'

"Admiral H. K. Thatcher, under date of August 10, 1865, writes:

"'Your services at Mobile are fully appreciated by me, and will be duly represented to the Department.'

"And again, August 11, 1865:

"'You have satisfied yourself that the Osage is your own, and I heartily congratulate you on your success.'

"The widow's application for pension was filed December 13, 1874, alleging 'that in 1865, Captain Theodore B. Dubois (her husband) fell through the hatchway of the Osage, then lying in Mobile Bay, and that he then broke three of his ribs, and, as has since been shown, injured his brain, and shattered permanently his previously healthful and remarkably vigorous system. That a short time after his accident he apparently regained his health and vigor. During the year in which he resigned from the naval service he secured a half-interest in the ship Minetauka, believing himself to be still able to command a vessel. This venture,

because of his trouble, which was growing upon him at that time, became a total loss.' The petitioner cites other cases of a similar nature, and adduces a number of responsible and reliable witnesses in support of her declaration.

"The 'brief' in the Pension Office in the case shows that the examiner in the office had allowed the claim at $30 per month, commencing December 13, 1874, the date of officer's death, and $2 per month additional for each child. This seems to have been afterward changed, and the word 'admitted' struck out and 'reject' written over it. Under cause of death, 'softening of the brain,' is written 'rejected by medical division January 31, 1876,' and the rejection affirmed by board of appeal.

"Dr. R. Lautenbach swears that he was an acting volunteer assistant surgeon during 1865, and was stationed at Mobile, and while so acting was acquainted with Theodore B. Dubois, who was injured during said year while engaged in raising the Osage, and while suffering from said injuries witness treated him as follows: 'At his quarters on the eastern shore of Mobile, Alabama, for a fracture of ribs, contusion, and shock, received while raising the monitor Osage. The injury was received between September and October, 1865. The quarters might be called a hospital, as I established a hospital in a house adjoining his quarters. This hospital was kept in operation until Captain Dubois was convalescent, when the sailors were transferred to their respective vessels. Captain Dubois was sound in body prior to the injury, and was often visited by Admiral Thatcher and Captain E. Simpson.'

"Surgeon-General reports Dr. Lautenbach 'was on duty as stated in his affidavit, but the sick reports for third quarter 1865 are not on file.'

"Captain E. Simpson, United States Navy, swears that 'Captain Dubois was employed in raising vessels in Mobile Bay in 1865, and saved a large amount of property for the United States Government. While so employed he had a very severe fall, which resulted in some ribs being broken and other injuries. Captain Dubois was a most valuable officer, and could be relied on in any emergency, and his widow richly deserves a pension.'

"Edwin R. Lowe swears that he was 'a submarine engineer and diver, and was employed by Captain Dubois to help raise the Osage in Mobile Bay, and while so doing Captain Dubois fell through the battle-hatch of the Osage and was thereby severely injured by striking his ribs against the combings of the hatch, thereby fracturing his ribs and receiving severe injuries. Witness was at the time on board the vessel, and saw Captain Dubois a minute after he was hurt and had been carried on board the Althea, which he commanded.'

"Dr. Andrew Otterson swears that he 'knew the claimant for twenty years, and always considered him sound and able-bodied until he was injured by a fall while in the Navy, and at this time he is of unsound mind and totally unfit to take care of his property or his family, and is now (October, 1874) an inmate of the Kings County lunatic asylum. Captain Dubois is not a dissipated man or drinking man. Affiant was his family physician.'

"Dr. Stephen B. Doty testifies substantially to the facts as set forth by the previous witness, and declares 'that he was a man of good habits.'

"Dr. W. H. Randolph testifies that Captain Dubois was under his care in 1870, 'suffering from cerebral disease, having disordered vision and partial loss of hearing. It is affiant's opinion the result of fall in the service.'

"Dr. Norvin Green, vice-president of the International Ocean Telegraph Company, testifies that 'Captain Dubois was in the employ of said company in 1873. I soon discovered a sad defect in memory and wandering mind; soon after he became insane. The symptoms and results to the mind, and finally death, were such as might have resulted from a blow or fall on the head some years previously.'

"The full text of the rejection by the Pension Office is as follows:

"'Immediate cause of death, softening of the brain. Remote cause, unknown; but not the result of any injury received while in the service.

"'Reject.

"'N. F. GRAHAM,
"'*Medical Examiner.*

"'Approved January 29, 1876.

"'T. B. HOOD,
"'*Medical Referee.*'

"Your committee are of the opinion that T. B. Dubois, while in the line of duty in the United States naval service, incurred the disability which eventually terminated in loss of reason and loss of life, and that the petitioner (his widow) is entitled to a place on the pension-rolls of the Government, in accordance with the provisions of the pension laws.

"Your committee have reached this conclusion after careful examination of the voluminous testimony found in the case. The character and standing of the witnesses, whose statements so fully explain and corroborate each other, make the chain of evidence complete in favor of the claim.

"The records of Surgeon-General's Office show that the returns for the last quarter of 1865 are not on file, but the surgeon who treated deceased testifies clearly to the occurrence and to treatment for the injury. Captain Simpson, his superior officer, testifies to the injury, and in his letter refers to it."

This committee adopt the foregoing report, and recommend the passage of the bill (H. R. No. 1102) placing upon the pension-rolls the name of Elizabeth T. Dubois.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

ALICE M'MAHON.

The next pension business on the Calendar was the bill (S. No. 251) granting a pension to Alice McMahon, reported adversely.

Mr. BROWNE. I ask by unanimous consent that be passed over.

Mr. PRESCOTT. I prefer it should be acted on and sent into the House. It is a Senate bill. It was reported favorably in the Forty-sixth Congress, but action could not be had in the Senate. I have all the papers from the office of the Commissioner, and I think by a presentation of the case there can be no doubt the action of the Senate should be sustained.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Alice McMahon, widow of the late Private Daniel McMahon, of Company L, Second New York Artillery Volunteers.

The report of the committee was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill S. No. 251, beg leave to report the bill back to the House with the recommendation that it do not pass, for the reason that there is no proof that the soldier whose widow asks for a pension died from disease contracted in or consequent upon his service, but, on the contrary, did die four years after the war from acute pneumonia.

Mr. PRESCOTT. I ask now that the report of the Senate committee be read.

The Clerk read as follows:

The Committee on Pensions, to whom was referred the bill (S. No. 251) granting a pension to Alice McMahon, having examined the same, report:

That the applicant, Alice McMahon, is widow of Daniel McMahon, who was a private in Company L, Second Regiment New York Heavy Artillery. Enlisted on the 9th of November, 1863, and mustered out with his company September 28, 1865. The soldier died March 12, 1869, never having applied for a pension, and claimant filed an application for a pension September 4, 1878, which was rejected October 25, 1879, upon the ground that the disease of which the soldier died, acute pneumonia, originated subsequent to the soldier's discharge.

The Army records do not show sickness or disability in the Army, and no medical treatment of the soldier is shown until February 20, 1869, (the commencement of his last sickness;) but it is shown by the testimony of neighbors, who appear to be credible, that at the time of his discharge he was suffering from an asthmatic difficulty, and that his lungs were weak; that he was emaciated and had a cough, and that such continued to be his condition, in greater or less degree, until the attack of pneumonia, which terminated fatally. Dr. M. C. West, who attended him in his last illness, testifies "that said McMahon had been a sufferer by reason of asthma, his lungs being in a weak and unhealthy condition, which predisposed him to the attack of pneumonia, and that he has reason to believe that the patient would have survived the attack of pneumonia had it not been that his strength had previously been so exhausted by asthma." In view of these facts the committee is of opinion that the applicant has an equitable claim to a pension, and therefore recommend the passage of the accompanying bill, after it shall have been amended by adding to the same the words, "her pension to commence from the passage of this act."

Mr. PRESCOTT. There is no question, Mr. Chairman, in this case but what this soldier discharged his duty faithfully and well. The entire proofs in the case are complete in regard to all the matters, showing that he was actively in the service discharging all the duties required of a soldier. The proofs in the case, filed with the Commissioner, do show that which has not been spoken of in either of the reports, but which is a fact to be taken in connection with this case, that on the 29th of July, 1865, immediately preceding his discharge, he was one of those who was injured by a tornado which swept over this section of the country.

In connection with that, and to satisfy myself in reference to this case, I went to the public library and obtained from there the newspapers of that time; and I found in the daily Star a statement of the fact that on the 29th of July, 1865, there had occurred a tremendous tornado which had created considerable devastation in this city and the surrounding country and the camps in Virginia, where this man then was—Camp Corcoran, I think. The Star states that the storm which visited the city on Saturday last (the paper is dated Monday, July 31, 1865,) was the most violent known here in several years. That about three o'clock dense black clouds rolled up in the west and indicated the approach of an unusually severe gale.

It then goes on to say that the rain fell in torrents accompanied by hail; that awnings were blown down, trees uprooted, basements flooded, &c.; that damage was done to the White House; that the firm of Lockwood & Co., on the avenue, were damaged to the extent of $10,000; that show-windows were broken in by the force of the gale; that the street-railway track on F street was torn up and undermined; that shade-trees were uprooted or shattered; and that the windows in the Government Printing Office were broken in, being completely riddled by the hail; and also that many chimneys were blown down. The article then proceeds:

A number of camps on the Virginia side of the river suffered severely. Tents were blown over, and trees were uprooted and fell heavily upon the temporary residences of the soldiers. At Fort Corcoran, Virginia, the barracks used by the soldiers on duty there were blown down, thereby wounding nineteen soldiers, some seriously.

The article further shows that the storm in Virginia and Maryland bordering on the river was equally severe, destroying houses, fences, crops, uprooting trees, and generally spreading havoc in its course.

This is corroborative testimony of the facts alleged by this applicant, and if it be shown that by reason of this tornado this soldier has received an injury, he is certainly entitled to consideration. The facts in the case are as I have stated. This soldier was one of the nineteen injured, as mentioned in this article. He was injured in his side and hip; and I have a letter written by him immediately after this from the hospital, saying that he was so severely injured that he was placed in the hospital for medical treatment. Following upon that his discharge took place, some three months afterward. This was in July, and he appears to have been discharged in September following.

Mr. BROWNE. For what?

Mr. PRESCOTT. I cannot state. The discharge does not specify the cause.

Mr. McMILLIN. Might it not have been by reason of the expiration of his term?

Mr. PRESCOTT. I am not able to state that. It is possible that it is true.

Mr. McMILLIN. There is no statement that he was discharged for inability.

Mr. PRESCOTT. It does not so appear; I judge, however, that he was discharged at the expiration of his service, because in his letter he states that he was expecting that the regiment would be mustered out, and that he would receive his discharge and come home. But he writes this from the hospital. He was discharged on the 28th of September, and the injury was received on the 29th of July. At that time he was still in the hospital. The affidavits in the case are absolutely conclusive, without any contradiction in any form by any investigation that has been made. When he reached

home he was suffering from the injury which he received to his lungs, and to such an extent that he was unable to perform any labor to which he had been accustomed. The affidavits show that he was so injured that he had from that time an asthmatic affection or trouble of his lungs which disabled him so that from that time until he died, in 1869, some four years afterward, he was not able to perform any duty.

It is shown that he had made, from time to time, attempts to work, but was not able to perform any labor, and could stand no exposure. He was one of the best accountants I ever saw; one of the best in our part of the State, and certainly one of the best men that left that section for the Army. I have stated that he died four years after that time—a little less than four years, three years and eight months—and the affidavits to which I have referred show that never for one moment's time from the date that he received the injury until he arrived home, and from that time to his death, was he able to perform any work. To be sure the affidavit of the doctor is that what finally killed him was an attack of acute pneumonia; but he further states that he was so reduced and weakened from the injury he received that he was not able to withstand the attack. His exact words are that he has "reason to believe that the patient would have survived the attack of pneumonia had it not been that his strength had previously been so exhausted by asthma." Now, he left a widow and one little boy, and the widow applied immediately for a pension, and for long years she has been trying to get a pension, but finally the Department rendered a decision in which they stated that the immediate cause was acute pneumonia, and not exposure or injury resulting from the service.

The doctor, however, as I have shown, says he would probably have recovered if it had not been for the injury from which he was suffering by reason of the tornado. As I have shown from the Star there is certainly strong grounds for the belief that injury was the result of his service. None of the facts in the case, I submit to the committee, present any feature by which there should be prejudice against this application, and it was so considered in the Senate. They reached a favorable report, and the bill passed the Senate and came here. I am informed by Mr. WADSWORTH, who reported the bill, that he took the report of the Commissioner, which states what has been already shown, and that the pension was refused by the committee on the ground therein specified, that the immediate active and final cause of his death was acute pneumonia.

I say, Mr. Chairman, that this case is not one of those cases where the House should be willing to defraud this woman by a technicality if she is entitled to the pension, for it is defrauding her if she ought to have it, and this House ought to give it; and if she is not entitled to it, then she ought not to have it. But knowing these people as I do; knowing that they are entitled to full credit; that they are people who can be depended upon, who would not ask what they are not entitled justly to receive, I trust the House will consider it favorably, and give an opportunity at all events for a hearing in open House.

I am ready to answer any questions that may be necessary to explain any point in the case which may not be clearly understood.

Mr. McMILLIN. Has the gentleman from New York any evidence on hand that was not before the committee?

Mr. PRESCOTT. I have no additional evidence to what was before the Commissioner or before the committee, except in regard to this matter of the tornado that I have looked up myself and the statements I have here in regard to it.

Mr. ALDRICH. I would like to inquire if the eloquent gentleman from New York [Mr. PRESCOTT] appeared before the committee and made as good a speech there as he has made here?

Mr. PRESCOTT. I did not. I had no knowledge when the bill was to be considered; or I think there never would have been an adverse report in this case.

Mr. ALDRICH. It does credit to the gentleman from New York to plead so eloquently for his friend. But I must say it is asking a good deal of us to vote for a bill that has been twice reported by committees adversely.

Mr. PRESCOTT. The gentleman is mistaken. It has not been reported twice adversely.

Mr. ALDRICH. I understood that statement to be embraced in the report of the committee of the Senate, which the gentleman caused to be read.

Mr. PRESCOTT. Oh, no. The bill passed the Senate and comes here.

Mr. ALDRICH. I understand that. But in that report from the Senate, as I understood it, the Senate committee stated they reported the bill favorably, although there had been a previous adverse report.

Mr. PRESCOTT. By the Commissioner.

Mr. ALDRICH. I supposed it had been an adverse report by a committee. There is one adverse report on the case at any rate.

Mr. McMILLIN. It should be remembered that the Commissioner in making his report had all the appliances of taking evidence, which we have not.

Mr. PRESCOTT. The statement in the report which the gentleman from Illinois [Mr. ALDRICH] misunderstood is that the application was rejected October 25, 1879, by the Commissioner. And I would suggest that all of these cases on the Calendar that have been considered by the Commissioner at all have been rejected by him, or they would not be here. Some of them of course are cases that do not go before the Commissioner.

Mr. McMILLIN. In a number of them new facts are presented. Others belong to a class for which the general law does not provide, and the Commissioner states as to such a case it is a meritorious one, presenting a hardship which the general law does not provide for.

Mr. PRESCOTT. In all cases, however, where there is presented to the committee additional evidence, they refer that back to the Commissioner for consideration.

Mr. McMILLIN. No, sir; not in all.

Mr. PRESCOTT. That has been done in cases I have had to do with, and I supposed it was the universal rule.

Mr. McMILLIN. We have occasionally this state of things presented, which ought to put us on our guard both in this House and in committee. We have had bills introduced in this House which have been referred to the committee, and after they have hung there for one or two months the committee is notified to take no action because the Commissioner of Pensions has granted the pension. If Congress admits a general appeal from the Pension Department we will have no end of business to be done. And I would suggest also if adverse reports of the committee are to go upon the Calendar and be acted on favorably in the House when only two or three dozen members are present, an adverse report by the committee will amount to very little.

Mr. DAWES. If I correctly recollect this case as it was presented before the committee, there seems to be one new fact which has been brought here by the honorable gentleman from New York, [Mr. PRESCOTT.] That is in regard to the injury to the soldier. I think the fact of his having asthma was before the committee, and there was a doubt in the minds of the committee whether that disease of asthma was contracted in the line of his duty.

Mr. McMILLIN. If my friend from Ohio [Mr. DAWES] will recall the remarks of the gentleman from New York he will remember that the new evidence presented is merely confirmatory evidence of the raging of the tornado. That is about all there is that is new. The gentleman produced confirmatory evidence from the Star, a paper published here, of there having been a tornado.

Mr. DAWES. Perhaps I misunderstood the gentleman from New York, but I thought he stated it was in evidence that the soldier was injured.

Mr. PRESCOTT. That is in evidence, established as a fact and not contradicted.

Mr. McMILLIN. That was not new evidence. That was before the commissioner.

Mr. DAWES. It seemed to me from the presentation of the case by the gentleman from New York that the soldier was injured by this tornado, and that that injury, received it appears in the line of his duty, caused the so-called asthmatic trouble from which he suffered until his taking off by the so-called acute pneumonia.

Now, that presents the case to me as it did not strike me when I heard it presented in the committee. But it only suggests to my mind this point: whether one disability can take a man to the edge of the grave and another push him in which has an entirely different origin; and a second question for us to consider is how far this injury received by the soldier under those circumstances was the cause of the soldier's death.

Mr. MATSON rose.

Mr. PRESCOTT. Will the gentleman from Indiana before he proceeds allow me to state that in addition to what I have examined in regard to this tornado I have also the letter to which I have referred, which I do not understand was before the Commissioner, in which the soldier states his injuries?

Mr. MATSON. I remember this case and its disposition in the committee very well. I think it was disposed of rather summarily there and without a very full statement of the facts in the case. I think it was disposed of on a statement that there seemed to be no connection between the injury and the disease of which the soldier died.

My observation has been in many of these pension cases that it would be very difficult for the ordinary mind to discover the connection between the disease of which the soldier died and the injury or disease that he contracted in the service. However, upon our committee we have a very competent physician and ex-army surgeon, whose services have been frequently brought to bear upon cases of this kind. But my recollection is that he was not present at the time this case was considered, and, as I have already stated, it was considered and disposed of in rather a summary manner.

Several cases of the kind I have alluded to have been before our committee, where it was difficult to discover the pathological connection between the disease of which the soldier died and the injury he received while in the service. But in this case it seems to me we might discover very easily the connection. If the soldier was injured about the chest, as the evidence shows he was, a disease of the lungs might be presumed to have resulted from that kind of injury; and the ordinary mind can see that a disease of that kind might have so resulted.

The claim in this case was rejected by the Pension Office, after passing the scrutiny of the medical examiner of that office, upon the ground that there was no connection between the death to the disease contracted. I have known cases to be rejected in that office

which I thought were wrongfully rejected on that ground. And I have known this present Congress, in at least two instances, to grant pensions because of the fact that the claims were wrongfully rejected by the Pension Office.

I believe that, upon the statement made by the gentleman from New York [Mr. PRESCOTT] as to the character of this soldier and as to the character of his family, and upon all the facts taken in connection with this case, this pension ought to be allowed. I did not vote to make an adverse report to the House, and therefore I feel perfectly free to vote here to lay the bill aside to be reported favorably to the House, and I will do so.

Mr. PRESCOTT. It may be that I should call attention to the additional fact that the hail-storm, as described by the Star, which resulted in the blowing down of the barracks, left this soldier, with other soldiers, as appears by his letter, &c., out in the storm. They became drenched with the rain, and the result of that was that this soldier took a severe cold, which hung upon him until the time of his discharge.

I might refer the Committee of the Whole to the action of the Pension Committee and the action of the House in the case of Amanda J. McFadden. In that case the soldier was injured by a gun-shot wound in the ankle, yet he died of cancer in the stomach. The committee reported in favor of giving a pension in that case, claiming that the healing up of the wound in the ankle caused dyspepsia, and that caused cancer in the stomach. Certainly the connection between the cause of death and the disease contracted in this case is very much closer than in that one.

Mr. MANNING. And that death occurred some twenty years after the wound.

Mr. PRESCOTT. Yes, the death from cancer occurred more than twenty years after.

Mr. McMILLIN. Can you see the connection in the cancer case.

Mr. PRESCOTT. I can in this case.

Mr. MANNING. I happen to know all about the case referred to, and the doctor was able to show the connection, the attending physician.

Mr. McMILLIN. And in this case the attending physician was not able to show it; that is the difference.

Mr. MANNING. I am speaking in answer to your inquiry, and not in answer to something that you did not inquire about.

Mr. ALDRICH. I will not object to laying this bill aside to be reported favorably to the House, provided it is understood that there shall be no vote upon it in the House without a quorum.

Mr. PRESCOTT. I do not ask that.

Mr. ALDRICH. I withdraw my objection with that understanding.

The bill was accordingly laid aside to be reported favorably to the House.

ELLEN GILLESPIE.

The next pension business on the Calendar was the bill (H. R. No. 4082) granting a pension to Ellen Gillespie.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ellen Gillespie, widow of John W. Gillespie, late a private in Company F, Twenty-eighth Regiment Pennsylvania Volunteers, and pay her a pension for herself and her six children under sixteen years of age, from the date of the death of her husband, the 9th of July, A. D. 1878, at the rate of pensions for widows of deceased privates in the late war of the rebellion; her said husband, John W. Gillespie, having died from the effect of wounds received while in the military service of the United States and in line of duty during the late war of the rebellion.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill H. R. No. 4082, have had the same under consideration, and beg leave to report as follows:

This bill was before the Committee on Invalid Pensions of the Forty-sixth Congress, to whom the subject was referred and favorably considered, and passed the House of Representatives, but was not acted on in the Senate for want of time. We append and adopt as our own the report of the committee of the Forty-sixth Congress upon the subject:

"John W. Gillespie enlisted January 21, 1862, in Company F, Twenty-eighth Regiment of Pennsylvania Volunteers, and was wounded at the battle of Antietam on the 17th of September, 1862, and was discharged by reason of said wound February 6, 1863. He was pensioned from the 10th of November, 1865, at $3 per month, and his pension was increased to $5 per month from May 6, 1874. He died at his home in Cambria County, Pennsylvania, on the 9th of July, 1878, from the effects of wounds received in service. At the time of his death he left a widow, Ellen Gillespie, and six children. The widow filed her application for pension on the 15th of October, 1878, and on the 5th of February, 1879, it was rejected because her husband's death 'was not a result of his military service.'

"The committee have carefully examined the evidence on file in this case, and they are of the opinion that the evidence shows clearly that the wound received, and for which John W. Gillespie in his life-time was pensioned, was the cause of his death.

Dr. R. Deveraux, a practicing physician of good standing, and who was the family physician of John W. Gillespie for about eleven years preceding his death, on the 28th day of October, 1878, testifies as follows:

"'His (Gillespie's) wound is a gun-wound, passing through the right arm about the lower third of the humerus, then entering the thorax about three inches below the nipple, a little to the outer side, passing downward through a portion of the lower lobe of the right lung, through the diaphragm, then through or coming in contact with the upper and posterior part of the liver in that region, the labus major, emerging close or within about one inch to the same or right side of the spinal column, about the region of the right kidney, a little above, the course of the ball being downward from the point of entrance to the place of exit; quite an indentation at the place of the cicatrix.

"'For several years his symptoms were pain under the ribs of the right side, deep seated, as under and on the liver, described as severe darting or shooting pains, no tenderness upon pressure, not fainting as in abscess; the pains increased in severity each year in paroxysms, sometimes intervening one, two, or three months. The attacks became more frequent, the pain more intolerable, about one year before his death. Secretions, digestion, and action of heart continued normal; a nervous, anxious appearance, resulting from continued severity of pain, differed him only from his ordinary appearance in health. Dissolution occurred suddenly in my presence; appeared as usual, suffering much pain in region described; no acceleration of pulse or respiration; lying down, and upon assuming a sitting posture, placed both hands immediately over the location of the pain in right side; pressed firmly; at once expired, respiration and circulation immediately ceasing. No post-mortem being made, from the obscurity of the case and its symptoms, I am led to believe that the wound, or injury resulting from the wound, was, if not the immediate, the remote cause of his death. I have no interest directly or indirectly in the prosecution of this claim.

"'I have been his physician for nearly eleven years, and believe he had no other disease. Gave him no treatment but for pains described, and believe he had no other disease and was treated for none other during the above length of time.'

"Mrs. Gillespie was left a widow in destitute circumstances, and has six children. Her neighbors speak of her as being a very industrious and worthy lady, and that she should be pensioned."

The committee recommend the passage of the bill, believing that this is a meritorious case, with this amendment: Striking out all after the word "volunteers" in line 8 of said bill.

The amendment of the Committee on Invalid Pensions was to strike out all of the bill after the words, "Twenty-eighth Regiment Pennsylvania Volunteers."

The amendment was agreed to, and the bill as amended laid aside to be reported favorably to the House.

JOHN ADAMS.

The next pension business on the Calendar was the bill (H. R. No. 2626) granting a pension to John Adams.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Adams, who enlisted in Pittsburgh, Pennsylvania, on Commodore Ellet's ram-fleet.

The report is as follows:

The Committee on Invalid Pensions submit the following report:

The petitioner, John Adams, enlisted on Commodore Ellet's ram-fleet at Pittsburgh, on the 14th or 15th of May, 1862, and was assigned to duty on board the "Lioness." At the battle of Memphis, Tennessee, June 7, 1862, he received a bullet wound over the left eye and in the left arm; and while patroling the river from the mouth of the Yazoo River toward Memphis, August 15, 1862, he was shot from the shore by guerrillas, the ball penetrating above the right haunch, and the wounded man falling down a hatch, breaking right elbow.

Dr. W. L. Morrow, of Freeport, Pennsylvania, in his sworn statement, June 14, 1880, says the petitioner is entirely unable to perform any labor, and cannot walk or get up from his chair without assistance on account of the wound in the haunch bone.

The ground on which the application was rejected by the Pension Office is, that the petitioner was not in the military or naval service of the United States, but in the Quartermaster's Department. Your committee is, nevertheless, of the opinion that he received his disability in the line of duty and that the claim is a meritorious one, and recommend that the bill do pass.

The bill was laid aside to be reported favorably to the House.

ALFRED G. FIFIELD.

The next pension business on the Calendar was the bill (H. R. No. 1020) granting an increase of pension to Alfred G. Fifield.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alfred G. Fifield, late a private in Company C, Twelfth Regiment New Hampshire Volunteer Infantry, at the rate of $24 per month, in lieu of the pension he is now receiving.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1020) granting an increase of pension to Alfred G. Fifield, having had the same under consideration beg leave to submit the following report:

The claimant was a private in Company C, Twelfth New Hampshire Volunteers; enlisted August 17, 1862; discharged November 17, 1863, on surgeon's certificate of disability, "on account of gunshot wound at Chancellorsville, Virginia, which caused a resection of the humerus, (right arm.)" The shot which wounded Fifield hit his right arm near the shoulder and shattered the bone so that the head and four or five inches of the humerus had to be removed.

[Extract from the letter of Commissioner of Pensions, dated ——— —, 18—, transmitting papers to the committee.]

"The claim was originally allowed at $5.33 per month from date of soldier's discharge, November 17, 1863. His pension was increased to $8 per month from September 4, 1865; to $15 from June 6, 1866; and to $18 from June 4, 1872. His subsequent applications for increase have been rejected, because his disability is not such as would entitle him to the next highest rate provided by the pension laws—$24 per month. It is conceded that the injury to the arm is equivalent to actual loss of the same above the elbow, but the rate of $24 per month, which the law provides for such loss, is not provided for a disability equivalent thereto, and unless a person is otherwise so disabled as to be incapacitated for the performance of any manual labor, no higher rate than $18 per month can be allowed."

From the medical evidence in the case we extract the following:

"Dr. David B. Nelson, examining surgeon, February 1, 1864, certifies—

"'The arm is helpless and useless.'

"Dr. Ira A. Chase, at biennial examination, September 4, 1865, certifies—

"'The arm is entirely useless; should be increased to full pension.'

"The board of examining surgeons at Concord, New Hampshire, September 6, 1875, certify—

"'Disability is permanent, at total third grade.'

"Dr. D. B. Nelson, examining surgeon at Laconia, February 7, 1876, certifies—

"'This disability is fully tantamount to the loss of the arm above the elbow. Disability, second grade—$24 per month.'

"Dr. Chase, again, August, 7, 1876, certifies—

"'The right arm is entirely useless, the head and four inches of the right humerus is gone, and the arm hangs dangling by his side; he could not dress or undress himself if both were like the injured arm, and amounts to total loss of right arm.'

"Again, the same physician says—

"'The arm is in the way of laboring; in my opinion the pension should be increased to full pension.'

"G. P. Conn, M. D., for the board of examining surgeons, Concord, New Hampshire, February 1, 1877, in reply to a letter of instructions from the medical referee of the Pension Office, says:

"'He was rated at $24 per month. The board would further state that claimant is so far debilitated that the other arm is incapacitated for other than the very lightest of duty, he being able only to canvass for the sale of a book for a long time.'

"Warren W. Sleeper, M. D., examining surgeon, January 9, 1878, certifies:

"'Total: second grade, or $24 per month.'

"The board of examining surgeons, at Concord, New Hampshire, January 3, 1879, certify:

"'He cannot perform any manual labor, nor is this rating in any way considered an equivalent to the loss of an arm above the elbow. Disability total; second grade, or $24 per month.'"

The affidavits of neighbors and friends of the petitioner are quite as strong as the medical evidence. They testify to his inability to perform manual labor, and to his correct habits of life.

Your committee are of the opinion that from the weight of medical evidence alone the petitioner is entitled to the relief prayed for. We therefore report favorably upon the case, and recommend the passage of the bill granting an increase of pension to Alfred G. Fifield from $18 to $24 per month.

The bill was laid aside to be reported favorably to the House.

ABAGAIL S. TILTON.

The next pension business on the Calendar was the bill (S. No. 108) granting an increase of pension to Abagail S. Tilton.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Abagail S. Tilton, at the rate of $16 per month, to date from the passage of this act: *Provided*, That all payments heretofore made shall first be deducted.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill S. No. 108, submit the following report:

The facts touching the case of Mrs. Tilton are correctly stated in House Report No. 692, Forty-sixth Congress, as follows:

"It is in evidence that the husband of the petitioner, Benjamin Stevens, was a soldier of the Revolutionary war, and was mustered into service on the 18th day of July, 1777, serving as a private in Captain Samuel McConnell's company, of Colonel Thomas Stickney's regiment, of the brigade commanded by General Stark, and was honorably discharged on the 18th day of September, 1777.

"It is also in evidence that at the date of the petitioner's marriage with the said Benjamin Stevens she was the widow of David Tilton, and was married to said Stevens on the 31st day of January, 1831, and that they lived together until his death, which occurred on the 25th day of August, 1832; that she subsequently married Adoniram Paige, who died in 1848; that by special act of the New Hampshire Legislature approved January 4, 1849, she was permitted to take the name of Abagail S. Tilton, and in which name she now petitions Congress for relief.

"It is in evidence, by letter of the Commissioner of Pensions, that by the act of Congress approved February 3, 1853, she was entitled to have her name placed upon the pension-rolls at any time prior to June 22, 1874, at which date the aforesaid law was repealed.

"It is also shown that it was through no fault of the petitioner that she did not avail herself of the provisions thereof before its repeal. Living in a secluded country place, and knowing but little of the proper manner of making application for pension, she caused a petition to be drawn up setting forth in full the facts in her case, which was sent to the member of Congress from her district and by him was deposited in the petition-box of the House June 8, 1868, as is shown by the Journal. The petitioner was soon afterward informed by one she had reason to rely upon that she was not entitled to a pension, and therefore slept on her rights until informed of her error long after the repeal of the act of February 3, 1853.

"It is also in evidence that since the death of her third husband, Adoniram Paige, she has lived with and been supported by Nathaniel D. Tilton, the son of her first husband, until about three years since, when he died, by which event she is now left childless and destitute; that she is now nearly ninety years of age and in receipt of no means whatever to furnish food or clothing or medical attendance and nursing in her last years of life. In consideration of which, and in accordance with the spirit of the act approved March 11, 1878, granting pensions to widows of Revolutionary soldiers, the committee submit herewith a bill granting her a pension at the rate of $16 per month, believing that will meet her needs more fully than the provisions of the bill H. R. No. 3298, which provides for payment at the rate of $8 per month from 1854 to date of special act granting her a pension, March 3, 1879.

"Your committee therefore report back the bill (H. R. No. 3298) with a substitute therefor, and recommend the adoption and passage thereof."

A similar bill for her relief passed the Senate and was favorably reported to the House in the Forty-sixth Congress, but failed to be considered for want of time. This aged lady is now in a helpless condition and dependent upon charity for support beyond the $8 per month she is now receiving pursuant to the special act for her benefit passed March 3, 1879.

The unfortunate delays which deprived her of a pension during so many years that she was clearly entitled to it under the law have also attended her efforts to get the relief which Congress has always been willing to bestow, and the bill introduced in the Senate this session provided that her increase from $8 to $16 per month should commence March 3, 1879, but it was amended before its passage by striking out the allowance of arrears, so that the increase should take effect only upon the passage of the act.

Your committee find by an examination of the Senate bill that the proviso—evidently referring to the arrears, (which were stricken out on recommendation of the Senate Pension Committee,) in the following words: "*Provided*, That all payments heretofore made shall be first deducted"—ought to be struck out also. Undoubtedly said proviso was retained through inadvertence in the Senate, and we recommend the passage of the bill after amending the same by striking out the proviso.

The CHAIRMAN. If there be no objection, this bill will be laid aside to be reported favorably to the House.

Mr. RAY. I desire to call attention to the fact that this bill is reported with an amendment. The Senate passed a bill proposing to pay this woman a pension of $16 per month, "provided that all payments heretofore made shall be first deducted." The intention of the Senate was evidently to strike out the allowance of all arrearages which the original bill provided for, and at the same time this proviso should have been struck out with the clause allowing arrears, but probably the proviso was retained through inadvertence. The House Committee on Invalid Pensions, discovering this error, reported an amendment to strike out the proviso. This old lady, now upward of eighty years of age, has been drawing a pension at the rate of $8 per month. The proposition now is to give her $16 per month, instead of $8; but if all she has received is to be deducted, pursuant to the proviso, before the increased rate of pension shall operate, this bill will be of no benefit to her, unless she should live a good while.

The question being taken on the amendment reported by the committee to strike out the words "provided that all payments heretofore made shall be first deducted," it was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

MARY C. J. BUDLONG.

The next pension business on the Calendar was the bill (H. R. No. 1164) for the relief of Mary C. J. Budlong.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to determine, and that thereupon the same be paid, out of any moneys in the Treasury not otherwise appropriated, to Mary C. J. Budlong, the arrears of pension or loss to her by reason of the delay of the Pension Department to act upon her application for a pension, from the date of filing thereof until the actual granting of same, she being the widow of John Budlong, who was a private of Captain Catlin's Company, New York State Militia, in the war of 1812, and in which he was wounded and disabled.

The report is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1164) for the relief of Mary C. J. Budlong, would respectfully report:

That Mary C. J. Budlong is the widow of John Budlong, who was a private in Captain Catlin's Company of New York Militia in the war of 1812 and 1814; that there is no proof of his term of service, and it is only generally shown to have been at least fourteen days. John Budlong died April 27, 1854. In 1864 his widow, Mary C. J. Budlong, applied for a pension. As the law then stood this could only be granted on proof that he died by reason of service. This was sought to be done by the claim that he was troubled with chronic diarrhea, and had a hernia, caused by gun-shot wound. No connection of these with the service in the war was shown, except statements of deceased, and, the Commissioner of Pensions not being satisfied with the proofs, the claim was rejected. John Budlong does not appear upon the company rolls of Captain Catlin's Company as a member, and the only proof of service is that of two claimed comrades—Caleb Green and John Green—both of whom appear by the records as deserters after only thirteen days' service. Upon this proof the claimant obtained a land warrant.

March 9, 1878, an act was passed, entitled "An act amending the laws granting pensions to the soldiers and sailors of the war of 1812, and their widows, and for other purposes."

Prior to the passage of this act a bill had been introduced in the Forty-fifth Congress for a pension to this claimant, Mary C. J. Budlong, asking arrears from the date of the death of her husband. After the passage of the act of March 9, 1878, the Senate committee reported adversely upon such bill, referring her to her rights under such act. She thereupon applied under that act, which provided—

"That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the names of the surviving officers and enlisted and drafted men, without regard to color, including militia and volunteers of the military and naval service of the United States, who served for fourteen days in the war with Great Britain of 1812, or who were in any engagement, and were honorably discharged, and the surviving widows of such officers and enlisted and drafted men.

"When any person has been granted a land warrant under any act of Congress for and on account of service in the war of 1812 such grant shall be *prima facie* evidence of his service and honorable discharge, so as to entitle him, if living, or his widow, if he be dead, to a pension under this act."

As the proof of service upon which the land warrant was issued showed the deserters, making some to have been themselves in the service but thirteen days, although they swore John Budlong was in the service fourteen days, the Commissioner rejected the claim for pension under the act of 1878 on the 3d September, 1879, on the ground as therein stated:

"The testimony of Caleb Green and John Green in bounty-land claim cannot be accepted, as both men only served from 7th to 20th October, when they deserted; consequently only served thirteen days, not a pensionable service. Having deserted on the 20th of October, they cannot testify as to service on that day."

This decision was afterward reopened, and upon another examination it was held that both days might be taken, making the fourteen days required by the act of 1878, and on the 27th February, 1880, a pension was granted claimant of $8 per month with arrears, and commencing from March 9, 1878, the date of the said act under which it was allowed.

Claimant now asks by her petition to have arrears from the date of the discharge of her husband, in 1812 or 1814, to the date of the commencement of her present pension—March 9, 1878. This is a much larger demand of arrears than was asked of the Forty-fifth Congress, and one that has never been granted in any known case. The claimant has received pension from the earliest point of time she could by any construction of law claim same, and as long as all other like cases.

Your committee see no reason for making this an exceptional case, establishing a bad precedent, and they therefore report adversely upon said bill, and ask that the same do not pass.

Mr. BROWNE. From information now before me I move that this bill be reported to the House with a recommendation that it be indefinitely postponed.

The motion was agreed to.

CHARLES F. PARIS.

The next pension business on the Calendar was the bill (H. R. No. 4268) granting a pension to Charles F. Paris.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charles F. Paris, late of Company F, One hundred and twenty-third Indiana Volunteers.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill H. R. No. 4268, have had the same under consideration, and beg leave to report as follows:

Charles F. Paris was a soldier in the One hundred and twenty-third Regiment of Indiana Volunteers, and, as such, served out his time. His officers and comrades in their testimony speak of him as an excellent soldier, always at the front, and making for himself an excellent record as a patriotic volunteer. His regiment was in the field during the whole time of its service, and was engaged in the principal battles of the Western campaigns.

He was, soon after his discharge, stricken with some disease of the lungs, which the examining surgeon of the Pension Department states as his belief was at-

tributable to his Army service. That disease has progressed until he is now, and has been for several years, incapable of performing manual labor. He applied for a pension on the 20th day of January, 1876, and his application has been recently rejected, upon the ground that there is no specific proof of the incurrence of the disease in the military service of the United States. The proof of any affirmative fact is wanting; but upon the other hand the proof of his entire soundness at enlistment, his exposure and service in the Army, and his prostration soon after leaving the service, the absence of any hereditary or other specific cause for his debility, compel the conclusion that it must have resulted from the service. This committee is disposed to give him the benefit of any doubts in the case, in view particularly of his excellent character as a soldier and a citizen, as abundantly testified to, and they recommend that the bill do pass.

The bill was laid aside to be reported favorably to the House.

ELECTA L. BALDWIN.

The next pension business on the Calendar was the bill (H. R. No. 2104) granting a pension to Mrs. Electa L. Baldwin.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Electa L. Baldwin, widow of Charles Baldwin, late a private in Company B, Seventh Regiment of Pennsylvania Volunteer Cavalry, at the rate of $8 per month, to date from the time of the discharge from the service in the late war of the rebellion of the said Charles Baldwin, on account of injuries received while in the line of duty in the Army of the United Stotes.

Mr. BROWNE. Is there no amendment reported with this bill?

The CHAIRMAN. The Chair understands there is not.

Mr. BROWNE. Then I ask that the report be read.

The Clerk read as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 2104) granting a pension to Electa L. Baldwin, has had the same under consideration, and begs leave to submit the following report:

From the papers before this committee it appears that Electa L. Baldwin is the legal widow of Charles Baldwin, who was a private in Company B, Seventh Pennsylvania Cavalry. Baldwin, as shown by the record of the War Department, enlisted September 21, 1861, performed active military duty until July 13, 1862, when taken prisoner in action at Murfreesborough, Tennessee. He reported at Camp Parole, Maryland, in September, 1862, was forwarded to Cincinnati, Ohio, and on the 21st of November, 1862, admitted to general hospital at Covington, Kentucky, with distortion of spine, from which hospital he was discharged the service December 15, 1862, on surgeon's certificate of disability, setting forth as disabling cause angular curvature of the dorsal spine, which disease, in the opinion of the surgeon, existed before enlistment in a latent condition. The soldier died September 24, 1865, according to the certificate of the attending physician, of pelvic abscess and tumor on back.

The widow's claim for pension has been rejected by the Pension Office on the ground that the soldier died of disease which originated prior to entering the service. This action seems to have been based simply upon the opinion expressed by the surgeon in the certificate of disability, to the effect that the curvature of the spine existed in a latent condition before enlistment.

There is, in the opinion of this committee, ample proof of the soldier's soundness at time of his enlistment. Neighbors and fellow-soldiers testify that Baldwin was a very stout, healthy man before his enlistment, and particularly free from any disease of the spine. The cause of the disease is not shown as clearly as it probably could be shown by the claimant had the Pension Office permitted her to overcome the adverse record. She alleges that it was due to a fall from his horse, and a sergeant of the company testifies that the soldier, a few weeks prior to his discharge, was taken with severe pains in back, which resulted in the disability for which he was discharged and finally caused his death. It also appears in evidence that shortly after discharge soldier's condition became worse. A tumor weighing nearly a pound was cut from the spine about five months after his return from the Army. He was unable to perform any labor, and suffered greatly until relieved by death on September 24, 1865.

It is evident from the opinion of the medical referee of the Pension Office, on file with the papers, that could it be clearly shown that the soldier was sound at enlistment, the origin of the fatal disease in service would have to be conceded.

The sworn statements of persons having personal knowledge of the soldier's condition before enlistment, whose credibility is properly established, are, in the opinion of this committee, entitled to more consideration than the statement of a surgeon of a general hospital, who from the very nature of the circumstances could not have any knowledge of the soldier prior to his admission to the hospital, and therefore is inclined to give to the claimant the benefits of doubt, which necessarily must surround the origin of a disease of an obscure character, by reporting favorably on the bill and asking that it do pass.

Mr. MATSON. I prepared the report in this case, and it is evidently an oversight that no amendment was reported with the bill. It ought to be amended so as to provide that this woman shall be placed on the pension-roll subject to the general provisions of the pension law.

Mr. BROWNE. So that the pension shall begin from and after the passage of the bill.

The CHAIRMAN. If there be no objection that amendment will be made.

There was no objection.

The bill as amended was laid aside to be reported favorably to the House.

JAMES E. GOTT.

The next pension business on the Calendar was the bill (H. R. No. 627) to increase the pension of James E. Gott.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of James E. Gott, late a member of Company A, Fourteenth Regiment Maine Volunteers, to $24 per month.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 627) to increase the pension of James E. Gott, have had the same under consideration, and beg leave to submit the following report:

Gott was a private in Company A, Fourteenth Maine Volunteers, and served from December 7, 1861, to March 4, 1863, when discharged on surgeon's certificate of disability, setting forth that the soldier was suffering from debility caused by long-continued illness and perforation of the cheek, from gangrene and ulceration of the mouth. He was allowed a pension at $8 per month, which rate was increased to $12 from July 16, 1873, and to $18 from December 28, 1876. A further application for increase, filed July 20, 1880, was rejected by the Pension Office upon the statement made by the postmaster of the town in which the pensioner resides, that the pensioner was able to work about one-third of the time.

The medical evidence in the case shows the following disability: Cicatrix extending from left angle of mouth two and one-half inches obliquely upward; left cheek adherent to superior and inferior maxillary bones; anchylosis of lower jaw; very slight lateral motion; vertical motion about one-sixtieth of one inch; can take only liquid food, the use of solid food impossible. He suffers for want of proper nourishment, and is unable to perform any manual labor.

As the Pension Office concedes the disability to be chargeable to scurvy contracted in the service, but accepts the statement of a non-professional instead of the certificates of the examining surgeons as to the pensioner's ability to perform manual labor, the judgment of this committee is that little, if any, manual labor can be performed by a person compelled to subsist on liquid food only; they therefore report favorably on the bill and recommend that it do pass.

The bill was laid aside to be reported favorably to the House.

ELIZA J. YARNALL.

The next pension business on the Calendar was the bill (H. R. No. 4535) granting an increase of pension to Eliza J. Yarnall.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Eliza J. Yarnall, widow of the late Captain Mordecai Yarnall, upon the pension-roll, and pay her a pension at the rate of $50 per month instead of the pension now paid to her under the law, the said increased pension to commence from the date of the passage of this act.

The report is as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 4535) granting an increase of pension to Eliza J. Yarnall, has had the same under consideration, and begs leave to submit the following report:

The petitioner is the widow of Mordecai Yarnall, who was appointed professor of mathematics in the Navy in 1839, and served in that capacity until his retirement April 16, 1878. He died at Gergetown, District of Columbia, February 27, 1879. During the last sixteen years of his service he was stationed at the Naval Observatory in Washington. He was a man of very fine scientific attainment. It is said of him:

"Professor Yarnall was a hard-working, patient, faithful laborer in that Observatory for about thirty-five years, working with little vacation, with great constancy, (continuing to labor even after his age had retired him,) spending large portions of his nights in making observations and of his days in computing, arranging, &c., with that laborious patience and endurance which nothing but a deep love for his work and profession could inspire. The fruit of his star-gazing appears in his catalogue of stars, two editions of which have been published by the Government. The second edition, revised, enlarged, and prepared for publication after he was placed on the retired list, was the last work of his life, and the first printed copy reached him a few hours after his death. * * * No more faithful labor than his was ever done in that Observatory or elsewhere."

Professor Yarnall's widow receives the full pension provided by law, $20 per month. She is said to be in "narrow circumstances" and in very bad health.

This case is perhaps as deserving a one of its class as could be found. But, nevertheless, this committee does not see in the case anything not liable to result to the family of any officer in like service. Nothing arises in the case to show that extraordinary hardships or sufferings from war service in any way caused or hastened Professor Yarnall's death. For many years this officer had before him the law as to the rate of pension, (since 1862.) His compensation for service was $3,500 per annum. The Government cannot be held to be in fault for the present narrow circumstances of the widow, and to establish a precedent in that direction would, in the judgment of this committee, be wrong.

Your committee therefore reports adversely on the bill, and asks to be discharged from its further consideration.

Mr. BROWNE. As the report in this case is adverse, I ask unanimous consent that the bill be passed over informally.

There being no objection, it was ordered accordingly.

EDWARD FARR.

The next pension business on the Calendar was the bill (H. R. No. 1154) granting a pension to Edward Farr.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edward Farr, late a private in Company E, One hundred and seventeenth Regiment New York State Volunteers.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred House bill No. 1154, having had the same under consideration, would respectfully report:

The claimant, Edward Farr, enlisted August 6, 1862, in Company E, One hundred and seventeenth New York Volunteers. He was discharged March 12, 1863.

The claimant's proofs show, by affidavit of his family physician, that his physical condition for several years prior to enlistment had been always good, requiring no treatment; that he was a strong, able-bodied man, working at all kinds of farm labor, and having no heart disease. These facts are also testified to by several of his neighbors.

The affidavit of the examining surgeon of the regiment, who examined claimant for muster into the service, shows he was then in "sound health and free from any disease or affection of the heart."

The affidavit of the assistant surgeon of the One hundred and seventeenth Regiment is that after claimant had been in the service some five or six months claimant, "from rapid marches in the performance of his duty as a soldier, and exposure to the wet and cold at time of such marches, and immediately following the same, was taken severely ill, and with such illness was confined several months in tent at Camp Morris, Maryland, and until discharged from service, during which time affiant attended upon the said Farr medically as surgeon aforesaid, and gave him treatment; that the said illness of the said Farr resulted in an affection of his heart, on account of which he, the said Farr, was discharged from the service." The proofs show, and it is conceded, that claimant has continued, since his discharge, affected with this heart disease, and that it has destroyed his power to labor. So appears by the certificate of the examining surgeon of the Pension Office.

The assistant surgeon testifying to the facts of the contraction of this disease is now one of the examining surgeons of the Pension Department, and a man entitled to full credit.

The certificate to the discharge, and upon which this man was discharged, is made by another assistant surgeon, who is not shown to have had any personal knowledge of claimant prior to enlistment, but who states "he finds him incapable of performing the duties of a soldier, because of disease of the heart, which existed to some extent prior to his enlistment, but which permanently disqualifies him for the service."

Because of the words "which existed to some extent prior to his enlistment," the Pension Office rejected the claim.

So far as can be discovered in the whole case, these words were inserted in this certificate solely as an opinion by a surgeon not personally acquainted with claimant, but they are construed to outweigh the sworn testimony of the surgeon and assistant surgeon of the regiment, the testimony of claimant's family physician, and neighbors.

This pension was applied for March 29, 1871.

We then have the testimony of claimant's family physician and neighbors that this disease of the heart did not exist before enlistment; the testimony of his regimental surgeon that it did not exist when he was mustered into the regiment; the testimony of his assistant regimental surgeon as to the hardship of service producing illness resulting "in an affection of the heart," "on account of which he was discharged;" that the same has continued and still exists.

There is no evidence whatever to the contrary, except this statement in the certificate before stated.

This case was fully considered in the Forty-sixth Congress and reported favorably, and your committee are of the opinion that claimant is justly and legally entitled to a pension, and report back said bill and recommend that it do pass.

The bill was laid aside to be reported favorably to the House.

HUGO EICHHOLTZ.

The next pension business on the Calendar was the bill (H. R. No. 5820) granting a pension to Hugo Eichholtz.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and restrictions of the pension laws, the name of Hugo Eichholtz, late a sergeant of Company L, Fifteenth New York Heavy Artillery, and pay him a pension of $50 per month from and after the passage of this act, which shall be in lieu of that which he now receives.

The report is as follows:

The Committee on Invalid Pensions, to which was referred the bill (H. R. No. 5820) granting a pension to Hugo Eichholtz, has had the same under consideration, and begs leave to submit the following report:

The Committee on Pensions of the United States Senate has recently given the case a very careful examination, and in its very able report embodied a full history of the several actions on the part of the Pension Office in the original allowance of the claimant's pension, subsequent increases, and final reduction to $24 per month.

Concurring in the conclusions reached by said committee, this committee adopts, as its own, the report of the Senate Pension Committee (No. 371) in words as follows:

"The Committee on Pensions, having had under consideration the bill (S. No. 633) granting a pension to Hugo Eichholtz, which provides for his restoration to $72 per month, in lieu of $24, to which he had been reduced and now receives, report:

"That the soldier was originally pensioned at $8 per month for gunshot wounds of right thigh and left foot, and his pension was repeatedly increased, until in December, 1874, he was, under the provisions of act of June 18, 1874, granted a pension of $50 per month. (See admitted brief.)

"His pension was further increased to $72 under the provisions of act of June 16, 1880, and on the same certificate which granted said increase was reduced to $24 per month.

"He appealed from the action of the Pension Office, claiming that the reduction of his pension was made in violation of the requirements of the act of 1880, and contrary to the evidence as to the degree of disability. The decision of the Commissioner was affirmed by the Secretary of the Interior, on the ground that the facts now show that the appellant should never under the law have been granted $50 per month; for either he was not at the date of such allowance totally helpless, or if he was such helplessness was not permanent. (See letter of Hon. S. J. Kirkwood.)

"It is found from an examination of this case that the certificate of disability upon which the soldier was discharged shows that in consequence of gunshot wounds of the right thigh and left foot he was totally disabled for military service and for civil occupation wholly. In 1866 he was examined by an examining surgeon of the Pension Office, who, after minutely describing the nature of his injuries, states that—

"'This man requires constant attendance, and presents a pitiable spectacle in the extreme; his disabilities are permanent, and it is not improbable that his injuries will cause his early death.'

"He was again examined in 1871, the surgeon finding that—

"'A missile entered inner and upper part of right thigh, shattering femur, and passing out externally and posteriorly three inches below trochanter major. A second ball entered anterior surface of same thigh four inches below the first wound. The entire limb is atrophied, distorted, and shortened fully five inches. A ball passed through the left foot, entering on soler surface, and shattered second and third metatarsal bones; the foot is contracted, and he can only rest on its inner edge. There are two cicatrices on right shoulder, apparently from abscesses, and limb cannot be fully extended. He requires the services of an attendant constantly.'

"In 1873 another examining surgeon describes the foregoing injuries, and finds that the motions of the shoulder joint are impaired; that he cannot stand alone, and that he requires the regular aid and attendance of another person.

"Subsequent examinations in 1874, 1875, and 1877 show that the same degree of disability then existed, and the reports agree that the soldier's injuries were permanent and total, and that he required the regular aid and attendance of another person.

"This evidence appears to have been regarded as satisfactory until after the soldier made his application for pension at $72 per month. He was then notified that evidence was required showing his present physical condition, and that he required and received the attendance of another person.

"In compliance with these requirements he filed the affidavit of his family physician, who swears that he has attended the claimant professionally for the past six years; that in his opinion the soldier's lower limbs are more of an incumbrance and less assistance than artificial ones would be; that he has always, since affiant has been his physician, required constant bodily attendance, not only from and to his house, but at home, and expresses the opinion that should he dispense with such attendance, even temporarily, he does so at great peril.

"He also files the testimony of thirteen witnesses, who swear positively from their personal, and in some cases daily, observations, that claimant is now and has been for years past a helpless cripple, unable to rise from his bed, dress or undress himself, sit down or rise up without help, and constantly requiring and receiving the regular aid and attendance of another person.

"In January, 1881, the board of surgeons of this city examined Eichholtz under minute and special instructions from the Pension Office, and reported his condition in language almost identical with that employed in preceding certificates, except that in their opinion he did not require regular aid and attendance of another person, and that he is not entitled to more than $24 under the law, and upon this report his pension was reduced from $72 to $24 per month.

"The evidence is conflicting, but your committee think the equities are largely in favor of the claimant, and recommend that the claimant should have an increase of pension to $50 per month; and, so amended, your committee recommend that the bill do pass."

The bill was laid aside to be reported favorably to the House.

EARL S. RATHBUN.

The next pension business on the Calendar was the bill (S. No. 891) granting a pension to Earl S. Rathbun.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Earl S. Rathbun, said pension to be at the rate of $8 per month, from and after the date of the passage of this act, in lieu of the pension he is now receiving.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. No. 891) granting a pension to Earl S. Rathbun, have carefully examined the report of the Senate Committee on Pensions of this Congress made in this case, and numbered 146, and, concurring in the views expressed by that committee, beg leave to adopt said report as their own, in words as follows:

"The Committee on Pensions, to whom was referred the bill (S. No. 891) granting a pension to Earl S. Rathbun, having carefully examined the same, report as follows:

"That a bill was introduced in the Senate (S. No. 1808) during the second session of the Forty-sixth Congress, granting a pension of $8 a month to Earl S. Rathbun. The Committee on Pensions made the following report on the bill:

"'The Committee on Pensions, to whom was referred the bill (S. No. 1808) granting a pension to Earl S. Rathbun, have examined the same, and report:

"'The claimant enlisted at the outbreak of the late war as a private in Company C, Eighth Missouri Volunteer Infantry. He was then a resident of Saint Louis, following the vocation of a clerk and bookkeeper, and was of robust health. He was an excellent soldier and did good service, having been promoted to orderly sergeant for meritorious conduct. He was engaged in the battle of Shiloh; and in the exposure of severe and forced marches immediately after that battle he contracted rheumatism and disease of the chest. These diseases became chronic, and he became wholly incapable of manual labor, and is now bedridden and without hope of recovery. These facts are proven by the surgeon of his regiment, his family physician in Saint Louis, and several of his comrades. The claimant was discharged from service in October, 1862, but having partially recovered he joined the Mississippi squadron for operations around Vicksburgh. There he performed duty as ship-writer, steward, &c., but was all the time delicate and suffering from debility, rheumatism, and his lungs, until he was again compelled to quit the service.

"'The Pension Office ignored his rheumatism, debility, and total and permanent incapacity for labor and allowed him on account only of diseased lungs arrears of pension at the rate of $2 per month, commencing from the date of his discharge in October, 1862, but deducting from the time the period of his service in the Mississippi squadron, and granted him a pension at the rate of $4 per month.

"'The claimant appealed from this action of the Commissioner of Pensions to Congress and claims that his pension should have been at least $8 per month.

"'The committee are of opinion that the Commissioner erred in ignoring the chronic rheumatism of the applicant and his incapacity for manual labor which gradually became total and permanent. The committee therefore recommend that the pension be increased at the rate of $8 per month, as set forth in the bill, and that said bill do pass as amended.'

"This report passed the Senate but failed on account of time to become a law.

"Your committee have adopted the above report and recommend the passage of the bill with an amendment."

The bill was laid aside to be reported favorably to the House.

WILLIAM R. PERDUE.

The next pension business on the Calendar was the bill (H. R. No. 1468) granting a pension to William R. Perdue.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William R. Perdue, late of Company F, One hundred and fifteenth Regiment Ohio Volunteer Infantry, rejected by the Pension Office because alleged injuries were received on furlough, not sick or veteran.

The report is as follows:

The Committee on Invalid Pensions, to which was re-referred the bill (H. R. No. 1468) granting a pension to William R. Perdue, has examined and considered new and important evidence recently presented, from which it is evident that the former action of this committee should be reversed, and therefore reports favorably on said bill and asks that it do pass as amended.

The amendment reported by the committee, to strike out at the end of the bill all after the word "infantry," was agreed to.

The bill as amended was laid aside to be reported favorably to the House.

NIEL NIELSSON.

The next pension business on the Calendar was the bill (H. R. No. 3865) for the relief of Niel Nielsson.

The bill was read, as follows:

Be it enacted, &c., That the name of Niel Nielsson, of Wilmington, Delaware, late master-at-arms on board the United States revenue-cutter Seward, be placed on the pension-list at the rate of $8 per month, said pension to commence May 30, 1872.

The report of the committee is as follows:

The Committee on Pensions, to whom was referred bill H. R. No. 3865, report the same back as amended.

The committee find that Niel Nielsson was duly enlisted as an ordinary seaman in the United States naval service on January 22, 1862, and served until discharged January 26, 1864, and during said service he contracted a disability, as per surgeon's report herewith, marked A, and made a part of this report, which brought him within the laws allowing him to draw a half pension.

A.

UNITED STATES NAVAL HOSPITAL,
New York, January 21, 1864.

SIR: In obedience to your order of the 19th instant, we have examined Niel Nielsson, ordinary seaman, late of the United States schooner Henry James, and report that his disability (adynamia from malarial poison) will be of uncertain duration, and one-half disables him from obtaining his subsistence by manual

labor. The origin of his disability, and its connection with the performance of his duty, are thus set forth upon his hospital ticket by B. F. Gibbs, surgeon, United States Navy: "Niel Nielsson, o. sea., October 29, nat. Norway, admitted into naval hospital, Pensacola, September 21, 1863, affected with feb. intermit., which he contracted in the Mississippi River. His disease originated in line of duty."

Very respectfully, your obedient servants,

THOMAS L. SMITH, *Surgeon.*
B. VREELAND, *Surgeon.*

Surgeon W. WHELAN,
Chief of Bureau Medicine and Surgery, Washington, D. C.

The committee further find that said Nielsson was borne upon the rolls of the revenue cutter Seward as seaman from October 1, 1871, to March 1, 1872, and as master-at-arms from March 1 to October 7, 1872, and that during said service he lost an arm by the premature discharge of a defective gun, while in the line of duty, as shown by papers herewith, marked B, C, and D, respectively, and made a part of this report.

B.

TREASURY DEPARTMENT, *March* 25, 1882.

SIR: I have the honor to acknowledge the receipt of your communication of the 23d ultimo, in which you inquire whether the records of this Department confirm the statements made in the accompanying papers of Neil Neilsson.

In reply I have respectfully to state that the records of this Department show that Neil Neilsson was borne upon the rolls of the revenue-cutter Seward, as seaman from October 1, 1871, to March 1, 1872, and as master-at-arms from March 1 to October 7, 1872, at which time he was discharged by reason of his term of service having expired. The records further show that on the 30th of May, 1872, while firing a salute under the direction of his superior officer, his wrist was shattered by the premature discharge of a gun, and that he was immediately thereafter sent to the marine hospital at Wilmington, North Carolina.

The reply has been delayed with a view to obtain further information as to the extent of the injury, but on reference to the marine-hospital records they are found to be meager, and fail to furnish more definite information.

The papers submitted by you are herewith returned.

Very respectfully,

CHAS. J. FOLGER, *Secretary.*

Hon. G. W. STEELE,
Chairman Sub-committee on Pensions, House of Representatives.

C.

To the Senate and House of Representatives of the United States of America:

The petition of Niel Nielsson, of the city and county of Philadelphia, State of Pennsylvania, respectfully represents:

That your petitioner is twenty-nine years of age; that in the fall of the year 1871 he shipped for one year by regular enlistment in the revenue service of the United States of America, and was shipped at that time on board the United States revenue-cutter William H. Seward as a seaman, from which post he was promoted to that of master-at-arms; that he dutifully and actively served in that capacity until the 30th day of May, A. D. 1872, when the following described disaster to him occurred: it was "Decoration Day," and they were lying in the port of Wilmington, North Carolina, and the captain, John Carson, received orders from the United States collector of the port to fire continuous salutes of minute-guns. Your petitioner and the boatswain of the cutter were detached by the captain to fire one gun. After the second discharge the boatswain placed his thumb upon the vent and your petitioner proceeded to ram the charge, when from causes unknown the gun was prematurely discharged, carrying away your petitioner's right hand. He was therefore honorably discharged, and since that time he has found it extremely difficult to support himself, and he has never received any relief from the United States Government or any of its departments.

There being no provision made in the law by which he may obtain a pension, (he having been in the revenue service,) he therefore prays special relief from your honorable bodies. He is a citizen of the United States, and was so at the time of the above-named accident.

NIEL NIELSSON.

We, the undersigned, citizens of Philadelphia, State of Pennsylvania, members of the Seamen's Friend Society, pastor of the old Eastburn Church, and others, do hereby certify that Neil Nielsson, whose petition for relief as indorsed herewith, is a sober, honest, and industrious citizen, is poor and deserving of the aid for which he prays; that his statement accompanying this is true, and we pray of you a favorable consideration of the said petition.

HENRY D. SHERRERD,
President Pennsylvania Seamen's Friend Society.
A. VINCENT GROUP,
His Pastor.
CHARLES H. T. COLLIS,
City Solicitor, Philadelphia.
LOUIS DOZIER,
341 *Walnut street.*
JAMES POLLOCK,
United States Mint, Philadelphia.
THEODORE CUYLER,
704 *Walnut street, Philadelphia.*
W. S. STORTHY,
HENRY T. BRIGHAM,
CHARLES P. CLARKE,
142 *South Fourth street.*

The subscriber respectfully recommends the petition of Niel Nielsson to the favorable consideration of Congress.

JOHN CADWALADER.

IN THE SENATE OF THE UNITED STATES.
January 20, 1873.

Mr. BAYARD asked and, by unanimous consent, obtained leave to bring in the following bill; which was read twice, referred to the Committee on Pensions, and ordered to be printed:

A bill for the relief of Niel Nielsson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of Niel Nielsson, of Wilmington, Delaware, late master-at-arms on board the United States revenue-cutter Seward, be placed upon the pension list, at the rate of $8 per month, said pension to commence May 30, 1872.

After duly considering all of the foregoing facts, your committee report the bill back as amended, and recommend that it do pass.

The amendment of the committee was to strike out "1872" and insert "from and after the passage of this act."

The amendment was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

PRISCILLA DECATUR TWIGGS.

The next pension business on the Calendar was the bill (H. R. No. 5998) for the relief of Priscilla Decatur Twiggs.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension roll the name of Priscilla Decatur Twiggs, widow of Major Levi Twiggs, late of the United States Marine Corps, who fell while leading the storming party at Chapultepec, at $50 per month, instead of $25 as it now stands, to date from and after the passage of this act.

The report of the committee is as follows:

The Committee on Pensions, to whom was referred the petition of Priscilla Decatur Twiggs, widow of the late Major Levi Twiggs, report the same back, with the accompanying bill, and recommend its passage.

In support of this recommendation, your committee call attention to the letter of the petitioner herewith and made a part of this report, marked A; also to the official statements B and C, made a part of this report.

A.

FEBRUARY 27, 1882.

SIR: I noticed a few days ago a resolution had been introduced by Senator GORMAN asking an increase of pension for Mrs. Dulany to $50 a month, upon what grounds I am ignorant, but imagine I have equally strong claims for asking a similar increase.

During the war with Mexico, Major Twiggs and Major Dulany were in the same brigade, Major Twiggs being the senior. My husband fell at the head of his command at the storming of Chapultepec.

At the commencement of the war with Great Britain in 1812, Major Twiggs entered the service and was appointed a lieutenant in the Marine Corps; was with my uncle, Commodore Decatur, on board the United States frigate President during the engagement with the British fleet, and whose services are thus mentioned by Commodore Decatur in his official letter to the Secretary of the Navy: "Lieutenant Twiggs, of the marines, displayed great zeal: his men were well supplied, and their fire incomparable so long as the enemy continued within musket-range." In 1836-'37 Major Twiggs was again engaged in active service in the Seminole war in Florida.

I imagine few have stronger claims upon the liberality of the Government than I have, every male relative having been in the United States service; my grandfather, Commodore Decatur, sr., having been in the French war; his two sons also held commissions in our Navy. Commodore Stephen Decatur, jr., distinguished himself by recapturing and burning the frigate Philadelphia, in the harbor of Tripoli, in which engagement his brother, James S. Decatur, was killed. Again, during the war with Great Britain, in 1812, he further distinguished himself by capturing the British frigate Macedonian.

My father, Captain James McKnight, was in the Marine Corps at the time of his death. Both my brothers were lieutenants in the Navy; the elder, Lieutenant Stephen D. McKnight, was with Commodore Porter on board the Essex, and was afterward lost at sea on board the United States sloop-of-war Wasp. As before stated, my husband fell at the storming of Chapultepec, and my only son, George D. Twiggs, was killed in an engagement one month previous, he being on his way to join his uncle, General D. E. Twiggs, as his aid.

Under these circumstances I feel I may with justice ask an increase of pension, having been in the receipt of only $25 a month since my husband's death; and being now in my eighty-first year, it must be quite apparent it can only be required for a very brief period.

Very respectfully, &c.,

PRISCILLA D. TWIGGS,
239 *Maryland avenue, Baltimore, Maryland.*

Hon. ROBERT M. MCLANE.

B.

HEADQUARTERS MARINE CORPS, COMMANDANT'S OFFICE,
Washington, D. C., March 20, 1882.

SIR: In obedience to the Department's request, I forward an official statement of the services of Major Levi Twiggs, in the United States Marine Corps, from date of entry to death.

It affords me great pleasure to add my testimony as an eye-witness to his gallant conduct at the moment he was killed, while bravely leading his men to the assault of the works at the base of the Castle of Chapultepec.

I was within a few feet of him at the moment, and witnessed his instantaneous death. He bore the character of a brave and zealous officer, and his services in the war of 1812 and in Florida and Mexico, in my opinion, entitle his widow not only to an increase of pension as asked, but to arrears for the years since his death. She was deprived in a month of her husband and only son, both killed while bravely fighting for the honor of the flag: and with the long record of other near relatives in the Navy and Marine Corps, which I know to be correct, she truthfully states that no one has stronger claims upon the liberality of the Government than herself, which her exemplary character through life greatly strengthens.

I trust her petition may be granted.

Very respectfully, your obedient servant,

C. G. MCCAWLEY,
Colonel Commandant.

Hon. W. H. HUNT,
Secretary of the Navy, Washington, District of Columbia.

C.

HEADQUARTERS MARINE CORPS,
ADJUTANT AND INSPECTOR'S OFFICE,
Washington, D. C., March 21, 1882.

SIR: In reply to the request of the honorable Secretary of the Navy for a full report of the service of the late Major Levi Twiggs, United States Marine Corps, referred by you to me, I have the honor to state as follows:

Major Levi Twiggs was commissioned second lieutenant United States Marine Corps 10th November, 1813; promoted first lieutenant 18th June, 1814; captain by brevet 18th June, 1824; captain, 23d February, 1830; major, 15th November, 1840; killed in battle 13th September, 1847, at storming of Chapultepec, Mexico. He was continuously in service from the date of his first commission to the date of his death, and took part in three wars of the United States. His total sea service was about three years.

In the engagement between the President and the Endymion (war of 1812-'14) Lieutenant Levi Twiggs, commanding the marines of the former vessel, particularly distinguished himself. (Aldrich, History United States Marine Corps, page 58.)

Captain Levi Twiggs was an officer of the battalion of marines which bore an honorable and highly important part in the battle of Hatchee-Lustee, and participated in arduous campaigns under General Jesup in the Indian war in Florida in 1836-'37, and received from him the highest commendations.

Major Twiggs was selected, to my personal knowledge, to lead the storming party at Chapultepec, Mexico, on account of his well-known gallantry and devotion to duty, and fell in the performance of that duty, in my presence.

Major-General Quitman, United States Volunteers, in his report dated at the National Palace, city of Mexico, September 29, 1847, gives the following account of the work accomplished by the marines, under the lead of Major Twiggs, in that action:

"During the day I succeeded under cover of our batteries in making an important reconnaissance of the grounds and works immediately at the base of the castle. The supporting party on this reconnaissance was commanded by the late Major

Twiggs, of the marines, and sustained during the observation a brisk fire from the batteries and small arms of the enemy, who, when the party were retiring, came out of the works in large numbers and, although repeatedly checked by the fire of our troops, continued to advance as the supporting party retired until they were dispersed with considerable loss by several discharges of canister from the guns of Captain Drum's battery and a well-directed fire from the right of the Second Pennsylvania Regiment, posted on the flank of the battery for its support. During the day my command was re-enforced by a select battalion from General Twigg's division, intended as a storming party, consisting of thirteen officers and two hundred and fifty men and non-commissioned officers and privates, chosen for this service out of the Rifles, First and Fourth Regiments of Artillery, Second, Third, and Seventh Regiments of Infantry, all under the command of Captain Silas Casey, Second Infantry.

"At dawn on the morning of the 13th the batteries again opened an active and effective fire upon the castle, which was returned by the enemy with spirit and some execution, disabling for a time the eighteen-pounder in Battery No. 1, and killing one of the men at the guns. During this cannonade active preparations were made for the assault on the castle; ladders, pickaxes, and crows were placed in the hands of a pioneer storming party of select men from the volunteer division, under command of Captain Reynolds, of the Marine Corps, to accompany the storming party of one hundred and twenty men, which had been selected from all corps of the same division and placed under the command of Major Twiggs, of the marines.

"Perceiving that all the preliminary dispositions were made, Major Gladden with his regiment having passed the wall by breaching it, the New York and Pennsylvania regiments having entered over an abandoned battery on their left, and the battalion of marines being posted to support the storming parties, I ordered the assault at all points.

"The storming parties, led by the gallant officers who had volunteered for this desperate service, rushed forward like a resistless tide. The Mexicans behind their batteries and breastworks stood with more than usual firmness. For a short time the contest was hand to hand; swords and bayonets were crossed and rifles clubbed. Resistance, however, was vain against the desperate valor of our brave troops. The batteries and strong works were carried, and the ascent of Chapultepec on that side laid open to an easy conquest.

"In these works were taken seven pieces of artillery, 1,000 muskets, and 550 prisoners, of whom 100 were officers, among them one general and ten colonels.

* * * * * * *

"The command of the storming party from the volunteer division devolved on Captain James Milles, of the Second Pennsylvania Regiment, by the death of its chief, the brave and lamented Twiggs, of the Marine Corps, who fell on the first advance at the head of his command.

"Captain Roberts, of the rifle regiment, who had led the advance company of the storming party at Chepultepec, and had greatly distinguished himself during the preceding day, was detailed by me to plant the Star-Spangled Banner of our country upon the national palace. The flag, the first strange banner which had ever waved over that palace since the conquest of Cortez, was displayed and saluted with enthusiasm by the whole command.

"The palace, already crowded with Mexican thieves and robbers, was placed in charge of Lieutenant-Colonel Watson, with his battalion of marines. By his active exertions it was soon cleared and guarded from further spoilation."

Adjutant Baker is mentioned by the general "as conspicuous for his bravery and efficiency."

The letter of the honorable Secretary and accompanying papers are returned herewith.

Very respectfully, your obedient servant,

AUG. S. NICHOLSON,
Major, United States Marine Corps, Adjutant and Inspector.

THE COLONEL COMMANDANT UNITED STATES MARINE CORPS,
Headquarters, Washington, D. C.

Your committee find that there is a precedent for this in the case of the widow of Major Robert Anderson, and perhaps there are others, which, taken with the facts that the petitionor is past eighty-one years of age, and is poor, and that few families have done so well in furnishing our country with defenders—none better—leads your committee to make a favorable report.

Mr. RANDALL. I am here at the request of the gentleman from Maryland [Mr. MCLANE] to ask that that bill be reported favorably to the House. The services rendered by this family are most remarkable in the history of this country.

Mr. STEELE. She had nine male relatives and lost them all.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARY J. WEST.

The next pension business on the Calendar was the bill (S. No. 455) granting an increase of pension to Mary J. West.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to pay Mary J. West, widow of Commander William C. West, a pension at the rate of $30 per month, subject to the limitations and provisions of the general pension laws, the same to be in lieu of the pension which she is now receiving, and to commence from the passage of this act.

The report of the committee is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. No. 455) granting an increase of pension to Mary J. West, having had the same under consideration, submit the following report:

Your committee have carefully examined the papers in this case on file in the Pension Office, and find that the facts are fully and fairly stated in the report of the Committee on Pensions in the Senate, which we adopt, and which is as follows:

"That a similar bill was reported favorably to the Senate in the Forty-sixth Congress by the Committee on Pensions, as follows:

"'That it appears from the evidence in this case that the petitioner is the widow of William C. West, deceased, late an officer of the United States Navy; that said William C. West entered the service of the Navy as a midshipman in 1841; that he was promoted at various times during his long and continuous service, and at the time of his death at Washington, D. C., in June, 1879, he was on the retired list with the rank of commander, he having been placed on the retired list in 1877. It also appears from the records of the Navy Department and the certificate of Navy surgeons who attended him at the time of his death, that he died of rheumatism affecting the heart and stomach, for which he was placed on the retired list, and which was contracted in the line of duty.

"'The medical records of the Department show that Commander West was under treatment at various times during his service. His widow, the petitioner, is now drawing $10 per month pension, it having been decided by the Pension Bureau that she was pensionable under the general law, the only question being as to whether the pension should correspond to the rank of the officer at the time of death or to his rank at some former time during his service when the disease was supposed to have been contracted. Under a ruling of the Department it appears to be held that the pension should correspond to the rank when the disease which ultimately caused death was contracted; and it was held in this case that the disease was contracted or originated in 1853, at which time Commander West was treated for rheumatic fever.

"'The medical records of the Navy Department are very full in this case, and it appears that the officer was frequently under treatment for short periods all through his service, and that from an early period in his service he suffered occasionally with acute attacks of cardiac neuralgia, and during the intervals was seldom free from a dull pain about the heart with sharp pains shooting along the bronchial nerves. It would seem, however, that his condition was not sufficiently bad to prevent his rendering efficient service, until finally, in 1879, his rheumatic disease terminated in death. There appear to be no data of value as to when the disease occasioning death did originate, and your committee are of the opinion that the pension should correspond to the rank when the final attack took place which occasioned his death.'"

The committee adopt the foregoing report; recommend that the bill be amended by adding thereto the words "the same to be in lieu of the pension which she is now receiving, and to commence from the passage of this act," and, as thus amended, pass.

The amendment of the committee was agreed to, and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

HENRY N. GUNN.

The next pension business on the Calendar was the bill (H. R. No. 2635) granting an increase of pension to Henry N. Gunn.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of Henry N. Gunn, late a member of Company B, Seventh Regiment Michigan State Volunteers, to $18 per month.

The amendment of the committee was to strike out "eighteen" and insert "ten."

The amendment was agreed to, and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

NORTON L. NEWBERRY.

The next pension business on the Calendar was the bill (H. R. No. 2634) for the relief of Norton L. Newberry.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of Norton L. Newberry, late a member of Company A, Fourth Regiment United States Light Artillery Volunteers, from $8 to $24 per month.

The amendment of the committee was to strike out "eight" and insert "eighteen," and to strike out "twenty-four" and insert "twenty-two."

The amendment was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

RALPH P. FORD.

The next pension business on the Calendar was the bill (H. R. No. 984) for the relief of Ralph P. Ford.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ralph P. Ford, late of Companies K and B, Third Regiment Missouri State Militia.

The bill was reported to the House with the recommendation that it do pass.

Mr. BROWNE. We have got to the end of the pension bills ready for action. The order of the House includes also House bills on the Speaker's table returned from the Senate with amendments.

Mr. RANDALL. They have to be referred to this committee before they can be taken up.

Mr. BROWNE. I move, then, that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BURROWS, of Michigan, having taken the chair as Speaker *pro tempore*, Mr. BRIGGS reported that the Committee of the Whole House on the Private Calendar had had the same under consideration, and had directed him to report back sundry pension bills with various recommendations.

PENSION BILLS PASSED.

The following Senate bills, reported from the Committee of the Whole on the Private Calendar without amendment, were severally considered, ordered to be read a third time, read the third time, and passed:

A bill (S. No. 526) for the relief of Louisa Bainbridge Hoff;

A bill (S. No. 915) granting a pension to Jesse F. Phares; and

A bill (S. No. 891) granting a pension to Earl S. Rathbun.

The following Senate bills, reported from the Committee of the Whole on the Private Calendar with amendments, were severally considered, the amendments concurred in, and the bills as amended read the third time, and passed:

A bill (S. No. 455) granting an increase of pension to Mary J. West; and

A bill (S. No. 108) granting an increase of pension to Abagail S. Tilton.

The following bills, reported favorably from the Committee of the Whole on the Private Calendar with amendments, were severally considered, the amendments concurred in, and the bills as amended

ordered to be engrossed for a third reading, read the third time, and passed:

A bill (H. R. No. 1147) granting a pension to Elizabeth Vernor Henry;

A bill (H. R. No. 1543) granting a pension to Albert O. Miller;

A bill (H. R. No. 1451) granting a pension to Thomas W. Rothrock;

A bill (H. R. No. 450) for the relief of Elizabeth S. Seeley;

A bill (H. R. No. 801) to increase the pension of Merritt Lewis;

A bill (H. R. No. 5805) granting a pension to Betsey A. Smith;

A bill (H. R. No. 1237) granting a pension to Isador Rohrer;

A bill (H. R. No. 5703) to increase the pension of Alban H. Nixon;

A bill (H. R. No. 4966) for the relief of Thomas McMannus;

A bill (H. R. No. 4345) granting an increase of pension to Laurinda G. Cummings;

A bill (H. R. No. 4082) granting a pension to Ellen Gillespie;

A bill (H. R. No. 2104) granting a pension to Mrs. Electa L. Baldwin;

A bill (H. R. No. 1468) granting a pension to William R. Perdue;

A bill (H. R. No. 3865) for the relief of Niel Nielsson;

A bill (H. R. No. 2635) granting an increase of pension to Henry N. Gunn; and

A bill (H. R. No. 2634) for the relief of Norton L. Newberry.

The following bills, reported favorably from the Committee of the Whole on the Private Calendar without amendment, were severally considered, ordered to be engrossed for a third reading, read the third time, and passed:

A bill (H. R. No. 1336) granting a pension to Elisa A. Murray;

A bill (H. R. No. 1442) for the relief of William Rickards;

A bill (H. R. No. 800) granting a pension to Justus Beebe;

A bill (H. R. No. 803) granting a pension to Laban Connor;

A bill (H. R. No. 5808) to rerate the pension of Frank S. Sowers;

A bill (H. R. No. 2877) for the relief of William M. Meredith;

A bill (H. R. No. 5809) for the relief of Jacob Humble;

A bill (H. R. No. 3761) granting a pension to Lewis Lewis;

A bill (H. R. No. 1103) granting a pension to Margaret Kearns;

A bill (H. R. No. 4914) granting a pension to Emeline Pink;

A bill (H. R. No. 1098) granting a pension to Martha Westervelt;

A bill (H. R. No. 1102) granting a pension to Elizabeth T. Dubois;

A bill (H. R. No. 2626) granting a pension to John Adams

A bill (H. R. No. 1020) granting an increase of pension to Alfred G. Fifield;

A bill (H. R. No. 4268) granting a pension to Charles F. Paris:

A bill (H. R. No. 627) to increase the pension of James E. Gott;

A bill (H. R. No. 1154) granting a pension to Edward Farr;

A bill (H. R. No. 5820) granting a pension to Hugo Eichholtz;

A bill (H. R. No. 5998) for the relief of Prescilla Decatur Twiggs; and

A bill (H. R. No. 984) for the relief of Ralph P. Ford.

Mr. BROWNE moved to reconsider the votes by which the several bills were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BILLS INFORMALLY PASSED OVER.

The following bills, reported from the Committee of the Whole on the Private Calendar with sundry recommendations, were informally passed over:

A bill (S. No. 251) granting a pension to Alice McMahon; and

A bill (H. R. No. 1164) for the relief of Mary C. J. Budlong.

ORDER OF BUSINESS.

Mr. BROWNE. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at nine o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ALDRICH: The petition of citizens of Chicago, for an amendment to the Constitution prohibiting the several States from disfranchising citizens of the United States on account of sex—to the Committee on the Judiciary.

By Mr. ARMFIELD: The petition of Noah Waddle and others, citizens of North Carolina, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. BARBOUR: The petition of Louis A. Van Hoffman and William A. Mertens, for relief—to the Committee on War Claims.

By Mr. BERRY: The petition of citizens of Marin County, California, for the establishment of a postal telegraph system—to the Committee on the Post-Office and Post-Roads.

By Mr. S. S. COX: The petition of Jacob Hess, for relief—to the Committee on Military Affairs.

By Mr. CRAPO: The petition of Henry K. Braley and others, of Fall River, Massachusetts, asking that money be distributed for education on the basis of illiteracy—to the Committee on Education and Labor.

Also, the petition of Matthew Macy and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. JOYCE: The resolutions of Post No. 15, Grand Army of the Republic, of Vermont, and of John H. Allen and others, citizens of Vermont, praying for the passage of the bill now pending before Congress to increase the pension of the soldiers and sailors of the late war who lost an arm or a leg while in the line of duty—severally to the Select Committee on Pensions, Bounty, and Back Pay.

By Mr. KASSON: The petition of M. F. Clark and others, for the passage of the bill now pending granting a pension to the soldiers and sailors of the late war who were confined in confederate prisons—to the same committee.

By Mr. MILLS: The petition of citizens of Freestone County, Texas, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Commerce.

By Mr. O'NEILL: The petition of business men of Philadelphia, Pennsylvania, urging the passage of the Lowell bill to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. SPEER: The petition of J. T. Snell, for the establishment of a post-route from Lawrenceville to Snellville, in the State of Georgia—to the Committee on the Post-Office and Post-Roads.

Also, the petition of D. F. Duncan and others, citizens of Rabun County, Georgia, for an appropriation to promote popular education—to the Committee on Education and Labor.

By Mr. P. B. THOMPSON: The petition of citizens of Taylor County, Kentucky, asking that a pension be granted to Emily Faris—to the Committee on Invalid Pensions.

By Mr. URNER: The petition of John E. Kearney and 40 others, ex-soldiers of Maryland, for the passage of the bill granting pensions to soldiers and sailors who were confined in confederate prisons—to the Select Committee on Pensions, Bounty, and Back Pay.

By Mr. WATSON: The petition of Mrs. S. J. M. Eaton and others, for the adoption of a constitutional amendment to prohibit the manufacture and sale of alcoholic liquors—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. THOMAS WILLIAMS: The petition of W. C. Cousins and others, citizens of Elmore County, Alabama, for Congressional aid in the education of illiterate citizens—to the Committee on Education and Labor.

By Mr. WILLIS: The petition of R. A. Robinson & Co. and others, citizens of Louisville, Kentucky, for the prompt removal of the duty on proprietary medicines—to the Committee on Ways and Means.

By Mr. WALTER A. WOOD: The petition of William S. Aldrich, for increase of pension—to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May* 6, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER, D. D.

The Journal of yesterday was read and approved.

SALARIES OF SENATE AND HOUSE EMPLOYÉS.

Mr. BUTTERWORTH. I desire to offer, for consideration at this time, the resolution which I send to the desk. It will take but a moment.

The Clerk read as follows:

Resolved, That it shall be in order when the legislative, executive, and judicial appropriation bill for the ensuing fiscal year is under consideration in the Committee of the Whole on the state of the Union to submit amendments to said bill looking to an equalization of salaries of the employés of the House with those of the Senate.

Mr. RANDALL. I have no objection to that hereafter; but at this time I feel warranted in calling the regular order.

Mr. BUTTERWORTH. It will take but a moment.

Mr. RANDALL. Let it come in after the tariff.

Mr. BUTTERWORTH. I will say to the gentleman it will create no discussion and take but a moment.

Mr. RANDALL. Let it come in hereafter. I make my objection absolute. I do not propose to discriminate as to individuals or subjects.

APPROPRIATION FOR FUEL, LIGHTS, ETC.

Mr. HISCOCK. I call up the joint resolution which I reported last night from the Committee on Appropriations, making an appropriation for certain deficiencies; notably the one for fuel, lights, and water. The appropriation is exhausted, and the supplies are being cut off and the service impaired in the city of New York.

Mr. RANDALL. If that is not the regular order, I object.

The SPEAKER. This joint resolution was left pending last evening in the House.

Mr. COX, of New York. It is indispensable to pass it.

The SPEAKER. The joint resolution will be read.

The Clerk proceeded to read the joint resolution, as follows:

Joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, &c., for the fiscal year 1882, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to supply a deficiency in the appropriation for fuel, lights, water, and miscellaneous items required in the proper care of all the public buildings under control of the Treasury Department, the sum of $60,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the service of the fiscal year ending June 30, 1882.

For contingent expenses of the office of the Secretary of War, such as blank-books, stationery, labor, books, maps, gas, and miscellaneous items, $2,000.

For contingent expenses of the office of the Adjutant-General of the Army, such as fuel and gas, ice, office furniture, painting, glazing, and plumbing, and repairs for building numbered 1725 F street northwest, $500.

That the commissioners of the District of Columbia may apply the amounts appropriated for the payment of the salaries of teachers of public schools for the present fiscal year in conformity with the schedule of salaries recommended by the board of trustees of public schools, and approved by the commissioners, and under which the teachers for the present fiscal year were appointed and have received monthly payments from September to February last inclusive.

Before the Clerk had completed the reading of the resolution,

Mr. RANDALL said: How does that resolution come here?

The SPEAKER. It was reported last evening.

Mr. RANDALL. It is not a general appropriation bill and has no special right. I call the regular order. Let that come in afterward.

Mr. HISCOCK. I insist that this is the regular order.

Mr. RANDALL. In what way? Under what rule?

Mr. HISCOCK. This is an appropriation which requires immediate consideration. It is a part of the general appropriations for the Government, and as such is the regular order.

Mr. COX, of New York. The service cannot get along without it.

The SPEAKER. The Chair will state this joint resolution was reported by unanimous consent last evening, with notice, without objection, that it would be called up for consideration this morning.

Mr. RANDALL. I know it is right, but let it come up afterward. I do not withdraw my objection. If I am ruled out, that is the end of it.

The SPEAKER. The Clerk will complete the reading of the resolution.

The Clerk resumed and concluded the reading of the resolution as above.

Mr. HISCOCK. I offer the amendment which I send to the desk.

The Clerk read as follows:

For contingent expenses of the War Department building for 1882, being for gas, soap, sponges, repairs, painting, and miscellaneous items, $2,000.

The amendment was adopted.

The joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HISCOCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. VANCE, from and including May 8 to Tuesday, May 16, on account of important business.

To Mr. HARRIS, of Massachusetts, indefinitely, on account of important business.

To Mr. CABELL, for four days from to-day.

FORT DODGE MILITARY RESERVATION.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Military Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of the Interior, of the 3d instant, with accompanying papers, in relation to a proposed amendment of the act of the 15th December, 1880, providing for the disposal of the Fort Dodge military reservation, Kansas. The subject is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 5, 1882.

ORDER OF BUSINESS.

Mr. DAWES. I ask that by unanimous consent the following House pension bills with Senate amendments now on the Speaker's table be taken therefrom and referred to the Committee on Invalid Pensions, namely: the bills H. R. No. 244, H. R. No. 967, H. R. No. 1290, H. R. No. 2433, and H. R. No. 5381.

Mr. RANDALL. I object, and call for the regular order.

INDIAN APPROPRIATION BILL.

Mr. RYAN. I desire to make a privileged report. I present the report of the committee of conference on the bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1883, and for other purposes, and give notice that I will call up the report for consideration on Monday morning. Meanwhile, I ask that the report and accompanying statement be printed in the RECORD.

There was no objection, and it was so ordered.

The report and accompanying statement are as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 15, 17, 19, 41, 53, 54, 80, 81, 82, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 12, 20, 34, 40, 43, 44, 45, 51, 52, 55, 56, 58, 59, 60, 61, 67, 78, 79, 96, and 103, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: Strike out from said amendment the words "teacher and" and add at the end of the amended paragraph the following: "And no other money appropriated by this act shall be expended for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: Add at the end of the amended paragraph the following: "And not more than $1,000 of any moneys appropriated by this act shall be expended for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: Add after the word "dollars," where it first occurs in line 6, page 4 of the bill, the following: "And no other money appropriated by this act shall be expended for pay of teachers or for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$89,900;" and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: Strike out the words proposed to be inserted by the Senate amendment, and strike out all after the word "dollars," in line 9, page 4 of the bill, down to and including the word "dollars," in line 10, same page; and the Senate agree to same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: Strike out all of said amendment and insert in lieu thereof the following: "The President is authorized to appoint a person to inspect all Indian schools, who is hereby required to report a plan for carrying into effect in the most economical and efficient manner all existing treaty stipulations for the education of Indians, with careful estimates of the cost thereof; also a plan and estimates for educating all Indian youths for whom no such provision now exists, and estimates of what sums can be saved from existing expenditures for Indian support by the adoption of such plan, whose compensation shall not exceed $3,000, which sum is hereby appropriated for that purpose, and also a further sum of $1,500 for his necessary traveling expenses;" and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of "five" insert "four;" and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$38,500;" and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the words proposed to be inserted by said Senate amendment insert the following: "And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior;" and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: Strike out all of said amendment after the word "further," in line 11, and insert in lieu of the portion stricken out the following: "That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribe in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe, to be taken from the unpaid balance of the $300,000 due said tribe;" and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: Strike out after the word "Mexico," in line 1, page 13 of the bill, the following words: "and such as may be removed hereafter," and insert in lieu thereof the following: "including the purchase of stock;" and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: Strike out all of said amendment after the word "available," in line 11 thereof; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$40,500;" and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: Strike out the words "one hundred" and insert in lieu thereof "seventy-five;" and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: Strike out the words "and pay of employés;" and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: Strike out the words "and fifty;" and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$1,732,300;" and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the words proposed to be inserted by said Senate amendment, insert the following: "For support, civilization, and instruction of the Tonkawa Indians at Fort Griffin, Texas, $9,000;" and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: After the word "reservations," in line 4 of said amendment, insert the following: "And upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose;" and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: After the word "Territory," in line 3 of said amendment, insert the following: "And upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose;" and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: Strike out in line 3 of said amendment the words "at any established" and insert in lieu thereof the following: "Not belonging to the five civilized tribes in the Indian Territory at any established industrial, agricultural, or mechanical;" and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows: Strike out all of said amendment and insert in lieu thereof the following: "And for the purpose of further instructing and civilizing Indian children dwelling west of the Mississippi River, and in the States of Minnesota, Wisconsin, and Michigan, and not belonging to the five civilized tribes in the Indian Territory, or so many thereof as may be practicable, in industrial schools other than those at Carlisle, Hampton, and Forest Grove, supported in whole or in part from treaty and other funds appropriated by Congress, or such as may be established and supported wholly from treaty or other funds so appropriated, and for purchasing stock for herding purposes for such industrial schools, and also for the placing of such children, with the consent of their parents, under the care and control of such suitable white families as may in all respects be qualified to give such children moral, industrial, and educational training, for a term of not less than three years, under arrangements in which their proper care, support, and education shall be in exchange for their labor, the sum of $150,000 is hereby appropriated, to be expended under such rules and regulations as the Secretary of the Interior may prescribe;" and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with amendments, as follows: Strike out the words "Maria Denmon" and insert in lieu thereof "Marie Demmie;" strike out the words "Frank Vocank" and insert in lieu thereof "Frank Vocasek;" and at the end of said Senate amendment the following: "To be immediately available;" and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows: Add at the end of said amendment the following: "And section 2056 of the Revised Statutes is hereby amended so as to read as follows: 'Section 2056. Each Indian agent shall hold his office for the term of four years, and until his successor is duly appointed and qualified;'" and the Senate agree to the same.

THOS. RYAN,
BENJAMIN LE FEVRE,
Managers on the part of the House.

H. L. DAWES,
P. B. PLUMB,
M. W. RANSOM,
Managers on the part of the Senate.

Statement in explanation of the report of the conferees on the disagreeing votes of the two Houses on the amendments of the Senate to House bill No. 4185, Indian appropriation bill for 1883:

There were fifty-six amendments before the conference. They recommend that the Senate recede from eleven, the House recede from twenty-two wholly, and from twenty-three with amendments.

The money amount of these amendments is $543,800, of which the Senate yielded $255,200 and the House yielded $288,600, leaving the amount appropriated by the recommendation of the report $5,217,803.91; the amount recommended by the bill as it passed the House, $4,920,203.91. The effect in detail upon the amendments, if the report is adopted, will be as follows:

On amendment numbered 2: It increases the salary of the agent at the Uintah agency from $1,000 to $1,500.

On amendment numbered 3: It releases the agent at the Navajo agency from the duties of teacher, and provides that no other money appropriated by this act shall be expended for clerical labor at this agency.

On amendment numbered 9: Increases the salary of the agent at the Quapaw agency from $1,200 to $1,500, and provides that not more than $1,000 of any moneys appropriated by this act shall be expended for clerical labor at this agency.

On amendment numbered 11: Reduces the salary of the agent at the White Earth agency from $1,800 to $1,600.

On amendments numbered 12 and 13: Imposes the duties of teacher and clerk on the agent at the Moquis Pueblo agency, fixes his salary at $1,500, and provides that no other money appropriated by this act shall be expended for pay of teachers or for clerical labor at this agency.

On amendment numbered 24: Corrects total of amount appropriated for agents' salaries.

On amendments numbered 15, 16, and 17: Reduces the amount for pay of interpreters from $25,000 to $20,000, and strikes out the limitation upon the annual pay of an interpreter employed east of the Rocky Mountains, and leaves section 2072 of the Revised Statutes repealed, as in the original text.

On amendment numbered 18: As fully set forth in the report.

On amendment numbered 19: To refuse traveling expenses of one inspector of Indian schools $2,000.

On amendment numbered 20: To increase amount for buildings at agencies from $20,000 to $25,000.

On amendment numbered 21: To reduce special agents from five to four.

On amendment numbered 22: To reduce amount for contingencies for Indian service from $42,000 to $38,500.

On amendment numbered 27: To read as follows: "And hereafter the commission (of citizens serving without pay) shall only have power to visit and inspect agencies and other branches of the Indian service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior."

On amendment numbered 32 as follows: "That the sum of $10,000 is hereby appropriated out of the $300,000 reserved by the third article of the treaty with the Choctaws and Chickasaws concluded April 8, 1866, for the purpose of educating freedmen in said tribes, to be expended under the direction of the Secretary of the Interior, three-fourths thereof for the freedmen among the Choctaws and one-fourth for the freedmen among the Chickasaws: *Provided*, That said sum of $10,000 shall be deducted in like proportion from any moneys in this act appropriated to be paid said Choctaws and Chickasaws: *And provided further*, That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribe in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe, to be taken from the unpaid balance of the $300,000 due said tribe."

On amendments numbered 33 and 34: To make the clause read as follows: "For settlement, &c., of Kickapoo Indians in the Indian Territory, lately removed from Mexico, including the purchase of stock, $8,000," and makes the total amount correspond.

On amendment numbered 35: Strike out the words "except the per capita shares due the family of Sepequah, or Jane Drake, nine in number, the same to be retained in the Treasury for their benefit," and leaves the amendment thus: "For payment to the delegation of the Miami Indians of Kansas, now or recently in Washington, the sum of $1,000, to reimburse them for money expended in 1881, to be paid out of any funds belonging to said tribe and to be immediately available; and the Secretary of the Interior is hereby directed to pay per capita to the Miami Indians of Kansas, now residing in the Indian Territory, the amount found due said Indians at this date on account of proceeds of sales of their unallotted lands in Kansas, as provided by the act of March 3, 1873, the same to be immediately available."

On amendment numbered 40: Increases amount for aiding and instructing, &c., Poncas from $5,000 to $7,500.

On amendments numbered 41, 42, and 43: Leaves the sum for subsistence of Poncas at $25,000, as in original bill, corrects total to correspond, and provides that the sums appropriated ($40,500) shall be divided *pro rata* among all the members of said tribe in the Indian Territory and in Dakota Territory.

On amendment numbered 44: With reference to the Pottawatomies provides as follows: "And the Secretary of the Interior is authorized and directed to pay to or expend for the support, civilization, and instruction of the Prairie band of Pottawatomie Indians the amount of interest that has accrued, or may hereafter accrue, on the fund in the Treasury of the United States to the credit of said band set apart for their benefit under authority of an act of Congress approved March 3, 1875: *Provided*, That not more than $8,000 shall be expended under this provision in any one year."

On amendments numbered 45 and 46: Changes the phraseology of the clause for subsistence of Sioux and reduces the amount from $1,100,000 to $1,075,000.

On amendments numbered 47 and 48: Reduces amount for civilization and instruction of Sioux and annuity goods $50,000 and excludes "pay of employés," the amount of reduction being taken from the item for "annuity goods," being amendment numbered 48.

On amendment numbered 49: Corrects the total amount for Sioux.

On amendments numbered 51 and 52: Reduces the amount for Apaches and other Indians in New Mexico from amount in original bill, $310,000, to $275,000, and changes the text to read as follows: "For subsisting and caring for the Apaches and other Indians of the San Carlos reservation, in Arizona: For this amount, for subsistence, $210,000; for civilization and instruction, including pay for Indian labor, $20,000; for annuity goods, agricultural implements, seeds, and supplies, $35,000; for pay of employés, $10,000; in all, $275,000."

On amendments numbered 53 and 54: Decreases the amount for subsistence of Arapahoes, Cheyennes, Apaches, Kiowas, Comanches, and Wichitas, from $400,000 to $350,000, as originally stated in bill.

On amendments numbered 55 and 56: In lieu of the text of bill, substitutes the following: "For subsistence, support, civilization, and instruction of the Shoshones and Bannocks, and other Indians of the Fort Hall reservation, in Idaho Territory, including pay of employès, $22,000."

On amendments numbered 58 and 59: In lieu of the text of the bill, substitutes the following: "For support, civilization, and instruction of the Klamaths and Modocs, and other Indians of the Klamath agency, in Oregon, including pay of employès, $6,000."

On amendments numbered 60 and 61: In lieu of text of bill substitutes the following: "For support, civilization, and instruction of the Shoshones, Bannocks, and Sheepeaters, and other Indians of the Lemhi agency, in Idaho Territory, including pay of employés, $21,000."

On amendment numbered 66: Reduces amount for Tonkawas from $4,000 to $3,000, and includes "instruction and civilization" in the text.

On amendment numbered 67: Increases amount for the Yakamas, from the Malheur, from $25,000 to $26,000.

On amendments numbered 78, 79, 80: Increases Indian police from 800 to 1,000, and from $70,000 to $82,000 for pay, and rejects the proviso that none of the money shall be used to pay police among the five civilized tribes in the Indian Territory.

On amendments numbered 81 and 82: Rejects proposition to pay special police to prevent liquor traffic $5,000, and to appropriate $5,000 for schools among the Seminoles in Florida.

On amendment numbered 91: To read as follows: "And the Secretary of the Interior is hereby authorized to cause to be constructed, at a point in the Indian Territory adjacent to the southern boundary of the State of Kansas and near to the Ponca and Pawnee reservations, and upon a section of land suitable in quality and location, for the industrial purposes of said school, which section of land is hereby reserved for said purpose.

On amendment numbered 92: To read as follows: "And the Secretary of the Interior is hereby further authorized to cause to be constructed, at some suitable point on the Sioux reservation, in Dakota Territory, and upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose, a building suitable in size and convenience for the instruction and care of one hundred and fifty Indian children, and shall cause to be instructed therein, in the English language and in industrial pursuits, the children of the Indian tribes located on said reservation, or in his discretion the Secretary of the Interior may establish said school in the school building now standing on the Pawnee reservation, in the State of Nebraska; and for this purpose there is hereby appropriated the sum of $25,000, or so much thereof as may be necessary, to be immediately available: *Provided*, That if the Secretary of the Interior shall not establish said school in the buildings on the late Pawnee reservation, not exceeding $15,000 of this sum shall be expended in the erection, completion, and furnishing of said building."

On amendment numbered 93, as follows: "And the Secretary of the Interior is further authorized and directed to provide for the care, support, and education of one hundred Indian children not belonging to the five civilized tribes in the Indian Territory, at any established industrial, agricultural, or mechanical school or schools other than those herein provided for, in any of the States of the United States, such schools to be selected by him from applications made to him, at a cost not exceeding $167 per annum for each child; and for this purpose there is hereby appropriated the sum of $17,000, or so much thereof as may be necessary: *Provided*, That not more than twenty of said pupils shall be educated in any one State.

On amendments numbered 95 and 96: Rejects the proposition to erect a school building on the Cœur d'Alene reservation, in the Territory of Idaho, $5,000; and appropriates $5,000 for similar purpose, the building to be erected on the Northern Cheyenne and Arapahoe reservation in the Indian Territory.

On amendment numbered 103: Provides for payment of defending suits against the North Carolina Cherokees $1,000 out of the funds in the Treasury belonging to said Indians.

On amendment numbered 104: Provides for payment of claimants sufferers from the raid of the Northern Cheyenne Indians in 1878, to be paid from unexpended balances of treaty funds, reappropriated for that purpose, amounting to $9,870.10, and immediately available.

On amendment numbered 105: Provides as follows:

For this amount, or so much thereof as may be necessary, to enable the Commissioner of Indian Affairs to employ, temporarily, sufficient clerical force to effect a prompt settlement of the accounts of Indian agents which have been unduly delayed, $4,000, to be immediately available; and section 2056 of the Revised Stat-

utes is hereby amended so as to read as follows: "Section 2056. Each Indian agent shall hold his office for the term of four years, and until his successor is duly appointed and qualified."

ORDER OF BUSINESS.

The SPEAKER. The regular order is called for, which is the morning hour for the call of committees for reports.

Mr. KASSON. I move to dispense with the morning hour.

The motion was agreed to, two-thirds voting in favor thereof.

F. E. FOLSOM.

The SPEAKER laid before the House a letter from the Secretary of the Interior recommending the payment of the claim of F. E. Folsom, a Choctaw Indian, on account of a depredation committed by a white man, a citizen of the United States; which was referred to the Committee on Indian Affairs.

TARIFF-COMMISSION BILL.

Mr. KASSON. I move that the House now resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. ROBINSON, of Massachusetts, in the chair.

The CHAIRMAN. The House is now in Committee of the Whole and resumes the consideration of the bill (H. R. No. 2315) providing for the appointment of a commission to investigate the question of the tariff and internal-revenue laws. The Chair will call the attention of the committee to the order of the House adopted on yesterday, by which the privileges of debate under clause 5 of Rule XXIII are limited to such amendments only as are substantive in their character.

Mr. CARLISLE. I believe the gentleman from Pennsylvania [Mr. RANDALL] is entitled to the floor this morning on his amendment. Before he proceeds I desire to submit an amendment in the nature of a substitute for the first section, so that it may be pending.

Mr. COX, of New York. Let it be read.

The amendment was read, as follows:

Strike out all after the enacting clause, and insert:

That a select committee is hereby created, to be known as the tariff committee, to consist of nine members of the House of Representatives, to be chosen as hereinafter provided.

Mr. KASSON. I will reserve all points of order on that amendment.

Mr. DUNNELL. I desire to submit an amendment, and ask that it be read.

The amendment was read, as follows:

After the word "interest," in section 3, insert the following:

"Excepting all laws or parts of laws affecting and fixing the rate of duties on molasses, melada, and sugar."

Mr. KASSON. That amendment is not in order now.

Mr. DUNNELL. I only give notice of it.

Mr. COX, of New York. I offer an amendment, and ask that it be read.

The CHAIRMAN. It will be read for information only.

The amendment was read, as follows:

That the bill be recommitted to the Committee on Ways and Means, with instructions to report a bill so revising the tariff as to make it conform to the principle that revenue shall be the only standard for export duties.

Mr. KASSON. I wish to say once for all that I reserve all points of order upon these several amendments.

The CHAIRMAN. The Chair desires to state that these amendments are read only for information; they are not considered as pending.

Mr. TOWNSHEND, of Illinois. I desire to submit a proposition, and ask that it be read.

The Clerk read as follows:

Resolved, That this bill be recommitted, with instructions to the Committee of Ways and Means to report within thirty days a bill to amend section 3022 of the Revised Statutes, so as to read as follows:

"The following-named imported articles in bond may be used under such regulations as the Secretary of the Treasury may prescribe, to wit:

"Salt used in curing fish taken by vessels licensed to engage in fisheries, and used in curing pork, beef, and other provisions.

"Paper used in printing newspapers, magazines, and books.

"Tools used by mechanics, agricultural implements, and all machinery used in farming.

"Educational and religious books, engravings, and other printed matter, bound or unbound, used for educational purposes.

"All articles used in medicinal preparations.

"And upon proof that the articles have been used for the respective purposes mentioned the duties on the same shall be remitted."

Mr. SPRINGER. I desire to give notice that I will introduce at the proper time an amendment, which I ask to be now read.

The Clerk read as follows:

Amend the second section by inserting after the word "commission," in line 4, the following:

"Not more than five of whom shall be members of one political party, and a majority of whom shall be a quorum."

The CHAIRMAN. If no other gentleman desires to present amendments to be read for information, the Chair now will recognize debate on the pending amendment offered by the gentleman from Pennsylvania, [Mr. RANDALL.] The amendment will be read.

The amendment was read, as follows:

Add to section 1 the following:

"Two of whom shall be members of the Senate, and be appointed by the President *pro tempore* of that body; three of whom shall be members of the House of Representatives, and be appointed by the Speaker of the House; and four of whom shall be from civil life, and be appointed by the President of the United States, by and with the advice and consent of the Senate."

Also, strike out lines 1, 2, 3, and the first seven words of line 4 of section 2.

The CHAIRMAN. The Chair suggests to the gentleman from Pennsylvania that the latter clause of his amendment is not in order at this time, the second section not having yet been reached.

Mr. RANDALL. I do not know, Mr. Chairman, that I desire to add anything nor do I believe it necessary to add anything to what I said on yesterday touching this amendment. The object I had in view in offering it was to make provision that the results of this commission should have responsible sponsors on the floors of the respective Houses of Congress. With that statement I have nothing further to say so far as I am individually concerned.

If any gentleman desires to speak in opposition to the amendment, of course under the agreement adopted by the House yesterday he can do so for five minutes. So far as I am concerned I am ready for a vote on the amendment. And if no one wants to speak against it we can take the vote at once.

Mr. KASSON. I have but a single word to say. I regard this amendment as one which will, if adopted, interfere very seriously with the objects sought to be accomplished by the bill in the short period between the time when it shall become a law and the first Monday in December next, when the report must be made to Congress. I therefore hope that the friends of this measure will see fit to leave the bill in the form in which it was reported from the committee.

It will be difficult to find Senators and Representatives who during the heated canvass of the next summer can give the requisite time to this subject; nor do I believe they would bring to the investigation of the facts that impartial judgment which we shall obtain if civilians be selected irrespective of political associations and not at all from political life. I hope, therefore, the House will reject the amendment.

I yield the remainder of my time to the gentleman from Michigan, [Mr. HORR.]

Mr. HORR. Mr. Chairman, I am entirely opposed to the amendment of the gentleman from Pennsylvania, [Mr. RANDALL.] I think that the discussion we have had must have satisfied every member that it would be impossible to select from this House a committee that could do the proper amount of work in addition to their regular labors. For instance, if I should undertake to select from this House a man apparently eminently qualified for the work I should choose my friend from Kentucky, [Mr. CARLISLE;] yet I am satisfied from the debate that he is entirely inadequate to the occasion. I judge from the fact that his mind is poisoned with the doctrine of percentages. If gentlemen will recollect his speech, the mathematical portion of it from beginning to end ran on the question of percents. In other words, he argued if one man drinks a bottle of champagne which is taxed only 40 per cent. and another man eats salt on his potatoes and the salt is taxed 50 per cent., then the gentleman from Kentucky would have us believe that the salt tax is onerous and oppressive in comparison with the champagne tax, while in point of fact the man who drinks one bottle of champagne pays tax enough to furnish the other man with all the salt he can eat during his lifetime should he live to be one hundred years old. The rich man may pay more tax on one suit of clothes than is paid on the suits of one hundred poor men, and yet the percentage would not show it at all.

My friend was cured of this per centum business in 1872 during the Greeley campaign. You all recollect how our Democratic friends treated the percentages every time there was an early election. There was a little town in Maine that had given only one vote for Seymour, and it gave three for the Democrats in the State election. Their head-lines read, "A gain of 200 per cent. for the Democracy!" So every State election was in that way figured as a per centum gain for Greeley; until finally the man whom they employed to do their figuring struck a town in Massachusetts that gave three votes for the Greeley party. They looked back and found that the same town had not given a single vote for Seymour. The dividend was three and the divisor was zero. "Now," said our Democratic percentage mathematician, "if my mind is not bewildered I have struck the infinite." [Laughter.] Poor fellow, he landed in an asylum; and we all know where the percentage gains landed the Democracy.

That is the doctrine which our friends would apply to the question of the tariff. I say, therefore, it is not safe to trust this great work with even the ablest men in this House on the commission. Why, sir, I have sat here and been overwhelmed with figures, long tables, for over a month, as I told you the other day I had been by the figures of the Greenback party, which furnished us with one constant flow of mathematical tables. I was cured of this mathematical mania when a small boy. I think I was not over twelve or thirteen years old when the "Millerites" came round. By figuring from Daniel the Prophet they made it out with mathematical exactness that the end of the world would come at precisely such an hour on the 15th of April, 1843, I believe that was the date. Table after table as constructed by them came out the same way. Figure it what way you would, the result was the same; the fatal day was mathematically certain. Yet when the 15th of April came the world kept right on turning on its axis and wheeling along in its customary course around the sun. The

trouble was the Millerites had no real basis for their calculations; their tables were imaginary. Why, sir, I recollect that before the resumption act passed—[here the hammer fell.] I will have to conclude these remarks upon another amendment.

Mr. REED. For the first time in this debate, I move that the gentleman's time be extended. [Laughter.]

Mr. COX, of New York. I offer, as a substitute for the amendment of the gentleman from Pennsylvania, the following:

All of whom shall be taken from the Senate and House in the proportion of five to the House and four to the Senate.

Mr. KASSON. Is not debate exhausted?

The CHAIRMAN. The debate is exhausted on the amendment; the gentleman from New York moves an amendment to the amendment.

Mr. COX, of New York. I have but very few words to say in favor of this amendment. I do not mean to debate it. In the hurry of voting upon these propositions, we cannot reargue the questions to any extent. When my friend from Michigan [Mr. HORR] reconciles oats with salt, I will debate with him. I do not see what his figures with reference to the millenium have to do with this business just now.

But, sir, I think it is a foregone conclusion that the bill of my friend from Iowa [Mr. KASSON] will pass. All that we on this side can ask is a record. We cannot of course have the yeas and nays in the Committee of the Whole, but I ask members on both sides to allow us to have the yeas and nays in the House on these various amendments. We are opposed to a commission to be appointed in any way outside of Congress. All those who are in favor of a commission to be made up of men delegated by the people to revise the tariff will vote for my amendment; all who are opposed to such a commission will vote the other way.

Mr. HORR. Mr. Chairman, I rise to oppose the amendment of the gentleman from New York. I am opposed to any amendment that proposes to change the make-up of the commission which this bill, as originally framed, is designed to create. The bill in this respect is well digested, and it seems to me to need no amendment in that respect.

When last on the floor I was about saying that this mathematical part of the question has its peculiarities. I recollect that just before the resumption act took effect, the Greenbackers of the country proved conclusively, as they thought, by their tables, by long statistical figuring, that if such legislation went into effect the whole country would go to ruin.

I recollect that financial distress was in every column of their figures, and financial ruin in all their footings. [Laughter.] You all remember it; and yet resumption came, and instead of ruin good times came also. New manufactories sprang into existence all over the country. Business was revived. Prosperity became universal.

So I say to you gentlemen here: for the past thirty years you have been giving your mathematical tables and showing that the United States was on the sure road to ruin. Has not this been your constant prophesy? I say that has been the substance of all your arguments, of all your wailings. And yet to-day, Mr. Chairman, no nation on the face of the earth has a better record for all its multiplied industries than the United States.

Why, sir, I stated a proposition in the few remarks I made upon the agricultural bill which covers this whole case if it be true. I stated this: that there never was a time in the history of this country when a farmer could take a load of poultry, potatoes, wheat, everything he raises on his farm, and carry home from market in exchange therefor as many of the necessities of life as he can to-day. I stated another proposition, that there is not a nation upon the face of this earth where a laboring man can take his day's wages and buy as many of the necessaries of life as he can right here in the United States.

Now, sir, if these two propositions are true, and I challenge any man to dispute them, then this whole mass of mathematics melts into thin air. These two propositions admitted, and all this talk about protection injuring the farmer and the laboring man is completely answered. It is for the benefit of both these classes that a protective tariff should be justly levied in this country.

Why is it, if we are in such distress here, as these freetraders tell us, that people are flocking to our shores from all countries of the Old World by hundreds of thousands? It is a sinking ship that rats leave; they never seek to get into one that is filling with water. So with these people from the old countries, they migrate for the purpose of benefiting themselves. They seek new homes where their condition will be bettered. They know they are leaving low wages for higher wages, poor living for better living. You cannot fool them on this question. Their constant arrival on our shores is sufficient answer to all the speeches we have heard about low wages here.

Mr. Chairman, what we want in this country is a commission of able men, men of large knowledge and great experience, not to tear down the tariff, not to bring about the millennium of free trade, but simply to ascertain facts and report to this House their investigations, so that we may adjust the tariff in an intelligent and sensible manner.

I would like to leave it to our Committee on Ways and Means; but, sir, my faith in that committee has been somewhat shaken by this debate. I remember when a lad I had a peculiar veneration for preachers. When they visited the house of my parents I always regarded them with a feeling of awe. I thought, you know, they held in some way the key to the great mysteries of a future life. But as I got older I lost that feeling in a measure, that sense of awe, but according to the great law of compensation, which causes a man to make up in one direction what he loses in another. [Laughter.]

I came to look upon the members of the Committee on Ways and Means in the same way. How many times in the gallery, when I had been describing the distinguished men of this House, picking out their peculiarities, I would run on a snag in some cases, but when I struck a member of the Committee on Ways and Means the job always became free and easy. [Laughter.] "Ah! that is a member of our Committee on Ways and Means." [Laughter.] That would end the question at once. [Laughter.] Everybody always said, "That is enough."

And now that feeling of reverence has faded away, been torn out by the roots, as the result of this debate, gone—all that deep sense of awe, that veneration, all gone. [Laughter.] I have a feeling now that that committee, composed of many able men, is not fully up to the mark on this tariff question; I do not know what they might do on a commission. I do know what they have done in this debate. We have been arguing this commission bill for over a month, and my distinguished friend from Kentucky [Mr. CARLISLE] spoke two hours and a quarter without hardly referring to the bill. [Laughter.] I was on the point of moving that a tariff bill should be introduced and then if we could have got the gentleman on his feet, perhaps we might have had a speech from him on the commission. [Laughter.] I submit, Mr. Chairman, we do not want to amend this bill at all. It should be passed just as it comes to us.

[Here the hammer fell.]

Mr. COX, of New York. I propose to amend my substitute for the amendment of the gentleman from Pennsylvania so as to make the five members of the commission from the House and four from the Senate elected by each body.

Mr. RANDALL'S amendment was read, and the amendment of Mr. COX, of New York, was read as amended.

The CHAIRMAN. The question is on the substitute of the gentleman from New York [Mr. COX] as it has been modified.

The committee divided; and there were—ayes 76, noes 100.

Mr. ATKINS demanded tellers.

Mr. BUCKNER. I ask my friend from Iowa whether he would not consent to give us the yeas and nays on this proposition in the House?

Mr. COX, of New York. I insist on tellers.

Mr. KASSON. I am not authorized to make any arrangement of that sort. I ask that proceedings in committee be carried on in the ordinary way.

Mr. COX, of New York. Allow me to conduct my substitute in the proper way. I appeal to my friend from Iowa in order to avoid tellers in committee to agree that we shall have a vote by yeas and nays in the House.

Mr. KASSON. No; let us take a vote by tellers in committee. That will consume less time than the yeas and nays in the House.

Mr. COX, of New York. Cannot it be taken in both ways?

Mr. KASSON. The result will be the same in both ways and we will make record enough in the Committee of the Whole.

Tellers were ordered; and Mr. COX, of New York, and Mr. KASSON were appointed.

The committee divided; and the tellers reported—ayes 62, noes 114.

So the amendment was not agreed to.

Mr. UPSON. I offer the amendment which I send to the desk as an amendment to that offered by the gentleman from Pennsylvania.

The Clerk read as follows:

And the persons to compose such commission shall be selected, as nearly as practicable, from the two political parties; and shall, as nearly as practicable, be chosen as representatives of the different interests to be affected by a readjustment of the tariff.

Mr. KASSON. Is that offered as a substitute?

The CHAIRMAN. The Chair understands it to be offered as an amendment to the amendment of the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. UPSON. I offer it as an amendment to come in at the close of the amendment suggested by the gentleman from Pennsylvania.

The CHAIRMAN. Does the gentleman from Texas desire to be heard upon the amendment?

Mr. UPSON. I do not.

The amendment was not agreed to.

The CHAIRMAN. The question now recurs on the amendment suggested by the gentleman from Pennsylvania, which will be again reported.

The amendment was again read.

Mr. KASSON. If it were necessary now to raise the question of the admissibility of this amendment under the Constitution I should do so, but I believe the Speaker has ruled that it is admissible. I would simply like, however, to remind gentlemen of the committee of the provision of the Constitution——

The CHAIRMAN. Debate is not in order except by unanimous consent.

Mr. RANDALL. This, I understand, is on the point of order.

The CHAIRMAN. The Chair did not understand the gentleman from Iowa as making a point of order.

Mr. KASSON. I desire simply to call the attention of the Chair and of the committee to the question as to whether the point of order may properly be made under this clause of the Constitution:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

The CHAIRMAN. The Chair is ready to decide the point of order.

Mr. KASSON. It seems to me that under this clause of the Constitution it is very questionable if any member of the House can be appointed to such a position if any emoluments or pay shall be connected with the office.

Mr. RANDALL. I do not think that this is a civil office within the meaning of that clause of the Constitution.

The CHAIRMAN. The Chair thinks debate is entirely unnecessary upon the point of order, as the Chair is ready to rule upon it. The Chair overrules the point of order.

Mr. RANDALL. I was going to say that if it should have been held otherwise by the Chair I would have proposed a modification of the amendment, or another amendment, providing that the members so appointed on the commission should receive no additional compensation.

The CHAIRMAN. The question is upon the amendment of the gentleman from Pennsylvania.

The amendment was not agreed to.

The CHAIRMAN. The substitute proposed by the gentleman from Kentucky for the first section will now be read.

The Clerk read as follows:

Strike out all after the enacting clause, and insert "that a select committee is hereby created, to be known as the tariff committee, to consist of nine members of the House of Representatives, to be chosen as hereinafter provided."

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that if this is offered, as it would seem from the language, as a substitute for the whole bill, it is not properly in order.

Mr. CARLISLE. It is offered as a substitute for the first section of the bill.

The CHAIRMAN. The necessary correction, then, will be made in the language.

Mr. CARLISLE. It should read, "strike out all after the enacting clause in the first section, and insert," &c.

Mr. VAN VOORHIS. There is no enacting clause in the first section.

Mr. KASSON. I reserve the point of order upon this amendment.

Mr. CARLISLE. I was about to say, Mr. Chairman, simply that the principle involved in this amendment has been already discussed during the progress of the general debate upon this tariff-commission bill. I am one of those who believe—and I think that there are a number of gentlemen on this side who agree with me—that we ought not to have a commission of civilians or a mixed committee of members of the House and of the Senate to consider this matter, but that it is a right which belongs to the House alone, and cannot properly be delegated. In that view I have proposed the amendment to the first section, which presents the simple naked question for the consideration of this committee, whether it will provide in this bill for the appointment of nine members of the House of Representatives to take into consideration all of these matters and report their conclusions to the House instead of one or the other of the plans which have been suggested.

If this amendment shall be adopted, then I would propose a further amendment to the second section, providing for the manner in which the nine members shall be chosen; and they ought not, of course, to have any compensation beyond what they are entitled to receive as Representatives under the laws now in force. They will not be independent officers but will act upon it as they act here upon the floor of the House, and as they act upon all other matters, in their representative capacity.

I want this committee to vote upon that one single naked proposition, whether the House of Representatives charged with the duty under the Constitution of originating all matters pertaining to the revenues of the Government will delegate that power entirely to a commission selected by the Executive or partly to a committee selected by the House and Senate combined, or whether they will hold that power in their own hands. And upon its adoption I would like to have a vote in the House.

Mr. KASSON. I think the point of order is good against this proposed amendment, as it is a modification of the constitutional right of this House, or to some extent a delegation of the power of the House to a co-ordinate branch of the Government to appoint a select committee to be chosen from the House; that, in other words, an amendment of this kind proposes the substitution of a law, requiring the action of both bodies and relating to persons outside of Congress, to do that which is within the power of the House alone, and resulting from its proper action under its rules, namely, its power to appoint its own special or standing committees.

Mr. CARLISLE. Upon the point of order I desire to say a word.

The CHAIRMAN. Does the gentleman from Iowa make his point of order now for the first time?

Mr. KASSON. I reserved it.

The CHAIRMAN. The Chair did not so understand.

Mr. CARLISLE. The gentleman from Iowa reserved the point of order this morning, as I understand.

I concede, of course, it would be out of order to attempt to convert a bill into a concurrent resolution, or even a simple resolution of the House, and if that were the effect of the amendment it would be subject to the point of order made by the gentleman from Iowa. But there is no proposition in the amendment to change the character of this measure. It still remains a bill, and it ought to remain a bill for the reason that it creates, even after the adoption of the amendment proposed by me, new officers and provides for their compensation and makes an appropriation of money to pay them. It makes an appropriation for the expenses of the committee and for the compensation of a stenographer and messenger, two new offices not now known to the law.

It is true the House could by a simple resolution of its own give authority to one of its committees to sit during the vacation, to visit different parts of the country, to employ necessary officers, and to pay them, not out of the general funds of the Treasury, but out of the contingent fund of the House. But this measure proposes to pay them out of the public Treasury in the way that all public officers are paid. Therefore it is properly a bill, and not a simple resolution of the House, and the amendment proposed by me does not suggest or require any modification of its character.

Mr. KASSON. Let me say a single word. I have now the proposition of the gentleman from Kentucky in my hand. It is for the appointment of a select committee, composed exclusively of members of the House. The Constitution says each House shall regulate its own proceedings, including all the scope of this amendment; and the proposition is to cede away that power and call for the concurrence of the Senate before we shall appoint a select committee. That is all I have to say.

Mr. CARLISLE. I submit that the point made by the gentleman from Iowa is not strictly a point of order addressed to the Chair; but it is a matter which relates to the form of the measure we propose to pass in order to accomplish a certain result. It being clearly within the power of the House to accomplish that result, we have a right to put the measure in any form we choose. The very fact that the House itself has the power to regulate its proceedings and to provide for the appointment of its committees necessarily involves the proposition that the House may do that in any way it chooses; and especially when it is proposed to make an appropriation of money out of the public Treasury, and not out of the contingent fund of the House.

Mr. KASSON. I submit the point that the amendment is not germane either to what follows in the bill or to the section itself.

The CHAIRMAN. The Chair will direct the proposition to be again read.

The Clerk read as follows:

Strike out the first section, and insert: "That a select committee is hereby created, to be known as the tariff committee, to consist of nine members of the House of Representatives, to be chosen as hereinafter provided."

Mr. COX, of New York. Would it be in order to offer an amendment to that amendment?

The CHAIRMAN. While the point of order is pending an amendment to an amendment would not be in order.

This amendment proposes to provide for a select committee of the House of Representatives. Under the rules of the House the power of appointing committees is vested in the Speaker of the House. The Chair thinks a proposition of this kind is not germane and is not in order in this bill, and therefore sustains the point of order.

Mr. CARLISLE. With great respect for the Chair, I feel compelled to appeal from its decision.

The CHAIRMAN. The gentleman from Kentucky appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. COX, of New York. Permit me one word to sustain the appeal of my friend from Kentucky. It seems to me if we can by law choose anybody to do this work for us we can choose men of our own body equally well with men outside of our body. We could choose men in the Treasury, men in the Senate; we could reach out anywhere and get competent men for the work, if we chose. We could authorize anybody to take charge of this business. This does not come under our rules exactly. It is a law, a joint resolution, if you please, and it seems to me it cannot be ruled out of order simply because we name men who are members of this House and not men outside of this House.

The question being taken on the appeal from the Chair's decision, there were—ayes 108, noes 59.

So the decision of the Chair, ruling the amendment out of order, stood as the judgment of the committee.

Mr. COX, of New York. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add to the first section the following:

"*Provided*, That five members of said commission shall be elected by the House of Representatives, each member voting for three citizens not members of the House, and that the five citizens having the highest vote shall be declared elected."

Mr. COX, of New York. That is in order to make it impartial

Mr. KASSON. Question.

The CHAIRMAN. Does the gentleman from New York desire to be heard?

Mr. COX, of New York. No, sir. I presume that will be appreciated by all on this side at least.

The question being taken on the amendment, it was not agreed to.

Mr. HAMMOND, of Georgia. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add to the first section the following: "Of this House, who shall serve without other compensation than their salaries as Representatives."

Mr. KASSON. I make the same point of order on that as on the amendment of the gentleman from Kentucky.

The CHAIRMAN. The Clerk will report the section as it will read if amended as proposed by the gentleman from Georgia.

The Clerk read as follows:

That a commission is hereby created, to be called the tariff commission, to consist of nine members of this House, who shall serve without other compensation than their salaries as Representatives.

The CHAIRMAN. The gentleman from Iowa [Mr. KASSON] makes the point of order.

Mr. HAMMOND, of Georgia. What point of order?

Mr. KASSON. I will not take up time by insisting on the point of order, and withdraw it. I call for a vote.

The CHAIRMAN. Does the gentleman from Georgia desire to be heard?

Mr. HAMMOND, of Georgia. No, sir.

The question being taken on the amendment, there were—ayes 59, noes 100.

Mr. HAMMOND, of Georgia. I call for tellers. I will ask the gentleman from Iowa [Mr. KASSON] if he will consent that we may have a vote on this proposition in the House and so avoid tellers at this time?

Mr. KASSON. I cannot agree to that.

Mr. HAMMOND, of Georgia. Then I call for tellers and hope they will be ordered, and then I trust that members on this side of the House will not vote unless we can be allowed a vote in the House.

Tellers were ordered; and Mr. HAMMOND, of Georgia, and Mr. KASSON were appointed.

The committee again divided; and the tellers reported that there were—ayes 16, noes 133.

So the amendment was not agreed to.

Mr. GIBSON. I desire to offer an amendment, and ask that it be read.

The CHAIRMAN. It can be read for information.

The Clerk began the reading of the amendment, as follows:

That the bill be recommitted to the Committee on Ways and Means——

Mr. KASSON. Let us go on with the bill; that is not now in order.

The CHAIRMAN. Does the gentleman object to its being read for information?

Mr. KASSON. I object to its being read now. The proper time is after we have concluded the consideration of the bill.

The CHAIRMAN. The Clerk will then read the second section of the bill.

The Clerk read as follows:

SEC. 2. That the President of the United States shall, by and with the advice and consent of the Senate, appoint nine commissioners from civil life, one of whom, the first named, shall be the president of the commission. The commissioners shall receive as compensation for their services each at the rate of $10 per day when engaged in active duty, and actual traveling and other necessary expenses. The commission shall have power to employ a stenographer and a messenger; and the foregoing compensation and expenses to be audited and paid by the Secretary of the Treasury out of any moneys in the Treasury not otherwise appropriated.

Mr. SPRINGER. I move to amend the section just read by inserting, after the word "commission," in the fourth line of the printed bill, the words "not more than five of whom shall be members of one political party, and a majority of whom shall be a quorum." If that amendment should be adopted, that portion of the section will read:

That the President of the United States shall, by and with the advice and consent of the Senate, appoint nine commissioners from civil life, one of whom, the first named, shall be the president of the commission, not more than five of whom shall be members of one political party, and a majority shall be a quorum.

The words which I propose to insert here are precisely the same as contained in the bill authorizing the appointment of the Utah commission; except that the Utah commission bill provided for five commissioners, and the number of one political party was three, whereas this bill provides for a commission of nine members, and my proposition is that the number to be appointed from one political party shall be five.

Mr. COX, of New York. I would ask the gentleman, if these members are to be selected from different political parties, how he can discriminate, in our own party for instance, between protectionists and those on the other side? That is what bothers me. [Laughter.]

Mr. SPRINGER. I do not know that there are any protectionists *per se* in the Democratic party; there ought not to be, at any rate. If the President is authorized to make the appointment in the manner which this amendment indicates, I take it for granted that he will in good faith carry out this provision by appointing well-recognized representatives of the Democratic party on the minority of this commission. I ask gentlemen on the other side if it is not fair, if we are to have a commission to investigate the tariff question, that both the great political parties shall be represented upon it, and that not exceeding five of the commissioners shall be members of the dominant party in the country.

This proposition is one which originated with the majority of this House when providing for the appointment of the Utah commission. It is just and proper. This proposition is one in the same line, asking that there be fairness in the appointment of a commission of this kind.

Gentlemen may say that this is not a political or a party question. If they have entertained that idea heretofore or during this debate they must abandon it now. They will remember in the last Presidential campaign, when the cry went up from all parts of the country, from gentlemen on the other side and their friends, that it was claimed that an administration should be elected in the interest of a protective tariff. Upon that claim they went before the people in the last Presidential election, and they tell us that they won upon it.

Now, I can assure them that in the election of members of the Forty-eighth Congress this question will go to the people, and a Congress will be elected on this question. The Democratic party will place itself upon the position of reducing the present exorbitant rates of taxation proposed by the tariff law. We therefore desire that there shall be a representation of both parties on this commission, so that we can be fairly represented.

Mr. BURROWS, of Michigan. Will the gentleman permit me to ask him a question?

Mr. SPRINGER. Certainly.

Mr. BURROWS, of Michigan. Will the gentleman consent to modify his amendment so that one of the commissioners shall be taken from military life? [Laughter.]

Mr. SPRINGER. I do not know that military gentlemen are members of any political party. [Renewed laughter.] I have no objection, however, that the majority may select their five members from whatever walks of life they may see fit. I have not a particle of objection to that.

Mr. KASSON. I only wish to say that I hope the President will see that a proper business man associated with the Democratic party, or more than one, shall be on the commission. I object to limiting the exact number of Democrats that he shall put on. [Laughter.]

Mr. SPRINGER. This does not do it; it says that not more than five shall be members of one political party.

Mr. REED. But you want those five to be members of two political parties.

The question was taken upon the amendment of Mr. SPRINGER; and upon a division there were—ayes 33, noes 97.

So (no further count being called for) the amendment was not agreed to.

The Clerk read the next section of the bill, as follows:

SEC. 3. That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff, or a revision of the existing tariff, and the existing system of internal-revenue laws, upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission, in the prosecution of its inquiries, is empowered to visit such different portions and sections of the country as it may deem advisable.

The amendment reported from the Committee on Ways and Means was to strike out of the seventh line of the section the words "and the existing system of internal-revenue laws."

Mr. WHITE. I desire to ask whether this is not an amendment to the Senate bill.

Mr. KASSON. The Senate bill is not now before us. This is an amendment proposed by the Committee on Ways and Means to the House bill.

Mr. WHITE. I desire to inquire whether this amendment, if adopted, will not necessitate an amendment of the title of the bill, and whether one-half of the whole question which was proposed to be referred to this commission will not be taken away from it?

Mr. KASSON. I will say in answer to the gentleman that the Committee on Ways and Means decided to introduce themselves a bill abolishing all internal taxation except upon three articles—distilled spirits, fermented liquors, and tobacco. That bill the committee did afterward report. In view of their purpose with reference to that bill they amended this bill, preferring, as the internal taxation is limited as to the number of articles taxed, and is more thoroughly within the knowledge of members, to confine the investigations of this commission to the more elaborate questions of the tariff. I hope the House will concur in this amendment.

Mr. WHITE. I hope the House will not adopt the amendment. If this commission is to investigate simply the tariff laws and not the internal-revenue laws, then in my opinion we do not want any commission at all. [Cries of "Vote!" "Vote!"]

Mr. COX, of New York. I hope the House will understand what it is voting upon. The Committee on Ways and Means reports an amendment striking out the words "and the existing system of internal-revenue laws;" so that if the amendment be adopted this commission will not touch that subject.

Several MEMBERS. That is right.

Mr. COX, of New York. You do not want to touch it?

Mr. VALENTINE. No.

Mr. COX, of New York. I do. Therefore I will vote against striking out these words.

Mr. RANDALL. Everybody who wants to reduce internal-revenue taxation should, in my judgment, vote to adopt the amendment proposed by the Committee on Ways and Means.

Mr. WHITE. Everybody who wants to vote for the "whisky ring" should vote for the amendment.

Mr. SPRINGER. I would like to learn from the gentleman from Iowa [Mr. KASSON] how he discovered that this House was incompetent to consider the question of the tariff, but is competent to consider the question of internal-revenue taxes.

The question being taken on agreeing to the amendment, there were—ayes 95, noes 24.

Mr. WHITE. I make the point that no quorum has voted.

Tellers were ordered; and Mr. WHITE and Mr. VALENTINE were appointed.

The committee again divided; and the tellers reported—ayes 130, noes 17.

So the amendment was adopted.

Mr. KENNA. I move to amend by inserting after the word "interests," in the eighth line of the pending section, these words: "and a modification of the internal-revenue laws so far as the same relate to tobacco, with a view to the relief of producers thereof."

Mr. Chairman, this amendment is designed, as the amendment itself states, to have an investigation of this question with a view to the relief of tobacco-growers. Members of the House are familiar with the fact that under existing laws the producer of tobacco is the only agriculturist in the country who is not allowed to dispose of his product as he chooses. I trust there will be no objection to allowing this commission to make inquiry in the direction indicated, and to submit to Congress suggestions looking to a modification of our laws, so as to afford relief to this overburdened class of producers.

Mr. KASSON. That will be done, I hope, at an earlier period in this House than it could be through the medium of this commission; and the adoption of the amendment would change the whole plan as now embodied in the bill. I presume that in the course of a week we shall have up in the House on a bill from our committee the question presented by the amendment of the gentleman from West Virginia.

Mr. KENNA. As I understand it, the relief which my amendment seeks is not provided for in the bill to which the gentleman refers. I doubt the probability of any early action on this question by the House, as I have already expressed doubt as to the probability of early action here in regard to the tariff; so that unless this subject be referred to the proposed commission there will be no relief afforded. From no quarter is there more just demand for relief than from the tobacco-growers who are not permitted, as are other classes of producers, to dispose of the product of their own toil as they choose. I trust the amendment will be adopted. It will remedy a great wrong. But if defeated here I shall endeavor to secure its adoption when the bill on the Calendar is taken up for consideration.

Mr. BLAND. I would like to say a few words upon this amendment.

The CHAIRMAN. The gentleman from West Virginia [Mr. KENNA] has two minutes of his time remaining.

Mr. KENNA. I yield to the gentleman from Missouri, [Mr. BLAND.]

Mr. BLAND. Mr. Chairman, this amendment presents a most important question. There is great and just complaint among the growers of tobacco that under existing laws they cannot take their product to market and dispose of it according to their own choice, as do the producers of wheat, corn, &c., but can only sell it to licensed dealers, who have a monopoly of the market. If I am not mistaken, sir, one of the effects of this bill must be (if it was not intended to accomplish that object) to postpone the consideration of the tariff question, in order to make great and vital reductions in internal-revenue taxation, doing away with the greater portion of our revenue under that system, and thereby making an excuse for retaining or increasing the present tariff duties in order to supply the deficiency.

I want to say here and now, unless we can totally and absolutely repeal the internal-revenue laws I hope no change will be made, except such as will have the effect of relieving the farming as well as all other industrial interests. If we are to continue the revenue laws by which persons can be harassed and persecuted by indictments, and sufficient revenue only is obtained for the purpose of maintaining this inquisitorial system of persecution, and to compel those who are thus persecuted to pay for their own indictments and all the expenses of this unjust persecution, I should not for one vote for any reduction of the internal-revenue laws.

[Here the hammer fell.]

Mr. WHITE. I move to strike out the last word.

The CHAIRMAN. The question is on that motion.

The amendment was rejected.

Mr. WHITE. I rise to renew that amendment. [Laughter.]

Mr. PAGE. Let the gentleman move to strike out the last two words. [Laughter.]

Mr. WHITE. I ask that the vote shall be taken again, and before the question is submitted to the committee I wish to say a word.

Mr. McKINLEY. I object to debate.

Mr. ATKINS. I suggest to the gentleman from Kentucky to move to reconsider the last vote. [Laughter.]

The CHAIRMAN. The Chair feels it to be its duty to inform the gentleman from Kentucky that under the order of the House of yesterday no debate can be allowed even if he makes that motion.

Mr. ATKINS. I ask the gentleman from Iowa who has charge of this matter to allow an amendment in the House on this important measure.

Mr. WHITE. I desire to say a word in regard to the amendment now pending.

The CHAIRMAN. Does the gentleman oppose the amendment?

Mr. WHITE. No, sir; I desire to say a word in favor of it. The reason I am in favor of it is this—[cries of "Vote!"]—we do not want this commission if it is to be so hampered that it will do no good.

Well, I withdraw my amendment, and demand a division on the amendment of the gentleman from West Virginia.

The committee divided; and there were—ayes 1, noes 93.

Mr. WHITE. No quorum has voted. This is the most important amendment——

The CHAIRMAN. Debate is not in order.

Mr. WHITE. I insist no quorum has voted.

The CHAIRMAN. The gentleman can demand tellers.

Mr. WHITE. Very well; I demand tellers.

Tellers were ordered; and Mr. WHITE and Mr. VALENTINE were appointed.

Mr. WHITE. I do this thing, Mr. Chairman, in the interest of the poor and oppressed. If gentlemen will give us a vote in the House I will withdraw my call.

Mr. KENNA. I hope that gentlemen on the other side will consent to let us have a vote on this proposition in the House.

Mr. WHITE. As gentlemen seem indisposed to vote on this proposition I withdraw the call, as it is quite certain the majority in the House is against it.

Mr. KENNA. I renew it.

Mr. WHITE. I want to vote with the gentleman, but I hope he will get somebody on that side of the House to vote with me.

Mr. KENNA. I am pursuing my own course in reference to the amendment, and I hope the gentleman from Iowa will not object to giving us a vote on this proposition in the House. There is no purpose on this side to filibuster on the amendment, but I would like to see a vote in the House on it. I say now there will be no attempt in the House to cause any delay in reference to it.

Mr. KASSON. I will say in reply to the gentleman from West Virginia that an arrangement was entered into yesterday, with repeated assurance on the other side of the House there would be no filibustering on this subject, and I stand on that agreement.

Mr. KENNA. The gentleman is aware that I am not disposed to filibuster, for I am for his bill.

Mr. WHITE. I had no desire to filibuster, and I withdrew the call. What I have done has been in the interest of the poor and oppressed.

The CHAIRMAN. The gentleman cannot withdraw the call, as it was made by another.

Mr. SPEER. I desire to make a statement to the gentleman from West Virginia, which I think will settle this matter. When the revenue bill was before the committee on Ways and Means I introduced an amendment identical with that now pending, and it was understood when that bill was reported to the House I should have the privilege of moving that amendment. We can get a vote on the substantial proposition of the gentleman from West Virginia on the revenue bill.

Mr. KENNA. When we reach that bill I have no doubt we can get a vote; but we will never reach it this session.

Mr. WHITE. I withdraw the call.

The CHAIRMAN. It has been made by another gentleman.

Mr. WHITE. I want the whole matter referred to a commission so it may be considered with a view to the relief of the poor and oppressed.

Mr. KENNA. I insist the gentleman shall observe the rules of the House.

The committee divided; and the tellers reported—ayes 22, noes 130.

So the amendment was rejected.

Mr. MORRISON. I offer a proviso, to come in at the end of section 3.

The CHAIRMAN. The amendment will be read.

The Clerk read as follows:

Provided, Said commission shall report no revision of the tariff providing for any duty in excess of 50 per cent. ad valorem on any article embraced in the following schedules of section 2504 of the Revised Statutes, and not subject to tax under the internal-revenue laws, to wit: schedule A, cotton and cotton goods; schedule B, earths and earthenware; schedule C, hemp, jute, and flax goods; schedule E, metals; schedule F, provisions; schedule G, sugars; schedule I, spices; schedule L, wool and woolen goods; and schedule M, sundries.

Mr. KASSON. I will reserve the point of order upon that.

Mr. MORRISON. What is the point of order?

Mr. KASSON. This bill is for the investigation of subjects connected with the tariff. This prohibits a report upon a certain branch of inquiry.

However, instead of taking up the time of the committee on the point of order, I will yield to my colleague on the committee, [Mr. MORRISON,] and withdraw the point against the proposed proviso.

Mr. MORRISON. The only remarks which I desire to make are to ask the Clerk to read a statement of the reduction of duties on the basis of present importations.

The Clerk read as follows:

Schedules.	Articles.	Duty received, 1881.	Estimated loss of duty.
A	Cotton and cotton goods	$2,287,413 96	$234,577 96
B	Earths and earthenware	1,943,894 54	713,579 42
C	Hemp, jute, and flax goods	960 57	133 57
E	Metals	5,265,789 45	1,714,311 77
F	Provisions	1,059,284 76	553,554 91
G	Sugars	46,321,781 14	4,602,164 53
I	Spices	825,981 86	174,987 05
L	Wool and woolen goods	24,511,508 58	6,149,752 23
M	Sundries	4,014,351 53	918,681 35
	Total	86,230,966 39	15,061,742 79

Mr. MORRISON. That would be on the basis of present importations.

Mr. McKINLEY. As to one item contained in the gentleman's amendment, that of pottery, if it should become a law and guide this commission by its command, there is not a pottery establishment in the United States that would not be compelled to close out. This proposition if adopted would be a severe blow at this great interest in the United States. I am unalterably opposed to it.

Mr. MORRISON. This does not reduce the duties.

Mr. McKINLEY. I know it; but it provides that the tariff shall not exceed 50 per cent. ad valorem. Two potteries in New Jersey within the past few days have closed out for want of adequate protection.

Mr. CARLISLE. Does the gentleman not know that the present rate is only 40 per cent.?

Mr. McKINLEY. I have so stated.

Mr. MORRISON. Do you propose to increase that rate above 40 per cent.? Do you propose to increase duties?

Mr. McKINLEY. I do. It ought to be done, and I do propose to increase it if this House will stand by me.

Mr. COX, of New York. In answer to my friend from Ohio——

Mr. KASSON. I wish to oppose the amendment.

Mr. COX, of New York. Let me say a word.

Mr. KASSON. I have only the remainder of the time in opposition, and I would prefer not to yield.

Mr. COX, of New York. Simply 40 per cent., that is all——

The CHAIRMAN. Does the gentleman from New York favor the amendment?

Mr. COX, of New York. I do.

The CHAIRMAN. Does the gentleman from New York desire the time?

Mr. COX, of New York. I do.

The CHAIRMAN. There are two minutes of the time remaining.

Mr. COX, of New York. Mr. Chairman, it is one of the anomalies of our business here that we are trying to instruct the commission. My friend from Iowa withdrew his point of order so that the wisdom of this House might reach this possible commission. We seek to give them some information, some instructions from the people through their representatives, and because we want to keep these rates down to 50 per cent. my friend from Ohio says "No; I want it 40, or more." Forty per cent. every time anything made abroad comes into this country in competition with what we make here! They propose to tax the consumer in this country 40 or 50 per cent. always, and we cannot instruct the men we are creating, these possible creatures to our power, to receive a poor 50 per cent. [Applause.]

Mr. McKINLEY. We get our pottery cheaper.

Mr. COX, of New York. I know pottery has been more or less under a hot-house growth like iron and other industries of this country, but I want this commission, if the House sees fit to enact this bill, to take in detail each item of the tariff. We struck off forty millions in 1872 in detail, but we may not give this commission "information" or "instructions." Is that the position that gentlemen want to assume? The people are overborne by commissions. They are overborne by the peculiar traditions of men who represent capital against labor; but I see that my two minutes have expired, and therefore I will desist. [Laughter.]

Mr. KASSON. I know of no better illustration of the impracticability of an amendment like this than has been this moment furnished. There is no one point of agreement that exists touching the rate that is proposed to be limited upon these importations. This is an anticipation of the facts to be reported upon by the commission. It is an attempt to mortgage the judgment of the commission upon these points. It is mortgaging the future action of the House. It defeats the object of the commission by seeking to burden their recommendations and their action on the subjects specially intrusted to them.

The very idea of the commission is, it shall be free to report what in its judgment it shall see proper to be confirmed or rejected by our judgment. And I think that my friend from Illinois himself appreciates the inconsistency of a law like this with the purposes of the bill, which is for a pure investigating commission. I hope not an argument for free trade or for protection will be found in their report. We want facts; and all the arguments necessary can be furnished in the House in the future as they have been in the past. I hope for that reason this amendment may be rejected. I hope on some of these things the duty may be even less than that which the gentleman allows; but I oppose any restriction such as this puts upon the freedom of the judgment of the commission to be established.

Mr. SPRINGER. I ask that the amendment may be again read.

The amendment was again read.

The Committee divided; and there were—ayes 55, noes 95.

Mr. REAGAN. I call for tellers.

Tellers were ordered; and Mr. REAGAN and Mr. VALENTINE were appointed.

The Committee again divided; and the tellers reported—ayes 24.

Mr. REAGAN. I withdraw the call for further count.

So the amendment was not agreed to.

Mr. DUNNELL. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 5 of section 3, after the words "United States," insert these words: "excepting all questions relating to the importation of sugars into the United States."

Mr. SPRINGER. Let the section be read as proposed to be amended.

The Clerk read as follows:

That it shall be the duty of said commission to take into consideration and to thoroughly investigate all the various questions relating to the agricultural, commercial, and industrial interests of the United States, excepting all questions relating to the importation of sugars into the United States, &c.

Mr. DUNNELL. I have opposed the pending bill from the beginning because it will work a delay in the revision of all the revenue laws of the country, and especially certain revenue laws which in my judgment ought to be revised. This, in a single sentence, has been my attitude. It is my attitude now.

There are none of the revenue laws that so much need immediate revision as the laws regulating the importation of sugars. Many years ago the Dutch standard was adopted. It became unreliable. The Secretary of the Treasury issued an order providing for the use of an instrument called the polariscope. Sugars have been rated for a number of years by the use of the polariscope. Since this bill has been pending in the House the Supreme Court of the United States has decided it was not lawful to use this instrument, and the Secretary of the Treasury appeals, as every Secretary for the last five years has appealed, to Congress in begging terms to relieve that Department from the practical operation of the laws regulating the importation of sugars.

Last year we collected forty-five, nearly forty-six millions of dollars of duties upon sugar. In the speech which I made in this House I insisted, and I do now insist, that we are raising too large a proportion of our revenues from this great article of common consumption. Next year the revenues will be not less than $55,000,000; more than one-fourth of the revenues from foreign importations will come from sugar alone. We do not need this amount.

Why do I offer this amendment? We have now, Mr. Chairman, in the Committee on Ways and Means in bound volumes every argument that can possibly be made to this commission, every fact that can come home to this commission, already in possession of the committee, upon this whole sugar question. If we leave this out it will be notice to the Committee on Ways and Means forthwith to bring in a bill relieving the people at least of 25 per cent. of the amount now collected on sugars. We have already a dozen suits pending, and this one decision of the Supreme Court has taken out of the Treasury about a million and a half. The Department is crippled in the execution of the law. The Dutch standard has ceased to be a just standard, and during the year to come the Treasury Department will be utterly powerless to repress frauds upon the Treasury.

The great mass of our sugars for the year to come without legislation will come in under No. 7, and there will be therefore in that way a reduction perhaps to the importers and no saving to the people. My position here upon the tariff-commission bill has been somewhat severely criticised by certain gentlemen upon this side of the House. But my attitude was forced upon me because of this one thing, among others, a great patent wrong staring the House of Representatives in the face, demanding relief, demanding revision, and we putting it off into the dim and uncertain future. I did say then, and I say now, that no Congress has a right to put off into the future what it is within its power to do now.

[Here the hammer fell.]

Mr. KASSON. A single word. I only wish to say what the gentleman from Minnesota well knows, that the Committee on Ways and Means can act to-morrow upon this if it is the wish of the House or of the committee; whether this amendment be put upon this bill or not makes no difference.

I yield the rest of my time to the gentleman from Louisiana, [Mr. GIBSON.]

Mr. DUNNELL. Will not the gentleman yield to me one moment to reply to what he has just stated?

Mr. KASSON. I have not time.

Mr. Chairman, I had not intended to participate in the present debate, for it does not properly embrace any other question than this: Whether we will authorize the appointment of a committee of experts to examine all the facts relative to the tariff and to submit them to Congress. It will be merely a preliminary inquiry, proper in itself, whatever may be our views, however we may differ on the principles upon which the tariff should be adjusted, when we come to deal with that question. But the proposition of the gentleman from Min-

nesota, to except sugar from this inquiry, and the remarks he has made in favor of reducing the tariff upon sugar, is so extraordinary that I will be pardoned if I ask the indulgence of the House for a moment. The gentleman complains that we are deriving too much revenue from sugar, and upon this ground demands that the rates should be lowered. There is no complaint that the price is high, none that the sugar interest—the labor and capital invested in this industry—are receiving more than their fair proportion of the benefits of the tariff; none that overproduction has been caused, but simply that too much revenue is derived from this source.

It will be admitted by everybody that under any possible system of customs duty, whether you have a tariff for revenue only, with incidental protection or for the sake of protection, so long as we have a public debt, a pension list, and the Government to provide for, there will be necessary a certain amount of protection, a certain bounty, in favor of American industry. The question is simply this: Is it philosphical, statesmanlike, or just to give all the benefits, all the bounties to the capital and labor engaged in manufactures and commerce and to exclude agriculture from the benefits?

Is it not better that capital and labor should distribute themselves according to the laws of supply and demand as little affected as possible by governmental action, and that a system of taxation should be adopted that will equalize the benefits and burdens between the three great pursuits, manufactures, commerce, and agriculture, as well as between all classes and all sections of our common country? Even if we should attempt to distribute these bounties in the fairest possible manner, even if we lift ourselves above particular prejudices and special interests, and deal with this question in a liberal and national spirit, it will be found impossible to attain to an exact equilibrium. But what sort of statesmanship is that which would exclude an article from all the benefits under a system which from the beginning of the Government was steadily fostered until after the year 1861? Why exclude the article of sugar from the same treatment you accord to the other schedules of the tariff?

I only ask, as one of the Representatives of a State that formerly produced 50 per cent. of all the sugar consumed in our country, and to-day only produces 10 per cent. of the consumption, just treatment. Give us the protection that interest uniformly received until 1861, from the beginning of this century, and that State will produce all the sugar you can consume, and save the ninety millions of gold you pay out every year for sugar to countries that buy nothing, or little or nothing, in exchange from us. The gentleman complains that we are receiving too much revenue for sugar. The reason is obvious. The finest sugars are being imported and being colored down under the Dutch standard tariff, at the lowest rates of duty, so that the ad valorem is not more than half the schedule rates, which, while they average 60 per cent. ad valorem, do not in fact equal 30 per cent., the rate established by the Robert J. Walker tariff of 1846.

You have in fact a tariff for revenue only on sugar. For every eight dollars collected seven go into the Treasury and one only to the laborers and capital in this industry. But how is it on cotton, iron, copper, and woolen goods? How upon steel? In some instances absolutely prohibitive; in others, where eight dollars are collected seven go as bounty to the particular industry and only one to the Treasury. Do you propose now to throw sugar overboard, to reduce the revenues, to break down this industry, and thereby to make up the deficiency by increasing the rates upon manufactured goods? In this you deceive yourselves. If you reduce the duties to a level with those upon sugar you will increase the revenues of the country.

The difficulty about the sugar tariff, to prevent fraud or evasion, can be remedied by a bill authorizing the Secretary of the Treasury to employ the polariscope or other means to ascertain the real color and saccharine strength of sugar, without increasing or lowering the rates, correcting the methods without touching the rates upon sugar. But if you wish to reduce the revenues of the country you can do it by either raising the tariff on sugar or by reducing it on the other industries on which it is above the revenue standard, fully protective or absolutely prohibitory.

There ought to be equity in this tariff system. You ask for protection against the underpaid laborers of England and the continent. Will you not afford equal protection to the freedmen of Louisiana and the freemen of that State against the unpaid labor, the slave labor of Cuba and the gang or cooly labor of the tropics, that is still more exacting? Is it your policy to discriminate against English competition when we have the Atlantic Ocean to protect us, and not discriminate against the slave-owners of Cuba, which is as near New York and the centers of consumption in our country as Louisiana?

You open wide our ports for free sugar from the Hawaiian Islands, thus offering a bonus to the worse than slave system, the bond-contract system under which the Chinese are bound to the cupidity of the planters. Such a policy in favor of slavery and against freedom violates every sentiment of justice and every instinct of our nature.

It cannot be defended either upon principles of political economy or those other principles which should find an advocate in the heart of every American statesman—freedom and justice against slavery and injustice, American freedom against Cuban slavery and Hawaiian coolyism.

The CHAIRMAN. The time for debate has expired.

The question was taken upon the amendment of Mr. DUNNELL; and it was not agreed to.

Mr. HEWITT, of New York. I move to amend section 3 by inserting after the word "interests," in line 8, that which I send to the Clerk's desk.

The Clerk read as follows:

And in conformity to the following principles:
First. The repeal of the duties on raw materials.
Second. The proportionate reduction of the duties on articles manufactured from raw materials thus placed on the free list.
Third. No duties to exceed 50 per cent., except those on luxuries.
Fourth. No internal-revenue duty to be imposed on alcohol used in manufactures.
Fifth. Where practicable, duties to be made specific by converting ad valorem into specific duties on the basis of average market value.

Mr. HEWITT, of New York. I do not propose to discuss this amendment. It is in exact accordance with the line of remarks which I had the honor to address to the House, and of the spirit of the petition which I presented from eight hundred business firms of the city of New York. My object is to have it appear on the record and to have it adopted, if it can get votes enough.

Mr. KASSON. This amendment is subject to the same objection which I have proposed to the other proposition, that it restricts the freedom of action and of the reports upon the facts found by this commission. I wish the House to stand upon that principle. I will only say that the report of the chamber of commerce to which the gentleman from New York [Mr. HEWITT] alludes was carried by so small a majority in a free-trade body like that that it hardly gives force to his proposition.

Mr. HEWITT, of New York. The gentleman from Iowa [Mr. KASSON] misapprehends me. I said that my amendment was in conformity with a petition signed by over eight hundred business firms of the city of New York. I do not refer to the action of the chamber of commerce.

Mr. KASSON. I understood the gentleman to refer to that chamber, which I presume to be an honorable representative of all the commercial interests of New York. The resolutions referred to by the gentleman from New York were carried——

Mr. HEWITT, of New York. They were carried, and after full discussion.

Mr. KASSON. They were carried by a vote of 33 to 29 in the chamber of commerce.

Mr. COX, of New York. The chamber of commerce does not represent the laborers of the country.

Mr. McCOOK. The city of New York is the largest manufacturing city in the Union, employs more capital and gives employment to more men and women than any other city.

Mr. KASSON. I leave the objection where I put it, that this amendment violates the principle of a free commission.

The question was taken upon the amendment of Mr. HEWITT, of New York; and upon a division there were—ayes 42, noes 88.

So (no further count being called for) the amendment was not agreed to.

Mr. TUCKER. I move to amend section 3 by adding to it that which I send to the Clerk's desk.

The Clerk read as follows:

Provided, however, That the said commission be, and is hereby, instructed to include the following provisions in any plan for revision of the tariff reported by it:
1. From and after the —— day of ——, 1883, there shall be levied, collected, and paid on iron bars for railroads or inclined planes, and on steel railway bars and railway bars made in part of steel, $14 per ton. On chains, trace-chains, halter-chains, and fence-chains made of wire or rods, 35 per cent. ad valorem. On plows, harrows, spades, shovels, hoes, mattocks, picks, axes, hatchets, scythes, sickles, cutting and hay knives, reaping-hooks, on anvils, blacksmith's hammers and sledges, axles or parts thereof, on files, file-blanks, rasps, and floats, augers, gimlets, saws of every kind, and all knives used in any mechanical trade, and upon all other tools and implements used for agricultural, mechanical, manufacturing, and mining purposes, of which iron or steel is a component material of chief value, and upon anchors or parts thereof, and iron cables or cable-chains, 35 per cent. ad valorem.
2. On all flannels, blankets, hats of wool, and knit goods, and upon all other articles named in schedule L of section 1163, title 33, of the Revised Statutes, the duties therein prescribed, so as that no duty on any of said articles, whether specific or ad valorem, shall be at a rate of duty greater than an equivalent rate of 45 per cent. ad valorem.
3. On all articles subject to duty under schedule A, section 2504, title 33, of the Revised Statutes, a duty of 30 per cent. ad valorem.
4. On all articles subject to duty under schedule G of the said title the present rates of duty with the present classification shall be levied, collected, and paid, but so as that no duty on any of said articles shall be at a rate of duty greater than an equivalent rate of 45 per cent. ad valorem.
5. On salt in bags, sacks, barrels, or other packages, six cents per hundred pounds; in bulk three cents per hundred pounds, provided however that such duty shall in no case exceed an equivalent rate of 25 per cent. ad valorem.
6. The following articles shall be admitted free of all duty:
Barks: Quilla, Peruvian, Lima, calisaya, and all cinchona barks, canella alba, pomegranate, croton, cascarilla, and all other barks not otherwise provided for, wherever grown or produced.

Mr. KASSON. I was going to make the point of order upon that amendment that it was enacting a law in a bill proposing simply an investigation. But in view of the fact that it is proposed by one of my colleagues on the Committee on Ways and Means I will submit it to a vote without making any point of order upon it.

Mr. TUCKER. There are one or two branches of the amendment which do not mention the articles to which they apply. One of them is in reference to the duty on cotton manufactures. I propose to put it at 30 per cent., which is the duty imposed by the high tariff act of 1842. I propose also that the duty on flannels and blankets and other woolen goods shall be 45 per cent. That I believe, upon my examination of the question, will be not only not injurious to the

woolen trade but greatly beneficial to the interests of the consuming classes of the country.

Without detaining the committee with any further discussion upon it I will ask a vote on my amendment.

The question was taken upon the amendment of Mr. TUCKER; and upon a division there were—ayes 37, noes 79.

So (no further count being called for) the amendment was not agreed to.

Mr. MORRISON. I move to amend by adding to the pending section the proviso which I send to the desk.

The Clerk read as follows:

Provided, Said commission shall report no revision of the tariff providing for duties in excess of the several duties and rates of duty imposed by the act of Congress approved March 2, 1861, entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports and for other purposes," and known as the "Morrill tariff," on any of the following articles not subject to tax under the internal-revenue laws, namely:

On all manufactures of cotton of which cotton is the component part of chief value.

On all wools, hair of the Alpaca goat, and other animals, and all manufactures wholly or in part of wool or hair of the Alpaca, and other like animals.

On all iron and steel, and on all manufactures of iron and steel of which such metals, or either of them, shall be the component part of chief value.

On all metals not herein otherwise provided for, and on all manufactures of metals of which either of them is the component part of chief value.

On all spices.

On beef, pork, hams, bacon, cheese, wheat, butter, lard, barley, Indian corn, and fish.

On hemp, manilla, jute, flax, and all manufactures thereof.

On all glass and glassware.

On all wood and manufactures of wood.

On all articles embraced in schedule M, sundries, of section 2504 of the Revised Statutes.

The amendment was not agreed to.

Mr. COX, of New York. I move to amend by inserting the following:

That said commission for revising the tariff shall make it conform to the principle that revenue shall be the only standard for customs dues, and that no rate recommended shall exceed 30 per cent. ad valorem, and that in so far as possible all rates of duties shall be based on ad valorem and specific rates.

I do not expect a favorable vote on this amendment from the other side of the House, but I want this question met with a view to the election next fall. I want none of the gentlemen on the other side to be absent when this question comes up again.

The amendment was not agreed to.

Mr. SPRINGER. I move to amend by adding to the third section the proviso which I send to the desk.

The Clerk read as follows:

The President shall appoint as members of said commission well recognized representatives of the various interests of the country, as follows:

Four commissioners to represent agricultural interests.

One commissioner to represent the persons employed in the building and operating of railroads.

One commissioner to represent the persons employed in the manufacture of iron and steel and of cotton and woolen goods.

One commissioner to represent the manufacturers of such goods.

One commissioner to represent the persons employed in other mechanical occupations.

One commissioner to represent the manufacturers of agricultural implements, stoves, and the various kinds of machinery.

Mr. SPRINGER. My reason for offering this amendment is, that if we must have a commission I desire it shall as nearly as possible represent equally the various interests of the country. The section as it stands instructs the commission to take all these interests into consideration; and it seems to me fair that a commission thus instructed should represent as nearly as possible the respective interests to be affected.

The amendment gives the larger number of this commission to those interested in agriculture. The census shows that nearly one-half of the people of the United States are interested directly or indirectly in agricultural pursuits. Hence this great interest ought first to be considered, and four members of the commission should be well recognized representatives of this interest. They are apportioned by my amendment as nearly as possible according to what the census shows to be the numbers and importance of this interest. Gentlemen on the other side have told us how much agriculture is protected by the present tariff, and how much they desire to promote the interests of the farmer. I wish to see whether they are willing that the farmer shall be represented in a matter so materially affecting his interests.

Mr. HASKELL. I desire to say just a word in opposition to the amendment. The honorable gentleman from Illinois [Mr. SPRINGER] proposes that the interests of the farmer shall be promoted by placing on this board four representatives of that interest; and then he proposes to complete the board by placing thereon five men who shall be special representatives and attorneys of certain special interests.

This he proposes to send out to the country as a fair commission to revise the tariff—a board the majority of whom shall be special pleaders in behalf of special interests, every one of them committed to his own peculiar industry. That is the proposition. The gentleman proposes that in this commission one representative farmer shall be "snowed under" by five representative special pleaders of special industries. That is his idea of Democratic reform in revising the tariff.

Mr. SPRINGER. I do not ask for the farmers any greater proportion of members on this commission than their numbers entitle them to. The word "attorney" is not used in the amendment; the gentleman invented that word. The term employed in the amendment is "well-recognized representatives."

Mr. HASKELL. The gentleman might as well call them attorneys.

Mr. SPRINGER. "Well-recognized representatives" is the language of the amendment. The gentleman from Kansas proposes——

Mr. HASKELL. To have nine fair men selected to look after the various interests of the country.

Mr. SPRINGER. Who is to judge of the fairness of these commissioners, unless you let the persons interested in these employments be the judges? My amendment limits the number of representatives from all these employments, while it secures a sufficient recognition to every interest.

Mr. DUNN. I move to amend the amendment of the gentleman from Illinois [Mr. SPRINGER] by adding, "and one commissioner to represent the Constitution of the United States." [Laughter.]

Mr. SPRINGER. The Constitution is already abolished by this bill; so that there is no necessity for the amendment.

Mr. BLAND. Mr. Chairman, no proposition is ever made here in behalf of the farmer without gentlemen trying to laugh it down as a joke. Why, sir, even if one farmer on this commission is to be "snowed under" by the other members of the commission, let us at least have one farmer upon it rather than none. The gentleman from Kansas [Mr. HASKELL] has stated that the farmers are to have one representative who will be "snowed under;" but the amendment in fact proposes four such representatives. If we can get four, let us have four. But gentlemen on the other side do not want any representative of the farming interest; and we shall not get any if their votes are to control this question. The farmer is to be choked down, as has been done heretofore.

Mr. HERBERT. The effect of this proposition would be to put a Democrat on the commission.

Mr. DUNN. To comply with the terms of the amendment, he must be a Democrat. [Laughter.]

The question being taken on the amendment,

Mr. DUNN (while the affirmative side was being counted) said: I call attention to those who are the friends of the Constitution.

During the taking of the negative vote,

Mr. DUNN said: I now call attention to those who are the enemies of the Constitution. [Laughter.]

The result of the vote was announced—ayes 30, noes 73.

So the amendment was not agreed to.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. I call for a division on that amendment, as I want to see how many friends of the farmer there are in this House.

The committee divided; and there were—ayes 57, noes 91.

So the amendment was disagreed to.

Mr. MURCH. I offer the following amendment.

The Clerk read as follows:

Not less than one member of said commission shall be selected from those actively engaged in some mechanical pursuit, and another member of said commission shall be taken from those actively engaged in agriculture.

Mr. BLAND. Is that amendment subject to amendment?

The CHAIRMAN. It is.

Mr. BLAND. I move to insert, instead of one, "six members engaged in agriculture."

Mr. MURCH. I accept that amendment as a modification of my amendment.

Mr. BLAND. If there is any class of our community to be affected by this tariff commission, or by tariff legislation, it is the agricultural class. Indeed no other industry could exist but for the agricultural interest. The prosperity of this country is dependent upon the prosperity of the agricultural interest. We saw that during the days of the panic and hard times from 1873 to 1878–'79. Although we had a high tariff, the present tariff, upon the statute-book, when we had legislation protecting all other industries, yet they were insufficient to counteract the depression of the agricultural interest that occurred during that period. It was not until abundant crops, not until a demand in the foreign markets for the products of our farmers, not until the prosperity of the agricultural interest was brought about by abundant seasons and a fair market, that we again marched upon the road to prosperity, independent of your tariff laws.

Inasmuch as the gentleman from Kansas [Mr. HASKELL] and other gentlemen on the other side of the House have undertaken to criticise gentlemen on this side for offering amendments providing that farmers should be represented on this commission, and based their criticism on the fact that a majority of the commission not being farmers it would amount to nothing, as the agricultural interest would be snowed under by the representatives of the other interests, if gentlemen were sincere in what they said then they will come forward and vote for this amendment. They will do that, Mr. Chairman, or they will stultify themselves and go to their constituents in that shape. I hope this side of the House will insist upon a vote, if not in this committee, at least in the House, and compel gentlemen to face their constituents when they go home by their record on this question.

We hear a great deal in this House and at the other end of the Capitol, especially do we hear it upon the stump when gentlemen go home and ask to be returned, of their devotion to the farmer: we hear a great deal of devotion to the agricultural interest by repre-

sentatives here and elsewhere; but, Mr. Chairman, when it comes to the test in some way or the other that interest seems to have more friends and less done for it than any other class in the community. The amendment I offer will bring the whole question up for consideration. If the only objection which gentlemen can urge against the amendment is that the farmer would be snowed under because he would not have the majority in this commission, the modification which I have proposed will do away with that objection.

[Here the hammer fell.]

Mr. COX, of New York. I move as a substitute the following——

The CHAIRMAN. Does the gentleman from Iowa desire to discuss the amendment?

Mr. KASSON. I will hear the substitute read.

Mr. COX, of New York. I move the following as a substitute.

The Clerk read as follows:

Add after the word "interest," in line 8, section 3, the following:

"At least five members of said commission shall be well recognized representatives of agricultural interests, two of commerce, and two of mechanical and industrial interests."

Mr. MURCH. I accept that as a substitute for my proposition.

Mr. COX, of New York. I thank the gentleman from Maine, who represents the mechanical people of this country in a very able way.

The CHAIRMAN. If the gentleman so far modifies his amendment as to accept it in lieu of his own, then the time for debate is exhausted.

Mr. MURCH. I withdraw my acceptance for the present.

Mr. COX, of New York. I move this substitute as to those who are to compose this commission to be created evidently by a vote of this House, for that seems to have been a foregone conclusion for the last four weeks. I consider not merely agriculture, not merely mechanics, or those arts which have given us strength, life, values, but that something should be done in the same way to collect the facts and make deductions in reference to our shipping and our commerce. Our shipping business is a lost art. We have no more ships under our flag. We have the coastwise trade because of our peculiar navigation laws, but in the last twenty years our shipping has gone. Why has it gone?

Gentlemen say it was the rebel cruisers in the war. Not at all. We have had no revival of this interest since the war; and if our ships had been destroyed by rebel cruisers more need was there that our ship-building should have gone on to supply that destruction. But it has not done so.

We have failed in the world as compared with other nations, and notably with Great Britain. Our ships are not one-fourth, and, if we count our steam marine, not one-seventh, of the tonnage of England. They carry less than one-fifth of our own trade, while Great Britain carries fully one-half of it. Where have our ships gone to? They have been sunk by the tariff; and that question, I say, is one that demands an investigation.

You have so arranged your tariff and revenue laws that you will not let us build ships, and your navigation laws say that we shall not buy our ships abroad. I have offered amendments to your tariff laws here that would enable us to buy our ships at an ad valorem rate per ton, so that we might get them from abroad and let them carry our commerce under our own flag; but you voted me down.

Your ship-building in Maine is a lost art; you have not even an apprentice there. Fifteen years ago when I went to Maine, to Bath and Kittery and around there, there was not a ship-builder that did not lay the destruction of the ship-building interests of this country to your tariff laws, which allowed Nova Scotia and the Clyde to promote their immense ship-building interests and produce ships at a rate 33 per cent. cheaper than you could do it.

The treaty of Washington forbade the same, as has been suggested by my friend from Maine. Gentlemen sneer about that. But are you New England men here in the interest of ship-building, or do you expect that that interest will be represented on this commission? Let us have such men as represent that interest properly upon the commission, and then we will know to what the failure is due and why our ship-building has become a lost art. We will be able then to know why it is that our flag is no longer seen either in the Orient or in the Occident, and why under our navigation laws it can only be seen along our own coast.

Gentlemen will vote for this commission. I know it. The commission is a fixed fact. You have the men picked out. There will be no liberal man on it. You cannot get a man on it who represents the ship-building interests, any more than you can the agricultural interest of the country. Gentlemen who hold seats here representing Maine, New York, and North Carolina, lake, Gulf, Atlantic, and Pacific coasts, that want the flag to float again over our own shipping had better give some regard to this resolution which I have offered in the shape of an amendment to this bill.

Mr. KASSON. Mr. Chairman, I wish to say to the gentleman from New York and to the House what without saying I think they all know, although not disposed perhaps to admit it, that if we entered for once upon the policy of designating the *personnel* of this commission we immediately strike the views of some interest adversely which would claim not to be properly represented upon it, and that consequently we had acted in bad faith toward them. The only alternative, in the judgment of the committee, in considering this measure was to leave it untrammeled, and allow every interest that open, fair, and free representation which could alone be given to it by the free exercise of the constitutionally authorized appointing power.

For myself I sincerely hope that the shipping interest will have a representative upon the commission. I hope and believe, as far as moral certainty goes, that our agricultural interest will be thoroughly represented upon it; that the commerce will be thoroughly represented; that manufactures will be represented upon it.

Mr. COX, of New York. How does my friend from Iowa know that?

Mr. KASSON. Just as my friend from New York knew that the personnel of the commission was a fixed fact. For myself I do not know nor do I believe that any one single man has yet been selected in that connection to be nominated to the Senate. But the gentleman assumes differently.

Mr. COX, of New York. I was only arguing *a priori*. I am not in the confidence of the Administration, like the gentleman from Iowa.

Mr. KASSON. I am very well satisfied that no man knows the name of any one person who will be selected by the President and sent in for confirmation to the Senate as a member of this commission; nor will you find a member here who has such information. I have heard a great deal of what I know to be demagogy upon this subject. Now, for myself, I represent the farming interest of this country as thoroughly as any man upon this floor. And I know from my own relations with the Republican party that they are equally desirous with the most ardent advocates of our great agricultural industries upon the other side to have those interests fully and carefully considered in connection with this commission. Certainly there is no man in this House who would be more ready to condemn it, if I believed for a moment that these industries would not be fairly represented in its formation, than I. But, as I have said, I believe that no man knows the name of any one who will be connected with this commission.

The point I make ——

Mr. BLAND. Will the gentleman yield——

Mr. KASSON. You have had your say. Do you want to ask a question?

Mr. BLAND. I do.

Mr. KASSON. Very well; I yield for that. Only be prompt, please.

Mr. BLAND. Go on. I will take my own time.

Mr. KASSON. So, Mr. Chairman, I appeal to both sides of this House. It is not a bill for demagogy. It is a bill to attain solid results that will be just to all interests of the country; and as far as possible all those great interests should be represented. You cannot apportion them in this way. You cannot say there shall be so many to represent one dominant interest and so many to represent another without injustice to some. Let us be fair and just, depending upon the exercise of the constitutional authority of the President and the confirmation of the Senate for arriving at the proper result.

Mr. COX, of New York. The gentleman from Maine accepts my amendment.

Mr. MURCH. I accept the amendment of the gentleman from New York as a modification of my own.

Mr. COX, of New York. Did the gentleman from Iowa mean to apply the term demagogy to me? If so, I would like to know it.

Mr. KASSON. I referred to the proposition to give an extraordinary representation in this commission to the interests that have fewest objects to investigate. I did not refer so much to the gentleman from New York, although I think there was a little demagogy in his reference to the shipping interests.

Mr. COX, of New York. I wish you would take care of your farmers as well as I do of my shippers.

Mr. KASSON. I will.

Mr. COX, of New York. We will see that next year.

The CHAIRMAN. The question is on the amendment of the gentleman from Maine [Mr. MURCH] as modified by the gentleman from New York, [Mr. COX.]

Mr. BLAND. I move to amend the amendment by striking out "five" and inserting "six."

The gentleman from Iowa, [Mr. KASSON,] like some other gentlemen on this floor—for it is not the first time I have heard it—hurled in the teeth of the men who claim to represent the agricultural interest here the charge that they are demagoging. He claims to be a representative of the agricultural interest. So do I. All the interest I have, pecuniarily and otherwise, is in agriculture. That is my calling besides representing that interest here. And I hurl back with contempt and disgust the gentleman's insinuation in that respect.

I am here, sir, to represent an interest that, as I said before, is above any other interest in this Government. If the gentleman from Iowa is so well assured that the agricultural interests will have a predominant position on this commission why does he object to the amendment? If he is representing an agricultural constituency and desires the agricultural interest to be represented here as a dominant interest in this country, which it is, why does he object to an amendment to the bill that secures that position to the agricultural interest of this country?

Can the gentleman say that he relies upon the President to make these appointments? Has he knowledge beforehand whom the President will select upon this commission? Can he assure the

House that the President will appoint a majority of this commission from the agricultural interest? If so, let him state that instead of getting up here and indulging in these unmeaning generalities.

I withdraw my amendment, and hope that of the gentleman from New York [Mr. COX] will be adopted.

The CHAIRMAN. The question is upon the amendment of the gentleman from Maine [Mr. MURCH] as modified.

Mr. MURCH. I call for tellers.

Tellers were ordered; and Mr. MURCH and Mr. VALENTINE were appointed.

The Committee divided; and the tellers reported—ayes 62, noes 86.

So the amendment was not agreed to.

Mr. HAMMOND, of Georgia. I offer as an amendment to the third section what I send to the desk.

The Clerk read as follows:

Add to section 3 the following:

"No traveling expenses of said commission shall be paid until an itemized statement thereof shall have been submitted to and allowed by Congress."

Mr. HAMMOND, of Georgia. I think, considering the scandal that has frequently attended the expenses of traveling Congressional committees, we ought to have some such check as this.

The question being taken on the amendment, there were—ayes 26, noes 81.

So (further count not being called for) the amendment was not agreed to.

Mr. HAMMOND, of Georgia. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add to the third section the following:

"And no member of said commission shall directly or indirectly receive any pay or compensation, in any form whatever, for his services on this commission except that provided for in this bill; and any one violating this provision shall, upon conviction, be fined not less than $1,000, nor more than $10,000, and be imprisoned not less than six months nor more than two years."

Mr. HAMMOND, of Georgia. Considering the very large interests at stake and depending upon the report of this commission, I fear that persons may be hired to take places upon it, not for the pay that the bill may give, but for the pay the monopolists might furnish; and I desire to make the taking of any such extra pay a crime. That is the object of the amendment.

Mr. KASSON. There is no objection to the principle involved in the amendment; but I do not like the bill should convey an insulting intimation to the men who accept the service, that they may do what is here suggested. I will not object if the gentleman will be satisfied with the first part of the amendment:

And no member of said commission shall directly or indirectly receive any pay or compensation, in any form whatever, for his services on this commission except that provided for in this bill.

I deem it quite proper to admit that; but I hardly think it worth while to assume the gentlemen to be appointed will be such criminals that they can only be prevented from doing this by making it a penitentiary offense.

Mr. HASKELL. If the gentleman from Iowa will permit me in his time I desire to say a word. I want to know if the Revised Statutes of the United States do not guard this sufficiently when they provide that men holding office under the Government shall not accept any pecuniary profit or payment in the discharge of their duties. And are not the criminal laws of the United States which cover our statute-book sufficient to guard us in this matter? I dislike the whole intimation of this amendment, not because the principle is not right, but I object to saying when we invite through the President and the confirming power of the Senate nine distinguished gentlemen of the United States to sit in solemn judgment upon a great question, the interests of the American people must in this way be hedged and guarded against them as if they were felons, in addition to the ordinary provisions of the statutes, which provide ample remedy for all abuses and punishment for all offenses.

I think, as a matter of good taste, for our own honor and our own dignity, and out of respect for the eminent gentlemen that we all know will be invited to occupy places on this commission, we ought not to enact a criminal code in a little bill providing for a civilian commission.

Mr. CARLISLE. I ask the gentleman from Georgia [Mr. HAMMOND] to yield his time to me.

Mr. HAMMOND, of Georgia. I will do so.

Mr. CARLISLE. If it was not in bad taste to put such a provision in the Revised Statutes, applying to all the officers of the Government of the United States, from the highest to the lowest, I submit to the gentleman from Kansas [Mr. HASKELL] that it cannot be in bad taste to put it in this bill.

Mr. HASKELL. It is because we have general provisions upon the subject that I desire to save these nine men from this special imputation.

Mr. CARLISLE. We are now about to create a special tribunal, a special commission, for the purpose of performing certain specified duties and no other. I have not examined the Revised Statutes with reference to that subject, and therefore I am not prepared to say whether the provisions there do or do not embrace the members of this commission.

I have heard it said that perhaps some gentlemen who are accused of being in the pay of English manufacturers would want to get upon this commission. I have heard it said that there were gentlemen in this country advocating a reform in the revenue laws who were supposed, at least by some, to be in the pay of foreign capitalists and foreign manufacturers. Now if any such man shall get upon this commission I want to see him punished.

I have heard things said in the room of the Committee on Ways and Means, in the presence of the gentleman from Kansas himself, which I thought convinced even him that there ought to be a provision of this kind inserted in this bill. I heard a gentleman say in that committee, and the gentleman from Kansas also heard him say it, that if it should turn out that any gentleman should be selected to serve on this commission who could not afford to give his services to the Government for the paltry sum of $10 a day provided for in the bill, he as a manufacturer would feel it his duty to contribute something to pay him.

Mr. HASKELL. I did not understand that, and I never heard a proposition in the Committee on Ways and Means that I would ever interpret to mean anything of the sort.

Mr. CARLISLE. The question was put to the gentleman referred to by the gentleman from Illinois, who now sits in front of me, [Mr. MORRISON,] whether he thought it would be right to put a person on that commission in the pay of manufacturers. He said: "Gentlemen, I do not want to be misunderstood about this; I will be frank and candid with you;" and then he proceeded to make the statement, if not in the very terms, at least in substance, the same that I have stated here. And the gentleman from Kansas [Mr. HASKELL] thereupon himself said that he was in favor of putting into this bill a provision which would prevent that. [Applause on the Democratic side.]

Mr. HASKELL. Hold on a moment; I will reply to that when my turn comes.

Mr. CARLISLE. I would not have alluded to that matter if the gentleman from Kansas had not risen in his place and said that in his judgment it would be bad taste and an insult to these gentlemen to put this clause in this bill.

You have a special provision of law against the gentleman himself, and against me and against everybody else in the service of the Government. What is there about these gentlemen who are to serve upon this commission which ought to exempt them from the same provisions of laws which are applied to all the rest of us?

I want to say this before taking my seat: I do not suppose that anybody will be paid to serve on this commission; but I say that persons might be paid to serve upon it. And my purpose in advocating this amendment is to make it a penal offense. That is all I have to say.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HASKELL. I ask as a special favor of the House to be allowed to say a word.

Mr. CARLISLE. I hope the gentleman will be allowed to speak.

Mr. RANDALL. I object.

The CHAIRMAN. There is no occasion for objections; there are three minutes of the time allowed for debate.

Mr. HASKELL. With reference to the proposition made before the committee, (and the gentleman from Kentucky, [Mr. CARLISLE,] I am sure, will admit that I am right,) I desire to say that there was a statement that it might possibly be that certain corrupt influences would be applied to this commission, coming from a given quarter, which was referred to. Against that supposition, and in view of it, the gentleman admitted that as against the corrupt influence of the free-trade league it might be that corrupt influence would come from protection quarters. He put one supposition against the other, and he went no further.

Mr. CARLISLE. Allow me a moment. The gentleman did not admit that it would be a corrupt influence at all.

Mr. HASKELL. I understood that it would be.

Mr. CARLISLE. But, on the contrary, he said that he had a right to contribute money for that purpose, and he openly avowed that he would not hesitate to do it.

Mr. HASKELL. Only when the fraudulent supposition was brought up did he make any counterbalancing proposition.

Now another proposition. I am entirely willing, if any gentleman can show any reasonable cause, as I said in the committee, that any such contingency as that might arise, if this Committee of the Whole feels that there is any danger of it, I will vote to put the provision in the bill. But the gentleman from Kentucky knows that the matter was solemnly deliberated upon in the Committee on Ways and Means, and the committee never for a moment regarded it as possible that such a provision was necessary, and therefore they failed to report it to the House.

Mr. CARLISLE. I never heard it referred to afterward.

Mr. REED. In order to discuss this question, I move to amend the amendment by making the term of imprisonment twenty years. Mr. Chairman, section 5451 of the Revised Statutes provides for the punishment of any person who offers a bribe to any "officer of the United States," or any one who is "acting for or on behalf of the United States in any official function." Section 5501 punishes "every officer of the United States, and every person acting for or on behalf of the United States in any official capacity," who accepts a bribe.

Mr. CARLISLE. Does the gentleman think it would be a bribe if a fund should be raised to pay for the services of one of these commissioners without any understanding as to his action?

Mr. REED. I am happy to state that according to my ideas of morality it would be a bribe. If the gentleman from Kentucky does not consider it a bribe I am surprised.

Mr. CARLISLE. Is it a bribe under the statute?

Mr. REED. It is a bribe under the statute, and every lawyer in this House upon reflection must admit that it is.

The gentleman from Georgia, being familiar with the statutes, should have known just what I have stated; so that the purpose and object of this amendment is not to throw any safeguard around the members of this commission or to protect the country, but to inflict an insulting imputation upon these gentlemen; to throw an imputation upon them before they are appointed, and inferentially to throw odium upon the very appointment of a commission. Now I submit that this is not right, and the proposition should not receive the consideration of this House for a moment. The object is to put us in the dilemma of apparently voting against protection from bribery. But the reason we shall vote against this amendment is because the morality of our ancestors provided long ago against this very thing, and if we should incorporate in this bill the amendment proposed, it would be understood by everybody in the country as a reflection cast upon these particular officers. I submit that there is not the slightest necessity for adopting the amendment.

Mr. KASSON rose.

The CHAIRMAN. Does the gentleman from Maine [Mr. REED] yield the residue of his time to the gentleman from Iowa, [Mr. KASSON?]

Mr. REED. I do.

Mr. KASSON. Mr. Chairman, I have no objection whatever to the principle involved in this amendment. My only objection is that so plainly stated by the gentleman from Maine, [Mr. REED,] that it aims to put odium upon the commission, and to make it unpleasant for the very class of men whom we wish to have appointed to take these positions. In the second place, there is no occasion for the amendment, because there is to be no final action by the commission to induce a bribe to be offered; every act of theirs will be reviewed in this House. In view of these two considerations, I hope the amendment will on reflection be voted down.

Mr. HAMMOND, of Georgia. I rise to oppose the amendment of the gentleman from Maine, [Mr. REED.]

Mr. BURROWS, of Michigan. Before the gentleman proceeds I would like to read just one section from the Revised Statutes:

SEC. 5501. Every officer of the United States, and every person acting for or on behalf of the United States, in any official capacity under or by virtue of the authority of any department or office of the Government thereof; and every officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or of both Houses thereof, who asks, accepts, or receives any money, or any contract, promise, undertaking, obligation, gratuity, or security for the payment of money, or for the delivery or conveyance of any thing of value, with intent to have his decision or action on any question, matter, cause, or proceeding which may, at any time, be pending, or which may be by law brought before him in his official capacity, or in his place of trust or profit, influenced thereby, shall be punished as prescribed in the preceding section.

Mr. HAMMOND, of Georgia. The gentleman from Michigan [Mr. BURROWS] who has just occupied the floor has enlightened the House by rereading what the gentleman from Maine had just read.

Mr. BURROWS, of Michigan. I read language which the gentleman from Maine omitted.

Mr. HAMMOND, of Georgia. He read section 5501.

Mr. REED. I referred to it.

Mr. BURROWS, of Michigan. The gentleman from Maine referred to it, but did not read the whole provision.

Mr. HAMMOND, of Georgia. I believe I have the floor.

Mr. Chairman, the gentleman from Maine finds a way out of this difficulty by attacking my motives. Who made him a judge of motives I do not know. Certainly if I offer as an amendment a proposition which strikes at anybody he has no right to attribute my action to bad motives. I say that sections 5451 and 5501 do not cover the case at all. The first aims at the giver of bribes, the latter aims at an officer who accepts a bribe; that is, a bribe to influence a man's action while he is an officer. You have to prove it was given to him while in office with an intent to influence his action and was received by him with an intent that it should influence his action. That would not touch the case of paying one of known views to become a commissioner.

Now, what I said was this: that I did not know who might be appointed on this commission, and I desired to place in the bill something that would keep men from going on it as the agents and representatives of monopoly. And the men who represent them, as a rule, will not take the compensation allowed by this bill with no other hope of reward.

If I were going to attribute motives I would say the small compensation put in this bill was with intent that the commissioners should receive outside pay. But I do not attribute motives to anybody.

I say, however, that the only way to secure absolute impartiality, the only way for the country to understand that no commissioner is the agent of any monopoly, of any trade of any kind, is that he must serve for this pay, and for this pay only, or be a criminal. And the only way to make him fear to receive any other compensation is to say it shall be a crime.

The gentleman from Iowa, [Mr. KASSON,] when he first rose, said the only objection he had to the amendment was that I said it should be a crime. That is the whole purpose of it. I have no other purpose. I am deeply in earnest in that purpose of announcing to the world that I am unwilling that any man shall serve on this commission until I shall know he is so hedged about that he shall not be the paid servant of anybody but of the Congress of the United States.

Mr. REED. Mr. Chairman, I desire to say one word in reply to the gentleman from Georgia. In speaking of his motives, if I used the term motive I should have said purpose. I say that the purpose and object of this amendment is not to guard us against the danger of bribed commissioners, but to throw odium on those commissioners in advance of their appointment, and after the explanation of the gentleman from Georgia I repeat the statement.

But I say that this law, which the gentleman from Michigan has read and which I quoted, would punish any man who was the paid agent either of monopoly or of anti-monopoly, whatever those expressions may happen to mean. And I state that any special imputations cast upon special officers or attempted to be cast is wrong at the very outset; that we should be governed by general laws; that we have already passed these general laws; that they are ample for the purpose, and that the introduction of them now must have some other purpose than the prevention of bribery, for that purpose has already been accomplished.

The CHAIRMAN. The time for debate has expired.

Mr. REED. I withdraw my amendment.

The question recurred on the amendment of Mr. HAMMOND, of Georgia.

The committee divided; and there were—ayes 73, noes 107.

Mr. HAMMOND, of Georgia, demanded tellers.

Tellers were ordered; and Mr. HAMMOND, of Georgia, and Mr. VALENTINE were appointed.

The committee again divided; and the tellers reported ayes 87, noes 99.

So the amendment was disagreed to.

The Clerk read section 4, as follows:

SEC. 4. That the commission shall report to Congress the results of their investigation, and the testimony taken in the course of the same, from time to time, and make their final report not later than the first Monday in January, 1883.

Mr. KASSON. I am instructed by the committee to move the following as a substitute for that section:

SEC. 4. That the commission shall make to Congress final report of the results of its investigation, and the testimony taken in the course of the same, not later than the first Monday of December, 1882, and it shall cause the testimony taken to be printed from time to time and distributed to members of Congress by the Public Printer, and shall also cause to be printed for the use of Congress 2,000 copies of its final report, together with the testimony.

The amendment was agreed to.

The CHAIRMAN. If there be no objection the amendment to the title recommended by the committee will be adopted.

The Clerk read as follows:

Amend the title so as to read: "A bill to provide for the appointment of a commission to investigate the question of the tariff."

Mr. SPRINGER. I object, and yield to the gentleman from Missouri to move an amendment.

Mr. BUCKNER. I move to amend the amendment so it will read: "A bill to postpone indefinitely a revision of the tariff."

The amendment to the amendment was rejected.

The amendment was then agreed to.

Mr. WHITE. I desire to move to strike out the clause "amend the title so as to read, 'A bill to provide for the appointment of a commission to investigate the question of the tariff.'" Then the title of the bill will remain as it passed the Senate providing for "a commission to investigate the question of the tariff and internal-revenue laws." This covers the entire ground, and I desire five minutes of debate on striking out this amendment reported by the Committee on Ways and Means.

The CHAIRMAN. The Chair begs to say that the amendment to the title has been agreed to, and the question is not before the committee.

Mr. WHITE. I rose to move an amendment and supposed I was recognized.

The CHAIRMAN. The Chair did not see the gentleman, and certainly did not recognize him. The gentleman from Missouri moved an amendment to the proposition of the Committee on Ways and Means and it was rejected, and then the amendment of the committee was agreed to.

Mr. WHITE. Without a vote. I was endeavoring to get the floor to debate the amendment.

The CHAIRMAN. The Chair begs to say that a vote was taken and the question decided in the committee without any objection, as far as the Chair was able to ascertain, on the part of the gentleman from Kentucky.

Mr. KASSON. I move that the committee now rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, Mr. ROBINSON, of Massachusetts, reported that the Committee of the Whole House on the state of the Union, having had under consideration the bill (H. R. No. 2315) to establish a commission to investigate the question of the tariff and internal-revenue laws, had directed him to report the same back to the House with sundry amendments and the recommendation that the bill and amendments be passed.

Mr. KASSON. I desire the attention of the House to ask unanimous consent to take the Senate bill from the Speaker's table for the purpose of moving to strike out all after the enacting clause and insert what the House has now in committee determined upon.

Mr. MILLS. Before that I move to recommit the bill with instructions.

Mr. KASSON. I have not yet yielded the floor. I beg that gentlemen will understand my purpose in asking this is to expedite the business by one stage.

Mr. SPRINGER. I object, but reserve the objection.

The SPEAKER. The Chair understands objection is made to the request of the gentleman from Iowa.

Mr. KASSON. All I wanted to say was that this would facilitate by one stage the disposition of this matter; but if gentlemen wish to obstruct its passage now after it has had fair consideration in the committee, I of course have no resource left. I move the previous question on the bill and amendments.

Mr. MILLS. I move to recommit the bill with the following instructions.

Mr. HEWITT, of New York. Permit me to say, Mr. Chairman, that I gave notice before that at the proper time I should make a motion to recommit the bill. I supposed by all the courtesies of debate I would be entitled to make that motion in preference to the gentleman from Texas.

The SPEAKER. The gentleman from Texas was the first who made any intimation to the present occupant of the chair that he would make that motion.

Mr. SPRINGER. Is one motion all that is allowed under the rule?

The SPEAKER. Only one motion is allowed.

Mr. SPRINGER. Is that not subject to amendment?

The SPEAKER. It is not.

Mr. MILLS. I wish to make a parliamentary inquiry, whether the gentleman from New York could not move his amendment as a substitute for mine?

The SPEAKER. The Chair thinks not.

Mr. KASSON. There is but one motion in order under the rule.

The SPEAKER. The Chair would be very glad if gentlemen could arrange the matter between themselves. The Chair, however, has no discretion, having recognized the gentleman from Texas to make the motion.

Mr. HEWITT, of New York. Would it not be in order to offer a substitute for his motion?

The SPEAKER. The Chair thinks not.

Mr. SPRINGER. Would it not be in order to amend the instruction?

The SPEAKER. It would not. This is a motion pending the demand for the previous question, or it may be made after the previous question is ordered. But the gentleman from Texas prefers to make the motion pending the demand for the previous question; and the Chair holds that it is in order.

Mr. SPRINGER. I ask unanimous consent that we may have a vote at this time upon the question submitted by the gentleman from New York, [Mr. HEWITT.]

Several members objected.

Mr. SPRINGER. Why do gentlemen object?

Mr. KASSON. The gentleman from Illinois objected to forwarding the business by one stage——

Mr. SPRINGER. That was a substantial objection.

The SPEAKER. The Clerk will read the instructions proposed by the gentleman from Texas.

Mr. McLANE. One moment. I ask unanimous consent of the House——

Mr. CAMP. I object. [Laughter.]

Mr. REED. I will say to the gentleman from Illinois that this is an objection on principle.

Mr. McLANE. I desire to ask unanimous consent of the House to have read for information the proposed instructions of the gentleman from New York, in order that we may know their purport.

Mr. MILLS. My instructions are those which were proposed by Robert J. Walker in the tariff of 1846.

The SPEAKER. The Clerk will read the proposed instructions.

The Clerk read as follows:

Resolved, That the bill creating a tariff commission be recommitted to the Committee on Ways and Means, with instructions to report within thirty days a bill framed in compliance with the following instructions:

1. That no more money should be collected than is necessary for the wants of the Government economically administered.

2. That no duty be imposed on any article above the lowest rate that will yield the largest amount of revenue.

3. That below such rate discrimination may be made descending in the scale of duties, or for imperative reasons the article may be placed on the list of those free from all duty.

4. That the maximum revenue duty should be imposed on luxuries.

5. That all specific duties should be abolished and ad valorem duties substituted in their place, care being taken to guard against fraudulent invoices and undervaluation and to assess the duty upon the actual market value.

6. That the duty should be so imposed as to operate as equally as possible throughout the Union, discriminating neither for nor against any class or section.

Mr. HEWITT, of New York. Does the Chair hold that this is not subject to amendment?

The SPEAKER. The Chair thinks not. The question is on the motion to recommit the bill with instructions.

Mr. MILLS. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 75, nays 152, not voting 64; as follows:

YEAS—75.

Aiken,	Cox, Samuel S.	Herndon,	Oates,
Armfield,	Cox, William R.	Hoblitzell,	Phister,
Atkins,	Covington,	House,	Reagan,
Beach,	Cravens,	Jones, James K.	Scales,
Belmont,	Culberson,	Knott,	Shackelford,
Berry,	Davidson,	Latham,	Singleton, Otho R.
Bland,	Davis, Lowndes H.	Leedom,	Stockslager,
Blount,	Deuster,	Le Fevre,	Talbott,
Bragg,	Dibble,	Manning,	Tillman,
Buchanan,	Dowd,	Matson,	Townshend, R. W.
Buckner,	Dunn,	McKenzie,	Tucker,
Caldwell,	Evins,	McLane,	Turner, Oscar
Carlisle,	Finley,	McMillin,	Vance,
Chapman,	Forney,	Mills,	Warner,
Clark,	Garrison,	Money,	Wellborn,
Clements,	Gunter,	Morrison,	Whitthorne,
Cobb,	Hammond, N. J.	Moulton,	Williams, Thomas
Colerick,	Hatch,	Muldrow,	Willis.
Cook,	Herbert,	Murch,	

NAYS—152.

Aldrich,	Farwell, Chas. B.	Lord,	Shallenberger,
Barbour,	Farwell, Sewell S.	Lynch,	Shelley,
Barr,	Ford,	Marsh,	Sherwin,
Bayne,	George,	McClure,	Shultz,
Belford,	Gibson,	McCoid,	Skinner,
Bingham,	Godshalk,	McKinley,	Smith, A. Herr
Bliss,	Grout,	Miller,	Smith, J. Hyatt
Bowman,	Guenther,	Moore,	Speer,
Brewer,	Hall,	Morey,	Spooner,
Briggs,	Hardenbergh,	Morse,	Steele,
Browne,	Harmer,	Mosgrove,	Stone,
Brumm,	Harris, Henry S.	Mutchler,	Strait,
Buck,	Haseltine,	Neal,	Taylor,
Burrows, Jos. H.	Haskell,	Norcross,	Thomas,
Burrows, Julius C.	Hawk,	O'Neill,	Thompson, Wm. G
Butterworth,	Hazelton,	Orth,	Townsend, Amos
Calkins,	Heilman,	Pacheco,	Updegraff, J. T.
Camp,	Henderson,	Page,	Updegraff, Thomas
Campbell,	Hepburn,	Payson,	Upson,
Candler,	Hill,	Peelle,	Urner,
Cannon,	Hiscock,	Peirce,	Valentine,
Carpenter,	Hoge,	Pound,	Van Hernam,
Clardy,	Horr,	Prescott,	Van Horn,
Crapo,	Hubbell,	Randall,	Van Voorhis,
Cullen,	Hubbs,	Ranney,	Wadsworth,
Curtin,	Humphrey,	Ray,	Wait,
Cutts,	Jacobs,	Reed,	Walker,
Darrall,	Jones, Phineas	Rice, Theron M.	Ward,
Dawes,	Jorgensen,	Rice, William W.	Washburn,
Deering,	Joyce,	Rich,	Watson,
De Motte,	Kasson,	Ritchie,	Webber,
Dezendorf,	Kelley,	Robinson, Geo. D.	Williams, Chas. G.
Dingley,	Kenna,	Robinson, James S.	Willits,
Dunnell,	Ketcham,	Ross,	Wilson,
Dwight,	Klotz,	Russell,	Wise, George D.
Ellis,	Lacey,	Ryan,	Wise, Morgan R.
Ermentrout,	Lewis,	Scoville,	Wood, Walter A.
Errett,	Lindsey,	Scranton,	Young.

NOT VOTING—64.

Anderson,	Fisher,	King,	Robinson, Wm. E.
Atherton,	Flower,	Ladd,	Rosecrans,
Beltzhoover,	Frost,	Martin,	Simonton,
Black,	Fulkerson,	Mason,	Singleton, Jas. W.
Blackburn,	Geddes,	McCook,	Smith, Dietrich C.
Blanchard,	Hammond, John	Miles,	Sparks,
Cabell,	Hardy,	Nolan,	Spaulding,
Cassidy,	Harris, Benj. W.	Parker,	Springer,
Caswell,	Hewitt, Abram S.	Paul,	Stephens,
Chace,	Hewitt, G. W.	Pettibone,	Thompson, P. B.
Converse,	Holman,	Phelps,	Turner, Henry G.
Cornell,	Hooker,	Rice, John B.	Tyler,
Crowley,	Houk,	Richardson, D. P.	West,
Davis, George R.	Hutchins,	Richardson, Jno. S.	Wheeler,
Dibrell,	Jadwin,	Robertson,	White,
Dugrow,	Jones, George W.	Robeson,	Wood, Benjamin.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. WHEELER with Mr. SPAULDING.

Mr. ROBESON with Mr. BLACKBURN.

Mr. HAMMOND, of New York, with Mr. PHELPS.

Mr. RICE, of Ohio, with Mr. MARTIN.

Mr. MCCOOK with Mr. SPARKS.

Mr. HOUK with Mr. DIBRELL.

Mr. SIMONTON with Mr. PARKER.

Mr. SHELLEY with Mr. CASWELL; with permission to vote on this question.

Mr. CROWLEY with Mr. NOLAN.

Mr. MILES with Mr. SINGLETON of Illinois.

Mr. CABELL with Mr. DAVIS of Illinois.

Mr. WHITE with Mr. THOMPSON of Kentucky.

Mr. VANCE with Mr. HUBBS.

Mr. PAUL with Mr. JONES of Texas.
Mr. FLOWER with Mr. JADWIN.
Mr. TURNER, of Georgia, with Mr. SMITH, of Illinois.
Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York.
Mr. HARRIS, of Massachusetts, with Mr. ROBERTSON.
Mr. ROSECRANS with Mr. FISHER.
Mr. CHACE with Mr. HOOKER.
Mr. PETTIBONE with Mr. ATHERTON.
Mr. BLANCHARD with Mr. FULKERSON.
The result of the vote was then announced as above stated.
The SPEAKER. The question recurs on ordering the previous question.
Mr. HEWITT, of New York. I would like to ask unanimous consent, before the previous question is ordered, to have the resolution I proposed to offer read, and, unless objected to, to have a vote upon it.
Mr. BAYNE. I object.
Mr. KASSON. It has already been read.
Mr. HEWITT, of New York. Does the gentleman object to the resolution being printed in the RECORD? I ask unanimous consent that that may be done.
Mr. KASSON. I have no objection to that.
Mr. TOWNSHEND, of Illinois. Let it be read.
Several MEMBERS. No, No.
There being no objection, the resolution was ordered to be printed in the RECORD. It is as follows:

Resolved, That the bill be recommitted to the Committee on Ways and Means, with instructions to report as soon as possible a bill providing for a reduction in the revenue from imposts and internal duties, so that the amount of such taxes shall not exceed the annual expenditures for carrying on the Government, the payment of interest on the public debt, the contribution to the sinking fund when required, and the pension-rolls; and that in making such reduction no duty shall be imposed on imported articles, except luxuries, exceeding 50 per cent. of their dutiable value; and that domestic tobacco and alcohol used in manufacture shall be relieved from internal-revenue duties.

Mr. SPRINGER. I demand a second upon ordering the previous question.
The SPEAKER. There is no rule which provides for that. The previous question may be ordered by a majority of members present.
The question being taken on ordering the previous question, there were—ayes 116, noes 9.
Mr. SPRINGER. No quorum.
The SPEAKER. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Iowa, Mr. KASSON, and the gentleman from Illinois, Mr. SPRINGER.
Mr. SPRINGER. All I want is a vote on the proposition of the gentleman from New York, [Mr. HEWITT.] [Cries of "regular order."] If the gentleman will allow that vote to be taken I will not insist upon the point as to a quorum. [Cries of "regular order."]
The House divided, and the tellers reported—ayes 143, noes 8.
So the previous question was ordered.
Mr. KASSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.
The SPEAKER. The question is now on agreeing to the amendments reported by the Committee of the Whole House on the state of the Union. The Clerk will report the first amendment.
The Clerk read as follows:

Strike out of section 3 the words "and the existing system of internal-revenue laws."

The question was taken upon agreeing to the amendment, and upon a division there were—ayes 107, noes 29.
So (no further count being called for) the amendment was agreed to.
Mr. RANDALL moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.
The next amendment reported from the Committee of the Whole was, to strike out section 4 of the bill, as follows:

SEC. 4. That the commission shall report to Congress the results of their investigation, and the testimony taken in the course of the same, from time to time, and make their final report not later than the first Monday in January, 1883.

And insert in lieu thereof the following:

SEC. 4. That the commission shall make to Congress a final report of the results of its investigation, and the testimony taken in the course of the same, not later than the first Monday of December, 1882; and it shall cause the testimony taken to be printed from time to time and distributed to members of Congress by the Public Printer, and shall also cause to be printed for the use of Congress 2,000 copies of its final report, together with the testimony.

The amendment was agreed to.
Mr. KASSON moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.
The bill was then ordered to be engrossed and read a third time, and it was accordingly read the third time.
The question was upon the passage of the bill.
Mr. KASSON. I call the previous question on the passage of the bill.
The previous question was ordered.
Mr. KASSON moved to reconsider the vote by which the previous question was ordered; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.
Mr. KASSON. Mr. Speaker, at this late hour of the day I shall be as brief as possible in concluding the debate [cries of "Vote!" "Vote!"] and come as promptly as possible to the consideration of the question.
Mr. TOWNSHEND, of Illinois. You are going to pass the bill.
Mr. KASSON. I think so myself, but I should like to give one or two reasons that will get your vote, my friend, and others on your side of the House for the bill.
There has been much said touching the character and the object of the bill, and particularly that it was a bill to delay the revision of the tariff; and that the Committee on Ways and Means should at once proceed with the entire work. To that first point I beg the attention of the House for a few moments.
This bill has been pressed from its first introduction with all the force that could be commanded in the attitude which the opponents of the bill presented. And it would have been a law before this time but for the opposition of those who are clamoring for a reform of the tariff.
I am one of those who earnestly believe that this bill will sooner more completely and more perfectly accomplish a revision and reform of the tariff than any bill for its revision which could now be reported from the Committee on Ways and Means. We have had so much experience upon this subject that I am justified in the statement that any bill for a revision of the tariff, if now pending before this House, could not possibly pass at this session of Congress. We have had continually complaints made of various features of the tariff which demand correction. But when bills have before been brought in from the Committee on Ways and Means, and an earnest effort has been made to pass them through the House, we have at all periods during the last six years met the same difficulty which we have encountered now, namely, that the imperfectness of the information possessed by members has induced them to indulge in wild debate, and to object alternately to every proposition, disputing facts, and lacking the light which a full knowledge of the facts would give them.
Mr. ATKINS. Would it be an accommodation to the gentleman to move that the House now adjourn and allow him to conclude his speech on Tuesday next?
Mr. KASSON. I am very much obliged to the gentleman, but I feel it my duty to let the House come to a vote now. I therefore must decline his proposition with thanks. [Cries of "Vote!" "Vote!" from the Democratic side.] I have something to say to some of you gentlemen. [Renewed cries of "Vote!" "Vote!"]
Mr. COX, of New York. I hope that the gentleman will be allowed to go on with his remarks.
Mr. HAZELTON. I hope gentlemen on the other side of the Chamber will listen candidly to the gentleman's speech.
Mr. KASSON. It has been said that the proposition here made for the appointment of a civil commission was one designed for delay, and that has been said in the face of the whole history of the past six years. Repeatedly has the effort been made for a revision of the tariff, and I can sum up the result by quoting the declaration of a former chairman of the Committee on Ways and Means, who said that he found that the bill under his charge "had been nibbled to death by pismires and kicked to death by grasshoppers." And my friend from Illinois [Mr. MORRISON] will recollect the occasion which brought forth that declaration from the chairman.
If you have a doubt about it, let me call your attention to the difference of opinion upon points of fact that has been developed in this debate. No three men of opposite sides of the House have agreed upon the facts which should lie at the foundation of any proper revision of the tariff. Upon the simple subject of anthracite coal there has been a positive affirmation by a gentleman on the one side and a positive denial by a gentleman on the other side. Take the cost of Bessemer steel and the amount of profits derived from its manufacture. There is absolute discordance of opinion and of declarations on the two sides of the House. Take the requisite duty which is necessary to protect American labor against foreign labor. There has been absolute difference of affirmations on both sides of the House. Take any question, and from the very beginning of the debate to this moment there has not been identity of opinion touching any of the facts that constitute the necessary basis for a correct revision of the tariff.
Is it strange, then, that we endeavor to form a commission which shall report the facts to us as accurately as human judgment will enable them to present them as a guide for our action? Is it to be hoped that under the present contradictory circumstances a simple report from the Committee on Ways and Means will bring about an identity of opinion in the House on points of fact?
Hence I have earnestly insisted that there should be a commission of civilians to investigate and report the facts to us, because here in the House we have such fixed opinions and theories that not

one mind out of ten is at liberty to investigate for the truth alone, irrespective of the bearing of the facts upon his own preconceived opinion and prejudice.

Let any leading man on this floor go to the examination of witnesses, with all his prejudices touching the proper principles and rates of a tariff, and his natural course is to seek for that kind of information which will support his own opinions. He questions as an advocate to support his own side of the case, devoid of judicial impartiality.

The only hope that exists in my mind of a correct, scientific, and just revision of the tariff is in finding men to serve on this commission who are not politicians, who will seek and report the actual condition of the great industries of the country, their exposure to competition with foreign industries, and what they need to put them upon a level with foreign competitors in getting their products upon the market. It is precisely for this reason that such a commission is necessary; composed of men who understand the elements of national prosperity, who seek no political ends, and who will inquire with business intelligence and report with conscientious accuracy.

[Mr. SPRINGER rose.] I decline to yield to the gentleman.

Mr. SPRINGER. I only wish to say——

Mr. KASSON. Will not the gentleman recognize a distinct declination?

Mr. SPRINGER. Certainly; go on.

Mr. KASSON. Before I get through I will endeavor to give attention to some positions the gentleman has taken, and if necessary for a settlement of the matter will yield to him.

Now, Mr. Speaker, it is because of my conviction that the tariff needs reform, that the free list needs to be increased, that certain great products of the country need a special and careful protection to put them on a level with foreign production, and because I want facts without the color of politics in them that I have been an earnest advocate of this commission from the time the proposition was first made in either branch of Congress. In view of the results to be obtained, even if this examination should take two years, we ought willingly to give those two years to get at a solid basis for a permanent tariff.

Our industries are prejudiced, our investors are hesitating for fear of the action of Congress when Congress does not consult the business interests of the country, but threatens a guerrilla warfare all along the line, on the principle, "when you see a head, hit it." A reckless change in one link of the chain of connected industries intercepts the whole line of prosperity and may precipitate disaster and panic. We have no right to strike such blows without notice to enterprises which have grown up under the encouragement of our existing laws.

The gentleman from Illinois [Mr. SPRINGER] and other gentlemen have ridiculed the Ways and Means Committee because that committee, with its partial light, has not come in promptly with a bill for the entire revision of the tariff. To me it is a new theory that the Congress of the United States knows more than all the people of the United States. To me it is a new proposition that a man elected to Congress becomes thereby so great and so omniscient that he can learn nothing from the people who stand behind him. I have served many years on the Ways and Means Committee, the oldest in priority of service of its present members; and never did we listen to evidence submitted to us by practical men without finding new light important to our conclusions, and teaching us that behind the witness were other witnesses whom we ought to hear and could consult to our profit.

How is it, Mr. Speaker, that when a man, coming from the people as a Representative, stands in that area and takes the oath which you administer to him, some political transubstantiation takes place, some divine consecration and afflatus which lets into his darkened soul, as one of the people, the genius of knowledge, the genius of truth, and the genius of wisdom? Did the gentleman from Illinois, who ridiculed this proposition, feel, when he stood there, the incoming of the heavenly light? If he did, sir, the gift to communicate it to the House was not imparted to him at the same time. [Laughter.]

No, sir; this country is vaster than any man in this House. The interests of this country are beyond the grasp of any man on this floor. Take one single industry, and where will you find three men who can trace it from the coal, or the raw material, through its machinery to its final product put upon the market? Where is the man in this House who can thus trace the silk thread, or even the cotton thread, and tell you how much labor there is in it, and how much that labor needs to protect it against the cheaper labor of the Old World? Who can rise in his place and tell you what it costs abroad to produce it, what it costs at home to produce it, and what rate is adequate to the maintenance of our home competition with the foreign article?

We know that we do not know the facts which are known by the practical operators of the industries of the country; and it is the arrant nonsense of a vain imagination or a conceited mind that attempts to declare itself able unassisted to revise the tariff on between two and three thousand articles in such a way as will best promote the highest interests of the country. [Applause.] If this is so, then this measure is due to our enterprising and laborious people. The people have demanded it by petitions signed by unnumbered thousands. Organizations of labor have demanded it; representatives of agricultural industry have demanded it; and the very men who adhere to the theories of those who oppose this commission have given special reasons for it.

I will ask the Clerk to read from the declaration of a gentleman in New York, who is an advocate of the proposition made by the gentleman from New York, [Mr. HEWITT.] I ask to have read from the remarks of D. C. Robbins, of New York, what he says in regard to past experiences in endeavors to reform the tariff by a committee of this House.

The Clerk read as follows:

Should a commission meet to consider the claims of rival industries, without regard to any basis of action, we shall have revived the old and long continued scramble for favor at the hands of Congress; and we should probably obtain a conglomerate bill in repetition of the errors committed by the late Hon. Mr. Wood, when chairman of the Committee on Ways and Means, as well as by Mr. MORRISON, his predecessor. The Hon. Mr. Wood was impressed with the idea that the simplifying of the customs list was all that was required; and he did it, by placing manufactured articles in great variety on the free list, while he placed raw materials, because fewer in number, on the taxable list, and so reintroduced to the taxable from the free list at least one-third of all the grain made in 1870 under the supervision of Mr. David A. Wells. Mr. MORRISON, his predecessor, conceived a similar idea, and placed on the free list a long line of manufactures, upon which the Government derived but a small income, and stumbled practically into more errors than Mr. Wood. Most surely we have had enough of this ignorant tinkering with the tariff.

Mr. KASSON. That is a business man's view of the boasted capacity of your Ways and Means Committee to frame tariff bills out of their inner consciousness. He proceeds to say:

England had the sagacity to see that a nation with access to and choice of all markets can generally afford to make her own market an open market in return; while a nation with less commercial facilities, which is our own situation at present, with no important market for manufacturers but the home market, must insure this market to her manufacturers, or they will be driven to the wall, at a more or less remote period, by excess of production elsewhere, if not by immediate competition.

Although this gentleman says, "I believe in the nearest approach to free trade possible," he has the candor further on to say:

We cannot afford to dispense with protection, however distasteful this may be to the theorist or sentimental philosopher; because the wealth of a nation consists as much in the skill of her workmen as in the education of the masses. We cannot dispense with skillful industries, as skillful industries increase national wealth, &c.

There is the declaration of a commercial representative in this direct connection recently made at a meeting of the Chamber of Commerce of New York City. "Although," he says, "I believe in the nearest approach to free trade possible," he immediately adds, "I look upon protective duties as exceptional, but necessary, not to be dispensed with so long as the manufacturer is for any reason not on a level with his foreign competitor."

So you find it admitted in commercial circles, as you do in nearly every branch of business in this country, with every intelligent man of business, that the principle of protection must be observed. And I repeat, as I stated in my opening, the whole point is involved in this: if you are for free trade, vote against this inquiry by the commission; if you are "for revenue only," vote against this inquiry, because we can find the necessary facts on file as statistics in the Treasury Department, showing what revenue the articles will yield at a certain rate of duty. If, on the contrary, you believe that protection is necessary to any extent, incidental or absolute, you want the information to be obtained through this commission in order to know how to fix your duty with reference to the competitive character of the industry in relation to the articles we import. There is no escape from that conclusion.

But the free-trader has a way of his own. He insists that pure reason determines this whole question of political economy. You are to learn it from books. If facts stand in his way he denies the facts. Anything in the way of pure reason must give way to pure reason. That is the whole doctrine of free trade. Others of us——

Mr. COX, of New York. The gentleman is misunderstood.

Mr. KASSON. Excuse me, if you please. Others of us appeal to facts, believing proper economic principles are obtained by the inductive method. We reason from facts and their results to our principles. [Mr. COX, of New York, rose.] Excuse me. Free-traders believe——

Mr. COX, of New York. Let me say to the gentleman from Iowa that he is misunderstood on this side of the House.

Mr. KASSON. Excuse me. I really wish the gentleman from New York to excuse me. I desire to be courteous, but I beg the gentleman to excuse me.

Mr. WILSON. The gentleman from New York has stated that you are misunderstood on this side of the House.

Mr. COX, of New York. He advises us how to vote. The gentleman said those in favor of protection would vote for this inquiry, did you not?

Mr. KASSON. Then you will not excuse me?

Mr. COX, of New York. I am intervening for your comfort, and beg you will make yourself more explicit.

Mr. KASSON. I will do it in a moment.

Mr. COX, of New York. Did you not say those in favor of protection to any extent should vote for this inquiry?

Mr. KASSON. Yes; they will vote for this inquiry to learn all the facts, so that equal justice may be done to all interests.

Mr. COX, of New York. And that those who are for revenue only will vote the other way?

Mr. KASSON. Yes; that those who are "for revenue only" have no occasion to vote for it.

Mr. COX, of New York. I am glad you draw the line so distinctly.

Mr. KASSON. I do draw it, and I draw it with distinctness.

Mr. SPRINGER. All right.

Mr. COX, of New York. Much obliged to you for your speech.

Mr. KASSON. Yes, Mr. Speaker; the free-trader reasons somewhat this way, and I wish to say in passing that the difference between men "for revenue only" and free-traders, or that difference which seems to exist, is really a distinction without a difference. When this question was up some years ago, the logical free-trade men went directly as a legitimate result to the abolition of all the custom-houses because they were a restriction on trade, which was against the correct principles of political economy. Direct taxation was the only just taxation, to be applied equally to all values irrespective of domestic or foreign origin.

Now, sir, the reasoning of the free-trader is peculiar. He insists that correct political economy requires free trade in order to national prosperity; and that a high tariff is inconsistent with prosperity. We point to the facts. Our facts are distorted because hostile to their theory. The gentleman from Kentucky [Mr. CARLISLE] said: "As a general rule people cannot afford to sell where they are not permitted to buy what they need with the proceeds of their sale." That means that we cannot sell to Europe because we cannot buy with proceeds of sale in return under our tariff. We point to the facts. We admit that we have as against most European goods a high duty—some of them call it prohibitory—a fact which by the laws of free trade should prohibit us from selling to Europe. The theory of the gentleman from Kentucky [Mr. CARLISLE] says: "No; that cannot be so, because one of the fundamental principles of free-trade philosophy is that you must buy or you cannot sell."

Well, sir, I turn to the last annual report of the Bureau of Statistics, and I find on the first page the magnificent result for 1881 of a trade of $1,675,000,000 "larger than during any previous year in the history of the country." I look to the total exports and find them nine hundred and two millions, declared to be "larger than during any previous year;" imports, six hundred and forty-two millions, "larger than the value of such imports during any preceding year" except 1880. I find trade goes on under this high tariff with unprecedented prosperity, utterly dwarfing all results ever obtained under the revenue tariffs of 1846 and 1857—the most dogmatic theories of free trade to the contrary notwithstanding.

The gentleman from Kentucky also contested my argument touching the beneficial effect of protection in increasing home consumption of the products of agriculture. My argument was that a prosperous laboring class whose industries are sustained by a proper protection consumes more of the cereal products of the country than they otherwise would; that diversity of industries is always a benefit to agriculture. Against that he says—I have not his speech before me, but will quote it—that a far greater percentage was exported——

Mr. CARLISLE. A greater percentage of the total amount of production.

Mr. KASSON. Yes, a greater percentage of the total amount of production was exported under the present tariff system than in the last free-trade year, 1859. Well, I ventured to interrupt him, and this colloquy appears in his speech:

> Mr. CARLISLE. The exports of Indian corn in 1860 amounted to less than one-half of 1 per cent. of the product, but in 1880 they amounted to 6.34 per cent., while the exports of wheat in 1860 amounted to 2.40 per cent., and in 1880 to 34¼ per cent. of the entire product.
>
> Mr. KASSON. I would like, if the gentleman would allow me, to ask him in this connection if the proper way to test the consumption is not to make the calculation on a per capita basis and not the amount exported. And also I would ask the gentleman if he has taken into consideration the increased production of our cereals by reason of the development of agricultural machinery since 1860, which developed agriculture in the West enormously and produced the surplus?
>
> Mr. CARLISLE. In response to the gentleman from Iowa, I will state that I am now simply dealing with an argument which asserts that the protective system itself has created a home market for a larger proportion of our agricultural products than existed before; and I am showing by the statistics that in fact a much larger percentage of such products is now compelled to go abroad for a market than in 1850 or 1860, when we had a revenue-tariff system.
>
> Mr. KASSON. But does that meet the argument unless you take notice of the great increase from the source which I have stated and the surplus arising from the introduction of improved machinery, a surplus which could not be consumed at home or disposed of abroad?

I have sent to the Bureau of Statistics for information, whose answer I have here in my hand, and I find my statement verified by the facts.

I find in 1850 (*i.e.*, for the year 1849) the percentage of the total product of wheat exported was only seventy-seven hundredths of 1 per cent.; in 1860, (for the year 1859,) as the gentleman has stated, it was 2.40 per cent., and in 1881 it was 30.22 per cent., which was a most gratifying feature of our trade that year. But when you look at the home consumption, per capita, in the same official tables you find in 1850 only 4.35 bushels consumed per capita; in 1860, 5.37 bushels; while in 1881, under the protective tariff, it was 6.76 bushels in consumption per capita in this country. These figures sustain precisely my declaration that the farmer's best interests demand protected labor and prosperous employment, which enables the farmer to sell his products as far as possible at home and save the cost of exportation abroad. That is the statement for wheat. Now, as to Indian corn I find a similar result. In 1860 it was forty-hundredths of 1 per cent. exported, while in 1881 it rose to 5¼ per cent. of an enormously increased crop. The consumption per capita in 1860 was 26.57 bushels, and in 1881 31.59 bushels. So I find that if my honored friend from Kentucky——

Mr. CARLISLE. Will the gentleman allow me there to ask if it is not a fact that the consumption per capita includes as well that portion of the grain which is used for seed purposes? It is not confined alone to what they consume, but to what is used in other necessary ways as well.

Mr. KASSON. I took the same data for both periods, so that the comparison is absolutely perfect. The data are the same from which the gentleman drew his own conclusions, though he omitted the data for consumption. All the facts are certified from the Bureau of Statistics. So I find the proposition absolutely sustained, that the consumption per capita was notably greater in times of prosperity secured by protection than at a time when a mere revenue tariff was in operation.

In further reply to the gentleman I read the following from the annual statistical report of 1881:

> The value of the products of agriculture exported from the United States during the years 1830, 1840, 1850, 1860, 1870, and 1881, respectively, showed a fluctuation of only about 3 per cent. of the total value of exports of domestic merchandise. This indicates that the growth of the exportation of commodities other than products of agriculture, chiefly products of manufacture, kept pace with the astonishing growth of the exportation of the products of agriculture.

I shall not, Mr. Speaker, go over the argument so ably presented by the gentleman from Ohio [Mr. MCKINLEY] as to the condition of our industries during the period which the gentleman from Kentucky characterized as the "golden era." I have here in this old book, published in 1850, the testimony as to the exact condition of things at that time, as shown by a meeting of the iron interests of the country, in the presence of the gentleman from New York, [Mr. HEWITT,] he being a member of the convention, of its committee on resolutions, and protesting against that condition as one of ruin, and demanding relief by an increase of the tariff.

But referring to that gentleman, sir, reminds me that in the opening of his elaborate speech, where he, like the gentleman from Kentucky, denied many of the arguments if not the fundamental propositions of my opening speech on this subject, he made a very proper and legitimate attack upon me by citing from a speech of 1866, in which I used language from which he quoted partial extracts. But I used it with reference to rates of tariff, believing them extravagantly high at the time, while that gentleman would imply that I used it in favor of the doctrine of free trade, although, in the same speech, I declared myself in favor of protection where it was needed.

Having myself always recognized the fundamental principles of protection, I have not been able to see absolute benefit to the manufactures of the country from an extravagantly high tariff, promoting excessive and ruinous competition in our home markets.

Inasmuch, however, as the gentleman from New York had made this attack upon my consistency I naturally supposed his own record must be consistent and free from the shadow of mutation. Judge of my surprise when I traced him by speeches and letters and resolutions all the way up from 1848, when he bolted the Democratic ticket and supported Taylor to get a protective tariff, and found him an ardent advocate of protection until very recently. And even so late as 1870 he insisted that steel rails should be protected at the then existing rate of tariff. And so on throughout his record until a recent period he has been a more earnest advocate of protection than I myself have been.

In 1848, at Trenton, during the Taylor campaign, he delivered an address which was published in the State Gazette of that city, and offered certain resolutions to the meeting, also published there, and which I find reproduced in the New York Tribune of October 25, 1880. In the address he says:

> Protection to American manufactures is nothing but protection to labor and laborers. The value of every manufacture is made up entirely of the wages paid to produce it. Coal and iron in the mines cost nothing, &c. * * * Mr. HEWITT continued that he was not a Whig, but a Democrat; still he went for protection now, and should support General Taylor because he would sign a bill to protect American labor, &c.

The resolutions which he offered elaborate his argument, that both the laborer and the farmer needed a protective tariff, even in the "golden era" of the Walker revenue system. I quote only one of these resolutions, as follows:

> That hence arises the necessity for a tariff, which properly devised is merely a system whereby the price of labor, which naturally results under a free and economical government, is prevented from being reduced to the pauper level of labor which just as naturally results under governments when the first fruits of labor, instead of being secured to the hand that earns them, are filched away in order to maintain the costly splendor of thrones and the idle extravagance of an enervated aristocracy.

The whole record may be found in the speech of my friend from New Jersey, [Mr. BREWER,] in the CONGRESSIONAL RECORD of April 9, 1882.

I take the following extracts from an original edition of the proceedings of the Trenton iron convention of December, 1849.

The committee on resolutions, of which the gentleman from New York was a member, reported fifteen resolutions. Touching the "golden era" of the Robert J. Walker tariff of 1846, so much boasted by the gentleman from Kentucky and others, I quote from the fifth resolution as follows:

That the business is now prostrated and widespread ruin threatened because they are exposed to them, and that an efficient remedy is only to be found in the action of the General Government.

Here is what he and his convention thought then of my argument that prosperous home manufactures also benefit agriculture:

11. *Resolved*, That the employment of labor in manufactures, by diverting a large amount from agriculture, insures a home market and better prices to the farmer.

And in his thirteenth resolution, which I give entire:

13. *Resolved, therefore*, That the protection which this convention desires is protection for the Government against frauds upon the revenue; for the importer against dishonest competition; for the producer against the unnatural fluctuations of trade; for the consumer against high prices of iron, which are rendered inevitable by the absence of domestic production; for the laborer against the meager rewards which a narrow field for employment must occasion; and for the farmer and planter against the obvious disadvantages of a single market and the loss of intrinsic value entailed upon his produce by the expense of transporting it abroad.

These are to be added to the resolutions at Trenton in 1848 which the gentleman probably remembers. I will now ask the Clerk to read from this book which I hold in my hand, published in 1850, the marked clause on the subject of wages, to which I call the attention of the gentleman from New York.

The Clerk read as follows:

Now, then, if we must make iron in this country in competition with English labor it is very clear what must be done. The laborer must take less wages. In other words, he must not think of a savings fund. Then, like the English operative, he must eat less meat and use inferior food. And then his wife must dispense with all the little comforts that make home home; and then his children must be imprisoned in the cotton-factory as soon as they can walk instead of going to school; and he must finally become almost as soulless as the machinery he guides. But the laborer protests against such degradation, and the farmer against any diminution in the consumption of his products; and humanity protests against the whole scheme as a step backward, and as shocking to the Christian spirit of the age.

Mr. BUTTERWORTH. Who is the author of that?

Mr. KASSON. The letter is signed "Cooper and Hewitt." It is a letter first appearing in the Journal of Commerce in the same "golden era" of the Robert J. Walker tariff of 1846 which they now want to restore on that side of the House, and was written in condemnation of the effect of that tariff on the great interests he at that time represented. I shall soon show the same positions held by him as late as 1870. In his speech the other day, nevertheless, he rushes wildly against his own long record, and says:

But the truth is that the tariff has nothing to do with the matter.

That is, with laborers' wages.

I will not say "nothing to do;" it has an influence for evil, but it has no influence for good; it cannot create good times; it cannot create high wages; it cannot give employment except in one single contingency, to which I shall recur hereafter; and in that contingency it was powerless from 1875 to 1878 inclusive.

* * * * * * *

Now, then, I take my first proposition, directly antagonizing the gentleman from Iowa. I assert that legislation cannot create value nor can it determine the rate of wages. The issue is fairly made up.

* * * * * * *

I feel it necessary to make this statement, because many persons who have not given much reflection to this subject seem to think that there is some potency in legislation which can add value to the forces of nature.

But, sir, the gentleman from New York seems to regard facts very much as the artist regards the plastic clay, a substance to be molded into any form that his fancy dictates, and that fancy changing from moment to moment even during the speech which he delivered, for he says in another part of the same speech, referring to the duties imposed by the early Congresses of this country:

The duty imposed—

I quote from the gentleman's speech—

added to the price of the article, and hence as this article was raised artificially in price, labor directed to its production would be *better rewarded* than labor devoted to the production of the untaxed articles.

And still, in the same paragraph of the speech, in direct antagonism to the statement of the gentleman from Iowa, and denying that legislation could have any effect upon wages unless it be injurious, he says again:

Assuming always that the labor and capital in each case were not misapplied in such cases the revenue duty necessarily becomes protective, the *labor* devoted to the production of the *protected* article being thus *better paid*.

Not yet content with this logical swamp in which he plunges us, he adds this heading to the next paragraph:

Wages fixed by free trade and not by protection.

And puts it in capital letters.

Thus you see the inconsistencies in the speech itself. And I have other conflicts noted here which I have not time further to allude to, in which, according as his fancy is directed toward one result or another, all facts become plastic clay in his hand, and the result is to be declared in accordance with the pet theory he for the moment supports. I have here his report to the Secretary of State in 1867 as a commissioner to the international exposition at Paris, his report on iron and steel; and the burden of that report is that our laborers being better paid than in Europe we cannot compete with the labor of Europe without protection. In one of his former productions, which I have read, I think he puts the ratio at that time at four to one; that is, the rate of wages paid to our people as compared with the wages paid in Europe.

In his official report of 1867 (pages 46, 47) he speaks of—

The unpaid, unfed, and unhappy operatives throughout all lands in which human industry is now weighed down by the effects of British competition based upon superior natural resources.

After much writing upon the cheap labor of England, he says that we can either throw open our ports to foreign iron or—

We can impose such a duty on foreign iron as will make up for the differences in the amount of wages paid for making a ton of iron in Europe or in this country, less the expense of transportation.

The decision of this question is mainly of interest to the working classes themselves, and to the great body of farmers, &c.

I now come down to 1870, and to the subject of steel rails. Mr. Jay Gould, in a letter addressed to the gentleman from New York, [Mr. HEWITT,] under date of January 26, 1870, asked his opinion, first giving his own, as follows:

It seemed to me that our policy should be to foster and encourage home products rather than open our markets to such a formidable competition as would inevitably result from the reduction so strongly urged in the memorial. By establishing extensively the manufacture of steel rails on our own soil and protecting their production by a tariff which would effectually prevent the importation of European rails to any great extent, we could, in my opinion, be largely the gainers in the long run, for the capital invested would all be kept in the country. Our operatives would find constant and lucrative employment, and the general effect upon our business could not fail to be beneficial. I am at a loss to perceive why we should contribute so large an amount annually to build up the trade and manufactures of foreign countries while our own interests are sacrificed by just so much.

Here is the reply:

NEW YORK, *January* 27, 1870.

DEAR SIR: I beg leave to acknowledge the receipt of your favor of the 26th instant, and to state that I not only fully concur in the views which you express in regard to the duties on steel and iron rails but am at a loss to add anything which will make them more forcible. And I venture to suggest that you will allow me to send a copy of your letter to the Committee on Ways and Means.

The fact is that steel and iron rails can be made in suitable localities in this country, and notably on the line of the Erie Railway, with as little labor as in any part of the world; and the only reason why we pay more for American rails is because we pay a higher rate for the labor which is required for their manufacture, but for no greater quantity of labor. Free trade will simply reduce the wages of labor to the foreign standard, which will enable us to sell our rails in competition with foreign rails. But as a matter of course the ability of the laborer to consume will be reduced and a serious loss will be inflicted on commerce, general industry, and the business of the railways especially.

The only reason why a tariff is necessary is to supply the laborer with such wages as will enable him to travel and consume not merely the necessaries but some of the luxuries of modern civilization.

Besides, if we have free trade we cannot expect to procure our supplies from abroad by increased shipments of grain; for already the European markets take from us all that they require, and no amount of purchase of goods from them will induce them to buy more food than they need, and which they now take as a matter of necessity.

Faithfully, yours,

ABRAM S. HEWITT.

JAY GOULD, Esq., *President Erie Railway*.

It was then thought by two eminent business men that the tariff legislation had something to do with wages.

But that is not all. Later still than his printed speech, in speaking yesterday of the question of steel rails and the profits of a company known as the Pennsylvania Steel Company, when my honored friend, the chairman of the Committee on Ways and Means, denied that any such dividend had been made by Bessemer steel works as alleged, the gentleman from New York shouted with dramatic action to the House, "I have got the proof here," and when at last the House was quieted and listened to it, what did they hear? He read an item cut out of a newspaper, headed "An award to J. Edgar Thompson's widow:"

Judge Ashman yesterday filed an adjudication in the estate of J. Edgar Thompson, formerly president of the Pennsylvania Railroad Company. The question was whether about fifty thousand dollars' worth of stock of the Pennsylvania Steel Company, which had recently *been obtained by the estate*, should be regarded as part of the capital *of the estate* or as a dividend given to Mrs. Thompson absolutely. Judge Ashman took the latter view, and awarded the property to the widow.

Then he went on to speak of a 50 per cent. dividend. No such dividend appears in this article at all. It was a simple award of a property that had been acquired in some way by the estate of Thompson. And thus we find the gentleman from New York molding, with that thing in his hand, a newspaper slip into "evidence" that there had been a 50 per cent. dividend at the steel works without any statement of the amount of capital stock, or the evidence that even a dividend had ever been declared by the steel works. Not content with that, a gentleman who understood the condition of facts to be different, telegraphed, and received this reply, that it was—

A distribution of stock, but not a dividend; a privilege of stockholders, of which Thompson's estate was one, to subscribe for a certain percentage of their stock holdings at par, which stock was purchased from large stockholders at a premium.

Thus there appears no annual dividend of profits at all in it. It was stock purchased by the estate and awarded to the widow as of her right, presumably under the provisions of some will. Now, sir, when such gentlemen claim that they can revise the tariff "in thirty

days," and when they have no more respect for facts than to assert deliberately in this House, without a scintilla of proof, a given instance of large yearly profits, the people of this country are justified in asking us to go out of this House and find some other means for ascertaining and reporting the facts as they are. [Applause.]

Still the gentleman from New York went on with his argument in favor of free trade in a large class of articles which agriculture produces, but not free trade in manufactures of foreign countries, and so I find him using all through his speech conflicting arguments. But I find in the main that wherever he touches the question of a revenue tariff or of free trade he takes the views sustained by the arguments of the English free-traders.

I ventured to remind him, at the time he was making his speech, of an opinion which I read in my opening, of an eminent and very aged citizen of New York, without calling attention to the relationship that existed between him and that citizen, Mr. Peter Cooper. I referred to that as the evidence of a man ninety years of age, who had passed through all the tariffs of the country, who had seen their effects on the industries of the country and who firmly adhered to the protective principle. I referred to his opinion as one that would weigh with me, who am not his son-in-law, irrespective of any personal relationship. The gentleman from New York supposed naturally (and it was in my mind as an added point that he was closely related) that I desired to call attention to that relationship. And he made a reply to me which he said he quoted from one of his own speeches made at a dinner-table; that he hoped the day would some time come when Mr. Peter Cooper would be referred to as the father-in-law of Mr. HEWITT, instead of the latter as son-in-law to the former.

I gave him credit for a witty remark, supposing that that at least was an American product; but a little later I opened a book connected with the life of Prince Talleyrand, and I found there that a certain M. de St. Aulaire and a certain Duc de Cazes stood in the relation of father-in-law and son-in-law and that they had such different qualities as to lead Talleyrand to make a *bon mot* on the subject. He said that M. de St. Aulaire was formerly spoken of as the father-in-law of Duc de Cazes; but now the Duc was spoken of as the son-in-law of M. de St. Aulaire. Well, sir, if the gentleman from New York must import his arguments on political economy from England and his wit from France, he must be an out-and-out free-trader. [Great laughter.]

I have not time to go over all the very serious arguments which have been presented and which have been so thoroughly canvassed on this floor. After listening to the entire arguments on both sides of the House upon this subject so far as practicable, I come back to my propositions. The reduction of prices in this country has not been necessarily produced, and always, in the first stage, by the establishment of a protective tariff. But through the second degree the protective tariff creating the industries of the country, protecting them, fostering them, until the competition of our home manufactures grows important and becomes better than any foreign competition, and is added to the foreign, as a result of this increased competition prices have continually fallen in this country to the benefit of the consumer.

I have a table here which I shall print in part, furnished to me by an aged man, nearly eighty years old, who lives in New York and who remembers the tariff of 1816. He gives the prices in New York of farm products at the time of the introduction of our protective tariffs, when as yet there was no great Northwest, and compares those prices with the prices now. He also gives the prices of manufactured goods at that time, and compares them with the prices now. (See appendix C.)

Summing it all up, while manufactures under the influence of our protective and fostering care have continually fallen in prices, have enormously fallen, the fall varying from 250 to 400 per cent., the products of the farm have steadily advanced in price to a degree of from 300 to 400 per cent. in this lapse of years, making an aggregate difference to the profit of the farmer from the change that has been effected in the life-time of this one man of from 550 to 800 per cent. Of course, inventions of machinery and other improved arts have had much to do with this decrease of price; but even these are largely due to the fostering of industries by legislation, industries to which they could be applied.

Thus it cannot fail to be observed by any test that you can apply to it that a protective tariff does, logically and historically, have the effect to reduce the prices of manufactured articles continually from year to year. It produces the great domestic competition; first, studying the wants of the market; second, with less cost of transportation, being nearer home; and third, the great increase in domestic capital reducing rates of interest, lightening rates of taxation, seeking investment everywhere, and always developing new sources of national prosperity and new diversities of industry.

Now, if your legislation tends to break down these industries, if you do not inquire so as to be sure that they can be maintained, if you deal recklessly with them, you will destroy home competition, substitute for it foreign competition alone, with the added cost of transportation both ways, and with all the embarrassments of a distant market you diminish home consumption and send our wealth abroad to enrich foreign lands at the expense of your own. Agriculture will then, as in the past, bear its large share of the distress which comes with financial panics and prostrated industries.

I say this not because I am for one interest of the country alone; I am for all its interests. I want to sustain agriculture with all the power that my information in connection with legislation can give me. I want to sustain manufactures to the point where there is such reasonable profit made that they are encouraged and can be maintained here in our midst, among our people and at their doors. And I will sustain every other industry as far as my ability goes. I wish to aid our diversified industries more than I ever did before, for my State has under its soil coal beds inexhaustible. I have seen farmers suddenly become rich by the discovery of coal mines on their farms. And they know, against all your doctrines of free trade, that if you break down manufacturing industries you will break down railroad construction and transportation, break down other enterprises, and will destroy largely the value of this inestimable gift of Divine Providence which underlies the rich soil of Iowa.

We must bear all these interests in mind; they are entitled to protection. And when the gentleman from Virginia [Mr. TUCKER] and others say there is no power under the Constitution to impose a duty for anything but revenue, not even to secure incidental protection, except what inevitably results from such duties, as was said by the gentlemen from Kentucky, I have but to point those gentlemen to the act of Congress of 1789 drawn by Hamilton and signed by Washington, the first act upon this subject, which in its first section declared "the encouragement and protection of manufactures" to be "necessary." Did not the framers of the Constitution, two years after its signature, know its meaning? From that day to this the doctrine has been maintained. From that day to this there has been a great party, and usually a triumphant party, maintaining the doctrine of protection to all the great interests of the United States.

Do you desire an ocean to lie forever between you and your supplies? Do you believe the Christian millennium has come, and that there never will be war to interrupt our commerce with Europe? You dare not allow your country, in those interests which are indispensable to her independence, to fall into dependence upon foreign countries. To-day the weakness of England lies in the fact that the bread necessary to feed her people must come across seas, and in case of naval war the interruption of her communications would bring starvation to her people. Once already it has withheld her from entering into war with Russia. She is chained in her international action by her dependence upon the Mediterranean and this shore of the Atlantic for her supplies of food. At the outbreak of our recent war we were dependent upon foreign supplies for clothing for our Army, but at that time our ships could still bring it to us until our mills got to work under new impulses and furnished the material for clothing our Army.

No, gentlemen, it concerns the independence of your country, it concerns the independence of North and South alike in the future, to have all the necessaries of life, manufactures as well as food products, produced in our midst and within reach of our hand. We are approaching that national condition in all parts of the United States. I have here the speech made at the Atlanta exhibition by the president of the National Cotton Planters' Association. It shows how the tide of prosperity which has been flowing over this country within the last few years has reanimated the South.

I quote briefly from his address:

> Yes, throughout all this fair domain, from east to west, the clarion promise of hope for the future has sounded the death-knell to bygones, and though the last census told for us a not unflattering tale, the next one will astonish the world. Our mines, forests, and streams, and other natural factors of wealth, cry out and demand that they shall take part in this marvelous race of civilization by which we are surrounded, and receive their just recognition from the capital of the world, and it is a matter of fact they do not cry in vain.
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> We have only to look, my friends, at our surroundings, and reflect that 4,000 miles of new railways have been built this year in the South, and nearly entirely in the cotton States, adding, at a cost of $30,000 per mile, $120,000,000 to our wealth, and giving us, for our next census report with the same rate of increase over one billion and a half dollars of wealth and as many miles of railroads as the entire Union contained in 1865 over and above and without counting the now existing lines.
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> * * * * * * *
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> The building of our great railway system is not the only evidence of our progress, for in all the cotton States cotton-mills and manufacturing enterprises of many kinds are being started, while in some of them the most gigantic mining operations are being undertaken.

There is a reinvigoration and reanimation of all the South and the West under the influence of protected industries such as has never before been seen. There is indeed a "new South;" and this is but one of the clarion notes of triumph that come up as her people witness the great prosperity following their recent development. It is evidence that they are welcoming cotton-mills, they are hailing manufactures, they are enriching themselves by mining industries. They are clamoring for these elements of Northern prosperity in the agricultural section of our country in the South as they are in the great West to which I belong. Everywhere they want various factories at home; and where there is no water-power they plant them where coal mines are found; and wherever they come property advances, new markets are created, and the farmer and all the people know that it is a welcome evidence and element of new prosperity.

Sir, there is a "new South," thank God, coming up, and yet to be more glorious than any former South in the history of this country. I warn gentlemen to beware of legislation that shall crush these incipient movements toward a new and powerful element of prosperity in the South.

Mr. Speaker, I had intended to say something of the leanings of free trade toward a new system of taxation in this country. I have here from the Bureau of Statistics an estimate of the burdens to be imposed upon each State in this Union if the free-trade doctrines are carried to their legitimate result, which is inevitably the abolition of custom-houses and the substitution of a system of direct taxation. "Free trade and direct taxation" was the cry a few years ago, in a like contest with that which we are now passing through. This statement clearly and distinctly shows, upon the basis of only $250,000,000 of taxation for the support of the Government, how much will fall on each State of the Union—on agricultural Iowa, agricultural Louisiana, and every other State, manufacturing or non-manufacturing, if the Democratic party shall win the battle for free trade. If the people do not resist this effort to drag the country at the tail of the free-trade car, we shall logically and inevitably be compelled to accept the other branch of the system, and yield to "direct taxation." (See appendix A for table of direct taxation.)

In order to show the recklessness with which it is proposed by the gentleman from New York [Mr. HEWITT] to deal with certain articles—among them bituminous coal, iron ore, copper ore, and wool—I desire to show the late development of these interests. I have obtained from the Bureau of Statistics a statement showing the extent of the interests which that proposition would seriously affect if not destroy. For example, in 1859, a free-trade year, the product of bituminous coal was only 6,218,000 tons; in 1880 it was 42,700,000 tons. Yet the gentleman proposes to deprive this industry of the benefit of the present system of legislation, irrespective of the vast army of laborers to whom it gives employment.

In respect to wool (and this affects the farming interest throughout the country from California to Maine) the statement shows the growth of that branch of industry to have been from 1859, 75,000,000 pounds, to 1880, 264,000,000 pounds. And this is to be thrown upon the free list without a thought of the hundreds of thousands of our people who would protest against this assault on their interest, or of the great farmers' capital now invested in it.

Now, sir, that is an indication, and only one indication, of the effect upon one branch of agriculture of his proposition, which includes "all raw materials." I have alluded to the prosperity of other branches. But when so moderate a free-trader as the gentleman from New York claims to be strikes at a so important farmers' interest as wool, what shall become of their other interests when Kentucky free-traders get in their blows? What is to become of the vast capital invested in sheep if you are to strike it down with a blow, and that coming from the professed friends of the farmers?

Mr. Speaker, I have within three days received a copy of the London Times, which shows the effect of a free-trade tariff, admitting wool from all the world free of duty, on agriculture in England.

Here is the copy of the Times containing the article, with the significant title, Agricultural Decline. It is dated April 19. It fills several columns of that journal. I will read from a summary of it contained in the Chicago Tribune of May 4. It says:

Compared with 1868 the census of 1881 shows the loss of sheep during the thirteen years has been striking. Not a county in England fails to show a loss in the number of sheep. During thirteen years the loss of sheep has been 5,548,000; in Wales, 201,000; Scotland, 381,000; Ireland, 1,564,000. Total for the United Kingdom, 7,712,000. This loss has not been in any one locality or season. It has been general and continuous, going on year after year, showing a permanent decline resulting from the unprofitableness of the sheep-growth.

And that is what they wish to make unprofitable here by doing what England has done, admitting wool from all countries free for the sole benefit of the manufacturer and for larger exportation of woolen goods. And this, too, notwithstanding (as this article goes on to say) a great increase of pasturage. There has been also an increased area of agriculture. And yet there is a dead loss of both capital and profits to the farmer.

This review of the agricultural decline of England as late as the 19th of last month, and covering a period of thirteen years, tells you that progressive ruin threatens British agriculture, and gives the facts to prove it. It comes, too, from the great organ of British free trade.

I will print some extracts from the summary of that article, and for the details refer gentlemen to the London Times of April 19, 1882. It is most pertinent to this discussion, and most important to American farmers.

There has been in some parts of the kingdom an increase in the number of cattle, and the increase stands good as a whole. But, taking sheep and bullocks together as constituting the live stock, the loss has been a great one. By way of comparison, the Times reduces them to one term as all sheep by taking each head of cattle as equivalent to six sheep. The loss in the number of cattle and sheep, reckoning each head of cattle as six sheep, is equal at the end of thirteen years to 3,268,000 sheep in England. The money value per sheep is put at $12.50, and the loss of money in England is about $41,000,000. That is the amount of farmers' capital invested in sheep and cattle alone which has been obliterated in England during the thirteen years. In Ireland and Wales there has been a slight increase, but Scotland shows a decrease; and the Times says: "This is, indeed, a sorry position at the close of thirteen years of agricultural toil, and expenditure, and application of improved methods in every process of husbandry, which should have greatly augmented the head of live stock as the most important portion of the visible wealth of the farmer."

This loss of so great a portion of the farmers' capital invested in live stock is made more striking because the decrease has taken place on a larger area of cultivated land, on a larger area of land devoted to pasturage, and on a greater number of acres devoted to the keeping of a smaller number of animals. In 1881 the increase in the number of acres under permanent pasture, clover grasses, green crops, and root crops (not including potatoes) is 3,377,000. The Times says that the bulk of the grass and feeding crops are realized in the form of animal produce, and their value is roughly measured by the number of animals which they feed. According to this, instead of the greater acreage of 1881 showing an accession of wealth it merely represents so much extra expenditure in all the costs of cultivation, and this to feed, not the same, but a reduced head of live stock. It requires, therefore, an increased area of 3,377,000 acres of pasture to feed the equivalent of 3,268,000 less sheep.

While this extension of area for the maintenance of more cattle and sheep has been going on, and the animals simultaneously falling off in number, the farmers have been abandoning a large breadth of their area for corn. (As compared with 1868, England has in the thirteen years given up 539,000 acres of grain crops, Wales 66,000, and Ireland 416,000 acres. While England has $40,000,000 less farmers' capital in live stock, it has a further $20,000,000 less in grain crops, and this irrespective of the falling off in yield.)

The decline in live stock, reckoned as sheep, upon each hundred acres of grass, root, and feed crops in England is equivalent to an average of sixty-one sheep, having a money value of $762. Commenting on this point, the London paper adds:

"British farmers have received lessons enough to turn more attention to pastoral rather than cereal husbandry; the enlarged area of their grass and green crops and decrease in the breadth sown with corn prove that they have been striving to carry out the advice; and the natural result should have been seen in a substantial advance in the head of live stock—especially after thirteen years' progress in management there should be a higher feeding power per acre besides the increase in number of acres of feeding crops grown. There is no escape from the conclusion that farmers would have multiplied their head of stock had they been able to do so."

During the same thirteen years, from 1868 to 1881, the decrease in the crop of lambs in Great Britain and Ireland was 3,029,000, while the increase in the number of cows and heifers in milk or in calf was in the whole kingdom only 9,000. Each calf is reckoned as the equivalent of six lambs, so the increase in the stock of cattle falls far short of the loss in sheep. Summing up the results of this elaborate comparison of statistics of agricultural decline in the kingdom, and especially in England, the Times says:

"We present the above statements illustrating the decline in agricultural wealth and production, leaving to farm occupiers and their landlords to consider how far the facts constitute an indictment against their craft or only a record of its misfortunes; how far the conditions under which farming is conducted are answerable for this failure to supply the demand for cheaper food; or whether the seasons alone are to blame, and no remedial measures, either legislative, social, or commercial, need be adopted for turning the land once more toward prosperity."

From this review it will be seen that the agricultural decline in Great Britain has not been due to the mere failure or partial failure of crops in any one year, but to a gradual and continuous shrinkage of the means and capital of the farmers. No class of men are better aware that the cultivation of grain is not profitable, and that live stock alone promises any permanent gain to the agriculturist; these statistics show how they have struggled to take advantage of this knowledge. They have in England alone abandoned a half-million of acres of grain-crops and devoted them to pasture; but the increased pasturage has failed to maintain even a smaller number of live stock. The flocks of sheep have shrunk far in excess of the increase in the proportionate herds of cattle, and the money value of the live stock, taking the two, sheep and cattle, together, shows a steady and heavy loss. The loss of the lands withdrawn from grain may be said to be total, because the addition of the grain lands to that devoted to the feed crops does not enable the farmers to increase their live stock, nor does it even enable them to maintain their previous numbers of stock. The live-stock crop, therefore, is diminishing, despite the millions of acres once producing grain but which are now devoted to pasture and to food for animals yearly, therefore the ability of England, or even of the United Kingdom, to produce the breadstuffs and the meats necessary to feed the population and British dependence on other countries for that food is becoming more ascertained and fixed; and this deficiency will continue to enlarge as agriculture becomes more and more unprofitable.

Against this proof of the influence of free trade on the farmers of England do you ask me to adopt like principles of free trade and apply them to the farmers of this country? Never, sir, until the prosperity now enjoyed by the farmers of the United States shall cease.

I shall not prolong this debate. I shall submit the question upon the arguments already made, and upon the plain, contrasted facts of American and of British economy. I expect no support for this bill from those opposed to the principle of protection in the tariff. I do expect support for it from all those who believe protection in any degree is needed for the security of our industries; because in that case we must have exact information of their mutual relations, of the cost and conditions of production at home and abroad, as the basis for a sound and reasonable tariff system. It will then belong to the House to approve, modify, or reject the recommendations of the commission. I call for a vote on the passage of the bill. [Great applause.]

APPENDIX A.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
Washington, D. C., May 5, 1882.

DEAR SIR: Replying to your schedule of inquiries of this day, I have to submit the following:

1. 2. Your first two questions are as follows: First. What was the consumption per capita in the United States of cereals in any years under low tariffs, say 1857, 1858, or 1859? Second. What was the consumption in the United States per capita in the year 1880 or 1881?

I am unable to give you this information for all of the cereals or for the particular time which you mention, but furnish you with two statements in regard to wheat and corn. (Inclosure A.) You will observe from the foot-note that the information in regard to the production of 1860 is for the year 1859, and the information in regard to the year 1881 is for the production of 1880.

3. Your third question, "What is the amount of wool produced in the United States in 1859 and in 1860?" I would answer as follows: product in 1859, 75,000,000 pounds; product in 1880, 264,000,000 pounds.

4. You inquire as to the amount of iron ore produced in 1859 and 1880. I cannot give you the data in regard to iron ore, but I can give it for pig-iron, which, I presume, will answer the same purpose. The amount of pig-iron produced in the

United States in 1859 was 840,627 tons, and in 1880, 4,295,414 tons, (both amounts expressed in net tons of 2,000 pounds.)

5. In reply to your fifth inquiry, as to the production of bituminous coal, I would say that the production in 1859 was 6,218,080 tons, and in 1880 42,763,692 tons. I would also add in this connection that the production of anthracite coal in 1859 was 8,115,842 tons, and in 1880 it was 26,437,242 tons. (of 2,240 pounds.)

6. In reply to your inquiry in regard to copper I would say that the production in 1860 was 7,200 tons, and in 1879 it was 21,429 tons.

7. Your seventh question is as follows: "If customs revenues were abolished, give table showing the amount of direct tax to be raised in each State, under the constitutional provision, and on the basis of $250,000,000 a year?"

In reply I inclose to you herewith a table made out in accordance with your verbal explanation by telephone showing the apportionment of $250,000,000 among the States and Territories of the United States upon the basis of population in the year 1880.

I am, sir, very respectfully, yours,

JOSEPH NIMMO, JR.,
Chief of Bureau.

Hon. JOHN A. KASSON, M. C.,
House of Representatives, Washington, D. C.

Apportionment of $250,000,000 among the States and Territories of the United States upon the basis of population in the year 1880.

States.	Population.	Amount.
Alabama	1,262,505	$6,300,000
Arkansas	802,525	4,000,000
California	864,694	4,325,000
Colorado	194,327	925,000
Connecticut	622,700	3,100,000
Delaware	146,608	725,000
Florida	269,493	1,350,000
Georgia	1,542,180	7,700,000
Illinois	3,077,871	15,350,000
Indiana	1,978,301	9,850,000
Iowa	1,624,615	8,100,000
Kansas	996,096	4,975,000
Kentucky	1,648,690	8,225,000
Louisiana	939,946	4,675,000
Maine	648,936	3,225,000
Maryland	934,943	4,650,000
Massachusetts	1,783,085	8,900,000
Michigan	1,636,937	8,150,000
Minnesota	780,773	3,900,000
Mississippi	1,131,597	5,650,000
Missouri	2,168,380	10,825,000
Nebraska	452,402	2,250,000
Nevada	62,266	300,000
New Hampshire	346,991	1,725,000
New Jersey	1,131,116	5,625,000
New York	5,082,871	25,350,000
North Carolina	1,399,750	6,975,000
Ohio	3,198,062	15,950,000
Oregon	174,768	875,000
Pennsylvania	4,282,891	21,350,000
Rhode Island	276,531	1,375,000
South Carolina	995,577	4,950,000
Tennessee	1,542,359	7,700,000
Texas	1,591,749	7,950,000
Vermont	332,286	1,650,000
Virginia	1,512,565	7,550,000
West Virginia	618,457	3,075,000
Wisconsin	1,315,497	6,550,000
Arizona	40,440	200,000
Dakota	135,177	675,000
District of Columbia	177,624	900,000
Idaho	32,610	150,000
Montana	39,159	175,000
New Mexico	119,565	600,000
Utah	143,963	725,000
Washington	75,116	375,000
Wyoming	20,789	100,000

APPENDIX B.

No. 130.—*Quantity of wheat produced, imported, exported, and retained for consumption in the United States during the years 1850 and 1860, and from 1867 to 1881, inclusive.*

Year ended June 30—	Production.*	Imports.	Total production and imports.	Exports, domestic and foreign.	Retained for home consumption.	Consumption per capita.	Percentage exported.
	Bushels.	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*	*Bush.*	
1850	100,485,944	1,237,856	101,723,800	792,768	100,931,032	4.35	0.779
1860	173,104,924	9,623	173,114,547	4,155,153	168,959,394	5.37	2.40
1867	151,999,906	1,924,890	153,924,796	6,192,371	147,732,425	4.08	4.02
1868	212,441,400	1,616,508	214,057,908	16,133,192	197,924,716	5.35	7.53
1869	224,036,600	1,370,493	225,407,093	17,907,442	207,499,651	5.50	7.95
1870	260,146,900	851,326	260,998,226	36,996,585	224,001,641	5.81	14.18
1871	235,884,700	717,179	236,601,879	34,791,215	201,810,664	5.10	14.75
1872	230,722,400	1,546,623	232,269,023	26,999,985	205,269,038	5.06	11.62
1873	249,997,100	1,476,594	251,473,694	39,591,451	211,882,243	5.09	15.74
1874	281,254,700	1,646,092	282,900,792	71,833,749	211,067,043	4.90	25.39
1875	309,102,700	303,047	309,405,747	53,327,474	256,078,273	5.81	17.24
1876	292,136,000	1,568,558	293,704,558	56,441,828	237,262,730	5.24	19.22
1877	289,356,500	328,906	289,685,406	40,790,064	248,895,342	5.34	14.08
1878	364,194,146	1,351,008	365,545,154	73,654,621	291,890,533	6.08	21.50
1879	420,122,400	2,011,291	422,133,691	124,143,925	297,989,766	6.03	29.41
1880	448,756,630	462,882	449,219,512	153,869,935	295,349,577	5.89	34.25
1881	498,549,868	200,620	498,750,488	150,712,509	348,037,979	6.76	30.22

No. 131.—*Quantity of Indian corn produced, imported, exported, and retained for consumption in the United States during the years 1850 and 1860, and from 1867 to 1880, inclusive.*

Year ended June 30.	Production.*	Imports.	Total production and imports.	Exports, domestic and foreign.	Retained for home consumption.	Consumption per capita.	Per centage exported.
	Bushels.	*Bush.*	*Bushels.*	*Bushels.*	*Bushels.*	*Bush.*	
1850	592,071,104	.....	592,071,104	6,595,092	585,476,012	25.25	1.11
1860	838,792,740	48,790	838,841,530	3,314,305	835,527,225	26.57	0.40
1867	867,946,295	34,970	867,981,265	14,897,295	853,083,970	23.56	1.72
1868	768,320,000	49,922	768,369,922	11,149,754	757,220,168	20.48	1.45
1869	906,527,000	89,809	906,616,809	7,049,217	899,567,592	23.83	0.78
1870	874,320,000	88,980	874,408,980	1,392,115	873,016,865	22.64	0.16
1871	1,094,255,000	111,080	1,094,366,080	9,826,309	1,084,539,771	27.42	0.90
1872	991,898,000	58,568	991,956,568	34,491,050	957,464,918	23.58	3.48
1873	1,092,719,000	61,536	1,092,780,536	38,541,930	1,054,238,606	25.28	3.53
1874	932,274,000	76,003	932,350,003	34,434,606	897,915,397	20.95	3.69
1875	850,148,500	38,098	850,186,598	28,858,420	821,328,178	18.64	3.39
1876	1,321,069,000	51,796	1,321,120,796	49,493,572	1,271,627,224	28.06	3.75
1877	1,283,827,000	30,902	1,283,857,902	70,860,983	1,212,996,919	26.02	5.52
1878	1,342,558,000	13,423	1,342,571,423	85,461,098	1,257,110,325	26.20	6.37
1879	1,388,218,750	33,800	1,388,252,619	86,296,252	1,301,956,367	26.36	6.22
1880	1,547,901,790	58,876	1,547,960,666	98,169,877	1,449,790,789	28.91	6.34
1881	1,717,434,543	75,155	1,717,509,698	91,908,175	1,625,601,523	31.59	5.35

* In the column of "production" the amount placed opposite the fiscal year is the production of the preceding calendar year. For example: the quantity stated in the column of "production" opposite the year 1880 is the production of the calendar year 1879, since the exports of wheat and of corn during the year 1880 were principally of the respective crops of the calendar year 1879.

The production of both wheat and corn during the year 1869 is taken from the census report of the succeeding year. The production for the other years is taken from the annual reports of the Department of Agriculture.

APPENDIX C.

Prices in the interior of New York State of farm products and manufactured goods compared from 1816 to 1882.

Commodities.	1816.	1882.
Wheat, per bushel	$0 25 to $0 44	$1 42
Corn. (New York, 1816; Illinois, 1882;) per bushel	12½ to 20	60
Oats, per bushel	15	60
Eggs, per dozen	5	15
Barley, per bushel	25	80
Butter, per pound	5 to 12	$0 15 to 40
Cheese, per pound	3 to 6	5 to 13
Price of farm labor in barter pay, per month	3 00 to 8 00	.....
Price of farm labor in cash, per month	.....	12 00 to 25 00
Price of a yoke of oxen	25 00 to 45 00	100 00 to 250 00
Cows, per head	10 00 to 20 00	20 00 to 100 00
Hay, per ton	3 00 to 5 00	10 00 to 20 00
Straw, per ton	2 00 to 4 00	7 00 to 16 00
Carriage-horses, per span	150 00 to 200 00	700 00 to 1,200 00
Store-sheep, per head	50 to 75	1 50 to 2 50
Corn, Illinois, in 1858	10	60

Country prices to farmers for manufactured goods.

Commodities.	1816.	1882.
Cast-steel, per pound	$0 17	$0 10
Circular-saw-plate steel, per pound	40	26
Building-nails, per pound	12½	4
Broadcloth, per yard	16 00	4 00
Wool blankets, per pair	$10 00 to 20 00	$3 00 to 10 00
Cotton cloth, per yard	30 to 50	4 to 12
Calico, per yard	25 to 75	4 to 10
Salt, per bushel	1 00	15
Salt, Ohio, per bushel	4 00	25

Transportation of farm products and manufactured goods from Western New York and Pennsylvania to New York City, per hundred, in 1816, $3; in 1881, 30 cents; difference, $2.70.

The average increase of the price of farm products from 1816 to 1882 is from 300 to 400 per cent.

The average decrease of price of manufactured goods from 1816 to 1882 was from 250 to 400 per cent.

The total advantage to the farmer is therefore from 550 to 800 per cent.

LEWIS T. HAWLEY.

The SPEAKER. The question is on the passage of the bill.

Mr. COX, of New York, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 151, nays 83, not voting 57; as follows:

YEAS—151.

Aldrich,	Bliss,	Burrows, Julius C.	Cannon,
Anderson,	Bowman,	Burrows, Jos. H.	Carpenter,
Atherton,	Brewer,	Butterworth,	Chace,
Barbour,	Briggs,	Calkins,	Chapman,
Barr,	Browne,	Camp,	Clardy,
Bayne,	Brumm,	Campbell,	Crapo,
Bingham,	Buck,	Candler,	Cullen,

Curtin,	Hoblitzell,	Norcross,	Speer,
Darrall,	Hoge,	O'Neill,	Spooner,
Dawes,	Horr,	Pacheco,	Steele,
Deering,	Hubbell,	Page,	Stone,
De Motte,	Hubbs,	Payson,	Strait,
Dezendorf,	Humphrey,	Peelle,	Talbott,
Dingley,	Jacobs,	Peirce,	Taylor,
Dwight,	Jones, Phineas	Pound,	Thomas,
Ellis,	Jorgensen,	Prescott,	Thompson, Wm. G.
Ermentrout,	Joyce,	Randall,	Townsend, Amos
Errett,	Kasson,	Ranney,	Tyler,
Farwell, Chas. B.	Kelley,	Ray,	Updegraff, J. T.
Ford,	Kenna,	Reed,	Upson,
George,	Ketcham,	Rice, Theron M.	Valentine,
Gibson,	Klotz,	Rice, William W.	Van Horn,
Godshalk,	Lacey,	Rich,	Van Voorhis,
Grout,	Lewis,	Ritchie,	Wadsworth,
Guenther,	Lord,	Robinson, Geo. D.	Wait,
Hall,	Lynch,	Robinson, James S.	Walker,
Harmer,	Marsh,	Ross,	Ward,
Harris, Henry S.	McClure,	Russell,	Watson,
Haseltine,	McKinley,	Ryan,	Webber,
Haskell,	McLane,	Scoville,	White,
Hawk,	Miller,	Scranton,	Williams, Chas. G.
Hazelton,	Moore,	Shallenberger,	Willits,
Heilman,	Morey,	Shelley,	Wilson,
Henderson,	Morse,	Sherwin,	Wise, George D.
Hepburn,	Mosgrove,	Shultz,	Wise, Morgan R.
Hewitt, G. W.	Murch,	Skinner,	Wood, Walter A.
Hill,	Mutchler,	Smith, A. Herr	Young.
Hiscock,	Neal,	Smith, J. Hyatt	

NAYS—83.

Aiken,	Cox, William R.	Herndon,	Phister,
Armfield,	Cravens,	Hewitt, Abram S.	Reagan,
Atkins,	Culberson,	House,	Scales,
Beach,	Cutts,	Jones, James K.	Shackelford,
Belford,	Davidson,	King,	Singleton, Otho R.
Belmont,	Davis, Lowndes H.	Knott,	Springer,
Beltzhoover,	Deuster,	Latham,	Stockslager,
Berry,	Dibble,	Leedom,	Thompson, P. B.
Bland,	Dowd,	Le Fevre,	Tillman,
Blount,	Dunn,	Manning,	Townshend, R. W.
Bragg,	Dunnell,	Matson,	Tucker,
Buchanan,	Evins,	McCoid,	Turner, Oscar
Buckner,	Farwell, Sewell S.	McKenzie,	Updegraff, Thomas
Caldwell,	Finley,	McMillin,	Vance,
Carlisle,	Forney,	Mills,	Warner,
Clark,	Garrison,	Money,	Washburn,
Clements,	Gunter,	Morrison,	Wellborn,
Cobb,	Hammond, N. J.	Moulton,	Whitthorne,
Colerick,	Hardenbergh,	Muldrow,	Williams, Thomas
Cook,	Hatch,	Oates,	Willis.
Cox, Samuel S.	Herbert,	Orth,	

NOT VOTING—57.

Black,	Frost,	Mason,	Simonton,
Blackburn,	Fulkerson,	McCook,	Singleton, Jas. W.
Blanchard,	Geddes,	Miles,	Smith, Dietrich C.
Cabell,	Hammond, John	Nolan,	Sparks,
Cassidy,	Hardy,	Parker,	Spaulding,
Caswell,	Harris, Benj. W.	Paul,	Stephens,
Converse,	Holman,	Pettibone,	Turner, Henry G.
Cornell,	Hooker,	Phelps,	Urner,
Covington,	Houk,	Rice, John B.	Van Aernam,
Crowley,	Hutchins,	Richardson, D. P.	West,
Davis, George R.	Jadwin,	Richardson, Jno. S.	Wheeler,
Dibrell,	Jones, George W.	Robertson,	Wood, Benjamin.
Dugro,	Ladd,	Robeson,	
Fisher,	Lindsey,	Robinson, Wm. E.	
Flower,	Martin,	Rosecrans,	

So the bill was passed.

The following additional pairs were announced:

Mr. PETTIBONE with Mr. HOOKER.

Mr. URNER with Mr. COVINGTON.

Mr. SINGLETON, of Illinois. I am paired with the gentleman from Connecticut, [Mr. MILES.] If he were present, he would vote for the bill and I should vote against it.

Mr. BLANCHARD. I am paired with the gentleman from Virginia, [Mr. FULKERSON.] If he were present, he would vote for and I against the bill.

Mr. MATSON. My colleague [Mr. HOLMAN] is absent on account of sickness. He requested me to state that if he were present he would vote against the passage of the bill.

Mr. CABELL with Mr. DAVIS of Illinois. Mr. CABELL would vote "no," and Mr. DAVIS would vote "aye" on the passage of the bill.

The result of the vote was then announced, as above recorded.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. KLOTZ. I move that the House do now adjourn.

Mr. CALKINS. I desire to call up the election case of Mabson *vs.* Oates.

Mr. KLOTZ. I insist upon the motion to adjourn.

The House divided; and there were—ayes 57, noes 63.

So the House refused to adjourn.

CONTESTED-ELECTION CASE—MABSON VS. OATES.

Mr. CALKINS. I now call up the contested-election case.

Mr. RANDALL. Will the gentleman indicate the case to which he refers?

Mr. CALKINS. I call up a case that will not take five minutes to dispose of. It is the case of Mabson *vs.* Oates, from the third district of Alabama. The majority of the committee report in favor of Colonel Oates, and I desire to call it up and have a vote taken upon it. It will not take five minutes. I ask the Clerk to read the resolution of the majority of the committee.

The Clerk read as follows:

Resolved, That the contestant, A. A. Mabson, have leave to withdraw his papers without prejudice.

Mr. CALKINS. Before the vote is taken, I desire to say in behalf of the minority of the committee that it is not their desire to discuss the question at all, or to take a vote upon the minority report of the committee, the usual minority resolution, which would simply allow further time to take testimony I now move the adoption of the resolution which has been read.

The resolution was agreed to.

Mr. CALKINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 835) to restore certain portions of the Fort Niobrara military reservation in the State of Nebraska to the public domain, and for other purposes;

A bill (S. No. 1620) to authorize the construction of a street-railway and wagon-road bridge over the Rio Grande River, between the city of El Paso, Texas, and Paso del Norte, Mexico; and

A bill (S. No. 1703) to cede to the first taxing district of the State of Tennessee a certain lot of land situated in said district.

DEPARTMENT OF AGRICULTURE.

Mr. ANDERSON. I desire to call up the bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture, and give notice that I will press it for consideration on Monday next if I can get the House to take it up.

Mr. HUBBELL. I desire unanimous consent to introduce a bill from the Committee on Civil-Service Reform upon this same subject, and ask that it be printed and recommitted to the committee.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HUBBELL, by unanimous consent, submitted a proposed amendment in the nature of a substitute for the bill (H. R. No. 4429) to enlarge the power and duties of the Department of Agriculture; which was ordered to be printed, and recommitted to the committee.

Mr. McMILLIN. I desire to reserve all points of order upon that bill.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SPEER for one week, and to Mr. COVINGTON also for one week from Monday next, on account of important business.

Mr. KLOTZ. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and twenty-five minutes p. m) the House adjourned.

PETITIONS, ETC.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ALDRICH: The petition of J. B. Indirrieden & Bro. and 20 other firms of Chicago, Illinois, protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. DARRALL: The petition of Dr. John Rhodes, for relief—to the Committee on War Claims.

By Mr. ERRETT: The petitions of some 27 persons who suffered by the Allegheny arsenal explosion of 1862, asking to be added to the list of beneficiaries in the bill—severally to the Committee on Claims.

Also, the petition of the officers of the First United States Infantry at Fort Stockton, in favor of the passage of the bill (H. R. No. 1475) to increase the efficiency of the infantry branch of the service—to the Committee on Military Affairs.

By Mr. HOGE: The petition of William Loughridge and others, citizens of Reno Township, Preston County, and of S. B. Hannah and others, citizens of Pocahontas County, West Virginia, for an appropriation for the promotion of popular education—severally to the Committee on Education and Labor.

By Mr. E. W. ROBERTSON: The petition of Mrs. Fanny Randolph and Mrs. Dora Stark, for relief—to the Committee on War Claims.

By Mr. J. T. UPDEGRAFF: The petition of Rev. J. E. Denham and others, citizens of Homer, Ohio, for aid by the Government for education in Alaska—to the Committee on Education and Labor.

By Mr. WILLIS: The petition of John W. Dickins, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. YOUNG: The petition of the boot and shoe manufacturers, protesting against an increase of duty on imported tanned and finished skins—to the Committee on Ways and Means.

Also, the petition of F. H. Morse and 33 other business firms of Portland, Maine, of L. K. H. Law and 18 other business firms of Boston, Massachusetts, and of Charles Pracht & Co., of Baltimore, Maryland, for the passage of the bill taxing glucose 5 cents per pound—severally to the same committee.

SENATE.

MONDAY, *May* 8, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. JOHN BAILEY, its Chief Clerk, announced that the House had passed the following bills:

A bill (S. No. 526) for the relief of Louisa Bainbridge Hoff;
A bill (S. No. 915) granting a pension to Jesse F. Phares;
A bill (S. No. 891) granting a pension to Earl S. Rathbun; and
A bill (S. No. 455) granting an increase of pension to Mary J. West.

The message also announced that the House had passed the bill (S. No. 108) granting an increase of pension to Abigail S. Tilton, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff; and
A joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, &c., for the fiscal year 1882, and for other purposes.

HOUSE PENSION BILLS.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 450) for the relief of Elizabeth S. Seeley;
A bill (H. R. No. 627) to increase the pension of James E. Gott;
A bill (H. R. No. 800) granting a pension to Justus Beebe;
A bill (H. R. No. 801) to increase the pension of Merritt Lewis;
A bill (H. R. No. 803) granting a pension to Laban Connor;
A bill (H. R. No. 984) for the relief of Ralph P. Ford;
A bill (H. R. No. 1020) granting an increase of pension to Alfred G. Fifield;
A bill (H. R. No. 1098) granting a pension to Martha Westervelt;
A bill (H. R. No. 1102) granting a pension to Elizabeth T. Dubois;
A bill (H. R. No. 1103) granting a pension to Margaret Kearns;
A bill (H. R. No. 1147) granting a pension to Elizabeth Vernor Henry;
A bill (H. R. No. 1154) granting a pension to Edward Farr;
A bill (H. R. No. 1237) granting a pension to Isador Rohrer;
A bill (H. R. No. 1336) granting a pension to Elisa A. Murray;
A bill (H. R. No. 1442) for the relief of William Rickards;
A bill (H. R. No. 1451) granting a pension to Thomas W. Rothrock;
A bill (H. R. No. 1468) granting a pension to William R. Perdue;
A bill (H. R. No. 1543) granting a pension to Albert O. Miller;
A bill (H. R. No. 2104) granting a pension to Mrs. Electa L. Baldwin;
A bill (H. R. No. 2626) granting a pension to John Adams;
A bill (H. R. No. 2634) for the relief of Norton L. Newberry;
A bill (H. R. No. 2635) granting an increase of pension to Henry N. Gunn;
A bill (H. R. No. 2877) for the relief of William M. Meredith;
A bill (H. R. No. 3761) granting a pension to Lewis Lewis;
A bill (H. R. No. 3865) for the relief of Niel Nielsson;
A bill (H. R. No. 4082) granting a pension to Ellen Gillespie;
A bill (H. R. No. 4268) granting a pension to Charles F. Paris;
A bill (H. R. No. 4345) granting an increase of pension to Laurinda G. Cummings;
A bill (H. R. No. 4914) granting a pension to Emeline Pink;
A bill (H. R. No. 4966) for the relief of Thomas McMannus;
A bill (H. R. No. 5703) to increase the pension of Alban H. Nixon;
A bill (H. R. No. 5805) granting a pension to Betsy A. Smith;
A bill (H. R. No. 5808) to rerate the pension of Frank S. Sowers;
A bill (H. R. No. 5809) for the relief of Jacob Humble;
A bill (H. R. No. 5820) granting a pension to Hugo Eichholtz; and
A bill (H. R. No. 5998) for the relief of Priscilla Decatur Twiggs.

The above pension bills, with the exception of the bill (H. R. No. 5820) granting a pension to Hugo Eichholtz, were severally read twice by their titles, and referred to the Committee on Pensions.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which, on motion of Mr. PLUMB, was referred to the Committee on Public Lands, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of the Interior, of the 3d instant, with accompanying papers, in relation to a proposed amendment of the act of the 15th December, 1880, providing for the disposal of the Fort Dodge military reservation, Kansas. The subject is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 5, 1882.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting reports from Captain James Mercur, Corps of Engineers, upon examinations and surveys made in compliance with requirements in the river and harbor act of March 3, 1881, of Meherrin, Whiteoak, and New Rivers, North Carolina, and also of the water connection between the Waccamaw and Cape Fear Rivers; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of April 26, the histories of the Boston and Portsmouth navy-yards by Rear-Admiral George H. Preble.

Mr. HOAR. That matter ought to be in the possession of the Senate. It refers to a very important question which is being discussed in Boston, being a proposition to dispose of the Charlestown navy-yard. I do not feel like asking the Senate to print it. It is possible that on an examination some small portion of it relating to the matter of the title of that yard and its value for public defense may be printed. If there is no impropriety in the request, I ask to have it simply lie on the table. There is no occasion to refer it to any committee, because no committee of the Senate has the subject before it.

The PRESIDENT *pro tempore*. The communication, with the accompanying papers, will lie on the table.

Mr. HOAR. If the subject comes before the Senate, I shall then move to have these papers referred.

TAX ON DISTILLED SPIRITS.

The PRESIDENT *pro tempore* appointed Mr. WINDOM, Mr. HAWLEY, Mr. HARRISON, Mr. COCKRELL, and Mr. PUGH the committee to inquire whether any money has been raised by contributions or otherwise for the purpose of promoting the passage or defeat of House bill No. 5656, to amend certain laws on the subject of distilled spirits in special bonded warehouses.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a preamble and resolutions of the General Assembly of Illinois; which were ordered to be printed in the RECORD, and referred to the Committee on Foreign Relations, as follows:

Preamble and joint resolutions of the Thirty-second General Assembly of the State of Illinois.

Whereas in the execution of the coercive policy now practiced by the British Government in Ireland several American citizens have been arrested and imprisoned without having formal charges made against them, but upon the vague allegation of being "suspects," without indictment or arraignment before any tribunal, or other process of law, thus making punishment precede conviction of crime, a system in conflict with justice, repugnant to advanced civilization, and discourteous and insulting to a friendly nation; and

Whereas the victims of this injustice are in every instance citizens who formerly were subjects of Great Britain, but transferred their allegiance to the United States, thus making it apparent that a spirit of malicious persecution, because of such change of allegiance, underlies these outrages; and

Whereas under the Constitution and laws of the United States all citizens, native and foreign born, stand upon an equality and enjoy equal rights, among which is the right, if charged with a violation of law in any country with which the United States holds diplomatic relations, to a speedy trial under the laws of such country, and this fundamental principle has always been asserted and maintained by our Government, and is in fact the corner-stone upon which rests our marvelous national growth and development: Therefore,

Be it resolved by the senate of the State of Illinois, (the house of representatives concurring herein,) That it is the duty of the General Government, through its Chief Executive, its Congress, and its foreign ministers, to demand the speedy trial or unconditional release of those American citizens now in prison, and to declare in the most emphatic manner that the protection of the Republic shall be extended to all its citizens abroad who are not convicted of violation of law, and that the Department of Government or official who fails in the discharge of such duty deserves censure, and is unworthy of the confidence of the liberty-loving and law-governed American people.

Resolved, That our Senators and Representatives in Congress are hereby instructed to use their best efforts to secure as soon as possible such a recognition of the rights of American citizens abroad as will be consistent with our national dignity, and avert future capricious, arbitrary, or unjust interference with them.

Resolved, That copies of the foregoing preamble and resolutions be forwarded immediately to the President and our Senators and Representatives in Congress.

Adopted by the Senate, April 20, 1882.

JOHN M. HAMILTON,
President of the Senate.
GEORGE TERWILLIGER,
Secretary of the Senate.

Concurred in by the house of representatives, April 25, 1882.

HORACE H. THOMAS,
Speaker of the House of Representatives.
JOHN A. REEVE,
Clerk of the House.

UNITED STATES OF AMERICA,
State of Illinois, ss:

I, Henry D. Dement, secretary of state of the State of Illinois, do hereby certify that the foregoing is a true and correct copy of a preamble and joint resolution adopted by the Thirty-second General Assembly of the State of Illinois, and filed in this office April 28, A. D. 1882.

In witness whereof I hereunto set my hand and affix the great seal of State. Done at Springfield this 29th day of April, in the year of Lord 1882, and of the Independence of the United States the one hundred and sixth.

[SEAL.] HENRY D. DEMENT,
Secretary of State.

The PRESIDENT *pro tempore* also presented a petition of Walford Post, No. 51, Grand Army of the Republic, Department of Ohio, praying for increase of pensions in the military or naval service who lost a limb in the line of duty, &c.; which was referred to the Committee on Pensions.

Mr. KELLOGG. I present the petition of J. C. Charrotte, mayor of the city of Baton Rouge, and a large number of merchants and business men, and other citizens; also a petition signed by William Garig, president of the First National Bank, and other citizens of Baton Rouge; and another petition signed by S. H. B. Schoomaker and many citizens of Baton Rouge, praying for the erection of a public building in that city. I move the reference of these petitions to the Committee on Public Buildings and Grounds.

The motion was agreed to.

Mr. MAXEY. I present two petitions of sundry citizens of Texas in favor of a ship-railway across the Isthmus of Tehuantepec. There is a special committee which I think has made a report on that subject. So I move that the petitions lie on the table, to be considered with the report.

The motion was ageed to.

Mr. DAVIS, of West Virginia, presented a petition of citizens of Romney, West Virginia, praying that Congress take such steps as in their wisdom are best to promote the interests of education; which was referred to the Committee on Education and Labor.

Mr. PLUMB presented a petition of citizens of Kansas, praying for an appropriation for the education of the native people of Alaska; which was referred to the Committee on Education and Labor.

Mr. HOAR. I present the petition of Asa P. Potter and other officers of national banks in the Commonwealth of Massachusetts, largely in the city of Boston, in favor of a bankrupt bill which shall be substantially the bill known as the Lowell bill. I move that the petition lie on the table.

The motion was agreed to.

Mr. BUTLER presented a petition of citizens of Beaufort, South Carolina, praying for the establishment of a coaling dock and naval station at Port Royal Harbor, and a letter of Captain Jouette, United States Navy, on the same subject; which were referred to the Committee on Naval Affairs.

Mr. HAMPTON presented a petition of the Charleston Board of Health, praying for the re-enactment of a law defining the duties of a National Board of Health; which was ordered to lie on the table.

Mr. BLAIR presented a petition of Hon. Edward Spalding and other members of the Board of Education of Nashua, New Hampshire, praying for an appropriation for the education of the native people of Alaska; which was referred to the Committee on Education and Labor.

He also presented a petition of Hon. A. A. Woolson and others, citizens of Lisbon, New Hampshire, praying for national aid to public schools; which was referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom the subject was referred, reported a bill (S. No. 1842) providing for an extension of the Executive Mansion; which was read twice by its title.

Mr. MORRILL. I wish it understood that this is a unanimous report of the committee.

Mr. VAN WYCK, from the Committee on Pensions, to whom was referred the bill (S. No. 655) granting a pension to Hiram Baum, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 340) granting a pension to Erastus Crippen, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1201) granting a pension to Jacob Nix, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (S. No. 1782) for the relief of Francis B. Van Hoesen, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 833) for the relief of John R. Taggert, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. BAYARD. The Committee on Finance have directed me to report back favorably without amendment the bill (S. No. 1785) for the relief of David Mordecai and J. Randolph Mordecai, composing the commercial firm of Mordecai & Co., of Baltimore, Maryland. If there be no objection I ask that the bill be put on its passage.

Mr. EDMUNDS. I think it had better be printed and let us see what it is.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. EDMUNDS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1843) dedicating the military reservation at Plattsburgh, New York, to the village of Plattsburgh for a public park; which was read twice by its title.

Mr. EDMUNDS. I wish to say that while the gentlemen who bring this bill to me are of the highest character and respectability, and I sympathize with what they desire, I do not commit myself to the propriety of giving away so much of the property of the Government without compensation. It may turn out that it is right, but I hold my opinion in reserve about that. I move the reference of the bill to the Committee on Military Affairs, which is the appropriate committee, I suppose, as it is a military reservation.

The motion was agreed to.

Mr. SEWELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1844) for the relief of Fitz-John Porter; which was read twice by its title, and, with the accompanying memorial, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. HILL, of Colorado, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1845) to authorize the Postmaster-General to extend the mail service in certain cases; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. MORGAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1846) to expedite the administration of justice in the Supreme Court of the United States; which was read twice by its title, and ordered to lie on the table.

Mr. BUTLER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1847) prescribing the manner of instituting criminal proceedings in the United States courts; which was read twice by its title, and ordered to lie on the table.

Mr. GEORGE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1848) to repeal section 714 of the Revised Statutes, allowing pensions to judges in certain cases; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. GROOME asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 61) tendering the thanks of Congress to and conferring additional rank on Chief-Engineer George W. Melville, United States Navy, and for other purposes; which was read twice by its title, and referred to the Committee on Naval Affairs.

L. MADISON DAY.

The PRESIDENT *pro tempore*. If there be no further morning business the morning hour is closed, and the Senate will proceed to the consideration of cases on the Calendar under the Anthony rule.

Mr. JONAS. I ask the Senate to take up the bill (S. No. 73) for the relief of L. Madison Day, which was passed over without prejudice.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Claims with an amendment, after the word "dollars," in line 6, to strike out "with interest on the same at the rate of 6 per cent. per annum from the 1st day of July, 1874, until paid;" so as to make the bill read:

That the Secretary of the Treasury be, and he is hereby, authorized and required to pay unto L. Madison Day, out of any money in the Treasury not otherwise appropriated, the sum of $5,400, that being the amount of purchase-money received by the United States from said Day for a parcel of land in the city of New Orleans condemned as the property of Judah P. Benjamin, but which was found not to be the property of the United States and of which the purchaser has been evicted.

Mr. SHERMAN. Is there a report in that case?

The PRESIDENT *pro tempore*. The report will be read

Mr. COCKRELL. There is an amendment proposing to strike out interest from the bill.

The PRESIDENT *pro tempore*. There is such an amendment, which is the pending question.

Mr. DAVIS, of West Virginia. I take it there is no objection to the amendment striking out interest on the amount.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the committee.

Mr. SHERMAN. I have no objection to that amendment being adopted, but I should like to have a statement of the case.

The amendment was agreed to.

Mr. CONGER. The report in this case is very long and embraces a long statement of the facts and a long citation of authorities. Perhaps the Senate may not desire to have it read this morning, and I will state simply the case. Under the confiscation act the Government sold some property belonging to one Judah P. Benjamin, I think. Mr. Day was the purchaser and paid his money to the Government under that sale. Afterward the court decided that the confiscation or the pretended confiscation was entirely irregular, the sale

was set aside, and the property was surrendered to the parties claiming it.

Mr. COCKRELL. The sale was set aside, do I understand the Senator to say?

Mr. CONGER. No; I say the courts decided that the sale was entirely irregular and therefore void. It was not set aside by any order of new proceeding that I know of. The money was paid into the Treasury which was received from Mr. Day. The land was gone, and the committee thought the money should be restored to the applicant.

There has been a large number of reports from committees of the House and Senate, and my recollection is that they were all in favor of repaying Mr. Day the amount of money which he paid at the sale of the land, without interest. Some committees have reported in favor of paying him interest, but in the report which I have made by order of the Committee on Claims he is to have the amount without interest.

Mr. FRYE. Will the Senator allow me to interrupt him?

Mr. CONGER. Certainly.

Mr. FRYE. The case is pretty familiar to me, as I examined it in the other branch. The difficulty was not exactly with the sale of the land. The trouble was that there was a mortgage of $10,000 and interest on these lots of land which were confiscated by the Government and sold at public sale. Under the order of the court the auctioneer who had the sale of the land declared that it was sold free from all mortgages whatsoever, and that if any mortgages existed upon it they should be canceled. When this Mr. Day bought the land and received his deed under the directions of the court the marshal gave him a deed free from all incumbrances, and especially in the deed erasing the mortgage of $10,000 which was upon the property and of record.

The mortgagee brought suit in the courts of Louisiana on that mortgage, and the courts sustained the mortgage, and the mortgage and interest being all the value of the property, L. Madison Day lost the whole property. In other words, the Government of the United States, by direction of the court having authority to do it, gave practically a warranty deed of this piece of land free from all incumbrances whatever, and especially free from the incumbrance which appeared of record. The courts held the incumbrance to be valid, and thus L. Madison Day lost his land, and the United States is in the position of deeding something which it did not have and taking five thousand and some odd dollars for a conveyance of property it did not own, and L. Madison Day is without the money and without the property, the United States with the money, and there is no reason on earth why he should not receive back the principal and the interest, except that unjust, outrageous, iron rule of the Government of the United States made by Congress that under no circumstances will the Government pay interest.

Mr. EDMUNDS. I am afraid this matter is likely to prove rather a serious precedent, if you pass this bill. The committee of which I am a member, that on the Judiciary, has for fifteen years that I can remember had similar questions almost every session of Congress sent to it, and we have uniformly held, and the Senate has sustained us in every instance I think, that where the courts of the United States or the public officers of the United States undertake to sell confiscated property or property for taxes, upon well understood principles of law which every bidder understands perfectly and is bound by, the Government makes no guarantee of anything whatever. It sells the chance; it does not guarantee the regularity of the proceedings or the title to the property, or incur any obligation whatever upon the subject.

I do not believe there is a State in this Union which has tax laws that ever has provided for the restoration to the purchaser at a tax sale either of land or money, where the proceedings turned out to be irregular or illegal or the supposed owner had no title to the property. I know that it is only three or four years ago that an instance of this character occurred before us of a case at Alexandria, and I feel justified in saying that all the members of the committee, some of them sympathizing deeply with the claimant who claimed that his property had been taken from him without warrant of law, the Supreme Court having held that the confiscation was unwarranted by law—all of the members of the committee were of opinion that it would be entirely out of the regular order of the procedure of a government and establish a perfectly unjust and intolerable policy, to have it understood that anybody was to have any claim upon the United States in such a case. The purchaser understands upon common principles of law that he is merely purchasing at his own risk and peril. The property is usually in such cases worth a great deal more than the sum that is charged upon it or than he bids for it, as the case may be; he goes into it as a speculation, and it is at his own risk.

The United States has provided by law for two or three instances where a man holding under a confiscation or tax sale, I do not know whether it may not be both, having been evicted by the judgment of a court of the United States not the judgment of a State court, may have a certain measure of reimbursement. I do not remember the details and they are not important. This case of course does not fall within that principle, for if it did there would be no occasion to pass this bill. This gentleman appears to have bid at the auction. He knew the jurisdiction of the confiscating court; he knew that the authority of the judge and of the marshal was limited and pointed out by law; and that they had no more right to give him a guarantee of any kind than any Senator who hears me would have had to give him a guarantee or to charge the United States with a guarantee which any one of us would assert the United States would be bound by to him. There is the difficulty of the affair.

If you pass this bill upon the theory that is stated, you are obliged, if you are consistent, to reconsider a great many bills that we have rejected and to open the door everywhere in all cases of tax sales, internal revenue, customs sales, maritime seizures, everything, making the Government the responsible guarantor of the regularity of all proceedings just as in the cases of private parties who sell with a warranty. Governments have never done that; States have never done it; and they cannot do it obviously with any safety whatever. Therefore I shall be obliged to vote against the report of the committee, as much as I respect the sympathy which they have for this person.

Mr. HAWLEY. I should like to make a single inquiry. The Senator spoke of the petitioner knowing that the Government could convey only a limited or doubtful title, and knowing that it had no right to give a guarantee. Is there more than the presumption that the man ought to know? Is there any evidence that this petitioner actually did know that?

Mr. EDMUNDS. I suppose not. It is a mere question of law. The presumption is that the petitioner was an intelligent man and that he knew the commonest and simplest laws of his country, and going into a speculative purchase, as in nine hundred and ninety-nine cases in a thousand all such purchases are, he must be presumed, as we all are, to know the simple and common principles of law that in every State, I am sure I am safe in saying, govern such transactions.

Mr. HOAR. I entirely agree with the Senator from Vermont in the principle he states, and I have just myself prepared a report not yet submitted to the committee of which I am a member affirming and applying that principle as he states it. Unless this case is an exception to that rule, I cannot myself support the report of the committee, but it seems to me that it is.

As I understand it, the confiscation act purports in terms to authorize the sale of a fee of all the property or estate of a person who commits certain defined offenses. That was accompanied on the same date with a resolve that it should only operate to confiscate an estate for life, Congress being required by the Constitution to make that limitation. Thereupon it has been quite frequently held that a judgment of a court purporting to confiscate a fee must be interpreted in the light of that resolution, and held to confiscate only the life estate.

But here is a case where the court, proceeding according to the practice in admiralty, as it was expressly required to do by the statute, ordered a certain mortgage to be canceled upon the estate, and entered a decree or an adjudication that the mortgage was canceled, and sold the property, representing the fact to be that a previous mortgage upon it had been discharged by the court. The report made by the honorable Senator from Michigan finds that if the mortgage had been outstanding it would have equaled the entire value of the premises, and nobody would have bid a dollar for it unless the mortgage had been canceled.

Upon that mistake of the special fact, whether the mortgage had been discharged or not, the purchaser bought and paid his money. Then the mortgagee set up his mortgage and it was found that the proceedings of cancellation were irregular, and the purchaser, having got nothing whatever as an equivalent for his money, asks to have it paid back. It seems to me the United States should do what any honest man would do under those circumstances, refrain from holding it. It is not on the ground of implied warranty in my mind; it is not on the ground that a man who purchases a tax title does not take the whole risk as he ordinarily takes his chances, as the Senator from Vermont says; but this was a misunderstanding as to the existence of a fact, not of legal power or authority, whether a certain mortgage had been cleared off.

Mr. JONAS. I think this case is entirely dissimilar from a tax case, and I do not think the principles stated by the Senator from Vermont [Mr. EDMUNDS] apply at all. In this case the Government confiscated and undertook to sell a piece of real estate belonging to J. P. Benjamin, under the confiscation act. The property was sold for about six thousand dollars. The money was paid by Mr. Day, and the money is now in the United States Treasury. The Government undertook to give Mr. Day a full title to that property; it undertook to sell it free from mortgage. The deed recites that it is free from mortgage. A certificate of the court ordered the mortgage existing upon the property to be canceled, and the certificate of warranty showed Mr. Day that the mortgage was canceled. The presumption was that it was done with his money, instead of which the money was paid into the Treasury.

Afterward Mr. Day was disseized of the property at the suit of the mortgage creditors, who proceeded to enforce the mortgage against the property in the State court. The mortgage was recognized. The court decided that the United States court had no right to order the cancellation of the mortgage, and that the mortgagee's rights still subsisted upon it, and it was finally affirmed by the Supreme Court of the United States, and Mr. Day was deprived of his property

Mr. Day at least bought the life-estate of J. P. Benjamin in that property. Mr. Benjamin is yet alive. The estate was valuable. Mr. Day has been disseized of his property for five years, and he would have held it all through the remainder of the time of Mr. Benjamin's natural life. This the Government guaranteed, according to the laws of Louisiana, where the sale was made.

I have not time in the few minutes allotted to me to go fully into the laws of the State of Louisiana, but under the system of laws which there prevails a judgment creditor and any person, either selling by actual sale or selling through judicial process, is held to warrant the existence of the thing which he sells. A judgment creditor is held to warrant the title of that which he sells to the person who purchases under execution. That is the law of the State of Louisiana, and I presume that even the United States cannot change the title to real estate within the State of Louisiana, except in accordance with the laws of the State of Louisiana.

Therefore, the United States having by judicial process provoked the sale of this property, having sold it in a proceeding in which the United States was plaintiff to an innocent purchaser, is held to the guarantees prescribed by the laws of Louisiana, which say in express terms and over and over again that he who sells a thing is bound to warrant, first, the existence of the thing sold; and, second, the title to the thing sold. Hence, wherever the purchaser is disseized of property in the State of Louisiana which he has purchased at a judicial sale, he has his recourse against the offender; that is, against the party plaintiff who provoked the sale.

This is a case not only of law but of equity. The money is in the Treasury of the United States. Mr. Day has been deprived of this property. The life-estate which he purchased would be still subsisting. He paid a full price for the property at the time at which it was sold, believing as many did at that time that he was purchasing the fee-simple, and having the right to believe it, because the United States so declared, and so declared in the deed which it gave. He believed that he was purchasing the fee-simple. He was informed by the court, by the officers of the court, and by the officers of the United States, that he was buying a piece of property free from any mortgage lien or incumbrance whatsoever. The property has been taken from him to satisfy this lien. The money is in the Treasury of the United States. It certainly would be contrary to law, unjust, and inequitable to the last degree that the Government of the United States should retain this money and profit by its own wrong.

Mr. JONES, of Florida. Mr. President, it fell to my lot to investigate this case when it was first presented to the Senate for consideration some years ago, and I made a report in it; and the more I have reflected on it the better I am satisfied of the views I then expressed with respect to this case. I made the report some three years ago. I entirely concur with the Senator from Louisiana, who has just taken his seat, in respect to the right of this party to the fund which was paid to the Government for this property.

The facts are few and simple. The Government of the United States under the confiscation law attempted to confiscate the fee-simple title to this property through its officers. Nobody can deny that the proceeding in the circuit court clearly showed that it was the purpose of the Government to convey to this man a fee-simple title to this property. It was not like a sale under execution, where the purchaser goes and buys all that the sheriff can sell him. Far from it. It was a case in which the property was sold under a direct order of the court specially directed to it. When an execution issues upon a general judgment against a defendant no such proceeding takes place as took place in this instance. In execution sales the sheriff is authorized to sell the right, title, and interest of the defendant in the execution, any property that he can find, and the whole thing rest with the sheriff. If he takes hold of a piece of property and the defendant in execution is found to have little or no interest, and a purchaser at a sale pays value for it, he takes just what the sheriff can sell, and he has no recourse for the return of his money.

Mr. JONAS. Even in such a case as that under the laws of Louisiana the plaintiff has recourse.

Mr. JONES, of Florida. I am speaking according to the course of the common law. I know the law is different in the Senator's State, but I state the common law. In nine-tenths of the States of the Union that is the rule; that where the sheriff levies on property and the purchaser buys it, he takes the title the sheriff can give him, and the court has nothing to do with it. But this case is entirely different, and even according to common-law principles this purchaser is entitled to his money; and Judge Bradley sitting in my State, holding the circuit court of the United States, affirmed this principle in a case reported in 2 Woods. Where a party bought at a bankrupt sale property which was supposed to have been divested of the lien of a mortgage under the action of the district court, the district court assuming the right to order a sale discharged of the lien where it did not have the power to do so, and it turned out afterward that the court's order was void, he ordered the refunding of the purchase-money to the party who bought at that sale under the supposition that he was obtaining a title free from the mortgage. That case is precisely analogous to the one before the Senate in legal principle.

The district judge in that case directed the bankrupt's estate disposed of free of the mortgage lien, just as the court in Louisiana ordered this property sold clear of the mortgage lien. The mortgage creditor, not concurring in the action of the district court, prosecuted a writ of review after the purchaser had paid his money and took the case to the circuit court, where it was reviewed by the judge of the Supreme Court assigned to that circuit, and that judge held that the action of the district court was void; that the district judge had no right to order the sale of the estate discharged of the lien of the mortgage, and therefore he directed that the money paid by the purchaser, amounting to $65,000 or $75,000, should be refunded to him, and the case is on record; I have not had time to obtain it. That was the decision of Judge Bradley, even in a State where the common law prevailed, and independent of the special code in Louisiana to which my friend has alluded, which is far more equitable in its principles than the common law in cases of this kind.

Day purchased this property under the assurance of the court that it was to be sold discharged of that lien, and the record shows it, and afterward it turned out when the supreme court of Louisiana came to deal with the case that that proceeding was void, and the property was sold not charged with the lien but subject to it, and when the mortgage came to be foreclosed upon the property it swallowed up the whole of the estate and left Day without any title, with his money in the Treasury of the United States.

That is the case. It has been compared to the case of a sale under an execution running generally against a defendant without regard to any direction to sell specific property; but that is not this case. The district court in Louisiana had before it the identical property bought by Day when it ordered it to be sold, and it ordered the mortgage to be canceled. It gave notice to the purchaser at the sale that he would get a title discharged of the lien of the mortgage; but afterward that was held to have been void; and I ask, is it not clear that this man was misled by the authority of the Government? For really the officers of the court in that proceeding were nothing but the officers of the United States representing its interests and who were ordered to sell this property for the benefit of the United States.

In my judgment it is as clear a case in favor of this man as was ever before the Senate.

Mr. COCKRELL. Mr. President, I must confess my utter astonishment at the statements which have been made by the Senators arguing in behalf of this bill. This case has been before the Senate long enough for the facts to be known and recognized. Now I will state the facts as they are, and not as they are imagined to be.

Judah P. Benjamin and Joseph Benjamin, his brother, were the record owners of this land. That is a fact which the Senators who advocate the passage of this bill ignore. The record in Louisiana shows that Judah P. Benjamin and Joseph Benjamin were the absolute owners of the title to this lot of land. The record further shows that Judah P. Benjamin and Joseph Benjamin executed a deed of mortgage in 1858, in that mortgage deed reciting their joint and equal ownership to the land, to Mrs. Micou.

Mr. CAMERON, of Wisconsin. Will the Senator allow me to ask him a question?

Mr. COCKRELL. With a great deal of pleasure.

Mr. CAMERON, of Wisconsin. The question I desire to ask is this: Did not the district court of the United States for the district of Louisiana find that Judah P. Benjamin was the owner of this property?

Mr. COCKRELL. Never; there is no such finding. I say it is not the fact, and the record does not show it. Judah P. Benjamin and Joseph Benjamin were the owners of this land, and they executed a mortgage to Mrs. Micou in 1858, in that mortgage reciting that each one of them was the owner of an undivided half of this land. That was on record, and L. Madison Day is as able a lawyer nearly as there is in the State of Louisiana, and he is one of the shrewdest in the whole State of Louisiana.

Now we come to 1862, July 17, when the Congress of the United States passed the confiscation act. That confiscation act went to the President of the United States and he approved the act and with his approval sent to the Congress of the United States a veto message which he had prepared, and which he intended to send to the Congress if Congress had not on the same day, July 17, 1862, passed a joint resolution which I have before me, a resolution spread upon the records of the statutes of the land, and known to Mr. Day and every other lawyer in the country. Now I will read what the statute says. On the pretext that he was buying the fee of Judah P. Benjamin, or the fee of this property, let us see what the law says——

Mr. JONES, of Florida. Will the Senator allow me to explain what I meant by that? It was that Day had a right to suppose he was buying discharged of the mortgage lien.

Mr. COCKRELL. Well, we will see what he was buying. Mr. Day got everything he bought; and he has it now.

Mr. JONAS. Has he the life estate?

Mr. COCKRELL. He has the life estate subject to the lien that was upon it and under which he bought, and L. Madison Day has bought and realized everything that could be sold. I will read the joint resolution of July 17, 1862:

That the provisions of the third clause of the fifth section of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State Legislature, or judge of any State court, who has not, in accepting or entering upon his office, taken an oath to support the constitution of the so-called "Confederate States of America;" nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life.

"Beyond his natural life." This was an act "to punish treason." The Constitution fixes that Congress cannot punish treason with the forfeiture of estate beyond the life of the traitor. A lawyer of ability and shrewdness, with this statute upon the books of the country and the Constitution staring him in the face, comes in and says that he thought he bought the absolute fee-simple title of this property.

Mr. JONES, of Florida. Will it interrupt the Senator on that point for me to ask him a question?

Mr. COCKRELL. Certainly not.

Mr. JONES, of Florida. What is the date of that act?

Mr. COCKRELL. July 17, 1862.

Mr. JONES, of Florida. Will the Senator turn to the act passed in August, 1861, independent of that, and see how far that extends?

Mr. COCKRELL. That was not the act under which the proceedings were had?

Mr. JONES, of Florida. How does the record show it?

Mr. COCKRELL. I do not remember about the act of 1861.

Mr. JONES, of Florida. In the act of August 6, 1861, you will find absolute proceedings authorized by the court without any limitation.

Mr. COCKRELL. It does not make any difference what was authorized; here was the message of Mr. Lincoln proposing to veto this act if the resolution of the same date had not been passed declaring the true intent and meaning of the act to be that nothing but a life estate was to be sold. Now let us get at the facts.

Mr. MAXEY. Why does not the principle of *caveat emptor* apply?

Mr. COCKRELL. As a matter of course it does.

Mr. MAXEY. Why, did not the purchaser buy at his own risk?

Mr. COCKRELL. The Senator from Texas puts the question whether he bought the title at his own peril. Certainly *caveat emptor* applies. But now let us look a little further into the facts of this case, not the imagination of sympathetic Senators. The confiscation proceedings were begun in 1864. The notice of the court—now listen to it—here is the notice of the court to the world of what the court was going to do:

An order of publication was made, by which all persons interested in the property were required to appear on the 13th of February, 1865, to answer and to show cause why—

"Why"—what?

why said property and real estate, and the right, title, and interest therein of the said J. P. Benjamin should not be condemned and sold.

Express notice to the world that the proceeding was against the right, title, and interest of Judah P. Benjamin in the property. Now we come to the record of the court made in April, 1865——

The PRESIDING OFFICER, (Mr. PLATT in the chair.) The Senator's time has expired.

Mr. COCKRELL. I move to strike out the last word.

The PRESIDING OFFICER. That motion is in order; but the Chair will suggest that the Senator may go on by unanimous consent. Is there objection?

Mr. COCKRELL. If there is any objection to my going on, I move to strike out the last word, and ask for five minutes on that motion, and I will keep on till I get through. ["Go on."] I will consume no more time than is absolutely necessary.

The PRESIDING OFFICER. If there is no objection, the Senator can proceed by unanimous consent. The Chair hears no objection.

Mr. COCKRELL. In 1865 the order of sale was made. It was an order to sell this land of Judah P. Benjamin. Joseph Benjamin was not a party to it directly or indirectly. After that order of sale was made, but before the sale—after the judgment of condemnation but before the sale had taken place—one Durell, a judge of the United States district court there, who, as the distinguished Senator from Massachusetts once said, resigned to escape impeachment, did—what? He entered an order upon the records of his court, but not in this case, nor as a part of the judgment in this case, but a general order directing the marshal to cancel all mortgages and liens upon all condemned or confiscated property. That was the order. It was not a part of the judgment in this case. L. Madison Day says—I state a conceded fact now—that he did not know of the existence of that order when he bought the land. What good did it do him; what injury was it to him if he did not know anything about it? Another fact——

Mr. JONES, of Florida. Would that change the legal effect of it?

Mr. COCKRELL. As a matter of course in the equity of the case it would change the whole phase of it. He claims now that this order canceled this mortgage, and therefore gave him an equitable right, a right to believe that he was buying a clear title. That is the argument. Now, the fact is he did not know of the order of cancellation; he did not know that an order had been made canceling the mortgage. It was no benefit to him.

Now, I state a further fact:

Claimant states that he "was not aware of the fact that Joseph Benjamin ever owned one-half of the property in question or that any other person had any interest in the property but J. P. Benjamin; was not aware that Mrs. Anna Micou had a mortgage upon that property; had no knowledge of any mortgage existing upon that property whatever, until the marshal's deed with a certificate of erasure annexed to said deed was delivered to me."

Mr. Day did not know that Joseph Benjamin had any title in that real estate, and yet the deed of Judah P. Benjamin gave one-half to Joseph Benjamin and one-half to Judah P. The very title of the man he was buying from showed he only had a half. There the mortgage was. He says he did not know anything about it when he bought. He says he did not know anything about this order until the marshal's deed was delivered to him, reciting the order of cancellation of the mortgage. Now, what equity has he on account of the title, only one-half being in Judah P. Benjamin, and on account of this mortgage and on account of this order of cancellation? None at all. He did not know anything about them; they give him no equity; they give him no right.

Now, Mr. President, what was this case? The United States sold the right, title, and interest of Judah P. Benjamin in and to this real estate to L. Madison Day, a speculator in confiscated real estate, for $5,400. He thought he was getting a splendid estate. He had previously bought it under a tax sale in 1864, as the records show. This was another title to be added to his tax title. He gave $5,400 for this and some other property. We do not know whether it has proved to be valuable or not. This was not all the property that was bought. A few years afterward—this was in 1865—Mrs. Micou's heirs brought suit to foreclose her mortgage against Judah P. Benjamin and Joseph Benjamin, and Don Pardee, circuit judge of Louisiana, decided that the mortgage was valid and Durell's order, as every decent lawyer in the Union knew, was a nullity. That case was taken by Mr. Day to the supreme court of the State of Louisiana, and they decided that the mortgage was good, and the property must be sold to pay it. Then it was taken to the Supreme Court of the United States, and they unanimously decided that Mr. Day got all he bought—the right, title, and interest of J. P. Benjamin; that that right, title, and interest was subject to every lien and incumbrance which Judah P. Benjamin had put upon it; that one of these incumbrances was the deed of trust to Mrs. Micou; and Day took it subject to that.

The mortgage was foreclosed; the property has not proved as valuable as was anticipated, and Day declined to pay off the mortgage, and let the premises be sold. His title did not fail; he was not ousted; there was nothing declared null and void about it. The judgment of the court *in rem* against Benjamin's right, title, and interest stands to-day, and had Day paid off the mortgage there would have been no disturbance of his title during the life-time of Judah P. Benjamin; but he refused to pay off the mortgage, he let the property sell, and the title which he got subject to the mortgage passed away, and he now comes to Congress for a return of his money.

Let me put it to the Committee on Claims: if this property had proved to be worth $100,000 when the mortgage for $20,000 was foreclosed, would L. Madison Day be here in Congress asking for his $5,400? I appeal to Senators, had the property proved as he anticipated, a speculation, had it been worth $100,000 and a $20,000 mortgage was foreclosed on it, and $80,000 left, would L. Madison Day be here claiming that his title failed? What would he have done with the $80,000? He would have put it in his pocket, and not one dollar of it would have come into the United States Treasury. But he made a bad bargain, and his speculation has not proved as profitable as he anticipated.

Mr. President, will you pass this bill? It has now been reported favorably. The first report which was made upon it in 1876 by the Senate Committee on Claims was adverse. It was reconsidered, and a majority report of five out of nine members reported in favor of it in the Senate in the Forty-fourth Congress. It was the same way in the Forty-fifth Congress. In the Forty-sixth Congress it was reported favorably in the House, and defeated on a test vote after full argument. The House of Representatives in the Forty-sixth Congress defeated the bill after very full argument; but it comes back again, and now we are asked to hold that the United States are guarantors; that under the laws of Louisiana, the local laws of that State, at every sale made by the United States the Government becomes a guarantor of the title. Why, Mr. President, there is no failure of title here—not a particle. The right, title, and interest of Judah P. Benjamin for his life, all that could be sold, all that was attempted to be sold, all that was bought, passed to L. Madison Day. My good friend from Maine shakes his head. I ask him how was it otherwise? L. Madison Day himself did not know of the order canceling the mortgage, and did not know that Joseph Benjamin owned one-half of the property until after he received his deed.

Mr. FRYE. Let me ask the Senator this question: Does L. Madison Day say anywhere that he was ignorant of the general order of the court that in those sales all mortgages should be canceled?

Mr. COCKRELL. I will read what he says.

Mr. FRYE. He does not say that.

Mr. COCKRELL. I will read what he says. I have it here verbatim:

Claimant states that he "was not aware of the fact that Joseph Benjamin ever owned one-half of the property in question, or that any other person had any interest in the property but J. P. Benjamin; was not aware that Mrs. Anna Micou had a mortgage upon that property; had no knowledge of any mortgage existing upon that property whatever until the marshal's deed with a certificate of erasure annexed to said deed was delivered to me."

Mr. FRYE. But that does not answer my question.

Mr. COCKRELL. Was it material whether he knew of the existence of the order that canceled liens when he did not know there was any lien?

Mr. FRYE. There is this material about it: there was a public

statement made at the sale of this land that all existing mortgages whatsoever, by order of the court, would be canceled. On the strength of that statement the man was not called upon to look into the record or inquire as to mortgages. He had the statement authorized by the court that all mortgages should be canceled. I have listened to the remarks of the Senator from Missouri, and I say that under that statement there is not a court of equity in any State of the United States of America that would not grant to the purchaser, under the circumstances stated by the Senator, relief, and order the payment back of that money.

Mr. COCKRELL. Will the Senator answer this question? Suppose this property had proved to be a very valuable investment and had yielded Mr. Day $50,000, would he be under any equitable right to refund that money to the Government?

Mr. FRYE. Certainly he would not.

Mr. COCKRELL. Then because it has proved a failure the Government must refund. In other words, the Government takes all risks, if there is any failure or depreciation of the property, but if it goes up the purchaser gains everything.

Mr. FRYE. No, Mr. President; but the Government, when it is the seller, and makes itself public official statements at the time of the sale, must in honor, at any rate take the risk of those statements so far as not to keep the money it has got by the strength of those statements. The idea of the United States Government making a statement at a public sale, and on the strength of that statement getting $5,000, and then when the statement proves a failure refusing to refund it!

Mr. COCKRELL. Mr. President, the Senator cannot answer the problem that I put, and no Senator who favors this bill can. It was a speculation by the purchaser.

Mr. HOAR. May I ask my friend a question?

Mr. COCKRELL. Certainly, with pleasure.

Mr. HOAR. Suppose he had himself advertised for sale a farm, and stated that it would be sold free of mortgage, and thereupon I bought it on that statement and paid him $5,000 for it, and it turned out that it was not free of mortgage, but that there was a mortgage on it to its full value, would he keep the $5,000?

Mr COCKRELL. I do not understand the first part of the question that the Senator put.

Mr. HOAR. I will repeat it. Suppose my honorable friend from Missouri had advertised that he would sell a piece of land free of mortgage——

Mr. COCKRELL. I understand it now. No: I would not.

Mr. HOAR. You would not keep the money?

Mr. COCKRELL. No, sir; but that is not a parallel case. Here it was not the United States that was doing so and so, it was not the Treasury of the United States or the people of the United States that were making these representations. The people of the United States had passed a confiscation law, they had expressed their will in that law; they had passed a joint resolution declaring what they would sell the right, title, and interest of the party during his life, nothing more and nothing less. No officer under the United States had any right or authority to make any representations outside of the law. Suppose a sheriff of a county selling under an execution in favor of my friend from Massachusetts, when he is not present, when he knows nothing about it, announces upon the stand that he is selling the property of F. M. COCKRELL, with no mortgages upon it, and he sells it and realizes $5,000, and it was paid over to my good friend, Mr. HOAR, from Massachusetts, and afterward it turns out that the right, title, and interest of F. M. COCKRELL in the land was not worth a dollar, will my friend from Massachusetts refund the $5,000 to the purchaser of my right, title, and interest when the sheriff had no authority under the law to make the representation, and when he gave no authority for him to do it?

Mr. HOAR. That is just what I was going to ask the Senator in another connection—what he would do, suppose the auctioneer, whether sheriff or anybody else——

Mr. COCKRELL. Put the case of a judicial officer acting under the law, and not a private agent.

Mr. HOAR. Very well, either way. Suppose the person making the sale had said, "I sell the property of A B, I make this sale free of mortgages," and thereupon the Senator had bought it, paid his $5,000, and that had been handed over to me, does the Senator think that either he or I would keep the money under such circumstances?

Mr. COCKRELL. I have just said what I thought the Senator would do.

Mr. HOAR. My friend will pardon me if I add one sentence, if it is not trespassing too much on his good nature.

Mr. COCKRELL. Certainly not.

Mr. HOAR. It is not the case of holding the United States to a warranty at all. That is not my point. It is asking the United States whether it will keep the money, the purchaser having been led at the sale by the officer of the law to believe that he was buying property on which the mortgage had been canceled when it had not been canceled. It is not the question whether the United States shall make good the loss by a mistake; it is a question whether it shall profit by the mistake. That is all there is of it. I should be as sure that the Senator from Missouri would not take from me the $5,000 if he stood in the condition of the United States under these circumstances almost as I should if I had the money in my pocket.

Mr. COCKRELL. Now——

Mr. CAMERON, of Wisconsin. If the Senator will permit me a moment——

Mr. COCKRELL. I was going to close in a minute.

Mr. CAMERON, of Wisconsin. Very well, I will wait until the Senator gets through.

Mr. COCKRELL. If the Senator wishes to put a question, I will hear it with pleasure.

Mr. CAMERON, of Wisconsin. I wanted to call the attention of the Senator to a statement made by the Senator from Vermont [Mr. EDMUNDS] in regard to what he understood the law to be in reference to tax sales. The Senator from Vermont, as I understood him, stated that no municipality that had the right of taxation could be held liable where property had been sold at a tax sale if it turned out afterward that the tax levy was void. That is not the law in my State. If it appears that the tax was illegally levied so that the person who purchased at the tax sale took no title, took nothing, the municipality under the authority of which that tax was levied is liable to the person who purchased for the amount of the tax that he paid. That is the law in the State of New York. It has been so decided by the court of appeals of the State of New York in a case that went up, if I recollect aright, from the city of Brooklyn. The city of Brooklyn levied a tax upon certain property; it turned out that the tax was illegally levied; in other words, that the tax was void; that the person who purchased at the tax sale took nothing under it; and the court of appeals held that the city of Brooklyn was liable to repay the amount that the purchaser paid at that tax sale.

Mr. COCKRELL. The Senator from Vermont and my distinguished friend from Wisconsin can settle that question of law, as I have not touched upon it.

Mr. CAMERON, of Wisconsin. I should like to have the Senator touch upon it.

Mr. COCKRELL. That is merely local law depending in each State on the laws of the State.

Mr. CAMERON, of Wisconsin. I think the case is very analogous to this.

Mr. COCKRELL. I do not think there is any analogy at all. Here is the want of analogy: These proceedings, I assert, were regular from beginning to end; there was no defect in the proceedings; there was no irregularity; there has been no fraud in any part of these proceedings. L. Madison Day got everything he bought, the right, title, and interest of Judah P. Benjamin for his life. No court has said that his purchase was invalid, but it was declared to be subject to a mortgage, and that mortgage was foreclosed and the property was not worth the amount of the mortgage and the amount which L. Madison Day had paid. The proposition here involved is a bold one; it is that in all the confiscation sales which have been made in this country, if the purchaser failed to make the amount of his purchase-money out of the property, the Government shall refund, but if he made a good speculation he shall pocket the speculation, and the Government get nothing from it. There is the alpha and the omega of the L. Madison Day case.

Mr. FRYE. If the Senator will allow me, right there, to go with his last sentence, it is not the alpha and omega of the L. Madison Day case. An officer of the United States Government authorized at a public sale a statement to be made that certain land was free from all mortgages whatsoever; if any mortgages existed, that when the Government gave the deed those mortgages should be canceled in the deed. Whether that officer of the Government had a right to make that statement or not, whether it was by order of Durrell or anybody else, I do not care, the money on the strength of it was paid over to the amount of over $5,000; the Government of the United States ratified the whole thing by taking the money obtained through the statement of its officer and putting the money into the United States Treasury. Then when it turned out that that statement on the part of the officer was false in law, that there was a mortgage upon it, that there was a mortgage worth more than the whole real estate sold by the Government, the Government is to keep, according to the Senator from Missouri, and ought to keep the $5,000 it got out of one of its own citizens by a false representation made at the time of the sale. There is no conflict of facts about that.

Mr. GROOME. Mr. President, I was not in when this debate began, and therefore am not aware of very much that has been said; but I want to say in explanation of the vote that I propose to cast upon this bill that I disagree very decidedly with the position taken by the Senator from Missouri, whose speech I have heard. It seems to me that a mere presentation of the facts of this case is enough to show that it is a meritorious one and that the claim of Mr. Day ought to be paid by Congress.

What are those facts? The United States Government, in its own name, and for its own benefit, instituted a proceeding in one of its own courts, under the act of 1862, known as the confiscation act, upon which it obtained a decree for the confiscation and sale of certain real estate alleged to be that of Judah P. Benjamin, after full notice had been given by publication to all persons interested in that estate to come in and show cause, if any they had, why such decree of confiscation and sale should not be had. The United States marshal applied to that court and obtained from it a general order, under section 8 of that act, which authorized the court to provide the forms

of decrees, and to direct such deeds to be delivered to the purchasers, under sales under that act, as should vest good and valid titles to the property sold in the purchasers, declaring that not only the interest of the disloyal defendant but of all parties whatever in the estate should be sold. The United States marshal, acting under that decree and that general order, represented that he was selling and did attempt to sell the whole *corpus* of the estate free and discharged from all liens upon it, and in the deed which he gave to the purchaser recited the fact that he had so sold it free from all liens, and appended thereto a certificate of the recording officer of Louisiana that the mortgage against said real estate was canceled.

The purchaser paid the whole purchase-money to the marshal; and it, less the costs of the confiscation proceedings and of sale, was paid into the United States Treasury, where it still remains. No direct attempt was ever made to reverse or set aside the proceedings of the United States district court. Later on, however, the holders of a mortgage upon the real estate, which mortgage had been directed to be canceled by the court and had been entered upon the record as canceled as required by the order of the court, came into a State court of Louisiana and asked that court to pass a decree declaring that mortgage still to be in full force, and directing a sale for its foreclosure, notwithstanding the proceedings theretofore had in the United States district court; and the State court passed a decree reinstating that mortgage and declaring that the property should be sold under foreclosure proceedings unless this claimant chose within ten days to come in and pay the principal and interest of the mortgage and the costs of the proceeding.

From this decree Mr. Day appealed, first, to the supreme court of Louisiana, and afterward to the Supreme Court of the United States, both of which sustained the proceedings of the State court of Louisiana. As a consequence the property, which was not worth the amount owing upon the mortgage, including interest and cost, was again sold and was purchased by another party, and the title which Mr. Day had obtained through the confiscation proceedings was divested. Under these circumstances, those who oppose the repayment of this money out of the Treasury of the United States to L. Madison Day are compelled to claim that he purchased the property at his own risk.

It may be that this claimant was bound to know the law better than the United States district attorney who asked the court to decide and to order that under it the whole *corpus* of the estate, and not merely the interest of the disloyal defendant therein, should be sold; better than the United States district judge who decided that that was its true construction; better than the United States marshal, who, acting on that construction, represented that he was selling and did attempt to sell and convey the property free, clear, and discharged from the lien; and better than the recorder of the State of Louisiana, who gave his certificate of the cancellation of the mortgage, and so entered it of record. But I think it is too plain for serious controversy that the doctrine of *caveat emptor* does not apply to any case where a purchaser has been induced to become such by the representation of the seller or the seller's agent that he is selling an unencumbered title and where it turns out that that representation is false and the party is evicted in consequence of the incumbrance.

Mr. MAXEY. I ask the Senator from Maryland if the statement made by the marshal, or sheriff, or auctioneer, contradicting what the record shows, would bind between vendor and vendee? Whether the statement made by him against the record would not be *ultra vires?*

Mr. GROOME. I will answer the Senator without the slightest hesitation——

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. COCKRELL. Let it be continued. That is the understanding.

Mr. GROOME. Ordinarily the United States is in no way responsible for the tortuous acts or unauthorized representations of its marshals or other officers when engaged in the execution of civil or criminal process intrusted to them. But when——

Mr. MAXEY. My question is whether a statement not justified by the record would bind?

Mr. GROOME. I was endeavoring to answer that question affirmatively. Whenever a marshal, in the execution of process for the direct benefit of the United States upon a suit brought by the United States itself, makes a representation which is false, and which is not known to be false by the party who is induced to purchase in consequence of it, although the representation was unauthorized at the time it was made. Yet if the United States Government receives into its Treasury the purchase-money which is obtained in consequence of that representation, and refuses upon that representation being brought to its knowledge to return the purchase-money to the purchaser, it ratifies the act of the marshal in making that representation and becomes as absolutely bound by it, both in equity and in law, as if it had in the most solemn manner expressly authorized the marshal to make it.

Mr. MAXEY. I do not think the Senator quite caught the point I intended to make. The public record is notice to all the world; and if in the face of that public notice to the world the auctioneer, marshal, or sheriff makes a representation against that record, my question is whether that statement would bind the grantor?

Mr. GROOME. I say again that it would. The record is constructive notice to the world of the fact which it contains; but constructive notice is not to avail against an actual representation to the contrary. When this marshal ordinarily in the absence of a law such as the law of the State of Louisiana, to which the Senator has alluded and by reason of which, as he says, *caveat emptor* never applies to sales made in his State, makes a sale without making any representation as to the character of the title he is selling, the purchaser would be bound to look to the record, and if he failed to do so and bought a defective or encumbered title his loss would be the result of his own carelessness, and, having secured all that he bought, or had any right, growing out of any act of the seller or his agent to suppose he bought, he would have no claim to have his purchase-money refunded.

But when an affirmative representation is made by the officer of the United States making the sale that he is selling an unencumbered fee, and it subsequently turns out that the representation is false, and that the property is encumbered for more than its entire value, the United States cannot in law, equity, or common honesty retain the purchase-money in its Treasury, and deny that it is bound by the representation made on its behalf by its official. By accepting the purchase-money it adopts the representation through which it was obtained, and is estopped from denying that the marshal made it by its direction, and consequently if the representation is false, and results in injury to the purchaser, it is bound to indemnify him from loss.

But even if I am wrong upon the legal proposition, the Government of the United States ought to so conduct itself in its monetary transactions with its citizens as to avoid even the suspicion of unfairness, and it cannot afford to resort to technical and frivolous pretexts for refusing to pay claims against it which are based upon strong, inherent equities.

I hope, therefore, that not only this claim but that every claim against the Government, whether strictly legal or not, which rests on broad and solid foundations of equity may be paid, to the end that the Government may do full justice to its citizens, and that the love of the citizens for the Government and their determination to uphold at all times and in all ways the national honor, may steadily grow in strength.

Mr. JONES, of Florida. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Florida has spoken once.

Mr. COCKRELL. Let him go on. ["No objection."]

Mr. JONES, of Florida. We have not been obeying the rule on this bill.

I referred in the short statement I made a while ago to a case which I think decided this question as clearly as any question ever was decided by an intelligent court. I referred to the case of Davis *et al.*, trustees, *vs.* The Railroad Company *et al*, decided by Judge Bradley, where the district judge had directed the property of a railroad company to be sold discharged of a mortgage lien generally, in bankruptcy; and the property was so sold, and the purchaser bought it for what everybody believed at the time to be only a nominal price, $65,000 for a property that was worth half a million, and still relying upon the order of the court directing the sale of that property discharged of the lien, he bought it, and he bought at his own risk to a certain extent.

Afterward the holders of the mortgage, the mortgagees, denying the right of the district judge to sell the railroad discharged of the lien, instituted a petition of review and brought the case before the circuit judge, and the circuit judge held that the district court had no right to sell the railway discharged of the mortgage, and that the purchaser had a right to rely upon the order of the district judge when he bought, and inasmuch as he bought with the expectation that he was taking the property discharged of the lien, he was entitled to a return of the purchase-money. Here is what the court said:

> The question then arises as to the disposition to be made of the purchase money paid or secured to be paid by the respondents. The purchasers insist that it should be returned; the assignee that it should be retained by him for the benefit of the general creditors.
>
> From an examination of the evidence, it seems clear that the assignee assumed to sell the property clear of the mortgage. He did not profess to sell the mere equity of redemption.

So the marshal in this case did not profess to sell the property otherwise than as discharged of the lien:

> The respondents in their answer claim that the sale was made free from the lien of the mortgage. They claim that the mortgage was void. And while it is true that the petitioners gave notice at the time of the sale that it would be subject to their lien, the assignee and the purchasers did not act on this view. The latter never intended to purchase subject to the lien, but clear of the lien.
>
> Had the receiver sold the property subject to the lien of the first mortgage, the amount bid for it by the respondents would have been payable by them, and would have been a proper asset of the bankrupt company's estate. But as they did not sell it in that manner, but sold it as unencumbered property, so far as the first mortgage was concerned, and as that was a clear mistake, since the first mortgage was a valid lien and absorbed the entire property—

Just exactly the case here—

> the sale ought to be held invalid, and the proceeds of the sale ought to be returned to the purchasers. This is clearly the justice of the case, and in my judgment the law is not contrary thereto.

If ever there were two cases——

Mr. LAPHAM. Will the Senator allow me to ask a question?

Mr. JONES, of Florida. Certainly.

Mr. LAPHAM. In that case the mortgage covered the entire property which was purchased.

Mr. JONES, of Florida. So it did.

Mr. LAPHAM. In this case, if I recollect the facts aright, Mr. Day purchased additional property to what was covered by the mortgage.

Mr. JONES, of Florida. That is not my information.

Mr. COCKRELL. Unquestionably it is so. The report shows it.

Mr. LAPHAM. That is the fact. Now, is there any evidence in the case as to the value of the additional property?

Mr. JONES, of Florida. That is not my understanding of the facts.

Mr. LAPHAM. Then one other——

Mr. HOAR. Allow me to state to the Senator from New York that my recollection is that the Senator from Michigan [Mr. CONGER] states in his report that the property purchased would have been worthless, utterly and absolutely worthless, if this mortage had been upon it.

Mr. LAPHAM. There was additional property included in the purchase. Is there any evidence what was the value of that?

Mr. JONES, of Florida. The purchases were not at the same sale, I understand.

Mr. LAPHAM. All at one sale.

Mr. JONES, of Florida. No, they were sold as distinct lots of property.

Mr. LAPHAM. One other fact; it appears that Mr. Day went into possession of this property and had possession of it for several years. Is there any evidence what he realized out of that?

Mr. JONES, of Florida. That was the fact in the case decided by Judge Bradley; the party had been in possession for a long time.

Mr. LAPHAM. Was he not required to account for the use?

Mr. JONES, of Florida. He was not required to make any account at all.

Mr. LAPHAM. That is a very extraordinary doctrine. I do not see why the whole purchase-money should be refunded.

Mr. JONES, of Florida. I say that if there were ever two cases alike in principle, they were the case of Day and this case decided by Judge Bradley. There the district court directed the mortgaged property to be sold discharged of the lien of the mortgage, although it had not power to do it, and the circuit court declared on review that that action was void; and although the party went into possession of the estate and held it for years Judge Bradley said in view that he had a right to regard the mortgage as discharged and purchased with the idea that it was discharged, he was entitled to full restitution of the purchase-money, which he obtained to the amount of $67,000.

Mr. EDMUNDS. May I ask the Senator a question?

Mr. JONES, of Florida. Certainly.

Mr. EDMUNDS. Suppose in the private case between private suitors from which he has read, the purchase-money had been paid over to the orator in the cause if it were an equity cause, or to the plaintiff in the action at law, whichever it was, does the Senator think it has been decided, or ever will be, that the purchaser of the property could go back to the party in the suit and get his money refunded?

Mr. JONES, of Florida. Well, it will be time enough to deal with that case when it comes up. It is a sufficient answer to the Senator from Vermont to say that this is not that case. I know very well that the rights of parties are sometimes lost by a confusion of goods, by the fund being diverted, by a sheriff making away with the money, or by all trace of it being lost; but as long as it is within the reach of the law and the court a remedy is available. In the case I referred to a while ago the money was in the hands of the court. In this case the money is within the control of the Government. Its own officers acting for its benefit directed the property to be sold discharged of the lien.

Mr. EDMUNDS. Yes, if my friend will pardon me, but I submit to him that the distinction there is, even in private cases—which I suggest to him have not anything to do with this—so long as the money is under the control of the court, whether in the form of security or money, if the court discovers that there has been any mistake or misunderstanding or error it can reverse its proceedings, its orders, and restore the money to the party who paid it in, but not after the court has acted and has gone through with its own operations, and the money has gone into the hands to which by the judgment of the law as administered, right or wrong, it is to go. Then quite a different principle applies.

Mr. JONES, of Florida. Ah, Mr. President, I appreciate for the first time the point which the Senator from Vermont attempts to make in this case; but I am sure that upon reflection he would not insist upon it. I am sure that he would not take the ground that where the Government of the United States, acting through its own judicial officers, succeeded in obtaining a sum of money from the sale of the property of one of its citizens and that money was paid over to the Treasury of the United States, that case would be analogous to the one that I suggested a while ago.

Mr. EDMUNDS. By no means, Mr. President. That is not the point. I only stated that point to convince my friend that his legal analogy between the private judgment that he has been referring to and this fails. My ground of objection to this claim is the broader one that I stated before. I have only called the Senator's attention to this in view of that decision. That is all.

Mr. JONES, of Florida. Well, for the life of me I cannot see in equity or in principle the least difference between the two cases. In the case in Louisiana the district judge, under the confiscation law, assuming to himself the right to direct the sale of the property discharged of the lien, did so; in the case in Florida the district judge, under the bankrupt law, assuming the right to sell the estate discharged of the lien, did so; and the purchaser bought at both sales under like circumstances. There was the order of the court under the bankrupt law directing the marshal to sell the railroad discharged of the first mortgage lien; and in the case in Louisiana under the confiscation law the court directed the property to be sold discharged of the lien of the mortgage. Where is the difference?

In the one case Judge Bradley said, after the property had been in possession of the purchaser at the bankrupt sale for more than three years, and the fund resulting from it in the coffers of the court, that in consequence of the misdirection of the judge which caused the purchaser to believe that he was taking an estate free from the mortgage, notwithstanding his possession, notwithstanding the advantages resulting from that possession for years, directed absolutely the unqualified and absolute restitution of the purchase money; and if that principle is sound in a case between private parties, why is it not sound in a case between the citizen and his government? Is there any higher or greater equity to be invoked in behalf of the United States when dealing with its own citizens than is applicable in a case between two citizens in one of the highest courts of the land?

There was hardly any doubt in the professional mind with regard to the correctness of Judge Bradley's ruling; and all this talk about *caveat emptor* has no application here. The distinction is clear, as I said a while ago, that when a sale takes place under an execution which is directed, not against any particular property, but against the estate of the judgment debtor generally, and the sheriff sells, the man who buys at a sale like that takes *cum onere* whatever may be upon the estate, and he has no right to apply to the court for relief in the event that he fails to get all that he thought he would; but that case is very different from the one before the Senate, where the court in the first instance has its eye upon the particular property, where the execution does not run generally against the estate of the party, but where a special order is directed against a particular portion of the estate of the party, and directs it to be sold discharged of the mortgage lien. Then when it turns out in point of fact that the order is void, and the court had no right to make it, and the Government gets the money, upon what principle, I ask, of law or of morals, can this Government hold on to that fund?

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived, the bill goes over, and the Chair's duty is to lay before the Senate the unfinished business. Before doing so, however, the Chair asks permission to submit some House bills which are on his table.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, and so forth, for the fiscal year 1882, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

TARIFF COMMISSION.

The PRESIDENT *pro tempore* laid before the Senate the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff; and it was read twice by its title.

Mr. BAYARD. In consideration of the fact that the Senate have already passed a tariff-commission bill, substantially in the terms of the present bill except that the words "internal revenue" do not occur in the House bill as they did in the Senate bill, so that this is the same in substance and will be in its results, I have consulted with members of the Committee on Finance and none of them think it necessary or wise that there should be a reference of the bill to that committee. I therefore ask the Senate to proceed to the consideration of the House bill as it now stands at this time.

The PRESIDENT *pro tempore*. The unfinished business can be laid aside informally.

Mr. EDMUNDS. Is it precisely the same bill?

Mr. HARRIS. This is a House bill. The Senate bill has not been acted on by the House.

Mr. EDMUNDS. Is the House bill precisely the same bill as that of the Senate?

Mr. BAYARD. As I understand, they are the same in words with the exception that the Senate bill directed the attention of the commissioners to the subject of the internal revenue as well as the tariff taxation. The House bill has omitted the words "internal revenue," but has committed the subject of tariff taxation to the same commission in the language proposed by the Senate bill.

Mr. EDMUNDS. Without authority to look into its relations to domestic excise.

Mr. BAYARD. I propose that the Senate shall take up and pass the House bill, the Senate bill not having been acted on by the House.

Mr. EDMUNDS. But I inquire whether this House bill apparently

excludes from the consideration of the commission the relations of customs duties to internal revenue? If it does I wish to amend it.

Mr. BAYARD. I do not understand at all that it is possible to exclude from the intelligent consideration of this commission the subject of internal revenue. The amendment was made in the Senate or proposed by the Committee on Finance to the Senate bill, by which the two systems of revenue, excise as well as customs duties, were named; but for my own part, I do not consider it possible that the subject of tariff taxation should be considered by this commission without necessarily including in the purview of the examination the system of internal revenue. I think the broad question of taxation would, without the express direction of considering the question of internal revenue, embrace it; and for that reason, and for the sake I may say of expedition, as the subject of a tariff commission seems to have been agreed upon by both Houses, the sooner the matter passes to the hands of the commission for action the better. We have no time to lose on the subject, and if under the terms of the House bill and under the terms of the Senate bill a report is to be made from time to time during the present session, and by next December a final report, I think it important that the bill should be passed at the earliest day.

For that reason, and believing that the internal-revenue system is so blended in its taxing results with the tariff system that I do not think a tariff commission is strengthened by having an express direction to consider the internal revenue put in it, I trust this House bill will be passed at once.

Mr. EDMUNDS. I feel it to be a duty to object to any further proceedings in this bill than its first and second reading until to-morrow, so that we can see precisely what the House bill contains.

Mr. BAYARD. Of course it is open to objection, as it requires unanimous consent to consider it now.

The PRESIDENT *pro tempore*. It requires unanimous consent.

Mr. BECK. I was only about to say that there was no use in referring the bill to the Committee on Finance any more. I regard the matter as in the nature of an affidavit for continuance. If a reference prevails it will only last longer. We cannot stop it.

The PRESIDENT *pro tempore*. The bill is read twice and will be printed.

Mr. BAYARD. And will lie on the table, and I shall call it up to morrow.

Mr. EDMUNDS. It lies on the Calendar of General Orders.

The PRESIDENT *pro tempore*. It goes to the Calendar.

Mr. EDMUNDS. And the Senator can move to take it up in the regular way.

HUGO EICHHOLTZ.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the bill (H. R. No. 5820) granting a pension to Hugo Eichholtz, which has been received from the House of Representatives.

Mr. SLATER. I ask unanimous consent that the bill be considered now. A similar bill in terms was passed by the Senate on a full report from the Committee on Pensions, and I presume was on the House table at the time of the passage of this bill. It has been well considered. The report of the House committee is simply the report of the Senate committee adopted by the House committee.

The PRESIDENT *pro tempore*. The Chair will inform the Senate that one of the clerks has examined the bills and they are exactly alike.

By unanimous consent, the bill was read three times, and passed.

ABAGAIL S. TILTON.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the bill (S. No. 108) granting an increase of pension to Abagail S. Tilton, returned from the House of Representatives with an amendment.

The amendment of the House of Representatives was, in line 4, after the word "act," to strike out:

Provided, That all payments heretofore made shall be first deducted.

Mr. BLAIR. That is a slight amendment. I move that the Senate concur in the amendment.

Mr. EDMUNDS. That seems to be not a very slight amendment. The Senate bill appeared to provide for applying the money that had been received. Now the House propose that the money already received shall not apply. What does that mean? Will the Senator explain the difference?

The PRESIDENT *pro tempore*. If there be objection, the bill with the amendment will be referred to the Committee on Pensions.

Mr. BLAIR. Let that course be taken; but it is entirely in the interest of the Government that the amendment should be concurred in.

Mr. EDMUNDS. It may be.

The bill was referred to the Committee on Pensions, with the amendment.

PRINTING OF A PENSION DOCUMENT.

Mr. PLATT submitted the following resolution:

Resolved, That there be printed for the use of the Senate 500 extra copies of Executive Document No. 152, with corrections.

Mr. PLATT. I move the reference of the resolution to the Committee on Printing.

Mr. EDMUNDS. What is the document?

Mr. PLATT. It is a document relating to the amount of pensions which have been paid in each State and each Congressional district of the United States.

Mr. EDMUNDS. Is the resolution reported by the Committee on Pensions?

Mr. PLATT. Yes, sir; and I move that it be referred to the Committee on Printing.

The motion was agreed to.

AMENDMENT TO A BILL.

Mr. SHERMAN submitted an amendment intended to be proposed by the Committee on the Library to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

COURT OF APPEALS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Louisiana, [Mr. JONAS.]

Mr. JONAS. I propose to accept the amendment which was offered by the Senator from Arkansas [Mr. GARLAND] as the third section of my amendment, if there is no objection, in lieu of the third section as proposed by me. I offer the amendment as amended as the third section of the bill, to come in after the second section.

The PRESIDING OFFICER. The Senator from Louisiana modifies his amendment as indicated by him. The amendment will be read as modified.

The ACTING SECRETARY. It is proposed to strike out the third section of the bill, and in lieu thereof to insert:

That the first section of the act of Congress entitled "An act to determine the jurisdiction of circuit courts of the United States and to regulate the removal of causes from State courts, and for other purposes," approved March 3, 1875, be, and the same is hereby, amended so as to read as follows:

"That the circuit courts of the United States shall have original cognizance, concurrent with the courts of the several States, of all suits of a civil nature, at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of $500, and arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority, or in which the United States are plaintiffs or petitioners, or in which there shall be a controversy between citizens of different States or a controversy between citizens of the same State claiming lands under grants of different States, or a controversy between citizens of a State and foreign states, citizens, or subjects; and shall have exclusive cognizance of all crimes and offenses cognizable under the authority of the United States, except as otherwise provided by law, and concurrent jurisdiction with the district courts of the crimes and offenses cognizable therein. But no person shall be arrested in one district for trial in another in any civil action before a circuit or district court. And no civil suit shall be brought before either of said courts against any person by any original process or proceeding in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving such process or commencing such proceeding, except as hereinafter provided; nor shall any circuit or district court have cognizance of any suit founded on contract in favor of an assignee unless a suit might have been prosecuted in such court to recover thereon if no assignment had been made. And the circuit courts shall also have appellate jurisdiction from the district courts, under the regulations and restrictions prescribed by law."

That the act entitled "An act to amend an act entitled 'An act for the removal of causes in certain cases from State courts,' approved July 27, 1866," which was approved March 2, 1867, be, and the same is hereby, repealed.

That the judiciary act, approved March 3, 1875, entitled "An act to determine the jurisdiction of circuit courts of the United States and to regulate the removal of causes from State courts, and for other purposes," be, and the same is hereby, amended as follows, namely: After the first section of said act, insert: "But no city, town, village, county, or other municipal or public corporation shall be sued in the courts of the United States;" and at the end of section 2 of the same act insert: "Private companies or corporations existing and organized in one State, but doing business in another State, if sued in the courts of the latter, shall not have the privilege of removing the case to the United States courts."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Louisiana, [Mr. JONAS,] as modified, as just read.

Mr. DAVIS, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MORGAN. Before the vote is taken on this amendment, I should like to call the attention of the Senate to the fact that we are on a subject now not germane to the bill. This amendment of the Senator from Louisiana is introducing a subject foreign to this measure, and which, according to the arguments of the friends of the bill, ought to be left to separate consideration by the Senate. It will be observed that the first and second sections of this bill for the establishment of a court of appeals relate very remotely indeed to the main object of the bill.

The first section provides for the holding of a circuit court in every judicial district of the United States; provides also for the time and place of the commencement of the terms. The section further provides:

And when more than one judge competent to hold such circuit court is present each judge may hold a separate session thereof, in which case the presiding justice or judge shall from time to time designate the causes to be tried or heard before the other judge or judges; and the panel of jurors selected and summoned for the district court shall also be the panel of the circuit court, unless a special order to the contrary be made by one of the judges of said circuit court at least thirty days before the term.

It then makes another change in the law as I understand it.

Every circuit and district judge is empowered to hold a district court in any district within the circuit whenever assigned to that duty by the circuit judge who is senior in office, and two or more judges may hold separate sessions thereof.

The second section provides:

That the several circuit courts of the United States shall have and exercise no jurisdiction in cases of appeals or writs of error from the district courts allowed, taken, or sued out after the 1st day of September, 1882, except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction, may be had as heretofore provided.

The second of the sections I have just read is preliminary to the introduction into the bill of the court of appeals. The first section, however, has no direct reference to the court of appeals. It is a modification of the existing judicial system so far as relates to the circuit court, and provides by statute, as I understand has not been heretofore provided, that the judges of the circuit court may hold district courts, and also provides that the circuit courts shall be held in each district, and for the time of the commencement of the sessions, and the district court may be held in separate sessions as the circuit courts may now be. After the introduction of this foreign matter into this bill and much other in the further provisions of it, the argument is not in point that the Senator from Louisiana proposes to put in foreign or new matter by this amendment. The bill itself is in effect substantially an entire revision of the judicial system of the United States, and we insist that when the Senate is revising it in the important particulars indicated in the first and second sections of the bill, we are not out of place or out of order, or in any sense introducing into this bill an inopportune or improper amendment, when we desire to extend those provisions further and to regulate the jurisdiction of the circuit court of the United States so as to cut down some branches of the jurisdiction now exercised when we consider that they have been ingrafted on the system by judicial construction, and certainly not by any acts of Congress to that effect.

I will not detain the Senate by any further attempt at the argument of the question which has been so ably discussed both by the Senator from Louisiana [Mr. JONAS] and the Senator from Arkansas, [Mr. GARLAND.] The truth is that in the sense of the bar of the United States, at least those of the profession who are willing that the State courts should be held on to as the forums in which are to be adjudicated the important questions between the people, encroachment has already occurred on the rights of the States and that too much has been done in the direction of conferring power upon the Federal tribunals. The very clog we are complaining of now, beyond all controversy, as a matter of fact has been introduced into our judicial system in virtue of the decisions that have been made assuming jurisdiction over matters which the Congress of the United States never intended these courts should have. I do not know that the people of the United States or their representatives in the Senate and House will ever be brought to the consideration of this question until they shall find that the Federal tribunals have usurped all the judicial power that now belongs to the States and that has heretofore been exercised by them. The march in that direction is so rapid that it amounts to a crusade against the tribunals of the States, and we are left now to consider only and how much of additional jurisdiction we shall take from the State tribunals and confer on the Federal tribunals, and how much and wider opportunity we shall open to men to litigate with each other in the Federal tribunals rather than in the State courts.

I trust that the amendment offered by the Senator from Louisiana will at least receive the support of every man in this body who desires to put some restriction upon the progressive march of Federal power in the acquisition of new authority to the judiciary of the United States.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Louisiana, [Mr. JONAS,] on which the yeas and nays have been ordered.

The Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] Were he present, I should vote "yea."

Mr. CALL, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. MITCHELL.] I do not know how he would vote. I should vote "yea," if I were at liberty to vote. If gentlemen on the other side can tell me what his vote would be, I shall know what to do.

Mr. ROLLINS. What is the inquiry?

Mr. CALL. How would the Senator from Pennsylvania [Mr. MITCHELL] vote on this amendment?

Mr. ROLLINS. He would undoubtedly vote "nay."

Mr. CALL. Then I shall not vote.

Mr. FRYE, (when his name was called.) I am paired with the Senator from Georgia, [Mr. HILL.] If any Senator in favor of this bill can say that the Senator from Georgia would desire to vote for the amendment, I shall refrain from voting.

Mr. CALL. I have no doubt about it, though I am not authorized to speak for the Senator from Georgia, but I judge that his general views are to that effect.

Mr. FRYE. I am authorized by the Senator from Georgia [Mr. HILL] to vote generally on my own judgment. I think I shall refrain from voting in this case.

Mr. BECK, (when Mr. HALE's name was called.) I am paired with the Senator from Maine, [Mr. HALE,] who is necessarily absent from the Senate for a time to-day. He would vote "nay" if here, and I should vote "yea."

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were present I should vote "yea."

Mr. ROLLINS, (when his name was called.) The Senator from Wisconsin [Mr. CAMERON] is paired with the Senator from Nevada, [Mr. FAIR.] The pair is transferred to the Senator from Virginia, [Mr. MAHONE.] I vote "nay."

Mr. SHERMAN, (when his name was called.) In the temporary absence of the Senator from California, [Mr. FARLEY,] I am paired with him. On this question I should vote "nay." I presume he would vote "yea."

The roll-call was concluded.

Mr. ALLISON. I am paired with the Senator from Georgia [Mr. BROWN] on political questions. Not regarding this as political, I vote "nay."

Mr. PLATT. I am paired with the Senator from West Virginia [Mr. CAMDEN.] If he were present, I should vote "nay."

Mr. WILLIAMS, (after having voted in the affirmative.) I voted "yea." I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] I asked his colleague just now whether the pair extended to this bill, and he said that it did not.

Mr. DAVIS, of Illinois. I saw the Senator [Mr. SAUNDERS] before he left, in the presence of the Senator from Iowa, [Mr. ALLISON,] and he said it extended to this bill.

Mr. VAN WYCK. What was the remark of the Senator from Kentucky?

Mr. WILLIAMS. I am paired with the Senator's colleague generally. He said the Senator present [Mr. VAN WYCK] would tell me whether my pair extended to this amendment offered to this bill.

Mr. ROLLINS. The Senator from Nebraska [Mr. SAUNDERS] informed me before he left that the pair did extend to this bill.

Mr. DAVIS, of Illinois. He so told me.

Mr. VAN WYCK. I did not say to the Senator from Kentucky that I did not understand that the pair would relate to this bill. I could not see really how it ought to be a party question, and my impression was that the Senator was at liberty to vote on the amendment. That is my impression.

Mr. WILLIAMS. Under the circumstances, as there seems to be some doubt about it, I withdraw my vote.

The PRESIDING OFFICER. The Senator's vote is withdrawn.

Mr. CAMERON, of Wisconsin. I was paired with the Senator from Nevada, [Mr. FAIR,] but my pair has been transferred, so that I can vote. I vote "nay."

Mr. PUGH. I desire to announce the pair of the Senator from Delaware [Mr. SAULSBURY] with the Senator from Michigan, [Mr. FERRY.] I do not know how either of them would vote.

Mr. GEORGE. I am paired on this amendment with the Senator from Louisana, [Mr. KELLOGG.] I desire, however, to put myself on record as in favor of the amendment.

The result was announced—yeas 21, nays 27; as follows:

YEAS—21.

Cockrell,	Hampton,	McPherson,	Vest,
Coke,	Harris,	Maxey,	Voorhees,
Davis of W. Va.,	Jackson,	Morgan,	Walker.
Garland,	Johnston,	Pugh,	
Groome,	Jonas,	Slater,	
Grover,	Jones of Florida,	Vance,	

NAYS—27.

Allison,	Dawes,	Jones of Nevada,	Plumb,
Anthony,	Edmunds,	Lapham,	Rollins,
Blair,	Harrison,	McDill,	Sawyer,
Cameron of Wis.,	Hawley,	McMillan,	Sewell,
Chilcott,	Hill of Colorado,	Miller of Cal.,	Van Wyck,
Conger,	Hoar,	Miller of N. Y.,	Windom.
Davis of Illinois,	Ingalls,	Morrill,	

ABSENT—28.

Aldrich,	Cameron of Pa.,	Hale,	Pendleton,
Bayard,	Fair,	Hill of Georgia,	Platt,
Beck,	Farley,	Kellogg,	Ransom,
Brown,	Ferry,	Lamar,	Saulsbury,
Butler,	Frye,	Logan,	Saunders,
Call,	George,	Mahone,	Sherman,
Camden,	Gorman,	Mitchell,	Williams.

So the amendment was rejected.

Mr. JONAS. I wish to reserve the amendment for a separate vote in the Senate.

The PRESIDING OFFICER. The Chair will notify the Senator from Louisiana that it is not in a condition to be reserved, but it may be offered again in the Senate.

Mr. JONES, of Florida. I move to amend section 3 of the bill by striking out, after the word "thereof," in line 8, the following words:

And two of the district judges, to be designated by an order of the court at each term thereof to serve for the succeeding term, the designation to be made as far as practicable in rotation.

In line 13, substituting "three" for "four," and striking out, in lines 14, 15, 16, 17, and 18, the following words:

In case of the absence of a district judge so designated, another district judge may be designated by the judges then present to serve as long as such absence shall continue.

So as to make that part of the section read:

The said court of appeals shall consist of the justice of the Supreme Court assigned to the circuit, and of the circuit judges thereof, any three of whom, including at least one judge competent to preside, shall constitute a quorum. Such justice of the Supreme Court, or, in his absence, the circuit judge present who is senior in office, shall preside. In the absence of a quorum the judge or judges present shall adjourn the court from day to day, or without day.

Mr. President, I feel in common with nearly every member of the legal profession the necessity of doing something to relieve the Supreme Court of the great pressure of business now upon it. I appreciate very greatly the effort of the distinguished Senator who has brought forth this bill, but affecting as it does the interest of every constituency represented in this Chamber it is a matter worthy of the highest reflection.

The bill proposes to create a tribunal made up of district and circuit court judges, investing the tribunal with all the power now possessed by the Supreme Court of the United States. I say that because the bill proposes to give in each circuit of the Union the very power now exercised by the Supreme Court of the United States, for every case involving a sum over $500 must pass through this intermediate tribunal before it can reach the highest court in the land. I was of the impression the other day, after consultation with one of my brother Senators, that a party in a case involving a sum over $10,000 would have under this bill the right of appeal directly to the Supreme Court of the United States, but that——

Mr. BUTLER. If my friend from Florida will permit me, I do not understand that there is to be a right of appeal for any sum under $10,000 from this appellate or intermediate court.

Mr. JONES, of Florida. All cases of appeal under this proposed law must go to the intermediate tribunal, and for all sums over $10,000 an appeal from that tribunal may be taken to the Supreme Court of the United States. You cannot go directly from the judgment of a circuit court of the United States to the Supreme Court of the United States with a case involving $100,000 or $1,000,000, if you wish to do it, under this bill; but you must first submit the controversy to the judges of the intermediate tribunal, and after that tribunal has rendered its judgment the party dissatisfied may take an appeal to the Supreme Court. That is the proposed law unquestionably.

In that view of the case the proposed court of appeals in each circuit becomes what I said a while ago—a tribunal equal in dignity and consequence to the Supreme Court of the United States within each circuit. Then comes up the question, of what material ought that tribunal to be composed? I have some doubt in my mind as to the wisdom of requiring every suitor to go to this tribunal before he can go to the final court of appeal. I think it will be found to involve delay in the collection of honest debts, because whenever a party who makes up his mind to appeal to the intermediate tribunal with a judgment against him in the lower court wants delay he will go to the second court. I am not sure but that it would have been wiser to have given a party a direct appeal from the judgment of the circuit court of the United States to the Supreme Court in all cases which involve an amount above $10,000; but I am speaking now of the bill as it is.

Of whom ought the court to be composed which is to be invested with these great powers? The object of my amendment is to have it composed of the circuit judges and one of the justices of the Supreme Court, leaving the district judges where they belong, to discharge the subordinate functions appertaining to their offices. I would be content with that kind of a court of appeals. I do not exaggerate when I say that the circuit judges and the Supreme judge would give in each circuit a court in which the profession and the public would have greater confidence than in a shifting tribunal made up to-day of one set of district judges and another day of another set.

There ought to be permanency to some extent in this proposed establishment. I do not think that it is wise to invest the district judges with the high appellate power proposed by the bill, because I think it is nothing but human nature for such judges after they once taste the exercise of higher authority to be, I will not say absolutely inefficient, but not as capable or as well inclined to perform their other functions as they would be outside of it. That is the tendency of power. I do not believe that with all the learning possessed by the judges of the Supreme Court to-day any of its members are as well qualified to discharge *nisi prius* duties as those judges who are confined exclusively to that business. If we can get a court composed of circuit court judges and a justice of the Supreme Court, it will I think give more confidence to the people than a tribunal made up of district judges, circuit judges, and a Supreme justice.

The bill proposes to alternate between the district judges, having one set of district judges to sit at one term and another at another. We know that jealousies run throughout human nature, no matter where you find it. There is no position in life so high in which human pride and human jealousy and suspicion may not be found. You would find one set of district judges probably reversing the judgment of their brother district judges, and then another set would come up feeling a little chagrined, it may be, by the action of the judges who preceded them, and thinking that their brother judges are not quite so wise as themselves and that their judgment ought to be reversed.

I do not apply this to a permanent court where all are equal; but this is not a new or untried system. We have had it elsewhere. We tried it once in Florida in the early days. We had some able men on the appellate bench who performed *nisi prius* duties, and they alternated, and it was not satisfactory to anybody. The men who performed duties on the circuit were required to meet and decide cases of appeal; but it has never given such satisfaction when tried as a permanent supreme court. If we can get a permanent court out of three circuit court judges I would infinitely prefer it to a court made up of five including two district judges. That is the purpose of my amendment.

There is another provision of the bill to which I wish to call attention.

Mr. LAPHAM. Before the gentleman passes from that point will he permit me to make a suggestion to him?

Mr. JONES, of Florida. Certainly.

Mr. LAPHAM. If you take a judge from the Supreme Court for each of the courts of appeal you will destroy the court here.

Mr. JONES, of Florida. The provision is already in the bill putting Supreme judges on the appellate courts in the various circuits. I do not put them there at all by my amendment; I find them here, and I only propose to leave them where I find them; but I would have the appellate court composed of one member of the Supreme Court and the circuit judges.

We know that under existing law the district judges can exercise the powers of circuit judges when the latter are absent, and it might be found very convenient in the administration of justice to take a number of those district judges and all of the circuit judges and put them on this court of appeals. Who are to do the business of the subordinate jurisdictions when this court sits, as it is required to do, twice a year? You take two district judges out of the fifth circuit and you take the three circuit judges, and then you will have to transfer from one circuit to another some of the district judges in order to have the original duties appertaining to the circuit and district courts performed. I think it would be better, and I say this with all deference to the distinguished Senator who has charge of this bill, to leave the district judges where they are and not undertake to elevate them too high, and in this way render them inefficient for the performance of the subordinate *nisi prius* duties appertaining to their offices.

The other provision of the bill on which I wish to say a word is section 10, which provides:

That the decision of the court of appeals upon questions of fact shall in all cases be final and conclusive except as otherwise provided in this section, the facts to be specially found if requested by either party.

That applies as well to cases falling exclusively within the jurisdiction of this new court as to cases from which an appeal may be taken to the Supreme Court of the United States. In other words, it proposes to make the judgment of the new court of appeals conclusive upon all questions of fact, including appealable and non-appealable cases. We know very well that in matters of appeal it is very important at times to enable the appellate court to look into the facts of the case, and indeed the facts of the case in nine cases out of ten are of more importance than the law. Lawyers make strange blunders oftentime in wheeling a barrow full of books into the court-room and commencing to read from them without making a statement of the facts of the case to the court. Where a case goes to the Supreme Court under this bill, after once being decided by the court below, under this section the decision of the tribunal below upon the facts is conclusive.

Mr. MORGAN. If the Senator from Florida will allow me, I wish to ask him his construction of the language in section 10 of the bill, as to whether it is intended to be conclusive on the Supreme Court, or conclusive on the inferior court when the case is remanded?

Mr. JONES, of Florida. I take it to be conclusive on the Supreme Court.

Mr. MORGAN. It is not so stated. It is not stated on what court it is to be conclusive.

Mr. JONES, of Florida. It is conclusive everywhere. That is the intention of it evidently.

Mr. MORGAN. Then I ask whether the court of appeals is expected to find the facts conclusively where bills of exception are taken?

Mr. DAVIS, of Illinois. No, in appeal cases; not upon writs of error.

Mr. MORGAN. Would it then apply to equity causes, admiralty causes, and patent causes?

Mr. DAVIS, of Illinois. The Senate did not agree to that one amendment as to patent causes. Patent causes can go up on law or fact.

Mr. MORGAN. It is intended, then, that the finding of the facts by the appellate court shall be conclusive on the superior court, and shall be conclusive on the inferior court when the case is remanded?

Mr. JONES, of Florida. That I understand to be the meaning of the section. I question very much the power of Congress to do that under the Constitution. In cases wherein an appeal may be taken to the Supreme Court of the United States the Constitution says:

In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

Mr. MORGAN. If the Senator will allow me, I desire to call his attention to the language of section 10. It reads:

That the decision of the court of appeals upon questions of fact shall in all cases be final and conclusive except as otherwise provided in this section, the facts to be specially found if requested by either party.

That does not confine it to cases coming up by appeal. It says nothing about cases that come up on writ of error; it says "the decision of the court of appeals upon questions of fact shall in all cases be final and conclusive."

Mr. JONES, of Florida. The Senator from Illinois says that is the meaning of it.

Mr. MORGAN. But that is not the reading of it.

Mr. DAVIS, of Illinois. After the Senator from Florida gets through, I will explain it.

Mr. JONES, of Florida. I think it is clear what it means. It means that when a controversy is before the court of appeals proposed to be created by this bill, and all the facts in the case are found by that court, its judgment upon the facts as distinct from the law shall be final and conclusive, and in a case involving $100,000 or $500,000 which may be appealed to the Supreme Court, when the party reaches the Supreme Court he will not be at liberty to question any finding of the court below with regard to any fact in the case, but he must rely exclusively upon the law as applied to those facts. Oftentimes, as I say, nothing can be more important than correct conclusions in respect to the facts of the case, and tribunals are invested with powers to investigate them with respect to conclusions of fact as they do respecting conclusions of law, and where you open a case for appeal from a subordinate appellate tribunal to another the second tribunal ought to have precisely the same power and authority over the case, both with respect to the law and the fact, that was possessed by the tribunal from which the appeal was taken. If you shut the door with respect to the facts, however erroneous the conclusion of the court below may appear from the record to have been, the reviewing tribunal will be powerless. I say when you give an appeal at all you ought to leave to the reviewing tribunal power to correct matters of fact if correction is to be made in respect to them.

Mr. BUTLER. Or some discretion at least.

Mr. JONES, of Florida. Of course when we come to make up ordinary bills of exceptions by writ of error there is seldom any trouble about the facts of the case. The chief controversies arise in cases in equity where the appeal takes up the whole case both as to fact and law; but a bill of exceptions in a case of a writ of error, as we know, usually narrows the controversy down to a few points, and the facts bearing upon those points are generally agreed to by the counsel and certified to by the court. Those cases generally leave but little to dispute about in the appellate tribunal; but in all other cases, in equity causes particularly, the appellate tribunal ought to have full sway over the record both as regards the law and the facts. I do not think that any chancellor or any judge, however great he may be, would be able to do justice in any equity cause unless he could go into all the facts as well as the law of the question.

This section would close the door. It would lighten very greatly, it may be, the labors of the Supreme Court, but I do not suppose that they want to be put out of employment. Indeed they will have plenty to do, I imagine, in any event.

I do not now propose an amendment in this regard; but I propose to draw attention to the phraseology of this section in connection with what I have said in reference to the material out of which I think this important tribunal ought to be composed. The district judges in my section of the country are very good men, very clever men, and I think they would prefer to be left where they are, performing their *nisi prius* functions rather than to be elevated to the court of appeals sitting side by side with a Supreme judge and taken away from the functions which they were appointed to discharge. If we are going to have a court that will give confidence to the people and to the profession, I would be willing to appoint four circuit court judges rather that two and to have a permanent tribunal and not a shifting one made up of one set of perambulating judges to-day and another set to-morrow. I think this matter is worthy of examination, as all here are interested in the operations of this bill as it deals with the interest of the constituencies represented by everybody on this floor.

Mr. DAVIS, of Illinois. Mr. President, I would prefer a court of five permanent judges if we could get it, but with the amendment of the Senator from Missouri [Mr. VEST] added to the bill, which provides that the judges who hear a case below cannot participate in the appellate tribunal, it is impossible to have such a court. If the amendment of the Senator from Florida be adopted the court of appeals will consist of three circuit judges and a judge of the Supreme Court. The judge of the Supreme Court is expected to hold the appellate court but very little; he can be there but very little. The judges of the Supreme Court are now authorized to hold circuit courts in the respective circuits of the United States to which they may be assigned, but they are there very little; it is impossible to be there; they cannot do it. Their circuit duties must be necessarily light, because they are required to be here nearly all the time. They are here now six, seven, or eight months every year. At one of the terms of this appellate court a Supreme judge may occasionally be present. At present, in my own region of the country, I know that very few Supreme judges hold any jury trials, simply because they are not able to be there. The court of appeals then would consist of three circuit judges, if you provide that the district judges shall not sit to hold the court. One of these judges could not sit at all, because they are all engaged in the trial of causes, and there would be but two present who would be competent to sit in any one case. You see at once how impracticable that system is.

I am sorry that there is such criticism upon the district judges of this country, as if they were not, as a general thing, competent to hold this court. I do not know the district judges in South Carolina, Alabama, and Florida, except as my friends have talked about them here.

Mr. BUTLER. I wish to say that so far as South Carolina is concerned the district judge in that State is a most estimable gentleman. I have not one word to say against him. He is a very pure and upright man.

Mr. DAVIS, of Illinois. Then I ought to have said in Florida and Alabama.

Mr. JONES, of Florida. I wish to remark that I say nothing against any of the district judges anywhere. It is the principle of which I speak.

Mr. MORGAN. I beg to say that I put upon the record my opinion of at least one district judge in Alabama, and no Senator has yet denied the facts which I stated.

Mr. DAVIS, of Illinois. The district judges in the western country are a very able body of men, as able as any circuit judges that will be got under this bill. As a general thing they are able men, conscientious men, prudent men, and learned men. You have to take things as you find them. We are to look for two circuit judges in each circuit in getting these eighteen new judges.

My friend from Florida says he would be willing to have four circuit judges. So would I, but you cannot get them. You cannot get a court of appeals unless you use the district judges for that purpose. I may say conscientiously that in my own country they will be as acceptable as any judges who may be appointed under the bill, should the bill pass, and I believe they would be so in the adjoining circuits, the one going to the Pacific and the one extending down, including Iowa, Arkansas, and all that part of the country. I think the district judges generally would be as acceptable as any circuit judges. When appointed, they are supposed to be very able men. Unfortunately, some were appointed just after the war who are not so acceptable, and I am very sorry for it; but that ought not to be used as an argument to defeat this bill and as an argument against the system.

Objection is made to the rotatory system. In New York the court of appeals for many years consisted of four judges who were permanent and four selected every year from the supreme court of the State, and I never hear any objection to the system on that ground.

It seems to me that since the amendment of the Senator from Missouri, it will be as much as we can do to get along with the bill at all with two judges of the district courts assigned to the court of appeals in each circuit, because that would make a court of four when the supreme judge is absent. If one of these gentlemen has been engaged in the trial of causes, as he will have been most of the time, it will leave but four judges, and if one should get sick, as four is a quorum, they would not have a quorum.

I have thought it best, considering the amendment of the Senator from Missouri, that we should fix the quorum at three instead of four. One judge might be sick, and then they could not hold the court.

In reference to the tenth section, it is very plain what the section means. It means that the court of appeals shall find all the facts in every case. Necessarily where it is a common-law case and goes up by writ of error upon a bill of exceptions, they send it up as they do now in all trial courts, and it goes to the Supreme Court. In admiralty cases, in equity cases, and in patent causes, as the bill stands now, a case can go up without it, unless the bill shall be changed in the Senate.

The great relief to the Supreme Court is to come from the finding of facts by the courts below. By the act of 1875 the Supreme Court was greatly relieved in admiralty and maritime cases, which were, during the time I served on the bench, the most difficult cases to determine, in consequence of the involved facts. Congress said that the court below, the single circuit judge, should find the facts absolutely, and since 1875 no admiralty case has gone to the Supreme Court except upon a question of law. There must be some tribunal, and inasmuch as the court below, the original trial court, and an appellate court has found the facts, we thought that that was enough, and that these judges would be as competent to find the facts as the judges of the Supreme Court of the United States.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question there?

Mr. DAVIS, of Illinois. Yes, sir.

Mr. JONES, of Florida. Under this bill, after an equity cause goes to the Supreme Court from the intermediate court, would it be considered by the Supreme Court the same as it is now?

Mr. DAVIS, of Illinois. No; because as it is now the facts are not found by the court below. It would be considered exactly as an admiralty case is considered at the present time.

Mr. HOAR. Mr. President, I merely wish to say one word in regard to the matter which has been suggested as to the district courts. It seems to me that any person familiar with the legal history of

this country will agree that among our very brightest and best judicial reputations have been those of the judges of the United States district courts. The present objection or prejudice and dislike raised against some of those judges in certain sections of the country grow out of a state of things which has now gone by, and which is not likely ever to reappear.

It so happened that the district court was the depository of the judicial authority of the United States so far as it had jurisdiction over crimes and offenses against the United States at a time when by reason of the rebellion a very large number of the ablest and best lawyers in those communities was disqualified naturally from judicial appointment. Many of them were disqualified under the Constitution. In the disturbed condition of things which followed the war the district judge was obliged to uphold the authority of the United States against the very deep feeling existing in the community where his district was situated, and the United States had not the unlimited power of selection of the best men for the reason I have stated. It is only a few months since Congress passed a bill relieving the collector of the port of Savannah, in Georgia, from a defalcation by his subordinate officer on the ground urged by both the Senators from Georgia, and accepted by the Senate, that that collector could not obtain an educated white man in Savannah whom he could appoint to the subordinate office and give charge of his funds, because all of them had just been engaged in the rebellion. The collector made that point and it was urged by the Senators——

Mr. GEORGE. I did not hear what the Senator from Massachusetts said. Will he speak louder?

Mr. HOAR. I was speaking of the peculiar difficulty in obtaining the best and most acceptable legal talent for the district courts of the United States in the disturbed condition immediately after the rebellion. These courts, while they had to uphold and were the sole depositories of the judicial authority of the United States in those disturbed communities, could not, for the reason that the intelligence, the legal ability of those communities had been so largely engaged on one side in the controversy, have that unrestricted power of selection which they had had before the war and would have in ordinary times. I called attention to the fact that the Senate had recently relieved the collector of the port of Savannah from a defalcation shortly after the war, the two Senators from Georgia urging that he could not find in that community an intelligent and educated white man who was in sympathy with the Republican administration, and the collector took, on the recommendation of the Secretary of the Treasury, a clerk or subordinate from a Northern State, who proved to be a defaulter, and we relieved him against loss. But with the exception of that brief period, I desire to put on record my belief——

Mr. JONES, of Florida. Will the Senator from Massachusetts permit me to ask him a question? Do I understand him to say that at this time gentlemen qualified to fill the position cannot be found?

Mr. HOAR. I am not speaking of this time at all. Not that I know of. If the Senator understands me as saying that, he understands me just the contrary of what I say. I was accounting for the prejudice against district courts arising in the disturbed period immediately after the war and saying that that time has gone by, that it never existed before, and it is not likely to reappear again. I did not make the suggestion with the view of casting any blame on those communities or otherwise, but it is the natural course of events; it must have been so in the nature of the case.

I think that on the whole the most enviable judicial fame (I do not think I would even except the judicial fame of Chief-Justice Marshall, great as it is) that has ever adorned the legal annals of this country is that of a judge of the United States district court, Judge Sprague, who died at a great age in the city of Boston within the last few years. The judge of the district court has the administration of prize causes. He administers a system of jurisprudence not like that of a judge of a single State court, not even like that of a judge of the Supreme Court of the United States. It is not confined in its authority to the matters over which the common law prevails, but is a system of jurisprudence as wide as civilization itself, whose authority is recognized by every nation as it rises out of the limits of barbarous nations and begins to have commercial intercourse with other peoples.

That is the law of nations, and it is to be administered and applied to causes of much consequence, to causes in regard to which the passions of man are deeply stirred. The authority of a great judge in prize causes is recognized over the entire civilized world, and his decision will be regarded as a landmark so long as civilization itself endures. The law of nations cannot be much changed except in the few cases where special treaties are made between particular nations. There is no legislative body having power to change it. It depends on those great fundamental principles of morals which underlie all the relations of man with man. The number of judges who have attained great fame in that branch of jurisprudence is necessarily very few—three or four only in England, three or four only in this country, and the same limited number in France, in Holland, and in Italy, I believe; I do not know so much about the latter country.

In time of any great maritime war the fame of this nation, the rights of this nation, its reputation among the jurists of the world, is to be upheld by the judges who sit in the district courts in the great maritime ports of New Orleans, Charleston, Savannah, Baltimore, Philadelphia, New York, Boston, and Portland; and I think the Senate ought never to do anything which even implies a purpose to degrade or belittle the character of these important tribunals. As I said just now, considering its extent, considering the duty, the character of the legal principles which are to be administered, considering the greatness of the subjects and the interests over which it extends, I would rather have the fame of a great judge in prize causes like that of the late Judge Sprague than any other judicial fame which ever has been won or which ever will be won in this country or in England by any jurist.

Mr. JONES, of Florida. I wish to say that I did not intend to cast the least reflection upon any of the district judges of the United States. It was not against the personal qualifications of the men that my argument was directed but the system of having a man one day sitting in a court of appeals and another day at *nisi prius*. I say that that system has never been a success and it never will be a success. As to the eminence which Judge Sprague well earned in his high office as a judge in prize cases, I question very much whether he would have attained it under a system like this which is proposed. I think that the district judges, if it is possible, ought to be confined to those high duties of which the Senator from Massachusetts has spoken so well.

Mr. HOAR. May I ask the Senator from Florida a question?

Mr. JONES, of Florida. Certainly.

Mr. HOAR. Does he not think that it is the opinion of the profession in all the States of the Union that, if the amount of public business will permit, it is very desirable to have the judges of the supreme law court discharge some *nisi prius* duties, so that they may be familiar with the profession, familiar with practical affairs, familiar with the course of business in the respective localities?

Mr. JONES, of Florida. I know that that is the opinion of some members of the profession possibly. It was Mr. Webster's opinion; indeed, he made a very strong argument once in the other House upon it; but I confess there are a great many who do not concur in it, and who would prefer to see the court of appeals permanently located at the capital, and not have the judges mixing up with the drudgery of the work of the circuit at all, for practically when they go on the circuit they do not do much except to hear a few cases on questions of law, and seldom with a jury. At least, that has been the practice in Florida. I do not know how it has been in other parts of the Union. The business of an appellate tribunal to a great extent unfits them for *nisi prius* business.

I think if it would be possible to have such a court it ought to be a permanent one, and that the circuit judges ought to hold that court. In saying this I do not mean to reflect in the least upon the district judges, whose time I am very sure will be well taken up in the discharge of their ordinary duties outside of the business proposed to be transacted by this new court of appeals.

The Senator from Illinois says it is not possible, in view of the amendment proposed by the Senator from Missouri and adopted by the Senate, to get a court made up of circuit court judges. I was not here, however, when that amendment was adopted, and am not familiar with its history.

As to what the Senator from Massachusetts says about the district judges distinguishing themselves in prize cases, I sincerely trust that the talent of the district court bench will not have to lie dormant until a great war springs up to bring it into operation, because he very well knows that it is only once in a life-time that it is possible for a prize case to find its way into a district court.

Mr. HOAR. Does not the same remark apply to admiralty very largely?

Mr. JONES, of Florida. No.

Mr. HOAR. Considerably?

Mr. JONES, of Florida. No; admiralty jurisdiction is one of every-day occurrence throughout the whole country. I do not think any special distinction has ever been won in an admiralty court in this country, because it is a very simple practice. There have been some judges who have attained eminence in it. I think Judge Marvin, of my State, who sat for twenty-five years at Key West, obtained as much distinction in an admiralty court as any district judge in this country ever obtained, and justly so.

Mr. DAVIS, of Illinois. And Judge Ware.

Mr. JONES, of Florida. Judge Ware did, too; he was a very able judge.

Mr. DAVIS, of Illinois. Judge Ware was equal to anybody.

Mr. JONES, of Florida. But outside of admiralty there is not much left for the district judge to do except what he does when holding the circuit courts. I have often wondered why some step had not been taken to do away altogether with the distinction now existing between the circuit and district courts, and why they should not all fall under circuit court jurisdiction. It is only a refinement in reality. It was established when it was the custom in former days for the supreme judge to go down and sit with the district judge on the circuit, in point of fact, and perform some substantial duty, which is very seldom done now. In the early history of the Government, when the acts of 1789 and of 1792 went into operation, the supreme judges were in the habit of going regularly on the circuit and performing their full part of the circuit court work. Then there were circuit courts and there were district courts formed; and

in the absence of the judge of the Supreme Court the district judge of course was confined to his ordinary jurisdiction; but since that everything has been changed, and we have now circuit courts independent of the Supreme Court judge, with judges appointed to preside over them whose duties are confined to their circuits. It would be just as well, in my opinion, if the two jurisdictions were resolved into one for all substantial purposes, but that is not a question arising under this bill.

What I said a while ago in regard to the tenth section is a matter of very great importance. The Senator from Illinois has stated that an equity cause under this section, if it becomes a law, cannot be heard in the Supreme Court as it is heard to-day. I am sure that I do not exaggerate when I say that in equity cases nothing is more important than to have the court above to stand as near as possible in the shoes of the court below. It is not like a case at law altogether, for an appeal in equity, according to the English practice to-day and according to the practice now prevailing in our courts, opens up the whole case to the court above. It does so even in the English House of Lords in an equity cause, in the highest court of equity in the British Empire.

When a case goes up on appeal to the House of Lords in Great Britain, where a case can be gotten up, that appeal opens up, according to the principles of equity, the whole case, and the court above is not confined to any special findings of fact by the inferior tribunal. This section undertakes to tie the hands of the court above right in the face of the provision of the Constitution, which in my judgment does not allow this thing to be done, because the Constitution declares in the clearest possible terms that—

In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The power here given to create exceptions and to prescribe regulations applies equally to the law as to the facts, and you may as well undertake to exclude the Supreme Court from taking cognizance of questions of law where it has appellate power at all as to exclude it from considering the fact in equity causes.

Mr. DAVIS, of Illinois. It does not exclude it. They find the facts.

Mr. JONES, of Florida. They find the facts, but we know that the great majority of controversies in equity sometimes grow out of dispute with respect to the facts, when there is very little or no disagreement in regard to the law. I have known some of the most important controversies in equity that were ever decided to turn upon disputes with regard to the facts of the case which the chancellor had to decide, while there was little or no dispute whatever in regard to the law applicable to those facts, if the facts themselves could be ascertained.

I say it is an elementary principle of equity jurisprudence, both in England and in this country, that an appeal opens up the whole case, both as to the law and the fact.

Why should not that principle be retained? What sort of hardship is it for the Supreme Court of the United States in a case which involves a sum exceeding $10,000, in equity, to review the whole record as it does now? The counsel of course are required in their briefs to give the court an outline of the controversy, to state the important facts involved; and the labor of investigating facts I do not think is very great. I do not think it is wise or expedient to cut off from the Supreme Court in equity causes all authority to look into the facts of the case and to make the judgments of this new court of appeals absolutely conclusive with respect to those facts, leaving nothing but the mere law of the case, which in many instances may be comparatively unimportant, the only question for the court above to decide. That seems to be the object of this section.

The PRESIDING OFFICER. The question is, Will the Senate agree to the amendment proposed by the Senator from Florida, [Mr. JONES?]

The amendment was rejected.

Mr. MORGAN. I move to amend the tenth section of the bill by striking out the words:

That the decision of the court of appeals upon questions of fact shall in all cases be final and conclusive except as otherwise provided in this section, the facts to be specially found if requested by either party; but.

So as to read:

A review upon the law may be had upon writ of error or appeal in the manner now provided by law to the Supreme Court of the United States from every final judgment or decree of the court of appeals, where the matter in controversy exceeds the sum or value of $10,000, exclusive of costs, or where the adjudication involves a question upon the construction of the Constitution or the construction or the validity of a treaty or a law of the United States, or where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court.

I predicate this motion upon the idea suggested by the Senator from Florida, that the Constitution of the United States requires that the Supreme Court shall have jurisdiction upon appeal of questions of fact as well as questions of law, and that we are violating the Constitution when we undertake to take from that tribunal this constitutional function. I cannot read the Constitution otherwise than as it was interpreted by the Senator from Florida:

In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

That brings up the question whether Congress can make an exception of a part of its jurisdiction conferred upon the Supreme Court, that is to say that it shall have the jurisdiction upon appeal of questions of law and not of questions of fact. If you can do that you can say also that it shall have jurisdiction upon appeal of questions of fact but not of questions of law. If you can regulate it in one particular you can in the other. I regard that language as a substantive grant of appellate power to the Supreme Court, defining in the grant what the power is or the subjects which it includes, that it includes the appellate power as to questions of law and questions of fact.

The Senator from Florida illustrated this by some examples, I believe that came under his own observation where it became extremely important that the Supreme Court should become the judges of the facts of the case as well as of the law, because we know that it is a matter of impossibility for a court to make an intelligent decision upon any case until it has first ascertained what the facts are. The Supreme Court has the right under the Constitution to ascertain what are the facts in the case when it is brought up by appeal, and we have no right to delegate that power of the Supreme Court to an inferior tribunal. We might just as well say that the district court shall finally ascertain and find the facts, or that the circuit court shall ascertain and find the facts, and that the court of appeals and the Supreme Court shall both be excluded from any power of contradicting the facts as found by the district or circuit court. If we commence to break down the constitutional authority of the Supreme Court, there is no end to our enterprise except our own will, our own fancy. It seems to me that we are striking at one of the most important and essential elements of the appellate power of the Supreme Court thus guaranteed in the Constitution when we adopt the part of the bill which I have moved to strike out.

This part of the bill, however, is amenable to another objection which I propose to amend. The Senator from Illinois said in answer to a question I asked him while he was on his feet before, that he construed this provision of the tenth section as including the right of the court of appeals to decide upon questions of fact so as to conclude the Supreme Court and also so as to conclude the inferior court, the court from which the error or appeal was taken. I do not understand that that is the position of the members of the committee upon this question. I think I can venture to say that some members of the committee at least consider this language to mean that the court of appeals is to find the facts so as to make them conclusive only upon the Supreme Court and not upon the inferior court when the cause shall be remanded to the inferior court either by the action of the Supreme Court or the intermediate court of appeals. The Senator from Illinois, however, places a different construction upon it.

If we find the members of the committee themselves differing as to the construction of this language in the proposed statute, it certainly behooves us that we should make it plain by such amendments as will leave no doubt or controversy about the meaning. But the language of this provision is as broad as the English language can make it. There is no reservation and no qualification of any kind whatever. It is not made to apply to cases brought up on appeal; it may apply as well to cases brought up on error. It is not made to apply to civil causes; it may apply also to criminal causes.

A man is condemned to death in the circuit court of the United States. He brings a writ of error upon a bill of exceptions, or upon the record either, into the court of appeals. The court of appeals pronounces the facts as they are presented in that bill of exceptions, and according to the language of this section the decision upon the facts in that court of appeals is conclusive against that man when the cause goes back again, thereby depriving the jury when the case shall return to the inferior court of the right to pass upon the facts; for, says the bill, "the decision of the court of appeals upon questions of fact shall in all cases be final and conclusive, except as otherwise provided in this section." There is no other provision in the section which modifies or in any way qualifies this language in the particulars to which I have referred.

Shall we enact a law in the face of the Constitution that will give to the intermediate court of appeals the power to determine the facts conclusively in a criminal cause, so that when the case gets back to the inferior court that court shall have nothing to do but to submit those facts to the jury as facts found by the appellate court? It may be said that is not the intention of the section. If it be not the intention of it, put in words that will express the intention. This language certainly does not express a different intention. On the contrary it is a broad, sweeping assertion that every fact found by a court of appeals shall be conclusive in the case, whether it goes to the superior court or whether it is remanded to the inferior court.

Mr. BUTLER. I suggest to my friend whether it may not be entirely against the weight of the testimony.

Mr. MORGAN. It makes no difference whether it is against the weight of the testimony or not; it is the taking in a criminal cause, from the only tribunal that has a right to find the facts, their jurisdiction and making it to depend upon the judgment of an appellate court as to what the facts shall be after the cause goes back to the inferior court.

If this section is intended to apply only to cases in admiralty, or equity, or to patent causes, then let the section be so expressed. Let it not be said that in cases of appeal from the district or circuit courts of the United States the decisions of the court of appeals upon ques-

tions of fact shall in all cases be final. I contend that even that language would violate the Constitution when you undertook to apply it to the Supreme Court, but clearly the language of the section conveys a very much broader meaning than the honorable Senator from Illinois intended, according to the course of his argument, that it should convey.

In legislating upon matters so important as this it is of the first necessity that we should make our enactments so entirely plain as to remove as far as we possibly can all doubt and all construction; but I submit it to every Senator on this floor, I submit it to the honorable Senator from Illinois himself, that on the reading of this section it will be held, or might be held, just as well as any way that the finding of the intermediate court of appeals upon a question of fact, when the fact came up by writ of error, it makes no difference how, should be conclusive upon the court below as well as upon the Supreme Court when the case might be sent there upon a writ of error or upon an appeal.

I do not doubt what the meaning of the honorable Senator from Illinois is. It is that in appeal causes brought from the district and circuit courts the finding upon the facts by the intermediate court of appeals shall be conclusive upon the Supreme Court, not upon the inferior court when the case shall be again remanded to that court; but here we have language which is too broad to convey that signification only. The language is capable of being interpreted so as to convey the signification that it applies to all cases. Indeed, the language of this proposed statute is affirmative on that subject, for it says that in all cases the decision of the court of appeals upon questions of fact shall be final and conclusive.

I therefore have moved to strike out so much of the section as I have indicated, upon the constitutional ground that we have no right to abridge the power of the Supreme Court of the United States when a case comes there upon a writ of error so as to say to them, "You shall not be the judge in the facts in this case."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama, [Mr. MORGAN.]

Mr. MORGAN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JONES, of Florida. The interpretation given to this provision by the Senator from Alabama is not any broader than the language warrants, and it does seem to me that it ought to be confined within something like reasonable limits. It applies to all cases. I never knew of a court of appeals before empowered to find facts in any case of any description. It is not really the function of a court of appeals to find facts. It is always the province of a court of original jurisdiction to find facts when it can do so through the medium of a jury. That has been the usual course and custom. The Constitution attached so much consequence to findings of fact that it declared in the seventh amendment that—

> No fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

This is not according to the course of the common law at all, but a court for the first time is empowered to find the facts in a case originating in another tribunal. It seems to me that if there is to be any finding of facts in a controversy, whether criminal, civil, or equitable, the finding ought to take place below, in the court where the controversy is begun, where the witnesses are near, where there is a better opportunity of getting at the truth, because oftentimes when a record is made up and goes into a court of appeals some corrections may be made, some explanations may be given; but this provision in the bill closes forever the door in any particular suit, and says when the court of appeals shall find the facts that is the end of the controversy so far as those facts are concerned, and that it will not ever afterward be in the power of either the court below or the Supreme Court of the United States to look into the facts of the case. Is it wise to do that? That is the meaning of this provision.

The Senator from Illinois says it closes the door on every side, and when the intermediate court of appeals finds the facts in any case, that is an end of it; there is to be no further investigation. How is that court to find the facts? It has not the power to examine witnesses, it is not contended that any court of appeals will examine witnesses. It can only find those facts from a review of the case as presented by the record on appeal, so that if a witness swore to a falsehood in the original trial or was bribed and made a false statement in consequence of it, and the court of appeals found its conclusion upon his first statement, it would not have authority to correct it after the court had arrived at its conclusions of facts in the first record.

It may be said that this is putting an extreme case, but it is not. I say it is wiser to leave the law as it is. The Senator from Illinois has admitted that under this provision of the bill it will not be possible to try an equity cause in the Supreme Court of the United States as we try it to-day, because that tribunal will be bound down by the findings of this intermediate court with respect to the facts, in the very teeth of the Constitution of the United States, which declares that when the Supreme Court exercises jurisdiction by appeal that jurisdiction shall attach to the facts as well as the law. I ask the honorable Senator from Illinois how he gets around the Constitution when it declares that the appellate jurisdiction shall extend both to the law and to the fact?

Take a case involving $10,500 in equity. An appeal is taken to the Supreme Court of the United States. This intermediate court decides the facts and it sets out its conclusions. The suitor comes to Washington and says, "The court below rendered an erroneous judgment respecting these facts, and I want this court to review them;" but the court says, "This law cuts you off; the finding of the court below is conclusive." However, the Constitution says that the Supreme Court shall decide it; that it shall have the same power over the fact, where you give it authority at all, that it has over the law. You cannot close the door of the Supreme Court of the United States to the suitor by a provision of this kind and say that this tribunal shall not have full authority to investigate the facts in a controversy the same as the law, according to the usages and customs prevailing in appeal cases.

Let me say that this principle does not apply in equity causes; but it applies particularly to admiralty cases and prize cases. In all that class of causes which are decided according to the course of the civil law the fact and the law go together side by side. Of course when it comes to the strictness of the common law as administered at Westminster Hall a different rule prevails. A bill of exceptions is made up, and there is very little dispute at times respecting the facts, because the seal of the judge to the bill of exceptions is presumed to settle the facts in controversy, and it goes to the higher court; but that principle does not prevail in respect to controversies in equity or in admiralty.

As I said a while ago, some of the hottest controversies I have ever known in cases of that kind arose out of disputes with respect to the facts of the case.

Take the case of a collision on the high seas; take the case of the stranding of a ship, involving questions of insurance money. The most difficult and protracted lawsuit I was ever engaged in in my life grew out of a contest about the facts of a case, that is, with respect to the circumstances under which a ship went ashore on the reefs of Florida. There was no law involved in the case, it was all in regard to whether the captain in point of fact stranded the ship in fraud of the underwriters. The case went to every court in my State, and finally to New York, and upon those facts turned the entire controversy in the case. There are thousands of cases of which that is true. This bill proposes in a case which may involve $100,000 to cut off the appellate power of the Supreme Court of the United States, and practically to give conclusive power of judgment to this intermediate court of appeals. Now, I say that is not wise nor is it in keeping with the Constitution; and whenever a suitor comes to the Supreme Court of the United States with a case in admiralty or in equity he ought to be permitted under the organic law to have that case investigated, both with respect to the law and the facts, and the judgment of this intermediate court of appeals on the facts ought not to be conclusive, and under the organic law I contend it cannot be made conclusive against the right of appeal.

Mr. DAVIS, of Illinois. Mr. President, the Senator from Florida over and over again repeats the argument that this provision is contrary to the Constitution of the United States. I should not speak at all were it not for that assertion. The construction of the Supreme Court is that the Supreme Court are the judges of the law and the facts, but the Congress of the United States can tell how the facts shall reach that court. It did it in admiralty cases in 1875. The Senator talks about an admiralty case that he was concerned in being brought up on a question of fact where $100,000 and over was involved. Plenty of those cases involve half a million dollars; and yet the Supreme Court now do not find the facts in such cases; the facts are presented, and they judge of the law and the facts. Congress has said that the circuit judges shall find the facts in all questions of admiralty and maritime jurisdiction.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. DAVIS, of Illinois. Yes, sir.

Mr. JONES, of Florida. Will he not admit that an appeal in equity to-day to the Supreme Court brings up the whole case?

Mr. DAVIS, of Illinois. Of course an appeal in equity does; but an appeal in admiralty does not; and half the Senator's speech was to prove that in admiralty cases the facts ought not to be found by the court below. There is no difference between an admiralty appeal and an equity appeal. An admiralty appeal is more based on facts than an equity appeal as a general thing, because the admiralty law is simpler and can be easier applied than the principles of equity, but the facts go before the Supreme Court as Congress shall determine, and the facts in admiralty cases go there now by the finding of a circuit judge. In these cases there are to be two findings: there are findings in the original trial jurisdiction and then findings in the court of appeals. The Supreme Court has stated that the facts can be presented in any manner that Congress may determine, and Congress does determine, if it passes this bill, that these facts are to go there from the findings of this intermediate tribunal, and the tenth section is of the utmost importance in the bill. The great relief to the Supreme Court, or one of the great sources of relief, is from the finding of facts by the court below; and if I were a suitor and honestly believed I ought to win, I would rather have the facts found by an

appellate tribunal whose business it was to find specially the facts, as this bill says they shall on the request of either party, than to have the case go to the Supreme Court without any finding of facts from the court below.

Mr. GEORGE. Mr. President, I have listened with interest to the discussion on both sides. There is one view, however, which has not been presented that I should like to have answered by the Senator from Illinois, and that is this: the Constitution declares that there shall be "one Supreme Court." This bill declares that there shall be another Supreme Court as to the facts. I understand the word "supreme" to indicate the highest and the last judicial power which can be exercised with reference to a lawsuit. I should like to know how this provision can be made to consist with that provision of the Constitution which declares for the oneness of the Supreme Court. It appears to me that by this provision of the bill we have two supreme courts, both appellate: one supreme as to the facts, the other supreme as to the law; and that appears to me to be so plain that it cannot be met by any argument. It certainly is not met by the argument of the distinguished Senator from Illinois when he says that the Supreme Court are, under this bill, to be the judges of the facts as well as of the law, but, as he admitted, they will be obliged to take the facts as they are found by the court of appeals.

Now, Mr. President, that seems to me to be an invasion of the Constitution. What judicial function, I will ask the Senator from Illinois, does the Supreme Court exercise with reference to the facts of a case which have been found, and, according to the language of this bill, found conclusively by another tribunal? It accepts the facts as thus found, and it makes no judgment concerning them.

The Constitution has declared what kind of a Supreme Court we shall have. It has not left that to inference. It has declared, in the first place, that it shall be a unit; that it shall be one; that it shall not be two; and, in the next place, it has declared that the jurisdiction of this court shall as well extend to the facts as to the law. Now, if this bill passes and this appellate court is established, what do we do in this country? We have nine appellate courts instead of one who are supreme as to the facts; we have one Supreme Court which is supreme as to the law; that is, it has just one-half of the jurisdiction which the Constitution says it should have. How can this be made to stand with the Constitution upon that subject? I would like to have it explained how nine supreme courts, supreme as to the facts, and one Supreme Court, supreme only as to the law, can consist with the constitutional rule that there shall be one Supreme Court which shall have jurisdiction both as to the law and the fact?

And, sir, I desire to make another remark in support of the views presented by the Senator from Florida, and that is this: the finding of the facts in a case is just as important, just as essential, if not more so, to the right determination of a cause as the finding of the law; and the party who complains that the facts have been found improperly against him has just as much right to have that finding reviewed by the highest tribunal as the party who complains only of a mistake of the law. In my little experience in professional life, I have had less cause to complain of errors in the enunciation of mere abstract rules of law than I have of errors of fact. In other words, it is a very easy matter to enunciate abstract rules of law which are correct, and yet a very difficult matter frequently to find the facts and apply them to that rule of law.

This provision, as I have before remarked, and as was well urged by the Senator from Florida, deprives the Supreme Court of one of its most important functions: to ascertain what the facts are; and unless I can have a better reason than has yet been given for this elimination from the constitutional powers of the Supreme Court of a most important function I shall be compelled to vote for the amendment offered by the Senator from Alabama.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama, [Mr. MORGAN,] on which the yeas and nays have been ordered.

The Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea."

Mr. CALL, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. MITCHELL.] If he were present, I should vote "yea."

Mr. GEORGE, (when his name was called.) I am paired with the Senator from Louisiana, [Mr. KELLOGG.] If he were present, I should vote "yea."

Mr. PUGH, (when Mr. SAULSBURY's name was called.) The Senator from Delaware [Mr. SAULSBURY] is paired with the Senator from Michigan, [Mr. FERRY.]

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. ROLLINS. The Senator from Virginia [Mr. MAHONE] is paired with the Senator from Nevada, [Mr. FAIR.]

Mr. PLATT. I am paired with the Senator from West Virginia, [Mr. CAMDEN.]

Mr. GEORGE. I transferred my pair with the Senator from Louisiana [Mr. KELLOGG] from myself to my colleague, [Mr. LAMAR,] so that Mr. LAMAR and Mr. KELLOGG are paired, and I vote "yea."

The result was announced—yeas 20, nays 32; as follows:

YEAS—20.

Bayard,	George,	Jonas,	Pendleton,
Beck,	Groome,	Jones of Florida,	Pugh,
Coke,	Grover,	McPherson,	Vance,
Davis of W. Va.,	Hampton,	Maxey,	Vest,
Farley,	Johnston,	Morgan,	Walker.

NAYS—32.

Aldrich,	Dawes,	Hill of Colorado,	Miller of Cal.
Allison,	Frye,	Hoar,	Miller of N. Y.
Anthony,	Garland,	Ingalls,	Morrill,
Blair,	Gorman,	Jackson,	Plumb,
Cameron of Wis.,	Hale,	Jones of Nevada,	Rollins,
Chilcott,	Harris,	Lapham,	Sewell,
Conger,	Harrison,	McDill,	Sherman,
Davis of Illinois,	Hawley,	McMillan,	Windom.

ABSENT—24.

Brown,	Edmunds,	Logan,	Saunders
Butler,	Fair,	Mahone,	Sawyer,
Call,	Ferry,	Mitchell,	Slater,
Camden,	Hill of Georgia,	Platt,	Van Wyck,
Cameron of Pa.,	Kellogg,	Ransom,	Voorhees,
Cockrell,	Lamar,	Saulsbury,	Williams.

So the amendment was rejected.

Mr. BUTLER. I move to strike out, in line 3 of section 10, the words "as otherwise provided in this section" and to substitute for those words "where said decision is clearly against the weight of the evidence;" so as to read:

That the decision of the court of appeals upon questions of fact shall in all cases be final and conclusive, except where said decision is clearly against the weight of the evidence, &c.

On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea."

Mr. CALL, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. MITCHELL.] If he were here, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 18, nays 35; as follows:

YEAS—18.

Bayard,	George,	Jones of Florida,	Pugh,
Beck,	Grover,	McPherson,	Vance,
Coke,	Hampton,	Maxey,	Walker.
Davis of W. Va.,	Johnston,	Morgan,	
Farley,	Jonas,	Pendleton,	

NAYS—35.

Aldrich,	Frye,	Hoar,	Morrill,
Allison,	Garland,	Ingalls,	Platt,
Anthony,	Gorman,	Jackson,	Plumb,
Blair,	Groome,	Jones of Nevada,	Rollins,
Cameron of Wis.,	Hale,	Lapham,	Sewell,
Chilcott,	Harris,	McDill,	Sherman,
Conger,	Harrison,	McMillan,	Vest,
Davis of Illinois,	Hawley,	Miller of Cal.,	Windom.
Dawes,	Hill of Colorado,	Miller of N. Y.,	

ABSENT—23.

Brown,	Edmunds,	Logan,	Sawyer,
Butler,	Fair,	Mahone,	Slater,
Call,	Ferry,	Mitchell,	Van Wyck,
Camden,	Hill of Georgia,	Ransom,	Voorhees,
Cameron of Pa.,	Kellogg,	Saulsbury,	Williams.
Cockrell,	Lamar,	Saunders,	

So the amendment was rejected.

Mr. MORGAN. In section 10, line 2, after the word "cases," I move to insert "of appeal to the Supreme Court;" so as to read:

That the decision of the court of appeals upon questions of fact shall in all cases of appeal to the Supreme Court be final and conclusive.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama.

Mr. MORGAN called for the yeas and nays, and they were ordered.

Mr. INGALLS. I move that the Senate do now proceed to the consideration of executive business.

The motion was agreed to.

Mr. MORRILL. Before the doors are closed, I wish to say that I am directed by the Committee on Finance to ask for the present consideration of the bill (S. No. 1604) to establish an assay office at Deadwood, in the Territory of Dakota.

Mr. COCKRELL. Is there any public necessity for that?

Mr. MORRILL. There is a necessity for it in order to have it pass the other House.

Mr. INGALLS. I object to it. Has it been reported from a committee?

Mr. MORRILL. Yes; and I was directed to ask for its present consideration.

Mr. INGALLS. It can come up to-morrow just as well.

The Senate proceeded to the consideration of executive business. After seventeen minutes spent in executive session the doors were reopened, and (at four o'clock and forty minutes, p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 8, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER, D. D.

The Journal of Saturday was read and approved.

SALARIES OF SENATE AND HOUSE EMPLOYÉS.

Mr. BUTTERWORTH. I desire now to ask unanimous consent to present for consideration at this time the resolution to which my friend from Pennsylvania objected on Saturday, for the reason that it interfered with the tariff-commission bill. That being out of the way, I presume there will be no further objection to considering the resolution.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That it shall be in order when the legislative, executive, and judicial appropriation bill for the ensuing fiscal year is under consideration in the Committee of the Whole on the state of the Union to submit amendments to said bill looking to an equalization of salaries of the employés of the House with those of the Senate.

Mr. BUTTERWORTH. Now, Mr. Speaker——

Mr. RANDALL. Will the gentleman permit me to say a word?

Mr. BUTTERWORTH. Certainly.

Mr. CANNON. I reserve the point of order for the present.

Mr. RANDALL. I only want to say, so far as my judgment goes, that while I am in favor of paying adequate salaries, the difficulty is that the House has too many employés.

Mr. BUTTERWORTH. I will say to my friend from Pennsylvania that while this equalization may increase some salaries, it will decrease others.

Mr. RANDALL. I am perfectly aware——

Mr. HISCOCK. If this resolution is going to lead to any further discussion I must object to it——

Mr. RANDALL. I am aware that the Senate——

Mr. HISCOCK. And demand the regular order.

Mr. BUTTERWORTH. I hope the gentleman will not insist upon his objection.

Mr. HISCOCK. The reason I object is, that I believe some rule will be reported by which the individual measures of gentlemen can be reached; and I believe it is desirable as soon as we can to get to the consideration of the special order, as I shall soon be able to report the District of Columbia appropriation bill.

Mr. McKENZIE. Regular order.

Mr. BUTTERWORTH. This will take but a moment. I hope it will not be objected to now.

The SPEAKER. The regular order is insisted upon by the gentleman from Kentucky.

COMMITTEE ON WAYS AND MEANS.

Mr. KASSON. I ask the gentleman to withhold the call for the regular order for a moment to allow me to submit a resolution for reference to the Committee on Ways and Means.

Mr. McKENZIE. I withdraw the call for the regular order.

Mr. KASSON, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on Ways and Means:

Resolved, That the Committee on Ways and Means have leave to sit during the recess of Congress at such time and place as they shall determine, and said committee be, and they are, instructed to assemble at Washington for the preparation of revenue bills on the second Tuesday of November next.

POSTAGE ON NEWSPAPERS.

Mr. TOWNSHEND, of Illinois, by unanimous consent, submitted the following resolution; which was read, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed:

Resolved, That the Committee on the Post-Office and Post-Roads be, and hereby is, instructed to inquire into the expediency of abolishing the postage on newspapers sent from a known office of publication to regular subscribers, and that said committee report by bill or otherwise within thirty days.

ELECTION OF PRESIDENT AND VICE-PRESIDENT.

Mr. UPDEGRAFF, of Iowa. I ask unanimous consent that the bill (S. No. 613) in relation to the Presidential count be taken from the Speaker's table and referred to the Committee on Law respecting Election of President and Vice-President.

There being no objection the bill (S. No. 613) to fix the day for the meeting of the electors of President and Vice-President and to provide for and regulate the counting of the votes for President and Vice-President and the decision of questions arising thereon was taken from the Speaker's table, read a first and second time, and referred to the Committee on Law respecting Election of President and Vice-President.

ORDER OF BUSINESS.

Mr. CASSIDY. I would like to ask unanimous consent for the consideration of a little bill of importance to my constituents and of great urgency.

Mr. BRIGGS. So would I.

Several members called for the regular order.

The SPEAKER. The regular order, this being Monday, is the call of States for the introduction of bills and joint resolutions for reference to their appropriate committees. Under this call resolutions and memorials of State and Territorial Legislatures and resolutions calling for executive information are in order for reference.

SANFORD AND INDIAN RIVER RAILROAD.

Mr. FINLEY introduced a bill (H. R. No. 6105) to authorize the Sanford and Indian River Railroad Company to construct a bridge across the Saint John's River, in the State of Florida, and to establish it as a post-road; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TAX ON SALT.

Mr. TOWNSHEND, of Illinois, introduced a bill (H. R. No. 6106) to amend section 3022 of the Revised Statutes so as to place the tax on salt used in curing pork, beef, and other provisions on the same basis with salt used in curing fish; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

ARREST OF AMERICAN CITIZENS IN IRELAND.

Mr. TOWNSHEND, of Illinois, also presented a preamble and joint resolutions of the thirty-second General Assembly of the State of Illinois, in relation to the arrest and imprisonment of American citizens in Ireland; which were referred to the Committee on Foreign Affairs.

SOLDIERS' REUNION IN ILLINOIS.

Mr. HENDERSON introduced a joint resolution (H. R. No. 205) granting the use of articles, tents, &c., at a soldiers' reunion to be held by the Soldiers' Reunion Association of the State of Illinois in the year 1882; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM B. TAYLOR.

Mr. CANNON (by request) introduced a bill (H. R. No. 6107) for the relief of William B. Taylor; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF OHIO RIVER.

Mr. STOCKSLAGER introduced a bill (H. R. No. 6108) for the improvement of the channel of the Ohio River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ARCTIC EXPLORATIONS.

Mr. CALKINS introduced a bill (H. R. No. 6109) to aid in making further arctic explorations and detailing Master Lucien Young as commander of the expedition; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

AGRICULTURAL COLLEGES.

Mr. CARPENTER introduced a bill (H. R. No. 6110) to establish national experiment stations in connection with the agricultural colleges of the various States; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

NELSON POST NO. 194, G. A. R.

Mr. CARLISLE introduced a bill (H. R. No. 6111) granting condemned cannon to the Nelson Post No. 194 of the Grand Army of the Republic at Newport, Kentucky; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SALE OF PROPERTY AT HARRODSBURGH, KENTUCKY.

Mr. THOMPSON, of Kentucky, introduced a bill (H. R. No. 6112) authorizing the board of commissioners of the Soldiers' Home to sell certain property at Harrodsburg, Kentucky, belonging to the Soldiers' Home; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ALDERSON T. KEENE.

Mr. THOMPSON, of Kentucky, also introduced a bill (H. R. No. 6113) for the benefit of Alderson T. Keene; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

THOMAS L. TERRY.

Mr. BLANCHARD introduced a bill (H. R. No. 6114) for the relief of Thomas L. Terry; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ERÉZIA GUNNEY.

Mr. BLANCHARD also introduced a bill (H. R. No. 6115) for the relief of Mrs. Erézia Gunney, widow and heir of George Gunney, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

APPLETON P. CLARK ET AL.

Mr. BOWMAN (by request) introduced a bill (H. R. No. 6116) for the relief of Appleton P. Clark and certain other persons; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

TIMOTHY T. MANNING.

Mr. ROBINSON, of Massachusetts, introduced a bill (H. R. No. 6117) to increase the pension of Timothy T. Manning; which was

read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY HARDING.

Mr. DUNNELL introduced a bill (H. R. No. 6118) granting a pension to Henry Harding; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM EVERETT.

Mr. DUNNELL also introduced a bill (H. R. No. 6119) granting a pension to William Everett; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIJAH BELLER.

Mr. VALENTINE introduced a bill (H. R. No. 6120) to rerate the pension of Elijah Beller; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY VAN BLARICOM.

Mr. VALENTINE also introduced a bill (H. R. No. 6121) granting a pension to Henry Van Blaricom; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JOHN JORDON.

Mr. HILL introduced a bill (H. R. No. 6122) for the relief of John Jordon; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

JOHN HOPPER.

Mr. BEACH introduced a bill (H. R. No. 6123) granting a pension to John Hopper; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PUBLIC BUILDING AT WILMINGTON, NORTH CAROLINA.

Mr. SHACKELFORD introduced a bill (H. R. No. 6124) to provide for the erection of a building for the accommodation of the post-office, custom-house, court-rooms, and other government offices in the city of Wilmington, in the State of North Carolina; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

HOMESTEAD EXEMPTIONS.

Mr. SCALES introduced a bill (H. R. No. 6125) providing for homestead and personal property exemption, as now provided for under the constitution and laws of each State; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SARAH MAXWELL.

Mr. ATHERTON introduced a bill (H. R. No. 6126) granting a pension to Sarah Maxwell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

G. H. FLUKE.

Mr. ATHERTON also introduced a bill (H. R. No. 6127) to increase the pension of G. H. Fluke; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD HEDLEY.

Mr. KELLEY introduced a bill (H. R. No. 6128) for the relief of Edward Hedley; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENRY A. GREENE.

Mr. SPOONER introduced a joint resolution (H. R. No. 206) for the relief of Henry A. Greene; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

W. M. CLARK.

Mr. HOUK introduced a bill (H. R. No. 6129) for the relief of W. M. Clark; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

GEORGE W. DE FORD.

Mr. HOUK also introduced a bill (H. R. No. 6130) granting a pension to George W. De Ford; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

W. BARNES.

Mr. HOUK also introduced a bill (H. R. No. 6131) granting a pension to W. Barnes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

P. M. SHANNON.

Mr. HOUK also introduced a bill (H. R. No. 6132) granting a pension to P. M. Shannon; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN W. MILLER.

Mr. HOUK also introduced a bill (H. R. No. 6133) for the relief of John W. Miller; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PAY OF HOUSE AND SENATE EMPLOYÉS.

Mr. HOUK also introduced a joint resolution (H. R. No. 207) to equalize the salaries of House and Senate employés; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

WAR CLAIMS.

Mr. WHITTHORNE introduced a bill (H. R. No. 6134) to amend section 3 of the act of Congress approved March 3, 1879, entitled "An act for the allowance of certain claims reported by the accounting officers of the United States Treasury Department, and for other purposes;" which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

BRIDGE OVER RIO GRANDE.

Mr. UPSON introduced a bill (H. R. No. 6135) to authorize the construction of a street-railway and wagon-road bridge over the Rio Grande River between the city of El Paso, Texas, and Paso Del Norte, Mexico; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FITZ-JOHN PORTER.

Mr. BRAGG introduced a bill (H. R. No. 6136) for the relief of Fitz-John Porter; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LEGISLATURE OF MONTANA.

Mr. MAGINNIS introduced a bill (H. R. No. 6137) to provide for the reapportionment of the Legislature of the Territory of Montana, and for other purposes; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

CLAIM OF STATE OF SOUTH CAROLINA.

Mr. DIBBLE introduced a bill (H. R. No. 6138) to empower the Secretary of War to audit the claim of the State of South Carolina for rent alleged to be due for the use and occupation of the Citadel Academy at Charleston; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ROBERT NEWELL.

Mr. DUNNELL introduced a bill (H. R. No. 6139) granting a pension to Robert Newell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN A. WHEELER.

Mr. GROUT (by request) introduced a bill (H. R. No. 6140) to rerate the pension of John A. Wheeler; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL D. PECK.

Mr. HUBBELL introduced a bill (H. R. No. 6141) granting a pension to Samuel D. Peck; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BARBARA FOULE.

Mr. MOREY introduced a bill (H. R. No. 6142) granting a pension to Barbara Foule; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PUBLIC BUILDING, WEST CHESTER, PENNSYLVANIA.

Mr. WARD introduced a bill (H. R. No. 6143) for a public building at West Chester, Pennsylvania; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PUBLIC BUILDING, CHESTER, PENNSYLVANIA.

Mr. WARD also introduced a bill (H. R. No. 6144) for a public building at Chester, Pennsylvania; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

GRISWOLD ROGERS.

Mr. WAIT introduced a bill (H. R. No. 6145) for the relief of Griswold Rogers, and for restoration to the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EVASION OF DUTIES ON SUGAR.

Mr. GIBSON introduced a bill (H. R. No. 6146) to authorize the Secretary of the Treasury to adopt certain regulations to prevent the evasion of the existing customs duties on sugar; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

GRANVILLE EVANS.

Mr. WHITE introduced a bill (H. R. No. 6147) for the relief of Granville Evans; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES ARNOLD.

Mr. WHITE also introduced a bill (H. R. No. 6148) for the relief of James Arnold; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EXPLORATION OF NORTH PACIFIC, 1852-'56.

Mr. WHITE also presented the following resolution; which was referred to the Committee on Naval Affairs:

Resolved, That the Secretary of the Navy be requested, if not incompatible with the public interest, to furnish this House with copies of all reports and correspondence of the late Rear-Admiral John Rodgers with the Navy Department while he was in command of the United States surveying and exploring expedition in the North Pacific Ocean, China Sea, and Behring Strait in the years 1852, 1853, 1854, 1855, and 1856; also the reports of subordinate officers belonging to said expedition.

ALPHABETICAL LIST OF CLAIMS.

Mr. TYLER submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That the Clerk of the House cause to have prepared an alphabetical list of the papers received from the late commissioners of claims, which shall contain such action as was had thereupon; that the person designated to perform the service shall receive the same rate of pay as is now allowed to committee clerks of the House not receiving annual compensation, and that the expense thereof shall be paid out of the contingent fund of the House.

ORDER OF BUSINESS.

Mr. HENDERSON. Has the call of States been concluded?

The SPEAKER. It has.

Mr. HENDERSON. Then I ask unanimous consent, Mr. Speaker, to offer a resolution of inquiry.

Mr. RANDALL. I demand the regular order of business.

Mr. HENDERSON. I wish to state, Mr. Speaker, if the House will allow me to do so, that this resolution simply directs the Committee on Public Buildings and Grounds to inquire into the propriety of purchasing a certain lot in this city upon which is situated the house in which Abraham Lincoln, then President of the United States, died; and I trust there will be no objection to the resolution.

Mr. RANDALL. I call for the regular order of business, and in making that call for the regular order of business I do not deal with individuals or subjects. The business of the House ought to be proceeded with in order.

Mr. FISHER. I was not in when my State was called, and I hope there will be no objection to my introducing a bill for reference only.

The SPEAKER. There are several gentlemen who were not present when their States were called, and if there is no objection they will be recognized for the introduction of bills for reference only.

There was no objection.

SOLDIERS' MONUMENT, CHAMBERSBURGH, PENNSYLVANIA.

Mr. FISHER introduced a bill (H. R. No. 6149) donating condemned cannon for monumental purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FEES FOR PENSION AGENTS.

Mr. PRESCOTT introduced a bill (H. R. No. 6150) to regulate the fees of attorneys and agents in pension cases, and for other purposes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY M. BOSSERT.

Mr. CURTIN introduced a bill (H. R. No. 6151) granting a pension to Henry M. Bossert; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WHITE. Mr. Speaker, I ask by unanimous consent to take up for action at this time——

Mr. RANDALL. I call for the regular order of business.

Mr. WHITE. I hope the gentleman will not insist upon that call, and I think he will not when he hears the object I have in view.

Mr. RANDALL. I do not wish to call for the regular order every minute.

Mr. WHITE. I hope the gentleman will hear me. The late Admiral Rodgers——

Mr. RANDALL. I cannot distinguish between individuals or subjects.

DISTRICT OF COLUMBIA.

The SPEAKER. The regular order of business is under the resolution of the House of April 24, which will be read:

The Clerk read as follows:

Resolved, That Monday, May 8, 1882, after the call of States and Territories for the introduction of bills and joint resolutions, is hereby set aside for the consideration of such business as may be presented by the Committee on the District of Columbia.

Mr. URNER. Mr. Speaker, I am directed by the Committee on the District of Columbia to present for adoption at this time the following resolution.

The Clerk read as follows:

Resolved, That Monday the 22d day of May, instant, after the call of States and Territories for bills and joint resolutions, be, and the same is hereby, set apart for the consideration of such business as the Committee on the District of Columbia may present for the consideration of the House.

Mr. MAGINNIS. Mr. Speaker, I move to amend by inserting "business relating to the Territories of the United States." There are eight Territories, Mr. Speaker, which, to be sure, have local governments, but which nevertheless are largely depending on Congressional legislation to make things work smoothly. In matters relating to the reduction of reservations, the opening of public lands, and others equally important we have to depend on Congress. On account of the immense mass of business on the calendars our measures cannot receive consideration, although there would be no objection raised if they could be considered. Matters pertaining to the reapportionment of our Legislatures and others necessary to working of our local governments are now pending. I hope a day may be set apart for the business of the Territories.

Mr. URNER. I hope the gentleman will offer a separate resolution.

Mr. RANDALL. It is not germane to the pending resolution.

Mr. HISCOCK. It is not germane to the pending resolution and I make that point of order.

The SPEAKER. The Chair does not think the amendment is in order. The resolution of the gentleman from Maryland would not be in order except for the prior order of the House setting apart this day for the consideration of District of Columbia business. To be in order the amendment must relate to such business as comes from that committee. The amendment is not in order.

The resolution was adopted.

Mr. URNER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Committee on the District of Columbia does not indicate any further business.

Mr. URNER. I am instructed by the committee to say that we will not present any further business to-day. It is the desire of the chairman of the committee, as well as the greater number of the members of the committee, to attend the funeral of Major Twining, and consequently we will have no further business to present to-day.

ORDER OF BUSINESS.

Mr. ANDERSON. I move to dispense with the morning hour for the call of committees for reports.

The motion was agreed to, two-thirds having voted therefor.

DEPARTMENT OF AGRICULTURE.

Mr. ANDERSON. In accordance with the notice which I gave on Saturday last, I now call up the bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture. This is the special order previously made by the House.

The SPEAKER. The Chair will state that by resolution of the House on the 1st of March last the bill to which the gentleman refers was made a special order. The gentleman from Kansas now calls up the special order.

Mr. HISCOCK. I desire to inquire of the gentleman who has charge of the bill when he expects to call a vote on the bill and the amendments?

Mr. ANDERSON. In reply to the gentleman from New York I will say that several gentlemen have indicated a desire to be heard on this question, but if a session can be given to the committee to-night for debate, I am in hopes we can reach a vote some time to-morrow.

Mr. REAGAN. What is the bill to which the gentleman refers?

The SPEAKER. The Clerk will read the bill.

The bill was read. It is as follows:

Be it enacted, &c., That the Department of Agriculture, established at the seat of government of the United States, shall be an Executive Department, under the supervision and control of a secretary of agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate; and section 158 of the Revised Statutes is hereby amended to include such department, and the provisions of title 4 of the Revised Statutes are hereby made applicable to said department.

SEC. 2. That there shall be in said department an assistant secretary of agriculture, who shall be a practical agriculturist, and the several chiefs of the bureaus hereinafter named, to be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, who shall perform such duties as may be required by law or prescribed by the secretary.

SEC. 3. That for the purpose of collecting and disseminating all important and useful information concerning agriculture, and also concerning such scientific matters and industrial pursuits as relate to the interests of agriculture, the secretary shall organize the following bureaus, namely:

First. The bureau of agricultural products, which shall include divisions of botany, entomology, and chemistry, and the chief of which bureau, who shall be a practical agriculturist, shall investigate the modes of farming in the several States and Territories, and shall report such practical information as shall tend to increase the profits of the farmer respecting the various methods; the crops most profitable in the several sections; the preferable varieties of seeds, vines, plants, and fruits; fertilizers; implements; buildings; and similar matters.

Second. The bureau of animal industry, to be in charge of a competent veterinary surgeon, who shall investigate and report upon the number, value, and condition of the domestic animals of the United States; their protection, growth, and use; the causes, prevention, or cure of contagious, communicable, or other diseases; and the kinds, races, or breeds best adapted to the several sections for profitable raising.

Third. The bureau of lands, the chief of which shall investigate and report upon the resources or capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses. And all powers and duties vested in the commission now known as the Geological Survey, together with all clerks, employés, and agents, and all instruments, records, books, papers, and so forth, are hereby transferred to the Department of Agriculture. And the Secretary may, through said bureau, institute such investigations and collect such information, facts, and statistics relative to the mines and mining of the United States as may be deemed of value and importance.

Fourth. The bureau of statistics, the chief of which shall collect and report the agricultural statistics of the United States; and, in addition, all important information or statistics relating to industrial education and agricultural colleges;

to labor and wages in this and other countries; to markets and prices; to modes and cost of transporting agricultural products and live stock to their final market; to the demand, supply, and prices in foreign markets; to the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, and prices; to such commercial or other conditions as may affect the market value of farm products or the interests of the industrial classes of the United States. And the secretary is hereby authorized to establish such divisions in this bureau, and to make such monthly or other reports, as he shall deem most effective for the prompt dissemination of such reliable information respecting crops and domestic and foreign markets as will be of service to the farmers or other industrialists of the United States.

SEC. 4. That the secretary of agriculture shall hereafter receive the same salary as is paid to the Secretary of each of the Executive Departments; the salary of the assistant secretary of agriculture shall be the same as that paid to the Assistant Secretary of the Department of the Interior; and the salary of a chief of bureau shall be the same as that paid to the Commissioner of Indian Affairs.

SEC. 5. That all laws and parts of laws relating to the Department of Agriculture now in existence, as far as the same are applicable and not in conflict with this act, and only so far, are continued in full force and effect.

Mr. REAGAN. I desire, inasmuch as I do not see the gentleman from West Virginia [Mr. KENNA] here, to ask that his proposed substitute for this bill be read.

Mr. ROBINSON, of Massachusetts. I wish, Mr. Speaker, to know whether the points of order against this bill have been reserved, or whether the House is now to consider the bill as in Committee of the Whole House on the state of the Union?

The SPEAKER. The Chair has no recollection that the points of order were reserved upon the bill.

Mr. ROBINSON, of Massachusetts. Then, I make the point of order now, that this should be considered in Committee of the Whole House on the state of the Union. This is a very important measure.

Mr. ANDERSON. In reply to the gentleman from Massachusetts, I will say that this bill has been already made a special order for consideration to-day, and I think the point as to its being considered in Committee of the Whole House on the state of the Union was thereby waived.

Mr. ROBINSON, of Massachusetts. I do not wish the gentleman from Kansas to understand that I am opposing the bill because I make that suggestion. I do it because it only seems proper that a bill of this importance should receive its consideration under the rules of the House.

Mr. BRIGGS. I desire to say, Mr. Speaker, that the Committee on Reform in the Civil Service, to whom was referred a bill of a similar character, have offered a substitute for this bill, which has been ordered to be printed, and is now, I believe, at the Printing Office. The gentleman from Michigan, who has the bill in charge, [Mr. HUBBELL,] will probably be able to state when we can get copies of that proposed substitute.

The SPEAKER. That bill to which the gentleman from New Hampshire refers, as the Chair recollects, was offered as a proposed substitute, and was ordered to be printed and recommitted to the committee.

Mr. ROBINSON, of Massachusetts. If the gentleman from Kansas in charge of the bill will agree that it is to be debated in the House and considered as in Committee of the Whole, I think there can be no objection to that course, and I shall not insist upon the point of order.

Mr. VALENTINE. I think there will be no objection to that.

Mr. HUBBELL. I was directed by the Committee on Reform in the Civil Service to report a bill as a substitute for the pending bill, which proposed substitute I introduced on Saturday, and it was printed and recommitted to the committee. My desire is, under instructions from the committee, to which I have referred, to offer the bill prepared by that committee as a substitute for the pending bill as soon as it comes from the Printing Office. I am informed that it will be here in a few moments.

Mr. VALENTINE. I ask unanimous consent that all the bills intended as substitutes for the bill of the Committee on Agriculture may be printed in the RECORD of to-morrow morning; and, also, as far as practicable, all proposed amendments to the bills, so that we may see what they are.

Mr. REAGAN. I request that the substitute proposed by the gentleman from West Virginia may be read.

The SPEAKER. Is there objection to the suggestion of the gentleman from Nebraska that proposed substitutes and amendments to be offered to the pending bill be printed in the RECORD of to-morrow morning?

Mr. HUBBELL. I object for a moment, for the purpose of making an explanation. I wish it to be understood that the mere fact of offering and printing in the RECORD shall not be considered as making them in order as substitutes for or amendments to the pending bill. Let it be understood that amendments which are properly in order may be considered when moved as amendments during the consideration of the bill in the House.

Mr. ANDERSON. They would not necessarily be in order until the proper time comes for offering them.

Mr. HUBBELL. What, then, is the use of printing them in the RECORD?

The SPEAKER. As the Chair understands it, the proposition is to print them in the RECORD for information.

Mr. HUBBELL. I withdraw the objection. I have no objection to that course.

Mr. TOWNSHEND, of Illinois. I renew the objection.

Mr. REAGAN. I do not wish the substitute to which I have called attention to lose its place during this colloquy.

The SPEAKER. At the proper time the amendment or substitute to which the gentleman refers will be in order.

Mr. HUBBELL. I have withdrawn the objection to printing in the RECORD.

The SPEAKER. The gentleman from Illinois, as the Chair understands, has renewed it.

Mr. TOWNSHEND, of Illinois. No, I withdraw the objection. I made it under a misapprehension. I desired only to have the understanding that we shall not be barred of our right to introduce amendments when the bill is up for consideration.

The SPEAKER. Certainly not. Objection having been withdrawn, amendments and proposed substitutes for the bill may be printed in the RECORD.

Mr. REAGAN. Let them be printed in the order in which they are presented.

The following is the proposed substitute offered by Mr. KENNA:

Be it enacted, &c., That there shall be at the seat of Government an executive department to be known as the department of industries, and a secretary of industries, who shall be the head thereof.

SEC. 2. That there shall be in the department of industries a division of agriculture, and to superintend said division a commissioner of agriculture, who shall be a practical agriculturist, and who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be entitled to receive a salary of $5,000 per annum.

SEC. 3. That for the purpose of collecting and disseminating all important and useful information concerning agriculture, and also concerning such scientific matters and industrial pursuits as relate to the interests of agriculture, the secretary of industries shall organize the following bureaus in the division of agriculture, namely:

First. The bureau of agricultural products, which shall include divisions of botany, entomology, and chemistry, and the chief of which bureau, who shall be a practical agriculturist, shall investigate the modes of farming in the several States and Territories, and shall report such practical information as shall tend to increase the profits of the farmer respecting the various methods, the crops most profitable in the several sections, the preferable varieties of seeds, vines, plants, and fruits, fertilizers, implements, buildings, and similar matters.

Second. The bureau of animal industry, to be in charge of a competent veterinary surgeon, who shall investigate and report upon the number, value, and condition of the domestic animals of the United States; their protection, growth, and use; the causes, prevention, or cure of contagious, communicable, or other diseases, and the kinds, races, or breeds best adapted to the several sections for profitable raising.

Third. The bureau of lands, the chief of which shall investigate and report upon the resources or capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses. And all powers and duties vested in the commission now known as the Geological Survey, together with all clerks, employés, and agents, and all instruments, records, books, papers, &c., are hereby transferred to the department of industries. And the secretary of industries shall institute such investigations and collect and report such information, facts, and statistics relative to the mines and mining of the United States, and facilities for their ventilation and general operation, as may be deemed of value and importance.

SEC. 4. That in addition to the duties imposed by chapter 10, title 7, of the Revised Statutes, the secretary of industries shall cause to be collected and report the agricultural statistics of the United States; and, in addition, all important information or statistics relating to industrial education and agricultural colleges; to labor and demands and prices therefor in this and other countries; to markets and prices; to modes and cost of transporting agricultural products and live stock to their final market; to the demand, supply, and prices in foreign markets; to the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, cost of transportation, and prices; to such commercial or other conditions as may affect the market value of farm products or the interests of the industrial classes of the United States. And the secretary is hereby authorized to establish such divisions in this bureau and to make such monthly or other reports as he shall deem most effective for the prompt dissemination of such reliable information respecting crops and domestic and foreign markets as will be of service to the farmers, miners, mechanics, laborers, or other industrialists of the United States.

SEC. 5. That there shall be in the department of industries a division of commerce, and to superintend said division a commissioner of commerce, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary of $5,000 per annum.

SEC. 6. That all divisions and subdivisions, bureaus or parts thereof, heretofore attaching to the Treasury Department by virtue of the provisions of chapter 10 of title 7 of the Revised Statutes, relating to the Bureau of Statistics, which shall hereafter be known as the bureau of external commerce; title 48, relating to commerce and navigation; title 49, relating to the regulation of vessels in foreign commerce; title 50, relating to the regulation of vessels in domestic commerce; title 52, relating to the regulation of steam-vessels; title 56, relating to the coast survey; title 55, relating to lights and buoys; sections 4891, 4892, 4893, 4894, 4895, and 4896 of chapter 1, title 59, relating to hospital relief for seamen; and chapter 265 of the acts of the Forty-fifth Congress, second session, relating to the Life-Saving Service, or by virtue of any law amendatory of said several provisions or regulations in pursuance thereof, shall, from and after the passage of this act, be parts of the division of commerce in the department of industries; and the secretary of industries shall establish in said division of commerce a bureau of internal commerce, to be organized and governed as other bureaus in said division.

SEC. 7. That all duties devolving upon the Secretary of the Treasury by virtue of the several provisions mentioned in the preceding section shall, from and after the passage of this act, be performed by the secretary of industries. The authority conferred and the duties imposed by said several provisions upon the Register of the Treasury shall, from and after the passage of this act, be exercised and discharged by the commissioner of commerce. All bonds authorized by any of the provisions aforesaid to be made payable to the Register of the Treasury shall, from and after the passage of this act, be made payable to the commissioner of commerce.

SEC. 8. That section 158, title 4, of the Revised Statutes is hereby amended by adding at the end thereof the words: "Eighth. The department of industries."

SEC. 9. That this act shall not be construed to interfere with the present organization of the various departments, divisions, subdivisions, and bureaus embraced herein, except with reference to the transfer thereof to the department of industries, subject to the general provisions of law relating to regulations in the various Departments of the Government and appointments to office therein.

SEC. 10. That all acts and parts of acts inconsistent with this act are hereby repealed.

The following is the proposed substitute reported by Mr. HUBBELL, from the Committee on Reform in the Civil Service:

Be it enacted, &c., That the Department of Agriculture, now established at the seat of Government of the United States, shall hereafter be an executive department, and the Commissioner thereof shall hereafter be known as the secretary of agriculture; and section 158 of the Revised Statutes is hereby amended to include said department by adding at the end thereof the words: "Eighth. The Department of Agriculture," which shall hereafter be the title of said department.

SEC. 2. That there shall be in the Department of Agriculture a secretary and an assistant secretary of agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate; and such secretary shall receive the same compensation as is now paid to the heads of the other Departments of the Government, and such assistant secretary shall receive a compensation of $4,000 per annum, each to be paid monthly; and a chief clerk of said department, to be appointed by the head thereof, at a salary of $2,500 per annum, to be paid monthly.

SEC. 3. That in addition to the duties now performed by the statistician of the Department of Agriculture, provided in section 529, title 22, of the Revised Statutes, it is hereby made the further duty of said statistician to collect all facts, information, and statistics obtainable relative to the annual product of manufactures and the cost thereof, the various processes employed, the quantity and value of raw materials consumed, and such other information as shall show each year the condition of manufactures in the several States. It shall also be the further duty of the said statistician to collect all facts relating to the wages of labor, hours of labor, and the general condition of the laboring classes throughout the country.

SEC. 4. That the secretary of said department is hereby authorized to call upon the chief of the Bureau of Statistics, now organized under the jurisdiction of the Treasury Department, for all information collected by that bureau relating to the railroad systems of the country and the cost of constructing and operating the same, or such other information as is contemplated in paragraph 129 of the supplement to the Revised Statutes; and it is hereby made the duty of the head of said Bureau of Statistics to furnish the said information whenever called for by the said secretary of agriculture.

SEC. 5. That it shall be the duty of the secretary of said department of agriculture to organize therein a bureau of mining industry, for the collection by appropriate means of such facts and information as directly relate to the utilization of waste and other products, to geology, and to the geological surveys of the United States; and such other subjects as in the opinion of the secretary more especially belong to that bureau shall be assigned to the said bureau of mining industry; and all powers and duties vested in the commission known as the Geological Survey, together with all officers, clerks, employés, and agents, and all instruments, records, books, papers, and other property thereof, are hereby transferred to the said department of agriculture.

SEC. 6. That the secretary of agriculture shall organize in said department a bureau of animal industry, and shall appoint a chief thereof who shall be a competent and experienced veterinary surgeon, and who shall be entitled to a salary of $2,500 per annum, to be paid monthly. There shall be collected through said bureau all facts, statistics, and information relative to the number, value, and condition of all domestic animals, the existence of all infectious or contagious diseases to which they are severally subject, and experiments with remedies and preventives for the same, and such other information as shall be valuable to the agricultural or commercial interests of the country.

SEC. 7. That all acts or parts of acts inconsistent with the foregoing are hereby repealed.

Mr. ANDERSON. I ask unanimous consent that the House take a recess this evening, for the purpose of debate on this bill, from five o'clock to half past seven.

There was no objection, and it was so ordered.

Mr. HISCOCK. I desire to know if unanimous consent has been given that this bill be considered in the House as in Committee of the Whole?

Mr. ROBINSON, of Massachusetts. That would be satisfactory.

The SPEAKER. No such proposition has yet been submitted.

Mr. HISCOCK. I ask unanimous consent that that order be made.

The SPEAKER. The gentleman from New York asks unanimous consent that this bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection, and it was so ordered.

Mr. HISCOCK. Now, I desire to inquire of the gentleman in charge of the bill if he will not now give notice when he will call the previous question.

Mr. TOWNSHEND, of Illinois. I object to any time being fixed for calling the previous question.

Mr. HISCOCK. The gentleman from Kansas can give notice and the gentleman from Illinois cannot object to that.

Mr. ANDERSON. In view of the fact that there will be an evening session for debate, I give notice I will call the previous question.

Mr. ROBINSON, of Massachusetts. Do not give any notice now.

Mr. ANDERSON. I give notice that I shall ask that general debate be closed at two o'clock to-morrow.

Mr. TOWNSHEND, of Illinois. I call for the regular order.

Mr. ANDERSON. That will allow debate on amendments after general debate has been closed.

Mr. HUBBELL. I ask the attention of the gentleman from Kansas for a moment. I do not know how much debate will be desired on this bill; but it occurs to me after the session of to-night the gentleman from Kansas can then better determine when he will call the previous question. After seeing the progress of the debate he may be willing to allow an hour or two longer for general debate. It seems to me the gentleman will be in a better position to-morrow morning to say when he will call the previous question without causing antagonisms in the House.

Mr. ANDERSON. If after the session to-night it is seen that general debate can be closed at two o'clock to-morrow, I shall make that request.

Mr. HISCOCK. I understand the gentleman gives notice now that he will move to close general debate at two o'clock to-morrow.

CORRECTION.

Mr. ATHERTON. I desire to make a correction of the RECORD. My colleague, [Mr. CONVERSE,] who is absent, was paired with my colleague [Mr. GEDDES] on the tariff-commission bill. The pair does not appear in the RECORD. I want it so to appear, at the request of parties interested.

The SPEAKER. The statement of the gentleman will go in the RECORD. The clerks state that notice of the pair was not furnished them.

DEPARTMENT OF AGRICULTURE.

The SPEAKER. The bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture is now before the House for debate. The gentleman from Kansas [Mr. ANDERSON] is recognized.

Mr. ANDERSON. The object of this bill is to enlarge the powers and duties of the Department of Agriculture. The broad purpose of its advocates, frankly stated, is to create and liberally maintain an eighth executive department, which, under the vigilant chieftainship of a Cabinet officer, shall be charged with the duty of protecting and developing the vast agricultural interests of this nation.

It is impossible to overestimate either the magnitude of these interests or their vital importance to the whole country. Indeed no man is able to form even a true conception of them. We can cite statistics, but figures, like finger-boards, simply point toward something else. Thus we can say that 30,000,000 out of the 53,000,000 of persons to-day in the United States are supported by the direct profits of the field, and of these that 25,000,000 depend solely on the farm for a livelihood.

But who can grasp the import of this fact or appreciate its fullness? On the census-roll a given farmer counts "1;" yet that stroke is merely a dead sign which only points toward a living, sturdy man, who, skilled in agriculture, labors throughout a life-time in wresting from the soil that which gives food, raiment, and shelter to him and to his dependent ones. And not until you have entered into his daily life and photographed his very soul can you fully comprehend the throbbing reality which is indexed on your census-roll by the figure "1."

Nor is it within the power of the human mind to comprehend "millions" of anything. When numbers climb above hundreds of thousands they have gotten beyond realization, and no man can comprehend the true meaning of the simple statement that 25,000,000 of Americans are maintained by the farm.

We can also cite the fact that in 1880 only ten of the leading crops, raised from but 164,710,537 acres, were together worth $2,131,051,859; that the value of farm animals was nearly as great, $1,721,795,252; and that the money received from these two sources alone was $3,852,847,111. Further, that the cash value of all our agricultural products in that single year was $9,000,000,000. But no person can form a true conception of the grand total of thought, skill, labor, and pluck represented by these products, nor of the worth of those dollars to the men who thus earned them.

Yet all can see that the very magnitude of such totals, and the greater magnitude of the vivid realities to which they point, inexorably demand from this Congress a candid answer to the question: Ought not the American Government, as a government, to take instant and effective steps toward fostering this immense industry; toward flooding the nation with practical information as to the most profitable crops and cultures in the diversified sections; toward promptly informing every farmer respecting the supply and demand in home and foreign markets, and, by placing him on the same plane of knowledge with the buyer, thus protect him against the chicaneries of speculators; toward advising him as to the modes and cost of transporting products to their final world market, and by so doing sooner or later insure an equitable regulation of freight rates and a national defense against railway piracy; and finally, toward putting in the hands of that increasing multitude which each year sweeps westward into new territory the best maps and facts that exploration and science can furnish as to the topography, farming, mineral, or other resources of our unoccupied public domain, itself an empire almost equal in area to that of the organized States?

PROTECTION OF THE FARMER THE DOMINANT ISSUE OF THE FUTURE.

Mr. Speaker, this question of fostering or of ignoring the agricultural industries of the nation runs deeper into the very foundations of true statesmanship than do questions of appropriations or revenues, or even of a tariff. It touches more closely and vitally the interests of a greater number of persons than do all other issues combined. Upon its decision is pivoted the financial welfare, not only to-day, but for generations to come, of the majority of American voters. And, as the prosperity of the nation is but the aggregated prosperity of all its people, so the development of the agricultural interest is the broad road to national strength and enduring affluence among nations. Agriculture is the very soul of our national organism. And those who sneer at efforts to foster this industry as being "hay-seed demagogy" have overlooked the true purpose of a republican government, and underestimate both the intelligence and spirit of the American people. Because this general question, in one shape or another, must from the very nature of things be the

dominant issue of the future, and I digress a moment to establish that proposition.

The distribution of the voting power of this House fairly indicates the relative power of the groups of people living in the several States. As a Representative is merely an agent for the persons who send him here, it is safe to say that his action on matters of legislation will be governed by the effect which the proposed legislation may have upon the material interests of his constituents; otherwise he is not a faithful agent. Which, now, will be the controlling sections of the United States, and what will be the dominant interest in those sections? Will it be the manufacturing, the commercial, or the agricultural interest? The following comparison of the percentages of the voting power in this House held by the groups of States named throws light on these queries; New York, New Jersey, and Pennsylvania being classified as the Middle States:

Percentage of the voting power of the States in the House of Representatives by the apportionments at the years designated.

Groups of States.	1789.	1803.	1823.	1843.	1863.	1883.
New England States	26	26	20	14	11	8
Middle States	28	31	32	29	25	21
Southern States	46	42	39	37	32	35
Western States	.....	.....	9	19	34	36

New England a hundred years ago wielded a full quarter of the vote on this floor. By the late apportionment it has less than a twelfth of the whole vote. New York, New Jersey, and Pennsylvania, which sixty years ago had one-third of the power, will have but one-fifth during the next ten years. The Southern States, notwithstanding their extension from Virginia to Kansas and from Georgia to the Rio Grande, have fallen from 46 per cent. in 1789 to 35 per cent. in 1883; while the Western States have risen from nothing in 1803 to 36 per cent. in 1883. Assume, if you please, that the manufacturing or commercial interests will exclusively control each of the New England States, New York, New Jersey, Pennsylvania, and Ohio—which is certainly a violent presumption—still, in the next Congress the vote of all these States combined will be but 35 per cent.—35.34—and the vote of distinctively agricultural States will be 65 per cent.—64.66—nearly two to one.

Now, the material interest of the South and West is essentially agricultural, other industries being incidental or secondary. And these two sections, excluding Ohio, will, for ten years to come, swing two-thirds of the voting power in national legislation. It is safe, then, to anticipate that their Representatives will guard the material and dominant interest of these sections quite as carefully as the Representatives from manufacturing or commercial centers have protected the interests of those sections. And the man who imagines that the agricultural industries of this nation are to be ignored in the future, as they have been in the past, overlooks the further fact that the next fifty millions of Americans will reside west of the Mississippi, and will mainly depend on the profits of the farm for support. But long before that event happens the ruling industry of this nation will have received due attention by the National Government.

OBJECT OF THE BILL.

It is not claimed that the bill before us is perfect, or at all commensurate with the importance of the subject, but it is a start in the right direction. Its object is squarely stated in the first paragraph of section 3:

SEC. 3. That for the purpose of collecting and disseminating all important and useful information concerning agriculture, and also concerning such scientific matters or industrial pursuits as relate to the interests of agriculture, the Secretary shall organize the following bureaus, namely: 1, the bureau of agricultural products; 2, of animal industry; 3, of lands, and 4, of statistics.

There is an old adage that "knowledge is power," which, like most adages, is true or false as the conditions of its application vary. The knowledge of an intricate channel is power to a pilot; by it he guides a vessel to safety, and without it he would not be a pilot. But that same knowledge is not a power to an engineer whose locomotive follows fixed rails. Each vocation demands specific knowledge which is all powerful in it, but which may be of no use in other vocations.

This bill rests upon the principle that it is the duty of government to give to the farmers of America all such important and practical information respecting their vocation as will insure greater yields and better profits; such as a knowledge of the most profitable crops in a given section, the best varieties of seeds, the best fertilizers and modes of cultivation; or, such as the most profitable breeds and their protection against disease; or, such as the probable effect of domestic and foreign markets on prices.

That sort of knowledge, carefully collected and promptly disseminated, would be of incalculable value to the American farmer, because it would save him from making experiments which others, by costly experience, have found to be mistakes, because it would insure greater certainty to his operations, lessen his labor, increase his growths, and enlarge his profits. In short it would be just the power that would turn into success that which otherwise would be either a partial or total failure.

But this is a kind and extent of information which no farmer or set of farmers can afford to gather. To obtain it there must be a broad organization, trained men, ample means, and tireless persistence. And either the National Government, which can create the organism and command the men and means, must do this work, or that work hereafter, as heretofore, will remain undone. I shall not at this time discuss the machinery proposed by the bill, preferring to deal with the great object it seeks to attain.

THE MEASURE CONSTITUTIONAL.

But few persons will deny the proposition that Congress has the constitutional power to collect and disseminate such knowledge respecting the greatest of our national industries. Its authority to provide for the general welfare is coequal with its power to raise revenues and to provide for the common defense, as stated in article 1, section 8:

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States.

It is under this section that books are copyrighted and inventions patented, and under this exact clause that the wonderful pyramid of our manufacturing and mechanical industry has been erected.

Fifty years ago the capital invested in cotton factories was $40,000,000, and the amount of cotton used was 77,759,316 pounds; to-day the capital is $225,000,000 and the material used 793,240,500 pounds. Forty years ago the woolen factories used 50,808,524 pounds of wool, turning out products worth $20,696,699. In 1880 187,616,605 pounds of wool were manufactured into articles worth $234,587,671. In the last ten years our silk products have increased from a value of $12,210,662 to $34,410,463. Fifty years ago there were but few tanneries and no shoe factories. In 1870 4,237 tanneries, using $9,000,000 worth of bark, 9,000,000 hides, and 9,664,000 skins, produced leather worth $86,169,383; while the 3,151 shoe factories turned out articles worth $146,704,000. In 1830 the yield of the iron furnaces was 165,000 tons; in 1880 that of iron and steel works was 7,265,000 tons, worth $296,557,685. In but twenty years the capital employed in making machinery has increased from $15,000,000 to $40,000,000, and the annual product is worth $20,000,000. In 1810 the value of paper made in the United States was $2,000,000, in 1870 it was $50,842,445. To quote the words of Commissioner Loring, from whose address these facts are collated, "the aggregate annual product of the manufacturing and mechanical industries of the United States is now more than $6,000,000,000. Of this vast product less than $200,000,000 are exported."

Whatever may be the diversity of opinion as to the justice of tariff legislation, there can be no dispute as to the worth to the nation of these industries themselves, nor as to the beneficence of the countless forges and factories in giving employment to millions of skilled workmen whose intelligence and deftness place them in the front rank of the world's artisans, and who, without this employment, would be on the farm and competing with farmers. These are plethoric facts over which all men rejoice.

And that these colossal results are directly due to the fostering action of the National Government no one to-day either disputes or regrets. Since 1791, when Alexander Hamilton as Secretary of the Treasury advised the renewal of a duty of 3 cents a pound on raw cotton imported, and an increased duty on all imported cotton goods, it has been the steady policy of this nation to develop its own resources, to foster its industries, to protect its workmen, and to deepen, broaden, and quicken the great stream of manufactures, which, like that of the Gulf, strikes the shores of other continents and tempers the conditions of other peoples.

DUTY OF CONGRESS TO FOSTER AGRICULTURE.

Now, upon exactly the same ground that manufactures have been created and the mechanic protected, I claim it to be equally the right and duty of Congress to develop the greater industry of agriculture and to protect its farmers, who largely outnumber its artisans. Because, first, a farm is a machine in the same sense that a steam-engine is a machine; and because, second, the annual products of this industry are far more valuable to the nation than are those of all other industries combined.

The chief difference between an engine and an acre is that man made the one and God made the other. The first is designed to so apply power gotten from steam as to change the relative position of matter. The second is designed to create matter, in a certain sense; that is, by rotting a single grain of wheat to create a new stalk and a hundred new grains.

In the former case the engineer brings together heat and water, and opening the throttle-valve does nothing further than to prevent waste from friction. In the latter case the farmer mellows the soil, sows the seed, and prevents waste from weed or insect, while the Great Creator, turning the earth as a throttle-valve, lets on or shuts off the light, heat, and moisture which, with soil and air, not only weave the wonderful fabrics we call blossom or fruit but actually build the very loom itself, in the shape of plant or tree, which does the weaving. In either case man merely brings together certain forces of nature, while they do the work. So that the farmer is a true engineer quite as exactly as is the mechanic, while the farm is a magnificent machine, infinitely more mysterious and powerful than the mightiest engine that will ever drive a shaft.

And if it be wise for government to foster its forges and spindles far more is it bound to develop that vaster mechanism everywhere and thickly packed between the Atlantic and Pacific, to which the air conveys the raw material, for which the clouds carry moisture, and which the sun keeps driving and throbbing till its product carpets a continent with soft grasses, tints it with grains, and flecks it with hirsute forests. Talk of American forges and factories, what are all of them put together when contrasted with God's continental workshop for supplying food for man, beast, and plant? And if it has been found legitimate and expedient for the Government by legislation to develop the one, then certainly is it bound to develop the other.

AGRICULTURAL EXPORTS FIVE TIMES GREATER THAN ALL OTHER EXPORTS.

In comparing the products of our farms with those of the factories, it is easier to find the value of the latter than of the former, because a farmer only sells what he does not use, while all the articles of a factory enter the market. The most careful estimates place the annual value of all manufactured products at $6,000,000,000, and of all agricultural products at $9,000,000,000. The total sales of the United States to other nations in 1880 amounted to $823,946,352. Of these the agricultural products constituted 83 per cent., worth $683,010,976, while all other products were but 17 per cent. And yet less than 8 per cent. of our agricultural products go to foreign markets, 93 per cent. being used at home. Nor was that an exceptional year. For the last sixty years the proportion of agricultural to total exports has never fallen below 79 per cent., and averages over 81 per cent., as is shown by the following interesting facts kindly furnished by the statistician of the Agricultural Department, Mr. J. R. Dodge:

OUR SURPLUS.

The immense increase of our exports in sixty years past makes an extraordinary showing, but it is a more remarkable fact that with the growth of population and of varied industries the agricultural surplus should more than maintain its proportion to total exports. The customs figures are as follows:

Year.	Exports.	Agricultural exports.	
			Per cent.
1820	$51,683,640	$41,657,673	80.60
1830	58,524,878	48,095,184	82.18
1840	111,660,561	92,548,067	82.93
1850	134,900,233	108,605,713	80.57
1860	316,242,423	256,560,972	81.14
1870	455,208,341	361,188,483	79.34
1880	823,946,353	683,010,976	82.90

In the last ten years the exports of agriculture have nearly doubled, and at the same time the proportion to total exports has increased.

The great progress and prominence of breadstuffs and provisions in this record is shown in connection with cotton, which fifty years ago constituted about five-eighths of the exports of agriculture. The decennial record is as follows:

Year.	Breadstuffs.	Provisions.	Cotton.
1830	$7,071,767	$2,971,002	$29,674,883
1840	13,535,926	3,503,704	63,870,307
1850	13,066,509	10,927,485	71,984,616
1860	24,422,310	16,612,443	191,806,555
1870	72,250,933	29,175,539	227,027,624
1880	288,036,835	127,043,242	211,535,905

The proportion of cotton exports is reduced to about three-tenths, having lost half its relative prominence; while breadstuffs have advanced their proportion from 17 to 42 per cent., and with provisions, bread and meat together, six-tenths of all our agricultural exports are included.

In view of this fact, which is so constant in its occurrence as to become a law of our national industry, those gentlemen who maintain the right and obligation of government to develop our mineral resources and protect the mechanic, must logically maintain, with five times the emphasis, the obligation of government to supply its farmers with that practical knowledge which may enable them "to make two blades of grass grow where one grew before," and to protect them against the rapacity of carriers and speculators, because our agricultural exports always have been and always will be five times more valuable than all other exports combined.

GOVERNMENTAL NEGLECT OF AGRICULTURE.

It is singular that so little attention has been given to the agricultural industry by the Government, in view of its importance as the great source of national wealth and export. Foreign affairs are represented in the Cabinet by a secretary; so are the Treasury, the Army, Navy, Post-Office, Patent Office, and even the United States Attorney's. These seven Secretaries constitute the official and confidential advisers of the President, upon whom he necessarily depends for detailed information touching the interests intrusted to their respective Departments, and who, by virtue of that fact, have much to do with shaping the course of the administration and of legislation as to these interests. In name, but only in name, we have a Department of Agriculture. It is not an Executive Department. It is not even a bureau of an Executive Department, nor are its interests represented by any secretary in Cabinet consultations. Neither in scope nor power is it the equal of a score of "offices," like those of lands or patents.

And yet the establishment of this so-called department is the only step which Congress has yet taken toward guarding the chiefest of all the nation's industries. And the following communication from Mr. J. R. Dodge, in addition to showing how this step accidentally happened to be taken, throws light upon the circumstances which molded the law under which it now acts:

UNITED STATES DEPARTMENT OF AGRICULTURE,
Washington, D. C., March 23, 1882.

SIR: In accordance with your request I give you a brief statement of the origin and organization of the Department of Agriculture. While the organic law in which the existing organization is founded was passed May 15, 1862, a prior organization, the agricultural division of the Patent Office, had a tentative existence for more than twenty years.

In 1836 and 1837, Hon. Henry L. Ellsworth, Commissioner of Patents, distributed without legal authorization certain plants and seeds gratuitously transmitted to him. March 3, 1839, an appropriation of $1,000 was made by Congress from the Patent Office fund for collecting and distributing seeds, and for collecting agricultural statistics. The officers of the Navy and the diplomatic corps were solicited to procure valuable seeds. In 1840 there were 30,000 packages distributed. The appropriation has been omitted but one year, in 1846. Up to 1854 there had been $39,000 taken from the patent fund, which was reimbursed in 1855, and since that date the money appropriated has been taken directly from the Treasury.

In 1856 a propagating garden was established on the Government grounds between Four-and-a-half and Sixth streets, at first used largely for the production of sorghum seed, which had first been imported by the division in 1854. In 1854 the subject of economic entomology came up, and the investigation of habits of insects injurious to vegetation was commenced. In April, 1859, an importation of tea seed caused the sorghum field to be transformed into a tea garden. In 1858 an eight-day session of American agriculturists was held under the auspices of this division of the Patent Office. The change in the organization was effected through the efforts of the superintendent of the division, Hon. Isaac Newton, who also obtained the appropriation of $100,000 for erecting the present department building, which was built under the direction of his successor, General Horace Capron, without asking a dollar further for its completion. This is a very condensed history of the successive steps by which the present machinery of the department was brought into operation. While agricultural statistics demanded attention from the first, systematic crop reporting was not undertaken till late in 1863, and not brought to include all the States until 1866. The monthly reports were continued till 1870, and then superseded by special reports.

Yours, truly,

J. R. DODGE.

Hon. J. A. ANDERSON.

THE EXISTING LAW A FARCE.

By the present law the duties of the Department of Agriculture are exceedingly limited and grotesquely out of proportion with the importance of this industry. They consist of exactly two things: first, "to acquire and diffuse useful information on subjects connected with agriculture;" and, second, "to procure and distribute rare and valuable plants." Just these and nothing else are declared by section 520 to be "the general design and duties" of the Department. And it is noticeable that this "general design" is not to acquire information as to the agriculture of the United States, nor even of practical agriculture anywhere, but only of "subjects connected with agriculture," such, say, as entomology or chemistry.

Still more limited are the powers for executing this design. Section 526 enacts that the Commissioner shall procure and preserve all information concerning agriculture which he can obtain by books and correspondence, by experiments, by the collection of statistics, and by other appropriate means within his power. With respect to rare and valuable plants, he is to collect, test, "propagate such as may be worthy of propagation," and distribute these among agriculturists.

Fairly construed that law simply establishes a mere bureau of archives, in which may be deposited such dissertations on subjects "connected with" agriculture and such statistics as the Commissioner happens to obtain, and from which may be distributed such foreign seeds as the benevolence of travelers or other governments might have donated. Just think of it! The brainiest and richest nation on earth, one which sports its own particular eagle, shoots off its own Fourth of July, and as it waltzes down the world's ball-room expects queens to be fascinated by its superb grace and emperors to be dazzled by its sparkling generosity; one which, after eating 90 per cent. of its agricultural products, finds that the tenth which it sells constitutes four-fifths of its exports; this nation by legislative enactment solemnly boxes up a lot of moonshine and triumphantly designates that box a "Department of Agriculture," where under the existing statute donations of foreign seeds will be thankfully received, postage prepaid!

I am not in the least seeking to belittle either the worth or the work of the Department. Each is infinitely better than the law allows. Fortunately both Congress and the Commissioners have in late years overridden the statute. But that organic law is a burlesque; just these two duties, and no more, are the lawful duty of the Commissioner, and just these powers, and no others, are the legal powers of this pretended Department, which is a real and forceful "Department," in the constitutional sense of that word, about as much as an oyster is an elephant. And if anything on the American continent needs "enlarging," it is "the general design, duties, and powers" of this alleged Department of Agriculture.

PROTECTION OF AGRICULTURE THE REAL PROBLEM OF AMERICAN STATESMANSHIP.

Mr. Speaker, the day has gone by when this Government, simply on the principle of self-preservation, can longer afford to neglect the greatest of its industries, or to withhold from a full half of its laboring masses that information which will most strengthen them in their life-battle against all nations and climes for remunerative prices at the world's counter. Even a miser feeds the hen that lays the golden

egg. The great problem of the near future which American statesmanship must solve is this: How, with enormous products to be transported across half a continent and then across an ocean, are American farmers to compete with the cheap labor of Europe and Asia and still make sufficient profit to support themselves and educate their children?

Stump speeches will not serve as an answer; nor will demagogical planks in party platforms. Truckling to the threats of gigantic railroad corporations will not change a single factor of that problem. Macadamizing creek beds, or building levees for the Mississippi to wash away, will not meet this case. Even that sovereign panacea for all the ills to which manufacturers are heirs—the tariff—is but a partial answer. Paying the debt, maintaining an Army and Navy, making liberal appropriations for the support of Government, or even adopting the great Democratic measure of reducing the tax on whisky and tobacco, will not furnish the solution. None of these things will lessen the distance your products must be moved, or raise the wages of a single laborer in the old world. After all such measures are adopted the conditions of the problem still remain. Each year they grow, come closer, and glare more imperiously. And the sooner Congress grapples them the better, for, unlike interstate commerce bills, you cannot smother these conditions in House committees. They resemble Banquo's ghost, and "will not down at your bidding."

How long, think you, will it be until the number of persons in the United States dependent on the farm for support will be as great as our total population in 1880? Only thirty years, gentlemen! The estimates of Professor E. P. Elliot, which are thoroughly reliable, place our population in 1890 at 64,476,000; in 1900 at 81,529,000; in 1910 at 101,310,000; and at that time 50,000,000 of our people will be engaged in agriculture. Now, suppose that, as the inevitable result of increasing competition with the cheap and cheapening labor of Europe and Asia, and by reason of the uncontrolled rapacity of railways, these 50,000,000 of Americans, so far from making a profit by agriculture, can only eke out a bare existence—as do English farmers to-day—then what? Will there be any riots? Will there be fewer happy homes and more prisons, smaller school-houses and larger poor-houses?

With a free ballot in the hands of a discontented majority on the one side, and the corruptionists of corporations on the other side, what would be the character of your legislation, the permanence of your laws, or the durability of your institutions? Each succeeding decade will intensify the problem. At the close of the next century our population will exceed 200,000,000, and with density of population come all the evils that blacken Asia to-day. So that, simply as a cold-blooded measure of self-preservation, it is safer and cheaper for this Government to expend thousands of dollars in protecting and developing its agricultural industries now than to expend millions hereafter in suppressing the inevitable results of its neglect.

GOVERNMENT'S REVENUES DEPENDENT UPON PROFITABLE FARMING.

There is another reason for governmental action. As government derives its revenues from the people, any measure which tends to increase the prosperity of the whole people is a legitimate subject for national legislation. The man who sells more than he buys makes money. The nation which receives more for its exports than it pays for its imports is growing rich. No one can say what the value of our exports will be thirty or fifty years hence. But it is absolutely certain that four-fifths of the whole export in any year will consist of agricultural products. If the farmer is not remunerated for raising these products he will stop work, and four-fifths of your export would cease. That would stop your imports, and so stop your revenues. And this is the least of the evils which must result from unprofitable farming, because the capital and men now employed in agriculture would, of course, be transferred to other pursuits; cut-throat competition in manufacturing and all branches of trade would follow, necessitating less profits to capital and lower wages to mechanics and all tradesmen. That would sweep away the remaining fifth of your imports, occasion a direct tax on capital or poll, and result in such general depression as might end in anarchy. It is upon a remunerated agriculture that the revenues of the Government and the prosperity of the whole nation rest. The profits of agriculture depend upon the intelligence and skill of our farmers—not as men nor citizens, but as successful farmers.

Hence it is not only legitimate but essential that government as a government shall place in the hands of all farmers the best practice and suggestions that the best experience of its most successful agriculturists can furnish; that it shall promptly advise the farmer of anything and everything in this or any country which will affect market prices; that it shall by a strong arm protect him against extortionate rates and maintain every agency that will give him success in his competition with the Old World, by giving him truer knowledge, greater skill, surer remedies, and better processes. Half the appropriation annually made for the Army or Navy thus expended would in ten years' time double our exports and make the rich basin lying between the Alleghanies and the Rockies the garden and granary of the civilized globe.

THE RAILROAD GAME.

Entertaining these views, I am opposed to the substitute for this bill, of which notice has been given by the gentleman from West Virginia. It proposes to abolish the Department of Agriculture and to establish a "department of industries," consisting of a division of agriculture and a division of commerce. The interests of agriculture differ from those of commerce, exactly as do the interests of the farmer from these of the merchant. The first raises and sells; the second buys and ships. The former is a producer; the latter is the agent for the consumer. In the sense that agriculture or manufacturing is a creative "industry," commerce is not an industry. And to co-ordinate these two divisions in a department of industries would, to my notion, be like putting a lamb and wolf in the same field. That commercial wolf would be mighty apt to swallow the agricultural lamb. It undoubtedly would do so if the division of commerce amounted to anything and was "true to name," because the great bulk of our farm products are transported by rail, and the railroad system is virtually in the hands of a few millionaires.

It is to their interest to charge the highest rates an article will bear, and they vigilantly guard that interest. If common report be true, these corporations sometimes control State Legislatures, defeat Congressmen, and elect Senators; and if it be fair to judge a tree by its fruits and a majority of the Supreme Court by its decisions, this same influence has force in the final determination of railroad cases. With a division of commerce in such a department of industries, would not these corporations somehow see to it that their commercial interests were in nowise endangered by any effort of the agricultural division to protect the farmer against extortionate freights? Well, perhaps!

But, on the other hand, if this division of commerce is not to amount to anything, then I am opposed to making agriculture a mere division of any department, desiring to see it protected by a powerful executive department for its own exclusive benefit.

PRACTICAL CHRISTIANITY.

Mr. Speaker, I have sought to state frankly the purposes of the bill before us and some reasons for its adoption. For a moment think of the countless farms clustered or dotted between the Atlantic and Pacific; of the aggregate labor expended in raising crops; of the weary months between sowing and selling; of the risks; of the priceless worth to these sturdy toilers of that practical knowledge contemplated by this measure; and then think how much their labor would be diminished and their profits increased by the vigorous maintenance of such a department. In that event the national flag, rendered precious to many a Northern farmer by his own self-sacrifice, would become doubly endeared to all farmers South and North as the flag, not of savage war, but of blessed munificent peace, signaling to each of them, whether in column or on outer picket, the grand rush of a mighty nation and such guidance and re-enforcement as would assure them the victory in their battle with nature for grains, and with Europe for the gains, that to these millions mean food and homes.

I am not now speaking from the plane of revenues or expediency, nor at all thinking of the constitutional power to insure domestic tranquillity or to provide for the common defense. These powers inhere in all nations and as well in beasts. But I am thinking of another power nearer Godlike than human, flashed into manhood among the farms of Palestine, the glory and crown of humanity, and which to-day is the very soul of our Republic—the constitutional power to promote the general welfare; a power which, when exercised by a great and generous nation for the enlightenment and protection of its workers, enables them to lift themselves from poverty to competence, ennobles them with a spirit of self-dependence and independence, brings rest to weary wives, insures education to children, beautifies homes, and lights up a whole continent with the glow of happiness.

Be it our task to assure the national exercise of this power vigorously, steadily; and may its broadening be as the national growth. In such an event, and peering into the future fifty or a hundred years hence, one catches glimpses of a still brighter continent, with vaster belts of grain, with denser, busier, and richer multitudes, and over it all the flag of to-day more thickly clustered with stars, somehow more lustrous, even as if God were smiling through them.

I reserve the rest of my time. How much time have I?

The SPEAKER *pro tempore*, (Mr. VALENTINE.) The gentleman has fifteen minutes of his hour remaining.

Mr. AIKEN. Mr. Speaker, in May, 1838, the citizens of Kentucky, through their Senator, Mr. Lynn, petitioned Congress to establish at Washington a "department of agriculture and mechanics," the head of which was to have a seat in the Cabinet. This petition was a model of conciseness. It was short and yet wonderfully comprehensive. This secretary was to be supplied with assistants, whose duty it would be to forward blank forms to every teacher and literary institution in the Union to be filled up with information gleaned from farmers, mechanics, merchants, professional men, and citizens generally concerning soils, minerals, crops, implements, seeds, modes of culture, styles of buildings, condition of manufactures, state of education, and practical information of all kinds whatsoever to be obtained in their respective school districts. Premiums were to be offered for discoveries. The study of insects injurious to agriculture was to be encouraged. A system of weather reports was recommended, similar to those now in vogue, to advise farmers of antici-

pated sudden changes. Improved and newly invented implements were to be tested by competent engineers. Rare and valuable seeds from foreign countries were to be purchased and distributed. Practical agricultural and mechanical information of every possible character was to be collected through our foreign ministers and consuls, naval and Army officers, and forwarded to this department, there to be collated, and in condensed form to be distributed to all the teachers in the Union, and by them to be imparted to their pupils, in the language of the petition, "thus to direct the active, ardent minds of the youth of the United States to investigations in natural history and the mechanic arts."

Mr. Speaker, among original patents the most valuable are those which are far in advance of the times, and such was the case with this petition. With exact nicety it defined duties and blazed out lines of action, forecasting those identical systems which by slow development have at last cropped out into practical utility; but itself was consigned to oblivion, because it was far beyond the ken of the Committee of Agriculture of that day, which met once to organize and a second time to disband.

Nearly twenty years later the editor of an agricultural monthly published in Montgomery, Alabama, contended that an industry so extensive should be represented in the President's Cabinet by a secretary of agriculture. At that time the entire cereal product of the United States was less than the product of a half-dozen of our present Northwestern States, and the almost boundless grain area of the Northwest of to-day was then the tramping ground of the red man and his cloven-footed game. Agriculture then received but meager national recognition. An annual appropriation of $5,000 and a medium-sized room in the Patent Office, presided over by a *protégé* of the Interior Department, constituted the agricultural paternity of the Government.

The descanting of the Alabama editor shared the fate of the Kentucky petition. It lived almost the constitutional life-time of a patent, free from interference or infringement from any quarter. Meantime, however, our agricultural area was widening and lengthening with unprecedented rapidity, and our increased annual production was commensurate with our extending agricultural area. The attention of legislators was forced to the importance of this grand industry either by the growing magnificence of these productions, or perhaps by the concomitant results of civil war, so that in 1862 the Congress of the United States gave a statutory existence to a partially equipped Department of Agriculture. The creation, however, seemed to have been abnormal, for Congressional apathy upon the subject succeeded, and a second life-time of a patent expired before a single voice was heard here or elsewhere asking further recognition of our widespread community of farmers. On the one hand the cultivators of the soil were beguiled by the congratulatory laudation that they were too independent, too self-supporting to ask or even expect favors at the hands of the Government. While on the other, current opinion settled down into the conviction that farmers were at best but clod-hoppers, more automatic than intelligent, whose province it was "to plow and to sow, to reap and to mow," while representatives from all other vocations manipulated the affairs of state. As a result of these two divergent opinions farmers and their profession have been ignored by the Government, and have become infinitesimal factors in the field of politics, except perhaps on the day of election, when farmers are expected to do their whole duty and quit themselves like men.

But, sir, as education has become more generally diffused and civilization has advanced, agriculture, as a science, has become more correctly appreciated. Indeed, farmers themselves have begun to think, and their thoughts have sprung into vocal life, singing praises to their cherished avocation. The marvel of the age is the immensity of their annual productions. The mystery of the telegraph and the power of steam have been invoked to inform the world that we have enough and to spare. The eyes of the world have been turned intently upon us; we can scarcely see ourselves as others see us; hungry millions are seeking our shores, less because this is the land of the free than because it is the land of plenty, and we bid them welcome because we know they will soon kill their own fatted calf for those who will follow them. "Progress and development" is the trade-mark of the American farmer. And agriculture, not content with the embryonic legislation of the past, demands something more at our hands than the privilege of distributing gratuitously among our farmers a few thousands of dollars' worth of seeds purchased from our own nurserymen. And hence the presentation of the bill now under consideration, which comes with a unanimous report from the largest committee of this House.

Mr. Speaker, there is much in our democratic-republican polity that the American farmer does not entirely comprehend, and perhaps equally as much that he most keenly appreciates. He knows that "the price of liberty is eternal vigilance," and that to enjoy his rights he should dare maintain them. That to enjoy the blessings of good government there should be favoritism to none and equal privileges to all. But the insolvable conundrum with him is, Why is it that official prominence is at all times and everywhere given to all other vocations rather than to agriculture? Is this the case, Mr. Speaker? Whether it be so or not the farmers of our country believe it is, and in my opinion they are justified in their conviction. They believe further that the millions of money covered annually into our Treasury through taxation are burdens unequally levied, and are not expended or disbursed with impartiality. The greater portion of these vast sums are gathered from the farmers, for they wear more shoes and hats, more cotton and woolen clothing, sleep under more blankets, use more iron, eat more sugar, chew more tobacco, and perhaps drink more whisky, and of course then pay more taxes than the remainder of our population. But do they receive in return a *quid pro quo*? True, to live under the ægis of "the best government the world ever saw" is their heritage. But this is a reciprocated blessing, given as well as received, and is not obtained by heavy taxation or liberal appropriations of money.

The thoughtful farmer, soliloquizing upon this subject, often surmises that he is equally discriminated against in the disbursement of our annual revenues. He knows that our Navy is a public scandal, and yet sees it gulping millions of the public money every year. He feels that we are at peace with all the world and that our Army has scarcely picket duty to perform on our frontier, yet millions are annually appropriated to maintain a war-footing, among the officers at least, if not among the privates. Understanding somewhat the complex nature of our political organization, he knows that we have an Interior Department, whose administration, traversing our entire domain, annually expends other millions of the people's money, but never for a moment investigates the agricultural necessities of the country. He knows, too, we have that great Revenue Department, radiating from this capital like a mighty octopod, laying its excise clutches upon this product and demanding imposts of that manufactured article, whose Argus-eyed inspectors even a ship load of beef-cattle for exportation cannot escape. And coupled with this information is that further knowledge that the heads of all these Departments are members of the President's Cabinet. Is he not then justified in the inference, Mr. Speaker, that representation in the executive cabal is the means through which these advantages, these privileges, and these powers are secured?

This same thoughtful farmer, Mr. Speaker, remembers that away back in "Old Hickory's" time an additional counselor was demanded by the President to avoid entanglement in the labyrinthal affairs of our postal service, and he well understands how much more necessary such a counselor is in these days of fast-mail trains, expedited services, and star-route embezzlements. Nor is he less impressed that a proper administration of the laws is essential to the preservation of society, and that the jurisprudence of fifty millions of people is a complex science, which the President might well hestitate to execute without the aid of an advisory associate. The necessity for this conclave of executive counselors he fully appreciates. But he cannot comprehend why the greatest of all our interests does not need, should not have, and would not be benefited by a similar representation in the President's Cabinet. The chief source of our national wealth is the product of the soil; our very existence is dependent upon our agricultural success. Ninety per cent. of our exports are directly or indirectly the products of the farm, and that balance of trade so essential in securing and continuing our national prosperity can only be preserved by these exportations, amounting to hundreds of millions of dollars annually. Surely an industry so magnificent in production, so extended in area, and so universal in its bearing is justly entitled to more national recognition than it has heretofore received at the hands of the Government, and should not be left to individual or local enterprise for development.

I am aware, Mr. Speaker, that gentlemen on this floor who frequently consume hours discussing points of order with a view to promote or prevent party supremacy, will, with a nonchalance that is really entertaining, assure me that there is not one word in the Constitution authorizing the appropriation of a single dollar for any such purpose. Perhaps *in totidem verbis* this is the truth, but there is much in the spirit that is not to be found in the letter of that sacred instrument. The framers of our organic law were neither prophets nor the sons of prophets, and were no more able to look down the stream of time into this wonderful age in which we are living than we are to tell who will be President, if happily we should have one, "when the clock of time strikes 1900." When certain expressed powers were delegated, and others not enumerated were reserved, it must have been anticipated that in the future unknown factors would arise, which were to be legislated upon and construed as time and circumstances demanded. The organization of a Cabinet seems to have been one of these unknown factors, for nowhere in the Constitution can the word cabinet be found, nor an intimation of the existence of such a conclave.

The Constitution authorizes the President to "require the opinion in writing of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices," but these Departments themselves only have a statutory existence, for it was not until six months after the inauguration of our first President that Congress passed a law organizing a Department and assigning it specific duties; and as our population has increased multifarious enterprises have arisen requiring the more immediate supervision of the Government, and Congress has had the wisdom to create what was demanded of it, new and additional Executive Departments. But where has the letter or the spirit of the Constitution been violated by such legislation? Since the adoption of our Constitution many things have received the sanction of law which were not in accordance with its letter, nor perhaps its spirit,

but it does not follow that all such legislation was an infraction of that instrument. Necessities have arisen which nothing but divine wisdom could have foretold, and of which the framers of our Constitution had not the faintest shadow of a conception. Then, how could fallible human nature, one hundred years ago, have indited a political principle, and, condensing it into a few terse sentences, have made it rigidly applicable in detail to the myriad of ever changing circumstances that arise in a progressive nationality of fifty millions of people?

Mr. Speaker, allow me to draw upon your imagination for a moment. Resurrect the author of the Constitution and place him in the White House; inform him of our immense bonded debt which we shoulder so complacently; advise him that our imposts are $200,000,000 annually, and that our excises are $150,000,000; that our exports, chiefly agricultural, amount annually to $800,000,000; tell him that palace cars of many tons weight flit across our continent in eight days, rolling upon wheels made of paper; that magnificent steamers in the same length of time cross the Atlantic and deliver in the English markets fresh beef butchered in America one thousand miles inland from port of shipment; introduce him to the hundred thousand Mongolians on our Pacific slope; place a telephone to his ear that he may hear the discussions upon this floor of the representatives of fifty millions of people; give him a morning paper that he may read, as we do daily, notices of events happening in Europe six hours, sun time, before they did actually occur, and then ask him to frame us a Constitution. Think you he would indite us the identical organic law under which we have lived for a century? He doubtless would submit for our approval the same fundamental principles contained in that instrument, but I imagine a latitude of construction would be allowed not now deemed admissible by those who see an infraction of the Constitution in every assumption of new power by the legislative branch of the Government. I favor a strict construction of our organic law, and I do not consider this position shaken when I say that the passage of this bill will be the exercise of a "power reserved to the people," for I believe it is the wish of the people that it should be enacted into law. When the Constitution delegates to Congress "the power to provide for the general welfare of the United States," a majority of these sovereign States being principally agricultural, it can be no forced construction of that instrument to determine that Congress has the power in the manner here suggested to promote an industry that affects directly more than half the people of our country, and indirectly every man, woman, and child within our confines.

Sir, fostering agriculture is no class legislation; much less is it centralizing power in defiance of the Constitution, for it is the people's cause as well as the nation's life. You may scuttle every American vessel and raze to the ground all our manufacturing establishments, this people would still remain as proud, as independent, and as self-supporting as any people on earth. But should the vengeful power of an offended Deity destroy but for a single season all our agricultural products, annihilation, both individual and national, would be our inevitable doom. No, sir, agriculture is a science too vast in its extent, too powerful in its bearing upon the welfare of the people to be considered in the same legislative category with our other manifold industries. But we do not ask for an appropriation to develop it as a science, nor do we propose to legislate into special prominence any of its branches. We simply ask favorable legislation upon this bill, which organizes an executive department of agriculture pure and simple, with all the cognate subdivisions. Nor do we fear that such legislation will transgress any precept of the Constitution, but on the contrary will receive the plaudits of the people.

Mr. Speaker, every civilized nation in the world except Great Britain has given more prominence to the cause of agriculture than the United States. Germany, Russia, Austria, and France each has either a minister or secretary of agriculture. Spain and Italy each has a department of agriculture and commerce. Sweden, Norway, Belgium, and Switzerland each has a department of interior with distinct bureaus assigned to agriculture. The Netherlands and Portugal each has a department, combining navigation, agriculture, and commerce. European Turkey, where it is problematical whether the civilization of the nineteenth century has ever reached, has, like England, given no recognition to agriculture.

And our cisatlantic neighbors have generally given national importance to agriculture. Mexico and the republics of South America have each a department of agriculture and statistics under the supervision of a secretary of interior.

Sir, when all other civilized nations have thus wisely and justly exalted agriculture would it not be entirely in accord with our position as the foremost agricultural nation in the world to give preeminent recognition to this fundamental industry? Such legislation will injure no one, and it will benefit the masses. The cause deserves it, and moreover the people demand it.

The only incorporated national agricultural organization with which I am acquainted is the National Grange of the Patrons of Husbandry, and that body, in convention assembled in Chicago, Illinois, in 1876, representing an agricultural constituency of nearly a million farmers, scattered through twenty-eight sovereign States, and each State represented by at least two delegates in said convention, unanimously adopted a lengthy preamble and series of resolutions, from which I extract the following:

Whereas it is the duty of wise and just legislators to see that the blessings and burdens of government are laid with impartial rule upon all classes alike: Therefore,

Resolved, That American agriculturists demand that they shall be recognized as a real factor in this Government by the establishment of a department of agriculture, to be presided over by a Cabinet officer, who shall organize the same upon a plan to be devised by the wisdom of Congress, which department shall embrace to the fullest extent the agricultural interests of 50,000,000 of people.

Annually since 1876 that body has assembled, and at every session, including the last one, held in November, 1881, almost under the very shadow of this Capitol, they resolved that "in their opinion the Commissioner should become the secretary of agriculture, and thereby be made a member of the President's Cabinet;" and that "the Department of Agriculture should be sustained and encouraged by appropriations commensurate with its importance." And, sir, these resolutions were not adopted hastily or unadvisedly, but after the unanimous report of a committee to whom they had been referred had been freely and ably discussed by men who correctly appreciated the wishes of the constituency they represented.

Mr. Speaker, no people are more sensitive of their rights than farmers, but they are never obtrusive. Their isolated lives are effective barriers to their co-operation, and that combination so frequently resorted to among almost all other classes desiring to induce favorable Congressional legislation upon any measure is unknown among them. No influence, for instance, social, financial, or political, is present with us to-day from the agriculturists, soliciting the passage of this bill. There is no agricultural "lobby" here. During the discussion of the tariff-commission bill, it is well known that tobacco manufacturers and whisky manufacturers were admitted upon this floor, contrary to the rules of the House, who lost no time in ventilating their opinions freely among the members upon the question of amending or abolishing our internal-revenue laws. And during the discussion upon the first Chinese bill, that was vetoed by the President, we were told by the gentleman from California [Mr. PAGE] that the "Six Companies" and the railroads had organized a powerful lobby here antagonistic to that bill. But in this instance we hear nothing of the kind. The appeal, however, is none the less importunate. A great ground swell has come up from the rural districts all over the land, bearing upon its crest the petitions of the more intelligent farmers of the country, urging the legislation contained in this bill. And why shall we not give favorable consideration to these petitions?

Beside the constitutional objection already considered I have heard members opposing the legislation here proposed upon the ground that it would be simply whipping agriculture into politics by adding to the coterie of secretaries another political partisan whose official tenure would be so short that he could render no service to the cause of agriculture. To a certain extent this would be true, for surely no man would be invited into a Cabinet, or would accept, if invited, who was not in political sympathy with the appointing power. But it no more follows that efficiency in a secretary of agriculture implies partisan politics than that an efficient officer could not be secured unless he were a partisan. This objection, if valid, can with equal propriety be urged against any and all the other Departments of our Government. And if true, each political party would be warranted in asserting that the Government could not be efficiently administered unless exactly in accordance with their method of execution, a doctrine to which I cannot subscribe.

No partisanship, however, Mr. Speaker, should be manifested in a Department so directly connected with the masses as would be the Department of Agriculture, nor should there be in other Departments as intimately associated with the immediate interests of the people. But I regret to say that there is, for instance, in the Post-Office Department. Does not every member on this floor well know that the edict has gone forth from that department that none but Republicans are to be appointed to office? Have we not seen latterly numberless efficient, competent, satisfactory postmasters displaced, and in too many instances superseded by inexperienced and otherwise incompetent persons; the first simply because they were Democrats, and the latter solely because they were Republicans? And yet the administration points to results as an evidence of the correctness of their method of procedure. For myself, I have no words of censure for this course, for I make no complaint when others do unto me as I would do unto them. And besides, I think such conduct entirely natural. Efficiency of service should be the chief end, and efficiency, if obtained in the beginning, would not be lasting if the appointer and appointee were not in accord.

Nor do I think that this objection against a secretary of any more avail than a similar objection against a commissioner, and surely we have had more commissioners than Presidential administrations since the organization of the Agricultural Department, and their frequency of appointment has secured more efficiency in office.

Mr. Speaker, the gentleman from West Virginia [Mr. KENNA] has introduced a bill as a substitute for the one reported by the committee, proposing to establish a "department of industries," comprising several bureaus, one of which shall be the bureau of agriculture, and the others in the course of time to be indefinite, as the title indicates that the department may comprehend any and all industries.

It appears to me, sir, that he may as well propose to organize a second Cabinet, for this ponderous department would embrace so great a diversity of interests that its head would require the investiture of the Chief Executive to enable him to perform the functions of his office. No, sir, the thing would be too big; it would be top-heavy and would necessarily disintegrate from the inability of any one man to supervise it successfully.

Nor would I be less opposed to this substitute did it simply propose to establish a dual department, embracing "agriculture and commerce." These two industries are by no means twin sisters. They are antagonistic in all their principal purposes, and no one man can satisfactorily represent the two. They are as antipodal as producer and consumer, whom no single agent can serve, because "one man cannot serve two masters." An agent for a producer must sell in the highest market. An agent for the consumer must buy in the lowest market. A representative of two as dissimilar interests would the secretary of commerce and agriculture be. Commerce is dependent upon transportation for its very existence. Nothing oppresses agriculture more than the fluctuating rates of transportation. Commerce, both external and internal, is in the hands of a comparatively few, intent upon securing net profits. Agriculture is the avocation of the masses, whose daily toil little more than provides a competency. Commerce enhances values. Agriculture creates values. Commerce only becomes an industry after agriculture has reported successful results.

Agriculture is an original, productive industry that is dependent only upon itself, and is sufficiently extensive and important to deserve separately and alone the consideration asked for it in this bill. We wage a warfare upon no other interest; simply ask substantial recognition of agriculture. I have heard the voice of the farmers throughout this broad land clamoring for the enlargement of the jurisdiction of the present Agricultural Department by an elevation of the office of commissioner to that of secretary of agriculture, endowed with all the dignities, privileges, powers, emoluments, and salary that attach to the Secretaries of the other Departments of our Government. They ask for no complication with other industries, but present their claim pure and simple. They see nothing unreasonable in the demand, nor to them does the way appear barricaded with constitutional infractions.

Mr. KENNA. If it will not interrupt the gentleman from South Carolina, I should like to ask him a question at this point.

Mr. AIKEN. I yield to the gentleman for that purpose.

Mr. KENNA. I desire to direct the attention of the gentleman from South Carolina to clause 4 of the third section of the bill, in whose support he is speaking, as reported from his committee, and to ask him if the Committee on Agriculture of this House, as the Committee on Agriculture of every preceding House which has undertaken to deal with the subject, has not found it absolutely impossible to deal with it to their own satisfaction so far as agriculture is concerned, without also including commerce from necessity? I desire to direct his attention to the fact that the very bill in whose support he is making this speech, although it does not embrace quite so much in that line, does to a large degree embrace the very commercial idea that is embraced in this substitute.

Mr. AIKEN. I confess I cannot answer so long a question, which seems to be rather an argument or a short speech injected into mine. But I will say this: so far as the portion of the bill is concerned to which the gentleman from West Virginia refers, it simply provides for the collecting of statistical information. It does not propose to interfere with the transportation of the commerce of the country. It merely proposes to put in operation a system by which statistical facts can be gathered for the information of the people.

Mr. Speaker, I cannot, nor would it be my province if I could, forecast the benefits resulting from the passage of this bill. That they will be manifold and invaluable is evident from the fruits already produced by the present so-called Agricultural Department. Let us for a few moments glance at the history of this department and estimate its fruits. Its origin dates back to 1839, when $1,000 were appropriated to collect agricultural statistics. Annually thereafter an appropriation was made for a similar purpose for twenty-three years, no appropriation in any one year exceeding $5,000, and the Commissioner of Patents in each instance standing sponsor for the faithful disbursement of this pittance, which, with a single room in the Patent Office or perhaps a few shelves in a single room, constituted the length and breadth, height and depth of our fostering care of agriculture. It was during these years, however, that some of our most valuable seeds were imported from foreign countries. Many valuable varieties of wheat were then brought across the Atlantic, which after climatization became and continue to be to this day highly prized in several sections of the United States. It was during this period, too, that the several kinds of sorghum were introduced, which prior to the close of the war had become a staple product throughout the South.

For this saccharine plant I shall ever harbor feelings of profound gratitude, and shall never cease to panegyrize it for having been a "friend in need," and therefore a "friend indeed." But, perhaps, Mr. Speaker, there may be others here who would hurl at it their bitterest anathemas because it gave substantial aid and assistance to the most powerful rebellion in the history of civilization. Sir, in those dismal years of internecine strife, when anguish, bitter anguish, pervaded every household in this broad land, sorghum was both food and drink to the struggling South. It fed our cattle, it fattened our hogs, it sweetened our rye coffee, it made palatable our corn-dodgers, and it supplied us with a beverage, warranted, if taken in liberal potions, to kill or cure any soldier afflicted with the diseases incident to camp life. Sir, to the South sorghum has been a priceless benefaction, and to-day it is infinitely more valuable to the farmers of our whole country than all the appropriations ever granted to the cause of agriculture by the American Congress.

But, sir, it was after those twenty-three years had elapsed and in the midst of that fratricidal war that agriculture received its first practically valuable aid from the Government. In 1862 the Interior Department was relieved of its position as foster parent, and by statute the present Agricultural Department was organized, receiving $50,000 to sustain it during the succeeding fiscal year, twelve times as much as had ever been appropriated during any previous year in aid of agriculture. For the nonce this gave encouragement to the friends of the Department, and much practical benefit was anticipated. But, alas, what a disappointment! Instead of progress there was lethargy. Instead of development there was inutility, and with singular analogy it drifted along for another lifetime of a patent as if imbued with the conditions precedent to the office whence it had been removed apparently without any definite purpose in view, and remarkable for nothing save its utter fruitlessness. True, seeds of every variety were scattered gratuitously over the country, but most of them were valueless. True, also, that statistics were periodically published, but they were discredited as simple guess-work. For twelve years after the war the Department positively effected nothing, and so far from identifying itself with our agricultural interests it became estranged from our entire farming community. In 1877 new life was infused into it, whether healthful or otherwise it is not now my purpose to declare, but I am warranted in saying that for the next three years thereafter it expressed a lively sympathy with those engaged in farming, and was kept prominently before the American people. Its administration may perhaps have been chimerical, possibly extravagant, and somewhat reckless, but it cannot be denied that it manifested that zeal and energy so characteristic of our day and country, and shaking off the Vanwinkleism of previous years it actively aligned itself alongside the sympathies of the American farmer.

The series of experimental tests of the fineness, tensile strength and the felting qualities of animal fibers, together with the examination of the physical properties of vegetable fibers, inaugurated in the Department within the past three years, and now being conducted upon a limited scale, but with satisfactory results, is destined, if adequately supported by Congressional appropriations, to materially revolutionize our manufacturing as well as our agricultural enterprises. Acquired knowledge in this regard heretofore has been very limited, and up to this present time is not very extensive, but enough has been learned to establish the breeding quality of an animal through a thorough acquaintance with a single fiber from his hide.

How ignorant, too, are we, Mr. Speaker, of the quality and capacity of vegetable fibers! Of that great American staple which plays such a part in clothing the world we positively know nothing beyond its monetary value fixed by a conventional classification. Cotton may by the touch or the eye be classified as fair, ordinary, or middling, and by this method have its value more or less relatively fixed in the markets of the world; but who ever heard of samples of cotton being classified according to their textile capacity or textile strength? And yet upon these two prerequisites depends its real value to the manufacturer. The experimental tests now being conducted in the department anticipate valuable revelations upon these points, and upon many other kindred ideas of which we are at present almost totally ignorant, namely, whether compressed or impressed cotton is the better fiber for manufacturing purposes; whether the shades of color, upon which so much the price of cotton depends, result from external or internal coloring-matter; whether the cultivation of prolific cotton is not producing quantity at the expense of quality of fiber; and whether by an ascertained system of cultivation, as well as by a certain method of feeding a wool-bearing animal, a fiber, either vegetable or animal, cannot be produced that will be greatly improved, if not made absolutely perfect for textile purposes.

"But," says one, "why cannot all this information be obtained through State aid without invoking help from the Federal Government?" I think it a sufficiently satisfactory reply to say that no State has ever made such an effort, no State is now proposing to undertake such a task, and probably no State ever will endeavor to accomplish such results; and if each and all the States were to attempt severally to effect these purposes, there would be no uniformity of results, no general diffusion of the knowledge acquired, and consequently no general welfare of the people produced. The geographical area of this country is too vast and the interests of this people are too diversified to expect any individual State to be responsible for developments that promote the general welfare of the country. The moral power of the Federal Government must be the focus whence radiate the means of securing this industrial progress.

"But," says another, "why cannot a commissioner be as potent to this end as a secretary?" Mr. Speaker, it is not simply a change of name we desire, but it is an elevation of rank and official position. This

House, for instance, recognizes officially no subordinate, and yet frequently defers to the judgment of official prominence. The Commissioner of Agriculture is but a subaltern of the Secretary of the Treasury. The secretary of agriculture will be the immediate national representative of 25,000,000 of people and the peer of any one in the Cabinet of the President. For this reason the farmers North, South, East, and West demand this elevation, believing that the enactment into law of the provisions of this bill will in no wise infringe any man's constitutional rights nor impede his progress in the business of life and the pursuit of happiness. It will inhibit no State-rights doctrine nor centralize the power of the Federal Government, but will give just recognition and promotion to our grandest industry, which requries the daily toil of more that half of our entire population.

Mr. MULDROW. Mr. Speaker: If I have a hobby it is the creation of a department of agriculture with a Cabinet minister at its head.

When I took my seat as a member of the Forty-fifth Congress I was impressed with the fact that although the people engaged in agricultural pursuits in this country are more than one-half of the entire population, they seem to be singularly indifferent to their own interest. They have made fewer demands and exactions, have petitioned less for what they need than any other class, and seem to be generally indifferent to their own welfare.

I found that the desks of members of Congress were covered with expensive gilt-edged publications urging the importance of railroad enterprises, of manufacturing interests, of canal projects, of subsidies for ocean steamships, all asking for protection and aid, and yet comparatively nothing was urged before Congress designed to foster and encourage this primary and paramount industry, upon which all the rest depend; and it was then, seeing this, I offered the first bill, the object of which was to elevate this department and make its chief an executive officer with the right to a place in the Cabinet of the President.

The measure was criticised by some, was ridiculed by others; the New York Tribune asserted that "it emanated from a member who hailed from a State where shot-guns were the principal implements of husbandry;" but I am glad to know that it had the effect of drawing attention to this subject, and was supported by some of the best men and leading journals of the country. The ranks of its advocates have been steadily augmented, until we find to-day but few politicians representing agricultural districts disposed to run counter to the all-pervading sentiment of this people. I have from first to last taken the position that the prosperity of our country is principally dependent on agriculture for the development and growth of all its great interests, and that this department should have a voice in that branch of the Government which exercises supervisory power to the extent of a veto over the legislation of Congress, and by and with the advice of the Senate to make treaties with foreign countries.

If the true interests of this great industry were consulted to-day the treaties with foreign powers would be revised and altered so as to give greater facilities for trade and exchange in the products of agriculture than now exist. Reciprocal exchange is the life of enterprise and wealth. A political body can no more exist without it than a human body without blood. You had as well stop the flow of blood to and from the human heart and expect life to remain as to cut off the arteries of trade from communities and expect prosperity to follow.

The wealth of nations as well as of individuals in a great degree is brought about by the exchange of commodities, and our treaties with foreign powers might be so enlarged in their scope as to give greater facilities for trade among the commercial nations of the world, and thus enhance, in a great degree, the value of the products of our fields.

It is in no quarter denied that agriculture is the primary interest in this country, and yet great jealousy has always seemed to be manifested on the part of other industries when its rights are sought to be given or its interests subserved. When we seek to elevate it in a degree commensurate with its importance the country is asked, why should it be preferred to other industries? Sir, my answer is, that there is no comparison between this and any other industry in our land. It gives labor to the forge and anvil; the great arteries of traffic are dependent upon it the world over—the ship, the railroad, and every species of commerce and trade, from the bare-foot vender of matches to the great operations of a Gould or a Vanderbilt. The great manufacturing interests, too, are dependent for their success upon it.

Its utility must be confessed, its importance admitted, and it is singular that it was so long before this Government gave any recognition of its duty toward it. The first distinctive recognition was that made by Mr. Thompson when he was Secretary of the Interior, during Mr. Buchanan's administration, when he appointed a special superintendent of agriculture. That being done, no other effort was made to enlarge the powers and scope of this department until in 1862, when the present department, as it now exists, was established.

In the discussion then of the measure it was contended by the opposition that ultimately an effort would be made to elevate it to an Executive Department and give it the right of representation in the Cabinet of the President. Its timid advocates seemed then to fear to boldly declare that if such an effort should be made it would be justified by the importance of this the greatest of all industries, demanded alike by sound principles of political economy and justice to the chief source of our greatness.

Its opponents also attempted to defeat it by the subtle and adroit statement that the farmers themselves needed no such recognition.

Mr. Speaker, this Government has done less for the encouragement of agriculture than almost any other respectable civilized country on the globe. Go across the waters and look at Europe! Take a glance first at Austria, with but six executive departments, we find that one of these is the "department of agriculture." Hungary, with her nine departments, she has a "minister of agriculture, industry, and commerce." France, where the first Napoleon declared agriculture the body and soul of the empire, with her ten departments, has her "minister of commerce and agriculture." Prussia, one of the most cultured nations on the face of the globe, who in recent years has exhibited her wonderful prowess in her war with France, and now justly regarded as one of the most powerful of all the nations of the world, the home of arts and arms and learning and philosophy, and with but twenty-five millions of inhabitants, we find in her ten executive departments a "minister of agriculture, domains, and forests." Just below her we have vine-clad Italy, not unmindful of the source of greatness for every people, has her "minister of commerce and agriculture." Canada, too, just across our own border, with all her kingly notions of government, seems to be more alive to the interests and well-being of her farmers than we with all our boasted republicanism, she has her "minister of agriculture."

These, sir, are but some of the countries to which my attention has been specially called which have dignified this great industry with a special department to represent its true interests and encourage its laborers.

To make a people patriotic, the government must be just. No people will even love a government which is regarded as oppressive in its legislation, or which, for the want of legislation, seems indifferent to the happiness and welfare of the great body of the people, and this principle should never be forgotten in dealing with our large agricultural population.

Mr. Speaker, it is nothing new to make a Cabinet minister or an Executive Department in this Government, when either the needs or the interest of the country require it. There were at first in this country but five Executive Departments: a Secretary of State, Secretary of the Treasury, Secretary of War, Postmaster-General, and Attorney-General, at the head of which, respectively, were Thomas Jefferson, Alexander Hamilton, Henry Knox, Samuel Osgood, and Edmund Randolph. It was many years even then, while there existed these five Departments, before the Postmaster-General was recognized as entitled to a place in the President's Cabinet. The times, however, suggested that in view of the vast interests of the country involved in the postal system, the intricate machinery which was necessary to be put into successful operation for the carrying of the mails for the dissemination of information among the people, and to facilitate trade, and commerce, and intercourse, it was found to be expedient that this Department, which before that time was not entitled to its place in the council of the Chief Executive of the Government, should be accorded one, so that his attention might, through this instrument of the public service, be called directly to the needs of the country in regard to the postal system, and so that by message to Congress, in the discharge of his duty, he might make known to that body what legislation was necessary to meet the demands of mail service, for the benefit and convenience of the people.

The Navy Department was not created until 1798, nearly nine years after Washington became President. But the growing needs of the coastwise and harbor defense, and the protection of our growing commerce on the high seas, suggested more consideration and greater attention. The demand was made and the Department established, with a Secretary of the Navy at its head. The Department of the Interior was not created until 1849, seventy years after the adoption of the Constitution. Its creation was as stoutly opposed as is this bill to-day. Calhoun and Mason and Hunter and Cobb were found in the ranks of the opposition, insisting that such a department was not needed, that the business intended for it could as well be attended to by the other Departments then established. On the other hand, Webster and Davis believed that public lands, patents, and our Indian affairs, embracing treaties and contracts, required more time and attention than could be given in the other organized Departments, and this idea prevailed.

It is nothing new to add members to the Cabinet of the President. Sir, it is a question only of expediency. No man is so wise that he cannot be at some time properly advised on the manifold phases of Congressional legislation affecting the important interests of the country upon which the President must pass judgment. A friendly and discreet adviser near him, and who shares his confidence, is of first importance to the whole country whenever the interests of agriculture are involved. It may be of the highest importance that this officer, clothed with the power of veto, shall be advised by a friend to these interests whose business and whose duty is to give advice under such circumstances, and when treaties with foreign countries are to be made it may become even more important. The range of our markets ought now to be enlarged, not only with the South American states, Mexico, and Asia, but with all the European countries as well.

The sweep of commerce is onward and it cannot long be stayed by any shackles we may attempt to fasten. The transatlantic and Pacific business is demanding cheap and easy connections by rail and water-way across the Isthmus. It is demanded by the commerce of the world, and whether the United States is willing or unwilling, it will be had. And in this great work who is there with a substantial voice in the Government to look after and speak for the interests of agriculture? Of all the people in this country most interested in commerce with foreign powers the farmer is the most deeply concerned.

We find upon examination of the statistics that it is now impossible for our own people to consume the quantity of cotton and leading grain crops annually grown. Where, sir, does and must continue to go this surplus of our products? Of course in the main to the countries of the Old World, where to-day exist restrictions destructive in a large degree of the facilities for favorable exchange, and preventive of obtaining the best prices for our surplus crops.

It seems to me that this restriction which now impairs this free exchange might in a great measure be removed by treaties properly framed for that purpose. Let intelligent effort be given to make treaties by which our products can most readily find markets in foreign countries. Establish lines of ships on a scale commensurate with its needs by furnishing regular and constant employment in the carrying trade of exports and imports. Bring about cheap rates of freight by competition. Let friendly reciprocity of exchange of commodities between other countries and ours furnish a stimulant for the ship-builder. Let him find that where there is now a demand for a tonnage of millions there shall then exist a demand for hundreds of millions. Let foreign countries learn and know that we have garnered in our storehouses the best products of the best soil in the world, which we stand ready to exchange at fair prices for such foreign production as our people need.

There are but few treaties of commerce made but that agricultural interests are vitally involved, and for the want of concern, or for the want of such accurate and complete knowledge which can only be acquired by diligent study, close attention, and earnest sympathy, they have been wholly neglected and sacrificed, or treated with such indifference that practical sacrifice has been the result. Let the ports of other nations be opened and let our surplus products find markets not only at home but abroad. Let a mind be employed trained by study and thought to ascertain how this can best be accomplished. The old maxim "that what is everybody's business is nobody's business," and hence the necessity of giving this work in charge of a man who by research and study has qualified himself for the discharge of the duties of this important trust.

The farmers furnish the most of the money to operate the machinery of this Government, and we can well afford to give them such a man in such a place. In all the parties which have existed, or which now exist, in our country, able, learned, and patriotic men can be found who would bring energy, industry, skill, zeal, and an earnest purpose to accomplish all that the friends of this bill hope for in the interests of agriculture. The expense is a pittance in comparison with the great object to be accomplished and the interests to be subserved. Why, sir, Austria and Hungary in the last annual appropriation I have seen gave in aid of agricultural industries $5,495,125; Prussia, $2,612,340; Russia, for agriculture and public lands, $14,826,184; Great Britain, $795,590; Sweden, $651,735; and nearly all the European countries, great and small, are vieing with each other in giving encouragement to this industry.

Sir, in the rushing tide of business but few persons stop long enough to look upon the vast picture of agricultural industry in the United States: in value more than nine thousand millions of dollars annually to help to feed and clothe the world is furnished by it; in raw cotton producing enough to run every spindle in America and export besides two hundred and fifty millions of dollars' worth for the spindles and looms of Europe. Our grain crops even more astonishing: besides enough for home consumption, our exports of wheat alone in 1876 was 29,500,000 hundredweight; in 1877, 21,500,000; in 1878, 38,500,000; in 1879, 65,500,000; in 1880, 83,000,000. Of corn, besides the hundreds of millions of bushels consumed at home, in 1880 we shipped abroad for sale 49,000,000 hundredweight.

And these are but samples to illustrate the immensity of this great industry. But, if other evidence is needed, I will quote from a recent speech made by Hon. George B. Loring, the present distinguished Commissioner of Agriculture, portraying the magnitude of our constantly increasing agricultural interests:

> In 1870 the amount of cotton produced was 4,352,317 bales, in 1880 more than 6,000,000 bales. In 1870 the amount of Indian corn raised was 760,940,594 bushels; in 1880, 1,754,449,435. In 1870 the wheat crop was 287,745,626 bushels; in 1880 it was 459,667,032 bushels. In 1870 the crop of oats reached 282,107,157 bushels; in 1880, 407,859,033 bushels. In 1870 the tobacco crop amounted to 262,735,341 pounds. The increase of agricultural products was nearly 100 per cent. in these ten years, and in the last year of this decade, out of this vast increase of our crops and products, our cattle exports rose from $13,000,000 to $14,000,000, corn from $43,000,000 to $50,000,000, wheat from $107,000,000 to $190,546,000, flour from $35,000,000 to $45,000,000, cotton from $209,852,000 to $245,554,391, beef from $7,000,000 to $12,000,000, lard from $28,000,000 to $55,000,000, and pork from $5,000,000 to $8,000,000 annually.

And yet, sir, in spite of all this our farmers as a rule are struggling with poverty and adversity. It is a serious question how the surplus of our agricultural products are to be disposed of to the best advantage.

The highest order of intelligence should be brought to bear to aid the struggling farmer in this regard. Elevate, then, this department, and give its present distinguished chief, or some one else as competent, the position which of right should belong to him. Make this a department in fact as well as name. What reason is there for giving every other Department under the direction of the Executive a place in the Cabinet and withhold it from this?

You have made the department; now give it proper recognition and scope to be of the greatest service to those for whose immediate benefit it was intended. It is the nucleus around which all other industries must gather. There should be no ungenerous rivalry, but the rest should acknowledge her modest power, yield to her requests in this regard, and thereby confer material benefits not only upon her but upon themselves as well.

The protected manufacturers surely will not oppose her. She has contributed untold millions to them—taxed year in and year out for their benefit. And it is to be hoped, if not expected, that they will at least ungrudgingly yield this ray of sunshine to gild the clouds of misfortune that so often hang about the efforts of the husbandman, and furnish this symbol of good will.

In your recent tariff convention words of praise of and of seeming interest in the farmers of this country flowed eloquently from the lips of some of its members. You now have the opportunity of manifesting your sincerity by acts as well as words. That sincerity can now be measured by this crucial test. They have been pushed far enough away from the bosom of the Government and put under financial vassalage in order that you may be protected. They have been made to feel long enough that they are political orphans in their own land. Then it is to be hoped that you at least will not raise your hands to strike another blow at the men who have given nourishment to the Government which has given you protection. All legitimate interests should be in harmony. If yours is legitimate, then make it harmonize with those of the tiller of the soil, who has divine sanction for his, and who through the chilling blasts of winter and the sweltering suns of summer toils on, and at the end of each encircling year lays down the fleecy staple of the Southern cotton plant and the fruit of the golden sheaf of Northern and Western grain upon the altar of your riches. Give encouragement to a people who by the muscle and brawn of their manly arms are making submissive for the benefit of mankind the 2,000,000 square miles of fertile plains stretching from one end of our country to the other.

It does seem that there has been a studied effort to degrade instead of elevate the Department of Agriculture. It is known to all of us that the salaries in this department are insultingly, to those who receive them, below those of any other Department of the Government.

The Commissioner of Agriculture receives but $3,500, while the Commissioners, respectively, of Internal Revenue, Patents, Customs, Lands, and many of the assistants who are no more than clerks in the other Departments receive from $4,000 to $6,000 annually. And the heads of the other several Departments receive $8,000 each. This inequality is an outrage; there is no good reason for it. This indignity should not be offered to a class whose business furnishes more than 75 per cent. of our exports and yields more of the revenue out of which these salaries are paid than all the rest of all the classes combined. Sir, not only more than half of the adult male population of the United States is engaged in agriculture, but more than one-half of the wealth of the Union is invested in that industry, and yet Congress gives to it no department worthy of the name, and seems to recognize it only to tax it. It is said there is retributive justice in the moral world for acts of omission as well as commission. The agriculturists, when they see fit, have the power in this land to apply this to the political world, and the time may come when they will exercise it and send to these Halls more faithful servants for more faithful work.

Talleyrand has said:

> Both erudition and agriculture ought to be encouraged by Government; wit and manufactures will come of themselves.

Sir, the wise and patriotic in every age have given encouragement to agriculture. As knowledge and virtue have been shed upon the nations of the world, they have paid greater attention to agriculture and its encouragement; and in proportion to the attention which has been given to agriculture and the respect paid to the husbandman, the bonds of civil society have been strengthened, the arts have flourished, and nations have increased in solid riches, honor, and happiness.

When Rome had reached the fullness of her glory within her realms it was regarded as infamous to neglect or despise agriculture; and it is said "that this sentiment was so generally adopted by the Romans of that time that the most honorable patrician families derived their names from the branches of agriculture which distinguished their ancestors."

Respect paid to agriculture is evidence as a rule of the greatness of a nation. It has been tersely said that "he who can add one bushel of wheat to the increase of a field is greater than he who has ravaged a province or conquered a kingdom."

Remember, sir, that but about one-seventh of the agricultural lands of this country have been made to fructify for the benefit of man. Let us, then, strengthen the hands whose mission it is to unfold the vast internal resources of this land. The giant strides of

our people have passed from the East to the West, and before their resistless march the red man has flown from his former hunting grounds and given us undisputed sway; yet the great store-houses of nature all along the route though thus opened are not explored. With proper encouragement, what a theater for agricultural effort! In its bosom lie concealed powers commensurate to feed and clothe the world. Sir, if this country ever reaches the acme of its greatness, it will be through riches drawn from its valleys and its plains, and it is wisdom to build its future structure of glory upon the foundation which God himself has laid. [Applause.]

[During the delivery of the foregoing remarks, when Mr. MULDROW's time expired,

Mr. McKENZIE said: I ask unanimous consent that the time of the gentleman from Mississippi [Mr. MULDROW] be extended.

Mr. MULDROW. I do not ask more than about seven or ten minutes.

Mr. VALENTINE. I feel constrained to object to the extension of any gentleman's time.

Mr. MULDROW. I hope the gentleman will not object to my occupying five minutes longer.

Mr. SINGLETON, of Mississippi. I think there ought to be no objection. My colleague speaks but seldom.

Mr. ANDERSON. I ask unanimous consent that the gentleman's time be extended for five minutes.

Mr. VALENTINE. I do not object to that.

The SPEAKER. Is there objection? The Chair hears none.

Mr. MULDROW then resumed and concluded his remarks.]

Mr. ANDERSON. I ask unanimous consent that all members who desire it may have leave to print in the RECORD remarks on this bill.

There being no objection, leave was granted accordingly.

APPOINTMENT OF SPEAKER PRO TEMPORE.

The SPEAKER. The Chair desires to state that he expects after to-day to be absent from the city not to exceed two days. With the consent of the House, Mr. BURROWS, of Michigan, will act as Speaker *pro tempore* during such time. The Chair hears no objection.

DEPARTMENT OF AGRICULTURE.

The House resumed the consideration of the bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture.

Mr. KENNA. Mr. Speaker, I desire as briefly as possible to explain my purpose in offering a substitute for the pending bill, and also to state the provisions of the substitute itself. Bills proposing to enlarge the existing Department of Agriculture and to make the Commissioner of Agriculture a Cabinet officer have been pending in this House and in the Senate for years. No bill of the kind has passed either House, so far as I remember. I believe that on two occasions a similar bill was voted on in this House upon a motion to suspend the rules, and on both occasions received a majority, but on neither occasion the two-thirds vote necessary for passage.

For years there has been in this House a strong sentiment in favor of the passage of some bill looking to this result. While such a bill has commanded, in my opinion, at all times a majority sentiment in the House, there have been at all times those here who, while voting that way, doubted the propriety of enlarging the Department of Agriculture for the naked sake of promoting the dignity and character of its officials without any corresponding benefit to the country; and while I am earnestly enlisted in the direction of the objects sought to be accomplished by this bill, I believe its most sanguine friends will be disappointed in their expectation of good results to come from it should it pass as reported from the committee.

Take the present efficient and popular head of the Agricultural Department; I am unable to see, and I believe other gentlemen are unable to point out, how anything will be added to his efficiency or to the value of his department by elevating him, worthy as we concede him to be, to a Cabinet position. What I complain of as insufficient is dignifying the name in the absence of additional substance; in this effort to enlarge the Agricultural Department into a Cabinet department, with a Cabinet officer at its head.

Yet, as I said in the outset, I believe this measure in its general objects to be in the right direction. I am as heartily in favor as any gentleman can be of all legislation on the part of Congress that will tend to dignify the agriculturists of the country and promote the success of their employments. Occupying this position toward that class of our citizens, believing that they should share equally in every benefit that this Government is capable of bestowing upon any class, I go further than the Committee on Agriculture has gone in this instance. I deny that the bill as reported does enough, and I maintain that this Congress will fail in the discharge of an important duty if it limit the operations of the pending bill within the scope designed by the committee. The farmers want more. They are entitled to more, and if their intelligent views are consulted they will get more by the adoption of the proposed substitute.

If you go to-day into the agricultural regions of this country and make inquiry of practical farmers with reference to their productions, the fertility of their soil, the success of their ordinary avocations, they will as a rule speak well of them. We know what our agricultural products have done for us in the last few years. We know that so far as the tilling of the soil is concerned, so far as its successful cultivation is concerned, so far as the mere naked question of products is concerned, our agricultural enterprises in this country will compare favorably with those of any other country on the globe. Yet we know that there is a widespread feeling of oppression and depression among the farmers of the United States. We know that they do not by their exertions realize a return equal to half the rate of interest realized on the same amount of money otherwise invested in any section of the country.

Why is it? If you will inquire of the practical farmer he will tell you it is because of the exorbitant rates of transportation. The difficulty of access to market with the exorbitant cost attending thereon is the difficulty of the American farmer to-day. Look at the petitions coming here daily. From whence come the petitions asking for legislation to control the rates of transportation throughout the country? It is true they come somewhat from commercial bodies. It is likewise true that in rare instances, if ever, does a farmer decline to affix his signature to a petition of that sort. Why is it that the large amounts of money appropriated annually by Congress for the improvement of the rivers and harbors of the country arouse no complaint from the farmers—the men who largely pay the money required for these improvements? It is because of the fact that they realize and urge the necessity for cheaper transportation.

Mr. Speaker, believing, as I have learned to believe, that this Government can do nothing in the line of the advancement of the interests of the practical agriculturists more valuable to them than a proper study and circulation of knowledge with reference to markets, with reference to transportation, with reference to means of affording cheap transportation, I have undertaken by offering the pending substitute to connect, in the consideration of one great department of the Government, the subjects of both agriculture and commerce.

And I differ from the gentleman from South Carolina [Mr. AIKEN] who described the antagonism between these two interests. I deny that the naked carrying trade of this or any other country embraces in a proper sense its commerce. The exchange of commodities, the mutual buying and selling, is one thing, the actual transportation is another. England to-day commands the carrying trade of the world, and yet we are to-day as prosperous as almost any commercial nation on the globe.

I believe, unlike my friend from South Carolina, that these two things are, as they have always been, twin sisters, and that they ought to be treated as one. I believe that the interest of the farmer is necessarily involved in cheap transportation, in the commerce of the country, in the easy exchange of commercial commodities, which embrace agricultural products with the rest.

Therefore I believe, as I intimated at the outset, that it is a matter of very grave doubt, even in the interest of the farmers of this country themselves, whether we should take a mere skeleton in the form of the existing Agricultural Department, and deceive the country by calling it a Department of Agriculture, thus artificializing its head by calling him a Cabinet officer, instead of putting the two things in one, by embracing both agriculture and commerce in the same general department, elevating the head of both to a Cabinet position, and adding thereby to the usefulness of both. We may in this way do substantial service not only to the agricultural but to the commercial interests of the country, and at the same time accomplish what will soon confront us as an absolute necessity.

The proposition to establish a department of agriculture and commerce, like the proposition to establish a department of agriculture alone, or a department of commerce alone, is not a new idea here. I assert no originality whatever in connection with this bill. Bills have for years been pending here, as I have said, to establish a department of agriculture. Bills have for years been pending here to establish a department of commerce. And likewise bills have been pending, in one form or another, in this House or the other, to establish a department embracing both those interests. My colleague, Senator DAVIS, of West Virginia, has had a bill pending for some time in the Senate which involves the main features of the bill which I have offered here, very similar in substance, if not in detail, and as I have said, other bills have been pending.

I now desire to call the attention of the House to the form of the proposition which is embraced in my substitute. In the first place, the first section provides that there shall be at the seat of Government "an executive department to be known as the department of industries, and a secretary of industries, who shall be the head thereof."

I was struck, in the course of the remarks of the gentleman from Mississippi [Mr. MULDROW] by the fact that in Prussia, in France, in Hungary, and in Italy, departments exist, and have for years existed, practical and successful in their operations, involving both the interests of commerce and of agriculture in one, to the entire satisfaction of those countries, and I trust soon to the successful imitation of ours.

After providing for creating a department whose head shall be a Cabinet officer, my bill proceeds in the following sections to establish two divisions in that department; the one to be a division of agriculture, and the other to be a division of commerce. And I desire to say right here, to gentlemen on the Committee on Agriculture who favor the pending bill, that in preparing my substitute it has been my purpose in no way to antagonize them on their bill.

As the substitute now stands, that part of it which embraces agriculture is simply the pending bill as reported from that committee

I shall modify the substitute, if I am allowed to do so, when it comes to be voted on—modify that part of it embracing agriculture so as to embrace the pending bill as it may be modified and matured by the action of the House. I therefore give notice now to gentlemen who favor the pending bill that I shall adopt it, changing merely its phraseology in order to adapt it to the form of the substitute, precisely as this House shall leave it after it has been considered by sections and matured.

I have no antagonism to any claim reasonable in its character which has for its object the promotion of the usefulness to the country of the Agricultural Department. I am in the fullest accord with gentlemen who seek to accomplish so meritorious and worthy an object. I therefore shall not dwell on that part of the substitute which embraces the pending bill.

I desire in this connection, however, to say a word or two in reply to the gentleman from South Carolina, who puts himself here in the strange attitude, as it seems to me, of aiding in the report and support of a bill involving largely commercial industries, and yet spending a considerable portion of his time in arguing to show that commerce and agriculture are necessarily strangers to each other and should be kept so. The section to which I made allusion in asking the gentleman a question reads as follows:

That in addition to the duties imposed by chapter 10, title 7, of the Revised Statutes, the secretary of industries shall cause to be collected and report the agricultural statistics of the United States.

That is the section of the substitute. In the pending bill it is not the secretary of industries, but the Commissioner of Agriculture.

Mr. ANDERSON. What is the gentleman reading from?

Mr. KENNA. I am reading from section 4 of my substitute.

Mr. ANDERSON. You are reading from your substitute?

Mr. KENNA. I am; but I would rather read from the original bill. I have not here a copy. Will the gentleman be kind enough to send me a copy, if he has one?

Mr. ANDERSON. I will do so.

Mr. KENNA. I thank the gentleman. I will read from the pending bill, a copy of which he has been kind enough to hand me at this moment.

The Bureau of Statistics, the chief of which shall collect and report the agricultural statistics of the United States; and, in addition, all important information or statistics relating to industrial education and agricultural colleges, to labor and wages in this and other countries, to markets and prices—

Markets are not agriculture, prices are not agriculture; markets and prices are considerations embraced in the commercial features of this question—

to modes and cost of transporting agricultural products and live stock to their final market—

What is that? Is the transportation of live stock agriculture?—

to the demand, supply, and prices in foreign markets.

For what? For agricultural products and for live stock. Are demand and supply in the foreign markets agriculture?

Mr. AIKEN. If the gentleman will allow me to interrupt him, I would like to ask a question.

Mr. KENNA. I will yield for that purpose.

Mr. AIKEN. Is collection of statistics a matter relating to agriculture or to commerce?

Mr. KENNA. I will answer the gentleman from South Carolina. The collection of facts and figures on the subjects I have just read relate absolutely to commerce, and in no wise to agriculture.

Mr. AIKEN. They do not have anything to do with commerce; it is simply a proposition to collect information, and it has nothing to do with actual transportation or actual commerce in any way whatever.

Mr. KENNA. Agriculture cannot collect that information as agriculture is treated by the present Agricultural Department of this country. The gentleman has found it necessary to resort to the Bureau of Statistics as an organization dealing with the commercial statistics of the country in order to reach the information he desires to obtain.

Mr. MULDROW. Why more commercial than agricultural are the statistics on that subject?

Mr. KENNA. The question of the transportation of live stock, the gentleman will see without inquiring of me, is necessarily a question of commerce and not of agriculture. The question of the ascertainment of prices in foreign markets, and securing information as to supply and demand, is a question of commerce and not a question of agriculture. Whenever you divert the agriculturist into those channels you make of him a trader as well as a producer. He grows his crop as a farmer; but the moment it leaves its granaries it becomes an article of commerce. He is none the less interested in it. He is affected by the cost of its transportation, and by the price it brings. I regret the injustice that is done to the farmer by the assumption that his interest ends where agriculture leaves off and commerce begins. He is involved alike in both. He wants markets as well as products, and his labor goes unpaid unless he can find adequate commercial value and return for his agricultural productions. He is therefore as much interested to-day in that feature of this substitute which looks to his transportation and his markets as he could be in the naked skeleton of a department of agriculture alone.

I have alluded to these features in the pending bill to call attention to the fact that the committee itself, although it antagonizes the substitute, has been unable to perfect a bill upon their own plan without embracing ideas of commerce as well as of agriculture. Their interests are necessarily and essentially interwoven; they are as mutually dependent as two existing interests can be. I say to this House, as I say to the country, that no bill which can be passed can do proper and efficient service to either or both, unless they are both comprehended under the same management, and enabled to co-operate under that management for the promotion of their mutual benefits and advantages. You will aid the farmer more by furnishing him easy and cheap transportation to market than you can possibly do by supplying him second-hand seeds. I read further:

To the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, and prices; to such commercial or other conditions as may affect the market value of farm products or the interests of the industrial classes of the United States.

Every provision is a proper one, and I have no objection to any of them. Every provision looks in a right direction. I do not criticise any of them adversely, for they are embraced in the substitute itself, but every one of these provisions, as well as others in this bill, looks identically in the same direction in which the substitute looks, namely, one and the other to services equally promotive of the mutual interests of agriculture and of commerce. This is as it should be, and I favor it; but I want more of it.

Now, Mr. Speaker, if there were no other reason for the adoption of this substitute, a substantial reason is the fact that you multiply offices if you multiply similar pursuits, you increase expenditures by having one set of officials ascertaining all that is provided to be ascertained by the bill in the service of the Agricultural Department, when you are bound to have another set of officials acting in the direction of manufactures and commerce. For, sir, you cannot transfer the bureau from its present connection with commerce matters. If you transfer the bureau which has relation to commerce and its investigations to the Agricultural Department and leave all the matters affecting commerce and navigation in the Treasury Department where they now are, you will have to build up another bureau to take its place in connection with the commercial interests in that Department. You ought to have the transfer as is suggested, and you ought to transfer all the other divisions and subdivisions having relation to the same general subject and the same general class of subjects along with it.

Thus you will preserve the harmony and create no necessity for new and increased expenditures.

I will make no further allusion to the pending bill than to repeat that I propose to embody it in the substitute with such proper modifications as the House may order to perfect it, so as not to antagonize the judgment of the House with reference to that part of the substitute which relates to agriculture.

Thus I have attempted to show to the House that the pending substitute makes a department of industries, divided into two general divisions of equal dignity, with a commissioner at the head of each, the one being a division of agriculture and the other a division of commerce. I shall now, in as few minutes as I can, call attention to the features of the commercial division and then desist from further remark.

Section 5 of my substitute provides, as follows:

That there shall be in the department of industries a division of commerce, and to superintend said division a commissioner of commerce, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary of $5,000 per annum.

A like provision is contained in the earlier part of the bill in reference to a commissioner of agriculture. So my friend from Kansas, [Mr. ANDERSON,] it seems to me, is mistaken in the assumption that agriculture will dwindle into a mere bureau or subdivision, and that the commercial interests will overmaster the new department.

They stand on precisely equal footing. The division of agriculture will stand as he makes it stand by the maturity of his present bill. The division of commerce will stand in all likelihood as this bill proposes it shall stand, because I do not believe the House will make any material change in the terms proposed. I do not know how they will stand as far as the details go, but so far as their organism is concerned each has a commissioner at its head separate and distinct, untrammeled and uninterfered with from any source, subject only to the head of both, or the chief of the department of industries, who will be a Cabinet officer. They are exactly equal as dealt with in the substitute.

Section 6 provides, and I would invite the special attention of the House to it, because it embraces practically the whole of the substitute:

That all divisions and subdivisions, bureaus or parts thereof, heretofore attaching to the Treasury Department by virtue of the provisions of chapter 10 of title 7 of the Revised Statutes, relating to the Bureau of Statistics, which shall hereafter be known as the bureau of external commerce; title 48, relating to commerce and navigation; title 49, relating to the regulation of vessels in foreign commerce; title 50, relating to the regulation of vessels in domestic commerce; title 52, relating to the regulation of steam-vessels; title 56, relating to the coast survey; title 55, relating to lights and buoys; sections 4801, 4802, 4803, 4804, 4805, 4806, of chapter 1, title 59, relating to hospital relief for seamen; and chapter 265 of the acts of the Forty-fifth Congress, second session, relating to the Life-Saving Service, or by virtue of any law amendatory of said several provisions, or regulations in pursuance thereof, shall, from and after the passage of this act, be parts of the division of commerce in the department of industries; and the secretary of industries shall establish in said division of commerce a bureau of internal commerce, to be organized and governed as other bureaus in said division.

Now, Mr. Speaker, without going into a detailed discussion of the various titles or the sections of the statutes to which the section I have just read relates, I will simply state that it has been drawn with the view to embrace everything—every division and subdivision, every bureau or part thereof, now existing in the Treasury Department of the country which has relation to the commercial and navigation interests of the Government. And that is done for two reasons, one of which I have attempted to give, that the commercial and agricultural interests ought to be placed under one management; and the other that, as the Treasury Department now stands overcrowded, it must have relief in some way. I warn this House to-day that if this Congress insists upon establishing the department of agriculture solitary and alone, cutting off from it the advantages I have proposed, two years cannot pass before you will be confronted with the necessity of building up a division in the department to embrace this subject or establishing a new department of commerce.

Mr. McKENZIE. It is entitled to that.

Mr. KENNA. It is entitled to it as a matter of course, but I insist that there is no necessity for the extraordinay expenditure, and actual harm to both in dividing the two subjects. Why necessitate a double expenditure when both can be established and promoted at a single expenditure by the establishment of one department embracing the two? I am opposed to multiplying federal officers when it can be reasonably avoided.

Gentlemen cannot overrate the commerce of the country. They cannot exaggerate the agricultural interests of the country, and yet there is no single reason that applies to the establishment of a bureau embracing either which does not cover both, nor is there any valid reason which I have been able to discover from a careful study of the subject why both cannot be justly and properly and economically administered under one general management. This plan will facilitate the transactions of such a department with reference to the interests of both divisions, and yet hold them in detail practically separate. The substitute will embrace, so far as the commercial division of it is concerned, all divisions and subdivisions and bureaus of every character now in the Treasury which relate to the commerce of the country.

There is no new legislation in it except in the one particular which changes the name of the present Bureau of Statistics, denominating it a bureau of external commerce. That is exactly what it is, and what its present efficient head, the chief of that bureau, says it is. I asked him not long ago where I could get certain information in official form with reference to the internal commerce of the country. He replied, "You cannot find it at all, sir. It is not gathered or collected in the form of statistics by the Government, but I can refer you to a book compiled by myself and the statistics gathered by my own undertaking, which will give you the information you seek. There is no existing provision for gathering the statistics of internal commerce of this country whatever."

I found that officer to approve the idea of this bureau being denominated a bureau of external commerce, for the reason that the name bureau of statistics is a misnomer. This bill, in addition to changing the name of this bureau to external commerce, creates a new bureau of internal commerce. That much it does, and there is no other affirmative new legislation in it.

It is suggested to me that the bureau of internal commerce would have reference in its duties to all questions of internal transportation. So it would to all questions of internal navigation; to all questions, in its broadest sense, which relate to the internal commerce of the country, gathered for such use as the intelligent head of the new department may see fit to make of it, in connection with either agriculture or commerce. All of the facts whose gathering is sought to be provided for in the original bill are provided for in the substitute.

Now, Mr. Speaker, the adoption of this substitute will be less expensive than the adoption of the original bill. The only original expense that it will create is that which is already created and provided for by the original bill and forms a part of it, and part of that expense will be met by the transfer and not increased by the creation of new bureaus and divisions. So far as the department of commerce is concerned, embodying therein every division, subdivision, and bureau of the Treasury relating to the subject, it will carry them with it without increasing the force of any bureau and without increasing its jurisdiction—certainly without increasing its expenditure, unless this Congress should see fit to widen the scope of its duties.

These are the substantial reasons which actuated me in preparing and offering the substitute to the pending bill, which I have believed and now believe will not only accomplish all that the most sanguine friends of the original bill may hope by it to accomplish, but that it will accomplish infinitely more by bringing an insight into the working of both divisions as they bear relation to each other to the mind of a single chief, who I trust will be selected with a view to his eminent qualifications to preside over both.

Thus may Congress facilitate the farmer in the growing of his agricultural product from the soil, and thus may Congress facilitate the farmer in the reaching with that same product as an article of commerce a profitable market.

But in conclusion I repeat, speaking at least for the agricultural interests of my own section of the country, that Congress, by uniting both these divisions under one management, thereby securing a general survey of every minute detail by one intelligent head, and the operation of both divisions combined under a single chief, who shall devote his entire time to the interests of the two together, can accomplish a great object that is desired by the farmers of this country.

They will thus procure that information which is so necessary with regard to the markets of the world, the easiest and best routes to reach these markets, and especially the prices to be realized in return for their labor.

I believe that this substitute, if adopted, will promote cheaper transportation for the products of the farm and open for it the way to additional markets. If this be accomplished you will, in my judgment, have done a work not exceeded in value by any done for many years by this or any other Congress.

I desire, if there be no objection, to reserve the remainder of my time.

The SPEAKER. The gentleman has twenty-five minutes of his time left.

Mr. KENNA. Then I reserve the remainder, as I may have occasion to use it hereafter.

Mr. CARPENTER. Mr. Speaker, the bill under consideration provides that the powers and duties of the Agricultural Department shall be enlarged to a Cabinet office. Its purpose is declared to be "the collecting and disseminating of important and useful information concerning agriculture," and also "concerning such scientific matters and industrial pursuits as relate to the interests of agriculture." In furtherance of these purposes it provides for four bureaus with specific duties. The first is to be called the bureau of agricultural products, including divisions of botany, chemistry, and entomology. Its chief is required to be a practical agriculturist, whose duty it shall be to investigate the modes of farming in the several States and Territories, and who shall report such practical information as shall tend to increase the profits of the farmer, the various methods of the farm producer, the crops most profitable in the several sections, the preferable varieties of seeds, vines, plants, and fruits; the best fertilizers, implements, buildings, and on all similar matters.

Secondly. It shall comprise a bureau of animal industry, to be in charge of a competent veterinary surgeon, who shall investigate and report upon the number, value, and condition of the domestic animals of the United States, their protection, growth, and use, the causes, prevention, or cure of contagious, communicable, or other diseases; and the kinds, races, or breeds best adapted to the several sections for profitable raising.

Thirdly. It shall have a bureau of lands, the chief of which shall investigate and report upon the resources and capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses. And it is provided that the geological survey shall be prosecuted under direction of this bureau and that the secretary may through said bureau institute such investigations and collect such information, facts, and statistics relative to the mines and mining of the United States as may be deemed of value and importance.

Fourthly. It shall contain a bureau of statistics, the chief of which shall collect and report the agricultural statistics of the United States; and in addition all important information or statistics relating to industrial education and agricultural colleges; to labor and wages in this and other countries; to markets and prices; to modes and cost of transporting agricultural products and live stock to their final markets; to the demand, supply, and prices in foreign markets; to the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, and prices; to such commercial or other conditions as may affect the market value of farm products, or the interests of the industrial classes of the United States. And the secretary is authorized to make such monthly or other reports as he shall deem most effective for the prompt dissemination of such credible information respecting crops and domestic and foreign markets as will be of service to the farmers or other industrialists of the United States.

Its other provisions are brief and declaratory; they provide for the salaries of the principal officers, and for making the existing statutes in regard to other executive offices applicable to this department.

It is unnecessary here and now to enter upon any constitutional argument respecting the power of Congress to create this department. If upon this point there was ever any question, the establishment of the present Agricultural Bureau, with the acquiescence and concurrence of such men as Fessenden, Sumner, Trumbull, Grimes, Willey, and others, has forever removed that doubt.

And, now, why should a department of this character be added to the Executive Departments now comprising the Cabinet of the President? In answer to this inquiry many things must be left unsaid in the time I propose to occupy; but I desire at least to express the views which have impressed me as most worthy of statement.

This department should be established because it is the wish of the majority of the most intelligent and progressive agriculturists in the country. They believe that the business of the farmer receives less direct benefit from legislation than any other class or profession, and especially any class whose principal capital consists in physical

labor. Scan for a moment the whole realm of the toiler, and it will be seen that legislation has given less encouragement to the man who tills the soil than to any of the workers in other spheres. This bill proposes in some measure to supplement the lack in this regard.

It is also argued, and I believe truly, that it will tend to incite a pride of profession, without which there can be no great success or progress in any avocation. But a few years since there was an appropriation of public lands to encourage the establishment, in the different States, of agricultural colleges. These institutions, in connection with the influence of the existing Agricultural Department, have, in my judgment, stimulated more thought, and awakened a more intelligent zeal among the farmers, than all other influences combined. I know, in my own State, such a thing as a farmer's institute was unknown until very recently. Now, in almost every county, during the winter months, when leisure affords opportunity, so-called farmers' institutes are held in the various counties, in which from one to two weeks are spent by the best farmers in the community, frequently conducted by one or more scientific men, who devote their winters to this work, in discussing the best methods of farming, and the productions which will secure the largest results. The spirit which has gone forth from these institutes has pervaded the school districts, and discussion and comparison of views have become common throughout the State, the result of which may be seen on almost every farm in the neighborhoods where these associations have been organized. But, after all, any advantage that partakes of sentiment is the least and most remote of all the reasons which may be assigned for the passage of this bill.

Something analagous to this measure has been advocated by the wisest and most sagacious agriculturists from the foundation of the Government. Washington urged in a message to one of the early Congresses the adoption of some bureau or commission to consider and devise measures for the promotion of agriculture. There are ten reasons to-day for such legislation where there was one under the administration of Washington. When the little surplus that the farmer raised was hauled to the market, near or remote, with the farm team; when the great prairies of the West and the vast plains of the interior basin were untrodden by the countless herds which to-day crowd the markets of the world; when not a mile of railway nor a steam-locomotive had been projected; when the prow of a steamer had never disturbed the waters of an American river, not one of the complex questions which to-day trouble producer and consumer demanded either thought or solution. I may illustrate the benefits likely to proceed from the enlargement of the powers and duties of the Agricultural Department by the recital of a recent event which has become historic. About two years ago it was whispered that the vast herds of live stock in the West had been exposed to contagious pleuro-pneumonia from the transportation of diseased cattle from English and other foreign ports, as also from the herds of calves being shipped west from the Atlantic seaboard.

This produced alarm among Western stock-growers. The alarm was made the most of by the newspapers; was discussed in the agricultural journals; agricultural societies passed resolutions suggesting cautionary measures. State Legislatures and Congress were petitioned to adopt measures that would compel the exposed districts to quarantine against the dread contagion. One governor issued a proclamation in regard to it, and others referred to it in messages. Bills were introduced into Congress proposing radical legislation in respect to it. In the mean time wild rumors of the cattle-plague crossed the Atlantic, and the English newspapers, at the great market centers of our foreign exports, rehashed with additional flavor the reports of our own journals; so that, without any proclamation closing British ports against us, we found a practical embargo upon the importation of cattle into foreign ports from the United States.

So disturbing and crippling did this become to this important branch of commerce that it was found necessary to make it a matter of diplomatic correspondence; and to this day no man can estimate the loss and damage to the stock-grower of America and our growing commerce in live stock resulting from the alarm in respect to the pleuro-pneumonia. It is true that the danger was exaggerated, and that it turns out that the dread contagion is confined, at least for the present, to a few States upon the Atlantic seaboard, and to comparatively narrow districts within those States. But suppose that the great agricultural interests of the country had been under the fostering supervision of a Cabinet minister, who could have controlled a well-equipped veterinary bureau, constantly awake to every appearance or whisper of contagion among the live-stock of the nation, long before the alarm had culminated in the damage we have recently suffered the facts would have been authoritatively published, and coming from a distinguished source, backed by scientific investigation, would have effectually silenced alarm. I should say here that the alarm in regard to hog-cholera and the trichina were almost equal to the fear respecting the cattle disease, and contributed to loss and disturbance in our sales abroad.

It is but a few weeks since the French Assembly gave the pork trade of America a "black eye." If the American minister at Paris could have given the leaders of the French Assembly the information which should have been in his possession as a result of tests and investigation by a competent veterinary bureau under the direction of a department of agriculture the country would have been saved the loss to our commerce which touched the pockets of every man in America.

It may be well at this point to turn aside from my line of remark to say that there is now a bill before this House (House bill No. 896, reported by the gentleman from Missouri, Mr. HATCH) upon which I hope favorable action may be had in connection with the bill under consideration, which, to my mind, is of more vital importance to the country than the proposed revision of the tariff, the legislation for the control of interstate commerce, or the suspension of Chinese immigration. I refer to the bill creating a bureau of animal industry, the object of which is to protect the live-stock growers of America from the contagious which are a constant menace to their industry and to the entire wealth of the country founded upon stock-growing.

I would prefer a more radical and far-reaching measure than the bill reported by the committee, a measure as effective as House bill No. 5817 which I had the honor to prepare and introduce. Such a law would not only protect uninfected States, but would prepare the way to stamp out the disease where it exists and enable custom-house officers to give a clean bill of health to owners of stock designed for foreign markets. But as the conservativism of some gentlemen and the State-rights scruples of others will prevent the passage of such a law for the present, I accept this measure as a step in the right direction and will trust that public opinion will prepare the way for something more effective in the future.

Have the gentlemen in this House whose ambition is to serve their country in the promotion of its material interests ever thoughtfully and maturely considered the absolute tragedy (no other word fitly expresses the danger) of a contagion that would sweep the cattle trade from the Continent? Bear with me for a few moments while I give you a few figures that will faintly illustrate the overshadowing importance of protecting, by every possible legal barrier, the live-stock interest of the country from any contagion that will diminish values or increase the uncertainty of the business. As shown by the census of 1880, there are in the United States 10,357,981 horses, 1,812,932 mules and asses, 993,970 working oxen, 12,443,593 milch cows, 22,488,590 other cattle, 35,191,656 sheep, 47,683,951 swine; and the entire value of all this live stock was estimated at $1,500,503,807. But I desire more particularly to speak of the neat cattle and hogs, the value of which may possibly be swept away in a single year by a general communication of any infectious or contagious disease. I shall print with these remarks three very interesting and instructive tables, kindly prepared for me by the statistician of the Agricultural Department, whose explanatory note will also be printed with the tables:

The accompanying tables show the value of cattle and swine at farm prices according to the Department estimates for January, 1882, except as to the Territories, which are represented by the estimates of the previous year, the returns from the Rocky Mountain region not being complete. This branch of the subject awaits the completion of the canvass of the ranch cattle and sheep, and the results may be somewhat changed in the report of estimates as published.

J. R. DODGE, *Statistician.*

DEPARTMENT OF AGRICULTURE, *March* 17, 1882.

Table showing the estimated total number and total value of milch cows and the average price January 1, 1882.

States.	Number.	Average price.	Value.
Maine	157,400	$27 00	$4,249,800
New Hampshire	99,100	26 50	2,626,150
Vermont	206,900	25 60	3,296,640
Massachusetts	173,800	30 00	5,214,000
Rhode Island	19,800	31 00	613,800
Connecticut	121,200	32 60	3,951,120
New York	1,474,700	31 43	46,349,821
New Jersey	158,300	35 50	5,619,650
Pennsylvania	844,900	32 25	27,248,025
Delaware	25,048	23 00	576,104
Maryland	98,600	27 89	2,749,954
Virginia	235,700	19 60	4,619,720
North Carolina	225,400	14 03	3,162,362
South Carolina	133,900	16 25	2,175,875
Georgia	275,800	14 56	4,015,648
Florida	66,800	12 29	820,972
Alabama	217,300	13 86	3,011,778
Mississippi	200,200	13 42	2,686,684
Louisiana	115,200	16 50	1,900,800
Texas	560,600	15 00	8,409,000
Arkansas	202,800	16 21	3,287,388
Tennessee	253,000	17 83	4,510,990
West Virginia	133,100	24 75	3,294,225
Kentucky	264,600	26 01	6,882,246
Ohio	693,000	31 37	21,739,410
Michigan	421,100	30 31	12,763,541
Indiana	439,100	26 67	11,710,797
Illinois	716,400	27 50	19,701,000
Wisconsin	448,700	27 61	12,388,607
Minnesota	344,600	24 47	8,432,362
Iowa	845,100	27 00	22,817,700
Missouri	547,700	20 00	10,954,000
Kansas	409,800	26 62	10,908,876
Nebraska	188,600	29 67	5,594,762
California	487,600	32 92	16,051,792
Oregon	123,800	22 09	2,734,742
Nevada, Colorado, and Territories	681,500	24 47	16,676,505
Total	12,611,148	.....	323,746,646

Table showing the estimated total number and total value of oxen and other cattle and the average price in January, 1882.

States.	Number.	Average price.	Value.
Maine	193,600	$26 75	$5,178,800
New Hampshire	126,200	27 00	3,407,400
Vermont	126,500	24 50	3,099,250
Massachusetts	114,900	28 44	3,267,756
Rhode Island	14,900	28 75	428,375
Connecticut	124,300	28 60	3,554,980
New York	629,100	27 59	17,356,869
New Jersey	82,800	29 00	2,401,200
Pennsylvania	614,000	27 00	16,578,000
Delaware	32,640	19 57	638,765
Maryland	120,400	20 22	2,434,488
Virginia	409,500	16 04	6,568,380
North Carolina	411,600	8 91	3,667,356
South Carolina	171,900	10 24	1,760,256
Georgia	408,800	8 59	3,511,592
Florida	550,400	$7 75	$4,265,600
Alabama	259,800	8 92	2,317,416
Mississippi	252,100	8 26	2,082,346
Louisiana	116,300	12 75	1,482,825
Texas	3,990,800	12 54	50,044,632
Arkansas	359,800	10 50	3,777,900
Tennessee	370,000	11 71	4,332,700
West Virginia	230,200	21 40	4,926,280
Kentucky	398,300	21 22	8,451,926
Ohio	745,100	26 17	19,499,267
Michigan	381,800	25 30	9,659,540
Indiana	748,900	22 00	16,475,800
Illinois	1,161,800	24 44	28,394,392
Wisconsin	507,100	22 50	11,409,750
Minnesota	335,400	21 00	7,043,400
Iowa	1,425,600	23 00	32,788,800
Missouri	1,629,800	19 61	31,960,378
Kansas	720,500	21 78	15,692,490
Nebraska	611,100	23 93	14,623,623
California	919,900	23 47	21,590,053
Oregon	185,500	15 92	2,953,160
Nevada	.....	18 12	.....
Colorado	.....	23 17	.....
Territories	1,144,800	19 05	21,808,440
Total	20,626,140	.....	389,434,185

Table showing the estimated total number and total value of hogs and the average price in January, 1882.

States.	Number.	Average price.	Value.
Maine	59,300	$10 08	$597,744
New Hampshire	45,400	13 72	622,888
Vermont	48,900	10 19	498,291
Massachusetts	88,300	15 50	1,368,650
Rhode Island	13,800	8 70	120,060
Connecticut	58,800	13 63	801,444
New York	954,400	9 88	9,429,472
New Jersey	216,000	10 37	2,239,920
Pennsylvania	863,700	9 81	8,472,897
Delaware	47,600	6 94	330,344
Maryland	264,800	6 25	1,655,000
Virginia	855,700	4 00	3,422,800
North Carolina	1,175,400	3 40	3,996,360
South Carolina	636,000	3 36	2,136,960
Georgia	1,650,600	3 00	4,951,800
Florida	190,800	2 50	477,000
Alabama	1,124,800	3 14	3,531,872
Mississippi	1,243,100	3 10	3,853,610
Louisiana	625,400	3 13	1,957,502
Texas	1,934,100	3 22	6,227,802
Arkansas	1,422,400	3 25	4,622,800
Tennessee	1,542,300	3 95	6,092,085
West Virginia	453,900	4 50	2,042,550
Kentucky	1,478,600	4 25	6,284,050
Ohio	1,767,100	7 31	12,917,501
Michigan	481,100	7 78	3,742,958
Indiana	1,967,400	6 20	12,197,880
Illinois	2,657,700	7 07	18,789,939
Wisconsin	566,100	$7 30	$4,132,530
Minnesota	214,100	6 48	1,387,368
Iowa	2,556,100	7 67	19,605,287
Missouri	2,358,000	4 00	9,432,000
Kansas	1,785,000	6 21	11,084,850
Nebraska	1,491,600	6 26	9,337,416
California	647,600	5 51	3,568,276
Oregon	256,700	4 86	1,247,562
Nevada	188,800	8 96	1,595,360
Colorado		9 20	
Territories		8 45	
Total	33,931,400	.....	184,772,820

These tables show that the estimated total number and value January 1, 1882, of milch cows were 12,611,148, valued at $323,746,646; number of oxen and other cattle 20,626,140, valued at $389,434,185; making a total of neat cattle of 33,237,288, with a total value of $713,180,831. Add to this the estimated value of the hog product, which next to neat cattle is the most general, and regarded as the most reliable live stock product of the farm, especially throughout the West and Southwest, and we will have, of hogs 33,931,400, estimated at $184,772,828, which, added to the value of the neat cattle, makes a grand total for these two classes of the live-stock product of the farm of $897,953,659. Now, suppose that this value should be wiped out by some fell contagion, such as the pleuro-pneumonia and hog-cholera, which to-day hang like a threatening cloud over every farm in America; who is able to estimate the influence of such a calamity upon the future of the commerce, of the social economy, of the industry, and, in short, the destiny of America? The estimated value of live-stock production falls but little short of the entire cereal and vegetable production of the United States, including corn, wheat, oats, barley, buckwheat, cotton, and tobacco. It equals in value the entire national debt. It is greater than our annual imports and exports combined. It is of greater value than all the gold dug from all the mines from 1845 to 1880. It is equal to three times the value of all the silver produced by the silver mines for the same term of years, and nearly equal to the entire gold and silver production for the period named. These facts sufficiently emphasize the loss that would ensue to the country if the greater part of this wealth, which consists in neat cattle and swine, should be swept away or rendered unsalable or comparatively valueless by infectious diseases. And the loss of the stock now living but faintly tells the story of devastation that would follow the general spread of the contagion; as every pasture, stable, and corral would become a medium of infection for the untold years of the future. To provide as far as human vigilance and foresight are able against this calamity is the purpose of creating a well-equipped bureau of animal industry by a special enactment during this session of Congress, which I hope may become a permanent bureau of animal industry in the department for which I plead to-day.

Again, the land interests of the country will be cared for by this department. Ever since the Spanish sailor from the mizzen-mast of the Pinta, shouted "Land! land!" to the little fleet which bore Columbus to the New World, land and the ownership of land, its settlement and its productiveness, have agitated the people of America; and with increased and increasing population making heavier and still heavier drafts upon the productiveness of the soil, this interest in land will demand, and should receive, increasing attention. In Ireland lower rents and more advantageous leases are the demands of those who believe themselves entitled to a larger share of the products of the land they cultivate. This to-day is the question in British politics. In other European nations land reforms are among the issues which distract and divide public thought.

It was said a few years ago by one of the most eloquent orators on this planet that we could have none of the labor troubles in America which agitated the nations of Europe, as our surplus population could always overflow upon the new lands of the West. But when we consider that 500,000 to 600,000 immigrants are swelling the population every year, the room for overflow will soon be occupied, and we will be driven to the necessity of supplying the lack of new lands to settle, by making what we have more productive. The sage-brush plains of the great interior basin will require irrigation; the products to which they are adapted will be discovered by test and experiment; the depth to which artesian wells must be sunk will be discovered; and the sons of men who have carried culture to the summits of the granite hills of New England will make the arid plains of the great interior basin bud and blossom under the hand of a new and varied cultivation. To-day the Agricultural Department should have experimental stations in every State and Territory, and bulletins of observation and experiment should become a part of the literature of the farm. Especially should an experimental station be conducted in connection with every agricultural college in the country.

In this connection I may briefly call attention to one issue intimately related to every question growing out of the productiveness of the soil. The labor problem is exciting to-day the thought and anxiety of the civilized world. It is coming home to us in America. This fact is emphasized to us when we reflect that a vast addition to our population is hurrying to our shores from Europe every month of every year, while a new element has been added to the ranks of free labor as a result of the war. And right here is an unanswerable reply to any objection to this bill on the ground of an increase of expenditure. Within the short time that I have occupied a seat upon this floor some two committees have devoted much time to the consideration of questions intimately associated with labor. One special committee, with clerk, stenographer, and zeal begotten of partisan purpose and ambition, crossed the Continent, called witnesses, and printed a book; and a somewhat thorough examination of it has failed to afford me as much information upon the great questions which underlie the labor problem as could have been gathered from the letters of an intelligent newspaper reporter, sent out under the instructions of a sagacious editor to write the observations of a leisurely tour through the States visited by this committee. But a department with trained experts, and with the intuitions which come from professional handling of statistics, will be able to tell legislators and the country something that might direct to practical legislation.

It is said that Napoleon, in retrospective conversations upon St. Helena, speaking of the incidents of his career, placed what he had done as first consul toward introducing and naturalizing the beet-sugar industry in France above every other achievement of all the busy years of his power. Every new industry successfully developed helps to solve the labor problem. Every plant possessing properties capable of manufacture into food or clothing, for which any of the

soils of our various latitudes may be found to be fitted, helps to solve the labor problem. Every remedy or preventive of the numberless diseases common to domestic animals helps to solve the labor problem. Every new process of raising, separating, and saving the gold and silver of the mines, giving value to leads or placers now worthless from small returns, as compared with cost of working, helps to solve the labor problem. Finally, on this point, the very establishment of a great department of the Government devoted to the advancement of the interests of labor will of itself be a standing protest of American common sense against any theory that wealth can be created by legislation; and if there are any agrarian and communistic tendencies in the spirit of this age, a department equal in dignity to any of the executive offices of the Government, founded upon the philosophy that what man gets he must earn, and that to toil and save in whatever sphere is the only hope of man, will of itself be a guarantee of the permanency and glory of the future.

I come next to consider the transportation question. This was a problem of small significance when the farmer hauled his surplus to the market with his own team, or floated it down the dangerous current of an unimproved river in his own flatboat. To-day, however, it is a question of serious concern. It is an easy matter for us to sit here and congratulate ourselves upon the progress made in the great industries of our nineteenth-century civilization, while we ignore the men who turn the wheels of progress whenever they ask for anything like a recognition in the machinery which we call government. A few years since, the State of Massachusetts led the way in the experiment of attempting to regulate the relation between railroads and the people. A commission was created which has devoted years to the study of the so-called railroad problem.

In the end, after years of statistical investigation, legal research, and practical experiment, the commission in substance say: that an intelligent comprehension of the relation which railroad capital bears to the community, coupled with publicity as to the earnings, business, and business methods of railway companies, is the most effective regulator of the corporations. In other words, a public opinion thoroughly enlightened respecting the rights, duties, interests, limitations, earnings, expenses, and savings of a railroad company, is the most effective check upon the greed of its shareholders and officers. So we come back to the point, that there can be no more useful bureau connected with this department than one which will collect, systematize, and give the public correct information upon the railway problem. Properly informed upon this complex question, if the public opinion of the producing masses is not sufficiently powerful to hold in check the greed of the corporation, the sufferers can come to the law-making and law-executing departments of the Government, with such rational, reasonable, and just demands that their wishes will be heard and heeded.

And this leads me to remark that the capital invested in the soil and in the business of farming is segregated, while that employed in manufacturing, in railroads, in banking, and in nearly all the arts and industries by which the products of the soil are changed into commodities for food, clothing, and shelter is aggregated capital. Aggregated capital will take care of itself. Let a bill be introduced into Congress affecting any of these interests, and so far dignified as to be taken up for discussion and consideration by any of the leading committees of this House, and the corridors outside of this hall and the lobbies of the hotels show that aggregated capital is on the alert and will defend itself. But a law may be enacted which will surely yet silently sap the results of agriculture, or legislation may fail to give proper protection to agriculture when endangered by some threatened evil, and the farmers, scattered and separated by the rivers of the Continent, will plod their weary rounds, and illustrating the homely adage that "what is everybody's business is nobody's business," never a lobbyist flies to the defense of their interests. This is illustrated in the fact that no lobbyist was ever seen at the Capitol urging legislation to protect the live-stock interests of the country from the contagious pleuro-pneumonia. Let such a danger menace the banking, manufacturing, or railway interests of the country, and the newspapers would teem with articles demanding legislative action, while individual members of this House would be reminded of duty by constant personal solicitation. There should be a department of the Government to represent these great interests so scattered and segregated as to be in danger of not receiving the attention which their importance demands.

The statistical division of such a department as this bill contemplates will, in my judgment, not only help educate the farmer, but will give him information that will immediately protect and promote his interests.

The statistics respecting growing crops both at home and abroad have heretofore been received and published at private cost. Grain dealers, for their own benefit and in the conduct of their own business, have expended more money to secure statistical information respecting growing crops than has the Government of the United States; and, as it is the interest of the grain speculator to make a showing that will enable him to buy cheap, it is not strange if much of the information disseminated at private expense is fallacious and unreliable. The day will come—and it can come none too soon—when from a well-equipped agricultural department of the Government truthful and intelligible statistical information, not only respecting the products in the granary, but the growing crops, both in the Old World and the New, will be furnished to the producer, so that he can form an intelligent judgment as to the probability of high or low prices in the future. I trust also, and I believe, that advancing scientific knowledge will enable the entomological division of this department to give the agriculturists warning of the approaching invasions of the weevil, the army-worm, the chinch-bug, the cotton-worm, and the Rocky Mountain locust, and that the portion of the country upon which they will be likely to fall will be as unerringly indicated as the course of to-morrow's wind and as the seamen upon the ocean are to-day warned of the coming storm. The day will also come—and I believe its coming will be hastened by the experiments and observations of the scientists in this Department—when the means of avoiding the ravages of the enemies of the crops, either by inventions for their destruction or by such variation of crops as to escape the worst results of their invasion, will be indicated as surely as the course of the storm-cloud can be foretold to-day.

There is another branch of this subject to which I desire briefly to allude. Man is a social being. And to meet his social requirements the tendency of population to seek the city is one of the alarming distinctions of this age. In this regard, so far as my knowledge extends, Americans are conspicuous. The young men of America are only too anxious to get away from the country. They are ready to measure tape in a store, seek a position as a postal clerk, narrow their minds and lives by becoming copyists in an office, brake or fire on a railroad, tend a livery stable, or do anything in preference to becoming a tiller of the soil. How different this from the English taste and English character. In the district which I have the honor to represent there are to-day some one hundred and fifty farmers, recent immigrants from England. They are the younger sons of English gentlemen for whom their English home offers no opportunity or opening suited to their social standing, their tastes, or their ambitions. Last summer, falling in with an English gentleman on a railroad train who was *en route* from his home in England to visit his son in Iowa, our conversation turned upon employment for the young men of this age. He said to me, "One of the difficult social problems with the English people to-day is, what shall we do with our young men? The younger sons of the English gentry," said he, "who do not care to engage in the professions, and for whom no vacancies can be found in the army or navy, are anxious to own and till the soil, and as the land is all occupied in England they are driven to America or Australia."

Mr. Speaker, I have been interested in watching the progress of these young men in America. Graduates of Oxford and the schools of England and the Continent, they are ready to take the plow-handle in their own hands; are familiarizing themselves with American methods of the farm; and many of them are on the high-road to success. They love rural life; they delight in the country; they revel in the air, the sunlight, and the expanse of their prairie homes. It seems to me that anything which tends to improve and increase the literature of the farm, anything that gives it the character it should hold among the professions, will aid to impress the youths of America with a sense of the dignity of labor, and that the science of the farm is worthy of the best efforts of the best minds. When the farmer's home with its lawn, its trees, its library, and its comforts becomes an inviting place, and when the local grange or farmer's alliance shall become not only a pleasant social resort, but a place of culture and improvement, with its library, its debates, and its lectures, we may hope it will arrest the flow of the young men to the city. Whatever we do to make agriculture pay better, whatever enlarges the sphere of the farm, will help in this direction.

I come now to consider a few of the objections made to this bill and its purposes. It is objected that so far as the direct benefits of this department are concerned not more than one farmer in a hundred will be reached by them. So far as the distribution of its literature and of seeds and plants are to be taken into account, that may be true. But if that is an argument against the department it weighs with equal force against the present Agricultural Bureau. I trust, however, I have shown that the seed business, and even the publication of annual reports, are among the least important of the duties that will be performed by this great office. But, even confining its purposes to these narrow limits, suppose one man in every school district is made a better farmer by the direct effect upon him of the agricultural department; character is contagious; his farm will become an object lesson, impressing and improving every man who lives in the neighborhood or comes within his influence.

It is also objected that it will cost money to enlarge the present Agricultural Bureau to the dimensions of an executive department. This is true. It will not, however, largely increase present expenditures. Aside from the increase in the salary of the chief officer of the department there will be no considerable addition to present cost. The bureaus, with one exception, provided for in this bill are already in existence in connection with other Departments of the Government, and this bill proposes to group them under a natural head. But after all, the great question is whether the benefits which will come from this department will repay the cost, and this question I have endeavored in some measure to answer.

Again, it is said that this department will be a partisan establishment, and that its chief officer will be selected for political service and partisan influence, rather than for his knowledge of the interests the department will be intended to promote, his sympathy with

the great industries of the country, or affinity with the toilers on farms and in shops. This is possible, though not probable. It is likely that Presidents hereafter, as in the past, will represent the average common sense and views of propriety of their constituency—the people of America. From the day that Jefferson was called by Washington to manage the foreign affairs of this Government, men of more than ordinary diplomatic skill and learning have been chosen by all the successors of the first President to discharge the duties of Secretary of State. From the day that Alexander Hamilton "touched the dead corpse of the public credit and it stood upon its feet," the Treasury has been managed with more than ordinary aptitude for its great responsibilities. Since a law officer has occupied a seat in the Cabinet, the Pinckneys, the Wirts, and the Crittendens have been the selections to fill that exalted station. So I believe this office, if created, will be filled by men with the sympathies and aptitudes which will fit them for its duties.

It is also said that it is an unnecessary increase of Executive Departments, that the Cabinet is now sufficiently large, and that additional Departments will be more apt to produce confusion than to increase efficiency or add to the dignity and strength of the Government. The simple reply is: Does there remain some great interest which in view of its importance and its needs is not fitly represented in the highest place in the Government? The underlying basis of all our wealth and prosperity is agriculture. We hold this to be a government of the people, by the people, and for the people. Yet so far as this interest is concerned most European nations are in advance of us. France, Germany, Austria, Russia, Italy, and other European nations, in some form, have their ministers of agriculture. In respect to encouragement of agriculture we lag in the rear of many nations of the Old World.

Mr. Speaker, it is perhaps not altogether an American characteristic that the modern reformer usually limits his efforts to the field of politics and deals only with such features of the social problem as can be worked into political capital. This bill is not a political or a partisan measure. I believe it will be a step in the direction of widening and improving the sphere and condition of the agriculturists of America; therefore I plead for it.

Mr. Speaker, the creation of this department is just as sure as any future event. It may be postponed to-day, but, whether helped or hindered by this Congress, the demand for it will increase the number and emphasis of favoring voices until its triumph shall be finally assured.

The progress of a social or political reform is slow but sure. It develops in the public judgment by an unerring gradation of upward tendencies. First it is discussed at the fireside, in the field, at the cross-roads, and in the village gathering. The press, catching the impulse of fresh throbs in the public pulse and more spirited heart-beats of public opinion, begins to add its force and fervor to the advancing sentiment. But a few weeks since I turned over the pages of the last January number of the International Review. There were ten articles in the magazine and one hundred and eight pages of printed matter. Five of these articles, covering sixty pages, related to subjects immediately connected with the industrial pursuits of which this bill is the outcome and the expression. The farm has taken an advanced place in literature. It has taken its place in the political platform; it is here, and here to stay. A social or political idea germinates, grows, and matures in the same order and by the same successive stages as does the science of the soul, so beautifully illustrated by the author of the parables, "For the earth bringeth forth fruit of herself: first the blade, then the ear, after that the full corn in the ear." [Applause.]

Mr. HATCH was recognized, and yielded a portion of his time to Mr. GEDDES.

Mr. GEDDES Mr. Speaker, I am in favor of this measure to enlarge the Department of Agriculture. Although not a practical agriculturist, I have not failed to study and obtain some knowledge of their interests. All but about twelve of the members of this House have been chiefly devoted to other pursuits; yet I trust we have not been and will not be unmindful of the real basis upon which the prosperity of every other branch of business depends. We are most of us sent here by the confidence reposed in us by practical agriculturists, believing, as hey do, that we will guard, protect, and subserve in all judicious ways this great overshadowing and vital interest of our country. As a class they ask no subsidy, demand no special privileges, clamor for no discriminating protection. They simply seek the position before the country and the representation in the Government due to the magnitude of the interests involved, and ask that they be dispensed in the form in which nature distributes her blessings of sunshine, heat, rain, and dew upon all, the just and unjust alike.

The details of this bill under consideration are not what I would prefer. It provides for the creation of too many bureaus with chief officers at the head of each, thus multiplying unnecessarily that class of Government officials. They should be consolidated. The various duties assigned in the bill to the bureau of agricultural products and the bureau of animal industry should be in one department and under a single chief, and the duties of the other two bureaus should also be united and placed in charge of a single chief.

The objects to be attained by the two bureaus as now provided by this bill are not so distinct or dissimilar in their nature as to require a different order or kind of qualifications to discharge the duties. They are of the same character. The same may be said of the other two bureaus. To remedy this defect in this bill an amendment should be made consolidating these bureaus, thus economizing and rendering more efficient the Department of Agriculture.

But I propose to consider more particularly the question of enlarging the Department of Agriculture by making it one of the Executive Departments of the Government and giving to its chief a seat in the council of the Chief Magistrate, now composed of the Secretaries of State, War, Treasury, Justice, Post-Office, Navy, and Interior Departments.

Believing that the agricultural interests of this country are of sufficient magnitude to justify this measure and that the time has come for the change, I cheerfully give it my support. It will dignify the Department and add greatly to its power, influence, and usefulness. It places the secretary as the representative of this great, leading, and indispensable industrial interest in a position where these interests can and unquestionably will be better and more certainly guarded, protected, and advanced.

We cannot overestimate the great importance of conferring this distinction, power, and honor on the head of this Department. The secretary would naturally and necessarily be warmly and earnestly in sympathy with the calling he represented. This would arouse unceasing vigilance and watchfulness whenever questions shall arise affecting materially agricultural interests. He can then, and undoubtedly will, ward off evil influences, and propose and carry out measures to benefit and honor the calling. He would bring to the councils of the Chief Magistrate peculiar qualifications for this great trust. The office would naturally be filled by a man not only of superior executive ability and experience, but possessed of pre-eminent attainments in the knowledge of agriculture.

This proposed recognition of the agricultural portion of the population of this country appears manifestly just and wise, not only as it may honor and elevate that calling, but it must greatly augment the wealth of the country by the increased production this aid and encouragement would induce. We owe our present unrivaled prosperity mainly to the varied branches of agricultural industry. These furnish to all classes of our people not only the necessaries but most of the real luxuries of life; and then out of the abundant excess we supply other countries of the world in such measure as to create large balances in our favor. This balance of trade, amounting to two hundred millions of dollars each year for a series of years, enabled the country to resume specie payment, and to enter upon the enjoyment of our present extraordinary prosperity.

All agree that our abundant crops and other productions of the farms of the country vouchsafed to us by our beneficent Creator for a series of years has proven as valuable a protection to us as the abundant crops of corn to the Egyptians in the days of Joseph. And now whatever misgivings or forebodings a thoughtful forecasting of the future may excite in the minds of men are grounded in the apprehension that this precious source of all our prosperity and basis of all our hopes may not permanently continue so good. As the representatives of all the people no more responsible duty is incumbent upon us than to strengthen, stimulate, honor, and ennoble by every fair means this great interest.

Mr. Speaker, we must not overlook the vast and almost limitless agricultural resources of this country. The rapid increase of population, and the almost inexhaustible supply of land for cultivation justify sanguine expectations as to the near future. Judging from the past we may reasonably anticipate 75,000,000 of population within the next decade. This will give us at least fifty great States. This extraordinary growth of the United States in population, wealth, and influence, and the steady, substantial progress of its people in all that a refined civilization can confer, warrants the assertion that much of it is due to the inducements agricultural pursuits have tendered to all who seek the more substantial blessings of life.

By the late census the population of the United States exceeds fifty millions of people. Of this population about seventeen millions are engaged in some trade, profession, or employment, and of this working population about one-half are engaged in agricultural pursuits. Whether, then, we have reference to the proportion of our working and producing population engaged in the cultivation of the soil or to the grand results accomplished by them, the claim upon the Government for this position in its administration we must acknowledge as highly meritorious.

It is from the products of the labor and capital of this portion of our people that the principal wealth of the nation is derived. Reliable statistics for more than fifty years past show that about 90 per cent. of our exports are the agricultural products of the country.

The total value of exports from this country for 1880 amounted to the sum of $823,946,353, and of this sum $737,826,617 was received for agricultural exports. It will be seen from this exhibit that agriculture brings each year to our country from abroad more coin than all the rich gold and silver mines and other resources of the country. The total production during the last fiscal year of our gold and silver mines, so highly and wisely prized by us, aggregated the sum of $78,600,000.

And yet all must admit that agriculture is in its infancy. Its vast

capabilities, beyond what it has yet done, make more palpable the justice and necessity of extending to it the governmental recognition and encouragement so richly deserved.

Contemplate a moment the strong probabilities in store for us in this field of unbounded wealth. With encouragement to agricultural pursuits we must associate inseparably the multiplication of homes, the inducements to industry, the increase of virtue, the inestimable blessing of moral and religious culture, and that high and holy patriotism always found burning in the hearts of men provided with a home where every tree, shrub, vine, plant, and other objects have become endeared to them. Who fails to appreciate and admire the peaceful blessings of home life on the farm, where all the real and substantial joys, comforts, and luxuries of earth may be possessed and enjoyed as the sure reward of industry, economy, frugality, and integrity. The great tendency to village and city life, the willingness to abandon rural occupation and seek the supposed advantages of business in villages and cities is a serious mistake, and its practice a great evil. It should be checked, and a love of country life inspired by holding up the occupation in its true light, as full of comfort, honor, and profit.

But a small fraction of the immense area of land in this country has been reduced to cultivation. We imported in 1880, from other countries, agricultural products valued at $158,337,852, all of which in kind can be produced in the variety of soil and diversity of climate of the United States if we will enable agriculture to reach that degree of perfection of which it is susceptible. With our vast population rapidly increasing, with the marvelous extent of our tillable land, and with the rich income from the products of the soil under imperfect tillage, what mighty results may be anticipated from a wise and proper encouragement of it by the Government.

We certainly would avoid the condition of things that bring to us in the daily press the humiliating intelligence that potatoes from Scotland and Ireland, cabbages from Holland, and butter from Holstein are now being retailed in the cities of this country. This condition of things is not natural or necessary, and should not exist. It demonstrates the paramount importance of a governmental policy that will divert men from idle and inactive life, and from the surplus population of the villages and cities of the country, and enlist them in rural occupations. It proves the infinite importance of investing farm life with all the charms, allurements, and advantages that can be devised. The mistaken ambition of many sons of farmers has led them to abandon farm life and seek higher social, political, pecuniary, and other advantages which they vainly imagined would be found in other pursuits. This pernicious tendency can and should be counteracted by giving to agriculture the honor and support of this national recognition, followed as it will be by the additional charms and substantial advantages that must flow from it.

Washington, the father of our country, as a practical agriculturist, knew that the prosperity of the nation depended upon the prosperity of agriculture. His words of wisdom left on record for our instruction should not be overlooked or go unheeded. In his speech to Congress December 7, 1796, he said:

> It will not be doubted that with reference either to individual or national welfare agriculture is of primary importance. In proportion as nations advance in population and other circumstances of maturity this truth becomes more apparent and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up supported by the public purse, and to what object can it be dedicated with greater propriety? Among the means which have been employed to this end none have been attended with greater success than the establishment of boards, composed of proper characters, charged with collecting and diffusing information, and, enabled by premiums and pecuniary aid to encourage and assist a spirit of discovery and improvement. This species of establishment contributes doubly to the increase of improvements by stimulating to enterprise and experiment, and by drawing to a common center the results everywhere of individual skill and observation and spreading them thence over the whole nation. Experience has accordingly shown that they are very cheap instruments of immense national benefit.

Mr. Speaker, thus spoke Washington as the President of this nation, then in its infancy. At a still earlier date, after the trials, sacrifices, and triumphs of the Revolutionary war were over, and he was enjoying the sweet and peaceful pursuits of private life, attending to the cultivation of his large landed estate at his beloved home, at Mount Vernon, he wrote to a friend, under date of August 6, 1786, as follows:

> Agriculture has ever been among the most favored of my amusements, though I never have possessed much skill in the art; and nine years' inattention to it has added nothing to a knowledge which is best understood from practice, but with the means you have been so obliging as to furnish me I shall return to it, though rather late in the day, with more alacrity than ever.

Almost one hundred years have passed since these utterances by Washington. The nation has advanced in all the elements of progress toward maturity, far beyond the expectation of the most sanguine of that day, and now we are about giving practical application to his far-seeing statesmanship. We have learned the source of individual and national prosperity. From the center to the circumference of our indissoluble Union the people with one mind and one heart have determined "to beat their swords into plowshares and their spears into pruning hooks," and unitedly press toward those rich blessings so beneficently laid up for us.

The testimony of other ages bears witness to the importance attached to agriculture by the leading nations of antiquity. Both sacred and profane history teach us that most of the great nations of the past agriculture had a representation in the government. Rulers at that day had the wisdom to know that knowledge in agriculture meant increased crops, and increased crops a larger revenue for the Government.

When Pharoah gave permission to the Israelites to dwell in the land of Goshen he said to Joseph:

> The land of Egypt is before thee; in the best of the land make thy father and brethren to dwell; in the land of Goshen let them dwell, and if thou knowest any men of activity among them then make them rulers over my cattle.

Sacred history also informs us:

> That King Hezekiah trusted in the Lord God of Israel so that after him was none like him among all the kings of Judah, nor any that were before him. And he made himself storehouses for the increase of corn and wine and oil, and stalls for all manner of beasts, and cotes for flocks.

The ancient Romans excelled in all the practical arts of life, and their agriculture was praised and honored throughout the world. Her people from the earliest times were devoted to rural pursuits. Her most distinguished men, statesmen, and generals gave their influence and support to the cause. Cato, Virgil, and others wrote books on the subject of agriculture embracing the culture of the soil, the different kinds of farm animals, upon forestry and the appurtenances of a country home. Cincinnatus loved the plow more than the sword. Many of her most useful and distinguished citizens devoted their talents not only to the service of the country in war, but to agriculture in peace. In ancient Greece, the cradle of liberty and the home of the arts, agriculture was regarded as worthy of the attention of her most distinguished scholars, philosophers, and statesmen. The history of those times informs us of the influence and teachings of a Grecian colony upon the inhabitants of Gaul; that—

> The new-comers induced them to lay aside their ancient practices, and devote themselves to the culture of their fields, the pruning of their vines, and the planting of their olives, and so great and so happy was the change effected that it would appear not that Greece had emigrated to Gaul, but rather that Gaul had been transported to Greece.

Mr. Speaker, thus all along the track of time the history of our race appeals to us to guard and uphold this interest, to foster and stimulate it by every means in our power, and by our legislation to place it upon the highest possible ground of power and usefulness. We should lead and not follow the nations of Europe in this regard, but we can profit by their example. We find the nations of Europe, with a population not as largely agricultural as this, far in advance of us on this subject. With them the area susceptible of cultivation, the diversity of soil and climate, the population of each, fall far short of what we possess, and yet they have done far more for agriculture. This should not be. Our form of government is such as to make the tillers of the soil, "nature's noblemen," the strong right arm of the nation and with a controlling voice in the affairs of the Government. Not so in Europe. There nine-tenths of the tillers of the soil are forced to remain humble peasants, limited to the necessaries of life, and with little or no voice in the administration of public affairs.

The executive government of Prussia is carried on by a ministry of state, divided into nine departments, the eighth of which is "the ministry of agriculture." This ministry of agriculture was created as early as 1848 as an independent branch of the government, with powers and duties as distinct as the department of the treasury. Its functions from that time were to promote the development of agriculture. With a population of about one-half of this country, and an area of land that would be a little garden-spot in size on this Continent, they have wisely estimated the value of this interest, and annually appropriate for the ministry of agriculture $4,052,875.

Austria has also for many years had a distinct department of agriculture and a "minister of agriculture," under whom are the chiefs of ten bureaus. The work of the department for Austria embraces the highest executive powers on all the various questions pertaining to its different branches, including agriculture, forestry, breeding of horses, cattle, and other stock, veterinary science, irrigation, agricultural education, statistics, and grape, fruit, silk, and bee culture.

Austria, with a population of 37,741,413, and with less than one-tenth the number of acres under tillage as the United States, expends annually the sum of $5,005,767.92 for this department, being more than thirteen times the sum appropriated by the Government of the United States.

Italy, with a population of about 25,000,000, has a "minister of agriculture," whose department is divided into ten divisions, with a chief at the head of each. Her annual exports amount to about $225,000,000, and she expends annually on this department $1,589,900.

France has been foremost in her ample provisions and munificent appropriations for the agricultural interests of the nation. With a population of 37,000,000, about one-half are engaged in agriculture, and the products of her soil are immense from the superior cultivation of the soil and the utilization of every part by the best methods which science can suggest and industry execute. France has a "minister of agriculture" at the head of her agricultural department, to which is appropriated annually $7,271,375.

No better illustration can be found of the wisdom of extending to agriculture a liberal support by the Government than is presented by France. By this policy small landed estates have been built up, and the multitude of small landed proprietors add immensely to the wealth of the nation. With a rural population of 18,513,325, we find

9,000,000 of them land owners, living on their lands, and 4,570,000 farmers and tenants, and the remainder day laborers. As one result of this condition of things there is scarcely any emigration from France. Her people cling with undying love and devotion to their homes, their vine-clad hills, fertile valleys, and their native country.

It should be the aim and settled policy of this country to place this vital and pre-eminently important interest in a light before the world, so that not only our own native-born population, but the downtrodden and oppressed of every European country will be attracted to it and induced to give the country the benefits and advantages resulting from the occupation. Immigration alone is annually swelling our population at the rate of 700,000. What is the peculiar charm and wonderful influence which has gone forth from our country into all the countries of Europe, and which is now drawing their tenantry toward us so irresistibly and continuously? Two leading ideas have spread from shore to shore and have become inwrought into their minds and hearts. The first is that this is a free country, and the other, no less influential, that every one can own his own little farm and home, where he can be comfortable, contented, and happy. This makes it a land of hope to them, and if we do our duty their most sanguine expectations will be realized.

It is to the honor and glory of this country that it possesses and can offer to the people of Europe institutions so full of blessings, and a land with peace and plenty, virtue and safety, throughout all our borders.

Mr. HATCH. I had agreed to yield a portion of my time to the gentleman from Kentucky, [Mr. BLACKBURN.] That gentleman is now engaged making an argument before the Committee on Commerce, and I reserve the remainder of my time for him.

Mr. RICH. Mr. Speaker, the bill now under consideration is one in which the farmers of this country are very much interested. While the principal feature of this bill is the making the head of the Agricultural Department a Cabinet officer, yet its effect will be to secure to this vast industry such recognition and encouragement as it has never before received at the hands of the Government. The passage of this bill is a foregone conclusion, and in my opinion it will prove one of the most beneficent acts of this Congress, and the good results arising therefrom will continue as long as this Government shall last.

Daniel Webster once said all national wealth depends upon an enlightened agriculture. Few will care to dispute this statement of the great statesman. If this be true—and we have to-day, as all will admit, an enlightened agriculture and enlightened agriculturists—it is equally true that the head of the agricultural department of a nation should be an enlightened and intelligent man. Then is not this intelligent man at the head of the great department upon which all national wealth depends worthy to be one of the advisers of the President?

Without in any way belittling our manufacturing, mining, and commercial interests, it is safe to say that without our prosperous and intelligent agriculture none of them could succeed.

But some say that this is a matter of sentiment only; that the elevation of the department will be of no practical use. If I thought this I would not vote for the bill. But I believe that there is no bill which we shall pass this winter will make so large returns for the appropriation made and the good results of which will be so enduring. This department is no longer a simple seed-distributing station with a clerk as its head, as it has been in times past. It should be the great statistical department in regard to the condition and amount of crops both growing and harvested, with its stations so located as to secure accurate and specific information, and also have that information promptly distributed among the people, and also be able to give corresponding attention to the ravages of insects and the contagious diseases of domestic animals, and to take efficient measures to prevent the extended ravages of the insects and the spread of disease. The head of the Agricultural Department should be an officer of such recognized importance in the Government that his reports and statements in regard to subjects under his supervision should be recognized abroad as the authoritative official act of the Government. This recognition alone, in case of false and exaggerated reports being circulated in relation to the existence of pleuro-pneumonia, hog-cholera, or any other contagious or infectious diseases would be worth millions of dollars to this country in its influence upon foreign markets.

About one-half of all our people are engaged in agricultural pursuits, and upon the prosperity of those engaged in agriculture depends very largely our prosperity as a nation.

It was the surplus of agricultural products which more than anything else turned the balance of trade in our favor, and rendered the resumption and maintenance of specie payments possible.

While there is a larger amount of capital invested in agriculture than in any other industry, yet owing to the vast area over which it extends and the great number of owners and the comparatively small amount owned by each it is more difficult for those interested to concentrate their powers to influence legislation than any other industry which is of such vast importance. While railroads, manufacturers, miners, merchants, and those engaged in the carrying trade of our lakes and rivers can and do hire men versed in their respective callings to appear before the committees of the legislatures and of Congress, and urge the recognition of their claims and, as they frequently state it, of their rights, the farmer not being able to state his needs as forcibly as the paid attorneys and agents of other callings, and not having the means to spend in lobbying Congress or the Legislature, his claims are ofttimes neglected and passed by.

This was clearly illustrated to any one who attended the meetings of the Committee of Commerce while that committee was listening to the arguments on the bill to regulate interstate commerce. The railroads were represented by the best legal talent which the country affords, who were prepared to present the railroad side of the case in its strongest and most favorable light, and at the same time meet with equal ability any arguments advanced against their interests. The arguments of these learned attorneys were supplemented by the statements of the highest officials of some of the most important railroad lines in the country, who, from long experience and careful study, were able to give a plausible answer and excuse to every charge made against railroad men and railroad management, while those claiming to have been aggrieved by the manner in which railroads are managed came before the committee under more or less embarrassment and in their own way stated how, by what they claimed were unfair and unjust discriminations, their business had been injured. One farmer from somewhere in the central part of the State of New York stated that if he went to Buffalo and bought cattle to feed that he was charged more to carry a carload to his home than was charged to haul a car from Buffalo to New York. And when his cattle were fatted he was charged more to carry the cattle from his home to Albany or New York than he would have had to have paid to have taken them from Buffalo. These extra freights he claimed absorbed all his profits so that he had to abandon the business.

This statement was met by the committee with the information that this was a State matter over which Congress had no control, and by the railroads with the statement that he was charged no more than such services were actually worth, and that the rates from Buffalo were fixed by the competition of rival lines and not by the value of the service. The farmer met their reply by the statement that if he went to the Legislature he was met by the statement that the Legislature had no control of this subject; that Congress alone had power to regulate this matter, and that, whether he was charged more by the railroads than the services were worth or not, the business of feeding cattle, once profitable, was now ruined. Now the reply of the committee and of the railroad men in this case was undoubtedly true, but whether true or not the farmer had no remedy for the evils of which he very justly complained. It was a question of which he understood very little and was not able to hire learned attorneys to argue the question for him. Some representatives of boards of trade appeared to give their views, but they succeeded very little better; they were evidently arguing a question which they did not understand.

But my object is not to criticise the Committee of Commerce nor to find fault with railroad managers for presenting their views in the most forcible manner, but to show that the argument that there is just as much necessity for a department of the Government to foster railroads or manufactures as there is agriculture is not correct; for anything which looked like hostile legislation to any of the great manufacturing intests would bring an equally powerful lobby as the railroads. The railroad and manufacturing interests have unlimited means to hire attorneys and to send experts to Washington to call the attention of committees and members to the consideration of their interests, while the farmers, scattered over vast areas and having only limited means, (for vast as is this interest it is owned in small amounts by the many,) and knowing very little of the way in which legislation is influenced, stands very little chance of being heard from except at the ballot-box. To-day, should any legislation threaten any of the great railroad or manufacturing interests, the hotels and the corridors and committee-rooms of this Capitol would be crowded with their agents on short notice. Should danger threaten the agricultural interests we should probably receive some thousands of earnest protests which would probably reach us too late to do any good, and, even if not too late, would receive but little attention.

While we hear a great deal said about the honest farmer, it usually begins and ends in talk, so far as anything for his special interest is concerned. While Congress unhesitatingly appropriates large amounts every year for testing the strength, &c., of iron and steel, yet it was with considerable reluctance that an appropriation of $10,000 of a twenty thousand asked for was made for the examination of wool, cotton, and other textile fabrics. The Committee on Ways and Means of this House finds no difficulty in preparing and reporting a bill to prevent the adulteration of wines and champagnes, yet has not reported a bill presented to them to prevent the adulteration of butter, an article which every man, woman, and child in the United States is interested in, either as producer or consumer.

The same committee have found time and deemed it necessary to pass under a suspension of the rules a bill to render the tax paid by manufacturers of distilled spirits less burdensome and easier paid. Yet they have not found time to report a bill for the abolition of the stamp tax on matches and bank-checks, a measure which the people all over the country are interested in and anxious to have passed, as shown by the numerous petitions presented to us on that subject. Instances might be multiplied where measures for the interest of farmers and of the people have had to stand aside for measures which concerned some interest that was urgent and persistent in demanding a hearing. But this is not my purpose. This Congress is no worse than its predecessors. And in fact there has been a

marked improvement in that respect from year to year. My purpose in making the statements which I have made is to call the attention of the House to the propriety and necessity of giving more attention to the needs of this class of our citizens, one step of which is provided for in this bill, namely, the elevation of the present Department of Agriculture to the position of an Executive Department of the Government and the making the head of the Department one of the confidential advisers of the President.

Twenty years ago, when the present department was created, there was the same objection urged and the propriety and necessity for such a department seriously questioned. Yet the result has fully verified the predictions of its warmest advocates. President Lincoln in his first message to Congress recommends the establishment of a bureau of agriculture in the following language, which resulted in the establishment of the present bureau or department:

> Agriculture, confessedly the largest interest of the nation, has not a department nor a bureau, but a clerkship only, assigned to it in the Government. While it is fortunate that this great interest is so independent in its action as to not have demanded and extorted more from the Government, I respectfully ask Congress to consider whether something more cannot be given voluntarily with general advantage. Annual reports exhibiting the condition of our agriculture, commerce, and manufactories would present a fund of information of great practical value to the country. While I make no suggestion as to details, I venture the opinion that an agricultural and statistical bureau might profitably be organized.

When the foundation for the present Department of Agriculture was laid it was a small affair compared with the present department. The act creating it only provided for a commissioner at a salary of $3,000, and a chief clerk at a salary of $2,000 per annum, with such additional assistance as Congress should from time to time prescribe. There was also appropriated $60,000 for the purchase and distribution of seeds.

Since that time there has been a gradual enlarging of the department and extension of its fields of usefulness, until it now contains as distinct bureaus or divisions for which specific appropriations are made the following: statistics, entomology, botany, chemistry, microscopy, propagating garden, seed division, library, gardens and grounds, forestry, examination of wools and animal fibers, (which has been extended to include cotton and other vegetable fibers;) grape culture and wine making; manufacturing sugar from sorghum and beets; tea culture; contagious diseases of domestic animals; insects injurious to agriculture; and it is now desired to add a bureau of animal industry.

The appropriations have been gradually increased since its separate establishment. There was appropriated in 1862, in round numbers, $65,000; in 1863, $90,000; in 1864, $139,000; in 1865, $105,000; in 1866, $121,000; in 1867, $168,000; in 1868, $97,000; in 1869, $87,000; in 1870, $142,000; in 1871, $26,800; in 1872, $172,000; in 1873, $126,000; in 1874, $127,000; in 1875, $126,000; in 1876, $162,000; in 1877, $196,000; in 1878, $195,000; in 1879, $————; in 1880, $318,900; in 1881, $339,700; in 1882, $434,680.

Several of the divisions are quite new, and have not been established long enough to fully determine their value. Others are probably of a temporary character, and it is expected that they will have accomplished their purpose within a few years and be discontinued. Among these are the examination of textile fabrics, Rocky Mountain locust, and possibly the experiments in relation to arid lands.

But it is probable that other subjects as necessary and interesting will take their place.

Notwithstanding the rapid growth which the Department of Agriculture has had since its organization, there is no doubt that with proper encouragement its growth will be as rapid in the future as it has been in the past.

As the opportunities for getting correct and accurate information increase the value of its reports will be correspondingly increased. When the great extent of our country is considered and the diversity of products raised and the amount of land which is yet uncultivated, it must be admitted that the amount of good which may be accomplished through this department is beyond computation.

The department has only existed as a separate department for twenty years, and during much of this time it has received scanty appropriations, partly on account of the war and the necessary diversion of the revenues of the Government into other channels, and the attention of Congress to more exacting and, for the time being, more vital subjects. Yet to-day, with the exception of the Post-Office Department, no Department of the Government comes so near or interests directly so many of our people as does the Agricultural Department. It does more to convince the people that the Government is interested in their welfare and to attach the people to the Government and to our institutions than any other Department does or can.

The elevation and encouragement of this department will render valuable assistance in obliterating the last vestige of sectionalism growing out of the late civil war. Through its influence men engaged in agriculture all over the country will be brought together to exchange views; acquaintances will be formed which with a common interest will help to bind us together and make us a united, prosperous, and happy people.

The object of the bill before us is the general elevation and enlargement of the Department of Agriculture by making it one of the Executive Departments of the Government and making its head one of the confidential advisers of the President. This, in my opinion, is eminently wise and proper. A man who is connected with and interested in agriculture all over this country, of sufficient business tact and ability, and of such prominence in a country of fifty or more millions of people to be selected for this position, could not help but be a valuable counselor and adviser of the President.

This bill, should it pass, will not only be valuable as furnishing an adviser of the Executive who will represent and is familiar with the needs of a large portion of our people, but it will bring the agriculturists all over this vast country into intimate and harmonious relations with the Government. It will not only unite us as a people, and help materially to wipe out sectionalism and make the prosperity of the whole country the common purpose of all, but it will cultivate a love for and an attachment to the Government which can be secured in no other way.

No country ever prospered long without encouraging and caring for its agriculture. It is a primary occupation. While it is one of the oldest of occupations, it seems to be a natural occupation for man. There are few men, no matter what their position in life may be, but have a desire to have a spot of God's green earth which they can call their own. One is content to have a little garden where he can raise vegetables or flowers, either for his own use or for sale. With another it is a farm with broad, fertile acres, where he can have a home and enjoy himself in raising grain or live stock, or both, and at the same time secure substantial returns in money. With another, who has secured an abundance of this world's goods, it is a place to beautify and embellish, which, from a pecuniary stand-point, seems to be only an opportunity for the expenditure of money without any hope of return. Yet, in either case, it satisfies the natural craving in the human breast to have some of earth which he can call his own. Now, if this calling is one in which we are all interested, and so many of us so deeply interested, is not the Department of the Government which represents it entitled to be one of the Executive Departments of the Government, and its head worthy to be one of the Cabinet?

We are told that duties levied for the protection of manufacturing incidentally benefits all classes of our people by furnishing remunerative employment for our labor and a home market for our agricultural products; that while it specifically protects manufacturing and promotes its prosperity, all classes participate in the benefits derived, and it therefore promotes the general prosperity of the whole people; which I have no doubt is true. Now, while you are doing so much for the direct benefit of manufacturing and incidental benefit of agriculture, suppose we do a little for the direct benefit of agriculture and incidental benefit of manufacturing; which will be the result of increased prosperity of those engaged in agriculture which the manufacturer would obtain in the increased ability of the farmer to buy manufactured articles, and by the increased production of farm products tending to reduce the price to the consumer.

Now, a word in regard to the proposed amendment making the Department a department of industry. The present Agricultural Department is an independent bureau. That is, the Commissioner reports directly to Congress or the President, as the case may be. He is not under, in any degree, the control of any of the Executive Departments. The Department bears the same relation to the Government now that it will under this bill, except that under this bill its scope will be enlarged and its head will be an officer of more recognized importance. Under the bill proposed as a substitute, instead of being elevated it would actually be degraded from its present position. Instead of being a distinct Department it would only be an insignificant part of the new department of industry and transportation, where, among the concentrated influence of the hired attorneys of railroads and Bessemer steel manufacturing associations, it might as well have never been, or it would be as well to return it to the overcrowded Interior Department, from whence it came, and give it a clerkship. As one of the agriculturists of this country, I know whereof I speak when I say that the farmers of this country infinitely prefer that this department should remain in its present independent, though somewhat obscure, position, to having it attached to and made a part of the great, unwieldy, inharmonious department of industry.

But say some there is not enough of this to make a Department. To such I would say that a calling which in 1870 furnished as its proportion of the annual product of all the people for that year, including manufacturing, mining, and fisheries, $2,447,538,658, while all the others combined furnished only $4,396,020,958, is of sufficient importance to be represented in the Government by a Cabinet officer. The returns for 1880 I have not been able to procure, but when published will make an equally favorable showing for this important industry.

But it is stated that the Interior Department is overcrowded and some relief must be had for that. Also that transportation and manufacturing and other industries are entitled to some consideration. Some relief can be afforded by making the Land Office a part of the Department of Agriculture, that is, put it in the same relation to the Department of Agriculture that it now holds to the Department of the Interior. Possibly there are some other things which could with propriety be transferred to the Department of Agriculture. If this does not afford sufficient relief and it is still thought necessary to have a department of industry and transportation, then organize such a department, but do not bury agriculture under everything for which no other place can be found under the specious guise of elevating the Agricultural Department. If you are not willing to make the Department of Agriculture an Executive Department without these additions, then let the Department remain as it is until Con-

gress is willing to do justice by this most important Department of the Government. [Applause.]

I desire to reserve what remains to me of my hour. How much time have I left?

The SPEAKER *pro tempore*, (Mr. BURROWS, of Michigan.) The gentleman has thirty minutes of his time remaining.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendment the bill (H. R. No. 5820) granting a pension to Hugo Eichholtz.

The message further announced that the Senate had passed a bill (S. No. 1513) for the relief of Orville Horwitz, trustee for C. D. De Ford & Co.; in which the concurrence of the House was requested.

DEPARTMENT OF AGRICULTURE.

Mr. GROUT addressed the House. Before he had concluded his remarks,

Mr. ANDERSON said: Will the gentleman from Vermont allow me to interrupt him, the hour assigned for taking a recess having almost arrived?

Mr. GROUT. I yield to the gentleman from Kansas, retaining the floor.

Mr. ANDERSON. I ask unanimous consent that the general debate on this bill shall close to-morrow at two o'clock, and that the House shall then proceed to consider under the five-minute rule and vote upon substantial amendments, *pro forma* amendments not being debatable.

The SPEAKER *pro tempore*. The gentleman from Kansas asks unanimous consent that general debate on this bill shall close at two o'clock to-morrow, and that the House shall then proceed to consider the bill by sections, under the five-minute rule of debate on all substantial amendments. Is there objection?

Mr. ROBINSON, of Massachusetts. The gentleman included a little more in his request. It was part of his proposition that there should be no debate on *pro forma* amendments.

The SPEAKER *pro tempore*. That is the understanding. Is there objection to the proposition of the gentleman from Kansas?

There was no objection, and it was so ordered.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. HEWITT, of New York, for two days, on account of illness.

To Mr. MCCOOK, for four days, on account of important business.

To Mr. HUBBS, indefinitely, on account of important business.

LAWS OF WYOMING TERRITORY.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the secretary of Wyoming Territory, transmitting two copies of the Session Laws of Wyoming Territory, passed by the Seventh Legislative Assembly thereof; which was referred to the Committee on the Territories.

GENERAL FITZ-JOHN PORTER.

Mr. BRAGG. The bill introduced this morning for the relief of General Fitz-John Porter, and which was referred to the Committee on Military Affairs, is accompanied by a memorial. I ask unanimous consent that the memorial be also referred to the Committee, and that it be printed.

There was no objection, and it was so ordered.

BOARD OF HEALTH AND QUARANTINE.

Mr. DIBBLE. I ask unanimous consent to present for reference to the Select Committee on the Public Health a memorial of the Board of Health of Charleston, South Carolina, communicated by his excellency the governor of South Carolina, in relation to the National Board of Health and to Quarantine. I also ask that the memorial be printed in the RECORD.

There was no objection, and it was so ordered. The memorial is as follows:

DEPARTMENT OF HEALTH,
Charleston, S. C., April 12, 1882.

GENTLEMEN: The board of health of Charleston, South Carolina, realizing the great utility and successful labors of the National Board of Health in the cause of hygiene and proper quarantine, request that the law of June 2, 1879, defining the duties of the National Board of Health, &c., be re-enacted at its expiration; and they further most earnestly urge that the Sapelo refuge quarantine station be continued for the prevention of the introduction of infectious disease into the ports of South Carolina, Georgia, and Florida, and most especially guarding as it does against the danger of yellow fever. Yellow fever requires now no pen to force recognition of the consequences of its evil presence.

Sapelo refuge quarantine station receives all vessels bound for ports of the United States which may have a contagious disease on board, and moreover serves as a point to which any vessel in a port of South Carolina, Georgia, and Florida may be sent upon which a case of yellow fever or infectious disease breaks out. The quarantine regulations of the ports of South Carolina, Georgia, and Florida are framed with reference to the utilization of Sapelo station. It is requested that no legislation be enacted which may in any way interfere with the continuance of Sapelo station. It is requested that Sapelo refuge quarantine station be thoroughly equipped, and suitable buildings erected; that it be made a permanent station and kept open during the winter as well as the summer months.

JOHN HANCKEL,
Chairman Board of Health.

To Hon. J. WARREN KEIFER, *Speaker,*
and the members of the honorable the House of Representatives
of the United States.

Official:

H. B. HORLBECK, M. D.,
City Register and Secretary.

CITY OF CHARLESTON, EXECUTIVE DEPARTMENT,
April 13, 1882.

I regard the opposition to the National Board of Health as unwise and prejudicial to the complete sanitary supervision, which to be successful must be general in its operation. The Sapelo refuge station is the most beneficent feature of the administration of the National Board from the point of view of the South Atlantic seaports of the Union, which before this wise provision were constantly imperiled by ship arrivals with disease aboard, which could not be refused assistance in their harbors. I earnestly urge the continuance of the National Board of Health and the Sapelo refuge quarantine station.

WILLIAM A. COURTENAY,
Mayor.

CHARLESTON, *April 13, 1882.*

A vivid recollection of personal experiences amid the desolation of the pestilence of 1878 in the valley of the Mississippi leads me to believe that if the National Board of Health had then existed, and with well-equipped maritime quarantine refuge stations, it would have saved the countless lives then lost, and the entire Union the heavy tax then imposed. I trust that Congress will re-enact the law to continue the National Board of Health, and also to appropriate means to equip permanently Sapelo and other stations.

T. GRANGE SIMONS, *M. D.*,
Chairman Quarantine Committee, State Board of Health of South Carolina.

OFFICE EXECUTIVE COMMITTEE, STATE BOARD OF HEALTH,
Columbia, South Carolina, April 17, 1882.

The act creating a National Board of Health I believe is among the wisest measures enacted by Congress, and should not be abolished. To the States bordering on the Atlantic and Gulf coast I deem as indispensable its supervision and its arrangements now in force to prevent the spread of certain contagious and infectious diseases. I would earnestly recommend an appropriation to fully equip Sapelo refuge quarantine station, and others of similar use, and that they hereafter be permanent stations and kept open during the entire year. I heartily indorse the continuance of the National Board of Health, and trust Congress will make the necessary appropriations for its use.

B. W. TAYLOR,
Chairman Executive Committee.

EXECUTIVE OFFICE,
Columbia, South Carolina, April 24, 1882.

Respectfully forwarded. The views of the petitioners and of those who indorse the petition are entitled to much weight.

JOHNSON HAGOOD,
Governor of South Carolina.

PAY OF SERGEANT-MAJORS, ETC.

Mr. UPSON, by unanimous consent, from the Committee on Military Affairs, reported a bill (H. R. No. 6152) fixing the pay of sergeant-majors and quartermaster-sergeants in the United States Army; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

SEARCH FOR THE JEANNETTE EXPEDITION.

Mr. DEZENDORF, from the Committee on Naval Affairs, reported back a memorial of the officers, seamen, and marines of the United States steamer Alliance, praying for remuneration for extra clothing, mess stores, &c., purchased during the cruise of that vessel in the Arctic regions in search of the exploring steamer Jeannette, accompanied by a report in writing, and moved that the memorial and accompanying report be referred to the Committee on Appropriations.

The motion was agreed to.

RECESS.

The SPEAKER *pro tempore*. The hour of five o'clock having arrived, the House, in obedience to its order, takes a recess until seven and a half o'clock this evening.

EVENING SESSION.

The recess having expired, the House reassembled at seven o'clock and thirty minutes p. m., Mr. BURROWS, of Michigan, in the chair as Speaker *pro tempore*.

DEPARTMENT OF AGRICULTURE.

The SPEAKER *pro tempore*. The session of this evening, by order of the House, is for debate only on the bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture. The gentleman from Vermont [Mr. GROUT] is entitled to the floor to conclude his remarks begun this morning.

Mr. GROUT resumed and concluded his remarks, as follows:

Mr. Speaker, the proposition to make the Department of Agriculture one of the Executive Departments of the Government, however reasonable to one who has carefully considered the subject, will doubtless strike many minds as unnecessary, and possibly some will go so far as to deny altogether the wisdom of the change. The conservative principle in government which looks with disfavor upon any change either in its form or administration is to a certain extent undoubtedly wholesome, but under this principle alone there can be no such thing as progress in human government. And happily for the American people, while they have been suitably attentive to the instructive lessons of the past, they have nevertheless lived and acted for the present and the future. They have never "sighed for the dead past." Remembering with Dryden that,

Not Heaven itself hath power over the past,

they have never allowed themselves to become wedded to that blind conservatism which counsels alone with bygones, and whose only instinct is to cling to existing forms. In accordance with the spirit of true progress they have always shown a disposition to adapt the Government not only in its legislative provisions but in its organic structure to the varying and increasing wants of the people.

In evidence of this the fact may be cited that during the ninety-two years since the adoption of the Constitution by the original thirteen States, fifteen several amendments have been added thereto—at the rate of about one for every six years.

The origin and growth of the Cabinet may also be cited as illustrative not only of the immense growth of the country in population and wealth, but as illustrative also of that liberal spirit in government which stands ready to conform itself to the wants of the governed. When the Government started out under the present Constitution there were but three Executive Departments, namely, State, War, and the Treasury. The same act creating these Departments also provided for a Postmaster-General, but his Department was considered only a bureau until 1829, when Andrew Jackson invited Mr. Barry, the person appointed by him to that office, to a seat in the Cabinet.

The act also provided for an Attorney-General to appear for the United States in the Supreme Court and give opinions to the President and heads of Departments when requested; but it was not until 1870 that the Department of Justice was made an Executive Department of the Government, though long before that the Attorney-General had sat in the Cabinet.

In 1798, a Navy Department was created. In 1849, the Department of the Interior was created, and the Bureau of Pensions was given it from the Navy Department; Indian affairs from the War Department; patents and the census from the State Department; public lands from the Treasury Department; also the care of the public buildings and many other lesser duties. From the foregoing brief sketch it will be seen that the increase of the Cabinet from the time when President Washington consulted the three Secretaries already named to the seven who now sit in council with the President, has apparently been in response to the necessities of the people. No regular system has marked its growth; no fixed law governs its existence; in fact it exists wholly without written law, either constitutional or legislative. It had its origin in the practice inaugurated by President Washington of calling the three Secretaries created by the act of 1789 into council, and exists to-day by virtue of a continuance of that practice and by that alone, constituting in the midst of conventions and legislative bodies a notable landmark in the unwritten law of the land.

Thus do we see that the Cabinet, an institution now considered peculiarly sacred, so sacred that any proposition like that contained in this bill to increase its numbers is looked upon as almost revolutionary, really had only an accidental origin. It certainly had no royal birth; nor did it spring into existence full-armed like the Greek goddess Athene from the head of Zeus; but like Topsy it "grew" with the growth of the country. It was made up piecemeal as the wants of the people from time to time found recognition in written and unwritten law.

This bill proposes fuller recognition—even Cabinet recognition—of the Department of Agriculture as representing one of the great interests of the country; really the greatest by far of all our industrial interests. The question presented is whether our agricultural interests sustain such relations to national prosperity and the success of the American system of government as to merit this recognition; whether those interests, or any of them—and they are of great variety—should be better understood in order to the best understanding and wisest possible solution of the current political and economic questions with which as a people we have to deal; in short whether agriculture, which represents in this country $12,104,188,126, not including live stock upon ranches or upon the plains, the annual products of which amount to $2,500,000,000, in the pursuit of which 28,000,000 of our population are engaged directly and indirectly, and which furnished in 1881 of the $883,925,947 exports $729,650,016—a little over 82½ per cent. of our entire export trade—whether this interest is fairly and reasonably entitled to the care and supervision of a secretary; and whether it is asking too much to ask that the Department which has charge of this vast interest shall hereafter be ranked with the Executive Departments of the Government.

An intelligent answer to this question will involve an examination into not only the magnitude and variety of the interests embraced in the department but also the probability whether with enlarged powers and the increased stimulus which will naturally come of an increase of rank, coupled with the larger appropriations sure to follow, those interests will be better protected and more liberally assisted than heretofore. Let it not, however, be understood that any criticism of the work heretofore done by the department is intended.

With the means at its disposal and the authority it could exercise, it has acted well its part and from a very small beginning has gradually grown to its present respectable proportions and strong hold upon the rural class. Let us for a moment trace its history and briefly note its work; and in this review, as often as it appears that the department has achieved a substantial success, let the question recur: If, with its limited powers and scanty means, it could accomplish so much, what may it not be able to do with the enlarged authority and higher privileges which this bill proposes to confer?

The gentleman from South Carolina [Mr. AIKEN] just now alluded to the recommendation of President Washington concerning agriculture. This was in his message to the Fourth Congress, in 1797. That part of the message was referred to a committee, of which a Mr. Swift was a member. The committee made a report, a portion of which I will ask the Clerk to read.

The Clerk read as follows:

That the encouragement of agriculture is an object highly worthy the public attention, as it constitutes the most useful employment of our citizens, is the basis of manufactures and commerce, and is the richest source of national wealth and prosperity. The present situation of the United States opens the fairest prospect to agricultural improvements, and invites the attention of the Legislature to so interesting and important an object. The lands are usually divided among the citizens into farms of an extent convenient and suitable for cultivation; and the cultivators are generally absolute proprietors of the soil, free from the heavy burden of tithes and the slavish appendages of the feudal tenure which, in many countries, have operated as a great discouragement to agriculture. The exclusive right to enjoy the advantages resulting from agricultural improvements will be the strongest inducement to introduce and adopt them. These peculiar privileges, superior to any other nation, render it probable that by proper attention from the Government agriculture in America will improve with greater celerity and arrive to higher perfection than has yet been known in any other country.

On a view of the state of agriculture in the United States, it will be found that though it has made very considerable progress in some parts, yet there are many important principles and valuable improvements, known and practiced in other countries, to which most of the American farmers and planters are utter strangers. It may, also, with propriety be remarked that the science of agriculture is in its infancy, and is susceptible of much greater improvement than it has yet received in any country. These circumstances, while they claim the attention of the Government, open to the Legislature a new field for the exercise of the power intrusted to them, in which they have the fairest prospect of promoting the public good. To introduce into our own the improvements of other countries, and to lay the foundation for discoveries which shall essentially contribute to the happiness of mankind, is an object worthy the attention of the Legislature of a free people.

Mr. GROUT. The committee making this report also reported a bill providing for a national board of agriculture, consisting of the judges of the Supreme Court, the Attorney-General, the Secretaries of State, Treasury, and War, and the members of the National Legislature. That bill evidently undertook too much and failed to become a law. The subject does not again appear in the legislation of the country until 1839, when $500 were appropriated to be expended by the Commissioner of Patents in collecting agricultural statistics. Small annual appropriations were thereafter made for the agricultural bureau, still under the control of the Commissioner of Patents—and herein may possibly be traced a reason for the singular affinity which the modern patent swindle has shown for the unsuspecting farmer—until 1862, when, by act of Congress, the Department of Agriculture was taken from the Patent Office and made a separate and independent department, and $60,000 given it for the fiscal year.

During the ten years ending June 30, 1882, the appropriations for the Department aggregate $2,438,887. For the same time the appropriations for the War Department were $302,453,744; thus showing that for the last ten years the "sword and the spear" have cost the American people in time of peace more than one hundred and fifty times as much as the "plowshare and the pruning-hook;" also indicating the weary march still left to the world before reaching the millennium. For the same ten years the appropriations for the Military Academy at West Point, a mere nursery of war, were nearly a third more than for agriculture, being $3,124,412. The appropriations for this academy will not be less for the next ten years, and no one will claim they are extravagant or unnecessary.

If, as we are told, "peace hath her victories no less renowned than war," might it not be well for the Government to aid just a little in emphasizing some of the victories to be won in the peaceful pursuits of agriculture? Now, suppose the same amount as is appropriated for the support of this school of war during the next ten years be also appropriated for the establishment of experiment stations throughout the several States, whose only business shall be that of discovery for the benefit of farming—of discovery in the fields of chemistry, animal physiology and vegetable physiology, including the occult question of plant-food and the mystery of plant-growth. These stations exist in great numbers throughout Europe, whose dense populations upon small areas, which have been a long time cropped, present the problem of how those populations are to be sustained. All the older States of the Union are rapidly presenting the same question. A large portion of their lands have been under cultivation nearly two hundred years, and, as the result of the wasteful and ruinous treatment incident to all new countries, are now to a great extent sapped of their original fertility and productiveness. This fact is too well known to require verification. If our population is to be kept good in these older communities—and let it not be forgotten that population is a prime element of national greatness—something must be done to restore the productiveness of these worn-out lands. The experiment stations of modern Europe have shown that agricultural chemistry is equal to this work, the work of analyzing soils and supplying as a fertilizer the elements in which they are deficient. Professor S. W. Johnson, in the tenth annual report of the Sheffield Scientific School, in speaking of the European agricultural experiment stations and of what they have done, says:

About the middle of the last century a light-house, known as Dunston Pillar, was built on the Lincoln Heath, Lincolnshire, England. It was erected to guide travelers over a barren, trackless waste, a very desert, almost in the heart of England; and long it served its useful purpose. The pillar, no longer a light-house, now stands in the midst of a fertile and rich farming region where all the land is in high cultivation. For twenty-five years no barren heath has been visible even from its top. Superphosphate of lime, a chemical invention, first applied to land by the British chemist Murray and brought to the notice of reading farmers by Baron Liebig, has been the chief means through which this great change was effected. Superphosphate over great stretches of English soil makes the turnip crop. Turnips there support sheep, and with sheep the English farmer knows how to get rich on the poorest light lands.

Further on he says:

Chemistry has taught agriculture how to utilize the refuse of slaughter-houses and fisheries, the bones, the flesh, the blood, which but a few years ago was a waste, a nuisance, and a peril to public health. It has found vast mines of fossil phosphates in England, Canada, Norway, Spain, France, Germany, South Carolina, Russia, and Austria, and has shown how they may be quickly and profitably converted into a precious fertilizer. Italy, Germany, France, Britain, and the United States have seen, or are seeing, the productiveness of thousands of their fields decline to a profitless minimum, until lands once beautiful with harvests are desolate and abandoned. But the artificial barrenness of exhaustion, like the natural barrenness of the heath or the sand-down, yields to the touch of science; and in all the older countries I have named the work of reclamation is in full progress, and barring some great calamity of politics or nature, we are confident that the producing power of their soil will never again be less than now, but will increase many fold in the future, until they become gardens in all their breadth and to the very hill-tops.

France had so far back as 1835, in the neighborhood of Strasburg, an experiment station on the farm of Boussingault, who was professor of rural economy in the conservatory of arts in Paris. Both in the laboratory at Paris and on his estate of Bechelbraun, Boussingault had for forty years carried on a series of most valuable researches, whether considered from the point of view of practice or of science. But Moreau was the first station where farmers themselves brought science to their own farms to aid them in farming. The example thus given was so brilliant and solid that within two years in the town of Chemnitz a second station was set up, and of the twenty-two years that have since elapsed, 1867 is the only one which has failed to witness the founding of one or more similar institutions in Germany or the neighboring countries. The experiment station shortly came to be regarded, not as a costly embellishment or an agricultural luxury, in which universities or wealthy gentlemen might harmlessly indulge, but as a most remunerative and necessary agency for the use as well as for the education of farmers.

So much for experiment stations by one who knows their value.

Now, who doubts but that one or two such stations in every one of the Eastern, Middle, and Southern States would much more than pay the expense incident thereto by an increase of the agricultural products and of the value of the agricultural lands of those States? And, further, who doubts but that the Government would be more likely to enter upon some such liberal policy were the department in charge of a secretary clothed with full executive power? But let us a little further compare the expenditures of the Department of Agriculture with the other expenses of the Government. We have seen what a magnificent outlay is made for war in time of peace, now let us see what is done for commerce.

For the same ten years already spoken of the appropriations for the improvement of rivers and harbors amounted to $67,589,411, to which should be added $475,000, expended by the Mississippi River commission, making a total of $68,064,411—almost thirty-four times as much as for agriculture. Of the above sum, $1,392,000 were expended upon the great Kanawha River of West Virginia, and $1,132,500 upon Cape Fear River of North Carolina, making a total upon these two rivers of $2,524,500, which is $83,663 more than for the Department of Agriculture for the same time. The navigable portions of these streams are wholly within their respective States, and it is only another way of stating it to say that these two States have received from the Government in the last ten years $83,663 more for the improvement of these two water-ways, wholly within their own limits, than has been appropriated for the agriculture of the whole country, and at the same time received $737,000, which was expended upon other rivers within those States. And this has been done in the name of commerce, for the purpose of facilitating an interchange of commodities in the way of trade. Oh, Mercury, Mercury, thou art still true to thyself! This river and harbor business for the last ten years forces the unsavory recollection that whilst thou wast the god of traffic thou wast also the god of theft!

The gentleman from West Virginia [Mr. KENNA] undertakes to establish a close relationship between commerce and agriculture, but evidently not being quite sure of such relationship by consanguinity he proposes to seal it by affinity. He offers a substitute bill uniting commerce and agriculture in one department, asserting that their relations are already so intimate that public propriety demands that the union be no longer delayed. But, sir, in the name of Ceres and Pomona and all the other rural goddesses, not one of whom ever had any acquaintance with Mercury, I denounce the bans; I protest against the union upon the ground of incompatibility of tastes and divergent interests. Picture to yourself, sir, an unsophisticated country maiden, fresh from the farm in homespun, consorting with ye perfumed commercial traveler from the metropolis, who wears tight pants and parts his hair in the middle. The gentleman from West Virginia himself, if he thinks of it, will not approve this union. In soberness, however, there is no such identity or community of interest between agriculture and commerce as to make necessary this substitute bill. I think the bill before us more nearly meets the wants of the country.

The total appropriations for the Department of Agriculture for the twenty years since its creation in 1862 are $4,394,230. This makes an average of $219,711 per annum and a tax of something less than five mills per capita of our population. And yet with these small appropriations much has been done. A very creditable department building and conservatory have been erected and the building completely furnished, including museum and agricultural laboratory. Many pleasing and valuable permanent improvements have been made upon the grounds appropriated to the use of the department, so that to-day no stranger's visit to the Capitol is complete without a view of those grounds. The department has at the same time performed a great work in the purchase and distribution of rare and valuable seeds.

In 1870 the average yield of wheat per acre in the United States was 12.4 bushels; of oats, 28.1 bushels. In 1877 the average yield per acre of wheat was 13.9 bushels; of oats, 31.6 bushels. In 1877 there were 26,277,546 acres of wheat in the United States. The increase as shown by the above figures was 1½ bushels per acre, making a total increase for that year of 39,416,019 bushels from the sole cause of a greater average production per acre. Estimating this increase at $1 per bushel, it amounts to $39,416,019. The increased average yield per acre of oats in 1877 over that of 1870 was 3¼ bushels. The oat crop of 1877 was 13,312,420 acres, making the increase in bushels 46,692,490, which at fifty cents per bushel makes $23,346,245; to this add increased value of wheat, and it makes a total increase of value in these two crops off the same number of acres of $62,762,246.

The most careful inquiry after a reason for this increased yield per acre of these two grains must result in attributing it to the distribution of new and improved varieties of seed by the department.

If it be suggested that it may be the possible result of opening up new fields to these grains, the reply is, new fields were also opening up in 1870.

But what is still more conclusive upon this point is the fact that the older wheat-fields of the country also show an increased product per acre. For instance, the average yield of wheat per acre in the two Carolinas in 1870 was 7.8 bushels; in 1877 it was 9.1 bushels; Virginia, 1870, 9.6 bushels; in 1877, 10.4 bushels; Pennsylvania, 1870, 12 bushels; in 1877 it was 13 bushels; Georgia, 1870, it was 8 bushels; in 1877 it was 9.5 bushels; while in Minnesota, a newer State, the yield in 1870 was 15.2 bushels; in 1877 it was 18.5 bushels.

As showing the extent to which the department distributes seeds it may be stated that in his report of 1878 the Commissioner of Agriculture speaks of the distribution of over 3,000 bushels of the best varieties of seed wheat, some of it being imported from Europe. Nearly the same quantity of oats and a large quantity of rye, barley, and buckwheat were also distributed, saying nothing of garden and flower seeds.

In further support of the proposition that the increased yield per acre of wheat and oats is due to the distribution of seeds by the Department, the following extracts from correspondence with the department are taken from the Commissioner's report of 1878:

Maine.—Wheat from department is valuable; yields 16 to 22 bushels per acre. Average of the State before only 14 bushels.

Maryland.—Wheat from department is very valuable; best raised here. Yields much above the average.

Michigan.—Wheat from department yields from 15 to 40 bushels per acre. Much above the average, which is 13½.

Mississippi.—Oats introduced by department have been a great advantage to this section.

Nebraska.—The wheat from the department gave great satisfaction, yielding from 13 to 40 bushels per acre.

Virginia.—All are well pleased with the new varieties of wheat from the department; have much increased our yield. Another, the yield ranges from fourteen to forty bushels per acre. The average in past years has been from eight to ten and a half bushels. Another, the pecuniary advantage to our State from the improved oats is greater than the entire annual appropriations for the Agricultural Department.

The fact that the varieties of wheat and oats distributed by the department were obtained from those countries and climates especially fitted to the maturity and perfection of those grains rationally enough accounts for the increase shown, and demonstrates the advantage of a frequent change of seed.

But whether or not this increase of $62,760,246 off the same acreage in 1877 over that of 1870 be attributable to the distribution of improved seeds by the department—and if not some one should be able to name the true cause—these figures, which seem almost incredible, but which are true if the official statistics of the country are true, at least demonstrate how by a very slight improvement of two of the agricultural products of the country her wealth in a single year is increased over $62,000,000; and suggests the question, How can the American people more effectually increase their wealth and add to their material greatness than by making the same slight improvement in every one of the agricultural products of the country? And who believes that this improvement will take place unless means to that end be employed? And yet agriculture is looked upon as a matter of secondary or incidental importance, only two or three hundred thousand dollars a year are appropriated for its encouragement, and the only rank which the American people can afford the man who has charge of its vast and varied interests is that of Commissioner.

Some of the States have what they consider special interests to look after, and as the result, the care of agriculture is left to others. In Pennsylvania it is iron; in California it is the production of the precious metals. It may, however, not be amiss to remind Pennsylvania of the fact, which of course she already knows, that the value of her hay crop alone in 1880 was greater than the value of all the crude ore taken from her iron mines. Her hay crop was worth $44,728,704; her pig-iron production was worth $46,596,860. But to transform a ton of crude ore into pig-iron takes three tons of coal, worth from $5 to $10 according to location. Saying nothing of the labor, call it $5, and deduct $10,440,605, the value of the coal used in making 2,088,121 tons of pig, the product of Pennsylvania in 1880, and it leaves the crude ore worth $36,156,255, which makes her hay crop worth $8,571,449 the most.

Hereafter let not the Pennsylvania statesman worship iron alone,

but let him remember that while his State is great in iron it is greater still in grass.

Political economists have told us that only for the discovery of gold in California and the immense annual supply of bullion from her mines for the last thirty years the Government must have failed in its late successful resumption of specie payments. But who has grown eloquent and told us how much California contributed toward the successful solution of that problem by her agricultural productions? And who is quite prepared for the fact that for ten years ending 1880 the value of her wheat product alone was $131,727,797 more than the total value of gold and silver taken from her mines? But that fact is shown by the following table prepared from the last census, which is commended to the careful perusal of those who have supposed that in California gold was king:

Product and value of wheat in California, 1871 to 1880, against the value of her gold and silver mines for same time.

Years.	Bushels.	Value.	Value of gold and silver produced in California.
1871	16,767,000	$23,627,370	$20,000,000
1872	25,600,000	28,416,000	19,049,098
1873	21,504,000	28,385,280	20,300,000
1874	28,380,000	28,096,200	17,753,151
1875	23,800,000	28,084,000	17,300,000
1876	30,000,000	34,200,000	16,000,000
1877	22,000,000	28,600,000	17,634,000
1878	41,990,000	43,249,700	20,000,000
1879	35,000,000	43,050,000	18,600,000
1880	33,877,600	32,522,496	19,870,000
Total		318,231,046	186,506,249

MARCH 4, 1882. J. R. DODGE, *Statistician.*

But let us return for a moment to a further consideration of some of the benefits which the department, with its limited means, has already conferred. Notably among its successes may be mentioned the introduction to this country of the Bahia orange, with which is connected a bit of delicate romance not here to be given, but which will doubtless make its way into the literature of the country as the Bahia orange makes its way into the markets of the world. A few years ago a package of plants was received at the Agricultural Department from Brazil, in which were placed by the hand of a personal friend of the then Commissioner a few oranges. The superior excellence of this fruit over every orange then known at once attracted the attention of the learned horticulturist of the department, Mr. Saunders, who is ever on the alert for new and useful discoveries in the vegetable kingdom.

It was a new, an unknown variety, and he at once instituted inquiries to trace the fruit to the identical tree upon which it grew. After many unsuccessful efforts, which would fill a chapter, grafts were at last obtained, from which others were propagated and distributed to the orange-growing districts, this, as horticulturists know, being the only way this fruit could be introduced; for while from the seed, in accordance with that old authority, a tree "after its kind" would be produced which would bear an orange, yet such are the mysteries of nature that there would be no certainty that that orange would be like the one from which the seed was taken. It might be sour; it might be bitter; it would almost certainly be something different.

The successful introduction of this orange promises to revolutionize the rapidly increasing orange culture of this country. Reports from California, where it has been quite extensively propagated, say that because of its remarkable excellence it readily sells at the plantation for $40 per thousand, while the best of the old varieties sell for but $10. The moral to be drawn from this story is this: that instead of one horticulturist and naturalist, the Government ought to have a score on duty at as many experiment stations throughout the country, whose sole business it should be to watch nature and learn her ways; and as agriculture does not ask a feast, to save for that interest an occasional crumb as it falls from the table of her bounty.

The attempted culture of tea by the department for the last few years has not yet proved very satisfactory; but the lack of success would seem to have come more from lack of management than from any want of practicability in the undertaking itself. And as long as the people of these United States pay annually $19,782,631 for tea, as they did in 1881, while from the Carolinas to Texas there is every condition of soil and climate and labor as favorable to the production of this article as in those countries where it is successfully grown, they will not believe but that with right management it could be profitably produced here, and the above snug little item saved to the credit side of our balance-sheet with the world.

The people of the United States in 1880 consumed 2,083,087,519 pounds of sugar, of which 264,283,037 pounds were of domestic production, and 1,818,804,482 pounds were imported from foreign countries, and cost us $79,624,317.

We consumed a little over 41¾ pounds per capita of our whole population. Of this, however, we need not be ashamed, for the advance of civilization is said to be marked by an increased consumption of sweets. The child must have his taffy, and the man of years his rock and rye, while sugar is an article of luxury found alike upon the table of the rich and the poor; the poor rarely being too poor to buy and use it. But as a thrifty, independent people, priding ourselves upon the material resources of our country, is it just the thing to be paying this enormous sum annually for sugar, when we ought to produce every pound ourselves? The practical question in this connection is, How can this be done?

In an attempt to answer that question the Government for the last few years has made small annual appropriations for experiments in the production of sugar from sorghum and maize, and these experiments, under the skillful direction of Professor Collier, the chemist of the department, have already gone far toward answering that question. In his report to the Commissioner of Agriculture for 1881, Professor Collier gives as what has been "actually obtained" from sorghum 2,875 pounds per acre, and from corn-stalks 1,059 pounds per acre. But Professor Collier tells us that as yet he has been unable to separate all the sugar from the juice, and that a considerable per cent. is held in solution by some chemical condition which as yet he has been unable to overcome; that some acid or alkaloid or gum or other chemical element not yet ascertained baffles his efforts in this direction. So that while progress has been made it cannot safely be claimed that the point of profitable production of sugar from sorghum or corn-stalks has been reached, especially upon a large scale, though molasses is profitably produced in great quantities.

Now, what shall we do? Give up this undertaking, or keep trying? Let those who are faint-hearted take courage from the history of the beat-sugar industry, which from quite as discouraging beginnings has now reached immense proportions in France and Germany and to some extent exists in our country. This, briefly, is that history: in 1747 Marggraf, the German chemist, discovered the fact that sugar existed in and was chemically extractable from the beet, and communicated his discoveries to the Berlin Academy of Sciences in a paper, wherein he enlarged upon the beneficent influences of his discovery in the expansion of European industry. Nothing practical, however, came of this discovery for almost three-quarters of a century.

In 1786 Achard, another German chemist, conducted his investigations so far that under the encouragement of Frederick the Great he commenced preparations for the manufacture of sugar from the beet, but in the same year that monarch died, and for want of means Achard gave up the enterprise. In 1799, however, he published in a Paris paper the fact that he had actually made sugar from the beet, giving an account of his processes, and claimed that it could be done profitably. This letter attracted wide attention. Discussion and experiment followed, resulting in the establishment of two beet-sugar factories near Paris; but they both soon failed, involving their proprietors in heavy financial loss and establishing the impression that the new industry was, after all, only a delusion. The cause of the failure according to a writer on that subject was this, "that though the juice of the beet was found to contain 10 per cent. of sugar, only 1 or 2 per cent. could (on a large scale) be extracted by the best machinery and processes then invented." Precisely the same difficulty existing with the sorghum and maize problem to-day.

It was during the period of the Napoleonic wars that these experiments were made in France, and they were greatly stimulated by the fact that at that time, though everywhere victorious by land, she had no standing on the high seas. The victories of Rodney and Hood and Nelson had made England there everywhere supreme. In the language of one of her poets—

> Her march was on the mountain wave,
> Her home was on the deep;

and as the result France could not, at that time, even sweeten her coffee except by the "high permission" of England. A writer upon this subject says:

In 1810 M. Deyeux submitted to the Academy of Sciences a report in which he insisted that the beet was France's best hope for deliverance from the prevailing scarcity and dearness of sugar. And that report produced an effect still held in grateful remembrance.

Two loaves of excellent home-made beet sugar having been presented to the emperor, he gave the subject of its production as much thought and study as he could amid his incessant and gigantic cares, and decreed (March 25, 1811) that 30,000 hectares (nearly 80,000 acres) of land should be devoted to the culture of the beet, and a considerable sum was confided to the minister of agriculture expressly to encourage the production of beet sugar. Coincident instructions were dispatched to the prefects of the several departments into which France was divided, and a subsequent decree, issued January 15, 1812, established five schools of chemistry in aid of the manufacture of beet sugar; while four imperial factories were provided, calculated to produce from the crop of 1812 2,000,000 kilograms (nearly 5,000,000 pounds) of beet sugar.

In 1868 Hon. Horace Capron, Commissioner of Agriculture, in a report to this House upon this subject, says:

Without Government encouragement at the outset it might not now be numbered among the industries that bless the world. When the first Bonaparte fostered the art of extracting sugar from this garden vegetable as a practical matter, the possibility of obtaining a good article had long previously been demonstrated by chemists; it only remained to be shown that the manufacture could be conducted with profit on a large scale. His object was to exclude from his empire the sugar of British colonies, the price of which was then four or five francs per pound. A prize of one million francs was offered by the French Government for the most successful method of obtaining a supply of indigenous sugar. It was soon evident that such a supply must be furnished by the beet.

By a reference to dates it will be seen that these unsuccessful experiments in obtaining sugar from the beet extended through a period of sixty-five years, when, under the energetic management and liberal encouragement of Napoleon, they at once culminated in success. At that time France did not make a pound of sugar, except in distant colonies; to-day she supplies her thirty-six millions of population and exports nearly a quarter the amount we buy, and every pound from the beet. Napoleon fell, but the beet-sugar industry remains, compared with which his victories in the field sink into utter insignificance. Those victories which at the time electrified the world are now seen to have been wholly ephemeral, inasmuch as the map of Europe has undergone repeated alterations since he established the boundaries of her "principalities and powers."

But his way of doing things may be profitably recalled. When he struck for empire, he massed his columns and won the battle of Arcola, and Italy lay prostrate at his feet. Again he massed his columns and won the battle of Marengo, and Austria ceded to him Piedmont with all her fortresses and confirmed his title to Italy. Not satisfied, he again massed his battalions and won the decisive battle of Austerlitz, and Austria gave to him all her Italian and Adriatic possessions and consented to the dismemberment of the old German Empire and the establishment of the new confederation of the Rhine. In like manner he massed his five schools of chemistry and his four imperial manufactories upon this beet-sugar problem, stimulating investigation by the offer of 100,000,000 francs for success, and success was achieved.

Nature was overcome, and in a new way made to contribute from her exhaustless storehouse for the supply of the wants of man. The beet-sugar industry was no longer an experiment but a fixed fact, and to-day 38 per cent. of the total sugar product of the world is made from the beet. This was the greatest victory Napoleon ever won, and in the long reach of the centuries to come, as industrial problems multiply and industrial pursuits rise to higher honor, the fruits of this victory shall increase; while his victories in the field, not won in the name of liberty or religion or any of the rights of man, but for ambition alone, barren of all fruit yet brilliant in their barrenness, shall be recalled only by the student of history and by those engaged in the profession of arms.

Now, sir, in the light of this bit of history, I repeat the question, What shall we do with this sorghum and maize sugar problem? Give it up, as some counsel? If not, shall we do no more than continue our present half-hearted, some will say economical, policy? or shall we adopt a little of the vigor and liberality which, as we have seen, resulted in a prompt solution of the beet-sugar problem? No single chemist, however constant in labor, sublime in faith, and fertile in resource, can as readily overcome the difficulties of a complete crystallization as if aided by the suggestions of others. No single individual, no matter what his inventive genius may be, can as promptly supply the machinery and appliances requisite to change the juice into sugar as if he had help. And yet we have but one chemist engaged in this work, a work which, if it could promptly result in success, would at once save to the American people in their trade with the world the enormous sum of $79,624,317 annually. And, in the face of these splendid possibilities, the Senate have sent back to this House the agricultural appropriation bill, reducing the appropriations devoted to a continuance of these experiments.

Mr. VALENTINE. I will state for the information of the gentleman that the committee of conference has agreed to restore the appropriation to $25,000. Of course the report has not yet been made.

Mr. GROUT. Well, Mr. Speaker, that is a triumph in the right direction.

When we recall the fact that in 1881, the year we paid the above sum for foreign sugars, the total product of our gold and silver mines was $4,424,317 less than the above sum, having been but $75,200,000, and when we remember that unless some new policy is inaugurated this must continue indefinitely in the future, the magnitude of this item and its importance in our commercial calculations must be manifest. And yet at the rate per acre already "actually obtained" of sugar from corn-stalks, namely, 1,059 pounds, a little more than 2¼ per cent. of the corn-stalks which bore the corn crop of the United States for the year 1881, most of which went to waste, if worked into sugar would supply the whole deficiency, and if all the sugar could be separated from the juice it could, beyond all question, be profitably manufactured.

It is simply a question of chemistry—a science yet in its infancy—and chemistry will never surrender to that gummy substance which holds the sugar crystals in solution and prevents a perfect separation, especially when that very substance is the result of her own imperfect work; inasmuch as it is not found in the juice until the introdution of chemical agents for the purposes of defecation. All the sugar particles set free from the juice, and this problem is solved. In this connection let the fact be again recalled that Marggraf and Achard, not conjointly but successively, experimented upon the beet-sugar industry for nearly three-quarters of a century without success, and yet that Napoleon's five schools of chemistry made easy work of it.

Might it not then perhaps be well to re-enforce Professor Collier, who though enthusiastic in this work and confident of ultimate complete success, would naturally increase his own diligence as he saw the Government awaking to the importance of the enterprise. This problem successfully solved, and the enormous sum annually sent to foreign countries for sugar would be kept at home, thus increasing by so much the balance of trade in our favor; and who does not know that so long as we are able to sell more than we buy, and have a balance to our credit, no financial panic can alarm, no financial crisis disturb us. Were this prospective industry successfully established to-day who will calculate its effect upon our financial prosperity not only for the present but down the stretch of the future; and who doubts that if this bill were a law and the department had the rank and authority which justly belong to it, we should be more likely to celebrate the early profitable production of sugar from sorghum and maize than if the department were to remain as it is? The bill provides for a bureau to be made up of divisions of botany, entomology, and chemistry.

If this division of entomology could tell the farmer how to conduct to a successful issue his heretofore unequal contest with the cotton-worm, the Rocky Mountain locust, the grasshopper, the Colorado potato-beetle, the canker-worm, and the myriad other insects inimical to agriculture, it would largely increase the sum total of our agricultural products, and win the lasting gratitude of the country.

It also provides for a bureau of animal industry to be in charge of a competent veterinary surgeon.

The Commissioner of Agriculture in his report of 1878 says that carefully tabulated returns from 1,125 counties out of the 2,447 counties of the United States show a total loss from the disease and death of domestic animals to be $16,653,428—$10,091,483 being from loss of swine alone. He estimates the loss of the whole United States at $30,000,000 annually or more.

In 1881 we exported to foreign markets the product of our domestic animals, not including butter and cheese, a total value of $130,932,743, namely:

Live animals	$16,412,398
Bacon and hams	61,161,205
Fresh beef	9,860,284
Lard	35,226,575
Pork	8,272,285

With this large exportation we cannot afford to let the impression obtain abroad that as a people we are neglectful of those conditions calculated to insure the wholesome character of these products. But the unpleasant fact exists that during the last year loud complaint was made in foreign markets against some of these shipments to the very considerable prejudice of the trade.

In the light of these facts, especially the great annual loss from disease of domestic animals, who would not establish this bureau of animal industry and place at its head the best veterinary surgeon in the country, to be assisted by a corps of competent subordinates?

The bill also provides for a bureau of statistics for the collection of information relative to labor and wages in this and foreign countries, to markets and prices, to modes and cost of transporting agricultural products and live stock to their final market—in short, for the collection of every species of information relative to agriculture and its connection with the trade of the world. Full statistics upon these subjects could not fail to be useful and instructive in many ways. Anti-monopolists tell us that when the farmers of the West raise a crop two or three men meet in New York and agree among themselves what share they will take to move that crop to market, and that from their decision there is no appeal, as indeed there is not, except to the law-making power of the nation.

These statistics will illuminate this and kindred subjects and furnish the requisite information for an intelligent and equitable adjustment between corporate interests and the people, between capital and labor, between the other great industries of the country and the greater industry of agriculture.

In conclusion, let us for a moment inquire whether the proposition contained in this bill to elevate the Department of Agriculture to an Executive Department and give it in charge of a secretary is really a new thing in the history of the world. The fact is there is not one of the great powers of continental Europe but has its minister of agriculture.

In Prussia there are eight secretaries of state, including one for agriculture.

In Austria there are seven secretaries, forming what is called the council of ministers. One is for agriculture.

In Italy there are nine heads of departments; one is the minister of agriculture.

In Spain the council of ministers consists of eight members, one of whom is the minister of agriculture and commerce.

In Russia there are ten secretaries of state. Everything pertaining to agriculture in its broadest sense is in charge of one of these secretaries, who exercises extensive powers.

In France there are nine executive departments. The ministry of agriculture is one of them.

In Brazil, the great South American empire, there is also a minister of agriculture; and, by the way, we go to Brazil for a considerable share of the sugar we import. We paid her in 1881, $5,897,102 for

sugar. Who will say that had we a minister of agriculture and our sugar resources were as well cared for as those of Brazil we might not also make sugar to sell instead of buying the enormous quantity already stated.

The fact that in every one of these great powers agriculture is recognized in the administration of its affairs shows that in the estimation of those countries that pursuit sustains such important relations to questions of government that it cannot wisely be left out of its calculations, cannot safely be excluded from its counsels.

Is it replied that ours is a new departure in government and that foreign precedents are not applicable?

Our departure was simply from king-craft and priest-craft, from hereditary titles and rank and the hereditary possession by primogeniture and the entailment of property, to the doctrine that all men are equal before the law and that all political power is vested in the people and that the people shall for themselves choose their own ruler. But under our Government of the people the same questions of political economy, questions of revenue and expenditure and public debt, of currency and finance arise that have occupied the attention of governments since governments were instituted.

From these questions we took no departure; they are upon us to-day. And upon these questions we can never with safety wholly close our eyes to the past, nor wisely refuse to be instructed by the experience of the older nations of the earth; for these questions have been much the same under all governments and in all ages. But let foreign precedents go for what they are worth. We have seen what an immense moneyed interest is represented by agriculture, how varied are its interests, and how a slight improvement over so vast a field would result in an increased value of production almost beyond apprehension. We have seen its relations to the industrial and economoc problems which crowd upon us.

We have seen how by the creation of new industries new fields would be opened for labor and great accessions of wealth accrue to our people. We have seen that agriculture furnishes over 82 per cent. of all the products that we sell to foreign countries, and that if those products should fail altogether or be greatly dimished, financial disaster and national bankruptcy would follow. And who, as he studies this subject in all its bearings, can say that a department in which center such vast possibilities of wealth and which involves so extensively questions of demand and supply of taxation and labor and finance, ought not, as contributing to the prosperity and permanency of the Government itself, to be recognized in the ministry of its affairs? Columella, who lived during the time our Saviour was upon the earth, said of agriculture that "it was the blood relative of wisdom." Surely if this relationship still continues, a seat for her will not be out of place in the Cabinet.

Mr. MOREY. Mr. Speaker, by the provisions of this bill it is proposed to enlarge the powers and increase the scope of usefulness of the Agricultural Department, and to elevate it to the dignity of an Executive Department of the Government. Under existing law and practice we have seven Departments for the administration of our affairs: first, the Department of State; second, the Department of War; third, the Department of the Treasury; fourth, the Department of Justice; fifth, the Post-Office Department; sixth, the Department of the Navy; seventh, the Department of the Interior. It is proposed, sir, to add now an eighth department, whose province and duty it shall be to take cognizance of that great industry and of those immense resources which underlie, and the preservation and proper use of which are necessary prerequisites to, the development and prosperity of every other, to wit, the Department of Agriculture.

If this bill passes and becomes a law upon our statute-books, he who is now called the Commissioner of Agriculture will be advanced from being the head of a mere bureau to the station and dignity of a constitutional adviser to the President of the United States. It is proposed not only to enlarge the powers of the head of this department by extending the scope of his labors to broader limits, but it is intended also to dignify his high office and the great industry which it is his duty to represent by giving him a seat in the President's Cabinet.

The wisdom of this measure must be determined by the magnitude and importance of the interests upon which it operates and the manner in which they are affected by its provisions. The demand for this legislation must be heeded or disregarded by the House in the light of its effect upon the great industries of the country to which it is directed, and in the light of its effect upon the condition and prosperity of the individual citizens of our land and upon national welfare and power. It is broad and comprehensive in its scope; it is far reaching in its provisions; it deals with and operates upon the great problems that underlie our national greatness and power.

These problems must be wisely and intelligently considered, and must be correctly solved, if we would continue in our present pathway of prosperity and wealth and would hand down to our children the glorious heritage of peace and plenty, of morality, virtue, and intelligence that we now enjoy.

It is my judgment, sir, that the magnitude of this industry, the overshadowing importance of agriculture in this country, justifies the recognition which this bill extends and the powers which it confers for its advancement on American soil.

We have made wonderful progress in this country. Our rapid advance in population, in education and general intelligence; our mastery of the useful arts, our proficiency in all the sciences, our prowess in war, our excellence in all things that indicate and accompany a high civilization of a people, have secured us the just encomiums of all nations. We have sprung from small beginnings to the magnificent proportions we now enjoy. The machinery of our Government has been from time to time enlarged and adapted to our increasing needs and growing importance.

The Executive Departments have been created and established as necessity arose, and as their importance developed their respective heads became members of the President's Cabinet, and part of his official family.

The following extract from a speech delivered by Hon. J. T. UPDEGRAFF, in the Forty-sixth Congress, is a brief but interesting statement of the growth of the Cabinet:

In September, 1789, six months after the inauguration of Washington, three Executive Departments were created by statute, and to them special duties were assigned. These were the Departments of State, of the Treasury, and War. The several heads of these alone composed the Cabinet, which sat in council with Washington. In 1798 a Navy Department was organized by law, and its first Secretary, Benjamin Stoddard, took his seat in the Cabinet of John Adams with Pickering, Wolcott, and McHenry. The Constitution authorizes Congress "to establish post-offices and post-roads," but that Department was never by statute elevated into a full Executive Department. That was done by the edict of Jackson, who, in March, 1829, appointed John McLean, of Ohio, Postmaster-General, and called him to a seat in his Cabinet with Van Buren, Ingham, Eaton, and Branch. In 1849 the Department of the Interior was created, and its first Secretary, Thomas Ewing, became a member of the Cabinet. The Attorney-General, of course, was a member of the Cabinet also, though he had no Executive Department until 1870, when Congress by law established the Department of Justice. Thus the Cabinet has been enlarged from time to time as the new demands and needs of our rapidly progressive development indicated the wisdom of such change. We have an Army of only 25,000 soldiers, but a Secretary of War in full Cabinet rank. We have no Navy worthy of the name, but the Secretary of that Department sits at the council of the President. The Secretary who supervises mail contracts, and the Secretary who has charge of the Indians and of the wild lands of the Government, each, by virtue of his office, belongs to the President's council.

Agriculture has sprung from small proportions. At the time of the formation of our Government there were no large cities in the country. Our population then was almost wholly engaged in agricultural pursuit. There were then but few manufactories of any kind from one end of the land to the other. The wants of our people were few and simple; the farmer's wife and daughters spun and wove the wool and flax that was grown on the homestead into cloth, and made it into garments for the use of the family. Such rude implements of husbandry as were needed were made by the local or village mechanic, who received products of the farm for his pay. Our people were then in effect all producers; there was little or no commerce, either foreign or inland. The products of the farm were the medium of the local exchanges that took place. Settlements were mainly on the navigable streams and their tributaries; these were the highways of such transportation as was carried on in the early days.

There are many men yet living in the district which I have the honor to represent on this floor who well remember the primitive customs and methods to which I have alluded. Those living on the banks of the Miami and the Ohio Rivers can recall the day when the little surplus produce of the neighboring farms was collected by the local merchant and trader and transported on flat-boats to New Orleans, to be exchanged for sugar and molasses, and such other domestic supplies as those early markets afforded.

We have outgrown that condition, and have passed far beyond that primitive state of affairs; great cities have sprung up in every State; our growing population, increased by large immigration, has spread out far beyond its early limits; it overflowed from the Eastern States when it had an early footing on the seaboard; it passed over mountains, crossed streams, flowed onto and over the great prairies of the West, turning their waste places into happy homes of teeming millions and their desert places into fields of waving grain and ripening corn; it crossed the arid plains of the far West, crossed over the Rockies and Sierras, and rolled down the Pacific slope. From a mere handful, settled on the seaboard and along the navigable streams, we have grown to be one of the greatest of nations, in population, in resources, influence, and power, extending from Plymouth Rock on the East to the Golden Gate in the West. Our industries have become enlarged and diversified; primitive customs and methods have passed away.

A necessity is now upon us to make the best possible use of the great resources with which our country is endowed by nature. If the ratio of our increase of population continues, the time is not many decades distant when the great resources of our country will be called into fullest requisition for the sustenance and support of the almost fabulous numbers who are to inhabit this land in the times to come. To-day, a little more than one-half, or about twenty-eight millions of our people are engaged in agricultural pursuits. They are the producers who create and make all wealth and property. From the soil spring the sources of every industry and prosperity. In it are laid the foundations of our national wealth and power. Let us see to it that they are built upon solid rock and cemented by justice, wisdom, and equity.

The following table is a remarkable exhibit of the extent of farming operations, and of the products resulting therefrom in this

country. It will furnish food for reflection to the most thoughtless:

A general summary showing the estimated quantities, number of acres, and aggregate value of the principal crops of the farm in 1880.

Products.	Number of bushels, &c.	Number of acres.	Value.
Indian corn ..... bushels...	1,717,434,543	62,317,842	$679,714,499
Wheat ..... do.....	498,549,868	37,986,717	474,201,850
Rye ..... do.....	24,540,829	1,767,619	18,564,560
Oats ..... do.....	417,885,380	16,187,977	150,243,565
Barley ..... do.....	45,165,346	1,843,329	30,090,742
Buckwheat ..... do.....	14,617,535	822,802	8,682,488
Potatoes ..... do.....	167,659,570	1,842,510	81,062,214
Total	2,885,853,071	122,768,796	1,442,559,918
Tobacco ..... pounds...	446,296,889	602,516	36,414,615
Hay ..... tons...	31,925,233	25,863,955	371,811,084
Cotton ..... bales...	6,343,269	15,475,300	280,266,242
Grand total	.....	164,710,567	2,131,051,859

It will be seen that there were under cultivation in this country, in 1880, 164,710,567 acres of land, and that the value of the principal farm crops for that year amounted to the sum of $2,131,051,859. To this is to be added the value of hogs, cattle, sheep, and horses. In the winter of 1880–'81 there were packed at the various packing places in the country 16,357,360 hogs. We had 11,429,626 horses, of the value of $667,954,325; 1,720,731 mules, of the value of $120,096,164; 12,368,653 milch-cows, of the value of $296,277,060; 20,937,702 oxen and other cattle, of the value of $362,861,509; 43,576,890 sheep, of the value of $104,070,759; 36,247,603 hogs, of the value of $170,535,435. Sir, it is estimated that the capital invested in this industry amounts to about $15,000,000,000, and that its annual product now equals $2,500,000,000. One-half of our great population is engaged in this pursuit. The other half depends on it for bread.

In return the farming population become a market for the products of the great manufactories that have sprung up and been established in the cities and towns throughout the country. Our industries have become greatly diversified; they depend each upon the other, and the prosperity of one is enhanced by the growth and prosperity of the other. It is of the utmost importance that the relations of each to the other shall be correctly understood, that the highest possibilities of each be known and attained to in practice.

It is a curious fact that during the early years of our history the agricultural interest received little or no attention by the Government. The present department is the outgrowth and result of individual effort of one whose wise and comprehensive view of the importance of agriculture in this country and its relations to the other growing industries of the land early directed his efforts to some practicable plan by which its methods could be improved and its possibilities increased. In the year 1836 Hon. Henry L. Ellsworth, of Connecticut, was appointed the first Commissioner of Patents, by President Jackson. Since 1793 the granting of letters patent had been confided to the Secretary of State. The duty of examining applications was at first intrusted to one clerk. I only refer to this fact, because when we consider the present state of invention in the country, it illustrates in a striking manner the growth and development of inventive skill and ingenuity in our country, and because the Agricultural Department is an outgrowth of the Patent Office. The intimate relations between agriculture and other industries and the great influence invention and art were destined to have upon practical farming early engaged the thoughtful attention of Mr. Ellsworth. The many improvements in implements used by the farmer suggested its importance to him, and directed his attention to devising methods by which it should keep pace with and, if possible, excel all others. How well his efforts and the efforts of those who followed him in his work have succeeded the following table will fully exhibit, from which it will appear that from 1871 to 1880 the exports of agricultural products ranged from 70 per cent. to 89½ per cent. of our entire exports:

Statement of the exports of agricultural products, &c.

RECAPITULATION.

Products.	1871.	1872.	1873.	1874.	1875.
Animals and animal matter	$47,010,312	$77,060,849	$99,806,599	$99,697,669	$104,314,988
Breadstuffs, &c	79,519,387	85,155,523	98,762,891	161,225,939	111,478,096
Cotton, &c	221,885,245	182,988,925	230,190,597	214,319,420	194,710,507
Wood, &c	15,820,029	21,425,068	25,854,120	27,675,300	22,875,814
Miscellaneous	33,060,081	40,139,296	37,901,458	45,486,626	45,294,411
Total agricultural exports	397,205,054	406,769,661	492,515,665	548,314,954	478,673,816
Total exports	562,518,651	549,219,718	649,132,563	693,039,066	643,694,767
Per cent. of agricultural matter	80	74	76	79	74

Products.	1876.	1877.	1878.	1879.	1880.
Animals and animal matter	$113,941,509	$140,564,066	$145,587,515	$146,640,233	$161,133,376
Breadstuffs, &c	131,212,471	118,126,940	181,811,794	210,391,066	288,050,201
Cotton, &c	200,382,240	183,253,248	191,470,144	173,158,200	321,517,323
Wood, &c	21,620,486	23,422,966	21,747,107	20,122,967	21,143,142
Miscellaneous	46,079,567	58,652,719	52,245,306	53,843,026	46,018,575
Total agricultural exports	513,236,273	524,019,939	592,861,876	604,155,492	737,862,617
Total exports	644,956,406	689,167,390	722,811,815	717,003,777	823,946,353
Per cent. of agricultural matter	79	76	82	84	89.5+

During the first two years of his incumbency in the Patent Office Mr. Ellsworth, without any legal authorization, distributed large quantities of new and rare seeds and plants that were transmitted to him as voluntary and gratuitous contributions for that purpose. In 1839 Congress appropriated $1,000, to be taken out of the Patent Office fund, to continue the work he had begun. Such, sir, was the beginning of the Agricultural Department, which is to-day the representative of the greatest industry of our country and which is today seeking just recognition and acknowledgment.

It is a fit and striking reminder of the rapid growth and of the progress our nation has made in its brief but brilliant life. These annual appropriations were continued for many years, being wholly omitted, however, in 1840, 1841, and 1846. Since 1853 appropriations for this department have been made directly from the Treasury. The aggregate of appropriations from the establishment of the Government up to 1853 for the promotion of agriculture amounted only to the paltry sum of $39,000.

It is a singular fact to contemplate that in the first seventy years of our national existence, with a land so marvelously adapted to that most honorable pursuit, the gross outlay by the Government to investigate, develop, and conserve so great and growing an interest should be limited to such small proportions. By the present law the duties of this department, which was established by act of Congress in 1862, are defined to be "to acquire and diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants."

The other provisions of the law relating to the department deal only with matters of detail, and do not in any degree enlarge the field of its labors. The present bill does not propose the mere elevation of the dignity of the office. It proposes to advance and extend the plane of usefulness of this department, to give it a wider range and scope of action. The modes of farming are to be investigated and reported upon. The adaptation of crops to the several sections of the country, the preferable varieties of seeds, fruits, &c., are to be ascertained.

A bureau of animal industry is created, to investigate concerning the condition of domestic animals, and the causes, prevention, and cure of contagious, communicable, and other diseases. When we consider the ravages that have been made among our domestic animals by epidemic and contagious diseases in recent years, the importance of the work intrusted to this bureau cannot be overestimated.

In the bureau of lands the resources and capabilities of our public and other lands for farming, stock-raising, timber, manufacturing, mining, and other industrial uses, are to be ascertained that they may be employed to the best advantage, to increase the wealth and

prosperity of the nation. But, sir, one of the most important bureaus created by this bill is the bureau of statistics. I read it here, that its full import and importance may be impressed on the minds of members of this House.

Fourth. The bureau of statistics, the chief of which shall collect and report the agricultural statistics of the United States; and, in addition, all important information or statistics relating to industrial education and agricultural colleges; to labor and wages in this and other countries; to markets and prices; to modes and cost of transporting agricultural products and live stock to their final market; to the demand, supply, and prices in foreign markets; to the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, and prices; to such commercial or other conditions as may affect the market value of farm products or the interests of the industrial classes of the United States. And the Secretary is hereby authorized to establish such divisions in this bureau, and to make such monthly or other reports as he shall deem most effective for the prompt dissemination of such reliable information respecting crops and domestic and foreign markets as will be of service to the farmers or other industrialists of the United States.

In order that any man or class of men shall profit by the experience and efforts of other men it is necessary to know what that experience is, and what those efforts are. I believe, sir, that there is no class of people who are more earnestly striving to bring intelligence to their calling than the farmers. No class of people are more generally intelligent and informed. No people engaged in any industry are more keenly alive to its interests, or more earnestly desire to have all the benefits of investigation in its business and pursuits, than the farming community of this country. They have, by every reasonable effort, endeavored to become educated and intelligent, and to procure all the light that experiment, experience, and science can throw upon the methods and means of securing better results in their chosen avocation in each succeeding year than they had in the preceding one.

By helping themselves they benefit the whole people and establish the nation on firmer foundations. In every county in the country—I know it is so in my State and district—farmers' institutes are established and in successful operation. There intelligent discussion is carried on by men who are painstaking students. Through their efforts the information procured by the Bureau of Statistics will be communicated to those most interested therein, and the soil will be compelled to yield more bountifully by the appliance of newly discovered facts and the adoption of better methods.

But, sir, we are not interested alone in knowing how much our great agricultural domain can be made to produce. It is of vital and lasting importance to our people and to our country that this great product shall serve wise and beneficent purposes. It being the foundation of all industries, let us see that its relations to them are understood and preserved. It is of importance to know the prices of labor in this and in other countries. It is the pride of our country to dignify and elevate labor, and the value of wages is determined by its capacity to supply the wants of the man who earns it for himself and family. I believe, sir, by that test none are better paid than American laborers.

The mode and cost of transporting our products to market is a question of most vital importance, and determines the value itself of agricultural products. They are bulky and heavy, and must be carried long distances to the great cities where their consumers live, and to the seaboard for export. Our country is of such broad extent that our farmers are compelled to rely upon the great railroads of the country for transportation. These great corporations are creatures of the law. They obtain their franchises from it; yet they assume to dominate and control it. Sir, it is wisely provided that this bureau shall collect statistics on this question. There is none other in which the farmer is so vitally interested.

No statistics can so interest him as those relating to the cost of getting to market the product of his labor, and none will tend so much to right the wrongs to which he is now subject in that regard. It is the constitutional right as it is the duty of the law to control its creatures and to see to it that they truly subserve the purposes for which they were created, without extortion, without unjust and unreasonable discrimination.

The value of monthly reports respecting crops are a needful aid to the success of this industry. In their light combinations to advance or repress prices will be less successful, and the farmer will thereby more surely obtain the just remuneration due to his toil.

I have not time to further particularize or refer to the special merits of this bill. The bill, sir, has come from the Committee on Agriculture as a substitute for sundry bills introduced by members of the House, and referred to that committee for its consideration. This substitute has been reported back to the House by the committee, who recommend its favorable consideration and passage.

Mr. Speaker, I am keenly alive to the agricultural interest in this country; its magnitude is so great, the number of our people engaged in it is so large, its preservation and enhancement are so necessary to national welfare, and the prosperity and happiness of the people everywhere, whether in the great cities, the towns, or the country, that any measure tending to conserve that great industry would have my cordial and earnest support. This bill comes to us predicated upon the careful consideration and mature deliberation of one of the most important, as it is one of the most ably constituted committees of the House.

It is doubly entitled to, and therefore justly demands the candid and careful consideration of this body. To the great interest that justly belongs to this subject, and which of itself must commend any just measure in its behalf to our most careful consideration, is added the deliberate judgment of a committee of honorable men charged by the appointment of the Speaker and the rules of this House with its examination and consideration.

Sir, it is unnecessary to contend that the interest of agriculture alone is entitled to or demands the fostering care of our Government and such appropriate legislation as may be constitutionally enacted. The preservation of the aggregated industries of the whole country and their encouragement to the highest possible stage of development and excellence is necessary to the success, the profits, and benefits of each. The sacrifice of one, indeed the impairment of any one industry in a country, must sooner or later result in injury to every other industry.

The impairment of one must necessarily impair every other. The prosperity of each contributes to the prosperity of all. Agriculture in the United States is of paramount importance, because it is the greatest industry. Its products exceed the value of the aggregate of products of all other industries in our land. Its preservation and its development to the very utmost of its resources, by every appliance of art, and the employment of every fact that science can discover and appropriate, becomes the manifest duty, as it should be the pleasure and pride, of the representatives of a great people like ours.

Sir, it is estimated that the aggregate of agricultural products in this country in the year 1880 exceeded $2,500,000,000, and equaled about three-fourths of all the products of all our industries of every kind. When we consider this great fact, which speaks with more emphasis than any words I can employ, we begin to realize the overshadowing importance of conserving and promoting an industry whose magnitude and proportions imagination itself can scarcely comprehend. It is the foundation of all other industries and pursuits, and upon the bed-rock of our great system of agriculture the splendid superstructure of our national greatness and power is built. From it the nation draws its life-blood. Its arteries are fed from the great life-giving source of all our successes, our progress, and our achievements. Labor alone creates wealth and makes property, whether it be in taking gold and silver from the bowels of the earth or in causing the golden grain to spring from her bosom. The farmer is the great producing class in our country. In his calling is embraced more than half our entire population.

More than 28,000,000 people are engaged in agriculture in the United States. If we estimate five as the average family more than 5,000,000 houses are upon the farms of our country, their occupants living the rugged, honest, and independent life of tillers of the soil. There is none more independent, more useful, or more honorable. Agriculture has indeed made great progress. This, sir, has been unjustly urged as a reason why the Department of Agriculture should not be advanced in dignity, or the scope of its usefulness enlarged. But, sir, this argument is not well founded in any good reason that it suggests or advances. It may be true that the agricultural industry of this country has advanced to its present magnificent proportions mainly by its own unaided efforts, through the industry, perseverance, and intelligence of those engaged in it. It may be true that, however neglected it may be, it will go on increasing in extent and magnitude.

When we consider the extent of our domain and the incomparable average fertility and adaptation of our soil to diversified crops, the future of agriculture on this continent cannot be dwarfed from magnificent proportions. But, sir, a wise and provident government, looking to the future and considering the happiness and welfare of generations yet to come, will see to it not only that agriculture shall be great but that all its possibilities shall be realized, and that its great promise shall ripen into a grand and glorious fruition.

Amendment proposed by Mr. HASELTINE, of Missouri:

Amend section 3 as follows:

"It shall be the duty of the statistician to collect all information relating to the railroad system of the country, and the absolute cost of constructing and operating the same.

"It shall also be the duty of the statistician to report monthly the railroad freights and tariffs upon the principal lines of transportation. Also any discrimination which may be made upon any of said lines for or against certain localities."

Mr. HASELTINE. Mr. Speaker, according to the statistical report of the Chamber of Commerce of Charleston, South Carolina, for 1882, the States of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin produce three-fourths of the grain crop of the whole country. In 1875 the total crop of the United States was 2,032,235,300 bushels, of which 1,467,237,000 were grown in the States named. In 1880 these States produced 2,003,204,000 bushels out of a total crop of 2,686,145,129, or an increase over 1875 of 535,967,000 bushels, or about one hundred million bushels a year.

The principal grain-shipping cities in the Northwest are Saint Louis, Peoria, Chicago, Milwaukee, Duluth, Detroit, and Toledo.

The receipts of grain and flour at the Atlantic and Gulf ports in 1875 amounted to 188,357,221 bushels, of which 178,114,750 bushels came from the same Western cities just named. In 1880 the receipts had grown to 364,017,557 bushels, of which 321,539,058 came from these cities, being an increase in six years of 143,424,308 bushels, or an average of about twenty-four million bushels a year. The grain and flour of the West are now brought to the Eastern ports by five

trunk lines of railroads, and by the New York canals. Of late there have been large shipments to the Gulf by the Mississippi River. The profit of the Western farmer and dealer is determined mainly by the rate charged for the transportation of the produce to the Atlantic or Gulf ports. During the summer months the competition between the railroads and the canals prevents exorbitant charges, but during the winter months, when the canals are closed, the railroad rates are injuriously high. This is shown by a comparison of the rates charged at different seasons in the six years from 1875 to 1881.

The charge for carrying a bushel of wheat in the years named averaged 11 cents by water and 17 cents by rail during the period when the canals were open, and 22 cents a bushel by rail during the winter, when the canals were closed. Now, we say that a just system of legislation should certainly keep the rates of transportation down to the summer average. This would be a saving of 5 cents a bushel. This saving in the shipments from the same cities named would amount to at least $14,469,257 a year, with no larger shipments than those of 1880. Five cents per bushel upon wheat at 20 bushels per acre would be $1 per acre upon all the wheat lands. Five cents per bushel upon corn at 40 bushels per acre would be $2 per acre upon all of the corn lands. This would be equal to one-half of the average rent upon all wheat lands, and full rent upon all corn lands, of the West and South. There is no doubt that a rate very much less than the summer average would render a liberal compensation for the use of the real capital invested by the owners of the roads.

We have donated to wealthy corporations a quantity of land sufficient to make eight States as large as Ohio; we have paid large sums of money; we have bonded debts spread over the counties of most of the States of the West. Yet the Government, in its great liberality to capitalists, after having contributed so large a proportion in building the railroads, donates all to companies with special privileges to control the freights according to what they will bear, which makes all the farmers of the West and South renters, and a large number of paupers, with an aristocracy of railroad kings in the Eastern cities. This is a more ingenious system of rentage and serfdom than that of Ireland. We demand that all of these great public highways shall be controlled by the Government in accordance with the great principles of equity. "We demand equal and exact justice for all, and special privileges for none." Agriculturists ask for no special legislation to protect that class of wealth producers in this country.

The capitalists who have received these immense lines of transportation largely, as donations from the people and the Government, meet in council and determine what portion of all the crops they will take as rents from all of the farms of the West and South. These capitalists control to a great extent the elections, and send their attorneys to make laws for their renters. They place their attorneys upon the bench to enforce such laws. Another class of capitalists to whom the Government donates from $15,000,000 to $20,000,000 annually, and who are interested in the defenseless condition of American renters and dependent laboring classes, also help to control the elections, and to control the Government in the interest of a moneyed aristocracy. The object of the Government should be to encourage and protect all of the industrial classes in the development of the resources of the country.

The Government should protect both producers and consumers in an equitable system of cheap transportation and cheap currency. We ask that the Department of Agriculture shall be an Executive Department; not that sinecure places may be made for favorites of party; not merely that large books may be published minutely describing worms, bugs, beetles, and locusts, as though they were the principal enemies of the agriculturist; but that independent, nonpartisan business men shall be made officers of this department, who will fearlessly perform their public duties, and may show to the country that special legislation granting special privileges to capitalists makes paupers in the West and millionaires in the East. As about thirty millions of the American population are employed in agriculture, simple justice requires a proper consideration of the rights, interests, and just protection of this large proportion of the great producers of American wealth. Let the Department of Agriculture be made practically useful to the people. Let its officers be authorized to collect all such statistics as may be necessary in developing all of the great resources of the country, and showing what legislation may be necessary to protect the agriculturists in a just system of transportation and a reasonable enjoyment of the fruits of their toil.

The late war and the amendments of the Constitution decided that there should be no more ownership of the bodies of the laboring classes. Capitalists would now attempt to absorb by special law, granting special privileges, the products of industry. This is now a cheaper and more comprehensive system of slavery, and the money lords have made millions of dollars where the negro owners made thousands. We demand that civil government shall guarantee the divine rights of every laborer to the results of his toil.

Mr. WISE, of Pennsylvania. Mr. Speaker, I had not intended to say anything special upon this bill, although I regard it as one of exceeding great importance. In the Forty-sixth Congress I made the first speech in favor of a bill similar to this one, and I believe it to be entirely proper to make the Department of Agriculture an Executive Department.

While I would be exceedingly careful about increasing officers, would rather make a mistake and fail to create some office of a doubtful character than to create one entirely unnecessary, I believe that this office is one which is demanded by the great interests of the country. We are to some extent, I have no doubt, creating officers and increasing their pay to an extent that is not necessary. But I think this office is one which is demanded by the great agricultural interests, and has been grossly neglected up to this time. I shall therefore advocate this bill with all the energy and with all the determination that I believe its importance demands.

I might supplement what I said in the Forty-sixth Congress by referring to the variety of our climate, surpassing that of any country in Western Europe, and even that of the Russian Empire. The Russian Empire, though covering a large territory, has not a climate so varied as ours. We have here all varieties of climate from that of the tropics to that of high northern latitudes.

I believe that the best talent and greatest experience of our most cultivated men should be brought to the head of this department; I believe that the department should be honored with the highest and most accomplished officers the country can supply. I regret to say that has not been done, but either by design or through neglect the very opposite has been the case.

In all the leading governments recorded in the past history of our race agriculture has been deemed of primary importance, and other interests have been looked to as merely secondary. I am happy to say that this country is rapidly reaching the point where it considers this interest as one of prime importance. And I believe that the influences which will be thrown around this department will be of such a character that the best minds can be drawn upon, not only in our own country, but in foreign countries, to strengthen and dignify the cause of agriculture. Let me endeavor to give some idea of its importance. We can faintly estimate the value of millions, but when we come to billions, come to consider that the amount of capital invested in real estate in this country is not less than sixty billions of dollars, it seems to be beyond the grasp of human intellect.

I was very recently written to by one of my constituents who has seen fit to cast his lot in the State of Florida. He wrote to me to obtain for him some tropical seeds and plants, anything of the kind that could be obtained at the Agricultural Department here. In that State the planting season embraces nearly the entire year. That shows the extent and variety of the planting and harvesting season of our country.

It is true that the other interests have their professors and their experts, while the farming interest has nothing of the kind. In Europe the daily laborer on the farm receives the very lowest wages, which is to some extent a reflection upon that interest. Now, I believe that the planter and the agriculturist while perusing the great book of nature and making himself familiar with her works is entitled to honorable mention, and his name should be recorded among those of professors and experts. We believe that they should receive the very best compensation, so that the return may be in proportion to the wages paid.

I know that a great many States in this Union have agricultural departments and agricultural schools and colleges extensively endowed. There is a farming school in my State which devotes much time to experiment. That is all right, and only affords an additional reason why the national department of agriculture should be raised to the highest point of distinction in the administration of our Government. A great many visitors may go to our agricultural department in the State of Pennsylvania, in the State of Ohio, and in other States; but this city is the central point, and the Agricultural Department of the United States is the central point from which information is distributed throughout the length and breadth of the country. If it is proper and commendable for States to build up these State agricultural institutions, so much the more reason is there why we should build up a great agricultural institution in this city. Every person visiting this capital, of any enterprise or activity, necessarily seeks to visit the Agricultural Department for the information and entertainment which he may receive there.

One single thought more, which I very frequently think members on this floor forget. The great area east of the Mississippi River is to a large extent under culture. But let your eye pass over the map and look at the vast territory west of the river, almost unbroken, almost untouched; yet nature has reared very few obstructions to the agricultural development of that region. When we remember the primitive state of agriculture in that great western part of our country I think it should be an incentive to every member of the House to favor every such measure as this bill, in order to help forward the march of agriculture west of the Mississippi.

A few years ago that whole country was given up to the savage. Now it is spanned by a railroad; and any one traveling on that road can at once see the power and influence which it exerts in favor of agriculture in affording facilities for the transportation of any commodities that may be produced. Thus it will be seen that the transportation facilities, as well as immigration and the increase of population in our country, are outstripping the provisions which are being made by legislation for helping forward the progress of agriculture. Upon a bill like this, which calls for an expression of opinion from members East and West, I do hope that those opposing the bill, if any can consistently oppose it, will be but few. I think, sir, that what we are about to do in this Congress should have been properly

done five or ten years ago. In that case we would be reaping to-day the fruits of this measure.

Mr. CULLEN addressed the House. [See Appendix.]

Mr. ANDERSON. In behalf of the committee I give notice of the following amendment, which will be offered to-morrow, and which I submit now for the purpose of having it printed in the RECORD:

In line 25, section 3, strike out all after the word "uses," to and including "department of agriculture," in lines 29 and 30, and insert, "and the commission now known as the Geological Survey shall hereafter hold the same relation to the department of agriculture which it has heretofore held to the Department of the Interior."

Mr. DUNNELL. Mr. Speaker, I desire to present a few considerations in support of the general proposition now before the House; and not expecting to be in the Hall any considerable part of the time to-morrow, I avail myself of the present opportunity to express the hope that this bill in some form may pass this House and become a law. Last year, when this proposition was under consideration here, I insisted that there should be established a department of industry, embracing agriculture, commerce, and manufactures—substantially what is proposed in the amendment of the gentleman from West Virginia, [Mr. KENNA.] I am not yet satisfied that that is not a better proposition than the one presented by the Committee on Agriculture, and which is more directly under discussion to-night. Still I do not propose to be as earnest as I was last year in advocating this proposition; yet I feel that I can safely vote for the amendment of the gentleman from West Virginia if it shall come before the House for action.

I cannot understand why the agriculturists of this country should not be satisfied with the department which would be established by this amendment, because the bureau of agriculture would after all be the leading bureau. The gentleman from West Virginia presented, it seems to me, very good arguments in support of the amendment, because really the interests of agriculture are not wholly divorced from those of commerce; and I can see how the department might be made more useful even to the cause of agriculture itself if the head of the department were called upon to investigate questions growing out of transportation.

It is hardly possible, Mr. Speaker, to overestimate the importance of the subject of agriculture. It is by no means one of the minor or subordinate interests of the country, but is in point of fact its great industry. Out of the earth comes all our wealth; and out of it comes largely our great national prosperity. We all remember how a few years ago agriculture lifted us out of our then financial difficulty. The balance of trade that helped to solve the question of the resumption of specie payments was due to the products of the earth. Agriculture, therefore, ought not to be underrated; and I am convinced that this Congress will satisfy the American people if it shall in a very important manner demonstrate its interest in this great industry.

But it is my purpose now only to call attention to some defects which seem to me to exist in the bill under consideration. The gentleman from Kansas [Mr. ANDERSON] knows very well that I have taken more or less interest in the subject of forestry; and some years ago a commissioner of forestry was appointed by virtue of an amendment which was inserted in a bill in the Forty-third Congress. That commissioner has made two annual reports and has a third ready for presentation and publication. He has also visited the schools of forestry in Europe, and has almost completed a special report upon those institutions.

Now, it has occurred to me that there ought to be a bureau of forestry, and I have an amendment which, if I should be in the House to-morrow, I shall offer or which I shall ask some one to submit in my behalf if not present myself. It is to insert after the fifty-second line, on the fourth page of the bill, a clause something like this:

Fifth. A bureau of forestry, the chief of which shall be well acquainted with the methods of statistical inquiry, with a view of ascertaining the annual amount of consumption, importation, and exportation of timber and other forest products; the probable supply for future wants; the means best adapted to the preservation and renewal of forests; the influence of forests upon climate, and the measures that have been successfully applied in various countries, or that may be deemed applicable in this country for the preservation and restoration or planting of forests, and to report upon the same to the secretary of agriculture, to be by him transmitted to Congress.

Mr. VALENTINE. Permit me to say to the gentleman from Minnesota that I think if he will change the language, using the word "division" instead of "bureau," the committee will probably be prepared to accept it. Make it a division of forestry——

Mr. DUNNELL. I am not particular. I am free to admit that the division of forestry ought to have a connection with the bureau of lands. But I would not have the chief of that bureau or division a subordinate officer or clothed with less than full and specific powers and duties. I hope I may be present to perfect, Mr. Speaker, an amendment to be submitted to the House to-morrow which shall cover that question, for already, as a part of the Agricultural Department, we have a commissioner of forestry, and I think that subject will in the future attract very much more attention than it has attracted in the past.

The present census, as I stated here once before during this session, declares some very interesting facts with regard to the timber supply in this country. Unless these statistics are all at fault our supply is but one of eighteen years. The consumption of timber in the country is becoming alarmingly great; and I had the honor of addressing the House a short time ago upon that subject. I was assisted in the preparation of the statistical tables which I submitted by the commissioner of forestry, and it has become apparent to him as it has to myself that this is to be one of the great material questions which we are to consider by-and-by, and which we ought to consider now. The gentleman from Kansas as well as the gentleman from Nebraska understands that the three States of Nebraska, Kansas, and Minnesota are greatly interested in this question of forestry. Minnesota suffers in her regulations somewhat because of the severity of the winters, and the preservation of timber as well as the influence of forests upon the climate, is a question to be investigated and one to be very carefully and thoroughly considered.

I know personally, as a resident of that State, that many of the rigors of our winter have been lessened, at least to a certain extent, by the planting of forests.

Mr. HORR. I would like, if it would not interrupt the gentleman from Minnesota, to know if the statistics to which he has alluded in reference to our present forests are of such a character as to warrant the assertion that the country will be pretty much stripped of its timber within eighteen years?

Mr. DUNNELL. Eighteen years is about the average of the timber supply.

Mr. HORR. There must be some mistake about it, because that would include all the enormous pineries of the South as well as the forests of the West. Do they take into account the great pine lands of the South, of Mississippi and other States, and the Alaska timber, as well as the red woods of Oregon?

Mr. DUNNELL. Perhaps the Alaska timber is not included.

Mr. HORR. Certainly it cannot be.

Mr. DUNNELL. I will take pleasure in passing to the gentleman from Michigan a statement which I presented to the House recently upon this subject.

Mr. HORR. I know that ten years ago it was claimed that the forests in the lower peninsula of Michigan would be exhausted at the then rate of destruction within ten years. I believe that at the present rate of cutting our supply there will last for twenty years.

Mr. DUNNELL. I think the statistics show that the supply in Michigan is larger than in many other divisions. Take the division of Maine for instance, and the supply is very light.

Mr. HORR. I suppose so.

Mr. DUNNELL. In the Chippewa division the supply is less than the supply in Michigan, as shown by these tables. The officer in charge of this department has divided the country into sections; and I am of the opinion that the section which the gentleman represents here has a much larger supply on the average than most of these other divisions.

Mr. ANDERSON. If not interrupting the gentleman I would like, at this point, to refer to a remark made a few minutes since in regard to this subject of forestry; and I wish to make, if he will permit me, two suggestions with regard to the committee's bill.

Mr. DUNNELL. Certainly.

Mr. ANDERSON. The first is that this bureau of lands (which, by the way, is a wholly distinct thing from what is known in the Interior Department as the map department) is intended in this section to cover the whole undeveloped public domain; and is also intended to provide for the survey or investigation of that domain with respect to its practical resources.

The chief of that bureau is directed to investigate and report upon the resources or capabilities—either the one or the other—of the public or other lands for timber purposes, as well as for farming, mining, and other industrial uses. Now my point is, that the committee have by no means overlooked the importance of this matter of forestry; and in the opinion of the committee this third bureau of lands, provided for in the bill, would, when organized and thoroughly equipped, entirely cover the broad question of forestry under the general provisions of this section. Then there is another suggestion, to which the gentleman's attention has not been perhaps heretofore attracted, bearing upon this same question, which is found embodied in the last section of the bill, and by the way this is worthy of consideration in connection with some other objections which have been urged against special provisions of this bill:

That all laws and parts of laws relating to the department of agriculture now in existence, as far as the same are applicable and not in conflict with this act are—

Not repealed, but—

continued in full force and effect.

In other words, you have the department with all its machinery still in existence, and a part of that machinery still in force and existence under this bill is the commissioner of forestry. So that under this bill you carry out the same idea which is in no sense hampered or impaired with reference to this important subject.

I hope the gentleman from Minnesota will offer the amendment, however, to which he refers, and let it be printed in the RECORD for information to-morrow.

Mr. DUNNELL. Mr. Speaker, I did not come here this evening for the purpose of making a speech, but only to state the interest I have felt on this subject and more particularly to allude to what seemed to me to be a defect in the bill. And in reply to the gentle-

man from Kansas, I think he would hardly like to leave so important an officer as the commissioner of forestry to have his place in the new department regulated by this section. He will admit at once and see the fitness of having the commissioner of forestry provided for specifically in the bill creating the new department of agriculture. Therefore, I think the amendment to which I have alluded briefly and crudely should have a place in the body of the bill.

The gentleman from Nebraska thinks it would be sufficient if forestry was made a division in the bureau of lands. I have felt very many times within the past two or three years that the commissioner of forestry as originally created should have been an officer rather of the land department than of the agricultural department; and I think the commissioner of forestry would have worked more harmoniously connected with the land department than with the department of agriculture. But I will say to the gentleman from Kansas that I trust the forestry department may find a place in the bill which he has in his charge.

Let me ask one other question of the gentleman; and I am compelled to plead a considerable amount of ignorance concerning this bill. In what subdivision or in what bureau is there provision for an industry that is claiming a good deal of attention in your own State, Mr. Speaker, [Mr. BURROWS, of Michigan, being in the chair,] as well as in mine? I refer to the production of sugar from sorghum or amber cane.

Mr. VALENTINE. That would be included in the first bureau mentioned in the bill.

Mr. ANDERSON. It is embraced in the first clause of section 3, which I will read:

> The bureau of agricultural products, which shall include divisions of botany, entomology, and chemistry, &c.

It will fall there.

Mr. DUNNELL. I think that subdivision of section 3 ought to be made a little more specific if it shall cover that industry.

As you are aware, Mr. Speaker, there has been very great progress made within a very few years in the production of sirups and of sugar from the amber cane. In my own district I doubt not there are fifty mills, and five hundred or a thousand farmers in that district are now raising one, two, three, five, and ten acres of amber cane, and they are taking it to the mills as in New England they take a barrel of apples to the cider-mills and bring home their cider.

The farmer now takes his ton or half ton of amber cane with a barrel or two on top of the cane to mill and brings back his barrel or two barrels of sirup; and there are also a good many mills in Minnesota where crystallized sugar to the amount of thousands of pounds is manufactured. And I desire right here to say, Mr. Speaker, with all due respect to the Commissioner of Agriculture, that I think he has not quite comprehended the value and importance of this new industry. A good deal of criticism was passed upon the late Commissioner of Agriculture, General Le Duc, but whatever of errors he may have committed, this was true of him, that he was willing to investigate a step forward and make progress, if it were within his reach.

Mr. HORR. Does the gentleman know, as to the sirup made in his section, whether it is very palatable and good?

Mr. DUNNELL. It is very good; it monopolizes the market. It is the best on the market, and is purchased as the most desirable by all the leading hotels of the State to which I have alluded.

Mr. Speaker, I hope the present Commissioner of Agriculture will not at all be discouraged in the prosecution of all possible investigations in this direction. It has been said that he is not quite so full of faith as was his predecessor that this product of the cane would crystallize. That has recently, I am happy to say, been reported upon unanimously by a large committee appointed by the Academy of Science, with Professor Silliman of Yale University as its chairman. Professor Silliman has written a report, which I trust in a few days will come to the attention of the House and the country, indorsing the complete triumph of the affirmative side of the question as to whether the sirup of the amber cane or the sorghum will crystallize, and I trust, Mr. Speaker, that we shall have this industry a little more carefully and distinctly brought into this third section. At present I do not quite see it in section 3.

I only came here to say this much, and if an opportunity shall be given to me to-morrow, I want to assist in getting a couple of amendments adopted which I trust the gentleman from Kansas will not look upon as injuring his bill.

Mr. LACEY addressed the House. [See Appendix.]

Mr. ANDERSON. As no other gentleman seems desirous of speaking, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at nine o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. AIKEN: The petition of the Department of Health, of Charleston, South Carolina, relative to National Board of Health—to the Committee on the Public Health.

By Mr. ARMFIELD: The petition of citizens of Iredell and Surry Counties, North Carolina, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. BELMONT: The petition of Walter S. Church and others, heirs of John B. Church, of Martha A. Howland and others, of Henry T. Wills and others, and of Rev. John Bolton and others, heirs of Robert Bolton, for the passage of the French spoliation claims bill—severally to the Committee on Foreign Affairs.

By Mr. BUTTERWORTH: The petition of T. S. Burdsal & Co. and 30 other druggists of Cincinnati, Ohio, for the repeal of the tax on perfumery, cosmetics, &c.—to the Committee on Ways and Means.

By Mr. CANNON: Memorial of Isaac R. Hitt, agent of the State of Illinois—to the Committee on the Judiciary.

By Mr. CHAPMAN: Papers relating to the claim of John W. Raley and of George L. Raley—severally to the Committee on War Claims.

By Mr. CROWLEY: The petition of A. M. Witmer and others, citizens of Niagara County, New York, for the enactment of a law to regulate emigration—to the Committee on Commerce.

By Mr. DAWES: The petition of 76 citizens of Washington County, Ohio, for the establishment of a post-route from Lundville to Marietta—to the Committee on the Post-Office and Post-Roads.

By Mr. DIBBLE: Memorial of the Board of Health of Charleston, South Carolina, in relation to the National Board of Health and to quarantine—to the Select Committee on the Public Health.

By Mr. ELLIS: Memorial of the mayor and city council of New Orleans and other prominent citizens, praying for national aid for educational purposes—to the Committee on Education and Labor.

By Mr. N. J. HAMMOND: The petition of E. A. Ware and others, teachers and pupils in the Atlanta University, (colored,) asking Congress to appropriate money for educational purposes—to the same committee.

By Mr. HAZELTON: The petition of Charles Blanchett, for a pension—to the Committee on Invalid Pensions.

By Mr. A. S. HEWITT: The petition of citizens of the tenth Congressional district of New York, in reference to the imprisonment of American citizens in Irish prisons—to the Committee on Foreign Affairs.

By Mr. HOUK: Papers relating to the claim of Jesse B. Devine for relief—to the Committee on War Claims.

By Mr. LATHAM: Fifteen petitions of citizens of North Carolina, praying that all moneys appropriated and raised for school purposes be distributed on the basis of illiteracy—severally to the Committee on Education and Labor.

By Mr. MANNING: The petition of citizens of Mississippi, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. MOORE: The joint resolution of the Legislature of Tennessee, in reference to franchise of the Saint Louis, Montgomery and Florida Railroad—to the Committee on the Judiciary.

Also, the resolutions adopted by the Memphis Cotton Exchange, in reference to Mississippi River levees—to the Committee on Levees and Improvement of the Mississippi River.

By Mr. MORSE: The petition of W. H. H. Moffatt, of Sophia A. Tucker, and of Sarah Robinson Moffatt, for the passage of the French spoliation claims bill—severally to the Committee on Foreign Affairs.

By Mr. ROSECRANS: The petition of citizens of California, protesting against taxing carbonated sparkling wines—to the Committee on Ways and Means.

By Mr. RUSSELL: The petition of Charles H. Coburn and 53 others, citizens of Lowell, Massachusetts, for the passage of Senate bill No. 1695 and House bill No. 1410, granting pensions to soldiers and sailors of the late war who were confined in confederate prisons—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. O. R. SINGLETON: The resolutions adopted by the Leake County (Mississippi) Grange, in favor of the construction of the Eads ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. SPOONER: The petition of Wolcott Gibbs and others, for the passage of the French spoliation claims bill—to the same committee.

By Mr. STRAIT: The petition of citizens of Scott, Carver, and Sibley Counties, Minnesota, for an appropriation for the protection of the banks of the Mississippi River opposite the village of Bell Plaine, Minnesota—to the Committee on Commerce.

By Mr. TAYLOR: The petition of citizens of Ashtabula County, Ohio, for an appropriation for the promotion of popular education—to the Committee on Education and Labor.

By Mr. J. T. UPDEGRAFF: The petition of Samuel Ellis and others, citizens of Cincinnati, Ohio, in favor of aid by the Government for education in Alaska—to the same committee.

By Mr. WARNER: The joint resolution of the Legislature of Tennessee, asking Congress to grant a certain franchise to the Saint Louis, Montgomery and Florida Railroad Company—to the Committee on the Public Lands.

By Mr. WHEELER: The petition of E. J. Oden and others, citizens of Morgan County, Alabama, praying Congress to donate money to educate freedmen and other illiterate persons—to the Committee on Education and Labor.

By Mr. WHITE: The petition of Granville Evans, of Beattyville, Kentucky, for relief—to the Committee on War Claims.

Also, the petition of James Arnold, for relief—to the Committee on Military Affairs.

Also, the petition of G. W. Johnson and others, for the relief of certain citizens of Letcher County, Kentucky—to the Committee on War Claims.

By Mr. WALTER A. WOOD: The petition of John B. Perry, for a pension—to the Committee on Invalid Pensions.

SENATE.

TUESDAY, *May* 9, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

GARFIELD MEMORIAL HOSPITAL.

The PRESIDENT *pro tempore* laid before the Senate the following communication; which was ordered to lie on the table, and to be printed in the RECORD:

The executive committee of the rotunda reception for the Ladies' National Aid Society of the Garfield Memorial Hospital desire to thank the United States Senate for the use of the rotunda and adjacent rooms at the Capitol, for the use of committee-rooms, and for the many personal kindnesses extended by the Senators on the evening of the 6th of May.

By order of the executive committee.

CORNELIA W. FERRISS,
Secretary.

PETITIONS AND MEMORIALS.

Mr. GORMAN presented a petition of George R. Herrick, of Washington, District of Columbia, praying to be compensated for services rendered by him while connected with the Metropolitan police during the fiscal year ending June 30, 1867; which was referred to the Committee on the District of Columbia.

Mr. PLUMB presented a petition of citizens of Kansas, praying that an appropriation be made for the education of the native people of Alaska; which was referred to the Committee on Education and Labor.

Mr. MORGAN presented the petition of H. A. Tatam and others, citizens of Alabama, praying for national aid to education; which was referred to the Committee on Education and Labor.

He also presented a petition of citizens of Choctaw Corner, Alabama, praying for the passage of a bill for the construction of a ship railway at Tehuantepec; which was ordered to lie on the table.

Mr. GEORGE presented a petition of citizens of Chunkey Station, Mississippi, praying for the passage of a bill for the construction of the proposed ship-railway across the Isthmus of Tehuantepec; which was ordered to lie on the table.

Mr. HALE presented the petition of Gilman W. Hilliker, and other ex-Union soldiers, of Washington, District of Columbia, praying for the passage of bills granting them increase of pension; which was referred to the Committee on Pensions.

CONDEMNED CANNON FOR MONUMENTAL PURPOSES.

Mr. COCKRELL, from the Committee on Military Affairs, to whom were referred the following bills, reported them severally with amendments.

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon and cannon-balls to aid in the construction of a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 679) donating condemned cannon, &c., for monumental and other purposes;

A bill (H. R. No. 1287) authorizing the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 2195) donating condemned bronze cannon to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned bronze cannon to the citizens of Otsego, Michigan;

A bill (H. R. No. 3738) to donate iron cannon to the township of Milan, Ohio;

A bill (H. R. No. 3877) donating condemned cannon and other munitions of war to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon;

A bill (H. R. No. 4585) to donate two condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio;

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental and other purposes; and

A joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls for decoration of soldiers' cemetery.

Mr. COCKRELL. The committee have instructed me to report, not having had time to reduce it to writing, that in all cases where bronze or brass cannon were proposed to be given by the House those words have been stricken out and the words "cast-iron" inserted before "cannon;" because there are no brass or bronze cannon for disposition. The committee also report against the use of any of this ordnance in the construction of monuments, providing that it shall be used only for ornamentation about the monuments or cemeteries. I am therefore directed to report adversely the bill (H. R. No. 3082) granting condemned cannon to the Anna M. Ross Post No. 94 of the Grand Army of the Republic, of Philadelphia. The text of the bill does not show that it is for any monumental purpose or cemetery purpose or for ornamentation, and therefore the committee report the bill adversely, recommending that it be indefinitely postponed.

Mr. MITCHELL. I ask that that bill be placed on the Calendar. My colleague is interested in it.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. PLUMB. I ask that the bills which have been favorably reported by the Senator from Missouri for the appropriation of cannon for soldiers' monuments be now considered. They are of a character which I think will evoke no opposition whatever, and might as well be passed now as later.

Mr. EDMUNDS. Will the Senator tell us how many condemned cannon the United States have?

Mr. PLUMB. I could do so, but the Senator from Missouri can tell so much better that I yield to him for the purpose.

Mr. COCKRELL. The United States has 774 cast-iron, useless, obsolete, condemned cannon of various caliber. I have a list of all of them here, which I formerly laid before the Senate.

Mr. EDMUNDS. Have we any cannon that are not condemned?

Mr. COCKRELL. Yes, sir. These are obsolete cannon, utterly useless. The metal in them is worth a cent and a quarter a pound, and the Government cannot use it by recasting for any purpose and make it worth that much to it. All it is worth is simply what it can be sold for in the market. The Government cannot utilize these cannon in any way.

Mr. INGALLS. Could they be remanufactured into condemned cannon?

Mr. COCKRELL. I suppose they could be. I had not thought of that.

Mr. ALLISON. There will be no objection to the consideration of the bills at this time.

The PRESIDENT *pro tempore*. The Senator from Kansas [Mr. PLUMB] asks for the present consideration of the bills reported favorably by the Senator from Missouri, [Mr. COCKRELL.] Is there objection? The Chair hears none, and the bills will be considered.

The bill (H. R. No. 3333) to donate one condemned bronze cannon to the citizens of Otsego, Michigan, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 5, to strike out the words "one piece of" before the word "condemned," and after the word "condemned" to strike out the word "bronze" and insert "cast-iron;" so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized and directed to deliver to the citizens of Otsego, Michigan, condemned cast-iron cannon, if the same can be spared without serious detriment to the Government, to place in their cemetery near the soldiers' monument.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to donate one condemned cast-iron cannon to the citizens of Otsego, Michigan."

The bill (H. R. No. 679) donating condemned cannon, &c., for monumental and other purposes was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments.

The first amendment was, in line 6, to strike out "and so forth," and in line 7, to strike out the words "and other," before "purposes;" so as to read:

That the Secretary of War be, and he is hereby, authorized and directed, if the same can be done without prejudice to the public service, to deliver to the parties herein named the following condemned cannon for monumental purposes, namely:

The amendment was agreed to.

The next amendment was, in line 10, to strike out the words "twelve-pounder guns and gun-carriages," and insert "cast-iron guns and two condemned carriages;" so as to read:

To the Charles Russell Lowell Post, No. 7, of the Grand Army of the Republic, of Boston, Massachusetts, two condemned cast-iron guns and two condemned carriages, to be used for monumental purposes in the decoration of a free burial-

ground for ex-soldiers, sailors, and marines who have been honorably discharged from the service of the United States.

The amendment was agreed to.

The next amendment was, in line 17, after the word "condemned," to insert "cast-iron," and, in the same line, to strike out the words "in the erection of a soldiers' monument or;" so as to read:

To each of the towns of Woburn, Winchester, and Wakefield, in the State of Massachusetts, four condemned cast-iron cannon, to be used in the decoration of the soldiers' lot in the cemeteries in said towns.

The amendment was agreed to.

The next amendment was, in line 21, after "condemned," to insert "cast-iron;" so as to read:

To Post No. 78 of the Grand Army of the Republic, district of Massachusetts, four condemned cast-iron cannon, to be used for monumental purposes in the cemetery at South Abington, Massachusetts.

The amendment was agreed to.

The next amendment was, in line 26, after the word "condemned," to insert "cast-iron;" so as to read:

To the McPherson Post, No. 73, of the Grand Army of the Republic, district of Massachusetts, four condemned cast-iron cannon, to be used for monumental purposes in the cemetery at Abington, in said State.

The amendment was agreed to.

The next amendment was, in line 29, after the word "condemned," to insert "cast-iron;" so as to read:

To the selectmen of the town of Paxton, in the county of Worcester, State of Massachusetts, four condemned cast-iron cannon, to be used in ornamenting the lot upon which the soldiers' monument is erected in said town of Paxton.

The amendment was agreed to.

The next amendment was, in line 33, after the word "condemned," to insert "cast-iron;" and in the same line, to strike out the word "completion" and insert "decoration;" so as to read:

To the selectmen of the town of Brimfield, Massachusetts, four condemned cast-iron cannon, to be used in the decoration of the soldiers' monument in said town.

The amendment was agreed to.

The next amendment was, in line 37, after the word "condemned," to insert "cast-iron;" and in line 39, after the word "condemned," to insert "cast-iron;" so as to read:

To the William H. Bartlett Post, No. 3, of the Grand Army of the Republic, of Taunton, Massachusetts, four condemned cast-iron cannon, for the purpose of ornamenting the burial-grounds of deceased Union soldiers; also four condemned cast-iron cannon and four cannon-balls for Ferncliff Cemetery, in Springfield, Ohio.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill donating condemned cannon and cannon-balls for monumental purposes."

The bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 7, after the word "condemned," to insert "cast-iron," and in the same line, after the word "cannon," to strike out the words "and two anchors;" so as to make the bill read:

That the Secretary of War is hereby directed to turn over and deliver to Sampson Post, No. 22, of the Grand Army of the Republic, of Rochester, New Hampshire, to be placed about the soldiers' monument in said Rochester, four condemned cast-iron cannon.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The PRESIDENT *pro tempore*. The next bill will be announced in its order.

Mr. HARRIS. Is the Senate proceeding to consider all those bills this morning in the morning hour?

The PRESIDENT *pro tempore*. Yes, sir; that motion was agreed to.

Mr. SHERMAN. It will take but a little while longer.

Mr. HARRIS. I shall not object.

The PRESIDENT *pro tempore*. The Chair asked the Senate if there was objection, and there was none.

The bill (H. R. No. 3877) donating condemned cannon and other munitions of war to the Soldiers and Sailors' Monumental Association of Lycoming County, Pennsylvania, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 7, before the word "iron," to insert "cast;" in the same line to strike out the words "and such other munitions of war as in his discretion may be deemed advisable for the purposes of said association," and to insert "for the use and adornment of monument grounds;" so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the public service, to the Soldiers and Sailors' Monumental Association of Lycoming County, Pennsylvania, four condemned cast-iron cannon, for the use and adornment of monument grounds.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill donating condemned cannon to the Soldiers and Sailors' Monumental Association of Lycoming County, Pennsylvania."

The bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 6, after the word "condemned," to insert "cast;" so as to make the bill read:

That the Secretary of War be, and he is hereby, authorized and directed to furnish to Wetzel Compton Post of the Grand Army of the Republic at Hamilton, Ohio, such number of condemned cast-iron cannon, not less than four and of large size, and spherical shot, as may be required for the use and adornment of the soldiers' cemetery in the city of Hamilton and State of Ohio.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The bill (H. R. No. 4585) to donate two condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square, near the soldiers' bronze monument, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 5 to strike out "two" before "pieces" and insert "four;" in the same line, before the word "condemned," to insert "forty-two-pounder," and after the word "condemned" to insert "cast;" so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized and directed to deliver to the mayor of the city of Mansfield, Ohio, for the benefit of said city, four pieces of 42-pounder condemned cast-iron cannon, if the same can be spared without serious detriment to the Government, to place on the public square of said city near the soldiers' bronze monument recently erected on said public square at a cost of $10,000, the gift of a patriotic and liberal-minded citizen.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to donate four condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument."

The joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls, for decoration of soldiers' cemetery, was considered as in Committee of the Whole.

The joint resolution was reported from the Committee on Military Affairs with an amendment, in line 5, after the word "condemned," to insert "cast-iron;" so as to make the joint resolution read:

That the Secretary of War be, and he is hereby, authorized and directed to deliver to the authorities of the city of Waterloo, Black Hawk County, Iowa, three condemned cast-iron cannon and four cannon-balls, of a large caliber, for use in decorating the lot in Elmwood Cemetery, in that city, that has been set apart for the burial of ex-soldiers.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 4, before the word "condemned," to strike out "such number of" and insert "four;" after the word "condemned" to insert "cast-iron;" and after "cannon," to strike out the words "as may be required;" so as to make the bill read:

That the Secretary of War is hereby authorized to furnish four condemned cast-iron cannon to Colonel L. Z. Cadot, Surgeon William S. Newton, and Major Samuel F. Neal, for the use and adornment of the soldiers' cemetery in the city of Gallipolis and State of Ohio.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post No. 2 of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs, with

amendments, in line 4, after the word "condemned," to insert the word "cast," and at the end of the bill to add:

And also six condemned cast-iron cannon to Storer Post, No. 1, of the Grand Army of the Republic, at Portsmouth, New Hampshire, for use about a monument in honor of the deceased soldiers and sailors of Portsmouth, New Hampshire.

So as to make the bill read:

That the Secretary of War is hereby directed to turn over and deliver six condemned cast-iron cannon to E. E. Sturtevant Post, No. 2, of the Grand Army of the Republic, of Concord, New Hampshire, to adorn the soldiers' lot in the cemetery at Concord aforesaid, and also six condemned cast-iron cannon to Storer Post, No. 1, of the Grand Army of the Republic, at Portsmouth, New Hampshire, for use about a monument in honor of the deceased soldiers and sailors of Portsmouth, New Hampshire.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of War to turn over to E. E. Sturtevant Post, No. 2 of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon, and for other purposes."

The bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 6, after the word "condemned," to insert "cast;" so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized and directed to deliver to the selectmen of the town of Brandon, in the county of Rutland and State of Vermont, for the benefit of said town, four pieces of condemned cast-iron cannon, if the same can be spared without serious detriment to the Government, to place on the public square of said town near a soldiers' monument to be erected on said square by said town.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The bill (H. R. No. 3738) to donate iron cannon to the township of Milan, Ohio, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 5, after the word "condemned," to insert "cast," so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized and directed to deliver to the mayor of Milan, Ohio, four condemned cast-iron cannon, if the same can be done without serious detriment to the Government, for the adornment of the monument erected in the village of Milan commemorating the names of soldiers who devoted and lost their lives in the service of the United States during the war of the Rebellion.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 5, after the word "condemned," to insert "cast-iron;" so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, to the city of Topeka, Kansas, four condemned cast-iron cannon and twenty cannon-balls, to be placed on a monument to be erected in memory of deceased soldiers in the Topeka cemetery.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The bill (H. R. No. 605) donating cannon and cannon-balls to aid in the construction of a suitable soldiers' monument at Portland, Maine, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 6, after the word "condemned," to insert "cast-iron;" and in line 7 to strike out the words "to be used in the construction of" and insert "for use and ornament about;" so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, to Post Bosworth, Grand Army of the Republic, Portland, in the State of Maine, four condemned cast-iron cannon and sixteen cannon-balls, for use and ornament about a suitable monument to be erected by said post in honor of the deceased soldiers of the late war.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill donating cannon and cannon-balls for use and ornament about a suitable soldiers' monument at Portland, Maine."

The bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental and other purposes was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 4, after the word "furnish," to strike out the words "to McLean Post No. 16, of the Grand Army of the Republic, at Reading, Pennsylvania, a condemned iron cannon or mounted field-piece of large size, for the use of said post;" also, in line 7, after the word "condemned," to insert "cast iron;" in line 9, after the word "condemned," to insert "cast-iron;" in line 13, after the word "condemned," to insert "cast-iron;" and in line 14, after the word "condemned," to insert "cast-iron;" so as to make the bill read:

That the Secretary of War be, and he is hereby, authorized and directed to furnish six condemned cast-iron cannon and cannon-balls to the national cemetery at Louisville, Kentucky, for monumental purposes; also four condemned cast-iron cannon and twenty-five cannon-balls for the soldiers' burying-ground in Oakwood Cemetery, in the village of Hyde Park, Cooke County, Illinois, for monumental purposes; also six condemned cast-iron cannon and twelve cannon-balls to the national cemetery at Memphis, Tennessee; also two condemned cast-iron cannon and four cannon-balls to General Shunk Post, Grand Army of the Republic, at Marion, Indiana, for monumental purposes.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of War to furnish condemned cannon for monumental purposes."

The bill (H. R. No. 2552) to donate condemned cannon to the Soldiers and Sailors' Association of Bellaire, Ohio, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 5 to strike out the word "condemned," and to strike out the words "brass field-pieces" and insert cast-iron cannon;" and in lines 6 and 7 to strike out the words "to aid in the erection of" and insert "for ornament about;" so as to make the bill read:

That the Secretary of War be, and he is hereby, authorized and directed to deliver to the Soldiers' and Sailors' Association of Bellaire, Ohio, four condemned cast-iron cannon, if the same can be spared without detriment to the Government, for ornament about a monument to the memory of the Union soldiers and sailors of Belmont County, Ohio, killed in the late war of the rebellion.

The amendments were agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The bill (H. R. No. 2195) donating condemned bronze cannon to the Soldiers' Monument Association of Birmingham, Connecticut, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments, in line 5 to strike out the word "bronze" and insert "cast-iron;" in lines 7 and 8 to strike out the words "the casting of a statue of a soldier to surmount" and to insert the word "ornamenting;" and at the end of the bill to add "when fully completed;" so as to make the bill read:

That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, four condemned cast-iron cannon to the order of the president of the Soldiers' Monument Association of Birmingham, Connecticut, to be used in ornamenting a monument in process of erection by said association, when fully completed.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "A bill donating condemned cast-iron cannon to the Soldiers' Monument Association of Birmingham, Connecticut."

REPORTS OF COMMITTEES.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3277) for the relief of Josephus Hawley, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2349) granting an increase of pension to George J. Webb, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1803) granting a pension to P. B. Perry, submitted an adverse report thereon; which was ordered to be printed.

Mr. CALL. I ask that that bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. SLATER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 377) granting a pension to Frank Kitzmiller, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2442) granting a pension to Merton Stancliff, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3398) granting a pension to Anna A. Probert, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2089) granting a pension to William J. Lee, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (S. No. 306) granting a pension to Edward R. Fullington, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was recommitted the bill (H. R. No. 3833) for the relief of Mrs. Maria B. Craig, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1373) granting a pension to James K. Sturtevant, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2021) granting an increase of pension to Lucien Kilbourne, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3000) granting a pension to Nathaniel J. Coffin, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the Committee on Public Lands, submitted a written report on the bill (S. No. 1492) for the relief of settlers and purchasers of lands on the public domain in the State of Nebraska, heretofore reported by him from that committee; which was ordered to be printed.

Mr. BLAIR. I am instructed by the Committee on Pensions, to whom was referred the bill (S. No. 728) granting a pension to Josephine Hecker, to submit an adverse report thereon. I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (H. R. No. 4546) granting a pension to William H. Styles, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1351) granting a pension to Lewis J. Blair, submitted an adverse report thereon; which was ordered to be printed.

Mr. VOORHEES. Let the bill go on the Calendar for the present.

The PRESIDENT *pro tempore*. The bill will go on the Calendar with the adverse report of the committee.

Mr. SEWELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1166) to authorize the President to correct the commission of Captain John M. Hamilton, of the Fifth Cavalry, so as to date from July 28, 1866, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of C. B. Norton, praying Congress to purchase 2,000 copies of his work on inventions in breech-loading small-arms, &c., reported adversely thereon, and asked to be discharged from the further consideration of the petition; which was agreed to.

The PRESIDENT *pro tempore*. The hour of one o'clock has arrived. Will the Senate consent that the morning hour shall be extended until the morning business is finished? If there be no objection, the Chair will consider the morning hour extended until the routine business is finished.

Mr. HARRISON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 665) for the relief of Harry Fones, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. JACKSON. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. No. 2592) granting a pension to Mary E. Murray, to report it adversely. There is a minority report, and I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee, and the majority and minority reports will be printed.

Mr. JACKSON. I am instructed by the same committee to report adversely on the bill (S. No. 1663) to increase the pension of Thomas Worthington, and I ask its indefinite postponement.

The PRESIDENT *pro tempore*. The Senator from Ohio [Mr. PENDLETON] is interested in this bill. Does he wish it placed on the Calendar?

Mr. PENDLETON. I suppose the bill may as well go on the Calendar for the present.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3549) granting a pension to Mary C. Murray, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1243) granting a pension to Michael Marion, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 4785) for the relief of Thomas S. Hopkins, submitted an adverse report thereon; which was ordered to be printed.

Mr. FRYE. I should like to have the bill placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1254) for the relief of Captain W. J. Lyster, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1685) to authorize the Secretary of War to grant the use of certain land adjacent to Fort Marion, at Saint Augustine, Florida, for the erection of a hotel, reported adversely thereon; and the bill was postponed indefinitely.

ABAGAIL S. TILTON.

Mr. BLAIR. I report from the Committee on Pensions the bill (S. No. 108) granting an increase of pension to Abagail S. Tilton, passed by the House with an amendment, and returned to the Senate for its concurrence. The bill was yesterday referred to the Committee on Pensions, who approve the amendment, and I am instructed to report the bill back, asking that the amendment be concurred in.

The PRESIDENT *pro tempore*. The amendment of the House of Representatives will be read.

The ACTING SECRETARY. It is proposed, in line 4, after the word "act," to strike out the following proviso:

Provided, That all payments heretofore made shall first be deducted.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives.

The amendment was concurred in.

AUSTRIAN PAPER FLORIN.

Mr. MORRILL. I ask for the reconsideration of the vote by which the bill (S. No. 1732) to refund excessive duties levied by overvaluation of Austrian paper florin, was indefinitely postponed, in order that it may be recommitted to the Committee on Finance.

The PRESIDENT *pro tempore*. Is there objection to the reconsideration of the vote by which the bill was indefinitely postponed? The Chair hears none, and the bill will be recommitted to the Committee on Finance.

BILLS INTRODUCED.

Mr. HARRISON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1849) to set apart a certain tract of land lying on the Colorado River of the West in the Territory of Arizona, as a public park; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. GORMAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1850) authorizing the President of the United States to appoint Assistant Engineer John W. Saville a passed assistant engineer on the retired list of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WINDOM asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1851) to provide for the reapportionment of the Legislature of the Territory of Montana, and for other purposes; which was read twice by its title, and referred to the Committee on Territories.

Mr. VAN WYCK asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1852) granting a pension to Mrs. Florida G. Casey; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDILL (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1852) authorizing the construction of a wagon bridge across the Missouri River between the cities of Council Bluffs, Iowa, and Omaha, Nebraska; which was read twice by its title, and referred to the Committee on Commerce.

Mr. JONAS (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1854) referring the joint claim of T. A Walker and Augusta C. Todd for proceeds of cotton to the Court of Claims for adjudication; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1855) establishing a certain post-road in

the State of Missouri; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1856) for the relief of Susan S. White; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. INGALLS (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1857) to supply omissions and make amendments in certain sections of the Revised Statutes relevant to the Patent Office and to patents; which was read twice by its title, and referred to the Committee on Patents.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 8th instant, approved and signed the act (S. No. 24) for the erection of a public building at Denver, Colorado; and this day the act (S. No. 238) to provide for the erection of a public building in the city of Peoria, in the State of Illinois.

PRINTING OF GENEVA CONVENTION AGREEMENT.

Mr. LAPHAM submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 3,000 extra copies of the message of the President of the United States of the 3d of March, 1882, transmitting "an accession of the United States to the convention concluded at Geneva on the 22d of August, 1864, between various powers, for the amelioration of the wounded of armies in the field, and to the additional articles thereto, signed at Geneva on the 20th of October, 1868," together with the proceedings of the Senate ratifying such convention, be printed; 2,100 of said copies for the use of the Secretary of State, 500 for the use of the Secretary of War, and the remainder for the use of the Senate.

DISTRICT JAIL.

Mr. HAWLEY. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on the District of Columbia be, and they are hereby, instructed to inquire into the management and discipline of the jail in the District, with special reference to the privileges granted to prisoners and the freedom with which visitors are admitted.

Mr. President, a single word. The general facts concerning the escape of a very important prisoner from that jail are known to the public; and in the daily papers it is frequently reported that another notorious criminal now under sentence holds a daily levee, and especially upon Sundays. It is said that he receives from sixty to one hundred and twenty-five visitors daily. If this be true, these practices serve no useful purpose whatever. They minister only to a morbid curiosity, and they are prejudicial to public morals. Therefore I have offered this resolution.

The resolution was considered by unanimous consent, and agreed to.

TARIFF COMMISSION.

The PRESIDENT *pro tempore*. Are there further concurrent or other resolutions? If not, the morning hour is closed.

Mr. MORRILL. I desire to call up the House bill to provide for the appointment of a tariff commission. I think it will take no more time than it will require to read the bill, as all the members of the Committee on Finance are in favor of taking it up without a reference.

The PRESIDENT *pro tempore*. The Senator from Vermont moves to lay aside the Anthony rule for the purpose of considering the tariff-commission bill.

Mr. MORRILL. Temporarily only.

Mr. HARRIS. Would it not be better for the Senator to ask consent of the Senate to consider that bill after we have gone through with the call of the Calendar under the Anthony rule?

Mr. MORRILL. I prefer to have it done now.

The PRESIDENT *pro tempore*. If there be no objection, the bill is before the Senate as in Committee of the Whole.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff.

Mr. McPHERSON. Perhaps it would be well for the Senator from Vermont to state what alterations or amendments have been made by the House to our bill, in order that the Senate may thoroughly understand the matter.

Mr. MORRILL. This is identically the same bill as the Senate passed with these words only omitted: "and existing system of internal-revenue laws." Those words are left out, as I understand, for the purpose of leaving the Committee on Ways and Means of the House at liberty to propose a bill that will modify the internal-revenue laws.

Mr. DAVIS, of West Virginia. I understand that the commissioners are to be confirmed by the Senate.

Mr. MORRILL. Yes, sir.

Mr. BECK. I advised that there was no necessity for any further delay in regard to this bill by referring it to the Committee on Finance. I was not aware, however, of one fact that I learn this morning, that in March, 1879, shortly before the Eaton bill was presented, Mr. D. J. Morrell, of Pennsylvania, was made president of the American Iron and Steel Association; he was a member of the House of Representatives at the time when the Bessemer steel duty was raised to $28 a ton, and on taking the chair he advised the association thus:

> Demand that the subject shall be intrusted to a commission not of owl-eyed college professors, but of business men and statesmen appointed by the President of the United States, with instructions and authority to ascertain the condition and wants of all our industries, and to examine the tariff legislation of this and other countries with reference to its influence upon national welfare, and demand also that Congress shall refrain from legislation upon the subject until the presentation of the report of this commission. If no other good results from this, we shall at least have what the country most needs, a little rest.

They will get "a little rest" now for a couple of years, and maintain the present condition of things; and they have succeeded so well in getting a continuance that I do not suppose it is worth while to delay it.

Mr. MORRILL. I desire to call the attention of the Senator from Kentucky to the fact that the fourth section provides that the commission are to make their final report on or before the first Monday of December next.

Mr. BECK. That leaves ninety days before the expiration of this Congress, with the appropriation bills and all the other work of Congress to be done; and there will be no time to act on the tariff. There may be a pretense, but there will be no honest attempt to change the tariff. The success of delay is obvious.

Mr. INGALLS. Mr. President, I was not in the city when the debate was had upon the Senate bill on this subject and when it was finally adopted by the Senate. I did not therefore have the opportunity of saying what I will briefly say now, that I regard this bill as an empty makeshift that must be absolutely ineffectual.

The way to deal with the tariff would be for Congress to take hold of certain subjects that confessedly need attention and pass some act that would give relief to the industries of the country. We all know that the duties on sugar and on iron and on steel and on many other of the great industrial resources of this country need revision, and we know exactly what they do need, and it is just as competent for Congress to act to-day as it will be after they have had a report from a commission of nine experts, who are to be selected, I suppose, with reference to the views of those who desire that certain policies shall be carried out.

Another matter seems to me to require brief notice, and that is the time when this commission is to report. By the terms of the bill they are to examine into the mining, productive, industrial, commercial, and manufacturing resources and interests of this whole country, and report on the first Monday in December next. Those Senators who vote for this bill with the idea that any result is to follow from it must have a remarkable idea of the capacity of the human intellect with the thermometer up to 100 degrees.

Mr. ALLISON. Before the bill is finally passed I congratulate the Senate on its easy yielding to the amendment proposed by the House bill. I had the honor to offer that amendment in this body, and it received very few votes, and was regarded as a very dangerous provision.

Mr. INGALLS. What is the effect of it?

Mr. ALLISON. Excluding the examination of the internal-revenue system.

Mr. MORRILL. I voted with the Senator.

Mr. BECK. I shall ask for the yeas and nays on the passage of the bill. I care nothing about the details.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. BECK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Acting Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) On this question I am paired with the Senator from Delaware, [Mr. BAYARD,] who is necessarily absent to-day. If he were present, he would vote "yea" and I should vote "nay."

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS,] whom I do not see in the Chamber. I do not know how he would vote if here; I would vote "nay."

Mr. PLATT, (when his name was called.) I am paired generally with the Senator from West Virginia, [Mr. CAMDEN;] but my recollection is that he voted for this bill when it passed the Senate. I therefore vote "yea."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Ohio, [Mr. PENDLETON.] If he were present, I should vote "yea."

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were present, I should vote "nay."

Mr. WILLIAMS, (when his name was called.) On this question I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I should vote "nay."

Mr. VAN WYCK. In that connection I should like to state that my colleague [Mr. SAUNDERS] voted for the other bill, and if he were here, I presume he would vote for this.

The roll-call was concluded.

Mr. CONGER. My colleague [Mr. FERRY] is paired with the Sen-

ator from Delaware, [Mr. SAULSBURY.] If my colleague were present, he would vote "yea."

The result was announced—yeas 35, nays 19; as follows:

YEAS—35.

Aldrich,	Gorman,	Jones of Nevada,	Mitchell,
Allison,	Groome,	Kellogg,	Morrill,
Anthony,	Hale,	Lapham,	Platt,
Blair,	Hampton,	McDill,	Rollins,
Cameron of Wis.,	Harrison,	McMillan,	Sawyer,
Conger,	Hawley,	McPherson,	Sewell,
Davis of West Va.,	Hill of Colorado,	Mahone,	Sherman,
Dawes,	Hoar,	Miller of Cal.,	Windom.
Frye,	Johnston,	Miller of N. Y.,	

NAYS—19.

Call,	George,	Jonas,	Vance,
Cockrell,	Grover,	Maxey,	Van Wyck,
Coke,	Harris,	Morgan,	Vest,
Davis of Illinois,	Ingalls,	Pugh,	Walker.
Farley,	Jackson,	Slater,	

ABSENT—22.

Bayard,	Chilcott,	Jones of Florida,	Saulsbury,
Beck,	Edmunds,	Lamar,	Saunders,
Brown,	Fair,	Logan,	Voorhees,
Butler,	Ferry,	Pendleton,	Williams.
Camden,	Garland,	Plumb,	
Cameron of Pa.,	Hill of Georgia,	Ransom,	

So the bill was passed.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following messages from the President of the United States; which were referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a communication from the Secretary of the Interior, inclosing a letter from the Superintendent of Census, submitting an estimate for an appropriation of $80,000 to defray the expenses of the Census Office during the remainder of the present fiscal year.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 9, 1882.

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a communication from the Secretary of the Interior, inclosing a letter from the Commissioner of the General Land Office, submitting an estimate for a special appropriation of $3,200 for completing an exhibit of all the private land claims in the State of Louisiana.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 9, 1882.

TIMBER DEPREDATIONS.

The PRESIDENT *pro tempore*. The Calendar will be called under the Anthony rule.

Mr. CAMERON, of Wisconsin. Before the Senate proceeds to consider the Calendar under the Anthony rule, I ask unanimous consent to the taking up of Senate bill No. 1646.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks the Senate to take up the bill (S. No. 1646) to amend section 5388 of the Revised Statutes of the United States, in relation to timber depredations. If there be no objection——

Mr. SHERMAN. I should like to hear the bill read.

Mr. CAMERON, of Wisconsin. I will state that the bill is very brief. Perhaps it had better be read.

The bill was read; and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend section 5388 of the Revised Statutes by inserting therein, after the word "purposes," the words "or upon any Indian reservation or lands belonging to or occupied by any tribe of Indians."

Mr. CAMERON, of Wisconsin. There is now no statute under which persons who depredate upon timber on Indian reservations can be punished. The President communicated to Congress on the 5th of April a bill prepared by the Commissioner of Indian Affairs, the object of which is to remedy the defect in the statutes. The report is very short; perhaps that had better be read.

The Principal Legislative Clerk proceeded to read the report submitted by Mr. CAMERON, of Wisconsin, from the Committee on Indian Affairs, on April 5, 1882.

Mr. SHERMAN. It need not be read.

Mr. CAMERON, of Wisconsin. It need not be read. I ask to amend the bill, at the suggestion of the Senator from Kansas who sits behind me, [Mr. PLUMB,] by adding to the proposed amendment "under the authority of the United States;" so as to read:

Or upon any Indian reservation or lands belonging to or occupied by any tribe of Indians under authority of the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NUMBER OF RECORD FOR SENATE.

Mr. ANTHONY. Following a bad example, I ask leave to make a report at this time, as I was not in when reports were called for.

The PRESIDENT *pro tempore*. It will be received by unanimous consent.

Mr. ANTHONY. I am directed by the Committee on Printing to report back a resolution directing the Public Printer to furnish additional copies of the CONGRESSIONAL RECORD for the use of the Senate, without amendment, and I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the resolution, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the Public Printer be directed to furnish, commencing with the first session of the Forty-seventh Congress, 3,425 copies of the CONGRESSIONAL RECORD for the use of the Senate, instead of 3,100 copies, as ordered by the concurrent resolution of June 4, 1874.

Mr. ANTHONY. Two new Senators have come in since the apportionment was made, and more copies are required for the Senate Library.

The resolution was agreed to.

REPORT ON LABOR IN EUROPE.

Mr. ANTHONY. The same committee, to which was referred a resolution for printing 600 copies of the special report on Labor in Europe and America, by Edward Young, late chief of the United States Bureau of Statistics, have instructed me to report back the same and ask to be discharged from its further consideration. A new edition is coming out which will contain further information.

The report was agreed to.

ATLAS OF COLORADO.

Mr. ANTHONY. The same committee, to which was referred a concurrent resolution for binding copies of the Atlas of Colorado, instruct me to report it back without amendment, recommend its passage, and ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the copies of the Atlas of Colorado heretofore ordered for the use of the two Houses of Congress and the Department of the Interior be suitably bound by the Public Printer for distribution in accordance with the resolution ordering the same.

L. MADISON DAY.

The PRESIDENT *pro tempore*. Cases on the Calendar will be taken up.

Mr. CAMERON, of Wisconsin. I understand there are several Senators who desire to address the Senate upon the Madison Day bill. There will not be time to complete the consideration of that bill this morning, and I ask that it may go over, retaining its place on the Calendar.

The PRESIDENT *pro tempore*. Does the Senator from Louisiana object to that?

Mr. JONAS. I make no objection.

JAMES M. WILBUR.

Mr. HOAR. There was another case which really ought to have been completed yesterday before the Day bill was taken up. It was the case of Wilbur.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 98) for the relief of James M. Wilbur, the pending question being on the amendment reported by the Committee on Claims, to strike out all after the enacting clause of the bill and insert:

That the claim of J. M. Wilbur for compensation for putting in the floor, sidewalk, and raised platforms of the New York post-office be referred to the Court of Claims; and that said court be, and is hereby, authorized and directed to take jurisdiction of said claim, and to allow to said Wilbur an amount which shall be equal to the benefit received by the United States in the illuminated tiling put in the floor, sidewalks, and raised platforms in said building being thicker and stronger than was contracted for. Said allowance shall be on the basis of actual benefit received by the Government, and not on the basis of prorating the extra work according to contract price.

Mr. HOAR. I made a statement in regard to this case the other day, which the Senator from Kansas [Mr. INGALLS] challenged. I think he is now entirely satisfied that I was correct. The statement which I made was on the basis of the House report. This man was the manufacturer of a certain kind of thick glass, and he contracted with the contractor for the New York post-office building to furnish to the satisfaction of the architect the glass required in that contract for a pavement over the sidewalk, of course one of the most constantly occupied sidewalks in the country, the sidewalk by the New York post-office. He gave a bond to do that to the satisfaction of the architect, Mr. Steinmetz. Thereupon the architect required him to put in thicker glass, on the ground, and the sole ground, that the original glass was not thick enough for safety; that when a crowd of men got on that sidewalk it might go through into the cellar.

The committee of the House of Representatives in the last Congress reported to pay this man then a sum which they found to be the actual benefit to the United States by reason of this change in the thickness of the glass. The Committee on Claims of the Senate at this session have preferred, however, to authorize a reference to the Court of Claims of the question how much actual benefit the United States received from the change in this thickness of the glass; of course the only benefit being the benefit of the necessity of greater security.

The Assistant Secretary of the Treasury, Mr. French, made an elaborate report, in which he held that the United States were liable on a *quantum meruit* by the law, having changed the contract for their own benefit and having accepted it; but the then Secretary of the

Treasury, the present Senator from Ohio, dissented from that legal view and said that all he could do was to send the case to Congress with a statement of the equities, indicating very strongly by the tone of his letter his belief that it ought to be paid, but dissenting from the legal proposition of his assistant, and that Congress would either send it to the Court of Claims or fix the sum and pay it itself. Now the present bill provides for sending it to the Court of Claims with an authority to find how much the United States actually was benefited by the change.

Mr. BECK. I ask the Senator from Massachusetts if this is not a very indefinite way of ascertaining how much the United States was benefited by it. It might have lighted up rooms perhaps that could not be used without it, and a great many other things might be considered. I wish simply to get information whether or not, if the man was allowed the extra cost of the glass actually used beyond what he was obliged by his contract to use, that would not be the proper measure of relief?

Mr. HOAR. The Senator from Mississippi [Mr. GEORGE] can answer that question better than I can, but my impression is that to allow him the extra cost would give him a larger sum than he would get on this suggestion of extra benefit to the United States, and the committee did not want to recognize the right to change the contract.

Mr. BECK. I care nothing about it.

Mr. HOAR. That point is considered in the report of the House committee made by Mr. O'Connor in the last Congress.

Mr. GEORGE. It may be necessary, perhaps, for me to make some explanation further than that already made in connection with this bill. The bill as originally introduced claimed about forty-eight thousand dollars from the Government. The committee, after an examination into the merits of the case, reached the conclusion that that amount ought not to be paid. The claim in the original bill includes the difference in value between the glass and the iron work actually done and that which was stipulated in the contract. We did not believe that the party was entitled to that much compensation. It was shown very satisfactorily that some benefit had been derived to the United States from the making of certain portions of the work thicker and stronger. As was stated by the Senator from Massachusetts, we did not think he was entitled to the extra cost of doing this work, because we had an idea that possibly there was more material used, more cost incurred, than was necessary. In other words, while the testimony tended to show that the original standards were not strong enough, it also tended to show that more material was put in than was actually necessary, and so we concluded to recommend to the Senate to pay Mr. Wilbur only for the actual benefit which the United States received by reason of the extra work; and I think from the evidence before the committee, the amount does not exceed five or six thousand dollars.

Mr. JONES, of Florida. Will the Senator from Mississippi permit me to ask him a question?

Mr. GEORGE. Certainly, sir.

Mr. JONES, of Florida. Is there anything in the nature of this inquiry that requires a reference of it to the Court of Claims? I understand the inquiry to be as to a mere fact, involving no principle whatever.

Mr. GEORGE. None in the world.

Mr. JONES, of Florida. It is to ascertain what benefit the Government of the United States has derived from the change in this work. Now, what is there in that question to justify its reference to the Court of Claims?

Mr. GEORGE. The Committee on Claims deems itself very competent to settle all questions of law that come before it; but on questions of fact, like this one, we ascertained by partial experiment in this case that if we went into an examination of the various witnesses that would be produced on the one side and the other, it would consume the time of a sub-committee for several weeks. I entered on that examination as one of the sub-committee, and spent two weeks on it, and in that period I discovered there would be more time taken up, and we thought as the Court of Claims had plenty of time to attend to the business, and as counsel would represent the Government as well as the claimant before the Court of Claims, and as we had no counsel for the Government before us, it was better to refer the question of fact to the Court of Claims.

Now, Mr. President, I want to say one word more in reply to some suggestions which have been made in reference to this claim. It is objected to this claim that the United States is not legally liable to pay it. I admit that. I admit that the United States cannot be held to a legal liability in this matter; but I have understood that the United States in dealing with its own citizens adopted a different rule; that the United States did not insist upon strict legal technical defenses, but that wherever in its transactions with citizens it appeared that the Government had been benefited by the labor, by the skill, by the property of a citizen, and that under circumstances which would make it as between honorable men the duty of the recipient of this benefit to compensate the party, the United States ought to act in that way. I am very sure that the United States would commit a great injustice if they did not pay this party to the extent allowed by this bill. He claims a great deal more. He and his counsel are very much dissatisfied with the bill which we have reported. They do not like the basis upon which we have sent the case to the Court of Claims for adjudication. We allow him nothing directly, but we allow him the chance to go before the Court of Claims and to show that the United States was benefited by his work and labor, and to receive the amount of this benefit. I hope the bill will pass.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Committee on Claims.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to submit to the Court of Claims the petition of J. M. Wilbur for compensation for extra work done on the United States post-office building in New York."

CHARLES M. BLAKE.

Mr. GROVER. I call up Senate bill No. 1015, which was passed over the other day without prejudice.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1015) for the relief of Charles M. Blake, the pending question being on the amendment reported from the Committee on Military Affairs to strike out all after the enacting clause and insert:

That all payments made to Charles M. Blake as post chaplain, United States Army, from and after the 14th day of May, 1878, be, and the same are hereby, confirmed, and the proper accounting officers of the United States are hereby authorized and directed to audit and allow payments made to him as post chaplain from and after said date.

Mr. GROVER. There is a report in the case, which I should like to have read.

The Acting Secretary read the following report, submitted by Mr. GROVER April 18:

The Committee on Military Affairs, to whom was referred the petition of Captain Charles M. Blake, having had the same under consideration, beg leave to report as follows:

Charles M. Blake was a post-chaplain in the Army of the United States on December 24, 1868.

On that day, he, suffering from disease of body, as he had for a long time prior thereto suffered, and being also of unsound mind to such an extent as not to understand the nature and effect of his acts, wrote a letter to the Secretary of War that was received and considered by all the proper military authorities as a tender of resignation of his said post-chaplaincy.

This resignation was duly accepted to take effect March 17, 1869, and at a subsequent day, to wit, in July, 1870, the President nominated and the Senate confirmed Alexander Gilmore to be post-chaplain, vice said Blake resigned, to rank as such from July 2, 1870. Afterward, September 28, 1878, President Hayes, considering that Captain Blake's insanity rendered the said resignation and its acceptance null and void, ordered his restoration to the list of post-chaplains, with his original date of rank and with pay from May 14, 1878, and the necessary order was duly issued by the War Department.

President Hayes evidently considered that Captain Blake had never been in contemplation of law out of the Army, but that he was not entitled to pay, &c., between April 28, 1869, and May 14, 1878, as another had during that period of time discharged the duties that Captain Blake would, but for his misfortune, have performed, and had received the pay therefor.

Captain Blake considering that his resignation and its acceptance were by reason of his insanity null and void, and that he had never in contemplation of law been out of service, and that therefore he was entitled to continuous pay, &c., as though he had never resigned, brought his suit against the United States in the Court of Claims to test the question. This on the 17th September, 1877.

The Court of Claims and the Supreme Court on appeal decided against Captain Blake.

The Supreme Court decided these points:

1. That Captain Blake ceased to be a post-chaplain in the Army of the United States by and through the President's displacing him by and with the concurrence of the Senate.

2. That the act of displacement was the nomination and confirmation of Alexander Gilmore, as above stated.

3. That as to the question of pay, &c., for the period between April 28, 1869, (date of last payment to Blake,) and July 2, 1870, (date Gilmore took rank,) even if it were conceded that Captain Blake did not cease to be an officer in the Army by reason of the acceptance of his resignation, tendered, &c., yet he could not recover in his said suit, as the United States had, under the act of Congress in regard to the jurisdiction of the United States Court of Claims, interposed a valid plea of the statute of limitations, and the courts were bound to sustain it.

4. That President Hayes's action and the order for Captain Blake's restoration thereunder were ineffectual to make him a post-chaplain in the Army; that he could not again become such except upon a new appointment by and with the advice and consent of the Senate.

At a later day, to wit, May 28, 1881, President Garfield nominated Captain Blake to be, and the Senate confirmed him as, a post-chaplain in the Army, and he thereby became such with the rank appropriate thereto by a new appointment, as indicated by the Supreme Court, and clothed with all legal rights incident to such position from the date such new appointment took effect.

From the foregoing statement it will readily be seen that Captain Blake's claim stands in three divisions:

1. From March 17, 1869, to July 2, 1870, when he was not in contemplation of law out of the Army, and during which time he discharged no duties, nor any one else in his place, and the pay, &c., for which time he was debarred from recovering by reason of the statute of limitations.

2. From July 2, 1870, to May 14, 1878, (date he again performed duties as post-chaplain under President Hayes's action and order.) During this second period of time Captain Blake was out of the Army, and Captain Alexander Gilmore discharged the duties and received the pay therefor.

3. From May 14, 1878, to May 20, 1881, during which period Captain Blake, though not in contemplation of law a post-chaplain, yet actually performed the duties of one under the said order of the War Department, but received no pay, &c., therefor.

It will not be overlooked that this third period did not commence until after the bringing of the suit in the Court of Claims, and so there is the open question of law, Did not the order of the War Department, and the actual rendition of services under and in pursuance of it, raise an implied contract to pay for such services?

From the statement of facts it will readily be seen that the case preferred by Captain Blake is almost exclusively one of an equitable character, and addressed to Congress as the nation's court of equity, or perhaps, more correctly speaking

to that branch of our Government that is clothed with the most ample power and duty of giving as bounty when in its judgment the facts present a case of sufficient merit to warrant its so giving.

The real question before Congress is, Do the facts of the particular case present such a case of equity as that Congress, acting in such manner as becomes this great and just nation, shall grant to Captain Blake the relief he asks?

That Captain Blake for some time prior to the 24th December, 1868, and up to about the year 1874, was in a greater or less degree insane is clearly proven and admitted both by the Court of Claims and the Supreme Court; also that such bad habit arose from no bad habit of his, but was the result of an injury received by him in 1864, while in the service of the United States and in the line of duty.

It would seem clear that had not Captain Blake become insane there would not have been any tender of a resignation; as also that it would not have been forwarded or accepted had the real state of his mind been known by the authorities.

Your committee therefore recommend that said Chaplain Charles M. Blake be paid in full for his services as chaplain as aforesaid during the period of his actual service from the time he was installed in the Army by order of President Hayes until the date of his commission by President Garfield, confirmed by the Senate; to wit, from the 14th day of May, 1878, to the 20th day of May, 1881, and report S. bill 1015, substitute for bill of same number heretofore reported, and recommend its passage.

Mr. INGALLS. Now let the amendment be read again.

The Acting Secretary read the amendment.

Mr. MILLER, of California. This is a case where a chaplain——

The PRESIDENT *pro tempore*. The hour of two o'clock has arrived.

Several SENATORS. Let us pass the bill.

Mr. MILLER, of California. I do not want the bill passed as it is; I want to amend it. I move to amend the bill.

The PRESIDENT *pro tempore*. By unanimous consent the Chair will allow the bill to be proceeded with.

Mr. HARRIS. Let the amendment be received and printed.

The ACTING SECRETARY. It is proposed by the Senator from California to add to the amendment of the committee:

And the said Charles M. Blake shall be paid as post-chaplain in the Army of the United States from the 25th day of April, 1869, to the 14th day of May, 1878; and the proper accounting officers of the United States are authorized and directed to audit and allow such payment when made.

Mr. INGALLS. Does not that pay him for the time when the courts have decided that he was out of the service?

Mr. MILLER, of California. Yes.

Mr. INGALLS. And that his claim was invalid; so that it is practically a reversal of the decision of the Supreme Court of the United States?

Mr. MILLER, of California. It proposes to pay him for the time he was out of the service not by any fault of his.

Mr. INGALLS. But has not the whole matter been subjected to judicial inquiry and decided against him, by a competent tribunal, upon review of all the facts?

Mr. MILLER, of California. Yes; because the statute of limitations ran against his claim, but in equity I think he is entitled to pay.

Mr. INGALLS. Was there not another person performing the duty of the office that he vacated during the period for which he requires pay?

Mr. MILLER, of California. For a part of the time, not for the whole time. From April, 1869, to July, 1870, there was nobody occupying the place of post-chaplain.

The PRESIDENT *pro tempore*. Will the Senate consider this bill, or shall it go over until to-morrow?

Mr. MILLER, of California. It may as well be considered now.

Mr. COCKRELL. If there is to be an attempt to change the bill and give an amount more than the committee reported, I object to its consideration.

Mr. MILLER, of California. The Senator has a right to object if he wants to.

Mr. COCKRELL. I call for the regular order.

The PRESIDENT *pro tempore*. The bill goes over until to-morrow, and the Chair calls up the unfinished business.

COURT OF APPEALS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Alabama, [Mr. MORGAN,] which will be read.

The ACTING SECRETARY. The amendment is, in section 10, after the word "cases," in line 2, to insert "of appeal to the Supreme Court;" so as to read:

That the decision of the court of appeals upon questions of fact shall, in all cases of appeal to the Supreme Court, be final and conclusive, except as otherwise provided in this section.

The PRESIDING OFFICER. Upon this amendment the yeas and nays have been ordered.

The Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea."

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. McPHERSON, (when his name was called.) I am paired with my colleague, [Mr. SEWELL.] If he were here, I should vote for the amendment.

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were present, I should vote "yea."

Mr. WALKER, (when his name was called.) I am paired with the Senator from Colorado, [Mr. HILL.] Not knowing how he would vote, I withhold my vote.

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. GROOME. I am paired with the Senator from New York, [Mr. MILLER.]

The result was announced—yeas 20, nays 28; as follows:

YEAS—20.

Beck,	Farley,	Johnston,	Pendleton,
Call,	George,	Jonas,	Pugh,
Cockrell,	Grover,	Jones of Florida,	Slater,
Coke,	Hampton,	Maxey,	Vance,
Davis of W. Va.,	Harris,	Morgan,	Vest.

NAYS—28.

Aldrich,	Davis of Illinois,	Ingalls,	Miller of Cal.,
Allison,	Dawes,	Jones of Nevada,	Mitchell,
Anthony,	Frye,	Kellogg,	Morrill,
Blair,	Hale,	Lapham,	Plumb,
Cameron of Wis.,	Harrison,	McDill,	Rollins,
Chilcott,	Hawley,	McMillan,	Sawyer,
Conger,	Hoar,	Mahone,	Van Wyck.

ABSENT—28.

Bayard,	Ferry,	Lamar,	Saunders,
Brown,	Garland,	Logan,	Sewell,
Butler,	Gorman,	McPherson,	Sherman,
Camden,	Groome,	Miller of N. Y.,	Voorhees,
Cameron of Pa.,	Hill of Colorado,	Platt,	Walker,
Edmunds,	Hill of Georgia,	Ransom,	Williams,
Fair,	Jackson,	Saulsbury,	Windom.

So the amendment was rejected.

Mr. JONES, of Florida. Section 11 of this bill is open to some objection to my mind. It reads thus:

That any district judge who, in pursuance of the provisions of this act, shall attend the court of appeals held at any place other than where he resides, shall, upon his written certificate, be paid, by the marshal of the district in which the court shall be held, his reasonable expenses for travel and attendance, not to exceed $10 per day, and such payment shall be allowed the marshal in the settlement of his accounts with the United States.

I do not think that that mode of payment is consistent with the dignity that ought to surround a tribunal like this. I do not think that a judge of a court having jurisdiction without limit and authority coequal with that of the Supreme Court of the United States ought to be paid for his services per diem by the marshal of the court. I think that if any additional compensation is to be given to him it ought to be made in a different way, and he ought to get it just as he gets his other salary, through the Treasury of the United States; and he ought not to be paid like a witness or a juror, upon his own certificate, directed to his own marshal. If this is to be a court of dignity, as I presume it is, and of power, this provision is not compatible with my idea of what it ought to be. If the Senator who has the bill in charge is at all disposed to accept any amendment, I would provide that, instead of a per diem to be allowed to the judges, they receive a yearly compensation to make up for any expenses that they may be called upon to incur in consequence of this extra service. Of course the salaries of the district judges throughout the Union are not uniform; in some districts they receive a great deal more than they do in others; but I do not think that in any case is the compensation greater than what it ought to be; in fact, the judicial salaries of the inferior judges are very inadequate to the duties required at their hands, and I have no objection to this increase, provided it is put in a proper shape.

I would suggest an amendment of this section, that the judges of the district court, who are called upon to perform this service, shall be allowed $600 a year in lieu of this $10 a day, or any other sum that the honorable Senator from Illinois may suggest, if the sum named by me is too much. I am not wedded to any particular amount, but I would rather see them paid annually three or four or five hundred dollars, during any year that they might be called upon to render service in this new court, than to have them paid, like a juror or a witness, on their own certificate directed to the marshal of the court.

Mr. GARLAND. The word "district" has already been struck out, so as to allow compensation to all the judges holding the appellate court.

Mr. JONES, of Florida. "District" is not struck out in my copy of the bill.

The PRESIDENT *pro tempore*. The word "district" has been stricken out, as the Secretary informs the Chair, by the action of the Senate in Committee of the Whole.

Mr. INGALLS. Mr. President, the objection of the Senator from Florida to this provision of the bill seems to be sentimental rather than practical. He argues that the method of payment is inconsistent with the true dignity of a court of justice. It is a point of etiquette; not that the compensation is inadequate and incommensurate to the duties to be performed, but that it degrades the judge down to the level of a common juror who is to be paid by a common marshal of his own court, as if there was some divinity that doth hedge about a judge that separates him from the great mass of mankind.

It is sufficient in response to the allegations of the Senator from Florida to say that this is substantially the method that has long been in force without any particular derogation to the judicial ermine, and that now when the Supreme Court directs a district judge to attend in a different district for the performance of temporary duty in the trial of a cause, he is paid, and has long been paid, upon his certificate of services rendered, by the marshal, like a common juror or any other citizen of low degree.

Therefore, Mr. President, as the duties which are to be performed by these judges are not constant and permanent, but as they are to be successively assigned to duty upon the appellate tribunal, it would appear that unless some more material and serious objection be urged than that presented by the Senator from Florida, this method, so long approved and found to be consistent with judicial dignity, should be retained. It is obviously impossible to make any permanent addition to the salary of these judges that would be satisfactory in the nature of compensation. I should hope that, inasmuch as this method has been tried and proved and found to be satisfactory, it might be retained.

Mr. JONES, of Florida. Does the Senator say that the salaries of judges are now paid in that way?

Mr. INGALLS. I said that whenever a district judge is called upon to perform duty in another district he is paid his expenses upon his own certificate by the marshal of the court; and there has been found to be nothing at all inconsistent with the pure and dignified and lofty administration of justice in that.

Mr. JONES, of Florida. There is something more than that involved in this mode of compensation. I do not say that there are any judges on the bench now who would protract their sessions for the sake of $10 a day; but I think the history of the world has furnished such characters. I say the history of judicial annals has presented characters that would have protracted the sittings of their courts beyond the time necessary to do the business of the tribunal, in order to get the $10 per day. I never heard before in my life of a judge being paid by the day for his judicial performances; and that is what this bill does. He certainly will not get less than $10 per day, and I will venture to assert that in every instance the certificate which will emanate from those judicial functionaries will come up to the $10 every time.

I have merely said this much in regard to this provision of the bill. I do not think it is right, and I think it would be better to incorporate a provision looking to a yearly allowance in addition to the salary now provided by law. I merely threw the suggestion out to the Senator from Illinois, who has the bill in charge, and who has such a particular and special interest in it.

Now, Mr. President, it seems to be the object of this bill to get some court as far away from the people as possible. I move to strike out the entire second section of this bill. That section reads as follows——

Mr. HOAR. Does the Senator propose to insert anything?

Mr. JONES, of Florida. No, I do not; I propose to leave the law as it is.

The second section is in these words:

SEC. 2. That the several circuit courts of the United States shall have and exercise no jurisdiction in cases of appeals or writs of error from the district courts allowed, taken, or sued out after the 1st day of September, 1882, except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction, may be had as heretofore provided.

As I was saying, the effect of this bill—I will not say the purpose—is to get the courts as far away from the people as possible. As the law now stands an appeal, as we know, will lie in admiralty from the district court of the United States to the circuit court in all cases in which a sum exceeding $50 is involved. It has been a very meritorious jurisdiction to my knowledge. It embraces in many instances the cases of seamen's wages, that highly meritorious class which is the foundation of our commercial marine. The district court has jurisdiction in the first instance of all admiralty causes, and under existing law an appeal lies in all cases in admiralty for seamen's wages, claims of material-men, for repairs of ships, and advances of money, from the district to the circuit court where the amount in controversy exceeds $50. This jurisdiction has been long open to a very meritorious class of people; but this bill proposes to take it away and give jurisdiction from the court of first instance to the court of appeals only in cases, I understand, involving the sum of $500. This is a very material change in the law.

The Senator who has the bill in charge has gone away from the Chamber; I was in hopes he would remain, because I thought I could make a suggestion even to him that might be of benefit to this bill. I think the jurisdiction ought to go a little lower down than $500, inasmuch as it takes away an existing appellate right, as suitors can now go to the circuit court with a controversy involving $50. A great many poor men will consider this a grievance. It may be, as the Senator from Kansas said awhile ago, a mere sentiment. He knows very well that the world sometimes is moved by sentiment; it may be false; it may be fictitious; it may be an erroneous sentiment, but it has a great deal to do with the actions and the performances of men.

I do not intend to say anything more on that subject, but I propose to strike out this section, and I should like to have the benefit of the wisdom of the framer of this bill to see that something better than this cannot be put in its place. I have not had much time to reflect about it, but I do not think that this jurisdiction now existing in cases of seamen and material-men, who have small claims and who may conceive in many instances their rights are just as much affected as those of a man worth millions, ought to be taken away. They ought not to have the right of appeal taken away if they wish to go to the circuit court. This bill takes it away and says that no man can have a right of appeal unless the sum in controversy exceeds $500. Why should that be? Is there any pressing on the other end? There is pressure up here at Washington, but I have never heard of any pressure in the circuit court. They have ample time, I think, to consider any appeal cases that may be taken there. The Senator from Kansas shakes his head.

Mr. INGALLS. There is nothing in it. [Laughter.]

Mr. JONES, of Florida. I did not say that, but I conceive that he has investigated the subject, and may be able to state the view of the committee.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The section proposed to be stricken out by the amendment of the Senator from Florida will be read.

The ACTING SECRETARY. It is proposed to strike out section 2, in the following words:

SEC. 2. That the several circuit courts of the United States shall have and exercise no jurisdiction in cases of appeals or writs of error from the district courts allowed, taken, or sued out after the 1st day of September, 1882, except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction, may be had as heretofore provided.

Mr. INGALLS. Mr. President——

Mr. JONES, of Florida. Before the Senator from Kansas proceeds, I wish to ask a question. I am not now familiar with the practice as to writs of error. I cannot recall to my mind the cases where the circuit court issues writs of error to the district court. I know appeals lie in admiralty cases, but I cannot now recall to my mind the particular cases where writs of error issue. There may be some difficulty about that.

Mr. INGALLS. Mr. President, the Senator from Florida, with that candor which always adorns his discourse, frankly admits that his criticisms on this bill are based on his ignorance of it and not on his knowledge of it. And that is the difficulty which the supporters of the bill encounter in endeavoring to answer his arguments. They assume themselves to know something about it; they have examined the matter with as much assiduity as their humble abilities enabled them to give it, and when they offer the reasons why it should be passed, the Senator from Florida, in his discursive rambles among the sections, admits that he is practically unfamiliar with its provisions, and wants to know if we cannot do something better.

Mr. JONES, of Florida. Perhaps the Senator can tell me the cases where a writ of error lies from the circuit to the district court.

Mr. INGALLS. I am not discussing that proposition at this time.

Mr. JONES, of Florida. That is the point on which you were asked to answer me.

Mr. INGALLS. The Senator also alludes, and I do not now know whether he insists upon an amendment in furtherance of his suggestion, that turpitude and degradation and personal debasement would characterize the action of the judiciary if they were allowed to certify to the amount of expenses they incurred.

Mr. JONES, of Florida. No such language escaped my lips.

Mr. INGALLS. No; but that is the irresistible inference.

Mr. JONES, of Florida. Your inference.

Mr. INGALLS. The Senator argues that to permit the section to stand as reported by the committee would result in some collusion between the bench and the officers——

Mr. JONES, of Florida. I deny that.

Mr. INGALLS. By which their terms would be protracted and unjust compensation extorted. Mr. President, all human institutions are based upon the idea that there is faith and honor and honesty in human nature; that men under ordinary circumstances will be honest; that officers sworn to do their duty will, to the best of their ability, discharge it. I confess, sir, that I am unable to answer arguments which are based merely upon the fear that a given provision will result in corrupt collusion between sworn officers of justice and their ministers to protract terms of court for the petty and puerile and contemptible stipend of $10 a day. If that is the idea that the Senator has of the judiciary of this country, I can only say that I do not share it with him. I doubt if there is any officer of any court who would deliberately violate an oath and disregard his obligation for the purpose of procuring $10 per day.

Mr. JONES, of Florida. I said there were such characters in human history in the past, but I said that I did not believe there were any such now.

Mr. INGALLS. That there were none such now?

Mr. JONES, of Florida. Yes.

Mr. INGALLS. Then of course the Senator's argument falls to the ground.

Mr. JONES, of Florida. I made no argument on that point.

Mr. INGALLS. Then I understand the Senator to abandon his objection to that part of the bill.

Mr. JONES, of Florida. No. I said it was undignified.

Mr. INGALLS. He still adheres to the etiquette.

Mr. JONES, of Florida. Yes.

Mr. INGALLS. The Senator from Florida also proceeds to say that the second section of the bill is obnoxious because there is no difficulty now in attending to all business that properly comes before the circuit court. Mr. President, the Senator is not familiar with the condition of the machinery for the administration of justice in the newer portions of the Republic. I have lived for many years in the eighth circuit. It comprises the States of Minnesota, Iowa, Missouri, Nebraska, Kansas, Colorado, and Arkansas, with a population of nearly eight million. It is an empire nearly half as large as continental Europe; and to that circuit is assigned a single judge whose duties compel him to travel from Saint Paul to Little Rock, attending to several terms of court a year in those seven great States, two of which have more than one judicial district. It is simply a matter of manual impossibility for one judge to perform the duties imposed upon him in that circuit under existing laws, I care not how you may curtail the jurisdiction; and the purpose of this bill is to make such an addition to the legal machinery that was originally adapted for a community of less than twenty millions as will adapt it to a Commonwealth of more than fifty million, in which those subjects that are naturally the topic of litigation in Federal courts have expanded into colossal and almost indescribable proportions.

Mr. BUTLER. May I ask the Senator a question?

Mr. INGALLS. Certainly.

Mr. BUTLER. Can the Senator inform us how many district judges there are in that circuit?

Mr. INGALLS. There is one in Minnesota; there is one in Iowa; there are two in Missouri; there is one in Nebraska; there is one in Colorado; there is one in Kansas; and there are two in Arkansas.

Mr. BUTLER. Making nine.

Mr. INGALLS. I have not added the figures.

Mr. BUTLER. Has not every one of those district judges circuit-court powers?

Mr. INGALLS. They have unquestionably, and the district judges with whose practice I am familiar sit contemporaneously while circuit courts are being held, in other rooms in the same building, for the purpose of hearing cases that the circuit court has jurisdiction over, but with that power exercised, as it is by vigorous and competent judges, the dockets are still overburdened with business to that extent that it is not within the physical power of any circuit judge to perform the duties imposed upon him, and that must be performed by him without some additional assistance. I submit therefore, Mr. President, as one resident of a circuit that has expanded in the last few years almost immeasurably in its great property, commercial, industrial, and productive interests, we require imperatively the additional force that is given by this bill irrespective of questions of jurisdiction, about which I admit there is much that needs to be done.

Mr. BUTLER. Does not the Senator admit that if the jurisdiction were curtailed these nine district judges and one circuit judge might discharge the duties in that circuit?

Mr. INGALLS. The Senator from South Carolina asks a pertinent question and is entitled to a fair answer. That is a logical and legitimate consideration to press in connection with this bill, but I state as my deliberate judgment, after a protracted examination of this subject and from long familiarity as a practicing lawyer for fifteen years in that circuit, that, with what is now imposed upon those courts, curtail the jurisdiction of the Federal courts as you may, there is in the vast circuits in the West and the Northwest and the Southwest an imperative and indispensable necessity for additional machinery for the administration of justice that would then remain under the jurisdiction thus curtailed.

Mr. BUTLER. Then I will ask the Senator if he does not think that the first consideration should be the question of curtailing the jurisdiction of these courts? And if it should turn out that we could curtail the jurisdiction and regulate it in such a way as to relieve the courts, might it not possibly be that there would not be a necessity for the additional judicial force provided in this bill?

Mr. INGALLS. With my convictions on the subject, derived from such information as I have already communicated in my previous answer to the Senator, I should most unquestionably answer in the negative.

Mr. BUTLER. Then, let me ask the Senator, why have the friends of this bill so uniformly and persistently refused every effort to regulate the jurisdiction of these courts?

Mr. INGALLS. Because I believe, and those who favor the passage of this bill believe, that it is necessary first to establish the system provided by this bill for the transaction of the business that would exist irrespective of the curtailment of the jurisdiction.

Mr. BUTLER. Why, Mr. President, the Senator builds the superstructure before he puts in the foundation. I have never known a law passed organizing a court before you regulated the jurisdiction.

Mr. INGALLS. The jurisdiction is now regulated. The jurisdiction of the circuit and district courts is well defined. The Senator inquires not whether jurisdiction should be regulated, but whether more or less should be allowed, and upon that point I can speak without feeling, because I live in what has long been known as a debtor community; I live in a community that is penetrated by railroads, by corporations having their residence elsewhere than in that locality. These communities have suffered immeasurably by the exertion of what I believe to be unjustifiable encroachments on local jurisdiction by the Federal authorities. I have no hesitation in saying—and I say it to the fullest extent that has been urged by those who have insisted that jurisdiction should be curtailed—that I concur fully with what has been said. We have suffered immeasurable injury by the formidable encroachments of Federal jurisdiction upon local tribunals. It is contrary to the temper and spirit of American institutions that favor local self-government and home rule and the administration of law by certain fixed, well ascertained and defined local tribunals.

But I am not now dealing with that question. The reason why I objected and why other friends of this bill objected to the consideration of the amendment offered by the Senator from Louisiana was not that the subject was not important, not that it did not deserve attention, but that it had not received attention from the proper committee of this body, so that we could vote intelligently on the subject and see whether the provisions of that amendment were such as would accomplish the result desired to be attained.

Mr. BUTLER. May I inquire of the Senator whether he does not regard the amendment of the Senator from Louisiana as entirely germane to the bill?

Mr. INGALLS. I have no hesitation in saying that it is germane under the practices of the Senate. Anything is germane here. It would be entirely competent to attach a provision for sending another expedition to the North Pole to this bill. It is just exactly as germane as anything else that could be attached to it, but it is not germane in the sense of being the matured expression of a committee of this body upon a subject confessedly of prime importance.

Mr. BUTLER. I understand that the Committee on the Judiciary have had this question under consideration; and I ask the Senator, if he can say so without impropriety, whether the committee are in a position to report on the matter, and if so, when will they report?

Mr. INGALLS. I can say only for one member of that committee without impropriety that the subject has long been under discussion and deliberation, and that so far as I am concerned I am ready to report a bill at the earliest possible moment consistent with the necessary examination of the statutes on the subject of jurisdiction as now defined by the laws, so that it may be pertinent and sensible, and one that can be passed by this body without committing some offense against what would be regarded as a legal examination of the topic.

Mr. BUTLER. Then may I ask the Senator if he does not, as a lawyer, consider that the determination of that question should naturally precede the organization of new courts?

Mr. INGALLS. I have already said twice, and I say again, that I do not; because, as I have repeated, irrespective of the question of curtailment of jurisdiction the enormous enhancement of population and business, the enormous expanse of the circuits, the enormous amount of physical endurance that is imposed upon the judges there in the mere transportation from place to place, is such that one judge cannot perform the duties.

Mr. BUTLER. The Senator gives the experience only of one circuit. Has he any information as to the other eight circuits?

Mr. INGALLS. I have information about several of the other eight circuits, and similar circumstances there exist. It is impossible that the legal machinery which was adapted for the transaction of the litigation of twenty millions of people can suffice for fifty millions. It is a statement that needs no argument to carry conviction with it.

Now, Mr. President, as I have said, I have no particular pride of opinion about this bill or its provisions. I am much more solicitous that something should be done than anxious to wrangle about details of how it shall be done. I speak from the stand-point of a citizen living in a circuit and representing the people of that circuit, whose demands imperatively require the machinery provided in this bill; and I suggest to Senators who are opposing it, who believe it could be better perfected by maturer deliberation, whether or not it is not wise, when it is admitted and confessed that the necessity exists, to allow us to adopt some general scheme which, if it shall be found to work injudiciously or improperly hereafter, will be subject of course to constant revision.

Mr. MORGAN. The Senator from Kansas complains of the Senator from Florida that he does not understand this bill.

Mr. INGALLS. Oh no, Mr. President, I did not complain of the Senator from Florida.

Mr. JONES, of Florida. Oh yes, he said we were all ignorant of it over here, and the whole light belonged to the Judiciary Committee; I suppose that was it.

Mr. INGALLS. The Senator from Florida frankly confessed——

Mr. JONES, of Florida. No, I did not.

Mr. INGALLS. He confessed, with a candor that is a conspicuous decoration of his nature, that he was not as familiar with this bill as he wanted to be, and that he was really asking for information.

Mr. JONES, of Florida. Will the Senator from Alabama allow me?

The PRESIDING OFFICER. Does the Senator from Alabama yield?

Mr. JONES, of Florida. I said——

The PRESIDING OFFICER. The Chair must understand who occupies the floor. Does the Senator from Alabama yield, and if so, to whom?

Mr. MORGAN. I yield to the Senator from Florida.

Mr. JONES, of Florida. I said, in that candid spirit for which the Senator from Kansas has given me so much credit, that I needed a little legal light, and as the author of this bill was not present in the Senate and the Senator seemed to take his place and he being a member of the Judiciary Committee, I did not know where I could better obtain instruction than from him. I asked him in that same candid spirit to tell me in what case or cases it was that a writ of error, according to the course of the common law, lay from a judgment of the district court to the circuit court of the United States. I said that I had been a little while away from the active duties of the profession and had forgotten about the practice of the Federal courts in that respect; but inasmuch as I saw the term "writ of error" mentioned in this section which I moved to strike out, and I was not able to recall to my mind the particular cases in which that writ lies from the circuit to the district court of the United States, I asked the distinguished member of the Judiciary Committee to inform me as to that point. Surely there was nothing improper in that. I did not get an answer. That was all the ignorance there was about it. I was aware that appeals lay from a decree in admiralty to the circuit court, but I could not recall to mind the cases in which a writ of error lay at common law.

Mr. MORGAN. I understand the Senator from Florida to say he did not get light from the Senator from Kansas.

Mr. JONES, of Florida. I did not.

Mr. MORGAN. That was because the Senator from Kansas did not have the light, and because he has not paid as much attention to some of the details of the bill as some of us who have felt more interest in it. I do not understand it myself. I have no doubt that is my fault. I have given the best energies of my life since I was sixteen years old to studying law, and I cannot understand the bill. The Judiciary Committee seem not to understand it. They do not agree about it. Yesterday I called the attention of the Senate to some disagreement about the meaning of the tenth section. The committee do not seem to agree about it at all.

When the Senator from Florida asked the Senator from Kansas for an explanation or a statement of the cases in which an appeal or writ of error would lie from the district to the circuit court he did not vouchsafe an answer. The Judiciary Committee ought to be more liberal with us than this. When we call for light we of course expect to receive it; and it is rather a dark time when the Judiciary Committee, having their light, do not give us the benefit of it.

The Senator from Florida moves to strike out the second section of this bill. I hope he will amend that motion by proposing something as a substitute for it. The second section of this bill deprives the circuit courts of the United States of the jurisdiction of appeals or writs of error from the district court, "except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction, may be had as heretofore provided." It takes away an existing jurisdiction in the circuit courts of the United States to try upon writ of error or appeal all cases from the district courts of the United States unless the amount involved shall be in excess of $500. That is the effect of this section.

The statute as it exists, the statute that is repealed by this second section of this proposed bill is as follows:

SEC. 631. From all final decrees of a district court in causes of equity or of admiralty and maritime jurisdiction, except prize causes, where the matter in dispute exceeds the sum or value of $50, exclusive of costs, an appeal shall be allowed to the circuit court next to be held in such district, and such circuit court is required to receive, hear, and determine such appeal.

SEC. 633. Final judgments of a district court in civil actions, where the matter in dispute exceeds the sum or value of $50, exclusive of costs, may be re-examined and reversed or affirmed in a circuit court, holden in the same district, upon a writ of error.

There is the appellate jurisdiction given in all equity causes and in all cases of admiralty and maritime jurisdiction, except prize causes, and in all civil actions at common law brought in a district court of the United States, where the sum in controversy, exclusive of interests and costs, exceeds $50. The present bill limits the right of appeal or the right to a writ of error in all civil causes where the sum in controversy determines the right to $500. That is to say, the people who may sue or be sued in the district courts of the United States, in equity or at law, have a right of appeal or a writ of error to the circuit court of the United States, upon a judgment or decree, for any sum exceeding $50. The bill takes that right away. That may be a small matter in the contemplation of the Judiciary Committee, for not only in that feature but in every feature of this bill it is devised, if not intended, only for the protection and benefit of the rich.

You cannot under this bill take an appeal from the judgment of the court of appeals to the Supreme Court of the United States, a court guaranteed in the Constitution to the people, unless the sum in controversy in many of the cases exceeds $10,000, exclusive of interest and costs. The right of appeal by this bill is entirely abrogated in all sums under $500. I call the attention of gentlemen in this Senate who propose to administer justice equally between all classes of people to the fact that this bill takes away the right of every man to an appeal or writ of error to any court where the sum in controversy is less than $500, and gives to every man a right of appeal to the Supreme Court in any cause whatsoever, that may get into this appellate court, where the sum in controversy is in excess of $10,000.

Mr. President, while we are legislating here, let it be understood that this body is not entirely independent of the people. Sir, I would rather raise my voice in this honorable body in behalf of the poorest man in the United States who had lost his rights by the false judgment of any of the Federal tribunals up to the sum of $500 than to be found here pandering to the rich and the powerful in this land and giving them the right of appeal to the court of ultimate resort merely because the sum of $10,000 or upward was involved in the suit.

I do not expect to get the attention of the Senate upon this question. They have long since made up their minds that no appeal made in favor of the rights of the people in this country shall be tolerated when that appeal in any degree interferes with the powerful corporations or the wealthier classes. Mr. Vanderbilt can come here with a sum of $10,000 and upward and litigate his cause in a court of the United States, and take an appeal if he should lose it; it would not be to him more than to lose the silver trappings on the harness of the horses that draw his carriage to lose or gain a suit for $10,000, whereas a man who has not got $10,000 worth of property, whose whole fortune may be involved in a controversy about $5,000, is denied, under this bill, the right of appeal to the Supreme Court of the United States against any injustice that he may suffer.

Sir, what was that Supreme Court made for? Whom was it made for? The men who ordained the Constitution, on an average, were not themselves worth $10,000 each. You bring in a bill for the relief of the Supreme Court of the United States, that you may take off their shoulders the burden of the labor imposed on them by law, and to do justice alike to the poor and the rich, and you deny to a man in the same bill the right of appeal to any court whatever if the sum in controversy is not over $500, and tell him to accept the judgment, it may be of a corrupt district judge, without appeal.

Our fathers, when they gave the jurisdiction of appeals to the circuit courts of the United States, said that every man against whom a judgment might be rendered at law or in equity where the sum in controversy exceeded $50 should have the right to an appeal to the circuit court. That right has stood upon our statute-book since the ordination of the judicial system. It has protected many a man in his rights. It has prevented the hard hand of tyranny from coming down upon men who happened to be poor.

Now, this bill proposes to wipe out that right absolutely, to give nothing in the place of it. It can never be done until this country understands what you are doing. This bill can never pass until the people of this land understand that the Senate of the United States deprives them of the right of appeal to the higher courts in cases involving controversies not exceeding $500, and at the same time gives to the man who happens to control large amounts of money and property, and to the vast corporations of this land, the right to appeal to the Supreme Court of the United States merely in consideration of the amount of wealth they have involved in their controversies.

Senators may think they are proceeding over a smooth road in this matter, but they will find when they come to account with the people on this question that they have got a hard road to travel, that there is many a dangerous obstruction in it, and that these rights you are trying to break down in the hands of the people of this country will assert themselves at the ballot-box and elsewhere. They will not permit you to deal with them as men who are to be denied justice on account of their poverty, while you are dealing with the rich, and powerful, and great as men who are entitled to all the benefits and all the delays of the law, merely because they happen to have controversies in which $10,000 and upward are involved.

Now, sir, I am speaking upon the statutes of the United States. I charge the friends of this bill to-day with the deliberate intention and purpose, expressed on the face of the bill itself, of depriving every man in the United States who may be sued in a district court and against whom a judgment may be obtained there, whether at law or in equity, of the right of appeal to any superior tribunal as it now exists by the law, and has existed for almost a century, unless the sum in controversy shall amount to $500, exclusive of interest and costs.

Mr. HOAR. May I ask the Senator from Alabama a question?

Mr. MORGAN. I am very glad to be able to provoke even a question from the other side of the Chamber.

Mr. HOAR. I want to know if you can bring suit under the present law unless the matter involves $500?

Mr. MORGAN. Not in a circuit court. You can in a district court.

Mr. HOAR. Is the Senator speaking of the district court?

Mr. MORGAN. I am talking about that court that stands nearest to the people. I am talking about that Federal court in which small sums are drawn into controversy. I am not talking about this magnificent court intended for the millionaires and capitalists and corporations. I am talking about the people's court, the district court of the United States, designed and intended for them, because it gave jurisdiction in any amount in any sort of suit within Federal jurisdiction where the sum involved exceeded $50. And they have not only the right to trial in that court for sums exceeding $50, but they will also have the right until this bill shall take it away, of appeal or writ of error from the judgment of the district court to the circuit court of the United States in all cases where the sum in controversy exceeds $50, exclusive of interest and costs. We are erecting grand

tribunals for the rich and the powerful. We want to appoint eighteen judges here at a salary of $6,000 each per annum; we want to appoint eighteen clerks; we want to have eighteen marshals; we want to erect additional court-houses in towns where they have not got them, and allow ten dollars a day for expenses, to include wine and cigars for each judge of the court of appeals, to try causes where the amount in controversy shall exceed $500.

You close the door of justice upon the men who need justice to protect them against the power of money and the aggressions of tyranny, and open the door to the men who have got the money to corrupt judges and courts, if they can be corrupted. You deny justice according to the Constitution to the people who have enjoyed these rights for nearly a century; and tax the people to pay the expense of all this enormous addition to the expenses of the courts of the country.

You tax the laboring people of this land to pay these heavy stipends to the judges and the daily expenses of these courts for the rich and the great; and while you do that you turn around and say they shall not have an appeal even from a judge of the district court unless the amount in controversy exceeds $500. To get that privilege you will not allow them to go to the capitals of their own State to have their cases heard. Their counsel must travel across great circuits to reach the court of appeals. Here is Colorado on the west and Missouri on the east of a circuit, and Arkansas on the south and Minnesota on the north. Saint Louis is on the eastern border of this great circuit, and that is made the place to which the people of that circuit must go to have their causes heard. A man's lawyer must go there or else he must employ a new one. He must employ perhaps a high-priced lawyer—the lawyer resides in the city of Saint Louis; he must therefore be a high-priced man, whether he is a good lawyer or not—to try his cause coming from Colorado, although the sum involved in it may be only $500.05; and if he cannot afford to do that he must abandon his rights. Why not give us a court of appeals in each of the States at the capital thereof?

Let some member of the honorable Judiciary Committee answer that. The answer is obliged to be that it would be too inconvenient for the judges. There can be no other answer made to the question. We lose sight of all the rights of the people. We legislate as if we were legislating for provinces, for satrapies, and not for the people of this country, who furnish all the power that gives it life and all the money that supports it.

This bill spurns the people. It takes from them rights which have been consecrated by the wisdom of our fathers, and prostrates them to the power of money and capital, for that power is all the Senate is undertaking to provide for in this bill. I regret that I am compelled to speak of this bill in these terms; but, sir, the measure demands it. We have endeavored to put amendment after amendment on the bill, in the hope that we could get it in such shape that we can support it, because we acknowledge the necessity of some relief; but it is a duty required at our hands that before the court shall have relief we shall see that the people shall not be deprived of important rights that they have enjoyed for nearly a century.

The demand is made here that the judiciary of the United States shall not only stand above the States and absorb the jurisdiction of their courts, as the honorable Senator from Kansas candidly admitted they were doing, to "the immeasurable wrong," as he said, 'of the people of the different States," but while we are doing that we must deny access to the courts—for that is the meaning of it all—for the prosecution of an appeal to which every man is as equally entitled as he is entitled to the air he breathes.

There is not in our system of jurisprudence in any State, Territory, or district of the United States a principle which cuts a man off from his right of appeal from the decision of the judge or the tribunal which acts upon the case in the first instance, unless it may be in cases in reference to which it is said *de minimis non curat lex*. A sum is fixed in the statutes of every State in the Union, in every statute of the United States, commencing back in 1789, which shall be the lowest amount to which an appeal or writ of error shall apply. It was fixed in the statute from the district to the circuit at $50.

To deny a man the right to an appeal, by placing the value of the appeal or the amount in controversy so high that the interest he has got in the lawsuit does not reach to that sum, is to deny him a plain constitutional right. I will never make myself a party to it in the creation of an intermediate court of appeal or to get anything else done in this country, because the rights that belong to all people, without respect to persons, under the Constitution, are those to which I owe my first allegiance and fidelity. After they are provided for I will then look after the interests of those who are rich and great, and who may therefore have some peculiar and powerful claims upon our consideration.

Mr. JONES, of Florida. I will ask the Senator, if he will permit me, in the line of his argument, if it is not of as much consequence to the citizens of the respective States that they should have the right to reach the Supreme Court of the United States as that the citizen of any State should have the right to prosecute his action in the circuit courts of the United States against the citizen of another State? And if relief were sought by restricting that jurisdiction at the other end, would it not be as effectual as in the manner proposed?

Mr. MORGAN. It is of much greater consequence, for the reason that the judges in the State courts reside among the people and know them; the people understand them also; but in the Federal courts the judges come from abroad. We have now one circuit judge in the fifth circuit, in which I reside, a very excellent gentleman, an able lawyer, the circuit reaching from the Rio Grande to the Atlantic, and including Florida. Where that gentleman was born I do not know. Perhaps not one-thousandth part of the citizens of that circuit ever saw him or ever will see him. To many parts of the circuit he is an utter stranger. So with many of the district judges. The people know very little about them.

It is said in the Scriptures that "when the stranger sitteth in the seat of judgment the people mourn." That has been too much the case with us. Our lamentations have gone up to Heaven, but they have never been able to reach the ears of the Senate and House of Representatives, or the Republican party in this country.

There is every reason why we should have the right of appeal in Federal tribunals, because if one stranger having no sympathy with us gives judgment against us wrongfully, we at least ought to have an opportunity of trying another to see if he will not reverse the judgment and do justice. There is far greater reason why the right of appeal should apply to the Federal tribunals than to any other tribunals in the United States. The people cannot protect themselves otherwise than by having at least two chances of getting a man who will give a right judgment in matters of this kind.

Since 1879 we have had the right to a writ of error in certain criminal causes from the circuit courts to the district courts.

Mr. JONES, of Florida. I wish to ask the Senator another question. Is there not a security for justice arising from the very preeminence of the Supreme Court of the United States, whose opinions and judgments are canvassed by the entire country, beyond any security that can possibly be derived from a court that is circumscribed by the limits of a judicial circuit?

Mr. MORGAN. That is true. That was the intention, but the Congress of the United States has never provided for the exercise by the Supreme Court of the appellate jurisdiction it was intended to exert, for they have always allowed the Supreme Court to decide all questions of property and money and debt that came within the purview of its jurisdiction as arranged by Congress, but never have allowed that court to try any case on writ of error to a Federal court which involved a man's life or liberty.

It was not until March 3, 1879, that there was any statute in the United States which authorized a defendant in a criminal case to an appeal from any judge who tried and condemned him. There is a statute which authorizes the transfer of capital cases from the district to the circuit court, but when a man is condemned in the circuit court he must undergo the condemnation without the right of appeal. In 1879, however, it was enacted that:

> The circuit court for each judicial district shall have jurisdiction of writs of error in all criminal cases tried before the district court where the sentence is imprisonment or fine and imprisonment, or where, if a fine only, the fine shall exceed the sum of $300; and in such case a respondent, feeling himself aggrieved by a decision of a district court, may except to the opinion of the court, and tender his bill of exceptions, which shall be settled and allowed according to the truth, and signed by the judge, and it shall be a part of the record of the case.
>
> SEC. 2. Within one year next after the end of the term at which such sentence shall be pronounced, and not after, the respondent may petition for a writ of error from the judgment of the district court in the cases named in the preceding section, which petition shall be presented to the circuit judge or circuit justice in term or vacation, who, on consideration of the importance and difficulty of the questions presented in the record, may allow such writ of error, and may order that such writ shall operate as a stay of proceedings under the sentence; but the allowance of such writ shall not so operate without such order.

This gives no right to review any judgment in a capital case.

It is attempted to carry into this bill this same proposition, that a man shall not be entitled to a writ of error upon conviction in a criminal cause unless the judge of the superior court upon an examination of the record will allow him to have such writ. I make the broad denial that this is justice in the sense of the Constitution.

A man has a controversy about a piece of property, a bill of exchange or what not, the value of which exceeds $500, exclusive of interest and costs. He is cast in the suit. He has the positive right under the bill of the Judiciary Committee, without asking any judge for permission, to take his case to the court of appeals. A man, however, is indicted in a district court of the United States or in a circuit court of the United States, or he is even informed against without indictment. He is convicted. He is probably convicted upon a faulty indictment or under an unconstitutional law. He is fined $500 and imprisoned as long as the law will permit in a jail or penitentiary.

Torn from his family, a convicted felon, he is put in chains and carried to Albany, New York, or some distant place, there to freeze in the hard winter and to undergo all manner of humiliation. He makes his application to the judge who tried him, for this bill gives the power to even that judge to deny him a writ, and after he has done so he cannot apply to another. He makes his application for a writ of error, and the judge says: "No, I shall not grant it; you must go to the penitentiary;" and that is the end of the law to him. In the case of a judgment in a civil action against him for $500 he is given the absolute right to a writ of error or appeal to the court of appeals; but in the case of a conviction for crime, and a fine of

$500 and imprisonment added, if you please, we deny him in this bill the right unless the judge shall grant it to him.

I claim that there is not in the Constitution a power anywhere to be found, by inference or otherwise, which authorizes us to say to a judge, "You may refuse to a man a writ of error where his life or his liberty and his character are at stake, but you cannot refuse it to him when his money is at stake and the sum amounts to more than $500."

It is a shameful blot upon the jurisdiction of this country that we discriminate between rights which speak in dollars and cents and those which speak in the name of humanity and humanity's God. That which is more precious to man than all other things together, his character, the liberty of his person, the honor of his family, you place entirely within the power and discretion of a judge of an appellate court; the judge may refuse him a hearing or refuse to allow any other judge to hear him, no matter how plain his case may be in the judgment of his counsel or of himself, and while doing that you price his property involved in litigation, and say if it amounts to more than $500 he shall be entitled to an appeal as a matter of right.

I will never vote for a bill which contains discriminations like that. I will never undervalue that most priceless part of a human being, his honor, his character, his liberty, and his life, so far as to put him beneath the power of any man to refuse him an appeal to a higher tribunal for the rectification of a wrong done against him, and at the same time put it in the power of a man to appeal if the amount of money in controversy exceeds $500.

Sir, there never was a generation of men born in this world who have bowed and stooped to the power of mammon like the men of this day and generation. All sense of justice to mankind, all respect for liberty, all regard for that exalted character for which men have worked throughout life, is being lost, it seems to me, to the minds and hearts of this money-loving generation of men. Put a question of money to them and they can understand it to a fraction; put a question of liberty, of character and life before them and they will higgle and hesitate before they will grant the remedies which the Constitution provides for the protection of life, liberty, and character, and then they do it sneeringly and with a toss of their heads.

Senators may say that it will not do to allow the dockets to be crowded with criminal cases, unless the judges of the appellate courts shall consent. If that be so, why not say that the dockets of the appellate courts shall not be crowded with civil cases unless the judges will consent? There you draw the line of demarkation, and I do not intend that that line shall be lost sight of. It is in this bill from bottom to top; it permeates the whole structure of the bill, and gives to it a character which I can never approve by a vote that I shall cast in the Senate.

We have a great complaint made here about the choking of the Supreme Court docket, the circuit court dockets, and the district court dockets throughout the United States. I grant you that the Supreme Court docket is almost irremediably clogged. I have but one complaint to make on the subject of that docket, which is that the judges of that court will persist in going out upon the circuit to try such causes as they may select upon the different dockets of the circuit courts of the United States, when if they were to remain here and devote the same length of time to the consideration of the appeal docket they would clear it in two years' time.

Mr. ALLISON. The law requires them to go upon the circuit.

Mr. MORGAN. Then let us repeal that law. When does the law require them to go upon the circuit?

Mr. ALLISON. At least once in two years.

Mr. MORGAN. At least once in two years. For how long? As long as they please. At what time do they go? Whenever they please. At what time do they return? Whenever they please. We leave it virtually in the discretion of the judges of the Supreme Court to go upon the circuit and try causes, because we do not fix a time that they shall sit in those courts, but merely say they must do so at least once in two years. I restate the proposition and reaffirm it, that if the judges of the Supreme Court of the United States should spend the same amount of time in Washington in trying causes upon this docket that they spend in vacation, or spend in the circuits, they would clear the docket, cumbrous as it is, in two years. If the circuit and district judges of the United States would bestow upon the different courts that they preside in as much time as the judges of the different State courts bestow upon their dockets, they would clear their dockets in two years also. But, sir, they do not do it. They have unlimited power to hold special terms, but there are not many of the circuit and district judges of the United States who spend more than four months out of twelve in actual labor in the court-house.

Mr. JONES, of Florida. I will state to the Senator that in the argument yesterday it was admitted that while they were made part of this new court of appeals, it was not expected that they would be able to perform any duty. I should like to know why they should be included in it at all in that view.

Mr. MORGAN. That is the very reason of it; because they are not expected to perform any duty. That is in the line of safe precedent. There are very few judges in the United States to-day who have not established the precedent thoroughly that they are not going to perform any more duties than their own tastes incline them to perform. Nobody can control them about matters of that kind, and they take their own way with it.

I want to show exactly the state of the case about these courts. In the last report of the Attorney-General of the United States it is stated:

> During the last fiscal year 2,482 civil suits were terminated; in 1,055 of these judgments were for the United States, in 222 for the defendants, and 1,205 were either dismissed or discontinued; 13 were appealed from the district to the circuit court, and 15 from the circuit to the Supreme Court.

Look at that proportion! Two thousand four hundred and eighty-two civil suits were terminated, and the appeals that were taken in those cases were thirteen from the district to the circuit court and fifteen from the circuit court to the Supreme Court.

> Many of the civil suits reported dismissed or discontinued were settled by authority of the Treasury Department and discontinued under its direction. There were pending July 1, 1881, 2,929 civil suits to which the United States was a party.

Think of that! We have one hundred and twenty-one judges of the United States courts, including the Supreme Court and the court of appeals and those in the Territories, and this report includes all who are in the Territories. We have sixty districts, including that of the District of Columbia, and adding on six in the Territories we have sixty-six districts. In all these courts there were pending July 1, 1881, 2,929 civil suits to which the United States was a party. It does not look like an immense job to dispose of that part of the business.

> There were pending July 1, 1881, 6,211 criminal prosecutions, namely, 308 for violations of customs laws, 3,104 for violations of internal-revenue laws, 276 for violations of post-office laws, 355 for prosecutions under the election laws, 158 for violations of the civil rights acts, 63 under naturalization laws, 33 under intercourse laws, 88 under pension laws, 77 for embezzlement, and 1,749 miscellaneous prosecutions.

The total is 6,211 criminal prosecutions that were pending in July, 1881.

Now we come to the cases to which the United States was not a party:

> Exhibit D is a statement of the civil suits to which the United States was not a party commenced and terminated in the circuit and district courts of the United States during the last fiscal year, and of such suits pending July 1, 1881.
>
> Nine thousand seven hundred and seven such suits were commenced during the year, of which 2,584 were cases in admiralty, and 7,143 were other miscellaneous suits.
>
> Seven thousand six hundred and three suits of this kind were terminated last year, of which 1,618 were cases in admiralty, and 5,985 were other miscellaneous suits.
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> * * * * * * *
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> Twenty-four thousand three hundred and seventy-one civil suits to which the United States was not a party were pending in the circuit and district courts of the United States July 1, 1881, namely, 2,926 in admiralty, and 21,445 other miscellaneous suits.

I can take two States even in the South, sparsely populated as that is, and by the record of cases that are decided by the judges of the criminal courts, the equity courts, the common law courts, and the supreme courts of those States, I can show you more cases in those two States pending on the 1st day of last July than are shown by this report of the Attorney-General to be pending in all the sixty-one districts of the United States. I can show you more cases decided and determined in these two States than have been determined by all the Federal judges.

Take the two States of Mississippi and Alabama. Mississippi has about the same judicial arrangement with Alabama, having, I think, about the same number of judges. We have sixty-two probate judges who hear all the cases in ordinary, and there is not a case of that sort or a case of divorce triable in the circuit courts of the United States. Then we have sixty-two circuit courts, presided over by eight judges, and we have three city courts with criminal jurisdiction in the cities of Mobile, Selma, and Montgomery, each with a single judge. We then have three chancellors and three judges on the supreme court. That is our judicial outfit; and we try about as many cases in the State of Alabama annually with eight circuit judges, three chancellors, three supreme court judges, three criminal court judges, and sixty-two probate judges as are tried, or will be tried, by the one hundred and twenty-one judges of the courts of the United States.

Some of these judges are allowing their dockets to be clogged because they will not work. The judicial tribunals of any two States having 1,500,000 each in a given year will decide more cases and perform more labor than all the judges of the Federal courts of the United States. What is the reason for this? They are chosen by the people; they are responsible to the people. They have got somebody to look after them while they are holding office. They cannot go about over the world at will and pleasure, holding as many courts as they please and as few, and sitting as short a time as suits their convenience, without responsibility to somebody.

Here we are to have one hundred and twenty-one judges in the United States, practically without anybody to control them, no more responsible to the people of the United States than I am to the Queen of Great Britain for my conduct in the Senate. The result is that they are coming to us continually with bills to increase their salaries, and relieve them from labor. And now we are asked to appoint eighteen judges, with a salary of $6,000 each, and to furnish the paraphernalia of a great judicial system entirely new, all for the

reason that they are not held responsible for their conduct to the people upon whom they are to be fastened, and to whom they acknowledge no responsibility. Then when they arrive at a certain age they are retired from the bench upon civil pensions for life. They hold their offices for life, and when they get to the age of seventy, although they may be in the possession of all their powers and faculties, they are retired from the bench gracefully and repose upon full salaries to the end of their lives.

Sir, it is time that we had commenced to understand that if the judges of this country do not owe responsibility to the people the Senate owes them some. There is no day that will ever dawn upon my mind which will be so bright and so full of happiness in respect to the affairs of this country as that day on which the people will assert themselves against Senators here and against members of the House, and require them to take some interest in their affairs, and some care of their money, their rights, and their liberties.

Sir, I denounce this bill again, and I do it upon the facts appearing upon its face. I denounce it before the people as a bill gotten up in the interests of the rich, in the interests of the great corporations and capitalists of the country, against the men whose rights are stricken down by it. Whatever the intention may have been it is not for me to say; I judge it by what it provides. When I find that the second section takes away the right of appeal which now exists up to the sum of $500, and when no case decided in an appellate court goes to the Supreme Court unless the controversy involves more than $10,000, I cannot mistake its meaning. Senators may varnish it over as much as they will; they may plead the necessity for a court of appeals as loudly as they please, but while they are providing this arrangement for the convenience of judges let them at least allow the rights now secured to the people by statute to remain undisturbed by this bill.

It is that which has led me to speak against this bill. I am willing to go to any reasonable extent that any Senator here will go to provide for the convenient and speedy dispatch of the public business of the United States.

While we are required to pay our portion of the burden of this great expense, I do not want to see the rights that now exist in behalf of the people of Alabama under the statutes of the United States abridged. Neither do I wish to be compelled to see an Alabamian go to Judge Bruce after he has unjustly convicted him, as he has unjustly convicted some men, and upon his bended knee present his petition and ask him for the privilege of an appeal to the court of appeals to review that decision. I do not want that humiliation and shame to be brought upon a proud-spirited Alabamian.

I have shown to the Senate that he has no respect for the rights of men or officers in that State. I have shown to the Senate that he took the judge of probate of Chambers County, as venerable a man as any that I know, and, contrary to law, locked him in the common jail of Montgomery County, and prevented him from discharging most important judicial functions as an officer of that State for the period of time from the middle of November to the last of January, and that, too, without any more authority than the President of the Senate would have now to order me into custody and to be locked in a dungeon.

Sir, we seem to pass over events of that sort without its producing a ripple upon the surface of our complacency. The Senate of the United States would disdain to be agitated about a matter of that kind. When a Senator objects to such a man as that being allowed to go upon the court of appeals, and to his having the power there to extend his persecutions over the people, a solid majority on the other side of the Chamber stands by the bill, and, so far as I can understand, for no better reason than because it gives the power of appointing eighteen additional judges to the President. They do not answer arguments, they do not pretend to respond to any objection that is made to the bill, they vote often and early and late, always for the bill and against every amendment, notwithstanding we point out serious objections to it. Senators who were upon the committee do not construe the bill alike, and notwithstanding we show that it prostrates liberties and rights that now exist in behalf of the people, both under the criminal and civil laws of the United States, the Senators on the other side stand solidly by the bill and refuse all amendments.

This only convinces me that the power of party fealty and allegiance in this country is stronger than any other power in it. We attempt to prevent the recurrence of acts like that by which Judge Bruce imprisoned Judge Rowland, and that is refused. This judge must in due course of rotation go upon the court of appeals, although he took this old man and locked him in that prison and prevented any one from discharging the duties that belonged to his office in Chambers County from the middle of November until the last of January; for it turns out that under the constitution and laws of Alabama no provision has been made for a substitute for a probate judge. The estates of dead men, the affairs of orphan children, and the thousand administrative duties that belong to a judge of probate, with which he is loaded under the status of our State, matters of the most important consequence, not to the people of a county alone, but to the entire State, are all neglected while the judge was in jail. The court was broken up and a man who had within the range of his jurisdiction as much power as a judge of the district court of the United States was taken from his bench and sent to jail in consequence of a decision which he rendered upon his oath and upon his conscience as a judge, which decision the Supreme Court of the United States said was right.

Suppose Judge Rowland should bring his action against Judge Bruce, Judge Bruce would say: "I was acting as a district judge of the United States, and it was my judgment that I had a right to imprison him." The probate judge would say in reply to him: "I was acting as judge of the court of county commissioners, and it was my judgment that I did what I did rightly upon my oath as a judge; you imprisoned me by a false judgment because I made a right one, and therefore I think I have a right of action against you." The Supreme Court of the United States would say: "No, you have got no such right of action; you have got no remedy." There is no remedy in such a case but to prevent the recurrence of the wrong.

Mr. President, you must pardon me for speaking out plainly about matters of this kind. I know where the trouble is, and how States as well as people are made to suffer under the usurpations of authority and power by the Federal judges, and I must protest against it. I am totally opposed to any measure which increases that power and enables this class of men to go upon the bench. Other Senators may find it proper in their own estimation to vote for such a bill; I cannot. I hope that the Senator from Florida will modify his amendment, not by striking out the section merely, but by preserving to the people both in civil and criminal cases the right of appeal.

Mr. JONES, of Florida. I will state that I was at first in doubt as to what would be the effect of the amendment should it prevail. After reflection I have thought that it would leave the litigants intended to be benefited by the amendment without any remedy; so I have prepared a substitute to come in in place of the section, should it be stricken out, which secures the right of appeal in all cases over $50 and under $500, in admiralty, in accordance with the present existing law.

Mr. MORGAN. The Judiciary Committee reported this bill to the Senate, and it is assumed, not asserted, that they are a unit in favor of it. No report accompanies it. No Senator, except the Senator in charge of the bill, has much to say about it. One of the Senators, the honorable Senator from Arkansas who sits upon my left, [Mr. GARLAND,] I notice has voted to put some amendments upon it, and very properly so. It must not be understood, giving to the Judiciary Committee as much prestige as you will, that this is a bill which has the full approval of every member of that committee. I was asked by an honorable Senator yesterday belonging to the committee, who is not in his seat to-day, if I would not propose an amendment to the bill by striking out a part of it. The part which he wants stricken out is on page 9, section 10, and is in these words:

> But in the two last-mentioned cases the court of appeals shall state the specific question arising upon the construction of the Constitution, or the construction or the validity of such treaty or law, or the specific legal question that the adjudication involves, and such questions only shall be certified to and finally decided by the Supreme Court.

Unquestionably that clause ought to be stricken out. I refer to this now merely to show that it is not the judgment of the entire Judiciary Committee that the bill should pass just as it is. Where is the honorable Senator from Vermont, [Mr. EDMUNDS,] who is one of the acknowledged leaders in the Senate, and who for a long time has presided with distinguished ability over the Judiciary Committee? Does he raise his voice in support of this bill? Will any member of the Judiciary Committee undertake to say that that Senator favors any part of the bill? It may be, for reasons which I know nothing of, that the Senator does not conceive it to be his duty to participate in the efforts to break the bill down or to amend it, but I think no member of the Judiciary Committee will rise in his place and say that the honorable Senator from Vermont ever favored the passage of this bill.

I assume that the Judiciary Committee are not represented in this body as a unit in favor of the bill. If I am mistaken in that, let some one correct me. I have not felt that any peculiar duty was devolved upon me with reference to it, yet I have had far more participation in the resistance to the passage of this bill than I desired, and I felt to-day impelled to give some of the reasons why I thought I was forced to do it. I had hoped that I would have the aid of some of the members of the Judiciary Committee who are opposed to some features of the bill. The honorable Senator from Arkansas [Mr. GARLAND] has opposed some features of it in able arguments. The honorable Senator from Kansas, [Mr. INGALLS,] while not opposing any feature of the bill, has opposed amendments that we have offered to the bill that he himself admits are necessary and proper enactments, and that the country is suffering for the want of, he taking the ground that they were not germane to the bill; but I pointed out yesterday that the first and second sections of the bill had not anything to do with a court of appeals. The first and second sections relate only to a change of the existing jurisdiction of the Federal courts, and do not touch the question of a court of appeals. You could strike out the first and second sections of the bill and the court of appeals would be just as perfect as it will be with those sections left in.

In the further discussion of this question I will offer the amendment I spoke of a while ago, which a member of the committee asked me to offer, and then, perhaps, I may have something more to say about it.

Mr. ALLISON. Mr. President, I do not desire to occupy any time in the discussion of this bill, especially at this hour of the day, but there were two or three things which fell from the lips of the Senator from Alabama that I do not quite comprehend. In speaking of the conduct of the several circuit and district courts he tells us that there are 121 judges of those courts. Where does he find authority for that statement?

Mr. MORGAN. In the statutes.

Mr. ALLISON. There are but 54 district judges in the United States, 9 circuit judges, and 6 judges in the District of Columbia.

Mr. MORGAN. And the judges in the Territories.

Mr. ALLISON. When the Senator read from the report of the Attorney-General with reference to those courts, he read a statement of the courts that are under the control of those 54 judges and have no relation to the Territorial courts of the United States.

Mr. MORGAN. I said the Federal judges numbered 121, including of course the 18 that will be put upon the bench by this bill.

Mr. ALLISON. There are now 54 United States district court judges; there are 9 circuit court judges; and then there are the judges of the Supreme Court of the United States.

Mr. MORGAN. There are 54 district judges, 9 circuit judges, 6 judges of the courts of the District of Columbia, 9 Supreme Court judges, the 18 to be added by this bill, and 25 Territorial judges.

Mr. ALLISON. The Senator includes the 25 Territorial judges scattered over the ten Territories of the United States.

Mr. MORGAN. I do it because this bill gives the right of appeal from them to the proposed court of appeals. That is the reason why I include them.

Mr. ALLISON. Very well. Now, I undertake to say in response to the statement made by the Senator from Alabama, that if we except the fifth judicial circuit, which he says extends from the western boundary of our territory in Texas to the Atlantic, there is not a circuit in the United States to-day that is not overwhelmed with business. In another committee of this body there is pending a bill looking to the establishment of an entirely independent court for the purpose of deciding questions that arise under our customs laws, and why? Because in the circuits including New York and Boston, and other ports where there is a large amount of imported goods, the Federal courts are so crowded that it is almost impossible to secure a decision of cases involving the revenues of the United States.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. ALLISON. Certainly.

Mr. JONES, of Florida. Are the courts of the States in those circuits also crowded, and have they not concurrent jurisdiction in nearly every such case with the Federal tribunals?

Mr. ALLISON. I speak with reference to the States of which I have knowledge. In the State in which I live every State court is crowded. While it is true that they may have in many instances concurrent jurisdiction, yet under our existing statutes the Federal courts in my own State are so crowded that, so far from having the right of appeal, litigants are practically denied justice. A case is commenced there this year, and it is not heard in many instances for three years. Then, if the amount involved exceeds $5,000, the party litigant defeated has the poor privilege of appealing his case to the Supreme Court of the United States, where it lies three years longer before it can be reached and decided; so that there are six years from the beginning to the ending of a litigated case in my State, with all the advantages taken at every term of the court.

Mr. BUTLER. Does not a large part of this litigation arise from the cases of corporations, insurance companies, railroad companies, &c.?

Mr. ALLISON. Undoubtedly; the whole of this litigation arises under the statutes of the United States and under the Constitution of our country. The circuit courts in my State and in my circuit do not take up jurisdictional questions that the law does not authorize them to consider.

Mr. BUTLER. I understand that.

Mr. ALLISON. Therefore, as we stand to-day, there is a denial of justice instead of a postponement there, practically.

Mr. BUTLER. Then, if the jurisdiction were curtailed to some extent, (I do not mean to such an extent as to impair the efficiency of the Federal courts, but if it should be curtailed and regulated,) does the Senator not think that the business would be very largely decreased in those courts?

Mr. ALLISON. I have no doubt that the jurisdiction might be so curtailed as to relieve the Federal courts of a portion of their jurisdiction; but even when that is done the new and growing States of the Northwest and of the western portion of our country cannot get on unless there is an additional number of judges provided. Take the eighth judicial circuit, which extends from Minnesota to Arkansas, presided over by Judge McCrary, in which is the city of Saint Louis; it would require a circuit judge to sit during every day in the year to transact the business that arises in that great city and in the State of Missouri.

Mr. BUTLER. Then, does not the Senator think the difficulty would be very largely relieved by dividing it and cutting that circuit up, making it smaller?

Mr. ALLISON. That might be a remedy, but it is not the remedy proposed. It is proposed, instead of dividing the circuits, that there shall be two additional judges in each circuit. The circuits, according to the presumption of the existing statutes, require the presence at least once in two years of a judge of the Supreme Court, and until you increase the number of the judges of the Supreme Court they are not expected to go into more than one circuit. In that circuit, I undertake to say in the presence of the Senate, with a reasonable curtailment of jurisdiction, the addition of two circuit judges would not be sufficient to hold courts there as they ought to be held by circuit judges.

The Senator from Alabama spent much of his time in speaking of a great right of appeal. Does he not know that under existing law if a man commences a suit or is sued in the circuit court of the United States for an amount between the sum of $500 and $5,000 there is no appeal? In all that vast class of cases between $500 and $5,000, under existing law, no man has more than one trial; and instead of having that trial before a circuit judge, in nine cases out of ten, because of the pressure of the business of the circuit judge, the trial is had before one single district judge only, from which there is no appeal.

Mr. MORGAN. The Senator from Iowa makes me responsible for raising the sum from $2,000 to $5,000.

Mr. ALLISON. That is the existing law, and the Senator's argument in favor of the right of appeal is the strongest argument that has yet been made in favor of the general provisions of this bill, that we should have an appellate court where a man may have more than one trial and more than one judge who will sit upon his property or his life or his liberty. Yet the Senator from Alabama deprecates the passage of this bill wherein it proposes to remedy the very evil which he speaks against.

The bill is necessary not only for the purpose of relieving the Supreme Court, as has been said over and over again, but it is necessary, as far as I know, in every part of this country to enable the circuit courts to be held and presided over by circuit judges and not by district judges, who are already overwhelmed with work in their district courts. Therefore it is that those of us who live in the northwestern portion of this country and have felt this pressure, as we have in every State of the Northwest, have welcomed this bill and its authors, whoever they may be, as a measure of relief from the great burdens which have borne us down for the last five or six years with reference to litigation which we are compelled to have in the circuit courts of the United States.

I am amazed, I confess, to find Senators in the South and Southwest opposing this measure. I cannot believe that they oppose it on partisan grounds. Do they fear that these eighteen judges are to be selected wholly from the Republican party? I say here as a member of the Senate that if these eighteen judges be added to the judiciary of the country, I for one would give a portion of them to the other dominant party of this country.

Mr. MORGAN. I will state to the Senator from Iowa that, so far as I am concerned, if the eighteen judges to be appointed are as good judges and as upright as Don Pardee, the Republican circuit judge in my circuit, I shall be content without asking the question whether they are Democrats or Republicans.

Mr. ALLISON. I am very glad to hear the Senator say so. I have been afraid, with all respect to my friend, that his prejudice against the district judge in his own State has had very much to do with his hostility to the Federal system. I am happy myself to bear testimony to the fact that in the State in which I live for more than twenty-four years the district court has been presided over by a Democrat from the State of Virginia, and a more upright and able judge, in my belief, does not exist in the United States. We have no partisan feeling there and no personal feeling with reference to the men who hold these judicial positions.

Mr. McMILLAN. In my own State, the district judge, occupying a seat upon the bench ever since the organization of the State, is and has been a Democrat, a son of Mr. Justice Nelson.

Mr. MORGAN. I have no doubt the United States district judges in both those States are excellent; and the fact that they are Democrats is a blessing to those people.

Mr. ALLISON. We have no partisanship there in our courts; we have no partisanism in any of the Federal courts of the United States, and our people are strangers to this class of discussion. This bill may need amendment; I do not say it is a perfect bill, although the bills which come from the Judiciary Committee are generally nearly perfect. But this is not like a law of the Medes and Persians. If it shall prove ineffectual in some respects, can it not be amended next year?

The Senator from Alabama called our attention to the fact that since the foundation of this Government up to March 3, 1879, there was no appeal in criminal cases. It was by the action of a Republican Senate (perhaps the Democracy happened to be in power just at the moment in the other branch) that only since 1879 could a man tried for his life or liberty in a Federal court go to any other court with and appeal in his case. That exists in a limited way now in the circuit courts, and if I read this bill aright, that right of appeal is protected and preserved fully in this bill, and is not taken from by a hair's breadth.

If this bill is not all the Senator from Alabama wishes it to be, I appeal to him in all fairness to relieve those sections of our country which are oppressed by these overburdened dockets and are not

only delayed in securing justice which they are entitled to, but are absolutely deprived of it. This bill holds out to them a hope of reasonable relief.

That is all I desire to say with reference to this question at this time.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After two hours and two minutes spent in executive session the doors were reopened, and (at six o'clock and eight minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 9, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. SHELLEY. I ask, by unanimous consent, Mr Speaker, to introduce some bills for reference.

Mr. ANDERSON. I will be compelled, in justice to several gentlemen who wish to speak on the Agricultural Department bill, to object to everything out of order. The debate on that bill is to close at two o'clock to-day, and I move to dispense with the morning hour for the call of committees for reports.

The motion was agreed to, two-thirds voting in favor thereof.

DEPARTMENT OF AGRICULTURE.

The SPEAKER *pro tempore*. The House resumes the consideration of the special order, which is the bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture.

Mr. REAGAN. Mr. Speaker, I have listened with a great deal of pleasure to the discussion of this question, and to the presentation which has been made of the importance of extending greater consideration by Congress to the agricultural interest of the people. It has been well said that it is the largest and most important of all our material interests; that more persons are engaged in it, more dependent on it for their livelihood than on any other avocation.

I agree, sir, that it ought to receive greater consideration than it has heretofore received; that it ought to have an officer at the head of the department of first-class ability, whose talents, labor, and resources should be devoted to the development of agricultural interests and to the promotion of the agricultural welfare of the country.

In the remarks I make I propose to advocate the adoption of the substitute presented by the gentleman from West Virginia, [Mr. KENNA,] which combines in the same department agriculture and commerce. This would involve the transfer to the new department of the Bureau of Agriculture from the Interior Department and the transfer to the new department of several bureaus in the Treasury Department, relating to statistics, to commerce, and some other matters. At present the Secretary of the Treasury is charged with the management of several bureaus of the public service entirely disconnected with the Treasury Department proper. We all know whoever may be charged with the duty of managing the Treasury Department proper will have duties which may well occupy the time and command the services of the ablest intellects of the country.

It is, in my judgment, true he should not be charged with other duties disconnected with the Treasury, which may, as they are now, be confided to bureau officers, with but little supervision from the head of the Department.

The substitute I am advocating increases the several bureaus which it is intended shall be transferred from the Treasury Department to the Department of Agriculture. It will be seen they would most properly come under the supervision and control of this new department, and none of them connect themselves directly with the duties of the Treasury Department.

The increase of expense consequent on the creation of this new department would be the salary of the secretary and the salaries of one or two assistant secretaries, as the one or the other of these bills may be adopted, with some incidental expenses I need not go into. But the transfer of the bureaus from the other Departments of the Government to this new department would not augment the public expenditures but would give a more proper, and it is to be hoped a more vigorous, administration of those branches of the public service which relate to the great agricultural and commercial interests of the country; for of all these are the most material. They affect most directly the interests of the people and their welfare. And it is to be observed that in other countries than our own, where the agricultural interests are not so great as in our own, where the commercial interests are not so great as in our own, they have put these two interests under separate departments with a view to secure their efficient and successful administration in the collection and dissemination of facts, the collection, preservation, and dissemination of statistics which shall promote and secure their posperity and welfare.

It has been claimed in the discussion that to unite in this department commerce with agriculture would be to dwarf agriculture by putting it in connection with commerce. I do not see the force or believe in the truth of this statement. Agriculture and commerce are handmaidens that do and must walk side by side with each other, the prosperity and well-doing of each depending on the prosperity and well-doing of the other. However much labor, capital, and time are devoted to agriculture, with due regard to the internal and external commerce of the United States, the fruits of that labor and capital must be largely enjoyed by commerce. It is now known, at least it was stated a few years back by the chief of the Bureau of Statistics, that our internal commerce amounted to about thirty billions of dollars annually, very largely made up of the carrying of the agricultural products of this country from the interior to the seaboard and the return of supplies furnished by the fruits of these products from the seaboard to the interior.

And it seems to me that in securing a first-class intellect to take charge of this department it is eminently proper and necessary that he should not only consider all the questions which relate to agriculture but among the chiefest of them he should consider the means of transportation, the prices of commodities, what influences those prices, the markets for them, and all those subjects which directly connect themselves with the agricultural interests of the country.

I confess that I have no fear, as some gentlemen have expressed fears on this subject, that commerce would combine to overshadow agriculture. The man selected for the head of this department could not fail to recognize that his highest duty and obligation to the people and to the country would be to look to its agricultural welfare and prosperity. We could not expect a department to be divided against itself. We could not expect a department officer to disregard one of the interests, and the greatest interest, confided to him for the purpose of giving superior advantages and superior facilities to another interest simply auxiliary to and dependent upon the first.

In this connection I desire to say that each of the bills provides the one for a secretary of agriculture to be a Cabinet officer and the other for a secretary of industries to be a Cabinet officer. Each bill provides that there shall be an assistant secretary, who shall be a practical agriculturist. Neither of them provides that the secretary shall be a practical agriculturist.

In passing I might submit a criticism upon the bill of the committee, though I will not enter into a very critical examination of it. I do not exactly see the necessity for a secretary and for an assistant secretary who shall be a practical agriculturalist, and for a bureau of agriculture, the chief officer of which shall also be a practical agriculturist. It seems to me that we are getting up to the largest figure on this organization at first; and if we have a secretary of agriculture, and if you adopt the committee's bill, a bureau of agriculture, presided over by a practical agriculturist, we might, for the present, avoid as unnecessary the expense of an assistant secretary.

If you take the substitute bill presented by the gentleman from West Virginia [Mr. KENNA] there will perhaps be more necessity for the additional officer, because there would be a secretary of industries and a bureau of agriculture, the chief of which shall be a commissioner of agriculture and be a practical agriculturist. It also provides for a bureau of commerce. Perhaps with these two bills, having a prominent officer attached to each of these bureaus, there would not be an impropriety in calling them assistant secretaries and in giving them a great deal of prominence.

It is to be observed that the main body of the bill and the main body of the substitute are not only the same in purpose but the same in their provisions; only that the substitute offered by the gentleman from West Virginia adds to what is in the bill of the committee provisions for a bureau of commerce.

There is a feature connected with this subject to which I desire to call attention. It is the fact that by the policy of this country, partly sustained by the laws of the country, agriculture, though the most important pursuit in the country, a pursuit in which a larger number of persons are engaged and in which a greater amount of capital is invested than in any other pursuit, is essentially a degraded pursuit.

You ask how is it degraded? Not because it is not the most natural and the most noble employment in this land, for it is engaged in by the best and most sterling integrity that blesses this country; men trained to honesty, industry, and to a faithful observation of all the rights and duties of citizenship.

But I repeat that notwithstanding these facts it is a degraded vocation in this country by operation of the laws of the land. How is that? A man engaged in manufacturing is authorized to levy a contribution of about 40 per cent. upon the labor of the agriculturist. A small portion of the duty laid upon foreign merchandise goes into the Treasury. I mean a small portion of the amount that is transferred from one to another by law goes into the Treasury for the support of the Government and to pay the debt. But there is certainly five dollars transferred from one man to another without price, without consideration and unnecessarily, where one dollar goes into the Treasury.

Hence it is that when you hear gentlemen speaking here of the great prosperity of the country, they do not refer to agriculture, to this extended interest, but to some others which I shall refer to. Who is it that has capital to invest who will go into agriculture,

which depends upon the price the products bear in market, and the burdens of taxation placed upon them, for the profit to be derived from it, when there are other vocations where by law a premium of not less than 40 per cent. is given to the investor?

The time has been when it would not be necessary to argue a question like this. But it now is that if a man speaks for justice and fair dealing between these interests he is either laughed at or regarded somewhat in the light of a crank. That is, if he does not subscribe to robbery as the right thing, to the oppression of the most important class of our people as the right thing, he is substantially a crank and to be laughed at.

Take the banking institutions of the country, that are given their special powers and acts of incorporation, to be used not for the benefit of the people but in combination with each other secure legislation in their own interests and directly in opposition to the interests of the public. I need not refer to annual meetings of banking officers, in which they boldly advocate those things that are directly opposed to the interests of the people and for their own selfish benefit.

Why, sir, when we undertook to remonetize silver some years ago, they and their hired newspapers denounced the men who in the interest of the people sought to remonetize silver as demagognes, as lunatics, as silver lunatics, and by every epithet that vulgarity could coin out of the English language.

While our country was at that time one of the larger debtor nations in the world, it was at the same time the largest silver-producing country in the world. Silver had been a part of our metallic money through our whole history, and a part of the world's metallic money as far back as history and tradition extend.

It was essential for us to use it as the currency, the coined money of the people, to aid in paying debts, public and private, which had been contracted on the basis of silver and gold, as it was that we should preserve the value of the wheat crops and the cotton crops of the country to the people. But these gentlemen, with their hired newspapers, denounced us as lunatics because we wished to adhere to a policy true to the interests of the people and the country, a policy which would simply deprive them of the privilege of furnishing the circulation to supply the place of the silver which they proposed to retire. They wish the profits of that much additional circulation—a purely selfish and unworthy motive. Yet because we asked for justice to the people and for a large national policy we were denounced by their hired minions as lunatics and demagognes.

Again, sir, when they made an effort to retire the legal-tender notes, commonly called greenbacks, gentlemen on this floor who then represented the people knew that at that time there was a dearth and an insufficiency of currency for the business of the country, and resisted the plan of retiring those notes. Again they were denounced as demagogues with all the choice epithets in the vulgar vocabulary of hirelings. Why? Because the bankers wanted the legal-tender notes retired so that they could get the profits on the national-bank circulation necessary to make up the deficiency in currency created by the retirement of the legal-tender notes.

Again, sir, a year ago or a little more, when this Congress was making an effort to refund the 5 and 6 per cent. bonds in 3 percents, we were denounced as demagogues and lunatics driving on to destruction. Why? Because it was not the interest of the bondholders and the bankers that the 5 and 6 per cent. bonds should be retired and the 3 percents substituted, because by this substitution they would lose a part of the interest they were receiving on the bonds deposited by them as security for the currency which they circulate and upon which they make the usual profits of bankers. It was a purely selfish purpose, limited to a few thousand bankers. And they induced a weak President to veto the bill passed by Congress for this purpose by a message as puerile as the motive for it was bad. The agriculturists had but little to say about this. They had no organized lobby, no hired newspapers to resist these policies, which looked to subordinating the interests of this country to the benefit of a few.

Now, I desire to see the agricultural interest brought forward and placed upon a proper basis, with proper regard for the rules of right; placed in such a situation that if bankers or others seek to subordinate the material interests of this country—the interests of 50,000,000 of people—to the interests of a few thousand, the blush of shame shall mantle the check of the robbers, if there is any shame left in men absorbed in selfishness, overreaching, and fraud.

Mr. Speaker, I regretted that some of the gentlemen who spoke yesterday said that if you should combine in this new department agriculture and commerce you would overshadow agriculture by commerce, and yet afford no relief in the carrying trade. But I was very glad to see by the remarks of various gentlemen yesterday that they had awakened to at least an ordinary interest in agriculture—an interest sufficient to enable them, if nothing else, to pander to the selfish interest of one particular class of people. It is very easy to advocate agriculture when you flatter the pride of a class and antagonize no other persons and no other interests. Sir, there has been a battle going on in this House for five years, in which the interests of agriculture have had an enemy, a real enemy, of power, of influence, of force, capable of returning blow for blow. Why is it that these gentlemen who are now so anxious to promote the interests of agriculture have not been willing to align themselves with those who fought the power of the railroad monopolies controlling our transportation business and levying whatever tribute their wills dictate upon the agriculture and commerce of the country?

I should have more faith in the gallantry and chivalry of men, and their devotion to the interests of the agricultural people of the country, if I could see them come forth and grapple the lion and let the skunk go by. I like to see true courage; I always admired in public or in private life a courage that will grapple real difficulties and contend with real and powerful enemies, instead of appealing to a particular class without antagonism or contest.

Sir, if you put this interest of commerce along with agriculture, you place it in a department bound to look to the interests of the people. It may be said that such a department would not be more bound to this duty than are the present officers of the Government. But by this measure you put this interest in a department peculiarly directed to look to the interests of the people, and one that must sharply present its views in the relation to these two great questions—a department that would not dare to sanction what occurred in 1880, when we had a superabundant wheat crop in the West, and when the scarcity of the crop in the East largely raised the price. At that time these transportation companies raised the tariff rates of freight from fifteen cents to forty or forty-five cents per hundred pounds; and they did so because, as they claimed, the commodity would bear it, and because they had the power to exact the increased price on these millions of bushels of grain, thus robbing the men whose toil and sweat developed the grain from mother earth and who were entitled to its profits. Who at the head of a department of agriculture and commerce would dare to sanction such robbery by one branch of his department for the benefit of another branch?

I am for putting them together now. I am for putting them under the control of law. I am for bringing them under the power of public opinion. I am in favor of calling upon the friends of the agriculturists of this country to assert and maintain their political power, and vindicate the rights of property and their interests.

This thing, Mr. Speaker, of appealing to the prejudices of a class to vote for a bill pleasing only to that class, and skulking away from the danger, shrinking from a contest with combined wealth and power, is not the manly thing to do. It is not fidelity either to truth or to the rights of the people.

I concede, sir, that agriculture has been degraded. What is the evidence of it? It is that it is in the power of protectionists, of bankers, and of railroads. It is that this day, although a most wholesome and honorable employment, all our young men seek something else, some other avocation among the protected interests, and feel if they go into the pursuit of agriculture they are not marching in the path of honor or promotion, but going down to a place of degradation.

Why, sir, should this be so? Agriculture, in all ages esteemed one of the most honorable employments, has by the laws, by the policy, by the sanction of public opinion been degraded until it has come that the man who works in the field has lower wages, less chance of profit, less chance of making distinction and promotion than any other. This comes from the fact that the agricultural interests of the country have not combined as they should, that they have not vindicated their rights, that they have not asserted their power. My hope is to see a department of agriculture and commerce, officered in the interest of these pursuits, conducted in their interest, developing the statistics, developing the scientific information, developing the material resources that are connected with these two great branches of industry and business.

I have had to speak, Mr. Speaker, in the midst of other cares, without time to mature such thoughts as I would desire to mature and present in the discussion of this most important question. I have had only time and opportunity to foreshadow the feelings which must pervade the mind of every man in this country who looks impartially to the country's interests and the rights of the American people. In doing so in this imperfect way, and in the hurry of other business, if I have failed to do my duty, let it be attributed to want of time to do that duty as this great subject deserves, but not to the absence of will.

To insist on promoting agriculture without at the same time promoting commerce is, in my judgment, to degrade commerce, which is so intimately and so necessarily interwoven with agriculture. Let us take up these two great interests. Let us address ourselves to the interests of the American people. Let us seek to do justice. Then let us go one step further, and after we have done justice to agriculture and commerce, let us take up some one of the great measures now pending before this Congress, struggling for existence and stifled in ways I do not wish to dwell on now, during three or four sessions of Congress, and assert the rights of the people to control these corporations. Not to do them injustice, Mr. Speaker, protect them as you do everything else, but at the same time let us say to them, "You are the creatures of the political authority of this country. Your powers were conferred as well for the public good as for your own. We do not mean to let you hold the commerce, the agriculture, the manufactures, the mineral wealth of this country in your sole grasp unrestrained and unregulated by law, but we mean that you shall be controlled by law as all others are controlled by law." And until the American Congress comes up to this high level, until it assumes that corporations are not created to oppress and wrong

the people, but they are created for the benefit of the people, you may talk as much as you please here, you may pass as many bills as you please here, you are on the road, by the inevitable law of cause and effect unless you do this, toward making a nation which in a quarter of a century more without reform will be composed of a few thousand millionaires and millions upon millions of degraded men, cringing and cowering slaves of wealth and power.

The question that addresses itself to every American statesman, therefore, is to do everything to preserve the manhood, maintain the rights, and perpetuate the independence of the American citizen and make him feel a just pride in being an American citizen, that his prosperity and his labor are his own, and that no man, no corporation, no power can rob him without suffering the penalties of violated laws.

I should have been glad to have considered many other questions pertaining to this matter, and to have gone over the whole ground with a view to suggesting such amendments as would, while giving that proper protection and fostering care to the agricultural and commercial interests of this country, at the same time place a curb-bit in the mouth of these corporations who have seized practically upon the revenues of the country, and who have been able by an improper use of their vast resources to subsidize the press, fill the lobbies of our legislatures and of Congress, and employ the talent of the ablest lawyers to destroy the rights of the people in the interest of these corporations which the people are not able to control or to manage.

I have no doubt that these are measures that in time will have to be dealt with by a strong hand. I believe that ought to be done now. One of the best modes of preventing a further increase of it will be by some such measure as that suggested by the gentleman from West Virginia. I hope his proposed substitute will be adopted.

I would like also, Mr. Speaker, to have been able to make some criticism upon the substance of the bills themselves which are now pending in this connection, but I have not been able to do so for the reason that other duties have prevented me from giving that attention to their details which would enable me to make a careful review and criticism of them. I do not approve all that is in either of them, but I believe that judicious amendments will make entirely acceptable to the people of the country the bill or proposed substitute offered by the gentleman from West Virginia, which more thoroughly covers the ground.

I now yield the remainder of my time to the gentleman from Alabama, [Mr. HERBERT.]

The SPEAKER *pro tempore*. The gentleman has twenty-five minutes of his time remaining.

Mr. DUNNELL. Will the gentleman from Alabama yield to me to have an amendment read, as I shall not probably be in the Hall when this bill is open for amendments?

I send to the Clerk's desk and ask to have read the amendment which I propose.

The Clerk read as follows:

In section 3, after the word importance, in line 33, add:

"There shall also be a division of forestry, the chief of which shall ascertain the annual amount of consumption, importation, and exportation of timber and other forest products; the probable supply for future wants; the means best adapted to the preservation and renewal of forests; the influence of forests upon climate, and kindred subjects."

Mr. DUNNELL. I ask to have that regarded as pending.

Mr. KENNA. While this amendment is being offered I desire to ask if it is understood that my substitute is pending to the original bill.

Mr. ANDERSON. This amendment is being simply read for information.

Mr. KENNA. I understand that; but I desire information as to the substitute which I presented, whether that is pending?

Mr. VALENTINE. There is no doubt about that.

Mr. KENNA. I understood that in my necessary absence on yesterday morning the gentleman from Texas offered the substitute which I had prepared, and that it is pending now as the first amendment.

Mr. VALENTINE. That is correct.

The SPEAKER *pro tempore*. The Chair thinks that is correct.

The Chair understands the gentleman from Alabama does not desire to occupy the floor.

Mr. MONEY. Mr. Speaker, I desire to ask whether amendments would be in order if offered to either of the substitutes; and if the substitutes fail, whether they can then be offered to the original bill?

The SPEAKER *pro tempore*. The Chair thinks that at the proper time they will be in order as amendments to either the substitutes or original bill.

Mr. HERBERT. I yield my time to the gentleman from Mississippi, Mr. MONEY.

The SPEAKER *pro tempore*. The gentleman from Mississippi is recognized for twenty-five minutes.

Mr. MONEY. Mr. Speaker, in proceeding to the discussion of this bill and the offices it proposes to create, it seems to me that it will be well for us to examine the laws in relation to the Department of Agriculture and find what we now have. I send to the Clerk's desk and ask to have read as a part of my remarks the portions of the Revised Statutes which I have marked.

The Clerk read as follows:

SEC. 521. The Department of Agriculture shall be under the charge of a Commissioner of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $4,000 a year.

SEC. 522. There shall be in the Department of Agriculture:

One chief clerk, at a salary of $2,000 a year.
One chemist, at a salary of $2,000 a year.
One assistant chemist, at a salary of $1,600 a year.
One entomologist, at a salary of $2,000 a year.
One microscopist, at a salary of $1,800 a year.
One botanist, at a salary of $1,800 a year.
One statistician, at a salary of $2,000 a year.
One superintendent of experimental gardens and grounds, at a salary of $2,000 a year.
One assistant superintendent of experimental gardens and grounds, at a salary of $1,200 a year.
One disbursing clerk, at a salary of $1,800 a year
One superintendent of the seed-room, at a salary of $1,800 a year.
One assistant superintendent of the seed-room, at a salary of $1,200 a year.
One librarian, at a salary of $1,800 a year.
One engineer, at a salary of $1,400 a year.
One superintendent of the folding-room, at a salary of $1,200 a year.
Two attendants in the museum, at a salary of $1,000 a year each.
One carpenter, at a salary of $960 a year.

SEC. 523. The Commissioner of Agriculture shall appoint a chief clerk, with a salary of $2,000 a year, who in all cases during the necessary absence of the Commissioner, or when the office of Commissioner shall become vacant, shall perform the duties of Commissioner, and he shall appoint such other employés as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other Departments of the Government; and he shall, as Congress may from time to time provide, employ other persons for such time as their services may be needed, including chemists, botanists, entomologists, and other persons skilled in the natural sciences pertaining to agriculture.

* * * * * * *

SEC. 526. The Commissioner of Agriculture shall procure and preserve all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power; he shall collect new and valuable seeds and plants; shall test, by cultivation, the value of such of them as may require such tests; shall propagate such as may be worthy of propagation; and shall distribute them among agriculturists.

SEC. 527. The purchase and distribution of seeds by the Department of Agriculture shall be confined to such seeds as are rare and uncommon to the country, or such as can be made more profitable by frequent changes from one part of our own country to another; and the purchase or propagation and distribution of trees, plants, shrubs, vines, and cuttings shall be confined to such as are adapted to general cultivation and to promote the general interests of horticulture and agriculture throughout the United States

Mr. MONEY. Mr. Speaker, before I shall begin my remarks it is proper, and is due to myself, that I should state briefly the position which I occupied in the last House of Representatives in regard to a bill then offered of a similar character to that now pending. That bill had for its object, in the language of its advocates, "the elevation of the Department of Agriculture to the dignity of a Cabinet place." I was unable to see in the bill which was presented from the Committee on Agriculture any enlargement of its powers to secure practical advantages to the farmers of this country, the men who were supposed to be the beneficiaries of the act. I was convinced that the terms of the bill if carried out would not effect the design of its advocates. It was introduced without opportunity for amendment and at a period so late in the session that it was obvious to the members of the House it would be unable to get through the Senate for lack of hearing if for no other reason.

I gave then very briefly some of the reasons which determined my action. I may be permitted to repeat something of what I then said. In alluding to the remark that the act would confer dignity upon the profession of agriculture, I, who had felt the sense of independence and pride in his profession which every true farmer feels, said:

Gentlemen talk about adding dignity to the profession of agriculture! It is insulting to that noble profession to say so! I beg gentlemen's pardon, but there is no power in this Congress to add one jot or tittle to the dignity of the profession which embraces the majority of our population, owning the greater part of our property, the most reliably conservative in peace and patriotic in war—a profession upon whose labors the prosperity of every other class is based, and whose industry, economy, and intelligence furnish the basis of our national prosperity and honor.

No, sir! The farmers of our land stand independent of empty compliments, and are accustomed to confer dignity upon others. If it could be shown that this measure would lift one single burden from the farmer's shoulder, add one single dollar to his purse, soften a single asperity of his rugged toil, brighten his life with one added ray of sunshine, or endow him with a higher conception of the dignity, honor, and usefulness of his profession, it would receive my hearty support. * * * I represent an agricultural constituency. I believe I understand their wants. I know I fully sympathize with them in all their aspirations and efforts for improvement, material and otherwise, and my recorded votes since I have been a member of this House show that I have consulted their interests and provided for them as faithfully as lay within my power, and I will gladly assist in any measure to promote their good.

I knew, moreover, that it did not require an act of Congress to make a Cabinet officer; the President can call into his Cabinet any officer he may choose.

In 1832 Mr. Barry, then Postmaster-General, was invited by President Jackson to attend the sitting of the Cabinet, which invitation was accepted, and the Postmaster-General has been a Cabinet officer from that day. There is not even an official record of this fact, the only record being a paragraph in a weekly paper, the Niles Register, stating substantially what I have just repeated.

Last winter the Legislature of Mississippi memorialized her Senators and Representatives on this question, and requested them to vote for a bill of this character; and although not always governed by requests of the Legislature, I am accustomed to treat them with

most respectful consideration, and they are powerfully persuasive on me as the opinions of a large body of highly respectable and intelligent men.

I went among my people last fall and I found that their general sentiment was against my vote and in favor of a measure of this kind. And I am here, Mr. Speaker, as a representative of my constituents. I in part represent a State which is more purely agricultural than any other within this Union; that is, a larger proportion of its people are engaged in agriculture than in any other State or Territory. I found that the farmers had a great desire to see the head of the department which had been created for their interests made a member of the Cabinet. And as their representative, not speaking simply for myself but endeavoring to voice their sentiments and wishes, I desire now to record myself in favor of this measure, believing that in doing so I carry out the honest and sincere desire of the people of the district which sends me here.

It will be seen, Mr. Speaker, from the reading of the statute by the Clerk that the department is not in the enfeebled, useless, and crippled condition represented yesterday by the gentleman in charge of this bill, but equipped with officers and powers capable of vast and beneficent usefulness. He seemed to have looked at this Department of Agriculture through an inverted telescope, everything in it being dwarfed, shrunk, and dwindled in such a way as to be made to appear insignificant and contemptible. Then when he began to consider the disasters that would follow the refusal in the House to consider this bill favorably he turned his telescope, and every one of these evils was so unduly magnified to his vision that he seemed to think ruin and desolation would come upon the country if the bill should not be passed and the honorable Commissioner safely landed in the Cabinet.

I do not propose, Mr. Speaker, to use a telescope in considering this question. I propose to look with the naked eye at this department precisely as it stands to-day. We have seen what authority and power the law has given to this department; and the question is, whether these powers can be so enlarged that the department can be of greater practical benefit and use to the real farmers than now. If that can be done, then by every consideration of public policy the representative is called upon to consider favorably the propositions put forth in this bill and to enlarge this department in the scope of its duties and its powers.

I shall not go into any general review of statistics pertinent to this matter. You have heard recited time and again during the debate on the tariff commission the number of people engaged in agriculture, in mining, in transportation, in commerce, and so on; you have seen all the industries of the country paraded in their *matériel* as well as their *personnel* to the view of the House. I shall not tell you of the amount of the products of the country, its cotton, its wheat, its corn, its oats, its bacon, and all the varied products of the farm. I want to get down to the provisions of this bill and to show to the House what benefits will follow if this bill becomes law. I have an amendment to the bill, Mr. Speaker, which I desire at the proper time to offer; and it is an amendment which in my judgment will carry with it in a great measure the benefits that can be anticipated from changing the law on this subject.

I had the honor to introduce a bill which was referred to the Committee on Agriculture. I do not know whether it came into the consideration of that committee when they framed this bill or not. It was afterward introduced into the Senate by one of my colleagues in that body, Senator GEORGE, and is now, I understand, on the Calendar of the Senate, approved by the Senate Committee on Agriculture substantially. I bring here just two sections of that bill, which have not been embodied in the bill presented by the committee, or in any of the substitutes proposed.

I endeavored to impress upon this House when it had the subject of the appropriations for this department before it the necessity for a more liberal expenditure of the public money as a profitable investment for this country in the distribution of seeds and the collection of statistics. Thomas Henry Buckle said well that statistics are the anatomy of history. But statistics are only valuable as the result of observation, experiment, and collation in a comprehensive field of labor. You may make one experiment or observation, and it will not be of the slightest value to science. You make two experiments and they are of very little value. You make a hundred, and their general average begins to give you an idea of the truth. You make a thousand experiments, and then you have a general average that approximates to the truth. And if you can sufficiently increase the number of your experiments or observations you can get at almost the exact truth as to facts, and reach a well-defined rule in principles which will govern in almost every case.

That is a proposition which I believe will not be controverted. In my mind the collection of statistics by this department, their diffusion among the people for application to practical business is the most valuable use of which it is capable. The collection of the crop statistics of all parts of the Union and their prompt and thorough dissemination will confer a benefit so vast, if properly utilized, that it would be impossible for me to overestimate it. Now, we have had a Bureau of Statistics, but the appropriations for that bureau have been so insignificant that it has been impossible to more than partially utilize it. I will say, further, that I believe we have had until now the essential lack at the head of that department of a great organizing and administrative mind. At any rate the small machinery which has been used by that department for the collection of statistics and the meager appropriations by Congress to set that machinery in motion have given results entirely beneath the demands and expectation of the country and of comparatively trifling value.

The Southern States produced last year about two hundred and fifty million dollars' worth of cotton, yet the Department of Agriculture has one reporter in each county of the cotton-growing region, while Bradstreet's Commercial Agency has three. It was about the 10th of December before the cotton-growers knew what the cotton crop of last year was. It was about the 10th of December before we had anything like definite information that there was a shortage of about one million of bales.

I say there is not to-day a member of the Committee on Agriculture, nor a member of this House, and I might perhaps say not a man in the United States who can come within 30,000,000 bushels of the present supply of wheat. There is no difficulty in so enlarging your field of observation, so multiplying your stations and observers that the department could publish week by week a body of statistics that would perfectly apprise the people of this country and of every other country of the condition of our crops, and approximate within a very immaterial margin of the real amount of the season's crop. We got the news on the 10th of December that the cotton crop was 1,000,000 bales short. There is no reason why the Agricultural Department should not have told this country by the 1st of October within 100,000 bales of that crop. By the 1st of October the crop has gone out of the hands of the producer, of the farmer, of the laborer, who has wrought the soil of the earth into this snowy harvest. The producer has absolutely parted with the possession of his crop to the middleman, who has shipped it or is about to ship it to his merchant in New Orleans or New York, or wherever he may be, and the information comes all too late to be valuable to them.

The man who has worked through the varying seasons of the year to produce the crop is not the beneficiary of the increase of price caused by this shortage of 1,000,000 bales. Who is the beneficiary? The speculator, the gambler in "futures" and "corners." The speculators get the news of the true condition of the crop, and the consequence is that there is a corner in cotton or grain, and the farmer gets a poor subsistence, and the speculator gets the profits. They have their agents throughout the West, the Northwest, and the South; they obtain full information in regard to the crop, and then there is a "corner," in which the producer has no stock, which builds up sudden fortunes for a few who toil not, at the expense of the many who eat their daily bread in the sweat of their brows.

I am told that corn is selling to-day at a higher price than at any time before for twenty years. Does the farmer get the benefit of that high price? His crop has long since gone to the market; his opportunity has gone, and long before the corners in grain at Chicago and New York and New Orleans have enriched the gambler, the farmer is preparing for another year of toil and disappointment.

This is an evil that should be cured; it is an evil that can be cured. It only needs that this Congress should wake up to a proper appreciation of the fact, that they have only to set in motion the appliances which they already possess by providing for such an expenditure of money as will keep an army of reporters in the field so that this information may be obtained in a thorough and exhaustive manner and then published every week or every day, complete or incomplete. Whatever the secretary has in his office should be sent to the people and made as free as the air they breathe. This information, worth so many millions of dollars, should not be the peculiar property of speculators and sharpers.

Is there anything impossible about this? By such a method the profits on every rise of grain, cotton, and other crops would, in part at least, go into the pockets of the men who labor to produce them.

We have a Signal Bureau in this city which sends its weather reports out every day to any man in the Union who will ask for them. We have appropriated about $2,000,000 a year that they may be plentifully distributed into every quarter. Does any man feel disposed to quarrel with the Government for appropriating $2,000,000 a year for so beneficent a work? Because of the information so received of coming storms the farmer is enabled to gather in his hay and his grain; fleets remain in port with furled sails in safety, whose broken fragments would otherwise strew our shores. Millions of dollars and thousand of lives are saved every year by the operation of that bureau. They send out their messengers of warning and advice each day.

Now, with one-half, one-fourth, yes, with one-eighth of that expenditure of $2,000,000 a year, the department of Agriculture could send such information of the condition and prospects of the crops broadcast throughout this land as would leave much of these thousands and millions of dollars of profit now exclusively enjoyed by speculators in the hands of the producers themselves.

We have a Bureau of Statistics; we have the machinery there, but we have never yet had the proper management of it, nor have we had a Congress liberal enough to appropriate the money to develop its full capacity for usefulness.

Mr. Speaker, the field of usefulness in this particular cannot be overstated. We can so organize this department as to put it at work and make it of incalculable benefit to the people of the country. We

have a Health Bureau, recently organized, which once every week sends its reports broadcast throughout the land at great expense. Does anybody say that this money is not profitably expended? Why, sir, even in a mere business relation it is well to know the sanitary condition of the people; it is well to know at what points small-pox, yellow-fever, or other contagious diseases prevail, so that everybody may take notice of the facts and commerce may be regulated accordingly.

I notice in every one of the bills, substitutes, or amendments now before the House ample preparation for the gathering of statistics. Each of these measures that I have before me provides for separate bureaus. The main value of these several bureaus is for gathering statistics. But what commensurate machinery has the committee embraced in the bill reported, to disseminate among the people the information thus gathered? Do they want to get information and bury it in the Agricultural Department? Do they want to get these statistics and put them in an agricultural report that comes out two or three years after its date? Why, sir, we shall not do any good in that way; and if this is to be the result the money expended will be thrown away. I have here an amendment which, as I have said, I will offer at the proper time, and which I now read to the House for its information. It proposes to provide machinery for diffusing the information which is to be collected at such cost by the various appliances of the department. I propose to insert as an amendment this language:

That the secretary shall publish for the general diffusion of the information collected as above directed by the several bureaus of the department, his report at least once a week; and he is hereby authorized and empowered to adopt such other methods of diffusing valuable information among the industrial classes as his judgment may approve; and he shall exchange his reports, bulletins, and other publications with the weekly journals of this Union for copies of their several publications, which shall be filed in the library of the Department of Agriculture.

This method of acquainting the masses with the knowledge so widely gathered is inexpensive, comprehensive, and thorough. Every farmer and workingman takes or ought to take his county paper; he reads generally everything in it and is disposed to rely upon and accept its news. No man knows better than myself the value and power and usefulness of the county press. These weekly papers, receiving these reports of crop statistics from the department, select those affecting the peculiar crops of the locality and week by week give the farmer practically accurate information of the average condition and prospects of the crops, accompanied by estimates of total yield and probable price as will secure him the average market price for his product and the proper and just reward for his toil.

Mr. Speaker, the other amendment which I shall offer provides that "the secretary of the Department of Agriculture shall establish experimental stations for the purpose of practically testing soils, fertilizers, machinery, plants, trees, seeds, &c., with reference to climate, in each State and Territory, one of which experimental stations in each State shall be attached to an agricultural college, if there be one."

This would not cost a great deal, for almost every State I believe has an agricultural college, and these would be glad to have the stations proposed attached and would furnish without cost offices, implements, grounds, telegraphic appliances, &c. The actual value of these stations as compared with the present method I think too obvious for discussion. Through the agencies of this department the work of our farmers' wives and children should be varied and lightened by introducing and teaching such occupations as silk culture, &c., requiring less physical labor and more thought and reading. It is worth great effort and money to induce and encourage the adornment of rural homes, surrounding the useful and necessary with the beautiful and ornamental. It would cheer and brighten the lives made dull by the monotony of daily toil.

The workingmen in the factories living in populous cities and towns have all the advantages of association in organized intellectual bodies such as libraries, lyceums, &c., and also of social and religious assemblies. This facility of congregation vastly softens toil and lightens the daily burden. The farmer toils lonely in his field and rarely meets for social, religious, or mental improvement with his neighbors. We want that the farmer's wife and daughter should do something better than drudgery. We want some occupation that will give time for and lead their minds to think. All the influences of home are increased as its attractions are heightened, and by the mere process of assimilation the young children grow beautiful according to their surrounding. Nature believes in harmonies, and the child surrounded by flowers and pictures will somehow in the subtle processes of its growth catch beauty of form and expression from everything that impresses its senses. Every new comfort in the humble cottage, every fresh adornment, each added grace of line or color, brings new pleasure and greater rest and comfort, and these bring new strength, increased capacity of brain, better impulses, higher aspirations, nobler endeavor, more honorable achievement, and the result is the great sum of human happiness is augmented.

The farmers do more for the Government and have less done for them than any other class. They feed the country in peace and fight for it in war; they hold with equal steadiness the plowshare in the furrow of the quiet field, and their country's flag on the fiery crest of battle. They are less easily corrupted than the devotees of trade, and they have always been the last stronghold of virtue, the steadfast hope of patriotism. These farmers have patiently borne the burden of a most grievous taxation for the benefit of others. Silent under exaction, plundered by law, they have not used their giant strength to right their wrongs. They rarely indulge even in the luxury of complaint. They believe that something should be done for them. Relief from a too grinding tariff is one thing, and they want an executive department to look after their interests. It must be apparent to every one that a properly organized department, with its powers extended to embrace the matters contemplated, must work a great good which will be practically felt in country homes all over our land. As this noble industry, which made civilization possible, is to-day the sure foundation of all our prosperity, can we do a more proper, a more profitable work than to enlarge its capacity, utilize all its varied powers, and rejoice its laborers? All the mines of gold and silver may be exhausted, our manufactories may be stilled by the changing circumstances of commerce, but as long as the sunlight, the dew, and the rain shall bless the earth, so long shall the farmer's calling be the sure and unfailing source of comforts and blessings, of national glory, strength, and permanence.

[Here the hammer fell.]

Mr. UPDEGRAFF, of Ohio, obtained the floor and said: I yield fifteen minutes to the gentleman from Michigan, [Mr. HUBBELL.]

Mr. HUBBELL. Mr. Speaker, under the direction of the Committee on Reform in the Civil Service, I have reported to this House a substitute for the bill now under consideration, that substitute having been printed as House bill No. 4429. I desire, before proceeding with my remarks, to modify the substitute in one or two particulars. In the first place, I wish to add, after line 11 of section 2, the following:

And in addition to the powers and duties now devolved by law on said department there shall be added the powers and duties hereinafter provided for.

I desire also to recast section 5 of the substitute, so that it shall read as follows:

That the commission known as the Geological Survey is hereby transferred from the Department of the Interior to the said department of agriculture; and it shall be the duty of the Geological Survey to collect statistics relating to mining industries, and to make investigations relating to the utilization of the waste products of mining industries; and the operations of the Geological Survey shall be extended over all portions of the United States; and the director of the Geological Survey shall have power to appoint, under the direction of the secretary of agriculture, such geologists, geographers, chemists, mining engineers, and other scientific experts as may be necessary for the prosecution of the survey, as appropriations are made by law therefor.

Mr. Speaker, I have assumed it to be the sense of the House that there should be some changes made in the Department of Agriculture; that this department ought to be raised to the full dignity of an Executive Department of the Government, with a secretary at its head. In what I may say I do not wish to be understood as antagonizing in any way that proposition. But I must be permitted to say that I think the bill now under consideration, if it does this at all, does it in such a bungling way as, if adopted, will prove disastrous to the department. The first section of the substitute reported by me from the Committee on Reform in the Civil Service (and I wish the attention of the House, that the difference between these two bills may be understood) simply takes the Department of Agriculture as now established and creates it into a department of the Government with a secretary, who shall be a Cabinet officer; and by express words it so amends section 158 of the Revised Statutes as to bring this department clearly within the scope of that section. This substitute provides that section 158 "shall be amended to include said department by adding at the end thereof the words: 'Eighth. The department of agriculture, which shall hereafter be the title of said department.'"

By reference to the Revised Statutes gentlemen will not fail to observe that the title here proposed corresponds with the titles there given to other departments of the Government. In other words, section 1 of the substitute is definite in its character, while section 1 of the bill of the Committee on Agriculture is indefinite, as a reference to the bill will I think convince the House.

Now, let us take section 2 of the proposed substitute. What does it do? It authorizes the President to appoint the secretary and the assistant secretary and fixes their compensation. It takes the Department of Agriculture as it now stands, preserves it intact with all its powers and duties, adding thereto by subsequent provisions of the bill certain duties. On the other hand section 2 of the bill of the Commissioner on Agriculture, now under consideration, authorizes the appointment of an assistant who shall be a practical agriculturist.

It does another thing. It provides that certain bureau officers hereinafter to be created under this act shall be appointed by the President and shall hold their office for a term of four years. Now, in nearly all the Departments of the Government the bureau or division officers are appointed by the Secretaries of those Departments.

And just here, let me state that the bill as introduced makes no provision at all for the appointment of a chief clerk of this department. It limits the appointment of assistant secretary to a man who shall be—what? Why, sir, it limits the appointment to a man who shall be a practical agriculturist. There is one practical agriculturist put into this bill. It limits the appointment to a specific class of persons. In this regard the bill seems to doubt whether in meeting the wants of the Department of Agriculture the President will in his wise discretion appoint suitable persons to act as secretary and

assistant secretary. It seems to doubt whether the President will do what this House now seems so willing to recognize ought to be done, and that is that this agriculture department should be elevated and enlarged in its scope, and that great industry recognized in a suitable manner.

It will be observed that the value of the proposed substitute consists in this, that the existing bureaus or divisions in the Agricultural Department are all preserved. These bureaus or divisions are at present well organized and only require sufficient appropriations by Congress to be perfected in all their work and usefulness. Let us inquire what are these bureaus as they now exist? I am afraid the committee which reported this bill did not make that inquiry. What are these bureaus as they now exist in the Agricultural Department?

First, there is a Bureau of Statistics, the appropriation for which Congress has just increased from $10,000 to $80,000. It is a bureau which has already furnished valuable statistical information, and which, with the increased appropriation, will no doubt be able to secure for every State in this Union the most accurate information with regard to the products and markets in this country, and, what is of great value to the farmer here, accurate information of the crops and markets in Europe.

Let me illustrate the value of this to the farmer. A large portion of the wheat crop of Ohio last year was sold at prices far below its actual value from the want of knowledge of the condition of the market and crops in Europe. The loss from this cause was very great to the farmer, and to-day, sir, statisticians are urging the Department of Agriculture to furnish this information, saying that it is of the utmost value that the farmers of the country should have the information in time as to the foreign markets.

There is a bureau now cheaply organized for this purpose, with a man at the head of it who receives only $2,000 a year, and who to-day is furnishing the precise information required by the farmers of this country, not only as to the markets here, but as to the foreign markets. The gentleman says that is in this bill. Now, my friend will not fail to observe that this is already a bureau or division in the Department of Agriculture, and therefore I ask, why should it be provided for under an omnibus clause in the pending bill, which, if adopted, will utterly take away from the Commissioner of Agriculture the work of this bureau and place it under the charge and power of another man, who is to be a practical agriculturist?

We have, again, the bureau or division of chemistry now in the Department of Agriculture, and which is engaged in supplying information with regard to the value of fertilizers and ores, with regard to the chemical quality of soils, the value of various articles of food for man and animals, the chemical value and capacity of many important crops, &c., and which of itself, if properly endowed by Congress, can be made a very important and valuable bureau.

I wish especially to call the attention of the House to the departures from the present organization of the Agricultural Department which are proposed to be instituted by the pending proposition. There is now in the Department of Agriculture a bureau of entomology, which is engaged in work of the utmost importance to the producers of the great staple crops of the country, and it is even now constantly appealed to from every section of the country to provide remedies against the destructive insects whose ravages are a source of such infinite loss to the farmer and producer. We now have that bureau in the Agricultural Department, already organized, running upon the cheapest method possible.

We also have in the department, as at present organized, the bureau or division of forestry, just now in its infancy, but engaged in solving one of the most important industrial problems in our country, namely, the production and preservation and economical use of the vast mass of timber growing in every variety throughout our country.

The gentleman says this is in his bill. It is already organized under the Department of Agriculture, and therefore why should it be included as a bureau under the pending bill. The Commissioner of Agriculture now superintends it; but when we provide for a secretary of agriculture, this bill would have an intervening bureau officer for this purpose at a salary of $3,000. We also have in the Bureau of Agriculture, as at present organized, the division of botany, the business of which is not only to classify the grasses and economic plants of the country, but to suggest the methods by which new and appropriate grasses and plants can be introduced into the various sections of the country.

We also have a bureau or division for the collection and distribution of new and valuable seeds throughout the country. We have a great seed bureau now provided in the Agricultural Department. In this pending bill a separate bureau is to be organized for this purpose. I do not take so much stock in the distribution of seeds as some agriculturists do. Here, then, are what we now have in the Agricultural Department, as it is at present organized, working economically and cheaply.

But what does this committee propose in addition to all this? Now, in addition to this the substitute bill imposes other and important duties on the Department of Agriculture. In the first place it provides that the bureau or division of statistics shall collect all information relating to manufactures and labor.

And it goes further, if gentlemen will examine the bill and see the next section. Instead of increasing the divisions of the department it authorizes the secretary to call upon the Bureau of Statistics for all information relating to the internal commerce of the country which the gentleman from Texas was so anxious about a few minutes ago. Let us see what that information is which the organized bureau of the Government is directed to collate and collect. Chapter 129, paragraph 3, of the supplement to the Revised Statutes provides that—

> It shall be the duty of the officer in charge of the Bureau of Statistics to gather, collate, and annually report to the Secretary of the Treasury, for transmission to Congress, statistics, and facts relating to commerce with foreign nations and among the several States; the railroad systems of this and other countries; the construction and operation of railroads; the actual cost of such construction and operation of railroads; the actual cost of transporting freights and passengers on railroads, and on canals, rivers, and other navigable waters of the United States; the charges imposed for such transportation of freight and passengers, and the tonnage transported; and the reports now by law required to be prepared and published monthly in the said Bureau of Statistics shall hereafter be prepared and published quarterly, under the direction of the Secretary of the Treasury.

Now, there is the machinery provided by law to gather and collate all of the facts in reference to the commerce of the country which the gentleman claims the farmers ought to have joined with this other great industry of agriculture.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. ANDERSON. I will yield five minutes of my time to the gentleman from Michigan, [Mr. HUBBELL.]

Mr. HUBBELL. Now, the Bureau of Statistics, already organized, is charged with this duty, and provision is made that the chief of that bureau shall collate this information and furnish it as required by the existing law. I wish to note some other objections to the bill of the committee, but my time is so limited that I shall have to hurry over them. I wish some gentleman would yield me five minutes more.

Mr. RICH. I think I am entitled to thirty minutes of my time. If so, I will yield the gentleman ten minutes.

Mr. VALENTINE. I rise to a parliamentary inquiry right here.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. VALENTINE. There are several gentlemen who spoke on yesterday and reserved a portion of their time. Afterward the House determined to close the general debate at two o'clock to-day. Now, I desire to know if these gentlemen are to be allowed to farm out the time in this manner to the exclusion of gentlemen on the committee who desire to have an opportunity of speaking on their bill.

The SPEAKER *pro tempore*. That subject is not now properly before the House. The gentleman from Kansas has yielded five minutes of the fifteen minutes of his time remaining to the gentleman from Michigan.

Mr. HUBBELL. I have said that I desired to note some of the objections to the bill of the committee. In the first place, it does not provide for the appointment of a chief clerk; nor does it fix his salary. In the second place, that the bureaus provided for in it are in many cases entirely unnecessary, as the duties which are specially assigned to them by its provisions are in many cases already performed by the Department as now organized by law. Now, to illustrate this position, let us look for a moment at the bill which the committee proposes. In the first place, it assigns to the bureau of agricultural products all of the powers and duties which are conferred either by express words or by implication, and now devolved by law, upon the Commissioner of Agriculture. This is all transferred by the committee's bill to the bureau of agricultural products and are required to be discharged by that bureau; duties which, as I have said, are already discharged either in person by the Commissioner or through some bureau already organized.

If any gentleman will take time to read the section which enumerates the duties which are to be performed by the head of this bureau and which are already performed by other bureaus as already organized, he will see how true this is. It provides, in the first instance, that the head of the bureau shall be a practical agriculturist; and the duty is imposed upon him of investigating the question of fertilizers, implements, seeds, buildings, and it gives him botany, chemistry, and entomology, with many other duties which are now performed by other bureaus.

The third subdivision of section 3 puts into the hands of the chief of that bureau—bureau of lands—duties that now belong to other divisions, such as timber, which belongs to forestry division; stock-raising, which belongs to the bureau of animal industry; manufacturing, which belongs to the statistical and mining, which should be grouped with the geological survey as an independent bureau and be placed under the supervision of the director of that survey.

The duties of the bureau of agricultural products and of bureau of lands would clash when you came to the practical administration of each. Besides many of the things provided for are utterly impracticable and could not be brought into harmonious or successful operation. If there is anything we need information about it is the question of our mining industries.

Young men of activity and enterprise want to know where there is a chance for mining; and my idea was to transfer to the department the question of our mining interests so that a bureau of mining industry would be created which does not increase the expense, and where the information to be derived will be greater.

Take the Bureau of Statistics, named in the fourth subdivision of

section 3. It is already established and organized in the department as it now exists, and if other duties ought to be performed by it they can easily be devolved upon it. If duties relating to education, &c., are to be performed by the Department of Agriculture, the Bureau of Education should be transferred from the Interior Department and its powers so enlarged as to meet what is provided for in the fourth division of section 3. The cost of transportation sought to be obtained under this subdivision is already provided for by law, as will be seen by examining page 129 of the Supplement to the Revised Statutes.

Again, the manufacturing provisions of paragraph 4, section 3, are already included in paragraph 3 of said section 3.

There are many general objections to the bill of the committee. In the first place, it is complicated and extravagant, and so unwieldy that the department could not be organized and run in the building now in use for that purpose. It adds four bureaus to the department, with salaries of their several heads amounting to $3,000 each, which increase the expenditures $23,000, while the substitute offered by myself increases it only $14,500. [Here the hammer fell.] I only want two minutes more.

Mr. UPDEGRAFF, of Ohio. I yield two minutes to the gentleman from Michigan.

Mr. HUBBELL. The substitute adds but one bureau, that of animal industry, which is already in operation in a certain form in the department, and is now employed in investigating the diseases of animals, for which special appropriations have been made by Congress from time to time.

The Director of the Geological Survey has his salary already fixed by law, and all we do is to devolve upon him certain additional and appropriate duties.

The bill devolves all the substantial powers and duties of the secretary of the department on certain bureau officers. I wish to call attention to this particularly. I say the committee's bill devolves all the powers and duties which are now to be performed or can be performed in that department on certain bureau officers therein named, who are to be appointed by the President; and all the secretary has to do, and all the assistant secretary has to do, is to sit there as figure-heads and draw their salaries. It devolves these duties upon the heads of bureaus. It makes them appointable by the President, to hold office for four years, and sets up a secretary of agriculture, as I have said, as a mere figure-head, to be laughed at over the country.

It seems to me if we are to reorganize this department we ought to do it in a practical, inexpensive way, and add to it just such things as are necessary for the information of the people. I cannot say the bill proposed by me does just that; but it does it, in my humble judgment, to a far greater extent than the bill of the Committee on Agriculture does.

Mr. UPDEGRAFF, of Ohio, addressed the House. [See Appendix.]

At the conclusion of the remarks of Mr. UPDEGRAFF, of Ohio, he yielded five minutes of his time to Mr. BLACKBURN.

Mr. BLACKBURN. In the last Congress, when the Committee on Agriculture reported a bill proposing to make a Cabinet office for the then representative of that great interest, I opposed it. I did so for two reasons. In the first place, the bill submitted did not meet the demands of the agricultural interest. In the second place, I am frank to say that up to that time there had been no man presiding over the Department of Agriculture who had impressed me with his fitness for those duties or that service. Both those objections are removed in this case. The Committee on Agriculture have reported a bill to this House which in my judgment meets the demand of the agricultural interest and which makes suitable provision for them. And that Department is presided over to-day by a man who stands confessedly fit for the service to which he is assigned, who brings to his present position the same admitted accomplishments and broad cultivation and honesty of purpose that marked his course when serving with us as a member of this House. This service has been elevated, and the proposition which comes to us from the Committee on Agriculture in my judgment tends still further to elevate and to protect this great interest.

I am not desirous of entering the lists for the championship of the agricultural people of this land, but I am extremely desirous of seeing that interest at least receive some recognition at the hands of this Government. From the very nature of the farmer's avocation the agriculturists of the country are more widely scattered and their opportunities for interchange of views or for dissemination of information are less by all odds than belong to any other class of our industrial population.

I find that the bill presented by the committee proposes to create a department of agriculture to consist of four bureaus: the first to be termed the bureau of agricultural products; the second to be termed the bureau of animal industry, which reaches and covers all the stock-rearing interests of this country; the third is the bureau of lands; the fourth and last is the bureau of statistics, for the dissemination as well as the collection of all information that may be of service to the growers of cereals, to the cotton-planter and stock-rearer of the country. We find, then, that every agricultural interest of this country is comprehended and embraced in the provisions of this bill.

I believe that it ought to be passed. I will not undertake to say that there have not been offered or submitted amendments which, if adopted, would tend to its improvement. I do not undertake to deny that the amendment offered by the gentleman from Mississippi [Mr. MONEY] might make it still more valuable by multiplying the publications of reports through this bureau of statistics, by bringing the farmer in every section of the country into closer proximity with this fountain-head of information.

I do not believe that the amendment by way of substitute offered by the gentleman from West Virginia [Mr. KENNA] will increase the benefits of the measure now pending. I do not believe that the incorporation of the commercial interests of this country into this agricultural bureau will carry out the purpose of its framers or meet the views of its friends. I do not believe that it is the part of wisdom to bring the consolidated power of the transportation of this country, its great railroad corporations, under the same mantle and the shield which you propose to put over the farmer of the land. If you do, I believe those corporations will capture and control it, and, instead of becoming a means of relief to the farmer, it will be converted through railroad companies' combinations into an engine of additional oppression.

I am opposed to the substitute offered by the gentleman from West Virginia. I want the bill from the Committee on Agriculture as it is, unless it be passed with some immaterial amendments, which will simply tend to make it more efficient in carrying out its original design and purpose. For that reason I simply desire to express my approbation of this measure, and my readiness to support it substantially as it is, and my confidence in the good results that will follow from its enactment.

Mr. UPDEGRAFF, of Ohio. I yield five minutes to the gentleman from Wisconsin, [Mr. WILLIAMS.]

Mr. WILLIAMS, of Wisconsin, addressed the House. [See Appendix.]

Mr. UPDEGRAFF, of Ohio. I will reserve what time I have remaining.

Mr. KENNA. On yesterday I reserved twenty-five minutes of the time I was entitled to occupy. I would like to take it now if I can be recognized. I desire to remind the Chair in this connection that those who favor the original bill have occupied much the largest portion of the time.

The SPEAKER *pro tempore*. The Chair will recognize the gentleman now.

Mr. KENNA. I will yield ten minutes to the gentleman from North Carolina, [Mr. SCALES.]

Mr. SCALES and Mr. HOGE addressed the House. [See Appendix.]

Mr. KENNA. How much time is remaining?

The SPEAKER *pro tempore*. Five minutes of the gentleman's time remain.

Mr. KENNA. In the five minutes remaining I desire to say a word or two in regard to the position assumed by the gentleman from Kentucky [Mr. BLACKBURN] with reference to the influence which he predicts is to be exerted over the agricultural interests of the country by the connection of the agricultural and the commercial interests under one management. I desire to remind that gentleman and the House that the powers of the existing Treasury Department which bear relation in any shape to the financial negotiations and the financial relationship between the Government of the United States and the railroads constructed by its aid will by this proposed substitute in no wise be interfered with.

In so far as the Treasury Department now embraces under its management divisions and subdivisions with regard to commerce, both internal and external, it is, and I submit it to the House and to all the members present, a measure which embraces every one of these divisions and subdivisions. I believe and maintain a position entirely opposite to the prediction which my friend from Kentucky has seen fit to assume; and I believe that to-day if the supervision of the commercial interests of this country and the supervision of the agricultural interests of the country in so far as the Government has assumed to exercise control or jurisdiction over either or both—that if they shall be included under the same management it would result in relief to the country to a large degree, from the fact that its commercial and transportation regulations have heretofore had no reference whatever to the agricultural interests.

I believe rather with the gentleman from Texas, who takes the position that the collecting and collating of matters of interest pertaining to these two divisions under one general management will exercise a restraining influence over either in so far as there may be a tendency to trespass upon the prerogatives of the other. I have no apprehension of possible danger resulting from such a combination, as the gentleman from Kentucky seems to have. On the other hand, I believe that the mere naked enlargement of the Agricultural Department and its elevation to the dignity of a Cabinet position, with a Cabinet head, will, as I have stated before, on yesterday, be simply the enlargement of a shadow without the corresponding enlargement of the substance. I believe that the combination of the two will have a tendency to correct any inequalities which may exist in either with reference to their relations to each other.

So far as bringing under one general management the commerce and the navigation interests of the country, I believe that it will result in bringing to the farming class of the country a relief from burdens which they have never been able heretofore by any meas-

ure to secure, by cheapening the transportation of their products and enlightening them with reference to the various methods and processes through which their various products are subjected during the process of shipment.

I believe that the future dealings with the commercial needs of the country under this system will do more in the interest of agriculture than the bare advantage which agriculture may possibly receive from the enactment of such a bill as that which the committee have presented.

I had hoped, sir, that there would have been practical unanimity in the House as to the manifest propriety of embracing both of these divisions under one management. I had trusted and believed that such would have been the case, and I now believe, from the views which have been expressed by members on both sides of the House, that the substitute will finally be adopted; in which event I feel assured that the substitute, embracing as it does both of these provisions under one head, will be favorably received elsewhere for consideration. Its adoption will result in the end in giving all the benefit that our legislation here can give to agriculture, as well as to commerce; and by its adoption we place ourselves in an attitude similar to other great agricultural nations with reference to the proper development of this paramount interest in our country.

[Here the hammer fell.]

Mr. VALENTINE. Mr. Speaker, I had expected to address the House during the consideration of this bill touching the agricultural resources and needs of the country at considerable length, comparing them with the agricultural needs and resources of other countries. But as the gentlemen who have preceded me have so carefully, eloquently, and ably presented all of these points to the House, it will be unnecessary to make any extended remarks upon the question.

I will therefore attempt to confine myself in the time accorded me to calling attention to the provisions of the bill reported from the Committee on Agriculture, and compare them with the various substitutes offered by gentlemen to this bill.

I hope that the members present have examined carefully the bill reported by the Committee on Agriculture, as it is published in the RECORD of this morning. When this question was called up yesterday for consideration it was ascertained that all of the bills of the committee were exhausted, that the supply had given out, and it was almost impossible to procure a single copy; but it was also found that there was a generous supply of the substitutes, which were scattered about the House and a copy of each laid upon the desk of almost every member. I think, therefore, in the first place, that as between agriculture and commerce, commerce had the start, as they desire it to have in the race they are trying to make now.

It has been the intention and the object of the Committee on Agriculture to elevate—to raise up—to widen and extend the powers and duties of the Agricultural Department of this Government. They have given this question considerable care and attention; and if it is true as the gentleman from Michigan [Mr. HUBBELL] has said that the bill they have brought into the House and upon which they ask your vote is so bungling that it ought not to receive your support, if that statement be true, then it is your duty as wise legislators to reject it, refer it back to the committee, or give the subject to some other committee more competent than this has shown itself in this matter.

The gentleman from Michigan, it seems, early in the session had some misgivings as to the capacity or capability of the Committee on Agriculture to properly draft and bring before Congress a measure of this kind; because the gentleman himself introduced a resolution some time ago directing the Committee on Civil Service Reform to examine into that subject and report a bill to the House. No objection was made. We heard his resolution read, and were anxious that that committee also might have jurisdiction of this matter—a very important one indeed to the House and the country. We have waited anxiously all these weeks and months to ascertain what the wisdom of that committee would furnish the House on that subject; and we now have the report of that committee which the gentleman from Michigan offers as a substitute for our bill.

That a department of agriculture should be an executive department I think is fairly conceded by nearly every member of this House. The agriculturists of this country feel, and I think justly so, that they have been neglected while other interests have been constantly fostered by this Government. The Government has spent millions upon millions of dollars and has given millions of acres of land subsidizing corporations to build railroads throughout this country. What has it done for the benefit of agriculture? The agriculturists have for several years been asking a more definite recognition on the part of the Government of their valuable interests; and the committee in charge of this question have reported a bill which is simply agricultural in its parts. They make a secretary of agriculture, one assistant secretary of agriculture, and four bureaus in that department, covering I think all the interests that are necessary to a fair, honest, active understanding of the agricultural needs of this country.

The gentleman from West Virginia [Mr. KENNA] offers as a substitute all that is reported by the Committee on Agriculture, but adds a division, as he terms it, called a division of commerce. He has changed the name from a secretary of agriculture to that of a secretary of industries, making a division of agriculture and a division of commerce. To this our committee seriously object. It has been the object and desire of the committee, and in accordance with the express wish of every agricultural society of any kind, name, or shape that has addressed itself to this body on the subject, to eliminate everything else from this bill except agriculture.

The gentleman from Texas [Mr. REAGAN] supports the amendment or the substitute of the gentleman from West Virginia. He calls agriculture and commerce, as does the gentleman from West Virginia, twin sisters. But he soon leaves the subject of agriculture, branches off into anti-monopoly, and is down on the railroad companies; for part of his time he abuses the banks, and finally winds up by asking you gentlemen here to take the agricultural interests of this land and place them in the hands of the monopolies. For that is just what I believe would be the result if this House to-day or this Congress, at this or any other session, should pass the bill introduced by the gentleman from West Virginia.

The gentleman from Texas says he likes bold men, chivalrous men, men who have the courage to grapple with the lion—monopoly; and yet he stands on this floor and asks you gentlemen to place internal commerce as a division alongside of agriculture. Why, when, where, and how at any time have the agriculturists of this country come before this Congress or any other and by a lobby, or raising large sums of money, asked legislation in their behalf? And yet these gentlemen who stand here and cry "down with the railroads," say "take the railroad interest of this country and place it alongside of agriculture as a division under a department of industries." Why, Mr. Speaker, how long do you suppose the agricultural lamb would exist placed alongside of the railroad lion? If they are set side by side in one department in this Government, is there a man here who does not honestly believe that inside of two years the commerce lion would eat up, wool and all, the agricultural lamb?

Mr. KENNA. If it would not interrupt the gentleman——

Mr. VALENTINE. Not at all.

Mr. KENNA. I desire to ask the gentleman to point out, if he can, the provision, or section, or clause, or the words in the proposed substitute that embraces railroads. There is not one solitary item in it that embraces that subject in any manner whatever.

Mr. VALENTINE. Then, Mr. Speaker, if it is only the intention or object of the gentleman, by offering his substitute, to include that species of commerce which is external, as he terms it, in one portion of his bill, and which is wholly without the limits of the United States, then I say it has no business to be in the Agricultural Department, and ought not to be there.

Mr. KENNA. Will the gentleman pardon me one moment? The substitute embraces the transfer from the Treasury Department of everything relating to commerce and navigation. But railroads are not carried with it. They remain where they are. If this Congress should pass a law regulating railroads, it can send the administration of that law where it pleases. The substitute, as it now stands, does not justify the assumption of the gentleman from Nebraska, that it brings the railroads and the Department of Agriculture together, either in association or antagonism.

Mr. VALENTINE. Your substitute brings John Roach in, does it not?

Mr. KENNA. I trust in God it does not.

Mr. VALENTINE. I think it does.

As a member and the chairman of the Committee on Agriculture, I desire to say that it is the unanimous wish of that committee, after a careful study of the proposed substitute and of all the bills introduced and referred to them, that this House stand by them in support of their original bill as amended by the gentleman in charge of the measure.

Now, if this department be elevated to an Executive Department, after it has got well upon its feet, after the country has become acquainted with its workings, if it is then desirable to place internal commerce and interstate commerce in charge of a bureau of that department, it perhaps might be safe to do so. But to take this lamb and this lion and start them out together would, I think, result disastrously to the very interest which this House is now seeking to foster, protect, and elevate.

The gentleman from Michigan [Mr. HUBBELL] criticised severely the bill of the committee; he said it was bunglingly drawn in many of its provisions. He said that the first section of the bill included all the powers now given to the Commissioner of Agriculture; that every power under the present law given to the Commissioner of Agriculture was given to the first bureau designated by the bill of the committee.

Immediately thereafter, referring to the paragraph relating to the third bureau of the committee's bill, the one comprehending lands and forestry, the gentleman showed at once to my mind, and I think to the mind of every other gentleman who followed his remarks, that he simply did not understand the subject he was addressing the House upon; that he did not understand the bill he was talking about. It certainly would be impossible to give in one section every power now existing, and then have three other sections dividing up those powers.

Mr. HUBBELL. I said nearly every power.

Mr. VALENTINE. I think I have quoted the gentleman correctly; I took down his words at the time. One of the most important sections of this bill is the section providing for a bureau of statistics.

I listened with much pleasure to the remarks of the gentleman from Mississippi [Mr. MONEY] upon that subject, and I think I can indorse all that he said upon it.

It is the desire of the present Committee on Agriculture, as shown by their report upon the bill making appropriations for the support of the Agricultural Department, to enlarge the powers of that bureau of the Department. Heretofore only about five or ten thousand dollars a year have been appropriated by Congress to enable the Commissioner of Agriculture to obtain agricultural statistics. The present committee reported to this House an appropriation of $80,000 for that purpose for the next fiscal year; and that appropriation has passed both the House and the Senate, and has been agreed upon by the committee of conference. Heretofore the agriculturists of this land have had no help from these statistical reports. When I say "no help," I may not be supposed to mean just what I say. We have had, it is true, a report coming from the Agricultural Department two or three years after the information was gathered. But we have had no help from the Government to give to the farmers a knowledge of the present status of their crops.

Grain speculators, grain gamblers, have held the agriculturist in their grip for years. They spend thousands upon thousands of dollars to send agents throughout the entire agricultural regions of the country. If they desire to work upon wheat they send their agents into the wheat regions; if upon cotton, they send their agents into cotton regions, and they know by the time the crop is gathered, if not before, what the crop is.

Mr. HUBBELL. I want to call the attention of the gentleman to this fact. In the bill reported by him there is a provision made for a bureau of animal industry, to be in charge of a competent veterinary surgeon, who shall investigate and report upon the number, value, and condition of the domestic animals of the United States, &c. The third division is the bureau of lands, the chief of which is charged among other things with reports upon stock-raising, &c. Now, the veterinary surgeon reports upon stock, their diseases, &c., and the third bureau is to report upon stock-raising.

Mr. VALENTINE. The gentleman misunderstands those two sections.

Mr. HUBBELL. I ask the gentleman to explain them.

Mr. VALENTINE. I will do so. The gentleman misunderstands those two sections to the same extent that he misunderstands the entire bill. I think his judgment of those sections is a fair sample of his judgment of our bill.

The second provision is for a bureau of animal industry, to be in charge of a competent veterinary surgeon, who shall investigate and report upon the number, value, and condition of the domestic animals of the United States, their protection, growth, and use; the causes, prevention, and cure of contagious, communicable or other diseases; and the kinds, races, or breeds best adapted to the several sections for profitable raising.

The third provides for a bureau of lands, and the duty of the chief of that bureau is to report upon the resources or capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses. The one reports on the number and kind of animals in the United States, as to the diseases that are communicable and contagious and the best methods for eradicating and driving away such diseases. The other reports wholly upon the adaptability of the soil of the country, as to whether certain portions of the public lands are better adapted to wheat, cotton, or stock-raising, and if to stock-raising what kind of stock shall it be—cattle, sheep, or swine. That is his duty; simply to report upon the capabilities of the soil as defined by this bill; not to examine into the number and kind of cattle or the diseases incident to them. Now is the gentleman convinced?

Mr. HUBBELL. I am not.

Mr. VALENTINE. I am sorry that I cannot convince him.

Mr. YOUNG. Does the gentleman propose to transfer the duties of the Commissioner of the General Land Office to this department?

Mr. VALENTINE. Not at all.

Mr. YOUNG. Why not?

Mr. VALENTINE. It has nothing to do with it.

Mr. HUBBELL. Will the gentleman allow me to say why I am not convinced?

Mr. VALENTINE. I have no time to yield for a speech.

Mr. HUBBELL. I do not want to make a speech.

Mr. VALENTINE. I am willing to yield for a question.

Mr. HUBBELL. I want to ask the gentleman why the bureau of animal industry, which gives all the information relating to animals, should not have also the duty of collecting information in regard to stock-raising?

Mr. VALENTINE. The general question of the manner of raising stock would belong to the one; the adaptability of the soil to stock-raising would belong to the other. One relates simply to the question of adaptability of land; the other to the raising of stock.

Mr. SHERWIN. If the object of the bureau of animal industry is simply the examination of "kinds, races, or breeds," why should the bureau be put in charge of a "competent veterinary surgeon?"

Mr. VALENTINE. It has a larger scope, as the measure itself shows. It is to report upon "the causes, prevention, or cure of contagious, communicable, or other diseases." It includes that subject, as well as the matter of stock-raising and the adaptability of soil. Does the gentleman from Ohio [Mr. YOUNG] wish to ask me a question?

Mr. YOUNG. Oh, no; I will not interrupt the gentleman.

Mr. VALENTINE. I will say to the gentleman that in this matter we have nothing whatever to do with the Commissioner of the General Land Office. We do not propose to take away any jurisdiction now belonging to him.

Mr. YOUNG. Why not take this whole question from the Commissioner of the General Land Office and put the subject in charge of this officer, or else omit this officer from the bill and clothe the Commissioner of the General Land Office with the statistical duties which you propose to vest in the officer named in the bill?

Mr. VALENTINE. As I understand the law, the only duties now devolving upon the Commissioner of the General Land Office are ministerial, and to a certain extent judicial. The Land Department surveys the public domain, determines which lands are mineral and which agricultural, and makes conveyances of the public lands to the people. This bill contemplates a further and a different purpose. I will say that it was the desire of a number of gentlemen that the committee should transfer the General Land Office to the Agricultural Department. In the opinion of these gentlemen the Agricultural Department was the proper place for the Land Office. But the committee holding to their desire to report simply an agricultural bill, have omitted that provision. If in the wisdom of the House it should be thought desirable to insert it, there will be no serious opposition.

Mr. YOUNG. You mean from the committee?

Mr. VALENTINE. I mean from the committee.

The proposed substitute of the gentleman from Michigan, [Mr. HUBBELL,] instead of retaining the provision in regard to the bureau of statistics as reported in the original bill, provides that the secretary of agriculture shall call upon the Bureau of Statistics now existing under the supervision of the Secretary of the Treasury for all information in the possession of that bureau.

Now, it is the desire of the committee to create in this new department a bureau of statistics, which shall gather information accurately and disseminate it throughout this country for the benefit of agriculture. If any other industry is benefited at the same time, all right; but the primary object of this bill in every feature is the promotion of the interests of agriculture. In the first place, we desire that the agricultural community, embracing one-half the people of the United States, shall have a direct representative in the council chambers of this Government, so that when matters of great importance are being examined into by the Chief Executive with his advisors, the agriculturists may feel that whatever policy the Government may adopt their interests will be had in view, and they will have a voice in the determination of the question. I believe that nothing less than this will satisfy the agriculturists of this country.

The gentleman from West Virginia [Mr. KENNA] proposes to take what is to-day an independent department, although not one of the Executive Departments, and make it a division under a secretary of industries. I affirm that he cannot find any farmers in the land who want such a measure adopted. Where is the petition from agriculturists asking that their interests be placed in charge of a bureau under the department of industries or any other department? Petitions from the farming community are here in great numbers, and they all ask the recognition of their great interests in an independent department.

I will read the provision of section 4 which contemplates the establishment of a bureau of statistics; and every man who will listen must I think be satisfied that we have in this provision all that can be desired touching the question of transportation and commerce:

Fourth. The bureau of statistics, the chief of which shall collect and report the agricultural statistics of the United States; and, in addition, all important information or statistics relating to industrial education and agricultural colleges; to labor and wages in this and other countries; to markets and prices.

Now I ask especial attention to the next provision:

To modes and cost of transporting agricultural products and live stock to their final market; to the demand, supply, and prices in foreign markets; to the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, and prices; to such commercial or other conditions as may affect the market value of farm products or the interests of the industrial classes of the United States.

Mr. Speaker, this covers the whole question of transportation. If this bill should become a law, the gentleman in charge of this bureau of statistics will be authorized and directed by law to examine into the whole system of transportation, whether interstate or external, and to report to the secretary of agriculture and through him to the agriculturists of the country.

The gentleman from Mississippi [Mr. MONEY] said that he proposed to offer an amendment directing the secretary of agriculture to publish the statistics at least once a week. If the gentleman will examine the latter portion of the paragraph to which I am now referring he will find this language:

And the secretary is hereby authorized to establish such divisions in this bureau and to make such monthly or other reports as he shall deem most effective for the prompt dissemination of such reliable information respecting crops and domestic and foreign markets as will be of service to the farmers or other industrialists of the United States.

The provisions of this bill are such that the secretary of agriculture, if he should deem it best for the farming or other industrial in-

terests of the United States, may publish a bulletin every morning, which may be a portion of the reading matter in our daily papers; and the weekly papers may take these reports, collating them from day to day. We desire to place in the hands of the farmers of this country the means of understanding fully just what their crops are worth. We want them to have the benefit, if there be any, of a short crop in Europe or in any other portion of the world.

But as it now is this information is kept away from them, as it was last fall, until other countries (as France then did through agents who subsidized our newspapers for the time being to assist them) have beared the market, and then come in and bought 25,000,000 bushels, after which they have permitted the market to go up again, our farmers losing, as they did in the instance I have referred to, millions upon millions of dollars. It is in order to prevent this crying injustice to our own agriculturists that the committee have deemed it not only wise but imperative on their part to make this provision in the bill.

Mr. YOUNG. Let me ask the gentleman from Nebraska whether the leading papers of his State do not publish market reports.

Mr. VALENTINE. Yes; but we mean them to publish a market report that is authoritatively furnished by the Government of the United States, and not made up by boards of trade in the cities of Cincinnati, Chicago, and New York—made by men whose only object is to deceive the farmer and to make him believe his crop is only worth 50 cents a bushel when it is in reality worth a dollar. That is the object of this measure. We want to let the farmer have reliable information.

Mr. YOUNG. I wish to ask the gentleman from Nebraska whether, supposing this should be adopted, the Government in the end would not have to get its information from the very boards of trade he speaks of.

Mr. VALENTINE. No, sir; if I thought so I would be against it. Whomsoever the President in his wisdom may call to the head of this new executive department of agriculture will have the good sense undoubtedly to go among the farmers of the country and not to these boards of trade for his information. He will learn the facts from the farmers precisely as they exist, and not from any boards of trade who act wholly in the interest of speculators.

The gentleman from Ohio [Mr. GEDDES] delivered an excellent speech in favor of this measure. He said, however, that he thought the four divisions should be put into two so as to save expenses. I do not agree with him on that point. In his speech he spoke of Italy, little Italy, as he called it, having a minister of agriculture, with ten divisions, ten distinct and separate divisions for the consideration of the agricultural interests of that country. Yet he would have the great agricultural interests of the United States, the greatest perhaps of any nation on the globe, confided to the care of a department with two divisions.

Now, the Committee on Agriculture, charged with the interest of our agriculturists, have framed and reported a bill without regard to any other of the great industries of this country, and have provided a secretary, an assistant secretary, and four bureau officers. My friend, who is so good a friend to agriculture, as I know he is, is not, I am sure, going to permit the safety of this measure to be imperiled by insisting upon any amendment such as he suggests to save two officers. If he will look at the matter fairly he cannot fail to see that the pittance of $6,000 a year given to the agriculturists of the country by allowing the four bureaus to exist as reported by the committee must result to the interest and benefit of agriculture.

Mr. TYLER. Will the gentleman allow me to ask him a question?

Mr. VALENTINE. Yes, sir.

Mr. TYLER. If the bill passes as proposed, providing for the establishment of these four bureaus, I would like to inquire of the gentleman from Nebraska whether he understands that it will be the imperative duty of the secretary to establish these four bureaus, leaving no discretionary power in his hands?

Mr. VALENTINE. If they be provided for in this bill, my judgment is that the secretary would be compelled to organize them. I hope the bill will pass by which this department of agriculture will be divided into four grand divisions for the protection of the great agricultural interests of the country.

Mr. TYLER. I ask the gentleman, that being so, whether in his judgment it would not be better to leave it to the discretion of the secretary to establish this bureau of statistics as well as this land bureau as the occasion may demand?

Mr. VALENTINE. I do not know. In my judgment there is not so much necessity for the establishment of this land bureau as for the establishment of the other three. I do not think that the department could readily get along without the other three.

The arid-land question is one which will soon become one of the greatest we will have to deal with. These lands constitute a great portion of this country now useless, but would be fertile if we could only have sufficient water for them. It is demonstrated if they could be irrigated and brought under cultivation they would furnish all the cereals this or any other country might need. The question of forestry, too, is becoming one of the greatest importance. This bureau of lands will have the consideration of these two items of important general interest to the country. We have also provided for a division in this bureau which shall be known as mines and mining, which we think a great necessity to the country.

Mr. TYLER. I understand the main distinction between this bill and the one presented by the Civil Service Reform Committee——

Mr. VALENTINE. What bill have you in your hand?

Mr. TYLER. Your bill. The distinction is that the bill of the gentleman from Michigan [Mr. HUBBELL] leaves it discretionary to the secretary of agriculture to establish these two additional divisions according to his discretion.

Mr. VALENTINE. It is not satisfactory to the committee. It requires the secretary to go to the Treasury Department to get his information. We believe that it would leave the department in a worse position after the passage of the Hubbell substitute than it is now; that its scope would not be so great, and that it would be compelled to rely upon another Department of the Government for its information. We feel that that would be fatal to the very object that this bill seeks to accomplish, and we regard it as wholly inadequate.

Under the head of statistics there is another provision which I would read, as I have not read it before, and to which I ask the attention of members, for the reason that I feel satisfied many of them at least have not read the bill carefully. I refer to the provision which relates to statistics as to the location, number, and products of manufacturing establishments of whatever sort, the sources of their raw material, the methods, markets, and prices, and such commercial and other conditions as may affect the market value of farm products or the interests of the industrial classes of the country. The fifth clause of the bill is as follows:

SEC. 5. That all laws and parts of laws relating to the Department of Agriculture now in existence, as far as the same are applicable and not in conflict with this act, and only so far, are continued in full force and effect.

Now, the gentleman from Michigan says that we are creating a department, with a secretary of agriculture—and so far he is correct—and four bureau officers, and that yet we have not a chief clerk. He says his bill provides for a chief clerk and our bill does not, and therefore for that reason we should vote for his bill. Now, the gentleman will observe that this section 5 does not legislate the chief clerk out of office, but on the contrary it makes provision for continuing in force such laws as are applicable and not in conflict with this act and which are now in force. Now, the chief clerk is provided for by law already.

Mr. HUBBELL. Will the gentleman tell me what powers and duties are left by his proposed bill of the old law? If you have a commissioner of agriculture, what are his powers and duties?

Mr. VALENTINE. We have no commissioner of agriculture. The officer designated by this bill is entirely different. If I had time to take up the law in the four minutes which I have remaining I would be able to show the gentleman that we have an officer in charge of these departments who has powers as absolute and certainly more extensive than those which are now exercised by the Commissioner, and point out the powers and duties to which he refers. All the powers touching the divisions of botany, entomology, and chemistry are left precisely as they are now. They are somewhat qualified here and placed in the bureau of practical agriculture, where the committee thought they properly belonged. That is all we establish. We directed simply where they should go, and where, under each of these four different heads, the committee believed these different divisions should be assigned.

The gentleman has said a good deal concerning the provisions of the bill that certain officers mentioned should be practical agriculturists. We felt that it was the duty of Congress in legislating upon a question of such importance as this to limit executive patronage in that direction. We did not desire the offices to be peddled out politically; but we all thought at least that two of these men should be practical agriculturists, and that these positions should not be given wholly for political reasons.

My friend from Michigan says he does not think as much of this seed-distributing portion of the bill and of that department as do some other gentlemen. But I am not surprised at that, because his constituency are not much interested in seed distribution.

Mr. HUBBELL. I beg the gentleman's pardon; they are greatly interested in it.

Mr. VALENTINE. Then I have been misinformed.

Mr. HUBBELL. I have eighteen agricultural counties in my district.

Mr. VALENTINE. And how many agriculturists?

Mr. HUBBELL. Seventy-five thousand.

Mr. VALENTINE. Agricultural people?

Mr. HUBBELL. Yes, sir.

Mr. VALENTINE. Then I was wrongly informed, and I apologize for that. I naturally supposed the only interest the gentleman had in his district was copper.

Mr. HUBBELL. There are twenty-eight counties in my district, and two of them are copper-producing counties.

Mr. VALENTINE. Well, be that as it may, I desire no quarrel with my friend.

Mr. HUBBELL. You cannot have it. I will not quarrel with you, but you ought to post yourself.

Mr. VALENTINE. I think the bill of the gentleman, as I was going on to say, is wholly inadequate.

It may be that the bill of the committee is not the wisest that could be framed. I doubt that it is. But a large number of bills were

sent to the committee. Members on both sides of the House, representing all sections of the country, sent their bills to the committee. It appeared on assembling that four or five members of the committee had bills of their own, and each member representing a different interest desired a peculiar construction of language in framing the bill. Now this bill is a compromise between all of these different measures. We believe we cover every interest in the bill, dividing the department into four grand divisions, which are necessary, in the judgment of the committee, to protect, elevate, and foster the practical agriculture of the country.

If you give our bill, as we ask at your hands, a fair chance, I think it will be found to produce great advantages, and that much good will come not only to the agricultural interests of the land, which are now about to receive for the first time a substantial recognition by Congress, but that it will give to all other interests and industries the advantages which naturally follow from their dependence upon agriculture, and that it will inure to the glory and renown of the country itself. I ask this of the House on behalf of the Committee on Agriculture: I ask you to vote down both substitutes offered for this bill. We believe it to be our duty to resist the passage of the substitutes, both the one offered by the gentleman from Michigan and that offered by my friend from West Virginia. We feel that it would simply absorb the present independent Department of Agriculture, making a bureau or department with an entirely different name and without practical good.

In the opinion of the committee, the substitute of the gentleman from Michigan is wholly inadequate, and destroys the very best features of the bill and of the ideas we desire to perpetuate in the elevation of this Department.

The SPEAKER *pro tempore*. The hour of two o'clock having arrived, all general debate by order of the House on this bill is now closed. The House will proceed to the consideration of the bill by sections for amendment.

Mr. KENNA. I would like to ask a parliamentary question: Whether the proposed substitute should now be sent to the desk to be read, or whether it should be left till the bill has been amended?

The SPEAKER *pro tempore*. The Chair will state that the proper course is first to perfect the bill.

Mr. ANDERSON. I call for the reading of the first section.

Mr. HUBBELL. I want to know in what position the substitutes for this bill now stand. Particularly I desire to know the status of the substitute proposed by myself.

The SPEAKER *pro tempore*. The bill will first be considered by sections for amendment, and when the original text of the bill is perfected, then substitutes will be in order.

Mr. HUBBELL. I want to know in what order?

Mr. VALENTINE. Under the rules of the House I understand the bill will now be read by sections for amendment to perfect the original text of the bill. There are some amendments offered by the committee. After the original bill is perfected we will then vote on the substitute.

The SPEAKER *pro tempore*. The Chair has already directed the reading of the bill by sections. The Clerk will report the first section of the bill.

The Clerk read as follows:

That the Department of Agriculture, established at the seat of government of the United States, shall be an Executive Department, under the supervision and control of a secretary of agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate; and section 158 of the Revised Statutes is hereby amended to include such department, and the provisions of title 4 of the Revised Statutes are hereby made applicable to said department.

Mr. TOWNSHEND, of Illinois. I understand the bill is now being read by sections for consideration and amendment?

The SPEAKER *pro tempore*. It is.

Mr. TOWNSHEND, of Illinois. I offer the amendment which I send to the desk.

Mr. MONEY. I desire to make a parliamentary inquiry. What will become of these amendments if the substitute passes?

The SPEAKER *pro tempore*. They will have the fate of the original bill.

Mr. MONEY. I understood the gentleman from Illinois [Mr. TOWNSHEND] to ask the Chair if amendments are now in order. I desire to ask this question: If amendments are in order and an amendment is offered to the first section, do we vote on that after debate? If so, when the bill is perfected and the substitute is offered——

The SPEAKER *pro tempore*. When debate is ended on the amendment a vote will be taken, and the House will in that way proceed through the bill to its close. Then a substitute will be in order.

Mr. MONEY. Are the amendments that may be adopted to the bill carried over to the substitute?

The SPEAKER *pro tempore*. They are amendments to the original bill and not to the substitute.

Mr. MONEY. Suppose amendments are offered to the substitute and agreed to?

The SPEAKER *pro tempore*. Then they will attach to the substitute.

Mr. KENNA. I desire in this connection to state, for the information of the gentleman from Mississippi, so far as the substitute offered by me is concerned, the first part of it embraces the present bill.

The SPEAKER *pro tempore*. The Clerk will report the amendment offered by the gentleman from Illinois, [Mr. TOWNSHEND.]

The Clerk read as follows:

In line 6 of section 1, after the words "shall be," insert the words "a practical agriculturist, to be;" so it will read:

"Shall be an executive department, under the supervision and control of a secretary of agriculture, who shall be a practical agriculturist, to be appointed by the President," &c.

Mr TOWNSHEND, of Illinois. I have no desire to make a speech on this bill or on the amendment. The amendment is easily understood.

The bill is designed to establish an agricultural department, pure and simple, without any complication from the introduction of commerce or any other branch of the Government departments. The amendment I have offered is simply for the purpose of declaring that the President shall appoint one as chief of the agricultural department, who is a practical farmer. It strikes me as eminently proper that he who presides over the agricultural interests of the country should be thoroughly familiar with them as a practical agriculturist. I do not wish to discuss the question any further, and yield to the gentleman from Iowa, [Mr. MCCOID.]

Mr. MCCOID. Mr. Speaker, I favor this bill—

1. Because it will give deserved recognition to the great industry which stands highest in rank in importance, in dignity, and independence in our country.

2. Because with it will begin an organization of those engaged in that industry, the farmers of America, which I hope will result in such complete unity as will enable them to assert the controlling influence which of right belongs to this interest because of its extent and its merit.

3. Because it will contribute to the prosperity of the country by advancing the usefulness, intelligence, and success of the people who compose the sturdy, reliable frame-work of American society, American politics, and American religion.

Mr. Speaker, there is contained in each of these thoughts the subject-matter of an argument which would exhaust much more time than I think it necessary to occupy.

The just recognition, the organization, and the success of agriculturists of America is a theme worthy of more extended consideration by Congress than any that in my judgment can come before it. It stands at the head of all our industries; to it all are subordinate and contributory. As such I want it to be enthroned and honored nationally. Those traits of character which make up the pure, independent, patriotic, obedient, and industrious citizen are learned best on the farm. Therefore, I want the voice of the agriculturist as such to be heard in counsels of the Cabinet and his annual suggestions to be submitted to Congress and the country.

I believe in small farms, in—

> The little house well filled,
> And the little farm well tilled.

And in this country we have it with its healthful influences. But these small farmers are in this divided and independent work all in an age of combinations, monopolies, and corporations; they are in the unnatural strife left largely defenseless. They need organization and preservation in all their rights, and they need it in such a way as not to lose that simplicity and purity, that nobility and justness of character, which crowns their pursuits with such halo now. This organization will come, in my judgment, through the organization of this department and its enlarged and practical character as contemplated by this measure. I regard this as but the initiative of such an organization as should be perfected, some of the plans for which are maturing and will follow it.

The success of any interest quickly follows when it has the natural resources, the contributing forces of nature's laws, yielding obedience to well-directed labor, and when it is recognized and organized to exert its power. This will be the case with agriculture should that pursuit meet with the just protection and encouragement to which it is entitled. There are questions of detail which must be left for the future, but they will come in their order and time.

Sir, amid all the avocations of this country none should be so near the heart of its chosen legislators as this. It is said that in China on the annual festal day when the plowing season begins, about the middle of February—

The Emperor in person, clothed in his sacerdotal robes, sets the example to his subjects by breaking the ground, guiding the plow with his own hands, and sowing the seed. This festival is conducted with great *eclat* and ceremony. All those who are to assist in the ceremonies are commanded to fast for three days previous thereto. On the morning of the festival day the Emperor, attended by the great officers of state, repairs to the temple of earth where he makes sacrifices and implores a blessing on the labors of the husbandmen, that they may produce plentiful harvests; and when these rites are ended the emperor then descends and plows a few furrows and sows five sorts of grain, after which twelve of his chief ministers or grandees plow and sow in turn, and then the work is finished by regular husbandmen who each receive a piece of Nankin cloth. The produce of this imperial field is preserved in a granary by itself and used only for solemn sacrifices. Through the provinces a similar ceremony is performed, though different in its details.

It is thus that the rulers by both precept and example stimulate their subjects to agricultural pursuits.—*Lecture on China by D. P. Stubbs.*

This is our great specialty, our natural monopoly, and it is the

noblest labor of life. There has been no truer sentiment uttered in all these centuries than that of Virgil:

O happy, if he knew his happy state,
The swain, who, free from bus'ness and debate,
Receives his easy food from Nature's hand,
And just returns of cultivated land!
No palace, with a lofty gate, he wants,
T'admit the tides of early visitants,
With eager eyes devouring as they pass,
The breathing figures of Corinthian brass.
No statues threaten, from high pedestals;
No Persian arras hides his homely walls.
With antic vests, which, through their shady fold,
Betray the streaks of ill-dissembled gold:
He boasts no wool, whose native white is dy'd
With purple poison of Assyrian pride:
No costly drugs of Araby defile,
With foreign scents, the sweetness of his oil:
But easy quiet, a secure retreat,
A harmless life that knows not how to cheat,
With home-bred plenty, the rich owner bless;
And rural pleasures crown his happiness.
Unvex'd with quarrels, undisturb'd with noise,
The country king his peaceful realm enjoys—
Cool grots and living lakes, the flow'ry pride
Of meads, and streams that through the valley glide,
And shady groves that easy sleep invite,
And, after toilsome days, a soft repose at night.

From these retreats of virtue the best men of every age have and will come. To its memories, though they be those of childhood and boyhood, men turn from the cares of every station and the fatigues of every work of life, and are soothed again to peace, and at its shrine they gladly lay down their offerings, and for its success they ever offer their sincerest prayers, and, though they are separated by the duties of life, they ever carry with them a longing to return to its peace and its purity.

Mr. HERBERT. Mr. Speaker, I take this opportunity to give briefly the reasons why I cannot consent to this bill. It is a long stride in the direction of consolidation. It is a bill to create permanently another Government bureau and to create another Cabinet officer. It gives an assistant secretary and four chiefs of bureaus with large salaries. We ought not to make so grave a change in our governmental structure without good reasons. I am in favor of doing anything and everything that will increase the efficiency of the Agricultural Department. If it needs more help I am willing to give it more help; if it needs more money I am willing to give it more money; but why should we make it a political machine? That will be the effect of this bill. Its effect will be, not as the gentleman who last addressed the House said, to organize the farmers, but to organize a bureau to control the farmers. I do not speak solely with reference to this Administration, or solely with reference to the Republican administration, for it has been the case under Democrats and Republicans that the different bureaus of this Government were more or less political machines.

What is the difference between the Agricultural Department and any of the other Departments of this Government? In what does it consist? Simply and solely, sir, in this: that the head of every other Department is a political adviser of the President and an active, working politician. The present Commissioner of Agriculture is a business man; he conducts his department on business principles. He is a man of ability and high character, but if this bill passes I doubt whether he would be made a Cabinet officer. However that may be, it is not now a question of men. He or any other person at the head of that Department would become a politician. It would necessarily be so. Every Cabinet officer is not only the adviser of the President but also the political head of a bureau. The Secretary of State superintends the appointment of consuls and advises as to the appointment of ministers. All these are appointed not only to carry out the President's foreign policy, but also with the view of sustaining his party and his individual aspirations. With the Secretary of the Treasury it is the same thing. Not only the heads of bureaus, but customs officers and internal-revenue officers and weighers and gaugers—all these are made political appointments.

So of the appointments under the Secretary of the Interior, and especially so with regard to the Postmaster-General. Every postmaster, from the highest to the lowest, is appointed where partisans of the administration can be had from among those partisans. Even the Department of Justice is prostituted to the same purpose. Not only are judges and clerks appointed all from one party, but marshals, the ministers of the law, are chosen with reference to their capacity to pack conventions and manage political campaigns. These things have caused our Presidential elections to become little else than scrambles for spoils.

Do gentlemen want to subject the Agricultural Department, which is for the benefit of the farmers of the whole country without reference to party, to the same influences? I have listened carefully, Mr. Speaker, to several of the speeches which have been made in advocacy of this bill, and I failed to discover any tangible reason given by any speaker why the head of the Agricultural Department should go into the Cabinet and become a politician, save one. All the gentlemen, with singular unanimity, say they wish to dignify the agriculturists. Do gentlemen seriously believe that this Congress, by legislation, can dignify the farmer or the farmer's occupation?

Why, sir, it seems to me to be an imputation on the farmer to say that he needs this or any other special legislation to dignify him or his calling. Agriculture is not more honorable than other honorable occupations; but I think I may say without disparagement that it is the noblest of all employments, because the most independent. But why single out the farmer alone and say you wish to dignify him by special legislation? Do you really think he needs it? We have no separate bureau of manufactures; we have no separate bureau of mining; we have no separate bureau of commerce. Do you think the calling or occupation of farmer needs to be sugar-coated or gilded to make it equal to others? For myself I do not, and I shall never put my vote here on any such grounds. I would willingly vote for this bill if I could see the benefit that would come to the farmer. I do not stop to inquire into the constitutionality of the measure.

The bureau has been too long established for me to undertake to discuss that question now. To make its chief an adviser of the President is perhaps as much warranted by the Constitution as to have a department at all. I do not, therefore, place my opposition on that ground, but I am opposed to "creating a swarm of new offices to eat out the substance" of our people; to giving the Executive more patronage, more glittering prizes to bestow as the rewards of partisan service than he has now, especially when everything that can be done for the farmer can be done by promoting the efficiency of the present Department of Agriculture, which is as nearly non-political as such a department can be. No gentleman can deny that the President would, if the chief of the Agricultural Department is made a Cabinet officer, appoint a politician to the place; no gentleman can deny that he would appoint to each of the four bureaus provided for a politician.

It would thus become a compact political machine, costing for the six political offices provided for $25,000 a year more than is now paid to the commissioner. It is the tendency of every Department to multiply its officers indefinitely. If we thus multiply the officers of this department by one act where will we stop?

Mr. Speaker, there is no analogy between the proposed bureau and any of the other bureaus we now have, with Cabinet officers at their heads. We have seven Cabinet officers now; but each of them is in charge of some portion of those duties devolved by the Constitution on the Executive.

The Secretary of State has charge of the consular and diplomatic service; the Secretary of the Treasury is in charge of finance; the Secretary of War of the Army; the Secretary of the Navy of the Navy; the Secretary of the Interior of lands, patents, pensions, &c.; the Department of Justice of the executive officers of courts; the Postmaster-General of post-offices and post-roads.

But, sir, our fathers never intended to put the people of this country under the charge of the Government or any bureau of the Government. The Government was intended to be put in charge of the people; to be their servant, not their master. All the departments of this Government should be for the benefit of the farmers as well as of all the people. What is a bureau that the farmer should be content with that if the other departments are against him?

Mr. VAN VOORHIS. Do you want to keep the farmer out of politics?

Mr. HERBERT. No.

Mr. VAN VOORHIS. If you do you will find it very difficult.

Mr. HERBERT. I do not want a bureau organized to control the farmer, and that will be the result of this scheme, so far as political influences can effect that result. This bureau, with its head in the Cabinet, taking its political complexion from the administration, giving its political aid to the administration, reaching out through its sub-bureaus all over the country, ramifying in every direction, touching the people at all points, will be a most powerful political machine. The farmers do want legislation for their benefit. They are tired of being taxed for the benefit of other classes. They want relief from burdensome taxation. If this bureau is established, and if the Administration is in favor of a high-protective tariff then all the power, all the influence, all the instrumentalities of the bureau will be used to keep the high-protective tariff upon them. Mr. Speaker, as I said to the gentleman from New York, I do not want to keep the farmers out of politics. I think they should take more interest in politics, and I only wish the farmers of the North and West would send representatives here charged not to subordinate their interests to the interests of other classes.

Gentlemen tell us that Austria has a bureau of agriculture, with a cabinet officer. Prussia has, and Italy has. Kings and princes, sir, may need bureaus to prop and keep them in power, but the free people of free America do not wish to create a political bureau to fight against them when they are contending for their rights; and gentlemen need not imagine that the farmers of America, when they are demanding justice, will be pacified by such a hollow mockery as this bill.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. BROWNE. I move to amend the amendment by striking out the word "practical."

Mr. TOWNSHEND, of Illinois. That would be simply equivalent to a motion to lay the amendment on the table, for that is all there is in the amendment.

Mr. BROWNE. I have offered an amendment to the amendment. Is it in order?

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Indiana.

Mr. TOWNSHEND, of Illinois. Let me ask general leave for members to print their remarks on this bill.

The SPEAKER *pro tempore*. That has already been granted.

Mr. TOWNSHEND, of Illinois. I wish to make a point of order on the amendment of the gentleman from Indiana, that it is virtually a motion to lay the amendment on the table.

Mr. BROWNE. That is an argument against my amendment.

Mr. TOWNSHEND, of Illinois. I raise the point of order on the gentleman's amendment that it proposes to strike out the word "practical," which is all there is of the amendment.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. MONEY. There are other words in the amendment of the gentleman from Illinois [Mr. TOWNSHEND] besides the one the gentleman from Indiana [Mr. BROWNE] proposes to strike out.

Mr. TOWNSHEND, of Illinois. I misunderstood the amendment of the gentleman and will withdraw the point of order.

Mr. BROWNE. It is perhaps well known, at least by many gentlemen who sit near me, that I have not been able to comprehend the necessity for this bill. It seems to me that everything that is proposed by it may be accomplished by the present bureau of agriculture, if we but simply enlarge its powers and increase the appropriations for its support.

There are many reasons, if I had the time to give them, why agriculture, so large and important an interest as it is, occupies no such relations to the Government as to make it either necessary or proper that it should be represented in the councils of the Executive. I would cheerfully vote to enlarge the powers of this bureau, and will join gentlemen on both sides of the House in pronouncing eulogies upon the hard-fisted yeomanry of the country.

Mr. Speaker, I am myself a practical farmer. I have held the plow as it turned the furrow. I have done something in the way of reaping broad swathes in the golden harvest field. I have carried the jug to the reapers. [Laughter.]

Mr. KENNA. Did it get there in good condition? [Renewed laughter.]

Mr. BROWNE. It was in as good condition when I got to the field as when I started. What do the farmers of the country want? It is not some one clothed with a little brief authority to attend Cabinet meetings. That is a matter of little consequence to them. As you elevate the head of the department you will simply put him further from the people. We want a department of agriculture the head of which is one whom the farmer can approach.

This bill proposes to divide this department up into bureaus; that is proper enough. May not this division be made as well under the system that now exists as if you should create a secretary of agriculture? In other words, what do you do by creating a secretary of agriculture except to make a new officer, to increase salaries, and increase expenditures of the people's money from the Treasury? That is all.

That which is to-day most vicious in American politics is the disposition to multiply places so as to provide offices for our cousins and brothers-in-law and those who manipulate political affairs in our counties and towns. I want an efficient system of agriculture; I want to appropriate money from the Treasury to promote agricultural interests. I would appropriate it, if you please, for the purchase and distribution of seeds; for making investigations in regard to the diseases of domestic animals, in regard to insects that are destructive of forests and shade-trees. I would make appropriations for investigations to cover every proper subject of investigation. I want to vote money for this purpose, but not to pay salaries for new officers such as those to be created by this bill.

The SPEAKRR *pro tempore* The time of the gentleman has expired.

Mr. McMILLIN. I rise for the purpose of opposing the amendment just offered by the gentleman from Indiana, [Mr. BROWNE.] In doing so I do not propose to controvert all he has said. There is too much truth in his statement that the tendency of our legislation now is (and it is a tendency that I regret to see in this bill) to multiply places, to increase salaries, as well as to magnify offices. There is hardly a day passes that this tendency is not manifested here. The office holder or seeker has many friends; the Treasury few.

I think that if we are to have a secretary of agriculture at all his profession ought not to belie his title, and therefore I am opposed to this amendment of my friend from Indiana. But I wish to warn Representatives that mere statutory provisions for places will not satisfy the farmer. It will not do to go to the farmer and merely tell him that we have elevated his calling. What he wants is practical help in the reduction of taxes and purification of government; such help as this bill does not give; such help as the making of a new Cabinet officer will not give.

I shall vote for this bill to make the head of the Agricultural Department a cabinet officer because I am willing to try the experiment. But I realize that there have been better bills killed during this session, and there will be more killed before adjournment, that offered the farmer more substantial help than is afforded or promised by this. When you clamorers for high tariffs go to your constituents and tell them we have made a Cabinet officer of the Commissioner of Agriculture, how will you meet their reply that while you have done this you have refused to take the high duty off their clothes, salt, iron, and books?

Pollok, in his Course of Time, tells us of the hypocrite who, "with one hand put a penny into the urn of poverty and with the other took a shilling out." I suppose there is no one in this House who intends to play the roll of Pollok's character. But members remind me of him when by one vote they offer the farmer a quieting bauble in the shape of official elevation of one agriculturist, and by another perpetuate every burden past legislation has placed on all farmers.

You profess to have the interest of the farmer at heart. You go forth with loud professions in his behalf. You say that you assemble here to legislate for him. Every man proclaims his readiness to serve the dear farmer. Let us see how the professions are practiced. The State of my friends from Ohio [Messrs. YOUNG and CONVERSE] is engaged in tobacco production; so is Indiana; so are Pennsylvania, Kentucky, Virginia, Tennessee, and North Carolina. What do you do for the farmers engaged in this one of our greatest agricultural interests? They must go and hunt up a licensed dealer before they can even sell any part of their product. And this Congress, with all its professions, has refused all relief.

Thus, while you say you are for the farmer, you decline to give him any substantial relief. You propose to send up an official balloon in his presence and say to him, "There is substance for you; there is a Cabinet officer in charge of your interests. We have elevated agriculture; we have greatly helped you." Those who really have the interests of agriculture at heart take what they can get, but notify you that more is demanded and more must be given. They want release from unnecessary tax burdens. The cry in every quarter is, "We are deeply interested in the agricultural people," yet the very substance of help you deny. I have risen to say that this will not satisfy the farmer, and this Congress ought to mend its ways by inaugurating substantial legislation for the agricultural interests, instead of increasing the length of his protestations. The 2,100 national banks can secure action by this Congress much more quickly than can the millions who till the soil. The Ways and Means Committee do not hesitate to report bills back for their relief. But to them the pleading voice of the masses ascends in vain.

[Here the hammer fell.]

The question being taken on the amendment to strike out, before the word "agriculturist," the word "practical," the amendment was not agreed to.

The SPEAKER *pro tempore*. The question now recurs on the amendment proposed by the gentleman from Illinois, [Mr. TOWNSHEND,] which will be read.

The Clerk read as follows:

In line 6 of section 1, after the words "shall be," insert "a practical agriculturist, to be."

Mr. SINGLETON, of Illinois. I move to amend the amendment of my colleague by inserting, before "practical," the words "experienced and." Mr. Speaker, I need say but little in support of this amendment. We are now considering a measure for the benefit of agriculture. We have pending before us a bill by which it is proposed to do honor to that large and important class of persons known as farmers. A great deal has been said about the importance of agriculture. Now, if agriculture is so important as to require a representative in the Cabinet of the Chief Executive of the United States, then I insist that no one is fit to represent that interest unless he is an experienced and practical farmer.

Would you think of taking a man who is distinguished in another profession than the law and putting him upon the Supreme Bench? Would you select for such a position a man who had never won distinction by the practice of the legal profession? Then, I say, when we are proposing to do something for the farmers let us give them real honor by appointing to this position one of their own class.

Unless we are willing to do this it is all humbug to be talking about this bill being for the benefit of the farmers. I will vote against any bill, I do not care what it is, that does not place at the head of this new department an experienced and practical farmer, and every one who has respect for the agricultural classes of the country should do likewise. When we are proposing to do honor to the farmers of the country, let us give them the full benefit. Let us not take a man because he has distinguished himself in some other field and put him at the head of this department. Let us take a man who has distinguished himself on his own farm, who has a reputation in the field of agriculture. Let us not go out among politicians, or lawyers, or doctors for a representative of the farming interest. This I think is all that is necessary to be said on this subject.

Mr. TOWNSHEND, of Illinois. I accept the amendment of my colleague as a modification of my amendment.

Mr. VALENTINE. Mr. Speaker, this bill, as reported by the subcommittee to the main committee included substantially the language which the gentleman from Illinois proposes to insert. Yet the committee afterward came to the conclusion that it was better to leave out that provision respecting the secretary of agriculture. While providing that the assistant secretary and the chief of the bureau should be practical agriculturists, we thought that for the position of secretary it might be necessary to choose a man with executive and administrative ability. There is no especial objection on the part of the committee to the amendment, but after full consideration they came to the conclusion——

Mr. ATKINS. I would like to know whether the gentleman means to say that we cannot find an experienced executive officer among farmers?

Mr. VALENTINE. No, sir; I do not say that.

Mr. ATKINS. That is what you mean; is it not?

Mr. VALENTINE. The committee came to the conclusion that they might leave it to the Chief Executive to choose this officer without undertaking to prescribe certain requirements that he should have.

Mr. TOWNSHEND, of Illinois. My friend from Nebraska [Mr. VALENTINE] wants a politician in the office, I presume.

Mr. VALENTINE. No, sir; I do not want a politician. Why does not the law require that the Secretary of the Navy shall be a practical sailor, or that the Secretary of War shall have been educated to the art of war?

Mr. SINGLETON, of Illinois. The gentleman will allow me to ask whether the distinguished gentleman who now presides over the Department of Agriculture is not a practical and experienced agriculturist?

Mr. VALENTINE. I think he is, and a very good one.

Mr. SINGLETON, of Illinois. Permit me to add that the single State of Illinois can furnish a thousand farmers who, like him, are capable not only of discharging the duties of this office but of adorning any position under the Government of the United States.

Mr. VALENTINE. Do not use up my time, please. It may be a violent presumption that the next President of the United States may be a Democrat, but if such should turn out to be the case he would turn out our present excellent Commissioner of Agriculture. I think we had better leave it as it is. [Cries of "Vote!"]

Mr. TOWNSHEND, of Illinois. I have accepted the amendment of my colleague as a modification of my proposition; and the question, therefore, is on my proposition as modified.

The SPEAKER *pro tempore*. That is the question now pending.

Mr. SINGLETON, of Illinois. We are in the House as in Committee of the Whole under the five-minute rule, and I ask the Chair whether we cannot have the yeas and nays on my proposition?

The SPEAKER *pro tempore*. Certainly.

The question was put on Mr. TOWNSHEND's amendment as modified, and the Speaker *pro tempore* decided in his judgment the noes had it.

Mr. SINGLETON, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. VALENTINE. I make the point of order that the call for yeas and nays is not in order.

Mr. HASKELL. The House is acting as in Committee of the Whole under the five-minute rule. That was the order of the House, and the yeas and nays cannot be in order.

Mr. SINGLETON, of Illinois. We are in the House nevertheless.

Mr. TOWNSHEND, of Illinois. And are under the rules of the House. The yeas and nays are in order.

Mr. HASKELL. The House is acting as in Committee of the Whole, and the only difference is that the Speaker is in the chair.

The SPEAKER *pro tempore*. The Chair thinks the yeas and nays may be ordered, just as it is in order when the House is considering a bill as in Committee of the Whole the previous question may be ordered. The yeas and nays have been ordered on the proposition of the gentleman from Illinois as modified by the amendment of his colleague.

Mr. ANDERSON. In order to save time, and in behalf of the Committee on Agriculture, I will accept the amendment of the gentleman from Illinois as it has been modified.

The SPEAKER *pro tempore*. That may be done by unanimous consent. Is there objection? The Chair hears none, and the order for the yeas and nays is vacated.

Mr. SINGLETON, of Illinois. The amendment of my colleague as modified has been accepted by the committee.

Mr. ANDERSON. Yes, sir.

Mr. SINGLETON, of Illinois. That is satisfactory.

The second section of the bill was read, as follows:

SEC. 2. That there shall be in said department an assistant secretary of agriculture, who shall be a practical agriculturist, and the several chiefs of the bureaus hereinafter named, to be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, who shall perform such duties as may be required by law or prescribed by the secretary.

Mr. VALENTINE. I move to strike out the words "for a term of four years."

Mr. HUBBELL. I move to amend that by striking out these words: "to be appointed by the President, by and with the advice and consent of the Senate, for a term of four years."

It occurs to me, Mr. Speaker, that it is rather an anomaly to have these bureau officers appointed by the President of the United States for a term of four years when such is not the case with the bureau officers of any of the other Executive Departments. Take the Navy Department, for instance; the Secretary of the Navy names all the chiefs of bureaus in that Department. If there are any exceptions it is where it has been made so by some special law.

Now, if this Department of Agriculture is created, it seems to me that it is to be organized so as to have at its head, as we are told by the committee, a man who will be near to the farmer and understand his interests. If this bill is passed it is certain the secretary of agriculture will have nothing else to do but to be near the farmer. I do not wish to criticise it unnecessarily. I have examined it critically in relation to the law as it now exists. The last section provides that all laws and parts of laws relating to the Department of Agriculture now in existence, so far as the same are applicable and not in conflict with this act, and only so far, are continued in full force and effect. But the act creating the Department of Agriculture, authorizing heads of bureaus to take charge of each and every subject referred to that department in connection with the present laws, will leave nothing for the secretary to do, because, as I have said, everything under the present law is taken away from him and referred to others.

I think I ought to be allowed to say, in opposition to the chairman of the Committee on Agriculture, that I believe I do understand this bill. He seems to think I doubt the capacity of the committee to prepare and report a bill on this subject.

Now, I did doubt, but I will be frank and say to the gentleman that that doubt is removed; for I am satisfied now that there is not a member of the committee who can get upon his feet and say what powers and duties are left to the secretary of agriculture in this bill, or tell this House what there is left after the formation of these bureaus to the secretary. No gentleman upon the committee, I venture to assert, can say.

Mr. VALENTINE. I do not know that it makes any difference either one way or the other as to what powers and duties may be left to the secretary of agriculture if this bill is passed. If there is nothing left, there is something preserved in the bill. If there is anything left it is not interfered with. We believe it is not necessary, therefore, to undertake to enlighten the gentleman from Michigan. We propose to let him find out for himself. It is not necessary for the purpose of passing this bill through the House that we stop to inquire what is necessary to be done to inform the gentleman upon that point. But I hope the amendment will not prevail. He says, why not apply this same principle to this, as to the other Departments?

Why, Mr. Speaker, we have done with reference to this Department of Agriculture exactly what has been done with reference to the other Departments, and nothing more. It provides an assistant secretary and the heads of the several bureaus just as in the other Departments. If the gentleman will examine he will find that the Secretary of the Interior, the head of that Department, has under him the Commissioner of the Land Office, the Commissioner of Indian Affairs, the Commissioner of Patents, the Commissioner of Pensions, and that other Departments are organized on the same principle. These bureaus specified in this bill are to be placed upon a footing, and a corresponding footing, with bureaus now existing under the various Departments of the Government, the heads of which are to be appointed by the President, with the concurrence of the Senate.

Mr. EVINS. I desired, Mr. Speaker, some time during this debate, to express my views upon this important question and to state my objections to this bill. Under the rules of the House, however, I could not obtain an opportunity to do so; and in the short time allowed me now I cannot undertake, even in the most cursory way, to go over the ground I intended.

I agree, Mr. Speaker, entirely with the remarks of my distinguished friend from Alabama [Mr. HERBERT] and of the gentleman from Indiana, [Mr. BROWNE.] I represent a constituency nine-tenths of whom are devoted to agriculture, and if I stood here simply to recommend myself to the favor of my constituents I might remain silent and vote for this bill. But it is because I believe that no more serious blow could be struck at the agricultural interests of the country than will fall upon them by the enactment of this bill into law that I feel compelled even within the five minutes allowed me to enter my protest against it.

I am opposed to it, in the first place, because it seeks to turn over the vast and important interests of twenty millions of our people to a scheming politician to be manipulated by him for selfish and party ends.

If gentlemen earnestly seek, as they declare, the welfare of the farmers of the country, why should they insist on making the department a political machine by converting the commissioner into a politician and partisan?

As a Cabinet officer he will carry with him all the great interests committed to his charge into the muddy whirlpool of politics. He will possess great power for working mischief, and I fear will exercise little of it for good. With agents and correspondents in every State, he will keep the political pot boiling, whether the farmer has anything to boil in his or not. The department or bureau, which ever it may be, ought to be entirely divorced from politics, and none of its offices should constitute rewards for party service. If any farmer is deceived by this so-called effort to "dignify agriculture" he will find, I fear, when it may be too late, that a desire to capture the "granger vote" had more to do with the passage of the bill than any real desire to advance his welfare.

If the design of the bill is to promote agricultural interests it would seem, in the first place, we ought to have at the head of the department one distinguished for his agricultural knowledge and skill, one who is devoted to agricultural science and has no ambition to shine in the political world.

He should be maintained in office for a series of years, so that the

country might have the benefit of those vast stores of information which can be gathered alone by experience and patient industry.

If it were possible to have the office filled by such a man we might then hope to see some of the good results which the friends of this bill claim will flow from its adoption. But no such man is wanted, and none such need apply. A first requisite would be a record of distinguished services rendered the party in power, and influence and ability to manage the politics of whole States. The duties expected of him by his chief would require little knowledge of farming, of sheep husbandry, or the diseases of domestic animals. He would be expected to take care of the grangers politically.

I agree entirely with my distinguished friend from Indiana that there is no necessity for such a bill as this. The present machinery of the Agricultural Bureau is all that is necessary; and I am willing to give the Commissioner all the money he needs to make it work efficiently. If I was in favor of making any change at all it would be in the direction of giving the Commissioner the assistance of a board, to meet at stated intervals and to consult and confer with him in regard to the agricultural needs of the country. I would have one member of this board from the North, one from the South, one from the East, and one from the West, and they should, as I said, at stated times meet and consult with the Commissioner just in the manner suggested by Washington himself, as quoted by some of the gentlemen who have spoken upon this bill. His opinion was that this interest should be managed by a board.

I am sorry that time will not permit me to develop my ideas in reference to how this agricultural bureau should be managed. But, sir, the greatest objection which I have to urge against this bill, and one upon which I should have been glad to have spoken at length, is its increase of the already vast patronage of the Government. This is the rock upon which I fear our ship of state is yet to be wrecked. This alone would furnish me with sufficient reason to vote against this measure.

Do you want to add still more to your one hundred thousand office-holders? Do you want to increase the spoils of office—to debauch still more the people, the people who are the hope and strength of the country, the agricultural people; they who breathe the pure air of the country; they who live in the fields; they who are far removed from the corrupting influence of the towns and cities; they who have been in times past and are now the most devoted friends of an honest and economical government, and the stoutest defenders of republican institutions, pure and simple, as given us by our fathers?

Where will this new departure lead to? The friends of commerce, of manufactures, of mines and mining, will each want a separate department and a representative in the Cabinet. How many additional officers and employés will this saddle upon the Government? Why, sir, at this rate the District of Columbia will soon be too small to hold the buildings which will be necessary to accommodate the office-holders. Where will be the benefit to the farmers, already burdened with unjust taxation? If you would establish a bureau of information to instruct them in regard to the enormities of our present system of taxation, of which they bear so unjust a part, you would indeed do them a service, for they would then apply a speedy remedy.

[Here the hammer fell.]

The SPEAKER *pro tempore*. The first question is upon the amendment of the gentleman from Michigan to the amendment of the gentleman from Nebraska. The amendment to the amendment was not agreed to. The amendment was agreed to.

Mr. REAGAN. I move to strike out the second section, which provides for the appointment of an assistant secretary of agriculture.

We have by the change adopted in the first section provided for a secretary of agriculture who shall be a practical agriculturist. In the second section we provide for an assistant secretary of agriculture who shall be a practical agriculturist. Under the third section we provide there shall be a bureau of agricultural products, and that the chief of that bureau shall be a practical agriculturist.

This is a new department of government we are forming. It is yet to be determined whether it is to embrace as the objects of its care and attention more than agriculture. It seems to me that a secretary, with the various bureaus provided for, meets all the necessities of the case, and that this assistant secretary is simply a supernumerary, and that his office, for the present at least, is a useless one. While I would wish to do everything to give efficiency to this department, if created, I do not wish to lumber it up at the beginning with useless supernumerary and unnecessary offices. And it is not from hostility to the bill, but from friendship to the bill and to strip it of unnecessary expenditures, that I propose to strike out so much as creates an assistant secretary.

Mr. VAN VOORHIS. I am in favor of establishing a department of agriculture and of putting a practical farmer at the head of it. I do not want a clergyman there; I do not want a doctor there, not even a horse-doctor, unless he is a practical farmer. But it seems to me when we have provided for one practical farmer to be at the head of the department, that is enough. We do not need an assistant secretary, in my judgment. I think the secretary, with his chief clerk and with the heads of the bureaus, can manage for a year or two without having an assistant secretary who shall also be a practical farmer. Therefore, I move to amend the motion of the gentleman from Texas so as to strike out only so much of the first and second lines of the section as provides for an assistant secretary of agriculture.

The Clerk read the amendment offered by Mr. VAN VOORHIS, as follows:

In section 2, strike out these words:

"An assistant-secretary of agriculture, who shall be a practical agriculturist, and."

Mr. ANDERSON. I wish to be heard in opposition to the amendment of the gentleman from New York. Fully one-half of the people of this country are dependent upon the farm for their support. Fully one-half of the voters of this American nation are farmers. Here comes a measure for the purpose of doing them some good, and it is met with all sorts of ridicule and all sorts of attempts to take the very life out of this proposed bill.

I believe as firmly as I believe in a God that that bill, if adopted, if put in force, if liberally maintained, will be of incalculable benefit to the very men of this country who really constitute this country, when you come to the question of power. As to the matter of expense, where you have fully one-half the people of this nation coming here and asking to receive some benefit, when a question is raised that by leaving out the assistant secretary or so many clerks we will save so much expense, I say, in the name of God let us have a little of breadth in this matter; let us have something as broad as are the interests involved.

Mr. HUBBELL. That is what I am trying to insist upon.

The question being taken on the amendment offered by Mr. VAN VOORHIS to strike out the words "an assistant secretary of agriculture, who shall be a practical agriculturist, and," it was disagreed to.

The SPEAKER *pro tempore*. The question recurs on the amendment proposed by the gentleman from Texas, [Mr. REAGAN,] which is to strike out the entire second section.

The amendment was disagreed to.

The Clerk proceeded to read section 3, as follows:

SEC. 3. That for the purpose of collecting and disseminating all important and useful information concerning agriculture, and also concerning such scientific matters and industrial pursuits as relate to the interests of agriculture, the secretary shall organize the following bureaus, namely:

First. The bureau of agricultural products, which shall include divisions of botany, entomology, and chemistry, and the chief of which bureau, who shall be a practical agriculturist, shall investigate the modes of farming in the several States and Territories, and shall report such practical information as shall tend to increase the profits of the farmer respecting the various methods; the crops most profitable in the several sections; the preferable varieties of seeds, vines, plants, and fruits; fertilizers; implements; buildings; and similar matters.

Mr. HUBBELL and Mr. MONEY rose to offer amendments.

The SPEAKER *pro tempore*. The Clerk has not completed the reading of the section.

The Clerk continued the reading of the section, as follows:

Second. The bureau of animal industry, to be in charge of a competent veterinary surgeon, who shall investigate and report upon the number, value, and condition of the domestic animals of the United States; their protection, growth, and use; the causes, prevention, or cure of contagious, communicable, or other diseases; and the kinds, races, or breeds best adapted to the several sections for profitable raising.

Third. The bureau of lands, the chief of which shall investigate and report upon the resources or capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses. And all powers and duties vested in the commission now known as the Geological Survey, together with all clerks, employés, and agents, and all instruments, records, books, papers, and so forth, are hereby transferred to the Department of Agriculture. And the secretary may, through said bureau, institute such investigations and collect such information, facts, and statistics relative to the mines and mining of the United States as may be deemed of value and importance.

Mr. ANDERSON. I desire to inquire whether the amendment of the gentleman from Mississippi is to the second paragraph?

Mr. MONEY. My amendment comes in after the first subdivision of the section relating to the bureau of agricultural products.

The SPEAKER *pro tempore*. The Chair would suggest the Clerk is reading the section. When the reading is completed the Chair will recognize gentlemen for amendments.

Mr. ANDERSON. I have an amendment to offer from the committee to the third paragraph of the section; but I wish to inquire of the Chair whether the Chair will entertain the amendments in the order of the paragraphs of the section?

Mr. KENNA. That would be much the better way.

Mr. MONEY. I would like to know where the amendment of the gentleman from Kansas [Mr. ANDERSON] comes in.

Mr. ANDERSON. In the clause relating to the third bureau. I wish to inquire whether the Chair prefers that amendments shall be offered in the order of the paragraphs as they stand in the section?

The SPEAKER *pro tempore*. The Chair will entertain amendments first to the first paragraph, and then to the other paragraphs in their order.

The Clerk resumed and concluded the reading of the section, as follows:

Fourth. The bureau of statistics, the chief of which shall collect and report the agricultural statistics of the United States; and, in addition, all important information or statistics relating to industrial education and agricultural colleges; to labor and wages in this and other countries; to markets and prices; to modes and cost of transporting agricultural products and live stock to their final market; to the demand, supply, and prices in foreign markets; to the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, and prices; to such commercial or other conditions as may affect the market value of farm products or the interests of the industrial classes of the United States. And the secretary is hereby authorized to establish

such divisions in this bureau, and to make such monthly or other reports as he shall deem most effective for the prompt dissemination of such reliable information respecting crops and domestic and foreign markets as will be of service to the farmers or other industrialists of the United States.

Mr. MONEY. I offer the amendment which I send to the desk, to come in after the first paragraph, relating to the bureau of agricultural products.

The Clerk read as follows:

Add to the paragraph the following:

"That the secretary of the Department of Agriculture is hereby empowered and directed to establish in each State of the Union one or more experimental stations for the purpose of thoroughly testing valuable plants, seeds, fertilizers, and agricultural implements, with reference to soil and climate, and to appoint the necessary force for conducting them; and at least one of the experimental stations in each State shall be connected with an agricultural college, if there be such."

Mr. ANDERSON. I make the point of order on that amendment that it is the substance of a bill before the House.

Mr. MONEY. What bill is before the House with that in it? That is not before the House.

Mr. KENNA. A bill is pending before the House.

Mr. MONEY. It is not reported to the House.

Mr. KENNA. It is pending before a committee.

Mr. ANDERSON. I wish to inquire if we would not save time to have these paragraphs read separately and have amendments offered as if this was the first reading of the bill?

Mr. HAZELTON. I object to that. Amendments are already pending, and why suggest the offering of other amendments?

Mr. ANDERSON. I withdraw my point of order.

Mr. MONEY. I have offered this amendment to the bill because I believe it is of very great importance to the successful operation of the Department of Agriculture that this feature be incorporated in the bill. If there is any value whatever in the experiments being made by the Department of Agriculture in reference to seeds and plants, &c., it is in connection with the places where they must be grown. And to give those experiments a practical value they should be made upon the spot, so that the actual qualities of the soil and the conditions of the climate should be considered in making the experiment, thus testing its practical value. You make experiments here in Washington, and what are they worth to the people of the Lower Mississippi Valley, or to the people in the Rocky Mountain regions, or the people of New England, or other parts of the country? You make experiments here, and send a few seeds or plants to farmers all over the country, and they cultivate them in an irregular manner, and without the information necessary to their successful cultivation, without a knowledge of the proper ingredients of the soil best adapted to that cultivation.

My proposition is to attach to agricultural colleges in the several States respectively an officer, or two or three officers if necessary, who shall make experiments upon the spot, analyze the soil, ascertain what fertilizers are most profitable, with all the conditions necessary to carry out the experiments properly. When such an experiment shall have been made they will have found out what fertilizers are necessary for the soil, what machinery, &c., is best adapted for the cultivation of the seed or plant, what plants would give the greatest profits in that soil and climate to the agriculturist.

These several experimental stations, connected with the several agricultural colleges of the country, could be carried on with very small cost. The colleges would gladly furnish the offices, the appliances, and machinery for cultivation, and young men in search of active employment would watch those experiments and be able to ascertain from them the best method of cultivating plants and seeds all over the country, and such plants and seeds as would be suited to the region of the country in which they are grown. When you have done this you will have brought the benefits of these experiments home to every farmer in the country and the expense will be a matter of very small moment.

Mr. AIKEN. Will the gentleman allow me to ask him a question?

Mr. MONEY. Certainly.

Mr. AIKEN. How do you propose to connect these stations with the department in Washington? By officers appointed by the secretary of the department here or appointed by the State officials?

Mr. MONEY. So far as that is concerned I am willing that they should be selected by the secretary of agriculture.

Mr. AIKEN. To be paid by whom?

Mr. MONEY. By the United States Government, of course; they would simply be adjuncts of the college.

Mr. ATKINS. Does the amendment of the gentleman contemplate more than one station in a State?

Mr. MONEY. Not necessarily.

Mr. ATKINS. Would it not be better to have one of these experimental stations in each county?

Mr. MONEY. I do not think that is necessary.

Mr. SINGLETON, of Illinois. There are States that have great variety of climate.

[Here the hammer fell.]

Mr. TYLER. Mr. Speaker, I rise to oppose the amendment in order to make a remark or two on the bill itself. The Committee on Agriculture allege that there is a general demand by the agriculturists of the country that the Department of Agriculture be raised to an Executive Department of the Government, its principal officer to be called the secretary of agriculture, and have a seat in the President's Cabinet. In recognition of that demand, if it exists, I desire to vote for a bill that would create such a department and make it effective. But to be effective it should be constructed with no unnecessary machinery.

In my judgment the committee's bill is too complex. It provides for four bureaus, a bureau of agricultural products, a bureau of animal industry, a bureau of lands, and a bureau of statistics, the chief officer of each to be appointed by the President. Now, I submit that there is no occasion for so many bureaus as the bill compels the secretary of this department to organize. To the first two I would not object, although the work delegated to them could as well if not better be performed by clerks appointed by the secretary, who would be under his immediate supervision and responsible to him for the discharge of their duties. But there seems to be no necessity for the last two, for the reason that the Government already has a bureau of statistics, and a statistician in the present Bureau of Agriculture, and for the further reason that the Land Office in the Interior Department can have its jurisdiction enlarged so as to collect all statistics and perform all duties that the bill proposes to confer on this bureau of lands.

The substitute bill submitted by the Committee on Civil Service Reform is simple and more direct in its provisions. It proposes two bureaus—one of animal industry and one of mining industry—their chiefs to be appointed by the secretary. As mining has become so great an interest in this country it seems proper that that industry should have a separate bureau. The other work of the department could better be performed by clerks under the direction of the secretary.

Mr. Speaker, one remark further. The farmers of this country are not an inferior class, whose society is desired only on election days, and who are denied their proper social and political position. The phrase "only a farmer," once employed as a term of reproach, long ago became obsolete. Farmers have learned that they are what they make themselves; that to successfully pursue their vocation requires brains, education, skill. In my section of the country, and I believe the same is true throughout the North, farmers, as a class, are intelligent, well-informed, and independent in respect of pecuniary means. Plenty sits smiling in every door. More than this, they are a controlling power in social and political affairs, and do not ask the Federal Government to elevate their condition, but they wish to elevate this department and enlarge its powers. Even in that section of the country where labor was for a century degraded, agriculturists have assumed the dignity that of right belongs to them. The statistics that have been exhibited here to show the enormous agricultural products of the country are proof positive that farmers have brought intelligence to their work, and that the products of the soil have returned to them wealth and influence.

[Here the hammer fell.]

The question being taken on the amendment of Mr. MONEY it was not agreed to.

Mr. ANDERSON. On behalf of the Committee on Agriculture I offer the following amendment:

Strike out in section 3, in lines 25 to 30, the following: "And all powers and duties vested in the commission now known as the Geological Survey, together with all clerks, employés, and agents, and all instruments, records, books, papers, &c., are hereby transferred to the Department of Agriculture;" and insert the following:

"And the commission now known as the Geological Survey shall hereafter hold the same relation to the Department of Agriculture which it has heretofore held to the Department of the Interior."

Mr. PAGE. I rise for the purpose of opposing this amendment, which proposes, I understand, to transfer the Geological Survey from the Interior to the new Department of Agriculture. I believe that the Department of the Interior is the proper place for the Geological Survey. I should be glad to hear the gentleman from Kansas state if he can any reason why the control of this survey should be taken from the Interior Department and placed in the Department of Agriculture. All these matters of survey excepting the Coast Survey are by law under the control of the Interior Department, and I believe that they properly belong there; that it would be very unwise legislation to transfer them to the Department of Agriculture. This subject has no reference to agriculture. You might just as well, and indeed with much more propriety, take the Bureau of Education and transfer it to the Department of Agriculture. This Geological Survey ought to be left where it is, where it has been for so many years. The officers of the Interior Department are now familiar with the details of this matter. I hope that the amendment will not prevail.

Mr. DEERING. I rise to a parliamentary inquiry. I wish to know whether the amendment is divisible.

The SPEAKER *pro tempore*. Under the rules, the motion to strike out and insert is not divisible.

Mr. HAZELTON. I would like to understand from the gentleman from Kansas [Mr. ANDERSON] whether this proposition to place the Geological Survey under the Agricultural Department was a part of the original bill.

Mr. ANDERSON. Yes, sir.

Mr. HAZELTON. For what reason should surveying be connected with the Department of Agriculture? Why not make the Surveyor-General's Department a branch of the Agricultural Department?

Mr. HUMPHREY. And the Geodetic Survey.

Mr. ANDERSON. I will answer the question. In my judgment there would be much more logic and pertinence in putting the survey of the whole country under the charge of the Agricultural Department than under the direction of the Interior Department. But that is neither here nor there. The public land bureau of the Interior Department has charge now of the public surveys. This bill proposes the establishment of a bureau of lands, which shall have for its object the investigation of the resources and capabilities of the public domain. There is already in existence this commission known as the Geological Survey, which, as I understand, has been maintained chiefly for the purpose of making scientific explorations.

It seems to the committee a perfectly proper and economical proposition that the officers in charge of this survey, in addition to performing their scientific work, should also give practical information in regard to the capabilities of the the public domain, its topography, its mineral resources, its adaptation for stock raising, &c. For this reason it seemed to the committee wise to provide for the transfer of this Geological Survey. But the amendment now offered from the committee makes simply a proposition that the Geological Survey shall hold to the Agricultural Department precisely the same relation which it now holds to the Interior Department. In other words, the autonomy of the Geological Survey is not affected.

Mr. HAZELTON. Does this cut off entirely the relation of the Geological Survey to the Interior Department?

Mr. ANDERSON. Yes, sir.

Mr. VALENTINE. And it is done at the request of Major Powell himself.

[Here the hammer fell.]

Mr. PAGE. If this amendment be voted down, will it be in order to move to strike out in section 3 all after the word "uses," in the paragraph beginning with the word "third?"

The SPEAKER *pro tempore*. The Chair thinks it will be.

Mr. KENNA. I move to amend the amendment of the gentleman from Kansas by striking out the words "Interior Department" where they occur at the close of the amendment. On this motion I wish to be heard.

Mr. PAGE. I rise to a parliamentary inquiry. I wish to know when it will be in order to make a motion to strike out the clause on page 3, beginning after the word "uses," in line 25, and including all that refers to the Geological Survey?

The SPEAKER *pro tempore*. The Chair has already stated that such an amendment will be in order after the pending amendment shall have been acted on.

Mr. KENNA. I hope I may have the attention of the House for a moment or two, while I call attention to what seems to me to be the great difficulty in connection with the insertion in this bill of any proposition affecting the Geological Survey. I at first favored the transfer of that bureau; but I am now opposed to it, and for this reason: this survey has been intimately connected in its operations with the Smithsonian Institution.

I am reliably informed they have for years been co-operating with each other in pursuits in a great measure common to both of them. I believe the bill will be impaired by interference with the Geological Survey as heretofore organized.

I trust the House will consent to leave that matter where it is for an additional reason. We are all aware of the fact that the gentleman in charge of the Geological Survey of the country must, in order to preserve its efficiency, have control of the appointments in connection with that work. We are all aware of the further fact that to separate it from its present connection and attach it to a new department, organized on the theory of existing Executive Departments, must subject it to political vicissitudes and political influences which it is to the interest of a bureau, peculiarly constructed and engaged in peculiar work as this is, should not be done. I very much prefer the proposition of the gentleman from Kansas to the provision in the existing bill. I trust gentlemen will not be called on to insist on either, but that the Geological Survey should be permitted to remain where it is.

Mr. VALENTINE. I desire, Mr. Speaker, to state in answer to what has been said——

Mr. KENNA. I withdraw my amendment.

Mr. HAZELTON. I renew it.

Mr. VALENTINE. I have the floor. This amendment now pending was written to please Major Powell.

The SPEAKER *pro tempore*. Is there objection to the withdrawal of the amendment?

Mr. VALENTINE. I object to it, if it takes me off the floor.

Mr. HAZELTON. By what right has the gentleman from Nebraska the floor?

The SPEAKER *pro tempore*. By the recognition of the Chair. [Laughter.]

Mr. HAZELTON. Ah! [Laughter.]

Mr. VALENTINE. I object to the withdrawal of the amendment of the gentleman from West Virginia, as I desire to make a statement. The original bill when reported to the House was called to the attention of Major Powell, and he said he desired to be heard by the committee on the transfer of the commission to the Agricultural Department. I therefore invited Major Powell to come before the committee, and we would give him an opportunity to be heard. He did come before the committee, and explained the reasons why he did not want to go into a bureau of the Agricultural Department. I do not know that it is necessary to give those reasons to the House, perhaps he would not like me to do so, but they were sufficient to induce the committee to make a change. The committee, then, in presence of Major Powell, instructed the gentleman from Kansas [Mr. ANDERSON] to draw an amendment placing the commission known as the Geological Survey in exactly the same relation to the Agricultural Department it now has to the Interior Department.

Mr. HAZELTON. What under heavens has the Geological Survey to do with agriculture? [Laughter.]

Mr. VALENTINE. The same that it has to do with the Interior Department. The Interior Department, according to the statement of Major Powell, now examines, audits, and allows the accounts of the Geological Survey. That is all it has to do. This amendment merely proposes to transfer that examination, auditing, and allowance of these accounts from the Interior Department to the Agricultural Department. There is nothing further in it. It does not enhance or help agriculture; and I do not believe we are at all anxious to have that labor imposed on the Agricultural Department. I am willing now, as in committee, that the whole paragraph should come out.

Mr. PAGE. I move to strike out the third part of section 3.

Mr. ANDERSON. I rise to a question of order.

Mr. PAGE. I wish to submit my substitute.

Mr. ANDERSON. I suggest that instead of making the motion I did to strike out and insert we can test the sense of the House more quickly by striking out the language relating to the Geological Survey.

Mr. KENNA. That is what I rose for the purpose of asking.

Mr. ANDERSON. That is the amendment of the committee, and that will settle the question at once.

Mr. PAGE. Will it not be settled just as quickly by my amendment? In my judgment it would be the shortest way. I want to be heard on my motion.

The SPEAKER *pro tempore*. The gentleman from California can move his amendment at another time. The pending question is on the amendment of the gentleman from West Virginia to the amendment of the gentleman from Kansas.

Mr. KENNA. I withdraw my amendment to the amendment.

The SPEAKER *pro tempore*. The Chair hears no objection, and it is ordered accordingly.

The question now recurs on the amendment of the gentleman from Kansas.

Mr. PAGE. But I have moved a substitute, and on that I desire to be heard. I move to strike out from line 22 to line 33.

Mr. ANDERSON. I hope that will not be done.

The SPEAKER *pro tempore*. The gentleman from California will withhold his amendment for the present. The question now is on the amendment of the gentleman from Kansas, which will be read.

The amendment was again read.

The SPEAKER *pro tempore*. The question is on the amendment of the gentleman from Kansas.

Mr. VAN VOORHIS. I make a point of order upon the amendment.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. VAN VOORHIS. I make the point of order that there is no such thing known in the statutes of the United States as the commission of the geological survey. In the original section the word commission is used, and the point of order is that there is no such commission. I send to the Clerk and ask him to read the statute.

Mr. HUMPHREY. And I make the point that if there is no such thing it does no harm to strike this out.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. HORR. I wish to ask a parliamentary question in reference to this proposition of the gentleman from Kansas. He proposes to strike out certain words and insert others. Can that motion be divided?

The SPEAKER *pro tempore*. The motion to strike out and insert is indivisible.

Mr. ANDERSON. I wish to inquire whether I cannot withdraw the motion in the form in which it was originally made and make the motion first to strike out; and if that is agreed to, follow it up by a motion to insert?

Mr. ATKINS took the floor.

Mr. VAN VOORHIS. I would like to inquire whether I have the floor. I rose to a point of order upon the amendment proposed to this bill, and I sent to the Clerk's desk the statutes.

Mr. ATKINS. I would like to ask if I have the floor or the gentleman from New York?

Mr. VAN VOORHIS. I had the floor, and the gentleman cannot take me off this floor while stating a point of order.

Mr. ATKINS. Then I submit the parliamentary inquiry to the Speaker as to whether or not I have the floor?

The SPEAKER *pro tempore*. The gentleman from Tennessee was recognized.

Mr. VAN VOORHIS. Did not the Chair recognize me to state a point of order?

The SPEAKER *pro tempore*. The Chair has overruled the point of order.

Mr. VAN VOORHIS. I had not half stated the point of order.

Mr. ATKINS, (having been recognized.) If it will gratify the gentleman from New York, I now yield to him.

Mr. HAZELTON. The gentleman from New York had the floor and was undertaking to state his point of order.

Mr. ATKINS. I had the floor.

The SPEAKER *pro tempore*. The gentleman from Tennessee is entitled to the floor.

Mr. VAN VOORHIS. I was making a point of order and the Chair cut me off before I finished it. Now, if we are here to do this business we ought to do it properly. My point of order is that the amendment of the gentleman from Kansas——

The SPEAKER *pro tempore*. The gentleman from New York is not in order.

Mr. ATKINS. I want to ask the gentleman from Kansas why not strike out all that relates to the Geological Survey?

Mr. ANDERSON. I have made that motion to strike out and then insert.

Mr. ATKINS. But this proposition to insert has reference to the Geological Survey, as I understand. Why have any proposition in the bill in regard to the Geological Survey? Why not let that survey remain as it is?

The SPEAKER *pro tempore*. Debate upon the pending amendment is exhausted.

Mr. ATKINS. Would it be in order to make a *pro forma* motion for the purpose of saying a word?

The SPEAKER *pro tempore*. Under the order of the House made on yesterday, debate on *pro forma* amendments cannot be allowed. The question is on the motion of the gentleman from Kansas, who moves to strikes out and insert.

Mr. ANDERSON. I have made that motion, but if it be in order and that is the desire of the House I have no objection to modifying it by moving to strike out first, and afterward insert.

The SPEAKER *pro tempore*. Does the gentleman desire to modify the amendment?

Several MEMBERS. Let it stand as it is.

Mr. ANDERSON. Very well; I renew the original motion.

Mr. VAN VOORHIS. I would like to inquire, inasmuch as the gentleman from California has indicated a motion which he desires to submit to strike out the third section, whether that motion is regarded as pending; and, if it is regarded as pending, I desire to be heard upon it.

The SPEAKER *pro tempore*. That motion is not now pending.

Mr. HAZELTON. I wish to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HAZELTON. I understand the gentleman from Kansas has withdrawn his original motion.

Mr. ANDERSON. I have not withdrawn it; at the instance of several gentlemen I renew the original motion.

The SPEAKER *pro tempore*. The original motion of the gentleman from Kansas is before the House.

Mr. BERRY. Will the Chair state what the question is?

The SPEAKER *pro tempore*. The Clerk will again report the proposed amendment.

The amendment was again reported.

Mr. KENNA. I rise to a parliamentary inquiry.

Mr. BERRY. I call for a division of the question.

The SPEAKER *pro tempore*. It is not divisible. The gentleman from West Virginia will state his parliamentary inquiry.

Mr. KENNA. I desire to know if this proposition be accepted by a vote of the House, the existing clause in the pending bill stricken out and the proposed substitute inserted, whether a motion to strike out the whole will then be in order? In other words, I do not want to be cut off an opportunity of making that motion.

Mr. PAGE. The motion which I have submitted has not been entertained——

Mr. KENNA. I am referring to the motion of the gentleman from Kansas; whether the vote upon the pending proposition would affect a subsequent motion to strike out all that part of the bill which relates to the Geological Survey.

The SPEAKER *pro tempore*. The Chair thinks it would not.

Mr. KENNA. I ask the question for the reason that I do not want any vote to be taken which would preclude that motion.

Mr. VAN VOORHIS. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend the amendment by striking out these words: "the commission now known as."

Mr. VAN VOORHIS. There is no such thing as a geological commission. I have before me the statute which creates the office of a Director of the Geological Survey. It reads as follows:

GEOLOGICAL SURVEY.

For the salary of the Director of the Geological Survey, which office is hereby established, under the Interior Department, who shall be appointed by the President, by and with the advice and consent of the Senate, $6,000: *Provided*, That this officer shall have the direction of the Geological Survey, and the classification of the public lands, and examination of the geological structure, mineral resources, and products of the national domain.

This act was passed in 1878. That is all there is about it. There is no commission about it. The amendment, therefore, does not meet the case or accomplish what is intended, so long as the word "commission" is there. The Geological Survey is an independent institution, at the head of which is a director with a corps of experts under him. He appoints every one of them. Nobody can interfere with him or them. The survey would not be worth anything if he could not have absolute control over it. It is not a commission at all; and my friend from Kansas does not reach the point he desires to reach when he calls this a commission. His amendment therefore does not transfer the Geological Survey from the Interior Department, where it now is, to the Department of Agriculture. It leaves it still in the Interior Department. But it transfers a commission that has no existence from the Interior Department to that of Agriculture. The bill provides for the bureau of lands—

The chief of which shall investigate and report upon the resources or capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses.

This Geological Survey is itself a bureau of mines and mining. And this bill, if you pass it in its present shape, creates two such bureaus. You have got the Geological Survey, which is a bureau of mines and mining under the Department of the Interior, and you have got another bureau of mines and mining under the head of "bureau of lands," under the Agricultural Department. For in the last lines of the paragraph it is provided:

And the secretary may authorize said bureau to institute such investigations and collect such information, facts, and statistics relative to the mines and mining of the United States as may be deemed of value and importance.

That is exactly what Major Powell is doing. Therefore you have got a law to do the same thing twice over. You have two distinct offices and officers to do it and must do it twice. This double authority to do the same work will add unnecessarily $150,000 to the cost of the work. One bureau of mines and mining is better than two, and very much more economical.

Mr. HAZELTON. The gentleman from New York has made the point that this commission is not recognized by any existing law. It seems to me it makes no difference whether it is or not. The square proposition here before the American Congress is whether a bureau or a great interest connected with the Interior Department is now to be severed from that Department and put under the control of a new department not germane to it, and not having anything to do with it heretofore; whether this is to be done in the public interest now or anywhere.

It seems to me the strangest thing in the world that these gentlemen in fishing for bureaus found that the Geological Department in its present aspect had anything to do with the Agricultural Department of this Government. The Agricultural Department of this Government is created to promote the great interests of agriculture pure and simple in this great Republic. You might as well turn around and say we will take in the marines, we will take in the Signal Corps, we will take in the geodetic surveys, we will take in science in a thousand forms where it has nothing to do with practical agriculture—as well do that as reach out and take this Geological Bureau and put it in the Agricultural Department. To do so would imperil and destroy that bureau as it stands to-day. They want all these papers and books and archives transferred to the Agricultural Department. And yet my friend from Kansas says, and my friend from Nebraska says that all in the world they want now is that the Agricultural Department shall have the high and lofty privilege of auditing the accounts of the Geological Survey Bureau. They have brought it down to that. All they want now is to audit the accounts. What a blessing that would be to the American farmer!

Mr. ANDERSON. My smiling friend forgets this——

Mr. HAZELTON. Make this an agricultural department pure and simple and you can pass your bill, but you cannot pass it in any other way.

Mr. ANDERSON. We will see about that. But how can you farm without land? The public domain will be our future farms; and how are you to obtain information as to its capabilities except through the Geological Survey? If that is not its object, what is?

Mr. HAZELTON. But what have you to do with the Geodetic Survey?

Mr. ANDERSON. I do not want to have anything to do with that.

Mr. HAZELTON. What have you to do with the Geological Survey more than you have to do with a bureau of theology, or the Fish Commission, or anything else which is entirely ungermane to this thing?

Mr. HUMPHREY rose.

The SPEAKER *pro tempore*. Debate is exhausted on the amendment.

Mr. SCALES. I desire to make a parliamentary inquiry. I want to understand the position of the question. I understood the gentleman from California [Mr. PAGE] made a motion to strike out.

The SPEAKER *pro tempore*. The question is upon the amendment of the gentleman from New York, [Mr. VAN VOORHIS,] which the Clerk will report.

The Clerk read as follows:

In the words proposed to be inserted from line 25 to 30 strike out the words "the commission now known as."

The question being taken on the amendment of Mr. VAN VOORHIS, it was disagreed to.

The SPEAKER *pro tempore*. The question recurs on the amendment proposed by the gentleman from Kansas, [Mr. ANDERSON,] which the Clerk will read.

Mr. SCALES. Would it be in order now to move to strike out the paragraph, and would that motion have preference over the amendment of the gentleman from Kansas? After that amendment is acted on, can we move to strike out the paragraph?

The SPEAKER *pro tempore*. The Chair thinks the amendment can be acted on first to perfect the text, and that the motion to strike out will then be in order.

Mr. PAGE. I have had a motion to strike out pending for some time.

Mr. BUCKNER. Has not the gentleman from California proposed to strike out the whole paragraph?

The SPEAKER *pro tempore*. The gentleman from California has not proposed such an amendment.

Mr. PAGE. The gentleman from California has asked when it would be in order to propose it.

The SPEAKER *pro tempore*. The Chair has stated that the first vote would be on a motion to strike out and insert; and the question would then be on a motion to strike out the whole paragraph.

Mr. LORD. I understand the Chair to decide that the amendment proposed by the gentleman from Kansas is indivisible. Is that so?

The SPEAKER *pro tempore*. The Chair has so decided.

Mr. LORD. There was an intimation from the gentleman from Kansas that he was willing to submit his motion in two parts.

The SPEAKER *pro tempore*. The gentleman from Kansas withdrew that.

Mr. LORD. If he will only do that the House can dispose of this at once.

Mr. VALENTINE. Would it not be in order now to move to amend by striking out?

Mr. ANDERSON. I ask that by unanimous consent I may modify my motion so as to move to strike out the language in the bill.

Mr. LORD. That is all I want.

Mr. ANDERSON. That will be followed immediately by the motion to insert.

The SPEAKER *pro tempore*. The gentleman from Kansas asks unanimous consent to withdraw his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. ANDERSON. I now move to amend the paragraph by striking out these words:

> And all powers and duties vested in the commission now known as the Geological Survey, together with all clerks, employés, and agents, and all instruments, records, books, papers, &c., are hereby transferred to the Department of Agriculture.

Mr. PAGE. I desire to offer an amendment.

Mr. ANDERSON. Let us vote on striking out first.

Mr. CANNON. I move to amend so as to strike out the whole of that third paragraph.

Mr. VALENTINE. I make the point of order that that cannot be done. The gentleman from Kansas obtained unanimous consent from the House to divide his amendment so as to submit it to the House in two portions—one to strike out and the other to insert. That portion of his motion which is to strike out is now before the House.

Mr. TOWNSHEND, of Illinois. He had leave to withdraw his amendment.

Mr. ANDERSON. I do not think this is fair play.

Mr. VALENTINE. The gentleman asked unanimous consent to withdraw his amendment and to have a separate vote on the motion to strike out.

Mr. HAZELTON. Is not the substitute of the gentleman from California [Mr. PAGE] in order. His motion was to strike out and insert.

The SPEAKER *pro tempore*. The Chair recognized the gentleman from California some time since.

Mr. PAGE. If I am recognized, then I would like to move an amendment to the motion of the gentleman from Kansas.

Mr. ANDERSON. Allow me to make this suggestion: it is the practice of the House to first dispose of amendments coming from the committee reporting the bill. I have moved an amendment from the committee. After that has been disposed of, then the whole paragraph may be stricken out or any other motion may be made.

Mr. PAGE. I have no objection to that if the vote may be taken right away.

Mr. ANDERSON. I ask that the House vote on my proposition to strike out, pure and simple. I think it is only fair play to give the committee a vote in that way.

Mr. TOWNSHEND, of Illinois. Let us take a vote now.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. CANNON] has moved to amend the motion of the gentleman from Kansas, [Mr. ANDERSON,] so as to strike out the entire third paragraph.

Mr. VALENTINE. And I make the point of order that that cannot be done, for the reason that we are now acting by unanimous consent on the proposition of the gentleman from Kansas, and on that alone. The gentleman from Kansas was asked by the gentleman from Michigan [Mr. LORD] to divide his proposition, and to let the question be first taken on the motion to strike out, and after that had been carried then the question to be taken on the motion to insert. Unanimous consent was given to that proposition, and the House is now acting under that order, and no gentleman can take advantage of it to offer an amendment.

Mr. LORD. It certainly seems to me that it was the understanding of the House that if the gentleman from Kansas [Mr. ANDERSON] was willing to submit his proposition in two parts he should have the opportunity to do so, and unanimous consent was given for that purpose. Now, in all candor, the gentleman should be permitted to have a vote upon the two parts of his proposition if he desires to do so.

Mr. HAZELTON. He withdrew his amendment.

Mr. LORD. No; he obtained consent to submit it in two parts upon my suggestion.

Mr. ATKINS. Allow me to suggest to the gentleman from Illinois, [Mr. CANNON,] if he will allow the vote to be taken on the motion of the gentleman from Kansas, [Mr. ANDERSON,] and that motion shall be voted down, or even if it is agreed to, then the gentleman from Illinois can move to strike out the whole paragraph. Let us have a separate vote on the proposition of the gentleman from Kansas. I think it is but fair to the friends of the bill that that vote should be had.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. CANNON] is entitled to the floor on his amendment.

Mr. WILLITS. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. WILLITS. My point of order is, that it is proper to amend the paragraph before the motion to strike out the entire paragraph is in order. The proposition of the gentleman from Kansas is a proposition to amend the paragraph. After that has been done, then the motion to strike out the entire paragraph will be in order, and not before.

The SPEAKER *pro tempore*. Both motions are to strike out; but the motion of the gentleman from Illinois is to strike out more than the other motion proposes.

Mr. WILLITS. I understand that. But the motion to strike out a portion of the paragraph is in the nature of perfecting the paragraph, which those friendly to the bill have a right to do before the motion to strike out the entire paragraph is in order. The promoters of the paragraph have the right to amend it, either by striking out a portion of it or in any other way, before the motion to strike out the whole paragraph will be in order.

Mr. HAWK. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HAWK. The gentleman from Kansas, having determined to divide his proposition, obtained consent of the House that the vote should be first taken upon the motion to strike out. When that motion shall have been acted upon the gentleman proposes, if the motion shall be agreed to, to follow it immediately with a motion to insert. Unanimous consent was given for that purpose. Now the question is whether it is not a part of that unanimous consent that the motion to insert shall follow immediately the motion to strike out a portion of the paragraph?

Mr. HAZELTON. What is the question?

Mr. HAWK. Did the Chair understand my point? I said that the gentleman from Kansas obtained unanimous consent to divide his motion, and to have a vote first taken upon that part of the motion which proposes to strike out a portion of the paragraph; that to be immediately followed by a motion to insert. Now the question is, are we not up to that point, operating under unanimous consent, and under the agreement must not the motion to insert follow the motion to strike out?

The SPEAKER *pro tempore*. The Chair is of opinion that unanimous consent was given to the gentleman from Kansas to withdraw the amendment proposed by him, which was a motion to strike out and insert. That gentleman now proposes to strike out certain words, which have been read. The gentleman from Illinois proposed to strike out the entire clause. The Chair is of opinion that the vote should first be taken upon the motion of the gentleman from Kansas to strike out a portion of the clause, after which the Chair will recognize the motion of the gentleman from Illinois to strike out the entire clause. The first question is on the motion of the gentleman from Kansas, to strike out the words which have been read.

The motion was agreed to.

Mr. ANDERSON and Mr. HAZELTON addressed the Chair.

Mr. ANDERSON. I understand that I have the floor. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman from Kansas.

Mr. HAZELTON. I rise to a point of order.

Mr. ANDERSON. I am making a point of order now.

Mr. HAZELTON. I rise to a point of order.

Mr. ANDERSON. I have already risen to a point of order.

Mr. HAZELTON. No, you rose to make a speech.

Mr. ANDERSON. Mr. Speaker, my point of order is this——

Mr. HAZELTON. I say, Mr. Speaker——

The SPEAKER *pro tempore*. The gentleman from Wisconsin [Mr. HAZELTON] rises to a point of order——

Mr. HAZELTON. I do.

Mr. ANDERSON. So had I risen to a point of order.

The SPEAKER *pro tempore*. The gentleman from Wisconsin will state his point of order.

Mr. ANDERSON. I rose to a point of order.

Mr. HAZELTON. I understand that I am recognized to state my point of order.

Mr. ANDERSON. Mr. Speaker, was I not recognized prior to the gentleman from Wisconsin?

Mr. HAZELTON. I understand I am recognized.

The SPEAKER *pro tempore*. The gentleman will suspend for a moment. The Chair recognized the gentleman from Kansas——

Mr. ANDERSON. To this point of order——

The SPEAKER *pro tempore*. Thereupon the gentleman from Wisconsin rose to a point of order, and the Chair asked him to state it. The Chair is waiting for him to do so.

Mr. HAZELTON. Now I have the floor to state my point of order?

A MEMBER. Go ahead.

Mr. HAZELTON. The Chair stated that upon the determination of the question upon which the vote has just been taken the next thing in order would be the motion of the gentleman from Illinois to strike out the whole clause, and that that motion would be entertained.

Mr. HAWK. Not until the clause is perfected.

Mr. HAZELTON. Now, I submit that that motion is in order, instead of the speech of the gentleman from Kansas. That is my point.

The SPEAKER *pro tempore*. The Chair overrules the point of order. The gentleman from Kansas will proceed.

Mr. ANDERSON. I now ask for a vote upon the amendment which by general agreement was to be voted on. I ask the Clerk to read it.

The Clerk read as follows:

After "uses," in line 25, page 3, insert "and the commission now known as the Geological Survey shall hereafter hold the same relation to the department of agriculture which it has heretofore held to the Department of the Interior."

The amendment was not agreed to.

Mr. PAGE. I move to amend by striking out, on page 3 of the bill, the paragraph beginning with the word "third," on line 22, and ending with the word "importance," on line 33.

Several MEMBERS. Let it be read.

The Clerk read as follows:

Third. The bureau of lands, the chief of which shall investigate and report upon the resources or capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses. And all powers and duties vested in the commission now known as the Geological Survey, together with all clerks, employes, and agents, and all instruments, records, books, papers, &c., are hereby transferred to the department of agriculture. And the Secretary may, through said bureau, institute such investigations and collect such information, facts, and statistics relative to the mines and mining of the United States as may be deemed of value and importance.

Mr. PAGE. I desire merely to say that I represent a mining as well as an agricultural constituency, and I do not believe that the transfer of the supervision of mining industries to the Agricultural Department will be beneficial or acceptable to the country. In my view, everything relating to the subject of mining ought to be retained where it now is, under the control of the Interior Department. There is now in the Land Department a bureau of mines and mining, the officers of which are perfectly familiar with everything pertaining to the mining industries of the United States. All questions of contest pending between mining and agricultural applicants for any portion of the public domain are determined in the first instance by the Commissioner of the General Land Office, from whose decisions an appeal may be taken to the Secretary of the Interior.

The reports of some three or four hundred mineral surveyors are sent directly to the Interior Department. I think it would be wrong to interfere with this present arrangement, which is very satisfactory, or transfer any of its duties to another department. I certainly think it would be entirely a mistake to take it from the Interior Department and confine it to the Agricultural Department. One more word I desire to say, that I am in favor of a bill which provides for an agricultural bureau by itself. If the agriculturists of this country desire anything it is that their interests shall be segregated from all others. They do not want to mix them with a thousand other things. If the gentlemen upon this floor who are representing agricultural constituencies are in favor of benefiting, desire to do so, let them establish an agricultural bureau, pure and simple, and entirely unencumbered with any of these complications which this bill seeks to incorporate with it. I yield the remainder of my time to the gentleman from Illinois, [Mr. CANNON.]

The SPEAKER *pro tempore*. The gentleman has two minutes remaining.

Mr. CANNON. I want to say, Mr. Speaker, that I am heartily in sympathy with the remarks of the gentleman from California. I agree with him that we should have an agricultural department pure and simple. Do not seek to incorporate with it a technical department or a scientific branch of inquiry such as the mining industry of this country embodies. If you have the first bureau that is provided in this bill, that which establishes a bureau of examination touching agricultural lands, that, I think, is a good feature.

Again, I oppose the third clause of this bill for the reason that the mining bureau, as is well stated by the gentleman from California, is satisfactorily managed in the Interior Department. The geological survey and this mining bureau of the Interior Department exhaust the whole question, and when you put in a third mining bureau in the Agricultural Department you only make confusion and unnecessary expense. And I beg of this agricultural committee to give us an agricultural department that is a department of agriculture, and not seek to embarrass us who are wholly in favor of that by compelling us to vote in favor of something that will weaken that which we all want to guard most carefully, and which we believe necessary for the best interests of the class of our people that this bill seeks to reach. I hope this provision in reference to the surveys will be left exactly where it now is under the law; and let us have an agricultural department separate and alone.

Mr. VALENTINE. Mr. Speaker, I am in favor and heartily concur with every word which has been said by both of the gentlemen who have just spoken; but I am not in favor of the amendment suggested by the gentleman from California. I may be permitted to say that nothing that has been said by either gentleman has anything whatever to do with the third clause of this bill—not the least. We do not propose to interfere with any jurisdiction now vested in the head of any other bureau or department in reference to mining. Nothing of the kind. But in order, as these gentlemen believe, to retain in the Interior Department a certain jurisdiction which is now there, they propose to strike out the whole of this section of the bill, destroying thereby a bureau of the Agricultural Department and one of the most important in this bill. And what is the object of it? Simply to save their mining interests.

Now, the provision they propose to strike out affects a bureau which takes charge of the arid region in which gentlemen from the Western country are all more or less interested. A part of the duty of that bureau or division is to examine into it with a view to ascertaining its adaptability to agriculture, with a view to determine whether water can be obtained and to make it susceptible to cultivation. That bureau also has charge of the important question of forestry, in reference to which the gentleman from Minnesota [Mr. DUNNELL] has offered an amendment to perfect the text of the bill, which is now pending. And yet, with all of this, gentlemen propose to strike out the whole section because it interferes, as they claim, with the mining interests.

Now, if gentlemen desire to strike out that portion of the bill, which is discretionary with the Secretary, for it says he may do—what? Why, that he may institute such investigation and collect such facts and statistics relative to the land and mining interests as may be deemed of value and importance. They do the mining interests no injury, for this does not interfere with the surveys. It does not interfere with anything connected with the mining industries. All it does is this: we simply authorize him, if he deems it expedient, to ascertain the true status of the mines of the United States. The great agricultural interests of the country want information upon that question; and in this manner they will be able to obtain it, and not leave it to the stock brokers to determine whether the mines of the United States are valuable or not. We are only trying to protect all the great interests, as far as we can in this bill.

Mr. HAWK. Will the gentleman allow me to call attention to the first part of this clause, which provides that the chief of this bureau shall investigate and report upon the resources and capabilities of the public lands for farming, stock-raising, timber, manufacturing, mining, and other industrial uses. It only refers to an investigation of these subjects, and will not interfere with any surveys which are now ordered by law under the Interior Department.

Mr. VALENTINE. Certainly not; it will not interfere with them in the least.

Mr. HUMPHREY. Where would appeals in such cases lie? Would they go to the agricultural department if you adopt this provision, or to the Department of the Interior, as at present?

Mr. BELFORD. I would like to have a moment upon this point, Mr. Speaker.

Mr. HUMPHREY. Your appeals would still go to the Interior Department, and not to the Department of Agriculture.

Mr. BELFORD. Am I recognized on this question?

The SPEAKER *pro tempore*. Debate is exhausted.

Mr. BELFORD. I represent a people who are interested in this question, and I am their only representative on this floor——

Mr. PAGE. I hope the gentleman from Colorado will be allowed unanimous consent to be heard.

Several members objected.

The SPEAKER *pro tempore*. The question is on the amendment of the gentleman from California, to strike out the third clause of the bill.

The House divided; and there were—ayes 42, noes 73.

Mr. TOWNSHEND, of Illinois. I demand tellers.

The SPEAKER *pro tempore*. No quorum having voted, the Chair will appoint tellers.

Mr. TOWNSHEND, of Illinois, and Mr. ANDERSON were appointed tellers.

The House divided; and the tellers reported—ayes 59, noes 80.

So (no further count being demanded) the amendment was rejected.

Mr. WILLITS. I offer an amendment.

The SPEAKER *pro tempore*. It will be read.

The Clerk read as follows:

Add to the third clause:

"The secretary may call upon the commission now known as the Geological Survey for information relating to waste and other lands; to geological formations which furnish gypsum and other natural fertilizers, and to all other matters peculiarly within the knowledge of said commission that may be of utility to agriculture; which information shall be annually furnished for the annual report of the Department of Agriculture."

Mr. WILLITS. The amendment explains itself. I suppose that the object the Committee on Agriculture had in the first place was to utilize whatever of knowledge this commission was supposed to have. There seemed to be some objection to transferring it from its present relations. And yet we ought to have somewhere the opportunity to obtain the information supposed to be particularly in the possession of that survey. It strikes me it would be an admirable thing to have a chapter in the agricultural report on this subject, leaving it discretionary with the secretary of agriculture and the superintendent of the survey as to what matters should go in. But I take it there is certain information there that would be found valuable if disseminated among the agriculturists of the country.

Mr. ANDERSON. I think there will be no objection to that amendment.

The question being taken on the amendment, it was agreed to.

Mr. ANDERSON. In behalf of the gentleman from Minnesota, [Mr. DUNNELL,] who is not able to be present this afternoon, I offer the amendment of which he gave notice.

The Clerk read as follows:

In section 3, after the word "importance," in line 33, add:

"There shall also be a division of forestry, the chief of which shall ascertain the annual amount of consumption, importation, and exportation of timber and other forest products, the probable supply for future wants, the means best adapted to the preservation and renewal of forests, the influence of forests upon climate, and kindred subjects."

Mr. VALENTINE. That is accepted on the part of the committee.

The SPEAKER *pro tempore*. The gentleman from Kansas will observe the section has been amended.

Mr. VALENTINE. Let the amendment come in after the last word of the section as amended.

The SPEAKER *pro tempore*. It can come in at the close of the amendment adopted on the motion of the gentleman from Michigan, [Mr. WILLITS.]

The question being taken on the amendment, it was agreed to.

Mr. HUBBELL. I desire to offer an amendment to section 3.

The Clerk read as follows:

Strike out the first and fourth subdivisions of the section.

Mr. HUBBELL. My reason for offering that amendment, Mr. Speaker, is, as has been stated, when I had the floor to explain the difference between the bill introduced by myself and the committee's bill, that the duties enumerated in these two subdivisions of section 3 are already performed by certain bureaus and divisions in the Department of Agriculture. There are bureaus already organized for every duty which is prescribed in these two subdivisions, with one exception perhaps. The exception referred to will be found in the fourth subdivision of the section relating to the bureau of statistics. In that subdivision the chief of the bureau of statistics is authorized to collect "all important information or statistics relating to industrial education and agricultural colleges."

Now that fourth subdivision establishes in the Department of Agriculture another bureau, to wit, a bureau of agricultural education. Why should there be two bureaus of education in the Government? If it is decided there should be statistics and facts collected relating to agricultural colleges and schools, why should that not be done by the department of education? Why not enlarge its powers so that it may furnish information in regard to these institutions?

Therefore, Mr. Speaker, inasmuch as the Agricultural Department as it is now organized, with that exception, is amply provided for in its present organization, I do not see the necessity of these two bureaus. The bureau of animal industry is a proper bureau and should remain in any bill that may be passed.

Mr. VALENTINE. Because the bill now under consideration, reported by the Committee on Agriculture, is not as imperfect as the substitute offered by the gentleman from Michigan, that gentleman is constantly attacking this bill, and if he can succeed in striking out the first and fourth subdivisions it will become as worthless as his own sub titute. I hope the House will vote down the amendment.

The question being taken on Mr. HUBBELL'S amendment, it was disagreed to.

Mr. MONEY. I offer the amendment which I send to the desk.

The Clerk read as follows:

At the close of section 3 add the following:

"And he shall exchange his reports, bulletins, and other publications with the weekly journals of the Union."

Mr. ANDERSON. How many such papers are there?

Mr. MONEY. Not more than five or six thousand, I think.

I had hoped, Mr. Speaker, that the honorable gentleman in charge of the bill would have accepted this amendment. It would cost the department very little. This bill has four bureaus for the purpose of collecting information and statistics. It has no machinery adequate for the diffusion of this information when collected. Now, what is the use of expending money to collect statistics which are not to be disseminated? This proposition does not increase at all sensibly the expenses of the work of this particular bureau. It proposes simply to send one copy to each weekly paper in the United States in order that the people of the United States may know the facts and statistics which are collected at so much expense for their benefit.

Mr. REAGAN. I would ask the gentleman what is the number of these papers?

Mr. MONEY. I do not know precisely. I understand the number is about five or six thousand. But if there were ten thousand or fifty thousand papers what I propose would be so much the more valuable, because it would insure a wide circulation for these facts and statistics. This information, if collected at all, is collected for the benefit of the people of the United States, and it ought to be made as free and common to them as the air they breathe. Unless this is done these reports will be of advantage to nobody except the sharpers and speculators who get up corners on your grain, cotton, and pork. While they get the whole value of any rise there may be in the market, the farmer, for whose benefit it is said that all this machinery is put in motion to collect these statistics, is to be kept absolutely in the dark. It was not till the 10th of December we learned that the cotton crop was a million of bales short, though that information could have been furnished by the 10th of October. The result was that the speculators obtained all the margin of profit. There is not a man on this floor to-day who can tell within thirty millions of bushels the amount of wheat on hand. If my amendment should be adopted these statistics would be sent abroad in the reports, furnished to the weekly newspapers throughout the country, and the people themselves would be put in possession of the information.

Mr. ANDERSON. I would like to call the attention of my friend from Mississippi to the language of the latter part of this fourth clause:

And the secretary is hereby authorized * * * to make such monthly or other reports as he shall deem most effective for the prompt dissemination of such reliable information respecting crops and domestic and foreign markets as will be of service to the farmers or other industrialists of the United States.

And then I desire to say that if this bill shall become a law and this machinery be put at work, constant reports will be made.

Mr. MONEY. To whom?

Mr. ANDERSON. Monthly and weekly reports, so far as that is concerned, will be made, and it seems to me that it would be far better in an organic law to leave the secretary a discretion as to how he shall disseminate this information than to put in the law a mandatory provision that he shall send his reports to every one of several thousand papers in the country.

Mr. MONEY. Will the gentleman allow me to ask him a question?

Mr. ANDERSON. Certainly.

Mr. MONEY. I would like to ask the gentleman if the secretary to-day uses this vast machinery for bringing the information he collects to the knowledge of the people of the United States? Is there anything in this bill mandatory upon him to put this information in circulation?

Mr. ANDERSON. He never has had this machinery before.

Mr. MONEY. He has collected information which he has put into an annual report. And if gentlemen will go down into the folding-room they will find that the report made two years ago is just coming in for distribution. In the mean time the sharpers and speculators have swept away all the margins of profits from the men who produced the articles. I was in hopes that the gentleman in charge of this bill, seeing the obvious advantage that would accrue to the people of the United States at a very small expense, would accept the amendment.

Mr. ANDERSON. We cannot accept an amendment involving an indefinite expenditure.

The SPEAKER *pro tempore*. The time for debate has expired. The question is on the amendment of the gentleman from Mississippi, [Mr. MONEY.]

Mr. MONEY. I ask for the yeas and nays on that amendment.

Mr. ANDERSON. Oh, no.

Mr. MONEY. Yes, I will. You can vote it down if you do not want it.

The yeas and nays were not ordered, there being but 11 in the affirmative.

The amendment was not agreed to.

Mr. YOUNG. I move to strike out the fourth paragraph of section 3, and insert in lieu thereof that which I send to the Clerk's desk.

The Clerk read as follows:

That it shall be the duty of the secretary of said department of agriculture to organize therein a bureau of manufactures and mechanics, the duties of which shall be the collection of and diffusion, through reports made not less often than once in each year, of information, to be as far as possible in the shape of statistics of the manufacturing and mechanical industries of the United States. That it shall be the special duty of the bureau to secure information and report as to the condition of the producing classes as represented by wage-workers, especially as to their wages and cost of living as compared with the value of their productions; and it shall further be the duty of the bureau to investigate as to and report on the moral, social, educational, and sanitary condition of mechanics and wage-laborers, and as to the causes which may operate injuriously upon these conditions; and so far as is possible secure statistics of the leading manufactures of the several States, amount of capital invested, value of raw material used per year, wages paid, value of product, and the number of persons employed, dividing them according to age and sex.

That the bureau shall also secure information and statistics as to the location of the iron-producing lands of the United States, their process of development, the kind and quality of such minerals, the number of persons employed in securing such minerals for use, the wages paid them, the average number of days employed in each year, the quantities of such minerals produced annually, and the value thereof. That a general report shall be made by the bureau on or before the 1st

day of February in each year to the secretary of agriculture and the Congress of the United States and it shall make special reports whenever called upon by either House of Congress.

Mr. VALENTINE. I think that amendment is subject to the point of order that there is now pending before this House a bill of which that is the substance.

Mr. YOUNG. I beg the gentleman's pardon; there is no such bill pending.

Mr. VALENTINE. It is very nearly like it. Besides, it is not germane to this portion of the bill.

Mr. YOUNG. There is no man on this floor who has a higher regard for the agricultural interests of this country than I have. There is no man on this floor who will vote more money for the purpose of lifting up the Department of Agriculture than I will. There is no man who will vote money more freely for the purpose of developing all the sciences that lead to the advancement and encouragement of agriculture.

If it is proposed to exalt the present Department of Agriculture into a Cabinet department, with a voice in the councils of the President, (to which I do not at present assent,) then let us exalt the office by giving it duties to perform that will be beneficial and useful to the people.

I hold that there are other interests, not paramount to, but I think it will be conceded that there are other interests almost equal to the agricultural interest that have not been taken care of. There are times when the mechanic and the manufacturer disagree; times when they come in conflict with each other; times when there are disruptions of society, known as strikes. Those strikes certainly result from ignorance of statistical information; the ignorance of the mechanic as to the operations of the capital which gives him employment; ignorance resulting from the want of statistics, which my amendment proposes to furnish.

There are other reasons which I might enumerate, if I had the time, to show why this is an important subject and one that ought to be taken charge of by some Department, a subject which has not yet been recognized. The Bureau of Statistics, which we now have does not give us anything looking to definite information as to the prices of labor all over the country.

The mechanic, for instance the tailor or the shoemaker, is paid a different rate of wages in Philadelphia from that paid in Cincinnati. The puddler is paid a different rate of wages in Pittsburgh from that paid in Cincinnati. The capital invested farthest away from the source of the raw material has to obtain a higher rate of interest for the investment than a plant of the same amount of capital where the raw material is obtained.

Now, if these statistics were furnished to the mechanics and laborers who depend upon the investment of large amounts of capital, if they could be furnished with statistics showing from time to time what wages are being paid in different parts of the country, what interest is being derived by capital on the amount of money invested, they would never strike, because all men are sensible of their own best interests when they know what they are. They would say, "we are getting sufficient wages; all that our employer can spare in view of the capital he has invested and the price he obtains for the product of our labor."

This amendment may be objected to as not being germane to the subject of agriculture. I submit that it is germane. The agriculturist needs to-day all the information that can be furnished to him—everything that may throw light upon the relations between labor and capital.

Mr. VALENTINE. I will not insist on my point of order, although I believe it well taken. The object of the gentleman's amendment is to strike out a very important paragraph of this bill and insert as a substitute what he submits. But if the bill as reported becomes a law everything that the gentleman desires will be provided for in the fourth division of section 3, besides a great deal which his amendment does not contemplate. That paragraph provides for the collection of information touching "the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, and prices." Another portion of the paragraph provides for the collection of statistics in regard to "labor and wages in this and other countries."

Mr. YOUNG. Will the gentleman point out any part of the paragraph which I move to strike out that requires the statistician to furnish to the chief of any department the statistics called for in my amendment?

Mr. VALENTINE. I have just read the provision.

Mr. YOUNG. Can the gentleman say that the first, second, and third divisions of the third section of his bill do not embrace all that the fourth division provides for?

Mr. VALENTINE. They do not.

Mr. YOUNG. In my view the fourth division simply reiterates what is already covered by the first, second, and third divisions.

Mr. VALENTINE. Oh, no; the fourth paragraph is, I think, very distinct.

Mr. HAWK. Mr. Speaker, the chairman of the committee [Mr. VALENTINE] yields me a portion of his time. I shall not undertake to enter into a discussion of that portion of the section proposed to be amended by the gentleman from Ohio, [Mr. YOUNG,] and which is now under consideration. I prefer to consume the time allotted to me in a few general statements with reference to the provisions of this bill.

Certain gentlemen who have preceded me appear to be exceedingly disturbed with the idea that the department of agriculture to be erected by this bill is to be transformed into a political machine. The same objection may be urged against any other department of this Government. I beg gentlemen to possess their souls in peace concerning so great a calamity. There is no cause for alarm in this particular instance. Indeed, should such a condition prevail, I can scarcely discern any reason in it to cause this House to refuse to place this material interest in a position where it justly and properly belongs.

Sir, when the agricultural interests of the country, which, as has been stated in this debate, have scarcely heretofore had any recognition whatever by Congress, come here asking the passage of what may be termed a reasonable bill, is it fair dealing, is it consistent with our oft-expressed regard for those interests, to refuse to accede to their just and fair demands? I do not desire to be understood as stating that this bill is perfect in every particular, but it is a measure which as the years go by can and will be perfected in such a way as very materially to benefit the agricultural interests of this country.

If, as has often been stated in this debate, our agricultural production is the chief basis of our wealth and prosperity, and that from the real wealth produced by the toiling millions engaged in these pursuits we must expect succor in times of emergency in our commercial transactions and in periods of business depression, why should we refuse to erect this bureau of the Interior Department into a department by itself, having for its objects and aims the elevation of this calling which is so universally acknowledged to be the source of our wealth and prosperity?

It has been argued that the erection of the Agricultural Bureau into an executive department of the Government, to be presided over by a Cabinet officer who shall be denominated a secretary of agriculture, will increase the expense to the taxpayers. This should, however, affect the passage of the bill only in so far as there may be benefits derived commensurate with the expenditure. It is believed that this bill is so framed that there is no doubt but that this new department, with the organization of the several bureaus as contemplated, cannot fail to result in the dissemination of such information as must materially aid in an increase of intelligence in the application of labor and machinery, as well as making it a reliable source of information upon the subjects of the amount and prices of agricultural products at home and abroad in such manner as to materially increase the profits of the farmer. It not only gives this avocation a standing at home, but abroad as well; and any encouragement we may give in the direction of dignifying labor must redound to our benefit. It will tend to prominently and honorably bring before the nations of the world the fact that the United States is so fully aware of the importance of this great industry that it is placed in a conspicuous position in the affairs of government. And in questions affecting our standing in the markets of the world, such as reports concerning the disease of our domestic animals for export, it must ever be an authority greatly exceeding that of a mere bureau of a department.

Had such a department been in existence two years ago, at the time of the scare in Europe caused by the report that great quantities of diseased pork would be shipped from this country to European markets, vast sums of money would have been saved in this one instance alone to our farmers. Mr. Speaker, I can see no good reason why this bill should not become a law. I believe it to be sufficiently broad to cover all material subjects connected with agriculture, and at the same time sufficiently guarded to protect from any undue delegation of power to this new department. I shall vote for the bill because I believe it to be a move in advance and in the interests of my agricultural constituency.

The question being taken on the amendment of Mr. YOUNG, it was not agreed to.

Mr. HASELTINE. I move to amend by inserting, after the word "prices," in line 31 of section 3, the following:

To the railroad system of the country and the absolute cost of constructing and operating the same, to freights and tariffs upon the principal lines of transportation, and to any discrimination which may be made upon the same, for or against certain localities.

I understand this amendment to be acceptable to the committee, and I am willing to submit the question without any argument.

Mr. VALENTINE. The provision of this amendment is already fully covered by the bill as well as by the section of existing law relative to the Bureau of Statistics in the Treasury Department.

Mr. KENNA. I hope that this amendment will not be insisted upon.

The amendment was not agreed to.

The Clerk, resuming the reading of the bill, read as follows:

SEC. 4. That the secretary of agriculture shall hereafter receive the same salary as is paid to the Secretary of each of the Executive Departments; the salary of the assistant secretary of agriculture shall be the same as that paid to the Assistant Secretary of the Department of the Interior; and the salary of a chief of bureau shall be the same as that paid to the Commissioner of Indian Affairs.

SEC. 5. That all laws and parts of laws relating to the Department of Agriculture now in existence, as far as the same are applicable and not in conflict with this act, and only so far, are continued in full force and effect.

Mr. KENNA. I now offer for the bill as matured the substitute of which I have already given notice. I do not wish to debate it, but will merely state before it is read that the portion of the substitute relating to agriculture embraces the bill which the House has just matured, with only such formal changes as to adapt it to the general scope of the substitute.

Mr. VALENTINE. Let the Clerk read only those portions of the substitute which are not included in the bill of the committee.

Mr. HUBBELL. Let the whole be read.

The substitute of Mr. KENNA was read, as follows:

Strike out all after the enacting clause of the bill and insert the following:

That there shall be at the seat of Government an executive department to be known as the department of industries, and a secretary of industries, who shall be the head thereof.

SEC. 2. That there shall be in the department of industries a division of agriculture, and to superintend said division a commissioner of agriculture, who shall be a practical agriculturist, and who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be entitled to receive a salary of $5,000 per annum.

SEC. 3. That for the purpose of collecting and disseminating all important and useful information concerning agriculture, and also concerning such scientific matters and industrial pursuits as relate to the interests of agriculture, the secretary of industries shall organize the following bureaus in the division of agriculture, namely:

First. The bureau of agricultural products, which shall include divisions of botany, entomology, and chemistry, and the chief of which bureau, who shall be a practical agriculturist, shall investigate the modes of farming in the several States and Territories, and shall report such practical information as shall tend to increase the profits of the farmer respecting the various methods; the crops most profitable in the several sections; the preferable varieties of seeds, vines, plants, and fruits; fertilizers; implements; buildings; and similar matters.

Second. The bureau of animal industry, to be in charge of a competent veterinary surgeon, who shall investigate and report upon the number, value, and condition of the domestic animals of the United States; their protection, growth, and use; the causes, prevention, or cure of contagious, communicable, or other diseases; and the kinds, races, or breeds best adapted to the several sections for profitable raising.

Third. The bureau of lands, the chief of which shall investigate and report upon the resources or capabilities of the public or other lands for farming, stock-raising, timber, manufacturing, mining, or other industrial uses. And all powers and duties vested in the commission now known as the Geological Survey, together with all clerks, employés, and agents, and all instruments, records, books, papers, &c., are hereby transferred to the Department of Industries. And the Secretary of Industries shall institute such investigations and collect and report such information, facts, and statistics relative to the mines and mining of the United States, and facilities for their ventilation and general operation, as may be deemed of value and importance.

SEC. 4. That in addition to the duties imposed by chapter 10, title 7, of the Revised Statutes, the secretary of industries shall cause to be collected and report the agricultural statistics of the United States; and, in addition, all important information or statistics relating to industrial education and agricultural colleges; to labor and demands and prices therefor in this and other countries; to markets and prices; to modes and cost of transporting agricultural products and live stock to their final market; to the demand, supply, and prices in foreign markets; to the location, number, and products of manufacturing establishments of whatever sort, their sources of raw material, methods, markets, cost of transportation, and prices; to such commercial or other conditions as may affect the market value of farm products or the interests of the industrial classes of the United States. And the secretary is hereby authorized to establish such divisions in this bureau, and to make such monthly or other reports, as he shall deem most effective for the prompt dissemination of such reliable information respecting crops and domestic and foreign markets as will be of service to the farmers, miners, mechanics, laborers, and other industrialists of the United States.

SEC. 5. That there shall be in the department of industries a division of commerce, and to superintend said division a commissioner of commerce, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary of $5,000 per annum.

SEC. 6. That all divisions and subdivisions, bureaus or parts thereof, heretofore attaching to the Treasury Department by virtue of the provisions of chapter 10, of title 7, of the Revised Statutes, relating to the Bureau of Statistics, which shall hereafter be known as the bureau of external commerce; title 48, relating to commerce and navigation; title 49, relating to the regulation of vessels in foreign commerce; title 50, relating to the regulation of vessels in domestic commerce; title 52, relating to the regulation of steam-vessels; title 56, relating to the Coast Survey; title 55 relating to lights and buoys; sections 4801, 4802, 4803, 4804, 4805, 4806, of chapter 1, title 59, relating to hospital relief for seamen; and chapter 265 of the acts of the Forty-fifth Congress, second session, relating to the Life-Saving Service, or by virtue of any law amendatory of said several provisions, or regulations in pursuance thereof, shall, from and after the passage of this act, be parts of the division of commerce in the department of industries; and the secretary of industries shall establish in said division of commerce a bureau of internal commerce, to be organized and governed as other bureaus in said division.

SEC. 7. That all duties devolving upon the Secretary of the Treasury by virtue of the several provisions mentioned in the preceding section shall, from and after the passage of this act, be performed by the secretary of industries. The authority conferred and the duties imposed by said several provisions upon the Register of the Treasury shall, from and after the passage of this act, be exercised and discharged by the commissioner of commerce. All bonds authorized by any of the provisions aforesaid to be made payable to the Register of the Treasury shall, from and after the passage of this act, be made payable to the commissioner of commerce.

SEC. 8. That section 158, title 4, of the Revised Statutes is hereby amended by adding at the end thereof the words: "Eighth. The department of industries."

SEC. 9. That this act shall not be construed to interfere with the present organization of the various departments, divisions, subdivisions, and bureaus embraced herein, except with reference to the transfer thereof to the department of industries, subject to the general provisions of law relating to regulations in the various Departments of the Government and appointments to office therein.

SEC. 10. That all acts and parts of acts inconsistent with this act are hereby repealed.

The SPEAKER *pro tempore*. The question is on the substitute of the gentleman from West Virginia, which has just been read.

The House divided; and there were—ayes 58, noes 83.

Mr. KENNA. This is an important matter, and I demand the yeas and nays.

The yeas and nays were ordered.

Mr. RANDALL. I suggest that the gentleman from Kansas now allow us to adjourn, as it is late.

Mr. VALENTINE. I hope the House will not adjourn.

Mr. ANDERSON. Let us remain here until this bill has been passed.

Mr. RANDALL. The call of the yeas and nays will take half an hour, and it is now too late to go on with it. I hope we will be permitted to adjourn, and this will come up as the first business in the morning.

Mr. VALENTINE. I noticed the gentleman from Pennsylvania voted for the yeas and nays.

Mr. RANDALL. I move that the House do now adjourn, as it is long past the usual hour of adjournment.

Mr. ANDERSON. Let us remain here, and we can dispose of this bill in a short time.

Mr. KENNA. I understand the yeas and nays are ordered on my substitute.

The SPEAKER *pro tempore*. They are. The question now is on the motion to adjourn.

The House divided; and there were—ayes 86, noes 73.

Mr. VALENTINE. I demand the yeas and nays on the motion to adjourn. [Cries of "No!"]

Mr. ANDERSON. Oh, yes!

Several MEMBERS. Do not filibuster.

The yeas and nays were ordered.

Mr. AIKEN. As the House has determined to take the yeas and nays on the motion to adjourn as well as on the substitute, I ask whether by agreement we cannot take them at once on the passage of the bill and save time?

The SPEAKER *pro tempore*. That can be done by unanimous consent.

Mr. RANDALL. There is no desire to delay action on this bill. The vote is only postponed till the morning if we adjourn now.

Mr. ANDERSON. Call the roll.

The vote was taken; and it was decided in the negative—yeas 89, nays 99, not voting 103; as follows:

YEAS—89.

Armfield,	Dowd,	Klotz,	Robinson, James S.
Barbour,	Dunn,	Latham,	Ross,
Berry,	Ermentrout,	Leedom,	Scales,
Blackburn,	Evins,	Lewis,	Scoville,
Blanchard,	Finley,	Manning,	Sherwin,
Bland,	Forney,	Marsh,	Singleton, Jas. W.
Browne,	Garrison,	Martin,	Smith, A. Herr
Buchanan,	Geddes,	McClure,	Stockslager,
Cabell,	Gunter,	McLane,	Talbott,
Caldwell,	Hall,	McMillin,	Tillman,
Cannon,	Hardenbergh,	Mills,	Townshend, R. W.
Chapman,	Hardy,	Morrison,	Turner, Oscar
Clardy,	Harris, Henry S.	Morse,	Van Voorhis,
Clark,	Hazelton,	Mutchler,	Wait,
Clements,	Herbert,	Neal,	Walker,
Cobb,	Herndon,	Oates,	Warner,
Colerick,	Hewitt, G. W.	O'Neill,	Wellborn,
Cook,	Hoge,	Phister,	Williams, Thomas
Cox, William R.	Holman,	Randall,	Willis,
Cravens,	Hubbell,	Reagan,	Wise, George D.
Curtin,	Jones, James K.	Rice, William W.	
Davis, Lowndes H.	Kenna,	Richardson, Jno. S.	
Deuster,	King,	Robertson,	

NAYS—99.

Aiken,	Deering,	Ketcham,	Scranton,
Aldrich,	De Motte,	Lacey,	Shultz,
Anderson,	Dingley,	Le Fevre,	Singleton, Otho R.
Barr,	Dwight,	Lord,	Spooner,
Bayne,	Errett,	Lynch,	Steele,
Belford,	Farwell, Sewell S.	Mason,	Stone,
Bingham,	Ford,	McCoid,	Strait,
Bliss,	George,	Money,	Thomas,
Bowman,	Godshalk,	Moore,	Thompson, Wm. G.
Brewer,	Grout,	Muldrow,	Townsend, Amos
Briggs,	Guenther,	Norcross,	Tyler,
Brumm,	Harmer,	Orth,	Updegraff, J. T.
Buck,	Haseltine,	Pacheco,	Updegraff, Thomas
Burrows, Julius C.	Haskell,	Page,	Upson,
Burrows, Jos. H.	Hatch,	Payson,	Valentine,
Camp,	Hawk,	Peelle,	Van Aernam,
Campbell,	Henderson,	Peirce,	Van Horn,
Candler,	Hepburn,	Prescott,	Ward,
Carpenter,	Hill,	Ranney,	Watson,
Chace,	Hiscock,	Ray,	Webber,
Crapo,	Horr,	Reed,	Williams, Chas. G.
Culberson,	Houk,	Rich,	Willits,
Cullen,	Humphrey,	Ritchie,	Wise, Morgan R.
Cutts,	Jacobs,	Robeson,	Young.
Dawes,	Jones, George W.	Ryan,	

NOT VOTING—103.

Atherton,	Covington,	Hammond, John	Ladd,
Atkins,	Crowley,	Hammond, N. J.	Lindsey,
Beach,	Darrall,	Harris, Benj. W.	Matson,
Belmont,	Davidson,	Heilman,	McCook,
Beltzhoover,	Davis, George R.	Hewitt, Abram S.	McKenzie,
Black,	Dezendorf,	Hoblitzell,	McKinley,
Blount,	Dibble,	Hooker,	Miles,
Bragg,	Dibrell,	House,	Miller,
Buckner,	Dugro,	Hubbs,	Morey,
Butterworth,	Dunnell,	Hutchins,	Mosgrove,
Calkins,	Ellis,	Jadwin,	Moulton,
Carlisle,	Farwell, Chas. B.	Jones, Phineas	Murch,
Cassidy,	Fisher,	Jorgensen,	Nolan,
Caswell,	Flower,	Joyce,	Parker,
Converse,	Frost,	Kasson,	Paul,
Cornell,	Fulkerson,	Kelley,	Pettibone,
Cox, Samuel S.	Gibson,	Knott,	Phelps,

Pound,	Shallenberger,	Springer,	Washburn,
Rice, John B.	Shelley,	Stephens,	West,
Rice, Theron M.	Simonton	Taylor,	Wheeler,
Richardson, D. P.	Skinner,	Thompson, P. B.	White,
Robinson, Geo. D.	Smith, Dietrich C.	Tucker,	Whitthorne,
Robinson, Wm. E.	Smith, J. Hyatt	Turner, Henry G.	Wilson,
Rosecrans,	Sparks,	Urner,	Wood, Benjamin
Russell,	Spaulding.	Vance,	Wood, Walter A.
Shackelford.	Speer,	Wadsworth,	

So the House refused to adjourn.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. WHEELER with Mr. SPAULDING.

Mr. HAMMOND, of New York, with Mr. PHELPS.

Mr. RICE, of Ohio, with Mr. SHACKELFORD.

Mr. VANCE with Mr. HUBBS.

Mr. MCKINLEY with Mr. TUCKER.

Mr. ROBINSON, of Ohio, with Mr. LE FEVRE.

Mr. RUSSELL with Mr. CARLISLE.

Mr. MCCOOK with Mr. SPARKS.

Mr. LINDSEY with Mr. DIBRELL.

Mr. SIMONTON with Mr. PARKER.

Mr. SHELLEY with Mr. CASWELL.

Mr. WISE, of Virginia, with Mr. JORGENSEN.

Mr. CROWLEY with Mr. NOLAN.

Mr. THOMPSON, of Kentucky, with Mr. DAVIS, of Illinois.

Mr. LADD with Mr. JOYCE.

Mr. FLOWER with Mr. JADWIN.

Mr. ATHERTON with Mr. PETTIBONE.

Mr. URNER with Mr. COVINGTON.

Mr. TURNER, of Georgia, with Mr. SMITH of ILLINOIS.

Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York.

Mr. DAVIDSON with Mr. DEZENDORF.

Mr. HARRIS, of Massachusetts, with Mr. ELLIS.

Mr. HOOKER with Mr. CHACE.

Mr. ROSECRANS with Mr. FISHER.

Mr. MILES with Mr. SINGLETON of Illinois.

Mr. VAN VOORHIS with Mr. BEACH.

Mr. SHALLENBERGER with Mr. MOULTON.

Mr. KASSON with Mr. BLOUNT.

Mr. MILLER with Mr. FROST.

Mr. DUNNELL with Mr. WILSON, Mr. DUNNELL being absent in New York with a sub-committee taking testimony.

Mr. KNOTT with Mr. WHITE.

Mr. JONES, of New Jersey, with Mr. COX, of New York.

Mr. HAMMOND, of Georgia, with Mr. BUTTERWORTH.

Mr. ROBINSON, of Massachusetts, with Mr. MCKENZIE.

Mr. TAYLOR with Mr. CONVERSE.

Mr. SKINNER with Mr. ATKINS.

Mr. BRAGG with Mr. POUND.

Mr. BUCKNER with Mr. FARWELL of Illinois.

Mr. HOUSE with Mr. WADSWORTH.

Mr. WISE, of Virginia. I am announced as being paired with my colleague, Mr. JORGENSEN. That pair does not interfere with my voting upon motions to adjourn. By an express understanding that permission was retained.

Mr. SINGLETON, of Illinois. I am paired with Mr. MILES on political questions only. This being an agricultural question, I voted.

Mr. RICHARDSON, of South Carolina. I am paired with the gentleman from New York, but not on this question.

Mr. HENDERSON. I am paired with the gentleman from Georgia [Mr. STEPHENS] on political questions; but not regarding this as a political question, I voted.

The result of the vote was then announced as above recorded.

Mr. ANDERSON. Regular order.

Mr. RANDALL. I move that the House take a recess until to-morrow morning at ten o'clock.

The motion was not agreed to.

The SPEAKER *pro tempore*. The question now recurs on the substitute proposed by the gentleman from West Virginia, on which the yeas and nays have been ordered.

Mr. AIKEN. I wish to make a parliamentary inquiry, whether at any time before the queston is taken it will be in order to debate the substitute?

The SPEAKER *pro tempore*. It will not be in order. The Clerk will call the roll.

The question was taken; and there were—yeas 45, nays 118, not voting 128; as follows:

YEAS—45.

Armfield,	Ermentrout,	Hubbell,	Sherwin,
Bayne,	Evins,	Kenna,	Stockslager,
Berry,	Finley,	King,	Talbott,
Bland,	Forney,	Klotz,	Tillman,
Bliss,	Gunter,	Leedom,	Walker,
Cassidy,	Hardenbergh,	Mills,	Wellborn,
Clardy,	Hardy,	Morrison,	Williams, Thomas
Cox, William R.	Harris, Henry S.	Mutchler,	Willis,
Davis, Lowndes H.	Herndon,	Oates,	Young.
Deuster,	Hewitt, G. W.	Randall,	
Dowd,	Hoge,	Reagan,	
Dunn,	Holman,	Scales,	

NAYS—118.

Aiken,	Dawes,	Le Fevre,	Singleton, Jas. W.
Aldrich,	Deering,	Lord,	Singleton, Otho R.
Anderson,	Dingley,	Lynch,	Smith, A. Herr
Barr,	Dwight,	Manning,	Speer,
Bingham,	Errett,	Marsh,	Spooner,
Blackburn,	Farwell, Sewell S.	Mason,	Steele,
Brewer,	Ford,	McClure,	Stone,
Briggs,	Garrison,	McCoid,	Strait,
Brumm,	Geddes,	McMillin,	Thomas,
Buchanan,	Godshalk,	Money,	Thompson, Wm. G.
Buck,	Grout,	Moore,	Townsend, Amos
Burrows, Julius C.	Guenther,	Muldrow,	Turner, Oscar
Burrows, Jos. H.	Harmer,	Norcross,	Tyler,
Cabell,	Haseltine,	O'Neill,	Updegraff, J. T.
Caldwell,	Haskell,	Orth,	Updegraff, Thomas
Camp,	Hatch,	Page,	Upson,
Campbell,	Hawk,	Payson,	Urner,
Cannon,	Hazelton,	Peelle,	Valentine,
Carpenter,	Hepburn,	Peirce,	Van Aernam,
Chace,	Herbert,	Phister,	Van Horn,
Chapman,	Hiscock,	Prescott,	Van Voorhis,
Clark,	Horr,	Ray,	Ward,
Clements,	Houk,	Reed,	Warner,
Colerick,	Humphrey,	Rich,	Watson,
Cook,	Jacobs,	Ritchie,	Webber,
Cravens,	Jones, George W.	Robeson,	Williams, Chas. G.
Culberson.	Jones, James K.	Robinson, James S.	Willits,
Cullen,	Ketcham,	Ryan,	Wise, George D.
Curtin,	Lacey,	Scoville,	
Cutts,	Latham,	Scranton,	

NOT VOTING—128.

Atherton,	Dibrell,	Lewis,	Rosecrans,
Atkins,	Dugrow,	Lindsey,	Ross,
Barbour,	Dunnell,	Martin,	Russell,
Beach,	Ellis,	Matson,	Shackelford,
Belford,	Farwell, Chas. B.	McCook,	Shallenberger,
Belmont,	Fisher,	McKenzie,	Shelley,
Beltzhoover,	Flower,	McKinley,	Shultz,
Black,	Frost,	McLane,	Simonton,
Blanchard,	Fulkerson,	Miles,	Skinner,
Blount,	George,	Miller,	Smith, Dietrich C.
Bowman,	Gibson,	Morey,	Smith, J. Hyatt
Bragg,	Hall,	Morse,	Sparks,
Browne,	Hammond, John	Mosgrove,	Spaulding,
Buckner,	Hammond, N. J.	Moulton,	Springer,
Butterworth,	Harris, Benj. W.	Murch,	Stephens,
Calkins,	Heilman,	Neal,	Taylor,
Candler,	Henderson,	Nolan,	Thompson, P. B.
Carlisle,	Hewitt, Abram S.	Pacheco,	Townshend, R. W.
Caswell,	Hill,	Parker	Tucker,
Cobb,	Hoblitzell,	Paul,	Turner, Henry G.
Converse,	Hooker,	Pettibone.	Vance,
Cornell,	House,	Phelps,	Wadsworth,
Cox, Samuel S.	Hubbs,	Pound,	Wait,
Covington,	Hutchins,	Ranney,	Washburn,
Crapo,	Jadwin,	Rice, John B.	West,
Crowley,	Jones, Phineas	Rice, Theron M.	Wheeler,
Darrall,	Jorgensen,	Rice, William W.	White,
Davidson,	Joyce,	Richardson, D. P.	Whitthorne.
Davis, George R.	Kasson,	Richardson, Jno. S.	Wilson,
De Motte,	Kelley,	Robertson,	Wise, Morgan R.
Dezendorf,	Knott,	Robinson, Geo. D.	Wood, Benjamin
Dibble,	Ladd,	Robinson, Wm. E.	Wood, Walter A.

So the substitute was rejected.

The following additional pairs were announced:

Mr. BROWNE with Mr. COBB.

Mr. MORSE with Mr. BOWMAN.

Mr. WHITTHORNE with Mr. SHULTZ.

Mr. MCLANE with Mr. HARDY.

Mr. TOWNSHEND, of Illinois, with Mr. WILSON. Mr. TOWNSHEND would vote against and Mr. WILSON for the substitute.

The result of the vote was then announced as above recorded.

Mr. ANDERSON. I now demand the previous question upon the pending bill and the substitute of the gentleman from Michigan, Mr. HUBBELL.

Mr. TALBOTT. I move that the House do now adjourn.

Mr. ANDERSON. Let the previous question be ordered first.

Mr. KENNA. I hope that will be done.

Mr. ANDERSON. If that is done I shall agree to the motion to adjourn.

Mr. TALBOTT. With that understanding I withdraw the motion.

Mr. ANDERSON. Then I renew the demand for the previous question.

The previous question was ordered.

Mr. ANDERSON moved to reconsider the vote by which the previous question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HAZELTON. Let the pending amendments be printed.

Mr. ANDERSON. They were all printed in the RECORD of this morning.

Mr. STEELE. I move that the House do now adjourn.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, which announced that the President had approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 3776) granting a pension to Margaret McCormick;

An act (H. R. No. 4133) to authorize the sale of certain property

at Bermuda Hundred, in the county of Chesterfield, in the State of Virginia;

An act (H. R. No. 5804) to execute certain treaty stipulations relating to Chinese; and

Joint resolution (H. R. No. 96) granting condemned cannon to the Morton Monumental Association.

LEAVE OF ABSENCE.

Pending the motion to adjourn, leave of absence was granted by unanimous consent, as follows:

To Mr. MORSE, for ten days, on account of important business.

To Mr. COX, of New York, until Monday next.

To Mr. DAVIDSON, indefinitely, on account of sickness in his family.

To Mr. BRAGG, for two weeks, on account of important business.

To Mr. DIBBLE, for five days, on account of important business.

To Mr. MOREY, for one day, on account of illness.

AMENDMENT OF PATENT LAWS.

Mr. YOUNG, by unanimous consent, introduced a bill (H. R. No. 6153) amendatory of sections 440 and 477 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

ORDER OF BUSINESS.

Mr. STEELE. I demand the regular order.

The SPEAKER *pro tempore*. The regular order is the motion to adjourn.

The motion was agreed to; and accordingly (at five o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BARR: The petition of Post No. 58, Grand Army of the Republic, of Pennsylvania, for the passage of the bill to establish a soldiers' home at Erie, Pennsylvania—to the Committee on Military Affairs.

By Mr. W. R. COX: The petition of W. N. Benton and 125 citizens of Johnston County, North Carolina, for an additional appropriation for the improvement of Neuse River—to the Committee on Commerce.

Also, the petition of N. Shepherd and 100 colored citizens of Wake County, and of W. A. Pattillo and 100 other citizens of Oxford, North Carolina, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. CULBERSON: The petition of J. J. Haut and others, citizens of Pecan, Texas, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Commerce.

By Mr. KASSON: The petition of Randall & Dickey, and numerous other citizens of Des Moines, Iowa, for the passage of the Lowell bill to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. MOSGROVE: The petition of Thomas Magill and others, for the passage of a bill granting a pension to Lewis Lewis—to the Committee on Invalid Pensions.

By Mr. RITCHIE: The petition of John McConkie and 33 others, citizens of Port Clinton, Ohio, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. O. R. SINGLETON: The petition of citizens of Newton County, Mississippi, and members of New Ireland Grange of said county, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. THOMAS UPDEGRAFF: The petition of Hon. T. W. Burdick, J. A. Klein, Hon. E. E. Cooley, and 56 others, citizens of Winneshiek County, Iowa, for appropriations of money to be distributed among the common schools of the several States and Territories on the basis of illiteracy in such manner as to stimulate local effort in education—to the Committee on Education and Labor.

By Mr. G. D. WISE: The petition of I. Davenport, jr., guardian of Ella B. Quigon, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

The petitions of William P. Glover and others, and of Oliver Searles and others, relative to bounties, were reported from the Military Committee under clause 2 of Rule XXII, and referred to the Select Committee on Pensions, Bounty, and Back Pay.

SENATE.

WEDNESDAY, *May* 10, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting reports from Major Amos Stickney, Corps of Engineers, of examinations and surveys of Atchafalaya River and of Bayous Grand Caillou and Little Caillou, Louisiana, made in compliance with requirements in the river and harbor act of June 14, 1880; which was referred to the Committee on Commerce, and ordered to be printed.

INDIAN ANTIQUITIES.

Mr. HOAR. Mr. President, I present a brief but very interesting petition from the members of the New England Historic Genealogical Society, asking legislation to protect some extremely interesting antiquities in New Mexico and Arizona. Under the rule it would be my duty to make a brief statement of the contents of the petition, I think, however, that can be better done by having it read. It is very short, and I ask the attention of the honorable chairman of the Committee on Public Lands [Mr. PLUMB] to the petition.

Mr. PLUMB. I should like to hear it read.

Mr. HOAR. My request is to have the petition read, and I ask the honorable Senator to do me the favor to listen to it.

The Acting Secretary read the petition, as follows:

HISTORIC GENEALOGICAL SOCIETY,
SOCIETY HOUSE, (18 Somerset street,)
Boston, Massachusetts, May 8, 1882.

To the honorable the Senate of the United States:

Your memorialists, the members of the New England Historic Genealogical Society, would respectfully represent:

That there are in the Territories of New Mexico and Arizona twenty-six towns of the Pueblos Indians, so called, in all containing about ten thousand inhabitants; that the number of their towns was once very much greater; that these remaining are the remnants of very ancient races in North America, whose origin and history lie yet unknown in their decayed and decaying antiquities; that many of their towns have been abandoned by the decay and extinction of their inhabitants; that many of their relics have already perished and so made the study of American ethnology vastly more difficult; that the question of the origin of those Pueblos and the age of their decayed cities, and the use of some of their buildings, now magnificent ruins, constitute one of the leading and most interesting problems of the antiquary and historian of the present age; that relic-hunters have carried away, and scattered wide through America and Europe the remains of these extinct towns, thus making their historic study still more difficult, and, in some particulars, nearly impossible; that these extinct towns, the only monuments or interpreters of these mysterious races, are now daily plundered and destroyed in a most vandal way; that, for illustration, the ancient Spanish cathedral of Pecos, a building older than any now standing anywhere within the thirteen original States, and built two years before the founding of Boston, the metropolis of New England, is being despoiled by the robbery of its graves, while its timbers are used for campfires, sold to relic-hunters, and even used in the construction of stables.

Your memorialists therefore pray your honorable body that at least some of these extinct cities or pueblos, carefully selected, with the land reservations attached and dating mostly from the Spanish crown, of the year 1680, may be withheld from public sale and their antiquities and ruins be preserved, as they furnish invaluable data for the ethnological studies now engaging the attention of our most learned scientific, antiquarian, and historical students.

MARSHALL P. WILDER,
President of the New England Historic Genealogical Society.
EDMUND F. SLAFTER,
Corresponding Secretary of the New England Historic Genealogical Society.

Mr. HOAR. I move the reference of the petition to the Committee on Public Lands. I wish to say for the information of that committee that not only this society, which contains a great many eminent scholars interested in these researches, but some other societies in the New England States, as well as in the Northwest and other parts of the country, are paying now great attention to this matter of ethnology. The American Antiquarian Society, with whose original founding Alexander Von Humboldt took a very large interest, has made some very important contributions to the ethnological history of this country. Some of those gentlemen have expended very large sums in making researches in Yucatan and Mexico and in our Territories of the West. By reserving these lands from public sale, or by some legislation which will protect these antiquities from ruthless destruction, the Government can at a very slight cost give much aid to their researches.

Mr. PLUMB. Before the reference is made, I desire to say that I know something of this subject through my acquaintance in the country where these ruins are located. I have seen the Pecos church to which reference has been made. Probably the statement in regard to its antiquity is correct, and I have no doubt the further statement that it is going into ruin and that its timbers are being used up for various domestic purposes is also correct. It is to be said, however, that that country contains a great many villages at which these antiquities can be had, where they exist as fully as they do in these abandoned villages, where the tribes owning the lands now occupy the village.

It would be, therefore, physically impossible for the Government to furnish the protection which is sought by the petitioners to any very considerable extent, unless a guard was to be stationed at each place charged with the duty of warning off intruders. It seems to me the better way would be for the societies having an interest in this matter to avail themselves of the license which now exists of going to the different localities and gathering up the relics, as I know has been done. A party, instituted in the city of Philadelphia, I think, went out last year and got some very significant relics, and various other expeditions have been sent out from Yale College, I think, for a similar purpose, no doubt with a similar result.

I do not speak of this as specially detracting from the purpose of the petitioners, or as in any way anticipating what the committee may do, or what I myself may think upon reflection; I speak of this merely as showing the difficulties in the way. I have no doubt that there are to-day many curiosities under the control of tribes who have a right to the land upon which their towns are located just as sacred under the law as that of any man to his property, and which, by reason of their occupancy, will be preserved, at least to a sufficient extent to accomplish all the purposes the petitioners have in view.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Public Lands.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of West Virginia, presented a petition of citizens of Stonewall district, Wayne County, West Virginia, praying that Congress take such steps as in their wisdom may be best to promote the interests of education; which was referred to the Committee on Education and Labor.

Mr. SHERMAN presented a memorial of the John Bell Post, No. 112, of Washington, Ohio, in favor of the passage of a bill providing for an increase of pensions to soldiers who have lost one arm, one hand, one foot, or one leg, or suffered an equivalent disability; which was referred to the Committee on Pensions.

He also presented a petition of the faculty of Hiram College, Hiram, Ohio, praying for the passage of a bill for the distribution of national aid to education on the basis of illiteracy; which was referred to the Committee on Education and Labor.

Mr. BLAIR presented the petition of Rev. E. P. Merrifield and 60 other citizens, of the Baptist Society, of Lyme, New Hampshire, praying for national aid to the schools for the native people in Alaska; which was referred to the Committee on Education and Labor.

THOMAS J. WHARTON.

Mr. GEORGE. The Committee on Claims, to whom was referred the bill (H. R. No. 869) for the relief of Thomas J. Wharton, have had the same under consideration and direct me to submit a report in favor of the passage of the bill.

Mr. CAMERON, of Wisconsin. I ask unanimous consent for the consideration of the bill at this time. The Senator from Mississippi in a word can state what the bill is.

The PRESIDENT *pro tempore*. The bill will be read for information.

The bill was read, and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It appropriates $250 for the benefit of Thomas J. Wharton, of Jackson, Mississippi, as compensation for professional services rendered by him in the southern district of Mississippi, under appointment of the then district attorney of the United States for the southern district of Mississippi, in accordance with the statute in such case made and provided.

Mr. GEORGE. Is any explanation desired?

Mr. INGALLS. The report had better be read.

The Principal Legislative Clerk read the report, as follows:

The facts on which this claim is founded will be found in the following report made in the House of Representatives:

"'The Committee on Claims, to whom was referred the bill (H. R. No. 869) for the relief of Thomas J. Wharton, have considered the same, and find that the report made thereon by the Committee on Claims of the second session of the Forty-sixth Congress to the House of Representatives was correct, and adopt the same, which is as follows:

"'The bill proposes to pay to the claimant the sum of $250, for professional services rendered the Government in the southern district of Mississippi.

"'On the 16th day of June, 1874, Felix Brannigan, United States attorney for the southern district of Mississippi, purporting to act "by virtue of the authority vested" in him by the fourteenth section of the act of August 16, 1856, appointed the claimant "to attend to such business as may appertain to the duties of my office during my absence from the district in the prosecution of the cases of the United States *vs.* H. B. McClure and J. W. Robbins, now pending before C. L. C. Cass, United States commissioner in this district."

"'The claimant is a lawyer of ability and attended faithfully to the duties designated, and presented his account and asked to have it allowed. On the 20th day of November, 1875, being a day in court, Hon. R. A. Hill, judge of the district court, presiding, after argument it was "considered by the court that the appointment of said T. J. Wharton * * * was fully authorized by section 14, act of Congress August 16, 1856, (11 Stat., 51;) * * * that it was the duty of the district attorney thereunder to make said appointment, and the said section was not repealed by any provision of the act to establish the Department of Justice, (16 Stat., 162;) and it being admitted by W. W. Dedrick, United States attorney, and the court being satisfied that the sum of $250 charged by said Wharton for legal services rendered for the United States under said letter of appointment in the account attached to said motion is just and moderate, the court doth hereby allow, approve, and tax said account, and recommend that the same be paid as authorized by the provisions of section 838, Revised Statutes."

"'The Treasury Department refused to pay the account, because—

"'First. Since the passage of the act creating the Department of Justice the district attorney had no authority to employ counsel to attend to his duties.

"'Second. Because the substitution was not sanctioned by the Secretary of the Interior; and

"'Third. The district attorney himself would not have been allowed such a bill had he performed the service himself.

"'The committee are of opinion that the district attorney misconceived his power, and that he had no authority to make the appointment, and that the judge erred in his ruling; but it is conceded that the services were rendered, and they were rendered under the assurance that they would be paid for, and that they were worth the sum claimed. We are of opinion that the claimant is entitled to the sum claimed upon a *quantum meruit*, and recommend that the bill do pass.'"

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. GEORGE. The Committee on Claims have had under consideration sundry bills in relation to the judicial ascertainment of claims against the Government of the United States, and have directed me to report adversely as to all the bills, and to report an original bill from the committee and recommend its passage.

The bill (S. No. 1858) to provide for the investigation and settlement of claims against the United States which in justice and good conscience ought to be paid by them was read twice by its title.

The bills adversely reported were indefinitely postponed, as follows:

A bill (S. No. 1297) conferring upon the Court of Claims jurisdiction to hear and determine all claims against the Government of the United States;

A bill (S. No. 1449) to provide for the investigation and settlement of claims against the United States which in justice and good conscience ought to be paid by them; and

A bill (S. No. 1586) for the judicial ascertainment of the facts in cases of private claims, and for other purposes.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the petition of Mrs. Mary Dove, colored, of Utica, New York, praying compensation for the use and occupancy of her property in Nashville, Tennessee, by United States forces during the late war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. HOAR, from the Committee on Claims, to whom was referred the bill (S. No. 707) for the relief of Mrs. Anastasia E. Fish, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. GROVER. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. No. 400) authorizing full pay to Lieutenant Frederick Schwatka, United States Army, while on leave to serve in command of the Franklin search expedition in the Arctic, to report it with amendments. I shall submit a report hereafter.

Mr. BUTLER, from the Committee on the District of Columbia, to whom was referred the petition of Josephine B. Bruce and others, asking authority of Congress to sell the lot upon which is located the Home of the National Association for the Relief of Destitute Colored Women and Children, and for $20,000 to erect a new building on a more eligible site, submitted a report thereon, accompanied by a bill (S. No. 1859) making an appropriation to erect a new building for the use of the National Association for the Relief of Destitute Colored Women and Children in the District of Columbia.

The bill was read twice by its title, and the report was ordered to be printed.

JOHN SILSBY AND OTHERS.

Mr. MORGAN. The Committee on Public Lands, to whom was referred the bill (S. No. 1689) for the relief of John Silsby and others, purchasers of the "Weaver tract" lot of land in the city of Selma, State of Alabama, have directed me to report it without amendment. I ask the Senate for the present consideration of the bill. I think the Senate will not refuse to consider it.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Acting Secretary read the bill.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. MORGAN. A letter of the Attorney-General, accompanying the report of the committee, recommends the confirmation of the title.

Mr. HOAR. Is the bill upon the Calendar?

The PRESIDENT *pro tempore*. It is a bill just reported.

Mr. HOAR. Why should not the bill go on the Calendar?

The PRESIDENT *pro tempore*. The Senator from Alabama requested its present consideration. The Chair asked the Senate if there was any objection to its consideration. The bill has been read.

Mr. INGALLS. Bills are always read for information.

Mr. HOAR. It was read for information.

The PRESIDENT *pro tempore*. Certainly; if there is objection the bill cannot be considered to-day.

Mr. HOAR. Why should not the bill go on the Calendar?

Mr. MORGAN. It is a bill to quiet the title to a tract of land in Selma, Alabama, which has been in dispute or litigation with the Government of the United States now for some three or four years, and upon which no improvement can be made in consequence of that fact. The district attorney thought it was his duty to bring suit to try the title in favor of the Government of the United States, but upon the facts being presented to the Attorney-General he ordered the suit to be dismissed, being satisfied that the purchasers had not only bought in good faith and under the decree of the court but had paid the money. The object of the bill is merely to quiet the title. It will take but a moment to consider it. The Attorney-General states the facts and recommends the passage of the bill.

Mr. HOAR. Let the report and letter be printed and the bill go over, so that we can see them in print. The Senator can call it up after they are printed.

Mr. MORGAN. I give notice that to-morrow morning I shall ask the Senate, before it proceeds to the consideration of the Calendar under the Anthony rule, to take up the bill.

The PRESIDENT *pro tempore*. The report and letter will be printed, and the bill goes over.

BILLS INTRODUCED.

Mr. HARRIS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1860) to attach the county of Hardeman, in the State of Tennessee, to the eastern division of the western district of Tennessee; which was read twice by its title.

Mr. HARRIS. I move that the bill and the accompanying letter from the bar of Hardeman County on the subject of the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. COKE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1861) for the relief of A. C. Larkin; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HILL, of Colorado, (by request,) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1862) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation in the Territory of Utah; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CONGER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1863) to place the customs district of Alexandria on the same list with Georgetown, District of Columbia, and Cherrystone, Virginia, and other districts of that class; which was read twice by its title, and referred to the Committee on Commerce.

Mr. VEST asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1864) donating to the city of Saint Louis, Missouri, a certain strip of land for street purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. PLUMB asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1865) for the relief of Mrs. Mary Blackburn; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MITCHELL (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1866) for the relief of Casimer Suffezynski; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. ALDRICH asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 62) for the relief of Henry A. Greene; which was read twice by its title, and referred to the Committee on Claims.

ASSAY OFFICE AT DEADWOOD.

The PRESIDENT *pro tempore*. If there be no "concurrent or other resolutions" the morning hour is declared closed.

Mr. MORRILL. I ask now to take up out of its order a bill reported from the Committee on Finance, establishing an assay office at Deadwood, Dakota.

The PRESIDENT *pro tempore*. Is there objection to taking up the bill? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1604) to establish an assay office at Deadwood, in the Territory of Dakota. It establishes an assay office at Deadwood and directs the Secretary of the Treasury to cause to be constructed a suitable building at Deadwood for the purposes, and provide the same with the necessary fixtures and apparatus, at a cost not exceeding $50,000.

Mr. INGALLS. It appears to me that that is rather an extravagant sum to appropriate for this purpose in that infant Territory. The facilities already for assaying are ample in the immediate neighborhood, and I doubt the wisdom or the policy or the propriety of distributing these offices over different portions of the country to be followed, as they inevitably are, by efforts for establishing mints. I should like to hear from the Senator from Vermont some statistics of the production of that Territory which would seem to warrant in his judgment this, which appears to me an extravagant expenditure.

Mr. MORRILL. A very large amount of ore is produced at Deadwood, and the quantity is constantly increasing. The amount is now larger I believe than is produced at any other place, perhaps California excepted, and it has to be transported to Omaha or to New York——

Mr. INGALLS. Or Denver.

Mr. MORRILL. Or Denver.

Mr. INGALLS. And there are ample facilities by rail, as I understand, for that transportation.

Mr. MORRILL. But it amounts to a considerable expense, and unless the assaying is done at a Government office the bullion has to be reassayed before it can be shipped abroad. It was in the opinion of the Committee on Finance no more than a reasonable request on the part of this Territory, where so large a sum of bullion is obtained; and the amount appropriated is that which has heretofore been considered necessary for the establishment of a proper assay office.

Mr. INGALLS. Is it not true that after this bullion has been assayed it still requires to be transported? If it is to be used it must be minted. It becomes merely an article of merchandise, and therefore the fact that it has to be taken to Omaha or Denver or New York does not affect the question that is involved here.

Mr. MORRILL. It affects the question, especially where they transport ore to be assayed, and there is a considerable amount, I understand, of ore that is now transported.

Mr. INGALLS. Is it not true that there are plenty of private assay offices where this operation is carried on successfully? What is the necessity when the ore can be refined at private offices for the Government to undertake to carry on this business?

Mr. BECK. Mr. President——

Mr. MORRILL. I did not think there would be any opposition to this measure. It is very clear that the assay offices are distributed all over the country, but unless bullion should be assayed by a Government office it would have to be reassayed before it could be shipped abroad.

Mr. BECK. I merely rose to say what the chairman has made very apparent to us, that the stamp of private assay offices does not bear the same authenticity that that of the Government assay offices does; and bullion frequently requires assaying because of the want of security that cannot be had at private assaying establishments.

Mr. McMILLAN. Did I understand the Senator from Kansas to say that there are communicating railroad facilities at this point with Denver?

Mr. INGALLS. Rapidly approaching completion, I am told.

Mr. McMILLAN. But there is no communication whatever by rail with that locality.

Mr. INGALLS. How does that change the proposition that whether there is rail or not the product of the assay offices has to be transported the same as the raw product of the mines?

Mr. McMILLAN. It answers the objection of the Senator that there are rail facilities with Deadwood by which the ore can be transported to Denver, and to points nearer his own locality. There is no communication by rail, I suppose, and everything has to be transported by coaches, and there is great danger and inconvenience.

Mr. INGALLS. How is the danger obviated by making the assay office a Government instead of a private establishment? How is the danger of transportation obviated?

Mr. McMILLAN. The ore will be assayed at Deadwood if there is a Government office there.

Mr. INGALLS. Precisely; but the Senator said that this would obviate the danger of transportation.

Mr. McMILLAN. I did not say that.

Mr. INGALLS. Can he inform us how the difficulty is obviated by having it a public assay instead of a private assay office?

Mr. McMILLAN. I did not make that statement the Senator attributes to me, but I understood him to state that there was communication by rail with this point, and I supposed the Senator was aware that there was no railroad there; I thought he ought to be.

Mr. INGALLS. I said it was rapidly approaching completion.

Mr. MORRILL. I ask that the letter of the Director of the Mint be read, which, I think, will satisfy everybody, excepting the Senator from Kansas, that the bill ought to pass.

The Acting Secretary read as follows:

TREASURY DEPARTMENT, BUREAU OF THE MINT,
Washington, D. C., April 1, 1882.

SIR: I have the honor to acknowledge the receipt by reference of the letter addressed to you by Hon. R. T. Pettigrew, asking your opinion as to the necessity and propriety of establishing an assay office at Deadwood, Dakota, with a copy of the bill introduced in the House of Representatives for that purpose, and your request for my report thereon.

An assay office is of great local advantage in any gold or silver producing region where the precious metals are found in placers and the country is being prospected for the discovery and development of new mines.

It is also of great advantage where the mines are scattered over a considerable area and gold is obtained in limited quantities from mining operations not requiring a large amount of capital, enabling miners to secure a convenient and speedy exchange of their unrefined bullion for coin without deduction for the expense and delay of its transportation to a distance for coinage.

The precious metals are found in the mountainous regions of the Black Hills, in the western part of Dakota, and extend beyond the line into Wyoming in an area which is being thoroughly prospected, and which yielded an increased amount from the time of the discovery of gold and silver in the Black Hills.

The gold deposits at the mints and assay offices of the United States from the mines of the Territory of Dakota amounted in the calendar year 1879 to $2,436,209.07, in 1880 to $3,196,188.62, and in 1881 to $3,474,837.

The greater portion of this was produced by a few mines which, having abundant capital and being able to send their gold to the Mint or to the New York assay office without loss, except in time and cost of transportation, would be little benefited by the establishment of an assay office; but to those interested in small or placer mines and in prospecting these regions it would be of great advantage to have a Government assay office where the value of their bullion could be accurately ascertained and paid in coin or bars and where reliable assays could be obtained upon which to determine the value of mines and ores and bullion obtained therefrom.

The production of gold during the last year in Dakota equals that produced in any State or Territory in which an assay office is at present located, and the establishment of an assay office at Deadwood would be useful to the miners in that Territory.

Respectfully,

HORATIO C. BURCHARD, *Director.*

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES M. BLAKE.

The PRESIDENT *pro tempore*. The first case on the Calendar will be called.

The ACTING SECRETARY. A bill (S. No. 1015) for the relief of Charles M. Blake.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from California [Mr. MILLER] to the amendment reported from the Committee on Military Affairs.

Mr. MILLER, of California. At the request of the Senator from Missouri [Mr. COCKRELL] the bill may go over until to-morrow. I wish to examine it further.

Mr. COCKRELL. Let it go over without losing its place.

Mr. MILLER, of California. Without losing its place.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice and the next bill on the Calendar will be announced.

L. MADISON DAY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 73) for the relief of L. Madison Day.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

The PRESIDENT *pro tempore*. The question is, Shall the bill be ordered to be engrossed for a third reading?

Mr. COCKRELL. Let us have the yeas and nays.

Mr. VEST. I wish to say a word upon the bill before it is put on its passage.

The PRESIDENT *pro tempore*. Does the Senator from Missouri desire the yeas and nays on the pending question or on the passage of the bill?

Mr. COCKRELL. I will wait until after the argument of my colleague.

Mr. VEST. Mr. President, the amount of money involved in this bill is inconsiderable—$5,400 without interest is the entire amount; but I ask such Senators as feel any interest in the establishment of what I consider a very dangerous precedent to give me their attention for a very few moments.

I have no acquaintance with Mr. L. Madison Day, and none with the adversaries in this suit which is now transferred to the Senate of the United States. As to Mr. Judah P. Benjamin, his interest has entirely terminated, and he is no longer a citizen of this country.

I repeat that the amount of money involved in the suit is inconsiderable, but the precedent about to be established, if this bill is passed, is a most dangerous one and will certainly return to plague us in subsequent cases.

A brief *résumé* of the facts shows this condition of affairs: in 1858 Judah P. Benjamin and Joseph Benjamin, his brother, were owners of certain real estate in the city of New Orleans. They mortgaged that property for a *bona fide* indebtedness of $10,000 to one Mr. Micou, a citizen of New Orleans. In 1862 Judah P. Benjamin, having become secretary of state and afterward secretary of war of the confederacy, proceedings under the confiscation act were instituted against this property, not against the property of Joseph Benjamin, his brother, but against the interest of Judah P. Benjamin in this real estate. Judgment of confiscation was had, and the property was ordered to be sold. There is no sort of question or dispute but that the whole interest which was sold in this real estate was that of Judah P. Benjamin alone. The judgment was entered, and there was no notice to Joseph Benjamin and no pretense that he was a party to the record, directly or indirectly.

Just before the sale the most extraordinary judical order was entered ever known upon the records of this country. Judge Durell, whose name will never perish from the judicial annals of the United States, entered on record an order, without the slightest pretense of justice, law, right, or precedent, in which he declared that all mortgages upon property attempted to be confiscated should, by a single dash of the pen, be eliminated from the records of the court. It was a brutal order. It was not only unjust, it was not only contrary to precedent, it was not only without one scintilla of law or justice, but, I repeat, it was a brutal judicial order.

That order attempted to say to Micou, and afterward to his widow and heirs, who were the parties to the suit in the Supreme Court, Micou having died, that their $10,000 with interest, owing *bona fide* to them, should be eliminated and cease to be a just indebtedness. For that sort of action there cannot be the shadow or scintilla of a pretext; and when a lawyer comes before the Supreme Court of the United States, and afterward before the Senate, and says that he relied upon that order in order to obtain the title to real estate, it passes the bounds of ignorance. It is impossible that any man, whether a lawyer or not a lawyer, could have come to the conclusion that that order gave him any title whatever.

Mr. Day says that he bought at this sale, giving $5,400 for this property, and that he knew nothing about the title of Joseph Benjamin, and that he knew nothing about the mortgage put upon record in 1858. I submit to every honest and candid mind, is it possible that this gentleman, prowling amongst the records of New Orleans, a lawyer by profession, an eminent lawyer, who filed his elegantly-bound brief in the case of Day *vs.* Micou in the Supreme Court of the United States, and signed it "L. Madison Day *in propriâ personâ*," commencing his brief with English poetry and ending with the Greek classics, is it possible that this gentleman invested his $5,400 and never examined the record, and never knew that Joseph Benjamin had a title to this property, and that a mortgage for $10,000 in fair form of law was then spread upon the records of the parish of Orleans? Sir, I do not believe it, and I cannot believe it. It surpasses the bounds of the utmost credulity.

Mr. Day says he not only did not know that there was any mortgage and did not know that Joseph Benjamin had any title, but he says that he relied upon this order of Durell. He must have known as a lawyer that it was without one scintilla of the pretense of legal foundation. In addition to that, he relied upon the declaration of the United States marshal that the mortgage had been eliminated, and that the title was free.

Then we face this proposition: it is said now that the Government of the United States, having received the $5,400, is bound by the declaration of the United States marshal who made the sale. I say here to-day, and I call the attention of Senators to it, if that proposition obtains in this country, millions upon millions of dollars now in the Treasury of the United States must be taken out by force of the precedent that we now establish. If a United States marshal, can in making a sale, declare that the Government of the United States passes a perfect title, and if that amounts to a warranty or to a representation that binds the Government, what safety is there for the Treasury of the United States?

The PRESIDENT *pro tempore*. The Senator's time is out.

Mr. COCKRELL. I hope my colleague will be permitted to go on. It was the understanding that there would be no restriction on this debate.

The PRESIDENT *pro tempore*. The Senator will proceed.

Mr. VEST. Mr. President, is it possible that any lawyer, is it possible that any legislator, will assert the doctrine that a ministerial officer of the United States can bind this Government by a declaration made by him outside of his authority in making a sale of condemned property, or under the internal-revenue law, or in admiralty?

Mr. MAXEY. I ask the Senator from Missouri, in the same line: suppose a man acting under a power of attorney authorizing him to do certain acts sees proper to go beyond what he is authorized to do, would that bind his principal in any court?

Mr. VEST. As a matter of course, not; it would be absolutely void; but here is a ministerial officer with powers and functions limited and prescribed by the law, and if the doctrine obtains that this officer can, in behalf of the United States, warrant a good title to this property, what is the result? Any corrupt man can go to a corrupt officer, and in the sale of any property, no matter what the amount, can have the understanding with him: "You put up the property and sell it, and make certain representations; I will buy it, and if it is a good bargain, we will hold it and divide; if it is a bad bargain, your representations will set it aside, and I will go to the Government for the money."

Mr. HAWLEY. May I ask the Senator a question for information?

Mr. VEST. Certainly.

Mr. HAWLEY. I read in one of the reports that the marshal exhibited at the sale that that mortgage was nullified and satisfied. On what was that certificate based? Where did he get the authority?

Mr. VEST. That certificate was based upon an absolutely illegal order of Judge Durell.

Mr. HAWLEY. There was no basis to it, then, but the order of the court?

Mr. VEST. None in the world, and it was made without notice and made without right.

Mr. BECK. It was a general order.

Mr. VEST. It was a general order declaring all mortgages in regard to confiscated property eliminated.

Mr. CAMERON, of Wisconsin. If the Senator will allow me, it was a general order made some months prior to the libeling of the property alleged to have been the property of Benjamin.

Mr. VEST. Yes; made on the motion of Government counsel. I care not on whose motion; it was absolutely void upon its face, as every lawyer must know, and a lawyer that did not know it ought to have had his license taken from him *eo instanti* and his name stricken from the roll. The proposition that a United States district judge, without any statute, without any principle of law or justice, could destroy my mortgage *bona fide* given to me for $10,000 of loaned money is so monstrous that the mere mention of it brings a blush of shame to the cheek of every lawyer that a man wearing the judicial ermine of this country ever entertained it for a moment, and it looks to me most marvelous to find such an outrage advanced as a defense for Mr. Day's purchase. Here the United States Government got the money, and it went to the benefit of the Army under the confiscation law; and now it is proposed to take it out of the pockets of the people of the United States to pay it to Day, after he expected and tried to get rid of a mortgage for $10,000 justly due to a widow woman and her children. We have heard a great deal here of the wrong and hardship perpetrated upon this man by taking his money and keeping it in the Treasury. Mr. Day examined this record afterward, and here is the brief in which he argued it over and over again. He knew all about the mortgage. After he got this information did he stop? Did he stop as soon as he found it was a *bona fide* mortgage? Did he stop as soon as he found the order of Durell was absolutely void and illegal? He persisted until the Supreme Court of the United States told him he could not destroy this mortgage.

Mr. JONES, of Florida. Permit me to ask a question?

Mr. VEST. Certainly.

Mr. JONES, of Florida. Suppose he had not contested for his right as against that mortgage, would he stand on as good a footing to-day with respect to the Government as he stands now, having contested the mortgage?

Mr. VEST. He could at least have satisfied himself with making a reasonable contest, if all he wanted was to make a case for relief in Congress, instead of filing that enormous brief, filled with English poetry and Greek classics and signed "L. Madison Day, *in propriâ*

personâ," commencing with "The Star Spangled Banner" and winding up with a quotation from Lysias. He could, at least, have said: "I do not want to take the patrimony of these children and the little pittance left to this woman, Mrs. Micou; I will satisfy myself as a lawyer, a distinguished counselor and advocate, by making just such a case as will afterward give me relief from the Government;" but he invoked not only the civil but the military power of the Government in that brief, and he said the war was still flagrant and the attempt to take this property from him was an act of hostility against the Government!

Mr. MILLER, of California. What was the amount of the mortgage?

Mr. VEST. Ten thousand dollars, with interest from 1858.

Mr. MILLER, of California. And the purchase-money was $5,000?

Mr. VEST. Five thousand four hundred dollars, and he got in that purchase all that he bought, and that was the interest of Judah P. Benjamin, and the court never sold anything else, and the record shows that the court never pretended to sell anything else; and yet this gentleman claims now that he bought the interest of Joseph Benjamin, who never was a party to the suit, and never had anything to do with it, and besides that bought the land discharged of the mortgage of $10,000 for Mrs. Micou and her children. If that is not the heaviest judicial game I have ever known I shall be obliged to my brother lawyers for calling my attention to a precedent. Yet this is an unsophisticated country gentleman, who lived out of town and did not know his rights!

Mr. President, let us look for a moment at what the Supreme Court of the United States has said and the authorities in regard to this sale. I want to dispose of the question, that the Government is bound in law or equity by the declarations of a marshal. Rorer on Judicial Sales, pages 167 and 168, says:

> It is a well-settled principle that in judicial sales there is no warranty. The officer, trustee, or person executing the deed is the mere agent or instrument of the court; is not liable for defect of title or insufficiency of the proceedings; nor at all, except for fraud, unless he conveys with warranty, and then the covenant of warranty binds him personally, and him only.

Again, the same authority says on page 168:

> The rule of *caveat emptor* applies in all its rigor to judicial sales of real property.

Now, I call the attention of lawyers here to the Monte Allegre case decided in 9 Wheaton, 616. That was a sale of tobacco made by a Government officer, and he sold by sample and made false representations as to the quality of the tobacco. Afterward the claimant sued for the proceeds of the sale covered into the Treasury, and here is what the Supreme Court of the United States said:

> Generally in all judicial sales the doctrine of *caveat emptor* must necessarily apply from the nature of the transaction, there being no one to whom recourse can be had for the indemnity against any loss which may be sustained. Is there then anything peculiar in the powers of a court of admiralty that will authorize the interposition or justify granting relief to which a party is not entitled by the settled rules of the common law? We know of no such principle.

And there can be no case found, as I undertake to say, in the decisions of the Supreme Court of the United States where they have ever held that the doctrine of *caveat emptor* did not apply to proceedings *in rem*. Why, Mr. President, talk about cases! Here is a case decided by the Judiciary Committee of this body when Judge Thurman was the chairman of it, a gentleman who is reputed to be a pretty fair lawyer. Here was the bill, Senate bill No. 280, Forty-sixth Congress, first session, for the relief of Ann Gregory, widow of Charles N. Gregory, deceased. Now, listen:

> Whereas, by a decree of condemnation of the United States district court for the eastern district of Virginia, one certain tenement and lot of lands situate, lying, and being in the city of Alexandria, State of Virginia, being the property of William N. McVeigh, was condemned as forfeited to the United States, under the general confiscation act of July 17, 1862; that thereupon the said lot of land was sold, and the conveyance thereof made by John Underwood, as United States marshal for the eastern district of Virginia, to Charles N. Gregory, deceased; and that the said tenement and lot of land was conveyed by the said United States marshal, by deed bearing date the 11th day of April, 1864, to the said Charles N. Gregory, deceased, for the consideration of $1,500, which sum was paid into the Treasury of the United States; and
>
> Whereas, also, by judgment of the Supreme Court of the United States, rendered at its October term A. D. 1876, the sale of the said premises so made to the said Charles N. Gregory was declared void, and the said William N. McVeigh declared entitled to recover possession of the said premises, notwithstanding the sale thereof by the United States under the said decree of forfeiture and confiscation; and
>
> Whereas the said William N. McVeigh, under the judgment of the said Supreme Court, has recovered possession of the said premises so as aforesaid sold by the United States to the said Charles N. Gregory, deceased: Now, therefore,
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, directed and required to pay to Ann Gregory, widow of Charles N. Gregory, deceased, out of any money not otherwise appropriated, the said sum of $1,500, with interest thereon at the rate of 6 per cent. per annum from the date of the sale of the said premises by the United States to the said Charles N. Gregory, deceased.

Exactly the case at bar. Upon that bill—

> The Committee on the Judiciary, to whom was referred the bill (S. No. 280) for the relief of Ann Gregory, widow of Charles N. Gregory, deceased, report:
>
> That the rule of *caveat emptor* applies to sales of the character mentioned in the preamble to said bill, and that the committee find nothing in the circumstances of this case that should except it from the operation of that rule. They therefore recommend that the bill be indefinitely postponed.

The record shows that there was not a vote against that proposition in the Senate. No lawyer then raised a point in favor of taking $1,500, a mere pittance, out of the Treasury of the United States and giving it to this poor woman, and Gregory was no lawyer; Gregory, who made this purchase, the dead husband of this woman, was no prowling assignee or attorney, hunting through the records, as this man Day was.

The evidence shows that Day first undertook to get his property by a tax title, and remained in possession four years and a half without paying any rent to the Government. He purchased under J. Madison Wells, and obtained a tax title from him. His object was to get an additional muniment of title by buying under the confiscation act, and yet we are told he is an innocent purchaser holding the property four years and a half without rent by the tax title, then buying under the confiscation act when he says he never examined the record and did not know that anybody but J. P. Benjamin had any interest in it.

Mr. INGALLS. When the attempt was made to foreclose the mortgage did he endeavor to set up his title?

Mr. COCKRELL. Yes, sir; he undertook it.

Mr. VEST. He was a party to that suit.

Mr. INGALLS. When the foreclosure of the mortgage occurred did he set up his confiscation title?

Mr. VEST. Yes, sir; he was a party to that suit. That was the case that came up in which he filed the brief to which I have referred. Now, Mr. President, let us look a little further. When did this Government ever assert the doctrine or act upon it that we were bound by the representations of agents of the Government outside of their authority given by law? I want to call the attention of the Senate to a case pretty well known here, the case of the Cherokee Tobacco reported in one of the volumes of Wallace's Reports. That was a case in which Elias C. Boudinot and Stan Watie, his uncle, put up a tobacco factory in the Indian Territory under a solemn treaty made by the Government of the United States with the Indian tribe, in which they declared that no internal-revenue duty should be collected in that Territory. That factory was put up, and they went to manufacturing tobacco. Before they ever put up one single solitary plank in the way of building, or manufactured one single leaf of tobacco, they went to the Secretary of the Interior and to the Internal Revenue Bureau and inquired in regard to what the Government would do under the construction of that treaty, and they were told to go on and not one dollar would ever be collected from them. They did go on, and after the factory was in successful operation the officers of the United States levied on it for internal-revenue taxes and got away with over $50,000 worth of property, and Boudinot has been knocking at the doors of Congress for justice ever since, and to-day all he can get is a bill remitting him to the Court of Claims to there adjudicate the whole question.

Talk about hard cases before the Departments! There is another claim pretty well known here as the Ben Holladay claim. Mr. Holladay proved that the President of the United States, Abraham Lincoln, told him when he went to him in regard to the mails that he was carrying across the plains, "Mr. Holladay, move your mail service from one route to another. I will give you the troops of the United States to protect you." "But," said Holladay, "the Indians will break in and destroy my property." "If they do," said Lincoln, "Congress will pay you fully and indemnify you." And yet a majority of the Senate has held that neither Mr. Lincoln nor any other officer of this Government outside of the authority given him can bind the Government or make the Government responsible for his declarations unauthorized and unsanctioned by law.

But we are told that Mr. Day must be paid, a gentleman like Joseph of Arimathea, "a counselor learned in the law," this innocent, unsophisticated gentleman who filed his own brief in the Supreme Court, an expert in land titles, who made a business of getting hold of real estate for the purposes of profit—we are told that he must be protected!

The Senator from Florida relies greatly on the case in bankruptcy that went up, I believe, from the State of Florida and was decided in the circuit court of the United States. Permit me to say that the difference between that case and this is that that was a case between individuals where the money was still in court, still within the jurisdiction of the court; and upon a bill of review the circuit court simply said, "There has been a mistake here, injustice has been done, and we will give this money back," because the parties were all there and the subject-matter was there.

Mr. JONES, of Florida. Permit me to ask a question. Can there be any possible difference in principle in this case because this fund is now in the Treasury of the United States; or, in other words, any difference between the case of a fund in the Treasury and this fund, if it was still in the exchequer of the district court at New Orleans?

Mr. VEST. Yes, Mr. President, a vast amount of difference. If this money was still in the hands of the court at New Orleans, no question of public policy, no question of great public precedent need be invoked, and the court could do with that money as it pleased. But here the money has been placed in the Treasury and spent for the benefit of the Army of the United States; and now Mr. Day comes and, under the pretext that he relied upon the declaration of the marshal or on the void order of Durell, seeks to reverse the principle of *caveat emptor* and take this money out of the Treasury. I say millions can be taken by the same precedent and the same rule, and any man who chooses, by a combination with a corrupt officer of the United States, may buy a piece of property at a sale under a con-

demnation in admiralty or an internal-revenue suit, and if he can get that officer to make certain declarations he can say to him: "If we find the sale profitable we will divide; and if not, we will set it aside and I will go to the Treasury of the United States and get back the money."

Here is a doctrine of great public policy, of precedent, which we are asked to strike down. The great rule of *caveat emptor*, we are told, does not apply to the Government of the United States, but that, so long as the Treasury is able to pay, this claimant has a right to come and demand the money.

But one word more in regard to the position on the other side, and I am done. I take no peculiar interest in the matter, and I discharge this simply as a public duty. I do not care for the $5,400 going to this man, but I see no claim in law or equity, nor the title or shadow of a claim here.

It is said now by my friend from Louisiana and my friend from Florida that this claim was made under the laws of Louisiana, and the doctrine of *caveat emptor* does not apply. As I understand the rule in Louisiana, where the civil law obtains, the purchaser must in the first place go upon the plaintiff-creditor, and exhaust his remedy there, before this rule applies. There is no pretext that this man has ever done that, or that Judah P. Benjamin has not to-day property in the State of Louisiana subject to his claim.

But, waiving all that, I announce the proposition that the law of Louisiana has nothing at all to do with this question. This was a sale under a United States statute; all the rights of the parties accrued under a United States statute, and the Supreme Court of the United States has decided over and over again that when the Federal tribunals are proceeding under a United States law they proceed under that statute until the execution is satisfied. Any other doctrine is monstrous. Do gentlemen seriously argue that the rights of the purchaser at a sale made by a United States court in Missouri are different from what they are in Louisiana? In Missouri the doctrine of *caveat emptor* applies, and in every other State of the Union except Louisiana. Is it possible that the State of Louisiana by a statute there can defeat the rights of a purchaser under a United States title when that cannot be done in any other State in this whole Union?

The Supreme Court has disposed of that question, has disposed of it in the case of Wayman *vs.* Southard, in 10 Wheaton, and Riggs *vs.* Johnson, in 6 Wallace, and another case in 9 Wallace, and in these cases the Supreme Court laid down what there can be no question about, that where the Federal tribunals are investigating a question under a State statute or a State constitution they will follow the highest tribunal of that State as to the rights of citizens; but when the United States is proceeding in its own courts under a United States statute, then, until the execution itself is paid, the process of the court and the remedy of the purchaser are all under the United States statutes. Any other proposition would subvert the great principle that a court has always the right under its own laws and proceedings to enforce its own judgments and give the proper remedy to purchasers under those judgments. That is the doctrine, and therefore the statute of Louisiana has nothing to do with the case.

Now, Mr. President, who is this Mr. L. Madison Day? Is he an innocent purchaser? Does he present himself to this tribunal in such phase and such guise that an exception should be made and a great rule of law and justice and precedent in his behalf? What is he trying to do, what has he been trying to do? He has been trying up to the time the Supreme Court of the United States decided against him to take $10,000 out of the pockets of this widow and these poor orphan children under a void and illegal and brutal order of this judge of the district court of the United States in Louisiana. Is he an ignorant man? Is he a poor, unsophisticated creature who comes into court and says, "I knew no law; I never opened a book; I am here in my simplicity, my innocence, my rural, unsophisticated, native innocence as a citizen of the country, and ask relief at the hands of its representatives?"

Mr. MAXEY. I ask the Senator if he has read Day's brief in the Supreme Court of the United States?

Mr. VEST. I have it here. It was not like that of an ordinary member of the profession on ordinary paper, but he put it up in calfskin and filed it before the Supreme Court of the United States as a standing monument to his legal ability; it remains so to-day; and I have a copy in my hands. He was not satisfied with putting it in ordinary legal phrase, but he commences after this fashion—I ask my friends who are now advocating the bill to listen to the ground on which he puts his case:

> May it please the court: When the "Bonnie Blue Flag" went down before "The Star Spangled Banner," and that glorious emblem of "The Union, the Constitution, and the Enforcement of the Laws" again waved in triumph
>
> "From Maine's dark pines and crags of snow
> To where Magnolian breezes blow,"
>
> it was fondly hoped that civil strife and contention were at an end, and that peace, quiet, and repose had returned to bless the land.
>
> But those were
>
> "Hopes which but allured to fly;"
>
> they were, indeed, but
>
> "Joys that vanished whilst we sipp'd."
>
> For scarcely had the roar of artillery ceased and the smoke of battle cleared off, and scarcely had the ink become dry on the parchments of pardon, which fell from the Executive hand,
>
> "Thick as autumnal leaves that strow the brooks
> In Vallombrosa,"

before some

> "Of the last few who, vainly brave,"

and who would theoretically, merely,

> "Die for the cause they could not save,"

rushed into the courts, renewed the contest in another form, and we are here to-day on a writ of error to the supreme court of Louisiana to reverse a victory obtained in this new mode of hostility and attack upon the power and authority of the United States and the rights of one which are firmly based upon the same.

Mr. Day declares that the war still continues, and that this was simply a new mode of attack after the shot and shell and saber strokes of the rebellion had been put down. That L. Madison Day, an unsophisticated country gentleman, a litigant, was the first victim to this new mode of attack. Then he went on and argued the proposition that this woman should be robbed of this $10,000 and interest; and finally concluded his brief thus:

> *Αχηλόατε ἐωράχατε πεπόνθατε εχετε δικάζετε.—Lysias.*
>
> L. MADISON DAY,
> *In propriâ personâ.*

Mr. President, it has been some years since I studied Greek, and I do not propose to give a literal translation. If I might be permitted to give a translation peculiarly applicable to all the circumstances and facts of this case as declared from Mr. Day's own showing, I should say that it ought to be translated in the terse American language of the distinguished Artemus Ward: "He paid his money, and he took his chance." [Laughter.]

Mr. JONES, of Florida. Mr. President, I do not think we are here to pass upon this gentleman's capabilities as a poet; his poetry may be very good, or it may be very bad; but I do not think that has much to do with this case. I know very little about Mr. L. Madison Day. I had no knowledge of him whatever when I first wrote the report in his case. I looked upon the facts as I would in any other case, and judged of his right to relief outside of his associations, his poetic aspirations, or anything else.

The argument of the Senator from Missouri goes too far. He undertakes to compare this case to the case of a man who is seeking to obtain from the Treasury money that he never paid into it. There is no such case here. When he speaks of that vast class of cases in which raids are intended to be made upon the Treasury by men who never deposited a dollar in its vaults, he is speaking of cases very different from this. When he speaks of that undefined and undefinable responsibility which may flow from the assertions of an officer at a sale, unaccompanied by any judgment of a court, he is speaking of that which does not exist in this case.

The case here rests upon a few facts; and outside of the antecedents of the man, his land-grabbing proclivities, his love for poetry and the old flag, and all that kind of thing, the case is to be determined by the Senate of the United States in a different vein from that. The question is, whether by reason of that very illegal order of the district judge, upon which he had a right to rely, having paid his money under it, he is not entitled to this fund from the Government of the United States the same as he would if the fund was still in the custody of the district court.

Mr. BECK. Why had he a right to rely upon that order?

Mr. JONES, of Florida. He relied upon it as numbers of other men of equal intelligence with him relied upon the authority of the district court to sell mortgaged property discharged of the lien of the mortgage under the bankrupt law, for which there was far more authority than existed in this case. There was not, from the beginning to end in the bankrupt law any authority which gave to a district judge the right to sell mortgaged property discharged of the lien; and still some judges directed the thing to be done, and one of the most intelligent citizens of the State whose Senator has just addressed me, backed up by the opinion of some able lawyers—I do not know whether they were from Kentucky or not—relied upon a similar judgment of a district court in my State and lost his whole fortune. Unfortunately for him there was no more authority under the first section of the bankrupt law for the district judge to sell property encumbered by a mortgage discharged of the lien than there was for Judge Durell to direct the sale of Benjamin's property under the confiscation law, discharged of the lien—not one bit. The confiscation law was directed against the estate of the party and the proceeding was *in rem;* and I suppose this district judge thought that inasmuch as the interests of the Government were paramount and could not be defeated by an intervening lien of a private party, he had a right to make effectual the confiscation law by selling the estate, and if it brought more than the amount of the mortgage to hold the residuary fund for the benefit of the mortgage creditor, but at the same time to make effectual the confiscation process.

That was the view entertained by several district judges under the bankrupt law. Administering this law in the spirit of what they called a great public policy, they went on and held in a number of instances, one especially in my State and some beyond it, that the policy of this law required the estate to be sold, and required it to be sold discharged of the lien, and they undertook to sell the mortgaged property discharged of the lien, holding the fund for the benefit of the mortgage-creditor and giving the purchaser a good title. Now, I say there was just as much authority for the one order as for the other.

The PRESIDENT *pro tempore*. The time of the Senator from Florida

has expired. Will the Senate give unanimous consent to the Senator from Florida to proceed? The Chair hears no objection.

Mr. JONES, of Florida. I say there was just as much authority for the one order as for the other, and in the case I cited from Judge Bradley's decision the very identical principle was involved. The gentleman to whom I referred, one of the most intelligent men I ever knew, a citizen of the State of Kentucky, regarding the order of the district judge in Florida as conclusive on the mortgage-creditor, purchased an estate, as he thought discharged of the lien, and he took the property and kept it for three years and built it up, put improvements on it, and after that the mortgage-creditor came in and foreclosed over him and took away not only the amount of his original purchase but his improvements; and then the purchase-money was refunded to him by the circuit court, which was all it could do, upon the principle that the order of the district court had led him to believe and gave him reason to believe that he was taking the estate discharged of the lien.

The question here is not merely a matter of bounty: it is a matter of right. If that court had no authority to direct the property to be sold discharged of the lien of the mortgage, and the Government got the benefit by obtaining this man's money under an illegal order made by one of its own judges, upon what principle can it hold the fund? This is not a case where the party comes before the Senate to ask for a sum of money that he never paid into the public Treasury, on account of damages sustained by the misrepresentations of a marshal or any executive officer. It will be time enough to deal with such cases when they arise; but I say to the Senator from Missouri that this is not that case.

This man paid his money, as he says, upon the faith of the title guaranteed by the district court, and he has the very same demand against the Treasury, which has this money in it, that he would have if the fund was still in the coffers of the district court; and I ask here to-day if there is a lawyer in this body who is prepared to say that any chancellor in the United States, holding his commission under a State or the General Government, after he directed property to be sold discharged of a lien, whether legally or illegally, and it turned out that his order was invalid and inoperative, who would not, if he had control of the fund, restore it to the purchaser?

Mr. VEST. I should like to ask the Senator, does he believe that Mr. Day purchased that property and paid that $5,400 without ever looking at the record, without ever looking at the judgment, without knowing anything about it except what the marshal said at the sale?

Mr. JONES, of Florida. I never directed my mind to that question, because it is entirely irrelevant.

Mr. VEST. I think it is very relevant.

Mr. JONES, of Florida. It is entirely irrelevant. I have nothing to do with this man's motives, his belief, or his convictions; I am only acting upon this case as I find it upon the record. I find that the marshal did say at the sale that he sold this property discharged of the lien under the direction of the court. That was enough. I do not care whether Day before that time or not examined the record, but if it turns out to be true that the marshal had the authority of the court for making the declaration that he did make, this purchaser, no matter what his status was, had a right to stand upon that declaration.

Mr. VEST. Whether the judgment was void or not?

Mr. JONES, of Florida. Certainly; whether the judgment of the court was worth the paper it was written upon or not, he had to act upon that, just as Mr. Richardson, of Kentucky, did in the Florida case; and the one order was just as valid as the other, for Judge Locke had no more authority to direct the sale of the Alabama and Florida Railroad discharged of the lien of the first mortgage, under the bankrupt law, than Durell had to order the sale of Benjamin's property discharged of the Micou mortgage. How did the court deal with Richardson when he came back after having had possession of the property for three years? "Yes, you are entitled to your fund; you are entitled to your money, because the district judge by an illegal order directed that property to be sold discharged of the lien, and this court pronounce the order a nullity." Why was not Richardson held to the doctrine of *caveat emptor* by one of the best common-law judges that ever sat in the United States?

Mr. VEST. Was there ever a final confirmation of that sale?

Mr. JONES, of Florida. Yes, sir; it was finally confirmed.

Mr. VEST. It was considered in the circuit court on a bill of review.

Mr. JONES, of Florida. It was disposed of there on a bill of review in equity when all the equities were considered. When I say that of Judge Bradley I say nothing but what the profession universally admits, that as a common-law judge and a man capable of administering the rights of property between citizens according to that code, he has no superior in this country. He held that the doctrine of *caveat emptor* did not apply; that the district judge's order was an absolute nullity, and that inasmuch as the purchaser had a right to rely upon it as valid, he not being held to strict judgment whether it was right or not, as he paid his money on the faith of it he was entitled to a restitution of the fund.

Where is the difference between that case and this? The district judge, taking that narrow view which prevailed in the first days of the bankrupt law, thought, as I said awhile ago, that public policy required that all of this property should be sold discharged of the lien of the mortgage and the fund held for the benefit of the mortgage creditor; but the court of review said no, and it is possible that this man Durell, taking this confiscation law in the midst of war, and thinking the Government intended in a case of confiscation to seize the estate and sell it whether mortgaged or not, reserving as far as it was possible to reserve the right of the mortgagee against the fund, directed the sale of the property discharged of the lien. Where is the difference in principle between the two cases? There was just as much authority for the one as for the other.

With this man's poetry, with his professed love for the old flag, and all that kind of thing, I have nothing to do. I have nothing to do with this case but as a Senator representing in part the interests of the Government, and not willing that for any cause injustice or wrong shall be done to any man, no matter what his opinions or condition may have been.

Mr. CAMERON, of Wisconsin. Mr. President, I am a member of the committee from which this bill was favorably reported. I have had some acquaintance with the claim since it first appeared in the Forty-fourth Congress. A bill for the relief of Mr. Day was introduced in the Forty-fourth Congress and referred to the Committee on Claims, of which I was then a member. It was assigned by that committee to the Senator from Florida, who has just taken his seat, as a sub-committee for investigation and report.

Mr. COCKRELL. It was first referred to the Senator from Missouri and by him adversely reported, and that adverse report approved by the committee and submitted to the Senate, and then it was reconsidered and recommitted to the committee and referred to the Senator from Florida.

Mr. CAMERON, of Wisconsin. Very well. How many of the reports have been adverse? How many favorable?

Mr. VEST. I think three on each side. There have been really three favorable reports, and they are copies of each other. Generally the Senator reporting favorably contented himself with a copy of the previous reports. I think they stand about equal in number and as to character of the lawyers who made them.

Mr. CAMERON, of Wisconsin. As the Senator from Missouri [Mr. COCKRELL] states, the case was first assigned to him as a sub-committee. I now recollect that fact; I did not at the time I made the remark that it was assigned to the Senator from Florida. He came to an unfavorable conclusion upon the claim. It was afterward, as I said, assigned to the Senator from Florida, who reported favorably upon the bill. I concurred in that report. It has been reported several times favorably from the Committee on Claims. I have concurred in all of these reports.

Mr. COCKRELL. And there has always been a minority report.

Mr. CAMERON, of Wisconsin. Not every time, because there is no minority report now. There always was a minority report so long as the Senator from Missouri [Mr. COCKRELL] remained upon that committee, but as soon as he went off the committee the committee reported unanimously in favor of the passage of this bill.

The facts in regard to this claim are pretty well understood. The Senator from Missouri the other day, the senior Senator from that State, [Mr. COCKRELL,] assumed to give the facts exactly as they were. He was not content to say that he would state the facts exactly as he understood them, but he assumed to state the facts exactly as they are. Now, I know something about the facts, and I do not agree with the Senator from Missouri in his statement of all the facts. I ventured the other day, when the Senator was addressing the Senate, to inquire if the court did not find that these two squares of ground were the property of Judah P. Benjamin. The Senator had made a very energetic argument—I think I can very safely say it was an energetic argument if I cannot say anything more in commendation of it—asserting that Joseph Benjamin was a part owner of these two squares of ground, and I made the inquiry to which I have referred. The Senator replied very emphatically that the court found nothing of the kind. I did not have the record before me at that time, and he appeared so confident about it that he put me down for the time being. I have since, however, examined the record and I find that I was right and he was wrong.

Mr. COCKRELL. What record does the Senator speak of, and what court?

Mr. CAMERON, of Wisconsin. I refer to the district court in Louisiana.

Mr. COCKRELL. That may be. That court may have found that fact, but the Supreme Court did not find it.

Mr. CAMERON, of Wisconsin. That was the inquiry I made at the time.

Mr. COCKRELL. You do not find it in the Supreme Court report by any means.

Mr. CAMERON, of Wisconsin. I was not speaking about the Supreme Court reports.

Mr. COCKRELL. That is what I was referring to.

Mr. CAMERON, of Wisconsin. I was speaking of the district court in Louisiana which passed upon the question before the sale was made. Now, it does appear that in 1858 Joseph Benjamin and Judah P. Benjamin were the owners, each owning a moiety, of the lands. I have the libel which was filed against these squares of ground before me. It is alleged in that libel, after giving a description of the land—

That Judah P. Benjamin is, and was on the 17th day of July, 1862, and previously thereto had been, the owner of the above described property.

Not the owner of one-half of it.

The PRESIDING OFFICER, (Mr. HARRISON in the chair.) The time of the Senator from Wisconsin has expired.

Mr. COCKRELL. Let him go on. That is the understanding as to this bill.

The PRESIDING OFFICER. The Senator from Wisconsin will proceed with the consent of the Senate.

Mr. CAMERON, of Wisconsin. That, then, is the allegation of the libel, that Judah P. Benjamin was the owner, not of a certain interest, but the owner of these two squares of ground. I have the finding of the district court before me, and the district court find as a fact that Judah P. Benjamin was the owner of these two squares of ground. That was the inquiry I made the other day, and the fact which the Senator from Missouri so emphatically denied.

Mr. VEST. If the Senator will permit me, here is the decision of the Supreme Court of the United States, which says that that judgment was illegal.

Mr. CAMERON, of Wisconsin. I am aware of that; but that was not the inquiry to which I addressed myself at that time.

Mr. VEST. It is a pertinent inquiry what that tribunal thought of it.

Mr. CAMERON, of Wisconsin. That inquiry is not pertinent for the reason that this finding of the Louisiana district court was made prior to the sale of the ground, prior to the purchase of it by Day. It was a decision upon which, as we contend, he had a right to rely, and upon which, as a fact, he did rely for the purposes of this case, I contend, no matter what the Supreme Court found three or four years afterward.

It is asserted that Mr. Day ought to have known of the existence of this mortgage, and ought to have known that the order of Judge Durell, under which the mortgage was canceled, was void. The order of Judge Durell was not made in this case; it had no particular reference to this case; it was made a number of months before the Benjamin land was libeled, and it had reference not only to this case but to all similar cases in that judicial district. There is no question about the fact that this order was entered upon the motion of the United States district attorney for that judicial district; that the order was made by Judge Durell; that at the time this sale was made, immediately before the sale the marshal made public outcry that all mortgages upon this property would be canceled pursuant to the order of the district court. Mr. Day was present and heard that statement made by the marshal, and he declared that he relied upon that statement; and we claim that he had a right to rely upon it.

Some question has been raised in regard to the value of this property. The Senator from Missouri [Mr. COCKRELL] attempted the other day—perhaps I ought not to say that he attempted; but possibly he might have attempted to raise a slight prejudice against Mr. Day by declaring that he was a speculator in confiscated estates. The junior Senator from Missouri [Mr. VEST] declares that he was a tax-title speculator, or words to that effect. The facts are that this property was seized as the property of Judah P. Benjamin, as abandoned property, by the authority of the United States in 1862; that it was in possession of the United States as abandoned property, and that it was leased to Mr. Day. It does appear from the record that some time in 1864 the property was sold in default of the payment of taxes upon it; that it was bought by J. Madison Wells, and that subsequently, whether before or after this marshal's sale I am not now prepared to say, at the tax sale the property was sold to Wells, and subsequently Mr. Day purchased whatever interest Wells had in the land under that tax sale.

The Senator from New York [Mr. LAPHAM] the other day inquired whether or not Mr. Day had been in possession of this property for any considerable length of time, and inquired what the value of the rental of the property was. It is true that Mr. Day went into possession of this land; it is also true that he made improvements upon it to the amount of four or five thousand dollars. When it was sold upon the Micou mortgage it was purchased by Mr. ELLIS, now a member of the House, and it is now owned by him. It was purchased for $10,000 by Mr. ELLIS. I have the RECORD of 1880 before me, in which Mr. ELLIS made some remarks concerning this claim. He states that he was familiar with the value of the property at the time it was purchased by Day, and that Day paid its full value at that time. If he had supposed that he was purchasing a half interest or the life interest of one of the owners, or if he had known that the order of Judge Durell under which the mortgage was canceled was void, is it at all probable that he would have purchased and paid for the property its full value at that time?

Mr. FARLEY. Did he not merely pay the value of the title he got?

Mr. CAMERON, of Wisconsin. That is not what Mr. ELLIS says. Mr. ELLIS says that Day paid its full value at that time, not the full value of the title which he was getting, because it appears that title was of no value at all. Perhaps some Senator may entertain a prejudice against Mr. Day for having purchased this land. Here is what Mr. ELLIS said about it in the other House:

> My friend from New York who has just preceded me [Mr. VAN VOORHIS] has pursued the line of thought that I had contemplated pursuing, and my labors therefore will be very much lightened, and I shall occupy but little of the time of the committee. I have heard with some regret that there has been an attempt made to create the impression that the claimant in this case was an adventurer, a stranger, a camp-follower, and an informer; one who, holding no convictions upon either side of the civil war which lately convulsed this Republic, occupied his time in purchasing confiscated property and making money out of the miseries and exigencies of the country. I say I regret to find that an attempt has been made to create this impression.
>
> This must be my excuse and my apology for informing the committee that Mr. Day, the claimant, was a resident of the State of Louisiana a long time before the war began. He was a native of Kentucky, and came to Louisiana twelve years before the beginning of the war and entered into the practice of law there. He was conservative in politics, a candidate for elector on the Bell and Everett ticket in 1860, and when the war actually began he sided with the Union cause.
>
> Since the war he has pursued the practice of his profession, and is universally esteemed and beloved by those who know him. His character for integrity, for honesty, and for fair dealing is equal to that of any gentleman who sits on the floor of this House.

This bill has been reported favorably in the House of Representatives during the present session of Congress. The report was made from the House Committee on Claims by Mr. MASON, of New York. He discusses in his report the question of *caveat emptor*, and he does not at all agree with either of the Senators from Missouri in regard to that. I will quote from his report:

> This is not a case to which the rule of *caveat emptor* can be applied for several reasons.
>
> In the first place it might be quite sufficient to say that as it has been expressly and definitely settled by the Supreme Court of the United States (in Wheaton *vs.* Peters, 8 Pet., 658) that there is no common law of the United States, and no principle which pervades the Union or has the authority of law that is not embodied in the Constitution and laws of the Union, *caveat emptor*, as it may exist in England and in some of the different States, cannot be invoked as applicable to a sale of property by the Government as its own when that doctrine has not been embodied in any Federal law.
>
> Indeed, the confiscation act, so far from adopting or countenancing the doctrine of *caveat emptor*, expressly required that the proceedings should be *in rem*, and that if the property libeled should be found to have belonged to a person engaged in rebellion, &c., the same should be condemned as enemies' property, and become the property of the United States, and might be disposed of as the court should decree.
>
> And it was further provided that the courts intrusted with the execution of the statute should have power to establish such form of decree, and to direct such deeds to be executed and delivered where real estate was sold as should fully and efficiently effect the purposes of the act, and vest good and valid titles in the purchasers. (See 12 United States Statutes, 591, sections 7 and 8.)

It was under section 8 of the confiscation act that the order of Judge Durell was made; and notwithstanding what the junior Senator from Missouri has said, it was believed at that time by many good lawyers that the order was a valid order and that all cancellations of mortgages made under it were valid and effectual.

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived, the bill goes over until to-morrow.

Mr. SHERMAN. Cannot we have a vote on it now?

Mr. CAMERON, of Wisconsin. I will not say anything more if we can get a vote on the bill now.

Mr. COCKRELL. I will detain the Senate for but one word in regard to the only fact which the Senator——

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate that the case shall be disposed of? Then the Senator from Wisconsin may wish to be heard.

Mr. CAMERON, of Wisconsin. I give way.

Mr. COCKRELL. The only fact that the Senator from Wisconsin controverted in my statement of the facts was the finding of the court. My good friend did not take the time to read that finding of the court, but he read from the bill of complaint that was filed. Now, I will read from the finding of the court, as it is called, and we shall see whether the court finds as a fact that the title of that property was in Judah P. Benjamin alone. I say it does not do it:

> The delay allowed by law having expired, and no claim or defense having been filed, on motion of the district attorney it is ordered that all persons interested in the property seized be pronounced in contumacy and default, and the libel adjudged and taken *pro confesso*. And the monition issued in this case having been heretofore returned, the usual proclamation having been made, the default of all persons duly entered, and the law and the evidence considered, it is thereupon, on motion of the district attorney, ordered, sentenced, and decreed by the court now here, and his honor the district judge, by virtue of the power and authority in him vested, doth hereby order, sentence, and decree that the two squares of ground with all the improvements thereon, the property of J. P. Benjamin, fully described in the libel of information on file be, and they are hereby, condemned as forfeited to the United States.

There was no issue as to whether the property belonged to Judah P. Benjamin or not, and there was no evidence upon it, and they simply put that in the decree as a matter of form.

Now, Mr. President, I say when Don A. Pardee tried it, when the matter was brought up and there was a contest over the title, the record will be found to show title in Judah P. Benjamin and Joseph Benjamin, and the Supreme Court says that——

Mr. CAMERON, of Wisconsin. I was not disputing that. I simply said that the record——

Mr. COCKRELL. The record showed that the title was in Judah P. Benjamin and Joseph Benjamin.

Mr. CAMERON, of Wisconsin. What do you mean by the "record?"

Mr. COCKRELL. The county records, where land titles are recorded.

Mr. CAMERON, of Wisconsin. I was not speaking of those, but of the record of the district court.

Mr. COCKRELL. Now, I move that this bill be committed to the Committee on the Judiciary, where it properly belongs and where similar bills have been sent.

Mr. GEORGE. I object to that.

Mr. SHERMAN. I object to the further consideration of the bill.

The PRESIDENT *pro tempore*. The further consideration of the bill is objected to.

Mr. SHERMAN. The motion to recommit opens a new question. I think this bill has occupied enough of the time and attention of the Senate in the way of the Calendar.

Mr. CAMERON, of Wisconsin. It will be in the way of the Calendar to-morrow. Can we not dispose of it to-day, so that it shall not block that?

Mr. SHERMAN. The question of recommittal naturally gives rise to further debate, and the Senator from Mississippi [Mr. GEORGE] rises to address the Senate.

Mr. GEORGE. I do object, most seriously, to having the action of the Committee on Claims reviewed and revised by the Judiciary Committee, as if that committee had a supervisory power and jurisdiction over the Committee on Claims.

Mr. SHERMAN. It is a very unusual proceeding. I therefore object to the further consideration of the bill to-day.

Mr. GEORGE. I wish to make some remarks on the motion of reference.

Mr. SHERMAN. If we can have a direct vote, I shall not object.

Mr. COCKRELL. I am not asking for consideration. I do not object to its being disposed of, and I supposed a vote would be taken on the question of recommittal on the same arguments which have been had here. I did not suppose there would be any additional arguments in the case.

Mr. GEORGE. There are some additional considerations to be noticed when it is proposed to recommit the report of the Committee on Claims to another committee.

The PRESIDENT *pro tempore*. The Senator from Ohio has objected to the further consideration of the bill to-day.

Mr. HOAR. I do not understand that objection is the objection under the Anthony rule. It is only an objection to the further consideration of the bill after two o'clock.

The PRESIDENT *pro tempore*. That is all. The bill goes over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture, in which it requested the concurrence of the Senate.

BOSTON AND PORTSMOUTH NAVY-YARDS.

Mr. HOAR. I ask consent to have an order made, which will be granted of course, I suppose. Some two or three weeks ago the Senate, on my motion, directed the Secretary of the Navy to send to the Senate the history of the Portsmouth and Charlestown navy-yards, and that history has been sent. It is not very voluminous but it is in manuscript in a number of volumes. I have examined it, and it does not seem to me necessary to have it printed or to retain it further in the possession of the Senate. The extracts from the deeds which show the title of the United States to the navy-yard at Charlestown and extracts from the report which show its value for defense, are very short and can at any time be obtained from the Secretary of the Navy and used by any Senator in a speech or otherwise, without the necessity of a printed document. I therefore move that the Secretary of the Senate be directed to return to the Secretary of the Navy the manuscript histories of the navy-yards at Charlestown and Portsmouth.

The PRESIDENT *pro tempore*. Is there objection to the motion of the Senator from Massachusetts? There being no objection, that order is made.

WITHDRAWAL OF PAPERS.

On motion of Mr. SLATER, it was

Ordered. That the papers in the case of William Gallick be withdrawn from the files of the Senate.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The unfinished business is the bill S. No. 420) to establish a court of appeals.

Mr. MORGAN. I desire to give notice that to-morrow morning, at the close of the morning business, before the Senate proceeds to the consideration of cases under the Anthony rule, I shall ask the Senate to take up the Japanese indemnity bill.

Mr. VEST. Mr. President, I have no objection to taking up the Japanese indemnity bill; but I have given notice day after day that I would ask the Senate to consider the interoceanic-railway bill. The concession made by the Mexican Government to Captain Eads expires in about twelve months. Captain Eads desires to go to Europe. It is due to him and due to the Government of Mexico that some act in regard to it should be taken by the United States at the present session of Congress. I only ask that the bill be taken up and considered by the Senate, because if not considered now the probabilities are that Captain Eads will have to apply to the Mexican Government for an extension of the concession granted by it. Under all the circumstances of the case, I think it is only fair and just, as I have waited very patiently for some months, having presented an elaborate report in the case, that the Senate should take up the bill which has been repeatedly delayed and give it some consideration. I think under the peculiar circumstances surrounding this bill we ought to consider it.

Mr. MORGAN. The Senator from Missouri perhaps did not observe that I gave notice that in the morning hour, after the expiration of morning business proper, and before the application of the Anthony rule, I should ask the Senate to take up the Japanese indemnity bill to-morrow.

Mr. VEST. I understood that.

Mr. PLUMB. I should like to make an inquiry as to what has become of the unfinished business?

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) It is pending.

Mr. PLUMB. I give notice that I shall oppose the taking up of anything which shall displace the unfinished business or in any way prolong it, because I have repeatedly given notice that when the unfinished business was disposed of I should ask the Senate to proceed to the consideration of the 5 per cent. bill; but if we are to have the Japanese indemnity and the Tehuantepec ship-canal and other things, which can just as well wait, pressed forward, of course we shall have a general scramble as to what bills shall be postponed.

Mr. MORGAN. Does the Senator from Kansas propose to take up the 5 per cent. bill in the morning hour to-morrow?

Mr. PLUMB. No, I do not in the morning hour.

Mr. MORGAN. I propose to take up the Japanese indemnity bill in the morning hour.

Mr. PLUMB. When the morning hour arrives to-morrow it will be time enough to make the motion.

Mr. HARRIS. I beg to say that the next bill but one on the Calendar under the Anthony rule is a bill that I have tried for the last two or three weeks to get the Senate to consider, and I shall certainly insist upon the regular order, so far as that rule is concerned, until the bill to which I refer has been reached and considered.

COURT OF APPEALS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDING OFFICER. The question is on the motion of the Senator from Florida [Mr. JONES] to strike out the second section.

Mr. JONES, of Florida. Mr. President, when this matter was before the Senate yesterday, I endeavored to obtain from the only representative of the Judiciary Committee in view at the time, a statement to what extent the existing jurisdiction of the circuit court of the United States went with respect to writs of error from judgments of the district court. I have since ascertained that there has been some recent legislation on this subject, for in 1879 Congress passed an act in the following words:

> The circuit court for each judicial district shall have jurisdiction of writs of error in all criminal cases tried before the district court where the sentence is imprisonment or fine and imprisonment, or where, if a fine only, the fine shall exceed the sum of $300; and in such case a respondent feeling himself aggrieved by a decision of a district court, may except to the opinion of the court, and tender his bill of exceptions, which shall be settled and allowed according to the truth, and signed by the judge, and it shall be a part of the record of the case.
>
> SEC. 2. Within one year next after the end of the term at which such sentence shall be pronounced, and not after, the respondent may petition for a writ of error from the judgment of the district court in the cases named in the preceding section, which petition shall be presented to the circuit judge or circuit justice in term or vacation, who, on consideration of the importance and difficulty of the questions presented in the record, may allow such writ of error, and may order that such writ shall operate as a stay of proceedings under the sentence; but the allowance of such writ shall not so operate without such order.

This act was approved March 3, 1879, but I suppose that, under the bill reported by the honorable Senator from Illinois, an appeal will lie in all criminal cases under this act from any judgment or sentence of a district or circuit court of the United States. Am I right in that?

Mr. DAVIS, of Illinois. When the Senator gets through, I can tell him what this section is.

Mr. JONES, of Florida. So far as that section goes, it declares as I have stated that no appeal or writ of error after the passage of this act shall be prosecuted from any district to a circuit court. That is clear enough. Now, under the existing law, as was stated by the Senator from Alabama, there exists an appeal in all admiralty cases where the suit is between private parties, or in suits in equity where the Government is a party, where the amount involved exceeds $50, and I stated that that was a meritorious jurisdiction.

The district court also has jurisdiction, I think, under what is known as the civil-rights bill. A suit may be brought by a party conceiving himself aggrieved under the civil-rights bill, in the district court of the United States, and a judgment may be rendered against the defendant in that tribunal for a sum less than $500 and he has no appeal. I would state to the honorable Senator that as the civil-rights bill now stands a person can be sued in one of the district courts of the United States for any sum the plaintiff thinks proper to claim, and if the judgment is for a sum less than $500, under this bill the defendant has no appeal. As the law now stands he has an appeal, and this section takes away that redress. So that if anybody imagines that he was deprived of any of those numerous rights mentioned in the civil-rights bill, and should bring suit in the district court of the United States to recover damages to the extent of $500 in that court, if this section becomes a law, in my opinion the defendant has no appeal. If the law remains as it is he can appeal from the district court to the circuit court. Of course he can go no further, but that in many cases would be a very considerable relief.

The Senator from Alabama who participated in the debate yester-

day stated the existing jurisdiction of the district court, as found in sections 631 and 633 of the Revised Statutes:

SEC. 631. From all final decrees of a district court in causes of equity or of admiralty and maritime jurisdiction, except prize causes, where the matter in dispute exceeds the sum or value of $50, exclusive of costs, an appeal shall be allowed to the circuit court next to be held in such district, and such circuit court is required to receive, hear, and determine such appeal.

SEC. 633. Final judgments of a district court in civil actions, where the matter in dispute exceeds the sum or value of $50, exclusive of costs, may be re-examined and reversed or affirmed in a circuit court, holden in the same district, upon a writ of error.

I tried to get that information from the representative of the Judiciary Committee yesterday, but he would not give it to me, and I found it outside of him. These are instances in which the district courts of the United States have jurisdiction and in which appeals may be prosecuted to the circuit court.

Section 2 of the present bill reads as follows:

That the several circuit courts of the United States shall have and exercise no jurisdiction in cases of appeals or writs of error from the district courts allowed, taken, or sued out after the 1st day of September, 1882, except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction, may be had as heretofore provided.

Now, I am in favor of retaining jurisdiction both by appeal and by writ of error from the district court to the circuit court in all cases under $500 where it now exists. Of course under the existing bill an appeal will lie in all those cases where the amount in controversy exceeds $500, but it takes away at the same time all right of appeal from the district to the circuit court in cases over fifty and under five hundred dollars. I do not think that any thing which appertains to the pressure of business in the Supreme Court requires this to be done; and I think that the meritorious, humble suitors who may desire to invoke the jurisdiction of a superior tribunal under existing law and who may not happen to have more involved than $500 ought to have the right of appeal as it now exists, and if they are dissatisfied with the judgment of the district court of the United States in any of the cases mentioned in the sections of the Revised Statutes that I have read, those suitors ought to be permitted to go to the circuit court.

I first thought the object I had in view might be accomplished by simply striking out the second section of this bill and leaving the law as it now stands on the statute-book, but on reflection I am of the opinion that after striking out it would be wise to insert a new section to give effect to the views that I entertain, and I propose the following section:

From all final decrees of a district court in cases of admiralty or of equity, except prize cases, when the matter in dispute, exclusive of costs, exceeds the sum or value of $50, and not under $500, an appeal shall be allowed to the circuit court from the district court in accordance with existing laws.

Final judgment of the district court in civil cases where the matter in dispute exceeds the sum of $50, exclusive of costs, and under $500, may be re-examined, reversed, or affirmed in a circuit court upon writ of error.

I say that if we are to have this bill perfected into a law, I am in favor of retaining this subordinate appellate power that now exists; and that is the object of my amendment.

Mr. DAVIS, of Illinois. Mr. President, I do not expect that anything in the bill will satisfy the Senator from Florida. It is easy to criticise anything, and he has criticised this bill from the first section to the end of it.

This is a scheme which occupied the minds of the Judiciary Committee for a long time. It is not my scheme; I did not originally introduce it to the country. It was introduced substantially by a distinguished gentleman from Illinois, who occupied a seat on this floor for many years, Judge Douglas, but it did not then become a law. It afterward was introduced in the Senate by Judge Harris, of New York, pretty much in the same form as now proposed, but it did not pass the House. Mr. McCrary, who was Secretary of War under President Hayes, took this matter in charge when he was in Congress as to the necessity of relieving the Supreme Court, and also of adding judicial force in the States, and my recollection is that his bill passed the House, but at any rate it was reported with an elaborate report to the Senate, and is substantially this bill.

When I came into the Senate I thought I might be of some use in judicial matters; I did not think I could be of much use in other matters, because my whole life had been devoted to the investigation of law questions and to the consideration of what was necessary to relieve both State and Federal tribunals. This particular bill was prepared by myself and Judge Drummond, with some amendments, of course, to the original bill. It was submitted to the Bar Association of New York and they made some amendments to it; and to-day I have received the following telegram:

NEW YORK, *May* 9, 1882.

To Hon. DAVID DAVIS, *Washington, D. C.:*

Bar Association city New York to-night passed unanimously following resolution at meeting called specially to consider subject:

Resolved, That the association respectfully recommend to Congress the adoption of the bill now under consideration in the Senate of the United States establishing a court of appeals, and introduced by Senator DAVIS, of Illinois.

B. F. LEE,
Chairman Special Committee.

I wish to say this much to explain about the nature of this bill. I do not claim its authorship; it was suggested by others, and I introduced it. Having been on the Supreme Court bench for fifteen years I thought I saw some necessity for relieving the overburdened docket of that tribunal, and also the necessity of adding judges in this country to the Federal judiciary.

The bill embraces an entire scheme. Of course every section can be criticised, but as a whole those who are in favor of it should vote for it; those who are opposed to it should vote against it. If gentlemen think that this is not the proper plan of relief, by creating these intermediate courts, let them vote against the bill. That course I think would commend itself to everybody. At present, not only in little matters of $50 and $100, but in matters involving $100,000, an appeal lies from the district court of the United States to the circuit court. I myself, sitting as a circuit judge, tried an appeal from the district court in the State where you, Mr. President, [Mr. CAMERON, of Wisconsin, in the chair,] live, embracing several hundred thousand dollars. I never did try an appeal of $50 or $100. Those latter are chiefly cases of seamen's wages, and anybody fit to sit on the bench at all is generally competent to decide them.

There may be some question of law involved occasionally which the district judge consults the circuit judge about, so that there is never substantially any appeal on such subjects to the circuit court. I held court for fifteen years in Chicago, Milwaukee, Madison, and Indianapolis, and I never knew an appeal under $500 to the circuit court from the district court. Now, there is an appeal to the circuit court, and then an appeal from there to the Supreme Court of the United States. This bill proposes to abolish the appeal to the circuit court, and to say that in all cases there shall be an appeal to the court of appeals, and no intermediate appeal to a circuit court. That is the scheme of this bill, the scheme of the second section, the scheme throughout. It was believed that any case should not be reinvestigated that did not involve $500. Any case above that may go to the court of appeals. That is the amount for which a suitor can now sue in the circuit court. He cannot sue there unless he has that amount involved. The circuit judges will be by this bill practically constituted district judges and will hold district courts, and they certainly are competent to decide cases up to $500. There must be some limit to appeals, otherwise you cannot carry on the business of the country. That is the scheme of this bill.

Mr. GEORGE. Will the Senator from Illinois allow me to ask him a question?

Mr. DAVIS, of Illinois. Certainly.

Mr. GEORGE. Why is a greater duty devolved on us to furnish the mass of the corporations who have $10,000 involved in a suit, which may be but a small part of their wealth, an appeal, when we refuse to the citizen an appeal in a case involving $500, when that may be all he possesses in the world?

Mr. DAVIS, of Illinois. That is the poor man's argument, which I have heard so much about.

Mr. GEORGE. Will the Senator allow me to say a word? This is a government of poor men; a large majority of its citizens are poor men.

Mr. DAVIS, of Illinois. This scheme, as I said, is based upon the theory that any judge who is appointed to sit in a Federal tribunal is competent to decide a $500 case. He is competent to decide a $5,000 case now, for there is no appeal from a circuit judge at all in a common-law case under $5,000, or in an equity case under $5,000, or in admiralty, or anything else under that sum. The poor man goes up to the circuit court at the present time, but there is no appeal to the Supreme Court in a case under $5,000.

I have some decisions to read at the proper time, for the benefit of my friend from Florida, in relation to the constitutional question that the Supreme Court have decided at this term; they decided it long ago, but they have reaffirmed it at this time, against him of course.

Now, sir, why should this bill be amended? Why strike at the scheme that we have adopted? If the scheme is unwise it can be amended hereafter or can be repealed; but we proceed upon the theory that an intermediate court should be provided from which writs of error are to go, instead of going directly from a circuit court of the United States, and that all appeals shall be taken from district and circuit courts to this intermediate court of appeals, and that whereas now no case can be examined by the Supreme Court under $5,000, from four to six gentlemen shall be permitted to examine it wherever it is between $5,000 and $10,000. If this is not liberal and in the direction of the poor man that my friend from Mississippi speaks of, I do not know what is.

If gentlemen believe that the scheme of intermediate courts is wrong, and that there should be an increase of judges of the Supreme Court—I do not take it as any offense that they oppose my views in that regard—then of course they are opposed to this bill; or if they are opposed to any action on this subject, then they are opposed to the bill; but why go on and criticise this bill section by section and word by word when it is plain enough what the scheme of this bill is? We have refused repeatedly to adopt any of these amendments, and it strikes me that the Senate should not hesitate to vote this one down.

I wanted to read some decisions to the Senator from Florida, but he has left, and I will take another opportunity to do that. I hope the Senate will vote down this amendment.

Mr. CALL. Mr. President, I am reluctant to take part in the debate upon the pending bill, but I feel it to be a duty of those who have the power to increase or diminish the judicial tribunals and their exer-

cise of judicial power, a duty that they owe to the country, to their proper discharge of this important duty, and to themselves, to give expression to their opinions to the end that they may be considered and carefully weighed and accepted for such force and effect as they may justly have.

This fair, candid, and calm mutual statement of thought on any given subject is the constitutional office of the Senate and the constitutional duty of Senators. I am not therefore permitted by my own sense of duty to the place and the subject to refrain from the expression of my thoughts, and I will preface the remarks I shall make by the statement that I am not unwilling to trust the President of the United States with the nomination of a reasonable number of judges.

I hope that the President will be able to rise to the generous ambition of being the President of the United States, of all the people of the United States, and not of a part of the United States and of a party among the people, and to leave behind him and to posterity the honorable fame of having administered the functions of his high office for the permanent glory and happiness of the country.

For the Senator from Illinois who has reported this bill I have the highest respect and the greatest confidence. There is no extent of constitutional power, either political or judicial, that I would be unwilling to intrust to him with entire confidence that it would be exercised with a single purpose to promote the interest and happiness and prosperity of the country.

I therefore approach the consideration of this bill with impartiality. What, then, Mr. President, is the bill and what the object which it proposes to attain? It is a bill to establish a court of appeals and to prescribe the jurisdiction of the court, its modes of proceeding, its organization, and to provide for the appointment of eighteen new judges. The object which it proposes to accomplish is to speed the decision of causes in the courts of the United States by diminishing the number of cases to be heard before the Supreme Court.

The essential features of the bill are: to create an intermediate appellate tribunal; to increase the number of judges and courts of the United States; to establish an appellate or revisory criminal jurisdiction in the United States courts; to make the decision of such tribunal conclusive as to the facts; to increase the value required for the voluntary access of the suitor to the Supreme Court.

I am content, under the eminent authority of the Senator from Illinois, to accept the intermediate exercise of appellate power. I can also perceive some connection in reason between the legislative power to regulate the exercise of appellate power and provide for a judicial ascertainment of the facts upon which errors may be taken and the provision of this bill that the finding of the intermediate court shall be conclusive as to the facts, but I am decidedly of the opinion that the ends of a fair and impartial trial will require the exercise of supreme appellate power both as to the facts and the law.

But the essential feature of this bill is its effect in increasing the frequency and the facility of the exercise of judicial power by the courts of the United States, by the increase of the number of the judges and courts, and their distribution throughout the United States. In connection with the character and extent of that judicial power as now interpreted by the Supreme Court and acquiesced in by the executive and legislative departments of the Government, and the effect upon the general welfare of the people of the United States, and the perpetuity of our Government and institutions; the fair and just consideration of this subject will require us to rise above the region of party or sections or vain and dogmatic assertions into the atmosphere of pure and dispassionate reason and calm reflection, to consider the subject in the light of history, ever remembering that the institutions of government cannot be either founded or preserved in the caprices of opinion, but must have their foundations in the permanent causes which under moral law controls and governs human nature—its motives, affections, and thought.

The Constitution, or fundamental law of our institutions and form of government, in article 3 provides the extent of judicial power: it "shall extend to all cases in law and equity arising under the Constitution, the laws of the United States, and treaties, to embassadors, to admiralty and maritime cases, to cases where the United States is a party, to cases between two States, between citizens of different States, to claims of lands under grants from different States, cases between a State or her citizens and foreign states or subjects.

The manner in which this judicial power shall be exercised is made an equally essential part of our form of government as the extent of the power in respect to the subjects which it embraces, and is equally included within the limitation of the judicial power.

In all cases, except where embassadors, consuls, and a State shall be a party, the judicial power shall be appellate, both as to law and fact; that is, after some other tribunal shall have decided the cause. It has never been doubted, and it cannot reasonably be denied, that this limitation of the supreme judicial power to its appellate exercise and its implied prohibition of any revisory power over State courts, in the inferior tribunals established by Congress, is absolutely essential to the existence of our present form of government.

So far as I am advised neither lawyer nor statesman nor student of reputation for learning or ability has ever questioned that this limitation of the judicial power of the courts of the United States, both as to its extent in the subjects which it embraces and its extent in reference to the manner of its exercise, vitally concerns the perpetuity of our form of government. I will venture to say that no statesman, lawyer, civilian, or commentator of ability has ever questioned the fact that this Government cannot be perpetuated without the observance of the limitations of power upon the judiciary in the Constitution of the United States.

I shall assume, therefore, without further argument on this point, that if it shall be found that the judicial power of the United States as now exercised embraces subjects not embraced in the extent of its judicial power as prescribed in the organic law, and that the exercise of its judicial power is in a form not provided for in the Constitution, but in a prohibited form: that it is original and not appellate, and that it has been made original in the inferior courts and appellate in the inferior courts of the United States, over all courts not of the United States.

We shall be concerned first to inquire how this affects the future of our country and our institutions, and whether there may not be some wisdom in our diminishing rather than increasing the frequency and facility of the exercise of a judicial power prohibited by our organic law and foreign to the nature of our institutions. Until some legislation has been had to readjust and reconstruct this resistance to the fundamental law, this war upon the national life and the national authority, which, if we shall find it to be true, will be of more potency in the destruction of our National Government and its authority than many armed rebellions, because it will have attained that end which open war in vain sought to effect, it will have effectually destroyed so much of the constitutional and organic civil polity as provided that there should be local tribunals for the determination of local rights and interests, State courts and State Legislatures, charged with the duty of protecting the lives, liberty, and property of the people, and not subject to control except in a few specified cases, and as to these by the exercise of appellate power instead of original jurisdiction, and that by the Supreme and not by the inferior courts of the United States.

The statesman and the thoughtful student may well consider whether the transfer of this new and different extent of judicial power to a tribunal holding office for life, and appointed by and amenable to a central authority, will not effectually destroy the National Government as it now exists by destroying the State governments and all their autonomy.

I do not hesitate to affirm that in my opinion the Senator from Illinois would be among the last men to do anything that would affect the harmony of the several powers of our national Government, nor have I any reason to doubt that the President of the United States is animated by a just pride in the power and dignity of both the National Government as it is and of the several States with their separate powers subordinated to the just objects and power of the National Government.

But principles of government, indeed all moral causes, have their effects independent of our hopes and desires, and we must study and consider them in the light of their usual and customary effect, and if, indeed, the cause has already had an effect, if we may study it in the light of history, of actual experience, it is wise for us to do so. What then will be the effect upon the future of our National Government, on the people of the United States, of continuing the extent of judicial power of the courts of the United States, as now interpreted by the Supreme Court, both as to the subjects it embraces and the manner and form in which it is exercised? Have we any light thrown upon this subject in the history of the only life tribunal known to our laws.

In considering this subject I shall do it without imputation or reflection on any of the eminent men either in the past or the present who have belonged to the judicial system of the United States. I shall freely admit their eminent ability, their honesty of purpose, their conscientious convictions of right. The path of argument and reason is not in the line of personal invective and denunciation.

The question of the excellence of men takes no part in the question of the force and effect of specific moral causes. The fitness of principles or the facts of experience. What is the extent of the judicial power of the United States as now declared, and is it exercised as an original or appellate jurisdiction as concerns all courts which are not courts of the United States?

Surely this is an important question for the thoughtful statesman in the light not of party animadversion or of the hustings but in the light of reason and reflection, as Senators educated to consider moral and political causes and capable of legislating for the interests of a great people and the perpetuity of a great nation and a great Government. Let us consider this calmly and ascertain what is the extent and what the manner of the exercise of the judicial power of the United States.

Opening by chance the one hundred and third volume of the reports of the Supreme Court of the United States, under the head of causes of removal, I find the following:

A life-insurance company of Missouri removes from a State court in Louisiana to the United States court a suit by a citizen of Louisiana against the corporation.

A writ of execution from a State court of Louisiana about to be enforced is removed into the United States circuit court, and all proceedings for its enforcement become void and of no effect on the filing of a petition by a citizen of another State.

A writ of replevin from a State court against a sheriff in possession

of property under execution from a State court is transferred, on petition of a non-resident, to the circuit court of the United States, and thereafter and thereby the State court has no power.

The judgment of a State court is set aside as to the construction of a State law prescribing qualifications for jurors, is revised and set aside, on the ground that the judge in deciding that the exclusion of certain persons of the colored race from being jurors on the ground of the want of intelligence, experience, or moral integrity was a violent presumption because the practice had been uniform, and in 26,000 colored people in Delaware there must have been some who were qualified, and therefore this was a *prima facie* case of denial of a right secured by the Constitution, namely, a right to be tried by a jury, some of whom might have been selected from the same race—the African race.

We may be startled at this affirmation, but it is strictly true; although the court in their opinion affirm in words that a man has no right to be tried by a mixed jury, they do in terms affirm "that no colored citizen had ever been summoned as a juror in the courts of the State, although its population exceeded 20,000 in 1870 * * * in a total population of 150,000," and they say this fact "presented a *prima facie* case of denial by the State officers charged with the selection of grand and petit jurors of that equality of protection which has been secured by the laws of the United States." And the court set aside the judgment and directed further proceedings consistent with the opinion.

The court also say:

> The constitutional provision must therefore mean that *no agency of the State, or of the officers or agents*, by whom its powers are executed, shall deny to any person the equal *protection* of the laws. *Whoever*, therefore, by *virtue of public position under a State government, deprives another of* property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's authority, *his act is that of the State*.

That is the language of the court. It will be seen that it forms a direct supervisory power over the action of governors, legislatures, even judicial officers. Courts have heretofore affirmed that the king can do no wrong; the impersonal sovereignty has only correct purposes. But our court holds the State can do no right; if any of her officers who by virtue of public position do wrong, it is the act and wrong of the State—poor State fallen from her former dignity. She sins both by omission and commission, both by intention and by ignorance, by action and non-action. She bears by imputation, like Adam's sons, the sins and the vices and not the virtues and righteousness of others, but there is no new covenant of grace for her redemption.

The great monarch, when he said in the consciousness of power and in the exultancy of pride, "the state is me," was not more absolute and imperious in haughty and unwarranted assertion than this reasoning of the court.

This affirmation of law, that the equal protection of the laws for any person requires a jury to be selected by State officers, not according to their qualities, but according to their race; that to select a juror without reference to race or color requires the non-exclusion of any race or color and the actual selection from all—that is, that there is a presumption of suitable qualities in the black race because of race and color, and in the given case no presumption in favor of suitable qualities in the white race—let us look at this proposition of the Supreme Court. A man is on trial for a hideous crime against the women of a community; a jury is impaneled of persons decided by the local judicial tribunal to be qualified—honest, impartial, intelligent. It is not denied that they possess these qualities. The record exhibited the judicial decision of this fact by the State judge. It is not asserted in the opinion of the court that this judicial action was erroneous or was contested as to the qualities of these jurors. Let us examine this inexact, this unconstitutional argument for the extension of power.

But it is said there were some black persons in the State who must be presumed (not proved) to have been qualified, and as these were not selected, the court say that this particular person was denied the equal protection of the laws, and the persons performing the duty according to the instruction of their own judicial authority and local tribunal were guilty of a crime against the laws of the United States, and subject to punishment in the courts of the United States. The particular question submitted to the court, by the nature of their judicial function, was to apply the Constitution and the law to this particular case.

That case and question were whether that person before them was denied the equal protection of the laws by having a jury selected who were impartial, honest, and intelligent, because other impartial, honest, and intelligent persons might have been selected from another race and color, and the court decide that he was. In this decision there are several important points. It asserts a power of correction and removal of all criminal cases subject to the cognizance of State courts under State laws in asserting that if jurors are not selected in the manner and from the race or color which the Supreme Court in their discretion shall decide to be proper, the verdict and the judgment shall be set aside by the exercise of the power of the court, either upon removal of the case, if within the statute, or under its appellate authority.

Secondly, it asserts in the judges of the inferior and superior courts of the United States a criminal jurisdiction, with a power of punishment over all State judges, sheriffs, governors, and legislators.

Mr. President, that proposition may perhaps be denied, but let the language of the court answer for itself. Let the fact answer that a State judge, so declared in the laws of the State of Virginia, in the exercise of the judicial power of the selection of a jury for the trial of a man for his life, furnished in one case the subject of a judicial examination and reversal by the Supreme Court; and in another case from the State of Virginia the subject of revision by the same court of the correctness and validity of an indictment under the laws of the United States found in the circuit court of Virginia, for the exercise of a duty which, though the court say was not a judicial duty, the laws of the State of Virginia, as decided by her courts, declared to be a judicial duty. I speak now of both the principle and express letter of the decision of the Supreme Court in Neal *vs.* Delaware, 13 Otto, 103 Supreme Court Reports. The court say:

> The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are executed, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's authority, his act is that of the State. This must be, or the constitutional prohibition has no meaning. (Neal *vs.* Delaware, 13 Otto, 397.)

If it be true, as it undeniably is, that the power of the Supreme Court was intended to be original in the specified cases and appellate in all other cases than those specified, if it be true that the State courts were to have jurisdiction and judicial power, not granted but reserved to the States, how can it be true that a judge may be indicted for the delivery of a judicial opinion in a case stated before him, whether it be in reference to a jury or in reference to any other question? I venture to say that there can be no answer to that proposition except by denying the fact that the duty is a judicial one and by asserting that since the adoption of the amendments there are no powers reserved to the States. I ask still further, if it be true in reference to those cases upon which the Constitution has not conferred an express jurisdiction, if there be anything reserved in the State authority, how are you going to conduct those governments with an unlimited and unreserved power, and if the reasoning be good, (whether it is good or bad does not matter to the proposition,) how can there be a State with legislative, executive, or judicial authority subject to the discretionary interpretation of their law and the punishment of their officers for the execution of their specific duties, according to their own laws, by any other tribunal?

Mr. President, what has been the history of the Supreme Court? I question not its eminence, its dignity, its conscientious purpose, but what in the light of the history of this country has been the history of the exercise of judicial power by the Supreme Court? I challenge discussion and investigation when I ask, according to it, its important part in the development of constitutional law to the political autonomy and character of our country, has there ever been a time in the history of this country, from the days of Judge Marshall until now, when the court was not the exponent of established power and policy according to the political opinions that prevailed at the time? What were the interpretations by Judge Marshall in the early days? What were the interpretations of this court of constitutional power under the pro-slavery interpretation of the powers of government? What was the Dred Scott case? How was it during the war? I remember one or two instances, one in which the eminent Senator from Illinois rendered himself illustrious, and will go down to posterity with the high and honorable character that justly belongs to him for relieving a man under sentence from a power which was denied in the Constitution and the law.

What shall we say? Do not all parties, do we not now in our discussions recognize the fact that a court holding power by a life tenure, let its judges be as able as they may, separated from the great body of the people in the necessary discharge of their high and important official duties, thrown into association only with, and dependent upon, the great officials who conduct the Government and exercise its great powers, separated from the sympathies and feelings which animate the great body of the country, take their color and tone from the political party in control of the Government for the purpose of establishing and carrying to an extreme the recognized policy and power of the Government?

For one I never believed, I do not believe now, that there ought to be in the Supreme Court anything more than what I conceive the Constitution intended—the power to adjudicate private rights. I believe with Mr. Lincoln that they are not and ought not to be the exponents of constitutional power for the other departments of the Government.

Shall we consider that class of crimes under the head of the elective franchises which is contained in the statutes? Will any lawyer, will any statesman undertake to defend the exhibitions that we have lately seen of Federal power, of jurors rising in an open court and denying that they had rendered a verdict, and a judge holding office by a life tenure saying in a case of crime, "I insist that that is your verdict," and against the protestation of the jurors in the court demanding a verdict which they in open court denied was their verdict?

Mr. President, I am not saying this for any purpose of invective;

I have none. There are two things that result from facts: they carry with them certain conclusions of their own; they demand certain consequences, and it is not to be said that we are assailing men. I do not know these men; I have no acquaintance with them; I have no personal feeling in the matter, and when I mention these facts I say they are matters which demand the consideration of Senators, of men who profess to deal in reason, in learning, in the history of nations, and a knowledge of the causes that are to perpetuate the existence of power and its exercise for the general welfare and the maintenance of all the ends of a high civilization.

I have no hesitation in affirming that let personal feeling or political feeling be what it may, it cannot control the great moral fact that there should be legislation to prevent and promptly remedy the act of a judge who, in open court, in a case of life and liberty of the citizen, overrules the protestation of the jury who are authorized to say whether or not they had rendered a verdict. I venture to say the history of the tribunals of the civilized world, outside of the celebrated Jeffreys, presents no parallel instance to this.

The abstract proposition which presents itself to the eye of reason for calm and temperate thought in the consideration of a bill that is to increase the facility and the frequency of the exercise of judicial power is to consider how these tribunals have acted, how in respect to the protection of the lives, liberties, and property of the people, its present interpretation of powers may be controlled and limited and reduced, to the end that its conscientious convictions, its learning may promote the public interest and the general welfare.

I am not unwilling to concede that within the just limitations of the Constitution their high judicial functions may be exercised in consistency with the preservation of the Government under which they hold their authority; but I affirm, and I believe there can be no meeting or questioning of the proposition, (I state it for purposes of examination,) that if there exists a power of removal in all cases in which in the discretion of the judges of the inferior courts of the United States there may be a denial of equal privileges and equal rights under the Constitution and laws of the United States, if an absolute power of suspending the action of every State judge and every State court exists in every judge of the United States who may see fit to say, "I decide," there is a denial or a threatened denial of some equal right, immunity, or privilege secured under the Constitution and laws of the United States, and if, when that case is removed the judge may say to the jury protesting that two or three or four or five or a majority of us have been coerced and intimidated in giving the verdict, this is your verdict notwithstanding your denial; if that be the law there is no longer any limit to the extent of the judicial power of the courts of the United States, either as to the subjects which are embraced in their jurisdiction or as to the manner in which that jurisdiction may be exercised; there is no longer any law to govern them: they are subject alone to the caprices of their own arbitrary and despotic will.

I ask, then, shall a life tribunal of nine or twelve or twenty-four or thirty-six judges, divided either into one Supreme Court or into an intermediate appellate court, be created? As I have said before, I would be willing to accept the idea of the Senator from Illinois and his eminent authority for the advantages of an intermediate appellate tribunal. I would not be unwilling to vote the President of the United States the power to nominate a reasonable number of judges. I do not desire to see eighteen new judges appointed for political purposes to remove causes into the United States courts by petition, *mandamus*, and *habeas corpus*, because there may have been jurors of another race and color who may have been qualified to sit in a given case and they were not selected. I think it would be asking too much of us to ask that, but I hope the President is capable of the honorable ambition of being the President of the United States, of doing right, of putting himself in accord with the great principles of civil liberty and of law that have existed from the first dawnings of jurisprudence, and that he would be willing to give assurance to the country of his willingness to limit and restrain the extent of judicial power, and his purpose that the judicial department shall be consecrated to the great ends of justice and civil liberty, and eliminated from the machinery of party success, and that his appointments would be made equally from the great political parties.

With such assurances I do not doubt that under the leadership of the Senator from Illinois, in whom the country has confidence, a bill might be matured that would satisfy all opinions. I do not speak, as I said, against the special features of this bill, which might easily be amended before its passage so as to meet all objections, but I think we had better pause and look into the subject of finding some means of limiting the extent of the judicial power of the courts of the United States and the manner in which it is exercised. We had better inquire whether there is any vestige left of authority in the State courts. We had better ask whether the judge, with a halter around his neck or the penitentiary door held open before him because he may give some opinion which may be afterward decided to be a violation of the equal rights of some other man, is capable of performing judicial functions. We had better inquire whether there can be any fair and just administration of justice or law under a judicial power of this extent and thus construed.

A life tribunal, either at the seat of government or scattered through the country, confined to an association at the seat of government with the great corporations who hold the industrial interests of the country in their hands, those great corporations who hold the power of taxation over transportation and production which have been committed to them by State authority, those who have amassed vast interests and properties, and who are privileged classes by contrast with the great body of the people, protected it may be from legislative power, either national or State, under the judicial interpretation of vested rights.

May we not well pause and inquire whether it may not be necessary to make some change in the extent of the power exercised by this tribunal, a tribunal charged with the adjudication of these vast moneyed interests and exercising what is more important, criminal jurisdiction and a power to punish through their subordinate tribunals all State judges, governors, legislators, and the judicial departments of the States for differences of opinion in the construction of the laws and for their official action? May we not wisely pause to consider these facts, if they are facts, and the consequences which will result from them? Is the statement true? Let the court again answer for itself in its own words. In the case of Neal *vs.* Delaware, reiterated with approval and reaffirmed as the law in the case of Virginia *vs.* Rives, the court say:

> We do not perceive how holding an office under a State and claiming to act for the State can relieve the holder from obligation to obey the Constitution of the United States or take away the power of Congress to punish his disobedience.

This affirms the criminality of every officer of a State who in their interpretation of what are equal rights differ in opinion from their judicial authority. I concur in the opinion of the court, much as I criticise this declaration, that whoever willfully violates the Constitution, whether State officer or otherwise, is subject to its authority and its penal provisions; but there can be no violation of the Constitution of the United States by the opinion of a judge judicially rendered upon a case made by parties before him, be it right or wrong. Never before in the history of mankind, that I am aware of, has it been affirmed that a judge, acting under the authority of a State in the exercise of a judicial power, was subject to punishment for the opinion he might declare and the decisions he has honestly made in cases submitted to him for judgment.

I am aware that the court in that case deny that the officer in the State of Virginia who made the selection of jurors was in performing that duty a judge, but the court in its opinion, denying not that he was a judge but that he was performing a judicial duty, undertakes to say that if in their judgment the judge of a State court shall perform that duty which they shall decide to be judicial, they will revise that decision and say that it was an erroneous one, and that in the act he performed he was not performing a judicial duty, but one for which he was criminally responsible.

But what are equal rights? Who can tell? In all the history of the country and its laws it was never heard before that among the civil rights was that of being a juror or a judge. I venture with great positiveness the opinion that never before in any case, in any commentary, by any just rule of reasoning, can it be affirmed, or has it ever been affirmed, that any man had a right *per se*, that it was among his civil rights, to be a juror or a judge in a given case.

Shall a person accused of crime be held to have among his equal rights that of having jurors of a particular race and color not excluded from the list of possible selection for jurors, and is the judge of a State court to be held subject to indictment and guilty of the offense because he excluded and failed to select—for that is the language of the indictment—as grand and petit jurors certain citizens of African race and color, such citizens possessing all other qualifications prescribed by law and being by him excluded from such jury list made out by him as such judge (this is the indictment which has been sustained by the supreme judicial authority of the country) on account of their race, color, and previous condition of servitude, and for no other reason? The offense is the exclusion because of race, color, and prejudice? This was an offense of intention or motive. The special act on which it arose and by which it is proved as stated in the indictment was that he did then and there exclude and fail to select as grand and petit jurors. The failure to select is at once the criminal act and proof of the criminal intent. Yet how many other citizens of the white race, possessing all the qualifications required by law, were necessarily excluded from the jury list by the decisions of the judges under the laws of Virginia and Delaware!

Here is the exercise of judicial power by a judge in the construction of a statute law, and, if you please, of the Constitution of the United States, which by his oath of office he is required to do, for both are the subjects of his judicial cognizance, not revised by the appellate jurisdiction of the Supreme Court, but by the novel and extraordinary method for which this bill makes no provision, of directing the judge to be convicted and sentenced under an indictment. There was an exercise of judicial power that no lawyer, no reasoning man, can find any ground whatever for justifying; a power by which the court undertook to revise and correct the action of a State court by declaring that the judge should be held subject to indictment and imprisonment and conviction of a criminal offense arising in and by the judicial act.

Mr. President, I state only the truth without the least exaggeration. I do not do it for any party or political purpose. I should not be averse to the features of this bill which the Senator from Illinois has reported. I should be willing to accept upon his eminent authority the intermediate appellate jurisdiction of the court. I should

be willing to vote to the President of the United States the nomination of a reasonable number of judges, but I wish for myself to point out objections urged by reason and by argument, and if these propositions are not true I desire them to be corrected, for I recognize that it is the office of the Senate and the duty of Senators to make calm, dispassionate, and mutual statements of opinion and thought upon legislative subjects, to the end that each may have its proper weight, force, and effect.

I do not think this exercise of judicial power as declared by the Supreme Court in the case of The State of Virginia *vs.* Rives and Neal *vs.* Delaware is consistent with the preservation of the liberties of the people and the rights of the States, the perpetuity of the Union or the reputation of the judiciary. Here was a case which presented two questions, one a judicial one, the other a legislative subject. The judicial question was whether the trial of an accused person by a jury of intelligent and impartial persons selected judicially with reference to fitness and without contest as to the facts, a selection of jurors judicially by a State court, and so adjudged and declared by it, for there is no contesting the fact in the record, whether such a judicial act by a State tribunal is a denial of the equal protection of the laws to the accused person. Certainly no one could directly so affirm.

A man cannot stand in court on trial for crime and by his counsel say, "I acknowledge that these jurors have been selected for their fitness, for their impartiality, for their honesty. I acknowledge that the judgment of this court affirming these jurors to be good and true men is correct and true, but I say had the list of selection been allowed to contain other persons there might have been of another race and color other men selected for my trial, therefore I say that I am denied the equal protection of the laws." That was the precise case before the court. That was the precise action of the accused person and his counsel, and the State court solemnly adjudicated the fact that the accused person was being tried by impartial, honest, intelligent jurors selected for that purpose, and that there was no denial of equal rights; but the Supreme Court of the United States have affirmed that because Delaware had been a slave State and for years had excluded colored men from the jury, because there had been no actual selection of them for the jury upon that trial and none had been placed upon the list, therefore there was a denial of the equal protection of the laws in the given case, and they reversed the action of the court.

Another question presented in that case was whether the possible exclusion of certain persons of another race and color from the list of selection by the decisions of the persons charged with the duty of selection under the State law was sufficiently protected by legislation, and the question whether such possible exclusion from the jury-box would not be better secured by positive law either of the United States or of the State requiring their actual selection. That was not the way the court stated it, but that was unquestionably the only other question. No one could say that the man upon trial had been deprived of the equal protection of the laws by being tried by intelligent, impartial, and honest jurors. That proposition would not do.

The real question was whether the State of Delaware should have abrogated by specific enactment this exclusion, not relying upon the paramount force and effect of the Constitution of the United States. Yet we find that the court had no hesitation in doing—what? In exercising legislative power. And it had no hesitation in giving it a *post facto* criminal effect, for beyond all doubt or controversy the Supreme Court of the United States, whose members I do not impeach, whose ability I admit, but considered by the record, in that case they said that the judge who had performed that judicial duty without any previous decision even of the court was guilty of a criminal act. I say this was the exercise of a legislative power and giving to it a *post facto* criminal effect, punishing as a crime an act committed before the crime was declared by the Supreme Court exercising legislative power.

Mr. President, I ask the question calmly and for reflection. If I am wrong I desire to be corrected. I have read these reports; I have read the language of the court. If it does not cover the case as I state it I desire to be corrected. If it does cover it, if it affirms the right in the inferior courts of the United States to remove by the exercise of any of its writs, by appeal or summary order, causes criminal and civil pending in the State courts and to decide by a judgment of the court subsequently rendered upon a new construction of the statute of the United States that the judge to whom the State had committed the judicial power was criminally guilty for the opinions rendered, then I say if States and State judicial tribunals and State laws are to perform any part in the civil polity of this country the first and imperative duty of every reasoning man is to assert that by law these State courts and State officers shall be protected and not subjected to the unrestricted power of the United States courts. This proposition cannot be met otherwise than by the calm and just and learned treatment of it upon the basis of facts.

Mr. President, is there no reason, then, why we should be careful in increasing the efficiency and the facility for the exercise of such judicial powers—powers so dangerous and destructive not alone to the autonomy of the States, but to the just exercise of the powers of the National Government, for I venture to say that if the principle established in Virginia *vs.* Rives be true the Federal courts from the highest to the lowest may decide that a State judge is not performing a judicial duty in the exercise of any functions and hold him responsible criminally for his opinion? If that be true, then I say the power which can so decide is the supreme power and not one of the co-ordinate powers of this Government, and that if it is a life tribunal every certainty in the future is that with the vast increasing accumulation of wealth and fortune, with the vast power of the privileged classes, a life tribunal dominating with absolute and supreme power upon all questions of constitutional interpretation, it does not need the eye of a very profound student of human affairs to see that the political forces which were so wisely conceived, so wisely adjusted, have lost their balance and that the country will go forward, notwithstanding its increasing greatness and prosperity, in a new career of development of power.

I ask again is there not an absolute necessity for those of us who are sworn to defend and preserve the Constitution of the United States and the exercise of power, judicial, executive, and legislative, as therein contained, to pause and consider well what steps we may take in order to prevent the further increase of this power and to limit it to the ends, the causes, and the purposes provided in our original Constitution?

Mr. President, I have made these remarks with reluctance. It is not my purpose to antagonize the provisions of this bill. I have said before that I believe the supreme appellate power should exist as to the law and the facts of the case. I believe the path of appeal should be made easy. I believe that the Supreme Court of the country should be accessible to any interest involving a question of life and of liberty. I am not averse to the intermediate appellate tribunal. I am willing to vote the President a reasonable number of judges, but in my judgment and opinion we should not fix without further consideration eighteen new judges without any guaranty that the President will appoint them as the President of the people of the United States, and not for political purposes as partisans, for we cannot fail to remember, cover it as we may, that the decisions of this tribunal have destroyed all the preconceived ideas of constitutional right and of individual liberty that we have heretofore had.

I say to put this power of eighteen new judges if it is to be for political purposes, to make a bureau nominally for the administration of justice but really for the promotion of party success, is not to the interest of either one side or the other. I am willing to believe that the President will not do it, but let us first restrict the vast power of this judicial tribunal. Let us preserve the vitality of the States as well as of the National Government. Let us prevent the recurrence of such scenes as the papers have reported here of a judge demanding from a jury a verdict of conviction and refusing to hear their protest that they have not rendered such a verdict.

Mr. GEORGE. Mr. President, I desire before the vote is taken upon this bill to submit some observations which have occurred to me and which have convinced my judgment that this bill ought not to pass. The Senator from Illinois invites us in the last speech which he made to consider the system which the bill proposes to inaugurate. I propose to consider that system. I think it is a vicious system, one not calculated either to promote the administration of justice or the welfare of the people.

I object to the system because if inaugurated it will tend to increase the uncertainty now so great in the administration of the law. As I understand the bill, we are to have nine appellate tribunals sitting in the nine circuits into which the Union is divided, and each one of these courts is to be supreme in cases under $10,000 in fixing the law. What will be the result? With nine separate tribunals having jurisdiction in the last resort, not liable to be revised or corrected up to the amount of $10,000, what guarantee will we have that the court sitting in the first circuit will not decide the same question differently from the decision which will be made in the second circuit, or the third circuit, or any other circuit? We have none, sir.

Then, again, we have circuit and district courts whose judgments are final in all cases up to the amount of $500, and that presents this kind of a system to the people of the United States: First, in one class of cases the circuit and district courts are final; they may decide as they please and there is no means of correcting them. Then come the circuit courts, and they may decide as they please, and differ from each other, and there is no means of correcting them except in certain cases. And then we have the Supreme Court of the United States, which may decide differently from all these. To show that this is not a trivial objection, I beg leave to refer to the remarks made by the Senator from Illinois on the 1st day of May upon this bill. He then said:

> The only objection that I have heard seriously urged in regard to the appellate jurisdiction which the bill confers and limits is, that the court of appeals in the different circuits may rule differently upon the same question in cases where less than $10,000 is involved, and that the question cannot be determined by the Supreme Court. It is supposed that confusion and uncertainty would result from such conflicting decisions, and that irreparable mischief may ensue.

How does he answer that objection? Does he say that it is not a valid objection? Does he undertake to show to the Senate and to the country that by some sort of legal or judicial legerdemain not known to mankind at large these nine separate, distinct appellate courts would be able to arrive at the same conclusion upon the same

question? No, sir; he admits the validity and the force of the objection; and his answer is this:

The same objection, however, is equally applicable to the appellate jurisdiction exercised by the Supreme Court under existing laws where the subject-matter in controversy is of less value than $5,000.

He admits that the objection exists, but says that it is no greater than that under which we already suffer.

Mr. President, I think it was the duty of so learned a body as the Judiciary Committee, composed of the ablest members of the legal profession who are members of this body, acknowledging and seeing this fatal and serious objection to exist in the jurisprudence of the country, in forming a new system, in framing a new bill, to have devoted some time, some of their great talents, some of their great acquirements, to removing the difficulty, instead of confessing, as was done by the Senator from Illinois, that the evil exists, but that it is no greater than it was before. My idea of a bill to reform the judicial system of this country would include a provision which would cure so obvious and so serious an objection.

There are other objections to this bill which have been pointed out by gentlemen on this side of the Chamber who have discussed it and which I do not propose to repeat now. I object to the bill mainly upon the ground that it is ill-timed. It was confessed by the Senator from Kansas [Mr. INGALLS] yesterday, it was confessed also by the Senator from Iowa, [Mr. ALLISON,] and I understand it to have been confessed by the Senator from Illinois, [Mr. DAVIS,] that there is need of a provision for reducing or diminishing the jurisdiction of the Federal courts. I understood the Senator from Kansas to admit that the extension of this jurisdiction, some of it by law and some usurped, had operated in producing immeasurable wrong upon the people of this country.

My idea would be when the complaint is made, when the necessity for the passage of this bill is based entirely upon the ground that the present judicial force of the United States is insufficient to discharge the business of these courts, it would have been the proper preliminary inquiry to ascertain first how much jurisdiction could be eliminated and how much then would remain to be discharged and performed by the courts of the United States; and when we had ascertained that, then to have seen whether there was a necessity for the increase in the number of judges.

The Judiciary Committee have committed this fault. They have made a provision for a state of affairs which they admit ought not longer to exist. They admit they have been considering the question of lessening or diminishing the jurisdiction of these courts, and while it is so obvious that this question should be determined before we act on this bill, yet they neglect that and ask us to pass this measure for the purpose of creating additional courts to do work which they admit ought to be diminished. I say they have commenced at the wrong end of this matter. They propose to put out an immense plant to do the work without first ascertaining what the work is that needs to be done.

Suppose we pass this bill; suppose we create these nine new courts, with the expectation that afterward we will undertake to diminish the jurisdiction of these courts, what will be the effect? It will be, if not impossible, at least very difficult to pass any law through Congress by which one single iota of the jurisdiction of these courts shall be taken from them; all the judges will be against it. Are we now to make eighteen more judges, whose influence and that of their friends will be brought to bear to preserve intact a jurisdiction which, by only being thus preserved intact, can justify their appointment and existence?

I say to the friends of the proposition to reduce the jurisdiction of the Federal courts, if you pass this bill you will have added another to the very serious obstacles which lie in your path. Therefore I am opposed to the bill on that ground.

Sir, I am opposed to the bill in one of its details upon another ground. As explained by its authors, the bill is a false pretense. It professes to do that which it does not do. I have heard it stated on this floor in advocacy of the bill that it brought justice to the homes and bosom of the people. Let us see how that is. In the district in which I reside, extending from the western line of South Carolina to the eastern line of New Mexico, we have one appellate court sitting at the city of New Orleans, over five hundred miles from the eastern boundary of the district and probably more than that distance from its western boundary. Is it bringing justice to the homes and bosom of the people when you require a citizen of Georgia or a citizen of Texas to go five hundred miles for the purpose of having an appeal heard which now under the law can be heard in many instances in his own State? It brings the administration of justice to the homes and bosom only of the people of the city of New Orleans. The same objection applies to other circuits. If it is to be the system to have these intermediate appellete courts, let us have them in every State in the Union, and not only in every State, but in every district of the Union, and there will then be some pretense for the claim that justice is being brought home to the people.

Mr. MORGAN. Will the Senator from Mississippi allow me a moment to present some statistics germane to the subject of which he is speaking?

Mr. GEORGE. Certainly.

Mr. MORGAN. I have made a calculation of the population of the different circuits, and I wish to present that to the Senator from Mississippi in order that he may comment upon it if he chooses to do so. In the first circuit, the States of Rhode Island, Massachusetts, New Hampshire, and Maine, with the court at Boston, the population is 3,085,000; in the second circuit, the States of Vermont, Connecticut, and New York, with the court at New York, the population is 6,468,000; in the third circuit, the States of Pennsylvania, New Jersey, and Delaware, with the court at Philadelphia, the population is 5,560,000; in the fourth circuit, consisting of Maryland, West Virginia, Virginia, North Carolina, and South Carolina, with the court at Richmond, the population is 5,461,000; in the fifth circuit, consisting of Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, with the court at New Orleans, the population is 5,844,000; in the sixth circuit, consisting of Ohio, Michigan, Kentucky, and Tennessee, with the court at Cincinnati, the population is 8,011,000; in the seventh circuit, consisting of Indiana, Illinois, and Wisconsin, with the court at Chicago, the population is 6,371,000; in the eighth circuit, consisting of Nebraska, Minnesota, Iowa, Missouri, Kansas, Arkansas, and Colorado, with the court at Saint Louis, the population is 5,393,000; in the ninth circuit, consisting of California, Oregon, and Nevada, with the court at San Francisco, the population is 1,402,000; so that the population varies in these different circuits as much as 5,000,000. The point I make is that in organizing appellate courts it would be scarcely necessary to appoint two judges for the ninth circuit, while it might be necessary to appoint as many as three judges for the sixth circuit. The distribution of these courts, in other words, in respect to population is entirely unequal.

Mr. GEORGE. The remarks made by the Senator from Alabama on these statistics, showing the inequality of these circuits, render any further comment from me unnecessary.

Mr. President, I propose to make a little inquiry as to the possibility and feasibility of eliminating the jurisdiction of the Federal courts without objection, without doing any injury to any one. In the first place, I desire to call the attention of the Senate to the argument made by the Senator from Arkansas [Mr. GARLAND] a few days ago, in which he demonstrated that the jurisdiction of the United States courts, dependent upon the citizenship of the parties so far as it related to corporations, was a usurped jurisdiction. I propose to read something upon that subject which was alluded to by my friend from Arkansas but was not read by him. I read now from Curtis's Courts of the United States. Curtis says:

I will now proceed to the further consideration of the parties over whom the courts of the United States under this eleventh section have jurisdiction. One of the most important and difficult questions on the subject of parties, which has been almost constantly before the Supreme Court of the United States during the last quarter of a century, is the question of jurisdiction over corporations. This eleventh section deals only with citizens, and it has been from first to last admitted that corporations are not citizens. They are political beings created by the law, and cannot sustain the character of citizens.—*Curtis's Courts of the United States*, page 127.

According to any rule of constitutional construction with which I am acquainted, with the announcement thus made there would seem to be an end of the claim on the part of the courts of the United States to exercise jurisdiction over corporations in virtue of their citizenship, but that has not been the result of the acknowledged principle that corporations are not citizens. The court has been vexing itself, says Judge Curtis, for twenty-five years in order to acquire that which the Constitution did not give it, a jurisdiction over corporations under this section of the Constitution. "It is admitted," says Judge Curtis, "from the first to the last, that they are not citizens," and yet I will venture to say that one-half the cases now pending in the Federal courts whose jurisdiction is dependent upon the citizenship of the parties proceed upon the idea that corporations are citizens.

It is plain that there is a very great growth of the business in the Federal courts. No wonder when this large amount of their business is composed of cases to which corporations are parties, and when that jurisdiction is admitted to be without foundation in the Constitution and laws of the land. I read further from Judge Curtis:

I suppose it may fairly be said that neither the framers of the Constitution nor the framers of the judiciary act had corporations in view.

When it is admitted that in virtue of this clause of the Constitution the Federal courts have no jurisdiction over corporations the simple-minded man would inquire, how is it that one-half of their business, one-half of the time consumed in dispensing it, is devoted to cases in which corporations are parties in virtue of their alleged citizenship? That answer is furnished in the same book from which I have read.

In the first place, it was thought to be a very convenient thing that these corporations should be subject to the jurisdiction of the United States courts, and because it was convenient—not because it was constitutional—because it was convenient, in opposition to the Constitution, in opposition admittedly to the Constitution, the United States courts yet took jurisdiction; and how did they take it? I will read a little further from this same book. Judge Curtis says it is acquired on a fiction.

Now, what is a fiction? I know of no other definition for it than this: A falsehood; something which does not exist. The jurisdiction of the courts of the United States over corporations is founded upon a fiction; upon a falsehood; upon a presumed fact which does not exist, and which the courts will not allow the adverse party to

controvert. In fixing up a system for the Federal court business, in arranging for the disposition of the enormous business which has accumulated in them, would it not be the first and the highest duty of the Congress to inquire whether or not the business in those courts is legitimately there? Are we called upon by our oaths to support the Constitution, to furnish new courts, new judges, new marshals, new clerks, new facilities, for the purpose of enabling the courts to perform and discharge a jurisdiction admitted to be outside of and contrary to the Constitution? I think not, sir.

Again, Mr. President, there is another jurisdiction of the United States courts which, though constitutional, which, though entirely in accordance with the laws and the Constitution of the land, is yet of that character that it might be better performed and discharged by the State courts. I should like to know if there is any reason for the trial of suits between citizens of different States and depending upon the State law alone for their determination in the Federal courts rather than in the State courts. Let me illustrate. A contract is made in the State of Massachusetts, between citizens of Massachusetts to be performed in Massachusetts. The validity, the nature, and the obligation of that contract, all are to be judged by the laws of Massachusetts; and yet, sir, if one of those parties removes out of the State, or if he assigns that contract, it being a promissory note, to another party outside of the State, the jurisdiction of the courts of Massachusetts is ousted or may be ousted at the option of the holder of the paper, and all these questions are then to be litigated in the Federal courts.

Is there any good reason for that? Are the courts of Massachusetts incompetent to decide upon their own laws? Are they too corrupt to administer justice to non-residents against one of their own citizens? You must answer one of these questions in the affirmative, or else there is no good reason for depriving the courts of Massachusetts of the jurisdiction of deciding on the validity of a contract which was made within her borders, and which is admittedly to be determined by her laws.

And right here, Mr. President, I would remark that that provision of the judiciary act which requires the Federal courts to decide according to the laws of the States where they are applicable was wholly unnecessary. Every court in Christendom, wherever it may be situated, charged with passing upon the obligation of a contract, upon its nature and its validity, or upon the damages to be recovered for the non-performance of it, must decide according to the law of the place at which the contract was made.

It was admitted by the learned Senator from Illinois that one of the great troubles of properly discharging the business of the Federal courts was that the judges were not familiar with the State laws which they were called upon to administer. You discard the State courts, you discard the State judges, you erect a new jurisdiction composed of judges who it is admitted are not familiar with the laws which they are called upon to administer. Had we not better correct that?

It is said, however, that the State courts will not hold the scales of justice with fairness between their own citizens and non-residents. Let us see how that is. Is there any Senator upon this floor who is willing to arise in his seat now and say that a non-resident of his State cannot get a fair and impartial trial in the State courts against one of its own citizens? I ask any Senator, I ask every Senator here to answer that question. Is there any Senator who is conscious that justice cannot be administered in the courts of his State in favor of non-residents? No man will say so. Then, sir, I have the testimony of every Senator on this floor to the fact that fair and impartial trials can be had in the State courts where one of the parties is a non-resident and where another is not.

Here, Mr. President, I desire to call the attention of the Senator from Massachusetts [Mr. HOAR] to a trial that took place in his State soon after the war which illustrates my position on this subject.

In the year 1866, just after the war, when cotton was worth thirty or forty cents a pound, there was a disposition on the part of Northern men to come South and buy plantations and raise cotton. Among the gentlemen who thus came were two from Massachusetts, one a large manufacturer, as I understood; the other was a general of high repute in the Federal Army. They came to the county in which I then resided and bought a large plantation. They paid a large sum of money down in cash and left a considerable sum unpaid. The seasons were bad, no cotton was made, the freedmen did not work as well as was expected, and the result was a failure in 1866, a failure in 1867, a failure in 1868, and an inability on the part of the purchasers to pay the balance of the purchase-money. A suit was brought upon the notes for the balance of the purchase-money. They were sent to a Mr. A. A. RANNEY, I believe a member of the other House of Congress, for collection by the Mississippi holders. He brought suit upon them. He did not bring the suits in the Federal courts, but he brought them in the State courts in Boston, where one of the defendants resided. There was a plea of fraud in the sale, false representations as to the value of the land. The parties had already paid really more than the land was worth. Witnesses were examined; the defendants were examined. There was cross-swearing in the case. The jury, composed of Masschusetts citizens, were compelled to decide upon the credibility and weight to be given to the testimony of the Massachusetts defendants, one of whom, as I said before, was a general of honorable fame in the war and then holding, I believe, a high Federal office. The plaintiffs were Mississippians and were rebels. The jury weighed the testimony, and the verdict was not in accordance with the passions and prejudices of the people of Massachusetts, but was in favor of the plaintiffs. Judgment was rendered against the defendants for the full amount, and it operated to their destruction financially, as I understood, and the court on a motion for a new trial approved the verdict. Is that an evidence that the State courts cannot administer justice between its own citizens and citizens of another State?

But, sir, there is a subsequent history to that case which I will also relate. A question arose as to whether the judgment in that case had been paid or whether it had been fraudulently assigned to another party. The Mississippian had another claim against Massachusetts citizens. If the judgment was paid then they had that property there out of which they could make their Mississippi debt. If it was only assigned then the property there was liable first to this assigned judgment. I was counsel in that case. I brought the suit. I corresponded with Mr. RANNEY. He believed that the judgment had been paid, and that the assignment was fraudulent, and on his belief and the circumstantial evidence which he gave me I brought the suit. I took his testimony; I took other testimony, and I thought I had a strong case of circumstantial evidence to show that the judgment had been satisfied and that the assignment was fraudulent. I succeeded in convincing the chancery court of Mississippi that such was the fact. The parties took it to the supreme court of the State, composed of men two of whom succeeded to that bench after what was called the revolution of 1875, and they unanimously decided that however suspicious the case might be, the fraud was not made out, and they decided in favor of the Massachusetts parties.

So here are two cases, one in Massachusetts, where the question was one of fraud and there was contradictory evidence, and that was decided in favor of the Mississippian, and one in Mississippi of the same character, and that was decided in favor of the Massachusetts man, both in the State courts.

And now, sir, is there any reason why this large mass of jurisdiction, dependent upon the citizenship of the parties, in which are involved alone—I want that understood—the construction, the meaning, the force, and the validity of State laws, shall be taken from the State tribunals, from the judges who are familiar with those laws, and, according to the admission of the Senator from Illinois, given to a foreign tribunal, constituted of men who are not familiar with the laws which they are called upon to administer?

Mr. HOAR. As the Senator from Mississippi did me the honor to call my attention to the statement he was about to make, I desire to inquire if his argument is directed to the provisions of the Constitution of the United States. Does he propose to reconsider or revise the constitutional provision on this subject?

Mr. GEORGE. Oh, no; I know the Constitution declares that the judicial power of the United States shall extend to controversies between citizens of different States. I know also that the courts have decided over and over again that no jurisdiction is conferred on them by the Constitution, only by the acts of Congress passed in pursuance of it; and I know also that the very first act that was ever passed upon that subject fixed a minimum sum under which parties could not sue in the Federal courts, and I only propose to make that minimum sum larger in these cases. That is all.

Mr. HOAR. If the Senator will permit an observation, it strikes me that his argument is just this: the Constitution of the United States proceeded upon the ground, first, that there was danger in many cases which might arise under the local laws that citizens of other States than the States where these cases arose might not receive fair treatment at the hands of the State tribunals.

Mr. GEORGE. I think you are right about that.

Mr. HOAR. Second, that whether there was such danger or not, that was the belief likely to prevail in the minds of litigants who lost their causes in the courts of a State of which they were not citizens, and that the public satisfaction with the administration of justice, and the administration of justice in fact, would be likely to be subserved by giving this jurisdiction between citizens of different States to national tribunals, who of course would be expected to make themselves masters sufficiently of the local law. Now, is it any argument against that position to say that there have been cases, or even that as a rule in all cases the local tribunals are honest?

Now, let me state a case to the Senator from Mississippi. A little while before the war, about 1856 perhaps—I do not remember the exact year—there was a runaway slave, or a person alleged to be a runaway slave, who made his escape from New Orleans on a ship bound to Massachusetts, which came into one of our smaller ports south of Boston. The slave went over the side of the ship in a boat when a boat went ashore, and was discovered by the master of the ship, from whom he had been concealed up to that time, and he was pursued by another boat and taken back to the ship, kept there till the ship returned to New Orleans, and restored to slavery. Probably there was not an occurrence which could have stirred to its depths the indignation of the hearts of the people of Massachusetts more than the taking of that man out of their waters; close to the harbor of Plymouth I think it occurred; and on his next return that master was indicted under a Massachusetts statute for kidnapping. He had no authority from the owner of the slave in New Orleans; and the court

to try the indictment was held by Chief-Justice Charles Allen, who was the leader, the organizer of the political anti-slavery party, the Republican party, a gentleman who, being a Massachusetts delegate at Philadelphia when General Taylor was nominated, declared the Whig party dissolved, and seceded from the convention because they refused to resolve in favor of prohibiting slavery in the Territories.

The jury was taken from a community of Abolitionists, as they would have been called by the people in the part of the country to which my honorable friend belongs. The question was submitted to that jury on the evidence, under the direction of Chief-Justice Allen, whether this party indicted for kidnapping was within or without the jurisdictional line. It being a disputed question in the minds of jurists and law-writers whether the jurisdictional line of the State extended from headland to headland of the little creek or sound where this thing happened or whether it extended a marine league from the shore, the judge directed the jury to take the most restricted view of the jurisdiction of the State, and upon that question that jury acquitted that man. I suppose every one of them would have given $5,000 out of his own pocket to have sent him to the state-prison at that time; but they acquitted him, and he went his way.

That is another illustration, and a very strong one, of what the Senator from Mississippi has already said; but suppose in that question of doubtful evidence and of doubtful law there had been a conviction of that Louisiana shipmaster, an honest, reasonable, suitable conviction, would not the whole State of Louisiana have believed that the man had been convicted in consequence of the prejudices of the tribunal to which his case had been submitted, and would it not have been better on the whole, if a conviction had been required by the law, that it should have happened in a Federal court? Of course I put this merely as an illustration, because being a criminal cause of course it could not have been taken to the Supreme Court of the United States. It was not a case within the Federal jurisdiction at all. I simply present it as showing, if it could have been transferred to a Federal court by reason of some constitutional question, that if we are to maintain the mutual respect and affection which is required to make the people of this country in different sections live in harmony, it is not merely enough that there should be a just administration of justice, but the people should know and be sure that in those cases which excite feeling there is a just administration. The national tribunals belong to the whole country, and should assert their authority.

Mr. GEORGE. Mr. President, I acknowledge the force of the suggestion made by the Senator from Massachusetts that justice should not only be fairly administered, but that the public should believe and acknowledge that it is fairly administered. But, sir, I do not think, giving the suggestion all the weight it is entitled to, that it authorizes us to keep the minimum of Federal jurisdiction in cases of contract, civil suits, at the sum now fixed by law. I deem it very important, as the Senator from Massachusetts has suggested, that there should be mutual good will and confidence between the different States with reference to the administration of justice. I think every citizen who has a claim to be enforced in any tribunal should have, so far as possible, absolute faith and conviction that ihe will have his case tried fairly and impartially. But the law as t now stands does not give in all cases that absolute conviction. If a citizen of Massachusetts has a claim against a citizen of Rhode Island for $499, he cannot sue in a Federal court. He with his small sum must submit to live and the public must submit to live in the conviction or suspicion that that man's case has not had a fair and impartial trial.

I think, sir, that the law as we have it now on the statute-book is founded upon a presumption false in fact, and I would have it so changed as to make the jurisdiction of the Federal court, instead of being founded on a false presumption, to depend upon the fact itself. As it now stands every man who is a non-resident of a State may sue in the United States courts if his claim is over $500, upon the legal presumption, contrary to the fact, that he cannot get a fair and impartial trial in the State courts in which such cases are generally tried.

Why cannot we enact that he shall bring his suit in the State court, and if he can make it out to the satisfaction of a Federal judge as a question of fact to be tried by evidence and not by mere false presumption, that he cannot get a fair and impartial trial in the State court, it shall be removed to the Federal court? And I ask the Senator from Massachusetts if a law of that sort were passed, giving it to the Federal judge to decide whether there was local influence or prejudice to prevent the impartial administration of justice, would it not be better for all sides than to vest the jurisdiction upon a presumption which there is not a Senator in this room now who is not willing to say is false so far as his own State is concerned?

Mr. HOAR. Would not that require the judge to convict an entire community, if not of a disposition, of a liability to do injustice?

Mr. GEORGE. Have you no law in your State allowing the State judges to make a change of venue from one county to another on account of local prejudice?

Mr. HOAR. Certainly. That does require a judge to convict an entire community; but that is a very unusual case. I do not now remember in the history of my State a single instance of the exercise of that authority for the change of venue on account of the impossibility of a fair trial.

Mr. GEORGE. I have seen many in mine; but is it not better, I ask the Senator from Massachusetts, for a judge upon sworn testimony before him to convict a community of a disposition to do injustice and to be unfair than it is for the legislation of the country, without any trial, however fair, however impartial the community may be, to convict them of the same offense? That is what we do by the law as it now is.

Mr. HOAR. It seems to me, in answer to the honorable Senator's question, that it comes back to an arraignment of the Constitution of the United States. That is the answer to his proposition. The Constitution of the United States provides that in causes between citizens of different States the Federal tribunals shall have jurisdiction. Of course the jurors are drawn from the locality. It is merely the jurisdiction of the judge. In most causes the judge who sits at the trial comes from the locality where exceptions are taken to a higher court taken from all parts of the country. The Senator seems to be arguing a question left to the jurisdiction of Congress as to the limit of amount which shall make it worth while to have the Federal jurisdiction attach. That of course must be settled by Congress; but he seems to say, "We must make the amount as high as possible because the Constitution itself is wrong." His argument seems to me to come to that.

Mr. GEORGE. No, sir. It is well settled, as I remarked before, that the Constitution confers no jurisdiction on the courts. Every Federal court that undertakes to exercise any power of jurisdiction must put its finger upon an act of Congress passed in pursuance of the Constitution giving the jurisdiction. The jurisdiction of the Constitution is not a jurisdiction to the court. It is not self-executing. It is a mere power granted to Congress to fix and define jurisdiction, and unless the Senator from Massachusetts can make it out that fixing $500 as a minimum of jurisdiction in a Federal court is in accordance with the Constitution, and fixing $5,000 is in violation of the Constitution, he has failed in the position which he has taken. The Constitution fixes no amount; that is left to Congress, and when that is done it is well settled that Congress may fix it in its discretion.

Now, Mr. President, having disposed of that, having shown, as I think, by the testimony of every Senator on this floor that the present law is unnecessary, because no man has risen and said that a fair trial cannot be had in his State, I want to address a few observations before I take my seat in favor of allowing the State courts to decide these causes.

Mr. ALLISON. May I ask the Senator from Mississippi if he has reached a point in his remarks where it would be convenient for him to yield to me to make a motion that we go into executive session or adjourn? ["Adjourn!"] Before we do either, I wish to ask the Senate to pass a little appropriation bill. Does the Senator wish to complete his remarks this evening?

Mr. GEORGE. I do not care. I am willing to yield.

Mr. ALLISON. Then I ask the Senator to give way until we can have this bill laid informally aside for the purpose of passing a joint resolution which I am authorized to report.

Mr. GEORGE. I am willing to suspend now and go on in the morning.

Mr. MORGAN. Before this matter is laid aside I desire to submit a motion to recommit this bill with instructions, which I have drawn up and which I will ask to have printed in the RECORD for the convenience of Senators.

The PRESIDING OFFICER. The motion of the Senator from Alabama [Mr. MORGAN] is to recommit the bill with instructions, which will be read.

The Acting Secretary read as follows:

Resolved, That Senate bill No. 420, now under consideration, be committed again to the Committee on the Judiciary, with instructions to said committee to prepare and report, with all convenient speed, a bill to establish a court of appeals, inferior to the Supreme Court, which shall be composed of not exceeding nine circuit judges in addition to the nine circuit judges who are now in office, and which shall define the appellate and supervisory jurisdiction of said court, and shall also confer the power upon the judges of such appellate court to hold circuit courts in any circuit or district of the United States to which they shall respectively be assigned by the Chief Justice or the Supreme Court; and also to make any changes in existing laws, or any new provisions of law that may be necessary in consequence of the creation of such court of appeals, or that will contribute to the relief of the Supreme Court and any of the circuit courts from the embarrassment resulting from an undue accumulation of cases upon their dockets; and will give to persons convicted of crimes against the United States the right to a writ of error to the Supreme Court or to such court of appeals as said committee may be of opinion will best secure the rights of such persons and of the Government in the administration of justice; and will curtail and regulate the jurisdiction of the circuit courts of the United States in respect of suits by and against corporations, and the removal of causes; and in such other respects as said committee shall recommend.

Mr. DAVIS, of Illinois. I should like to have some understanding when we may take a vote. If the motion of the Senator from Alabama prevails, of course it will be the end of the bill; but on the supposition that it will not prevail, that a majority of the Senate has indicated by its vote that it is in favor of this bill, I would like my friends on the other side, who are opposing the bill with so much bitterness and ability, to agree to take a vote to-morrow at some time. We have been discussing it nearly two weeks. There is a great deal of other important business in the Senate to be acted on. A great many persons think that this bill has occupied more than its share of the attention of the Senate. I would be very glad if the Senate would agree on some time at which a vote may be taken on this bill.

Mr. ALLISON. Why not take a vote on the bill to-morrow?

Mr. HOAR. Why not to-night?

Mr. DAVIS, of Illinois. If the Senate is willing to vote to-night, I am ready to agree to it. The Senator from Alabama, the Senator from Mississippi, the two Senators from Florida, and the Senator from South Carolina have manifested more interest in opposition than others, and if they will agree I am pretty certain the rest of the Senate will consent to name some time for taking the vote. I should be glad to have it now, but still I am willing to wait until to-morrow if my friends will agree to that.

Mr. BUTLER. So far as I am concerned, I am sure I have taken up very little time of the Senate in discussing this bill. I am opposed to it and expect to vote against it; but I have not made any opposition simply for the sake of consuming time. It seems to me that all the discussion that has taken place upon it has been very desirable.

Mr. DAVIS, of Illinois. I do not want to enter into that matter.

Mr. BUTLER. As far as I am concerned, I have no disposition to postpone a vote upon it one moment beyond what I conceive to be required for the fair, legitimate discussion of the questions involved. I only speak for myself.

Mr. DAVIS, of Illinois. I appeal to the Senators from Alabama and Mississippi.

Mr. BUTLER. The Senator from Mississippi has just announced, at the request of the Senator from Iowa, that he was willing to suspend his remarks in order that the Senator from Iowa might make a motion.

Mr. DAVIS, of Illinois. I do not ask to have a vote to-night.

Mr. BUTLER. I understood the Senator to ask for a vote to-night.

Mr. DAVIS, of Illinois. Oh, no; I was asking that we might agree upon taking the vote some time to-morrow. I said I was willing for a vote to-night so far as I am personally concerned.

Mr. MORGAN. Does the Senator from Illinois mean a vote on the bill, or on the amendments?

Mr. DAVIS, of Illinois. A vote on the bill and amendments at some time to-morrow, so that we may get rid of the whole subject. Cannot a time be set for doing that, an hour when the debate on the bill shall cease? I should be glad if it could be arranged to cease at four o'clock to-morrow, and then let us proceed to vote on the amendments. Then if the amendments are to be debated, let the debate be limited under the restrictions of the Anthony rule.

Mr. MORGAN. I have no objection as far as I am personally concerned that we shall commence voting, and debate on the bill cease at four o'clock to-morrow, and that after that each Senator shall be allowed ten minutes to speak on amendments.

Mr. DAVIS, of Illinois. I am satisfied with that.

Mr. GARLAND. I think that is a fair proposition. The Senator from Alabama has made a motion to recommit the bill with several important instructions. Let them come up to-morrow. I think the proposition that we stop general debate at four o'clock to-morrow and have a limited debate of ten minutes on each amendment after that will be right and fair.

Mr. PENDLETON. I think this matter is one of too much importance to undertake to limit the debate on all amendments to five minutes.

Several SENATORS. Ten minutes.

Mr. PENDLETON. Or ten minutes. I think the Senate has sufficient control of itself and its members to do what is right in that matter without entering into an agreement which seems to me entirely inconsistent with the dignity of the body.

Mr. GARLAND. As far as dignity is concerned, I want to say this: this bill has been very fully debated, and we have frequently entered into arrangements of this character in order to facilitate business after a measure has been considered for some time. To modify the proposition suppose we have it understood that we get rid of the bill at to-morrow's sitting and do not fix any limit as to time.

Mr. BECK. Why punish ourselves in that way?

Mr. DAVIS, of Illinois. Let it be understood that general debate on the bill shall cease at four o'clock to-morrow.

Mr. GARLAND. This is a very important matter, and by to-morrow there will have been ten days' debate on this bill. I think we can certainly dispose of the bill to-morrow. I do not desire to hasten any person, but I think we can certainly get rid of it to-morrow, and there are other important propositions behind which demand attention, as the bankrupt bill, the 5 per cent. fund bill, the Japanese fund bill, and all these measures ought to come up in their time.

Mr. ALLISON. Early next week we hope to have the Army appropriation bill before the Senate.

Mr. BUTLER. I have seen no factious opposition to this bill. It seems to me the discussion has been entirely legitimate and proper; it is a very important bill; and yet the intimation is that we have been throwing obstructions in the way.

Mr. DAVIS, of Illinois. I did not say so.

Mr. BUTLER. The Senator did not say so, but it might very naturally be inferred from the remarks made by Senators. Months have been devoted to the discussion of the tariff-commission bill, of not half the consequence of this, and yet because what we conceive to be a proper discussion has been gone into these intimations are made.

Mr. GEORGE. I propose an amendment to be printed.

The PRESIDING OFFICER. It will be received and printed.

Mr. DAVIS, of Illinois. Do I understand the Senator from Ohio to object to any understanding that the amendments be debated for ten minutes by each Senator after general debate on the bill closes?

Mr. PENDLETON. Yes, sir; I object to that.

Mr. ALLISON. Then I ask unanimous consent that this bill may be completed at to-morrow's sitting, without any reference to a limitation of debate.

Mr. DAVIS, of Illinois. Can there be any objection to that?

Mr. ALLISON. My proposition is that the sitting to-morrow, before adjournment to-morrow, we shall finish this bill.

Mr. INGALLS. A unanimous understanding is not necessary for that. A majority can control it.

Mr. DAVIS, of Illinois. But we do not want to resort to the power of a majority. I want the Senate to agree to it.

Mr. ALLISON. Unanimous consent is better for such a purpose than a majority order.

Mr. BECK. I remarked in not a very loud tone, I thought, that there was no use in punishing ourselves, and the Senator from Arkansas rather objected to that remark. I think we can get through with this bill to-morrow; I am ready to vote now; and I believe the Senate will really get through sooner, for there is a general feeling that it ought to be disposed of promptly, without forcing us to make any agreement. That is my opinion.

Mr. DAVIS, of Illinois. The understanding proposed now is that it is to be got rid of at to-morrow's sitting. There ought to be no objection to that. Is there objection to that?

Mr. BECK. I have none.

Mr. PENDLETON. If there were a unanimous agreement this evening that we should come to a vote before the adjournment to-morrow, it would be perfectly in order to adjourn to-morrow nevertheless.

Mr. DAVIS, of Illinois. I will say this to the Senator from Ohio, that if a gentleman sits here and makes such an agreement I have never known that he would get up and move an adjournment in violation of it. The Senator from Ohio would seem to indicate that if an agreement were made a majority could set it aside. Of course they could; but has that ever been done in the Senate? I have never known it.

Mr. SAULSBURY. I am, like the Senator from Kentucky, ready to vote now; but suppose we come here to-morrow under an agreement that we will dispose of this question, and the debate lasts to six or seven o'clock, gentlemen not having had their dinners will naturally want to go home, and an agreement now would imply an obligation upon everybody to remain here in order that a quorum might be maintained.

Mr. DAVIS, of Illinois. I do not want to give notice that I shall ask the friends of the bill to sit it out; but unless there is some agreement made that will have to be done.

Mr. COCKRELL. Let the Senator give notice that he will try to get a vote to-morrow.

Mr. DAVIS, of Illinois. Very well; I do give that notice.

Mr. ALLISON. One word. Unless we finish this bill to-morrow it is perfectly evident that we shall not finish it this week. We have been in the habit of adjourning over from Friday to Monday, and we shall undoubtedly take occasion to do so next Friday. If we do, it is manifest that we shall not secure a vote on as important a bill as this on Friday. So it is a question as to whether this bill shall be finished to-morrow or whether it shall take up another week.

Mr. DAVIS, of Illinois. I give notice that I shall endeavor to get a vote upon this bill to-morrow.

The PRESIDING OFFICER. The Senator from Illinois gives notice that he will endeavor to get a vote on this bill to-morrow.

DEFICIENCY FOR FUEL, LIGHTS, ETC.

Mr. ALLISON. Now I ask unanimous consent to lay the bill aside informally that I may make a report from the Committee on Appropriations.

I am instructed by the Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, &c., for the fiscal year 1882, and for other purposes, to report it without amendment, and ask for its present consideration, as it will take but a moment.

The PRESIDING OFFICER. The Senator from Iowa reports a joint resolution and asks for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture was read twice by its title, and referred to the Committee on Agriculture.

WILLIAM J. LEE.

Mr. PLATT. An adverse report was made yesterday by the Senator from Oregon [Mr. SLATER] on the bill (H. R. No. 2089) granting a pension to William J. Lee. At the request of a Senator, who desires to have further evidence submitted, I ask that the vote be

reconsidered, and that the bill be recommitted to the Committee on Pensions.

The PRESIDING OFFICER. The Senator from Connecticut asks that the vote by which the bill was postponed indefinitely be reconsidered, and that the bill be recommitted to the Committee on Pensions. The Chair hears no objection, and that order will be made.

WILLIAM LOCKHART.

Mr. COCKRELL. On the 4th of April the bill (S. No. 886) granting a pension to William Lockhart was reported adversely from the Committee on Pensions by the Senator from Oregon [Mr. SLATER] and indefinitely postponed. It escaped my observation at the time it was reported. I have had no opportunity of examining the report, and I ask that that action be reconsidered and the bill placed on the Calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and that order will be made.

Mr. BUTLER. I move that the Senate adjourn.

The motion was agreed to; and (at five o'clock and nine minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May* 10, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

EXPENSES OF CENSUS OFFICE.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a communication from the Secretary of the Interior, inclosing a letter from the Superintendent of Census, submitting an estimate for an appropriation of $80,000 to defray the expenses of the Census Office during the remainder of the present fiscal year.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 9, 1882.

PRIVATE LAND CLAIMS IN LOUISIANA.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a communication from the Secretary of the Interior, inclosing a letter from the Commissioner of the General Land Office, submitting an estimate for a special appropriation of $3,200 for completing an exhibit of all the private land claims in the State of Louisiana.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 9, 1882.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. MOSGROVE, for ten days, on account of important business;

To Mr. GODSHALK, for three days.

MARINE HOSPITAL AT PORT TOWNSEND, WASHINGTON TERRITORY.

Mr. McLANE, by unanimous consent, from the Committee on Commerce, reported back with a favorable recommendation the bill (H. R. No. 5875) authorizing the purchase of a marine hospital at Port Townsend, Washington Territory; which was referred to the Committee on Appropriations.

LIGHTS ON PATUXENT RIVER.

Mr. McLANE also, by unanimous consent, from the same committee, reported a bill (H. R. No. 6154) for the establishment of lights at the mouth of the Patuxent River, Maryland; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

LIGHT-HOUSE ON GREAT SHOALS, MARYLAND.

Mr. McLANE also, by unanimous consent, from the same committee, reported a bill (H. R. No. 6155) for the establishment of a light-house on the Great Shoals, in Dorchester County, Maryland; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had adopted a resolution, in which the concurrence of the House was requested, directing the Public Printer to furnish, commencing with the first session of the Forty-fourth Congress, 3,425 copies of the CONGRESSIONAL RECORD for the use of the Senate, instead of 3,100 copies as ordered by concurrent resolution of June 4, 1874.

The message further announced that the Senate had adopted a resolution, in which the concurrence of the House was requested, directing that the copies of the Atlas of Colorado heretofore ordered for the use of the two Houses of Congress and the Department of the Interior be suitably bound by the Public Printer for distribution, in accordance with the resolution ordering the same.

The message further announced that the Senate agreed to the amendment of the House of Representatives to the bill (S. No. 108) granting an increase of pension to Abagail S. Tilton.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 98) to submit to the Court of Claims the petition of J. M. Wilbur for compensation for extra work done on the United States Post-Office building in New York; and

A bill (S. No. 1646) to amend section 5388 of the Revised Statutes of the United States in relation to timber depredations.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff.

The message further announced that the Senate had passed a joint resolution and bills of the House of the following titles, with amendments in which the concurrence of the House was requested:

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon and cannon-balls for use and ornament about a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 679) donating condemned cannon and cannon-balls for monumental and other purposes;

A bill (H. R. No. 1287) authorizing the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 2195) donating condemned cast-iron cannon to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association at Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned cast-iron cannon to the citizens of Otsego, Michigan;

A bill (H. R. No. 3738) to donate iron cannon to the township of Milan, Ohio;

A bill (H. R. No. 3877) donating condemned cannon to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post No. 2 of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon;

A bill (H. R. No. 4585) to donate four condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio;

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental purposes; and

A joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls for decoration of soldiers' cemetery.

OCCUPYING CLAIMANTS IN DISTRICT OF COLUMBIA.

Mr. NEAL, by unanimous consent, introduced a bill (H. R. No. 6156) for the relief of occupying claimants in the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

CAMP DOUGLAS MILITARY RESERVATION, UTAH.

Mr. BLAND (by request) introduced a bill (H. R. No. 6157) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BRIGGS. I call for the regular order.

Mr. EVINS. I ask the gentleman to withdraw the call for a moment, that I may ask to have a bill on the Speaker's table referred to a committee.

Mr. BRIGGS. I must object to that.

DEPARTMENT OF AGRICULTURE.

The SPEAKER *pro tempore*. The regular order is called for, which is the consideration of the bill (H. R. No. 4429) to enlarge the powers and duties of the Department of Agriculture. The previous question has been ordered upon the bill and the substitute of the gentleman from Michigan, [Mr. HUBBELL.]

Mr. HUBBELL. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HUBBELL. Under the previous question, may I be allowed time to debate the substitute?

The SPEAKER *pro tempore*. The Chair thinks the gentleman from Michigan would not be entitled to debate the substitute under the previous question.

Mr. HUBBELL. Then I ask unanimous consent that the gentleman from Pennsylvania [Mr. CURTIN] be allowed five minutes. He was a member of the sub-committee.

Mr. ANDERSON. This whole subject was debated——

The SPEAKER *pro tempore*. Is there objection to the request?

Mr. ANDERSON. There is; if it is open to debate on one side it must be open to debate on the other side.

The SPEAKER *pro tempore*. The question is upon the substitute of the gentleman from Michigan, which will be read.

The substitute was read, as follows:

Strike out all after the enacting clause, and insert the following:

That the Department of Agriculture, now established at the seat of Government of the United States, shall hereafter be an executive department, and the Commissioner thereof shall hereafter be known as the secretary of agriculture; and section 158 of the Revised Statutes is hereby amended to include said Department by adding at the end thereof the words: "Eighth. The Department of Agriculture," which shall hereafter be the title of said Department.

SEC. 2. That there shall be in the department of agriculture a secretary and an assistant secretary of agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate; and such secretary shall receive the same compensation as is now paid to the heads of the other Departments of the Government, and such assistant secretary shall receive a compensation of $4,000 per annum, each to be paid monthly; and a chief clerk of said department, to be appointed by the head thereof, at a salary of $2,500 per annum, to be paid monthly. And in addition to the powers and duties now devolved by law on said department there shall be added the powers and duties hereinafter provided for.

SEC. 3. That in addition to the duties now performed by the statistician of the Department of Agriculture, provided in section 520, title 22, of the Revised Statutes, it is hereby made the further duty of said statistician to collect all facts, information, and statistics obtainable relative to the annual product of manufactures and the cost thereof, the various processes employed, the quantity and value of raw materials consumed, and such other information as shall show each year the condition of manufactures in the several States. It shall also be the further duty of the said statistician to collect all facts relating to the wages of labor, hours of labor, and the general condition of the laboring classes throughout the country.

SEC. 4. That the secretary of said department is hereby authorized to call upon the Chief of the Bureau of Statistics, now organized under the jurisdiction of the Treasury Department, for all information collected by that bureau relating to the railroad systems of the country and the cost of constructing and operating the same, or such other information as is contemplated in paragraph 129 of the supplement of the Revised Statutes; and it is hereby made the duty of the head of said Bureau of Statistics to furnish the said information whenever called for by the said secretary of agriculture.

SEC. 5. That the commission known as the Geological Survey is hereby transferred from the Department of the Interior to the said department of agriculture; and it shall be the duty of the Geological Survey to collect statistics relating to mining industries, and to make investigations relating to the utilization of the waste products of mining industries; and the operations of the Geological Survey shall be extended over all portions of the United States; and the director of the Geological Survey shall have power to appoint, under the direction of the secretary of agriculture, such geologists, geographers, chemists, mining engineers, and other scientific experts as may be necessary for the prosecution of the survey, as appropriations are made by law therefor.

SEC. 6. That the secretary of agriculture shall organize in said department a bureau of animal industry, and shall appoint a chief thereof who shall be a competent and experienced veterinary surgeon, and who shall be entitled to a salary of $2,500 per annum, to be paid monthly. There shall be collected through said bureau all facts, statistics, and information relative to the number, value, and condition of all domestic animals, the existence of all infectious or contagious diseases to which they are severally subject, and experiments with remedies and preventatives for the same, and such other information as shall be valuable to the agricultural or commercial interests of the country.

SEC. 7. That all acts or parts of acts inconsistent with the foregoing are hereby repealed.

The question was taken upon the substitute and it was not agreed to.

The bill as amended was then ordered to be engrossed and read a third time, and it was accordingly read the third time.

Mr. ANDERSON. I call for the previous question on the passage of the bill.

The previous question was ordered.

Mr. ANDERSON moved to reconsider the vote by which the previous question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WELLBORN and Mr. ANDERSON called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 183, nays 7, not voting 101; as follows:

YEAS—183.

Aiken,	Cabell,	Culberson,	Forney,
Aldrich,	Calkins,	Cullen,	Garrison,
Anderson,	Camp,	Curtin,	Geddes,
Barr,	Campbell,	Cutts,	George,
Bayne,	Candler,	Darrall,	Godshalk,
Berry,	Cannon,	Davis, Lowndes H.	Grout,
Bingham,	Carpenter,	Dawes,	Guenther,
Blackburn,	Cassidy,	Deering,	Gunter,
Blanchard,	Chace,	De Motte,	Hall,
Bland,	Chapman,	Dingley,	Hardenbergh,
Bliss,	Clardy,	Dowd,	Harmer,
Brewer,	Clark,	Dunn,	Haseltine,
Briggs,	Clements,	Dwight,	Haskell,
Brumm,	Colerick,	Ermentrout,	Hatch,
Buchanan,	Converse,	Errett,	Hawk,
Buck,	Cook,	Farwell, Chas. B.	Hazelton,
Burrows, Julius C.	Cox, William R.	Farwell, Sewell S.	Heilman,
Burrows, Jos. H.	Crapo,	Finley,	Henderson,
Butterworth,	Cravens,	Ford,	Hepburn,
Hewitt, G. W.	Matson,	Ray,	Thomas,
Hill,	McClure,	Reagan,	Thompson, P. B.
Hiscock,	McCoid,	Reed,	Thompson, Wm. G.
Hoge,	McKenzie,	Rice, Theron M.	Tillman,
Holman,	McLane,	Rice, William W.	Townsend, Amos
Hooker,	McMillin,	Rich,	Townshend, R. W.
Horr,	Mills,	Richardson, D. P.	Updegraff, J. T.
Houk,	Money,	Richardson, Jno. S.	Updegraff, Thomas
House,	Moore,	Ritchie,	Upson,
Hubbell,	Mosgrove,	Robeson,	Urner,
Humphrey,	Moulton,	Robinson, Geo. D.	Valentine,
Jacobs,	Muldrow,	Robinson, Jas. S.	Van Aernam,
Jadwin,	Murch,	Ryan,	Wadsworth,
Jones, George W.	Mutchler,	Scranton,	Wait,
Jones, James K.	Neal,	Sherwin,	Walker,
Kelley,	Norcross,	Shultz,	Warner,
Kenna,	Oates,	Singleton, Jas. W.	Watson,
Ketcham,	O'Neill,	Singleton, Otho R.	Webber,
Lacey,	Orth,	Smith, A. Herr	Wellborn,
Latham,	Page,	Spaulding,	Wheeler,
Leedom,	Paul,	Speer,	Whitthorne,
Le Fevre,	Payson,	Spooner,	Williams, Chas. G.
Lord,	Peelle,	Stockslager,	Williams, Thomas
Manning,	Peirce,	Stone,	Willits,
Marsh,	Phister,	Strait,	Wise Morgan R.
Martin,	Prescott,	Talbott,	Wood, Walter A.
Mason,	Ranney,	Taylor,	

NAYS—7.

Armfield,	Evins,	Herbert,	Scales.
Deuster,	Hardy,	Herndon,	

NOT VOTING—101.

Atherton,	Dugro,	Lynch,	Skinner,
Atkins,	Dunnell,	McCook,	Smith, Dietrich C.
Barbour,	Ellis,	McKinley,	Smith, J. Hyatt
Beach,	Fisher,	Miles,	Sparks,
Belford,	Flower,	Miller,	Springer,
Belmont,	Frost	Morey,	Steele,
Beltzhoover,	Fulkerson,	Morrison,	Stephens,
Black,	Gibson,	Morse,	Tucker,
Blount,	Hammond, John	Nolan,	Turner, Henry G.
Bowman,	Hammond, N. J.	Pacheco,	Turner, Oscar
Bragg,	Harris, Benj. W.	Parker,	Tyler,
Browne,	Harris, Henry S.	Pettibone,	Vance,
Buckner,	Hewitt, Abram S.	Phelps,	Van Horn,
Caldwell,	Hoblitzell,	Pound,	Van Voorhis,
Carlisle,	Hubbs,	Randall,	Ward,
Caswell,	Hutchins,	Rice, John B.	Washburn,
Cobb,	Jones, Phineas	Robertson,	West,
Cornell,	Jorgensen,	Robinson, Wm. E.	White,
Cox, Samuel S.	Joyce,	Rosecrans,	Willis,
Covington,	Kasson,	Ross,	Wilson,
Crowley,	King,	Russell,	Wise, George D.
Davidson	Klotz,	Scoville,	Wood, Benjamin.
Davis, George R.	Knott,	Shackelford,	Young.
Dezendorf,	Ladd,	Shallenberger,	
Dibble,	Lewis,	Shelley,	
Dibrell,	Lindsey,	Simonton,	

So the bill was passed.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. HAMMOND, of New York, with Mr. PHELPS.

Mr. RICE, of Ohio, with Mr. SHACKELFORD.

Mr. VANCE with Mr. HUBBS.

Mr. MCKINLEY with Mr. TUCKER.

Mr. RUSSELL with Mr. CARLISLE.

Mr. MCCOOK with Mr. SPARKS.

Mr. LINDSEY with Mr. DIBRELL.

Mr. SIMONTON with Mr. PARKER.

Mr. WISE, of Virginia, with Mr. JORGENSEN.

Mr. CROWLEY with Mr. NOLAN.

Mr. CALDWELL with Mr. DAVIS, of Illinois.

Mr. LADD with Mr. JOYCE.

Mr. FLOWER with Mr. JADWIN.

Mr. ATHERTON with Mr. PETTIBONE.

Mr. URNER with Mr. COVINGTON.

Mr. TURNER, of Georgia, with Mr. SMITH, of Illinois.

Mr. DAVIDSON with Mr. DEZENDORF.

Mr. HARRIS, of Massachusetts, with Mr. ELLIS.

Mr. ROSECRANS with Mr. FISHER.

Mr. MILES with Mr. SINGLETON of Illinois.

Mr. VAN VOORHIS with Mr. BEACH.

Mr. SHALLENBERGER with Mr. MOULTON.

Mr. KASSON with Mr. BLOUNT.

Mr. MILLER with Mr. FROST.

Mr. DUNNELL with Mr. WILSON.

Mr. JONES, of New Jersey, with Mr. COX, of New York.

Mr. SKINNER with Mr. ATKINS.

Mr. BRAGG with Mr. POUND.

Mr. HAMMOND, of Georgia, with Mr. WARD.

Mr. BROWNE with Mr. COBB.

Mr. STEPHENS with Mr. RANDALL.

Mr. CASWELL with Mr. SHELLEY.

Mr. WHITE with Mr. KNOTT.

Mr. WILLIS with Mr. HEWITT, of New York.

Mr. URNER. I am paired with my colleague, Mr. COVINGTON, upon all political questions. Not understanding this measure to be political, and understanding also that he favored the bill, I have voted.

The result of the vote was announced as above stated.

Mr. ANDERSON moved to reconsider the vote by which the bill

was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ANDERSON. Will the Chair have the kindness to announce that general leave has been granted for printing in the RECORD remarks on the bill just passed?

The SPEAKER *pro tempore*. Several gentlemen have spoken to the Chair in regard to printing remarks on the bill; and the Chair will state that general leave to print was granted on Monday last.

ORDER OF BUSINESS.

Mr. RYAN. I rise to call up a privileged report, the report of the committee of conference on the Indian appropriation bill.

Mr. HISCOCK. I understand there is a bill which was made a special order in connection with the bill just disposed of, and which is now entitled to come up. I ask there may be an understanding that by proceeding to other business the special order does not lose its place.

The SPEAKER *pro tempore*. It does not; it is a continuing order.

Mr. HATCH. I desire to claim the floor at this time upon the special order—House bill No. 896, for the establishment of a bureau of animal industry, &c. I desire to press this bill against all other business, except revenue and general appropriation bills. I wish to ask whether by yielding to the gentleman from Kansas [Mr. RYAN] I waive any rights of the bill under the special order?

The SPEAKER *pro tempore*. The Chair has recognized the gentleman from Kansas upon a privileged report—a report of a conference committee.

Mr. HISCOCK. I understood the Chair to announce that the remaining bill embraced in the special order and yet undisposed of loses none of its rights, and can be called up in the future.

The SPEAKER *pro tempore*. The gentleman from Missouri [Mr. HATCH] can call up the special order to which he refers at any time after the morning hour.

INDIAN APPROPRIATION BILL.

Mr. RYAN. I ask that the Clerk read the report of the conference committee on the Indian appropriation bill.

The Clerk proceeded to read the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 15, 17, 19, 41, 53, 54, 80, 81, 82, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 12, 29, 34, 40, 43, 44, 45, 51, 52, 55, 56, 58, 59, 60, 61, 67, 78, 79, 96, and 103, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: Strike out from said amendment the words "teacher and" and add at the end of the amended paragraph the following: "and no other money appropriated by this act shall be expended for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: Add at the end of the amended paragraph the following: "And not more than $1,000 of any moneys appropriated by this act shall be expended for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: Add after the word "dollars," where it first occurs in line 6, page 4 of the bill, the following: "And no other money appropriated by this act shall be expended for pay of teachers or for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$89,900;" and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: Strike out the words proposed to be inserted by the Senate amendment, and strike out all after the word "dollars" in line 9, page 4 of the bill, down to and including the word "dollars" in line 10, same page; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: Strike out all of said amendment and insert in lieu thereof the following: "The President is authorized to appoint a person to inspect all Indian schools, who is hereby required to report a plan for carrying into effect in the most economical and efficient manner all existing treaty stipulations for the education of Indians, with careful estimates of the cost thereof; also a plan and estimates for educating all Indian youths for whom no such provision now exists, and estimates of what sums can be saved from existing expenditures for Indian support by the adoption of such plan, whose compensation shall not exceed $3,000, which sum is hereby appropriated for that purpose, and also a further sum of $1,500 for his necessary traveling expenses;" and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of "five" insert "four;" and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$38,500;" and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the words proposed to be inserted by said Senate amendment insert the following: "And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior;" and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: Strike out all of said amendment after the word "further," in line 11, and insert in lieu of the portion stricken out the following: "That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribe in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe, to be taken from the unpaid balance of the $300,000 due said tribe;" and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: Strike out after the word "Mexico," in line 1, page 13 of the bill, the following words: "And such as may be removed hereafter," and insert in lieu thereof the following: "Including the purchase of stock;" and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: Strike out all of said amendment after the word "available," in line 11 thereof; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert $40,500; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: Strike out the words "one hundred" and insert in lieu thereof "seventy-five;" and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: Strike out the words "and pay of employés;" and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: Strike out the words "and fifty;" and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert $1,732,300; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the words proposed to be inserted by said Senate amendment, insert the following: "For support, civilization, and instruction of the Tonkawa Indians at Fort Griffin, Texas, $3,000;" and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: After the word "reservations," in line 4 of said amendment, insert the following: "And upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose;" and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: After the word "Territory," in line 3 of said amendment, insert the following: "And upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose;" and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: Strike out, in line 3 of said amendment, the words "at any established," and insert in lieu thereof the following: "Not belonging to the five civilized tribes in the Indian Territory at any established industrial, agricultural, or mechanical;" and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows: Strike out all of said amendment and insert in lieu thereof the following: "And for the purpose of further instructing and civilizing Indian children dwelling west of the Mississippi River, and in the States of Minnesota, Wisconsin, and Michigan, and not belonging to the five civilized tribes in the Indian Territory, or so many thereof as may be practicable, in industrial schools other than those at Carlisle, Hampton, and Forest Grove, supported in whole or in part from treaty and other funds appropriated by Congress, or such as may be established and supported wholly from treaty or other funds so appropriated, and for purchasing stock for herding purposes for such industrial schools, and also for the placing of such children, with the consent of their parents, under the care and control of such suitable white families as may in all respects be qualified to give such children moral, industrial, and educational training, for a term of not less than three years, under arrangements in which their proper care, support, and education shall be in exchange for their labor, the sum of $150,000 is hereby appropriated, to be expended under such rules and regulations as the Secretary of the Interior may prescribe;" and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with amendments, as follows: Strike out the words "Maria Denmon" and insert in lieu thereof "Marie Demmie;" strike out the words "Frank Vocank" and insert in lieu thereof "Frank Vocasek;" and at the end of said Senate amendment the following: "To be immediately available;" and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows: Add at the end of said amendment the following: "And section 2056 of the Revised Statutes is hereby amended so as to read as follows: 'Section 2056. Each Indian agent shall hold his office for the term of four years, and until his successor is duly appointed and qualified;'" and the Senate agree to the same.

H. L. DAWES,
P. B. PLUMB,
M. W. RANSOM,
Managers on the part of the Senate.

THOS. RYAN,
BENJAMIN LE FEVRE,
Managers on the part of the House.

Before the reading of the report was concluded,

Mr. HOLMAN said: The reading of this report conveys no information; and I suggest that the amendments be read in connection with the sections of the bill to which they relate, and that by unanimous consent the reading of the report be dispensed with.

The SPEAKER *pro tempore*. The gentleman from Indiana asks unanimous consent that the reading of the report be dispensed with——

Mr. HOLMAN. And that the amendments be reported as incorporated in the bill.

The SPEAKER *pro tempore*. That is unusual, the Chair thinks.

Mr. HOLMAN. The reading of the report conveys no information whatever to the House.

The SPEAKER *pro tempore*. The Chair suggests to the gentleman that by taking the printed bill and following the amendments as stated in the report there will be no difficulty.

Mr. HOLMAN. I ask that the reading of the report be dispensed with.

The SPEAKER *pro tempore*. Is there any objection to dispensing with the reading of the report? The Chair hears none.

Mr. RYAN. The statement accompanying the report will, I think, explain sufficiently all the amendments, together with the action of the committee of conference respecting them.

Mr. HOLMAN. Then I ask that the accompanying statement, without the report itself, be read.

The Clerk read as follows:

Statement in explanation of the report of the conferees on the disagreeing votes of the two Houses on the amendments of the Senate to House bill No. 4185, Indian appropriation bill for 1883:

There were fifty-six amendments before the conference. They recommend that the Senate recede from eleven, the House recede from twenty-two wholly, and from twenty-three with amendments.

The money amount of these amendments is $543,800, of which the Senate yielded $255,200, and the House yielded $288,600, leaving the amount appropriated by the recommendation of the report $5,217,803.91; the amount recommended by the bill as it passed the House, $4,920,203.91. The effect in detail upon the amendments, if the report is adopted, will be as follows:

On amendment numbered 2: It increases the salary of the agent at the Uintah agency, from $1,000 to $1,500.

On amendment numbered 3: It releases the agent at the Navajo agency from the duties of teacher, and provides that no other money appropriated by this act shall be expended for clerical labor at this agency.

On amendment numbered 9: Increases the salary of the agent at the Quapaw agency from $1,200 to $1,500, and provides that not more than $1,000 of any moneys appropriated by this act shall be expended for clerical labor at this agency.

On amendment numbered 11: Reduces the salary of the agent at the White Earth agency from $1,800 to $1,600.

On amendments numbered 12 and 13: Imposes the duties of teacher and clerk on the agent at the Moquis Pueblo agency, fixes his salary at $1,500, and provides that no other money appropriated by this act shall be expended for pay of teachers or for clerical labor at this agency.

On amendment numbered 14: Corrects total of amount appropriated for agents' salaries.

On amendments numbered 15, 16, and 17: Reduces the amount for pay of interpreters from $25,000 to $20,000, and strikes out the limitation upon the annual pay of an interpreter employed east of the Rocky Mountains, and leaves section 2072 of the Revised Statutes repealed, as in the original text.

On amendment numbered 18: As fully set forth in the report.

On amendment numbered 19: To refuse traveling expenses of one inspector of Indian schools, $2,000.

On amendment numbered 20: To increase amount for buildings at agencies from $20,000 to $25,000.

On amendment numbered 21: To reduce special agents from five to four.

On amendment numbered 22: To reduce amount for contingencies for Indian service from $42,000 to $38,500.

On amendment numbered 27: To read as follows: "And hereafter the commission (of citizens serving without pay) shall only have power to visit and inspect agencies and other branches of the Indian service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior."

On amendment numbered 32 as follows:

"That the sum of $10,000 is hereby appropriated out of the $300,000 reserved by the third article of the treaty with the Choctaws and Chickasaws, concluded April 8, 1866, for the purpose of educating freedmen in said tribes, to be expended under the direction of the Secretary of the Interior, three-fourths thereof for the freedmen among the Choctaws and one-fourth for the freedmen among the Chickasaws: *Provided*, That said sum of $10,000 shall be deducted in like proportion from any moneys in this act appropriated to be paid said Choctaws and Chickasaws: *And provided further*, That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribe in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe, to be taken from the unpaid balance of the $300,000 due said tribe."

On amendments numbered 33 and 34: To make the clause read as follows: "For settlement, &c., of Kickapoo Indians in the Indian Territory, lately removed from Mexico, including the purchase of stock, $8,000," and makes the total amount correspond.

On amendment numbered 35, strike out the words "except the per capita shares due the family of Sepequah, or Jane Drake, nine in number, the same to be retained in the Treasury for their benefit," and leaves the amendment thus:

"For payment to the delegation of the Miami Indians of Kansas, now or recently in Washington, the sum of $1,000, to reimburse them for money expended in 1881, to be paid out of any funds belonging to said tribe, and to be immediately available; and the Secretary of the Interior is hereby directed to pay per capita to the Miami Indians of Kansas, now residing in the Indian Territory, the amount found due said Indians at this date on account of proceeds of sales of their unallotted lands in Kansas, as provided by the act of March 3, 1873, the same to be immediately available."

On amendment numbered 40: Increases amount for aiding and instructing, &c., Poncas from $5,000 to $7,500.

On amendments numbered 41, 42, and 43: Leaves the sum for subsistence of Poncas at $25,000, as in original bill, corrects total to correspond, and provides that the sum appropriated ($40,500) shall be divided *pro rata* among all the members of said tribe in the Indian Territory and in Dakota Territory.

On amendment numbered 44: With reference to the Pottawatomies provides as follows:

"And the Secretary of the Interior is authorized and directed to pay to or expend for the support, civilization, and instruction of the Prairie band of Pottawatomie Indians the amount of interest that has accrued, or may hereafter accrue, on the fund in the Treasury of the United States to the credit of said band set apart for their benefit under authority of an act of Congress approved March 3, 1875: *Provided*, That not more than $8,000 shall be expended under this provision in any one year."

On amendments numbered 45 and 46: Changes the phraseology of the clause for subsistence of Sioux and reduces the amount from $1,100,000 to $1,075,000.

On amendments numbered 47 and 48: Reduces amount for civilization and instruction of Sioux and annuity goods $50,000 and excludes "pay of employés," the amount of reduction being taken from the item for "annuity goods," being amendment numbered 48.

On amendment numbered 49: Corrects the total amount for Sioux.

On amendments numbered 51 and 52: Reduces the amount for Apaches and other Indians in New Mexico from amount in original bill, $310,000, to $275,000, and changes the text to read as follows:

"For subsisting and caring for the Apaches and other Indians of the San Carlos reservation, in Arizona: For this amount, for subsistence, $210,000; for civilization and instruction, including pay for Indian labor, $20,000; for annuity goods, agricultural implements, seeds, and supplies, $35,000; for pay of employés, $10,000; in all, $275,000."

On amendments numbered 53 and 54: Decreases the amount for subsistence of Arapahoes, Cheyennes, Apaches, Kiowas, Comanches, and Wichitas, from $400,000 to $350,000, as originally stated in bill.

On amendments numbered 55 and 56: In lieu of the text of bill, substitutes the following:

"For subsistence, support, civilization, and instruction of the Shoshones and Bannocks, and other Indians of the Fort Hall reservation, in Idaho Territory, including pay of employés, $22,000."

On amendments numbered 58 and 59: In lieu of the text of the bill substitutes the following:

"For support, civilization, and instruction of the Klamaths and Modocs, and other Indians of the Klamath agency, in Oregon, including pay of employés, $6,000."

On amendments numbered 60 and 61: In lieu of text of bill substitutes the following:

"For support, civilization, and instruction of the Shoshones, Bannocks, and Sheepeaters, and other Indians of the Lemhi agency, in Idaho Territory, including pay of employés, $21,000."

On amendment numbered 66: Reduces amount for Tonkawas from $4,000 to $3,000, and includes "instruction and civilization" in the text.

On amendment numbered 67: Increases amount for the Yakamas, from the Malheur, from $25,000 to $26,000.

On amendments numbered 78, 79, 80: Increases Indian police from 800 to 1,000, and from $70,000 to $82,000 for pay, and rejects the proviso that none of the money shall be used to pay police among the five civilized tribes in the Indian Territory.

On amendments numbered 81 and 82: Rejects proposition to pay special police to prevent liquor traffic $5,000, and to appropriate $5,000 for schools among the Seminoles in Florida.

On amendment numbered 91: To read as follows: "And the Secretary of the Interior is hereby authorized to cause to be constructed, at a point in the Indian Territory adjacent to the southern boundary of the State of Kansas and near to the Ponca and Pawnee reservations, and upon a section of land suitable in quality and location, for the industrial purposes of said school, which section of land is hereby reserved for said purpose."

On amendment numbered 92: To read as follows:

"And the Secretary of the Interior is hereby further authorized to cause to be constructed, at some suitable point on the Sioux reservation, in Dakota Territory, and upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose, a building suitable in size and convenience for the instruction and care of one hundred and fifty Indian children, and shall cause to be instructed therein, in the English language and in industrial pursuits, the children of the Indian tribes located on said reservation, or in his discretion the Secretary of the Interior may establish said school in the school building now standing on the Pawnee reservation, in the State of Nebraska; and for this purpose there is hereby appropriated the sum of $25,000, or so much thereof as may be necessary, to be immediately available: *Provided*, That if the Secretary of the Interior shall not establish said school in the buildings on the late Pawnee reservation, not exceeding $15,000 of this sum shall be expended in the erection, completion, and furnishing of said building."

On amendment numbered 93, as follows:

"And the Secretary of the Interior is further authorized and directed to provide for the care, support, and education of one hundred Indian children not belonging to the five civilized tribes in the Indian Territory, at any established industrial, agricultural, or mechanical school or schools other than those herein provided for, in any of the States of the United States, such schools to be selected by him from applications made to him, at a cost not exceeding $167 per annum for each child; and for this purpose there is hereby appropriated the sum of $17,000, or so much thereof as may be necessary: *Provided*, That not more than twenty of said pupils shall be educated in any one State."

On amendments numbered 95 and 96: Rejects the proposition to erect a school building on the Coeur d'Alene reservation, in the Territory of Idaho, $5,000; and appropriates $5,000 for similar purpose, the building to be erected on the Northern Cheyenne and Arapahoe reservation in the Indian Territory.

On amendment numbered 103: Provides for payment of defending suits against the North Carolina Cherokees $1,000 out of the funds of the Treasury belonging to said Indians.

On amendment numbered 104: Provides for payment of claimants sufferers from the raid of the Northern Cheyenne Indians in 1878, to be paid from unexpended balances of treaty funds, reappropriated for that purpose, amounting to $9,870.10 and immediately available.

On amendment numbered 105: Provides as follows:

"For this amount, or so much thereof as may be necessary, to enable the Commissioner of Indian Affairs to employ, temporarily, sufficient clerical force to effect a prompt settlement of the accounts of Indian agents which have been unduly delayed, $4,000, to be immediately available; and section 2056 of the Revised Statutes is hereby amended so as to read as follows: 'Section 2056. Each Indian agent shall hold his office for the term of four years, and until his successor is duly appointed and qualified.'"

Mr. RYAN. I move the adoption of the report.

The report of the committee of conference was adopted.

Mr. RYAN moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONGRESSIONAL RECORD FOR SENATE.

The SPEAKER *pro tempore*, by unanimous consent, laid before the

House the following concurrent resolution of the Senate; which was referred under the law to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring.) That the Public Printer be directed to furnish, commencing with the first session of the Forty-seventh Congress, 3,425 copies of the CONGRESSIONAL RECORD for the use of the Senate, instead of 3,100 copies as ordered by the concurrent resolution of June 4, 1874.

ATLAS OF COLORADO.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House the following concurrent resolution of the Senate; which was referred under the law to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring.) That the copies of the Atlas of Colorado heretofore ordered for the use of the two Houses of Congress and the Department of the Interior be suitably bound by the Public Printer for distribution in accordance with the resolution ordering the same.

ORDER OF BUSINESS.

Mr. KETCHAM. I move to dispense with the morning hour for to-day.

The motion was agreed to, two-thirds voting in favor thereof.

DISTRICT OF COLUMBIA APPROPRIATION BILL

Mr. KETCHAM. I move that the House resolve itself into Committee of the Whole on the state of the Union for the consideration of the bill making appropriations for the expenses of the government of the District of Columbia.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, (Mr. HASKELL in the chair,) and proceeded to the consideration of the bill (H. R. No. 5664) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1883, and for other purposes.

Mr. KETCHAM. I ask unanimous consent that the first reading of the bill be dispensed with.

Mr. HOLMAN. I hope the gentleman will withhold that motion until he has concluded his remarks.

Mr. KETCHAM. Mr. Chairman, in calling up the annual appropriation bill to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1883, I beg the indulgence of the committee for a few remarks.

The total amount appropriated by the bill is $3,411,798.08, which is $39,750.73 less than the estimates, and $33,780.64 in excess of the appropriations for the current fiscal year; the increase being found chiefly in the items for the construction of new sewers.

Of the sum to be appropriated, one-half is paid by the United States in pursuance of the act of Congress approved June 11, 1878, providing a permanent form of government for the District, and the other half is furnished by the revenues of the District from taxation and other sources. These figures do not include the water department, as this branch of the District government is held not to be embraced in the law requiring the General Government to pay one-half of the District expenses. The revenues of that department, amounting to $111,050.50, are sufficient for its support and for interest and sinking fund on the water debt.

The estimated receipts of the District from taxes, licenses, and miner sources for the coming year are $1,725,816.43. Of the whole amount necessary to carry on the District government, over one-third, or $1,213,947.97, is required for interest and sinking fund on the funded debt of the District—a debt created chiefly by the Territorial government established by Congress in 1871 and abolished in 1874. The total debt apart from the water bonds, which amount to $379,000, is now $21,883,450, an enormous sum to rest upon a district embracing only about seventy-two square miles of area or 46,000 acres, and having a population of less than 200,000. The amount per capita of debt to population is about $110, and the annual interest and sinking-fund charge is over $6 for each man, woman, and child in the District.

By the provisions of the act of 1878 one-half of this heavy burden is assumed by the General Government; but even this relief, thought by some to be generous, but in reality only just, leaves a heavy weight for a community to bear which possesses neither manufactures nor commerce and has but a small store of accumulated wealth. The amount of debt per capita to population in New York City is in round numbers ninety dollars; in Boston, forty dollars; in Chicago, twenty dollars, and in Philadelphia, sixteen dollars. A considerable reduction in the interest burden of the District's liabilities has been effected by the 3.65 loan, which embraces about two-thirds of all the outstanding indebtedness.

The amount appropriated in the bill for interest and sinking fund is the sum estimated by the commissioner of the sinking fund as necessary to be regularly provided every year under the policy adopted by Congress four years ago to meet current interest obligations and extinguish the whole debt by the time the 3.65 bonds mature in 1924.

I have said that the assumption by the Federal Government of one-half of the expenses of the District is a measure of fairness only, not of generosity. The United States own fully one-half of the property in the District. The total value of real estate, when the last assessment, in 1880, was made, was $179,010,543, of which $88,953,078 was taxable property; $83,416,111 United States property, exclusive of streets and avenues in the city of Washington, which comprise about 43 per cent. of its total area of 6,110 acres, the sole title to which is vested in the United States, and $6,641,354 property non-taxable, other than that belonging to the Government. During the past year the value of new improvements added $1,525,320 to the amount of taxable real estate. The last assessment on personal property aggregates $9,666,272. Of course there is no valuation of the personal property in the possession of the General Government, but if the whole account could be stated as between the property of the United States in the District and that of private citizens it would, I am confident, appear that the Government owns the larger amount.

Congress was very slow to recognize its obligations toward the district set apart as the seat of the National authority, and placed under the exclusive control of the national Legislature. Until the adoption of the present form of local government but little was contributed from the United States Treasury toward District expenses, except for the improvement of streets around public reservations and the support of charitable institutions; and what was given was doled out without system or regularity.

The city of Washington was laid out upon a scale of grandeur befitting the capital of a great nation; but for nearly three-quarters of a century the realization of the plan was left almost exclusively to a scanty population whose means were wholly inadequate to the task of improving and beautifying the broad streets and stately avenues.

Up to the time when the territorial government of 1871 came into existence the capital was but wretchedly equipped with the ordinary city conveniences of paved streets, sewers, sidewalks, gas, and water. That government went to work to supply the obvious needs of the city, but without due regard to the capacity of the people to sustain the burden of a heavy debt. I need not here discuss the merits and demerits of the system they set on foot. It is sufficient to say that while the general plan was in the main wise and far-sighted, the magnitude of the work undertaken at the outset was so great that without the co-operation of the General Government financial difficulties were inevitable.

One of the heaviest items of District expenses in late years has been for replacing the decayed wooden pavements, represented by millions of debt, with a durable substitute. Washington may now boast of being the best-paved city on the continent, but it has attained this position at a great cost. Many of the first pavements were hardly completed before they became an impediment instead of an aid to travel. Twenty-four miles of almost impassable wooden pavements have been renewed with asphalt or stone since 1878, leaving about ten miles for future work to complete the renovation of the wood-paved streets.

In 1874 Congress abolished the complicated and costly territorial scheme of government, and put in its place the simple system of a commission composed of three members, vested with full authority to manage the affairs of the District.

This system, with some modifications, was made permanent by the act of 1878, which, at the same time, assumed on behalf of the General Government one-half of the total annual outlay of the District, including interest and sinking-fund charges. Four years' experience under what is known as the permanent government act has shown the system it provides to be comparatively economical and efficient, and to amply meet the needs of Washington as the national capital.

The only objection urged to this system is against its principle rather than its operation. It has no connection with popular suffrage, and thus appears to violate the most essential feature of our political institutions. The citizens of the District of Columbia vote for no public officers. The laws they obey are made by Congress, and their execution is placed in the hands of commissioners named by the President. All minor offices are filled by the commissioners, so that the local government at no point touches or depends upon the will of the governed. This objection may seem theoretically to be a grave one; but it has but little practical weight. The people of the District are apparently satisfied with their present form of government. The tax-paying classes, at least, seem almost unanimous in its favor, and have no desire to revive the costly experiment of suffrage and local legislation which the commission government displaced.

It should be borne in mind by those who are disposed to think the citizens of the District unjustly treated because they have no voice through the ballot-box in the management of either the General Government or their local affairs, that the Constitution does not contemplate giving them the privilege of suffrage. On the contrary, it vests the control of the District exclusively in Congress. The language of the Constitution on this point is explicit. It declares that Congress shall have power "to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States."

Whatever measure of suffrage has at any previous time been exercised by the people of the District has been not by virtue of any inherent right derived from the system of government, as in the case of the people of the States, but by the force of special enactments of Congress, in which it transferred to them a portion of its constitutional power. They have therefore no reason to complain because Congress has resumed its right of control and delegated the administration of the municipal affairs of the District to a commission, and they can at all times rely upon the prompt interference of the supreme law-making power for their protection in the event of an oppressive or unwise exercise of the authority of the commissioners.

Doubtless the framers of the Constitution thought that the inhabitants of the Federal District would be compensated for the loss of the elective franchise by the advantages of living at the seat of the General Government and by the liberality of that Government in adorning their city and providing it with parks, museums, and institutions of learning. It must be confessed, however, that if this was their view they had to wait a long time for its realization. Only in recent years has a spirit of intelligent interest characterized the dealings of the Government with the capital city.

The element of stability which the present municipal organization has given to the affairs of the District of Columbia is proving of great advantage in encouraging investments in real estate and stimulating valuable improvements. The law provides that in no case shall the annual tax assessment exceed $1.50 on the $100 valuation of city property, and $1 per $100 valuation on agricultural lands. Thus the property-holder knows exactly what he has to expect from the tax-gatherer, and is in no fear that his estate will be confiscated or reduced in value by heavy assessments for speical or general improvements. This security is increased by a provision of law forbidding any addition to the present indebtedness of the District. Any violation of this section of the permanent government act is punishable by imprisonment for a term of not exceeding ten years, and by a fine of not exceeding $10,000. It will be seen that the guaranty against oppressive taxation is ample.

A word about the machinery of the District government may not be out of place here. The police, schools, health, charities, fire, taxation, public works, and other branches are under the direct control of the commissioners. The revenues of the District from all sources are required to be deposited in the Treasury of the United States, and the management of the District debt is in the hands of the Secretary of the Treasury and the Treasurer of the United States, who is *ex officio* commissioner of the sinking fund.

One of the three commissioners is an officer of the Engineer Corps of the Army, who is detailed for that duty, and who is assisted in the important engineering work of the District by two other engineer officers. While these officers have the immediate supervision of the improvements of streets, avenues, and sewers, all contracts therefor are required to be properly advertised and awarded to the lowest responsible bidders, and made and entered into only by and with the official unanimous consent of the commissioners.

The late engineer commissioner, whose recent untimely death all who have had personal or official relations with him deeply regret, was the first officer detailed to that position under the law establishing the permanent form of government for the District. Major W. J. Twining was an intelligent, efficient, and conscientious officer. It will be fortunate indeed for the District and country if his successor shall bring the same qualifications to the discharge of his varied and responsible duties and prove himself as deserving of public confidence.

The trustees of public schools serve without compensation.

Estimates for the expenses of the District government are first prepared by the commissioners and then revised by the Secretary of the Treasury before being transmitted to Congress.

A clause in the bill under consideration provides that only one of the commissioners need be a resident of the District when appointed. As Congress provides for one-half of the expenses, it is thought proper by the committee that the country at large should, in the discretion of the President, be given representation upon the commission. It is for the interest of the District as well as of the country that the board should have a national as well as a local character.

The committee will bear in mind in considering this bill that it differs in one important particular from all other regular appropriation bills. The Committee on Appropriations is limited in the total amount to be disposed of by the provisions of the permanent government act. Having ascertained the probable revenue of the District for the coming fiscal year, an equal amount is added for the Government's share of the expenses, and this gross sum is a fixed limit which we cannot exceed. We do not have the Treasury to draw on at our discretion, but must apportion this specific amount so as best to meet the wants of the different branches of the District government.

Coming now to the details of the bill, the committee will observe that, apart from the provision for the District debt, much the largest channel of expenditure is for the support of public schools. The total appropriation under this head is $526,075, of which sum $335,825 goes for the salaries of teachers, and $25,000 for care of school buildings, $99,000 for new buildings, and the remainder for fuel, rent, repairs, &c. It has been thought best by the committee to disregard the classification and salaries of teachers in the estimates, and to simplify the appropriation under this head by making it in one gross sum, specifying only the total number of teachers to be employed and the average salary.

This does not increase the salaries and grades of teachers, but leaves their arrangement as established by the present schedule. The schools of the District, I may add, are objects of just pride to the citizens, and are regarded by the leading educators of the country as occupying a high rank, in comparison with those of other cities. It is the aim of the District authorities, and I believe the desire of Congress, that they should reach the highest practicable standards of efficiency and excellence and serve as models of the free educational system, which is the only safe basis for republican institutions.

The growth of the public schools in the District of Columbia scarcely has a parallel in the country. In 1861 the whole number of pupils enrolled for that year in the public schools did not exceed 5,000; the number of teachers employed was about 60, and the annual expense of the schools was less than $35,000. There were at that time no public schools for the colored children of the District, and none for the white children residing in the county. In 1864 public schools were established for the colored children of the District and for the white children of the county.

The following table gives the school attendance and number of teachers employed from 1872 to 1881 inclusive:

Years.	Whole number of pupils enrolled.	Average number pupils enrolled.	Increase.	Per cent. of increase.	Number of teachers.	Increase.	Per cent. of increase.
1872	15,555	.....	.....	.....	263	.....	.....
1873	16,770	.....	.....	.....	271	8	3.0
1874	17,839	.....	.....	.....	276	5	1.8
1875	18,785	14,417	.....	.....	293	17	6.1
1876	19,629	15,646	1,229	8.5	307	14	4.7
1877	21,264	17,112	1,466	9.3	330	23	7.4
1878	22,842	18,959	1,847	10.7	370	40	12.1
1879	25,130	20,389	1,430	7.5	402	32	8.6
1880	26,439	21,600	1,211	5.9	434	32	7.9
1881	27,299	22,061	461	2.1	461	27	6.1
Total	.....	.....	7,644	5,8	.....	198	5.8
Average per annum	.....	.....	1,276	.....	.....	22	.....

The following table gives the school children, school attendance, and school accommodations at the present time:

Children, teachers, accommodations.	White.	Colored.	Total.
Whole number of children of school age	31,652	14,906	46,558
Whole number on the school-rolls	18,569	10,040	28,609
Average number on the school-rolls	15,432	7,967	23,399
Entire number of school-rooms	260	134	394
Entire number of seats for pupils	14,378	7,575	21,953
Number of teachers employed	318	167	485

From the above it will be seen that the educational system of the District since 1861 has grown from a few straggling schools, attended by only the poorer classes of white children in the city, into a great system of public schools with an attendance of nearly 30,000 children of all classes, and a corps of nearly 500 teachers.

The system now includes well-organized high schools for both sexes and excellent training schools for graduates from the high schools who are to become teachers. In 1861 most of the schools occupied rented rooms, and the entire value of school property owned—sites, buildings, and furniture—did not exceed $20,000. Now the value of the school property owned is estimated at about $1,500,000.

The expense of building up and supporting such a system of schools has been a very heavy burden upon the District.

That public education is not more expensive in Washington than it is in other large cities of the country is shown by the following table, compiled from the last published report of the United States Commissioner of Education, showing the—

Comparative cost of education in fifteen large cities, based on the average daily attendance of pupils.

	Cities.	Tuition.	Incidental expenses.	Total per pupil.
1	Boston	$24 61	$9 12	$33 73
2	Dayton	19 57	13 67	33 24
3	San Francisco	22 70	4 53	27 23
4	New York	20 26	3 90	24 16
5	Providence	19 03	4 25	23 28
6	Pittsburgh*	19 76	2 92	22 68
7	Cincinnati	20 17	2 12	22 29
8	Columbus	16 94	4 69	21 63
9	Baltimore	16 21	4 13	20 34
10	Washington	13 94	5 63	19 57
11	Indianapolis	14 74	4 65	19 39
12	Cleveland	15 83	3 51	19 34
13	Newark*	14 08	3 66	17 74
14	Saint Louis	15 60	2 04	17 64
15	Chicago	13 75	3 21	16 96

Average cost per pupil, $22.61.
* No returns made since 1879.

The population of the District is exceptional in regard to its tax-paying ability. About three-ninths of the inhabitants are colored, largely immigration from the States during the late war, and con-

tributing comparatively little to the public revenue. About two-ninths are temporary residents, being composed of those who are from the States and employés of or connected with the General Government. The General Government until quite recently furnished the District no aid in building up this school system. It has appropriated millions of dollars, or the equivalent in public lands, to aid the common, higher, and technical schools in all the States and Territories except the District of Columbia. Why not be as liberal to the capital city, and thus let its public schools be made models for the country and the world?

The general expenses of the District government, including official salaries, fuel, repairs, insurance, and miscellaneous items, aggregate $138,657.11.

The police force requires for its maintenance $300,216, but it is too small to meet the growing demands of the District. Its size was fixed years ago, when the population was much smaller, and when extensive districts now covered with dwellings were open lots and fields. In some sections of the District private watchmen are employed by the residents, because the beats of the policemen are so large that it is impossible for them to afford the needful protection against thieves and burglars.

To secure efficient members of the force hereafter, however, certain restrictive features of the law governing appointments should be essentially changed. If the provision requiring appointments to be made from among those who have served in the Army or Navy be retained, then the law requiring appointees to be residents of the metropolitan police district for two years should be repealed, so that all Union soldiers and sailors may be eligible to appointment, without regard to residence.

The fire department costs $99,140. Its discipline and effectiveness are shown by the small aggregate loss during the year from fires.

The appropriation for street improvements is $300,000, the same as for the past four years. This sum is inadequate to replace the old wooden pavements and meet the urgent demands for the improvement of the remaining unpaved streets; but it is all the committee felt justified in allowing, in view of the other pressing needs of the District.

The progress of the important Boundary street intercepting sewer calls for $85,000; an increase of $35,000 over last year; $350,000 have already been expended upon it, but as yet it is of little benefit. With the expenditure of $85,000 more the sewer will reach Gales's Creek and be of permanent advantage to the city.

The northwestern intercepting sewer, a new work of considerable importance, the estimated cost of which is $75,000, requires $50,000. The items for current expenses of streets and county roads are $50,000; for the parking commission, $19,900, and for lighting the streets and necessary repairs in connection therewith, $106,250. The health department is given $40,340. The public charities, $184,554, including the support of the insane, the asylum, the reform school, the relief of the poor, and contributions for hospitals and asylums supported in part by private benevolence. The item for the indigent insane, which was $37,000 two years ago and $40,000 last year, is increased to $43,200, the proportionate expense of the support of the Government Hospital for the Insane assigned to the District as per report of its superintendent.

In view of the growing demands for appropriations for charitable purposes, the creation of a board of charities having the supervision of all the expenditures on account of benevolent institutions in the District would be a wise measure for Congress to adopt.

The revenues of the District under the present permanent system of the equal division of its expenses between the General Government and the taxpayers will suffice for the extinguishment of the debt, as I have shown, provide for all the general expenses, and carry forward from year to year at a moderate rate of progress the work of grading and paving, the construction of sewers, and the admirable system of tree planting in the streets, which have added so much to the beauty and comfort of the city.

There are, however, two important lines of expenditure which should be undertaken by the Government alone, and which ought not to be longer postponed. The most pressing of these is the enlargement of the water supply, which is now totally inadequate to meet the needs of the present population. Serious inconvenience is experienced by householders living in the higher districts by reason of the want of sufficient pressure in the pipes to carry the water to the upper stories. The consumption by the Government, as well as by the citizens, is increasing rapidly, and the need of early action to increase the supply is too apparent to require argument.

No provision is made to meet this need by the bill under consideration, the subject being more properly one for special legislative action. A reference to it here seems proper, however, in connection with my remarks on the general affairs of the District. I need hardly add that whatever measure Congress may adopt to deal with this question should contemplate such an increase of aqueduct and reservoir capacity as will meet all possible wants for a long time to come.

The other improvement which demands the attention of Congress is provided for by a separate bill now pending. I refer to the reclamation of the tidal flats lying along the water front of the city. When the capital was first established here there was deep water in the river from Georgetown down to the mouth of the Eastern Branch, and vessels passed up and down the stream where there is now a broad miasmatic marsh, barely covered at high tide. The filling of this marsh and the improvement of the channel, deemed practicable by competent engineering authority, will greatly promote the sanitary and commercial interests of the District. That it is the duty of the National Government to promptly undertake this improvement cannot be doubted. The land reclaimed will be the property of the Government, and according to careful estimates will more than repay the cost of the improvement.

In conclusion permit me to say a few words about the very gratifying growth of Washington in recent years. In 1870 the population of the District of Columbia was 131,700. The census of 1880 showed it to have increased to 177,624. The two years which have elapsed since the census was taken have undoubtedly added 10,000 more to the population. This substantial growth, comparing favorably with that of many of the prosperous manufacturing and commercial cities, is largely due to the wise and just policy of Congress in contributing its share toward beautifying the city and making it a peculiarly desirable place of residence.

It cannot be attributed to the development of the surrounding country, for that has made very little progress; nor to the increase of commerce or trade, for Washington, owing to its long-neglected water front, has but little commerce and its trade is limited to supplying the wants of its own inhabitants. Nor have manufactures or other important business enterprises been established to encourage immigration by employing large numbers of working people. We must therefore seek for the cause of the large additions to the population of the capital in its increasing attractiveness as a place of residence.

This view is sustained by the character of the recent improvements. The many substantial and spacious houses lately erected show a large influx of people of means and culture, who are drawn here by the intellectual and social advantages of Washington and its facilities for leading healthful and agreeable lives. Entire sections which were lately waste land have been reclaimed, and are now covered by residences which for commodiousness and architectural beauty are scarcely surpassed in any of the great cities of the world.

The owners of these dwellings and of the thousands of other comfortable houses built within the past decade have chosen Washington as a place of permanent abode because of its well-paved, well-drained, and well-shaded streets; its many attractive parks; its statues and monuments, recalling glorious events and heroic men; its treasures of art and science; its stately public buildings; its mild winter climate; its cultivated, hospitable society and the constant interest which attaches to it as the seat of the Government of a great nation. Congress has but to continue the just and intelligent policy it has lately inaugurated in regard to District affairs to make the capital the object of national pride its projectors intended it should be; and I have no doubt that the people will approve all proper legislation looking to this end.

Mr. HISCOCK. Mr. Chairman, I move by unanimous consent that the formal reading of the bill for information be dispensed with.

There was no objection, and it was ordered accordingly.

The CHAIRMAN. The bill will now be read by paragraphs for amendment.

The Clerk proceeded to read the bill without amendment until he reached the following paragraph:

For the relief of the poor, $15,000, of which $3,600 shall be expended for the use of the Central Dispensary and Emergency Hospital, in equal monthly installments. And the compensation of not to exceed five physicians to the poor shall be at the rate of not exceeding $50 per month.

Mr. KETCHAM. I move, Mr. Chairman, by instruction of the Committee on Appropriations, the following amendment:

Strike out "not to exceed five," and in lieu thereof insert the word "the;" so it will read:

"And the compensation of the physicians to the poor shall be at the rate of not exceeding $50 per month each."

The adoption of that amendment will make this paragraph conform to the law as it was passed last year.

Mr. HISCOCK. The committee recommended the paragraph as it stands in the bill, but after further consideration agreed to restore the appropriation to what it was in the preceding appropriation bill for this District. As amended, it will provide that the compensation of the physicians for the poor shall be at the rate of not exceeding $50 per month each.

Mr. HOLMAN. You strike out the word "five."

Mr. HISCOCK. Yes; the effect is to strike out the word "five."

Mr. KETCHAM. If the amendment be adopted it will not be an increase over the law as it now stands upon the statute-book.

Mr. HOLMAN. The present law fixes the number at five.

Mr. HISCOCK. The amendment makes it conform to the present law, and that is all. The bill as reported was an amendment of the present law. The committee recommend now that there shall be a return to the present law.

Mr. HOLMAN. I suppose the gentleman from New York examined into the matter before this provision was incorporated, and I infer he reached the conclusion that five was a sufficient number of physicians to be employed for this purpose. I hope if he has had occasion to change his mind he will explain it to the committee.

Mr. HISCOCK. The reason for changing the paragraph back to the original law is this: the committee, I believe, were unanimous

in favor of the bill as it is reported, but we became satisfied a point of order would be made against that provision, and therefore we have recommended the amendment moved by the gentleman from New York, [Mr. KETCHAM.]

Mr. HOLMAN. But the point of order is not made against it.

Mr. HISCOCK. We became convinced it would be, and therefore we have accepted the situation and ourselves moved to change it.

Mr. HOLMAN. The gentleman is mistaken; the point of order would not lie.

Mr. HISCOCK. It would have been made.

Mr. HOLMAN. If made it would not lie, as it is not a good point of order. Does the gentleman hold that we cannot on this bill reduce the number of employés, in that or any other paragraph of the bill? In my judgment this amendment is germane and would reduce expenditures at least one-half.

Mr. HISCOCK. I will state further, in reply to the suggestion made by the gentleman from Indiana, that the chairman of the sub-committee having charge of this bill, on consultation with the health officer of the District, came to the conclusion it was best to return to the provision of existing law.

Mr. BLACKBURN. If the gentleman will permit me I will corroborate his statement by an additional suggestion. At the time this bill was reported by the sub-committee to the full committee, proposing to cut down the number of physicians for the poor, I have a distinct recollection of the fact, which I doubt not the gentleman will recall, of suggesting that it seemed to me to be too radical a reduction of the force. The law as it at present stands allows eleven physicians for the poor. This bill as reported cuts that number down to five. I then took occasion to have a talk with the health officer himself, and felt convinced the opinion expressed by me in the first instance was sustained, that it was too radical a reduction.

The health officer tells me it is impossible to sustain the force he has, and for which Congress makes proper and adequate appropriation, with such a reduction of more than 50 per cent. of that number of physicians furnished to the indigent of this District. I opposed it at the time, and I think now the number incorporated in the bill is too small. For that reason I am in favor of the amendment which is submitted by the gentleman from New York, [Mr. KETCHAM.]

Mr. HOLMAN rose.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. HOLMAN. I move to strike out the paragraph.

The fact remains, Mr. Chairman, that the Committee on the District of Columbia have agreed unanimously, as the gentleman from New York states, that it was entirely proper to reduce the number of these physicians more than one-half; and it is also manifest that the provision of this bill reducing the number is clearly in order, and judging simply from the experiences of communities of other sections of the country, certainly no more healthful than this District, I am compelled to conclude, and it seems to me there will be little question as to the fact in the mind of any gentleman present, that the number of physicians, eleven, named in the law is unnecessarily extravagant. But I desire more particularly in this connection to express my dissent from the whole character of the legislation touching the expenses of this District and its government.

In my judgment the principle which charges the whole people of this country with one-half of the current expenses of this District is radically unjust, and the extravagance of these provisions, if you will examine each one of them in detail throughout this bill, must strike every gentleman as an outgrowth of the prodigal liberality of the Government in assuming in the main the expenses of this District. This assumption of the large part of the expenses of this District occurred some four years ago. I was not then a member of the House, and I cannot agree to the provisions of the law.

I had thought when this bill first came in many amendments might be suggested to reduce these various items of appropriation. But on coming to examine the bill more carefully I find throughout an apparent effort to multiply employments and increase the compensation attaching to them. The salaries allowed go far beyond those known to populous cities, and the number of salaried offices is simply enormous.

This whole bill is radically wrong, so that to attempt reductions here and there would be simply a consumption of time without profit. It is manifest that it would be a very difficult matter to bring the House to a fair consideration of this bill, or to the adoption of any measures which would promote economy in the expenditures of this District. This bill is extravagant from beginning to end; and why not, when the whole people bear the expense? And yet there is not, throughout the entire country, another population equally wealthy with this, corresponding in numbers. The lavish expenditures of Government have crystallized here into easy and ample fortunes. This is very natural, for none of our other cities even approximates in extravagance the amount that is annually expended under our legislation by the General Government in this city, extent of population considered; and yet, living as they do in the midst of elegance and luxury, this society of elegant leisure almost escapes the burdens of Government, and Congress, under the blandishments of the capital, imposes one-half of the entire expenses of the government of this city on the people of the entire country. You tax the whole people that the society which treats you with distinguished consideration may escape taxes. I think this is one of the most extraordinary features of our extraordinary system of expenditure, in which the multitude is taxed for the benefit of the few.

Such a state of legislation would have been impossible even fifteen years ago. I am certain it would have been absolutely impossible twenty years ago. Favoritism then was not a rule of legislation, but now this bill, extravagant in every detail and feature, multiplying employments far beyond what is provided in great cities of the country, increasing employments and seeking to find new employments, and uniformly fixing large salaries, yet charging one-half of the large aggregate upon the whole people of this country, this bill alone charges $1,700,000 on the public Treasury for the benefit of this city. This charge upon the industry of the whole people for the benefit of the few is a feature of our governmental policy against which I shall always feel called upon to protest.

It does not seem worth while to make objections to specific items. The whole system is vicious and wrong in itself. Nor is it creditable to our system of government that the people here should be deprived of their right of self-government on the one hand, nor, on the other, that the whole people of this country should be taxed to relieve the citizens of this District from the reasonable burdens of government. I do not know which is the most vicious—the most un-American. You deprive a portion of the people of the right of self-government and tax the whole people to relieve them from the expense of government.

If the people of this city managed their own affairs as they did a few years ago by their own modest and unpretending city government, before your legislation inspired them with corrupting extravagance, there would be no such army of officers employed as this bill provides for, there would be no such examples of extravagance as we see on every page of this bill; but until the people of the District exercise the powers of local self-government in common with their fellow-citizens everywhere else, I will never cast my vote in favor of a bill appropriating money for this District. No bill was ever considered by Congress so wholly un-American as this. It contains but two features: the one legislates for a people wholly deprived of political rights, the other taxes the whole people of this country to relieve them from taxation. What a spectacle in this Republic!

The CHAIRMAN. Debate upon the amendment is exhausted.

Mr. HOLMAN. I do not understand that debate is limited except by the usual hour rule.

The CHAIRMAN. The Chair understands the committee is now proceeding under the five-minute rule.

Mr. HISCOCK. There was no objection to the motion or request I made for unanimous consent that we proceed to consider the bill by sections under the five-minute rule.

The CHAIRMAN. That is the understanding of the Chair.

Mr. HOLMAN. But there has been no motion to limit debate; that of course could only be done in the House.

The CHAIRMAN. The chair understands that; but after the gentleman from New York had concluded his speech no other gentleman took the floor; after which the chairman of the Committee on Appropriations asked unanimous consent to proceed to the consideration of the bill by sections, which was granted, under which system we are now proceeding and which allows debate only under the five-minute rule.

Mr. HOLMAN. My understanding is that inasmuch as we had dispensed with the first formal reading of the bill and were proceeding to consider it by sections, it had no reference to nor would it interfere with general debate upon the bill. If the gentleman from New York proposed to limit debate, that of course could only be done in the House.

Mr. HISCOCK. It has already been held in considering other appropriation bills that where unanimous consent is given to proceed to the consideration of a bill by sections the proceeding is under the usual five-minute rule.

The CHAIRMAN. That has been, in the judgment of the Chair, the practice.

Mr. HOLMAN. That has not been the usage I think. However, I will suggest to the gentleman from New York that he makes a mistake in this objection; for members will find it necessary hereafter to be more careful in giving consent to requests of this kind for the transaction of business in the House. I withdraw the *pro forma* amendment.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from New York.

The amendment was agreed to.

The Clerk read as follows:

For the Industrial Home school, $5,000.

Mr. HORR. I send an amendment to the desk to this section.

The Clerk read as follows:

Strike out line 128 and in place thereof insert the following:

"For the Industrial Home School, $13,000, $5,000 of which shall be used for building a second cottage on the premises, under the direction of the commissioners of the District of Columbia.

Mr. HOLMAN. I reserve the point of order on that amendment until I can hear an explanation of it.

Mr. HORR. Mr. Chairman, I hope the House will give me their ear for a moment, as this amendment is in reference to an institution whose wants and necessities I am satisfied our committee did not

fully understand or they would not have made the small appropriation for it that this bill contains. It is an institution organized for the purpose of reclaiming little orphan children from the age of five to twelve years. They pick them up through the streets of this city, take them to this home, and teach them ways of cleanliness, habits of industry, and prepare them for the best walks of life as American citizens. It was gotten up by a few philanthropic men and women in this city, who labor without pay and whose hearts are devoted to this work simply as a method of bettering their fellow-men.

Last year we appropriated for this object the sum of $10,000, $5,000 of which was for the purpose of building a cottage, which is now completed and occupied by the girls of the school. The institution now needs another cottage for the boys, which will cost $5,000 more. In addition to this the number of the pupils in this school has increased until they now have eighty-one. They cannot absolutely live and keep their family together on the $5,000 allowed in this bill. To do this they need at least $8,000. Hence I have added to the bill $5,000 for another cottage, and $3,000 more for their support, making in all $13,000. The members of this House will understand this is no experiment, this method of taking children who are homeless, friendless, and poverty-stricken, and so educating them that they will be taken into the families of respectable people, thereby furnishing for them homes, and saving them from the almshouses and prisons of the country. In my own State of Michigan we have such an institution, and the superintendent of that school has kindly furnished me with a few of the results of the work of that institution, which I know this House will be interested in, because they apply directly to the kind of a school in whose behalf I am now speaking. This school is located near Cold Water, in my State, and is called the State Public School. It is supported entirely by our State funds, and its inmates are taken from all the counties of the State.

The superintendent tells me in this communication, which I hold in my hand, that up to this date the entire appropriations for this institution, for their farm of seventy-four acres, buildings, steam, gas and water works, furniture, and bedding, amount to $179,000. That, you understand, is for its building, and farm of seventy-four acres, and ten cottages, furniture, &c., as I have just said. This school is run on the cottage system, each cottage containing about thirty children, thereby introducing into the school the element of the family. Most of these children have never had the benefits of a mother's love. They know nothing of the ennobling influences of an American home; and the idea is to surround them with these home-like influences and thereby lead them from a lower to a higher life. No better plan can be devised for preventing crime. Depravity is so often the result of one's early surroundings. Crime can often be traced to the environment of the boy or girl when yet very small. We are all of us so much the creatures of circumstances. This plan of bettering humanity recognizes these facts and attempts to cure the difficulty by commencing when the children are young and hence easily bettered by their new surroundings.

This superintendent tells us that since this Michigan school started they have been able to run it on from $111 to $118 a year for each pupil. They had last year an average of three hundred and five children, and our Legislature gave them $36,000. There have been received into this school since it started eight years ago 1,171 children. I hope the House will bear with me while I show the results of this most philanthropic work. Since the school opened, I say, 1,171 children have been received, of which number seven hundred and twenty-five are now in good homes, scattered all over our State. They have been taken to these homes by people who were childless, or others who wanted to do a little good in the world; and thus many of them are now learning what it is to be surrounded by loving hearts and willing hands. There are left in the institution three hundred and five. There have been sent away from this institution as incorrigible since it was founded only forty-five children. And he says that of the entire number thus taken from the lower grades of society who have been thus received into this school, less than 3 per cent. of them have found their way into those institutions where they punish people for crime. Only think of such a result, to take 1,171 such unfortunate children, 80 per cent. of whom seemed born for lives of shame and degradation, and by this humane treatment saving all but 3 per cent. of them. I submit, this result seems almost marvelous.

This expense of $118 a year to each child covers all their teaching, all their fuel, all their bedding, all their clothing, all their food, all needed repairs, all the salaries of the instructors, superintendent, in fact, all expenses of every kind. He writes me here about one boy who was sent from my own town, a little lad whom I knew very well, who had one leg taken off by the cars. He was considered a tough, bad boy, and was sent to this school. The superintendent writes me now that this same young lad is a telegraph operator in the city of Detroit, and that he is fast rising to distinction in that profession. They teach telegraphy in the institution. He says many others of the children have turned out equally well.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VALENTINE was recognized, and yielded his time to Mr. HORR.

Mr. HORR. I only want a few moments more. I feel this is a subject this House ought to look squarely in the face. I claim that this method of improving the condition of the human family is one of the very best ever devised by the civilization of this century; this taking of children at a tender age, when they can be molded, when they can be influenced, when their character can be readily shaped for the better, and thus instructing them in the true methods of right living. This method saves to the State thousands of dollars which we must otherwise spend in punishing them as criminals. In this city, as I have already said, they have a school of eighty-one little children. I visited them at their home, have been among them, and know the work which is there being done; and I say there is not a gentleman on this floor who, if he will go and look this institution over, will not come back determined to lend those Christian men and women who are managing this benevolent enterprise a helping hand. Five thousand dollars does not put the school above starvation point. The $8,000 I propose to give will not be $100 for each pupil a year, while $111 is the lowest our Michigan school ever reached; hence they will be compelled to turn some of their children away, unless we give them a larger appropriation. With $8,000—$3,000 more than this appropriation—they say they can get through the year. The other $5,000 I have added is for the purpose of building another cottage.

I dislike very much to seem to attack in any way an appropriation bill which is so fair a bill as this is. I have read it section by section, and it is an admirable bill. But I do say that even my friend from Indiana, [Mr. HOLMAN,] who generally sits here and watches the Treasury with such vigilance, can hardly raise a point of order or make any opposition to this kind of an appropriation. To do that, it seems to me, would be to mistake parsimony for economy.

Mr. Chairman, I can but wish that I had on this occasion the eloquence of my friend from New York, [Mr. COX,] who has so often presented the cause of the brave surfmen on the floor of this House. We all recollect how vividly he portrayed the heroic deeds of the men in this life-saving service, in their struggling efforts to save the shipwrecked mariners from the cruel waves and surging billows, and how touchingly he described the dangers and hardships of those brave men who "go down to the sea in ships;" and yet here we have large numbers of little waifs, who in early childhood are wrecked on the bleak and cruel shores of poverty and want. Many of them even in their cradles are tossed about on the billows of crime and depravity. Most of them, as I have already said, know little of a mother's love; few of them have ever been blessed with the kindly influences that surround the ordinary American home.

Why wonder that such children, corrupted by such surroundings, live lives of shame and fall into paths that end in crime? The object of this institution is to take these desolate, deserted little ones and make for them a home; to teach them ways of cleanliness, habits of industry, the value of goodness, and to inspire them with the desire to reach the glorious heights of true manhood and true womanhood. A few philanthropic men and women have organized themselves into a life-saving crew, and they would, if possible, rescue these unfortunate children of our capital city from a fate tenfold worse than a watery grave. That they may go on in this errand of love and mercy, that they may succeed in their efforts to accomplish this grand work, they hold out their hands and ask us to give them enough money to keep them above the starving point. These managers work without pay, without price. Can it be possible that there is a man in this House who will oppose this amendment?

I cannot, I will not believe it. What I ask is not an extravagant appropriation, but I do hope we shall not commence treating the benevolent institutions of this District in a step-mother fashion. My colleague, near me here, [Mr. RICH,] who has had great experience in our State Legislature, tells me that no bill in our State receives more hearty support than the one providing for our school at Cold Water. Our great capital should be able to have institutions of this kind which will be an honor and a credit to this great nation, institutions that should be models for the States, that should be looked up to as institutions worthy of imitation. I have said all I desire to upon this subject. I do hope that the House will treat this matter in that liberal spirit which the real interests of society and good government demand.

Mr. HISCOCK. I certainly do not intend to antagonize the sentiments uttered by the gentleman from Michigan, [Mr. HORR.] I mean by that that I heartily sympathize with all that he said in favor of schools of this character. I listened, while this bill was in preparation, to arguments more eloquent than any the gentleman has been able to urge here to-day, because that eloquence was seconded by the pathetic appeals of ladies who to a certain extent have in charge matters of this kind in this District. And in preparing this bill the Committee on Appropriations concluded that it would be liberal in all of this class of appropriations; that we would give all that any man would say was a proper amount to be given to the District for this purpose; that we would give all that would be given in any State for this purpose.

We recognized the fact in making these appropriations that good and charitable people here in the District are accustomed to get together and organize a board, and advertise to the world a charitable and philanthropic institution to be supported by voluntary contributions. But by the time such an institution has been in existence a year they come to Congress and ask to be attached to an apropriation bill. I say we recognize that fact to some extent in making this list of appropriations.

We appropriate for these institutions in this city the sum of $205,000. I appeal to gentlemen, members of this House, if that is not a liberal appropriation? I ask the gentleman from Michigan [Mr. HORR] what city in his State of the size of this city contributes $200,000 to support institutions of this character?

The course of this institution is almost marked out by the speech of the gentleman which he has just made. A house was built last year; another one is to be built this year, and another next year; until finally this institution will come to Congress and ask for an appropriation of $50,000 to support and sustain it. It was started originally to be supported by the voluntary contributions of individuals; but those contributions have been meager, and therefore they come to Congress and ask for aid.

I say that having given for this purpose in the aggregate $200,000, we have gone to the limit of the amount that should be appropriated.

The question was taken upon the amendment of Mr. HORR; and upon a division there were—ayes 29, noes 46.

Before the result of the vote was announced,

Mr. MCKENZIE called for tellers.

Tellers were not ordered, there being but eight in the affirmative, not one-fifth of a quorum.

So the amendment was not agreed to.

The Clerk read the following:

For the erection of a building on the grounds recently purchased by the German Protestant Orphan Asylum Association of the District of Columbia, $5,000: *Provided*, That the asylum shall contribute an equal sum for this purpose.

Mr. KETCHAM. I move to amend the paragraph just read by inserting after the words "District of Columbia" the words "now the German Orphan Asylum Association of the District of Columbia." The object of that amendment is this: a bill has been passed by Congress and approved by the President changing the name of this association, since this appropriation bill was prepared.

Mr. KLOTZ. Why not simply strike out the word "Protestant."

Mr. HISCOCK. The object of the amendment in this form, instead of that suggested by the gentleman from Pennsylvania, [Mr. KLOTZ,] is this: the ground was purchased in the name of the German Protestant Orphan Asylum Association; and the appropriation is given to the asylum under the name by which the title was granted in the deed. The name of the association, however, has been changed since then by law, and this amendment is rendered necessary.

The amendment was agreed to.

The Clerk read as follows:

GENERAL EXPENSES

For salaries and contingent expenses:

For executive office: For two commissioners, at $5,000 each; and the provision in section 2 of an act approved June 11, 1878, entitled "An act providing for a permanent form of government for the District of Columbia," requiring that the two commissioners of the District of Columbia appointed from civil life shall have been actual residents of the District of Columbia for three years next before their appointment, and have during that period claimed residence nowhere else, be, and the same is hereby, so amended that only one of said two commissioners shall be required to be a resident of the District of Columbia; one engineer commissioner, $1,160.11, (to make salary $5,000;) one secretary, $2,160; one clerk, $1,500; one clerk, $1,400; one messenger clerk, $900; one messenger, $600; one driver, $480; for contingent expenses, including printing, books, stationery, and miscellaneous items, $3,000; in all, $21,240.11.

Mr. BLACKBURN. I make the point of order against so much of the paragraph which has just been read as is included between lines 143 to 153 inclusive, that portion of the paragraph which proposes to repeal the provision adopted in 1878, when Congress passed the organic law under which this District is to be governed. That provision of that law requires that the two civil commissioners of this District shall each have a *bona fide* residence of three years in the District prior to their nomination and appointment as such commissioners, and that during that three years they shall have claimed residence nowhere but in this District.

The portion of the paragraph to which I have called attention and to which I now object proposes to repeal the residence clause of the general law, so far as one of these civil commissioners is concerned. I raise the point of order that it changes existing law and does not, either upon its face or otherwise, tend to reduce expenditures.

Mr. TOWNSHEND, of Illinois. I think the point of order is well taken by the gentleman from Kentucky, [Mr. BLACKBURN.] It is difficult to see why the Committee on Appropriations should desire to impose upon the people of this District a commissioner who is not a resident of the District and not familiar with the wants and interests of its people. I do not believe that the members of this committee would be willing that the governors of their States should be imported from any other States in the Union, principally for the reason that they would not be familiar with the wants and institutions of the people of their State.

I hope the Chair will sustain the point of order, and that we shall get as near local self-government in this District as we possibly can. The people here have no right to vote, and have no right to choose their commissioners or governors, and it strikes me we should get as near as the law permits us to get a local self-government.

Mr. COBB. I would have been glad if no point of order had been made upon this paragraph. In my judgment two of these commissioners ought to be selected from the country at large. The Government of the United States pays one-half of the entire running expenses of this District. The object of this provision, I have no doubt, though I have not consulted with those who drafted the bill, was to get good men to act as commissioners; men who would not be under the influence of certain parties, who, as a rule in this District, control the men who have heretofore been appointed. There is more in that than there is in the theoretical question of self-government. By the express terms of the Constitution, this District is under the control of Congress, and the Constitution must be changed before we can give the District the right of self-government enjoyed by the States under the Constitution, and by the Territories under the laws of Congress.

So far as concerns the present board of commissioners, I wish to say frankly and with all due respect to the members of the board that in my judgment, from careful investigation which I gave to this subject for two years while I had charge of the District appropriation bill, the people of this District are not represented upon that board, and never have been. It is a few men in the District who are represented; the great body of the people of the District are not represented. The men who have had control of the District have listened to the few as against the many. [Mr. BLACKBURN rose.] I know this to be so, for I inquired into the matter as carefully as any man ever did, and I think the gentleman from Kentucky will bear me out in the statement——

Mr. BLACKBURN. No, sir; I will answer the gentleman in a moment. I rise now to ask him (if he will permit me) whether he thinks the government of the District of Columbia was any more honest or any more economical or any better or any more satisfactory to the property-holders of the District when it was under the rule of non-resident commissioners than it is to-day?

Mr. COBB. I do not know. I very frankly say I never looked into the question of extravagance or economy with regard to the District government prior to the establishment of the system under which the District affairs are now managed. But I do say that so far as regards extravagance, so far as regards deference to their demands and wants, the people cannot be worsted by a change. I know that there is no effort at economy, and there has not been any, so far as my knowledge has extended since I have had anything to do with the District appropriation bills. On the contrary, demands are being made upon Congress for thousands of dollars that ought not to be, and have not been appropriated. It is a question with the present board of commissioners how much money they can get out of the Treasury—not how little they can get along with. I say this frankly, for I know what I say. I know that the chairman of the sub-committee who has this bill in charge will bear me out in the statement that he has been obliged to disregard entirely the views and counsel of the board of commissioners, and to follow his own judgment upon matters of expenditure.

The CHAIRMAN. The Chair will remind gentlemen that a point of order is pending.

Mr. BLACKBURN. I did not care to object to the course which the gentleman from Indiana [Mr. COBB] has taken in discussing this point of order. I hardly think that he believes he confined himself to the point of order. I insist on that point; but under the peculiar circumstances I trust the committee will allow me to say one word in reply to the gentleman.

The board of commissioners of the District of Columbia consists of three men. The gentleman from Indiana has had opportunity—an exceptional opportunity—to advise himself as to their efficiency and capabilities. He has reflected upon that board of commissioners to such an extent that although I may not be speaking to the point of order, I ask to be heard a single moment in reply. It becomes peculiarly fitting that some response should be made, because during the present week, which is not yet half gone, one of the largest concourses of citizens ever gathered in the country's capital upon such an occasion has followed to their last resting place the remains of a commissioner who reflected credit upon himself in the discharge of his duties as a civil officer as he had shed luster upon the military record of the country as an officer of its Army. This District will be more than another century old ere it is given a ruler that will bring to the high office a purer character, a more thorough devotion to duty, larger capacity or more manly attributes. Whether as citizen, soldier, or governor, he commanded the respect and more, the affections of all. The people of this District honored him living and now mourn him dead.

Mr. COBB. The gentleman will allow me a moment. I intended to make an exception. I spoke of the board as it now exists, and I think my language would import that I did make an exception in regard to the commissioner recently deceased. I desire to bear my evidence, so far as it may go, to the integrity of that deceased commissioner. I intended to refer to the board as it now exists—the two members now constituting the board. In regard to Major Twining, it is my duty to bear testimony to his integrity, honesty, and moral worth. As an officer he was above suspicion; as an adviser in his department, the engineer department, I never failed to get from him any desired information. The gentleman from Kentucky will pardon me for occupying his time in making this statement, because it is due to myself and to the deceased commissioner.

Mr. BLACKBURN. I wanted to afford the gentleman opportunity to make such a statement, which I knew he was ready to make. I will say nothing more on behalf of that dead commissioner, for his memory needs no vindication. In regard to the two surviving com-

missioners I wish to say that I also have had some exceptional opportunities of advising myself as to the municipal government of this District. In a former Congress I was chairman of the Committee on the District of Columbia, and I have been identified through membership of the Appropriations Committee with District legislation from that time until now. I undertake to say that in this city or in this land you cannot find any commissioner, either resident or non-resident, who for personal integrity, for honesty of purpose and fidelity in the discharge of duty will rank superior to those two surviving commissioners. They may not have been trained to the discharge of executive duties; it may be that men more experienced in such matters might be found. But I repudiate the suggestion that in a city of 160,000 people, the very culture of this continent, as its capital is admitted to be, you cannot find two resident gentlemen who are fitted to fill the rôle of municipal authority or mayor of a town.

So much for the merits of the question. But I did not go into a discussion of the merits. I raised the point of order, which I am willing to submit to the ruling of the Chair.

Mr. HISCOCK. I have not called the attention of either gentleman to the fact that his remarks have been a good deal out of order. It is conceded on the part of the committee that if the point of order is taken it is well taken.

The CHAIRMAN. The Chair sustains the point of order, and the words objected to are ruled out and form no part of the bill.

The Clerk read as follows:

For streets:

For sweeping, cleaning, and sprinkling streets and avenues, $33,000; cleaning alleys, $7,500; for current work of repairs of streets, avenues, and alleys, $25,000; current repairs to county roads, $25,000; cleaning and repairing lateral sewers and basins, $20,000; in all, $110,500. And the commissioners are authorized to extend and improve the intersection between Vermont avenue and Thirteenth street, northwest, south about one hundred feet to the line of the lots owned by private parties.

Mr. MARSH. Mr. Chairman, I raise the point of order to the last sentence in that paragraph. I make the point that these words are not in order, and must be stricken from the bill:

And the commissioners are authorized to extend and improve the intersection between Vermont avenue and Thirteenth street, northwest, south about one hundred feet to the line of the lots owned by private parties.

My point of order is that it is new legislation, and does not retrench expenditures.

The effect of that clause is to close up and vacate so much of O street, northwest, as extends from Thirteenth street to Vermont avenue. While the clause does not say in so many words that it is to close up a street, yet that is the effect of it. The extension of that little park, which is at the intersection of Thirteenth street and Vermont avenue, south to the lots owned by individuals would close up that part of O street stretching from Thirteenth street to Vermont avenue. It is new legislation, and the expense attending that closing up and extending the little park across and embracing that portion of O street of course is an expense not now provided by law, and would increase expenditures instead of diminishing them.

Mr. HISCOCK. Mr. Chairman, a single word in reply to the gentleman who raises the point of order. This legislation is in the general direction of extending and opening streets, and the only power to open and extend streets, as I understand it, is vested in Congress. It is a part of the organic law in effect that Congress should exercise this right. There are other items in the bill in the same direction, and any fair construction of the rules cannot treat this as anything else than the continuance of the legitimate work of repairs and as perfecting the system of streets of the District of Columbia.

That is the answer to the point of order, and any other rule of construction than that would prevent the opening of any streets in this city, or the extension of any streets would be narrowed and confined to the present limits, whatever the growth of the city may be.

All Congresses since the organic act was passed have treated this as a part of the work in progress. It is a part of the scheme of providing for the government of the District of Columbia.

Mr. MARSH. Mr. Chairman, I agree with my distinguished friend from New York, that all legislation touching the District of Columbia is vested by law in the Congress of the United States, but I hold that under the rules of this House Congress cannot adopt new legislation on an appropriation bill when the point of order is raised that new legislation does not retrench expenditures.

The gentleman says that this is a part of the process of improvement of the city in extending public highways or streets within its limits, and therefore that it is in order on an appropriation bill. The gentleman well knows if it is desirable to open new streets that is a proper subject-matter of legislation over which Congress has unquestionable jurisdiction.

But the point I make is this clause proposes new legislation in this that it closes up a part of O street, an established street in the city, reaching from Thirteenth street to Vermont avenue; because it is legislation upon an appropriation bill and is obnoxious to the restriction of the rule that it does not retrench expenditure. If it is within the rule that a small portion of O street may be closed up by tacking it on to an appropriation bill, then the Appropriations Committee may tack on their appropriation bill for the District of Columbia the vacation of the whole of O street from one end to the other of that street, or the vacation and closing up of the whole of Pennsylvania avenue from one end of the city to the other. That would be legitimate in a bill reported for that purpose, but it would not be in order upon a general appropriation bill.

The point I make, Mr. Chairman, is this: that this is new legislation just as much as a proposition to vacate one-half of the streets within the city limits and to convert them into parks, and that not being in the interest of retrenchment it is clearly obnoxious to the restriction of the rule.

The CHAIRMAN. The Chair has no knowledge of the existing law governing the streets of the District of Columbia, nor does he feel able to state whether this does or does not change existing law, or whether, being a change of law, it would under the rule retrench expenditures. The Chair therefore leaves it to the committee to decide whether the paragraph shall or shall not be stricken out on a motion to that effect. The Chair therefore overrules the point of order.

Mr. MARSH. Then, Mr. Chairman, I move to strike out all that I have indicated in the bill; all after the word "dollars," in line 272, down to and including line 275.

The committee divided; and there were—ayes 7, noes 14.

Mr. MARSH. I call for tellers.

The CHAIRMAN. Will the committee order a vote by tellers?

Mr. HOLMAN. There was no quorum.

Mr. ROBINSON, of Massachusetts. I hope the gentleman will not insist upon that point.

Mr. HOLMAN. I am not insisting upon it.

Mr. HISCOCK. I trust the gentleman from Indiana will not raise the point of order that no quorum has voted, but let us go on and get through with this bill without delay.

Mr. HOLMAN. I am not insisting upon the point of order myself. I have merely suggested to the Chair that, inasmuch as there was no quorum, the gentleman from Illinois had a right to demand a vote by tellers.

Mr. MARSH. I supposed the Chair would order tellers when the demand was made after the result of the last vote had indicated that there was no quorum present. In order to obtain a vote by tellers I shall, if necessary, raise the point that no quorum has voted.

The CHAIRMAN. The Chair will appoint tellers.

Mr. MARSH and Mr. KETCHAM were appointed tellers.

The committee divided; and the tellers reported—ayes 17, noes 33.

Mr. MARSH. I make the point of order that no quorum has voted.

The CHAIRMAN. The tellers will resume their places.

The committee again divided; and the tellers reported—ayes 27, noes 57.

Mr. MARSH. I withdraw the point as to the presence of a quorum.

So (no further count being demanded) the amendment was not agreed to.

The Clerk read as follows:

For Metropolitan police:

For one major and superintendent, $2,610; one captain, $1,800; one property-clerk, $1,800; one clerk, $1,500; three surgeons, at $450 each; six detectives, at $1,320 each; ten lieutenants, at $1,200 each; twenty sergeants, at $1,140 each; seven acting sergeants, at $1,080 each; seventy-three privates, class one, at $900 each; one hundred and twenty privates, class two, at $1,080 each; sixteen station-keepers, at $516 each; eight laborers, at $420 each; one messenger, $700; one messenger, $500; one major and superintendent, mounted, $360; one captain, mounted, $240; fifty lieutenants, sergeants, and privates, mounted, at $240 each; two drivers, at $300 each; one ambulance-driver, $600; rent of police station-houses and police headquarters, $5,960; for fuel, $1,500; repairs to station-houses, $1,500; miscellaneous and contingent expenses, including stationery, books, telegraphing, photographs, printing and binding, gas, ice, washing, meals for prisoners, furniture and repairs to same, police equipments and repairs to same, beds and bed-clothing, insignia of office, horse, harness, and forage, repairs to van, and detection of crime, $10,000; in all $300,216.

Mr. JACOBS. I offer the amendment which I send to the desk.

The CHAIRMAN. The amendment will be reported.

The Clerk read as follows:

Add to line 339, page 15, the words:

"And there shall be hereafter no limitation or restriction as to place of residence of any person applying for appointment upon the said Metropolitan police."

Mr. NEAL. I make the point of order upon that amendment.

Mr. JACOBS. Let me explain the amendment first.

Mr. NEAL. I know the argument——

Mr. TOWNSHEND, of Illinois. Let the point of order be stated.

The CHAIRMAN. The gentleman will state his point of order.

Mr. NEAL. My point of order is that this is new legislation and does not retrench expenditures.

Mr. JACOBS. In this connection, Mr. Chairman, I will read from the statutes governing the District of Columbia, section 373, which I believe is the only section of the Revised Statutes which applies to this matter. That section reads as follows:

There shall be no limitation or restriction of place of residence to any member of the police force, other than residence within the Metropolitan police district.

This does not refer to any member of the police force. It simply refers to the qualifications of the men who go upon the police force; or, in other words, the preliminary qualifications for the positions when a man chooses to become an applicant. It seems to me that in the District of Columbia there is a close corporation so far as this police force is concerned. Under an enforced construction of this statute the commissioners of the District of Columbia have made a regulation by which a man who is an applicant for a position on the

police force is required to be a resident of the District for two years. In other words, they say they want an efficient police force under this demand for a good local government; and yet, in the discretion which they claim under this section of the statute, they have seen proper to put up a bar against the whole world except the floating population of the District of Columbia and the tramps of the regular Army. This class of the population is less calculated than any other to furnish a vigorous and efficient police force for the District.

Mr. TOWNSHEND, of Illinois. I would like to ask the gentleman a question at this point.

Mr. JACOBS. Certainly.

Mr. TOWNSHEND, of Illinois. I desire to inquire of the gentleman if he is of the opinion that out of a population of nearly 180,000 people a sufficient number of able-bodied men cannot be found here to perform the police duties required for this district?

Mr. JACOBS. In reply to the gentleman from Illinois, I would say that the city of Washington and the District of Columbia should have precisely the same facilities for obtaining vigorous, able-bodied and efficient police that other great cities throughout the country have. The best police in the world is said to be the Broadway police of New York, nine-tenths of whom are drawn from country places—country boys—not only of New York, but of every other State of the Union. They are a picked lot of men. But by this restriction to which I have referred the selection of a police force for this District of Columbia is limited to that peculiar and anomalous population which I have mentioned.

Mr. TOWNSHEND, of Illinois. The police of Broadway are Irishmen, are they not?

Mr. JACOBS. There is a better population outside of the District of Columbia from which to select, and I think the gentleman thinks so too. The majority of the applicants here, under this construction, are in the first place discharged tramps from the regular Army; and in the next place the countless horde of people who come here and hang around the gates of the Departments hoping to get in, but who find themselves disappointed and without means; and that class is swept in to constitute largely the police force for the District.

The CHAIRMAN. The Chair desires to interrupt the gentleman from New York, in order to understand clearly the point of order. The amendment reads:

> And there shall be hereafter no limitation or restriction as to place of residence of any person applying for appointment on said Metropolitan police force.

The Chair does not understand whether or not there is such a provision or restriction of any sort or kind.

Mr. JACOBS. The reply I make to the point of order is simply this: that the section of the Revised Statutes does not refer to men who are candidates for places on the police force. It provides simply that a member of the police force must be a resident of the District of Columbia. If he comes from California and is put on the police force he becomes a resident by virtue of his appointment. Whoever drew that section that—

> There shall be no limitation or restriction of place of residence to any member of the police force other than residence within the Metropolitan police district—

If he intended to give the commissioners power to make a regulation of this kind, that any one appointed on the police force must have been for two years a resident of the District of Columbia, he did not meet that idea.

Mr. ROBESON. Let the amendment be again reported.

The amendment was again read.

Mr. JACOBS. Section 373 of the Revised Statutes does not apply to that class of people at all. The regulation of the commissioners applies to the candidates asking to be appointed; and I desire to throw down the bars and give the police commissioners in making these appointments access to the whole population of the country.

Mr. ROBESON. The legal situation of this matter is just this: there is now no limitation by law such as is contemplated by this amendment. The abuse or practice at which it is aimed is a regulation of the commissioners of the District of Columbia.

Mr. JACOBS. And not authorized by existing law.

Mr. ROBESON. Unauthorized by existing law. I am in favor of the amendment itself, and yet I am afraid my friend from New York will be obliged to agree with me when I say that a new restriction by law where there is now no legal restriction is new legislation and liable to the point of order.

Mr. JACOBS. When the commissioners usurp a power they do not possess under the statute it appears to me proper for the House by express legislation to set them on the right track.

Mr. TOWNSHEND, of Illinois. But not by legislation on an appropriation bill.

The CHAIRMAN. The Chair would inquire of the gentleman from New York whether, if the amendment he proposes should be adopted, any new limitation or restriction or change in the powers now vested in the commissioners would be effected?

Mr. JACOBS. None whatever.

The CHAIRMAN. The Chair would then ask the gentleman why he desires this amendment to be adopted?

Mr. JACOBS. For the reason that the District commissioners, assuming to act under this section of the Revised Statutes, have enacted this unauthorized regulation by which they bar out everybody who has not been a resident of the District of Columbia for two years; because they have assumed power under this section to do what they are not authorized to do—to make an ordinance that a man before he can be an applicant for a place on the police force shall be a resident of the District for two years.

The CHAIRMAN. The Chair is ready to decide the point of order. It is impossible for the Chair to understand the exact legal status of the police force or the power of the commissioners in reference to appointments on the force. But since the amendment in no way affects the money objects of the bill, the Chair prefers to sustain the point of order on the ground that the amendment is not in his judgment a provision that tends to retrench expenditure, while it must be a provision that the gentleman from New York introduces for the purpose of effecting a new regulation or a change of existing law. The Chair sustains the point of order.

The Clerk read the following paragraph, under the head "public schools:"

> For officers: For one superintendent, at $3,000; one superintendent, at $2,250; one secretary, at $150; one clerk to committee on accounts, at $300; one clerk to superintendent, at $800; one clerk, at $750; in all, $7,250.

Mr. LYNCH. I wish to make an inquiry of the chairman of the Committee on Appropriations as to the compensation provided in this paragraph for two superintendents of schools, one a superintendent for colored schools and the other a superintendent for white schools. This paragraph recommends a different amount for each superintendent. It occurs to me both superintendents ought to receive the same compensation. I merely wish to have some explanation of this difference.

Mr. HISCOCK. I will state the reason for the discrimination made. For one superintendent there is a salary of $3,000. That is an increase of $300. The reason for the increase is that he has charge of all of the white schools of the District and of the colored schools of the county. It was believed that on that account there ought to be this difference of salary between the two superintendents.

Mr. BLOUNT. Does the increase of $300 begin with this bill?

Mr. HISCOCK. Yes, sir.

Mr. ROBESON. The point is this: there are two superintendents—a principal superintendent and an assistant superintendent. To the principal superintendent are assigned all the schools of the county and all the white schools of the District. To the assistant are assigned the colored schools of the city.

Mr. BLOUNT. Have the salaries been the same heretofore?

Mr. HISCOCK. The difference before has been $250.

Mr. LYNCH. My information is that so far as the difference in labor between these two superintendents is concerned it is merely nominal. The chief superintendent in fact has no more to do than the other superintendent. The labor, so far as physical work is concerned, amounts to about the same in both cases. In reading the proceedings of the school board of the District of Columbia I find they passed a resolution recommending that there should be no distinction whatever in the compensation of these superintendents. That resolution is in these words:

> *Resolved*, That in making appropriations for the pay of the superintendents of schools of the District of Columbia no discrimination shall be made in the increase.

It seems to me that the recommendation of the school board ought to have some weight. I know of my own personal knowledge that the superintendent of the colored schools has a great deal of hard labor to do; and while I do not object to the proposed increase for the superintendent of white schools, I think that as each has about the same amount of work the increase should apply to both of them. If the amendment is in order I will move to make the compensation of the other superintendent the same, $3,000.

Mr. HISCOCK. I reply now, with the law before me, to the question of the gentleman from Georgia, [Mr. BLOUNT.] The law as it stands is "for one superintendent at $2,700; for one superintendent at $2,250." We propose in this bill an increase of $300 in the salary of one of the superintendents.

As has been stated by the chairman of the sub-committee, one superintendent has charge of all the white schools in the District and of all the colored schools in the county; the other has charge of the colored schools in the District. The number of white children I believe is about twenty thousand, with over three hundred schools; the number of the colored children is about ten thousand, with about one hundred and fifty schools.

As I have already said, one of the superintendents, in addition to the white schools of the District, has charge of all the colored schools of the county. The members of the Committee on Appropriations who had charge of this bill believe that there should be this difference in the compensation of the superintendents, and therefore we have recommended it.

Mr. LYNCH. I would ask the gentleman this question: Is the change proposed to give the superintendent of the white schools $750 more than is given the other superintendent?

Mr. HISCOCK. It is an increase of $300 in his salary.

Mr. LYNCH. Why not make whatever change is made the same in proportion to each?

Mr. HISCOCK. Because we believe the one superintendent has so much more work to do than the other; that his work is certainly twice as much as the other; that is the truth about it.

Mr. LYNCH. If it is in order, I move to amend the paragraph by striking out "$2,250" and inserting "$3,000" as the salary of the second superintendent.

Mr. HISCOCK. I do not desire to make a point of order on the amendment, because I will say in all frankness that I believe the amendment which the committee has brought in here is subject to a point of order.

Mr. BLOUNT. I was going to say that I desire to raise a point of order on the increased compensation proposed by the committee.

Mr. HISCOCK. I will not make the point on the amendment to increase the salary of the other superintendent, if the gentleman will fix the sum at $2,500.

Mr. LYNCH. I will accept that suggestion.

Mr. HISCOCK. Then I will not make the point of order against the amendment.

Mr. LYNCH. The increase, then, will be in proportion.

The CHAIRMAN. The question is, then, upon the amendment of the gentleman from Mississippi, [Mr. LYNCH,] to strike out "$2,250" and insert "$2,500," as the salary of the second superintendent.

Mr. HOLMAN. If that is subject to a point of order I desire to make it. I make the point of order upon any proposed increase of salaries in this bill. If this is a proposed increase, I make a point of order against it.

The CHAIRMAN. Will the gentleman from Indiana state the grounds for his point of order?

Mr. HOLMAN. My point of order is this: I understand from the debate (I have had no opportunity to examine the law) that the salaries of these officers are fixed by law.

Mr. HISCOCK. It is too late for the point of order to be made against the provision in the bill.

Mr. McMILLIN. The gentleman from Georgia [Mr. BLOUNT] reserved the point of order on the bill.

Mr. HISCOCK. The gentleman from Georgia will always take care of himself and his own rights.

The CHAIRMAN. The gentleman from Indiana [Mr. HOLMAN] makes a point of order upon the proposed amendment. The Chair desires to ask the gentleman from New York [Mr. HISCOCK] if there is any law fixing the salaries of these superintendents?

Mr. HISCOCK. I am not aware that there is anything in the organic act of the District that fixes the salaries; but each annual appropriation bill from that time to the present has fixed the salaries of these superintendents at certain amounts.

The CHAIRMAN. Is there any provision of law which says that the salaries of the superintendents of these schools shall be a certain sum?

Mr. HISCOCK. This is the language, "for one superintendent" so much, which, I suppose, is intended to cover his salary.

Mr. HOLMAN. How much?

Mr. HISCOCK. Three thousand dollars, $2,700, or any other sum.

The CHAIRMAN. That has been in an appropriation bill?

Mr. HISCOCK. In all the appropriation bills.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HOLMAN. Do I understand the gentleman from New York to say that the proposed amendment does not increase the salary of this officer above that in any former appropriation bill?

The CHAIRMAN. The Chair did not understand the gentleman from New York to make that statement. The Chair holds that unless there is some law applicable to the District which specifically defines the salary of the superintendent of public instruction at a certain sum, the Chair will hold that when the Committee on Appropriations bring in a bill they are at liberty to recommend the appropriation of any sum they please for the purpose, and it is only for the House to determine upon it. An appropriation bill dies with the current year. There must be some law applicable to the District of Columbia, as there is to the different Departments of the Government, fixing the salaries of these officers, or else it is dependent simply upon the vote of the House.

Mr. HOLMAN. I must respectfully appeal from that decision of the Chair.

The CHAIRMAN. The gentleman from Indiana appeals from the decision of the Chair.

Mr. HOLMAN. And I desire to state the ground of my appeal. I understand the Chair to decide that where no law fixes the salary of a given employé of the Government, each succeeding Congress may increase or diminish his compensation as it may think proper. The salary of this officer has heretofore been $2,500, since 1869 when the office was first created. The Chair, as I understand, holds that it may now be increased to the sum of $3,000 by the simple act of the House, although no law has fixed $3,000 as the compensation of this officer. If that is the ruling of the Chair——

The CHAIRMAN. The declaration of the Chair was that unless there was some provision in some preceding bill specifically fixing the salary of this superintendent the Chair was unable to determine what the law was, and therefore would hold that the salary could be fixed at any time by Congress. If there is any law or statute by which the salary has been fixed specifically, then of course the Chair would hold that an increase of such salary would be a change of law.

Mr. HOLMAN. The gentleman from New York stated, as I understood, that the appropriation had been heretofore a specific sum, and that it is now proposed to increase the amount beyond that sum.

The CHAIRMAN. The Chair did not so understand the gentleman from New York.

Mr. HOLMAN. I ask the gentleman from New York whether he did not state that since 1869, when the present arrangement was made, the salary of this superintendent had been a specific sum, and that now the proposition is to go beyond that sum?

Mr. HISCOCK. Yes, sir.

The CHAIRMAN. The Chair did not so understand.

Mr. HISCOCK. I wish to add a further statement. This question having been precipitated here, without my having had time to examine it, I now learn for the first time that up to 1874 the salaries were fixed by some general statute; that by the act of June 20, 1874, they were reduced a certain percentage; that subsequently each annual appropriation bill has contained an item in this language, fixing the salary of this officer at $2,700: "For one superintendent, at $2,700."

Mr. BLOUNT. Whatever may be the rule applying to officers of the departments applies also to officers of the District of Columbia. It is within the memory of the Chair that only in the last Congress were the appropriations for the District incorporated into a separate bill, the officers provided for standing in the same position as officers of the several departments of the Government. Now, in reference to officers in the several departments the Chair will remember, as will other gentlemen who have served in previous Congresses, it has been uniformly held that a proposition to increase the amount of any salary in any department of the Government was a change of existing law, and so far as I recollect such propositions have been ruled out with perfect uniformity. At one time, when reductions of the salaries of certain officers in the departments were made, it was claimed that the appropriation bills, while reducing the amounts appropriated, did not change the law at all. This was claimed by certain employés in the departments, and was also claimed in some instances on this floor. But the law officers of the departments have uniformly ruled that those reductions in an appropriation bill were the law as to the salary, and have uniformly refused, as has Congress, to recognize the opposite doctrine. The rulings in the departments and the rulings of chairmen of committees of the whole on various appropriation bills are all to the effect that there can be no increase over the amount previously appropriated for these officials without a change of existing law.

I think gentlemen on the other side of the House will find themselves very much embarrassed if the Chair should now adopt a different ruling from that which has uniformly been made upon this point; for if these previous rulings should now be departed from, it will be perfectly competent to increase upon appropriation bills the salary of every officer in every Department of the Government, one of the very things which the existing rule was intended to avoid. I trust, therefore, that if the ruling on this question is to be changed it may be done with deliberation.

Mr. HOLMAN. Mr. Chairman, I have before me the District appropriation act of the last session, in which I find these items:

For one superintendent at $2,700.
For one superintendent, $2,250.

As I understand from the gentleman from New York, these have been the sums heretofore appropriated under existing law for these two officers. Now, the question of order is, can these salaries be increased as proposed?

Mr. COBB. I think I can state the facts in regard to the law in this case. Formerly there was a law allowing to the superintendent a salary of $3,000. In 1874, if I remember rightly—I am in some doubt about the date—a law was passed reducing various salaries 10 per cent. The second superintendent had been entitled, under the general law, to $2,500, which, by this reduction, was brought down to $2,250, while the salary of the other superintendent was reduced to $2,700. Since that time the salaries have been appropriated for upon the basis of that reduction.

Now, if I may be permitted a further remark which I know is not legitimate in connection with the point of order, I desire to state that Mr. Wilson is one superintendent and Mr. Cook the other, the former the superintendent of the white schools, the latter of the colored. Mr. Wilson this year has under his charge 14,321 pupils actually in attendance at the public schools; whereas Mr. Cook has under his charge only 6,445 pupils. Now if the number of pupils under the charge of these respective commissioners may be taken as an indication of the labor performed by them, it will be seen that their labors are very unequal. Besides, Mr. Wilson, whose salary it is proposed to raise, has charge of the schools outside of the city, in the rural portion of the District, in addition to the 14,321 pupils in the city.

It occurs to me, therefore, that his duties must necessarily be more onerous than those of Mr. Cook. Whether these salaries are too high or too low, there is certainly inequality in the amount of labor performed without any corresponding difference in salary. When there are in the one case 14,321 pupils as against 6,445 in the other, the amount of labor performed by these commissioners must certainly be very different. One has twice as much to do as the other. If inquired into, I think it will be seen that Mr. Wilson now performs more than twice the labor performed by Mr. Cook, because he has more than twice the number of children under his superintendence and care.

The CHAIRMAN. The Chair desires to say on this matter, that if it were true, as it was declared, that there had been no office created,

and there was no law upon the statute-book regulating and defining the duties and compensation of this office, and that this was simply an employé provided to be paid from year to year in the discretion of Congress, that it was simply provided in a clause of an appropriation bill for an office the duties and compensation of which were not set out in any law upon the statute-book, then the Chair would hold it was precisely like other items in this bill, and particularly such as relate to charitable institutions, where in one year allowance is made of $5,000, in another $10,000, and in another $7,000. In that case it would be entirely competent for the committee and the House to change the amount of the appropriation; and so if these officers to which special reference is now made were in a like condition, then it would be competent for the committee and the House to change the appropriation in reference to them.

The Chair, however, has been informed since the point was first made that there is a law on this subject fixing the salary of this particular officer and defining what shall be his duties. Therefore, if the gentleman from Indiana will withdraw his appeal the Chair will recall his previous decision and rule on the subject in view of the new light thrown upon the subject.

Mr. HOLMAN. I withdraw my appeal.

The CHAIRMAN. The Chair then modifies his decision, and rules, as the point of order has been made, that any increase of the amount provided by law for this salary must be stricken out.

Mr. HISCOCK. That reduces the salary of the superintendent from $3,000 to $2,700, as I understand it.

The CHAIRMAN. It reduces it to whatever amount is provided for by law at this time.

The Clerk read as follows:

For addition to school-building on site owned by the District near Howard University, to be completed by the 1st day of September next, $3,000, or so much thereof as may be necessary.

Mr. COBB. I move to add the following proviso:

And from and after the 15th day of July, 1882, the board of school trustees of the District of Columbia shall consist of nine members only.

Mr. HISCOCK. That proviso is accepted on the part of the committee.

The amendment was agreed to.

The Clerk read as follows:

MISCELLANEOUS EXPENSES.

For repairs of hay-scales, $500; for rent of District offices, $3,600; for general advertising, $5,000; for books for register of wills, printing, checks, damages, and miscellaneous items not otherwise provided for, $3,000; in all, $12,100.

Mr. YOUNG. I wish to call attention to an item in this paragraph which certainly needs some explanation. Two hundred dollars was appropriated in 1881 for the repair of hay-scales, and now in this bill we have an appropriation of $500 for repairs of hay-scales. I want to know where those hay-scales are located and how many are appropriated for.

The CHAIRMAN. What amendment does the gentleman move?

Mr. YOUNG. In order that I may have some explanation of this matter I will move to strike out the words "for repairs of hay-scales, $500."

Mr. HISCOCK. I can only say, Mr. Chairman, in answer to the gentleman from Ohio, that this item has been provided for in all preceding appropriations for the District of Columbia.

Mr. BRIGGS. If it is not necessary is it not time to leave it out?

Mr. HISCOCK. It is regularly estimated for, and comes to the Committee on Appropriations, not only indorsed by the commissioners of the District of Columbia, but by the Secretary of the Treasury.

I can say that the sub-committee did not visit these hay-scales, and therefore are not able precisely to locate them. Nor did they investigate as to how many this particular item includes, relying as they did on the correctness of the estimates. The committee have no reason to believe it is not entirely proper and that the sum here provided is not absolutely necessary.

Mr. YOUNG. This appropriation for repairs of hay-scales seems to me to be an exorbitant charge. I do not know how it is in the District of Columbia, but the Fairbanks Brothers, who manufacture these hay-scales, will put up a new hay-scale in Cincinnati for $250, and in Nebraska or Kansas for $275. It does strike me, therefore, that $500 for the repairs of hay-scales here is too much. It is about twice and a half as much as hay-scales can be furnished by the manufacturer.

Mr. HISCOCK. There are five or six of these hay-scales maintained in the city, one I believe in every market; and this item is to provide for their repair.

Mr. PAYSON. Has the appropriation been sufficient heretofore?

Mr. HISCOCK. It has. This is an annual appropriation which has been kept all along for repairs for these various hay-scales.

The CHAIRMAN. The question is on the motion of the gentleman from Ohio, to strike out the item providing for the repair of hay-scales, to which he has referred.

The motion was not agreed to.

Mr. NEAL. I ask consent of the committee to go back to page 18, line 431, and insert the amendment which I send to the desk.

The CHAIRMAN. Without objection, the amendment will be read.

The Clerk read as follows:

Provided further, That no more than the market prices shall be paid for fuel, and all bids above the market price shall be rejected.

Mr. HISCOCK. There is no objection on the part of the committee to that amendment.

Mr. BLOUNT. I would like to ask my friend from Ohio if there is occasion for that amendment?

Mr. NEAL. I will state, Mr. Chairman, to the committee that when it was reported to the House by the commissioner that there was a deficiency in fuel I inquired as to the price they had been paying for it. I was informed that there were but two bidders under the advertisement, and that the sum paid was between six and seven dollars a ton for coal. I saw subsequently a private party who buys largely of the same class of fuel, and I was informed by him that he had paid but little over five dollars a ton, which was the market price. The commissioners were compelled by the law to accept the lowest bid which was offered, and there being no other bidders they had to accept the lowest of the two, which was from a dollar to a dollar and a half more than the market price.

The amendment was agreed to.

Mr. KETCHAM. I ask consent to go back to page 21, line 493, and insert, after the words "three thousand," the words, "eight hundred;" so as to read "three thousand eight hundred dollars;" which makes its conform to the existing law.

The amendment was agreed to.

Mr. KETCHAM. If necessary, I shall move that the aggregate footing up of the bill be changed to conform to this amendment.

The CHAIRMAN. The necessary correction will be made in the aggregate of the bill.

Mr. YOUNG. I ask consent to go back to line 353, with a view of offering an amendment.

Mr. HISCOCK. Let us know what the amendment is.

Mr. YOUNG. It is on the item of forage.

Mr. BROWNE. I object.

Mr. BLOUNT. I hope the objection will be withdrawn, for it is apparent from the statement which has been made on this floor that a considerable sum over the market price has been paid for fuel. Now, if that be the case, and if the gentleman desires to investigate another question where the same principle may come in, I hope he will be permitted to do so. If there is any improper administration we ought to know it.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from Ohio to go back to the line which he has indicated for the purpose of offering an amendment?

There was no objection.

Mr. YOUNG. The bill calls for "forage, $7,000." Last year the amount appropriated for this purpose for the thirty-five horses belonging to the fire department was only $4,500.

The CHAIRMAN. Does the gentleman desire to offer an amendment?

Mr. YOUNG. I do.

The CHAIRMAN. The gentleman will submit his amendment.

Mr. YOUNG. I move to strike out "$7,000" and insert "$4,500;" so that if amended it will read "forage, $4,500."

Mr. HISCOCK. Mr. Chairman, I will state to the gentleman from Ohio——

Mr. YOUNG. I believe I have the floor in the first place on the amendment.

Mr. HISCOCK. Certainly.

Mr. YOUNG. I understand there are thirty-five horses only in the service of the fire department of the District of Columbia. Now, it is estimated that the necessary forage for thirty-five horses, at a cost, we will assume, say of eighty cents per bushel for corn and twenty dollars a ton for hay, which is about the market price, will consume the amount here appropriated. Upon that basis of cost for fifty-two weeks of the year the total amount would be only about four thousand two hundred and twenty-two dollars. Surely, corn can be purchased for eighty cents a bushel, and hay for twenty dollars a ton. Now, why the committee ask for $7,000 for this purpose is what I would like to have explained.

Mr. BLOUNT. Will the gentleman permit me to make a suggestion?

Mr. YOUNG. Certainly.

Mr. BLOUNT. Would the gentleman be willing to incorporate an amendment similar to that offered by the gentleman from Ohio in relation to coal? Would it not be satisfactory that all supplies shall be purchased at market prices?

Mr. YOUNG. I do not understand how the question of coal can apply to this one of forage.

Mr. BLOUNT. I mean with reference to the purchase of forage that it shall not exceed market prices, the same limitation as was put on the purchase of fuel.

MESSAGE FROM THE SENATE.

The committee informally rose, and the Speaker *pro tempore* resumed the chair.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had passed without amendment a bill (H. R. No. 869) for the relief of Thomas J. Wharton; also that the

Senate had passed a bill (S. No. 1604) to establish an assay office at Deadwood, in the Territory of Dakota, in which the concurrence of the House of Representatives was requested.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

Mr. YOUNG. Now, Mr. Chairman, I have estimated the cost of keeping thirty-five horses on the basis of the army ration of fourteen pounds of corn and twelve pounds of hay. In relation to the price of corn, I will say that the calculation I have made was on the basis of eighty-five cents a bushel instead of eighty cents; eighty five cents being the market price in New York to-day, and hay $20 a ton. At that rate $4,200 would be enough to feed thirty-five horses for one year, but I am allowing by this amendment $4,500. And I would like to know why the bill has been presented to us allowing $7,000 for forage. My objection is that it calls for $2,500 more than is absolutely necessary, at high rates, to feed the thirty-five horses. If the gentleman from New York has any explanation to make on that subject I will be glad to hear from him.

Mr. HISCOCK. All I can say in the way of explanation or reply is this: to start with, I am not aware that thirty-five is the maximum number of horses there. I say frankly that I did not investigate to learn whether there were thirty-five or forty-five.

Mr. BLOUNT. I would ask the chairman of the committee how much was given for this purpose in the last bill?

Mr. YOUNG. Four thousand five hundred dollars.

Mr. HISCOCK I desire also to say that this keeping of horses is let by contract twice a year to the lowest bidder. Proposals are accepted, the lowest bidder receiving the contract for the support and maintenance of these horses. It is an open competition. And at the contract prices, with the contract advertised and let, as I have said, twice a year, there was a deficiency this year of I think $3,000. The amount we have provided for in this bill is substantially the appropriation of last year, with the deficiency which we are going to provide for.

Mr. BLOUNT. I know the chairman of the committee desires to do whatever the interests of the Government may require; and I ask him if it is not true as to coal that coal was let out to the lowest bidder, there being but two bidders, and that the Government paid a dollar a ton, or at any rate some amount considerably over the market price, and that if there was a deficiency that is the explanation for that deficiency? And I ask him further if that is not the identical state of facts in relation to the item of forage?

Mr. HISCOCK. If there is such an explanation as that I do not know it. For the first time I have heard that stated in private conversation on this floor to-day. But, sir, I know that statements of that kind are sometimes loosely made, and how much reliance can be put upon them the gentleman from Georgia can judge as well as myself.

Mr. BLOUNT. If the gentleman will allow me——

Mr. HISCOCK. If the gentleman will allow me one moment, I wish to say the most that Congress can do in reference to this matter is to surround the administration of these Departments with all the safeguards possible; and that has been done in every conceivable case where supplies are purchased. Where there are large quantities purchased the law, as I understand, provides they are to be purchased under contract, the contract to be awarded to the lowest bidder.

Mr. KETCHAM. That is done in all cases.

Mr. HISCOCK. That, we are informed, has been done, and upon a mere assertion being made here on the floor that there was collusion, or fraud, or more paid for coal than ought to be, we cannot change an appropriation bill. We have got to give enough to give effect to the law, we have got to give enough to administer the Government under the statutes which have been enacted.

We know that these are large horses, and I have no doubt they are kept up to the highest point in the most expensive way to secure their highest efficiency; and it is very likely they are supported more expensively than Army horses are. I do not know how that may be. I only know this, that under contracts which have been made in accordance with the existing laws we have recommended this appropriation.

Mr. YOUNG. I desire to ask the gentleman from New York a question.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. SPEER. I move to strike out the last word.

I think the House can better afford to strike out other appropriations rather than to reduce the appropriation for the very efficient fire department of this city. I live near one of the engine-houses, and it has been my pleasure to carefully examine the workings of the department. One of the foremen informed me that with the best care that could possibly be taken of the large and fine horses used on the engines they lasted on an average only three years. This is not remarkable, for the horse, like the fireman, must do rapid and dangerous work. It would astonish gentlemen to know how almost instantaneously after the first stroke of the fire-alarm is given that these gallant firemen are dashing out with the trucks and engines in the direction of the fire at the full speed at which their horses can take them. Sir, it would excite the admiration of any man who can appreciate the physical powers of the man, or the noble qualities of the horse.

It has been stated by the chairman of the committee that the appropriation last year for this purpose was $4,500, and there was a deficiency, I believe he states, of $3,500.

Mr. HISCOCK. Nearly that.

Mr. SPEER. So that the appropriation of $7,000 for this year does not amount to the appropriation for last year and the deficiency, which was necessarily voted. I think it would be the worst form of economy to cripple in any way the efficiency of that splendid department, and thus weaken its ability to protect the property of the Government and the lives and property of our citizens.

Mr. BLOUNT was recognized.

Mr. YOUNG. I asked permission a moment ago to ask the gentleman from New York a question.

The CHAIRMAN. The Chair will recognize the gentleman from Ohio before the vote is taken.

Mr. BLOUNT. I trust the chairman of the committee will agree to the amendment of the gentleman from Ohio [Mr. YOUNG] with an additional amendment such as is offered by the chairman of the Committee on the District of Columbia in reference to coal. I think it is but reasonable, and I am quite sure that the gentleman from New York is ready to agree to anything that is reasonable.

Mr. HISCOCK. I am entirely willing to accept the amendment of the gentleman from Ohio, [Mr. NEAL.] I am unwilling to accept the amendment of the gentleman from Ohio, [Mr. YOUNG.]

Mr. BLOUNT. We have just had a statement in reference to coal that under the law the contract for coal was let to the lowest bidder and that more than a dollar a ton above the market price had been paid for coal.

The chairman of the Committee on Appropriations, recognizing the fact that there is some difficulty about the matter, says to this committee, "I have not heard anything about it until to-day, and that was in private conversation." Now, I want to say to my friend that the gentleman from Indiana, [Mr. COBB,] who for several years has had charge of this bill, has investigated this very item of coal, and finds that what the gentleman states is a mere matter of rumor is a matter of absolute verity, and that there has been paid for coal, as alleged here in debate, an amount which was above the market price.

And I want to say to my friend from New York [Mr. HISCOCK] that the chairman of the Committee on the District of Columbia, [Mr. NEAL,] who is presumed to be more familiar with local matters here than any other gentleman on this floor, except perhaps his colleagues on that committee, has informed this House that that statement is actually true; and in reference to his statement we have agreed without any dissent to an amendment offered by him, that while contracts for coal shall be let to the lowest bidder hereafter, it shall be with the understanding that even then there shall be no excess paid over the market price.

We now come to the proposition of the gentleman from Ohio, [Mr. YOUNG.] He tells us that the same state of things exists in reference to the horses of the fire department. We appropriated last year the sum of $4,500, about the amount usually appropriated heretofore, and we are now told that there was a deficiency. You are told that while the contracts have been let to the lowest bidder they have been far beyond what private parties in the District are obliged to pay for like services. That being true, then of necessity this deficiency ought not to have arisen; of necessity this estimate based on this defect in the law is excessive.

I hope that my friend from New York will agree to a reduction of the sum here proposed, with an amendment such as that proposed by the gentleman from Ohio, [Mr. NEAL,] and let us test the matter in that way. We will be back here next winter.

Mr. HISCOCK. I would like to inquire of the gentleman from Georgia [Mr. BLOUNT] if he has made a computation upon the basis of thirty-five horses, and knows how much per horse it would be?

Mr. BLOUNT. I want to say to the gentleman that I did not make any computation about coal, and I have not made any about horses. But the gentleman from Ohio has stated that he has made a computation, and that being the case, unless the chairman of the Committee on Appropriations will state that he has investigated the matter and finds a different result, I think it is right to accept an amendment making the appropriation for horses the same as has been allowed heretofore, and which I think is ample.

Mr. CAMP. I desire to inquire if there are thirty-five horses in this District employed in the fire department, and $7,000 in money appropriated for their keeping, is not that at the rate of just $16.66⅔ per month for each horse, and does it not cost private parties in any stable in this city for the boarding of a horse from $20 to $30 per month?

Mr. YOUNG. That is true; but I would say——

Mr. CAMP. And I would also ask the gentleman if he has not left out of his calculation the expenses of grooming, &c.?

Mr. YOUNG. One question at a time.

Mr. CAMP. You might as well take the two together.

Mr. YOUNG. The gentleman forgets that we pay $6,400 in addition to that amount for hostlers to take care of these horses.

Mr. HISCOCK. How many hostlers are there?

Mr. YOUNG. There are eight of them at $800 a year each. Now

let the gentleman add that amount to the amount for keeping, and allow for stable-room and care of all kinds, veterinary surgeons, &c. There is no way of estimating that at all; it is simply absurd to attempt to estimate it.

The gentleman from New York [Mr. HISCOCK] said that he did not know how many horses the District owns. If he will turn to page 64 of the report of the commissioners of the District of Columbia for the year 1881 he will find exactly how many horses there are. There are thirty-two horses in service and three not in service.

Now look at the figures for keeping these horses. As estimated by me, it is $2.32 a week for each horse, or, in other words, $81.20 for thirty-five horses. Then add to that the proportion of $6,400 paid for hostlers, entirely outside of the fire department, to take care of these horses, and then see whether there is any extravagance in that department, and whether there cannot be some economy practiced in regard to it.

Take an Army horse. The ration of an Army horse is judged to be sufficient by the best judges of horses in the world; and they do not get in the field half the ration that is allowed by law. An Army horse is allowed to draw fourteen pounds of corn and twelve pounds of hay each day. Now I venture to say that there is not in the fire department to-day in the city of Washington a horse that gets that amount of feed. Where does it go to?

In the first place, the District commissioners have no right to spend one dollar beyond the appropriation of $4,500 which was made for this purpose. In the second place, the Committee on Appropriations has no right to smuggle in this bill an appropriation of $2,500 more than the actual cost of keeping these horses in Washington.

The CHAIRMAN. The time for debate has expired. The question is upon the motion of the gentleman from Ohio, [Mr. YOUNG,] to strike out "$7,000" and insert "$4,500" in the pending paragraph.

Mr. HISCOCK. I certainly hope if the reduction is made the law will be amended in some way so as to get rid of the contract system. I am entirely willing that we shall provide for the keeping of these horses by contract with the lowest bidder; but in my judgment the result will be a blow at the fire department, which is very sensitive when you make this reduction.

The question was taken upon the amendment of Mr. YOUNG; and upon a division there were—ayes 26, noes 36.

So (no further count being called for) the amendment was not agreed to.

Mr. NEAL. At the suggestion of the chairman of the sub-committee, and by consent of the chairman of the Committee on Appropriations, I ask permission to modify the amendment which I offered to come in after line 431, and to transfer it to the bottom of page 21. The modified amendment I send to the Clerk's desk.

The Clerk read as follows:

Provided, That in the purchase of all articles provided for in this bill no more than the market price shall be paid for any such article, and all bids for any of such articles above the market price shall be rejected.

There was no objection, and the amendment was modified accordingly.

The Clerk read as follows:

WATER DEPARTMENT.

SEC. 2. That the following sums are hereby appropriated, to be paid wholly from the revenues of the water department of the District of Columbia, unless otherwise noted:

For one water registrar, $2,400; one chief clerk, $1,500; one clerk, $1,400; two clerks, at $1,200 each; one clerk, $900; one superintendent, $1,600; one messenger, $600; one inspector, at $3 per day, $939; contingent expenses, including books, stationery, forage, advertising, printing and miscellaneous items, $2,400; engineers and firemen, coal, material, and for high service in Washington and Georgetown, pipe-distribution to high and low service, including public hydrants, fire-plugs, replacing the nine-inch with ten-inch fire-plugs, material and labor, repairing and laying new mains, lowering mains, $49,501.50; for laying twelve-inch water-mains, with proper fire-plugs and connections, for the proper protection of the Government Printing Office, $5,600, of which the United States shall pay one half, and $2,800 is hereby appropriated for this purpose; interest and sinking-fund on water-stock bonds, $44,610; in all, $111,050.50: *Provided*, That the fiscal year of the water department of the District of Columbia shall be made to conform to the regular fiscal year of the General Government; and to carry this proviso into effect the commissioners are empowered and directed to levy and collect water rates for the six months beginning January 1, 1883, from and after the expiration of which time the rates shall be levied and collected annually: *And provided further*, That hereafter the Treasurer, as ex-officio sinking-fund commissioner, with the approval of the Secretary of the Treasury, is hereby authorized and empowered to purchase any of the funded indebtedness of the District of Columbia for the sinking fund authorized to be created for the redemption and payment of the water-stock bonds of the District of Columbia, as in his opinion may be for the best interests of said District of Columbia.

During the reading of the foregoing section—

Mr. YOUNG said: I desire to go back to line 492, on page 21, to offer an amendment.

The CHAIRMAN. If the gentleman will withhold his request for the present, the Chair, when the reading of the bill is concluded, will submit it.

Mr. HISCOCK. I object to going back.

The Clerk read as follows:

SEC. 3. That hereafter all moneys appropriated for the expenses of the government of the District of Columbia, together with all revenues of the District of Columbia from taxes or otherwise, shall be deposited in the Treasury of the United States as required by the provisions of section 4 of an act approved June 11, 1878, and shall be drawn therefrom only on requisition of the commissioners of the District of Columbia, (except that the moneys appropriated for interest and the sinking-fund shall be drawn therefrom only on the requisition of the Treasurer of the United States,) such requisition specifying the appropriation upon which the same is drawn; and in no case shall such appropriation be exceeded either in requisition or expenditure; and the accounts for all disbursements of the commissioners of said District shall be made monthly to the accounting officers of the Treasury by the auditor of the District of Columbia on vouchers certified by the commissioners, as now required by law: *Provided*, That said commissioners shall not make requisitions upon the appropriations from the Treasury of the United States for a larger amount during any fiscal year than they make on the appropriations arising from the revenues of said District, including one-half of all general taxes paid in drawback certificates as required by the third section of the act approved June 27, 1879, entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes."

The CHAIRMAN. The reading of the bill is now concluded. The gentleman from Ohio [Mr. YOUNG] asks unanimous consent to go back to a part of the bill which has been passed, in order to offer an amendment.

Mr. KETCHAM and Mr. BROWNE objected.

Mr. YOUNG. I cannot understand why objection should be made to any member on the floor trying to amend this bill.

Mr. BLOUNT. I would suggest to the gentleman from New York [Mr. KETCHAM] that his bill has been subjected to very little criticism, and he should not object to hearing the amendment.

Mr. YOUNG. The bill was read very rapidly, and I had no opportunity to offer this amendment. I must vote against the bill unless we are allowed free opportunity to discuss and amend the different items.

The CHAIRMAN. Is there objection to going back to a previous section of the bill, as proposed by the gentleman from Ohio?

Mr. HISCOCK. I do not understand that my colleague [Mr. KETCHAM] has withdrawn his objection.

Mr. BROWNE. How often is it necessary for a gentleman to say that he objects?

The CHAIRMAN. Does the gentleman from Indiana object?

Mr. BROWNE. I do, most distinctly.

The CHAIRMAN. The request of the gentleman from Ohio is objected to.

Mr. KETCHAM. I move that the committee rise and report the bill to the House with a recommendation that it be passed as amended.

Mr. KLOTZ. I intended to offer an amendment to line 5 in reference to the water department; but on the suggestion of the Chairman that the bill be read through I withheld the amendment.

Mr. KETCHAM. I insist on my motion.

Mr. HOLMAN. I submit that the last paragraph of the bill is still open to amendment. So long as any gentleman desires to submit an amendment to that paragraph it is certainly in order.

The CHAIRMAN. The gentleman from New York has moved that the committee rise and report the bill.

Mr. HOLMAN. But a motion to rise and report the bill cannot deprive any member of the right to offer an amendment to the last paragraph. If the motion could have that effect, it might be made instantly on the reading of the last paragraph.

Mr. HISCOCK. The motion to rise and report the bill to the House is in order; and that is the motion now pending.

The CHAIRMAN. A simple motion that the committee rise is at all times in order; but the motion of the gentleman from New York is that the committee rise and report the bill to the House as amended. The gentleman from Pennsylvania [Mr. KLOTZ] states, as the Chair understands, that he was seeking recognition to offer an amendment to the last section of the bill, when the gentleman from New York made his motion. The motion to rise and report the bill cannot preclude a motion to amend the last paragraph.

Mr. KLOTZ. I move to amend by striking out, in line 5 of the section in regard to the water department, "$2,400" and inserting "$3,000" as the salary of the water registrar.

Mr. HISCOCK. I make the point of order that the amendment is not in order. In the first place we have passed that section of the bill, and in the second place the amendment proposes to change existing law and increase expenditures.

The CHAIRMAN. The Chair sustains the point of order.

Mr. TOWNSHEND, of Illinois. Mr. Chairman, we have not heard the amendment.

The CHAIRMAN. The gentleman from Pennsylvania stated that he had an amendment to offer to the last section of the bill. Upon presentation of the amendment it was found to apply to line 5 of section 2. The point of order was made that that section had been passed and that an amendment could only be in order to section 3. The Chair sustained the point of order. The question is on the motion of the gentleman from New York, [Mr. KETCHAM.]

Mr. YOUNG. I desire to ask a question of the Chair. While the Clerk was reading the bill I rose and asked the attention of the Chair to an amendment which I desired to offer. The Chair requested me to wait until the Clerk had concluded reading, stating that he would then recognize me. When the reading was finished I addressed the Chair to offer my amendment, which was objected to. Now, the Chair cut me off at the proper time for offering the amendment, and by the objection subsequently made I am cut off entirely.

The CHAIRMAN. The Chair stated that he would recognize the gentleman from Ohio at the conclusion of the reading of the bill.

Mr. YOUNG. Precisely.

The CHAIRMAN. The Chair did then recognize the gentleman;

but unanimous consent for the offering of the amendment was refused. The Chair did all he could for the gentleman.

Mr. YOUNG. I desire to ask whether in the consideration of a bill in Committee of the Whole it is absolutely necessary to get unanimous consent for the offering of an amendment?

The CHAIRMAN. It is not necessary to get unanimous consent for the offering of an amendment when it is in order; but if the section to which the amendment relates has been passed, unanimous consent is necessary in order to recur to that section. It was on this ground that the Chair did not entertain the amendment, very much to his own regret, because personally he would have been very glad to recognize the gentleman.

The question being taken on the motion that the committee rise and report the bill to the House as amended, it was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. HASKELL reported that the Committee of the Whole House on the state of the Union, having had under consideration the bill (H. R. No. 5664) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1883, and for other purposes, had directed him to report the same back with sundry amendments, and to recommend the passage of the bill as amended.

Mr. KETCHAM. I call for the previous question on the bill and amendments.

The previous question was ordered; and under the operation thereof the amendments reported from the Committee of the Whole were concurred in.

The question being on ordering the bill as amended to be engrossed and read the third time,

Mr. KETCHAM called for the previous question.

Mr. YOUNG. I wish to put to the Chair a parliamentary inquiry—whether this bill is not now subject to amendment?

The SPEAKER *pro tempore*. It is not subject to amendment pending the call for the previous question.

The previous question was ordered; and under the operation thereof the bill, as amended, was ordered to be engrossed for a third reading, and was accordingly read the third time.

The question being on the passage of the bill,

Mr. KETCHAM called the previous question.

The previous question was ordered.

The SPEAKER *pro tempore*. Upon the passage of this bill the question must, under the rules, be taken by yeas and nays.

The question was taken; and it was decided in the affirmative—yeas 134, nays 13, not voting 144; as follows:

YEAS—134.

Aiken,	Dwight,	Jacobs,	Robinson, Geo. D.
Aldrich,	Evins,	Jadwin,	Ryan,
Armfield,	Farwell, Chas. B.	Jones, George W.	Scranton,
Bayne,	Farwell, Sewell S.	Kelley,	Shultz,
Bingham,	Finley,	Ketcham,	Singleton, Otho R.
Blackburn,	Flower,	King,	Spaulding,
Bland,	Ford,	Latham,	Speer,
Bliss,	Forney,	Leedom,	Spooner,
Briggs,	Garrison,	Lord,	Steele,
Browne,	Geddes,	Lynch,	Strait,
Buck,	George,	Marsh,	Taylor,
Burrows, Julius C.	Gibson,	Martin,	Thompson, P. B.
Burrows, Jos. H.	Godshalk,	McLane,	Thompson, Wm. G.
Butterworth,	Guenther,	Mills,	Tillman,
Camp,	Gunter,	Moore,	Townsend, Amos
Campbell,	Hardenbergh,	Morrison,	Townshend, R. W.
Cannon,	Hardy,	Muldrow,	Tyler,
Carlisle,	Harmer,	Neal,	Updegraff, J. T.
Carpenter,	Harris, Henry S.	Norcross,	Upson,
Cassidy,	Haseltine,	Oates,	Urner,
Chace,	Haskell,	O'Neill,	Valentine,
Clardy,	Hatch,	Orth,	Van Aernam,
Clark,	Hawk,	Paul,	Wadsworth,
Cobb,	Heilman,	Payson,	Walker,
Colerick,	Hepburn,	Peelle,	Warner,
Converse,	Herbert,	Peirce,	Watson,
Cook,	Herndon,	Pound,	Webber,
Crapo,	Hewitt, G. W.	Randall,	Williams, Chas. G.
Cravens,	Hill,	Ranney,	Williams, Thomas
Cullen,	Hiscock,	Reed,	Willis,
Cutts,	Hoblitzell,	Rice, Theron M.	Willits,
Darrall,	Horr,	Rice, William W.	Wise, George D.
Dawes,	Houk,	Rich,	
Dunn,	Humphrey,	Robeson,	

NAYS—13.

Buchanan,	Holman,	Prescott,	Whitthorne.
Clements,	Jones, James K.	Ross,	
Cox, William R.	Klotz,	Stockslager,	
Davis, Lowndes H.	Matson,	Wellborn,	

NOT VOTING—144.

Anderson,	Bowman,	Covington,	Dowd,
Atherton,	Bragg,	Crowley,	Dugro,
Atkins,	Brewer,	Culberson,	Dunnell,
Barbour,	Brumm,	Curtin,	Ellis,
Barr,	Buckner,	Davidson,	Ermentrout,
Beach,	Cabell,	Davis, George R.	Errett,
Bellord,	Caldwell,	Deering,	Fisher,
Belmont,	Calkins,	De Motte,	Frost,
Beltzhoover,	Candler,	Deuster,	Fulkerson,
Berry,	Caswell,	Dezendorf,	Grout,
Black,	Chapman,	Dibble,	Hall,
Blanchard,	Cornell,	Dibrell,	Hammond, John
Blount,	Cox, Samuel S.	Dingley,	Hammond, N. J.
Harris, Benj. W.	McClure,	Reagan,	Springer,
Hazelton,	McCoid,	Rice, John B.	Stephens,
Henderson,	McCook,	Richardson, D. P.	Stone,
Hewitt, Abram S.	McKenzie,	Richardson, Jno. S.	Talbott,
Hoge,	McKinley,	Ritchie,	Thomas,
Hooker,	McMillin,	Robertson,	Tucker,
House,	Miles,	Robinson, James S.	Turner, Henry G.
Hubbell,	Miller,	Robinson, Wm. E.	Turner, Oscar
Hubbs,	Money,	Rosecrans,	Updegraff, Thomas
Hutchins,	Morey,	Russell,	Vance,
Jones, Phineas	Morse,	Scales,	Van Horn,
Jorgensen,	Mosgrove,	Scoville,	Van Voorhis,
Joyce,	Moulton,	Shackelford,	Wait,
Kasson,	Murch,	Shallenberger,	Ward,
Kenna,	Mutchler,	Shelley,	Washburn,
Knott,	Nolan,	Sherwin,	West,
Lacey,	Pacheco,	Simonton,	Wheeler,
Ladd,	Page,	Singleton, Jas. W.	White,
Le Fevre,	Parker,	Skinner,	Wilson,
Lewis,	Pettibone,	Smith, A. Herr	Wise, Morgan R.
Lindsey,	Phelps,	Smith, Dietrich C.	Wood, Benjamin
Manning,	Phister,	Smith, J. Hyatt	Wood, Walter A.
Mason,	Ray,	Sparks,	Young.

So the bill was passed.

The following additional pairs were announced:

Mr. REAGAN with Mr. HALL.

Mr. CANNON with Mr. SCALES.

Mr. CONVERSE with Mr. BELFORD, on all political questions.

Mr. MOREY with Mr. MULDROW.

Mr. HOUSE with Mr. BUTTERWORTH.

Mr. HAZELTON with Mr. BUCKNER.

Mr. VALENTINE with Mr. KENNA.

Mr. HARRIS, of New Jersey, with Mr. HARMER.

Mr. WAIT with Mr. BARBOUR.

Mr. BREWER with Mr. TALBOTT.

Mr. HOUK with Mr. MCMILLIN.

Mr. ORTH with Mr. PHELPS.

Mr. SHERWIN with Mr. DIBBLE.

Mr. COBB with Mr. ROBESON.

Mr. MULDROW. I am paired with Mr. MOREY, but voted, and I ask to withdraw my vote.

Mr. HISCOCK. You need not withdraw it; I will be responsible.

Mr. MULDROW. I must withdraw it.

Mr. ROBESON. I object, if it leaves us without a quorum.

Mr. CONVERSE. These pairs are all made on political questions, and they should be so reported.

Mr. CANNON. I am paired with Mr. SCALES, but on the understanding that it was not to break a quorum.

Mr. WISE, of Virginia. I am paired with my colleague, Mr. JORGENSEN, but upon the understanding between us I am entitled to vote.

Mr. HOUK. On leaving the House an hour ago I paired with Mr. GEDDES, and that pair was transferred to my colleague, Mr. MCMILLIN. To make a quorum I take the responsibility of voting.

On motion of Mr. CAMP, by unanimous consent, the reading of the names was dispensed with.

The vote was then announced as above recorded.

Mr. KETCHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. REED. Mr. Speaker, I desire now to call up for consideration the special order, but yield for a moment to the gentleman from New York, [Mr. CAMP,] who wishes to offer a resolution.

ASSISTANT JOURNAL CLERK.

Mr. CAMP. I desire to offer a resolution to which I think there will be no objection, and ask its immediate consideration.

The SPEAKER *pro tempore*. The resolution will be read.

The Clerk read as follows:

Resolved, That the Clerk be, and is hereby, authorized to pay out of the contingent fund of the House to Frank Galt, as assistant journal clerk, the per diem compensation of committee clerks from March 1, 1882, to the end of the present session of Congress.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. HOLMAN. That measure is no doubt entirely correct and proper, but I should like to have some explanation of the necessity for it.

Mr. CAMP. The gentleman to whom this refers has been performing the duties of assistant journal clerk. He has rendered the service, but for some reason which I do not know is unable to draw his pay without this resolution.

Mr. KLOTZ. Was he ever appointed to that position?

Mr. CAMP. I presume he was. He has rendered the service and has been paid for a part of the time. This makes provision for the payment that is due up to this time, and from now to the end of the session.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. COX, of North Carolina. I must make objection to it unless I can understand its object.

Mr. CAMP. Then I ask its reference to the Committee on Accounts.

The SPEAKER *pro tempore*. Without objection the resolution will be referred to the Committee on Accounts.

There was no objection, and it was so ordered.

WICKLIFFE COOPER.

Mr. BLACKBURN, by unanimous consent, introduced a joint resolution (H. R. No. 208) correcting the military record of Wickliffe Cooper, deceased, late major Seventh Cavalry, brevet colonel United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PLATE-PRINTING PRESSES, TREASURY DEPARTMENT.

Mr. FLOWER, from the Committee on Banking and Currency, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to report to this House, in addition to the information already requested of him in the matter of work done on steam power plate-printing presses in the Treasury Department, the original estimate of the cost of said machines now in use, together with their actual cost; a detailed statement of all repairs and all other expenses thereon; the number of such presses now in operation; the number of impressions printed on the several presses during their operation up to date, and the actual cost of such work from every cause; together with copies of all official reports made on said presses prior to and since their introduction to the Department.

COMMON PRIME MERIDIAN.

Mr. FLOWER, by unanimous consent, introduced a joint resolution (H. R. No. 209) to authorize the President of the United States to call an international conference to fix on and recommend for universal adoption a common prime meridian to be used in the reckoning of longitude and in the regulation of time throughout the world; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

GENEVA AWARD.

Mr. REED. I must now insist on the call for the regular order. I was perfectly willing to yield to gentlemen to a reasonable extent, but I see the House is fairly bristling over with business, and I hope gentlemen will excuse me for not yielding any further. I beg therefore to call up the special order to which I have referred, the Geneva award bill.

The SPEAKER *pro tempore*. The Clerk will read the order of the House fixing the special order to which the gentleman refers.

The Clerk read as follows:

Resolved, That the bill (H. R. No. 4197) re-establishing the court of commissioners of Alabama claims and for the distribution of the unappropriated moneys of the Geneva award be taken from the Committee of the Whole and be considered in the House as in committee on April 11, and thence from day to day until disposed of, but not to interfere with the revenue and general appropriation bills, the tariff-commission bill, and the bill referring private claims to the Court of Claims.

Mr. CRAPO. I desire to ask the gentleman in charge of this bill how much time he thinks will be occupied in the consideration of this measure? I ask the question with reference to the bill which I proposed to insist upon considering as the next business in order.

Mr. REED. I am not able to state exactly, though I am in hopes of being able to close the matter to-morrow. I cannot answer more definitely, because the gentleman from Georgia, [Mr. HAMMOND,] representing the other side, is not present; and it would not be fair to say in his absence how much time will be consumed in the discussion of the matter.

Mr. CRAPO. I wish to say when this bill has been brought to a vote I shall demand the consideration of the bill to extend the charters of national banks.

Mr. REED. Mr. Speaker, it had not been my intention at the present time to address the House on the subject which is now before us. I intended to reserve what I desired to say for the close of the debate; but it has been deemed best under all the circumstances that I should make a statement to the House, explaining as briefly and simply as I may be able all the views which are entertained by the committee in regard to the distribution of the award which is covered by this bill. I shall not be voluminous in that presentation. I shall not deal very greatly with dates and figures, but shall endeavor to present the great salient and important facts, together with the line of argument which the committee deemed necessary to fortify the conclusions to which they have come.

While the facts connected with this award are scattered over a large number of volumes, some eighteen or twenty, they are nevertheless in reality few in number so far as they are of controlling influence; and if the House will be kind enough to listen to me I will endeavor to set them forth in such fashion as may aid their judgment, if possible, and not becloud it.

It is perfectly well known that during the late war of the rebellion a large number of ships preyed upon our commerce which were fitted out at British or colonial ports during the progress of the war; and while those privateers were sweeping our commerce from the seas our Secretary of State and our minister to England made various representations and took various grounds, upon which they stated that they should ultimately cause reclamations to be made. But at the time we were in no position to insist on anything that might be called our rights.

After the close of the war efforts were begun at once to repair what we deemed to be our great injury resulting from the action of these cruisers. We charged upon England that she was responsible for the devastation of our commerce which had been caused. We declared that her recognition of belligerency was premature and legally blameworthy, and had contributed to our disaster. During all the diplomatic correspondence on the subject we insisted upon that with iteration upon iteration. When Reverdy Johnson was minister to England he concluded two conventions to settle these claims, which in the meantime had been filed in the Department of State by each person who thought he had a claim.

The first convention, which was known as the Johnson-Stanley convention, simply provided for a settlement of private claims, individual claims against Great Britain; it provided that a commission should be formed, which should settle and dispose of the individual claims. That convention was rejected on account of some criticisms as to its details made by the Secretary of State.

Thereupon, a month or two afterward, a new convention, called the Johnson-Clarendon convention, was accepted by the Secretary of State, after having been negotiated by our minister and the British minister of foreign affairs. That convention when it was submitted to the Senate, being simply a treaty for the settlement of individual claims without taking into account any national loss, was rejected by the Senate, and rejected upon two grounds: first, that the convention contained no apology for the conduct of Great Britain, which we deemed unsuitable, which we deemed violative of our honor as a nation; and second, because it contained no proposition to submit the claims as a whole as a national loss to a tribunal for decision. The Senate rejected this by an overwhelming majority, and from that time there was an end of private claims as such presented by the Government of the United States.

From that time on the history of the transaction is the history of an affair between nations. It ceased to be an affair on the part of individuals against Great Britain and became an affair of the United States against the nation of Great Britain. In that state of affairs Great Britain sent some negotiators here to Washington and we sent plenipotentiaries here to meet them; and those people got together and drafted a treaty, which was called the treaty of Washington, which was adopted finally June 27, 1871.

That treaty of Washington, unlike those two conventions which I have described, was not an affair of individual claims. It was a broad national transaction. It contained in it not only a provision that individual claims, outside of the Alabama claims, should be considered by a separate commission, but it provided that the Alabama claims should be referred to a tribunal, and that that tribunal should be governed by three new rules of international law, which three new rules were thereafter to control the action of the United States and of Great Britain in all future time, together with the action of such nations as they pledged themselves to get to agree with them finally if they could.

The establishment of these three rules and the apology, which, I forgot to state, was also tendered in the treaty, and the provision that the whole claim should be referred in bulk in a particular event to the tribunal at Geneva, was a transaction which was made all together. It was a transaction which was one and the same; it was a transaction which was made as a whole; and whatever advantage the United States got was paid for by compromise by the surrender of other claims and grounds of claim. Among other things which disappeared when that treaty was made was what was in the correspondence during the war between the Secretary of State and the British minister made the most prominent ground for reclamation against Great Britain, namely, the declaration that we should hold Great Britain responsible for a premature recognition of belligerency; and it disappeared because the English Government declined, and very properly, to submit to any tribunal on earth other than their own government the propriety of recognizing belligerency. They claimed that that was an attribute of sovereignty which no nation had a right to question, and we were obliged to waive that. We waived it for the sake of making a treaty and as a part of the terms which entered into the whole situation.

Such being the state of affairs, the tribunal at Geneva assembled, and there was presented before them a series of claims made up of various items, every man in the United States presenting everything which he deemed to be a claim, no matter what it was. Among those claims were claims for the destruction of vessels; and you will notice that the claim for the destruction of vessels involved questions of testimony as to how much property was destroyed; and among the ways of presenting it was a presentation of the claims of insurance companies. But of course as between the nations the only question was how many vessels were lost. As to the price of them and how the price was made up, that was purely and simply a question of evidence. Then in addition to that the nation presented claims for the continuance of the war and for the enhancement of war premiums. It also presented claims for the destruction of all property by all classes of cruisers.

Now, I want to deal with this subject fully and frankly. The tribunal decided that the claims for enhancement of war premiums could not be recognized by it. It also decided that it would not consider the claims for the prolongation of the war, and the United States acquiesced in that.

Now, let me call your attention to the attitude of the United States upon this subject. The United States had established certain rules, and it wanted those rules construed; but it did not want them construed so as to hold us to a liability of great damage in the future.

Why? Because the United States in the future was going to be a neutral power from its very situation, and hence the United States did not desire to have these rules construed too sharply against neutrals.

If these rules should be construed too sharply against Great Britain, and we should under that construction get a million or more dollars, then the next time the discussion would come up on our liabilities, and you will at once see that we would probably in the future be in danger of being heavily and severely mulcted ourselves.

Hence we had an interest there different from individual claimants. The individual claimant wanted to get the greatest amount of money that he could get. But the United States wanted him to get it only upon principles which would be perfectly safe for the United States in their future history. Hence you see the whole bent of the argument on the part of the Government of the United States must necessarily have been turned toward giving these rules such a construction as would protect us in the future against a danger, somewhat to the detriment of the claim for what had been done in the past.

It was necessary for us not only to have these rules construed for the parties that would be represented there but that they should be construed in reference to the future history of the country. Hence the United States very readily acceded to the proposition that Great Britain was not to be held liable for the prolongation of the war, because we did not dare ourselves to enter upon that field of possible liability. It was not for our interest to do it, and we refused to do it.

So, also, when it came to the question of exculpated and inculpated cruisers. The question of exculpated and inculpated cruisers was simply this: with regard to the inculpated cruisers Great Britain was declared to have been lacking in due and proper diligence, whereas with regard to the exculpated cruisers she was released of every liability on the ground that she had used just such diligence as was proper. And you can see that it was not for our interest to have that rule drawn too strictly, because when we come to act as a neutral power it might be damaging to us if too heavy a load of diligence was thrust upon us. That is the interest which we as a nation had, an interest which modified our demands in regard to these claims.

Consequently when we got through we were bound to ourselves distribute the award in a manner that would take into account the situation under which we got it. So our Government always insisted from the very beginning that it should have the right and privilege of distributing this award, and we insisted upon it for the reason that in no other way could justice be done.

Let me give you a simple illustration. Suppose a lot of clients go to an attorney and say, "We want you to take our cases and manage them all in a lump. You have some interest of your own which you must look after; now, take our cases and manage them also." He says, "I will do so, but I am going to look out for my own interest as well as for yours; and when I get through I will divide whatever I get among you as I think fair. Now, will you consent to that?" They say that they will consent to it. Now, if he is an honest man and divides whatever he may obtain upon fair and reasonable principles, what complaint can be made against him?

Under these circumstances there is nothing to send to a court. you will perceive that we must come right to the principles of legislation; we must dictate and determine the principles upon which this award shall be distributed.

While the report of the minority of the committee in this case undertakes to argue that there ought to be a court, if it argues anything it argues that this money ought to go to the insurance companies. And I may be asked, why should it not? The answer is very plain.

The history of these insurance companies shows beyond dispute that they charged to those who went to them for war risks (and mind you the war risks were kept distinct and separate from the others) such a sum as would not only enable them to recoup every dollar they paid out but to make from 35 to 40 per cent. dividend besides. And now they ask us to pay the very amount of money in consideration of which they actually obtained 35 per cent. dividend. I say that is of itself and *per se* an absurdity; and that anybody who undertakes to advocate that doctrine has got to face the idea that the doctrine of subrogation, which at best was only a doctrine of odds and ends, has got to be applied to the case of recoupment all along the line, and they must make a law to do it.

Now, these gentlemen, in order to escape responsibility, say let us go to court. I say the court will decide in favor of the insurers or it will not. If it will not decide in favor of the insurers, then that is the way that Congress has always decided and will decide again. If it will decide in favor of the insurance companies, then I say that I do not want to give them a chance to do that. That is very simple and plain. We are the law-making power; and we must move in this matter before anybody can touch this money. If we make provision for its distribution, we must lay down just principles which shall guide the distribution.

Now, the first class of people to whom we ought to do justice is the class injured by the exculpated cruisers. Why? Because the United States for its own purposes insisted upon a more lax definition of the rule, which speaks of "due diligence;" it did this for its own interest hereafter. Therefore, these exculpated cruisers to a large extent escaped. You may accept or you may not accept the argument made by the Senator from Vermont, at a previous session of Congress, that it is the duty of Congress to protect American shipping on the seas, and that we can use this money for that purpose.

We provide next that the war-premium men shall receive their portion of this money. Why do we so provide? I will state the argument which I use upon this subject. When we made payments for vessels that were destroyed, if a man's vessel was worth $40,000 and it was insured for $30,000 and he obtained his insurance-money, then instead of paying him $40,000 we paid him only $10,000. Why did we not pay him the other $30,000? Simply because we were unwilling that any man should be paid twice. So the $30,000 was saved to the fund, and is there now.

Do you say that this should be paid to the insurance companies? I answer no; the insurance companies have already got back that $30,000, with 35 per cent. besides. Where did they get it? From the war-premium men. These insurance companies charged so immense a premium that when they got through they had actually recouped their loss and paid themselves 30 or 40 per cent. premium on their business.

Why should they be paid more? If they ever contemplated repayment by Great Britain, and, while they so contemplated it, charged premiums so huge that they could pay all their losses and have 35 per cent. over, they must have been extortioners with express malice aforethought. Paid once with splendid profits, why should they come again? Simply because incorporated man has a courage sublime enough to put the natural man to an open shame; unincorporated man is satisfied to be paid once; how many payments would satisfy incorporated man human experience has not yet decided.

It can easily be seen where that money thus saved to the fund came from. It came from war premiums. It came immediately from the insurance companies; but it came ultimately from the war-premium men. Now, why should not these men have their money back? It is their identical money which has increased the amount of the fund. Why should they not have it? It seems to me the question is too simple and clear to need discussion.

But it is sometimes said, in opposition to the proposition not to give anything to the insurance companies, "Why do you investigate the business of the insurance company and not the business of the ship-owner? Perhaps the ship-owner in the long run made money. Perhaps if he paid war premiums he added them to his freights." Such an argument shows a lack of knowledge of how business is done. What fixes the price of freight is not what it costs a man to furnish it; it is what the bulk of other people are willing to furnish it for, just as in manufactures the price is not fixed by what it costs to manufacture the article, but what the man most favorably situated can manufacture it for, if he can manufacture a sufficient quantity to supply the market.

Now, for every American bottom that was offered for freight there were offered two English bottoms that did not have to pay war premiums. Gentlemen must see at once that even at the same price the English bottom would have the advantage. Why? Because men put cargoes on ships for transportation, not to get insurance. They want the cargo to go somewhere, and they give preference to a vessel that will carry it to the destination over a vessel that might land it in the clutches of a confederate cruiser. Hence it was absolutely impossible for any American ship-owner to add the war premium on his vessel to the freight that he charged, because he was in close competition with men who had no war premium to pay.

But I hasten to a conclusion, because I promised to occupy but a very short time now, though I hope to answer hereafter any points which may be made on the other side. Let me recapitulate the leading facts. First, this was an affair between nations. This is proved by the testimony of all parties and by the decision of the tribunal itself. Second, it was an affair so combining diplomacy and damage that it cannot be settled as a pure question of damage alone. In order to distribute this money which was paid us in a lump, there must be legislation. In order that there may be legislation, we must establish the principle upon which the distribution shall take place, and the objection to referring the question to a court is simply that the court would have no principle upon which to decide it. If it should decide in favor of the insurance companies, that is a decision we do not want; if it should not decide it that way, we are capable of settling the question ourselves. We settle then the principle that this money should be paid to actual sufferers; and we say that those who suffered by the exculpated cruisers were the actual sufferers. We say that the war-premium men were the actual sufferers.

Now, let me pause here to answer one objection which occurs to me, and that is, it is said, the tribunal itself rejected the war premiums. So it did, and the tribunal was perfectly right. As between nations that was to be rejected. Why, if I pay a war premium to the Atlantic Mutual Insurance Company, I lose $100, and the Atlantic Mutual Insurance Company gains $100, but the country neither gains nor loses. And so far as this nation is concerned the tribunal was perfectly right in rejecting war premiums, but when we come to distribute between the Atlantic Mutual Insurance Company and the war-premium men then a different principle comes into play.

It seems to me there need be no dispute about that. It seems to me it is as clear as noon-day that while the tribunal was perfectly

right in rejecting that claim, nevertheless we would be perfectly wrong in rejecting it, because thereby we should do injustice to the sufferers.

Mr. Speaker, I am obliged by the attention which these facts have received, and I hope they have been presented in such fashion as to lead your judgment to what seems to me to be the only reasonable conclusion, and that is that the principles of the bill of the majority which I have stated are sound and safe for this House to follow, not in a matter of legal judgment, but in a matter of legislation. [Applause.]

Mr. HUMPHREY. Mr. Speaker, in what I shall have to say on this question I shall attempt to show that the facts and principles out of which these claims arose are entirely distinct from any other class of claims ever presented for adjudication as between two nations or sovereign powers. It will be recollected almost at the beginning of this Government that during the war which commenced between England and France, in 1792, the British Government called upon this Government to frame an act preventing the fitting out of cruisers on neutral soil to prey on the commerce of nations with which that nation was on terms of peace. President Washington recommended to Congress and Congress passed what is called the foreign enlistment act, the British Government promising that on its part it would pass an act exactly the counterpart in all its provisions.

Now, the act which this Government passed at that time, and which has been since amended, I will read certain portions of to show the position this Government then took at the outset on all questions arising under the law of nations and which bind it, not only under treaty stipulations, not only under international law as defined by treaties, but under specific legislation enacted by the United States. This is what the United States adopted as a rule to be observed and binding on it in all cases. I read from section 3 of an act which was passed in 1818, being an act for the punishment of certain crimes against the United States, passed in 1794 and amended in 1818:

That if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, or arming of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign prince or state, or of any colony, district, or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, or shall issue or deliver a commission within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed as aforesaid, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than $10,000, and imprisoned not more than three years. And every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores, which may have been procured for the building and equipment thereof, shall be forfeited; one-half to the use of the informer, and the other half to the use of the United States.

The next section provides—

That if any citizen or citizens of the United States who shall without the limits thereof fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly aid or be concerned in furnishing, fitting out, or arming any private ship or vessel of war, or privateer, with intent that such ship or vessel shall be employed to cruise or commit hostilities upon the citizens of the United States or their property, or shall take the command of or enter on board of any such ship or vessel for the intent aforesaid, or who shall purchase any interest in any such ship or vessel with a view to share in the profits thereof, such person so offending shall be deemed guilty of a high misdemeanor, and fined not more than $10,000 and imprisoned not more than ten years; and the trial for such offense, if committed without the limits of the United States, shall be in the district in which the offender shall be apprehended or first brought.

The next section provides—

That if any person shall, within the territory or jurisdiction of the United States, increase or augment, or procure to be increased or augmented, or shall knowingly be concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than one thousand dollars and be imprisoned not more than one year.

The Government of Great Britain passed an act precisely like this which I have read, and which this Government enforced during the wars which Great Britain had with France, during the Napoleonic wars, during the war with Russia in 1857, and during the war with Brazil.

In one case, when the British minister called upon this Government to stop a vessel leaving the port of New York, claiming it had been fitted out and armed for a purpose prohibited by the law, the Government at once seized the vessel; but when it was determined she had not been fitted out in violation of this act, the act of neutrality, she was released, and this Government paid the damages.

Now, sir, on the breaking out of the war of the rebellion we called on the Government of Great Britain to enforce her foreign-enlistment act. We said the fitting out of confederate cruisers on her shores was an act of war. We said that our commerce could not live upon the high seas unless she enforced this act in the same way that the Government of the United States enforced its act during the various wars England had with foreign nations. During that controversy between this Government and Great Britain Sir Roundell Palmer stated in the House of Commons that it was to the honor of British law that it never proceeded on suspicion, although this Government had time after time given notice to her of the fitting out of these vessels, of their leaving her shores to prey upon our commerce, thus preventing our merchantmen from pursuing the avocation for which they were designed.

At the close of the war, after this Government had filed claims against the Government of Great Britain amounting to between twenty-two and twenty-five millions of dollars—and I will not dwell upon this point, for you all know its history—came the question between the two nations as to the liabilities for these losses. It was not a question as between a citizen or claimant against the Government, but as between two great nations as to whether the Government of Great Britain had exercised due diligence in preventing the fitting out of the confederate cruisers that left her shores to prey upon our commerce.

The Government of Great Britain claimed that in all this affair she had exercised due diligence. She claimed that she had exercised all the powers which had been conferred upon her by Parliament. On the other hand, the Government of the United States insisted that if it had not been for want of due diligence on the part of the Government of Great Britain, it would have been impossible for one of these cruisers to have left the shores of that country, manned with British sailors, and with a tender with which in some cases they put into the port of Nassau to complete the armament, and then depart upon the high seas to destroy our commerce.

You are all familiar with the case of the Pampiro, which was adjudicated in the Scottish courts, and also with regard to the Alexandria, a vessel which was condemned by Chief Baron Pollock, of the court of exchequer, and I will not therefore dwell upon that point, but come to the point of difference between the two governments, our claim being that we had suffered a great national wrong at the hands of a government with which we were at peace and on terms of amity and friendship. That was the point made by our Government, and Mr. Reverdy Johnson at the outset said, in reference to these cruisers:

They would have been in the estimation of English laws, as well as the law of nations, piratical vessels. They never, therefore, would have been on the ocean, and the vessels and cargoes belonging to American citizens destroyed by them would have been in safety. Upon this ground, then, independent of the question of proper diligence, the obligation of Great Britain to meet the losses seems to be most apparent.

Now, Mr. Speaker, the first treaty which was rejected by the Senate was rejected upon the ground that no apology was sought to be offered by Great Britain for its wrong, and the Senate thought that should form a part of the negotiations. A new treaty was subsequently negotiated at Washington, in which the Government of Great Britain did offer an apology, and in which treaty I shall attempt to point out that the principle was recognized and received and the claims were settled upon an arbitration which finally took place different in its character and nature from any that had ever been arbitrated between two nations before. The treaty sets out as follows:

The United States of America and her Britannic majesty, being desirous to provide for an amicable settlement of all causes of difference between the two countries, have for that purpose appointed their plenipotentiaries, that is to say, the President of the United States has appointed on the part of the United States, as commissioners in a joint high commission and plenipotentiaries, &c.

I call your attention now to the first article of this treaty:

Whereas differences have arisen between the Government of the United States and the government of her Britannic majesty, and still exist, growing out of the acts committed by the several vessels, which have given rise to the claims generically known as the "Alabama claims;" and

Whereas her Britannic majesty has authorized her high commissioners and plenipotentiaries to express in a friendly spirit the regret felt by her majesty's government for the escape under whatever circumstances of the Alabama and other vessels from British ports, and for the depredations committed by those vessels;

Now, in order to remove and adjust all complaints and claims on the part of the United States—

And I call your special attention to the language and claim on the part of the United States—

and to provide for the speedy settlement of such claims which are not admitted by her Britannic majesty's government, the high contracting parties agree that all the said claims growing out of acts committed by the aforesaid vessels and generically known as the "Alabama claims," shall be referred to a tribunal of arbitration to be composed of five arbitrators, to be appointed in the following manner, that is to say, &c.

Now I call your attention to the three rules. In the first of these the contracting parties agree that—

In deciding the matters submitted to the arbitrators they shall be governed by the following three rules which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the arbitrators shall determine to have been applicable to the case.

RULES.

A neutral government is bound—

First. To use due diligence to prevent the fitting out, arming, or equipping within its jurisdiction of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise to carry on war as above, such vessel having been specially adapted in whole or in part within such jurisdiction to warlike use.

Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as a base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies, or arms, or the recruitment of men.

Thirdly. To exercise due diligence in its own ports and waters, and as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Brittanic majesty has commanded her high commissioners and plenipotentiaries to declare that her majesty's government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in article 1 arose, but that her majesty's government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that in deciding the question between the two countries arising out of those claims, the arbitrators should assume that her majesty's government had undertaken to act upon the principles set forth in these rules.

And the high contracting parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime powers, and to invite them to accede to them.

I desire for a moment to call attention to this particular point: that these claims, generically known as Alabama claims, were to be disposed of and decided with all claims and damages on the part of the United States as the resulting damage done to this Government by this wrong, which had resulted to her by reason of a want of due and proper diligence on the part of the Government of Great Britain toward the United States. And I wish to state the proposition that it necessarily results that whatever sum this Government should obtain as a result of this arbitration would be a sum in damages which should be paid to the United States as a sovereign power, without reference to the question out of which those claims originated. To sustain that position I shall cite article 12 of the treaty of Washington. Article 12 provides that every claim which a citizen of this Government had against the Government of Great Britain, originating at the same period of time—I will read a small portion of the article:

The high contracting parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the government of her Britannic majesty, arising out of acts committed against the persons or property of citizens of the United States during the period between the 13th of April, 1861, and the 9th of April, 1865, inclusive, not being claims growing out of the acts of the vessels referred to in article 1 of this treaty, and all claims, with the like exception, on the part of corporations, companies, or private individuals, subjects of her Britannic majesty, upon the Government of the United States, arising out of acts committed against the persons or property of subjects of her Britannic majesty during the same period which may have been presented to either government for its interposition with the other, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in article 14 of this treaty, shall be referred to three commissioners, to be appointed in the following manner, that is to say, one commissioner shall be named by the President of the United States, one by her Britannic majesty, &c.

It has been stated that the class of claims which have been heretofore settled between this Government and France and between this Government and the Government of Spain are in every respect similar to this class which were the subject of the arbitration at Geneva. I have not the time to refer to the particulars under which those claims were settled. Suffice it to say that in each of those cases it was provided, as in the case with Spain, that the amount paid was on account of the citizens of the United States who have preferred claims. In the case of citizens of the United States who preferred claims through this Government against France for losses incurred, it was provided the United States should distribute it among those entitled. None of these cases resemble the one under discussion.

It seems to me, Mr. Speaker, there can be no dispute upon this point; that the amount allowed the Government of the United States under the Geneva award was allowed for damages resulting and due her as a great sovereign power, as ascertained upon the principle of the three rules. When the money was paid to her no one, so far as any legal right is concerned, could ever call it in question. And yet what is the fact? We find here in this case that when, under the act of 1874, a large class of claims had been disposed of in regard to the class of claims known as claims arising under the exculpated cruisers, losses sustained by the action of those cruisers, as in the case of the Shenandoah before she reached Melbourne—we find it is claimed here they have no right to come in and claim one dollar of this fund; that this Government acted in the capacity of a trustee, and that when she received this fund she received it as a trustee for the claimants.

Let us look at this for a moment. It is a curious fact that the insurers, who were asking Congress to send this question to the Court of Claims to adjudicate upon the question whether they were entitled to receive the amount that they paid in losses for war premiums during the war—it is a curious fact that in order to sustain their position they are obliged to insist that this Government acted in the capacity of a trustee only in the disposition of this question. Consequently, if it can, as a legal question, be ascertained that it did not act in the capacity of a trustee, that it could not, as regarded these claims, act in the capacity of a trustee, then when they ask you to bring to bear upon the question the doctrine of subrogation the doctrine of subrogation itself must fall to the ground with the other question of trusteeship. Let us look at it for a moment. Those who advocate this view say this is a Government of trust powers; that the people created this Government in trust for their own benefit. If they did, then one individual is just as much a *cestui que trust* of this Government as another. And when this Government went before the Geneva tribunal and allowed one class of claims to be adjudicated by that tribunal, and allowed itself to be non-suited as to the balance, when it received a sum in gross, as a legal question the claim of one *cestui que trust* is as good against the trustee as another.

If the Government is a trustee to protect the rights of every individual under it, as a trustee it would have no power to divert the fund for any purpose whatever; the Geneva arbitration would have directed how it should distribute the fund. And because they did not the minority report say you should send it to the Court of Claims; that the Court of Claims, according to equity and the law of nations, and under the treaty and award, may dispose of those claims and distribute the fund. And if you get them there what will they say? Will they not say, "You, the Congress of the United States, send this amount to us and tell us to take into account the question of the position of these claimants under the award and distribute this fund under the treaty, the award and the act giving us jurisdiction." At the outset the arbitrators stated to the Government of the United States the claim it made for indirect damages was a claim it could not sustain, because it was entirely speculative. That was right. This Government never expected to get anything for indirect damages, but she put in her claim because she wanted not only Great Britain should apologize to this Government for the great wrong done but she wanted the question settled for the future, and, as much for her benefit as for the benefit of any other nation, to have it determined whether indirect damages could in any case be recovered as between two nations.

Then came up the question of fitting out our war vessels for the purpose of intercepting these confederate cruisers. Great Britain said that that claim must be rejected, for the reason that this Government was on a war footing and had to fit out these war vessels, and the damage was not one for which we could recover.

But the Geneva arbitrators said that as to the balance of these claims, where the damage was actual, or where the damage was proximate, they would consider the claims. When they decided to reject the other claims, this Government gave notice to its counsel at Geneva to apprise the arbitrators of the fact that we should insist that the award, whatever amount it might be, should be made to us in gross; because, mind you, it made but little difference to this Government whether as a sovereign government it received one dollar or none.

The question at issue was whether Great Britain had committed any wrong; whether there had been a want of due diligence exercised by her; whether we were right in assuming the position we had taken, or whether we were wrong. That was the great question at issue between the two nations; that was the question to be settled, a question of far greater value than any number of millions of dollars that the British Government could be mulcted in as damages to pay this Government.

The result was this: when the Geneva arbitrators made their award they gave us a gross sum of fifteen and a half millions of dollars. Now, the underwriters say to us—and I will say at the outset that I have no bias unless it be a legal bias against them; I want to see right and justice done in this matter. If there is enough to pay them, then this Government can do as it pleases. I shall never object to paying them upon any principle that will permit them to come here and claim it as a matter of mere grace. But I hold that every individual must claim as a matter of grace anything which the Government may conclude to pay him out of this award.

No sovereign government, standing in the position we occupy in regard to this fund, can occupy any other legal position. If the Government is liable as a trustee of this fund, then there must be under the law and the Constitution some remedy by which an individual who is entitled to the protection of this Government, it being a trustee for him, can compel the Government as a matter of morals and of equity to pay him, and to pay him as a matter of right and not as a matter of grace.

Now, the underwriters say to us that when they paid the total loss of any vessel destroyed by the confederate cruisers they became subrogated to the rights of the owners of the cargo and vessel. Now, what is the doctrine of subrogation? It is this: when a total loss ensues, and there is an abandonment to the underwriters, they take the specific thing for whatever it is worth. Who committed this wrong? The English Government. Who destroyed the property? The confederate cruisers destroyed it. Then what does the underwriter get under the doctrine of subrogation? He gets the right only to proceed against that confederate cruiser who destroyed the property in order to get back the amount that he paid.

The doctrine of subrogation cannot apply against England. The man who lost the vessel never had any right against the English Government. His property was destroyed by confederate cruisers. The act they committed was a legal act, in that it was an act for carrying on war. Therefore no man ever paid a war premium and no underwriter ever issued one war risk upon the idea that they could be subrogated. I say it is a natural consequence that all they became subrogated to was the right to pursue the engine, or the force, or the power that destroyed the property, or those who directed it. How is it in all the decisions involving the doctrine of subrogation? In case of willful or of gross negligence on the part of one vessel by which another vessel is destroyed the right of action against the vessel, if the owners of the destroyed vessel abandon it and the underwriters pay the loss, goes to the underwriters, who become subrogated, and if an action is brought in the name of the owners of the vessel whatever amount may be recovered is recovered in trust for the underwriters. Why is that? Because the damage caused by such negligence on the part of the master of that vessel was the proximate and direct result of the wrong complained of.

In the case of the confederate cruisers the direct act which destroyed the vessel insured was the act of the confederate cruisers themselves. They were insured against the acts of the confederate cruisers. They were not insured against any act of Great Britain. They were not insured against the act of any foreign government. They were insured against the act of these confederate vessels; it was only in respect of the cruisers that war risks were insured; and when a confederate vessel destroyed one of these merchantmen, and there was a total loss and abandonment under a war-risk policy, the indemnities could only be subrogated to the remnants of the thing for salvage, &c., including whatever could be legally recovered against the party who destroyed the property.

I say there is no other principle known to the law. The principle which arose between us and Great Britain was new in its character, one which never was applied before. In the progress of our civilization upon this continent and in Great Britain there were instituted certain rules to be observed, and in the carrying out of those rules in good faith Great Britain called upon us to observe them, and we observed them through all her various wars.

Then we said to Great Britain that when she refused to observe them she committed a wrong which under her foreign-enlistment act she had power as a government to prevent, and she refused to prevent it; that due diligence would have prevented it. Then we as a sovereign Government, as a sovereign power, as a great nation, went to Great Britain as a great nation and insisted upon her paying us damages for this wrong. The damages which we received are what are generically known as the Alabama claims. They are of just as different character from those provided for in article 12 of the treaty as they are different from the claims paid under the Spanish and the French conventions.

It seems to me, therefore, Mr. Speaker, that a wide distinction is to be taken between this class of claims and the class of claims which are ordinarily settled between governments on account of individuals. The treaty in this case plainly recognized the difference when it provided in article 1 for the class of claims called generically "Alabama claims," which were to be disposed of by arbitrators at Geneva, and in article 12 provided for claims which arose during precisely the same period for damages that should be paid on account of private individuals or citizens of the United States.

By those who claim that the underwriters should receive this money it has been urged not only that the Parliament of Great Britain did the best it could under the circumstances but that because the Geneva arbitrators decided that the Shenandoah before she reached Melbourne was not an inculpated cruiser, the claims of persons whose vessels were destroyed by the Shenandoah before she reached Melbourne should be thrown out by this Government and we should not pay such persons a dollar. Look at the case of one vessel which the Shenandoah destroyed the day before she reached Melbourne. On that occasion she had the English flag flying at her mast until the moment of making the attack, when she hauled down the English flag and raised the confederate flag.

When it is argued that the underwriters are entitled to be subrogated to the rights of those who paid the war premiums which they were required to pay during the war, I call attention to the fact that during the war 1,020 American merchantmen changed from an American to an English registry, because it became a question whether it was worse to be destroyed by confederate cruisers or by the underwriters who were demanding their exorbitant war rates. What did these American merchantmen do? They undertook to escape the cruisers and the insurance men by changing their registry and sailing under the British flag. I call attention to this fact to show that as a matter of law the principle which is to be applied to this class of cases is different from any that has ever been decided in any court of justice in this country or can arise. The principle we here contend for is recognized in cases which have been decided in England, and is fully sustained. I call attention to the case which has been so often spoken of, the case of Rustomjee. I will read a statement of the facts as embodied in the report of the majority of the court:

By treaty between the Queen and the Emperor of China, $3,000,000 were paid to the Queen by the Emperor on account of debts due to British subjects from Chinese merchants who had become insolvent. The petitioner, Rustomjee, was owner of one of the debts covered by that payment; and during the negotiations the British agents promised him that his claim should be pressed and that the money when recovered should be paid him. It was not disputed that this very debt was included in the sum so paid. Under the laws of England whoever claims that the Queen has money of his in her possession may bring suit therefor by petition of right. Rustomjee filed such a petition, claiming the Queen to be his agent and trustee. In commenting upon this claim Chief-Justice Cockburn, himself one of the Geneva tribunal, uses language the application and pertinency of every word of which to the present case is too plain to need comment:

"In such a case a petition of right will not lie."

Then if the petition of right would not lie the Government could not have been a trustee, for by the common law of England, where the Crown or the government is a trustee the petition of right does lie.

In such a case a petition of right will not lie. The notion that the Queen of this country, in receiving a sum of money in order to do justice to some of her subjects, to whom otherwise injustice would be done, becomes the agent of those subjects, seems to me really too wild a notion to require a single word of observation beyond that of emphatically condemning it. In like manner, to say that the sovereign becomes the "trustee" for subjects on whose behalf money has been received by the Crown appears to be equally untenable. It comes simply to this, that her majesty, in order to enable her to see that injustice is not done to her subjects, stipulates for the payment in her hands of a sum of money. The distribution of that must be left to her majesty's discretion.

Lord Coleridge, in commenting upon this case, said:

We assent, upon full consideration, to the reasoning of the judges in the court below. The making of peace and the making of war, as they are the undoubted, so they are, perhaps, the highest acts of the prerogative of the Crown. The terms on which peace is made are in the absolute discretion of the sovereign.

I call attention to this point to show that these Alabama claims involve a different question from any ever presented on the part of this Government to any other nation. They arose out of a controversy which, if not settled, might have led these two great nations to the trial by battle to determine which was right and which was wrong. This Government could not yield her national honor; and unless both parties would provide by treaty for submitting the question to arbitration, armed hostilities might have ensued. The case was the same in principle as if this money had been paid upon the conclusion of peace at the termination of a war—as if it had been paid as pure indemnity to this Government for the wrong done to her national honor.

But it is said that this principle, although undoubtedly English law, is not applicable to this country, because the Government of the United States was created by the people as a trustee for their benefit. I desire to say, with all due respect, that the principle upon which this Government is founded is precisely the same as that on which the Government of Great Britain rests. We have a written constitution. England has a constitution which is contained in Magna Charta, in the decisions of her courts, and in her statutes. But although the facts and documents upon which the British constitution rests extend from the era of Runnymede to the present day, England has no less a written constitution than we have.

In every case where this Government stands in the position of a trustee, I say there is no power to prevent the Constitution having its full effect, namely, to protect every citizen in every right he possesses. If, then, it is a trustee as a *cestui que trust* of this Government, every man has the legal right to demand he shall be paid every dollar due him.

But, Mr. Speaker, we have a later case than that of the Rustomjee. We have a case decided in the court of last resort of Great Britain. The facts are as follows: the owner of a vessel who suffered a loss during our war, and who was paid under the act of 1874, was sued by the underwriters in Great Britain to recover the sum paid him. Now let us see what the court said in that case:

Plaintiffs, underwriters in England, underwrote a valued policy, including war risks, on cargo belonging to defendants, shipped on board a United States vessel. The real value of the cargo was more than the amount named in the policy. The cargo was destroyed by the confederate cruiser Alabama, and plaintiffs paid the amount named in the policy to defendants as an actual total loss; but in pursuance of defendant's claim under this act they recovered the difference between the actual loss and the amount insured. The decision of Lord Chief-Justice Coleridge was reversed. I will take the time to refer to some parts of that decision. He goes on and gives the terms of the act of 1874, to which I have already called attention. He then says:

Two things are clear from the facts as applied to this section:

(1.) That the defendants got their money from the court on the proof, or allegation at least, that their actual loss in respect of the cargo of the Lamplighter exceeded the compensation or indemnity paid them by the plaintiffs under the policy; and

(2.) That the money could not have been obtained from the court either by the plaintiffs suing in their own name or by the defendants suing on the plaintiffs' behalf; and the question is, now that the defendants have obtained the money under these circumstances, can the plaintiffs recover it from them? In other words, have the defendants obtained the money under circumstances which make them in respect of it trustees for the plaintiffs? Two points arise: 1. Is the value in the policy which has been paid absolutely conclusive in case of actual total loss between the parties to the policy? 2. Was the payment of their money to the defendant more than a free gift, a pure act of grace on the part of the United States? As to the first question, there has been an actual total loss, a positive, complete destruction of the thing insured; and I think that in this case the valuation in the policy is conclusive between the parties. They have by agreement settled the value and not left it open to future inquiry and dispute as between themselves.—*Shawe* vs. *Felton*, 2 *East*, 109; *per Lord Abinger, delivering judgment in Young* vs. ——

He then goes on:

If it were, I am of opinion that this action would clearly be not maintainable, and at first sight there is much to be said for the contention that it is a mere act of grace. The money out of which this is paid to the defendant is a sum of money paid by Great Britain to the United States, from one sovereign state to another; and Rustomjee vs. The Queen, 34 L. T. Rep. N. S., 278; 36 L. T. Rep. N. S., 190; 1 Q. B. Div., 487; 2 Q. B. Div., 69, is a distinct authority for holding that money being paid by one sovereign state to another, in respect of war losses occasioned by the paying state to the subjects of the receiving state, gives no legal right whatever to a particular subject of the receiving state, compensation for whose loss has been paid to that state, capable of being enforced in any court against the sovereign or the government of that state.

He decides that it was not an act of grace, not a mere gift. He then adds:

It is therefore no doubt clear that the defendants could have had no legal claim capable of being enforced against the United States in their sovereign character. But it seems to be equally clear, as the result of great authorities both in England and in America, that if a country puts a fund of this sort in course of distribution by regular process among such of its subjects as are morally entitled to share in the fund, then what their subjects so recover they recover as a right, not, perhaps, enforceable by law, but yet with such a character of moral equity about it

as makes them, in respect of what they so recover, trustees for those who in equity and justice are entitled to it. This appears to me to have been held in principle by Lord Northington, Lord Hardwicke, and Chancellor Kent when chief-justice of New York.

On appeal the House of Lords reversed the decision of Chief-Justice Coleridge, giving judgment for plaintiff. Here is what Justice Bramwell said:

I cannot (though I say so with the greatest respect) think that the judgment of Lord Coleridge is right; and, although the court is not unanimous, it seems to me that it would be useless to take time to consider our judgment, for what we have to decide is a short point, and there is no complication in the case. Lord Coleridge thought that there were only two points which it was necessary to consider, for he said in the course of his judgment: "Two points arise: first, is the value in the policies which have been paid absolutely conclusive in case of actual loss between the parties to the policies? and secondly, was the payment of this money to the defendants more than a free gift, a pure act of grace on the part of the United States?" Now, I venture to think that there is a third, and a most important point, which is this: suppose this was a free gift, was it a gift which could be called a portion of the salvage of the thing insured?

I agree with the reasoning and the conclusion of Lord Coleridge on the other points; and agreeing with his reasoning, I should have thought that if the money had been awarded because the cargo was taken by the Alabama *simpliciter* it would have been a portion of the salvage, and the present case would have been within the principle of the cases referred to and relied upon in his judgment. But there arises the third question, which was omitted in Lord Coleridge's judgment, namely, Was this given as salvage? I am clearly of opinion that it was not. In considering this question we must look at the act of Congress. It says that no claim shall be allowed for any loss in respect of which compensation or indemnity has been received from insurers, but that if an owner insures by a valued policy for an amount which is under the real value of the property insured he shall receive nothing for the policy, but for the underinsurance he shall receive an indemnity.

In reversing Lord Coleridge's opinion Justice Brett used the following language:

If we had not had plenty of time to consider the point I should think it right to reserve judgment, as the court is not unanimous. This money was in the first place recovered by the American Government from England by treaty. The United States Government did not bind itself in any way as to the disposal of the money, and there was no obligation on it to give any of that money to the present defendants. Therefore there was a sum of money in the hands of the Government and there was no obligation binding the Government as to its disposal. The Government was at liberty to make a gift of it to any person, but was not bound to do so. If it had been paid over as a portion of the salvage it may be that the mere fact that there was no obligation on the part of the Government would not prevent the money from being payable to the underwriters. That may be the effect of the cases before Lord Hardwicke and Lord Northington, (Randal *vs.* Cockran and Blaaunpot *vs.* Da Costa.) but I doubt if that is the principle of those decisions. I should think the principle must be that the Government had recovered the money for the assured; but if that were so the money could not be recovered from the Government. If these decisions proceeded on the supposition that the money was a pure gift on the part of the Government, and was handed over to the assured as such, I could not follow the reasoning; and unless we are bound by the decisions I should say that we ought not to follow them. If the money was paid over in the present case as part of the salvage of the property insured these cases might be authorities in favor of the contention on behalf of the plaintiffs.

In my opinion, however, the true principle is that the United States Government did not pay this money as salvage; that it was paid not for the loss of the goods, but as a gift, because the owners of the goods were not insured to the full value of what they had lost. The Government would have paid the owners of the goods if they had not been insured at all, or if they had entered into a policy but could not recover from the underwriters. The payment was not in respect of the loss, but because the owners were not fully insured. The present case is quite different from the English cases to which I have already referred, because here the money could only be recovered in America before one court. If the present defendants had sued in that court, stating that they were suing for the underwriters, or if the underwriters had sued in their own names, not one penny could have been recovered. In the English cases, if the assured had declared that he was suing as a trustee for the underwriters, or if the underwriter were suing in his own name, the person so suing would recover all the money; but then the Government would pay as matter of salvage. Here the assured could not recover on behalf of the underwriters. I am of opinion that the act of Congress makes it a free gift, whatever money is paid, because the owners are under-insured, and therefore that this is distinguishable from the English cases, and the judgment ought to be reversed.

It was decided by a majority of the court that it was a mere act of grace on the part of the United States in passing the act of 1874 and paying that money. Those were claims directly adjudicated, and which all admitted were claims allowed under the Geneva award. Consequently this decision establishes the principle that it makes no difference whether the claim allowed was one which the Geneva tribunal recognized, whether of an inculpated or exculpated cruiser that the money paid by this Government was paid by a mere act of grace.

It is assumed as a principle that when the people endow a government with the attributes of sovereignty, that they create a sovereignty which can suffer a wrong they cannot in their individual capacity suffer, and having thus endowed that government with a sovereignty of that character, when it comes as one of the great nations of the earth before a tribunal in connection with another government, and submits what it claims to be wrongs against its national honor, and that tribunal passes on the question and gives a sum in gross as damages, it makes no difference what are the items out of which that claim arose.

When it received it it received it in its sovereign capacity and received it to deal with as it saw fit, just as it saw proper, because it could go before that tribunal and submit that great wrong and have the question decided without submitting one dollar or one cent of claims to be recovered in the shape of damages in dollars and cents. It seems to me, Mr. Speaker, that when we consider the question in its proper light, and when we find that no underwriter has any standing anywhere in any case to claim one cent of this money, except upon the basis that this Government is a trustee, and when it is clear that this Government could not be a trustee in respect to this fund in any sense whatever, it must follow conclusively that the Government can dispose of it and, what is more, that it should never send it to any tribunal to parcel it out and dispose of it in a manner contrary to what is proper and right when all of the facts are considered.

The people of this country, or this country itself in its national character, has created this Congress a tribunal for the adjudication of just such cases, have endowed it with the power to decide just such questions, and it is clearly within the province of Congress to deal with this fund as it may see fit. Congress, we are told, cannot deal with it properly; that Congress has not the paraphernalia of a court for taking testimony, for hearing evidence and disposing of cases; that we should take it out of the pale of Congress and send it to the Court of Claims and let that court dispose of the questions arising out of these claims. You endow that court with power to decide all these questions. You say to the court decide and pass upon the questions, and under the treaty and the award dispose of the claims by the principles of law and equity according as you may see fit, the only limitation being that the court should observe equity, the law of nations, the treaty, and the award.

Now, Congress can do all this, and it can provide a commission and direct it what rules to observe in the disposition of the fund without any risk of having every sense of justice shocked by the fund being parceled out to the underwriters, and those who suffered actual loss by loss of property or by paying war premiums not receiving anything therefor.

Again, send this question to the Court of Claims under the minority bill, and you surely give the underwriters a legal standing in that court; and, having gained that, they can then with reason contend that they are entitled to the relief they ask and that Congress had so decided, at least tacitly, by passing the act which enabled them to stand before that tribunal.

If you raise the commission provided in the bill of the majority you simply pay, in the first instance, those who suffered actual loss by the exculpated cruisers the actual amount thereof, and those who paid war premiums and were compelled to do so by reason of want of due diligence on the part of England, and who paid it for the privilege of sailing under the Stars and Stripes, so that both of these classes of sufferers became sufferers simply because they were sailing under the American flag. The underwriters who embarked in the venture of war risks and lost in that venture were paid their losses under the act of 1874. Those who not only did not lose but made a handsome fortune of the venture are now asking us to reimburse them to a certain degree the losses they did pay.

I submit, Mr. Speaker, that the decision which was made last year by the House of Lords determines conclusively that not in respect to one dollar of the Geneva award is this Government a trustee, whether claims for loss sustained by the acts of inculpated cruisers or by loss through the exculpated cruisers. But we are called to consider the decisions which have been made by courts of last resort in the United States, and the cases as decided by the Supreme Court of the United States, which, it is claimed, sustain the principle that under the doctrine of subrogation the parties can come in and claim that as we have received the money they are entitled to it; and not a dollar should go to those who have suffered actual loss, the persons who had the misfortune not to have insured their property and received their policies at the hands of these very underwriters.

Now, I undertake to say that all the decisions referred to belong to a class well recognized, to wit, where the insured in case of loss and abandonment receives of the underwriters the amount insured and afterward receives salvage or any other benefit that arises out of the property so abandoned, holds it as trustee for the underwriters, and they can receive it, or if the insured does not receive it the underwriters become entitled to receive all such benefits flowing from the property so abandoned; and it would also follow, if the property was destroyed by the willful or negligent act of another so that a right of action for damages would lie in behalf of the insured the underwriter would succeed to that right.

The question here is entirely different. In these cases now under consideration the destruction of the property was the act of the confederate cruisers, just what the underwriters insured against. The fund in question was received by this Government as an indemnity from Great Britain for a wrong done by that government to this Government in not exercising proper diligence in preventing the fitting out and arming confederate cruisers.

Now, as I said at the outset, I am not biased against the underwriters, so far as that is concerned. The Government has the money, and I am willing that it shall be paid out as Congress may see fit, from time to time, to pay it. But I am not willing that when there are many knocking at the Halls of Congress, who have suffered loss and injury and who have never received a dollar for it, who have lost their all, which they had invested under the American flag to go upon the high seas to encourage and promote the commerce of this Government, I say I am not willing, because they did not have the fortune to change their registry and did not insure with these underwriters, that they shall go away unheard and unheeded, and tell them we will send the adjudication of this question to the Court of Claims. This would enable the persons who have amassed fortunes from war premiums to be paid to the exclusion of those who really lost their property by the acts of these confederate cruisers.

Is it right or just when they suffered injury because of the acts of these confederate cruisers, against which they had no insurance, that they should be thrown out of any tribunal which can afford them relief, and in case of actual loss suffered by them have no remedy? Such a principle would be wrong, and in violation of every spirit of right which has been maintained in any civilized government on earth. Many cases of loss occurred where no insurance at all was taken and no policies were held by the losers, and yet the action proposed by the minority report would give the benefit of this arbitration fund to the insurance companies rather than to the actual losers. Did the underwriters insure against the wrongful acts of any government on earth? Did they insure against the acts of Great Britain? They simply insured against the risk of capture by confederate cruisers.

Now, what was the great wrong in this matter? We said to England in the outset: "We have no objections to your selling to confederates arms, powder, and guns; we have no objections to your making, building, and delivering to them in the confederate ports your war vessels; but what we complain of is this: you are perpetrating a great wrong on this Government by allowing and aiding the confederates to fit out these vessels in your ports and leave your shores. That is an act of war," we said. In the case of a war vessel fitted out in New York when England was at war with Brazil the English Government complained of us. We said, "Our ship-builders sold that vessel to the Brazilian Government under contract to deliver it at the port of Bahia, a port of the power at war. It was contraband in its passage; if you attacked and destroyed it in its transit, that would be lawful. And all we ask now is to enforce the same rule we were willing to enforce against ourselves. If you want to sell your guns and materials that are contraband of war; if you want to sell your vessels to confederates, you may do so, but you must deliver them in their own ports, so that you shall not interfere with the principles of neutrality. But you have perpetrated a great wrong against this nation, what is really an act of war, just as much an act of war on the part of Great Britain as though these vessels sailed continually under the British flag." And, as I have stated, in one instance they did sail under the British flag until the attack was made, and when the attack was made they hoisted the confederate flag.

I ask it to be considered, when under the twelfth article we have comprised all the claims which have been allowed us on account of private individuals under the treaty of Washington, and when under the first article we have included all claims generically known as the Alabama claims, when the one class were to be disposed of by a commission and the other class were to be paid by a sum in gross as an indemnity to this Government under the arbitration at Geneva, if they were not damages received by us resulting from a great national wrong on the part of the British Government and not in any sense as damages received on account of any private individual? It seems to me that this point cannot be questioned; and if so, this Government can never in any sense be called a trustee in respect to one dollar of this sum. For it has been decided in reference to these claims which have been admitted and disposed of under the twelfth article of this treaty on account of private individuals that there is a resulting trust raised by implication by the very act of article 12; because there we agree with Great Britain that this commission shall allow our citizens on their private account, if the amount is allowed, that it shall be allowed them as private individuals.

Therefore, I say a trust results to them on the part of this Government, and those claims have all been paid; whereas the Alabama claims were not regarded as claims of private individuals, but they were regarded as damages which we had suffered, and which we from time to time during the war, through our minister at the Court of St. James, presented, and caused the secretary of foreign affairs of Great Britain to receive and file as a claim which the Government of the United States made against the Government of Great Britain in her sovereign capacity, and not as claims which she made on account of private citizens or individuals.

Now, what is the position which the underwriters have to take in order to sustain the point which they make and which they insist upon? That if you send this matter to the Court of Claims you thereby rid yourselves of all this difficulty. This would be an easy way for this Congress to shirk the responsibility, and give it to a tribunal, a quasi-tribunal, to dispose of a question which we should always retain under our own control. This Congress should never lose control of this fund or of one dollar of it. It is morally bound to pay it to those who actually suffered wrong.

And here is another point the underwriters make. The underwriters say this:

> There are many people not conversant with the business of marine insurance who believe that the rates of premium are placed at such price which will pay a profit to the underwriter after proper estimates are made for total and partial losses, expenses, &c. But as the underwriter is apt to recover salvage from property stranded or such which may be entirely submerged, for which he has paid a total loss, the rates of premium in view of such recovery are placed correspondingly lower. And by the same basis of calculation were the war premiums fixed and determined, the underwriters on this branch of their business also calculating on a recovery of salvage, in this case from Great Britain, and in which calculation, as events have proved, they were correct, as the United States Government has recovered such salvage for them at Geneva, and now holds same in trust.

I read to you but a short time since the decision of the court of last resort in England, in which they distinctly decide it could not be recovered as salvage. It is true they decide this in giving construction to the act of Congress of 1874. Yet if this Government received the salvage of Great Britain and now holds it as trustee, as the underwriters claim, the act of 1874 nor could any other act of Congress destroy a trust once created as a valid trust. And again, the decision informs us that this is an indemnity fund received by us entirely unaffected by anything determined at Geneva, so far as the disposition of it is concerned, that in respect to that this Government is alone the sole judge.

And yet these underwriters, as an afterthought, tell us that they were providing for this very thing; that whatever was recovered from Great Britain was recovered in respect of salvage; that they made a calculation and made the premiums correspondingly low. They say that events have proved that they were correct, as the United States Government had recovered such salvage for them at Geneva, and now holds the same in trust for them.

In all the arguments that have been made in favor of the underwriters in either House of Congress, in the committee-room, or anywhere else, they proceed upon the distinct idea that this Government is the trustee of this fund. If it is proven that the Government is not a trustee, then their case falls; they have no standing anywhere unless this Government is the trustee of this fund.

It has been decided by two different decisions of the court of last resort in Great Britain, in respect to this very fund, that this Government was not a trustee of this fund. Consequently, it seems to me incontrovertible that this amount was received by us from Great Britain for damages resulting not from any wrong the confederates have done us, because their acts were legal. It is true they destroyed our property, but they destroyed it legally and as an act of war. But the point we make is that England committed a wrong in not exercising due diligence in preventing these confederate cruisers from leaving her ports for that purpose. Our claim was a national one, not a private one. Not a dollar of the award we obtained was of a private character; every dollar of it was of a public character.

The SPEAKER. The time of the gentleman has expired.

Mr. HUMPHREY. I would like a few minutes more.

Mr. RANDALL. Let the gentleman finish his remarks to-morrow.

Mr. ROBINSON, of Massachusetts. Oh, no; let him have time now.

Mr. KING. I ask consent that the time of the gentleman be extended.

There was no objection.

Mr. HUMPHREY. It seems to me that the bill of the majority of the committee, which provides for the raising of a commission and keeping this money under the control of Congress, is in pursuance of right and justice, and recognizes the fact that this Congress is fully competent to dispose of this question. This Congress is the great national tribunal that should keep control of this fund. We should not shirk the responsibility and send this matter to the Court of Claims.

If there is one dollar of this money which we should pay to any one, let us pay it to those who are entitled to it, to those who have suffered loss. If after you have done that you desire to pay these underwriters, then Congress can do it. But if you now make the mistake of sending this matter to the Court of Claims, and clothe that court with the legal power which the act will give them, it will give these underwriters a legal right which they do not now possess and do not claim. You will thereby have done a wrong to the mercantile marine of this country, a wrong which is much greater than any benefit which the underwriters seek to obtain by endeavoring to get you to pursue the course they urge upon you.

They say if you give it to them you will encourage a system of protection under war risks to vessels on the high seas. That is nothing but a flimsy pretense. I have shown you that 1,020 American vessels changed their registry to a British registry. It was simply a question with the man who owned a vessel whether he would be swamped under these war risks which the underwriters imposed upon him, or whether he would run the risk of being taken and sunk by these confederate cruisers. That was the only alternative he had left. Many of the owners of vessels, in order to escape the underwriters, preferred to run the risk of being destroyed by confederate cruisers.

Those men who preferred to run that risk now come here and ask Congress to raise a commission and let them go before it and put in their proof. If their vessels and cargoes were destroyed by these confederate cruisers, and they have received nothing for them, then this Government which has this fund, which received it as the result of a great national wrong to itself, as an act of indemnity to itself, should take these claims into consideration; for these claims are for damages resulting from the wrongful act of Great Britian as fully as any of the claims paid under the act of 1874.

The Geneva tribunal, in disposing of this case, did not say to our counsel and to our Government that these indirect damages and damages sustained by fitting out a navy to prevent the confederate cruisers from destroying our commerce were damages which should not be allowed, because they were damages resulting to this Government. They rejected them on a well-known principle that there can be no rule by which speculative damages can be computed.

They did not say that these claims known generically as Alabama claims, being losses sustained by our merchantmen, were not national

claims; they did not pretend they were private claims. They said that these claims were all of the same character, all arose out of the same transaction; that all belong in the same category, and the treaty of Washington admitted this. But they allowed one part of the claims and rejected the others, and they gave us a sum in gross.

In conclusion I desire to say that if Congress shall adopt the report of the minority of the Committee on the Judiciary and send these matters to the Court of Claims, it will shirk a great responsibility, and will give to that court a power which it should never give to any tribunal. This Congress is essentially the tribunal in which all these claims should be disposed of, so that we can control the funds of the Government. It is simply a mere act of grace on our part; but we should act justly and pay all those who are justly entitled to be paid. We should reject the claims of those who have suffered no losses and pay the claims of those who have suffered losses, and therefore show the people of this country that we will protect them as the wards of the Government equally with the class of claimants who are strong, who lift up their heads before us here, demanding that the other claimants have no rights because they come under the head of exculpated cruisers, while they themselves come under the head of inculpated cruisers.

The question which the Geneva tribunal disposed of was a question of international law. The law as determined by them we are bound by. They awarded us a sum of money as one of the results of that determination, as the damage the United States Government claimed of the British Government. The arbitrators had no power to indicate, nor did they attempt to indicate, the manner in which this Government should dispose of it. Then let this Government maintain its prerogative as well as its dignity and deal justly with these claimants.

Mr. GROUT obtained the floor.

Mr. CONVERSE. If the gentleman will yield, I will move that the House adjourn. He can proceed with his remarks in the morning.

Mr. GROUT. I will yield, retaining the right to the floor.

ORDER OF BUSINESS.

Mr. PEELLE. Will the gentleman from Ohio [Mr. CONVERSE] allow me to make a report?

Mr. RANDALL. I call for the regular order. We have been here six hours and a half.

ENROLLED BILLS SIGNED.

Pending the motion to adjourn,

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 5820) granting a pension to Hugo Eichholtz;

A bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff;

A bill (S. No. 108) granting an increase of pension to Abagail S. Tilton;

A bill (S. No. 455) granting an increase of pension to Mary J. West;

A bill (S. No. 526) for the relief of Louisa Bainbridge Hoff;

A bill (S. No. 891) granting a pension to Earl S. Rathbun; and

A bill (S. No. 915) granting a pension to Jesse F. Phares.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SMITH, of New York, for five days.

To Mr. MOREY, for two days, on account of illness.

To Mr. UPDEGRAFF, of Ohio, for four days, on account of important business.

To Mr. ORTH, for five days.

To Mr. MOULTON, for two weeks, commencing to-morrow, on account of important business.

WITHDRAWAL OF PAPERS.

Mr. BURROWS, of Missouri, by unanimous consent, obtained leave to withdraw from the files of the Committee on Claims papers accompanying the bill (H. R. No. 2479) for the relief of A. O. Siple.

ORDER OF BUSINESS.

Mr. CONVERSE. The gentleman from South Carolina, [Mr. TILLMAN,] desires unanimous consent to introduce a bill.

The SPEAKER. Is the call for regular order withdrawn?

Mr. PEELLE. If it is, I believe I have the floor.

Mr. RANDALL. I insist on the call for the regular order.

The question being taken on the motion of Mr. CONVERSE that the House adjourn, it was agreed to; and accordingly (at five o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BINGHAM: The petition of Bridget Curtin, widow of John Curtin, for a pension—to the Committee on Invalid Pensions.

By Mr. DAWES: The petition of 65 citizens of Athens, Ohio, for an appropriation for educational purposes, the money to be distributed among the several States and Territories on the basis of illiteracy—to the Committee on Education and Labor.

By Mr. DEERING: Paper relating to the claim of S. B. Chase—to the Committee on Claims.

By Mr. DOWD: The petitions of A. H. Houston, W. H. Trott, and others, and of M. L. McCorkle, S. M. Finger, and others, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. C. B. FARWELL: The petition of Herman Reifenruth, for a pension—to the Committee on Invalid Pensions.

By Mr. HARDENBERGH: The resolutions adopted by the board of aldermen of Jersey City, New Jersey, relative to the removal to this country of the remains of the late General Judson Kilpatrick—to the Committee on Foreign Affairs.

By Mr. HOGE: The petition of Sleepy Creek district, Morgan County, West Virginia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. HOOKER: The petition of citizens of Brandon, Mississippi, for an appropriation for educational purposes—to the same committee.

By Mr. KING: The petition of the police jury of Concordia Parish, Louisiana, asking that the Mississippi River be improved on the plans recommended by the Mississippi River Commission—to the Committee on Commerce.

By Mr. LACEY: Papers relating to the pension claim of Ellen M. Thiers—to the Committee on Invalid Pensions.

By Mr. MAGINNIS: The petition of Wilson B. Harlan, protesting against the passage of the Washburn bill for the repeal of the preemption laws—to the Committee on the Public Lands.

Also, the petition of citizens of Helena, Montana Territory, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. McLANE: The petition of the Baltimore City Board of Trade, protesting against the passage of the bill entitled "An act to prevent the introduction of contagious or infectious diseases into the United States"—to the Select Committee on the Public Health.

By Mr. O'NEILL: The petition of citizens of Philadelphia, Pennsylvania, urging the repeal of certain internal-revenue taxes and a reduction of the taxes on whisky and tobacco—to the Committee on Ways and Means.

By Mr. VAN AERNAM: The petition of Rev. F. W. Raikes and others, praying that a pension be granted to Mrs. Sarah Sinsfield—to the Committee on Invalid Pensions.

By Mr. YOUNG: The petition of John Mathes and 13 other firms of New Orleans, for the passage of the bill now pending providing for the taxation of glucose—to the Committee on Ways and Means.

SENATE.

THURSDAY, *May* 11, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Treasury, transmitting, in compliance with a resolution of December 21, 1881, the present rate of duties, in tabular form, imposed by France, Germany, and Mexico on the manufactures of the United States when imported to those countries, &c.; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair presents resolutions of the Bar Association of the City of New York, which will be read.

The Acting Secretary read the resolutions, as follows:

NO. 7 WEST TWENTY-NINTH STREET, NEW YORK,
May 9, 1882.

At a meeting of the Association of the Bar of the City of New York, held on the 9th day of May, 1882, Mr. Everett P. Wheeler presented the following resolution:

Resolved, That this association would respectfully represent to the Senate and Representatives of the United States in Congress assembled the great and pressing importance of the enactment of a law providing for a review of the decisions of the circuit courts of the United States intermediate between the circuit courts and the Supreme Court.

Which was adopted.

Resolved, That the association respectfully recommend to Congress the adoption of the bill now under consideration in the Senate of the United States establishing a court of appeals, and introduced by Senator DAVIS of Illinois.

Which was unanimously adopted.

Extract from the minutes.

S. B. BROWNELL,
Recording Secretary.

The PRESIDENT *pro tempore*. The resolutions will lie on the table.

Mr. GORMAN presented a petition of the sureties of George W. Sands, deceased, late a tax collector of the fifth district of Maryland, praying for relief as such sureties; which was referred to the Committee on Finance.

Mr. McPHERSON. I present a petition, in the form of a resolution, of the board of aldermen of Jersey City, New Jersey, which I ask shall be read.

The petition was read, as follows:

"Whereas the representative of our country to Chili, Judson Kilpatrick, a native Jerseyman, died while in the performance of his duty, and it is meet and proper that the soil of his native State should receive the remains of one who has served his country so faithfully and so well; and

"Whereas it is currently reported that his widow is willing to allow the removal to this country, but unable to bear the expense:

"*Resolved*, That the Senators from New Jersey and Members of Congress from Hudson County be requested to take such action in their respective assemblies as may seem best to accomplish the object set forth in the above preamble; and that the clerk be requested to send copies of this resolution to the Representatives above named."

I do hereby certify that the foregoing is a true copy of a preamble and resolution adopted by the board of aldermen of Jersey City at its meeting held April 27, 1882.

In witness whereof I have hereunto set my hand as city clerk of Jersey City, this 8th day of May, A. D. 1882.

[SEAL.] JOHN E. SCOTT,
City Clerk of Jersey City.

Mr. MCPHERSON. Allow me to ask the Committee on Foreign Relations to take action as soon as possible upon the resolution. I move its reference to that committee.

The motion was agreed to.

Mr. LAPHAM presented a petition of citizens of New York, favoring the passage of the bill to increase the pensions of all soldiers who have lost a limb or any part thereof; which was referred to the Committee on Pensions.

Mr. MILLER, of California, presented the petition of Messrs. Reed & Dougherty, of San Francisco, California, praying relief in the matter of losses suffered at the hands of the local authorities of the Government of Japan; which was referred to the Committee on Foreign Relations.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 5820) granting a pension to Hugo Eichholtz;

A bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of a tariff;

A bill (S. No. 108) granting an increase of pension to Abagail S. Tilton;

A bill (S. No. 455) granting an increase of pension to Mary J. West;

A bill (S. No. 526) for the relief of Louisa Bainbridge Hoff;

A bill (S. No. 891) granting a pension to Earl S. Rathbun; and

A bill (S. No. 915) granting a pension to Jesse F. Phares.

REPORTS OF COMMITTEES.

Mr. MCMILLAN, from the Committee on Commerce, to whom was referred the bill (H. R. No. 3831) to create a district for the inspection of hulls and boilers of steam-vessels, reported it without amendment.

Mr. PLATT, from the Committee on Patents, to whom was referred the bill (S. No. 673) for the relief of William Wheeler Hubbell, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. HILL, of Colorada, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 1845) to authorize the Postmaster-General to extend the mail service in certain cases, reported it without amendment.

Mr. PUGH, from the Committee on Claims, to whom was referred the bill (S. No. 956) for the relief of Columbus F. Perry and Elizabeth Gilmer, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

BILLS INTRODUCED.

Mr. GORMAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1867) for the relief of the sureties of George W. Sands, deceased; which was read twice by its title, and referred to the Committee on Finance.

Mr. JOHNSTON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1868) to refund to Hamberger, Brother and Loram, and others, the additional tax on tobacco erroneously paid by them; which was read twice by its title, and referred to the Committee on Finance.

Mr. MCPHERSON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1869) granting a pension to the widow and dependent children of the late Lieutenant George W. Gilman; which was read twice by its title, and referred to the Committee on Pensions.

He also asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. No. 63) authorizing Commodore R. W. Shufeldt, of the United States Navy, to accept a sword, a Persian carpet, and other articles, from the Sultan of Zanzibar; which was read twice by its title, and referred to the Committee on Foreign Relations.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. INGALLS, it was

Ordered, That the papers in the case of Lewis Atkinson be withdrawn from the files of the Senate and referred to the Committee on Military Affairs.

TAX ON DISTILLED SPIRITS.

Mr. BECK. I offer the following resolution:

Whereas all branches of business connected with the production and consumption of distilled spirits are depressed and embarrassed by the uncertainty which prevails relative to the action of Congress on the subject: Therefore,

Resolved, That the Senate will consider and take action on House bill No. 5656, extending the bonded period on distilled spirits, as soon as practicable after the Finance Committee is able to report it.

Mr. President, I desire only to say in regard to the resolution that as the court of appeals bill perhaps will be finished to-day, before any other important measure is called up, to-morrow at two o'clock, unless there is something more urgent then pending, I shall ask the Senate to listen to me for about thirty minutes while I explain the provisions of the bill to which the resolution relates. If I cannot do so at that time I shall ask to be heard on Monday. I do not desire to make any long statement on the subject, but I hope to say something that will interest the Senate in regard to the true condition of the bill and the importance of action upon it. I ask that the resolution lie on the table and be printed.

Mr. SHERMAN. I should like to have the resolution read.

The Acting Secretary read the resolution.

Mr. BECK. I desire to say to the Senator that I have no disposition to hurry the committee at all in merely making a report or writing out anything in regard to it, but I thought perhaps to-morrow or some other time when I had an opportunity I would give my views on the bill, and perhaps the Senator from Ohio himself would like to say something upon it.

Mr. SHERMAN. I have no objection at all that the resolution lie over as the basis of remarks to be submitted to the Senate.

Mr. BECK. That is all I desire.

The PRESIDENT *pro tempore*. The resolution will lie on the table and be printed.

ORDER OF BUSINESS.

Mr. MORGAN. If there is no further routine morning business, in pursuance of the notice I gave yesterday I ask the Senate to proceed to the consideration of the bill (H. R. No. 1052) in relation to the Japanese indemnity fund.

The PRESIDENT *pro tempore*. The Senator from Alabama asks the Senate to proceed to the consideration of the bill indicated by him before proceeding regularly with the Calendar under the Anthony rule.

Mr. INGALLS. I desire to call the attention of the Senate to the condition of the public business and to the inadvisability of continuing longer to proceed as we have done for the last month, since the amendment of the Anthony rule. That rule was designed to secure a brief interval between the expiration of morning business proper and two o'clock, during which cases upon the Calendar to which there was no objection might be considered for the purpose of facilitating public business.

Prior to the adoption of the amendment offered by the Senator from Vermont [Mr. EDMUNDS] and advocated with so much zeal by the Senator from Massachusetts [Mr. HOAR] as indispensable to free speech and the preservation of constitutional liberty and civil government, we had transacted more business than at any other previous session during my experience in this body. The adoption of that amendment was the opening of Pandora's box, in a parliamentary sense, and since that time the interval between the expiration of formal morning business and two o'clock has been spent in diffusive, discursive, unsatisfactory, and unproductive debate, with almost an absolute cessation of business.

We considered for an indefinite period the political disabilities question arising on the bill for the relief of Dr. Tebbs. Nothing was done with that. For the past week we have been considering the case of L. Madison Day under the five-minute rule. Nothing has been done with that; and now the Senator from Alabama desires to continue this anarchy and chaos by taking up, while all these other matters have been discussed and not disposed of, the Japanese indemnity bill, which will result in the exclusion, for an indefinite period, perhaps, of the consideration of cases that require deliberation and that might be considered without difficulty and without delay.

I make these remarks for the purpose of saying that it appears to me we have had sufficient experience, both in regard to the value of the Anthony rule and the absolute inefficiency of the methods we have been pursuing for the last three weeks, to return to the good old methods when cases were called up and under the five-minute rule considered or sent over under objection. I ask, therefore, instead of calling such cases up at this time, that we may proceed to the consideration of cases on the Calendar under the Anthony rule, to the end that something may be done during the session that is so rapidly drawing to a close. It seems to me that, in view of the experience we have had in these inconclusive debates, there can be no doubt that the public interests will be best subserved by considering those cases on the Calendar to which there is no objection.

Mr. MORGAN. The modification which was made of the Anthony rule was by the almost unanimous consent of the Senate. It was that the Senate might take up by a vote, notwithstanding an objection which would postpone, a case which had been called up under the Anthony rule, and proceed with it without limitation of

debate within the morning hour or until two o'clock. The difficulty in proceeding under that amendment has simply been that the Senate has been indulgent to gentlemen who desired to discuss a measure *ad libitum*. The discussion on the military bill, whatever that was, and the discussion of the L. Madison Day case has gone on by unanimous consent. The Senator from Kansas had the right to object to the L. Madison Day case at any time.

Mr. INGALLS. No, the Senator is mistaken.

Mr. MORGAN. I think I am not.

Mr. INGALLS. On the L. Madison Day case it could have been done, but so far as the political disabilities bill was concerned, that was taken up by a vote, and debate was unlimited under the rule.

Mr. MORGAN. That is all right. The Senate ought to have the right to take up a case that demands attention and debate it as long as is necessary for a proper understanding of it. The debate on the L. Madison Day case could have been obstructed and the rule of five minutes' debate could have been applied at any time that the Senator from Kansas saw proper to ask for it.

Mr. INGALLS. Then any Senator could have moved to take it up, and a majority would have had control of it.

Mr. MORGAN. And if the majority did take control of it, the Senator from Kansas had no right to complain.

Mr. INGALLS. No, of course, I do not complain, but I address myself to the reason of every Senator on each side of the Chamber and ask a reply, whether in view of our experience it is not best for all interests involved to spend the brief interval between the expiration of the formal morning business and two o'clock in the consideration of measures which are confessedly important, and to which there is no objection?

Mr. MORGAN. The measure which I have had the honor frequently to bring to the attention of the Senate seems to have the approbation of a very large majority of this body as it had the approbation of almost the entire House of Representatives when that body passed the bill. It has been now recommended in twelve reports, all favorable, in the different branches of Congress and through many years. I was instructed by the Committee on Foreign Relations to try to bring the measure forward. I have made several ineffectual attempts, the reason being that Senators seem to have more interest in those cases which concern their constituents or their States than they have in a case which makes an appeal to nothing but to the honor of the country. If the Senate desires to take that view of the question I have no right to complain at it; but it has occurred to me that the Committee on Foreign Relations at least has a right to be heard upon the floor of the Senate.

This cause was called on the Calendar and passed without prejudice. I again ventured to go back to it and asked the Senate to consider it under the Anthony rule, and relied upon the indulgence of the Senate that they would allow some little time to those gentlemen who desired to debate the bill. I frequently said that so far as I was concerned I cared nothing about debating the question except to answer such questions or arguments as might be urged against the measure. The bill still stands in that attitude; it is still on the Calendar and subject to call under the Anthony rule, because it has been passed over twice now without prejudice. Yesterday I gave notice that I would call it up this morning to take effect before the Anthony rule began to operate, because I believed conscientiously that the case could be disposed of this morning and be gotten out of the way.

As to the course of business in the Senate, the Senator from Kansas correctly said that more business had been transacted at this session of the Senate than at any previous one, at least within my experience. My observation concurs with his on that point; but it must be remembered that we are yet very far ahead of the House in our action. Bill after bill that we have sent to the House of Representatives has never been reported from their committees and has never been considered. Only a few of the most important leading measures of this Congress have as yet received consideration in the House. We take up bills and pass them here for pensions whenever they are called without any objection; we do everything that every person requests, it seems to me, except to attend to this bill which has been reported by the Committee on Foreign Relations.

I think the Senator from Kansas ought to come up and meet this question fair and square, and not attempt by objections to postpone it from time to time. If the bill has no merit the Senator is certainly able to expose it. If the report which has now been before the Senate for days and days and was copied into the RECORD is not defensible the Senator from Kansas can expose it as well as any man on this floor.

Mr. INGALLS. May I make an observation?

Mr. MORGAN. Certainly.

Mr. INGALLS. I have no objection whatever to the consideration of the Japanese indemnity bill. The appeal that I have made is simply that we may be allowed to spend the interval between half past twelve and two o'clock in the consideration of cases on the Calendar. I am entirely ready to concur with a majority, whenever the court of appeals bill may be out of the way, to take up this case or any other that the Senate may desire to consider.

Mr. DAWES. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Alabama yield to the Senator from Massachusetts?

Mr. MORGAN. Yes, sir.

Mr. DAWES. I understand that the Japanese bill is so situated that it can be called under the Anthony rule at any moment. I do wish that the Senator from Kansas would permit it to come before the Senate under the Anthony rule. I will agree with the Senator that if he will propose any modification of the Anthony rule that will bring more efficiency into the business here, I will take hold with him, and I presume all will, to so amend it; but the time spent discussing the defects of the Anthony rule is enough to secure the passage of a bill like this. It seems to me it is a reproach to the United States to decline to consider it or to defer its consideration. It is a bill which has been in substance before Congress for ten years, and it is a reproach to the United States that they hold on to that money which they confess themselves they have no right to retain. The time consumed in discussing the defects of the Anthony rule I am sure would be enough to pass the bill. I hope the Senator from Kansas will consent.

Mr. MORGAN. I will state to the Senator from Massachusetts and also to the Senator from Kansas that my object in making the motion before we reached the Anthony rule was simply to avoid the necessity of moving in the Senate to enlarge the time for debate, believing the bill could be disposed of this morning. I, of course, can call it under my privilege under the Anthony rule when that rule becomes operative, but it will be limited to five minutes' debate.

Mr. ALLISON. I ask the Senator from Alabama if the case can be called up under the Anthony rule, why not call it up and let us go on with it?

The PRESIDENT *pro tempore*. There is another case unfinished under the Anthony rule. This bill will be in order to be called up as soon as the pending case, which has the right of way, is disposed of. Does the Senator from Alabama withdraw his motion?

Mr. MORGAN. I withdraw my motion, and give notice that at the termination of the present bill I shall ask the Senate to take up the Japanese indemnity bill.

The PRESIDENT *pro tempore*. It will be in order to be taken up under the Anthony rule then, because it has been passed over without prejudice.

Mr. MORGAN. That is when the L. Madison Day case is disposed of, but I fear from the course of the debate on the L. Madison Day case that it will not be disposed of in a few months.

Mr. HARRIS. I give notice that if the debate on the L. Madison Day case is not promptly closed, I shall interpose an objection to the further consideration of that bill.

L. MADISON DAY.

The Senate resumed the consideration of the bill (S. No. 73) for the relief of L. Madison Day.

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Missouri [Mr. COCKRELL] to refer the bill to the Committee on the Judiciary.

Mr. GEORGE. Mr. President, I have great respect for the Judiciary Committee, for the talent and fidelity of its members, but this claim has been referred to the proper committee of this body, and if that committee does not rank—about which I express no opinion—if it is to be understood that it does not rank as high as the Judiciary Committee, it at least is supposed to be competent to discharge the duties which this body has imposed upon it. That committee has considered this matter very maturely and has made a report. We do not ask the Senate to adopt our report. We have reported the bill to the Senate in the discharge of our duties with such lights as were before us. We are willing that the Senate shall review and reverse our action, but so far as I am concerned as one of the members of the Committee on Claims, I am indisposed where a matter has been properly referred to us, and where it has been considered by that committee, that the Senate shall take such action as will amount to a reflection on the committee by granting an appeal to or a supervision of the work of that committee by another committee. I am willing to accord to the Judiciary Committee all the honor, and all the respect, and all the confidence that it is entitled to, but I am unwilling as a member of one of the properly organized committees of this body which has conscientiously and laboriously discharged its duties with reference to a matter referred to it by the Senate, to have that matter taken from it and referred to another committee. I hope the motion will not prevail.

I am informed by the Senator who sits at my left, [Mr. JONAS,] and who is more familiar with the proceedings of this body than I, that it would be proper now for me to submit such observations to the Senate as I may see proper in defense of the report made by the Committee on Claims, and that being in order, I shall now proceed to do so.

It seems to me, Mr. President, that there has been some strange misapprehension as to the rule which ought to govern this body in determining upon the propriety of the passage of this bill.

The PRESIDENT *pro tempore*. The Senator's time is out.

Mr. INGALLS. Mr. President, for the purpose of enabling this bill to be discussed I object to it in order to enable a majority to take it up. If the Senator will move to take the bill up, I shall vote with him.

Mr. GEORGE. I move to take it up.

Mr. SHERMAN. As all the other Senators who have spoken on

this bill against it have been allowed to go on more than five minutes, I think it would be very discourteous to the Senator from Mississippi, who is one of the committee who reported the bill, not to allow him to reply.

Mr. GEORGE. I claim no extra courtesy.

Mr. SHERMAN. I move that the rule be waived as to the Senator from Mississippi.

Mr. INGALLS. I withdraw my objection, then, if that is the understanding.

Several SENATORS. Go on! Go on!

The PRESIDENT *pro tempore*. The Senator from Mississippi can proceed by unanimous consent.

Mr. GEORGE. The case, sir, is a very simple one, and the rules of law, as I understand them, which are applicable to it are also very simple. The facts, as I understand them, are these: under an act of Congress which provided for the forfeiture of the lands and the estate of certain parties who were engaged on the confederate side in the late war proceedings were had for the purpose of enforcing the forfeitare and realizing the proceeds of the property in question to the United States Treasury. That law—and I desire to call the Senate's especial attention to this point—provided for a proceeding *in rem* for a seizure of the property. As the preliminary step in the judicial proceedings this property was seized. It was in the possession of the United States. It was brought before a United States court. A libel was filed charging it to be the property of Mr. Benjamin. A decree was rendered forfeiting the property to the United States and directing the sale of it for the purpose of getting the money into the Treasury. During the progress of that and similar causes the judge of the district court, the United States judge, the officer and agent and instrument of the United States, appointed by law for the purpose of asserting the rights of the United States to this property, made an order directing the cancellation of all mortgages and liens upon the property. The marshal who had seized the property as the officer and agent of the United States made the sale, and at the time of the sale he produced a certificate of cancellation of the mortgage to the purchaser, and sold it as exempt from the lien, the purchaser and the marshal and the court—that is, the purchaser and the United States, because the United States were acting through their court and through their marshal—all believing that this mortgage had been properly canceled.

Mr. LAPHAM. Right there will the Senator allow me to put an inquiry?

Mr. GEORGE. Certainly.

Mr. LAPHAM. Was the holder of the mortgage a party to the proceedings?

Mr. GEORGE. No, sir.

Mr. LAPHAM. Then how could any such order affect her or him?

Mr. GEORGE. I will explain that for the benefit of the Senator from New York. It was a proceeding *in rem*, and I will now read some authorities which go to show, and which do show, that in all proceedings *in rem*, when property is sold thereunder, it is sold exempt from all claims or liens of all persons, whether they be parties or not.

I read from an opinion delivered by Judge Story in 3d Wheaton:

> Where property is seized and libeled as forfeited to the Government, the sole object of the suit is to ascertain whether the seizure be rightful and the forfeiture incurred or not. The decree of the court in such case acts upon the thing itself and binds the interests of all the world whether any party actually appears or not. If it is condemned the title of the property is completely changed, and the new title acquired by the forfeiture travels with the thing in all its future progress. (Gelston *vs.* Hoyt, 3 Wheaton, 318.)

This is a decision made by the Supreme Court of the United States. Now here is a similar decision made by the Supreme Court of Louisiana, in which State and under whose laws this sale was made.

> The proceedings were *in rem*. By the monition, every one who could have asserted a right to or in the property libeled was a party to the suit, and the judgment, consequently, is a complete bar to all rights which could have been exercised there. (Bauduc's Syndics *vs.* Nicholson *et al.*, Louisiana Reports, volume 4, page 85.)

It is true that these rules, well-known rules, undisputed rules, recognized by the Supreme Court of the United States and by every other court as applicable to proceedings *in rem*, it has been since held did not apply to this case. I will read the statute, however, to show that the proceedings were directed to be *in rem*:

> That to secure the condemnation and sale of any of such property, after the same shall have been seized, so that it may be made available for the purpose aforesaid, proceedings *in rem* shall be instituted, &c. (Section 7, act approved July 17, 1862, 12 Statutes at Large, page 591.)

I make this answer to the Senator from New York who has just put a question to me, that by well-settled principles of law Mr. Day had a right to presume and the judge of the court who made the order had a right to presume that he had the power to make this sale free from the mortgage. It is true that afterward these rules of law, universally applicable to proceedings *in rem*, were decided in the Supreme Court not to apply to this particular class of cases. But there was good ground to believe at the time, there was good ground for the conviction on the part of Mr. Day, there was good ground to justify the mistake if a mistake was made on the part of the judge, assuming that the power existed to cancel this mortgage when the mortgagee was not before the court, and I assert now that it was by a new and a strained and, I might say, an unanticipated application of rules of law to these proceedings *in rem* which deprived that judgment of the force ordinarily allowed to judgments in proceedings of this sort.

It is to be remembered, Mr. President, that the court had good authority for holding that it had the power to make the order, that Mr. Day had good authority for supposing it had that power, and I say that under these circumstances it is not fair on the part of the United States, when one of its courts, its agent, selected by it for the purpose of acquiring this property, acting in good faith, according to well settled principles of law, made this decision—I say it is not fair under these circumstances for the United States now, having got the benefit of it, having got the money produced by it, through another court or because that other court of the United States has decided that the mortgage could not be cut out, to keep the money in their Treasury which was put there through this mistake.

I think on that ground alone we ought to refund this money. I do not think the Government of the United States can afford to keep in its Treasury money which was put there solely by an honest mistake made by its own judge and its own marshal by which a citizen of the United States was deluded into parting with money for which the United States parted with nothing.

But it is said that the doctrine of *caveat emptor* applies; that the law is that Mr. Day should have examined into this matter himself; that he should have been wiser than the judge; that he should have known that the representation made to him by the marshal was a fallacious one. I say, sir, that the doctrine of *caveat emptor* does not apply to such a case, and I will proceed to read from the very highest authority in the United States; and I speak deliberately and with measured terms when I say "the highest authority in the United States." Here is a decision made by Chancellor Kent, than whom there is no higher authority here or elsewhere, and never will be:

> On the sale of premises, under two mortgages, it was represented that the property was free from all incumbrances; but after the sale and the master's report it was discovered that the property was subject to a city assessment and tax; and the purchaser, therefore, refused to complete the purchase unless the incumbrances were removed.

Those were the facts. Here is what the judge said on those facts:

> The CHANCELLOR. The facts stated in the petition and report remain uncontradicted. The premises, at the time of the sale, were represented to be free and clear from all incumbrances—

As was the exact case here; the property was represented by the marshal to be free from all incumbrances—

> and the master's report contains no allegation to the contrary. It likewise contains the evidence of the fact of such incumbrances, and the certificates show that the evidence of them came to the master's knowledge since the sale.

That master was the one who made the sale.

> The purchaser ought not to be held to his purchase under these circumstances, and we must intend that the lot was sold, and was purchased with the understanding that the title was clear, and that the price bid is to be taken as a fair and adequate consideration for the premises, free from incumbrances. It is therefore just, and for the interest of all parties, that the purchaser, or the master for him, should be at liberty to apply part of the purchase-money in discharge of the incumbrances. (Lawrence against Carnell and others, 4 Johnson's Chancery Reports, 542, 543, and 544.)

And what is the difference between applying the purchase-money to remove the incumbrance and returning it to the purchasers when the incumbrance has been enforced and the property has been lost? Here is a case, sir, exactly in point. I read now from the decision of one of the ablest courts in the American Union, where a purchaser at a sheriff's sale was relieved simply because of a mistake of the plaintiff in the execution:

> If the plaintiff points out—

Says the court—

> and shows land, he holds out to the world that the land on which he directs his execution to be levied is subject to the payment of his debt. If he has been instrumental in causing land to be sold by the sheriff, when the defendant in the execution had no interest in it, he has no just cause of complaint when a purchaser resists the payment.

Mr. BUTLER. What case is that?

Mr. GEORGE. 2 J. J. Marshall's Reports, page 35, Wolford *vs.* Phelps.

> It was the plaintiff's fault to endeavor to make his debt of property not owned by his debtor, and can only be regarded as a fraud on the rights of others.

It was the fault of the United States, who was plaintiff and whose officer was judge and whose officer was marshal, to endeavor to condemn and put into its Treasury property which did not belong to the defendant or the party who was charged with treason.

Again the court says:

> We do not perceive any insuperable reason founded in public policy, we know of no express adjudication, and we cannot find any principle of morality which prohibits a purchaser at sheriff's sale from asking at the hands of the chancellor relief against a sale-bond executed without consideration, through a fraud practiced upon him or through mistake. Consequently, we shall not estop the complainant in this case by saying to him *caveat emptor*.

That is not all. I read next from another decision of that court, (Dana's Report, volume 3, page 550:)

> If a plaintiff in execution has been instrumental in causing the property of a stranger to be sold, we can see no principle of reason or of law that would exonerate him from responsibility to the purchaser.

That is exactly what the United States did here. It caused to be sold the property of a stranger to the proceeding, not Mr. Benjamin.

> The exhibition and sale of property by an individual as his own is regarded by law as sufficient to make him a warrantor of the title.

And here let me call the attention of the Senate to the fact that the United States was selling this property as its own. It had no money demand against Mr. Benjamin; it had no judgment against him which it was seeking to enforce and collect out of his property. It was seeking to enforce its own title to Mr. Benjamin's property, and the result of the decision was that the property belonged to the United States, not to Mr. Benjamin, and the sale made was a sale of United States property or of what interest the United States might have in it, when in fact the United States had no interest. The United States sold the property as their own; they induced the purchaser, through their own court, through their own marshal, to believe that they did own the property; they got the money; they parted with nothing for the money; and now it is said that we have a right to keep this money and to turn this party out of court because it is said he ought to have been wiser than the Federal judge, wiser than the Federal marshal; he ought to have been too astute, too smart to have parted with his money under the circumstances. I say, sir, the United States cannot afford to keep money obtained in that way.

Mr. LAPHAM. I ask the indulgence of the Senator to make an inquiry. The cases to which the honorable Senator has referred are obviously cases where there was a mistake in fact as to the existence of a tax or lien upon the property. This is a case where the title of the mortgagee was known, and the court assumed to sell in defiance of that title. Suppose it had been known that the legal title in the property was in a person loyal to the Government of the United States, and under a pretense of confiscating the title of Judah P. Benjamin the court was selling the property of a loyal man, and subsequently the true owner had asserted his title and recovered the property, would the purchaser have any remedy?

Mr. JONES, of Florida. Will the Senator permit me to inquire would the United States keep the money in that case?

Mr. LAPHAM. That is another question. I am only inquiring as to the rule of law.

Mr. GEORGE. If the money is in the Treasury of the United States, how then?

Mr. LAPHAM. That is another question. I am only suggesting the application of the legal principle which the Senator from Mississippi has been stating.

Mr. GEORGE. Well, Mr. President, if the parties believed that the United States had title, and if that belief was produced by the officer of the United States, by the judge of the United States, by the marshal of the United States, it seems to me that would be a mistake for which the purchaser ought to be relieved. It is impossible to suppose that the purchaser bought the property knowing that he was getting no title. It is impossible to suppose that the United States, through their judge and through their marshal, proposed to sell property to which they knew they had no title. Those would be mere sham proceedings; they would be the acts not of sensible men, but of lunatics, crazy people. The idea of a man setting up property for sale and declaring at the time "this is not my property;" and the idea that a man who is present and hears the declaration, and who knows the property and knows he gets no title, parted with the full value of the property in exchange for nothing. That can only be the act of a lunatic.

Mr. President, it is said that this order was void. Well, suppose it was void. The sale was made under it. Now, I desire to ask any lawyer in the Senate if there is a principle of law better settled than that a sale made under a void decree imposes no obligation on the purchaser to pay, and confers no right upon the vendor to receive the money. That never was disputed, and in the wildest application of the doctrine of *caveat emptor* it never has been applied to a case where a sale was made under a void order of a court; and the highest equity that Mr. Day has for the return of this money is the establishment of the fact that the proceedings were null and void. What is a null and void proceeding? It is just no proceeding at all, and the result——

Mr. VEST. I do not want to interrupt the line of the Senator's argument, but I wish to call his attention to the fact that this sale was not made under that order which eliminated the mortgage, but was made under a judgment of the court under the confiscation act. That judgment was good, and sold the interest of Judah P. Benjamin; but the collateral order, the order of the court as to canceling mortgages, was absolutely void and amounted to nothing.

Mr. GEORGE, I know very well the maxim that *utile per inutile non vitiatur*, but that has never been applied to this extent. Where that part of the proceeding which is acknowledged to be void was the foundation, the substratum under which they acted, then it has the same effect as if the whole was void.

Now, Mr. President, we are to construe the whole record together. The Senator from Missouri will understand that you cannot alone look at one part of it and say that is valid, and at another part of it and say that is invalid and void, unless they be separate and independent of each other. If one depends upon the other, if that which is valid can have no force and effect except in connection with and as modified by the invalid order, it is just the same as if the whole proceeding was invalid.

Mr. President, I have but one word more to say and then I will quit. We are not to try this question upon a point of law. The question is whether the United States can consistently and fairly and with justice to their citizens retain this money which they acquired from him upon the pretense, upon the assertion, and upon the judgment made by their own judge, by their own marshal, their own instrument, selected for the purpose of enforcing their laws? Can they retain this money acquired under these circumstances when they parted with nothing for it? That is the question. If you can afford to do that, then you will reject this bill.

Mr. JONAS. Mr. President, this property purchased by Mr. Day was condemned in the district court of the United States as the property of J. P. Benjamin. The proceedings were not against J. P. Benjamin, but against certain lots of land alleged to be the property of J. P. Benjamin, and as such they were condemned, the court finding those lots to be the property of J. P. Benjamin. Whether Joseph Benjamin had any title to that property or not was a matter which concerned neither Mr. Day nor any other person. It was a matter for inquiry in the original proceeding, and when this property was exposed for sale by the marshal, and when it was purchased by Mr. Day, it was purchased, as the Senator from Mississippi says, as property belonging to the United States, condemned as rebel property, formerly the property of J. P. Benjamin, a rebel, and exposed for sale under the confiscation act as such condemned property.

Mr. Day bought that property. Mr. Smith, Mr. Brown, Mr. White, Mr. Jones, or any other person, might have purchased the property. It was exposed at judicial sale, and what representations were made by the marshal? It does not concern this case that Mr. Day is a lawyer, no matter how able or how industrious in his profession. The humblest and most ignorant man might have occupied Mr. Day's place, might have purchased the property. It did not become him, and it was no part of his duty, to inquire into the process by which this property had been confiscated. He found the United States, under United States process, and by its officers, offering this property for sale, and had a right to purchase provided we are prepared to admit, as I think we all are, that the United States had a right to pass the confiscation act, to confiscate property, and to sell that property, and that persons had a right to purchase it. Before the sale of this property the following order had been obtained:

On motion of Rufus Waples, United States attorney, and M. Taylor, esq., attorney for the marshal, on suggesting that the eighth section of the act to suppress insurrection, &c., approved July 17, 1862, that the several courts aforesaid (the United States district courts) shall have power to make such orders, establish such forms and decree and sale, and direct such deeds and conveyances to be executed and delivered by the marshal thereof, where real estate shall be the subject of sale, as shall fully and efficiently effect the purposes of this act, and vest in the purchasers of such property good and valid titles thereto, it is ordered that, in all cases where real estate is condemned and sold under the act aforesaid, the marshal shall cause all mortgages resting against the property to be sold to be canceled, and shall attach the certificate of the recorder of mortgages to the deeds given to the purchasers, showing the cancellation of the same. It is further ordered that purchasers of property deposit the amount of their bids with the marshal, subject to distribution by the court, after fixing the cost, the State, national, city, and drainage taxes to be paid, the receipts therefor to be attached to the deeds given.

It is not alleged that either Mr. Day in person or any other purchaser of confiscated property had anything to do with the procurement of this order. It was obtained on the motion of the district attorney, and it was also upon the motion of Hon. Miles Taylor, special counsel appointed by the United States. Mr. Miles Taylor was one of the most distinguished lawyers the State of Louisiana has ever produced, and he practiced law in that forum for forty years. He was a contemporary of Mr. Benjamin and a man distinguished in all the courts of the State as one of her most eminent lawyers. He was a man who sat for eight years in the other end of this Capitol as a member of Congress representing one of the districts of New Orleans, and who withdrew from his seat when his State seceded in company with Mr. Benjamin, also sharing the fortunes of the confederacy. Therefore, whether this order was improvident or not, whether the district court had the right to issue the order or not, it was obtained by eminent and honest counsel, one of whom at least stood the peer of any at the bar of Louisiana.

Under that order the marshal canceled the mortgage existing on this property, and the deed executed to Day was a deed which stipulated, as the marshal said at the sale, that the United States sold the fee of the property. The marshal annexed to the deed a certificate of the recorder of mortgages for the parish of Jefferson, in which the property was situated, dated May 12, 1865, stating that "the aforesaid mortgage from Benjamin to Micou has been this day canceled and annulled upon the record of this office."

The granting clause in the marshal's deed to Day is:

Now, therefore, know all men by these presents, that I, the United States marshal aforesaid, in consideration of the premises, and by virtue of the laws in such case made and provided, and under the authority of the acts of Congress of the 6th of August, 1861, the 17th of July, 1862, and the 3d of March, 1863, in relation to confiscation, do hereby sell, transfer, assign, and set over unto the said L. Madison Day, as aforesaid, his heirs, administrators, executors, and assigns, all and singular the above-described property, with all the buildings and improvements thereon, rights, ways, privileges, hereditaments, and appurtenances to the same belonging and in any wise appertaining, to have and to hold the above-described property, with all the buildings and improvements thereon, rights, ways, &c., unto the said L. Madison Day, his heirs and assigns, as aforesaid, to his and their proper use, benefit, and behoof forever.

Thus Mr. Day bought at public sale (made by an officer of the United States, executing the decree of the United States court) this property, with notice that there existed no lien or mortgage upon it, the mortgage having been canceled, and he bought what the court

ordered to be sold, whether it had the right to sell or not, the fee-simple title to this property.

It has been alleged, and much prejudice created by the allegation, that it is absurd to presume that Mr. Day, a prominent and experienced lawyer, should have supposed that he was buying or that the Government could sell the fee-simple to this property, or that the Government could sell this property free from the mortgage that existed upon it. I say, Mr. President, that if Mr. Day had this opinion he stood not single and alone, and it was pardonable in him if he should have had it, because, and it is within the knowledge of every lawyer who sits around me, that during the war when these confiscation sales were taking place, and after the war when the purchasers had entered into possession of the property, it was the opinion of a large portion of the bar of the Union, and perhaps of a majority, that despite the declaratory act of Congress and despite the message of President Lincoln, these sales, made under proceedings *in rem* against the property, had divested the whole title not only of the rebel, but of his heirs, and vested the fee-simple in the purchaser. Mr. Day was not the only person who carried his case to the Supreme Court and resisted the attempt there of the heirs or mortgagees to recover the property to the last extent.

Before this case of Mr. Day went to the Supreme Court of the United States there had been half a dozen or more cases decided on suits brought by the heirs of deceased persons whose estates had been confiscated to recover them back, and it was only some time after the war had ended, a long time after these sales in confiscation had ceased, before the Supreme Court of the United States—I think the first case was the case of Bigelow *vs.* Forrest—decided that it was only competent for Congress to confiscate the life estate of a rebel, and that the property after his death vested in his heirs. So this was not a mistake of Mr. Day alone.

It has been sought to reflect on Mr. Day because he purchased confiscated property. He is called a speculator. It is not alleged that he committed a crime. If the confiscation act was a legal one, if it existed on the statute-book, if the courts of the United States enforced it, Mr. Day or any other man, I submit, had a perfect right to purchase property sold under it; and it does not lie in our mouths here to-day to cavil either at those who executed the law or those who profited by it.

I know Mr. Day very well, and have known him for years. He was a respectable member of the bar of Louisiana; he was an old Whig and a Union man, and when secession came and the war he took the Union side, and took it consistently and honestly. I knew him well. He was a Union man at a time when there was danger and no profit in being a Union man; and he has not sought to draw profit from having been a Union man since the war has ended. He has always been, as far as I know, with his people, a good and law-abiding citizen.

Mr. Day in purchasing this property did no injury to Mr. Benjamin. If Mr. Day had not bought it, Mr. Brown, Mr. White, or Mr. Jones would have done so: and Mr. Benjamin had no interest in it, because it was forfeited to the United States by the act of Congress and proceedings taken thereunder; and Mr. Day bought this property as he had a right to do.

Mr. Day, it is said, bought it as a speculator, and paid a speculative price for it, and took the chances. Why, Mr. President, he paid the full cash value of the property at the time if he had bought the fee to him and his heirs forever. He paid some $5,400, I think, for the property. He afterward spent some $3,000 on it in making improvements and repairs, because he bought it to reside in, and he resided in it until he was disseized of it under the decision of the Supreme Court. That made it cost to him some $8,400; and yet in times of comparative prosperity, in times when property had acquired a much larger value, that property was sold to my colleague, Mr. ELLIS, the present member of Congress from the second district of Louisiana, for $10,000, one-half cash. Everybody knows that during the war, and with the doubtful issue of war, property had little or no value, and could not produce more than 50 per cent. of its actual value in the city of New Orleans.

Was it to be supposed that Mr. Day, at least a sensible business man, was going to put $5,400 of his own into a property covered by a deed of mortgage to a larger amount, which would not bring any more than that under the hammer if the sale passed a title indefeasible to him and his heirs forever; that he was going to pay that for a mere life estate on the life of a man then over fifty years of age and a title that was not good and was subject to litigation and subject to defeasment by the enforcement of a mortgaged lien? Mr. President, it is preposterous. Mr. Day gave the best evidence of his sincerity by paying the full cash price for which he could have bought similar property, the fee simple, free from incumbrance, in that portion of the city anywhere that he chose to invest.

Now he is accused of having attempted to swindle a poor widow and orphans out of their money. I know the widow and orphans. They are my friends. I rejoice that they gained the case in yonder court. I rejoice that they recovered their money. I think they were entitled to it. They had no notice and they never came forward to take part in these proceedings in the United States courts. If they had come and taken part we never should have heard of this case, and Mr. Day would never have been disseized of his property. I rejoice that they recovered the property; but in what has Mr. Day injured them? Mr. Day bought this property free from their mortgage so far as the action of the United States court could make it so. Mr. Day bought this property, and to the best of his knowledge and belief the money he paid for the property went to these mortgagees, and of course, no matter how large the mortgage, the mortgagee could only get what the property brought, having the right to come in and purchase herself.

Suppose Mrs. Micou and her children had been made parties to this suit; suppose they had been notified of this suit; suppose they had come in and under the privilege of mortgage creditors had purchased the property; suppose they had purchased it for the full extent of their mortgage, which they could have done without paying out a dollar; what would have become of their estate after the death of J. P. Benjamin? They would have purchased the life estate, as Mr. Day purchased the life estate, and they would not have been in as good a position as they are to-day.

Mr. President, as I said the other day, in Louisiana one who makes a sale is held to be a guarantor. He guarantees the existence of the thing he sells; he guarantees the title to it. If through any cause a party purchasing in good faith is evicted from the property, he has recourse against the seller as a guarantor; and the same thing applies to a judicial sale, with this exception, that in judicial sales he has his warranty against both the plaintiff and defendant, but he must first execute it against the defendant, and on a return that the defendant has no property he can then obtain a judgment against the plaintiff. Mr. Benjamin was no debtor; Mr. Benjamin owed nothing to the United States. Mr. Benjamin was a rebel, and the United States said that the property of rebels was forfeited. The United States took the property of Mr. Benjamin, and they had a right to use it so far as the United States was concerned, and no recourse could be had against the defendant.

All the property of Mr. Benjamin was exhausted; everything he had was confiscated. It is matter of history that since the war Mr. Benjamin has not lived in this country, but has attained great fame and fortune across the sea. Therefore it would have been a mere matter of supererogation to have issued an execution against Mr. Benjamin; nothing could have been effected. As a matter of course, Mr. Day could not sue the Government. He could not bring his action against the United States any more than he could bring his action against the State of Louisiana if the State of Louisiana had sold his property for taxes without a right to do so, but he could have gone to the Legislature of Louisiana and asked for a return of the money as he comes to Congress to make a similar demand. The court did not give that money to Mrs. Micou, the mortagee; the money was turned over to the Treasury of the United States, where it is now.

The Senator from Missouri says that this case must be distinguished from that of an individual. There can be no question if an individual had made this sale he would have been held to warrant the title under the law of Louisiana. Will it be pretended that the United States can change the laws of Louisiana? She can enforce her judgment; she can sell property; she can issue execution; but if she issues executions she must do it under the State laws. Section 916 of the Revised Statutes says that judicial sales, proceedings, and remedies generally must be according to the laws of the State, provided such remedies existed before the passage of that statute.

Mr. President, there is no question of public policy which discriminates between the United States and the individual, except merely the privilege of the United States that she cannot be sued by a citizen; but the Senator says it is a matter of public policy. The Senator says that this money was used for the purpose of carrying on the war and maintaining the Union armies, and therefore it cannot be disposed of now. That was the policy of the confiscation act, and whose money did the confiscation act propose should be used for carrying on the war? It was the money of Mr. Benjamin; it was the forfeited property of Mr. Benjamin; it was to be confiscated; it was to be put into the Treasury; it was to be used for war purposes. Did the act contemplate that the property of Mr. Day, a loyal Union man, sympathizing and siding with the Government to the best of his ability, was to be used, that the money was to be taken from Mr. Day by forced contribution and used for the purpose of supporting the Government and carrying on the war? No, Mr. President, the money is in the Treasury.

Mr. Day has suffered this loss through the fault of the Government and the Government's officers; he has suffered it through such means as would give him a good action at law in the forum where the property was sold against any individual, and there is no reason why the Government, having this money and having sold Mr. Day nothing; having been the means through its officers of perpetrating a swindle upon Mr. Day by pretending to sell him something that did not exist, that is, the title of J. P. Benjamin to this property; and by pretending to sell him something free from lien when that property was covered with a mortgage which the Supreme Court held to be good, and which left it without any value whatever; the Government having perpetrated this wrong on Mr. Day, it is nothing more than just and equitable that his money should be restored by the Government.

I find in the sixty-ninth volume of Missouri Reports the case of

Griffith *vs.* Townley, even in Missouri, a case decided almost similar, except that the United States was not a party. The syllabus of the case is as follows:

An administrator sold lands of his intestate, supposing that it was the fee that he was selling. The purchaser supposed it was the fee that he was buying. It turned out that nothing passed by the sale but the equity of redemption. Held, that this was such a case of mixed and mutual mistake of law and fact as entitled the purchaser to relief in equity.

And he recovered his money back. The court in this decision quoted from two or three cases, which I will also quote from briefly:

In King *vs.* Doolittle, 1 Head (Tenn.) 77, it was held that where the mistake was one both of law and fact, though the latter is the result of the former, relief will be granted when justice and equity require it.

In this case representations were made in the bill of sale which did not exist, made by an administrator. They turned out to be misrepresentations, and the party purchasing claimed his money back.

And the court there said: "If a contract is entered into in good faith, by which it is mutually understood that, for an adequate consideration, the one party shall part with and the other acquire a valid title to property, and it turn out that at the time of the contract, by the operation of some settled principle of law of which they were alike ignorant, the supposed title was wholly valueless or did not exist in legal contemplation; in such cases, the mistake is not a mere mistake at law; it involves, in some measure, a mistake of fact as well as of law, as the very idea of title comprehends as well matter of fact as of law. * * * It is enough that there was a radical defect inherent in the subject-matter of the contract, of which the parties were mutually ignorant. * * * The contract, therefore, was not what either of the parties understood and intended it should be." In that case the mutual mistake arose because of an omission of an essential provision of the charter of a bank, the copy furnished being unintentionally imperfect. Here the mutual mistake occurred because of the inadvertent insertion of words of which both parties were ignorant; words in the order of sale at variance with the petition for that order, with the publication, and with the certificate of appraisement. The parties bargained for the fee and there was, under the administration proceedings, no fee for sale. The subject-matter of their contract had, in legal contemplation, no more existence than if it had been a dwelling already consumed by fire or a messuage already swept away by a flood. Both parties intended the purchase and sale of a subsisting thing, and implied its existence as the basis of their contract. It constituted, therefore, the very essence and condition of the obligation of their contract." (1 Story, Eq. Jur., sec. 142.)

The court says, speaking of the case at bar:

The mutual mistake is to be attributed to the agent of the defendants.

The marshal was an agent of the United States. The judge cannot be called an agent of the United States, but he was there administering justice in a suit in which the United States was a plaintiff, and the decree was the property of the United States.

He prepared the deed, and he assured the complainant that it was correct. There was no want of ordinary prudence in the complainant's relying upon his judgment. He was a lawyer by profession, and it was natural and becoming that the complainant should have confided in him. To the same effect are Woodbury, &c., Bank *vs.* Charter Oak Insurance Company, 31 Conn., 517; Longhurst *vs.* Star Insurance Company, 19 Iowa, 364. In conclusion, we are of opinion that there are, in this case, such elements of absence of consideration, of reliance on the representations of the agent of the estate, of surprise, mutual mistake and unconscionable advantage, as should in equity and good conscience take this case out of the general rule, and forbid our sanctioning the decree; for should we approve that decree, we would thereby, in effect, declare that the heirs of Lewis Welton's estate should retain the unconscionable advantage which they have gained, and become enriched by the very debt of their ancestor.

I think that this case in its main bearings is precisely a counterpart. I hope that the case of the claimant here will not be prejudiced by the exordium to his brief, which was read yesterday. It was not the first case, I submit, in which the old adage applies that "a man who is his own lawyer," &c. I will not continue the quotation.

Mr. VEST. Mr. President, I just wish to say a word in regard to the case stated by the Senator from Louisiana and the decision of the Supreme Court of Missouri. I say respectfully to my friend that the decision he has read has no more to do with this case than the laws of the Sandwich Islands or of Kamschatka. That was a case in which sale was made by an administrator, and there was an inadvertent mistake in regard to the facts of the case and both parties participated in it; exactly like the case in which there was a mistake in regard to the charter of a bank where the copy that was furnished to the banks left out material words containing certain important provisions.

What are the facts here? This man Day knew that the Constitution prohibited anything but the sale of the life estate of Judah P. Benjamin. He knew what the order of the court was to sell the property of Judah P. Benjamin. He knew what he was buying.

Mr. JONAS. Will my friend permit me to interrupt him?

Mr. VEST. Certainly.

Mr. JONAS. The order of the court, I submit, was not to sell the property of Judah P. Benjamin; the order of the court was to sell certain lots of ground, I do not know how many, the property of Judah P. Benjamin which had been confiscated.

Mr. VEST. I am a lawyer by profession, but I have never been able to draw the distinction quite as fine as my brother from Louisiana. The order of the court was to sell certain lots, the property of Judah P. Benjamin, and the Supreme Court of the United States construed that decree to mean, as it could only mean, that it sold the interest of Judah P. Benjamin and nothing more. Here is the judgment of the Supreme Court of the United States before me now, and the Supreme Court decides that the district court of Louisiana could not have sold anything else. There can be no pretense that they sold anything else.

What did Mr. Day claim? He claimed that he bought the interest of Judah P. Benjamin and of Joseph Benjamin, and got rid of a mortgage of $10,000, spread on the records in 1858, and he, a lawyer, says now that his ignorance ought to be protected. I hold the doctrine of equity to be that when facts exist which put any man on inquiry in regard to other facts, then he is bound to know them all, and if he does not know them it is gross negligence, willful and deliberate negligence. This is the case, and I desire to say nothing else about it. Mr. Day has made a bad speculation and wants to saddle the result of his bad judgment and his worse venture upon the Treasury of the United States.

Mr. HOAR. Mr. President, I have spoken once on this matter. Have I the right to speak again?

The PRESIDENT *pro tempore*. No, sir; not except by unanimous consent.

Mr. COCKRELL. The Senator has not spoken on the motion to recommit.

Mr. HOAR. I shall not ask unanimous consent; I would rather have a vote.

Mr. JONES, of Florida. The pending motion is to recommit the bill.

Mr. FRYE, and others. Let us have a vote.

Mr. HARRIS. This bill has taken up the morning hour for three or four mornings.

Mr. HOAR. The Senator will understand that I do not ask for unanimous consent; I waive my desire to speak.

Mr. HARRIS. I am not inclined to object to hearing the Senator, except that I am inclined to object to the further consideration of the bill unless we can come to a vote at once. I am ready to vote.

The PRESIDENT *pro tempore*. The question is on the motion to commit the bill to the Committee on the Judiciary. [Putting the question.] The noes seem to have it.

Mr. COCKRELL. Let us have the yeas and nays.

Mr. JONES, of Florida. Let the yeas and nays be taken on the passage of the bill.

Mr. COCKRELL. I withdraw the request.

The PRESIDENT *pro tempore*. The motion is lost. The question is on ordering the bill to be engrossed for a third reading.

Mr. VEST and others. Let us have the yeas and nays on the passage of the bill.

The bill was ordered to be engrossed for a third reading, and read the third time.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass, on which the yeas and nays are demanded.

The yeas and nays were ordered; and the Acting Secretary proceeded to call the roll.

Mr. HARRISON, (when his name was called.) I am paired on this bill with the Senator from Texas, [Mr. MAXEY.] If he were present, he would vote "nay" and I should vote "yea."

Mr. MILLER, of California, (when his name was called.) I am paired with the Senator from Delaware, [Mr. BAYARD.] I do not know how he would vote if he were here.

Mr. PLATT, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. CAMDEN.]

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.] If he were here, I should vote "nay."

The roll-call was concluded.

Mr. FRYE. The Senator from Rhode Island [Mr. ANTHONY] is necessarily detained from the Senate for a portion of the day, and while absent he is paired with the Senator from Georgia, [Mr. HILL.]

Mr. ROLLINS. I am paired with the Senator from Tennessee, [Mr. JACKSON.]

The result was announced—yeas 27, nays 22; as follows:

YEAS—27.

Blair,	George,	Jones of Nevada,	Morrill,
Call,	Groome,	Kellogg,	Pugh,
Cameron of Wis.,	Hawley,	McDill,	Sawyer,
Chilcott,	Hill of Colorado,	McPherson,	Sewell,
Conger,	Hoar,	Mahone,	Sherman,
Dawes,	Jonas,	Miller of N. Y.,	Windom.
Frye,	Jones of Florida,	Mitchell,	

NAYS—22.

Allison,	Davis of West Va.,	Harris,	Slater,
Beck,	Farley,	Ingalls,	Vance,
Butler,	Garland,	Morgan,	Vest,
Cockrell,	Gorman,	Pendleton,	Walker.
Coke,	Grover,	Plumb,	
Davis of Illinois,	Hampton,	Ransom,	

ABSENT—27.

Aldrich,	Fair,	Lamar,	Rollins,
Anthony,	Ferry,	Lapham,	Saulsbury,
Bayard,	Hale,	Logan,	Saunders,
Brown,	Harrison,	McMillan,	Van Wyck,
Camden,	Hill of Georgia,	Maxey,	Voorhees,
Cameron of Pa.,	Jackson,	Miller of Cal.,	Williams.
Edmunds,	Johnston,	Platt,	

So the bill was passed.

CHARLES M. BLAKE.

The PRESIDENT *pro tempore*. Does the Senator from Alabama [Mr. MORGAN] call up the Japanese indemnity bill, or will he wait until to-morrow?

Mr. MORGAN. I will not call it up under the Anthony rule to-day.

The PRESIDENT *pro tempore*. The next case on the Calendar will be called.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1015) for the relief of Charles M. Blake.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from California [Mr. MILLER] to the amendment reported by the Committee on Military Affairs.

Mr. MILLER, of California. I desire to modify my amendment by inserting, as the time at which the payment shall be made, from April 28, 1869, to July 2, 1870.

The PRESIDENT *pro tempore*. The amendment to the amendment will be read as modified.

The ACTING SECRETARY. At the end of the amendment of the committee it is proposed to add:

And the said Charles M. Blake shall be paid as post chaplain in the Army of the United States from the 28th day of April, 1869, to the 2d day of July, 1870; and the proper accounting officers of the United States are authorized and directed to audit and allow such payment when made.

Mr. COCKRELL. The Committee on Military Affairs decided the case, and this is a reversal of the decision of the committee whose report has been read. As I understand the amendment of the Senator from California, it is to allow Mr. Blake pay from the 28th day of April, 1869, to the 14th day of May, 1878.

Mr. MILLER, of California. No; I have changed that so as to pay him until July 2, 1870.

Mr. COCKRELL. I did not know the Senator had modified his amendment.

Mr. MILLER, of California. I have changed it so as to pay him from April 28, 1869, to July 2, 1870; which is the time that his successor was appointed and confirmed.

Mr. COCKRELL. I understand. That particular point was not specially passed upon by the committee. As the amendment has been modified from what it was originally, I have nothing further to say in the matter.

Mr. GROVER. I reported this bill by direction of the Committee on Military Affairs; but I myself was in favor of the proposition of the Senator from California before the committee, and I now favor it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California to the amendment of the Committee on Military Affairs.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL BOARD OF HEALTH.

The bill (S. No. 1049) amending an act entitled "An act to prevent the introduction of contagious or infectious diseases into the United States" was announced as next in order upon the Calendar.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole, and will be read.

The Acting Secretary read the bill.

Mr. CAMERON, of Wisconsin. I was going to ask for the reading of the report, but I see it is somewhat lengthy and there will hardly be time to complete its reading before the hour of two o'clock will arrive.

Mr. HARRIS. As the hour of two is so nearly at hand, I have no objection to the bill going over at this time. I should like to have the report read in the morning and to make a very brief explanation of the change that this bill makes in the existing law.

Mr. CAMERON, of Wisconsin. That is precisely what I desired.

The PRESIDENT *pro tempore*. The bill will be the first case called in the morning when the Calendar is reached under the Anthony rule.

Mr. McMILLAN. The bill is not yet before the Senate.

The PRESIDENT *pro tempore*. Yes, it is reached on the Calendar.

Mr. McMILLAN. It is not to be taken up as one of the ordinary bills on the Calendar under the Anthony rule?

The PRESIDENT *pro tempore*. It is taken up now under the Anthony rule, and is subject to objection, of course.

Mr. McMILLAN. I do not think it ought to be considered at this time, and for that reason I object.

Mr. CAMERON, of Wisconsin. The Senator from Tennessee proposes to allow it to go over until to-morrow morning.

Mr. HARRIS. To have it go over to be the first bill called up to-morrow morning under the Anthony rule is my suggestion, because there is no time now to have the report read.

Mr. McMILLAN. Will it be subject to objection then?

The PRESIDENT *pro tempore*. Of course.

Mr. HARRIS. Every bill is subject to objection till its conclusion, under the Anthony rule.

CHARLES ALTON HOWARD.

Mr. HARRISON. As there are only two or three minutes left of the morning hour, I should like to have the consent of the Senate to make a report from the Committee on Military Affairs and to ask the passage of the bill, which is simply to change the name of an officer in the Army.

The PRESIDENT *pro tempore*. The report will be received.

Mr. HARRISON. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 3196) to authorize and direct the Secretary of War to change the name of Charles Alton Howard, a second lieutenant in the Ninth Regiment of Cavalry of the Army of the United States, on the register, rolls, and records of the Army, to Alton Henry Budlong, to report it without amendment, and I ask for its present consideration. The bill is simply to change the name of an officer on the Army roll, which he asks to have done, and there can be no objection to it.

Mr. PLUMB. Is it proposed to change his name by law?

Mr. HARRISON. The bill simply authorizes a change of his name on the Army rolls.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DISTRICT REAL ESTATE INSURANCE.

Mr. SHERMAN. In the moment that is left of the morning hour I should like to call the attention of the Senate to the bill (H. R. No. 4299) to amend the general incorporation law of the District of Columbia. It is a bill of slight importance which I should like to have passed. I presume there will be no objection to it.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It amends the five hundred and fifty-third section of the Revised Statutes of the United States relating to the District of Columbia by adding after the words "life insurance" the words "or for the purpose of insuring titles to real estate."

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. SAULSBURY. I should like to have the Senator from Ohio explain the effect of the bill.

Mr. McMILLAN. I reported the bill from the Committee on the District of Columbia, and can explain it to the Senator from Delaware. Under the general incorporation act of the District of Columbia corporations for the purpose of life insurance and other business purposes may exist for twenty years. This bill permits incorporations for purposes of insuring title to real estate to be perpetual instead of twenty years, because an insurance for twenty years would amount to nothing. It authorizes a corporation now existing, formed under the general law, to be perpetual. That is the only effect upon the law.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass?

The bill was passed.

CRUISE OF THE TICONDEROGA.

Mr. McPHERSON. I submit the following resolution:

Resolved, That the Secretary of the Navy be, and he is hereby, authorized and directed to transmit to the Senate the official report upon the cruise of the Ticonderoga by Commodore R. W. Shufeldt.

I understand that there has been an official report published by the Navy Department. I should like to have possession of the report in order that some action may be taken upon it.

Mr. McMILLAN. Is it proposed to print the report?

Mr. JONES, of Florida. Let us have the regular order.

Mr. McMILLAN. The resolution had better go to the Committee on Printing.

Mr. McPHERSON. It is simply to have the Department send us a copy of the report which is already in their possession. However, I have no objection to a reference if it is desired.

Mr. McMILLAN. If it is simply a resolution of inquiry I have no objection to it.

Mr. PLATT. Let the resolution be read.

The Acting Secretary read the resolution.

The resolution was agreed to.

COURT OF APPEALS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 429) to establish a court of appeals.

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Alabama [Mr. MORGAN] to recommit the bill to the Committee on the Judiciary with instructions, on which the Senator from Mississippi [Mr. GEORGE] has the floor.

Mr. MORGAN. The question before the Senate, I understand, is upon the amendment of the Senator from Florida, [Mr. JONES.] I do not propose to urge the motion to recommit now.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) A motion to recommit takes precedence of a motion to amend.

Mr. MORGAN. I did not formally make the motion yesterday; I merely submitted the proposition.

The PRESIDING OFFICER. If the Senator only gave notice of his intention to move hereafter to recommit, then the pending question is on the amendment of the Senator from Florida, [Mr. JONES.]

Mr. MORGAN. I only gave the notice with a view of having the resolution of instruction printed.

The PRESIDING OFFICER. The pending question, then, is on the amendment proposed by the Senator from Florida, [Mr. JONES,] which will be read.

The ACTING SECRETARY. It is proposed to strike out section 2 of the bill, in the following words:

SEC. 2. That the several circuit courts of the United States shall have and exercise no jurisdiction in cases of appeals or writs of error from the district courts allowed, taken, or sued out after the 1st day of September, 1882, except that reviews in bankruptcy cases, in the exercise of their supervisory jurisdiction may be had as heretofore provided.

Mr. GEORGE. Mr. President, I ask the indulgence of the Senate for a short time to submit some additional observations that I desire to make upon the pending bill. In the first place, recapitulating a little what has occurred heretofore in this debate, I call the attention of the Senate to the argument which was made by the Senator from Arkansas [Mr. GARLAND] some days ago and to the observations which I made yesterday on the same point as to the meaning of the Constitution of the United States in reference to the citizenship of corporations, and I will add to what has heretofore been said upon that subject what I regard as a conclusive argument against this pretended citizenship.

Those who heard the Senator from Arkansas upon that subject will remember that he showed that while the word "citizen" had been used in the Constitution many times, yet there was nothing in the Constitution to define exactly what was meant by that term. Prior to the adoption of the fourteenth amendment there were diverse views entertained by statesmen and jurists as to the proper signification of the word "citizen." I believe the meaning of that term was very much litigated in the celebrated Dred Scott case. At least until the adoption of the fourteenth amendment there was no well-defined, settled, certain meaning attached to it which all statesmen and all jurists accepted as correct. Much of the controversy which culminated finally in the late civil war grew out of the difference in meaning attached to this word.

We have now a constitutional definition of what the word "citizen" means. It is no longer open to dispute; no longer a subject-matter of speculation; it has been withdrawn from that field, and the people of the United States have put in their Constitution a meaning which we are obliged to accept, and which the courts of this country are obliged to accept. That amendment, in unmistakable terms, excludes from the class of citizens the artificial beings called corporations. I will read it:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside.

That is the constitutional definition of the meaning of the word "citizens." Corporations cannot be born; they are creatures merely of the legislative will. They cannot be naturalized; they can take no oath of allegiance; they can renounce no fealty to any foreign power. I proceed further to read from the amendments to fix with absolute certainty, beyond the possibility of controversy, the fact that corporations cannot be included within the class of citizens:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The whole section taken together shows that the people in inserting this article in the Constitution were referring to natural persons, persons who owed allegiance, persons entitled to the protection of the Government, and persons who are capable of serving it.

So in the fifteenth amendment, inserted in the Constitution after the adoption of the fourteenth, we have the use of the word "citizen" in a sense unmistakably excluding from it all persons except natural persons.

The right of citizens of the United States to vote—

Says Article XV—

shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Here the word "citizens" is applicable alone to persons who have the capacity to vote. Corporations cannot vote, but only persons who may be of some of the races of mankind. Corporations do not belong to any race of mankind. Persons who may be of a particular color can vote. Corporations have no color. Persons who may have been in a previous condition of servitude can vote. Corporations, at least in this country, have never been in that condition. They have generally been masters, not servants, of the people.

What are corporations that they should be by the Federal courts included within the class of citizens entitled to sue and be sued in them? They are intangible and invisible; they are purely ideal beings. It has been said that they have no souls to be saved and no bodies to be punished. They have their beings under the simple legislative will of the States, a mere act of the Legislature endowing them with certain rights and powers and faculties, and imposing upon them certain duties and obligations.

In the case of artificial persons thus created, having their source, their life, their faculties, their powers solely from State law, how is it that the States which created them are to be deprived of their just power and jurisdiction over their own creatures, whose rights and powers, duties and obligations are to be settled and litigated in a foreign tribunal?

Certainly, if there be one thing more than another which ought to be an inherent attribute of a political community exercising legislative powers, passing laws regulating the interests, the rights, the privileges of those over whom they have jurisdiction, it is that, having the power to make the laws, they ought to have the power to enforce them. Yet these creatures, existing alone in law, made by the breath and the power of the law, subject to be destroyed by the same power which creates them, are by this usurped jurisdiction of the Federal courts taken from the control and power of the States which created them.

I ask Senators who are in favor of maintaining this usurped and unconstitutional authority, what good reason is there for it? I am not bound to give a reason why we should remit it to the proper authority, more than to say that the Constitution, the supreme law of the land, has so willed it; that ought to be a sufficient reason for our action upon that subject.

This usurpation of power over corporations by the Federal Government has worked very serious injury to the people of the States. Let me illustrate. There is a railroad company chartered in the State of Virginia, for instance, having one terminus of its road at Norfolk and the other at some other point in the State. It gets its right of way from the State of Virginia; it gets the power to exercise the right of eminent domain from that State; it receives from the Legislature of the State the power to ask municipal corporations, cities, towns, and counties to levy taxes to aid in its building; it receives subsidies from the treasury of the State of Virginia. It seems under these circumstances, being born of the will of the State of Virginia, deriving its powers from that authority, receiving its stock from the public treasury and from the contributions of the municipalities to which I have alluded, that the State ought to have some control over it. Yet any man who holds a bond of that road, if it be mortgaged, may go into the Federal court and may induce that court to seize property and franchises of the corporation, put them in possession of a receiver, turn out the agencies appointed by the law of the State of Virginia for the purpose of working it, and then actually operate the road under the power and direction of this court. When a receiver is appointed what is the result? He is the president of the road, he is the vice-president of the road, he is the secretary and treasurer, the directors and the stockholders. His will alone, guided and directed by the will of the Federal court from which he receives his appointment, is the law of the operation of that road.

This receiver may lose or destroy the property which is committed to the railroad company for transportation, he may destroy the lives of the passengers who travel upon his trains, and what remedy have the parties injured? They cannot sue the receiver in the State courts; they must apply to the Federal judge, and ask his permission to do what? To do that which is prescribed in every State constitution in the Union as being one of the highest rights of an American citizen—to bring an action against any person who may have injured him in person or property or reputation; and yet all these are denied in the case which I have mentioned or granted at the will and discretion of another.

It would seem that these things ought not to be unless it can be shown that the States are unwilling to exercise this judicial power fairly and impartially, and also incapable of doing it. The first branch of this proposition I discussed yesterday. Are the States incapable of doing that justice the administration of which has been usurped by the Federal tribunals? Is there any divinity in a Federal judge that makes him greater, better, purer, or more learned than the judges in the State courts? Is there anything in the agencies by which Federal judges are selected and by which State judges are selected which enables us to say that the Federal judge must be a better, a greater, and a purer man than the State judge?

Mr. JONES, of Florida. If the Senator from Mississippi will allow me, as the Senator has had a good deal of experience in judicial matters, I should like to ask him, from his knowledge of the course of judicial business, especially in the Southern States, if there has been an increase in the business of the State tribunals arising from the increase of business and of population corresponding with that of the Federal courts?

Mr. GEORGE. There has been, so far as my observation extends, a large diminution in the business of the State courts, it being all transferred, as far as possible, to the Federal courts. Is that your observation?

Mr. JONES, of Florida. That is mine. Therefore this increase of business in the Federal tribunals is not to be attributed altogether to the increase of the business or population of the country, but rather to the extent of their powers.

Mr. GEORGE. I have no doubt that is a correct view.

Mr. President, I was speaking of the character of the State judges and of the Federal judges. I want to make no invidious comparison, but I desire to call to the attention of the Senate those eminent judges in this country who have illustrated and adorned the judicial history of the States and who have conferred as much honor upon the bench as the judges of the Federal courts. If you point me to Marshall, to Taney, and to Story, as great and able men on the Federal bench, I can point you to Parker, to Parsons, and to Shaw, in Massachusetts; to Kent, to Spencer, to Walworth, and to Bronson, of New York; to Hornblower, in New Jersey; to Tilghman, to Gibson, and to Rogers, in Pennsylvania; to St. George Tucker, in Virginia; to Ruffin and Gaston, in North Carolina; to De Saussure, to Harper, O'Neal, and Wardlaw, in South Carolina; to Lumpkin, in

Georgia; to the two honored names in my own State, Sharkey and Smith; to Green and Turley, of Tennessee; to Chief-Justice Robertson, of Kentucky; to Hitchcock, of Ohio; and to a name, the only one now living that I will mention, bright in the annals of the law of this country, Judge Cooley, of Michigan. I may go further, sir. In a sister State, an adjoining State to Mississippi, there served in the olden time two men on its supreme bench who have done more to familiarize the American bar and bench with the study and the application of the principles of private international law than any two men who ever lived in the United States; I mean Martin and Porter, of Louisiana. These men are the equals of the proudest who have ever sat upon the Federal bench. I have not attempted to make an exhaustive enumeration of the names of eminent judges of State courts. There are hundreds of others who have sat on the highest benches of the States who would have been a credit and an honor to the Supreme Bench of the United States.

A short reference to the benefits which would accrue to the people of the United States from a remission of a portion of this jurisdiction to State courts will now be made. In the first place, the present system is founded upon distrust; upon a distrust that the States would not do their duty where one of the litigants is a non-resident and the other is a resident. I think I have sufficiently shown in the remarks I made on yesterday that there is no foundation for that; but would it not be well if we would change our system and call upon the States and put them upon their honor to see that foreign litigants received fair and impartial justice in their limits? I think it would tend to unite more firmly the States if the people of each State knew that the others trusted to their honor, to their sense of justice, to their fair dealing to render impartial justice between their own citizens and litigants from other States.

But, Mr. President, the litigation in the State courts is vastly cheaper than it is in the Federal courts. All who have had any experience of Federal courts know that the costs of a lawsuit in those courts exceed four or five hundred per cent., and often more, the costs in a State court. Every time that the marshal serves a summons, every time that he carries an execution with a view of levying it, whether he levies it or not, every time he serves a writ, he is entitled to charge mileage, and in most of the States this mileage is frequently calculated upon distances running from one hundred to two hundred and fifty miles.

Mr. JONES, of Florida. Will the Senator allow me to interrupt him a moment in the line of his argument?

Mr. GEORGE. Certainly.

Mr. JONES, of Florida. What is the largest sum the Senator has ever known to be allowed as costs in any State court? Has he any idea?

Mr. GEORGE. I cannot call it to mind.

Mr. JONES, of Florida. I will just say that in a case recently decided in the Supreme Court from my State the costs in a single cause amounted to $95,000 outside of the debt.

Mr. GEORGE. In the State court?

Mr. JONES, of Florida. In the United States court.

Mr. GEORGE. As I came to the Capitol this morning I met the junior Senator from Iowa, [Mr. McDILL,] and he informed me that he was engaged in two cases in the Federal court sitting in Iowa concerning the same property—a litigation about some cattle, in which the costs amounted to $4,000. He stated at the same time that if that litigation had been in the State courts of Iowa the cost would not have exceeded three or four hundred dollars.

The people in my section have had sad experiences in these cost bills. I know that I do not exaggerate when I say that the mere services rendered by officers and witnesses in the State courts do not cost in the average cases exceeding one-fourth of the costs in the Federal courts. This large increase of costs is a great and grievous burden. I think it is our duty to diminish it. I think it is our duty so to provide that the unfortunate suitor who may be cast in a lawsuit shall not be ruined by the expenses attending unsuccessful litigation.

If we remit this jurisdiction to the State courts we really and in fact bring to the homes and the bosoms of the people the administration of justice. Every defendant will be sued in his own county, he will have the great common-law privilege, as old as English liberty itself, of having his cause tried by a jury of the vicinage. In addition to that the people themselves will become more largely than they are now participants in the administration of justice.

He who will make the slightest reflection upon the growth, the progress, and the superiority of Anglo-Saxon institutions will find that one of the great causes of this growth and progress has been that the people themselves in the jury-box have become educated to perform high civil duties by being participants in the administration of justice.

These Federal courts are held a long way off from the homes of the people. It is true that the jurors are drawn from the State or district at large, but the trials are distant from the homes of the people; they do not witness them, and in a large majority of cases the juries are composed of those professional gentlemen who reside in and near the court-house in which the courts are held.

Another good result will come from the remission of this jurisdiction to the State courts. The tendency now is everywhere in business, in money, to centralization in the large cities. This tendency will be destroyed, or at least greatly diminished. The small towns and the villages are being dwarfed by the concentration of the money and of the business in the larger centers. Professional business follows the same course. Before this enlarged jurisdiction of the Federal courts, the State courts administered to a large extent the justice that was dispensed to the people. They had trials in every county; they had lawyers residing in every county to participate in the benefits of the litigation. Now, sir, under this system the Federal courts are held in only one or two places in a State, and the tendency is that the professional business is concentrated at these points to the great injury of the local and country bar. You hear no call from the local bar of this country for the enactment of this bill. The Senator from Illinois caused to be read at the Secretary's desk yesterday the resolutions approving this bill of the Bar Association of New York City, but he brought no approving voice from the bar of the interior of New York, and I undertake to say that if the voice, if the vote, if the preference of the bar of the United States was sought on this bill, nine-tenths of them would be in opposition to its enactment.

Mr. SAULSBURY. Will the Senator allow me to state that I understand that the National Bar Association, which met at Saratoga last August, disapproved of the provisions of the present bill?

Mr. GEORGE. I know it to be the fact that the concentration of this business in the Federal courts operates very disastrously on the business of the local bar in the States, operates disastrously upon the civil officers of the States, who lose their legitimate fees by their being all concentrated in the hands of the officers of the Federal tribunals.

It was said yesterday by the Senator from Massachusetts [Mr. HOAR] that a reason why the Federal jurisdiction should be retained is that it is important not only that justice shall be fairly administered, but that the people shall be satisfied that it is fairly administered.

Now I undertake to say that the administration of this usurped jurisdiction by the Federal courts has given more dissatisfaction to the people of this country than ever arose from a suspicion that justice cannot be given to a non-resident in a State court. I have no doubt it causes satisfaction to parties who have twenty or thirty suits apiece to bring in a State to be able to bring all those suits in one court, to give them all to one lawyer, and not be compelled to attend various district and circuit courts throughout the State. While you satisfy one man of that sort, you dissatisfy many others who are sued and who are taken away from their homes and made to attend courts at a great distance from their residence, and at great expense and inconvenience.

There is another reason why we ought to remit this jurisdiction to the States. It would reform civil service to that extent. We take all the marshals and judges created by this bill from the great pool for which the Presidential contests are fought; we give the administration of justice to judges elected by the people themselves. I am one of those who believe that judges thus selected administer the law with as much impartiality and with as much ability as those selected here.

Then, again, Mr. President, the scheme of this bill is to accommodate the rich at the expense of the poor. Certainly I do not desire to say or to do anything which would excite antagonism between the classes of rich and the classes of poor in this country; but the poor people are in the majority. Are they not entitled, when so important a law as this is passed, to have their rights and to have their convenience consulted? No poor man asks for the passage of this bill. No poor man will be benefited by it. He must have $10,000 to go to the Supreme Court; he must have $500 to go to the appellate court. Is that right? Is it right for us, representing all classes, representing all conditions in life, to legislate for one to the exclusion of the others?

It is said that we ought to draw the line as is done in this bill because the large suits are the more important. More important in what? Every lawyer knows that an important principle, one as hard to determine, may arise in a case in which only $50 is involved as in a case in which a million is in litigation. But it is said the more important the amount the greater the necessity of an appeal. Important to whom? Important to the country, or important to the suitor? It more frequently happens that a small amount in litigation, a sum less than $500, affects more seriously the fortune of the litigant than a larger sum. Men who have their thousands and their millions can afford to lose a lawsuit of $5,000 or $10,000; but how is it with a man who has his all at stake, everything he has in the world, dependent upon the result of a lawsuit? If he loses he is ruined. I do not think we ought to make provision for the administration of justice based upon a distinction in wealth.

I asked the question of the Senator from Illinois yesterday if it was not more important to a poor man who had his all involved in a suit to have it correctly decided than to a rich man who had a large amount involved, but only a portion of his estate. He failed to answer. He answered only by saying, "That is the poor man's argument." I do not know exactly what is meant by that; but if he meant that an argument against a measure before the United States Senate was improper to be urged or improper to be considered

because it affected injuriously or unequally the rights of the poor, I must beg leave to differ with him.

I have said that a majority of the people of the United States were poor; they will ever be so, and it is our duty, while protecting the rich in all their property, exciting no jealousies or antipathies against them, to so use the great powers with which we are intrusted that the poor men of this country and the poor women of this country shall have a fair and equal chance to advance in prosperity and to better their fortunes. These are my principles; they are the principles of the party to which I belong, and when they cease to be such I shall cease to be a member of it. I know of no higher duty that can devolve upon the American Congress within its constitutional limits than to devise measures to advance the prosperity, to promote the welfare, and to subserve the happiness of the great mass of the American people who are now, and, as I have just said, probably always will be numbered in the category of the poor.

I have detained the Senate longer than I wished on this subject. I am opposed to this bill for the reasons which I have stated. I believe that it is but another step in the direction of centralization—centralization of power in the Federal Government, centralization of the money power, centralization of business and professional power. I believe that if we add these eighteen judges to the courts of the United States, these nine new courts, we will act in opposition to a feeling which I know does pervade members on both sides of this Chamber, that the jurisdiction of the Federal courts ought to be limited and restricted instead of enlarged; it will make it more difficult for that feeling to be realized. I think we ought to meet that question now. I think we ought to resist this bill because it will stand in the way of reform, and because of itself it is opposed to reform.

I have heard it stated, I believe, on this floor that every judge of the Supreme Court of the United States except one is in favor of this bill. I have heard also that every Federal judge in the United States outside of the Supreme Court was in favor of its passage. I know with their power and influence, with their friends and their connections, it will be almost impossible to resist its passage. I have done what I regard to be my duty to resist it. I shall continue to resist it. I shall vote for every amendment which is offered to make it less oppressive to the people, less injurious to their interest. I am bound to say that I do not think any amendment can be offered to it which will make it either palatable to me or proper for the people whom I represent.

Mr. JONES, of Florida. Mr. President, I desire to modify somewhat the amendment which I originally introduced to the bill, and which is now under consideration by the Senate. My original amendment was to strike out section 2 and to substitute another distinct section in place of it. I now propose to amend section 2 by the addition of a proviso. I make this alteration because if I were to strike out the entier section it would take away all right of appeal from the district and circuit courts in all cases, an object which I had not in view, my purpose being to retain the existing jurisdiction by appeal and writ of error from the district to the circuit court. I offer this as an amendment to the section:

Provided, That from all final decrees of a district court in causes of admiralty or of equity, except prize cases, when the matter in dispute exclusive of costs exceeds the sum or value of $50 and is under $500, an appeal shall be allowed to the circuit court from the district court in accordance with existing laws.

Final judgments of the district court when the matter in dispute exceeds $50, exclusive of costs, and is under $500, may be re examined, reversed, or affirmed in a circuit court upon writ of error.

The PRESIDING OFFICER. This is a modification of the amendment heretofore offered by the Senator from Florida.

Mr. JONES, of Florida. Yes, sir. My purpose is to make this bill as acceptable as possible to the people whom I in part represent if it should become a law; and I will say now, in response to some words that dropped from the distinguished Senator who has the bill in charge, that I am not criticising this bill merely for the sake of criticism.

This, sir, is no local measure. This is a measure which affects, as I said in the outset of my argument the other day, the interests of every constituency represented on this floor. I am not seeking for any renown in the way of sensation by the discussion of this measure. There has never been a bill in the Senate since I have been a member of it more important to the people than this, or that will be watched with greater interest, and I believe that myself and the other Senators who have manifested interest in this discussion have not been animated by any desire except to serve the people whose trust we have in charge and who will hold us to rigid accountability if anything should pass this body that might be detrimental to their interests.

Sir, it has happened in the legislation of the past that much which was objectionable, much that was entitled to condemnation has gone through this body without debate; and if there is any purpose higher and greater than another that ought to be observed and carried out here, it is in exposing by open, candid debate every measure which affects the great body of the people of the United States. I remember a year or two ago the condemnation that was brought upon this Senate because of the circumstances under which silver was once demonetized, because a bill went through the Senate without debate or notice by the body which affected the entire people, and years afterward clamor came about and excitement came about because there was no debate.

It is not, therefore, capricious criticism that I am engaged in. I believe that in all cases in which the interests of the people are involved there ought to be discussion; there ought to be agitation if necessary; and I think it was the great Earl of Chatham who gave expression to a thought, which he said ought to be inscribed on the walls of every parliamentary body, that when the interests of the people are involved there ought to be agitation; there ought to be clamor; there ought to be discussion, "for it is better," he said, "that our slumbers should be broken by the fire-bell than that we should perish amid the flames in our beds."

Now, sir, I have great respect for the committee from which this bill came, and I do not think there is anybody in the Senate who has a higher respect for the honorable Senator who has it in charge than I have, and I am sorry that I cannot conscientiously concur with him in the wisdom of this measure, because I feel and I know that in all that he says he is animated by the highest purpose and motive to serve the people of the country; but out of those honest differences of opinion at times good comes and the people's interests are subserved. It is not to be expected that absolute unanimity should exist with respect to a great measure of this kind, even though it came from the Judiciary Committee. The people of the several States represented here will not excuse their representatives if this bill should prove to be unwise, because it came from that committee.

Now, sir, while I am opposed to "the scheme" of this measure as announced by the honorable Senator from Illinois, I am free to say that the amendment which I propose is not intended to load down the bill for the purpose of securing its defeat. There are usually two kinds of amendments offered to measures in parliamentary bodies. One class are intended to kill the bill, and the other intended to perfect it as far as the mover is capable of doing so. I have not offered a single amendment to this bill which had for its object the loading down of the bill, or in other words, to make it so objectionable that even its friends would not vote for it. I know there is a determination to carry it through without amendment, and I know that it is the wish of the distinguished Senator who has it in charge that it shall pass this body without amendment, for he appealed to his supporters yesterday evening to vote down all amendments and take the bill as it has been recommended by the committee.

Mr. DAVIS, of Illinois. I voted for the amendment of the Senator from Missouri, [Mr. VEST,] and it was adopted.

Mr. JONES, of Florida. That must have been a very strong amendment when it obtained the vote of the Senator from Illinois, and I am glad that it was adopted, because it was a highly meritorious one. But, sir, I supposed that this bill was brought forth for the purpose of relieving the Supreme Court, and I did not imagine that one of its purposes was to interfere with the existing jurisdiction of the courts of original authority in the Union. The Senator from Illinois yesterday evening, in speaking against my amendment went on to say that during his judicial life he was never called upon in his high capacity as a supreme judge to pass upon any of the cases of inferior jurisdiction, the cases which are affected by the amendment I now propose. I can understand that. He presided over a circuit in the interior of the country, far away from the seaboard, where it was not likely that matters of admiralty or maritime jurisdiction should be found, and it is possible that he had with him on the bench a district judge, indeed I know he had, of such wide reputation, such elevated talents and acquirements, that appeals in small cases were never thought of from him.

But what was there in the argument of the honorable Senator against the wisdom of adopting my amendment? If it was true, as he stated, that it was not customary for cases such as are provided for in this amendment to arise in great numbers, what objection can there be to incorporating this amendment into the bill? What objection can there be to retaining the present appellate authority existing under the law, from the district to the circuit court of the United States, in all cases over $50 and under $500? If those cases are not numerous or embarrassing; if they will not affect very materially the business or the time of the court, why should they be stricken from the law? Why should appellate jurisdiction be denied to this class of suitors, poor men who are not able ever to see the Supreme Court of the United States, who may regard it as a privilege to be able to appeal from some of our district judges down South, as well as at the North, to the circuit judge, or even to a supreme judge who may occasionally, like the visit of an angel, come among us to shed a little eminent judicial light? It is possible, I say, that some man whose fortune is not large and whose property does not extend to millions under railroad charters, may desire to appeal from the district to the circuit court, and to have an humble case even brought under the notice of one of the judges of the Supreme Court of the United States, even though the sum involved may not exceed $500.

Why should that be denied him? I say if there is no pressing exigency; if, according to the argument of the Senator from Illinois, this class of cases is not large, why should we take away this jurisdiction unless the bill is intended to be leveled against the class of people whom alone it affects? But if the number of these causes is not large, I say allow this authority to prevail as we now find it, because I assure the Senator that these provisions did not find their way into the Revised Statutes by mere accident; they were put there by design, and they have subserved, according to my own ob-

servation, a very useful purpose in days gone by. This jurisdiction is very important to the class of people it is intended to benefit, and it will appear strange to them that while a person who is able to embark in a lawsuit which involves $10,000 can appeal to two high courts, the right of the man who can only engage in a $500 controversy is taken away in the bill which gives two appeals to the other.

Now, sir, what is the whole scheme of this measure? To create nine appellate courts to be made up of district judges and circuit judges. Sir, I am of the opinion, notwithstanding the opinion of other lawyers to the contrary, that when this grand frame of Government was devised by the fathers of the Constitution, it never was intended by them that any appellate power should be exercised outside of the Supreme Court of the United States. I know that there are opinions and arguments to the contrary. I know very well that our grand organic law has been refined away by construction from time to time until very little of its original spirit is left; but I speak in the spirit of the men who framed it, of the intentions of the great law-givers who met at Philadelphia in 1787, when I say that they never contemplated but one Supreme Court of appeal under our judicial system, and that every cause of consequence and of importance arising out of our judicial system was intended to be passed upon by that high court alone. This was in keeping with the genius and the wants of the country, and such a thing as a diversity of appellate tribunals exercising co-ordinate and coequal powers among the several circuits of this country never entered into the brain of any of the men who framed our organic law.

And how is this thing going to work? It is a novelty in its way. It may be said that the Constitution is imperfect. If that be true, we cannot amend it by act of Congress. What was it that gave rise to our Constitution? It was the discordance and conflicts in our laws, want of uniformity, the irregularity which distinguished the rules and regulations of the respective States in regard to subjects that ought to be controlled by uniform authority. It was the want of some steady, undeviating rule with respect to the regulation of commerce that gave rise to our present Constitution; and when it was brought into life it was expected that everything that had the force of law, whether emanating from the Legislature or from the highest court in the land, would have such uniformity of authority and operation that it would have the same effect in one State as it did in another; that it would be the same throughout the entire Union.

How is it going to be with this new judicial system? Here are nine courts of appeal to be established by this bill, and one Supreme Court sitting in Washington. In all cases under $10,000 the judgments of these nine courts are to be absolutely conclusive. They are not courts of original jurisdiction, mark you, like the circuit or district court as at present organized, whose judgments in an ordinary controversy between man and man amount to nothing beyond the particular case or controversy that happens to be before it at the particular time. The judgment of a circuit court of the United States or of a district court of the United States at present amounts to nothing outside of the particular cause which it has before it. It is not the law of the district; it is not the law of the land; it amounts to no settled rule of property; it establishes nothing but the right of the particular party in the particular litigation. It is otherwise with respect to a judgment of our highest court; it establishes principles that are uniform and coextensive with the Union; its opinions are accepted as the law of the land, and they are respected by every court within the Federal jurisdiction as such.

But how will it be with these appellate tribunals proposed to be created in the nine circuits for the first time? They are not courts of original jurisdiction; they are not courts that will act as the circuit and district courts act now. They are to settle principles, to fix rules of property, to prescribe rules of decision that will affect the interests of the masses living within each one of these judicial circuits in all cases where the sum in controversy is under $10,000.

I said that if the framers of the Constitution had one thing in view beyond another it was uniformity in the force of the laws that were to be enacted by the Congress of the United States, and by the highest judicial tribunal of the Union. Is it to be supposed that the judgments and decisions of these nine courts will be uniform throughout the Union? Is it possible that any two of them will ever agree upon any particular question that may come up before them? And here you have nine appellate courts sitting under the same authority, under the same Government, administering the same laws to persons entitled to the same privileges, establishing different rights, announcing different principles, bringing the whole system of the judiciary into confusion. The revenue laws, the bank laws, the bankrupt law if we shall have one, every Federal statute that gives a right or creates a liability is to be construed and expounded by these nine appellate courts, and each for itself within each of the circuits.

That you are going to have. You will have the citizens living in the fifth circuit under the decisions of the court there with one rule of property acknowledged by one court of appeal, and the citizens in another circuit, also living within the Union, with a different rule. Is that calculated to produce harmony? If the man in Florida has not the same rights, respected in the same way, in the courts of the Union there, that the citizen of Illinois has, it will naturally produce dissatisfaction.

The decisions of these appellate courts will constitute rules of property which will enter into the purchase and sales of all kinds of estates. They will have to be consulted just as the decisions of the higher courts in the State are when transfers of property are made. Their operation and effect will be like that of a Federal statute, except that there will be no uniformity about them, and the law of one circuit will not be the law of another, although the authority from which they emanate is the same.

Mr. President, I know very well that the docket of the Supreme Court has been loaded down for some years, and, as I said in the opening remarks which I addressed to the Senate when I commenced this debate, something ought to be done, if possible, to relieve that court from the pressure resting upon it; but I do not think the step has been taken in the right way to accomplish that end. We have been going on for years increasing by degrees the jurisdiction of the Federal courts without necessity. All that a citizen of a State need do now, in order to get Federal jurisdiction even against another citizen of the same State, is to make affidavit that he cannot get justice, on certain grounds, in the State courts, and he can remove his controversy into the Federal tribunals.

Sir, it is a remarkable fact that, while much has been said here regarding the great increase in the business of the Federal courts of late years, and as it has been alleged in consequence of the increase of population and of business, no such increase has been perceived in the business of the State tribunals. Why has the number of cases increased so greatly in the Federal courts, while in the State courts, that are within the jurisdiction of the same country, no such increase is perceptible? It is not owing to any increase in the population or in the business of the country, but it is because this Government has been departing day by day from the traditions of the fathers; it is because the courts of the United States have been by degrees usurping powers that the framers of the Constitution never intended they should exercise, and they have gradually almost absorbed the entire jurisdiction in judicial matters throughout the Union.

And now instead of attempting to cut down that jurisdiction, instead of beginning at the right end and bringing back this authority to the confines that originally bounded it, we are asked to pervert the entire scheme of the fathers of the Constitution and undertake to establish nine appellate courts instead of one. Sir, I want to stand by the Constitution as near as possible as it came from the hands of the fathers; and if it is possible to find a remedy for existing difficulties by conforming to the original scheme of the framers of the Constitution, I want to adopt that remedy, and I think it can be done. I do not want any nine appellate courts created throughout the Union that will turn out annually numbers of discordant opinions to unsettle everything throughout the land. I want "one supreme court," whose judgments upon all matters of an appellate character shall be uniform throughout the Union in everything that is worthy to be appealed; and I do not want a supreme court or a court of appeals in my circuit made up of the odds and ends of the bench below, circuit and district judges massed together, as is proposed by this bill.

I do not care who recommends this system, whether it be the Bar Association of New York or any other persons; I think it will prove to be unwise, and instead of affording a remedy for the evil complained of it will increase it. I do not think that the business of the Supreme Court will be diminished by this bill in this way.

Now, sir, there are two parties usually to a cause in every court. What do they represent? The one represents the debtor and the other the creditor class. There is always somebody in a court after money, for that is the great object of litigation after all, and there is always somebody before a court out of whom money is to be made to be affected by its judgment.

It has been stated in this debate that the country has outgrown our judicial system; and we have had it stated here that only an insignificant number of cases were before the Supreme Court at the time of its early organization, and that they did not perceptibly increase for years, but that latterly they have become overwhelming and numerous. All this is true. This applies to the original jurisdiction of the circuit court. The original judiciary act was adopted in 1789. The framers of the Constitution were a wise body of men, and some of them participated in the framing of the judiciary act of 1789. Mr. Ellsworth, of Connecticut, I think, was its author. A better lawyer never lived in this country. They made all final judgments and decrees of the circuit court in which the sum involved was $2,000 appealable to the Supreme Court of the United States, and they put the limit of $500 upon controversies between citizens of the respective States allowed to be brought in the circuit court, which has continued to the present day.

No citizen can sue another in a court of the United States unless the sum in controversy exceeds $500. That is the precise sum fixed by the judiciary act of 1789 in behalf of the creditor against the debtor, for generally when a suit is brought in the courts of the United States, or in any other courts, it is by a creditor against a debtor. No creditor can institute a suit at common law in any court of the United States against his debtor unless the sum involved, exclusive of costs, exceeds $500. The law which fixed that limit gave to the debtor the right of appeal to the Supreme Court of the United States in cases where the sum in controversy, exclusive of costs, exceeded $2,000. This was supposed to be a reasonable arrangement according to the condition of the country at that time. While Congress has gone on

and added to the amount necessary to get jurisdiction by appeal in the Supreme Court, which as a general thing has been in favor of the creditor and against the debtor, it has never once thought of modifying or changing in the least the conditions upon which jurisdiction shall be taken in the circuit court in the first instance.

If the condition of the country has so changed as to require $10,000 to be the proper limit in cases of controvery of which the Supreme Court shall take cognizance, is it not proper to look at the other end of the line and see if some change that would improve our system might not be made there? Suppose Congress should require that before any suit was instituted in the Federal courts by the citizen of one State against the citizen of another, the sum in controvery should be $3,000; would there be any great hardship in that? And while you are changing the jurisdiction all around on one side of the line, you never think of making any change on the other. Would it not be reasonable to put a limit in accordance with the changed condition of the country different from what we find in the act of 1789 upon the jurisdiction of the circuit court in civil cases?

Why should we adhere implicitly to the $500 prescribed by the judiciary act of 1789! If the condition of the country is changed so greatly as to make change in this system necessary in order to enable the appellate court to discharge intelligently its high duties, why not begin at the other end and not leave it all to be done at one end? You deprive a debtor, or a party who may be called upon to pay, of the right of going to the Supreme Court unless he has a sum involved amounting to $10,000, while you permit any man who has a claim against another to sue in the circuit court of the United States in any of the States of this Union if his demand amounts to $500.

I have said that the business of the State courts has not increased in proportion to the business in the Federal courts, and it is because the Constitution has been abandoned; it is because the Federal judicial system has been gradually absorbing to itself the rights, powers, and duties of the local courts, a thing that never was thought of in the early history of the Government. Now, sir, the foreign suitor has all the remedies open to him in the State courts that the citizen of the State has, and I never thought there was so much hardship after all in these cases as some people have tried to impress upon us, because every citizen of the United States can go into the State tribunals to-day and obtain justice there just as a citizen of the State can, and those courts have concurrent jurisdiction in every controversy that is possible to be brought into a Federal court; and still one would be led to believe from the arguments we have heard here that there was only one forum open to these litigants, and that if they did not have the way made clear and plain for them into the Federal courts, they could have no justice at all!

Sir, if a suitor with his eyes open goes into a tribunal where he knows delay must follow, whom has he to blame? If a suitor wants to wait three years or five years before his controversy is ended, when he has a choice of a tribunal that will decide it in one year, where does the fault lie? I believe, as a general thing, that the judges of the respective State courts are equal in every respect to the judges of the Federal courts, and, inasmuch as they have to draw their juries from the same source, they can have administered to them in those courts justice as impartially and as fairly and far more speedily than in the other tribunals. But, sir, of recent years a false sentiment has been built up against the local tribunals of the State; a prejudice has been created in the minds of people living beyond the confines of a particular State that justice cannot be obtained in its tribunals against citizens of that State.

I have not had as extensive a practice as many gentlemen here, but I am free to say that the result of my observation has been that justice has been as fairly, as impartially, and far more speedily administered in the courts of the States than it has been in the courts of the Union. Why not then restrict jurisdiction in the circuit courts to some extent? The State courts are open to all the citizens of the Union. Is not the supreme court of Massachusetts, of New York, of any of the States, North and South, to-day just as competent and impartial in the administration of justice as the courts of the United States?

The Senator from Mississippi awhile ago referred to the question of costs. I asked him if he could tell me what was the largest sum in the way of costs and allowances that he ever knew to be allowed in the State of Mississippi. He said he could not tell. I had a case in the Supreme Court the other day that came up from the district court in my State on a cost bill, an allowance bill from the Federal court, that shows how expensive litigation is. The court allowed a litigant, outside of the property involved, $95,000 for costs and charges—a Federal court allowed $95,000 for costs and charges, allowed the plaintiff in the suit a salary for years and clerk hire to watch the property upon which he had a lien!

Why, sir, if such a thing had been allowed in a State tribunal the public opinion standing behind would not have tolerated it; but we know that there is little or no responsibility behind these Federal courts. If there is one thing which gives to a citizen more security for his rights than another in matters of this kind, it is the publicity and notoriety attending the deliberations and judgments of the Supreme Court of the United States. I would rather wait three years there in an important case for its judgment than to go down on the circuit and wait to get a judgment in one year. I do not care whom you put on the circuit bench, and I say that the whole tendency of this bill and of the legislation of late years has been to remove the higher branches of the judiciary away from the people, and it was well said the other day that this is a Government of the people; and, while some limit must be fixed in order to regulate the question of jurisdiction, it ought not to be so high as to preclude the possibility of the ordinary citizen ever reaching the highest court of his country. Ten thousand dollars would be nothing to a certain class of men in the United States at the present time, but it is high enough to exclude from the Supreme Court of the United States the great body of the American people. The majority of the people of this country to-day cannot command $10,000 in a lawsuit, and the effect of this sum as a limit upon the jurisdiction will be to prevent every ordinary citizen throughout the land from being able to enter that tribunal whose judges are paid by his sweat and blood.

Somebody said something the other day about sentiment; I think it was the Senator from Kansas not now in his seat; but the world is governed by sentiment; and if in a popular government like this you erect any establishment so high as to be beyond the touch of the people the popular inclination will be to tear it down. I am not using this argument in the sense of a demagogue, but I am speaking as becomes one who has no feigned attachment for the institutions of the country under which he lives. Look at the progress of opinion in Great Britain and look how different the House of Lords is regarded to-day from what it was one hundred years ago. Every year it becomes more and more unpopular with the masses, and the tendency of opinion there is to abolish it and to concentrate all governmental authority in the great body which represents the bone and sinew of the state. So I say in endeavoring to fix jurisdictions under a popular system they ought to be brought down as near as possible to the level of the wants of the entire community, for there will be found men to point out the distinctions and to comment upon them before those who will not be so able to discriminate as some of us who are here.

I would reform the Supreme Court, I would add to its members if I could not add to its efficiency, and I would put it in a condition that would leave it open to all men alike. I would not have one jurisdiction for one class of men and another for another. The moment you create these intermediate tribunals you will have pointed out to you the distinction which their organization suggests. They will be pointed to as tribunals into which one class of men may go while another may go beyond them, whereas if they did not exist at all and the right was uniform and common there would be no complaint. But when you say that one class of people with controversies amounting to $10,000 shall have their rights settled in one set of tribunals and another class of men whose property is worth more than $10,000 shall have access to a higher and a greater tribunal, you suggest an inequality that will be made a foundation of jealousy and complaint.

Mr. President, the Senator from Illinois said I criticised the bill from beginning to end. If I have done so it has been in a generous spirit, for if I believed that it would result in good to the country I would go as far as he in advocating its passage; and in bringing forth the amendments that I have, I have sought to make it as perfect as in my humble judgment it ought to be.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Florida.

Mr. MORGAN. Mr. President, before the Senate votes on this amendment of the Senator from Florida, I desire to state very briefly what I conceive to be the question at issue. I have heretofore adverted to the same general topics but not in reference to the amendment now proposed. I have stated that the act of 1789, known as the judiciary act, following the Constitution, provided:

> That final decrees and judgments in civil actions in a district court, where the matter in dispute exceeds the sum or value of $50, exclusive of costs, may be re-examined, and reversed or affirmed, in a circuit court holden in the same district upon a writ of error whereto shall be annexed and returned therewith at the day and place therein mentioned an authenticated transcript of the record, an assignment of errors, and prayer for reversal, with a citation to the adverse party signed by the judge of such district court or a justice of the Supreme Court, the adverse party having at least twenty days' notice.

That right has stood upon the statute-book without any upward limitation, the downward limitation being $50, since 1789, and has always been considered until recently, I believe, a valuable right secured to the people. This bill proposes to cut off the right to a writ of error in all civil causes at common law unless the amount in controversy exceeds $500. The Senator from Florida proposes to retain in favor of the people the right to a writ of error in causes at common law, as they are termed, from the district to the circuit court in sums not less than $50 nor exceeding $500. The bill that is proposed to the Senate leaves that entire area between $500 and $50 entirely unprovided for except that it repeals all existing rights to writs of error or appeals in sums lying between those figures. I have inquired for a reason, and in vain, as we all inquire in vain for any reason in reference to the proposed measure before the Senate, why this right should be taken from the people? Why this right which was contemporaneous with the foundation of the Government should be taken from the people? What can be the basis of this repeal unless its practice has been found to be entirely unnecessary? Who can affirm, who has affirmed upon his personal experience or upon his knowledge of the history of the jurisprudence of this country,

that this has not been always a valuable right? Here is a field of jurisdiction for the trial of causes in small amounts in the Federal courts which is entirely obliterated by this bill, and intentionally so. There can be no question of the intention, there can be no question as to the effect of this second section.

What is included in that? Suits for conspiracies under the civil-rights law. There may be twenty men sued for the same conspiracy, and if there is a judgment of $500 against each of them in the district courts of the United States, none of them can, under this bill, have any appeal to any other court whatever. What else is included? All accounts and demands in favor of non-residents and non-resident corporations between the sums of $50 and $500 are included in this second section, which takes away the right of writ of error and the right of appeal. What else is included? All sums that national banks may be sued for, and all sums that may be sued for by national banks in the States between the sums of $50 and $500.

No right of appeal or writ of error is to be allowed if this bill passes in any of the cases that I have mentioned to any court whatsoever. The district judge must pronounce his decision, and the man must submit to it without appeal. The court in the first instance tries it finally, in opposition to the entire spirit of the whole jurisprudence of the United States. The people must submit to it because the Congress of the United States desires to break down a right that has existed since 1789.

That the honorable Senator from Illinois calls a part of the scheme of this bill. Well, sir, if it is a part of the scheme it is part of a very bad scheme and a very unnecessary part of a bad scheme. The Senator from Florida proposes to amend this scheme by retaining in favor of the people a right which they have so long enjoyed. The Senator from Illinois thinks that if that proviso was put to the second section it might mar the harmony of the scheme. And the Senator, in reply to a remark made on the floor by one of the Senators who was discussing the subject—I forget now precisely who it was—said, "Ah, that is the poor man's argument." Yes, sir, that is "the poor man's argument" and the poor man's plea, and it must be remembered that the Government of the United States in its judicial establishment touches poor men as well as rich. If it touches the people alike it is bound to touch a much larger number of poor men than of rich, for in the midst of all our vaunted and boasted prosperity there are still millions more of the poor than of the rich in this country. A man is to be twitted or censured in the Senate for venturing to avow that he is in favor of supporting existing rights in favor of men who are called poor men. We are to be denounced as demagogues for doing it. Sir, I should welcome the title of demagogue in the advocacy of such a cause far sooner than I would that of being the slave of a plutocracy. I much prefer that rather than to break down these rights merely because the money interests of the country demand that they should be broken down.

The honorable Senator from Illinois said that he was not the author of this bill, and that relieves me from great embarrassment in the argument, for I confess that I have been under embarrassment, and I have no doubt every Senator on this floor has felt the same embarrassment in any attempt to criticise or vote against any measure of a judicial nature which the honorable Senator may bring forward; but I have observed that this bill has been criticised by votes of the colleagues of the Senator on the Judiciary Committee. The honorable Senator from Arkansas [Mr. GARLAND] has voted time and again for amendments that he thought would improve this bill and would not mar "the scheme," being a friend of the bill in the enlarged sense, in the sense of its being "a scheme." The Senator from Arkansas has been willing to vote for amendments to this bill, and who will deny that he is a distinguished member of the Judiciary Committee? The honorable Senator from Delaware, [Mr. BAYARD,] when he left his seat in the Senate a few days ago, gave me in charge, an amendment which he requested me to ask the Senate to make to this bill, which would seriously mar "the scheme," and yet it would very greatly improve the measure.

What is to be said, then, of the unity of the Judiciary Committee upon this bill? The honorable Senator from Vermont, [Mr. EDMUNDS,] the chairman of that committee, told me in his seat that he was opposed to the bill out and out.

There are, then, three members of that committee who are willing to see some part of this "scheme" altered with a view to its improvement. Three of them are absent, the honorable Senator from Mississippi, [Mr. LAMAR,] the Senator from Illinois, [Mr. LOGAN,] and the ex-Senator from Colorado, (Mr. Teller.) They are not here to express their opinion. So that only a bare majority, a bare quorum of that committee, as far as we have heard, are content to take this bill and swallow it whole without amendment and without any criticism upon it. Sir, this bill does not come from the Judiciary Committee of the Senate with that unanimity and that support through all of its features which seems to have been claimed by the Senator from Illinois [Mr. DAVIS] when he insists that the Senate should yield its opinion to the Judiciary Committee upon this question.

The honorable Senator, with a view of getting some support for his bill, had read yesterday a telegram from the Bar Association of New York in which they recommended to Congress the passage of this bill. I am not surprised at that, but I am a little surprised that no bar association in the West or the South has ever been solicited to give an opinion on this measure.

I am not surprised at this when I look into "the scheme" of this bill, for it is a bill in the interest of the creditor class and against the debtor; it is a bill in favor of the concentrated power of commercial supremacy in the Eastern States, instead of the people in the South and the West who live in the agricultural districts; it is a bill in the interest of capitalists against the common poor people; it is a bill which robs the people of the rights which have existed since 1789 under the law of this country to an appeal from the court of first instance to the circuit court in all sums between fifty and five hundred dollars, and at the same time it excludes them from the Supreme Court of the United States unless the controversies exceed the sum of $10,000. You deprive them of all power of appeal to the Supreme Court by fixing the amount which shall give that court jurisdiction, and then as the honorable Senator from Florida says, at the other end of "the scheme," you cut them off from all right of appeal to any court whatever if the sum is below the amount of $500.

The national banks in the State of Alabama can do what we know they do continually—exact usury from the people almost at pleasure. They can have their notes made when they choose, in sums under $500; they can sue in the Federal courts citizens of the very State in which they exist; and we are left at the mercy of the judge to say whether or not we shall have an appeal from his decisions in favor of these Federal pets. No; we are not even left at his mercy, because the bill of the honorable Senator from Illinois, or the bill of the New York Bar Association, or of Judge Drummond, or whoever it was that invented this "scheme," cuts us off from all right of appeal unless the sum amounts to $500.

And because a Senator attempts to amend this bill by preserving the rights of the people he is charged with making an obstruction to the bill and trying to destroy the entire "scheme," and the question is asked him, "Why do you not come out and vote against the whole bill, instead of attempting to amend this 'scheme,' which, if you amend it at all, you destroy its beauty and its harmony?" It is a bill which is conducted more in hostility to the men who oppose it on this floor than any bill that I have ever seen urged in the Senate. No Senator here will deny that this is one of the most important measures that ever came before the Senate of the United States; and yet when we attempt to amend it, when we challenge it upon grounds of constitutionality, we are charged with proposing amendments merely for the purpose of defacing or defeating a splendid "scheme." It has not been our fault that we have been compelled to meet this bill inch by inch in trying to expose before the world its infirmities and its imperfections; but, sir, it will be our fault if we yield the floor until these are fully known.

It is bruited about on this floor by men in high authority that the President of the United States has committed himself, that if this bill is passed, quite a number of Democrats will be found to comprise the membership of these new courts. Sir, I spurn overtures like that. I do not vote for such a measure to get Democrats in power. My vote is given here with a conscientious reference to my duty to my country, to my people, and only with reference to them. It matters little to the people of Alabama, who comprise 1,250,000 population, whether a man put on the bench is a Democrat or a Republican; it matters but little to those people who is put there; but it matters much if rights which have existed in their favor under the law are taken away from them and they are to be exposed to the will and pleasure of the district courts of the United States without the remedy of appeal from their decision. I therefore stand by the people, poor, if you please to call them such; it makes no difference to me—demagogue if you choose to call me for that; it makes no difference to me; and I shall walk out of the Senate after this bill is passed with a consciousness that I am not bound to a plutocracy of this country, neither have I been seduced by appeals to my party fealty with the idea that I could get some Democrat on the bench if I would vote for this bill. I spurn overtures like that. Let the bill stand on its merits.

Mr. DAWES. I should like to have a clear understanding with the Senator from Alabama, and I think it is for the interest of pure legislation that we should understand the fact. The Senator says, in substance, that it is openly avowed here upon this floor that the President of the United States has pledged himself to appoint a number of Democrats on this court if this bill shall pass.

Mr. MORGAN. I did not say "openly avowed;" I said "bruited about on the floor." Perhaps I should better have said "whispered."

Mr. DAWES. That does not make it any better.

Mr. INGALLS. I would suggest that all allusions to the Executive in connection with pending legislation, under parliamentary practice, are wholly out of order and in violation of precedent and of decency.

Mr. MORGAN. The Senator from Kansas is so perfect a judge of decency in this Senate, and is such a model of honor himself, and of purity and dignity and character, that I take a reprimand from him with due submission.

Mr. DAWES. The Senator will allow me a moment.

Mr. MORGAN. I know what my rights are in speaking about the President or any one else, as a member of the Senate. I did not say the President of the United States had made any such statement. What I said was this, that it had been bruited upon this floor that such promises had been made.

Mr. DAWES. Will the Senator allow me?

Mr. MORGAN. I do not intend to be pushed into a corner about this business, but if the Senator from Massachusetts wishes to know upon what authority I speak, if he will come to my desk I will tell him.

Mr. DAWES. I did not criticise the Senator's violation of any rule——

Mr. MORGAN. I know of what I speak.

Mr. DAWES. But it is due to the Senator, and it is due to the Senator's associates upon this floor who are called upon to vote one way or the other upon this bill, that the Senator should make clear and undoubted any statement of so serious a character as that.

Mr. BUTLER. Why, Mr. President, the Senator from Iowa said yesterday, in his remarks in open Senate, that he did not believe all these judges would be appointed from one political party.

Mr. DAWES. That is quite a different thing from what has been said by the Senator from Alabama. If what the Senator from Alabama has stated is true, those who have been the organs of any negotiation of that kind, and those who have been parties to it, deserve to be impeached by this tribunal, and the Senator from Alabama, if he has any reliable information of that character, is bound to make it public and to call to account those who have undertaken any such thing.

Mr. MORGAN. I have made public my statement, which the stenographer has taken down, which was that it was bruited about on this floor that, in the event of the passage of this bill, a number of Democrats would be appointed upon the bench.

Mr. DAWES. I understood the Senator to say that it was bruited about upon this floor that the President had given assurances that such would be done.

Mr. MORGAN. I did not say "assurances."

Mr. DAWES. "By high authority upon this floor."

Mr. MORGAN. Well, it is high authority.

Mr. DAWES. Does the Senator say that he has any authority for the statement that the President has given any assurances that in the event this bill shall pass certain men of any character whatever will be appointed upon the bench?

Mr. MORGAN. I have not stated that the President had given any assurances. I said it was bruited about on this floor that he had stated or had given assurances that Democrats would be appointed.

Mr. DAWES. So I understood the Senator. I do not see that the Senator changes his original statement. I think it grows in gravity every time the Senator repeats it. I do not think the Senator can fail to see that he brings a grave charge against the purity of the Executive and the purity of legislation in this Chamber.

Mr. MORGAN. I think the Senator from Massachusetts is more than half willing that I shall make such a charge, but I decline the honor. I think he would like to provoke me into bringing such an accusation against the President of the United States, and I have no doubt he would to some extent enjoy it; still I will not do it.

Mr. DAWES. I do not quite hear the Senator.

Mr. MORGAN. I prefer to proceed with my remarks without further interruption from the honorable Senator who desires to put me under cross-examination as to a matter that I have not put myself on the stand as a witness about.

Mr. DAWES. Will the Senator indulge me a moment? I have no desire——

The PRESIDING OFFICER. Does the Senator from Alabama yield further?

Mr. MORGAN. It depends entirely upon the inquiry which the Senator from Massachusetts wishes to indulge in. I want to know what that is before I indulge him.

Mr. DAWES. It is simply in good faith to ask the Senator from Alabama if he does not think it due to his own character and to the character of Senators and the Executive that he should not have indulged in such an insinuation as he has made unless he had such ground for it that he was willing to make public.

Mr. MORGAN. I have not indulged in any insinuation about this matter. I believed I had such ground for it as justified me in making use of the expression of which I have made use, and I think I am quite as competent a guardian of my own character as the Senator from Massachusetts is of his or of mine either. What I have said is upon the record and will remain there, and that without alteration. I have nothing to retract of what I have said about this subject, and I reaffirm it, that an influence here pervades this body directed to the proposition that if this bill shall pass a fair number of Democrats will be appointed to this bench, and I say that so far as I am concerned I am not under the control of such an influence as that; that is no argument to me for the passage of this bill.

I should be gratified to see Democrats upon the bench; at the same time I would never vote to make eighteen judges of the circuit court of the United States because I expected some of them to be Democrats, unless I found that the necessities of the country required such a number as that. It is too serious a matter for us to undertake to create eighteen judges for life with a salary of $6,000 per annum each, which cannot be reduced during the term they are in office, merely upon the consideration that some of them may be Democrats. There must be better reasons than that shown if I am expected to support the bill. I desire to keep the people of Alabama, whom I have the honor in part to represent on this floor, out of the reach of judges that I have demonstrated here ought not to have the power to pass upon sums between $50 and $500 without appeal from their decisions. That is the precise point I make upon the amendment of the Senator from Florida.

I did not want the Senate to misunderstand the amendment, I did not want them to misunderstand the law, when they were voting upon it, nor did I want the country to fail to understand that if the amendment of the Senator from Florida is defeated a right is taken away which has existed since 1789, which is a valuable right; if not to a rich man, it is to a poor man. It will not mar this bill, it will not destroy the "scheme," it will not inflict any injury upon any person to preserve in this bill by the proviso which the honorable Senator from Florida proposes to preserve all the rights that now exist in behalf of people as to appeals and writs of error to the circuit courts of the United States. Why, then, strike it out when sums between $50 and $500 are involved?

I have remarked before that the Bar Association of New York had been consulted about this measure, but no bar association in the South or the West has ever been consulted, so far as I know. The opinion of the debtor classes of this country is not to be taken on this question. It seems that some suspicion rests not only upon them, but upon all the States that they occupy.

How does it happen that we are debtor classes? It happens from the very nature of the commerce of the country. New York does more trade in one year than all the other cities of the United States put together, and that, too, with all the rural populations of the United States extending through to the Pacific coast. There is not a hamlet in the United States which has not more or less direct trade communication with New York. Of all the places on this continent New York is most continuously and most largely the creditor community. They have the choice of tribunals. They can go into the State courts, or they can go into the Federal courts. If they go into the State courts with a demand within the jurisdiction of those courts, they have the right of appeal to the State supreme court if they choose; and if they choose to go into the Federal courts under this bill, and the sum is less than $500 and over $50, the defendants have no right of appeal at all.

I claim that when you are taking away jurisdiction from the State courts, as this bill evidently is intended to do, and when you are conferring it upon the Federal courts, it is your duty to preserve such rights of appeal, at least, as you can preserve without marring the beauty of this "scheme." The bill will bear at least that much burden. This bill would have been voted for by many men on this side of the Chamber who cannot now get their consent to vote for it, if the Judiciary Committee, by its representatives on this floor, had shown the slightest degree of indulgence to opposing opinions on these matters. True it is we may not have the right to set up our opinions against gentlemen of such great learning as the members of that committee; but still, in our humble way, we think we have the right of judgment upon every measure brought here. No argument we can make, no suggestion we can bring forward, is met with anything else than silent contempt on the other side of the Chamber, and I infer that the reason for it is that you are going to get the eighteen judges.

In the further progress of this question, I shall feel it to be my duty, if some other Senator does not feel it to be his duty, to bring in a motion to recommit the bill. It is not a perfect bill, it is not a consistent bill. It has some features in it which are contradictory in themselves, and some which are entirely superfluous.

If the plan of the bill should be adopted that we are to have nine courts of appeal in the United States, it will be found that the time for holding these courts necessarily will take from the circuit and district bench of the United States those men who are required in *nisi prius* causes, and that for a long period of time, so that we really weaken the power of the judges to try causes at *nisi prius* by giving them this extended power of appeal reaching up to $10,000. It will be found on examination, I think, that the committee have paid no attention to this matter. It will be found that while this bill proposes to carry justice home to the doors of the people, they have omitted to take it to the capitals of the respective States in the different circuits.

There are other clauses in this bill which will yet be pointed out. I hope the Senate will take it into serious consideration whether the welfare of the country in this important matter does not require that the Judiciary Committee shall take this bill with the other projects that are submitted to the Senate and which are before it now and, with the further aid of the observations made in debate here, mature a bill and bring it in. We have plenty of time for that. We had no difficulty in reforming and passing a Chinese bill through both Houses after the President had vetoed one such measure. It was the work of a very few days before we had a bill back here to meet the necessities of that occasion. The reason for that was that there was the spur and stimulus of a political question beneath that bill.

The Judiciary Committee can take this bill with the suggestions which have been made, and remedy the difficulties which have invited already votes on the part of members of that committee against various of its provisions. I do not know whether these Senators will vote against the bill finally or not, but they have attempted by their votes here to purge it of difficulties which are patent upon the

face of the bill; and I must be excused if I co-operate with them and concur with them also in opinion about the impropriety of some of the provisions of this proposed law.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida, [Mr. JONES.]

Mr. MORGAN. I ask for the yeas and nays.

The yeas and nays were ordered; and the Principal Legislative Clerk proceeded to call the roll.

Mr. GARLAND, (when his name was called.) I am paired generally with the Senator from Vermont, [Mr. EDMUNDS,] who is absent from the city. I do not know how he would vote if he were here, but I withhold my vote. I should vote "nay" if he were here.

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Oregon, [Mr. SLATER.]

Mr. PLATT, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. CAMDEN.]

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. LOGAN.]

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.]

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.]

The roll-call was concluded.

Mr. BUTLER, (after having voted in the affirmative.) I observe that other Senators are announcing their pairs. I am paired with the Senator from Pennsylvania [Mr. CAMERON] upon the bill, but perhaps I had better not vote upon this question. I therefore withdraw my vote.

The result was announced—yeas 22, nays 29; as follows:

YEAS—22.

Beck,	Gorman,	Jonas,	Vance,
Call,	Grover,	Jones of Florida,	Vest,
Coke,	Hampton,	Maxey,	Voorhees,
Davis of W. Va.,	Harris,	Morgan,	Walker,
Farley,	Jackson,	Pendleton,	
George,	Johnston,	Pugh,	

NAYS—29.

Aldrich,	Dawes,	Lapham,	Plumb,
Allison,	Frye,	McDill,	Rollins,
Anthony,	Harrison,	McMillan,	Sawyer,
Blair,	Hawley,	Mahone,	Sherman,
Cameron of Wis.,	Hill of Colorado,	Miller of Cal.,	Windom.
Chilcott,	Hoar,	Miller of N. Y.,	
Conger,	Jones of Nevada,	Mitchell,	
Davis of Illinois,	Kellogg,	Morrill,	

ABSENT—25.

Bayard,	Fair,	Lamar,	Sewell,
Brown,	Ferry,	Logan,	Slater,
Butler,	Garland,	McPherson,	Van Wyck,
Camden,	Groome,	Platt,	Williams.
Cameron of Pa.,	Hale,	Ransom,	
Cockrell,	Hill of Georgia,	Saulsbury,	
Edmunds,	Ingalls,	Saunders,	

So the amendment was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 5664) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1883, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1883, and for other purposes.

INDIAN APPROPRIATION BILL.

Mr. DAWES. I submit the report of a committee of conference, and ask that it may be considered at this time.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 15, 17, 19, 41, 53, 54, 80, 81, 82, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 12, 20, 34, 40, 43, 44, 45, 51, 52, 55, 56, 58, 59, 60, 61, 67, 78, 79, 96, and 103; and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: Strike out from said amendment the words "teacher and" and add at the end of the amended paragraph the following: "And no other money appropriated by this act shall be expended for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: Add at the end of the amended paragraph the following: "And not more than $1,000 of any moneys appropriated by this act shall be expended for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: Add after the word "dollars," where it first occurs in line 6, page 4 of the bill, the following: "And no other money appropriated by this act shall be expended for pay of teachers or for clerical labor at this agency;" and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$89,900;" and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: Strike out the words proposed to be inserted by the Senate amendment, and strike out all after the word "dollars" in line 9, page 4 of the bill, down to and including the word "dollars" in line 10, same page; and the Senate agree to same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: Strike out all of said amendment and insert in lieu thereof the following: "The President is authorized to appoint a person to inspect all Indian schools, who is hereby required to report a plan for carrying into effect in the most economical and efficient manner all existing treaty stipulations for the education of Indians, with careful estimates of the cost thereof; also a plan and estimates for educating all Indian youths for whom no such provision now exists, and estimates of what sums can be saved from existing expenditures for Indian support by the adoption of such plan, whose compensation shall not exceed $3,000, which sum is hereby appropriated for that purpose, and also a further sum of $1,500 for his necessary traveling expenses;" and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of "five" insert "four;" and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$38,500;" and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the words proposed to be inserted by said Senate amendment insert the following: "And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior;" and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: Strike out all of said amendment after the word "further," in line 11, and insert in lieu of the portion stricken out the following: "That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribe in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe, to be taken from the unpaid balance of the $300,000 due said tribe;" and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: Strike out after the word "Mexico," in line 1, page 13 of the bill, the following words: "And such as may be removed hereafter," and insert in lieu thereof the following: "Including the purchase of stock;" and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: Strike out all of said amendment after the word "available," in line 11 thereof; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$40,500;" and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: Strike out the words "one hundred" and insert in lieu thereof "seventy-five;" and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: Strike out the words "and pay of employés;" and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: Strike out the words "and fifty;" and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$1,732,300;" and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the words proposed to be inserted by said Senate amendment, insert the following: "For support, civilization, and instruction of the Tonkawa Indians at Fort Griffin, Texas, $3,000;" and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: After the word "reservations," in line 4 of said amendment, insert the following: "And upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose;" and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: After the word "Territory," in line 3 of said amendment, insert the following: "And upon a section of land suitable in quality and location for the industrial purposes of said school, which section of land is hereby reserved for said purpose;" and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: Strike out in line 3 of said amendment the words "at any established" and insert in lieu thereof the following: "Not belonging to the five civilized tribes in the Indian Territory at any established industrial, agricultural, or mechanical;" and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate

numbered 94, and agree to the same with an amendment, as follows: Strike out all of said amendment and insert in lieu thereof the following: "And for the purpose of further instructing and civilizing Indian children dwelling west of the Mississippi River, and in the States of Minnesota, Wisconsin, and Michigan, and not belonging to the five civilized tribes in the Indian Territory, or so many thereof as may be practicable, in industrial schools other than those at Carlisle, Hampton, and Forest Grove, supported in whole or in part from treaty and other funds appropriated by Congress, or such as may be established and supported wholly from treaty or other funds so appropriated, and for purchasing stock for herding purposes for such industrial schools, and also for the placing of such children, with the consent of their parents, under the care and control of such suitable white families as may in all respects be qualified to give such children moral, industrial, and educational training, for a term of not less than three years, under arrangements in which their proper care, support, and education shall be in exchange for their labor, the sum of $150,000 is hereby appropriated, to be expended under such rules and regulations as the Secretary of the Interior may prescribe;" and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with amendments, as follows: Strike out the words "Maria Demnon" and insert in lieu thereof "Marie Demmie;" strike out the words "Frank Vocank" and insert in lieu thereof "Frank Vocasek;" and at the end of said Senate amendment the following: "To be immediately available;" and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows: Add at the end of said amendment the following: "And section 2056 of the Revised Statutes is hereby amended so as to read as follows: 'Section 2056. Each Indian agent shall hold his office for the term of four years, and until his successor is duly appointed and qualified;'" and the Senate agree to the same.

H. L. DAWES,
P. B. PLUMB,
M. W. RANSOM,
Managers on the part of the Senate.
THOS. RYAN,
L. B. CASWELL,
BENJAMIN LE FEVRE,
Managers on the part of the House.

Mr. DAVIS, of West Virginia. I should like to have the ear of the Senator in charge of the bill for a moment. I notice several amounts, some of them large, have been stricken out and others substituted. I ask the Senator whether the appropriations have been increased or decreased as a whole since the bill left the Senate?

Mr. DAWES. The appropriations have been considerably diminished from what they were when the bill left the Senate; they have been diminished by the sum of $255,200. I submit the following list of reductions in Senate amendments made in conference:

Salary of agent at White Earth agency	$200
Pay of interpreters	5,000
Traveling and other expenses of inspector of Indian schools	500
One special agent and traveling expenses	3,500
Poncas, subsistence, &c	5,000
Sioux of different tribes, subsistence, annuity, goods, &c	75,000
Arapahoes, Cheyennes, &c., subsistence	50,000
Tonkawas at Fort Griffin, Texas, support	1,000
Special police to prevent sale of liquor	5,000
Seminole Indians, Florida, schools, seeds, &c	5,000
Education of Indian children west of the Mississippi	100,000
School building at Cœur d'Alène Indian reservation	5,000
Total reduction in conference	255,200
Total of Senate amendments	543,800
Total reductions made in conference	255,200
Amount agreed to in conference	288,600

Total of bill as agreed to, $5,217,803.91, which exceeds appropriations for 1882, including deficiencies already provided for, $46,937.11.

Mr. DAVIS, of West Virginia. It appears to me also that some offices have been created, or that money has been appropriated to pay certain officers. Have there been any new offices created by the conference committee?

Mr. DAWES. None at all. There have been no additions by the conference committee; they have all been reductions of what the Senate put in, to the amount I have stated.

Mr. DAVIS, of West Virginia. I notice that certain offices are to be filled, and so much money is appropriated to pay them.

Mr. DAWES. The conference committee have created no new offices.

Mr. DAVIS, of West Virginia. They are such as were agreed to by the Senate.

Mr. DAWES. Yes, they were agreed to by the Senate. The conference committee have created no new office and appropriated no money for payment to any new officer.

The report was concurred in.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I submit herewith for the consideration of Congress a letter from the Secretary of the Interior, inclosing a copy of a letter from the governor of Arizona, in which he requests that an appropriation of $2,000 be made for the contingent expenses of the Territory for the next fiscal year.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 11, 1882.

HOUSE BILL REFERRED.

The bill (H. R. No. 5664) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1883, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

COURT OF APPEALS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 420) to establish a court of appeals.

Mr. GEORGE. I move to add the following as an additional section to the bill:

SEC. —. That any defendant in a suit at law or equity in any court of the United States may plead or except to the jurisdiction of the court at the same time that he pleads or answers to the merits; and if said plea or exception be overruled or decided against him, he shall, nevertheless, be entitled to defend on the merits as if said plea had not been filed nor said exception taken.

The amendment was rejected.

Mr. GEORGE. I move to add the following as an additional section to the bill:

SEC. —. That no court of the United States shall have any jurisdiction of a suit in equity or action at law when such jurisdiction depends alone upon the fact that a controversy exists therein between citizens of different States, or citizens of the same State claiming grants from different States, or between a State and citizens of another State, if one of the parties to such controversy, either as plaintiff or defendant, be a corporation created by the laws of one or more of the States; nor shall such corporation sue or be liable to be sued in any of such courts, in virtue of the citizenship of any of its members.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on agreeing to the amendment of the Senator from Mississippi.

Mr. BUTLER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, I have taken no part in the discussion of this bill, and I desire only now in a dozen words to state the reasons for my vote.

I have listened with great pleasure and profit for two weeks to the able and learned arguments of the lawyers of the Senate upon this question, and my mind has been forced to the conclusion that we had better proceed no further in this business of making Federal courts for the United States. I have favored all the amendments, because I thought in some degree they would modify the bill itself, but with or without any or all of the amendments proposed I should be against the bill upon principle. I am against it because it multiplies offices and salaries, it increases the judges, the clerks, the marshals, and the tipstaves of the courts of the country.

I am satisfied, however, that the bill is going to pass, from the test votes we have had in the voting down of every amendment. Indeed, it seems to have been considered by the gentlemen upon the opposite side to be an impertinence on this side to offer an amendment to the bill. My only hope for defeating this measure is in the patriotism and good sense of the popular branch of Congress.

I regard this bill as fraught with more mischief to the country than any measure which has been before Congress during the time that I have had the honor of a seat in the Senate.

If the Federal courts are overwhelmed with business, if their dockets are piled up with causes which it is impossible for them to decide in the course of years, what is the reason of it? It is because their jurisdiction has been increased by the Legislature of the nation and the usurpations of the courts themselves. Take away from them the jurisdiction improperly given by acts of Congress and usurped by the judges themselves, and bring the courts back to the jurisdiction they had in *ante bellum* times, and the circuit courts, the district courts, and the Supreme Court of the United States will have ample opportunity to decide all the causes that come before them.

I remember in my own State before the war when old Tom Monroe used to call his court at Frankfort and hardly anybody knew that it was in session. It met about twice a year and entered two or three orders on the minutes, and the fact is the people of the State did not know of it. Nobody except the lawyers themselves knew that we had a Federal court there.

I should like to see the happy, good old days brought back again to the country when the United States courts had a jurisdiction confined exclusively to the cases contemplated by the Constitution. If that does not do, amend the Constitution itself, and take away from the Federal courts the original jurisdiction in cases between citizens of different States and between the different States themselves. When the Constitution was adopted there was reason for that provision. Then the colonies were to a great extent distinct nations from each other. They had no railroads, they had no facilities of intercommunication. One half the country was slave and the other half was free. Now it is all homogeneous.

Take away that jurisdiction and the courts would soon clear up all their dockets, and there would be no trouble in the world about it. I cannot see a reason why a citizen of Kentucky may not sue a citizen of Ohio in a State court in Cincinnati as well as in the Federal court, and *vice versa*. Take away all this jurisdiction, and your Federal judges will have time to sleep upon the woolsack more than half the terms of their courts. I should vote against the measure if every single amendment had been adopted, but naked as it is I regard it as fraught with more mischief than any measure which has been before Congress since I have been a member of it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi, [Mr. GEORGE,] on which the yeas and nays have been ordered.

The Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea."

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Oregon, [Mr. SLATER.]

Mr. PLATT, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. CAMDEN.]

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. LOGAN.]

Mr. SAULSBURY, (when his name was called.) As I stated before, I am paired with the Senator from Michigan, [Mr. FERRY.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. GEORGE, (after having voted in the affirmative.) I inadvertently voted on the amendment. I am paired with the Senator from Pennsylvania, [Mr. MITCHELL.] I withdraw my vote.

Mr. MILLER, of New York, (after having voted in the negative,) I am paired with the Senator from Maryland, [Mr. GROOME.] When I voted I was not aware that he was out of the Chamber. I withdraw my vote.

The result was announced—yeas 20, nays 27; as follows:

YEAS—20.

Beck,	Grover,	Jonas,	Pugh,
Call,	Hampton,	Jones of Florida,	Vance,
Coke,	Harris,	Maxey,	Vest,
Davis of West Va.,	Jackson,	Morgan,	Voorhees,
Gorman,	Johnston,	Pendleton,	Walker.

NAYS—27.

Aldrich,	Davis of Illinois,	Jones of Nevada,	Morrill,
Allison,	Dawes,	Kellogg,	Plumb,
Anthony,	Frye,	Lapham,	Rollins,
Blair,	Harrison,	McDill,	Sawyer,
Cameron of Wis.,	Hawley,	McMillan,	Sherman,
Chilcott,	Hill of Colorado,	Mahone,	Windom.
Conger,	Hoar,	Miller of Cal.,	

ABSENT—29.

Bayard,	Farley,	Lamar,	Saunders,
Brown,	Ferry,	Logan,	Sewell,
Butler,	Garland,	McPherson,	Slater,
Camden,	George,	Miller of N. Y.,	Van Wyck,
Cameron of Pa.,	Groome,	Mitchell,	Williams.
Cockrell,	Hale,	Platt,	
Edmunds,	Hill of Georgia,	Ransom,	
Fair,	Ingalls,	Saulsbury,	

So the amendment was rejected.

Mr. GEORGE. I move to add as an additional section to the bill the following:

SEC. —. That whenever the jurisdiction of any circuit or district court of the United States, either as to cases originally instituted therein or removed into the circuit courts from a State court, depends by law upon the citizenship of any party or person, a party thereto or having a controversy in a suit therein, the said court shall have no jurisdiction unless the amount in controversy shall exceed the sum of $5,000 exclusive of interest and costs.

That the right to remove a suit, or any part of it, from a State court to a court of the United States when such right depends on the citizenship of any of the parties or persons having a controversy therein, shall exist hereafter only in the cases provided for in this section, and only on the terms herein allowed.

That whenever a suit at law or in equity, in which the amount in controversy, exclusive of cost and interests, exceeds the sum of $500, shall be brought, or shall have heretofore been brought, in a State court, by a citizen of the State in which such court is held, against a citizen of any other State or against an alien, the defendant therein, or if there be more than one defendant, then any one or more of them, being non-residents of the State in which said court is held, and having a controversy in said suit which can be wholly determined as between him or them and the plaintiff without the presence of the other defendant or defendants, shall have the right, at any time before the final trial or hearing thereof, to remove said suit, or so much of it as can be determined as aforesaid without the presence of the other defendant or defendants, to the circuit court of the district in which said State court is held, upon the following terms and to the following extent: the defendant or defendants desiring such removal shall petition said circuit court, or a judge thereof in vacation setting forth that, owing to prejudice against him or them, or the undue influence of the adverse party, he or they cannot have a fair and impartial trial in said State court. Reasonable notice of such petition shall be given to the adverse party of the time and place of the hearing of the same; and said court or judge, on the day fixed for the hearing, shall hear the evidence offered by the parties as to such prejudice or influence, and if satisfied that by reason thereof a fair and impartial trial cannot be had in said State court, shall order a removal of said cause, or so much of it as embraces a controversy between the petitioner and the plaintiff as can be heard without the presence of the other defendants, to the said circuit court, upon the petitioners giving bond and security in the sum of $500, payable to the plaintiff, and conditioned to file in said circuit court, at the first term thereof held after the expiration of twenty days from the date of said order, a complete transcript of the record and proceedings of said State court in said suit, and of all papers filed in said State court as evidence in said cause. In case of a removal of said cause as to part only of the defendants, it may be proceeded with in the State court as to the other defendants as if no such order of removal had been made.

That the provisions of this section shall apply to suits in those district courts of the United States which by law have circuit court jurisdiction.

That no circuit or district court shall have cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee, or subsequent holder or bearer thereof, unless a suit might have been prosecuted in such court to recover the said contents if no assignment or transfer had been made, except in cases of foreign bills of exchange.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi, [Mr. GEORGE.]

The amendment was rejected.

Mr. MORGAN. In section 10, after the words "Supreme Court," in line 16, I move to strike out all down to and including the words "Supreme Court" in line 21, in the following words:

But in the two last-mentioned cases the court of appeals shall state the specific question arising upon the construction of the Constitution, or the construction or the validity of such treaty or law, or the specific legal question that the adjudication involves, and such questions only shall be certified to and finally decided by the Supreme Court.

That is the question to which I made reference, to which my attention was called by a member of the Committee on the Judiciary. It seems to me, and it seemed also to the member to whom I refer, that it is giving to the circuit courts, to the court of appeals, or to any other court, in fact, too much power to state the specific question arising upon the construction of the Constitution, or the construction or the validity of the treaty or law, or the specific legal question that the adjudication involves, and that such question only shall be certified to and finally decided by the Supreme Court.

The Supreme Court ought to be allowed to determine what the constitutional question is upon the law as well as the question arising upon the fact. The court below can make the decision and then assume the right to state the question in a form that it understands it or merely in the form it desires to have it passed upon. In this way litigants may be put to very serious trouble. It deprives the Supreme Court of the power of deciding whether the real question was in the case or was not in the case. If the court below can make the exact question, whether of law or of fact, upon which the Supreme Court is to decide, then I submit that we take from the Supreme Court a very important part of its appellate jurisdiction.

The bill, it seems to me, would be just as well with that provision out of it. The court could state the facts upon which the question arose, or it could state the facts which affect the decision upon the Constitution, the law, or the treaty, and allow the Supreme Court to determine whether that question was really raised upon those facts, or what question was raised upon the facts. It must very often occur in practice that upon a given state of facts the party in the cause would desire that the Supreme Court should determine a certain question which he insists is raised upon the facts. The court below decides against him; it decides that that question is not raised upon the facts, but that some other or different question is raised upon the facts, and you thereby deprive a man virtually of his right of appeal by permitting the court below to decide the very question upon which his appeal shall turn in the court above.

It seems to me that that is an important matter, and if the bill would be as well without it as with it that part of the section ought to be stricken out. I regret that the Senator to whom I refer has not returned to the Chamber so that he can present his own views on this matter. These are the views which I entertain.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama.

Mr. MORGAN called for the yeas and nays, and they were ordered.

The Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea."

Mr. GEORGE, (when his name was called.) I am paired on this amendment with the Senator from Pennsylvania, [Mr. MITCHELL.] If he were here, I should vote "yea."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Oregon, [Mr. SLATER.]

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. HOAR.]

Mr. MILLER, of New York, (when his name was called.) I am paired with the Senator from Maryland, [Mr. GROOME.]

Mr. PLATT, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. CAMDEN.]

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.]

The roll-call having been concluded, the result was announced—yeas 19, nays 25; as follows:

YEAS—19.

Beck,	Gorman,	Jonas,	Vance,
Call,	Grover,	Maxey,	Vest,
Coke,	Hampton,	Morgan,	Voorhees,
Davis of West Va.,	Harris,	Pendleton,	Walker.
Farley,	Johnston,	Pugh,	

NAYS—25.

Aldrich,	Davis of Illinois,	Kellogg,	Plumb,
Allison,	Dawes,	Lapham,	Rollins,
Anthony,	Frye,	McDill,	Sawyer,
Blair,	Harrison,	McMillan,	Sherman.
Cameron of Wis.,	Hawley,	Mahone,	
Chilcott,	Hill of Colorado,	Miller of Cal.,	
Conger,	Jones of Nevada,	Morrill,	

ABSENT—32.

Bayard,	Ferry,	Jackson,	Ransom,
Brown,	Garland,	Jones of Florida,	Saulsbury,
Butler,	George,	Lamar,	Saunders,
Camden,	Groome,	Logan,	Sewell,
Cameron of Pa.,	Hale,	McPherson,	Slater,
Cockrell,	Hill of Georgia,	Miller of N. Y.,	Van Wyck,
Edmunds,	Hoar,	Mitchell,	Williams,
Fair,	Ingalls,	Platt,	Windom.

So the amendment was rejected.

Mr. MORGAN. I submit the following motion:

Resolved, That Senate bill No. 420, now under consideration, be committed again to the Committee on the Judiciary with instructions to said committee to prepare and report, with all convenient speed, a bill to establish a court of appeals, inferior to the Supreme Court, which shall be composed of not exceeding nine circuit judges in addition to the nine circuit judges who are now in office; and which shall define the appellate and supervisory jurisdiction of said court; and shall also confer the power upon the judges of such appellate court to hold circuit courts in any circuit or district of the United States to which they shall respectively be assigned by the Chief-Justice of the Supreme Court; and also to make any changes in existing laws, or any new provisions of law that may be necessary in consequence of the creation of such court of appeals, or that will contribute to the relief of the Supreme Court and any of the circuit courts from the embarrassment resulting from an undue accumulation of cases upon their dockets; and will give to persons convicted of crimes against the United States the right to a writ of error to the Supreme Court, or to such court of appeals as said committee may be of opinion will best secure the rights of such persons and of the Government in the administration of justice, and will curtail and regulate the jurisdiction of the circuit courts of the United States in respect of suits by and against corporations and the removal of causes, and in such other respects as said committee shall recommend.

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama to commit with the instructions read.

Mr. MORGAN. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea."

Mr. DAVIS, of West Virginia, (when his name was called.) I am paired with the Senator from Minnesota, [Mr. WINDOM,] and I wish to state that my colleague [Mr. CAMDEN] is paired with the Senator from Connecticut, [Mr. PLATT.] I make this statement for the day.

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Oregon, [Mr. SLATER.]

Mr. MILLER, of New York, (when his name was called.) I am paired with the Senator from Maryland, [Mr. GROOME.]

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.]

The roll-call was concluded.

Mr. JONES, of Florida, (after having voted in the affirmative.) I voted inadvertently. I wish to withdraw my vote. I am paired with the Senator from Massachusetts, [Mr. HOAR.] If he were here, I should vote "yea."

Mr. GEORGE. I am paired with the Senator from Pennsylvania, [Mr. MITCHELL,] but I desire it to be put on record that, if not paired, I would vote in the affirmative.

Mr. HAMPTON. I should like to ask if the Senator from Nebraska [Mr. VAN WYCK] is not paired?

Mr. DAVIS, of Illinois. He is paired with the Senator from Virginia.

Mr. HAMPTON. He was in favor of the recommitment of this bill.

Mr. DAVIS, of Illinois. Yesterday that pair was arranged I think.

Mr. RANSOM. On this question I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were here, I should vote "yea."

Mr. JONAS. The Senator from New Jersey [Mr. MCPHERSON] requested me to say that he is paired on this bill and all its amendments with his colleague, [Mr. SEWELL.] The Senator from New Jersey [Mr. MCPHERSON] would vote "yea" on this motion if he were present.

The result was announced—yeas 17, nays 24; as follows:

YEAS—17.

Beck,	Grover,	Morgan,	Voorhees,
Call,	Hampton	Pendleton,	Walker,
Coke,	Johnston,	Pugh,	
Farley,	Jonas,	Vance,	
Gorman,	Maxey,	Vest,	

NAYS—24.

Aldrich,	Conger,	Hill of Colorado,	Mahone,
Allison,	Davis of Illinois,	Jackson,	Miller of Cal.,
Anthony,	Frye,	Kellogg,	Morrill,
Blair,	Harris,	Lapham,	Rollins,
Cameron of Wis.,	Harrison,	McDill,	Sawyer,
Chilcott,	Hawley,	McMillan,	Sherman,

ABSENT—35.

Bayard,	Fair,	Jones of Florida,	Ransom,
Brown,	Ferry,	Jones of Nevada,	Saulsbury,
Butler,	Garland,	Lamar,	Saunders,
Camden,	George,	Logan,	Sewell,
Cameron of Pa.,	Groome,	McPherson,	Slater,
Cockrell,	Hale,	Miller of N. Y.,	Van Wyck,
Davis of W. Va.,	Hill of Georgia,	Mitchell,	Williams,
Dawes,	Hoar,	Platt,	Windom.
Edmunds,	Ingalls,	Plumb,	

So the motion was not agreed to.

Mr. MORGAN. For the purpose of getting before the Senate and the committee the proposition of the committee of the American Bar Association, if the Senate should desire to recommit the bill, I now move to recommit it without instructions in order that the opinions of such gentlemen as Mr. Merrick, Mr. Courtlandt Parker, and Mr. Evarts may be considered by the Committee on the Judiciary in framing some measure which will meet with more general acceptance than the one now before the Senate. I do not concur in the proposition those gentlemen have presented; I do not think the Supreme Court can be divided into sections and that each section can decide without the concurrence of the other section. At the same time they have advanced views in support of their opinion which are worthy of the consideration of the Senate. They are men of most eminent legal attainments, and I will send to the Secretary's desk and ask to have read extracts from the report they have made.

Mr. DAVIS, of Illinois. I hope the Senator will let us take a vote. Everybody has read what those gentlemen have said.

Mr. MORGAN. I am afraid not.

Mr. DAVIS, of Illinois. I have, for one, and I think every Senator has. It is a consumption of time to have their report read.

Mr. VOORHEES. I ask the Senator from Alabama how long the reading of the extracts will take?

Mr. MORGAN. A very few minutes.

Mr. VOORHEES. If it is to take long I shall move an adjournment.

Mr. ANTHONY. I object to the reading of that paper.

The PRESIDING OFFICER. The Chair holds that the Senator from Alabama has a perfect right to have a paper read as a part of his remarks if he sees proper to do so.

Mr. ANTHONY. He has a right to read it himself, but not a right to have it read at the desk.

Mr. DAVIS, of Illinois. Let it be read if he calls for it.

The PRESIDING OFFICER. Does the Senator from Rhode Island raise a question of order?

Mr. ANTHONY. I will not dispute with the Chair.

The PRESIDING OFFICER. The Secretary will proceed to read the paper sent up by the Senator from Alabama.

Mr. MORGAN. I ask to have it read for the information of the Senate.

Mr. MCMILLAN. Do I understand the Senator from Alabama to read now from the pamphlet as his own views the sentiments expressed there?

Mr. MORGAN. As far as I propose to read them I think I can say they are.

Mr. MORGAN proceeded to read, but was interrupted by

Mr. INGALLS. I hope the Senator from Alabama will not be compelled to read that. I trust the Secretary may be allowed to read it for him. It is customary that the Secretary should be allowed to read at the desk.

Mr. MORGAN. Objection is made.

The PRESIDING OFFICER. The Chair had instructed the Secretary to read the paper, but the Senator from Alabama proceeded to read it himself.

Mr. INGALLS. I should be unwilling to withhold any courtesy from the Senator from Alabama in the matter.

Mr. RANSOM. Certainly it has always been usual in the Senate, I think, to allow a Senator to have a paper read.

Mr. MORGAN. I have sat here all night hearing one Senator read for another.

Mr. ANTHONY. I withdraw the point of order, but I will vindicate my right to make the point:

When the reading of a paper is called for, and the same is objected to by any Senator, it shall be determined by a vote of the Senate, and without debate.

I withdraw the point.

The PRESIDING OFFICER. What does the Senator read from?

Mr. ANTHONY. From the fifteenth rule of the Senate.

The PRESIDING OFFICER. The Chair, on reading the rule, holds that the Senator from Rhode Island is quite right in the point of order he suggested.

Mr. ALLISON. The point is withdrawn, and the Senator from Alabama can have read at the desk what he wishes.

Mr. MORGAN. Certainly such men as Mr. Evarts and Mr. Parker and Mr. Bradley and Mr. Phelps have a right to be heard when their opinions are expressed upon a grave question of this kind, and while Senators may have all read this paper the country has not read it, and I do not think that any injustice will be done to the country or the Senate by putting this on record as part of my remarks.

Mr. VEST. Will the Senator yield to me for a motion to adjourn?

Mr. MORGAN. I shall yield to the Senator from Missouri for a motion to adjourn if he has any personal reason for desiring that the Senate shall now adjourn, but I rather prefer that we should finish this business.

Mr. VEST. I think we shall not conclude this bill this evening. The Senator from Alabama and other Senators wish to address the Senate. I move that the Senate do now adjourn.

The PRESIDING OFFICER. Does the Senator from Alabama yield the floor for the purpose of a motion to adjourn?

Mr. MORGAN. Not unless the Senator from Missouri will say that he has some personal desire in having the Senate adjourn. I prefer to see the bill concluded.

Mr. DAVIS, of Illinois. So do I.

Mr. BUTLER. So far as I am concerned, I prefer to adjourn.

Mr. DAVIS, of Illinois. I sincerely hope the bill may be concluded this evening. I think the interests of the business of the Senate require it.

Mr. MORGAN. I am entirely willing that it shall appear upon the record that I have read the extracts which are marked in this pamphlet, if that will be any relief to the Senate. I do not wish to occupy their time in reading, but I want this paper to go into the RECORD as part of my remarks, so far as I have marked passages in it.

The PRESIDING OFFICER. Is there objection to the marked parts of the paper the Senator suggests appearing in the RECORD? The Chair hears no objection, and it is so ordered.

The extracts are as follows:

It is proposed by those gentlemen who advocate the plan of local courts of appeal to constitute one in each circuit, from the circuit and district judges, which shall sit in one of its larger cities. We have felt great respect for the opinion of our able and distinguished associates who favor this proposal, and have not failed to appreciate the arguments by which it is supported. Their views will be presented in a separate report. It is undoubtedly true that such a method of hearing appeals would bring the hearing nearer to the residence of the litigants, and considerably facilitate the convenience of the profession in the more distant circuits, and perhaps to some extent diminish the expense of appeals, by saving a journey from remote points to Washington. Though on this point it is to be remembered that as the court could sit but in one place for each circuit, and many of these are very large, a considerable proportion of the appeals must after all be heard at a distance from the residence of the parties, and from the court in which the trial appealed from took place. So that the difference to counsel between the journey thus requisite and the journey to Washington is not so material.

But it appears to us that the grave objections which the plan of local courts encounters far outweigh any advantages it may offer of convenience to counsel or of diminution of expense to parties. In the first place, in order that this method should effect any relief to the Supreme Court, it will be necessary to provide that appeals to that tribunal should not be allowed in cases of ordinary jurisdiction unless the amount in controversy is at least $10,000. Probably a much higher limit than that would be necessary, because when the limit of the appellate jurisdiction of the Supreme Court was enlarged in 1872 from two thousand to five thousand dollars, hardly any perceptible diminution in the docket resulted. And notwithstanding that limit the number of causes on the docket of the court has increased from 676 in 1872 to 1,202 in 1880, although during that period, as has been already pointed out, the number of causes annually disposed of by the court considerably exceeded the number disposed of in any previous year. While on this point it is impossible to obtain exact data without an amount of labor in the examination of the records of the court which it is not in our power to command, we believe on the best information we have that to enable the court to keep up with the business by reducing the amount of it by a money limit would require that limit to be fixed at the present time at least as high as $15,000, and perhaps as high as $20,000, and would necessitate in the future a probable further advance in the same direction.

The number of people of the United States who are possessed of property to that amount is comparatively small; the number of those whose controversies in the courts of justice attain such a magnitude is still smaller. To the great mass of litigants controversies involving between five and fifteen thousand dollars are very serious and important, not infrequently putting in jeopardy all they possess. The extension of the limit of the right of appeal to the Supreme Court from two thousand to five thousand dollars has already been felt oppressive. Nothing but a supposed necessity has induced submission to it. And a further increase of that limit to a sum that excludes from the court so large a class of citizens in controversies to them so important, and which involve questions as serious and as difficult as causes of a still larger amount would be a measure in the justice or propriety or policy of which we cannot concur, and which we believe would justly be regarded as a denial of the highest public justice to many citizens equally entitled to it.

The Supreme Court would thus be set aside, so far as its ordinary jurisdiction is concerned, for the benefit of wealthy men and great corporations. But the court was never intended for the use of the rich alone. It belongs to the people, in common with our other institutions, and should be made available to the people, to every possible extent. That some pecuniary limit must be fixed, to save the court from being harassed with small controversies, and to exclude from it causes not large enough to pay the expense of going there, is admitted. The sum of $2,000, the original limit, has always been regarded as quite sufficient for that purpose; and while we do not recommend a present return to that figure, we cannot concur in any proposition to increase it.

Nor can we regard without apprehension the probable effect upon the position of the court itself, of thus withdrawing from it so large a share of its general jurisdiction. As the final arbiter upon all questions of constitutional law, it is one of the main stays of our Government. No such function was ever before confided to a judicial tribunal. It can only be maintained in the discharge of so critical a duty by being fast anchored in the public confidence and esteem. Such has been its good fortune hitherto, because it has been the Supreme Court in reality as well as in name. It has been the one national tribunal of last appeal, in which confidence has been strong, and to which resort has been secure; where the general law of the land has been habitually laid down. But that will be really the Supreme Court in the estimation of the people in which the duties belonging to such a body are accustomed to be performed.

If the one Supreme Court of the Constitution should be closed to ordinary access, and devoted by a high-money limit principally to the service of the wealthy and the powerful; if the great body of those who transact the business of the country should be excluded from its doors, and compelled to accept for their part such humbler justice as the local tribunals may afford, it will not be safe to expect that the court will be able to preserve by its dignity the hold it has gained by its usefulness, or to escape by mere pecuniary elevation from the consequences of popular estrangement. There would be grave danger that it might gradually become an object of public jealousy and aversion. If thereafter it should happen to be brought, in the determination of constitutional questions, into antagonism with popular feeling or party policy, its position would invite an attack, against which its means of defense would be small. De Tocqueville has well said of its power, "it is clothed in the authority of public opinion. They are the all-powerful guardians of a people which respects law; but they would be impotent against popular neglect or popular contempt."

* * * * * * *

Another very serious objection, in our judgment, to the institution of local courts of appeal is to be found in its probable result upon the character and quality of the law they may be expected to establish. The body of the common law, as administered by the Federal tribunals, is one of our most precious possessions. The purity and uniformity of it should be guarded with the greatest assiduity. It is the law, not of one State, but of all the States; not of a section, but of the entire people; not of local interests, but of the general welfare. It is the only homogeneous law we have. We have already courts of the last resort sitting in thirty-eight different States, no one necessarily controlled by the decisions of any other. That the expositions of the law in these numerous tribunals should be fluctuating, far from uniform, and more or less of it far from sound, is unavoidable. That it should be pervaded by the influence of local institutions and traditions, of varying political sentiments and diverse financial, productive, and commercial interests, is naturally to be expected. But as the law thus established is supreme only in the State in which it is propounded, no grave results are to be apprehended to the citizens of other States, so long as they can have recourse, in the event of controversy with the citizens of such State, to the Federal courts.

That the decisions of the proposed local Federal courts of appeal will be largely affected in the same way, seems to us inevitable. They would sit in districts very remote from each other. They would be necessarily composed of judges drawn from the circuits in which they exist. That views upon financial questions, political or quasi-political questions, social questions, and the general policy of the law, should vary and change under the pressure of local opinions, traditions and laws, is inevitable. Law is at best but a reflex of the society and the civilization in which it grows up. To expect that distant tribunals, existing under widely different conditions of society and of public opinion, should be harmonious in the multiform administration which justice requires is to expect the impossible. Such has never been the case and never will be. The course of decisions in New England and the Southwest, in the commercial cities and the Northwestern States on the Atlantic and the Pacific coasts, can never be one and the same if it depends upon their local tribunals. The whole theory and value of the Federal administration of justice requires a uniformity and consistency of application before which the citizens of all the States shall be equal. But in place of that we should have under these local appellate courts a mass of heterogeneous decisions, on many points irreconcilable, and a law that would vary like the climate with the latitude and the longitude.

Nine tribunals of last resort in the great majority of cases would be kept in constant operation, and emitting an incessant series of reports, with no central power or ultimate court of appeal to regulate their conclusions. It would be but occasionally that a cause involving questions of difference between them would arise large enough to be carried, and that would happen to be carried, to the Supreme Court of the United States. It is the every-day law, which is constantly applied to human business and human rights, that is of the greatest practical importance, rather than those cases of rare occurrence, to which political events or public feeling may give a more conspicuous prominence.

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EDWARD J. PHELPS, *Chairman.*
CORTLANDT PARKER.
WILLIAM M. EVARTS.
RICHARD T. MERRICK.

Mr. MORGAN. Now, I have a single remark to make in regard to the opinion of these four very distinguished lawyers, Messrs. Phelps, Parker, Evarts, and Merrick. They have bestowed as much attention on this subject as perhaps any gentlemen in the United States. Their experience no man can deny; their opinion no man can afford to pass by without due attention. I desire that their opinions in connection with this bill, which is now about to pass, shall go before the country, in the hope that before this measure can be matured and enacted into law public opinion will intervene and prevent the consummation of the wrongs that I conceive are wrapped up in this bill.

The PRESIDING OFFICER. The Senator from Alabama moves to recommit the bill without instructions.

The motion was not agreed to.

Mr. PUGH. Mr. President——

Mr. DAVIS, of Illinois. Before the Senator goes on if he will indulge me one moment I desire to move an amendment.

This bill, Mr. President, as I stated, does not abridge or enlarge the jurisdiction of the circuit court or of any other court whatever, and the Judiciary Committee in putting in the sixth section did not mean to have it so considered, nor could it be so construed by any court in christendom; but some of my friends, for whose opinion I have great regard, say that it would be better if certain words were added, and I have consulted with my friends on the committee and there can be no objection to the amendment. The section now reads:

The said courts—

That is, the court of appeals—

shall have power to issue writs of error, *mandamus*, *scire facias*, *habeas corpus*, and all other writs which may be necessary or proper to the exercise of its jurisdiction and agreeable to the principles and usages of law.

I move to add there—

And which the circuit courts of the United States now have.

Mr. RANSOM. I am very much obliged to the Senator from Illinois for suggesting that amendment. I had thought myself that the clause which is referred to was conclusive upon that subject, but I desire, in common with a great many Senators, to have the question put beyond the possibility of controversy.

Mr. DAVIS, of Illinois. I move the amendment.

Mr. RANSOM. I am much obliged to the Senator for the amendment.

The PRESIDING OFFICER. The amendment will be read.

The ACTING SECRETARY. It is proposed, in section 6, line 45, after the word "law," to add "and which the circuit courts of the United States now have;" so as to read:

The said court shall have power to issue writs of error, *mandamus*, *scire facias*, *habeas corpus*, and all other writs which may be necessary or proper to the exercise of its jurisdiction and agreeable to the principles and usages of law, and which the circuit courts of the United States now have.

The amendment was agreed to.

Mr. PUGH. Mr. President——

Mr. VEST. Will the Senator from Alabama yield for a motion to adjourn?

Mr. PUGH. I am willing to submit to the pleasure of the Senate. I am ready to proceed now, if it is the pleasure of the Senate.

Mr. VEST. I move that the Senate adjourn.

Mr. DAVIS, of Illinois. I certainly do not want to keep the Senate here, but I want this bill to be acted on.

Mr. VEST. Discussion is not in order.

Mr. DAVIS, of Illinois. If there is an agreement to take a vote on the bill, say at three o'clock to-morrow—— ["Yes!" "Yes!"]

Mr. ALLISON rose.

The PRESIDING OFFICER. Is the motion to adjourn withdrawn for the present?

Mr. VEST. No, sir.

Mr. DAVIS, of Illinois. One moment.

The PRESIDING OFFICER. Debate is out of order pending the motion to adjourn.

Mr. VEST. If there can be an agreement, I will yield.

The PRESIDING OFFICER. The motion is withdrawn. The Senator from Illinois [Mr. DAVIS] is recognized.

Mr. SHERMAN. I hope the proposition will be stated from the Chair, so that we shall all understand it.

The PRESIDING OFFICER. Is there objection to the understanding that a vote shall be taken on this bill——

Mr. DAVIS, of Illinois. At four o'clock to-morrow is now proposed.

The PRESIDING OFFICER. By four o'clock to-morrow? [A pause.] The Chair hears no objection, and it will be understood as the agreement of the Senate by unanimous consent.

Mr. DAVIS, of Illinois. After four o'clock there shall not be any debate.

The PRESIDING OFFICER. The agreement is to vote at four.

Mr. DAVIS, of Illinois. On the bill and amendments.

Mr. VEST. I renew my motion.

The PRESIDING OFFICER. The Senator from Missouri moves that the Senate adjourn.

The motion was agreed to; and (at five o'clock and thirty-one minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 11, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday's proceedings was read and approved.

CORRECTION.

Mr. PHISTER. I rise to make a small correction of the RECORD. Yesterday, after the vote on the bill to enlarge the powers and duties of the Department of Agriculture, I was, at the request of the gentleman from Minnesota, [Mr. STRAIT,] paired with the gentleman from Wisconsin, [Mr. WASHBURN,] and the pair was announced by the Clerk, but I see it is not noticed in the RECORD. I would be glad to have the correction made.

COMMON SCHOOLS.

Mr. SHERWIN, by unanimous consent, reported from the Committee on Education and Labor, as a substitute for various bills on the same subject, a bill (H. R. No. 6158) to aid in the support of common schools; which was read a first and second time, and, with the accompanying report, ordered to be printed and recommitted.

HOMESTEADS.

Mr. RICE, of Missouri, by unanimous consent, from the Committee on the Public Lands, reported back adversely the bill (H. R. No. 344) to shorten the period required in homesteading the public lands to two years; which was laid on the table, and the accompanying report ordered to be printed.

AUGUSTUS D. BLANCHET.

Mr. HILL, by unanimous consent, introduced a bill (H. R. No. 6159) granting arrears of pension to Augustus D. Blanchet; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EUGENE B. ALLEN.

Mr. ARMFIELD. Mr. Speaker, I ask by unanimous consent that the bill (S. No. 1120) for the relief of Eugene B. Allen be taken from the Speaker's table and put on its passage at this time.

Mr. RANDALL. Let the bill be read for information, reserving the right to object.

The bill was read.

Mr. RANDALL. Let us have the report read.

Mr. HOOKER rose.

Mr. BRIGGS. I demand the regular order of business.

The SPEAKER. The regular order of business being demanded, the bill is not before the House.

FRANCIS M. COX.

Mr. DAWES, by unanimous consent, from the Committee on Invalid Pensions, reported back the bill (H. R. No. 2567) granting a pension to Francis M. Cox; which was referred to the Committee of the Whole House on the Private Calender, and the accompanying report ordered to be printed.

THOMAS MURRY.

Mr. DAWES, also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 626) granting a pension to Thomas Murry; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JAMES KING.

Mr. DAWES also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 2812) granting a pension to James King; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. DAWES also, by unanimous consent, from the same committee, reported back adversely the following cases; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 633) for the relief of Daniel W. Blake;

A bill (H. R. No. 643) granting a pension to Caroline Twombly;

A bill (H. R. No. 3746) granting an increase of pension to Samuel Jones;

A petition for a pension to George C. Tracy;

A bill (H. R. No. 4296) granting a pension to Joanna L. Shaw; and

A bill (H. R. No. 5434) for the relief of the heirs of Lois L. Weeks.

EUGENE B. ALLEN.

Mr. ARMFIELD. Objection is withdrawn to taking up Senate bill No. 1120, for the relief of Eugene B. Allen.

Mr. RANDALL. I reserve the right to object until the report of the committee accompanying the bill has been read for the information of the House.

Mr. BURROWS, of Michigan. I renew the objection, and shall not withdraw it during the day.

Mr. McLANE. I wish to submit some reports.

The SPEAKER. The regular order is called for.

Mr. VAN VOORHIS. Who demands the regular order of business?

The SPEAKER. The gentleman from Michigan, [Mr. BURROWS.]

Mr. VAN VOORHIS. I hope he will let me hand up some committee reports.

The SPEAKER. The regular order is called for, and nothing else is in order.

Mr. RANDALL. I move to dispense with the morning hour for the call of committees for reports.

Mr. VAN VOORHIS. I demand a division.

The House divided; and there were—ayes 49, noes 15.

The SPEAKER. Two-thirds have voted in favor of dispensing with the morning hour.

Mr. VAN VOORHIS. A quorum has not voted.

The SPEAKER. The point having been made that no quorum is present, the Chair will appoint tellers.

Mr. VAN VOORHIS. I will waive the point of order if I can have a chance to submit some reports.

Mr. REED. The gentleman has a promise, so far as I am concerned, to put in his reports.

Mr. RANDALL. I object. I do not agree to a gentleman forcing the House in such a way.

The SPEAKER. The Chair would be willing to recognize the gentleman from New York, but the regular order being called for it has no discretion in the matter.

Mr. VAN VOORHIS. I insist on the point that a quorum is not present unless I am permitted to submit my reports.

The SPEAKER appointed Mr. RANDALL and Mr. VAN VOORHIS as tellers.

Mr. VAN VOORHIS. At the suggestion of gentlemen I withdraw the point that a quorum is not present.

So the morning hour was dispensed with, two-thirds voting in favor thereof.

EXPLANATION.

Mr. KING. Mr. Speaker, I was unavoidably absent yesterday when the vote was taken on the passage of the agricultural department bill. I was attending to committee matters at the time. If I had been present, I would have voted in favor of the passage of that bill.

GENEVA AWARD.

The SPEAKER. The regular order of business having been demanded, the House now resumes as the unfinished business of yesterday the consideration of the bill (H. R. No. 4197) re-establishing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award, on which the gentleman from Vermont [Mr. GROUT] is entitled to the floor.

Mr. GROUT. Mr. Speaker, the Geneva award was for $15,500,000. Of this sum $9,553,800, including accrued interest, are still in the Treasury. The occasion of this award was the claim by our Government that Great Britain had failed to perform her duty as a neutral during the war of the rebellion in this, that she did not exercise due diligence in preventing the Alabama and the several other insurgent vessels which were built, fitted, and manned in her ports and by her citizens from sailing on their insurgent mission, though repeatedly notified by our Government of the warlike character and purpose of these vessels; and that as the direct result of this neglect of her duty, our citizens sustained heavy losses in the destruction upon the high seas of their ships and merchandise.

It was the duty of Great Britain as a neutral power to prevent her citizens from aiding and assisting the rebellion; and if the British

authorities paid no attention, as in fact they did not, to the repeated notices from our Government as to the character of these vessels, but allowed them to sail, this in itself, under the law of nations, was an act of war on her part.

It left her no longer a neutral but made her an ally of the enemy. This conduct on the part of Great Britain, resulting as it did in heavy losses to our citizens, was not, however, an offense against those citizens for which they could obtain redress of Great Britain, for the reason that it was an act of war. And no system of law, international or municipal, has provided a remedy by an individual for an act of war. The offense was not against the suffering citizens, though the mischief happened to be visited upon them, but was against the Government of the United States, for which under the law of nations she had a remedy if she was able to enforce it, and that was to appeal to arms and administer such punishment as should satisfy her offended dignity and make such reprisals as should indemnify for the losses of her citizens and all other losses incurred in consequence of such misconduct, including even the expenses of the war for satisfaction. In short, under the law of nations we could have proceeded until we were entirely satisfied. But the United States adopted another course. They sought first a friendly adjustment by agreement; but failing in that, they then negotiated for and finally obtained a settlement of the difficulty by arbitration, which resulted in an award of the gross sum above stated, not to individuals but to the United States, in satisfaction for all losses or damage to her or any of her citizens which the wrongful act of Great Britain had occasioned.

And here another fact should be noted. It is this: that those citizens of the United States whose merchandise was captured and ships destroyed by these confederate privateers had no remedy under existing law against the Government of the United States, for the simple reason that the loss was by an act of war. And though the Government owes its citizens protection, and for that reason they might have a moral claim upon the Government, yet it lies wholly within the breast of the Government whether or not it will compensate for such losses, and, as a rule, relief is only granted in cases of peculiar hardship. The citizen's only remedy is to appeal to the generosity of the Government. And now, keeping in mind the fact that the citizen suffering loss or damage by an act of war has no legal remedy whatever against either his own Government or the government committing the act, or against the individual or individuals committing the act, if it be an act of war, let us ask to whom shall the balance of this Geneva award be paid? There are three classes of claimants.

First. The marine insurance companies, which claim payment for the money paid by them as insurance upon destroyed ships and captured cargoes. Their claims would absorb the whole sum.

Second. The uninsured owners of vessels destroyed by the Nashville, Tallahassee, Shenandoah, before she reached Melbourne, and eight other cruisers, on account of which the Geneva tribunal did not hold Great Britain responsible, and which are known in this discussion as the "exculpated cruisers." These owners suffered actual loss and ask to be made whole. Their claim is for about twelve hundred thousand dollars.

Third. The ship-owners who paid war risks to the insurance companies, but whose ships were not destroyed, claim as actual losses by these cruisers to the extent of "war premiums" so paid. Their claims amount close to nine million dollars.

The losses of all the ship-owners from the acts of the Alabama, Florida, and Shenandoah, after Melbourne, called the "inculpated cruisers," have already been paid out of the award as provided under the act of 1874. In other words, they have been made whole. If they were uninsured the whole loss has been paid them; if insured, then so much of their loss as their insurance did not cover.

The insurance companies were also under the same act made whole. They were paid out of this fund their total losses. It is at least to be presumed that they were, for by that act every one of them had an opportunity to go before the distributing court and claim upon the whole of their war-risk business, including losses by the "exculpated cruisers," that they had sustained an actual loss, and to the extent of that loss receive full indemnity from this fund. But only to that extent, for the act itself contained this provision:

> No claim shall be allowed in behalf of an insurer (individual or corporate) unless his losses on war risks exceeded the sum of his premiums on war risks during the rebellion. Act of 1874.

Under this act only three insurance companies appeared and claimed that upon the whole they had suffered losses in taking the war risks, and they were able to show the loss of only a small sum which has been paid them. The fact that other companies did not appear to claim a loss shows conclusively enough that they were not losers; but how much they made is not in every case apparent.

It is a fact, however, that the net profits of the eight New York companies which did a large share of the business were $2,295,332.96 larger for the five years from 1861 to 1865, during the time of this business, after paying all losses, war and otherwise, than for the five years from 1866 to 1870. Thus do we see that the small loss suffered by three of these companies has been paid to them, and that the others, or some of them at least, made a large profit out of their war-risk business. And yet they are before Congress to-day asking the bulk if not the whole of this fund, not upon the ground that they have been losers and that in equity it belongs to them, but upon the technical legal doctrine that it was received by the United States from Great Britain as money due to them, and that the United States holds it as a mere trustee and can only pay it over to them in discharge of the trust. That in the disposition of the money the Government has no discretion whatever, and nothing to do but to stand and deliver. The argument in support of this position is a very plausible and captivating one. Its advocates call attention to that familiar principle of law by which an underwriter who has paid for property destroyed is entitled to be substituted to all the rights and remedies which the owner may have, to reimburse himself for the loss. If the risk be a simple marine risk and the ship is wrecked, whatever may be saved from the wreck belongs to the insurer; or if through the fault of another vessel she was disabled and lost in mid-ocean, the underwriter would succeed to whatever remedy the owner might have against the vessel by whose wrongful act his own was lost. In short, under this doctrine of subrogation the insurer, by payment of insurance, succeeds to all the rights of the insured. He owns whatever may be left of the property. He may pursue any remedy which the owner could have pursued. The insurance companies say they insured against capture; that the vessels were captured and that the United States recovered at Geneva for those captured vessels, and in doing this the United States acted as agent of the claimants, and having received the money they hold it in trust precisely as an agent or attorney does money which he has collected for a client. This, in brief, is the claim of the insurance companies. It rests, as will be seen, upon the cold technicalities of law; upon a set of legal sequences which they claim would, before a legal tribunal, inevitably give them this money.

It is a purely legal question, and as such invites legal scrutiny. The trouble with it is, it starts out upon a false assumption. The very first step in the line of reasoning is a false one. It assumes that the owners of the destroyed vessels and cargoes had a legal claim against Great Britain for their loss, to which the insurance companies, under the law, would be subrogated. But we have already seen that this could not be so, for the reason that the destruction of this property by these insurgent cruisers was an act of war, committed under the confederate flag, by order of the confederate government; and the charge against Great Britain was that she so conducted herself that instead of maintaining her neutrality, as under the proclamation of the Queen she was bound to do, she became a participant in this act of war, and so answerable to the Government of the United States, but no more answerable to the individuals suffering loss than were the confederate vessels or the confederate government.

Any act committed on the high seas by authority of the confederate government was as much an act of war as if committed by Lee's army in Virginia or Pennsylvania; and who ever heard of a lawyer in either of those States bringing trespass *quare clausum* in behalf of some indignant farmer upon whose wheat-field the commanding general of either army pitched his camp or his battle? Or, who ever heard of the unlucky soldier on either side bringing suit for assault and battery for a malignant bayonet-thrust from the other. The old Latin maxim obtains—*Inter arma silent leges*. If an act be an act of war, the law takes no knowledge of it. There is no legal redress for it. This is why the owners of these destroyed vessels had no legal claim against either Great Britain or the United States, or the individuals destroying them. If this be so—and no principle in law is better settled—then the insured had no legal rights to which the insurers could be subrogated; and wanting this, the whole argument fails. Its foundation is gone.

The only possible right which the owners of these destroyed vessels had to which the insurance companies could be subrogated was the privilege of appealing to the generosity of the Government of the United States; not to the courts, for as they had no legal claim they could have no standing-place in a legal forum; but to the generosity and justice of the Government as embodied in the highest court known to our system, the Congress of the United States. But from this tribunal, possessing as its does a law and equity jurisdiction limited only by the Constitution and the conscience of its members, these insurance companies are seeking to escape.

They want their claim to this fund referred to the courts, and the minority of the committee recommend that it be so referred, not to be considered by the courts with the same discretionary power and the same unlimited jurisdiction which Congress holds over the subject, but to be determined by the courts upon the strict rules and the analogies of law.

But we have already seen that if the question were in the courts the decision upon legal grounds ought to be against the insurance companies; and if against them, the courts would still have no power to award the fund, in the exercise of an equitable discretion, to the other claimants. They could only say that no one had any legal claim to it, whereby the whole subject would again revert to Congress, and the delay in the distribution of this money, already in the estimation of some discreditable to that body, be still further prolonged. If, however, inasmuch as the insurance companies are already made whole, the courts upon legal grounds would give them this fund, then that in itself is sufficient reason why it should be withheld from them and disposed of by Congress according to its sense of justice and equity. What the chairman of the Committee on the Judiciary [Mr. REED] says upon this point in reporting the

bill is so well said that I cannot do better than adopt it. It is as follows:

To the proposition to refer the matter to a court, your committee are strenuously opposed. No court established to try the ordinary affairs between man and man is competent to deal with this subject. Courts of this kind are governed by general rules, which do justice in the great majority of cases, but injustice in many. If any of their rules could be stretched by analogy or construction, so as to cover this case—which we do not believe—they might do injustice, for the general rules must prevail regardless of the result. There is no court in the land which has not decided cases with expressions of regret at injustice done in the particular, to save justice to be done in the general. For these acts of injustice we have a consolation in the ordinary affairs of life, that the average would be right, and that the largest amount of justice attainable in courts could be done only under general rules. This consolation we could not have in the matter now before us. There can be no average where there is only one.

To take a case from a tribunal which can do justice and give it to a tribunal which may not, would be both wrong and delusive. It has the further disadvantage of not meeting the question in an open way. The duty belongs to Congress to determine the principles which will do justice in this particular case. If there were a series of such cases likely to occur a general law might be made which on the whole would do average justice.

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If this case were one of a series which had happened, and was likely to happen in large numbers in the ordinary affairs of men, it might be well to relegate it to a court which had the stored wisdom of ages adapted to every-day affairs. But when a question involving large interests unlike anything ever before considered by men comes up for decision before a tribunal which has all the power necessary to do right, it will not be doing its duty if it delegates the question to another and an unsuitable tribunal of limited powers simply because the question proves to be complex and difficult.

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We are well aware that the proposition has been gilded by the words, "justice and equity and the laws of nations," but those words in this case are beguiling. When these things are talked of before Congress, "justice and equity" mean a comprehensive "justice and equity," which Congress alone can administer. But, after such a bill had passed, "justice and equity" would be the justice and equity of law, which is a widely different thing.

Whatever other points may be in doubt, it must be accepted as clear that it is the duty of Congress to speedily dispose of this subject, and as equally clear that it possesses full jurisdiction in every aspect of the case, legal as well as equitable. Then why refer it to the courts; why not promptly dispose of it ourselves?

But the insurance companies, still suggesting legal grounds for their claim, say, though they had no legal claim against Great Britain, still the United States presented it, such as it was, and have received the money upon it, thereby creating the relation of trustee, by which there is so much money in the hands of the United States belonging to them. If this relation of trustee, in a legal sense, exists; if the United States collected a claim against Great Britain as a claim due these insurance companies, and it was so understood by Great Britain, the United States ought to be estopped, and would be estopped in a court of justice, from now denying that it belonged to them; and Congress could not honorably withhold the money from them for a moment, notwithstanding the fact that their losses have already been made good, and that this whole fund would be so much clean profit added to their already large gains out of their war-risk business, as in fact it would be.

The trouble with this proposition, however, is that the United States did not present any claim at Geneva as the claim of an individual. The affair at Geneva was not one between individuals and Great Britain, but between the United States and Great Britain. It should be kept in mind that the wrongful act committed by Great Britain was not against individuals, but against the majesty, the dignity, and the peace of the United States; and that wrongful act, so far as Great Britain was concerned, was complete the moment the insurgent cruisers left her ports on their warlike mission; and what they afterward did could be referred to, and was referred to, in the arbitration only for the purpose of showing the damage that resulted from that wrongful act.

The following instructions to our agent at Geneva, from Secretary Fish, show whether the United States Government understood it was acting in a way to create a technical trusteeship, containing all the legal and moral obligations of that relation. They are as follows:

The President desires to have the subject discussed as one between two governments. In the discussion of this question and in the treatment of the entire case you will be careful not to commit the Government as to the disposition of what may be awarded. The Government wishes to hold itself free to decide upon the rights and claims of insurers upon the termination of the case. If the value of the property captured or destroyed be recovered in the name of the Government, the distribution of the amount recovered will be made by this Government without committal as to the mode of distribution.

Could anything be more explicit as to the purpose of our Government? The understanding of Great Britain was equally clear. Mr. Gladstone, at that time prime minister, said when interrogated in Parliament:

The Alabama claim was a public claim arising between the two governments.

Also that—

No claims of individuals have been submitted to arbitration in relation to the Alabama. What was submitted to arbitration was entirely a matter between two governments.—*Foreign Relations, United States*, pages 74, 377.

From the foregoing it is apparent that what the United States did at Geneva they did upon their own account as a nation and not as a claim-agent for individuals, although individual claims were the meritorious cause of the allowance, precisely as the minor child is the meritorious cause of the claim due to his father, not to himself, for his earnings.

The minor child, unless emancipated, has no claim for his earnings. He cannot bring suit against the man for whom he has labored any more than these individuals could have brought suit against Great Britain for these claims. The father alone can enforce a claim for the earnings of his minor child, and whoever heard of the father by reason of collecting such a claim being made a trustee of his child? No more could the nation be made a trustee for the claim of a citizen which the nation alone could collect. An instinctive parental justice in the one case would deal liberally, at least justly, with the child on account of the fund, and in the other case a lively sense of national justice stands ready to deal fairly with every American citizen whose claims were the meritorious cause of this allowance against Great Britain. Nevertheless the insurance companies desire the consideration of this question of trusteeship by a more technical tribunal than Congress; one in which the common law, which we are told is only another name for common sense, is administered.

Let us, then, invoke the common law as administered by the courts of England in which it had its birth. This question has never yet been decided by the courts of the United States for the reason that it has never yet come before them; but it has been repeatedly decided in England, and always that no trusteeship was created in favor of the citizen against the government for money received, as the Geneva award was received, by our Government. A single case, however, must suffice, the case of Rustomjee *vs.* The Queen, 122 Queen's Bench, 477.

The Emperor of China paid the Queen of Great Britain under a treaty $3,000,000 on account of debts due British subjects from Chinese merchants who had become insolvent.

Rustomjee was one of these creditors, and brought his "petition of right" against the Queen for his debt, claiming that the government held it in trust for him, precisely as the insurance companies claim in this case. The Court of Queen's Bench, Sir Alexander Cockburn, one of the arbitrators at Geneva, delivering the opinion, said:

In such a case a petition of right will not lie. The notion that the Queen of this country, in receiving a sum of money in order to do justice to some of her subjects, to whom otherwise injustice would be done, becomes the agent of those subjects, seems to me really too wild a notion to require a single word of observation beyond that of emphatically condemning it. In like manner, to say that the sovereign becomes the "trustee for subjects on whose behalf money has been received by the Crown," appears to be equally untenable. It comes simply to this, that her majesty, in order to enable her to see that injustice is not done to her subjects, stipulates for the payment in her hands of a sum of money. The distribution of that must be left to her majesty's discretion.

This case was taken to the court of appeals, and the judgment of the Court of Queen's Bench affirmed, Lord Coleridge, chief justice, saying:

We assent, upon full consideration, to the reasoning of the judges in the court below. The making of peace and the making of war, as they are the undoubted, so they are perhaps the highest acts of the prerogative of the Crown. The terms on which peace is made are in the absolute discretion of the sovereign.

* * * * * * *

The Queen might or not, as she thought fit, have made peace at all; she might or not, as she thought fit, have insisted on this money being paid her. * * * We do not say that under no circumstances can the Crown be a trustee; we do not even say that under no circumstances can the Crown be an agent; but it seems clear to us that in all that relates to the making and performance of a treaty with another sovereign the Crown is not, and cannot be, either a trustee or an agent for any subject whatever.

We do not, indeed, doubt that on the payment of the money by the Emperor of China there was a duty on the part of the English sovereign to administer the money so received according to the stipulations of the treaty, but it was a duty to do justice to her subjects according to the advice of her responsible minister; not the duty of an agent to a principal, or of a trustee to a *cestui que trust*.

What do the insurance companies say to this decision? In a pamphlet just out, reviewing the majority report, counsel for the Great Western Insurance Company make this answer——

Mr. HOOKER. Will it interrupt the gentleman from Vermont to ask a single question in this connection?

Mr. GROUT. Not at all, only I do not consent that it shall come out of my time.

Mr. HOOKER. I desire to know of the gentleman from Vermont if these insurance companies who are claiming a part of this fund have incurred risks and losses, why they should not be entitled to their proper proportion of the fund as well as anybody else?

Mr. GROUT. If the gentleman from Mississippi had heard the first portion of my remarks just submitted to the House, he could not fail to see that their actual losses had all been met. When he talks about the matter of "risks" he enters an uncertain realm.

Mr. HOOKER. Do I understand the gentleman to say that their actual losses have been paid out of this fund?

Mr. GROUT. Out of this very fund, certainly; every dollar of them. They were entitled to go before the court under the act of 1874 and receive the amount of their losses. Only three of the companies went before the court, as has been already shown, and they have been paid their losses. Presumably those who did not appear suffered no loss. It is moreover quite clear that they made large profits out of their war-risk business.

The following is the answer, Mr. Speaker, of the insurance companies to the decision in Rustomgee *vs.* The Queen, as made in the pamphlet already referred to:

The language relied upon in this decision does not justify the inference that a republican form of government should follow the example because a sovereign by divine right may refuse to recognize his agency to a subject which would hardly become a republican government, elected by the people as their agents and trustees.

To this it is only necessary to reply in the language of the Supreme Court in Savings Bank *vs.* United States, 19 Wall., 237, in which Mr. Justice Strong, giving the *per curiam* opinion, says:

It may be considered as settled that so much of the royal prerogatives as belong to the King in his capacity of *parens patriæ* enters as much into our political state as it does into the principles of the British constitution.

The sovereign power of the state, the power to execute the laws, to declare war, and make peace, is the same thing wherever or however exercised. In Great Britain it exists in the Crown. In the United States it rests primarily with the people; but as a political entity, through which the state expresses itself, it is found in the President and Congress; and if under the common law the British Crown is held free to dispose of money received from another power for the benefit of its subjects, in like manner the sovereign power of the United States must be left free to dispose of money received from another power for the benefit of her citizens.

Other decisions might be cited, but the case of Rustomjee against the Queen must be accepted as disposing of all claim by the insurance companies to this fund on the ground of agency or trusteeship, and as leaving it rightfully under the control of the sovereign power of the nation to be disposed of according to its sense of justice.

Now, to whom should Congress order this fund paid? We have seen that it is free from all legal claim on the part of any one; especially free from legal claim on the part of the insurance companies. In the face of this fact and the further fact that they have already been made whole, will any one say that they have an equal moral claim with those who suffered similarly but have not yet been made whole? No! Every instinct of justice goes out toward those who are still unpaid. Who are they? The second and third classes of claimants in the list already given, namely, those who suffered losses from the "exculpated cruisers" and those who paid "war premiums" to the insurance companies. The bill reported by the majority of the committee provides for the payment of these claims. Ought there to be objection to this? Manifestly not; and yet there is. Who objects? The insurance companies. Their objection, so far as their own claim to it is concerned, has been disposed of. But they raise a further objection, not upon moral or equitable considerations, but upon the technical legal ground (their objections are all of a technical character) that as this second and third class of claims were not allowed at Geneva, they should not be allowed or paid by the United States; at least, not out of this fund; thereby leaving it in the Treasury, unless they can have it, in the hope, of course, that it may somehow yet be reached by them.

It is true these claims were not allowed at Geneva; but let us see why not allowed. They were presented by the United States for allowance.

The following is the statement as presented by our counsel before the tribunal. (American case, volume 1, page 185.) The second class of claimants now before Congress, namely, for losses by the "exculpated cruisers," was included in item 1. The third class, namely, for "war premiums," is identical with item 4:

1. The claims for direct losses growing out of the destruction of vessels and their cargoes by the insurgent cruisers.
2. The national expenditures in the pursuit of those cruisers.
3. The loss in the transfer of the American commercial marine to the British flag.
4. The enhanced payments of insurance.
5. The prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion.

The second, third, fourth, and fifth items were wholly disallowed, and so much of item 1 as was for damages by the eleven "exculpated cruisers," holding Great Britain, as already stated, only for the acts of the Alabama, Florida, and the Shenandoah, after Melbourne. It has been thought by many that the allowance against Great Britain was a pitifully small one, as indeed it was when the magnitude of the wrong she did us and the spirit in which she did it are recalled. Under the law of nations, to entitle an insurrection to belligerent rights it must have an army, and, if it has a seaboard, a navy, and must have made such progress in the way of successful revolution as to justify the belief that it will succeed. Now, under this rule see what Great Britain did. So soon as she heard of the firing upon Fort Sumter, by royal proclamation she granted the rebellious States belligerent rights, before they had won a battle or had a single vessel of war afloat.

And then, as if to supply this glaring deficiency among the accepted requisites of nationality, she straightway applied herself to the work of furnishing the confederacy with ships of war, which, only for her proclamation, would have been pirates instead of privateers.*

It was a favorite view of Senators Sumner and Chandler, and many other leading American statesmen, that Great Britain should be called to account for the premature recognition of the revolted States as belligerents in violation of the international code; which, coupled with her conduct in furnishing them with ships of war, made her liable for all the damages done by those ships, both direct and consequential. And it seems that our Government held the same view at one time. This is apparent from the following abstract of the formal note from Secretary Seward to Great Britain, May 20, 1865:

That the act of recognition was precipitate and unprecedented.

That it had the effect of creating these parties belligerents after the recognition, instead of merely acknowledging an existing fact.

* * * * * * *

During the whole course of the struggle in America, of nearly four years in duration, there has been no appearance of the insurgents as a belligerent on the ocean, excepting in the shape of British vessels, constructed, equipped, supplied, manned, and armed in British ports.

* * * * * * *

That the injuries thus received * * * are of so grave a nature as in reason and justice to constitute a valid claim for reparation and indemnification.

* * * * * * *

That the nation that recognized a power as a belligerent before it had built a vessel, and become itself the sole source of all the belligerent character it has ever possessed on the ocean, must be regarded as responsible for all the damage that has ensued from that cause to the commerce of a power with which it was under the most sacred of obligations to preserve amity and peace.

Secretary Seward further wrote officially, June 13, 1868, as follows:

I have been singularly unfortunate in my correspondence if I have not given it clearly to be understood that a violation of neutrality by the Queen's proclamation and kindred proceedings of the British Government is regarded as a national wrong and injury to the United States, and that the *lowest* form of satisfaction for that national injury that the United States could accept would be found in an indemnity, without reservation or compromise, by the British Government to those citizens of the United States who had suffered individual injury and damage by the vessels of war built, equipped, manned, fitted out, or entertained and protected in the British ports and harbors.

There is not one member of this Government, and, so far as I know, not one citizen of the United States, who expects that this country will waive, in any case, the demands that we have heretofore made upon the British Government.—*Correspondence concerning Claims* vs. *Great Britain*, volume 3, page 688.

Now, had the United States insisted upon a settlement with Great Britain in accordance with the above claim, upon the ground of a premature recognition, it is plain that every one of the five items as presented by our counsel at Geneva would have been allowed—including, of course, losses by the "exculpated cruisers" and the "war premiums." Why did not the United States Government insist upon a settlement with Great Britain in accordance with the formal note of May 20, 1865, and the letter of June 13, 1868, and thus have possessed itself of the losses sustained by those two classes of claimants? For the reason that our Government thought it could better serve its interests not to press the claim upon that ground, as will hereafter more fully appear.

The treaty of Washington was ratified June 27, 1871, two ineffectual attempts having previously been made by our minister at Great Britain to reach a basis of settlement. The first did not receive even the approval of the President, and was never submitted to the Senate; the second was rejected by the Senate principally upon the ground that it provided for only individual losses, and not at all for the great national wrong under which the American people were smarting. It did not so much as contain or provide for an apology by Great Britain. But in article 1 of the treaty of Washington is found not only an ample apology but a distinct recognition of the fact that the two governments were arbitrating matters between themselves upon their own account and not upon the account of individuals. It is as follows:

ARTICLE 1. Whereas differences have arisen between the Government of the United States and the government of her Britannic majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims;" and whereas her Britannic majesty has authorized her high commissioners and plenipotentiaries to express in a friendly spirit the regret felt by her majesty's government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels; now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims which are not admitted by her Britannic majesty's government, the high contracting parties agree, &c.

The treaty further provided that "the tribunal should decide all questions that shall be laid before them on the part of the two governments," and spoke of the two governments as the "two parties" to the case, and nowhere said anything about individuals in connection with the Alabama claims.

The treaty also laid down three rules of international law, as follows:

First. To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction to warlike use.

Second. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the renewal or augmentation of military supplies or arms, or the recruitment of men.

Third. To exercise due diligence in its own ports and waters, and as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

These rules Great Britain would not admit were then the law, but she agreed they should govern in the arbitration, and that she would be governed by them in the future and do what she could to secure their adoption by other nations.

* They would have been, in the estimation of English laws, as well as the law of nations, piratical vessels. They never, therefore, would have been on the ocean, and the vessels and cargoes belonging to American citizens destroyed by them would have been in safety. Upon this ground, then, independent of the question of proper diligence, the obligation of Great Britain to meet the losses seems to me to be most apparent.—*Reverdy Johnson to Secretary Seward, correspondence concerning claims* vs. *Great Britain*, volume 2, page 764.

The tribunal met on the 15th of December, 1871. The United States presented their case under the five general items already given. Counsel for Great Britain at once objected to the third, fourth, and fifth items as outside the jurisdiction of the tribunal to hear and determine under the treaty.

On the following day the tribunal adjourned to June 13, 1872. Meantime the British press and people entered a violent protest against the consideration by the tribunal of the "indirect losses," included in the three last items, and even went so far as to demand a withdrawal from the arbitration if they were insisted upon when the tribunal should again meet. The tribunal met according to adjournment.

Counsel for the United States submitted their arguments, but Great Britain declined to proceed and asked for a further delay in order to obtain a modification of the treaty excluding the "indirect losses." At this juncture the tribunal announced the following decision:

After the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these claims, they have arrived, individually and collectively, at the conclusion that these claims do not constitute upon the principles of international law applicable to such cases good foundation for an award of compensation or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the two governments as to the competency of the tribunal to decide thereon.—*Papers relating to treaty of Washington*, vol. 4, p. 20.

This decision was accepted by our Government not only as final but as entirely satisfactory. See Secretary Fish's letter to our agent at Geneva, Mr. Davis, as follows:

In accordance with such judgment and opinion, from henceforth he [the President] regards the claims set forth in the case presented on the part of the United States for loss in the transfer of the American marine to the British flag, the enhanced payment of insurance, and the prolongation of the war and the suppression of the rebellion as adjudicated and disposed of, and that consequently they will not be further insisted upon before the tribunal by the United States, but are henceforth excluded from its consideration by the tribunal in making up its award.—*Correspondence*, 152.

Thereupon the trial proceeded, and the tribunal disallowed item two as not being distinguishable from the current expenditures of the war. The whole allowance was under the first item, and the whole of that item allowed except losses by the "exculpated cruisers."

Thus do we see, in the first place the United States Government forebore from pressing their claim for satisfaction upon the ground of the premature recognition of belligerent rights, and accepted therefor, in the treaty of Washington, the three rules of international law; and in the second place, the Government complacently accepted the disallowance by the tribunal, under the three rules, of the "indirect claims." The Government really did more than this. In order to save the arbitration, which was really in peril when Great Britain was refusing to proceed, and asking for a supplemental article to the treaty, (Foreign Relations, volume 2, page 526,) our Government offered to accept such an article.

You may say that this Government regards the new rule contained in the proposed article as the consideration, and will accept it as a final settlement of the three classes of the indirect claims put forth in our case.—*Fish to Schenck, same*, page 557.

But the matter was finally disposed of by the decision already quoted, which was far more satisfactory to the United States than a supplemental article, for that would have committed only Great Britain to its provisions, whereas the decision of the tribunal committed every one of the five great constitutional powers represented on the tribunal to such a limitation of the duties of a neutral as was thought to be of peculiar advantage to the United States in the future, for the reason that under our traditional policy of non-intervention enjoined by Washington in his Farewell Address and from our comparatively isolated position we shall be likely to be a neutral more of the time in the future than a belligerent, and as a neutral with our great extent of seaboard it might be difficult to always perform our neutral duties. Our Government saw this and thought it might perhaps be well to look a little to the future and not wholly to the past. While we desired a large allowance against Great Britain for her misconduct, we could not afford to have the liabilities of a neutral too much enlarged; could not afford—

To teach a lesson
Which being taught, might return
To plague the inventor.

Accordingly, during the adjournment of the tribunal, the United States directed its diplomacy to securing from the tribunal when it should reassemble a decision adverse to the "indirect claims." They did not wish to withdraw those claims, but were willing the tribunal should reject them, thus establishing by that high authority that a neutral power for the mere non-performance of neutral duties should not be liable for that class of claims. That the United States did so direct its diplomacy is apparent from the following letter from Sir Edward Thornton, the English minister then resident in this city, to Lord Granville, the British minister of foreign affairs, written just before the reassembling of the tribunal:

Mr. Fish said that the United States were quite as much interested as Great Britain in obtaining from the tribunal a decision adverse to those claims. * * * Mr. Fish told me that Mr. Adams left New York for England on the 24th instant, and that on his arrival there he would convince your lordship, though unofficially, that he [Mr. Adams] was entirely opposed to the principle of claims for consequential damages.—*Papers, &c.*, volume 2, page 482.

Mr. Adams was the arbitrator on the part of the United States, and it seems, after unofficially convincing his lordship, and thus preserving the arbitration, he officially decided against these claims.

If further proof be necessary that the United States consented to the disallowance of these claims, it may be found in a letter from Minister Schenck to Lord Granville, written also just before the tribunal assembled. (Schenck to Earl Granville, volume 2, page 478:)

The United States insist that they are entitled to a decision as to each class of claims, * * * but the United States have not desired or expected any award of compensation from Great Britain for the indirect damages. They have ever been free to admit in advance that it would have been better for the future advantage and interest of nations generally that the judgment of the arbitrators should be adverse to that class of claims. * * * It is important * * * that every question in regard to such claims should be solemnly considered and passed upon.

Thus you should clearly see the reason why the President may be able to agree not to press for a money award on claims, * * * while he refuses to withdraw them.

And again:

In the correspondence I have gone as far as prudence would allow in intimating that we neither desired nor expected any pecuniary award, and that we should be content with an award that a State is not liable in pecuniary damages for the indirect results of a failure to observe its neutral obligations. It is not the interest of a country situate as are the United States * * * to have it established that a nation is liable in damages for the indirect, remote, or consequential results of a failure to observe its neutral duties.—*Papers, &c.*, volume 2, page 476.

Now, Mr. Speaker, from the foregoing it must be clear that in order to establish the desired rule of international law and save the arbitration—when Great Britain, alarmed at the magnitude of these claims, threatened to break away from it—our Government, making a virtue of necessity, yielded this point and acquiesced in their disallowance, though it might have insisted and referred the difference to the arbitrament of arms. But instead of plunging the country into war and dooming the American people again so soon—

To go in company with pain,
And fear, and bloodshed, miserable train,
It turned this necessity to glorious gain.

A gain not for individual claimants, but for the whole American people; not for the past, but for the future. It is clear that to obtain a right construction of the three rules and at the same time save the country from war these "indirect claims" were sacrificed; were deliberately thrown overboard in order to get into port with any kind of an award under the treaty.

Nor was this to the discredit of our Government, for the reason that the United States was at Geneva upon her own business, and not upon the business of individual claimants? The Government did at Geneva what it thought was for the best interests of our American nationality; not alone for those who had suffered from the insurgent cruisers, nor for them any more than for every other class of American citizens, but for all alike. And not only for this generation, but for the generations to come.

Now, in view of the foregoing facts, who will say that the United States is under any less obligation to those citizens whose claims were presented at Geneva and disallowed, than to those citizens whose claims were allowed? She used all these claims to serve her own purposes, as she had a perfect right to do, abandoning some and insisting upon others, as her interests prompted, and out of the whole, in the expressive language of Sir Alexander Cockburn in Rustomjee *vs.* The Queen, "received a sum of money in order to do justice to certain of her citizens to whom injustice would otherwise be done," for the reason that as individuals they were wholly remediless.

Out of this fund the Government has already done "justice" to the insurance companies and to those suffering direct losses from the "inculpated cruisers." She has made those two classes of claimants whole; and there is still left enough of this fund to do "justice" to those who suffered from the "exculpated cruisers" and those who paid "war premiums"—just about enough to make them whole. Shall this be done and history furnished the fact that every one of our citizens who suffered losses from these Anglo-rebel corsairs were made whole out of the Geneva award? Or shall we refuse these two last classes because, in order to make other important points under the treaty, our Government abandoned these claims at Geneva, and pay the money to the insurance companies, as some advise, or, as others advise, leave it in the Treasury?

The claim of the insurance companies has been fully considered and disposed of; and, sir, he who thinks this money can be kept in the Treasury and these losers turned away empty-handed misunderstands alike his own judgment and the conscience of the American people. Shall we pay this money to these losers? Of course they have no legal claim against the Government any more than those had who have already been paid. Their claim rests wholly upon moral grounds. They can only appeal to the justice of the Government; and it is a principle of public law that where the Government is able and the case one of special hardship the Government will grant relief even out of her Treasury for losses sustained by an act of war. Here the money is not to be taken from the Treasury, but from a fund obtained in the adjustment of these very losses.

Very briefly, what are the merits of these claims? Of those suffering from the "exculpated cruisers," the case of the Delphine, built and owned at Bangor, Maine, may be taken as a representative one. She was burned by the Shenandoah December 29, 1864, before that vessel reached Melbourne. During the capture the Shenandoah carried the English flag, but displayed the confederate flag while the vessel was

burning. The claim for the Delphine was disallowed at Geneva on the ground that it was not sufficiently shown that the English Government had notice of the warlike character of the Shenandoah before she sailed from London on the 8th of October previous. But while at Melbourne the British Government had such notice that after she left that port Great Britain was held for the damage she did.

The Delphine was worth, say, $1,000,000, and was uninsured. Now, every one will say there ought to be some way to indemnify her owner who by her loss was made a poor man, and no one will say that the moral obligation of the United States to do so is any less because Great Britain escaped the payment of this claim. This case seems to be one of peculiar hardship, and appeals powerfully to the generosity of the Government, but probably not more so than every other claim of this class which makes up the total of $1,200,000. Hardly less meritorious is the claim of those ship-owners who paid "war premiums" to the insurance companies.

The moment it was known in commercial circles that these insurgent cruisers were afloat, no vessel carrying the American flag could obtain a pound of freight unless it was insured against capture, which of course came out of the owner of the vessel, as did also the war risk upon the vessel itself. These "war premiums" were at one time as high as 10 per cent. upon a voyage of three months, thus aggregating 40 per cent. per annum. The total amount of these premiums is almost $9,000,000. Ship-owners were compelled to pay these premiums, or let their ships rot by the wharves, or dispose of them to foreign flags at the price of the purchasers.

Some of these owners, with a pride natural and at the same time honorable to the American citizen, clung to their vessels and paid these premiums till insolvency overtook them. Others were driven into the guano and rice and other low-cost traffic, and, after maintaining for a time the unequal contest, accepted the situation and sold for what they could get.

As the result 715 vessels, with a tonnage of 480,682 tons, were transferred from the American to the British flag alone during the four years of the war, and probably an equal or greater number were transferred to other flags, so that at the close of the war our carrying trade, once respectable, was practically destroyed. In 1860 more than two-thirds of the foreign commerce of New York was carried by American ships. In 1863, as the result of three years of war, less than one-fourth was carried under our own flag, and over three-fourths under foreign flags. And yet the gentleman from New York, [Mr. COX,] who represents in part the locality furnishing these facts and to whom they ought to be known, a day or two since denied that the decline in American shipping was traceable to the war, and laid it to the tariff. He also denied that there had been any revival of our shipping interests since the war, which also needs correction. Though not as great as could be desired, there has been actual improvement.

In 1870 but 1,452,226 tons of freight in our foreign export and import trade were carried by American ships, while in 1880, 3,128,374 tons were moved upon American bottoms—a small but a certain improvement.

Now, Mr. Speaker, I venture the statement that no nation was ever yet great in maritime triumphs that did not protect her shipping when once created, as well as help it into existence. An efficient merchant marine is undoubtedly of great importance to any nation. It is a certain source of wealth and power, and yet it is the most helpless species of property known to the law, and for this reason it is the object of special protection with every nation that has ever yet risen to greatness on the deep.

Just now every one is deploring the insignificance of our ocean-carrying trade, compared with the magnitude of that trade itself and our own great share in the commerce of the world.

Gentlemen may talk here about the tariff, but before the American people will put their money into ships and send them down to encounter all the perils of the deep, you will not find them talking about the tariff, but they do want to know what the policy of the Government is to be toward that class of property when once those ships are afloat. They want to know whether in case of war the Government will be not only able but willing to protect her shipping interests, and whether if those interests be destroyed the Government is to turn a deaf ear to the losers, or whether they will deal liberally, at least justly, with this class of investors; at least, that is what these men whose ships were taken from them by these insurgent cruisers want to know before they will be likely to reinvest in this class of property.

Now, assuming that it has been clearly shown that Congress has rightful authority over the balance of the Geneva award, that it is free from all legal or further moral claim by the insurance companies, and that all other classes of claimants have been justly dealt with, who will say that what remains of that award ought not to be distributed among those claimants still before us whose property was destroyed or taken from them by the public enemy?

It must be admitted that the questions growing out of the distribution of this fund, new as they were to our people, have been perplexing ones. In fact, differing views have been held and are still held by the ablest men in both branches of Congress, as may be seen by the various majority and minority reports upon the subject and by the several votes of the two Houses. But for one, sir, my mind is clear. I am in favor, upon what I conceive to be plain principles of justice no less than a sound public policy, of making every one of our citizens who suffered loss from these insurgent cruisers whole so far as this fund will do it.

If this is to be done it should be done without further delay. Almost ten years have elapsed since the award was made, and the public mind has tired of the subject; some journals, of no mean influence either, even advocating the return of the money to Great Britain as the honorable way out of the dilemma in which Congress has thus far felt itself involved. And if Congress would not establish the impression that it is unequal to the disposition of this question, it should act at once.

The Geneva arbitration and award mark an epoch in history. It furnished the spectacle of two great powers appearing in court and settling by peaceful means a serious national dispute, far more serious than has been the cause of many a vindictive and bloody war. And most fittingly has the capital of that little European republic, which was honored as the seat of this international tribunal, placed a memorial tablet commemorative of the event in the chamber of the Hotel D'Ville where its sessions were held.

It only remains for the American Congress to make such a just and wise distribution of the money there awarded as shall becomingly complete this important passage in our history.

Mr. WILLITS. Mr. Speaker, I oppose the bill presented by the majority of the committee. If I believed that the contest at Geneva was between nations simply, involving simply national questions, I should vote to keep this money in the Treasury, every dollar of it, and stand up and be counted in favor of that proposition every time. If I believed that this money had been obtained by this Government without any obligation to pay it to somebody, I should vote to keep it in the Treasury. The Government is rightfully in possession of this money. All parties concede that. If it was sued for as a nation, for national purposes only; if it was paid by Great Britain to the nation for national purposes only, it is held by the nation today for national purposes, and let us keep every dollar of it in the Treasury for national purposes.

It is said by one side that the insurance companies ought not to receive any of this money for the reason that they got their pay in war premiums before the vessels were destroyed. On the other hand it is shown conclusively that the owners of the vessels have got their full pay; first, the part insured from the insurance companies, and the balance in full from the fund under the act of 1874.

Now, on the other hand, the insurance companies insist that the men who paid the war premiums got their consideration as the time went along whether their vessels floated safely or not; got their consideration in the fact that their property was insured; got their consideration as much as I got the consideration in paying the premium on my policy of life insurance last year, though I did not die during the year; and for the reason that I had an assurance that if I died within the year there would be a sum left for my family.

So there seems to be nobody, according to the varied statements which are made in reference to this award, who has not been paid in full except the United States Government. The poor Government, as you might say; the Government is a loser all around. It has been a great sufferer and yet not a dollar of money derived from this award has gone into the Treasury of the United States Government for the Government. Now, I repeat that if I believed that this fund is held by the Government for no person, let us keep it in the Treasury because the Government has been the principal loser. If it is true as the majority claim that there is no obligation on the part of the Government to pay this fund in any direction, then I say again the best thing we can do is to keep it for ourselves.

But, Mr. Speaker, the discussion of this question from 1873 down to the present time has been based upon the assumption that this money does belong to somebody besides the United States Government; and if that be true it is no question of grace, it is no question of favor, to pay it over to the persons to whom it does properly belong. It is the duty of the Government, it is the obligation of the Government, to do it, and not a mere favor, not a mere act of grace, as claimed by the gentlemen who have preceded me. If you mean by favor, if you mean by grace, that we have no legal right to sue the Government, that we have no way of enforcing our claim against the Government, I grant you in that sense of the word it is a favor; but it is a right every man ought to have to get his just dues from the Government in some way or other. That much he is entitled to from all governments. It is no favor. Again, Mr. Speaker, it is not quite true, as was stated yesterday—it is not true as I understand it was stated—that in the treaty of Washington of 1871 private claims cease to have any existence. It is not true.

Mr. HUMPHREY. Will the gentleman permit me to interrupt him?

Mr. WILLITS. Not now. It is not true that in that treaty nothing but national claims were considered. It is not true that these claims were held, were used simply and purely to get the national damages claimed.

Now I will hear the gentleman from Wisconsin.

Mr. HUMPHREY. My statement was in substance that in the treaty of Washington, under article 12 of that treaty, claims on account of private citizens were to be allowed, or otherwise disposed of. But under the first article of the treaty the claims generically known as the "Alabama claims" were the foundation upon which the Geneva arbitration was based in disposing of the question of damages done to the nation for the great national wrong done her.

Mr. WILLITS. The distinction between the two classes of claims is perfectly marked. Those under article 12 were claims such as had been a subject of settlement for years under international law as it previously existed. Here was a new class of claims, private claims nevertheless, just as much private as the others were, but having a new element of facts in them that rendered it necessary there should be some basis on which they could be adjusted.

Now, I say, Mr. Speaker, it is not true, as I understand it, that these claims were used simply for the purpose of settling a national question. They were not used simply as a yardstick to measure damages due to the nation as such. Why, Mr. Speaker, from the very first these claims had been filed in the office of the Secretary of State, and for years and years were the animating principle that inspired the Government in making this very treaty. It is true that under the Johnson-Stanley treaty nothing but private claims was involved. It is true also that under the Johnson-Clarendon treaty nothing but private claims was involved. Yet they were involved nationally just as much under those two as under this of 1871, in this respect: that the Government presented them because no private citizen of the United States could make a claim for any such thing against the Government of Great Britain; he had to do it by and through his own national government; and therefore they were national, they were just as much a national claim in the Johnson-Stanley and the Johnson-Clarendon treaties as they were in the Washington treaty.

Mr. HUMPHREY. Was not that the reason the Senate rejected the Johnson-Clarendon treaty?

Mr. WILLITS. I am coming to that. The Senate did not reject it because it was a treaty for private claims. They rejected it—and Mr. Sumner expressly urged that it should be rejected—because the treaty was simply for private claims, and he insisted it should be for national claims besides. That is it exactly.

Mr. Sumner spoke against that treaty in his celebrated speech of April 13, 1869. He opposed it on the following grounds:

First. Because it contained no apology for England's insults and injury to the United States.

That was national. That was not in the Johnson-Clarendon treaty. That had nothing to do with the question of damages; did not in any way interfere with or include the question of private rights at all.

Second. That it made no provision for the adjustment of the national claim for damages.

Not because the claim for private damages "as a whole as a national loss" was not included in the treaty by any means, as stated yesterday by the gentleman from Maine, [Mr. REED.] And that is the distinction the gentleman from Maine [Mr. REED] has not properly made. It was because the treaty did not provide for the claim for our own national damages and not because the private claims were not made national. Mr. Sumner did not object at all to the treaty because the private claims had not been made national—not at all; but because the treaty did not include any claim for the damages to the United States itself. Further:

Third. That it recognized no rule of international duty applicable to such cases, or, to state it in his own words, "England simply proposes to submit the question of liability for individual losses to an anomalous tribunal where chance plays its part. This is all. Nothing is admitted even on this question; no rule for the future is established; while nothing is said of the indignity to the nation, nor of damages to the nation."

Nothing of the indignity to the nation nor of damages to the nation. Mr. Sumner added:

On an earlier occasion it was otherwise.

Now, what did we do? It was very manifest that the Johnson-Clarendon treaty was not broad enough. It did not include the national question. No objection was made because it did include the individual losses. What did we do? We made provision first for a treaty which had in it an expression of regret and apology. That was one point that Mr. Sumner wanted. Next we provided for an arbitration of national as well as private claims. There were national claims for damages as well as private claims for damages. Then the treaty established the three rules.

As I said before, the treaty as made provided for and saved the individual claims just as fully as the Johnson-Clarendon treaty did; so that it was simply a question of national claims not being included rather than of private claims not being included in the right manner.

The treaty was made, and our Government gave some construction to it; and perhaps it is as fair a way of determining what construction they gave to it as we can find to read the notices that were given by the Government to the various claimants. I will not read the whole of the notices, but simply enough to indicate what the point is, and will print the whole in my speech.

Under date of September 22, 1865, the following notice was issued:

Citizens of the United States having claims against foreign governments not founded on contract, which may have originated since the 8th February, 1853, will, without any delay which can be avoided, forward to this Department statements of the same, under oath, accompanied by the proper proof.

Starting right out with a recognition of claims against foreign governments. The reason is, because private individuals could not make any claim against foreign governments directly, but had to do it through our own Government.

Mr. HUMPHREY. I do not wish to interrupt the gentleman, but I would like to ask him this question: If a citizen of this Government could have a claim against England in this case for want of due diligence on her part, if there was any claim whatever, was it not necessary that this Government as a sovereign Government must make it as a government, and did not the claim exist in favor of this Government, and not in favor of any private individual growing out of this want of due diligence?

Mr. WILLITS. I say that he would have a claim in the future; in the past he did not have any such right. Until the three rules were adopted, as I shall attempt to establish when I get to that point, he had no such right. But now, under the three rules as they have now become international law, he would have a claim just as much as the Government would have a claim against the foreign government. That is now international law. But before those three rules were adopted the individual had no right, because such a right had not been incorporated into international law. The point is this: whether private claims were not in this last treaty still held as a separate class.

Mr. HUMPHREY. Once more, and I will not interrupt the gentleman again. I understand that the three rules have simply determined this—and under the Geneva award it is now a matter of international law—that each nation is bound to use due diligence in a case similar to that which arose in the late war, and if it does not do so it is bound to the government which is injured by the want of such due diligence.

Mr. WILLITS. That is the law in relation to the future. But before those three rules were established individual claimants had no law upon which they could base their claims as they now have under these three rules. After the treaty was passed in September, 1871, this notice was given to claimants by the State Department:

SIR: I have to acknowledge the receipt of your letter of the —— instant, and its inclosures. In reply, I inclose a copy of the treaty concluded with Great Britain on the 8th of May last, and general instructions as to the proof of claims prepared for the use of claimants in the absence of rules by the tribunal which may pass upon the claims.

Mr. BRIGGS. Did not the treaty embrace other claims besides those covered by the Geneva award, in a separate article?

Mr. WILLITS. Yes, sir.

Mr. BRIGGS. And did not the notice refer to those claimants?

Mr. WILLITS. No, sir. I will read further:

In the absence of rules, and in anticipation of the action of the tribunal, this Department cannot assume to determine what claims it may or may not be proper to prefer under the first eleven articles of the treaty, nor to direct what form or extent of proof will be necessary to establish them, nor the effect of insurance upon the question of right of compensation. * * * Persons desiring to lodge claims in the Department for that purpose are requested to do so without delay, in such form and sustained by such proofs as they may be advised or think proper to rest their claims upon.

The gentleman from New Hampshire [Mr. BRIGGS] will see that the notice was for claims under the first eleven articles, not under the twelfth, as the gentleman supposed. All through there was this question kept separate, this idea that there were private claims to be referred as such to the Geneva tribunal, not as a question of national loss but as a question of individual loss. And all through the correspondence the question of claims bristles in and on and over it all; it was a question of private claims as well as national, and private claims of a different character from those mentioned in article 12 of the treaty.

Before they got through there was nothing but individual claims left; everything else had been excluded. Everything that was national had been eliminated before they got through, and it came down to a question of private claims, just as much as it was under the Clarendon treaty.

That being so, and these claims having been presented by our Government, I say that in my judgment there is an obligation upon this Government to pay the parties for whom claims were presented. And notwithstanding what the gentleman from Wisconsin [Mr. HUMPHREY] said yesterday I believe, and it is so in the record, that the award was to be an indemnity to the sufferers and losers by the acts of the confederate cruisers. It was an indemnity given to the nation; the award was to be paid to the United States it is true, but it was an award with which the United States was to compensate the persons who had suffered losses.

Mr. HUMPHREY. Once more, if you please. The claim which we made against England was that she had committed an act of war against this Government. And when we received the $15,500,000 we received it as an indemnity for the wrong done to us as a nation, just as much as if we had fought battles with England and had received the amount after such a war.

Mr. WILLITS. Everything the Government of the United States claimed as a nation was rejected, and nothing was allowed by the Geneva tribunal except what was given to us for individuals and as an indemnity to individuals. That being so, if it be true that the claims were allowed to be paid in the first instance to the Government of the United States, as I concede was done, then I think there is a moral obligation resting upon us which will sustain the legal right of the parties to the award that was given for them.

Mr. HUMPHREY. Only once more. Not every claim of the Government was rejected, but simply that part of the claim of the Government which was for speculative and indirect damages.

Mr. WILLITS. Everything that was national was rejected, and I will come to that before we get through.

Mr. HUMPHREY. They were all national.

Mr. WILLITS. We had $15,500,000 given to us under that award. By the act of 1874 we paid away part of it to the owners of vessels, over and above what they had been insured, and in other ways, until the amount was reduced to about $9,000,000. The question now is, What shall we do with that amount?

There were 129 vessels destroyed. Of those 129 vessels 89 had been insured and 40 were not insured. The owners of the 40 vessels which were uninsured have been paid in full. The owners of the 89 vessels which were insured have been paid, under the act of 1874, out of the award, the full amount and value of their vessels as proved, less the insurance money obtained from the insurance companies. Therefore the owners of the vessels have got their pay in full, partly from the insurance companies and partly out of this fund. Now, what shall we do with the balance?

Let us look briefly at the facts in the case. During the late civil war the confederacy equipped armies and with them destroyed hundreds of millions of the property of individuals on land; equipped a navy and did great injury on the high seas to the property of individuals. Primarily neither class had any remedy. It is one of the sad incidents of war that no nation can compensate such losses. But in this case of the injury on the sea, an element existed that did not on the land. This confederate navy was not equipped from its own ports. It was claimed that Great Britain, a neutral nation, had connived at its equipment in her ports, or had neglected her duties as a neutral, whereby this navy obtained power and means to injure us; that she had contributed to and was in a great measure responsible for its existence and success. We claimed that she was the cause of the great damage, and she must pay for it. Of this we gave her due notice from time to time.

After we had closed the war we took up the question of the responsibility of Great Britain for this great damage. We set our diplomacy to work, and in the mean time we proceeded to make up our little bill. It became necessary to know what had been destroyed, who had been injured, and to what extent. So notice was given to all parties to present their claims for damages. There was no guarantee that in the event of an award all should be paid. All were to be presented by our Government. There was no attempt to discriminate between them or to pass judgment on their equities or merits. Great stress is laid by some upon the fact that a list of these claims was tabulated in the State Department; and that in this list were included the claims of insurers and others, as though this fact alone was a recognition of their claim for payment out of the fund. We guaranteed nothing, neither did we recognize the validity of any one's claims. These claims individually and collectively were to be presented to Great Britain for payment, and if she paid them individually they would be satisfied, and if not they were to go without their pay. If she paid them all to the United States, there would be an implied provision that we were to pay all the claimants, at least what was fairly their due. If she paid only part, those rejected from the necessity of the case could not claim the money paid to or for the successful.

The result was that everybody considering himself injured put in his claim—owners of vessels, of freights, of cargoes, mortgagees, seamen for their wages and personal effects, passengers for their baggage and for detention, underwriters, and those who had paid the enhanced insurance or war premiums; a consul put in a claim for loss of office, $10,000; and a harpooner for personal injury, $7,000; in fact everything that could be chargeable directly or indirectly was received and tabulated in due form, and the grand aggregate constituted the sum total of the damages claimed. Even the United States put in her claim of over $7,000,000 for expenses in pursuit of the cruisers, with bills, vouchers, and orders, all certified to by George M. Robeson, Secretary of the Navy; this last was the national money damage directly resulting from the operations of the cruisers.

These claims were all for money, duly listed, accompanied by proofs more or less complete, and formed a grand aggregate of some $26,000,000, exclusive of interest, which if added would bring the claim up to about $35,000,000. In addition to the claims so listed the United States made claims to great damages, not capable of being definitely estimated, and for which no specific amount was demanded, but which were as real as those capable of being tabulated, to wit, (1,) "the loss in the transfer of the American commercial marine to the British flag;" (2,) "the prolongation of the war and the addition of a large sum to cost of the war and the suppression of the rebellion." For these two claims the United States asked compensation and remuneration as much as for the other three, which were (1) "the claim for direct losses growing out of the destruction of vessels and their cargoes by the insurgent cruisers;" (2,) "the national expenditure in the pursuit of those cruisers;" (3,) "the enhanced payments of insurance." And why not? They were as substantial; and the amount was so much larger if calculated in dollars and cents that the itemized bill dwindled into insignificance in comparison. This was the account stated in part with a bill of particulars and in part *ad damnum*, with the qualification that there was money in it.

These were the accounts made out under the treaty and claimed under it—all made possible and none excluded by it. There were some things settled by the treaty that did not go to the board of arbitration. England had early in the war recognized the confederacy as a belligerent. This she had a right to do, as an independent nation, even under the laws of neutrality. It was a matter in her own discretion and of itself was not a *casus belli*. Still our Government remonstrated against it, and for it we had a grievance. That act had given nationality to the rebellion and had sent a thrill of joy and had added assurance to the hopes of a rebellion that had assumed grave proportions. Because in part the Johnson-Clarendon treaty of 1869 had made no provision for this, as we thought, gross insult to us as a nation, it was rejected by the Senate. The balm was administered in the treaty of Washington, in an apology on the part of Great Britain for the insult. It is claimed that for this apology the United States bartered away some of the rights of its citizens.

Not so. The treaty of Washington rendered possible the five claims made under it, and without it they could not have been considered at all, and obtained the apology besides. Nothing was bartered away, except perhaps the indefinite claim for money damages for the added years of the war caused by the recognition of belligerency. For this we accepted the apology, and no private rights were curtailed by it. This injury was national, and no private claimant has just cause of complaint that it was not assessed in damages. Now, what did we gain by the treaty? A forum and a law to adjust claims for damages caused by the confederate cruisers. Bear in mind that before that treaty there was no recognized law giving damages for such an injury. Nothing short of war could enforce them. The confederacy had collapsed so that the immediate cause of the injury could not respond in damages, and England, the remote cause, utterly denied all liability for them.

The law of nations had made no provision for such a state of facts. History had chronicled no such a rebellion. Law was silent on the peculiar phases presented by it. And yet our Government said England ought to pay. England repudiated the claim. Formulated, the propositions were as follows.

On the part of the United States by Mr. Seward:

> Upon these principles of law and these assumptions of fact, the United States do insist and must continue to insist that the British Government is justly responsible for the damages which the peaceful, law-abiding citizens of the United States sustain by the depredations of the Alabama.

On the part of Great Britain by Earl Russell:

> Her majesty's government cannot, therefore, admit that they are under any obligation whatever to make compensation to United States citizens on account of the proceedings of that vessel.

In this condition of affairs it is plain there was slight chance for compensation. There was a dispute about the law, and a law had to be made which England would recognize. Finally about nine years' persistent diplomacy resulted in the treaty of Washington, which gave the forum and the law. Fault is found with the law, because under it some claims were allowed and some were rejected. Suffice to answer that it was made by two equal parties and had to have the assent of both. But let us examine it—that part that bears upon the point in issue.

What did we gain by the treaty? And here I come to the point suggested in the question of the gentleman from Wisconsin, [Mr. HUMPHREY,] whether before the treaty these claimants had any claim against Great Britain. I insist that they had not; that there was no law under which the claims could be made; that under the treaty we got the law by which the claimants obtained a status in an international court.

Mr. HUMPHREY. May I interrupt the gentleman a moment? We claimed as a nation that before the treaty we had a claim upon Great Britain. We claimed that under the foreign-enlistment act of England, which was enacted as much for our benefit as our foreign-enlistment act was enacted for hers, there was a tacit understanding that England was bound to use due diligence, as she had called upon us to use due diligence in similar circumstances. We had performed our duty in this respect during three wars in which she had been engaged; and she was bound as a matter of international law to pursue the same policy toward us.

Mr. WILLITS. We claimed all along that these three rules were the law, but Great Britain had denied it; that was the difficulty. The principle had to be incorporated as a part of the international law, and not until these three rules were adopted was there any basis for any such claim.

Mr. HUMPHREY. Oh, yes; Great Britain insisted that we should enforce our foreign-enlistment act for her benefit, but she refused to enforce hers for our benefit.

Mr. WILLITS. I understand that; but she denied the legal principle. I will show as I go along that this was a point England had never conceded until the treaty was made. It is only under the treaty that any of these men could get a dollar. And they never could have obtained anything under section 12 of the treaty, because that section simply recognizes claims such as had been recognized by international law prior to that time.

Mr. HUMPHREY. They never have obtained and never will obtain, as private individuals, a dollar under this treaty.

Mr. WILLITS. We are going to try to give some of this money to them.

Now, what did we gain by the treaty? We gained a forum and a law which did not exist before—a forum and a law to adjust claims for damages caused by the confederate cruisers.

The question is about the three rules—what they established and what they did not establish. Article 6 of the treaty provided—

In deciding the matters submitted to the arbitrators they shall be governed by the following three rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law—

Recognizing the fact that these three rules had not yet obtained as international law—

not inconsistent therewith as the arbitrators shall determine to have been applicable to the case.

Now, what are these rules?

First. To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace—

Was not that right? Was not that what we had always claimed the law ought to be? The exculpated cruiser cannot find any fault with that; the war-premium man cannot justly find any fault with it; the insurance man has no right to find any fault with it. That is good law, and it ought to be incorporated as a part of the international law—

and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted in whole or in part within such jurisdiction to warlike use.

That is good law; nobody ought to dispute that.

Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly. To exercise due diligence in its own ports and waters, and as to all persons within its jurisdiction to prevent any violation of the foregoing obligations and duties.

Her Britannic majesty has commanded her high commissioners and plenipotentiaries to declare that her majesty's government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in article 1 arose, but that her majesty's government, in order to evince its desire of strengthening the friendly relations between the two countries, and of making satisfactory provision for the future, agrees that, in deciding the questions between the two countries arising out of those claims, the arbitrators should assume that her majesty's government had undertaken to act upon the principles set forth in these rules.

It was thus expressly declared that the Government of Great Britain did not concede that these rules had been in force at the time the claims arose; but she concedes them for the purposes of this case as the law; by agreement they were made the law so far as this case was concerned.

Mr. HUMPHREY. The law of this case.

Mr. WILLITS. Yes, the law of this case; and it became the law under which every man filed his claim, and under which the adjudication was made; and without the law as thus conceded he would have had no valid claim at all.

These are the three rules that were to govern in this case and were to be the law in the future between the two governments, who agreed also to endeavor to have them incorporated as a part of the law of nations. Are they not right and just to all parties? No one claimed that England had taken up arms against us, or made herself a public enemy by her course. The complaint was against her as a friendly nation, that she had not exercised due diligence in the matter of the confederate cruisers. These rules agree upon a standard of liability for the government of neutrals, and declare what kind of negligence shall subject them to liability for damages. They were more severe upon neutrals than pre-existing international law, otherwise Great Britain would not have resisted them. Admitting the fact that Great Britain had not exercised due diligence, she agreed to pay. If she had exercised it, then she was not to pay. Was not that right?

If she had had reasonable ground to believe a confederate vessel was being fitted out in her ports, she agreed that she ought to have prevented it, and on failure to do so, she should pay resulting damages. If she did not have that reasonable ground for belief, ought she to pay? We think all fair-minded men will assent to the proposition that she ought not to, even those claimants who suffered by the exculpated cruisers. It all depends upon the knowledge and culpability, upon the reasonable ground for belief and due diligence, all questions of fact which were submitted by the arbitration. If the facts showed no "reasonable ground of belief," also showed "due diligence" on the part of Great Britain, as to the exculpated cruisers, by what rule of law or justice can those injured by them complain?

On the other hand, the rules did not assume to change the rule of damages, or the measure of damages. This was all left to the principles of international law, which in this regard is much the same as at common law. The right to claim damages for a cause not hitherto recognized by international law was conceded, but the rule of damages, which is common to all law, and has obtained in international as a principle hoary with age, was to govern in this case, to wit, that remote and indirect damages are not subject to assessment. If our friends who claim for "war premiums" are dissatisfied with the rejection of their claims they should mourn over the character of those claims rather than swear at the court for invoking a principle that inheres in all sound jurisprudence.

Even our friends who lost by the exculpated cruisers could not have been benefited if these rules had not been adopted. Without these rules they had no right that they could adjudicate—no recognized claim. If under these three rules it turns out that their claims were rejected because Great Britain had exercised due diligence, these men cannot find any fault with the treaty. Nothing had been bartered away.

Mr. HUMPHREY. May I interrupt the gentleman again?

Mr. WILLITS. I beg the gentleman to excuse me. I would like to yield; but I must hasten to a conclusion.

Again, if you will examine those three rules, as I before stated, and I wish to emphasize this point, you will see that the rule of damages has not been changed at all. The question involved in the three rules is simply the question of the culpability or the diligence of Great Britain.

But the measure of damages is not in any of the three rules. How are these damages to be measured, by what rule, by what law? Not by the three rules, because they do not mention it. By the international law, and the basis of international law is the common law in reference to the measure of damages. The sixth article says "that all the principles of international law not inconsistent with these three rules shall be applicable to the case."

Now, under the common law there is no measure for indirect, remote, consequential damages, none whatever.

Mr. HUMPHREY. There is for consequential damages.

Mr. WILLITS. Not for remote and indirect damages at any rate. When you come to look at these claims alongside of the treaty and international law every man who filed his claim knew it had to be subjected to the principles of international law in reference to the measure of damages. There are some damages which are not the subject of assessment, and the court found in this case there were some of these claims which under the measure of damages laid down by the international law had to be rejected. [Mr. HUMPHREY rose.] The gentleman must excuse me. I have not time to yield to further interruption.

Mr. HUMPHREY. They were consequential as against Great Britain, but they were direct as against the confederate government.

Mr. WILLITS. They were all indirect, those that were rejected. Only direct damages have ever been assessed and allowed.

But there is another statement to which I will refer. I find in this report of the committee, (and I will say this for the chairman of the Committee on the Judiciary, that he has made by far the ablest report on his side of the question which, as I believe, has ever been made in any Congress of the United States)—I find he has fallen, as I think, into this error, that the court of arbitration rejected the war-premium men rightly and justly—he concedes that. I think so, too—but he gives these reasons for it, and I ask the Clerk to read from the report of the committee the passage which I have marked.

The Clerk read as follows:

First. It is said that the tribunal rejected the war-premium claim as indirect; therefore Congress should do so. This objection is disposed of when the fact is once clear in the mind that the Geneva tribunal was deciding a case "between nations," while Congress has to decide a case between individuals. The tribunal was right in rejecting war premiums *eo nomine*, because they were not a national loss, not (to use their language) "damages between nations."

When the ship-owner paid a war premium to the Atlantic Mutual, the ship-owner lost and the Atlantic Mutual gained, but the country neither lost nor gained. Hence, as between nations there was no damage. But Congress has to decide, not between nations, but between ship-owner and insurer. And when you add to the fact that the ship-owner paid and the company received the other fact that the company made hundreds of thousands more than it paid out, it would seem clear, on principles connected with the four rules of arithmetic, that of the two the ship-owner lost.

Mr. WILLITS. It is manifest that statement in the report of the majority of the Committee on the Judiciary indicates that that position is in one sense vital to their case. There must be some reason other than the ordinary reason, based upon acknowledged principles of law, assigned for the rejection of those claims, and in order to avoid the point that under the treaty those war-premium claims were not admissible because indirect.

Let us look at this. I am inclined to think this theory "will not wash." What did the tribunal say on the subject? I will read it. The tribunal, when it rendered its judgment, said as follows:

First, the loss in transfer of the American merchant-marine to the British flag.

That is one of our claims.

Second, enhanced payment of insurance.

That was another.

Third, prolongation of the war and addition of a large sum to the cost of the war for the suppression of the rebellion.

That was the third.

They have arrived individually and collectively at the conclusion that these claims do not constitute, on the principle of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations, and should on such principles be wholly excluded from the consideration of the tribunal in making an award.

There were three claims rejected by this judgment, all in the same category, and each one of them upon the same ground, and not upon the ground assigned by the gentleman, but on the ground that under the principles of international law they could not be considered.

Mr. REED. As between nations.

Mr. WILLITS. Because it was between nations, and I would like to know where you get international law except as between nations. All were in the same category.

Now, let us look at them. The gentleman says because the Atlantic Mutual Insurance Company received $100 from the ship-owner it was

simply a question between individuals, and the country neither lost nor gained. How was it with the other two cases? The loss of transfer of the American merchant-marine to the British flag was rejected for the same reason. Was not that a loss to the country? Was it not a national loss? Did we not put it in as a claim and assert that it was a national loss? It was a loss to the nation, yet it was rejected for the same reason as the war-premium claim which was rejected, as he alleges, because it was a loss between individuals. His claim was rejected for the same reason that the nation's was—because it was indirect.

Mr. REED. Will the gentleman yield to me for an interruption?

Mr. WILLITS. I would rather not. My time is nearly out, and you will have an opportunity again.

Again, the claim as to the prolongation of the war and the additional cost of the war, thereby necessitated for the suppression of the rebellion, was rejected for the same reason. Both of these claims were rejected because they were for indirect damages, indirect losses, which could not under international law be specifically assessed.

But the gentleman says that this question in reference to the enhanced insurance was rejected because it was not a national loss. Unfortunately for the gentleman's argument, the court did not say so in rejecting it. Let us see what the record says when they came to enter judgment in reference to the cases.

Count Sclopis, on entering up the judgment in reference to that question, on behalf of the arbitrators then declared:

That the several claims for indirect losses mentioned in the statement made by the agent of the United States on the 25th instant, and referred to in the statement just made by the agent of her Britannic majesty, are, and from henceforth shall be, wholly excluded from the judgment of the tribunal, and directed the secretary to embody this declaration in the protocol of this day's proceedings.

These several claims so excluded were the same three claims I have just spoken of.

Indirect damages and *indirect* losses were rejected because they were indirect, and for no other reason. And when the parties filed their claims they knew they were to be subjected to the priciples of international law.

But, Mr. Speaker, I wish to comment on one other point here in this connection before I leave this portion of the case. It is claimed that in these three rules—it was claimed first that in the adoption of the three rules we bartered away something. They fail, however, to show what we bartered away. Next they claim that when we came to file our cases we bartered them away. It was stated by one of the attorneys in an argument before the committee for the claimants that—

The United States attempted to get law and to get money. It had claims all for money; and it bartered away some of these claims for law and on the others got the money.

Now, there is nothing in this record that indicates such a thing; but if it were true that the Government was so mean as to barter away the claims of private citizens in order to get law for itself, in the name of common sense why should not the Government pay that claim which it thus bartered away from its own Treasury rather than take it from any other parties for whom the Government secured payment? But it was not true. There was no bartering at all. The rights of claimants were left just as they were before. Under the law, the court construed the claims as indirect and not assessable under the principles of international law. Now, what did they do? They rejected these three classes of claims. That left but two more.

You will see that at the time the judgment was made they did not reject the claims of the United States, individually or nationally, for the expenses incurred in pursuit of these cruisers—over $7,000,000. That was a direct claim. It was not rejected with the three classes to which I have referred for the reason that it was a claim that could be determined. You could estimate the amount of it. It was right before them; but it was rejected finally when the award was made, and for the assigned reason that it was a part of the general expenses of the war. Now, then, of the five classes of claims that were presented to the board of arbitration all were rejected but one, all three classes of national and one private—the "war premiums." Four of the classes were rejected wholly, and that left it simply a question of the assessment of the amount of the other class of private claims, the direct claim for vessels, &c., actually destroyed. So it came back after all to the Johnson-Clarendon treaty. Everything was rejected that Mr. Sumner wanted except that he got his apology.

Then the arbitration board went to work to foot up the account.

Let us look at the history of the claims which were presented to this board, as well as the character of the claims themselves. The first claim growing out of the acts of these confederate cruisers was made on the 31st day of January, 1863, and was made by the New York Mutual Insurance Company of the city of New York, claiming that the ship Brilliant had been destroyed and that the company had paid the insurance policy of $9,245. The ship Manchester had also been destroyed, for which the company paid the policy of $7,500, and here was what they claimed:

Your memorialists are of the opinion that the said steamer—

That is the Alabama—

having been built and fitted out and sailed from a port in Great Britain, and her crew being composed principally of the subjects of the Government of Great Britain, she is to all intents and purposes a British vessel.

Why, here is almost, as you may say, the gist of the whole argument on the part of the United States, made in the first instance by an insurance company early in the war and immediately after the loss that was incurred.

You will find, Mr. Speaker, that all the way through from that time on the State Department was loaded with these claims on the part of the insurance companies. The fact is it is claimed not only that the insurance company was the first party who filed a claim but it is also insisted that but for the insurance companies no claim and no award would ever have been rendered. It is through the persistency and determined effort of the insurance companies that this award was made at last.

Another remarkable fact, a very remarkable one under the circumstances, is the conspicuous absence of our "war-premium" friends. Not till the diplomatic point was practically won did they appear on the scene. The first claim for "war premiums" was filed in January, 1871, eight years after the insurance company put in an appearance, and nearly six years after the war closed. What were our clamorous friends doing all this time. It is so strange that $6,245,383.39 should be lying around loose for six years without a local habitation and a name, and this, too, largely in thrifty New England. An examination of the "revised list of claims" shows that this amount of over $6,000,000 was claimed by three hundred and forty-one persons or firms, making an average of $18,341 to each.

Think of it, a Yankee skipper ranging the mighty main from icy zone to torrid suns, dickering with every people, and seducing the heathen of their very eye-teeth, out $18,000 and not send in his little bill somewhere to some one. And this for six years! Truly this is the most remarkable instance of absent-mindedness I ever read of. And then consider that there were three hundred and forty-one fellows in the same fix, all stricken with the same catalepsis. It is enough to destroy our confidence in human nature.

How do you account for that? Why because they knew in their own hearts that they had got consideration for every dollar that they had paid in the risks that had been assumed; in the fact that they could go to their beds and sleep quietly; in the fact they could rest easily, because if their vessels and cargoes were destroyed they would be compensated for them; and in the next place they believed in the principle of subrogation. They had been brought up to understand thoroughly the question of insurance. They had insured all their business lives, and they now thought there was an unquestioned right of subrogation. Again, they had assigned all their rights to those vessels under the principles of subrogation to the insurance companies when the insurance companies paid them their insurance; so that they had no claim; they did not know that they had any claim.

They did not insist on it; and for six long years six millions and more of money lay around without any claim; and at last how did they find it out? Why, some attorneys got their heads together and discovered this new principle of subrogation, to wit, that subrogation is a principle of "odds and ends, of remnants." And we have got it incorporated in the report of the majority that subrogation is a principle of "odds and ends and of remnants." And, lo and behold! here is something that is not odds and ends, that is not remnants, but is the whole garment!

Therefore the principle of subrogation does not apply. And so thereupon there was a resurrection and a life; so that this catalepsy was routed, and there has not been such a resurrection since the time of the valley of dry bones that the inspired prophet speaks of. Then these war-premium claims came to the front. Every skipper got on deck and with full sail went for this award with all the energy that John Paul Jones went for the coast of England. They had not supposed they had any right to this money, but these attorneys worked it up for them. If ever there was a case before this Congress that was worked up by attorneys and claim agents this is that case. Since I have been here from the beginning of the Forty-fifth Congress there have been three attorneys for these war-premium men to one for any other claimant. The corridors have been filled with these claimants and their attorneys.

Mr. REED. I would suggest to the gentleman from Michigan he is getting more worked up than any claims men have ever been.

Mr. WILLITS. I have a list here of attorneys who represent $4,000,000 of those claims. They worked up this case, and if ever there was a claim that was worked up energetically this one was after they had discovered this new principle of subrogation, and not before.

But, Mr. Speaker, I have given the essential points that I think ought to govern this case. I believe that the Government received this money for somebody. I believe that it can be shown, if I have not demonstrated it, that the persons entitled to it are the persons for whom the award was rendered, the persons on whose claim the award was rendered, and that in all common sense, in all the light of every principle of law, there can be no reason why persons whose claims were rejected—not rejected as being bartered away for something else, but rejected under the principles of the treaty of Washington itself, to which they subscribed and under which they filed their claims, subject to the adjudication of the board of arbitration—there can be no reason why these persons should come in here and claim money that was awarded on altogether another principle.

My proposition is this: that the tribunal at Geneva awarded dam-

ages only for property destroyed, for hulks and cargoes; that the question only was what was their value; that all other claims were rejected, except seamen's wages and other cognate claims; and that the award goes, and should go, to the owners of the vessels and cargoes, and to such other persons as had an interest therein or lien upon them, either by express agreement or by operation of law. If the insurance companies are not subrogated to the right of the owners, as is claimed by the majority report, their claims before a court would fall, and the owners would recover the money. As the owners are the same persons who paid the "war premiums," they would recover the same money as owners which they attempt to recover under the bill proposed as "war premiums;" and as their objective point is to get the money, they might well agree to go to the court, as the bill of the minority authorizes them, if they are clear that the doctrine of subrogation does not apply. Why cannot we, therefore, all agree to send the whole matter to the courts? Why do you hesitate? If the doctrine of subrogation is a doctrine of "odds and ends, of remnants," as the majority report has it; and if there are no odds and ends, no remnants, then the insurance companies take nothing by their motion. If the position of the majority is sound they risk nothing, and we settle this whole vexed question without any worry of conscience.

I have an impression, however, that our "war-premium" friends are not willing because they are not quite sure of their law. My position is that if the law gives them the money they ought to have it, and they ought to be allowed to go to court to determine their rights under the treaty and law and justice. If such a course does not give it to them, they ought not to have it; and if it gives it to the insurance companies, they ought to have it.

I firmly believe that as "war-premium" claimants they have not a shadow of right. The money was not awarded for the payment of any such persons. But as owners of the vessels and cargoes they would have primary standing in court only to be ruled out by the undoubted subrogation of the insurance companies to stand in their place. If that right of subrogation does not apply in this case, or if it is doubtful, their standing would not be impaired and their recovery would be certain. I submit the suggestion in all fairness.

I believe that the insurance companies have been subrogated to the rights of the owners of the vessels. But it is disputed on the part of our friends on the other side of this question; they say the question of subrogation does not apply.

Then I say let us submit this question to a court. This money belongs to somebody; it was given to indemnify somebody. Now, let us ascertain by the decision of a court to whom it does belong. Let us submit to that court all these claims, under the treaty, under the law, in equity; and then if the court finds that the insurance companies are entitled to it, well and good. If the court finds that, as claimed by the majority of the committee, the principle of subrogation does not obtain, then the insurance companies will lose their case. The money will then go to the owners of the vessels, and they were the men especially who paid the war premiums.

Under our bill, the bill of the minority of the committee, which provides for sending this question to a court, if the views of the majority are sustained by the court then the war-premium men will get their money. In any event I say that this question should be submitted to a court to examine the questions of law underlying the treaty of Washington and all the rights of all the parties, and to render a judgment in favor of the persons entitled to the award, with right of appeal to the Supreme Court. In this way, in my opinion, can justice best be done and the honor of the nation sustained.

[During the delivery of Mr. WILLITS'S remarks the hammer fell.

The SPEAKER *pro tempore*, (Mr. PAYSON in the chair.) The time of the gentleman from Michigan has expired.

Mr. HAMMOND, of Georgia. I move that the time of the gentleman from Michigan be extended by consent. He has been frequently interrupted in the course of his remarks, and being a member of the committee who joined in the minority report I hope there will be no objection to allowing him to proceed.

The SPEAKER *pro tempore*. Is there objection to the gentleman proceeding by unanimous consent?

There was no objection.

Mr. WILLITS resumed and concluded his remarks.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendments bills and a joint resolution of the House of the following titles:

A bill (H. R. No. 3196) to authorize and direct the Secretary of War to change the name of Charles Alton Howard, a second lieutenant in the Ninth Regiment of Cavalry, of the Army of the United States, on the register, rolls, and records of the Army, to Alton Henry Budlong;

A bill (H. R. No. 4299) to amend the general incorporation law of the District of Columbia; and

A joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, &c., for the fiscal year 1882, and for other purposes.

The message further announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 73) for the relief of L. Madison Day; and

A bill (S. No. 1015) for the relief of Charles M. Blake.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, his Secretary, who also informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 137) granting a pension to the heirs of Captain Christopher T. Dunham, deceased;

An act (H. R. No. 531) for the relief of John Watson;

An act (H. R. No. 620) granting a pension to Susan Jeffords;

An act (H. R. No. 638) granting a pension to David G. Hutchinson;

An act (H. R. No. 1239) granting a pension to Francis Reichert;

An act (H. R. No. 1340) granting an increase of pension to Andros Guille;

An act (H. R. No. 1390) for the relief of William H. Hill;

An act (H. R. No. 1579) granting a pension to Elizabeth Fulks;

An act (H. R. No. 2031) for the relief of Eli D. Watkins;

An act (H. R. No. 2148) granting a pension to Catherine Silvey;

An act (H. R. No. 2250) granting a pension to Mrs. Mary Shaw;

An act (H. R. No. 3390) granting a pension to Sally C. Mulligan; and

An act (H. R. No. 4344) granting a pension to Sally Hall.

GENEVA AWARD.

The House resumed the consideration of the bill for the distribution of the Geneva award.

Mr. STONE. Mr. Speaker, the subject under consideration especially concerns my constituents, and I ask the indulgence of the House while I submit some considerations touching the distribution of the money received from Great Britain in payment of the Geneva award.

There is now in the Treasury nearly ten millions of money paid to this Government by Great Britain under the Geneva award. It has been there for nearly ten years. A part of the money received was distributed to parties whose claims were acknowledged by our Government under the act of 1874; but the remainder has been allowed to stay in the Treasury until the present time because of the inability of the Government to agree upon a plan of distribution. In the controversy which has existed between the different claimants, a person here and there has been found with the boldness to suggest that the fund in dispute would better be appropriated by the Government for the current expenses of the administration; but it is to the honor of the Government generally conceded that this money is not absolutely the property of the United States, but held by them subject to a high moral obligation to consider those who suffered specially by the depredations of the rebel cruisers.

In dealing with the question before us the thought naturally arises, how happens it that there should be this surplus on hand after payment of the undisputed claims, this apparent discrepancy between the award at Geneva and the award of the commissioners under the act of 1874?

Soon after the award was made at Geneva a controversy arose as to its distribution. Different parties, whose claims were adverse, disputed each others' rights and insisted on their own, and after a protracted debate Congress passed a bill providing for the payment of certain claims which were not disputed, and postponed the consideration of the adverse and contested claims until those parties whose losses were conceded had been adjusted and paid. There is now a sum in the Treasury about equal to half the amount of the Geneva award whose ultimate ownership is in dispute, involving equities and considerations not easily adjusted, but which can only be decided by the exercise of that wise discretion which is invested in the supreme legislative authority of the nation.

It might seem, in one aspect of the case, that the award was too large. But the discrepancy which exists between the Geneva award and the award of the commissioners arose in this way: the two tribunals acted with reference to two distinct objects. The tribunal at Geneva having decided to what extent Great Britain was responsible for the depredations committed by the rebel cruisers, proceeded simply to ascertain and assess the value of the property destroyed, without regard to its ownership or the validity of the different claims, and made their award accordingly. They had nothing to do with the character of the specific claims. That was a matter to be considered by the United States when the time came to make the distribution of the sum received from the award. The work of deciding the amount of compensation for property destroyed, after the liability of England had been determined, was easy; but the work of distribution, owing to the peculiar relations in which different parties stood to this fund and the different equities involved, was attended with some difficulty.

The object was to indemnify those who were the actual losers by the depredations of the rebel cruisers. The owners of vessels and property destroyed, in making their claims, were required to deduct the amount received by them for insurance. To pay without such reduction would be to pay them twice. But it was in application of this idea of indemnity to the case of the insurance companies that the trouble arose. It was argued in behalf of insurance companies that in dealing with them the Government should not take into consideration the general result of their business of war-risks, but should deal with each case separately, and allow the insurance companies, to the extent of insurance paid, to stand in the place of the vessel-

owner and receive the indemnity which otherwise he would have received. But it was decided to allow their claims only to the extent of their actual net losses, to be ascertained by striking the balance between all the losses paid and all the premiums received.

Their claims to indemnity, therefore, were limited to the amount of their net losses incurred in this branch of their business. But this principle of compensation, as applied to the insurance companies, disposed of only a small part of the award, so that after the claims of the owners of property to the extent of their actual losses, and of the insurance companies to the extent of their net losses, have been satisfied, there remains a considerable sum to be distributed to which no one has any clear title; a result which does not indicate that the sum awarded at Geneva was in excess of the amount due, but only shows that, owing to the complication and difficulties which have arisen in the course of business, it is difficult to determine who, in the most satisfactory sense, were the losers by the act of the inculpated rebel cruisers and have the strongest claims to indemnity.

This variance between the award at Geneva and the award of the commissioners under the act of 1874 is a complete answer to the assertion of the insurance companies, that in making their award the arbitrators passed on the validity of the different claims, and that it is not now an open question what claims should be allowed.

There are three classes of claimants:

First. The insurance companies, who insist that they should be subrogated to the owners of vessels destroyed, and whose losses they paid;

Second. Those who have lost by the payment of war premiums; and

Third. Those who have lost by the captures of confederate cruisers, for whose conduct the English Government was held not guilty by the arbitrators at Geneva.

The amount claimed by the insurance companies is $5,500,000, without interest. The amount claimed by the war-premium men is about $6,000,000, without interest. The amount claimed by those who suffered by the acts of the exculpated cruisers is, exclusive of interest, about $1,200,000.

The collict is mainly between the war-premium men and the insurance companies, whose claims have been, again and again, rejected by both the Senate and the House.

The subject has been referred this session to the Judiciary Committee of the House, who have examined it thoroughly, and have made two reports. The majority of the committee have recommended that a court of commissioners be appointed, with authority to decide upon the proof how the money shall be divided—

First. Between those who have suffered losses by the capture and destruction of their property by the exculpated cruisers for whose acts the British Government was held not responsible; and

Second. Between those who have suffered losses by the forced payment of war premiums, made necessary by the presence of rebel cruisers on the high seas.

The minority report of the committee, while repeating and enforcing the old arguments in favor of the insurance companies, based on the pretense that our Government acted as their agent or trustee in the proceedings at Geneva, or on the alleged right of subrogation, contains no positive opinion of the committee as to the proper distribution of the money, and no findings of fact or law; but, after reciting some circumstances and general considerations in favor of a judicial inquiry, concludes by a recommendation that an act be passed submitting th whole matter to the Court of Claims, with authority to distribute the money "according to the principles of justice, equity, and the law of nations."

This, at first sight, seems reasonable, and is, apparently, a fair solution of the question. It also commends itself by the fact that it delivers Congress from a troublesome responsibility, where it is impossible to please all parties. But it is clear, as will appear in the argument, that the insurance companies could not establish any claim, in any court of law or equity, to indemnity as against the United States, supposing that it consented to be sued, by force of any existing law or precedent, without the aid of this act. But the act proposed contains no directions to the court how to proceed in the distribution, and the court must, if it consents to take jurisdiction, therefore, act solely from a regard to its own ideas of justice and equity.

Now, is it to be argued that a court, in such a predicament, tied, as all courts are, by their practice and habits of thought, to precedent and authority, is more likely to deal with this case wisely and fairly, without instructions from this Congress, than it would under an act with a provision deciding how the money shall be distributed and leaving the proof of ownership and other matters of evidence involved in the work of distribution to the rules and methods adopted in such investigation?

But suppose the court should find that, according to the authorities, our Government could not be considered as an agent or trustee, and that the right of subrogation did not apply, and that there was no rule of law or equity applicable to the case, what would it then do? Would it attempt to deal with this fund upon its own vague notions of justice and equity or would it decide that upon no principle of law or equity known to the court is either party entitled to it, and so report the case back to Congress for its further action?

If the case is to stand upon general considerations of justice and equity, in the adjustment of conflicting claims, I prefer the judgment of this House to the judgment of any court, which, in the given case, is authorized to proceed uncontrolled by precedent or authority, unsupported by any principle which has been judicially recognized and defined, and unaided by any direction of Congress The only issue distinctly raised between the majority and minority of the committee is in respect to the expediency of committing the whole subject to a court, with or without instructions. The majority say that it is the duty of Congress to decide how this fund should be distributed among the different claimants, leaving the proof of the claims to be established before a judicial tribunal by the methods usually adopted in such proceedings.

To commit this case to the court, with authority to decide it according to its notions of equity and justice, is to commit it to their discretion; and it is difficult to see how Congress can do this without virtually abdicating the power and authority which it is its duty to exercise.

In De Bode's case, (8 Q. B. 217,) where a certain sum was paid by the French Government, and the claims of individual citizens were released by Great Britain, the plaintiff filed his petition of right against the Queen, and alleged that the sum paid was increased by the amount of his claim; but the court held that "there was no rule or principle by which his claim could be maintained; that the money in question was in the hands of the Crown, to be disposed of as her legal advisers might recommend; that no person had a legal right to any part of it." The counsel for the plaintiff, when pressed by the argument that there were no rules by which the court could make distribution, replied that it was sufficient to show that his client's claim was founded in general justice. To which Maule, J., replied, "Neither the Queen's Bench nor any other court administers justice in general."

The doctrine that a question of distribution in a case of this kind is a proper subject for the exercise of that discretion which resides in the sovereign authority of the nation, and not for judicial inquiry, has been held by the courts themselves.

In Rustomgee's case, decided by the Queen's Bench, in England, in 1875, where an attempt was made to direct by the court the disposition of money received by the Queen, under a treaty with China, the court said, "The distribution of this money must be left to her majesty's discretion." And in the same case Mr. Justice Cockburn said:

> I do not think that it can be possibly said, that where the Queen has, as a high act of state, made a treaty and received money in consequence of an act of state, the mode of distribution is in any way enforceable by a court of law. * * * I think there is a moral claim that it be given to the right person, which must be investigated in the manner which her majesty is pleased to direct.

And in the review of this case by the court of appeals, Lord Coleridge affirmed the judgment of the Court of Queen's Bench, and said "that in all that relates to the making and performance of a treaty with another sovereign, it is the duty of the Crown to do justice to her subjects."

It is argued in behalf of the insurance companies, in the minority report, that the proposition to refer this question of distribution to a court is in accordance with the practice in like cases, and the statutes of the United States are cited in the cases of the treaties with Great Britain in 1826, with Denmark in 1830, with France in 1831, with the two Sicilies in 1832, with Spain in 1834, with Peru in 1841, with Brazil in 1849, and with China in 1858, in support of this statement. Now, it may be said in respect of these treaties, not only that they were cases of settlement of private claims, as distinct from national, and negotiated as such by our Government, but that in not one of them were the commissioners clothed with any powers beyond such as are usually vested in a board of commissioners whose function is purely executive and ministerial, to examine the formal proofs and audit the accounts, and perform the duty which is usually discharged by an auditor or master in chancery.

No person can examine these statutes without perceiving that no judicial inquiry, in the sense of adjudicating any difficult or important question of law or equity, was contemplated. This appears from the fact that there was no provision for an appeal, and that in nearly all these cases the whole work of distribution was to be performed by the commissioners in one year from the date of their commission. The only case of the appointment of commissioners under a treaty, to receive and examine claims, where the language used implies an intent to confer judicial function, as distinct from a ministerial one, is in the appointment of commissioners in relation to the Geneva award, under the act of 1874. In this act the board is called a court, and their decisions are termed judgments; but even in this act, the judicial power is so limited, that no right of appeal is provided, and the powers of the court, so constituted, are limited and defined by Congress precisely as the majority of the committee propose to do in their bill, which revives this court for the purpose of distributing the remainder of the fund.

The argument, therefore, that Congress has heretofore conferred unlimited judicial power on a court, as proposed by the minority of the committee, is unsupported by the facts, and it is safe to challenge the production of a single case which, upon examination, can be fairly cited as an authority for the course recommended by the minority of the committee.

This case, then, calls clearly for the exercise of the legislative powers of the Government. There are no rules recognized by the

courts under which the distribution could be made, and the injustice of submitting the rights of the claimants in this case to a board of commissioners, whose duties are mainly that of auditing accounts, is so manifest that the minority of the committee propose to give the litigants the right of appeal to the Supreme Court, which would postpone the ultimate decision of the case for an indefinite period, and, by unreasonable delay and expense, in many instances make the claim practically worthless. In other words, to avoid the injustice of compelling claimants to accept as final the decision of a court of limited jurisdiction upon questions of the adjustment of conflicting equities, growing out of complex relations and demanding for their satisfactory solution the exercise of the highest discretion, an appeal is given to the Supreme Court, which would be attended with such delay and expense as to afford but little satisfaction to the claimant.

Assuming, then, that it is the duty of Congress to decide to whom this fund will be paid, and that the proper discharge of this duty depends on considerations which Congress alone is competent to decide, I come now to the question, how shall this fund be distributed? And in dealing with it I submit that Congress is perfectly free to act as may seem to it, in its sovereign discretion, to be right under the circumstances, unrestrained by any rule or precedent, and unembarrassed by liabilities or complications of any sort growing out of its relations to any party to the case.

This has been denied by the insurance companies, who have endeavored to make it appear by an ingenious array of circumstances that the Government in the proceedings at Geneva was acting for them and was so committed to their fortunes and their interests that it could not honorably question their right to the fund. This view is so plausible, and is at first sight apparently so supported by facts, that some of the ablest men who have taken part in the discussion of this case have adopted it. But it has not stood the test of careful criticism, and is now virtually abandoned by some of the companies themselves. It is clear from a study and comparison of the facts and of the record that our Government in the proceedings at Geneva did not undertake to act for any individual claimant or any class of claimants. It sought to obtain redress for national injuries and to represent the rights or interests of individuals only so far as they were a part of the nation.

The absurdity of the pretense that our Government was virtually acting at Geneva as the agent of the insurance companies is clearly brought out when it is remembered that the relations of the Government to all the claimants were such that it could only undertake to act in good faith as a common guardian, and not as agent or trustee of one class, in derogation of the rights of others whose interests were adverse. And because of the complications which might ensue in case the Government could be considered the agent or trustee of any class of claimants, it was careful to issue the circular of September, 1871, in which it is stated "that the State Department could not undertake to direct what claims may be preferred, nor what proof may be necessary, nor the effect of insurance upon the question of compensation. It will present to the tribunal at Geneva all claims growing out of the Alabama claims, so called, which may be presented to the Department." Here is simply an offer to present, with no words which can be fairly construed into an undertaking to collect and enforce as agent for the claimants.

The same caution to avoid any liability as agent or trustee for any class of claimants is more clearly seen in the letter of Secretary Fish of 8th December, 1871, to the United States consul. The Secretary says:

> In the treatment of this entire case you will be careful not to commit the Government of what may be awarded. * * * The Government wishes to hold itself free to decide as to the rights and claims of insurers upon the termination of the case. If the value of the property captured or destroyed be recovered in the name of the Government, the distribution of the amount received will be made by this Government, without committal as to the mode of distribution. It is expected that all such commitment will be avoided in the argument of counsel.

Is not this letter a full and decisive answer to any argument that may be made, based on any implied agency which seems to be found in any circumstances or correspondence between the Government and any claimants?

I submit, therefore, that there is nothing in the history or record of this case, nor in the conduct of the Government, that invests it with the character of agent or trustee of any claimant, or that fairly commits the Government to the validity of any of the claims presented.

I pass on now to another branch of this case. Is there anything in the history of the proceedings at Geneva that shows that the arbitrators allowed or disallowed any claim or any class of private claims which had been presented them by our Government, or were their judgments limited to an estimate of the value of the property destroyed by the insurgent cruisers, without regard to the validity of the different claims? Upon this point there can be no doubt. The award is for a sum in gross, in full satisfaction of all the claims referred to the tribunal. The award was manifestly based on an estimate of the value of the property destroyed for which Great Britain was responsible. The arbitrators only had authority to award a sum in gross. In the event that they declined to exercise that authority, it was provided in the treaty of Washington that a board of commissioners shall be appointed to determine what claims were valid. In framing the treaty of Washington the high commissioners on the part of Great Britain at first objected to the clause giving authority to the tribunal at Geneva to award a sum in gross, and it was only at the urgent request of the commissioners on the part of the United States that they consented that the award might be so made as to leave the question of distribution open among the different claimants, to be decided by the United States.

But it may be said that while the tribunal at Geneva did not, in computing the amount of the award, pass upon the validity of each claim in detail, but only consulted the schedules of claims as convenient evidence for the purpose of approximating the actual value of the property destroyed, yet its action in disallowing the claim for the cost of the enhanced rates of premium and in holding that Great Britain was not responsible for the acts of the rebel cruisers, which are now called the exculpated cruisers, virtually decided that the money awarded justly belonged to the vessel-owners and to the insurance companies who had indemnified the owners whose vessels had been destroyed by the exculpated cruisers, so called.

It is true the tribunal at Geneva decided that, according to the principles of international law applicable to such cases, no compensation in damages could be awarded by them in respect to certain classes of claims submitted to them by this Government. It is also true that the claim for damages by reason of increased cost of insurance for war risks was included in this decision.

It is also true that, by reason of this decision, our Government withdrew this subject from the tribunal. But this fact is not decisive of the question now before us, namely, shall the war-premium payers have a part of this fund? and for this reason:

At the hearing at Geneva the United States submitted claims for compensation against Great Britain under the five following heads, namely:

First. Claims for losses caused by destruction of vessels and cargoes by insurgent cruisers.

Second. For national expenditures incurred in pursuit of cruisers.

Third. For losses incurred in transfer of our merchant vessels to the British flag.

Fourth. For losses incurred by payment of war premiums.

Fifth. For costs incurred by the prolongation of the war.

Now, it will be perceived from this statement that the United States preferred a claim at Geneva for losses caused by increased rates of insurance as a distinct and substantive ground of damage in addition to the claim for losses caused by the destruction of vessels and their cargoes. This claim was withdrawn by our Government after the tribunal had declared that it was not considered by them in that relation as a proper subject for compensation in damages. I repeat that our Government was attempting to recover compensation for enhanced cost of insurance in addition to what it might receive for destruction of vessels and property. As a distinct and independent element of damage, after the declaration of the tribunal at Geneva, it was withdrawn; but such action is not decisive of the right of the war-premium payers to a part of this fund, which was paid and received as indemnity for the losses suffered by the destruction of vessels and cargoes by rebel cruisers, when the question is upon the adjustment of the equities.

Here and now the question arises in an entirely new relation. The war-premium payer asks that he may have a part of the money which was paid by Great Britain for the destruction of vessels and cargoes for which she was held responsible. The award was made to cover the entire loss of property destroyed by the inculpated rebel cruisers, without regard to its ultimate distribution. But when the United States, in the discharge of its duty, attempted to distribute it among those of its citizens who, by reason of their relations to the subject-matter, had especial claim to consideration, it found itself confronted with certain equities and complications which have kept the question open till this time. It found no difficulty in allowing and paying the claims of the vessel owners, and of the insurance companies, to the extent of their respective losses, deducting from the value of the property destroyed the amount of the indemnity received by them from other sources. This payment took about half of the award, and when it came to the distribution of the remaining half, the war-premium men, and the losers by the exculpated cruisers, came in and urged their claims in opposition to those of the insurance companies. They said, you have not paid the vessel owner in full because your principle is indemnity for actual loss, and, under the peculiar circumstances, we have stronger claims on your bounty than those insurance companies who have actually realized a profit from their business of war risks. It is true that the tribunal allowed nothing for costs incurred by payment of extra premiums, and that the claims of those who suffered losses by the exculpated cruisers were disallowed; but such decisions are not conclusive on the question of distribution, which was never considered by the Geneva tribunal.

This money was received by the United States in its sovereign capacity as a nation—not as the agent or trustee of any person or corporation—with full liberty, therefore, to distribute it according to its own ideas of justice and equity. But it is bound by the highest considerations of justice and good faith to distribute it among those who suffered by the conduct of the rebel cruisers in a sense distinct from those who lost in common with the whole community.

Shall the owners of this property have it unconditionally? Or must they deduct what they have received from insurance companies

and recover only the balance? Can the owner object that the Government in the proceedings at Geneva presented his claim in the schedule for the full value of the property, and therefore is precluded from denying his right of recovery without deduction? This cannot be seriously maintained; and yet if the doctrine of the insurance companies be sound—that our Government at Geneva was virtually the agent of the claimants—it is difficult to see why our Government is not estopped from calling in question the amount due the vessel owner.

Again, if the fact of insurance is to be considered in ascertaining the amount due the vessel owner, and if the doctrine of subrogation is to be applied, why should the owner of an insured vessel which has been destroyed receive anything when, by the insurance law, the valuation in the policy is decisive, and whatever is recovered belongs to the company which has paid for a total loss? No one can deny that our Government did its full duty in relation to the owners of property destroyed by the rebel cruisers when it paid them from the award the amount of their claims, less insurance-money received. But because of these deductions, which are conceded to have been right and equitable, only about half of the money received from Great Britain has been distributed.

Three parties now insist upon a right to a share of the money: the war-premium payers, and the owners of the vessels that were destroyed by the exculpated rebel cruisers—on the ground that they were the actual sufferers by the acts of the rebel cruisers, and that it is the moral duty of the Government to so distribute this money as to indemnify the actual sufferers—and, lastly, the insurance companies, who make no claim to especial consideration on the ground of loss or hardship, but who demand it as their property. The insurance companies base their claim on two grounds:

First. That this Government, in collecting the money from Great Britain, acted as their agent, and therefore is precluded from denying their title.

Second. That, by virtue of their relation as insurers to the owners of the property destroyed, for which the Geneva award was indemnity, they succeeded to the rights of these owners, and, in professional phrase, should be subrogated to them, having to the extent of their undertaking indemnified the owners for losses which otherwise the Government would have paid. This two-fold title to the fund has been urged by the insurance companies with a confidence and assurance which would brook no denial, and in the history of the discussion in Congress it has been advocated by some of our most able and distinguished men. But it has not stood the test of close scrutiny and criticism. It has been found on careful investigation that it is unsupported by fact or law. An examination of the record shows that our Government, in the proceedings at Geneva, while presenting the different claims was careful not to assume any such character as that of an agent for the respective parties, and, to avoid any such construction, gave explicit direction to its counsel not to commit itself in any way that could possibly interfere with the exercise of the utmost latitude of discretion in respect to the distribution of the fund in case the arbitrators should award a sum in gross. It is not true, therefore, as a matter of fact, that our Government undertook to act as agent for the different claimants in any such sense as would impose on it the duties and liabilities which arise between principal and agent.

But not only is it true that there was no agency in fact, but, as the law is now settled and adjudged by the highest authority, no such relation as that of agent or trustee subsists between the Government and its citizens or subjects in the negotiation of a treaty, where the rights of individuals are involved as claimants. This point was carefully considered in 1875, in England, by the court of appeals, in the Rustomgee case, before cited for another purpose, and it is now the established law. In the words of Lord Coleridge, now chief-justice of England, "that in all that relates to the making and performance of a treaty with another sovereign, the Crown cannot be a trustee or an agent for any subject whatever. It cannot be trammeled by trusts or agencies of individual citizens." In this same case, Lord Cockburn said that "the notion that the Queen becomes an agent of her subjects seems to me too wild a notion to require a single word of observation." * * * "In like manner, to say that the sovereign becomes trustee for subjects seems equally untenable."

This doctrine enters as much into our system as it does into the principles of the British Constitution. (See remarks of Mr. Justice Strong in Savings Bank *vs.* United States, 19 Wall., 227.)

So that this pretension that the relation of an agent or trustee existed between this Government and the insurance companies is not only destitute of all foundation of fact, but it is inconsistent with that authority and responsibility which reside in the supreme power of the Government when negotiating a treaty with foreign powers in behalf of its citizens. It is true that the relation which subsists between the sovereign authority of a nation and its citizens is, in some respects, like that which exists between a trustee and the party interested beneficially in the trust, so that the service which is due from the Government to the citizen may resemble that performed by a trustee, or, in some respects, that of an agent.

But it is misconception of the true relation that exists between the sovereign authority of a nation and its citizens to construe what may be due in behalf of the citizen by the government, in discharge of its duty of guardianship and protection, as implying any such relation or liability as exists between principal and agent, or of trustee and *cestui que trust*.

I dismiss, then, the argument in favor of the insurance companies based on any relation, express or implied, by which this Government was virtually committed to their interests and could not honorably deny their claims, as unsound and indefensible.

I come now to the argument in behalf of the insurance companies founded on the right of subrogation; and that needs but a short answer. The right of subrogation, as defined by high authority, "rests upon the well-known principle of law that where one person has agreed to indemnify another, he will, on making good the indemnity, be entitled to succeed to all the ways and means of which the person indemnified might have protected himself against or reimbursed himself for the loss." There must be a right of redress or reimbursement in the party insured to which the insurance company may succeed. And the misfortune of the insurance company in this case is that the ship-owner had no claim to redress or compensation in damage upon anybody. His ship had been destroyed by an act of war. The act of destruction was a lawful act, and though the neglect to use due diligence on the part of Great Britain, by which rebel cruisers made use of her ports, made such destruction possible, no right of action existed against Great Britain or the insurgent States, or even against the actors themselves in the work of destruction, in favor of the party injured.

It is well settled as a principle of law that no action will lie for an injury sustained by neglect of public duty on the part of a government, where no positive act of wrong has been committed. The insurance companies cannot therefore bring themselves within the doctrine of subrogation as defined by the authorities.

If this view be correct, the owners of the property destroyed had no legal claim for compensation on anybody. If the owner of the vessel destroyed had no legal right to any part of this award, clearly the insurance company standing on the right of subrogation is in no better predicament. But it may be said that the right of the owners of the vessel destroyed has been acknowledged by the act of 1874, and by the proceedings under which a portion of this award has been distributed, and that therefore Congress is now concluded from denying the rights to which the insurance companies claim to be subrogated.

The act in question was no such acknowledgment. It recognized the legal right of no claimant to any part of the fund. It is an attempt to indemnify those who actually suffered by the acts of the insurgent cruisers, for which Great Britain was held responsible to this nation. The principle of that act is indemnity for actual losses, not because there is any obligation, legal or equitable, which could be enforced against the Government in any court, if the Government could be sued, but because the Government, in its sovereign political capacity, not as agent or trustee, but as the guardian of all its citizens, of its own motion, recognized the considerations of natural justice in dealing with those of its citizens who met with special losses by the acts of the rebel cruisers. And, in the continuance of the policy established by this act, it is now our duty to distribute what may remain of this award among those who may be regarded as entitled to special consideration by reason of their losses. Those whose vessels were destroyed by the cruisers, for which Great Britain was held responsible, had the first equity, and their claims have been paid, and also those of the insurance companies, to the extent of their net losses.

I have shown that the claim of the insurance companies that the Government was a trustee for them in this business could not be maintained, and that the right of subrogation, in their favor, was also untenable. Is there anything in this case analogous to the right of subrogation which should give them a valid claim on this fund? The companies insist that as they indemnified the owner of the vessel, who was insured, and thereby released the Government from its duty to pay him to the extent of the insurance, that they should succeed to his right to indemnity, and receive from the Government what otherwise the owner of the vessel would have received; that this money, which would otherwise have gone to the vessel owner, is to be considered in the nature of salvage which should now come to them. But it is submitted that the principles which underlie the doctrine of salvage or subrogation should not apply in this case—

First, because in ordinary marine insurance the chance for salvage is so considerable that it enters into the premium rates, which are, to a certain extent, reduced in expectation of salvage; but in war risks, no salvage is anticipated, and the rates are correspondingly increased and adjusted to the theory of a total loss.

In the pamphlet recently published by the Atlantic Insurance Company, entitled "Some Brief Considerations," it is said, "capture by a rebel cruiser meant total destruction: hence the underwriter was forced to advance the premium upon the risk liable to capture." To allow, then, the claim of underwriters, unconditionally, in this case, would be unjust, as it would be, in effect, allowing the claim for salvage, when the war premiums were adjusted at increased rates, which were only justifiable on the ground that all losses would be total losses, and no salvage would be possible.

Second. It is objected that the doctrine of subrogation, though a well-defined doctrine, is founded on equitable considerations, and if

applied in this case, would confer an undue and unjust advantage on the insurance companies, because, as before stated, the war premiums were adjusted at high rates with no allowance for salvage, and because the war-premium businsss, as conducted by the insurance companies, in the great majority of cases, has been attended with the expected profit, which was very remunerative.

To grant indemnity to the companies to the extent of their demands would be to give them salvage where war premiums were charged and received as adequate compensation for the risks assumed, and to add to the already large profits derived from this branch of their business the enormous sum of more than five millions of money, a result too unjust and too inconsistent with any fair view of indemnity to be possibly sanctioned or tolerated by any tribunal that was free to do justice, unembarrassed by rule or precedent.

This answer to the unconditional demand of the underwriters to stand in the place of the vessel-owners is not the invention of claimants whose interests are adverse to those of the insurance companies, and who are endeavoring to defeat their claims by arguments which, though specious, are unsound. The glaring injustice of allowing the underwriter to stand, unconditionally, in the place of the vessel-owner insured, was so apparent that Sir Roundell Palmer, who is not only by common consent at the head of the English bar in learning, intelligence, and integrity, but a statesman eminently just, high-minded, and upright, declared in the hearing at Geneva, in his argument as counsel for Great Britain, that, "with respect to the insurance companies, it must be remembered that, as against the losses which they paid, they received the benefit of the enormous war premiums which ruled at that time, and that those were the risks against which they indemnified themselves (and it is not to be doubted so as to make their business profitable upon the whole) by those extraordinary premiums. Would it be equitable now to reimburse them, not only the amount of their losses, but interest thereon, without taking into account any part of the profits which they so received?" The same thought was manifestly in the minds of the commissioners on the part of the United States, who negotiated the treaty of Washington, when they urged the English commissioners to consent to the provision which authorized the tribunal at Geneva to award a sum in gross, leaving the entire subject of distribution to the discretion of this Government. The same thought was also in the mind of the Secretary of State when he wrote to our counsel at Geneva that our Government wishes to hold itself free to decide as to the rights and claims of insurers upon the termination of the case. "If the value of the property captured or destroyed be recovered in the name of the Government, the distribution of the amount recovered will be made by this Government, without committal as to the mode of distribution."

Is it not clear from the evidence that the injustice of allowing the claims of insurance companies full indemnity for losses paid by them was perceived and admitted by our Government in the commencement of the proceedings at Geneva, and that our Government purposely avoided anything which would commit it to the interests of any class of claimants, and succeeded in obtaining an award which left the question of distribution open to the discretion of the Government, to be dealt with as it thought proper, acting under a high sense of its responsibility, and with a desire to do justice to all parties? And yet parties representing the insurance companies persist in the declaration that the Government, by its conduct in the preparation of the case, and in the proceedings at Geneva, was so identified with the interests of the insurance companies that it was no more competent for it to question their rights than it would be for an agent who had collected money for his principal to pocket the money, and challenge his master to prove his title. This case illustrates the importance of using terms with precision, and of the grave errors which may arise from the confounding one relation with another to which it bears some resemblance.

It is interesting to observe that while the insurance companies in the beginning made no appeal to the generosity and favor of Congress, but demanded a share of the fund as their undoubted right, and while some persons most vehemently still attempt to enforce that view—to deny which, they insist, would be an act of gross and flagrant injustice—in a very recent pamphlet, before mentioned, published by the Atlantic Mutual, entitled "Some brief observations," no allusion is made to the obligations of this Government, as their agent and trustee to pay them, nor is any stress laid upon the right of subrogation; but the authors content themselves with a criticism on the conduct of the war-premium payers, and assert that they are entitled to special consideration, "because in engaging in the business of war-risks they acted solely from a sense of national duty and honor."

The persistency and pertinacity with which the insurance companies have attempted to make the country and Congress believe that the Government was so committed to their interests that it could not honorably deal with the question of distribution as an open question is a confession of the weakness of their case, when compared with that of others whose claims were also presented by the State Department at Geneva but who are content to stand upon their equitable claims to a favorable consideration when the Government shall distribute this fund according to the principles which should control the exercise of that discretion which belongs to the sovereign authority of the nation in its legislative capacity, and which is alone competent to deal with the complications in this case.

Rejecting, as untenable, any title which the insurance companies assert to this money by virtue of any relation which subsisted between them and the Government, or between them and the owners of the property destroyed, it is, I submit, a full answer to their claim to indemnity, that, upon a fair computation of their gains and losses in the business of war insurance, they met with no loss for which they have not been reimbursed, under the act of 1874; that they have now, therefore, no claims to consideration as actual losers by the acts of the insurgent cruisers which the Government is bound to respect.

I come now to the war-premium men. Have they any right or equities, in a moral or political sense, which give them any claim on a part of this fund, which should be respected and allowed? The war-premium men make no claim on the Government like that set up by the insurance companies, though the Government represented their interests at Geneva. They have never pretended, with the hope of gaining any unfair advantage, that the Government was their agent or trustee at Geneva, and that, if their interests were sacrificed by that tribunal to secure some national benefit, the Government is legally bound to make their losses good. They are willing to rest their case upon the fact that they were actually losers by the acts of the rebel cruisers, and that it was the war premiums paid by them that furnished the means with which the insurance companies indemnified the owners of vessels that the cruisers captured and destroyed. They say with truth that the money now in the Treasury to a large extent can be fairly traced to the war premiums which they paid and which were forced from them by the presence of the rebel cruisers on the high seas, and that such forced contributions were actual losses, for which they have received no compensation in any form.

The war premium, which was a severe tax, was so much added to the cost of their adventures, which they could not charge to their customers, and in that way get it back, because the prices of merchandise and freight were controlled by foreigners who were not subject to this expense, and who could therefore compel the American merchants to compete at disadvantage or retire from business. Such a retirement was impossible, as it involved an election between doing business at disadvantage or allowing the ships to rot at the wharves. It was therefore in no fair sense a voluntary payment, but a contribution forced from the merchants by the dangers arising from the rebel cruisers, which our Government, laboring under the heavy burden of maintaining large armies in the field to suppress the rebellion, was powerless to prevent.

It is therefore clear that after the owners of the vessels whose property was destroyed are indemnified to the extent of their losses, those who suffered losses by the forced payment of war premiums and who indirectly contributed to the formation of the indemnity fund in the Treasury should be allowed a distributive share of what may remain.

The claims of those who suffered losses by the acts of the exculpated cruisers, so called, that is by the acts of the cruisers for which Great Britain was not held responsible, may, it seems to me, be well maintained on grounds peculiar to this class of claims. But this class of claimants is well represented on this floor by other members, who will present their case forcibly and effectively, and I shall content myself with the statement that they stand upon considerations which strongly appeal to the sense of justice and equity of this House and to those reasons of public policy which make it the duty of the State, in cases of peculiar loss and hardship, to come to the aid and relief of the citizen.

Mr. Speaker, I have endeavored to set forth the reasons which, in my judgment, should lead the House to deny the claims of the insurance companies, and to favor those of the sufferers by the acts of the exculpated cruisers, and those who have lost by the forced payments of war premiums. I hope that the action of this House will justify the view which I have endeavored to express, and that before it adjourns this Congress shall make a final dividend of the money derived from the Geneva award, which has been too long retained for the credit and good name of our Government.

When the civil war was concluded and the people had time to breathe, their first thought was satisfaction from Great Britain for its cruel and unfriendly conduct in the time of our extreme peril, when the future was almost without hope and the life of the Union seemed suspended by a thread. A spirit of indignation pervaded all classes of our loyal citizens, so intense that any slight act of imprudence on the part of the Government would have provoked another war with all its evils. But fortunately for us and for Great Britain, the destinies of the two nations under Providence were committed to the keeping of statesmen who were equal to the exigency, and the result was the treaty of Washington, the great diplomatic triumph of this age. It is a brilliant illustration of the possibilities of statesmanship which can evolve from the differences of nations that threaten to eventuate in the unspeakable calamities of war a solid and genuine peace, the essential condition of true national grandeur and prosperity. It will take its place hereafter among the notable historic events which mark the progress of nations in the onward march of civilization. Among the valuable results of that treaty was the judgment of the tribunal at Geneva, which established for our guide in the future important rules of conduct and liability between neutrals and belligerents, and awarded a gross sum to this country as

compensation for certain losses for which Great Britain was adjudged responsible.

This award has been paid, and upon us has devolved the duty of its distribution among those of our citizens who, in the judgment of the nation, as represented by its supreme legislative authority, have a moral claim upon its favor and consideration. No party has any title to it, in law or equity. The Government alone, in the exercise of its own discretion, and according to its own sense of duty and honor, must be its own judge of what is right and proper, and is responsible to no tribunal, foreign or domestic, for the propriety of its action. But every right-minded member of this Congress, because of this freedom from responsibility, will be only the more careful to so act as to deserve the commendation of mankind when this transaction has passed into history and is seen in that dry light which is free from passion and prejudice.

It has been said that we can do what we please with this money, give it away, or appropriate it to the payment of the ordinary current expenses of administration, and nobody will have a right to complain. If it be meant by this remark that no government or foreign power could, with propriety, criticise the action of this Government in dealing with a purely domestic question that exclusively concerns its own citizens, I agree. If it be meant that this Government can safely afford to treat disdainfully the enlightened opinion of the civilized world, I dissent. No nation, however strong in its resources, however prosperous, can dismiss with contempt, as an impertinence, that impartial public opinion which, when matured, is the best product of the best minds. Let us be careful lest, in the plenitude of power, we contract something of the insolence of power. Let us deal with this question with a due sense of our responsibility to the demands of honor and good faith, anxious only, in the exercise of that latitude of discretion which is the prerogative of the supreme legislative authority, but which, for wise reasons, is denied a judicial tribunal, to distribute, without unnecessary delay, that which is not morally ours among those of our citizens who, by reason of their losses and their relations to this fund, have special claims for indemnity which we are bound in honor to respect.

Mr. HILL. Mr. Speaker, I do not propose to occupy much of the time of the House in discussing this bill. I am opposed to the bill in its present shape. I am sure careful examination into the facts connected with the Geneva award must convince all that Congress cannot honorably reverse the decision made by the tribunal at Geneva.

The business before them was of the highest importance and received most careful consideration. It has been stated "that the insurance companies charged so immense a premium that when they got through they had actually recouped their loss and paid themselves 30 or 40 per cent. premium on their business." I do not so understand it, and it is easier making the assertion than it is to prove the fact.

It has also been stated that losses paid by citizens engaged in the business of protecting other citizens from loss by insuring them against the risks of war are not to be reimbursed, for the reason that they charged and received a premium for the insurance; and, further, for the reason that they, or some of them, may have received, in the aggregate, a larger amount of premium on all the risks insured than the aggregate amount paid for those that were lost; and, therefore, if such was the case, they have really sustained no loss, but, on the contrary, have made a profit by their business; in substance the same as stated above, and, finally, that although ordinarily the insurers on the payment of a loss become subrogated to all the rights of the party insured, yet this rule may not possibly hold good when it is a question of national wrong committed upon the high seas, which can only be settled between two nations, and which the government of the individuals suffering by it is not bound to pursue to a settlement for the benefit of a few of its citizens beyond the limit which its own discretion and its view of the public interests may dictate and, therefore, that as the right of subrogation under these circumstances has only such practical vitality as may be given to it by the action of the government, it may acquire thereby some color of right to determine what disposition shall be made of the indemnification recovered through its intervention. What are the facts in regard to these claims? To me they are simple and very plain, and I cannot see how this honorable body can honestly go behind the verdict rendered by the tribunal of arbitration.

After the treaty of Washington, in 1871, it became necessary for our Government to prepare its case for submission to the tribunal of arbitration. It advertised for claimants to send in their claims, and as insurers were known to be large claimants and were in possession of the proofs, it addressed a circular to all insurance companies requesting them to forward their claims. This they did, transmitting them with all the evidence and the assignments made to them by the parties to whom they had paid the losses. These claims, together with the claims of parties who had stood their own insurers, (commonly called uninsured,) were collated by the State Department and printed in a volume, in which the name of each claimant, insurance company, and uninsured party appeared, with full particulars of the property destroyed, when, where, and by what cruiser. It also printed in the same volume a claim on behalf of the Government itself, for expenses of the "prolongation of the war," &c., and also some few claims of parties for "premiums" paid for insuring against "war risks."

When the tribunal met, the British Government refused to go on with the arbitration unless all claims for indirect or consequential losses were withdrawn. For a time it looked as if the arbitration would be a failure.

Thereupon the tribunal considered the subject, and on the 19th of June, 1872, announced:

> That after the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these (indirect) claims, they have arrived, individually and collectively, at the conclusion that these (indirect) claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations; and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the two governments as to the competency of the tribunal to decide thereon.

Thereupon the counsel of the United States at Geneva advised their Government "that this declaration of the tribunal should be submitted to, and that the United States, with a view of maintaining the due course of the arbitration on the other claims without adjournment, should announce to the tribunal that the said (indirect) claims covered by its opinion will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration by the tribunal in making its award."

In reply to this, our Secretary of State communicated the determination of the President, as follows:

> I have laid your telegrams before the President, who directs me to say that he accepts the declaration of the tribunal as its judgment upon a question of public law which he had felt that the interests of both Governments required should be decided, and for the determination of which he had felt it important to present the claims referred to for the purpose of taking the opinion of the tribunal.
>
> This is the attainment of an end which this Government had in view in the putting forth of those claims. We had no desire for a pecuniary award, but desired an expression by the tribunal as to the liability of a neutral for claims of that character. The President, therefore, further accepts the opinion and advice of the counsel as set forth above, and authorizes the announcement to the tribunal that he accepts their declaration as determinative of their judgment upon the important question of public law as to which he had felt it his duty to seek the expression of their opinion; and that, in accordance with such opinion and judgment, from henceforth he regards the claims set forth in the case presented on the part of the United States for loss in the transfer of the American commercial marine to the British flag, the enhanced payment of insurance, and the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion, as adjudicated and disposed of; and that, consequently, they will not be further insisted upon before the tribunal by the United States, but are henceforth excluded from its consideration by the tribunal in making its award.

This was announced to the tribunal; all claims for "war premiums" were withdrawn, and the arbitration was saved.

There then remained before the tribunal only the following claims:

1. The claims of insurers.
2. The claims of parties uninsured.
3. The claims of masters and sailors for personal effects and wages.

The above is quoted from Caleb Cushing's book, "The Treaty of Washington," pages 70, 72, 73, and the "decision and award," in the appendix to the same.

Now, as these losses had been occasioned by several different cruisers, the tribunal took up the case of each one separately, considered it, and made its decision as to whether Great Britain was liable for the loss of vessels and cargoes it had destroyed. The decision and award was that Great Britain was liable for the losses occasioned by seven named cruisers, and was not liable for the losses occasioned by eleven named cruisers.

The next step of the tribunal was to refer the list of claims presented by the United States in behalf of insurance companies and uninsured parties and masters and sailors to experts, to estimate and ascertain as accurately as possible the total amount of claims for such losses occasioned by the seven cruisers for which Great Britain was held liable, and having received their report and decided that it was just to allow interest, they awarded, on the 17th September, 1872, the sum of $15,500,000 in satisfaction of all claims for these losses, and Great Britain paid it.

This is a brief and, I believe, true history of the award.

Our Government has distributed only a portion of it thus far to uninsured parties and masters and sailors. The balance of the award, received in payment of the claims of insurers, has not yet been paid. Why? Speculators sought out parties who had paid premiums for war risks, and made contracts with them to undertake their collection from the Geneva award for 50 per cent. or some other share of the amount they might collect. These speculators, employing agents and attorneys, have thus far succeeded in defeating payment of the claims of insurers, and in consequence another set of claimants have been encouraged to try their hand at it.

It is generally understood that if the insurers had consented to compromise with the "war-premium" claimants a bill could have been passed at the last session to distribute the balance of the award between both, *pro rata*. The insurers declined.

Now, as to this bill under consideration, it will be seen by section 5 that it is prepared in the interest of a new set of claimants, for losses by "exculpated" cruisers, *i. e.*, cruisers for which Great Britain was declared not liable and for which no part of the award was made. By section 8 these new claimants are to be paid first, and then if

there is anything left the "war-premium" claimants are to have it. The insurers are ignored entirely.

A large portion of the award was paid for losses sustained by insurance companies in the city of New York. With one exception they were all "mutual" companies, that is to say, the persons who insured with them paid the premiums charged, and if at the end of each year the premiums paid exceeded the losses, the excess was returned to them *pro rata*.

The Legislature of New York some years ago passed an act authorizing these mutual companies to distribute among the parties who paid the premiums any moneys that should be recovered from the Geneva award. Now, if the insurance companies recover their share of the award the parties who paid them the premium will get it.

All fair-minded persons concede that the underwriters ought to have the money that was collected in their name and on their behalf from Great Britain. Hon. Caleb Cushing, who acted as senior counsel of the United States at Geneva, wrote in October, 1872, as follows:

That the tribunal examined and scrutinized the schedules and estimates of individual losses presented by the United States, and on inspection thereof awarded a sum in gross which they conceived to be sufficient (and which I think is sufficient) to afford a just indemnity to the injured citizens of the United States. This gross sum will within a year be paid by Great Britain to the United States, with interest on any delay. It will be received and held by the United States as a trust fund to be distributed among parties interested conformably to the tenor and spirit of the award of the tribunal, and the Government will be bound to make such distribution promptly and justly by the moral force of its duty of good faith to England, and its obligations to fulfill the stipulations of the treaty of Washington. There is no contingency or uncertainty in all this. Parties in interest may, I do not hesitate to say, rest assured of the honor and good faith of the Government of the United States in this respect with just as much certitude as in the payment of the gold bonds of the Government.

Touching the relative positions, as claimants of the underwriters and war-premium parties, I quote the following statement of facts which have been brought to my notice:

The aggregate claims of the thirty-six companies on file in the Department of State (chiefly mutual) amount to something under $5,000,000, and * * * there are not less than thirty thousand respectable merchants interested in the honest distribution of this indemnity, represented by numerous companies, scattered over our vast continent—in New York, Boston, New Bedford, Brooklyn, Baltimore, and California. These claimants repose so much confidence in the justice of their claims, and the honesty and capacity of Congress, that they have formed no speculative rings and have steadily declined to sell out or compromise, whereas their opponents have aggregated by purchase at nominal rates large blocks of these war-premium and other illegal claims, purchased very low, because the holders have had no confidence in claims ignored by the tribunal.

It will be found that the enormous sum of $6,240,000 war-premium claims are held by only three hundred and forty-one individuals and firms, being an average of some eighteen thousand dollars each, while one-half of these claims, $3,690,000, falls into the hands of but five individuals and firms. There certainly appears to be no poverty here, the five claimants averaging each the modest sum of $738,000. The actual sufferers represented by the underwriters have, as is shown, an average claim of under $200 each.

We are informed the thirty-six insurance companies whose claims are on file are located (if still alive) in all the larger commercial cities. But it is worth noting that ten out of the twelve Boston companies interested and one-third of the New York companies in the list of claimants are bankrupt, with numerous poor creditors looking for relief to this fund so justly their due. As to the largest claimant among the underwriters—the Atlantic Mutual Insurance Company—it appears that its claims, filed in the Department of State, aggregated $1,653,889, and were made (the company being purely mutual) in behalf of 9,276 dealers or members. These claims were filed during the years 1862, 1863, 1864, and 1865—the heaviest loss having been incurred in 1863, namely: $818,296, or nearly one-half of the whole sum claimed.

In the time allotted me I cannot enter into the details of this subject, but I trust I have said sufficient to convince the conscientious members of this House that they cannot support the bill now under consideration without nullifying the action of the tribunal of arbitration.

It would, in my opinion, be very unjust for the Government to pay either class of claimants provided for in this bill and ignore the underwriters and insurers; therefore it ought not to pass.

Mr. HUTCHINS and Mr. CONVERSE next addressed the House. [See Appendix.]

Mr. CONVERSE. I now yield ten minutes of my time to the gentleman from New Hampshire, [Mr. BRIGGS.]

Mr. BRIGGS. Mr. Speaker, at this stage of the debate and this hour of the day I do not propose to enter into any discussion of the pending question. Being on the committee that investigated it, I did hope I should have time to submit such views as I entertain and such opinions as I have formed from that investigation, but I will not ask this House to yield a moment to me for that purpose, because it is of greater importance the public business should be proceeded with than that I should make a speech. Consequently, I yield the floor.

Mr. REED. Mr. Speaker, I have thirty-five minutes which I did not take of the original hour, and I desire to yield fifteen minutes to the gentleman from New Hampshire, [Mr. RAY,] and then to move the previous question, unless gentlemen object on the other side, or unless the gentleman from Georgia would like to speak.

Mr. BUCKNER. Let us adjourn.

Mr. HAMMOND, of Georgia. If I had time I would like to make some remarks in support of this minority report, because all the gentlemen who have spoken have spoken from the stand-point of interest, one advocating the class of claims belonging to his constituents and another advocating the class of claims belonging to his constituents.

I have no constituents interested in this case except as a general taxpayer to the Government. For them not one word has been uttered. If the gentleman thinks it so very important there should be a vote to-night I will forego any expression of any views I may have on the subject. Otherwise I would like to have time.

Mr. BUCKNER. I move that the House do now adjourn.

Mr. REED. I think we had better come to a vote in regard to it. I am perfectly willing——

Mr. HOOKER. I suggest to the gentleman to let it go over until to-morrow.

A MEMBER. Does not the gentleman from Maine have an hour after the previous question has been ordered?

Mr. REED. I have. I now propose to give to the gentleman from New Hampshire fifteen minutes, and then I suggest the previous question be called; and after I have given ten minutes' time out of my hour, if I give twenty minutes to the gentleman from Georgia and reserve twenty minutes to myself, will that be satisfactory to him?

Mr. HAMMOND, of Georgia. That depends when I am to get it. I can speak more in twenty minutes to-morrow than in an hour this evening. I am willing to take twenty minutes to-morrow.

Mr. REED. Very well; we will do that. I yield now to the gentleman from New Hampshire for fifteen minutes.

The SPEAKER. Does the gentleman from Missouri insist on his motion to adjourn?

Mr. REED. That is the understanding.

Mr. MCLANE. When does the gentleman call for the previous question?

Mr. REED. It is understood distinctly the previous question is considered ordered at the end of the fifteen minutes which the gentleman from New Hampshire takes.

The SPEAKER. Does the gentleman from Missouri withdraw his motion to adjourn?

Mr. BUCKNER. I insist on the motion that the House adjourn.

Mr. MANNING. I ask unanimous consent——

Mr. MCLANE. I ask the attention of the gentleman from Maine.

Mr. MANNING. I ask unanimous consent that Mr. LADD, who is necessarily absent at this time, be allowed to print some remarks upon this subject in the RECORD.

Mr. REED. I ask consent that there be given general leave to print upon this subject.

There was no objection, and it was ordered accordingly.

Mr. BUCKNER. I move that we now adjourn.

Mr. REED. Before that is done I desire that we shall reach a conclusion about which there can be no mistake in reference to the pending question. Is it understood that after the gentleman from New Hampshire has occupied the floor for fifteen minutes the previous question shall be considered as ordered?

Mr. BUCKNER. My motion was to adjourn; but the gentleman from Georgia [Mr. HAMMOND] occupies such a relation to this case that he ought to be allowed such time as he may require.

Mr. RYAN. If the gentleman from Georgia is satisfied with the arrangement what objection can there be?

Mr. REED. There is certainly no intention to be discourteous to the gentleman from Georgia. On the contrary I desire to meet his views entirely.

Mr. HAMMOND, of Georgia. I am satisfied that there is not; and the arrangement by which I may occupy the time to-morrow will be entirely agreeable to me.

Mr. REED. I understood from the gentleman from Georgia that he did not desire to be heard upon this question. Later, however, the gentleman informed me that inasmuch as no one had spoken directly upon his bill, he would like some time upon it; and I have endeavored to make such arrangement as would enable him to do so. I do not want any one to suppose that I would be in any way discourteous to a gentleman occupying the position he occupies, not only on the committee, but upon the floor of this House, and I am very sure the gentleman himself does not think any discourtesy was intended.

Mr. HAMMOND, of Georgia. I am entirely satisfied of that, and should prefer greatly to occupy the time to-morrow. I will be able then to occupy the twenty minutes more satisfactorily to myself than an hour now.

Mr. REED. Then I ask unanimous consent that the understanding be now clearly reached that after the fifteen minutes allowed to the gentleman from New Hampshire the previous question be considered as ordered, and that the gentleman from Georgia shall be allowed to occupy his twenty minutes in the morning.

Mr. HAMMOND, of Georgia. And I join in the request.

Mr. BUCKNER. To-morrow is private bill day.

Mr. REED. I know that; but this will soon be disposed of. Is that the understanding?

The SPEAKER. Is there objection to the proposition of the gentleman from Maine?

Mr. RANDALL. There is objection, unless it is also understood that the House after this bill is disposed of shall have the privilege of exercising its volition as to whether or not it will then go on with the Private Calendar.

Mr. REED. There is no objection to that.

Mr. RAY. I do not care to occupy the floor for the time allowed me.

The SPEAKER. The Chair will then submit the question to the

House. Is there consent that the previous question shall be now considered as ordered upon the pending proposition, with the further understanding that the gentleman from Georgia have leave to occupy his time to-morrow?

There was no objection.

So the previous question was ordered.

Mr. HAMMOND, of Georgia. I ask further consent, that inasmuch as the bill of the minority has not been read, it be printed in the RECORD and be before the House to-morrow morning.

There was no objection.

The minority bill is as follows:

A bill to provide for the further distribution of the moneys received under the Geneva award.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons and corporations claiming any portions of the moneys now under the control of the United States, which were received from the Government of Great Britain in payment of the Geneva award, or as interest thereon, be, and they are hereby, authorized to sue for the same in the United States Court of Claims, at any time within one year from the passage of this act, in the same manner in which other claims are sued in said court; and the said court shall render judgment for each claimant for such amount only as, in their opinion, he shall be justly entitled to recover under said treaty and award according to the principles of justice, equity, and the law of nations, but all payments heretofore made on any claim by the United States shall be deducted from the judgment to be rendered thereon.

SEC. 2. That in determining the amount for which judgment is to be rendered in favor of any claimant, interest shall be allowed at the rate of 4 per cent. per annum upon the amount of such claim from the date when the court shall in each case decide that the loss out of which the claim arose was sustained by the claimant; but in entering the judgment, the amount of principal and interest shall be stated separately.

SEC. 3. That such persons and corporations or the United States may respectively appeal to the Supreme Court of the United States from judgments of the Court of Claims rendered under this act, and such appeals shall be in the form now prescribed by law.

SEC. 4. That all judgments in favor of claimants under this act not appealed from or affirmed on appeal shall be paid out of the aforesaid moneys. Every person or corporation who shall sue under this act shall, within one year from the passage thereof, file with the clerk of the Court of Claims a copy, under oath, of his or their claim; and, at the expiration of the said year, the clerk of said court shall ascertain the total amount of the money and interest thereon, then under the control of the United States, received from Great Britain in payment of the Geneva award; and thereafter each claimant, at the expiration of ten days after a judgment shall be perfected in his favor, (provided no appeal is taken; and if an appeal is taken, at the expiration of ten days after final judgment in his favor,) shall be entitled to be paid out of the aforesaid moneys the ratable proportion thereof to which he would be entitled if the entire claims so filed were allowed. The remainder of each judgment shall be paid at the expiration of three years from the passage of this act, with interest at the rate of 4 per cent. per annum from the recovery of such judgment; but if the sum of the judgments be greater than the moneys aforesaid, then the remainder of such judgments shall be paid ratably.

SEC. 5. That, if necessary for the dispatch of business under this act, the clerk of the Court of Claims may appoint one or more assistants, and their salaries and all other expenses under this act shall be paid out of the said moneys.

SEC. 6. That no claim which was provable under the acts organizing and continuing the court of commissioners of Alabama Claims and was there duly presented, and was there adjudged, shall be provable under this act.

SEC. 7. That claimants under this act shall be admitted to testify in their own behalf.

SEC. 8. That appeals arising under this act shall take precedence of all other cases in the Supreme Court.

SEC. 9. That after the payment of all judgments rendered in pursuance of this act, if there shall remain any part of the said money, the same shall be and remain a special fund, to await the further action of Congress.

ORDER OF BUSINESS.

Mr. MARTIN. I move that the House do now adjourn.

The SPEAKER. Pending the motion to adjourn, the Chair desires to lay before the House certain executive communications and a report from the Committee on Enrolled Bills.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

A bill (H. R. No. 869) for the relief of Thomas J. Wharton; and

A joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, &c., for the fiscal year 1882, and for other purposes.

PRE-EMPTION ENTRIES, 1881.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting report of the Commissioner of the General Land Office as to pre-emption cases approved during the fiscal year ending June 30, 1881; which was referred to the Committee on the Public Lands, and ordered to be printed.

SIGNAL SERVICE, UNITED STATES ARMY.

The SPEAKER also laid before the House a letter from the Secretary of War, containing a corrected statement of the expenditures for the United States Signal Service, the report transmitted on March 18, 1882, having been found erroneous; which was referred to the Committee on Expenditures in the War Department, and ordered to be printed.

CHEROKEE INDIANS OF NORTH CAROLINA.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, in response to resolution of 25th of February, relative to lands and funds of the Eastern band of Cherokee Indians in North Carolina; which was referred to the Committee on Indian Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. FISHER, for four days, on account of important business.

EXPENSES OF INDIAN DELEGATIONS.

Mr. SPAULDING, by unanimous consent, introduced a bill (H. R. No. 6160) to pay expenses of the present and former delegations of the Eastern band of Cherokee Indians of North Carolina; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

JAMES G. EDWARDS.

Mr. SPAULDING also, by unanimous consent, introduced a bill (H. R. No. 6161) granting a pension to James G. Edwards; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM P. SNOW.

Mr. SPAULDING (by request) also, by unanimous consent, introduced a bill (H. R. No. 6162) to increase the pension of William P. Snow; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL GRAHAM.

Mr. SPAULDING (by request) also, by unanimous consent, introduced a bill (H. R. No. 6163) to rerate the pension of Samuel Graham; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANNE ARUNDEL COUNTY, MARYLAND.

Mr. CHAPMAN, by unanimous consent, introduced a bill (H. R. No. 6164) granting the right of way to the county of Anne Arundel, in the State of Maryland, through the United States Government grounds near the city of Annapolis, Maryland; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

HORACE CHANDLER.

Mr. DWIGHT, (by request,) by unanimous consent, introduced a bill (H. R. No. 6165) for the relief of Horace Chandler; which was referred to the Committee on Invalid Pensions, and ordered to be printed.

RETIRED LIST FOR NON-COMMISSIONED ARMY OFFICERS.

Mr. STEELE, by unanimous consent, from the Committee on Military Affairs, reported back with amendments the bill (H. R. No. 4761) to authorize a retired list for non-commissioned officers of the United States Army who have served therein continuously, honorably, and faithfully for a period of thirty years or upward; which was referred to the House Calendar, and the amendments and report ordered to be printed.

Mr. STEELE also, from the Committee on Military Affairs, reported back the bills (H. R. Nos. 705, 1001, 2513, and 3030) and the petition of Patrick McDonald for relief as above; and moved that the committee be discharged from the further consideration of the same, and that they be laid on the table.

The motion was agreed to.

TERRITORY OF ALASKA.

Mr. VAN VOORHIS, by unanimous consent, presented the views of the minority on the bill (H. R. No. 5900) providing a civil government for the Territory of Alaska; which were referred to the Committee of the Whole House on the state of the Union, to accompany the report of the majority, and ordered to be printed.

T. ALONZO WALKER AND OTHERS.

Mr. BLANCHARD, by unanimous consent, introduced a bill (H. R. No. 6166) referring the claim of T. Alonzo Walker and Augusta C. Todd, for proceeds of cotton, to the Court of Claims for adjudication; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ENTRIES OF LAND IN DAKOTA.

Mr. STRAIT, (by request,) by unanimous consent, introduced a bill (H. R. No. 6167) to confirm certain entries of lands in Dakota Territory, and to authorize the issuing of patents therefor; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

WILLIAM C. DODGE.

Mr. STRAIT (by request) also, by unanimous consent, introduced a bill (H. R. No. 6168) for the relief of William C. Dodge; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

Mr. STRAIT also, by unanimous consent, introduced a bill (H. R. No. 6169) for the relief of W. C. Dodge; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

COALING DOCK, ETC., AT PORT ROYAL, SOUTH CAROLINA.

Mr. TILLMAN, by unanimous consent, introduced a bill (H. R. No. 6170) providing for a coaling-dock and naval storehouse at Port Royal, South Carolina; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

MICHAEL A. DILLON.

Mr. HUMPHREY, by unanimous consent, introduced a bill (H. R. No. 6171) to increase the pension of Michael A. Dillon; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEVI H. KING.

Mr. HEPBURN, by unanimous consent, introduced a bill (H. R. No. 6172) for the relief of Levi H. King; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SIDNEY HOWARD.

Mr. SINGLETON, of Illinois, by unanimous consent, introduced a bill (H. R. No. 6173) for the relief of Sidney Howard; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES B. WHITE.

Mr. PEELLE, from the Committee on Claims, reported back with a favorable recommendation the bill (H. R. No. 289) for the relief of James B. White; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

FANNY S. CONWAY.

Mr. HARRIS, of New Jersey, by unanimous consent, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (H. R. No. 4509) for the relief of Mrs. Fanny S. Conway; which was referred to the Committee of the Whole House on the Private Calendar and the accompanying report ordered to be printed.

JOHN W. ALYEA.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 6174) granting a pension to John W. Alyea; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. MANNING.

Mr. HASKELL also, by unanimous consent, introduced a bill (H. R. No. 6175) granting a pension to George W. Manning; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUSAN S. WHITE.

Mr. BINGHAM, by unanimous consent, introduced a bill (H. R. No. 6176) for the relief of Susan S. White; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

BRIDGET CURTIN.

Mr. BINGHAM also, by unanimous consent, introduced a bill (H. R. No. 6177) granting a pension to Bridget Curtin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY D. TODD.

Mr. BINGHAM also, by unanimous consent, introduced a bill (H. R. No. 6178) for the relief of Henry D. Todd, which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SHALLENBERGER, for one week, on account of important business.

Mr. MARTIN. I must now insist upon my motion to adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BUCHANAN: The petitions of citizens of Troup and Coweta Counties, Georgia, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. FORNEY: The petition of G. L. Brindley and others, of Cullman County, Alabama, for an appropriation for educational purposes—to the same committee.

By Mr. GEORGE: The petition of William Gallick, of Portland, Oregon, for compensation for cattle killed at Neah Bay Indian agency, Washington Territory, and used by the Government in feeding Indians—to the Committee on Claims.

By Mr. HARMER: The petition of Mrs. Esther Hudson, for a pension—to the Committee on Invalid Pensions.

By Mr. LEWIS: The petition of James McFarland, for a pension—to the Committee on Pensions.

By Mr. McLANE: The petition of Augustus Jay, for the release of title by the United States to certain real estate in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MOREY: Papers relating to the pension claim of Jane Blackmer and of Benjamin Morgan—severally to the Committee on Invalid Pensions.

By Mr. PRESCOTT: The petition of citizens of New York, protesting against the repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. JOHN S. RICHARDSON: The petition of the board of health of Charleston, South Carolina, and of other citizens of said State, asking for the re-enactment of the law of June 2, 1879, defining the duties of the National Board of Health; and also asking that Sapelo Refuge quarantine station be continued—to the Committee on the Public Health.

By Mr. URNER: The petition of soldiers and sailors of Maryland, for the passage of the bill (H. R. No. 1410) increasing the pension of soldiers and sailors of the late war who lost a leg or an arm while in the line of duty—to the Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. WADSWORTH: The petition of Swift Post, Grand Army of the Republic, of New York, for an increase of pension to soldiers and sailors of the late war who lost an arm or a leg while in the line of duty—to the Committee on Invalid Pensions.

By Mr. WHITTHORNE: The petition of R. H. Ogilvie, for compensation for property taken and used by the United States Army during the war of the rebellion—to the Committee on War Claims.

By Mr. YOUNG: The petition of Charles H. Ludwig and 20 business firms of New York City, for the passage of the bill providing for the taxation of glucose—to the Committee on Ways and Means.

SENATE.

FRIDAY, *May* 12, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting, in answer to a resolution of February 2, 1882, a communication from the Chief of Ordnance in relation to the results of all trials and proofs of all guns of eight-inch caliber or upward, whether breech or muzzle loaders, and of all projectiles tested and proved under the act of June 6, 1872, to the present time, and what guns and projectiles of this kind are now on hand and untested or unexpended, &c.

Mr. ALLISON. I think the communication should be referred to the Committee on Military Affairs. It is in response to a resolution offered by the Senator from Alabama [Mr. MORGAN] some time ago.

The PRESIDENT *pro tempore*. The communication will be referred to the Committee on Military Affairs, and if the committee desire the accompanying papers printed they can make a report with that recommendation. The papers are very voluminous, and will be referred without printing.

Mr. ALLISON. I call the attention of the Senator from Alabama to the matter. He has just come in.

Mr. MORGAN. Inasmuch as the appropriation bill relating to that special subject has passed the Senate, and I believe also the House, I ask that the communication lie upon the table until I can have a chance to examine it, and see whether it is proper to have any part of it, or how much of it, printed.

Mr. ALLISON. I suggest to the Senator from Alabama that the communication and accompanying papers be referred to the Committee on Military Affairs, and let them examine it and see whether any of it ought to be printed, and if so, how much.

Mr. MORGAN. I have no objection to that reference. I supposed I could relieve the committee of some trouble, however, by examining it without a reference.

Mr. ALLISON. I have no wish about it.

Mr. COCKRELL. Let the Senator from Alabama examine it himself, and determine upon the question of printing.

Mr. ALLISON. Very well.

The PRESIDENT *pro tempore*. The communication will lie on the table without printing.

Mr. ALLISON. There is a letter from the Secretary of War accompanying the communication?

The PRESIDENT *pro tempore*. There is.

Mr. ALLISON. The letter perhaps should be printed in the RECORD.

The PRESIDENT *pro tempore*. The letter had probably better be read. It will be read.

The Acting Secretary read as follows:

WAR DEPARTMENT,
Washington City, May 11, 1882.

SIR: Referring to so much of the resolution of the Senate, adopted February 2, 1882, as directed the Secretary of War to transmit to the Senate "a full report of the results of all trials and proofs of all guns of 8-inch caliber or upward, whether breech or muzzle loaders, and of all projectiles tested and proved under the act of June 6, 1872, to the present time, and what guns and projectiles of these kinds, with their cost, are now on hand and untested or unexpended, and what officers or agents of the Government are, or have been, personally interested in inventions or patents for the same," I have the honor to transmit herewith a communication from the Chief of Ordnance, dated the 10th instant, together with the following documents:

First. Report of Lieutenant-Colonel T. G. Baylor, president of the ordnance

board, in permanent session in New York City, covering the scope of the resolution touching trial and proof of guns and projectiles, with accompanying drawings and explanations of experiments.

Second. A statement of experimental guns and projectiles on hand, with their cost.

Third. A statement of guns and projectiles of 8-inch caliber and upward on hand at forts and arsenals tested and proved since act of June 6, 1872, to the present time.

Fourth. A list of officers or agents of the Government who are or have been personally interested in inventions or patents for cannon and projectiles of 8-inch caliber or upward.

It is remarked that the scope of the resolution is conceived to embrace only guns of 8-inch caliber or upward and projectiles of the character which it was provided by the act of June 6, 1872, should be tested, and that it does not call for a report of the number and cost of guns of the calibers referred to, existing prior to the passage of that act of which there are about two thousand on hand, nearly all cast iron, smooth bore, muzzle-loading guns.

In response to that portion of the resolution directing the Secretary of War "to transmit to the Senate a full report of the action of the mixed board on ordnance" selected "to examine the inventions in relation to ordnance, and to report what inventions are worthy of test as well as the estimated cost of such tests" under the act of March 3, 1881, up to the present time, not heretofore printed, I have the honor to state that no preliminary report of the board's action in the premises has been received by this Department.

The act of Congress authorizing the selection of the board does not appear to have contemplated the making of any report by the board save a final report to be submitted to the Secretary of War for transmission to Congress.

The president of the board, under date of the 5th instant, informed this Department that this report may be expected on or before the 25th of the present month.

It will be at once transmitted to the Senate upon its receipt by this Department.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

The PRESIDENT *pro tempore of the Senate of the United States.*

The PRESIDENT *pro tempore*. This letter will lie on the table and be printed.

PETITIONS.

Mr. PLUMB presented a petition of citizens of Burlingame, Kansas, and a petition of citizens of Clyde, Kansas, praying an appropriation for the purpose of educating the native people of Alaska; which were referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Finance, to whom was referred the bill (H. R. No. 4704) for the relief of P. F. Lonergan, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. GROVER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1320) for the relief of C. M. Wilcox, reported it without amendment.

He also submitted a written report on the bill (S. No. 1673) to authorize the Secretary of the Treasury to examine and report to Congress the amount of all claims of the States of Texas, Oregon, and Nevada, and the Territories of Washington and Idaho, for money expended and indebtedness assumed by said States and Territories in repelling invasions and suppressing Indian hostilities, heretofore reported by him; which was ordered to be printed.

Mr. VEST, from the Committee on Commerce, to whom was referred the bill (S. No. 1050) to authorize the construction of a bridge across the Mississippi River, reported it with an amendment.

ARKANSAS RIVER BRIDGE.

Mr. VEST. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 1020) to authorize the construction of a bridge across the Arkansas River at the town of Van Buren, Crawford County, Arkansas, to report it with amendments. I am instructed also by the committee to ask for immediate action upon this bill, as the company that proposes to construct the bridge is now awaiting the action of Congress.

The PRESIDENT *pro tempore*. Is there objection?

Mr. HARRIS. If the bill is going to lead to any discussion, or take any time, I would beg the Senator from Missouri to let it go over.

Mr. VEST. I cannot see how it will lead to debate. The bill has been carefully prepared and submitted to the engineers.

Mr. HARRIS. If it shall not, I shall interpose no objection.

Mr. HOAR. Let the bill be read for information.

The PRESIDENT *pro tempore*. It will be read for information, subject to objection.

The Acting Secretary read the bill.

Mr. HARRIS. I should like to reserve to myself the right to object to the consideration of this bill if it shall lead to debate. If it can be considered without debate I have no objection to its proceeding, but being charged with the bill which is the one regularly before the Senate on the Calendar, I am unwilling to give up the morning hour to this measure.

Mr. WALKER. It seems to me this bill will not lead to debate.

Mr. HARRIS. I hope not.

Mr. VEST. I do not see why it should.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The amendments reported by the Committee on Commerce will be read.

The ACTING SECRETARY. The first amendment of the committee is in section 2, line 6, after "United States," to insert "or for passengers or freight passing over said bridge;" so as to make the section read:

That any bridge built under this act is subject to its limitations, shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States, or for passengers or freight passing over said bridge, than the rate per mile paid for the transportation over the railroads or public highways leading to the said bridge; and it shall enjoy the rights and privileges of other post-roads in the United States.

The amendment was agreed to.

The next amendment was, in section 3, after the word "accessible," in line 3, to strike out the following words:

Point, and the draw-spans shall not be less than one hundred feet in length in the clear; and the piers of said bridge shall be parallel with the current of the river; and the spans shall not be less than five feet above extreme high-water mark, as understood at the point of location, to the lowest part of the superstructure of said bridge.

And in lieu thereof to insert:

Navigable point, and the openings on each side of the pivot pier shall be not less than one hundred and sixty feet in the clear, and as nearly as practicable both of said openings be accessible at all stages of the water; that the spans shall not be less than ten feet above extreme high-water mark, as understood at the point of location, to the lowest part of the superstructure of said bridge; that the piers and draw-rests of said bridge shall be built parallel with the currents at that stage of the river which is most important for navigation, and that no riprap or other outside protection for imperfect foundations be permitted to approach nearer than four feet to the surface of the water at its extreme low stage, or otherwise to encroach upon the channel-ways provided for in this act.

So as to read:

That said bridge shall be constructed with a draw or pivot span, which shall be over the main channel of the river at an accessible navigable point, &c.

The amendment was agreed to.

The next amendment was, to insert, after section 3, the following additional section:

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same, and over the approaches thereto, upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies or any of them desiring such use shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties: *Provided*, That the provisions of section 2 in regard to charges for passengers and freight across said bridge shall not govern the Secretary of War in determining any question arising as to the sum or sums to be paid to the owners of said bridge by said companies for the use of said bridge.

The amendment was agreed to.

The next amendment was to change the number of section 4 in the bill to section 5.

The amendment was agreed to.

The next amendment was, in section 5, line 17, after the word "built," to insert the words "or condemned;" so as to read:

And until the said plan and location of the bridge are approved by the Secretary of War the bridge shall not be built or condemned.

The amendment was agreed to.

The next amendment was to insert as section 6 the following:

That whenever the Secretary of War shall have good reason to believe that the bridge hereby authorized to be constructed is an obstruction to the free navigation of such waters, by reason of difficulty in passing the draw-opening of said bridge, by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, on satisfactory proof thereof, to require the company or persons owning said bridge to cause such aids to the passage of said draw-opening to be constructed, placed, and maintained, at their own cost and expense, in the form of booms, dikes, piers, or other suitable and proper structures for the guiding of said rafts, steamboats, and other water craft safely through said opening as shall be specified in his order in that behalf; and on failure of the company or persons aforesaid to make and establish such additional structures within a reasonable time, the said Secretary shall proceed to cause the same to be built or made at the expense of the United States, and shall refer the matter without delay to the Attorney-General of the United States, whose duty it shall be to institute, in the name of the United States, proceedings in the district court of the United States in which said bridge, or any part thereof, is located, for the recovery of the cost thereof; and all moneys accruing from such proceedings shall be covered into the Treasury of the United States.

The amendment was agreed to.

The next amendment was to change the number of section 5 to section 7.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THE SOLDIERS' HOME INVESTIGATION.

Mr. HAWLEY, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment, and it was considered by unanimous consent, and agreed to:

Resolved, That 1,500 copies of the report of the Committee on Military Affairs on the Soldiers' Home, in addition to the usual number of copies, be printed for the use of the Senate, independent of the testimony relating thereto.

PRINTING OF A PENSION DOCUMENT.

Mr. HAWLEY. I report also from the Committee on Printing a resolution concerning a small pamphlet with certain statistics in regard to pension matters. I ask for its immediate consideration.

The Senate proceeded to consider the resolution, as follows:

Resolved, That there be printed for the use of the Senate 500 extra copies of Executive Document No. 152, with corrections.

Mr. COCKRELL. What is the document?

Mr. HAWLEY. The Committee on Pensions submitted a resolution, now approved by the Committee on Printing, asking for a few extra copies of the report from the Pension Bureau giving certain statistics concerning pensions.

The resolution was agreed to.

PRINTING OF GENEVA CONVENTION AGREEMENT.

Mr. HAWLEY, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment; and it was considered by unanimous consent and agreed to:

Resolved, That 3,000 extra copies of the message of the President of the United States of the 3d of March, 1882, transmitting "an accession of the United States to the convention concluded at Geneva on the 22d of August, 1864, between various powers, for the amelioration of the wounded of armies in the field, and to the additional articles thereto, signed at Geneva on the 20th of October, 1868," together with the proceedings of the Senate ratifying such convention, be printed; 2,100 of said copies for the use of the Secretary of State, 500 for the use of the Secretary of War, and the remainder for the use of the Senate.

BILLS INTRODUCED.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1870) granting pensions to certain persons in the military and naval service of the United States; which was read twice by its title, and referred to the Committee on Pensions.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1871) to regulate the method of purchasing tobacco for the use of the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. JACKSON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1872) for the relief of W. C. Marsh; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. GEORGE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1876) to refer the claim of Charles Man against the United States to the Court of Claims; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MILLER, of California, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1873) to authorize the Secretary of War to deliver to Grant Post No. 9 of the Grand Army of the Republic, Department of California, certain condemned cannon and cannon-balls; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MAHONE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1874) for the relief of Elizabeth Gaskins; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1875) for the erection of public buildings at Lynchburgh, Harrisonburgh, and Abingdon, Virginia; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

WITHDRAWAL OF PAPERS.

On motion of Mr. FRYE, it was

Ordered, That E. F. Cunningham have leave to withdraw from the files the papers in his pending claim, no adverse report having been made thereon.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3208) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 869) for the relief of Thomas J. Wharton; and

A joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, and so forth, for the fiscal year 1882, and for other purposes.

ACCOUNTS OF OFFICERS MAKING CERTAIN CHARGES

Mr. MORGAN. I offer the following resolution, and ask for its present consideration:

Whereas charges have been filed with the Department of Justice against the integrity of Government officers and ex-Government officers in Alabama, concerning their conduct in office; and

Whereas it is alleged that officers of the Department of Justice and of the Treasury Department refuse to perform their duties in acting upon the accounts of persons who preferred said charges until said charges are withdrawn; and

Whereas it is alleged that said officers state they will not settle the accounts now pending before said Department of the person who preferred and filed said charges unless the same are withdrawn: Therefore,

Resolved, That a committee of five members of the Senate of the United States be appointed by the President thereof to investigate the conduct of said officers; and that said committee be authorized to send for persons and papers, and to report at any time the result of its investigation.

Mr. INGALLS. Before committing myself to vote for this resolution, and thereby to an affirmation of my belief in the allegations made in the preamble, I should desire to be better informed as to the subject that is required to be investigated.

Mr. SHERMAN. I think it ought to go over.

Mr. INGALLS. And for the purpose of obtaining further information, I would suggest to the Senator from Alabama to allow the resolution to be printed and lie over until to-morrow morning.

Mr. MORGAN. The subject has been brought to my attention by a Republican who resides in my State and has a good reputation for honesty and integrity in that State. He has been a deputy marshal of the United States for the northern district of Alabama. He asked me in a letter which he addressed to me to present this resolution, and he sent me an affidavit which I will send to the desk and ask to have read. After that, if the Senator from Kansas desires to have time to consider the resolution I shall have no objection.

The Acting Secretary read as follows:

CITY OF WASHINGTON, *District of Columbia*:

Before me, Fred. A. Grant, a notary public in and for District aforesaid, personally appeared the undersigned, Thomas G. Hewlett, who, being duly sworn according to law, says:

That he came to the city of Washington to get a settlement of his accounts with the Government.

That after several applications to the Department of Justice he was notified that his accounts would be adjudicated and examined by Mr. C. C. Lancaster, jr.

That on the 9th day of May, 1882, he called on Mr. Lancaster, at request of Mr. Brewster Cameron, for the purpose of examining his accounts for services as deputy marshal in the northern district of Alabama.

That Mr. Lancaster stated to him that if he would withdraw the portion of his charges against Marshal Sloss so far as they implicated Colonel Lowe that his accounts would then be examined and settled.

That the affiant told Mr. Lancaster that he could not see what the charges against Colonel Lowe could have to do with the money the Government owed him, and that the charges were true, and that he would not withdraw them for the sake of collecting the money which the Government justly owed him.

That Mr. Lancaster then said he would pay no attention to the affiant's account until the charges against Colonel Lowe were stricken out or withdrawn.

THOS. G. HEWLETT.

Subscribed and sworn to before me this 11th day of May, A. D. 1882.

[SEAL.] FRED. A. GRANT, *Notary Public*.

The PRESIDENT *pro tempore*. Does the Senator from Kansas desire the resolution to go over?

Mr. INGALLS. I am still as much in the dark as to the necessity of appointing a committee of five Senators to investigate this matter as I was before the affidavit was read. I cannot see what there is that affects possibly any question that can come by any means, directly or indirectly, before the Senate. I therefore ask, in order that I may obtain further information, that the matter may go over.

The PRESIDENT *pro tempore*. The resolution goes over.

Mr. MORGAN. I move that it be printed.

The motion was agreed to.

NATIONAL BOARD OF HEALTH.

The PRESIDENT *pro tempore*. The Calendar will be called under the Anthony rule.

The bill (S. No. 1049) amending an act entitled "An act to prevent the introduction of contagious or infectious diseases into the United States" was announced as first in order upon the Calendar.

The PRESIDENT *pro tempore*. The reading of the report was called for yesterday.

Mr. HARRIS. It was called for by the Senator from Wisconsin [Mr. CAMERON] yesterday. Let the report be read.

The Acting Secretary read the following report, submitted by Mr. HARRIS April 18:

The Committee to investigate and report the best means of preventing the introduction and spread of Epidemic Diseases, to which was referred Senate bill No. 1049, being a bill to amend an act entitled "An act to prevent the introduction of contagious diseases into the United States," has considered the same, and submits the following report:

The National Board of Health was created by act approved March 3, 1879, composed of one medical officer from the Army, one from the Navy, and one from the Marine Hospital Service, one officer from the Department of Justice, and seven members to be appointed by the President by and with the advice and consent of the Senate, not more than one of whom shall be appointed from the same State. And on the 3d day of April of that year the board organized and entered upon its duties.

By act approved June 2, 1879, additional powers were given and additional duties imposed upon the board, for the purpose of enabling it to prevent the introduction of contagious or infectious diseases into the United States from foreign countries, or into one State from another, but by the terms of this act its duration was limited to four years from the date of its approval.

Some of the most important provisions of this act have proved inoperative, because they could not be enforced in respect to bills of health in foreign ports until the act as well as the rules and regulations made under it were regularly promulgated in such ports, and the authorities in some of the ports most dangerous to the health of this country would not allow their promulgation.

For the purpose of modifying and re-enacting the act of June 2, 1879, the committee instructs me to report the bill back with amendments and the recommendation that it pass.

The most material of the amendments to the act of 1879 is to require that the act and rules and regulations made under its authority shall be posted up in the office of the consul, vice-consul, or other consular officer of the United States, instead of formal promulgation, and to require all vessels sailing from foreign ports to any port in the United States to carry, as a part of the ship's papers, a bill of health signed by the consul, vice-consul, or medical officer of the United States at the port of departure.

The fullest and most reliable information as to the sanitary condition of foreign ports and vessels sailing from them, at the time of their departure, is absolutely necessary to enable our quarantine officers to distinguish upon arrival at our ports those ships and persons from which no danger need be apprehended, which form a very large majority of the whole, from the few ships and persons which are really dangerous, and which should be subjected to special scrutiny and, if necessary, treatment to secure safety.

This information can only be obtained by requiring vessels to have a reliable

bill of health. This change in the law is earnestly recommended by the National Board of Health and approved by the National Academy of Sciences and almost if not every sanitary association in the country.

The sad experience of the country in repeated epidemics of yellow fever and cholera in the past and the spread of small-pox in many of the States of the Union at this time show the importance and necessity of this legislation.

No State or municipality can, in the exercise of their limited police powers, effectually prevent the introduction of contagious or infectious diseases into the United States from foreign countries, or into one State from another; but if their powers were fully equal to the necessities of the case, local boards of health and sanitary authorities are so much in sympathy with the commercial interests and influences of their respective localities that the people of the other States will not be content to rely upon them for protection.

The importation of contagion, or persons or goods infected with contagion, into this country from foreign countries, or into one State from another, is as much the creature of commerce as is the importation of a cargo of sugar or a bale of muslin; to do either is an act of commerce; indeed, it is commerce itself.

"Congress shall have power to regulate commerce with foreign nations and among the several States."

This bill does not propose to interfere in any manner or to any extent with the police regulations of any State or municipality. It proposes to act within a domain which the Constitution has placed beyond the reach of police regulations and State authority.

It proposes "to regulate commerce with foreign nations and among the several States," and so to regulate it as to strip it from contagion, from the importation of which in times past the people of this country have suffered so often and so severely.

The experience of the last three years under the present law (inoperative as portions of it have been) inspires a high degree of confidence in our ability, by the strict enforcement of the necessary and proper regulations, to effectually prevent the recurrence of such epidemics in the future in the United States.

The protection of human life and the promotion of the public health are second in importance to no question which addresses itself to the consideration of the legislator, and Congress should, in the opinion of the committee, within the scope of its constitutional powers, adopt such measures as will most certainly preserve the one and promote the other.

Our statute-books furnish a large number of precedents wherein Congress has, within the last fifty years, regulated commerce with no other object or purpose than to give greater security to the health and lives of that portion of our people who chance to be afloat upon our waters.

It has required the inspection of the hulls, boilers, and machinery of steam-vessels, and forbidden the use of those found to be unsafe.

It has prescribed the maximum number of passengers which may be carried, and prohibited the carrying of articles dangerous to human life on passenger vessels.

It has for many years maintained, and is still wisely maintaining, a light-house system and a life-saving service. The former at an annual cost of about $2,500,000 and the latter costing annually about $700,000.

It has forbidden, under penalty of forfeiture and destruction, the importation of adulterated or impure drugs and medicines.

With these precedents of long standing and constant repetition before us, the committee does not deem it necessary to review the numerous judicial decisions which the committee believes clearly show the power of Congress to regulate commerce in respect to the importation of contagion, as well as in respect to the importation of other things, or to attempt to draw the line or define sharply exactly where the power of Congress to regulate commerce ends and the legitimate exercise of the police powers of a State begins.

Upon this point Justice Strong, in delivering the opinion of the Supreme Court of the United States in the recent case of Railroad Company *vs.* Husen, (5 Otto, 472, 473,) says:

"While we unhesitatingly admit that a State may pass sanitary laws and laws for the protection of life, liberty, health, or property within its boundaries; while it may prevent persons and animals suffering under contagious or infectious diseases, or convicts, &c., from entering the State; while for the purpose of self-protection it may establish quarantine and reasonable inspection laws, it may not interfere with transportation into or through the State beyond what is *absolutely necessary for its self protection*. It may not, under the cover of exerting its police powers, substantially prohibit or burden either foreign or interstate commerce. * * * The right can only arise from vital necessity, and it cannot be carried beyond the scope of that necessity."

This shows that the powers of a State in respect to this question are based upon and limited by the law of self preservation, and can go no further than the protection of the people within its boundaries, while the power of Congress to regulate commerce is absolute, supreme, and exclusive.

But wherever the line may be drawn, or to what extent the police powers of the States may be supposed to go, the bill reported by the committee does not propose to conflict, or in any way interfere, with any State or municipal board of health, or its rules and regulations. So far from it, it proposes to co-operate with them in the execution of all of their rules and regulations to prevent the importation of contagious diseases; and if in any case their rules and regulations are, in the opinion of the National Board, not sufficient to prevent such importation, then, under the order of the President, the National Board is authorized to make such additional rules and regulations as, in its opinion, are sufficient; and when approved by the President of the United States they become valid, and the State or municipal board is requested to execute and enforce them; but if it fails or refuses to do so, then the President is authorized to detail or appoint an officer of the United States to enforce them.

The report of the board of scientific experts appointed in December, 1878, shows that yellow fever has invaded this country sixty-five times within the present century, and that the proof conclusively shows that almost all of these epidemics were the result of imported contagion from countries south of us, while in no case is there satisfactory proof that the disease ever originated in this country.

From the best information that the committee has been able to obtain, it is of opinion that neither yellow fever nor cholera is indigenous to any part of this country, and that if we will adopt measures such as will effectually prevent their importation we will be free from them forever.

We have had State and municipal boards of health for very many years in the past, but we have also had epidemics of imported contagious and infectious diseases not unfrequently within the same period. If we would prevent these epidemics we must have a general system applicable to every port through which contagion can be imported, uniform in its requirements in respect to quarantine, and rigidly enforced, without regard to local commercial interests or influences, and the time for greatest vigilance in the enforcement of these preventive measures is when the country is entirely free from these diseases.

But even when they have appeared, the experience of 1879 has shown that with proper care and effort they can be confined within narrow limits, if not stamped out entirely. But to do this requires prompt action, and an amount of means rarely if ever at the disposal of a municipal or State board of health.

In the yellow-fever epidemic of 1878, which raged so fearfully and fatally at New Orleans, Memphis, Holly Springs, and Grenada, and extended far up the Ohio River, and to many other places, the actual loss to the people of the United States in the element of material wealth, to say nothing of impaired health and loss of human life, is variously estimated by those best informed on the subject at from $100,000,000 to $200,000,000.

In his message to Congress in December, 1878, Mr. Hayes said:

"The enjoyment of health by our people generally has, however, been interrupted during the past season by the prevalence of a fatal pestilence—the yellow fever—in some portions of the Southern States, creating an emergency which called for prompt and extraordinary measures of relief. The disease appeared as an epidemic at New Orleans and at other places on the Lower Mississippi soon after midsummer.

"It was rapidly spread by fugitives from the infected cities and towns, and did not disappear until early in November.

"The States of Louisiana, Mississippi, and Tennessee have suffered severely.

"About one hundred thousand cases are believed to have occurred, of which about twenty thousand, according to intelligent estimates, proved fatal.

"It is impossible to estimate, with any approach to accuracy, the loss to the country occasioned by this epidemic. It is reckoned by the hundred millions of dollars."

So gigantic in proportions and fatal in consequences was this epidemic that it produced general demoralization and panic, inducing all persons who could get away from the infected places to seek safety in flight, scattering throughout the country. Many of them were stricken down in other localities, thus spreading the disease over a large extent of country, producing a general state of apprehension and alarm, which prompted towns and villages, yet free from the pestilence, to establish shot-gun quarantines for their protection, thus blocking the ordinary channels of communication and transportation, suspending commerce, and paralyzing the entire business of the country.

The epidemic of 1879 at Memphis and New Orleans made its appearance before the national board had been able to perfect its plans of prevention; though it is, in the opinion of the committee, doubtful whether that epidemic could have been prevented, as it is not certain whether it originated from germs of the epidemic of 1878 which had survived or in fresh importation of the disease.

But, under the rules and regulations adopted by the board to deal with it, it was actually stamped out in New Orleans, and confined to the limits of Memphis; and instead of the general demoralization and panic, with suspension of business, trade, and commerce, which pervaded the country in 1878, commerce and communication with the infected cities were regulated, not stopped, or even retarded to any considerable extent, and the general business of the country went on in its usual methods, and through its usual channels, without serious interruption.

Instead of panic and alarm, confidence and a sense of security pervaded the country.

To illustrate, take the tonnage of a single railroad. The Illinois Central, at the one point of Cairo, sent to and received from the South in 1879, 100,470,000 tons of freight more than it received and sent for the same period in 1878, in addition to which the passenger trade was scarcely interrupted in 1879, while it was almost entirely suspended in 1878.

Dr. Rauch, secretary of the Illinois State board of health, from whose report the above statement is taken, says this result could not have been reached without the co-operation of the National Board of Health, and its utmost exertions were required to allay the fears of the local authorities.

The experience of the country during and since 1879 has inspired great confidence in the South and Southwest in the possibility of effectually preventing, or successfully dealing with and controlling, these epidemics.

The great transportation companies of the South, both river and rail, are unanimous in their approval of the action and methods of the national board in dealing with such cases, because experience has shown that they give the necessary security against the spread of disease, without stopping, or retarding to any considerable extent, commercial intercourse.

They have learned from their own experience that the certificate of the National Board of Health as to the sanitary condition of any city or place is accepted by other cities and States as testimony coming from a strictly impartial and well-informed authority, independent of all local interests or influences, commercial or otherwise.

The action and methods of the national board have been approved by the State and local boards of health throughout the country, almost without exception by the American Medical Association, the American Public Health Association, the National Academy of Sciences, the transportation companies of the South and Southwest, boards of trade, cotton exchanges, and other associations of business men throughout the country. In the opinion of the committee, it has accomplished much, and is capable of accomplishing highly important results of great benefit to the country, results which can be accomplished by no other agency.

For the greater security of the lives of that portion of our people who chance to be afloat upon our waters, given by our light-house system and Life-Saving Service, we annually expend about $3,200,000. This expenditure, necessary and proper, as the committee believes, is for the benefit of a very small proportion of our people, perhaps not more than one in a thousand, while the exertions and operations of the National Board of Health are intended to protect the lives and health, and certainly do benefit the whole people of the country.

If it be admitted that the action and operations of the board even tend to the preservation of life and health to any, however small the extent, such fact makes it eminently worthy of our support, and in the opinion of the committee should be sustained with such powers and means as will enable it to perform its functions fully, promptly, and efficiently.

The expenses of the board for the first three years of its existence ending April 3, 1882, aggregate $506,216.17, or an average of $168,738.72 per year, the whole expenditures for the three years being about $44,000 less than the amount appropriated for the first year.

Much the greater portion of these expenditures have been made in aiding State and municipal boards in their quarantine work, in the enforcement of quarantine regulations necessary to prevent the importation of contagion into the United States or into one State from another, and in establishing and maintaining quarantine stations at Ship Island and Sapelo Sound—at the former of which places the board found it necessary to construct a rude hospital, warehouse, and wharf of ample capacity, while at the latter they have used boats and tents.

These stations the board found indispensably necessary for the care and treatment of infected vessels, cargoes, passengers, and crews.

Under the regulations of the board a number of ships infected with yellow fever have been sent to these stations, and, after treatment, allowed to proceed to and enter our ports without giving rise to a single case of the disease.

When the memories of the fearful ravages of the epidemic of 1878 were fresh, both Houses of Congress were ready to appropriate, and did appropriate, all that the committee asked for the purpose of endeavoring to find, if possible, a means of preventing the recurrence of this terrible scourge; but as the memories of the hundred thousand sufferers and the twenty thousand new made graves of that period are fading from our minds, the committee has experienced more or less of difficulty in obtaining the appropriations necessary to enable the board to perform the important duties which devolve upon it.

The practical question, as it appears to the committee, is, the country being now free from yellow fever and cholera, shall we use the necessary means to keep it so, or relax into indifference, withhold the powers and the necessary means to prevent their importation, and await the outbreak of another epidemic, which will cost the country hundreds of millions of dollars and thousands of lives of our people, to awaken us to the importance of preventive measures in which the committee believes we can find absolute security?

Mr. MCPHERSON. Is it in order to interpose an objection to the

consideration of the bill at any time? This bill is a very important one, and for myself I must confess I have not examined it as closely as I wish to do. It contains very important and very restrictive provisions, and I must object to its consideration.

Mr. HARRIS. I hope the Senator from New Jersey will allow me to say to him before he interposes an objection, that this bill changes the act of June 2, 1879, in only two or three particulars. Almost every one of its provisions has been the law for the last three years. Those particulars in which that act is changed can be easily pointed out; and I hope when pointed out, as they are pointed out by the report, neither the Senator from New Jersey nor any other Senator will find fault or seriously object. There are reasons why it is very important that this bill should pass, and pass at the earliest day possible, that I will endeavor to assign if the Senator desires me to do so and will give me an opportunity of doing so.

Mr. McPHERSON. I have no objection to the consideration of the bill, but I cannot consent to its being voted upon until I shall have had more time to examine it.

Mr. INGALLS. I have no objection to the consideration of the bill, but I do object to its being considered under the Anthony rule, and therefore, to enable the Senator from Tennessee to call it up so that it may be properly discussed, I shall ask that it may be taken up by the vote of a majority of the Senate, in compliance with the provisions of the amended Anthony rule, so that we may hear the explanation of the Senator from Tennessee.

Mr. McPHERSON. I will withdraw my objection to its consideration, for that is the purpose.

Mr. HARRIS. One word as to the importance of its consideration, and then, according to the suggestion of the Senator from Kansas and the Senator from New Jersey, I will move that the Senate proceed to the consideration of the bill.

The PRESIDENT *pro tempore*. If objection is made, the motion can be made.

Mr. HARRIS. And not unless; but I understood the Senator from Kansas as interposing an objection.

Mr. INGALLS. To enable the Senator to make his motion, I will interpose now the objection, he understanding why I do it.

Mr. HARRIS. The particular reason I would assign——

Mr. ALLISON. This bill will take a week.

Mr. HARRIS. By no means; nor will it take as many hours or half hours as there are days in a week when the Senate come to understand it. But the reason why it is important that this bill should be considered at once and disposed of one way or the other is, first, that it is a well-known fact that within the last one or two months small-pox has been imported into this country through our ports to State after State, and several of the Western States have suffered seriously from the spread of the small-pox, traced with absolute certainty to the importation of the disease.

In addition to that fact, I have upon my table consular reports from Matanzas and Havana within the last ten days, showing that yellow fever is existing and increasing in both those ports, and that vessels are leaving those ports for ports in our country every few days, exposing us to the importation of the yellow fever into our Southern ports and threatening us with an epidemic this year perhaps equal to some of those we have had and suffered from in the recent past.

Let the action of the Senate be whatever it may in respect to this question, it is important in my opinion that they should act promptly; and if we intend to give the additional powers that this bill proposes to give to the National Board of Health as a means of preventing the importation of these diseases, let it be done at once, so that the country may avail itself of the benefit of this additional force the present season. If they do not intend to extend them, the sooner it is known the better, and therefore I hope the Senate will take the bill up and proceed with its consideration.

Mr. BAYARD. Mr. President I have no doubt that the bill relates to a most important and interesting subject, but I have also no doubt from the amount of scrutiny I have been able to bestow upon the measure that it will reach very distant results. The scope proposed of authority in this bill is one that I think needs a great deal of criticism; it needs a great deal of discussion. The importance of the subject I fully admit; but I submit now to the Senator from Tennessee that this is the morning hour, we have one hour from now to two o'clock to discuss this bill, and I would suggest to him that he had better have this discussion unbroken and have his bill acted upon either favorably or otherwise according to the judgment of the Senate, and not to attempt it in the morning hour. There is not time between now and two o'clock to discuss this bill. There are propositions here for an almost indefinite enlargement of the medical service of the United States, propositions here for which there are not to-day in the service of the United States enough physicians to fill the offices intended. There are here restrictions upon shipping and upon commerce of an exceedingly far-reaching and grievous nature. They cannot be discussed in a day. I submit to those gentlemen whose knowledge and whose local representation makes them peculiarly sensitive on commercial questions—for although we represent all parts of this Union in this Chamber still there are some more than others who feel themselves specially charged with the consideration of commercial interests—whether it would not be well for them to examine as to the effect of these restrictions upon commerce under the form and color of medical inspection.

The bill is important; I do not mean to prejudge it; but I do say that it had better be very carefully considered, and it cannot be properly considered in the space of one hour. At two o'clock another bill will be in order. I have glanced over this bill, and I confess myself somewhat surprised at the scope of authority that it proposes to the National Board of Health in the city of Washington. The proposition that they shall, if it is inconvenient to the President, appoint medical officers in every port where there is a consul or consular agent——

Mr. HARRIS. Will the Senator from Delaware allow me to say to him that I am perfectly willing to limit that number of medical officers to six, as now, for more than that number will not probably be necessary.

The PRESIDENT *pro tempore*. The Chair will inform both gentlemen that discussion of the merits of the bill is not in order on this motion.

Mr. BAYARD. I say to my friend that I think it would be wiser, without regard to those in favor, or those opposed, to have so important a subject considered and disposed of properly, and not to attempt it in the morning hour.

Mr. SHERMAN. I trust Senators will not insist on taking this bill up now. I am surprised when I read the bill at the importance of the principles involved in it. If the language of the bill discloses its real meaning it places powers in the hands of the National Board of Health which I think entirely unnecessary, or at least they are so great and exorbitant in their character, according to the terms of the bill, that I should hesitate to vote for it without much longer consideration than we can give it in the morning hour. At the same time, I know that the National Board of Health has been a very useful agent to prevent the spread of diseases, and I wish to give them what powers are necessary. The bill ought to be taken up at some time when we can consider the matter fully. It will encounter very serious objection if pressed on the Senate at this time. I will either make an objection, or move to postpone.

The PRESIDENT *pro tempore*. Objection has been made to the further consideration of the bill, and a motion is pending by the Senator from Tennessee that it be now taken up, notwithstanding the objection.

Mr. SHERMAN. Then I trust the Senate will not vote to take it up now, but let it stand on the Calendar without prejudice for the present, until we can examine it more fully.

Mr. HARRIS. I beg to say to the Senator from Ohio that there is no bill on the Calendar so important as a question of time to be considered and disposed of at once, and I beg to call his attention to the additional fact that there is a very slight increase of power in respect to only one or two things that do not exist and have not existed for the last three years under the statutes of the United States.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Tennessee. There was an objection to the consideration of the bill, and thereupon a motion was made by the Senator from Tennessee, notwithstanding the objection, to take up the bill. The question is on that motion.

Mr. HARRIS called for the yeas and nays, and they were ordered.

Mr. McMILLAN. If this bill is taken up it will necessarily postpone the dispatch of all business that follows it upon the Calendar, business that would be unobjected to, that could be disposed of during the morning hour; while the remainder of the day could be appropriated to the discussion of this bill if it were taken up outside of the Anthony rule. The bill, as I understand it, if it is passed, not only will render perpetual the National Board of Health—now it is not so—but these powers will be made permanent and will be imposed upon the country then as they are not now.

Mr. HARRIS. The Senator will allow me to suggest to him that the Board of Health is by law perpetual now. The powers given by the act of June 2, 1879, will expire on June 2, 1883, but the Board of Health exists and will only be stripped of such powers as that act gave.

Mr. McMILLAN. That is the view I had of the measure. I think if we are allowed to go on with business on the Calendar during the two hours appropriated to it we can dispose of the business before the Senate with much greater advantage to the country and appropriate to this bill the proper discussion which it will demand.

The PRESIDENT *pro tempore*. The roll will be called.

Mr. BUTLER. What is the question, Mr. President?

The PRESIDENT *pro tempore*. To take up this bill and consider it. An objection having been made to its consideration under the Anthony rule, the motion is to take it up notwithstanding the objection.

Mr. BUTLER. Several other bills I believe have been taken up under these circumstances, and I do not think any of them is of any more importance than this. Certainly none of them is of half the importance to my section of country as this bill. I trust the Senate will concur with the Senator from Tennessee and proceed to consider the bill. It is one of very great consequence, one to which the Senator from Tennessee has given a great deal of thought and study; and he has accompanied his bill by a very elaborate and full report. It seems to me that any Senator can fully inform himself in half an

hour by reading that report and reading this bill. It is a matter of the very greatest consequence to the whole Atlantic and Gulf coast of this country that whatever we are going to do we do promptly. I hope the Senate will take up the bill and proceed to consider it.

The PRESIDENT *pro tempore*. The Chair will state that if the bill is taken up it will be the order, during the prevalence of the Anthony rule, until it is disposed of.

Mr. CAMERON, of Wisconsin. This bill, if it becomes a law, will make some very important changes in the law as it now exists. One of those important changes has been pointed out by the Senator from Delaware. Under the present act the President is authorized to detail medical officers for the purpose of duty in foreign ports, but the number is limited to six. Under this bill the number is unlimited, and if the President finds it inconvenient to designate them for that purpose, then they can be appointed by the Board of Health.

Mr. HARRIS. I have no objection to limiting it to six, as now.

Mr. BUTLER. I have not submitted any remarks on the merits of the bill.

The PRESIDENT *pro tempore*. Debate on the merits is not in order.

Mr. BUTLER. I was just going to call the attention of the Senate to the fact that the Senator from Wisconsin was discussing the merits of the bill.

Mr. CAMERON, of Wisconsin. No, I was not discussing the merits but the demerits of the proposition.

Mr. BUTLER. Either form of the dilemma is violative of the rule.

Mr. CAMERON, of Wisconsin. I am merely stating the condition of the bill because I am of the opinion that the Senate want to know something about the provisions of the bill in order to vote intelligently on the question of taking it up at this time.

Another change that is made by this bill is that the bill provides that the National Board of Health shall report directly to Congress. Under the present act they are required to report to the Secretary of the Treasury, and the Secretary of the Treasury communicates the report of the board to Congress. The object of this provision seems to be to make this, so far as it can be made under that provision, an independent, I was going to say department of the Government. I am of the opinion that if the Senator from Tennessee remains in the Senate three or four years longer and continues to work in the direction in regard to this matter that he has during the last three or four years, the National Board of Health will be made one of the departments of this Government. I do not express any opinion as to whether that ought to be done or not, but I think, judging the future by the past, that that thing will come to pass.

The bill not only authorizes the board to report directly to Congress, but it gives these doctors the franking privilege. That will be found on page 7:

> And that all mail matter of whatever class relative to the National Board of Health and its duties, and addressed to its secretary and indorsed "Official business, National Board of Health," shall be transported free of postage.

The bill provides also in the same section:

> That the necessary printing of the National Board of Health be done at the Government Printing Office, upon the requisition of the secretary of the board, in the same manner and subject to the same provisions as other public printing for the several Departments of the Government.

The present act provides that the printing shall be done at the Government Printing Office, but the cost is limited to $10,000. That provision is carefully eliminated in this bill, so that under the provisions of this bill the National Board of Health may order printing to any amount.

Mr. HARRIS. To an amount beyond its appropriation?

Mr. CAMERON, of Wisconsin. I believe it does not provide that it shall be paid for out of the appropriation.

Mr. HARRIS. Can any agency of the Government order work beyond its appropriation?

Mr. CAMERON, of Wisconsin. We frequently pass deficiency bills, and I think it very likely——

Mr. HARRIS. We have never had one passed for the Board of Health.

Mr. CAMERON, of Wisconsin. I think it likely that it will be necessary to provide a deficiency for that purpose. Section 8 provides:

> That the National Board of Health shall, as often as quarterly, make a full statement of its operations and expenditures under this act to the Secretary of the Treasury, who shall report the same to Congress.

The present act requires that these expenditures shall be approved by the Secretary of the Treasury. That is carefully omitted in this bill.

Mr. ALLISON. Mr. President, I do not wish to discuss the provisions of this bill, but the Senator from Wisconsin has disclosed enough to show to the Senate that one session, or two, or three sessions, occupying the time intervening between half past twelve and two o'clock each day, will not suffice for the consideration of a bill of this importance, taking into account the provisions he has suggested.

If this is so important, as suggested by the Senator from Tennessee, why not take another time for it? Two o'clock will soon arrive, and then it will go over. We shall soon get rid of the pending regular order, and I suggest to him that he test the sense of the Senate in competition with other subjects before it when that is disposed of. If we are to have any efficacy in the Anthony rule at all we must eliminate from this morning hour bills of this character; otherwise we might just as well have no Anthony rule. The idea and object and aim of the Anthony rule is to take up during this hour such questions and bills as will not lead to general debate and discussion. We have a great number of them on the Calendar now, and if we are to have interpolated and injected a motion every morning for the consideration of every bill that is reached in its order, to which there is objection, of course the Anthony rule is entirely obliterated.

I hope, therefore, that whatever our opinions may be about this bill—and I have very little knowledge of it, and therefore very little information in reference to it—the Senate will not take it up this morning, but that it will run the gauntlet with other questions of importance before the Senate.

Mr. LAPHAM. I desire to call attention to one other provision. The proviso of the third section of this bill grants an unlimited power to the Board of Health to erect quarantine buildings, and for that purpose to acquire title to real estate without any restriction whatever.

Mr. HARRIS. That is the law now.

Mr. LAPHAM. I do not know any occasion for re-enacting it if it is the law now.

Mr. HARRIS. Because it expires in June.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Tennessee to take up this bill notwithstanding the objection, on which motion the yeas and nays have been ordered.

The Principal Legislative Clerk proceeded to call the roll.

Mr. FRYE, (when Mr. ANTHONY'S name was called.) The Senator from Rhode Island [Mr. ANTHONY] is paired with the Senator from Georgia [Mr. HILL] for to-day.

Mr. GORMAN, (when his name was called.) On all political questions I am paired with the Senator from Rhode Island, [Mr. ALDRICH,] with a perfect understanding that I should have the right to vote on all other questions. I therefore vote "nay."

Mr. MILLER, of New York, (when his name was called.) I am paired with the Senator from Maryland, [Mr. GROOME.]

The roll-call having been concluded, the result was announced—yeas 24, nays 27; as follows:

YEAS—24.

Beck,	Garland,	Kellogg,	Slater,
Butler,	George,	Maxey,	Vance,
Call,	Hampton,	Morgan,	Vest,
Cameron of Pa.,	Harris,	Pendleton,	Voorhees,
Coke,	Jackson,	Plumb,	Walker,
Davis of Illinois,	Jonas,	Pugh,	Williams.

NAYS—27.

Allison,	Davis of W. Va.,	Ingalls,	Miller of Cal.,
Bayard,	Dawes,	Jones of Florida,	Morrill,
Blair,	Frye,	Jones of Nevada,	Platt,
Cameron of Wis.,	Gorman,	Lapham,	Rollins,
Chilcott,	Harrison,	McDill,	Saulsbury,
Cockrell,	Hawley,	McMillan,	Windom.
Conger,	Hill of Colorado,	McPherson,	

ABSENT—25.

Aldrich,	Ferry,	Lamar,	Sawyer,
Anthony,	Groome,	Logan,	Sewell,
Brown,	Grover,	Mahone,	Sherman,
Camden,	Hale,	Miller of N. Y.,	Van Wyck.
Edmunds,	Hill of Georgia,	Mitchell,	
Fair,	Hoar,	Ransom,	
Farley,	Johnston,	Saunders,	

So the motion was not agreed to.

Mr. HARRIS. The effect of this motion is to put this bill to the foot of the Calendar, is it not?

The PRESIDENT *pro tempore*. It does not come up under the Anthony rule any more.

Mr. HARRIS. So I understand. It will require a motion to take it up.

The PRESIDENT *pro tempore*. Yes, sir.

ALBERT T. WHITING AND THOMAS EVANS.

The bill (S. No. 1561) for the relief of Albert T. Whiting and Thomas Evans was announced as next in order.

The PRESIDENT *pro tempore*. The Chair understands that this bill should be postponed indefinitely.

Mr. VANCE. It may be postponed indefinitely, as a House bill for the relief of one of these gentlemen was amended by the Senate including the other.

The bill was postponed indefinitely.

REGISTRATION OF TRADE-MARKS.

The bill (S. No. 1440) relating to the registration of trade-marks was considered as in Committee of the Whole.

Mr. PLATT. The bill was reported by the Committee on Patents. I propose an amendment to make it clear that it applies to nothing except what is now contemplated by the act relating to the registration of trade-marks. I propose to amend by inserting after the word "used," at the end of line 6, the words "by the applicant in foreign commerce or commerce with Indian tribes;" so as to make the bill read:

> That nothing contained in the law entitled "An act to authorize the registration of trade marks and protect the same," approved March 3, 1881, shall pre-

vent the registry of any lawful trade-mark rightfully used by the applicant in foreign commerce or commerce with Indian tribes at the time of the passage of said act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EDWARD S. FARROW.

The bill (S. No. 881) for the relief of Lieutenant Edward S. Farrow, United States Army, was considered as in Committee of the Whole. It proposes to direct the Secretary of War to ascertain the value of the property lost by Lieutenant Edward S. Farrow, Twenty-first Infantry, on or about the 8th of March, 1880, by the burning of the Government warehouse at Vancouver barracks, Washington Territory, in which building all the personal property of Lieutenant Farrow was stored for safe-keeping when he was sent into the field in pursuit of hostile Indians; and the amount so ascertained is to be paid.

The bill was reported from the Committee on Military Affairs with an amendment in line 16, after the words "sum of," to strike out "$1,657.05" and insert "$571;" so as to make the proviso read:

Provided, That no allowance shall be made for any property except what was useful, necessary, and proper for such an officer, and that the aggregate amount allowed shall not exceed the sum of $571.

Mr. PLUMB. I ask to have the report in that case read.

The Principal Legislative Clerk read the following report, submitted by Mr. HAMPTON March 23:

The Committee on Military Affairs, to whom was referred the bill (S. No. 881) for the relief of Lieutenant Edward S. Farrow, United States Army, have considered the same, and beg leave to report the bill back to the Senate amended as follows: In lines 16 and 17 strike out the words "one thousand six hundred and fifty-seven dollars and five cents," and insert in lieu thereof the words "five hundred and seventy-one dollars." The committee have examined the list of articles lost by Lieutenant Farrow by the burning of the public warehouse, and while they do not doubt the correctness of this list they think that the Government cannot properly pay for all of these articles.

Mr. PLUMB. There is no showing here that Lieutenant Farrow was required to leave these articles in the Government warehouse. I do not understand that the Government becomes the insurer of the property of an officer, nor that it furnishes shelter and protection for his baggage or personal property wherever it may be found. By what right did Lieutenant Farrow put his baggage and his personal property into the Government warehouse; and now by what logic does he come here and ask, as the Government warehouse was burned down, that he should be compensated for the property he put there at his own option and at his own risk?

While this amount is not large, at the same time it is one of a very large number of bills that have been before the Senate recently, and it seems that we are establishing a very dangerous principle, one which is going to enlarge our obligations to the Army or to the officers composing the Army, and which practically makes the Government the custodian and insurer of all the property that any Army officer may have anywhere, either in pursuance of his Army duty or otherwise, which may be lost by fire, by flood, by theft, by burglary, or by any other casualty whatever. I submit that we are going a great way when, paying as we do a large salary to these officers, we relieve them from any obligation whatever of diligence or care or responsibility for the property which they find it necessary to have for the transaction of their business as officers of the Army. I submit that practically there is nothing which is absolutely necessary to an officer except his clothing.

Mr. COCKRELL. Arms?

Mr. PLUMB. Those he furnishes himself as he does his clothes.

Mr. WILLIAMS. And a mess-chest?

Mr. PLUMB. The Senator from Kentucky says "and a mess-chest." I say there is no necessity for a mess-chest; but at all events, however that may be, we find that at this session tables, and desks, and books, and papers, and chairs, and lounges, and the frills and furbelows which are convenient to be used and which ornament the prairies in which they may flourish have been paid for, so far as the Senate can do it.

Of course, I have no hope that this can be resisted by what little I may do, but, as I said before, I submit that it is ingrafting a very dangerous practice on the principles of legislation, and for that reason I am opposed to this bill; and certainly, without some showing that this officer was required, of necessity, to put these goods in the Government warehouse, that there was no other place to put them, or that he put them there by direction of his superior officer in some way so that his own judgment was under the control of that superior officer, there is no foundation for an appropriation by the Government to pay for them.

Mr. HAMPTON. I had the honor of submitting the report in this case, but I do not at this moment remember the circumstances under which these articles were placed in the Government warehouse. I have just sent for the papers.

Mr. COCKRELL. If the Senator will permit me, I will state that the Committee on Military Affairs has never opened the door as widely as the Senator from Kansas would seem to indicate. They have universally held that losses of this kind must have occurred without any fault or neglect on the part of the officer, or he can have no claim to relief.

Mr. PLUMB. But the Senator from Missouri will permit me to say that the report here does not show anything of that kind.

Mr. COCKRELL. That is very true. I know that. I read the report before the Senator called attention to it. The Senator from South Carolina [Mr. HAMPTON] made the report. It was the understanding of the committee that these losses had occurred without any fault or neglect on the part of the officer, or I for one should certainly have voted against it.

Now another point the committee has been guarding constantly, not to pay for articles which may be lost which are not necessary; not in the sense that the Senator from Kansas says that they should be absolute necessaries, that is things which are absolutely indispensable. They could do without knives and forks; they could do without dishes; they could cook with sticks, and they could bake their bread on rocks, and they could do with very little clothing, and so on; but it is not supposed that in the nineteenth century the United States will require its officers to occupy that position, and therefore they are allowed to have ordinary necessary conveniences. They are to have clothing and arms and things of that kind that are reasonably necessary and proper for their health, their comfort, and their convenience. Those are the articles that we have restricted the pay to. Things that are not necessary, which are merely for ornament, for show, the committee have decided should not be paid for. Hence this amount is cut down, because there were a great many things included in his bill that were not necessary. We decided that a dress-suit for an officer on the frontier would not be a necessary article.

Mr. HAMPTON. I have now before me the papers, including the petition, of this officer, from which it will be seen—

That he was in the summer of 1879 on duty in the field, commanding a company of Indian scouts and detachment of United States troops, in pursuit of hostile Sheepeater Indians; that upon his departure from his regular station, Fort Townsend, Washington Territory, he had all of his personal property, which he is allowed by law, done up in boxes and bundles and placed them in the quartermaster's warehouse for storage and safe-keeping.

That warehouse was burned; and with these papers is a report of a board of officers, showing that no blame was attached to any one in consequence of the fire. This officer, Lieutenant Farrow, submitted a certified list of the articles which he lost. The amount of property covered by that list was $1,657. The committee have stricken out everything except what pertained to a soldier's outfit, his uniform, his arms, &c. But all the citizen's clothing, all his furniture, and everything of that sort they have recommended should not be paid for.

We regarded this as a most meritorious case, and I only regret that in making this report I was compelled by the rule the committee had adopted to recommend the payment only of those few articles which are embraced in this report, amounting to $571. More than a thousand dollars has been stricken off by this report that this gentleman loses, for we have no question in the world that he did lose that property. He loses entirely these articles of furniture and other things. I think the report is eminently just, and, as I said before, I only regret that a greater measure of relief cannot be granted.

Mr. PLUMB. I move to recommit the bill.

Mr. MAXEY. The only question raised by the Senator from Kansas, it seems to me, that has pertinence is the question of diligence or neglect. The committee have reduced this allowance down to the actual outfit of the soldier. In obedience to the orders of the Government he was compelled to leave that post and go on a scout. He placed his property in the best possible place he could place it, the safest place it could be, in the possession of the quartermaster, in the quartermaster's depot, where there is, as all military men know, constantly, day and night, a guard. That could not be the case at his own private quarters, because there a guard is not furnished.

On the question of diligence, he has used all the diligence that could possibly be expected of anybody. It is, therefore, a question whether, when an officer, obeying the orders of his Government, is compelled to leave his soldier's outfit behind him to go on a scout, and he does take care of it by the best means in his power, if he loses it, it would be equitable or fair that he should not be reimbursed. The committee thought he ought to be, and so reported. That is all there is in the case.

Mr. PLUMB. I smypathize with an officer of the Army who has to submit to the hardships of being ordered into the field; and on the whole, from the statement of the Senator from South Carolina and the Senator from Texas, it seems that this officer was so far imposed upon by the Government that whereas he was stationed at a comfortable place, where he was clothed and fed and sheltered by the Government, he was taken away at an unwary time, and probably at an unseasonable period of the year, when he would have much rather remained in this comfortable position, in order to go on an Indian scout. I think, on the whole, it was a little bit rough that an officer should have been compelled to do anything of that kind, and perhaps it may be that in point of fact the little sum of $571 for the baggage this officer lost having been placed in that locality upon his own option, and that the Government was under no

obligation to take care of at all, ought to be given to him, not perhaps for loss of baggage, but as a compensation for the hardship that he had to undergo by reason of his having been ordered out to do that which he did not enlist to do at all!

Mr. MAXEY. The Senator is disposed to be somewhat sarcastic. I care nothing in the world about it. I never saw the officer, never heard of him before this case arose. He did obey the orders of the Government, and in doing that he lost the property. That is all there is in it. If the Senator has anything against the officer or against the service, that is his business, not mine.

Mr. PLUMB. The statement of the report, and the statement of the Senator who made it, and the statement of the Senator from Texas, who volunteers to say something in behalf of this bill, are all of them entirely apart from the objection which I made, and that is that the officer was under no compulsion to deposit his goods with the quartermaster. I go further, and say that the quartermaster was under no obligation to take care of them, and never has been, under any rule either of the articles of war or of the laws governing the Army.

Mr. VANCE. I think I can suggest something that will appeal to the sense of justice of the Senator from Kansas, and that is that the Government is bound to take care of the property of the officer on the established principles of its policy as a general insurance agent for all its citizens. A man starts a manufactory, and the Government lays a tariff to insure him against all possible loss; a man buys property at a marshal's sale, takes all the chances, and it turns out that he did not get any title and the Government repays him his purchase-money. Now, on the same principle the Government must repay an officer for all the property he loses in discharge of the duties he undertook to do. Is not that so?

Mr. PLUMB. The Senator from North Carolina wants me to go into a discussion of the tariff-commission bill. [Laughter.] I am not going to be drawn off in that way. If he were to succeed in that he would compel me to tell him a story, which I will not here tell. But I want to say that in my judgment we are running this thing into the ground. An officer of the Army becomes a servant of the Government nominally, but actually he is no servant. He is designed, in the practice we are establishing, to do duty at balls, at picnics, and in various places where the social appliances which are in vogue in what the Senator from Missouri calls the nineteenth century demand his presence, and where he can exhibit himself in the paraphernalia and glitter of the blue of his uniform and the tinsel with which his shoulders and the stripes down his limbs ornament him. I think that when a man has enlisted for a soldier he ought to undertake a soldier's duty and a soldier's responsibility along with it. The Government does not agree to furnish him shelter for his baggage at all times and places when he happens to be away. If he should in the course of a few years' service happen to be ordered down, as though of course he feels that he ought not to be, upon a military expedition and is required to risk his body and his comfort and so on, in the pursuit of Indians or other enemies of the Government, I think on the whole, as long as he gets the benefits, he ought to take the burdens along with them, and he ought not to be too tenacious about his rights to his frills and furbelows and things of that sort which he may have left behind him.

There ought to be some just and fair relation established between him and the Government in regard to this question of the responsibility for luggage. If we are to vote these supplies, at least the committee which has charge of the subject ought to say either that the officer did not only the best that he could do, but the only thing that was left for him to do in order that his property might be properly taken care of. This opens the door in the widest possible way. His luggage may have been lost upon board ship, it may have been lost upon a wagon, he may have left it in charge of a servant, he may have lost it in a thousand ways; and the responsibility of the Government, if such a rule should be established, attaches absolutely and inevitably.

Mr. LAPHAM. Will the Senator allow me to make a suggestion to him?

Mr. PLUMB. Yes, sir.

Mr. LAPHAM. The Senate at this session passed a bill for the relief of Lieutenant Guy V. Henry, who was ordered into the Indian Territory, on account of the loss of his personal effects which were following him and were in the railroad storehouse at the city of Ogden and were destroyed by the burning of that storehouse without his neglect or fault. We passed a bill at this session giving him the value of the property which he lost, and I do not see any difference between that case and this.

Mr. PLUMB. If this matter is to be tried by precedent, I admit that the case is decidedly against me. What I am objecting to is the precedent; I am objecting to the principle. When it comes down to that, the obligation is just as much in favor of all volunteer officers. Here is the Senator from Connecticut, [Mr. HAWLEY,] now under my eye, who served in the volunteer service, and who may perhaps have lost a dress-coat, or he may have lost a pair of boots, or he may have lost a pair of spurs; I know of plenty of officers who did; I was unfortunate myself, and lost property during the "late unpleasantness." I submit, in view of the looseness, as I conceive it, with which the committee now assumes liability to these officers, it is wonderfully tempting to thousands of officers who served in the late war to come in and say, "We were building a road at a certain time, or we had to go off unexpectedly when we would have preferred to stay in our tents or at our posts, and we lost personal property thereby, and now we want the Government of the United States to pay us for it."

As I said, it is not $571; it is the principle which we are establishing, it is to deepen and widen that which will cost us thousands and tens of thousands every year, because the very principle we establish has gone back and brought up a case occurring in 1858. We passed an act for the relief of a surgeon in the Army the other day for a loss which occurred in 1858, and there are thousands of such cases.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The Senator's time has expired.

Mr. HAWLEY. If there are any men in the Army who are good for nothing but to dance, it does not appear that Farrow is one of them. If there are any men in the Army who ever shirk their duty—and I do not know any of them—it does not appear that Farrow is one of them. If there are any bills presented for losses which occurred in 1858, this is not one of them. If there are any of the numerous cases of abuse and nonsense supposed by the Senator from Kansas, the case of Farrow is not one of them, nor has the Senate so long as I have had any acquaintance with it, or the House, attempted to pay for such losses with the looseness indicated by the Senator's remarks.

This particular bill passed, I remember, in committee a very careful scrutiny. It does not appear that Farrow had any reluctance to go out in command of the scouts. I presume he is a gallant and brave young officer, like, I am very happy to say, all of them so far as I know; and I am sure the Senator does injustice to the regular Army in his general inferences of that character, if he will take the pains to consider the record of the last few years in this exceedingly disagreeable Indian service, which has a great deal of danger, a great deal of loss, without very much glory.

Farrow went out under orders in command of some scouts and did just exactly what a prudent and careful man would have done. He put his property in the best place there was, the Government warehouse under the care of the quartermaster. A Government warehouse usually has sentinels regularly posted and regularly relieved; therefore it was probably the best place anywhere in that vicinity. While he was out performing this duty his property was destroyed by a fire, for which it appears that nobody in the Army was to blame, so the board of survey found. He presented a bill for his losses. The bill was one thousand six hundred and odd dollars.

Mr. HOAR. May I ask the Senator a question?

Mr. HAWLEY. Yes, sir.

Mr. HOAR Suppose instead of leaving this property in the Government warehouse he had left it in his home and it had been burned?

Mr. HAWLEY. That is not the case. That is all I have got to say in reply.

Mr. HOAR. Is it not this case in principle?

Mr. HAWLEY. No.

Mr. HOAR. Is there any reason why we should pay an officer for a loss by fire in the safest place he could get his personal property, because it happens to be left at some other place than his home, rather than if it was left at his home? What is the distinction?

Mr. HAWLEY. If it had been left in a private house it would be quite another case from this. All I have to say is that he took the best course possible under the circumstances. This is the distinction that gives this man an equity: an officer is not at liberty to dispose of his property or of his time as he pleases; he is obliged to obey an order, to go on the instant, leaving his property just where it is or putting it where he best can. It is upon that equitable ground that the Government does not allow him the exercise of the discretion of an ordinary citizen that this case appeals to me.

Mr. PLUMB. If the Senator will allow me to ask a question, does he say that this being ordered away is a contingency which an officer has no right to expect by reason of his enlistment?

Mr. HAWLEY. The gentleman knows perfectly well that I take no such ground as that. He is liable to be ordered away at a moment; he is ready to go; and when ordered to go, he then does, as this officer did, exercise a wise discretion in the care of the property he leaves behind him; the property he must have. The committee struck $1,000 or $1,100 out of the bill, because that amount covered things really not necessary.

Mr. SLATER. I would not say one word but for the vein of sarcasm indulged in by the Senator from Kansas in respect to this young officer, whom I happen to personally know.

Mr. PLUMB. If the Senator will allow me, I said nothing about this officer at all. I referred to the fact set up, as I conceived, that this was to be considered an exceptional case because he had been ordered out on an expedition.

Mr. SLATER. That is true.

Mr. PLUMB. My entire remarks, which the Senator perhaps might by a stretch of imagination call sarcastic, were based upon the statement made by the Senator from South Carolina and the Senator from Texas, that this officer ought to be paid because he was so ordered out. I do not know anything about this officer. I have no doubt he is a very good man. My objection is apart from any consideration to him personally.

Mr. SLATER. I understood that to be the position the Senator occupied. Still the reasonable inference would be that it must to

some degree apply to this young officer. I wish only to say that this young man is not one of the Army officers, if we have such, who would shirk duty, responsibility, or danger. There has perhaps been no more dangerous deed performed by any Army officer in the last ten years than this young officer performed in the capture and taking of these very same Sheepeaters, which took place at the time when his property was burned. I am very sorry that the committee cut down the bill, but I am willing to accept the action of the committee. This young man is a very worthy officer, and the loss was a very severe one. I hope the bill will not be recommitted to the committee.

Mr. HAMPTON. I wish to call attention to one point that I did not refer to before, as I did not have time to do so. This officer had left his property at Fort Townsend, and while he was away, as the company was ordered to change its quarters, being moved a distance of two hundred miles, the Government took his property and carried it to Vancouver, and there it was burned, not at the place where he left it at all.

The PRESIDING OFFICER. The question is on the motion to recommit the bill.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Committee on Military Affairs.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DEPARTMENT OF AGRICULTURE.

The bill (S. No. 1562) to constitute the Department of Agriculture an Executive Department and to enlarge its powers and duties was announced as next in order upon the Calendar.

Mr. PLUMB. The Senator from Mississippi [Mr. GEORGE] who reported the bill is not now in his seat. A similar bill which has passed the House is before the Committee on Agriculture. I ask that this bill may be passed over without prejudice.

The PRESIDING OFFICER. That will be the order, if there be no objection.

Mr. PLUMB. I ask that the same order be taken in regard to the succeeding bill on the Calendar, the bill (S. No. 593) for the establishment of a bureau of animal industry, to prevent the exportation of diseased cattle and the spread of infectious or contagious diseases among domestic animals. It is on a cognate subject and I think will come up in connection with the bill for the establishment of the department of agriculture.

The PRESIDING OFFICER. That will be the order, if there be no objection.

NATIONAL-BANK CURRENCY.

The bill (S. No. 1353) to prohibit the issue of bank notes or currency by national banks which may be organized or reorganized after July 1, 1882, was announced as next in order upon the Calendar.

Mr. PLATT. That bill was reported adversely.

The PRESIDING OFFICER. The bill will be passed over and the next bill on the Calendar will be announced.

REFUNDING OF INCOME TAX.

The bill (S. No. 1068) for the relief of certain citizens of Tennessee was considered as in Committee of the Whole.

The bill was reported from the Committee on Finance with an amendment, to strike out all after line 15 of the bill, in the following words:

A. L. Adams, William A. Allen, J. A. Blakemore, Thomas W. Buchanan, William Campbell, John L. Cooper, John Cortner, J. H. Cunningham, Thomas Dean, J. B. Dixon, Martin Enless, A. H. Evans, W. W. Gill, William Gosling, T. B. Jeffress, Thomas Lipscomb, William Little, Thomas B. Marks, James S. Newton, Ambrose L. Parkes, Matthew Shearon, Mike Shoffner, William J. Shofner, Richard Sims, P. C. Steele, John F. Thompson, N. Thompson, 2d, Thomas C. Whitesides, J. W. Wiggins, E. D. Winsett, all of the county of Bedford.

M. H. Alexander, James Bass, Benjamin Batey, Willie Brown, J. G. Dejarnett, Thomas A. Elliott, Edwin H. Ewing, James M. Haynes, Thomas Hord, George W. House, Edward L. Jordan, Montfort F. Jordan, J. B. Kimbro, Thomas B. Miles, Felix G. Miller, S. E. Parrish, Isham R. Peebles, sr., Isham R. Peebles, jr., Peyton Randolph, R. D. Reed, John W. Richardson, Emanuel Rosenfeld, Alfred Ross, Susan Rucker, S. H. Singleton, Elizabeth Smith, George W. Smith, Lewis Tillman, M. B. Wade, Samuel B. Watkins, Samuel Winston, all of the county of Rutherford.

Louis Mankel, of the county of Knox; Asa Faulkner, of the county of Warren; William H. Ladd, of the county of Williamson.

And in lieu thereof to insert:

To William Campbell, $8.96; to Thomas Dean, $47.60; to J. B. Dixon, $13.36; to Jesse Evans, $48.80; to A. H. Evans, $84.20; to Martin Enless, $9.20; to the estate of Preston Frazier, deceased, $168; all of Bedford County, Tennessee.

To J. B. Jeffreys, $16.64; to Winston W. Gill, $169.60; to Joshua M. Hix, $14.80; to Thomas Lipscomb, $99.92; to Bryant Landis, $33.20; to William Little, $209.04; to Thomas B. Marks, $28.15; to James S. Newton, $119.60; to Ambrose L. Parks, $43.76; to Absalom Reeves, $37.60; to the estate of Alfred Ransom, deceased, $26.40; to G. D. Stephenson, $14; to Mike Shoffner, $40; to Price C. Steele, $112; to Matthew Shearon, $38; to Richard H. Sims, $36.80; to William J. Shoffner, $56.80; to Newton Thompson, second, $17.60; to J. F. Thompson, $11.20; to Lewis Tillman, $40; to Thomas C. Whiteside, $80; to the estate of E. D. Winsett, deceased, $35.60; to Jackson Wallace, $17.60; to Harbert Wiggins, $42; to A. L. Adams, $56; to Joseph Anderson, $15.20; to William A. Allen, $77.60; to Thomas W. Buchanan, $192; to John A. Blakemore, $48; to Charles L. Cannon, $26; to John L. Cooper, $118.80; to J. H. Cunningham, $19.20; to John Cortner, $26; to Lewis Markel, $868.50; to William Gosling, $704; to John J. Jarrett, $36.40; to Wilson Tarrentine, $32; all of the county of Bedford, Tennessee.

To George W. Smith, $122; to the estate of Samuel Winston, deceased, $356; to Ellis Suttle, $104.75; all of Rutherford County, Tennessee.

To George W. House, $62.04; to Thomas A. Elliott, $232; to Stephen H. Singleton, $273; to William H. Wallace, $90.40; to Susan Rucker, $88; to Thomas B. Miles, $164; to the estate of James G. De Jarnette, deceased, $283.20; to Morris Cross, $32; to Isham R. Peebles, $202.67; to William Bosson, $232; to M. H. Alexander, $267.68; to Emanuel Rosenfeld, $42.24; to the estate of Thomas Hord, deceased, $113.12; to Edwin H. Ewing, $68.24; to Benjamin Beaty, $600.16; to James M. Haynes, $352; to the estate of Luckett Davis, deceased, $399.12; to Alfred Ross, $259.12; to Samuel B. Watkins, $128.24; to John W. Richardson, $500.08; to the estate of M. Burgess Wade, deceased, $528; to Willie Brown, $324.80; to Robert D. Reed, $152; to the estate of John B. Kimbro, deceased, $48; to the estate of James Bass, deceased, $55.20; to Peyton Randolph, $44; to Edward L. Jordan, $2.208; to M. F. Jordan $272; to Felix G. Miller, $197.92; to S. E. Parrish, $83.20; to Elizabeth M. Smith, $274.56; to Joseph Watkins, $384; all of Rutherford County, Tennessee.

To Asa Faulkner, of Warren County, Tennessee, $2,700; and to William H. Ladd, of Williamson County, Tennessee, $866.36; said persons, and each of them, having filed their claims in the office of the Commissioner of Internal Revenue prior to the 6th of June, 1873.

So as to make the bill read:

That the Commissioner of Internal Revenue be, and he is hereby, authorized and directed to remit, refund, and pay back, out of any moneys in the Treasury not otherwise appropriated, to the following-named citizens of Tennessee, or the legal representatives of such as are deceased, the amount of taxes assessed upon and collected from the said named persons contrary to the provisions of the regulations issued by the Secretary of the Treasury under date of June 21, 1865, and published in special circular numbered 16 from the Internal Revenue Office, of that date, said refunding having been recommended by the Secretary of the Treasury under date of June 19, 1873, that is to say:

To William Campbell, $8.96, &c.

Mr. MILLER, of New York. I ask for the reading of the report in that case.

The Acting Secretary read the following report, submitted by Mr. HARRIS on the 24th of March:

The Committee on Finance, to which were referred Senate bills Nos. 1068 and 1111, have considered the same, and submits the following report:

The parties named in the substitute herewith reported were in 1863 and 1864 resident in the counties of Williamson, Rutherford, Bedford, and Warren, in the State of Tennessee.

The county of Williamson is immediately south of and adjoining Davidson, in which Nashville is situated.

Rutherford is southeast of Nashville and adjoining Davidson and Williamson. Bedford is southeast of and adjoining Rutherford, and Warren is east of and about eighty miles from Nashville.

Under section 90 of the act of July 1, 1862, an annual tax on all incomes over $600 and under $10,000, of 3 per cent., and on all incomes of over $10,000, a tax of 5 per cent. was imposed. (See 12 Statutes, page 473.)

The forty-sixth section of the act of June 30, 1864, provides "that if for any cause, at any time after this act goes into operation, the laws of the United States cannot be executed in a State or Territory of the United States, or any part thereof, it shall be the duty of the President, and he is hereby authorized, to proceed to execute the provisions of this act within the limits of such State or Territory, or part thereof, so soon as the authority of the United States therein shall be re-established, and to collect the taxes, duties, and licenses in such States and Territories under the regulations prescribed in this act, so far as applicable; and when not applicable the assessment and levy shall be made and the time and manner of collection regulated by the instructions and directions of the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury." (13 Statutes, page 240.)

The joint resolution of July 4, 1864, imposed a special tax of 5 per cent. on all incomes over $600, in addition to all other taxes, for the year 1865. (13 Statutes, page 417.)

Under the authority of section 46 of the act of June 30, 1864, above quoted, on the 21st June, 1865, the Secretary of the Treasury issued Regulations, Special No. 16, "concerning the collection of taxes in States lately in insurrection," as follows:

TREASURY DEPARTMENT,
June 21, 1865.

Section 46 of the internal-revenue act approved June 30, 1864, provides that whenever the authority of the United States shall have been re-established in any State where the execution of the laws had previously been impossible the provisions of the act shall be put in force in such State, with such modification of inapplicable regulations in regard to assessment, levy, time and manner of collection as may be directed by the Department.

Without waiving in any degree the rights of the Government in respect to taxes that have heretofore accrued, or assuming to exonerate the tax-payer from his legal responsibility for such taxes, the Department does not deem it advisable to insist at present upon their payment, so far as they were payable prior to the establishment of a collection district embracing the territory in which the tax-payer resides.

But assessors in the several collection districts recently established in the States lately in insurrection are directed to require returns, and to make assessments for the several classes of taxes for the appropriate legal period preceding the first regular day on which a tax becomes due after the establishment of a district; that is to say, in the several districts in question the proper tax will be assessed upon the income of the year 1864, inasmuch as the tax for that year is due upon the 30th day of June subsequently to the establishment of the district. All persons found doing any business for which a license is required will be assessed for the proper license from the first day of the month in which the district is established.

Persons engaged in any business for which monthly or quarterly returns are required to be made will be assessed for the month or quarter for which returns should be made at the first return day after the establishment of the district; and the same principle will apply to those taxes which are payable at different periods. A manufacturer of tobacco, for instance, in a district established after the 1st and before the 20th day of May will be assessed upon his sales for the month of April.

When any manufactured articles are found in the hands of a purchaser, and it is shown to the satisfaction of the assessor that the goods were actually sold and passed out of the hands of the manufacturer before the commencement of the period for which he is properly taxable, the articles will not be subject to tax in the hands of such purchaser, unless transported beyond the limits of the States lately in insurrection.

The holder of any distilled spirits, manufactured tobacco, or other article which is liable to seizure on account of the absence of inspection marks, may present to the assessor the evidence that the articles in his hands, or, under the circumstances which obtain in the particular case, are not subject to tax, except as above stated;

and, if the assessor is satisfied, he will cause the packages to be so marked that they may be identified and sold without liability to seizure.

Whenever any collector shall have reason to believe that the holder of any goods on which the tax has not been paid intends to remove the same beyond the limits of the States lately in insurrection, and to evade the payment of the tax, he will seize the goods and take necessary steps for their condemnation, unless the holder shall give bond, as hereinafter prescribed, for the transportation or exportation of the goods, or shall return the same to the assessor, and pay to the collector the amount of tax that shall be found due. In all cases in which a seizure shall be made under these instructions, the Department, on being informed of such seizure, will consider the case, and extend such measure of relief as the facts shall justify.

In the States of Virginia, Tennessee, and Louisiana collection districts were some time since established, with such boundaries as to include territory in which it has but recently become possible to enforce the laws of the United States. In those districts the rule laid down above will be so modified as to require the assessment and collection of the first taxes which become due after the establishment of assessment divisions in the particular locality.

Whenever assessments are to be made based upon transactions which may have been carried on in a depreciated currency, it will be proper for the assessor to ascertain the amount of the income, or value, or sales, or receipts in lawful money of the United States, according to the best information which he can obtain as to the average value of such depreciated currency for the period covered by the assessment.

The duties upon cotton and spirits of turpentine are, by a special provision of the statute, made payable by the person in whose hands the articles are first found by officers of internal revenue. With reference to those articles, therefore, the rule laid down will not apply, but assessments will be made wherever they are found.

Whenever any person holds, as a purchaser, any articles which, under the internal-revenue laws, may be transported under bond, and desires to transport the same to any Northern port or place, he may apply to the assessor to have the amount of tax ascertained and determined. The proper examination having been had, the assessor will certify the amount of duties thereon to the collector, and the collector will thereupon grant a permit for their removal, after the execuiton of a bond for their storage in bonded warehouse, such permit and bond being in the form required by the regulations for the establishment of bonded warehouses. On or before the 10th day of each month the assessor will transmit to the Office of Internal Revenue a statement showing the amount of duties thus certified during the month preceding, and the collector will, on or before the same date, transmit a descriptive schedule of all bonds thus taken by him in the course of the preceding month.

When goods arrive in any Northern port under such transportation bond, or under a permit issued by a collector of customs, under the regulations of May 9, 1865, they will be received into the proper warehouse, established under the internal-revenue laws, in the district into which the goods are brought, and the necessary certificates will be issued for the cancellation of the bond, in the same manner as if the goods were transported from another bonded warehouse. Whenever any person who is assessed for a license is found to have paid a license tax to a special agent, appointed under the regulations of the Treasury Department for commercial intercourse with insurrectionary districts, the collector will issue a license for the year ending May 1, 1866, and will collect only so much as may be due for the time intervening after the expiration of the license issued by the special agent.

The amount assessed and thus left uncollected will be abated when the proper claim is presented to the Commissioner of Internal Revenue.

H. MCCULLOCH,
Secretary of the Treasury.

The eighth paragraph of these regulations distinctly provides that in districts where it has but recently become possible to enforce the laws of the United States the rule shall be to require the assessment and collection of *the first taxes which become due after the establishment of assessment divisions in the particular locality.*

The report of the Commissioner of Internal Revenue shows that assessment divisions and assistant assessors for these divisions were established and appointed as follows: for the county of Williamson, June 30, 1864; for the county of Rutherford, August 30, 1864; for the county of Bedford, January 1, 1865, and for the county of Warren, September 8, 1865.

Under the provisions of section 91 of the act of July 1, 1862, the annual tax on incomes was leviable and collectible on the 1st of May for the year ending 31st December preceding.

And under joint resolution of July 4, 1864, the special tax on incomes for 1863 was leviable and collectible on 1st October, 1864.

The first taxes that could become due in these counties under the provisions of the eighth paragraph of Regulations Special No. 16 were the taxes for the counties of Williamson and Rutherford for the year ending December 31, 1864, to be assessed and collected on 1st May, 1865; assessment divisions having not been established in these counties until June 30, 1864, in the first, and August 30, 1864, in the latter.

And for the counties of Bedford and Warren the taxes for the year ending December 31, 1865, leviable and collectible on the 1st May, 1866; assessment divisions having been established in these counties January 1 and September 8, 1865.

It is a historical fact that from some time in March, 1862, to the close of the war, the city of Nashville was continuously held by a garrison of the United States Army, and that the battle in front of Nashville occurred on the 16th December, 1864, and that the counties of Williamson, Rutherford, Bedford, and Warren were alternately held, sometimes by the one and sometimes by the other belligerent.

The condition of affairs being such as to render it impossible to enforce the laws of the United States by any civil process until the beginning of the year 1865, the civil authorities being paralyzed and the citizens powerless, he promptly complied with whatever demands were made upon him by any real or pretended official when backed by military power.

Taxes for the year 1863, in the respective amounts named in the bill, were assessed against and collected from the parties named, in the years 1864 and 1865, the assessment and collections having been made by parties running out into the country under military protection and making their demands, and immediately returning to the garrison.

The Commissioner of Internal Revenue reports that claims for refunding these taxes were filed in his office prior to June, 1873, and therefore claimants are not barred by the forty-fourth section of the act of June 6, 1872, 17 Stats., p. 257.

In June, 1873, the Commissioner of Internal Revenue submitted these claims to the then Secretary of the Treasury for consideration and advice. And on the 19th June, 1873, Secretary Richardson returned the claims to the Commissioner, with the opinion that the collections were not illegal and therefore could not be refunded by the Department, but in his letter said:

"I fully recognize the hardship of the case and desire that such claimants may receive relief from Congress. I have therefore to suggest that you will in your next annual report, or on any other occasion which you may deem more fitting, recommend the passage of a special act authorizing the refunding of all taxes paid by residents of the insurrectionary States, which under the Department circular of June 21, 1865, should not have been collected. Such refunding to be made whether the tax in question was collected before or after the issue of the circular."

In this recommendation Secretary Richardson evidently recognized the hardship and injustice of the Government demanding taxes from citizens whom it did not and could not protect.

Every consideration of justice demands that these taxes, collected as they were in violation of the principles of the eighth paragraph of special regulation No. 16, should be refunded.

The committee therefore reports the bill back with an amendment in lieu, prepared in strict conformity to the recommendation of the Commissioner of Internal Revenue, with the recommendation that the amendment be adopted and the bill passed.

The PRESIDING OFFICER. The hour of two o'clock having arrived, the bill goes over, and the Chair will lay before the Senate the unfinished business.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4197) re-establishing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award; and

A bill (H. R. No. 6004) making an appropriation to construct a road and approaches from Mound City, Illinois, to the national cemetery, and for other purposes.

TAX ON DISTILLED SPIRITS.

Mr. BECK. Yesterday I offered a resolution and gave notice that to-day, if the court of appeals bill was finished yesterday I would ask to be heard for half an hour or so. I do not expect to interfere now with the unfinished business, but I desire to renew the notice that if the Senate does not meet to-morrow, on Monday at two o'clock I shall endeavor to obtain the floor for that purpose.

CONDEMNED CANNON FOR MONUMENTAL PURPOSES.

Mr. COCKRELL. I move that the bill (H. R. No. 3082) granting condemned cannon to the Anna M. Ross Post No. 94 of the Grand Army of the Republic, of Philadelphia, be recommitted to the Committee on Military Affairs.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. HOAR, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

COURT OF APPEALS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 420) to establish a court of appeals.

Mr. DAVIS, of Illinois. The Senator from Alabama [Mr. PUGH] had the floor last night, but if he will indulge me one moment I will ask, if it pleases the Senate, that the bill be taken out of Committee of the Whole, and subject to amendment in the Senate before the Senator proceeds; and also that my friend from Louisiana [Mr. JONAS] renew the amendment which he intends to offer in the Senate.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) If there be no further amendments as in Committee of the Whole, the bill will be reported to the Senate.

Mr. BAYARD. There was an amendment offered and rejected yesterday which I should like to have reserved for a separate vote.

The PRESIDING OFFICER. It is not in a condition to be reserved, having been rejected, but the Senator may offer it in the Senate.

Mr. BAYARD. If I can offer the amendment in the Senate that is all I desire.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. How shall the vote be taken upon concurring in the amendments made as in Committee of the Whole?

Mr. BAYARD. I suppose such as are desired will be voted upon separately.

Mr. DAVIS, of Illinois. That can be done after four o'clock. Some Senators desire to speak, and I do not wish to take up time now on the amendments.

Mr. PENDLETON. The amendments may be reserved, then.

Mr. BAYARD. That may be so, but I desire to explain one amendment; and when four o'clock arrives shall I lose the right of debate? I merely desire to explain an amendment which I hope to be able to do to the satisfaction of the Senator from Illinois.

The PRESIDING OFFICER. The first question will be on concurring in amendments made as in Committee of the Whole; after which the bill will be open in the Senate to any amendment any Senator may see proper to offer.

Mr. BAYARD. Upon the pending question I can say what I desire to say now.

Mr. DAVIS, of Illinois. The Senator from Alabama [Mr. PUGH] has the floor.

Mr. BAYARD. I beg pardon.

Mr. PUGH. Mr. President, the opposition to the bill before the Senate has been expressed in such strong language by Senators for whose opinions I have the highest respect that I feel constrained to consume a short time in stating the reasons that impel me to support the bill.

The bill has been subjected to the most searching examination, and after some amendments it has reached a final analysis and the vote is ready to be taken on its passage. Some provisions and omissions in the bill are not satisfactory to me, but having exhausted all efforts to perfect it by amendments, which I supported, the question

is, Shall our Federal judiciary and the laws creating inferior courts and defining their jurisdiction and the appellate jurisdiction of the Supreme Court stand as they are, with all their acknowledged imperfections, or shall they be amended and changed as proposed in the bill before the Senate? The answer to this question depends upon whether the bill as it is corrects any of the defects and remedies any of the evils of the existing system. Are the changes made by the bill an improvement?

I shall not attempt to reproduce or add to the exhaustive arguments in support of the bill, or those made in favor of the many plans and amendments that have been discussed and condemned by the Senate.

I shall vote for the bill in its present shape because I am satisfied that in many respects it is an invaluable improvement of our Federal judiciary as it is now organized. It is conceded without question that the vast accumulation of cases in the Supreme Court of the United States has seriously impaired the ability of that court to carry out the objects for which it was established, and that without some remedial legislation this co-ordinate department of the Government will become permanently disabled by the constantly increasing pressure of its business to meet the demands of public and private justice. The duty and obligation are imperative and rest alone upon Congress to provide a remedy. It is useless to delay action until we can decide what is the cause and who is to blame for this disabling accumulation of business in the Federal courts. It is manifest that these courts have been overloaded by laws enlarging their jurisdiction. Whether this increase of jurisdiction was right or wrong, wise or unwise, necessary or unnecessary, are questions about which we differ in opinion.

It may be that an increase in such jurisdiction was justifiable under the new conditions in some cases, and in others that it was necessary and unavoidable. But it is now equally evident that a large portion of the jurisdiction conferred upon Federal courts by acts of Congress during and since the war can be safely restored to and made exclusive in the State courts, and thereby relieve the existing pressure and greatly improve our complex judicial system. The failure to secure this desirable reformation in the bill before the Senate is not a sufficient reason to my mind for refusing to do the best we can and going as far as we can in the direction of beneficial judicial reform. Hereafter we can renew our efforts and make such further changes in existing laws conferring jurisdiction upon Federal courts as the good sense and wisdom of Congress may sanction. I have no hope, however, that any reduction that may be made hereafter in the subjects of the jurisdiction of Federal courts will dispense with the necessity of some intermediate appellate tribunal to arrest the increasing flow of business into the Supreme Court. But, Mr. President, the controlling consideration for my support of the bill before the Senate is furnished in those provisions which secure the right of appeal and writs of error in civil and criminal cases where no such right is allowed by existing laws. As the law now stands there is no right of appeal to the Supreme Court in any civil case (except some special cases) unless the amount in controversy is $5,000. The bill before the Senate allows an appeal from any final judgment or decree in any civil case in the circuit or district court to the new court of appeals where the amount in controversy is $500.

But some Senators seem exasperated at the possibility of the passage of the bill before the Senate because it denies the right of appeal from the district court to the circuit court in equity cases, and a writ of error in civil cases in the district court to the circuit court involving over fifty and less than five hundred dollars. I would share their feelings myself at such a change in existing law if I considered the right of any real value to the parties interested. But upon examination of the statute allowing equity proceedings in the district courts from which appeals can be taken and civil suits in the district courts in which writs of error are authorized to the circuit court where the amount involved is over fifty and less than five hundred dollars, I find that such proceedings are not likely to be had in the district courts of Alabama in which any appeal or writ of error would be desired by any defendant in any ten years to come, for the reason that the subjects of such jurisdiction are exceptional and very rarely give rise to litigation, and the appeal and writ of error lie only to the circuit court, as will be found by reading the several subdivisions of section 563 of the Revised Statutes of the United States. I have never known of such actions myself in any district court, and I cannot believe that the right of a rehearing in the circuit court is of any considerable value to the parties interested. But be this as it may, I do not feel that I am doing injury to any class by suspending until it can be restored, if found hereafter to be of any value, the right of appeal in such cases in exchange for the much more valuable right to the same class of appealing in all civil cases that are being brought every term of the district and circuit courts in large numbers, involving $500, where no right of appeal is now allowed to the Supreme Court.

Then, again, there is opposition to the bill because it allows no appeal from the new court of appeals to the Supreme Court, except in cases involving $10,000.

This feature of the bill is objectionable, and so is the existing law, and greatly more so, which denies all right of appeal from a circuit or district court in cases involving less than $5,000.

Mr. JONES, of Florida. Would it be inconvenient to the Senator for me just on that point to ask him a question? I do not wish to interrupt him at all.

Mr. PUGH. I prefer that the Senator should wait until I get through. It may interfere with the arrangement of my remarks for me to yield to inquiries and suggestions.

Mr. JONES, of Florida. Very well.

Mr. PUGH. I do not know what the question is, but I will endeavor to answer it when I get through, if the Senator wishes to ask it then.

But which right of appeal in civil cases is most valuable to the mass of people of all classes and conditions I partly represent: the right of appeal secured by this bill, in all cases involving less than $5,000, to the new court of appeals, or the right of appeal to the Supreme Court of the United States, in cases involving over $5,000, as allowed by existing law? I decide without hesitation to accept for the people of all conditions the right secured by this bill of appealing to the new court of appeals in all civil cases involving less than $5,000 rather than keep the right now given them by law of appealing to no court unless the amount involved is over $5,000.

The law as it will be, should this bill pass, is as much open to repeal or amendment as the existing law. It is just as easy to secure by amendment hereafter the provisions we are so anxious to incorporate in this bill as it would be to change hereafter the acknowledged imperfections in the present law. So that the question recurs, is the bill before the Senate a beneficial change of the law as it now exists? This question I have answered as to the right of appeal in civil cases. Now, as to the more important right in criminal cases, I desire to call attention to the fact that no reduction of the jurisdiction of Federal courts has been proposed, or can be proposed, that will take away their jurisdiction over the revenue and election and timber laws of Congress, and the enforcement of the criminal enactments in these statutes, and it is in this jurisdiction of the circuit and district courts of the United States that is found the means and the power of persecuting and oppressing the people of Alabama and all the other Southern States.

The bill before the Senate furnishes a chance for relief and protection never before offered against these persecutions and oppressions, by securing to the defendant the right to a writ of error by which the erroneous rulings and judgments of district and circuit judges in all criminal cases can be carried to an appellate court composed of six judges. And the judge whose rulings and judgments are complained of has nothing to do with granting or refusing the writ of error, and can take no part in the revision of his own rulings and judgments by the appellate court. The objections urged against the bill before the Senate have not a feather's weight in my mind when compared with the invaluable practical right and benefit it secures in the writ of error in all criminal prosecutions that would be lost to the people of the South by the defeat of this bill.

Mr. MORGAN. Does my colleague call that a right which a man has to pray for by petition?

Mr. PUGH. I do.

Mr. MORGAN. It is the right to pray, not the right to demand.

Mr. PUGH. The same petition sets out the facts that would be stated in a bill of exceptions, and would present precisely the same causes of error.

Under existing laws there is no right of appeal or writ of error to any court from any criminal case in the circuit court, or district court acting as a circuit court, although it involves the reputation, liberty, or life of the defendant. A district judge like Bruce is described to be in Alabama, and a circuit judge like Bond is described to be in South Carolina, may disregard the law and sacrifice the liberty and life of the citizen by unlawful rulings and judgments, induced by partisan and it may be other corrupt motives, and there is no remedy. The defendant has no right of appeal or writ of error to any court and must suffer the punishment. Money and property, without regard to the character of the questions involved, are secured a standing in higher and safer and more accurate scales of justice than the most sacred right or principle not based on $5,000, or than the liberty and life of the citizen. Any bill that contains provisions that promise any protection and relief from such intolerable outrages and oppressions in criminal prosecutions under existing laws, and such gross inequalities in civil cases, must have many vital imperfections in other respects to drive me from its support.

But some Senators declare their inability to support the bill before the Senate because it increases the power of district and circuit judges by making them a component part of the new court of appeals. I have exerted the powers of my mind to discover the force of this objection, and feel constrained to acknowledge my inability to understand how the power of these judges to do mischief is increased in the least possible degree by their being made a part of the new court of appeals. If the bill before the Senate fails to become a law then Judge Bruce, and those like him, remain as they are, with all their powers and jurisdiction as district judges and as circuit and *quasi* circuit judges. With these powers and jurisdiction secured to them by the law as it is, and as it will be if the bill before the Senate fails, Judge Bruce and those like him can go on as they have done in their work of oppression and persecution of parties in their court, and there is no power or tribunal to molest or make them afraid. They can impanel juries in utter disregard of the law of Congress, and prescribe rules for their qualification and selection unknown to

law or criminal procedure, to insure conviction. They can usurp the powers of the jury and impose upon jurors, as law for their government, rules that would not be recognized or sanctioned by any honest judge or court. They may render final judgment and pass final sentence in criminal prosecutions depriving an innocent man of liberty or life, and there is no remedy. The wrong, the judicial outrage, goes uncorrected. The judgment and sentence stand undisturbed as an infamous finality.

How is Judge Bruce's power increased to perpetrate such irreparable wrongs and to commit such judicial crimes by creating a tribunal composed of one associate justice of the Supreme Court of the United States and three circuit judges and two district judges? Suppose Judge Bruce and those like him are members of the new court of appeals, with power to revise their own judgments from which the appeal is taken, they would have to obtain the concurrence of two circuit judges or one circuit judge and the judge of the Supreme Court before they could secure affirmance of their judgments by an equally-divided court. But under the amendment of the Senator from Missouri [Mr. VEST] Judge Bruce would have no power or authority as a member of the new court of appeals to take any part or cast any vote on the revision of his judgments or decrees.

In the court of appeals he would be silenced when his acts and judgments were under revision. It is unreasonable to believe that the mere fact of his being a member of the appellate court, without authority to act or vote, would secure in every appeal an affirmance of his judgments and decrees, however erroneous or outrageous. It would require an affirmance in every case involving his own judgments to make his power equal in the court of appeals to what it is now and what it would be as district judge if the bill before the Senate is defeated. If there is no court of appeals, Judge Bruce may make himself the peer of Jeffreys in his rulings and judgments in his own or in the circuit court, and he can laugh at your criticisms and criminations in the Senate or elsewhere, and indulge himself at his own will and pleasure, without restraint or interruption in the scope of his own jurisdiction.

We have Associate Justice Wood of the Supreme Court as part of the new court of appeals in the fifth circuit. Judge Wood was circuit judge in that circuit for six or eight years, and with nearly the unanimous recommendation of the bar of Alabama he was nominated by the President and confirmed by this Senate as one of the associate justices of the Supreme Court. Will he leave behind him the pride and distinction and responsibility and influence of his high position as a member of the most august judicial tribunal in the world and allow himself to be transformed into a Jeffreys by association with Judge Bruce in the new court of appeals? I trust he will not—I venture to say I know he will not. And then there is Judge Pardee, the present circuit judge for that circuit. He was confirmed by this Senate in his present office, and my information is he has given general satisfaction in his administration as circuit court judge. He would be one of the members of the new court of appeals. Does it not improve the chances of relief from the perils and wrongs that may attend the exercise of the unbridled jurisdiction of Judge Bruce for his victims to have the right in all criminal cases to a writ of error if the facts set out in a bill of exceptions entitle them on application to such writ to carry the case to a new court of appeals made up in part of Justice Wood and Judge Pardee? I answer in the affirmative, whatever others may think.

But the Trojan horse found in the bill by my brother Democratic Senators is that provision authorizing and requiring the appointment of eighteen additional circuit court judges. Some fear and others have no doubt that all those judges will be Republicans, nominated and confirmed because they are Republicans. If all these judges were to be Democrats or all Republicans, or an equal number members of the two national parties, how would such *personnel* or politics of the new court of appeals affect the merits or operation of the law as a measure of judicial reform? The sworn obligation of the judges will be to obey the Constitution and administer justice according to law. Whether this obligation will be discharged or not must depend upon the capacity, law, learning, and personal integrity of each judge composing the court. With these qualities we have the highest assurance attainable in human affairs that justice will be administered according to law. The politics of a court composed of such judges as I have described would make no difference in results, except where constitutional construction and limitations of Federal power were involved in the decision. In respect to such questions, the Supreme Court has original and appellate jurisdiction to render final and conclusive judgment, and it is now composed of eight Republicans and one Democrat; so that when it comes to a final solution the truth is that the real merits and operation of the bill, should it become a law, cannot be materially affected by the *personnel* or politics of the new court of appeals if the judges have the capacity, learning, and integrity indispensable to judicial qualification.

As Senators, discharging a high duty to devise the best remedies for mischievous and ruinous imperfections in our Federal judiciary, how can we allow our votes for or against a measure to be influenced by the consideration that when the bill becomes a law the President, in the appointment of officers to execute it, and the Senate, in the confirmation of such appointment, will discriminate in favor of the Republican party? It seems to me that the only question to be decided is whether the bill before the Senate is entitled to our support on its merits without reference to whether proper judical officers will be nominated by the President and confirmed by the Senate.

The selection of the judges is to be made after the bill becomes a law. The President is to nominate the eighteen persons, and whether he will select all of them from the Republican party, as he will if he follows alone the antecedents of his party, or take half from the Democratic party, we cannot know and have no right to have determined beforehand, unless we make it a part of the law that each political party shall have the same number of the judges to be appointed. But such a provision would be at once objected to as being very improper to have any place or recognition in legislation relating to the improvement and perfection of our judicial system.

Why is it that the common sense and intelligence and good taste of the country are united in support of the proposition that politics should be excluded from the judiciary, and the judicial department of the Government kept free from the control and influence of political parties? All of us would make the same answer to this question, and yet the fact is that it is the only department of the Federal Government in which a member of the Democratic party is almost a total stranger. There is but one Democrat on the Supreme Bench, and he was a Republican when he was appointed. Every district and circuit judge in the United States, with perhaps two exceptions, is a Republican. And yet the thirty-eight States of our Union are equally divided between the two parties. The Senate and House are nearly balanced, and out of about ten millions of voters a change of twenty-five hundred either way, as shown by the last Presidential election, would give the popular majority to either of the two national parties. This absolute monopoly of the judicial power of the United States has been claimed by both parties when in power and has been permitted by the advice and consent of the Senate. The President has no more right to appoint than the Senate has to confirm. The power of each is independent and coequal.

The Senator from Illinois [Mr. DAVIS] has announced in the Senate that the circuit judges to be appointed under the bill now pending ought to be equally divided between the two parties, and that if he were President they should be so nominated to the Senate. A leading Republican Senator has expressed the same opinion in the Senate. Then we have a right to assume, if it be of any value, that should the President, contrary to the opinion of any Republican Senators and the Senator from Illinois and the general moral sense as to what would be right and just, nominate all these judges from the Republican party, the Senator from Illinois and the Republican Senators who agree with him in opinion cannot and will not advise and consent to such nominations. Can the President expect Senators who believe that there should be an equal division of the new judges to disregard their convictions and to advise and consent as Senators to a nomination that they would not make as President? But how is it that the measure of judicial reform contained in this bill is to be prejudiced by the charge that it has a Republican origin and is designed to secure partisan benefit or advantage in its operation?

We are reliably informed that distinguished and able lawyers and statesmen, without distinction as to party, approve the bill before the Senate. It has been unanimously indorsed by the bar association of Saint Louis, and during this debate the bill has been unanimously indorsed by the bar association of New York. It is also approved in substance by General Lawton, a member of the American Bar Association, and one of the ablest lawyers and most incorruptible Democratic statesmen in Georgia, and after great deliberation it was reported by every member present of the Judiciary Committee of the Senate. It has been supported in this debate by two unanswerable arguments of the Senator from Arkansas, [Mr. GARLAND,] acknowledged to be one of the most clear-headed, able, and experienced lawyers and Democratic statesmen in this body, and the bill will receive the support of other Democratic Senators who are as true to their party as those who oppose this bill.

But, Mr. President, as Senators we must act on the theory, if it be not a fact, that some people besides ourselves are worthy of trust and confidence. The entire superstructure of our Government rests on trust and confidence. Our experiment of free representative government may be abandoned as an established failure if distrust is to take the place of trust and confidence in discharging the duties and responsibilities of citizenship and representation in civil government. Distrust is the fruitful source of all the trouble between the sections. Let us do our duty as becomes Senators, and trust that the President will discharge his duty as becomes his high office, and in any event we must all go before the people for accountability.

Mr. DAVIS, of Illinois. Will the Senator from Louisiana [Mr. JONAS] offer his amendment now?

Mr. JONAS. I desire to offer again in the Senate the amendment which I offered in Committee of the Whole a few days ago.

The PRESIDING OFFICER. The pending question is on concurring in the amendments agreed to as in Committee of the Whole, but the Chair will entertain the motion of the Senator from Louisiana to offer at this time the amendment he proposes.

Mr. JONAS. I offer the amendment.

The PRESIDING OFFICER. Will the Senator from Illinois have the amendment read now?

Mr. DAVIS, of Illinois. No; the Senate is familiar with it.

Mr. JONES, of Florida. I wish to ask the Senator from Alabama [Mr. PUGH] one question, which he said he would answer after he got through.

Mr. DAVIS, of Illinois. There is such a short time remaining, and my friend from New York [Mr. LAPHAM] and others wish to address the Senate, that I would rather not yield. If it is a single question and will require no time, of course I have no objection.

Mr. JONES, of Florida. My question relates to the jurisdiction of the district courts. I wish to ask the Senator from Alabama if it is not the case that under the law as it now stands suit may be instituted under the civil rights bill in the district courts for any amount, and if the judgment is under $500 no appeal can be taken in a case of that kind under this bill?

Mr. PUGH. I have not examined the statutes in reference to that jurisdiction. We have no such suits in our districts that I know of.

Mr. DAVIS, of Illinois. Mr. President, I trust that the pending amendment will not be adopted. In its original shape it was offered in the Committee of the Whole by the honorable Senator from Louisiana [Mr. JONAS] as a substitute for the original bill. As remarked by my colleague on the Judiciary Committee, [Mr. GARLAND,] "it looks to defining and withdrawing jurisdiction," and the Senator himself opened his speech by declaring that "it is for the purpose of diminishing the jurisdiction of the circuit courts and necessarily of the Supreme Court in case of appeal." Although now offered as additional sections to the bill, it can hardly be said to be germane. The bill establishes an intermediate court of appeals, and does not curtail nor enlarge the original jurisdiction which is conferred by existing laws upon the circuit courts. It provides for additional judges in each circuit, and authorizes each of them appointed therefor to hold a separate session of the court therein. Whatever legislation is deemed proper concerning the controverted questions relative to the jurisdiction of the circuit court should, I submit, be provided for in a separate bill, and not be ingrafted upon one for the establishment of an appellate court.

Both Senators refer to the act of March 3, 1875, as one which greatly increased the number of cases upon commercial paper which might be brought by the assignee in the circuit court of the United States, and I was astonished to hear the Senator from Louisiana declare that "the result has been that the holder of the note, if unable to sue in a United States court, has put it in the hands of somebody who could sue in that court, and the question of the right or title of the holder is not permitted to be inquired into."

The act of September 24, 1789, which is commonly known as the judiciary act, provides that the courts of the United States shall not "have cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents if no assignment had been made, except in cases of foreign bills of exchange." It was decided more than fifty years ago, in Buckner *vs.* Finley, 2 Peters, 586, that a bill of exchange drawn in one State of the Union upon a person in another State, and payable in the latter State, is a foreign bill within the meaning of this provision, and if by reason of citizenship the holder is competent to sue the defendant in the circuit court, his right to do so was not defeated by the fact that the original payee and the drawer were citizens of the same State. That suit was on a bill drawn at Baltimore by citizens thereof upon a party in New Orleans, in favor of a citizen of Baltimore, and by the latter indorsed to the plaintiff, a citizen of New York. The act of 1875, of which the Senator complains, extended the exception "to promissory notes negotiable by the law-merchant and bills of exchange," but he has entirely overlooked the fifth section. It expressly declares, "that if in any suit commenced in a circuit court, or removed from a State court to a circuit court of the United States, it shall appear to the satisfaction of said circuit court, at any time after such suit has been brought or removed, that such suit does not really and substantially involve a dispute or controversy properly within the jurisdiction of said circuit court, or that the parties to said suit have been improperly or collusively made or joined, either as plaintiffs or defendants, for the purpose of creating a case cognizable or removable under this act, the said circuit court shall proceed no further therein, but shall dismiss the suit or remand it to the court from which it was removed, as justice may require, and shall make such order as to costs as shall be just."

This provision is unmistakably clear, as well as peremptory, in its terms. It absolutely forbids the circuit court to proceed. So far, therefore, from suppressing all inquiry as to the real title of the holder of a promissory note who has brought suit thereon, the act not only allows such inquiry, but enjoins upon the court the duty of dismissing the suit where a collusive or simulated transfer of the promissory note sued on has been made. This subject has been passed upon by the Supreme Court in the unreported case of Williams *vs.* The Township of Nottawa, decided at the present term. Williams was a citizen of Indiana. The township was a municipal corporation of Michigan, and he sued it in the circuit court upon certain bonds which it had issued. He was the actual owner of but three of them, each for $100, and one Tobey owned an equal number of bonds of the like denomination. Two other parties, citizens of Michigan, holding other of the bonds, transferred them to Williams solely for the purpose of collection. The citizenship of Tobey was not disclosed by the record. The trial court directed the jury to find for Williams for the amount of the six bonds, and in favor of the township for the residue. Williams removed the case to the Supreme Court. The opinion was delivered by the Chief-Justice. He remarked that the parties who resided in Michigan had, for the purpose of creating a case for themselves cognizable in a Federal court, transferred their bonds to Williams, and that neither the latter nor Tobey could sue alone in such a court, as the amount they respectively held was not sufficient. The learned Chief-Justice concluded by holding that it was the duty of the court below on its own motion to dismiss the suit as soon as its collusive character was disclosed. The judgment below was therefore reversed at the cost of the plaintiff in error, with instructions to dismiss the suit.

Under the act of 1789, it was at one time held that the question of jurisdiction could be raised only by plea in abatement. Such was the ruling in Smith *vs.* Kernochen, 7 Howard, 198. It was somewhat modified in Barney *vs.* Baltimore, 6 Wallace, 280, but the Chief-Justice remarks that whatever may have been the practice under that act, there can be no doubt what it should be under the act of 1875. A transfer for such purpose being, as he declares, a fraud upon the courts, it is their imperative duty to exercise the power conferred by the act and to dismiss such a case.

It thus appears, Mr. President, that the very act which the honorable Senator denounces as the source of unnumbered woes to debtors by subjecting them to suit in the Federal courts upon the pretended or colorable transfers of their obligations contains a stringent provision which never before existed, and requires the court on its own motion to dismiss the suit whenever such a fraud upon its jurisdiction is shown to exist.

What remedy does the honorable Senator propose for the mischiefs which he claims exist? The repeal not only of the obnoxious provision of 1875, but of so much of the time-honored act of 1789 as confers on an assignee of a foreign bill the right to sue thereon in a court of the United States, although the payee and the drawer were citizens of the same State. I cannot believe, Mr. President, that this body will, without referring the subject to the appropriate committee, abridge a jurisdiction which has been exercised by the Federal courts from their organization.

The Senator complains of the existing jurisdictional limit to the appellate jurisdiction of the Supreme Court. He says that where in the circuit court a suit is brought upon a promissory note the defendant, if judgment be rendered against him, cannot prosecute a writ of error unless the amount exceeds $5,000; whereas if suit had been brought in a court of Louisiana the defendant might have appealed to the supreme court of the State if the amount involved exceeded $1,000. He says "this gross injustice is of constant occurrence, and it is the fruit of the law which I desire to amend." The bill now before the Senate is more liberal to litigating parties than the law of Louisiana. Either party may resort to the court of appeals if the sum or value is over $500. If, therefore, injustice is suffered by the action of the Federal courts in that part of the country, which the Senator so ably represents on this floor, his aggrieved constituents will, by the passage of this bill, be relieved more effectually than by the adoption of his amendment.

The next provision of the Senator's amendment looks to the repeal of the act of March 2, 1867, amendatory of the act of July 27, 1866, for the removal of causes from the State courts on this subject. I do not maintain that the several acts for the removal of causes from the State courts to the courts of the United States do not require revision and amendment. Their subject-matter, conformably to our settled practice, should be referred to the Judiciary Committee, where it will receive the attention it so well merits, and the result of their labors will be reported to this body. I am utterly opposed, however, to precipitate legislation on a subject of such vital importance as the jurisdiction of the inferior courts of the United States.

The amendment of the honorable Senator, as originally introduced, further provides for the repeal, in one essential particular, of section 14 of the judiciary act of 1789, which applies to all the courts of the United States. His repealing section is "that the circuit courts of the United States shall have the power to issue writs of *mandamus* to Federal officers to compel the performance of duties prescribed by law, but shall have no original jurisdiction to issue writs of *mandamus* in any other cases whatsoever."

He complains that a court of the United States issued some years ago a *mandamus* against the board of commissioners of Knox County, Indiana, who refused to perform a plain ministerial duty prescribed by a law which authorized them to subscribe for stock in a railroad company, should a majority of the qualified electors vote in favor thereof, and in the event of such subscription, to issue bonds and levy an annual tax to meet the accruing interest thereon. A suit was brought upon the overdue coupons, and judgment recovered. The holder of them requested the board to perform their duty by levying the tax sufficient to realize the amount so due. They refused to do so.

The fourteenth section of the judiciary act of 1789 enacts "that courts of the United States shall have power to issue writs of *scire facias*, *habeas corpus*, and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions and agreeable to the principles of the common law."

The circuit court, on the refusal of the board of commissioners to levy the required tax, had, as necessary to carry its judgment into effect, jurisdiction under that section to issue the *mandamus*. That holding was affirmed by the unanimous judgment of the Supreme Court, in Board of Commissioners *vs.* Aspinwall, 21 Howard, 376. That court was, in addition to the eminent judge who pronounced its opinion, composed of Mr. Chief-Justice Taney, Mr. Justice Campbell, Mr. Justice Nelson, Mr. Justice Clifford, and others whose learning, soundness of judgment, and purity of life would confer distinction upon any tribunal. With one exception they have all passed away.

The court has in several subsequent cases adhered to the doctrine that a *mandamus* is in the nature of an execution to carry the judgment into effect, and it will be issued where without it the creditor cannot secure the satisfaction of his judgment. While, however, the writ will, by the laws of some of the States, lie at the instance of a holder of unpaid coupons, whether they are reduced to judgment or not, to compel the assessment and levy, and the State court will award him the writ, as in the case of Shinbone *vs.* Randolph County, 56 Alabama, 183, the rule is different in the courts of the United States. In them a judgment must be obtained, and the writ will then only lie to render that judgment effectual. The Senator says that the case referred to was the first in which it was judicially asserted that a power existed in the courts of the United States to issue the writ in furtherance of their judgments. It was the first time that the question arose. The Senate is aware of the altered condition of the country in reference to the railroad and other enterprises of the day. Municipal corporations have besought the Legislatures of their respective States, especially in the West and in some portions of the South, to vest them with power to subscribe for stock in the companies organized to carry the enterprises into effect. That power was conferred subject to a popular vote in favor of its exercise. That vote was generally cast. The people expected to reap a golden harvest. Enhanced value was to be given to their lands. Greater facilities for reaching market were to be furnished. The stock was accordingly subscribed. Bonds were issued in payment therefor, and in many instances there was an express stipulation that a special tax should be annually levied to pay interest and to provide a fund for the ultimate payment of the principal. The road was built. The anticipated benefits were not always realized.

Popular clamor against the stipulated exercise of the taxing power was excited, and although such exercise formed an essential part of the contracts, the officers intrusted with the power refused to execute it, or it was at the instance of those upon whom it operated withdrawn by legislative enactment. The holders of the securities, who purchased them in good faith, were without a remedy unless the courts were vested with jurisdiction to compel the performance of the contract. In my earlier days I never knew an instance where municipal corporations granted aid to railroad or turnpike companies or subscribed for their stock. They did not incur debts except to a most limited extent, and then only for such purposes as the erection of school-houses, court-houses, and jails. A new spirit came over the American people. Townships, cities, and counties became indebted by the expressed consent of the people who were to bear the burdens. It may meet the views of a city or other municipality that laws passed after the indebtedness has been incurred should forbid the issue of an execution or other coercive process upon a judgment against it, or withdraw or so restrict the taxing power as to prevent the raising of means to meet contracts which were made upon a pledge that the power should be exercised for their fulfillment. The municipality has, however, had the benefit which these contracts conferred, and should not be suffered to repudiate or to evade the obligation which they enjoin. The Supreme Court has, therefore, decided that notwithstanding such laws a *mandamus* will lie to compel the exercise of that power in favor of a creditor who has recovered judgment on such a contract, and who has no other adequate remedy to enforce it. That court has gone no further. In view of these decisions, however, the Senator proposes to strip the courts of the United States of a power with which they have been invested since their organization, and to declare, by positive enactment, that in the exercise of their original jurisdiction they shall not issue that writ to any but an officer of the United States. This is a most sweeping change in existing laws. I know of no proposition submitted to either House of Congress which affects to so great a degree the jurisdiction of those courts unless it be the amendment of the Senator from Arkansas, [Mr. GARLAND.]

That amendment has been accepted by the Senator from Louisiana as a substitute for the third section of his amendment. By its terms "no city, town, village, county, or other municipal or public corporation shall be sued in the courts of the United States." A citizen of a State, while he may sue a citizen of another State in the proper circuit court if the matter in controversy between them be of the value of $500, would by the contemplated amendment be absolutely excluded from that court if his cause of action, whether *ex contractu* or *ex delicto*, be against the municipality. If, for example, he is the creditor of a county or it has wrongfully appropriated his property, he would be compelled to prosecute his suit in the courts of the State, sitting perhaps in that county, and he could not remove it into the circuit court. The Senator from Arkansas has with some severity and with his accustomed ability commented upon the doctrine in Louisville Railroad Company *vs.* Letson, 2 Howard, 497, where the Supreme Court at its January term, 1844, unanimously decided that for all purposes of suing and of being sued a corporation created by and doing business in a State is capable of being treated as a citizen. He insisted that the doctrine, although followed in every subsequent case, is in conflict with the earlier rulings of that court when Marshall was at its head. Bank of the United States *vs.* Deveaux, 5 Cranch, 61, to which he referred in support of his position, decides that a corporation aggregate composed of citizens of one State may sue a citizen of another State in the circuit court. It may therefore be sued by him. Now, the organized subdivisions of a State, whether they consist of cities, counties, or townships, are composed exclusively of its citizens. No just reason can be assigned why, if liable to suit in the local courts, they should not be subject to the jurisdiction of the Federal courts as fully and effectually as is the individual citizen. The great chief-justice who gave the opinion of the court in that leading case, remarks:

> However true the fact may be that the tribunal of the States will administer justice as impartially as those of the nation, to parties of every description, it is not less true that the Constitution itself either entertains apprehension on this subject or views with such indulgence the possible fears and apprehensions of suitors that it has established national tribunals for the decision of controversies between aliens and a citizen, or between citizens of different States. Aliens or citizens of different States are not less susceptible of these apprehensions, nor can they be supposed to be less the objects of constitutional provisions because they are allowed to sue by a corporate name. The name, indeed, cannot be an alien or a citizen, but the persons whom it represents may be the one or the other; and the controversy is in fact and in law between those persons suing in their corporate character, by their corporate name, for a corporate right, and the individual against whom the suit may be instituted. Substantially and essentially the parties in such a case, where the members of the corporation are aliens or citizens of a different State, from the opposite party, come within the spirit and terms of the jurisdiction conferred by the Constitution on the national tribunals. Such has been the universal understanding on the subject. Repeatedly has this court decided causes between a corporation and an individual without feeling a doubt respecting its jurisdiction.

These observations apply with the same force whether the municipal corporations be plaintiff or defendant, and it will be perceived that the doctrine in Louisville Railroad Company, which the Senator so pointedly condemns, is in entire harmony with every decision of that court so far as such a corporation is concerned.

It is a well-known historical fact, that jurisdiction over controversies to which citizens of different States were parties was conferred upon the courts of the United States in order that they might be determined by a tribunal created by the national authority, and beyond the reach of local influence or prejudice. All fears of such influence, or prejudice, may in ninety-nine cases out of one hundred rest on no real foundation whatever. It is, however, the constitutional right of the citizen to resort to the courts of the United States in the cases contemplated by the Constitution, and Congress would be unmindful of an imperative duty if it did not afford the requisite facilities for the effectual assertion and maintenance of that right. Senators have spoken of the courts of the United States, or rather of a few judges thereof, as unworthy of public confidence, and as exercising their functions in a spirit of partisanship and oppression. These are marked exceptions to the general rule. Those judges of these courts are, in my part of the country, worthy of the exalted trust confided to them. Senators speak of Federal courts as if they were established by an alien government. The Government of the Union is our government. Those to whom its judicial power is committed are as much bound to maintain the rights of the people of each State, and of the State itself, as are those appointed by the State to interpret and administer its laws, and, in my opinion, they discharge their arduous duties in a manner worthy of the best days of the republic.

I have thought it my duty, Mr. President, to say this much in regard to the action of the Federal courts, in awarding the writ of *mandamus*, and to the decisions of the Supreme Court, where municipal corporations are concerned.

Notwithstanding the attempted innovations upon our established jurisprudence, and the withdrawal from the Federal courts of their jurisdiction, which the amendment proposes, the Senator from Arkansas expresses the opinion that a necessity will still exist for the creation of an intermediate court of appeals. Why, then, clog this bill with amendments having no relation to that court? I will cheerfully co-operate with him in making all changes in our judicial system which time has shown to be expedient. The subject, however, is one confessedly of vital importance, and it should be examined in committee with all the care which that importance demands. But I am inflexibly opposed to embarrassing this bill with such inopportune amendments, and I believe that, if adopted, they will insure its defeat. I trust, therefore, that every Senator who favors this bill, and who is of opinion that such an appellate court as it provides for should be established, will vote against the proposed and all similar amendments.

Mr. LAPHAM. I have no purpose, Mr. President, to prolong the discussion upon this bill. I only desire to occupy the attention of the Senate for a few moments while I state the reasons which will govern me in the vote which I shall give upon the measure.

During the session of the Forty-fifth Congress I had the honor of introducing in the other House a bill quite similar in its provisions to the one now under consideration. It differed only in some of its details. It provided, in the main, for a court of review such as is

provided for in this bill. I never could secure favorable action from the Judiciary Committee of the House upon the subject, for the reasons which have been urged by gentlemen upon the other side of this Chamber against the passage of this bill. The necessity for some relief in civil actions has long been felt by the judiciary and by those who take part in the trial and in the argument of causes, and if this bill related to civil actions only it should receive my hearty support.

Objection has been made to the bill by reason of the fact that the right of appeal to the Supreme Court of the United States under its provisions is limited to cases involving the sum of $10,000, or upward, whereas it is at present limited to cases involving the sum of $5,000, and I believe originally in the judiciary act the limit was only $2,000. Senators who make this objection, it seems to me, fail to reflect upon the changed condition of the times. Ten thousand dollars now will not exclude from the jurisdiction of the Supreme Court as large a proportion of causes as $5,000 did when that provision was enacted, or as $2,000 did at the time the judiciary act was framed. A larger proportion of the causes tried in the Federal courts will, under the bill we are now considering, be liable to be taken to the Supreme Court with the limitation fixed at $10,000 than formerly came to the same court under the lesser limitation, which was established by law.

I well remember in the discussions which took place here during the struggle by President Jackson and his supporters against the recharter of the Bank of the United States, it was claimed that that institution in a period of six months had extended its circulation $30,000,000, and thus created an artificial prosperity in the country, and then in six months more it had curtailed its circulation a like amount, and brought distress and bankruptcy upon the people. An extension of the circulation to $300,000,000 now would not create the stimulus in business that $30,000,000 did then, or a curtailment of $300,000,000 now would not work the distress which $30,000,000 did then. It is just so with this provision in regard to the limitation of appeals to the highest tribunal in the country. The amount named in the bill seems large at first sight, but when the magnitude of litigations now is compared with the amounts in controversy at earlier periods, the increase of the limitation is no greater than is warranted by the changed condition of affairs.

This mode of procedure under the Federal judiciary has gone on until the calendar of the Supreme Court is known to be entirely beyond the possibility of being disposed of by one court. Some kind of relief must be had. We found it necessary in the State of New York to get relief of the same character, and by a constitutional provision a commission of appeals was provided for, who were to take all the cases assigned to them by the court itself from the general calendar, and in that manner all the old business was disposed of, so that the present court of appeals started with a new calendar, but that cannot be done under the Constitution of the United States. That declares that there shall be but one Supreme Court, and therefore, without an amendment to the Constitution, the only mode in which relief can be given to the Supreme Court here is to stop the appeals which come here under the limited sum which is now provided by making a larger sum necessary in order to entitle the party to appeal, and thus relieve the calendar of the court. This the Congress has power to do. It may create judicial tribunals inferior to the Supreme Court. I repeat that if this bill related solely to the remedies in civil actions I should support the bill, and support it cheerfully.

But the crowning measure of this bill, in my estimation, is found in the fact that for the first time in our history we are now to be provided with a right of review in criminal cases. It is true under the law as it now is, upon a certificate of division in the circuit court, a criminal case may reach the Supreme Court here, but only in that mode. It is true that in 1879 a bill originated in the House of Representatives, and I took part in procuring the passage of that bill, which provides for a review in a limited class of cases brought from the district to the circuit court by writ of error. But that is limited to criminal cases in the district court where there is a sentence of imprisonment, or fine and imprisonment, and if a fine only, the fine shall exceed the sum of $300. It applies solely and only to the case of a trial in the district courts of the United States. A review in criminal cases tried in the circuit court, which has concurrent jurisdiction with the district court in nearly all criminal cases, can never be had anywhere except on a certificate of division between the judges. It is amazing to me that for almost a hundred years we have been going on trying rights of property, and carrying cases from court to court, and to the supreme tribunal here, while if a man was to be tried for his life or his liberty, he has had, practically, no right of review whatever, but has been compelled to abide by whatever decisions have been made in the haste of a trial at *nisi prius*.

Take the case of a man indicted for a capital offense. He cannot be tried in the district court. The statute provides that, if the indictment is found in the district court, it shall be removed to the circuit court for trial. He is tried in a circuit court, and that is the end of the litigation so far as the accused is concerned, unless there happen to be two judges present, and they divide in opinion as to questions which arise during the trial, and then only the questions upon which they divide can be taken to the Supreme Court for its consideration.

Upon all questions in respect to which the judges agree, however obnoxious to justice, however violative of the rights of the accused, those questions cannot come here for the purposes of review. Now this bill, in its eighth section, provides for a review by the court of appeals in all criminal cases, whether tried in the district or in the circuit court. It gives, practically, what is secured to a person accused of crime in the State I have the honor in part to represent. In that State a writ of error in a criminal case is a writ of right. Every human being accused of crime has a right to review upon a writ of error. No officer can deny it; there is no power to prevent it. The design of the eighth section of this bill is to secure substantially that right to persons accused of crime in the Federal courts. Whether a man be tried for his life or for his liberty, or whether he be subjected simply to the imposition of a fine, if it is a criminal case, he is to have a right under this bill, if it becomes a law, to a review in this court of appeals.

It is time, I submit, Mr. President, that we should stop to consider whether it is of more consequence to try rights of property than it is to try the right to life and liberty. It is time that every Senator on this floor who regards the life and liberty of the citizen as more sacred than the right of property should consider whether he ought not to give his vote for this provision which shall secure this right to the citizen. This provision of the bill, I repeat, is the crowning feature which gives it its chief value, in my estimation, and one for which, if there were no other reason, it should receive my cordial and hearty support.

The PRESIDING OFFICER, (Mr. HARRIS.) The question is, Will the Senate concur in the amendments made as in Committee of the Whole? Shall the question be taken on the amendments in gross or separately? If there be no objection, the question will be taken on the amendments in gross.

Mr. DAVIS, of West Virginia. I understood the Senator from Delaware [Mr. BAYARD] made some exceptions, but I am told by my friends that that makes no difference; he can do what he wishes to do after this vote is taken.

The PRESIDING OFFICER. Is there objection to taking the vote on the amendments in gross? The Chair hears none. The question will be put on all the amendments in gross.

The amendments made as in Committee of the Whole were concurred in.

FORTIFICATION APPROPRIATION BILL.

Mr. DAWES. I desire to submit a report from a conference committee.

The PRESIDING OFFICER. The report will be received and read.

The Acting Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3208) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same.

H. L. DAWES,
JAS. B. BECK,
F. M. COCKRELL,
Managers on the part of the Senate.
WM. H. FORNEY,
J. H. KETCHAM,
THOS. RYAN,
Managers on the part of the House.

Mr. DAVIS, of West Virginia. I should like to have the Senator in charge state what change has been made. We do not know by the mere reading of the numbers of the amendments.

Mr. DAWES. There were three amendments of the Senate. One was a verbal one, in which the House concurred at once. One was an amendment striking out a few words which rendered it possible for the Ordnance Department to turn smooth-bore cannon into rifled cannon. That one the conference committee have agreed for the Senate to recede from, leaving the bill as it came from the House in that regard. The other was an appropriation of $5,000 to enable the Ordnance Department to loan two guns of heavy artillery to the militia of different States for the purpose of practice. That is agreed to by the House. That is all.

Mr. DAVIS, of West Virginia. Is that a general provision, or is it confined to a special State?

Mr. DAWES. It is general.

Mr. DAVIS, of West Virginia. Then I understand that the only increase in the bill——

Mr. DAWES. There is no increase in the bill.

Mr. DAVIS, of West Virginia. How do you get the $5,000?

Mr. DAWES. That was put on in the Senate by an amendment of the Senate.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the year ending June 30, 1883, and for other purposes.

COURT OF APPEALS.

The Senate resumed the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Louisiana, [Mr. JONAS.]

The amendment was rejected.

Mr. ALLISON. I renew the amendment found in the printed bill on page 10, being the amendment of the Committee on the Judiciary which was lost in Committee of the Whole by a tie vote. I move to strike out from line 25 to and including the word "court" in line 32, and to insert the proviso there printed in italics.

The PRESIDING OFFICER. Shall the amendment be read? If it is not the pleasure of the Senate to insist on that, the question is on the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. DAVIS, of Illinois. Probably Senators do not know what this amendment is. It is the patent question, which was debated in Committee of the Whole.

Mr. ALLISON. All Senators will know it when it is read.

The PRESIDING OFFICER. The amendment will be read.

The ACTING SECRETARY. In section 10, line 25, after the word "opinion," it is proposed to strike out all down to and including the word "court" in line 32, as follows:

And in patent and copyright cases in equity a review by the Supreme Court may be had, without regard to the sum or value in dispute, upon the questions both of law and fact affecting the validity or the infringement of the patent or the copyright: *Provided*, That the court of appeals shall certify that a question is involved of sufficient importance to render it proper that the final decision thereof should be made by the Supreme Court.

And in lieu thereof to insert:

Provided, That in all cases in which by existing laws the Supreme Court may now exercise appellate jurisdiction without regard to the sum in controversy, except in cases touching patent rights and copyrights, the Supreme Court shall continue to have and exercise such jurisdiction in the manner now provided by law.

Mr. HOAR. I should like to inquire if any Senator has a general pair with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. GARLAND. I am paired with him expressly.

Mr. HOAR. On this amendment?

Mr. GARLAND. On this very amendment and several others.

Mr. HOAR. Are you with the committee or against the committee on this amendment?

Mr. GARLAND. I am for the committee against the bill as it originally was in this respect, and the Senator from Vermont is with the committee.

Mr. HOAR. The Senator from Vermont asked me the other day to pair with him on this matter alone. I have not seen him since, and I was not sure that his pair continued.

Mr. GARLAND. I can transfer the pair to the Senator from Massachusetts.

Mr. HOAR. No; leave the pair as it is. If the Senator from Arkansas is paired with the Senator from Vermont on this amendment that answers the purpose.

Mr. PLATT. I was out of the Senate when the amendment was offered, and I am not sure that I understand what it is. I suppose, however, it is the one which the Senate failed to agree to relating to the jurisdiction of the Supreme Court with regard to patent and copyright causes. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CALL. I should like to hear the question stated.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Iowa, [Mr. ALLISON.]

Mr. DAVIS, of West Virginia. What is that?

The PRESIDING OFFICER. The Secretary will report it once again.

Mr. ALLISON. It is the amendment reported by the Committee on the Judiciary, but voted down in Committee of the Whole by a tie vote.

Mr. DAVIS, of Illinois. It is the amendment of the Judiciary Committee in reference to patent-right and copyright cases. That was lost by a tie vote, and therefore the bill stands as it was introduced originally in that respect. The Senator from Iowa now moves to insert the amendment reported by the Committee on the Judiciary.

Mr. PLATT. It may as well be reported.

The PRESIDING OFFICER. The amendment will be read.

The Principal Legislative Clerk read the amendment of Mr. ALLISON.

Mr. BAYARD. This amendment was the subject of discussion when the bill was in Committee of the Whole, and I found that some of my friends near me did not concur with me in their interpretation of the words printed in italics. I am very clear upon full consideration as to what the words from line 25 to 32, proposed to be canceled in the print, mean and what they effect. They are:

And in patent and copyright cases in equity a review by the Supreme Court may be had, without regard to the sum or value in dispute, upon the questions both of law and fact affecting the validity or the infringement of the patent or the copyright: *Provided*, That the court of appeals shall certify that a question is involved of sufficient importance to render it proper that the final decision thereof should be made by the Supreme Court.

I think there can be no doubt as to what the effect of that language is, that unless such a suit shall involve the sum of $10,000, or unless there shall be a certificate from the appellate court that it involves a question which ought to be decided by the Supreme Court a patent or a copyright case shall stand exactly as other cases before the courts. Then in lieu of those come the words printed in italics:

Provided, That in all cases in which by existing laws the Supreme Court may now exercise appellate jurisdiction without regard to the sum in controversy, except in cases touching patent-rights and copyrights, the Supreme Court shall continue to have and exercise such jurisdiction in the manner now provided by law.

The effect of this bill is to change jurisdiction. The great feature of this bill is to interpose a kind of legal sieve between the circuit and district courts of the United States and the Supreme Court, which is to catch, so to speak, all the cases involving less than $10,000 in amount, and subject them to the final decision of this interappellate court, beyond which they cannot go unless they are to be certified as to their importance in the manner set forth in the bill. There is no reason why the same finality should not be reached, and in the same way, in regard to patent and copyright cases as others. I am not disposed at all to vote for this language in italics which shall discriminate against patent and copyright cases and shall prevent them from going to the Supreme Court of the United States. I say if, first, they involve the proper amount as other cases, and next if they do not involve a large amount, but do include a matter of grave importance, they ought to come for their decision, probably more than almost any other cases, to the Supreme Court of the United States. I wish to draw the attention of the Senate to the preceding portion of section 10 which provides for the appeal from this interappellate court to the Supreme Court of the United States.

Mr. ALLISON. Shall I disturb the Senator if I ask him a question?

Mr. BAYARD. No.

Mr. ALLISON. I understand the Senator to be in favor of placing patent-rights and copyrights upon precisely the same plane as other cases in the Supreme Court.

Mr. BAYARD. I am.

Mr. ALLISON. Now I understand, if that is to be done, the amendment I propose, printed in italics in the bill before us, is absolutely necessary; otherwise patent-right and copyright cases, without reference to the amount involved, may go directly to the Supreme Court from the court of appeals.

Mr. BAYARD. Will the Senator be pleased to tell me, then, the meaning of the words from line 29 to line 32? What is the meaning of that proviso? Read it aloud, please.

Mr. ALLISON. "*Provided*, That the court of appeals shall certify that a question is involved of sufficient importance to render it proper that the final decision thereof should be made by the Supreme Court."

Mr. BAYARD. Very well, unless you get that, in addition to the sum of $10,000 involved, the case cannot go up.

Mr. ALLISON. I understand the proviso which I have just read to mean, taken as a whole, that in all cases——

Mr. BAYARD. Of less than $10,000.

Mr. ALLISON. No. The words I propose to strike out are:

And in patent and copyright cases in equity a review by the Supreme Court may be had, without regard to the sum or value in dispute, upon the questions both of law and fact affecting the validity or the infringement of the patent or the copyright: *Provided*, That——

Mr. BAYARD. The proviso applies to that clause. I think the meaning of that is very clear, that such cases go up *sub conditione*; they go up provided the certificate from below goes with them.

Mr. ALLISON. Yes; but why not allow patent-rights and copyright cases to rest precisely on the conditions and limitations named on page 9 which affect all other cases?

Mr. BAYARD. That is a question of redrafting the entire section. I think myself that section 10 could be very much improved by one or two amendments. I am compelled to believe that while the attempt to limit the jurisdiction by amounts only may be wise practically in most cases, it is wholly unscientific and wholly unphilosophic. The gravest and the greatest questions affecting human affairs have often attached themselves to the most insignificant sums and the most apparently insignificant disputes. Therefore it is very necessary that while for the practical purposes of business you are to interpose a sieve to catch the smaller cases and throw them back from your court of last resort, you should at least give to the courts below the right to send important questions up that they may receive the final decision of the court of ultimate resort of the country, in order not only to quiet litigation but to do it upon the basis of assured justice, that it shall not only settle dispute but satisfy the conscience of litigants. That is the great end, not simply to dispose of a case but to dispose of it upon the principles of eternal justice as far as human machinery may bring it about.

My criticism of this section 10 is that, granting the fact that you are to allow no man with less than $10,000 in controversy to go to the Supreme Court, still you ought to leave the door open for the conscience of the courts below to serve to the Supreme Court any case that involves an important question.

Mr. INGALLS. A question of law, the Senator means.

Mr. BAYARD. Of course a question of law, a principle, although there may be a question of fact which in itself involves a question of law. You cannot undertake to sever or discriminate by verbal description the cases which may present important questions.

In section 10—I draw the attention of the honorable Senator who has this bill in charge—it is provided:

But a review upon the law may be had upon writ of error or appeal in the manner now provided by law to the Supreme Court of the United States from every final judgment or decree of the court of appeals, where the matter in controversy exceeds the sum or value of $10,000, exclusive of costs, or where the adjudication involves a question upon the construction of the Constitution or the construction or the validity of a treaty or a law of the United States, or where the court shall certify that the adjudication involves a legal question of sufficient importance to require that the final decision thereof should be made by the Supreme Court.

Mr. INGALLS. Does that not include cases concerning patents and copyrights?

Mr. BAYARD. I want it to. I do not think the language which is stricken from the bill by this amendment would be inconsistent with that. That is the reason why I want the canceled part to stand, and why I am not sure that the part in italics should be inserted. The section proceeds:

But in the two last-mentioned cases the court of appeals shall state the specific question arising upon the construction of the Constitution, or the construction or the validity of such treaty or law, or the specific legal question that the adjudication involves.

I would suggest to the honorable Senator who has the bill in charge that in line 17 he should strike out the word "specific," and on line 19 strike out the words "specific legal." It is quite enough to apply to this question of appeal the same language that has been applied so long in our courts. I understand these amendments are not objected to, and the Senator in charge of the bill approves of the motion to strike out on lines 17 and 19 of section 10 what I have suggested.

Mr. DAVIS, of Illinois. We had better take a vote.

Mr. BAYARD. Certainly. I move to strike out, in line 17 of section 10, the word "specific," before "question," and in line 19, the words "specific legal," before "question."

The PRESIDING OFFICER. Is that a motion to amend the amendment of the Senator from Iowa, or the part to be stricken out?

Mr. ALLISON. That is on page 9, which has no relation to my amendment.

The PRESIDING OFFICER. Then the pending question is on the amendment proposed by the Senator from Iowa.

Mr. ALLISON. Let that be waived for the moment.

The PRESIDING OFFICER. This amendment is waived. The amendment of the Senator from Delaware will be read.

The ACTING SECRETARY. On line 17 of section 10 it is proposed to strike out the word "specific," and on line 19 to strike out the words "specific legal;" so as to make the clause read:

But in the two last-mentioned cases the court of appeals shall state the question arising upon the construction of the Constitution, or the construction or the validity of such treaty or law, or the question that the adjudication involves.

The PRESIDING OFFICER. The question is on this amendment of the Senator from Delaware.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Iowa, [Mr. ALLISON,] upon which the yeas and nays have been ordered.

Mr. PLATT. Mr. President, I desire, if I can, to give the Senate a clear understanding of the jurisdiction of the Supreme Court, as the law now stands, in relation to patent and copyright cases, the jurisdiction which the Supreme Court will have if the bill passes as it was introduced, and the effect of this amendment, for it seems to me that possibly there has been some little confusion in relation to that matter.

The Supreme Court of the United States now has jurisdiction of all questions of law which arise in patent cases which have been tried as actions at law. Where there is a verdict of a jury in those cases the Supreme Court now has jurisdiction only of the questions of law which arise in patent and copyright cases; but where the action has been an equity proceeding, as nine-tenths and, I think, more of all patent causes are in equity, there the Supreme Court to-day, without regard to the amount involved, has jurisdiction both of questions of law and of fact.

Now, this bill as drawn would take away from the Supreme Court jurisdiction in all cases where the amount involved was less than $10,000 in actions at law, unless the question was certified by the court below. It would also take away from the Supreme Court all jurisdiction in questions of fact arising in equity cases, unless the cause was certified from the court below as being of sufficient importance.

It will be observed that in both these respects the bill as it was introduced is a very great restriction upon the present jurisdiction of the Supreme Court in patent and copyright cases, and now by the amendment it is proposed to take away jurisdiction in all questions of fact and in all questions of law where the amount involved is not $10,000, unless in those very few cases which are tried as actions at law where the specific legal question shall be certified to the Supreme Court. It seems to me that this bill as it was introduced goes far enough. It will practically divest the Supreme Court of nine-tenths of its present jurisdiction in patent and copyright cases without the amendment proposed by the Senator from Iowa.

Mr. BAYARD. Does the Senator think the amendment in italics will help that, or hurt it?

Mr. PLATT. That would take it all away; but leaving the bill as it was introduced without the amendment, it will practically deprive the Supreme Court of nine-tenths of its present jurisdiction in patent and copyright cases.

Mr. BAYARD. It puts patent and copyright cases on the same basis as other cases.

Mr. PLATT. Substantially. It seems to me that is going far enough. I do not wish to reargue this matter, but it is manifest that there are questions of fact arising in patent and copyright cases that ought to go to the Supreme Court of the United States, and I think I can show it. I want to get for a moment outside of patents, and so I will take my illustration from copyright cases.

Mr. Schouler, of Boston, I believe has commenced to write and to publish a history of the United States starting from where Mr. Bancroft leaves that history. He is a legal writer and a writer of distinction. If he succeeds, he will have made for himself both fame and money, and his copyright will be worth vastly more than $10,000 to him. Now, let us see how this bill with the amendment will affect him. Possibly another person seeing that he has a valuable property in his copyright, proposes to imitate it just enough not to come within the copyright law, and at the same time get the benefit of his fame and reputation, and so he publishes a book in Chicago which he thinks does not infringe the copyright law, and yet which, if he can be permitted to scatter it broadcast over this land, will entirely destroy the property which Mr. Schouler would otherwise have in his book.

Mr. Schouler brings an action in equity against him in Boston in the circuit court there. It is decided that it is an infringement of his copyright; but it is a question of fact, a pure question of fact. It is decided there in an equity proceeding that it is an infringement of the copyright; but the man goes on in Chicago infringing, and Mr. Schouler goes out to Chicago and brings his action there, and there it is decided that it is not an infringement, and the case goes to the court of appeals, and the court of appeals holds in the Boston circuit that it is an infringement and holds in the Chicago circuit that it is not an infringement, and there it is. The value of that copyright to Mr. Schouler under those circumstances is as effectually destroyed as if the same decision had been rendered in every circuit in the United States.

Now, I say that in a matter of that importance Mr. Schouler, to carry out the illustration, ought to have the poor privilege, if a court thinks that it is a question of sufficient importance, to go to the Supreme Court of the United States, to have it certified there, which he would have under the bill if this amendment does not prevail; but if it does prevail that will be taken away from him entirely.

Mr. BAYARD. He would have it under the language which is proposed to be stricken out.

Mr. PLATT. Just so with patent-rights. We may as well talk frankly about these things. The result, the effect of this amendment is to destroy the value of the property in all important patent-rights, and it is understood so throughout the country. The whole value of a patent-right lies in its legal protection. If it can be infringed in one part of the country by reason of a decision of the circuit court in that part of the country that it is not an infringement, a decision in one circuit to that effect is just as destructive or nearly as destructive of the value of the property as such a decision in all the circuits would be. Now, it will not be denied—no one needs to be a prophet to see—that in these important patent-right cases there will be conflicting decisions in the different circuits and in the courts of appeals in the different circuits, and wherever that takes place the value of the patent-right involved will be mainly if not entirely destroyed. Now, I say that these two kinds of property are of such a character that there ought to be the poor privilege in a case where a court thinks that the question should be certified to the Supreme Court of the United States for settlement of having it done.

If I have made this matter clear I have accomplished all that I intended or could expect.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Iowa, [Mr. ALLISON,] on which the yeas and nays have been ordered.

Mr. HOAR. Is the amendment to strike out and insert?

The PRESIDING OFFICER. To strike out and insert.

Mr. HOAR. I move to strike out from the matter proposed to be inserted the words "except in cases touching patent-rights and copyrights," in the thirty-sixth line of the section.

Mr. ALLISON. That simply nullifies the amendment, so that the whole proviso might as well be struck out.

Mr. HOAR. That leaves the law in regard to patent and copyrights where it is now.

Mr. ALLISON. That leaves it worse than the original bill.

Mr. DAVIS, of Illinois. A great deal.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. HOAR. I will let the question be taken on the other first.

Mr. DAVIS, of Illinois. I would beg the Senator from Massachusetts to withdraw his amendment.

Mr. HOAR. Yes, sir; I withdraw that amendment and will take the question on the other.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Iowa, [Mr. ALLISON]

Mr. BAYARD. That amendment, although the Chair speaks of it as the amendment of the Senator from Iowa, is the same amendment proposed by the committee.

Mr. ALLISON. It is the amendment of the Judiciary Committee, not mine.

Mr. DAVIS, of Illinois. It is precisely the amendment proposed by the Judiciary Committee and rejected in Committee of the Whole by a tie vote.

The Principal Legislative Clerk proceeded to call the roll.

Mr. GARLAND, (when his name was called.) As stated awhile ago, I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, he would vote "yea" and I should vote "nay" on this amendment.

Mr. GEORGE, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. MITCHELL.] If he were present, I should vote "yea."

Mr. GORMAN, (when his name was called.) I am paired with the Senator from Rhode Island, [Mr. ALDRICH.]

Mr. JONAS, (when his name was called.) I am paired on this amendment, and all amendments, with the Senator from Pennsylvania, [Mr. MITCHELL.]

Mr. MILLER, of New York, (when his name was called.) I am paired with the Senator from Maryland, [Mr. GROOME.]

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.]

The roll-call was concluded.

Mr. GEORGE. I discover that my pair with the Senator from Pennsylvania [Mr. MITCHELL] expired yesterday evening, and he has another pair to-day. I therefore vote "yea."

Mr. DAVIS, of Illinois. I drew this bill, and naturally would have been in favor of the provision as it was inserted in the original bill, but the committee altered it, and I reported the bill, and in obedience to that duty I record my vote "yea."

Mr. MILLER, of New York. I ascertain from the RECORD that the Senator from Maryland, [Mr. GROOME,] with whom I am paired, voted before in the same way as I would vote myself on this question. Therefore I vote "nay."

The result was announced—yeas 24, nays 27; as follows:

YEAS—24.

Allison,	Conger,	Hill of Colorado,	McMillan,
Beck,	Davis of Illinois,	Ingalls,	Maxey,
Cameron of Wis.,	Farley,	Jackson,	Plumb,
Chilcott,	George,	Johnston,	Slater,
Cockrell,	Harris,	Jones of Florida,	Vest,
Coke,	Harrison.	McDill,	Voorhees.

NAYS—27.

Bayard,	Frye,	Miller of Cal.,	Rollins,
Blair,	Grover,	Miller of N. Y.,	Sawyer,
Butler,	Hampton,	Morgan,	Sherman,
Call,	Hawley,	Morrill,	Vance,
Cameron of Pa.,	Hoar,	Pendleton,	Walker,
Davis of W. Va.,	Lapham,	Platt,	Windom.
Dawes,	McPherson,	Pugh,	

ABSENT—25.

Aldrich,	Garland,	Kellogg,	Saunders,
Anthony,	Gorman,	Lamar,	Sewell,
Brown,	Groome,	Logan,	Van Wyck,
Camden,	Hale,	Mahone,	Williams.
Edmunds,	Hill of Georgia,	Mitchell,	
Fair,	Jonas,	Ransom,	
Ferry,	Jones of Nevada,	Saulsbury,	

So the amendment was rejected.

Mr. DAVIS, of Illinois. In section 6, line 58, the word "the" should be omitted. It reads "subject to the provisions of the this section." The word "the" should be omitted to make good sense.

The PRESIDING OFFICER. The Chair hears no objection to that amendment, and it will be made.

Mr. VANCE. In section 9, line 5, I move to strike out "Richmond" as the place for the sitting of the court of appeals in the fourth circuit, and insert "Raleigh," for this reason: the bill provides for holding these courts at Boston, New York, Philadelphia—which are respectively the business centers of their circuits—and then it skips from Philadelphia to Richmond, a distance of about three hundred miles.

Mr. HOAR. Will the Senator allow his amendment to be reported from the desk before he speaks upon it? I did not hear it.

Mr. DAVIS, of Illinois. It is putting Raleigh in place of Richmond as the place for holding the appellate court in the fourth circuit.

Mr. VANCE. From Richmond to New Orleans is between twelve and fourteen hundred miles. From Raleigh to Richmond is about one hundred and fifty miles. It would be a great convenience to have this court held near the center of the fourth circuit, as Raleigh would be, rather than Richmond.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina, [Mr. VANCE.]

Mr. JOHNSTON. I hope the amendment will not be adopted. Richmond is a central point and the point where there is most business.

Mr. DAVIS, of West Virginia. I wish to ask whether West Virginia is not included in the same circuit with Virginia? Of course, then, we are further from Raleigh than from Richmond.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina, [Mr. VANCE.]

The amendment was rejected.

Mr. GEORGE. I rise to offer an amendment which I offered yesterday evening, and which was then voted down without any explanation. I have shown it to members of the Judiciary Committee who favor this bill, and they favor it, and I therefore offer it again.

The PRESIDING OFFICER. The amendment of the Senator from Mississippi will be read.

The ACTING SECRETARY. It is proposed to add as a new section:

SEC. 15. That any defendant in a suit at law or equity in any court of the United States may plead or except to the jurisdiction of the court at the same time that he pleads or answers to the merits; and if said plea or exception be overruled or decided against him, he shall, nevertheless, be entitled to defend on the merits as if said plea had not been filed nor said exception taken.

Mr. DAVIS, of Illinois. By the common law, as we all know, a plea to the jurisdiction, if unsuccessful, prevents the party from pleading to the merits; and my friend from Mississippi says that that rule is still enforced in Mississippi. It is not enforced in the region of country from which I come; and although this amendment does interject something that ought not to be in a bill establishing a court, to settle a question of pleading that the appellate court should settle for itself, yet the Judiciary Committee, all of us who are here, have no objection to it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi, [Mr. GEORGE.]

The amendment was agreed to.

Mr. JONES, of Florida. I desire to draw the attention of the Senator who has this bill in charge to something that is important in the way of detail and necessary to the successful working of this scheme.

It will be observed that there is no provision made in regard to the approval of appeal bonds. The matter I suppose is expected to be controlled by the general law now existing, and that law is that in all cases of appeal from the circuit to the Supreme Court of the United States the citation shall issue and the appeal bond shall be approved either by the judge of the circuit or by a justice of the Supreme Court. All appeals under the old system were required to be taken during the term or within ten days thereafter, so that the circuit judge was always accessible, or presumed to be accessible, in order to obtain his approval to an appeal bond to perfect an appeal. Under this bill a period of six months is given within which to take an appeal or to prosecute a writ of error, and inasmuch as the district judge is now made a part of this court, I conceive that it would be wise and proper to give to the district judge authority to approve the bond and to direct the citation, the same as the justice of the Supreme Court or the circuit judge is now authorized to do under existing law. That is the whole purpose of this amendment which I propose to offer. I desire to incorporate it after the word "reviewed," on page 5, section 6, line 15, as an additional proviso:

Provided further, That all citations, writs of error, appeal bonds, or other processes or papers which, under the existing laws of the United States are necessary to be signed or approved by a justice of the Supreme Court or a judge of the circuit court in order to make effectual an appeal from the circuit court to the Supreme Court of the United States, may under this act be signed or approved by the judge of the district wherein the cause is tried, or by the judge of the circuit, or the justice of the Supreme Court assigned thereto.

The whole object of this amendment is to give the district judge where an appeal is taken the power to approve the appeal bond the same as the circuit judge, who may be absent, or the justice of the Supreme Court, who is always absent, because it gives six months within which to take an appeal, and it is not to be presumed that the circuit judge can be present in every district where an appeal may be necessary to be taken.

The PRESIDING OFFICER. The Senator will send his amendment to the Secretary's desk and have it reported.

Mr. JONES, of Florida. Yes, sir.

The PRESIDING OFFICER. The amendment will be read.

Mr. DAVIS, of Illinois. We intended by this bill to preserve things as they are, and to leave the court of appeals to establish rules not inconsistent with the law; but I have no particular objection to the amendment.

Mr. HOAR. I do not know whether I heard the amendment correctly; but does it not in terms provide that the writ of error, among the other things enumerated, may be issued by the judge to whose decision the writ of error lies?

Mr. JONES, of Florida. That is done now in the circuit. It is done now in appeals from the circuit judge to the Supreme Court. He has the power.

Mr. DAVIS, of Illinois. It gives the district judge the same right that the circuit judge now has.

Mr. JONES, of Florida. It is a matter of right; there is no option about it.

Mr. HOAR. I do not object to it; but the circuit judge is a judge of the higher court.

Mr. DAVIS, of Illinois. No, no.

Mr. HOAR. I do not speak of circuit judges as at present constituted, but I speak of the enlarged circuit judges under this bill. This provision is a little incongruous as applied to a writ, but I do not care anything about it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. COCKRELL. I rise to a question of order. I want to know whether it was not the understanding yesterday that after four o'clock to-day there should be no more speech making; that we should vote upon the amendments. I ask for the enforcement of the rule. ["Right!" "Right!"] It is after four o'clock.

Mr. DAVIS, of Illinois. If there are no further amendments, let us vote on the bill.

The PRESIDING OFFICER. The Chair announced distinctly yesterday that the consent of the Senate had been given to take the final vote at four o'clock to-day. The bill is still open to amendment.

Mr. MORGAN. I should like to make an inquiry. I want to know whether the lines on page 10, after the word "opinion," in line 25, down to the word "court," in line 32, are in the bill.

Mr. GARLAND. They are in the bill, as I understand, because the amendment proposing to strike them out was not agreed to. The Senate, failing to adopt the amendment, restored those words as a part of the bill.

Mr. MORGAN. Then those words are in the bill now? ["Yes!"]

The PRESIDING OFFICER. The part canceled in the printed bill on page 10 remains. The anendment proposing to strike out those lines was disagreed to, as was the proposed amendment to insert the words printed in italics disagreed to. Hence the bill stands in that respect just as it was originally presented by the Senator from Illinois.

Mr. GEORGE. I move to strike out, in the sixth line of section 9, the words "New Orleans," and insert "Jackson, Mississippi," as the place for holding the court of appeals in the fifth circuit.

Mr. HOAR. Before the Senate goes to that, will the Senator allow me to move to reconsider the vote adopting the amendment of the Senator from Florida, [Mr. JONES?] I made a suggestion which I did not press, but I am quite certain the Senator from Florida will see that his amendment should be modified. I move to reconsider the vote by which it was adopted.

The PRESIDING OFFICER. The Senator from Massachusetts moves to reconsider the vote by which the amendment proposed by the Senator from Florida was agreed to.

Mr. HOAR. If I may have unanimous consent to state in one word——

Mr. JONES, of Florida. I think the Senator is laboring under a misapprehension.

The PRESIDING OFFICER. Is there objection to the Senator from Massachusetts proceeding? ["No!" "No!"] The Senator will proceed.

Mr. HOAR. The amendment reads:

Provided further, That all citations, writs of error, appeal bonds, or other processes or papers which, under the existing laws of the United States, are necessary to be signed or approved by a justice of the Supreme Court or a judge of the circuit court in order to make effectual an appeal from the circuit to the Supreme Court, may, under this act, be signed or approved by the district judge," &c.

Now, so far as that applies to bonds or other things of that kind, it is very proper that the judge from whom the appeal goes should sign them; but I do not see how a citation to appear in the Supreme Court of the United States, which should properly be signed by a judge of that court, which issues by the authority of the Supreme Court of the United States, or a writ of error is to be signed or approved by the judge of the tribunal from which the appeal is taken or to which the writ of error lies or is addressed. It seems to me that it is an impropriety to include in this enumeration "citations and writs of error." If the Senator will strike out those words, leaving it to read, "*Provided further*, That all appeal bonds or other processes or papers," &c., that would cover everything which the justice of the Supreme Court or the judge of the circuit court deals with in his capacity as a circuit judge. Those things which the judge of the Supreme Court of the United States does in his capacity as a member of that court and exercising its authority ought not certainly to be exercised by a judge of the district court.

Mr. JONES, of Florida. If my amendment is at fault, the existing statute is at fault, because while the writ of error is usually tested in the name of the Supreme Court, it is now signed by the judge of the circuit court from whose judgment it is intended to make effectual an appeal under the existing statute; so that that same objection would apply to the existing law. Section 999 of the Revised Statutes, speaking of writs of error from the Supreme Court to the circuit court of the United States, says:

SEC. 999. When the writ is issued by the Supreme Court to a circuit court, the citation shall be signed by a judge of such circuit court, or by a justice of the Supreme Court, and the adverse party shall have at least thirty days' notice; and when it is issued by the Supreme Court to a State court, the citation shall be signed by the Chief-Justice, or judge, or chancellor of such court, rendering the judgment or passing the decree complained of, or by a justice of the Supreme Court of the United States, and the adverse party shall have at least thirty days' notice.

The usual practice under the existing law is that, after a judgment of the circuit court of the United States which is intended to be taken up by writ of error, the citation and the writ of error may by signed by the judge of the circuit court or by the justice of the Supreme Court assigned to the circuit, and the appeal bond may be approved by either. Now, inasmuch as this bill makes the district judges part of this system, and appeals are intended to be taken from their judgments to the court of appeals, I can see nothing inconsistent in the district judge performing the very same action with reference to appeals in matters of this kind that is now performed by the circuit judges with reference to appeals from their courts to the Supreme Court.

Mr. BUTLER. Will the Senator yield for a motion to adjourn? ["No!" "No!"] I thought we were to vote on this bill at four o'clock this evening, and it is now nearly half past four.

Mr. HOAR. If the Senator from Florida is satisfied with the amendment on reflection, I withdraw the motion to reconsider.

Mr. JONES, of Florida. I am.

The PRESIDING OFFICER. The motion to reconsider is withdrawn. The question is on the amendment of the Senator from Mississippi [Mr. GEORGE] in line 6, section 9, to strike out the word "New Orleans" and insert "Jackson, Mississippi."

Mr. JONAS. I trust that amendment will not prevail. New Orleans is really the capital of the fifth circuit. A large portion of the Mississippi business comes to New Orleans and that city is more accessible to Texas and Florida, and I believe to the whole circuit, than any other point which could be named.

Mr. GEORGE. Mr. President——

Mr. DAVIS, of Illinois. Debate is not in order.

Mr. COCKRELL. I call for the enforcement of the rule.

Mr. GEORGE. I think it is wrong, altogether wrong, to allow the Senator from Louisiana to make a speech for New Orleans and then not allow me to be heard for Jackson.

Mr. DAVIS, of Illinois. As the Chair allowed the Senator from Louisiana to be heard, I hope the Senator from Mississippi will be allowed to proceed.

The PRESIDING OFFICER. If there be no objection the Senator from Mississippi will proceed. The Chair hears no objection.

Mr. GEORGE. Jackson, Mississippi, is very near the geographical center of the circuit, and it has all the facilities for holding the court that New Orleans has, good libraries, good hotels, and a building is being erected there for the purpose of holding the United States court. I think it is just and fair to the people of the circuit not to put this court of appeals on the extreme southern edge when there is a good place for holding it very near the center of the circuit.

Mr. COCKRELL. Now, I ask for the enforcement of the rule.

The PRESIDING OFFICER. The Chair gives notice that he will not allow any amendment or any question to be debated until the final vote on this bill, unless the agreement of yesterday is abrogated. The question is on the amendment of the Senator from Mississippi, [Mr. GEORGE.]

The amendment was rejected.

AGRICULTURAL APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. I ask the Senate to take up the conference report on the agricultural appropriation bill. ["No!" "No!"] Well, I present the report, as I have the right to do.

The PRESIDING OFFICER. The report of a committee of conference is a privileged question and always in order.

Mr. DAVIS, of Illinois. It will only take a minute.

The PRESIDING OFFICER. The report will be read.

The Acting Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 21.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 27, 29, 30, 31, 32, 34, 35, 36, 37, and 39, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: Strike out from said amendment the words "for the orange and lemon and plants of the citrus family," and insert in lieu thereof the word "horticulture;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the words proposed to be stricken out by said Senate amendment, insert the following: "of which sum $1,000 shall be immediately available;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: Add at the end of the amended paragraph the following: "of which sum $2,000 shall be immediately available;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with amendments, as follows: Strike out from the words proposed to be inserted by said amendment the words "one artesian well," and insert in lieu thereof "not exceeding three artesian wells," and strike out the word "ten" and insert in lieu thereof the word "twenty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: Strike out the words "five thousand," and insert in lieu thereof "two thousand five hundred," and the Senate agree to the same.

H. G. DAVIS,
P. B. PLUMB,
EUGENE HALE,
Managers on the part of the Senate.

E. K. VALENTINE,
JOHN T. RICH,
Managers on the part of the House.

Mr. HOAR. I call the attention of the Chair to the forty-ninth rule.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) Will the Senate proceed to the consideration of the report of the committee of conference?

Mr. BUTLER. Will the Senator from West Virginia explain that report? It appears to be rather complicated.

The PRESIDING OFFICER. The question is, Will the Senate proceed to its consideration at this time?

Mr. SHERMAN. I think we ought to go on with the court of appeals bill. When the Senate unanimously agrees upon doing a thing, we ought to do it.

Mr. GARLAND. This question has to be decided without debate.

The PRESIDING OFFICER. It has to be decided without debate. Senators in favor of proceeding to the consideration of the conference report will say "ay;" those opposed "no." [Putting the question.] The noes appear to have it. The noes have it.

Mr. DAVIS, of West Virginia. Then I give notice that as soon as the pending bill is disposed of I shall ask the Senate to take up the conference report.

COURT OF APPEALS.

The Senate resumed the consideration of the bill (S. No. 420) to establish a court of appeals.

The PRESIDING OFFICER. The bill is still in the Senate and open to amendment. If there be no further amendment, the question is, Shall the bill be ordered to be engrossed for a third reading?

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. BUTLER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. GARLAND, (when his name was called.) On the passage of this bill I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, he would vote "nay" and I should vote "yea."

Mr. GORMAN, (when his name was called.) I am paired with the Senator from Rhode Island, [Mr. ALDRICH.] If he were here, I should vote "nay." My colleague [Mr. GROOME] is paired with the Senator from New York, [Mr. MILLER.] If my colleague were here, he would vote "nay."

Mr. JONAS, (when his name was called.) I am paired with the Senator from Pennsylvania [Mr. MITCHELL] on this bill. If he were present, I should vote "nay."

Mr. McPHERSON, (when his name was called.) I am paired with my colleague, [Mr. SEWELL.] He would vote "yea" if present, and I should vote "nay."

Mr. VANCE, (when Mr. RANSOM's name was called.) My colleague [Mr. RANSOM] is paired generally with the Senator from Illinois, [Mr. LOGAN.] I do not know how my colleague would vote if here, but I presume he would vote "nay."

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.] I do not know how the Senator from Michigan would vote. I should vote "nay."

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.] If he were here, I should vote "nay."

The roll-call was concluded.

Mr. PLATT. I am paired generally with the Senator from West Virginia, [Mr. CAMDEN.] Not knowing how he would vote on this question, I withhold my vote.

Mr. ROLLINS. The Senator from Virginia [Mr. MAHONE] is paired with the Senator from Nebraska, [Mr. VAN WYCK.] The former would vote "yea" and the latter "nay."

The result was announced—yeas 32, nays 18; as follows:

YEAS—32.

Allison,	Davis of Illinois,	Hoar,	Miller of Cal.,
Bayard,	Dawes,	Ingalls,	Morrill,
Blair,	Frye,	Jackson,	Pugh,
Cameron of Pa.,	Hale,	Jones of Nevada,	Rollins,
Cameron of Wis.,	Harris,	Kellogg,	Sawyer,
Chilcott,	Harrison,	Lapham,	Sherman,
Cockrell,	Hawley,	McDill,	Walker,
Conger,	Hill of Colorado,	McMillan,	Windom.

NAYS—18.

Beck,	Farley,	Jones of Florida,	Vance,
Butler,	George,	Maxey,	Vest,
Call,	Grover,	Morgan,	Voorhees.
Coke,	Hampton,	Pendleton,	
Davis of W. Va.,	Johnston,	Slater,	

ABSENT—26.

Aldrich,	Garland,	McPherson,	Saulsbury,
Anthony,	Gorman,	Mahone,	Saunders,
Brown,	Groome,	Miller of N. Y.,	Sewell,
Camden,	Hill of Georgia,	Mitchell,	Van Wyck,
Edmunds,	Jonas,	Platt,	Williams.
Fair,	Lamar,	Plumb,	
Ferry,	Logan,	Ransom,	

So the bill was passed.

Mr. DAVIS, of Illinois. The copies of the bill are nearly exhausted. I move that the usual number of additional copies of the bill be printed as it has passed the Senate.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the following bills and joint resolution:

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon and cannon-balls for use and ornament about a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 679) donating condemned cannon and cannon-balls for monumental and other purposes;

A bill (H. R. No. 1287) authorizing the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 2195) donating condemned cast-iron cannon to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association at Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned cast-iron cannon to the citizens of Otsego, Michigan;

A bill (H. R. No. 3738) to donate iron cannon to the township of Milan, Ohio;

A bill (H. R. No. 3877) donating condemned cannon to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post No. 2 of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon;

A bill (H. R. No. 4585) to donate two condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio;

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental purposes;

A bill (H. R. No. 1290) granting a pension to Modena Smith;

A bill (H. R. No. 244) for the relief of Mrs. Almira Farnsworth;

A bill (H. R. No. 967) granting a pension to Martha A. Williamson;

A bill (H. R. No. 5381) granting an increase of pension to Cecil Clay;

A bill (H. R. No. 2433) granting a pension to William Thomas; and

A joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls for decoration of soldiers' cemetery.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 3196) to authorize and direct the Secretary of War to change the name of Charles Alton Howard, a second lieutenant in the Ninth Regiment of Cavalry of the Army of the United States, on the register, rolls, and records of the Army, to Alton Henry Budlong.

A bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1883, and for other purposes; and

A bill (H. R. No. 4299) to amend the general incorporation law of the District of Columbia.

ORDER OF BUSINESS.

Mr. HARRIS. I ask the Senate to proceed at this time to the consideration of the bill (S. No. 1049) amending an act entitled "An act to prevent the introduction of contagious or infectious diseases into the United States." This is the bill which was reached this morning under the Anthony rule. Various Senators then suggested that they thought it could not be satisfactorily considered under that rule for the reason stated this morning, and I beg that the Senate may consider it. I think it is a great mistake to suppose that it is going to take necessarily any considerable time. I think an hour or two will be quite sufficient, because most of the criticisms made this morning were criticisms upon the law as it has existed for three years, and for three years without any prejudice to anybody in its operation, but, as the committee think, with very great benefit to the whole country. I hope the Senate will consent to take up the bill.

Mr. PLUMB. I do not desire to antagonize the motion of the Senator from Tennessee——

Mr. DAVIS, of West Virginia. Will my friend from Kansas give way so that I may ask the Senate to take up the conference report?

Mr. PLUMB. We can get this matter disposed of in a moment, I think. I voted with the Senator from Tennessee this morning to take up the bill he has named, for I conceive that it is of importance;

but I have been for weeks trying to bring to the attention of the Senate a bill which is of great interest to a large body of people, and I think it will take but a short time to dispose of it. I do not desire to antagonize the measure which the Senator from Tennessee has in charge, but I feel obliged to do so for the purpose of moving that the Senate shall take up Senate bill No. 67, known as the 5 per cent. bill. As I said, without desiring to antagonize the bill of the Senator from Tennessee, inasmuch as his bill was reached on the Calendar, I hope he will not press the matter and thereby put some persons disposed to be friendly toward his bill in antagonism with it.

Mr. HARRIS. I desire to say a single word. There are reasons why it is important for me to visit my home, and I desire to do so at an early day in the coming week. I esteem it a matter of very great importance that the bill I have indicated should be considered at an early day. If the Senate is inclined to pass it, it ought to be done at once; if the judgment of the Senate is against it it is important that the fact be known at once.

I of course do not desire to antagonize the measure represented by the Senator from Kansas. If there can be any understanding or agreement by which the bill that is in my charge can be considered at any reasonably early day, I shall most cheerfully give way to the Senator from Kansas or any other Senator who is clamoring for the consideration of a bill, but it is important that this bill should be considered and disposed of in whatever manner the Senate may feel disposed, and that they should dispose of it as promptly as possible.

Mr. PLUMB. I will say that so far as I am concerned (of course I am not authorized to speak for anybody else) I shall be entirely willing to observe the convenience of the Senator from Tennessee in regard to the consideration of his bill, and if it shall become necessary will agree to informally lay aside the bill I ask the Senate to consider in order to take up the bill which he has indicated. Beyond that, of course, I cannot go.

Mr. ALLISON and others. That arrangement will do.

Mr. HARRIS. That will be entirely satisfactory to me if it be understood that I shall not be met by an objection to the consideration of the bill under the timely yielding of the Senator from Kansas.

Mr. PLUMB. I move, then, that the Senate proceed to the consideration of the bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes.

Mr. MORGAN. I will say that I will not give my consent to any arrangement such as has been proposed.

The PRESIDING OFFICER. The Senator from Kansas moves that the Senate proceed to the consideration of the bill he has indicated.

Mr. WILLIAMS. I wish to ask simply the question if that is what is called the 5 per cent. bill?

Mr. PLUMB. It is the 5 per cent. bill.

Mr. INGALLS. Is the bill to be taken up with the understanding that when taken up it is to be laid aside to consider another bill?

Mr. PLUMB. No, not with that understanding.

Mr. INGALLS. I understood, although I was perhaps misled, that the Senator from Tennessee withdrew his motion for the consideration of the Board of Health bill with the understanding that this bill was to be taken up and then laid aside for the purpose of considering that bill.

Mr. HARRIS. If the Senator from Kansas will allow me, I will state that I have made no motion; I asked the consent of the Senate to proceed to the consideration of the bill indicated by me, and the Senator's colleague was kind enough to suggest that if it would be acquiesced in by the Senate he would consent to formally lay it aside, but I am aware that that would require the unanimous consent of the Senate. Hence, I added that if such an arrangement would be agreed to by the unanimous consent of the Senate it would be entirely satisfactory to me, and I would be very glad to have such an arrangement agreed to.

Mr. INGALLS. Such an arrangement, whether tacit or expressed, would be unjust. The Senator from Tennessee desires to call up a bill to add to certain powers attached to a board which, in my judgment, are already excessive. There is no special necessity for it, because the powers already exist. I think the Senate will remember that when the court of appeals bill was taken up there was a very general understanding that when it was concluded I was to have the floor to move the consideration of the bill reported upon the subject of bankruptcy. I trust the Senate will agree that both the motions pending may be voted down for the purpose of enabling me to move that as the next pending business before the Senate.

Mr. DAVIS, of West Virginia. It is evident there will be some discussion about these bills. I believe the matter I presented is a privileged one and I have no doubt all will agree to it. It will take but a moment to consider the conference report.

Mr. HOAR. I wish to say that the bill for the distribution of the proceeds of the Geneva award, a measure which has been discussed in the Senate for many years, which has repeatedly had the assent of a majority of one branch or the other, is prior in claim, it seems to me, to either of the measures proposed by these gentlemen. I gave notice some six weeks ago of a purpose to move to take up that bill immediately after the disposition of the then pending measure. I yielded my priority of right to submit that question to the Senate to the honorable Senator from Illinois, because I was of opinion that a matter affecting certain individuals, however numerous and however large the amount might be, ought not to take precedence of a matter of general public policy like his bill.

After I had made my motion the Senator from Kansas [Mr. INGALLS] expressed a purpose to move to take up the bankruptcy bill which was in his charge, and which it seemed to me had the same right of precedence on principle, as it was a matter of general public interest. But I do not desire to waive my precedence, if I have any under my notice, or to consent to take up other bills like the bill of the Senator from Tennessee [Mr. HARRIS] or the bill of the Senator from Kansas, [Mr. PLUMB.] Therefore I do not want to agree that the Senator from Kansas, may take up his bill and then yield to somebody else.

Mr. PLUMB. I have only made the suggestion so far as I am individually concerned.

AGRICULTURAL APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. I move that the Senate proceed to the consideration of the conference report on the agricultural appropriation bill.

The PRESIDING OFFICER. Pending the motion of the Senator from Kansas, [Mr. PLUMB,] the Senator from West Virginia [Mr. DAVIS] moves to proceed to the consideration of the conference committee report that he has named. Is there objection?

Mr. INGALLS. I object. Let us decide this other question first.

The PRESIDING OFFICER. The question is, Will the Senate proceed to the consideration of the conference report?

The motion was agreed to.

The PRESIDING OFFICER. The conference report is before the Senate.

Mr. HARRIS. It has already been read.

The PRESIDING OFFICER. The report has been read, and the question is on concurring in the report.

The report was concurred in.

ORDER OF BUSINESS.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas [Mr. PLUMB] to proceed to the consideration of Senate bill No. 67.

Mr. HARRIS. I should like to ask the Senator from Kansas about how long in his opinion it will take to consider the bill he moves?

Mr. PLUMB. I should think it ought to be concluded in a day or two days. It has been discussed in the Senate repeatedly before, and I am satisfied that one day, or two days at the outside, ought to close the consideration of the bill. Certainly the advocates of the bill are not going to take up any great length of time in debating it.

Mr. VOORHEES. I believe it can be considered in one day.

Mr. HARRIS. I will say again that I now give notice that if that bill shall be taken up, when it is concluded——

Mr. DAVIS, of Illinois. Apply the notice to any bill which may be taken up.

Mr. HARRIS. When any bill that is taken up is concluded, I shall insist upon a vote to proceed to the consideration of Senate bill No. 1049.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas, [Mr. PLUMB.] Those who are in favor of the motion will say "ay;" contrary "no." [Putting the question.]

Mr. MORGAN. Mr. President, the bill indicated by the Senator from Kansas [Mr. PLUMB] has the opposition of two members of the Committee on Public Lands, who gave notice of their opposition to it at the time it was reported to the Senate. The bill was brought before the Senate about eighteen months ago, I think, and defeated. It was voted down after full and complete debate. I do not know whether the opinion of the Senate has changed in that time, but very probably it has not. The bill then occupied several days in debate. There are a number of Senators on the floor now who were not here at the time the bill was then debated, and it will require at least three or four days, according to the ordinary run of business, to get through with the bill. The Senator from Iowa [Mr. ALLISON] has notified us that he has some appropriation bill which will come up pretty early next week. I think if we take up the bill of the Senator from Kansas and interlard it with appropriation bills we shall probably get through with it about the middle of week after next.

Mr. ALLISON. I can say to the Senator from Alabama that I think no appropriation bill will interfere with the matter proposed by the Senator from Kansas, and I do not think it will take more than one or two days to consider that bill. One day I think will be ample unless the Senator from Alabama desires to elaborate his views; then it might take longer.

Mr. MORGAN. If I should desire to elaborate my views, I should certainly occupy as much of the time of the Senate as I should think proper.

Mr. ALLISON. Undoubtedly.

Mr. MORGAN. I think it may take a considerable amount of time to present this bill in its proper light, and let us do it at the proper time. Within eighteen months the bill has had the consideration of the Senate, and it has been voted down; and I think we had better now turn our attention to some matters which have not been defeated in either House, some matters which are more entitled

to the consideration of the country at this time than the bill moved by the Senator from Kansas.

I propose to ask the Senate to take up the Japanese indemnity bill. I have frequently made this request at the instance of the Committee on Foreign Relations. I have moved it in the morning hour, and I have moved it with a view to get it before the Senate out of the morning hour. It is a bill, as I have remarked before, which has no particular advocate or friend, except some person who is charged with the official duty of taking care of it. Therefore it is allowed to pass by from day to day.

I do not intend to make any unnecessary or factious opposition to the bill of the honorable Senator from Kansas, but there are some gentlemen upon the Committee on Public Lands who heretofore have not participated in the debate on the question, who had not informed themselves fully upon it until recently, and who desire to be heard. It is a very important bill, involving a large amount of money, involving a brand-new principle in this Government, and I think it can afford to wait a little while until the Senate gets ready to hear that bill debated. The bankruptcy bill has the preference over the bill moved by the Senator from Kansas, and the Japanese indemnity bill was reported long before that bill came to the Senate, as I remember. I shall therefore ask the Senate to proceed to the consideration of the Japanese indemnity bill, and I antagonize that request with the motion of the Senator from Kansas.

Mr. VOORHEES. As I understand the vote was taken upon the motion of the Senator from Kansas and at that stage of the proceedings when the vote was being called *pro* and *con.* the Senator from Alabama, it strikes me as somewhat out of place, addressed the Chair.

Mr. MORGAN. The Senator will allow me to say that I used the utmost of my lung power to attract the attention of the Chair before the affirmative proposition was put.

Mr. VOORHEES. I do not complain of any want of vigilance or diligence on the part of the Senator from Alabama, especially in the exercise of lung-power. There is no doubt about his vigilance in that respect. I was going to say to the Senator from Alabama that I sympathize with his effort to get up and have passed the Japanese indemnity bill. It is one of the things that I understand something about, and I think it has very high merit; but I hope the Senate will adhere to what I understood to be the vote a little while ago.

I know that the subject of bankruptcy needs some attention; but in the shape the business is now in I am satisfied the Senate will get along more rapidly by adopting the motion of the Senator from Kansas to proceed to the consideration of the bill he has moved. It is not going to take so long to dispose of that bill as Senators think. It does not embrace a wide range of discussion, if discussion stays by the points presented; they are few, they are simple, and they are clear.

Mr. VEST. There is but one equitable way in which to settle this difficulty. I have given notice here until it has become "damnable iteration" that I propose to call up the interoceanic ship-railway bill, I am afraid to say for how many weeks. As to the importance of these bills there must inevitably be a hung jury on any such issue. Every Senator thinks, of course, that the bill he is interested in and is championing here is most important; but there is one equitable way to settle it, and for myself I am willing to adopt that mode; and it is the only equitable way. Let these bills come up in the order in which they have been reported and placed upon the Calendar. If the Japanese indemnity bill, or the bankruptcy bill, or the 5 per cent. bill precedes the bill which I am pressing on the consideration of the Senate——

Mr. DAVIS, of Illinois. Or the bill in charge of the Senator from Tennessee, [Mr. HARRIS.]

Mr. VEST. Or the bill of the Senator from Tennessee, then let whichever bill has the precedence come up first; but this arbitrary way of scrambling for the floor in order to force a bill out of its turn upon the consideration of the Senate is inequitable and unjust. Let the Secretary of the Senate look at the Calendar and the reports of committees and see which bill has the precedence.

The PRESIDING OFFICER. The Chair will state to the Senator from Missouri [Mr. VEST] that the bill moved by the Senator from Kansas [Mr. PLUMB] is prior in order upon the Calendar to the other bills which have been mentioned.

Mr. VEST. Then let that bill be taken up.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas [Mr. PLUMB] to proceed to the consideration of the bill indicated by him.

Mr. HOAR. I should like to have the statement of the Chair verified by an examination of the Calendar before the suggestion is acted upon.

Mr. WILLIAMS. In order to settle this controversy, I move that the Senate do now adjourn. ["No!" "No!"]

Mr. ALLISON and others. Let us settle this question first.

The PRESIDING OFFICER. Does the Senator from Kentucky withdraw his motion to adjourn?

Mr. WILLIAMS. No, sir; I insist on it. It is nearly five o'clock.

The PRESIDING OFFICER. The Senator from Kentucky moves that the Senate do now adjourn. [Putting the question.] The Chair is in doubt. Senators favoring the motion to adjourn will rise and stand until counted.

The Senate refused to adjourn; there being on a division—ayes 26, noes 29.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Kansas [Mr. PLUMB] to proceed to the consideration of Senate bill No. 67.

Mr. WILLIAMS. I call for the yeas and nays on my motion.

Mr. ALLISON and others. It is too late.

Mr. HARRIS. I raise the question of order that the call for the yeas and nays is too late. The result had been announced.

The PRESIDING OFFICER. The Chair had announced the result.

Mr. PLUMB. I call for a vote on my motion.

Mr. MORGAN. I desire to call attention to the fact that the Japanese indemnity bill is No. 171 in the order of business on the Calendar, having been reported February 7, 1882, so that to follow the equitable rule suggested by the Senator from Missouri that will be the first bill.

Mr. HOAR. Before the motion is put I should like to make an inquiry. The Senator from Missouri made a suggestion which seemed to meet with very general assent, that the bills which had been named should be taken up in the order in which they were reported. Can there be unanimous consent to that arrangement?

Mr. DAVIS, of Illinois. That is, that they shall be considered in the order in which they stand on the Calendar?

Mr. HOAR. In their order on the Calendar.

Mr. PLUMB. The bill which I have moved is order of business No. 101, which is just seventy numbers ahead of the Japanese indemnity bill.

Mr. HOAR. Can we not have unanimous consent to the arrangement suggested by the Senator from Missouri? ["No." "No."]

The PRESIDING OFFICER. There is objection to such an arrangement. The question is on the motion of the Senator from Kansas to proceed to the consideration of Senate bill No. 67.

Mr. VEST. Has that bill precedence in the order in which it was reported?

Mr. MORGAN. No, sir; it has not. I reported the Japanese indemnity bill from the Committee on Foreign Relations the 7th of February, and this bill was reported by the Senator from Kansas on the 13th of February.

Mr. PLUMB. But by some means the Senator from Alabama did not get his report in, and consequently his bill is seventy numbers behind on the Calendar.

Mr. MORGAN. The report was in, and it was by no such means that the bills changed their positions on the Calendar.

Mr. BAYARD. However desirable it may be for the Senate to have some fixed and definite rule for its proceedings I am satisfied that it cannot adopt the very cast-iron proposition of my friend from Missouri. Bills cannot be taken up and discussed in the Senate in the order of their introduction or in the order of their report. If the Senate proposes to conduct its business with due regard to economy of time, it must retain always its discretionary control over what measure it will take up. To adopt the rule suggested that because a bill is earlier in date as to its introduction or report it shall be first considered, would simply be at times to obstruct the whole progress of the business of the Senate.

The PRESIDING OFFICER. The Chair will state to the Senator from Delaware that no such proposition is pending. The Senator from Massachusetts asked unanimous consent to that arrangement and it was objected to.

Mr. BAYARD. I know that. The remarks I am making are upon the motion of the Senator from Kansas to take up a certain bill, and I make them just as my friend from Missouri made his when there was nothing before the Senate except the motion to take up the bill.

The 5 per cent. bill, I believe, will prove the fruitful source of debate, and it will be a long and contested question, as I have heard from remarks made around me. If it be so, I think whether we are to continue debate upon it or not will simply depend upon whether something more important shall be brought before the Senate; and the moment it is I hope the 5 per cent. bill will be postponed. I have no idea about giving what you may call the right of way to any one bill in the Senate without any consideration as to other measures of greater urgency perhaps. We must always pursue a course of public business here coupled with a sense of the comparative importance of such measures and of their comparative exigency at the time they are brought up, and we cannot adopt the rule of first in time first in thought.

Mr. PLATT. I think the Senator from Delaware is right that we cannot make any such rule as this with any justice whatever. It appears on the Calendar that the Geneva award bill was reported on the 30th of January, 1882; the Japanese indemnity bill on the 7th of February, and the 5 per cent. bill not until the 13th of February. How the latter bill got ahead upon the Calendar I do not know; but if we are to take these bills even in the order of their being reported, the Geneva award bill comes first, the Japanese indemnity bill second, and the 5 per cent. bill last.

Mr. PLUMB. I will state the explanation of that. I think I understand it thoroughly. The original bill which was reported from the Committee on Public Lands was a bill of the same title as this one, and was reported a long time before it appears on the Calendar to have been reported. Subsequently the Committee on Public Lands asked to correct the error, which was simply one of the clerk in putting into the hands of the chairman the wrong bill. That bill was reported, and it got the new date of the 13th of February. It had

been on the Calendar for a month before. I ask for a vote on my motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas [Mr. PLUMB] to proceed to the consideration of Senate bill No. 67.

Mr. MORGAN. I ask for the yeas and nays.

The yeas and nays were ordered, and the Principal Legislative Clerk proceeded to call the roll.

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.] He would vote "nay" on this question, and I should vote "yea."

Mr. JONAS, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. MITCHELL.] I do not know how he would vote, and I refrain from voting.

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.]

Mr. WILLIAMS, (when his name was called.) I ask the senior Senator from Arkansas [Mr. GARLAND] whether my pair with the Senator from Mississippi [Mr. LAMAR] extends to this question?

Mr. GARLAND. It does.

Mr. WILLIAMS. Then I am paired with the Senator from Mississippi, [Mr. LAMAR.]

The roll-call having been concluded, the result was announced—yeas 32, nays 16; as follows:

YEAS—32.

Allison,	Conger,	Hoar,	Plumb,
Bayard,	Davis of Illinois,	Jones of Florida,	Sawyer,
Beck,	Frye,	Jones of Nevada,	Sherman,
Cameron of Pa.,	George,	McDill,	Slater,
Cameron of Wis.,	Hale,	McMillan,	Vest,
Chilcott,	Harris,	Maxey,	Voorhees,
Cockrell,	Harrison,	Miller of Cal.,	Walker,
Coke,	Hill of Colorado,	Pendleton,	Windom.

NAYS—16.

Blair,	Dawes,	Jackson,	Platt,
Butler,	Hampton,	Lapham,	Pugh,
Call,	Hawley,	Morgan,	Rollins,
Davis of W. Va.,	Ingalls,	Morrill,	Vance.

ABSENT—28.

Aldrich,	Ferry,	Jonas,	Mitchell,
Anthony,	Garland,	Kellogg,	Ransom,
Brown,	Gorman,	Lamar,	Saulsbury,
Camden,	Groome,	Logan,	Saunders,
Edmunds,	Grover,	McPherson,	Sewell,
Fair,	Hill of Georgia,	Mahone,	Van Wyck,
Farley,	Johnston,	Miller of N. Y.,	Williams.

So the motion was agreed to.

COPY OF SERVIAN TREATIES.

Mr. WINDOM. I wish to make a request that the State Department be permitted to copy certain papers. I ask the unanimous consent of the Senate that Mr. Eugene Schuyler be allowed access to the Servian treaties, now before the Senate, in order that he may transcribe the text thereof.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and the order is made.

HOUSE BILL REFERRED.

The bill (H. R. No. 4197) re-establishing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 6004) making an appropriation to construct a road and approaches from Mound City, Illinois, to the national military cemetery, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs.

MILITARY LAND-WARRANT LOCATIONS.

The PRESIDING OFFICER. The bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes, is before the Senate as in Committee of the Whole.

Mr. SHERMAN. I move that the Senate adjourn.

The motion was agreed to; and (at five o'clock and five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May* 12, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER, D. D.

The Journal of yesterday's proceedings was read and approved.

PERSONAL EXPLANATION.

Mr. HOBLITZELL. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. HOBLITZELL. On the 16th of January last, in the open session of the House, I offered a bill for the relief of Abraham Brafman, asking the remission of fines illegally imposed and collected under the internal-revenue laws. Accompanying the bill was a petition, respectfully addressed to Congress, praying for his relief, and a brief presenting the grounds upon which it was urged. I had carefully examined the papers, recognized the force of the argument presented, and in offering the bill, did so in the honest discharge of a simple duty to a prominent merchant citizen of Baltimore, which, in part, I have the honor of representing—that done, it was clearly understood by Brafman that my connection with the case ceased, except to facilitate the passage of any bill through the House which might receive a favorable report from its committee.

The object and desire of Brafman was to present his claim to this relief through the argument of his paid attorney, Lloyd B. Simpson, esq., of Baltimore, whose acquaintance I have just made, and with whom I have no connection, professional or otherwise, directly or indirectly, nor with Brafman or any person acting with or for him. At the time the papers were presented for reference I intended asking a reference to the Judiciary Committee, believing then, as I do now, that the legal questions involved would be more satisfactorily disposed of by a committee wholly constituted of lawyers, but was induced to change that reference to the Claims Committee in view of the practice enforced by the honorable Speaker. The point was made by the gentleman from Pennsylvania [Mr. RANDALL] that it should go to the Committee on Ways and Means, but being waived it was referred to the Committee on Claims, where it lay dormant until Wednesday of last week.

About two weeks prior to that time I was visited by Mr. Simpson and Mr. Albert Moyer, a Washington attorney, who had been engaged in the interview, to aid in the prosecution of the claim before Congress, both of whom urged a change of reference to the Judiciary Committee. I sent them to the chairman of the Committee on Claims, and upon being assured that such a request should come from me as the member in charge of the bill, I solicited the gentleman from Georgia [Mr. TURNER] to ask that change; and accordingly, on the 3d day of May, that committee asked to be discharged from its further consideration, and that it be referred to the Judiciary Committee. The gentleman from Iowa [Mr. KASSON] made the point that it should go to the Ways and Means, and upon the motion of the gentleman from California [Mr. PAGE] it was so referred. Whereupon I placed in the hands of the gentleman from Kentucky, [Mr. CARLISLE,] of the sub-committee of that committee, having such matters in charge, a copy of the printed brief presented by Brafman's attorneys, asking immediate consideration, in view of the delay already incurred, and that it be referred to the Judiciary Committee, if he agreed with me it should be so referred. In all my connection with the case I have acted fairly, openly, and as it was my right and duty as a Representative. The next day there appeared in the Washington correspondence of the Baltimore Daily Herald the communication which I have marked and which I ask shall be read at the Clerk's desk before proceeding further.

The Clerk read as follows:

A BALTIMORE CLAIM.

Among the bills which have been pending for some time before the House Committee on Claims is that of Abraham Brafman, a clothier of Baltimore, who asks to be refunded $21,445.72, with interest from March 2, 1865, which he claims to have been illegally compelled to pay in the Treasury of the United States for manufacturing clothing. The committee to-day had the subject referred to the Committee on Ways and Means, and among the papers accompanying the petition was a letter addressed to Speaker KEIFER, under date of January 17, 1882, by a writer signing himself "Maryland." He states:

"I wish to call your attention to the bill offered by Mr. HOBLITZELL, of Maryland, for internal-revenue fines, said to be, but not, illegally imposed and collected in the year 1865. This is about the coolest piece of impudence on record, after a period of seventeen years, to try and recover from the Government what was justly forfeited for offending the law by a man whose whole object was to make money, regardless of right or wrong. It is to be hoped that the records of the case and the man at the time may be uncovered, and the introduction of this bill will show that there is an ax to grind in the case, and the owner of the ax Representative HOBLITZELL."

In speaking of this matter Marshal Bonifant, of Maryland, in October, 1867, wrote to the Commissioner of Internal Revenue that he believed that what violations were committed by Mr. Brafman were done ignorantly and with no intention to defraud the Government, and that he would be pleased to hear of a remission of the fine imposed upon him. All the stock of Brafman was seized by officers of the Internal-Revenue Department on account of alleged frauds against the United States.

Mr. HOBLITZELL. That communication, containing a contemptible calumny, most infamously made, was brought to my attention Saturday last, and this is the first opportunity I have had since to bring to the attention of the House the flagrant breach of the right and privilege of my membership as a Representative upon this floor. It is due that I should inform the House that the honorable Speaker, upon inquiry, denies all knowledge of the letter in question, and he declares that it could not have been referred to the Committee on Claims without the indorsement of that reference appearing upon the back in the handwriting of his private secretary, which indorsement of reference does not appear upon that communication. Discovering no trace of it by indorsement or even the slightest impression of recollection of it having been received by the Speaker, to whom it was addressed, I probed further, and discovered from the clerk of the Committee on Claims that he remembers the receipt of that letter as well as its contents, and he declares that the chairman of that committee, the gentleman from New York, [Mr. CROWLEY,] directed him to place it among the papers without knowledge of its contents, although it contained no fact which could furnish the slightest information to the committee charged with the consideration of the subject-matter

in question, and although further there appears no entry of record on the books of the committee as it was the duty of the clerk to make, the same having been received by him after the original papers had been placed upon the files of the committee, and when the clerk must have known that the letter could not have been received by the Speaker, to whom it was addressed, because of the absence of his official indorsement of reference which always appeared upon communications referred by him to committees, and, I submit, must appear, as under our rules no member, chairman of a committee, or Speaker has the right to place upon the files of the House any communication addressed to the House or the Speaker except in pursuance of its printed rules, either in open House for reference or through the petition-box, and in every instance the name of the member offering the same must appear upon the communication as a voucher of responsibility.

A flagrant breach of the rules of this House has resulted in the surreptitious admission of a grossly slanderous paper affecting my representative character, and responsibility should be lodged somewhere, that the power of the House shall be invoked for the punishment of the offender, if the rights, privileges, and dignity of its members are to be preserved. I believe I am justified in saying that there was indifference of manner and lack of frankness in the conduct of the clerk to the Claims Committee when interrogated by me, and I fasten the responsibility upon him; but even should I err in believing him a consenting party to this transaction, such a display of ignorance of the plain duties of a clerk to a committee of this House under its rules, and such inattention in the performance of those duties which renders possible to one of its members such a wrong, demands summary treatment. He knew, or should have known, that the slanderous communication had never been presented to this House for reference, and he knew there was no mark or indication upon it that it had been received through the petition-box, which must appear in every instance, and he violated his plain duty when he placed it among the House papers without its authority, knowing its contents, for he admitted such knowledge, as well its anonymous character. And to my mind there appears a motive for the absence of that record which it was his duty to have made if it had been received in the ordinary channel. I ask, Mr. Speaker, as a member of this House in the exercise, fairly and honestly, of my rights and privileges the fullest protection against the incompetency or misconduct of any of its officers.

I submit the resolution which I send to the Clerk's desk, and ask that it be adopted at this time.

The Clerk read as follows:

Whereas a letter appeared in the Baltimore Herald of the 4th instant reflecting on Mr. HOBLITZELL, a Representative from the State of Maryland: Therefore,

Resolved, That the Committee on Claims are hereby directed to make immediate investigation into the conduct of the clerk of that committee in connection with the letter referred to and to report its action to the House at as early a day as possible.

The resolution was adopted.

Mr. HOBLITZELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1883, and for other purposes.

OMAHA INDIAN RESERVATION IN NEBRASKA.

Mr. VALENTINE. I ask unanimous consent to take from the Speaker's table and consider at this time Senate bill No. 1255, to provide for the sale of a part of the reservation of the Omaha tribe of Indians in the State of Nebraska, and for other purposes. The Indians are anxious to dispose of this land in order that they may receive some interest on the money received for it, instead of holding the land without deriving any revenue from it.

Mr. HASKELL. I must object to that, unless it is first considered by the Committee on Indian Affairs of this House.

Mr. VALENTINE. Then I will ask that it be referred to the Committee on Indian Affairs.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Indian Affairs.

REMOVAL OF THE REMAINS OF GENERAL KILPATRICK.

Mr. WILLIAMS, of Wisconsin. I ask unanimous consent to introduce and have considered at this time a bill directing the Secretary of State to take the necessary steps for the removal of the remains of the late General Kilpatrick, minister to Chili, from Chili to the State of New Jersey for interment. I will state that a resolution upon this subject has been referred to the Committee on Foreign Affairs. A quorum of that committee was not present this morning, but the members of the committee now in the House have advised me to ask consent to introduce the bill and have it considered at this time.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of State be directed to take the necessary steps for the removal of the remains of the late General Judson Kilpatrick, minister plenipotentiary to Chili, from Chili to his native State of New Jersey for interment, and that such money as is required for said purpose be, and the same is hereby, appropriated from any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of State.

There being no objection, the bill (H. R. No. 6179) was received, read three several times, and passed.

Mr. WILLIAMS, of Wisconsin, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS OF COMMITTEE ON THE POST-OFFICE AND POST-ROADS.

Mr. SPRINGER. I ask unanimous consent for the present consideration of the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That Tuesday, May 16, after the morning hour, be set apart for the consideration of business to be indicated by the Committee on the Post-Office and Post-Roads, not to include House bill No. 4668, to provide for ocean mail service between the United States and foreign ports; this order not to interfere with the consideration of general appropriation bills, and to continue in force from day to day thereafter until executed.

Mr. JOYCE. I object, unless prior special orders are also excepted.

Mr. SPRINGER. Will the gentleman allow me to explain? Such an order as this was heretofore made by the House, but it applied to one day only, which day was occupied with other business. We now simply ask that this committee may have permission to occupy one day before the adjournment of Congress to bring up the important bills reported by them and now upon the Calendar. This will not interfere with existing special orders.

The SPEAKER. Objection is made.

Mr. SPRINGER. I do not understand that objection is made. Who objects?

Mr. JOYCE. I desire to know whether this resolution will cut out the special order which has been adopted by the House for the consideration of bills from the Committee on Pensions, Bounty, and Back Pay.

Mr. BINGHAM. It will not.

The SPEAKER. It will not interfere with any prior special order.

Mr. BINGHAM. It is not so intended.

Mr. HOLMAN. I must object, unless the bills to be considered are named.

The SPEAKER. The gentleman from Indiana objects.

DONATIONS OF CONDEMNED CANNON.

Mr. JOYCE. I ask unanimous consent that the House bills upon the Speaker's table, donating condemned cannon, may be taken up and the amendments of the Senate thereto concurred in. Those amendments in general consist merely of the insertion of the words "cast-iron" before the word "cannon."

There being no objection, bills and a joint resolution of the following titles were severally taken up, and the amendments of the Senate thereto read, and concurred in:

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon and cannon-balls for use and ornament about a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 679) donating condemned cannon and cannon balls for monumental and other purposes;

A bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 2195) donating condemned cast-iron cannon to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned cast-iron cannon to the citizens of Otsego, Michigan;

A bill (H. R. No. 3738) to donate iron cannon to the township of Milan, Ohio;

A bill (H. R. No. 3877) donating condemned cannon to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post No. 2 of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon;

A bill (H. R. No. 4585) to donate two condemed iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio;

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental purposes; and

Joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls for decoration of soldiers' cemetery.

Mr. JOYCE moved to reconsider the various votes by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BROWNE. I ask unanimous consent that five pension bills of the House which have been returned by the Senate with amendments, and are now on the Speaker's table, be taken up for the purpose of concurring in the amendments. This will not occupy more than five minutes.

There was no objection.

WILLIAM THOMAS.

The first pension bill on the Speaker's table with Senate amendments was the bill (H. R. No. 2433) granting a pension to William Thomas.

The following amendment of the Senate was read and concurred in:

In line 4 strike out "Tennessee" and insert "Pennsylvania."

CECIL CLAY.

The next pension bill on the Speaker's table with Senate amendments was the bill (H. R. No. 5381) granting an increase of pension to Cecil Clay.

The amendments of the Senate were read, as follows:

In line 4 strike out "$42" and insert "$30."
Add to the bill the following:
"Said increase to commence from the passage of this act."

Mr. KENNA. I do not wish to antagonize the Committee on Invalid Pensions; but I would very much prefer non-concurrence in the amendments to this bill, so that there may be a conference with the Senate on the subject of the amendments.

Mr. BROWNE. In this case the House committee reported the rate of pension as $30; the House increased it to $42. The Senate has reduced the amount from $42 to $30, the rate originally reported by the committee of the House. I suggest to the gentleman that he may jeopardize the bill at this stage of the session by sending it to a committee of conference. I hope, therefore, the House will concur in the amendments.

Mr. KENNA. The facts of this case, as will be remembered by gentlemen who were present when the bill was considered, are that this officer, who was practically a brigadier-general at the time he received his injuries, lost one arm entirely, and received wounds in the hand of the other which practically disabled him in that. I have no doubt of the merit of the proposition to give him a pension of $42 a month, and I hope the House committee will insist upon it, but as I said at the outset I do not wish to antagonize the Committee on Invalid Pensions. I will not, therefore, make further opposition to concurrence in the amendments, unless the committee will assent to such a course.

The amendments were concurred in.

MODENA SMITH.

The next pension bill on the Speaker's table with Senate amendments was the bill (H. R. No. 1290) granting a pension to Modena Smith.

The following amendment of the Senate was read and concurred in:

Add to the bill the following:
"Subject to the limitations and provisions of the pension laws."

MARTHA A. WILLIAMSON.

The next bill returned from the Senate with an amendment was the bill (H. R. No. 967) granting a pension to Martha A. Williamson.

The amendment of the Senate was read, as follows:

Add at the end of the bill the following words:
"And pay her a pension at the rate of $17 per month from and after the passage of this act."

The amendment was concurred in.

ALMIRA FARNSWORTH.

The next bill on the Speaker's table returned from the Senate with an amendment was the bill (H. R. No. 244) for the relief of Mrs. Almira Farnsworth.

The amendment of the Senate was read, as follows:

Strike out all after "Farnsworth," in line 3, to the end of the bill, and in lieu thereof insert "dependent mother of Edward Farnsworth, late a private in Company E, Twentieth Indiana Volunteer Infantry, on the pension-rolls, subject to the provisions and limitations of the pension laws."

The amendment was concurred in.

Mr. BROWNE moved to reconsider the vote by which the several amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORTIFICATION APPROPRIATION BILL.

Mr. FORNEY. I rise to submit a privileged report, which I send to the Clerk's desk to be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3208) making appropriations for fortifications and other works of defense and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same.

WM. H. FORNEY,
THOS. RYAN,
J. H. KETCHAM,
Managers on the part of the House.

H. L. DAWES,
JAMES B. BECK,
F. M. COCKRELL,
Managers on the part of the Senate.

Mr. HOLMAN. I hope before this conference report is adopted some explanation will be made of the action of the conferences of the two Houses on the matters in dispute.

Mr. FORNEY. The conference report is accompanied by a statement required by the rules, and I ask it be read, as it makes a full explanation of all matters in dispute.

The Clerk read as follows:

Statement in explanation of report.

There were but two disagreeing votes, of which the Senate receded from one, and the House receded from the other, and the effect will be, if the report is adopted, as follows:

On the first amendment: In the second paragraph of the bill the words "including the conversion of smooth-bore cannon into rifles" are retained as a portion of the paragraph.

On the second amendment: The Secretary of War is authorized to issue on the requisition of a governor of a State bordering on the sea or a gulf, having a permanent camping ground for the encampment of the militia not less than six days annually, two heavy guns and four mortars, with carriages and platforms, if such can be spared, for the proper instruction and practice of the militia in heavy artillery drill, and for this purpose a suitable battery for these cannon will be constructed; and for said construction and the transportation of said cannon, and so forth, the sum of $5,000 is hereby appropriated for supplying each State that may so apply.

Mr. FORNEY. I move the conference report be adopted.

The motion was agreed to.

Mr. FORNEY moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROAD TO NATIONAL MILITARY CEMETERY, MOUND CITY, ILLINOIS.

Mr. THOMAS. Mr. Speaker, I ask by unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 6004) reported from the Committee on Military Affairs as a substitute for House bill 3586, making an appropriation to construct a road and approaches from Mound City, Illinois, to the national military cemetery, and for other purposes; and it be now put on its passage.

The SPEAKER. The bill will be read subject to objection.

The bill was read, as follows:

Be it enacted, &c., That a sum not to exceed $25,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of constructing a road from Mound City, Illinois, to the Mound City National Military Cemetery, to be expended under the Secretary of War: *Provided*, That land necessary for the right of way, not less than one hundred feet in width, shall be granted and ceded to the United States.

Mr. HOLMAN. What committee reported this bill?

Mr. THOMAS. It was reported by the Committee on Military Affairs, to whom it was referred. The report is short, and I should like to have it read, as it gives the fullest information.

The report was read, as follows:

This bill provides for the appropriation of $25,000 for the purpose of constructing a road from Mound City, Illinois, to the national cemetery near that place; also, for the purchase of a certain quantity of land; also, that the Secretary of War shall report to Congress his action at the next session of Congress.

Your committee find that there is located within one mile of Mound City, Illinois, an extensive and very beautiful national cemetery; that it has been improved by the national Government, equally with other national cemeteries; is protected by an extensive dike, built to keep out the backwater of the Ohio River; the grounds have been tastefully arranged and ornamented with choice trees and plants; each grave is marked by a white marble slab, and a handsome soldiers' monument has been erected by the State of Illinois, at a cost of $25,000.

The Inspector-General of the Army reported, when officially visiting this place, a few years since, "that the most attractive locality in this vicinity is our beautiful national cemetery."

The length of the contemplated road is about one mile, and its probable cost of construction, as estimated by the Quartermaster-General, would be about $25,000.

The present means of communication with Mound City is at all times disagreeable and difficult, often impassable on account of high water and the great depth of mud into which the road is converted by rains and overflow, the land being very low.

There has been so much pains taken to keep the national cemeteries in the best possible condition, they become more attractive and more beautiful each year, and the interest in them appears also to increase, and every attempt to popularize them would seem to accord well with the spirit and sentiment which have prompted the establishment of these national burial grounds for the honored dead of our late war.

The Congress has heretofore taken this view of the subject in appropriating moneys for similar roadways to the cemeteries at Vicksburgh, Chattanooga, and Fort Scott. In consultation with the Quartermaster-General, of the Department, charged with the care and improvement of the national cemeteries, he has sug-

gested that the right of way shall be secured free of cost to the Government, by the local authorities, at least one hundred feet wide, and he also suggests other modifications of the bill which the committee approve and adopt.

Your committee therefore report back bill H. R. No. 3586, with the accompanying bill as a substitute, with recommendation that the substitute do pass.

Substitute for bill H. R. No. 3586, a bill to construct a road from Mound City, Illinois, to the Mound City National Military Cemetery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum not to exceed $25,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of constructing a road from Mound City, Illinois, to the Mound City National Military Cemetery, to be expended under the Secretary of War: *Provided*, The land necessary for the right of way, not less than one hundred feet in width, shall be granted and ceded to the United States.

Mr. RANDALL. I ask the gentleman from Illinois who reported this bill whether it has the recommendation and meets the approval of the Secretary of War?

Mr. THOMAS. It has been recommended by the Secretary of War.

Mr. BRIGGS. Is this to be a railroad or a turnpike?

Mr. HOLMAN. I suggest that the recommendation of the Secretary of War be incorporated into the report.

Mr. THOMAS. I have no objection to it being printed in the RECORD. The Secretary of War recommends this appropriation to be made, that is, the Quartermaster-General recommends the amount, and it is approved by the Secretary of War.

This national cemetry is located in the lowlands which are overflowed by the Ohio River in high water. It is protected by a high dike all around it, or levee, and there is no way to get there except through these overflowed lands.

Mr. RANDALL. Does not the gentleman think that $25,000 is a large sum to pay for building a mile of road one hundred feet in width?

Mr. TOWNSHEND, of Illinois. It is not, when you consider the character of the country through which the road is to be built.

Mr. THOMAS. Besides, it is contemplated that only so much as may be necessary for the construction of the road is to be expended.

Mr. TOWNSHEND, of Illinois. The country is swampy and difficult to build a road through. I know myself that this road is very necessary, and I hope the bill will pass.

Mr. ROBINSON, of Massachusetts. Mr. Speaker, the report of the committee seems to contemplate that the title to this land over which the road is to be constructed shall be vested in the United States without charge. The bill, however, does not so provide. I ask that the proviso to the bill be again read.

The Clerk read as follows:

Provided, That land necessary for the right of way, not less than one hundred feet in width, shall be granted and ceded to the United States.

Mr. ROBINSON, of Massachusetts. Now I move to amend by adding the words "without charge or cost to the United States." That is within the terms of the report, but evidently not covered by the language of the bill.

Mr. THOMAS. There is no objection to that amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. THOMAS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENEVA AWARD.

Mr. REED. I demand the regular order.

The SPEAKER. The regular order is the further consideration of the bill relating to the distribution of the Geneva award fund, on which the previous question has been ordered.

Mr. REED. Last night we ordered the previous question without any understanding that the minority might offer their bill and have a vote upon it. It is understood of course, however, and that was the intention, that the minority should have a vote upon their bill.

There is also a verbal amendment to be made in the bill of the committee as printed; in section 3 of the bill where the existence of the court is limited to one year it should be two years; and that the claims to be filed with the clerk of said court within six months as printed in the bill should read within four months.

Mr. HOOKER. I object to any amendment not covered by the previous question, unless the gentleman will agree to extend the time for debate.

Mr. REED. Well, if the gentleman from Mississippi chooses to object in view of the arrangement arrived at yesterday evening, I will have to yield to him out of the brief time remaining; but I hope the gentleman will not insist upon an extension of the time after the agreement made and after the previous question has been ordered.

Mr. HOOKER. There was no agreement that amendments might be submitted to the bill. I shall object to all amendments unless the gentleman sees proper to extend the time allowed for debate.

Mr. REED. I have no power to extend the time after the previous question has been ordered.

The SPEAKER. The Chair will submit the question to the House. The gentleman from Maine asks that the previous question ordered upon the bill shall include the right to offer the substitute of the minority——

Mr. HOOKER. I have no objection to that. I think it proper that the minority report should be regarded as pending under the previous question; but I object to any amendment not actually covered by the agreement.

Mr. HAMMOND, of Georgia. Is it understood that the bill of the minority is considered as pending?

Mr. REED. It is so understood. The motion now is that the verbal corrections which I have suggested may also be made to the bill, under the operation of the previous question.

The SPEAKER. The gentleman from Mississippi, as the Chair understands, objects to that.

Mr. ANDERSON. Then I object to allowing a vote on the minority report.

Mr. REED. I do not think the gentleman ought to object to that under the arrangement made last night. I hope the gentleman from Mississippi will not insist upon his objection.

Mr. ANDERSON. I object to allowing a vote upon the substitute, if unanimous consent is required, if the gentleman from Mississippi insists on his objection.

The SPEAKER. The Chair thinks that while the proposition to consider the previous question as ordered upon the bill was not very distinctly stated, yet the substitute was treated all through as though pending, and ought now to be considered as pending under the operation of the previous question.

Mr. REED. Certainly, and the amendments which I have suggested are merely verbal corrections to the text of the bill.

Mr. HOOKER. There was no unanimous consent given except to consider the bill of the committee and the minority report. The previous question was ordered with that understanding.

Mr. REED. The chairman of the Committee of the Whole ruled the other day at the request of the chairman of the Committee on Appropriations that such verbal corrections could be properly made by the House after the previous question had been ordered.

Mr. HOOKER. I cannot help that. I must object to any amendments to this bill if no opportunity is to be given for further discussion.

Mr. REED. If the gentleman from Mississippi will insist upon his objection, I shall be compelled to give him ten minutes, if that will be satisfactory.

Mr. HOOKER. That will be entirely satisfactory to me.

Mr. HASKELL. When a bill is reported from a committee of this House with a recommendation that it be passed, and the previous question is ordered upon it, that order covers not only the bill but such verbal amendments as are necessary to perfect its text to meet the views of the committee reporting it. Otherwise the House, after the previous question is ordered, could be excluded from correcting a typographical error. That has been the rule and the practice.

The SPEAKER. The Chair understands the amendments suggested by the gentleman from Maine, however, to be additional amendments, and not part of the original bill.

Mr. REED. Do I understand the Chair to rule that the amendments are in order?

The SPEAKER. The Chair has made no ruling.

Mr. HAMMOND, of Georgia. I understand the gentleman from Mississippi has withdrawn his objection.

The SPEAKER. If the gentleman from Mississippi has withdrawn his objection, the Chair will hold that by unanimous consent the amendments suggested are considered as pending.

Mr. HOOKER. I withdraw the objection, with the understanding that the gentleman from Maine has yielded me ten minutes.

Mr. REED. I yield ten minutes to the gentleman from Mississippi.

Mr. ANDERSON. Then I withdraw my objection to the substitute.

The SPEAKER. The Chair understands, then, that there is no objection to the proposed modification or amendment to the original bill. The gentleman from Maine is entitled to the floor.

Mr. REED. I yield ten minutes to the gentleman from Mississippi.

Mr. HOOKER. Mr. Speaker, I have nobody to represent who has any interest in this question, so far as my own constituency is concerned, and I therefore think I can look at the question from a dispassionate and disinterested point of view. It has been contended by the honorable gentleman from Maine [Mr. REED] in the few remarks which he submitted, and by my friend from Ohio, [Mr. CONVERSE,] that in distributing this fund it ought to be distributed to the persons who sustained the losses. I admit the proposition. I concede the truth of the position that in distributing this fund which was paid *in solido* by Great Britain to reimburse the citizens of this country for losses sustained by the inculpated steamers destroying the cargoes and vessels during the war—I admit the position that it ought to be paid to the people who sustained the losses.

This, to my mind, is simply a cold legal question, with which sentiment has little to do. We ought to distribute this fund according to law, equity, and justice. Who, then, ought to be entitled to this fund? It was well understood, sir, in the arbitration which was made at Geneva, and in the award which the English and the American arbitrators agreed upon, that this sum of fifteen and a half million dollars was to be paid in full to the United States, England never agreeing to advance one single dollar beyond it to compensate any-

body, but agreeing to it to compensate those alone who sustained losses.

It is said that the fund ought to be paid to those who paid the war premiums in consequence of the losses sustained by the inculpated vessels. Who paid the war premiums? Wherever a vessel successfully ran into port and the war premiums were paid by owners of the vessel and the cargo, who paid the war premium? The men who bought the goods that were successfully brought into port. And therefore if there is equity in paying to those who lost, then there is equity in paying to the men who had to pay the additional price for the goods and to pay the war premiums.

But it is said, sir, that you ought not to pay anything to the insurance companies because they are bloated corporations. Well, the insurance companies are composed of men, and while the company, in the language of my friend from Ohio, does not die, the men who compose the company die every day. If they have insured a vessel and that vessel and its cargo have been lost and they have paid the loss, would the honorable gentlemen on the other side who present the report of the majority of the committee give it again to the people who have already been paid? If the insurance companies have paid the loss of vessel and of cargo, and the man has received it from the insurance company, although he may have paid a war premium, is he still entitled to receive the amounts again? What do you propose by the present bill? You propose to pay out $668,313.69 to these very insurance companies for losses sustained by exculpated vessels. That is the very effect and force and object of this bill of the majority. Now, sir, I say that if the insurance companies have paid the loss of the vessels and the loss of the cargo I can see no reason why in equity and justice they should not be subrogated to the rights of the men who have been actual losers. Is not that equity and justice? I cannot see any reason why they should not be allowed to claim their share of this fund in proportion as they have paid the actual losses of the men who have insured with them.

In the case of West against The United States, in answer to what my friend from Ohio has said, I shall quote what the court says:

> Do not national courtesy and good faith require of us to suppose that Congress, in creating this court, never intended we should distribute this fund other than for the purposes for which Great Britain supposed she was paying it? For instance, suppose Congress had chosen to keep half the fund and convert it into the Treasury of the nation, or had directed this court to distribute it among those whose commercial interests had been injured by the terror and alarm caused by the insurgent cruisers, or among those who had suffered loss by the depredations of rebel cruisers other than the Alabama, Florida, and Shenandoah. In such cases, would not Great Britain have had cause to complain that she had been misled, overreached, deceived? Would our Government have been acting in good faith in making such disposition of this fund?

That is what the court says in adjudicating upon this question in the case of West *vs.* The United States.

In the same connection I quote the following remarks by Mr. Thurman in the Senate:

> Mr. THURMAN. Mr. President, I do not know that I have ever witnessed quite such a proceeding as we have now before us. The great contest from the very first bill that was introduced on this subject has been whether the insurance companies should be paid. They had claims according to as well-settled law as ever existed in the world. Their right to present those claims, their right to stand in the shoes of those who lost the property captured, was expressly admitted by the attorney-general of Great Britain before the Geneva tribunal. No denial of their right to present those claims was ever made, either by the Government of the United States or by the Government of Great Britain. On the contrary, the Government of the United States, when presenting the claims, the Government of Great Britain speaking through its attorney-general, admitted that the insurance companies had the right to present those claims. It admitted in the most distinct and clear language, both by its attorney-general and by the judgment of its arbitrators at Geneva, that the insurance companies were subrogated to the rights of the insured.

The following statement shows the claims filed under the several classes:

Statement of amount of claims for losses by the so-called exculpated cruisers—from revised list of claims.

Boston	$400 00
Chickamauga	183,070 00
Georgia	431,160 00
Jefferson Davis	7,752 00
Nashville	108,433 95
Retribution	29,018 53
Sallie	5,540 00
Sumter	179,697 67
Tallahassee	836,841 83
Shenandoah, ante Melbourne	554,810 49
Total	2,336,725 19

Of this there are claimed by the insurance companies for losses by the—

Boston	$400 00
Chickamauga	115,509 00
Georgia	166,900 00
Jefferson Davis	4,752 00
Nashville	16,050 00
Retribution	10,852 00
Sallie	5,540 00
Tallahassee	205,633 68
Shenandoah	142,677 00
Total	668,313 68

Leaving the total amount claimed by other parties $1,668,411.51.

The claims for war premiums have amounted to $6,328,869.77, namely, three hundred and forty-one claims filed before May 15, 1872, (from revised list,) $6,146,219.71; sixteen claims filed after that date, (Miscellaneous Document No. 270, House of Representatives, first session Forty-third Congress,) $182,650.06.

The total claims by insurance companies for losses by inculpated cruisers amount to (including four years' interest at 4 per cent.) $5,644,365.12.

It appears, then, that the total claims in each class provided for in the bill submitted by the majority are as follows:

First class	$1,668,411 51	
Interest	266,945 84	
Total		$1,935,357 35
Second class	6,328,869 77	
Interest	1,012,619 16	
Total		7,341,488 93
Third class	5,534,145 30	
Interest	885,463 22	
Total		6,419,608 52
Total of three classes		15,696,454 80

Now, if losses were actually sustained, and those losses were not paid by the insurance companies, clearly the party sustaining the loss of the vessel and cargo would have a right to come here and show his loss and receive his portion of the money. If insurance companies have paid those losses, the loss of the vessel and the loss of the cargo, I put it to the conscience of every man who has to vote upon this question whether they ought not to be under the national law as they would be under the adjudication of any court in any State sitting in equity or at law—whether they ought not to be subrogated to the rights of the actual losers whose losses they have sustained and paid?

Is there any equity and justice in the denial of this? And is it not the universal rule of law which prevails in the tribunals of the States both at law and in equity that wherever a party has paid in good faith the loss which has been sustained by the actual loser he has a right to be subrogated to the rights of the party whose losses he has paid.

It is said that the insurance companies grew wealthy. Ay, sir, and the importers grew wealthy. The men who paid the war premiums grew wealthy. All over your country will be found men in the various branches and pursuits of commercial life who have grown to be men of colossal fortunes, and millionaires, who paid the war premiums. Upon what principle of equity or justice, therefore, will you take this money which England has paid into your Treasury and say you will apply it to these men who paid the war premiums, and who charged the war premiums on their goods?

While it is true that they had to compete in foreign markets with vessels not paying the war premiums, in our own country wherever they imported in sufficiently large quantities to control the market, they added the war premiums to the price of their goods, and thus became, in many instances, as wealthy as the insurance companies themselves.

But whatever the result, if the insurance companies can demonstrate that they have paid these losses actually and in good faith, whatever premiums they might have received, however wealthy they might have grown, they are entitled to their legal rights under the adjudication which was made by this tribunal at Geneva. And being entitled to their legal rights, certainly you cannot take from them that which the law and equity and justice and fair dealing between man and man entitle them to upon the ground that they charged excessive prices for their insurance during the war.

If you can do that in the case of the insurance companies, then upon the same principle you might say that the men who paid the war premiums should not be paid out of this fund because they charged excessive prices for their goods, being obliged to add the war premiums to the cost of their goods in order to sell them at a profit. No argument, therefore, can be made against the insurance companies that cannot be made with equal force against the war-premium men.

The SPEAKER. The time of the gentleman has expired.

Mr. REED. I now yield to the gentleman from California [Mr. ROSECRANS] for five minutes.

Mr. ROSECRANS. Mr. Speaker, I rise not to discuss the legal points which have been elaborated on the subject of this bill, but to state a few reasons why I shall vote for the bill reported by the majority of the Committee on the Judiciary.

First of all, I understand, contrary to what seems to be argued here, that the sum *in solido* which the United States received from Great Britain was in compensation for damages arising, not from the violation or neglect of the duties of a neutral, but from a violation of the duties of a friend. There was no war between this country and another power friendly to Great Britain. Ours was a country with friendly relations to Great Britain, engaged in putting down an insurrection at home. The public sentiment of England and the selfishness of those there interested in speculation caused to our country such damage as no fifteen or fifty millions of dollars could compensate for.

This country, instead of going to war about it, as we had a right to do if we chose, instead of inflicting punishment upon our faithless friend, this country agreed to go into a friendly convention, and to there show some of the many evidences of losses which we had sustained, some small portion of the great damage which the country had suffered in every way; to take there the claims most clearly proven and the most prominent and use them to persuade the tribunal that our demands were just.

Now, I do not understand that in the end this Government undertook simply to be the trustee of the money which we received from Great Britain and to distribute it among a few persons. I understand that in lieu of any other redress we accepted a sum of money, fifteen and a half millions of dollars, in compensation for all the damages which we had sustained, and we were to distribute that money according to justice and equity, as our Government pleased.

If that is the case, and I believe it to be the case, then, after having paid out of that $15,000,000 the sum of $5,500,000 upon claims that had been placed before the Geneva tribunal and used as a basis of discussion, the remainder is in the hands of the Government of the United States, and we have a right, if we please, to hold it as a general compensation to be covered into the public Treasury for the benefit of the nation.

But as our people have suffered unequally, the Government is at liberty to undertake to compensate some of our citizens who have suffered more than others by a distribution of the remaining sum, or so much thereof as the Government may choose to devote to that purpose. If I am right in believing that is the position in which the fund now stands in the hands of the Government, then this bill of the majority of the committee proposes an equitable method to reach and compensate some at least of the chief sufferers.

My friend from Mississippi [Mr. HOOKER] a few minutes ago asserted in point of fact that the great merchants and importers of this country had compensated themselves for the war premiums which they had been obliged to pay by charging them upon the goods which they sold, collecting them off the consumers. Now, there may be some truth in that statement, in reference to some parties; but in regard to the merchants of San Francisco, I will undertake to say there is no truth in the statement, and I will give my reasons for so saying.

San Francisco was obliged to get her goods by way of the Horn. She had to get them in coastwise vessels; she could not import them under a foreign flag. The English exporters and dealers could send their goods directly from England to our market; so that by the time the goods which our merchants in California had ordered in New York and shipped by way of the Horn reached San Francisco our merchants met competitors in the markets who were selling goods brought there by English vessels, and their prices were regulated accordingly, not by adding to the cost of the goods the war premiums, the freight, and insurance, but by placing them at such prices as enabled them to sell in competition with those parties who obtained their goods direct from Europe and had to pay no war premiums.

So with regard to their exports which they had to send round by the Horn. They were obliged to send them in coastwise vessels, and when they arrived at New York they were met by a competition with goods directly from Europe, and had no chance to add the war premiums to the cost of their goods.

It is therefore true that a portion of the community, and a very large portion of the community who bravely sustained the commercial flag of the country at their own expense, had no opportunity to recoup the additional expenses which the war premiums imposed upon them. I therefore shall vote in favor of the bill reported by the majority of the Committee on the Judiciary.

[Here the hammer fell.]

Mr. REED. I yield ten minutes to the gentleman from New Hampshire, [Mr. RAY.]

Mr. RAY. Mr. Speaker, it appears that we have $10,000,000, in round numbers, remaining in the Treasury which was paid by Great Britain to settle the Geneva award. What was it paid for? It was not paid for the benefit of American insurance companies; it was not paid to reimburse the war-premium men; it was not paid because some of our citizens had their property destroyed by the exculpated rebel cruisers. But it was paid on account of the destruction of property of American citizens by the inculpated cruisers—the Alabama, the Florida, and the Shenandoah after it left the British port of Melbourne. The $15,500,000 which England paid into our Treasury was England's money before it was paid to us. After payment it became the money of the United States. It became the money of the Government and not the property of any citizen or corporation here. It was thus paid and received pursuant to the treaty of Washington, in negotiating which the United States Government expressly reserved the right to distribute among its own citizens whatever sum the tribunal of arbitration might award in its favor according to its own will and pleasure. Distribution by our Government means the concurrent action of the Senate and House of Representatives upon the subject, with the approval of the President.

What has been done with the rest of this Geneva award money? About $10,000,000 was distributed under the act of Congress passed June 23, 1874. To whom was it distributed by the provisions of that act? To those whose property had been destroyed by the three inculpated cruisers. On what principle was this distribution made? Upon the principle of net loss, and that alone. The doctrine of double reimbursement or the payment of gross losses was carefully prohibited by the express terms of the act of 1874. By that act of Congress nobody had any standing before the court of commissioners of Alabama claims except those whose property had been destroyed by the inculpated cruisers, and every claimant was bound to account for all compensation or indemnity received by him from any insurance company or otherwise, and could recover only the balance of damage actually suffered, or, in other words, his net loss. And if an insurance company preferred a claim before the commissioners for allowance it was bound by the provisions of the statute to show to the satisfaction of the court that the amount of its losses by war risks during the late rebellion exceeded the amount of its war premiums, and recovery was allowed only for the excess of loss.

The question recurs, What shall we do with the balance in the Treasury? Shall we continue its distribution, governed by the cardinal principles of the act of 1874, by making reimbursement for net losses only, as the bill reported by the majority of the Judiciary Committee provides? Or shall we give the money to the insurance companies, who in fact lost nothing while the war lasted, but on the contrary during that trying period fattened upon the misfortunes of their countrymen. The balance of this fund still belongs to the Government, just as the whole did when it was paid. The Government owns the money absolutely. The whole title to the award, both legal and equitable, vested in the United States. The Government has neither received nor held this money as a trustee for anybody. The best considered legal authorities here and in England clearly and fully sustain these views. Any distribution is an act of grace, morality, and good conscience on the part of the Government in behalf of its citizens.

I regret that some have said in this discussion, "Let the Government keep this money," and are opposed to any distribution. To my mind, sir, such a course, under the circumstances, would fall little short of national dishonor. Better let the insurance companies have what remains or divide it *pro rata* among those who have been paid already.

Gentlemen seem to forget the fact that this fund was not paid or received for the loss of Government property. Indeed the Government lost little or no property by the confederate cruisers. Loyal citizens appealed to the Government in vain for protection to person and property on the high seas during the war. Hence nearly all of our prudent business men owning or sailing or using American ships, in order to save themselves from impending financial loss or ruin were obliged to obtain insurance against war perils by the payment of heavy war premiums. The war-premium men, while the rebellion was flagrant and ever since, have borne equally with all other good citizens their proper share of the national burdens. They paid their taxes; they experienced all the ordinary risks of commerce and vicissitudes of trade which others did who patronized foreign vessels, and they paid millions of dollars to insurance companies besides. Good judges have estimated that the insurance companies paid out in losses only about $5,000,000 on account of war risks, while they received in war premiums about $10,000,000.

I think the war-premium men have the strongest equitable right to the balance of the fund in the Treasury of any class of claimants. The committee's bill provides, first, for the payment of those who suffered losses from the exculpated cruisers, and then the balance goes to the war-premium men. Now, the exculpated-cruiser men took their chances. They purposely omitted to insure; they sailed with the peril of rebel capture and destruction before their eyes; they traversed dangerous seas with full knowledge of the enemy's presence in overpowering force, and as might reasonably have been foreseen and expected many vessels and cargoes were lost, whereas, had they paid war premiums and obtained insurance, as prudent and careful business men ought to have done under the circumstances, that would have been their only practical loss. But there is enough money in the Treasury for both classes of claimants if we do not allow the insurance companies to get four or five millions of dollars to which they are not entitled legally, equitably, or morally.

The insurance companies claim to participate in this distribution of the remainder of the Geneva award by right of subrogation. They contend because they have paid their policies of insurance placed upon vessels and cargoes destroyed by the inculpated cruisers, and because the owners of such vessels and cargoes were required to deduct from the value thereof whatever had been received as insurance thereon, that a share of this money rightfully belongs to them according to the doctrine of subrogation. What is subrogation in a legal sense? It is the substitution of one person in the place of another, and giving him the other's rights; it is the mode by which a third person who pays a creditor succeeds to the creditor's rights against the debtor.

Clearly upon the admitted facts before us no right of subrogation exists in favor of the insurance companies. As between the insurer and the assured whose property was captured or destroyed by confederate cruisers, the relation of debtor and creditor arose from the terms of the policy or contract. Upon payment of the loss by the insurer or debtor the creditor's debt was extinguished. But there was nothing left of the property itself, or any right of action growing out of its capture or destruction into which the insurer could by any possibility be subrogated. The title to a vessel or cargo was *ipso facto* changed upon its capture. It became the captor's property by force of arms and the laws of war.

In the matter before the House both parties to the insurance policies were the subjects and citizens of the United States, one of the belligerent parties in the late civil war. When the land or naval forces of the confederacy captured the property of the United States or of its citizens on land or sea the confederacy did not become a

debtor to anybody on account of the capture, in any legal or equitable sense whatever. Neither the owner of the property insured nor the insurance company who paid a loss under such circumstances had any claim of any sort against the confederate government. Much less did either party to the policy have a claim against England for the loss on account of her omission to fulfill the duty of a neutral power toward the belligerents during the conflict. And still less did either party acquire a claim against the United States by subrogation in any legal or equitable view, as understood or decided by the courts, on account of the recovery of the $15,500,000 of Great Britain before the tribunal of arbitration at Geneva. Of all the claimants the insurance companies have the least pretense of right to participate in the distribution. So we see that the doctrine of subrogation—the only ground upon which the insurance companies base their claim to share in the distribution—has no application to the case before us.

We are here to do the will of our constituents, whose public servants we are. Will any gentleman on either side of the Chamber assert that the constituency which elected him would vote in favor of allowing the insurance companies to receive a share of this fund after having already had their day in court and recovered their net losses? I do not believe a Congressional district in the Union would so decide. We ought in the decision of this matter to reflect the will of those who sent us here, and whom we have the honor to represent.

In order to distribute this fund at all you are obliged to adopt the doctrine which is so well and ably stated in the majority report by the honorable chairman of the Judiciary Committee, [Mr. REED,] namely, those broad and comprehensive principles of equity and good conscience which ought to obtain in all the dealings and transactions between a just government and its citizens.

Mr. REED. I now yield for twenty minutes to the gentleman from Georgia, [Mr. HAMMOND.]

Mr. HAMMOND, of Georgia. Mr. Speaker, the argument I should have made if I had time is contained in the minority report, and I will avail myself of the leave given yesterday to print that as an appendix to the remarks I make this morning.

There were five bills referred to the Judiciary Committee of this House on this subject. Each one of those bills seeks to re-establish the commission to determine this question.

The first bill is by Mr. COBB, of Indiana, introduced on December 13, 1881. It provided for payment for vessels and cruisers attacked and taken on the high seas, or pursued therefrom, although the loss or damage occurred within four miles, &c. It provided for payment to persons who lost from actual compulsory sale made of vessels in foreign ports by reason of the danger of capture or destruction by confederate cruisers; secondly, for payment of certain whalers; thirdly, for an additional 2 per cent. to certain claimants already paid, and fourthly, to the war premium men.

The next bill in order was one by Mr. REED, No. 602, December 13, 1881. That bill had five sections, and part of the second section, amending the bill of 1874, was as follows:

> That it shall be the duty of said court to receive and examine all claims admissible under this act that may be presented to it directly resulting from damage caused by the so-called insurgent cruisers and their tenders which operated on the high seas during the late rebellion, and to decide upon the amount and validity of such claims in conformity with the provisions hereinafter contained, and according to the principles of law and the merits of the several cases.

And there is nothing in that bill restricting the class of claimants at all.

On the same day Mr. REED introduced another bill, No. 603, with ten sections; and in that there is a restriction, first, to pay the exculpated cruisers; and, secondly, the war premiums, excluding all the other claims mentioned in COBB's bill.

On the 9th of January, 1882, a bill was introduced by Mr. FORD, which is practically the same with Mr. COBB's.

And lastly, on the 27th of April, 1882, is a bill introduced by Mr. REED, which is now the bill reported by the majority of the Committee on the Judiciary.

Besides these there is also the resolution offered by Mr. FROST, of Missouri, on the 17th of April, 1882, resolving that the whole fund should remain in the Treasury.

Now, the committee reported this last-mentioned bill, and the minority reported a substitute for it. I will have time only to show the principal points of contrast between the two. I will remark, in passing, that what is the minority report now was the majority report in 1878, the last time the subject was reported upon. It is easy to see how the change in the *personnel* of the committee may change the character of the report; but I mention that to avoid the weight that might be given by supposing the minority report was a new thought by a few persons.

I take the bill No. 4197, reported by the committee, and the substitute of the minority, which is printed on page 33 of the RECORD this morning and also appears on page 30 of the report which I hold in my hand. First, the majority establishes a new court and gives new salaries. This bill (the minority) submits the question to the existing Court of Claims. The majority's bill allows no appeal from the decision of the commission though two of them may make a decision. The minority's bill allows an appeal to the Supreme Court either by the claimant or the United States, and gives to these cases absolute precedence over all others in the Supreme Court. I will not stop to comment upon the contrast between the two tribunals which has heretofore been made, but simply call attention to the language of Mr. Butler, which will be found on page 28 of this report, in which he plainly intimates that with these many millions of dollars at stake will not be safe, may not be honestly handled by a commission not surrounded by the usual sanctity of a court, but approachable by everybody; not practiced before exclusively by lawyers but by claim agents as well, who he says are rather bad fellows. I call attention to that and his high encomium on the court of the United States as a reason for the adoption of the minority's bill.

The United States has eight times before acted as the minority recommend, and perhaps more frequently. I know of eight different occasions when money has been received from other nations to be distributed by this Government among its citizens, namely, following cases: From Great Britain in 1826; from Denmark in 1830; from France in 1831; from the Two Sicilies in 1832; from Spain in 1834; from Peru in 1841; Brazil in 1849, and China in 1858. In every one of these cases the distribution was made upon the same basis that we have set out in this minority bill upon a claim of right according to equity, justice, and the law of nations. But to the last one to which I have referred I desire to call especial attention, because the report in that case was made by the gentleman from Massachusetts, [Mr. CRAPO,] and was unanimous from his committee. He used this language in reference to the subrogation of insurance:

> Your committee are satisfied, from the evidence submitted to them, that it is but just that the underwriters should be allowed to present the evidence which if they had time or proper notice, would have been presented to the commissioners, to some competent tribunal for a final decision as to the justice of their claim.
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> Your committee are of the opinion that the Court of Claims is the tribunal by which questions of this character should be heard and determined.

That report was made in 1878 and was adopted unanimously by the House.

The bill of the majority of the committee excludes everybody but the exculpated cruisers and the war-premium men. The bill of the minority allows all claimants to come into court. It will take all the claimants under Mr. REED's first bill, or Mr. COBB's bill, or the bill of Mr. FORD. It will allow the sailors mentioned yesterday to come in, as well as those who received personal injury, all of whom are excluded by the bill of the majority. I will remark further that the majority bill places the ship-owners ahead of the war-premium men, by what philosophy I do not know. There is no mention of any reason for it in the report, and the gentleman from New Hampshire [Mr. RAY] who has just taken his seat made an argument to show that the war-premium men ought to be paid in preference to the exculpated cruisers. But the bill of the majority says they shall not be paid at all until all the exculpated-cruiser losses are paid.

The next difference is as to the basis of distribution. The majority of the committee fix a basis. They say we do not go on law, logic, analogy, or anything of that kind, but from what we know of the facts we determine that there shall be but two classes paid, and paid in this order and in none other. Now, the bill of the minority provides that the court shall determine what each claimant is entitled to recover under said treaty and award according to the principles of justice, equity, and the law of nations. If a man has no right, when we furnish a tribunal, to recover anything under the treaty and award according to the law of nations and the principles of equity and justice, we say let the money stay in the Treasury. I do not understand that this money is ours to do with it as we please, in that absolute sense which some gentlemen speak of; nor does the committee so understand. While the United States cannot be a technical legal trustee, the decision in the Rustomjee case—the decisions in all cases—is that the moral obligation of the government for whose favor the award is made is to do right with the money as to the persons for whose benefit it was received. Now, we wish to pay all of the persons who ought to be paid. The minority's bill pays everybody or allows everybody to present their claims, and if none are entitled to the fund it leaves the money where it is now, in the Treasury.

But some gentlemen may take a holy horror at this. They say it would be very unfair to England to get money from her in that way and keep it in our Treasury. If that is true, I would pay the money back to England. But she does not seem to have any friend here except Mr. FROST. No; Mr. FROST wants to keep it. But it will be time enough to deal with that question when we come to it.

The important question is whether there are any of our citizens who ought to have this money. The House has seen from the debate here that there is no agreement about the facts; there is no agreement about the law; there is no agreement about the meaning of equity or justice or the law of nations in this case. Everybody who speaks, nearly, expresses a different opinion from every other, and would arrive at a different conclusion if allowed to decide it for himself. Therefore this committee, closing up its argument, declared:

> Your committee concluded, therefore, without expressing any opinion of their own in relation to the merits of any particular claim or class of claims to the unexpended balance of this fund, that it would be better as a precedent for future cases, better for the Government, and better for all parties claiming to have an equitable interest in it, to commit the adjudication and determination of all questions touching its distribution to the Court of Claims in the first instance, with the right in any party aggrieved to appeal to the Supreme Court of the United States, with authority to render a judgment in favor of each claimant who was an actual sufferer, &c.

That seems to be right. It seems to us to be the only solution of the difficulty. It may be entirely wrong, but we ought not to be placed in the false position of thereby advocating any particular party. We expressly avoid that. We expressly say, "as you have presented the claim of one party we will present the adverse claim of another party to show you there is a real contention, and there being a real contention we will have a court to decide this question."

The gentleman on the other side [Mr. RAY] said the war-premium men had paid taxes and ought to get this money. Now, upon what principle will we select out certain men and pay them if this money belongs to the United States absolutely? Why will you exclude the men whose property was destroyed in 1864 by the Saint Alban's raiders? Why will you exclude the men whose ships were robbed on Lake Erie in 1864 by raiders? Those raiders were confederates. They came from England, and England was as much liable for their escape by her carlessness as she was for the escape of these cruisers where the Geneva tribunal has found that up to a certain moment she had proper notice. Upon what principle will you exclude one and let in the others? I cannot see on what principle you can so decide.

If this is money received from England, to be paid to Americans who have suffered by reason of English carelessness, why confine it to those who have suffered by the carelessness of England in allowing armed ships to leave her ports and exclude those who have suffered from her carelessness in allowing armed men to leave her territory and come over and prey upon the property of our citizens? Where is the philosophy of it? There is none. If we are absolutely free, why give it to the ship-owners; why give it to the rich men who have the war-premium claims; why give it to the insurance-men to the exclusion of one, for instance, whose arm was shot off in the last battle of the war, or of the widow whose husband was killed in the last battle of the war? May she not say to the Government, "You complained of England that by her early recognition of the confederacy she enabled it to prolong the war, and my husband went through this war perfectly well, perfectly healthy up to the last battle, and but for that prolongation of the war I would have been happy, the wife of a living man?" The argument is the same. There can be no good reason therefore in their position, except that you must be bound by the treaty and the award, and the law under the treaty and the award, which law is equity and justice according to the law of nations. And there is where we, the minority, propose to leave them. If there is nobody entitled to it under that law we will keep the money.

I know there are gentlemen here who will take a holy horror at doing that. There are men here who will sit down and complacently pat the fifteen millions of cotton money in our pockets, in the United States Treasury.

Mr. HOOKER. Sixty-eight millions.

Mr. HAMMOND, of Georgia. Did I say fifteen millions? Well, sixty-eight millions. I made a mistake. They will pat it all the harder if it is that much. And yet they say it would be horrible not to pay this Maine ship-owner; it would be horrible not to pay this New York insurance-man or this New York war-premium man. I do not understand any such reasoning. If the Government has any money that does not belong to it which is due to anybody it ought pay it, and pay it quickly. And if it has money that no man can show a title to, either in law or equity or justice, we have no right to give it to anybody.

I will therefore first vote for the bill reported by the minority. It will not carry, perhaps, but if it does not I shall vote against the other bill. Perhaps I shall still be in the minority. Very likely. You may get another bill through here and it will go over to the Senate; and some big man like Mr. DAVIS will sit down upon it, as he has done in the Senate heretofore upon such bills, and you will have the Senate to blame and not us for keeping the money in the Treasury.

Gentlemen must entertain their views upon the question presented; they must express their views in their votes, and they will express them honestly no doubt. But let no man charge upon us of the minority an effort to do anything except that which we conceive to be right and proper.

APPENDIX.

Views of the minority of the committee.

Mr. N. J. HAMMOND presented the following as the views of the minority of the committee:

The United States and the Confederate States were at war on and after April 27, 1861; therefore captures and destruction of the vessels, &c., of the citizens of the United States by the navy of the Confederate States were lawful. So were seizures and destruction of property of such citizens by the confederate army on land, lawful; and therefore no citizen of the United States had any legal or moral claim against his Government on account of such losses. (See the Prize cases, 2 Black, U. S. S. C., 636, and Vattel's Law of Nations, ch. xv, p. 290; Grotius, book 3, ch. xx, sec. 8, p. 290.)

Great Britain was a neutral nation, friendly with the United States. In May, 1861, Great Britain acknowledged the belligerent character of the Confederate States. From the ports of Great Britain sailed confederate cruisers to prey upon the shipping of the citizens of the United States; the Florida in March, and the Alabama in July, 1862, from Liverpool; the Georgia in April, 1863, from the Clyde, and the Shenandoah in March, 1864, from London. It was said that others of such confederate cruisers found shelter in her harbors, obtained coal, munitions of war, and armaments there, and British subjects to fight the United States.

The United States asserted that these cruisers so acted with the knowledge of Great Britain, and under such circumstances as should have made her prevent such acts; and the United States claimed that that early recognition encouraged, if it did not create, such a navy for the Confederate States. And for this the United States claimed that Great Britain should indemnify her, and that the lowest indemnity she could accept in honor was payment for the property of her citizens so destroyed.

Great Britain denied any liability by reason of anything it had done or omitted to do in the premises. Much correspondence on the subject resulted in the treaty of Washington. So far as is here material it was substantially this:

"ARTICLE 1. Whereas differences have arisen between the Government of the United States and the government of her Britannic majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the 'Alabama claims;' and whereas her Britannic majesty has authorized her high commissioners and plenipotentiaries to express in a friendly spirit the regret felt by her majesty's government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels: Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, which are not admitted by her Britannic majesty's government, the high contracting parties agree that all the said claims growing out of acts committed by the aforesaid vessels and generically known as the 'Alabama claims,' shall be referred to a tribunal of arbitration, to be composed of five arbitrators, to be appointed in the following manner:"

Articles 2 and 3 provided that this tribunal should "decide all questions that shall be laid before them on the part of the governments" of the United States and Great Britain, and spoke of those governments as the "two parties" to the cause.

Article 6 laid down three rules which, together with the law of nations not inconsistent therewith, should be the standard by which to try whether Great Britain had failed to perform its duty as a neutral friend of the United States. Great Britain did not admit that these rules had been a part of the law of nations, but that they should be so considered for the purposes of this trial, and binding in future between it and the United States and such other powers as they could induce to agree thereto.

It was declared further as follows, (article 7, paragraph 3:)

"The said tribunal shall first determine as to each vessel separately whether Great Britain has by any act or omission failed to fulfill any of the duties set forth in the foregoing three rules or recognized by the principles of international law not inconsistent with such rules, and shall certify such fact as to each of said vessels. In case the tribunal find that Great Britain has failed to fulfill any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it; in such case the gross sum so awarded shall be paid in coin by the Government of Great Britain to the Government of the United States, at Washington, within twelve months after the date of the award.

* * * * * * *

"ART. 10. In case the tribunal finds that Great Britain has failed to fulfill any duty or duties as aforesaid, and does not award a sum in gross, the high contracting parties agree that a board of assessors shall be appointed to ascertain and determine what claims are valid, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure, as to each vessel, according to the extent of such liability as decided by the arbitrators."

After providing how this board was to be organized, &c., it was declared that "the decision of the assessors shall be given upon each claim in writing."

* * * * * * *

"Every claim shall be presented" within six months, "but they may for good cause shown extend the time for the presentation of any claim" for three months more. It also provides that the assessors shall report "the amount of claims decided by them" in one year. "If further claims then remain undecided," report again in two years; and "in case any claims remain undetermined" then, make final report in six months.

"All sums of money which may be awarded under this article shall be payable at Washington, in coin, within a year after delivery of each report."

Article 11 provided that the result should be a full, perfect, and final settlement of all the claims hereinbefore referred to, and that all such, whether presented or not should be "treated as finally settled, barred, and thenceforth inadmissible."

This was all of the treaty as to the claims known as the "Alabama claims." It contained other important provisions, but of them later.

As shown by the majority report, there are two principal classes of claimants for this fund. That report has presented the views of one of those classes. We herewith present the views of the other class. Their advocates make this case, namely:

The United States caused its "case" to be prepared by Hon. J. C. Bancroft Davis for presentation to the tribunal. It claimed damages for, first, destruction of vessels and cargoes by the confederate cruisers; second, national expenses of pursuing them; third, for transfer of American commercial marine to the British flag; fourth, for enhanced payments of insurance; and, fifth, for the prolongation of the war. It said:

"The claims for direct losses growing out of the destruction of vessels and their cargoes may be further subdivided into: 1. Claims for destruction of vessels and property of the Government of the United States. 2. Claims for the destruction of vessels and property under the flag of the United States. 3. Claims for damages or injuries to persons growing out of the destruction of each class of vessels.

"In the accompanying, volume VII, the tribunal will find ample data for determining the amount of damage which should be awarded in consequence of the injuries inflicted by reason of the destruction of vessels or property, whether of the Government or private persons."

The individual claims were therein presented under this heading:

"LIST OF CLAIMS FOR PROPERTY DESTROYED BY REBEL CRUISERS FITTED OUT IN BRITISH PORTS.

"The following is an abstract of the claims filed in the Department of State by American citizens, native and naturalized, for damages sustained by them as owners, mariners, freighters, or insurers of duly documented American ships captured and destroyed, or appropriated by the officers and crew of the steamer Alabama, and as owners, insurers, or otherwise interested in the cargoes of such ships, or in charter-parties for the service of said ships. The several insurance companies are corporations organized and doing business under the laws of the several States in which they are respectively located." (Appendix, United States claims, volume 4, page 9,422.)

The tribunal met on the 15th of December, 1871. The "case" of the United States, in printed volumes, was presented, and the tribunal adjourned from the 16th of December, 1871, to the 15th of June, 1872.

Meanwhile Great Britain sought to have the United States withdraw its claims for damages on account of the transfer of American commercial marine to the British flag, the additional cost of the war, and enhanced rates of insurance, known now as "war premiums;" but all efforts to modify the case had been ineffectual when the tribunal reassembled in June.

The United States filed its arguments, but Great Britain withheld hers; she denied the jurisdiction of the tribunal over those "indirect losses" just stated, but asked a further postponement to obtain a modification of the treaty, or other arrangements to avoid action upon such claims for damages.

At that point in the case the tribunal announced the following opinion:

"After the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these claims, they have arrived, individually and collectively, at the conclusion that these claims do not constitute upon the principles of international law applicable to such cases good foundation for an award of compensation or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the two governments as to the competency of the tribunal to decide thereon." (Papers relating to treaty of Washington, volume 4, page 20.)

A copy of this opinion was sent to Mr. Fish, United States Secretary of State, and he replied to our agent, Mr. Davis, as follows:

"That in accordance with such judgment and opinion, from henceforth he (the President) regards the claims set forth in the case presented on the part of the United States for loss in the transfer of the American marine to the British flag, the enhanced payment of insurance and the prolongation of the war and the suppression of the rebellion, as adjudicated and disposed of, and that consequently they will not be further insisted upon before the tribunal by the United States, but are henceforth excluded from its consideration by the tribunal in making up its award." (Correspondence, 152.)

Then the tribunal was informed by Mr. Davis that:

"The declaration made by the tribunal, individually and collectively, respecting the claims presented by the United States for the award of the tribunal for, first, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payments of insurance; and third, the prolongation of the war and the suppression of the rebellion, is accepted by the President of the United States as determinative of their judgment upon the important question of public law involved. The agent of the United States is authorized to say that, consequently, the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made." (Protocol, vi, page 21, volume 4, Geneva Arbitration.)

And thereupon, at the request of the counsel of Great Britain, the tribunal entered in the proceedings a formal order that said claims "are and from henceforth shall be wholly excluded from the consideration of the tribunal." (Papers relating to treaty of Washington, volume 4, page 21.)

The cause proceeded. The tribunal decided that Great Britain was not guilty of wrong according to the standard established in the treaty, except as to the Alabama, the Florida, and the Shenandoah and their tenders, and as to the Shenandoah, only after she left Melbourne. (Hence they are called the "inculpated cruisers.") It decided that Great Britain was not guilty as to the other six or seven cruisers. (Hence they are called the exculpated cruisers.) It further decided that:

"Whereas, so far as relates to the particulars of the indemnity claimed by the United States, the costs of pursuit of the confederate cruisers are not, in the judgment of the tribunal, properly distinguishable from the general expenses of the war carried on by the United States, the tribunal is therefore of opinion, by a majority of three voices to two, that there is no ground for awarding to the United States any sum by way of indemnity under this head." (See Decision and Award, volume 4, page 53.)

"And whereas prospective earnings cannot properly be made the subject of compensation, inasmuch as they depend in their nature upon future and uncertain contingencies, the tribunal is unanimously of opinion that there is no ground for awarding to the United States any sum by way of indemnity under this head." (*Ib.*, 53.)

Nothing remained but to find the damages for the direct losses. Counsel for each side presented tables of evidence and estimates. These estimates, by the United States counsel submitted, aggregated $14,437,143.51; those submitted by the British counsel aggregated but $7,464,764. The tribunal decided to find a sum in gross instead of sending the case to assessors as might have been done under the tenth article of the treaty, and concluded as follows:

"And whereas, in order to arrive at an equitable compensation for the damages which have been sustained, it is necessary to set aside all double claims for the same losses, and all claims for 'gross freights' as far as they exceed 'net freights.'

"And whereas, it is just and reasonable to allow interest at reasonable rate; and whereas, in accordance with the spirit and the letter of the treaty of Washington, it is preferable to adopt the form of adjudication of a sum in gross, rather than to refer the subject of compensation for further discussion and deliberation to a board of assessors as provided by article 10 of said treaty:

"The tribunal, making use of the authority conferred by Article VII of the said treaty, by a majority of four voices to one, award to the United States the sum of $15,500,000 in gold as the indemnity to be paid by Great Britain to the United States for the satisfaction of all the claims referred to the consideration of the tribunal conformably to the provisions contained in Article VII of the aforesaid treaty.

"And in accordance with the terms of Article XI of the said treaty, the tribunal declares that all the claims referred to in the treaty or submitted to the tribunal are hereby fully, perfectly, and finally settled.

"Furthermore, it declares that each and every of said claims, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the tribunal, shall henceforth be considered and treated as finally settled, barred, and inadmissible."

This judgment was signed and dated the 14th of September, 1872.

Great Britain paid the $15,500,000 on the 9th of September, 1873, to the United States.

Upon that record this class of claimants proceed with their argument practically on this wise:

The "differences" between the two governments were stated in the instructions of the Secretary of State of the United States to its minister in England, to be, first, "indemnities which he (the President) thinks due by Great Britain to individual citizens of the United States for the destruction of their property by rebel cruisers fitted out in the ports of Great Britain;" second, "the vast national injuries it has inflicted on the United States. How these were caused and what is the law are reserved till time arrives when" the President will consider with sincere and earnest desire that all differences between the two nations may be adjusted. * * * This was dated 25th September, 1869.

Or to go further back, in September, 1862, upon the first wrong by these cruisers the United States caused notice to be served upon Great Britain to accomplish, as was stated therein—

"Two important objects, first, redress for the national and private injuries sustained; and secondly, a prevention of such lawless and injurious proceedings hereafter." (Claims of the United States against Great Britain, vol. 3, pp. 57–70–73.)

In January, 1863, the New York Mutual Insurance Company had presented to the Secretary of State of the United States its claim of damage by the destruction by the Alabama of the Brilliant, which it had insured and on which it paid the owner for a total loss. And notice of this was served as the former, (*Ib.*, pp. 118, 120.) From time to time other claims were filed by various persons.

The treaty was made on the 8th of May, 1871, ratified by the Senate on the 8th of June, 1871, and proclaimed by the President on the 4th of July, 1871.

In September, 1871, the Secretary of State issued a circular letter as follows:

DEPARTMENT OF STATE,
Washington, September —, 1871.

SIR: I have to acknowledge the receipt of your letter of the —— instant, and its inclosures. In reply I inclose a copy of the treaty concluded with Great Britain on the 8th of May last, and general instructions as to the proof of claims prepared for the use of claimants in the absence of rules by the tribunal which may pass upon the claims.

In the absence of rules, and in anticipation of the action of the tribunal, this Department cannot assume to determine what claims it may or may not be proper to prefer under the first eleven articles of the treaty, nor to direct what form or extent of proof will be necessary to establish them, nor the effect of insurance upon the question of right of compensation. It will present to the tribunal at Geneva, to be taken into account in estimating the sum to be paid the United States, all "claims growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims," which may be presented to the Department in time to enable it to do so. Persons desiring to lodge claims in the Department for that purpose are requested to do so without delay, in such form and sustained by such proofs as they may be advised or think proper to rest their claims upon, as the time for presenting the case of the United States expires on the 16th day of December next.

I am, very respectfully, your obedient servant

HAMILTON FISH, *Secretary.*

The heading under which the private claims were listed and presented to the tribunal is already shown. These private claims so presented embraced claims for damages to owners, freighters, and insurers of vessels and cargoes captured or destroyed, and of sailors, &c., for loss of wages and personal injuries by the confederate forces on the confederate cruisers, and they say that they embraced no other claims. (Claims of United States against Great Britain, volume 4, page 422.)

But before the treaty was concluded in January, 1871, and afterward they say claims for enhanced insurance (or "war premiums") were presented and went into the pleadings and proof called "the case" submitted to the tribunal.

They say that no evidence was offered to the tribunal as to the personal injuries, nor for loss by transfer of commercial marine to the British flag, prolongation of the war, &c. (Papers relating to treaty of Washington, volume 1, page 187.)

They claim that were this record between individuals none could hesitate as to a conclusion; that all claims for damages by the United States as a government were held to be bad; that all "prospective profits" and all enhanced insurance ("war premiums") and all damages by "exculpated cruisers," including the Shenandoah before Melbourne, were rejected, and that the sole inquiry then was, What is the measure of damages for the claims not thus set at rest?

They note the argument that that view is not applicable between nations, because it treats them as trustees of their subjects or citizens, in such cases, and the use made by the majority of Rustomjee *vs.* The Queen, decided in 1876. They say China had paid Great Britain under treaty of 1842 $3,000,000, because insolvent Chinese merchants owed very large sums of money to subjects of her Britannic majesty. Parliament had made no provision for its distribution, and Rustomjee undertook to enforce payment of what he said was his share of it by petition of right, though it does not appear that his claim was fixed or acted upon.

The decision was, "in such a case a petition of right will not lie." Mr. Justice Cockburn said the Government could not be treated in such cases as an agent or trustee for the subject; but, as if doubting the correctness of the remark when applied to duty instead of legal liability, added, "at all events, I think the petition of right will not lie." * * *

Justice Blackburn said:

"I do not think that it can possibly be said that where the Queen has as a high act of state made a treaty and received money in consequence of an act of state the mode of distribution is in any way enforcible by a court of law or subject to the findings of juries. I think there is a moral claim that it be given to the right person, which must be investigated in the manner in which her majesty is pleased to direct." * * *

Lush, justice, said:

"No doubt a duty arose as soon as the money was received to distribute that money among the persons toward whose losses it was paid by the Emperor of China." * * *

And Lord Coleridge, in delivering the opinion of the reviewing court, affirmed the judgment, but said:

"We do not say that under no circumstances can the Crown be a trustee; we do not even say that under no circumstances can the Crown be an agent; but it seems clear to us that in all that relates to the making and performance of a treaty with another sovereign the Crown is not, and cannot be, either a trustee or an agent for any subject whatever.

"We do not, indeed, doubt that on the payment of the money by the Emperor of China there was a duty on the part of the English sovereign to administer the money so received according to the stipulations of the treaty; but it was a duty to do justice to her subjects according to the advice of her responsible minister, not the duty of an agent to a principal, or of a trustee to a *cestui que trust.*"

They do not pretend that any one can force the United States to pay him part of this fund. All that is claimed is that it ought to pay them. The plain, practical, honest view, they claim, was forcibly presented by Mr. Cushing in his letter published in the Journal of Commerce on November 12, 1872, but dated October 17, 1872, before these antagonisms had developed. After drawing a distinction between these claims and those for French spoliations, he said:

"In the case of the 'Alabama claims,' however, the United States will have in their hands a definite sum of money, awarded against England by the tribunal of arbitration, and paid over by England to the United States for distribution among the parties interested, according to the award of the tribunal.

"2. In the matter of the 'Alabama claims,' the agent and counsel of the United States presented to the tribunal detailed schedules and estimates of the claims of American citizens on account of captures by confederate cruisers fitted out in or dispatched from ports of Great Britain in violation of public law; setting forth the names of vessels captured and the names of parties interested—whether owners of ship, freight or cargo, or officers and seamen or insurers—and asserting the responsibility of Great Britain in the premises.

"The tribunal, in the first place, adjudged Great Britain to be guilty in respect of all captures made by the Alabama and the Florida, and their tenders, and by the Shenandoah after her departure from Melbourne.

"The tribunal, in the second place, examined and scrutinized the schedules and estimates of individual losses presented by the United States, and on the inspection thereof awarded a sum in gross which they conceived to be sufficient (and which I think is sufficient) to afford a just indemnity to the injured citizens of the United States.

"This gross sum will, within the year, be paid by Great Britain to the United States with interest on any delay; it will be received and held by the United States as a trust fund to be distributed among the parties interested, conformably to the tenor and spirit of the award of the tribunal; and the Government will be bound to make such distribution promptly and justly, by the moral force of its duty in good faith to England and its obligation to fulfill the stipulations of the treaty of Washington.

"There is no contingency, uncertainty, or doubt in all this; you and the other parties in interest may, I do not hesitate to say, rest assured of the honor and good faith of the Government of the United States in this respect with just as much of certitude as in the payment of the gold bonds of the Government.

"3. It is for Congress to decide as to the manner of effecting the distribution of this money among the parties interested. We may reasonably conjecture, however, that a board of assessors will be appointed to receive and examine the individual claims upon evidence and to estimate the amount of each, and the amount

to be paid to the respective claimants. The most important duty of this board will be the valuation of property and the determination of questions of ownership."

This opinion, they say, was based upon well-known principles frequently announced by Story and Kent, among the dead, and then but lately repeated in the decision of the Supreme Court of the United States in the Anderson and Padelford cases, in Wallace's Reports, decided 1869. In the former, Judge Davis delivered the opinion of the court and therein used this language, namely:

"In a spirit of liberality it (Congress) constituted the Government a trustee for so much of this property as belonged to the faithful Southern people." * * * (9 Wall. R., 65.)

In the latter, Chase, C. J., delivering the opinion, used this language, namely:

"Under the proclamation and the act, the Government is a trustee holding the proceeds of the petitioner's property for her benefit." (9 Wallace, 543.)

They claim that the United States treated the money as the property of others when she funded it at 5 per cent. interest in her own bonds for their benefit, by act of 3d March, 1873, (S. L.,) and that she so treated it by the act of 1874, under which it was partially distributed.

When the report of the majority says the United States cannot in good conscience keep it, and yet argues that she is not a trustee for those who should have the fund, they say that the statement is a conclusive answer to their views.

As to collection of a gross sum, they say that that was not to cover a national injury, in the sense of putting money into the United States Treasury, but was only to enable the United States to pay sooner and more to her satisfaction to her citizens; that the language of the United States was:

"They earnestly hope that the tribunal will exercise the power conferred upon it to award a sum in gross to be paid by Great Britain to the United States. The injuries of which the United States complain were committed many years since. The original wrongs to the sufferers by the acts of the insurgent cruisers have been increased by the delay in making reparation. It will be unjust to impose further delay and the expense of presenting claims to another tribunal, if the evidence which the United States have the honor to present for the consideration of these arbitrators shall prove to be sufficient to enable them to determine what sum in gross would be a just compensation to the United States for the injuries and losses of which they complain." (See American case, p. 480.)

Attention has been called to the Johnson-Clarendon convention concluded in January, 1869, and to the fact that Senator Sumner attacked it because, as he said:

"England simply proposes to submit the question of liability for 'individual losses' to an anomalous tribunal where chance plays its part. This is all. Nothing is admitted even on this question; no rule for the future is established; while nothing is said of the indignity to the nation, nor of the damages to the nation." (*Ib.*, volume 5, page 719.)

The Senate rejected that treaty, and perhaps for those reasons; but they say that the remedy was supplied by the treaty of Washington. They say that the United States desired an apology, and obtained it in the expression of "the regret by her majesty's government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels." (Treaty of Washington, article 1.)

The United States wished—

"A prevention of such lawless and injurious proceedings hereafter; and obtained that in fixing the three rules as to the duty of neutrals as she wished them fixed, as a solemn contract with Great Britain for all time." (*Ib.*)

The United States had complained at the early recognition of the Confederate States by Great Britain as a belligerent, and the first article of the treaty declared its purpose to be—

"In order to remove and to adjust all complaints and claims on the part of United States, and to provide for the speedy settlement of such claims which are not admitted by her Britannic majesty's government." (*Ib.*)

This apology, this prevention, came with the treaty. That complaint and all other complaints were adjusted by the treaty, not by the trial and award; and nowhere else in the record do we see "complaints," but only "claims." Therefore *eo instanti* upon the consummation of the treaty, without presenting any claim for money damages for her citizens, they say that she had all she asked as a nation, except money damages for herself. They say that she sought to recover for herself damages for the transfer of American marine to the British flag, additional cost of the war, and the cost of pursuit of the confederate cruisers. They say that she sought to recover for her citizens enhanced insurance (a "war premium") and prospective earnings; but the tribunal rejected all, as it said, because they did "not constitute, upon the principles of international law applicable to such causes, good foundation for an award of compensation or computation of damages between nations; and should, upon such principles, be excluded from the consideration of the tribunal in making its award."

What were the principles? They say not that they were not national and cognizable in a contest between nations. The first class were undoubtedly national and only national. The second class were undoubtedly individual, and only individual. The common principle applicable to both, applicable there and in any court, was that they were damages too remote, speculative, consequential, &c.

As to the usage in like cases the following argument is made:

On the 13th November, 1826, the United States recovered of Great Britain $1,204,960, "in lieu of and in full and complete satisfaction of all sums claimed or claimable from Great Britain by any person or persons under the convention," (of 1822,) and by act of March 2, 1827, ordered a special tribunal "to determine said claims and to award distribution of the said fund among the several claimants according to their respective rights." (U. S. Stat. at L., volume 4, page 219.)

By the treaty between the United States and Denmark, of March 28, 1830, $650,000 were paid to the United States on account of our citizens who had suffered by the ships of Denmark, and it was to be distributed by a board of commissioners who should "receive, examine, and decide upon the amount and validity of all such claims, according to the merits of the several cases, and to justice and equity, and the laws, of nations," and they were carried out by act of March 2, 1831. (U. S. Stat. at L., vol. iv, page 446.)

Under the convention of July 4, 1831, with France, she paid the United States 25,000,000 francs to indemnify our citizens for losses by sea, &c., and Congress, by act of July 13, 1832, made a commission to distribute this "gross sum" between them, according to the convention "and the principles of justice, equity, and the law of nations." (U. S. Stat. at L., volume v, page 574.)

Under the convention of October 14, 1832, with the Two Sicilies, the United States received 2,115,000 ducats, 7,679 of them for herself, and the balance for her citizens, to be distributed as she pleased, and she ordered it done by a commission according to the provisions of the convention and the principles of justice, equity, and the law of nations. (U. S. Stat. at L., vol. v, p. 666.)

The same rule of distribution exactly was provided for the 12,000,000 of reals paid by Spain to the United States in 1834, (U. S. Stat. at L., vol. v, p. 35,) with the $300,000 received from Peru in 1841, (U. S. Stat. at L., vol. ix, p. 80,) with the 700,000 milreis received from Brazil in 1849, (*Ib.*, 422,) and with the $700,000 received from China in 1858, (*Ib.*, vol. vi, p. 408.)

And a like remedy was provided by a supplemental bill to that last cited, and that, too, in favor of insurance companies which had paid for losses by the acts of Chinese, and been thereby subrogated to the rights of owners of the destroyed property. (See CONGRESSIONAL RECORD, March 6, 1878.)

On the 5th of March, 1878, Mr. CRAPO, of Massachusetts, from the Committee on Foreign Affairs, submitted a report upon the petition of the following mutual insurance companies, to wit, the Sun, the Mercantile, the New York, and the China, for relief in the matter of the bark Caldera and her cargo. That report was unanimous, and stated these facts, namely:

"The bark Caldera, under the command of Mathew Rooney, an American citizen, being laden with a cargo belonging to American merchants, sailed from the port of Hong-Kong on the 5th day of October, 1854, bound to the port of San Francisco; and, having been obliged to seek shelter from a storm in the port of Keolan, on the Chinese coast, was, while at anchor there and the crew employed at the pumps to keep the vessel free of water, boarded by armed bands of Chinese, who drove the men from the pumps, took possession of the vessel, and, after plundering her of all the cargo except granite in the lower hold, burned her, and she became a total loss.

"The petitioning insurance companies paid insurance to the amount of $72,512, being a total loss of the whole sum insured, besides a considerable sum in addition, expended in an unsuccessful effort to recover the property.

"The petitioners took all the necessary steps to establish a valid claim on the Chinese Government for the amount of the loss, and Mr. Marcy, then Secretary of State, in a dispatch to Dr. Parker, fully recognized the justice of the claim and directed its prosecution before the Chinese Government.

"In 1858 Mr. Reed, the then American minister, made a convention with the Chinese Government, securing indemnity for this as well as other claims, and about $700,000 was paid by the Chinese Government, a large portion of which is still held by the State Department awaiting the disposition of Congress.

"Mr. Reed recommended that the claim of the Caldera should be adjudicated at home, because the evidence could be there most easily produced. Meanwhile, under an act of Congress, passed in 1859, commissioners were appointed to pass upon all claims upon this Chinese indemnity fund. These commissioners held their sessions at Macao, in China, and to them the papers in the Caldera case were forwarded by Mr. Cass, then Secretary of State. The claim was duly filed with the commissioners, who made a deduction therefrom of 60 per cent., on the ground of a supposed prior damage by sea-water to the cargo. This deduction appears to have been made without sufficient evidence of its justice, and under a misapprehension of the law applicable to the case, and the claimants had no opportunity of being heard upon the question. They were told that the acceptance of the 40 per cent. allowed them would not preclude a rehearing of the case at Washington; but as the act of 1859 did not provide for an appeal from the decision of the commissioners, such a rehearing cannot be had without an act of Congress.

"Your committee are satisfied, from the evidence submitted to them, that it is but just that the underwriters should be allowed to present the evidence which, if they had time or proper notice, would have been presented to the commissioners, to some competent tribunal for a final decision as to the justice of their claim. Other claims presented to the commission, and which were disallowed by it, have been reviewed and paid from this fund. The case of the Neva, which was of like character to this, was entirely rejected by the commissioners, but the claimants, by act of Congress, were allowed a rehearing before the Attorney-General, who decided that the conclusions of the commissioners were erroneous, and payment was accorded to them. Your committee are of the opinion that the Court of Claims is the tribunal by which questions of this character should be heard and determined."

And they reported a bill according thereto.

The first section of the bill provided that any person or persons, or body corporate, holding and making any claim upon the balance of the fund usually designated and known as the "Chinese indemnity fund," under the control of the Department of State of the United States, and now unappropriated, for losses sustained by the plunder and destruction, in the year 1854, of the bark Caldera, and property on board of said vessel, may, at any time within twelve months after the passage of this act, commence proceedings in the United States Court of Claims against the United States, in the same manner as other suits are brought pursuant to and in virtue of the statutes of the United States and the rules of said court; and that the said Court of Claims shall have full jurisdiction to hear and determine such claim or demand, according to the principles of justice and international law; while the second made provision that either party, plaintiff or defendant, might appeal from the decision or judgment of the Court of Claims to the Supreme Court of the United States, in the same manner as now provided for in other cases. And this bill, thus unanimously reported by the Committee on Foreign Affairs, passed the House without a dissenting voice, after full explanation by Mr. CRAPO. (See CONGRESSIONAL RECORD, March 6, 1878.)

This list of precedents is taken from the majority report of the Judiciary Committee of the Forty-fifth Congress, on this subject, made by Hon. J. PROCTOR KNOTT, then chairman of the Judiciary Committee of the House of Representatives. (Report No. 663, second session Forty-fifth Congress.)

The majority report here tries to draw a distinction by emphasizing the fact that the sums paid in these cases were paid "on account of our citizens," &c.

To that these claimants reply that after all the national claims were eliminated from this case the tribunal awarded a gross sum "to be paid by Great Britain to the United States for all the claims referred to it." (Treaty, Article VII.) Treating that as necessarily meaning valid claims, they claim that there is no difference in principle, and practically none in language.

They further say that in the treaty with Brazil there is a striking likeness on this point; that there, too, questions of peace or war may have entered into the consideration of the high contracting parties, as well as idemnity to citizens. We quote that treaty:

"The United States of America and his majesty the Emperor of Brazil, desiring to remove every cause that might interfere with the good understanding and harmony which now happily exists between them and which it is so much the interest of both countries to maintain, and to come for that purpose to a definite understanding equally just and honorable to each, as to the mode of settling the long-pending questions arising out of claims of citizens of said States, have for the same appointed (officers named) who, after exchanging their full powers, which were found in good and proper form, agreed to the following articles:

"ARTICLE 1. The two high contracting parties, appreciating the difficulty of agreeing upon the subject of said reclamations, from the belief entertained by each, one of the justice of the claims and the other of their injustice, and being convinced that the only equitable and honorable method by which the two countries can arrive at a perfect understanding of said questions is to adjust them by a single act, they mutually agreed, after a mature examination of these claims, and in order to carry this agreement into execution it becomes the duty of Brazil to place at the disposition of the President of the United States the amount of four hundred and thirty thousand millreis, current money of Brazil, as a reasonable and equitable sum, which shall comprehend the whole of the reclamations, whatever may be their nature and amount, and as full compensation for the indemnifications claimed by the Government of said States, to be paid in a round sum, without reference to any one of said claims, upon the merits of which the two high contracting powers refrain from entering; it being left to the Government of the United States to estimate the justice that may pertain to the claimants, for the purpose of distributing among them the aforesaid sum of five hundred and thirty thousand millreis as it may deem most proper."

In all these cases the damages were done at sea; the United States received a gross sum, and none had an enforceable or legal claim to any part of the money. But thus did the United States discharge its moral obligation.

But it has been said that—

"No claimant was permitted to be heard at Geneva, and that the amount was arrived at without permitting contest between the rival claimants and without

satisfactory knowledge to the world of what claims were actually embraced in it. * * * There is nothing in the treaty of Washington directing the method of distribution; and it would have been grossly indelicate and extrajudicial in the tribunal of arbitration to have prescribed any rule of action to the sovereign power of the United States." (Minority report, No. 663, second session Forty-fifth Congress.)

And such is the argument of the present report.

The reply of these claimants is that in none of the treaties already cited was there anything "directing the method of distribution." In each of them the amount was fixed without permitting "claimants to be heard," and "without permitting contest between the real claimants," and the world knew not "what claims were actually embraced in" the gross sum received. It was, in each case, only after the money was in the United States Treasury that she permitted rival claimants to be heard, and then not in Congress, but in a court charged to decide "according to the merits of the several cases and the principles of justice, equity, the law of nations, and the stipulation of said convention." (*Ante.*)

In this very treaty of Washington, they say, was a provision for the adjustment, by a special tribunal, thereby created, of all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the government of her Britannic majesty, arising out of acts committed against the persons or property of citizens of the United States during the period between the 13th of April, 1861, and the 9th of April, 1865, inclusive, not being claims growing out of the acts of the vessels referred to in article 1 of this treaty; and all claims, with the like exception, on the part of corporations, companies, or private individuals, subjects of her Britannic majesty upon the Government of the United States, arising out of acts committed against the persons or property of subjects of her Britannic majesty during the same period, which may have been presented to either government for its interposition with the other, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in article 14 of this treaty. * * * (Article 12.)

And by article 13 it was declared that the commission—

"Shall investigate and decide such claims in such order and such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the respective governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective governments in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each government on each and every separate claim.

* * * * * * *

"It shall be competent for each government to name one person to attend the commission as its agent to attend and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof."

Article 11, as to the Alabama claims, and article 17, as to these claims, were identical. Article 15 declared "all sums of money which shall be awarded by the commissioners on account of any claim shall be paid by the one government to the other, as the case may be." Individual claimants in each case were alike excluded from the tribunals, and even after payment of the funds could not be heard till their government gave audience. That must be so. Claimants can only act in such cases through their governments.

Nor were these claims presented to that mixed commission dissimilar from those passed upon by the other tribunal at Geneva. They were sandwiched in between the Alabama claims and the great issues as to boundaries, navigation of the Saint Lawrence, passage through Maine and Canada, and the fishing interests of the two governments.

Of the claims presented to the commission for adjudication were nineteen in favor of citizens of the United States against Great Britain for sums aggregating about one million dollars. Twelve of them were for damages at Saint Albans, Vermont, in October, 1864; one for injuries to ships and other property of citizens of the United States therein, on Lake Erie, in September, 1864—all alleged to have been done by confederate soldiers—and four for detention of vessels at Calcutta in 1862. These were all disallowed.

The subjects of Great Britain presented their four hundred and seventy-eight claims against the United States, aggregating, in principal and interest, nearly $100,000,000. Two hundred and fifty-nine of them were for property of British subjects alleged to have been taken by the Army, Navy, and civil authorities of the United States, and used by the United States; one hundred and eighty-seven of them were for destruction of like property by our Army and Navy; seven were for destruction of like property by confederate soldiers; one hundred for unlawful arrests of British subjects by the United States; seventy-seven for capture of British vessels, &c., as prize of war, by United States forces; and three for unlawfully warning British vessels away in the absence of an effective blockade of the Southern coasts. Thirty were dismissed for want of jurisdiction; two hundred and fifty-eight were disallowed on the merits; eight were withdrawn by the Queen of Great Britain; and in one hundred and eighty-one awards were made in favor of the claimants, respectively, against the United States. The awards aggregated $1,929,819. (Papers relating to treaty of Washington, volume 6, pages 8 and 9.)

Suppose in this case, as in the other, the private claims had been looked into to find the amount of damages, and that it had been allowable to give a gross sum, and that had been done. Upon the logic of the majority, Great Britain might have well said, "Your claims were used to shape findings upon great national questions of boundary, navigation, and the like, and we will exclude some of you and prefer others in distributing the fund." Such a thing, these claimants contend, would have been impossible in a government accustomed to do justice to its citizens; that claimants would have had no "writ of right," but would not have been so treated.

Much stress has been laid upon the fact that, after the treaty was made, Secretary Fish in his instructions to Mr. Cushing, our counsel, (dated 8th December, 1871,) urged him not to "commit the Government to the disposition of what may be awarded or what may be recovered in the event of the appointment of the board of assessors mentioned in the tenth article of the treaty." They say it is plain, from the three next sentences, that he wished only to keep open the question as between owners and insurers of the same property where both claimed, making the "double claims" spoken of by the tribunal, and in which it rejected all doubling. Those sentences are:

"It is possible that there may be duplicate claims for some of the property alleged to have been captured or destroyed, as in the cases of insurers and insured. The Government wishes to hold itself free to decide as to the right and claims of insurers upon the termination of the case. If the value of the property destroyed be recovered in the name of the Government the distribution of the amount recovered will be made by this Government without committal as to the mode of distribution."

They also insist that there is a conclusive answer to this, namely:

"A treaty is the supreme law of the land; it can neither be limited nor restricted, nor modified, nor altered. It stands on the ground of national contract, and is declared by the Constitution to be the supreme law of the land, and this gives it a character higher than any act of ordinary legislation."—*Mr. Webster, in Senate report 93, first session Thirty-sixth Congress.*

They contend that no utterances, however formal or solemn, of officers or counsel, however high, could change this law; all antecedent contentions and contemporaneous suggestions were merged in this writing. It fixed the legal obligations between the United States and Great Britain and the moral obligation of the United States to its citizens, whose claims it represented and whose moral right to the fund recovered is fixed by that record.

They admit that this view would deny the claimants of damages by reason of acts of "exculpated cruisers" and of the Shenandoah "before Melbourne" and the "war-premium" claimants any part of this fund, and would give it to the insurance companies, some of which, counting all their war risks, it is alleged, made money by the acts of these cruisers.

Nor can these claimants perceive any principle which compels a scrutiny of the business of such a company to find a balance between its war losses and war gains before its part (if it have a part) of that fund can be allotted. Who, they ask, applies such a rule to the merchant who lost a cargo by the Alabama, but gained the value of many cargoes by mercantile ventures by sea during the war?

The minority know not whether all these facts are sustainable. They come from many volumes of books which they have not time to scrutinize. Nor will the minority undertake to decide which is right as to the law, the majority or these claimants. But the circumstances that there is room for controversy about facts and a plain disagreement about the law, and that many members in the House and Senate have formerly held with each side, satisfy the minority of the committee that our conclusion in this matter is correct.

The minority are unwilling to pass unnoticed the position of the majority of the committee that the United States is estopped from denying the correctness and justice of any of these claims of either side because the United States presented them to Great Britain, and by her agents and officers said they were good.

Look at it. Citizens of the United States complained that Great Britain had injured them. They had no redress. The petition of right, though available to them as to British subjects, would not lie to try such a question. They asked our Government to assert their rights even at the hazard of war. Having matters of its own to adjust with Great Britain, it added these thereto and submitted all to an honest tribunal, and pledged itself to abide the issue. What more could any citizen ask? The right of each man to recover depended upon showing Great Britain at fault. The United States believed that it was at fault; so said, and tried to prove it. But the verdict was, "not guilty" as to the acts by which the losses of present claimants came about. If a nation binds itself to pay claims by simply saying for its citizens that they are just, it will make nations very chary of asserting rights for their citizens. The doctrine would be dangerous but for the fact that it has no foundation in law or morals.

It is said, however, that the United States used these claims to obtain valuable results for itself, first by their presentation and then by their abandonment. None would believe a charge so injurious to the good character of our country, unless upon compulsory proof. We demand the proof. The facts are exactly and pointedly the reverse. While Great Britain desired to recede, we insisted even when rupture and consequent war were imminent. The United States withdrew nothing. The tribunal decided against her, and "consequently" she insisted no longer; neither right nor decency would have permitted longer contention.

But were both things true, (it is impossible that either could be true,) the insurance companies claim that that would only make the United States owe those deluded and cheated claimants a duty, and perhaps their losses would be its measure, but honesty would require that she should not discharge it out of money collected for others.

We are not unmindful of the legislative history of the efforts to pay out this fund. Both the House and Senate passed bills in February, 1873. They included none as rightful participants but those suffering losses by the "inculpated cruisers," and confined insurance companies to net loss on all their war premiums. Losses by "exculpated cruisers" and the Shenandoah before Melbourne were expressly excluded. But the Houses disagreed and funded the money as before stated.

In May, 1874, the Senate passed substantially its bill of 1873; the House amended by adding losses by exculpated cruisers and war premiums; a conference produced the act of June 23, 1874. (United States Statutes at Large, page —.) It was then thought that such losses as it allowed would exhaust the fund. Under that act the court of commissioners of Alabama claims was organized, and by act of Congress its existence was continued till the 23d of July, 1876. It distributed $9,316,120. In 1876 the House passed a bill to revive the court and let claimants for acts of exculpated cruisers and war premiums be paid. A motion to let in insurance companies for their full losses failed. The Senate did not act upon the matter.

We do not discuss the votes or arguments upon the various propositions, because they decide nothing. Upon such questions the great body of the House and Senate must vote without a full understanding of the facts or law of the case. They have not time to examine the one or the other, nor can we know the reasons which influenced any vote. Local considerations, partiality for friends, and many other considerations enter into such votes. These very differences enforce the conclusion of the minority.

We had thought that "the judicial power (all the judicial power) of the United States" was by the Constitution vested "in one Supreme Court, and in such inferior courts as the Congress may from time to time establish and ordain." That Congress must frequently decide facts, to legislate, we knew, but that it is a "court," the "tribunal of the largest jurisdiction known to the Constitution," as declared by the majority report, is so new to us that we ask to see that part of the Constitution which confers such character upon Congress.

This is but an effort to satisfy that honest disposition to remit all disputants to the court, by misnaming Congress "a court."

We like not that, nor are we pleased with the special tribunal. Why take from this fund the expenses for a new tribunal when we have all needed machinery for doing the work?

Upon this point we adopt the language of the majority report in the Forty-fifth Congress, already cited.

It quoted first the language of Mr. Butler, chairman of the Judiciary Committee of the Forty-third Congress, as follows:

"The only antagonism of which your committee is aware to having the distribution of this fund settled by a suit in a single court, with the proper claimants made parties, comes from those who desire that a commission should be established, to sit in Washington, to adjudicate this matter. To this proposition your committee have most decided objections. Here are over fifteen millions of dollars to be divided among certain claimants, who are urging their claims with all the zeal that private interests and large sums at stake can command, and it is well known that all Government claims of this description are generally taken in hand by a class of men known as claim-agents, some of whom are admitted to the bar and some not, under no responsibility whatever to the commission, itself temporary, which can have no control over them or the propriety of their action, and, if they wrong either the clients or the Government, can administer no rebuke or punishment to them; who carry on this business of advocating claims upon the Government generally upon contingent fees and large percentages, the average of which is not lower, so far as your committee can learn, than 25 per cent.; and as the possibility of obtaining any reward for their services depends upon success, a quarter of this fund—with the accrued interest, nearly five millions—the amount of these fees which may or may not be realized, according as the commission can or cannot be moved in favor of the claimants, stands as a fund ready to be used by corrupt men to carry their purposes. * * *

"Your committee do not believe it is wise to expose officers quasi-judicial to such great temptation, and to put it in the power of interested parties to obtain claims against the Government through such great inducements as might be used under these circumstances. The prayer 'lead us not into temptation' has been ordained as necessary for the daily use and guidance of all Christian men for more than eighteen hundred years.

"Besides, the adjudications of this commission are necessarily final, as it is no

part of the judicial system of the United States; so that your committee do not see how any appeal can be taken to the Supreme Court. Further, if this commission once gets itself established there is great danger, by referring claims to it on other subject-matter, that it may be continued indefinitely, to say nothing of the very considerable expenses which would attend it, amounting to some fifty to one hundred thousand dollars, even if the Government could get five men fit to do this work, together with the other expenses, for that sum. Nor does your committee think it wise thus to add to the number of office-holders under the Government if its work can be done by the ordinary judicial machinery, which no one doubts. The record of commissions in matters of claims, as against governments, has not always been so bright and clear as to make it certain that the interest of the Government will be safe as against individual greed, while the United States can say with pride that the integrity of her highest judicial officers has never been questioned, and that of the lower very rarely, and as yet never proven.

"On the contrary, if these claims are brought before a court they must be advocated by members of its bar, who will be held responsible to the court for their action, and every adjudication must be made in open day, publishing to the world the grounds and reasons of it, and subject to appeal to the Supreme Court of the United States, as in other cases."

This quotation is so forcible that we are not surprised that it is mentioned in the minority report. The action of a commission which passed upon claims but little contested does not answer the argument. The Knott report then proceeded:

"Your committee concluded, therefore, without expressing any opinion of their own in relation to the merits of any particular claim or class of claims to the unexpended balance of this fund, that it would be better as a precedent for future cases, better for the Government, and better for all parties claiming to have an equitable interest in it, to commit the adjudication and determination of all questions touching its distribution to the Court of Claims in the first instance, with the right in any party aggrieved to appeal to the Supreme Court of the United States, with authority to render a judgment in favor of each claimant who was an actual sufferer by the violation of the laws of neutrality by Great Britain, for such an amount as in the opinion of the court he may be justly entitled to under the treaty and award, according to the principles of justice, equity, and the laws of nations, leaving the court untrammeled by any principle of allowance, exclusion, or distribution adopted in chapter 459 of the laws of the Forty-third Congress or by the tribunal created by that law. This seems to your committee pre-eminently just and fair, and surely no one who claims to have any right to any portion of this fund can object to having his claim thus adjudicated, especially as provision is made in the bill for the speediest possible determination of all disputed principles of law by the Supreme Court, unless he is afraid of justice.

"It may be urged, however, that the provision requiring the Supreme Court to advance appeals in these cases will be a hardship to other suitors whose causes, even as the docket now stands, cannot be reached for perhaps two or three years; but while this may be true to a certain extent, the objection will be found to be more specious than real when it is remembered that all the claims to this fund are embraced in a very few classes, and that all the legal principles about which there can be any dispute will be presented and settled in perhaps one and certainly not over three or four cases on appeal, involving probably not over a week's delay in the ordinary business of the court, if that."

We add that we think it is very important; that a decision of our highest judicial tribunal (not Congress, but the Supreme Court of the United States) upon these questions will be of great value to our citizens and the country.

We conclude with the language of the majority report of the Judiciary Committee of the Forty-fifth Congress, already quoted from, namely:

"We are therefore of the opinion that it would not only be wise and just, but far more in harmony with the genius of our Government, to remove all these disputed questions of private right from the arena of legislation, where the judgment may be biased by local interests and personal prejudice, or obscured by the heat and confusion of debate, and where the machinery is too cumbrous and complicated, the time too limited, the opportunity for investigation too restricted, and the variety of business too great, for the proper administration of distributive justice, to a forum where the rights of all parties claiming an interest in this fund can be deliberately adjudicated and determined by an impartial and dispassionate tribunal, 'according to the principles of justice, equity, and the laws of nations.'"

We accordingly recommend the passage of the bill herewith submitted as a substitute for all the bills on the subject which have been referred to this committee.

N. J. HAMMOND.
J. PROCTOR KNOTT.
EDWIN WILLITS.
D. B. CULBERSON.
VAN H MANNING.

Mr. REED. I had reserved for myself fifteen minutes in which to reply to the arguments which might be made on the other side, but I am happy to say that I shall not have to use all of that time.

I shall confine myself to a statement of the case in a few minutes, and a reply to one or two objections which have been presented against the bill of the majority, and then I shall ask the judgment of the House upon that bill.

In the first place, I claim that at the time the treaty of Washington was started this set of claims, as individual claims, had ceased to exist. The proceeding had become a national proceeding. It was in the nature of an exaction of a fine from Great Britain for the injuries which she had inflicted upon our commerce. The way in which that fine was calculated was simply by a statement in detail of the damages which she had done us. Whatever evidence was presented before the tribunal at Geneva was presented for the purpose of stating the amount of the fine, and when that was done it ceased to have any function whatever. When we commenced to distribute the award we had nothing to do with the evidence which had been submitted to another tribunal—only the evidence that was submitted to us.

My friend from Ohio, [Mr. CONVERSE,] in the careful and able speech which he made upon this subject yesterday, told you an important and controlling fact, which is a reply to everything which has been said upon the other side, from beginning to end. He said that the court of Alabama claims had paid more than two hundred claims that never were presented in any form to the Geneva tribunal. What then becomes of your statement that the Geneva tribunal decided individual claims? Those statements have all gone to the winds.

I add to that statement of the gentleman from Ohio, that the decision of the commissioners of Alabama claims, acting under the law passed to distribute a part of this award, has determined every principle for which I contend in this bill. They paid to the men who lost their property not only the value of the property lost but their war premiums. They paid to the insurance companies every dollar which they had lost, including the war premiums which the insurance companies paid when they made reinsurance.

Now, I say this has been settled, that this award is in the nature of a fine imposed upon Great Britain for the injury which she did our commerce. What shall we do with the money? Distribute it to the people engaged in commercial pursuits who were injured by that act of Great Britain, by her permitting confederate cruisers to be fitted out in her dock-yards and allowing them to be coaled and refitted in the ports of her colonies.

The first set of men, those who were injured by the inculpated cruisers, have been paid. The insurance companies have been paid every dollar which they lost. And now the question comes up on the payment of those who were injured by the exculpated cruisers, amounting to about $1,200,000; and next the payment of the men whose money is now in that fund, because the Government did not pay the ship-owner when he got his insurance, for that would be paying him twice; and it did not pay the insurance companies for the same reason, because they have already got their money.

It is now proposed to pay the war-premium men who actually suffered. But gentlemen say that the war-premium men added those premiums to the cost of their goods. Now, I say that men who make such a declaration as that do not understand mercantile principles. If a man was engaged in the Calcutta trade like my friend from Boston who sits behind me, [Mr. CANDLER,] he knew that if he put his goods in American bottoms he would be obliged to compete with another man who put his goods in British bottoms, and that the British bottom would not have to pay the war premium, while the American bottom would have to pay it. More than that: inasmuch as he wanted his goods transported he was likely to put them in a British bottom, because such a bottom would carry them to the port of their destination, while the American bottom would likely be captured by confederate cruisers. Can anything be clearer than that difference between the two transactions?

But my friend from Georgia [Mr. HAMMOND] says, "Let us leave this matter to a court." What kind of a court, and to be decided how? "To the Court of Claims, to be decided upon principles of justice, equity, and the law of nations." Now, that sounds pretty, does it not? According to what principles of justice would it be decided? The insurance companies have ransacked the ten thousand books of law reports and have never been able to find one case like this. Where is your principle of justice, then, in the law books? They have ransacked every volume published by the courts of equity and cannot find one case like this. Where is your principle of equity then?

"Oh," they say, "let the court decide it according to the law of nations." What? A distribution of money among our own citizens to be governed by the law of nations? What has the law of nations to do with the Calcutta trade in Boston or with the coastwise trade in California? It is a good mouth-filling phrase, but it does not mean business.

And that is what my friend from Georgia [Mr. HAMMOND] admits, for he says—"If nobody is entitled to it, then we can take it back and keep it in the Treasury." Yes, we could do that and have the contempt of every nation on the face of the earth. This talk of paying it back to England is more foolish and as wicked as the other.

That idea of paying it back cost us five million and a half of dollars in the Halifax award. Some men cannot understand that a difficult decision may be an honest decision. It is true we found it hard work to decide this case, but that does not prove that it cannot be decided. There have been a great many cases in which there have been hung juries, but in which juries have become at last unanimous on account of having more innate sense. So it will be with Congress. This thing will pass as surely as you live.

Gentlemen say various other conventions have provided for distributing money in the way that the minority of the committee propose. Why, sir, every convention referred to was for individual claims; and I am surprised at the moral courage which the gentleman from Georgia exhibits in getting up here and talking about those old conventions, every one of which is explained in the majority report, and shown to be totally and absolutely unlike this.

My friend from New York [Mr. HUTCHINS] has found great difficulty in understanding a figure of speech which I used in regard to Congress being a tribunal. He says Congress has not as large jurisdiction as the Supreme Court. Has it not? Then why does not the Supreme Court transact all the business of this country? What is this Congress here for? To decide individual rights—sometimes by general laws, sometimes by particular laws. What are all human institutions of government for? To decide individual rights. That is what the man meant who said that the whole business of government was to get twelve men into a jury-box.

Why is it that Congress is a greater tribunal than the Supreme Court? Because Congress has discretion in the legal sense, and the Supreme Court has not; because Congress can do things which are outside the province of the Supreme Court; because every day people apply to us to do things which the technical rules of law will not permit to be done by the courts, but which justice demands shall be done. People talk as if courts had power and jurisdiction to dispose

of everything. I would like to know what the Supreme Court would do with the Ute reservation if that matter were referred to them. I would like to see the Supreme Court wrestling with that question. We can dispose of it—why? Because we have a wider jurisdiction than the Supreme Court; because we can make law. The Supreme Court can only interpret law; and it cannot interpret laws that do not exist. It cannot interpret and apply laws to a case the like of which never was before and never will be again. But we can. That is the reason why we are a greater tribunal than the Supreme Court. That is why we are more capable of disposing of this case than is that court. I commend my friend from New York [Mr. HUTCHINS] to a careful repersual of his speech, studded as it is with quotations from the report of the majority of the committee, and after he has looked over it all I think he will find that the only sound sense is in the extracts he has made from that report.

This is not a question of decision; it is a question of legislation. It is a question that is to be determined by sound common sense. You have to weigh one consideration against another, and decide what on the whole is best. Do not let us make a sectional decision. I say to gentlemen of the South—and as the sectional argument was used by a Democrat on this floor it is not improper for me to refer to it—I say to gentlemen of the South, it is not like your high-minded character to cause this damage and then to try to put part of the proceeds in your own pockets, for that is what keeping it in the Treasury means.

Mr. BUCHANAN. I would like to ask the gentleman whether it is not his proposition that the persons to whom he proposes to make payment have no title whatever to this money, but that Congress has the power and the right to give them a title—to legislate a title into men who have none now? Is not that the gentleman's ground?

Mr. REED. Now, is it not perfectly astounding that the gentleman should misunderstand me? I could understand how an insurance company might not comprehend my proposition; but I must say that I am surprised that my intelligent friend from Georgia cannot do so. The Congress of the United States (and here is just where it differs from a court) is moved by something besides the question of legal rights. It is moved by moral and legislative considerations. I propose that we shall exercise the moral power of Congress to save this country from dishonor. So long as this money remains undistributed some men will always think that we have stolen something; but I say it behooves us, in due regard for the national honor, to do our duty, to respond to our moral obligations, and to distribute this money to the persons who were really injured. I now call for a vote.

The SPEAKER. The question first recurs on the substitute moved by the gentleman from Georgia, [Mr. HAMMOND.]

The substitute is as follows:

A bill to provide for the further distribution of the moneys under the Geneva award.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons and corporations claiming any portions of the moneys now under the control of the United States which were received from the Government of Great Britain in payment of the Geneva award, or as interest thereon, be, and they are hereby, authorized to sue for the same in the United States Court of Claims, at any time within one year from the passage of this act, in the same manner in which other claims are sued in said court; and the said court shall render judgment for each claimant for such amount only as, in their opinion, he shall be justly entitled to recover under said treaty and award according to the principles of justice, equity, and the law of nations, but all payments heretofore made on any claim by the United States shall be deducted from the judgment to be rendered thereon.

SEC. 2. That in determining the amount for which judgment is to be rendered in favor of any claimant, interest shall be allowed at the rate of 4 per cent. per annum upon the amount of such claim from the date when the court shall in each case decide that the loss out of which the claim arose was sustained by the claimant; but in entering the judgment the amount of principal and interest shall be stated separately.

SEC. 3. That such persons and corporations or the United States may respectively appeal to the Supreme Court of the United States from judgments of the Court of Claims rendered under this act, and such appeals shall be in the form now prescribed by law.

SEC. 4. That all judgments in favor of claimants under this act not appealed from or affirmed on appeal shall be paid out of the aforesaid moneys. Every person or corporation who shall sue under this act shall, within one year from the passage thereof, file with the clerk of the Court of Claims a copy, under oath, of his or their claim, and at the expiration of the said year the clerk of said court shall ascertain the total amount of the money and the interest thereon then under the control of the United States, received from Great Britain in payment of the Geneva award; and thereafter each claimant, at the expiration of ten days after a judgment shall be perfected in his favor, (provided no appeal is taken; and if an appeal is taken, at the expiration of ten days after final judgment in his favor,) shall be entitled to be paid out of the aforesaid moneys the ratable proportion thereof to which he would be entitled if the entire claims so filed were allowed. The remainder of each judgment shall be paid at the expiration of three years from the passage of this act, with interest at the rate of 4 per cent. per annum from the recovery of such judgment; but if the sum of the judgments be greater than the moneys aforesaid, then the remainder of such judgments shall be paid ratably.

SEC. 5. That, if necessary for the dispatch of business under this act, the clerk of the Court of Claims may appoint one or more assistants, and their salaries and all other expenses under this act shall be paid out of the said moneys.

SEC. 6. That no claim which was provable under the acts organizing and continuing the court of commissioners of Alabama claims and was there duly presented, and was there adjudged, shall be provable under this act.

SEC. 7. That claimants under this act shall be admitted to testify in their own behalf.

SEC. 8. That appeals arising under this act shall take precedence of all other cases in the Supreme Court.

SEC. 9. That after the payment of all judgments rendered in pursuance of this act, if there shall remain any part of the said money, the same shall be and remain a special fund to await the further action of Congress.

Mr. HOUSE. I move to lay the bill and substitute on the table.

The question was put, and the Speaker declared the House refused to lay the bill and substitute on the table.

Mr. FROST. I demand the yeas and nays.

The SPEAKER. The Chair thinks the demand came too late.

Mr. HAMMOND, of Georgia. I ask for a division on my substitute.

The House divided; and there were—ayes 46, noes 109.

Mr. HOUSE demanded the yeas and nays.

The yeas and nays were refused, one-fifth of those present not voting in favor thereof.

So the substitute was rejected.

The SPEAKER. The question recurs on the engrossment and third reading of the bill as amended.

Mr. HOLMAN. Let us have the yeas and nays on the passage of the bill.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. REED. I demand the previous question on the passage of the bill.

The previous question was ordered.

Mr. HOLMAN. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 133, nays 67, not voting 91; as follows:

YEAS—133.

Anderson,	Dingley,	Lynch,	Scoville,
Atherton,	Dwight,	Martin,	Scranton,
Barbour,	Ellis,	Mason,	Shultz,
Bayne,	Errett,	McClure,	Smith, Dietrich C.
Berry,	Farwell, Sewell S.	McCoid,	Spaulding,
Bingham,	Finley,	Miles,	Spooner,
Blanchard,	Ford,	Miller,	Stone,
Bliss,	Fulkerson,	Money,	Strait,
Bowman,	Geddes,	Moore,	Talbott,
Brewer,	Gibson,	Morey,	Taylor,
Briggs,	Grout,	Murch,	Thomas,
Browne,	Guenther,	Neal,	Thompson, Wm. G.
Brumm,	Hall,	O'Neill,	Tillman,
Buck,	Harmer,	Pacheco,	Townsend, Amos
Buckner,	Haseltine,	Page,	Townshend, R. W.
Burrows, Julius C.	Haskell,	Parker,	Tyler,
Burrows, Jos. H.	Hazelton,	Payson,	Updegraff, Thomas
Butterworth,	Heilman,	Peelle,	Valentine,
Camp,	Henderson,	Peirce,	Van Aernam,
Campbell,	Hepburn,	Ranney,	Van Horn,
Candler,	Hiscock,	Ray,	Van Voorhis,
Cannon,	Hoblitzell,	Reed,	Wadsworth,
Carpenter,	Horr,	Rice, John B.	Wait,
Caswell,	Houk,	Rice, William W.	Ward,
Chace,	Humphrey,	Rich,	Washburn,
Chapman,	Jacobs,	Richardson, D. P.	Watson,
Converse,	Jadwin,	Richardson, Jno. S.	Webber,
Crapo,	Jones, George W.	Ritchie,	West,
Cravens,	Jones, James K.	Robertson,	Williams, Chas. G.
Cullen,	Joyce,	Robeson,	Wise, Morgan R.
Cutts,	Kelley,	Robinson, Geo. D.	Wood, Walter A.
Dawes,	Lacey,	Robinson, Jas. S.	
Deering,	Lewis,	Rosecrans,	
De Motte,	Lord,	Ryan,	

NAYS—67.

Aiken,	Dunn,	Holman,	Ross,
Aldrich,	Ermentrout,	Hooker,	Scales,
Beltzhoover,	Evins,	House,	Shackelford,
Blackburn,	Farwell, Chas. B.	Hutchins,	Singleton, Jas. W.
Bland,	Forney,	Kenna,	Singleton, Otho R.
Buchanan,	Frost,	Klotz,	Smith, A. Herr
Cassidy,	Garrison,	Latham,	Speer,
Clark,	Gunter,	Le Fevre,	Springer,
Clements,	Hammond, N. J.	Matson,	Stockslager,
Colerick,	Hardenbergh,	McMillin,	Tucker,
Cook,	Hardy,	Morrison,	Turner, Henry G.
Cox, William R.	Hatch,	Muldrow,	Turner, Oscar
Culberson,	Herndon,	Mutchler,	Warner,
Curtin,	Hewitt, Abram S.	Phister,	Wellborn,
Davis, Lowndes H.	Hewitt, G. W.	Randall,	Williams, Thomas
Dowd,	Hill,	Reagan,	Willis.
Dugro,	Hoge,	Rice, Theron M.	

NOT VOTING—91.

Armfield,	Dezendorf,	Lindsey,	Shelley,
Atkins,	Dibble,	Manning,	Sherwin,
Barr,	Dibrell,	Marsh,	Simonton,
Beach,	Dunnell,	McCook,	Skinner,
Belford,	Fisher,	McKenzie,	Smith, J. Hyatt
Belmont,	Flower,	McKinley,	Sparks,
Black,	George,	McLane,	Steele,
Blount,	Godshalk,	Mills,	Stephens,
Bragg,	Hammond, John	Morse,	Thompson, P. B.
Cabell,	Harris, Benj. W.	Mosgrove,	Updegraff, J. T.
Caldwell,	Harris, Henry S.	Moulton,	Upson,
Calkins,	Hawk,	Nolan,	Urner,
Carlisle,	Herbert,	Norcross,	Vance,
Clardy,	Hubbell,	Oates,	Walker,
Cobb,	Hubbs,	Orth,	Wheeler,
Cornell,	Jones, Phineas	Paul,	White,
Cox, Samuel S.	Jorgensen,	Pettibone,	Whitthorne,
Covington,	Kasson,	Phelps,	Willits,
Crowley,	Ketcham,	Pound,	Wilson,
Darrall,	King,	Prescott,	Wise, George D.
Davidson,	Knott,	Robinson, Wm. E.	Wood, Benjamin
Davis, George R.	Ladd,	Russell,	Young.
Deuster,	Leedom,	Shallenberger,	

So the bill was passed.

During the roll-call the following pairs were announced from the Clerk's desk:

Mr. CORNELL with Mr. BLACK.

Mr. HAMMOND, of New York, with Mr. PHELPS.

Mr. VANCE with Mr. HUBBS.

Mr. MCKINLEY with Mr. TUCKER.

Mr. TUCKER. I find on looking at my pair it is only on political questions, and I have therefore voted "no."

The Clerk continued reading the pairs:

Mr. RUSSELL with Mr. CARLISLE.

Mr. MCCOOK with Mr. SPARKS.

Mr. SIMONTON with Mr. PARKER.

Mr. PARKER. I have a standing pair with Mr. SIMONTON, and my right to vote on this bill was expressly verbally reserved.

The reading of the pairs was further continued:

Mr. CROWLEY with Mr. NOLAN.

Mr. CALDWELL with Mr. DAVIS of Illinois.

Mr. LADD with Mr. MANNING.

Mr. MANNING. If Mr. LADD were present, he would vote "ay" and I would vote "no."

The reading of the pairs was continued:

Mr. URNER with Mr. COVINGTON.

Mr. HARRIS, of Massachusetts, with Mr. FLOWER, on this bill.

Mr. ROSECRANS with Mr. FISHER, not to interfere with Mr. ROSECRANS's right to vote on the Geneva award bill.

Mr. SHALLENBERGER with Mr. MOULTON.

Mr. KASSON with Mr. BLOUNT.

Mr. MILLER with Mr. FROST.

Mr. MILLER. That pair expired yesterday.

The reading of the pairs was continued:

Mr. DUNNELL with Mr. WILSON.

Mr. JONES, of New Jersey, with Mr. COX, of New York.

Mr. SKINNER with Mr. ATKINS, who would vote no.

Mr. BRAGG with Mr. POUND.

Mr. SHERWIN with Mr. DIBBLE.

Mr. GODSHALK with Mr. STEPHENS.

Mr. BUCKNER with Mr. WILLITS, on the Geneva bill.

Mr. LINDSEY with Mr. DIBRELL.

Mr. KNOTT with Mr. WHITE.

Mr. YOUNG with Mr. MILLS, on this bill.

Mr. GARRISON with Mr. COBB.

Mr. HARRIS, of New Jersey, with Mr. KETCHAM. Mr. HARRIS would vote "no."

Mr. WISE, of Pennsylvania, with Mr. LORD.

Mr. OATES with Mr. NORCROSS.

Mr. MARSH with Mr. MCKENZIE.

Mr. ORTH with Mr. BEN. WOOD.

Mr. UPDEGRAFF, of Ohio, with Mr. CABELL.

Mr. BELFORD with Mr. WALKER, on this bill.

Mr. PETTIBONE with Mr. SHELLEY, for this day.

Mr. WILLITS with Mr. CALKINS.

Mr. ERMENTROUT with Mr. HUBBELL, on the Geneva bill.

Mr. HAWK with Mr. COBB.

Mr. WHITTHORNE with Mr. MORSE. Mr. MORSE would have voted for and Mr. WHITTHORNE against the bill.

Mr. BOWMAN. I am reported as being paired with Mr. MORSE. It was understood that our pair did not apply to the Geneva award bill.

Mr. WHITTHORNE. I am paired with Mr. MORSE upon the Geneva award bill. I will say further, Mr. Speaker, that my colleague, Mr. ATKINS, is detained from the House by reason of sickness.

Mr. WILLITS. The clerk has read my name as being paired twice. I desire to say that I am paired with the gentleman from Indiana, Mr. CALKINS.

On motion of Mr. REED, by unanimous consent the reading of the names was dispensed with.

The result of the vote was then announced as above recorded.

Mr. REED moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TERRITORIAL EXPENSES, ARIZONA.

The SPEAKER laid before the House the following letter from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

I submit herewith for the consideration of Congress a letter from the Secretary of the Interior, inclosing a copy of a letter from the governor of Arizona, in which he requests that an appropriation of $2,000 be made for the contingent expenses of the Territory for the next fiscal year.

CHESTER A. ARTHUR.

MAY 11, 1882.

AGRICULTURAL APPROPRIATION BILL.

Mr. VALENTINE. I desire to submit a conference report on the agricultural appropriation bill.

The SPEAKER. The report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the year ending June 30, 1883, and for other purposes, having met, after a full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 21.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 27, 29, 30, 31, 32, 34, 35, 36, 37, and 39; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: Strike out from said amendment the words "for the orange and lemon, and plants of the citrus family" and insert in lieu thereof the word "horticulture;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the words proposed to be stricken out by said Senate amendment insert the following: "Of which sum $1,000 shall be immediately available;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: Add to the end of the paragraph the following: "Of which sum $2,000 shall be immediately available;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with amendments, as follows: Strike out from the words proposed to be inserted by said amendment "one artesian well" and insert in lieu thereof "not exceeding three artesian wells," and strike out the word "ten" and insert the word "twenty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: Strike out the words "five thousand" and insert in lieu thereof "two thousand five hundred;" and the Senate agree to the same.

E. K. VALENTINE,
JOHN T. RICH,
W. H. HATCH,
Managers on the part of the House.

H. G. DAVIS,
P. B. PLUMB,
EUGENE HALE,
Managers on the part of the Senate.

Mr. HOLMAN. Let the explanation accompanying the report be read.

The Clerk read as follows:

Statements in explanation of conference report on House resolution 4466.

The two Houses disagree upon all the Senate amendments from 1 to 39 inclusive.

The effect of the recommendations of the report, if adopted, will be as follows:

On amendment numbered 1: To increase the salary of the Commissioner of Agriculture from $4,000 to $4,500.

On amendments numbered 2, 3, 4, 5, and 6: To make the chief clerk superintendent of the Department building instead of the chief of division of accounts and disbursing clerk, and to add to his salary the sum of $200, and to make the total of the paragraph correspond with the changes agreed to.

On amendments numbered 7 and 8: To fix the salary of the chief chemist at $2,500 in lieu of $3,000, the compensation now paid, and to make the total of the paragraph correspond with the change agreed to.

On amendment numbered 9: To fix the salary of the entomologist at $2,500 in lieu of the compensation now paid, and to make the salary the same as that to be paid to the chief chemist.

On amendments numbered 10 and 11: To increase the salary of the assistant entomologist from $1,200 to $1,400, and to make the total of the paragraph correspond with the changes agreed to.

On amendments numbered 12, 14, and 15: To transfer the "Statistical Division" to another part of the bill, as proposed by the Senate amendments; to change the title of the division to "division of agricultural statistics;" and to increase the salary of the statistician from $2,000 to $2,500 to make the same equal to the salaries proposed to be paid to the chief chemist and the entomologist.

On amendment numbered 13: To strike out the provision relating to the detailed statement of expenditure of amounts appropriated to be made with the Commissioner's annual estimates, the substance of this provision being incorporated in section 2 of the bill.

On amendments numbered 16, 17, and 18: To make the sum for collecting agricultural statistics, &c., $80,000 instead of $75,000, and to make $10,000 thereof immediately available instead of the whole sum as provided in the House bill, and to strike out the provision that no part of the sum appropriated shall be paid to any person receiving at the same time other compensation as an officer or employé of the Government, the substance of this provision being incorporated in section 2 of the bill.

On amendments numbered 19, 20, 21, and 23: To consolidate the appropriations for continuing experiments in the manufacture of sugar from sorghum and beets, and to appropriate $25,000 therefor, instead of $35,000, and to strike out the provisions making the sum immediately available, and allowing the chief chemist $1,000 additional compensation so that the paragraph as recommended will read; as follows:

"For experiments in the manufacture of sugar from sorghum, beets, and other sugar-producing plants, $35,000."

On amendments numbered 25 and 26: To include in the paragraph for investigating the history and habits of insects injurious to agriculture, the Rocky Mountain locust, the cotton-worm, and insects injurious to horticulture, and to make $1,000 of the sum appropriated immediately available.

On amendment numbered 27: To strike out the separate paragraph for investigating the habits, &c., of the Rocky Mountain locust, provision being made therefor in the preceding paragraph.

On amendment numbered 28: To make the sum of $2,000 of the amount appropriated for examination of wools and animal fibers immediately available, instead of the whole sum as provided in the House bill.

On amendments numbered 29, 30, and 31: To strike out, in No. 29, the words "swine, sheep, and other," in No. 30 the words "diseases of swine and sheep," and in No. 31 the word "other;" so that the paragraph will read as follows:

"Investigating the diseases of domesticated animals: For continuing the investigation of infectious and contagious diseases to which all classes of domesticated animals are subject, $25,000."

On amendment numbered 32: To strike out the paragraph appropriating $5,000 for procuring and publishing data respecting the agricultural needs of the country west of the Rocky Mountains.

On amendments numbered 33 and 34: To provide for locating and sinking not exceeding three artesian wells on the plains east of the Rocky Mountains, with a view to reclaiming arid and waste public lands, and appropriating $20,000 for the purpose, and to make the sum of $1,000 provided for in the bill for payment of expenses already incurred immediately available.

On amendments numbered 35 and 36: To increase the amount for the investigation and report upon the subject of forestry from $7,000 to $10,000, and to authorize the Commissioner to experiment upon the subject.

On amendment numbered 37: To make the sum of $2,000 of the amount appropriated for contingent expenses immediately available.

On amendment numbered 38: To appropriate the sum of $2,500 instead of $5,000, as proposed by the Senate amendment, for repairing and resurfacing concrete roads and walks on the grounds.

On amendment numbered 39: To add a new section to the bill, as follows:

"SEC. 2. That no part of the sums herein or hereafter appropriated for the Department of Agriculture shall be paid to any person, as additional salary or compensation, receiving at the same time other compensation as an officer or employé of the Government; and in addition to the proper vouchers and accounts for the sums appropriated for the said Department to be furnished to the accounting officers of the Treasury, the Commissioner of Agriculture shall, at the commencement of each regular session, present to Congress a detailed statement of the expenditures of all appropriations for said Department for the last preceding fiscal year."

Mr. VALENTINE. Now, Mr. Speaker——

Mr. RYAN. Will the gentleman yield to me to ask a question? I observe that there are several items embraced in this conference report in which a change is made by the insertion of the words "to be immediately available." I wish to inquire of my friend from Nebraska why this is done?

Mr. VALENTINE. I will state to the gentleman from Kansas that the Committee on Agriculture having been charged with the preparation of the appropriation bill for that Department, placed these items in the appropriation rather than in the deficiency bill, and these several items to which the gentleman refers are in the light of deficiencies.

Mr. RYAN. They are then to provide for deficiencies?

Mr. VALENTINE. Yes, sir.

Mr. HOLMAN. Will the gentleman permit me to ask a question?

Mr. VALENTINE. Certainly.

Mr. HOLMAN. Will the gentleman state to the House how many salaries are increased by this report or bill as it now stands if this conference report is adopted, and what is the increase of compensation made to officers of this Department by the bill, as compared to the bill as originally passed by the House?

Mr. VALENTINE. There is no increase of the amount of the bill as it passed the House as now reported by the committee of conference. On the contrary there is a reduction of about twenty-nine thousand dollars, if I recollect correctly. There have been some examinations by the committee as to the salaries of men employed in that bureau, and some have been increased and some diminished. I have no recollection as to whether the difference is seven or twelve hundred dollars, but it is a small amount.

Mr. HOLMAN. How many of the salaries have been reduced and how much?

Mr. VALENTINE. Either two or three, the reduction being $500 in each case.

Mr. HOLMAN. And how many have been increased?

Mr. VALENTINE. Three, I think; and the increase is $500 in two or three cases and $200 in one case.

Mr. HOLMAN. There are two decreased and three increased.

Mr. VALENTINE. Yes, sir; instead of appropriating for some of the scientific bureaus $1,000 out of certain funds to pay the chemist and entomologist, we have stricken that out and simply increased their salaries by $500, thereby saving $500 annually on each of these.

Mr. HOLMAN. On the whole bill there is a reduction of $29,000?

Mr. VALENTINE. I think that is the amount. I move that the House concur in the report.

The report of the committee of conference was concurred in.

Mr. VALENTINE moved to reconsider the vote by which the report was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CRAPO rose.

Mr. PAGE. I ask the gentleman from Massachusetts to yield to me to make a report from the Committee on Commerce.

Mr. CRAPO. I yield for that purpoee.

DEDUCTIONS FROM GROSS TONNAGE.

Mr. PAGE, by unanimous consent, from the Committee on Commerce, reported back with amendments the bill (H. R. No. 5841) to provide for deductions from the gross tonnage of vessels of the United States; which was referred to the Committee of the Whole House on the state of the Union, and the amendments and accompanying report ordered to be printed.

LIGHT-HOUSE AT DANSKAMMER POINT.

Mr. PAGE also, from the Committee on Commerce, reported back with amendments the bill (H. R. No. 5557) making an appropriation for the erection of a light-house on the Hudson River at Danskammer Point; and the bill and amendments and accompanying report were referred to the Committee on Appropriations, and ordered to be printed.

FOG-SIGNAL ON LIME POINT, CALIFORNIA.

Mr. PAGE also, from the Committee on Commerce, reported a bill (H. R. No. 6180) for the establishment of a steam fog-signal on Lime Point, San Francisco Harbor, California; which was read a first and second time, and, with the accompanying report, referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Mr. CRAPO. I move that the House dispense with the morning hour that we may reach the consideration of the special order.

Mr. SPRINGER. I ask the gentleman to yield to me that I may report a resolution from the Committee on Printing.

Mr. CRAPO. I yield to the gentleman.

Mr. HAZELTON. I desire to make a parliamentary inquiry. If the motion of the gentleman from Massachusetts should prevail would that sweep away private business for the remainder of this day?

The SPEAKER. The Chair thinks not. The dispensing with the morning hour would not affect that.

THE DIGEST.

Mr. SPRINGER. I am instructed by the Committee on Printing to report the resolution which I send to the desk and to ask its present consideration.

The Clerk read as follows:

Resolved, That there be printed and bound 250 additional copies of the Digest of the present session for distribution by the journal clerk to committees, to officers of the House, and to heads of Departments and bureaus.

Mr. SPRINGER. I am instructed also by the Committee on Printing to state that it will require only $233 to print these copies. The additional number of copies are demanded for use by the committees. They have no supply of the book.

Mr. HOLMAN. I ask that the resolution be reported again.

Mr. SPRINGER. It provides for only 250 additional copies, at a cost of $233.

The resolution was adopted.

Mr. SPRINGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CRAPO. I now move that the morning hour be dispensed with.

Mr. RANDALL. There seems to be a disposition on this side to consider the Private Calendar, and I think the bill in charge of the gentleman from Massachusetts had better be allowed to go over with the understanding that it will come up to-morrow.

The SPEAKER. This is a proposition to dispense with the morning hour.

Mr. RANDALL. Which requires a two-thirds vote.

The question being taken on Mr. CRAPO'S motion, there were—ayes 66, noes 53.

So (two-thirds not having voted in favor thereof) the morning hour was not dispensed with.

The SPEAKER. Reports by committees of a private nature are in order.

ADVERSE REPORTS.

Mr. WADSWORTH, from the Committee on Invalid Pensions, reported back with adverse recommendations bills of the following titles; which were severally laid on the table and the accompanying reports ordered to be printed:

A bill (H. R. No. 2794) granting arrears of pension to Elizabeth Reese;

A bill (H. R. No. 3715) granting arrears of pension to Samuel L. Wells; and

A bill (H. R. No. 2537) granting a pension to William T. Brown.

CHANGE OF REFERENCE.

Mr. WADSWORTH also, from the same committee, reported back bills of the following titles, and the committee was discharged from the further consideration of the same, and they were referred to the Committee on Pensions:

A bill (H. R. No. 1125) for the relief of Edward Tattersall;

A bill (H. R. No. 1123) for the relief of Phœbe Meech; and

A bill (H. R. No. 1117) granting a pension to Rebecca E. Haskin.

RICHARD JOBES.

Mr. MATSON, from the Committee on Invalid Pensions, reported a bill (H. R. No. 6181) to increase the pension of Richard Jobes; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ALFRED C. DEATS.

Mr. MATSON also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 5853) for the relief of Alfred C. Deats; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ELIZA M. BASS.

Mr. MATSON also, from the same committee, reported back with amendments the bill (H. R. No. 6008) to restore the name of Eliza M. Bass to the pension-roll; which was referred to the Committee of the Whole House on the Private Calendar, and the amendments and report ordered to be printed.

JOHN R. SMITH.

Mr. MATSON also, from the same committee, reported back with amendments the bill (H. R. No. 4992) for the relief of John R. Smith; which was referred to the Committee of the Whole House on the Private Calendar, and the amendments and report ordered to be printed.

SAMUEL HORNER.

Mr. MATSON also, from the same committee, reported back with a favorable recommendation the bill (S. No. 1313) granting a pension to Samuel Horner; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SARAH M. RAMSEY.

Mr. MATSON also, from the same committee, reported adversely the bill (H. R. No. 6064) granting a pension to Sarah M. Ramsey; which was laid on the table, and the accompanying report ordered to be printed.

MARY CRAMER.

Mr. MATSON also, from the same committee, reported adversely the bill (H. R. No. 1436) granting a pension to Mary Cramer; which was laid on the table, and the accompanying report ordered to be printed.

WILLIAM BOONE.

Mr. MATSON also, from the same committee, reported adversely the bill (H. R. No. 291) granting a pension to William Boone.

Mr. COLERICK. I ask that that bill be referred to the Committee of the Whole on the Private Calendar.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and the accompanying adverse report ordered to be printed.

JOHN O. O'NEILL.

Mr. MATSON also, from the same committee, reported adversely the bill (H. R. No. 5505) granting an increase of pension to John O. O'Neill.

Mr. RANDALL. I ask that that bill be referred to the Committee of the Whole on the Private Calendar.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and the accompanying adverse report ordered to be printed.

SUSAN M. HOLLAND.

Mr. MATSON also, from the same committee, reported adversely the bill (H. R. No. 931) granting a pension to Susan M. Holland; which was laid on the table, and the accompanying report ordered to be printed.

CHANGE OF REFERENCE.

Mr. MATSON also, from the same committee, reported back the following bills, and the committee were discharged from their further consideration, and the same were referred to the Committee on Pensions:

A bill (H. R. No. 1404) granting a pension to Theodore Artz; and

A bill (H. R. No. 2776) granting a pension to John Mousley.

ALGER J. BALDWIN.

Mr. JOYCE, from the Committee on Invalid Pensions, reported back with a favorable recommendation the bill (H. R. No. 3126) granting a pension to Alger J. Baldwin; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LIZZIE M. MITCHELL.

Mr. CULLEN, from the Committee on Invalid Pensions, reported back with a favorable recommendation the bill (H. R. No. 3581) granting a pension to Mrs. Lizzie M. Mitchell; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ELIZABETH LEEBRICK.

Mr. CULLEN also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 219) for the relief of Elizabeth Leebrick; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

CORNELIUS FITZGERALD.

Mr. CULLEN also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 3582) to reinstate Cornelius Fitzgerald on the pension-roll; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

RUFUS BARKER.

Mr. CULLEN also, from the same committee, reported back the bill (H. R. No. 4803) for the relief of Rufus Barker, and moved that the committee be discharged from its further consideration and that the same be referred to the Committee on Pensions.

The motion was agreed to.

MARTHA ALLEN LACHMAN.

Mr. DAWES, from the Committee on Invalid Pensions, reported adversely the bill (H. R. No. 5129) granting a pension to Martha Allen Lachman; which was laid on the table, and the accompanying report ordered to be printed.

ANGUS M'AULEY.

Mr. WEBBER, from the Committee on Pensions, reported back with a favorable recommendation the bill (S. No. 230) granting a pension to Angus McAuley; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ELIZABETH GRAY.

Mr. BURROWS, of Missouri, from the Committee on Pensions, reported back with a favorable recommendation the bill (S. No. 1401) granting a pension to Elizabeth Gray; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

AGNES W. AND SARAH J. HILLS.

Mr. RANNEY, from the Committee on War Claims, reported, as a substitute for House bill No. 692, for the relief of Sarah J. Hills, and House bill No. 843, for the relief of Agnes W. Hills, a bill (H. R. No. 6182) for the relief of Agnes W. and Sarah J. Hills; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PAYMENT OF CERTAIN AWARDS.

Mr. RANNEY also, from the same committeee, reported a bill (H. R. No. 6183) for the payment of certain awards in favor of the parties therein named; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. RANNEY also, from the same committee, reported adversely upon the following; which were laid upon the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 600) for the relief of Ralph P. Miller; and

The petition of Mrs. Emer G. Abbot.

JOHN M. HIGGINS.

Mr. GEDDES, from the Committee on War claims, reported back with a favorable recommendation the bill (H. R. No. 3411) for the relief of John M. Higgins; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JULIA A. NUTT.

Mr. GEDDES also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 849) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MATTHEW COOK.

Mr. KLOTZ, from the Committee on the District of Columbia, reported back adversely the petition of Matthew Cook for relief from damages against lot 15, square 529, caused by change of grade; which was laid on the table, and the accompanying report ordered to be printed.

CHANGES OF REFERENCE.

Mr. BROWNE, from the Committee on Invalid Pensions, reported back bills of the following titles; which were referred to the Committee on Military Affairs:

A bill (H. R. No. 979) for the relief of the soldiers of Company F, Fourteenth Missouri Cavalry Regiment; and

A bill (H. R. No. 5493) for the relief of Susan R. Gassaway.

Mr. BROWNE also, from the same committee, reported back bills of the following titles; which were referred to the Committee on Pensions:

A bill (H. R. No. 1495) for the relief of William H. Deery;

A bill (H. R. No. 2601) granting an increase of pension to Francis Van Swarttaun; and

A bill (H. R. No. 830) for the relief of citizens who were engaged in the suppression of the Sioux Indian war in Minnesota in 1862.

Mr. BROWNE also, from the same committee, reported back bills of the following titles; which were referred to the Select Committee on the Payment of Pensions, Bounty, and Back Pay:

A bill (H. R. No. 5934) granting increase of pensions to maimed soldiers, sailors, and marines of the United States for injuries received during the rebellion;

A bill (H. R. No. 5935) to pension officers, soldiers, sailors, and marines who were confined in confederate prisons, and for other purposes;

A bill (H. R. No. 1728) to extend the operation of chapters 23 and 187 of the acts of the third session of the Forty-fifth Congress to the widows and orphans of soldiers who may have died while in the service or in consequence of wounds received or disease contracted by such soldiers in the service of the United States during the late war of the rebellion;

A bill (H. R. No. 2226) to increase the rate of pension of those who have lost one limb, and are permanently and totally disabled from manual labor in the other, to $50 per month;

A bill (H. R. No. 914) to provide for the payment of arrears of pensions to the widows and minor heirs of persons who died in the United States service during the late war of the rebellion, or who have since died from wounds or injuries received or contracted in such service;

A bill (H. R. No. 11) to amend an act commonly known as "the arrears of pensions act," approved January 25, 1879;

A bill (H. R. No. 995) granting pensions to certain Union soldiers and sailors of the late war of the rebellion who were confined in so-called confederate prisons;

A bill (H. R. No. 1848) to extend the provisions of the act of Congress entitled "An act for the relief of certain pensioners," approved March 3, 1879, to certain other pensioners;

A bill (H. R. No. 314) regulating proof of disability of soldiers applying for pension when such disability was received in prison;

A bill (H. R. No. 4036) to increase pensions in certain cases;

A bill (H. R. No. 1016) for the protection of pensioners;

A bill (H. R. No. 1289) granting pensions to certain citizens of the United States; and

A bill (H. R. No. 943) to amend an act entitled "An act granting pensions to the widows, children, dependent mothers and fathers, or orphan brothers and sisters of those soldiers who were killed by guerrillas at Centralia, Missouri, in 1864.

L. A. MORRIS.

Mr. MANNING, from the Committee on the Judiciary, reported back with a favorable recommendation the bill (H. R. No. 2158) for the relief of L. A. Morris; which was referred to the Committee of the Whole House on the Private Calendar, and the accompaning report ordered to be printed.

LOUIS GROVERMAN.

Mr. HEWITT, of Alabama, from the Committee on Pensions, reported back with a favorable recommendation the bill (H. R. No. 2554) granting a pension to Louis Groverman; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of committees is now concluded.

Mr. CRAPO. I now call up for consideration the special order, House bill No. 4167, to enable national banking associations to extend their corporate existence.

Mr. RANDALL. Mr. Speaker, to-day being Friday is appropriated under the rules to the consideration of private business. The bill which the gentleman from Massachusetts [Mr. CRAPO] desires to call up is a continuing order. On two or three successive Fridays the consideration of private business has been dispensed with, and there is a desire that to-day be devoted to the consideration of bills on the Private Calendar. Under the circumstances, as the bill which the gentleman from Massachusetts wishes to bring up will hold its place as a special order to-morrow, I submit that the motion for its consideration now should not prevail. I believe that under the practice a two-thirds vote has been required to dispense with private business on Friday.

The SPEAKER. The gentleman from Massachusetts is recognized to call up the special order.

Mr. RANDALL. I raise the question of consideration.

The SPEAKER. The question is, will the House proceed to the consideration of the special order, House bill No. 4167, to enable national banking associations to extend their corporate existence?

Mr. CRAPO. I understand that on this question a majority vote only is required.

Mr. RANDALL. But it is an evasion of the two-thirds rule.

The SPEAKER. The Chair thinks that the special order indicated is now in order, but it may be antagonized by the question of consideration. The question is on proceeding to the consideration of the special order named.

The House divided; and there were—ayes 77, noes 16.

Mr. RANDALL. No quorum.

The SPEAKER ordered tellers, and appointed Mr. RANDALL and Mr. CRAPO.

The House again divided; and the tellers reported—ayes 73, noes 17.

Mr. ROBESON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 116, nays 16, not voting 159; as follows:

YEAS—116.

Aldrich,	Darrall,	Hill,	Peelle,
Anderson	Dawes,	Hiscock,	Peirce,
Barr,	Deering,	Hoge,	Ranney,
Bayne,	De Motte,	Horr,	Ray,
Beach,	Dingley,	Houk,	Reed,
Belford,	Dowd,	Humphrey,	Rice, John B.
Bliss,	Ellis,	Kelley,	Rice, William W.
Brewer,	Ermentrout,	Ketcham,	Rich,
Briggs,	Errett,	Lacey,	Richardson, D. P.
Browne,	Farwell, Chas. B.	Lord,	Richardson, Jno. S.
Buck,	George,	Lynch,	Ritchie,
Burrows, Julius C.	Grout,	Mason,	Robeson,
Camp,	Guenther,	McClure,	Robinson, Geo. D.
Campbell,	Hall,	McCoid,	Robinson, James S.
Candler,	Hardenbergh,	Miles,	Ryan,
Cannon,	Hardy,	Miller,	Scoville,
Carpenter,	Harmer,	Moore,	Scranton,
Caswell,	Harris, Henry S.	Morey,	Sherwin,
Chace,	Haskell,	Norcross,	Shultz,
Converse,	Heilman,	O'Neill,	Skinner,
Crapo,	Henderson,	Page,	Smith, A. Herr
Cullen,	Hepburn,	Parker,	Smith, Dietrich C.
Cutts,	Hewitt, Abram S.	Payson,	Spaulding,
Speer,	Thomas,	Van Horn,	Watson,
Spooner,	Thompson, Wm. G.	Van Voorhis,	Webber,
Steele,	Townsend, Amos	Wadsworth,	West,
Stone,	Tyler,	Wait,	White,
Strait,	Valentine,	Walker,	Williams, Chas. G.
Taylor,	Van Aernam,	Ward,	Willits.

NAYS—16.

Burrows, Jos. H.	Haseltine,	Leedom,	Rice, Theron M.
Cassidy,	Holman,	Muldrow,	Townshend, R. W.
Cox, William R.	House,	Murch,	Turner, Oscar
Dunn,	Jones, George W.	Neal,	Willis.

NOT VOTING—159.

Aiken,	Davis, Lowndes H.	Jorgensen,	Robertson,
Armfield,	Deuster,	Joyce,	Robinson, Wm. E.
Atherton,	Dezendorf,	Kasson,	Rosecrans,
Atkins,	Dibble,	Kenna,	Ross,
Barbour,	Dibrell,	King,	Russell,
Belmont,	Dugro,	Klotz,	Scales,
Beltzhoover,	Dunnell,	Knott,	Shackelford,
Berry,	Dwight,	Ladd,	Shallenberger,
Bingham,	Evins,	Latham,	Shelley,
Black,	Farwell, Sewell S.	Le Fevre,	Simonton,
Blackburn,	Finley,	Lewis,	Singleton, Jas. W.
Blanchard,	Fisher,	Lindsey,	Singleton, Otho R.
Bland,	Flower,	Manning,	Smith, J. Hyatt
Blount,	Ford,	Marsh,	Sparks,
Bowman,	Forney,	Martin,	Springer,
Bragg,	Frost,	Matson,	Stephens,
Brumm,	Fulkerson,	McCook,	Stockslager,
Buchanan,	Garrison,	McKenzie,	Talbott,
Buckner,	Geddes,	McKinley,	Thompson, P. B.
Butterworth,	Gibson,	McLane,	Tillman,
Cabell,	Godshalk,	McMillin,	Tucker,
Caldwell,	Gunter,	Mills,	Turner, Henry G.
Calkins,	Hammond, John	Money,	Updegraff, J. T.
Carlisle,	Hammond, N. J.	Morrison,	Updegraff, Thomas
Chapman,	Harris, Benj. W.	Morse,	Upson,
Clardy,	Hatch,	Mosgrove,	Urner,
Clark,	Hawk,	Moulton,	Vance,
Clements,	Hazelton,	Mutchler,	Warner,
Cobb,	Herbert,	Nolan,	Washburn,
Colerick,	Herndon,	Oates,	Wellborn,
Cook,	Hewitt, G. W.	Orth,	Wheeler,
Cornell,	Hoblitzell,	Pacheco,	Whitthorne,
Cox, Samuel S.	Hooker,	Paul,	Williams, Thomas
Covington,	Hubbell,	Pettibone,	Wilson,
Cravens,	Hubbs,	Phelps,	Wise, George D.
Crowley,	Hutchins,	Phister,	Wise, Morgan R.
Culberson,	Jacobs,	Pound,	Wood, Benjamin
Curtin,	Jadwin,	Prescott,	Wood, Walter A.
Davidson,	Jones, James K.	Randall,	Young.
Davis, George R.	Jones, Phineas	Reagan,	

During the roll-call the following additional pairs were announced from the Clerk's desk:

Mr. LADD with Mr. JOYCE.

Mr. WAIT with Mr. KENNA.

Mr. PHISTER with Mr. WASHBURN.

Mr. BLANCHARD with Mr. LEWIS.

Mr. ATHERTON with Mr. SHELLEY.

Mr. WAIT. Is there a quorum without my vote?

The SPEAKER. There is not.

Mr. WAIT. I shall vote to make a quorum, as I reserved that right.

Mr. RANDALL moved to dispense with the reading of the names.

Mr. PARKER. I have a standing pair with Mr. SIMONTON, but the right was reserved to vote to make a quorum. I have therefore voted.

The SPEAKER. On this vote there are—ayes 116, noes 16.

Mr. RANDALL. No quorum has voted.

Mr. ROBESON. I move that there be a call of the House.

The motion was agreed to.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Armfield,	Farwell, Sewell S.	Lewis,	Russell,
Atkins,	Fisher,	Marsh,	Shallenberger,
Belmont,	Ford,	Martin,	Shelley,
Beltzhoover	Frost,	McCook,	Simonton,
Black,	Godshalk,	McKinley,	Smith, J. Hyatt
Bragg	Hammond, John	Morse,	Sparks,
Calkins,	Harris, Benj. W.	Mosgrove,	Stephens,
Candler,	Hawk,	Moulton,	Townsend,
Cannon,	Herndon,	Nolan,	Updegraff, J. T.
Cornell,	Horr,	Oates,	Updegraff, Thos.
Cox, Samuel S.	Hubbs,	Orth,	Upson,
Covington,	Jones, Phineas	Page,	Vance,
Crowley,	Jorgensen,	Paul,	Ward,
Davidson,	Joyce,	Pettibone,	Washburn,
Davis, George R.	Kasson,	Phelps,	Wheeler,
Deuster,	Kenna,	Pound,	Wilson,
Dezendorf,	King,	Prescott,	Wise, George D.
Dibble,	Knott,	Reagan,	Wood, Benjamin
Dibrell,	Ladd,	Robinson, Wm. E.	Wood, Walter A.
Dunnell,	Latham,	Ross,	Young.

Mr. ROBESON. Has the call disclosed the presence of a quorum?

The SPEAKER. Two hundred and eleven members have answered to their names; which is more than a quorum.

Mr. ROBESON. As it is apparent there is a quorum now present I move to dispense with all further proceedings under the call.

The motion was agreed to.

The SPEAKER. The question again recurs on proceeding to the consideration of the special order called up by the gentleman from

Massachusetts, [Mr. CRAPO,] on which the yeas and nays have been ordered.

The question was taken; and there were—yeas 104, nays 8, not voting, 179; as follows:

YEAS—104.

Aldrich,	Dwight,	McCold,	Scranton,
Anderson,	Ellis,	McLane,	Sherwin,
Barr,	Errett,	Miles,	Shultz,
Bayne,	Farwell, Chas. B.	Moore,	Skinner,
Bingham,	Flower,	Morey,	Smith, A. Herr
Bliss,	Grout,	Neal,	Smith, Dietrich C.
Bowman,	Guenther,	Norcross,	Spaulding,
Brewer,	Hall,	O'Neill,	Spooner,
Briggs,	Harmer,	Pacheco,	Steele,
Browne,	Haskell,	Parker,	Stone,
Buck,	Heilman,	Payson,	Strait,
Burrows, Julius C.	Henderson,	Peelle,	Taylor,
Butterworth,	Hepburn,	Peirce,	Thomas,
Campbell,	Hewitt, Abram S.	Ranney,	Tyler,
Cannon,	Hill,	Ray,	Valentine,
Carpenter,	Hiscock,	Reed,	Van Aernam,
Caswell,	Houk,	Rice, John B.	Van Horn,
Chace,	Humphrey,	Rice, William W.	Van Voorhis,
Crapo,	Jacobs,	Rich,	Wadsworth,
Cullen,	Jadwin,	Richardson, D. P.	Wait,
Cutts,	Ketcham,	Ritchie,	Walker,
Darrall,	Lacey,	Robeson,	Watson,
Dawes,	Lord,	Robinson, Geo. D.	Webber,
Deering,	Lynch,	Robinson, James S.	White,
De Motte,	Mason,	Ryan,	Williams, Chas. G.
Dingley,	McClure,	Scoville,	Willits.

NAYS—8.

Brumm,	Dunn,	Jones, George W.	Singleton, Jas. W.
Burrows, Jos. H.	Haseltine,	Rice, Theron M.	Townshend, R. W.

NOT VOTING—179.

Aiken,	Dezendorf,	Joyce,	Robinson, Wm. E.
Armfield,	Dibble,	Kasson,	Rosecrans,
Atherton,	Dibrell,	Kelley,	Ross,
Atkins,	Dowd,	Kenna,	Russell,
Barbour,	Dugro,	King,	Scales,
Beach,	Dunnell,	Klotz,	Shackelford,
Belford,	Ermentrout,	Knott,	Shallenberger,
Belmont,	Evins,	Ladd,	Shelley,
Beltzhoover,	Farwell, Sewell S.	Latham,	Simonton,
Berry,	Finley,	Leedom,	Singleton, Otho R.
Black,	Fisher,	Le Fevre,	Smith, J. Hyatt
Blackburn,	Ford,	Lewis,	Sparks,
Blanchard,	Forney,	Lindsey,	Speer,
Bland,	Frost,	Manning,	Springer,
Blount,	Fulkerson,	Marsh,	Stephens,
Bragg,	Garrison,	Martin,	Stockslager,
Buchanan,	Geddes,	Matson,	Talbott,
Buckner,	George,	McCook,	Thompson, P. B.
Cabell,	Gibson,	McKenzie,	Thompson, Wm. G.
Caldwell,	Godshalk,	McKinley,	Tillman,
Calkins,	Gunter,	McMillin,	Townsend, Amos
Camp,	Hammond, John	Miller,	Tucker,
Candler,	Hammond, N. J.	Mills,	Turner, Henry G.
Carlisle,	Hardenbergh,	Money,	Turner, Oscar
Cassidy,	Hardy,	Morrison,	Updegraff, J. T.
Chapman,	Harris, Benj. W.	Morse,	Updegraff, Thomas
Clardy,	Harris, Henry S.	Mosgrove,	Upson,
Clark,	Hatch,	Moulton,	Urner,
Clements,	Hawk,	Muldrow,	Vance,
Cobb,	Hazelton,	Murch,	Ward,
Colerick,	Herbert,	Mutchler,	Warner,
Converse,	Herndon,	Nolan,	Washburn,
Cook,	Hewitt, G. W.	Oates,	Wellborn,
Cornell,	Hoblitzell,	Orth,	West,
Cox, Samuel S.	Hoge,	Page,	Wheeler,
Cox, William R.	Holman,	Paul,	Whitthorne,
Covington,	Hooker,	Pettibone,	Williams, Thomas
Cravens,	Horr,	Phelps,	Willis.
Crowley,	House,	Phister,	Wilson,
Culberson,	Hubbell,	Pound,	Wise, George D.
Curtin,	Hubbs,	Prescott,	Wise, Morgan R.
Davidson,	Hutchins,	Randall,	Wood, Benjamin
Davis, George R.	Jones, James K.	Reagan,	Wood, Walter A.
Davis, Lowndes H.	Jones, Phineas	Richardson, Jno. S.	Young.
Deuster,	Jorgensen,	Roberston,	

During the roll-call,

Mr. HISCOCK said: I desire to inquire of gentlemen on the other side if it will be agreeable to them that the bank-charter-extension bill shall be taken up immediately after the reading of the Journal to-morrow morning?

Mr. ROBESON. Why not go on with it now?

Mr. HUTCHINS. A week ago, when the Private Calendar was dispensed with, it was agreed that we should go on with it to-day; and I believe in carrying out that agreement. I am in favor of taking up the bank bill the first thing to-morrow morning.

Several members demanded the regular order.

The Clerk resumed the calling of the roll.

Mr. BROWNE. I rise to a point of order. There is so much disorder in the House that we cannot hear the Democratic side respond to their names.

Mr. RANDALL. The disorder is on the other side.

Mr. HISCOCK. I desire to inquire of the gentleman having the bill——

Mr. ROBESON. Regular order.

The SPEAKER. The Chair will state that the roll cannot be interrupted in this manner. The Clerk will proceed to call the roll.

The Clerk resumed and concluded the roll-call, as above.

Mr. BOWMAN. I am paired with Mr. MORSE, but the understanding is that I can vote on all questions where he would have voted in the same way. Therefore I have voted on this question.

The following additional pairs were announced:

Mr. URNER with Mr. COVINGTON.

Mr. PHISTER with Mr. WASHBURN.

Mr. BELFORD. I ask consent to record my name on this call. I will state that I was in the House and waited to hear my name called, desiring to vote, but I was unable to hear it.

Mr. RANDALL. The rule is very explicit.

The SPEAKER. The Chair thinks that on the statement of the gentleman that he was in his seat, and that his name was not called——

Mr. VALENTINE. He says he was in the House; he could not hear his name called.

Mr. RANDALL. The gentleman has not said so.

Mr. BELFORD. If I was allowed to vote I should vote in the affirmative. I did not near my name called.

Mr. RANDALL. I suggest then that the Clerk raise his voice a little, so that the names of members can be heard.

Mr. ROBESON. I move that the reading of the names be dispensed with by unanimous consent.

Mr. RANDALL. I made that motion a short time ago as to another matter, but it did not bear any fruit. Now I object.

Mr. VAN VOORHIS. I make the point of order that the gentleman from Pennsylvania is not here, and has no right to say any thing.

The result of the vote was then announced as above recorded.

Mr. RANDALL. No quorum has voted.

Mr. VAN VOORHIS. I hope the gentleman from Pennsylvania, to use his own words the other day, will not try to coerce the House.

Mr. RANDALL. This is in a good cause. The gentleman was then out of order.

Mr. ATHERTON. I want to state that I was paired on this vote with the gentleman from Tennessee, [Mr. PETTIBONE.] That pair has not been announced. I hope the statement will go into the RECORD.

The SPEAKER. Pairs are only announced once each day.

Mr. ATHERTON. I was not paired with him on the other vote, but with another gentleman. This pair has not been announced heretofore.

Mr. ROBESON. I desire unanimous consent to ask the gentlemen on the other side of the House, who, under the Constitution, have the power to stop public business in this way, what they propose we shall now do with the public business?

Mr. RANDALL. We desire to proceed according to the rules to consider the Private Calendar, the consideration of which is fixed for to-day.

Mr. ROBESON. I want to make a suggestion.

Mr. TOWNSHEND, of Illinois. Debate is out of order. I call for the regular order.

Mr. ROBESON. I want to make a suggestion, not an argument.

Mr. TOWNSHEND, of Illinois. We cannot have any understanding that will cut off the consideration of the Private Calendar.

Mr. HISCOCK. I hope the gentleman from Illinois will yield for a suggestion from the gentleman from New Jersey.

Mr. MURCH. I move that the House do now adjourn.

Mr. TOWNSHEND, of Illinois. Regular order.

Mr. ROBESON. I ask unanimous consent.

Mr. TOWNSHEND, of Illinois. I object to any debate.

Mr. ROBESON. I desire to make only a suggestion. I do not wish to debate. Does the gentleman refuse to do the business set down for to-day and refuse also to hear a suggestion?

Mr. TOWSHEND, of Illinois. Let us have the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Maine, that the House do now adjourn.

Mr. BURROWS, of Michigan. Pending that, I move that we take a recess until 7.30 o'clock this evening, for the purpose of considering the Private Calendar.

Mr. TOWNSHEND, of Illinois. Why not consider it now?

Mr. RANDALL. With the understanding——

Mr. ROBESON. I object to debate unless we are allowed to be heard on our side——

Mr. TOWNSHEND, of Illinois. Let us have the regular order, then.

The SPEAKER. The regular order is the motion of the gentleman from Maine that the House do now adjourn. That motion is in order.

Mr. MURCH. I want to say——

The SPEAKER. The motion is not debatable. If the gentleman insists upon the motion the Chair must submit it.

Mr. MURCH. I insist upon it.

Mr. ROBESON. The gentleman from Michigan [Mr. BURROWS] made a motion pending the motion to adjourn. Is that motion in order?

The SPEAKER. The motion to adjourn is in order first.

The question was taken, and it was decided in the negative.

Mr. MURCH. I demand the yeas and nays on the motion to adjourn.

The yeas and nays were not ordered, twenty members only voting in favor thereof.

So the House refused to adjourn.

Mr. ROBESON. I now renew the motion of the gentleman from Michigan, that the House take a recess until seven o'clock for the purpose of then considering pension cases——

Mr. RANDALL. Till half-past seven.

Mr. ROBESON. Till half past seven this evening, to proceed with business on the Private Calendar.

Mr. TOWNSHEND, of Illinois. All right.

Mr. RANDALL. No, Mr. Speaker, I object.

Mr. ROBESON. I want to see whether gentlemen on the other side want delay on the Private Calendar as well as the public?

Mr. RANDALL. We want to go on now and to-night both.

Mr. ROBESON. We want to go on now with the regular business which has been fixed for to-day by a two-thirds vote, which suspended the Private Calendar and devoted the day to the national-bank bill.

Mr. RANDALL. Private business is what is fixed for to-day.

Mr. ROBESON. If gentlemen want to delay the public business of this House let them say so, not seek to do it under cover of a device to pass private claims they would not pass if they got at them.

Mr. RANDALL. We will take all the responsibility for our action.

The SPEAKER. The Chair will state that by prior order of the House this evening is set aside for invalid pension and pension cases.

Mr. RANDALL. Does not that order provide for a recess at half past four o'clock?

The SPEAKER. It does.

Mr. RANDALL. Very well; we will jog along till that time.

Mr. REED. Yes, jog along. The Democrats want private business; we want public business.

Mr. VALENTINE. They will jog along in the usual Democratic way. There has been too much business done this week for them.

Mr. ROBESON. I withdraw my motion, and move now that there be a call of the House.

The question being taken on Mr. ROBESON's motion, there were—ayes 28, noes 63.

So the motion was not agreed to.

Mr. BLAND. I move that the House do now adjourn.

Mr. TOWNSHEND, of Illinois. Oh, no; let us rather take a recess.

The question being taken on Mr. BLAND's motion, it was not agreed to.

Mr. BUCKNER. I move that the House take a recess until half past seven o'clock.

The question being taken on a division by sound, the Speaker stated that the "noes" seemed to have it.

Mr. RANDALL. I call for a division.

The House divided; and there were—ayes 42, noes 62.

So the motion was not agreed to.

Mr. ROBESON. I believe that under a standing order of the House at half past four o'clock to-day a recess will be taken until half past seven o'clock for the consideration of pension bills this evening. I move that the House take a recess until half past four o'clock.

Mr. BRIGGS. I desire to make a statement.

Mr. RANDALL. Why not go on with the Private Calendar now.

Mr. ROBESON. Because we have public business which has been ordered for consideration to-day by a two-thirds vote of the House which gentlemen on the other side are now opposing by these filibustering proceedings. Is it delay on the bank bill or general delay that they want?

PERSONAL EXPLANATION.

Mr. HUBBELL. I rise to a question of personal explanation.

The SPEAKER. The House will be in order before any gentleman is heard. Gentlemen will resume their seats.

Mr. HUBBELL. I wish to state that just as the House was about to vote on the bill relating to the distribution of the Geneva award the gentleman from Tennessee, Mr. MCMILLIN, came to me and desired to pair me with the gentleman from Pennsylvania, Mr. ERMENTROUT. I assented. It appears Mr. MCMILLIN supposed Mr. ERMENTROUT had left the city, whereas he had not left, and voted on the bill.

Mr. RANDALL. He ought to withdraw his vote.

Mr. HUBBELL. I make no point on that, because it was a misunderstanding. But I desire to say that but for the circumstance I have stated, I should have voted in the negative.

ORDER OF BUSINESS.

Mr. BLAND. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BLAND. According to my recollection, the last vote showed there was no quorum.

The SPEAKER. It did.

Mr. BLAND. That being the case, the only motions in order are a motion to adjourn and a motion for a call of the House; and no business can be transacted.

The SPEAKER. The Chair does not think any business has been transacted.

Mr. BLAND. A motion for a recess has been entertained. I move that the House adjourn.

Mr. HISCOCK. I desire to make a statement. The gentleman from Missouri [Mr. HATCH] has charge of a special order, popularly known as the pleuro-pneumonia bill. I ask unanimous consent that the House proceed to the consideration of that special order.

Mr. ROBESON. All right; we are willing to do that. That is getting on with the public business.

Mr. VALENTINE. I hope there will be no objection to that proposition.

Mr. HAZELTON. As this is private bill day, I ask unanimous consent to take a private bill from the Calendar and bring it before the House for consideration.

Mr. HISCOCK. I ask unanimous consent that we proceed to the consideration of the special order in charge of the Agricultural Committee, popularly known, as I have just stated, as the pleuro-pneumonia bill.

Mr. RANDALL. The gentleman cannot antagonize the Private Calendar with that bill.

The SPEAKER. Is there objection to the proposition of the gentleman from New York, [Mr. HISCOCK?]

Mr. MCMILLIN. There is. The private citizens of the United States have rights as well as the cattle afflicted with the pleuro-pneumonia.

Mr. BLAND. I insist there can only be two motions when the absence of a quorum is developed; a motion to adjourn and a motion for a call of the House.

The SPEAKER. Does the gentleman from Missouri make a motion?

Mr. BLAND. I move that the House do now adjourn.

Mr. HAZELTON. What has become of my application?

The SPEAKER. The gentleman's application is not in order. The gentleman from Missouri [Mr. BLAND] moves that the House do now adjourn.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BLAND called for a division.

Mr. ROBESON. I rise to a parliamentary inquiry. If the House should adjourn now, would not that cut off pension business to-night?

The SPEAKER. The House is now dividing upon a motion to adjourn.

The House divided; and there were—ayes 30, noes 67.

Before the result of the vote was announced,

Mr. BLAND called for the yeas and nays.

The yeas and nays were not ordered, there being but 9 in the affirmative, not one-fifth of the last vote.

So the motion to adjourn was not agreed to.

Mr. BLAND. I now make the point of order that no motion can be entertained except for a call of the House or to adjourn, no quorum having voted.

Mr. TOWNSHEND, of Illinois. This bank bill was set down for last Tuesday, not for to-day.

Mr. RYAN. I hope the House will now proceed to the consideration of the pleuro-pneumonia bill.

Mr. VALENTINE. I move that we now proceed to the consideration of the unfinished business, the pleuro-pneumonia bill.

Mr. RANDALL. And we antagonize that with the Private Calendar.

Mr. VALENTINE. The gentleman has the right to antagonize it, but I make the motion.

Mr. RANDALL. And I object in the interest of the Private Calendar.

Many MEMBERS. Regular order!

The SPEAKER. The question before the House is, Will the House now proceed with the consideration of the special order called up by the gentleman from Massachusetts, [Mr. CRAPO?] That is the question before the House raised by the gentleman from Pennsylvania, [Mr. RANDALL,] who antagonizes the call for the special order with the Private Calendar. On the last vote no quorum appeared. The yeas and nays having been ordered on that question, and no other motion in order being made, the Chair will again direct the Clerk to call the roll on the question of consideration raised by the gentleman from Pennsylvania, [Mr. RANDALL,] which question is, Will the House now proceed to consider the special order, being the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence?

Mr. TOWNSHEND, of Illinois. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. For what day was that bill set down as the special order?

The SPEAKER. It was set down as a special order for the 9th day of May.

Mr. TOWNSHEND, of Illinois. That was last Tuesday, was it not? It was not set down for to-day as the special order.

The SPEAKER. It was made a special order for the 9th day of May, and to continue from day to day until disposed of. For that reason it is the special order for to-day.

Mr. RYAN. If it is in order, I move that the House now take a recess until half past seven this evening.

The motion was not agreed to.

Many MEMBERS. Regular order!

The SPEAKER. The regular order is a call of the roll on the question of consideration raised by the gentleman from Pennsylvania [Mr. RANDALL] against the special order called up by the gentleman from Massachusetts, [Mr. CRAPO.]

Mr. BLAND. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BLAND. I understood that the last roll-call showed no quorum voting. In that case no motion is in order except a motion to adjourn and a motion for a call of the House.

The SPEAKER. The House has refused to order a call, has refused to adjourn, and has refused to take a recess. The Chair therefore directs the roll to be again called, the former call failing because no quorum voted.

Mr. TOWNSHEND, of Illinois. A call of the House was ordered.

The SPEAKER. The gentleman is mistaken.

Mr. TOWNSHEND, of Illinois. Over fifteen members voted for a call of the House.

The SPEAKER. And a great many more voted against it.

Mr. TOWNSHEND, of Illinois. Fifteen is enough to order a call.

The SPEAKER. If there were but fifteen members voting, a majority of that number could order a call of the House; but if more than fifteen members vote, a majority of those voting can vote down the call, as the Chair understands the rule and the practice. The Clerk will proceed to call the roll.

The question was again taken; and there were—yeas 97, nays 7, not voting 187; as follows:

YEAS—97.

Aldrich,	Ellis,	McLane	Smith, A. Herr
Anderson,	Errett,	Miles,	Smith, Dietrich C.
Barr,	Farwell, Chas. B.	Moore,	Spaulding,
Bayne,	Farwell, Sewell S.	Morey,	Spooner,
Belford,	Grout,	Norcross,	Steele,
Bingham,	Guenther,	O'Neill,	Stone,
Bliss,	Harmer,	Pacheco,	Strait,
Brewer,	Haskell,	Parker,	Taylor,
Briggs,	Heilman,	Payson,	Thomas,
Browne,	Henderson,	Peelle,	Thompson, Wm. G.
Buck,	Hepburn,	Peirce,	Tyler,
Burrows, Julius C.	Hill,	Ranney,	Valentine,
Campbell,	Hiscock,	Ray,	Van Aernam,
Cannon,	Houk,	Reed,	Van Horn,
Carpenter,	Hubbell,	Rice, John B.	Wadsworth,
Caswell,	Humphrey,	Rice, William W.	Wait,
Chace,	Jacobs,	Rich,	Walker,
Crapo,	Jadwin,	Ritchie,	Watson,
Cullen,	Ketcham,	Robeson,	Webber,
Cutts,	Lacey,	Robinson, Geo. D.	White,
Darrall,	Lord,	Robinson, James S.	Williams, Chas. G.
Dawes,	Lynch,	Ryan,	Willits.
Deering,	Mason,	Scranton,	
De Motte,	McClure,	Shultz,	
Dingley,	McCoid,	Skinner,	

NAYS—7.

Burrows, Jos. H.	Chapman,	Jones, George W.	Robertson.
Cassidy,	Haseltine,	Rice, Theron M.	

NOT VOTING—187.

Aiken,	Dibrell,	Kasson,	Ross,
Armfield,	Dowd,	Kelley,	Russell,
Atherton,	Dugro,	Kenna,	Scales,
Atkins,	Dunn,	King,	Scoville,
Barbour,	Dunnell,	Klotz,	Shackelford,
Beach,	Dwight,	Knott,	Shallenberger,
Belmont,	Ermentrout,	Ladd,	Shelley,
Beltzhoover,	Evins,	Latham,	Sherwin,
Berry,	Finley,	Leedom,	Simonton,
Black,	Fisher,	Le Fevre,	Singleton, Jas. W.
Blackburn,	Flower,	Lewis,	Singleton, Otho R.
Blanchard,	Ford,	Lindsey,	Smith, J. Hyatt
Bland,	Forney,	Manning,	Sparks,
Blount,	Frost,	Marsh,	Speer,
Bowman,	Fulkerson,	Martin,	Springer,
Bragg,	Garrison,	Matson,	Stephens,
Brumm,	Geddes,	McCook,	Stockslager,
Buchanan,	George,	McKenzie,	Talbott,
Buckner,	Gibson,	McKinley,	Thompson, P. B.
Butterworth,	Godshalk,	McMillin,	Tillman,
Cabell,	Gunter,	Miller,	Townsend, Amos
Caldwell,	Hall,	Mills,	Townshend, R. W.
Calkins,	Hammond, John	Money,	Tucker,
Camp,	Hammond, N. J.	Morrison,	Turner, Henry G.
Candler,	Hardenbergh,	Morse,	Turner, Oscar
Carlisle,	Hardy,	Mosgrove,	Updegraff, J. T.
Clardy,	Harris, Benj. W.	Moulton,	Updegraff, Thomas
Clark,	Harris, Henry S.	Muldrow,	Upson,
Clements,	Hatch,	Murch,	Urner,
Cobb,	Hawk,	Mutchler,	Vance,
Colerick,	Hazelton,	Neal,	Van Voorhis,
Converse,	Herbert,	Nolan,	Ward,
Cook,	Herndon,	Oates,	Warner,
Cornell,	Hewitt, Abram S.	Orth,	Washburn,
Cox, Samuel S.	Hewitt, G. W.	Page,	Wellborn,
Cox, William R.	Hoblitzell,	Paul,	West,
Covington,	Hoge,	Pettibone,	Wheeler,
Cravens,	Holman,	Phelps,	Whitthorne,
Crowley,	Hooker,	Phister,	Williams, Thomas
Culberson,	Horr,	Pound,	Willis,
Curtin,	House,	Prescott,	Wilson,
Davidson,	Hubbs,	Randall,	Wise, George D.
Davis, George R.	Hutchins,	Reagan,	Wise, Morgan R.
Davis, Lowndes H.	Jones, James K.	Richardson, D. P.	Wood, Benjamin
Deuster,	Jones, Phineas	Richardson, Jno. S.	Wood, Walter A.
Dezendorf,	Jorgensen,	Robinson, Wm. E.	Young.
Dibble,	Joyce,	Rosecrans.	

Mr. WHITE. I am paired with my colleague, [Mr. KNOTT,] but I vote on this question in order to make a quorum.

The following additional pairs were announced:

Mr. HALL with Mr. TALBOTT.

Mr. MATSON with Mr. BUTTERWORTH.

Mr. RAY. I move that the reading of the names be dispensed with.

Mr. RANDALL. I object.

The names having been read,

The SPEAKER said: On this question the yeas are 98, the nays 7.

Mr. RANDALL. No quorum!

Mr. ROBESON. Mr. Speaker, as gentlemen on the other side of the House are not willing to go on—— [Cries of "Order!"]

Mr. RANDALL. Debate is not in order.

The SPEAKER. Debate is not in order.

Mr. ROBESON. I do not mean to debate anything. Will not gentlemen permit me to say a word?

Mr. HOOKER. Not a word.

Mr. ROBESON. Why the gentleman "bulldozed" this morning until he got ten minutes of public time.

Mr. REED. It was not worth anything to him. [Laughter.]

Mr. ROBESON. Mr. Speaker, inasmuch as we are not able to do any public business to-day, and inasmuch as it is now within fifteen minutes of the time fixed for the recess, I move that the House do now adjourn. [Mr. RANDALL rose.] That motion is not debatable; and I call for the regular order.

The SPEAKER. The gentleman from New Jersey moves that the House adjourn. Pending the motion, the Chair, if there be no objection, will submit a report from the Committee on Enrolled Bills.

Mr. ROBESON. I desire to say that the Committee on Invalid Pensions do not desire a session this evening. [Cries of "No debate!"]

The SPEAKER. Debate is not in order.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, by unanimous consent, reported from the Committee on Enrolled Bills that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 3196) to authorize and direct the Secretary of War to change the name of Charles Alton Howard, a second lieutenant in the Ninth Regiment of Cavalry of the Army of the United States, on the register, rolls, and records of the Army, to Alton Henry Budlong; and

A bill (H. R. No. 4229) to amend the general incorporation law of the District of Columbia.

Mr. TALBOTT, by unanimous consent, reported that the same committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1883, and for other purposes.

ELECTION CONTEST, COOK VS. CUTTS.

The SPEAKER, by unanimous consent, laid before the House additional evidence in the contested-election case of John C. Cook *vs.* M. E. Cutts, from the sixth district of Iowa; which was referred to the Committee on Elections.

FORESTRY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Commissioner of Agriculture, transmitting a report on the subject of forestry; which was referred to the Committee on Agriculture, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. ROBERTSON. Mr. Speaker, I rise to a question of privilege. The other day when the vote was taken on the passage of the bill to enlarge the powers and duties of the Department of Agriculture I was not present. I was under the impression that I was paired on that question with the gentleman from North Carolina, [Mr. SCALES.] He understood that the pair, which had been made on a previous day, lasted only during that day. I do not desire him to withdraw his vote. I merely wish to state that if I had been present I should have voted "ay."

Mr. SCALES. The gentleman from Louisiana [Mr. ROBERTSON] did speak to me on this matter, and said that he was in favor of the bill; but I did not understand that I was asked to pair with him; therefore I voted.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted:

To Mr. CAMP, indefinitely, on account of important business.

To Mr. URNER, for one day, on account of important business.

To Mr. HOBLITZELL, for to-morrow, on account of important business.

To Mr. LINDSEY, indefinitely, on account of sickness.

To Mr. LATHAM, for ten days from and after to-day, on account of important business.

WITHDRAWAL OF PAPERS.

Mr. NEAL, by unanimous consent, obtained leave to withdraw from the files of the House all papers in the case of Charles P. Wannall.

LEAVE TO PRINT.

The SPEAKER. The gentleman from Maine, Mr. MURCH, asks unanimous consent to have printed in the RECORD a petition in relation to the French spoliation claims.

There being no objection, leave was granted. [See Appendix.]

The motion of Mr. ROBESON, that the House adjourn, was then agreed to; and accordingly (at four o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. CASWELL: The petition of John L. Malone and 51 others, citizens of Wisconsin, for the passage of the bill pending for the restoration of fractional currency—to the Committee on Banking and Currency.

By Mr. CLEMENTS: The petition of citizens of Bulloch and of Tatnall Counties, Georgia, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. DUNN: The petition of citizens of Jackson, Lonoke, and White Counties, Arkansas, for an appropriation for educational purposes—severally to the same committee.

By Mr. GIBSON: The petition of citizens of Plaquemine Parish, Louisiana, protesting against closing Atchafalaya River—to the Committee on Commerce.

By Mr. KENNA: Six petitions of citizens of West Virginia, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. LATHAM: Four petitions of citizens of Pamlico County, North Carolina, praying that all appropriations made for educational purposes be distributed on the basis of illiteracy—severally to the same committee.

By Mr. LYNCH: Papers relating to the claim of the Protestant Orphan Asylum of Natchez, Mississippi—to the Committee on War Claims.

By Mr. MILLS: The petition of citizens of Texas, for the construction of a ship-railway across the Isthmus of Tehuantepec—to the Committee on Foreign Affairs.

By Mr. RITCHIE: The petition of W. B. Owen and 35 others, citizens of Delta, Ohio, for Congressional aid for educational purposes—to the Committee on Education and Labor.

Also, the petition of the officers and members of L. S. Holmes Post No. 49 G. A. R., Department of Ohio, for the passage of Senate bill No. 1695 and House bill No. 1410, relating to pensions—to the Committee on Invalid Pensions.

By Mr. SPAULDING: The petition of 36 ex-soldiers of Lansing, Michigan, for the passage of House bill No. 1410, for an increase of pension to soldiers and sailors of the late war who lost an arm or a leg while in the line of duty—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. STRAIT: The petition of John H. Kennedy and others, citizens of Northfield, Minnesota, for an appropriation as asked for by the Commissioner of Pensions for an increase in the clerical force of his bureau—to the Committee on Appropriations.

By Mr. VAN AERNAM: The petition of the Canal Boat Owners' Association of the State of New York, protesting against the passage of a bill now pending relative to limiting the size of tows on the Hudson River—to the Committee on Commerce.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May* 13, 1882.

The House met at eleven o'clock a. m. Prayer by Rabbi Jacob Voorsanger, of Houston, Texas.

The journal of yesterday was read and approved.

TERM OF OFFICE INTERNAL-REVENUE COLLECTORS.

Mr. DUNNELL. Mr. Speaker, I ask, by unanimous consent, that the House Calendar be discharged from the further consideration of the bill (H. R. No. 2415) to fix the term of office of collectors of internal revenue, and that it be considered at the present time.

The SPEAKER. The bill will be read, subject to objection.

The Clerk read the bill, as follows:

Be it enated, &c., That hereafter collectors of internal revenue shall be appointed for a term of four years, and shall continue in office until their successors are appointed and qualified.

SEC. 2. That the commissions of all collectors of internal revenue who shall have served four years or more on the 30th day of June, 1882, shall on and with that date expire: *Provided, however*, That they shall hold after that date until their successors are appointed and qualified.

SEC. 3. That the commissions of all collectors of internal revenue who shall not have served four years on the 30th day of June, 1882, shall expire when they have completed their term of four years: *Provided, however*, That they shall hold after the expiration of that term until their successors are appointed and qualified.

SEC. 4. That all acts and parts of acts inconsistent with this act are hereby repealed.

Mr. BLAND. I must object if it takes up——

Mr. DUNNELL. I hope the gentleman will withhold his objection until the report of the Committee on Ways and Means has been read. It is a unanimous report.

Mr. BLAND. My objection is to unnecessarily taking up time.

Mr. RANDALL. The bill should have some explanation before it is allowed to pass.

Mr. DUNNELL. The report of the Committee on Ways and Means is a short one, and fully explains the necessity for the passage of the bill.

Mr. HUTCHINS. Let us go to the regular order. I demand the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports.

Mr. CRAPO. I move to dispense with the morning hour for to-day.

The motion was agreed to, two-thirds voting in favor thereof.

BUSINESS, POST-OFFICE COMMITTEE.

Mr. SPRINGER. Mr. Speaker, I ask by unanimous consent to offer a resolution for adoption at this time.

The Clerk read as follows:

Resolved, That Tuesday, May 23, after the morning hour, be set apart for the consideration of the following-named bills:

H. R. No. 854. To designate, classify, and fix salaries of persons in railway mail service. (Report No. 412.)

H. R. No. 4443. To amend sections 3 and 4 of act of February 21,1879, to fix the pay of letter-carriers. (Report No. 411.)

H. R. No. 5661. To modify postal money-order system, &c. (Report No. 927.)

H. R. No. 859. Regulating rates of postage on second-class mail matter at letter-carrier offices. (Report No. 126.)

H. R. No. 714. To fix compensation of postmasters of the fourth class. (Report No. 127.)

H. R. No. 4198. To establish a postal savings depository, &c. (Report No. 473.)

In the order that may be indicated by the Committee on the Post-office and Post-Roads; this order not to interfere with the consideration of general appropriation bills, and to continue in force from day to day thereafter until executed.

Mr. RANDALL. I object, and I desire to give my reasons for my objection. This is a continuing order, and under the decision of the Chair——

The SPEAKER. This is not debatable.

Mr. RANDALL. It is a continuing order, and under the decision of the Speaker is a continuing order even on Friday to prevent the consideration of private business.

The SPEAKER. Debate is not in order.

Mr. BINGHAM. We only ask for one day.

Mr. RANDALL. But it is a continuing order.

The SPEAKER. It is not debatable.

Mr. SPRINGER. The gentleman from Pennsylvania was under the impression this business was to be a continuing order from day to day.

Mr. RANDALL. So it is.

Mr. BINGHAM. It is only intended to give these bills one day.

Mr. SPRINGER. I am willing to except Friday.

Mr. RANDALL. It is a continuing order, and the Chair has decided where a continuing order is made it vacates Friday for private business.

Mr. SPRINGER. We will except Friday, because we do not wish to interfere with the private business.

Mr. BINGHAM. The Committee on the Post-Office and Post-Roads simply ask for one day.

Mr. SPRINGER. I modify the resolution, to except Friday.

Mr. HOLMAN. I object if it excepts Friday.

Mr. HUTCHINS. I object, and call for the regular order.

RIVER AND HARBOR BILL.

Mr. PAGE, from the Committee on Commerce, reported a bill (H. R. No. 6184) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was read a first and second time, and, with the accompanying report, ordered to be printed and recommitted.

Mr. ROBINSON, of Massachusetts. I reserve all points of order on that bill.

SILVER CERTIFICATES.

Mr. DINGLEY. Mr. Speaker, I ask by unanimous consent to report back as a substitute for House bill No. 2459 a bill to suspend the issue of silver certificates and to limit the coinage of silver dollars to the requirements of the people.

Several members demanded the regular order of business.

EXTENSION OF NATIONAL BANKS' CHARTERS.

Mr. CRAPO. I now call up the regular order of business.

The SPEAKER. The regular order of business is the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence, and the Clerk will read the bill.

Mr. BUCKNER. I ask that the present reading of the bill be dispensed with.

Mr. RANDALL. It is an important bill, and I think it had better be read.

The SPEAKER. Any member is entitled to have the bill read.

The bill was read, as follows:

Be it enacted, &c., That any national banking association organized under the acts of February 25, 1863, June 3, 1864, and February 14, 1880, or under sections 5133, 5134, 5135, 5136, and 5154 of the Revised Statutes of the United States, may at any time within two years previous to the date of the expiration of its corporate existence under present law, and with the approval of the Comptroller of the Currency, to be granted as hereinafter provided, extend its period of succession

by amending its articles of association for a term of not more than twenty years from the expiration of the period of succession named in said articles of association, and shall have succession for such extended period, unless sooner dissolved by the act of shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law.

SEC. 2. That such amendment of said articles of association shall be authorized by the consent in writing of shareholders owning not less than two-thirds of the capital stock of the association; and the board of directors shall cause such consent to be certified over the seal of the association, by its president or cashier, to the Comptroller of the Currency, accompanied by an application made by the president or cashier for the approval of the amended articles of association by the Comptroller; and such amended articles of association shall not be valid until the Comptroller shall give to such association a certificate under his hand and seal that the association has complied with all the provisions required to be complied with, and is authorized to have succession for the extended period named in the amended articles of association.

SEC. 3. That upon the receipt of the application and certificate of the association provided for in the preceding section, the Comptroller of the Currency may, if he deems it necessary, cause a special examination to be made at the expense of the association to determine its condition; and if after such examination or otherwise it appears to him that said association is in a satisfactory condition, he shall grant his certificate of approval provided for in the preceding section, or if it appears that the condition of said association is not satisfactory he shall withhold such certificate of approval.

SEC. 4. That any association so extending the period of its succession shall continue to enjoy all the rights and privileges and immunities granted and shall continue to be subject to all the duties, liabilities, and restrictions imposed by the Revised Statutes of the United States and other acts having reference to national banking associations, and it shall continue to be in all respects the identical association it was before the extension of its period of succession, with the same rights, immunities, and liabilities.

SEC. 5. That when any national banking association has amended its articles of association as provided in this act, and the Comptroller has granted his certificate of approval, any shareholder not assenting to such amendment may give notice in writing to the directors, within thirty days from the date of the certificate of approval, of his desire to withdraw from said association, in which case he shall be entitled to receive from said banking association the value of the shares so held by him, to be ascertained by an appraisal made by a committee of three persons, one to be selected by such shareholder, one by the directors, and the third by the first two; and in case the value so fixed shall not be satisfactory to any such shareholder he may appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding; and if said reappraisal shall exceed the value fixed by said committee the bank shall pay the expenses of said reappraisal, and otherwise the appellant shall pay said expenses; and the value so ascertained and determined shall be deemed to be a debt due to said shareholder from said bank until paid; and the shares so surrendered and appraised shall, after due notice, be sold at public sale, within thirty days after the final appraisal provided in this section.

SEC. 6. That the circulating notes of any association so extending the period of its succession which shall have been issued to it prior to such extension shall be redeemed at the Treasury of the United States, as provided in section 3 of the act of June 20, 1874, entitled "An act fixing the amount of United States notes, providing for redistribution of national-bank currency, and for other purposes," and such notes when redeemed shall be forwarded to the Comptroller of the Currency and destroyed, as now provided by law; and when the amount of such notes shall be reduced to 5 per cent. of the capital stock of the bank issuing the same the association so extended shall deposit lawful money with the Treasurer of the United States sufficient to redeem all of its outstanding circulation, as provided in sections 5222, 5224, and 5225 of the Revised Statutes; and any gain that may arise from the failure to present such circulating notes for redemption shall inure to the benefit of the United States; and from time to time as such notes are redeemed or lawful money deposited therefor, as provided by law, such notes shall be replaced by new circulating notes bearing such devices, to be approved by the Comptroller of the Currency, as shall make them readily distinguishable from the circulating notes heretofore issued.

SEC. 7. That national banking associations whose corporate existence shall expire, and which do not avail themselves of the provisions of this act, shall be required to comply with the provisions of sections 5221 and 5222 of the Revised Statutes in the same manner as if the shareholders had voted to go into liquidation, as provided in section 5220 of the Revised Statutes; and the provisions of sections 5224 and 5225 of the Revised Statutes shall also be applicable to such associations.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 244) for the relief of Mrs. Almira Farnsworth;

A bill (H. R. No. 967) granting a pension to Martha A. Williamson;

A bill (H. R. No. 2433) granting a pension to William Thomas;

A bill (H. R. No. 3738) to donate iron cannon to the township of Milan, Ohio;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental purposes; and

A bill (H. R. No. 5381) granting an increase of pension to Cecil Clay.

EXTENSION OF NATIONAL-BANK CHARTERS.

Mr. CRAPO rose.

Mr. HOLMAN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOLMAN. I wish to ask whether there is any order as to the amendments which may be offered to this bill?

The SPEAKER. The answer to that question is better made by having the Clerk read the order of the House fixing the assignment of this bill for consideration as a special order. The Clerk will read.

The Clerk read as follows:

Resolved, That the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence be taken from the House Calendar and made the special order for the 9th day of May instant after the morning hour, and from day to day thereafter until disposed of, not to interfere with the consideration of general appropriation and revenue bills; said bill to be considered by the House as in Committee of the Whole, shall be open to amendment, including committee amendments and an amendment restricting the deposit of lawful money and withdrawal of bonds at pleasure; also an amendment in reference to the jurisdiction of State courts where a bank is situated in the trial of suits with citizens of that locality; also in reference to loans upon real-estate security; and such other amendments and restrictions as may be germane to the bill, or entire substitutes therefor.

Mr. HOLMAN. After the gentleman from Massachusetts has been heard the bill will be open to amendments?

The SPEAKER. The bill will be open to amendments at the proper time within the limits of the order of the House.

Mr. BUCKNER. I wish to inquire whether under the rule as understood by the Chair, with reference to the assignment of this business, we will be confined to the rules ordinarily in force in the Committee of the Whole House, or whether we will have the privilege at the request of one-fifth of the members present to have a vote by yeas and nays recorded upon each distinct proposition upon which a vote may be desired?

Mr. RANDALL. That is the constitutional right of the House.

The SPEAKER. The bill is in the House to be considered as in Committee of the Whole House.

Mr. RANDALL. Is it in the House as in the Committee of the Whole?

The SPEAKER. That is the language of the order which has just been read. There is no difficulty as to the manner of proceeding under the rule with the consideration of the bill, but the Chair does not feel called upon to decide any questions in reference to amendments until the proper time shall come.

Mr. RANDALL. That order relates, perhaps, in practice to the free offering of amendments and to debate under the five-minute rule after the closing of the general debate.

The SPEAKER. That is the present opinion of the Chair; but the Chair has already intimated that it does not feel called upon to rule upon questions as to the admissibility of amendments until they shall arise in practice.

Mr. SPRINGER. I desire to ask whether general debate will now continue as in Committee of the Whole until closed by order of the House?

The SPEAKER. General debate is in order at this time.

Mr. SPRINGER. That will continue until closed formally by order of the House?

The SPEAKER. The Chair does not think it necessary to decide that question now.

Mr. SPRINGER. We want to understand clearly, so that there may be no misconception as to when the proper time may come for submitting amendments.

The SPEAKER. There will be undoubtedly a time when it will be in order to offer amendments under the order of the House.

Mr. SPRINGER. If the Chair would indicate whether it would be in order to offer amendments now to be pending——

Mr. CRAPO. I suggest to the gentleman from Illinois that amendments which may be properly in order after the general debate has closed, and which may be offered, be submitted now and printed in the RECORD.

Mr. SPRINGER. There can be no objection to that.

Mr. CRAPO. When the proper time comes these amendments can then be submitted in their order for consideration. Let them be simply printed in the RECORD now for information. I make that request.

The SPEAKER. The Chair is not to understand that these amendments are pending amendments, but simply printed for the notice of the House?

Mr. CRAPO. That is my object.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts, that proposed amendments be printed in the RECORD for information?

There was no objection.

Mr RANDALL. But the good faith of the order would require that the House should permit these amendments to be voted upon where they are substantive amendments and offered in good faith.

Mr. CRAPO. When the bill is read by sections for debate and amendment under the five-minute rule, of course there can be no objection to these amendments being then considered in their order.

The SPEAKER. Undoubtedly a time will come when the amendments may be offered. The Chair understands that they are simply offered for printing and information, however, at this time.

Mr. CRAPO. And may be offered when the bill is being read by sections for consideration.

Mr. RANDALL. Let it be understood that when the bill is read by sections that any amendment which is within the spirit and letter of the order may come up for consideration, subject only to the rules of the House, but not be excluded from consideration simply because more amendments are offered than the rules when strictly enforced permit.

Mr. CRAPO. Certainly, whether the amendments are printed in the RECORD or not.

Mr. RANDALL. That is the understanding, then, that as fast as opportunity is given or as fast as amendments are disposed of, other amendments of a substantive character may be offered and voted upon. With that understanding there is no objection to printing the amendments in the RECORD.

The SPEAKER. The amendments which are now ready to be offered may be sent to the Clerk's desk, and will be printed in the RECORD under the unanimous consent of the House, but not treated as pending amendments until the time comes when they may be offered under the rules of the House.

The following proposed amendment was submitted by Mr. HASELTINE:

Strike out all after the enacting clause and insert the following:

"That all the interest-bearing indebtedness of the United States now due or optional with the Government, and all other interest-bearing indebtedness as it shall hereafter become due, shall be paid in lawful money of the United States.

"SEC. 2. That all money now in the Treasury, and all revenues of the United States Government not otherwise appropriated, shall be applied in payment of the interest-bearing debt.

"SEC. 3. That the Secretary of the Treasury be, and he is hereby, authorized and required to issue non-interest-bearing Treasury notes of the United States of the denominations of one, two, five, ten, twenty, fifty, and one hundred dollars, which shall be made lawful money and a legal-tender at its face value for all taxes, revenues, and debts, public and private, within the United States, which may be necessary in addition to the aforesaid money and revenues to pay the said interest-bearing debt now due, and also the interest-bearing debt now optional with the Government, and all other interest-bearing debts as they shall respectively become due.

"That the Secretary of the Treasury is hereby authorized and required to issue Treasury notes made a full legal tender and lawful money in denominations convenient for currency, and in quantity equal to any contraction which may be caused by the withdrawal of national-bank notes.

"SEC. 4. That all acts and parts of acts in conflict herewith be, and the same are hereby, repealed."

Proposed amendment of House bill No. 4167, as a new section to come in at the end of the bill, by Mr. BUCKNER:

SEC. 8. That section 5191 of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 5191. Every national banking association in either of the following cities, Albany, Baltimore, Boston, Cincinnati, Chicago, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburgh, Saint Louis, San Francisco, and Washington, shall at all times have on hand, in lawful money of the United States, (three-fifths of which shall be in standard gold or silver coins,) an amount equal to at least 30 per cent. of the aggregate amount of its notes in circulation and its deposits; and every other association shall at all times have on hand, in lawful money of the United States, (three-fifths of which shall be in standard gold and silver coins of the United States,) an amount equal to at least 20 per cent. of the aggregate amount of its notes in circulation and of its deposits. Whenever the lawful money of any association in any of the cities named shall be below the amount of 30 per cent. of its circulation and deposits, and whenever the lawful money of any other association shall be below 20 per cent. of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits and its lawful money of the United States in the proportion required as to coin has been restored. And the Comptroller of the Currency may notify any association whose lawful money reserve shall be below the amount and proportion of coin as above required to be kept on hand to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money, and in the proportion aforesaid, the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association, as provided in section 5234: *Provided*, That neither clearing-house certificates nor the balances provided for in section 5192 shall be counted or deemed any portion of the coin reserves required by section ——; and hereafter the circulating notes of all banking associations shall be redeemed at the counters of the respective banking associations, or at the Treasury at Washington, at the option of the holders of such circulating notes, any law to the contrary notwithstanding."

The following proposed amendment, as section 9 of House bill No. 4167, was also submitted by Mr. BUCKNER:

SEC. 9. No national banking association now in existence, or organized hereafter, or whose corporate existence may be continued under the provisions of this act, shall issue any note for circulation of a less denomination than $10, and the maximum amount of bank-note circulation is hereby fixed at the sum thereof outstanding at the passage of this act, and no reduction below that sum shall be permitted, except in cases of involuntary liquidation, and in which the bonds held by the Treasury for the security of such circulation are called for redemption by the Secretary of the Treasury; and in such cases the Secretary of the Treasury is hereby authorized to cause to be printed and engraved Treasury notes of like tenor and effect with the present legal-tender notes in denominations of ten, twenty, fifty, one hundred, and one thousand dollars, which shall be receivable for all dues to the Government and shall be received in all parts of the United States in payment of all salaries, debts, and other demands owing by the United States to individuals, corporations, and associations within the United States, except where some other mode of payment is expressly provided by law or contract; and when the bonds so held shall be withdrawn by any banking association by making a deposit of lawful money sufficient to redeem its outstanding note circulation the said Treasury notes, authorized by this section, shall be paid out by the Treasury in redemption of the notes of such banking associations whose bonds are called for redemption, or which may go into involuntary liquidation, and for no other purpose. Said notes shall be signed by the Treasurer of the United States and countersigned by the Register of the Treasury, or their signatures engraved; and they shall be redeemed in standard gold and silver coin at the office of the assistant treasurer when presented, in sums of not less than $100. And for the purpose of the prompt redemption of said Treasury notes the Secretary of the Treasury shall maintain a redemption fund, in standard gold and silver coin, not exceeding 25 and not less than 15 per cent. of the outstanding issue of said Treasury notes; and in order to obtain said coin redemption fund he is hereby authorized to set aside from accruing surplus revenues from time to time such sums of standard gold and silver coin as, with the redemption fund for the outstanding legal-tender notes now held in the Treasury, will constitute the maximum percentage, above stated, on the aggregate outstanding legal-tender circulation and the Treasury notes in this section authorized; and said Treasury notes may be re-issued as now provided by law as to the legal-tender notes.

The following proposed substitute was submitted by Mr. BUCKNER, for the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the charter of any national banking association is about to expire, or whenever any such association shall, by a vote of its shareholders owning two-thirds of its stock, determine to go into liquidation, and the bonds deposited by such bank to secure its circulation, or any part thereof, shall consist of 5 or 6 per cent. bonds now continued at 3½ per cent. interest, and redeemable at the pleasure of the United States, said association shall make a deposit with the Treasurer of the United States, of lawful money, sufficient to redeem all its outstanding circulation, and the Secretary of the Treasury is hereby authorized to exchange the notes hereinafter authorized for the bonds so held by said banking association at par and accrued interest, or he may exchange the notes aforesaid for standard gold or silver coin, and redeem said bonds with coin; and thereafter the circulating notes of said bank shall be redeemed at the Treasury of the United States, with all the notes hereafter authorized, and when so redeemed said circulating notes shall be canceled and destroyed. And any national banking association whose circulation is secured by bonds of the United States other than those above described, and whose charter is about to expire, or whose stockholders, by a vote of two-thirds thereof in amount, shall determine to go into liquidation, shall proceed, as provided in sections 5221, 5222, 5224, and 5225 of the Revised Statutes, by making a deposit of the notes hereinafter authorized; legal-tender notes, or gold or silver coin, and thereafter the circulating notes of such banking association shall be redeemed at the Treasury with the notes hereinafter authorized, which may be reissued as now provided as to legal-tender notes.

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to cause to be printed and engraved Treasury notes of the United States, to an amount not exceeding the present outstanding national-bank-note circulation, with such devices and inscriptions as he may direct and approve, in denominations of ten, twenty, fifty, one hundred, and one thousand dollars, and which shall be made payable on demand, at the office of the assistant treasurer in the city of New York, in standard gold or silver coin, when presented in sums of not less than $100; and said notes shall be signed by the Treasurer and countersigned by the Register of the Treasury, or their signatures thereto engraved. Said Treasury notes shall be receivable by the United States for all taxes, customs, dues, demands, and claims of the United States and shall be received at par in all parts of the United States in payment for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except where some other mode of payment is expressly provided by law.

SEC. 3. That no national banking association shall hereafter be organized; nor shall any circulating notes be hereafter issued to any bank now organized, except in redemption of mutilated, worn, and defaced notes issued by such banking institutions already organized, and outstanding at the passage of this act; nor shall any existing banking association increase its circulation, or the amount of Treasury notes authorized by this act exceed at any time the amount of national-bank notes outstanding at the passage of this act. And for the purpose of the prompt redemption of said Treasury notes the Secretary of the Treasury shall maintain a redemption fund, in standard gold and silver coin, of not exceeding 25 and not less than 15 per cent. of the outstanding issue of said Treasury notes; and in order to obtain said coin redemption fund he is hereby authorized to set aside from accruing surplus revenues, from time to time, such sums of standard gold and silver coin as with the redemption fund for the outstanding legal-tender notes now held in the Treasury will constitute the maximum percentage above stated on the outstanding legal-tender circulation and the Treasury note circulation hereby authorized.

SEC. 4. That all taxes on bank checks now authorized by law are hereby abolished after the expiration of six months from the passage of this act; and section 5214 of the Revised Statutes, so far as it imposes taxes on the deposits and the capital stock of banking institutions and bankers, is hereby repealed as to all bankers and banks not issuing circulating notes.

Mr. RANDALL. I will submit an amendment relating to the power of the banks to deposit greenbacks and take up bonds. I will furnish it to the Clerk.

The SPEAKER. The gentleman had better submit it in writing.

Mr. RANDALL. I will do so.

The following proposed amendment was submitted by Mr. RANDALL:

And section 4 of the act of June 20, 1874, entitled "An act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes," is hereby amended to the effect that national banks intending to withdraw the whole or any part of the bonds interest upon which has not ceased held by the Treasurer of the United States in trust to secure their circulating notes, and to deposit lawful money in lieu thereof for the purpose of retiring or redeeming their circulation, shall be required, in case of each separate intended withdrawal, to give ninety days' notice of such intention, in writing, to the Comptroller of the Currency; and sections 5159 and 5160 of the Revised Statutes of the United States are hereby re-enacted: *Provided*, That nothing in this act contained shall be so construed as to repeal, modify, or in any manner affect existing provisions of law respecting national banks in process of, or going into, liquidation as contained in sections 5220, 5221, 5222, 5223, or 5224 of the Revised Statutes of the United States, or to prevent the withdrawal, without notice, of bonds interest on which has ceased.

The following proposed amendment was submitted by Mr. HAMMOND, of Georgia:

Amend the fourth section by adding thereto:

"*Provided, however*, That the jurisdiction for suits hereafter brought by or against any association established under any law providing for national banking associations, except suits between them and the United States or its officers and agents, shall be the same as, and not other than, the jurisdiction for suits by or against banks not organized under any law of the United States which do or might do banking business where such national banking association may be doing business when such suits may be begun; and all laws and parts of laws of the United States inconsistent with this proviso be, and the same are hereby, repealed."

The following proposed amendment was submitted by Mr. CULBERSON:

Strike out all after the enacting clause and insert:

"That it shall not be lawful, after the passage of this act, to grant a franchise to any association of persons to carry on the business of banking under said act; nor shall it be lawful to revive, renew, or reorganize any association of persons heretofore organized under said act.

"SEC. 2. That whenever a banking association shall cease to exist under the operation of this act, the Secretary of the Treasury is hereby authorized and required to prepare Treasury notes of denominations suitable for circulation, and in amount equal to notes of such bank. Such Treasury notes shall be receivable for all taxes, excises, and all dues whatsoever to the Government. It shall be the duty of the Secretary of the Treasury from time to time to pay out such notes to the creditors of the Government who may elect to receive the same in payment of their claims at par, and shall from time to time exchange said notes for silver bullion or coined standard dollars, or for any outstanding bonds of the Government, whenever such exchange can be made at par. And when such notes shall be received into the Treasury in payment of dues or other demands, the Secretary of the Treasury shall pay out the same from time to time as there may be demand for them."

The following proposed amendment was submitted by Mr. SCALES, to come in as additional sections:

SEC. —. That all national banking associations chartered and doing business under the laws of the United States in any of the States be, and they are hereby, authorized and empowered to make loans to the amount of one-fourth of their capital and surplus upon the pledge and mortgage of real estate as security there-

for, subject to such conditions as may be required and imposed by the boards of directors of the respective banks, either specially made or expressed in the by-laws which may be adopted for the government of each particular national banking association.

SEC. —. All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

The following proposed substitute was submitted by Mr. BRUMM:

A bill to facilitate the payment of the public debt, and to provide a uniform paper circulation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5224 of the Revised Statutes of the United States be amended by striking out the words "have power to sell," in the tenth line, and inserting the word "cancel;" and by striking out the words "at public auction in," in the eleventh line, the words "New York City," in the twelfth line, and the words "and the necessary expenses of the sale to" in the thirteenth line of said section.

SEC. 2. That any association organized under this act, or any of the acts of which this is an amendment, shall, upon the expiration of its charter, return to the Treasurer of the United States its circulating notes, or make a sufficient deposit of lawful money to redeem its outstanding circulation, whereupon the bonds deposited by the association to secure payment of its notes shall be reassigned to it in the manner prescribed by section 5162; and thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and said notes shall be redeemed and canceled at the Treasury of the United States. And if any such association shall fail to make the deposit and take up its bonds for thirty days after the expiration of its charter, the Comptroller of the Currency shall cancel the bonds pledged for the circulation of said association; and after providing for the redemption and cancellation of said circulation he shall pay over any balance remaining to the association or its legal representatives.

SEC. 3. That from and after the passage of this act the Treasurer shall not be permitted to issue or sell any United States bonds.

SEC. 4. That the Secretary of the Treasury be, and is hereby, authorized and directed to cause to be printed and engraved notes of the United States, in addition to those heretofore authorized, and of the same kind and character as those now in circulation, in denominations of one, two, five, ten, twenty, fifty, and one hundred dollars, to an amount not exceeding the aggregate national-bank-note circulation.

SEC. 5. That it shall be the duty of the Secretary of the Treasury to substitute and pay out the notes hereby authorized, in lieu of the national-bank notes now outstanding and in circulation, as soon as said bank notes are redeemed.

SEC. 6. That for the purpose of carrying into effect the objects of this act the Secretary of the Treasury is authorized to make such rules and regulations as he may deem necessary and proper. And all acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

The following proposed substitute was also submitted by Mr. BRUMM:

A bill to retire national-bank notes, and to substitute therefor Treasury notes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act all notes of national banks which may be received by the Treasury Department, or by any officer thereof, shall be forwarded to the Secretary of the Treasury, at Washington City, who shall retain the same and shall not pay them out again for any purpose whatever, but shall assort them; and whenever the notes of any one bank shall be received to the amount of $1,000 it shall be the duty of the Secretary of the Treasury to immediately notify the officers of such bank, and require them to come forward and lift the bonds of the United States pledged for the redemption of said notes, to an amount equal to the said national-bank notes so held; which notes so redeemed shall be immediately canceled and destroyed by the Secretary, in accordance with the provisions and requirements of existing laws.

SEC. 2. That it shall be the duty of the Secretary of the Treasury, whenever the notes of any national bank to the amount of $1,000 or more shall be canceled and destroyed under the provisions of this act, to cause to be printed and made ready for issue, under the form provided in the law of 1862, and subsequent acts, authorizing the issue of Treasury notes, an amount of Treasury notes exactly equal to the amount of national-bank notes so canceled and destroyed; which said Treasury notes shall be issued and paid out, for any and all demands against the Government of the United States, as fast as may be by law authorized and permitted; and when so issued they shall be held and esteemed a legal tender for all purposes not otherwise previously provided or forbidden by law.

SEC. 3. That it shall be the duty of the Secretary of the Treasury, whenever the amount of Treasury notes issued under authority of this act shall accumulate to the amount of $100,000, to expend the same in the purchase of any of the interest-bearing bonds of the United States which may be authorized by existing laws, and in conformity with their provisions.

SEC. 4. That the Secretary of the Treasury is hereby prohibited, from and after the passage of this act, from receiving on deposit any bonds of the United States as a pledge or security for any further issue of national-bank notes to circulate as currency or money.

SEC. 5. That national-bank notes shall hereafter be received for all dues to the Government of the United States on the same footing as other lawful money.

SEC. 6. That all laws or parts of laws not consistent with this act, or in conflict with it, are hereby repealed.

The following proposed amendment was submitted by Mr. HOLMAN:

Add to the fourth section of the bill the following words:

"*Provided however*, That such association shall not have the right to bring or maintain any action in the circuit court of the United States for the judicial district in which such association shall be established against any citizen of such district, or be liable to any action in such circuit court in favor of such citizen; and every such association shall, in respect to the jurisdiction of the circuit courts of the United States, be deemed a citizen of the State in which the same is established."

The following proposed amendment was submitted by Mr. COX, of North Carolina:

Amendment to come in after line 10, section 3:

"And to prevent a contraction of the currency, whenever any national bank shall fail to renew its charter or continue its business, or whenever any national bank shall withdraw or decrease its circulation, it shall be the duty of the Treasurer of the United States to issue United States Treasury notes of a like quantity and of such denomination as he may deem proper to replace such notes so withdrawn; and no bank after so withdrawing its notes shall have the right to issue others to replace them."

The following proposed amendment was submitted by Mr. BURROWS, of Missouri:

Add:

"SEC. 8. Whenever any banking association organized under the provisions of this act, shall withdraw from circulation their circulating notes, or shall take up their bonds deposited with the Comptroller of the Currency by depositing Treasury notes or those of their own with a view of retiring the same, such association shall not again be permitted to increase the volume of its circulation for a period of twelve months next succeeding the date of such retirement."

The following proposed amendment was submitted by Mr. CANNON:

Provided, That national banks now organized or hereafter organized having a capital of $150,000 or less shall not be required to keep or deposit with the Treasurer of the United States United States bonds in excess of $10,000 as security for their circulating notes, and such of those banks having on deposit bonds in excess of that amount are authorized to reduce their circulation by the deposit of lawful money as provided by law.

The following proposed amendment was submitted by Mr. STOCKSLAGER:

SEC. —. That the circuit and district courts of the United States shall not have jurisdiction of any suit by or against any association established under any law providing for national banking associations, or any law enabling such associations to extend their corporate existence, except where the parties to said suit reside in different States, and except, also, all suits brought by or against any banking association established in the district for which the court is held, under the provisions of title "the national banks," to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided in section 5237 of the Revised Statutes of the United States.

SEC. —. All laws and parts of laws in conflict with the provisions of the foregoing section are hereby repealed.

The following proposed substitute was submitted by Mr. BLAND:

A bill to retire the circulation of national banks, and to continue them as banks of discount and deposit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any national banking association organized under the acts of February 25, 1863; June 3, 1864, and February 14, 1880; or under sections 5133, 5134, 5135, 5136, and 5154 of the Revised Statutes of the United States, may, at any time within two years previous to the date of the expiration of its corporate existence under present law, and with the approval of the Comptroller of the Currency, to be granted as hereinafter provided, extend its period of succession, by amending its articles of association, for a term of not more than twenty years from the expiration of the period of succession named in said articles of association, and shall have succession for such extended period, unless sooner dissolved by the act of shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law.

SEC. 2. That such amendment of such articles of association shall be authorized by the consent in writing of shareholders owning not less than two-thirds of the capital stock of the association; and the board of directors shall cause such consent to be certified over the seal of the association, by its president or cashier, to the Comptroller of the Currency, accompanied by an application made by the president or cashier for the approval of the amended articles of association by the Comptroller; and such amended articles of association shall not be valid until the Comptroller shall give to such association a certificate under his hand and seal that the association has complied with all the provisions required to be complied with, and is authorized to have succession for the extended period named in the amended articles of association.

SEC. 3. That upon the receipt of the application and certificate of the association provided for in the preceding section, the Comptroller of the Currency may, if he deems it necessary, cause a special examination to be made, at the expense of the association, to determine its condition; and if after such examination or otherwise it appears to him that said association is in a satisfactory condition, he shall grant his certificate of approval provided for in the preceding section, or if it appears that the condition of said association is not satisfactory, he shall withhold such certificate of approval,

SEC. 4. That any association so extending the period of its succession shall continue to enjoy all the rights and privileges and immunities granted and shall continue to be subject to all the duties, liabilities, and restrictions imposed by the Revised Statutes of the United States and other acts having reference to national banking associations, and it shall continue to be in all respects the identical association it was before the extension of its period of succession, with the same rights, immunities, and liabilities: *Provided*, That said associations are hereby prohibited from issuing circulating notes and hereafter no national banking association shall increase its circulation or be organized with authority to issue notes to circulate as money.

SEC. 5. That when any national banking association has amended its articles of association as provided in this act, and the Comptroller has granted his certificate of approval, any shareholder not assenting to such amendment may give notice in writing to the directors, within thirty days from the date of the certificate of approval, of his desire to withdraw from said association, in which case he shall be entitled to receive from said banking association the value of the shares so held by him, to be ascertained by an appraisal made by a committee of three persons, one to be selected by such shareholder, one by the directors, and the third by the first two; and in case the value so fixed shall not be satisfactory to any such shareholder he may appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding; and if said reappraisal shall exceed the value fixed by said committee the bank shall pay the expenses of said reappraisal, and otherwise the appellant shall pay said expenses; and the value so ascertained and determined shall be deemed to be a debt due to said shareholder from said bank until paid; and the shares so surrendered and appraised shall, after due notice, be sold at public sale, within thirty days after the final appraisal provided in this section.

SEC. 6. That national banking associations that may be continued by this act, and those whose corporate existence shall expire, shall be required to comply with the provisions of sections 5221 and 5222 of the Revised Statutes in the same manner as if the shareholders had voted to go into liquidation, as provided in section 5220 of the Revised Statutes; and the provisions of section 5224 not inconsistent herewith shall also be applicable to such associations.

SEC. 7. That all the moneys deposited in the Treasury of the United States for the purpose of redeeming the circulation of national banking associations shall be deemed surplus revenues, and used in the payment of the current expenditures of the Government, and in the extinguishment of the interest-bearing debt of the United States, in the same manner as other surplus revenues are authorized to be expended.

SEC. 8. That for the purpose of retiring and canceling the notes of national banking associations surrendering their circulation the Secretary of the Treasury shall cause to be printed and engraved Treasury notes of the United States, of the denominations of five, ten, twenty, fifty, one hundred, and one thousand dollars, bearing such inscriptions and devices as he may approve, to be exchanged for the bank notes above described on presentation of the same at the Treasury; and the Secretary of the Treasury shall cause to be issued said Treasury notes in lieu of such bank notes as shall become the property of the Government in payment of taxes or otherwise; and that the bank notes for which Treasury notes shall be substituted shall be destroyed.

SEC. 9. That the Treasury notes issued in pursuance of this act shall be receivable and payable for all dues and demands for which national-bank notes are now by law receivable and payable, and shall be exchangeable for legal-tender notes

when presented in sums of one hundred dollars or more, for that purpose at the Treasury of the United States, but when so exchanged shall be paid out of the Treasury again as other current funds; and that said Treasury notes shall be redeemable at the pleasure of the United States, in legal-tender notes or coin, at the option of the Government.

SEC. 10. That the Secretary of the Treasury shall make such rules and regulations as may be necessary to carry any of the provisions of this act into effect.

Mr. CRAPO. Mr. Speaker, the first national-bank act was approved February 25, 1863. Authority was given by that act for the organization of banking associations with succession for a period not exceeding twenty years from the passage of the act. A subsequent act of Congress, approved June 3, 1864, limited the succession to the banks which organized under it to the term of twenty years from the dates of their respective organizations, thereby adopting a different limitation from that in the original act. All of the banks organized under the earlier statute terminate their corporate existence on or before February 25, 1883. One bank expired by limitation in January last, another on the 11th of April, and from this date to February 25, 1883, there are three hundred and ninety-three banks whose corporate existence will terminate.

If the banks whose charters are expiring are to continue in business under their present organization it is necessary for Congress to pass an act authorizing the extension of their present corporate term. In order to secure the continuance of nearly four hundred banks the requisite legislation must be consummated without delay.

It is not necessary in this discussion to recite the causes which led to the national banking act. The pressing exigencies of the Government and the urgent condition of its finances which prompted the creation of the banks have not been forgotten, neither have the valuable and substantial benefits which through them were secured in the placing of the public debt and the maintenance of the public credit. Every expectation of the original promoters of the national banking scheme has been fully realized in the aid given by these associations in sustaining the finances of the country during a period of extraordinary peril. But the remembrance of past services, however patriotic or meritorious, will not influence Congress in its treatment of the national banks at this time. The question of their continuance depends rather upon the character of their present work and their capacity for future usefulness. If the needs of business, the requirements of commerce, the advancement of the industries, and the development of the resources of the country can be better promoted by the present system of banking than by any other, then the present system will be, as it should be, continued.

No one questions the wisdom or necessity of banking institutions. Without them the business transactions of the world cannot be conducted. Through their agency idle and scattered capital is collected and given activity and usefulness. The banks bridge the space between the producer and consumer; they give to enterprise and sagacity, by an arrangement of credits, the means to compete with accumulated wealth, and they reduce the interest burdens of debtors and borrowers. In some form we must have banks. If the national authority refuses to provide for their organization and management then the States will assume the duty, or, if the latter fail to act, the banking of the country will fall into the hands of individuals, freed from all national or State supervision.

Are the national banks worthy of continuance? The unanimous judgment of the people, even of those who from political considerations oppose them, is that the system is an admirable one for the business interests of the country. I do not claim that all the provisions regulating their management are perfect. It would be an improvement, in my opinion, if the portion of the reserves of the banks required to be kept in their vaults was restricted to coin, instead of lawful money, thereby lessening the danger of inability to protect by specie payments our greenback currency. The possession of $70,000,000 of greenback notes by the banks, which is the amount now held by them, during a time of general distrust and panic might lead to such demands upon the gold in the Treasury as to imperil the ability of the Government to maintain specie payments. It is probable that the method for the redemption of bank notes may be made more prompt and efficient, thereby securing that elasticity of currency which was promised by the national-banking system, but which has not been fully realized.

But whatever changes and improvements may be suggested, I assert that this country has never possessed a system of banking which in any degree compared with the present in excellence and safety. No previous system has in an equal manner commanded the confidence and promoted the prosperity of the people. Under it over twenty-six hundred banks, located in every State and Territory, have been organized. Wherever local necessities and local enterprise have called for them they have been established, and by their operations they have facilitated local industries and trade and have developed local wealth and prosperity. They are not great moneyed monopolies. Unlike railroad and manufacturing corporations, the aggregation of large capital in national banks can neither absorb competing business nor gain special privileges. The bank of $50,000 of capital has the same or better legal privileges than the bank of $1,000,000 capital. Hence they have been established, not alone in the great cities where they might seek to control and dictate the monetary affairs of the country, but wherever and whenever the promotion of business, manufactures, and trade have required their agency.

This is evident from the scattered location of the banks and the respective amounts of their capital. On the 1st day of October last there were in operation 2,148 banks, of which number 393 had each a capital of only $50,000. There were 164 banks with capital from $50,000 to $100,000, and 829 with capital from $100,000 to $150,000. Of the whole number of national banks, 1,386, or 65 per cent., have a capital stock of $150,000 or less. Since October 1, 1881, more than one-half of the banks organized have a capital of $50,000 each. Banks with small capital for local convenience are being organized every week. These new banking associations are located largely in the West, at points where agricultural products are marketed or where manufactures are developing. The new business enterprises and industries of the South are calling for the economies and facilities of national banks, as is seen by their increase in that section.

The relation which banking holds to the commercial prosperity of the country is so intimate that it is of the first importance that its banking system shall be safe, efficient, and permanent. The experience of twenty years, covering periods of depression and prosperity, has tested the merits of the present system. The advantages of the system are found in its uniformity, its restrictions, its responsibility, and its supervision. The capital fund must be paid in full, and a portion of it must be invested in Government bonds. If the capital from any cause becomes impaired it must be promptly restored. It discourages the loaning of money upon securities not readily convertible; it limits the amount which can be loaned to any one person or corporation, and forbids the lending of money on their own circulating notes or upon shares of their own stock. It prohibits a rate of interest greater than that allowed by the laws of the State where located, and requires a fixed percentage of reserve to meet the demands of depositors and noteholders. It allows no preferences in the event of insolvency. It gives a double security to creditors by making individually responsible the shareholders for all contracts, debts, and engagements of the bank to an amount equal to the par value of their shares, in addition to their investments in said shares. It requires the accumulation of a surplus fund, which can only be used to meet losses and bad debts in excess of current earnings, and forbids the payment of dividends not earned. It compels full statements of resources and liabilities, under oath, to be made several times each year, and the publication of the same. It subjects the banks to a personal examination by experts appointed by the Comptroller, who inspect the accounts securities, and assets, and inquire into their liabilities and investigate their methods of business, thereby restraining and detecting irregular practices. It gives publicity to the ownership of shares, thereby fixing individual liability and facilitating local taxation. It secures the redemption of their circulating notes and their ready conversion into lawful money, and the destruction of their worn and mutilated bills. It inflicts penalties which are severe and summary for the violation or non-performance of the provisions of the national banking act.

What are the objections to the continuance of this system and to the continuance of the corporate existence of the present national banks? The bill under consideration authorizes the extension of the period of succession for a term not exceeding twenty years, provided the shareholders owning not less than two-thirds of the capital stock consent thereto. It is suggested that this power of consent given to two-thirds of the shareholders may work a hardship to a shareholder, or to a minority of shareholders, who prefer to retire from the banking business; that the shareholder who is unwilling to risk his investment for a new period of twenty years should be permitted to retire with the full value of his shares and not be compelled to accept for the same whatever price the majority shareholders or the public may see fit to give when sold in the market. Congress clearly has the right to extend these bank charters and to prescribe the qualifications necessary to secure the benefits of the enabling act. It may provide for the unanimous vote of the shareholders or simply the usual method of expressing the wishes of associated bodies, namely, a majority vote. The compliance with the requirements would be binding upon the minority, for in no other way can the will of a corporation be made effective. The existing law authorizes the liquidation of a banking association before the expiration of its charter by a vote of two-thirds. The proposed bill authorizes the continuance of business by the same vote of two-thirds. But that no possible wrong may be done to the minority, and to silence all complaints and suggestions that the dissenting shareholder who wishes to retire may be forced to sell his shares at less than their intrinsic worth, the bill provides for an impartial appraisal of the assets of the bank, guarded by an appeal in case of dissatisfaction, and furnishes to him a cash purchaser for his shares at their full value. The dissenting shareholder by this bill can realize for his shares all that could be obtained through liquidation, with greater certainty and promptness.

A further objection has been made that the extension of the bank charters will practically postpone the realization by the Government of the gains from the lost and destroyed bank-note circulation. The banks pay all of the expenses for the plates from which their notes are issued. They pay for all the expenses attending the redemption of their notes, and for the maintenance of an expensive redemption and reissue bureau, while all the advantages which accrue from the lost and destoyed bank notes inure to the Government. But it is urged that this gain cannot be ascertained and utilized by the Government until the notes in circulation have been called in and canceled under the process of liquidation. There can be no doubt, while

all the burdens attending the issue and circulation of bank notes fall upon the banks, that all the gain from loss of bank notes inures to the Government. To avoid any delay in receiving this gain the sixth section of the bill provides for a new issue of bank notes and a redemption of the present issue as summarily and effectually as is possible by the liquidation of the banks. The bill under consideration disposes of all doubts, if any exist, as to who shall receive the profits resulting from lost bank-notes.

It is suggested that the proposed legislation is not necessary, because the banks, as their charters expire, have simply to go into liquidation, and under the existing law to organize anew for a further term of twenty years. But the same results are not reached by this indirect method for continuing existing banking business. I claim that there are positive advantages which are gained by the extension of present charters, and that there are serious difficulties attending the liquidation of two thousand two hundred banks and the organization of a like number in their stead.

The extension of existing charters continues to the banks the holding of undivided profits and surplus amounting to over $184,000,000. This reserve from earnings, which has been set aside by virtue of a compulsory statute, has enabled the banks to meet successfully the disasters and losses of financial panics, has given confidence in their stability, and has prevented at times such reduction of their capital as would have imperiled their own safety and caused great injury to their customers. It was largely in consequence of this undivided reserve that the national banks were able to sustain losses through the failure of their debtors, between 1876 and 1879, amounting to $85,845,069, and at the same time to continue their loans to those dependent upon them for money accommodations. If the passage of this bill is refused, the new banks, if such are organized, commence with their capital fund only, and the surplus of the expiring banks is necessarily divided out in liquidation among the shareholders, unless every shareholder consents to its transfer to a new organization. The shareholders may be benefited by this division of surplus, but the public is protected by its retention.

The extension of existing charters secures the continuance of present management and methods of business, retains the responsibility of present stockholders, the experience of present officers, and the advantages of present financial reputation. New associations must of necessity be formed by new articles, and the promoters of the new banks will be at liberty to include in or exclude from their subscription such of the old shareholders as they may arbitrarily select. In this way the investments of small shareholders, of absent shareholders, and of trust estates may be sacrificed through the greed of directors and large holders.

But assuming, in the event of non-action by Congress, that there will be a general organization of new banks under the present statute, supplying the places of those expiring by limitation, even then there may be, and in my opinion there will be, results disastrous to the business of the country. If this bill or some bill continuing the present national banks is not passed at this session there necessarily follows the liquidation of three hundred and ninety-three banks within the next ten months. This will compel the withdrawal of $68,070,980 of lawful money now in circulation in order to procure the $75,768,700 of United States bonds lodged with the Comptroller, and which can only be withdrawn, whether for sale or for delivery to the new banking associations taking the place of those liquidating, by the deposit in the United States Treasury of lawful money. This withdrawal and locking up of nearly $70,000,000 of circulation pending the slow return of the bank notes may result in stringency leading to panic. Upon one day, February 25, 1883, the charters of two hundred and ninety-seven banks expire, involving a return to the Treasury of $54,000,000 of lawful money. Such a contraction of the currency, coming in a single day or a single month, cannot but disturb the business of the country and seriously affect the values of property. It may be said that the issue of bills to the newly organized banks will in a few months restore a portion of the needed currency. But this relief will come slowly, and only after the disaster and losses resulting from this violent derangement of the currency.

The real opposition to this bill comes from an antagonism to national-bank notes, and from a disposition to have the credit currency of the country issued by the Government alone, and not by incorporated associations, however secure such circulation may be made. There is a clamor that the banks are making vast sums by the circulation of their bills, and that the public Treasury is robbed or impoverished by the payment of interest on the bonds which the Government compels the banks to own for the security of their notes. If the banks are to issue notes at all, it will be conceded that it is the first duty of the Government to provide for their certain payment. This is done by the pledge of United States bonds with ample margin. No better scheme for absolute security was ever devised. This deposit of bonds to secure their circulation was not solicited by the banks, but was ordered for the protection of the people. The extravagant assertions made by the opponents of the national banks of the excessive gains derived from bank-note circulation are erroneous and misleading. There is not enough of profit in this circulation to induce the organization of a bank. With a 3 per cent. United States bond at par—which is the rate named in the pending funding bill—the actual net profit derived from circulation is 1.14 per cent. when the rate of interest on bank loans is 6 per cent., is 1 per cent. when the rate of interest is 7 per cent., and is .85 per cent. when the rate of interest is 8 per cent. The higher the market rate of interest the less the profits from circulation. And yet in the centers where money accumulates and the rates of interest rule lowest, and where the largest profits can be made on circulation, we witness no disposition to an increase of bank circulation.

No error is more persistently repeated than the assertion that enormous profits are derived from bank-note circulation. The net profits from circulation which I have stated are from the figures furnished by the Treasury Department, and they show the maximum profits, supposing every dollar of bills to be in use. In illustration of the actual profits derived from bank-note circulation, taking a bank of average capital and business, I give the figures for the year 1881 on the circulation of the First National Bank of Troy, New York, a bank of $300,000 capital, and with that amount of United States bonds deposited for circulation, drawing interest at 3½ per cent., and which cost at the market rate of 102 the sum of $306,000, and upon which the bank received $270,000 circulation. The statement which has been furnished by the cashier of the bank is as follows:

DEBIT.

One year's interest on cost of $300,000, at 102—$306,000—6 per cent	$18,360 00
United States tax on $262,626, notes in circulation, for one year, 1 per cent	2,626 26
One year's interest at 6 per cent. on $13,500 deposited with Treasurer United States for 5 per cent. reserve	810 00
Treasurer United States charges for redeeming	168 94
Agent at Washington for witnessing destruction mutilated currency	50 00
Transportation on currency from Washington	54 30
Sinking fund for premiums on 3½ per cent. bonds if not redeemed in two years	3,000 00
Total	25,069 50

CREDIT.

Received for one year's interest on $262,626, notes in circulation, at 6 per cent	15,757 56
Received for one year's interest at 3½ on $300,000, United States bonds deposited with Treasurer United States to secure circulation	10,500 00
Total income	26,257 56
Deduct debit account	25,069 50
Net annual income from circulation	1,188 06

Thus it will be seen that for an investment of $300,000 in United States bonds at 3½ per cent. the stockholders of the bank receive on their circulation a profit of $1,188.06, which is at the rate of .39½ per cent. on the investment, or about one-third of 1 per cent.

A bank of $50,000 capital, which has been organized for the conveniences of local trade and manufactures, has a right to issue $45,000 of bank notes. The profits derived therefrom, if the bank can loan the bills at 7 per cent., amount to $450. Not an alarming sum, but it helps pay a clerk or helps pay the rent of the banking rooms, and to this extent the bank is encouraged and strengthened and the business men of that community benefited by securing banking facilities. The profits from circulation do not tempt the organization of large banking institutions. The tendency with banks of large capital is to drop the circulation of notes as not sufficiently compensating the expenses and trouble attending their issue and redemption. This is apparent from the returns of the New York City banks, which show eleven great banks in that city with scarcely any circulation, many of them being absolutely without circulation. But in the rural districts, and at points remote from the great centers of trade, where banking facilities are needed for local accommodation and development, the item of circulation is deemed of importance. The large proportion, more than one-half, of the new banks organizing have a capital of only $50,000 each, and they are located mostly in the Western and Southern States and in the Territories. These banks are important factors in the industry and growth of those sections, and our legislation should favor rather than prohibit them.

But there are those who contend that, even with the safeguards and restrictions and supervision and taxation which the Government imposes upon national-bank notes, the Government directly and not indirectly should issue the paper money of the country, and that this part of our banking should be done exclusively by the Government itself. Many, perhaps the majority, of those who hold this view believe in the theory of fiat money, and assert that the stamp of the Government placed on paper is sufficient for all the purposes of money. These men think the greenbacks are at par because Congress has so declared. There is a difference of opinion among those opposed to the issue of circulation by the national banks in reference to the character of the Government notes. One class insists that the Government printed notes shall be made legal tender for all debts public and private, as represented by my colleague from Pennsylvania, [Mr. BRUMM;] while another class, represented by my colleague from Missouri, [Mr. BUCKNER,] insists that the Government notes shall be a legal tender only with the Government, which issues them, but shall not have that compulsory debt-paying power in the transactions of the people. While the latter proposition—treasury notes without legal-tender functions—is free from the constitutional objection which condemns the fiat money theory, yet both call for the retirement of bank notes and the substitution of Treasury notes.

Paper money in some form will be used. It is impossible to perform the business and to make the exchanges of the world without the use of some medium less cumbersome than coin. While coin is essential as a measure or standard of value, its use is trivial in amount when compared with the paper substitutes employed in these

exchanges. Gold performs 1.38 per cent., silver .17 of 1 per cent., greenbacks and national-bank notes combined 4.36 per cent., and the balance, 94.09 per cent., of our monetary work is done most conveniently by bank checks and drafts. No trouble results from the use of these bank checks, because of their ready convertibility, and while not fortified with any legal-tender power there is property behind them which gives to them the credit to which they are entitled. To the extent of 4.36 per cent. of our monetary exchanges we need what is called paper money. In what form shall we have it? In my judgment it is better that this paper currency shall be issued by corporations under the control and supervision of the National Government rather than State governments, and with such limitations as will protect the public from loss, as will guarantee its prompt redemption, and will secure for it an uniform and certain value all over the country.

The redemption of national-bank bills can be enforced. The public debt back of them can be made available, the assets of the banks can be reached by law, and the shareholders can be forced to respond. Whether the redemption of Government or Treasury notes in times of social or political convulsions can be made as positive is questionable. When legal-tender notes can be multiplied indefinitely by the simple cost of engraving and printing is it possible to make adequate provision for their certain conversion and redemption at all times? It is said we can avoid any excessive issue by fixing the amount per capita so as to meet the exact demands of commerce. By whom and by what process is the precise quantity to be determined? Not by the laws of trade, but by the enactments of a constantly changing Congress. It does not wholly meet the question to say the ability of the Government is superior to that of the corporation. There must be willingness as well as ability. The value of government paper money depends not only upon the power but upon the integrity and prudence of the government which issues it.

The United States cannot be compelled by process of law, enforced through the courts, to pay its debts. Will the Government after it has provided the paper currency always take the steps necessary to keep it sound and convertible? Is there no danger that temptations and delusions may in times of extravagance or depression overcome the integrity and good sense of the majority of the people? The will of the majority in this country can be relied upon as safe, but were this the invariable rule we should not need the constitutional restrictions which experience has shown to be essential. I do not fear that the delusion which declares that a piece of paper stamped $1 is equal to 25.8 grains of gold with the same stamp, and which seeks by the despotic authority of law to create for it the same value and believes it can fulfill the same function in wiping out debt, will ever prevail with the majority in this country. But if the delicate function of supplying this paper currency is once committed to the Government, is there not danger that its volume may be made too large for its own safety or too small for the purposes of covenience and healthy business? The possibility of temptation and the consciousness that legislation may in some evil moment vitiate the currency will be a source of apprehension and trouble. If experience teaches anything, it is that contingencies arise which afford the pretext for and prompt the issue of Government notes until their redemption becomes impossible.

No such danger can possibly come from bank bills under a system of national regulations which makes their issue imperative upon absolute security, for the reason that any overissue must and will flow back for redemption, and that redemption will not depend upon the mere willingness of the bank which has issued them. The question of how much money the United States can save in interest by compelling its people to take its promises to pay without interest is insignificant when compared with the question of soundness and convertibility.

I shall not be expected to anticipate and comment upon all the wild and extravagant statements which the opponents of this bill may make in discussing it. Many of these statements are so completely at variance with official reports, and with the practical knowledge and experience of business men, that they require no refutation. They may influence certain constituencies where such political literature is welcomed, but they cannot influence the judgment of this House. I have an example before me in a speech of the gentleman from Tennessee, [Mr. WARNER,] printed in the RECORD of March 31. He says:

> The whole policy has been to centralize power and perpetuate monopolies. Think of it for one moment: twenty-two hundred banking associations, chartered and protected by the strong arm of the Government for a period of twenty years, are now knocking at the doors of Congress for charters of equal time, resting upon the bonds of the United States locked up in the Treasury, drawing from 5 to 6 per cent. interest in gold, making from 10 to 12 per cent. interest on the issue resting upon these bonds; pouring into these great rich institutions from 16 to 18 per cent. per annum—all done by the strong arm of the law; and yet these monopolists are freed from paying any interest to the Government thus protecting them.

It is hardly necessary to deny the assertion that the national banks receive from 16 to 18 per cent. per annum, when the sworn returns, compiled and published by the Comptroller, show a profit on capital and surplus of only 7.81 per cent. for 1880, and 9.15 per cent. for 1881, and which are the largest rates of earnings for a number of years; or to deny that the bonds deposited with the Treasurer of the United States to secure circulation are drawing 5 to 6 per cent. interest in gold, when every one knows the rate is only from 3½ to 4½ per cent.; or to deny that the banks are monopolies, when for years our banking laws have been free to all who chose to engage in the business, and no one man or corporation can have any special privileges not open to every man and every corporation.

The gentleman further says:

> Some twenty-two hundred banking corporations rest alone upon bonds, and yet with their 16 or 18 per cent. per annum they bear but a small part of the burdens of our United States, State, county, or corporate governments.

He cannot have read the figures of taxation, and yet they are accessible to him. I will not give the aggregate taxation paid by the banks, because the magnitude of figures sometimes confuses; but I will state the taxes paid by a single bank, the one previously mentioned, the First National Bank of Troy, New York, with a capital of $300,000. This bank has paid during eighteen years, from January 1, 1864, to January 1, 1882, for taxes, as follows:

City, State, and county taxes	$181,157 41
United States taxes	90,300 75
Total taxation	271,458 16

Which is an average of $15,081.02 per year, or 5.3 per cent. on its capital of $300,000. This is not an exceptional case, but is selected because the bank is of average capital and located neither in a great populous city nor in a country town; and yet we shall be told again and again during the debate upon this bill that the banks are monopolies protected by the Government, robbing the people, and paying no taxes.

The present national banking system has given the best satisfaction of the many we have tried. It combines the power of the Government with private enterprise. It secures the sagacity and prudence of individuals in the management of banking affairs, and is controlled by the wholesome restraints of positive laws and official supervision. It has proved itself an advantage to our industry and progress. If not perfect it is within our power to make it so. The refusal to pass this bill leaves the system to die by slow degrees. It forces into liquidation at the end of their charters two thousand two hundred banks, with loans amounting to $1,200,000,000. Nearly four hundred of them expire shortly. The operation of liquidation involves serious disturbances to every description of business: the calling in of loans, the contraction of the currency, the disarrangement of exchanges. The features of the bill which we are considering are simple and reasonable. Until some better system of banking is presented it is the part of wisdom to continue this system, which gives and has given such general satisfaction.

Mr. BRUMM. I desire to ask the gentleman from Massachusetts several questions.

Mr. CRAPO. I propose to yield the balance of my time.

Mr. BRUMM. The gentleman's time, I have no doubt, will be extended.

Mr. CRAPO. I have promised to yield the balance of my time to the gentleman from Connecticut, [Mr. BUCK.]

Mr. ROBINSON, of Massachusetts. I hope the practice of extending time will not be commenced in this debate at this late period of the session.

Mr. BRUMM. I desire to ask these questions at the beginning of the debate, and I think they may have the effect of shortening it.

Mr. HUMPHREY. I ask that the gentleman from Pennsylvania [Mr. BRUMM] be allowed to ask the questions, and that this shall not be taken out of the time of the gentleman from Massachusetts.

The SPEAKER *pro tempore*, (Mr. UPDEGRAFF, of Iowa.) To whom does the gentleman from Massachusetts yield?

Mr. CRAPO. I yield to the gentleman from Connecticut, [Mr. BUCK.]

Mr. BUCK. Mr. Speaker, the bill now before the House is a bill "to enable national banking associations to extend their corporate existence." It is, therefore, a proposition to prolong the policy of the Government in regard to banks for another period of twenty years. The bill proposes no new policy, no new principle. It accepts the results of a trial of twenty years as being satisfactory, and proposes to leave the system substantially unmolested.

At the commencement of the civil war the Government found itself subjected to enormous expenses hitherto unknown in its history. Armies were to be recruited and equipped for active service, the Navy built up, and these in addition to the ordinary expenses of the Government. The Government at once became a large borrower of money. There was no uniform national currency. The Government endeavored to carry on the war by negotiating loans, as in the war of 1812. The only banks in existence were those chartered under State laws. Many of these came forward and loaned the Government large sums of money for present necessities. The States themselves assumed a large portion of the expense of equipping regiments during the early part of the war, and raised money by borrowing from the State banks. These expenses have been from time to time repaid by the General Government, and many claims growing out of money so advanced by the States are still pending.

It cannot be denied that if the General Government had been obliged to advance the money necessary to carry on the war in 1861 and 1862, and the State governments, backed by the State banks, had come forward and patriotically advanced the money great embarrassment would have followed. As the war progressed it became evident that a national debt of vast amount must be one of its results. The first loan after the commencement of the war was under authority of the act of July 17, 1861, which authorized the issue of

$250,000,000 in bonds, with interest at 7 per cent., and $50,000,000 of Treasury notes without interest. This loan was followed by others during the years 1861 and 1862.

The obligations of the General Government were rapidly increasing, and its expenses exceeded its revenues by many millions.

The expenses of the Government for war purposes connected with the Army for five years were as follows:

1861	$23,001,530 67
1862	389,173,562 29
1863	603,314,411 82
1864	690,391,048 66
1865	1,030,690,400 06

Expenses of the Navy:

1861	$12,387,156 52
1862	42,640,353 09
1863	63,261,235 31
1864	85,704,963 74
1865	122,617,434 07

The Government, in order to meet these extraordinary expenses, of necessity became a large borrower in the money market. On January 8, 1863, the Ways and Means Committee reported a bill providing for the issue of $900,000,000 in 6 per cent. bonds, $300,000,000 in Treasury notes at 5.47½ per cent., and $50,000,000 in fractional currency. It is a significant fact, also, that this bill authorized a tax on the issue of the State banks above a certain percentage of their capital. It would seem from the proposition to tax the State banks, as provided for in the bill, that Congress then intended to enact such hostile measures by way of taxation as would have the effect of driving the State banks out of existence, and thus prepare the way to have the national banks substituted for them.

A tax of 10 per cent. was afterward placed on the amount of notes of any person or of any State bank used for circulation, and such is the present law.

While the above bill was pending, and before any action was taken upon it, the national-bank act was reported, and on February 25, 1863, it became a law. On March 3, 1863, just six days after, the bill authorizing loans amounting in the aggregate to $1,250,000,000 also became a law.

Thus Congress by one act authorized by far the largest loan of the war, and by the other created a market for its own bonds, established a uniform national currency, drove the State banks out of existence, and substituted for them national banks, whose circulation depended on their loaning the Government what it needed to carry on the war.

It is thus clear that the national-bank act grew out of the necessities of the Government, and that Congress by passing it conferred a greater favor on the Government than it did on those banks that were satisfied to continue business under State laws, but were compelled to receive a franchise from the Government, containing some valuable privileges, it is true, but burdened with excessive taxation.

In the case of Veasie Bank *vs.* Fenno, 8 Wallace, page 536, Chief-Justice Chase, in giving the opinion of the court, said:

> The necessities of adequate provision for the financial exigencies created by the late rebellion suggested to the administrative and legislative departments of the Government important changes in the system of currency and taxation which had hitherto prevailed.

The title of the act indicated its purpose. It was "an act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof."

This continued to be the name of the act until June 20, 1874, when it was changed to that of "the national-bank act."

As indicated by its original name its purpose was to provide for a currency that should be national, and to provide for the circulation and redemption of that currency. It was the United States whose interests and great needs were kept uppermost in framing the bill. The banks were made the mere servants of the General Government and were compelled to do duty in circulating and receiving a currency which was to be national in its character.

The provisions of the act are well calculated to secure a safe and uniform currency. Any number of natural persons, not less than five, may form the association, with a capital of not less than $100,000, except in places with a population of less than 6,000, when the capital may, with the consent of the Comptroller, be not less than $50,000. One-third of the capital stock paid in must be invested in United States bonds. Ninety per cent. of the market value of these bonds is given to the association in circulating notes. It will be seen that the Government has no responsibility for these notes, but it holds the bonds as a trustee for each bill-holder. The title of these bonds is indeed in the banks, but that title is subject to the lien of the Government upon them as such trustee.

By this wise provision every genuine national-bank bill is equal to good money wherever found. The bonds of the United States are behind it, and its circulation is as boundless as the great Government whose bonds secure it.

An additional security is found in the provision that each stockholder shall be personally responsible for all contracts, debts, and engagements of such associations to the extent of the amount of their stock therein in addition to the amount invested in such shares. This has by some been considered as a great hardship, and it has prevented many persons from investing their money when such an extraordinary liability was incurred. Whatever may be said by way of objection to it, it must be conceded that this provision, together with the security provided for by the deposit of bonds, furnishes an iron-clad security for the bill-holders and general creditors which is unsurpassed in the financial legislation of the world.

The gentleman from Tennessee [Mr. WARNER] in his discussion of this question the other day made use of the following language:

> So it is clear from our Constitution that the only power to coin or make money, to regulate the value thereof and of foreign coin, and to fix a standard of weights and measures rests with Congress, and is a legislative power, and that this power can be delegated to no corporation or body by Congress, but must be exercised alone by Congress, being the only legislative body of the United States.

The gentleman from Tennessee is not alone in his view of this clause of the Constitution. It is the position taken by most of the objectors to the present national-bank system.

Among the objections urged against an extension of these charters is one that goes to the fundamental right of Congress to delegate the powers given to the banks under the provisions of the original act, and which in the bill under consideration are extended for a period of twenty years.

It is claimed that Congress alone has power to issue money, regulate the volume of the currency, lay taxes, &c., and that Congress can only exercise this power directly, and that when it delegates the power to issue money to such association as may be formed under the act it is acting outside of the grant of power found in the language of the Constitution. In short, it is claimed that Congress cannot charter a bank, with the privilege of issuing and circulating its obligatory promissory notes (bank bills) as money, although secured by the requisite amount of United States bonds, for the reason that while Congress has itself the power to issue money and put it in circulation by its own fiat, no portion of that power can be delegated to a banking association, however carefully guarded.

It will be conceded that the Constitution is a grant and not a limitation of power. The people granted to the General Government certain general powers, enumerated in the Constitution and expressed in the most general terms. The powers expressly granted are few in number, but the powers which by that instrument went from the people to the General Government by implication include all such powers and rights as are necessary to the complete exercise and enjoyment of all the powers enumerated in the general grant, and are coextensive with the power of the Government to maintain its own sovereignty and to "provide for the common defense and general welfare of the United States."

The power of Congress to charter national banking associations grows out of article 1, section 8, of the Constitution. Section 8 provides that (1) "the Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States;" (18,) "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

In 1791 Congress exercised the implied power found in this article and chartered the Bank of the United States, with the privilege of doing business for twenty years, with a capital of $10,000,000, of which the United States was to subscribe for $2,000,000, and with the power to establish branch banks in various parts of the country.

Washington, who was then President, asked the opinion of Jefferson and Hamilton as to the power of Congress, under the Constitution, to pass such an act.

Jefferson contended that the construction of this section was that Congress could only lay taxes, &c., for the purpose of providing for the general welfare, and that the powers specified in the article could be "carried into execution without a bank," and that "a bank therefore is not necessary and consequently not authorized by this phrase."

Hamilton opposed this construction, and contended—

> First. That the power of the Government as to the objects intrusted to its management is in its nature sovereign.
>
> Second. That the right of erecting corporations is one inherent in and inseparable from the idea of sovereign power.
>
> Third. That the position that the Government of the United States can exercise no power but such as is delegated to it by its Constitution does not militate against this principle.
>
> Fourth. That the word "necessary" in the general clause can have no restrictive operation derogating from the force of this principle; indeed, that the degree in which a measure is or is not necessary cannot be a test of constitutional right, but of expediency only.
>
> Fifth. That the power to erect corporations is not to be considered as an independent and substantive power, but as an incidental and auxiliary one, and was, therefore, more properly left to implication than expressly granted.
>
> Sixth. That the principle in question does not extend the power of the Government beyond the prescribed limits, because it only affirms a power to incorporate for purposes within the sphere of the specified powers.

It will thus be seen that these eminent men differed widely in their construction of this clause. The opinion of Hamilton prevailed, and Washington signed the bill; and thus the first national-bank act became the law of the land. Jefferson himself, when President, signed an act extending the privilege to the bank to establish a branch bank in the Territories. It continued to do business until the expiration of its charter in 1811. On April 10, 1816, the second "Bank of the United States" was chartered by Congress, with powers similar to the first. It could establish branch banks in any part of the country. Its capital was $35,000,000, one-fifth in cash and the balance in United States 6 per cent. stocks. It was also made the custodian of the public funds. It was not rechartered.

The State of Maryland having attempted to tax a branch of this bank which had been established in that State, the validity of the tax was questioned and the case was carried to the Supreme Court of

the United States, and the clause of the Constitution now under consideration received a judicial construction. (McCulloch *vs.* Maryland, 4 Wheaton, 316.) Webster appeared as one of the counsel for the Government.

Chief-Justice Marshall, in giving the opinion of the court, said:

> Among the enumerated powers we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which, like the Articles of Confederation, excludes incidental or implied power; and which requires that everything granted shall be expressly and minutely described.
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> * * * * * * * *
>
> The Government, which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception.
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> * * * * * * * *
>
> The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is therefore perceived why it may not pass as incidental to those powers which are expressively given, if it is a direct mode of executing them.

We have already shown the object aimed at by Congress in passing the original act, and under the decision above quoted the conclusion is irresistible that the chartering of national banks, as provided for in the act of 1863, was within the implied powers granted to Congress, as a means by which that body could exercise the power which by the Constitution had been expressly granted to it. See, also, the case of Van Allen *vs.* Assessors, 3 Wallace, 573, (1865,) in which the court held the national-bank act to be constitutional.

Under the provisions of the original act the banks are compelled to render to the Government a strict account of all their business, and also to perform certain services. They were to loan the Government one-third of this paid-up capital, and thus aid the Government in finding a market for its bonds.

Will any one say that the constant demand on the Government on the part of the banks for bonds to secure circulation did not directly tend to enable the Government to negotiate its loans at a lower rate of interest than would have been the case had no such great market been created. Many millions of dollars have thus been saved to the Government which are not taken into account by those who oppose the present system. They are also to pay to the Government a tax on their circulation, deposits, and capital. In addition to this they act as depositories of the public funds.

It cannot be denied that the national banking system has greatly improved the currency of the country. Nearly all of the banking institutions of the country in existence at the time of the passage of the act changed their State organizations and adopted the national system. It thus became national in its character from the very first, and the currency thus placed in the hands of the people was in strong contrast with the fluctuating, variable, and dangerous issue of paper money which constituted the circulating medium just before the war. The Western States had suffered greatly from a depreciated currency, and derived great advantages from the new system.

From the commencement the banks have been subjected to taxation. The rate of taxation is now as follows: on circulation, 1 per cent.; on deposits, one-half of 1 per cent.; on capital, one-half of 1 per cent.

A large revenue has been derived from this source, the aggregate and the amount in detail being shown by the following figures, taken from the report of the Treasurer of the United States:

Semi-annual duty assessed upon and collected from national banks by the Treasurer of the United States for the fiscal years from 1864 *to* 1881, *inclusive.*

Fiscal year.	On circulation.	On deposits.	On capital.	Total.
1864	$53, 193 32	$95, 911 87	$18, 432 07	$167, 537 26
1865	733, 247 59	1, 087, 530 86	133, 251 15	1, 954, 029 60
1866	2, 106, 785 30	2, 633, 102 77	406, 947 74	5, 146, 835 81
1867	2, 868, 636 78	2, 650, 180 09	321, 881 36	5, 840, 698 23
1868	2, 946, 343 07	2, 564, 143 44	306, 781 67	5, 817, 268 18
1869	2, 957, 416 73	2, 614, 553 58	312, 918 68	5, 884, 888 99
1870	2, 949, 744 13	2, 614, 767 61	375, 962 26	5, 940, 474 00
1871	2, 987, 021 69	2, 802, 840 85	385, 292 13	6, 175, 154 67
1872	3, 193, 570 03	3, 120, 984 37	389, 356 27	6, 703, 910 67
1873	3, 353, 186 13	3, 196, 569 29	454, 891 51	7, 004, 646 93
1874	3, 404, 483 11	3, 209, 967 72	469, 048 02	7, 083, 498 85
1875	3, 283, 450 89	3, 514, 265 39	507, 417 76	7, 305, 134 04
1876	3, 091, 795 76	3, 505, 129 64	632, 296 16	7, 229, 221 56
1877	2, 900, 957 53	3, 451, 965 38	660, 784 90	7, 013, 707 81
1878	2, 948, 047 08	3, 273, 111 74	560, 296 83	6, 781, 455 65
1879	3, 009, 647 16	3, 309, 668 90	401, 920 61	6, 721, 236 67
1880	3, 153, 635 63	4, 058, 710 61	379, 424 19	7, 591, 770 43
1881	3, 121, 374 33	4, 940, 945 12	431, 233 10	8, 493, 552 55
Total	49, 062, 536 26	52, 644, 349 23	7, 148, 136 41	108, 855, 021 90

It is claimed that extravagant profits have accrued to the national banks from the system, and that it ought to be abolished for that reason.

The following figures, taken from Comptroller Knox's report, shows the capital, dividends, and total earnings of the national banks for each half year, from March 1, 1869, to September 1, 1881:

Period of six months ending—	Number of banks.	Capital.	Surplus.	Total dividends.	Total net earnings.	Ratios.		
						Dividends to capital.	Dividends to capital and surplus.	Earnings to capital and surplus.
						Per cent.	*Per cent.*	*Per cent.*
September 1, 1869	1, 481	$401, 650, 802	$82, 105, 848	$21, 767, 831	$29, 221, 184	5. 42	4. 50	6. 04
March 1, 1870	1, 571	416, 366, 991	86, 118, 210	21, 479, 095	28, 996, 934	5. 16	4. 27	5. 77
September 1, 1870	1, 601	425, 317, 104	91, 630, 620	21, 080, 343	26, 813, 885	4. 96	4. 08	5. 19
March 1, 1871	1, 605	428, 699, 165	94, 672, 401	22, 205, 150	27, 243, 162	5. 18	4. 24	5. 21
September 1, 1871	1, 693	445, 999, 264	98, 286, 591	22, 125, 279	27, 315, 311	4. 96	4. 07	5. 02
March 1, 1872	1, 750	450, 693, 706	99, 431, 243	22, 859, 826	27, 502, 539	5. 07	4. 16	5. 00
September 1, 1872	1, 852	465, 676, 023	105, 181, 942	23, 827, 289	30, 572, 891	5. 12	4. 17	5. 36
March 1, 1873	1, 912	475, 918, 683	114, 257, 288	24, 826, 061	31, 926, 478	5. 22	4. 21	5. 41
September 1, 1873	1, 955	488, 100, 951	118, 113, 848	24, 823, 029	33, 122, 000	5. 09	4. 09	5. 46
March 1, 1874	1, 967	489, 510, 323	123, 469, 859	23, 529, 908	29, 544, 120	4. 81	3. 84	4. 82
September 1, 1874	1, 971	489, 938, 284	128, 364, 039	24, 929, 307	30, 036, 811	5. 09	4. 03	4. 86
March 1, 1875	2, 007	493, 568, 831	131, 560, 637	24, 750, 816	29, 136, 007	5. 01	3. 96	4. 66
September 1, 1875	2, 047	497, 864, 833	134, 123, 649	24, 317, 785	28, 800 217	4. 88	3. 85	4. 56
March 1, 1876	2, 076	504, 209, 491	134, 467, 595	24, 811, 581	23, 097, 921	4. 92	3. 88	3. 62
September 1, 1876	2, 081	500, 482, 271	132, 251, 078	22, 563, 829	20, 540, 231	4. 50	3. 57	3. 25
March 1, 1877	2, 080	496, 651, 580	130, 872, 165	31, 803, 969	19, 592, 962	4. 39	3. 47	3. 12
September 1, 1877	2, 072	486, 324, 860	124, 349, 254	22, 117, 116	15, 274, 028	4. 54	3. 62	2. 50
March 1, 1878	2, 074	475, 609, 751	122, 373, 561	18, 982, 390	16, 946, 696	3. 99	3. 17	2. 83
September 1, 1878	2, 047	470, 231, 896	118, 687 134	17, 959, 223	13, 658, 893	3. 81	3. 04	2. 31
March 1, 1879	2, 043	464, 413, 996	116, 744, 135	17, 541, 054	14, 678, 660	3. 78	3. 02	2. 53
September 1, 1879	2, 045	455, 132, 056	115, 149, 351	17, 401, 867	16, 873, 200	3. 82	3. 05	2. 96
March 1, 1880	2, 046	454, 080, 090	117, 226, 501	18, 121, 273	21, 152, 784	3. 99	3. 17	3. 70
September 1, 1880	2, 072	454, 215, 062	120, 145, 649	18, 290, 200	24, 033, 250	4. 03	3. 18	4. 18
March 1, 1881	2, 087	456, 844, 865	122, 481, 788	18, 877, 517	24, 452, 021	4. 13	3. 26	4. 22
September 1, 1881	2, 100	458, 934, 485	127, 238, 394	19, 499, 694	29, 170, 816	4. 25	3. 33	4. 98

It will be seen from this exhibit that the claim often put forth by the new school of financial philosophers that the banks are getting rich by robbing the people has not the slightest foundation in fact. For the six months ending September 1, 1881, the ratio of dividends to capital and surplus was only 3.33 per cent. During the period of time covered by these figures the Government itself was paying a greater average rate of interest on its bonds than the amount of these dividends, and it would have been far more profitable, at least from 1875 to 1879, when surplus declined, for the banks to have closed their doors, bought Government bonds, and divided the interest on them among their stockholders. However, the robbing process seems to have gone on with the net result to the banks of about 4 per cent. on the amount of capital and surplus.

Under the provisions of the act each association must keep on hand 15 per cent. of their deposits and notes in circulation as a reserve fund, not to be reduced by dividends, &c.; and in certain cities named in the act 25 per cent. is required to be set aside for the same purpose. The amount held in reserve under this provision of law amounted on June 30, 1881, to $126,679,518. This sum constitutes a safety fund for these institutions, which cannot be divided to stockholders, and can only be drawn upon in case of embarrassment growing out of large and unforeseen losses.

In connection with this claim of extravagant profits it may be well to further consider the question of taxation. I have already shown the amount paid by the banks to the United States in taxes. They also pay tribute to the States. The amount paid to the United States and to the States is shown by the following figures, taken from the last annual report of the Comptroller:

National and State taxes paid by national banks from 1866 to 1880, inclusive.

Years.	Capital stock.	Amount of taxes.			Ratio of tax to capital		
		United States.	State.	Total.	United States.	State.	Total.
					Per ct.	*Per ct.*	*Per ct.*
1866	$410,593,435	$7,949,451	$8,069,928	$16,019,389	1.9	2.0	3.9
1867	422,804,666	9,525,607	8,813,127	18,338,734	2.2	2.1	4.3
1868	420,143,491	9,465,652	8,757,656	18,223,308	2.2	2.1	4.3
1869	419,619,860	10,081,244	7,297,096	17,378,340	2.4	1.7	4.1
1870	429,314,041	10,190,682	7,465,675	17,656,357	2.4	1.7	4.1
1871	451,994,133	10,649,895	7,860,078	18,509,973	2.4	1.7	4.1
1872	472,956,958	6,703,910	8,343,772	15,047,682	1.4	1.8	3.2
1873	488,778,418	7,004,646	8,499,748	15,504,394	1.4	1.8	3.2
1874	493,751,679	7,256,083	9,620,326	16,876,409	1.5	2.0	3.5
1875	503,687,911	7,317,531	10,058,122	17,375,653	1.5	2.0	3.5
1876	501,788,079	7,076,087	9,701,732	16,777,819	1.4	2.0	3.4
1877	485,259,694	6,902,573	8,829,304	15,731,877	1.4	1.9	3.3
1878	471,064,238	6,727,232	8,056,533	14,783,765	1.4	1.7	3.1
1879	456,968,504	7,016,131	7,603,232	14,619,363	1.5	1.7	3.2
1880	457,266,545	8,118,103	7,876,822	15,994,925	1.8	1.8	3.6

According to these figures the amount paid last year was $15,994,925, over 4 per cent. on the average circulation of the banks. Complaint is often made that the banks receive 90 per cent. of the amount deposited with the Treasurer in bonds of the United States in circulating notes, for which they give nothing in return, thus creating a monopoly; but the fact is clearly shown by these figures that the banks pay a greater tax on their circulation than they receive in interest from the Government on the bonds deposited to secure that circulation.

According to the last report of the Comptroller—

The banks now hold $31,981,650 of 4½ percents, and $92,005,800 of 4 per cent. bonds. They hold also $3,486,000 of Pacific Railroad bonds, and $758,000,900 called bonds on which interest has ceased. The remainder, $245,601,050, consists of bonds bearing interest at the rate of 3½ per cent. The average interest now paid by the United States upon the bonds deposited as security for circulating notes is about 3.7 per cent. upon their par value.

The following table shows the amount of these bonds held by the Treasurer November 1, 1881, and the rate of interest:

Class of bonds.	Authorizing act.	Rate of interest.	Amount.
Ten-forties of 1864, (interest ceased.)	March 3, 1864	5 per cent.	$50,000
Funded loan of 1881, (interest ceased.)	July 14, 1870, and January 20, 1871	5 per cent.	708,900
Funded loan of 1891	July 14, 1870, and January 20, 1871	4½ per cent.	31,981,650
Funded loan of 1907	July 14, 1870, and January 20, 1871	4 per cent.	92,005,800
Loan of July and August, 1861, continued.	July 17 and August 5, 1861	3½ per cent.	36,040,650
Loan of 1863, continued, ('81s.)	March 3, 1863	3½ per cent.	17,700,950
Funded loan of 1881, continued.	July 14, 1870, and January 20, 1871	3½ per cent.	187,634,550
Pacific Railway bonds.	July 1, 1862, and July 2, 1864	6 per cent.	3,486,000
Total			369,608,500

In addition to the other service performed by the national banks for the General Government they have acted as depositories of the public funds to the amount of $3,669,461,046.61, the amounts in each year being shown by the following figures taken from Treasurer Gilfillan's last report:

Fiscal year.	Receipts.	Funds transferred to depository banks.	Funds transferred to the Treasury by depository banks.	Drafts drawn on depository banks.	Balance at close of the year.
1864	$153,395,108 71	$816,000 00	$85,507,674 08	$28,726,695 88	$39,976,738 75
1865	987,564,639 14	8,110,294 70	583,697,912 72	415,887,767 81	30,065,992 06
1866	497,506,676 42	13,523,972 62	363,085,565 65	149,772,756 11	34,298,319 34
1867	351,737,083 83	8,405,903 63	331,039,872 57	37,218,612 76	26,182,821 47
1868	225,244,144 75	9,404,392 00	215,311,460 69	22,218,187 92	23,301,709 61
1869	105,100,573 67	10,052,199 44	114,748,877 24	14,890,463 75	8,875,141 73
1870	120,084,041 79	2,466,521 06	111,123,926 18	11,818,228 61	8,483,549 79
1871	99,299,840 85	2,633,129 45	89,428,544 04	13,790,961 01	7,197,015 04
1872	106,104,855 16	3,050,444 05	94,938,603 76	14,635,837 49	7,777,873 00
1873	169,602,743 98	9,004,842 49	108,089,786 76	16,110,519 07	62,185,153 64
1874	91,108,846 70	2,729,958 81	134,869,112 57	13,364,554 52	7,790,292 06
1875	98,228,249 53	1,737,445 60	82,184,304 05	13,657,678 25	11,914,004 89
1876	97,402,227 57	2,445,451 49	89,981,146 99	13,909,616 83	7,870,920 13
1877	106,470,261 22	2,353,196 29	24,276,400 35	14,862,200 88	7,555,776 41
1878	99,781,053 48	2,385,920 38	90,177,963 35	12,606,870 60	6,937,916 32
1879	109,397,525 67	6,890,489 06	100,498,469 29	15,544,058 34	7,183,403 42
1880	119,493,171 94	6,489,634 17	109,641,232 64	15,525,023 03	7,999,953 86
1881	131,820,002 30	5,646,092 46	118,143,724 91	18,388,772 82	8,933,550 79
Total	3,669,461,046 61	98,145,887 70	2,916,744,577 84	841,928,805 68	

The Government, in return for what it receives from the banks, gives them two things: first, a corporate franchise; second, a circulation equal to 90 per cent. of the market value of its own bonds, which secure that circulation.

It will be seen from the foregoing that the Government has derived quite as much from the banks as it has bestowed upon them.

No well-defined system has yet been suggested by the opponents of the national-bank system as a substitute for it. Some of its critics and opposers would have the Government itself engage in the business of banking and issue fiat money for use in the business transactions of the people, its volume to be regulated in some way not yet clearly defined. Government postal savings-banks have been suggested, in which laboring people may deposit their savings and receive a low rate of interest, and the cool suggestion is made that the Government would derive a great profit from the use of the money so deposited. To enact and enforce laws for the regulation of business is undoubtedly one of the functions of Government. It is clearly the duty of Congress to regulate and guard the business of banking so that those who engage in it and thereby have the management of vast sums of money shall not oppress the people. No one will object to the most stringent measures looking to this end. This is as far as the Government should go. It should guard, protect, and encourage business, and not take it into its own hands. The less interference on the part of the Government with any kind of business save to make it safe for business men to engage in it the better.

It has been claimed that inasmuch as the national debt, which is the basis and security of the circulation, is being rapidly paid off, the system will fail for want of something to secure the circulation. The question suggested by such a claim is not now before us for decision. The Government has never been free from debt, and probably never will be. It certainly will not be during the term named in the bill. If the time should come when the Government bonds should become unavailable as a basis of circulation, then the only question to be solved would be how to secure the circulation. If that question was now before us it might be suggested that Government bonds are not the only safe securities to be found in the United States, and that some other security for the circulation, to be approved of by the Government, might be substituted which would render it as safe as when secured by Government bonds.

The bill before the House ought to have received favorable action earlier in the session. Although it is true that new associations can be formed by the stockholders of the banks when their charters expire, yet there are innumerable difficulties connected with such a course growing out of the rights of non-assenting stockholders to their share of the assets, the laws of some of the States forbidding the reinvestment of trust funds in any kind of bank stock except at the risk of the trustee so investing, the difficulty of obtaining the consent of all the stockholders, and others that will readily suggest themselves.

If the present Congress should refuse to extend these charters, it would be understood as indicating hostile legislation hereafter, and those banks whose charters expire before February 25, 1883, anticipating unfriendly action on the part of Congress, would go into voluntary liquidation, retire their circulation, amounting to nearly sixty-eight millions and a capital of forty-two millions, and either abandon business altogether or organize under State laws. This is no fancy picture. The delay in the consideration of this bill and the hostility shown toward it on the floor of this House have caused the greatest solicitude and uneasiness in the business centers of the country; and capital, always alert, shy, and apprehensive, shares in the general fear. In the State of Connecticut one bank, at New London, has gone into business under the State law rather than continue longer as a national corporation. Another, the Phœnix National Bank of Hartford, has recently obtained a charter from the Legislature of that State, and another financial institution, the United States Trust Company of Hartford, rather than organize under the national system, has obtained a charter to do business as a bank under State authority.

The national banks have been the successful agents of the Government in establishing and maintaining a safe, convenient, and uniform currency. The opponents of the system have suggested no better plan. They would substitute the untried and speculative for the tried and substantial. It would be the height of legislative folly to follow this advice and set aside a system which, growing out of the exigencies of the war, contributed in a large measure to the relief of the Government in that trying period of its history, and for twenty years has been found equal to the wants of a prosperous and growing country.

Mr. CRAPO. I ask unanimous consent that general leave be given to gentlemen who may so desire to print remarks on this subject in the RECORD. I make this request because it is the wish of the committee that the time shall not be extended in the case of those who obtain the floor.

The SPEAKER *pro tempore*. It is suggested that all who desire to print remarks on this subject in the RECORD shall have leave to do so.

Mr. RICE, of Missouri. I desire to make an inquiry. For how long a time is it proposed that this leave to print shall be extended?

The SPEAKER *pro tempore*. The Chair understands it to be without limit. The Chair hears no objection to the request of the gen-

tleman from Massachusetts. The gentleman from Missouri [Mr. BLAND] is recognized.

Mr. BLAND. Mr. Speaker, in discussing this question I shall undertake to answer some of the points made by the gentleman from Massachusetts [Mr. CRAPO] in favor of the national banks. One of the arguments last made by the gentleman from Massachusetts in favor of the national banking system, and against the proposition submitted by other gentlemen as well as myself, of substituting Treasury notes for bank notes, was that there is a danger of overissue on the part of the Government if the matter of issuing Treasury notes is confined to Congress alone, and that it is better to transfer this power of regulating the volume of paper money to corporations, to gentlemen whose interest it is to subserve private ends, instead of holding that power in the representatives of the people for the public benefit. And he eulogizes further the national banking system because, he says, it has furnished the Government and the people with a paper currency secure and valid everywhere. And why so? What is a national-bank note other than a Treasury note? When gentlemen come to argue this question I want them to answer that proposition. What is a national-bank note to-day other than a state paper? Nothing. It is not redeemable in anything but state paper. It is not based upon coin, but upon paper. It is redeemable in a Treasury note, which is state paper. It is made receivable and payable for all public dues, with certain exceptions, and is therefore essentially nothing more nor less than state paper issued by the Government, and handed over to corporations to circulate and receive the profit of the issues.

From that proposition there is no escape. Under this system is there no danger of banks contracting and expanding the currency, the very danger that the gentleman warns the country against with reference to Treasury notes? Is there no danger with reference to bank notes in the same direction? Why, when the funding bill was up at the last session of Congress we remember that the national banking institutions, in order to dragoon Congress into passing such measures as they thought would redound to their benefit, secured the veto of the bill by bulldozing the President with threats of contracting the currency and inviting a financial panic.

Let gentlemen who are favoring national banks here to-day remember what took place in the Forty-third Congress. That Congress assembled in the midst of a panic greater probably than this country ever experienced before. It was under this national banking system, and it was determined here upon the part of those favoring the national banking system that instead of increasing the volume of legal-tender notes or Treasury notes the banking law should be extended and amended so as to permit banks to issue the money without limit. Banking was made free, and other measures and amendments of the bank law in their interest were made at that Congress. And to-day the same proposition is here. It is contended by the Treasurer that the banks contract and expand this currency in their own interest and not in the interest of the people. And if Congress can overissue Treasury notes, if there is a danger of Congress making these overissues without the intervention and the coercion of banks, then there certainly is still greater danger that this money which we turn over to our banking corporations for their benefit and use may be contracted and expanded at the behest of these corporations, where we know they demand their own terms as to our legislation, or, failing to get their demands, paralyze business with forebodings of financial disasters.

When we are told there is danger of centralization also in the proposition to substitute Treasury notes for bank notes, I reply, Mr. Speaker, that the danger of centralization and revolution in this Government comes not from the people or their representatives here untrammeled by corporations. The danger of centralization, the danger of revolution, the danger of changing our republican form of government to that of an aristocratic form of government, arises from the vast power of the corporations that Congress has built up in this country; among the greatest and most powerful and most to be feared are these banks.

Why, sir, the danger of centralization when the people's representatives are left free to act upon public subjects; when banking corporations that we built up in this land have the power of threatening panic by bulldozing Congress, by saying to us if we do not pass this bill to-day or another bill to-morrow in their interest the country will go to ruin, and they will bring panics and financial disaster upon us, the danger of centralization is in the power of those institutions, and not in the power of Congress representing the people of this country.

What are the propositions that we are to meet to-day? I have the reports here of the Secretary of the Treasury and also of the Treasurer of the United States and the Comptroller of the Currency all conflicting upon this subject. I will send to the Clerk's desk and ask the Clerk to read what I have marked on page 190 of the report of the Secretary of the Treasury.

The Clerk read as follows:

If, on the other hand, the corporate existence of the national banks shall be extended, all the advantages of the existing system will be preserved, subject to such amendments as may be hereafter found necessary; while the circulation of the banks, which is the principal objection urged against the system, will, under existing laws, diminish in volume as the public debt shall be reduced.

Mr. BLAND. I ask the Clerk to turn to page 430 and read what I have marked there.

The Clerk read as follows:

SILVER CERTIFICATES

There was a large increase during the fiscal year in the amount of silver certificates in circulation, the amount outstanding at the close of the year being $51,166,530 as compared with $12,374,270 outstanding June 30, 1880. This increase is due in part to the demand for notes for circulation, but chiefly to the operation of the departmental circular of September 18, 1880, under which exchange on the subtreasuries in the West and South payable in silver certificates is furnished by the Department for deposits of gold coin with the assistant treasurer in New York. Under this circular large amounts of silver certificates, chiefly of the denominations of ten and twenty dollars, have been paid out at the sub-treasuries in New Orleans, Saint Louis, Chicago, and Cincinnati, for the purpose of moving the cotton and other crops. Since the close of the fiscal year the circulation of the certificates has still further increased; the amount now outstanding being $64,149,910, of which $11,309,470 is held by the Treasury. The amount of silver dollars in the Treasury at this date is $65,949,279, less than $2,000,000 in excess of the outstanding certificates.

As the certificates cannot be issued in excess of the dollars held by the Treasury, the limit of their issue is likely soon to be reached, although, of course, the certificates held by the Treasury in its cash can be paid out. Aside from this limitation, the issue of the silver certificates has little relation to the standard silver dollar. The Treasury pays them out because it finds it necessary to utilize in some way the enormous stock of silver which it is carrying, and they are taken by the public without regard to the silver dollars behind them, because they constitute a convenient form of paper currency. To the extent of nearly two thirds of the amount coined, the coinage and attempted circulation of the standard silver dollar have resulted simply in an addition to the paper circulation of the country. Whatever the ultimate result may be, the immediate effect has not been without positive advantages. The volume of the United States notes is limited by law, while the national banks do not find a sufficient profit in issuing circulation on United States bonds at present prices to induce them to supply the demand for additional paper circulation, caused by the increase of business. The issue of silver certificates, by meeting this demand, has averted what might have proved to be a serious public inconvenience.

Mr. BLAND. Now, I want the gentleman from Massachusetts [Mr. CRAPO] and the majority of the Committee on Banking and Currency, who have reported a bill to demonetize silver, to answer that argument of the Treasurer. He says that the coinage of silver dollars and the issue of silver certificates has averted what otherwise might have been an incalculable disaster to the country. That is refreshing in connection with what I will read from the report of the Secretary himself on that subject, as follows:

There need be no apprehension of a too limited paper circulation. The national banks are ready to issue their notes in such quantity as the laws of trade demand, and as security therefor the Government will hold an equivalent in its own bonds.

The embarrassments which are certain to follow from the endeavor to maintain several standards of value, in the form of paper currency, are too obvious to need discussion.

It is recommended, therefore, that measures be taken for a repeal of the act requiring the issue of such certificates and the early retirement of them from circulation.

And yet an officer in that Department who is noted for his integrity and his ability, who has been there for years and has studied this question, tells us solemnly to-day that the issuing of these silver certificates has been necessary in the past. And we are told by the Comptroller of the Currency, in one of his arguments in favor of continuing the banks, that their circulation will diminish from time to time. Now, if it is to be diminished from now on, and we are to carry out the further recommendation of the Committee on Banking and Currency and of the Secretary of the Treasury and demonetize silver, I want to know what the friends of the national banks propose to do for the people?

Let the gentleman from Massachusetts answer that proposition. He wants to know what will be better than the national banks; and he proposes to wait until some system shall be proposed that will suit him better than the banking system before he will stop his advocacy of national banks. Yet the records of the Treasury Department show that the banking system has the dry-rot to-day and is expiring. They contract and expand the currency as suits their own interests, as is shown by the following from page 364 of the Treasurer's report, 1880:

A similar question arose concerning the deposits for the retirement of bank circulation under the fourth section of the act, which was decided in the same manner, so that a bank desiring to reduce its circulation may accomplish its object by depositing in the Treasury gold coin, or silver dollars, or United States notes. The original theory of this provision was that whenever the paper circulation of the country became excessive, the redundancy would be cured by the deposit by the banks of United States notes for the retirement of their circulation. Now, however, that the banks may reduce their circulation by the deposit of coin, it is evident that the original theory of the act is destroyed. In fact, the question was raised by banks desiring to reduce their circulation, who averred that it was difficult, if not impossible, to obtain United States notes for the purpose, plainly showing that banks may desire to reduce their circulation when the currency is already deficient.

Now, on top of that he has reported to this House a bill doing away with the only thing that can supply the place of national-bank notes, unless we substitute Treasury notes for them; that is, silver coin and silver certificates.

Mr. DINGLEY. Will the gentleman allow me to make a suggestion at that point? I understood him to say that the majority of the Committee on Banking and Currency had reported a bill demonetizing silver?

Mr. BLAND. Unless I can have my time extended somewhat, I shall desire to occupy the hour myself. I would like to yield to gentlemen for questions, and will do so if I can have my time extended.

Mr. DINGLEY. I desire to say that the bill to which the gentleman refers does not propose to demonetize silver, but to limit the coinage of silver to the actual demands of the people.

Mr. BLAND. You want to further limit, then, the coinage, practically to demonetize it.

Mr. SPRINGER. I ask that the gentleman from Missouri [Mr. BLAND] may have his time extended so that he can answer any questions which gentlemen may desire to ask him.

Mr. CRAPO. I must object to that.

Mr. BLAND. I want to make a suggestion in all fairness to gentlemen on both sides. It is not often that I occupy the attention of the House. I am sure I have never trespassed upon the patience of gentlemen. But this is a subject which deserves and should receive full consideration and discussion. If I should not get through the remarks I propose to submit within the hour, I trust the courtesy of the House will be extended to me for a short time.

Mr. HARDENBERGH. I desire to state that I will yield to the gentleman fifteen minutes of the time to which I am entitled as a member of the Committee on Banking and Currency.

Mr. BLAND. I thank the gentleman. The gentleman from Massachusetts, [Mr. CRAPO,] in his argument for the continuance of the national banks, and in defense of the national-bank system, referred to the great benefits rendered by the banks during the war. Suppose we admit for the sake of argument that at that time they worked great benefit. But there were other patriots in the land besides those engaged in national banking; there were other capitalists who should be considered as well as these bankers. The great mass of the producing people of the country, who must pay all the expenses of these corporations, should be considered as well as the banks; for the people were as patriotic as were the banks.

What was the effect of banking institutions during the war, and what has been their effect since in demanding legislation on the part of Congress? What have been the influences brought to bear by the banks? During the war they purchased bonds for legal-tender notes, when those notes were worth but sixty cents on the dollar in coin. They converted into bonds bearing coin interest paper worth but sixty or seventy cents on the dollar, bonds to full amount of face value of this depreciated paper.

Had the Government gone into the markets of the world and offered its bonds to be sold for coin, and had sold them for sixty or seventy cents on the dollar, we would then have understood the transaction. We would have seen that we were losing thirty or forty and, in some instances, probably fifty cents on the dollar in that transaction.

Yet we lost the same amount by converting these paper issues into bonds; paper money that was depreciated on account of the issues of the national banks themselves. The legal-tender notes issued during the war, had there been no other issues, had bank notes not been issued, might have stood near par all the time. But every bank note that was issued came in competition with the legal-tender notes, and depreciated them to that extent. These banks and their circulation depreciated the paper of the Government for which the bonds were sold, and instead of being a benefit to the Government during the war they cost it not less than $500,000,000.

More than that. When they had secured these bonds at a low price and had control of them, they came into the Halls of Congress and demanded that bonds thus payable in paper money below par should be made a coin bond. By the act of 1869 Congress pledged the faith of this nation to redeem its public debt in coin. This is a specimen of the influence brought to bear by the national banks upon the legislation of this country in the past. Instead of being a public benefit these banks have been a public curse; instead of being in the interest of the people they have been the grandest robbers of the tax-payers of this country that ever existed under any government. Yet we are asked now to continue them. Why? Because the Comptroller of the Currency says that their circulation is gradually going out, and that this objection to them is not longer to be urged. He suggests furthermore that we should not consider what shall be substituted for these national banks when they have ceased to exist; that some time in the future will be early enough to consider that question. But, sir, we are paying off the national debt at the rate of over $100,000,000 a year, and, unless we cease to pay off this debt, unless this bill means, as I think it does, that when we have continued and rechartered these banks the next legislation asked on the part of Congress will be to cease the payment of the public debt in order to maintain the banks, the basis on which the national-bank currency has rested must shortly pass away. The indefinite continuation of the national debt is what the Comptroller of the Currency invites us to, although he has not the hardihood to say so; for it is confessed here that the banking system cannot exist much longer unless we stop immediately the rapid payment of the public debt. This bill is simply the preliminary and forerunner of other legislation looking to the perpetuation of the national debt in order to perpetuate the national banks. Otherwise this bill means nothing; it is a mere *brutum fulmen*, because the banks whose charters it continues and the very system it seeks to uphold are expiring—are dying from day to day, and in a few short years must go out of existence.

We hear it proclaimed throughout the country to-day that a national debt is a national blessing. There are in this country, and have been since the formation of our Government, those who believe that the nearer we pattern after the Government of Great Britain the nearer are we to perfection. They believe in aristocratic government; a government controlled by wealth and power as against the people; a government in which the aristocratic classes shall control the masses. It is the class who thus believe, who proclaim, that a national debt is a national blessing. Why? Because in accordance with the English system we can bank upon a perpetual debt. It is this species of legislation which in a few short years has raised up in this country millionaires by the thousand, when, before the war, scarcely one was heard of. The great contrast between extreme poverty and extreme wealth in this country is steadily and surely marking the line between the aristocratic and the laboring classes of our people.

Mr. Speaker, I have a bill which I propose to print as a part of my remarks, and which I hope to have considered when this question is under discussion in Committee of the Whole. I will now state the principal features of the bill. The first three or four sections correspond with the bill of the gentleman from Massachusetts, in providing for the continuance of the national banks as banks of discount and deposit. In this way will be avoided the calamity of which the gentleman from Massachusetts speaks, compelling the banks to wind up and thereby discommode and inconvenience their customers. But in this bill I propose to cut off their circulation.

The next proposition of the bill is that the banks, as their charters expire, shall go into liquidation in accordance with the provisions for voluntarily going into liquidation under the Revised Statutes. In other words, they shall deposit in the Treasury lawful money for the purpose of taking up their circulation. I provide further that the money thus deposited shall be counted as surplus revenue, and paid out like other surplus revenue in the Treasury, in the current expenditures of the Government and in the redemption and extinguishment of the national debt. In this way I would require these banks to redeem their circulation, something that they never have done and under the pending bill never will do. Gentlemen talk about these banks redeeming their circulation; but I say that for the last twenty years the banks have had the use of the Government paper furnished to them which they have put out at interest; but never a dollar have they redeemed.

No man goes to the bank counter and demands the redemption of a national-bank bill. Why? Because it is practically Government paper, and is as good as the paper in which it would be redeemed. The pending bill proposes to extend the charters of these banks for twenty years and thus give them for the term of forty years the use of the Government paper without costing them a dollar. That is one of the objects of the pending bill. It proposes to extend the time for the banks to redeem their circulation, and they know it. Yet they come here and claim that they are acting for the benefit of the people. This is one of the swindles to be perpetrated.

If they are compelled to redeem their circulation at once in lawful money of the Government, and if this money be deposited in the Treasury we can use it as other surplus revenues are used, in redeeming the bonds upon which these banks are doing business; and in order to take up their circulation we can issue Treasury notes having the same monetary functions as the bank notes. As these bank notes come into the Treasury in the payment of taxes and otherwise the bill which I have prepared provides that the Secretary of the Treasury shall issue circulating Treasury notes to take their place.

In this there is no contraction—none whatever. You will have in circulation the same kind of paper that is out to-day, Government paper issued by Congress; for the bank paper is nothing but Government paper issued under the authority of Congress, the banks being the agents for its circulation. How many agents and commissions do we want in this land? Are we not capable of doing our own business? Thus, sir, I would issue Government paper redeemable like bank notes, and taking the place of the bank notes, and the money deposited by the banks can be used for current expenditures and for the payment of the public debt. Thus the banks will be required to redeem the circulation of which they have had the use for the last twenty years. The money paid in by them to redeem this circulation will be utilized in extinguishing the public debt. By the year 1885, three years from to-day, with the amount of revenue now coming into the Treasury and with the revenue which will come in under my bill, we can redeem the last outstanding 3½ per cent. bond and thus wind up the banking institutions. They will not then longer survive.

Mr. HUTCHINS. I would like to ask the gentleman whether he proposes to have the Treasury note redeemed by the Government?

Mr. BLAND. I do.

Mr. HUTCHINS. You do?

Mr. BLAND. Yes, sir; precisely as the bank note is now redeemed.

Mr. HUTCHINS. Then you would have a dollar of gold or silver in the Treasury to redeem each dollar of Treasury notes?

Mr. BLAND. I will explain that; and I would have done so if the gentleman had not made the inquiry. The bank note to-day is redeemed by a greenback. There is not a dollar of coin behind the note of the national bank to-day.

I propose to issue Treasury notes that will have behind them legal-tender notes, and to let the Secretary of the Treasury hold as a reserve in the Treasury such coin as may be necessary to keep the legal tenders at par. The Secretary of the Treasury will reserve in the Treasury enough coin to keep them at par.

Mr. HUTCHINS. Do I understand the gentleman to say that he would allow such an amount of coin to remain in the Treasury as the Secretary of the Treasury alone should deem sufficient to redeem those notes?

Mr. BLAND. The gentleman knows that is the law to-day, and that by the law as it now exists the Secretary of the Treasury fixes his own reserve. There is no act of Congress that limits the power of the Secretary of the Treasury to fix this reserve, and I hope the gentleman from New York or some other gentleman will introduce a bill on that subject.

Mr. HUTCHINS. I understood the gentleman to say that he was in favor of issuing the Treasury notes by the Government and having in the Treasury a sufficient amount of coin to redeem them; that amount to be kept there and to be such as the Secretary of the Treasury in his judgment might think proper. Now, did I understand him correctly?

Mr. BLAND. I have already answered the gentleman's question, but I will answer it again, and I hope then my time will not be further taken up by interruptions on this point. I do not propose to disturb the present condition of things except to issue Treasury notes having behind them legal-tender notes to take the place of the national-bank notes. The Treasury note I propose to issue will be redeemable like the national-bank note. I propose to issue a Treasury note the same as a bank note, and that has the same thing behind it as a bank note.

So far as a contest between the bank note and the Treasury note is concerned that is all sufficient for the purposes of my argument. Now, Mr. Speaker, I will read from the report of the Comptroller of the Currency, submitted December 5, 1881, in which, on page 188, is the following statement:

> The principal reason urged by those who favor a discontinuance of the national banking system is that money can be saved by authorizing the Government to furnish circulation to the country; in other words, that the profit to the banks upon their circulation is excessive. Sixteen years ago the banks had on deposit, as security for circulation, $276,000,000 in United States bonds, of which amount nearly two hundred millions was in 6 percents and seventy-six millions in 5 percents. The banks now hold thirty-two millions of 4½ percents; ninety-two millions of 4 percents; two hundred and forty-one millions of 3½ percents, converted from 5 and 6 percents; and also three and a half millions of Pacific Railroad sixes.

For sixteen years, then, Mr. Speaker, these national banks held bonds drawing 5 and 6 per cent. interest to the amount here stated. What was their profit at that time? It is claimed there is but little profit in national banks, and I admit there is not so much profit now as formerly. But during the war, and shortly afterward, their profits were very large. I have made a calculation and I find during these sixteen years referred to in the report of the Comptroller of Currency the banks drew as interest $256,000,000 in coin, and on bonds that did not cost them over sixty to seventy cents in the dollar of coin. Their circulation is $248,000,000 of banking paper, which was at a discount with legal-tender notes during all that time. Of course it was redeemable in them. Now, if they are compelled to redeem their circulation in lawful money they will not have refunded to the Treasury the amount they have already drawn. In other words, Mr. Speaker, the tax-payers of this Government have paid into the coffer of the national banks during this sixteen years in coin more than sufficient to redeem the last bank note which they issued. They have had it all for nothing. That is where they received their profit, and therein lies the infamy of a system we are called on now in this House to continue.*

If we are to continue them as they now exist they will cost us not less than $12,000,000 annually, and if they are to exist for twenty years under this new life they will then have received from the Government sufficient money, and more than enough, to twice redeem the last note the Government has ever given to them. They will have lived for forty years, and the circulation absolutely given to them without charge and to be used at their own discretion for that time.

Under this bill they can be rechartered for twenty years more, and then for twenty years more, and so on perpetually. So that this proposition is nothing more nor less than the perpetuation of this whole national banking system. That is just what it is.

They are never to redeem their circulation. Gentlemen who can stand upon this floor and defend such a system or can go before their constituents and tax-payers and defend such a system have, in my judgment, more ability than I give any gentleman on this floor credit for. It is absolutely indefensible, this giving to these national banks, in addition to all they have already received, $12,000,000 a year bounty for twenty years longer.

Many newspapers throughout the country complain and denounce Congress as extravagant if we happen to give ten or twelve million dollars to improve the vast waterways of this country. If we appropriate five or six million dollars for improving the navigation of the Mississippi River and its tributaries from mouth to sources to secure cheap transportation for the vast products of the Mississippi Valley, worth untold millions to the Government, we are denounced as being extravagant. Yet, sir, they soundly berate us if we intimate an objection to subsidizing national banks at the rate of twelve millions annually.

Let us subsidize the Mississippi and its tributaries at the rate of twelve millions per annum for the half of the twenty years, and we will have deserved the thanks of the people. Stop the banks and give it to the river. Mr. Speaker, I remind gentlemen this will go home to the people in the coming elections, and gentlemen who vote to perpetuate this system will find it hard to explain their action in favor of this bill. It shall go before the country, and such a system of legalized plunder, never before heard of under any form of government, shall have its infamy denounced in terms which are befitting and just.

They cannot exist, sir, unless we continue these bonds and pay this subsidy; and that is what this bill means, as I said a moment ago, if it means anything. Then the issue comes up squarely and fairly, are we in favor of continuing the public debt indefinitely or perpetuating that debt in order to perpetuate the national banks? It is nothing else. It can mean nothing else; and that is what this bill means, or it means nothing. I have sometimes tried in my feeble way to convince gentlemen favoring the national banking system that there might be something else under the shining sun that was better, and the gentleman from Massachusetts stated in his speech that he would favor the national banks until some one devised a better system. That is the argument that is offered. But I have not seen one of them yet who would devise another scheme or who could agree with any one else as to the system they could devise to take its place, and I would like to know what better friends the national banks have than those gentlemen who claim that there is no better system or plan that can be devised?

Then, sir, if no better system than the national-bank system can be devised by Congress, we are driven to the necessity of stopping the payment of the national debt to continue them. If we believe that is wrong, we are recreant to the trust reposed in us if we do not now and here seek to devise a better system, because according to the reports of the Comptroller of the Currency, and according to the admitted statement of the Committee on Banking and Currency, if their doctrine is to be carried out, and we continue to pay off the bonds, we start on the downward road of contraction, contraction, contraction!

What does that mean? Need I point you to the contraction of the currency from 1873 to 1879 and to its effects? Need I cite you to all authors of monetary science as to the effect of contracting the volume of currency upon the business of a country? Why, sir, a contraction in the volume of currency going on from day to day means simply enhanced value of money, or, in other words, a depreciation of all commodities and of labor.

There is a gradual shrinkage everywhere, and the merchant who to-day purchases a bill of goods does not know to-morrow at what price he can sell them; and if he has six months within which to pay for the goods, he does not know if at the end of that time he will not be a bankrupt because of the depreciation of property and shrinkage of the currency. And so it is, Mr. Speaker, with the manufacturer; so it is with the farmer; and so it is with every business man. He cannot enter upon business of any kind or embark in any business enterprise because he knows that the volume of money is contracting and prices falling from day to day. He cannot afford to buy to-day, for next week's falling prices will leave him with his property or goods on hand, and worth much less than he paid for them. For the same reason a manufacturer cannot operate, for the wares he makes will not bring cost in a falling market. The shrinkage of money always brings falling prices and sudden panic.

And that is what you are invited to by this bill or banking system, unless you mean to say that you are going to perpetuate the public debt. That is the condition you must face, and you cannot escape it.

Why not look at the facts as they really are; and if we do not mean to perpetuate the national debt, then we must devise another system to take the place of the national-bank system, whether it be a better system or a worse one. That is a situation we cannot escape. We cannot postpone it, because contraction will go on continuously from time to time, from month to month, or from year to year, as we pay the debt. And the idea of the Secretary of the Treasury that while

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*The six years during which the advance of those three millions of promissory notes carried no interest having expired in the year 1806, it was proposed to the bank by the minister of the day that, instead of the notes being then repaid or returned to the bank, the advance of them should be continued by the bank to the public until the end of the war; the public, which had converted all the notes of the bank into state paper money, and had excused and prohibited the bank from the payment of them until the end of the war, paying interest to the bank for the same during the war at 3 per cent., or at the rate of £90,000 per annum.

It is needless, of course, to say that the bank agreed to the proposal, (although the directors had the modesty to qualify their consent to it with conditions;) for it is manifest that the effect of the arrangement was that from the year 1806 until the end of the late war, and thereafter until the resumption of its payments by the bank in the year 1822, a period of sixteen years, the corporation received back annually, under the name of interest, £90,000 a year of those three millions of notes—from the payment of which they were excused by the public—to be canceled.

And thus, instead of paying anything for the renewal of the charter in 1800 for thirty-three years, the bank actually received, at the public expense, no less than £90,000 a year from 1806 to 1822 for having accepted it!

If any beggar could have purchased a charter for the loan of three millions of his promissory notes, which he was excused and even prohibited from paying by the borrower, how would that beggar be enriched if for the continuance of such a loan he were for sixteen years to receive back annually, under the name of interest, £90,000 of his notes to be canceled, and payment in full of the three millions, over and above, in coin or money of the realm at the end of that period?

Yet such and no other was the bargain which the corporation of the bank had the dexterity to drive, the minister of the day the folly to consent to, and Parliament the want of sagacity to confirm, on the renewal of the charter of the bank in the year 1800.

Ninety thousand pounds a year, accumulated at compound interest of 5 per cent., which rate of interest could be obtained during all the period from 1806 to 1822, amounts to more than two millions; that is the sum, therefore, which the bank took by the bargain of the year 1800 for the renewal of its charter, in addition to all the other enormous advantages and exclusive privileges thereby secured to it.—*Theory of Money. London:* 1844. *Pages* 188, 189, § 6.

the contraction of the paper currency of banks is going on he will recommend that we shall also demonetize silver and further contract the currency is certainly not serious.

The gentleman from Maine a moment ago spoke with reference to the bill introduced here for the purpose or upon the subject of silver certificates, and I did not understand him to say what the policy of the bill was, but I understood what the report of that committee or the recommendation that it has made is. I have stated that the object is to do away with silver dollars and silver certificates. If I am mistaken in that I would like to be corrected by the gentleman.

Mr. DINGLEY. I said that the bill did not demonetize the silver dollar, but limited the coinage to the actual demands of the people for circulation.

Mr. BLAND. I understand, then, Mr. Speaker, what it is, and the country will understand it. It is simply to demonetize silver and have it coined in such quantities as the national banks shall determine. That is what it is. Why, we had just as well abandon the idea of Congress regulating the question of coinage, weights, and measures entirely. We have just as much right to turn over to the national-bank agents the duty of coining money and regulating its value as we have to give them the right to issue Government paper and set a value upon it. If we are going to abandon our duty to supply the people of the country with currency; if Congress is going to abandon its duty under the Constitution of the United States, and refuse to exercise its functions in furnishing money to this Government, either paper or coin, let us turn it all over to the banks. If they say demonetize silver, we obey. If they should say gold must go, it will have to go. Let the banks do the business for us. The theory is that the banks are our agents, but the truth is we are agents of the banks What they demand a subservient Congress obeys. They asked through the Secretary of the Treasury that the further issue of silver and silver certificates be stopped. The Secretary has made the recommendation to that effect. The bill is for that purpose. The Secretary says in his annual report that we should stop issuing silver and let the banks supply the money. The Banking Committee comply with the recommendation.

That is what it means. It is a demand of the national banks that silver shall be demonetized. And we may just as well let them do that thing without asking us to become cat's-paws for them; we may as well turn over the whole subject to their discretion, and let them go on with it.

Sir, in the days of Benton, in 1834, when this same subject was up, rechartering the National Bank, the national banks were very much opposed to his proposition to so amend the coinage laws as to induce gold as well as silver to flow to this country to take the place of bank notes. They denounced gold then as they do silver now. They ridiculed gold and ridiculed Benton. And because we to-day seek to bring silver back to where it was before its demonetization, because we desire coin in this Government that is contemplated in the Constitution, these same institutions that denounced gold in Benton's days are denouncing silver now, and denouncing those who favor it as silver humbugs as they called him a gold humbug. This proposition is intended to accommodate them. They would demonetize gold to-day if it was necessary to do so in order that their paper should circulate. For the purpose of supplying the vacuum that would be occasioned by withdrawing the coinage of silver and silver certificates for the purpose of supplying that vacuum with bank paper they ask this Congress to stop the coinage of silver and the issue of silver certificates. And that is the sort of legislation that we are asked from year to year to enact in order to accommodate national banks.

Mr. Speaker, while upon this silver question I desire to submit a few reflections in reference to it. In the first place, a few days ago Congress abandoned its duty in reference to the tariff and turned that over to a commission. We are asked now to abandon our duty in reference to the state paper of the Government and turn that over to a banking commission. We have been asked heretofore with reference to silver to stop coinage and turn that over to another commission to meet with foreign governments and ask their aid. When we talk of bills regulating railroad corporations there must be a commission for that also. When it is sought to perpetuate these enormities and iniquities and to increase the power of these vast corporations that have grown up here, they are afraid to trust the representatives of the people and ask us to turn over everything to commissions to be controlled by them. No, Mr. Speaker, we want no commission to meet with foreign governments on this silver question. It is simply cowardice to talk of sending agents to foreign governments to ask them to restore silver to circulation as money. As the gentleman from Texas [Mr. REAGAN] just now remarks to me, it is worse than that; it is corruption. And why? You take Great Britain, France, and other European countries, and their production of silver is simply nothing. You take the American continent, and here is the production of that metal. In the United States one-half of the annual supply of the silver of the world is produced. There were in the year 1879 about eighty millions of dollars' worth of silver produced in the civilized world, and forty millions of that were produced in our own country. That being our product, we ought to protect it, because the Constitution requires us to do so, by making money of it. We produce one-half of the silver produced in the civilized world to-day, and yet we are too cowardly to take hold of our own product and establish its value in the market. We must go to nations who produce nothing of it; we must ask their co-operation to rehabilitate it!

Why, Mr. Speaker, all this is the demand of the national banks. It does not come from the great mass of the people of this country. Not at all. When the Senate struck from the bill we passed in this House the unlimited coinage feature of the silver bill it infracted every principle of monetary science. It was that act that depreciated silver. And why? Because it laid an embargo upon it. It said to gold, "You can come into the mints and the Treasury, and go free in and out every door; you are here recognized; you are here honored." But it said to silver, "You can come to the mints in limited quantities only; and if you come in greater quantities than that we will barricade the doors and shut you out; we will go into the market to depreciate you and purchase you at cheap rates." And worse than that, it violated the very theory of metallic money.

What is the idea of metallic money? The theory upon which metallic money is based is simply this: that gold and silver, being produced in limited quantities, by consent of mankind have become money, and that if both are taken to the mint free, given unlimited coinage, you may charge something for the coinage; that is not the question; but it shall be coined unlimitedly; and thus nature supplies the demand for money. That is to say, all the jurisdiction Congress has over the coining of gold and silver is to declare the relation existing between the two as to value, to declare what shall constitute a dollar in silver and a dollar in gold, and open the mint to both. When it has done that its functions cease. I do not pretend to say it is even necessary to declare it to be legal tender, for I believe it to be so under the Constitution. Usually we authorize its circulation, we declare it to be a legal tender, and there we stop. Nature, through the labor of mankind, in his industries in opening mines, in carrying on trade, supplies the volume of money more regularly than does the legislation of Congress when applied to the regulation of paper money.

Nature will supply these metals to this nation and to all nations alike; and hence the volume of money will be steady; it will not be contracted to-day and expended to-morrow for the purpose of enriching a few at the expense of the great mass of the people. It will come in in a steady volume, so to speak. You will have all the stock which has been dug from the mines for centuries back, and all the product of the future to draw from, which has been relied upon and upon which contracts have been based heretofore. Hence it becomes a national and an international money, and is supplied to all peoples alike.

When you do away with that argument, you knock from under it the foundation upon which it rests. And when Congress undertakes to say that it will regulate the volume of metallic money by demonetizing gold or demonetizing silver, or by limiting the coinage, it infringes every principle of metallic money and does violence to all true monetary theories. You may as well go upon a paper basis and do away with the monetary metals entirely.

When you throw open the mints to the gold and silver of the world then you will have a parity between the metals in this country and in all countries. We are able to maintain it ourselves without the aid of foreign governments. They are not able further to demonetize silver. On the contrary, the last monetary conference showed that they had gone as far in that direction as it was possible for them to go, and a little further than it was safe to go.

I say, then, that this nation, with its vast extent of territory, reaching as it does from the Atlantic to the Pacific and from the lakes to the Gulf, with its fifty millions of busy people handling and transacting all kinds of business, with a population increasing by immigration at the rate of a half a million annually, this great nation is able to utilize our own product of the precious metals without asking the permission of foreign governments.

Hence I denounce as a crime the attempted demonetization of silver or its limited coinage as embraced in that bill. I denounce it as a swindle; I denounce it here upon this floor as being in the interest of the banks and other corporations in this country and against the interests of the people; I denounce it as a species of robbery which ought to be kicked out of this legislative hall, and I hope will be, and the authors left at home the next election.

I mean no disrespect to the gentlemen of the committee who have reported the bill. I may have said a little too much in making that statement; but I will admonish them of one thing: they must answer for this before the people of the country.

If silver and gold had been in circulation in 1873; if we had then been on a coin basis as we are now, and the proposition had then been made to demonetize one or the other of these metals, the people would have understood what it meant, and the proposition would have been denounced from one end of the Union to the other. It never could have been accomplished.

And now that the people of the country have silver in circulation, although in limited quantities, you never can take it from them until the national banks shall step into the Hall of this House and into the other end of the Capitol, and, by threatening panics and otherwise, induce the representatives of the people to obey their behests and their will.

The SPEAKER *pro tempore*, (Mr. UPDEGRAFF, of Iowa.) The time of the gentleman has expired.

Mr. BLAND. If I could have ten or fifteen minutes more I would like it.

Mr. BURROWS, of Michigan. I regret the necessity for me to object.

Mr. REAGAN. The gentleman from New Jersey [Mr. HARDENBERGH] said he would yield fifteen minutes of his time to the gentleman.

Mr. SMITH, of Illinois. I am next on the list, and I will yield five minutes of my time to the gentleman.

The SPEAKER *pro tempore*. The gentleman from Missouri can proceed for five minutes longer.

Mr. BLAND. I understood that I was to have fifteen minutes of the time of the gentleman from New Jersey.

Mr. REAGAN. The gentleman from New Jersey, [Mr. HARDENBERGH,] as a member of the Committee on Banking and Currency, said he would yield fifteen minutes of his time to the gentleman from Missouri.

The SPEAKER *pro tempore*. The gentleman from New Jersey has not yet been recognized.

Mr. HARDENBERGH. I yielded ten minutes of my time to the gentleman; I am entitled to an hour.

The SPEAKER *pro tempore*. The Chair cannot recognize the gentleman from New Jersey now for that purpose. The Chair has recognized the gentleman from Illinois, [Mr. SMITH,] who yields five minutes of his time to the gentleman from Missouri.

Mr. REAGAN. There has been a sort of courtesy extended in every debate of interest on this floor. This is the first time I have seen any deliberate effort to choke down that courtesy.

Mr. HUTCHINS. I move that the gentleman be allowed to proceed at pleasure.

The SPEAKER *pro tempore*. That requires unanimous consent, and objection is made.

Mr. HUTCHINS. I did not understand that objection was made.

Mr. SMITH, of Illinois. The gentleman from Missouri asked for five minutes more and I yielded that time to him.

Mr. BLAND. I did not state five minutes.

Mr. SMITH, of Illinois. How much time does the gentleman want?

Mr. BLAND. I stated that I would like ten or fifteen minutes more.

Mr. SMITH, of Illinois. I will yield to the gentleman ten minutes of my time.

Mr. BLAND. I thank the gentleman. I have spoken with reference to these national banks as they existed during the war and as they must continue to exist if they are perpetuated. I have also referred to the fact that there are propositions pending here now looking to the extinguishment of these banks and the substitution of another system of currency.

We have this paper money now. It is no use for gentlemen to talk about paper-mills, for we have a paper-mill in one of your finest buildings, situated on the banks of the Potomac. The mill is there continually issuing bank paper at the expense of the people, I might say, except what is paid by the banks for their circulation. There is your paper-mill; it has already issued your paper money. All that my bill proposes in lieu of this is to stop the issue of paper money at what it is and continue it at its present volume; that is to say, to substitute Treasury notes for the amount of national-bank notes now outstanding. For it is supposed (and the Department seems to so state) that the volume of bank notes now outstanding is as great as it will ever be, and in fact greater. Stop the operations of your paper-mill at this point and issue your Treasury notes instead of bank notes. That is all there is in this proposition. Then let gold and silver come into the mints of this country free, and issue, if you please, your gold certificates and silver certificates to supply whatever demand there may be hereafter for paper. The laws of supply and demand will bring gold and silver to us to supply the increased demand for currency hereafter. Thus you have a system that is safe—safer than the present one, because the volume of the credit paper currency will be fixed and cannot be contracted or expanded, and the supply hereafter must come upon a coin basis. If that is not a better system than your national banking system, I know nothing of the theories of money.

Now, Mr. Speaker, why not adopt this system? Even if you do not allow the unlimited coinage of silver—if you maintain the present limit—you will have an increased volume of $2,000,000 per month, which will come in to supplement the Treasury notes outstanding. We shall thus have a credit paper circulation fixed in amount, not to be diminished or increased; and we shall have the metals to draw upon to supply any extraordinary demand.

The bill I introduce is as follows:

A bill to retire the circulation of national banks, and to continue them as banks of discount and deposit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any national banking association organized under the acts of February 25, 1863; June 3, 1864, and February 14, 1880; or under sections 5133, 5134, 5135, 5136, and 5154 of the Revised Statutes of the United States may, at any time within two years previous to the date of the expiration of its corporate existence under present law, and with the approval of the Comptroller of the Currency, to be granted as hereinafter provided, extend its period of succession, by amending its articles of association, for a term of not more than twenty years from the expiration of the period of succession named in said articles of association, and shall have succession for such extended period, unless sooner dissolved by the act of shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law.

SEC. 2. That such amendment of such articles of association shall be authorized by the consent in writing of shareholders owning not less than two-thirds of the capital stock of the association; and the board of directors shall cause such consent to be certified over the seal of the association, by its president or cashier, to the Comptroller of the Currency, accompanied by an application made by the president or cashier for the approval of the amended articles of association by the Comptroller; and such amended articles of association shall not be valid until the Comptroller shall give to such association a certificate under his hand and seal that the association has complied with all the provisions required to be complied with, and is authorized to have succession for the extended period named in the amended articles of association.

SEC. 3. That upon the receipt of the application and certificate of the association provided for in the preceding section, the Comptroller of the Currency may, if he deems it necessary, cause a special examination to be made, at the expense of the association, to determine its condition; and if after such examination or otherwise it appears to him that said association is in a satisfactory condition, he shall grant his certificate of approval provided for in the preceding section, or if it appears that the condition of said association is not satisfactory, he shall withhold such certificate of approval.

SEC. 4. That any association so extending the period of its succession shall continue to enjoy all the rights and privileges and immunities granted and shall continue to be subject to all the duties, liabilities, and restrictions imposed by the Revised Statutes of the United States and other acts having reference to national banking associations, and it shall continue to be in all respects the identical association it was before the extension of its period of succession, with the same rights, immunities, and liabilities: *Provided*, That said associations are hereby prohibited from issuing circulating notes, and hereafter no national banking association shall increase its circulation or be organized with authority to issue notes to circulate as money.

SEC. 5. That when any national banking association has amended its articles of association as provided in this act, and the Comptroller has granted his certificate of approval, any shareholder not assenting to such amendment may give notice in writing to the directors, within thirty days from the date of the certificate of approval, of his desire to withdraw from said association, in which case he shall be entitled to receive from said banking association the value of the shares so held by him, to be ascertained by an appraisal made by a committee of three persons, one to be selected by such shareholder, one by the directors, and the third by the first two; and in case the value so fixed shall not be satisfactory to any such shareholder he may appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding; and if said reappraisal shall exceed the value fixed by said committee the bank shall pay the expenses of said reappraisal, and otherwise the appellant shall pay said expenses; and the value so ascertained and determined shall be deemed to be a debt due to said shareholder from said bank until paid; and the shares so surrendered and appraised shall, after due notice, be sold at public sale, within thirty days after the final appraisal provided in this section.

SEC. 6. That national banking associations that may be continued by this act, and those whose corporate existence shall expire, shall be required to comply with the provisions of sections 5221 and 5222 of the Revised Statutes in the same manner as if the shareholders had voted to go into liquidation, as provided in section 5220 of the Revised Statutes; and the provisions of section 5224 not inconsistent herewith shall also be applicable to such associations.

SEC. 7. That all the moneys deposited in the Treasury of the United States for the purpose of redeeming the circulation of national banking associations shall be deemed surplus revenues, and used in the payment of the current expenditures of the Government, and in the extinguishment of the interest-bearing debt of the United States, in the same manner as other surplus revenues are authorized to be expended.

SEC. 8. That for the purpose of retiring and canceling the notes of national banking associations surrendering their circulation the Secretary of the Treasury shall cause to be printed and engraved Treasury notes of the United States, of the denominations of five, ten, twenty, fifty, one hundred, and one thousand dollars, bearing such inscriptions and devices as he may approve, to be exchanged for the bank notes above described on presentation of the same at the Treasury; and the Secretary of the Treasury shall cause to be issued said Treasury notes in lieu of such bank notes as shall become the property of the Government in payment of taxes or otherwise; and that the bank notes for which Treasury notes shall be substituted shall be destroyed.

SEC. 9. That the Treasury notes issued in pursuance of this act shall be receivable and payable for all dues and demands for which national-bank notes are now by law receivable and payable, and shall be exchangeable for legal-tender notes when presented, in sums of one hundred dollars or more, for that purpose at the Treasury of the United States, but when so exchanged shall be paid out of the Treasury again as other current funds; and that said Treasury notes shall be redeemable at the pleasure of the United States, in legal-tender notes or coin, at the option of the Government.

SEC. 10. That the Secretary of the Treasury shall make such rules and regulations as may be necessary to carry any of the provisions of this act into effect.

This is the system we propose. It is the system advocated by Jefferson. I want to speak here to-day as a Democrat. From the beginning of this Government there have been two opposing theories, one represented by Hamilton, the other by Jefferson. Hamilton represented the idea of an aristocratic government; he advocated national banks. Jefferson represented a Republican form of government; he did not favor national banks. The Democratic party in all its history never established a national bank, while it has always been in favor of the free, unlimited coinage of gold and silver. The Democratic party never oppressed the people of this land by legislation for the creation or extension of banking corporations. It has never built up institutions of this sort, but has always done what it could to put them down. In the days of Benton this war was waged; and now to-day, nearly one hundred years from the formation of the Government, we meet the same issues and the same doctrines that prevailed at that time; divided parties at that time.

We are called upon to-day to defend on this floor the doctrine that ours is a Government of limited powers, against centralization of power in the Federal Government. Wealthy corporations seek to centralize power for their own aggrandizement. This idea of centralization is dangerous to the interests of the masses of the people. Centralization may protect wealth, but it destroys liberty. Following Jefferson and the teachings of the Democratic party, I am opposed to building up corporations in this country upon theories of centralized government. The same ideas that distinguished the Fed-

eralists from the Republican party nearly one hundred years ago distinguish the two existing parties at the present day. I am glad to know that the Democrats as a party, with very few exceptions on this floor, will oppose the committee bill; and this simply shows that history repeats itself; that principles live eternally, although men may die.

Mr. Speaker, I have said that this national banking system must go out of existence, and that it is the duty of this Congress to institute some other system. When the time comes for the consideration of this bill in Committee of the Whole, I trust that such amendments will be placed upon the bill of the gentleman from Massachusetts as will carry out that idea. Let us wind up these institutions. Let us require them, as their charters expire, to redeem their circulation by depositing lawful money in the Treasury; and let this lawful money be used in redeeming the bonds of the Government. In this manner we can pay off the public debt and get rid of a national menace.

Thanking the gentleman from Illinois, [Mr. SMITH,] who has kindly yielded me a part of his time, I surrender the floor.

Mr. SMITH, of Illinois. Mr. Speaker, the gentleman from Maine [Mr. DINGLEY] desires five minutes to answer a few points made by the last speaker, [Mr BLAND,] and I yield to him for that purpose.

Mr. DINGLEY. Mr. Speaker, as the gentleman from Missouri who has just taken his seat has made certain representations in reference to a bill reported by a majority of the Committee on Banking and Currency in relation to the coinage of the silver dollar, I deem it proper at this time to correct his statements. If I understood him correctly he represented that the national banks, through a majority of the Banking and Currency Committee, had contrived a bill to demonetize the standard silver dollar and to take away from the people that dollar. Am I correct?

Mr. BLAND. Does the gentleman ask me the question?

Mr. DINGLEY. I do.

Mr. BLAND. I have shown that the demand for the demonetization of silver comes from the national-bank interest.

Mr. DINGLEY. I am correct, then.

Mr. BLAND. Let me continue my statement.

Mr. DINGLEY. There is no necessity for repeating it. I wish to show, without taking up more than two minutes of time, that the bill reported by the majority of the Committee on Banking and Currency with reference to the coinage of the silver dollar simply provides that coinage shall be limited to the demands of the people. Its sole purpose is to prevent the accumulation of silver dollars in the Treasury which the people do not want. And allow me, in this connection, to give some facts bearing on that subject——

Mr. BLAND. Allow me, there. In my argument I showed the demands of the people should control; that the coinage of the silver dollar should be in accordance with the wishes of the people.

Mr. DINGLEY. Precisely.

Mr. BLAND. But under the proposition brought forward on the other side, who is to judge of the demands of the people? You are to issue these as the people shall demand them. Judged by whom? Judged by the national banks, the Comptroller of the Currency, and the Secretary of the Treasury, and not by Congress.

Mr. DINGLEY. I agree with the gentleman that it is the people who should determine the amount of coinage of the silver dollar, and they will indicate their wants by the demand they make for them at the Treasury. Now, what has been the demand of the people for the silver dollar? On the 1st day of January there were in circulation 35,758,043 silver dollars. Since that time we have coined 9,183,700, and have paid out over half of them, and over half of those paid out have come back to the Treasury and accumulated there.

More than that, Mr. Speaker. Of the $35,758,043 that were in circulation on the 1st day of January, $3,455,969 have also been returned to the Treasury and are there to-day. Thus we have accumulated in the Treasury since the 1st day of January 12,639,669 silver dollars that the people do not want. The people do not demand them, and the people not wanting them, the Committee on Banking and Currency say only those should be coined that the people want.

Mr. BLAND. Will the gentleman allow me?

Mr. DINGLEY. Certainly.

Mr. BLAND. Now, Mr. Speaker, with all due deference to the gentleman from Maine, I suppose he would not demonetize gold for the same reason that he proposes now to demonetize silver. Now the Secretary of the Treasury says that he will not issue gold certificates. Why? Because all the gold in the country would be locked up in the Treasury.

Mr. DINGLEY. I do not want the gentleman to make a speech.

Mr. BLAND. I am not making a speech. I am merely saying for the same reason the gentleman would not propose to demonetize gold certificates. There would then be no gold in the country, if gold certificates were issued, because it would all be locked up in the Treasury.

Mr. DINGLEY. There is no law authorizing the issue of silver certificates for gold.

Mr. BLAND. Oh, no.

Mr. DINGLEY. There is a law authorizing the issue of gold certificates on deposit of gold. [Mr. BLAND rose.] I do not yield. Allow me further to say in this connection there are $3,406,750 less of silver certificates in circulation to-day than there were on the 1st day of January. So, practically, by silver coinage and the issuing of silver certificates, we have accumulated in the Treasury since the 1st day of January 16,046,419 silver dollars and silver certificates which the people do not want. And the Committee on Banking and Currency simply say we should coin no more than the people desire.

Mr. BLAND. The gentleman from Maine evidently did not understand my question. Will he yield for a question?

Mr. DINGLEY. I will for a question, but not for a speech.

Mr. BLAND. It is this: Will the gentleman state why the Secretary of the Treasury will not now issue certificates for gold?

Mr. DINGLEY. My own judgment is on that subject——

Mr. BLAND. I ask the gentleman to read the Secretary's report.

Mr. DINGLEY. I cannot answer for the Secretary.

Mr. BLAND. I will answer by referring the gentleman to his report.

Mr. DINGLEY. I understand that.

Mr. BLAND. If you understand that, then you know that he says that he will not issue them because all the gold in the country would be locked up by certificates going out therefor, and that all the gold would be there in the Treasury and there would be none left for redemption purposes.

Mr. DINGLEY. I cannot yield further.

Mr. BLAND. By this plan gold will be locked up just the same as silver.

The SPEAKER *pro tempore*. The time yielded to the gentleman from Maine has expired.

Mr. SMITH, of Illinois. Mr. Speaker, I occupy a somewhat peculiar position in regard to the matter now under consideration. As a private banker, coming in competition daily in my business with the national bank of our city, it will seem somewhat remarkable to members of this House that I should be an advocate of the continuance of the national banking system, and yet that is the case. Having been in the banking business for quite a number of years, having observed the operation of the national banking system, I am firmly convinced that the best interests of the people of this country will be subserved by the continuation of that system. Being convinced that the interests of the people will thereby best be subserved, I am in favor of a bill which will facilitate the reorganization, or rather the extension, of the national-bank charters when they expire.

The first reason for this that occurs to me is that it will keep in the channels of trade a great deal of money now in the banks to be reorganized, which if they go into liquidation will seek investment elsewhere. The amount of that money which composes the surplus funds of the banks is $184,000,000, according to the report of the Comptroller of the Currency. If you compel the present corporations to liquidate their liabilities to stockholders and depositors, all this surplus will be scattered and go into other enterprises—and that is a large sum. Whereas if these charters are renewed, as is proposed by this bill, the bulk of that money may be retained by these banks for the uses to which it is now applied. This to my mind is one strong argument why the facility proposed to be extended by this bill to these banks should be granted under their organizations as they now exist.

There have been objections urged upon this floor against this bill because parties making them were in favor of the distribution of this surplus fund to the stockholders. This bill provides that in case there is a dispute, the stockholder who wishes to retire from the national banking system, and withdraw his interest, shall be justly treated. That his stock and its value—its market value—shall be appraised by three persons, one to be appointed by himself, one by the bank, and those two to choose a third, who shall say what is the value of his stock, and that value the bank must pay; and if the bank refuses to pay its value, it further provides that he shall have an appeal to the Comptroller of the Currency, who shall appoint some person with authority to make a final decision. The committee, therefore, have aimed to do justice to the stockholders of the national banks, and no one would be aggrieved by the passage of this bill.

One more point before I leave the stockholders. There are many individuals representing trust funds who have invested that money in the stock of national banks, and have regarded it as the safest and best investment possible, as well as the most profitable to the widows and orphans of the estates they represent. Has it ever occurred to gentlemen in this House that much of the money now invested in this manner in the national-bank stocks (money held by these parties in trust) would be seeking other investment, and such trustees would not be again able, under the law, to purchase new stock in other corporations and thereby be compelled to do great injury to the trusts they hold if we do not pass this bill? To many holders of national-bank stock which is now well invested and a profitable source of income this would be a hardship.

Mr. BRUMM. Will the gentleman yield to me for a question?

Mr. SMITH, of Illinois. Certainly.

Mr. BRUMM. I would like to ask the gentleman in the first place must not the present system be abolished or the public debt be perpetuated? And then I would like to ask him a question as to this trustee business to which he has referred.

Mr. SMITH, of Illinois. In answer to the gentleman's question I will reply, not at all. The Comptroller of the Currency advises us that as long as there are $150,000,000 of Government bonds in exist-

ence the present national banking system can be maintained with its present circulation.

Mr. BUCKNER. Not with its present circulation.

Mr. SMITH, of Illinois. I should have said, with the least possible circulation under existing laws.

Mr. BRUMM. Then you must contemplate the existence of a public debt to that extent.

Mr. SMITH, of Illinois. Not at all. I am in favor of maintaining the national banking system even if they lose every dollar of their circulation.

Mr. BRUMM. Now, in reference to this issuing business, that being the main object of the bill——

Mr. SMITH, of Illinois. I beg the gentleman's pardon; it says nothing about the issuing business.

Mr. BRUMM. Does not this bill expressly refer to the right of the national banks to issue their money? It does not say deposits on demand or exchanges; if so, I would like the gentleman to point it out.

Mr. SMITH, of Illinois. The gentleman must certainly know that the national banking system does not derive its great benefits from the fact that it is allowed a currency. That is the least, as has been so ably shown by the gentleman from Massachusetts.

What is it that makes the national banking system profitable? It is that it commands the confidence of the people and thereby commands their deposits; and it is upon these deposits that they make their millions and millions of money, and not upon the circulation as furnished them by the national Government.

Mr. BRUMM. Will the gentleman permit me to ask him a question?

Mr. SMITH, of Illinois. Yes, sir.

Mr. BRUMM. Is the gentleman willing to vote for a bill that will retain to the national banks every function that they now possess except the issuing function?

Mr. SMITH, of Illinois. That question is not before us now.

Mr. BRUMM. I am asking you now, will you vote for such a bill?

Mr. SMITH, of Illinois. I think when the time comes when we shall have sufficient specie in the United States upon which to base our currency, that the national-bank bills may be retired. I am in favor of maintaining the national banks now and paying off the national debt as rapidly as possible. If they are compelled gradually and slowly to retire their circulation, well and good; this fact does not frighten me, and for this reason: we are increasing, or have during the last three or four years increased, our circulation to such a large extent by the importation of gold and the production of silver that we have mined, upon which we have issued those silver certificates, which I think are the best circulation we have—a great deal better than your national-bank bills or your greenbacks, because every one of them represents so much specie on hand. By the increase of those silver certificates, if our prosperity continues and the balance of trade should continue to be in our favor, we could gradually dispense with the circulation of the national banks; and this threat of the retirement of the national-bank currency has no terror for me.

Mr. BRUMM. That is all I want to know.

Mr. DINGLEY. Will the gentleman yield to me for a question?

Mr. BURROWS, of Missouri. I desire also to ask a question.

Mr. SMITH, of Illinois. Certainly; I am willing to listen to any questions that may be put to me.

Mr. DINGLEY. I wish to make a suggestion at this point, whether it is not a little premature to predicate legislation with respect to the currency upon an extinguished national debt when it is fifteen hundred millions to-day and seven hundred and thirty-nine millions of it do not become due for twenty-five years.

Mr. BRUMM. Does the gentleman from Maine wish me to answer him?

Mr. SMITH, of Illinois. I will answer him. I think that discussion would be premature now, as the discussion between my friend from Maine [Mr. DINGLEY] and the gentleman from Missouri [Mr. BLAND] on the silver question was entirely premature.

Mr. BRUMM. Their questions and answers are birds of a feather. The answer is, with proper legislation we need not have any fifteen hundred millions of debt or anything like it.

Mr. BURROWS, of Missouri. The question I wish to ask the gentleman from Illinois is this: he seems very much in favor of silver certificates, and so am I. I would like him to account for the recommendation of the Secretary of the Treasury in recommending that sixty-six millions of silver certificates be retired.

Mr. SMITH, of Illinois. I do not agree with the Secretary of the Treasury in that?

Mr. TURNER, of Kentucky. That is honest.

Mr. PAYSON. It is a good answer and a short one.

Mr. SMITH, of Illinois. Well, to continue my remarks, according to the report of the Comptroller of the Treasury, which I hold in my hand, the charters of three hundred and ninety-three national banks will expire before another Congress could take action upon this matter. Therefore if we are friendly to the national banks—of course it is all based upon that—if this Congress is friendly to the national banks we should pass this bill now, in order that these three hundred and ninety-three banks, whose charters expire before February of next year, may have the opportunity of extending their charters under this act which we propose to pass. I wish to touch upon a few of the reasons why I think the national banking system should be continued.

Mr. BUCKNER. Will the gentleman allow me to ask him a question right here?

Mr. SMITH, of Illinois. Certainly.

Mr. BUCKNER. Has the gentleman the means of stating to the House what proportion of the bonds held by these three hundred and ninety-three banks are in the 3½ percents?

Mr. SMITH, of Illinois. I have it not at my command at this moment, but the gentleman from Missouri [Mr. BUCKNER] has it, and he will be able to give it when he makes his speech. If these banks have not sufficient bonds of the 3½ percents they will have to purchase 4 percents and 4½ percents when the others are called.

Mr. BUCKNER. Suppose they have not the 4 and 4½ percents.

Mr. SMITH, of Illinois. They can go into the market and purchase them if they are anxious to keep their circulation. But I do not think they will be very anxious to keep their circulation.

Mr. BUCKNER. I will give the figures. There are seventy-five millions of bonds which are held to secure the sixty-nine millions of circulation of these banks, only fifty millions of which are 3½ per. cent. bonds. Supposing those banks holding these fifty millions have no other security than the 3½ percents, what becomes of their circulation unless they are willing to buy 4 and 4½ percents?

Mr. SMITH, of Illinois. I think I should answer that question. When we come to Congress next winter, when the gentleman from Missouri will be here and when I shall be here, we can pass a law allowing the unlimited coinage of silver in order to replace the circulation which may have been retired; and I shall favor that when the time comes. The probability is, however, that these banks which will lose this circulation, or rather whose bonds will be called by the Secretary of the Treasury, will go into the markets and purchase 4 or 4½ percents which have many years to run, provided they desire to keep their circulation. There is not, let me say, such a great disposition on the part of the national banks to secure as much circulation as possible. What are the facts in that connection?

It is not very profitable to the national banks to have this circulation. If that is conceded, then what becomes of this great outcry, over which my friend from Missouri [Mr. BLAND] grows hoarse in speaking, about the great iniquity inflicted upon the people of the United States, who he says are compelled to pay interest on these bonds in order that these monopolists may have the privilege of issuing the circulating medium for the people?

Now, the facts are these, gentlemen, and you are as well aware of it as I am, that the national banks newly organized, more particularly in the West, take out as little circulation as possible.

Only a few days ago, when I was on my return here from a visit home, I was seated by the side of the cashier of a national bank, and I asked him in regard to this bill. He said that they had organized a $50,000 bank some time ago, and had taken out just $27,000 of circulation, because they did not want more; it did not pay.

Then it will be asked why do men go into the national banking business? It is because the people believe it has the protection and supervision of the United States Government. It commends itself to the people because the Government appoints men to investigate the affairs of these banks, because they must make under oath their quarterly reports. In this way the people in the various localities can see how their moneys are managed under the national banking system.

Right here, in that connection, I would say that I think the investigation of the national banks should be more thorough and more strict. I hope gentlemen in this House will make that point in their speeches, and call the attention of the Comptroller of the Currency to the fact that a better supervision of the national banks is possible, as has been shown by the failure of some prominent institutions by which the people have lost large sums of money.

Yet this is a remarkable fact that although there are now twenty-two hundred national banks and over, and although there have been twenty-five hundred national banks organized, in all these years only eighty-six of them have gone into forced liquidation. And the depositors, not the stockholders, but the depositors, the people, have received from these eighty-six national banks over 76 per cent. of all the money they had deposited in them.

There never has been such a banking system in the world for safety, for security to the people, as the national banking system of this country. It should therefore be maintained, and it will be maintained, notwithstanding the prediction of my friend from Missouri, [Mr. BLAND,] who sounded the death-knell of every member of Congress who should go before the people with a vote in favor of continuing these national banks.

I want to state to the gentleman that I made that very issue upon the stump when I ran for Congress, and I defeated a Greenback Democrat who was opposed to national banks. I made the issue fairly and squarely, holding the Republican party responsible for their existence and advocating their continuation as being for the best interest of the people. Upon that issue I defeated my opponent. If there ever was a financial institution that commended itself to the people, it is the national banking system of the United States. No Republican need hesitate to defend it. It commends itself to the confidence of the people, and if it is fairly represented the people will sustain every man who advocates its continuance.

One objection that is made to the national banks, and it is the one that is most often made, is that they cost the Government or the people too much. That objection was repeated by my friend from Missouri, [Mr. BLAND;] but he does not show by the figures how much it costs the people of the United States. I challenge him to show the figures of the cost to the people of the United States of maintaining the national banks.

Mr. BLAND. As the gentleman challenges me, I will tell him that it costs $12,000,000 annually.

Mr. SMITH, of Illinois. How do you figure that out?

Mr. BLAND. I figure it out this way: if the national banks were required to redeem their circulation, the Government could then redeem a sufficient amount of bonds to save $12,000,000 annually. The Government giving these banks that amount of circulation to use for their benefit, denies that to the people. And it costs $12,000,000 to continue the bonds that could be redeemed, if the national-bank circulation were required to be redeemed.

Mr. SMITH, of Illinois. That is with an "if."

Mr. BLAND. Not at all.

Mr. SMITH, of Illinois. The gentleman starts out on his proposition with an "if."

Mr. BLAND. Certainly.

Mr. SMITH, of Illinois. What is the difference between the interest paid by the United States and the taxes paid by the banks to the Government? That is, the cost that the Government must bear.

Mr. BLAND. The interest that these banks pay on their circulation hardly pays for the expense of keeping it up.

Mr. SMITH, of Illinois. They pay 1 per cent. on their circulation.

Mr. BLAND. And that just about pays the expense of the circulation.

Mr. SMITH, of Illinois. Oh, no.

Mr. HUTCHINS. Will the gentleman allow me a moment?

Mr. SMITH, of Illinois. With pleasure.

Mr. HUTCHINS. Is the gentleman aware of the amount of taxes paid by the national banks? Take those in the city of New York, for instance; they have paid as high as 3 per cent. a year, and this year they are taxed nearly 2.60 per cent., so that they pay into the city treasury of New York something like $1,700,000 a year in taxes.

Mr. SMITH, of Illinois. I am aware of that fact.

Mr. BLAND. The State banks would pay taxes on their circulation.

Mr. HUTCHINS. Is it understood on the part of those who would issue Treasury notes or greenbacks that they are to be taxed?

Mr. SMITH, of Illinois. I thank the gentleman for the figures he has given me. I will supplement them by saying that as the national banks must publish the amount of their capital stock and their deposits they are thus subjected to local taxation as are no other institutions in the United States.

Mr. HUTCHINS. Is it not a fact that the national banks, so far as the gentleman knows, are the only institutions in the country that pay tax on the full value of their capital?

Mr. SMITH, of Illinois. In my experience as a banker I have seen a national bank with a capital of $100,000 crowded to the wall by municipal taxation, because the assessor in that locality chose to assess the capital stock at its full value, while the neighbors of that bank paid taxation under the laws of the State upon a valuation of only one-third.

Mr. TOWNSHEND, of Illinois. I would like to ask my colleague whether he knows of any national bank that has ever been taxed upon its reserve fund?

Mr. DINGLEY. I do.

Mr. TOWNSHEND, of Illinois. I know of some national banks that have a larger reserve fund than their capital, and yet they escape taxation upon the reserve fund.

Mr. RAY. In New Hampshire every dollar of the surplus is taxed.

Mr. TOWNSHEND, of Illinois. I do not know a single national bank in Illinois that has ever paid a cent of taxation upon its reserve, and I know of no bank in New York City, although I have some knowledge of several national banks there, that has ever paid any taxation whatever upon its surplus.

Mr. FLOWER. The Gallatin National Bank is taxed by the State and city upon its stock at a valuation of 145, making an aggregate taxation of $36,975, while a 4 per cent. bond purchased now and deposited would yield less than 3 per cent., and that the average rate of interest on the bonds now held by the bank is 3.7 per cent., or $37,000 interest on the million.

Mr. TOWNSHEND, of Illinois. Does that bank pay a tax on its surplus?

Mr. HUTCHINS. Certainly.

Mr. TOWNSHEND, of Illinois. It is the first case of the kind I have heard of.

Mr. SMITH, of Illinois. The surplus fund of a bank in my State is taxed equally with its capital. Under the laws of Illinois the assessor, if he understands his business, can and will always require a bank to pay its full share of taxation. By our law as now amended the capital of national banks is only to be assessed as other property is; and that is just.

Mr. BUCKNER. Does not the gentleman from Illinois know that during the last year, notwithstanding all this local and national taxation under which these banks are supposed to be groaning, the national banks throughout the country have paid upon the average 9 per cent. dividend to their stockholders?

Mr. SMITH, of Illinois. That is right, Mr. Speaker. That speaks well for the prosperity of our country. I have no complaint to make about national banks realizing for their stockholders 9 per cent. when other branches of industry yield quite as much. Why should we object because the national banks make a fair profit?

Mr. DINGLEY. I would like to correct the gentleman from Missouri [Mr. BUCKNER] at this point. When he speaks about the national banks making dividends of 9 per cent. on the average, does he not understand that the local taxation is to be deducted, so that the average net profit is 2 per cent. less?

Mr. BUCKNER. I can only state that the report of the Comptroller of the Currency shows that the dividends of these banks last year averaged 9 per cent. after the payment of all taxes.

Mr. DINGLEY. Not the local taxation. The shareholder pays the local taxation after the dividend is paid.

Mr. HUTCHINS. And in some cases the local taxation is 5 per cent.

Mr. DINGLEY. It is 5 per cent. in some cases. In my State it averages 2 per cent.

Mr. RAY. In the State of New Hampshire the lowest rate of taxation of bank stock is the par value of the stock. If the market value is higher, then it goes into the assessment roll at its market value, and is taxed accordingly. The surplus also is taxed by law, the same as other money at interest.

Mr. TOWNSHEND, of Illinois. I wish to ask my colleague [Mr. SMITH] whether in Illinois the individual shareholder is assessed upon the amount of the stock he holds in a national bank? Is not the tax collected through the bank? Is it not paid by the cashier?

Mr. SMITH, of Illinois. Yes, sir.

Mr. TOWNSHEND, of Illinois. Then, my friend from New York is mistaken——

Mr. FLOWER. If the gentleman from Illinois will read the decision made last year by Judge Brady he will find that the stock of national banks is subject to municipal and State taxation to the full amount of its market value.

Mr. TOWNSHEND, of Illinois. But I understand that the individual stockholder does not pay the tax upon his stock directly; that the tax is collected through the bank.

Mr. DINGLEY. Not at all.

Mr. TOWNSHEND, of Illinois. My colleague, who is a banker, can answer that question.

Mr. DINGLEY. When the Comptroller of the Currency states that the profits of the national banks last year averaged 9 per cent., he deducts, in reaching that result, the national taxes only, not local taxation.

Mr. BUCKNER. He does not say so.

Mr. DINGLEY. That is the fact.

Mr. SMITH, of Illinois. Mr. Speaker, I have been very patient with my friends during these interruptions, because by colloquy the points of a question like this are often better brought out than by lengthy speeches. I solicit inquiry; and whenever I make a statement, if any member believes it incorrect I wish him to rise and so state. I want to be fair about this matter. I believe it is the interest of all the people of the United States that the national banking system should be continued. Therefore, I favored this bill in committee and support it now.

I now turn to a topic which has been much talked about on the stump and in the Halls of Congress. What profit do the national banks realize upon this privilege of issuing circulation? The gentleman from Massachusetts has fully set forth the facts, but it will do no harm to repeat them. Here is a table. In Illinois, where the rate of interest is 8 per cent., the profit to national banks, whose currency is based on 3½ per cent. bonds, is 1.28 per cent.

The people of the United States, for the privilege of having the national banking system for the State of Illinois, pay 1.28 per cent., which is the entire cost to the people of the United States of the national-bank circulation, leaving out of the calculation the advantages which accrue to the people by municipal taxation.

There is one other point I wish to call to the attention of this House, and that is the advantage to the Government of the United States of the national banks as fiscal agents. Have you thought of it, that the millions and millions of dollars of revenue paid by the people of the United States are handled by this national banking system, through its depositaries, without a cent of cost to the Government of the United States? What would be the cost if you had the State-bank system? Do you suppose the State banks would accommodate themselves to the interest of the national Government, handle all this money and transfer all these exchanges without cost? It is because the national banking system is under the supervision of the United States Government that these facilities are offered to the officers of the Government without cost to the people. And that amounts to a far greater sum if you would figure the exchanges that would have to be paid if they did it through private banks. As a question between the private banks and the national banks, do you not suppose those private banks would charge the Government for doing this work?

And, more than that, these national banks offer as security the de-

posit of national bonds; that is to secure the deposits which are made with them as fiscal agents of the Government. So that the Government of the United States is perfectly safe every night when its revenues are paid into the vaults of these national banks distributed all over the territory of the United States. Every dollar of that is secured beforehand by the bonds deposited in the Treasury at Washington. You must not keep that out of view, because I think it is an important fact when we consider the cost of the national banks to the people of the United States.

There is one remark made by the gentleman from Missouri [Mr. BLAND] which might mislead. He said, What is the national-bank note other than a state paper? I understood what he meant, but the impression might be made by that remark that the national-bank note is no better than the State notes we had before the war. It is based on the credit of the United States Government, upon the national bonds, and upon the national credit. [Mr. BLAND rose.] I understood the gentleman and will do him justice.

Mr. BLAND. I do not wish the gentleman to make a false impression. I have no idea that a State-bank note is better than a Treasury note issued by the Government.

Mr. SMITH, of Illinois. Mr. Speaker, the experience of the people of the United States with that "wild-cat money" is not yet forgotten. The fathers teach it to their sons that they also may profit by the lesson that it inculcates. They speak of the "bob-tail," "rag-tag," and "red-dog" currency, or whatever other name that currency had in other days, and they point with pride to the national-bank currency and the "greenback" currency as such a valuable substitute for that other which was based upon the credit of the States.

Now, I believe, Mr. Speaker, that the opposition to the national banking system lies in the fact that there are still many gentlemen on this floor who believe that the States should furnish the basis of circulation. I think the experience of the people will never again allow the States to furnish the basis of circulation.

Mr. TOWNSHEND, of Illinois. Who are they?

Mr. SMITH, of Illinois. I say that I have the impression many of them do.

Mr. TOWNSHEND, of Illinois. Does my friend know of any?

Mr. SMITH, of Illinois. I should think perhaps the gentleman from Mississippi, where national banks are scarce.

Mr. TOWNSHEND, of Illinois. I am not in favor of State or national banks.

Mr. DINGLEY. Were not five bills repealing the 10 per cent. tax on State-bank circulation introduced during the last Congress?

Mr. TOWNSHEND, of Illinois. I was not aware of it.

Mr. DINGLEY. That is all that stands in the way of the resuscitation of the State banks.

Mr. TOWNSHEND, of Illinois. The opposition on this side is to all banks of issue. We believe we can issue Treasury notes as good in every respect as national-bank notes.

Mr. DINGLEY. But there are some gentlemen yet in favor of the State banks.

Mr. TOWNSHEND, of Illinois. They are very few in number.

Mr. BRUMM. The only one I know of is one gentleman on the Committee on Banking and Currency, who, I believe, is in favor of this bill, hoping through this we may ultimately get down to the State banks. I refer to the gentleman from New York.

Mr. FLOWER. Does the gentleman allude to me?

Mr. BRUMM. Yes, sir; the only gentleman I know of in favor of State banks.

Mr. FLOWER. The gentleman misquotes me.

Mr. BRUMM. Then I beg the gentleman's pardon. I certainly have misunderstood him.

Mr. FLOWER. It would not perhaps be safe to say that no banker in this country would like to go back to the State-bank system, because he made 6 per cent. on his own mortgages and 6 or 7 per cent. on his currency under the old safety-fund system of the State of New York; and certainly no banker would object to that, because he could make more by that system than by this.

Mr. SMITH, of Illinois. I have promised, Mr. Speaker, to yield a part of my time, and therefore I will hurry through with my remarks.

The SPEAKER *pro tempore*, (Mr. THOMPSON, of Iowa, in the chair.) The gentleman has five minutes remaining.

Mr. SMITH, of Illinois. I believe that the time will soon come when the national banks will be willing to voluntarily surrender their circulation. Now, as I have before stated, they have reduced the amounts to the minimum allowed by law. I think that if Congress by judicious legislation will hedge the system about, and let them understand that it shall be maintained for all future time, this circulation may be surrendered as rapidly as the bonds may be paid off, which I hope may be very soon.

We learn by the experience of the people of England that we should base our circulation upon gold and silver in the hands or the vaults of the Government. I suppose all gentlemen here know that the Bank of England issues about fifteen million pounds of circulation upon a credit, and that all the rest of the circulation is based dollar for dollar on the amount of specie in the vaults of the bank. If our prosperity continues, as I said before, I believe the time is not very far distant when we can also bank as the Bank of England does today, which is the proper way; and it will prevent panics and prevent people from rushing to the banks to realize upon their notes in gold and silver. Let us shape our legislation to that end, that we may make it safe for the people to intrust their money and funds now in hand to the care and keeping of the banks.

I now yield the remainder of my time, if I have any, to the gentleman from North Carolina, [Mr. DOWD.]

The SPEAKER *pro tempore*. The gentleman has exhausted his time.

Mr. JONES, of Arkansas. Mr. Speaker, if the friends of the pending measure intend any real and substantial benefit to thenational banks, they certainly expect to give their intentions definite shape in some way not developed in this bill, for the passage of this alone can be but an empty boon to the banks. It certainly will if it becomes a law give the right to the banks to extend their existence, but it just as certainly does not provide any means for such extension. The public debt, without which the national banks cannot exist for one hour, is being reduced at a rapidly accelerating rate, and, unless some radical change is made in the present management of the financial affairs of the nation, but a very short time can elapse until all that class of bonds upon which the national banking system now rests for support will be numbered among "the things that were."

For one I do not believe that all there is of this bill appears upon its face, but I do believe it to be a part of a persistent antagonism to the coinage of silver and the issue of silver certificates, that has characterized the executive administration of this Government every day of its existence since President Hayes, in his veto message of February 28, 1878, assured the country that "the right to pay duties in silver or in certificates for silver deposits will, when they are issued in sufficient amounts to circulate, put an end to the receipt of revenue in gold."

I believe it is a part of an irrepressible conflict between the national banks on one hand and silver and silver certificates on the other, or, I might more correctly say, between the national banks on one hand and all other forms of money except gold on the other.

This effort to restrict the money of the country to gold and bank notes took its first decisive step in 1873 in the demonetization of silver, which was quickly followed by the act of 1874, styled "An act to provide for the resumption of specie payments," under which taking title there was comfortably tucked away a provision to absolutely destroy the greenback money of the country. Both these steps were promptly repudiated by the people, and I have no doubt that this step will be as promptly and emphatically rebuked at the elections next fall.

The principal reason given by the Committee on Banking and Currency for the passage of this bill is, as I understand it, a fear of a reduction in the volume of paper money if it should fail to become a law; and on this subject the committee use the following language in their report accompanying this bill:

> In forming a judgment of the wisdom of the proposed legislation extending the corporate existence of national banks, it is proper to consider what effect the failure of Congress to act will have upon the paper circulation of the country. In the absence of any authority to continue their business, within the next twelve months three hundred and ninty-three banks must go into liquidation. This will compel the withdrawal of $69,160,980 of lawful money now in active circulation in order to procure $75,768,700 United States bonds lodged with the Comptroller and which the liquidating banks will withdraw for sale and for the purpose of closing their affairs and making division of their assets.
>
> Upon one single day, February 25, 1883, the charters of two hundred and ninety-seven banks will expire, involving a return to the Treasury of $54,000,000 of lawful money. It is not difficult to conjecture the influence of such a contraction of the currency upon the business of the country and the values of property.

I believe that any such reduction of the volume of paper money would be unwise and perhaps disastrous to the business interests of the country. But is there any real necessity for this reduction even if this bill should fail to become a law? I for one think there is none, and that the supply of paper currency can be kept up to the present volume more profitably to the Government and the people by almost any other means than the plan proposed by the committee.

The substitute for this bill offered by the distinguished gentleman from Missouri, [Mr. BUCKNER,] as well as a bill recently introduced by his colleague, [Mr. BLAND,] providing for the issue of Treasury notes in lieu of bank notes as rapidly as the bank notes may be retired, offers a simple, safe, and absolutely certain means of preventing any contraction of the paper currency.

These bills have each been before the House for some time, their merits are apparent, and they need no discussion by me; but I desire at this time to call the attention of the House to another means of supplying paper currency, which, if we may judge the future by the past, would, if adopted, in twelve months' time give to the country a volume of paper money equal to that of the bank notes likely to be retired within that time under the law as it now stands, but which proposition, I greatly fear, will not meet the approval of those who antagonize the coinage of silver in the interests of national banks.

On the 10th day of last month I had the honor to introduce into this House the following bill:

> A bill to provide for the exchange of silver coin and silver certificates for gold coin and gold bullion.
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person may deposit gold coin or gold bull-

ion, in sums of not less than $10, with the Treasurer or any assistant treasurer of the United States, and shall receive therefor silver coin, or silver certificates of not less than $10 each and corresponding with the denominations of United States notes, at the counter of any United States assistant treasurer designated by the depositor.

SEC. 2. That the Secretary of the Treasury be, and he is hereby, authorized to constitute any superintendent of a mint or assayer of any assay office an assistant treasurer of the United States, without additional compensation, for the purposes of this act.

This bill was referred to a committee, and judging that committee by what appears to be the disposition of a majority of this House, I fear it may remain there too long to be of practical benefit in the solution of this question; but as the Committee on Banking and Currency, and possibly a majority of this House, seem to be exercised by an apprehension of a contraction of paper money, I desire to call their attention to this means of averting that calamity. To understand clearly the object proposed by this bill, the reasons for its introduction, and how it would operate to relieve the country from any apprehension of the contraction of the currency, and therefore from the supposed necessity to pass this bill, I beg leave to call the attention of the House to the fact that on the 18th day of September, 1880, Hon. JOHN SHERMAN, then Secretary of the Treasury, issued a Department circular as follows:

TREASURY DEPARTMENT, SECRETARY'S OFFICE
Washington, D. C., September 18, 1880.

Until further notice the United States assistant treasurer at New York will pay out at his counter standard silver dollars or silver certificates in sums of $10, or any multiples thereof, in exchange for like amounts of gold coin or gold bullion deposited with him.

Upon the receipt by the Treasurer of the United States in this city of an original certificate of deposit issued by the United States assistant treasurer at New York, stating that there has been deposited with him gold coin or gold bullion in the sum of $10, or any multiple thereof, payment of a like amount in standard silver dollars or silver certificates at the counter of any United States assistant treasurer designated by the depositor will be ordered.

JOHN SHERMAN, *Secretary.*

Of this circular the above bill is almost an exact copy, only differing from it in not confining its operation to New York.

A few days over one month from the date of this circular Hon. James Gilfillan, Treasurer of the United States, in his regular annual report to the Secretary of the Treasury, under date of November 1, 1880, on the subject of silver certificates used the following language:

The demand for silver certificates, under the circular of the Department, dated September 18, 1880, authorizing their exchange for gold coin or bullion, has been quite extensive at New Orleans, Saint Louis, Chicago, and Cincinnati, and there were paid out at these points during the month of October $3,485,000 in silver certificates for an equal amount of gold coin deposited in the sub-treasury at New York.

This statement of the Treasurer that $3,485,000 of gold had been voluntarily exchanged dollar for dollar for silver certificates within one month seems to be somewhat striking when we remember that Congress and the country have been told year after year since the passage of the silver-coinage act, by the Presidents and by the Secretaries of the Treasury, with what almost insurmountable difficulties they have been beset in getting silver into circulation.

We find, however, on page 10 of the report of the Secretary of the Treasury, made to this House at this session, the following still more striking statement:

The Department has issued silver certificates at the several sub-treasury offices, upon a deposit of gold coin in like amount with the assistant treasurer at New York, and through this means certificates have been issued for nearly all the silver held by the Treasury. These certificates amount to about sixty-six million dollars, and are now outstanding.

A voluntary exchange of sixty-six millions dollars of gold coin for silver certificates, dollar for dollar, being five and one half millions per month on an average for twelve months' time, and this too for gold deposited under the terms of the circular at but one point—the city of New York—no other city being allowed the same privilege of giving gold for silver certificates. On page 421 of the same report the Treasurer of the United States says that "the effect of these operations, so far as the Treasury is concerned, is to convert its silver dollars into gold, for the issue of silver certificates transfers the ownership of the silver dollars, which they represent, from the Treasury to the public."

This report of the transactions under the operation of this circular would seem to have been so advantageous to the Government and so entirely satisfactory to the public as to lead one to suppose that they would be continued indefinitely and become perhaps a permanent feature in the financial management of the Government; but unfortunately it seems that no sort of success with silver or silver certificates can ever have the effect of teaching the banks or Bourbon Republicans anything favorable to silver.

These advantages, however, resulting from the exchange of silver certificates for gold, great as they seem, are not by any means all that have resulted from this exchange, as will very distinctly appear by considering the following further statement taken from the same page (421) of the Treasurer's report:

[Comparing the condition of the Treasury September 30, 1881, with its condition on the same day last year, the most striking changes are the increase in the gold coin and bullion and standard silver dollar on hand and in the silver certificates outstanding. Deducting the gold certificates actually outstanding, the gold belonging to the Government on September 30 of the last four years was $112,602,622.20 in 1878; $154,987,371.29 in 1879; $128,160,085.77 in 1880; and $169,552,746.41 in 1881. In 1880 the gold ran down nearly $27,000,000, but this decrease was much more than overcome in 1881, when it increased more than $41,000,000, reaching the highest point ever attained. This increase was largely due to the sale for gold coin in New York under the circular of September 18, 1880, of exchange on the West and South, payable in silver certificates.

And this is stated as a result of the issue of these identical certificates which President Hayes said would stop the collection of revenue in gold, and the continued issue of which we are now assured will "tend to reduce us to a place in the commercial world among the minor and less civilized nations."

And again the Treasurer says:

The gross amount of gold and silver coin and bullion held by the Treasury, without regard to the obligations outstanding against it, has ranged from $163,969,444.70, in 1878, to $222,807,368.01 in 1879, $214,303,215.38 in 1880, and $269,706,998.76 in 1881. The increase within the last year has been $55,400,000, of which $39,150,000 is in the gold and $16,250,000 in the silver. The increase in the gold has been greater and in the silver less in the last year than in any year since the coinage of the standard silver dollar began.

And last year is the year in which the Government has been willing to exchange silver certificates for gold. Notwithstanding that, under the operation of this circular, sixty-six millions of silver dollars in the Treasury had been converted into gold; and notwithstanding the fact that sixty-six millions of dollars had been added to the paper currency of the country by this means, and in utter disregard of the fact that the sale of silver certificates for gold coin in New York alone under this circular had resulted in the "most striking increase" of "gold coin and standard silver dollars in the Treasury of the United States," on the 1st day of November, 1881, the Acting Secretary of the Treasury suspended the issue of silver certificates in exchange for gold by issuing Department Circular No. 108, as follows:

TREASURY DEPARTMENT, SECRETARY'S OFFICE,
Washington, D. C., November 1, 1881.

Until further notice the exchange of silver certificates for gold coin deposited at the office of the United States assistant treasurer at New York will be suspended, and Department's Circular No. 75, of September 18, 1880, is hereby modified accordingly.

H. F. FRENCH, *Acting Secretary.*

The great advantages resulting to the Government, as shown by the official reports above quoted, certainly would not have been abandoned without reason. I am aware that it may be said, in justification of this suspension, that on the 1st day of November, 1881, about all the silver dollars in the Treasury of the United States were covered by the outstanding certificates; but if the officers of the Government had been as anxious to continue this exchange as a man of ordinary prudence would have been, in the management of his own private affairs, it would readily have occurred to them that without any change in the law they had the power to coin four millions of silver dollars per month, instead of restricting it, as they now do and have done from the beginning, to about the smallest amount possible under the law.

Whatever the intention may have been, the effect of all this is simple and clear. The commercial and business habits of this country demand a paper circulation. If silver certificates could be stricken out of existence it would put us in an attitude to be told by the friends of the national banks that we must extend their charters or take the consequences of such a contraction of the currency as would seriously disturb the business of the country.

Whether such was the purpose, of course I know not; but I do know that on page 10 of his report to the present Congress the honorable Secretary of the Treasury says in discussing this very question:

There need be no apprehension of a too limited paper circulation. The national banks are ready to issue their notes in such quantity as the laws of trade demand, and as security therefor the Government will hold an equivalent in its own bonds.

Yet, Mr. Speaker, the very able committee of this House who report this bill for our consideration and adoption tell this House and the country, in effect, that these banks will not issue the money demanded by the laws of trade except upon the passage by this body of certain laws which many of us believe to be antagonistic to the best interests of the country.

This refusal on the part of the officers of the Government to exchange silver certificates for gold is, however, by no means the whole of the effort to arrest the circulation of these certificates. The honorable Secretary of the Treasury, on the same page of his report, recommends the absolute suspension of their issue, and if the power had been lodged in his hands there is no doubt that instead of simply stopping their exchange for gold he would have absolutely destroyed them. He says:

The embarrassments which are certain to follow from the endeavor to maintain several standards of value, in the form of paper currency, are too obvious to need discussion.

It is recommended therefore, that measures be taken for a repeal of the act requiring the issue of such certificates, and the early retirement of them from circulation.

And this suggestion is adopted by a committee of this House, and a bill reported to carry these views into effect.

If the Secretary is right, and we must choose between these two forms of paper money, I, for one, am ready now and here to accept that paper, every dollar of which represents an actual dollar, coined and deposited in the strong box of the nation, guarded and protected by a nation's honor and the patriotism of fifty millions of loyal hearts, in preference to a paper promise of a corporation which rests upon that greatest of modern evils—a national debt.

But the crowning act of what seems to me to be a strangely suicidal policy on the part of the Government in attempting to strike down its own currency and to build up that of private corporations is in the following declaration taken from the same page, (x,) report of the Secretary of the Treasury:

As is said elsewhere herein, the circulation of some sixty-six millions of silver certificates seems an inexpedient addition to the paper currency. They are made a legal tender for the purposes named, yet have for their basis about 88 per cent only of their nominal value. There is no promise from the Government to make good the difference between their actual and nominal value.

There is a popular opinion that those who own the gold of this country understand its value and are not likely to part with it, except upon receiving a full equivalent; they are even suspected in some quarters of being at times willing by hard bargains to take more than its real worth, if the necessities of trade make it possible to do so. This may be all a delusion, but yet the opinion exists. Whether this is true or not, I ask, in the name of common sense, why the holders of gold are willing, and were willing all through last year, to exchange on an average five and a half millions of dollars per month of that precious metal for silver certificates if there existed in the markets of the country or in the minds of men the slightest opinion that these certificates were not worth fully as much as gold?

Does not the honorable Secretary's own official report conclusively show that he has attempted to strike down and degrade "a standard of value, in the form of paper money," issued by his own Government, and which he as its chief financial officer should have felt himself bound to support and protect? The Committee on Banking and Currency in a recent report says: "We cannot change the unwritten laws of value by any statute;" and I will say that we cannot change the unwritten laws of value by any mere declaration of a Secretary of the Treasury.

One of the features of the national banking system with which its admirers seem to be greatly in love is its "elasticity," the readiness with which it is capable of adapting the volume of currency to the demands of business. But this to the minds of others seems to be a monster evil. Corporations are selfish; if not more so than natural persons, they are certainly fully as much so. In the very nature of things they can have none of that feeling of personal accountability which men must always feel to a greater or less degree. This is recognized in the old expression familiarly applied to corporations, that "they have no bodies to be kicked nor souls to be damned."

If this power to contract and inflate the currency at will—this power, as they term it, of adapting the supply to the demands of trade—is left unrestrained and uncontrolled in their hands, they will of course inflate and contract the volume of paper money as their own interests may dictate, utterly regardless of the interests of other persons, corporations, or the general public. Why then should they be intrusted with the exercise of a power which might make or unmake fortunes in a day, and which might be disastrous to all the business interests of the country?

When the Constitution of the United States intrusts the power to "coin money" to the General Government, and denies that right in terms to sovereign States, and also denies them the right to "emit bills of credit," by what argument in law or reason can the right to exercise this power of sovereignty be claimed for corporations organized for merely private purposes? And with what show of reason can the Congress of the United States be asked to extend the charters of these institutions, when we are assured be the Committee on Banking and Currency that "the necessity which called the banks into existence has ceased to exist?"

We are to-day solemnly called upon by the friends of this bill to provide against a possible reduction of the paper currency, by operation of law, within the next year, by the sum of about sixty-nine millions of dollars, while they propose to leave the power in the hands of the banks to reduce it hundreds of millions, if they choose to do so. They offer the country no guard or protection against such a calamity, except the unrestrained will of the banks.

If the House is desirous of avoiding the evil pointed out by the committee, and at the same time this greater evil which must be apparent to all, a prompt passage of the substitute of Mr. BUCKNER or of Mr. BLAND will reach the object sought. This course will save the country from any possible danger of a repetition of the conduct of the banks in March of last year, and will render the business of the country absolutely secure from the possibility of a reduction of our money; and I cannot conceive how we can hesitate for one moment under the circumstances. We certainly are not willing to hazard the great business interests of this country, in our haste to be slavishly subservient to the supposed wishes of the national banks.

There was a time in the history of our Government when perhaps the extraordinary demands of a great war made a resort to methods of doubtful constitutionality a necessity. Such a necessity called the national banks into existence for the purpose of creating a market for the bonds of the Government. They, at a safe distance from the battle-field, performed that duty and doubtless did it well, and right royally have they been rewarded for it.

The profit of almost six hundred millions of dollars since 1870—to say nothing of the advantage derived from the increased value of their bonds—is certainly ample compensation for all their toil and danger, much more ample than has been accorded to "the boys who wore the blue," and day after day risked their lives on fields of blood and death while the bankers, in elegant offices and at a safe distance from the "ragged and rebellious" sons of the "sunny South," risked a part of their profits on the issue.

The inseparable connection between the banks and the national debt, however, is enough of itself to terminate the system as at present organized; for no more exact truth has ever been spoken than was uttered by Judge BUCKNER a few days ago upon this floor when he said:

There is no more universal sentiment in this country than the fixed and determined purpose to discharge the last dollar of the public interest-bearing debt as rapidly as the resources of the country will permit.

This debt has hung like a pall over this country ever since the war, and has been a weight upon its business energies almost unendurable. The people without regard to party now see the beginning of the end, and nothing will stay them or turn them aside from this great purpose to free themselves from this incubus.

The last monthly statement of the public debt made by the Secretary of the Treasury shows that in ten months, ending May 1, 1882, the debt had been decreased $128,748,213.37, and with the last month, April, 1882, it was reduced $14,415,823.74; and I believe any administration, whether Republican or Democratic, that dares to thwart this purpose of prompt payment of the debt would be hurled from power.

The payment of interest is at best a sort of slavery. The man who collects it has that much property in the man who pays it, and the people think that having paid over two thousand millions of dollars as interest alone upon that great debt, it is time that the whole should be paid off and this ceaseless drain be forever stopped.

The men of the North are no more willing that they and their children shall be bondmen than they were that the colored people should be bondmen in the South, and the men of the South are unwilling to exchange one slavery for another. The minds of the men who constitute the bone and sinew of this country are made up, they see; that but a short time is now necessary to pay off the bonds, and they are determined they, like that other slavery, like polygamy, like the Chinese, "must go," and go they will.

Mr. Speaker, I reserve the remainder of my time.

JAMES Q. SMITH, CONTESTANT, DECEASED.

Mr. OATES. At the instance of my colleagues in this House, as well as the Senators from my State, I ask unanimous consent at this time to introduce a resolution for immediate consideration. I make the request at this time because of the necessity for prompt action.

The SPEAKER *pro tempore*. The resolution will be read.

The Clerk read as follows:

Resolved, That the Sergeant-at-Arms of the House of Representatives be, and is hereby, directed to pay out of the contingent fund of the House the funeral expenses of James Q. Smith, late a contestant for a seat in the House of Representatives from the fourth district of Alabama, said sum to be deducted from any allowance to be made for the expenses of such contest.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

Mr. OATES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXTENSION OF NATIONAL-BANK CHARTERS.

Mr. DOWD. Mr. Speaker, it is important in the consideration and discussion of any subject upon which we are about to legislate to understand precisely what the question is. I am well aware that debates upon this floor do frequently take a very wide range, and that "speaking for Buncombe" is quite in order upon almost any occasion. But when we have to consider such intensely practical and matter-of-fact questions as banks and money, whatever we may choose to talk about, we should at least thoroughly understand the real issue that is raised by the proposed legislation. I am constrained to make these observations because it seems to me that some of our friends who oppose the bill now pending before the House do not rightly comprehend its provisions or its object. All the speeches I have heard and all the newspaper articles and circulars I have read in opposition to this measure assume or seem to suppose that the issue raised is as to the merits or imperfections of the national banking system, and that the defeat of this bill is to be the death of these banks.

I do not so understand it, Mr. Speaker. I undertake to say no such issue is presented. The national banking system is not now upon trial before this House. The question is not whether that is a good or a bad system, nor whether it shall be continued for a definite or an indefinite period; nor will it be affected, in my opinion, very materially by the fate of this bill. Certain banks will be affected, and the public interest may be affected; but the vitality and perpetuity of the national banking system will not, so far as I can see, be influenced to any considerable extent. The provisions of the bill apply only to existing banks as they approach the limitation of their corporate existence, granting them a new lease of life with precisely the same organization and the same powers for good or evil which they

at present possess. No member of this House has attempted to show, and I presume no one will attempt to show, that the failure to pass this bill would necessarily reduce the number of national banks or permanently diminish the amount of their note circulation or even deprive them of what has been called their "vast power of contingent mischief." If it could be shown that such would be the effect of the bill the opposition to it could be understood. It would then have point and force.

These banks whose charters are soon to expire are not going out of existence unless they find it to their interest to do so. If their business is prospering and the outlook is good they will renew their charters in the way provided by law now upon the statute-book. The process is very simple. The gentleman from Missouri [Mr. BUCKNER] understands this perfectly well. From his very able speech on this subject, delivered on the 17th of April last, I quote as follows:

> The system was designed to be self-perpetuating, while the individual bank is limited in the duration of its corporate life. * * * The owners and stockholders can organize a new bank with the same assets, as has already been done by banks in Michigan and Iowa.

Now, if these banks can prolong their existence by the simple process of a new organization by the same stockholders and with the same assets, as the gentleman from Missouri says they can, and as we all know they can, what good is to be accomplished by the defeat of this bill?

Mr. BLAND. May I answer the gentleman's inquiry?

Mr. DOWD. I will yield for a simple answer.

Mr. BLAND. They are compelled to redeem their circulation, and that money can be used of course to retire the bonds. We make the banks redeem their circulation, and that money can be used for the purpose I have stated.

Mr. FLOWER. Then you would pay them in Treasury notes?

Mr. BLAND. I would pay them as they are paid now. The gentleman from New York must understand that they are being paid off with the surplus revenues at the rate of a hundred millions a year——

Mr. DOWD. I must decline to yield to the gentleman to repeat the argument which he has already made two or three times.

Mr. HUTCHINS. And there is not a dollar of it paid in silver——

Mr. DOWD. I must decline to yield the floor for any discussion. I say it only provides an easy way for the banks to do what they can now do, but with some inconvenience and expense to themselves, and possibly great detriment to the public. Then, why defeat this bill and compel the reorganization of new banks? Would new banks, springing up out of the ashes of the old ones, organized under the same laws, with the same officers and stockholders, the same assets and identically the same "vast powers of contingent mischief" be any better than the old ones? The name would be changed, and perhaps nothing else, except the stationery, the letter-heads, checks, &c. Who would be benefited? Not the public, for here is the same business, conducted at the same place, by the same officers, under the same rules, regulations, and laws, with the same assets and the same facilities for mischief; not the stockholders, for their rights are fixed by law, under the contract of organization, and must remain unaffected by any future legislation; they can retire at the end of the bank's original corporate limit and withdraw their entire interest.

This is distinctly admitted in the speech from which I have already quoted and is plainly recognized and provided for in the fifth section of the bill. It has been asserted upon this floor that this legislation is not sought or desired by the banks, but that it originated in the interest of those who wish to perpetuate the national debt. Let me say, sir, that I utterly fail to see how the question of the payment of the public debt is at all involved in the matter now before this House. I assert emphatically, but with due deference to any who may hold other views, that the question of the reduction or payment of the public debt is wholly foreign to the scope and effect of this bill. And if any gentleman upon this floor will assert and attempt to prove the contrary, I will give him the closest attention and what he says the most careful consideration.

But who is to be benefited by passing this bill? The answer is, the banks whose charters are to expire from time to time, and also the public either directly or incidentally. The advantage to the banks will be that without embarrassment, without expense, without calling in their loans or contracting their circulation, their existence is continued. The surplus fund is the pride and ornament of every bank. It is accumulated to give security to the public and strength to the bank. Why, as if in a spirit of wantonness, will you compel them to scatter it to the winds or yourselves strike it down as with the hand of the iconoclast? To subject them and their customers and the public to all these inconveniences, by refusing to pass the bill, without any good to anybody or anything, would seem to be most unreasonable and unjust. I have said that all these institutions will not go out of existence; but doubtless many of them would not reorganize. In many parts of the country there is little or no profit in issuing circulation upon Government bonds at their present high market price and low rate of interest, and many banks have already surrendered a large portion of their circulation. If we fail to pass this bill, whether the banks whose charters are soon to expire shall reorganize or not, all their circulation will have to be called in.

To effect this an equivalent amount of legal-tender notes is required to be deposited with the United States Treasurer. The last annual report of the Comptroller of the Currency gives the information that between the 1st of the present month and the 25th of February, 1883, the number of banks whose charters will expire is three hundred and ninety-three, having an aggregate capital of nearly $92,000,000 and nearly $68,000,000 of circulation. So that within the next ten months, if these banks are required to wind up their business, or even change their names, the enormous sum of $68,000,000 of money now in circulation will have to be taken from the channels of business, and from the pockets of the people, and locked up in the vaults of the Treasury. Some gentlemen say, let Treasury notes be issued to replace this retiring bank circulation, and the gentleman from Missouri [Mr. BLAND] has introduced a substitute to this effect. But the Treasury note which he provides for is a rank and unmitigated specimen of "fiat money," representing nothing but the whims and caprices of politicians and the mutations and uncertainties of Congressional majorities.

Mr. BLAND. If the gentleman will explain the difference between the Treasury note and the national-bank note, he will answer his own argument.

Mr. DOWD. I understand the——

Mr. BLAND. A word more. They are exactly the same, except that one goes to the people and the other to the corporations.

Mr. DOWD. I understand the difference as shown by the gentleman's bill, that while the national-bank note is to be canceled the Treasury note is paid out again. So when a panic comes, and a man wants his gold, he takes his note to the Treasury and it is paid out again to another man, and then to another, and you have a constant stream of panic-stricken men following each other round and round in a continuous circle to get gold out of the Treasury.

Mr. BLAND. The same thing exists with the banks. They are not required to redeem in gold at all. They are both redeemable in Treasury notes; and the Government is behind both in the case I propose.

Mr. DOWD. There is a very great difference between destroying a note in case it should become depreciated, and paying it out to deceive and cheat somebody else with it afterward.

Mr. BLAND. Who will be cheated when the bank note depreciates?

The SPEAKER *pro tempore*. Does the gentleman from North Carolina yield to the gentleman from Missouri?

Mr. DOWD. Not any further. I think I have answered the gentleman's questions.

Unless I greatly misinterpret the sentiment of the American people, they do not want and will not tolerate any such a currency as that. Through much tribulation, through great affliction and suffering, privation and sorrow, and through a financial crash worse even than war they have reached a specie basis, and in my opinion will not easily be induced to depart from it. It is possible that the process of retiring and reissuing circulating notes by pulling down the old banks and putting up new ones in their places may be accomplished without serious detriment to the public. The country is in a condition of great prosperity, and its resources are truly marvelous. But is it wise or safe to make the experiment? We have had some rather recent experience in the matter of the contraction of the currency. Shall we have repeated in 1883 the calamities of 1873?

What right have we to involve the business men of the country, the toiling masses, whose welfare is so dear to the heart of the average politician, in such risks and experiments. We have now the opportunity to make certain amendments to the law upon this subject. I am heartily in favor of both the amendments suggested by the gentleman from Pennsylvania, [Mr. RANDALL,] to wit:

First. To prohibit the banks from arbitrarily and suddenly retiring their circulation; and

Second. To require them in certain cases to bring their suits in the State courts, and not compel defendants to travel hundreds of miles to attend the Federal courts.

These are highly important amendments, and I cannot doubt they will pass this House by a large majority. The power to contract the currency is a most vital one, and the power to contract at will to the extent now possessed by the banks is an extremely dangerous one.

The power of unlimited expansion is equally vital and dangerous. The one necessarily leads to the other, and individual and national bankruptcy is the inevitable result. We have already had a foretaste of this power of contraction as exhibited upon the occasion of the passage of the refunding bill. A demonstration was made by these institutions upon that occasion in the withdrawal of some eighteen millions of currency in a few hours that sent a thrill of anxiety and alarm to every business house in the land. The act was extremely reprehensible. It displayed a reckless disregard of the public welfare and a spirit that smacked of defiance and bravado. It made no new friends for the banks, but it called attention sharply to the extraordinary and dangerous powers lodged in their hands.

The second section of the bill recently passed by the Senate and which is offered as an amendment to the bill now before this House is as follows:

> Any national banking association, now organized or hereafter organized, desiring to withdraw its circulating notes * * * shall be required to give thirty days' notice to the Comptroller of the Currency of its intention to deposit lawful money and withdraw its circulating notes: *Provided*, Not more than five millions of dollars of lawful money shall be deposited during any calendar month for this purpose.

It has been said by the gentleman from Missouri [Mr. BUCKNER] that "whether we have a contraction of the currency to the extent of one million or fifty millions in the early part of next year depends wholly upon what each one of these banks considers to be its interest." And in reply it may be said that whether such dangerous power is to continue to reside in the hands of these institutions depends upon the manner in which we perform our duties in this House and upon this occasion.

Mr. BUCKNER. I wish to ask my friend from North Carolina what does he propose to do, in consideration of granting them an extension of their powers for the next twenty years, to prevent their refusing to go on by the payment of their bonds—suppose their bonds are called in?

Mr. DOWD. I have stated I am in favor of the provision incorporated in the Senate bill; and that is to prevent them retiring their circulation suddenly, requiring them to give certain notice before they retire.

Mr. BUCKNER. That does not accomplish anything.

Mr. DOWD. Well, you cannot prevent them from taking up their circulation. They can do that now if they choose. If this amendment is incorporated they cannot take up their notes except so many a month, and the process will be so slow it cannot materially affect the body of the circulation.

Mr. BUCKNER. That is in the case of a voluntary change of their bonds; but here is a case when they are called, namely, the 3½ per cent. bonds, which are now held as the foundation of the circulation.

Mr. DOWD. I do not suppose the Government is going to call them in such a way as to bring on a panic or defeat the purposes of this bill. The Government will be bound by the proviso of the Senate bill above quoted.

Mr. BLAND. That is, the debt will be continued to accommodate the banks.

Mr. DOWD. Oh, no; as has already been stated on this floor, there is more of the public debt in these bonds not to mature for twenty-five years than the banks now hold.

The national banking system has many objectionable features. It was born of the exigencies of war and financial distress, and is not best suited to a condition of peace and national prosperity. Still we find it in existence, a potent fact which we cannot ignore. Among all its opponents there is not one to say we can afford to abolish it at present. All are agreed that it must continue to exist to some period in the future. Being founded and sustained upon the public indebtedness, the way to get rid of it is to pay the debt. And that is about the only way it will ever be done. Unfriendly legislation, indiscriminate warfare will not do it; for with all their imperfections and faults it must be admitted they have many friends and advocates among the people. With their vested rights under existing laws and the firm hold they have upon public confidence by reason of the high order of security they afford to the bill-holder, the stockholder, and the depositor, they will prove a formidable adversary to any attacking force, and the individual or party who would lead the assault might do well to reckon carefully his hosts and husband well his resources.

Mr. BRUMM. Will the gentleman permit me to ask him one question?

Mr. DOWD. Yes, sir.

Mr. BRUMM. The gentleman from North Carolina says the only way to get rid of these banks is by payment of the debt. He acknowledges that the time is coming when the debt will be paid. Now, then, the question is, when the debt is paid, what does the gentleman propose to substitute for the present national-bank notes, in the light of the assertion made some time ago that they are better than the Treasury notes by reason of their not being destroyed?

Mr. DOWD. In the light of the statement that has already been made, that it would be some twenty-five years before the payment of the public debt, I beg to be excused from giving any opinion as to what would then be best to be done. But I will state to the gentleman who raised the question just now about State banks that I have something to say on that subject presently, to which I will invite his careful attention.

Mr. BLAND. How many banks does the gentleman think will exist after the 3½ per cent. bonds have been paid, which will probably be within the next three years? And how is he to meet the enormous contraction of the currency that will be caused by this bill?

Mr. DOWD. That has been answered several times in this discussion.

Mr. BLAND. Not at all.

The SPEAKER *pro tempore*. Does the gentleman from North Carolina yield?

Mr. DOWD. No, sir; I do not yield further at present.

But the banks can live only upon the public debt. And certain doctrines held chiefly upon this side of the House would seem to favor their perpetuity. Free trade—which, by the way, no one I believe has advocated upon this floor except my colleague, [Mr. ARMFIELD,] and he says he wants it as the Christian prays for the millennium to come after awhile but not right now—the abolition of tariff taxes and the repeal of the internal-revenue laws, would doubtless reduce the public resources to a limit that would not admit of further reduction of the national debt. It has been given out by our friends upon the other side that there is to be no material reduction of the internal-revenue taxes, and we all understand that the doctrines of free trade are not likely to prevail in this country for some time to come. So, while we may, let us set to work and by carefully handling our resources, and by due economy in public expenditures, get rid of the national debt and the national banks together.

I desire to say a few words as to what we are to substitute for national banks. I belong to that large class in and out of Congress who, while not favoring our system of national banks *per se*, yet think it would be unwise to abolish or cripple them till something better can be substituted in their place. We know that if the system has some bad features it has also some good ones. It affords a sound, reliable, and uniform currency. The banks are so organized and conducted as to engage public confidence in a very high degree all over the country. They lend money at as low rates of interest and do not make greater profits for their stockholders than other banking institutions in this and other countries. We want them replaced by something equally as good in all these respects. At the South we need more currency. Our exchanges are necessarily effected almost entirely by the use of cash. We cannot use checks and drafts to the same extent that they are used in the denser communities and large cities North. Besides, the income from our crops is largely expended in the Northern markets for merchandise, farming implements, groceries, &c., and as a consequence there is great scarcity of money in the summer months at the South, while there is at the same time a plethora in all the great commercial and manufacturing centers North. I know the reply to all this is, we should raise more of our own food supplies and build and operate factories for ourselves. But it requires money to build factories, and under existing circumstances it requires time and money to revolutionize our methods of farming. What we need is more money, cheaper money, lower rates of interest.

The Government borrows its hundreds of millions at 3½ per cent.; the citizen pays 10 to 15 per cent. The discrepancy is too great. If our people could borrow all the money they could prudently and safely use at 4 or 5, or even 6 per cent. per annum, there would be a rebound in their prosperity that would be without a parallel in all the past. There ought to be wisdom and patriotism enough in the halls of our National Legislature to devise some plan that would afford the needed relief, and enable our people in every locality to borrow what money they need at reasonable rates of interest. It is a subject worthy of the most earnest consideration of our wisest and best men; a subject of infinitely more importance to the masses of the people than the tariff and internal-revenue laws, about which we have heard so much upon this floor, day after day and week after week. It seems to me that what we need is a sound local currency to supplement our national currency; one that would be good at home, but might not go abroad except under difficulties. I do not believe the greenback plan will accomplish this object, because I see no way to prevent the greenback money any more than the bank notes from drifting periodically to the great trade centers.

I know there is much prejudice against the old State-bank system. It is flippantly styled chimerical, bogus, wildcat, and the like. But there was really great prosperity at the South in the days of the old State banks, and planters everywhere could borrow money at 6 per cent. Many considerations might be presented in favor of the re-establishment of these institutions. And they certainly will be re-established in some form as the national banks go out of existence, unless some preferable system is devised. I do not desire to advocate their re-establishment nor to express any convictions I may have on the subject, but only to submit for consideration some reflections touching a subject that in the not distant future will demand the attention of the American people and some action on the part of Congress. As we are to have the national banks for some time yet, why not allow competing banks to be established in the various localities over the country, in order that the people may have the benefit of the competition? If it is true that some of the old State banks were badly constituted and badly managed, it is also true that others of them were constructed upon a solid basis, were well managed, and that their bills were always worth a hundred cents in the dollar in gold.

Mr. BRUMM. Will the gentleman allow me to ask him another question in regard to this subject of the concentration of greenbacks at the centers?

Mr. DOWD. Yes, sir.

Mr. BRUMM. If a law should be passed compelling the banker, especially the New York City banker, to pay say 50 per cent. on the amount he allows on deposits, or preventing by act of Congress banks from depositing their money in other banks, would not that prevent the concentration of money in the money centers, whether it be greenbacks or any other kind of money?

Mr. DOWD. The question of the gentleman is so broad and so comprehensive or incomprehensible, and so very foreign to the scope of my argument or anything that is to be accomplished by the passage or the defeat of this bill, that he must excuse me now until I have more time to consider it.

Mr. HUTCHINS. I would say to the gentleman from Pennsylvania if we passed a law that no business at all be done by the banks then there would be no concentration of money in the banks.

Mr. DOWD. It was the war that broke the old banks, or most of

them, though some even withstood the havoc and destruction of both war and reconstruction. So it is idle to say that State banks are necessarily unsafe and unreliable, or that they may not be brought up to a standard of absolute soundness and solvency. If the State Legislatures and people were somewhat careless about such matters in times of peace and prosperity, they would doubtless be warned and benefited by the sad experiences and lessons of the past. With national banks as a sort of standard and guide, State institutions founded or conducted upon even a questionable basis could not stand the frigid test of public confidence. Investors would not have their stock, and business people would not touch their bills. Every institution of the kind would be subjected to the severest ordeal of scrutiny and criticism. The public would be interested to know that they were safe and reliable, and the national banks, as rivals, would be on the alert to expose their defects and weaknesses.

I would also suggest to our Greenback friends and others opposed to the national system that the revival of State banks upon a judicious and conservative basis might greatly facilitate the displacement and retirement of the national banks. Such formidable competition might tend to drive them out of existence. There is every reason to believe that many of the national banks would be turned into State banks if the latter were allowed to issue circulation.

There might be other advantages in having a dual paper circulation. If the national currency is good in any part of the country, and the State money good only in the locality of the bank, this very fact might be the means of equalizing the circulation, supplying local demands, preventing the unwholesome accumulations at the large trade centers, and the corresponding scarcity at remote points. Even if a merchant or traveler should wish to take an amount of money upon his person, which is rarely the case in this age of checks and drafts, the State and national bank notes being equally good at home, he could evenly exchange the former for the latter.

Again, in the event of a crisis with either one of the two systems the other might stand as a support. With a single paper circulation, to be tampered with by every succeeding Congress, any injudicious or ill-considered act of legislation, or the unexpected decision of the courts upon the construction of some law, might convulse the whole country with panic and disaster. One locality could not afford relief to another, nor one individual to another. All would be affected alike. But with two systems coexisting the one might, in cases of emergency, act as a breakwater and protection to the other and to the public.

But there is to my mind an almost insuperable objection to State banks of issue, and that is the difficulty of properly circumscribing the limit to which they might swell the volume of circulation. Each State would, of course, have to prescribe a basis and limit for its own banks. How could the adjustment be made so that each State would authorize no more than its own proportion, with reference to the business of the whole country and the demands of the people at large?

Very much the same difficulty exists with reference to the United States Treasury notes and the national-bank notes. Who is to fix the limit of expansion? You answer, Congress. When, how, and where? The increase of the volume of circulation in this country for the last year was over one hundred and fifty millions, derived from new banks organized, the coinage of silver and gold, and the excess of importation of gold coin. Have we enough money in the country already? Have we too much? Where will you stop the increase, and how? It must be checked sooner or later, for inflation is as dangerous as contraction. Will you say the aggregate amount shall be so many dollars and no more?

Suppose, when you have done this, the balance of trade should turn against us, and our gold coin should begin to go out at the rate of a few millions a day or a week. What then? Will you fix the limit at so many dollars per capita? At how many dollars per head for every man, woman, and child? England and France are both accepted as models of national financiering, and yet the latter uses twice as much money per head as the former. The difference is accounted for by the fact that England, much more than France, utilizes banks and other economic methods of handling money and making exchanges. If the methods of transacting business and the extent of business transactions were the same everywhere according to population the per capita standard would be a good one. But it is not without its difficulties. It might be supposed to be a rigid standard, but it is not. It is exceedingly elastic. When you have adjusted the number of dollars to the number of heads you must not forget that contraction or expansion may take place by the increase or diminution of the number of heads as well as of the number of dollars. It is a doubly elastic standard.

Every theory of currency, the whole subject of money and national finance, is exceeding subtle and interesting. It has puzzled the wisest men in all ages; the more we study the less we seem to know. With the American people at this time it is not a mere theoretical question, but one intensely practical. It has direct relation to the material prosperity of the country, to all classes of business, and even to the very pockets of the people, and is of the very essence of the science of government. It has challenged and will challenge the highest ambition of the statesman, and the most earnest attention and study of the legislator and the man of business. [Applause.]

Mr. FLOWER. The bill before us, Mr. Speaker, is merely a measure to facilitate the rechartering of the national banks. It does not extend the time of their corporate existence any longer than they can extend it themselves. It facilitates the business of the country in certain particulars, which I think I showed very conclusively about two weeks ago. I think it stops, so far as it can stop, a contraction of the currency. And for those reasons, with a few amendments to the bill, I shall vote for it.

It is very fortunate, I think, that at this time we have the right to facilitate this recharter; that the legislation on the subject has been such that the banks have to come to us for relief. But the business interests of the country will be demoralized if the measure of relief stands in this shape without modification. And why? Because they demoralized the business interests of the country about a year ago by withdrawing eighteen millions of greenbacks from circulation.

Now, I think we ought to throw around the business interests of the country every necessary precaution by an amendment to this bill compelling the banks to give three months' notice before they retire any of their circulation—before they can pay in greenbacks and take out the bonds they have on deposit as security for their circulation and sell them. Else this banking system will become a machine, as it has been somewhat in the past, for speculating in Government bonds. These banks will take out circulation whenever it will pay them to do so, and when it will not they will refuse to take it out. As soon as bonds go up in value in would go the greenbacks for the bonds; and these banks would sell the bonds for the premium.

They should be restricted, as the amendment proposed by the gentleman from Pennsylvania [Mr. RANDALL] will restrict them, to three months' notice of intention to retire any portion of their circulation.

There should also be another amendment, similar to the one proposed by the gentleman from Georgia, [Mr. HAMMOND,] allowing an individual to sue a national bank in a State court in the same manner as the bank can now sue an individual. The banks should have no more rights in that respect than individual citizens have. I am not in favor of chartering any institution whereby the interests of the people may be endangered. I think Congress would be to blame if it gives powers to corporations like these without restricting them by every possible means so that the interests of the people may not be endangered by them.

Even if this bill is passed, other legislation will be necessary, or we will find ourselves curtailed of forty-one millions of national-bank currency by the last call of bonds, expiring August 1. I call upon the other side of the House to present some report besides this, in order to meet the difficulty that will be upon us by the 1st day of August next. Otherwise, when September and October and November come, you will find a money panic, and I do not want you to charge that upon this side of the House.

I believe that a 3 per cent. funding bill should be passed by which the Secretary of the Treasury would be allowed to fund all the bonds of the United States now due at 3 per cent., giving to the one who secures the first new bond the right to the longest bond. I think that is the way out of this difficulty, and the only way to prevent a large contraction of the currency.

Of the 3½ per cent. extended bonds, thirteen and a half millions have been taken as a basis of circulation by the national banks that have been chartered within the last year or year and a half. Of the circulation of this country two hundred and forty millions is dependent upon bonds payable at the option of the Secretary of the Treasury. Now, that is no way in which to leave the currency of the country; and I call upon gentlemen on the other side of the House, while we are willing to vote for this bill with proper restrictions, to present us a funding bill which will place our currency and the business interests of the country upon a firm and satisfactory basis.

Mr. DWIGHT. Why do you not present such a bill? You seem to know what is wanted.

Mr. FLOWER. What is the use of any one presenting such a bill here unless he is on the right side of the House?

Mr. BRUMM. Does the gentleman favor the Crapo bill?

Mr. FLOWER. I told you that I was in favor of the Crapo bill if nothing better is presented. I will vote for that bill with these amendments.

Mr. HAZELTON. How about the bill without the amendments?

Mr. FLOWER. I doubt if I vote for it without the amendments. A funding bill such as that I spoke of, or something of the kind, will relieve us from this difficulty. The banks will not take these bonds now as a basis of circulation. They know that $150,000,000 of the debt is paid every year, and that in three or four years four or five hundred millions of these bonds will be paid off and the circulation dependent upon them will be gone.

In that case something else will have to take the place of this circulation. It may be Treasury notes, as my friends from Missouri [Messrs. BUCKNER and BLAND] suggest; it may be the circulation of State banks, as my friend from North Carolina [Mr. DOWD] suggests. But we will be called together here in a hurry some time between now and next fall, if we have good crops, unless something in relation to funding this debt is accomplished. People will not take these bonds which they know will be paid off so soon, and the banks will have to retire their circulation, as they are doing now.

Mr. CRAPO. The gentleman is aware that a funding bill has already passed the Senate.

Mr. FLOWER. Yes; but I have been informed by the Committee on Ways and Means that nothing will be done with it this session.

One more point, in addition to the fact that the circulation will be decreased to the extent of $41,000,000 by the 1st day of August next. The Secretary of the Treasury has recommended to us not to issue any more certificates based upon gold deposited in the Treasury. Now, I do not believe in that policy at this time.

Mr. BLAND. Will the gentleman allow me a moment?

Mr. FLOWER. Yes, sir.

Mr. BLAND. What I desire to say to the gentleman is this: he has now admitted that the national banking associations as such must go out of existence when these 3½ per cent. extended bonds are paid off, or that there will be a large contraction of the currency; and the gentleman says that we must have a funding bill postponing the payment of this debt in order to enable these banks to continue in existence. Now, I have proposed a substitute for that proposition, and I would like to have the gentleman examine it and see if it is not better than continuing this debt in order to accommodate these banks. I am glad to hear this honest confession, for that is all there is in this bill and this movement.

Mr. FLOWER. In the first place, Mr. Speaker, I have not said that the national banks would have to go when their circulation goes; but I did say that $41,000,000 of this circulation would go by the 1st of August, even if this bill should pass, and that something would have to take the place of this amount. I ask the other side of the House to give us proper legislation on this subject. My judgment is that if you would take off the internal-revenue taxes from every thing except distilled spirits and the circulation of the national banks, we could reform the tariff very readily. I believe that four men in this House could draft a measure of reform within thirty days. You need only pay between $28,000,000 and $30,000,000 annually for the next twenty-six years to wipe out all your payable indebtedness. Two hundred and fifty million dollars will be due in nine years; and you cannot pay it with Treasury notes; nor can you pay in that way the amount falling due in 1907. Our creditors would not take Treasury notes.

Mr. RICE, of Missouri. Do they not take them?

Mr. FLOWER. I would not take them if I owned a bond payable in coin.

It has been circulated throughout the country that the Banking and Currency Committee is composed mostly of national bankers, and that the banks have it all their own way in that committee. Now, sir, I never owned a dollar of national-bank stock in my life. I would not own a charter if you would give it to me, because I believe that by any other system of banking bankers can make more money. I would not vote for this bill did I not believe that temporarily it is the best expedient and provides the cheapest currency for the people.

Mr. HAZELTON. Then I understand the gentleman to say that those who go into banking for speculation can make more money by any other system than the national banking system?

Mr. FLOWER. There is no taxable property in the United States taxed so heavily by the States as that of the national banks; and next to the national banks in point of taxation comes the State banks. The Treasury note is like the greenback, a debt of the Government. It is not taxable by the States; but the moment that capital goes into a national bank it becomes a target for State taxation.

Mr. HAZELTON. The bonds of the national banks are not taxed.

Mr. FLOWER. When a national bank is established it must be upon the basis of Government bonds, and when a State taxes the stock of the bank it virtually taxes the bonds. The national-bank note is taxable by the State as personal property. The greenback and the Treasury note are not taxable at all. I refer gentlemen to section 3701 of the Revised Statutes. As a last resort we may have to issue Treasury notes, but I do not believe they would be the cheapest currency.

I yield the residue of my time to my colleague, [Mr. HEWITT, of New York.]

Mr. HEWITT, of New York. I am obliged to my colleague; but I am not prepared to go on to-day. If he will reserve his time, I would be glad to use it hereafter, or I will take the floor now and yield for a motion to adjourn.

Mr. BUCKNER. I move that the House adjourn.

Mr. FLOWER. Mr. Speaker, I will reserve the remainder of my time. How much time have I remaining?

The SPEAKER *pro tempore*, (Mr. UPDEGRAFF, of Iowa.) Forty-five minutes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to reports of committees of conference on bills of the following titles:

A bill (H. R. No. 3208) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes; and

A bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 420) to establish a court of appeals;

A bill (S. No. 881) for the relief of Lieutenant Edward S. Farrow, United States Army;

A bill (S. No. 1020) to authorize the construction of a bridge across the Arkansas River at the town of Van Buren, Crawford County, Arkansas; and

A bill (S. No. 1440) relating to the registration of trade-marks.

LEAVE TO PRINT.

Mr. RICE, of Missouri, by unanimous consent, obtained leave to have printed in the RECORD remarks on House bill No. 1655, relating to interstate commerce. [See Appendix.]

JOSEPH BELL.

Mr. CONVERSE, by unanimous consent, introduced a bill (H. R. No. 6185) granting a pension to Joseph Bell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOLOMON DUPLER.

Mr. CONVERSE also, by unanimous consent, introduced a bill (H. R. No. 6186) granting a pension to Solomon Dupler; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PARDON WORSLEY.

Mr. WALKER. I ask unanimous consent to withdraw from the files of the House papers in the case of Pardon Worsley, for reference to the Committee on Claims.

The SPEAKER. That can be done through the petition-box.

JAMES B. BEAVER.

Mr. CHAPMAN, (for Mr. WISE, of Virginia,) from the Committee on War Claims, reported back adversely the petition of James B. Beaver; which was laid on the table, and the accompanying report ordered to be printed.

AGNES AND MARIA DE LEON.

Mr. CHAPMAN (for Mr. WISE, of Virginia) also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 3466) for the relief of Anges and Maria De Leon, heirs-at-law of Rebecca L. De Leon, deceased; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

LIEUTENANT JOHN W. DANENHOWER.

Mr. ALDRICH, by unanimous consent, introduced a joint resolution (H. R. No. 210) tendering the thanks of Congress to and conferring additional rank on Lieutenant John W. Danenhower, United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

GOODS EAST OF GOOD HOPE CAPE.

Mr. HEWITT, of New York, by unanimous consent, introduced a bill (H. R. No. 6187) to amend the act entitled "An act to repeal the discriminating duties on goods produced east of the Cape of Good Hope," approved May 4, 1882; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

RICHARD H. AND JAMES PORTER.

On motion of Mr. BRIGGS, by unanimous consent, the bill (S. No. 905) for the relief of Richard H. and James Porter was taken from the Speaker's table, read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ENROLLED BILLS AND JOINT RESOLUTION.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon and cannon-balls for use and ornament about a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 679) donating condemned cannon and cannon-balls for monumental purposes;

A bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 1290) granting a pension to Modena Smith;

A bill (H. R. No. 2195) donating condemned cast-iron cannon to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned cast-iron cannon to the citizens of Otsego, Michigan;

A bill (H. R. No. 3877) donating condemned cannon to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post No. 2 of the Grand Army of the Republic, of Concord, New Hampshire, six condemned cannon, and for other purposes;

A bill (H. R. No. 4585) to donate four condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio;

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town; and

Joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls, for decoration of soldiers' cemetery.

PLATE-PRINTING BY STEAM-PRESSES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, in response to resolution of the House of the 4th ultimo, transmitting certain information relative to plate-printing by steam-presses, &c.; which was referred to the Committee on Banking and Currency, and ordered to be printed.

JAMES ROBINSON.

Mr. SINGLETON, of Mississippi, by unanimous consent, introduced a bill (H. R. No. 6188) for the relief of James Robinson; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

SOLDIERS' MONUMENT, WHITE HAVEN, PENNSYLVANIA.

Mr. KLOTZ, by unanimous consent, introduced a bill (H. R. No. 6189) donating cannon to the White Haven, Pennsylvania, Soldiers' Monument Association; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ADULTERATION OF BUTTER AND CHEESE.

Mr. DAVIS, of Illinois. I ask by unanimous consent to publish in the RECORD the body of a petition signed by 3,202 citizens of Chicago and its vicinity.

There was no objection, and the body of the petition is as follows:

To the Senate and House of Representatives of the United States:

We, the undersigned, grocerymen, commission men, provision dealers, and citizens of Chicago and vicinity, do hereby petition your honorable bodies to pass a national law to prevent the adulteration of butter and cheese with foreign fats.

The petition was referred to the Committee on Ways and Means.

EQUALIZATION OF PAY.

Mr. HOUK. I ask unanimous consent to change the reference of the resolution equalizing the pay of the employés of the Senate and House from the Committee on Appropriations to the Committee on Accounts.

Mr. HOLMAN. Let us have the regular order.

The SPEAKER. That cuts off unanimous consent.

And then (at four o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ARMFIELD: Six petitions of citizens of North Carolina, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. CANDLER: The petition of citizens of Newton, Massachusetts, for an appropriation for educational purposes to be distributed on the basis of illiteracy—to the same committee.

By Mr. CLEMENTS: Five petitions of citizens of Georgia, for an appropriation for educational purposes—severally to the same committee.

By Mr. DARRALL: The petition of citizens of the Parish of Iberia, Louisiana, for an appropriation for educational purposes—to the same committee.

By Mr. HARDENBERGH: The resolutions adopted by the board of aldermen of Jersey City, New Jersey, relative to the imprisonment of American citizens in British jails—to the Committee on Foreign Affairs.

By Mr. HENDERSON: The letter of the Secretary of War transmitting certain communications relating to, and 18 petitions of officers of the United States Army urging the passage of the bill (H. R. No. 1475) for the reorganization of the infantry branch of the Army—severally to the Committee on Military Affairs.

By Mr. MAGINNIS: The petition of Mary C. Hamilton, for relief—to the same committee.

By Mr. McMILLIN: The petition of J. M. Davis, for relief—to the Committee on Claims.

By Mr. MILLER: The petition of William J. Ney and many others, of the Fifteenth Regiment National Guards of Pennsylvania, for the passage of the bill (H. R. No. 2143) to amend title 16 of the Revised Statutes, relative to the militia—to the Committee on the Militia.

Also, the petition of Mercer (Pennsylvania) Post Grand Army of the Republic, urging the passage of the bill (H. R. No. 5269) providing for payment of female nurses who served through the late war—to the Committee on War Claims.

Also, memorial of Post No. 169, Grand Army of the Republic, of Mercer, Pennsylvania, in favor of the passage of the bill granting a pension of $40 per month to all soldiers who lost an arm, leg, foot, &c.—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. MOREY: The petition of L. D. Brown and others, of Hamilton, Ohio, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. OATES: The petition of Hon. S. M. Edwards and others, citizens of Dale County, Alabama, for an appropriation for educational purposes—to the same committee.

By Mr. PRESCOTT: The petition of the Canal Boat Owners' Association of New York, in opposition to the passage of the bill to limit the size of tows on the Hudson River, in the State of New York—to the Committee on Commerce.

By Mr. RITCHIE: The petition of members of the board of education of Toledo, Ohio, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. SHERWIN: The joint resolutions of the Legislature of Illinois, relative to the imprisonment of American citizens in British jails—to the Committee on Foreign Affairs.

By Mr. VAN AERNAM: The petition of 128 citizens of Chautauqua County, New York, praying for the enactment of a general law to regulate immigration—to the Committee on Commerce.

By Mr. WHEELER: The petition of D. C. White and others, citizens of Lawrence County, Alabama, for an appropriation for educational purposes—to the Committee on Education and Labor.

SENATE.

MONDAY, *May* 15, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read.

THE JOURNAL—GENEVA AWARD.

Mr. HOAR. Mr. President, I rise to a matter connected with the Journal. The Journal states that House bill No. 4197, in regard to the Geneva award, was referred to the Committee on the Judiciary. I believe that was not the purpose of the Senate or the Chair. The bill has been before the committee once, and they have made their recommendation on the subject. This bill, therefore, should remain on the table of the Senate.

The PRESIDENT *pro tempore*. The Journal will be amended so as to discharge the committee from the consideration of the subject, and the bill will lie on the table.

Mr. INGALLS. Is the House bill the same as the Senate bill reported from the committee?

The PRESIDENT *pro tempore*. It is not, but the Committee on the Judiciary have had the entire subject under consideration and have reported a bill on the subject.

Mr. HOAR. The bill which the House has passed, as I understand, was introduced here in substance, and I think in the same words substantially. It was then referred to the Committee on the Judiciary early in the session, so they had that proposition for legislation before them. They considered that and several other propositions, and have reported a bill which is now before the Senate. It is unnecessary to encumber the Judiciary Committee with a new reference of something they have considered and acted upon, and my suggestion is that the House bill remain on the table.

Mr. INGALLS. The fact that the Judiciary Committee have reported one bill on the subject does not render it necessary that the bill coming from the House should lie on the table. If it is the purpose of the Senator from Massachusetts to move the House bill in the Senate as a substitute for the bill reported by the Senate committee, then the course suggested by him might be advisable; otherwise it appears to me the proper disposition of the bill would be to refer it, although I am indifferent about the matter.

Mr. HOAR. I should like to examine the bill, and see whether the proper mode of testing the sense of the Senate would be to take up the House bill.

The PRESIDENT *pro tempore*. The committee will be discharged from the further consideration of the bill, and it will lie on the table, if there be no objection.

Mr. HOAR. I spoke to the Chair, as the Chair will recollect, when the bill first came over.

The PRESIDENT *pro tempore*. The Chair remembers, but he was not in the chair at the time the reference was made.

Mr. HOAR. It was a mere act of the Clerk, without the direction of the Chair.

The PRESIDENT *pro tempore*. The Journal as corrected will be approved.

PETITIONS AND MEMORIALS.

Mr. CALL. I present a petition, and ask that it be read.

The PRESIDENT *pro tempore*. The petition will be read, if there be no objection.

The Principal Legislative Clerk proceeded to read the petition, as follows:

To the Hon. DAVID DAVIS,
President of the Senate of the United States:

Your petitioners, residents of the District of Columbia, and engaged in the business of buying and slaughtering animals for food purposes in said District, respectfully represent to your honorable committee that, as they are informed, "A bill to provide for the care and inspection of all animals to be slaughtered for food purposes in the District of Columbia, and to incorporate the Washington stock-yard, abattoir, and rendering company"——

Mr. ALLISON. It is not necessary to read that long paper.

The PRESIDENT *pro tempore*. It can be printed in the RECORD without reading. Does the Senator from Florida care about having the petition read?

Mr. CALL. Not if it goes into the RECORD.

Mr. HARRIS. What has been read necessarily goes into the RECORD. I suppose from what has already been read the petition should be referred to the Committee on the District of Columbia.

Mr. CALL. The object of the petitioners was for it to go into the RECORD.

Mr. HARRIS. I see no necessity for encumbering the RECORD with such a petition. Let it go to the proper committee, where it will be investigated.

Mr. CALL. I have no objection to that course, if there be objection to the reading.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on the District of Columbia.

Mr. BUTLER presented a petition of W. W. Elliott and others, citizens of Port Royal, South Carolina, praying for the passage of a bill for the establishment of a coaling-dock and naval storehouse at Port Royal, in that State; which was referred to the Committee on Naval Affairs.

Mr. SHERMAN presented a memorial of the Robinson Post No. 135 Grand Army of the Republic, Department of Ohio, in favor of certain modifications of the pension laws; which was referred to the Committee on Pensions

Mr. PENDLETON. I present a petition of Robinson Post No. 135 Grand Army of the Republic, Department of Ohio, praying for the passage of an act to provide for the just equalization of soldiers' bounties; for making it less difficult to prove just claims, and more easy to prevent fraud in the procurement of pensions; to give every soldier and sailor, upon proof, arrearages from the beginning of his disability; to increase the pension of honorably-discharged privates, their widows and orphans; and that no material reduction of the tax on whisky and tobacco be made until these demands of the soldiers and sailors are complied with. I move the reference of their petition to the Committee on Pensions.

The motion was agreed to.

Mr. ALLISON presented a petition of citizens of Iowa, praying for an appropriation for the education of the native people of Alaska; which was referred to the Committee on Education and Labor.

Mr. PLUMB presented a petition of citizens of Kansas, praying for an appropriation for the education of the native people of Alaska; which was referred to the Committee on Education and Labor.

Mr. McMILLAN. At the second session of the Forty-sixth Congress I had the honor to introduce a bill to aid in the endowment of a school of forestry at Saint Paul, Minnesota. That Congress having terminated without action by the committee, I shall at the proper time this morning introduce a bill to the same effect, and at this time I present a memorial of the American Forestry Congress, the sessions of which were lately held in the city of Cincinnati, approving the terms of the bill and recommending its passage. I move that the petition be referred to the Committee on Public Lands, and I commend it to the favorable consideration of that committee, and ask the attention of the chairman of the committee to the subject.

Mr. SHERMAN. A petition similar to the one now presented was referred to the Committee on Agriculture.

Mr. McMILLAN. This petition may take that reference.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Agriculture.

FOURTEENTH STREET EXTENSION.

Mr. SHERMAN. I desire to move a correction of the reference of Miscellaneous Document No. 87, relating to the widening of Fourteenth street, in Washington, which was by inadvertence sent to the Committee on the District of Columbia instead of the Committee on Appropriations. The matter is now pending before the latter committee. I ask that the reference be changed.

The PRESIDENT *pro tempore*. The Committee on the District of Columbia will be discharged from the further consideration of the miscellaneous document, and it will be referred to the Committee on Appropriations.

REPORTS OF COMMITTEES.

Mr. GARLAND, from the Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 7) declaring the true intent and meaning of the act of March 3, 1855, in its application to the claims of the officers and sailors of the United States sloop Marion and United States frigate United States, asked to be discharged from its further consideration, which was agreed to; and the joint resolution was postponed indefinitely.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 1877) amending clause 2 of section 2426 of the Revised Statutes of the United States in reference to persons in the naval service of the United States entitled to bounty-land warrants; which was read twice by its title.

He also, from the same committee, to whom was referred the bill (S. No. 1788) to amend the law relating to the bonds of executors in the District of Columbia, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 1860) to attach the county of Hardeman, in the State of Tennessee, to the eastern division of the western district of Tennessee, reported it without amendment.

Mr. ROLLINS, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1774) authorizing the sale of the land and premises formerly occupied as a site for the post-office in the city of New York, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3846) for the erection of a public building at Louisville, Kentucky, reported it without amendment.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (S. No. 1237) to extend the time for making proof and payment on desert-land entries, reported it without amendment.

Mr. VEST, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 880) to provide for the erection of a public building in the city of Hannibal, in the State of Missouri, reported it without amendment.

Mr. CAMERON, of Wisconsin, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 4701) to provide for the erection of a public building at Detroit, Michigan, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 4177) for the erection of a public building at Council Bluffs, Iowa, reported it without amendment.

Mr. PENDLETON. I am instructed by the Committee on Civil Service and Retrenchment to make a report, with an appendix containing certain testimony taken before that committee, to accompany the bill (S. No. 133) to regulate and improve the civil service of the United States.

Mr. ALLISON. Is all the testimony taken by the committee appended to the report?

Mr. PENDLETON. No, sir, but it is the report which is now submitted. The testimony taken by the committee is in the possession of the committee.

The PRESIDENT *pro tempore*. The report will be printed.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1776) to provide for the erection of a public building at New Castle, Delaware, reported it without amendment.

Mr. McMILLAN. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 1810) to authorize the Rock Island and Southwestern Railway Company to construct a bridge over the Mississippi River at New Boston, State of Illinois, to report it with amendments; and I am instructed by the committee to ask for the present consideration of the bill.

The PRESIDENT *pro tempore*. Is there objection to having the bill read?

Mr. INGALLS. It will be read for information.

The PRESIDENT *pro tempore*. It may be read for information, subject to objection.

The Principal Legislative Clerk proceeded to read the bill.

Mr. BUTLER. Is this bill being considered under the Anthony rule?

The PRESIDENT *pro tempore*. It was reported from a committee and the Senator from Minnesota asks for its present consideration with a view to pass it. It is morning business and the bill is being read for information.

Mr. BUTLER. There has been a good deal said about departing from the Anthony rule——

The PRESIDENT *pro tempore*. The Calendar under the Anthony rule has not yet been reached. Does the Senator object to the present consideration of the bill?

Mr. BUTLER. No, sir; I do not know that I object to it.

The PRESIDENT *pro tempore*. The reading will continue.

The Principal Legislative Clerk resumed the reading of the bill, but before concluding was interrupted by

Mr. INGALLS. This bill is in such condition that evidently it cannot be acted on now. If the Senator from Minnesota desires action to-day I suggest it had better be deferred until it can be put in proper shape.

Mr. McMILLAN. Let it go over until to-morrow morning.

The PRESIDENT *pro tempore*. The bill will go over and the amendments will be printed.

Mr. PLATT, from the Committee on Patents, to whom was referred the bill (S. No. 854) for the relief of W. C. Dodge, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

BILLS INTRODUCED.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1878) to attach the county of Dade, in the State of Florida, to the southern district of Florida; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ROLLINS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1879) to provide for the purchase of a site on which to erect an extension of the Post-Office Department building; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. McMILLAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1880) to aid in the endowment of a school of forestry at Saint Paul, Minnesota; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Agriculture.

Mr. GEORGE. I ask leave to introduce a bill at the request of a constituent, and I do so without intending to approve or condemn the bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1881) to aid in the construction of the railroad and levee of the Memphis and New Orleans Railroad Levee Company; which was read twice by its title, and referred to the Committee on Railroads.

Mr. FERRY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1882) granting a pension to James T. Donahue; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1883) for the erection of a public building at La Crosse, Wisconsin; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. WINDOM asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1884) granting a pension to William J. Duley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HILL, of Colorado, asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1885) granting the right of way over the public lands to the Eastern Washington Development Company for the construction of a railroad; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ANTHONY asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 64) authorizing the sale of the Congressional Directory and the current numbers of the CONGRESSIONAL RECORD; which was read twice by its title, and referred to the Committee on Printing.

Mr. PENDLETON asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 65) to provide for an international convention to recommend the establishment of a standard meridian for reckoning longitude and time; which was read twice by its title, and, together with the accompanying papers, referred to the Committee on Foreign Relations.

AMENDMENTS TO BILLS.

Mr. MORRILL. I desire to present amendments in the form of a substitute for the bill (H. R. No. 5656) to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses and the withdrawal of the same therefrom. I move that the amendments be printed and referred to the Committee on Finance.

The motion was agreed to.

Mr. CHILCOTT submitted an amendment intended to be proposed by him to the bill (H. R. No. 5812) to establish post routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HILL, of Colorado, it was

Ordered, That the papers in the case of Senate bill No. 740, Forty-fifth Congress, second session, "to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah," be taken from the files of the Senate and referred to the Committee on Military Affairs for the use of the said committee in the consideration of Senate bill No. 1862, Forty-seventh Congress, first session.

TAX ON DISTILLED SPIRITS.

Mr. BECK. The resolution which I introduced the other day in relation to House bill No. 5656, extending the bonded period on distilled spirits, I propose to call up at two o'clock instead of now, with the consent of the Senator from Kansas, [Mr. PLUMB.]

The PRESIDENT *pro tempore*. The Chair so understood that it was to come up after the morning hour.

COMMITTEE SERVICE.

Mr. PLATT. I ask to be excused from further service on the special committee raised to investigate the administration of the collection of internal revenue in the sixth collection district of North Carolina.

The PRESIDENT *pro tempore*. Is there objection to the request of the Senator from Connecticut? The Chair hears none, and the Senator is excused. The Chair appoints in his place the Senator from Pennsylvania, [Mr. MITCHELL.]

CREEK ORPHAN FUND.

The PRESIDENT *pro tempore*. If there be no further morning business the morning hour is closed.

Mr. SLATER. I move that the Senate proceed to the consideration of the bill (S. No. 126) to reimburse the Creek orphan fund. I will state that when this bill was reached on the Calendar objection was made to its consideration, but since then the rule has been changed so as to allow a motion to be made to proceed to the consideration of a bill reached on the Calendar to which objection may be made. I think it is my duty, under the instructions of the Committee on Indian Affairs, to make such a motion at this time. It is not a bill that will take any great length of time.

Mr. HOAR. What is the order of business?

Mr. SLATER. Number 36. It is a bill which has been several times passed, and it is one of importance to these people.

The PRESIDENT *pro tempore*. The bill was passed over without prejudice, the Chair understands.

Mr. COCKRELL. I beg to say that I do not think it was passed over without prejudice. I think objection was made to its consideration and it was passed over on that ground.

Mr. SLATER. But I understand under the amended rule I have a right to move to take up the bill at this time.

Mr. SHERMAN. I object to its consideration on the ground that the bill is so important that it ought not to be considered under a five-minute rule as to debate.

The PRESIDENT *pro tempore*. The Senator from Ohio objects to the consideration of the bill.

Mr. SLATER. I understand the objection, but I understand under the rules I have a right to make the motion to proceed to the consideration of the bill, and I think I should do it at this time in preference to doing it after two o'clock, in consequence of the press of business at that period of the day. I hope the Senate will sustain me and agree to take up the bill.

The PRESIDENT *pro tempore*. The Senator from Oregon calls under the Anthony rule for the consideration of the bill (S. No. 126) to reimburse the Creek orphan fund. The consideration of the bill is objected to, and the Senator moves to proceed to the consideration of the bill notwithstanding the objection. If that motion prevails then the bill is to be considered without reference to the limit upon debate fixed by the rule.

Mr. SHERMAN. I ought to give notice to the Senate that some years ago, when I was before a member of the Senate, I examined this question very carefully. I believe there is no ground of merit in this claim. It is a very large sum, between one and three hundred thousand dollars; I do not know what it is now. I believe it has been twice paid and that nothing is due at this time. As a matter of course it involves the discussion of an old matter, which I believe originated as early as 1831. I cannot now recall all the facts. I hope the Senate will not take it up. If the bill is taken up I shall have to refresh my recollection of the matter.

The PRESIDENT *pro tempore*. The Chair will suggest that the merits of a bill cannot be debated on a motion to proceed to its consideration. The question is on the motion of the Senator from Oregon, [Mr. SLATER,] to proceed to the consideration of the bill.

The motion was not agreed to.

REFUNDING OF INCOME TAX.

Mr. COCKRELL. Regular order, Mr. President.

The PRESIDENT *pro tempore*. The first case on the Calendar will be called.

The bill (S. No. 1068) for the relief of certain citizens of Tennessee was announced as first in order.

Mr. HARRIS. The bill and report have been read.

The PRESIDENT *pro tempore*. The bill and report have been read, and the bill is before the Senate as in Committee of the Whole.

Mr. HOAR. Will the Senator from Tennessee state in one word in his own way what the bill is? I do not remember the report.

Mr. HARRIS. There were certain internal-revenue taxes on income that were collected in violation of the regulations of the Department. The then Secretary of the Treasury recommended that an act be passed to refund the taxes, and the present Commissioner of Internal Revenue recommends the passage of this bill just as it stands before the Senate. The bill as it stands is a substitute for the original Senate bill. There is just one amendment as a substitute, and that substitute was suggested to the committee by the Commissioner of Internal Revenue, and the committee adopted his suggestion.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the Committee on Finance.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. SAULSBURY. Perhaps the Senator from Tennessee can inform me, is this a general bill to meet all cases where there have been improper collections?

Mr. HARRIS. It is not. It gives relief to the citizens named in the bill.

Mr. SAULSBURY. Why not amend it and make it a general bill? Because there may be citizens in other States who have a similar claim to have the tax refunded.

Mr. HARRIS. I do not know that there are other cases. If there are I have not investigated them. Every claim included in the bill has been carefully examined by the Commissioner of Internal Revenue, and he has reported to the Committee on Finance of the Senate in respect of the merits of these claims. I know nothing of other kindred cases, and the bill was not intended to cover any other cases.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS ADVERSELY REPORTED.

The PRESIDENT *pro tempore*. The next bill on the Calendar, the bill (S. No. 56) for the improvement of the Mississippi and Missouri Rivers, is adversely reported.

Mr. COCKRELL. Let that and the next bill, (S. No. 1414,) providing for the construction, completion, repairing, and preserving of levees on the Mississippi River, also reported adversely, be indefinitely postponed.

The PRESIDENT *pro tempore*. Substitutes have been passed for these bills, and they will be postponed indefinitely.

PUBLIC BUILDING AT ROCHESTER.

The bill (S. No. 821) for a public building at Rochester, New York, was announced as next in order on the Calendar.

Mr. LAPHAM. I make objection to the consideration of that bill at this time. There is a House bill pending in the Senate for the same purpose.

Mr. MORRILL. The chairman of the Committee on Public Buildings and Grounds will present the House bill.

The PRESIDENT *pro tempore*. Does the Senator from New York ask to have the House bill substituted for this bill?

Mr. LAPHAM. No, sir; not at this time.

Mr. ROLLINS. I desire to state the action of the Senate committee on this matter. They have instructed me to report back the House bill favorably and ask that it be substituted in place of the Senate bill.

Mr. LAPHAM. I cannot consent to that substitution now for reasons which I will state at the proper time.

The PRESIDENT *pro tempore*. The bill cannot be considered unless the Senate agrees to do so on motion, because the Senator from New York objects to it.

Mr. INGALLS. Let the bill retain its place on the Calendar.

Mr. MILLER, of New York. I trust my colleague will not object to the consideration of the bill under the Anthony rule. The bill has been passed by the House and is an important measure.

Mr. LAPHAM. I object to the consideration of the bill for the reason which I shall state. There is no report accompanying it, no facts whatever. There is a House bill here which is accompanied by a report and with a statement of facts, upon which this case can be properly considered. I desire that action shall be deferred until we reach the House bill, which is upon the Calendar, I understand.

The PRESIDENT *pro tempore*. The bill can be passed over without prejudice.

Mr. MILLER, of New York. The committee have instructed their chairman to report the House bill as a substitute for the Senate bill, and it can be considered under the Anthony rule as well as any other. I desire to have the House bill taken up.

The PRESIDENT *pro tempore*. The Senate bill has been reached and the Senator's colleague objects to its consideration at this time. The matter will have to go over until the House bill is reached.

Mr. LAPHAM. That is all I ask.

The PRESIDENT *pro tempore*. The Chair is informed by the clerk that the House bill has not yet been reported back.

Mr. INGALLS. The Senator from New York has a right to make a motion to proceed to the consideration of the bill if he desires.

Mr. MILLER, of New York. I have no desire to materially interfere with the consideration of bills under the Anthony rule, but this is a bill of importance to my State, and it is a bill which can be considered as well under the Anthony rule as any other. Unless there is general objection in the Senate, I shall move its present consideration, and then I shall ask that the House bill be substituted for the Senate bill.

Mr. HARRISON. Has the House bill been reported yet?

Mr. MILLER, of New York. The chairman of the committee is ready to report it at this time as a substitute.

The PRESIDENT *pro tempore*. The report would not be in order now, and the Chair cannot receive it. The report should have been made during the routine morning business. The bill may be passed over to-day without prejudice and taken up at any time hereafter.

Mr. MILLER, of New York. Do I understand the Chair to say that it is not in order for the Committee on Public Buildings and Grounds to report the House bill as a substitute for the Senate bill?

The PRESIDENT *pro tempore*. During the consideration of bills on the Calendar under the Anthony rule the House bill cannot be reported to the Senate.

Mr. ALLISON. Would it not be in order, however, to offer the House bill as a substitute for the Senate bill?

The PRESIDENT *pro tempore*. Certainly. Any one may offer any substitute he pleases. After the bill is taken up for consideration any Senator may move that as a substitute.

Mr. MILLER, of New York. I have no desire to waste the time of the Senate under the Anthony rule, and under the ruling of the Chair I will waive the consideration of the bill at the present time, letting it go without prejudice.

The PRESIDENT *pro tempore*. The bill will be passed over without prejudice.

ZELORA CRUMPACKER.

The bill (S. No. 785) for the relief of Zelora Cumpacker was announced as next in order on the Calendar.

The PRESIDENT *pro tempore*. This bill was reported adversely, and will be postponed indefinitely if there be no objection.

Mr. COCKRELL. Let it remain on the Calendar.

The PRESIDENT *pro tempore*. The next bill will be announced.

CALIFORNIA SCHOOL LANDS.

The bill (S. No. 612) to enable the State of California to take lands in lieu of the sixteenth and thirty-sixth sections found to be mineral lands, was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, to strike out all after the enacting clause and to insert:

That an act entitled "An act to provide for the survey of the public lands in California, the granting of pre-emption rights therein, and for other purposes," approved March 3, 1853, shall be construed as giving to the State of California the right to select for school purposes other lands in lieu of such sixteenth and thirty-sixth sections as may have been or shall be found to be mineral lands: *Provided*, That such indemnity selections shall be made from the surveyed public lands of the United States in the State of California subject to entry under the general laws, and not mineral, nor occupied by actual settlers, nor reserved for any purpose, nor appropriated under any law of the United States.

Mr. INGALLS. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. VAN WYCK on the 27th of March:

The Committee on Public Lands, to whom was referred the bill (S. No. 612) to enable the State of California to take lands in lieu of the sixteenth and thirty-sixth sections found to be mineral lands, report:

That there can be no objection to grant the State of California the right to select and have approved agricultural lands in lieu of the sixteenth and thirty-sixth sections, (school lands,) where the same are mineral.

The General Land Office indorses the main features of the bill, and to meet the suggestion of that office the accompanying bill is recommended as a substitute.

The Land Commissioner advised that land should be taken at single minimum rates. The committee have differed therein, and provide that any agricultural lands may be taken.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 6179) directing the Secretary of State to take the necessary steps for the removal of the remains of the late General Kilpatrick, minister to Chili, from Chili to the State of New Jersey for interment; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 459) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes;

A bill (H. R. No. 605) donating cannon and cannon-balls for use and ornament about a suitable soldiers' monument at Portland, Maine;

A bill (H. R. No. 679) donating condemned cannon and cannon-balls for monumental purposes;

A bill (H. R. No. 1287) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

A bill (H. R. No. 1290) granting a pension to Modena Smith;

A bill (H. R. No. 2195) donating condemned cast-iron cannon to the Soldiers' Monument Association of Birmingham, Connecticut;

A bill (H. R. No. 2552) to donate condemned cannon to the Soldiers' and Sailors' Association of Bellaire, Ohio;

A bill (H. R. No. 3001) to authorize the Secretary of War to turn over to Sampson Post No. 22 of the Grand Army of the Republic, of Rochester, New Hampshire, four condemned cannon;

A bill (H. R. No. 3333) to donate one condemned cast-iron cannon to the citizens of Otsego, Michigan;

A bill (H. R. No. 3877) donating condemned cannon to the Soldiers' and Sailors' Monumental Association of Lycoming County, Pennsylvania;

A bill (H. R. No. 4545) to authorize the Secretary of War to turn over to E. E. Sturtevant Post No. 2 of the Grand Army of the

Republic, of Concord, New Hampshire, six condemned cannon, and for other purposes;

A bill (H. R. No. 4585) to donate four condemned iron cannon to the city of Mansfield, Ohio, to be placed on the public square near the soldiers' bronze monument;

A bill (H. R. No. 4745) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Hamilton, Ohio;

A bill (H. R. No. 5211) granting four condemned cannon to the town of Brandon, Vermont, to be placed near a soldiers' monument in said town;

A bill (H. R. No. 244) for the relief of Mrs. Almira Farnsworth;

A bill (H. R. No. 967) granting a pension to Martha A. Williamson;

A bill (H. R. No. 2433) granting a pension to William Thomas;

A bill (H. R. No. 3738) to donate iron cannon to the townsnip of Milan, Ohio;

A bill (H. R. No. 5240) to authorize the Secretary of War to furnish condemned cannon for monumental purposes;

A bill (H. R. No. 5381) granting an increase of pension to Cecil Clay; and

A joint resolution (H. R. No. 8) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon-balls, for decoration of soldiers' cemetery.

ROGER N. STEMBEL.

The bill (S. No. 339) providing for the pay of Rear-Admiral Roger N. Stembel was announced as next in order on the Calendar.

Mr. JONES, of Florida. A bill of a like character to that has passed the House of Representatives and is now pending before the Naval Committee. I therefore ask that this bill be passed over.

The PRESIDENT *pro tempore*. It will be passed over without prejudice.

HEIRS OF THOMAS TOBY.

The bill (S. No. 543) for the relief of the heirs of Thomas Toby, deceased, was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to the heirs of Thomas Toby, deceased, of New Orleans, $45,000 out of the balance of the fund remaining in the Treasury of the United States reserved for the payment of the creditors of the late Republic of Texas, under the acts of Congress of September 9, 1850, and February 28, 1855.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, after the word "pay," in line 4, to strike out "out of any money in the Treasury not otherwise appropriated, to the heirs of Thomas Toby, deceased, of the city of New Orleans, in the State of Louisiana."

Mr. SAULSBURY. Is there a report in that case?

The PRESIDENT *pro tempore*. No, sir. The Senator from Arkansas [Mr. GARLAND] reported the bill.

Mr. COKE. There is a report, I think.

Mr. GARLAND. There is no report by the committee of the Senate. There is a report on the entire case made in the other House by Mr. CULBERSON, of Texas. On the examination I made myself in the Committee on the Judiciary, I did not think it necessary to submit a formal report. The facts in the case are very few and very simple, and can be stated by the Senator from Texas.

Mr. COKE. Mr. President, the case is simply this: Thomas Toby, for the relief of whose heirs this bill has been reported, was a wealthy New Orleans merchant. During the darkest hours of the Texas revolution an appeal was made to him for aid by the authorities of Texas. He responded with great liberality. The revenues of the Republic of Texas were pledged for the payment of her revolutionary debt, this one due to Thomas Toby among the rest. When Texas was annexed to the United States she was very considerably indebted, with her revenues pledged to her creditors. It was assumed by the creditors of Texas that when Texas came into the Union and transferred her custom-houses to the United States, the Government of the United States would become responsible for the public debt of Texas. That question was much discussed at the time, but was never determined, because subsequent events rendered it unnecessary.

In the adjustment of the northwestern boundary of Texas the Government of the United States, in consideration of the cession of a large tract of territory by Texas, agreed to issue to the State of Texas $10,000,000 in 5 per cent. stock, reserving $5,000,000 of this stock for the payment of the creditors of Texas, who claimed that the Government of the United States had become responsible for their debts; $5,000,000 were issued to Texas, and $5,000,000 were retained in the Treasury of the United States. There was considerable controversy between the creditors of Texas, and Texas and the authorities of the United States, before any payment was made, and before any payment was made the principal and interest of the retained stock amounted to $6,500,000.

About that time Texas had a claim against the Government of the United States for depredations of Indians on her frontier, amounting to $2,000,000. In the settlement of that claim, by act of Congress passed in 1855, $1,250,000 was added to the retained stock, making some $7,750,000 for payment of the creditors of Texas.

When this act of 1855 was passed the creditors of Texas presented their claims, the Government of the United States retaining the power to pay out this money, and they were paid, and it is believed that the claim now before the Senate is the last unpaid claim, the last debt of the Republic of Texas existing against that fund which has not been paid.

I have before me a statement from the Secretary of the Treasury showing that of this fund provided by Texas in her negotiations with the United States for the payment of her revolutionary debt there is now remaining in the Treasury $101,113.27.

Mr. ALLISON. That is of the $5,000,000 reserved?

Mr. COKE. Yes, sir; that yet remains in the Treasury.

Mr. MAXEY. The $5,000,000 reserved with the amount added by the act of 1855 for Indian depredations—the two added together.

Mr. COKE. The two added together constitute the fund provided by Texas for the payment of her revolutionary debt. Of that fund all has been paid out except $101,113.27, which the Secretary of the Treasury certifies was on the 30th of June, 1877, covered back into the Treasury.

The claim provided for by the pending bill is for $45,000. It has been audited by an act of the Legislature of Texas, a copy of which I have here, declaring it a just debt against the republic of Texas and against this reserved fund. This bill provides for the payment of that amount, $45,000, to the heirs of Thomas Toby, which will still leave some $70,000 in the Treasury of this fund, and no other debt against it.

Thomas Toby is dead, his wife is dead, neither lived to realize and enjoy the act of justice performed in this bill, but their children will receive its benefits, and the people of Texas, who when coming into the Union made provision for the payment of this sacred debt, will rejoice with them that it has been paid.

Mr. MAXEY. I wish to add to what my colleague has said that the $101,000 referred to by him is beyond doubt the money of the State of Texas subject to any claim or lien which any person may have upon that fund when presented in due form of law to the Secretary of the Treasury. The last claim that was ever presented as shown by the report of the Secretary of the Treasury was in 1870, twelve years ago. We have a right therefore to infer after the lapse of twelve years that there is no other claim. The Legislature of Texas, recognizing the Toby claim as a just claim against the State, passed an act authorizing the payment by the Secretary of the Treasury of the amount of that claim with a release on the part of the claimant Toby to the United States as well as to the State of Texas from any claim whatever to any more, and the bill so provides.

Mr. COKE. Upon conference with the Senator from Arkansas, [Mr. GARLAND,] who reports the bill, the first amendment where the words "out of any money in the Treasury not otherwise appropriated, to the heirs of Thomas Toby, deceased, of the city of New Orleans, in the State of Louisiana," are stricken out of the bill by the committee, should be rejected so that the words shall stand. The amendment should not be concurred in.

Mr. GARLAND. Those three lines should be restored. When the bill was reported from the committee I was not aware, as I have learned on subsequent examination, that this money had been covered back to the Treasury, amounting to $101,000, and so there will have to be a general appropriation instead of a specific appropriation out of that fund. So these three lines should be restored by rejecting the amendment.

The amendment was rejected.

The next amendment reported by the Committee on the Judiciary was to add to the bill:

To the heirs of Thomas Toby, deceased, in compliance with the joint resolution of the Legislature of the State of Texas approved March 20, 1881, making an appropriation for the settlement of Thomas Toby's claim: *Provided*, That the said heirs shall file with the Secretary of the Treasury a duly certified copy of the said joint resolution and a full and complete release unto the State of Texas and to the United States of and for all claims whatever of their ancestor against Texas and the United States.

Mr. COKE. I desire to amend the mistake of the committee alluded to by the Senator from Arkansas by striking out of the amendment of the committee all from the word "out," in line 7, down to the word "deceased," both inclusive, in line 12. This amendment becomes necessary in consequence of the rejection of the previous amendment.

The PRESIDENT *pro tempore*. The amendment to the amendment is to strike out, after the word "dollars" in line 7, down to and including the word "deceased" in line 12, which will be read.

The PRINCIPAL LEGISLATIVE CLERK. The words proposed to be stricken out are:

Out of the balance of the fund remaining in the Treasury of the United States reserved for the payment of the creditors of the late Republic of Texas under the acts of September 9, 1850, and February 28, 1855, to the heirs of Thomas Toby, deceased.

The amendment to the amendment was agreed to.

Mr. COKE. Now I desire to make a verbal amendment in line 15, to strike out "an appropriation" and insert in lieu thereof "provision."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. COKE. I ask that the bill be read as it now stands.

The Principal Legislative Clerk read as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to

the heirs of Thomas Toby, deceased, of the city of New Orleans, in the State of Louisiana, the sum of $45,000 in compliance with the joint resolution of the Legislature of the State of Texas approved March 30, 1881, making provision for the settlement of Thomas Toby's claim: *Provided*, That the said heirs shall file with the Secretary of the Treasury a duly certified copy of the said joint resolution and a full and complete release unto the State of Texas and to the United States of and for all claims whatever of their ancestor against Texas and the United States.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARGARET CASSIDY.

The bill (S. No. 591) for the relief of Mrs. Maggie Cassiday was considered as in Committee of the Whole.

The bill was reported from the Committee on Patents with an amendment, to strike out all after the enacting clause and insert:

That out of any money in the Treasury of the United States not otherwise appropriated the Secretary of the Treasury pay to Mrs. Margaret Cassidy, widow of the late Peter Cassidy, the sum of $2,500, in full consideration for the entire past and future use by the Government of the United States of the pateuted machine for cutting vellum cloth of the said Peter A. Cassidy: *Provided*, That a full, sufficient, and legal transfer and license be executed and deposited with the Treasury Department, for the Government purposes, free of all charges of royalty.

Mr. CALL. Let the report be read in that case.

The PRESIDENT *pro tempore*. The report will be read.

The Principal Legislative Clerk read the following report, submitted by Mr. CALL March 27:

The Committee on Patents, to whom was referred the bill (S. No. 591) for the relief of Mrs. Margaret Cassidy, widow of Peter A. Cassidy, deceased, have duly considered the same and accompanying papers, and recommend that it pass with amendment as submitted at the end of this report.

The facts upon which this recommendation is based are so fully set forth in House report No. 779, Forty-seventh Congress, first session, that your committee ask to make it a part of their report.

"[House Report No. 779, Forty-seventh Congress, first session.]

"The Committee on Patents, to whom was referred the bill (H. R. No. 1392) for the relief of Mrs. Margaret Cassidy, widow of the late Peter A. Cassidy, which asks for remuneration for the use of his patent machine for cutting vellum cloth, adopted and used by the United States Government, make the following report:

"That the committee find the facts to be as stated in House Report No. 1768, Forty-sixth Congress, second session, which said report is hereto annexed and made a part of this report, and is as follows:

"'[House Report No. 1768, Forty-sixth Congress, second session.]

"'The Committee on Claims, to whom was referred the petition of Mrs. Peter A. Cassidy for compensation for a machine invented by her late husband and now in use by the Government, have considered the same, and respectfully report:

"'This claim was considered and favorably reported upon by the Committee of Claims of the Forty-fifth Congress (Forty-fifth Congress, third session, Report No. 8,) but no final action was reached. Their report was as follows:

"'"Peter A. Cassidy was employed in the Second Auditor's Office of the Treasury Department from August 1, 1867, to October 10, 1876. While thus employed he invented and caused to be patented a machine for cutting the vellum cloth extensively used in repairing vouchers, &c. By means of this machine he was enabled to do the work which would otherwise have required five men. This is shown by the Auditor, and the machine is still in use, and is considered indispensable by the Auditor. By a statement of Joseph Barton, now in charge of archives division, under the old plan two men could cut twenty-five strips in five cuts; by the new device, one man can cut fifty strips in two cuts.

"'"The machine was patented July 11, 1876. Peter A. Cassidy died in January, 1878, without having received any compensation from the Government for the use of his invention, and his attending physician, William Ward, says that this circumstance preyed upon his mind and added to the causes that produced his death. He left the petitioner (his widow) and eight children. She asks that the Government pay to her the sum of $10,000 for the use of her husband's invention. By the use of the machine one person can do the work of twenty-five.

"'"It is manifestly just that the Government should pay for the use of the patent, and we think $2,500 not an unreasonable sum for that use. We therefore report the accompanying bill with the recommendation that it do pass."

"'This committee concur in the conclusions and recommendations of the former committee, and report the accompanying bill.'

"The committee therefore adopt said House report as the report of this committee, and report the accompanying bill, as amended, for her relief, with recommendation that it pass."

Amend by striking out all after the enacting clause and inserting in lieu thereof as follows:

"That out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury pay to Mrs. Margaret Cassidy, widow of the late Peter A. Cassidy, the sum of $2,500 in full consideration for the entire past and future use by the Government of the United States of the patented machine for cutting vellum cloth of the said Peter A. Cassidy: *Provided*, That a full, sufficient, and legal transfer and license be executed and deposited with the Treasury Department for the Government purposes, free of all charges of royalty."

Amend title so as to read "A bill for the relief of Mrs. Margaret Cassidy."

Mr. HARRIS. I ask the Senator from Florida if the invention is useful only to the Government, or if the patentee has received any benefit from the use of it by private persons?

Mr. CALL. The evidence in the House committee's report and as exhibited to us is that it was not used anywhere else; that the invention has been applied exclusively to the use of the Government.

Mr. PLATT. I will state that there was among the papers submitted to the committee a statement of the Second Auditor with reference to the necessity of the use of this machine, and I know also that it is very largely in use in the Pension Office, where the cloth is used to repair some eighteen thousand volumes of records, and a statement that $2,500 was a very reasonable compensation; and that was concurred in by the Secretary of the Treasury.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Mrs. Margaret Cassidy."

JAMES J. FAUGHT.

The bill (S. No. 336) for the relief of James J. Faught, late of Company D, Eighth Missouri Cavalry, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, after the word "cavalry," in line 5, to insert "as of date November 26, 1863;" so as to make the bill read:

That the Secretary of War be, and he hereby is, directed to issue an honorable discharge to James J. Faught from Company D, Eighth Regiment of Missouri Cavalry, as of date November 26, 1863, and to amend the military record of said Faught to show that he is not a deserter, and pay him all pay, bounty, and allowances that may be due him without reference to said charge of desertion.

The amendment was agreed to.

Mr. INGALLS. Is there a report in that case?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. INGALLS. Let it be read.

The Principal Legislative Clerk read the following report, submitted by Mr. COCKRELL March 28.

The Committee on Military Affairs, to whom was referred the bill (S. No. 336) for the relief of James J. Faught, late of Company D, Eighth Missouri Cavalry, have duly considered the same, and submit the following report:

This bill directs the Secretary of War to issue to said Faught an honorable discharge, and to amend his military record to show him not a deserter, and to pay him all pay, &c., due him, without reference to the charge of desertion.

In 1879, in the Forty-sixth Congress, a precisely similar bill was referred to the Secretary of War, and the following letters received from him:

WAR DEPARTMENT,
Washington City, December 20, 1879.

SIR: Referring to your letter dated the 8th instant, requesting the military history of James J. Faught, late of Company D, Eighth Missouri Cavalry Volunteers, and such affidavits as are filed in his case, I beg to inclose herewith copy of report of the Adjutant-General, giving military history of this man, together with the affidavit of Captain R. P. Matthews.

Very respectfully,

ALEX. RAMSEY,
Secretary of War.

Hon. F. M. COCKRELL,
Of Committee on Military Affairs, United States Senate.

—

ADJUTANT-GENERAL'S OFFICE,
December 16, 1879.

Respectfully returned to the Secretary of War.

It appears from the records that James J. Faught, age twenty-one years, was enrolled September 26, 1862, and mustered into service same date at Springfield, Missouri, as a private in Company D, Eighth Missouri Cavalry, to serve three years, and deserted January 1, 1863, at Prairie Grove, Arkansas.

This soldier, having failed to return to the service, or to report his case to the military authorities, from the date of his reported desertion (January 1, 1863) to July 20, 1865, the date of muster out of his company, was, upon application to this Department, in 1878, furnished a dishonorable discharge to date January 1, 1863, by reason of desertion.

Affidavit of Captain R. P. Matthews, the only evidence in the case, is herewith.

E. D. TOWNSEND,
Adjutant-General.

The letter of the Adjutant-General shows the state of the military record of said Faught, taken from Department files. Mr. Faught was never court-martialed, tried, or sentenced. On his muster-roll is the alleged desertion entered, nothing more. The question is, Was Mr. Faught a deserter as there alleged? Did said Faught, without leave, absent himself from his command without any intention of returning thereto, or with the intention of remaining absent therefrom without leave? Your committee have carefully considered the military record and the many affidavits presented, and find the following facts clearly established.

James J. Faught resided, in September, 1862, in Christian County, Missouri, some ten miles south of Springfield, and has ever since resided in that county. On September 26, 1862, he was duly enrolled and mustered into the service of the United States as a private in Company D, Eighth Regiment Missouri Cavalry Volunteers, at Springfield, Missouri, to serve for three years. His regiment remained at Springfield for some time, and while on duty there, in November, 1862, said Faught, while being relieved from guard duty, had the index and middle fingers of his right hand shot off by the accidental discharge of his gun, at the knuckle joint of his index finger and just above said joint of his middle finger. His regiment was, in the latter part of November or early in December, ordered to Prarie Grove, Arkansas. He accompanied his regiment there, and in December, 1862, by verbal permission, left his company and returned to his home, not being fit for any military duty. Captain Matthews was, in December, 1862, detailed on recruiting service and ordered to report to General E. B. Brown, commanding at Springfield, Missouri, and did so. About January 15, 1863, and after date of the alleged desertion, said Faught reported in person to said Captain Matthews in Springfield, Missouri, and still not being fit for duty, said Matthews gave him "a written permit to go home and remain at home until further orders or notice from him," intending to take him with him back to his regiment. Soon after Captain Matthews was ordered to Forsythe, Missouri, and knowing Faught was unfit for military duty, neglected to notify him. Said Faught remained at the home of his widowed mother within a short distance of Springfield, Missouri, within the lines of the United States Army to the close of the war, with the knowledge of his company officers and many members of his company who resided in same locality and saw him at home during the time. His captain says he intended to have him mustered out of the service for disability. It was ten months or more before he fully recovered. About April or May, 1863, said Faught reported to the provost-marshal at Springfield, Missouri, and was told to return home and remain till further orders. He was, during the entire time, at his home, within a short distance of Springfield, Missouri, where troops were stationed and military officers on duty. By some oversight, inattention or prejudice, on the part of those making out the muster and pay-roll, he was marked a deserter, and hence his record in War Department. Said Faught did not in fact or in law desert. The evidence clearly disproves the alleged desertion. He, however, performed no military duty, and in fact was not fit for such duty, and would in all probability have been mustered out prior to the date of muster out of his company.

It would not be just to grant him pay for the entire period up to July 20, 1865, when his company was mustered out. Your committee find that said Faught is entitled to an honorable discharge as of date November 26, 1863, and report back to the Senate said bill with the recommendation that it be amended by inserting just after the word "cavalry," in line 5, the words "as of date November 26, 1863," and that, as amended, it be passed.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The PRESIDENT *pro tempore*. The next two cases are reported adversely. Shall they be indefinitely postponed?

Mr. INGALLS. No, Mr. President; House bill No. 389, granting a pension to Spencer W. Tryon, I prefer should remain on the Calendar, and I will ask the Senate to consider it at some subsequent time. The claim was once before Congress, when I was myself chairman of the Committee on Pensions, and I thought the case then deserved favorable action.

The PRESIDENT *pro tempore*. That bill will be passed over without prejudice.

Does the Senator from Tennessee [Mr. JACKSON] desire that the bill (S. No. 1270) granting arrears of pension to Laura J. Prine, shall remain on the Calendar?

Mr. JACKSON. It may as well be indefinitely postponed

Mr. CALL. No; let that remain on the Calendar.

The PRESIDENT *pro tempore*. The bill will be passed over.

Mr. CALL. Without prejudice.

The PRESIDENT *pro tempore*. Very well, that will be done.

RATES OF PENSION.

The bill (S. No 1595) fixing the rate of pensions in certain cases was announced as next in order on the Calendar.

Mr. JACKSON. That had better go over without prejudice.

The PRESIDENT *pro tempore*. That will be the order.

Mr. PLATT. Does the Senator from Tennessee ask to have it go over without prejudice?

Mr. JACKSON. Yes, sir.

Mr. PLATT. It ought to be called up before long.

The PRESIDENT *pro tempore*. The next case will be called.

WITHDRAWAL OF PAPERS FROM STATE DEPARTMENT.

The joint resolution (H. R. No. 111) authorizing the withdrawal from the Department of State of a certificate of indebtedness in favor of Mifflin Kennedy and Richard King against the Republic of Mexico was considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

CASES PASSED OVER.

The PRESIDENT *pro tempore*. The next case is an adverse report, being Senate joint resolution No. 4 relative to placing on the retired list Thomas L. Crittenden.

Mr. COCKRELL. Let it be passed over.

The PRESIDENT *pro tempore*. It will be passed over. The next bill, (S. No. 1452,) granting a pension to Catherine Louisa Benton, is also an adverse report. Does the Senator from Maryland desire that the case shall be retained on the Calendar?

Mr. GROOME. I care nothing about it. I am satisfied it was not put on the Calendar at my instance. I simply made the report.

Mr. PLATT. That is a case in which the Senator from Massachusetts [Mr. DAWES] is interested.

The PRESIDENT *pro tempore*. The bill will be passed over.

ARMS FOR THE MILITIA.

The bill (S. No. 1596) to amend section 1661 of the Revised Statutes, making an annual appropriation to provide arms for the militia, was announced as next in order on the Calendar.

Mr. SHERMAN. I should like to have an explanation. The present annual appropriation is $200,000. Is this in addition to the present annual appropriation?

Mr. HAWLEY. No; it increases it to $600,000. The allowance of $200,000 was established in 1808, I think.

Mr. ALLISON. In 1808.

Mr. HARRISON. This bill is reported in answer to very numerous petitions.

Mr. SHERMAN. It is a very important additional burden on the Treasury. I should like to have the report read.

The Principal Legislative Clerk read the following report, submitted by Mr. SEWELL March 28:

The Committee on Military Affairs, who were instructed by resolution of the Senate passed February 25, 1882, "to inquire into the expediency of giving more aid than is now provided for to the various States and Territories, in order that the organization of the militia force of the country may be encouraged and promoted and its thoroughness and efficiency strengthened," respectfully report:

That, in addition to the resolution instructing us to consider the propriety of increasing the annual appropriation for the militia, there have been referred to us a large number of petitions from the officers of the militia relative to an increase of the appropriation and other amendments to the existing militia law.

These petitions come from nearly every State, and they present such a fair and concise statement of the defects of the law and the proper remedy for them that we quote them for the information of the Senate:

"The National Guard Association of the United States, composed of delegates from the active militia of the various States, respectfully represents:

"That the existing militia law has for many years been inoperative, for the reason that changes of circumstance and condition since its original enactment in 1792 would make any attempt to enforce its provisions now both absurd and impracticable. The law requires military duty from every citizen between eighteen and forty-five years of age, and requires each individual to provide himself with arms, ammunition, and knapsack. If the law should be enforced, the armed militia force of the country would amount to nearly seven million men. In place of the militia required by this law the States have fostered volunteer militia organizations, which have gradually increased until now they constitute the only actual military force. Several causes operate to hinder the efforts of the volunteer militia to perfect their organization, among which we would designate—

"First. The fact that they are not recognized by Federal laws.

"Second. That the annual appropriation of $200,000 for the militia, originally enacted in 1808, is entirely inadequate to properly equip the existing volunteer force.

"Third. That owing to the phraseology of the law the purpose of the annual appropriation is limited to supplying arms and equipments, and that camp equipage, clothing, blankets, and other articles absolutely needed by the militia cannot be procured by them except in those States that make State appropriations to supply them.

"We deem it unnecessary to present any argument as to the absolute necessity, under our form of government, of a well-organized, well-instructed militia, thoroughly equipped and ready for instant use. Hitherto such militia has only existed through the necessities of some of the individual States, or the voluntary exertions of a few individuals. We believe that the militia law requires thorough revision to adapt it to the militia organizations that time has demonstrated to be the only practicable ones.

"We are opposed to any change in the relations between the Federal Government and the militia that have now become well established by long custom. We are opposed to any change in the relative authority now exercised by the Federal and State governments over the militia, and we are opposed to any interference in the existing militia organization of the States or the creation of a new force. But we do most earnestly recommend and urge that the law should be adapted to the changes that have occurred in the organization of the militia, and make a necessary provision for them.

"We therefore recommend and ask that the existing militia law be amended as follows:

"1. To divide the enrolled militia into two classes, the active and inactive.

"2. To recognize the volunteer militia organizations of the respective States as the 'active militia.'

"3. To increase the annual appropriation for the militia to $1,000,000.

"4. To provide that the annual appropriation be applied to furnishing clothing and camp equipage, as well as arms and equipments, or, when desired by any State, may be applied to the payment of its militia for duty in annual camps of instruction."

A simple statement of fact appears to be a sufficient response to the resolution of the Senate. That an appropriation fixed in 1808 to provide for seventeen States, with a population of eight million, is inadequate to provide for thirty-eight States with a population of fifty million needs no argument. The Chief of Ordnance has for many years urged Congress to increase the appropriation; it was considered and favorably reported to the Senate by this committee in the Forty-fifth Congress, and we think it would be difficult to conceive any reasonable argument against it.

In connection with a favorable consideration of the proposition to increase the appropriation there are other points connected with it to which the committee deem it proper to call attention.

The existing law is very crude; it simply provides as follows:

"SEC. 1661. The annual sum of $200,000 is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms and equipments for the whole body of the militia, either by purchase or manufacture, by and on account of the United States."

It will be perceived that no provision is made as to the mode of apportioning the appropriation between the States, no requirements for accountability for the property furnished, or limitation on the disposition that the States may make of it. The greatest defect of the law, however, is that it does not allow the furnishing of tents and other articles necessary to provide for camps of instruction. To this omission of the law is largely due the disparity between the different States in the strength and efficiency of the militia.

Your committee have deemed it proper, in addition to recommending an increase of the appropriation, to recommend also that the defects of the law relative to it be remedied. We accordingly report herewith a bill to increase the annual appropriation to $600,000, and making provisions for its apportionment, and for the care, accountability, and disposition of property issued under it. We also provide in the bill that each State shall only receive such proportion of the amount apportioned to it as the actual number of its active militia bears to a fixed maximum, and we believe this provision wisely calculated to foster and encourage the formation of volunteer organizations in those States where but a few now exist.

There have been no material changes in the law relative to the organization of the militia since its original enactment in 1792, and it is obvious that many of its provisions are now obsolete and many amendments desirable.

Your committee, however, deem the increase of the annual appropriation to be a matter of such apparent propriety that it is not likely to excite either opposition or debate, and we therefore report this bill for that special purpose, reserving the subject of a general revision of the law for more mature consideration.

Mr. ALLISON. I move to strike out the first section of this bill. We have at this session and at the last repealed the law of 1808, which makes a permanent appropriation for the supply of arms for the militia.

Mr. HAWLEY. Repealed it?

Mr. ALLISON. Repealed it so far as the Senate can. A bill has passed the Senate gathering up all these permanent and indefinite appropriations and requiring annual appropriations to be made for their respective objects. Now, it is proposed to make an indefinite and a continuous annual appropriation of $600,000.

Mr. HARRISON. The Senator from Iowa will allow me a word. Suppose he suggests an amendment there making it simply an appropriation for the current year. That would obviate his objection.

Mr. ALLISON. I see that this is a bill relating to the reorganization of the militia in the States. Of course I do not wish to interfere with any view the Military Committee may have on that subject; but I think appropriations of money for this purpose ought to be regularly estimated for by the Secretary of War so that we may know what is actually required. This bill, if it is carried out in its spirit will not only cost $600,000 a year but will cost $6,000,000 a year.

Mr. HARRISON. It cannot cost more than the sum appropriated.

Mr. ALLISON. It cannot of course cost more under this bill, but then it provides for tents and equipage and blankets to be furnished.

Mr. HAWLEY. No. Allow me to correct a misapprehension. I think this bill may as well perhaps lie over for further consideration, the Senator who reported it happening to be absent this morning, but I will correct a misapprehension.

This bill appropriates only $600,000 in any contingency; no more can be drawn than that in any year. It is indeed the law of 1808 so far as that is concerned, except as to amount. Each State is entitled to draw its proportion out of the $600,000, but only to draw as it shall be able to exhibit a well-organized and disciplined militia up to the number of six hundred for each Congressional district, so that it is not liable to the objection the Senator makes that the expenditure may go beyond $600,000.

I think, however, that this ought to be an exception to the rule of merely annual appropriations whenever the subject is considered, and if anything shall be adopted of this character it ought to be exceptional, for the reason that we shall not be likely to have military organizations formed and perfected unless they can count upon some permanent policy on the part of the Government. If it be merely an annual appropriation, by the time they have uniformed themselves and hired an armory and become a well-disciplined company or battalion in each Congressional district entitled to draw, the appropriation for the coming year may fail to pass Congress, and so the object of the law for the improvement of the militia would entirely fail. I submit that to the consideration of the chairman of the Committee on Appropriations when the matter shall come up.

The PRESIDENT *pro tempore*. The bill will go over without prejudice.

Mr. HAWLEY. I will yield to the suggestion the Senator from Ohio [Mr. SHERMAN] was about to make, that it lie over without prejudice.

Mr. ALLISON. I think this is a matter of too much importance to be considered under the five-minute rule.

Mr. HAWLEY. Let it go over for the present, at any rate.

The PRESIDENT *pro tempore*. The bill will be passed over.

THE CIVIL SERVICE.

The bill (S. No. 133) to regulate and improve the civil service of the United States was announced as next in order on the Calendar.

The PRESIDENT *pro tempore*. The Chair supposes the Senator from Ohio [Mr. PENDLETON] does not wish this bill considered now. The report has just been submitted this morning.

Mr. HAWLEY. The report is not yet printed. We ask that it lie over without prejudice.

The PRESIDENT *pro tempore*. That will be the order.

WESTERN CHEROKEES.

The bill (S. No. 321) to refer the claim of the "Western Cherokees" or "Old Settlers" to the United States Court of Claims for adjudication was announced as next in order on the Calendar.

Mr. ALLISON. I should like to look at the bill further, and I ask that it lie over.

The PRESIDENT *pro tempore*. It will be passed over.

C. F. BENJAMIN AND H. H. SMITH.

The bill (H. R. No. 3542) for the relief of Charles F. Benjamin and Henry H. Smith was considered as in Committee of the Whole. It provides for the payment to Charles F. Benjamin and Henry H. Smith of $250 each, in full compensation for services rendered the Treasury Department in the investigation of the fraudulent claim of Sugg Fort.

Mr. FRYE. I can state what this claim is in a minute. The two gentlemen named here, one the journal clerk of the House, were employed by the Treasury Department to investigate the Sugg Fort claim, so called, in Tennessee, where judgment was recovered for $23,723 against the United States. They were sent there, investigated it thoroughly, obtained the necessary evidence, and the claim was overturned, found to be entirely fraudulent; men were punished who were engaged in the fraud, and the Secretary of the Treasury has recommended that an appropriation be made by Congress of $500 to pay these two men for the services they rendered. Mr. Bristow, the Secretary, and Mr. Bluford Wilson, the Solicitor of the Treasury, recommended it. The House passed it. It was put on an appropriation bill, and by reason of the papers not being filed in time it was dropped by a committee of conference. This bill has now already passed the House as a separate measure.

Mr. INGALLS. Were not these men under pay by the House of Representatives at the same time for which they are now proposed to be paid?

Mr. FRYE. One was the clerk of a committee of the House; of course he would not have been employed during the vacation. Both were clerks of House committees at the time, I think.

Mr. INGALLS. And both received pay from the House of Representatives.

Mr. FRYE. They received pay as committee clerks during the session.

Mr. INGALLS. This proposes to give them additional compensation from the Government for services rendered during the time they were employed by the House of Representatives.

Mr. FRYE. It was not during the session of Congress, but during the vacation.

Mr. INGALLS. Were they under pay at the time?

Mr. FRYE. They were not. They were under pay while they were clerks to the committee, but during the vacation they were not.

Mr. INGALLS. Were they not on annual salaries?

Mr. FRYE. I do not remember whether they had annual salaries or not, but they were not at work on the committee work at this time.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. CROOK.

The bill (S. No. 696) for the relief of William H. Crook was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, in line 6, before the word "thousand," to strike out "six" and insert "four;" so as to make the bill read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to William H. Crook, out of any money in the Treasury not otherwise appropriated, the sum of $4,000, as compensation for services as secretary to the President to sign land-patents for the fiscal years of 1879, 1880, 1881, and 1882, inclusive, and which services were additional to his regular duties as executive clerk and disbursing agent, the amount being the same as was formerly paid for such service.

The amendment was agreed to.

Mr. CONGER. Let the report be read.

The Principal Legislative Clerk read the following report, submitted by Mr. CONGER March 29:

The Committee on Claims, to whom was referred the bill (S. No. 696) for the relief of William H. Crook, report as follows:

By the act of July 4, 1836, (R. S., sec. 450,) Congress authorized the President to appoint a secretary with the title of "secretary to the President to sign land patents," at a salary of $1,500 per annum. This officer was continued down to 1878, having no other duty imposed upon him except to sign, in the President's name, the patents issued by the Government on the sales and grants of public lands. Under the act above cited this officer, although in name a secretary to the President, was in fact, and was recognized by the law, as an officer of the Land Department, and during the greater part at least of the period above stated he occupied a room and desk in the General Land Office, having no duties to perform and no place at the Executive Mansion.

By act of June 20, 1878, (Statutes, volume 20, page 183,) the appropriation for payment of the salary of this officer was omitted, and the President was directed to designate one of his executive clerks to perform the duty of signing land patents.

Mr. William H. Crook was then, and had been since 1871, an executive clerk, acting as disbursing officer of the Executive Mansion, and also in charge of the reception room. All of these duties he has continued to perform down to the present time. In addition to them he was designated by the President July 1, 1878, as secretary to sign land patents, and since that time all the patents issued on sales and grants of public lands have passed under his hand.

The number of patents issued since July 1, 1878, has averaged about thirty thousand each year and has steadily increased. The labor of the secretary in executing same has been very onerous, each patent having two signatures attached and all having to be checked off and accounted for. On account of his regular duties at the Executive Mansion Mr. Crook has been compelled to perform most of this extra work of signing patents out of office hours; but, notwithstanding this fact, we are assured that the work has been done more promptly and efficiently than when an officer was charged with the performance of this duty alone. In fact Mr. Crook has, in addition to the other duties of his position, since July 1, 1878, performed, without compensation in any form, labor for which from 1836 to 1878 the Government paid $1,500 per annum.

We attach thereto, as exhibits, letters from Hon. J. A. Williamson, late Commissioner of the General Land Office, and Hon. W. K. Rogers, private secretary to President Hayes, both of whom, from their official positions, were familiar with the labor performed by Mr. Crook, and the time and manner of its execution.

It seems to your committee that he is in justice and equity entitled to a fair compensation.

Your committee therefore recommend that the bill be passed with the following amendment, namely: In line 6, strike out the word "six" and insert in lieu thereof the word "four."

—

WASHINGTON, D. C., *September* 30, 1881.

SIR: Your note of this date is at hand. I fully agree with you that you should have extra compensation for signing land patents. Before this additional duty was assigned to you the President's secretary to sign land patents was allowed $1,500 a year for that service, and I think the service was worth the amount. The responsibility of the position, in addition to the clerical labor, is very considerable, and should be paid for. I think you are fully entitled to extra compensation, and sincerely hope it may be given you.

Very sincerely, yours,

J. A. WILLIAMSON.

Colonel W. H. CROOK.
Executive Mansion, City.

—

WASHINGTON, D. C., *November* 18, 1881.

DEAR SIR: I entirely agree with you that you should receive extra compensation for signing land patents. During the four years while I was private secretary to the President your regular duties as executive clerk and disbursing officer were sufficient to keep you employed all the time during office hours. The additional service you rendered in signing land patents was necessarily performed out of office hours, the greater part of it night-work. Upon the omission by Congress (the act of June 20, 1878) of the usual provision for the salary of the secretary of the President to sign land patents, and the requirement that the President should designate one of the executive clerks to discharge the duties of the office, you were selected by President Hayes because of your familiarity with the work, having temporarily filled the position during the illness of the secretary appointed for the purpose by President Grant. It is a laborious and responsible position, and the work was carefully, diligently, and faithfully performed. I earnestly trust Congress will allow you full compensation for the service rendered.

Very truly, yours,

W. K. ROGERS.

W. H. CROOK,
Executive Clerk to the President.

Mr. ALLISON. I think this bill will set a very bad precedent. By the law of 1878 these duties were devolved upon one of the clerks at the Executive Mansion, with a view of dispensing with an officer in the Land Office. This executive clerk, whom it is proposed now to pay, received an annual salary of $2,000 for his services; and if

we allow him now additional compensation for this extra labor, so called, or duty which was imposed upon him by the statute of 1878, there will be no end to this class of cases. We are constantly imposing new duties, or other duties, upon officers of the Government, as, for example, when the census matter came up some years ago, we directed the chief clerk, I think it was, or some other officer of the Interior Department—I do not recollect which one—to act as the disbursing officer of the census fund, and he became such disbursing officer, and undoubtedly performed the duties of the office with great care, skill, and fidelity, and disbursed large sums of money. I know that he has made an application over and over again for compensation for that extra duty imposed upon him; yet we have never allowed that compensation to him because he was receiving a salary of $2,500 or $2,700 for his regular duties.

During 1876, 1877, and 1878 we uniformly appropriated less sums than the law assigned as compensation for officers. We did it, however, with a provision at the end of each bill that the sums appropriated should be accepted in full compensation. But here the statute stands, and if this claim is to be allowed—because it is nothing more or less than a claim for extra compensation—we shall be engaged year after year in allowing other claims of a similar character, until everything saved by these reductions will have been restored. I think it is a very dangerous precedent, and I hope the bill will not be passed.

Mr. CONGER. Mr. President, this officer has performed for four years all the duties of his office at the Executive Mansion, and it was proved to the committee that they were onerous. When the law authorized the President to appoint one of his secretaries to sign land patents, it was contemplated that he should appoint some secretary additional for that office, not one already burdened with all the duties that were required of this officer. He has signed the President's name on an average to thirty thousand patents a year during these four years, and signed them twice, received, counted, and cared for them, and had the whole management of signing the President's name to all the title deeds that were issued by this Government for four years.

Mr. ALLISON. What else has he done?

Mr. CONGER. He has performed the duties which he had performed previously as disbursing officer of the Executive Mansion, the officer in charge of the Mansion. All must know Colonel Crook there, the general officer in charge of the Executive Mansion. He had duties sufficient to occupy his whole time from early morning until late at night; he has probably one of the most laborious positions——

Mr. INGALLS. What is his annual compensation now?

Mr. CONGER. I have understood it was $2,000. The clerk who was appointed up to 1878 received $1,500 a year salary for the performance of this work. The committee thought he ought to have an additional compensation. Instead, however, of giving him the full compensation for that office, the committee recommended an amount equal to two-thirds, or a thousand dollars a year.

After amending this bill by giving $1,000 instead of $1,500 a year, the Committee on Claims agreed unanimously to the bill. In my judgment the labor was performed and additional money was earned. Probably no man either a clerk in the Departments or in Congress has performed more labor during the last four years, and much of it was night-work, after the labors of the day were performed. I think it is an eminently just claim and ought to be allowed by Congress.

Mr. PLUMB. Will the Senator from Michigan allow me to ask him a question?

The PRESIDENT *pro tempore*. The case goes over until to-morrow, the hour of two o'clock having arrived.

Mr. DAVIS, of West Virginia. I enter an objection to this case, so that it shall be considered as made now instead of to-morrow.

The PRESIDENT *pro tempore*. The bill goes over.

Mr. HARRIS. It goes off the Calendar on objection.

The PRESIDENT *pro tempore*. It is after two o'clock, and the bill cannot be considered further now.

Mr. HARRIS. The objection carries it off.

The PRESIDENT *pro tempore*. But there may be a motion to consider it notwithstanding the objection.

Mr. CONGER. What do I understand the status of the case to be?

The PRESIDENT *pro tempore*. It will be taken up the first thing in the morning. The Senator from West Virginia [Mr. DAVIS] says he will object to the further consideration of it then; and unless the Senate takes it up it goes to the foot of the Calendar, as it is called.

Mr. DAVIS, of West Virginia. I have made my objection.

MILITARY LAND WARRANT LOCATIONS.

The PRESIDENT *pro tempore*. The unfinished business is the bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes.

Mr. PLUMB. Before yielding to the Senator from Kentucky, [Mr. BECK,] I wish to say that I shall very much hope the Senate will be ready to vote on this bill to-morrow. I express that hope now with some expectation in the belief that the argument which has heretofore been had need not be largely supplemented, and also in the belief that the friends of the bill will not desire to occupy very much of the time. I speak of this because there has been some struggle for precedence as between different bills on the Calendar which are all of public importance, and I do not desire that this bill shall drag a slow length along, and in any sense impede the progress of the ordinary business of the Senate. Therefore, rather than yield from time to time in order that other measures may be taken up, I shall hope, and express the hope now, that the Senate will consider this bill when once its consideration is commenced formally, with a disposition to get rid of it at the earliest possible moment, and I say now again that I hope to-morrow we shall get a vote on it.

The PRESIDENT *pro tempore*. The Senator from Kentucky [Mr. BECK] gave notice that he would ask the indulgence of the Senate at this hour.

Mr. PLUMB. I am now willing to yield to the Senator from Kentucky in order that he may make the remarks of which he gave notice.

Mr. BECK. I hope I shall not be interrupted. I have prepared what I propose to say, and will proceed as rapidly as I can.

Mr. MORRILL. I desire to say that at the conclusion of the remarks of the Senator from Kentucky I may desire to occupy the attention of the Senate for a few minutes on the same subject.

The PRESIDENT *pro tempore*. The Chair asks indulgence to lay before the Senate a House bill.

Mr. BECK. I yield for that.

REMAINS OF GENERAL KILPATRICK.

The PRESIDENT *pro tempore* laid before the Senate the bill (H. R. No. 6179) directing the Secretary of State to take the necessary steps for the removal of the remains of the late General Kilpatrick, minister to Chili, from Chili to the State of New Jersey for interment.

Mr. McPHERSON. I would ask for the immediate consideration of that bill. I understand the Committee on Foreign Relations are very well satisfied to have action taken without the usual reference.

Mr. COCKRELL. Let it be read for information.

The bill was read at length.

Mr. COCKRELL. I should like to know if that has been the custom and rule heretofore, or is this the introduction of a new rule in such cases?

Mr. McPHERSON. I believe it has been done in one or two cases.

Mr. SHERMAN. I know it has been the custom in some cases, because I remember one from Ohio where the remains were brought home from South America.

Mr. McPHERSON. In this case I know that the widow of General Kilpatrick is unable, has not sufficient means, to perform this service herself.

Mr. WILLIAMS. I have had occasion to examine the matter in reference to a citizen of my own State who died abroad. It has been the custom, and where it has been done by the family personally the Government has repaid them.

Mr. DAWES. I merely rise to bear testimony to what has been said by the Senator from Kentucky, [Mr. WILLIAMS.] I think it has been the custom, so far as I remember.

The bill was read three times, and passed.

TAX ON DISTILLED SPIRITS.

The PRESIDENT *pro tempore*. The resolution of the Senator from Kentucky [Mr. BECK] will be read.

The Principal Legislative Clerk read the following resolution, submitted by Mr. BECK on the 11th instant:

Whereas all branches of business connected with the production and consumption of distilled spirits are depressed and embarrassed by the uncertainty which prevails relative to the action of Congress on the subject: Therefore,

Resolved, That the Senate will consider and take action on House bill No. 5656, extending the bonded period on distilled spirits, as soon as practicable after the Finance Committee is able to report it.

Mr. BECK. Mr. President, being warned by the Senator from Kansas [Mr. PLUMB] and others of the importance of time, and having considered with some care the line of argument I propose to pursue on this matter, I ask not to be interrupted while I am proceeding, because if I am called on to answer interruptions I may take longer time than I care to occupy.

Mr. President, saying nothing in regard to the proposed substitute presented to the Senate this morning by the sub-committee of the Committee on Finance—which I have yet not seen, and which may or may not be approved by the whole committee—further than this, that I will vote for any reasonably liberal proposition if the bill sent to us by the House of Representatives should fail; and waiving for the present all matters which come within the scope of the inquiry directed by the Senate on the resolution of the Senator from Minnesota, [Mr. WINDOM,] I propose to show that the House bill No. 5656 is a just, fair, and honest measure, which if enacted into law would promote the interest alike of the distiller, the dealer, and the Government, by re-establishing the system upon the only principle on which excise taxes can be justly imposed and collected, that is, on consumption.

The bill proposes that the collection of the tax shall not be enforced until the producer or his vendee can find a purchaser who needs his product or goods for consumption, which his interest will always induce, indeed compel him to do as soon as he can; and that the tax shall be collected as near as may be only on the number of gallons which is removed from the custody of the Government officials and placed on the market.

All the other provisions of the bill are mere changes in the admin-

istrative machinery now in use, which the extension of the bonded period, or the convenience of the Government and the producers seems to require. I think it is an improvement in many regards on the present method. If, however, there is any belief, or even well founded suspicion, that the proposed changes, or any of them, open the door to fraud, or impair the just safeguards which it is the duty of Congress, as well in the interest of the distillers as of the revenue to throw around this heavily taxed product, no friends of the measure will object to amendments which will, as near as may be, make fraud impossible.

No interest, not even that of the Government, is so deeply concerned in preventing fraud as that of the distillers. Every barrel which evades the tax and is sold to consumers for less than the price at which tax-paid spirits can be sold at a profit is injurious to the honest distiller; and when the fraud is so extensive as to seriously affect prices it is ruinous, as competition when all are dealing fairly has reduced the margin of profit down to the lowest possible point.

Senators may as well dismiss the suspicion at once that any of the advocates of this measure are in the most remote degree, or in any possible contingency, interested in cheating the Government out of a dollar. They are all intensely interested in the most absolute security being given and the most stringent measures consistent with their right to carry on their business being enforced to secure the payment of every cent of tax from every gallon placed upon the market.

The distillers and those to whom they sell in bond are the worst, indeed the only individual sufferers by moonshine, smuggled, or fraudulently-abstracted spirits. The loss to the Government may be serious, but it can be made up otherwise. It is ruinous, however, to all the honest tax-payers in the trade.

This is a plain business proposition, in the investigation and proper solution of which there is neither justice nor propriety in allowing prejudices or partiality to control our action.

Long before any tax was imposed on distilled spirits all the classes of whiskies now produced were manufactured, and then, as now, everybody could carry on the business who chose. Then, as now, certain classes of spirits were produced in different localities. In Pennsylvania, Maryland, and elsewhere rye whisky for table use was the principal product. In Kentucky and Tennessee corn or a mixture of corn and rye whisky, also for table use, was produced largely. In the States of the Northwest high wines, spirits requiring rectification, and alcohol in various degrees of strength formed the main product, and the producers of each in their respective localities had adapted their establishments and machinery to the manufacture of the classes of goods which they thought were most advantageous and profitable.

The necessities of the civil war required onerous, often oppressive, taxation to be imposed in forms to which the people were wholly unaccustomed. Heavy taxes on distilled spirits and tobacco were of course imposed. These were supplemented by taxes on manufactures, on incomes, and on nearly every business and profession. Of course the tax-gatherer and his assistants were unpopular, and it required all the power of Congress to enforce collections. Most of the other impost and excise duties were soon removed, and for a time the whisky tax was so evaded, and fraud was so flagrant and unblushing, that men who obeyed the law and paid their taxes found themselves ruined by the sale of whisky of all grades in open market at prices far below the tax they had paid. Something had to be done or the revenue from that source would soon cease.

As a measure of relief and necessity, the tax was reduced from $2 to fifty cents a gallon in 1868. A new and stringent adjustment of checks and guards was thrown around the business. The tax-paying distiller was ready to consent to anything, and submit to any exaction which bore equally on all, as nothing could be so bad as to be absolutely driven out of the market by whisky which by fraudulent devices was sold for less than the tax. Men engaged legitimately in the business organized themselves in many instances into a detective force to aid the Government officials in detecting and punishing fraud.

Time would fail me if I attempted to set forth in detail the means that were adopted to prevent and detect frauds and evasions of law. It is enough for all the purposes of my argument, and it ought to be regarded as conclusive evidence of the security the Government has that all its taxes will be collected if the present House bill is passed, when I am able to assert, by authority of the Internal Revenue Department, that it is impossible for fraud to be perpetrated on the Government or for whisky to be abstracted or tampered with after the spirits have once been deposited in the distillery warehouse without the absolute certainty of detection, as the history of each package is furnished to the Department at Washington as soon as it reaches the warehouse, and a record of it is so made and kept here that every barrel and every gallon in each barrel must be accounted for, and no collusion or fraud of either the distiller or the Government officials in charge, or of both combined, can be successfully carried out so as to defraud the Government out of any part of its revenue without certain detection.

I am authorized to assert with equal confidence and to challenge contradiction that for the last twelve years there has been no loss to the Government and no attempt at fraud in any form in regard to distilled spirits after they have been deposited in bonded warehouses. All the Saint Louis and other frauds were perpetrated by combinations between officials and distillers before the product reached the warehouses, and were in high-wine distilleries, whose product does not remain in bond, as it does not improve by age.

Senators will, I trust, bear in mind that the modifications of the law proposed by the present bill all relate to whisky in bond and after it gets there. If I am correct in asserting that successful fraud is impossible after the spirits reach the warehouses, and that for twelve years none has been even attempted, as the bill does not propose to interfere with or in any wise impair any of the existing safeguards for its safe deposit in bond, what becomes of the clamor of the Secretary of the Treasury and of the Senator from Minnesota about frauds and rings and combinations to swindle in which they have so lavishly indulged?

I need not argue here how utterly ignorant the present Secretary of the Treasury is in regard to the questions involved in the pending bill. This letter to the Finance Committee, in which he seeks to differ with and contradict the Commissioner of Internal Revenue, is conclusive upon that subject. But some Senators—who I thought knew better—contend that the only security the Government has that the whisky in bond will be properly accounted for is in the integrity of the official in charge of it; and that the greater length of time now sought to be allowed and the assumed or supposed greater accumulation of spirits in bond will be a greater temptation or afford greater facilities or offer greater inducements for him to connive at or commit fraud than now exists. These assumed increases of risks are therefore urged as serious objections to the House bill. I hope to be able to show there is no truth in the position and no warrant for the assumption.

I have stated, and it cannot be denied, because the laws and regulations in my hand prove it, that the books in the Department at Washington contain a history of each barrel deposited from the hour of its deposit more accurate and making its abstraction more difficult than it would be for the officers of a bank to abstract without detection the money of a depositor after they have indorsed the amount received from him on his check-book. It would be far easier for an agent to steal one of fifty branded cattle out of a barn without detection, when he had receipted for that number, than for a barrel of whisky to be stolen out of a warehouse without detection after it was recorded in Washington as deposited there.

Men who seek to perpetrate fraud necessarily consider the chances and consequences of detection. In this matter the chances are one hundred to one against them. Under existing laws and regulations, which the bill does not propose to alter, the Government can change its storekeepers and gaugers every day. It can from its records in Washington furnish its new officials with an exact list and description of each of the barrels in any warehouse, the contents of each, and the proof of the spirits they contain. It can at any time require the distiller at his own expense to take from his racks each barrel, so that it may be examined, regauged, and compared with the original record of entry; and if at any time any fraud is discovered, if any packages are missing, if the proof shows that whisky has been abstracted and water substituted, confiscation of all this property of the distiller is the penalty, and he is subjected to fine and imprisonment almost without limit.

The distiller has to own in fee-simple, free from incumbrance, all the real estate on which the distillery and the warehouses are built. On that, with all the buildings, fixtures, and machinery, often costing hundreds of thousands of dollars, the Government has a first lien. He has to give bond, with approved surety, for an amount equal to the value of the tax on the spirits. The bill proposes to modify that bond, it is true. I will speak of that hereafter. All the whisky in the warehouse, however large the amount, in addition to the distillery premises and the bond, is seized whenever fraud is developed, and the owner goes to the penitentiary.

Will any reasonable man assume, or even suspect, that any distiller will ever attempt to commit a fraud on the revenue or combine with any officials for that purpose, with such chances against him and such penalties hanging over him? I consider such an assumption simply an absurdity, and the fact that the records of the Department show that such an attempt has not even been made since 1869, is answer conclusive to all suggestions which the opponents of this bill may seek to make upon that subject.

The Senator from Minnesota, [Mr. WINDOM,] in his assault on this bill some time ago, used the following language:

> I believe this thing ought to be inquired into further, because this bill presents opportunities for the operation of a whisky ring which will pale into utter insignificance the whisky ring of a few years ago. I believe that if this bill pass, this country will within the next two or three years be shocked by the development and operation of a whisky ring in comparison with which the former one will be utterly insignificant. There are $67,000,000 now owing to the Government for taxes on whisky in bond, and this bill proposes in substance to relieve the ring from the inconvenience of those bonds, and give it an opportunity to raid upon that immense sum of Government money. I am informed that money has been raised to carry that thing through. I know nothing personally of the truth of this charge, but I want the Senate to investigate it, and let us go to the bottom of it.

I confess that statement amazed me. I was not astonished at the statement of the present Secretary of the Treasury; I knew that he did not know anything about it; but I thought the late Secretary did. I know of no illustration more simple or more conclusive by

which to show the absurdity of the position assumed by the Secretary of the Treasury and repeated on this floor by the late Secretary, now a Senator from Minnesota, that the United States has a present vested right to the tax of 90 cents a gallon on, say, 76,000,000 gallons of distilled spirits now in bonded warehouses, than that furnished by the present law relative to the export trade. If the owners of that 76,000,000 gallons of whisky should now or at any time before three years from the time it was placed in the bonded warehouses conclude that they could make more money by sending it to England, France, or Germany, than they would by paying the tax and selling it here, they can export it, and the Government would not receive a dollar of revenue, yet the Government would not lose a cent by its being exported; indeed it would be benefited by its citizens having found a foreign market for so much of our surplus grain, converted for the sake of economy and cheap transportation into whisky. Indeed all the whisky now in bond might burn up to-night and the Government would not lose a dollar for the same reason. Production would go on, and will always be equal to home consumption; the problem is now but to keep down production to the quantity required. That being true, what foundation is there for the clamor—I was about to say the pretense—that can only be excused on the assumption of ignorance, that the Government has any absolute or accrued right to a tax on any portion of the whisky product of the country except that which enters into home consumption?

I supposed that all reasonably well-informed men knew that it depends entirely upon the interest of the producer whether his product enters into home consumption and, therefore, pays the tax, or is exported and pays no tax. The right to export, tax free, illustrates and proves that the tax is not, and was not intended to be, a tax on the production of spirits, but was imposed as an excise on domestic consumption. Any other form of taxation on this product when nearly every other product was untaxed would have been invalid under the following provisions of the Constitution of the United States:

> All duties, imposts and excises shall be uniform throughout the United States.
> * * * * * * *
> No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.
> No tax or duty shall be laid on articles exported from any State.

The courts have held that a tax on real property according to value is the only direct tax other than the capitation tax that can be constitutionally imposed, and that the only uniform mode of excise or indirect taxation is upon products put upon the market for consumption, whereby each consumer should pay the same tax as every other in proportion to the amount of the taxed product consumed. That principle is clearly violated when a tax is exacted from the producer on the quantity necessarily lost by evaporation between the time of manufacture and sale. The true principle is now, and has always been, maintained in regard to tobacco in all forms of its manufacture, from the time the tax was first imposed through all the changes in the rate of taxation. The tobacco manufacturer may hold his product one, two, or ten years without payment of tax; he pays his tax only when he can sell and only on what he sells. The same provisions exist in regard to the manufacture and sale of beer, which is the only other taxed product.

By the act of July 1, 1862, when the excise tax on distilled spirits was first imposed, the tax was 20 cents a gallon. The producer was required to pay only when he could sell, and only on the quantity put upon the market. The same provisions were made in the act of March 7, 1864, when the tax was increased to 60 cents a gallon, and by the act of June 30, 1864, when it was increased to $1.50 per gallon, and by the act of December 22, 1864, which increased the tax to $2 per gallon after January 1, 1865. The act of July 13, 1866, made no change in the rate of tax, or in the conditions or terms of its payment; but it allowed all sorts of transfers from warehouse to warehouse for rectification and other purposes, under which, during the general demoralization which prevailed while President Johnson and Congress were at cross purposes, if not at war, frauds were committed which had perhaps better be forgotten than exposed. Distillers who paid $2 a gallon tax were met in open market with so-called tax-paid whisky, precisely like their own, offered publicly at $1.50, when the actual cost of the product, tax-paid, could not possibly be less than $2.30.

Bonds for double the amount of whisky produced were required during all that time, but fraudulent combinations of officials and others broke down all legal provisions till the revenue dwindled to less than $14,000,000 a year, and all men who obeyed the law were compelled to close up their distilleries, forfeit their contracts, dispose of the cattle and hogs which they were feeding with their slops, and abandon the business in which they had invested all they were worth, and which they, and in many instances their fathers before them, had struggled to build up; bankruptcy and ruin stared them all in the face, especially as they knew that what General Schenck, then the distinguished chairman of the Committee on Ways and Means, declared in his place to be true, that more than 90 per cent. of all the frauds committed were perpetrated by the direct cooperation or connivance of the Government officials. Of course, any change was a relief to the distiller. Senators may not realize the sacrifice required to close up an extensive distillery. A well-selected and properly constructed establishment, with fire-proof buildings and warehouses, including machinery capable of producing 100 barrels a day, would cost at least $150,000, and it is useless for any other purpose.

Contracts for grain and its prompt delivery have to be made months, perhaps more than a year, in advance. At least 1,500 cattle or 5,000 hogs are daily fed from the slops of many large distilleries, the profits arising from this item being often all the margin of profit in the business. It will be readily seen, even from this imperfect statement, how ruinous the sudden stoppage of such a business must necessarily be. The men engaged in it when those conditions prevailed were not Vanderbilts or Jay Goulds; they were generally energetic farmers or business men of moderate means, working largely on credit. They were, of course, crushed by the system of frauds so extensively and unblushingly carried on by Government officials and other swindlers.

Congress saw the situation, and reduced the tax from $2 to 50 cents a gallon; placed every safeguard against frauds around the business that human ingenuity could devise; the grain to be used was weighed and measured; mash-tubs were adjusted and their fermenting periods limited; the system of stamps and brands was perfected; the gauger and storekeeper had to brand and stamp every barrel with its serial number its contents, and the proof of the spirits it contained, and a complete history of each package had to be made out and sent for record to the Department at Washington; the capacity of the distillery was ascertained and recorded; the spirits so branded were rolled from the worm or receiving cistern directly into a bonded, generally a fire-proof, warehouse and locked up in charge of a bonded Government official, so that the owner could only enter it in his presence. Perhaps the best protection after all to the producer was that the war or strife between Congress and the President closed; the various branches of the public service commenced to work in harmony; the shamelessness of the frauds made the President and Congress careful in the selection of officials, and the business of producing spirits once more became a legitimate occupation and an important source of revenue, nearly $40,000,000 being paid annually into the Treasury under the fifty-cent tax, while only $14,000,000 was paid under the tax of $2 a gallon.

I have only glanced at the wrongs and oppressions of that period and at some of the remedies that had to be resorted to to correct them. The distillers, as I said, had to submit to anything; indeed, were compelled to agree to anything, as without relief in some form they were ruined.

Coupled with these beneficial, but stringent measures, was the change in the basis of taxation, which the House bill seeks to rectify. Producers of whisky were for the first time required to pay the tax on the whole quantity that was deposited in their warehouses and pay it within a year from the date of deposit, whether they had made sale of it or not, regardless of the quantity that, by well known laws inherent to distilled spirits, had evaporated during the period of its deposit in bond. That was plainly and palpably wrong; but Congress, necessarily ignorant of the details of the business and justly incensed at the loss of revenue and the degradation of the public service while dealing with such gigantic frauds, determined to stand on the simple proposition of collection of the tax on all spirits that left the worm. It had given great relief by reduction of the tax and by the many safeguards it had thrown around the business. The new system was an experiment rather than an assured success for a time; and the distillers submitted to that mode of taxation, as indeed they would have submitted to anything which averted the ruin which the frauds under the $2 tax had brought upon them.

Experience soon proved that when spirits were once fairly and honestly deposited in the warehouse and the history of each package was written on the books of the Commissioner at Washington, all temptation and opportunity for successful fraud was at an end, and none has occurred since 1869, as I said before, in regard to goods once bonded. It has always been admitted that nothing short of an imperative necessity to prevent fraud can ever justify the imposition of taxes on what does not and cannot possibly exist, as is now done, because evaporation and absorption by barrels is inherent to the very nature of distilled spirits. When fraud ceases, this unjust tax of course ought to be taken off. That being conceded, Congress had no difficulty after it was satisfied that frauds had ceased in extending the bonded period from one to three years, first requiring interest for time given and afterward not only striking it off but allowing a regauge when bonded spirits were removed and put upon the market, taxing, as nearly as could be done by a general rule or regulation, only what entered into consumption, the maximum shrinkage allowance being about what experience had shown would naturally take place; yet no fraud has been perpetrated or attempted under the system as thus liberalized.

The present House bill is only an extension of the present system with all its checks and guards maintained. It has the unanimous approval of the Committee on Ways and Means of the House of Representatives, as shown by the report of Mr. DUNNELL, of Minnesota, (see House report No. 811,) and is fully indorsed by the honorable Commissioner of Internal Revenue, whose long experience, absolute knowledge of the working of the system, and known fidelity in maintaining and protecting all the rights and interests of the Gov-

ernment, is the best assurance possible both of the justice and integrity of the bill.

All the conditions have changed since 1869–'70. What was then an experiment is now a perfected system.

Whatever might have been said in 1868 of the men and the officials who composed the fraudulent whisky rings, it can now be truthfully said, and all the banks in the country will certify to the fact, that the men who are engaged in the production of distilled spirits will compare favorably in intelligence, in integrity, and in the strict and honorable performance of all their obligations, with any other equal number of men engaged in any business. They have paid since 1868 as taxes for the support of the Government about seven hundred million dollars. I doubt whether as large a sum was ever collected in any form by taxation in this or any other country in the same time from a single source with as little evasion or fraud as this vast sum has been. They deserve liberal treatment now when the Government can not only well afford but owes it as a duty to the people to be liberal and lighten the burdens of taxation.

Times have changed since 1868 in other regards. Then the public debt was over $2,700,000,000. Now it is less than $1,700,000,000. Then the annual interest required to be paid was over $150,000,000. Now it is less than $58,000,000. Then, and several times since, our revenues were insufficient to meet current obligations and provide for the sinking fund. This year we are paying off, say, $156,000,000 of the principal of the public debt to creditors who do not want to be paid. We have to-day less than $500,000,000 of bonds outstanding that we can or have a right to pay before 1891. At the present rate of taxation they will be all paid off before 1886. Why then, I ask, should we, the representatives of the tax-paying people, seek to oppress the men who have contributed so largely, so cheerfully, and so honestly to reduce our debt to its present proportions and thus elevate our national credit so high at home and abroad?

But, apart from all questions of liberality or justice, what sense or propriety is there in requiring men to pay enormous taxes on their products before they can sell them or in driving them into bankruptcy by a forced sale for taxes, at a time when the Treasury is overflowing, when the market is overstocked, and the spirits, if sold by the Government for taxes, would not enter into consumption, but be held by the purchasers at these sales till needed, and thus compete with, if it did not stop, further production? The Government can only collect its revenues steadily and successfully for any considerable period from spirits, or anything else, when it allows the men engaged in the business to remain reasonably prosperous. Its annual receipts from taxation for, say, five years must be regulated and controlled by the annual consumption. If by forced sales it obtains taxes any one year on more than is consumed, that tax-paid product will compete with and curtail next year's production, as demand will necessarily regulate supply. Men can better afford to remain idle or divert their capital and energies into some other channel than to carry on a losing business. That is the condition of things we are now dealing with.

There are over 70,000,000 gallons of a character of whisky now in bond the annual consumption of which does not exceed 20,000,000 gallons, and more is being produced every day. To force out the surplus ruins the holder, and, so far from benefiting the Government, which does not need the taxes for its support, injures and dwindles in the near future the revenue to obtain which the tax was imposed.

Apprehension is gravely expressed by the opponents of the bill lest the present overproduction will be increased if the bill becomes a law. I know of no better answer than that made by the honorable Commissioner of Internal Revenue in his report on this measure to the Secretary. I adopt it. He says:

> To my mind it seems clear that the production of fine whisky during the past two years was in excess of the demands of the trade for consumption. I should think that this matter would soon be regulated by the ordinary laws of supply and demand, and that manufacturers would not produce this article in quantities which could not find a ready market.

And he might have added with equal force that all apprehension as to the manufacture of large amounts to be stored away, merely because men have the privilege of keeping it in bond, is equally groundless, as the owners of it will always sell whenever they can obtain a fair price for it. They will be forced to do so by competition, and the necessity to obtain means to carry on their business. Prices never rise or increase, even on the best or oldest whiskies, when the market is oversupplied. That is an unvarying rule. More money has been lost by holders of old high-priced whisky than on any other, so that all the talk about overproduction and continuous holding need not alarm anybody.

Congress is not the guardian of the people. The laws we pass look only to revenue. We do not legislate either to control the business or regulate the morals of men. All branches of the business of distillation of spirits were, I repeat, in existence and had been carried on for many years before the excise laws of 1862 or any subsequent acts were passed. Each branch of the business was open to everybody everywhere, and it is so now. The presumption is that each man made the kind of spirits he found most profitable in his locality. The Pennsylvania distiller would have made high wines if he had found it more profitable than to produce rye whisky.

The Peoria distiller then could and now can manufacture so-called Bourbon whisky if he chooses, and the Kentucky distiller can and always could make either of the other kinds of spirits. There was and is in that regard no monopoly, protection, patent, or privilege. Before the imposition of the tax each kept his product as long as he pleased, sold when he could, and produced as much as he thought he could make money out of. Congress did not assume to exercise any paternal authority or seek to pass laws to protect any of them against overproduction any more than it does to protect the manufacturers of blankets, Bessemer steel, or anything else against overproduction. All Congress undertook to do when it imposed the excise tax was to assume that the consumer of distilled spirits was a proper person to be required to furnish needed revenues to the Government, and it passed laws requiring him to do so. It did not assume any paternal relation to the distiller further than to see that all the product of each which entered into consumption paid the tax, as it would have been manifest injustice to have imposed the burden upon the honest and allowed the dishonest to drive them out of the market. The business, whether it was Bourbon, rye, or high wines, which the producers of each had voluntarily selected as the most profitable form of production to him, was not sought to be interfered with. The present House bill proposes nothing else than to return, now that it can be done with propriety and safety, to the original purpose of the excise laws, and allow the producers of spirits the right to hold their products under Government supervision till they can sell them, and then pay the tax when they are put upon the market, and pay upon what is offered to the consumer and not on what does not exist.

There has been beyond question a large overproduction of spirits for table uses, and of high wines as well, in the last few years. Perhaps the extension of the bonded period and the allowances for natural shrinkage while in bond had something to do with it; so had the laws we passed lately to encourage the export trade. But the general prosperity of the country and the boom in prices of all products had a much greater influence than all these combined. After five or six years of general depression, business sprang up in 1879–'80 with unexampled rapidity; enormous agricultural products were sent abroad and money flowed from other countries to this; men sought investments in everything that promised reasonable returns; interest on money became so low that capitalists were not content with that form of investment. Whisky, now reasonably secure from fraudulent competition, promised large returns under liberalized legislation; men of means went to distillers of good reputation in Kentucky, Pennsylvania, and elsewhere, whose well-known brands were a guarantee of ready sale, and engaged all they could make, paying the manufacturer a liberal price and assuming the payment of the Government tax. Of course distillers made all they could. Very many of the best distillers in Kentucky whose warehouses are now full of spirits in bond do not own a gallon, and have not for years paid a cent of tax to the Government.

No individual could tell how much was being produced by others or what the annual consumption of that class of spirits would be; still the present glut in the market might have been worked off in great part, at least, without serious loss, but for circumstances over which neither the distiller nor his customers had any control. Knowing that the present taxation was producing revenue far beyond the wants of the Government and that a reduction of taxes in some form was reasonably certain, the men interested in the continuance of a high protective tariff met in convention last fall, first at Chicago and then in New York, and resolved to maintain a protective tariff, as they said, in the interest of the American laborer. They pledged themselves to reduce the tax on whisky and tobacco. The association of distillers indorsed their views in that regard, and all these combined interests took steps at once to obtain the necessary legislation.

The power and influence of the protected interests was well known to dealers all over the country; and a large reduction of excise taxes was confidently expected. Of course not only all purchases for speculation in whisky ceased at once but all contracts for future production that could be, were, on some terms or other, rescinded; dealers, large and small, no longer bought supplies except from hand to mouth; they could not afford to be caught with any more stock on hand than they could help, on which they had paid 90 cents a gallon when the reduction to 50 cents, which was expected to take place at an early day, should occur; in short, the trade was paralyzed by agitation, for which leading members of Congress are largely responsible; and unless relief is given by some such measure as the bill of the House proposes, many good men will soon be bankrupts.

Am I asked why the distillers are so much interested if they have sold so much of their product? The answer is obvious. If their customers fail or cannot sell, their production must cease; if goods not needed for consumption are forced on the market to pay Government taxes, they have that large surplus waiting for a demand to compete with in all their future operations. They have a large and costly distillery property on hand, useless for any other purpose, which must remain idle; their laborers must be discharged; the cattle and hogs fed from their slop must be sold, or contracts to feed them forfeited; they dare not make contracts for grain in advance. If they run at all, it must be on a limited scale and under great disadvantages, so that it will be readily perceived that they are intensely interested in the extension of time asked for, even if they do not own a barrel of the whisky now in bond; and the Government

is greatly interested; it cannot afford to kill the goose that lays the golden egg.

I would not care to say more, but the Secretary of the Treasury has undertaken to contradict the Commissioner of Internal Revenue in regard to the effect and operation of the bill, and to advise Congress not to pass it. The position he occupies, rather than the views he presents or the reasons he gives, requires a brief notice of some of his positions. He is a good lawyer, doubtless thoroughly honest in his convictions, and desirous of protecting the revenues of the Government; his opinions are valuable in regard to any matter that he is informed about; but as to this business, he is, in my opinion, absolutely ignorant. It is likely that some outsider, or some clerk in some of his bureaus, scared him about a whisky ring.

He assumes that "the bill legalizes the forestalling of a chief product," and adds: "Forestalling of products was an offense at common law. It is one of the serious evils of the present day." In its application to this measure that statement seems to me to be the sheerest nonsense. For more than half a century before this tax was imposed distillers of whisky of every grade made all they could sell, kept it as long as they pleased, and regulated their production by the law of supply and demand, as every other producer of every other product, tobacco and beer included, does now. Purchasers of every grade of distilled spirits bought all they pleased and kept them or disposed of them as their interests dictated, and nobody ever suspected that either class was guilty of "forestalling" the market, or of any other offense at common law. That is all the bill proposes now to allow. Think of the absurdity of a market being forestalled when it is glutted, and 70,000,000 gallons, or nearly four years' supply, are held and kept in bond because consumers cannot be found to buy it.

Again, the Secretary in one sentence says that the privilege of holding for a long time and paying tax only on what goes into consumption so enhances the value of the taxed goods as to give an undue advantage to the producers and owners of spirits that improve by age over those that do not, and, therefore, do not ask or need extension; and in another breath he argues that there is great danger that the value of the spirits held in bond will be so depreciated by accumulation that they will have to be sold for the tax and will not sell for enough to pay it. That assumption is so preposterous that I had best read the language of the Secretary to prove that I do not misstate his position. He says:

> Nor is the lien upon the spirits stored a sufficient security in case of great accumulation of the article. The amount of the tax is so much greater than the prime value of the spirits that when, in case of a general failure to pay the tax, the Government should be forced to put the spirits upon the market there would be a glut, and the spirits would fail to bring enough to give the Government its revenue. If the bid does not equal the tax the officials must bid in for the Government; but the Government cannot hold the spirits as its own for length of time, and when it shall try to realize by other sale free from tax it may find it impossible to realize the amount of the lien.

To begin with, the spirits under existing law when sold by the Government must bring the amount of the tax and a new tax-paid stamp must be affixed. The Government officials are not allowed to buy in and hold spirits. Of course the Secretary knows nothing about any of these things; but, waiving that, let us look at the proposition in a common sense, business way.

At least two-thirds of all the spirits annually produced are in the form of cologne spirits, alcohol, or high wines, which are worth as much when they leave the still as they ever are. They cost the producer, say, $1.15 a gallon to produce them. Does any sane man believe that the distillers who produce this class of spirits would continue to produce at these rates and stand by and see the Government sell three, five, or eight years old Bourbon or rye whiskies, ordinarily worth $2.50 or $3.00 per gallon at those ages, to other people for less than 90 cents to compete with their high wines, when their inferior product cannot be taken from the still for less than $1.15 of actual outlay? The bare statement of the case makes argument superfluous. When I read that sentence in the letter of the Secretary I could not help feeling that the Senator who knew least about the whisky trade was a Solomon compared to him in regard to it, and thinking how useless it was for a committee as intelligent as that on finance to be referring such matters to the Secretary for information to guide them in framing legislation. His attempt to parade the policy pursued in regard to imported goods held in bond as analogous to domestic products is equally unsound though more plausible.

Under our tariff system all duties are properly payable before goods leave the custom-house. Uniformity of taxation on imports, which I believe all men now admit is a tax on consumption, requires all importers to be taxed equally.

If A, an importer, brings $100,000 worth of goods from Europe and pays $45,000 tariff tax at once, and B, his competitor in business, brings $100,000 of precisely similar goods from the same port, but instead of paying $45,000 into the Treasury as A does, places them in a bonded warehouse, justice to his competitor A requires that there should be a limit to his privilege of holding in bond, which in that case is a matter of grace and not of right, and that he should pay interest for the time allowed, as A has paid cash with which, perhaps, the Government has paid off its outstanding bonds. Excise taxes levied on a domestic product, especially when all other domestic products are exempt from like taxation, stands on a very different footing, and should be levied only on what enters into consumption, and the tax should be paid only when it does so.

I have already spoken of the fallacy of the assumption that the tax is necessarily owing or payable to the Government when spirits are deposited in a bonded warehouse. They may be deposited for export, or the owner may at any time determine to export them. In that event the only interest the Government has in them is to see that they are in good faith exported, and are not allowed to be put upon the home market in competition with tax-paid goods. This is an obligation the Government owes to the tax-paying home distiller. The language of the Secretary in this regard is as follows:

> The amount of accumulation now is about seventy-five millions of gallons, according to data and estimates. The tax on this, owing but not yet payable, is over sixty-seven millions of dollars. It surely is an amount to be saved to the country, and presents a reason for care and scrutiny in legislation.

I have already said that neither the export nor the destruction of all the goods now in bond would result in loss to the Government nor in a diminution of its revenues. Nothing but the imposition of goods fraudulently upon the home market in competition with the producer who pays the tax honestly interferes with or curtails the revenues of the Government. Production will always keep pace with consumption and fully supply the market, as the capacity to produce distilled spirits is only limited by the corn and rye crop of the country, which is practically illimitable, while consumption is necessarily limited; and the 90 cents tax as compared with a 50 cents tax limits consumption at least 40 per cent. below what it would be at the lower rate of taxation.

But there is another right which the owners of whisky have, of which the Secretary does not seem to be aware, which, while it is costly and men should not be forced by law to adopt it, absolutely protects them against the seizures and sales for the tax, or less than the tax, which seems to weigh so heavily on the mind of the Secretary. Owners of bonded whisky can under existing laws not only export their product to foreign countries but they can bring it back again to this country after keeping it abroad as long as they please, if they can find a country that will allow them to keep it, and only pay 90 cents a gallon on the quantity they bring back, thus getting full allowance for shrinkage, and if, in the mean time, the tax has been reduced from 90 cents to 50 cents, or taken off altogether, they get the benefit of the reduction, or land their spirits as free goods, though whisky made abroad pays $2 per gallon tax; and they can still further extend the time by placing the spirits so reimported in bonded customs warehouses for three years, one year without cost and the other two by paying 10 per cent., so that the goods now in bond may yet be consumed in this country, even if the House bill does not pass, and pay no tax whatever. With all these rights and privileges under existing law, it is absurd for any official or Representative to abuse this bill or talk about the owners of spirits standing by and allowing their costly goods to be sold for the tax, or less than the tax. I do not suppose anybody believes that except the Secretary of the Treasury and one Representative from Kentucky. Whether the Secretary caught his notions from the Representative or the Representative caught his inspiration from the Secretary, I neither know nor care. But any Senator who will take the trouble to read section 2500 of the Revised Statutes will see that my statements as to the rate of taxation on reimported domestic goods are absolutely correct. Whisky produced abroad and imported pays now $2 per gallon. While our reimported article would now pay 90 cents on the actual number of gallons brought back. Under Treasury regulations prior to October 19, 1881, internal-revenue stamps were affixed to domestic products reimported. Since then, by like order, a special stamp has been affixed, but the tax remains at 90 cents per gallon as before.

One of the objections to this bill which at first blush seems plausible is that as high wines do not improve in value by being held in bond, therefore the corn and rye whiskies which do improve, as many claim, very rapidly, will have an undue advantage over the high-wine product. There is, however, really nothing in it. They are used in great part for wholly different purposes and do not compete; besides, as far as they do, many of the old bonded goods are owned and used by producers of high wines, cologne, and other spirits to compound with their products, and the production of each class of goods is open to all, each producer judging for himself which class it is the most profitable for him to produce. The same man may, as some do, produce both and hold one to blend with the other so as to make both profitable. Individual interest and competition regulate that. There can be no corner in an overstocked market or on a product that can be rapidly produced without limit. The Government does not care whether its revenue comes out of one, two, or three barrels so it reaches all that is offered for consumption.

But there can be no such thing as equality in specific taxation, whether it is a pound, gallon, or yard tax, or whether it is imposed under tariff or excise laws. The commonest and cheapest cigars now pay precisely the same duty as the finest and most costly; one may be worth $1 per hundred and the other $10. The poorest and coarsest manufactured tobacco pays 16 cents a pound, while the finest and highest-priced, worth four times as much, pays no more. The poorest of the laboring population use the cheapest tobacco and cigars, of course, yet there seems to be no complaint of inequality in regard to the cigar and tobacco tax, unequal as it is, on the part of the objectors to the present bill. The finest sherry and Madeira wines imported into this country, often costing $4 or $5 a gallon, only pay a tax of 40 cents a gallon, while the cheapest Rhine and other wines which laboring people use, and which cost 40 cents or 50 cents a gal-

lon, pay a tax of 40 cents. Our own whisky product, whether good or bad, dear or cheap, pays 90 cents a gallon.

All I ask is that the tax on home manufactured spirits shall be paid as it is on tobacco, cigars, wines, and beer, when it goes into consumption, and on what actually goes upon the market, as is the case with every other taxed article.

Perhaps the objection which has impressed the popular mind more forcibly than any other against the bill is the proposed reduction and modification of the bonds required for the security of the payment of the tax on bonded goods, and yet there is nothing in it. I care nothing about these changes, and am willing to vote for amendments allowing the bonds to remain as they are, if the Secretary or anybody else thinks that the present condition is better than the proposed change. I regard the whisky deposited in the warehouses as ample security for the tax; indeed, if half that is said as to the rapidity with which its value increases is true, there is no propriety in demanding more. Every unnecessary act which the taxpayer is required to perform is that much time, labor, and money lost. When everybody engaged in producing spirits was treated as though he was of course a thief, bonds were required to be given every ten days in an amount equal to double the value of the tax on the whisky deposited. As soon as the business was arranged on something like fair business principles, that was found to be useless, oppressive, and annoying.

It required nearly all the time of distillers, who lived say thirty or forty miles from the collector's office, to go every ten days with their sureties and give bonds for their whisky held by Government officials. (I am informed that there has not even been a suit brought on one of these bonds for twelve years, and the Government has not had to call on any surety on any of them to pay a dollar.) The Commissioner of Internal Revenue, recognizing the useless, I might say oppressive, nature of these bonds, recommended a reduction of them from double the amount of the tax to the actual amount, and an extension of time from ten to thirty days, which is the present law. Even that has proved useless, and now the Commissioner consents to an annual instead of a monthly bond, and to a still further reduction of the amount of the obligation. The extension from one month to twelve months is of course a great convenience, and greatly increases the security of the Government if any more is thought to be needed, and for this reason: suppose the monthly bond is $25,000; the two sureties required need jointly not be worth more than $25,000; the same men can and often do become sureties on each monthly bond of a distiller for a year, so that under the present law the Government has only in fact surety worth $25,000 on bonds for $300,000. As proposed in the present bill, if the average annual bond is only for 50 per cent. of the $300,000 of annual tax, say $150,000, the joint sureties must be worth that amount, so that the Government has in fact surety for $150,000 on the annual amount of tax, instead of $25,000 as now, (twelve times repeated on paper,) yet the Secretary and his clacquers denounce the proposed change to be a stupendous fraud, which is intended to overthrow the internal-revenue system.

But, as I said, I care but little about that part of the bill. The hue and cry about bonds made by the Secretary and others show that they are absolutely ignorant of the practical working of the business. The spirits are and always will be ample security for the tax, and the longer they are kept the more valuable they are and the better security they become. Indeed, on fair business principles, when the Government takes possession of a man's spirits which he has produced at his own expense and places them in the hands of one of its own officials, it ought to give him good security for the safe custody and return of the property it has taken, instead of requiring him to give bond and security for his own property which it has taken from him to be held in the interest of its revenue. However, the Secretary may write the bonds in any form he pleases, so he prevents fraud; that is what the distiller dreads more than all else, because he cannot compete in the market with whisky which evades the tax.

Mr. Lorillard, though he may hold manufactured tobacco on which the taxes may be $4,000,000, cannot now be required to give a bond for over $20,000, and there is no Government official placed in charge of his goods; yet, with all the other safeguards thrown around distilled spirits, men are denounced as thieves who seek reasonable relief from oppressive and useless bonds. Many good men are unable to call upon millionaires every month to become their sureties. The Commissioner knows that, and therefore approves this change. There is only one other feature in the bill, and that is in regard to the establishment of special bonded warehouses within the collection district in which distilled spirits are produced into which all spirits produced at any distillery which has been discontinued permanently or suspended for a year shall be removed when the quantity does not exceed 4,000 proof gallons, and into which any distiller may transfer his product from the distillery warehouse under such regulations as the officers of the Treasury may prescribe. That these provisions are all in the interest of the Government and of the small distillers is so apparent that it would seem to be necessary only to read what the Commissioner of Internal Revenue says in regard to them to satisfy every Senator that they ought to be enacted into law. The Commissioner says:

SPECIAL WAREHOUSES.

The establishment and use of special bonded warehouses, as provided for in the second and other sections of the bill, is a feature which I think can properly be looked upon with favor. These warehouses would no doubt be established by men of means and business standing, at important points of trade, where transportation would be easy, and would be constructed as nearly as possible fire-proof. To these warehouses would be sent, by direction of the Commissioner, under section 3272, United States Revised Statutes, the spirits in warehouses which were deemed insecure, and, under the provisions of the present bill, the spirits in warehouses where the distilleries had been suspended for a year and upward. To them would also be taken, on the application of the distiller, the spirits produced at small establishments, remote from railroad or other important lines of transportation, to the great advantage of the small manufacturers, who would thus be enabled to insure their goods at low rates, to obtain loans upon their warehouse receipts without difficulty, and to deliver their goods, when sold, to their customers without unnecessary delay in transportation. These warehouses would be under the control of the collectors and in the custody of storekeepers, and in my opinion the interests of the Government, as well as the convenience of the trade, would be promoted by their establishment.

In conclusion I will state that, in my opinion, the provisions of the bill extending the bonded period, allowing leakage, and authorizing the establishment of bonded warehouses, are judicious, and will work beneficially to the Government, the manufacturers, and the trade, and I think that the proposition of an annual warehouse bond is a good one. The proposed reduction of the penal sum of the warehousing bonds may be considered as endangering the interests of the Government. I venture the opinion that if Congress in its wisdom sees fit to adopt this branch of the bill it can be administered so as to protect the interests of the Government.

I have the honor to be, very respectfully,

GREEN B. RAUM,
Commissioner.

Notwithstanding that emphatic indorsement by the officer who above all others knows what will be the effect of the proposed change in the existing law, men who ought to know better have professed, or pretended to see in this change a "Pandora's box," from which all the frauds of 1868 will be again let loose upon the country. I fail to see how any frauds are possible under the carefully guarded provisions of the bill. Let me explain why: under existing law (see section 3272 of the Revised Statutes) the Commissioner has now the power to make nearly all the changes from one distillery warehouse to another which these provisions require in regard to special bonded warehouses. That section reads thus:

SEC. 3272. Whenever in the opinion of the Commissioner of the Internal Revenue any distillery or other warehouse is unsafe or unfit for use, or the merchandise therein is for any reason liable to loss or great wastage, he may discontinue such warehouse, and require the merchandise therein to be transferred to such other warehouse as he may designate and within such time as he may prescribe. Such transfer shall be made under the supervision of the collector, or of such other officer as may be designated by the Commissioner, and the expense thereof shall be paid by the owner of the merchandise.

No frauds have been committed in the execution of the provisions of that law.

It will be observed that under the provisions of that section the Commissioner is not limited in making changes from one distillery warehouse to another, to warehouses within the same collection district, (as the bill of the House provides;) and it is not well, when it is so important to keep a perfect history of each package, to have it leave the district in which it was manufactured until after the tax is paid; nor is it well to require or compel one distiller to store his product in a warehouse owned exclusively by one of his competitors. The whole object of the bill in that regard may be stated plainly in this way: small distilleries in the country are often located at points remote from railways or other means of transportation; their warehouses are, of course, small and insecure. If their product can be insured at all, it must be at exorbitant rates. If propositions for the purchase of their goods are made, they are generally made on condition that delivery shall be prompt. Country roads at certain seasons are often in such bad condition that the hauling of loads, if practicable at all, entails great expense, perhaps consumes the profits, whereas if the goods were in a fire-proof warehouse at some railroad center in the district, the insurance would be nominal, the delivery could be prompt, the hauling could be done when country roads were good, and in every way the distiller would be benefited.

The advantage to the Government is obvious. One storekeeper in a special fire-proof warehouse at a railroad point could guard the product of twenty little distilleries, better than twenty men now do at the little distillery log warehouses at the heads of the creeks, where they now cost us $3 or $4 a day to watch, or pretend to watch, a few kegs. Under existing law, if the contents of a bonded warehouse are destroyed by fire or other casualty, the Government does not get the tax on the spirits destroyed. The central, fire-proof, special bonded warehouse cuts off all these useless and demoralizing expenses for storekeepers and gaugers, and reduces the risk of destruction by fire over insurance or otherwise to the minimum. Where or how can the fraud or abstraction *in transitu* be perpetrated in making this change, any more than in transporting goods for export, or in the changes now allowed under section 3272 of the Revised Statutes?

The Department in Washington has, as I have several times repeated, the history of each package in each distillery warehouse, and the receipt of the officer in charge of the special warehouse must show that he receives all that left the distillery warehouse, just as the officer at the port from which exports are made must show that he has received what left the western warehouses for export.

After reading the great outcry as to the frauds and outrages not only possible, but inevitable, if not designed, as it is charged, by the provisions of this bill, I had a carefully prepared table made of the whisky production in that portion of the eighth Kentucky district represented in Congress by Hon. JOHN D. WHITE, which illustrates fully the necessity for the provisions of the House bill. I hope Senators will examine it carefully. The table is as follows:

Statement showing the amount of tax collected from the following distilleries from July, 1880, to June 30, 1881.

Name of distiller.	No. of warehouse.	County.	Daily capacity and production.		Amount remaining in the bonded warehouse.	Months in operation for year 1881.
			Bushels.	*Gallons.*	*Gallons.*	
L. C. Caskey	15	Wolfe	4.13	10.33		3
W. W. Green (9)	220	Elliott	8.16	20.40	376	3
Lykins & Walters	301	Morgan	7.69	19.23		1
James Miller	950	Knox	3.50	8.82	10	1
Joseph Clark	901	Clay	4.10	10.25	101	1
Archibald Leger	897	Knox	3.73	9.32	203	3
Elsberg Little	891	Wolfe	2.85	7.12	65	1
Lewis Angell	890	Whitley	3.95	9.87		
James C. Tye	889	Whitley	2.93	7.32	135	4
James Roberts	887	Lee	4.83	12.07	69	2
James Eversole	883	Owsley	4.75	11.87	15	3
Alfred Owens	882	Rock Castle	7.10	17.75	292	2
McCager, Napier & Co.	881	Wolfe	4.80	12.00		
James W. Ross & Co.	809 876	Wolfe	4.04	10.10	185	5
J. & H. D. Davis	811	Knox	4.64	11.60	398	3
J. Brandenburgh	810	Lee	3.32	8.08		
J. H. Brown	809	Wolfe	4.06	10.15	105	2
John Archer	746	Whitley	3.60	9.00	125	6
H. C. Rice & Co	745	Estell	3.49	8.72	283	3
Frederick Benge	685	Clay	5.43	13.57	10	4
Joseph E. Hay	554	Knox	8.48	21.20	761	1
Samuel Harris	416	Knox	4.04	10.10	81	3
Elihu Reynolds	409	Owsley	6.01	15.02	113	1
John Steele	402	Owsley	5.26	13.15		
Levi Ross	379	Owsley	4.63	11.57		
John Links	405	Laurel	4.37	10.92	23	3
Melville Phelps	410	Laurel	5.30	13.25	123	4
Amount now in warehouse					3,473	

Grand total, $8,284.60.

Average while running, 4.78 bushels a day, producing 11.95 gallons, for seventy days per annum. There are now seven storekeeper gaugers employed, at $3 per day making $21, and three general storekeepers, at $4, making $12; their daily pay being $33 to guard 3,473 gallons, or $3,125.70 of tax. The pay of officials for ninety-five days will amount to more than the tax. The amount of tax for the year ending June 30, 1881, is $8,284.60, and the pay of officers per year at present employed is $10,296. When General Clark was asked for the other expenditures in the eighth and ninth districts in Kentucky he called on Mr. F. D. Sewell, chief of the division of revenue agents, for information, and received the following reply:

APRIL 19, 1882.

GENERAL: I find that there has been expended from the appropriation for the discovery of violations of internal-revenue law since June 30, 1878, to the present time, $5,687.78 in the eighth district of Kentucky, and $1,434.27 in the ninth district; total, $7,122.05. This has been used entirely for the discovery and seizure of illicit stills and the arrest of offenders. In addition to this quite a large amount has been expended by revenue agents for special employés who have been employed in that State and have devoted a good deal of their time to work in Landram's district.

I am not able, however, to determine the amount expended in this way. It would be safe to put it at not less than $1,000; probably $1,500 is nearer the correct amount.

Respectfully,

F. D. SEWELL,
Chief Division of Revenue Agents.

General W. T. CLARK, *Chief Clerk.*

I hardly suppose that Senators will pay much attention to the recommendations of a secretary who insists that an attempt to correct a system which now produces such results as these is dishonest, and seeks to encourage frauds. As politicians the Secretary and his allies may think it very hard on the party to remove the patriot from James Millen's distillery warehouse in Knox County, whose arduous duty it is to guard a ten-gallon keg in a bonded warehouse at $3 per day, but they will hardly persuade Senators that the Commissioner of Internal Revenue is in a whisky ring when he recommends the collection of all these scraps into a fire-proof special wherehouse at some railroad point in the district, and have them guarded by one man instead of twelve. That exhibit is only a specimen of the condition of things in fifty other districts that I could name in a number of States, and there can be no rational solution of the opposition to the wise recommendations of the Commissioner of Internal Revenue, or to the House bill, except that it dispenses with a worthless horde of miserable political bummers.

That is all I care to say about the bill proper at this time. I would, if the Senate had the constitutional right, vote to amend the bill so as to reduce the tax on distilled spirits from 90 cents to 50 cents a gallon, for the reasons given by me on this floor on the 10th day of January last, when, discussing another question, I then said:

I believe reasonably low taxes produce high revenues. Sixteen cents on tobacco now produces more than 24 did. Whisky at 50 cents would in five years produce more than 90 does. No man should be required to pay excise taxes on more than goes into consumption, and not until it does, whether it be one, three, five, or ten years. The interest of the producer will induce sales as rapidly as the demand for consumption requires, and after spirits leave the Government warehouse they should be absolutely free, all espionage should cease. The taxes on licenses and all other restrictions should be removed; that done, half the oppressions of the system would disappear. Fifty cents tax, payable when the goods are removed from the care of the United States officers, and all other charges and taxes abolished, is the true revenue basis in view of our present indebtedness and the necessity to collect large revenues. Anything beyond that means no relief to the distillers of the country, and they do not now ask for more. It is a useless waste of our resources to be maintaining taxation to collect, as we now do, over $100,000,000 more than we need.

Supplementing that view, and, as I think, strongly enforcing it, I will publish as part of my remarks a table originally prepared with great care and no small amount of labor by Hon. P. B. THOMPSON, a Representative from Kentucky, and revised by the Commissioner of Internal Revenue, which was printed by order of the Senate on my motion made by direction of the Finance Committee. The table is as follows:

Statement of the quantities of spirits distilled from materials other than fruit, produced, withdrawn for consumption, remaining in warehouse at close of the year, and exported; also the several rates of tax per gallon at which collections were made, the amount of tax collected on spirits withdrawn for consumption, and all other taxes relating to distilled spirits, by fiscal years, from September 1, 1862, to June 30, 1881.

[The production for 1863 and 1864 includes spirits distilled from apples, peaches, or grapes.]

Fiscal years ended June 30—	Quantities of spirits distilled from materials other than fruit.				Amount of tax collected.			Rates of tax per gallon on spirits distilled from materials other than fruit since 1865, and from all materials whatever prior to that date.
	Produced.	Withdrawn, tax paid.	Remaining in warehouse June 30.	Exported.	On spirits withdrawn from warehouse tax-paid, and on spirits distilled from fruit.	From all other sources relating to distilled spirits.	Total.	
	Gallons.	*Gallons.*	*Gallons.*	*Gallons.*	*Gallon-tax.*			
1863 *	16,149,954	16,149,954			$3,229,991	$1,946,539	$5,176,530	20 cents.
1864	85,295,393	85,295,393			28,431,798	1,897,352	30,329,150	20 and 60 cents.
1865	16,936,777	16,936,777			16,007,707	2,723,715	18,731,422	$1.50 and $2.
1866	23,814,051	14,599,289	6,081,551		29,482,078	3,786,094	33,268,172	$2.
1867	32,299,629	14,148,132	17,887,272	4,654,816	29,164,409	4,378,543	33,542,952	$2.
1868	16,395,651	6,709,547	27,278,420	4,128,188	14,290,731	4,364,980	18,655,631	$2.
1869	53,367,884	61,183,559	16,685,166	1,173,226	33,735,324	11,335,907	45,071,231	$2 and 50 cents.
1870	71,337,099	76,339,807	11,671,886	915,629	39,245,099	16,360,995	55,606,094	50 cents.
1871	54,576,446	59,503,972	6,744,360	780,153	31,157,314	15,124,534	46,281,848	50 cents.
1872	68,275,745	64,914,471	10,103,392	950,213	33,117,789	16,357,727	49,475,516	50 cents.
1873	68,236,567	62,971,413	14,650,148	2,358,630	43,131,065	8,968,307	52,099,372	50 and 70 cents.
1874	68,805,374	61,763,700	15,575,224	4,060,160	43,807,094	5,636,996	49,444,090	70 cents.
1875	60,930,425	62,580,998	13,179,596	587,413	46,877,938	5,204,053	52,081,991	70 and 90 cents.
1876	57,959,647	56,989,389	12,595,850	1,308,900	51,390,490	5,035,875	56,426,365	90 cents.
1877	59,912,268	56,848,525	13,091,773	2,529,528	52,671,291	4,798,139	57,469,430	90 cents.
1878	56,103,053	49,571,128	14,088,773	5,499,252	45,626,533	8,794,283	50,420,816	90 cents.
1879	71,892,621	51,885,939	19,212,470	14,837,581	47,709,464	4,860,821	52,570,285	90 cents.
1880	90,355,270	61,100,362	31,362,869	16,765,666	55,919,119	5,266,390	61,185,509	90 cents.
1881	117,728,150	67,372,575	64,648,111	15,921,482	62,214,128	4,939,847	67,153,975	90 cents.
Total	1,090,372,004	946,864,930	294,856,861	76,470,837	707,209,362	127,781,017	834,990,379	

* Ten months

That table shows that in 1870 and 1872, when the tax was 50 cents, the quantities withdrawn from bond for consumption were greater than in 1880 and 1881 under the 90 cents tax, although our population has increased from 38,000,000 to over 50,000,000 and all other products have increased much more proportionately than population has.

I have no doubt that if the tax was restored to 50 cents the increase in consumption would be at least 40 per cent. I do not mean drank, but used in the thousand ways that alcohol enters into other products. The increased consumption of 40 per cent. at the reduced rate would at once maintain the revenue to its present point, while it would largely reduce the cost of all manufactures in which alcohol is used, and furnish an increased market to the farmer for his corn and rye at a time when by our railroad extensions a home market is very much needed for our immense agricultural surplus.

I have no doubt that the same effect would follow as followed the reduction of the tobacco tax from 24 to 16 cents, there being a very large increase of revenue already from the reduction growing out of increased consumption.

I do not desire to weary Senators by amplification, nor to encumber the RECORD with tabular statements, but as I have said that the spirits now in bond, though stored in Kentucky warehouses, were owned largely elsewhere, I ask attention to the following table which is a fair exhibit of the localities in which all spirits in bond are held and owned:

Table showing residence of the owners of whiskies now in the distillery bonded warehouses of twenty distilleries in Kentucky, embracing two in the second, fourteen in the fifth, one in the sixth, two in the seventh, and one in the eighth collection district.

Residence of owners.	Packages.	Gallons estimated.
Alabama	235	12,045
California	3,768	147,106
Colorado	3,430	151,210
Connecticut	405	19,035
Georgia	745	35,015
Illinois	44,294	2,071,818
Indiana	9,767	459,049
Iowa	8,620	405,140
Kansas	5,061	237,867
Kentucky	68,791	3,133,177
Louisiana	330	15,511
Massachusetts	27,943	1,313,321
Michigan	4,058	190,726
Minnesota	6,009	282,426
Missouri	63,690	2,993,430
Maine	89	4,183
Maryland	185	8,695
Mississippi	47	2,209
New York	69,224	3,253,528
Nebraska	2,202	103,494
Ohio	98,296	4,619,912
Pennsylvania	2,135	100,345
Rhode Island	1,440	67,680
Tennessee	2,607	122,529
Texas	6,960	327,120
Virginia	200	9,400
West Virginia	1,255	58,985
Wisconsin	5,826	273,822
Dakota	235	11,045
Montana	463	21,761
Utah	10	470
Wyoming	450	21,150
Canada	50	2,350
Scattered	4,600	316,200
Total	443,420	20,840,740

This table is useful, at least for the purpose of answering any suggestion that the bill is specially in the interest of citizens of Kentucky, because the bonded spirits happen to be produced there, and it also shows that consumers ought to pay the tax.

A few words as to the "excise laws of England" and I am content to submit this bill to the consideration of Senators. We have in many ways recognized the wisdom and prudence of the legislation of that country, and most of the valuable provisions of our excise laws are taken from theirs. I hold in my hand Bateman's Excise Manual, which gives a complete history of the English system of internal-revenue taxation, a few extracts from which will show that all the provisions of the House bill now under consideration are in strict conformity to the system which has for a long time worked so well there. On page 751 will be found all the provisions we have adopted as to distillery warehouses, and on page 753 will be found the provision for the special bonded warehouse system provided for in the House bill, in these words:

Distillers may, under such regulations as the commissioners may make, also deposit spirits without payment of duty in any general warehouses provided by the commissioners.

And on page 777, after making equitable provision for the loss by evaporation which is incident to that character of goods, the following provisions are made:

SEC. 7. On the delivery of any cask or package of spirits from an excise warehouse duties shall be charged and paid upon the quantity of spirits actually found in such cask or package at the time of the delivery thereof, by weight, measure, or gauge, as the commissioners may direct. * * *

SEC. 8. If any officer shall at any time find a greater deficiency (whether calculated by weight, measure, or gauge) in the quantity of spirits which should be contained in any cask or package deposited in warehouse without payment of duty than can be accounted for by natural waste or other legitimate cause, the commissioners may require immediate payment of the duty on the quantity of spirits originally warehoused in such cask or package.

In short, the English tax is on consumption and on nothing else, without limitation as to the time the producer has the right to keep it in bond, while the penalties for fraud are similar to, though milder than those prescribed by the bill of the House now before us. In that country they collect without trouble or loss $2 a gallon tax. They allow all grades of spirits to remain in bond as long as the producer thinks it is his interest that they should so remain. In short, the House bill adopts the uniform system which our Constitution prescribes in regard to excise taxes, and the system which the experience of England has shown conclusively works so well there in the interests of the Government and the producer.

These facts seem to me to be a sufficient vindication of the justice, honesty, and wisdom of the House bill and of the recommendations of the Commissioner of Internal Revenue, and a sufficient response to all the criticisms of the Secretary of the Treasury, who, as I said, while doubtless a good lawyer, is profoundly ignorant of the internal-revenue system of either this or other countries.

One word about whisky rings, concerning which I did not at first propose to speak, and I am done. The following telegram discloses what the whisky ring is, and will enable the committee to get at the bottom facts:

CHICAGO 10, 1882.

To G. C. WHARTON, *Willard's Hotel, Washington:*

Funds collected by the Western Export Association were all expended for legitimate purposes, and had nothing whatever to do with legislation. That money was all paid to exporters of surplus alcohol to cover their losses. German alcohol being very low, this was done to save our home market from extreme depression, and if necessary shall be pleased to produce full particulars to a committee or any one.

H. H. SHUFELDT.

Mr. Shufeldt, of Chicago, is the president of the United States Distillers' and Liquor Dealers' Association, and Colonel G. C. Wharton, of Louisville, is their attorney here. His brief in regard to this measure was laid before the Finance Committee. He was for a long time, indeed during most of the time while General Grant was President, United States District Attorney for Kentucky. He is a gentleman of high character and of fine legal attainments. He was doubtless selected as attorney by the distillers because of his intimate knowledge of all the details of the internal-revenue system. His care for the interests of the Government while an officer has of course made all the illicit distillers and their advocates his enemies; but that only adds to his good name wherever he is known.

By Colonel Wharton's permission I read the following letter from Mr. Shufeldt elaborating the statements made in the telegram. Along with the letter was a printed circular, signed by Mr. H. B. Miller, president of the Western Export Association, which sets forth still more in detail the exigencies which required the formation of the ring, if that name is preferred, and the payment of very large sums of money, all of them honest, earnest efforts of business men to avert as best they could the impending ruin which political agitation and overproduction had brought upon them. I will not read the circular, as it was very fully and fairly set forth and explained in the New York Herald of Saturday last, and thus obtained a much wider circulation than the CONGRESSIONAL RECORD could give it, but will hand it to the Senate Committee and commend to them a thorough investigation of how to legislate so as to give reasonable stability and security against Congressional interference with the legitimate business of honest men. The letter is as follows:

CHICAGO, *May* 10, 1882.

DEAR SIR: Your dispatch answered in full by wire. We raised month by month, until all amounted to some $600,000. Even with this we found ourselves short and had to call an extra assessment on March 28, as the inclosed resolution provides, of $3 per bushel on each house in the pool. We run 1,800 bushels, therefore our assessment was $5,400, which shows on the extra assessment sheet herewith. When the trade opened last fall every one thought it good and filled their barns with cattle. The tax agitation came on and they could not sell their products which they were forced to make on account of the cattle. This day by day affected the market until we clubbed together and told those men who had been exporters we would pay them any loss they made, provided they would ship abroad and slaughter their goods there in preference to putting them on a home market. Monthly assessments were made and their losses were paid, and this is what became of the money. I know of my own knowledge there has never been a single dollar of the money of either association ever expended in legislation except legitimate expenses.

Yours, truly,

H. H. SHUFELDT.

G. C. WHARTON, Esq.

Nothing that I could say would add anything to the force or clearness of the presentation Mr. Shufeldt makes of the sacrifices he and his associates have had to submit to in order to save themselves from the baneful effects of overproduction and political agitation. Seven hundred and sixty thousand dollars has been sacrificed to prevent still worse results, yet men who without fault have suffered so grievously are held as "suspects," while politicians caused most of their losses.

The struggles against bankruptcy and ruin in the near future which the producers of high wines and spirits for export have been compelled to make is now being made by the representatives of the people in the bill sent to us from the House with such signal, I might

say unparalleled, unanimity. On behalf of all the men, everywhere, who are the holders and owners of whisky in bond, Colonel C. W. Moulton, of Ohio, as attorney for the distillers and dealers in Cincinnati, has filed with the Finance Committee a very able brief setting forth with great clearness and force the urgent reasons why the bill of the House ought to pass. Appended to it is the following instructive table:

Statement by months of spirits in bond, as shown by the records at the office of the Commissioner of Internal Revenue.

Months when produced.	Tax, when due.	Taxable gallons.	Amount of tax.
1879—April	1882—May	250,585	$225,526 50
May	June	338,361	304,524 90
June	July	242,634	218,370 60
July	August	102,244	92,019 60
August	September	68,011	61,209 90
September	October	115,205	103,684 50
October	November	232,967	209,670 30
November	December	411,640	370,476 00
December	1883—January	612,307	551,706 30
1880—January	February	936,941	843,246 90
February	March	1,276,587	1,148,928 30
March	April	1,768,393	1,591,553 70
April	May	2,098,368	1,871,431 20
May	June	1,971,078	1,772,970 20
June	July	1,663,143	1,496,828 70
July	August	1,119,528	1,005,575 20
August	September	437,499	393,749 10
September	October	664,395	597,958 20
October	November	1,578,169	1,420,352 10
November	December	2,496,459	2,246,813 10
December	1884—January	3,327,119	2,994,407 10
1881—January	February	3,724,776	3,352,298 40
February	March	4,028,774	3,625,896 60
March	April	4,991,913	4,492,721 70
April	May	5,369,175	4,832,257 50
May	June	5,338,751	4,804,875 90
June	July	4,017,874	3,616,086 60
July	August	1,929,556	1,736,600 40
August	September	932,665	839,398 50
September	October	1,804,511	1,624,059 90
October	November	3,269,295	2,942,365 50
November	December	4,393,257	3,953,981 30
December	1885—January	5,230,083	4,707,074 70
1882—January	February	5,046,892	4,542,202 80
February	March	5,317,673	4,785,905 70
Total		77,087,831	69,379,047 90

Of the above, the following spirits are required to be tax-paid, as follows:

From May 1, 1882, to December 31, 1882	1,761,647 gallons,	$1,585,482 30
From January 1, 1883, to December 31, 1883	16,603,870 gallons,	14,943,483 00
From January 1, 1884, to December 31, 1884	43,127,666 gallons,	38,814,899 40
From January 1, 1885, to March 31, 1885	15,594,648 gallons,	14,035,183 20
	77,087,831	69,379,047 90

NOTE.—Over four-fifths of the above are held in bond by dealers resident of the States of Illinois, Kentucky, Massachusetts, Missouri, New York, and Ohio.

(The statistics show that less than one-seventh of the above is held by residents of Kentucky.)

From this table it will be seen that for the six months from January till July of next year the tax on spirits in bond will amount to $8,745,956, and in two years and ten months to about $70,000,000.

Mr. President, is it wonderful? Is it any evidence of fraud or unfairness that this great business interest should seek relief at our hands and urge it earnestly and promptly? Every bank and banking association in the cities of Louisville and Lexington, Kentucky, State, national, and private, have united in an earnest petition to the Senate to pass the House bill. Large numbers of bankers (I cannot say all as I can for Lexington and Louisville) from Cincinnati, Chicago, Saint Louis, and the other great cities of the West have done the same thing, while the petitions I have received from all over Kentucky from distillers and dealers prove how nervously anxious they are for relief, and for relief now.

Suggestions are made by some Senators to postpone the consideration of this measure till December. These propositions need not deceive anybody; they mean the defeat of the measure. Think of it; this Congress expires March 4, 1883. There are not seventy working days from the meeting in December till its final dissolution. All the appropriation bills for the fiscal year beginning July 1, 1883, have to be considered and passed in that time. All the important measures relating to commerce, navigation, and transportation, to say nothing of the hundreds of private and public bills which will go over from this to the short session, will be crowding for consideration. The tariff commission is ordered to make its final report on all the great questions submitted to it on the opening of the session in December. In short, postponement of this measure till December means refusal to grant relief and simply keep up agitation by holding out delusive promises. Better defeat the bill at once, and let men prepare for the worst, than force the trade to languish with a hope of reduction of tax and extension of time during a short session when there will be neither time nor opportunity to consider either.

It is not the whisky trade alone that is involved; men who have cattle and hogs to feed or grain to sell are all concerned. The banks are carrying immense sums of money on the security of whisky in bond. Stringency in money in one trade raises rates of interest on all, and all interests and all industries suffer. No man dares to make a contract in advance, as the promise of reduction to 50 cents in December is still held out. There is no estimating the ramifications of the financial distress which will follow from the combined influences of the continued agitation and increasing glut from oversupply. The overproduction in 1873 in iron, and perhaps a few other things, involved and paralyzed every interest in the country, and the distrust continued and increased for five years. The annual circular issued by the mercantile agency of Dun, Barlow & Co., of New York, tells the tale in the following exhibit:

Years.	Number of failures.	Amount of liabilities.
1874	5,830	$155,239,000
1875	7,740	201,050,353
1876	9,092	191,117,780
1877	8,872	190,669,936
1878	10,478	234,383,132

These alarming figures show that both in number of failures and amount of liabilities 1878 was worse than 1874. Prosperity returned in 1879, and the number of failures was reduced nearly one-half, and the liabilities more than half of those of 1878. Congress can, without injury or risk to the revenue, prevent a recurrence of the evils which followed overproduction in 1873 by the prompt passage of the House bill, or some similar measure.

That is all I care to say on the subject now. If I have so far attracted the attention or aroused the interest of Senators as to induce them to study the bill sent here by the representatives of the people with such signal unanimity, on a unanimous report from the Committee on Ways and Means of that body, whose ability and intelligence as well as their integrity needs no indorsement, recommended as it is, too, by the Internal Revenue Department, whose special duty it is to protect alike the revenues of the Government and the business interests of the citizens who pay it, I shall have accomplished all I desired or expected.

I feel assured that the better this measure is understood the more surely it will receive the support of Senators, and it was only because I was convinced that Senators had not the time personally to give it the consideration it required that I have presumed to trespass now on the valuable time of the Senate to lay the matter before it in advance of the action of the Finance Committee. I shall make the House bill an appendix to these remarks.

An act to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses, and the withdrawal of the same therefrom.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tax on all distilled spirits hereafter entered for deposit in distillery warehouse, or in special bonded warehouse, or remaining in such warehouse at the time of the passage of this act, shall be payable before and at the time the same are withdrawn therefrom, except in cases of withdrawals therefrom without the payment of tax as now authorized by law.

Every person intending to commence or continue the business of a distiller, or having at the time of the passage of this act spirits deposited in his distillery warehouse or in any special bonded warehouse, shall, within thirty days from the date of and after the passage of this act, or at the time of commencing business or of commencing to deposit in a special bonded warehouse, and on the first day of May following, and on the first day of May of each year thereafter, file with the collector of internal revenue for the district in which his distillery or any special bonded warehouse in which he has spirits deposited is located a statement, in duplicate, under oath, of the quantity of distilled spirits stored in the distillery warehouse, or of the quantity of spirits of his own production stored in a special bonded warehouse, specifying in either case the number and the serial numbers of the packages, and the number of proof-gallons contained therein, as shown by the original gauge; and also a declaration, in duplicate, of the largest number of packages and of proof-gallons of distilled spirits he intends to have stored at the close of any one day in said distillery warehouse or special bonded warehouse during the year or fraction of a year ending on the 30th day of April next ensuing; and shall, at the time of filing said statement and declaration, give bond, in duplicate, in a form prescribed by the Commissioner of Internal Revenue, with two or more sureties satisfactory to the collector of his district, conditioned that the principal named in said bond shall pay all taxes shown to be due by the original gauge, less only the lawful allowance for loss, upon all spirits withdrawn or removed from his distillery warehouse, or upon all spirits of his own production withdrawn or removed from a special bonded warehouse, during the year or fraction of a year ending on the 30th day of April next ensuing, or after that date and before a new warehousing bond shall be given; and that he shall comply in all respects with all the provisions of law concerning the warehousing and withdrawal or rebonding of said spirits.

The penal sum of said bond shall be as follows, namely:

When the largest quantity of spirits to be stored in the warehouse, as set forth in the distiller's statement and declaration, does not exceed 50 barrels or 40 proof-gallons each, $1,800;

When exceeding 50 such barrels and not exceeding 100 such barrels, $3,000;

When exceeding 100 such barrels and not exceeding 500 such barrels, $4,000;

When exceeding 500 such barrels and not exceeding 1,000 such barrels, $20,000;

When exceeding 1,000 such barrels and not exceeding 2,500 such barrels, $40,000;

When exceeding 2,500 such barrels and not exceeding 5,000 such barrels, $60,000;

When exceeding 5,000 such barrels and not exceeding 10,000 such barrels, $80,000;

When exceeding 10,000 such barrels and not exceeding 20,000 such barrels, $120,000;

When exceeding 20,000 such barrels and not exceeding 30,000 such barrels, $160,000; and

When exceeding 30,000 such barrels, $200,000; but in no case shall the penal sum of any warehousing bond be greater than $200,000.

An additional bond shall be required in case the quantity of spirits at any time actually in the warehouse exceeds the quantity set forth in the statement or declaration, or in case of the death, insolvency, or removal of either of the sureties, and may be required in any other contingency, at the discretion of the collector or Commissioner of Internal Revenue.

No collector shall approve the bond of the distiller required by section 3260 of the Revised Statutes of the United States until the distiller shall have filed a statement and declaration, and shall have given a warehousing bond satisfactory to the collector, in conformity with the provisions of this act. Every collector who violates this provision shall forfeit and pay $2,000, and be dismissed from office.

Bonds given under this section shall be and remain in force, as to spirits remaining in warehouse on the 1st day of May following, until the execution and approval of the new bond, and shall remain in full force for the collection of the tax upon all spirits covered thereby which shall have been unlawfully removed or withdrawn during the period for which the bond was given. And nothing in this act contained shall impair or affect the warehousing bonds or transportation and warehousing bonds heretofore given, except as to the spirits described therein covered by bonds given under this act. *But the monthly warehousing bonds prescribed by section 3293 of the Revised Statutes of the United States, as amended, shall not hereafter be required.*

If the new bond is not given as required by this act, the collector shall proceed by distraint to collect the tax on all the spirits of the distiller remaining in the warehouse, issuing his warrant of distraint for the amount of tax found to be due as shown by the reports of the gauger when the spirits were entered into the warehouse, but this provision shall not exclude any other appropriate remedy or proceeding to enforce payment of the tax: *Provided*, That any distiller having spirits in warehouse at the time of the passage of this act for which warehouse bonds have been given, may, as to such spirits, at his option, omit to file the statement and give the bond required by this act, but in such case the warehousing bonds already given for such spirits shall remain in full force, and the principal and sureties on said bond shall be held to full compliance with the conditions of the same: *Provided*, That in case the person required to make the statement and give the bond aforesaid shall die, shall become of unsound mind, or shall, in the opinion of the collector or Commissioner of Internal Revenue, become otherwise legally incapable of making such statement or giving such bond, the statement may be made and the bond may be given by his executor, administrator, guardian, trustee, or other personal or legal representative.

That section 3262 of the Revised Statutes of the United States, as amended, be further amended by adding thereto the following:

"*And provided further*, That whenever, by reason of any restriction on the title or of any pending legal proceedings respecting the transmission or change of title or the legal control or management of any real estate on which, or any part thereof, a distillery erected prior to July 20, 1868, is situated, in whole or in part, or whenever, by reason of the death, insanity, inability, or removal of any executor or executors, administrator or administrators, trustee or trustees, or the disagreement of any coexecutors, administrators, or trustees, having charge of such real estate, the consent hereinbefore provided for cannot be had at the time and in the manner required, then, in lieu of said consent, the collector may at the discretion of the Commissioner, be authorized to accept the bond hereinbefore prescribed for the appraised value of that portion of the distillery property or of that interest therein as to which the consent cannot be obtained; but such bond shall not be regarded as being in lieu of the consent required in respect to that portion of the distillery premises as to which no disability to give consent exists."

SEC. 2. That the Commissioner of Internal Revenue shall be, and hereby is, authorized, in his discretion, and upon the execution of such bonds as he may prescribe, to establish one or more warehouses to be known as special bonded warehouses in any one collection district, each of which warehouses shall be in charge of a storekeeper, to be appointed, assigned, transferred, and paid in the same manner as storekeepers for distillery warehouses are now appointed, assigned, transferred, and paid. Every such warehouse shall be under the control of the collector of internal revenue of the district in which such warehouse is located, and shall be in the joint custody of the storekeeper and proprietor thereof, and kept securely locked, and shall at no time be unlocked or opened, or remain open, except in the presence of such storekeeper or other person who may be designated to act for him, as provided in the case of distillery warehouses. And such warehouses shall be under such further regulation as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

SEC. 3. That whenever the quantity of distilled spirits in the warehouse of any grain or molasses distillery at or after the time of its permanent discontinuance as a distillery, or after distilling shall have been suspended at the distillery during a period of twelve months, shall not exceed 4,000 proof-gallons, the distiller shall immediately pay the tax upon such spirits, or he may, or any distiller, or his legal representatives, having at any time spirits in his distillery warehouse which he wishes to transfer to a special bonded warehouse may, under regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, cause such spirits to be removed in bond from the distillery warehouse to and deposited in a special bonded warehouse, in the same collection district, after making such entries and executing and filing with the collector of the district such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

In case of such permanent discontinuance or of such suspension, if the tax is not paid or the spirits are not so removed, it shall be the duty of the collector to collect the tax by distraint, issuing his warrant of distraint for the amount of the tax found to be due as ascertained by him from the report of the gauge as made by the gauger at the time of the entry of the spirits into warehouse; but this provision shall not exclude any other appropriate remedy or proceeding to enforce the payment of the tax.

SEC. 4. That all distilled spirits intended for deposit in a special bonded warehouse, before being removed from the distillery warehouse, shall have affixed to each package an engraved stamp indicative of such intention, to be provided and furnished to the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner.

SEC. 5. That the provisions of existing law in regard to the payments of tax on withdrawal of distilled spirits from warehouse, and as to the gauging, marking, branding, and stamping of the same upon such withdrawal, and in regard to the exportation of distilled spirits, or their transfer to manufacturing warehouses, and in regard to withdrawals for the use of the United States, or scientific institutions, or colleges of learning, including the provisions for allowance for leakage or loss by unavoidable accident, are hereby extended and made applicable to spirits deposited in special bonded warehouses under this act. And whenever spirits are withdrawn from a special bonded warehouse for exportation, or for transfer to a manufacturing warehouse, an engraved stamp indicative of intention to export shall first be affixed to each package so removed, as in the case of spirits withdrawn from a distillery bonded warehouse for exportation under the provisions of section 3330 of the Revised Statutes, as amended, all the provisions of which section not inconsistent with this act are hereby made applicable to such withdrawals. And the provisions of existing law relative to an allowance of loss by casualty in a distillery bonded warehouse are hereby made applicable to distilled spirits stored in special bonded warehouses in accordance with the provisions of this act.

SEC. 6. That the tax upon any distilled spirits removed from a distillery warehouse for deposit in a special bonded warehouse, and in respect of which any requirement of this act is not complied with, shall, at any time when knowledge of such fact is obtained by the Commissioner of Internal Revenue, be assessed by him upon the distiller of the same, and returned to the collector, who shall immediately demand payment of such tax, and upon the neglect or refusal of payment by the distiller shall proceed to collect the same by distraint. But this provision shall not exclude any other remedy or proceeding provided by law to enforce the payment of the tax. If it shall appear at any time that there has been a loss of distilled spirits from any cask or package deposited in a distillery warehouse or special bonded warehouse, other than the loss provided for in section 3221 of the Revised Statutes of the United States, which in the opinion of the Commissioner of Internal Revenue is excessive, he may instruct the collector of the district in which the loss has occurred to require the withdrawal from warehouse of such spirits, and to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, less only the allowance for loss provided by law. If the said tax is not paid on demand, the collector shall report the amount due as shown by the original gauge upon his next monthly list, and it shall be assessed and collected as other taxes are assessed and collected.

SEC. 7. That in case any distilled spirits removed from a distillery warehouse for deposit in a special bonded warehouse shall fail to be deposited in such special bonded warehouse within ten days after such removal, or within the time specified in any bond given on such removal, or if any distilled spirits deposited in any special bonded warehouse shall be taken therefrom for export or otherwise without full compliance with the provisions of this act, and with the requirements of any regulations made thereunder, and with the terms of any bond given on such removal, or if any distilled spirits which have been deposited in a special bonded warehouse, shall be found elsewhere, not having been removed therefrom according to law, any person who shall be guilty of such failure, or any person who shall in any manner violate any provisions of this act, shall be subject, on conviction, to a fine of not less than $100 nor more than $5,000, and to imprisonment for not less than three months nor more than three years, for every such failure or violation; and the spirits as to which such failure or violation or unlawful removal shall take place shall be forfeited to the United States.

SEC. 8. That nothing herein contained shall be held to repeal or affect the provisions of the act approved March 3, 1877, entitled "An act relating to the production of fruit brandy and to punish frauds connected with the same," excepting the provisions as to the period of three years therein fixed for the payment of the tax, the exclusive use of the special bonded warehouses therein provided for the storage of brandy made from grapes, and as to the character of the warehousing bonds therein provided.

SEC. 9. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful rules and regulations for carrying into effect the provisions of this act.

SEC. 10. That whenever the owner of distilled spirits shall desire to withdraw the same from the distillery warehouse, or from a special bonded warehouse, he may file with the collector a notice giving a description of the packages to be withdrawn, and request that the distilled spirits be regauged, and thereupon the collector shall direct the gauger to regauge the same, and mark upon each package so regauged the number of gauge or wine gallons and proof-gallons therein contained. If upon such regauging it shall appear that there has been a loss of distilled spirits from any cask or package, without the fault or negligence of the distiller or owner thereof, taxes shall be collected only on the quantity of distilled spirits contained in such cask or package at the time of the withdrawal thereof from the distillery warehouse or special bonded warehouse: *Provided*, That the allowance which shall be made for such loss of spirits as aforesaid shall not exceed 1 proof-gallon for 2 months or part thereof; 1½ gallons for 3 and 4 months; 2 gallons for 5 and 6 months; 2½ gallons for 7 and 8 months; 3 gallons for 9 and 10 months; 3½ gallons for 11 and 12 months; 4 gallons for 13, 14, and 15 months; 4½ gallons for 16, 17, and 18 months; 5 gallons for 19, 20, and 21 months; 5½ gallons for 22, 23, and 24 months; 6 gallons for 25, 26, and 27 months; 6½ gallons for 28, 29, and 30 months; 7 gallons for 31, 32, and 33 months; 7½ gallons for 34, 35, and 36 months; 8 gallons for 37, 38, 39, and 40 months; 8½ gallons for 41, 42, 43, and 44 months; 9 gallons for 45, 46, 47, and 48 months; 9½ gallons for 49, 50, 51, and 52 months; 10 gallons for 53, 54, 55, and 56 months; 10½ gallons for 57, 58, 59, and 60 months; 11 gallons for 61, 62, 63, 64, 65, and 66 months; 11½ gallons for 67, 68, 69, 70, 71, and 72 months; 12 gallons for 73, 74, 75, 76, 77, and 78 months; 12½ gallons for 79, 80, 81, 82, 83, and 84 months; 13 gallons for 85, 86, 87, 88, 89, and 90 months; and 13½ gallons for 91, 92, 93, 94, 95, and 96 months; and no further allowance shall be made: *Provided also*, That the foregoing allowance or loss shall apply only to casks or packages of a capacity of 40 or more wine-gallons, and that the allowance for loss on casks or packages of less capacity than 40 gallons shall not exceed one-half the amount allowed on said forty-gallon cask or package; but no allowance shall be made on casks or packages of less capacity than 20 gallons: *And provided further*, That the proof of such distilled spirits shall not in any case be computed at the time of withdrawal at less than 100 per cent.

SEC. 11. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Mr. MORRILL. Mr. President, after the long, elaborate exposition and defense of the House bill for the extension of warehouse privileges to distilled spirits for the long term of eight years, as I cannot quite agree with my friend, the Senator from Kentucky, in his view of the measure, I think it but fair that the other side should for a few minutes be heard. As the Secretary of the Treasury, a painstaking gentleman of great ability and of the highest character, has made a report against the bill as it came to us from the House, I desire to show that he was fully justified at least in reaching the adverse conclusions presented by him to the Committee on Finance.

The Senator from Kentucky refers to the favorable action and opinion of the Commissioner of Internal Revenue, but I followed the opinion of the Commissioner as to the diminution of revenue when the tobacco bill for a reduction of duties was under consideration and found myself greatly misled. I have very great confidence in the Commissioner, but I expect a year or two hence, if this bill should pass, it will show the Commissioner to have been again greatly mistaken. Such results only show the extreme difficulty of making predictions about the results of amendments to the internal-revenue laws.

The Senator fails to bring out the essential details of the bill and appears to rely mainly for his support of the bill upon its indorsement by the Commissioner of Internal Revenue. When this bill suddenly made its appearance, without the advantage of any public discussion of the measure in the House, I really supposed there might be some impending calamity requiring instant action; and we were told that any delay beyond the 1st of May might be attended by frightful disasters. The House ran away from the storm more promptly, perhaps, than they would from a storm predicted by Vennor; but after all the 1st of May came and has gone, and there is not a cloud visible in the horizon as big as a man's hand. The thunder was all stage thunder.

I do not mean to suggest that there is not a large and a very large

amount of Bourbon whisky in bond upon which the tax will be due within three years from the time it was warehoused, but I do mean to assert that there is not so much now warehoused upon which three years will have run and upon which the tax must be paid in the whole of the coming year as will be required for consumption during the present year. In fact, it would be safe to say there is not half as much as is required for a year's consumption. There is, therefore, no need of any hurry about this bill. If such a bill shall ever be required, it certainly cannot be now, nor for a year to come. We are not called upon to shut our eyes and swallow the bill without a why or a wherefore. I will give the table furnished by the Department showing the exact number of gallons in bond, and the date, month by month, when the tax will become due. By this table it will be seen that the tax on less than a million of gallons will fall due in the next four months, or in all of May, June, July, and August, and for the whole year there are only 8,435,243 gallons upon which the tax must be paid as the law now stands:

Statement by months of all spirits in bond on which the tax matures before and up to May 1, 1883.

Months when produced.	Taxable gallons.	When tax falls due.
1879—April	250,585	1882—May.
May	338,361	June.
June	242,634	July.
July	102,244	August.
August	68,011	September.
September	115,205	October.
October	232,967	November.
November	411,640	December.
December	612,307	1883—January.
1880—January	936,941	February.
February	1,276,587	March.
March	1,768,393	April.
April	2,079,368	May.
Total	8,435,243	

For a time the demand for early action upon this bill was very loud and hot. Since the facts have been brought out about the inconsiderable amount of stock on hand that could possibly be affected the present year the urgency has largely subsided. The Finance Committee is now neither besieged by the agents of interested parties nor overwhelmed by correspondence. Many of those engaged in the business, if their written and oral communications are to be accepted, not only do not hanker after this measure but they doubt its prudence and propriety. Like whisky itself, it is a measure which it may be better to keep a while in abeyance. It is not yet ripe.

There are other parties to be heard. The Government has a large interest at stake and must legislate with that prudence and foresight that will best promote uniformity and stability in its receipts and not stimulate overproduction one year to be followed by a collapse the next. The Government is the largest partner in the business, and under even the existing law takes the largest risks. The distiller of the high wines, from which comes the poor man's whisky, has to pay 90 cents tax per gallon at once, with no leakage for a long series of years deducted, while the whisky of those who are better able and willing to pay for it, nursed and ripened night and day by the care of a United States storekeeper until it has much more than doubled in price, pays no additional duty, nothing in the way even of interest; but the leakage, though it may amount to a quarter part of the whole, is all to be deducted according to the provisions of the House bill.

The distillers of high wines, altogether the most numerous body, can derive no benefit from this bill. The speculators, holding the class of spirits which ripen with age, are to reap all the profit of a further time of storage. Is this justice? Is there not gross wrong in taxing whisky the real value of which is not over 15 to 25 cents a gallon just the same as whisky worth ten times as much, and especially when the chief additional value has been made by the special favor and at the cost of the Government? Obviously so great is the advantage given to one class of old whisky that most of the large distillers of any other sort, or of the common kind, will be compelled in self-defense to change their business, in order that their whisky may be rectified by time and not by any artificial process. No single State, no two or three States, after the passage of such a bill as this, will long have a monopoly of Bourbon whisky. It forebodes and promotes, as I think, a revolution in the whole business.

Under existing laws, all spirits destroyed by fire or otherwise, without fraud or negligence, are exempted from tax. The spirits may be consumed and the owner suffer no loss, if he has been insured, but the Government must lose the whole tax that would otherwise have accrued. The bonding for a long period exposes the Government to greatly increased danger, as it is not insured, and is also much more exposed to fraud by the much greater accumulation of stocks.

The Treasury of the United States has so large an interest in deriving a legitimate and regular revenue from distilled spirits that I feel it to be the duty of Congress to see to it that there is nothing needlessly oppressive in our laws relating to distillers, and to ask nothing but an honest payment of taxes due. At the start our people had been long unused to an excise tax, and did not respond to it with promptitude nor in all places with fidelity. But, re-enforced by public opinion and the interest of honest distillers, the Government has recently been able very fairly to collect its dues. It will be seen by a reference to the many acts of Congress on this subject how we have gradually favored the demands of this business. It may not be without interest to refer to the main provisions of these acts, and see how far away stands the House bill now offered from what heretofore has been regarded as indispensable.

Under the act of July 1, 1862, section 39, a bond for warehousing, approved by collector, was required, but no shrinkage was allowed. Tax to be paid on removal. No material change was made in the act of June 30, 1864, nor in that of March 3, 1865. Act of July 13, 1866, required bonds with two sureties of not less than the amount of taxes on the spirits covered, approved by the Secretary of the Treasury and subject to change or renewal from time to time. Act of March 2, 1867, made no material change. Act of January 11, 1868, prohibited the withdrawal of spirits for any purpose until the full tax was paid. An exception was made for the export of rum June 25, 1868.

The act of July 20, 1868, provided that bonds should be given for the payment of the tax within one year from the date of the bond, and the bond to be not less than double the amount of the tax. Section 7 of this act required a bond of not less than double the amount of tax accruing on the quantity that could be distilled in the distillery during a period of fifteen days.

The act of January 11, 1868, prohibited the transfer of spirits from a distillery warehouse to any general warehouse, and also required tax-paid spirits to be withdrawn within nine months after the passage of the act.

The act of June 6, 1876, permitted spirits to be withdrawn for export without payment of tax thereon.

The act of February 21, 1876, permitted alcohol, free of tax, to be withdrawn for preserving specimens of anatomy by scientific institutions, and the act of March 1, 1879, authorized a like withdrawal of alcohol for the manufacture of medicines and perfumery for export.

Act of March 28, 1878, extended time of payment of taxes to three years from time of deposit in warehouse, but interest at the rate of 5 per cent. was required after the first year. The tax on spirits destroyed by fire, or otherwise without fraud or negligence, was also remitted.

Act of May 28, 1880, amended the act of 1868, requiring bonds to be in double the amount of the tax, so as to require not less than the amount of the tax on the spirits, and three years' warehousing, was continued, but the 5 per cent. interest was dropped.

Up to 1868 the practice was to allow a reasonable percentage for leakage, but there was no law for it.

When spirits were exported they were regauged and tax collected upon all deficiencies; but the act of May 28, 1880, allows leakage according to the schedule there provided. The act of December 20, 1879, allowed for leakage or unavoidable loss from transportation from distillery warehouse for exportation.

From this brief synopsis of these laws for the past twenty years it appears that the tax secured by bonds was to be paid on removal, and no shrinkage allowed, from 1862 to 1866. Then two sureties were required, and the bonds were subject to change and renewal. No material change then occurred until 1868, and then no spirits were to be withdrawn until the full tax was paid, except rum for export. In July, 1868, it was provided that the bonds should be given for the payment of the tax within one year, and of not less than double the amount accruing on the quantity which could be distilled in the distillery during a period of fifteen days. The act of January, 1868, prohibited the transfer of spirits from a distillery warehouse to any general warehouse, and required tax-paid spirits to be withdrawn within nine months after the passage of the act.

In 1876 the export of spirits was permitted without any payment of tax, and alcohol for the use of scientific institutions was allowed free. This privilege was extended in 1879 to alcohol used in medicine and perfumery for export.

In 1878 the time for the payment of the tax was extended to three years, with interest at the rate of five per cent. after the first year, and the tax on spirits destroyed by fire or otherwise, without fraud or negligence, was also remitted. In 1880 bonds were no longer to be double, but not less than the amount of the tax, and all interest was dropped.

The many frauds that occurred in 1866, 1867, and 1868 required rather rigorous measures for their repression, but since then the demands of the distillers have generally been very liberally conceded.

If there is any embarrassment now in the business of distillers it mainly arises from the laws of 1878 and 1880, which permit spirits to be held three years before the payment of any tax, and allows from that for any shrinkage. These laws were passed at the urgent request of distillers, and now the only mode of relief asked for by them from an immense overproduction in prospect is a further and prolonged eight years' extension of time for warehousing without payment of the tax, but with an allowance for shrinkage of nearly double the amount which the experience of the Internal Revenue Office shows has heretofore occurred. I am persuaded that the evil of which the holders of distilled spirits now complain would be aggravated by the pending measure, and that if it should unfortunately pass every suc-

ceeding year would find them more deeply involved. The sore, now perhaps confined to one district, would be scattered all over the country and prove remediless.

The claim upon the part of the supporters of this bill is that it is founded upon the principle of taxing only on consumption, and that that should be a rule of universal application. But it will at once be seen that such a rule is not observed in our foreign importations of any sort. Spirits from abroad may be warehoused and withdrawn within one year upon the payment of all duties and charges, but if they remain any longer they are subject to 10 per cent. additional duty, and no shrinkage is allowed from the quantity originally entered. At the end of three years all merchandise warehoused, if not taken out and all duties paid, is treated as abandoned and is sold at public auction. I will read the sections of the Revised Statutes as the law has been maintained for uncounted years:

SEC. 2970. Any merchandise deposited in bond in any public or private bonded warehouse may be withdrawn for consumption within one year from the date of original importation on payment of the duties and charges to which it may be subject by law at the time of such withdrawal; and after the expiration of one year from the date of original importation, and until the expiration of three years from such date, any merchandise in bond may be withdrawn for consumption on payment of the duties assessed on the original entry and charges, and an additional duty of 10 per cent. of the amount of such duties and charges.

SEC. 2971. * * * Any goods remaining in public store or bonded warehouse beyond three years shall be regarded as abandoned to the Government, and sold under such regulations as the Secretary of the Treasury may prescribe, and the proceeds paid into the Treasury. * * *

Now, if these provisions of law are proper—and they have never been disputed—in relation to the importers of spirituous liquors, why should they not be equally applicable to distillers, or to those who may be induced to buy American whisky in bond? Neither importers nor distillers would wish to pay duties until they can put their merchandise upon the market for consumption; but no inducement should be held out by the Government for overstocking the market, and only a reasonable time should be granted to dealers who have been temporarily caught on a falling market for their escape. Three years would, therefore, seem equal to all that should be demanded.

If it be suggested that this rule has not been applied to the internal-revenue tax upon tobacco and fermented liquors, it must be borne in mind that tobacco and fermented liquors do not improve by protracted age, and the interest of holders promptly forces such articles upon the market. The interests of the Government and of the holders coincide, and there is little or no opportunity for fraud from any delay. Tobacco and ale or beer by no means furnish a parallel case with that of whisky, when the article is constantly and largely increasing in value, and when the temptations to fraud and corruption are both great and ever present.

By the bill as it came to us from the House the chief burden and risk is thrown upon the Government, which must wait for its revenue for many years, not only without interest, but with a very large and excessive reduction of leakage from the amount at the date of the original entry to the warehouse. The Government must furnish gaugers and storekeepers, and take the risk that they will remain for the longest period incorruptible, and that they will always prove capable of detecting fraud. No one can pretend that this risk will not be vastly increased if the warehousing period shall be extended from three years to eight or even to five years. I do not mean to say that fraud is more to be expected from distillers than from any other class of men, but the whisky in bond will be largely owned not only by distillers but by speculators and those who buy for a rise in the market price. We multiply the chances of fraud by lengthening the term during which the Government is to remain as custodian, and also increase the temptation by immensely increasing the quantity to be looked after.

One large source of profit to the distiller is often found in the charge he makes of $1 per barrel upon the buyer for annual storage. Thus for the storage of 25,000 barrels a rental may be obtained of $25,000.

By the terms of the bill bonds were to be given, not for the payment of all taxes upon the spirits in the warehouse, but only upon such as should be withdrawn, and the bonds were to be given annually. The penal sum of one class of bonds is $160,000, with a right to store 30,000 barrels, upon which the tax would amount to over a million of dollars. This would seem to be taking too much on trust. Ten days' time is also given for the transportation of spirits from the distillery warehouse to a special warehouse, but there is no provision which would show how much is landed at the special warehouse, whether whisky or water, and these facts might not be found out for years to come. No more easy gateway to fraud could well be provided.

It is strange that the framers of this bill should not have included spirits made from fruit, the class of spirits that derives most advantage from age. Brandy made from grapes or peaches very largely and for many years increases in value through age; and the throat of a bronze statue would not withstand the flow of fresh juvenile apple brandy. It requires age to make it tolerable anywhere. The raw material for fruit brandy of any kind costs more than twice as much as the raw material for whisky. Why, then, should it not have fair play? Age is indispensable to make it marketable, and for a given quantity as much labor and more capital are required. Surely if spirits from grain should be exempt from tax until they increase fourfold in value, the same favor should be extended to brandy made of grapes, peaches, and apples.

The tax on brandy made from fruit must by existing law be paid within four months, and no deduction whatever is allowed for shrinkage. If the tax should hereafter be reduced or wholly removed, the holders of high wines or fruit-brandy will have paid more, or perhaps have paid taxes for three successive years after such tax has ceased upon the grain distillers, who make what is called Bourbon whisky, the price of which advances so rapidly with age. But the fruit distillers would not have asked for any favor except for the example of a portion of the grain distillers, whose profits have always been in excess of their own.

The sole purpose of the Government in levying a tax on spirituous drinks is revenue. At the same time I am ready to confess that I should be glad to see any evidences of increased thrift of our people by a diminished consumption. But while the consumption was less for some years after the panic of 1873, it has risen again in 1881 to high-water mark, and the consumption of spirits was 68,073,773 gallons as compared with 66,329,154 gallons in 1873, and of fermented liquors it was 410,368,700 gallons against 276,235,513 gallons, being an increase of nearly 50 per cent. This is a very large increase of the use of fermented liquors, now equal to over 8 gallons per capita, reckoning 50,155,783 as our population, but it is much less than the 27½ gallons per capita consumed by the people of Great Britain. These liquors are likely to furnish a basis of more or less revenue for some years to come, and it is important, whatever may be the amount, that it shall be so regular and stable as to permit a Secretary of the Treasury to make at least an approximate estimate of the amount of revenue which may annually be derived from this source.

But the privilege of exemption from tax for three years of spirits in a general warehouse and the large profits for the past two years has opened a new field of investments to all the wildest speculators in the land. We have only to look at the facts to see that the extension of the bonding period to three years has already more than doubled the production of 1881 compared with 1871, and the bill of the House proposes to add five years more to that unfortunate extension. Last year, with a sudden increase up to 32,640,000 gallons of spirits in warehouses, the Commissioner of Internal Revenue called attention to what he thought was an overproduction and a danger of loss. This year, with the immense stock on hand more than doubled, he would have us believe that it will soon cause a reduction of the product if we will only open the door twice or thrice as wide to pile it up still higher.

Under this system, broadcast and taking root all over the country, the amount of tax-paid spirits to be withdrawn annually for consumption becomes of all things a most uncertain quantity. The owners may withhold their stock from market, and assess their association to sustain their weaker brethren, as they have done to meet the losses on the exportation of alcohol; or they may, crippled in credit, be overtaken by a panic, and let millions of overproduction at once slide upon a market already dizzy and glutted.

It may be urged that the self-interest of distillers and of all the dealers will in the end regulate production; and so it will, but it will regulate it by a catastrophe if we provide by legislation a trap into which many innocent men are sure to be enticed. What has been profitable once and for a few, may not be again when open to many. No Secretary of the Treasury can forecast the result or estimate his resources a year in advance derived from a commodity subject to so many contingencies.

If spirits were to remain warehoused to ripen in anything like equal time from the date of their entry, then when the time arrives for the payment of the tax upon the production of 1880 it will be more than twice the amount falling due upon that of 1878, and when the tax upon the production of 1881 falls due it will be more than twice the amount of that of 1880. With an extension and perpetuation of the system a large augmentation of bonded spirits will for a time be sure to occur, and then possibly a declension may occur, bringing many interested parties to grief. Through it all it is clear to see that the Treasury will be exposed to a possible difference of not less than $30,000,000 of taxes in its receipts, contrasting one year with another, and such results cannot fail to be disadvantageous to the Government and disastrous to the whole distilling interest. Last year 117,728,150 gallons of spirits were produced, an amount greatly in excess of any possible consumption. At this rate there can be no demand for it unless we make it a legal tender.

This bill is likely to pass in some modified form, but still with some extension of the three years now allowed for spirits to remain in bond. Believing this will only postpone the evil day, and that in the end the ill effects of overproduction will be surely perpetuated and become incurable, I must decline to support the measure. Already there is an overstock of raw whisky which the holders are in haste to ripen, and so soon as there is an overstock of rectified and of fully ripened whisky, the distillers may bid farewell to any assured and regular profits upon their business. The Government will also then find itself with an unstable and precarious revenue.

The difficulty now arises primarily from the bonding period of three years, and secondly from the agitation of the repeal or partial repeal of the tax on spirits. The first mistake is now not easily to be remedied. The last might be if the House of Representatives should send us a bill fixing the tax, without too large a concession, where it

would be likely to remain and endure permanently. With such an arrangement there would be no loss of revenue to the Government, and those engaged in the business of distilling spirituous liquors would be vastly better off than they are likely to be with an extension of an experiment which has already brought forth bitter fruits, with the promise of a greater similar harvest in the near future.

Mr. WILLIAMS. Mr. President, I wish to say just one word. I have very decided views on this question, but I shall not undertake to ask the Senate to hear me until the bill itself comes before us from the committee. I wish to be enlightened by the committee, and shall not attempt to enlighten the committee myself. I hope the committee will report the bill at a very early date, so that I may be heard upon the measure itself.

Mr. BAYARD. Mr. President, without the slightest reflection upon the gentlemen who have been taking part in this discussion, I cannot but regard it as a very anomalous thing. The House of Representatives passed and sent a bill here relating to the period for the bonding of distilled spirits. It was referred to the Committee on Finance three or four weeks ago. The committee proceeded to consider the bill; and pending that consideration a very grave suggestion or a charge was made by an honorable Senator of this body in respect of the means by which that bill passed the House of Representatives and by which its passage was to be effected in the Senate. The result was that upon the motion of that honorable Senator a special committee was raised for the purpose of inquiring into the facts. Nothing else could be done and nothing less could be done than such an inquiry, which I trust the honorable Senator having it in charge will continue, and probe to the very bottom.

But in the mean time, in the orderly and usual consideration of its measures the Committee on Finance had proceeded; and (without improperly referring to the action in committee) I think I may say, in accordance with the facts which were published to the world in all the papers, that on Friday last this subject was committed with instructions to two members of that committee, the honorable Senator from Vermont [Mr. MORRILL] for one and me for the other, and that we have met and performed the duty assigned us by the committee, and the result of our labors is probably in print as I speak; it will be reported to the whole committee to-morrow morning at their regular meeting hour, and I fully expect that it will be reported back to the Senate at twelve o'clock to-morrow when the Senate meets.

When that measure amended, or in whatever shape it may be presented to the Senate, comes up, it will be exceedingly proper at any time to have it discussed and acted upon. It touches a very important question of public revenue; it touches a very important branch of the business of the country. It involves not simply the manufacture of distilled spirits, but it connects itself importantly with the food question of the country; it connects itself importantly with the foreign commerce of the country. There is no branch of public business but what is interlaced, intertwined with all others.

This business of distilling has been made compulsory upon a great many, or rather the production from stills has been made compulsory upon a very large interest in this country by the contracts made to feed swine and cattle with the slop from the distilleries. The contracts cannot be made for a month, but they must be made for a continuous season, during which time distillation must continue, profitable or unprofitable, for the purpose of fulfilling these large beef and swine contracts. Therefore under these circumstances an accumulation of one portion of this business, that is the production of distilled spirits, has gone on compulsorily, and there is no doubt the market has been overstocked. The distillers cannot arrest the production because their business engagements in the line of connection I have mentioned compel them to continue their distillation, whether profitable or not.

Another fact has occurred. A proposition has been made in the other House to diminish the tax upon whisky nearly one-half, to make it 50 cents instead of 90 cents a gallon. The tax is to-day nearly five or six times the value of the product upon which the tax is laid. The system is, as the Senate can see, a highly artificial system, to create an article the value of which is to the Government five-sixths of the whole, and to the owner but the remaining one-sixth. Every regulation that affects an article so egregiously taxed—I do not say improperly—becomes important. Every regulation affects it. Every proposition to change the tax, either to lower it or to increase it, necessarily has a very large effect upon the market. The proposition to diminish that tax from 90 to 50 cents has paralyzed the trade and prevented consumption, because obviously no one desires to anticipate a supply which can be had at a lower rate by delaying the purchase. Therefore, all purchases have been delayed, waiting this promised or expected diminution in the duty that they may buy at a lower rate by delay.

This is the condition of this matter. It must be treated by Congress as a simple business proposition, in which those engaged in it, those who make this supply of a product so fruitful of revenue to the country, must not be treated otherwise than the other important and honorable business of this country. I can understand the vein of resentment that ran through the remarks of the Senator from Kentucky, in which he seemed to consider that there was an impugnment of a large body of his constituents engaged in this traffic, simply by reason of the nature of their traffic. Without commenting at all upon his facts or his views as to the wisdom of this bill, because this bill is not before us, and I shall have something to say, probably, when it does come before us, I merely wish to remark that this is a business proposition; it is a revenue law. The parties engaged in this business are citizens of the United States; their business is as honest and as honorable as any other, and we are to treat it, when it does come before the Senate in a proper shape, precisely in accordance with the true laws of economy from beginning to end.

I hope, sir, that this bill will be brought into the Senate to-morrow in the amended shape which the committee has directed, and that when it comes here it will be soon disposed of by the Senate. Large and important interests await the decision of Congress. There is a great deal of apprehension lest Congress may adjourn without action on this subject; and when the bill has been brought before the Senate, I trust that there will be no unnecessary delay in dealing finally and certainly and justly by the very important subject to which it relates, but I apprehend the present discussion has been premature.

Mr. WINDOM. I should like to make a single remark in reply to the Senator from Delaware on this subject. The Senator from Delaware, without intending it, has placed me in a false position as to what I stated some days ago. I did not say anything about means by which the bill passed the House of Representatives. I never intimated, for I never had a suspicion, that any member of the House of Representatives or of the Senate had been improperly influenced. I never intimated, therefore, that any improper means had been used on any member of Congress. I did say this: that I was informed by what I believed to be good authority that very large sums of money had been raised for the purpose of promoting the passage of this measure. Whether I was correctly informed I do not know, and I so stated on that occasion; but the fact stated by the Senator from Kentucky to-day, if the investigation reveals nothing else, was certainly enough to furnish a foundation for that statement.

I had been told of firms being taxed $5,000; I had been told of other very large sums of money being raised, and believing, as I then did, and now do, that this bill opens a wider door for fraud than any I have ever known in my twenty-odd years' experience in Congress, I, with others, came to the conclusion that this money was raised for that purpose. I propose to go on with this investigation and give these gentlemen an opportunity to explain, but I repeat that the remarks made by the Senator from Kentucky are ample to justify the belief of those who were not in the secret, as he seems to have been, of what was going on, that this money was raised for some purpose which was worthy of investigation. It was raised, as I understand from the Senator from Kentucky, about the time that the parties came here; I will not call it a ring, but about the time that the friends of this measure came here for the purpose of passing the bill. Am I mistaken in that? The money being raised about that time, and taking that fact in connection with the character of the bill, when we are told that $600,000 was raised in that way, I think I was justified in asking an investigation. If there is nothing else but what the Senator from Kentucky has said, I am perfectly willing and shall be glad to say to the Senate that I was mistaken in its purpose. But what I rose to say was that I never in the most distant manner implicated or attempted to implicate any Senator or member of the House in any matter connected with this money transaction.

One word further, Mr. President. I do not want to discuss this measure at present; I propose to do that when it comes before the Senate; but I differ with the Senator from Kentucky as widely as it is possible for one Senator to differ from another in the construction to be placed upon this bill. I shall attempt to show when the bill comes before the Senate what I now believe, that if you put together all the doubtful measures which have come before Congress during the last twenty-five years, they do not altogether open as wide a door for defrauding the Government as does this bill.

Mr. CONGER. I rose for the purpose of moving that the Senate proceed to the consideration of executive business, but I am informed that the Senator from Kansas [Mr. PLUMB] desires to go on with some remarks upon the bill now pending before the Senate. If he wishes to do so, I yield.

Mr. SHERMAN. What is the pending bill?

Mr. PLUMB. I was under the impression that there was unfinished business before the Senate, but it seems I was mistaken. I have nothing to say. The Senate may proceed as it sees fit.

The PRESIDENT *pro tempore*. Does the Senator from Michigan move an executive session?

Mr. ALLISON. I ask for the regular order first.

Mr. CONGER. If the Senator from Kansas desires to go on with his remarks this evening I shall not make the motion.

Mr. PLUMB. I have changed my mind. I have no remarks to make on the subject. I have given way, as the Senate has taken the business out of my hands entirely. I am content now with whatever order the presiding officer and the Senate shall take.

Mr. SHERMAN. What is the unfinished business?

The PRESIDENT *pro tempore*. The unfinished business will be laid before the Senate.

The PRINCIPAL LEGISLATIVE CLERK. "A bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes."

The PRESIDENT *pro tempore*. The Chair would state that the Senator from Kentucky [Mr. BECK] had the right by courtesy to address the Senate at two o'clock.

Mr. BECK. My resolution may be indefinitely postponed or withdrawn, I do not care which.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business, which is Senate bill No. 67. Does the Senator from Kentucky wish any disposition made of his resolution?

Mr. BECK. Let it be indefinitely postponed.

The resolution was postponed indefinitely.

MILITARY LAND-WARRANT LOCATIONS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes.

Mr. MORGAN. I offer an amendment to the bill with a view of having it printed. Let it be read.

The PRESIDENT *pro tempore*. The proposed amendment will be read.

The PRINCIPAL LEGISLATIVE CLERK. It is proposed to insert as an additional section the following:

SEC. 3. None of the money to which any State shall become entitled under this act shall be retained by the United States on account of any deposits of public money made with any State under the provisions of "An act to regulate the deposits of the public money," approved June 23, 1836, nor shall any of such money be retained by the United States for or on account of any direct tax remaining due and unpaid from any State or the people of any State or their property, to the United States under "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861. And any sums of money apportioned to either of the States under the last-mentioned act as taxes remaining due to the United States, and any sum of money remaining due to the United States from any of the States under each of the aforementioned acts, is hereby remitted; and such debts, from and after the passage of this act, are canceled and discharged.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 328) to provide for the sale of the lands of the Miami Indians in Kansas.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 6018) to amend section 4919 of the Revised Statutes, relating to the recovery of damages for the infringement of patents; and

A joint resolution (H. R. No. 145) to pay Frank L. Donnelly as page of the Forty-fifth Congress.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 3208) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes; and

A bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of the Interior, submitting a copy of a letter from the Commissioner of Pensions inviting attention to the fact that the "deficiency" appropriation of $16,000,000 to meet the June payment of Army pensions should be available as early as the 25th instant, if practicable, in order to avoid any delay in payment.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 15, 1882.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication, dated the 11th instant, from the Secretary of the Interior, together with estimate of appropriation and accompanying papers, to provide in accordance with treaty stipulations and existing laws for the payment of certain interest due the Osage Indians.

The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 15, 1882.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which, on motion of Mr. HOAR, was ordered to lie on the table and be printed:

To the Senate of the United States:

I transmit herewith a report of the Secretary of State with accompanying papers, submitted in response to the Senate resolution of the 21st of March last, requesting a copy of instructions given to Mr. George F. Seward, when minister to China, concerning Chinese immigration, &c., and Mr. Seward's dispatches on that subject.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 15, 1882.

HOUSE BILLS REFERRED.

The bill (H. R. No. 6018) to amend section 4919 of the Revised Statutes, relating to the recovery of damages for the infringement of patents, was read twice by its title, and referred to the Committee on Patents.

The joint resolution (H. R. No. 145) to pay Frank Donnelly as page of the Forty-fifth Congress, was read twice by its title, and referred to the Committee on Appropriations.

BILLS INTRODUCED.

Mr. LAPHAM asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1886) donating four condemned cast-iron cannon for the soldiers' monument at the village of East Bloomfield, New York; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. JACKSON (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1887) for the payment of certain awards in favor of parties therein named; which was read twice by its title, and referred to the Committee on Claims.

THE CIVIL SERVICE.

Mr. HAWLEY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 2,000 extra copies of the report and evidence accompanying Senate bill No. 133 be printed for the use of the Senate.

REPORT WITHDRAWN.

Mr. MCMILLAN. This morning I reported from the Committee on Commerce the bill (S. No. 1810) to authorize the Rock Island and Southwestern Railway Company to construct a bridge over the Mississippi River at New Boston, State of Illinois. I ask leave to withdraw the bill as reported for the purpose of making a correction in the amendments.

The PRESIDENT *pro tempore*. Leave is granted, there being no objection.

EXECUTIVE SESSION.

Mr. CONGER. I now renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and seventeen minutes spent in executive session the doors were reopened, and (at five o'clock and fifty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 15, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER, D. D.

The Journal of Saturday's proceedings was read and approved.

ORDER OF BUSINESS.

Mr. SPAULDING. I ask unanimous consent to take from the Private Calendar the bill (H. R. No. 804) for the relief of Robert Gorthy and Calvin Green for present consideration.

Mr. RANDALL. I demand the regular order.

The SPEAKER. The regular order is the call of States and Territories for bills and joint resolutions for printing and reference. Under this call, also, joint and concurrent resolutions and memorials of State and Territorial Legislatures may be presented for reference, and also resolutions of inquiry addressed to the heads of Executive Departments for reference to appropriate committees.

NEW ORLEANS AND NORTHEASTERN RAILROAD COMPANY.

Mr. SHELLEY introduced a bill (H. R. No. 6190) providing for the sale of public lands in the States of Mississippi and Louisiana to the New Orleans and Northeastern Railroad Company; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

COAL AND IRON LANDS IN ALABAMA.

Mr. SHELLEY (by request) also introduced a bill (H. R. No. 6191) to regulate the sale of coal and iron lands in the State of Alabama; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

HOMESTEAD SETTLERS.

Mr. CRAVENS introduced a bill (H. R. No. 6192) granting additional rights to homestead settlers; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

W. JASPER BLACKBURN.

Mr. JONES, of Arkansas, introduced a bill (H. R. No. 6193) for the relief of W. Jasper Blackburn; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

JOSEPH W. SPARKS.

Mr. MARTIN introduced a bill (H. R. No. 6194) to remove the charge of desertion from the military record of Joseph W. Sparks; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC BUILDING—NEW CASTLE, DELAWARE.

Mr. MARTIN also introduced a bill (H. R. No. 6195) to provide for the erection of a public building at New Castle, Delaware; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

WILLIAM HEDGPETH.

Mr. CLEMENTS introduced a bill (H. R. No. 6196) for the relief of William Hedgpeth; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

JOHN A. REDMAN.

Mr. THOMAS introduced a bill (H. R. No. 6197) granting a pension to John A. Redman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH H. FENTON.

Mr. CARPENTER introduced a bill (H. R. No. 6198) to rerate the pension of Joseph H. Fenton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES S. DASKAM.

Mr. UPDEGRAFF, of Iowa, introduced a bill (H. R. No. 6199) granting a pension to James S. Daskam; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARTIN RAFF.

Mr. FARWELL, of Iowa, introduced a bill (H. R. No. 6200) for the relief of Martin Raff; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

POSTAL REVENUE.

Mr. ANDERSON submitted the following resolution of inquiry; which was read, and referred to the Committee on the Post-Office and Post-Roads:

Resolved, That the Postmaster General be requested to report to this House before December 10, 1882, the number of letters and postal cards, the number of articles of second-class matter, and the number of parcels of third and of fourth class matter mailed in the United States annually; also the amount of revenue derived from and the cost of transportation and handling of each class.

And in order to enable him to furnish above data with greatest attainable accuracy he is hereby authorized to expend out of the regular appropriation for transportation of mails a sum not exceeding $50,000 for extra clerk hire needed for this purpose at the larger post-offices and in the Department.

JOHN W. TAYLOR.

Mr. RICH (by request) introduced a bill (H. R. No. 6201) to rerate the pension of John W. Taylor; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MISSISSIPPI JUDICIAL DISTRICTS.

Mr. LYNCH introduced a bill (H. R. No. 6202) to divide the State of Mississippi into two judicial districts, and to provide for the appointment of an additional district judge; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FEDERAL ELECTION LAW.

Mr. LYNCH also introduced a bill (H. R. No. 6203) amendatory of the Federal election laws; which was read a first and second time, referred to the Committee on Elections, and ordered to be printed.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. LYNCH also introduced a bill (H. R. No. 6204) to reimburse the depositors of the Freedman's Savings and Trust Company for losses incurred by the failure of said company; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

PROTESTANT ORPHAN ASYLUM OF NATCHEZ, MISSISSIPPI.

Mr. LYNCH also introduced a bill (H. R. No. 6205) making an appropriation to reimburse the trustees of the Protestant Orphan Asylum of Natchez, Mississippi, for the destruction of certain property and for the use of the asylum building by the United States authorities during the recent war; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JACOB SWOFFORD.

Mr. BURROWS, of Missouri, introduced a bill (H. R. No. 6206) for the relief of Jacob Swofford; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SAMUEL S. VINTON.

Mr. HASELTINE introduction a bill (H. R. No. 6207) for the relief of Samuel S. Vinton; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MARIA E. BRIERLY AND OTHERS.

Mr. HASELTINE also introduced a bill (H. R. No. 6208) for the relief of Maria E. Brierly, Eveline Brierly, Pauline Dumars, (late Pauline Brierly,) and Thomas H. Brierly, jr.; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

REFUND OF DUTIES ON HAY.

Mr. SKINNER introduced a bill (H. R. No. 6209) to authorize the Secretary of the Treasury to refund certain duties on hay; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

SLAUGHTER OF BUFFALOES, ETC.

Mr. HEWITT, of New York, introduced a bill (H. R. No. 6210) to amend section 2137 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

AMERICAN CITIZENS IN BRITISH PRISONS.

Mr. ROBINSON, of New York, submitted the following resolution of inquiry; which was read, and referred to the Committee on Foreign Affairs:

Resolved, That the President is hereby requested to communicate to this House whether certain papers and correspondence regarding American citizens in British prisons communicated to the British Parliament or published in London have been received at the State Department, and whether this House may expect the additional correspondence called for by its resolution of the 25th ultimo; whether any persons claiming to be American citizens still remain in British prisons without allegation of crime or prospect of speedy trial; whether any proposition has been made to coerce American citizens to so degrade their citizenship as to accept release from unjust imprisonment by accepting it on degrading conditions; whether any person holding office under the United States has offered money to those citizens to induce them to accept release under these degrading conditions, and if so, by what alleged authority; and whether a letter alleged to be from Lord Granville, which Mr. West was to read to Mr. Frelinghuysen, leaving with him a copy, dated April 6, 1882, and published in the newspapers of this country and Great Britain, worse in tone and temper than the Austrian letters of Chevalier Hulseman, so properly answered by Webster and Marcy, has been received at the State Department, and what answer has been given to its impudent suggestions.

JAMES ROBERTS.

Mr. PEIRCE introduced a bill (H. R. No. 6211) for the relief of James Roberts; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NORMAN COMSTOCK.

Mr. PEIRCE also introduced a bill (H. R. No. 6212) granting a pension to Norman Comstock; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALEXANDER PIERSON.

Mr. RITCHIE introduced a bill (H. R. No. 6213) to rerate the pension of Alexander Pierson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

VOLUNTEER OFFICERS NOT MUSTERED.

Mr. MOREY introduced a bill (H. R. No. 6214) for the relief of officers of the volunteer army who were commissioned but not mustered; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

E. G. PENN.

Mr. MOREY also introduced a bill (H. R. No. 6215) granting a pension to E. G. Penn; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMERICANS IN FOREIGN PRISONS.

Mr. ALDRICH presented a preamble and joint resolution of the thirty-second General Assembly of the State of Illinois, demanding the speedy trial or unconditional release of American citizens now in foreign prisons; which was referred to the Committee on Foreign Affairs.

JOHN M'KLVEEN.

Mr. WISE, of Pennsylvania, introduced a bill (H. R. No. 6216) for the relief of John McKlveen; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD W. POWER.

Mr. RANDALL introduced a bill (H. R. No. 6217) granting an increase of pension to Edward W. Power; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HANNAH E. ALDEN.

Mr. JADWIN introduced a bill (H. R. No. 6218) granting a pension to Hannah E. Alden; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

INDIAN DEPREDATIONS.

Mr. JONES, of Texas, introduced a bill (H. R. No. 6219) to repeal section 2098 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered o be printed.

P. HILL.

Mr. HOUK introduced a bill (H. R. No. 6220) for the relief of P. Hill; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIZABETH RUTROFF.

Mr. HOGE (by request) introduced a bill (H. R. No. 6221) granting a pension to Elizabeth Rutroff; which was read a first and second

time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE RITTER.

Mr. HOGE (by request) also introduced a bill (H. R. No. 6222) for the relief of George Ritter; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

JASON H. TIBBITS.

Mr. CASWELL introduced a bill (H. R. No. 6223) for the relief of Jason H. Tibbits; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN W. BRISBOIS.

Mr. CASWELL also introduced a bill (H. R. No. 6224) for the relief of John W. Brisbois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

INCREASE OF CLERKS IN WAR DEPARTMENT.

Mr. HOLMAN submitted the following resolution; which was read and referred to the Select Committee on the Payment of Pensions, Bounty, and Back Pay:

Resolved, That the Secretary of War be, and he is hereby, directed to inform the House whether an increase of clerical force in his Department is necessary to enable the Adjutant-General to more promptly respond to calls for information made on his Department by the Commissioner of Pensions in the investigation of claims for pensions; and if so, what increase of clerical force is necessary for that purpose.

ALLEY-WAYS IN WASHINGTON.

Mr. CASSIDY introduced a bill (H. R. No. 6225) to authorize the changing of alley-ways in the city of Washington; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

SARAH ROBB.

Mr. CANNON introduced a bill (H. R. No. 6226) granting a pension to Mrs. Sarah Robb; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHEROKEE INDIAN LANDS.

Mr. SPAULDING (by request) introduced a bill (H. R. No. 6227) to provide for the sale of lands of the Eastern Band of the North Carolina Cherokee Indians; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

SALE OF BROOKLYN NAVY-YARD.

Mr. BLISS introduced a bill (H. R. No. 6228) to provide for the sale and removal of the navy-yard at Brooklyn, New York; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

Mr. BLISS. I ask unanimous consent to have printed in the RECORD a communication from the mayor of Brooklyn and some resolutions adopted by the city council of Brooklyn upon this subject. This correspondence is in reply to a request by the Committee on Appropriations of this House made to me to obtain some expression of opinion on the part of the city authorities of Brooklyn in reference to the sale of the Brooklyn navy-yard.

There was no objection, and it was so ordered.

The communication and resolutions are as follows:

MAYOR'S OFFICE,
Brooklyn, New York, May 13, 1882.

DEAR SIR: In response to your communication with reference to the proposed removal of the New York navy-yard from Brooklyn, I have the honor to inclose a copy of resolutions passed by the board of aldermen on Monday last in answer to your inquiry.

These resolutions, I believe, represent fairly the sentiment of our people so far as Brooklyn alone is concerned. While, as mayor of Brooklyn, I have signed the resolutions, I cannot refrain from saying that in my own judgment the interests of the port and of the country demand emphatically that there should be a navy-yard somewhere in the harbor of New York.

I am, dear sir, respectfully,

SETH LOW, *Mayor*.

Hon. ARCH. M. BLISS, *Washington, D. C.*

CITY CLERK'S OFFICE, *Brooklyn, May* 12, 1882.

SIR: You are hereby notified that at a meeting of the common council, held on Monday, May 8, 1882, a resolution, of which the annexed is a copy, was adopted:

Whereas an expression of opinion on the part of the mayor and common council of this city has been requested as to the interest of the city in connection with the proposed removal of the Brooklyn navy-yard:

Resolved, That in the judgment of this board the interests of Brooklyn will be greatly promoted by the removal of said navy-yard, thereby opening to private enterprise the valuable water-front and large extent of land now held by the General Government, and we earnestly request our representatives in Congress to favor the removal of the same.

Resolved, That the city clerk be, and he hereby is, authorized and directed to transmit a copy of the above to our representatives of Congress.

The above resolution was approved by the mayor on the 13th day of May, 1882.

Attest:

[SEAL.] WILLIAM J. TATE, *City Clerk*.

BUILDING IN WHICH PRESIDENT LINCOLN DIED.

Mr. HENDERSON. I ask unanimous consent to offer for adoption the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Committee on Public Buildings and Grounds be authorized and directed to inquire into the propriety of purchasing for public use the south half of lot numbered 14, in square numbered 347, in the city of Washington and District of Columbia, with the appurtenances thereunto belonging, and for what sum the same can be purchased; and that they report by bill or otherwise.

Mr. HENDERSON. I hope there will be no objection to the adoption of this resolution. It simply directs the Committee on Public Buildings and Grounds to inquire into the propriety of purchasing a certain lot therein described.

Mr. REAGAN. For what purpose?

Mr. HENDERSON. The building in which Abraham Lincoln, late President of the United States, died, is situated on this lot.

There being no objection, the resolution was considered and adopted.

Mr. HENDERSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. This being the third Monday of the month, the regular order under the rules is the consideration of motions to suspend the rules, preference being given on this day to motions made under instruction of committees.

Mr. RANDALL. From the announcement just made, I presume the Chair does not hold that the special order relating to national banks is of such a character as to interfere with the order of business just stated by the Chair.

The SPEAKER. The Chair has not been called on to decide that question. He thinks it his duty under the rules to proceed with the call of committees for motions to suspend the rules.

Mr. RANDALL. The gentleman in charge of the bank bill does not call it up.

The SPEAKER. The gentleman has not called it up. On the third Monday of last month the Committee on Education and Labor was the last committee called for a motion to suspend the rules. The next committee in order under this call is the Committee on the Militia.

REORGANIZATION OF THE MILITIA.

Mr. STRAIT. I am directed by the Committee on the Militia to move that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4705) to amend title 16 of the Revised Statutes, relative to the militia, and that the same be now put on its passage.

Mr. SPRINGER. I wish to demand a second upon this motion.

Mr. HOLMAN. Will the entire bill be read?

The SPEAKER. It will be.

Mr. HOLMAN. I wish to demand a second.

The SPEAKER. The gentleman from Illinois [Mr. SPRINGER] has already given notice of his intention to demand a second. The Chair holds that it is in order to make that demand immediately after the reading of the bill.

The Clerk read as follows:

Be it enacted, &c., That every able-bodied male citizen resident within the respective States and Territories, between the ages of eighteen and forty-five, shall be enrolled in the militia, and said enrollment shall be made at such times and in such manner as may be provided by the laws of each State and Territory respectively.

SEC. 2. That the militia shall be divided into two classes: the active, to be known as the national guard; and the inactive, to be known as the reserve militia.

SEC. 3. That the national guard shall consist of such regularly uniformed and enlisted troops in the several States and Territories as are or may be organized therein in pursuance of the laws of the respective States and Territories: *Provided, however*, That the first term of enlistment in no State or Territory shall be for a less period than three years, and all enlistments shall be made with the provision that if it should expire during a time when the soldier is in the service of the United States it shall continue until the expiration of the time for which he was called into such service.

SEC. 4. That in time of peace the organization of the national guard, the numbers, rank, and duties of the staff officers, and the organization of bureaus of administration in the militia of the several States and Territories, shall be such as the Legislatures thereof may from time to time direct: *Provided, however*, That such organization shall conform as closely to the methods prescribed for the Regular Army as the circumstances of the various States and Territories will permit: *And provided further*, That when ordered on active duty by the President of the United States, the National Guard may be organized by him into brigades and divisions, as the public interests may, in his opinion, require; and he may assign and designate the commanders of such brigades and divisions; and the numbers, rank, and duties of the staff officers shall be the same as prescribed for the Regular Army.

SEC. 5. That the active militia shall be trained in accordance with the same system of tactics that may from time to time be prescribed for corresponding arms of the service in the Regular Army.

SEC. 6. That in time of peace the number of active militia for which each State or Territory shall be entitled to receive its apportionment of the appropriations made by this act shall not exceed five hundred regularly uniformed commissioned officers and enlisted men for each Representative or Delegate to which such State or Territory is entitled in the Congress of the United States.

SEC. 7. That for all the purposes of this act the District of Columbia shall be accounted and treated as a Territory entitled to one Delegate in Congress.

SEC. 8. That the annual sum of $1,000,000 is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing small-arms, field artillery and harness, infantry, cavalry, and horse equipments, and other ordnance stores, service-dress, tents, camp equipage, and other quartermaster stores, for the active militia of the several States and Territories and for other purposes covered by this act; and said appropriation shall be apportioned among the several States and Territories on the books of the Ordnance Department by the Chief of Ordnance of the Army, under the direction of the Secretary of War, according to the number of Representatives or Delegates to which each State and Territory respectively is entitled in the Congress of the United States: *Provided, however*, That each State and Territory shall only be entitled to the benefits of so much of the appropriation apportioned to it as the proportion of the number of its regularly enlisted, organized, and uniformed active militia, as determined by the preceding annual report of the Secretary of War, bears to the maximum number of active militia for which such State or Territory is entitled

to the benefits of this act; and no State or Territory shall receive any portion of the appropriation apportioned to it unless it shall have complied with the provisions of this act. And the amount of said appropriation which is thus determined not to be available shall, after deducting the special expenditures authorized by this act, be covered back into the Treasury of the United States: *And provided further*, That the said appropriation shall be apportioned and applied without reference to the condition of accounts between any State or Territory and the General Government at the time of the passage of this act; and that all serviceable arms and equipments that have heretofore been furnished by the United States and are now in possession of the respective States and Territories shall be counted as part of this allowance and shall be annually accounted for in the same manner as herein provided for arms and equipments hereafter issued: *And provided further*, That if any State or Territory shall fail to comply with those provisions of this act on which the issue of arms and equipments for its active militia are conditioned, if such failure or omission is, in the opinion of the Secretary of War, immaterial or unavoidable, he may authorize such issue. And that for the first year under the operation of the provisions of this act the number of regularly enlisted, organized, and uniformed active militia in each State or Territory may be determined by certificates from the respective governors thereof, and the appropriation apportioned accordingly.

SEC. 9. That the purchase or manufacture and the issue to States and Territories of arms, ammunition, service dress, equipments, ordnance stores, and camp equipage for the active militia, under the provisions of this act, shall be made by the Chief of Ordnance of the Army, under the direction of the Secretary of War, and they shall remain the property of the United States, and be annually accounted for to the Chief of Ordnance of the Army by the governors of the States and Territories, for which purpose the Chief of Ordnance of the Army, under the direction of the Secretary of War, shall prescribe and supply the necessary blanks, and make such regulations as he may deem necessary to protect the said property of the United States.

SEC. 10. That loss of, or damage to, arms, equipments, ordnance stores, and camp equipage, except the ordinary wear and accidents of service, shall be made good to the United States by the person or persons chargeable therewith, as in like cases in the Regular Army; and money received from sales or on account of loss or damages shall be accounted for to the Chief of Ordnance of the Army and paid into the Treasury of the United States.

SEC. 11. That all arms, equipments, ordnance stores, or camp equipage which may become unserviceable or unsuitable shall be examined by a board of officers of the national guard, and its report shall be forwarded by the governor of the State or Territory to the Chief of Ordnance of the Army for the action of the Secretary of War, who shall direct what disposition, by sale or otherwise, shall be made of them.

SEC. 12. That there shall be an adjutant-general in each State and Territory, who shall perform such duties as may be prescribed by the laws of each State and Territory respectively, and who shall, on or before the last day of October in each year, make a return to the War Department, in such form as shall from time to time be prescribed by the Secretary of War, of the number of enrolled militia, the number of enlisted, organized, and uniformed active militia, of the results of the annual inspection of the active militia and military property in each State, and of the results and scores of the rifle practice of the active militia. He shall also make such special reports as may from time to time be required by the Secretary of War.

SEC. 13. That the Secretary of War shall, with his annual report of each year, transmit to Congress an abstract of the annual returns of the adjutant-generals of the States and Territories, with such observations thereon as he may deem necessary for the information of Congress.

SEC. 14. That each State or Territory receiving any part of the appropriations hereby made shall, as soon as practicable after the passage of this act, cause its active militia to be provided with a complete service dress and equipment of the pattern selected as herein prescribed, which shall be worn when such active militia are called out for active service, and when in the performance of any duty, drill, parade, or ceremony prescribed by this act: *Provided, however*, That the same may also be worn at such other times as the military authorities of the State or Territory may direct: *And provided further*, That nothing in this act shall be construed to prohibit the wearing at other times of any full dress uniform permitted by the military authorities of the States or Territories: *And provided further*, That serviceable clothing and equipments in use at the time of the passage of this act need not be replaced.

SEC. 15. That each State and Territory receiving any part of the appropriations hereby made shall require every organization in its active militia to go into camp of instruction for at least five consecutive days in each year, and to assemble for drill and instruction not less than once in each calendar month, and shall require an annual inspection of its active militia to be made by an officer or officers thereof, whose duty it shall be to report the result of such inspection to the adjutant-general thereof, stating the number of such active militia, the actual condition of their arms, accouterments, ammunition, and equipment, their deficiencies, and every other particular relating to the advancement of their organization and discipline.

SEC. 16. That notice shall be given by the adjutant-general of each State and Territory to the Secretary of War of the time and place of the annual inspections of the active militia of his State or Territory; and thereupon the President shall detail an officer from the active or retired list of the Army to accompany the State inspector during his inspection, and observe the general condition of the troops and public property, with the consent and under the general direction of the governor of such State or Territory; and, while so detailed, retired officers shall, in addition to their pay as retired officers, be allowed and paid the actual traveling and other expenses incurred by them in the performance of the duty: *Provided, however*, That such officer shall have no authority in any way to control or interfere with the State inspector, or to exercise any power or authority during such inspection over the officers or men inspected. He shall make a report in duplicate, and transmit one copy to the governor of such State or Territory and another to the Secretary of War, of such matters as shall in his judgment require to be brought to their attention.

SEC. 17. That each State receiving any portion of the annual appropriations made by this act shall within one year after the passage of this act provide and equip at least one rifle range, and shall maintain the same for the instruction of its militia in rifle practice, and require them to be instructed therein.

SEC. 18. That the Secretary of War is authorized, out of the annual appropriation herein made, to offer annually to the regularly organized and uniformed active militia of each State and Territory (provided they number at least seven hundred men) a prize, not to exceed $100 in value, for competition in rifle practice; also to annually offer a prize of $1,000 to be shot for by a "team" or detachments from the active militia of each State and Territory, from each of the three divisions of the Army, and from the Navy, to be divided among the three "teams" standing highest in such match; the terms and conditions of both matches to be prescribed by the Secretary of War.

Each State team shall be certified to by the adjutant-general of its State as consisting of its regularly enlisted and uniformed national guard; and transportation to and from said last-named match shall be furnished out of such appropriation to such a team and reserve, not to exceed fifteen in number from each State, under such regulations as may be prescribed by the Secretary of War.

SEC. 19. That upon the application of any regimental, division, or brigade commander of the national guard of any State or Territory, the governor thereof may apply to the Secretary of War to assign an officer from the active or retired list of the Army to act as adjutant of such regiment, or assistant adjutant-general or chief of staff of such brigade or division. Whenever the public interests will admit, the Secretary of War is authorized to assign such officer for such duty with his consent.

Officers so assigned shall be commissioned as officers in such national guard by the governor of such State or Territory, and shall hold such commissions during his pleasure. While performing such duty they shall give their entire time, or so much thereof as shall be necessary to properly perform the duties of their office, shall be subject to the rules and regulations of such national guard while so assigned, and shall receive the full pay and emoluments of their rank in the regular Army as on detached service.

No assignment shall be made of any officer for this duty to the prejudice of the regular Army, nor unless he shall have seen at least three years' service in the field. All such assignments may be revoked at pleasure by the Secretary of War by giving notice thereof to the governor of the State. Upon receipt of such notice by the latter, the officer whose assignment is so revoked shall cease to be an officer of the national guard of such State or Territory, and shall be honorably discharged therefrom by its governor.

SEC. 20. That the President of the United States may order the whole or any part of the active militia of any State or Territory on active duty, for a period not exceeding twelve months, during war or an invasion, or apprehended invasion, by a foreign enemy or Indian tribe, or an insurrection or rebellion against the Constitution and laws of the United States, or upon the imminent danger of either, or on any occasion in which the execution of the laws may be obstructed by combinations and forces too strong to be overcome by the civil authorities in the ordinary course of law, and to issue his orders for that purpose to such officers of the active militia as he may think proper; and the said force, when ordered on active duty, shall, from the time such order is issued, be subject to the Rules and Articles of War and to the regulations of the Army, and shall, for all purposes whatsoever, be, and shall be considered, in the actual service of the United States, and shall be allowed the same pay, rations, and emoluments as are allowed to officers, non-commissioned officers, and privates of like grades and arms in the regular service; and in case of wounds or injuries received in the line of duty, or in case of being killed in the performance of such duty, the same provisions shall be extended to them, their widows and children, as are provided by law in like cases to officers, non-commissioned officers, and privates of like grades belonging to the regular Army of the United States.

SEC. 21. That any officer or enlisted man of the active militia who, upon being ordered into the service of the United States, shall refuse or fail to obey said order without giving a valid excuse therefor, to be established by his oath and verified by the testimony of two credible and disinterested witnesses, may be tried by court-martial for desertion, and subject to the fines and penalties as in such cases provided.

SEC. 22. That when called into the service of the United States, officers of the same grade in the active militia shall take precedence according to the date of their commissions. In case two of the same grade have commissions of equal date their rank shall be determined by lot, to be drawn by them before their commanding officer, unless their relative rank is prescribed by regulation.

SEC. 23. That mounted officers and members of mounted companies in the active militia called into the service of the United States shall each receive such consideration for use and risk of private horses actually used by them as may be awarded by a board of officers appointed by the Secretary of War. The same allowances of forage shall be made for private horses used by the militia in the service of the United States as for horses owned by the United States.

SEC. 24. That the reserve militia shall not be liable or subject to any military duty to the United States except when called into service by act of Congress passed for that purpose.

SEC. 25. That as soon as practicable after the passage of this act the President shall appoint a board of seven officers, two of whom shall be of the Army and five selected from the active militia of the Eastern, Middle, Southern, Western, and Pacific States, respectively. Said board shall prepare a system of rules and regulations for the discipline of the active militia, which rules and regulations shall be submitted by the President to Congress at its next ensuing session for approval and enactment. Said board shall also recommend a service dress for the active militia, which, upon being approved by the President, shall be the uniform of the active militia when called into service. Said board shall also recommend an allowance of ammunition and the kinds and allowance of camp equipage to be issued to the active militia in time of peace, which, upon being approved by the President, shall govern the Chief of Ordnance in the issue of those articles under the provisions of this act. The five officers of said board appointed from the active militia shall, during the time they are engaged in the performance of the duties prescribed herein for said board, receive the pay and emoluments allowed by law to a colonel of infantry. The amount of money necessary for the payment of their services, and also for the payment of such expenses incurred by said board in the performance of its duties as may be approved by the Secretary of War, is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated: *Provided, however*, That the total amount of money so to be paid shall not exceed $3,000.

SEC. 26. That sections 1625 to 1661, inclusive, of the Revised Statutes, and all other acts and parts of acts inconsistent herewith, be, and the same are hereby, repealed.

Mr. SPRINGER. I demand a second on the motion of the gentleman from Minnesota, [Mr. STRAIT.]

The SPEAKER. Is there objection to considering a second as ordered?

Mr. BURROWS, of Michigan. I object.

Mr. STRAIT and Mr. SPRINGER having been appointed tellers, the House divided; and the tellers reported—ayes 88, noes 3.

So the motion to suspend the rules was seconded.

The SPEAKER. The gentleman from Minnesota [Mr. STRAIT] is recognized to control the time for debate in support of his motion; and assuming that the gentleman from Illinois, [Mr. SPRINGER,] who demanded the second, is opposed to the motion, he will be recognized to control the time in opposition.

Mr. STRAIT. I ask that the report of the Committee on the Militia accompanying this bill be read.

The SPEAKER. The report will be read in the time allowed to the gentleman from Minnesota for debate.

The Clerk read as follows:

The Committee on the Militia, to whom have been referred the petitions of the National Guard Association and of the officers of the militia of various States for amendment of the militia law, respectfully report:

That the militia law not having been materially modified since its original enactment in 1792, the provisions of the law have become obsolete and impracticable. That a revision of the law is both desirable and necessary to adapt it to the changes of time and circumstances is too obvious to need argument. The peti-

tions which have been referred to the committee for consideration present such a fair and concise statement of facts that we insert their recital as part of our report:

"The National Guard Association of the United States, composed of delegates from the active militia of the various States, respectfully represents:

"That the existing militia law has for many years been inoperative, for the reason that changes of circumstances and condition since its original enactment in 1792 would make any attempt to enforce its provisions now both absurd and impracticable. The law requires military duty from every citizen between eighteen and forty-five years of age, and requires each individual to provide himself with arms, ammunition, and knapsack. If the law should be enforced, the armed militia force of the country would amount to nearly seven million men. In place of the militia required by this law, the States have fostered volunteer militia organizations, which have gradually increased until now they constitute the only actual militia force. Several causes operate to hinder the efforts of the volunteer militia to perfect their organization, among which we would designate—

"First. The fact that they are not recognized by Federal laws.

"Second. That the annual appropriation of $200,000 for the militia, originally enacted in 1808, is entirely inadequate to properly equip the existing volunteer force.

"Third. That owing to the phraseology of the law, the purpose of the annual appropriation is limited to supplying arms and equipments, and that camp equipage, clothing, blankets, and other articles absolutely needed by the militia cannot be procured by them, except in those States that make State appropriations to supply them.

"We deem it unnecessary to present any argument as to the absolute necessity, under our form of government, of a well-organized, well-instructed militia, thoroughly equipped and ready for instant use. Hitherto such militia has only existed through the necessities of some of the individual States, or the voluntary exertions of a few individuals. We believe that the militia law requires thorough revision to adapt it to the militia organizations that time has demonstrated to be the only practicable ones.

"We are opposed to any change in the relations between the Federal Government and the militia that have now become well established by long custom. We are opposed to any change in the relative authority now exercised by the Federal and State governments over the militia, and we are opposed to any interference in the existing militia organizations of the States or the creation of a new force. But we do most earnestly recommend and urge that the law should be adapted to the changes that have occurred in the organization of the militia, and make a necessary provision for them.

"We therefore recommend and ask that the existing militia law be amended as follows:

"1st. To divide the enrolled militia into two classes, the active and inactive.

"2d. To recognize the volunteer militia organizations of the respective States as the 'active militia.'

"3d. To increase the annual appropriation for the militia to $1,000,000.

"4th. To provide that the annual appropriation be applied to furnishing clothing and camp equipage, as well as arms and equipments, or, when desired by any State, may be applied to the payments of its militia for duty in annual camps of instruction."

These petitions come from the officers of the militia of nearly all the States, and may therefore be accepted as expressing the defects they have found in the practical operation of existing law, and the remedy which experience has suggested to them. The committee, after a full consideration of the subject, are satisfied that the recommendations made in these petitions present the most satisfactory solution of the militia question that has yet been proposed. We have accordingly framed a bill to amend the law in accordance with these recommendations, and report the same herewith, in the hope that the House will give the subject the attention which its importance demands.

The committee of the Forty-sixth Congress made such a thorough investigation and exhaustive report on the militia (see Report 763, Forty-sixth Congress, second session) that we deem it unnecessary for us to review the whole question. We would therefore merely state that the bill we report strikes from the existing law all of its obsolete provisions, and inserts others that recognize and provide for the system of volunteer militia that has grown up in place of the enrolled militia recognized by existing law, and that it does not interfere with or change the relative control of the General Government and the States over the militia, either as limited by existing law or as fixed by custom.

Mr. STRAIT. I ask that a portion of the report of the Senate Committee on Military Affairs relating to this subject be read.

The Clerk read as follows:

A simple statement of fact appears to be a sufficient response to the resolution of the Senate. That an appropriation fixed in 1808 to provide for seventeen States with a population of 8,000,000 is inadequate to provide for thirty-eight States with a population of 50,000,000 needs no argument. The Chief of Ordnance has for many years urged Congress to increase the appropriation; it was considered and favorably reported to the Senate by this committee in the Forty-fifth Congress, and we think it would be difficult to conceive any reasonable argument against it.

In connection with a favorable consideration of the proposition to increase the appropriation, there are other points connected with it to which the committee deem it proper to call attention.

The existing law is very crude; it simply provides as follows:

"SEC. 1661. The annual sum of $200,000 is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms and equipments for the whole body of the militia, either by purchase or manufacture, by and on account of the United States."

It will be perceived that no provision is made as to the mode of apportioning the appropriation between the States, no requirements for accountability for the property furnished, or limitation on the disposition that the States may make of it. The greatest defect of the law, however, is that it does not allow the furnishing of tents and other articles necessary to provide for camps of instruction. To this omission of the law is largely due the disparity between the different States in the strength and efficiency of the militia.

Your committee have deemed it proper, in addition to recommending an increase of the appropriation, to recommend also that the defects of the law relative to it be remedied. We accordingly report herewith a bill to increase the annual appropriation to $600,000, and making provisions for its apportionment, and for the care, accountability, and disposition of property issued under it. We also provide in the bill that each State shall only receive such proportion of the amount apportioned to it as the actual number of its active militia bears to a fixed maximum, and we believe this provision wisely calculated to foster and encourage the formation of volunteer organizations in those States where but few now exist.

There have been no material changes in the law relative to the organization of the militia since its original enactment in 1792, and it is obvious that many of its provisions are now obsolete and many amendments desirable.

Your committee, however, deem the increase of the annual appropriation to be a matter of such apparent propriety that it is not likely to excite either opposition or debate, and we therefore report this bill for that special purpose, reserving the subject of a general revision of the law for more mature consideration.

Mr. STRAIT. I now yield to the gentleman from Pennsylvania, [Mr. BAYNE.]

The SPEAKER. The gentleman from Pennsylvania is recognized in support of the bill, and has six minutes.

Mr. BAYNE. Mr. Speaker, the question presented by this bill is whether or not the Congress of the United States desires to encourage and foster the militia organizations of the several States. Under existing law, although an annual appropriation of $200,000 is made by Congress, there is in point of fact absolutely no connection whatever between the militia forces of the States and the Government of the United States. The law of 1792 as amended in 1795, in 1808, in 1810, and at various other times, is absolutely a dead letter. It has no application or force whatever at the present time. If it were rigorously enforced, as all laws relating to military discipline should be enforced, there would be to-day in the several States of this Union an organized militia of nearly seven million people. But the law is utterly impracticable; it is dead. There can be no enforcement of that law. Consequently I say that if Congress desires to foster and encourage the organization of militia forces in the several States, a bill of the character of that now under consideration must be passed.

The provisions of this bill are very simple. It divides the militia forces of the several States into two classes, the active and the inactive. The active forces are those that now constitute what may be called the volunteer militia of the several States. In a great many of the States there are now militia organizations, and all of these, so far as the laws of the United States are concerned, are volunteer organizations. It is proposed by this bill to make an appropriation of $1,000,000 in order to sustain and support these volunteer organizations, which are denominated by this bill the active militia. The inactive militia comprises those persons in the various States who are between the ages of eighteen and forty-five years, but who do not identify themselves actively with any militia organization.

This bill also provides this money shall be so distributed that it shall not provide a force in any one Congressional district to a greater extent than five hundred. Although a million dollars is named as the annual appropriation, probably not all that sum will be consumed in any one year, and for this reason: the appropriation is not to be applied unless there are organizations which require its use. The appropriation of $1,000,000 in this bill is really an incentive toward the organization of a volunteer militia force in the several States.

Mr. SINGLETON, of Illinois. Will the gentleman permit me to ask him a qustion?

Mr. BAYNE. Certainly.

Mr. SINGLETON, of Illinois. Has the gentleman from Pennsylvania any data upon which he can give any assurance to this House that $1,000,000 or even $5,000,000 will cover the expenses under this bill?

Mr. BAYNE. I do not say that a million of dollars would cover the expense. I only say this is in harmony with the original act of 1792, enacted by one of the very first Congresses of the United States, and which was designed to foster to the fullest extent such a militia organization. It is intended that Congress shall foster and encourage this volunteer militia in the several States.

Mr. HISCOCK. Will the gentleman yield to me for a question?

Mr. BAYNE. Yes, sir.

Mr. HISCOCK. I should like to inquire of the gentleman from Pennsylvania whether the original legislation on this subject was not upon the theory that the national Goverment should be defended through the States, and against the idea of a standing Army and the protection of the General Government by itself, and whether that idea has not long been obsolete?

Mr. BAYNE. If that idea has become obsolete, then I will reply to the gentleman from New York that a part of the Constitution of the United States has also become obsolete, for there are divers provisions in that instrument which require the militia in the several States shall be organized and that the Government of the United States may call on it to aid the United States troops in enforcing the law. The President of the United States only the other day inquired as to whether or not he could call on the militia of Arizona to aid in suppressing the cow-boy insurrection there, as he himself had doubts on the subject.

[Here the hammer fell.]

The SPEAKER. The gentleman from Illinois is now recognized to control the fifteen minutes in opposition under the rules.

Mr. SPRINGER. Mr. Speaker, I am opposed to the passage of this bill. It seeks to organize the entire militia force of the several States, enrolling every able-bodied man between the ages of eighteen and forty-five, and provides for putting all that force under the control of the President of the United States. Section 20 provides as follows:

SEC. 20. That the President of the United States may order the whole or any part of the active militia of any State or Territory on active duty, for a period not exceeding twelve months, during war or an invasion, or apprehended invasion, by a foreign enemy or Indian tribe, or an insurrection or rebellion against the Constitution and laws of the United States, or upon the imminent danger of either, or on any occasion in which the execution of the laws may be obstructed by combinations and forces too strong to be overcome by the civil authorities in the ordinary course of law, and to issue his orders for that purpose to such officers of the active militia as he may think proper; and the said force, when ordered on active duty, shall, from the time such order is issued, be subject to the rules and articles of war, and to the regulations of the Army, and shall, for all purposes whatsoever, be, and shall be considered, in the actual service of the United States, and shall be allowed the same pay, rations, and emoluments as are allowed to officers, non-

commissioned officers, and privates of like grades and arms in the regular service; and in case of wounds or injuries received in the line of duty, or in case of being killed in the performance of such duty, the same provisions shall be extended to them, their widows and children, as are provided by law in like cases to officers, non-commissioned officers, and privates of like grades belonging to the regular Army of the United States.

This provision, as it will be seen, authorizes the President of the United States to call out all the militia and inaugurate a war without consulting, and without the consent of Congress, and without any regard whatever to that provision of the Constitution of the United States which has been heretofore observed, or ought to have been observed, namely——

Mr. STRAIT. I think the gentleman is in error.

Mr. SPRINGER. I cannot yield as my time is very brief. I refer to that provision of the Constitution which is to the effect that the United States shall guarantee to each State a republican form of government, and on the application of the Legislature thereof, or the governor the Legislature not being in session, shall protect each of them against domestic violence. This bill goes clear around that provision of the Constitution of the United States and invests the whole enforcement of the laws in the States in the President of the United States himself, and he may thus commit the country to the inauguration of a civil war for twelve months without consulting or receiving the assent of Congress.

When these men are called out they are to draw the same pay, be under the same regulations and articles of war as the soldiers of the regular Army, and they are to draw pensions in case they receive wounds in the service.

It is, Mr. Speaker, in my judgment, a revolution of the whole system upon which our Government has been founded.

I will now yield to the question of the gentleman from Minnesota if it is not too long.

Mr. STRAIT. I wish to say in reply to the gentleman from Illinois that the bill changes the present statute in no respect except in extending the time for three months. The present statute provides it may be done for nine months, and this extends that time only to twelve months.

Mr. SPRINGER. I speak of the law and of the Constitution, which require that the President shall use this force upon application of the Legislature of the State, or of the executive when the State Legislature cannot be convened.

Mr. BROWNE. Will the gentleman allow me to ask him a question?

Mr. SPRINGER. I cannot yield; my time is very brief.

Mr. BROWNE. I will ask the gentleman a very short question. I wish him to state, if he can, how under the section to which he refers, and to which attention has been called, the President would have any further power to order out the militia than he has now under the Constitution and law, which requires application to be made by the executive of the State when the Legislature cannot be convened, or of the Legislature when it is in session.

Mr. SPRINGER. I cannot yield, and hope that this will not be taken out of my time. I will only say that if this bill is enacted into a law it will change entirely the whole form of our Government in this respect. Our militia law was first enacted in 1792. The law has been in that shape from that time until now with very few modifications, which were made in 1861, 1862, and 1863, during the period of a great rebellion. We have been able to prosecute two foreign wars under that law and to put down one of the greatest rebellions of modern times; and therefore there is no necessity as far as I can see to reorganize the militia upon a different basis, or remodel the whole militia law of the country. I am opposed to the bill, and hope it will be rejected.

I now yield three minutes to the gentleman from Georgia, [Mr. SPEER.]

Mr. SPEER. Mr. Speaker, I regard this bill as one of the most dangerous and insidious propositions which has been presented for action to this body since I have been a member of Congress. A similar proposition was submitted to the Committee on the Militia in the last Congress, and that committee, as I understand it, refused to commit themselves to the measure embodied in the bill; some of us certainly did. Sir, this proposition, by the terms of the bill, in my State for instance, and other gentlemen can speak for their own States, would organize a force of five thousand militiamen; it would have a camp of instruction for five days in each year; it would require the militia of the State so organized to have monthly drills, and would impose upon them all of the penalties and punishments which are enacted for mutiny and for desertions from the regular Army, with their disqualification of citizenship and the deprivation of all the rights to hold office, penalties under the laws governing the regular Army degrading and painful, as if involving moral turpitude. And this law is sought to be enacted in a time of profound peace and when there is no possible necessity for such legislation.

We are not opposed, Mr. Speaker, to a proper system of laws to organize and govern the militia. But the country does not need a bill of this character at this time. The land is filled with seasoned veterans, men who have seen actual war, who have faced real danger in time of battle, and who do not need to be instructed now by the pomp and pageantry of mimic war. The boys who wore the blue and the boys who wore the gray when they come to fight, shoulder to shoulder, as they will do if ever the time comes when this country shall need their strong arms, require no such system of instructions as this bill contemplates, nor do the necessities of the country demand the organization of a *landwehr* system such as this bill proposes.

I am opposed to it, sir. I know how it will take the sturdy yeomanry from the plow and from the cotton and corn fields in my country. They are tired of war and rumors of war, and military display in all of its forms. They are prompt and earnest and able to defend their country when called upon; and so it is true of all our American citizen soldiery, and so it has ever been, since the embattled farmers on the green at Concord fired the shot heard round the world and enkindled in millions of hearts the sacred fires of national liberty. [Applause.]

Mr. SPRINGER. I now yield three minutes to my colleague, [Mr. SINGLETON.]

Mr. SINGLETON, of Illinois. Mr. Speaker, the time allowed me is too short to enter upon a discussion of the general principles and complicated details of this bill. My first objection is to the present consideration of the bill. There is too much of it, and it involves so many interesting and important questions of expediency and constitutional law that it cannot be intelligently considered, explained, or discussed, under a suspension of the rules, which allow but fifteen minutes each to the friends and opponents.

Rising to oppose the bill, my share of time is but one minute, which I shall appropriate to a single objection upon the face of the bill which, when presented, should, and I think will, be fatal to its passage.

The Constitution of the United States confers upon Congress the power to organize, arm, and discipline the militia, but reserves to the States respectively the appointment of the officers. The clause to which I refer is as follows:

> Congress shall have power to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training of the militia according to the discipline prescribed by Congress. (Article 1, section 8, clause 16.)

This power so expressly reserved to the States by the Constitution is, by the fourth section of this bill, conferred on the President of the United States, and the militia force which the bill proposes to organize under the name of "national guard" is a mere executive police, to be employed by the President of the United States without limitation as to time, place, or purpose. The bill provides for an additional army of over two hundred thousand men or more, upon whom and the President none of the safeguards of liberty or the wise restraints of the Constitution are imposed.

The SPEAKER. The gentleman's time has expired.

Mr. SPRINGER. I yield three minutes to the gentleman from North Carolina, [Mr. ARMFIELD.]

Mr. ARMFIELD. I am opposed to this bill, among other reasons, because in my opinion if it becomes a law it will violate the Constitution of the United States. The bill provides in the second section:

> That the militia shall be divided into two classes: the active, to be known as the national guard; and the inactive, to be known as the reserve militia.

So that by the very terms of the bill the national guard becomes a part of the militia.

The bill also provides in the fourth section as follows:

> *Provided further*, That when ordered on active duty by the President of the United States the national guard may be organized by him into brigades and divisions, as the public interest may in his opinion require; and he may assign and designate the commanders of such brigades and divisions.

Now, Mr. Speaker, the Constitution of the United States provides in article 1, section 8, in enumerating the powers of Congress and setting forth the powers they shall have in organizing and employing the militia of the United States, as follows:

> They shall have power to make rules for the government and regulation of the land and naval forces.
>
> To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.
>
> To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

So that, Mr. Speaker, in contemplation of the Constitution, even when the militia is called into the service of the United States, the respective States from which they come are to have the power and the right of appointing the officers to command and govern the militia. This bill, in violation of this provision, provides the President of the United States shall assign and designate the commanders of such brigades and divisions. To that extent it violates the Constitution of the United States; therefore, Mr. Speaker, I am opposed to it.

Mr. SPRINGER. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has two and a half minutes of his time remaining.

Mr. SPRINGER. I yield the remainder of my time to the gentleman from Texas, [Mr. REAGAN.]

Mr. REAGAN. This question comes upon us without opportunity to examine past legislation or to consider the question with any degree of satisfaction. The whole bill impresses me with the idea that it is more intended to organize a dictatorship than to provide for the organization of the militia. It impresses me with the idea that it is an entire departure from the provisions and requirements of the

Constitution, and that in some respects it grants powers that might be used greatly to the detriment of our system of government.

In the fourth section, in addition to things which we might empower the President to do, it is provided that when the national guard is—

Ordered on active duty by the President of the United States, the national guard may be organized by him into brigades and divisions, as the public interests may, in his opinion, require; and he may assign and designate the commanders of such brigades and divisions; and the numbers, rank, and duties of the staff officers shall be the same as prescribed for the regular Army.

The gentleman from North Carolina [Mr. ARMFIELD] and also the gentleman from Illinois have just called the attention of the House to clause 16 of section 8 of the first article of the Constitution, in which it is provided that the appointment of officers and the authority of training the militia are reserved to the States. I will read the clause:

To provide for organizing the Army and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.

Mr. BAYNE. Now, let me say to the gentleman——

Mr. REAGAN. I have not time to yield in the two and a half minutes allotted to me.

I know it is a debated question under our system as to whether the general officers may be appointed by the President. The better opinion seems to me to be that which follows the terms of the Constitution itself.

Again, a more serious objection to the bill—and I regret I have not had time to look into it more fully—is to be found in its twentieth section. It provides—

That the President of the United States may order the whole or any part of the active militia of any State or Territory on active duty, for a period not exceeding twelve months, during war or an invasion, or apprehended invasion, by a foreign enemy or Indian tribe, or an insurrection or rebellion against the Constitution and laws of the United States, or upon the imminent danger of either, or on any occasion in which the execution of the laws may be obstructed by combinations and forces too strong to be overcome by the civil authorities in the ordinary course of law, and to issue his orders for that purpose to such officers of the active militia as he may think proper.

Without reading more, that brings me to the point where I will answer the argument of the gentleman from Indiana, [Mr. BROWNE,] that this call is to be made in the terms of the law without reference to the Constitution. It distinctly, it seems to me, authorizes a violation of the Constitution. It authorizes the President to take charge of this militia force of the State without the consent of the Legislature and without the consent of the governor.

The SPEAKER. The time for debate has expired. The question is on agreeing to the motion of the gentleman from Minnesota, [Mr. STRAIT,] which is to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. No. 4705) which has been read, and to pass the same.

Mr. MARTIN and Mr. SPRINGER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 61, nays 138, not voting 92; as follows:

YEAS—61.

Aldrich,	Fisher,	O'Neill,	Townsend, Amos
Anderson,	Frost,	Page,	Tyler,
Bayne,	Grout,	Peirce,	Updegraff, Thomas
Belford,	Guenther,	Ranney,	Valentine,
Bingham,	Harmer,	Ray,	Van Aernam,
Campbell,	Hepburn,	Reed,	Van Horn,
Candler,	Humphrey,	Rice, William W.	Wadsworth,
Caswell,	Jadwin,	Robinson, Geo. D.	Walker,
Crapo,	Jorgensen,	Scranton,	Ward,
Cullen,	Kelley,	Smith, A. Herr	Watson,
Darrall,	Marsh,	Smith, Dietrich C.	West,
Davis, George R.	Miles,	Spooner,	Wood, Walter A.
Dawes,	Miller,	Stone,	Young.
Dunnell,	Moore,	Strait,	
Errett,	Morey,	Thomas,	
Farwell, Sewell S.	Norcross,	Thompson, Wm. G.	

NAYS—138.

Aiken,	Clements,	Geddes,	Jacobs,
Armfield,	Colerick,	Gibson,	Jones, George W.
Atherton,	Converse,	Gunter,	Jones, James K.
Atkins,	Cook,	Hall,	Kenna,
Beach,	Cox, Samuel S.	Hammond, John	King,
Berry,	Cox, William R.	Hammond, N. J.	Klotz,
Blackburn,	Cravens,	Hardenbergh,	Knott,
Blanchard,	Culberson,	Hardy,	Lacey,
Bland,	Cutts,	Haseltine,	Leedom,
Brewer,	Davis, Lowndes H.	Haskell,	Lewis,
Briggs,	Deering,	Hatch,	Lord,
Browne,	Deuster,	Hazelton,	Lynch,
Brumm,	Dowd,	Heilman,	Manning,
Buchanan,	Dugro,	Herndon,	Martin,
Buckner,	Dunn,	Hewitt, Abram S.	Mason,
Burrows, Julius C.	Dwight,	Hewitt, G. W.	McKenzie,
Burrows, Jos. H.	Ellis,	Hill,	McMillin,
Butterworth,	Ermentrout,	Hiscock,	Mills,
Cabell,	Evins,	Hoblitzell,	Money,
Caldwell,	Finley,	Hoge,	Morrison,
Calkins,	Flower,	Holman,	Muldrow,
Cannon,	Ford,	Hooker,	Murch,
Carpenter,	Forney,	Houk,	Mutchler,
Chapman,	Fulkerson,	House,	Neal,
Clark	Garrison,	Hutchins,	Oates,
Paul,	Robertson,	Stockslager,	Webber,
Payson,	Robinson, James S.	Talbott,	Wellborn,
Peelle,	Robinson, Wm. E.	Thompson, P. B.	Wheeler,
Prescott,	Scales,	Tillman,	Whitthorne,
Randall,	Shackelford,	Turner, Henry G.	Williams, Thomas
Reagan,	Shelley,	Turner, Oscar	Willis,
Rice, John B.	Shultz,	Updegraff, J. T.	Wise, George D.
Rice, Theron M.	Skinner,	Van Voorhis,	Wise, Morgan R.
Rich,	Speer,	Wait,	
Ritchie,	Steele,	Warner,	

NOT VOTING—92.

Barbour,	Dibble,	McClure,	Scoville,
Barr,	Dibrell,	McCoid,	Shallenberger,
Belmont,	Dingley,	McCook,	Sherwin,
Beltzhoover,	Farwell, Chas. B.	McKinley,	Simonton,
Black,	George,	McLane,	Singleton, Jas. W.
Bliss,	Godshalk,	Morse,	Singleton, Otho R.
Blount,	Harris, Benj. W.	Mosgrove,	Smith, J. Hyatt
Bowman,	Harris, Henry S.	Moulton,	Sparks,
Bragg,	Hawk,	Nolan,	Spaulding,
Buck,	Henderson,	Orth,	Springer,
Camp,	Herbert,	Pacheco,	Stephens,
Carlisle,	Horr,	Parker,	Taylor,
Cassidy,	Hubbell,	Pettibone,	Townshend, R. W.
Chace,	Hubbs,	Phelps,	Tucker,
Clardy,	Jones, Phineas	Phister,	Upson,
Cobb,	Joyce,	Pound,	Urner,
Cornell,	Kasson,	Richardson, D. P.	Vance,
Covington,	Ketcham,	Richardson, Jno. S.	Washburn,
Crowley,	Ladd,	Robeson,	White,
Curtin,	Latham,	Rosecrans,	Williams, Chas. G.
Davidson,	Le Fevre,	Ross,	Willits,
De Motte,	Lindsey,	Russell,	Wilson,
Dezendorf,	Matson,	Ryan,	Wood, Benjamin.

So the rules were not suspended.

The following pairs were announced:

Mr. CORNELL with Mr. BLACK.

Mr. HAMMOND, of New York, with Mr. PHELPS.

Mr. VANCE with Mr. HUBBS.

Mr. RUSSELL with Mr. CARLISLE.

Mr. MCCOOK with Mr. SPARKS.

Mr. LADD with Mr. JOYCE.

Mr. HARRIS, of Massachusetts, with Mr. ELLIS.

Mr. ROSECRANS with Mr. FISHER.

Mr. SHALLENBERGER with Mr. MOULTON.

Mr. KASSON with Mr. BLOUNT.

Mr. JONES, of New Jersey, with Mr. COX, of New York.

Mr. BRAGG with Mr. POUND.

Mr. BOWMAN with Mr. MORSE.

Mr. SHERWIN with Mr. DIBBLE.

Mr. GODSHALK with Mr. STEPHENS.

Mr. LINDSEY with Mr. DIBRELL.

Mr. MCLANE with Mr. WHITE.

Mr. ORTH with Mr. BENJAMIN WOOD.

Mr. HAWK with Mr. COBB.

Mr. PHISTER with Mr. WASHBURN.

Mr. TALBOTT with Mr. HALL.

Mr. CHACE with Mr. SINGLETON of Illinois.

Mr. CROWLEY with Mr. NOLAN.

Mr. BLANCHARD with Mr. LEWIS.

Mr. HENDERSON with Mr. TOWNSHEND of Illinois.

Mr. LATHAM with Mr. HORR.

Mr. BARR with Mr. CASSIDY.

Mr. HERBERT with Mr. WILLITS.

Mr. ROBESON with Mr. TUCKER.

Mr. URNER with Mr. COVINGTON.

Mr. CANDLER with Mr. MCLANE.

Mr. MCCOID with Mr. BARBOUR.

Mr. RYAN with Mr. LE FEVRE.

Mr. DE MOTTE with Mr. MATSON.

Mr. PARKER with Mr. SIMONTON.

Mr. HUBBELL with Mr. BELMONT.

Mr. SPRINGER with Mr. FARWELL of Illinois, on this vote; if Mr. FARWELL were present, Mr. SPRINGER would vote "no."

The result of the vote was then announced as above stated.

ENROLLED BILLS SIGNED.

Mr. PEIRCE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title, when the Speaker signed the same:

A bill (H. R. No. 3208) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1883, and for other purposes."

VISITORS TO WEST POINT ACADEMY.

The SPEAKER, under authority and direction of section 1327 of the Revised Statutes, announced the appointment of the following members of the House of Representatives to attend the next annual examination of cadets at the Military Academy at West Point: Mr. CAMP of New York, Mr. DAVIS of Illinois, and Mr. BLACKBURN of Kentucky.

VISITORS TO NAVAL ACADEMY.

The SPEAKER also announced, under the authority and direction of chapter 68 of the supplement to the Revised Statutes of the United States, the appointment of the following members of the House of

Representatives to attend the next examination of the Naval Academy at Annapolis: Mr. THOMAS of Illinois, Mr. DARRALL of Louisiana, and Mr. HARRIS of New Jersey.

PURCHASERS OF PATENTED ARTICLES.

Mr. CASWELL. I am instructed by the Committee on Patents to move to suspend the rules so as to take from the House Calendar and pass at this time a bill for the relief of innocent purchasers of patented articles. I ask that the substitute bill reported by the Committee on Patents be now passed.

The SPEAKER. The Clerk will read the substitute bill.

The Clerk read as follows:

A bill (H. R. No. 6018) to amend section 4919 of the Revised Statutes, relating to the recovery of damages for the infringement of patents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no action for damages or proceeding in equity shall be sustained, nor shall the party be held liable under sections 4919 or 4921 of the Revised Statutes of the United States, for the use of any patented article or device, when it shall appear on the trial that the defendant in such action or proceeding purchased said article for a valuable consideration in the open market.

Mr. ROBINSON, of Massachusetts. I call for a second on the motion to suspend the rules. I have no objection to having the motion considered as seconded.

The SPEAKER. If there be no objection, the motion to suspend the rules will be regarded as seconded. The Chair hears none. The gentleman from Wisconsin [Mr. CASWELL] is recognized to control the time in support of his motion. The gentleman from Massachusetts is understood as opposing the motion, and will control the time in opposition.

Mr. SPRINGER. As there was considerable confusion in the House while the bill was being read I ask that it now be read again.

The SPEAKER. It cannot be read except in time allowed for debate. Does the gentleman from Wisconsin [Mr. CASWELL] desire to be heard?

Mr. CASWELL. I will at present allow the floor to be occupied by the other side. If there are objections to the passage of this bill I would like to hear them.

The SPEAKER. The gentleman from Massachusetts is recognized in opposition to the motion to suspend the rules.

Mr. CASWELL. I will reserve my time.

Mr. ROBINSON, of Massachusetts. Mr. Speaker, there is always some embarrassment in being asked to oppose a proposition before the grounds in favor of it have been stated, though that may be the practice in this case.

The SPEAKER. The Chair understands that the gentleman from Wisconsin [Mr. CASWELL] has the right to reserve his time.

Mr. ROBINSON, of Massachusetts. Perhaps I can reserve mine, too.

The SPEAKER. If the gentleman does so the Chair will put the question.

Mr. ROBINSON, of Massachusetts. I have no doubt, Mr. Speaker, that under the operation of the existing patent laws there are difficulties that should be remedied, but the attempt to remedy them should be made with a great deal of care. Under the Constitution patentees have the right to the protection of their property in their inventions, and Congress should not carelessly or ruthlessly lay hold upon that property, which in many cases is very valuable. I understand that the call for this legislation arises from the difficulties which certain persons in the country have experienced because of the drive-well patent or the barbed fence patent, or something of that kind. This has been the argument urged heretofore in favor of a bill of this kind. I have no doubt at all that some measure of legislation may properly be adopted for the purpose indicated; but does not this bill go too far?

It is well known, I suppose, to every gentleman here that many patentees in this country who have spent their time, their energies, and their inventive genius in developing some invention are confronted not by farmers, not by innocent purchasers, but by great corporations that attempt to fight down the inventor and rob him of all the benefits of his invention. Suppose that a great railroad corporation, any one you please, is disposed to combat an invention. It may be an exceedingly valuable invention; it may be something promoting the protection of the lives of passengers on railways. The railroad company may want to use this invention, but may not want to pay the patentee for it. It is willing to "grab" the invention. It takes possession of it under some pretense or other, and fights the patentee during the life-time of his patent; so that he is obliged to come to Congress praying for an extension.

Now, this bill, under the guise of protecting the farmer (whom I will vote to protect at any time) or the innocent purchaser, protects others who ought not to have any protection, but against whom the whole power of this Congress ought to be invoked in aid of the inventor who may have put the energies of his life and all the means of himself and family into the invention that he has made. This bill undertakes to protect those parties who, it is said, have bought inventions in open market for a valuable consideration. But what remedy is afforded to the patentee? He is turned back to the person who sold the instrument or machine, and is deprived of redress against the party using it; and the seller is ordinarily, perhaps wholly, worthless—is an irresponsible person from whom no damages can be recovered. Thus you relieve from reliability the man who ought to be responsible and who ought to pay the damages. I hope that no such bill as this will pass in this moment of hurry.

I yield one minute to my colleague, [Mr. RICE, of Massachusetts.]

Mr. RICE, of Massachusetts. Mr. Speaker, I desire to suggest to members of the House what confusion would grow out of the operations of this bill. There are machines the product of which in a single year would be a fortune to any man. Under this bill the man buying one of these machines in open market, for a valuable consideration, has an advantage over everybody else who may use similar machines. He cannot be interfered with, his use of the machine cannot be stopped, he cannot be made to pay damages, while everybody else may be held to liability for unauthorized use of the invention. Hence the result of this bill would be injustice and confusion in all the mechanical and industrial branches of business. Certainly the gentleman from Wisconsin does not wish to tear up, root and branch, the entire patent law of the country, as he surely would do by the adoption of this bill.

Mr. ROBINSON, of Massachusetts. I suppose it would be fair if I should now reserve some of my time, while the debate upon the other side goes on. I make that proposition. How much time have I?

The SPEAKER. Eight minutes.

Mr. HUTCHINS. I would like to ask the gentleman from Massachusetts a question.

Mr. ROBINSON, of Massachusetts. I will hear it.

Mr. HUTCHINS. Will not the effect of this bill be to allow the purchaser in open market to use the instrument which he has purchased, even after he has been notified that it is an infringement?

Mr. ROBINSON, of Massachusetts. Undoubtedly.

Mr. RICE, of Massachusetts. No proceeding can be had against it.

Mr. ROBINSON, of Massachusetts. Undoubtedly no proceeding can be had against it.

Mr. HUTCHINS. It not only relieves him from damages, but allows him to use it ever after.

Mr. ROBINSON, of Massachusetts. To go on and perpetrate the iniquity after he has been notified.

Mr. HUTCHINS. Is not that a nullification of the patent laws?

Mr. ROBINSON, of Massachusetts. Undoubtedly it is.

Mr. HUTCHINS. He might know it when he bought it, and know it all the time he is using it, and you could not stop him.

Mr. MILLS. It is not the guilty purchaser, as I understand it, who is intended to be relieved by this bill. It is imperfect and should be corrected.

Mr. ROBINSON, of Massachusetts. I should like now to hear from the other side, reserving what remains of my time.

Mr. CASWELL. Mr. Speaker, I am exceedingly anxious that this bill should not be misunderstood, for I feel very clear if it is understood there will be more than two-thirds of this House in its favor.

The Committee on Patents have given this subject a long and thoughtful consideration and have brought this bill in after consultation with the Committee on Patents.

In the first place, I desire to call attention to an error in the print of the bill. It occurs in substituting the word "unless" for the word "when" in the seventh line. It should read:

That no action for damages or proceeding in equity shall be sustained, nor shall the party be held liable under sections 4919 or 4921 of the Revised Statutes of the United States, for the use of any patented article or device, when it shall appear on the trial that the defendant in such action or proceeding purchased said article for a valuable consideration in the open market.

Mr. RYAN. You now substitute "when" for "unless."

Mr. CASWELL. Yes; that is the substitute.

Mr. RYAN. Explain that fully, for it is misunderstood in the House.

Mr. CASWELL. I repeat there is an error in the print, and that the word "unless," in the third line from the bottom of the page, should be "when."

Mr. HAMMOND, of Georgia. Is that word "unless" in the bill as you offered it?

Mr. CASWELL. No; it is an error in the print.

Mr. SPRINGER. It does not change the effect of the bill.

Mr. ROBINSON, of Massachusetts. I combatted it, of course, as you explained it.

Mr. CASWELL. While it may be possible it may impair to some extent the rights of patentees in their patents, it is also true that it will give relief to more than one hundred persons who have purchased a patented article in entire good faith and are innocently using it. Now, this does not apply to a purchaser unless he is using it, and extends only to those cases where the man has gone into open market, and in good faith, without notice, has purchased and is using the article.

Mr. JACOBS. Why not insert in the bill the words "in good faith."

Mr. CASWELL. There can be no objection to that amendment, but amendment cannot be made under a suspension of the rules.

Now, Mr. Speaker, there is a growing feeling all through this country against the patent-law system, and it arises because of these very abuses. The time will come, unless something is done to protect a man who purchases an instrument in open market for his use without notice, when there will be an uprising, and they will overthrow the patent laws.

Here and there throughout the United States are men who purchase in entire good faith an instrument, and set it up and commence its use, and somebody will come along and bring an action, or threaten to bring an action, against the user, and he is obliged to discontinue its use. I say he should be allowed to use that instrument, notwithstanding he has been notified, after he has purchased it and commenced its use.

Mr. SPRINGER. Will the gentleman allow me to ask him a question?

Mr. CASWELL. I will yield for that purpose.

Mr. SPRINGER. What is there in this bill to prevent an irresponsible person from selling the most valuable patent-right and giving a good title to it and allowing the purchaser to use it during the lifetime of the patent without any remedy on the part of the patentee against the purchaser?

Mr. CASWELL. I conceive abuses may arise——

Mr. SPRINGER. And that, too, either with or without notice.

Mr. CASWELL. As I have said, abuses may occur; but let me tell my friend from Illinois that it is a common practice throughout the country for a patentee, as soon as he has secured the monopoly, to slumber on it—to tie it up and prevent any other party using it or developing it. He will let the patent slumber until some enterprising man will commence the manufacture of the instrument.

Mr. SPRINGER. You are giving, then, a license to some one to sell it for him if he will not sell it himself?

Mr. CASWELL. I am going to protect the party in the purchase of the patented instrument the same as you would be protected if you purchased a note in good faith which may have been given without any consideration at all.

Now, sir, I insist there is an existing abuse all over the country on this subject. You may go into a manufacturing establishment and here is one part of an instrument that is patented and another part that is patented and when you make your purchase you have no means of knowing the extent of any man's right to manufacture that instrument and you make your purchase in good faith.

Mr. TOWNSHEND, of Illinois. This bill is in the interest of the users of the patents.

Mr. CASWELL. And further, this bill will not prevent the patentee from stopping the manufacture of the instrument. It will not prevent his stopping the party from purchasing it, nor from selling it after purchasing. It only prevents the recovery of damages against the party who has innocently purchased any patented instrument and is using it himself for his own purposes; and it allows him to continue it where he is an innocent purchaser.

Mr. CANNON. Will the gentleman yield to me for a suggestion?

Mr. CASWELL. Yes, sir.

Mr. CANNON. I will suggest to the gentleman that he ask unanimous consent to insert in the bill an amendment:

After the word "article," in the ninth line, insert the words "in good faith and without notice."

Mr. VALENTINE. I hope that will be done.

Mr. CASWELL. I ask unanimous consent that this amendment may be inserted, inasmuch as there seems to be a very general desire around me to amend the bill in that way.

Mr. REED. That is not the way to pass a bill of this character.

Mr. SPRINGER. I object. I object to any modification for the reason that I desire a further amendment, protecting the rights of patentees, in certain cases——

The SPEAKER. The gentleman need not state his reason; objection is sufficient.

Mr. SPRINGER. I merely want to state the ground of my objection.

The SPEAKER. It is not debatable.

Mr. CANNON. Then if it cannot be modified we will pass it as it is, and let it be amended in the Senate.

Mr. KENNA. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KENNA. I desire to ask whether, before the vote has been taken, the gentleman from Wisconsin has the right to modify the bill?

The SPEAKER. The gentleman from Wisconsin is understood to be making a motion in pursuance of the power conferred upon him by the committee having charge of this matter. Having made the motion he has exhausted that power, and it will require unanimous consent to change it.

Mr. PEELLE. The bill now under consideration provides that no action for damages or proceeding in equity shall be sustained against any one for the use of a patented article, when such article was purchased for a valuable consideration in the open market. Sir, I am aware that this bill will give only partial relief, and I regret that objection has been made to amendments; but it will give some relief to that class of citizens who have in good faith purchased patented articles and then been compelled to answer in actions for infringement, and in many cases going from one to two hundred miles at an enormous expense. Sir, the expenses of attending court and attorneys' fees in most of this class of cases is more than is asked to settle the cases, and the consequence is that the people in most cases settle the alleged damages to avoid attorneys' fees and other necessary expenses incident to attending court.

Several bills have been introduced on this subject this Congress, and the committee have agreed upon the bill now under consideration, and because some relief can be afforded under this bill to innocent purchasers of patented article, I shall give it my support. In doing so I would not be understood as placing any barrier in the way of the inventive genius, for while I am in favor of protecting innocent purchasers in such cases, I am also in favor of protecting the patentee. This bill will most likely have a tendency to admonish patentees to be more careful in the disposition they make of their patented articles. I trust this bill will be perfected in the Senate, since objection has been made to amendments here by the gentleman from Massachusetts [Mr. RICE] to the end that all parties interested may be justly protected.

Mr. CASWELL. I yield five minutes to the gentleman from Michigan. [Mr. BURROWS.]

Mr. BURROWS, of Michigan. I desire to yield two minutes of the time allowed me to the gentleman from Texas, [Mr. MILLS.]

Mr. MILLS. Mr. Speaker, under the Constitution and the laws the inventors have a monopoly of the articles they patent. Under the patent laws they have an exclusive monopoly for a certain period named in the law. But they ought not to be permitted to so use the monopoly thus granted to them as to afford a means of direct injury to the great body of the people of the United States, and they are so authorized by existing law. I have heard complaints in my district by my own people calling my attention to the number of mischiefs this bill is intended to remedy. It has been frequently stated that parties who have these monopolies granted to them under this law permit some one to infringe upon them and manufacture that which they have the exclusive right under their patent to produce, and they never claim the benefit of the protection allowed by the law for their right until the innocent holder purchases and begins to use it for his own benefit, and then you find their agents coming to him and demanding that he shall pay an exorbitant price for infringing or they will take him some two or three hundred miles to some Federal court to try the case against him.

This bill is intended to give to the innocent user or purchaser of the patented article the same right that an equity court gives to the holder of land who has paid in good faith for his title. The bill has been changed since it came before the House by striking out the word "unless" and inserting the word "when," so that the purchaser who buys in open market for valuable consideration has the same protection and all the protection that the law can give him.

Mr. CASWELL. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CASWELL. Would it be in order now to modify the original motion and move that the bill be taken up for consideration?

The SPEAKER. The gentleman has no control of the bill now after the motion has been submitted from the committee except such as may be obtained from the House by unanimous consent; and the Chair understands that objection has been made to any modification.

Mr. SPRINGER. I do not insist on the objection.

Mr. CASWELL. I ask uanimous consent that the motion may be so modified as to take it up for present consideration with a view to amending it.

Mr. ROBINSON, of Massachusetts. I have no objection as far as I am concerned.

The SPEAKER. The Chair thinks that could not be done now.

Mr. SPRINGER. I withdraw my objection to the modification of the bill, as suggested by the gentleman from Wisconsin.

The SPEAKER. Is there further objection to the modification of the bill by the insertion of the words suggested by the gentleman from Illinois, [Mr. CANNON,] the gentleman from Illinois having withdrawn the objection?

Mr. RICE, of Massachusetts. I renew the objection.

Mr. BURROWS, of Michigan. Mr. Speaker, the brief time allowed for debate upon this motion to suspend the rules and pass this bill is wholly inadequate to permit a recital of the outrages which this measure is intended to remedy much less to reply to the numerous criticisms urged against it. This is the second effort to bring this matter to the deliberate consideration of this House, and it is a little remarkable that, whenever it is sought to give protection to the innocent purchasers and users of patented articles, there are always some gentlemen to be found prolific of objections, to prevent, if possible, the passage of any measure for relief. Another peculiarity is, that these same gentlemen have no suggestions to make by which their objections may be overcome. They simply abound in criticisms.

Even now, when certain modifications are proposed by the friends of the measure, to avoid antagonisms and make it conform if possible to the views of its opponents, even this is objected to, and the conclusion is forced upon us that it is the purpose to prevent if possible all legislation whatever upon this subject. Now, sir, what I desire, what the people of the State which I have the honor in part to represent demand, what the farmers of this whole country insist upon, is that the purchasers of a patented article in good faith for a full consideration and in the open market shall be protected from the bands of patent-right inquisitors which infest the country and plunder our people. I demand for the purchaser in good faith of the barbed-wire fence, the drive-well, the Birdsell clover-huller, and

the hundred other articles necessary to the farmers of the great West, that they shall be exempt from the unjust persecutions to which they are now subjected. I ask to embody in my remarks some well authenticated instances of outrages to which the people of my district and State have been subjected:

S. L. Bently, of Eaton Rapids, reported that on the Birdsell clover huller the following persons in that vicinity paid royalty on a huller valued at $450:

W. S. Smith, W. H. Ford, J. Horner, Delos Smith, and James Borabeck—the fee demanded and paid being $100 by each.

On circular-saw guide, valued at $50, $50 was demanded of R. Perrin, and $45 was paid. From H. Griffith and J. M. Allyn the same amount was demanded and the same paid. From Fred Spicer $50 was demanded and the case litigated, and a judgment of $91.50 rendered with costs.

For circular-saw dogs with attachments, valued at $75, from Fred Spicer $50 was demanded and $40 paid. The same demand was made of J. M. Allyn and H. Griffith for the same device, and same payment made.

W. A. Luman, of Elsie, writes that on a Glen & Hall clover-thrasher, valued at $260 when new, nine years after purchase a royalty of $125 was demanded, which, with the expense of two hundred miles travel and attorney fee, he paid. He also reports that from W. H. Davidson, for a Wooster huller valued at $280, a royalty of $125 was demanded and judgment obtained.

George Davidson had the same experience. J. Buesenger, A. E. Rockold, M. S. Hamilton, and E. Thompson each paid the $125 royalty demanded for using a Glen & Hall clover-huller.

R. B. Davis, of Fowlerville, reports that from Oscar D. Weller, on a clover-huller valued at $400, a royalty of $100 was demanded and paid. From J. R. Dait & Co. for use of head-block valued at $125, a royalty of $100 was demanded. It remains unsettled.

David Connell reports that Jeremiah Ramsey, of Monterey, used a cider-strainer made by himself, on which he paid a royalty to one J. D. Hampton, of Detroit, of $20.

Henry Hawley, of Burr Oak, reports that, from William W. Teal, for using several cider-press racks, valued at $12, that to his certain knowledge had been in use thirty years, one dollar for each ten was paid as royalty to avoid litigation. A much larger sum was demanded.

J. M. Failing, of Tekonsha, got an old Birdsell huller in a trade, calling it worth $100; never run it an hour; was sued for infringement, and refusing to pay the royalty of $100 demanded, learned at a cost of $417 that the United States district court for the eastern district of Michigan knew more of the value of a patent than he did, and we came very near adding the disrespectful remark—less of equity.

Jacob Willett, of Ingham County, was made to pay a royalty of $200 on the guide and arbor of a saw bought five years before, and valued at $75. Isaac S. P. Pound paid John C. Birdsell $100 for infringement of patent on clover-huller bought by him in 1871.

From Henry Kline, of Nottawa, $100 royalty was demanded and paid on account of use of clover-huller.

From Joseph Dean, of Colon, for clover-huller, a royalty of $100 was demanded and $50 paid.

The case of Mr. Dean was one of peculiar hardship. After using the machine long enough to earn $40, his arm was caught in the machinery and he was crippled for life. Selling the machine afterward, the purchaser was sued for royalty, and at the end of a suit found that his education in patent law had cost him $500. In behalf of Mr. Birdsell or his agent it should not be forgotten that on account of the poverty and crippled condition of Mr. Dean his liability was discounted 50 per cent.

We have summarized the reports we have received, and only ask in conclusion shall owners and users of patented articles always remain the victims of these unrighteous patent laws that have so long protected by the aid of the courts a class of rascals who find this a safer way to get something for nothing than the plan adopted by the road agent of Colorado?

These are samples of the persecutions to which the farmers are subjected.

In some instances the vender and the owner of the patent seem to be in collusion. For instance, a set of men go through the country with wagon-loads of gates and dispose of them to the farmers, who pay a full consideration and have no knowledge that they are patented, and after they are set up and in daily use another set of men scour the country and notify the purchasers of these gates that the hinge or some other portion of it is patented and that they are the owners of such patent, and thereupon a demand is made for five, ten, or twenty dollars' damages for infringement, and if payment is refused suit is threatened in the United States court. To avoid this they frequently submit to outrageous exaction; and so, under threat of judicial inquisition, our people are being plundered without stint or mercy. I hope this measure will receive the prompt approval of this House, that the people who purchase patented articles in the open market in good faith and for a full consideration shall not be hunted down by these insatiate vampires. [Great applause.]

[Here the hammer fell.]

Mr. ROBINSON, of Massachusetts. I have not any time to talk about what was said by the gentleman from Michigan in regard to objections coming from a certain quarter. I do not make my objection from any such spirit or for any such purpose. I do make it in the interest of right and proper methods of legislation.

The Constitution secures to the inventors the exclusive right to their discoveries; and I suppose that this Congress ought to hesitate a little while before it takes away from them the right of property vested in them by the Constitution.

I want to say this is a crude measure, which ought not to be here under a proposition to suspend the rules and pass it in a hurry with no opportunity afforded for its proper consideration. Let a day be fixed for the consideration of this proposition, and while I represent a great many who are patentees and inventors, I will join with those who support this measure in providing some legislation that will prevent the mischiefs which have been alluded to. But that cannot be done here in the way now proposed. Because somebody drives over the country with a wagon-load of gates we must have this clamor for legislation. Does not the gentleman from Michigan know there are frauds committed all along the line in every walk of life? And is he going to legislate against those supposed frauds in that atmosphere and under that stimulus and spur for consideration?

Mr. BURROWS, of Michigan. Will the gentleman allow me a question?

Mr. ROBINSON, of Massachusetts. I have not the time.

Mr. BURROWS, of Michigan. I think it would correct an error into which the gentleman has fallen.

Mr. ROBINSON, of Massachusetts. You may correct it in your speech which you have obtained leave to print in the RECORD.

Mr. BURROWS, of Michigan. I wish to meet the charge now that this is "crude" legislation.

Mr. ROBINSON, of Massachusetts. I have not time to yield to the gentleman. What is "open market?" Does anybody know what "open market" means in this connection? Is it the "open market" if a man goes along with a wagon-load of gates and sells them? I think that is not "open market;" and if not, then the bill does not do what gentlemen want, and will be found practically a failure.

Mr. TOWNSHEND, of Illinois. It partially accomplishes what we want.

Mr. ROBINSON, of Massachusetts. It accomplishes nothing except to manifest an imprudent and hasty desire to do what should not be done in this way.

The SPEAKER. The gentleman from Massachusetts has three minutes of his time remaining.

Mr. ROBINSON, of Massachusetts. I yield the remainder of my time to the gentleman from Maine, [Mr. REED.]

Mr. REED. I am sorry I had any disposition to talk upon this subject, simply because three minutes are not adequate. Consequently I have to put what I have to say in compact shape.

I believe there are grounds for complaint; and any well-considered bill which protects the rights of all parties concerned I will vote for and support most heartily. But I want to say this business of protecting the property of inventors is double-sided. The Constitution has a right motive in protecting those men, because the public get value received, and unless you pay the inventors men will not invent. If you rob them of the proceeds of their invention after they have invented, you stop the business. And every man knows that notwithstanding the thousands of dollars that are taken away from innocent men by fraudulent practices such as are complained of, there are millions of dollars conferred upon the public by this very inventive faculty. Your bill does not protect the people you want to protect. It will enable railroad companies already banded together into associations against patents to absorb the brains of others without recompense. For one dollar you save farmers you will put thousands into the coffers of corporations.

If your bill means anything it means that you are to repeal the patent laws; and I say you cannot afford to do that. In order to meet a grievance, though a real one, you cannot afford to deprive yourselves of the entire benefit of the patent laws. If you pass this bill and if it accomplishes anything it is practically saying to inventors, "If you go on inventing you are going to have the proceeds of your inventions taken away from you."

Now, gentlemen, let us not in a moment of passion, arising perhaps from real grievances, do a wrong to this country to which the wrongs individuals are suffering from are but small in comparison. It is because inventors furnish a *quid pro quo*, it is because it is for the interest of this entire country to encourage invention, that the patent laws exist, and if you strip a man of his reward for his invention you strip him of all incentive to exertion. What would this country be without the inventive faculty? Without the patent laws to-day it would be poor instead of being rich. We owe the cheapness of everything that enters into the production of our daily bread, of everything that we wear, of everything that we use, to the inventive power. Do not strike it down. It is not wise to do so. Let a well-considered bill be presented, doing what you mean to do, and it will pass both Houses. Such a bill as this will die between here and the Senate, or if it passes inflict the injuries you do not intend.

Mr. HEWITT, of New York. I would ask if any portion remains of the time allowed for debate?

The SPEAKER. The gentleman from Massachusetts has one minute of his time remaining.

Mr. ROBINSON, of Massachusetts. I yield it to the gentleman from New York [Mr. HEWITT.]

Mr. HEWITT, of New York. The gentleman from Michigan [Mr. BURROWS] said when this bill came up somebody always objected. I objected on the occasion of the last attempt that was made to obtain unanimous consent. I went immediately afterward to the gentleman from Michigan and offered to sit down with him and try to perfect a proper bill to cure what are undoubtedly existing grievances. The gentleman will bear witness to that fact. Subsequently I took him the documents which pertained to this matter, and I am surprised he should say in this House that some one objects without reason or any desire to perfect proper legislation. The bill now under consideration is confiscation, not legislation.

Mr. BUTTERWORTH. I desire to make a parliamentary inquiry.

Mr. BURROWS, of Michigan. Will the gentleman from New York allow me——

The SPEAKER. The time allowed for debate has expired. The gentleman from Ohio will state his parliamentary inquiry.

Mr. BUTTERWORTH. Would it be in order to move to recom-

mit this bill to the Committee on Patents, with instructions to so amend it as to confine the operation of its provisions to innocent purchasers of patented articles and to individuals?

The SPEAKER. That would not now be in order.

Mr. BURROWS, of Michigan. I ask unanimous consent, in view of some statements which have been made, that the letter of the Commissioner of Patents be read, which was written after an examination of this bill.

Mr. RANDALL. I suggest that the gentleman from Wisconsin [Mr. CASWELL] permit the bill to be open for consideration and amendment.

The SPEAKER. The gentleman has not that power.

Mr. BURROWS, of Michigan. I ask unanimous consent that the letter of the Commissioner of Patents be read.

Mr. BUTTERWORTH. I object.

The question was taken upon the motion to suspend the rules and pass the bill, and upon a *viva voce* vote the Speaker announced that two-thirds appeared to have voted in the affirmative.

Mr. RANDALL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 155, nays 49, not voting 87; as follows:

YEAS—155.

Aiken,	Dingley,	Knott,	Scales,
Aldrich,	Dunnell,	Lacey,	Scoville,
Anderson,	Dwight,	Leedom,	Shackelford,
Armfield,	Farwell, Sewell S.	Le Fevre,	Singleton, Otho R.
Atherton,	Finley,	Lord,	Skinner,
Atkins,	Fisher,	Marsh,	Smith, Dietrich C.
Belford,	Ford,	Martin,	Spaulding,
Berry,	Forney,	McClure,	Speer,
Blackburn,	Fulkerson,	McCoid,	Steele,
Blanchard,	Garrison,	McKenzie,	Stockslager
Bland,	Geddes,	McMillin,	Strait,
Browne,	Gibson,	Miller,	Talbott,
Buckner,	Guenther,	Mills,	Taylor,
Burrows, Julius C.	Gunter,	Money,	Thomas,
Burrows, Jos. H.	Hall,	Morey,	Thompson, P. B.
Cabell,	Hardy,	Muldrow,	Thompson, Wm. G.
Caldwell,	Harmer,	Mutchler,	Townshend, R. W.
Calkins,	Haseltine,	Neal,	Turner, Henry G.
Campbell,	Haskell,	Norcross,	Turner, Oscar
Cannon,	Hatch,	Oates,	Updegraff, J. T.
Carpenter,	Hazelton,	Pacheco,	Updegraff, Thomas
Caswell,	Heilman,	Page,	Urner,
Chapman,	Henderson,	Parker,	Valentine,
Clardy,	Hepburn,	Paul,	Van Aernam,
Clark,	Herndon,	Peelle,	Van Horn,
Colerick,	Hewitt, G. W.	Peirce,	Van Voorhis,
Converse,	Hill,	Prescott,	Warner,
Cook,	Holman,	Ranney,	Watson,
Cox, Samuel S.	Hooker,	Ray,	Webber,
Cox, William R.	Houk,	Reagan,	Wellborn,
Cravens,	House,	Rice, Theron M.	Wheeler,
Culberson,	Hubbell,	Rich,	Whitthorne,
Cullen,	Humphrey,	Richardson, Jno. S.	Williams, Chas. G.
Cutts,	Jacobs,	Ritchie,	Williams, Thomas
Davis, Lowndes H.	Jadwin,	Robertson,	Wise, George D.
Dawes,	Jones, James K.	Robinson, James S.	Wise, Morgan R.
Deering,	Kenna,	Robinson, Wm. E.	Wood, Walter A.
De Motte,	King,	Rosecrans,	Young.
Deuster,	Klotz,	Ryan,	

NAYS—49.

Bayne,	Errett,	Lynch,	Smith, A. Herr
Bingham,	Evins,	Miles,	Spooner,
Brewer,	Hammond, John	Moore,	Stone,
Briggs,	Hammond, N. J.	Murch,	Tillman,
Buchanan,	Hardenbergh,	O'Neill,	Townsend, Amos
Clements,	Harris, Benj. W.	Payson,	Tyler,
Crapo,	Harris, Henry S.	Randall,	Wait,
Crowley,	Hewitt, Abram S.	Reed,	Walker,
Davis, George R.	Hiscock,	Rice, John B.	Ward,
Dowd,	Hoblitzell,	Rice, William W.	West.
Dugro,	Jorgensen,	Robinson, Geo. D.	
Ellis,	Kelley,	Scranton,	
Ermentrout,	Ketcham,	Shelley,	

NOT VOTING—87.

Barbour,	Darrall,	Ladd,	Ross,
Barr,	Davidson,	Latham,	Russell,
Beach,	Dezendorf,	Lewis,	Shallenberger,
Belmont,	Dibble,	Lindsey,	Sherwin,
Beltzhoover,	Dibrell,	Manning,	Shultz,
Black,	Dunn,	Mason,	Simonton,
Bliss,	Farwell, Chas. B.	Matson,	Singleton, Jas. W.
Blount,	Flower,	McCook,	Smith, J. Hyatt
Bowman,	Frost,	McKinley,	Sparks,
Bragg,	George,	McLane,	Springer,
Brumm,	Godshalk,	Morrison,	Stephens,
Buck,	Grout,	Morse,	Tucker,
Butterworth,	Hawk,	Mosgrove,	Upson,
Camp,	Herbert,	Moulton,	Vance,
Candler,	Hoge,	Nolan,	Wadsworth,
Carlisle,	Horr,	Orth,	Washburn,
Cassidy,	Hubbs,	Pettibone,	White,
Chace,	Hutchins,	Phelps,	Willis,
Cobb,	Jones, George W.	Phister,	Willits,
Cornell,	Jones, Phineas	Pound,	Wilson,
Covington,	Joyce,	Richardson, D. P.	Wood, Benjamin.
Curtin,	Kasson,	Robeson,	

So (two-thirds voting in favor thereof) the rules were suspended and the bill was passed.

The following additional pairs were announced:

Mr. FLOWER with Mr. WILLIS.

Mr. BUTTERWORTH with Mr. BELMONT.

Mr. WHITE with Mr. MCLANE.

ENROLLED BILL SIGNED.

Mr. PEIRCE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 4466) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1883, and for other purposes.

FRANK L. DONNELLY.

Mr. SMITH, of Illinois. I am instructed by the Committee on Claims to move to suspend the rules so as to discharge the Committee of the Whole on the Private Calendar from the further consideration of the joint resolution (H. R. No. 145) to pay Frank L. Donnelly as page to the Forty-fifth Congress, and to pass the same at this time.

The SPEAKER. The joint resolution will be read.

The joint resolution was read, as follows:

Resolved, &c., That Frank L. Donnelly, for services as page of the extra session and regular session of the Forty-fifth Congress, be paid, out of any moneys in the Treasury not otherwise appropriated, $92.50, balance earned by him and not yet paid.

The question was taken; and (two-thirds voting in favor thereof) the rules were suspended and the joint resolution was passed.

MRS. SALLIE CARROLL.

Mr. JADWIN. I am instructed by the Committee on War Claims to move to suspend the rules so as to discharge the Committee of the Whole on the Private Calendar from the further consideration of the bill (H. R. No. 5811) for the relief of Mrs. Sallie Carroll, executrix, and to pass the same at this time.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Mrs. Sallie Carroll, executrix and devisee of William T. Carroll, deceased, the sum of $20,000, being the value of timber and wood taken from the tracts of land known as "Sligo" and the "Dobbin" farm, and used in the construction of Fort Slocum and adjacent batteries by the military authorities of the United States.

Mr. RANDALL. I ask that a second be considered as ordered on the motion to suspend the rules, so that there may be some explanation given of this bill.

There was no objection, and the second was ordered.

Mr. RANDALL. I ask that the report from the Committee on War Claims be read.

The SPEAKER. The report will be read in the time of the gentleman from Pennsylvania.

The report was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. No. 2380) for the relief of Mrs. Sallie Carroll, executrix and devisee of William T. Carroll, deceased, report as follows:

The object of this bill is to indemnify the loyal owner for timber taken and used by the military authorities of the United States in the construction of some of the fortifications north of Washington and for other military purposes.

Mrs. Sallie Carroll is the executrix and sole devisee of William T. Carroll, deceased, who was for many years the clerk of the Supreme Court of the United States, and who died in the city of Washington on the 11th day of July, 1863.

He was conspicuously loyal to the Government of the United States, as was his widow; and some of the members of his family rendered important and distinguished military service to the Government during the rebellion.

The Carroll estate consisted in part of two tracts of land in Montgomery County, Maryland, called respectively "Sligo" and the "Dobbin" tract or farm. "Sligo" contained about one hundred and forty-eight acres, and "Dobbin" farm about three hundred and twenty-seven acres.

In the years 1862 and 1863 the chief engineer of the defenses of Washington, General Barnard, directed that all the timber on these tracts should be cut down, in order to obtain material for the construction of forts, fortifications, &c., and in order to clear the field of fire from the forts to be constructed.

In the erection of Fort Slocum and adjacent batteries, which constituted a portion of the defenses of Washington on the north, 130,000 cubic feet of hard timber, taken from the "Sligo" tract, was used under the orders of the officers of engineers engaged in the construction of the fortifications around Washington.

The timber used for this purpose was hard timber, oak and chestnut, and of large size. In addition, 2,000 cords of wood cut from the same tract was used for the construction of abatis.

Estimating the logs used in the construction of the forts to be worth ten cents per cubic foot, and the wood used for other purposes as worth $3.50 per cord, the amount justly due from the United States and payable for the property thus taken:

For 130,000 cubic feet of timber, at 10 cts	$13,000
For 2,000 cords of wood, at $3.50	7,000
Total	20,000

The taking of this timber for military purposes and its use in the construction of Fort Slocum and adjacent batteries and for abatis are stated with great minuteness in the affidavit of Mr. John Collins, under whose direct superintendence the work was done and who was a thoroughly competent, reliable, and truthful man, as is shown by the affidavits of Mr. Gunnell, the assistant engineer in charge.

By the same affidavits the value of the timber and cord-wood are shown and are the same as adopted in this report.

Upon these facts it appears to the committee that it is the plain and indisputable duty of Congress to pay this claim.

Provision has heretofore been made to pay all loyal citizens of the States lately in rebellion the value of their property taken and used as stores and supplies for the benefit of the military forces of the United States. No action has been taken

by any department of the Government on the claim for wood used in the construction of fortifications. The provisions of the act of July 4, 1864, do not apply.

Colonel Barton S. Alexander, United States Engineer Corps, in a letter to the Chief of Engineers, dated Washington, District of Columbia, April 10, 1874, says: "In my judgment the sum of $250,000, if properly distributed, will be a fair compensation for all damages done to property of loyal owners by the Engineer Department in the construction and maintenance of the fortifications of Washington during the late civil war."

To deny to a loyal citizen of the District of Columbia any compensation for the loss of his property that was taken and used for the protection of the capital would, in the opinion of your committee, be a great injustice.

Your committee therefore report back a bill as a substitute for House bill No. 2586, and recommend its passage.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. JADWIN] desire to be heard in support of his motion? [A pause.] The Chair will understand the gentleman as reserving his time. Does any gentleman desire to be heard in opposition to the motion?

Mr. GEDDES. Mr. Speaker, I regard this measure as vicious in principle and exceedingly dangerous in practice. Although this claim has received the favorable consideration of a majority of the Committee on War Claims, bills of a similar character involving identically the same principle had previously been acted upon adversely by the same committee; so that it seems to me this case in all its features is now to be made exceptional.

The property taken in this case was material for the construction of temporary fortifications, thrown up merely for the time being. A portion of this timber was cut down simply for the purpose of giving the Army a better outlook in the active prosecution of the war, while actually engaged with the adversary. Other portions of this property were piled up in heaps, and these were called fortifications; but they were temporary in their nature and absolutely necessary at the time for purposes of defense. These acts must be regarded as done in self-defense. They can only be justified on the ground of overwhelming necessity for self-preservation. When such an emergency arises in the case of individuals or of a nation, and in the exercise of that right injuries are inflicted on friend or foe, individuals and nations alike are exonerated from all liability, legal or moral.

It was unfortunate that these claimants had property exposed to the ravages of war, and if such losses had occurred in only a few instances, or had been confined to a limited district of country, the General Government might safely waive its legal rights and generously grant compensation for this class of damages; but it must be borne in mind that our last war was the most extraordinary known to history. Unfortunately this led to the destruction of an immense amount of property as a wise, judicious, and just exercise of military authority.

The principle upon which this bill rests would involve the payment of hundreds of millions of dollars, claims for which are now pending before the War Claims Committee, of which I have the honor to be a member. Some of these we concede are full of merit; that is, they appeal strongly to the conscience, to the equitable consideration and judgment of men. But when we contemplate the magnitude of the war and the vast amounts of property that were necessarily destroyed, it is utterly impracticable to allow this class of claims.

Cases of this kind are not at all new. Various claims of this character have been acted upon from time to time, and in the earlier Congresses subsequent to the war some of these claims were passed. The claim of Dr. Best, of Tennessee, was one of a character appealing very strongly to a man's sense of right, and if that case stood alone I am not prepared to say that I would object to seeing compensation voted to the claimant. He owned a brick house which he was occupying and which stood in the way of the Army, so that they could not have a proper view of the enemy. The enemy used this house temporarily as a means of protection. The commanding officer of the United States forces ordered the house torn down, razed to the earth, in order that the battle might be carried forward. Dr. Best has been for years appealing to Congress for compensation, but this same committee has refused favorable action upon his claim, and our report to that effect is now on the table.

There was another case, the case of Thomas B. Wallace, a citizen of Lexington, Missouri, a loyal man doing all he could for the Government, who had his house torn down and destroyed by the Army in the active prosecution of the war. On behalf of the Committee on War Claims I submitted a report against granting relief in that case, in view of the impracticability of admitting the principle involved.

As I have said, some of these claims have passed the House, and a few of them many years ago passed both the House and the Senate. President Grant vetoed them all. In his veto messages, which I have not at hand, he used arguments which ought to be satisfactory to the House against the allowance of claims of this class.

If the present bill should receive the favorable consideration of the House we open the door to the payment of hundreds of millions of dollars for property thus taken as a matter of necessity in connection with the operations of the Army. A dangerous and deadly conflict of arms was being waged, involving the existence of the nation, and in such an emergency this property was destroyed. Thousands of this class of sufferers exist, and it would absolutely bankrupt the Treasury to pay them.

Mr. CANNON. I would be glad if the gentleman from Ohio [Mr. GEDDES] would yield me a couple of minutes.

Mr. GEDDES. Is the gentleman opposed to the bill?

Mr. CANNON. I am.

Mr. GEDDES. Then I yield to the gentleman two minutes.

Mr. CANNON. Mr. Speaker, I only wish to say that in my judgment we cannot under a suspension of the rules, with fifteen minutes' discussion on each side, embark safely upon the policy of paying for every cord of wood or every stick of timber belonging to a loyal man that was destroyed during the late war by reason of the operations of the Army.

I wish to say further that even if payment in this case should be made, I believe the amount of compensation here proposed is too large. It appears by the report that all the timber in this case was cut from one of two farms, namely, the Sligo farm, embracing one hundred and forty-eight acres; so that this payment would be at the rate of more than $135 an acre for timber alone. Now I suspect that this Sligo farm never was and is not now worth $135 an acre. But, however that may be, I do not care to discuss the question whether this appropriation is extravagant or not; I say that we cannot afford on thirty minutes' discussion to embark upon the policy here proposed, and for one I shall vote against the bill.

Mr. GEDDES. I yield five minutes to the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. I yield three minutes to the gentleman from Pennsylvania, [Mr. SMITH.]

Mr. SMITH, of Pennsylvania. Mr. Speaker, I was a member of the minority of the Committee on War Claims who made, at least verbally, an adverse report on this bill. The action of the minority in this case is in harmony with the rule which has been recognized by the accounting officers of the Government as well as by the courts in dealing with questions of this kind, the principle controlling these decisions having been declared by the supreme court of Pennsylvania as early as 1788, in the case of Respublica vs. Sparhawk, 1 Dallas, 383. That decision, based on well-settled principles of the law of nations, was delivered by Chief-Justice McKean, from whose language I read:

> It is a rule, however, that it is better to suffer a private mischief than a public inconvenience, and the rights of necessity form a part of our law. Of this principle there are many striking illustrations. If a road be out of repair, a passenger may lawfully go through a private inclosure. (2 Black. Com., 36.) So, if a man is assaulted, he may fly through another's close. (5 Bac. Abr., 173.) In time of war, bulwarks may be built on private ground. (Dyer, 8 Brooke, Trespass, 213; 5 Bac. Abr., 175.) And the reason assigned is particularly applicable to the present case, because it is for the public safety. (20 Vin. Abr., (trespass,) B., note *a*, section 4, folio 476.)

According to all the elementary writers on the law, damages done by the erection of forts, the seizure of timber, or material for barricades under pressure of military necessity, give no legal right to compensation. In harmony with this well-settled doctrine has been the action of all the committees who have had cognizance of questions of this kind since I have been in Congress. The Committee on War Claims, from the time it was constituted in the Forty-third Congress, has recognized this principle, and has utterly refused to favor claims for damages resulting from the erection of fortifications on private property.

Mr. HOLMAN. I regret that a bill of this importance, involving as I conceive an important principle, should be brought forward under circumstances so unfavorable to reasonable discussion. I can say but little in the few minutes which are left me further than to indorse what has been already so well said by the gentleman from Ohio, [Mr. GEDDES.]

The House will remember that this claim is alleged to be for property taken and appropriated for the use of the Army, and as such would come under the provisions of the act of July 4, 1864, and in that event would be cognizable by the Quartermaster-General and the accounting officers of the Treasury. Under the provisions of that act and in that view this claim, with others of the same character, went before the Quartermaster-General, but as it was in fact one of that large body of claims for spoliation during the actual operations of the Army at the seat of war, it was considered and passed upon unfavorably by the Quartermaster-General, and, in common with other claims for trees cut down and used in military operations in the same section, amounting to some $250,000, it was disallowed by the Quartermaster-General. Such is my understanding. The important question the House must consider now is whether or not we will proceed to take up and allow the claims which have been unfavorably reported upon by the Quartermaster-General. If we do we will open up a vast field of claim legislation. I do not think the House can safely enter upon that field of legislation. Congress at one time, many years ago, entered upon the allowance of this class of claims and passed the bill referred to by my friend from Ohio [Mr. GEDDES] in favor of Doctor Best, of Tennessee, and this House passed the bill for the relief of Mr. Wallace, of Missouri.

These bills were based substantially on the same principle which underlies the pending bill. The claim of Mr. Wallace was a very strong one, for when he suffered by the spoliation of our Army he was actually in the public service. I might name many similar cases, but these were reconsidered, and we again face the question whether we will pay claims for spoliations committed by the Army, and property damaged or destroyed during the operations of the Army at the seat of war. For, sir, whatever may be said about the appropriation of timber for the building of forts, this claim is for forest

trees cut down in military operations and used in part in the operations of the Army for temporary defense; at least such is my understanding of the testimony in support of this claim. The trees were cut down and in part used for a temporary purpose of the Army—for temporary defense in the field, and not with a view to the erection of a permanent fort. It was simply the destruction of forest trees by the Army at the seat of war for military purposes. Like instances of spoliation occurred over a vast region of country in which undoubtedly many loyal persons suffered. Now, sir, up to this time claims of this class have not been paid, and I think the House will establish a perilous precedent in the passage of this bill. I trust that it will not be passed.

Mr. MILLS. Has not this House at this very session refused to pass the Best bill, and once when it was passed was it not vetoed by the President?

Mr. HOLMAN. Certainly, the committee reported the Dr. Best bill adversely, and it also reported, I believe, adversely to the bill for the relief of Mr. Wallace, of the State of Missouri. The House itself has declared by an amendment to the bill transferring claims to the Court of Claims against the payment for damages to and destruction of property by the operations of the Army at the seat of war. But, sir, I especially object to the attempt to pass a bill so far-reaching in its result as a legislative precedent under a suspension of the rules and with only a brief half hour for debate.

The SPEAKER. The gentleman's time has expired.

Mr. JADWIN. I will yield for five minutes to the gentleman from Louisiana, [Mr. ROBERTSON.]

Mr. ROBERTSON. Mr. Speaker, I regret very much on this occasion to be called upon to advocate a war claim, but as I happen to belong to the committee from which this bill comes, and to have fully investigated many claims of this character, and among them the one now pending, it may be proper that I should say a few words before the vote is taken. The committee when it came to consider these claims laid down certain rules by which they proposed to be governed in auditing and acting upon such matters. The principle was enunciated by that committee that it would compensate loyal citizens for property taken and used by the Army during the war. And in the investigation of this particular case I feel perfectly satisfied, from the testimony which was adduced, that it was established beyond doubt and beyond dispute that this material was taken by the United States Government for the purpose of erecting a permanent fort. The fortification which was erected stood there from the time of its erection until the end of the war.

Now, it would have been paid for if it had been classed as other material taken for the Quartermaster's Department. If it had been material the Quartermaster-General could have taken cognizance of, it would have long since been paid for and this claim never would have come before Congress; but it was not used by the Quartermaster-General's Department, but by the Engineer Department of the Army, and therefore, under the construction given by the Government officers, it could not be paid for without an act of Congress. [Mr. GEDDES rose.] The gentleman had his time and I cannot yield to any interruptions, as I have but a very few minutes.

Mr. Speaker, this is as clear a case as I ever saw before this committee. It is, in my opinion, just in all respects. The gentleman from Ohio [Mr. GEDDES] has raised a bugbear that it opens the door to the payment of millions of dollars of claims of the same class. We had before us the evidence of the Engineer Department, in which it appeared that $250,000 would cover the whole amount of all these claims.

Mr. HOLMAN. That is, at that place.

Mr. ROBERTSON. Yes, at that place, and that is a good place. I do not want any better evidence.

Now, the gentleman from Indiana, who is bitterly opposed, as he says, to all these claims, is on record in favor of this claim, for that gentleman brought in a report on a former occasion in favor of a claim of a similar character, coming from Nashville, Tennessee, where timber and other materials were taken to build a temporary fortification around that city. That claimant came to Congress, and Congress, after auditing the claim, allowed him $15,000. He claimed $25,000 or $30,000, but he took the money which was allowed, $15,000, under protest. He brought his claim forward again in another Congress; but the gentleman from Indiana, more liberal then than now—he might have been a copperhead then, but he is not so much of a copperhead now—that gentleman, I say, took up that claim, reaudited it, increased the amount $5,000; that is, he allowed the claimant $5,000 more than the previous Congress had given, and which it deemed was sufficient payment for the damage done or the property taken.

Mr. GEDDES. Does the gentleman want this to be understood as a "copperhead" claim?

Mr. ROBERTSON. No, sir.

Mr. HOLMAN. My friend from Louisiana will see that the claim he refers to is for lumber taken from a lumber yard, while this is for timber growing upon the land.

Mr. ROBERTSON. That does not matter at all. It is the same principle. I do not care what the property may be. The Government has no right to take the property of a private citizen for public uses without just compensation. Now, here were about 140 acres of timber land, all of the timber on which was cut down and used by the Government for military purposes; the very same thing, or the very same principle that is laid down in the report of the gentleman from Indiana, which I have not time to read, but which shows that he favored the same principle.

Mr. HOLMAN. I think if the gentleman will continue the reading he would find, perhaps, differently.

Mr. ROBERTSON. I can only speak of what I have seen in the report.

Mr. HOLMAN. It did not become a law, I believe.

Mr. ROBERTSON. It did become a law. It passed Congress.

Mr. HOLMAN. Not the report I made.

Mr. ROBERTSON. It passed Congress as far as the gentleman himself could secure its passage. He favored it; made a report upon it; and not only that, but he thought the amount should be increased, the original report being for only $15,000. But the gentleman from Indiana favored the principle of paying the claim to such an extent that he said, "No; we will add $5,000 more and make it $20,000," and here is the very report the gentleman himself made.

Mr. HOLMAN. But the gentleman must admit that the same "gentleman from Indiana" to whom he refers made a subsequent report adversely upon the claim.

Mr. ROBERTSON. That does not matter. Here is the principle admitted by the gentleman himself. The gentleman from Indiana indorsed that proposition, and it does not matter whether it was wood or timber, or anything else; the principle is the same.

Mr. HOLMAN. But the gentleman will have the fairness to say that I reported adversely afterward upon the case, after a more thorough examination.

Mr. ROBERTSON. Perhaps you did, but I have not come to that part of the report yet. [Laughter.]

The SPEAKER. The gentleman's time has expired. The question is on the motion of the gentleman from Pennsylvania——

Mr. HOOKER. Has all the time allowed for debate been exhausted?

The SPEAKER. Two minutes' time yet remains.

Mr. JADWIN. I yield the two minutes remaining to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. Mr. Speaker, I have been desirous of obtaining the floor upon this bill; but the time allowed for debate has been almost entirely exhausted. Still, in the brief time that remains I wish to say a few words in response to the argument made by the gentleman from Ohio, [Mr. GEDDES.] The argument of my usually fair-minded friend, it seems to me, will not commend itself to the careful judgment of the House upon this question. The gentleman opposes the payment of this claim on the ground that other claims which in his judgment were as just as this have been rejected by the Committee on War Claims, and therefore as a *sequiter* this claim should be rejected.

This claim seems to have been very fairly and carefully considered, and reported favorably by the Committee on War Claims. It is a claim made by a citizen who was unquestionably loyal to the Government, a citizen residing in the District of Columbia, for damages done to contiguous property during the war. The property was taken for the purpose of constructing a permanent fort, which fort was used as a fortification during the entire war. That property, stripped of its timber—and I fail to see the distinction made by my friend from Indiana, who attempts to draw a line between the justice of a claim for lumber stored in a lumber-yard and timber standing on the land—this land, stripped of the timber, is probably of little or no value, the timber standing upon it constituting its main value. The Government took possession of the property, and cut the timber down. The gentleman from Ohio [Mr. GEDDES] I think concedes the justice and propriety of the claim, and objects to this demand, as I have said, upon the ground that millions of dollars of a similar character of claims will be presented if this is allowed. Why, Mr. Speaker, the very report of the committee upon the subject shows that an opinion was expressed by the engineer officer who made the investigation, Colonel Barton S. Alexander, that $250,000 will pay all the claims of the loyal citizens of the District of Columbia and contiguous thereto.

Mr. CANNON. How about Kentucky?

Mr. HOOKER. The gentleman had better ask my friend from Indiana, who seems to have reported in favor of a claim of this character from that locality. He understands the subject better than I. But if private property of a citizen was taken by the Government and applied to the construction of a fort for the defense of the country, I say that every principle of justice demands that he should be paid.

The SPEAKER. The time allowed for debate is exhausted.

Mr. HOOKER. Has the entire time allowed under the rule been occupied?

The SPEAKER. A part of it was occupied in reading the report.

Mr. HOOKER. I think that is a very unfair construction of the rule.

The SPEAKER. The rule permits the reading of the report as a part of the time to be occupied by either side in the debate.

Mr. HOOKER. The report is as much public property as anything else connected with the subject.

The SPEAKER. The uniform construction of the rule has been that when the reading of the report is called for it is to be taken out of the time allowed for debate.

Mr. HOOKER. Then there would be no debate at all under that construction, if the reading of the report occupied all the time.

The SPEAKER. Unquestionably; but the right to have the report read by any gentleman in his time has not been denied, although of course the entire report need not be read unless both sides concur.

Mr. MAGINNIS. The reading of the report was demanded by the other side.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Pennsylvania.

Mr. GEDDES. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 38, nays 140, not voting 113; as follows:

YEAS—38.

Bingham,	Hoblitzell,	Pacheco,	Urner,
Blackburn,	Hooker,	Paul,	Van Aernam,
Buckner,	Houk,	Robertson,	Van Horn,
Carpenter,	Jadwin,	Robinson, James S.	Wait,
Chapman,	Jorgensen,	Rosecrans,	Ward,
Cravens,	Lynch,	Scranton,	Whitthorne,
Ellis,	McClure,	Thompson, P. B.	Wise, George D.
Fisher,	McMillin,	Thompson, Wm. G.	Young.
Ford,	Moore,	Townsend, Amos	
Harmer,	O'Neill,	Updegraff, Thomas	

NAYS—140.

Aiken,	Deering,	Hubbell,	Prescott,
Aldrich,	De Motte,	Humphrey,	Randall,
Anderson,	Deuster,	Jacobs,	Rice, John B.
Atherton,	Dingley,	Jones, George W.	Rich,
Bayne,	Dugro,	Jones, James K.	Ritchie,
Beach,	Dunn,	Kelley,	Robinson, Geo. D.
Belford,	Dunnell,	Kenna,	Ryan,
Berry,	Dwight,	Ketcham,	Scales,
Bland,	Ermentrout,	Knott,	Shackelford,
Brewer,	Errett,	Lacey,	Shelley,
Briggs,	Evins,	Lecdom,	Skinner,
Browne,	Farwell, Sewell S.	Le Fevre,	Smith, A. Herr
Brumm,	Flower,	Lewis,	Smith, Dietrich C.
Buchanan,	Forney,	Lord,	Spaulding,
Burrows, Julius C.	Fulkerson,	Manning,	Spooner,
Burrows, Jos. H.	Garrison,	Marsh,	Springer,
Cabell,	Geddes,	Martin,	Steele,
Caldwell,	Guenther,	McCoid,	Stockslager,
Calkins,	Gunter,	McKenzie,	Talbott,
Campbell,	Hall,	Miles,	Thomas,
Cannon,	Hammond, John	Miller,	Tillman,
Clardy,	Hammond, N. J.	Mills,	Turner, Henry G.
Clark,	Hardenbergh,	Money,	Turner, Oscar
Clements,	Hardy,	Morey,	Tyler,
Colerick,	Harris, Benj. W.	Morrison,	Updegraff, J. T.
Converse,	Haseltine,	Muldrow,	Valentine,
Cook,	Haskell,	Mutchler,	Wadsworth,
Cox, Samuel S.	Hatch,	Neal,	Walker,
Cox, William R.	Hazelton,	Norcross,	Warner,
Crapo,	Herndon,	Oates,	Webber,
Culberson,	Hewitt, Abram S.	Page,	Wellborn,
Cullen,	Hewitt, G. W.	Payson,	West,
Davis, George R.	Hoge,	Peelle,	Williams, Chas. G.
Davis, Lowndes H.	Holman,	Peirce,	Williams, Thomas
Dawes,	House,	Pettibone,	Wood, Walter A.

NOT VOTING—113.

Armfield,	Dibble,	Mason,	Sherwin,
Atkins,	Dibrell,	Matson,	Shultz,
Barbour,	Dowd,	McCook,	Simonton,
Barr,	Farwell, Chas. B.	McKinley,	Singleton, Jas. W.
Belmont,	Finley,	McLane,	Singleton, Otho R.
Beltzhoover,	Frost,	Morse,	Smith, J. Hyatt
Black,	George,	Mosgrove,	Sparks,
Blanchard,	Gibson,	Moulton,	Speer,
Bliss,	Godshalk,	Murch,	Stephens,
Blount,	Grout,	Nolan,	Stone,
Bowman,	Harris, Henry S.	Orth,	Strait,
Bragg,	Hawk,	Parker,	Taylor,
Buck,	Heilman,	Phelps,	Townshend, R. W.
Butterworth,	Henderson,	Phister,	Tucker,
Camp,	Hepburn,	Pound,	Upson,
Candler,	Herbert,	Ranney,	Vance,
Carlisle,	Hill,	Ray,	Van Voorhis,
Cassidy,	Hiscock,	Reagan,	Washburn,
Caswell,	Horr,	Reed,	Watson,
Chace,	Hubbs,	Rice, Theron M.	Wheeler,
Cobb,	Hutchins,	Rice, William W.	White,
Cornell,	Jones, Phineas	Richardson, D. P.	Willis,
Covington,	Joyce,	Richardson, Jno. S.	Willits,
Crowley,	Kasson,	Robeson,	Wilson,
Curtin,	King,	Robinson, Wm. E.	Wise, Morgan R.
Cutts,	Klotz,	Ross,	Wood, Benjamin.
Darrall,	Ladd,	Russell,	
Davidson,	Latham,	Scoville,	
Dezendorf,	Lindsey,	Shallenberger,	

So (two-thirds not having voted in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. TURNER, of Kentucky, (when his name was called,) said: I want no invidious distinctions, and therefore I vote "no."

The following additional pairs were announced:

Mr. KLOTZ with Mr. HEILMAN.

Mr. WHITE with Mr. MCLANE.

Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York.

Mr. VALENTINE. I move that the reading of the names be dispensed with.

There was no objection.

The result of the vote was then announced as above stated.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

A bill (H. R. No. 6179) directing the Secretary of State to take the necessary steps for the removal of the remains of the late General Kilpatrick, minister to Chili, from Chili to the State of New Jersey for interment;

A bill (H. R. No. 3542) for the relief of Charles F. Benjamin and Henry H. Smith; and

A joint resolution (H. R. No. 111) authorizing the withdrawal from the Department of State of a certificate of indebtedness in favor of Mifflin Kennedy and Richard King against the Republic of Mexico.

The message further announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 543) for the relief of the heirs of Thomas Toby, deceased.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House, by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved bills and a joint resolution of the House of the following titles:

An act (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of a tariff;

An act (H. R. No. 3196) to authorize and direct the Secretary of War to change the name of Charles Alton Howard, a second lieutenant in the Ninth Regiment of Cavalry of the Army of the United States, on the register, rolls, and records of the Army, to Alton Henry Budlong; and

Joint resolution (H. R. No. 204) making an appropriation for fuel, lights, water, &c., for the fiscal year 1882, and for other purposes.

LAND CLAIM IN NEW MEXICO.

The SPEAKER. The next committee in order is the Committee on Public Expenditures.

There was no motion made on behalf of the Committee on Public Expenditures.

The SPEAKER. The next committee in order is the Committee on Private Land Claims.

Mr. HAZELTON. I am authorized by the Committee on Private Land Claims to move to suspend the rules and discharge the Committee of the Whole House from the further consideration of the bill (H. R. No. 3835) to confirm a certain land claim in the Territory of New Mexico and to pass the bill. I ask that the report be read.

The SPEAKER. The bill must first be read.

The bill was read, as follows:

Be it enacted, &c., That the private land claim in the Territory of New Mexico known as the Cañon de Chama grant, numbered 71 in the report of the surveyor-general of New Mexico dated December 17, 1872, recommending the same for confirmation, be, and the same is hereby, confirmed to the heirs and legal representatives of Francisco Salazar and those persons, their heirs or legal representatives, named in the juridical possession of said grant executed March 1, 1808: *Provided*, That this confirmation shall only be construed as a quitclaim or relinquishment of title on the part of the United States, and shall not affect the adverse rights of any person or persons to the land so confirmed, and shall not convey any interest in or any title to any deposits or veins of mineral or coal.

SEC. 2. That the Commissioner of the General Land Office be, and he is hereby, authorized and directed to issue a patent upon the survey of said grant approved by the surveyor-general of New Mexico September 7, 1878, now on file in his office, upon the payment to the United States of the cost of said survey, as provided by law; but it is expressly provided that said Commissioner shall have the right to cause a new survey of said grant to be made, or the survey hereinbefore mentioned to be corrected in any particular, upon which to issue said patent.

SEC. 3. That the confirmation of this claim shall not confer any right or title to any gold, silver, or quicksilver mines or minerals unless the grant claimed effected the donation or sale of such mines or minerals to the grantees, nor unless such grantees have become otherwise entitled thereto in law or in equity; but all such mines and minerals shall remain the property of the United States, with the right of working the same, which fact shall be stated in any patents issued under this act. But nothing in this act shall authorize the working of any mines therein by any person except the confirmees or their assigns until Congress shall provide by law therefor.

Mr. SPRINGER. I demand a second.

The SPEAKER. Is there objection to considering the second as ordered? The Chair hears none.

Mr. SPRINGER. I am opposed to passing a bill of this kind under a suspension of the rules. It involves the right to a large tract of land. I am informed that 472,000 acres are involved in the bill which has just been read, and which proposes to confirm to the claimant by act of Congress the title to this vast tract of land.

Gentlemen know very well how all such cases are adjudicated before committees. The evidence is necessarily *ex parte*. They cannot have the process of courts to compel the attendance of witnesses and to examine and cross-examine them in open court. The evidence upon which the committee has reported may be all very clear, but who knows what is behind it? Who knows what would have been behind this evidence if the claim had been referred to a court where the United States could have been represented by the Attorney-General; where witnesses could have been compelled to testify in open court and the

Government could have been protected by the right of cross-examination and the introduction of other witnesses? I know that many cases of this kind have passed Congress heretofore, and that vast tracts of land have been confirmed to private individuals by special acts of Congress; and I know that in many of these cases also great scandals have arisen, and complaints have been made there was not proper investigation of the rights of the Government in the premises. I make no charges in this case, because I know nothing against the validity of the title and I know nothing in favor of it except through the report of the committee.

I know that the honorable gentleman who has submitted the motion to suspend the rules and pass this bill, [Mr. HAZELTON,] and the committee instructing him to submit that motion, have perhaps examined the bill with all the care that they can give to it under the lights which they have before them; but that does not satisfy my mind. This is a case of great importance to the Government and to the people of the United States. It is a claim involving half a million dollars' worth of property. If this land is worth a dollar and a quarter an acre, the minimum price of public lands, then the claim involves more than half a million of dollars.

Now, to pass such a bill as this, under a suspension of the rules, without a full opportunity of examination and discussion, is contrary to all correct principles of legislation, and ought not to be done by this House. I hope that the motion to suspend the rules will be voted down, and that at some future time the bill may be called up on private bill day, when it can be properly investigated and considered in the ordinary course of legislation.

I will reserve the remainder of my time until I have heard the arguments in favor of this bill.

Mr. HAZELTON. I would rather the gentleman would use the remainder of his time now, if there is any one to whom he desires to yield.

Mr. SPRINGER. I want to hear the argument in favor of this bill before I occupy the remainder of my time.

Mr. HAZELTON. This is one of those claims that come to us in the nature of a Spanish grant to citizens of New Mexico, under the Guadalupe Hidalgo treaty. Under the law of 1854 it became the duty of the surveyor-general of New Mexico to examine and pass upon all claims of this class. If in his opinion any of them were worthy and valid it was his duty to forward them with his statement to the Secretary of the Interior, who, if satisfied upon examination they ought to be confirmed, referred them to Congress for its action.

Congress has confirmed a great many grants of this character, which have come up from New Mexico and from States along the Mexican border and other Territories. If there has ever been a claim that ought to be confirmed, so far as human judgment can determine the matter, either in the Committee on Private Land Claims or in this House, this is one of those claims.

It comes to us valid from the beginning down, so far as the records, papers, and findings of all the Departments show. The original grant was regular and legal in all respects. There has been a continued possession by the grantees and their heirs from the time the grant was first made down to this hour. They entered upon the land under juridical possession. The boundaries of the grant are natural boundaries and well defined; besides that, this very claim was adjudicated in a Mexican tribunal, and that tribunal found that the title to this grant was in Francisco Solazar and his associates, and this bill simply proposes to confirm the grant to his heirs and legal representatives. In addition to that it has been examined with great care by the Interior Department. We have here the approval of the late commissioner of the General Land Office, General Williamson; and also the approval of the surveyor-general of the Territory of New Mexico. In addition to that we also have the absolute and unqualified approval of Secretary Schurz as Secretary of the Interior. The records bear them and us out in this conclusion.

The whole claim stands out clear and valid, so far as it can be determined by any tribunal, by the examination of any officer or Department of the Government, and it is unanimously reported favorably by the Committee on Private Land Claims of this House. This bill reserves to the United States all the minerals that may be upon or within this grant, and simply relinquishes and confirms to the legal heirs and representatives of these grantees the land itself.

Mr. DWIGHT. On what theory are the minerals reserved to the United States?

Mr. HAZELTON. I suppose the gentleman from New York [Mr. DWIGHT] understands; I know that he does.

Mr. DWIGHT. If the minerals belong to the United States, why does not the land also belong to the Goverment?

Mr. HAZELTON. All these grants to individuals in the Territories coming from the Spanish Government and the Mexican Government were confirmed under the treaty of Guadalupe Hidalgo, and we agreed with the Mexican Government in that treaty that we would pass upon these claims, and whatever rights a Mexican citizen was entitled to under his old government we would give him under our Government. Now, there were a large number of these private land claims all through the Territory of New Mexico, (I am talking now about that Territory especially,) and under the treaty of Guadalupe Hidalgo and the law of 1854, and under the construction given to that law by our late Commissioner of the General Land Office, Mr. John S. Wilson, we have been passing upon these claims through all these various tribunals established by law, and this claim now comes to the final confirmation or rejection by the Congress of the United States.

Under the Mexican law it was understood that while these grants of land passed to the individual for occupancy, for pasturage, and for general use, all the mines and minerals were reserved to the Government of Mexico; or, in case of Spanish grants, were reserved to the Crown. Therefore these parties take no more than they would under the Mexican Government, and in pursuance of the old Spanish policy all the minerals are reserved to the Government of the United States. This confirmation only relinquishes the land for pasturage, cultivation, &c.

Mr. REAGAN. I would inquire of the gentleman if it is his understanding that the United States Government is bound to confirm all these claims in Mexican territory?

Mr. HAZELTON. Not at all. All claims were passed upon under the treaty of Guadalupe Hidalgo; and whatever valid rights there were, inchoate or otherwise, existing in Mexican citizens, they were entitled to have confirmed to them by the Government of the United States.

Mr. REAGAN. I simply wanted to inquire whether they were required to investigate perfect titles?

Mr. HAZELTON. I suppose they should investigate the title. It must be a title; it must be something under the treaty. But in this case we have the action of the Surveyor-General, the Commissioner of the Land Office, and the late Secretary of the Interior, Mr. Schurz. In addition, there are the records of a Spanish court in which this very question of title was adjudicated and a decree made that the title was in Salazar and his heirs, to whom this bill proposes to confirm the title.

A MEMBER. How many acres are there?

Mr. HAZELTON. Four hundred and seventy-two thousand acres.

Mr. ATHERTON. If this title is perfect, why is it necessary to invoke the power of Congress to complete the title? I ask this question for information simply.

Mr. HAZELTON. It is necessary under the law of 1854 and under the treaty of Guadalupe Hidalgo; and it has been the practice of this Government. Since 1848 nobody has got any title in a land grant in New Mexico in any other way than by confirmation here. [Mr. ATHERTON rose.] I wish to reserve enough of my time to have the report read. If that can be understood I will hear the gentleman from Ohio, [Mr. ATHERTON.]

Mr. ATHERTON. Do all these grants from the Mexican Government require to be confirmed by act of Congress in order to make them valid?

Mr. HAZELTON. They have been, so far as I know.

Mr. DWIGHT. What is the necessity for the Government confirming these titles?

Mr. HAZELTON. It is necessary under the law; it is a matter of treaty obligation, as sacred as any obligation that can be assumed. Have we the right to say here that we will not observe a treaty obligation between Mexico and our Government?

Mr. DWIGHT. Are these men in possession?

Mr. HAZELTON. They have been in continued possession, and under the treaty of Guadalupe Hidalgo they are entitled to a recognition of their title by this Government. That is all we ask.

Mr. DWIGHT. If there should be any defect in the title, may not the parties come back upon the Government?

Mr. HAZELTON. No, sir; this is only a relinquishment, only a confirmation.

Mr. DWIGHT. But you provide that a patent shall be issued.

Mr. HAZELTON. Yes; when the Secretary of the Interior is satisfied that the survey is correct, the parties will be entitled under this bill to confirmation; and he will issue to them a patent.

Mr. CALKINS. In the nature of a quitclaim deed.

Mr. DWIGHT. Will not a patent in this case be like any other patent that the Government issues?

Mr. CALKINS. No; it will be founded upon the provisions of this bill.

Mr. HAZELTON. The patent will be issued just as this bill directs; it recites how and upon what conditions the patent shall issue. In this legislation we are simply carrying out a treaty obligation.

Mr. DWIGHT. These people are in possession, are they not?

Mr. HAZELTON. Certainly.

Mr. DWIGHT. And there are more than four hundred thousand acres of this land?

Mr. HAZELTON. Yes sir.

Mr. DWIGHT. Then is not this too important a measure to be passed under a suspension of the rules without full opportunity for discussion?

Mr. HAZELTON. No, sir. You have been discussing it; I have been discussing it. This is a question of less difficulty and requiring less investigation than many other claims which have been brought up and passed in as little time as we have here to-day. I will say to my friend from New York that here is the trouble: important as it is to the people of New Mexico that they should have their treaty rights secured, that they should have their titles settled, we can never reach a bill of this kind so long as the House refuses to consider the Private Calendar. Week after week we are denied the

consideration of bills of this kind on private-bill day, and it is for this reason that I present this measure here now. The gentleman from New York, while he may be a good lawyer, while he may understand titles, and all that——

Mr. DWIGHT. I am no lawyer at all.

Mr. HAZELTON. You must understand that our Land Committee has investigated thoroughly this whole question in connection with the records. You must understand that the late Secretary of the Interior, Mr. Schurz, investigated and certified to the validity of this measure and its correctness. You must understand that the case has been examined at the Land Office as carefully as an attorney would make an abstract of title. How much more examination and consideration of a claim can be asked? Why should we delay longer to act upon this case?

Mr. DWIGHT. Why not set a day for the consideration of the bill, and give members a full opportunity to be heard?

Mr. HAZELTON. I would be willing to wager almost anything that the gentleman from New York would never look at the bill again if he had three months to do so. [Laughter.] The only effect of delay in this case is to impede legitimate legislation; that is all.

Mr. DWIGHT. Will the gentleman allow me a few words?

Mr. HAZELTON. These questions must not come out of my time.

The SPEAKER. It comes out of the gentleman's time.

Mr. HAZELTON. If you have anything to say why the report of the committee is incorrect, why this bill should not pass, anything specific, say it. I ask now that the report of the committee be read.

The SPEAKER. Does the gentleman from Wisconsin decline to yield to the gentleman from New York?

Mr. HAZELTON. I do. I ask for the reading of the report of the committee and I ask my friend to listen to it.

The Clerk read as follows:

The Committee on Private Land Claims, to whom was referred the bill (H. R. No. 556) to confirm a certain land grant in the Territory of New Mexico, report as follows:

1. It appears from the evidence that has been submitted to the committee that the original grant by the Spanish Government, in 1806, to Francisco Salazar and his associates was regular and in all respects legal.

2. That the grant had definite and natural boundaries, and that the grantees were put in juridical possession according to law.

3. That the grantees and their descendants have been in the continual possession of said grant from 1806 until the present time.

4. That proceedings were commenced in 1828 by certain parties to contest the validity of this grant in a Mexican tribunal, and that in 1832 it was decided that this grant to Francisco Salazar and his associates was legal, and that the grantees were the rightful owners.

5. That at the last session of the Forty-sixth Congress the Committee on Private Land Claims, to whom was referred a bill for the confirmation of this grant, referred the whole matter to the Secretary of the Interior for information and for his opinion, to which the following reply was made, and that thereupon the committee made a report in which they unanimously recommended the passage of the bill:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 20, 1880.

SIR: On the 15th instant the honorable Secretary referred to this office, "for information and opinion," H. R. 6075, entitled "A bill to confirm a certain land claim in the Territory of New Mexico."

This bill, which was referred to you by direction of the Committee on Private Land Claims of the House of Representatives, provides for the confirmation of the grant known as Cañon de Chama, in Rio Arriba County, New Mexico, and in connection with the matter I have the honor to report as follows:

Under the eighth section of the act of July 22, 1854, (10 Stat., p. 308,) a petition was filed with the surveyor-general of New Mexico for the confirmation of the title to the Cañon de Chama tract, based upon a grant of the same said to have been made August 1, 1806, to Francisco Salazar and others, by Joaquin Alencaster, then governor of the province of New Mexico.

March 1, 1808, juridical possession was given by Manuel Garcia de la Mora, chief alcalde of the town of La Canada, the boundaries being described therein, according to translation, as follows: "On the north the Caballa Valley, on the south the Capulin, on the east the boundary of the Martinezes, and on the west the Little White Hill, (Segita Blanca.)"

The testimony taken in this case shows that this grant has always been settled and occupied by the claimants, except when driven off by the Indians.

The Surveyor-General, in his report of December 17, 1872, states that "the Spanish papers are certified copies of the originals made in 1832 by Pedro Ignacio Gallego at the request of José Pablo Salazar, the originals having been very much handled, [manido;] and their correctness is certified by Antonio Abad Duran, corporation secretary of Abiquiu, on the 4th of April, 1832." He concludes by approving the grant and recommending its confirmation by Congress.

A transcript of this report and of the accompanying title papers and testimony were transmitted by the honorable Secretary of the Interior to the President of the Senate February 14, 1873, and are printed in Senate Executive Document No. 45, Forty-second Congress, third session.

The surveyor-general of the Territory of New Mexico, whose duty it is under the law to examine and pass upon the validity of all private land claims in said Territory presented to him for adjudication, having reported in favor of the grant in question, I know of no objection to its confirmation by Congress.

It is proposed by the bill (H. R. No. 6075) to confirm the grant according to a survey approved by Surveyor-General Atkinson September 7, 1878. This survey is on file in this office, and appears to conform substantially to the boundary named in the juridical possession. It contains an area of 472,736.95 acres, being an average of about 12,275 acres to each claimant.

I inclose a draft of a bill, prepared in this office, which I would suggest as a substitute for the bill in question.

The bill is herewith transmitted; also a tracing of the survey referred to.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ, *Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR,
Washington, May 22, 1880.

SIR: House bill No. 6075, to confirm a certain land claim (Cañon de Chama) in the Territory of New Mexico, was received from your committee and referred to the Commissioner of the General Land Office.

I have the honor to transmit herewith a copy of his report on the subject, under date of the 20th instant. He expresses the opinion that the claim should be confirmed, and in this opinion I concur.

Very respectfully,

C. SCHURZ, *Secretary.*

Hon. J. M. GUNTER,
Chairman Committee on Private Land Claims,
House of Representatives.

The present bill differs from the one introduced in the last Congress in this: it provides that all mineral and mining rights shall be excepted.

Your committee therefore recommend the passage of the bill herewith submitted as a substitute for House bill No. 556.

[The time having expired during the reading of the report, by unanimous consent it was ordered to be printed in the RECORD entire.]

Mr. REAGAN. Mr. Chairman, it seems to me the House is entitled to an opportunity to see the evidence on which this confirmation is to be made. It will be observed that so far as the bill and report and the remarks of the gentleman from Wisconsin are concerned it appears there has been no adjudication, except by the surveyor-general, I mean since the acquisition of that Territory by the United States; and that as far as we know may have been an *ex parte* hearing, just as it is doubtless true there has been an *ex parte* hearing before the committee, no witnesses summoned for the Government, no notice to adverse claimants if there be any. We have no statement whether there is or is not an adverse claimant. There is no reservation in behalf of adverse claimants. Here on an *ex parte* hearing to perfect an inchoate title we are asked to pass upon all the rights involved without hearing the evidence necessary in order to confirm or reject a title.

In the Louisiana claims the Government reserved the right to reject all inchoate titles, as it did in reference to the territory it acquired from Mexico.

I would understand if this were a perfect title, as indicated in the report and remarks of the gentleman from Wisconsin, it needed no confirmation, no adjudication, and would be held to be good in the courts of the country. As an inchoate title Congress passing on it, confirming the title, precludes all adverse claimants, whatever their equities may be. That is according to the decision of the courts.

We are not advised whether there are or not adverse claimants, and, as I have said, we make no reservation of the rights of adverse claimants.

Mr. NORCROSS. The bill does make that very reservation.

Mr. REAGAN. It does not.

Mr. HAZELTON. Put in any reservation of that kind you like, and I will accept it.

Mr. HOOKER. You cannot do it now.

Mr. REAGAN. I have during the course of my life had a good deal of observation in reference to this class of claims and their confirmation, and I feel that common prudence demands that this House should not pass on this claim on the showing before us; that there should be some evidence of title; that there should be some statement whether there are or not adverse claimants. We should have something from the Government, something more than the mere statement of the claimants themselves to act on.

I understand there is a bill before the House to create a commission to investigate claims of this character, and if there is such a bill and it should become a law, it would be a proper tribunal to which to refer this claim.

Mr. HAZELTON. I ask the gentleman in all fairness to read this letter of the Secretary.

Mr. REAGAN. I have read it. The Secretary of the Interior reports to Congress that the Commissioner of the General Land Office on an *ex parte* hearing recommends the confirmation of this claim.

Mr. HAZELTON. Let me read section 1 of the bill. It is as follows:

Be it enacted, &c., That the private land claim in the Territory of New Mexico, known as the Cañon de Chama grant, numbered seventy-one in the report of the surveyor-general of New Mexico, dated December 17, 1872, recommending the same for confirmation, be, and the same is hereby, confirmed to the heirs and legal representatives of Francisco Salazar and those persons, their heirs or legal representatives, named in the judicial possession of said grant executed March 1, 1808: *Provided*, That this confirmation shall only be construed as a quitclaim or relinquishment of title on the part of the United States, and shall not affect the adverse rights of any person or persons to the land so confirmed, and shall not convey any interest in or any title to any deposits or veins of mineral or coal.

Mr. REAGAN. In a subsequent section it provides that the Commissioner shall issue a patent, and, as the gentleman knows, that precludes the possibility of other equities coming in to contest it.

Mr. HAZELTON. It provides it shall be issued in accordance with the provisions of this bill.

Mr. REAGAN. I know; but when the Government issues its patent for an inchoate title it precludes all equities against it. Nobody can set up an equity to go behind the title after the Government has issued its patent.

The truth is, when the Government confirms an inchoate title, though there may be adverse equities behind it, the adverse equities fall with the confirmation of the title. It is a passing of the title to this land by the Government completely; and the act of Congress granting the title would be a bar to the setting up of any claim on the part of any other person even though he might hold an older and better equitable but inchoate title than the grantees themselves. This is a matter that should receive more careful consideration; and

I do not care to say more than that it seems to me that a claim of this character should be considered maturely; and the House will hardly be true to itself and to the best interests of this country to confirm so large a title on such small evidence.

[Here the hammer fell.]

Mr. SPRINGER. I now yield the remaining time to the gentleman from Ohio, [Mr. CONVERSE.]

The SPEAKER. The time allowed for debate has expired.

Mr. CONVERSE. I think there are three minutes of the time remaining.

The SPEAKER. There is no time for debate remaining.

Mr. SPRINGER. I do not understand that the time has all been occupied.

The SPEAKER. The entire time has been occupied.

Mr. DWIGHT. I want to ask consent of the House for a moment.

The SPEAKER. There can be no time allowed for debate except by unanimous consent.

Mr. DWIGHT. Then I ask unanimous consent as a question of privilege.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DWIGHT. Mr. Speaker, during the course of the remarks of the gentleman from Wisconsin, I made some inquiries of him with reference to what seemed to me a very pertinent matter in connection with this question, that involves, as I understand it, something over four hundred thousand acres of land.

Mr. SPRINGER. Four hundred and seventy-two thousand acres.

Mr. DWIGHT. My friend from Texas gave some reasons for opposing the bill which it seems to me underlie the whole question. I was attempting to ask my friend from Wisconsin a question, and—as is usual at such a time, always under a disadvantage where gentlemen are indisposed to yield—I wanted to call the attention of the House to some things which my friend from Texas has stated, and I propounded questions to the gentleman from Wisconsin which I regarded as of sufficient importance to have elicited a reply, and which I believe my duty to the House and country demanded should be asked. The gentleman did not answer the questions in such manner as in my judgment the importance of this subject demands.

Mr. HAZELTON. I certainly had no intention of failing in that respect.

Mr. DWIGHT. I am satisfied that I was right in asking that the House should take the time to consider this matter more carefully or set apart at all events a day for its proper consideration, so that a question involving, as this does, millions of dollars might have that attention its importance demands. Four hundred and seventy-two thousand acres of land are involved in this bill, that may be worth ten millions of dollars—for aught I know fifty millions. The gentleman from Texas has stated that if this confirmation shall be made by Congress, notwithstanding what this law says, the United States will thereby have given a perfect title to every acre of that land. Does not everybody know who knows anything about such questions that if it shall turn out by and by that some person has suffered a loss by the act of the General Government giving perfect title to this land, that a claim will eventually come here on the part of somebody else like this presented by my friend and ask that it shall be allowed under a suspension of the rules?

The SPEAKER. The question is on the motion of the gentleman from Wisconsin to take from the Private Calendar and pass the bill which has been read.

The question was taken; and the Speaker decided by sound that two-thirds had voted in the affirmative.

Mr. SPRINGER. I call for the yeas and nays.

Mr. HAZELTON. Let us have a division.

Mr. SPRINGER. No; I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 39, nays 126, not voting 126; as follows:

YEAS—39.

Buckner,	Fisher,	Muldrow,	Thompson, Wm. G.
Calkins,	Ford,	Norcross,	Updegraff, Thomas
Cannon,	Guenther,	Pacheco,	Valentine,
Chapman,	Gunter,	Paul,	Van Horn,
Clardy,	Haseltine,	Pettibone,	Wait,
Crapo,	Hazelton,	Ranney,	Ward,
Culberson,	Hubbell,	Rice, William W.	Williams, Thomas
Dunnell,	Jones, George W.	Shackelford,	Willits,
Ellis,	Kelley,	Smith, Dietrich C.	Young.
Errett,	Lacey,	Thomas,	

NAYS—126.

Aiken,	Buchanan,	Cullen,	Flower,
Aldrich,	Burrows, Jos. H.	Davis, George R.	Forney,
Anderson,	Caldwell,	Davis, Lowndes H.	Fulkerson,
Armfield,	Carpenter,	Dawes,	Garrison,
Atherton,	Clark,	Deuster,	Geddes,
Atkins,	Clements,	Dingley,	Hall,
Bayne,	Colerick,	Dowd,	Hammond, John
Blackburn,	Converse,	Dugro,	Hardenbergh,
Blanchard,	Cook,	Dwight,	Harris, Benj. W.
Bland,	Cox, Samuel S.	Ermentrout,	Harris, Henry S.
Briggs,	Cox, William R.	Evins,	Haskell,
Browne,	Cravens,	Farwell, Sewell S.	Hatch,
Hepburn,	Marsh,	Reagan,	Thompson, P. B.
Herndon,	Martin,	Rice, John B.	Tillman,
Hewitt, Abram S.	McCoid,	Rich,	Turner, Henry G.
Hewitt, G. W.	McCook,	Ritchie,	Turner, Oscar
Hiscock,	McKenzie,	Robinson, James S.	Tyler,
Hoblitzell,	McMillin,	Robinson, Wm. E.	Updegraff, J. T.
Hoge,	Miles,	Ryan,	Van Aernam,
Holman,	Mills,	Scales,	Wadsworth,
Hooker,	Money,	Scoville,	Walker,
Houk,	Moore,	Scranton,	Warner,
Humphrey,	Morrison,	Shelley,	Watson,
Jacobs,	Mutchler,	Shultz,	Webber,
Jadwin,	Oates,	Singleton, Otho R.	Wellborn,
Jones, James K.	O'Neill,	Skinner,	West,
Jorgensen,	Parker,	Smith, A. Herr	Whitthorne,
Kenna,	Payson,	Spaulding,	Willis,
Leedom,	Peelle,	Springer,	Wise, George D.
Lewis,	Peirce,	Stockslager,	Wise, Morgan R.
Lord,	Prescott,	Strait,	
Manning,	Randall,	Talbott,	

NOT VOTING—126.

Barbour,	Darrall,	Klotz,	Robinson, Geo. D.
Barr,	Davidson,	Knott,	Rosecrans,
Beach,	Deering,	Ladd,	Ross,
Belford,	De Motte,	Latham,	Russell,
Belmont,	Dezendorf,	Le Fevre,	Shallenberger,
Beltzhoover,	Dibble,	Lindsey,	Sherwin,
Berry,	Dibrell,	Lynch,	Simonton,
Bingham,	Dunn,	Mason,	Singleton, Jas. W.
Black,	Farwell, Chas. B.	Matson,	Smith, J. Hyatt
Bliss,	Finley,	McClure,	Sparks,
Blount,	Frost,	McKinley,	Speer,
Bowman,	George,	McLane,	Spooner,
Bragg,	Gibson,	Miller,	Steele,
Brewer,	Godshalk,	Morey,	Stephens,
Brumm,	Grout,	Morse,	Stone,
Buck,	Hammond, N. J.	Mosgrove,	Taylor,
Burrows, Julius C.	Hardy,	Moulton,	Townsend, Amos
Butterworth,	Harmer,	Murch,	Townshend, R. W.
Cabell,	Hawk,	Neal,	Tucker,
Camp,	Heilman,	Nolan,	Upson,
Campbell,	Henderson,	Orth,	Urner,
Candler,	Herbert,	Page,	Vance,
Carlisle,	Hill,	Phelps,	Van Voorhis,
Cassidy,	Horr,	Phister,	Washburn,
Caswell,	House,	Pound,	Wheeler,
Chace,	Hubbs,	Ray,	White,
Cobb,	Hutchins,	Reed,	Williams, Chas. G.
Cornell,	Jones, Phineas	Rice, Theron M.	Wilson,
Covington,	Joyce,	Richardson, D. P.	Wood, Benjamin
Crowley,	Kasson,	Richardson, Jno. S.	Wood, Walter A.
Curtin,	Ketcham,	Robertson,	
Cutts,	King,	Robeson,	

So (two-thirds not having voted in favor thereof) the rules were not suspended.

The following additional pairs were announced:

Mr. HAMMOND, of Georgia, with Mr. REED.

Mr. CABELL with Mr. ROBINSON of Massachusetts.

Mr. CAMP with Mr. HARDY.

Mr. URNER with Mr. COVINGTON.

Mr. VALENTINE. I ask unanimous consent that the reading of the names be dispensed with.

There was no objection.

The result of the vote was then announced as above stated.

COLLECTION OF TAXES IN THE DISTRICT.

The SPEAKER. The next committee in order is the Committee on the District of Columbia.

Mr. NEAL. I am instructed by the Committee on the District of Columbia to ask for a suspension of the rules to put on its passage the bill (H. R. No. 6095) to provide for the collection of taxes in the District of Columbia, and for other purposes. This is the bill as amended.

Mr. RANDALL. This would be a good point to adjourn at. That is a long bill. Will the gentleman from Ohio yield for a motion to adjourn?

Mr. NEAL. This bill has been read twice to a full House.

Mr. RANDALL. It will have to be read again.

Mr. NEAL. Not necessarily.

Mr. RANDALL. I think it will have to be read again.

Mr. NEAL. If the gentleman calls for the reading of the bill I withdraw it.

Mr. RANDALL. I do call for the reading of the bill.

Mr. NEAL. Then I withdraw it.

ORDER OF BUSINESS.

Mr. COX, of New York. I move that the House do now adjourn.

The question being taken on the motion to adjourn, there were—ayes 63, noes 73.

Mr. COX, of New York. I call for the yeas and nays.

The question being taken on ordering the yeas and nays there were—ayes 23.

The SPEAKER. In the judgment of the Chair, a sufficient number have not voted to order the yeas and nays.

Mr. RANDALL. Count the other side.

The negative vote being counted, there were—noes 91.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 77, noes 96, not voting 118; as follows:

YEAS—77.

Aiken,	Dunn,	House,	Scales,
Armfield,	Dunnell,	Hutchins,	Shackelford,
Atherton,	Dwight,	Jones, James K.	Shelley,
Atkins,	Ermentrout,	Kenna,	Speer,
Blackburn,	Evins,	King,	Springer,
Bland,	Finley,	Knott,	Stockslager,
Buchanan,	Flower,	Leedom,	Thompson, P. B.
Buckner,	Forney,	Manning,	Turner, Henry G.
Cabell,	Fulkerson,	Martin,	Turner, Oscar
Caldwell,	Geddes,	McKenzie,	Warner,
Chapman,	Gibson,	McMillin,	Wellborn,
Clark,	Gunter,	Mills,	Wheeler,
Clements,	Hardenbergh,	Money,	Whitthorne,
Colerick,	Harris, Henry S.	Morrison,	Williams, Thomas
Converse,	Hepburn,	Muldrow,	Willis,
Cox, Samuel S.	Herndon,	Mutchler,	Wise, George D.
Cox, William R.	Hewitt, Abram S.	Pacheco,	Wise, Morgan R.
Cravens,	Hewitt, G. W.	Randall,	
Deuster,	Hoge,	Reagan,	
Dowd,	Hooker,	Robinson, Wm. E.	

NAYS—96.

Aldrich,	Farwell, Sewell S.	Lord,	Robinson, James S.
Anderson,	Fisher,	Lynch,	Scranton,
Beach,	Garrison,	Marsh,	Shultz,
Brewer,	George,	McCoid,	Skinner,
Briggs,	Guenther,	Miles,	Smith, A. Herr
Burrows, Julius C.	Hall,	Miller,	Smith, Dietrich C.
Burrows, Jos. H.	Hammond, John	Moore,	Spaulding,
Calkins,	Harmer,	Morey,	Strait,
Campbell,	Harris, Benj. W.	Norcross,	Talbott,
Cannon,	Haseltine,	Oates,	Thomas,
Carpenter,	Haskell,	O'Neill,	Thompson, Wm. G.
Clardy,	Hatch,	Parker,	Townsend, Amos
Crapo,	Hazelton,	Paul,	Tyler,
Culberson,	Hiscock,	Payson,	Updegraff, J. T.
Cullen,	Houk,	Peelle,	Updegraff, Thomas
Cutts,	Hubbell,	Peirce,	Valentine,
Darrall,	Humphrey,	Pettibone,	Van Aernam,
Davis, George R.	Jadwin,	Prescott,	Wait,
Dawes,	Jones, George W.	Rice, John B.	Walker,
Deering,	Jorgensen,	Rice, Theron M.	Ward,
Dingley,	Kelley,	Rice, William W.	Watson,
Dugro,	Lacey,	Ritchie,	Webber,
Ellis,	Le Fevre,	Robeson,	Williams, Chas. G.
Errett	Lewis,	Robinson, Geo. D.	Young.

NOT VOTING—118.

Barbour,	Davidson,	Lindsey,	Shallenberger,
Barr,	Davis, Lowndes H.	Mason,	Sherwin,
Bayne,	De Motte,	Matson,	Simonton,
Belford,	Dezendorf,	McClure,	Singleton, Jas. W.
Belmont,	Dibble,	McCook,	Singleton, Otho R.
Beltzhoover,	Dibrell,	McKinley,	Smith, J. Hyatt
Berry,	Farwell, Chas. B.	McLane,	Sparks,
Bingham,	Ford,	Morse,	Spooner,
Black,	Frost,	Mosgrove,	Steele,
Blanchard,	Godshalk,	Moulton,	Stephens,
Bliss,	Grout,	Murch,	Stone,
Blount,	Hammond, N. J.	Neal,	Taylor,
Bowman,	Hardy,	Nolan,	Tillman,
Bragg,	Hawk,	Orth,	Townshend, R. W.
Browne,	Heilman,	Page,	Tucker,
Brumm,	Henderson,	Phelps,	Upson,
Buck,	Herbert,	Phister,	Urner,
Butterworth,	Hill,	Pound,	Vance,
Camp,	Hoblitzell,	Ranney,	Van Horn,
Candler,	Holman,	Ray,	Van Voorhis,
Carlisle,	Horr,	Reed,	Wadsworth,
Cassidy,	Hubbs,	Rich,	Washburn,
Caswell,	Jacobs,	Richardson, D. P.	West,
Chace,	Jones, Phineas	Richardson, Jno. S.	White,
Cobb,	Joyce,	Robertson,	Willits,
Cook,	Kasson,	Rosecrans,	Wilson,
Cornell,	Ketcham,	Ross,	Wood, Benjamin
Covington,	Klotz,	Russell,	Wood, Walter A.
Crowley,	Ladd,	Ryan,	
Curtin,	Latham,	Scoville,	

So the motion to adjourn was not agreed to.

TONER COLLECTION OF BOOKS, ETC.

Mr. McCOOK. I am instructed by the Joint Committee on the Library to move to suspend the rules so as to pass the joint resolution which I send to the Clerk's desk. It is a joint resolution to accept the donation of some twenty or twenty-five thousand volumes of books, &c., from Dr. Toner, of this city. The committee have instructed me unanimously to introduce the resolution and move that the rules be suspended and the resolution passed.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

A joint resolution to authorize the Librarian of Congress to accept the library offered to be donated to the United States by Dr. Joseph Meredith Toner, of Washington, District of Columbia.

Resolved, &c., That whereas Joseph Meredith Toner, of the city of Washington, District of Columbia, has offered to donate to the United States for the use of the public, and for the promotion of literature and science, a large and valuable collection of books on medical science and historical and miscellaneous subjects, upon certain terms and conditions set forth by him in a memorial addressed to Congress, and which is in the following words:

To the Senate and House of Representatives
of the United States of America in Congress assembled:

The memorial of Dr. Joseph Meredith Toner, city of Washington, District of Columbia, respectfully shows to your honorable bodies that he is the owner of a large and valuable collection of books and pamphlets, about twenty thousand volumes or upward in number, treating of medical, scientific, historical, biographical, literary, and miscellaneous subjects, and many of which are very rare and of great interest; and desiring that said collection of books, to the accumulation of which your memorialist has devoted considerable funds and a large part of his life, should be permanently preserved and placed where it would be most beneficial to the cause of science and most advantageous to the public, he respectfully offers said collection to the United States of America, to be placed in the National Library of the United States, at the city of Washington, under the management and control of the Librarian of Congress, upon the terms and conditions following, which he deems to be reasonable and just, and which he trusts will prove acceptable to your honorable bodies, namely:

First. That the collection should be kept separate and apart from the other books and pamphlets in the Library, in separate rooms or alcoves, and that it should be known and described as "the Toner collection."

Second. That the collection of books and pamphlets be bound, when requiring it, in a uniform and satisfactory manner, and have placed on the back of each a parchment band to distinguish them, and that a device distinctive of the donation be stamped on the title page of each, and that they be kept accessible for reference, and be catalogued as speedily as practicable; and when they appear by title in the printed catalogue of the Library, that some letter or symbol indicative of the collection be used, and that the condition and growth of the collection be made a matter of record in each annual report by the Librarian of Congress.

Third. That the collection be kept and used mainly for reference and be consulted subject to the rules governing the use of rare books, and be called upon for service only when no other copy of the book or pamphlet asked for is available, and not be taken out of the Library except for special reasons.

Fourth. That your memorialist should be permitted to make additions to the collection from time to time as he may desire, upon the same terms as herein specified, and that he have liberty to insure the perpetual increase of the collection by the establishment of a trust fund for the purpose.

Your memorialist, while desiring to perpetuate his name in connection with the donation which he here proposes to make, believes "the Toner collection" will prove useful and valuable to the country and will involve no unusual expense on the part of the United States.

Respectfully submitted,

J. M. TONER.

Now, therefore, the Librarian of Congress is hereby empowered and directed to receive and accept from the said Dr. Joseph Meredith Toner his collection of books and pamphlets aforesaid, and to place the same in the library in his charge under the terms and conditions set forth in the said memorial.

The question was taken; and (two-thirds voting in favor thereof) the rules were suspended, and the joint resolution (H. R. No. 211) was passed.

DISTRIBUTION OF OFFICIAL RECORDS OF THE REBELLION.

Mr. SPRINGER. I am instructed by the Joint Committee on Printing to report back the joint resolution (H. R. No. 150) and to move that the rules be suspended and the joint resolution passed at this time.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be republished 7,000 copies of the first, second, and third volumes of the Official Records, Union and Confederate, of the War of the Rebellion, authorized to be published by the "act making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes," approved June 16, 1880, to be distributed in the manner following, namely: 4,500 copies thereof shall be distributed by the Secretary of the Interior at the request of Representatives and Delegates in Congress of the Forty-seventh Congress. Each Representative and Delegate shall furnish the Secretary of the Interior with the names and addresses of fifteen public, college, or school libraries, or of individuals of his Congressional district or Territory, as the case may be, to which addresses shall be sent the said volumes one, two, and three; but one volume of each of which shall be sent to the address of the Representative or Delegate, unless otherwise ordered by him. The remaining 2,500 copies of volumes one, two, and three of said official records herein authorized to be republished shall be distributed as follows: 1,000 copies, or as many thereof as may be necessary, may be distributed by the Secretary of War among those persons who have contributed valuable documents, by gift or loan, to the records aforesaid; 1,000 copies for the use of the Interior Department for the supply of public, university, and college libraries; and 500 copies to be delivered to the Secretary of the Interior to be sold for cost of publication with 10 per cent. in addition thereto. The Public Printer shall furnish to the Secretary of the Interior a statement in writing of the amount to be charged for each volume of said records under this joint resolution; and the same may be sold in single volumes or by subscription for entire sets, each volume to be paid for on delivery.

SEC. 2. That the publication of the Official Records of the Rebellion after volume 3 shall be 10,000 copies, to be distributed by the Secretary of the Interior to the addresses furnished him by Representatives and Delegates in Congress, as provided in the first section of this resolution, namely, 4,500 copies; to the War Department for the use of the Executive Departments, 1,000 copies; to the War Department for the use of persons who have contributed valuable documents, by gift or loan, to the records aforesaid, 1,000 copies; to the Interior Department for the supply of public, university, and college libraries, 1,000 copies; to Senators in Congress, 2,000 copies; and for sale as provided in section 1 of this act, 500 copies.

Mr. RANDALL. I demand a second of the motion to suspend the rules.

There being no objection, the second was ordered.

Mr. SPRINGER. I send up the report of the Committee on Printing on this joint resolution, and ask that it be read.

The Clerk read as follows:

The Committee on Printing, to whom was referred joint resolution (H. R. No. 150) "concerning the publication and distribution of the Official Records of the Rebellion," having had the same under consideration, submit the following report:

The act entitled "An act making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes," approved June 16, 1880, authorized the publication of 10,000 copies of the Official Records, Union and Confederate, of the War of the Rebellion, 7,000 copies for the use of the House of Representatives, 2,000 copies for the use of the Senate, and 1,000 copies for the use of the Executive Departments. This publication will not be completed for several years. Three volumes have already appeared, and the set when completed will number nearly 100 volumes. Under the present system of distribution it is next to impossible for complete sets to be placed in the same libraries, as a few volumes will be distributed by each Congress for several years. There was also no provision in the law authorizing the distribution of sets to public, university, and college libraries, as in other cases, and the Secretary of War finds the 1,000 copies placed at the disposal of the Executive Departments in-

adequate to the demand. There is also a demand made for the publication of certain volumes for sale. In reference to the necessity for a larger publication for the use of the Executive Departments, the Secretary of War has sent the following communication to the House:

WAR DEPARTMENT,
Washington City, December 12, 1881.

SIR: Referring to such portion of the act of June 16, 1880, as provides for the publication and distribution of the Official Records of the War of the Rebellion, (21 Statutes, page 269,) I have the honor to invite the attention of the House of Representatives to the very limited and inadequate provision made for supplying these records to the several Executive Departments of the Government, there being only one thousand (1,000) copies of each volume allowed for all of the said Departments.

Of the number controlled by this Department under such distribution a large proportion is consumed in supplying a copy each to the libraries of the several military posts, the division and the department headquarters, and the various bureau offices; so that the general distribution by the Department of the volumes thus far printed has been attended with considerable embarrassment, the limited number at its disposal enabling it to furnish copies to but a comparatively few officers, being those only of high rank, thus necessarily omitting many officers to whom the work is of peculiar interest and who, it would seem, are eminently entitled thereto by reason of their rank and past service in the Army.

In consideration of these facts and in the belief that the subject is one which will commend itself to the favor of Congress, it is respectfully recommended that the existing law governing the distribution of these records be so amended as to allow an additional one thousand (1,000) copies of each volume (2,000 copies in all) to the Executive Departments of the Government.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

The SPEAKER *of the House of Representatives.*

The Secretary of the Interior has sent the following letter to the chairman of the House Committee on Printing, requesting additional copies for the use of public, college, and university libraries:

DEPARTMENT OF THE INTERIOR,
Washington, February 10, 1882.

SIR: I have the honor to invite attention to the fact that in the act of Congress ordering the publication and distribution of the Records of the War of the Rebellion no provision is made for the supply of public, university, and college libraries, except as these may be supplied from the number sent to the folding-rooms of the Capitol for the use of Senators and Representatives. I am informed that these volumes will not be included in the sets of Congressional documents which are supplied to State libraries and depositories of public documents through this Department. Of the 1,000 copies ordered for the use of the several Executive Departments, the allotment made by the honorable Secretary of War, under whose supervision they are distributed, is only 50 copies to this office.

Under these circumstances, and taking into consideration also the fact that the depositories of public documents in the Congressional districts of the several States, as well as a large number of other public, university, and college libraries, are accustomed to look to this Department for their supply of public documents, I have the honor to respectfully recommend that in ordering the republication of the volumes already issued, an edition of at least 1,000 copies be supplied to this Department, to enable it to furnish the institutions above named with this valuable publication, and that similar provision also be made in reference to the volumes which are yet to be printed.

Very respectfully,

S. J. KIRKWOOD, *Secretary.*

Hon. R. T. VAN HORN,
Chairman Committee on Printing, House of Representatives.

There has been referred to this committee a resolution submitted by Mr. KLOTZ, of Pennsylvania, authorizing the reprinting of 1,000 copies of volumes 1, 2, and 3 of the Official Records of the Rebellion, which should be sold at cost and 10 per cent. added.

In view of the requests for the publication of additional copies of this valuable work, and of the further fact that the manner of distribution through the members of the House, from time to time, which would result in breaking the sets and thus destroying their value, your committee recommend the passage of the accompanying joint resolution.

Mr. SPRINGER. If any gentleman does not understand this joint resolution I will explain it. It has been several times before the House and I think is quite well understood, and I am of the opinion that there can be no objection to its passage.

Mr. MCMILLIN. I will ask the gentleman from Illinois [Mr. SPRINGER] if this joint resolution does not propose to altogether change the method of distributing these documents?

Mr. SPRINGER. It does, so far as the House is concerned; it does not interfere with the present method of distribution by the Senate.

This publication will run through four of five, perhaps ten years, and the number of volumes in a set will be ninety-six. The object of this joint resolution is to make provision for distributing this valuable work to public libraries where it should go. Under the law, as it now stands, it will be almost impossible for a complete set of this work to be placed in any public library.

Mr. RANDALL. How many sets of these books are authorized to be printed?

Mr. SPRINGER. About fourteen sets for each member of the House.

Mr. RANDALL. How many in the aggregate?

Mr. SPRINGER. Ten thousand.

Mr. RANDALL. Nearly a million books.

Mr. SPRINGER. The aggregate number is not changed by this resolution; that is already fixed by law.

Mr. MCMILLIN. What was the reason for adopting one rule of distribution as to members of the House and another rule as to members of the Senate?

Mr. SPRINGER. We did not desire to interfere with the distribution of the copies appropriated to the Senate. Senators being elected for six years, and in many cases re-elected, we thought it best to allow them to provide for the distribution in their own way. But members of the House, being elected for only two years, cannot properly distribute publications running through five or ten years, and embracing so large a number of volumes. These books should properly go to public libraries, and we seek by this resolution to have them so distributed.

Mr. PEELLE. I am in favor of this resolution and shall vote for it; but I wish to suggest to the gentleman from Illinois [Mr. SPRINGER] that as the fourth volume of this work is now out and has already been placed to the credit of members, he should ask unanimous consent to amend the resolution so as to include the fourth volume in the provision for reprinting.

Mr. SPRINGER. If I should find hereafter that the fourth volume is so far distributed as to make it impossible to include it in the distribution provided for by the resolution, I shall ask the Committee on Printing of the Senate to have the resolution amended. I hope, however, there will be no necessity for that.

Mr. PEELLE. I think there need be no trouble in arranging this matter now. I suggest to the gentleman that the resolution be amended by unanimous consent.

Mr. LACEY. I wish to ask what provision is made for the completion of sets, a portion of which has already been sent out?

Mr. SPRINGER. This resolution provides for the republication of a sufficient number of the volumes already distributed to make complete sets in the manner indicated by the resolution.

Mr. LACEY. What provision is made for furnishing future volumes to those who have already received the earlier volumes?

Mr. SPRINGER. The mode of distribution is changed by this resolution so that complete sets shall be furnished only in the manner specified.

Mr. LACEY. That applies to those who may be designated hereafter, but I am speaking of those who have received the volumes already distributed.

Mr. SPRINGER. The same persons may be designated to receive the subsequent volumes.

Mr. BINGHAM. Each member, as I understand, has been allowed twenty-three volumes of a set, four of which have already been distributed. Now, I desire to know whether the gentleman's proposition will prevent the completion of the sets in the hands of our constituents to whom volumes have already been distributed?

Mr. SPRINGER. Members may indicate the distribution of future volumes to the same libraries that have received previous ones.

Mr. BINGHAM. I am not speaking of libraries.

Mr. SPRINGER. Or individuals. But the committee are of the opinion that this book is not one suitable to be distributed to private individuals. It will embrace, when completed, nearly one hundred volumes. These volumes are records; and gentlemen will not desire that private individuals should have one hundred volumes of these records, which are useful only for reference.

Mr. BINGHAM. I do not think there is a district in the country that has twenty-three public libraries.

Mr. SPRINGER. Only fifteen sets for each member are provided by this resolution.

Mr. BINGHAM. Is there any district that has even fifteen public libraries?

Mr. SPRINGER. Individuals can be supplied, under the resolution, where a sufficient number of public libraries are not in existence.

Mr. AIKEN. Do I understand that this resolution takes the distribution out of the hands of members of the House?

Mr. SPRINGER. It puts the distribution in your hands; you indicate where the volumes shall all go.

Mr. AIKEN. Who sends them out?

Mr. SPRINGER. The Secretary of the Interior, under the direction of members. You give the addresses to the Secretary of the Interior and he sends out complete sets, the volumes continuing to be sent after you may have gone into private life. They will go to the libraries indicated until the sets are completed.

Mr. MARTIN. Does the gentleman think that we in this Congress can bind our successors?

Mr. SPRINGER. Congress undoubtedly may hereafter pass another law on this subject.

Mr. MARTIN. Then if the law should be repealed, this system of distribution will be broken up.

Mr. SPRINGER. Of course Congress can act on this subject hereafter, as it has done heretofore. We simply desire that this work shall go to public libraries, where it properly belongs.

Mr. MCCOOK. The original bill on this subject provided that 10,000 copies of the complete Records of the War of the Rebellion should be published, 7,000 to be distributed to members of the House, 2,000 to members of the Senate, and 1,000 to the Executive Departments. Now, if the copies which this resolution contemplates are in addition to those already provided I am willing to vote for the resolution; but if this resolution supersedes the action already taken I think we ought to be very prudent in passing upon the question.

Mr. MCMILLIN. This resolution supersedes the existing law as to the future volumes, and makes an addition as to the past. It takes the distribution of future volumes out of the hands of members of the House.

Mr. SPRINGER. I find that the House does not understand this proposition at all.

Mr. FISHER. Will the gentleman answer a question?

Mr. SPRINGER. I will answer any question if I have time. The

gentleman from Missouri, chairman of the Committee on Printing, desires to make a statement in regard to this matter.

Mr. VAN HORN. Mr. Speaker, this does not interfere with the right of members to distribute these volumes as they may please. It retains that right just as it is, but it fixes their distribution permanently. That is to say, that the institutions to which the members of the present House direct these books shall be sent will receive all these volumes as they are published. The next House of Representatives will have nothing to do with their distribution. This resolution directs permanently how these volumes shall be distributed by the members of the present House of Representatives. You get not only what you are entitled to for this year, but the libraries which are designated by the present members of Congress will get them until the entire series has been published.

Mr. BINGHAM. What number?

Mr. VAN HORN. The number is not changed. That is fixed by the general statute, and this merely directs how the volumes shall be distributed as they are published.

Mr. BINGHAM. Is not the number reduced?

Mr. VAN HORN. The number is fixed by law, and this bill does not in any way disturb that number. [Cries of "Regular order!"]

Mr. AIKEN. Allow me just one minute.

Mr. SPRINGER. Yes; if you wish to ask a question.

Mr. AIKEN. I wish to say to gentlemen that my understanding of the present proposition is that all these volumes are to go to the public libraries. Now, in the past twenty-four hours I have been ransacking the whole city of Washington in order to buy some of these volumes for the distribution of which we are now asked to provide. They are selling in this city at $1.75 a volume. I paid $6.75 for two sets for private individuals who do not live within twenty-five miles of a public library. I hold it is as much our right and duty to supply our constituency with such valuable works as to provide them for public libraries where nobody will see them but students.

Mr. SPRINGER. It is not a question as to the number of these volumes, but the question is as to their distribution.

The SPEAKER. The time of the gentleman has expired.

Mr. TOWNSHEND, of Illinois. I think we ought to let this matter go over until next Monday and adjourn.

The SPEAKER. The Chair is of the opinion that two-thirds have not voted in the affirmative.

Mr. SPRINGER. I demand a division.

The House divided; and there were—ayes 54, noes 72.

So (two-thirds not voting in the affirmative) the rules were not suspended.

Mr. RANDALL. I wish some member on the other side of the House would move to adjourn.

Mr. BURROWS, of Michigan. I move the House adjourn. [Cries of "No!"]

Mr. BURROWS, of Michigan. I withdraw it.

Mr. WISE, of Virginia. I renew it.

The House divided; and there were—ayes 84, noes 32.

So the motion was agreed to.

FUNERAL EXPENSES OF A CONTESTANT.

The SPEAKER. The gentleman from Alabama [Mr. OATES] desires to correct a resolution passed on Saturday last, and pending the motion to adjourn. If there be no objection his proposition will be entertained.

There was no objection.

The SPEAKER. On Saturday last a resolution was adopted directing the Sergeant-at-Arms to pay out of the contingent fund of the House not exceeding $300 for the funeral expenses of Mr. Smith, of Alabama, a contestant. Now, the fact is the Sergeant-at-Arms has not control of any contingent fund of the House, and the proposition is to amend the resoluion so as to insert "the Clerk of the House" instead of the Sergeant-at-Arms.

There was no objection, and it was ordered accordingly.

DEFICIENCY IN ARMY PENSIONS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President; which was referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of the Interior submitting a copy of a letter from the Commissioner of pensions inviting attention to the fact that the "deficiency" appropriation of $16,000,000 to meet the June payment of Army pensions should be available as early as the 25th instant if practicable in order to avoid any delay in payment.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 15, 1882.

OSAGE INDIAN INTEREST PAYMENT.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President; which was referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication dated the 11th instant from the Secretary of the Interior, together with estimate of appropriation and accompanying papers, to provide, in accordance with treaty stipulations and existing laws, for the payment of certain interest due the Osage Indians. The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *May* 15, 1882.

IOWA CONTESTED-ELECTION CASE.

The SPEAKER also, by unanimous consent, laid before the House additional evidence in the case of John C. Cook *vs.* Madison E. Cutts, from the sixth district of Iowa; which was referred to the Committee on Elections.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. JOYCE, for two weeks, on account of important business.

To Mr. CABELL, for four days, on account of important business.

LEAVE TO PRINT.

Mr. COLERICK was granted leave to print in the RECORD, as part of the proceedings, some remarks in support of House bill No. 6018, relating to the recovery of damages for infringement of patents. [See Appendix.]

And then (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. CRAPO: The petition of James M. Coffin and others, of Nantucket, Massachusetts, for passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. GEORGE R. DAVIS: The joint resolution of the Legislature of Illinois, urging the speedy trial or unconditional release of American citizens confined in foreign prisons, and require such recognition of our citizens abroad as comport with our national dignity—to the same committee.

Also, the petition of the Excelsior Oil-Stove Manufacturing Company, J. D. Bangs & Co., and 40 other manufacturers and dealers in oil stoves of Chicago, Illinois, protesting against the passage of any bill extending patents upon oil stoves—to the Committee on Patents.

By Mr. DIBBLE: Memorial of SAMUEL DIBBLE, member of the House of Representatives from the second Congressional district of South Carolina—to the Committee on Elections.

By Mr. DOWD: The petitions of H. W. Spinks and others, of Stanley County, and of Nelson Slough and others, of Cabarrus County, North Carolina, for an appropriation for educational purposes—severally to the Committee on Education and Labor.

By Mr. ERRETT: The petitions of the Engineers' Society of Western Pennsylvania, and of the Engineers' Club of Philadelphia, Pennsylvania, for the appointment of a commission to test iron and steel—severally to the Committee on Manufactures.

By Mr. HENDERSON: The petition of the officers of the First Regiment of Artillery, United States Army, protesting against the proposed restoration to the Army of Eugene Wells—to the Committee on Military Affairs.

Also, the petition of 17 officers of the Tenth Cavalry, praying that the bill for the reinstatement of Thomas Little, Edward Byrne, and Orville Burke, late captains Tenth United States Cavalry, do not pass—to the same committee.

By Mr. HOUK: The petition of William Clifton, for compensation for services rendered as scout and guide during the late war—to the Committee on War Claims.

By Mr. J. K. JONES: The petition of Joseph Winter and others, citizens of Fulton, Arkansas, asking the Government to donate one hundred tons of cotton-seed, to be distributed among the planters in that vicinity, whose crops have been destroyed by high water—to the Committee on Agriculture.

By Mr. KING: The petition of Charles R. Equelly and others, citizens of Lake Providence, and of J. S. Richardson and others, of Delta, Louisiana, for an appropriation for educational purposes, to be distributed on the basis of illiteracy—severally to the Committee on Education and Labor.

By Mr. KLOTZ: The petition of citizens of White Haven, Luzerne County, Pennsylvania, for donation of condemned cannon for a soldiers' monument—to the Committee on Military Affairs.

By Mr. McCOOK: The petition of Margaret L. Worth, daughter of the late General William J. Worth, for a pension—to the Committee on Pensions.

By Mr. McLANE: The petition of P. Zell & Sons and 39 other firms of Baltimore, Maryland, for the passage of the Lowell bill to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

By Mr. MORSE: The petition of Sarah C. Raymond and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. OATES: The petition of A. McGee and 320 others, citizens of Coffee County, Alabama, for an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. G. D. ROBINSON: The petition of J. T. Varnell and 200 others, butchers of the District of Columbia, petitioning against the passage of the House bill relating to the Washington Abattoir Company—to the Committee on the District of Columbia.

By Mr. THOMAS: The petition of John F. Woodward, for relief—to the Committee on War Claims.

By Mr. J. T. UPDEGRAFF: The petition of Rev. S. W. Pringle and others, in behalf of the congregation of the Presbyterian Church

of Mount Pleasant, Ohio, in favor of Government aid to education in Alaska—to the Committee on Education and Labor.

By Mr. WALKER: Papers relating to the claim of Pardon Worsley—to the Committee on Claims.

By Mr. WEBBER: The petition of Elizabeth Moffat Edwards, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. YOUNG: The petition of Theo. T. Edgerton and 11 other business firms of Florida, for the passage of a bill providing for the taxation of glucose—to the Committee on Ways and Means.

SENATE.

TUESDAY, *May* 16, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

The PRESIDENT *pro tempore*. An error crept into the Journal which should be corrected. The Senator from Ohio [Mr. PENDLETON] presented a report from the Committee on Civil Service and Retrenchment yesterday on Senate bill No. 133. It was the intention of the Chair to order not only the printing of the report but of the testimony which was submitted by way of appendix to the report. The printing will be ordered, and the Journal will be so corrected as to show the fact. The Journal as corrected will be approved.

PETITIONS AND MEMORIALS.

Mr. McPHERSON. I present a petition of the mayor and board of aldermen of Jersey City. The petition is quite lengthy, and, as I suppose I have no right to read it, I will state as briefly as I can what it contains. After reciting certain great wrongs which have been perpetrated upon citizens of the United States by foreign countries, especially the British Government, it goes on to say:

That we, the members of board of aldermen of Jersey City, enter our solemn protest against the base surrender by James G. Blaine and James Russell Lowell of our rights as citizens of this Republic.

Resolved, That we respectfully but earnestly call upon the President of the United States to uphold and sustain American citizens in their right to life, liberty, and the pursuit of happiness while residing in Great Britain or any other land, and that he shall insist that they shall not be deprived of their liberty unless charged with the commission of some crime, for which they shall be brought to a speedy trial under the ordinary law governing such offenses.

Resolved, That we believe the pusillanimity displayed by James Russell Lowell in his intercourse with Earl Granville on the question of protecting American citizens has demonstrated his unfitness to represent this Republic at the Court of St. James; we therefore respectfully ask the President of the United States to recall him and fill his place by appointing some citizen who will protect our fellow-citizens and uphold the honor of our country.

I ask that this petition may be received, and I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. CAMERON, of Pennsylvania, presented the petition of James McDonald & Co. (limited) and other firms of Pittsburgh, Pennsylvania; the petition of A. Guckenheimer & Bros. and other distillers of Pittsburgh, Pennsylvania; and the petition of Schmidt & Friday and other dealers of Pittsburgh, Pennsylvania, praying for the passage of the bill (H. R. No. 5656) to amend certain laws relative to distilled spirits in special bonded warehouses; which were referred to the Committee on Finance.

He also presented a petition of the George Washington branch of the Irish National Land League, praying for such action on the part of this Government as will result in the release of American citizens now imprisoned in Ireland; which was referred to the Committee on Foreign Relations.

He also presented resolutions of the Coal Exchange of Pittsburgh, Pennsylvania, favoring the passage of the bill relative to the construction of bridges over the Ohio River; which were referred to the Committee on Commerce.

He also presented the petition of Calvin A. Craig Post 75 Grand Army of the Republic, praying for the passage of the bill granting a pension of $40 a month to soldiers who have lost a limb in the service; which was referred to the Committee on Pensions.

He also presented a memorial of T. D. Casey & Co. and others, citizens of Pittsburgh, Pennsylvania, remonstrating against the passage of the bill (H. R. No. 5656) to amend certain laws relative to distilled spirits in special bonded warehouses; which was referred to the Committee on Finance.

He also presented the petition of Colladay, Trout & Co., of Philadelphia, and the petition of the Philadelphia Board of Trade, praying for the passage of what is known as the Lowell bankruptcy bill; which were ordered to lie on the table.

He also presented resolutions of the council of Pittsburgh, Pennsylvania, in favor of the establishment of military workshops at the United States arsenal in that city; which were referred to the Committee on Military Affairs.

He also presented the petition of W. N. Reynolds and others, citizens of Tunkhannock, Pennsylvania, ex-soldiers of the late war, praying that the right be granted honorably discharged soldiers to locate one hundred and sixty acres of public land upon payment of the regular entry fee; which was referred to the Committee on Public Lands.

He also presented resolutions of the William G. Murray Post No. 39 Grand Army of the Republic, of Hollidaysburgh, Pennsylvania, favoring the passage of a bill granting a pension to Mary E. Murray, daughter of Colonel William G. Murray, late a member of the Grand Army of the Republic; which was referred to the Committee on Pensions.

He also presented the petition of J. F. Kurtz and others, citizens of Waynesborough, Pennsylvania, praying for the construction of a ship-canal to connect the Chesapeake and Delaware Bays; which was referred to the Committee on Transportation Routes to the Seaboard.

He also presented the petition of James S. Orr and others, citizens of Erie, Pennsylvania, praying for the passage of the bill (H. R. No. 1440) to authorize the United States to accept title to certain lands in that city, and to establish a home for indigent soldiers and sailors; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Board of Trade of Scranton, Pennsylvania, favoring the passage of the bill (H. R. No. 4178) to authorize the purchase of a site and erection of a suitable building for a post-office and other Government offices in the city of Scranton; which was referred to the Committee on Public Buildings and Grounds.

He also presented a memorial of the American Society of Civil Engineers, in favor of the passage of a bill authorizing the President to appoint a commission of experts skilled in the investigation, production, and use of metallic substances and other structural materials, to execute tests and experiments on iron, steel, and other materials used in the construction of bridges, buildings, and mechanical structures, and to deduct useful rules therefrom; which was referred to the Committee on Manufactures.

Mr. HALE presented the petition of George L. Merrill, late second lieutenant Company K, Fourteenth Regiment Maine Volunteers, praying for certain compensation due him as such officer; which was referred to the Committee on Military Affairs.

He also presented a petition of T. W. Bicknell and 8 others, citizens of Boston, Massachusetts, praying for an appropriation for the education of the native people of Alaska; which was referred to the Committee on Education and Labor.

He also presented the petition of J. C. Campbell Post, Grand Army of the Republic, of Maine, praying for the passage of a bill granting soldiers who have lost one arm, one leg, one hand, or one foot, or suffered disabilities equivalent thereto, a pension of $40 per month; which was referred to the Committee on Pensions.

Mr. PENDLETON presented the petition of Eugene Beebe, of New York City, praying for the passage of a bill for the relief of the needy who may come to the country in the anticipated emigration from Ireland; which was referred to the Committee on Commerce.

Mr. MITCHELL presented a petition of citizens of Philadelphia, Pennsylvania, praying for the immediate repeal of the smaller internal taxes and the reduction of the taxes on whisky and tobacco; which was referred to the Committee on Finance.

Mr. DAWES presented the petition of Franklin Rives, of Washington, District of Columbia, praying for the purchase by the Government of the United States of the Congressional Globe building; which was referred to the Committee on Printing.

Mr. GROOME. I present a petition of a large number of members of the Chemical and Fertilizer Exchange, of Baltimore, and other prominent citizens of that city, in favor of the passage of the Lowell bill for the establishment of a uniform system of bankruptcy. As a bill on that subject has been reported, I move that the petition lie on the table.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. ROLLINS, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 3847) for a public building at Rochester, New York, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 4172) to provide for the erection of a public building in the city of Syracuse, New York, reported it without amendment.

Mr. HOAR. I wish the members of the Committee on Public Buildings and Grounds would take some occasion convenient to themselves to state the rule of policy which guides them in recommending the erection of public buildings. We have in the State of Massachusetts twenty cities, we shall soon have twenty-one, all of which are cities larger in population and in business than some cities which have received public buildings recently. I believe there are but two such public buildings in the Commonwealth of Massachusetts; one is the post-office and court-house building in Boston, and the other is the custom-house and post-office at Fall River.

I had supposed that the committee in the past had been guided by the principle that they would not consent to recommend a public building where there were no United States courts held and where there was no custom-house in addition to the post-office needed, unless the city to be accommodated in that way was the capital of a State. I do not know whether the committee desire to make such a statement now, but I would be very glad to know for my own in-

formation and to govern my response to constituents who are making inquiries of me upon the subject.

Mr. ROLLINS. I merely wish to say that the Committee on Public Buildings and Grounds up to this time has only considered such bills as have been referred to the committee by the Senate. I think no bill has been referred to the committee providing for a public building in Massachusetts. I am not aware of it. If there had been, I am sure it would have had proper consideration by the committee. I do not know that we have reported any bill for a public building at a place where there was no United States court. I think we have not. It is possible some bill of that character may have been reported, but I am not aware of it. It has been the purpose of the committee so far to have that point constantly in mind.

Mr. SHERMAN. The rule has been that there should be a custom-house or a court held at the place.

Mr. ROLLINS. Of course we have made reports in some cases for a public building where there was no custom-house.

Mr. SHERMAN. There are many custom-houses at places where there are no United States courts held. I think the rule has always been that there must be either a custom-house or court, as well as a post-office.

Mr. ROLLINS. And where the place was the capital of a State, it has generally been favorably considered by the committee. Later in the session the committee will no doubt make some further explanation in regard to its action in the premises.

Mr. HOAR. I have received communications from persons in some of the Massachusetts cities. I have not introduced bills in those instances, except in one case, the case of the city of Haverhill, which has been recently destroyed by fire. Indeed, I did not myself introduce the bill in that case, but the Representative from that district at my request and suggestion introduced such a bill in the other House; I do not know whether it has been acted upon yet.

I have refrained from introducing such bills because in consultation with members of the committee I understood that their rule and policy had been what the Senator from New Hampshire now states. My calling attention to the subject was not to criticise the committee for not making a report for buildings in Massachusetts cities where no bill had been introduced, but merely to draw from that committee a statement of the policy which had governed them, so that my constituents might understand that I had not been derelict in not introducing bills for the very populous towns which I represent.

Mr. ROLLINS. I believe I am correct in stating that no bill has been introduced for a public building in Massachusetts, not even in Haverhill. I think I had some conversation with the Senator in reference to that city.

Mr. HOAR. That bill has been introduced in the other House.

Mr. PLATT. The Committee on Pensions, to whom was referred the bill (H. R. No. 5236) granting an increase of pension to Joseph W. Seeley, have directed me to report it with a recommendation that it be indefinitely postponed. I have prepared no written report. The ground of the report is that during the pendency of the bill the increase has been granted at the Pension Office, and it has been done since the passage of the bill by the House. I move that the bill be postponed indefinitely.

The motion was agreed to.

Mr. SLATER. The Committee on Pensions, to whom was recommitted the bill (H. R. No. 2089) granting a pension to William J. Lee, have instructed me to report it back with a report adhering to the former adverse report.

The PRESIDENT *pro tempore*. The bill will be indefinitely postponed.

Mr. SLATER. Let it go on the Calendar.

Mr. LAPHAM. I should like to have the bill go on the Calendar.

The PRESIDENT *pro tempore*. The bill has been placed on the Calendar with the adverse report of the committee.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 325) to provide for the erection of a monument to the memory of Major-General the Baron De Kalb, reported it without amendment.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. No. 1229) for the relief of Arlington M. Harrington, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. JACKSON. I am also instructed by the Committee on Pensions to ask to be discharged from the further consideration of the petition of Robert J. Baugness, praying for a pension, inasmuch as the case is still pending in the Pension Department.

The report was agreed to.

Mr. BAYARD. The Committee on Finance, to whom was referred the bill (H. R. No. 5656) to amend the laws relating to the entry of distilled spirits in distillery and special bonded warehouses, and the withdrawal of the same therefrom, have instructed me to report back an amendment in the form of a substitute for the bill. I will state that the measure relates to the proposition to extend indefinitely the period of bonding distilled spirits. The committee have taken speedy action in this question because of its importance to the public revenue, and the extensive business connected with it. The measure as reported will probably be amended in some features in the Senate so as to relieve from giving bonds annually for the tax, in order to prevent hardship, and to continue the present arrangement of giving bonds monthly. I deem it proper to say this much at the time the bill is reported. As I said, there will probably be some amendment to perfect the measure. The object has been to take speedy action upon a measure of importance.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar and the amendment will be printed under the rule.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (S. No. 1377) for the relief of W. S. Kimball and others, reported it with amendments; and submitted a report thereon, which was ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, to whom was referred the bill (S. No. 1341) granting a pension to Anna Maria Young, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1519) granting a pension to Mary P. Thompson, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. HARRISON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 558) for the relief of George Tanner, of Mercer, Mercer County, Pennsylvania, late captain of "Captain Tanner's Independent Company of Volunteer Infantry," and others of his command, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 473) for the relief of William H. Morgan, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. VEST, from the Committee on Territories, to whom was referred the bill (S. No. 181) to establish a United States court in the Indian Territory, and for other purposes, reported it with an amendment.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1499) to restore the Fort Benton military reservation to the public domain, and for other purposes, reported it with amendments; and submitted a report thereon, which was ordered to be printed.

SMITHSONIAN REPORT FOR 1881.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment; and it was considered by unanimous consent, and agreed to:

Resolved by the Senate, (the House of Representatives concurring.) That 15,560 copies of the report of the Smithsonian Institution for the year 1881 be printed; 2,500 copies of which shall be for the use of the Senate; 6,060 copies for the use of the House of Representatives, and 7,000 copies for the use of the Smithsonian Institution.

CALIFORNIA COLLECTION DISTRICT.

Mr. FARLEY. I am instructed by the Committee on Commerce to report back the bill (H. R. No. 1993) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States relating to the collection districts of California, with amendments, and I ask for the immediate consideration of the bill. It refers to ports of entry, and it will take but a few moments to dispose of it. A similar bill has been passed by the Senate heretofore.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, in line 15, after the word "Santa Barbara," to insert "San Buena Ventura and Huenema;" in the same line, to strike out "a" before "port," and to change "port" to "ports;" so as to make the clause read:

Second. The district of Wilmington; to comprise all the waters and shores of the counties of Santa Barbara, Ventura, Los Angeles, and San Bernardino; in which Wilmington, on the Bay of Wilmington, shall be the sole port of entry, and Santa Barbara, San Buena Ventura, and Huenema ports of delivery.

The amendment was agreed to.

The next amendment was in line 36, after the word "for," to insert "each of;" in the same line to change the word "port" to "ports;" and after "Santa Barbara" to insert "San Buena Ventura and Huenema," so as to read:

Second. In the district of Wilmington, a collector, who shall reside at Wilmington; a deputy collector, who shall reside at Wilmington; and one inspector, to be appointed by the collector, with the approval of the Secretary of the Treasury, for each of the ports of Santa Barbara, San Buena Ventura, and Huenema.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MISSISSIPPI RIVER BRIDGE.

Mr. McMILLAN. I report from the Committee on Commerce the bill (S. No. 1810) to authorize the Rock Island and Southwestern Railway Company to construct a bridge over the Mississippi River at New Boston, State of Illinois, with amendments, and I ask for its present consideration.

By unanimous consent, the bill (S. No. 1810) to authorize the Rock

Island and Southwestern Railway Company to construct a bridge over the Mississippi River at New Boston, State of Illinois, was considered as in Committee of the Whole.

The PRESIDENT *pro tempore*. The amendments reported from the Committee on Commerce will be stated.

The PRINCIPAL LEGISLATIVE CLERK. The first amendment is in section 1, line 14, after the word "stock," to insert "for such reasonable rates of toll as may be approved from time to time by the Secretary of War," so as to read:

And to build and lay on and over said bridge, ways for wagons and vehicles of all kinds, and for the transit of passengers on foot, and also of live stock, for such reasonable rates of toll as may be approved from time to time by the Secretary of War, and to keep up and maintain said bridge for the purposes aforesaid.

The amendment was agreed to.

The next amendment was, in section 1, line 16, after the word "aforesaid," to strike out down to and including the word "kinds" in line 23, in the following words:

And when said bridge shall be constructed, all trains of all railroads terminating at the city of New Boston, or near there, and all railroads terminating on the opposite side of said river, shall be allowed to cross said bridge for reasonable compensation to be made to the owners of the same, under the limitations and conditions herein expressed. The owners of said bridge may also charge reasonable compensation for transit over said bridge of all other kinds.

The amendment was agreed to.

The next amendment was, at the end of section 2, to add "at the expense of the owners of said bridge;" so as to read:

That if said bridge when constructed shall, in the opinion of the Secretary of War, be a substantial obstruction to the navigation of said river, the said Secretary shall require said company to change the construction thereof so as to avoid any serious and substantial obstruction to the navigation of said river, at the expense of the owners of said bridge.

The amendment was agreed to.

The next amendment was, in section 3, at the end of line 4, to insert "or for passengers or freight passing over said bridge;" so as to read:

That the bridge hereby authorized shall be a lawful structure, and shall be a post-route, upon which no higher charge shall be made for the transportation of the mails of the United States and the troops and munitions of war, or for passengers or freight passing over said bridge, than the rate per mile paid to railroads and transportation companies leading to said bridge.

The amendment was agreed to.

The next amendment was to insert as section 4:

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same, and over the approaches thereto, upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any one of them, desiring such use shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties: *Provided*, That the provisions of section 3 in regard to charges for passengers and freight across said bridge shall not govern the Secretary of War in determining any question arising as to the sum or sums to be paid to the owners of said bridge by said companies for the use of said bridge.

The amendment was agreed to.

The next amendment was to change section 4 of the bill to section 5.

The amendment was agreed to.

The next amendment was to add the following as section 6:

SEC. 6. That it shall be the duty of the Secretary of War, on satisfactory proof that a necessity exists therefor, to require the company or persons owning said bridge to cause such aids to the passage of said bridge to be constructed, placed, and maintained, at their own cost and expense, in the form of booms, dikes, piers, or other suitable and proper structures for the guiding of rafts, steamboats, and other water-craft safely through the passage-way, as shall be specified in his order in that behalf; and on failure of the company or persons aforesaid to make and establish such additional structures within a reasonable time, the said Secretary shall proceed to cause the same to be built or made at the expense of the United States, and shall refer the matter without delay to the Attorney-General of the United States, whose duty it shall be to institute, in the name of the United States, proceedings in any district court of the United States in which such bridge, or any part thereof, is located, for the recovery of the cost thereof; and all moneys accruing from such proceedings shall be covered into the Treasury of the United States.

The amendment was agreed to.

The next amendment was to strike out section 5, in the following words:

SEC. 5. That Congress may at any time amend or repeal this act.

And to insert in lieu thereof:

SEC. 7. That the right to alter, amend, or repeal this act is hereby expressly reserved. And the right to require any changes in said structure, or its entire removal at the expense of the owners thereof whenever Congress shall decide that the public interest requires it, is also expressly reserved.

Mr. ALLISON. I do not object to that amendment, but it is a pretty vigorous provision, I think.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DONATION OF THE TONER COLLECTION.

Mr. SHERMAN. I am directed by the Joint Committee on the Library to report a joint resolution and to ask for its immediate consideration. The reading of it will show the nature of the measure.

The joint resolution (S. R. No. 66) to authorize the Librarian of Congress to accept the library offered to be donated to the United States by Dr. Joseph Meredith Toner, of Washington, District of Columbia, was read the first time by its title.

The PRESIDENT *pro tempore*. The joint resolution will be read at length.

The joint resolution was read the second time at length, as follows:

Be it resolved, &c., That whereas Dr. Joseph Meredith Toner, of the city of Washington, District of Columbia, has offered to donate to the United States for the use of the public, and for the promotion of literature and science, a large and valuable collection of books on medical science and historical and miscellaneous subjects, upon certain terms and conditions set forth by him in a memorial addressed to Congress, and which is in the following words:

To the Senate and House of Representatives
of the United States of America in Congress assembled:

The memorial of Dr. Joseph Meredith Toner, city of Washington, District of Columbia, respectfully shows to your honorable bodies that he is the owner of a large and valuable collection of books and pamphlets, about twenty thousand volumes or upward in number, treating of medical, scientific, historical, biographical, literary, and miscellaneous subjects, and many of which are very rare and of great interest; and desiring that said collection of books, to the accumulation of which your memorialist has devoted considerable funds and a large part of his life, should be permanently preserved and placed where it would be most beneficial to the cause of science and most advantageous to the public, he respectfully offers said collection to the United States of America, to be placed in the National Library of the United States, at the city of Washington, under the management and control of the Librarian of Congress, upon the terms and conditions following, which he deems to be reasonable and just, and which he trusts will prove acceptable to your honorable bodies, namely:

First. That the collection should be kept separate and apart from the other books and pamphlets in the Library, in separate rooms or alcoves, and that it should be known and described as "the Toner collection."

Second. That the collection of books and pamphlets be bound, when requiring it, in a uniform and satisfactory manner, and have placed on the back of each a parchment band to distinguish them, and that a device destinctive of the donation be stamped on the title page of each, and that they be kept accessible for reference, and be catalogued as speedily as practicable; and when they appear by title in the printed catalogue of the Library that some letter or symbol indicative of the collection be used, and that the condition and growth of the collection be made a matter of record in each annual report by the Librarian of Congress.

Third. That the collection be kept and used mainly for reference and be consulted subject to the rules governing the use of rare books, and be called upon for service only when no other copy of the book or pamphlet asked for is available, and not be taken out of the Library except for special reasons.

Fourth. That your memorialist should be permitted to make additions to the collection from time to time as he may desire, upon the same terms as herein specified, and that he have liberty to insure the perpetual increase of the collection by the establishment of a trust fund for the purpose.

Your memorialist, while desiring to perpetuate his name in connection with the donation which he here proposes to make, believes "the Toner collection" will prove useful and valuable to the country and will involve no unusual expense on the part of the United States.

Respectfully submitted,

J. M. TONER.

Now, the Librarian of Congress is hereby empowered and directed to receive and accept from the said Dr. Joseph Meredith Toner his collection of books and pamphlets aforesaid, and to place the same in the Library in his charge under the terms and conditions set forth in the said memorial.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. SHERMAN. Mr. President, I only desire to say that Dr. Toner, of this city, proposes to give to the Government of the United States his very valuable library, now estimated to be worth $50,000 or $60,000, which has been accumulated by him during his lifetime, and is to be supported by an endowment in the future. The Committee on the Library were unanimously of opinion that his generous gift should be promptly and gracefully accepted, and have prepared a report on the subject, which I ask to have printed. The joint resolution I hope will pass without objection.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SHERMAN. I ask that the report be printed.

The PRESIDENT *pro tempore*. The report will be printed.

BILLS INTRODUCED.

Mr. CONGER (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1888) to fix the date of entry into the military service and to correct the record of officers now in the regular Army who served as officers of volunteers and regular Army; which was read twice by its title and referred to the Committee on Military Affairs.

Mr. HARRISON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1889) providing for the reapportionment of the members of the legislative assembly in the Territory of Montana; which was read twice by its title, and referred to the Committee on Territories.

Mr. PLUMB asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1890) for the relief of William S. Thatcher; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1891) to re-examine the homestead claim of Ira Haworth; which was read twice by its title, and referred to the Committee on Public Lands.

FLAGS FOR MECKLENBURGH CELEBRATION.

Mr. VANCE asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 67) authorizing the Secretary of War to loan one hundred flags to the mayor and committee of citizens of Charlotte, North Carolina; which was read twice by its title.

Mr. VANCE. I ask unanimous consent that the joint resolution be considered immediately.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of War to lend one hundred flags to the mayor and committee of citizens of Charlotte, North Carolina, to be used in celebrating the one hundred and seventh anniversary of the Mecklenburgh declaration of independence of May 20, 1775, with such security for their prompt and safe return as he may deem necessary.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT TO ARMY APPROPRIATION BILL.

Mr. MAXEY. I offer an amendment to the army appropriation bill by instruction of the Committee on Military Affairs. I call the attention of the chairman of the Committee on Appropriations to the fact that this is the bill (S. No. 1600) authorizing recruits in the Army to purchase on credit certain articles necessary for their cleanliness and comfort, which has been unanimously reported favorably and is now on the Calendar; but it is believed that immediate legislation is necessary, and being an Army bill we ask that it may be referred to the Committee on Appropriations and considered in connection with the Army appropriation bill. The report of the committee is favorable.

The PRESIDENT *pro tempore*. The proposed amendment will be referred to the Committee on Appropriations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 804) for the relief of Robert Gorthy and Calvin Green; and

A joint resolution (H. R. No. 211) to authorize the Librarian of Congress to accept the library offered to be donated to the United States by Dr. Joseph Meredith Toner, of Washington, District of Columbia.

HOUSE BILL REFERRED.

The bill (H. R. No. 804) for the relief of Robert Gorthy and Calvin Green was read twice by its title, and referred to the Committee on the Judiciary.

DONATION OF THE TONER COLLECTION.

The joint resolution (H. R. No. 211) to authorize the Librarian of Congress to accept the library offered to be donated to the United States by Dr. Joseph Meredith Toner, of Washington, District of Columbia, was read twice by its title.

Mr. SHERMAN. That joint resolution is precisely in the words of the joint resolution which has been already passed by the Senate, and I ask that it be put on its passage. It was reported by the Joint Committee on the Library to both Houses, and has been passed simultaneously. We ought to concur in the action of the House.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SHERMAN. The Senate resolution should be withheld from the House.

The PRESIDENT *pro tempore*. The joint resolution passed by the Senate will be withheld.

Mr. HARRIS. The vote by which the Senate joint resolution was passed had better be reconsidered, and it should be indefinitely postponed.

Mr. SHERMAN. I move to reconsider the vote by which the Senate joint resolution was passed.

The PRESIDENT *pro tempore*. If there be no objection, the vote by which it was passed will be reconsidered. It is reconsidered.

Mr. HARRIS. Now let it be indefinitely postponed.

The PRESIDENT *pro tempore*. If there be no objection, that will be the order. The Chair hears no objection.

PUBLIC BUILDING AT JACKSON.

The PRESIDENT *pro tempore*. If there be no further morning business the Senate will proceed to the consideration of bills on the Calendar under the Anthony rule.

Mr. HARRIS. I ask the unanimous consent of the Senate to proceed at this time to the consideration of the bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee, and I desire to say that if it consumes more than five minutes I will withdraw the request.

Mr. CONGER. There are five or six bills for the erection of public buildings in which other Senators are interested, and I request the Senator to have the public building bills on the list all considered together and acted upon, as was done on a former occasion.

Mr. HARRIS. I certainly have no objection to the suggestion made by the Senator from Michigan, but it is very important that this little bill should be passed. It appropriates a very small amount; the records of the court are continuously exposed to the dangers of fire; and if the bill is passed now the house can be constructed this summer and fall and the records rendered absolutely secure.

Mr. CONGER. I have no objection to this bill. I thought, however, it would be well to give notice of some day when all similar bills might be considered.

Mr. HARRIS. I certainly have no objection to the suggestion.

The PRESIDENT *pro tempore*. The Senator from Michigan can give notice that he will ask the Senate to consider all such bills on a certain day.

Mr. CONGER. Then I give notice that on Thursday next I shall ask the Senate to consider bills on the Calendar making appropriations for public buildings.

The PRESIDENT *pro tempore*. Is there objection to the consideration of the bill called for by the Senator from Tennessee? The Chair hears none.

The bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GRAIN STEAM-SHOVEL PATENT.

Mr. PLATT. The bill (S. No. 1057) for the relief of George Milsom, Henry Spendelow, and George V. Watson, was passed over without prejudice, and I ask that it be taken up at this time.

The PRESIDENT *pro tempore*. It is the first case to be called.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. PLATT. There is a report accompanying the bill.

Mr. MCMILLAN. I wish to hear the report read.

The PRESIDENT *pro tempore*. The report consists of four printed pages. However, it will be read if desired.

Mr. MCMILLAN. If the Senator from Connecticut will state the substance of the report, it will be satisfactory to me.

Mr. INGALLS. I think the report had better be read. I have no objection to the Senator from Connecticut stating the case, but I think the report should be read.

Mr. PLATT. I have no objection to the reading of the report.

Mr. INGALLS. If the practice is to be followed that because a report is long it is not to be read, all that will be necessary to secure the passage of a bill without explanation will be to make a long report. I think the report had better be read.

Mr. PLATT. I prefer that the report shall be read.

The Principal Legislative Clerk read the following report, submitted by Mr. PLATT on the 16th of March:

The Committee on Patents, to whom was referred the petition of George Milsom, Henry Spendelow, and George V. Watson, asking for an extension of their patents for an improvement in the mode of unloading vessels, respectfully report:

That on the 2d day of August, 1864, letters patent No. 43751, for an "improvement in mode of unloading vessels," were issued to the said Milsom, Spendelow, and Watson; on the 22d day of November, 1864, letters patent No. 45197, for an "improved grain-shovel," and on the 28th day of March, 1865, letters patent No. 47030, for an "improved apparatus for leveling grain in a vessel's hold," the three patents constituting together what is known as the steam-shovel, as specially used at the city of Buffalo, in the State of New York. The second and third inventions were improvements upon the first, and the combination of their various elements produced a practical steam grain-shovel.

Grain-elevators have been in use at Buffalo for thirty-five years, and when these letters patent were issued all the grain that arrived at that port by lake was shoveled exclusively by hand in the process of unloading. The shovelers, compelled to work in the holds of vessels when feeding, the elevator legs projected from the elevators, were enveloped in clouds of dust that penetrated their lungs and seriously impaired their health.

To remove this embarrassment and expedite also the unloading of vessels, Milsom, Spendelow, and Watson constructed the machine covered by these letters patent, which consists of a combination of shovels or scoops with ropes and pulleys attached to and worked in the holds of vessels by steam-power applied from the elevators, the shovels being extended further and further from the hatches as the elevator-legs sink into the holds, and the shovelers simply guiding and feeding the machine, operations that do not raise the immense clouds of dust that are inseparable from unloading grain-vessels by hand.

Upon obtaining their patents, the petitioners with others organized The Buffalo Patent Grain-Shoveling Company, and in order to prevail upon certain elevator-owners at the said city of Buffalo to introduce and use this shovel in connection with their elevators, they gave to them half of the stock of this company; but so violent was the opposition of the shovelers of grain by hand to its use that for twelve years the petitioners and these elevator-owners were deterred from using it. The shovelers of grain by hand at Buffalo were then as now organized into and controlled by a shovelers' union, and apprehending a loss of employment from the use of this steam-shovel, in July, 1865, they struck for higher wages, compelled men in the employ of elevator-owners who were endeavoring to use the steam-shovel to leave them, frightened and intimidated these men by threats of violence, waylaid them in going to and from their work, and through the shovelers' union prevented other men from taking their places, and assaulting and driving them away whenever they attempted to work with the steam-shovel.

This state of affairs continued until the spring of 1874, when the opposition of the hand-shovelers was in a measure overcome; but not until the year 1877 did the shovelers commence working harmoniously with the steam-shovel.

Meantime, and while this struggle was going on, the petitioners, who were poor men, and had incurred heavy expenses in procuring these patents, and in endeavoring to put their steam-shovel into practical use, were compelled to sell the rest of their stock in the said shoveling company to pay the debts that they had so incurred and to meet their necessary personal and family expenses.

They endeavored to introduce this shovel in the cities of Erie, Oswego, Philadelphia, and New York, but in every instance they were violently opposed by the hand-shovelers, and, after spending much time and money, were compelled to abandon all further efforts in that direction.

Four thousand bushels an hour is a large average for shoveling grain by hand. With the steam-shovel from 8,000 to 10,000 bushels an hour are readily shoveled, and where two elevator legs can be used in a vessel at the same time, 20,000 bushels an hour have been shoveled.

Here there is an obvious and marked saving of time in unloading grain vessels. They are much more quickly made ready for their outgoing cargoes, and the ex-

penses incident to remaining in port are materially lessened. The rates for shoveling grain at Buffalo are $4 per thousand bushels for sail-vessels, and $4.50 per thousand for propellers and steamers; and they have been placed at these figures by the grain-shovelers, who, through the shovelers' union, control the price of shoveling, and so control it without reference to the steam-shovel, for the price of shoveling grain is the same whether the steam-shovel is used or not.

This price for shoveling in sail-vessels is divided as follows: $2 a thousand are paid to the shovelers, $1.50 a thousand to the elevators, and 50 cents a thousand to the steam shovel, and for propellers and steamers, which pay $4.50 a thousand for shoveling, $2.25 a thousand are paid to the shovelers, $1.75 a thousand to the elevators, and 50 cents a thousand to the steam-shovel.

When the steam-shovel cannot be used, as is particularly the case in certain portions of the holds of propellers and steamers, where the grain is shoveled entirely by hand, the whole price is paid to the shovelers, and is not reduced.

It appears also that the cost of shoveling grain at Buffalo, where alone this shovel is used, has not been increased by such use.

In 1880 the shovelers' union raised the price of shoveling from $3.50 per thousand bushels on sailing-vessels and $4 per thousand on steam-vessels to $4 and $4.50 respectively, its present price, and when this demand was made by the shovelers upon the elevator owners it was complied with, though the latter proposed to allow their share of the shoveling to remain at the old price, but the shovelers insisted that the general price of shoveling should be raised, as they had demanded, and this was done, for the reason that there are parts of the holds of some steamers and propellers in which the steam-shovel of the petitioners cannot be operated, and in the unloading of grain from which the shovelers are paid the full price for shoveling.

Prior to making this demand for an increase in the price of shoveling the shovelers stopped work at all the elevators in Buffalo, whether they used this steam shovel or not, and the whole business of elevating grain at Buffalo was suspended for several days, to the great loss of grain and vessel owners; and this state of affairs continued until the elevator owners acceded to the demands of the shovelers. These statements are fully verified, and the fact, also, that the petitioners' steam-shovel has not increased the cost of shoveling grain at Buffalo. On the contrary, it appears that its effect is to keep such cost down, which, were this steam-shovel not used, would be raised by the shovelers to $5 and $6 a thousand, as there are vessels now in commission upon the western lakes that carry upward of 100,000 bushels of grain, in the unloading of which very large gangs of shovelers would be necessary, and it appears that even then it would be very difficult to unload such craft within a reasonable time by hand-shoveling alone.

In addition to the great saving of time effected it is also substantiated that where this steam-shovel is used a vessel can be unloaded without changing its position at the dock, a change that it would be difficult to effect when the harbor is crowded with vessels, or when a strong wind is blowing, and sometimes for many hours impossible to accomplish at all, and yet this is a necessary change when the shoveling of grain by hand alone is resorted to.

It further appears that the unhealthy features of the occupation of these grain shovelers being now eliminated by the use of this steam-shovel, they prefer to work with it, and that no shoveler will now labor in the hold of a vessel that is to be unloaded by hand if he can obtain employment where this steam-shovel is used; and although the remuneration of this class of men per thousand bushels is greater when shoveling is done exclusively by hand, it appears that they yet make better wages when working with this steam-shovel, from the fact that by means of it many more thousand bushels a day can be unloaded than can possibly be shoveled by hand in the same space of time; and from the further fact that the money received for trimming grain in canal-boats loaded at the various elevators is divided among a much smaller number of shovelers when the steam-shovel is used than when the shoveling is done by hand.

The petitioners severally make detailed and sworn statements of their receipts and expenditures in inventing the said shovel, and endeavoring to introduce it, and from those statements it appears that their aggregate receipts for the last seventeen years have been the sum of $38,703.28, and their expenses $20,350, leaving to them a balance of total net income of $18,353.28, received as follows:

George Milsom	$5,320 72
Henry Spendelow	4,027 85
George V. Watson	9,004 71
Total	18,353 28

For Milsom this is an average of $312.98 a year; for Spendelow of $236.93; and for Watson of $529.69, which your committee, in view of the struggles made by these petitioners to introduce this invention, the opposition they have encountered, and the difficulties they have had to contend with, do not consider as the reasonable compensation for the labor and time spent by them that is contemplated by law.

The rights of the said shoveling company to this invention and all interest therein on the part of this company ceased on the 2d day of August, 1881, and an extension of these patents will inure alone to the petitioners, who have made no assignment of such an extension as they may be able to obtain.

This steam-shovel has now become a valuable and profitable invention.

By means of it millions of bushels of grain are shoveled annually at the said port of Buffalo, but it did not become profitable until the petitioners were compelled, without fault or neglect on their part, to dispose of all their interest in the original term of the said patents as stated in their affidavits, for the said city of Buffalo, where alone it has ever been put to profitable use.

It is possible now for the petitioners to be reasonably remunerated for the time, labor, and money spent by them in inventing this shovel and endeavoring to bring it into use, and in the judgment of your committee a seven years' extension is sufficient for this purpose.

It finally appears that the shovel has never been, to any extent, a tax upon commerce or a burden or charge upon grain. It distributes the cost of shoveling grain but does not increase that cost. What before its introduction was paid to the hand-shovelers exclusively, is now divided between the shovelers, the elevator owners, and this shovel, in the proportions stated.

One of the patents expired on the 2d day of August, 1881; one on the 22d day of November, 1881; and the third will expire on the 28th day of the present month.

It appears, therefore, to your committee—

First. That the said inventions are of great public value;

Second. That the petitioners have failed to receive reasonable compensation for the labor and time spent by them in perfecting the said steam-shovel and in their endeavors to put it to profitable use;

Third. That their failure to receive reasonable compensation for the labor and time spent by them in perfecting their said invention was without their fault or neglect;

Fourth. That there is now a reasonable prospect that the proposed extension of the said patents would secure to the petitioners the "reasonable compensation" that they should have; and

Fifth. That the public has never paid anything whatever for the use of the said steam-shovel, and will not only not be unreasonably burdened by the extension of the patents for which the petitioners ask, but will not be burdened at all by such extension.

For the foregoing reasons, and believing that the ingenuity and labors of these patentees should be properly rewarded, the committee report the bill back to the Senate with a substitution of seven years in the place of ten, as the term of the extension of the patents of the petitioners, and recommend its passage.

Mr. COCKRELL. I should like to have some explanation of the necessity of this. The report is very long, and I do not conceive that it gives any sufficient reason why this monopoly should be granted and continued to these parties. I want to call attention to one fact: the patent has expired; men have gone and invested their money in these shovels and have manufactured them, as they had a perfect right to do. Now, if the patent is extended, those men lose the money they have invested in these machines, and no protection is afforded to them at all.

Mr. HOAR. This is not a manufacture at all.

Mr. COCKRELL. After the patent-right expired any man had a perfect right to construct one of these machines and put it to work, and men have constructed them and put them to work, and now they are to be deprived of the right of using them by this bill. I shall offer an amendment, after I hear the Senator's explanation, to cover that point.

Mr. PLATT. This case, Mr. President, does not differ in that respect from any ordinary case of the extension of a patent. This grain-shovel has never been used, except at Buffalo, in the State of New York. I think it never will, from the nature of the case, be used anywhere else. It is not adapted for use at any point except where grain is brought in large quantities by vessels and unloaded from those vessels into cars or into canal boats.

Mr. INGALLS. Does not that condition apply to Chicago and Milwaukee?

Mr. PLATT. I do not understand that it does. As I am informed it cannot be used at any places except Buffalo, Oswego, and Erie.

Mr. COCKRELL. Why not?

Mr. PLATT. I have already stated that the course of trade is such, the quantities of grain transported are such——

Mr. INGALLS. Grain is brought to Chicago in vessels in enormous quantities and transferred by elevators to railway trains, and also at Milwaukee.

Mr. PLATT. That may be; but the fact is that this is not and has not been used at Chicago and Milwaukee; and I am told is not adapted for use at those points by reason of the peculiar nature of the transportation. The Senator from Wisconsin, I think, is fully informed upon that subject. I think there is no mistake in this statement. It has been used at Buffalo. The shovels are used by the elevator owners there, and have been used by paying a royalty to these patentees or to the shovelers' company, which has had these patents by assignment. There is no opposition, I will say to the Senator from Missouri, so far as I know, on the part of the persons using the shovelers; and that is a sufficient answer, I imagine, to his objection. These persons are poor people; they have been subjected to very great troubles and annoyances, by reason of which they have not been able to obtain any benefit or remuneration from their patent except for the past few years. The price of shoveling grain was controlled originally by the hand-shovelers, whose work this invention to some extent superseded. They rebelled against its use for a great number of years; they would not allow the elevator owners to use it; and it was only in 1874 that it first came into use at all; and it is only recently that it has had any considerable use which has resulted in a compensation to the owners of the patent and the patentees.

The only objection which I have ever heard to the extension of this patent which would have been valid if it had been founded in fact, was that it added to the cost of transportation. I do not think that is so for this reason: the price of shoveling is and will be continually controlled by the hand-shovelers; they have a shovelers' union; and if what has heretofore been paid as a royalty to this patent is not paid for the use of the patent, it will go either to the hand-shovelers or to the elevator owners. At present, since the expiration of the patent, it goes to the elevator owners, and they use it to control trade with, to go around and bid for trade; but the shovelers will insist upon having what has been paid as a royalty on this if the patent should not be extended.

Whatever we may say about the propriety of trades unions and their regulating prices, it is nevertheless true that the shovelers' union do regulate the price and will control the price of shoveling grain, so that there will be just as much paid where this is used and can be used without the extension of the patent as there will be with it.

Mr. COCKRELL. I offer the following amendment——

The PRESIDENT *pro tempore*. There are committee amendments pending.

Mr. COCKRELL. I move to add to the bill:

And provided further, That any and all persons who may have purchased, constructed, or become the owners of such machinery, or any part thereof, since the expiration of the patent and prior to the passage of this act, shall have the right to use the same without liability for royalty or damage, and without interference on the part of the patentees, their executors, administrators, or assigns.

Mr. PLATT. I would suggest that there are some committee amendments which had better be acted on first, with the consent of the Senate.

The PRESIDENT *pro tempore*. The amendments of the Committee on Patents will be read.

The PRINCIPAL LEGISLATIVE CLERK. In line 6, before the word

"years," the committee propose to strike out "ten" and insert "seven;" so as to read:

That the Commissioner of Patents be, and he hereby is, authorized to hear and determine the application of George Milsom, Henry Spendelow, and George V. Watson for an extension for the term of seven years of letters patent for an "improvement in the mode of unloading vessels," granted to them on the 2d day of August, in the year 1864, numbered 43751.

The amendment was agreed to.

The next amendment was, in line 11, before the word "years," to strike out "ten" and insert "seven;" so as to read:

Also for an extension for the term of seven years of letters patent for an "improved grain shovel," granted to them on the 22d day of November, in the year 1864, numbered 45197.

The amendment was agreed to.

The next amendment was, in line 15, before the word "years," to strike out "ten" and insert "seven;" so as to read:

And also for an extension for the term of seven years of letters patent for an "improved apparatus for leveling grain in a vessel's hold," granted to them on the 28th day of March, in the year 1865, numbered 47030.

The amendment was agreed to.

The next amendment was, in line 34, before the word "years," to strike out "ten" and insert "seven;" so as to read:

And if, upon such hearing, the Commissioner shall be satisfied that the said George Milsom, Henry Spendelow, and George V. Watson, without fault or neglect on their part, have failed to obtain from the use or sale of their said inventions or discoveries a reasonable remuneration for the time, ingenuity, and expense bestowed upon them and their introduction into use, and that it is just and proper that the terms of the said three patents should be extended, the said Commissioner shall make a certificate upon each of them renewing and extending the same, and to each of them, to the said George Milsom, Henry Spendelow, and George V. Watson, their executors, administrators, or assigns, for the further term of seven years from the date of the issuance of the said certificates.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Missouri, [Mr. COCKRELL.]

Mr. PLATT. I hope the Senate will understand the effect of this amendment. I vastly prefer that they should vote down the bill than put the amendment on it, because I prefer that the Senate should do by direction what they choose to do in this matter rather than to do it by indirection. This amendment is just this: here are a few men, elevator owners in Buffalo, who have been using this shovel during the life of the patent; nobody else in the United States has used it, nobody else in the United States can use it; and the effect of the amendment is that the parties who have used it may continue to use it without the payment of royalty. It amounts simply to making the whole bill nugatory.

Mr. GROOME. I am under the impression that this is the same proposition for the renewal of a patent about which I have received very earnest remonstrances from leading business men of the city of Baltimore, who conceive that the renewal of this patent would do a very great injustice to those who are engaged in the grain trade there. That being my belief, in order that I may have an opportunity to inform myself if this is the renewal against which they protest, I object to the further consideration of the bill at this time.

Mr. PLATT. I beg the Senator to consider that this bill has been considered for a long time this morning, and it seems to me it might as well be disposed of at the present time. We simply waste the time of the Senate by considering a matter for half an hour or three-quarters of an hour, and then have it go over under objection, and if the Senator insists upon his objection I shall move to take up the bill, notwithstanding the objection, for I think we ought to dispose of it at the present time.

Mr. GROOME. I will simply say that when a bill is called up, as I believe was the case with this one, out of turn, when Senators were not looking for it——

Mr. PLATT. It was once passed over for examination.

The PRESIDENT *pro tempore*. It is called up in its order now.

Mr. GROOME. I was absent during Friday, and I was not aware of the condition of the Calendar. I believe this is the bill to which leading men of my constituency very urgently object. Believing that, I feel bound to interpose this objection in order that I may have an opportunity to examine letters in my possession, and see whether I am right in that belief. That being the case I interpose the objection. Of course the Senate will act upon it as to it may seem best.

The PRESIDENT *pro tempore*. The Senator from Maryland interposes an objection, and the case loses its place unless it is continued.

Mr. PLATT. If the Senate will indulge me for a moment, although I am not strictly in order, I do not wish to move to take this bill up out of its order as against the objection made in good faith by the Senator from Maryland——

Mr. HOAR. Let it go over without prejudice.

Mr. GROOME. I am satisfied with that course.

Mr. PLATT. I suggest that the bill go over without prejudice, and that it be called up again in a short time.

Mr. GROOME. That was what I intended to accomplish.

The PRESIDENT *pro tempore*. The bill will go over without prejudice.

WILLIAM H. CROOK.

The consideration of the bill (S. No. 696) for the relief of William H. Crook was resumed as in Committee of the Whole.

Mr. CONGER. I move, in the twelfth line of the bill, after the word "being," to insert "two-thirds of," and in the same line, after the word "same," to insert "amount;" so as to read:

And which services were additional to his regular duties as executive clerk and disbursing agent, the amount being two-thirds of the same amount as was formerly paid for such service.

So as to make it correspond with the amendment already made. The amendment of the committee only allowed two-thirds of the amount heretofore paid for the service, and hence this correction is necessary.

Mr. DAVIS, of West Virginia. Yesterday I gave notice of an objection to this bill. I think it a mischievous bill, and one that ought not to pass; but on reflection I have no objection to its being considered and letting it stand on its merits. I wish to say a word about it.

Previous to 1878 there had been a special officer to sign land patents. In June, 1878, the Committee on Appropriations believed that that expense ought to be saved to the Government. The pay had been $1,500 a year, but we repealed the law which formerly provided for the appointment of a person for this particular purpose, and provided in the same act that the duties should be performed by one of the executive clerks of the President, and that the President should designate that clerk. Under the law of 1878, Mr. Crook, I suppose, was designated and has performed the duties since, as I understand from the report. The claim that is made by the party claimant—for it is nothing but a claim—is for extra duties as he says. If that be allowed, cannot each and every other clerk in any of the Departments where additional duties have been assigned to him ask extra compensation? This gentleman has been paid regularly the salary allowed to the position he held.

Mr. MAXEY. Let me suggest that section 1765 of the Revised Statutes prohibits the payment of extra compensation to any officer or clerk by reason of the discharge of duties which belong to any other officer or clerk, and forbids any allowance or compensation for any extra services whatever which any officer or clerk may be required to perform unless expressly authorized by law; and I have a decision of the Supreme Court on that very case.

Mr. DAVIS, of West Virginia. The Senator is correct as to that; and I intended to speak of it directly.

Mr. CAMERON, of Wisconsin. I think if the Senator will examine the statute which prohibits double compensation he will find that it applies only to officers whose annual compensation equals or exceeds $2,500 a year.

Mr. COCKRELL. Not at all.

Mr. MAXEY. Any of them. It is the broadest statute ever put on the statute-book.

Mr. DAVIS, of West Virginia. It embraces all officers. This proposed compensation must stand upon the basis of any other double compensation. This gentleman, no doubt, is a meritorious person, and has performed his duties properly; but it is a dangerous precedent. Thousands of others are in the same condition, and have performed extra duties.

It is said in this report that 30,000 land patents were signed in a year, and that the work had to be done at night. It will be perceived that an average of 30,000 a year is about 100 a day. It appears to me that I could write my name, or any clerk could write his name, one hundred times in an hour, without taking night after night for it, as the report says was done.

In addition to that, it is known that the appropriation bills have appropriated less for a number of years than the statute allows many of the clerks. They have gone on regularly and taken the sum appropriated; but this claim would open the door in all of those cases for a similar allowance. I think it very dangerous, and it ought not to pass.

Again, we see in the bill that the year 1882 is to be paid for, the year we are now in, and paid for in advance. If this is to pass, we had better renew the old office, and not pay double compensation. It is for service which has not been performed, for it provides for 1882, and 1882 has just commenced.

I hope the bill will not pass.

Mr. MAXEY. Section 1765 of the Revised Statutes, to which I referred, reads thus:

No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation.

The case which I had in mind was the Stansbury case, reported in 8 Wallace, decided by Judge Davis, now presiding over the Senate. It was there laid down plainly that whenever a man took an appointment from the Government, he took it with a distinct notice and knowledge of this law, and that he could not receive double pay. Hence (and I asked the question of the Judiciary Committee by a resolution) I could not see, and I do not yet see, how a retired officer of the Army, who is an officer drawing pay, can take employ-

ment in the civil service and draw double pay. Unquestionably, if that statute means anything, it means that no man can draw two pays from the Government at the same time.

Mr. PLUMB. I think this bill opens the door pretty wide. I have no doubt it is occurring in all the Departments of the Government every day or every now and then that, by reason of some changed condition, some new duty, some duty not before devolved on an officer, is now devolved on him by executive order. If we establish the rule that a man who goes into a public office, a clerkship, has a vested right to the extent that he shall do no more than the duty which may have been devolved upon him the very day that he went in and that that duty shall not be increased, we are opening the door by this enactment to the payment of additional salaries to men to an extent that we have no conception of at all.

Mr. MAXEY. Will the Senator from Kansas permit me one moment? I ask to be permitted to add to my remarks an extract from the decision before referred to:

The second section of the act of August 23, 1842, declares that no officer of the Government drawing a fixed salary shall receive additional compensation for any service, unless it is authorized by law and a specific appropriation made to pay it. When Stansbury was appointed in 1851 this law was in force, and afforded notice to all employés of the Government of the policy of Congress on the subject to which it relates. The law was passed to remedy an evil which had existed of detailing officers with fixed pay to perform duties outside of their regular employment, and paying them for it, when the Government was entitled, without this double pay, to all their services. The law prohibited, and was intended to do so, the allowance of such claims as these, made by public officers, for extra compensation on the ground of extra services.

But the appellant insists if the above act embraced clerks in the Departments, its operation has been withdrawn from them by the twelfth section of the act of 26th of August, 1842. It is difficult to see how this conclusion is reached, because this section refuses to pay clerks or other officers in the Departments for doing the duties of the other clerks or officers, and refuses further to pay them for extra services of any kind.

There is no inconsistency between the provisions of the two acts, which were passed within a few days of each other, and were parts of a system, intended for the guidance of those in the employ of the Government. These provisions furnished notice to all in authority, that in no event could clerks in the Departments be paid for doing the work of their fellow-clerks, nor could they be paid for any other service, unless it was authorized by law, and followed by an appropriation to pay for it.

Stansbury's appointment was not authorized by law, nor was there any appropriation to pay for the services which he expected to render the Department.

It follows, therefore, that the transaction between Secretary Stuart and himself was in violation of the statute, and cannot be the foundation of an action. (Stansbury *vs.* United States, 8 Wallace's Reports, page 36 *et seq.*)

Mr. PLUMB. My theory is that when the Government employs a man it employs all his time. There is no allegation that this man did more than he could do, that he put in more than twenty-four hours a day, and that he was dissatisfied with the employment he had or the salary attached to that employment. He went on perfectly satisfied for one, two, three years on the pay he had, and now at this late day he comes in and claims that before that time this office had been devolved on somebody else, and he should have extra compensation. I say it is opening a wide and a dangerous door. If we pay this man, we must pay others, and I venture to say that there are hundreds of clerks in the Departments to-day that are doing duties which they were not doing at the time they entered the employment of the Government.

Mr. DAVIS, of West Virginia. Thousands of them.

Mr. PLUMB. Perhaps thousands, as the Senator from West Virginia says. It seems to me we ought to have a fair and just relation and a definite determined agreement existing between the Government and its employés, so that we shall not be called upon from time to time to vote extra compensation because in some way the duties of persons who are in our employment have been enlarged.

I was about to ask the Senator from Michigan when he sat down yesterday whether if the duties which this person has been specifically employed for had been so enlarged as to require him to labor not only during all the day but during a portion of the night, which this report says he was required to labor in, that would constitute a claim for extra compensation or not? What his duties were, I do not know.

Mr. COCKRELL. I will read what the committee say the duties were:

Mr. William H. Crook was then, and had been since 1871, an executive clerk, acting as disbursing officer of the Executive Mansion, and also in charge of the reception room.

Mr. PLUMB. If it had happened in the course of the enlargement of the population of the United States and the general accretion of business about receiving visitors and so on, that this person was required to do a little more duty than had devolved on him at the time he entered the service, could it be said that he would therefore have a claim on the Government for additional salary? I think not. But now in addition to these social duties that belonged to him by his assignment to duty there he was required to sign the name of the President to certain land patents one hundred times a day, a work which did not require thirty minutes, not twenty minutes additional time during the day, and for that he is to have $1,500 a year additional.

Mr. INGALLS. Making an aggregate of $3,500 per annum.

Mr. PLUMB. Making an aggregate of $3,500 per annum. Why, Mr. President, it does not seem to me that this gentleman can possibly come here as a person whose shoulders have been bowed down, and who has been physically disqualified from the performance of other duties and broken down physically by the service he has been required to perform. In fact, he has had less service on his own showing than has been done by many others in the public service who have had less pay.

Mr. CONGER. Mr. President, this officer has performed this additional extra duty which cost this Government $1,500 a year before he was designated as one of the President's secretaries to do it. He has from time to time presented this matter to members of Congress, and he at least has had the assurance of some that they would bring the matter to the attention of Congress and endeavor to have the payment made. If there is anything wrong in the law as to the performance of this duty, this officer might have been notified beforehand, as the President could have designated, as he may do, another secretary at $1,500 a year to perform this one duty under the law.

This officer, Colonel Crook, undertook to perform his regular duties from day to day and from year to year and these additional duties by working extra hours, which he has done. He has saved to this Government for that extra labor in the four years $1,500 a year which was always paid before. Then, as a matter of equity and justice, there should be some remuneration to him.

It is said that there is no law for this, or it is even said that the law forbids this payment. Why, Mr. President, if the law warranted the payment, no one would have occasion to come to Congress for the legislation proposed. It is because it needs legislation, it is because it is *casus omissus* in the law, where an officer is required to perform duties without pay, that this officer comes to Congress and asks them to give him a reasonable compensation for services already rendered, and which would have cost if the requirements of the law by designating a secretary merely for this purpose, and not performing other duties, had been carried out. That is all there is of it. The President could have appointed a separate clerk, whose whole duty should have been to sign these 30,000 land patents a year, and make the records of them, and return them to the land office, and keep the run of all this business that affected the rights and titles to lands all over the United States, and there would have been no question here.

Your committee thought it might very well, in justice and equity to this officer, who proved his diligence and his extra labors before the committee, recommend to the Senate that a portion of the money which it would have cost to have had a special clerk for this business, should be paid to him for the four years in which he has performed the duties. That is all there is of it. The labor has been performed, the night work and the hard work has been faithfully performed, in addition to all the other duties which constituted the regular service of this gentleman at the Executive Mansion as disbursing officer and as general manager of the Executive Mansion.

I care personally nothing about this matter, although I have always had an idea that when from some failure of the law any poor clerk or poor man had performed extra service it was not very just or equitable to go and say, after he had performed the service and saved the Government this amount of money, that he should not be paid for it. We are continually paying clerks in the House and in the Senate. We passed a bill here within the last two days giving to clerks of the House $400 or $500 for services outside of their duties as clerks of committees. The Senate undoubtedly thought it was equitable, not that the law authorized it, but we made a law to authorize it. This is another such case.

Now, I desire to call the attention of the Senate to the fact that the very law which forbids what is called double payment says that it shall not be paid without a new provision of law, thereby contemplating that there may be cases where such payments would be just, and this very section says that a man shall not be paid twice or have additional compensation without specific authority of law. What we ask here is the authority of law.

But I have said all and more, perhaps, than I need have said.

Mr. INGALLS. Mr. President, I think I never knew a more indefensible claim than this. It has no support either in law or in equity. The allegations that are made in favor of it seem to me to be totally destitute of merit. The original salary for signing these land-patents was so grossly and extravagantly incommensurate with the labor to be performed that Congress deliberately abolished it, and said that the trivial and inconsequential duties to be performed should be discharged by some other ornamental and decorative *attaché* of the Executive Mansion. And so it appears that this overworked and debilitated and wrongly treated appendage who had to keep the executive record of the mansion (which is corresponding to the duties of the executive clerk here) and to disburse the moneys that are required to run that establishment, which we are assured by the eminent secretary of a preceding Chief Magistrate, required all the time of that officer, was required, in addition to this, to sign the name of the President to the land-patents one hundred times daily. It is aggregated, in order to make it seem more stupendous, at the number of 30,000 per annum; but inasmuch as there are about three hundred working days in the year, here was a hundred times daily that this afflicted being had to sign the name of the President upon a piece of parchment. Any person familiar with the use of the pen can readily understand that that labor could be performed in thirty minutes by any person of ordinary facility in the use of a pen.

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived, the bill goes over.

Mr. INGALLS. I regret that, I wished to make some further observations.

The PRESIDENT *pro tempore*. The Chair has given the Senator two minutes beyond the time. The bill goes over until to-morrow.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 67) to loan one hundred flags to the mayor and committee of citizens of Charlotte, North Carolina.

MILITARY LAND-WARRANT LOCATIONS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes.

Mr. PLUMB. Mr. President——

Mr. SAULSBURY. I wish to offer the following amendment before the Senator from Kansas proceeds:

SEC. —. That no part of the money paid under this act to any of the States mentioned therein shall be applied by such States to the payment of agents or attorneys for services rendered by them in procuring the passage of this act or in connection with the claims of such States to the money hereby authorized to be paid; and the Secretary of the Treasury is hereby authorized and directed to withhold payment to any State until satisfactory assurances shall be filed with him by the authorities of such State that no part of the money paid under this act shall be so applied.

The PRESIDENT *pro tempore*. The amendment will be received. The Senator wants it printed, probably?

Mr. SAULSBURY. Yes, sir.

The PRESIDENT *pro tempore*. The amendment will be ordered to be printed.

Mr. PLUMB addressed the Senate. [See Appendix.]

Mr. BLAIR. Mr. President, this bill is to my mind of a somewhat extraordinary character. The basis of the bill is an alleged contract between the States and the nation made from time to time as the several States known as the land States were admitted into the Union, all of them modeled upon that which is alleged to have been made between the nation and the State of Ohio upon her admission to the Union. It carries us back among the forefathers eighty years, and there we find, in the language which has been read to us by the Senator from Kansas, [Mr. PLUMB,] the basis upon which this bill is founded. In the enabling act approved April 30, 1802, by virtue of which the State of Ohio was admitted into the Union, we find the language which I shall read, and I wish to observe that it is one clause of several clauses to be found in the seventh section of that article. They are independent clauses, and clauses which to my mind are conditions imposed by the sovereignty, by the creator, upon the thing to be formed or created; they are conditions which grow out of the sovereignty of the nation, which it had a right to impose and which it did impose upon the State to be formed and to have admission to the Union by compliance with or by acceptance of the conditions.

The State, so far as it differs in its State organism from that of its Territorial capacity, is so much carved out of the national sovereignty. There are no more people, there is no more territory, there is no greater aggregate of rights and powers in the State and the nation combined after the act of the admission of the State than existed prior to that time in the nation and in the Territory itself. When for the general good, not specially for the good of the people residing in the Territory, only as they are a portion of the entire nation, a component part of the whole, the nation sees fit to impart the rights and privileges of stateship it has the right to impose upon the power of taxation which it conveys to the State, and upon all other powers imparted to the State, such conditions as it may see fit to impose. That is my theory in regard to all the conditions to be found in the enabling act of Ohio and the States which have been admitted to the Union since that State.

The third clause of the seventh section of the act of April 30, 1802, is as follows:

That one-twentieth part of the net proceeds of the lands lying within the said State sold by Congress—

"Sold by Congress"—

from and after the 30th day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making public roads—

Not for the benefit of learning, not for the development of science, but for the making of public roads—

leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same. Such roads to be laid out under the authority of Congress with the consent of the several States through which the road shall pass.

Then follows the proviso:

Provided always, That the three foregoing propositions herein offered—

I have not read the two preceding ones—

are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable, without the consent of the United States, that every and each tract of land sold by Congress, from and after the 30th day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of five years from and after the day of sale.

Before proceeding to consider more specifically the nature of the contract, if it is a contract, contained within this clause, I wish to observe that in regard to the imposition of the restriction upon the right of taxation in the State, it was imposed as it seems to my mind, for one reason at least, because at that time it was the custom of the country to sell its lands upon a credit of five years; and if the power to tax was to reside in the State the right to the title which the nation was conveying to the settler, if he should fail to succeed in paying the tax, which might be made very heavy on the part of the State, he would be very liable to lose by virtue of a tax title set up thus by the State against him. In order that he might obtain his homestead, in order that he might have the inducement to settle in the State, as much for the benefit of the State and more for her benefit than that of the country at large, it was necessary that the country should undertake to give him a title to his homestead, and it gave him the five years of credit wherein to pay for it, and agreed to protect him to the end so that he might obtain, in spite of the power that maliciously or foolishly might be exercised against him by the State, his completed title to the homestead. As the country undertook to convey the homestead to him, and offered to him this inducement to settle in the wilderness, it was not only the right but the duty of the country to protect him by a provision of this kind.

Further, when at a later period the country disposed of its lands by direct payments, without taking notes, without giving credits, this language passed naturally, being copied from the original enabling act of Ohio, into the enabling acts of the succeeding States without any special reference to its exact bearing or the reason of its origin. However that may have been, to the last and to-day I hold that it is for the benefit of the State that its power to tax the homestead of the settler for five years should be thus restricted by the nation at large. It is in its nature more for the benefit of the State as well as of the individual who becomes a component part of it. All through the country precisely the same principle is acted upon. It is in my own State, it is in every other State. I do not suppose there is—at least I am not aware of it—a single State in the Union, though there may be some, where it is not a provision of statute law to exempt for a given period of time capital invested, for instance, in manufacturing enterprises and other incipient enterprises which it is for the interest of the State to attract to its borders by favorable laws with reference to taxation. We exempt manufacturing capital in my State for a period of ten years. A town even has the right by a vote of its own people to restrict and to extinguish the power of taxation not only on the part of the town itself but the State also has the complete power to regulate or to extinguish taxation over capital thus invested; and why? Because those enterprises thus founded need aid in their infancy and their weakness, and it is known to be for the ultimate benefit of the community and the State that they should receive favor in this way in their earlier and weaker stages.

Thus it is that this restriction upon taxation, in its nature a benefit to the State as well as to the individual, was not imposed, in my belief, for the benefit of the country at large originally any further than it was necessary to do so in order that the country might exercise good faith with the settler whom it had induced to go into the wilds and make there his home.

I look upon this matter as somewhat aside from the real merits of this controversy. If there is any reason why this bill should pass, it is because there is a legal and equitable right of the States for whose benefit it is proposed that it should become a law. These land States come to us to ask a sum of money in the aggregate, as I think, between five and six million dollars, at least, and it may be more. It becomes a serious matter whether a bill of this kind is to pass in silence and by common consent. It is a pretty serious matter whether the nation at large is to be charged with bad faith if it withholds this five or more million dollars. Those who come here and ask that this legislation shall be enacted must make out a case, it seems to me. Before we have a right to put our hands in the Treasury and appropriate $5,000,000 of money these younger States of the Union should be able to show a legal or at all events a strong equitable obligation which can be imposed upon us as legislators.

The Senator from Kansas produced a table which he asked to have printed in his remarks giving certain important information. I have the same table, I take it, to which I have added some calculations which will give the specific information asked for by several Senators to a much greater extent than the table produced by the Senator from Kansas. It will enable the Senate to see more definitely just what is involved, what States are interested, and the extent to which they are interested.

Mr. MITCHELL. What does Pennsylvania get?

Mr. BLAIR. Pennsylvania is one of the States that are unfortunate in this matter, and she gets nothing. No States come under the provisions of this bill but those admitted into the Union since Ohio, in 1802, and including Ohio, some eighteen in all. This is the table:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 26, 1880.

SIR: In reply to your verbal inquiry relative to the quantity of land located with military bounty land warrants up to date, in all the States, I have to inform you

that the records of this office show an aggregate location from the commencement of operations under the respective acts to December 31, 1879, of 63,170,760.74 acres, distributed as follows:

States.	Five per cent.	Amount of locations.	Acres.
Alabama	$72,475 69	$1,449,513 75	1,159,611.17
Arkansas	141,306 44	2,826,128 75	2,260,903.01
California	50,714 44	1,014,288 75	811,431.24
Colorado	12,191 25	243,825 00	195,060.00
Florida	29,317 57	586,351 25	469,081.24
Iowa	881,239 13	17,624,782 50	14,099,825.77
Illinois	593,866 32	11,917,326 25	9,533,853.00
Indiana	82,027 32	1,640,546 25	1,312,436.65
Kansas	270,741 12	5,414,822 25	4,331,856.95
Louisiana	72,425 19	1,448,503 75	1,158,802.50
Michigan	270,704 63	5,414,092 50	4,331,273.78
Minnesota	373,393 25	7,467,865 00	5,990,291.81
Mississippi	24,061 13	481,222 50	384,977.73
Missouri	426,186 82	8,523,736 25	6,818,988.89
Nebraska	121,202 38	2,424,047 50	1,939,238.05
Nevada	666 25	13,325 00	10,660.00
Ohio	113,593 88	2,271,877 50	1,817,501.99
Oregon	4,949 31	98,986 25	79,189.14
Wisconsin	404,111 38	8,082,227 50	6,465,781.82
Total	3,947,173 50	78,943,408 50	63,170,760.74

Very respectfully,

J. M. ARMSTRONG,
Acting Commissioner.

Governor R. P. LOWE, *Washington, D. C.*

I live in a State that does not deal in money very largely; her people pay their taxes, and expect to do so. She got a little of the money distributed in 1836 with the rest of the States that happened to exist at that time. Still I think I am among the last who would hesitate to be taxed and to pay this money if these States were in my belief in law or equity entitled to receive it.

Before proceeding on that point, lest I may forget it, I wish to reply to the suggestion of the Senator from Kansas that the old States, as he calls them, the States which were in the Union, who bore the burden and the heat of the day in the revolutionary war, in the war of 1812, and in the war of 1847, received by virtue of the distribution of the surplus in the Treasury about the year 1836 a considerable amount of money, and that they would feel a great deal easier in their conscience, and somewhat easier in their pockets, if they could be released from the payment of that money.

That money was distributed among the States when the nation was out of debt, and it was done for the purpose of its safe-keeping more than anything else. The nation saw fit to distribute it, and it was distributed upon conditions by which it can be called in again. It was not given outright to the States; it was distributed according to population, I believe, or upon some equitable basis among all the States then in the Union, but upon the condition that it should not be upon interest while thus remaining in the treasuries of the States, and that it might be called in whenever the nation at large chose to do it. The nation has that right. As a citizen of one of the older States, I do not propose to evade the exercise of that right whenever the general good requires it to be exercised; but I am not one of those who will swap the relinquishment of a claim which the Government has upon my State by yielding to what I believe to be a wrongful claim set up by the newer States belonging to the Union. Let each measure stand upon its own merits. If we owe that money and it is for the general good that we shall repay it, let us repay the money, and if the United States owes these newer States five or six million dollars, or whatever it may be, let us pay them; but it is utterly impossible, so far as I can understand this matter, that the one should be in any sense whatever an offset to the other, or that considerations of this kind should influence a Senator from any State in the casting of his vote.

I will make one suggestion in regard to the money which the older States received at that time and the claim now set up by the newer States that they should have this money because the older States have that. That money had accumulated by taxation from burdens imposed upon the States of the Union as they then existed. It was the property of the country as it then was, and as the property of the country as it then was it was distributed to the various States as they then existed and equitably as to the individuals making up the States and the nation at large. Ought States which did not then exist come in forty years afterward and claim as they would claim under a statute of distribution direct from the revolutionary fathers? I think not; they were not *in esse* at that time. How could they claim money which belonged to the Government at that time? The Government being out of debt, the money was distributed back to the people at large at that date. Whatsoever public property has been acquired since, whatsoever is in the Treasury now, they have their legal rights in, and if this money can be recollected, and it is best to do it and to replace it in the Treasury, then the new States as well as the old States will be entitled anew to its equitable distribution.

But to leave those points and come directly to the merits, as I conceive them to be, of this case, the claim is based on an alleged contract, that the Union said to the incoming State while yet in its formative, proposed condition, "Comply with certain conditions and you shall have certain benefits; you shall have 5 per cent. of the net proceeds of the sales of the public lands hereafter made;" and in nearly every instance that 5 per cent. was to be appropriated to the construction of roads and canals. In only one or two instances, and those of the most recent occurrence, was this money to be given to the promotion of the cause of learning in any form. The very purpose to which it was to be applied indicates that it was the expectation of the Government that it was to be used in the earlier stages of the settlement of the States. It was to make roads, it was to make canals; and in some instances, as in the case of Ohio, the very first cited here, it was to be principally expended in the construction of a highway leading from other States to the new State, in order to make the territory accessible to the emigrant.

That was the principal purpose for which this 5 per cent. was reserved. Subsequently, by an act of Congress, perhaps the very next year, 3 of the 5 per cent. was relinquished to the State of Ohio with the privilege of spending it in her own discretion for like purposes under the direction of the Legislature, and so generally afterward three-fifths of the 5 per cent. was left to the State to be paid directly to the State, to be expended in its own discretion, but for these and like purposes.

It is admitted that the States have received in all instances 5 per cent. of all the money collected by the General Government for actual cash sales to the settlers of the public lands within the borders of these States respectively. It is admitted that what is plain and palpable should have been done upon the natural construction of this language has been faithfully performed on the part of the Government at large; but they come in now and say to us that they should be paid 5 per cent. of the bounty-land warrants issued to stimulate the soldiery, and to aid in defense of the country, located, as they have been, in these various States, which locations were not themselves, in their intrinsic nature, sales of land from the Government to the soldier, but having been located within the territory of these different States they are entitled to their 5 per cent. upon what would have been the money received for the same lands had they been sold for money. The basis of this argument is that the bounty land is given to the soldier as so much valuable consideration for his services, not wages exacted; but, nevertheless, it passes to the soldier, they say, as a consideration for his services in the field, and whatever might be the cash value of the warrant, to the amount of 5 per cent. of that valuation the nation should be answerable to the State.

Of course, at the bottom of this proposition lies the assertion that the soldier rendered his service in consequence of a proffered bounty or of bounty land, and that assertion has gone unchallenged. The fact is, and I ask the attention of the Senate to it as a radical defect in the argument of my friend from Kansas, and that is the basis of the argument in the support of the bill, so far as it has any legal foundation at all—I ask attention to the fact that a very large proportion, far more than half, of these bounty lands were not offered in advance of the services rendered. About seven million acres of the land located under these bounty-land warrants were located under the acts of 1776 and of 1812, immediately preceding, as each did, a war. A small proportion of these bounty-land warrants was located by virtue of the legislation of February, 1847, passed nearly a year after the Mexican war had commenced. But what I wish to assert to the Senate is that about two-thirds of the entire actual locations of bounty-land warrants, in and under which these settlements were made, were made subsequent to the services rendered by the soldier, so that the principle to which the Senators appeal, that the bounty-land warrant was in the nature of compensation, that it was a portion of the wages of the soldier and induced him to render what he did in the field, falls to the ground.

I have here a volume upon The Public Domain, its History, with Statistics, recently published, and from tables to be found upon pages 235 and 237 I read as follows:

The following statement exhibits the warrants in acres issued under several acts of Congress for the revolutionary war and war of 1812:

Revolutionary war.

Act of September 16, 1776..... 2,095,220 acres.

That is the only act which preceded services rendered in the revolutionary war.

Act of February 18, 1801..... 58,260 acres.

That was another act having reference to services rendered in the revolutionary war, but subsequent, you will observe, to the rendition of those services, and by virtue of the provisions of that act 58,260 acres were located. Again—

Act of March 3, 1803..... 11,520 acres.

A quarter of a century after the services were rendered another act was passed, by virtue of the provisions of which 11,520 acres were located, making in all located under the acts relating to the revolutionary war granting bounties for services in the revolutionary war, 2,165,000 acres.

Coming now to the war of 1812, under the act of May 6, 1812, 4,853,600 acres were located. The next act was that of March 5, 1816, giving bounties for services already rendered, you will observe, under which 76,592 acres were located, making in all 4,939,192 acres of land

located under the bounty acts relating to the war of 1812, and a total under both the revolutionary war and the war of 1812 of 7,095,192 acres.

Mr. ALLISON. Will it disturb the Senator if I ask him for what purpose he refers to those acts?

Mr. BLAIR. I refer to them as part of something more that I propose to read. My object is to show that most of the bounty-land warrants were issued long subsequent to the services rendered, and that, therefore, they could not have been an inducement for the rendering of those services, and that they in no sense entered into the proper cash computation of what was to be paid to the soldier.

Mr. ALLISON. Those lands the Senator is now speaking of are not at all included in the bill, nor any part of them.

Mr. BLAIR. I do not know about that.

Mr. ALLISON. If I do not interrupt the Senator——

Mr. BLAIR. No, of course not. Go on.

Mr. ALLISON. Those lands that were granted under the acts of 1812 and 1816 were specific grants of land, and were located first in the Territory of Michigan and afterward in the Territory of Missouri. The lands were set apart by metes and bounds, and were not located in any State.

Mr. BLAIR. That was a fact of which I was not aware. That, then, removes so much more of the excess of this calculation. If those lands are stricken out there are very few lands indeed that have been given as bounties for services rendered prior to the act under which the bounty itself is given. It would seem, then, that there is scarcely any basis whatever for the claim that these bounty lands entered into the consideration of the services rendered, and without that I say there is no basis whatever for this bill to stand upon.

I will go further. I have before me an exhibit which shows the amount of scrip issued by the United States to claimants in lieu of land warrants for military service to June 30, 1880. It will be observed that all these issues of scrip are subsequent to any services that could possibly have been rendered for which bounty lands were a part of the contract. They come in as an afterthought. In other words, the bounty land was a gift. There was no money consideration, no valuable consideration whatever, and there can be no pretense set up here that when the United States gives away land there is any valuable consideration for which it should account to the States at the rate of 5 per cent. That is not the argument that is made here, and it cannot be claimed to be net proceeds of sales at all events.

Mr. ALLISON. Would it disturb the Senator to interrupt him further?

Mr. BLAIR. Oh, no.

Mr. ALLISON. I wish to say that the scrip, as included in the table from which the Senator reads, is not included in this bill at all, and all the States have received 5 per cent. on the scrip by law.

Mr. BLAIR. I ask the Senator's attention, then, to the bill. It proposes to have all this scrip accounted for and 5 per cent. paid upon all lands which have been located under military scrip. I am speaking to the bill, not to the facts as the Senator understands them.

Mr. ALLISON. But the scrip has already paid its 5 per cent.

Mr. BLAIR. Then, why does the bill provide for another accounting and 5 per cent. more being paid? I do not like to let a matter of this importance pass just in this way. The bill commences with these words:

That the Secretary of the Interior be, and he is hereby, directed to ascertain the amount of public lands entered by the location of military scrip and land warrants in the States of Ohio, Indiana, Illinois, Missouri, Michigan, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Arkansas, Louisiana, Alabama, Mississippi, Florida, Oregon, Nevada, and Colorado.

Mr. ALLISON. But what I want to say to the Senator is that the scrip which is included in his table there, as I understand it, has already been estimated for and paid to the several States as money.

Mr. BLAIR. Why is it in the bill, then? I ask the Senator that question.

Mr. ALLISON. The law authorized this scrip to be received as money; it was received as money at every land office by statute; and, therefore, it was accounted for in the computation heretofore made as part of the 5 per cent. fund.

Mr. BLAIR. Then it follows inevitably from the Senator's explanation that if they have once got their pay upon the 5 per cent. by this scrip being treated as money they are trying to collect it twice.

Mr. ALLISON. But there is a provision in the bill which says where they have received it once they shall not receive it again.

Mr. BLAIR. If they have received it, and the Senator knows it, why put any provision of that kind in the bill at all? I am dealing with the bill. I do not claim to know all about the intricacies of the matter.

Mr. VOORHEES. If I may interrupt the Senator from New Hampshire, I wish to add to the statement made by the Senator from Iowa in regard to the fact that the Government treated the payment for its lands by these land warrants, as cash payments, the further fact that the registers and receivers of the land offices, as it is well known, received part of their pay for the sales of land made through their offices in a per cent. on the amount received by them in money, and the land warrants that were paid in to them were treated as money in the compensation which they received for such sales.

Mr. BLAIR. The Senator means the land scrip, I suppose.

Mr. VOORHEES. They received their pay in a percentage on these land warrants the same as they received their percentage on cash paid in, and in their settlements with the Government the Government allowed them that percentage on these warrants the same as it allowed a percentage on cash paid in.

Mr. BLAIR. All of which comes to precisely the same point that the land located upon the scrip has been once settled for as money, and the 5 per cent. paid. Therefore——

Mr. VOORHEES. The Senator from New Hampshire does not wish to mislead the Senate?

Mr. BLAIR. I do not, certainly.

Mr. VOORHEES. Certainly; the bill expressly declares that the proper officer shall ascertain what land has not been settled for, and it is only on that which has not been settled for that the 5 per cent. is to be paid.

Mr. BLAIR. Then I understand the Senator to admit that there is some that is not settled for, and that the statement of the Senator from Iowa is incorrect in saying that it had all been settled for; and that makes the bill sensible and consistent.

Mr. SHERMAN. I think I can explain it to the Senator.

Mr. VOORHEES. The Senator from New Hampshire either does not understand the bill or he desires to place me in a false attitude before the Senator from Iowa.

Mr. SHERMAN. There was certain scrip issued by the United States that was counted as money, and that was always allowed in the estimate of the 5 per cent. fund.

Mr. BLAIR. I have reference to that issued in the Mexican war.

Mr. SHERMAN. No; those issues were land-warrants.

Mr. BLAIR. No, sir; there was scrip issued.

Mr. ALLISON. It was long before the Mexican war.

Mr. SHERMAN. Long before. I will state the reason why the word "scrip" is used in this bill as I understand it. What is called the Virginia military scrip represented so much money to be paid for in land. It was called Virginia military scrip instead of a land-warrant. It was not an authority to locate a certain number of acres of land, but it was scrip issued for so much money to be paid for in land located within certain bounds of the State of Ohio. That was called the Virginia military scrip. The land warrant is in a different form; the land-warrant was issued for a specific quantity of acres of land. On the scrip that was issued by the United States 5 per cent. has always been allowed to the States and paid, and it cannot be paid again, because here is a provision in the first section of the bill:

Provided, That the Secretary of the Interior shall exclude from his estimate and certificate all lands so entered upon which the said 5 per cent. has been paid.

But there never has been an allowance for the entries under the Virginia military scrip in Ohio after the admission of the State of Ohio.

Mr. BLAIR. I do not wish to put anybody in a false attitude, and I think every explanation shows that I am in the correct one.

Mr. VOORHEES. In justice to the Senator himself I wish to say that I thought he was using the term "scrip" synonymously with the term "warrant."

Mr. BLAIR. Not at all.

Mr. VOORHEES. The explanation of the Senator from Ohio makes the position of the Senator from New Hampshire intelligible to me.

Mr. BLAIR. I am very glad that the Senator understands me as not occupying a foolish position with reference to the terms of the bill.

I will go on and call the attention of the Senate to the points to which I was speaking, that the bounty-land warrants and the military scrip in the nature of bounty-land warrants were issued prior to the service to only an exceedingly limited extent, and therefore did not enter into the consideration which the soldier received for his labor, toil, and suffering in the field of battle and in the prosecution of war. Therefore, there is no valuable consideration of the kind which is claimed here. The bounty land, the military scrip, stand upon the basis of a gift, and if a gift, under the language of the act which is quoted here, it is utterly impossible to make out any case for the bill. It is necessary to read this table with reference to the scrip, because it is admitted that there is some scrip to be taken into account. I had supposed that this scrip would make the aggregate called for by the bill, which is some four million dollars in its present terms, based nearly upon the bounty-land warrants, perhaps $5,000,000 or $6,000,000 in all.

Mr. SHERMAN. No; that is not all——

Mr. BLAIR. I ask the Senator to reply to me when I conclude, and not to interrupt me in a matter of this kind.

"Scrip" in lieu of land-warrants.

	Acres.
Act of May 30, 1830	393,293
Act of July 13, 1832	300,000
Act of March 2, 1833	200,000
Act of March 3, 1835	585,000
Act of August 31, 1852	1,041,976
Act of June 5, 1858	6,666⅔
Act of February 9, 1863	11,904
Act of July 2, 1862	9,600,000

It will be observed from these dates that these various acts give military scrip for services rendered long before. These later acts were some six, eight, or ten years or more after the Mexican war, and the acts which were passed between 1830 and 1835, inclusive, those of course having reference to the war of 1812 and perhaps to some of the Indian wars, were enacted long after the services were rendered, and as all other land-warrants of the wars of 1812 and 1776 are, by the statement of the Senator from Iowa, to be excluded, down to this date we have not a single acre of land located under any act of Congress which entered into the consideration of services rendered by the soldier.

I read now a statement on the two hundred and thirty-seventh page of the same document, which shows the bounty-land warrant grants under the acts of 1847, 1850, 1852, and 1855, which included nearly all the wars the United States had been engaged in and all operations thereunder to June 30, 1880, and under these acts, especially under the act of 1855, the great mass of the locations took place. I will read the summary:

Act of 1847—

Which was in February, as before stated, and which did precede a portion of the services rendered by our soldiers in Mexico——

Mr. BUTLER. Are those the bounty-land grants for the Mexican war, if the Senator will permit me?

Mr. BLAIR. Yes; I am commencing now with the Mexican war. Under the act of 1847 the number of warrants issued was 88,249; number of acres embraced thereby, 13,209,880; number of warrants located, 86,055; number of acres embraced thereby, 12,920,400. The number outstanding is unimportant. Under the act of 1850 (following the service, you will observe) the number of warrants issued was 189,121; the number of acres embraced by those warrants, 13,165,880; the number of warrants located was 183,522; the amount of land embraced by the actual location was 12,804,040 acres. Under the act of 1852 the number of warrants issued was 11,986; there were 694,120 acres of land embraced by them and 11,727 locations, covering 678,560 acres. Under the act of 1855, which was a general act, including everything from the revolutionary war all the way down and all periods of service rendered from fourteen days or service in a single battle, and extending to the heirs of those who had rendered the service, there were 261,837 warrants issued; 33,958,550 acres of land embraced by the warrants; 247,627 actual locations were made, covering by those locations 32,089,490 acres. There are of all warrants outstanding 22,262, and they cover unlocated lands amounting to 2,535,940 acres.

Concerning the act of March 3, 1855, this document states that it "made 120-acre, 100-acre, 60-acre, and 10-acre warrants, and extended the bounty-land privilege so as to make the entire classes receiving the same some thirty-two in number, in the Army, Navy, and elsewhere. It was a comprehensive act, embracing almost all the wars the United States had participated in. It granted to all officers and soldiers who had served in any war in which our country had been engaged, from the Revolution to the 3d March, 1855, 160 acres each, or so much, with what had been previously allowed, as would make up that quantity. It extended the concession to a service of only fourteen days or an engagement in a single battle, and, in case of death, to the widow or minor children."

These figures dispose of the claim that the bounty land and the scrip land were given for services to be rendered and that they entered into the consideration, which bears very materially, vitally as I think, upon the claim that the Government has received the cash value, and therefore should pay its 5 per cent.

But it is said that this is a sale of the land. In other words, here is a contract between two parties; it is expressed in language, it is a carefully-considered thing by both parties, all the stipulations are thoroughly reflected upon, voted upon, thoroughly canvassed, and finally the contract is made. What is a contract? The law books tell us that a contract is the assent of two minds with reference to a certain subject-matter for a valuable consideration, and all that. I do not want to go into the primary definition, with which the Senate is quite as familiar as I am. This contract is now eighty years old, and what the parties meant who entered into it is the question. What did they themselves understand by the language which they used? Did they understand that the bounty-land warrants were included? Did they understand that anything was included by the word "sales" excepting lands disposed of according to the ordinary definition of a sale—for an agreed price, a price in money or an equivalent in money, cash, checks, negotiable notes, or what not? Did they understand that anything more than that was included? If they did, with this subject-matter in agitation in regard to land-warrants during all these years, should we not have been likely to have heard of it?

When was this first claim set up? I think it was by the State of Iowa. At all events, as the debate in the last Congress showed, if I recollect aright—I have not referred to the debate—the first claim ever made for this 5 per cent. of land undisposed of under the land-warrants and under the scrip was about the year 1858, fifty-five or fifty-six years after the original agreement was made, which was the basis of the agreement between all the States subsequently, as well as between the nation and Ohio.

Whether this language is to be construed technically or not, can it be contended that these people actually meant by the language which they did employ in 1802 and agreed and consented, by that united mind which makes a contract, to that which they did not think of, and which nobody thought of until fifty-five or fifty-six years afterward? It is impossible to state a stronger absurdity than that they meant at the time by the language which they used what they did not think of for more than half a century.

This claim should have been set up years and years ago. The States were paid; they were careful about their 5 per cent. They accepted their 3 per cent.; they accepted their 2 per cent. They have been legislating on this subject all the way through the statute-books from 1802 down, yet never at any time had any claim been made for more than half a century for this 5 per cent. of the supposed cash value of land located under these warrants and this military scrip.

The question is, What is the contract? The contract is what the parties meant at the time, by whatever language they employed. Whether it is to be construed strictly according to the definition which you find in the law dictionaries, or in the text-books, or any other way, the meaning of the parties at the time is the essential thing. Let us get at that. I will not stand upon technicalities. I ask you, Mr. President, and the Senate, if it is a conceivable thing that they meant what they did not think of for half a century? Yet that is the position which the advocates of this bill occupy and must occupy on the record which is made by the statutes of the country, and by the acts of the parties all the way down. They have claimed their 5 per cent. upon the cash sales; they have got it every year; they have made up their accounts carefully right along from 1802, or whatever the time was when these sales commenced, all the way down to the present time, year by year, and if they were being thus robbed, as they say, by the General Government by the location of land-warrants, what is the reason they did not find it out until so recently, and why did they not set up the claim? Why did they not think of it? The position is an absolute absurdity.

But suppose that the bounty-land warrants did enter into the consideration for the service of the soldier, and suppose that some sort of a claim could be got up in the forum of equity for this 5 per cent. Nevertheless, I do not think we ought to consent to vote it away. I do not think that we ought to break down the statutes of the country which have stood now for half a century and more unless really and legally upon the language employed in that contract there does seem to be a contract that such locations should be treated as sales fairly included within a just construction of the language employed.

If that view is correct it is utterly impossible, I think, that anybody shall say that here are any net proceeds which can be made the subject-matter of a cash calculation; that here is any such thing as a sale taking place between the country and the soldier who received these land-warrants. A sale, whether of land or of chattels, is of a specific thing and for an agreed, definite price in money. There is no loose latitudinarian definition anywhere which will bring within the meaning of the term "sale" anything more than what I have specified.

There must be a subject-matter, which may be either real or personal property; there must be a definite, fixed price in money or the equivalent of money; there must be parties, and all that. These things are necessary to enter into a sale, and when these ingredients are found there is a sale, and not otherwise.

Now, what does the soldier receive in this case? He receives a conditional title to certain land which will become absolute when it is located.

But what, on the other hand, does he give? What are the net proceeds? Is it money? Is it cash at all? In any just sense whatever can it be reckoned either as money or as negotiable security or as bank checks or anything convertible or equivalent to or which comes under the proper definition of money? He gives his blood; he gives his life; he gives his services in the field. He gives what may constitute an exchange but never a sale. I cannot see how properly it can be looked upon even as an exchange, but it may be perhaps possible to bring these facts within the definition of an exchange as between the Government and its soldier, but it never can be a sale and nobody ever supposed it was a sale. It never had been construed as a sale from the beginning down to the year 1858, or about that time, when our fellow-citizens of Iowa, being unusually sharp, sharper than all the rest of us, conceived the thought of turning this whole thing into cash and getting their 5 per cent. Never until then was it conceived.

It is perhaps a waste of time for me to occupy the attention of the Senate on this subject any longer. There are many other points to be touched upon, but as I see it is getting late, and as there may be others who may like to speak upon the question, I will say but a few words more.

I cannot conceive how any of these new, strong States can complain of the treatment they have received from the General Government. Here is Indiana coming in for $82,000 of this money, who complains that she has not been used aright, and yet to-day she has got a common-school fund of over $9,000,000. My friend from Ohio told us the other day that the irreducible State debt of Ohio was its school fund, and I see it was $4,289,000, and probably before this time it is $4,500,000. Ohio has so great an accumulated school fund as that; Illinois has $6,000,000, if I recollect aright. Every one of

these States has received of the bounty of the Government in the form of land millions, and millions and millions of acres more than she is entitled to if every particle of this bounty land and scrip land had been located according to her own will; and can they claim that the policy which carried the soldier into their territory is a policy which deprives them of all advantages of early settlement and of the better form of population?

The State would prefer the policy to be pursued which would locate the soldier within its limits rather than any other emigrant whatever, and that is what has been done wherever these warrants have been actually located. To be sure, in some instances speculators got hold of them, but I am talking about the general drift of the policy. The effect has been to put the soldier within the limits of the States which come now and ask for this 5 per cent.

The grants for homesteads, the grants for railroads, given for the benefit of the States, as well as of the nation at large, have been immense in area; and under all these circumstances, when those States have grown rich and large and plethoric, and can from the heights of their prosperity look down upon the comparatively meager hopes and realizations of the original thirteen, how they can come here and make up their faces and ask of us this little trivial contribution is entirely beyond my comprehension. Here we are as a nation to-day with a bill pending in both Houses of Congress offering to these States, as far as education is concerned, a much larger proportion than this amount.

We offer to Alabama $1,000,000 in one bill, $750,000 in another; Mississippi in the same proportion; Louisiana, Arkansas, and so all the way around through every one of these States which come here clamoring for 5 per cent. upon the public lands. We are by bills to-day offering more money out of the national Treasury for the benefit of their schools, notwithstanding the immense school funds which several of them already have, than they will get if they collect their proportion of this 5 per cent.

The State of Iowa, which located about 14,000,000 acres under these land warrants, will recover only $800,000 or $1,000,000 under the provisions of this bill. I should be a little ashamed to come here and ask for that. My friend, the Senator from Iowa, shakes his head. Then, if that does not shame him, I will spend a few nights in reflection on the subject; but I very much doubt whether I shall ever be able to perceive what will.

The bill ought not to be passed. If I have said enough to attract attention to it I am satisfied. I believe it should be killed.

Mr. GARLAND. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seventeen minutes spent in executive session the doors were reopened, and (at four o'clock and thirty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 16, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER, D. D.

The Journal of yesterday's proceedings was read and approved.

PENSIONS TO WIDOWS AND CHILDREN.

Mr. PRESCOTT, by unanimous consent, introduced a bill (H. R. No. 6229) to amend section 4706 of the Revised Statutes of the United States as to payments of pensions to widows and children; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM WHEELER HUBBELL.

Mr. WARD, by unanimous consent, introduced a bill (H. R. No. 6230) to determine the rights of William Wheeler Hubbell and the United States, respectively, therein stated; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

WILLIAM YAHN.

Mr. DUNNELL, by unanimous consent, introduced a bill (H. R. No. 6231) to rerate the pension of William Yahn; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

A. J. HUNT.

Mr. DUNNELL also, by unanimous consent, introduced a bill (H. R. No. 6232) granting a pension to A. J. Hunt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

I. N. WALDEN.

Mr. DUNNELL also, by unanimous consent, introduced a bill (H. R. No. 6233) granting an increase of pension to I. N. Walden; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JEROME DANE.

Mr. DUNNELL also, by unanimous consent, introduced a bill (H. R. No. 6234) to rerate the pension of Jerome Dane; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEGALITY OF CERTAIN ACTS OF UNITED STATES OFFICERS.

Mr. TAYLOR, by unanimous consent, from the Committee on the Judiciary, reported, as a substitute for House bill No. 3013, a bill (H. R. No. 6235) to confirm and declare legal the acts of certain officers of the United States; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

LIABILITY OF ACCESSORIES AFTER THE FACT.

Mr. TAYLOR also, from the same committee, by unanimous consent, reported back the bill (H. R. No. 1683) supplementary to and amendatory of sections 5533, 5534, and 5535 of the Revised Statutes, for the trial and punishment of an accessory after the fact when the principal escapes, with an amendment; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

BRIBERY OF WITNESSES.

Mr. TAYLOR also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 1684) to punish the bribery of and the acceptance of a bribe by a witness; which was referred to the House Calendar, and the accompanying report ordered to be printed.

BRIBERY OF JURORS.

Mr. TAYLOR also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 1685) to punish the bribery of and the acceptance of a bribe by a juror, with amendments; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. TAYLOR also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 1686) to amend and correct section 5390 of the Revised Statutes; which was referred to the House Calendar, and the accompanying report ordered to be printed.

TITLE TO CERTAIN LANDS, WASHINGTON, DISTRICT OF COLUMBIA.

Mr. URNER, by unanimous consent, from the Committee on the District of Columbia, reported back the bill (H. R. No. 2402) to quiet the title to certain lands in Washington, District of Columbia; which was referred to the House Calendar, and the accompanying report ordered to be printed.

SUPPRESSION OF GAMING, DISTRICT OF COLUMBIA.

Mr. URNER also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 1294) more effectually to suppress gaming in the District of Columbia; which was referred to the House Calendar, and the accompanying report ordered to be printed.

REVISED STATUTES, DISTRICT OF COLUMBIA.

Mr. URNER also, by unanimous consent, introduced a bill (H. R. No. 6236) to amend certain sections of the Revised Statutes relating to the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

ROBERT GORTHY AND CALVIN GREEN.

Mr. SPAULDING. I ask unanimous consent to discharge the Committee of the Whole on the Private Calendar from the further consideration of the bill H. R. No. 804, and ask that it be put upon its passage.

The SPEAKER. The bill will be read, after which objection will be asked for.

The bill was read. It is as follows:

Be it enacted, &c., That the Solicitor of the Treasury be authorized and directed to convey, by proper deeds of conveyance, to Robert Gorthy, of Victor, Clinton County, in the State of Michigan, all the interest of the United States in and to the northwest quarter of the northwest quarter and the east half of the northwest quarter of section 17, in township 6 north, of range 1 west, Michigan; and to Calvin Green, of the same place, all the interest of the United States in and to the southwest quarter of the northwest quarter of section 17, and the northeast quarter of the southeast quarter of section 18, in township 6 north, of range 1 west, Michigan: *Provided*, That the said Gorthy and Calvin Green pay all the costs of the proceedings in court on the bond of Benjamin Ballard, on which they were sureties.

Mr. McMILLIN. Let the report be read.

The SPEAKER. The Clerk will read the report.

The Clerk read as follows:

The Committee on the Judiciary, to whom was referred the bill (H. R. No. 804) for the relief of Robert Gorthy and Calvin Green, submit the following report:

Prior to the 16th day of March, 1868, Benjamin F. Ballord was arrested on a warrant issued out of the United States court for the eastern district of Michigan for having obstructed a United States marshal in the service of process, and was on said date brought before the United States commissioner for said district and entered into recognizance, with Robert Gorthy and Calvin Green as sureties, to appear to answer an indictment of said court upon said charge on the 2d day of June following, in the sum of $500. He did not appear on said date, nor, as far as appears from the papers, at any time thereafter. Suit was brought on the recognizance on the 19th day of June in the same year, and judgment was rendered in favor of the United States against Gorthy and Green for the penal sum of said bond and costs. Execution was issued; the lands described in said bill were levied upon and sold by the United States marshal for the sum of $585.65.

This judgment was by default, and should never have been entered. It appears from the certificate of the clerk of said court on file in this case that no indictment was filed against said Ballord at the June term of said court or any other term for the offense charged, to wit, for the offense of resisting an officer; that no such indictment is now on file in said court, and never has been; further, that after diligent search he was not able to find any record of the forfeiture of any such recognizance for the appearance of said Ballord, both of which were material to maintain the suit; and we cannot account for the proceedings in said suit, except upon the supposition that some clerk or person not cognizant of the requirements of law instituted it. Subsequently a motion was made to vacate the judgment, which was denied by the court, and we can do no better than to cite as a part of this report a portion of the record and the judge's opinion on denying said motion:

"This was an action of debt conditioned for the appearance of Ballord at the June term of 1868 to answer to any indictment which might be exhibited and filed in this court by the grand jury against him for obstructing a deputy marshal in attempting to serve a criminal process. The affidavits in support of the motion show that no indictment against Ballord was ever found, that the recognizance was never forfeited, and that no steps were ever taken whereby a right of action accrued to the United States. The minutes of the grand jury do not even show that the case was presented to or considered by them. The suit, however, was commenced during the June term of 1868. The default of the defendants entered for want of a plea. Judgment taken January 5, 1869, and execution levied upon the lands of defendant Gorthy. The defendant denies that the summons was ever served on him, and avers it was not till about the time when the execution was levied upon his land that he knew judgment had been obtained; that he then employed Mr. Strickland, of Saint John's, an attorney, to look after his interests. Strickland advised him that he could get his land released from the levy, but afterward said he could do nothing except to ask Congress for relief.

"Brown, Judge:

"I regret my inability to set aside this judgment, for it seems the action should never have been commenced. If I was satisfied that the summons was never served upon the defendant, I might treat the judgment as void, under the case of Thompson *vs.* Whitman, (18 Wallace, 457,) but it is asking too much for me to believe the unsupported affidavit of the defendant himself, made more than ten years after the summons is said to have been served, as against the return of the officer made at the time that he did actually serve it."

This bill was reported favorably in and passed the Senate during the Forty-sixth Congress, but failed to be reached in the House. On application from Senator Thurman, chairman of the Judiciary Committee of the Senate, the Solicitor of the Treasury made a report to the Attorney-General, which, after reciting the facts in the case, closed as follows:

"In December, 1878, a motion was made by one of the defendants in the United States district court to set aside the judgment, on the ground that he was not served with process. Although the judge refused the motion because he was not satisfied the defendant had not been served, yet he regretted his inability to do so, because, in his judgment, the action on the recognizance should not have been commenced. From all the facts I am satisfied that this is a proper case for Congressional relief."

In the letter of the Attorney-General, dated January 31, 1880, to Senator Thurman, transmitting the said report of the Solicitor of the Treasury, he used the following language: "I concur in the view expressed by him in the last paragraph of his letter."

Gorthy and Green were at the time of the levy and sale and still are living on these lands, and have made valuable improvements thereon. They are honest, hard-working men, and these lands constitute their homes and their entire property. We think that the United States never had any cause of action against them, and it is unjust now to attempt to enforce the proceedings. As, however, the Solicitor of the Treasury in said report suggests that the taking of the title to this land by the Government operates to extinguish the debt, and therefore it would be proper that Gorthy and Green be required to pay all costs of court, we have concluded to recommend the bill to the House granting the relief sought, with the proviso that they pay said costs, and that it do pass.

Mr. McMILLIN. I think the report is entirely satisfactory, and I shall not object to the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SPAULDING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ROBESON. I call for the regular order.

The SPEAKER. The regular order is the morning hour for the call of committees for reports.

Mr. CRAPO. I move to dispense with the morning hour.

The question being taken, there were—ayes 74, noes 30.

So (two-thirds having voted in the affirmative) the morning hour was dispensed with.

CONTESTED ELECTION—COOK VS. CUTTS.

The SPEAKER, by unanimous consent, laid before the House additional testimony in the case of John C. Cook *vs.* Madison E. Cutts, from the sixth district of Iowa; which was referred to the Committee on Elections.

CLAIMS ALLOWED.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a supplementary list of certain claims allowed by the accounting officers of the Treasury since January 14, 1882; which was referred to the Committee on Appropriations, and ordered to be printed.

FRED HENNINGER.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury relative to the appropriation made to Fred Henninger, on page 16 of private act No. 9, approved May 1, 1882; which was referred to the Committee on War Claims.

LEAVE OF ABSENCE.

By unanimous consent, indefinite leave of absence was granted to Mr. McLANE from the 13th instant, on account of sickness.

EXTENSION OF NATIONAL-BANK CHARTERS.

Mr. CRAPO. I call for the regular order.

The SPEAKER. The regular order is the further consideration of the special order, the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence. The gentleman from New York [Mr. FLOWER] is entitled to the floor, and has forty-five minutes of his hour remaining.

Mr. FLOWER. I yield the remainder of my time to my colleague, [Mr. HEWITT.]

Mr. HEWITT, of New York. I must ask the indulgence of the House for the condition in which I find my voice this morning. I shall not attempt to talk in any higher than a conversational tone, which I am aware cannot be heard on the other side of the House; and I regret it, for I give notice now that I shall have occasion in the course of my remarks to refer to my old friend from Pennsylvania, [Mr. KELLEY,] and also to the distinguished gentleman from Iowa, [Mr. KASSON.]

When John Quincy Adams, after having served as President of the United States, was returned to this House, where he crowned with honor a career of political service which has placed him in the front rank of American statesmen, he made an entry in his diary to the following effect: "I have sold my stock in the Bank of the United States lest it might be supposed that my action in the House might be influenced by the ownership of bank property." With this illustrious example before me, I think it not improper to say that I am the owner of no stock in any national bank; that I have never been the owner of such stock, except about a thousand dollars' worth which I once held in trust for a ward. It was not a personal interest. I have never borrowed a dollar from a national bank, and have only used them for the deposit of money and the collection of exchanges.

I am therefore probably as free from any complication with and any obligation to national banks, not only as any man on this floor but as any man in this country. What I shall say, therefore, will not be in the interest of banks. It will be as the representative of a district in which I think there is not located a single national bank. For, although I represent a very large district in the city of New York, it happens to be in that part of the city where people do not operate banks, but where they work with their hands. It is in the interest of those who work with their hands and those that give employment to those who so work that I propose to speak to-day. I suppose there is no man at this day who claims or believes that the country can get along without banks. They are one of the tools of commerce, one of the machines by which the business of the country is carried on. They are the growth of experience, and they have assumed their present shape and form as the result of an experience which has finally culminated in giving to this country by the universal consent of economists and writers upon financial subjects the best banking system that the world has ever seen. I do not think it is perfect. I do not say that at some other time we may not devise a better system; but it is the best yet devised by the ingenuity of man.

As we are to have banks, the only question is whether they shall be national banks or State banks. We have tried the State banks. They were a failure. I think there is no one who can go back as far as I can in the history of finance in this country, and no one of the younger generation who has studied the history of the past, who would consent on any terms whatever to go back to the State banking system even when the most perfect, as in the State of New York, where we had the safety-fund system, which provided absolute security for the circulation.

Now, if we would not go back to the State banks and must have banks, we are driven to the conclusion they must be national banks. In regard to these national banks I think there is no controversy at this day except on one point. Even my friend from Missouri [Mr. BLAND] in the substitute he has offered recognizes the propriety of their continuance as banks of discount and deposit. I think that my other friend from Missouri [Judge BUCKNER] who so long served at the head of the Committee on Banking and Currency makes no criticism on these institutions as banks of discount and deposit. It is only, therefore, on the question of circulation that there is any criticism to be made upon the banks. Now, the circulating medium is in finance what the life-blood is to the human body. We must keep it in the best possible condition or disease is sure to occur and ruin and death, industrial death, to follow.

The system which we have is a national one. All circulating notes are now issued by the direct action of the Government, whether they be its own notes or the notes apportioned to national banks on certain conditions. The currency is entirely supplied by the Government. It is at par everywhere, and no doubt exists in the mind of any human being, when he gets one of these bills, whether it be a Government note or a national-bank note, that he can get for it in coin one hundred cents on the dollar.

The basis is an issue of Government legal-tender notes. That basis, of $346,000,000 in round numbers, corresponds to what is known in the Bank of England as "the rest." There it is £15,000,000, or about $75,000,000, while here it is $346,000,000. The disparity is great, but nevertheless, in view of the great extent of this country, in view of the fact that paper money is much more extensively employed in this country than it is in England or in continental Europe, it seems in practice that the amount of $346,000,000 is a

perfectly safe amount, which we may count upon as staying in circulation, even in the most disastrous times or adverse condition of business, provided a proper redemption fund is maintained in coin.

I think that this fact might be made a certainty, if the whole $346,000,000 of Government notes were issued in bills of small denominations, and the banks restricted to the issue of bills of the denominations of $10 and over. The reason is obvious. Small bills are rarely returned for redemption. And the amount of these small bills, now about $200,000,000, I am satisfied might be increased to $346,000,000, and they would rarely under any circumstances whatever be presented to the Treasury for redemption. Let me be understood. I recognize facts as I find them. I would never by vote or act authorize or contribute to the issue of these legal-tender notes. I should be very glad if they could be retired. I do not think that this Government was created for the purpose of supplying circulation; on the contrary, I think the fathers and founders of the Constitution intended to prohibit the exercise of any such power.

I agree with Hamilton, whose superior as a financier has never lived, when he says, "to emit an unfounded paper as the sign of value ought not to continue a formal part of the Constitution," (referring to the new Constitution as contrasted with the articles of confederation,) "nor ever hereafter to be employed; being in its nature pregnant with abuses, and liable to be made the engine of imposition and fraud; holding out temptations equally pernicious to the integrity of government, and to the morals of the people." (Hamilton's works, II, 271.)

But we have Government paper money, and it now works well in practice. I know that principle is a good thing, but when you have a condition of things which works well it is dangerous to disturb it. And as I would by no act of mine have contributed to the issue of these legal-tender notes, so now, in view of the present condition of the country, and its adaptation to this system, by no act of mine will I contribute, as at present advised, to their immediate retirement.

I am willing, no matter what the coming decision of the Supreme Court may be as to the legal-tender clause, that the $346,000,000 of Government notes now outstanding shall remain as a currency for the country until some better and more economical system shall be devised by the experience, not of Congress, but of men engaged in business.

How is the balance of the circulating medium provided? I assume that the $346,000,000 of Government notes will never come in for redemption. The balance is now provided by the national banks. The amount fluctuates from day to day. I do not mean the amount which has been delivered by the Government to the banks, but the amount which the public receives and takes from the banks, over and above what the banks themselves hold as a part of their reserve, or as their daily balances.

Now, somebody must provide for the redemption of these notes, and for their issue in accordance with the demands of business. Any banking system to be good, or, I should rather say, any circulating medium to be good, must have two elements. First, it must be surely redeemable in coin on demand; and, secondly, it must be issued daily in amounts sufficient to meet the legitimate requirements of business. That is precisely the condition we have now. The banks are ready, with adequate security, to wit, the security of the Government debt, to redeem every note that is presented. And, secondly, they are in condition, either out of the reserves which they have on hand, or out of the new bills which they can get for the deposit of additional Government bonds, to provide for whatever amount of currency the requirements of business may make necessary. And it is not conceivable that so far as business is concerned there should be a better state of things than this.

But I am met by the statement that this circulation is a source of profit; that the creation of circulation is a sovereign right, and that the profit belongs to the State, to the Government, to the people. Therefore if there be any profit in this circulation it ought to be taken by the Government, and the banks are not entitled to any of it.

Now, if the Government assumes this duty, if it has any such right, which I deny, if it assumes to itself this duty it must also assume the duty of redemption and of the expansion and contraction of the currency to meet the fluctuating demands of business. Now, I think I speak only the lesson of history when I say that redemption depending upon Congressional action would be a delusion and a snare.

I think I may go further and say that not only would there be no certainty of redemption but it is absolutely certain that there would come a time when in the absence of Congressional action, or by Congressional action, redemption would be made impossible. Therefore the first element of a sound circulation is absent, that is, if made dependent upon action of Congress.

Secondly, it would be impossible for Congress by any earthly contrivance to meet the demands which are made daily for a change in the amounts of the currency. We are not always in session; and when we are in session gentlemen about me know how exceedingly difficult it is to secure action upon any question, and much more upon questions so much in doubt and controversy as the currency question is. Therefore there could be no automatic action of expansion and contraction in the currency (which is the fundamental element in a good circulating medium) by the legislation of this body.

I shall be told that it would be possible to relieve Congress of this duty, and transfer it to a board who should decide from day to day, and from week to week, how the currency should be issued, and the methods by which it should be got into circulation. My answer to that is, that we have had during the refunding operations and since the war an experience of the dangers of confiding power over the currency to public officers, however capable and however honest. The fact is that to put the control of the currency into individual hands, is to put the whole property of the country at the mercy of the men who control the currency. The power is too great not only for human knowledge but for human character. It is impossible to find any one man, or any half dozen men who can comprehend the wants and business interests of a country like ours; and it is impossible to find men who can separate themselves absolutely from the interests which they themselves may hold, or which may be represented by their friends.

I have no personal knowledge of the alleged scandals in regard to refunding; I do not propose here to make any charges; but this I say, it is notorious that in the refunding operation particular banks, representing particular individuals, had practically a monopoly of that vast transaction, and that one bank in my own State cleared its capital stock (which, if I am correctly informed, is $300,000) five times over in the course of the refunding operations in two years.

A MEMBER. Five hundred thousand dollars.

Mr. HEWITT, of New York. Well, if the capital stock was $500,000, it cleared that stock three times over; but if I should say five times I would be still within safe bounds as to their profits on the whole refunding transactions. That may have been all legitimate. The refunding operation was the grandest financial operation that has ever been made in the history of man.

But, sir, for one, I do not want what little I have laboriously gotten together to be placed at the mercy of any man. I should like to be able to manage my own property, and to keep or give in my own way what I have accumulated. I do not want a *deus ex machina* to administer the business of this country. There could be but one result of such a system, utter and absolute ruin. I therefore dismiss as impracticable, the idea that any board composed of men can undertake this task which is beyond the reach of human capacity.

Having thus disposed of the proposition that Congress can regulate the currency or that any officials appointed by Congress can do it, I come back to the fact that currency we must have, and that this currency will not be issued unless it be made profitable to the parties who issue it. I shall come in a few moments to the question of profits; but I say here that banks are not benevolent institutions. They are not governmental agencies except in a very narrow sense. They are organizations of men with capital for the purpose of carrying on a business which is not only lawful, but absolutely necessary to the community. They are not going to conduct this business without profit; it ought not to be asked of them. But if the profits should ever become excessive, the taxing power resides in Congress. There is no difficulty at all in regulating the business and taking to the Government as we now do such portions of these profits as Congress may think belong legitimately to the Treasury.

But more than that; when a business is free, and when there is no monopoly at all, excessive profits cannot long endure. Only show me that a bank is able to make more than I can make in my iron business, and if I can get rid of some prejudices that I have against banks—which are the result of my early training, and which I regret—I should take my capital out of the iron business and put it in banks. There is no possibility that the profits of these institutions can for any considerable period of time, except in very abnormal circumstances, exceed those of legitimate business in other directions. The fact is that these banks, while they have been highly profitable at times, made their money very largely out of the refunding operation. That operation is done and ended; it will not be renewed in our day. On the contrary we should pay off the existing national debt, and never as I hope in our time have occasion to create another.

So that on the question of what the profits of these banks may be, it seems to me it must be conceded that as we must have agencies, and the banks are acceptable agencies to the business of the country, and as we can regulate their profits by law, and as they are still better regulated by free competition, nobody who is willing to get rid of his prejudices can make any fair criticism against the continuance of the national banking system.

Mr. TOWNSHEND, of Illinois. Will it interrupt my friend——

Mr. HEWITT, of New York. I am afraid it will interrupt me. I would be very willing to answer the gentleman——

Mr. TOWNSHEND, of Illinois. Then I will not disturb the gentleman.

Mr. HEWITT, of New York. I am always glad to answer any question, and particularly a question of the gentleman from Illinois. But I am suffering this morning, unhappily, in a way that makes it very desirable to me that I should reserve what strength I can for what I have to say. At the close of my remarks I will gladly answer any question of the gentleman.

Now, we have been told that, while the circulation of the national banks is at present adequately secured, there will very shortly come a time when Government bonds will be retired, and there will be no such security for this circulation.

What, then, are we to do in regard to the circulation of the coun-

try? There my friend from Missouri comes in and says give us Treasury notes in lieu of it. I have shown you, I think, conclusively that Treasury notes would not answer the valid purposes of money.

I have been asked on my side of the House to make some suggestions as to what course might be taken to provide a currency for this country that would be redeemable on demand and automatic in its issue. And let me say here that I want to confirm the statements of my colleague from New York, [Mr. FLOWER.] Before I make any suggestion as to how the circulation may be provided I want to confirm his statement. Something must be done with reference to this subject at once. The banks that will close up their business unless they take out new charters under the operation of existing law will in the present year withdraw a very considerable amount of money; $13,000,000 I think is the amount. But the called bonds of $42,000,000 will compel the withdrawal of a very much larger amount of the circulating medium, and in my judgment that withdrawal will take place unless this Congress takes immediate action.

The reason is that owing to the low rate of money all over the world it will not pay the banks to purchase such Government bonds as they can buy to replace the called bonds, and the result is they will take their money and retire the circulation.

A remedy was suggested by my colleague, which is the prompt passage of a refunding bill, so that these bonds may be replaced by the new 3 per cent. bonds which will be created by that refunding bill.

And I want to say to gentlemen on the other side of the House that the responsibility, the onus, in this business is on them. This side of the House in the last Congress, of which I had not the honor to be a member, did pass a refunding bill, which was vetoed.

The veto was a Republican measure. I do not propose to discuss it; I only want these gentlemen to remember when this trouble comes, as come it will unless they act, that the responsibility is with them and not with us. And if I wanted a party advantage at the expense of the welfare of the country I would say to them do nothing, and I would hold my tongue on this floor. But I want no party advantages at the expense of the welfare and prosperity of this country. If they fail to make it possible for the banks to replace the bonds which will be withdrawn, followed by a withdrawal of circulation, then there will be a tide of indignation sweeping over this country which will carry their majority away, and put some other party in power which is ready to meet the necessities of the adverse condition in which the country will find itself. But such advantages are not those which patriots or statesmen seek to gain.

Let me remind gentlemen of the House of what happened by the withdrawal of so small an amount as eighteen millions. When the refunding bill was passed the banks hastened, not by conspiracy or combination, as far as I know or believe, but hastened into a panic (which showed that bank officers are not wiser than other men) to get their bonds, and retire their circulation. That withdrawal of $18,000,000 brought this country to the very verge of bankruptcy and came near bringing on a panic as disastrous as that of 1857 or 1873.

Now, if $18,000,000 would create such a result, what is going to be the result of $42,000,000 plus $13,000,000 which we are in danger of seeing withdrawn in case no action looking to the refunding of the 3½ per cent. bonds is taken?

Therefore, without reference to party, let me urge both sides of the House to adopt some measure to prevent so great a calamity.

In the mean time what can we do? We can pass the bill under consideration allowing bank charters to be extended, with proper amendments. I quite agree in the amendment of my friend from Pennsylvania, [Mr. RANDALL,] not because I would have originally approved it, but because the experience to which I have referred shows it is necessary. Originally I would have said that any restriction on the free action of banks is unhealthy and dangerous, but when I find the banks themselves running like a pack of sheep into a panic, then I say let us by way of precaution, make it impossible for them to retire their circulation, without adequate notice to the public. And for that reason I trust my friend the chairman of the committee, whom I see sitting on my left, will accept the amendment offered by the gentleman from Pennsylvania as a necessary safeguard against the danger of sudden contraction.

Now, by extending these charters we actually give no new rights to the banks. They may reorganize and are organizing all the time under the bank act, taking out new charters for twenty years. I would prefer to allow them to run on; first, to avoid the expense of reorganization, and secondly, to avoid the inconvenience of winding up their affairs and starting again; but more particularly to avoid the distribution of $128,000,000 of surplus profits which they hold on hand and which is the basis of business in this country to the extent at least of $1,000,000,000 per annum.

I will undertake to say that the withdrawal of $128,000,000 of bank capital would decrease the volume of business at least $1,000,000,000. I think it would be a fair estimate to say that $1 of bank capital loaned out produces in a year $10 of business; and even that, I think, would be a very small estimate.

Now, this renewal does not give any new privileges to the banks. We allow them to do what they have now a right to do in another form; but we gain the immense advantage of compelling them to retain the $128,000,000, which is not only the basis of business but an absolute guarantee to the people of their strength and solvency. That fund has been built up under the system of transferring at the expiration of every six months a portion of the profits of the banks to this reserve fund; and that fund will necessarily be distributed if you compel these banks to wind up and go into liquidation. It will be impossible not to produce disastrous results from such an operation.

Facilis descensus Averni,
Sed revocare gradum, superasque evadere ad auras,
Hic labor, hoc opus est.

It will be ten years before you can bring back the banking system to the condition of absolute protection to the bill-holders and depositors which it now has.

Now, having said this much, in view of the fact that the passage of the funding bill giving a couple of hundred millions of 3 per cent. bonds, which will not be redeemed until the $300,000,000 not so funded are taken out of the way, will give the needed time for preparation, I will make some suggestions as to what kind of a currency might be substituted when the stock of Government bonds shall be sensibly diminished. I make this suggestion for the benefit of my friends on the other side, who are now in the majority here, and also for the benefit of my friends on this side, who will be in a majority in the next Congress, when we shall have to dispose of the question.

Mr. BUCKNER. Would it disturb my friend to ask him a question?

Mr. HEWITT, of New York. I must request my friend not to interrupt me. I am making my speech absolutely without a note, and I am trying to keep the thread of the argument in my mind.

What would I propose? I propose that the national banking system under the law as it now stands shall not be changed in any respect whatever except one.

That relates to the circulation and to the security for the circulation. I would keep the supervision and the issuing of the money in the hands of the Government through the agency of the banks. I would provide for the reserve fund and for the redemption fund, and for the accumulation of the surplus profits. I would do all that as is done at present under the law, but I would no longer compel the banks to deposit Government bonds for the amount of the circulation issued to them.

What security would I substitute? First, the amount of notes that I would deliver to a bank would be 90 per cent. of its capital, and I would still continue to require that $50,000 of the capital of each of the national banks should be invested in Government bonds, and this for reasons which will be obvious to every gentleman present. There are no less than two thousand national banks. I believe the total number is about twenty-three hundred, but in round numbers we will say there are two thousand of them; and $50,000 of the capital of each invested in this manner would make a fund of $100,000,000 of Government bonds owned by the banks. There will be always in our day bonds enough to enable the banks to comply with this requirement. The Government has no longer any motive to make a market for its bonds. Formerly it had, and for that reason the lawmakers, in framing that portion of the law requiring the bonds to be held by the banks, intended to coerce the banks into buying the bonds. But the work of refunding is practically done. The Government has no further interest in the matter as far as making a market for its bonds is concerned. The method which I would suggest would require only one hundred millions of bonds to be held by the banks, and hereafter the Government credit can take care of itself, and needs no artificial support.

I would deliver to banks 90 per cent. in circulating notes on the amount of their capital. I would make the notes of the bank a first lien on the assets of the bank. Secondly, I would make the stockholders, as they now are, personally liable for 100 per cent. in addition to the capital of the bank, and make the notes of the bank a first lien upon this amount. Now, I have at least under this arrangement 200 per cent. behind the notes. Thirdly, I would compel the banks to put a redemption fund of 10 per cent. in coin into the hands of the Treasurer of the United States. Taking the present capital of the banks, $360,000,000, that would put $36,000,000 of coin as a redemption fund in the hands of the Treasurer. Lastly, I would make the banks as a whole guarantee the circulation of each individual bank. I would make the whole $360,000,000 of bank capital, with the right to call $360,000,000 more if necessary, a guarantee for the redemption of the notes.

Now, let us see what will happen. A bank breaks; its note is redeemable at the Treasury of the United States in coin without a moment's delay. There is the fund for it—$36,000,000. It is not conceivable that under any circumstances whatever you could have a demand for more than $2,000,000 or $3,000,000 at any one time; but there is $36,000,000 ready to protect the notes of any broken bank. Next, I would recoup the amount paid out for redemption of these notes by immediate assessment on the banks and require them to make it good; and when the bank is wound up and the lien for circulation is collected I would refund the money to the banks for the assessment they might have paid.

I submit to this House, I submit to these experienced gentlemen who are in the banking business—for I am not and have not been, and am not even a director of a bank—I submit to these gentlemen, and I see one of them before me [Mr. SMITH, of Illinois] whose speech I read with great satisfaction the other day—I submit whether it is conceivable that a circulation secured in that way would be

irredeemable, or that there would be a particle of doubt about it from one end of the land to the other. But while it is so absolutely secure as to be bomb-proof and fire-proof it imposes no harder condition on the banks than does the present law, which requires the stockholders to be personally liable for an amount equal to the capital stock held by each.

This is a crude suggestion. I do not submit it here in the form of a bill nor in any very elaborate shape, because it is not part of my business here to do so. I am so placed in this House, that I have no connection whatever with any committee which concerns itself with the finance, or the commerce, or the revenue of the country. In submitting this suggestion, however, I would say it is not one which has been made without much reflection and some careful study. I am prepared to stake whatever reputation I may have for business capacity on the suggestion as one which is feasible, one which is easily executed, and one which will give security and stability not only to the currency but to the business of the country.

It has been objected by many of my friends that the profits of these banks are exceptional, and that something ought to be done to regulate the profits. I do not propose to spend much time in showing, as has been done by other gentlemen, what the profits of these banks are. But in the report of the Comptroller I find, on page 61, a statement of the profits of these banks from 1869 to 1881, and another table in which the profits of the last three years are tabulated. It turns out that the earnings of capital and surplus in 1879 were 5.5 per cent.; that in 1880 they were 7.9 per cent.; and in 1881, which was a year of extraordinary prosperity in this country, with very large banking transactions unparalleled in the history of the country, they made 9.2 per cent. That does not strike me, who have been in business a great many years, as an unreasonable rate of profit.

Mr. BLAND. If the gentleman will allow me I would ask him——

Mr. HEWITT, of New York. I must decline to be interrupted by my friends, and I am willing to yield to interruptions by my opponents on the other side of the House.

Mr. BLAND. I wish to ask the gentleman——

The SPEAKER *pro tempore*, (Mr. UPDEGRAFF, of Iowa.) Does the gentleman from New York yield?

Mr. HEWITT, of New York. I do not.

Mr. BLAND. I only wished to ask the gentleman whether he had taken into account the profits these banks made under Sherman's refunding operations.

Mr. HEWITT, of New York. As the question has been put I will answer it by saying I have referred to the profits of refunding already fully and amply, and stated what they were, and that is enough. I have concealed nothing. I am not the advocate of the banks here.

Mr. BLAND. Mr. Speaker——

Mr. HEWITT, of New York. I do not yield.

Mr. BLAND. Then do not answer the question at all.

Mr. HEWITT, of New York. And I would say to the gentleman from Missouri that I would prefer that he should not ask questions which break up the continuity of my remarks. The gentleman can have his chance to reply.

I say that these profits are not to my mind unreasonable. They are the profits, however, of institutions which are protected by the legislation of the country. And it may be said, therefore, that they are exceptional from that point of view.

I propose now to compare these profits with those of other institutions which are protected by the legislation of the country; and I propose to take a single case as being much more easy to comprehend; and in order that the issue may be the better defined in the minds of gentlemen who are good enough to listen to me, I refer to the profits of those persons who are so fortunate as to be engaged in the manufacture of Bessemer steel rails, which is protected by a duty of $28 per ton on every ton of foreign steel rails which is brought into this country. I propose to show exactly what at least one of these Bessemer steel concerns has been able to make. There has been some controversy in this House on that subject. I did not introduce it. It was introduced in the remarks of my friend from Kentucky, [Mr. CARLISLE,] who said he had figured up that the profits had been 67 per cent. in a single year. That was followed by the gentleman from Minnesota, [Mr. DUNNELL,] who repeated the same figures, which I suppose he took from the statement of the gentleman from Kentucky. At that point, having some knowledge of this subject, I ventured a remark that I knew that dividends had been made to the extent of 50 per cent. in a year and that the profits had exceeded 67 per cent.; yes, that the undivided profits after paying this dividend exceeded 100 per cent. But my statement was promptly and absolutely denied by the gentleman from Pennsylvania, [Mr. KELLEY.]

Now, as an illustration of what can be made by business other than banking, and in comparison with it, I propose to give the facts in regard to which there shall be no controversy, because they are all matters of judicial decision, upon sworn testimony, which I have been able to procure. I see the Speaker with the hammer in his hand.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. HEWITT, of New York. I had no idea I had taken up so much time.

Mr. TOWNSHEND, of Illinois. I move that the gentleman be allowed to extend his remarks, at least until he gets through with this comparison.

Mr. HARDENBERGH. I am willing to yield to the gentleman twenty minutes of my time.

Mr. KELLEY. If the time of the gentleman is extended, I shall desire some time in response to him.

The SPEAKER *pro tempore*. How much shall the time of the gentleman be extended?

Mr. TOWNSHEND, of Illinois. Without limit.

The SPEAKER *pro tempore*. The Chair hears no objection.

Mr. HEWITT, of New York. I thank the House, and I will not take up much more time. I have procured from the auditor's office of the State of Pennsylvania, and I hold the official document in my hand, a statement of the dividends paid by the Pennsylvania Steel Company, which I regard as the most reputable, not more reputable than the others, but at the very head of this business.

Pennsylvania Steel Company.

Date.	Capital stock.	Cash dividends.
		Per cent.
1874—October 7	$1,839,200	*3
1875—April 5	1,931,900	3
October 15	1,933,900	†3
1876—April 15	1,996,400	3
October 16	1,996,700	3
1877—April 15	1,996,900	3
October 15	1,997,300	3
1878—April 15	1,997,500	3
October 15	1,997,500	3½
1879—April 15	1,998,400	‡4
October 15	1,998,800	5
1880—April 15	1,999,500	6
October 15	1,999,500	6
1881—January 26	1,999,500	5
April 14	1,999,500	6
June 16	1,999,800	5
October 15	2,000,000	6

* And 5 per cent. stock.
† And 3 per cent. stock.
‡ Cash profit added to sinking fund, $30,000.
NOTE.—Report for 1882 not made yet; not due until November.

In 1874 the dividends paid by that company were 3 per cent. in cash and 5 per cent. in the stock. Remember that that was immediately after the panic of 1873, when all business was in a great state of depression, and the iron business, in which I was concerned, was losing money. It is in the testimony before the Committee on Ways and Means that the steel men reported that their business was in a very unsatisfactory if not in a disastrous condition. The testimony I hold in my hand, and gentlemen who desire to examine it will find it is a document styled Duty on Steel Rails, printed in 1880 by the Committee on Ways and Means, and embracing testimony taken before that committee.

In 1874 the dividends paid by the Pennsylvania Steel Company were 8 per cent. In 1875 they were 3 per cent. cash, 3 per cent. cash and 3 per cent. stock, making 9 per cent. in all. In 1876 they were 3 per cent. in cash and 3 per cent. cash, making 6 per cent. in all. In 1877 they were 6 per cent. cash. In 1878 they were 3½ per cent. cash, showing that at that date the reserved profits were nearly exhausted. In 1879 they were 9 per cent. and, as it is termed, "cash profits added to the sinking fund," $30,000, which, on a capital of about two millions of dollars, was 1½ per cent. more. In 1880 the dividends were 12 per cent., two of 6 per cent. each. In 1881 the quarterly dividends were 5 per cent., 6 per cent., 5 per cent., 6 per cent., making 22 per cent. in all, cash dividends.

Now, having made that dividend in 1881, what was the condition of the company? The evidence will be printed in full in the RECORD, and I will read it before I get through if any one shall dispute my statements. The company found itself with the sum of $3,286,423.51 on hand on the 31st of August, 1881; its capital being $2,000,000. The company had gone through an era of very bad times, in which it had made regular dividends and presumably divided all its profits. As a matter of fact, I think that the surplus in 1878, when the dividends fell to 3½ per cent. before the "boom" came, was very small. After making its dividend of 9 per cent. in 1879, when it carried a cash profit to the sinking fund of $30,000, and I presume exhausting the reserve fund, and after making a dividend of 12 per cent. in 1880 and 22 per cent. in 1881, it found itself with the sum of $3,286,423.51 undivided profits on hand.

Gentlemen will please to pause a moment and think how much $3,286,423.51 is on a capital of $2,000,000; a profit acquired in a single year, or at most in two years. Now, when they paid 22 per cent. dividend in 1881, they had paid all the dividends that they wanted to pay a State tax on. My friend from Pennsylvania [Mr. CURTIN] will tell you that the State of Pennsylvania imposes a tax on dividends, and the bigger the dividends of course the more the tax.

Now, this company having more than $3,000,000 surplus, did not care to pay taxes on more than 22 per cent. dividends. So they de-

vised a plan to distribute this surplus in some other form than in the nominal shape of a dividend; and I will tell you how they sought to accomplish this difficult feat.

There were 20,000 shares of this stock; 6,000 belonging to the Pennsylvania Railroad Company. They proceeded to purchase from the Pennsylvania Railroad Company 5,000 shares of this stock and paid for it $265 a share. Now, if you will take the trouble to add the capital of the company, $2,000,000 to the surplus $3,286,423.51, making together just the amount of the capital plus the surplus, and divide that by 20,000 shares, you will find that they paid for that stock the full value as shown by the books. It was worth a great deal more, but that is what they paid.

Now, having bought these 5,000 shares, they issued a confidential circular to their shareholders, saying that they had done this thing and would sell this stock which had cost and was worth $265 a share, for $100 a share. In other words, they paid out in the purchase of these 5,000 shares of stock, $1,325,000, and they sold the stock to their shareholders for $500,000. By that means they distributed $825,000 of their surplus profits to their shareholders without calling it a dividend.

In other words, it was a sale by the Pennsylvania Railroad Company of its stock in the Pennsylvania Steel Company to the other shareholders of the Steel company for $265 a share, for which the stockholders paid $100 a share, and the Steel company paid out of its treasury $165 a share and made it a free gift to its stockholders without calling it a dividend.

The public would never have had any knowledge of this operation if it had not happened that the estate of John Edgar Thompson held 1,000 of these shares of the steel company. Thompson had been the president of the Pennsylvania Railroad Company, and when he died he held 1,000 of these shares. The income of his estate was devised to his widow, and the question submitted to the court was whether this stock, costing $100 a share but worth $265 a share, should be added to the principal as a stock division, or be regarded as income and delivered to Mrs. Thompson.

The facts which I have stated are all recited by Judge Ashman in his opinion, which I hold in my hand, and which I shall print in full in the RECORD, and were all the result of sworn evidence, the accounting of the books. The judge decided that this purchase and sale of stock was merely a cover for a dividend; that it was a dividend of $825,000, and that Mrs. Thompson was entitled to her share of it as such. Now, I will either have this read for the edification of my friend from Pennsylvania, [Mr. KELLEY,] or I will print it in the RECORD, as he may prefer.

After this was all done and they had divided 22 per cent. in cash, in addition to this dividend of $165 a share, which of itself amounted to 55 per cent. on the unpurchased shares, making the dividend that year 77 per cent. instead of 67 per cent. as my friend from Kentucky [Mr. CARLISLE] figured it out, what do you suppose they had left undivided? After the purchase there remained of unexpended profits $2,461,423.51, with six months' profits to be ascertained and added. Now, I suppose those six months' profits were not less than half a million dollars; but I do not know how much they were; and I will not state anything that I do not know; but the unexpended profits, after the magnificent dividend I have mentioned, were $2,461,423.51—over 125 per cent. I will read what the auditing judge said:

> The auditing judge is of opinion that the 344 shares are income to which the life tenant is entitled, upon payment of the par value of $100 per share; and subject to such payment, they are awarded to her accordingly.

Now I am not going to be hard upon my friend from Pennsylvania, and the reason is this: he spoke of me very kindly at the outset of his remarks, and made some references to future political preferment which might be in store for me. I presume he really meant what he said; I do not suppose it was sarcasm; therefore I feel kindly toward him, and will impute his denial of my statements to what it unquestionably was—absolute ignorance of the facts.

If I were to make a misstatement in regard to the iron and steel business, thereby misleading the House, I would be culpable; it would be on my part an unpardonable offense, for I have been over thirty years in the iron and steel business, and I know or ought to know all about it. When I made that statement I knew what I was talking about absolutely, and when the gentleman from Pennsylvania contradicted me I knew that he did not know what he was talking about just as absolutely. [Laughter.] The truth is, these gentlemen who are in the habit of giving him facts and figures never confided to him these profits; he did not know the facts. They only come to him when they are in trouble, and never tell him anything of their prosperity. He is chief mourner in their afflictions, but is not allowed to partake of the "baked meats."

It was announced by the gentleman from Pennsylvania that I was to be "flayed alive" on this business.

Mr. KELLEY. Oh, no!

Mr. HEWITT, of New York. I saw it in the New York Tribune, on the morning when the "flaying alive" was to be done, that I was about to be "flayed alive;" and I observed when the gentleman from Pennsylvania came into the Hall that the high priest was decorated with flowers, not the victim, as used to be the practice in older and more idolatrous times. [Laughter.]

When the gentleman contradicted my assertions on the profits of steel making I did not retaliate on him as I might have done with another question. He had said there was no anthracite coal in Wales, and that David Thomas had told him there was none. I produced David Thomas's letter, and published it in the RECORD in connection with the speech of the gentleman from Pennsylvania, [Mr. BRUMM,] that letter saying that Mr. Thomas had never told Judge KELLEY anything of the sort, and had never had any conversation with him on the subject of coal. The gentleman from Pennsylvania did not refer to that; but he picked up the handiest brick that was in his way, and flung it at the glass windows which he supposed I had somewhere concealed in my breast. When he flung the "Morey letter" at me, I could have flung David Thomas's letter at him, for I had it in my hand. But I refrained, as I did when the gentleman went further and accused me of paying for the printing and circulation of my own speeches—as if that were a crime! Well, I do pay for printing and circulating my own speeches. It is a crime, I have no doubt, in the gentleman's eyes, because he does not always do that. It is done for him by others. I have been for twenty years or so, one of the vice-presidents of the American Iron and Steel Association. As I knew they were spending money for circulating his speeches, I concluded I would write to find out "the demnition total." I wrote a letter to the secretary of the association, Mr. Swank, on Saturday last, asking him to tell me what they were doing about Judge KELLEY'S speeches; that they were very fine speeches, and I wanted to know just what the association did in reference to their circulation. The secretary promised, as will be seen, to write me fully, but he has not yet done so. He has sent me a telegram, and all I can do now to clear up this matter is to read that telegram:

> A year ago we distributed copies of Judge KELLEY'S speech on Hurd's free-trade resolutions. This was a strictly non-partisan speech—

The gentleman's speeches are always "non-partisan"—

> and its distribution by this association was entirely proper. During the past few months we have also distributed another non partisan speech by Judge KELLEY, before the Brooklyn Revenue Reform Club, and an essay in the International Review—

To which my friend from Alabama [Mr. HERBERT] has given some attention, though I have not read it myself—

> an essay in the International Review on "A Science Based on Assumptions."

Now, if there is any "science based on assumptions," I think the manner in which the gentleman from Pennsylvania dealt with the profits of the Bessemer Iron and Steel Company ought to be included in it. [Laughter.]

> The distribution of protective tariff literature has always been a regular part of the work of this office. Will send fuller information by mail.
>
> JAMES M. SWANK.

Perhaps the letter has been sent to my honorable friend from Pennsylvania, and I beg him to produce it if he has it.

Now, I ask, before I go one step further, whether I shall have read the decision of Judge Ashman, so everybody will be fully posted?

Several MEMBERS. Print it in the RECORD.

Mr. HEWITT, of New York. I ask the House to believe that every word I have said as to figures and as to the decision of the judge will be confirmed by the statement I have put in the RECORD. This copy is taken from the certified record of the court.

Judge KELLEY said the court had nothing to do with such questions—it was an orphan's court. The judge, I think, will be inclined to take refuge in it himself. [Laughter.] It shall go on the record.

[An extract from the adjudication.]

In the orphan's court for the county of Philadelphia. *In re* Estate of J. Edgar Thompson, deceased. January term, 1881. No. 310.

The remaining item was of 334 shares of the Pennsylvania Steel Company, costing $33,466.67. The testator owned at his death 1,000 shares of stock of this corporation, and they were appraised in the inventory of his estate at $70,000.

He died May 27, 1874, at a time of great commercial depression. After his death, with the revival of business, the profits of the company increased and its shares rose in value, until they reached in January, 1882, $200 above par. On December 13, 1881, the directors authorized the president of the company to negotiate for the purchase of 5,000 shares of the stock, which were held at the time by the Pennsylvania Railroad Company, and on January 27, 1882, the agreement effected by that officer was ratified by the board. Five thousand shares were accordingly transferred by the Pennsylvania Railroad Company for the price of $265 per share, which was duly paid.

The following stipulation formed part of the agreement to purchase: "It is understood that it is the intention of the Pennsylvania Steel Company immediately to offer to its stockholders to take their pro rata proportion of the 5,000 shares herein referred to at par, and that the Pennsylvania Railroad Company will take and pay for the shares that may be allotted to it accordingly." On the same day a communication marked "confidential" was prepared by the directors of the steel company and forwarded to each stockholder. This circular, a copy of which is appended, stated that the Pennsylvania Railroad Company had, ten years before, as a measure of relief to the steel company, purchased and paid for 6,000 shares of the capital stock of the latter corporation, and was now ready to sell the whole or a part of their investment. It then set out the purchase of 5,000 shares by the directors of the steel company and the offer by the directors to apportion those shares, pro rata and at par, among the holders of the remaining 15,000 shares of the company. The rate for fractional shares was fixed by the circular at $200 per share.

At the time of the purchase the undivided profits of the company amounted to $3,286,423.51, as ascertained by the last semi-annual settlement, on August 31, 1881, with those earned since that date. The net cost to the company of the purchase was $825,000, leaving a surplus of profits which amounted to $2,461,423.51.

The accountants availed themselves of the terms of the offer, and purchased at par 334 shares, representing the allotment to which the investment of the estate in the company's stock was entitled. A decision was asked upon the point whether the proceeds of their purchase were to be carried in the account as capital or income.

The task would be agreeable, if it were only practicable, to extract from the

cases a principle of general application to which this class of questions could be referred and by which they could be philosophically answered; such a principle was supposed to have been found, in Minot *vs.* Paine, 99 Mass., 101, by ranking all cash dividends as income, and all stock dividends as capital. This rule has the merit of simplicity, but it has been repudiated in Pennsylvania as empirical, (Vinton's Appeal, 2 W. N. C., 246.) No single test seems to have been potent enough to determine the doubt in any single case, much less to serve as the governing principle for any group of cases. Hence in the same case a variety of propositions has been relied upon, the force of each of which if taken separately is weakened by the number of exceptions to which it is manifestly subject.

For instance, the badge of capital has been affixed to a distribution where the value of the stock or cash dividend was required to be added to the market price of the stock after the distribution, in order to equal the value of the stock as it stood immediately before the transaction. Yet this rule, it is believed, would be worthless if applied to a mining company whose mines were approaching a point beyond which they could not be worked with profit and every dividend upon whose stock was followed by a fresh decline in the value of the investment. There is, however, no necessity in the case in hand to search for any general principle, because there are present several circumstances which bring it directly within the control of prior decisions. There is, first, the fact which was effectually proved, that the distribution was of profits which had accrued after the death of the testator. Three months prior to his death the undivided profits of the company were $267,536.06. Five months prior to the distribution, and after deducting the intervening dividends, they amounted to $3,286,423.51. On this point Earp's Appeal (4 Cas., 374,) lays down as an axiom that the profits arising after the death of a testator are income, and Wiltbank's Appeal (14 P. F. S., 256) declares that they are distributed in the form of capital. There is, secondly, the fact that no new stock was issued, whose effect would have been to dilute the original stock, as in Moss's Appeal, (2 Nor., 246,) when 2,000 shares after the distribution were worth no more than 1,000 shares before. The company, having regained possession of 5,000 shares of its original stock, distributed them among its shareholders. There was, thirdly, the fact that this was not a formal division of profits as such; but the authorities emphatically declare that this circumstance is immaterial. The language of Moss's Appeal is: "Equity which disregards form and grasps the substance would award the thing distributed, whether stock or moneys, to whomsoever was entitled to the profits." Judge Lewis, in Earp's Appeal, in speaking of profits earned by stocks, says: "The managers might withhold the distribution of it for a time, for reasons beneficial to the interests of the parties entitled, but they could not by any form of procedure whatever deprive the owners of it, and give it to others not entitled. * * * Its character cannot be changed by the evidences given to secure it."

The intention of the direction of the steel company was patent; it was to distribute $825,000 of profits. Two methods were open to them; they could distribute that amount pro rata in money, or they could distribute it in stock, which they might buy for that purpose. No sane mind would bewilder itself by attempting to show that a distribution in money would not be a distribution of income. But suppose that in adopting the second method the directors bought and distributed the stock of another corporation, or the loan of the Government, would the fact that the dividend was made in these evidences of indebtedness and not in cash convert the dividend into cash? And is the case varied because instead of buying Government stock they bought and divided the stock of their own corporation? But they did even less than this, they divided among the shareholders only the actual products of the stock so purchased, reserving for the treasury of the company the par value of each share.

Some expressions in Biddle's Appeal (2 W. N. C., 244) might possibly be tortured to favor the theory that the option in this case to subscribe for the allotted stock was a mere option to change the form of investment the exercise or sale of which could not convert the capital into income. It was there said that "whatever value beyond par the stock then had, by reason of the large surplus fund of the company or otherwise, attached to the stock and formed part of the principal;" and it was held that the proceeds of sale of the option belonged to the capital of the estate. But the language quoted referred to the allotment of a new issue of stock whereby the capital had been increased in the sum of $1,000,000. It would not only be inapplicable, but untrue if employed in the present case. The large surplus of the steel company did not attach to the stock of those shareholders only, among whom distribution was made; it attached just as fully to the stock which was divided.

In actual figures the shares purchased from the Pennsylvania Railroad had earned five-seventeenths of the profits, and hence to that proportion of the profits the remaining shares could lay no claim. It was strenuously urged at the audit that the stock of the steel company declined in value immediately after the distribution had been effected. Little weight, however, was given to that circumstance in Biddle's Appeal, in reaching the distinction between capital and income. But the actual decrease in value was trifling, and no greater perhaps than usually happens when stocks are quoted with dividends off. The price, $265 per share paid to the Pennsylvania Railroad Company in January, 1882, may be fairly taken to represent the market value of the securities at that time. On February 2, 1882, eight shares sold at $250; on February 3, 1882, one share sold at $275, and from February 14 to March 22, 1882, seventy-nine shares sold at an average of $260, and no other sales were reported. After the purchase there remained of unexpended profits $2,461,423.51, with six months' profits to be ascertained and added, a sum which it was testified was ample for all possible needs of the company and which would permit of its usual semi-annual dividend.

The auditing judge is of opinion that the three hundred and thirty-four shares are income, to which the life tenant is entitled upon payment of the par value of $100 per share; and, subject to such payment, they are awarded to her accordingly.

Filed April 26, 1882. Ashman, J.

Mr. CRAPO. I dislike to make any ungracious objection, but I understood the gentleman's time was extended out of the time of the gentleman from New Jersey. [Cries of "No!"]

Mr. FLOWER. I yielded to my colleague the forty-five minutes remaining of my hour, and his time was then extended by the House indefinitely.

Mr. HEWITT, of New York. I will not occupy ten minutes longer.

Mr. TOWNSHEND, of Illinois. The time of other gentlemen was extended just as the time of the gentleman from New York was extended, and I hope he will be permitted to proceed without further interruption.

The SPEAKER *pro tempore*. The time of the gentleman from New York was indefinitely extended.

Mr. HOUSE. That is so.

Mr. CRAPO. It is the general desire that debate shall be terminated in a reasonable time on the pending bill, and I am asked by members on both sides of the House to insist that gentlemen shall confine themselves within the hour.

Mr. HEWITT, of New York. I will finish in a few minutes.

The SPEAKER *pro tempore*. The gentleman from New York will proceed.

Mr. HEWITT, of New York. Now I have said that I feel very indulgent toward the gentleman from Pennsylvania [Mr. KELLEY] and that I impute to him no intention of having any desire to deceive the House.

The next day, twenty-four hours having elapsed, the gentleman from Iowa [Mr. KASSON] took the floor. Judge KELLEY had already summed up the debate, but by a kind of double-barrel shot-gun arrangement of which I was to be the victim, the gentleman from Iowa [Mr. KASSON] had the closing hour. And he proceeded to use the most of it in answer to this very allegation of mine, that a dividend had been made exceeding 50 per cent. I was not present when the gentleman from Iowa [Mr. KASSON] delivered his speech. It was not his fault; I was so ill I was absolutely compelled to lie down in the lobby. But if I had been present, it would have made no difference; he had the closing hour after the previous question, and I could have had no chance of reply. I will do him the justice to believe if I were present and desired to interrupt him he would have graciously accorded me permission to do so; but I have awaited his return from New York before referring to this matter. That gentleman had twenty-four hours' notice after reading the slip here from the Philadelphia Times, which I gave as a brief authority for my statement. The gentleman from Iowa sent for that slip. It was furnished to him, and appears copied in his speech. He states that he telegraphed, or caused a friend to telegraph, to Philadelphia for the information and got a reply, which he quotes in his speech. I will do him the justice to believe that he was deceived by his correspondent, or the gentleman who sent the telegram, because it is inconceivable, if he had the information I have now furnished to this House, he would have so misstated the facts. After quoting the slip he then goes on to say:

Then he went on to speak of a 50 per cent. dividend. No such dividend appears in this article at all. It was a simple award of a property that had been acquired in some way by the estate of Thompson.

I have explained the way.

And thus we find the gentleman from New York molding, with that thing in his hand, a newspaper slip into "evidence" that there had been a 50 per cent. dividend at the steel works without any statement of the amount of capital stock, or the evidence that even a dividend had ever been declared by the steel works.

I trust I have supplied the omission now to the gentleman from Iowa: capital stock, $2,000,000; dividend one year, 77 per cent., with a surplus of 125 per cent. and with six months' undivided surplus in addition. [Laughter.]

Not content with that, a gentleman who understood the condition of facts to be different, telegraphed, and received this reply: that it was "a distribution of stock, but not a dividend; a privilege of stockholders, of which Thompson's estate was one, to subscribe for a certain percentage of their stock holdings at par, which stock was purchased from large stockholders at a premium."

That is the best specimen I have seen of a *suppressio veri, suggestio falsi*.

It is literally and absolutely true, and I will relieve the gentleman from Iowa to that extent, but yet it conceals the fact, which must be known to this correspondent, that the judge decided it was a dividend and awarded it to the widow on the ground it was a dividend. In other words, it was an attempt to cover up a dividend, but, as it turns out, unsuccessfully, for when adjudicated it was decided to be a dividend.

I have no doubt the officers of the State of Pennsylvania will do their duty and collect their tax on it. In the memorandum they furnish to me they say the tax for 1882 has not yet been collected. I presume that dividend, judicially decided to be a distribution of profits, will appear among them when it is collected.

And now the gentleman from Iowa concludes—

Now, sir, when such gentlemen—

I do not know the exact meaning of "such" as used in this connection; possibly the gentleman meant persons engaged in such business as mine, the iron business, and who know what these profits are from their own experience; and I will say to the gentleman from Iowa that I do know of my own knowledge something of this matter, for I am one of those who have a practical familiarity with the subject, and I am the owner of stock in steel works, but I did not choose to refer to my own case because I felt some natural delicacy on the subject which "such" persons sometimes show. But he concludes:

When such gentlemen claim that they can revise the tariff "in thirty days," and when they have no more respect for facts than to assert deliberately in this House, without a scintilla of proof, a given instance of large yearly profits, the people of this country are justified in asking us to go out of this House and find some other means for ascertaining the facts as they are.

If the gentleman meant to go outside of the Ways and Means Committee I would have been entirely willing. [Applause on the Democratic side.]

Now, the gentleman from Iowa and I have served together before. The relations between us have never been, so far as I know, certainly so far as I am concerned, other than friendly. I submit to him as a gentleman that he now retract before this House and the country every word of that concluding sentence where he charges me with having most deliberately falsified a statement "without a scintilla of proof," when I stand here to-day and produce the proof, which can neither be gainsaid nor refuted. I am willing to accord to him the excuse that he was deceived by some one; but the evidence is now

submitted to him, and the gentleman owes it to himself, to me, and to the country to withdraw every word of that sentence which I have quoted. [Applause on the Democratic side.]

Mr. KELLEY rose.

Mr. BUCKNER. I believe I am entitled to the floor.

Mr. KELLEY. I ask the privilege of being heard in reply to the gentleman from New York for a few minutes.

The SPEAKER *pro tempore*. For what purpose does the gentleman from Pennsylvania rise.

Mr. KELLEY. I take the floor for the purpose of responding to personal allusions to myself, which involve to some extent a question of my veracity.

Mr. KASSON. I move that the gentleman from Pennsylvania be allowed to respond to the remarks of the gentleman from New York.

Mr. KELLEY. I hope the privilege will be accorded me.

Mr. SPRINGER. I ask the House to yield the same privilege to the gentleman from Iowa?

Mr. ANDERSON. I hope there will be no objection.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Pennsylvania.

There was no objection.

Mr. ANDERSON. That also includes the same privilege to the gentleman from Iowa?

Several MEMBERS. There is no objection.

Mr. KELLEY. I am very glad to know, Mr. Speaker, that the gentleman from New York has come to a realizing sense of the annoyance inflicted by questions that break the continuity of a speaker's thought. I wish he had done so before I took the floor on Friday a week ago. My remarks would have been less of a wrangle than they are as they appear in the RECORD. But I do not think he prevented me from saying what I wanted to say, nor that he succeeded in so confusing me that I said anything that I have occasion to regret or qualify. I said that I knew no Bessemer steel company had made profits amounting to 67 or 70 per cent. in 1880. I said more, that the paragraph the gentleman insisted on injecting into my speech had no relevancy to any question as to the earnings or dividends of Bessemer rail companies. That it was a decision by our orphans' court as to the distribution of the estate of a testator; and that is precisely what it was. The paper now produced by the gentleman, and which is to be printed in the RECORD, may show how the part of the estate to be distributed had arisen, but there was nothing, absolutely nothing, in the paragraph the gentleman so boisterously persisted in injecting into my remarks to show that it had the most remote reference to the profits of a Bessemer steel company.

I will not dispute the distribution of stock of the Pennsylvania Steel Company as and on the terms the gentleman has just stated; and yet I say that no Bessemer steel company made 67 per cent. profit in 1881, the year of which the gentleman challenged me to speak; and he shall be the witness to prove the truth of my assertion as a less wealthy man than he could not be. In the course of his speech he told us that for six successive years he had lost $100,000 a year by keeping his iron works in operation, but that in the seventh year by reason of a boom in the iron market he had far more than retrieved his losses. In this his experience was identical with that of the strongest and most favored of the Bessemer companies. They were able to do as he did, and there was as far as I know but one (and I used the word companies because there might possibly have been a second) that was able to go on, producing and taking advantage of the low rates of wages and prices of raw materials which prevailed during the depression to accumulate stock for the time when business should revive. They went on as he did, nominally losing money and were certainly unable to pay dividends—[Mr. HEWITT, of New York, rose.] I hope the gentleman from New York will not disturb the continuity of my thought.

Mr. HEWITT, of New York. Certainly not.

Mr. KELLEY. On page 15 of the RECORD containing my remarks will be found a portion of Mr. Swank's letter, in which are set forth some of the losses of American Bessemer steel manufacturers during the period referred to, and by reference to his statement I find that the company which I supposed might have been equally fortunate, the Cambria Iron Company, was compelled in 1874 to create a bonded debt of $1,000,000, and in 1877 to issue additional bonds to the amount of $278,000.

The company to which the gentleman refers is unquestionably the most successful of the Bessemer steel companies. The Cambria Iron Company, which employs over eight thousand men in steady employment, is probably the next; and to keep its thousands of hands employed when there was no market for its products in the years 1874 and 1877, inclusive, it issued $1,278,000 by the issue of bonds, and it was by this display of courage and enterprise that it was able, as was the Pennsylvania Company, to pile up stock, as did the gentleman at his iron-works on tide-water, to meet the demand that must come when the general business of the world should revive, as it must some day.

It came, sir, soon and violently enough to surprise the gentleman from New York and the holders of stock and managers of the Bessemer companies. So sudden and violent was the revival that it is spoken of as the boom. We could neither make nor buy iron to supply our immediate wants. We imported everything in the shape of iron that we could purchase. I had an account from an intelligent inspector of customs of one cargo of scrap-iron largely made up of hob-nails, round-headed iron hob-nails, which workmen in English iron, steel, and glass works wear when going over the fiery pavements of their workshops. Everything that could be collected was welcomed to meet the great demand for iron and steel. Then the Bessemer companies, as the gentleman told us he had, in the seventh year recovered their losses and in one year divided the profits of seven years. That is the whole story; and by this narration of facts, which are consistent with the gentleman's own experience, is the story of annual profits of from 67 to 70 per cent. exploded.

Sir, there is no analogy between the Morey letter and the letter of Mr. David Thomas. The gentleman certified in writing and in print to the genuineness of the Morey letter, and down to a day when he seemed to be the only man in the country who believed it he went upon the stump and told his auditors that his late associate, a friend with whom he had corresponded under peculiar circumstances, had written that letter, and that he knew it to be genuine by his familiarity with the writer and the writing.

Mr. HEWITT, of New York. I distinctly stated he did not write the letter; but that he signed it.

Mr. KELLEY. Asserting that it was his signature, you made the letter his; for you were old enough to know that what a man does by another he himself does, and that if he signed it it was his letter.

Mr. HEWITT, of New York. Certainly; I believed it genuine.

Mr. KELLEY. Please do not disturb the continuity of my thought. [Laughter.]

Mr. HEWITT, of New York. It was not the gentleman from Pennsylvania to whom I refused to yield. It was to gentlemen on this side of the House.

Mr. KELLEY. Now, as to David Thomas. I am not surprised that a gentleman may have forgotten a casual conversation; but I did have a conversation with David Thomas in which we spoke of the anthracite coal of Wales; and he did tell me that it was his experiment in Wales with her coal which enabled him to introduce the application of our anthracite to the manufacture of iron in Pennsylvania. But he also said that the Welsh coal was not pure anthracite; and, to borrow a phrase used by the gentleman, in the discussion on Friday week I in the haste of debate—mind my remarks were not in print—omitted the word "pure" and said there was no anthracite.

The question between Mr. Thomas and me is not one of veracity, but of memory. I affirm that he made a statement which impressed itself upon my memory. He does not seem to remember the incident. I do not mean to impugn the veracity of Mr. Thomas, but I say that those who are in the habit of weighing testimony will conclude that it is more likely his listener should remember so striking a fact than that he would, years afterward, remember a casual conversation which occurred in the freedom of social intercourse.

I wish to say to the gentleman from New York that I do not challenge his right to pay for the publication of his speech, and that I alluded to the subject only in response to the gentleman.

Mr. HEWITT, of New York. Oh, no; I beg the gentleman's pardon.

Mr. KELLEY. The gentleman said—well, let us look at the RECORD, and see what was said.

Mr. HEWITT, of New York. Yes; that is right.

Mr. KELLEY. Let the RECORD speak. There is the colloquy. I said:

I hope the error has been corrected in the 250,000 copies of the gentleman's speech he has caused to be printed for circulation by the Democratic campaign committee.

Mr. HEWITT, of New York. Yes; you flung it at me.

Mr. KELLEY. The gentleman from New York said:

There are no copies being circulated through the Democratic campaign committee.

Proceeding, he said:

The number folded, I will say to the gentleman from Pennsylvania, are those for which application has been made to me personally or by letter, and I paid that portion of the expenses myself and suppose that I shall also pay for the folding.

To which I responded:

I have heard that the gentleman paid for them most liberally.

Mr. HEWITT, of New York. Very well; that is as I stated it.

Mr. KELLEY. I raised no question as to the payment for the copies of his speech by the gentleman.

Mr. HEWITT, of New York. Nor I with you.

Mr. KELLEY. You said you supposed you would also pay for folding them; I would like to see the receipt given you when you make this payment.

Mr. HEWITT, of New York. I have had to pay for the folding of over 30,000 copies on account of bad management under the Republican administration; and other gentlemen on this side of the House have had to do the same thing.

Mr. KELLEY. Pray do not disturb the continuity of my thought. [Laughter.]

Mr. Speaker, I say without reserve that I had a right to infer from the gentleman's own speech, as well as from information in my possession, that he did not know what he was talking about when he

spoke of the profits of Bessemer rail companies. He says the capital is twenty millions; I say it is more than one hundred millions.

Mr. HEWITT, of New York. The gentleman will allow me to say——

Mr. KELLEY. Do not disturb the continuity of my thought; the question between the gentleman and me will be settled as time flows on. Other portions of his speech show that the gentleman from New York had not investigated the questions he discussed. He had prepared in the form of resolutions instructions for the Committee on Ways and Means under which it was to frame a tariff bill; and had prepared those instructions, as his resolutions and speech show, in utter obliviousness to the fact that we have a system of internal taxes and other sources of revenue besides customs duties. He proposed in his carefully-drawn resolution of instructions, which was the basis of his speech, that alcohol for use in manufactures shall be put on the free list.

Weeks afterward, when his attention had been called to the fact that we impose an onerous internal tax on alcohol, he said that his resolution of instructions was very crudely expressed, and that his purpose had been to remove the internal-revenue tax from alcohol used in manufactures. How did the gentleman propose to modify the internal-tax law by instructing the Committee on Ways and Means to report a provision for free alcohol in a tariff bill?

I do not rest my allegation that his resolution and speech were prepared in utter obliviousness to the fact that we derive any part of our revenue from internal taxes or miscellaneous sources on this proposition alone. The gentleman shall prove the case himself. He proposed to put alcohol on the free list, though by the internal tax the farmer must pay 90 cents tax before he can put on the market a peck of corn advanced in manufacture but one stage. The minimum tax is $3.60 on every bushel of corn manufactured into alcohol.

On page 17 of the gentleman's pamphlet speech I find this subhead: "Beneficent effect of reducing taxation." Under this head he says:

> The existing tariff was enacted as a war measure, intended to raise revenue at any cost. It succeeded in its purpose. To-day it produces $150,000,000 annually more than is needed for the national expenditure.

Now, let us consider these three lines of the gentleman's speech. Does the tariff produce $150,000,000 annually more than is needed for the national expenditure? Did Madison introduce a war measure when, on the third day of the first session of the first Congress, he introduced a tariff bill? From the time that bill (some of the provisions of which are embodied in the existing statutes) passed into law to the present there has never been a day on which we have not had a tariff?

Was the Morrill tariff bill a war measure? It was enacted nearly a year before the war began, and is the basis of the present tariff law. Was the wool and woolen tariff of 1867 a war measure? All these questions must be answered in the negative. The tariff is an original and continuous part of our revenue system. Apart from it we have special war taxes.

To pay the debt incurred by the Revolutionary war internal taxes were resorted to, and they were abolished under the lead of Jefferson as soon as that debt was in a shape that made it controllable with the ordinary sources of revenue. Again, we enacted as a war measure internal taxes to meet the expenditures of the war of 1812, and they were repealed at the end of four years.

A third time we enacted a war measure when we imposed the present internal taxes. And the gentleman, when he uttered the words I have quoted, did not know that the internal-tax system was in force or he meant to delude the 250,000 readers to whom his speech was to be sent.

I desire to consume as little time as possible; but I must pause to vindicate the patriotism of the iron and steel associations. In the course of my remarks the other day I referred to the fact that the Cobden Club of England had aggressively entered our last Presidential and Congressional campaign and had distributed its British-made books, published by and under the stamp of the club, in every Congressional district in the country.

Mr. SPRINGER. There were none in my district.

Mr. KELLEY. Well, they knew you were all right for their purposes, and therefore did not need to be deceived by the letter to farmers of Augustus Mongredieu. No copies were therefore sent to you personally.

Mr. SPRINGER. You will except my district.

Mr. KELLEY. No; you are not a district, you have at least 180,000 constituents.

Mr. SPRINGER. They were not sent into my district.

Mr. KELLEY. You can only speak for yourself. I know they were, for they were sent into every district in the country.

Mr. SPRINGER. I did not find any in mine.

Mr. KELLEY. Among the documents circulated by the Cobden Club in that campaign was a letter to the American farmer by Augustus Mongredieu, which I characterized the other day as so replete with falsehoods that I said if gentlemen would read it and should discover a single sentence which expressed an unqualified truth, I was sure they would attribute the circumstance to accident.

To meet this audacious attempt to control our elections we had no organization. The American Iron and Steel Association determined to enter the campaign against our foreign invader, the Cobden Club. In the preliminary statement accompanying his next annual report, which was made July 30, 1881, James M. Swank, the secretary of the association, said in this connection what I ask the Clerk to read.

The Clerk read as follows:

> During the Presidential and Congressional campaign of last year the Cobden Club of England threw off all disguise and sought directly to influence the free expression of the popular will in many States by circulating large quantities of English printed books and pamphlets which outrageously misrepresented the effects of our protective policy and falsely alleged that this country would be more prosperous under the British policy of free trade. This association promptly undertook the work of counteracting this movement of the Cobden Club, and a series of protective-tariff tracts, embracing over half a million copies, was printed and circulated in the wake of the free-trade publications. The result need not be dwelt upon, except to say that it completely vindicated the policy of maintaining in this country a strong organization that should be capable of meeting and defeating any similar assault upon American industries. The safety of the people from foreign dictation in their domestic affairs should be for it in such an emergency the supreme law. In this spirit, and in no other spirit, did this association aid in rebuking the Cobden Club for its hostile attempt to control our elections for the benefit of English manufacturers.
>
> This leads me to remark further that there exists to-day in this country a widespread and very gratifying demand for protective-tariff literature. The old standards of authority on protection are either out of print or are not wholly suited to the present aspects of the subject, and new and fresh treatises are urgently needed, some of which should be elementary in their character. It is greatly to be regretted that there is an actual scarcity of really valuable books that are adapted to the wants of that large class of our fellow-citizens who have not heretofore given much attention to the merits of the protective policy, but who wish now to become familiar with them. This class, which includes the students at our colleges and universities and the young farmers of the great West, demands books that shall deal not only with principles but also with results. What has protection done for this country, and what does it propose to do, are questions that it wants to see answered. It is a shame that the country is almost without a literature that would enable the students at our higher schools of learning to meet and refute the sophistries and the flagrant falsehoods of their free-trade teachers of alleged political economy. It is a shame that, for want of suitable books of reference, even one Western farmer should be deluded into the belief that the policy which proposes to establish a woolen factory, or an iron-rolling mill, or a manufactory of any kind near his farm is his enemy and not his friend. The work of friendly newspapers is not in a form suitable for preservation, and hence books of reference of reasonable size and cost are necessary. This association proposes to do what it can in the immediate future to meet the want mentioned, but it cannot do all that should be done, and it is hoped that other agencies will co-operate, each in its own way, in a work of such vast importance to the future welfare of all American industries.

Mr. KELLEY. In conclusion I desire to say that it will always be a source of infinite pleasure to me to know that in attempting to resist the interference of the British Government in our politics, through one of its subsidiary organizations, my utterances were believed to be a potent defense.

Mr. SPRINGER. So far as the action of the Cobden Club is concerned, let me say to the gentleman that I think the statement of Mr. Swank is an attempt to erect "men in buckram." I have heard of no such things among the people and know of no such literature being circulated in this country by the Cobden Club.

Mr. PEELLE. It was circulated all over my district.

Mr. CANNON and others. And all over mine.

Mr. TOWNSEND, of Ohio. It was very liberally distributed in Ohio.

Mr. KELLEY. I sent to the Library (thinking they might be useful) for the letter of Mr. Mongredieu and other of the Cobden Club's publications; the answer of the Librarian is that they are all out; otherwise I would produce the ocular proof.

Mr. SPRINGER. What "ocular proof?"

Mr. KELLEY. The books themselves.

Mr. SPRINGER. The books in the Library?

Mr. KELLEY. Yes, sir.

Mr. SPRINGER. Oh, I presume of course they are there.

Mr. KELLEY. But I say they were scattered through every Congressional district.

Mr. SPRINGER. I do not dispute the fact that these books are in the Library; but I say that the Free-Trade Club of England did not circulate any in my district.

Mr. KELLEY. Why, sir, their texts crop out in nine-tenths of the Democratic speeches in that campaign. They furnished the free-trade arguments of the campaign.

Mr. KASSON. Mr. Speaker, I ask only two or three minutes for the purpose of responding to the appeal made to me by the gentleman from New York, [Mr. HEWITT,]—an appeal to which I should respond in the manner the gentleman desired if I were justified in doing so by the condition of the facts.

The SPEAKER *pro tempore*. The Chair hears no objection to the gentleman from Iowa proceeding.

Mr. KASSON. I trust I shall never fail to make frank acknowledgment of any error into which I may have fallen, by which any gentleman on either side of the House may feel aggrieved.

First, let me say to the gentleman from New York that when I used the phrase that seemed from his manner to have been offensive to him, namely, "when such gentlemen say" so and so, I referred solely and exclusively to gentlemen who depend upon a transient paragraph in a newspaper as evidence for distinct statements of fact to guide the legislation of the House. In no other sense could the gentleman possibly have construed the remark as personal. If he did construe it in any other sense, I beg him to consider his construction erroneous.

Now, sir, as to the fact. When the gentleman on the occasion referred to made his declaration to the House, holding his hand in the

air with this fragment of paper, the House being in an excited condition, some of us clamoring that the gentleman should be heard and others clamoring that he should not be heard, for the production of his proof, I supposed it to be something which would be accepted anywhere as proof. But upon the reading of the article itself, it gave no proof whatever. The gentleman will hardly dispute that point with me. I do not understand that the gentleman then had in his hand the paper which he has produced to-day, or that he had in his hand anything that could be called a scintilla of proof, unless that newspaper slip was proof. If that was proof, I ought to admit that he had evidence; if it was not proof, of course I must let my statement stand as I made it.

Mr. HEWITT, of New York. Did the gentleman hear me add that the superintendent of the works had himself told me there were over $3,000,000 of undivided profits on hand? That was the last thing I said in that colloquy—that the superintendent of the works had told me there were over $3,000,000 of undivided profits on hand.

Mr. KASSON. The allegation was that there had been a 50 per cent. dividend——

Mr. HEWITT, of New York. Yes, sir.

Mr. KASSON. And the paper which the gentleman held in his hand did not contain the slightest evidence that there had been a 50 per cent. dividend. That is the point. Hence I was right in saying that when the gentleman made that statement and said, "I have the proof here," he had literally no proof in his hand.

On looking at the document which the gentleman has produced this morning I find that instead of these being the profits for a year—perhaps the gentleman stated the matter correctly this morning; I did not hear all he said, as he spoke very low—instead of these being the profits for a year they were the accumulations of eight years. By this paper which the gentleman has presented to-day (perhaps he stated this; I did not hear all he said) I find that in 1874 the stock was worth only seventy cents on the dollar. The judgment of the court refers to this fact, and then goes on to recite that afterward, with the revival of business, the enterprise became profitable, and the stock rose in value over 200 per cent.

Mr. HEWITT, of New York. Premium.

Mr. KASSON. Rose over 200 per cent. It further appears from this statement (perhaps the gentleman stated it to the House this morning, but I did not hear it) that this stock was paid for at the rate of $100 per share in new money paid to the company, and it was only the excess of the value of the stock above par that was represented by the appropriation of profits.

Sir, I try to make no statement inconsistent with the facts, and the gentleman himself will remember that when he suggested that the Committee on Ways and Means, meaning of course that he could do it if he were a member, was able to revise the tariff in thirty days, it did present to me a fair opportunity to remind him of his own mode of thinking and action, as illustrated in taking a newspaper scrap floating in the papers, which did not say that this was a dividend, and deducing from it the statement that there was a dividend of 50 per cent. in a single year.

I know nothing of these dividends; I care nothing for them except as connected with the great question in the discussion of which this matter arose. From what I have now said I think it must appear that I did try to be fair to the gentleman, and that I was justified in saying there was not in his possession at the time he held that scrap of paper in his hand a scintilla of proof to justify him in saying, "I have here the proof." I must insist that I was right in stating that there was not a scintilla of proof then presented by which the House could be guided.

Mr. HEWITT, of New York. Will the gentleman correct the statement which he has just made that the slip read did not declare it was a dividend. I read the slip:

> The question was whether about fifty thousand dollars worth of stock of the Pennsylvania Steel Company, which had recently been obtained by the estate, should be regarded as part of the capital of the estate or as a dividend given to Mrs. Thompson absolutely.

Judge Ashman took the latter view, that it was a dividend. Will the gentleman correct his last statement?

Mr. KASSON. It arose from property "recently obtained by this estate."

Mr. HEWITT, of New York. The question was whether it was a dividend or not as a part of the capital of the estate in the Pennsylvania Steel Works.

Mr. KASSON. As a dividend of the estate, it does not say "in the Pennsylvania Steel Works."

Mr. HEWITT, of New York. But as a dividend given to Mrs. Thompson absolutely.

Mr. KASSON. Now, sir, there is no escape so far as that thing is concerned, that there was not a scintilla of proof, at the time he flourished it before the House, of a 50 per cent. dividend, and nothing said about it being for a single year. Hence I cannot respond to the appeal which the gentleman has made, but must say I should not be willing to trust the revision of the tariff of the United States to a gentleman who would regard important facts as satisfactorily proved by a newspaper paragraph which did not even allege the disputed fact of a 50 per cent. dividend by the Pennsylvania Steel Works.

Mr. SPRINGER. It is proved now.

Mr. KASSON. No, sir; not even by this record of adjudication.

Mr. BUCKNER. Mr. Speaker, some weeks ago when an effort was made to make the pending proposition a special order under a suspension of the rules, I delivered my views on this question of rechartering the national banks; I shall not now repeat what I said on that occasion. I have the fortune of differing in many respects in the matter of circulation and banking from the views just presented by my distinguished friend from New York, [Mr. HEWITT.] Those views are discussed in the speech I have referred to, and if there is any gentleman here who takes any interest in my opinions he can find them fully enunciated in the RECORD. As I have said, I do not intend on this occasion to repeat what I then said.

Mr. Speaker, while I have been an open and decided opponent of the national banking system, I have no objection to banking proper. It is not to banking, as I understand it, that I have any objection. My objection is not to banks or banking as contradistinguished from note issuing, whether national or State. My opposition is founded upon the special privileges accorded to these national banks. It is an aristocratic feature in our Government that any man or set of men should have the privilege of making money out of his or their indebtedness. With Jefferson, Calhoun, and Jackson, I believe it is the sovereign right of the Government to emit paper or credit circulation, if it be needed for the business of the country, and not to farm it out to a corporation or corporations.

On that subject I differ from the gentleman from New York, [Mr. HEWITT.] I am not frightened by the bugbear that if we get rid of the national banking system we will necessarily have to fall back upon the old State banks. I do not believe there is any more universal sentiment in this country on the part of intelligent men in all sections than that we should pay the public debt as rapidly as the resources of the people will permit.

And that whatever circulation we have, whatever paper money is issued for circulation shall have, in the language of Mr. Webster, "the odor of nationality." Whatever opinion may have been entertained in the South and East the prevailing sentiment of the country now is that we should have a circulation, by whomsoever issued, that shall be uniform in value; that shall be as good in California as it is in Connecticut, one which shall be receivable at its face value in every part of the country without regard to geographical divisions. There is no sentiment more deeply seated in the minds of the people of this country than that the Government of the United States, either directly or indirectly, must use whatever authority it may lawfully have to secure just this kind of paper circulation.

But when gentlemen speak of banking do they mean to say that the right to issue one's indebtedness and make money out of it is banking? That is not, properly speaking, banking. That is not by any construction of the term a fair definition of banking. It is not the idea of banking as established by the best authorities on finance either in England or in this country. Our people have had a false education upon this subject. Banking consists in loaning money, receiving deposits, and dealing in exchange, and not in issuing evidences of debt without interest and exchanging them for the notes of other people bearing interest. In the language of Mr. Jefferson, which is the motto of the speech I delivered in the House a few weeks ago, "bank paper must be suppressed and the circulating medium must be restored to the nation to which it properly belonged." Let the banks be continued if you please, but let them discount for cash or Treasury notes. That was the doctrine of Thomas Jefferson, that was the doctrine of Andrew Jackson, and the same sentiment was expressed by John C. Calhoun; and with the experience of the last fifteen years in this country in the issuing of paper money, that is the statement that finds expression all over the land.

The Government controls and directs the issue of gold and silver coin by and through the officers of the Mint, and no good reason can be given why it may not, through the Treasury Department or a board of officers, perform the same function in the issue of paper or credit money. I believe it is the veriest superstition that ever entered into the heads of men that the Government cannot accomplish the same thing directly by officers responsible to it as it can accomplish indirectly by the aid of banking corporations. There is nothing but a morbid and groundless apprehension arising out of a want of confidence in the capacity of the people for their self-government that can justify a delegation of the sovereign power of the Government to corporations controlled by their own selfish interests.

But to come to the question now before the House, we are called upon to say what shall be done in the present emergency as to the banks whose charters are expiring. And I may be permitted to say in this connection that, whether from the speech I had the honor of delivering on this floor recently or from some other cause, there has been a sentiment inaugurated here and elsewhere that shows that the position that I and others have occupied in reference to this bill has some real foundation, and that it is not a mere war on the banking system or on the capital of the country, which the newspapers throughout the East especially have sought to make it appear to be. It is in the interest of capital and the business of the country, not that the charters of these banks which are about to expire should be extended, but that provision should be made against the dangers which will necessarily ensue to the bank circulation from the redemption of the bonds held for its security. This is the paramount ques-

tion for the consideration of this House, and its importance is in no wise affected by the extension of the charters of the banks. I am glad to find that my distinguished friend [Mr. HEWITT] who addressed the House a few moments ago, and two of the gentlemen on the Committee on Banking and Currency at least, have admitted in effect that my objection to the passage of this bill as reported had some foundation in it other than mere opposition to the banks themselves.

I have opposed this bill, Mr. Speaker, because I hold that it is wholly unnecessary for any good purposes at this time. I have said that it was a delusion and a cheat, and that it did not accomplish what the country had a right to expect from the legislation of Congress, and that it failed to do what it ought to do in order to maintain a stable circulation and to prevent a disturbance of the business interests of the country almost certain to accompany the rapid payment of the 3½ per cent. bonds held by the Treasury as security for the bank circulation.

Now, to show that I have authority for that statement, and no less authority than that of the Comptroller of the Currency, I ask the Clerk to read from the annual report of the Comptroller that portion which I have marked.

The Clerk read as follows:

If, for any reason, the legislation herein proposed shall not be favorably considered by Congress, the banks can still, under the present laws, renew their existence if they so desire; and in the absence of prohibitory legislation many of them undoubtedly will, on the expiration of their present charters, organize new associations, with nearly the same stockholders as before, and will then apply for and obtain from the Comptroller certificates authorizing them to continue business for twenty years from the respective dates of their new organization certificates. Such a course of procedure will be perfectly legal, and, indeed, under the existing laws, the Comptroller has no discretionary power in the matter, but must necessarily sanction the organization or reorganization of such associations as shall have conformed in all respects to the legal requirements.

The passage, however, of a general act directly authorizing an extension of the corporate existence of associations whose charters are about to expire would, in many instances, relieve the banks from embarrassment. As the law now stands, if the share-holders of an association are all agreed, the process of reorganization is simple; but if any of the share-holders object to such reorganization, they are entitled to a complete liquidation of the bank's affairs, and to a *pro rata* distribution of all its assets, including its surplus fund. In many instances executors and administrators of estates hold national-bank stock in trust; and while they might prefer to retain their interests in the associations which issued the stock, they would perhaps have no authority to subscribe for stock in the new organizations. While, therefore, the legislation asked for is not absolutely essential, yet its passage at an early day would be a great convenience to many of the national banks, and especially so to the class last referred to.

Mr. BUCKNER. Now, Mr. Speaker, the Comptroller of the Currency puts it upon the ground that a failure to pass the bill would be an embarrassment to business; that it would interfere with the surplus fund of the banks; that it would interfere with the interests of executors, and of *cestui que trusts*, &c., but does not take the ground that this legislation is absolutely necessary for the reason that there is already an equivalent power in the law to allow the reorganization of the banks where there is no objection on the part of the shareholders; in other words, that the banks without any legislation, as is here proposed, are able practically to extend, if they desire, their corporate existence. In response to the reasons which have been urged in the extract from the Comptroller's report which has been read by the Clerk, I desire to say that we have no jurisdiction over the investments of executors, administrators, or guardians. It is none of the business of Congress to interfere with such matters in order to prevent them or the banks from embarrassment, and my objection to this plan is that we neglect the very thing of all others which ought to be done, and that is the protection of the public against the dangers of a lock-up of currency in order that the banks may withdraw the bonds deposited with the Treasurer, and then a curtailment and extinguishment of the bank-note circulation as it is presented to the Treasury for redemption.

It is because this legislation is for banks and bank-owners alone, because it is to enable them to go on without reference to the condition of the country and without taking notice of the fact that their circulation is being rapidly diminished and must in the nature of things diminish to such an extent as to disturb the business interests of the country, that I have opposed it and will continue to oppose it unless it is amended so as to obviate these objections.

Why, sir, what is it that we are proposing to do? We are making it easier, I admit, for these banks to organize, to go on with their business in the interests of the banks, but neglect, as I shall show you beyond all question, the great questions that come up and must come up, and are now present before us, not regarding at all the necessary diminution of circulation growing out of the exercise of the dangerous power of elasticity, which has been heretofore deemed the chief jewel in the crown of these institutions, the power to enlarge or diminish the circulation of this country at the will of the banks.

But, sir, it has been urged upon our attention here for three months, until some have been frightened into the idea that it will be regarded by the country as a war upon capital if we do anything but obey the behests of the banks and disregard the great interests of the people themselves, for whom these banks were organized.

Now, what is the relation of the banks and their circulation to the Government and the Treasury? We have but three classes of banking bonds upon which the circulation of the banks is based. About four hundred and ninety millions of them are now subject to call. Of that four hundred and ninety millions, two hundred and forty-five, or about one-half, are held by the banks as security for their circulation. Those bonds are all now subject to call, and are being called at the rate of one hundred and fifty or one hundred and eighty millions a year. And does any gentleman here believe that the amount we shall appropriate to the sinking fund is going to be less under any legislation that we may have had or that we will have? Is it not almost as certain as any event in the future that from one hundred and twenty to one hundred and fifty millions will be called within the next twelve months? We cannot assert from actual knowledge, but it may be estimated that one-half of that call will come from the banks. That is the condition of things; and it is given as a reason why the banks should have a continued existence, and why this bill should pass, that on one day in next February the charters of banks holding 54,000,000 of 3½ per cent. bonds out of 75,000,000 will expire, and that without this bill lawful money will be withdrawn from circulation in order that this amount of bonds be withdrawn. But if this bill becomes a law, will the banks thus continued in being be under any obligation not to withdraw their bonds and surrender their circulation? Will they be required by any provision in this bill, in consideration of the extension of their franchises, to continue in business and retain their circulation? By no means. It may well happen that the bonds, or a part of them, held by these banks will be called for redemption after they have accepted the provisions of the act, and they will be compelled to disturb the money market by withdrawing from the channels of circulation money sufficient to cover their outstanding circulation in order to obtain control of the bonds held by the Treasury. The bill of the committee relieves the banks of all embarrassment in continuing their corporate existence, but it fails signally in providing any security to the trade and business of the country against the dangers growing out of the redemption of the bonds and of a consequent reduction of the circulating medium. It takes care of the banks and their owners, but leaves the vast interests of the country subject to grave and serious peril.

The question arises, what will the banks do? I asked my friend from Illinois [Mr. SMITH] this question, and what does he say they will do? They have no alternative as to one point. The bonds on which their circulation is based must be given up and surrendered to the Treasury. [Mr. SMITH, of Illinois, rose.] Hold, I will report you correctly. They may buy 3½ percents if they take the risk of those bonds being called any day or month in the next two or three years; or they may buy 4½ or 4 percents. That is what he says they will do. Rather an uncandid answer I think, all things considered. We will issue silver certificates, he says, next winter when we see this trouble upon us with forty-one millions of bonds probably called between this and then, as stated by my friend from New York, [Mr. FLOWER.] Then we will issue silver certificates in face of the fact that the Banking and Currency Committee, of which we are members, have reported a bill that takes away the power of issuing silver certificates and repeals the law authorizing the coinage of the silver dollar, except at the discretion of the Secretary of the Treasury, who is not charged with being its special friend. We have that bill now before us to be presented to this House. And yet that is the way in which this difficulty, apparent to everybody, clear as the noonday sun, is to be met, because the fifty-four millions of the 3½ percents that may be called or at least one-half of them may be called have to be paid, and upon that is based a circulation of at least twenty millions now in the hands of the people.

Mr. SMITH, of Illinois. I ask the gentleman if it would be disagreeable to him to be interrupted?

Mr. BUCKNER. I yield with pleasure to the gentleman.

Mr. SMITH, of Illinois. I know the gentleman from Missouri does not desire to misrepresent me. What I said in my speech was, he would likely be here next winter and I also, and then we would join in passing a law for the unlimited coinage of silver.

Mr. BUCKNER. The comment I make on that is, that it is a practical impossibility so far as this House is concerned. Already the majority of this House, of which my friend from Illinois is a member, have introduced a proposition to strike down the silver certificates as well as to stop the coinage of the silver dollar except at the discretion of the Secretary of the Treasury. So that is no remedy. The next remedy is to buy 4 and 4½ percents; and that is the only alternative my friend who sits before me [Mr. HARDENBERGH] and who has charge of one of these banks has; he may either have 3½ percents or 4 and 4½ percents as security for this circulation of his bank or part of each; most likely some of each of the three classes of bonds.

What are they going to do? Will they buy fours or four-and-a halfs? I say they will not. On the contrary, the operations of the Comptroller of the Currency during the last eighteen months show that the banks have been selling their fours and four-and-a-halfs for the purpose of realizing the 14 per cent. and 20 per cent. premium. The amount of 4 and 4½ percents sold by the banks to realize the large premium at which they are held is double that of these two classes of bonds deposited by banks newly organized.

Now, to show the gravity of this danger, I will refer to what I alluded to once before in a brief discussion on this question. On the 1st of May last there was a reduction of nearly $1,000,000 in national-bank note circulation from the 1st day of the previous January.

Now, that would not be very extraordinary but for this fact; it has never occurred before since resumption took place, for, since the fall of 1878, after our legislation in this House stopping the contraction of the greenback circulation and providing for the coining of the silver dollar, the banks have gradually and slowly increased their circulation month by month until now.

Now, how do my friends on the other side who are supporting this bill account for this? It cannot be explained except upon the theory that the circulation of the banks has been diminished because such a large proportion of it was based on 3½ per cent. bonds subject to call, and which have been called and surrendered by the banks. That process is continually going on.

I have a table here showing the amount of national-bank notes outstanding on the 1st of each month, from July, 1881, until May, 1882:

Statement of the aggregate amount of national-bank notes outstanding on the 1st of each month from July, 1881, to April, 1882, inclusive, and the increase or decrease monthly.

Date.	Amount.	Increase.	Decrease.
July 1, 1881	$354,610,935		
August 1, 1881	356,894,453	$2,283,518	
September 1, 1881	357,714,133	819,680	
October 1, 1881	358,409,265	695,132	
November 1, 1881	359,891,130	1,481,865	
December 1, 1881	361,620,935	1,729,805	
January 1, 1882	362,062,420	441,485	
February 1, 1882	361,861,172		$201,248
March 1, 1882	361,152,532		708,640
April 1, 1882	361,626,637	474,105	
May 1, 1882	361,070,299		

January 1, 1882	$362,062,420
May 1, 1882	361,070,299
Decrease since January 1	992,121

I have some other tables from which I have taken the trouble to compile facts, showing, in addition to what I have stated, the strong tendency of the banks holding the fours as well as the four-and-a-halfs to reduce their circulation by the withdrawal of the bonds on which that circulation is based. At the present rate of taxation it cannot be many years—not more than three or four—when every one of the three-and-a-halfs will be paid. This year we will take up about $150,000,000 of them. Now, whatever changes may be made by the little internal-tax bill which it is expected will be passed, in my judgment the revenues of the Government will not be seriously interfered with before the commencement of the Forty-ninth Congress.

Mr. DINGLEY. Will the gentleman pardon me for interrupting him for a moment? I was out a short time, and when I came back I understood that the gentleman had stated that there had been a contraction of the currency of the national banks since the 1st of January last.

Mr. BUCKNER. From the 1st of January to the 1st of May.

Mr. DINGLEY. I have here a statement from the Comptroller of the Currency that does not seem to bear out that statement of the gentleman.

Mr. BUCKNER. I have a statement from the Comptroller made up to the 1st of May.

Mr. DINGLEY. I have one up to the 1st of May, and from that statement it appears that the aggregate outstanding circulation of the national banks has increased since the 1st of January last.

Mr. BUCKNER. How much?

Mr. DINGLEY. Over a million and a half of dollars within the past six weeks, and in the aggregate over $3,000,000. Of course many national banks have withdrawn their circulation, but many new banks have organized, so that the aggregtae circulation has been increased and not diminished.

Mr. BUCKNER. I do not know how the gentleman makes out his figures. I have a statement here which I rely upon from the Comptroller of the Currency himself, showing a reduction of the national currency from the 1st of January last to the 1st of this month of $992,000. There may have been some increase in the circulation within the last ten days, about which I have not been informed.

I have some other statements to which I desire to call the attention of the House showing the present tendency of this national banking system wherever they are reorganizing, and several of them, perhaps a half dozen or a dozen of them, have been reorganized by the Comptroller. The operation of this banking system now is altogether different from what it has been, and for the reason which I have given. Formerly the bank capital was made up largely of bonds. Now the tendency is to sell the bonds and put the proceeds into capital and only retain bonds sufficient in amount to keep the bank within the legal limit, (thirty or fifty thousand dollars in bonds,) and this process necessarily leads to a withdrawal of bonds and a lock-up of lawful money and then a retirement of national notes.

The following table is compiled from Executive Document No. 43, and from a statement from the office of the Comptroller, showing number of banks, capital paid up, circulation, and classes of bonds, of banks reorganized, and new banks, from July 1, 1881 to May 10, 1882:

Banks	146
Paid-up capital	$15,942,168
Bonds deposited	7,785,300
Circulation	5,542,540
Three-and-a-half percents	6,784,300
Four and four-and-a-half percents	1,116,000

From which it seems that of these new and reorganized banks less than one-sixth of their bond-deposits consists of 4 and 4½ percents, and more than five-sixths on bonds (3½ percents) liable to be called for redemption at any time.

It also appears from these tables that of these 146 banks 114 have a deposit of $50,000 bonds and under, 1 of $400,000, 2 of $150,000, 1 of $140,000, 11 of $100,000, 1 of $200,000, 3 of $60,000, 3 of $55,000, 1 $67,000, and 1 of $72,000, while the paid-up capital is $15,942,168—more than double the bond deposits.

These figures are very remarkable in view of several statements which have been made here that these charters are not valuable. There have been one hundred and forty-six banks organized since the first day of July last, including, of course, the half dozen or a dozen which have been reorganized. That is, a larger number of banks have been organized since the first day of July last than ever have been organized in the same length of time, according to my understanding, since about 1865 or 1866, and five-sixths of the bond-deposit is made of 3½ percents, showing conclusively that the banks will not purchase either of the other classes because of the high premium they bear in the market.

Mr. DINGLEY. Will the gentleman permit me at that point? Is not his table, which he obtained from the Comptroller of the Currency, a table giving the outstanding circulation not only of banks that are in actual operation but of banks that are in process of liquidation?

Mr. BUCKNER. I have them both.

Mr. DINGLEY. That is the statement I have.

Mr. BUCKNER. Of these one hundred and forty-six banks organized since the 1st of July last, of which, as I have said, some few are reorganized banks, there has been paid in a capital of $15,942,168. Those banks have deposited bonds to the amount of $7,785,300, and have a circulation of $5,542,540. That circulation is based on $6,784,300 of three-and-a-halfs and $1,116,000 of fours and four-and-a-halfs.

The banks are evidently taking the advice of the Comptroller to keep within the national banking system. Yet the very same tables I have before me show how this process of the destruction or withdrawal of the currency is gradually going on. Take the First National Bank of Barry, Massachusetts. Its circulation of $135,000 has been reduced to $45,000. The First National Bank of New Haven reduced its circulation from $400,000 to $45,000. The First National Bank of Richmond, Indiana, reduced its circulation from $135,500 to $45,000. The First National Bank of Chicago has reduced its circulation from $90,000 to $45,000. The Second National Bank of New York has reduced its circulation from $225,000 to $100,000, and the Second National Bank of Cincinnati has reduced its circulation from $180,000 to $50,000.

Thus, while we are keeping up the national banking system, the bonds which they deposit are just enough for the purpose of keeping them organized under the national banking act. The remainder of their bonds are either called or sold, and as often sold as anything else, and the circulation must necessarily and inevitably be wholly withdrawn or largely decreased. It is in this way that the system may continue as long as one hundred millions of the public debt remains, and the number of banks not necessarily diminished; but it must be accompanied by a dangerous contraction of the paper circulation, a continuous lock-up of lawful money, superinduced by a withdrawal of bonds called for redemption, and a never-ending, still-beginning derangement and disturbance of the monetary affairs of the country.

Mr. SMITH, of Illinois. Will the gentleman allow me a question?

Mr. BUCKNER. Yes, sir.

Mr. SMITH, of Illinois. Does the gentleman think that we have too little currency in the country at present?

Mr. BUCKNER. No, sir; I think we have now a superabundance of credit currency.

Mr. SMITH, of Illinois. Then I do not understand the gentleman's argument. Why does he object to contraction by the national banks?

Mr. BUCKNER. I object to it because it is regulated and governed by circumstances over which the country has no control. My friend will understand that when the amount of currency is fixed and regulated by law the business of the country is in a very different condition from that in which the amount of circulation goes up or down just as the banks may consider it their interest to surrender their circulation to increase it or when the calling in of their bonds compels them to withdraw the circulation based upon those bonds.

Mr. SMITH, of Illinois. Does the gentleman desire the currency to be a fixed amount?

Mr. BUCKNER. If the gentleman speaks of credit currency I unhesitatingly answer, yes. The proposition which I have submitted as an amendment to the bill of the committee fixes the amount and

keeps it fixed. This idea of an elastic credit or paper circulation is the grandest fallacy that ever entered into the mind of man. To allow any number of men to say what amount of currency we shall have and thereby to fix the value of all the property in the country, and as the amount of currency varies keep all values in a state of constant fluctuation, is a system which ought not to be tolerated. It ought not to be left discretionary with the banks or with any other power than the Government itself. What we need is a fixed amount of credit money, and the elasticity of the currency to be supplied by metallic money, and not by the printing-press and the engraver's tools. Every man who owns a particle of property has an interest in seeing that the circulation of the banks shall not be withdrawn at the mere will of those by whom it has been issued.

Mr. SMITH, of Illinois. I will not interrupt the gentleman unless it is pleasant to him——

Mr. BUCKNER. It is not unpleasant.

Mr. SMITH, of Illinois. Would the gentleman desire to have the same quantity of currency when prices are low as when prices are high?

Mr. BUCKNER. Why, sir, it is the amount of currency in the country that fixes prices; at least this is an element that very largely operates in fixing prices; and it is for this reason I object to the constant fluctuation in the amount of currency that must be experienced while the banks have the power to control the circulation.

My friend from North Carolina [Mr. DOWD] seemed to take in the situation very readily. While disposed to give the banks the facilities they desire for reorganization, he is not willing to do so unless at the same time we curb their power, and he thinks that the amendment offered by my friend from Pennsylvania [Mr. RANDALL] will do this. I undertake to say—and when the amendments come to be discussed I hope to be able to show—that the amendment of the gentleman from Pennsylvania will have no sort of influence or effect upon the operations of the Treasury, and ought not to have, and that its necessary effect will be to maintain a continuous condition of panic in the money market without in the least diminishing the power of the banks to produce the results desired by its distinguished mover. It is intended to guard against that which occurred when President Hayes vetoed the funding bill, when the banks frightened him as well as others into the idea that they were to be injured by that measure. The object of the amendment is to guard against any such occurrence in the future; but I do not suppose any gentleman will say that if the Secretary of the Treasury has $25,000 or $50,000 applicable to the payment of the debt, and to no other purpose, he is to defer for sixty or ninety days the calling in of bonds and allow them to continue to bear interest. But I will not go into that question now.

I have said that the withdrawal of circulation must in the nature of things go on, if for no other reason than the high prices which the 4 and 4½ per cent. bonds now command. The figures in connection with the process of refunding or redemption show that the 4 and 4½ per cent. bonds which have been put on the market by the banks are more than double the amount on which circulation has been based in the organization of new banks. Why should it not be so? The 4 per cent. bonds upon which the circulation of many of the banks is based are worth now in the market 120 or 121. The banks purchased them at 100. The 4½ per cent. bonds, which were also purchased at par, are worth now 114 to 116. Bank human nature is like all other human natures; it looks to its own interests; and when the banks obtain a circulation of only $90,000 upon every $100,000 of bonds, rated at their par value, will they not sell, are they not selling their 4 and 4½ per cent. bonds and getting the advantage of the premium and adding something like 30 per cent. to their loanable capital? It is this action of the banks that is also undermining the foundation of the national banking system. From this cause also the circulation must decrease.

By the going into liquidation of one hundred and forty-six banks there has been a diminution upon their circulation from $1,165,000 to $330,000. Under the act of 1874 the banks have the power to give up their circulation whenever it suits them and to increase it at their will and pleasure. It has heretofore been their interest to increase it, and it has been gradually increased; but now their interest lies in the opposite direction, to say nothing of the condition of our revenues, which will enable us to wipe out the whole of the 3½ percents by the time any material modification will be made either in internal or external taxation. And it is because this banking act which the committee have reported looks to the interests of the banks and bank-owners and stockholders, and not to the interests of the people interested in having a steady and stable volume of circulation, that I oppose it. This bill ignores every other interest than that of bank-owners and takes no concern in anything else than the convenience and interest of those connected directly or indirectly with banks. The very purpose for which they were originally established is wholly overlooked or disregarded, as it utterly fails to make any provision against the dangers of a serious monetary disturbance, growing out of the payment of the 3½ per cent. bonds, by first withdrawing a large amount of lawful money from the money-centers, locking that money up in the vaults of the Treasury, and ultimately producing a gradual but certain curtailment of the bank-note circulation.

Now, Mr. Speaker, I wish to explain for a few minutes the two amendments which I gave notice I would offer when this bill comes up for consideration. These amendments are printed in the RECORD of the 14th instant, and I ask the attention of members to them.

Strange as it may seem, nevertheless it is a fact that here is a grand organization of twenty-four hundred or twenty-five hundred banks, scattered all over this country, which have no redeemability of their promises to pay. The redemption of the bank note is absolutely voluntary, so far as the banks are concerned. The only appearance of redemption now is through the circuitous method of sending a thousand dollars of bank circulation to Washington to obtain legal-tenders for it, and then sending the legal-tenders to New York to get gold or silver for them if it be desired. That is the process now, and there is none other. The bank, while it may have coin in its vault, is under no legal obligation to pay a dollar in coin in redemption of its notes; yet this banking system has been in operation for fourteen or fifteen years. Now, if it is to be continued I propose an amendment, as section 8, which is the same proposition reported last Congress unanimously from the Committee on Banking and Currency with some slight alterations to adapt it to the present condition of things. It gives the holder of a note the right to demand gold or silver at the counter of the bank, and it requires the bank to keep a certain proportion of its reserves in coin at all times. My friends on the other side of the House who profess to be the great advocates of hard money certainly cannot object to adopting this amendment.

It has the additional advantage of giving employment for the gold and silver coins of the country, and will save the Congress of the United States from the necessity year after year of providing secure and proper places of storage for the surplus gold and silver emitted by the mints.

I have said there is no redemption now under the present national banking system. When we are called upon to extend the franchises of the banks for twenty years longer I insist it shall not be without imposing some such condition upon them. The value of the vast privilege these banks have is proved by the fact they have organized one hundred and forty-six during the last eight or ten months. This profitable character of these institutions is fully appreciated by the public, and we should not continue them without putting some condition or restraint upon them. The one I propose is that they shall be compelled to keep standard coin of gold and silver as a reserve in their vaults to meet the payment of their notes on demand.

I have also proposed, Mr. Speaker, another amendment. It goes back to the question whether we should have a fixed and permanent amount of paper circulation in this country, or leave the volume of circulation to the capricious interest of each bank. We have, first, the legal tenders. The law of 1878, by which the contraction of the legal tenders was prohibited, fixes their amount permanently. No one, so far as I know, pretends to have any desire to change it. I propose to fix the amount of bank-note circulation, whatever it may be, at the amount outstanding at the passage of this bill, and then to forbid its being diminished below that sum. I admit that it is a pretty heroic remedy, but the country needs just such a remedy. The underlying idea of free banking is that when a bank puts out its circulation it has the right to call it in whenever it pleases. Now, I provide by section 9, when the bonds upon which its notes are based are called or redeemed, or when a bank goes into voluntary liquidation, the circulation outstanding should be maintained to the same amount. I provide that when it is surrendered by the banks, then the Government shall issue its Treasury notes to the same amount, and provide a fund for their redemption. In this way we can keep the volume of the paper circulation of the country at a fixed point. When you talk about wanting an additional amount adequate to the wants and demands of the trade of the country, let that addition come from the coin of the country, and not from the credit circulation or by the extension of the credit system.

Of course I understand that this will require that these banks now organized shall be compelled to do that which they will not do now; and if they accept the provisions of this act they cannot go out and surrender the circulation by voluntary liquidation. They cannot produce that condition of things liable to come on us now by the large withdrawal of bonds between now and the 1st of March next. That is provided against permanently; and if you will have a national banking system you will have its circulation fixed by law, and let every national bank know now, when it accepts the conditions of this bill, that until the Government is ready to redeem the bonds held as security for its circulation, it cannot voluntarily reduce the circulation below what is fixed in the law. Who is opposed to that? Who can object to it? Is it not manifestly an amendment which must commend itself to everybody who reflects on the subject?

Is there a gentleman present who is willing to deny that we have a sufficient circulation to-day? We have the $366,000,000 of national-bank circulation and $346,000,000 of legal-tender notes; and why is it necessary to increase it? As we have a Constitution which in my judgment is nothing short of a hard-money Constitution, and the only money of the Constitution is gold and silver, and we have a great silver and gold producing country, we should maintain a large gold and silver circulation. The product of our mines will thus be the means of increasing the circulation to meet the increasing demands of the growing trade and business of the country as they are enlarged by additions to our population and by new enterprises and increasing industries. That will give a steady, stable, unfluctuating

circulation. It puts our circulating medium in a position of stability and steadiness, and makes us independent of the two thousand banks who will then have no power to determine whether we shall have $50,000,000 or more or less circulation, or less next year than we have had this year. It authorizes the issue of Treasury notes and for no other purpose than to maintain the volume of the currency; and it can only be reduced by the banks going into involuntary liquidation; or where the bonds are called for redemption by the Treasury, in which event Treasury notes can be issued in lieu of the bank circulation as fast as it is withdrawn in the process of redemption. This places the volume of currency directly in the hands of the Government and not under the control of corporations created by it.

Mr. HASELTINE. Will the gentleman permit me to ask him a question?

Mr. BUCKNER. Certainly.

Mr. HASELTINE. Would you limit the currency of the country to the metals alone, when we have an immense increase in our population from foreign countries as well as the additional growth of our own industries?

Mr. BUCKNER. I would fix the amount of paper or credit circulation at a sum which would be adequate for all of the wants of the country. I believe that paper circulation, a large amount of it, has been a source of injury to the business of the country, and for that reason in part large imports are coming in, and no exports going out of the country except gold; and not only that, but I would adopt the English system, (which provides a diminishing credit circulation and has for thirty-eight years,) and let the increase come from the industry, labor, and increased values in the country which will be manifested by an increase of coin. That is my proposition. Time may show that we have not a sufficient amount of credit circulation to meet the necessities of the country; but I have confidence that the wisdom of Congress will provide relief when that occasion arises. I believe that for the next fifty years five hundred or six hundred millions of paper circulation is amply sufficient to keep prices in this country on a proper level, and with the vast additions which the industries and wealth and enterprise of the country will make to the coin of the country it will afford all the needful circulation for our growing population and the multiplying demands of its business.

I have not, Mr. Speaker, any great fear of Congress, nor have I any apprehension of the capacity of the people to govern themselves, as some gentlemen seem to have who have expressed their views upon the floor of this House. I believe that this is the most conservative government on earth. I believe that there is just as little danger that we shall run to excess on this question as any other government, whether monarchical or imperial. I do not say that we cannot and will not go to excess; I do not say that it may not be done; I have very little fear, very little apprehension that it will be done. I do not mean to say that there will not be fiat-money propositions and legal-tender propositions and other kindred propositions to increase the circulation, for it is a common thing to hear such propositions made throughout the country; but it is a difficult thing to interfere with existing legislation and the history of this country has shown it. Congress does not always legislate wisely and in the best interests of the people, nor can it be said that we are entirely without fault in our legislation; nor will it be claimed that there are no vices in our republican system of government. We all know that to be true; but when we compare this Government with that of any other, whatever abuses or disadvantages it may have, there is not a man here who will not say that with all its faults and with all its vices he would be in favor of standing by our system of government in preference to any other.

And so it is, Mr. Speaker, with this question of the regulation of the circulation by Congress. We may err, but I greatly prefer having it in the hands of the people's representatives, within the control of our own legislative power, than to confide it to two thousand corporations scattered all over this country, thereby putting in their hands a power which may be used to the prejudice and detriment of the whole country. We have to make that choice sooner or later. We have to determine in a few years what is to be the policy of this Government and who is to issue all the credit circulation. We shall soon have no other alternative. We will have to decide whether we will have a paper circulation which is to be issued by the Government alone, or which shall be issued by corporations. It may be evaded now, but the decision cannot be postponed beyond the redemption of the 3½ per cent. bonds.

I do not mean to say that Congress may not make a mistake on this subject, that it may not do wrong. But I say that so far as the great interests of the people are concerned, it will protect them infinitely better than any corporations that ever have existed or that ever will exist. It is one of the mistakes of this bill, and it is a vice of the argument on which it is sustained, that when you have authorized these charters, and when the Executive has set his signmanual to the bill, all the difficulties and dangers of the next year still remain. That is the vice of this bill; that it does not look at the condition of things that must necessarily occur. And when gentlemen talk about exchanging the 3½ percents that will be due between now and the 1st of March, 1883; when they say that the banks after they have been rechartered are going to buy 4 or 4½ percents or reinvest in 3½ percents that may be called in the next year or the next six months, they leave the difficulty just where it is now, without any rechartering and under the power and control of the officer who has charge of this business. And that is one of the great objections I have to this bill, that you are not guarding and protecting the rights of the people in the circulation; that you are taking care of the banks and the owners of the banks, but you are careless and indifferent, and ignore and have forgotten in this effort to give the banks a new lease of corporate existence for twenty years the great interests of the people; and that you make no provision for a stable, steady, and unfluctuating circulation. And I warn gentlemen on the other side as they have been warned heretofore, I warn them of the danger that lies before us, which they do not propose to provide for by anything in this bill.

I believe I have concluded what I had intended to say at this time.

Mr. BRUMM. Before the gentleman takes his seat will he permit me to ask him a question?

Mr. BUCKNER. Yes, sir.

Mr. BRUMM. In your proposed amendment you provide for the issue of Treasury notes, legal tender for all debts due to the Government, but not for debts to the individual. I understood you in the committee to say you would not only exclude the legal-tender clause from the Treasury notes but you would also take it from gold and silver, and treat them all alike and not make any of them legal tender for private debts. Am I correct?

Mr. BUCKNER. I will state very briefly my views on the subject suggested with great pleasure. The idea of legal tender, as it is termed, as applicable to the Government of the United States is misleading. The limitation in the Constitution is not upon this Government at all. The limitation is upon the State governments, which have solely and exclusively jurisdiction of the subject of contracts. This Government has no power over contracts between individuals, and there is not a line or a letter in the statutes of the United States as to contracts between individuals. It is absolutely without jurisdiction over contracts of any kind between individuals. That belongs exclusively to the States. Hence my belief in the unconstitutionality of the legal-tender provision as to contracts between individuals. And when the Constitution says that no State shall pass a law to make anything but gold and silver coin a tender in payment of debts it excludes any other power in this Government from making it. Why? Because the States have complete control over the questions of contract to which tender is exclusively applicable, and because this Government has no jurisdiction over the questions of contract.

I said also—and that I am willing to maintain anywhere—that it is mere surplusage for us to say, as we did in the Bland silver bill, that the dollar which we coin shall be a legal tender in payment of all debts, public and private. Why? I say it is mere surplusage for the reason that if it is under the law a good tender, if, in other words, all the contracts payable in dollars are solvable and can be discharged by the silver dollar, it does not add a farthing's worth to say that they are a legal tender; because if I owe my friend who sits before me $1,000 and I have in so many words promised to pay him $1,000, and if the law—and that is the only question in it—if the law authorizes me to take a thousand silver dollars and tender them to him or the debt is solvable in silver dollars, there is no necessity or propriety for the law to say that the silver dollar is a legal tender for private debts. So that if, as I assume to be true, every contract made in this country for the last twenty years is payable in dollars, the legal tender clause does not add a farthing to the value of the silver dollar as long as it is a legal tender in fact and it is a good tender in discharge of anything that calls for payment in dollars. Parties may make their contracts payable in gold, and some have done it. The silver dollar will not discharge a contract of that kind. The Senate and the House decided in 1878 that for every bond which had been issued by this Government and which is now out the silver dollar is a valid payment and discharges the Government from that bond. And so it is with every note I make and every contract that is made between individuals that is payable in dollars; the silver dollar is just as good in discharge of it, without the clause which says it shall be a legal tender for public and private debts, as it would be with it inserted in the law, describing the functions of the dollar. A contract calling for payment in dollars is discharged by an offer to pay and tender of dollars, and for the law to declare that the silver dollar shall be a lawful tender in contracts of this kind is mere surplusage and does not add to the functions of the dollar in the slightest degree.

Mr. ANDERSON. Permit me to inquire of the gentleman from Massachusetts [Mr. CRAPO] in charge of this bill, when he expects the debate upon it to close? I make the inquiry in order to ascertain at what time those now on the list can be heard.

Mr. CRAPO. I have desired that general debate upon this bill shall be closed to-day, so that to-morrow we may enter upon the consideration of the bill by sections and reach a final vote upon it.

But my present purpose is to ask that general debate be closed on the bill at one o'clock to-morrow. The time for general debate to-morrow will necessarily be occupied by members of the Committee on Banking and Currency. If other members desire it, I would suggest that an evening session be held to-night for general debate upon this bill; that the House take a recess from five o'clock until half past

seven o'clock, if that is desirable, for those who wish to speak on the bill.

Mr. RANDALL. I would like a little time to-morrow, say twenty to thirty minutes, to speak in the main to the amendment which I have offered. As some objections have been presented to that amendment I desire to make answer to them.

Mr. CRAPO. Cannot that be done when the House comes to consider the bill by sections for amendment?

Mr. RANDALL. We will then be under the five-minute rule. The gentleman might fix half-past one for the time to close general debate. I will not be any longer than I can help to fully state the animus of my amendment and to answer some objections made to it.

Mr. CRAPO. Then I will ask that general debate be closed at two o'clock to-morrow.

The SPEAKER *pro tempore*, (Mr. TOWNSEND, of Ohio.) The gentleman from Massachusetts [Mr. CRAPO] asks consent of the House that an order be now made to close general debate upon the pending bill at two o'clock to-morrow.

Mr. ANDERSON. I shall be compelled to object to that. I would like to know how those of us who desire to speak can get an opportunity to do so?

Mr. CRAPO. We can have a session to-night. I will ask unanimous consent that the House take a recess at five o'clock this afternoon until half-past seven this evening for the purpose of general debate on this bill?

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Massachusetts, [Mr. CRAPO?]

There was no objection, and it was so ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

A bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee; and,

A joint resolution (H. R. No. 211) to authorize the Librarian of Congress to accept the library offered to be donated to the United States, by Dr. Joseph Merideth Toner, of Washington, District of Columbia.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House was requested, a bill of the House of the following title:

A bill (H. R. No. 1993) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States relating to the collection districts in California.

The message further announced that the Senate had passed and requested the concurrence of the House in bills and a joint resolution of the following titles:

A bill (S. No. 336) for the relief of James J. Faught, late of Company D, Eighth Missouri Cavalry;

A bill (S. No. 591) for the relief of Mrs. Margaret Cassidy;

A bill (S. No. 612) to enable the State of California to take lands in lieu of the sixteenth and thirty-sixth sections, found to be mineral lands;

A bill (S. No. 1068) for the relief of certain citizens of Tennessee; and

A joint resolution (S. R. No. 67) authorizing the Secretary of War to loan one hundred flags to the mayor and committee of citizens of Charlotte, North Carolina.

EXTENSION OF NATIONAL-BANK CHARTERS.

The House resumed the consideration of the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence.

Mr. BUTTERWORTH. Mr. Speaker, so far as the amendments to this bill are concerned they will be considered, I suppose, under the five-minute rule. I will not, therefore, refer to them or consider them in what I now have to say.

The pending bill provides for extending the charter of national banks organized under the act of February, 1863, limited by subsequent acts, and so far as that proposition is concerned raises the question whether it is, as a matter of public policy, more desirable to have three hundred and ninety-three national banks, with a capital of $92,000,000 and a circulation of near $70,000,000, loan account of $150,000,000, stop business, recall their circulation, collect their debts, with all the resulting and attendant disturbance of business and contraction of the currency, and reorganize, if at all, under the general banking law—begin business anew, with new capital and new circulation—or to extend their present charters with such limitations and restrictions as Congress may in their wisdom prescribe.

It is as if the question were whether it would be wiser to tear out by the roots a tree which is flourishing in healthful growth and bearing proper fruit, and plant in its place another precisely similar, which must become adapted to the soil and overcome the shock resulting from being transplanted before it could yield either shade or fruit. Such a course with regard to the tree would be folly; a similar course in regard to the banks would not show more of wisdom.

I am proceeding on the theory that national banks are desirable and to be continued. It occurs to me that if the system is to be continued, every consideration of public policy and private business would suggest and demand that the present bank charters should be extended. The bill can be so amended as to make the charters conform to just requirements, and so as to place all national banks upon an equality in the matter of circulation, either by reducing the volume of the circulation of the old banks or removing the restriction placed on the new, so that all banks may have a circulation of 90 per cent. of value of bonds deposited, not exceeding, however, 90 per cent. of par value of the bonds.

But this bill in its very nature calls up the whole question of the currency. It involves our whole financial system. It involves the wisdom of authorizing by act of Congress and maintaining any banking system.

The world has long since ceased to have any patience with those philosophers and politicians who war against a banking system as such. Banks had their origin in the necessities of the state. They became an inseparable ally of the trade and commerce of the world. Banks have been the instrumentalities through and by which the capital of the world has been successfully and economically utilized in establishing trade and commerce. Without the advantages afforded by the banking system the trade and commerce of the world would not have attained half its present growth and extent.

They afford the means for keeping actively employed the great bulk of a nation's coin and currency, which would otherwise remain unemployed in private coffers, and without them exchanges would be so hampered and cumbersome that commercial transactions must in the nature of things have been sluggish.

No agency has wielded a mightier influence in the world's material development, and the feeling that holds banks and bankers as the natural enemies of mankind too often has its origin in envy, the worst and most despicable passion that God has implanted in man. The envious man is never happy except when comparing his own prosperity with the misery of others; never contented except when comparing his own robust health with the suffering of others—a disposition that never looks up to the good above to which one may attain, but only contemplates the wretchedness which lies below.

We all have our share of it. It is the animating spirit of the communist—it is the guiding genius of the mob. It is impossible to estimate the influence of the Bank of Venice on the prosperity of the state in the necessities of which it had its origin. The advantages it offered gave new life and energy to that city of the sea. That grand old institution stood a monument to the enterprise and fidelity of its managers, a help and support to commerce for more than three centuries, and survived until the armies of Napoleon overran the Peninsula.

The Bank of Genoa is another landmark of civilization, a witness of the growth of a wise system of finance. It aided in giving a new and quickened impulse to the trade and commerce of Europe. So with the Bank of Amsterdam and the Bank of Hamburg. They are inseparably connected with the commercial growth of Europe, nay, of the world.

The history of the Bank of England is the financial history of that country. Its attitude toward the state and its fidelity to the interests of the people of England has won and retained for it the confidence of all the inhabitants of that country. The Bank of North America was born of the necessities of our Government—was chartered December 31, 1781, by Congress, and subsequently, in 1785, was chartered by the State of Pennsylvania. It did much to strengthen the public credit.

The Bank of the United States, chartered in 1791, and that subsequently chartered, with all their defects were the embodiment of financial wisdom compared with the State or wild-cat system which succeeded them. Experience has demonstrated the wisdom of our present national banking system. It presents a unity of circulation, absolute safety to the note-holder. The man or party seeking the destruction of the system should present a substitute, sanctioned by experience and supported by something beyond the speculative theories of dreamers and temporizers. They should offer evidence, not simply that the present system has defects, but proof conclusive that they propose a scheme or system which is not only free from the defects in the one they would supplant but free from others which are more objectionable. Folly may tear down in a day that which it has taken philosophy a century to build up.

But there were those in the elder day, as there are those now, who possessed and now possess rare genius for destroying, but had and have little talent for building up.

Banks are a necessity. All intelligent men admit it. We must determine what their character and rights and privileges shall be. But of this further on.

Money is a necessity as a medium of exchange. It is the standard by which the value of all articles intended for sale or barter is measured. The experience of four thousand years has demonstrated that to adopt a measure of values which is variable is to organize fraud; and to needlessly adopt and, in the absence of inexorable necessity, maintain a variable and shifting standard of value is to legalize plunder.

Money should possess two properties to perform well the office it is intended to fill; it should possess intrinsic value; it should be of that material least liable to fluctuation in value. The value of an article is, as a rule, determined by the quantity and the labor and cost of procuring or producing it, together with its adaptation to the uses of mankind. When the article is to be used as money its dura-

bility and susceptibility to being put into suitable shape for such use are also to be considered. The world's experience leaves no doubt in the minds of most men that gold and silver are best adapted for use as money.

Gold for purposes of trade and commerce and all the uses and purposes of money is most desirable, and silver next. Gold is less fluctuating in value and less bulky to handle. They both possess intrinsic value. Their value does not depend upon the fidelity of men, the solvency of banks, or the fate of nations. Their purchasing power is recognized and acknowledged all over the earth, among all nations, civilized and savage.

England recognizes gold as the standard and measure of values, and to-day the value of wheat in Saint Paul and Chicago, of cotton in Charleston and New Orleans, of pork in Cincinnati and Saint Louis is determined by the price in London. Wheat in Odessa and cotton in India and Egypt have their value determined by the rate in London. The standard in the United States and in some other countries is variable, and may, and in fact does, change, not so often as the weather, but as often as a political party deems it possible to make a point by agitating the question of a change in the standard, or with reference to a double standard, or no standard at all.

Paper currency is, and is recognized to be, a useful and probably necessary auxiliary and representative of money; taking its place and performing its office for convenience of trade and commerce. It should represent so many coined dollars and be convertible into specie; all in excess is fiat, and represents a confidence game, in the ultimate winding up of which as well as at the inception and during the entire game, the laborers, the wage-men of this country, are cheated, yes, robbed.

The issuing of paper money by banks in excess of the coin provided for its redemption is wrong in principle and disastrous in practice. It almost invariably results in inflation, which defrauds the wage-men of the country twice, at its inception and when the inflated bubble bursts. It tends to give a fictitious price to everything, but labor feels its effect last and least in the scale of ascending prices and is the first to receive the pressure of its influence when prices start on the downward scale.

Let us examine this for a moment. Coin represents value produced; promises, whether spoken or printed, represent that which is to be produced, and the latter are of no more value standing alone when printed than spoken, except as evidence of the promise. They do not and cannot add a penny to the wealth of a State. Wealth is the result of labor. It is produced from the fields, the mines, and shops. It cannot be printed and published. If it could there would be no need whatever of taxation. Promises, whether spoken or written, are valuable or otherwise according to the probability that they will be redeemed. If a ten dollar note represents $10 in gold or silver, and we know it will be paid on demand, it is just as good as the gold or silver and often more convenient.

But if it is a promise to pay $10, and the payment is contingent upon the number of such promises, the goodness of the harvests, the condition of trade and commerce, the condition of peace or war, the whim of Congress, and the like, or the fidelity of bank directors, to *compel* the wage-man to accept such a rag as money is not only unconstitutional but a device which has enabled a class of bankers, merchants, and speculators to thrive, while producers and wage-men, that is, laborers, eke out a bare subsistence. The result is, a few years may suffice to enable a few to gather a fortune amid general wreck, while the majority toil a life-time to get a hut and bread enough to eat.

Paper currency not representing so many coin dollars is planned fraud and systematized plunder. Each note represents a promise, the redemption of which is contingent upon the happening of doubtful events; and the fluctuation is charged ultimately to the consumer, or the loss falls upon the producer or wage-man.

The tendency to inflation is so strong, and the disposition to engage in speculation so general, one condition tending to create and invigorate the other, that unless the volume of paper currency is based on coin and convertible into it at the option of the holder, and conveniently convertible, experience teaches that we must expect panics every few years. And when I say based on coin, I do not mean that the coin shall bear the relation of one to three or one to two. I insist that that paper currency shall be issued as a matter of convenience, and that the confidence game shall have an end, and I urge this in the interest of honesty and the producers and the laborers or wage-men. It is matter of history that the latter class lost more during the paper money panic of 1873 and 1878 than they made during all the so-called flush times before and since. Flush times indeed! With the beginning of what we are in common parlance pleased to call flush times, under the impetus given to speculation by an abundance of paper currency, prices begin to advance; we have all been witnesses to this; the cost of living to increase. The merchant marks the price of his goods up; it is the work of a moment. The laborer finds this to be the case and goes to his employer and asks that his wages be increased so as to keep pace with the enhanced cost of living.

The employer recognizes the justice of the claim. But, says he, I have taken this contract with reference to old rates, and beyond that I cannot tell how soon this upward move in prices may cease and go the other way. I cannot increase your wages now, but will do the best I can for you as soon as I can adjust my contracts and engagements to the changed condition of affairs.

What is the wage-man to do? Why, say you, quit, if his employer does not raise his wages. Quit, and, as a result, quit eating; stop the supplies that feed his family. Unfortunately he is controlled by a law that is inexorable. He must work to live, and hence cannot compel terms. It is not the employer, it is not the laborer who is to blame, it is an iniquitous currency system.

But, again, when the inflation has run its course and further inflation is no longer possible, when the game of confidence is at an end, we find that wages, the price of labor, have indeed followed at moderate pace in the wake of the advanced cost of living. But now comes the descent in the scale. What goes down first? Bread and meat, coffee, shoes, clothing? Not at all. The employer finds prices tumbling and little demand for his goods or wares, and he is compelled, absolutely compelled, to reduce his force and reduce wages.

He goes to his field, shop, or factory and says to his employés: "Men, you are aware of the disasters that have overtaken my business. I find it impossible to run on full time. I am compelled, in order to save anything from this wreck, to reduce my force; and I am compelled to reduce the wages." Well, suppose the wage-men say: "But we cannot live on the reduced wages. The price of living has not been reduced in proportion." But the wages are of necessity reduced. "Then I would quit," says one. Quit indeed!

It is a question of bread and butter for the wage-man and his wife and children. He may reduce their scanty supply, but not cut it off altogether. Now, who is to blame? The employer? No. The wage-man? No; but a dishonest financial system, an unsound currency. It results from the schemes of impracticals, who insist that you can make something out of nothing; that you can get something for nothing without stealing it or having it given to you, which I deny. I shall insist that the reserves of the national banks shall be in coin and not in painted rags, which in my humble judgment may never be redeemed. As we are not honest enough to pay when we can, it is not likely that we will desire to pay when payment becomes difficult or impossible.

One word more in regard to the volume of currency. It is not the volume alone that indicates the thrift and industry of a country, but the activity of the money, a nimble sixpence being better than a slow shilling. Nor does the hurry and rush in business circles nor the ceaseless activity of shops and factories certainly indicate sound business and financial health or lasting material prosperity. We are apt to mistake the hectic flush for the rose-tint of health. Business is sound and healthful only when there is a just relation between supply and demand. Abundance of paper currency invariably stimulates production. It also moderately stimulates demand. It begets extravagance, which is usually followed by destitution and want, while the equilibrium is being restored—nature's law of compensation.

I have said thus much as indicating the character that should attach to our measure of values, money, and the character of the paper currency which as matter of convenience may be used as a substitute therefor.

But I am told that I have not indicated what the volume of the currency should be. Well, nothing short of omniscience can determine that. It will in the nature of things vary somewhat. The only proper course is to have a currency in coin, or its equivalent in paper, issued by such authority and through such agencies as will be most likely to be controlled by the inexorable law of supply and demand. I would place that agency as near the people as possible and in the several localities where the pulsations of the arteries of trade and commerce can be constantly known and felt, and the healthful wants of trade and commerce ascertained. While it is impossible to tell just what the volume of currency should be, it is easy to determine what it should not be. And while I am not endeavoring to decide to a certainty just what the volume of circulating medium should be, I desire to enter my protest against inaugurating a system or perpetuating it which will inflate the currency, drive speculation wild, impart to business an unnatural activity, end in stagnation and panic, empty factories and shops, prostrate industries, enforce idleness, destitution, want, suffering, and consequent riot and bloodshed; with the probability that this disturbed condition will continue until the equilibrium of industry is restored and prices decline until they reach the level of equivalency between money and goods.

In the presence of such conditions it is clear that until a readjustment takes place, many mills and factories must close and the product of the several industries be reduced. Panics and commercial crises in England have occurred at least once in ten years. In the panic of 1816, 6,616 failures took place, and so many laborers were thrown out of employment that a revolution was seriously threatened. The panics in the United States are fresh in our recollection. Panics are not the result of scarcity of circulating medium. There is usually a scarcity of *money*. There is no lack of painted rags, called by favor money. They cease under certain conditions, however, to be a circulating medium. They will not circulate. Instead of representing money, they represent debts. They possess no intrinsic value. It is said that plethora of gold or silver may stimulate speculation, and induce overtrading and overproduction, which may result in panic and prostration of industry. That is undoubtedly true.

If the presence of a thousand millions of gold induces reckless

speculation and entails disaster, and failures and unpaid debts to the amount of two hundred and fifty millions, the loss may not exceed that sum, *i. e.*, two hundred and fifty millions. But if the same speculation is based on the presence of one thousand millions of irredeemable paper, and the speculations are, without reference to the character of the money, alike disastrous, what is the actual loss? Not two hundred and fifty millions, but one thousand two hundred and fifty millions. The one thousand millions in paper possessed no intrinsic value: it represented no value produced; it represented no actual wealth; it represented nothing which is the result of labor. And what ought to call upon it the special condemnation of just men is, that it does in the main cast the burden of the loss on those least able to bear it, the laborers, artisans, mechanics of the country, and a class, too, in no wise chargeable with the causes and conditions which entailed the disaster. Then, what do you propose? First, that we shall have a standard of value, a dollar which is worth one hundred cents throughout the whole year and over all the earth, in good and bad times; and that if we have a double standard they shall be practically and commercially of equal value and so recognized by the commercial nations of the world. I object to a system that makes the United States the simple depository of the silver of Europe, while they take from our people only gold. I object to paying for the goods we purchase in Europe one hundred cents in gold and accepting for the goods we sell eighty-five cents in silver.

We had it in our power to compel the commercial nations of Europe to adopt the double standard and agree upon and fix the debt-paying power of the two metals, gold and silver. But Congress while having the wisdom lacked the moral courage to do it. Congress prefers to do right; but will do wrong to catch votes. But shall we have paper currency? If so, how shall it be issued—in what volume?

Yes, paper currency is too important a convenience to be dispensed with. How should it be issued? By State banks and State authority? No; for if such banks were as good as they were uniformly bad, still we would not have that unity of circulation indispensably necessary to prevent ruinous discounts and rates of exchange. Under the old State and wild-cat banking system, the loss to the people—and by the people I do not mean the bankers, brokers, and speculators—the loss each ten years was equal to the whole volume of paper circulation. It was probably greater, but reliable statistics show it to have been as much as I have stated, and here again the loss fell in the main upon those who were in nowise to blame for the rottenness of the system, the mechanics, artisans, and laborers of the country.

Shall the currency be issued by the United States and made legal tender, the volume to be determined by the wisdom and patriotism assembled here? No. Aside from the project being unconstitutional, it would prove in the last degree disastrous. It is one of the ways that seemeth good to a man, but the end whereof is financial death.

But whence comes the authority? Not from the provision which confers the power to "coin money" and regulate the value thereof, for the power to coin cannot be construed into conferring the authority to edit and publish a paper and impart to it the qualities, the value, and debt-paying power of money. Congress may within certain limits determine and fix the *debt-paying power or quality* of money. It cannot fix and control its *purchasing power*.

It is said that the Republican Congress authorized the issue of paper currency, and made that paper legal tender. That is true, but it was not contended that this power could be exercised except as a war power, or rather in the presence of a condition of war. It was the utilization of that sovereign power inherent in every people, recognized in the Constitution, and referred to by Hamilton, (the right to exercise which was denied by Jefferson and Madison,) which makes the safety of the nation the supreme law. It was done when the death-rattle was in the throat of the Republic, our coffers empty, a mighty army mustered and in the field, with guns aimed at this Capitol, and a forced loan seemed to be, and in fact was, indispensable to span the chasm between the destruction and the safety of the Republic. The greenbacks represent that forced loan. They were issued in the exercise of a power that nobody claimed for the Government the right or authority to exercise in time of peace and public tranquillity.

The nation promised to redeem that forced loan as soon as the then nearly prostrate Republic should stand again upon its feet. The constitutional power to make the loan under the pressure of the necessity which existed, and to issue these promises to pay, has been questioned by a great party in this country. There were those who utterly denied the power, and a greater number still who averred that the greenbacks representing this forced loan never would be redeemed.

They were wrong in the first proposition. They are probably right on the last. They may never be redeemed. Congress has never seen an hour since the Government was able to redeem them when they had moral and political courage enough to insist on the nation maintaining its faith—to compel the honest payment of its debts represented by the printed evidence of this forced loan. Instead of that it is urged that national banks shall be overthrown and the printing-presses over yonder on the common shall be put in vigorous operation; that the Government shall again go into the rag business, and call it issuing money, publishing wealth.

Of the propriety and wisdom of such a course I desire to read an extract from the pen of Alexander Hamilton, and will publish with my remarks some other extracts from the pen and inspiration of the fathers, but which I have not time now to read:

> The emitting of paper money by the authority of Government is wisely prohibited to the individual States by the national Constitution, and the spirit of that prohibition ought not to be disregarded by the Government of the United States. Though paper emissions under a general authority might have some advantage not applicable, and be free from some disadvantages which are applicable to the like emissions by the States separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the Government will be shown in never trusting itself with the use of so reducing and dangerous an expedient.

The more wisdom this House seemingly has the more liable it is to cultivate the abuse of which Alexander Hamilton speaks.

> In times of tranquillity it might have no ill consequence—

And so I believe—

> In times of tranquillity it might have no ill consequence; it might even perhaps be managed in a way to be productive of good; but in great and trying emergencies there is almost a moral certainty of its becoming mischievous. The stamping of paper is an operation so much easier than the laying of taxes that a government in the practice of paper emissions would rarely fail in any such emergency to indulge itself too far in the employment of that resource, to avoid as much as possible one less auspicious to present popularity.

These are timely words of wisdom if we do but heed them.

> If it should not even be carried so far as to be rendered an absolute bubble—

As it probably would be—

> it would at least be likely to be extended to a degree which would occasion an inflated and artificial state of things, incompatible with the regular and prosperous course of political economy.
>
> Among other material differences between a paper currency issued by the mere authority of Government and one issued by a bank, payable in coin, is this: that, in the first case, there is no standard to which an appeal can be made as to the quantity which will only satisfy or which will surcharge the circulation; in the last that standard results from the demand. If more should be issued than is necessary it will return upon the bank. Its emissions, as elsewhere intimated, must always be in a compound ratio to the fund and the demand, whence it is evident that there is a limitation in the nature of the thing, while the discretion of the Government is the only measure of the extent of the emissions by its own authority.
>
> Its regulation would be by the wisdom of this honorable body. While I concede to it great wisdom, yet my experience and observation is that this Congress would not vote to redeem a dollar in the presence of a panic or a popular clamor that there should be an increase of paper circulation. That is my observation and experience of this House and of former Congresses.

And touching the evils which may result from an unsound paper currency, let me read what that eminent patriot, Pelatiah Webster, said when speaking of the State and continental money. He said:

> We have suffered more from this cause than from any other cause or calamity. It has killed more men, pervaded and corrupted the choicest interests of our country, and done more injustice than even the arms and artifices of our enemies.

I was asked, would you retire the greenbacks? I answer, I would pay them, and place the Government once again in the matter of issuing paper money within the harbor of the Constitution, which plainly restricts its authority to the right to "coin money and regulate the value thereof." Why, you are a Democrat, I am told? Well, yes; I am heart and soul a Democrat on the subject of limiting the power of the Government within the plain provisions of the Constitution in the matter of coining money, &c. That is, I am a Democrat after the old school, when that party had some fixed and recognized principles, some convictions on the subject of the currency. I regret to say, however, that when I enter the Democratic household in search of the time-honored principles of the fathers I do not find anybody at home; I stumble over the remains of Jackson and Benton and Buchanan and their contemporaries. But the family, those to whom the homestead was left, have moved out, leaving their convictions and principles on the currency behind them, and the Republicans have gone in and captured them.

Let me be just. I do find Senator BAYARD and a few friends at home, but they are lonesome and out of temper, because their brethren have run out and are actually throwing stones at the old house. I would pay the greenbacks as we are pledged to do, and disassociate the Government from all banking operations, and remit the issuing of paper to the national banks, under charters so restricted, so limited, as to impose individual liability; and with the certain result that bad faith, corrupt management, reckless issue, should entail the first and most disastrous calamity to the banks and bankers. Every one knows that while the loss resulting from State and wild-cat banks is as I have stated, no holder of a national-bank note ever lost a penny, and that because he could not.

And, referring to national banks, it is strange that there is no end to the folly that constantly repeats itself in shouting about the outrage of permitting the national banks to deposit one hundred thousand dollars in bonds and draw out ninety thousand dollars of what certain very clever but thoughtless persons insist on calling money. And here one of the blunders creeps in. National-bank notes represent credit. The national banker wants to loan the credit of the bank to such as may desire to utilize it in their business or pursuits. To facilitate this enterprise, and for the convenience of the bank and the borrower, certain printed evidences of credit known as bank notes are provided by the Government at the cost of the bank, and the bank is permitted, under certain restrictions, to loan these credit notes. The Government, however, for the protection of those who borrow those notes and those into whose hands they may come, says to the bank, "Before you can issue these notes of credit you must secure

the noteholders against loss; you must deposit with the Government United States bonds to secure the redemption and payment of the notes;" not to secure their exchange for other notes or paper, but their payment, and payment means the delivery of gold or silver.

The Government does not give to the banker a cent of money, not a farthing. If it did deliver money to the banks there would be no need of providing for its redemption. Who ever heard of redeeming gold dollars or silver dollars? So, when gentlemen talk about depositing bonds with the Secretary of the Treasury and receiving so much money, they simply confuse and mislead and positively misstate the fact, through ignorance in many cases, and in a spirit of demagogy in other cases.

The whole system is simply a means of loaning credit to those who desire to borrow. Business demands such convenience, and the Government regulates its utilization so as to be most advantageous and safest to the borrower and holder of the legal evidence of the credit so loaned.

The statement that the Government or that the people are thus compelled to pay double interest, &c., and suffer hardships unnecessarily, is amusing, or would be if it was not pronounced with such seriousness as to befog and mislead. Will gentlemen devise some scheme, or suggest one, by which those who borrow money or credit will not have to pay interest? If they borrow gold they must pay interest. If they borrow greenbacks they must pay interest. The Government does not distribute Treasury notes gratuitously nor loan without interest. The bonds would bear interest even if not deposited to secure the redemption of bank circulation.

Touching the proposition that the bonds should be paid in greenbacks, it is needless to discuss it. Those who deem it honest to make such payment, regardless of the value of the greenbacks, are laboring with a difficulty which has its seat in their moral nature; logic will not reach it.

Those who think it is consonant with the spirit of the contract contained in the bond to compel the surrender of that interest-bearing bond which on its face provides for payment in money, and the acceptance in payment thereof of a large number of non-interest-bearing promissory notes, has a moral and intellectual make-up which is, I am glad to say, exceptional in this country. The Government was in the throes of dissolution. She had issued her non-interest-bearing promissory notes, and our people had taken them. Great uncertainty existed as to whether she ever would or could redeem these promissory notes. They had ceased to be worth more than fifty cents on the dollar. The Government offered to take them up and issue time-interest-bearing bonds to such as would take them. Many patriotic citizens took them. Now some gentlemen solemnly propose that, the country being now out of danger, these men who accepted the bonds shall be called up and told that the Government is ready and willing to rescind the bargain, and in fact insists on taking up its interest-bearing bond and restoring the non-interest-bearing promissory notes; and not only that but insists on calling it payment.

In an individual this would be plain swindling. In my judgment it would in the Government be something worse. Of course if the holder of our promises to pay, or whatever they may be called, are willing to take other paper which is par, there could be no objection. But until this Government is fouled with dishonor and debased beyond recovery we will not adopt a system of paying which does not in fact discharge the debt. Bankers do best and flourish most when trade and commerce are in their normal condition, when the law of supply and healthful demand regulate our manufacturing and producing industries. They find their prosperity in the general prosperity. Their reserves should be in coin. No paper partition of greenbacks should be permitted between the note-holder and the coin dollar it represents.

But what will become of your national banks when the national debt is paid? Well, I am not of opinion that as much good to ourselves or to posterity will result from the hurried extinguishment of the national debt as from its utilization to secure the redemption of our circulating paper currency. I would make it when reduced to, say, twelve hundred millions the security for our circulation, and also the basis of a postal-saving system, which would afford our people the means of safely investing their earnings and preparing a fund against age and the rainy day which comes to us all. As to the interest on the bonds, we collect the full amount from the banks in taxes imposed by the United States and by State and local taxation.

There may be a better system than the national-bank system. But nobody to this hour has pointed it out. When it is presented we will make haste to adopt it. Time and experience has demonstrated that the old State and wild-cat system could only be restored with a view to rob the laborers and producers of the country. If the world's experience teaches anything, it is that the issue of paper money by the Government, in the discretion of Congress, would entail like disaster. No nation ever failed to abuse that power when once conceded to it. No nation ever redeemed its notes so issued. Ours has not to this hour, and I predict that it never will.

The idea of leaving the volume of the currency to be regulated by the wants of trade and the discretion of Congress excites alternately laughter and disgust. The very time Congress should stand firm and resist the panicky clamor for larger volume of currency it would bend like a reed. Congress wants to be right, but there is one thing that it wants still more, and that is to be popular. It wants to protect the best interest of the people, but it must have their votes; and it unfortunately occurs that that which is wisest and best is not always most popular at the time when action is to be had, and it occurs that we sometimes please the people least when we serve them best, and *vice versa*. Can you not trust the people, questions some Solon? Yes, certainly. So our fathers did, but they none the less provided a Constitution to prevent them from governing themselves too much under sudden impulse, under stress of adverse circumstances, when prejudice, passion, and excitement clouded or unhorsed the judgment—a Constitution to restrain us in hours of peril until wise and intelligent judgment could assert its sway.

We have few systems, few institutions on this earth that are unmixed good—few that are unmixed evils. National banks are not an exception. I am told that in urging the observance of good faith on the part of the Government in the payment of the greenbacks and the bonds, and the restriction of the volume of our paper currency, I am digging my political grave. So be it. If to insist upon preserving the national honor and maintaining the national faith is to be buried, so be it. I shall have some consolation in remembering that there is a resurrection for the just. If for insisting that the man who labors shall not be robbed by being paid in dishonest money; if for insisting that the wage-man's dollar shall be worth a hundred cents throughout the year and everywhere; if for insisting that we shall not have under the influence of an inflated currency a few years of fatness, followed by a longer term of leanness and hunger; if to insist that our prosperity shall be real and not imaginary is to compass my political death, I will accept the reward of my stewardship with calmness and satisfaction. I would rather be retired by my people with the consciousness of having served them faithfully and been right than to be promoted by them amid acclamations of applause burdened with the knowledge that I had, to secure their favor, betrayed their interests.

I am asked if I would perpetuate the national debt; if I deem it a national blessing. I answer: A national debt is in a sense a burden. It may be so utilized as to become a blessing. I can readily see that if it was the basis and security of a wise postal-saving system, by which the mechanics, the artisans, the laborers, and such of the producing classes as would could find absolute security for the investment of their earnings, thus encouraging industry, sobriety, and economy among all classes, the debt being transferred to this class, would prove indeed a blessing.

It would not only encourage the cultivation of the virtues to which I have referred, but it would induce all these people to feel and take a watchful and intelligent interest in their government; to study carefully its proper functions and labor to see that it is confined to them. They would be prompted by principle and interest alike to shield and protect the public faith and credit in the preservation of which each depositor would find his hope and safety. It is a question of the greatest good, and rather than return to the old scheme of organized plunder of the ante-war period, which robbed the toilers of this country every day in the year, I would without hesitation fund the bonds at 3 per cent., after the manner of the English consols, and make them the security of the noteholders of the country and the basis of the postal-saving system; the good resulting from such a course being so far paramount to any ill or inconvenience it would entail as not only to be defensible but to render it greatly to be desired.

The charge that I am for the bankers and gold-bugs is one that a very moderate ability can make. Those who have such words on their tongues may not be malicious. Their trouble is usually congenital.

I have never eaten food that I have not earned in the sweat of my face.

I have three boys whose lines will not fall in more auspicious places. They, too, must eat their bread in the sweat of their faces. And in advocating a sound currency, and a just financial system and the preservation of the national faith and credit, I only desire to preserve to them the equal opportunity to labor with their fellows and that they shall be paid for that labor with dollars that are worth one hundred cents, with money the value of which does not depend upon the whim or caprice of a Congress or the fidelity of bank directors or conditions of war or peace, which shall be worth one hundred cents every day in the year and everywhere.

Mr. Speaker, in discussing this question of the redemption of the greenbacks I have perhaps gone somewhat beyond what would be sanctioned by what some would deem sound political wisdom; but, sir, there is a duty to perform, and I for one propose to perform it. I would rather be retired from political life for advocating a system which shall bring to the hearthstones of my country that condition of prosperity, that sense of security, that realization of contentment, which belong to and are almost inseparable from a sound currency and wise financial system, than to be loaded with the highest honors for the advocacy of an unsound currency, with the evils which it invariably brings to the business, the labor, and the laborers of the country.

ANNIVERSARY OF MECKLENBURGH DECLARATION OF INDEPENDENCE.

Mr. DOWD. I ask unanimous consent to have taken from the Speaker's table for present consideration the joint resolution (S. No.

67) authorizing the Secretary of War to loan one hundred flags to the mayor and committee of citizens of Charlotte, North Carolina.

The joint resolution was read, as follows:

Be it resolved, &c., That the Secretary of War be authorized and directed to loan one hundred flags to the mayor and committee of citizens of Charlotte, North Carolina, to be used in celebrating the one hundred and seventh anniversary of the Mecklenburgh declaration of independence, May 20, 1775, with such security for their prompt and safe return as he may deem necessary.

There being no objection, the joint resolution was taken from the Speaker's table, twice read, ordered to a third reading, read the third time, and passed.

Mr. DOWD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXTENSION OF NATIONAL-BANK CHARTERS.

The House resumed the consideration of the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence.

Mr. BRUMM addressed the House. Before he had concluded,

The SPEAKER said: The Chair will call the attention of the gentleman from Pennsylvania to the fact that within one minute the House must be declared in recess until the evening. The time of the gentleman has not expired, but if he will give way——

Mr. BRUMM. Certainly.

The SPEAKER. The Chair will submit some personal requests and reports from the Committee on Enrolled Bills.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

A bill (H. R. No. 3542) for the relief of Charles F. Benjamin and Henry H. Smith;

A bill (H. R. No. 6179) directing the Secretary of State to take the necessary steps for the removal of the remains of the late General Kilpatrick, minister to Chili, from Chili to the State of New Jersey for interment; and

Joint resolution (H. R. No. 111) authorizing the withdrawal from the Department of State of a certificate of indebtedness in favor of Mifflin Kennedy and Richard King against the Republic of Mexico.

Mr. PEIRCE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

A bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee; and

Joint resolution (H. R. No. 211) to authorize the Librarian of Congress to accept the library offered to be donated to the United States by Dr. Joseph Merideth Toner, of Washington, District of Columbia.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. TOWNSHEND, of Illinois, for two weeks, on account of important business.

To Mr. WASHBURN, for one week, to attend the funeral of his brother, the late General C. C. Washburn.

ORDER OF BUSINESS.

Mr. PACHECO. I desire to take from the Speaker's table a House bill with Senate amendments for the purpose of asking the House to concur in the amendments of the Senate.

The SPEAKER. The Chair thinks there will not be time.

Mr. HAZELTON. I rise to make a privileged report.

The SPEAKER. The gentleman will have to reserve it till to-morrow morning.

Mr. HAZELTON. I simply desire to have the resolution read and go on the Calendar. It is a report of the highest privilege from the Committee on Elections.

The SPEAKER. The time has arrived for a recess to be taken. In the absence of the Speaker the gentleman from Iowa [Mr. UPDEGRAFF] will occupy the chair this evening. The hour of five o'clock having arrived, by order of the House the Chair now declares the House in recess until half past seven o'clock this evening.

EVENING SESSION.

The recess having expired, the House re-assembled at 7.30 p. m., Mr. UPDEGRAFF, of Iowa, in the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The Clerk will read the order adopted this day under which the session of the House is held this evening.

The Clerk read as follows:

Ordered, That at five o'clock this p. m. the House take a recess until seven and a half o'clock p. m., for debate only on the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence.

EXTENSION OF NATIONAL-BANK CHARTERS.

The SPEAKER *pro tempore*. Pursuant to the order which has just been read, the House resumes the consideration of House bill No. 4167. The gentleman from Pennsylvania [Mr. BRUMM] is entitled to the floor.

Mr. BRUMM resumed and concluded his speech. [See Appendix.]

Mr. HASELTINE. Mr. Speaker, the bill under consideration proposes to extend the time in the discretion of the bankers during the next twenty years to control the issuing of paper currency. It will give the banks power to inflate or contract, and cause panics and hard times whenever they may choose to do so. Such legislation would place the American people at the mercy of a few national bankers. During the period of hard times, when silver was demonetized, and a large contraction of the currency caused by the destruction of the people's paper currency, the national banks contracted their circulation $29,305,485. This contraction was from January 14, 1875, to May 31, 1878. In March, 1881, the bankers contracted their circulation $18,000,000. This is the way they regulate the currency according to the demands of the people.

In the language of Jefferson, "We demand that the currency shall be restored to the Government, to which it belongs." We see no necessity for granting such special privileges to a few capitalists. Legal-tender paper currency, better than gold, should take the place of national-bank paper and stop all interest upon the bonds which now serve as the basis of the bank circulation. Pay the bonds, and restore to the people that currency which has been wrongfully taken from them. The gentleman from Massachusetts [Mr. CRAPO] says:

The pressing exigencies of the Government and the urgent condition of its finances, which prompted the creation of the banks, have not been forgotten; neither have the valuable and substantial benefits which through them were secured in the placing of the public debt and the maintenance of the public credit.

It was the "pressing exigencies" of bankers and money speculators, who were largely represented in Congress and who filled the lobbies, "which prompted" this creation, or rather, fastened this aristocracy of money speculators upon the American people during the last twenty years. There was but a very limited amount of bank circulation during the war. The Government issued notes after the establishment of national banks:

August 15, 1864	$299, 992, 500
June 15, 1865	321, 000, 000
July 15, 1865	193, 000, 000
Amount	829, 992, 500

After the war the bankers were very brave in "maintaining the public credit," in influencing the Government to change the people's currency into an interest-bearing debt as the basis for national banks. Senator Wilson, on page 787 Congressional Globe, second session Thirty-seventh Congress, describes this class of public benefactors, when they were using their influence to cause depreciation of the people's currency by putting the word "except" in the greenback. He says:

I look upon this contest as a contest between the curb-stone brokers, the Jew brokers, the money-changers, and the men who speculate in stocks, and the productive toiling men of our country.

Thaddeus Stevens, in speaking of this class of patriots, says:

The banks took $50,000,000 of 6 per cent. bonds and shaved the Government out of $5,500,000 on them, and now ask to shave the Government 15 or 20 per cent. yearly to pay the interest on these bonds. They paid for the $50,000,000 of bonds in demand notes, not specie, and now demand specie for their principal and interest.

This is the class of philanthropists who wanted national banks to issue the currency. The gentleman from Massachusetts [Mr. CRAPO] says:

I do not fear that the delusion which declares that a piece of paper stamped "one dollar" is equal to 25.8 grains of gold with the stamp, and which seeks by the despotic authority of law to create for it the same value and believes it can fulfill the same function in wiping out debt, will ever prevail with the majority in this country.

The depositing of gold coins in exchange for silver certificates, based upon eighty-eight cents standard fiat silver dollars, should be sufficient to satisfy the gentleman. (See official statements.)

TREASURY DEPARTMENT, SECRETARY'S OFFICE,
Washington, D. C., September 18, 1880.

Until further notice the United States assistant treasurer at New York will pay out at his counter standard silver dollars or silver certificates in sums of $10, or any multiples thereof, in exchange for like amounts of gold coin or gold bullion deposited with him.

JOHN SHERMAN, *Secretary.*

See page 10, report of the Treasury made to this House.

The Department has issued silver certificates at the several sub-treasury offices, upon a deposit of gold coin in like amount with the assistant treasurer at New York, and through this means certificates have been issued for nearly all the silver held by the Treasury. These certificates amount to about sixty-six million, and are now outstanding.

On the 1st day of November, 1881, the Acting Secretary of the Treasury suspended the issue of silver certificates in exchange for gold by issuing Department circular No. 108, as follows:

TREASURY DEPARTMENT, SECRETARY'S OFFICE,
Washington, D. C., November 1, 1881.

Until further notice the exchange of silver certificates for gold coin deposited at the office of the United States assistant treasurer at New York will be suspended, and Department circular No. 75, of September 18, 1880, is hereby modified accordingly.

H. F. FRENCH, *Acting Secretary*

The fiat silver certificates are preferred to gold coins. The full legal-tender greenbacks are preferred to either. Why not authorize the Secretary of the Treasury to issue the full legal-tender paper currency in the place of the national-bank notes?

The gentleman from Missouri [Mr. BLAND] said:

Nature will supply these metals to this nation and to all nations alike, and hence the volume of money will be steady.

The gentleman would limit the currency of civilization to metal money, or paper based upon metal money. This would be an absurdity, to limit all business and all progress to the accidental discovery of certain metals. I will show this more fully in my subsequent remarks.

Mr. Speaker, the Constitution of the United States established a government. It has jurisdiction over all those general subjects of legislation and sovereignty which affect the interests of the whole people equally and alike, and which require uniformity of regulations and laws, as defined by the Constitution. No one doubts at the present day, nor has ever seriously doubted the power of the Government to emit bills of credit. It has been exercised by the Government without question for a large portion of its history. This being conceded, the incidental power of giving such bills the quality of legal tender follows as a matter of course.

Clause 2, section 8, of the first article of the Constitution, provides for borrowing money on the credit of the United States. The power to borrow money carries with it the power to give to the lender an evidence of the debt thus created, and to make the Treasury note as valuable as possible by giving it the power to perform all the functions of money. It should therefore be a legal tender at its face value for all debts and dues, public and private.

The existence of the war only increased the urgency of the Government for funds; it did not add to its powers to raise such funds or change, in any respect, the nature of those constitutional powers or transactions. Therefore that power which gave us prosperity in war may give us prosperity in peace.

Clause 3, section 8, of article 1, says:

Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

Money is an essential element of commerce. It is as much the means or instrument of trade, as navigation or transportation is of intercourse; and is equally included in the regulation of commerce. Therefore it is of the greatest importance that Congress should provide a uniform currency among all the States. Daniel Webster sustains this proposition in this language:

It is clear that the power to regulate commerce among the States carries with it, not impliedly, but necessarily and directly, a full power to regulate the essential element of commerce, namely, the currency of the country, the money which constitutes the life and soul of commerce. (Webster's speech on surplus revenue, 4th works, 315.)

Article 1, clause 5, section 8, says:

Congress shall have power to coin money and regulate the value thereof.

The words "to coin," a verb, as defined by Webster, "is to form, fashion, fabricate, or convert into money." "To regulate the value thereof" is to assign it a value; that is, to determine its denominations as money, and the amount necessary to promote the general welfare, without any regard or reference to the commodity value of the substance which shall thus be converted into money. That material is best which is most convenient in use and least expensive to government. Congress is not limited by the Constitution as to the materials that may be used for the purposes of money. The expression "to coin," as used in the Constitution, has no definite or fixed reference to any substance or commodity value. It is affixing the authority of the Government to the substance which is converted into money. The Constitution nowhere provides in express terms that Congress shall have power to make gold and silver a legal tender.

We ought to talk of coining notes, for though the design is impressed on paper instead of metal, the function of the note is exactly the same as that of a representative token.—*Jevons, Money and the Mechanism of Exchange*, page 318.

Anderson, in his Manual of the Constitution, page 110, says:

The power to coin money is an attribute of sovereignty, and is therefore properly placed with the General Government. Without doubt Congress would have possessed the power had the Constitution contained no specific grant to this effect. A subsequent section prohibits the States from coining money.

On this point the opinion of Daniel Webster, who won the title of "Constitutional Expounder," is timely and conclusive:

By denying the State all power of emitting bills of credit, or making anything but gold and silver a tender in payment of debts, the whole control over the standard of value and medium of payment is vested in the General Government. Delegating this grant to Congress and prohibition to the States, a just reading of the provisions is this: "Congress shall have power to coin money, emit bills of credit, and make anything besides gold and silver legal tender in payment of debts."

Franklin said that the statesmen of Europe could not understand how America carried on a war for several years without any specie.

The States possessed and exercised the power to make money out of other materials than the metals, and when they came into the confederation they did not relinquish the power, but when the people of all the colonies united "to form a more perfect Union," they took from the States the control of the money and gave it to the General Government. Congress has clearly defined constitutional power to declare what shall circulate as money within the United States, in the regulation of commerce, a power which is exercised by all sovereign nations upon the earth.

The amount of the currency of the country should bear a certain proportion to its trade, revenue, population, and expenditures. The business of civilization cannot be limited in any degree to the accidental discovery of any metal, or to the selfish interests of any company of usurers, Shylocks, and sharpers. The best money for the American Republic is that which can be controlled by Congress in the quantity adapted to the increase of population and the increasing business of civilization, and which shall have the money power given exclusively by law, and controlled by the people through their representatives. The policy of the American statesman should be to gradually increase the currency to correspond with the increase of population, thereby stimulating the industries and increasing the stock of labor, in which consists all real power and riches.

Money is the legal measure and representative of value. There is no commodity value in money. The Supreme Court has truthfully said, "Value is an ideal thing;" and its measure must of necessity be ideal. Every sovereign power on the earth has established by law what shall be the legal representative of value. There can be no such thing as a standard of value. Value, strictly speaking, begins and ends with human desires. There can be a standard of anything which has weight, length, breadth, or thickness, but not of a thing which is ideal. The Supreme Court has said, "The gold or silver thing we call a dollar is in no sense a standard of a dollar. It is a representative of it."

The law power fixes this representative. Money is that which law requires the creditor to receive in payment for debts. The great political economist Say has shown that most of the European wars of the seventeenth and eighteenth centuries grew out of false principles relating to this subject. The destruction of the people's money in the American colonies by the English Parliament was one of the great causes of the American Revolution. The contraction of the currency in England in 1820 caused suffering, starvation, cries for bread, and shooting of the hungry people. The recent fearful suffering, labor strikes, and great destruction of property in this country were the result of a false financial policy. Governor Mosgrove recently said:

I suppose the teachers of no science have so much human misery to answer for or have assisted at so much fraud as the doctors of political economy.

Aristotle, the great Grecian philosopher, was right when he said, "Law makes money." And his pupil, the great Plato, said, "that is worth most for a nation's currency which is worth least to other nations." Our Franklin taught the same philosophy. Money issued wholly by the Government and not by bankers or interested parties would be perfectly safe from abuse, and it would put an end to that periodical fluctuation of prices, commercial crises, panics, paralyzation of industry, pauperism, and crime which have cursed every land where usurious Shylocks have controlled the issuing of currency in the interest of individuals independent of the government.

Mr. Calhoun, of South Carolina, said in the Senate, September 19, 1837:

It appears to me, after bestowing the best reflection I can give the subject, that no convertible paper, that is, no paper whose credit rests upon a promise to pay, is suitable for currency. * * * I would ask, why should the Government mingle its credit with that of private corporations? No one can doubt but that the Government credit is better than that of any bank, more stable and more safe. Why then should it mix it up with the less perfect credit of those institutions? Why not use its own credit to the amount of its own transactions?

Thomas Jefferson, in his letter to Mr. Epps, said:

Bank paper must be suppressed, and the circulating medium must be restored to the nation to whom it belongs. It is the only fund on which they can rely for loans; it is the only resource which can never fail them, and it is an abundant one for every necessary purpose. Treasury bills, bottomed on taxes, bearing or not bearing interest, as may be found necessary, thrown into circulation will take the place of so much gold or silver, which last, when crowded, will find an efflux into other countries, and thus keep the quantum of medium at its salutary level.

Benjamin Franklin, in reference to our currency, said:

On the whole, no method has hitherto been found to establish a medium of trade, equal in all its advantages to bills of credit, made a general legal tender. Paper money, well founded, has great advantages over gold and silver, being light and convenient for handling in large sums, and not likely to be reduced by demands for exportation.

Mr. Calhoun also said:

I now undertake to affirm, and without the least fear that I can be answered, that a paper issued by Government, with the simple promise to receive it for all its dues, leaving its creditors to take it or gold or silver at their option, would, to the extent it could circulate, form a perfect paper circulation, which could not be abused by the Government; that it would be as uniform in value as the metals themselves, and I shall be able to prove that it is within the Constitution and powers of Congress to use such a paper in the management of its finance, according to the most rigid rule of construing the Constitution.

The framers of the Constitution had been accustomed to the use of legal-tender paper money. Each of the colonies issued its money of paper and made it a tender in payment of debts until the Parliament of England took from them this power. At the very beginning of the war Massachusetts and other colonies disregarded the prohibition, and again declared their bills a legal tender. (Bancroft's History, volume 7, page 324.)

From the formation of the union of the colonies in 1774 to the adoption of the present Constitution the money of the country was mostly paper. It was that paper that gave us a country, as it was the greenback that saved us as a nation.

The United States Supreme Court in December, 1870, (12 Wall.,) fully sustains our views, in the following language:

Indeed, legal-tender Treasury notes have become the universal measure of values. If, now, by our decision, it be established that these debts and obligations can be discharged only by gold coin; if, contrary to the expectation of all parties to these contracts, legal-tender notes are rendered unavailable, the Government has become an instrument of the grossest injustice; all debtors are loaded with an obligation it was never contemplated they should assume; a large percentage is added to every debt, and such must become the demand for gold to satisfy contracts that ruinous sacrifices, general distress, and bankruptcy may be expected. These consequences are too obvious to admit of question; and there is no well-founded distinction to be made between the constitutional validity of an act of Congress declaring Treasury notes a legal tender for the payment of debts contracted after its passage and that of an act making them a legal tender for the discharge of all debts, as well those incurred before as those made after its enactment. There may be a difference in the effects produced by the acts and in the hardship of their operation, but in both cases the fundamental question, that which tests the validity of the legislation, is: Can Congress constitutionally give to Treasury notes the character and qualities of money? Can such notes be constituted a legitimate circulating medium, having a defined legal value? If they can, then such notes must be available to fulfill all contracts (not expressly excepted) solvable in money, without reference to the time when the contracts were made.

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Making the notes legal tenders gave them a new use, and it needs no argument to show that the value of things is in proportion to the uses to which they may be applied.

The case of Veazie Bank *vs.* Tenno, 8 Wall., 533, presents a suggestive illustration. Then a tax of 10 per cent. on State-bank notes in circulation was held constitutional, not merely because it was a means of raising revenue, but as an instrument to put out of existence such a circulation in competition with notes issued by the Government. There this court, speaking through the Chief-Justice, avowed that it is the constitutional right of Congress to provide a currency for the whole country; that this might be done by coin or United States notes or notes of national banks, and that it cannot be questioned Congress may constitutionally secure the benefit of such a currency to the people by appropriate legislation.

It was said there can be no question of the power of this Government to emit bills of credit; to make them receivable in payment of debts to itself; to fit them for use by those who see fit to use them in all the transactions of commerce; to make them a currency uniform in value and description, and convenient and useful for circulation. Here the substantive power to tax was allowed to be employed for improving the currency. It is not easy to see why, if State-bank notes can be taxed out of existence for the purpose of indirectly making United States notes more convenient and useful for commercial purposes, the same end may not be secured directly by making them a legal tender.

Concluding, then, that the provision which made Treasury notes a legal tender for the payment of all debts other than those expressly excepted was not an inappropriate means for carrying into execution the legitimate powers of the Government, we proceed to inquire whether it was forbidden by the letter or spirit of the Constitution. It is not claimed that any express prohibition exists, but it is insisted that the spirit of the Constitution was violated by the enactment.

Here those who assert the unconstitutionality of the acts mainly rest their argument. They claim that the clause which conferred upon Congress power "to coin money, regulate the value thereof, and of foreign coin," contains an implication that nothing but that which is the subject of coinage, nothing but the precious metals can ever be declared by law to be money, or to have the uses of money. If by this is meant that because certain powers over the currency are expressly given to Congress, all other powers relating to the same subject are impliedly forbidden, we need only remark that such is not the manner in which the Constitution has always been construed. On the contrary, it has been ruled that power over a particular subject may be exercised as auxiliary to an express power, though there is another express power relating to the same subject, less comprehensive. (United States *vs.* Marigold, 9 How., 560.) There an express power to punish a certain class of crimes (the only direct reference to criminal legislation contained in the Constitution) was not regarded as an objection to deducing authority to punish other crimes from another substantive and defined grant of power. There are other decisions to the same effect.

To assert, then, that the clause enabling Congress to coin money and regulate its value tacitly implies a denial of all other power over the currency of the nation is an attempt to introduce a new rule of construction against the solemn decision of this court. So far from its containing a lurking prohibition, many have thought that it was intended to confer upon Congress that general power over the currency which has always been an acknowledged attribute of sovereignty in every other civilized nation than our own, especially when considered in connection with the other clause, which denies to the States the power to coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts.

We do not assert this now, but there are some considerations touching these clauses which tend to show that if any implications are to be deduced from them, they are of an enlarging rather than a restraining character. The Constitution was intended to frame a government supreme in some particulars over States and people. It was designed to provide the same currency, having a uniform legal value in all the States. It was for this reason that the power to coin money and regulate its value was conferred upon the Federal Government, while the same power, as well as the power to emit bills of credit, was withdrawn from the States. The States can no longer declare what shall be money, or regulate its value. Whatever power there is over the currency is vested in Congress. If the power to declare what is money is not in Congress, it is annihilated. This may indeed have been intended. Some powers that usually belong to sovereignties were extinguished, but their extinguishment was not left to inference. In most cases, if not in all, when it was intended that governmental powers, commonly acknowledged as such, should cease to exist, both in the States and in the Federal Government, it was expressly denied to both, as well to the United States as to the individual States. And generally, when one of such powers was expressly denied to the State only, it was for the purpose of rendering the Federal power more complete and exclusive.

Why, then, it may be asked, if the design was to prohibit to the new Government, as well as to the States, the general power over the currency which the States had when the Constitution was framed, was such denial not expressly extended to the new Government as it was to the States? In view of this it might be argued with much force that when it is considered in what brief and comprehensive terms the Constitution speaks, how sensible its framers must have been that emergencies might arise when the precious metals (then more scarce than now) might prove inadequate to the necessities of the Government and the demands of the people, when it is remembered that paper money was almost exclusively in use in the States as the medium of exchange, and when the great evil sought to be remedied was the want of uniformity in the current value of money, it might be argued, we say, that the gift of power to coin money and regulate the value thereof was understood as conveying general power over the currency—the power which had belonged to the States and which they surrendered.

Such a construction, it might be said, would be in close analogy to the mode of construing other substantive powers granted to Congress. They have never been construed literally, and the Government could not exist if they were. Thus the power to carry on war was conferred by the power to "declare war." The whole system of the transportation of the mails is built upon the power to establish post-offices and post-roads. The power to regulate commerce has also been extended far beyond a letter of the grant. Even the advocates of a strict literal construction of the phrase "to coin money and regulate the value thereof," while insisting that it defines the material to be coined as metal, are compelled to concede to Congress large discretion in all other particulars.

The Constitution does not ordain what metals may be coined or prescribe that the legal value of the metals when coined shall correspond at all with their intrinsic value in the market. Nor does it even affirm that Congress may declare anything to be legal tender for the payment of debts. Confessedly the power to regulate the value of money coined and of foreign coins is not exhausted by the first regulation. More than once in our history has the regulation been changed without any denial of the power of Congress to change it, and it seems to have been left to Congress to determine alike what metal shall be coined, its purity, and how far its statutory value as money shall correspond from time to time with the market value of the same metal as bullion.

How then can the grant of a power to coin money and regulate its value, made in terms so liberal and unrestrained, coupled also with a denial to the States of all power over the currency, be regarded as an implied prohibition to Congress against declaring Treasury notes a legal tender, if such declaration is appropriate and adapted to carrying into execution the admitted powers of the Government?

We do not, however, rest our assertion of the power of Congress to enact legal-tender laws upon this grant. We assert only that the grant can, in no just sense, be regarded as containing an implied prohibition against their enactment, and that if it raises any implications, they are of complete power over the currency, rather than restraining.

We come next to the argument much used, and, indeed, the main reliance of those who assert the unconstitutionality of the legal-tender acts. It is that they are prohibited by the spirit of the Constitution, because they indirectly impair the obligation of contracts.

The argument, of course, relates only to those contracts which were made before February, 1862, when the first act was passed, and it has no bearing upon the question whether the acts are valid when applied to contracts made after their passage. The argument assumes two things: first, that the acts do, in effect, impair the obligation of contracts; and, second, that Congress is prohibited from taking any action which may indirectly have that effect. Neither of these assumptions can be accepted. It is true that under the acts, a debtor, who became such before they were passed may discharge his debt with the notes authorized by them, and the creditor is compellable to receive such notes in discharge of his claim.

But whether the obligation of the contract is thereby weakened can be determined only after considering what was the contract obligation. It was not a duty to pay gold or silver, or the kind of money recognized by law at the time when the contract was made, nor was it a duty to pay money of equal intrinsic value in the market. (We speak now of contracts to pay money generally, not contracts to pay some specifically-defined species of money.) The expectation of the creditor and the anticipation of the debtor may have been that the contract would be discharged by the payment of coined metals, but neither the expectation of the party to the contract respecting its fruits nor the anticipation of the other constitutes its obligation. There is a well-recognized distinction between the expectation of the parties to a contract and the duty imposed by it. (Apsden *vs.* Austin, 5 Ad. and Ellis U. S., 671; Dunn *vs.* Sayles, *ibid.*, 685; Coffin *vs.* Landis, 10 Wright, 426.)

Were it not so the expectation of results would be always equivalent to a binding engagement that they should follow. But the obligation of a contract to pay money is to pay that which the law shall recognize as money when the payment is to be made. If there is anything settled by decision it is this, and we do not understand it to be controverted. (Davies, 28; Barrington *vs.* Potter, Dyer, volume 81, folio 67; Faw *vs.* Marsteller, 2 Cranch, 29.)

No one ever doubted that a debt of $1,000, contracted before 1834, could be paid by one hundred eagles coined after that year, though they contained no more gold than ninety-four eagles such as were coined when the contract was made, and this, not because of the intrinsic value of the coin, but because of its legal value. The eagles coined after 1834 were not money until they were authorized by law, and had they been coined before without a law fixing their legal value they could no more have paid a debt than uncoined bullion, or cotton, or wheat.

Every contract for the payment of money simply is necessarily subject to the constitutional power of the Government over the currency, whatever that power may be, and the obligation of the parties is, therefore, assumed with reference to that power. Nor is this singular. A covenant for quiet enjoyment is not broken nor is its obligation impaired by the Government taking the land granted in virtue of its right of eminent domain. The expectation of the covenantee may be disappointed. He may not enjoy all he anticipated, but the grant was made and the covenant undertaken in subordination to the paramount right of the Government. (Dobbins *vs.* Brown, 2 Jones, Pennsylvania, 75; Workman *vs.* Miffin, 6 Casey, 362.)

We have been asked whether Congress can declare that a contract to deliver a quantity of grain may be satisfied by the tender of a less quantity. Undoubtedly not. But this is a false analogy. There is a wide distinction between a tender of quantities, or of specific articles, and a tender of legal values. Contracts for the delivery of specific articles belong exclusively to the domain of State legislation, while contracts for the payment of money are subject to the authority of Congress, at least so far as relates to the means of payment. They are engagements to pay with lawful money of the United States, and Congress is empowered to regulate that money. It cannot, therefore, be maintained that the legal-tender acts impaired the obligation of contracts.

Nor can it be truly asserted that Congress may not by its action indirectly impair the obligation of contracts if by the expression be meant rendering contracts fruitless, or partially fruitless. Directly it may, confessedly, by passing a bankrupt act embracing past as well as future transactions. This is obliterating contracts entirely, so it may relieve parties from their apparent obligations indirectly in a multitude of ways. It may declare war or, even in peace, pass non-intercourse acts or direct an embargo. All such measures may, and must, operate seriously upon existing contracts, and may not merely hinder, but relieve the parties to such contracts entirely from performance.

It is, then, clear that the powers of Congress may be exerted, though the effect of such exertion may be in one case to annul and in other cases to impair the obligation of contracts. And it is no sufficient answer to this to say it is true only when the powers exerted were expressly granted. There is no ground for any such distinction. It has no warrant in the Constitution or in any of the decisions of this court. We are accustomed to speak for mere convenience of the express and implied powers conferred upon Congress; but in fact the auxiliary powers, those necessary and appropriate to the execution of other powers singly described, are as expressly given as is the power to declare war or to establish uniform laws on the subject of bankruptcy. They are not catalogued, no list of them is made, but they are grouped in the last clause of section 8 of the first article, and granted in the same words in which all other powers are granted to Congress. And this court has recognized no such distinction as is now attempted. An embargo suspends many contracts and renders performance of others impossible; yet the power to enforce it has been declared constitutional. (Gibbons *vs.* Ogden, 9 Wheat., 1.)

The power to enact a law directing an embargo is one of the auxiliary powers, existing only because appropriate in time of peace to regulate commerce, or appro-

priate to carrying on war. Though not conferred as a substantive power, it has not been thought to be in conflict with the Constitution because it impairs indirectly the obligation of contracts. That discovery calls for a new reading of the Constitution.

If, then, the legal-tender acts were justly chargeable with impairing contract obligations, they would not, for that reason, be forbidden, unless a different rule is to be applied to them from that which has hitherto prevailed in the construction of other powers granted by the fundamental law. But, as already intimated, the objection misapprehends the nature and extent of the contract obligation spoken of in the Constitution. As in a state of civil society property of a citizen or subject is ownership subject to the lawful demands of the sovereign, so contracts must be understood as made in reference to the possible exercise of the rightful authority of the Government, and no obligation of a contract can extend to the defeat of a legitimate Government authority.

Closely allied to this objection we have just been considering is the argument pressed upon us that the legal-tender acts were prohibited by the spirit of the fifth amendment, which forbids taking private property for public use without just compensation or due process of law. That provision has always been understood as referring only to a direct appropriation, and not to consequential injuries resulting from the exercise of lawful power. It has never been supposed to have any bearing upon or to inhibit laws that indirectly work harm and loss to individuals. A new tariff, an embargo, a draft, or a war, may inevitably bring upon individuals great losses; may, indeed, render valuable property almost valueless. They may destroy the worth of contracts. But who ever supposed that, because of this, a tariff could not be changed, or a non-intercourse act or an embargo be enacted, or a war be declared?

By the act of June 28, 1834, a new regulation of the weight and value of gold coin was adopted and about 6 per cent. was taken from the weight of each dollar. The effect of this was that all creditors were subjected to a corresponding loss. The debts then due became solvable with 6 per cent. less gold than was required to pay them before. The result was thus precisely what it is contended the legal-tender acts worked. But was it ever imagined that this was taking private property without compensation or without due process of law? Was the idea ever advanced that the new regulation of gold coin was against the spirit of the fifth amendment? And has any one in good faith avowed his belief that even a law debasing the current coin by increasing the alloy would be taking private property? It might be impolitic and unjust, but could its constitutionality be doubted?

Other statutes have, from time to time, reduced the quantity of silver in silver coin without any question of their constitutionality. It is said, however, now, that the act of 1834 only brought the legal value of gold coin more nearly into correspondence with its actual value in market, or its relative value to silver. But we do not perceive that this varies the case or diminishes its force as an illustration. The creditor who had a thousand dollars due him on the 31st day of July, 1834, (the day before the act took effect,) was entitled to a thousand dollars of coined gold of the weight and fineness of the then existing coinage. The day after, he was entitled only to a sum 6 per cent. less in weight and in market value, or to a smaller number of silver dollars. Yet he would have been a bold man who had asserted that, because of this, the obligation of the contract was impaired, or that private property was taken without compensation or without due process of law. No such assertion, so far as we know, was ever made. Admit it was a hardship but it is not every hardship that is unjust, much less that is unconstitutional; and certainly it would be an anomaly for us to hold an act of Congress invalid because we might think its provisions harsh and unjust.

We are not aware of anything else which has been advanced in support of the proposition that the legal-tender acts were forbidden by either the letter or the spirit of the Constitution. If, therefore, they were what we have endeavored to show, appropriate means for legitimate ends, they were not transgressive of the authority vested in Congress.

Here we might stop; but we will notice briefly an argument presented in support of the position that the unit of money value must possess intrinsic value. The argument is derived from assimilating the constitutional provision respecting a standard of weights and measures to that conferring the power to coin money and regulate its value.

It is said there can be no uniform standard of weights without weight, or of measure without length or space, and we are asked how anything can be made a uniform standard of value which has itself no value? This is a question foreign to the subject before us. The legal-tender acts do not attempt to make paper a standard of value; we do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money. What we do assert is, that Congress has power to enact that the Government's promises to pay money shall be, for the time being, equivalent in value to the representative of value determined by the coinage acts, or to multiples thereof.

It is hardly correct to speak of a standard of value. The Constitution does not speak of it. It contemplates a standard for that which has gravity or extension; but value is an ideal thing. The coinage acts fix its unit as a dollar; but the gold or silver thing we call a dollar is in no sense a standard of a dollar. It is a representative of it. There might never have been a piece of money of the denomination of a dollar. There never was a pound sterling coined until 1815, if we except a few coins struck in the reign of Henry VIII, almost immediately debased, yet it has been the unit of British currency for many generations. It is, then, a mistake to regard the legal-tender acts as either fixing a standard of value or regulating money values, or making that money which has no intrinsic value.

But, without extending our remarks further, it will be seen that we hold the acts of Congress constitutional as applied to contracts made either before or after their passage. In so holding we overrule so much of what was decided in Hepburn *vs.* Griswold, 8 Wall., 603, as ruled the acts unwarranted by the Constitution, so far as they apply to contracts made before their enactment. That case was decided by a divided court and by a court having a less number of judges than the law then in existence provided this court shall have. These cases have been heard before a full court and they have received our most careful consideration. The questions involved are constitutional questions of the most vital importance to the Government and to the public at large.

We have been in the habit of treating cases involving a consideration of constitutional power differently from those which concern merely private right. (Briscoe *vs.* Bank of Kentucky, 8 Peters, 118.) We are not accustomed to hear them in the absence of a full court if it can be avoided. Even in cases involving only private rights, if convinced we had made a mistake, we would hear another argument and correct our error. And it is no unprecedented thing in courts of last resort, both in this country and in England, to overrule decisions previously made. We agree this should not be done inconsiderately, but in a case of such far-reaching consequences as the present, thoroughly convinced as we are that Congress has not transgressed its powers, we regard it as our duty so to decide and to affirm both these judgments.

Congress issued bills of credit or Treasury notes in June, 1812, in February, 1813, in 1837, in 1846, in 1857, and February 25, 1862. There is no question in relation to the constitutional right of Congress to issue bills of credit or Treasury notes at any time in the discretion of Congress, whether in time of peace or in time of war. Upon this subject we have the opinions of the ablest American statesmen. We have the decision of the United States Supreme Court, delivered in December, 1870, the highest judicial tribunal known in the civilized world. This opinion was delivered five years after the war of the rebellion, and fully established the constitutional right of Congress to issue legal-tender Treasury notes. But, in addition to all this, during peace, thirteen years after the war, we have the opinion of 177 to 35 members of this House, a majority in the Senate, and the signature of the President in May, 1878, fully committed to the legal-tender lawful money in the following language, to wit:

The bill was read. It provides that from and after the passage of this act it shall not be lawful for the Secretary of the Treasury or other officer under him to cancel or retire any more of the United States legal-tender notes, and that when any of said notes may be redeemed or be received into the Treasury under any law from any source whatever, and shall belong to the United States, they shall not be retired, canceled, or destroyed, but they shall be reissued and paid out again and kept in circulation, provided that nothing therein shall prohibit the cancellation and destruction of mutilated notes and the issue of other notes of like denomination in their stead, as now provided by law, and that all acts and parts of acts in conflict with this act are hereby repealed.—*Congressional Record*, April 29, 1878.

We now have all this Congressional legislation and these judicial decisions during the last one hundred years to fully sustain our proposition for the issuing of legal-tender Treasury notes. It is only a question whether $250,000,000 gold and silver shall lie idle in the Treasury or be paid out to cancel bonds, stop interest, and go into the circulation as money, and whether non-interest-bearing legal-tender Treasury notes shall circulate as currency and encourage industry and enterprise, build railroads, build towns and cities, pay its just proportion of taxes, give employment to labor, make happy homes and a prosperous country, or shall the people continue to pay interest, continue in serfdom and slavery to the most ingenious system of oppression ever advocated in contempt of republican institutions and the just rights of the American people.

We said, fifteen years ago, take the robber's word "except" out of the greenback and there would be no depreciation; that it would be worth more than gold. History proves this fact. When thirty days previous to the time appointed for resumption an agreement was made with the banks to receive the legal tender for all purposes, equality was established, and no man wanted metal money. The distinguished Democratic Senator from Kentucky, [Mr. BECK,] in his speech upon the Sherman funding bill, said:

We are losing $2,000,000 or $3,000,000 a year by letting this large amount of money lie idle in the Treasury. There never has been a doubt, and the country understands it now, that the greenbacks would have been as good as gold eight years ago, if they had not been persistently refused at the custom-houses. If they had been received in 1875, before you passed your resumption law, at the custom-houses, as they were received in 1879, they would have been as good as gold then, and there would have been no necessity for selling a dollar of the $95,500,000 of bonds, for which the Secretary paid 4½ per cent. in order to lay away gold to pay them with.

The Secretary of the Treasury in his report for 1879-'80, volume 13, page 9, says:

No distinction has been made since that time between coin and United States notes in the collection of duties or in the payment of the principal or interest of the public debt. The great body of coin indebtedness has been paid in United States notes at the request of creditors. The total amount of United States notes presented for redemption from January 1 to November 1, 1879, was $11,256,678. But little coin has been demanded on the coin liabilities of the Government during the same period, though the amount accruing exceeded $600,000,000. Meantime coin was freely paid into the Treasury and gold bullion was deposited in the assay office and paid for in United States notes. The aggregate gold and silver coin and bullion in the Treasury increased during that period from $167,558,734.19 to $225,133,558.72, and the net balance available for resumption increased from $133,508,804.50 to $152,737,155.48.

In accordance with the position taken in the last annual report United States notes have been received since January 1 last in payment of duties on imports.

Here we have the official report, the testimony of a Democratic Senator and a Republican Senator and ex-Secretary, conclusively showing that no metal money is wanted, that the full legal-tender paper is better, is preferred by creditors, and that there is no necessity for holding hundreds of millions of dollars for years without use, when it should stop interest.

No man wants to move tons of metal. We have paid large sums for mintage, storage, and to force the metals into circulation. Business men deposit large sums of gold and take silver certificates and Treasury notes in preference. We have sold a large amount of interest-bearing bonds to purchase gold to lie idle in the Treasury.

A distinguished Senator from Delaware recently advocated such ridiculous absurdity in these words:

Now, sir, all must admit, the superior convenience of paper money as compared with real money, metallic coins; but to make such a system endurable it must be absolutely and instantly convertible at the will of the holder into real money, into coin of the standard value.

The United States Supreme Court answers such absurd sophistry, in regard to metal money. The Supreme Court says:

It is hardly correct to speak of a standard of value. Value is an ideal thing. The gold and silver thing we call a dollar is in no sense a standard of a dollar. It is a representative of it. Indeed, legal-tender Treasury notes have become the universal measure of values. Making the notes legal tenders gave them a new use, and it needs no argument to show that the value of things is in proportion to the uses to which they may be applied.

The language of the Supreme Court settles the whole question. This decision also determines what caused the equality of the greenback with gold. It was making it receivable for import duties and all other purposes the same as gold. The piling of the metals in the Treasury had nothing to do with it. The $60,000,000 of legal-tenders first issued during the late war, when made legal tender for import

duties and other purposes the same as gold, were worth more than gold until the present hour. The legal-tender paper money is made "instantly" redeemable in all the commodities of commerce.

The sovereign law power requires all creditors to receive the same in payment of all debts. There are no other uses for any money. The political economist whose Senatorial vision appears to be limited to a State smaller in territory and population than many of our Western Congressional districts says:

To make such system [of paper money] endurable it must be absolutely and instantly convertible at the will of the holder into real money, into coin of the standard value.

The distinguished Senator seems to overlook the fact that the supreme law makes the legal tenders "absolutely and instantly convertible" into all commodities without the necessity of purchasing at the great expense of hundreds of millions of dollars and holding without use any single commodity. Such language is contempt of government, and was only used by Tories during the American Revolution and by the enemies of the Government during the late war. It would be ludicrous, if it were not morally criminal, to deceive and unnecessarily and unjustly tax the American people. The producers of wealth and the tax-payers have lost annually hundreds of millions of dollars because of this stupid ignorance and barbarous absurdity and unlimited fraud called "specie basis."

We have now used the legal-tender currency during the last twenty years. It has performed all the functions of money. The people prefer it to any other. In 1870 the Supreme Court declared that the legal-tender Treasury notes had become the universal measure of values. Twelve years have elapsed since that decision; the people have become accustomed to its use; it is worth more than gold not only in this country but in other civilized nations. The people have learned their constitutional rights: to have a legal-tender paper currency, "to regulate commerce, to establish justice, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

The objection to a specie basis is the same as that to specie alone, the impossibility of obtaining a sufficient quantity for a currency. If it could be kept uniform, and gradually increase in the proportion of increased wealth, commerce, population, and production, the principal objection then would be the unnecessary cost of material, its weight, and loss by wearing. But its supply depends on the mere chance discovery of metal, and this supply failing in Europe was the chief cause of the decline and fall of the Roman Empire, and the periodical panics of all nations. Its amount in the country at any one time depends on not only the supply from the mines, which is uncertain, but also upon the demand for foreign exportation.

Suppose we had a paper based on specie; a war on the continent of Europe would create a demand for the specie, and the commodity on which our currency would be based might be removed. The paper would have no adequate basis and a crisis would be the result. This was the case in England in 1819, 1825, 1831, 1837, 1839, 1847, 1857, and 1866. Is it not better to base our currency on something that we can keep at home; at least something less desirable to foreign countries. Again, a paper based on specie would increase as the specie increased and decrease with its scarcity, which is the fruitful source of panics, crises, general want of confidence, bankruptcy, and ruin.

The contraction in England in 1838 of $40,000,000 and in 1839 of $5,000,000 caused their great panic there of 1839 and 1840, and bankruptcies doubled and the stagnation was most disastrous to the laboring classes, who were thus thrown out of employment. The historian Alison, speaking of this period, says, of interest on money, (volume 6, chapter 37,) "it raised by the 1st of August, 1839, to 6 per cent. from 3½ per cent., which it had been the year before. The great advance in the interest paid for money diminished the profits of trade." A great fall in the price of all articles of commerce was ruinous to the trades and in a high degree disastrous to the laboring classes. The bankruptcies, which had been very frequent ever since the abolition of small notes and consequent limitation of bank accommodation, became numerous in 1839 and 1840, nearly double what they had been five years before. The number of paupers increased in frightful progression, insomuch that in the year 1840 they amounted to 1,721,000 of a population at that period not exceeding 16,000,000, showing that more than one-ninth of the whole population had become recipients of public charity. At the same time the paupers in Ireland were 2,285,000 and in Scotland 85,000, making a total of 4,081,000 in the British Islands.

Alison, in his History of Europe, (volume 6, chapter 35,) says:

In every one of the great monetary crises which have occurred every five or six years during the past thirty years from $500,000,000 to $750,000,000 have been destroyed.

Is the retention of gold worth purchasing at such a price? What is the use of it if it can only be retained by making the capitalists richer and all other classes poorer? In the next place, the experience of Great Britain during the French war demonstrates that by means of an adequate paper currency not only can calamity be averted but the highest degree of prosperity and national glory can be attained without any gold. To put this domestic currency on a proper footing it is indispensable that it should be issued by the government, and government only, and on the national security, and that every banker who chooses to deal in notes should not be permitted to usurp the king's prerogative and issue the current coin of the realm. And it may safely be affirmed that if the requisite change is not made the nation will continue to be visited every four or five years by a periodical calamity which will destroy all the fruits of former prosperity.

A specie-basis system is to the nation what the inhuman military laws of past ages were to the poor culprit who was condemned to receive his thousand lashes, brought out at successive times to receive a hundred, then wait for the wounds to heal before receiving the next round.

Speaking of contraction of the currency in the Roman Empire, Alison, in his History of Europe, volume 2, page 381, says:

The supplies of specie for the Old World became inadequate to the increasing wants of its population when the power of the emperors had given lasting internal peace to its hundred and twenty millions of inhabitants. The mines of Spain and Greece, from which the chief supplies were obtained at that period, were worked out or became unworkable from the exactions of the emperors; and so great was the dearth of the precious metals which thence ensued that the treasure in circulation in the empire, which in the time of Augustus amounted to $1,800,000,000, had sunk in that of Justinian to $400,000,000; and the golden aureus, which in the days of the Antonines weighed 118 grains, had come, in the fifth century, to weigh only 68, though it was only taken in discharge of debts and taxes at its original and standard value. As a necessary consequence of so prodigious a contraction of the currency, without any proportional diminution in the numbers or transactions of mankind, debts and taxes, which were all measured in the old standard, became so overwhelming that the national industry was ruined; agriculture disappeared, and was succeeded by pasturage in the fields; the great cities were all fed from Egypt and Libya; the revenue became irrecoverable; the legions dwindled into cohorts, the cohorts into companies; and the six hundred thousand men who guarded the frontiers of the empire in the time of Augustus had sunk to one hundred and fifty thousand in that of Justinian, a force wholly inadequate to its defense.

From the report of the silver commission, second session Forty-fourth Congress, page 49, we get the following:

By the end of the fifteenth century the currency had shrunk to less than $200,000,000. During this period a most extraordinary and baneful change took place in the condition of the world. Population dwindled, and commerce, arts, wealth, and freedom all disappeared. The people were reduced by poverty and misery to the most degraded conditions of serfdom and slavery. The disintegration of society was almost complete. The conditions of life were so hard that individual selfishness was the only thing consistent with the instinct of self-preservation. All public spirit, all generous emotions, all the noble aspirations of man shriveled and disappeared as the volume of money shrunk and as prices fell.

History records no such disastrous transition as that from the Roman Empire to the Dark Ages. Various explanations have been given of this entire breaking down of the frame-work of society, but it was certainly coincident with a shrinkage in the volume of money, which was also without historical parallel. The crumbling of institutions kept even step and pace with the shrinkage in the stock of money and the falling of prices. All other attendant circumstances than these last have occurred in other historical periods unaccompanied and unfollowed by any such mighty disasters.

It is a suggestive coincidence that the first glimmer of light only came with the invention of bills of exchange and paper substitutes, through which the scanty stock of the precious metals was increased in efficiency. But not less than the energizing influence of Potosi and all the argosies of treasure from the New World were needed to arouse the Old World from its comatose sleep, to quicken the torpid limbs of industry, and to plume the leaden wings of commerce. It needed the heroic treatment of rising prices to enable society to reunite its shattered links, to shake off the shackles of feudalism, to relight and uplift the almost extinguished torch of civilization. That the disasters of the Dark Ages were caused by decreasing money and falling prices, and that the recovery therefrom and the comparative prosperity which followed the discovery of America were due to an increasing supply of the precious metals and rising prices, will not seem surprising or unreasonable when the noble functions of money are considered.

Money is the great instrument of association, the very fiber of social organism, the vitalizing force of industry; the protoplasm of civilization, and as essential to its existence as oxygen is to animal life. Without money civilization could not have had a beginning; with a diminishing supply it must languish, and, unless relieved, finally perish. Symptoms of disasters similar to those which befel society during the Dark Ages were observable on every hand during the first half of this century.

In 1809 the revolutionary troubles between Spain and her American colonies broke out. These troubles resulted in a great diminution in the production of the precious metals, which was quickly indicated by a fall in general prices.

As already stated in this report, it is estimated that the purchasing power of the precious metals increased between 1809 and 1848 fully 145 per cent., or, in other words, that the general range of prices was 60 per cent. lower in 1848 than it was in 1809. During this period there was no general demonetization of either metal and no important fluctuation in the relative value of the metals, and the supply was sufficient to keep their stock good against losses by accident and abrasion. But it was insufficient to keep the stock up to the proper correspondence with the increasing demand of advancing populations. The world has rarely passed through a more gloomy period than this one. Again do we find falling prices and misery and destitution inseparable companions. The poverty and distress of the industrial masses were intense and universal, and since the discovery of the mines of America without a parallel.

In England the sufferings of the people found expression in demands upon Parliament for relief in bread riots and in immense chartist demonstrations. The military arm of the nation had to be strengthened to prevent the all-pervading discontent from ripening into open revolt. On the Continent the fires of revolution smoldered everywhere, and blazed out at many points, threatening the overthrow of states and the subversion of social institutions. Whenever and wherever the mutterings of discontent were hushed by the fear of increased standing armies the foundations of society were honeycombed by powerful secret political associations.

The cause at work to produce this state of things was so subtle, and the advance so silent, that the masses were entirely ignorant of its nature. They had come to regard money as an institution fixed and immovable in value, and when the price of property and the wages of labor fell they charged the fault not to the money but to the property and the employer. They were taught that the mischief was the result of overproduction. Never having observed that overproduction was complained of only when the money stock was decreasing, their prejudices were aroused against labor-saving machinery. They were angered at capital because it either declined altogether to embark in industrial enterprises or would only embark in them upon the condition of employing labor at the most scanty remuneration. They forgot that falling prices compelled capital to avoid such enterprises on any other condition, and for the most part to avoid them entirely. They did not comprehend that money in shrinking volume was the prolific parent of enforced idleness and poverty, and that falling prices divorced money, capital, and labor, but they none the less felt the shrinking metallic shroud that was closing around industry.

The increased yield of the Russian gold fields in 1846 gave some relief and served as a parachute to the fall in prices, which might otherwise have resulted in a great catastrophe. But the enormous metallic supplies of California and Australia were all needed to give substantial and adequate relief. Great as these supplies were.

their influence in raising prices was moderated and soon entirely arrested by the increasing populations and commerce which followed them. In the twenty-five years between 1850 and 1876 the money stock of the world was more than doubled, and yet at no time during this period was the general level of prices raised more than 18 per cent. above the general level in 1848. A comparison of this effect of an increasing volume of money after 1848 with the effect of a decreasing volume between 1809 and 1848 strikingly illustrates how largely different in degree is the influence upon prices of an increasing or decreasing volume of money. The decrease of the yield of the mines since about 1865, while population and commerce have been advancing, has already produced unmistakable symptoms of the same general distrust, non-employment of labor, and political and social disquiet, which have characterized all former periods of shrinking money.

It is a fact well established by the history of nations, that an increase of currency, well founded, always has and will cause prosperity for the laboring, manufacturing, mercantile, and producing industries of the country. And it is equally true that a contraction of the currency always has and always will cause high rates of interest and prostration of business; thereby causing universal bankruptcy, pauperism, ignorance and crime, human suffering and hard times.

During the panic of 1793, in England, William Pitt had the paper currency increased $25,000,000. It stopped the panic and gave prosperity to the country. The drain of the money from England to carry on her Napoleonic wars threatened to ruin the kingdom, and on February 25, 1797, the Parliament of England authorized the Bank of England to suspend specie payments and to issue its bills without limit, and as legal tenders, and pursuant to this law the increase of $50,000,000, stayed the panic and gave prosperity.

In 1811, when there was scarcely a metallic sovereign left in England, and 30 per cent. was paid to obtain coin to carry on its peninsular war, it again increased its legal-tender paper currency $75,000,000. This increase of currency to about $135,000,000 in 1815 revived all the industries of the country. Alison in his History of Europe speaks of the unparalleled prosperity it caused. This currency was increased on the suspension of specie again in 1817 and 1818, and the paper currency in England reached $241,390,350. Of this period the historian speaks as follows:

The paper circulation of Great Britain had increased during the drain of the metals and compensated for their want. In 1818 the currency reached $240,000,000 in England alone, a larger amount than in any previous year of the war. Hence the prosperity in this country which coexisted with the most serious pressure and distress on the Continent.—*Alison's History of Europe*, volume 1, pages 395–397.

The great paper currency guaranteed by all the allied powers, issued so plentifully during 1813 and 1814, and which had circulated as cash from the banks of the Rhine to the Wall of China, gave great prosperity to the whole country until 1817 and 1818, the period of contraction on the Continent.

Fall of prices of wheat on the Continent from 1817 *to* 1819 *caused by contraction of the currency.*

Localities.	Mar., 1817.	Sept., 1819.
	s. d.	*s. d.*
Vienna	114 0	19 6
Munich	151 0	24 5
Norway	81 10	26 8
Venice	99 6	29 4
Lisbon	117 0	54 2
Udine	99 6	31 7

(See Alison's History, volume 2, page 393.)

The hard times on the Continent during 1817 and 1818, caused by contraction of the currency, during the same period that England was enjoying prosperity caused by inflation of the currency, is another of the many lessons of history showing the power of government to cause prosperity by inflation and to cause hard times by contraction.

Alison, in his History of Europe, says:

The contraction of the currency in England in 1819 to 1826 caused fearful suffering. It was a woful spectacle to see the streets of Manchester and the chief towns in its vicinity filled with vast crowds, sometimes 10,000 in number, whose wan visages and lean figures but too clearly told the tale of their sufferings, snatching their food from bakers' shops.

The legislation causing a contraction of the currency reduced the wages of laboring-men one-half. Yet the party in power declared that the hard times in England was caused by extravagant speculation. The historian says:

This affords an example of the ease with which a powerful party can succeed in deluding the public mind and conducting a nation amidst universal applause to the very measures most destructive to its prosperity.

That English historian continues:

The British Empire in the whole of 1818 and commencement of 1819 was beginning to taste the fruits of peace and prosperity; and industry revived, and supported by a currency at once adequate and duly limited, was flourishing in all its branches, and daily discovering new channels of profit and enterprise, at the very time when the scarcity of money on the Continent was involving all classes in unheard of distress.

But this flattering prospect was of short duration. Great Britain was soon doomed to experience in all its bitterness the disastrous effects of an ill-judged act of legislation, to prostrate all of her industries. Does not wise or unwise legislation make or destroy a nation's prosperity? At that period England required an increased currency to continue her prosperity, but the Parliament of England in 1819 required the Bank of England to resume specie payments. The industries of the nation, then so prosperous, were speedily congealed like the flowing stream by the severity of an Arctic winter. The circulation fell $35,000,000 during 1819, and "distrust and discouragement was felt in every branch of industry." In the next two years they contracted the circulation $75,000,000 more, and the historian paints the disastrous condition and fearful suffering of the people of England.

Between 1818 and 1821 the paper of England was contracted from $240,000,000 to $150,000,000, or $90,000,000, and the exports and imports lessened, as all business declined and laboring-men could find no employment. The following tables from Alison's History of Europe, volume 2, page 399, will show the decrease of currency from 1818 to 1822, (Tooke on Prices, 2, 129:)

BANK AND BANKERS' NOTES.

Years.	Bank of England.	Country bankers.	Total.	Money coined and issued at the mint.
1818	£27,771,000	£20,507,000	£48,278,070	£3,438,652
1819	25,227,100	15,701,328	40,928,428	1,270,817
1820	23,509,150	10,576,245	34,145,395	1,797,233
1821	22,471,450	8,256,180	30,727,630	9,954,444
1822	18,172,170	8,416,430	26,588,600	5,388,217

The following table (Alison's History of Europe, volume 2, page 400) shows the decline in prices of the products of labor from 1818 to 1822:

Year.	Wheat, per qr.	Cotton, per lb.	Iron, per ton.	Rice, per ton.	Silk, per lb.	Tea, per lb.	Wool, per lb.	Sugar, per cwt.	Beef, per tierce.
	s. d.	*s. d.*	*s. d.*	*s.*	*s. d.*	*s. d.*	*s. d.*	*s.*	*s.*
1818	80 8	2 0	9 0	45	39 0	3 1	6 0	70	100
1819	66 3	1 11	8 10	43	30 0	2 10	6 0	66	115
1820	54 6	1 5	9 0	32	24 5	2 4	3 0	58	130
1821	49 0	1 1	7 10	36	24 0	2 4	3 3	58	115
1822	38 11	1 0	6 10	33	25 1	2 8	3 6	42	80

The following table from Alison's Europe, chapter 97, appendix, shows the depressed condition of the industries by the falling off of exports, and the destitution of the people by the falling off of their imports:

Year.	Exports—declared value.	Imports.
1818	£45,180,150	£35,845,340
1819	34,252,251	29,681,640
1820	35,569,677	31,515,222
1821	35,823,127	29,769,122
1822	36,176,897	29,432,376

Mr. Vansistart gave the following table in his report to the Parliament of England in 1811, to show the necessity of a further increase of paper currency, which was adopted. He said:

The amount of currency must bear a proportion to the amount of trade, public revenue, and expenditure. The average value of exports and imports, revenues and expenditures, and bank-notes of Great Britain, for three years previous to 1797 stood thus, (official value:)

Imports and exports, average of three years	$263,760,000
Revenues, including loans	185,000,000
Expenditures	214,000,000
Bank notes in circulation	53,410,000

The same average for three years, ending January 5, 1811, was as follows:

Imports and exports	$389,955,000
Revenue and loans	365,500,000
Expenditures	411,025,000
Bank notes in circulation	97,745,900

These figures show the same fact as the others, that with an average of nearly double the paper money in the country for each period of three years, it nearly doubled its business as a nation.

It was by adopting the theory of Vansistart to increase the paper money that England was successful in war and prosperous in peace. Our country was prosperous in war by the adoption of the same theory. By the adoption of the theory of bullionists in 1819 in England riots were caused by hungry men seeking employment and bread. The contraction policy in this country from 1865 to 1878 placed the debtor classes at the mercy of Shylocks by shrinking values, thereby doubling the indebtedness, discouraging industry, filling the land with bankrupts, paupers, tramps, and criminals. It stopped the building of railroads; it stopped the tide of immigration; it cursed

all the States with hard times; it forced hundreds of thousands of able-bodied men to beg for work and for bread; it caused labor strikes, riots, and destruction of property. A land blessed with bountiful harvests was filled with unrest, the deepest gloom, and sadness.

The following table from Poore's Railroad Manual for 1880 shows that the building of railroads and employment of men corresponded to the inflation and contraction of the currency in this country:

Year.	Miles in operation at the end of each year.	Miles constructed each year.
1871	60,293	7,379
1872	66,171	5,878
1873	70,278	4,107
1874	72,383	2,105
1875	74,096	1,713
1876	76,808	2,712
1877	79,089	2,281
1878	81,776	2,687
1879	86,497	4,721
1880	97,671	8,174
1881	102,913	8,242

There was an increase of currency from January 1, 1879, to November 1, 1881, of $400,274,983.

It will be seen that when our currency was contracted in 1875 we built only 1,713 miles of railroad, yet after the remonetization of silver in 1878, and ordering $346,681,016 of legal-tender paper money to be continued in the circulation, with also a large increase in bank currency and in gold and silver, there was a corresponding increase in the building of railroads.

Some people speak of gold and silver as money of the world. This is an absurdity based upon ignorance. There never was any such thing as money of the world.

The following table shows the different nations using gold and silver. Some use no gold, some no silver, as currency. Each nation has its peculiar method of coinage not common to others. Nearly all of these nations use mostly a paper currency. About 97 per cent. of all currency is paper; therefore, if it were possible to speak of money of the world, the nearest approach to such money would be paper. The United States received $110,575,497 of metal money and bullion during the year 1881 from other nations. Of this sum $9,419,872 was American coin, and $101,155,625 was foreign coin and bullion. Nearly all of the foreign coin and bullion were melted and stamped as American coin. Our coin taken to other nations is weighed and taken at its commodity or commercial value, the same as wheat. Our bars of gold are frequently worth a premium over our coin in European cities.

The countries using metal money in 1870 were as follows, (Jones's Resumption and the Double Standard, page 111:)

	Population.
In 1870, those using both gold and silver:	
United States	39,000,000
France	36,000,000
Italy	26,000,000
Spain	17,000,000
Belgium	5,000,000
Switzerland	3,500,000
Greece	1,500,000
Peru	4,000,000
New Granada	3,000,000
Ecuador	1,000,000
Those using silver alone:	
India	200,000,000
China	250,000,000
Russia	82,000,000
Germany	41,000,000
Austria	36,000,000
Mexico	9,000,000
Sweden and Norway	6,000,000
Denmark	2,000,000
Holland	4,000,000
Central America	2,500,000
Countries using gold alone:	
United Kingdom	31,000,000
Turkey	36,000,000
Brazil	10,000,000
Portugal	4,000,000
Chili	2,000,000
Australia	2,000,000

The following table shows the amount of gold and silver coin and bullion in the United States mints and New York assay office was $128,006,188.21. (See report, pages 36, 38, 30, of the Director of the Mint, 1881.)

Coinage executed during the fiscal year ended June 30, 1881:

Gold coins	$78,733,864 00
Silver coins	27,649,967 75
Five cents, three cents, one-cent pieces	405,109 95
Total coinage	106,788,940 70

The following statement shows the expenditures of the United States mints and assay offices for the fiscal year ended June 30, 1881:

Salaries of officers and clerks	$159,765 02
Wages of workmen	809,636 62
Contingent expenses not including wastage and loss on sweeps	287,869 69
Parting and refining expenses	268,256 75
Expense of distributing standard silver dollars	90,476 38
Wastage of operative offices	45,343 98
Loss on sale of sweeps	22,926 17
Expense of distributing minor coins	23,763 46
Loss on bullion shipped to the Mint for coinage	23 85
Total expenditures	1,708,161 92

There were coined at the Carson mint during the year previous to June 30, 1881, 592,189 pieces, valued at $883,590; expenditures, $131,037.03; average cost of coinage at that mint during the year, twenty-two cents and one mill for each piece coined.

Bill passed the House February 19, 1882, appropriating for constructing, repairing, enlarging, and renting vaults and safes for the use of the Treasurer and assistant treasurer of the United States, $75,000.

All these unnecessary expenditures, together with the commodity value of the metals used, would be saved to the people by using the legal-tender paper currency. We would save the expense of purchasing metals, of coining, of the loss of wear, and expense of distribution, if we were to use legal-tender fractional paper currency. Is not the paper more convenient in use, and, redeemed when worn by new issues, more desirable than fractional silver? We have paid 5 per cent. interest on $50,000,000 of bonds since 1876 to purchase silver to force upon the people in place of the paper fractional currency.

The above table shows that the people paid $90,476.38 for distributing standard silver dollars within the year previous to June 30, 1881. It also shows that the people paid $23,763.46 for distributing minor coins during the same year. These are expenditures in addition to the interest paid annually upon the bonds used to purchase the silver bullion. Will some specie-basis banker who must have what he calls "real money" please rise and tell the American people how much money was ever paid for coinage, for interest, and for distribution upon the legal-tender paper dollars and fractional paper currency? Will the bullionists please explain why it is so difficult and expensive to get this (so-called) world's money into circulation? Why the people are taxed to pay for safes and storage for this gold and silver money which the people make haste to deposit in exchange for paper?

Principal and interest of the public debt from 1873 *to* 1880.

[Statistical abstract of the United States, 1880, third number, pages 6, 7, and 8, prepared under the direction of the Secretary of the Treasury.]

Year ended July 1—	Total interest-bearing debt.	Interest.	Cash in Treasury July 1.
1873	$1,710,483,950	$104,750,688 44	$129,020,932 45
1874	1,738,930,750	107,119,815 21	147,541,314 74
1875	1,722,676,300	103,093,544 57	142,243,361 82
1876	1,710,685,450	100,243,271 23	119,469,726 70
1877	1,711,888,500	97,124,511 58	186,025,960 73
1878	1,794,735,650	102,500,874 65	256,823,612 08
1879	1,797,643,700	105,327,949 00	249,080,167 01
1880	1,723,993,100	95,757,575 11	201,088,622 85
1881	1,639,567,750	82,508,741 18	249,363,415 35

NATIONAL-BANK CIRCULATION.

January 14, 1875	$351,861,450
May 31, 1878	322,555,965
Contraction	29,305,485
Amount legal tender January 14, 1875	382,000,000
On May 31, 1878	346,684,016
Contraction from January 14, 1875, to May 31, 1878	35,318,984
Contraction of paper currency in two years and five months	64,624,469

(See Comptroller's report, 1881, page 146.)

The above tables show that under the deceptive pretense of specie resumption our specie-basis financiers contracted the legal-tender currency $35,318,984 during the three years from 1875 to 1878. The national banks contracted their circulation $29,305,485 during the same period. The national interest-bearing debt was increased $72,000,000 during the same period. All this contraction of the currency and increase of the interest-bearing debt was made while there was a continual increase of population, and the people were suffering hard times caused by previous contraction of paper money and the demonetization of silver. Who shall be held responsible for this specie-basis absurdity, this pagan idolatry which annually robs the people of millions of dollars called interest, and withholds from the circulation hundreds of millions, the life-blood of industry?

The above table shows the increase of the total interest-bearing debt from 1873 to 1880 to be $13,509,150. The table also shows the hundreds of millions of dollars held out of the circulation during seven years, while the people were suffering hard times for the want of that money and paying millions of dollars of unnecessary interest

upon the bonds. The Secretary of the Treasury in his annual report, November 1, 1881, says the amount of outstanding bonds bearing 3½ per cent. interest, payable at the pleasure of the Government, is $563,380,950. The Secretary also reports cash in the Treasury, $249,363,415. The Director of the Mint reports $128,006,188 at the mints and assay offices in coin and bullion.

We have coined a portion of that material into money; the remainder we hold in bars ready for the commerce of barbarous nations. It is our right to use these accumulated metals to stop interest upon bonds. They are adapted to the intelligence and demands of the bondholders of 1869; make them take the metal or legal-tender paper, and stop interest. Give the creditor the option of metal or the legal-tender non-interest-bearing paper, and we have such confidence in their intelligence and civilization that we have no doubt that our interest-bearing debt would be paid, with as many millions of gold and silver dollars left in the Treasury as at the present hour.

CONTRACTION IN THE UNITED STATES.

The silver commission, composed equally of Democrats and Republicans, and presided over by a distinguished Republican Senator, Mr. JONES, of Nevada, say concerning the effect of this contraction, on page 59 of their report:

If all the debts in this country had been doubled by an act of legislation, it would have been a far less calamity to the debtor and to the country than the increase in their real burden already caused by a contraction in the volume of money. And infinitely more disastrous in every sense than an unjust increase in the burden of debt is the universal stagnation of industry and commerce, resulting from the same cause.

Senator SHERMAN, on the 27th of January, 1869, predicted this very result in the following language:

It is not possible to take this voyage [of contraction] without the sorest distress to every person except a capitalist out of debt, or a salaried officer or annuitant; it is a period of loss, danger, lassitude of trade, fall of wages, suspension of enterprise, bankruptcy, and disaster.

Silver commission, pages 25, 10, 115, 35, 187, 4, volume 2, for 1876–'7:

A shrinking volume of money and falling prices always have had and always must have a tendency to concentrate wealth, to enrich the few, and to impoverish and degrade the many. This tendency is subtle, active, and portentous throughout the world to-day. * * * An increasing value of money and falling prices have been and are more fruitful of human misery than war, pestilence, or famine. They have wrought more injustice than all the bad laws which were ever enacted. * * * It is one of the admitted advantages of our present system of irredeemable paper that it shelters us from the recurring demands for gold by the Bank of England. * * * Nothing can be more certain than that the production of the precious metals bears no scientific relation to the increase or decrease of population or commerce, which alone should govern the increase or decrease of the stock of money. * * * If Congress can demonetize silver it can demonetize gold, or both gold and silver, and can monetize any substance or any form of paper. Narrowing money to gold is for the intended although really doubtful advantage of creditors, but they have more to lose than to gain by affirming a power which can so easily be used in a different direction and to their ruin. * * * Manifestly the real reason for the demonetization of silver was the apprehension of the creditor classes that the combined production of the two metals would raise prices and cheapen money unless one of them was shorn of the money function. In Europe this reason was distinctly avowed.

The silver commission of the second session of the Forty-fourth Congress, page 55, says:

When the money stock is diminishing and prices are falling the lender not only receives interest but finds a profit in the greatly increased value of the principal when it is returned to him. A loan of money made in 1809, if repaid in 1848, would have been repaid with an addition of 145 per cent. in the purchasing power of principal and interest besides all the interest paid. Those who have loaned money to this Government since 1861 have already received nearly as much in the increased value of their principal as in interest; and all the probabilities are, in respect to the 4 per cent. thirty-year national bonds now being negotiated, if they are redeemed in gold, that more profit will be made by the augmentation in the value of principal than through interest. Indeed the signs of the times are that the bonds of a country possessing the unbounded resources and staple institutions of the United States payable in gold at the end of thirty years without any interest whatever would, through the increase of the value of that metal, prove a most profitable investment.

EFFECTS OF A SHRINKING VOLUME OF MONEY ON PRODUCTIVE INDUSTRY.

The worst effects, however, economically considered, of falling prices is not upon existing property nor upon debtors, evil as it is, but upon laborers whom it deprives of employment and consigns to poverty, and upon society, which it deprives of that vast sum of wealth which resides potentially in the vigorous arms of the idle workman. A shrinking volume of money transfers existing property unjustly and causes a concentration and diminution of wealth.

It also impairs the value of existing property by eliminating from it that important element of value conferred upon it by the skill, energy, and care of the debtors from whom it is wrested. But it does not destroy any existing property, while it does absolutely annihilate all the values producible by the labor which it condemns to idleness. The estimate is not an extravagant one that there are now in the United States three million persons willing to work, but who are idle because they cannot obtain employment. This vast poverty-stricken army is increasing and will continue to increase as long as falling prices shall continue to separate money capital, the fund out of which wages is paid, from labor, and to discourage its investment in other forms of property. Under the false pretense that the legal-tender money depreciated because of the amount in circulation, the specie-basis doctors enacted a law in 1865 providing for the contraction of the currency, which caused a contraction in three years of $372,354,779, according to the Treasurer's report in 1868.

President Grant, in his message of December, 1873, said:

During the last four years, (from 1869 to 1873) the currency has been contracted by the withdrawal of the 3 per cent. certificates, compound-interest notes, 7-30 bonds, outstanding on the 4th of March, 1869, all of which took the place of legal tenders in the bank reserves to the extent of $630,000,000.

We have had a history of shrinkage of values and universal paralyzation of industry, of hard times, of bankruptcy, pauperism, fearful suffering and crime, similar to that of all other nations, when metal-money idolaters, usurers, and Shylocks have contracted the currency in the interest of the few to rob the many.

The mercantile agency reports show the number of failures in business in the United States increased in proportion to the shrinkage of the currency. In 1865, with the most liberal currency, at the close of the late war, we only had 540 failures, with liabilities equal only to $8,579,000. The number of failures increased annually with the shrinkage of the currency. In 1868 there were 2,608 failures; in 1869, 2,733 failures; in 1870, 3,551 failures; in 1872, 4,060 failures; in 1873, 5,183 failures; in 1874, 5,830 failures; in 1875, 7,740 failures; and in 1878 there were about 10,000 failures, with liabilities of $234,000,000. The extensive railroad strikes; the riots at Pittsburgh, Chicago, Saint Louis, and other large cities; the universal suffering and unrest among the people; the organization of the laboring classes to discuss the great subjects of taxation, transportation, and finance, and to learn why the wealth-producers were struggling under mortgages upon their homes, paying high rates of interest, deprived of the comforts of life, while the number of millionaire money-speculators were increasing in the Eastern cities, all these influences, together with the organization of a new political party, called the attention of Congress to the fact that the people were becoming too intelligent to be made slaves under the pusillanimous pretense of contracting the currency to establish specie resumption.

During a period of years previous to contraction the people had been prosperous without gold or silver. They had learned too much to again submit quietly to the sham pretenses of bankers and specie-basis schemes.

In 1878 Congressmen began to read the handwriting upon the wall. They stopped the destruction of the people's money, upon which they were paying no interest to bankers. They remonetized silver in spite of the wonderful wisdom of the Secretary of the Treasury and the veto of the President; they began to increase the currency, and there has been a corresponding prosperity since 1878. The education of the people has caused more favorable legislation for the industrial classes of the country. The people discovered that hard times were caused by unjust laws.

David Hume, in his correspondence with the Abbé Morellet, said:

In our colony of Pennsylvania the land itself, which is the chief commodity, is coined and passes into circulation. A planter immediately on purchasing land can go to a public office and receive notes to the amount of half the value of his land which notes he employs in all payments, and they circulate through the colony by convention. To prevent the public being overwhelmed by this representative money there are two means employed: first, the notes issued to any one planter must not exceed a certain sum, whatever may be the value of the land; secondly, every planter is obliged to pay back into the public office every year one-tenth of his notes. The whole is, of course, annihilated in ten years, after which it is again allowed him to take out new notes to half the value of his land.

This was the monetary system under which the American colonists prospered to such an extent that Burke said of them, "Nothing in the history of the world is like their progress." It was a wise and beneficial system, and its effects were most conducive to the happiness of the people. Take the case of a family, industrious and enterprising, driven by persecution or misfortune to seek a refuge in the wilds of the New World. With their scanty means they purchased a tract of land. Many years of hard labor, privation, and anxiety would have been necessary to bring that family into a state of decent competency had they been required to purchase gold and silver by labor and by the produce of labor before they could effect other improvements of their property. But half the value of his land was advanced to the head of the family in notes, which circulated as money. With these notes he could hire labor and purchase implements of husbandry and cattle, and thus where without these notes one acre could be cleared, cultivated, and stocked in a year, ten would, by the assistance of the paper money advanced, be reclaimed from the forest and rendered productive.

Thus hope entered the dwelling of the poor emigrant. Ten years found him with the whole of his debt to government discharged, the proprietor of a happy home; and the kind hand of a paternal government was stretched out still to advance to him again one-half of the increased value of his land, and thus enable him to clear more of the forest and to settle his children in new homes. Such was the system by which a people called by the British "a set of miserable outcasts" were converted in a short space of time into happy, contented, and prosperous colonists.

A prosperous people are generally well satisfied with the form of government under which they live. When, in 1776, Dr. Franklin was examined before a committee of the whole House of Commons, he was asked, "What was the temper of America toward Great Britain before 1773?" He answered, "The best in the world. They submitted willingly to the government of the Crown, and paid in all their courts obedience to acts of Parliament. Numerous as the people are in the several old provinces, they cost you nothing in forts, citadels, garrisons, or armies to keep them in subjection. They were governed by this country at the expense only of a little pen, ink, and paper. They were led by a thread. They had not only a regard but an affection for Great Britain, for its laws, its customs, its manners, and even a fondness for its fashions that greatly increased its commerce. Natives of Britain were always treated with particular regard; and to be an Old England man was of itself a character of some respect, and gave a kind of rank among us."

The British Government took away from America its representative money, commanded that no more paper bills of credit should be issued, that they should cease to be a legal tender, and collected the taxes in silver. This was in 1773. Now mark the consequences. This contraction of the circulating medium paralyzed all the industrial energies of the people. Ruin seized upon these once flourishing colonies; the most severe distress was brought home to every interest and every family; discontent was urged on to desperation, till at last "human nature arose and asserted its rights." In 1775 the American Congress first met in Philadelphia; in 1776 America became an independent state.

The paper currency of the colonies, issued by the people in the interest of the whole people instead of a few conspirators, laid the foundation of great prosperity, and eventually gave birth to the great American Republic. The immense population of the Chinese Empire has used a similar paper currency for the last thousand years. The

currency of the Venetian Republic was also based upon the credit of the people. Let the gold idolaters who teach that paper money "must be instantly redeemable in the single commodity of gold" learn from the history of the Venetian Republic that, during a period of several hundred years, the credits of that people, without any specie basis, were worth 20 per cent. more than the purest gold.

VENETIAN MONEY.

The historian says:

In 1171 the Republic of Venice was engaged in one of the periodical contests with the Emperor of Germany, Frederic I, otherwise known as Frederic Barbarossa, and at the same time it had to equip a fleet against the Emperor of Greece. Rich as the republic was, it now stood sorely in need of money. After much deliberation in the Council of Ten, as to the best way of raising the necessary funds, it was determined to levy a forced loan upon its most opulent citizens. The money thus collected was used to stock a bank, called the Bank of Venice, each contributor becoming a shareholder and entitled to a 4 per cent. annual dividend on his loan to the state. These forced loans were entered in a book; and as, in course of time, some contributors found themselves pressed for money, they proposed to transfer to their creditors their credits on the books of the bank in lieu of money payment. In this way such transfers gradually became recognized as a very convenient way of settling accounts; and this facility of transfer, coupled with the security, guaranteed by the power and wealth of the republic, led to a very rapid circulation of the loan. Gradually all the chief merchants and capitalists of Venice desired to have a share of it. The subsequent operations of Banco Del Giro of Venice, as a means of interchange, are thus described by Mr. Colwell, page 295:

"If there were a thousand accounts opened in the bank by the chief men of trade in Venice they would be all paying as well as receiving, and the sums to be paid would be mainly to each other. There would, therefore, be a vast sum in the aggregate, payable yearly by persons in Venice to persons in Venice. If the whole number of such persons be taken by conjecture, as above, at a thousand, then nearly the whole sum owing by them would be receivable by all of them.

"It would, to a large extent, be a mutual debt among the thousand, each one having to pay to others not far from the same amount he receives. If the whole sum to be paid and received annually was a hundred and twenty millions the monthly payment would be ten millions, and the daily over three hundred thousand. The amount of bank funds which would be sufficient to meet such a daily, monthly, or yearly aggregate, experience and time alone could teach. It would depend on the rapidity of the movement, or the regularity with which the paper matured; on the degree of confidence subsisting among the parties which would lead them to favor each other by short loans, &c. The whole fund of the bank would thus move in a circle among its customers, each one receiving and paying yearly according to the extent of his business."

There was, however, another element of dissatisfaction with metallic money or coin which must be mentioned in this connection, and which contributed greatly to the popularity not only of the Bank of Venice but of all the other banks that subsequently arose and followed in its footsteps, though more or less enlarging its original functions. This element of dissatisfaction was that the difficulties encountered in the use of coins had become too great and manifold for endurance. Robbery, shipwrecks, and piracy threatened the possessor of coin in every way. Besides, there was the secret and nefarious practice of abstracting from the value of the coins by plugging, gutting, and sweating, not to mention the art of counterfeiting, which had an easy time of it with metallic coins. But, worse than all, there was inexorable time, subject to no arrest, indictment, or punishment, which deteriorated those coins within a few years from 10 to 20 per cent. by their mere use as a circulating medium, and thus destroyed their legal-tender quality.

Paper transfers were attended by no such risks. If in the shape of checks or bills of exchange, they could easily be concealed so as to escape the eye of the most practiced thief, and if they were payable to the order of the holder, they could not be stolen and transferred without his indorsement. Time could not touch them and deprive them of their original value; for if worn out they could be replaced, and if burnt or sunk in the seas, they could be reissued. Nor was it an easy matter to clip paper money profitably; and as for counterfeiting, it is a well known fact that a well-engraved bank note is far more safe against it than the purest gold or silver coins. The best coin counterfeits ever made in this country were of the old Mexican dollars, which were of unusual silver purity. This is the reason why in China the use of coins, except when weighed by Government officials, is altogether prohibited, and that the use of paper money has been substituted in lieu of it. In short, the very ground why gold and silver are commonly esteemed superior money, namely, that they are supposed to be of great intrinsic value, is one of the reasons which makes them useless for the purposes of circulating money. It is that intrinsic value which spoils their usefulness by inviting theft, counterfeiting, clipping, plugging, gutting, and sweating.

Soon after the first issue, the paper transfers of Venice were made a legal tender, and the effect was to make this paper the most desirable currency without any specie basis.

During a period of six hundred and twenty-six years, from 1171 until the country was conquered by Napoleon in 1797, this paper currency was the best money of the republic. The historian says:

Neither book, nor pamphlet, nor speech have we found in which any merchant or dweller in Venice ever put forth any condemnation of this money. The facility of payment in this money made it the admiration of Europe, honorable at once to the government and merchant of Venice, and a support to the pride and power of its people consisted in substituting as a medium of payment the debt of the republic for current coin.

"It was perfectly understood that no coins passed, neither any right to any, on a transfer in this currency." This money was worth 20 per cent. more than gold coin during a period of over four hundred years, notwithstanding "the Venetian gold ducat was held in high repute, far and wide, for its purity."

The historian says:

To comprehend this extraordinary fact of a credit on the books of a bank, with no money in its vaults, and not bound to make that credit good in later times, even by the payment of interest, or to reduce it in any way, having been for hundreds of years at a high premium over gold and silver, we need only remember that these credits were the funds in which debts were chiefly paid. (See Darus's History de Venice, volume 3, page 72; Caldwell's Credit System, page 288; B. A. Hill's Absolute Money.)

Our credits, $346,681,016, made a full legal tender, are worth more than gold. We have shown this by the testimony of the Secretary. We have shown our constitutional right to use this legal tender. Will the bullionists, specie-basis bankers, their attorneys, and subsidized presses please give some reason why the American people should not be allowed to use more legal-tender currency in the place of national-bank paper and the interest-bearing bonds? Is it repudiation to pay in this credit money, preferred by creditors and worth more than gold? Is not the credit of thirty-eight American States with fifty million of people and $40,000,000,000 of wealth as good as that of the little Venetian Republic?

Specie basis has always been a delusion and an absurdity—that is, the specific redemption in a single commodity. A legal tender for all purposes is a currency redeemable in gold, silver, and all other commodities. No foreign wars can remove its basis, no panics, no revolutions in trade can possibly affect it. Its legal value, established by the sovereign power of a great nation which controls all products and all commodities, will not be questioned by loyal American citizens who have become familiar with the history of their colonial ancestors, whose prosperity was identified with their legal-tender paper money, and who gave us a nation without gold. Remove the legal-tender character of metal money, and it becomes irredeemable. Gold is not redeemable in the greater part of Asia. Silver is not redeemable in Turkey, Brazil, and many other countries. It was demonetized in this country from 1873 until 1878.

The following statement shows the profits of banking, (Tooke on Prices, volume 6, page 749:)

The net profits of all the banks in the United States:
In 1836, 15 per cent.
In 1837, 13 per cent.
In 1838, 18 per cent.
Between 1838 and 1852 the net profits only once fell as low as 8 per cent. That was in 1840.
In 1852 the net profits reached 19 per cent.
In 1853 the net profits reached 32 per cent.

Yet these banks during sixty years previous to the late war caused a financial crisis and hard times as often as once in eight or ten years. The people had become accustomed to being robbed and ruined periodically. This grand system of swindling was called specie-basis banking. The people were told by subsidized presses that this was a subject that common people could not understand; that the volume of currency would regulate itself. Webster said:

There never has been devised by man a plan more specious by which labor could be robbed of the fruits of toil than the banking system. The people not only take bank paper as money, paying interest on it at enormous rates, but when the banks suspend the people lose the discount, while the bankers gain it. The people wonder why financial panics occur so frequently. I can tell them why. It is to the interest of the bankers and brokers that they should occur. It is one of the specious methods by which these despotic and utterly useless knaves rob the producing, the manufacturing, and the mercantile classes of their honest earnings. It is one of the chief plans by which this infamous ring is riveting the chains of slavery upon the limbs of labor. It is one of the chief means adopted to build up a money aristocracy that shall live in idle luxury and ape the pretentious airs of European nobility.

Capital and net earnings of national banks from 1869 *to* 1881. (*Comptroller's report for* 1881, *page* 61.)

	Capital.	Total net earnings.	
September, 1869	$401, 650, 802	$29, 221, 184	
March 1, 1870	416, 366, 991	28, 996, 934	13¼ per cent.
September 1, 1870	425, 317, 104	26, 813, 885	
March 1, 1871	428, 699, 165	27, 243, 162	12½ per cent.
September 1, 1871	445, 999, 264	27, 315, 311	
March 1, 1872	450, 693, 766	27, 502, 539	12¾ per cent.
September 1, 1872	465, 676, 023	30, 572, 891	
March 1, 1873	475, 918, 683	31, 926, 478	13½ per cent.
September 1, 1873	488, 100, 951	33, 122, 000	
March 1, 1874	489, 510, 323	29, 544, 120	12⅛ per cent.
September 1, 1874	489, 938, 284	30, 036, 811	
March 1, 1875	493, 568, 831	29, 136, 007	11¾ per cent.
September 1, 1875	497, 864, 833	48, 800, 217	
March 1, 1876	504, 209, 491	23, 097, 921	8½ per cent.
September 1, 1876	500, 482, 271	20, 540, 231	
March 1, 1877	496, 651, 580	19, 592, 962	7 1/10 per cent.
September 1, 1877	486, 324, 860	15, 274, 028	
March 1, 1878	475, 609, 751	16, 946, 696	6½ per cent.
September 1, 1878	470, 231, 896	13, 658, 893	
March 1, 1879	464, 413, 996	14, 678, 660	6 7/10 per cent.
September 1, 1879	455, 132, 056	16, 873, 200	
March 1, 1880	454, 080, 090	21, 152, 784	9 5/10 per cent.
September 1, 1880	454, 215, 062	24, 033, 250	
March 1, 1881	456, 844, 865	24, 452, 021	11¾ per cent.
September 1, 1881	458, 934, 485	29, 170, 816	

The estimated losses to creditors from the failures of national banks during the eighteen years since the passage of the act, is $6,270,000. (Comptroller's report, page 3, 1881.) Making an estimate from the net profits as shown by the above table, if the banks were to issue all the currency, what time would be required to absorb all national wealth? Would there be any loss to creditors, would there be any necessity for paying high salaries to thousands of bank officers and agents, if all money were issued by the Government?

SPECIAL PRIVILEGES GRANTED TO NATIONAL BANKS.

1. The Government holds their bonds in safe-keeping for them without charging them a cent for the favor.

2. It collects the interest on their bonds from the people and pays it over to them free of charge.

3. It furnishes them with $900 of bank notes as a free gift to loan out for every $1,000 of bonds they deposit with the Government.

4. It allows them to draw interest on their bonds (*i. e.* the people's bonds) and their own bank notes at the same time—a twofold interest.

5. It imposes no tax either on their bonds or on their money, but exacts that much more off the people.

6. It places $800,000,000 of the people's money, called "the deposits," in their possession to speculate on and establish banks on.

7. It allows them to draw interest both on what the Government (the people) owe them and what they owe the people.

8. It authorizes the Treasurer to pay them one year's interest in advance, that they may have it to speculate on.

9. A law enacted for their special benefit on June 20, 1874, authorizes them, after they have flooded the country with their notes, and inflated prices of all property to high figures, to suddenly contract their circulation, and thus contract and prostrate business and ruin the country.

10. The law (January 19, 1875) authorizes them, after they have invested very largely in the property they have thus reduced to half price, to inflate their circulation again and raise prices so that they can make larger fortunes by selling at high prices the property they had bought up for a trifling sum.

Has the Government bond, upon which the national bank is based, any better security than the legal tender?

The people have been educated upon the currency question within the last six years as never before. They demand their own legal-tender money in preference to any other. It has been ascertained by a careful estimate of gold coins in circulation in various countries that the loss by wear is equal to one-fiftieth every year. There is no redemption for this loss. The legal tender when worn is redeemed with a new issue. The constant wear of the circulating coin currency and the immense increase of population and the increasing business of civilization make it impossible for statesmen, with a reasonable allowance of business intelligence and integrity, to advocate any limitation of the business of the world to any metal. It is estimated by some statisticians that every dollar of gold raised in the mines of California has an average cost of $2 to get it.

One very intelligent lawyer, like the distinguished Senator from Delaware, proposes to prohibit marriages and limit the population to the metals. This would be no more absurd or ludicrous than all other arguments of specie-basis men. Rome fell into barbarism because the population outgrew the metals. The pretense of specie basis of any kind is a fraud. The promise to pay in specie is generally a lie. The system teaches people to deceive, to be dishonest. It is a confidence game from first to last. The growth of population, of civilization, and of business by means of labor-saving machinery, of the discovery and utilization of steam, within the last sixty years, has been fifteen hundred to one, while there has been no such corresponding increase of gold and silver. As well attempt to move the freights of the world with ox-carts instead of freight-trains and steamboats as to talk about limiting the commerce of the world in any degree to any metal. It is not only disrespect for government but it is an insult to the intelligence of the American people. Harvey, an English political economist, pages 34 and 39, says:

> The plain fact is that the vast commercial and industrial transactions of this country cannot, by any ingenious contrivance, be carried on securely for any length of time with a circulation based upon or even nominally convertible into gold. There is not gold enough in the world. With a gold standard all the energies of the country are circumscribed and overpowered.
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> These public debts, if looked into closely, are only a machinery for mortgaging the labor of generations unborn, adding to the constantly increasing power of the moneyed or creditor interest.

In 1830 the contraction of the currency in France caused hard times and the organization of the communes. In 1847 the contraction of the currency caused a reorganization of the communes and the revolution of 1848. In 1870 the French people had a war with Germany. They were whipped in war, but victorious in peace. They issued $620,000,000 additional paper currency, made a full legal tender, kept at par with gold without specie basis; employed their population in the manifold industries of the country. The immense increase of the products of the country for exportation enabled them by these products to purchase bills of exchange to pay this stipend of $1,000,000,000 to Germany within twenty-seven months from June 1, 1871, completing the payment of their national debt September 5, 1873. The large products of industry, the fruits of a full legal-tender paper currency, continued to bring gold from other nations and gave prosperity to France.

On the other hand, Germany was victorious in war and whipped in peace. She contracted her paper currency and demonetized her silver, paralyzed her industries by such contraction, filled Germany with unemployed and hungry men. Thousands sought employment in prosperous France. Our own history is similar to that of Germany. We were victorious in war, but most unmercifully whipped by the specie-basis conspirators in peace. A large portion of our paper currency was destroyed, our silver demonetized, and an unnecessary interest-bearing debt spread over the American people. This was not the result of accident or of ignorance; it was premeditated legislation in the interest of the few to enslave the many.

Partisan leaders seem to learn nothing from history. The gentleman from New York, [Mr. HEWITT, Democrat,] says, (CONGRESSIONAL RECORD, March 30, 1882:)

> The resources of the country had been overstrained and exhausted by the expenditures of the war, and by the "delirium" of an "inconvertible paper currency," which produced an unnatural exhilaration in the industrial system. The reaction was necessarily severe. It did not and could not cease until the currency was placed on the solid basis of convertibility into gold, the universal standard of value in the world of commerce.
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> * * * * * * *
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> Now, the result of the cessation of the era of depression, stagnation, rest, and recuperation which followed the panic of 1873, and of the revival of business was due to the substitution of good money for bad money.

Will the gentleman please tell us what he means by the substitution "of good money for bad money?" Does he mean the remonetization of silver and the coinage of about $100,000,000 of those silver coins which he called "inferior, cheap, and cheating fiat dollars" in his speech of February 19? Or does he mean the many millions of gold coins which have been deposited in the Treasury in exchange for legal-tender paper money or silver certificates redeemable in those "cheap and cheating" fiat silver dollars? Does he mean that the $346,681,016 legal-tender paper ordered into the circulation as permanent money in 1878 and now worth a premium over gold was the good money which gave us greater prosperity? Was the receiving of legal-tender paper for import duties, which made the paper worth more than gold, what the gentleman means by "substitution of good money for bad money?" Does not the gentleman understand that the $400,000,000 added to the currency since 1878 has given corresponding vitality to every industry? That it was contraction of the currency that caused hard times and inflation that has given us renewed life and energy?

The honorable gentleman from Iowa, [Mr. KASSON, Republican,] in his speech of March 28, 1882, said:

> But, say gentlemen, how about the disaster of 1873? I see the question in the smiles on the faces of my friends over the way. The answer to that is very evident, that under the influence of overproduction both at home and abroad extravagant enterprises were inaugurated, in railroads especially, with great inflation of credit. The first great railroad that broke down took others, the whole iron industry, and the whole system of credit down with it. Then commenced the toppling of connected industries and credits, and one after another all went down. The same disaster went over free-trade England and all Europe, for the same overproduction was there. But now mark the sequence of the history of that disaster. Which was the first country to recover? Was it a European free-trade country, like England? On the contrary, we were the first country that began to recover from that disaster of overproduction.

The gentleman from New York [Mr. HEWITT] says:

> We can all recollect such periods in our history, and know what depression, distress, and general disaster such a surplus of products not needed for consumption is sure to entail; our very abundance becomes the source of our misery.

The most skillful Democratic and Republican bank and bullion doctors, after many years of legislative experience and philosophical research, have at last solved the great problem, and philanthropically donate to the world their most profound conclusions.

We give the explanation of the cause of hard times and good times, as taken from the speeches of two distinguished party leaders. From these speeches we learn that the American people suffered during many years because of "the delirium of an inconvertible paper currency," and because of the great "disaster of overproduction." The people are informed that they suffered hunger because they had too much food; that they were ragged and barefooted because they had too many boots and clothes; that all industries were paralyzed and the land filled with tramps because we had a surplus of products and too much "inconvertible paper currency." If the victimized people should happen to discover that they were not made "miserable" by a "surplus of products" and too much "bad money," (that is, money that does not pay toll to money-kings,) but that they were made to suffer hard times because of special laws made in the interest of capitalists, the people might be willing to retire such law-makers, as these statesmen have provided for retiring our Army officers on large salaries after they are sixty-two years of age.

That the people are made "miserable" by "a surplus of products," the "great disaster of overproduction." Hence the legitimate conclusion of both political parties, that the laboring classes and producers of wealth are made happy and prosperous by making laws granting special privileges to large manufacturers for high protective tariffs; to railroad companies unlimited charges; bullionists and bankers high rates of interest, in order to remove the great burden of "bad money" and "surplus products" from the people. That the people may not be made "miserable" with "surplus products" and too much "cheap and cheating money," as the gentleman from New York calls it, $300,000,000 will be kept idle and the people compelled to pay interest upon bonds and to pay high tariffs to keep them from being afflicted by another great "disaster of overproduction." The policy of these political leaders appears to be to permit the capitalists of Wall street to take a large proportion of those "surplus products" (the honest earnings of the laboring classes) and allow a few millionaires only to suffer the "misery" caused by the "great disaster of overproduction."

In regard to "inconvertible paper currency," General Grant says, in his message of December 1, 1873:

> The experience of the present panic has proven that the currency of the country, based as it is upon the credit of the country, is the best that has ever been devised. Usually in times of such trials currency has become worthless, or so much depreciated in value as to inflate the values of all the necessaries of life as compared

with the currency. Every one holding it has been anxious to dispose of it on any terms. Now we witness the reverse. Holders of currency hoard it as they did gold in former experiences of a like nature.

The gentleman from New York will please notice this testimony. "Inconvertible" paper money in 1873. No specie basis. Paper money, "based as it is upon the credit of the country, is the best that has ever been devised." This was before the enactment of a law for specie resumption. This is the kind of "bad money" together with "surplus products" that caused hard times, according to the latest teachings of modern Democracy.

We would call the attention of the gentleman from New York to the language of the political economist, Colwell, page 101. He says:

Among savages the precious metals are, no doubt, directly compared with the articles for which they are bartered. With them it is literally so much of one thing for so much of another. It is not so in civilized life, where commodities are very seldom sold with any thought of payment being exacted in gold or silver.

Civilization settles the question that "money is that which the law requires the creditor to receive in payment for debts."

We see that the legal tender, fully sustained by the Supreme Court, has saved the expense of purchasing bullion, $346,681,016, and has saved in simple interest upon the 5 per cent. bonds to purchase bullion, in twenty years, $346,681,016, an aggregate saving to the people of $693,362,032. If we had used bank paper, $350,000,000, based upon bonds at 5 per cent., the cost in interest upon bonds would have been $350,000,000.

If we had used gold the cost of bullion would have been $350,000,000, and the simple interest at 5 per cent. upon the bonds to purchase the bullion during twenty years, $350,000,000 more, making an aggregate cost of $700,000,000.

If we had used standard silver dollars costing eighty-eight cents each for the bullion, saving twelve cents on each dollar by "fiat," the $350,000,000 of money would have cost the people $308,000,000 for the bullion and $308,000,000 more for the interest upon bonds during the twenty years, making an aggregate of $616,000,000 for that amount of currency during twenty years. This would have saved to the people $84,000,000 by the use of fiat silver; $66,000,000 of silver certificates, redeemable only in this "cheap and cheating fiat" silver money are in circulation as money; $38,000,000 of gold coin have been deposited in exchange for such silver certificates, business men preferring the certificates based on this "fiat, cheating" money to gold coins. According to the report of the Director of the Mint, page 36, the people gained by "fiat" profits on standard and silver dollars coined during the year previous to June 30, 1881, the sum of $3,346,949.99, and "fiat" profits on the manufacture of minor coins $274,423.73.

Would not bullion certificates, which are preferred to either coin, and which would save the expense of coinage, and also the loss by wear or abrasion, be better for the people than either gold or silver coins? The people prefer the legal-tender greenback currency which pays no tolls to bullionists or bankers. The idea of any necessity for commodity value in money, belongs to an age of barter, and not to an age of civilization. The people will see what kind of money pays them best, that which gives freedom and prosperity, or that which makes them serfs and slaves to a capitalistic aristocracy.

It is morally criminal to place the producers of wealth at the mercy of capitalists by special legislation, as was done in this country during a period of years from 1865 to 1878, contracting the currency hundreds of millions of dollars under the false pretense of reaching a specie basis. The American people hold those specie-basis legislators responsible for the financial crisis of 1873, for the hard times during ten years previous to 1878. The people hold those men responsible for the sacrificing of the homes of hundreds of thousands of industrious and innocent people and for filling the land with thousands of bankrupts, paupers, and criminals.

The people hold those legislators responsible for the unjust laws which caused 3,000,000 able-bodied men to be thrown out of employment and forced to beg for work and for bread during those long and fearful years of suffering. The silver commission estimated the number of tramps at 3,000,000. If those men could have been employed at $1 each per day, three hundred working days each year, $900,000,000 per year, equal to $7,200,000,000 in eight years, a sum of money would have been realized sufficient to purchase a country 1,000 miles in width and 1,125 miles in length, at $10 per acre.

Those legislators should be held responsible for railroad strikes and destruction of property, for the suffering and starvation of thousands of men, women, and children. Those specie-basis legislators should be held responsible for unjust laws designed to make the rich richer and the poor poorer. They should be held responsible for the thousands of disheartened bankrupts and paupers who fill the graves of suicides. No language can express the just indignation of a long-suffering people, through a period of many years of hard times, caused by a series of special laws designed for special purposes.

Table showing the increase of currency in the United States since 1878.

There was an increase of currency from January 1, 1879, to November 1, 1881, of—

Gold coin	$284,258,845
Silver coin	79,463,562
National-bank paper	36,552,576
Amount of increase within two years and ten months	400,274,983

(Comptroller's report, December 5, 1881.)

	January 1, 1879.	November 1, 1879.	November 1, 1880.	November 1, 1881.
Gold coin	$278,310,126	$355,681,532	$453,882,692	$562,568,971
Silver coin	106,573,803	126,009,537	158,320,911	186,037,365
Legal tender	346,681,016	346,681,016	346,681,016	346,681,016
National bank	323,791,674	337,181,418	343,834,107	360,244,250
Total	1,055,356,619	1,165,553,503	1,302,718,726	1,455,631,602

The large increase of money in the United States since 1878, as shown by the Comptroller's report, has given new vitality to all the industries of the country. As contraction of the volume of money caused hard times, so inflation gives us prosperity. This is the simple repetition of the history of all nations in all ages. Those millions of unemployed and hungry men who were scandalized and imprisoned, and who were put in chain-gangs as tramps, by those who had robbed and starved them through unjust legislation, have been awakened to new life and hope as honest and industrious Americans. During the year 1880 those industrious people built 8,174 miles of new lines of railroad, and in 1881 an additional amount of 8,242 miles of road, and all other enterprises have been developed in proportion. Should not those heartless specie-basis law-makers be held responsible for the contraction of the currency during ten years? With the pages of history open to every American child, shall those men be allowed to plead ignorance in justification of such national wrong?

When we read of the James brothers, of the outlaws of the mountains wrecking occasionally a railroad train, we are struck with horror at such human depravity. But how much more alarming are the consequences when all of our industries are paralyzed, a whole nation prostrated in fearful gloom during a period of years by a series of premeditated unjust laws? Can there be any just retribution for the dwarfed childhood and crushed manhood caused by this specie-basis idolatry?

A few years since chattel slavery was the corner-stone of the American Republic. To doubt the divinity of this institution was a heresy not to be tolerated. To-day the Rothschilds and their agents in Wall street dictate reverence to their gods of gold, the limitation of commerce, and American civilization to their system of paganism, by means of which the nations have been cursed and enslaved. A grand army of 500,000 brave, conscientious, and intelligent voters, with the flags of Jefferson and Franklin, are moving fearlessly and rapidly upon the enemy's works. We say to those specie-basis conspirators, who stopped the growth and progress of the American States during a period of many years, and caused hard times in spite of God's sunshine and rain and bountiful harvests—the past is yours, but the future is ours.

In behalf of the American people, who have confidence in a government by the people and for the people, we demand that the people's currency, unjustly taken from the people and destroyed, or put into an interest-bearing debt, shall be restored to the circulation as currency instead of drawing interest in bonds or stored at great expense for safes and watchmen lying idle in the Treasury, while the people are compelled to pay interest upon hundreds of millions of dollars of unnecessary bonds.

We have shown by the testimany of the Secretary of the Treasury that the creditors prefer the legal-tender paper to gold or silver. Why not let them have it and stop interest? We had an immigration equal to 593,703 people during the year 1880, and 720,045 during the year 1881. We have reason to expect even a larger immigration in future years. We demand an increase of the currency equal to the increase of population and the increasing demands of business.

We question the policy, the wisdom of Government purchasing hundreds of millions of dollars' worth of gold, silver, iron, lead, wheat, cattle, or any other commodity and holding it without use at great expense to strengthen the credit of our Government. The producers of wealth, the tax-payers, intelligent Americans, students of Jefferson and Franklin, want no such unjust legislation in the interest of money speculators, bankers, usurers, Shylocks, and tories.

History proves that gold was never the money of a people struggling for freedom. The gold of King George paid armies to butcher, scalp, murder, and burn, during seven long years. Their bayonets were driven from this land without gold. When a few years since English pirate-ships preyed upon our commerce, they were driven from the seas without gold. During the fearful trials of the late war our soldiers were paid without gold.

This coin-idolatry has cursed this land, as it has cursed all lands, with periodical panics, hard times, and human slavery.

It affords an opportunity, a deceptive pretense, for a few men to control all the wealth and to absorb all the products of industry. Relieve the people of the absurd idea of the necessity of a commodity value in money, of the barter trade of barbarism; teach them that governments have supreme power to establish legal values for all of the exchanges of civilization, and you strike down the chains of slavery and remove the opportunity for the few to rob the many. This would allow the people to use that money which is now idle, to stop interest, to increase the circulation equal to the demands of business, and give employment to labor, develop the resources of the country, give greater encouragement to those who produce all wealth, and elevate our American people to a higher civilization.

Mr. BURROWS, of Missouri. Mr. Speaker, if Congress had one single mind and if its opinions could be uttered through the medium of one tongue, I would like to listen to the answer which this Congress would give to the questions which are suggested by the bill under consideration. This bill (H. R. No. 4167) is the result of a complex process of gestation in the Committee on Banking and Currency, and bears the title of "a bill to enable national banking associations to extend their corporate existence." As such it is a matter of serious import to the people I represent, as well as to the people of the United States at large; and I propose, Mr. Speaker, to discuss briefly, in a somewhat Socratic method, some of the salient features of this bill. The antithesis of the measure before us is the cornerstone of the National party, which I have the honor to represent in part on this floor.

The measure before us is the rock of offense of both the old parties of the country against the welfare and wishes of the people.

Were I to include, as I very properly might, upward of sixty Democrats and nearly a score of Republicans, with the little group of Nationals on this floor who owe their selection as Representatives here to their antagonism to the purposes of this bill, I might claim that no one measure, not even the tariff, had so vital a hold upon public sentiment, had so much to do with the character of this House and has so much to do with the character of the next two Congresses that are to meet here, as the measure which is being driven through this body with unbecoming and inconsiderate haste at the bidding of the favored few, the privileged class, the potent plutocrats, the commercial cliques, and the corporate cabals who demand the passage of this bill in their interests, with as little discussion as possible, and with all the speed that the fear of an awakened and growing public sentiment can urge to the flying feet of the financial pirates who are getting to their castle with the plunder of twenty years upon their backs, and seeking to have Congress bar the door against their pursuers by slipping the bolt of this bill as a law to guard their treasure for twenty years to come.

What, Mr. Speaker, I ask, is the reason for this bill? Speaking for the people generally who do not own banking franchises, and for the people of my own State and district in particular, I ask this Congress, What do you mean to do by passing this bill? Who ask for its passage? What interests are to be conserved? What evils are to be averted? What errors are to be corrected? And what benefits are to result, and to whom are the benefits to accrue from the passage of this bill? The bill proposes to extend the existence of a class of corporations that exist not for the purpose of producing anything, not for agricultural, manufacturing, educational, charitable, or even strictly commercial business purposes.

A class of corporations that add not a dime to the wealth or intelligence of the people; a class of corporations that in the present state of civilization do not contribute to society as much as a traveling circus that amuses the multitude, nor add to the security of our finances half as much as a modern iron safe that scarcely demands even the tithing of a patent royalty for a service that is actually greater than that of the associations known as incorporated banks throughout the whole Union; such a class of corporations are here demanding the sanction of Congress for a further lease of power for twenty years—to do what? Why, they propose to furnish the people with a paper currency that is as much superior to the old State bank currency as that was superior to the cowry of the African coast, says the representative of these banks.

I admit it; but I ask what of it? As the lawyers say, I demur to this statement. I wish to know why these corporations should be chartered to do that for the people which they can do so much better for themselves?

I would like some of the many gentlemen on this floor who are either the officers, directors, or stockholders of some of these national banks, and who will vote on this measure in which they have a direct pecuniary interest, or I would ask even those more judicial members, who favor this bill without a direct pecuniary interest, if they can give me one reason, just one good and valid reason, why they ask for the existence of a chartered monopoly or class to be created or perpetuated between the people and their Government that shall have delegated to it the sovereign power of issuing that which passes current as money in this country when the Government itself issues a paper currency as much superior to the notes or current debts of these national banks as their notes, when indorsed by the Government, are superior to the old State-bank notes?

Nobody wants, nobody argues for, no one dreams of a return to the old system of paper currency that existed prior to the rebellion. There has not been heard in this Congress, nor for years before it, the voice of a solitary member on this floor advocating a return to the old State-bank system of currency; and when I see, as I constantly do, that gentlemen in the advocacy of this bill are constantly throwing up the false cry of "State banks or national banks," and asking us if we who oppose the national banking system would be willing to return to the old State-bank currency, I am compelled to declare that these gentlemen not only misrepresent the national party, but are raising a false issue to divert attention from the real issue now before the people.

The issue is not between the old State banking system and the present national banking law, any more than there is an issue between the old wooden plow of a century ago and the steam gang-plow of steel to-day, or between the dug-out boat of the savage and the steel steamer of our day. Men are not so conservative as to forever cling to that which has been supplanted by a better thing.

We no longer insist on wampum and coon-skin currency, although we know that at a time in our history they were the best and most acceptable in general use. So, too, we have relegated to the lumber-room and museum of the past the old State-bank money of 1860, and we who oppose national-bank currency have no more intention of using it again than the cotton factories or fabric-makers of to-day have of abandoning the inventions of Arkwright and Jacquard for the old spinning-wheels of our grandmothers in the forgotten attics of our older homesteads.

Where, then, Mr. Speaker, is the issue? Clearly not between the best and the worst, but between the better and the best; not between the effete and the useful, but between the useful and the improved or more useful.

Steam no longer competes with horse-power, its supremacy being conceded; but electricity is beginning to dispute many fields with steam.

So, too, the Treasury note is competing with the national-bank note for recognition in law of the supremacy that is already conceded to it by popular estimation.

The issue is between the United States and the favorite class of bankers for whom the Government has been indorsing for twenty years.

The people propose to go into the business for themselves, instead of indorsing for an ungrateful and greedy class, who demand and receive pay from the indorser, upon whose credit they thrive.

The constitutional prohibition against any of the States making anything but gold and silver a legal tender is accepted in good faith by the party most earnestly opposing national-bank currency, and with it we accept in the same spirit the fact that the Constitution has made the General or Federal Government the sole power to issue or coin lawful money of the United States, whether of metal or of paper. The power to coin or make money having been delegated by the States to the Federal Government is exclusively vested in the General Government; and as if to emphasize the perpetual or irrevocable nature of this grant of supreme power by which the States, for the common welfare and convenience of all, divested themselves of those parts of their sovereignty which they conferred upon the Federal authority to create the nation, the tenth amendment to the original Constitution declares that "all powers not herein granted are reserved to the States or to the people thereof."

Like the powers to levy taxes, duties, and imposts, the powers to declare war, to make treaties, to maintain an army and navy, to establish post-offices and post-roads, the power of making, coining, or issuing the money of a nation is one of its most important sovereign attributes. These are powers that every nation guards with zeal, and which none allow to be infringed upon with impunity. Why, therefore, should we create, countenance, or continue a favored class of citizens, or of artificial persons known as corporations, to whom we unlawfully and unconstitutionally delegate one of the sovereign attributes and functions of the Government?

What excuse have we for giving to corporations the power to issue money or currency any more than to create another class of corporations, like the great manufacturing companies, to levy the tariff, or a part of it; or to still other corporations, like the railway and express companies, to establish post-offices and post-roads; or to give to combinations of merchants duly incorporated the power to make treaties; or to lawyers the power to declare war, or confer upon the Grange organizations the function of regulating taxation or the issue of patents?

There is not a whit more reason or excuse for the one than for the other of these methods; and since the preposterous character of an entire government by corporation, worse than the old guilds of London, is apparent to every one, and since we have by indirection and maneuver already far too much of government by corporations, it becomes every man in this House and in this land to see to it that he take his stand on the solid ground of popular rights and of constitutional government in this issue as against class privileges and the incongruous government by corporations that the present anomalous financial laws of this country now exhibit.

That portion of our currency that consists of coin, even to the paltry copper and the almost intrinsically worthless three-cent nickel coin, is so jealously regarded as the sole issue of the rightful authority of the General Government that the severest penalties are visited upon all persons or corporations who issue tokens, coins, or currency in imitation of these issues. Why should not the Government guard with still greater jealousy its exclusive right to issue the paper money of the land? Why not treat as counterfeiters all banks of issue that purport to issue any money other than "lawful money of the United States," or the standard coins of its mints? Surely the plea of convenience cannot be raised, for the Government prints and furnishes all the national-bank notes as well as the Treasury notes, and can therefore furnish enough. Besides, the plea of convenience would not avail the counterfeiter, or even the miner or assayer of bullion, were they to issue coin of equal or greater fineness and value than that of the authorized mints of the Government; and the penalty of a violated law would be inflicted on those who had usurped

this attribute and function of Federal sovereignty, even though no injury had actually resulted.

But the gentlemen who urge the passage of this bill tell us that banks are a necessity of our civilization and of our commerce.

I admit it, but I most emphatically deny that it is a necessity of commerce or of civilization that the debts or notes of these banks should be authorized to circulate as currency, and to take the place of real money of the Government, especially under the conditions that now exist to favor these institutions.

Banks of exchange, discount, and deposit we must have at present, but banks of issue should be suppressed as counterfeiters in the interest of commerce, justice, and labor's rights to uniform standards which shall not be made to fluctuate according to the caprice or greed of the capitalist classes who control banking corporations.

But, again say these gentlemen, if you admit the convenience and usefulness of banks of discount, exchange, and deposit, you must know that without the power to issue money or emit bills of credit or circulate their notes as current funds these banks could not or would not exist.

This proposition I utterly deny, and it is so far from true that I have only to cite the fact that in the State of New York alone there is an increasing number of State banks that now reaches nearly one hundred and fifty that do a profitable banking business without issuing a dollar of currency or notes of their own to pass for money. In fact not one-third of the banks and banking institutions of this country are banks of issue. Comptroller Knox, the special advocate of these national banks, shows, on page 25 of his report for December, 1880, that there were then 6,532 banks and banking houses and institutions in the United States, of which but 2,076, or not one-third, were national banks; that while the banks that do a legitimate business and issue no currency had deposits to the extent of $1,319,009,000, the national banks held, through the partiality of Government deposits, &c., only about $420,000,000 less than the other banks.

These figures at least offered us ample ground for denying the claim of the national-bank advocates on this floor and elsewhere, that the unconstitutional and dangerous function of issuing as currency the notes of these banks is essential to existence or prosperity of legitimate banking in this country, and for declaring that it is a claim that is as devoid of merit as it is false in fact and vicious in policy. Besides this, let me cite a few figures to show that our banking system does not need the royalty and profitable business of issuing money to sustain it in affluence and security such as the most conservative man, if a patriot, would take no alarm at. The annual report of the Secretary of the Treasury on the state of the finances for 1881, over the signature of Secretary Folger, shows that upon a capital of $463,821,985, and with an aggregate circulation of $360,344,250, the national banks then in existence, numbering 2,132, managed to have outstanding loans amounting to $1,169,022,303. That is to say, they managed to get more than $3 due to them for every dollar of circulation they had by loaning the currency over and over again, and thus making $1 do the work that $3.50 should have done in the commercial and business transactions of the country. This they did by "loans and discounts," the profits of which depend largely and mainly upon the scarcity of current funds. The scarcity of current funds, under existing law, depends or is made to depend so largely upon the caprice of the banker that the power to retire or to inflate the volume of currency, which is at all times in the hands of the non-producing class, represented by the Bankers' Association, that is forever seeking to get out of the producers the largest possible share of the fruits of labor, has become a daily danger to all classes of producers.

The present bill does not propose to remedy this evil in any manner or to any extent, and the people are to be left to the tender mercies of the cunning old spiders who spin the nets to entangle the honey-laden bees of labor through the devices of bank currency, bank discounts, and bank "shaves."

It is true that some of the gentlemen on this floor, having rather more of both intelligence and of conscience in this regard than their more thoughtless and more avaricious fellows, have been put to the blush of shame so often by having this power of shortening or lengthening the currency possessed by the banks constantly complained of, that they have been known to favor and to advocate some limitation or restriction upon the banks in this regard; but I warn gentlemen who may be appealed to for votes to pass this bill upon the ground that any such modification may be ingrafted upon it as an amendment, or that any such provision would accomplish one iota of gain for the people, that just so long as the banks have the power of issuing currency the danger inheres in them, notwithstanding you forbid them to increase or diminish their currency save upon a notice of three, six, or twelve months.

Should Congress seek to insist on this restriction and still give the banks the power to issue money there would arise a new system of subsidiary and ephemeral banks, constantly organizing and going out of existence, merely to avoid the hampering of this proposed restriction and to play into the hands of the great banks the game of circumventing the popular will.

Nor will it do for us to sugar-coat this dose of poison by any other amendments that do not cut off the head of the organized swindle of the whole national banking system by striking out the enacting clause of the bill before us.

The distinguished gentleman from New York, [Mr. FLOWER,] who seeks to throw a tub to the whale of popular indignation over the threatened passage of this bill by allowing the banks to be sued in the State courts and by compelling them to give three months' notice in retiring currency, must be fully aware of the worthlessness of rude palliatives in curing the evils of the national banking system. How, for instance, could he explain to the people of the Empire State in his projected gubernatorial campaign that the three months' notice amendment was of any real value, when the intelligent people of that State, as of the whole Union, are fully aware that the Bankers' Association, which meets at Saratoga every year, acts as one man, and can agree to give the required notice just in time to shorten up ready funds when the autumn crops need gathering or moving, or just in time to catch the spring opening of business and exact the big shaves on currency that are regulated by the morality and avarice of the bankers and all other monopolists, whose limit of extortion is avowed by them to be "all that the traffic will bear?"

Certainly the gentleman from New York does not believe that the people, who generally have no money to waste in lawsuits against rich and unscrupulous corporations, would be pacified in their indignation against a perpetuity of the national-bank swindle by the convenience of the boon he would accord them of prosecuting in the State courts their cases against these banks. Nor will the proposition of the gentleman from North Carolina, [Mr. SCALES,] which would vouchsafe to the dear people the privilege (?) of pledging their lands to the national banks, so far neutralize the poison that lurks in this cup now held to the lips of Congress by the Bankers' Association, who demand that we swallow this bill, as to make it either a pleasing or a safe dose. Neither do I see safety or reason in the proposed amendment of my colleague, [Mr. BUCKNER,] which would require the national banks to keep their reserves in gold and silver. This proposition, coming from a distinguished Democrat, proves how heartily united the two old parties are in the interest of hard money, tightly locked up from circulation, and hard times tightly bound to the chariot-wheels of the capitalist class by the bond of oppressive class legislation.

The very thing for which many of our Democratic brethren, in common with the Nationals, denounced Senator Sherman when Secretary of the Treasury, the lock-up plan, which asked Congress to appropriate $100,000 to build a new vault to hold the overflow of coin from the glutted Treasury of a nation that owned over a thousand millions of dollars, is now proposed as a Democratic panacea for the rechartered banks. Verily, when this Shermanizing policy is added to the national-bank system, I hardly think the offensive carcass of this public cancer will smell one whit sweeter to the offended public nostrils. But the proposition of the gentleman that these banks shall issue no currency of a less denomination than $10 is merely good in so far as it cuts off the power to issue other smaller notes, but it is bad inasmuch as it does not altogether cut off the power of these banks from issuing currency.

My other colleague and fellow National [Mr. HASELTINE] has offered an amendment, which, like that of the gentleman from Pennsylvania, [Mr. BRUMM,] strikes at the root of the evil, and takes away at once the foundation and the necessity for these national banks.

The appropriation of the hundred or two hundred millions of dollars that lie in worse than idleness in the national Treasury from year to year toward the payment of the national debt is both in accord with honesty and a wise public policy; and the proposition of my distinguished colleague to issue non-interest-bearing Treasury notes to pay off the remainder of the bonded debt that may be due or optional is both just and statesmanlike, and would prove a greater blessing to our land than all the legislation of this Congress or the labors of those of the past twenty years have been able to achieve. No rational argument can be made against its lawful or its equitable character. If the credit of the nation be good in the bond it issues, surely it is better in the currency it would substitute for those bonds, as the substitute would be free from the burden of interest, and might be made taxable.

If the credit of the nation be good only because its Treasury holds coin, then the power of the Government over taxation, titles, property, life, and liberty, are but metaphysical myths to the minds of those who worship only at the glittering altars of mammon; and the government that pays out coin is committing financial suicide. Away with such rubbish! Prate of wisdom to the brutes if the end of government be held to be the hoarding up of treasure! While no man of you who favor this absurdity of a few grains of gold being the only standard of labor's reward, and of hoarded stores of gold in the national Treasury being necessary for any purpose beyond current expenses, dare carry out your financial logic to the absurd end to which it clearly leads, not one of you can successfully deny that the result of your policy is precisely that which I have indicated.

No, Mr. Speaker and gentlemen of this Congress, it will not do to attempt to gild this legal crime by trifling amendments. It will not turn away the growing wrath of the injured public for you to curb this financial monster by gentle stays or small fences in its onward path toward unbridled supremacy in national politics and legislation. You must kill it or it will kill you! You must put the untaxed, privileged class of bondholders, who are already insisting that we are paying off the debt too fast and taking away their bonds

and privileges, upon the level with other citizens. Already the banks are talking of their "vested rights," and as the gentleman from New York [Mr. FLOWER] assures us in his remarks, they do not need this bill to enable them to continue their existence, but merely to facilitate the continuation of their existence.

If they possess the power to recharter themselves, or if they have a quiet understanding with the Comptroller of the Currency that they can be renewed or rechartered by going out of business and commencing again for twenty years just before their charters expire, then why do these corporations deign to ask any action on the part of Congress at all? Such is their position, in fact, and they gloss over their impudence by formally procuring the sanction of Congress to this bill—just to cover contingencies—in order to avert an outburst of public wrath. I implore Congress and the people to wake up and throttle this monopoly, or the Government of the people will become the slave of the money-power.

The only safety is to cut off wholly the power to issue money which these banks possess; and upon that I stand, whether the present iniquitous special privileges of the national banks be retained or cut off. But, say these gentlemen, the banks need the currency privilege to sustain themselves. In denying it I have shown that they reap profits from each dollar equal to the ordinary profits by loans and discounts on $3.50; but this by no means exhibits the full amount of the profits of these banks.

Out of 2,298 banks existing September 1, 1880, the profits of 2,072 of them above all losses for the six months previous to that date is shown, on page 48 of the annual report of the Comptroller of the Currency, dated December 8, 1880, to be $24,033,250, and for the year prior to that date, $45,186,034. On page 45 of the same report the losses of 1,360 of these banks is shown for the same periods as respectively $7,142,519.96, and $14,706,406, which very largely increases the percentage of profits on their business in order to leave as net gains over $45,000,000 as the result of a year's work.

The Comptroller of the Currency tells us that the national banks have lost in five years, from 1876 to 1880, inclusive, the sum of $100,551,475.45 in their business transactions, and yet he shows that in the same period they have declared dividends to the tune of $199,592,902, and in addition thereto have accumulated a surplus reserve fund of upward of $130,000,000, which they now hold as the "balance of power" in this gigantic struggle between these corporations and the people.

Now, in speaking of this surplus fund we touch the most sensitive part of this vast cancer on the body-politic, and find the nucleus of the organized power of these favored classes by which they are here as a unit clamoring for the practically indefinite extension of their lucrative privileges, which this bill secures if passed.

Comptroller Knox, in his special plea for these banks, called his annual report, dated December 6, 1880, page 47, says that—

> The law provides that a surplus fund shall be accumulated by setting aside before the usual semi-annual dividend is declared one tenth part of the semi-annual net profits of the bank.

And he adds:

> In some cases this legal surplus now exceeds the capital of the bank.

To remember that this vast accumulated surplus of over $130,000,000 is but one-tenth of the net profits of the banks above the regular large semi-annual dividends, and that the banks held at the date of the Comptroller's report the additional item of $46,139,690 of "other undivided profits" and $3,452,504 of "unpaid dividends," we are confronted in the midst of this legislation by the visible power of an accumulation of $180,000,000 held by less than 2,200 corporations as a club over the heads of the people and Congress to beat down opposition to the scheme they have concocted for securing to themselves indefinitely the perpetuity of their still more valuable charters and privileges.

I do not speak carelessly when I say that this vast accumulation in a few hands is held as a club to drive or coax legislation, nor do I mean to be understood that such vast sums are used or are intended to be used to bribe or corrupt legislators; but I do mean that we have heard it distinctly stated by members of this House, by bankers, and by the subservient and subsidized press of the great cities that a failure to recharter these banks would precipitate a financial revolution through the compulsory distribution to the stockholders in these banks of the vast sums thus kept out of use in ordinary business, and that such a jolt or shock to the *statu quo* of financial circles would demoralize capital, unsettle business, and divest the favored few of much of the mighty power they now possess over the many.

Fools and sciolists, timid speculators, and conservatives destitute of foresight may, with the rich oppressors of labor and parasites of production, whose swollen coffers would, if justice were done, render up to the rightful owners this fund, be frightened at such an act of justice; but the unlocking of these vast sums would place in more numerous hands the funds to promote general business in other channels than the shaving of paper, the loaning of bank credits, and the "bearing" of the money market by vast lock-ups of the currency of the country.

In the interests of business, and in the desire to protect popular rights, agricultural labor, and mechanical industries from the dangerous power of this gigantic banking octopus that holds, in addition to its vast and valuable chartered powers, Government favors, and associated advantages, this vast sum of nearly $200,000,000 of extra, reserve, unexpended, or undivided profits as the result of a few years of money monopoly, (during which they have paid right royal dividends besides,) I demand that the power of this unproductive system be trampled out of existence by the will of every patriot who hopes to leave to his children at least a chance to prosper in the race of life without becoming forever a slave in the treadmill of bank-credit and bank-currency combinations against labor and productive enterprise.

If gentlemen in this House are to-day afraid of the consequences of distributing to its individual owners the present surplus held by these national banks, with what abject slavish submission would they not contemplate the increasing accumulation of this fund through the years and decades that are to follow an extension of their bank charters? If the vaunted statesmen and pseudo-statesmen of to-day stand aghast or tremble in awe before the threatened jolt or jar or disturbance in business which these banks threaten if their demands are not met by this Congress, how clearly must it appear to the man who sees the future or who comprehends the present that we are already bound in the chains of a banking obligarchy and moneyed aristocracy that simply regard the people, the toiling, producing masses, as their legalized prey, and who resent all efforts of a few brave men in Congress to rescue this fair land from the harpies who, under the guise of most benevolent bankers and capitalists, are enabled through the iniquitous laws which this bill would perpetuate to reap all the richest results of the labors of every class of citizens without even claiming to render an equivalent to society for these advantages.

It has not been my purpose, Mr. Speaker, in these remarks to reiterate the familiar evils and oft-cited absurdities of our present banking law, which allows these banks to issue as currency that which is not in law or in fact lawful money, which compels the Government of the United States to pay a few rich men, as soon as they apply for and receive a bank charter, interest on bonds that have been practically redeemed, and royalties to corporations whose notes they indorse, which enables the associated money-kings of the country to form a plutocracy that defies the popular desire to restore to the Government the power of controlling the volume and character of the currency.

I have not attempted to amuse, nor to recite bombastic platitudes to array rich against poor, or labor against its creature and natural servant, capital; but in entering my solemn protest against the continuance of this wicked financial system of our present national banks, that has grown so fat, impudent, and domineering as to threaten the people who would curb its power after the first twenty years of its existence, I have sought to show to the country and to the legal minds of this House that the present system should not be extended or perpetuated, because—

1. It is unconstitutional.
2. It is unnecessary.
3. It is too costly.
4. It is too powerful to be given a further lease of power.
5. It is of neither use nor benefit to any one except the small and favored class who are the recipients of its extravagant favors.
6. It is a vast political machine whose influence is so great on this floor in 1882 that a continuation of its power may be well regarded with apprehension by the people in all parts of the country.

Every man, Mr. Speaker, who sees, as all may see who will look, that with our ever-increasing aggregation of great wealth in our great cities there is an ever-increasing amount of want and crime, of scarcity and hardship among the workers, an increase of underpaid and discouraged farmers and a vast increase in the tendency of our young men to shirk work for the fields of the gamblers, moneychangers, and other parasitic classes that are so influential in this country at present; all, I say, who see these things must feel that unless we do something to prevent this centripetal aggregation of wealth; something to restrain the present tendency to disinherit the many and to give all to the few; something to soften or mitigate the sharpness of the contrast that is forever rising higher and higher between the two chief products of the Democratic-Republican financial policy of to-day, namely, millionaires and paupers; unless we do some of these things there is and will be dangers to our institutions, to our families, and to our very lives, which will surely come in the same or worse forms, as it will come from the same causes in more modern form, as the terror of the French Revolution of 1789.

Industry will not be forever wronged, robbed, injured merely to gratify the greed of the moneyed class. Agriculture will not be forever the bond-maid of banking and railway rings. Manufacture and invention will not remain indefinitely and unquestioningly the serfs and beggars of the money lenders, who hold them under this financial system at the mercy of the ignorance, cupidity, or timidity of those who control capital.

Mr. Speaker, you know these things are true. The very gentlemen who ask us to pass this bill know these things are true.

Gentlemen who profess to be anti-monopolists, who can see the evils of railway monopoly, of gas monopoly, of water monopoly, of shipping or manufacturing monopolies, shut their eyes at the command of the banker who exacts tribute from them under guise of doing them the favor to shave their notes or discount their paper

credit, and obediently refuse to see the size or iniquitous character of the master monopoly of them all, the parent monopoly of all the rest, that of the money or currency monopoly of these national banks.

It is against this monster monopoly that the people are fighting. It is to resist its further encroachments that they have organized, stood by, and are extending the power of the National party which I have the honor in part to represent here. Knowing these things as you do, knowing that the substitution of Treasury notes for the present volume of national-bank notes would be hailed as a boon by all the farmers, workers, and producing classes of this land, both because it would give us a better currency of real money and because it would be a saving of many millions of dollars annually to the whole people; knowing that the votes you give here on this measure, the record you will make on this bill, cannot be obliterated by excuses to your outraged, awakened, and indignant constituents when they shall find themselves bound, gagged, and sold to the money-changers by your act in the passage of this bill—I ask you, in the name of justice, in the name of the American people, and of our country's best interests—

How dare you pass this bill? When its indefensible provisions, its ridiculous subserviency to the power of the "reserve fund" and the "other undivided profits" are exposed before your constituents, as they surely will be; when the appeal is taken from your action here to the people whom you by this bill propose to keep enslaved to the money-kings; when the faithful Greenbackers go to the hustings to expose to the people the full extent of this crime against their rights and best interests, as we surely will do; when, finally, want, oppression, monopoly, and enlightened public opinion combine to bring to justice or to scourge with stripes the men who chose to obey the money-kings rather than the people, you who vote for this bill will be praying for the mountains to fall on you and the waves of a political oblivion to hide you forever.

Upon no ground can the passage of this bill be defended with success. For no valid reason can a vote be asked for it.

It is one of the most wicked, defenseless, inexcusable, flagrant cases of a popular swindle that ever came before Congress, not excepting the land-grant, Credit Mobilier, granite contract, river and harbor, whisky bill, or other swindles that have disgraced the Congressional legislation of the past or threaten it at the present moment. Here and now gentlemen must make their record and choose their fate. They know whether they will serve the people who are opposed to this bill and to the national banking system, or whether they will obey the commands of the Shylock Radicals and Bourbon Democrats who conspire to pass this measure. The crisis has come, and the old dodge of Bourbons and Radicals talking against the national-bank swindle in their districts to get votes and voting with the political harlots who think they conceal their acts from their distant constituents can be played no longer with any hope of success.

In conclusion, I ask, in all candor and seriousness, why should we, how can we, and how dare we pass such a bill as this? Let the bank charters expire. Banking will not cease. Over two-thirds of the banks and banking of the country is already done without these bank charters. Let the charters expire, and put all the banks on a level. Let the charters expire, and put the Government again in sole and exclusive possession of its rights. Let the charters expire, and put the vast revenue accumulations in the bank-vaults into trade, commerce, business, and productive enterprises. Let the charters expire, and behold "the best banking system the world ever saw" thereby superseded by the best currency and most equitable financial system that man has ever devised. Let the charters expire, and forbid with the spirit of Andrew Jackson the rechartering of banks by the Government or by any authority which shall claim the right to empower them to issue currency! Let the charters expire, and the end of monopoly will be in full view! Let the charters expire, and let the people live freed from the national-bank incubus that now assumes to be their master.

Could we have a financial Peter the Hermit to thunder over the land his anathemas, and to preach a new crusade against these banks, his cry at this moment would be: The national banks must go! Let the charters expire!

Mr. ANDERSON. Mr. Speaker, I am surprised that when such an attack on the national banking system as is proposed by this bill is made on this floor no voice has been raised from the Republican side of the House in defense of that system, one which was distinctively a Republican measure and one which owes its great success to the wise legislation of that party. This is a bill to enable the national banking associations to extend their corporate existence. The present law upon that subject was passed in 1863 and was amended in 1864. Under that law, as bearing upon this present question, two important provisions were made. The first was that the charters of the associations should endure for a period of twenty years from the date of issue, and the second that an association might be formed at any time. Hence all of the 393 banks whose charters expire before the 25th day of February, 1883, can, under the terms of the present law, reorganize and continue their business. The result is that the object proposed to be accomplished by this bill is in no possible way material to the present national banking system. Whether the bill passes or whether it does not pass, the present system continues, and the banks may organize or reorganize hereafter as they have done heretofore under the existing law. And the pretense that this measure is inherently a part of the national banking system, or something that beneficially affects that system, is in my opinion a false pretense. It has no foundation in fact.

On the other hand, this bill proposes that you shall change our national banking system by amending the acts of 1863 and 1864 so that the corporate existence of any national bank may last forever! That is the whole of it, when you boil it down. In other words, that we shall depart from the historic policy of the grandest party that has ever won a place in the annals of the nation, the Republican party, and retrace the steps which have been productive of the greatest benefit to all classes of our people in connection with the wisest system of banking that the world has ever seen.

Looking, Mr. Speaker, to the beneficent results which have been produced by this system, the Republican party certainly has a right not only to self-congratulation but a right to demand the highest praise for establishing a system, the perfection of which has not been questioned, and for the maintenance of which it has fought foes on every hand.

During the war the national banking act had two effects: the first was to preserve the national credit, because, if I remember correctly, greenbacks were then at a discount of 60 per cent. We had neither gold nor silver coin in circulation and the national-bank notes in giving to the country a currency prevented the further depreciation of the greenback. Another effect was that it enabled the nation to place upon the market a large amount of its bonds. The Government, being without credit or money, was by this system alone enabled to borrow money which otherwise men would have refused to loan. Any one looking at the results of the system in those days must concede that it was both wise and beneficent.

Since the war it has given to this country a uniform currency that is good in every State, in every county, and in every Territory; a currency that has the same value in the East that it has in the West and from the extreme North to the South. It has furnished a currency which, as compared with the old wild-cat and rag-tag-and-bobtail State-bank money will be forever lustrous.

Another thing which it gives to the holder of a national-bank note is absolute security. Gentlemen come here and claim that the banks themselves afford this security. They do not. As a rule the real confidence which men have in these notes is inspired by the fact that a great nation stands behind them. While the banks attribute to themselves a great deal of credit in this respect, the true credit belongs to the system itself, and not to the banks. And the credit of originating the system belongs to the Republican party. And another thing is the security that the system gives to deposits and depositors, of which I need not speak.

Now, Mr. Speaker, there was a very wise foresight in the provision inserted in the organic act that the charters of these banks should expire at the end of twenty years from the date of issue; because that provision was designed to be a defense against the tendency of all moneyed institutions to perpetuate their existence and enhance and aggrandize their power. And, mark you, that provision was inserted by the Republican party in 1863. That was enacted in the days that tried men's souls, and then it was that the party won its greatest renown. Those were days when we had such men as Lincoln and Seward and Chase, when men's souls were purified by patriotism and fired with such love for the nation that they looked far into the future, and, so looking, declared that in twenty years the charters of these national banks should cease. That declaration was the edict of the Republican party in 1863. It has been the principle of our party ever since. It is true Republicanism now, and by it I for one shall stand to-day.

The twentieth year has come; 1863 has passed into 1883; and now—what? The Republican party, in time of profound peace and unexampled prosperity, is asked to change its historic policy and its sagacious forethought by continuing the life of a banking association indefinitely, perpetually, and in contravention of the provisions inserted by the wisdom of the fathers. That is what you are asked to do. That is precisely what this bill means.

I am surprised at the glamour which has somehow been gotten over the eyes of gentlemen, especially on this side of the House. The adroit advocates of this bill have not only sought to make an impression but have succeeded in creating the general impression that because the Republican party, from the very nature of its principles and the very nature and breadth of its sagacity and patriotism, is in favor of the national banking system, therefore it must be in favor of permitting national bankers to change that system. Such a proposition is absurd upon its face. But yet that is the impression which certainly has been made upon this side of the House.

I have tried to show that our national banking system is a Republican measure, and that the Republican party is not only proud of it but has a right to be proud of it. There is no other measure, among the many that will stand bright for all time to come upon the page of our history, which will be more glorious and which will always grow brighter than exactly the financial policy which established this national banking system. But, Mr. Speaker, bankers are not the system. That is the point I want to make. And the Republican party, while in favor of the system, is not necessarily to be in

favor of the bankers who derive the benefits from the system. And I for one, as a Republican, do not propose either to desert the traditional policy of the party on the one hand or, on the other, to be made a cat's-paw of by any set of men anywhere upon this or any other question.

I think it is not necessary to show further that this bill is no part of the national banking system. If it means anything in the world, it is seeking to change the system. In other words, it is an attack on the system. It would not be here unless its advocates desired in some way to modify the system. And when you come to look at it you find that it is for the benefit—of whom? Of the note-holders? Of the depositors in the banks? Not at all. Of the credit of the Government? Not at all. It is for the direct benefit of the owners and officers of your national banks, and for the benefit of no other parties that I can see.

The reasons which are urged for the adoption of this measure are—and if I do not state them fairly I ask to be corrected—first, to give the banks the advantage of their present organization. That is well enough if it does not cost too much. When an association has for twenty years so conducted its affairs that it not only has won, but deserved to have won, the confidence of the people among whom it exists, and whose deposits it holds, then certainly upon the ordinary principles of equity such a bank has a right to the credit it derives therefrom. And, as I stated before, unless it costs others too much every fair-minded man is willing that the association should continue to enjoy its established name and reputation.

The second reason is to spare the stockholders the expense and trouble of making new investments. And that, too, is well enough if it does not cost too much. No one maliciously desires to put them to any additional trouble or to any unnecessary expense.

A third reason is to prevent what is alleged as a contraction of the currency, and which I deny as being at all probable. If a contraction in any sense, certainly it will be but a temporary contraction, and yet this is the main point that is urged in support of the bill. These are the three reasons, so far as I have been able to pick them up, why gentlemen advocate the passage of this bill?

Now, I wish to state another reason which I have not heard suggested, though it may have been, and which to my mind is the real reason; it is the milk in the cocoanut; namely, the desire to save the banks the expense of reorganization, and possibly in some cases to save them the exposure of insolvency. What would probably be the expense of reorganization? Take a bank of $100,000 capital. We will say that the premium on its bonds would be $2,500; that the new plates for printing its notes would cost $1,000; that books and sundry expenses of reorganization would cost $500. There you would have a total of $4,000. About 65 per cent. of the banks have a capital of over $100,000; so that this estimate for premium on bonds would be too small, and you can safely put the average expense of reorganization at $5,000 per bank; and I fancy that would be low.

There are somewhere in the neighborhood of 2,200 national banks, so that the total expense of reorganization to them would be about $11,000,000, and I fancy that these $11,000,000 constitute the cat in the meal-bag. There is the gain which I see to the stockholders, and there may be a still greater gain to them in the saving of premium on bonds, because all of these banks will not liquidate this year, and the longer your bonds run the higher they get. And I say nothing of the profit to them of retaining their existing reserved funds.

On the other hand, it is alleged by these gentlemen that there is a gain for the country, and I wish fairly to state it.

The report of the Comptroller of the Currency shows that between April 11, 1882, and February 25, 1883, the charters of three hundred and ninety-three banks will expire; that these banks own bonds, now on deposit in the United States Treasury, amounting to $75,768,700, and that their notes in circulation aggregate $68,070,980. Now, the allegation is that the withdrawal of these $68,000,000 of notes from the circulation will produce such a contraction of the currency as to cause a panic.

I wish fairly to meet that proposition. I deny it, and for two reasons. The first is that less than 6 per cent. of the entire business of the country is transacted by the use of money in any form. Out of every $100 of business exchanges $94 are transacted without the use of "money." I take from the very able speech of my very pleasant friend from Massachusetts [Mr. CRAPO] this statement: that the amount of silver coin in use consists of .17 of 1 per cent., and the amount of gold coin in use consists of 1.38 per cent.——

Mr. CRAPO. Not in use. What I meant by that table was that in the monetary exchanges of all the banks, both those in New York City and those throughout the country, during a given period of time, .17 of 1 per cent. was transacted in silver, 1.38 per cent. was transacted in gold, 4.36 per cent. was transacted in bills, greenbacks, and bank-notes, and the balance was transacted by checks.

Mr. ANDERSON. I am much obliged to my friend; I understood it in that way. Of course I take the experience of banks in this matter of effecting exchanges as a fair standard of what is probably the experience of the whole country.

Mr. CRAPO. I think that is fair.

Mr. ANDERSON. The legal tenders used in these transactions amount to 2.16 per cent. My friend from Massachusetts [Mr. CRAPO] gives the aggregate of the legal-tender notes and of the bank-notes. I have separated them upon the basis of the amount of the two kinds of notes in circulation. I may be wrong in that, but the aggregate is right.

I suppose that the percentage of business transacted by legal-tender notes is 2.16, and the percentage transacted by bank-notes is 2.20. In other words, where any exchange is made, taking the entire business of the country into account, of every $100 of exchanges made only $5.91 of that entire amount of business is settled by the use of silver coin, gold coin, legal-tender notes, and bank-notes combined.

My recollection is that in the transactions of the New York clearing-house about 5 per cent., and in some years only 3 per cent., of the entire business of that institution is performed by money in any shape. Now if that be true, and it undoubtedly is true——

Mr. BRUMM. Will the gentleman allow me ask him a question at this point?

Mr. ANDERSON. With pleasure.

Mr. BRUMM. The gentleman says that about 6 per cent. of all the business of the country is transacted by means of money.

Mr. ANDERSON. Less than 6 per cent.

Mr. BRUMM. Well, we will put it at 6 per cent. Then 94 per cent. is transacted by means of private bills of exchange of different kinds, drafts, promissory notes, &c.?

Mr. ANDERSON. Yes, sir.

Mr. BRUMM. The question I want to ask the gentleman is this: If there was a sufficient amount of the national medium of exchange in the country to do business with, would not these private bills of exchange, promissory notes, &c., be relatively less than they are now?

Mr. ANDERSON. I think not, and for this reason——

Mr. BRUMM. One moment; you can give the reason afterward. Then how can you account for the fact that in France, where the volume of currency, relative to the population, the purchasing power of the dollar, and the square miles of territory has been variously calculated as high as 50 per cent. greater per capita than it is here—of course it is not that if you take the population alone, but I am taking all the elements—the volume of currency there is much greater than here; yet there they hardly know anything about a check, bill of exchange, or promissory note, except in large transactions between large cities and with foreign nations? Now, how does the gentleman account for that?

Mr. ANDERSON. I account for it on the same principle that they yet wear wooden shoes. In other words, they are behind the times by two centuries.

Mr. BRUMM. But they are a very successful people.

Mr. ANDERSON. They are behind the times for all that.

Mr. BRUMM. But they could pay the German war debt in a remarkably short time.

Mr. PRESCOTT. They never paid it.

Mr. ANDERSON. My friend from New York [Mr. PRESCOTT] says they never paid it; I do not know how that is. But my answer to the gentleman is that the American nation in inventions, facilities of business and transmission of intelligence, in finance, and in commerce is to-day head and shoulders above France. And the experience of France on that point would have no weight with me, although undoubtedly it would have weight with my friend from Pennsylvania, [Mr. BRUMM.] It is the difference of opinion between us.

In other words, I do not believe that the fact that 6 per cent. say, of our commercial exchanges are settled with money, at all alters the fact that men will prefer their own credits or the drafts of institutions which they know to be sound in preference to gold coin, silver coin, silver certificates, legal-tender notes, national-bank notes, or any other form of money. A check or draft is a more convenient instrument of exchange than the bank-note and can be better identified. It is less liable to loss. For this reason I imagine that the true elasticity of our exchanging medium arises not from the national-bank note, not from the legal-tender, not from coin, but from the confidence which American merchants and traders have in American institutions. In other words, your whole system of exchange is based simply upon credit; and when that credit is good men care nothing whatever about your money. From my State we will not send you gold or silver or bank-notes or greenbacks; we will send you a bank-draft.

Mr. CRAPO. How does the gentleman explain the great apprehension of financial trouble that existed in the country a year ago by reason of the withdrawal of $18,000,000 of currency?

Mr. ANDERSON. I am glad my friend has mentioned that matter. I explain it simply in this way: the moment you shake credit you shake as a matter of course the whole commercial means of exchange, including the draft of every bank. The contraction of currency of which the gentleman speaks was, if I recollect aright, brought about as a threat of these identical national banks, which affected the confidence of men in each other all over the nation. It is precisely for this reason that I for one wish to see the power to make such threats taken out of the hands of the banks, and if it belongs anywhere put it in the hands of the United States Government—certainly not in the hands of a set of men who at that time

did "bulldoze" this nation and this Congress. There is no doubt about that. [Applause.]

Mr. CRAPO. My inquiry is this: Did not the withdrawal of that $18,000,000 of currency, whether from fear or according to the gentleman's view as a threat, affect disastrously the monetary affairs of the country for a while?

Mr. ANDERSON. Mr. Speaker, my friend has had much more experience upon this question than I have had. If he says that it did, I take his statement. I have no doubt it would have that effect, for this reason: it would be, in my notion, exactly analogous to the example of a dozen banks; when one of them breaks you look out for the rest. In this case you find, let the motive be what it may, that a contraction is suddenly and unexpectedly produced, it takes place in a flash, showing that somebody is losing confidence. The inevitable effect must be to make other men doubtful. This alone would account for a lack of confidence everywhere.

But the point which I think the gentleman wants to make is this: that whenever there is a contraction there must be a shaking of confidence. I do not see the matter in that light at all. Suppose that this bill be not passed. Suppose the country knows months beforehand that on the 25th of February, 1883, two hundred and ninety-seven banks must go into liquidation, and must retire $54,000,000 of currency. The point of my friend is that because so much currency is to be retired therefore everybody would lose confidence and there would be a panic all over the country. I think not, for this reason: we know months beforehand that this retirement of currency and the consequent contraction is to take place. Therefore we are not shaken at all. It does not disturb my confidence in my banker, or your confidence in your merchant, or anybody's confidence in real estate. Why? Because you know beforehand that this withdrawal of circulation must come and that it will be but temporary. The idea that a mere contraction necessarily produces a lack of confidence and a panic seems even to me, who am not at all a financier, very absurd.

Mr. HASELTINE. Will the gentleman allow me to ask him one question?

Mr. ANDERSON. With pleasure.

Mr. HASELTINE. Could not Congress protect the people against any damage from contraction of the currency by authorizing the Secretary of the Treasury to issue legal tenders equal to the amount of contraction caused by the withdrawal of the bank-note circulation?

Mr. ANDERSON. Most undoubtedly. And in the last Congress I introduced as an amendment to the funding bill a proposition that currency notes, not legal tenders, be issued by the Government in the denominations and to the amount of the retired national-bank notes. Most undoubtedly any contraction could be prevented in that way, if it were necessary.

But the question is whether you have not money enough to-day. Is it not quite probable—to my mind I am frank to say that it is certain—that the danger to the country to-day is not from having too little money, but because we have too much? In other words, I believe that a contraction, so far as it goes, will do good. But, as I said, I am not a financier.

Mr. HASELTINE. May I ask the gentleman another question?

Mr. ANDERSON. With pleasure.

Mr. HASELTINE. Has the gentleman in his experience or observation ever known a community that suffered from too much money?

Mr. ANDERSON. Well, yes. I hope my friend makes the distinction between property and money. Money is simply a tool with which to effect exchanges and settle balances. Whenever money becomes so plentiful that you cannot obtain a fair interest for it—when the rate of interest runs down, we will say, to 1 per cent. per annum—when nobody is willing to pay anything for the use of money—then I fancy you have too much of it.

If my friend means to ask whether I ever saw a country where the people had too much property, where each individual had too much wealth, I am very frank to say, Mr. Speaker, in looking at my own sad experience I never saw that country or that individual. But there is a vast difference between property on the one side and money on the other. Money is simply a convenient instrument with which you settle the balance of your exchanges. It serves as a wheelbarrow; that is all your money is or does.

Mr. HASELTINE. Will the gentleman permit me to ask him another question?

Mr. ANDERSON. With pleasure.

Mr. HASELTINE. Do not the political economists understand to-day distinctly that it is high-priced money in the United States which prevents our maintaining our shipping upon the high seas in competition with the cheap money of other countries?

Mr. ANDERSON. My friend asks for my opinion as to the views of political economists on that point. Of course I may be mistaken, but my opinion is that the real reason why we have no commerce on the high seas is because somebody else is carrying our freights cheaper than you will carry them. It is because the wages of the European sailor are cheaper than those of the American sailor, and because English mechanics in ship-yards work for lower wages than do our mechanics

Mr. HASELTINE. Is it not because of the cheap money and cheap labor of other countries?

Mr. ANDERSON. I think the trouble is not as to the cheap money, but mainly because of cheaper labor.

Now, Mr. Speaker, returning to the alleged danger of contraction, I desire to suggest again that the present supply of money is more than sufficient for a safe business. I do not say it is more than sufficient for financial skylarking, which inevitably results in ruin, but it is sufficient for safe, prudent, legitimate business. You had on hand November 1, 1881, $562,568,971 of gold, $186,037,365 of silver, $346,681,016 of legal tenders, and $360,344,250 of bank notes, an aggregate of $1,455,631,602. Certainly that is money enough for the transaction of 6 per cent. of the whole business of the country. The trouble with me is that I have nothing to sell. There is money enough scattered around if I only had something to exchange for it. And my point in reply to the alleged danger of contraction is simply this: the gentlemen advocating this bill say that the withdrawal of $60,000,000 of currency for a few weeks will produce a panic. What percentage is that $60,000,000 of the $1,455,000,000 of gold, silver, and notes? It is somewhere about 4 per cent., and if this nation has gotten into such a tremulous condition that the withdrawal of less than 4 per cent. of that which it uses as money will produce a panic, then in God's name let us have a panic, because then we must be financially rotten. I am not frightened a particle by this bugbear of contraction, even if it were more than a myth. But the fact is that the withdrawal of so small a relative amount will not produce contraction. After your 393 banks have withdrawn their circulation there are 1,700 other national banks which remain and can increase their issues. If bank notes are scarce, men will willingly pay for them. The existing banks will make money by increasing their issue, and the result will be that this increased issue will prevent contraction.

Then comes the final proposition, that the vast bulk of the exchanges of the country do not depend on the amount or kind of money you have, but that 94 or 95 per cent. of your exchanges are effected by your drafts and checks and your credits on books.

Mr. Speaker, it seems to me that the naked issue presented by this bill is an issue between the owners and the officers of the present national banks on the one side, and the American Congress with a Republican majority on the other. The Republican party, as the father and defender of our national banking system, is bound by all its traditions to oppose this issue. There is the only point. And when gentlemen come here and, alleging this to be a Republican measure, ask me as a Republican to support it or to observe silence, I utterly deny their allegation and protest against so gross an attempt to use the party for such a purpose. I prefer to be a Republican of the old and true school. When you unearth this scheme you find that it is the owners and the officers of the banks attacking the grandest financial system the country has ever seen, and for which the Republican party is responsible. That is all there is of it, in my judgment.

Mr. HASELTINE. Will the gentleman let me ask him another question?

Mr. ANDERSON. Certainly.

Mr. HASELTINE. Did not the Republican party give us the greenbacks?

Mr. ANDERSON. Yes, sir.

Mr. HASELTINE. Could we not afford to get more of them to fill up any contraction caused by the withdrawal of the national banks?

Mr. ANDERSON. My friend and I differ about the danger of contraction. I have no apprehension of it. We have more money than we need; but if the gentleman will reproduce the circumstances under which the greenback was given to the country he will find that the same vivid patriotism would recreate the greenback. That note was simply the pledge of the nation, in the hour of its dire distress and poverty, that some day, no man could say when, but somewhere along the line of an unknown future, it would redeem its promise to pay the dollars named. It was only the evidence of the plighted honor of a great nation to repay money borrowed. And in due time every syllable and letter of that promise was made good. That was the greenback, a Republican every inch of him, from the inner soul, glowing with patriotism and integrity, to the hair of his head, now golden with the halo of faith perfectly kept and pledges fully redeemed, as you look at him in history.

But my friend will excuse me for saying that this greenback is not what I think is in his mind when he talks of "fiat" money. It was simply the nation's note given for the payment of its obligations, as my own note or the note of any other individual would be given.

Mr. HASELTINE. Has not the Supreme Court of the United States, the highest tribunal in the country, decided that it was the lawful right of the American Congress to stamp any material in its possession in peace or in war as its currency?

Mr. ANDERSON. I do not now remember what the Supreme Court may have done in that connection. My present familiarity with its utterances is derived from a recent reading of some decisions in railroad cases, and I then thought that somebody ought to have pounded into that august body either some common sense or common honesty. I do not care what they say one way or the other as to the power

of a nation to issue fiat money. But the greenback was simply a note to pay the obligations of the nation; and if ever again in the history of this country a period should come similar to that which called forth the greenback, you will find the same faith and the same credit given to it that the Republican party gave to it in the days when it was first issued. But that day is not here now. This nation does not need to issue a depreciated currency at this time. The simple point in this bill is whether you shall give to these national banks an indefinite life and save to them many millions of dollars, and that is the whole of it.

But to be frank with the gentleman and answer his question more fully, I will say that there are three functions which may be exercised by banks: first, that of discount and deposit; second, that of exchange; and, third, that of issue. So far as continuing the national banks as banks of deposit and of exchange, I do not believe that any country will ever have a better system than the present. None can be better for the customer and the whole people.

But I am frank to say that in all sincerity I question the policy or wisdom of this Government giving to anybody, to the banks or to anybody, the power to issue paper that shall be used as money. And I would infinitely rather see a piece of paper issued as a Goverament note, payable on demand by the United States Government, backed by its resources, to be made good by its integrity, than I would the notes of any bank, though supported and secured by the promise of the Government to make them good in the event of failure by the bank.

Mr. BURROWS, of Missouri. Will the gentleman permit me to ask him a question?

Mr. ANDERSON. With pleasure.

Mr. BURROWS, of Missouri. The Government issues the legal-tender notes, does it not?

Mr. ANDERSON. Yes, sir.

Mr. BURROWS, of Missouri. The Government also issues the national-bank notes?

Mr. ANDERSON. No, sir; the banks issue them.

Mr. BURROWS, of Missouri. They do?

Mr. ANDERSON. Yes, sir.

Mr. BURROWS, of Missouri. I supposed it was the Government.

Mr. ANDERSON. The Government prints them.

Mr. BURROWS, of Missouri. Well, the Government is responsible for them. Now I want to know what is the difference between a note issued directly to the people by the Government or indirectly through these corporations?

Mr. ANDERSON. In time of peace, none; but in times of war an immense difference, as our experience proved.

Mr. BURROWS, of Missouri. Then, another question. In what is the national-bank note redeemable, in coin?

Mr. ANDERSON. Yes, practically, now, and if the Government has no greenbacks.

Mr. BURROWS, of Missouri. Then it is redeemable in greenbacks?

Mr. ANDERSON. It is redeemable in the lawful money of the nation.

Mr. BURROWS, of Missouri. Can you demand coin?

Mr. ANDERSON. Strictly you can only demand legal-tender notes. When these are at par you can demand coin, so that now you could demand and receive either greenbacks, silver, or gold. But when the greenback was at a discount you could not demand coin from the Government in redemption of a bank note. It was just this fact which makes the vast difference between war and peace periods.

Mr. HOLMAN addressed the House. [See Appendix.]

Mr. HARDENBERGH obtained the floor, and yielded to

Mr. CRAPO, who moved that the House adjourn.

The motion was agreed to; and accordingly (at nine o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ERRETT: The letter of Thomas A. Douglass, relative to the bill for the relief of sufferers by the explosion of the Allegheny arsenal in 1862—to the Committee on Claims.

Also, the petition of manufacturers and dealers of matches of Pittsburgh, Pennsylvania, in opposition to the proposed repeal of the tax on matches—to the Committee on Ways and Means.

By Mr. HOGE: The petition of William Gray and others, citizens of Marion County, West Virginia, asking an appropriation for educational purposes—to the Committee on Education and Labor.

By Mr. MOREY: Papers relating to the claim of Barrington Behymer—to the Committee on War Claims.

By Mr. SPARKS: The joint resolutions adopted by the Legislature of Illinois, in relation to the imprisonment of American citizens in British jails—to the Committee on Foreign Affairs.

By Mr. WARD: The petition of honorably discharged soldiers and sailors of Delaware County, Pennsylvania, for the enactment of a law granting to soldiers and sailors of the late war bounty in money in lieu of bounty land-warrants—to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

SENATE.

WEDNESDAY, *May* 17, 1882.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report from Captain William Ludlow, Corps of Engineers, of an examination of Indian River, Delaware, from its mouth to Millsborough, made in compliance with provisions in the river and harbor act of March 3, 1881; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of West Virginia, presented a petition of citizens of Circleville, Pendleton County, West Virginia, praying for an appropriation by the General Government to aid free schools in the States; which was referred to the Committee on Education and Labor.

Mr. HARRISON presented a petition of ex soldiers and sailors of Indiana, praying for the passage of the House bill granting one hundred and sixty acres of land to each of the volunteer soldiers of the late war; which was referred to the Committee on Public Lands.

Mr. SHERMAN. I present the petition of Mrs. Betty B. Bassett, of the State of Virginia, setting out that she is the owner by descent of the family Bible of the father of George Washington, which is undoubtedly true. She desires to sell it to Congress at such price as they may think proper to allow her, stating that she thinks so interesting a memento should be owned by the Government and that her circumstances are rather necessitous for her to donate it. I move the reference of the petition to the Committee on the Library.

The motion was agreed to.

Mr. BROWN. I present a petition of citizens of Gilmer County, Georgia, in favor of a liberal appropriation for the education of the people of the different States, and as it is very short I ask consent that it be read.

The petition was read, and referred to the Committee on Education and Labor, as follows:

We, the undersigned, citizens of the county of Gilmer, State of Georgia, deeply impressed with the dangers which threaten our institutions because of the appalling illiteracy of the voting population, as revealed in the last census, for the enlightenment of whom many of the States are unable to make adequate provision, and believing it to be the duty of Congress to provide for the public safety no less in time of peace than in time of war, and that the enfranchisement of the freedmen by the United States Government imposes upon that Government the obligation to afford liberal aid to the States in their effort to prepare this class of citizens for the duties of citizenship, do earnestly pray that our Senators and Representatives in Congress assembled will take prompt and efficient measures to avert this danger; that moneys raised in adequate amount, and from such sources as Congress may, in its wisdom, deem best, shall be distributed among the States and Territories on the basis of illiteracy and for the support of common schools conducted under local laws, under such guarantees as shall secure their application to this object, with equal justice to all classes of citizens.

Mr. BLAIR presented a resolution of the city government of Manchester, New Hampshire, praying for an appropriation to improve the navigation of the Merrimac River in accordance with the report of General Thom, United States Engineers; which was referred to the Committee on Commerce.

He also presented the memorial of Andrew J. Chambers, praying the passage of the bill providing for a commission of colored citizens to inquire into the condition of their race in this country; which was referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. JACKSON, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 190) to refer certain claims to the Court of Claims, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. JONES, of Florida. I am instructed by the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 5387) providing for the pay of Rear-Admiral Roger N. Stembel, to report it favorably. A bill similar to this was heretofore reported by me from the same committee. I ask that that bill be indefinitely postponed, and that the bill now reported be placed on the Calendar in lieu thereof. The Senate bill was passed over without prejudice the other day when it was reached on the Calendar.

The bill (S. No. 339) providing for the pay of Rear-Admiral Roger N. Stembel, was indefinitely postponed.

Mr. ROLLINS. What position will the bill now reported occupy on the Calendar?

The PRESIDENT *pro tempore*. If there be no objection it will take the same place on the Calendar as the bill which was postponed indefinitely.

Mr. ROLLINS. I do not know that I have any objection to that, but I should like to be present when the matter is called up for consideration.

Mr. JONES, of Florida. I certainly shall interpose no objection to the presence of the Senator from New Hampshire. He can be present if he wishes.

Mr. ROLLINS. I fear my objection would not avail if I were present; but I should like to have the Senator refrain from calling the bill up when I am not present. I am generally here.

Mr. JONES, of Florida. I want it understood that I enter into no obligation to that effect.

Mr. ROLLINS. Very well. Then I object to the bill being placed on the Calendar in the place occupied by the bill which was indefinitely postponed. The bill will then go to the foot of the Calendar, where it belongs.

The PRESIDENT *pro tempore*. The Senator from Florida had better accede to the request of the Senator from New Hampshire and agree not to take up the bill in his absence.

Mr. JONES, of Florida. Has the Senator from New Hampshire a right to object to this bill taking the place I suggested?

The PRESIDENT *pro tempore*. He can object to such an arrangement, in which case the bill must go to the foot of the Calendar.

Mr. JONES, of Florida. I do not think that I ever called up in the Senator's absence any matter that he indicated he had an interest in.

Mr. ROLLINS. I knew the Senator is so courteous always that he would extend to me that courtesy.

The PRESIDENT *pro tempore*. The Senator from New Hampshire withdraws his objection.

Mr. ROLLINS. The Senator served notice upon me that he would not extend that courtesy to me, and therefore I interposed the objection.

The PRESIDENT *pro tempore*. The objection having been withdrawn, the bill reported by the Senator from Florida will be placed on the Calendar at the place occupied by the bill which was postponed indefinitely.

Mr. FARLEY, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 686) to regulate the appointment of sailmakers in the United States Navy, reported adversely thereon; and the bill was postponed indefinitely.

Mr. SLATER, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1332) for the relief of the Delaware Indians in accordance with treaty stipulations, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. DAWES. I am instructed by the Committee on Indian Affairs to report back favorably without amendment the bill (H. R. No. 5004) to accept and ratify an agreement with the Shoshone and Bannock Indians for the sale of a portion of their reservation in Idaho Territory required for the use of the Utah and Northern Railroad, and to make the necessary appropriation for carrying out the same.

Mr. HAWLEY. I should like to give notice that I shall ask the Senate in a few days to consider the bill just reported.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 927) for the relief of J. T. Pickett, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. McPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1578) to regulate the promotion of graduates from the Naval Academy, and appointments in the staff corps in the Navy, and for other purposes, reported it without amendment.

Mr. HOAR, from the Committee on Claims, to whom was referred the petition of James B. Crank and George Hoffman, citizens of Washington, praying compensation for use and occupation of their property by the Army during the war, submitted an adverse report thereon, which was ordered to be printed; and the committee were discharged from the further consideration of the petition.

Mr. CAMERON, of Pennsylvania, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 910) for the relief of Bayse N. Westcott, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 879) authorizing the President of the United States to reappoint Stephen A. McCarty a lieutenant-commander in the Navy, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 61) tendering the thanks of Congress to and conferring additional rank on Chief Engineer George W. Melville, United States Navy, and for other purposes, submitted an adverse report thereon, which was ordered to be printed; and the joint resolution was postponed indefinitely.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1749) for the relief of William McNamara, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. VANCE, from the Committee on Naval Affairs, to whom was referred the petition of Daniel S. Mershon, jr., for balance of contract on account of building the gun-boat Mingoe, reported a bill (S. No. 1892) for the relief of Daniel S. Mershon, jr.; which was read twice by its title.

Mr. VEST, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 3858) to provide for the construction of a public building at Galveston, Texas, reported it without amendment.

SIXTH NORTH CAROLINA COLLECTION DISTRICT.

Mr. VANCE, from the select committee on the sixth collection district of North Carolina, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the necessary expenses of the special committee authorized by the Senate resolution of April 21, 1882, to investigate the administration of the collection of internal revenue in the sixth district of North Carolina, &c., be paid out of the appropriation for special and select committees.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 3542) for the relief of Charles F. Benjamin and Henry H. Smith;

A bill (H. R. No. 5575) providing for a public building at Jackson, Tennessee;

A bill (H. R. No. 6179) directing the Secretary of State to take the necessary steps for the removal of the remains of the late General Kilpatrick, minister to Chili, from Chili to the State of New Jersey for interment;

A joint resolution (S. R. No. 67) authorizing the Secretary of War to loan one hundred flags to the mayor and committee of citizens of Charlotte, North Carolina;

A joint resolution (H. R. No. 111) authorizing the withdrawal from the Department of State of a certificate of indebtedness in favor of Mifflin Kennedy and Richard King against the Republic of Mexico; and

A joint resolution (H. R. No. 211) to authorize the Librarian of Congress to accept the library offered to be donated to the United States by Dr. Joseph Merideth Toner, of Washington, District of Columbia.

BILLS INTRODUCED.

Mr. HAWLEY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1893) to extend the benefits of section 4 of "An act making appropriations for the support of the Army for the year ending June 30, 1866," approved March 3, 1865; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HALE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1894) to extend the provisions of Senate bill No. 1783 so as to embrace wire-rope already imported; which was read twice by its title, and referred to the Committee on Finance.

Mr. CHILCOTT asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1895) restoring to the public domain certain lands heretofore claimed as portions of the Saint Vrain and Vigil grant, in the State of Colorado; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. INGALLS (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1896) to authorize the Court of Claims of the United States to ascertain the amount of damage sustained by Ann C. Carroll and Maria C. Fitzhugh, executrixes of the estate of Daniel Carroll, of Duddington, deceased, by the regrading of the streets around square No. 736, in the city of Washington; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

Mr. GROOME asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1897) for the relief of First Lieutenant Redmond Tully; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. JONAS asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 68) authorizing a survey of a route for a ship-channel and harbor on the Mississippi River at New Orleans, Louisiana; which was read twice by its title, and referred to the Committee on Commerce.

AMENDMENT TO A BILL.

Mr. ROLLINS submitted an amendment intended to be proposed by him to the bill (S. No. 1402) for the relief of shipping; which was ordered to lie on the table and be printed.

LUCRETIA V. WEBSTER.

Mr. ROLLINS submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Acting Secretary of the Senate be, and he is hereby, authorized and directed to pay out of the miscellaneous items of the contingent fund of the Senate to Mrs. Lucretia G. Webster, widow of William E. Webster, deceased, late an assistant engineer of the Senate, the sum of $720, being an amount equal to six months' salary as assistant engineer aforesaid; the above sum to be considered as including the funeral expenses and all other allowances.

PENSIONS TO SOLDIERS OF MEXICAN AND INDIAN WARS.

Mr. CALL. I offer the following resolution:

Resolved, That the Committee on Pensions are hereby instructed to report on Senate bill granting a pension to the survivors of the Mexican and Indian wars prior to the year 1848.

Mr. ALLISON. Let that resolution go over.

Mr. PLATT. The resolution will be printed, I suppose.

The PRESIDENT *pro tempore*. The resolution will be printed, and it goes over under the rule.

GRAIN STEAM-SHOVEL PATENT.

The PRESIDENT *pro tempore*. If there be no further morning business, the morning hour is declared closed.

Mr. COCKRELL. Regular order.

The PRESIDENT *pro tempore*. Bills on the Calendar under the Anthony rule will be called.

Mr. PLATT. I ask the Senate to consider again the bill which was under consideration yesterday morning, Senate bill No. 1057, for the extension of a patent. It seems to me it is better that the bill should be taken up and disposed of while it is fresh in the minds of Senators.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1057) for the relief of George Milsom, Henry Spendelow, and George V. Watson, the pending question being on the amendment of Mr. COCKRELL to add to the bill:

And provided further, That any and all persons who may have purchased, constructed, or become the owners of such machinery, or any part thereof, since the expiration of the patent and prior to the passage of this act, shall have the right to use the same without liability for royalty or damage, and without interference on the part of the patentees, their executors, administrators, or assigns.

Mr. COCKRELL. The report has been read.

Mr. LAPHAM. Mr. President, I desire to make a single suggestion to the Senator from Missouri in regard to the pending amendment. No such amendment as this is necessary, for the simple reason——

Mr. COCKRELL. If the Senator will permit me one moment, I was going to modify the amendment in a way which may meet his objection.

Mr. LAPHAM. I desire to suggest that there is no occasion for any amendment on that point. No law which we can pass will affect any right which has been secured to an individual since the expiration of the former patent and before the passage of the present bill. All vested rights, of course, we cannot interfere with. There is no occasion whatever for this amendment, and the difficulty and danger of the amendment are that it will be construed as providing a much broader protection than the law furnishes to intervening rights of innocent persons. This bill is not retroactive; it can only take effect from the time it becomes a law; and all persons who have acquired rights of any description since the expiration of the former patent must be protected in those rights, notwithstanding any bill we may pass. This amendment is wholly useless.

Mr. MCMILLAN. I should like to ask the Senator from New York how long this right will continue, if the patent is renewed, from the date of its extension?

Mr. LAPHAM. If vested, it will continue as long as they choose to exercise it. It is a vested right, and we cannot impair it.

Mr. MCMILLAN. If it is a vested right, we cannot.

Mr. COCKRELL. The reason why I offered the amendment is apparent. The patent has expired; persons may have invested their money in this machinery and have it now in operation. The patent will be extended, and those parties will be subject to litigation. The Senator from New York knows that just as well as I do. Every man who knows anything about patent-right litigation knows that such persons will not be permitted to use the patent-right without a controversy and a lawsuit.

I want to test the friends of this bill and see if they are in earnest. They say that the patent-right is used only in Buffalo, New York. The Senator from New York and his colleague represent that State. If the people of Buffalo want this patent-right extended, I am willing to exclude Buffalo from this amendment, so that it will only apply to portions of the country outside of Buffalo. If it is used anywhere else, there will be simply protection elsewhere. I am willing to make the amendment exclude all persons in Buffalo.

Mr. PLATT. There is already in this bill the usual protecting clause that no one shall be liable for any infringement of the patent between the time of its expiration and the time when it shall be extended by the Commissioner of Patents, if it ever shall be extended. Of course the extension will date from the time when the Commissioner of Patents shall extend it, if upon the hearing he shall find that it ought to be extended.

Mr. COCKRELL. That is not the point I am making.

Mr. PLATT. All persons are protected against the payment of any royalty or any damages for infringement between the expiration of the patent and the time of its extension. That is the usual clause.

The Senator asks also to have an amendment put on the bill which will give a monopoly of this patent not to the patentees, not to any persons who may make arrangements with the patentees for its use, but to anybody who may have gone forward and made any arrangements to use it after the expiration of the patent or with reference to the extension of the patent.

Mr. COCKRELL. Then I understand that the Senator from Connecticut occupies just the reverse of the position of the Senator from New York, and says boldly, just as I say, that this will be no protection to such a man.

Mr. PLATT. I have not said anything of the sort as yet. I say that is the object of the Senator's amendment. He desires that if any persons have, pending this application for an extension, in view of it or not knowing of it, made any arrangements for the use of the patent, they shall have the right to use it without payment of royalty, while all other persons will be compelled to pay royalty.

We may just as well understand this matter. I did not suppose yesterday that any persons had made any arrangements for the use of it. I am told since yesterday that the Pennsylvania Railroad Company has made some arrangements looking to the use of this patent in an elevator either at Buffalo or at Erie, or perhaps at both places; so that the amendment of the Senator from Missouri is an amendment to allow the Pennsylvania Railroad Company to use the patent without payment of royalty, while the other elevator owners in Buffalo, Erie, Oswego, and wherever else it may be used, will pay, as they are perfectly willing to do, royalty to the patentees. That is the precise situation, and that will be the effect, as I understand it, of the amendment of the Senator from Missouri. I see no reason why they should be protected any more than the parties who already have their elevators in use, who will continue to pay the royalty which they have heretofore paid, and do so willingly. In the case of persons who have sought to take advantage of the expiration of this patent, (I do not know how much they have done, I presume very little, but enough undoubtedly to say that they have made arrangements looking to the future use of it,) I know of no reason why they should not come in with the others, and if the patent is extended pay all the royalty to the patentees which the others will pay.

Mr. HAWLEY. Mr. President, it is very seldom that I have occasion to differ with my colleague, and least of all upon subjects of this character, with which he is so well acquainted; but I feel bound to oppose not the amendment but the whole measure.

I have had sent to me from a firm in my vicinity, a very respectable, prominent firm dealing in Western produce, a strong protest against the bill, accompanied by an elaborate brief. The brief represents the Anchor Line, the Union Steamboat Company, the Western Transportation Company, the Lehigh Valley Transportation Company, the Commercial line, V. B. Fortier, Smith & Davis, Samuel L. Watson, William G. Winslow, James McBrier & Co., J. C. Van Scoter, Levi Davis, and others, who say that their aggregate annual grain-carrying capacity is equal to about eight-tenths of the entire annual receipts of grain at the port of Buffalo. They make a very strong protest against this extension. They say that the patentees have had a reasonable compensation, that a very large sum of money has been paid besides to assignees who enjoyed the benefit of the patent during a portion of the time, and that the amount paid has been a burden upon the public. The invention has been of no utility yet because of the imposition of the royalty; the entire benefit has been assumed by the people at Buffalo, and by the grain-shovelers themselves, whose association has held a sort of despotic veto over this question.

The inventors, the original patentees, received—these are their figures, quoted by the opponents of the extension—$38,703.28. Deducting expenses, according to the statement of the patentees, which the objectors are not able to question in detail, they have had a net profit of $18,353, or $2,000 a year, during the years they have enjoyed it. They have not enjoyed it all the time, because they assigned it to other persons for reasons best known to themselves. I will quote the brief literally:

Upon the petitioners' own showing the public paid in royalties, for grain shoveled at the port of Buffalo alone, from 1877 to 1881, inclusive, $137,000, and it is a matter of absolute mathematical demonstration that during the lives of these patents royalties have been paid, either to the patentees or to their assignees, equal to $250,000.

It is said that an extension of the patent for seven years would be a benefit to the holders of about five hundred thousand dollars, as near as they can estimate, because they say 1,000,000,000 bushels is a moderate estimate of the probable grain trade to Buffalo during the seven years, and at the rate of fifty cents a thousand bushels the royalties would aggregate at least half a million dollars. Therefore the objectors, the opponents of this extension, declare that the holders of the patent have already received a sufficient compensation.

Whether the benefits have been divided as we should like to have them divided is quite another question. That is in no sense the fault of the Government or of the public in general, or of the dealers in grain, or of anybody else except the parties selves. They held the patent nine years and transferred it to others who have had a larger benefit than the patentees, though the patentees had $18,000.

It does not appear, and we cannot make it appear on this bill, so far as I know, that the original patentees will have the exclusive benefit of the extension. We do not know but that they have already promised this patent. It is often done. It may be done owing to their necessities. It may be that somebody has already obtained a contract from them for this extension in case it shall be granted. I mean by that to say that it is utterly impossible for us to secure an equitable division of the benefits of any such patent under any circumstances, either in the original grant or in an extension, and that a sufficient sum having been given by the public for the use of this invention during the seventeen years' life of the patent, there is no equity in our granting an extension of it. It is one of the claims on the part of the petitioners that they were prevented by the obstinate opposition of the unions, the trade associations of shovelers, at certain points from introducing their invention. This is the statement:

That they made special efforts to introduce the said shovel in the cities of New York, Philadelphia, Erie, and Oswego, but without avail; that in each of said cities they met with the violent and persistent opposition of the grain-shovelers, and to such an extent that they were finally compelled to abandon the idea of introducing the said shovel at all in the said cities.

That is believed to be an error, not to say misrepresentation, for I have here affidavits from a number of firms in each of the places mentioned who are engaged in the business of handling grain, and in some cases they are the sole owners and managers of elevators, who make affidavits that so far as they know no attempt was ever made to introduce the shoveler at those points, and certainly no opposition could have been made; that they never heard of any objection to it. The first one is from the superintendent of the Washington street grain-elevator at Washington avenue wharf in Philadelphia, which is owned by the Pennsylvania Railroad Company. This deponent quotes the paragraph in the petition which I have read, and says that no such effort as described was made to introduce the said steam-shovel, and no such violation or other opposition of hand-shovelers there occurred.

The PRESIDENT *pro tempore*. The time of the Senator from Connecticut has expired.

Mr. HAWLEY. What shall I do, Mr. President?

Mr. INGALLS. Let it be extended by consent.

Mr. HAWLEY. I hope nobody will make any objection to my proceeding for just a moment longer.

The PRESIDENT *pro tempore*. Is there unanimous consent to the extension of the time of the Senator from Connecticut for five minutes longer? The Chair hears no objection and the Senator has five minutes longer.

Mr. HAWLEY. There is a series of affidavits here which, without taking the time of the Senate in reading, I will submit, if desired, to those who advocate the bill. The first one, which I have quoted already, is from the superintendent of the Washington street grain-elevator in Philadelphia, which represents the Pennsylvania Railroad Company. The next is from the manager of that same elevator, who makes the same assertion, that there was never an attempt to introduce the shovel at that elevator, and there was never any factious opposition. Here is another from the superintending engineer of Girard Point grain-elevator, who makes the same statement. There is another one from the superintendent of the Girard Point elevator.

Mr. PLATT. Will my colleague permit me to make a single assertion?

Mr. HAWLEY. Yes, sir.

Mr. PLATT. Of course there never has been any objection or resistance to the introduction of this shoveler in Philadelphia and the other points which my colleague speaks of, because it has not been introduced there and has not been attempted to be introduced there, and for the very reason that it is not applicable to introduction at those points, as I suggested yesterday.

Mr. HAWLEY. Nevertheless these firms largely engaged in the forwarding of grain and other produce do protest against the renewal of the patent.

But that is not all. Here is a protest from the city of Erie—and certainly that is a port which might use the shovel—here is a protest from the eastern manager of the Lake grain elevator, situated on the lake front, Erie Harbor, Pennsylvania, and owned by the Erie and Western Transportation Company. He quotes the statement of the petitioners that they were violently opposed by the hand-shovelers, and says:

> Deponent further says that no such effort as described was made to introduce the said steam-shovel at the elevator aforesaid, and no such violent or other opposition of hand-shovelers there occurred.

I think there is one also from an elevator owner in the city of New York. Here is a list of those who make a similar statement, and indeed, I think, each statement is supported by an affidavit:

Edward Annan, president International Grain Elevator Association;

L. B. Shaw, president Grain Warehouse Company;

Ira Ketcham, secretary United States Warehouse Company;

Franklin Woodruff, owner of Woodruff elevator;

J. P. Robinson, manager Erie Basin elevator;

Edward L. Kelley, superintendent Brooklyn Central elevator;

Francis E. Pinto, owner of the two Pinto elevators;

R. H. Hazeltine, lessee of the Dows, Kelsey, and Columbia elevators;

Milton Knapp, owner of the floating elevators J. S. Brown and Telegraph;

George D. Puffer, president New York Floating Elevator Association.

My colleague made the point that the patent shoveler cannot be used at some of these places. That is true enough, for it is adapted only to use in the case of barges and other floating means of transportation. It runs down into the hold of a vessel and assists in gathering the grain through the little buckets that run up to the high stories of the elevators; it assists in scooping in the grain to the shovel, so that it is not in use at the termini of railroads where the wheat comes in cars, but is in use in all sea-ports or lake-ports where the wheat comes to the port in barges or in canal-boats.

Mr. LAPHAM. No, it cannot be used in unloading canal-boats.

Mr. HAWLEY. If your patentees say so, it is so, probably; but I see no reason from the statement of the patent why it cannot be used in canal-boats.

Mr. LAPHAM. Because they are so light that the motion will not permit it to be done. That is fully certified to.

Mr. HAWLEY. It is used in barges, sloops, and so on, for assisting in lifting the grain to high elevators. It has been claimed in behalf of this bill that the transportation of grain will be no cheaper even if this extension should be refused, and the reason given is that the hand-shovelers will come right in and take the position they held before, and will arbitrarily control, as some of these unions try to do, all the handling of the grain, and that nobody who takes this steam-shovel, then open to the public, will be able to use it to any profit because this mob of hand-shovelers will insist on dividing all the profit there may be in it, and therefore the public will get no benefit.

In the first place, in answer to that I have to say that these people, largely dealing in the transportation of grain, and vigorously protesting, insist that to refuse to renew this patent, which has been reasonably paid for, will tend to the reduction of the price of grain, and certainly my State and all of us in the East have an interest in the cheap transportation of grain. It is an absurdity on its face, I submit respectfully, to claim that the taking off any tax of that description will not soon inure to the benefit of the general public.

That is substantially all I have to say. There is nothing specially novel in this. There has been not less than $250,000, I think, distributed among assignees and patentees, and to extend the patent seven years longer, on a moderate estimate will levy $500,000 tax at the port of Buffalo alone, and therefore I submit that the renewal ought not to be granted.

Mr. GROOME. Mr. President, I have found on examination that I was correct in the impression which I stated to the Senate yesterday that I had received from influential sources in Baltimore objections of a very strong nature to the passage of the legislation proposed by this bill. The Corn and Flour Exchange of that city have sent to the Committee on Patents of the House of Representatives, and also to the Senators from Maryland, their protest against the proposed legislation. Individuals and firms of Baltimore City connected with the grain trade have written to me in earnest and forcible language stating their objections to this legislation which they claim will be an onerous tax upon commerce and upon vessel owners; and they claim, as has been stated by the Senator from Connecticut, [Mr. HAWLEY,] that the royalty on this patent from the one port of Buffalo alone must have produced, at the rate of fifty cents upon the thousand bushels, some $250,000 to these patentees or their assignees. They object strenuously to the renewal of the patent, which will prevent them from using the patented article or any of the mechanical inventions which are covered by it, for the period of seven years in the future and perhaps for such further time as Congress may hereafter in its excessive generosity choose to extend the patent.

I will not attempt to discuss the merits of this bill, and in fact could not do so, under the five-minute rule. I will content myself with saying that I regard the legislation which it proposes as very bad. Seventeen years is long enough to give to any patentee the right to the exclusive use or sale of his invention, and whether or not during that time he has obtained what he regards as ample remuneration for the labor, skill, and expense incurred by him in originating and perfecting it, at the expiration of that period it should be thrown open to the general public, and they should have the opportunity to avail themselves of its benefits.

In order that the views of those of my constituents who are engaged in the grain trade in Baltimore, as to the impropriety of the proposed legislation, may be understood, I send to the Clerk's desk the resolutions of the Corn and Flour Exchange of Baltimore, and ask that they may be read.

The PRESIDENT *pro tempore*. The resolutions will be read.

The Acting Secretary read as follows:

MARCH 30, 1882.

At a general meeting of the members of the Baltimore Corn and Flour Exchange this day the following preamble and resolutions were unanimously adopted, to wit:

Whereas it has come to the knowledge of the Baltimore Corn and Flour Exchange that application has been made to Congress for an extension of the steam grain-shovel patents granted to George Milsom, Henry Spendelow, and George V. Watson; and

Whereas the said patents have been in use for a long period, and have been an onerous tax upon the transportation of grain over the great water-ways of the country, and have resulted in large profits to the owners of said patents: Therefore, in consideration of the largely increasing competition that the United States is experiencing with foreign countries for supplying grain to consuming market,

Be it resolved, That this exchange respectfully protests against the extension of the above named patent; and

Be it further resolved, That a copy of these resolutions be telegraphed to the Committee on Patents of the House of Representatives and to our Senators and Representatives now in Congress.

WM. F. WHEATLEY, *Secretary*.

Mr. MILLER, of New York. Mr. President, I have no doubt that all the grain-transportation companies, and all the railroad companies, and all the boards of produce and flour exchanges in Baltimore and elsewhere in this country are opposed to the extension of this patent, and to the extension of any patent, the result of which will be to take any money out of their treasuries; but that, as I understand the question of patents, has nothing whatever to do with this case. The only question to be considered is whether the inventors, who have undoubtedly, as it is admitted by all these transportation companies, produced a most valuable invention, have been properly and justly compensated for their labor and inventive genius. That is the only question I conceive with which we have anything to do. It is not whether the Pennsylvania Railroad Company

or whether the grain-transportation companies of this country desire this patent to be extended or not; and their protests upon this question should have nothing to do whatever with our votes or our judgments.

The Committee on Patents have reported from sworn affidavits and an examination of the accounts that the entire profits accruing to the persons who have built and put in successful operation this steam machinery is the sum of $18,353.28. I submit to any candid man, to any man who thinks that inventive genius should be properly compensated, that this is no compensation at all for an invention which has reduced the price of handling grain wherever it has been introduced. Sir, instead of this patent having been so far a tax on the public it has been no tax at all. It is shown by the testimony before the committee that the cost of handling grain in Buffalo with this machinery is cheaper than it was before. Therefore it has absolutely thus far in its course benefited the entire country and the people who consume grain.

The only question, I submit, is whether they have been properly compensated. Printed statements have been read here about which I know nothing, and which, if they had been presented at all, should have been presented to the Committee on Patents, stating that some two or three hundred thousand dollars of profits have been made. We have the sworn statements of the persons interested that their profits are only, in round numbers, $18,000, all of which has been used up in constructing this new invention and bringing it into use.

Mr. HAWLEY. They say they made $18,000 profit during the nine years they held it. That does not cover the eight years the patent was held by the assignees.

Mr. MILLER, of New York. The patent is not to be extended for the benefit of the assignees. We have no right to assume that it is to be extended for the benefit of the assignees. Under our patent laws it cannot be so extended. It is extended in the name of and to the inventors, and when it has been so extended, of course they can do what they please with it. We have no right to assume here that they have made any bargain which will give it away to assignees or to railroad companies or transportation companies. We have a right to presume that it is for their benefit. The profits have been, as I have stated, $18,000, which is a mere bagatelle in comparison with the benefits which have already accrued to the entire people.

I do protest that these documents which are brought in here from the grain corporations of this country should have no weight in settling this question.

Mr. CALL. Mr. President, the Committee on Patents investigated this case with very great care. The statements which have been made and read from papers prepared by others are entirely without foundation. I hold in my hand a sworn statement from the Union Elevator Company of Buffalo, signed and sworn to by Mr. D. S. Austin, vice-president of the Elevating Association, which states that since the expiration of this patent the whole quantity of grain and all the cargoes received at Buffalo have paid for shoveling $1 and $4.50 a thousand bushels, being an increase rather than a decrease in the charges upon elevating grain at Buffalo since the expiration of the patent. I hold in my hand also a sworn statement from Mr. Bennett, who I am informed is managing owner of Bennett's Union elevator, and also a statement of Mr. Kilterhouse, a prominent man in that business, connected with the transportation business, owning the largest number of vessels on the lakes as to carrying capacity, and a number of owners and shippers by the canal, large and respectable firms of Buffalo, all of which concur in the statement that so far from being an additional charge upon grain, it decreases the charges on grain to the shipper, to the transporter, and to the producer. So much for that. There is the sworn statement of the most respectable business firms in Buffalo, and the fact cannot be reasonably controverted, however positive and earnest may be the statement to the contrary.

Now as to the profits these men have received. They have never received on a fair account, after allowing them as a part of their expenses a reasonable amount for their time and labor, a cent. They are three poor men, with large families, and are laborers in an elevator, or millwrights in an elevator, poor men, requiring all their time and labor to take care of their families, and they devoted their nights and holidays and leisure time to the maturing of a valuable invention, with which, while before only some 4,000 bushels of grain to the hour were shoveled by hand labor, 20,000 bushels now can be delivered from vessels properly constructed.

Mr. COKE. Will the Senator allow me to ask him if the patentees of this invention have not enjoyed a monopoly of it for seventeen years?

Mr. CALL. I reply with great pleasure to my friend that they have not; that the provision of the Constitution which gives to Congress power to grant for a limited time to an inventor the exclusive right to his invention has failed, as the law often fails, in this case.

Mr. COKE. The report of the committee shows the invention to have been patented in 1864, and that the patent expired in 1881.

Mr. CALL. Yes; my friend has heard of making a promise to the ear and breaking it to the hope; but my friend is wrong in the asumption that because a patent-right is granted therefore there necessarily inures some advantage to the patentee.

These men made and matured this invention; they borrowed money from others to do it—$20,000, more or less, of time and expense; and estimating their time for the three years which they applied to this work at reasonable prices for skilled labor, as the Patents Committee always does, for maturing the patent up to the time it is granted, they have not received a cent. The public has paid nothing. The cost of shipment of grain to the producer and the merchant, as sworn to by these respectable gentlemen here and before the Patents Committee, has been decreased, certainly not increased, and to-day it is paid not by the public but by the elevator-men and the shovelers or hand-laborers.

Now, in regard to the compensation, this is an invention which cannot be used without the consent of the owners of the elevators; it is an attachment to the costly machinery used in elevators. The owners of the elevators refused for twelve years to use this new invention because of the opposition at first of the hand-shovelers, and they stipulated after a while in effect and substantially that if they would allow them to take it and make an agreement with the hand-shovelers by which they should receive $2 out of the $4 paid to the thousand bushels for handling grain they would charge $1.75 for the elevator and leave twenty-five cents per 1,000 bushels to the inventors. That was the practical agreement—$1.75 out of the $2, leaving twenty-five cents to the inventors. This was done in the form of a stock company named the Buffalo Steam Shoveling Company, in which the elevators took as a bonus or gratuity one-half of the stock, leaving the other half to the inventors to pay out of this twenty-five cents per thousand bushels which was allowed for the use of the steam-shovel to the inventors for $20,000 of expense and three years of night-work. This yielded them in the last year of the patent about $18,000.

The PRESIDENT *pro tempore*. The Senator's time is up.

Mr. CALL. I ask unanimous consent that I may be allowed to complete this explanation. ["Go on!"]

The PRESIDENT *pro tempore*. Is there objection to the Senator having five minutes longer? ["Go on!"] The Chair hears no objection.

Mr. CALL. These poor men had learned by practical observation as an elevator boss—I think that is the term—and millwrights in the elevators in Buffalo the needs of that kind of machinery; they worked up their own ideas and invented this new and useful invention. These elevator-men said to them after a long and painful struggle of twelve years of the life of the patent, "we will make an agreement with you to create a steam-shoveling company, and we will have you give us one-half the stock in that company and we will charge for the elevator $1.50 out of the $2 which the shovelers have agreed to allow us, and we will take for the half of the stock we have twenty-five cents, or one-half out of the remainder," thus allowing to these men as pay for all their expenses and for their invention the sum of twenty-five cents to the thousand bushels. Out of that sum they have received the bare amount of $18,000, not enough to compensate them for their time, estimated by the ordinary wages of a skilled workman for night-work engaged in that business, and they have made an invention which, as these gentlemen testify, has made Buffalo a great port of delivery and enabled grain to be transported by water in competition with the railroads, and with very great advantage to the whole producing interest of the country.

The laborers, the hand-shovelers, are here before the Patents Committee petitioning that this encouragement shall be given to men of their own number for this great discovery and this exercise of their inventive power. The laboring-men of Buffalo have asked that these poor men whose families are dependent on their earnings, with very limited means of support, shall have some advantage out of their labor; that while vast sums were being made by others out of their inventions who had money, these poor men and their families shall have some consideration from Senators and Congressmen that some opportunity of being compensated for their invention shall be given them. So the bill stood before the committee, the elevator-owners, and laboring men, and a number of the most respectable business men in the community testifying that there was no additional charge upon grain to the farmer, the shipper, or the vessel, but that it had decreased; there was no additional charge upon transportation; and the sole question for the committee to decide was whether or not they would give an opportunity to these inventors to have what they have not had under the law, the exclusive right to their invention for a period of time.

If there ever was a meritorious case, this is that case. There is not a single objection that can be found. The public pay nothing, the public are benefited, the elevators are benefited, and the laborers testify that they are benefited, and they all concur with the exception of a few persons who desire to take from these poor men any kind of compensation for their great contributions to the commerce of the port of Buffalo, and the value of their services. The opponents of this extension, when they vote against giving these poor men compensation for their labor, vote for giving their labor to the great railroad corporations of the country, and practically deny the right of every poor man in the country to be an inventor or to have the right to his invention.

Mr. CONGER. Mr. President, I have received several letters and have in my hand a remonstrance relating to the subject of the extension of this patent from ship-owners and gentlemen connected with elevators and with the grain business at Cleveland, Detroit, Port Huron, and other places on the lakes, all opposing the exten-

sion of this patent, all claiming that it would be an injurious monopoly; that the parties having the patent have already received during the existence of the patent very large sums of money, far larger than this report of the committee shows. The truth or the falsity of this statement I have no means of knowing; but I have received one remonstrance this morning which I desire to read:

To the honorable Senators and Representatives of the United States in Congress assembled:

The owners of the steam grain-shovel patent (which was granted to Messrs. Milsom, Spendclow & Watson in the year 1865) have an application before your honorable body for an extension of their patent. Under this patent a royalty of fifty cents per thousand bushels has been collected, realizing to the owners handsome profits, being in amount at least $250,000 since 1873.

The undersigned, citizens of the United States, and owners of vessels navigating the Western lakes, respectfully protest against the continuance of the tax upon commerce which would result from an extension of this patent, and pray that your honorable body will not grant such extension.

This is signed by gentlemen with whom I am personally acquainted, one of them the owner of a large elevator at Port Huron and nearly all the others engaged in the transportation of grain from the Western ports to Eastern ports. I have, but not with me, several letters on the subject from the presidents of transportation companies and from other gentlemen engaged in the grain-shipping interest.

I had been led to believe before the report of the committee in this case that the use of this patent in the one port of Buffalo, which is the great grain-receiving port in transit, has been a tax and an unnecessary tax of thirty, forty, or fifty cents a thousand bushels upon all grain handled by the elevators where this machine was used; that by a combination between the shovelers and the owners of the elevators the price of handling grain at that port has been increased. I see that the committee's report corroborates that idea. Every one knows that any additional expense in the handling of grain between the West and the East falls as a tax upon the producer; that the price of grain in all the Eastern markets is regulated, if not by the Liverpool price, at least by the price at the shipping port of the United States, New York.

Mr. CALL. Will the Senator allow me to ask him a question?

Mr. CONGER. Yes, sir.

Mr. CALL. I ask the honorable Senator if he does not take the sworn statement of the actual rates paid since the expiration of the patent as conclusive evidence to show whether or not this invention is any tax on the public?

Mr. CONGER. If I read the report aright, the report admits that there has been an increase in the price of handling grain of at least fifty cents or a dollar within the last two or three years during the existence of this patent.

Mr. CALL. Oh, no, sir; it is since the expiration of the patent that the increase has been made.

Mr. CONGER. One portion of this patent did not expire until this month or the last, so that virtually the patent has continued up to the present time. Now, I assume that all additional expense of handling grain through these elevators by any combination of shovelers and elevator-men is an additional expense and tax upon the producers of grain throughout the West.

The PRESIDENT *pro tempore*. The Senator's time is up. Is there unanimous consent that the Senator shall continue for five minutes longer? ["Go on!"] The Chair hears no objection, and the Senator from Michigan will proceed.

Mr. CONGER. Prior to 1861 the law gave to an inventor fourteen years' use of his invention by a patent with the right to apply for an additional seven years' use of it. In 1861 Congress changed the law, limiting and confining the use of a patent to seventeen years. I have been led to believe that the law of 1861 making that change was one of the most beneficial acts which Congress ever passed in relation to patents, both for the patentee and for the public. Since that law has been in force, and within the last five or six years about the time that patents issued under the old law were about to expire, Congress was flooded with innumerable applications for the extension of patents of every name and nature and variety; reapers, mowers, patents on all the agricultural implements, sewing-machines—I cannot enumerate the number of applications for extensions of patents that flooded both Houses of Congress. If they had been granted then, there would have continued in this country a monopoly that would have cost the people of the United States millions of dollars unnecessarily, for when those patents expired the prices of all the articles for which the people of the United States had been excessively taxed fell to half in many cases. Half the prices which had been demanded the week before the patents expired were accepted after that. That is a fact within the knowledge of every observant man in the United States.

Congress, about the time that the patents under the old law expired, took hold of this subject of the extension of patents with careful examination and scrupulousness, and in every instance almost within my recollection—and I was at that time chairman of the Committee on Patents in the House—Congress refused to extend patents unless it appeared that the patentee had been deprived by sickness or by poverty or by some reason over which he had no control of the opportunity of receiving any benefits from his patent. This course on the part of Congress quieted that whole subject. The country came to understand that there were not to be any longer extensions of those old patents which had monopolized the business of the country, and had yielded rewards for the use of inventions to the extent of millions upon millions of dollars. This satisfied a feeling all over the West and the Northwest and the South that Congress did not intend to extend the right to the use of a patent beyond the time prescribed in that careful provision of law which made seventeen years the utmost limit of the exclusive use of a patent.

Sir, at that time there had come over the people of the United States such a feeling of opposition to a constitutional monopoly of these inventions and their use that there was, in my judgment, great danger of a majority of the people demanding the repeal of all patent-rights. The feeling of the whole community was aggravated by the enormous palaces built by the sewing-machine companies and by the reaping and mowing machine companies and the ten thousand extortions upon the farmers all over the country by the demand for payment for the use of patents of which they knew nothing.

I desire that inventors shall have under the Constitution the right to the exclusive use of their inventions for such time as the law shall prescribe. That is right; that is constitutional; that is reasonable. The people of the United States will not complain of it; but Congress, after ninety years of experience under the old law, revised the whole system, and declared that seventeen years was, in the judgment of Congress, (and it met the approval of the whole American people,) the proper limit for the exclusive use of an invention by a patentee. I think it would be dangerous to patentees themselves to tamper with that principle now embodied in the law.

The argument used in this case the other day was that this is necessary; that only one set of machines for one city has ever been built; that the shovelers were formerly liable to injury to their health from not having the use of such a patent. All this proves to me that the men who can manufacture an instrument of that kind, limited in use to a few ports, can always have the value of it in the market without any patent. Here is a cumbersome, intricate machine, a necessary machine, it is said, which has been seventeen years in operation, and yet it is used only in one place, because of the additional expense it entails on the transportation of grain. The owners of elevators and the shippers refuse to encourage the use of such a patent, so that at only one port in the United States, (although grain is received at many where such a machine might be used for millions and millions of bushels,) only at Buffalo, has this been demanded, and there only by a combination with elevator-owners, with shovel-men, with shippers. In that manner they have been enabled to put upon the produce of the Western and Southern States going to an Eastern market an additional tax of several cents a thousand bushels in addition to the ordinary tax on transportation.

For these reasons I oppose the extension of this patent, and do not think from the report itself that the case is brought at all within the equity or reason of special legislation in such cases.

Mr. LAPHAM. Mr. President——

The PRESIDENT *pro tempore*. Is there unanimous consent that the Senator from New York shall speak twice on this subject? The Chair hears no objection.

Mr. LAPHAM. I remind the Chair that I only suggested an objection to the amendment of the Senator from Missouri when on the floor before.

It is easy, Mr. President, to see how these most fabulous estimates which are now produced of the profits of this invention are presented here at this time. They are made by taking the whole amount of shipments of grain at Buffalo, and reckoning a royalty on it for the whole period of these patents. These are not the facts at all. The parties in New England, the parties at Baltimore, the parties who are represented here in this opposition—the vessel-owners at the West—have no more interest in this question than the Sultan of Turkey. They are not affected by it in any way whatever; and I beg to call the attention of the Senate for a few moments to information which I have direct from parties residing in Buffalo, owners of elevators and owners of vessels upon the lakes. The first I call attention to is the statement of D. S. Austin, the vice-president of the Western Elevating Company at Buffalo. He states that these patentees were persons in his employment for a great many years, and were in his employment at the time they made this invention; that they are hard-working, honest, and worthy men. He says he assisted them in their arrangements with the elevators in introducing the machine, and knows all about the troubles and discouragements they met with for years; and also knows that they have received but a very small amount altogether for the use of their invention.

He also says that the price paid for shoveling this year is precisely the same as it was last year when this royalty was paid. There is no different charge to the public since the royalty ceased from what it was before, because the price paid is controlled by the shovelers' union of that city, and always has been, and these inventors had to make terms with them to get the limited royalty which they received.

He refers also to the fact that when the project of extending this patent was first made known, the Legislature of the State of New York undertook to remonstrate, as the constituents of one of the Senators from Connecticut have undertaken to remonstrate. A resolution was introduced in the house of Assembly, but when they came to ascertain the facts in reference to it, that all fell through and there has been no further action taken upon the subject.

Mr. Austin states that he has conversed with Mr. Kelderhouse, one of the largest owners of shipping on Lake Erie, and he states that he has no objection whatever to the extension of this patent. I have here a letter from Mr. Kelderhouse himself, who says:

I am, and have been for many years, largely interested in steamers and vessels which carry grain on the lakes, and also have a controlling interest in two transfer elevators and am thoroughly acquainted with the manner of elevating and shoveling grain at this port, and know that the patent shoveling machine is not, nor never has been, a charge upon the public. If it was, or I thought it would be, I should consider it to my interest to oppose the extension.

He then goes on to say, as does Mr. Austin, that the price paid this year is precisely the same as it was last year, and that the cessation of the royalty creates no change whatever in the price paid.

I have also a letter here from Mr. C. J. Wells, who states:

I am the owner of two elevators, and have no interest in these patents, and the extension of them that is asked for will work no hardship here upon commerce. The royalty hitherto paid for the use of this shovel is an element simply in the general cost of shoveling, which is regulated by the shoveler's union, and has never increased that cost. In fact, without the use of this shovel the cost of shoveling grain here would be greater than it is now.

It has actually diminished the cost, because it diminishes the amount of labor required. He says:

No royalty is now being collected, for these patents have expired; but the price of shoveling is still precisely what it was last year, and neither grain nor vessel owners will be injured by this extension, and through it an act of justice will be done to these poor men who, without fault or neglect on their part, were compelled some years ago to dispose of their interest in the original term of their patents, as they state in their application now before Congress.

These, Mr. President, are the facts in the case. It is a mistake to suppose that the extension of these patents is to be any tax upon commerce. It is the reverse. It diminishes the power of the shovelers' union to make their own exactions as to price. It is a restraint upon them; and actually, as one of these gentlemen states, it has reduced the cost of shoveling the grain instead of increasing it.

The extension of these patents will work no tax whatever upon commerce either coming from the West or going to the East. It is simply the payment of a royalty out of the general cost of shoveling, from the fact that the shoveling is done with less hand labor and with more facility and dispatch. Strike out the use of these machines and the shoveling would cost a great deal more time and would work a great many delays. The use of these will be continued, it is true, without the passage of this bill; but the poor men who invented them and who have gone practically without compensation up to this time will be left without that remuneration which the policy of the law gives to every worthy inventor.

This is not a sewing-machine; this is not a reaping-machine; this is not an invention which goes into general use; it is an invention for local use only, imposing no tax upon the public, not increasing the cost to the public or the commerce of the country; and all these objections, in view of that state of facts, which are the real facts of the case, fall entirely to the ground.

Mr. INGALLS. Mr. President, I fail to understand where the supporters of this bill find warrant for their statement that patents are granted for the purpose of securing compensation to inventors. Under the Constitution, the exclusive right to the use of a discovery or invention may be granted by Congress to a discoverer or inventor, for what purpose? As compensation for his time or for the labor that he has expended? For the purpose of enabling an assignee to accumulate money by the use of the invention? Certainly not. The avowed purpose of the Constitution in regard to this class of powers that are conceded to Congress is to promote progress in the useful arts and in science; and the advantage that may accrue to the inventor is merely incidental; it is no part of the original purpose or design of the Constitution in authorizing Congress to patent inventions or discoveries.

The Senator from New York and others who have advocated this measure for the extension of this patent assert that unquestionably protests can be obtained from great corporations engaged in handling and transporting grain, and that those who are interested as assignees will protest also in case Congress should not accede to their demands. The trouble is that one element is entirely left out in this discussion. It does not make a particle of difference to the elevator companies or to the transportation companies how much they have to pay for the royalty on this patent. So far as their interests are affected the patent might be indefinitely extended. The fact is that for every cent that the elevators pay or that transportation companies pay there is so much of a diminution upon the producers of the grain, the wheat and the corn, that is handled.

I do not object, Mr. President, to the exclusive use of a discovery by an inventor for a reasonable time. It is proper; there can be no reasonable objection to it; but I insist that if the exclusive monopoly of an invention for the period of seventeen years is not sufficient to requite the discoverer for the time and labor expended, then it is useless to anticipate that any further benefit can result to him by an extension.

I feel that the productive industries and resources of this country have been subjected to intolerable burdens by the administration of the patent laws. I am opposed on principle to the extension of all patents unless there are extraordinary reasons shown, which do not appear to exist in this case, and I therefore move that the pending bill be indefinitely postponed.

Mr. PLATT. I regret, Mr. President, to detain the Senate one moment longer upon this bill; it has already taken more time than I wished that it should; but I desire before the vote for an indefinite postponement is taken to try in a few words to recall the attention of the Senate to some of the principal features in the case.

These parties have had the use of this patent for less than seven years. They have not had the use of it for seventeen years practically.

Mr. INGALLS. Who has had the use of it for the remaining period?

Mr. PLATT. Nobody. From 1864, the time of the granting of this patent, to 1874 nobody used the patent; it was not introduced in use; and so the theory that a person is to have seventeen years out of his patent is not carried out in this case, and it was not the fault of the patentees.

Mr. DAVIS, of West Virginia. Whose fault was it?

Mr. PLATT. It was the fault of people who resisted the introduction of it by force, trades unions, shovelers' unions, who, when the patentees attempted to introduce this, resisted to the extent of frightening everybody from putting it in operation. It seems to me that makes a case where the parties have in fact had only seven years' use of the patent. That is the first point.

The second is this: Is it to be a tax on the public? Now I am free to say that if, on the hearing of this case before the committee, the arguments that have been made and the consideration which we had given it, I had believed that even this small charge of fifty cents on the thousand bushels of grain would be a tax on the public, I would not have reported in favor of this bill; but I regard it entirely different from that. There has been no royalty paid since August, 1881, and the price of unloading and transporting to the cars has not changed in any respect. Just stop to think of it a moment and try to compute if you can how much it is on a bushel of wheat—fifty cents on a thousand bushels of wheat is to be paid to these inventors who have not, as I think, received a reasonable compensation, or it is to be retained by the transportation companies and elevator owners. It seems to me that is just the question. I do not believe the public are going to get the benefit of that fifty cents a thousand bushels if the patent is extended.

Mr. HOAR. One twentieth of a cent a bushel.

Mr. PLATT. It is one-twentieth of a cent on a bushel of grain. That is the statement of a gentleman who has made the computation. That is a very insignificant sum, and yet it amounts to considerable with parties who are handling immense quantities of grain; and I believe, from all the evidence in this case, that is to inure, not to the benefit of the public, but to the benefit of the transportation companies and the railroad companies in case we refuse to extend the patent. I agree that there is opposition here, and it comes from the transportation companies; and it is the easiest thing in the world for them to stir up boards of trade all over the country by peculiar representations in relation to this matter to put in objections and remonstrances here; but I believe that all there is in this objection is just this, whether the railroad companies and the transportation companies shall put this fifty cents a thousand bushels into their own pockets or whether it shall continue to be paid to the patentees.

The PRESIDENT *pro tempore*. The question is on the motion to postpone indefinitely.

Mr. COCKRELL. Mr. President, I have but a word or two to say. The Senate will recollect the very famous case that was here for the extension of a patent in behalf of a poor, destitute, and needy widow woman. There was some doubt in the minds of a number of Senators as to the destitution and poverty and need of that woman, and as to the benefit that she would receive. I understood she was taken before the Committee on Patents and sworn as to what interest she would have in the extension of the patent, and it was developed that she was to get $20,000 for having the patent-right extended for the benefit of the assignee. Now, I say that with the facts in this case——

Mr. PLATT. What case does the Senator refer to?

Mr. COCKRELL. I cannot hunt up the case and give the name.

Mr. PLATT. Not this case?

Mr. COCKRELL. Oh, not this case. It was another case, something about a sewing-machine for shoes, I think.

Mr. CAMERON, of Wisconsin. That patent was not extended.

Mr. COCKRELL. I know it was not extended, but appeals were made for its extension with as much zeal and earnestness as have been made for this, and practically on the same grounds.

Mr. HOAR. Did not the Committee on Patents report against that extension?

Mr. COCKRELL. I do not remember about that. I am not sure whether the committee reported against it or not.

Mr. HOAR. Will my friend allow me to ask him if he is seriously making the argument that when the Committee on Patents have carefully and thoroughly taken evidence of the facts, their finding is to be disregarded or whistled down in this way? Of course it may be disregarded, if the Senate think otherwise; but does it help us in deciding whether they are right or not to say that somebody once made a false and pretended claim through a widow?

Mr. COCKRELL. I am making no argument of that kind; the Senator can draw his own inference. I simply desire to say that patentees who come before Congress for an extension of their patent-rights always plead poverty and that they have made nothing out

of their patent-rights. Then they plead again that the benefit of the extended patent will go to them individually, while ninety-nine cases out of a hundred it goes to an assignee. I say in this case I challenge the committee to bring forward these parties and give persons here a chance of cross-questioning them, and the fact will be developed that it will not go to their individual use. If the patent-right is extended it will go to the monopoly in Buffalo that has had the exclusive use of it heretofore.

Mr. PLATT. Will the Senator permit me? The committee did cross-examine the parties on that subject. It is sworn to under oath that it is for their benefit; for the benefit of no one else.

Mr. COCKRELL. Yes, their benefit. They will get some pay from these other fellows. The Senator may shrug his shoulders; that is the very point I am making. As a matter of course they will get something; they will get a thousand, two thousand, or ten thousand dollars perhaps; but I say this patent is not to go to them for their individual use. It is to go to this same corporation or combination that has had it before. Now they speak about this not raising the price of wheat. Let us see what the committee themselves say:

In 1880 the shovelers' union raised the price of shoveling from $3.50 per thousand bushels on sailing-vessels and $4 per thousand on steam-vessels to $4 and $4.50, respectively, its present price.

They say it has not increased it. The monopoly has been able to increase the price fifty cents a thousand bushels in the year 1880 and there it stands by the report of the committee.

Mr. CALL. Will the Senator allow me to correct him?

Mr. COCKRELL. No, I do not want any correction. Here is your own report that stands here in print. You can correct the report and not me.

Mr. CALL. Will you hear what I have to say?

Mr. COCKRELL. Here is the report. I want Senators when they make a report to stand to it and not come here and say that the report is not correct. Now I will read the report for the benefit of the Senator from Florida:

In 1880 the shovelers' union raised the price of shoveling from $3.50 per thousand bushels on sailing-vessels and $4 per thousand on steam-vessels to $4 and $4.50, respectively.

That is true. That is the point I am making.

Mr. HOAR. The Senator will pardon me. The Senator said it was on account of this patent that it was done.

Mr. COCKRELL. Oh, it was on account of something else, I know.

Mr. HOAR. Will the Senator allow me?

Mr. COCKRELL. Certainly.

Mr. HOAR. My honorable friend from Missouri, I am sure, would not seriously misstate anything.

Mr. COCKRELL. I am not misstating it; I am only reading the report.

Mr. HOAR. I beg his pardon. He will hear me. If he was aware that he was making a false impression, different from what he meant to say, he would be obliged to any Senator who would point it out to him. The Senator said just now, as I understood him, and as I think the Senate must have understood him, that on account of this invention this rise in the price had taken place. That is what he said. Then on a Senator rising to correct him, he reads from the report the fact that in a certain year the price was raised, but he does not read from the report any fact that it was raised in consequence of this shovel. Now his attention, therefore, is called to the difference between his statement and the statement in the report. He would not desire to let that stand, and simply shout and say he wanted men to stand by their own report, when his attention was called to that.

Mr. COCKRELL. Let me read from the report. I think the Senator from Massachusetts should study the report a little more closely. When I read from the report, the Senators attempt to correct the report every moment. I will read plain English:

In 1880 the shovelers' union raised the price of shoveling from $3.50 per thousand bushels on sailing vessels—

Who were the shovelers' union? The patentees——

Mr. PLATT and others. No, no.

Mr. HOAR. The shovelers' union is an association of men who work with hand-shovels. They fought the introduction of this invention years and years, and there was danger that, as did the English people who resisted labor-saving machinery, they might set fire to the buildings and elevators of persons who used it.

Mr. COCKRELL. Let me read from the petition.

Mr. HOAR. Finding that——

The PRESIDENT *pro tempore*. Is there unanimous consent that the Senator from Missouri shall proceed? ["No objection."]

Mr. HOAR. Then, finding that this invention was of great value to them, as it saved their lives——

Mr. VOORHEES. I do not know how matters are proceeding here. I intended to call for the regular order at two o'clock.

Mr. HOAR. Will not the Senator allow me to finish my sentence?

Mr. VOORHEES. Will the Senator from Massachusetts pardon me for making an inquiry? I understood the Presiding Officer to ask that unanimous consent be given to proceed with the consideration of this case.

The PRESIDENT *pro tempore*. Oh, no; unanimous consent for the Senator from Missouri to have five minutes longer.

Mr. VOORHEES. Very well.

Mr. HOAR. Thereupon this shovelers' union, finding that this invention saved many of their lives from the dust and chaff which they had to encounter in the holds of these vessels, agreed to let it be used, and there was a small royalty paid to the inventors by the persons who purchased it of the inventors, and that is a very small part of the entire $4 a thousand, or whatever is the cost, and that was raised on a strike just as the wages of labor are raised.

The error of my friend from Missouri, if he made the error as I understand him to do, was in imputing to the Senator from Florida the statement that a rise which took place in consequence of a certain strike at the time wages were going up all over the country in other matters was due to this patent. It had nothing whatever to do with it. Now, if the Senator will find anything to the contrary of that in the report, I will confess my mistake. It would have gone a good deal higher, the Senator from New York says, if it had not been for the patent.

Mr. COCKRELL. I read from the petition:

And your petitioners further say, that although they were three of the original stockholders in the said shoveling company, they disposed of all their stock therein, as set forth in the said affidavits, and that though the said shoveling company has received a royalty from the elevators for the use of the said shovel—

Now they are all partners together with the elevator and grain companies.

Mr. HOAR. That is not the shovelers' union. The Senator is confounding two things.

Mr. COCKRELL. I was speaking of the shoveling company, and not the shovelers' union.

Mr. HOAR. But it is the shovelers' union that fixed that price of $4.50. The shovelers' union is an association of workingmen who shovel with hand-shovels.

Mr. COCKRELL. I have heard that a thousand times since this case has been up.

Mr. HOAR. Then why does my learned friend, when he speaks of the shoveler's union, speak of it as——

Mr. COCKRELL. Why does the Senator from Massachsetts every time I make a statement from the report or from the record attempt to explain it away?

Mr. HOAR. I do not.

Mr. COCKRELL. I am reading, and every time I read a sentence up bounces a Senator from this committee to offer to correct the report, to try to correct the affidavits of these men, to try to correct the petition of these men. I should like to know just one solitary thing upon which we can rely.

Mr. PLATT. Will the Senator allow me one moment?

Mr. COCKRELL. With pleasure.

Mr. PLATT. I know the Senator does not wish to mislead the Senate. I think he has misled himself. The only earthly interest I have in this discussion is that I do not like to be charged with saying a thing in a report and then running away from it. The Senator has evidently confused two bodies here, the shovelers' union, who are hand-shovelers, a kind of trade union, and the shoveling company, who manage this patent. There is where his confusion arises, and I know that he does not intend to make any misstatement.

It is said in this report that the shovelers' union—those are the laborers—raised the price; and if he will turn right over on the next page he will find that prior to making that demand they stopped work; and the whole business of lifting grain at Buffalo was suspended for several days, and that continued until the elevator companies acceded to the demands of the shovelers. The patent has not raised it; it was the hand-shovelers who by striking raised the price. I think the Senator will see that we do not change anything we said in the report.

Mr. COCKRELL. Let me read this; perhaps the Senator will want to explain this:

This price for shoveling in sail-vessels is divided as follows: $2 a thousand are paid to the shovelers, $1.50 a thousand to the elevators, and 50 cents a thousand to the steam-shovel, and for propellers and steamers, which pay $4.50 a thousand for shoveling, $2.25 a thousand are paid to the shovelers, $1.75 a thousand to the elevators, and 50 cents a thousand to the steam-shovel.

A regular partnership; $4.50 gross charges divided out in these proportions among these parties. If these gentlemen are so earnest in their statement that this is not a tax upon every bushel of wheat, corn, oats, rye, and barley produced in the West and North, let them say that this extension shall be confined to the city of Buffalo. If it does not increase the price anywhere, let them confine it to Buffalo, and let them and these shovelers' unions and this shoveling company and the elevator-men have the glory and the honor and the monopoly and the profits of it. If it is no burden to the people, let us except the people from it. No, sir; this is a monopoly, and it is one that is grinding upon every producer of corn and of wheat and of oats in this whole country. I trust that the bill will be indefinitely postponed.

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived——

Mr. PLATT. Cannot we take a vote on the indefinite postponement of the bill?

Mr. VOORHEES. Regular order.

Mr. INGALLS. Regular order.

Mr. SHERMAN. Cannot we have a vote?

The PRESIDENT *pro tempore*. The regular order is insisted on.

NAVIGABLE WATERS OF UPPER COLUMBIA.

Mr. ANTHONY. I wish to make a report; I was not present when reports were called for this morning. The Committee on Printing to which was referred a resolution for printing 10,000 copies of the report of Lieutenant T. W. Symons respecting the navigable waters of the Upper Columbia River, have instructed me to report it back with amendments and recommend its passage. I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the following resolution, submitted by Mr. SLATER on the 2d instant:

Resolved by the Senate, (the House concurring,) That 10,000 copies of the report of Lieutenant T. W. Symons, Corps of Engineers, respecting the navigable waters of the Upper Columbia River and its tributaries, and resources of the country adjacent thereto, be printed, 1,000 for the use of the War Department, 3,000 for the use of the Senate, and 6,000 for the use of the House.

The Committee on Printing reported the resolution with amendments.

The first amendment was, to strike out "ten" and insert "five;" so as to read "that 5,000 copies of the report," &c.

Mr. ANTHONY. The amendments reduce the number one-half throughout.

The amendment was agreed to.

The next amendment was, to strike out "1,000" and insert "500;" so as to read "500 for the use of the War Department," &c.

The amendment was agreed to.

The next amendment was, to strike out "3,000" and insert "1,500;" so as to read "1,500 for the use of the Senate," &c.

The amendment was agreed to.

The next amendment was, to strike out "six" and insert "three;" so as to read "3,000 for the use of the House."

The amendment was agreed to.

The resolution as amended was agreed to.

MORDECAI AND COMPANY.

Mr. BAYARD. I have a bill for the relief of parties in Baltimore, reported unanimously from the Committee on Finance. It is Senate bill No. 1785. I think it can be passed without debate.

Mr. PLUMB. I will yield if it leads to no debate.

By unanimous consent, the bill (S. No. 1785) for the relief of David Mordecai and J. Randolph Mordecai, composing the commercial firm of Mordecai & Co., of Baltimore, Maryland, was considered as in Committee of the Whole. It provides for the payment to David Mordecai and J. Randolph Mordecai, composing the commercial firm of Mordecai & Co., of Baltimore, Maryland, of $822, illegally collected from vessels owned by them by the collector of customs at Charleston, South Carolina.

Mr. BAYARD. The facts in this case are entirely sustained by a letter from the Secretary of the Treasury.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO BILLS.

Mr. CALL submitted amendments intended to be proposed by him to the bill (H. R. No. 6184) makings appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. CAMERON, of Wisconsin, submitted an amendment intended to be proposed by him to the bill (H. R. No. 5559) making appropriations for the support of the Army for the fiscal year ending June 30, 1883, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

MILITARY LAND-WARRANT LOCATIONS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 67) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes.

Mr. GARLAND. Yesterday, when I moved that the Senate proceed to the consideration of executive business, it was my intention to take the floor to say something on this bill, and I may as well proceed to do so now.

The report of the committee and the argument made by the Senator from Kansas [Mr. PLUMB] yesterday were so full and complete and so satisfactory to me that I really do not know how I can say anything further to claim the support of the Senate for this bill, and I shall be very brief in stating just a few points in reference to it, because the subject is not a new one. A majority of the Senate, at least, have considered it once, and some of them twice heretofore since I have been a member of the Senate. It is a matter arising out of public law, to which the attention of the country has been repeatedly called. The reason of my own interest in it is that the State which I in part represent on this floor is one of the States with which one of these compacts was made in regard to the waiver of the right of taxation of the public lands, and one of the States which of course should receive the benefit of what is known as the 5 per cent.

To begin with, Mr. President, the question, so far as these eighteen States are concerned, in their relations with the United States, assumes the shape of an absolute contract based upon a proper consideration. That, I think, has been established beyond any question, both by the report made by the Senator from Kansas and by the speech he favored the Senate with yesterday.

In addition to that I beg leave to cite what Judge McLean said in reference to this matter in the celebrated case of the United States *vs.* The Railroad Bridge Company, in 1855, on the circuit, in which case a number of questions came up in regard to the power of the States and of the United States under the commercial clause of the Constitution over the navigation of the different rivers and in regard to the taxation of the public lands. In that case (6 McLean's Reports, page 531) Mr. Justice McLean said:

In the admission of New States into the Union compacts were entered into with the Federal Government that they would not tax the lands of the United States. This implies that the States had power to tax such land if unrestrained by compact.

I am reading this principally for the benefit of the Senator from Kentucky, [Mr. WILLIAMS,] who I see is absent from his seat, who submitted yesterday to the Senator from Kansas that the States never had the power to tax the public lands within their limits. Judge McLean, in passing upon these compacts, says this implies that the States had the power "to tax such land if unrestrained by compact." It is not worth while to determine the question whether the States could have taxed these lands; but one thing is sure, a great many people believed at that time the States had the authority and power to tax the public lands, so that not to encumber these lands of the General Government, the public domain, as it is called briefly, with any doubtful right of the States, so as, in other words, to remove the claim entirely, these compacts with the States upon their admission were entered into. Then, as a principle of law, if the United States secured by these compacts what was at best a doubtful right before, there is a consideration at the bottom of this matter, a valid and a good consideration, as we term it in law, not a mere matter of moral consideration or a mere matter of equity. No one can controvert it, that if A compromises what he considers a doubtful right and afterward it turns out that there was no doubt about it, that his right was secure but he did not know it, he is held to have agreed on a valid consideration to the compromise he entered into to secure what he considered at that time to be a doubtful right. This question was also considered by the late Judge Curtis, and he gave an elaborate opinion, to be found in the first volume of his life and writings, page 423:

This claim grows out of the sixth section of the act of April 18, 1818, for the admission of that State—

That is Illinois—

to the Union on an equal footing with the original States. That section is as follows:

"That 5 per cent. of the net proceeds," &c.

The point that bears upon the matter I am now discussing is on page 424:

It must be borne in mind that the agreement of the United States to disburse 2 per cent. of receipts from the sales of public lands within the State of Illinois "in making roads leading to the State," had a sufficient and corresponding consideration in the stipulation of the State not to tax the public lands in the hands of purchasers or patentees until after the lapse of certain fixed periods, that this agreement to reserve 2 per cent. of the sales of public lands and expend what was thus reserved in the public works described had all the elements of a contract; that it created a trust when the designated moneys were received.

Then he proceeds to apply that to the particular case in hand.

Mr. SAULSBURY. Will the Senator allow me right there to ask whether the waiver of the right to tax was not on the lands for a certain specified time after they were sold by the United States, and not merely while they were public lands held by the Government of the United States?

Mr. GARLAND. I think that was not the view of Judge Curtis, because he was referring to the particular case in hand, which was the waiver for a consideration of the right to tax the public lands. I will show after a little while how this thing has progressed in reference to the taxing of public lands, and how the question has come before the courts to determine sometimes what are public lands and what are not public lands.

We have as a starting point, speaking of the general principle of the bill, then of this consideration at the bottom. In the opinion of Judge McLean, from whose decision there was no appeal, although he decided several other very important matters in the case, and in the opinion of Judge Curtis, we have that consideration; it was a release of the power of taxing these lands by the States.

The question comes then directly, which has been suggested repeatedly here, what is a sale of these lands, or, in other words, are lands taken up with military bounty warrants lands sold within the meaning of the term "sale?" I think they are so for two reasons. First, when you come to consider what is the consideration of any political proceeding, or any matter that grows out of a particular right or a particular question, you must first go back to that particular right or question to ascertain the true foundation of it. Here we have established that there was a contract not to tax these lands, or, more properly speaking, there was a valid and good consideration in law for the surrender of that right.

It is true that when the lands were taken up by military bounty warrants no money went into the Treasury of the United States, and yet the Government had from the soldier, to whom each warrant

was issued, its valid consideration for the issuing of that military bounty warrant; and it is a mistake to suppose that these military bounty warrants were issued as a mere gratuity or as a matter based upon merely a moral contract. Now I will read, if the Senate will bear with me, from Cooley on Taxation, page 74:

Some taxes levied by the Federal Government are directly calculated and intended to benefit private individuals. For an illustration, it gives bounty land or pensions to those who have performed military or naval services for the country, notwithstanding it has made no promise, and is consequently under neither a legal nor a moral obligation to do so. But the primary object in all such bounties is not the private but the public interest. To show gratitude for meritorious public services in the Army and Navy by liberal provision for those who have performed them is not only proper in itself, but it may reasonably be expected to have a powerful influence in inciting others to self-denying, faithful, and courageous services in the future, when the Government, which is so ready to be generous as well as just, shall have need of their assistance.

And, as said by Mr. Corwin, who is quoted in the report of the committee, there can be no more valid consideration at the bottom of any proceeding or any contract than the services, and the muscle, and the blood, if you please, of the soldier who performed these services for the country. So the consideration here is not one of a mere gratuity; it is not one of mere benevolence; but it stands upon a consideration of services rendered by the soldier, and a valid consideration, for which all the States are taxed, though but one of the States might have soldiers within its limits receiving the benefits of that law.

But further than that, for another reason an executed bounty is as valid a contract as if there had been a valuable consideration in law paid for it. All these gratuities, so called, by the Government, the swamp-land grants, and all things else of that character, are beyond the power of the Government to revoke after they have become executed or after they have been put in process of execution by the parties who relied on them. That is so not only in this country but in every country recognizing the common law. No donation, no gift, no pure matter of gift, can be revoked for any cause after it has become executed. There was a principle in the civil law to the reverse of that, but it has never obtained in the countries that recognize the common law and practice on it; and it has never had a footing in this country.

So, then, there we have the consideration to the soldier for his military bounty warrant which runs back to the contract made in the compacts with these States upon their admission that the public lands should not be taxed. The question has very often come up before the courts, and this is somewhat responsive to the suggestion made to me by the Senator from Delaware a few moments ago, as to what are public lands within the meaning of this power to tax by the States under these compacts made with them upon their admission. In the work entitled The Public Domain, issued the year before last, where the authorities on this subject are collected up to that time, chapter 15, page 238, under the head of "Two, three, and five per cent. funds; grants to States of portion of net proceeds from sales," we find the different States from Alabama on, the various grants, their dates, &c., what each State should receive; and then:

TAXATION OF PUBLIC LANDS.

Under the present practice, after the register's certificate and receiver's receipt have been issued for lands purchased of or acquired from the United States, the authorities of the States or Territories in which they lie list them for taxation although no patent has issued. Prior to this only the value of improvements is taxed, not the land, as the fee is in the United States. States containing public lands renounce their right to tax the public domain at the time of their admission into the Union.

That is just what this bill is predicated upon.

A State may tax land after it has been entered and paid for, although no patent has been entered (issued) therefor. (Carroll *vs.* Safford, 3 How., 441; Levi *vs.* Thompson, 4 How., 17; Carroll *vs.* Perry, 4 McLean, 25; Astrom *vs.* Hammond, 3 McLean, 107; Witherspoon *vs.* Duncan, 4 Wall., 210; S. C., 21 Ark., 240.)

The only question that bothered the courts upon this is whether these lands were taxable at any time before the patent issued. The courts have held that when the lands have been sold and paid for and a certificate of purchase or a certificate of entry has been issued, the fee then is gone out of the United States, although the patent has not been issued, and they are taxable, because otherwise a man might rely upon his certificate of entry and escape paying the tax and might never take out the patent. That, in a nutshell, is the doctrine lying at the foundation of this bill; first, that these States relinquished this right supposed to exist in them of taxing these lands, and they were to have 5 per cent. of the net proceeds of the sales in consideration thereof. When the land has been paid for in money or otherwise, whether in flesh and blood or the service of the soldier, or what not, it is a sale. By the report of the committee it appears that the different States, commencing with the States of Ohio and Indiana, "stipulate that the public lands therein shall remain exempt from all tax whatever for the term of five years from date of sale." Iowa stipulated four things:

First. That she will not interfere with the primary disposal of the soil.
Second. Nor tax for any purpose the public lands.
Third. That the non-resident proprietors shall not be taxed more than the resident.
Fourth. That lands granted for military services in the war of 1812 that may be located therein shall not be taxed for three years from date of patent.

So the report goes on through the list of the eighteen States which relinquished this right, more or less, on different conditions, as stated. This has become a recognized principle in the Government in reference to these States. It is a contract that has been in process of execution, and it is too late at this time, in my judgment, for gentlemen to contest it; too late for gentlemen to say that it looks to them as a mere gratuity. It may seem to some to be a gratuity, but when these acts of admission were passed and these contracts were entered into, it was believed that the States were surrendering a right that might be valuable to them and might be probably troublesome to the General Government.

I have deemed it my duty to say thus much on the general principle of the bill. The amendment of the Senator from Alabama [Mr. MORGAN] is not now before the Senate, as I understand.

The PRESIDING OFFICER, (Mr. PLATT in the chair.) The Chair is advised that the question is on the amendment proposed by the Senator from Alabama, [Mr. MORGAN,] which will be read.

Mr. MORGAN. I have not offered the amendment; I only submitted it to be printed for information. I supposed the amendment of the Senator from Delaware [Mr. SAULSBURY] was pending.

The PRESIDING OFFICER. The amendment of the Senator from Alabama is not offered, the Chair understands. Then the question will be on the amendment of the Senator from Delaware, [Mr. SAULSBURY,] which will be read.

The ACTING SECRETARY. It is proposed to insert, as an additional section:

SEC. —. That no part of the money paid under this act to any of the States mentioned therein shall be applied by such States to the payment of agents or attorneys for services rendered by them in procuring the passage of this act, or in connection with the claims of such State to the money hereby authorized to be paid; and the Secretary of the Treasury is hereby authorized and directed to withhold payment to any State until satisfactory assurances shall be filed with him, by the authorities of such State, that no part of the money paid under this act shall be so applied.

Mr. SAULSBURY. I deem it proper to say that my reason for offering the amendment is that I have understood these claims have been placed, or at least some of them, in the hands of agents, who are to receive contingent fees for collecting the claims, giving them a certain percentage of the amount which may be recovered. Arrangements were made some years ago with some of the States interested in the passage of this bill by which a very large percentage of the money appropriated by this bill should go into the hands of agents or attorneys employed to secure the passage of an act of this character. I do not know that such arrangements have been made, but I have been informed by authority that I believe creditable at least, that such is the fact, and I do not want to see anything in connection with this bill like what was true in regard to the arrears of pensions act. That it was said was worked up by agents, and the Congress of the United States was induced to pass that bill because of the interest agents had in the matter.

If the States choose to employ agents or attorneys to procure this legislation, they can pay for those services by the action of their Legislatures, but I have understood that when there was scarcely an idea that it was possible to secure legislation of this character very improvident arrangements were made, in one State at least, as I have understood, so far as to give one-third of all that should be recovered to the agent who should procure the legislation under which the money should be paid. It is to prevent the money which we are to vote out of the public Treasury going in that direction that I have seen proper to offer this amendment. It can do no harm, because if there have been agents employed by the States the States are able to pay them; but do not let us appropriate the money which by this bill will be given to the States, if it shall pass, in such way.

Mr. VOORHEES. A single word upon this amendment. It is to be presumed that the States who are interested in this matter are capable of protecting themselves in contracts which they may have made with persons to look after their interests. I do not know how it is with other States, nor do I care what arrangements they may have made for the purpose of securing their rights; but in my own State I understand the attorney-general, charged by the law of the State to look after the interests of the State, has employed persons to investigate, bring forward, and secure the establishment of the claim, as laudable, as proper, and as honorable a business as anybody was ever employed in for a State; and whether the State of Indiana sees fit to pay for that service out of the small amount that is coming to her, less than $100,000, by this bill is not a matter of any importance so far as her financial condition is concerned, whether she sees fit to pay for the services rendered her out of this money or by an act of her Legislature, and I presume it is not a matter of much concern to any Senator on this floor.

I say to the Senators here that it is not the amount of money involved in this bill for which I care so far as my State is concerned, but I understand and I know that in the act by which Indiana was admitted to this Union it was agreed that if she observed certain conditions on her part the Federal Government would observe certain conditions on hers; Indiana has observed those conditions and the Federal Government has not; and if in attempting to enforce her rights she has obligated herself, through her attorney-general, legitimately, openly, and fairly, it is her business to settle.

So, while I have the utmost appreciation of the vigilance of the Senator from Delaware in regard to the public interests, I must be permitted to say that the State of Indiana is capable, without his guardianship, of looking to her own interests and guarding her own rights; and saying that for her, I say it as much for every other State

I know that certain State interests have to be looked after here. I am free and frank to say that a State agency ought to be established on the part of every State in this Union here at this capital to relieve members of Congress and Senators from the drudgery required at their hands before the Departments and elsewhere, in working for and placing the interests of their States and their people properly before the authorities here. I have no doubt that in the years that have gone by other States besides Indiana have had agents employed here. As to their payment, whether it comes out of this money or shall be made by an act of Legislature hereafter, that is a matter of no concern to me, and the only reason why I rise to resist the amendment is that it is an imputation upon these States that they are not capable of taking care of their own affairs, and need the vigilance and guardianship of Congress, which, so far as the State I represent is concerned, she does not require.

Mr. SAULSBURY. Mr. President, I had no intention of assuming the guardianship of Indiana or of any other State in this Union, nor can this amendment be properly construed as any attempt on the part of its mover or of the Senate, if it should adopt it, of supervising or controlling in any way the action of the State of Indiana.

I stated that I had been informed that years ago, when there was but very little expectation or hope on the part of the States themselves that a proposition of this kind would receive the least consideration in the Senate, very improvident agreements were made with special agents to come to Washington and try to procure such action on the part of the Government, whether through the Executive Departments or through the legislative department it made no difference, as would secure the money now claimed under this bill to the States, and that in one State (and that State, too, I am told, is to receive the largest portion of this money) an agreement was made to give to a certain gentleman in that State one-third of the whole amount, provided he could obtain such action on the part of the Government as would secure the donation to his State, and under this arrangement, if the bill passes, I am informed that gentleman will get $250,000 of money which is to be taken out of the public Treasury and donated to the State that he represents. Whether that is true or not I do not know. I am acting upon such information as I believe to be correct; and seeing that, and being informed that such arrangements had been made, I thought it was eminently proper, if by the passage of this bill Congress donated the money to the States that it should give it to the States and not vote it indirectly to agents to be put into their individual pockets.

I do not propose to claim the right to be the guardian of the State of Indiana or of any other State, but I do claim that I have a right as a Senator here when a bill is before the Congress of the United States proposing to take money out of the public Treasury to use whatever influence I may have by my vote or otherwise to prevent that money from being diverted from the public to whom it may belong and being placed in the hands of private individuals who have made contracts to procure such action by the Government as may secure the payment of the money involved in the bill. That was the object I had in offering the amendment.

Mr. PLUMB. Mr. President, while the General Government stipulated in these various acts of admission substantially what the respective States should do with the 5 per cent. of the sales of public lands, it has never assumed to exercise any special control over that disposition. It has intrusted that matter to the States; and I think it is pretty late now, after all this time has elapsed and after all this larger expenditure has been made and has gone into the hands of the respective States and no question ever has been raised as to the manner in which it has been expended, as we approach the doing of this act of tardy justice, that we should embarrass it by an amendment which seems to imply that the States cannot be trusted to make the proper disposition of this money.

Upon the general question of agents, I may say that so far as I know absolutely or have any reason to suspect, there is nothing in the statement made by the Senator from Delaware. I may be mistaken, but as far as I know there is nothing in it at all. At the same time I have not any doubt there are agents here of the respective States. I know, for instance, that there is an agent here for the State of Illinois in regard to some swamp-land claim. I know one has been here also from one or two other States. Kansas has had an agent here for the purpose of settling its war claims with the General Government. I may say that out of the multitude of claims of that kind and of the other kinds that have been settled during the last fifteen years or the last fifty years, as the case may be, they would not have been settled if the State had not appointed some one to come here and stay "in season and out of season" and press upon the General Government the obligation which it was under to the States for the payment of the money.

I can say further that it seems to me the General Government is not in a position to object to the employment of agents. The General Government does not do justice spontaneously. It requires to be reminded of its obligations. It settled the claim of the States of New Jersey, Pennsylvania, New York, Ohio, and all of the Northern States for moneys which they spent at a time when the Government needed to have the money spent, and when it did not have the money itself or was not in a condition to spend it. Those States have had agents here from time to time for the purpose of getting an adjustment of those accounts, and they have been adjusted with them in a manner satisfactory to the States and to the General Government. I undertake to say, as I said before, that if it had not been for the agencies employed by the States to remind the General Government of its obligation the adjustment would not have been made. Yet there never has been a suggestion that I have heard that a single one of all these adjustments was not upon a just and fair basis, just and fair to the General Government as well as to the States.

As I said, this simply comes back to the proposition that now, on the threshold of doing this act of tardy justice, we shall assume what has never before been assumed, that the States will not make that application of this money which by the terms of the several acts of admission they were required to make. That is all there is of it.

Mr. ALLISON. Mr. President, I do not know that I understood the Senator from Delaware correctly; but if I did, the remarks he made apply largely to the State which I in part represent here, because I believe the State of Iowa, by the computations which have been made, has the largest interest in this fund.

I know nothing with reference to the arrangements made with an agent of our State, although I believe our State has had an agent here for some time with reference to this and other claims to which we suppose the State is entitled.

I want to say to the Senator with reference to this fund that not one dollar of it can be paid to any one without an act of the Legislature of the State of Iowa, which, in my judgment, is as able to take care of itself as is the Senator from Delaware; at least I am willing to risk this question with the Legislature. Our constitution and our laws provide that all the money received from the 5 per cent. fund shall go directly into the school fund of our State, and that not one dollar of the principal of that fund shall be used, but the interest only shall be used forever for educational purposes. If an agent for the State of Iowa is here representing that State, he must look to the Legislature of the State for an appropriation to pay him for the services he renders here. No diversion of that fund can be made except by the action of the Legislature of Iowa. I do not know what the fact is, but I presume at some time such a State agent will be paid, as other State agents have been paid, for his reasonable services. What the compensation is or will be I do not know.

So far as I am concerned, I would have no special objection to this provision except that in my judgment it may do great injustice to the men who have interested themselves in matters pending before the Departments and before the Congress of the United States with regard to this fund; but I want to repeat what I said before, that this money, so far as Iowa is concerned, when the account is adjusted and accounted for as other moneys are adjusted and accounted for in the Treasury Department, must go, every dollar of it, into the treasury of the State of Iowa, and not one dollar can be diverted to any other purpose than that specified.

Mr. BAYARD. Mr. President, I do not know that the amendment of my colleague will reach the end that he desires, but I do wish there could be some legislative declaration, not by the Senate alone but by both Houses, to the effect that such influence as is supposed to promote the passage of measures in the two bodies cannot constitute a good and valid consideration for a contract. Over and over again the courts of this country in the States, and I believe the Supreme Court of the United States, have announced that it is not a good consideration for a contract that a man should have influenced political action.

It is greatly to be regretted that the class of individuals who come to the city of Washington and are called counsel or agents, or I know not what, but who do make their living by influencing legislation, should be assisted by the action of Congress. I do not mean to imply that there is anything unlawful, improper, or undesirable in persons having the intelligent supervision of cases before Congress; perhaps many times it may be essential for the purpose of obtaining testimony which members of Congress would not look up themselves. I do not doubt that that can be done as honorably as any other branch of human agency; but I do say that to influence and procure the passage of a bill through Congress ought not to be a valid consideration for a contract, and that when it is admitted that such a thing can be done and a man sue for it as for a valid service, either upon what we term a *quantum meruit* or upon an express agreement, we then admit a very dangerous doctrine.

If the amendment of my colleague could reach that evil, I should vote for it, but I do not think that the amendment can be effective. The money to be paid under this bill, if it passes, will be paid to the States and the representatives of the States. Congress will not pay it to transferees, Congress will not pay it to assignees; it must be paid to each State concerned, and when the State gets it it is responsible for the disposition it shall make of it to its own people.

The object of these land grants was the educational benefit of the people of the several States. They disposed of their interests under the original act as they saw fit, sometimes profitably and carefully, sometimes most unprofitably and carelessly; but whether we are to pay this 5 per cent. or not it still will be for the alleged benefit of a State and not to any private benefit. After the money has been paid the State, I cannot see how Congress can control the disposition of the money by the State, nor that it makes any difference to Congress whether the State shall pay fees in money to its counsel from its

treasury drawn from other funds, or whether it shall keep its books so that the money paid to its agents shall be taken from this special fund.

I am disposed, for the reason I have stated, not to recognize this brokerage in Government influence, and not to admit that it forms a valid consideration to influence the action of Congress, or to influence the action of any department of the Government. I do not believe that that is a just basis for any contract; I do not believe that any court of justice would maintain it. I think Congress ought to do what it can to make the people of the United States believe that men in Congress do not vote under the influence of agents of any kind; and that a man with a fair claim can come to Congress with just as full assurance that honesty and justice will be meted out to him by his Government, whether he has no counsel at all or whether he has half the bar of America at his back.

I have seen enough practically in the Senate during my experience, not now a short one, to let me know that those claims are best attended to and most favorably considered in Congress which are not backed by a parcel of importunate lobby agents. Every day we see pains, care, thought, and labor bestowed by gentlemen in committee upon interests of individuals, of States, and of associations, simply because it is their public duty so to bestow them. There is no reason on God's earth why a man with an honest claim against the Treasury of the United States need employ counsel to come before Congress to prosecute it. If he has not time, if his private affairs will not allow his presence here, I do not say that he may not send a reputable and intelligent man to come to look after his case, and that that man is not entitled to a respectful hearing before any committee. Every day I see in the committees upon which I am placed men of intelligence and of high personal character come in there as the representative of claims, presenting claims and arguing them, submitting them, oftentimes in print, with ability and clearness and with great favor to myself and my associates who are simply seeking to be instructed fairly in the line of our duty. While this may be so, I think it is well to give a check to the idea that fair play requires to be bored in some way from the Congress of the United States.

I do not believe that a contract for such influence is good in law; I do not think any court of law would sustain a contract for such services. For my own part, I should be glad to vote in some way to signify that as a legislator I do not recognize such proposed or suggested influence as a valid consideration for a contract. But in this case suppose the money is paid as it must be if paid at all—and I do not think it will be by my vote—to the State or the representative of the State, after it is so paid what have we to do with it or how can we control the disposition the State may make of it?

While I think my colleague's amendment was intended in the right direction and was meant to save the States from improvident and unjust bargains, still the rectification of those bargains must be public opinion or a resort to the courts of law by a citizen of the State who finds the public treasury depleted by a bargain that ought not to have been entered into. If a contract was made with a State government that an attorney at law or any other person should receive 33 per cent. of this fund provided he could get a bill through Congress to grant it to the State, I believe that any citizen filing a bill in equity could restrain the payment of the money, and enjoin the governor against it. Therefore the remedy would be there; the contract would be void upon the ground of public policy, that it is impolitic that the public power and the public money of a government should be made the subject of private contract. I believe the remedy would be (and I believe the remedy would exist and would be effectually applied) to impeach the transaction upon the ground that it was against public policy, and therefore void to agree to procure the passage of a bill through a State or through the National Legislature.

Mr. SAULSBURY. Mr. President——

Mr. ALLISON. Before the Senator from Delaware proceeds, will he pardon me while I read a clause from the constitution of the State of Iowa?

Mr. SAULSBURY. Yes, sir.

Mr. ALLISON. The constitution of the State of Iowa, in a section relating to school funds and school lands, provides that—

> The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State for the support of schools which shall hereafter be sold or disposed of, and the 500,000 acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may have been granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

That is the language of our constitution, and I read it to the Senator from Delaware merely to show how impossible it is for any such condition of things to exist with reference to the State of Iowa.

Mr. SAULSBURY. I listened to the reading of the provision of the constitution of Iowa, but I do not think the term "the proceeds of all lands" in that constitution would apply to this particular fund. However, that is not what I rose to say.

I do not know that my amendment will accomplish what I propose, and yet I think if my colleague had noticed the latter clause of the amendment he might have come to the conclusion that this money would necessarily have to go into the treasury of the States. My amendment provides—

> That no part of the money paid under this act to any of the States mentioned therein shall be applied by such States to the payment of agents or attorneys for services rendered by them in procuring the passage of this act, or in connection with the claims of such States to the money hereby authorized to be paid; and the Secretary of the Treasury is hereby authorized and directed to withhold payment to any State until satisfactory assurances shall be filed with him, by the authorities of such State, that no part of the money paid under this act shall be so applied.

I framed it with a view of trying to prevent the application of this particular fund to the payment of the agents, whoever they may be, who are interested in the payment of this money by the Government. It may not be sufficiently binding and strong to prevent the diversion of this particular money of the State to the agents themselves; but even admitting that the State cannot apply this money, as the Senator from Iowa says, under the constitution to the payment of its agents, still there was a good reason for introducing the amendment and making an attempt to prevent any of it from going to the hands of lobbyists, agents, or anybody else except the States themselves.

We know that it has become a common proverb throughout the country that attempts are made to influence the action of the two Houses of Congress by what is known as the lobby, by men interested in procuring legislation, and I think it is due to the Senate of the United States and to both Houses of Congress that they should manifest in their legislation a determination not to have the money which they vote out of the public Treasury appropriated in any way by which it may reach the pockets of the men who are surrounding us constantly and filling these corridors for the purpose of trying to influence our action, and giving out to the world that they are having their influence upon the action of individual Senators and upon the action of both Houses of Congress.

If nothing else is to be accomplished by adopting the amendment, it will be an expression on the part of the Senate that it is their desire at least that the money which they vote under this bill to the different States of the Union shall not go into the hands and the pockets of attorneys, agents, lobbyists, or anybody else, but shall go into the treasuries of the various States. I say I do not know that it will accomplish that purpose, but it was the best I could devise to accomplish the purpose I had in view.

I have not acted without some reason for my action in this case, for I have shown to my colleague a letter from a high and respectable source, which I do not feel at liberty to make public, because I was not so authorized by the writer of it, who is a gentleman whom I know, whose character is equal to that of any man upon this floor. In his letter he stated that his information was that a contract had been made heretofore by which an agent of the State in which he lives was to receive one-third of the money which would come to that State under the provisions of this bill, and he suggested to me to try to remedy that matter by an amendment to the bill whenever it should come up. I have simply acted in obedience to the wish of a high and intelligent citizen of one of the States to be benefited in order that that State might not, by an improvident contract made heretofore, lose one-third of the benefit which it otherwise would derive under the bill. I have not felt at liberty to exhibit the letter I have received, because I am not authorized to do so. I have shown it to my colleague so that I might satisfy him that I was acting at the suggestion of parties who possibly would be interested in this fund.

Mr. SHERMAN. Mr. President, the amendment now pending I think is disrespectful to the States and ought not to be adopted. If the Senator wants to prevent the employment of lobbyists to prosecute and defend claims before Congress he ought to do it by some general bill, but it is very discourteous to the States to attempt to regulate their mode of conducting their business or to reproach them for employing agents to urge a claim which you now acknowledge to be just by passing this bill.

The States will keep their contracts, no doubt, if they have made any. I have no idea that any contracts such as have been stated were made with any of these States. I have no doubt that gentlemen have been employed by the proper authorities of some of these States to look up and state the amount involved in what is called the 5 per cent. fund. So far as I know, the State of Ohio has now no agent of that kind. I should think it would be very proper that a State should take proper means to ascertain the amount of public lands that have been given away under land-warrants in order to show what is due to the State from the General Government. Every one of the States has employed agents to look up their war claims. The State of Ohio had a gentleman here for years to look after such claims, and I suppose every loyal State of the Union had some one here to look after her interests in that matter. It was not at all improper; indeed, I can see no objection to it.

In respect to this particular claim, I desire to again express the opinion I did some years ago when a similar measure was pending in the Senate. It is assumed that Senators from the Western States embracing public lands will vote for this bill because their States are interested. The State of Ohio is interested in defeating this bill, although it would receive nominally $113,000 by the passage of it. The table introduced by the Senator from New Hampshire [Mr.

BLAIR] and the Senator from Kansas [Mr. PLUMB] shows that Ohio will receive about $113,000 out of the $3,900,000 involved; but as the money to be paid on these claims is the common money of all the people of the United States, and as the proportion which the State of Ohio contributes to the general revenue is one-sixteenth of the whole amount, it follows that if the bill passes Ohio will pay about $260,000, while it would receive but $113,000. It is therefore clear that Ohio is interested against the passage of the bill.

Mr. SAULSBURY. Will the Senator allow me to make an inquiry? Was not the calculation as to the share that Ohio will get of the fund based upon the idea that the lands located with Virginia military land-warrants would be excluded from the operation of the bill?

Mr. SHERMAN. No; the only money that the State of Ohio will receive under the bill is the 5 per cent. on the Virginia military land scrip. We have already got our 5 per cent. on all the rest. The United States military land-warrant system was not in vogue to any considerable extent until after the public land was exhausted in Ohio. There were comparatively few United States land-warrants located in Ohio; I mean land-warrants issued by the United States after the war of 1812. Our public lands were mostly disposed of by reservations to States and by large sales to colonies or companies formed in the old States and by Virginia military land-warrants.

Mr. SAULSBURY. Let me ask the Senator whether there was not a particular stipulation in the cession by Virginia of Ohio military land-warrants, and a reservation made of certain lands of the State of Ohio for the purpose of meeting those Virginia military land-warrants?

Mr. SHERMAN. I will state that matter.

Mr. SAULSBURY. Then I want to follow that by another question. I wish to ask the Senator whether he believes it is right under such a reservation made by the State of Virginia in the cession of that land that Ohio should now come in and be paid 5 per cent. upon the value of that land?

Mr. SHERMAN. If my friend has any more questions to put I wish he would put them all at once, so that I may answer them in due order. In respect to the Virginia military land district, there was a stipulation, not made with Ohio at all, but before Ohio existed, between the State of Virginia and the United States before the adoption of the Constitution that a certain portion of what is now the State of Ohio should be reserved for the location of land scrip issued by the State of Virginia to her revolutionary soldiers. This scrip might be located in Ohio on the beautiful tract of land between the Big and Little Miami Rivers. In consideration of that reservation, or rather by an amicable adjustment of the grave dispute between the old States as to the disposition of the public lands, Virginia ceded to the United States her interest or claims, for it was a very shadowy claim, to the Northwestern Territory, reserving, however, the right of the holders of her land scrip to locate their lands in the Virginia military district of Ohio. This was done before and after Ohio was admitted as a State.

The State of Connecticut also made claim to a portion of the land in Ohio at the same time, and to satisfy this claim the then Congress of the Confederation agreed that Connecticut should have all the lands lying north of the forty-first parallel of latitude and running one hundred and twenty miles west, embracing over 3,000,000 acres of extremely valuable land. This land was sold by that State and is the basis of the school fund of Connecticut to this day.

The State of Massachusetts, as well as most of the States, claimed that this disposition of the western lands was not either just or fair. To meet these contesting claims the old Congress of the Confederation encouraged the purchase by companies from different States of large bodies of land in Ohio, then the only region open to settlement. Several of the States organized these companies, and in this way the serious conflict of opinion as to the proper disposition of the public lands was harmonized before the Constitution was adopted. The Ohio Company, organized in Massachusetts, and composed of many of her leading citizens, purchased at a low rate a large extent of territory at the mouth of the Muskingum River, and General Putnam, a descendant of old Rufus Putnam of the Revolution, was the leader of the colony and took the first settlement to Ohio.

Mr. HOAR. He was not a descendant of Israel.

Mr. SHERMAN. He was, I think, a son of old Israel Putnam, but I am not sure that I state his genealogy aright; I know he was the leader of the colony.

Mr. HOAR. General Rufus Putnam was from within ten miles of where I live, the town of Rutland, Massachusetts. He was himself a very able and distinguished revolutionary officer. He was a second or third cousin, a distant relative, of Israel Putnam, not a son but of altogether a different family. He was himself a revolutionary officer whose service commanded the approbation of Washington, I think more than once.

Mr. SHERMAN. General Rufus Putnam and a large body of Massachusetts people came out and made the first settlement in Ohio at Marietta, which still has the distinctive marks of its origin. Many of the leading families of the State of Massachusetts are represented in that settlement now.

New Jersey, not to be behindhand in this settlement of public lands, either before or soon after the framing of the Constitution, organized a company with a view to purchase lands in Ohio, and John Cleves Symmes, who was at that time I think a member of Congress from New Jersey, at least he was a very distinguished man, and his associates obtained a grant from Congress of a large quantity of land, including most of the beautiful Miami Valley and where Cincinnati now is. This settlement was made up mainly by Jersey people.

The people of Pennsylvania settled upon that portion of the public land immediately west of Pennsylvania. Other portions of the State of Ohio were given to refugees from Canada, so that a large part of the whole surface of Ohio was either reserved by old States or sold in large tracts to companies or colonies from the old States before the State of Ohio was born. Consequently the early settlers of Ohio never received any percentage for schools or roads from the proceeds of these lands, but all of it was reserved to or parceled out among the old States or their distinctive colonies. In one case the public lands became the basis of the school fund of Connecticut; in another case they were the means of paying Virginia land scrip issued to the soldiers of the Virginia line, a debt which the Congress of the Confederation had assumed but was unable to pay.

The absorption of so much of the public lands by Virginia and Connecticut led to the sales of large bodies to companies from other States at a nominal price. But all these sales and reservations enabled the United States to clear away the claims made by the several States, and to get a clean and undisputed title to the Western territory. At this time the present system of land title and subdivision was not formed and the great value of the Western lands was unknown. In this way a large portion of the land in Ohio was disposed of before the State of Ohio was formed, and then the balance of it, still a wilderness, was offered at the extravagant price of $2 an acre.

The people of Ohio in the olden time always complained that the Government of the United States had been unjust to them, more so than to the younger States formed out of the Western territory. The land was in great part held in large tracts and did not come under the beneficent policy afterward adopted by Congress, of subdivision into sections and quarter sections with reservations for schools which enabled families to settle and aid each other. The Connecticut land was sold under one system of subdivision and entry, while the Virginia land was sold in very large tracts under a totally different system. These diversities of tenure and title were a block and impediment in the way of the settlement of Ohio for a long time. Then the balance of the land was sold by Congress at $2 an acre on credit—a system which inevitably led to speculation and ultimate disaster. The early history of Ohio land titles and settlements was a painful struggle, which only became hopeful after a long period of poverty, disaster, and litigation.

Finally, the price of public land was reduced to $1.25 an acre, cash. In the meantime many of the old settlers were entirely broken up and unable to pay their back payments; in many cases they forfeited their land and it was afterward entered and paid for at $1.25 an acre. The course of the Government toward the State of Ohio at the beginning was unjust and illiberal. The beneficent land policy under which the new Western States have been settled had not then been devised. The aim of the General Government seemed to be to treat the public lands as property to be sold for as much money as possible, rather than as homes for the children of the old States, to be fostered with fatherly care.

So far as the 5 per cent. on all the land sold for cash is concerned, that has been paid to the State of Ohio and has been properly and honestly applied. If I remember aright, according to the enabling act 3 per cent. of that fund was set aside for making roads, and the General Government stipulated that it would make roads from the East to the West. That stipulation, like a good many other stipulations made by the Federal Government, was only partially carried into effect. It commenced years after to build what is called the Cumberland road, and did finally get it out about to the center of the State of Ohio, to Columbus, and there it slumbered for a long time; so that the United States did not even comply with the stipulation to build a road to these new settlers out there until many years after the stipulation had been made, and then left it incomplete in the center of the State, and it was never extended to the Mississippi River.

Mr. MORRILL. It was extended to Vandalia, Illinois.

Mr. SHERMAN. That was subsequently.

Mr. MORRILL. It would have been extended to the Mississippi but for some quarrel between the people of Saint Louis and Alton.

Mr. SHERMAN. At all events, that was long afterward; that was within my recollection.

Here is the way I look upon the question involved in this bill: the United States agreed in their contract with all these new States to give them 5 per cent. of the proceeds of the sales of the public lands within their States. This was made upon a valid consideration that the State would not tax the land while it was held by the Government, and would not tax it for five years after it had been sold by the Government.

It must be remembered that in early times it was the great object of the Government to sell the public lands. The idea of giving them to settlers for homesteads had not then occurred to the wisdom of Congress. They wanted to sell them for money, and every inducement was held out to get people to buy them. There was no objec-

tion then to selling the lands in large tracts. Here, then, was an agreement and a contract made between the State and the nation as to the public lands, by which the State was to have one-twentieth part of the land or the proceeds of it, and the United States nineteen-twentieths of the land or the proceeds of it. That was a clear and valid contract. Subsequently, by the adoption of a new policy—that is, the policy of issuing land-warrants and land-scrip in payment for military services which sprang up from the war of 1812, long after the land system had been adopted, long after the United States had by the enabling act entered into this agreement with Ohio, which was the beginning of the agreements between all the land States and the United States—the United States began to be more liberal in its land policy. Instead of trying to get the last dollar out of the early settlers the price of land was reduced from $2 to $1.25 an acre; then land-warrants issued for military service were received in payment for land, then the graduation policy was adopted by which poor lands were offered at reduced prices, then liberal grants of land were made to States for public improvements, and finally, in our time, the homestead policy was adopted, which completely reversed the old restrictions and illiberal policy.

The only question now open between the old States and the new is whether in stating the 5 per cent. fund given to the land States the land entered by military warrants shall be counted as a part of the public land sold by the United States. It is claimed by the land States that Congress issued military land warrants as pay to soldiers for military services rendered or to be rendered, and that they received such warrants as such compensation, and by themselves or their assignees received patents for a fixed quantity of the public lands. Congress sold this land as much by means of land warrants as if it had received a dollar and a quarter an acre for every acre. Why not? This was a disposition of the public lands. For what purpose? Not to increase the settlement, not to benefit the land States or the Western States, but it was either to induce people to enter into the military service of the United States or it was to compensate them for services which they had already rendered. Here was a disposition of a sale of the public lands, just as absolute and complete and no more beneficial to the people of the Western States than if the lands had been sold for a dollar and a quarter for every acre.

The agreement says that the State shall have 5 per cent. of the proceeds of the sale of the land. That agreement was made before these lands were sold. It gave to the State the benefit of one-twentieth part of the public lands, and that was little enough. With the present enlightened notions in regard to public lands the States might have got one-third or one-fourth, or the land would have been given under the homestead law without price; but, instead of that, Congress was then carrying out the policy of getting all it could out of the public lands, and it made the agreement that the State was to get one-twentieth part of the public lands, which the people of the State alone gave value to, which the labor of the men who went there and settled alone gave value to, and which enabled the Government to sell the rest of the lands. It was a harsh and unjust policy toward the settlement of a new country then adopted by the Government of the United States. I have no doubt it was adopted, as they thought, wisely. They looked upon the public lands as a source of revenue, but it was the labor of the very men who went and settled upon the land that made the rest of it valuable. They settled in a county, built up a neighborhood around them, and the lands were located, and families came and lived upon them. It was their labor that gave value to the residue of the land and enabled the Government to sell it.

Mr. MORRILL. May I ask the Senator a question? Was not the Government of the United States under a compact with Virginia that the land should be disposed of for the general welfare of all the States, rather than for any particular State?

Mr. SHERMAN. I am not familiar with that; but the title of Virginia was shadowy. The title of Virginia was exactly like the title of Connecticut. Virginia had a right to all the lands westerly and southerly of the forty-first parallel of latitude to the Indian Ocean. Where that was the people who wrote the charter of King James did not know; they thought it was out where the Mississippi River is. That was the general idea. These old grants given to Virginia read just that way; certain boundaries of land are specified, "thence westerly and southerly to the Indian Ocean." The grant to Connecticut was on the forty-first parallel of latitude westerly and northerly to the Indian Ocean. The grants under which these two States claimed the other States resisted, and in 1784, about the time of the passage of the law framed by Dane to organize the Northwestern Territory, these matters were adjusted in the Congress of the Confederation. If there was any agreement between Virginia and the Confederation it was made before the adoption of the Constitution of the United States, and I do not know that it has any binding effect; but even if the old Confederation did agree to do what was best with these public lands for the common good of the general welfare, we now would say that the best to do with those lands for the common good and general welfare was to invite every man to come and take a farm and go to work. We would give them all away now with our ideas of homestead, and we would be acting wisely for the general good and the benefit of the people; but then the idea was different, the idea was to sell the public lands for money. The United States agreed to give these Western States one-twentieth part if forsooth the States would not tax the lands at all until they were sold; if forsooth the State would let them go five years after they were sold free from tax.

Mr. MORRILL. I presume the Senator from Ohio means to state this accurately, and I desire to ask him if the condition in the enabling act was not that there should be one-twentieth part reserved, three-fifths of which in most of the acts was to be appropriated for canals and roads and for the improvement of levees, and the other two-fifths was to be devoted to educational or other purposes? I ask the Senator if instead of giving it to the States that was not the condition upon which most of the States received the grant?

Mr. SHERMAN. I suppose it was.

Mr. MORRILL. Then it shows that it was not to be paid into the State treasury, but it was to be paid out by the Government itself; three-fifths of it in these improvements and two-fifths of it in some other way.

Mr. SHERMAN. I stated a while ago when the Senator was not in that the Government of the United States undertook thus to manage 3 per cent. of this 5 per cent. It undertook to build roads from the East to the West, but no road was ever built to Ohio for many years after the land was sold, for the Cumberland road never reached Ohio until 1832, when the State of Ohio contained a million people. The Government of the United States in early times never kept its faith with the Western States any more than it did with the Indian tribes. There is no pretense of that kind. My friend is mistaken. I do not say this to create feeling between the East and West, because that has all died away, but there was uttered in the Senate and in the House of Representatives by the representatives of the younger States when they came here loud and distinct reprobation of the conduct of the older States. Mr. Webster was once called upon to defend the policy and conduct of the General Government as against the Western States.

Mr. HOAR. Does the Senator not suppose that Mr. Webster was right?

Mr. SHERMAN. Perhaps he was; I do not want to revive that; but I say the Government of the United States did not comply with its contract with the Western States. It never built the road which it agreed to build in 1802. It agreed to commence and build a road from the East to the West, to the people of Ohio. It never built the road, and the road never reached the soil of Ohio until 1832, if I remember aright; it was in Jackson's time at any rate. The Cumberland road finally reached the Ohio River thirty-odd years afterward, and in that time all this land had been sold and the money put in the Treasury of the United States. Then they tried to urge the building of the Cumberland road thirty years after the contract was made, as an offset against the payment of the 3 per cent. fund, but that was finally yielded, and the Government paid, I believe, the whole of the 5 per cent. on the lands actually sold.

Now, the question came up as to whether the United States ought not to pay the 5 per cent. on the lands they gave away for military services. There is the legal question. While I say that our people have no interest in it, that our interests are rather against the passage of this bill because we have grown so strong now that the payment of this money is two or three times the burden that the benefit to be derived by the payment of this hundred and some odd thousand dollars would be, I still feel nevertheless that the Western States have a right to this money, that the Government sold this land, and although they had promised to pay the proceeds to the extent of 5 per cent. to the States, gave it away for military services rendered or to be rendered, and it makes no difference which.

I could read here from the report of the committee to show you that at the time these men entered into the service in the war of 1812, at the time they entered into service in the Mexican war, they were promised land as a part of their pay. Mr. Corwin, one of my predecessors on the floor of the Senate, stated that this was a two-hundred-dollar payment or promise of payment to the soldier for services to be rendered. In other words, the Government was then not so rich as it is now, and it used this land to pay the soldiers with. Now we use our money to pay the soldiers with. A quarter section of land was considered to be a part of the pay of every soldier who enlisted in the service up until our civil war. There was no doubt about that; it was always considered that a quarter section of land went for a year's service as part of the pay of the soldier in the war of 1812, in the Mexican war, and in some of the Indian wars.

Mr. ALLISON. If I do not interrupt the Senator, I call his attention to the fact that one of these very statutes authorizes the soldier, instead of taking land, to take a one-hundred-dollar certificate on the Treasury in money.

Mr. SHERMAN. This land was used as a means of inducing men to enlist, or it was used as a means of paying men for services that they had rendered. I cannot distinguish between the two cases, and it seems to me it is a very narrow point to draw a line of demarkation upon. The State of Iowa is more interested in this bill than any other State. It in legal effect owned one-twentieth part of the lands of that State, or the proceeds thereof, by a stipulation made with that State when it was admitted. The United States owned nineteen-twentieths. On so much of these lands as was sold for money the State of Iowa has got her percentage, but the great body of the lands of that State was entered by land-warrants issued in the Mexican war. The public lands in that State were first opened to set-

tlement at the close of the war. Entries were generally made with land-warrants. I know that myself, for I was there.

Mr. BLAIR. Does the Senator say that the great body of the State of Iowa was entered by land-warrants?

Mr. SHERMAN. The great body of the State, I think.

Mr. BLAIR. It would not cover one-third part of the surface of the State.

Mr. SHERMAN. How much is that?

Mr. BLAIR. About 50,000,000 acres, I think.

Mr. ALLISON. There are only 33,000,000 acres in Iowa, I am sorry to say.

Mr. BLAIR. Then if we divide it, it is only one-third of the surface of the State.

Mr. ALLISON. It is only 14,000,000 out of 33,000,000—very nearly half.

Mr. SHERMAN. Very nearly one-half the State of Iowa was given by land-warrants for—what? To pay the soldiers of the United States in the Mexican war. Suppose that land had been sold, 5 per cent. of it would have belonged to Iowa. Who prevented the sale for money? The Government of the United States. What right had the Government of the United States to divert that fund, one-twentieth part of which belonged to the State of Iowa? It had no right whatever; Iowa had a right to that. It exempted the Government land from taxation; its citizens had given it the value of their labor; it had agreed that for a certain time the land should be free from taxes. The State of Iowa had performed its contract in every particular. What right had the United States, then, to take the 5 per cent. and give it away to soldiers? It may have been a wise disposition. I think it was. No one complains of that; but the United States ought to have given either one-twentieth part of this land to the State of Iowa for a school fund or it ought to give now the money in lieu of that 5 per cent. for a school fund. This is not a mere question of law, it is a question of right and wrong, to be tested by the sense of justice between man and man.

Although this is a large amount, yet I believe it to be a just bill. Sir, if you and I were copartners, I owning 5 per cent. and you owning 95 per cent. of the proceeds of certain property, you could not so dispose of it or sell it as to deprive me of the right to my share of the proceeds. You could not deprive me of my 5 per cent. No court in Christendom would allow you to do it. Yet that was done in this case. The State of Iowa had a right to one-twentieth part of this land or the proceeds thereof for the education of the children of the State. It was not only their money but it was their money in trust, and the most sacred trust. You take the land on which they have this lien or right and apply it to pay your soldiers, to acquire more land down South, to acquire California, New Mexico, and Arizona, and having acquired that territory with the proceeds partially of the lands of the State of Iowa, you begrudge the payment to the State of Iowa of 5 per cent. of the amount of warrants located on land in Iowa, that you took for the purpose of paying the soldiers in the Mexican war. It does seem to me that equity, justice, and right between man and man, between the Government of the United States and the governments of the Western States, require us to pay over this 5 per cent.

Mr. BLAIR. Would the Senator permit me to ask him a question, as he seems to be arguing this case as though he were stating the facts, as he no doubt designs to do? The records are wrong or the Senator is wrong. The act which alone could have been any inducement to soldiers to enlist, offering a bounty, was the one of the 14th of February, 1847—I speak of the Mexican war—and under that only 88,000 warrants in all were issued, while 551,000 warrants were issued in consequence of legislation then and subsequently. Only one-fifth of the warrants actually issued were issued under the statute which could have offered any inducement to the soldier to enlist; the rest came in subsequently. Those only who rendered at least twelve months' service in the Mexican war were entitled to one hundred and sixty acres of land under the act of 1847, while those who enlisted for a shorter period drew a warrant of forty acres or eighty acres, as the case might be, but subsequent legislation opened the matter and gave a bounty-land warrant to the heirs of soldiers who had served in the Indian wars from the beginning——

Mr. SHERMAN. Mr. President, I do not lose my right to the floor.

Mr. BLAIR. Thus it is that this matter is put to the Senate and the country in an entirely wrongful aspect so far as these warrants are concerned as an inducement for military service.

Mr. SHERMAN. The Senator from New Hampshire probably did not intend it, but he commenced his remarkable interruption by a very improper expression to be used in the Senate of the United States, by an inference that I was not stating the truth. Then he went on, in violation of the rules of the Senate, to interrupt me in a matter which had no connection whatever with the discussion. I do not care whether these land-warrants were issued——

Mr. BLAIR. I wish to disclaim any intention of ascribing any untruthful statement to the Senator from Ohio in any other sense than that the statement itself was incorrect, and to set it right by reference to the statistics of the country.

Mr. SHERMAN. The Senator tries to show that warrants for only so many, I do not know how many, thousand acres of land were issued before the service was rendered, and warrants for so many thousand acres were issued after the service was rendered. I do not care anything about his facts or his figures, because they have no bearing upon this case. If these land-warrants were issued by the United States in payment for services either rendered or to be rendered the United States is bound to account for the land-warrants as for land sold. Whether issued to tempt the soldier to fight or to pay for his service after he had fought, it makes no difference. The Senator, therefore, is pursuing a distinction in which there is no difference; he is trying to draw the line between the land-warrants issued before the services were rendered by the soldier and the land-warrants that were issued afterward. It is sufficient to say that the United States took the lands upon which these Western States had a lien of 5 per cent. and used them to pay its soldiers either for services rendered or to be rendered, and now it refuses to pay the 5 per cent. it stipulated for in the enabling acts.

Mr. President, it does seem to me that this is a clear case; and although the sum is large, and it goes to States probably that are not needy, yet I believe it would be better to wipe out this whole controversy, which has existed here for I know twenty-eight years. Since I have been a member of Congress in one or the other House this question in some of its forms has been presented year after year and year after year.

Mr. MORRILL. What is the amount?

Mr. SHERMAN. The amount is $3,900,000, as stated, but that is more than the actual amount. I have this to say: that the table furnished is larger than the actual amount, because the table furnished includes all the land sold within the States. Some of it was sold before the States were admitted, and that is expressly excluded by the terms of the bill, and it is very properly excluded.

In regard to the Virginia military land-warrants, if all the warrants issued by the State of Virginia and which were located in Ohio were to be accounted for under this bill the amount would be much larger, but the bill confines the allowance of Ohio to those warrants located after the State was admitted. Consequently the amount is comparatively small, but in justice and equity, upon the general principles embraced in the enabling act, the people of Ohio were entitled for school purposes to 5 per cent. on all the lands sold by the United States by such grants as that to Symmes and in the reservation to Connecticut and to Virginia; but these questions are forever settled, and Ohio, no longer containing any public lands, is willing to do that justice to her sister States in the West that it has often demanded for herself.

By the terms of the bill the amount to be received by Ohio is insignificant. So far as that State is concerned I do not care and Ohio does not care anything about it, whether this bill passes or not. I vote for it because I believe the United States owes this money to the land States and because I believe it is equitable and right.

Mr. DAVIS, of West Virginia. My friend from Ohio spoke of the amount involved in the bill, but did not name it. May I ask him how much is involved?

Mr. SHERMAN. All I know about it is that in the table furnished by gentlemen I see it is put at $3,900,000, but that is subject to some deduction. According to the table furnished by the Senator from New Hampshire it includes all the land located in those States.

Mr. BLAIR. It includes what the Land Office says is covered by the bill.

Mr. SHERMAN. The communication from the Land Office reads:

> In reply to your verbal inquiry relative to the quantity of land located with military bounty-land warrants up to date, in all the States, &c.

Then it gives them all. Some of this land, however, was located while the States were Territories, and by the bill those lands are excluded, how much I do not know. The whole amount is $3,947,000.

Mr. HOAR. Mr. President, I wish to say one word merely in regard to the last sentence uttered by the Senator from Ohio. It is hardly just in his recital of the history of this matter to speak of any portion of the Ohio lands as being applied to Massachusetts. Massachusetts obtained no grant of these lands. There was a grant to a company of settlers, which I suppose would have been made by any State in the Union having unoccupied land at that time, to have an actual settlement begun in the Ohio Territory; and it was for that purpose alone that this grant was made. There was no grant of the land or property of pecuniary value to Massachusetts, or to any Massachusetts person. Rufus Putnam, Manassa Cutler, and their associates took from Massachusetts a body of its very best citizens, many of them revolutionary soldiers who after the war preferred to make a settlement in this new Territory.

Although Massachusetts had her claim as Connecticut did, extending by her original grant to the Pacific Ocean, what was called the South Sea at the time her charter was granted, she made no stipulation either in money or land as the equivalent for that cession; but she did make one stipulation, and that is she stipulated that those great Territories to be formed into States should be forever dedicated to freedom. The great ordinance of 1787 drawn up by Nathan Dane, the original of which, in his handwriting, is now existing in this Capitol, was the only equivalent for which she stipulated in parting with her valuable claim to the western country.

Mr. SHERMAN. I did not intend in what I said to call in question the propriety of the conduct of our revolutionary ancestors in regard to these lands, but only to state the facts.

Mr. HOAR. The Senator will pardon me; he will find in looking at the report of his remarks that he spoke of land granted to Connecticut and land granted to Massachusetts, and his history was quite an interesting one, indicating apparently an idea in his mind that there had been a valuable grant to Massachusetts or a reserve by her. That is not the fact.

Mr. SHERMAN. If I had been reading up within the last few days a history of the controversy in 1784 I would have been able to state it more accurately, but there was a controversy between what are called the land States and those who held no land in 1784, which led to the reservations and grants to which I referred, which led to the cession by Virginia and Connecticut and their reservations. Citizens of Massachusetts formed a company which I suppose was organized under the laws of Massachusetts. Lands were granted to this company, but not to the State. It was this company of Massachusetts people known as the Ohio Company that made the first settlement in Ohio. They bought by contract with Congress. I do not recall how much, but I have traveled all over that country on foot and on horseback. The corporation or association was a colony, and the leading members went out and settled upon these lands, and these settlers and their descendants have been from that day to this among the leading citizens of that State. My own ancestor was carried to Ohio by the Connecticut grant. He went out there as a commissioner from the State of Connecticut to mark out the fire lands from the Western Reserve, and was interested also as a sufferer by fire during the revolutionary war. I do not speak of these early transactions or of the land policy of those days with a view to call into question the conduct of these gentlemen in any respect, but simply to show the harsh policy as to the public lands first adopted by the General Government. Ohio was then the only land State in which the General Government had any public land. In Kentucky and Tennessee the vacant land was owned by Virginia and North Carolina; Michigan was then not occupied; Indiana could not be reached because Ohio lay in the way. The old States got reservations or purchased lands in Ohio for the settlement of their people; some by reservations or grants to the State, some by grants to corporations, some by grants to associations. In that way the first settlement of the public land was effected. The new system has changed all this.

Mr. HAWLEY. The Senator from Ohio is of course familiar with these transactions, but by a slip of the tongue I think he referred to a sale of land to Connecticut.

Mr. SHERMAN. No, I did not mean a sale.

Mr. HAWLEY. The Senator spoke of a sale of land to Connecticut.

Mr. SHERMAN. I said a grant, and Connecticut ceded to the United States its claim to the Western territories, as they were called, and reserved north of the forty-first parallel latitude west 120 miles. That is what I said.

Mr. HAWLEY. Connecticut ceded the whole of her jurisdiction over and title to the soil of the land west of her reservation on a belt corresponding in width to that of Connecticut herself, out as far as the King of Great Britain or his successors had any rights—that is, to the Mississippi.

Mr. SHERMAN. "To the Indian Ocean."

Mr. HAWLEY. "To the South Sea" was the original charter. "South Sea" is the exact expression, I think, of the charters of 1630 and 1662. Of course they could go no farther than the King of Great Britain had title—that is, to the Mississippi River. Beginning at a meridian crossing the forty-first parallel at a point one hundred and twenty miles west of the line of Pennsylvania, and extending eastward to Pennsylvania, Connecticut reserved an area about equal to her own size. She granted also 500,000 acres of land to those who had suffered losses (including some ancestors of the Senator himself) in the burning of Danbury, Norwalk, Fairfield, New London, and Groton. The damages inflicted by the British were all carefully listed and estimated, and the so-called "fire lands" were granted to cover them. This reserve, to which she had every title in the world, jurisdictional title and title to the soil also, a pretty good-sized tract, as large as the present State herself, Connecticut converted into a school fund. The reservation was made in 1786. In 1797 she tendered to the United States the jurisdiction over that land, and in 1800 it was accepted by the United States. But it was our own land by the charters from Great Britain, not sold or given to us by the Confederacy of States.

Mr. PLATT. May I inquire of the Senator from Ohio whether he goes so far as to claim that these new States obtained the right to one-twentieth of all the lands within their borders? I certainly understood from his argument that they by these enabling acts got one-twentieth part of the title to all the lands within their borders. Now, I wish to inquire whether his claim goes to that extent; and if so, why this 5 per cent. should not be paid on all homestead entries, on all that has been given to different railroad enterprises, on all that has been given the States for educational purposes, and on all swamp-lands granted, as well as on the military land-warrants?

Mr. SHERMAN. That matter was discussed years ago, and the distinctions were pointed out very clearly. I supposed Senators were perfectly familiar with the distinction taken between the grants for railroad purposes and these military land-warrants. The military land-warrants were issued for the common defense of the United States at large. The grants under the swamp act, and also under the railroad acts, were grants to the States; the whole land was ceded to the States for certain purposes. As a matter of course the cession to the State merged in the State the whole land, 5 per cent. and all, and as a matter of course it would be inequitable, and unjust, and improper, when the State itself had acquired the title to all the land that was afterward ceded to corporations for railroad purposes, for it to set up a claim to 5 per cent. on the value of the land. The well-known principle of law applies, that where a man acquires title to a piece of land in which he already has a partial interest the interest he already holds is merged. As a matter of course that is the answer to that, and it has been stated over and over again in the reports made——

Mr. PLATT. That does not apply to the homestead entries, nor to lands which have been granted in aid of private corporations and not granted to the States.

Mr. SHERMAN. My impression is that the lands within the States granted for railroad purposes were granted to the States. That will be found to be the case. All the grants of land within a State have always been made to the State, and then the State has ceded them to the railroad companies. The reason for that has been that the States themselves then have the disposition and control of the corporations which they create for the purpose of building railroads. In the Territories it has been different.

Mr. PLATT. The Senator is doubtless more familiar with that subject than I am, but is not this true, that sometimes they have been granted to the State merely as the trustee of the corporation?

Mr. ALLISON. Yes; but so far as railroad lands are concerned, they only took alternate sections, and the remaining lands were sold at $2.50 an acre, and 5 per cent. was paid on those sales, so that the principle was carried out.

Mr. SHERMAN. All these distinctions have been stated over and over again in debate. Where the land was ceded to the State, as a matter of course the State could not set up any claim to 5 per cent. on that land.

Mr. HOAR. I should like to ask the Senator from Ohio if he claims, what would seem to be the logic of his argument, that the lands which have been homesteaded should also be paid for? That is not in this bill; but what is the distinction in his mind?

Mr. SHERMAN. I think the distinction is very broad. When the United States parts with the land, giving it to actual settlers, it is quite a different thing. That is for the general good and the general welfare. The land is given to promote settlement in these communities. It would be inequitable and unjust to give the States 5 per cent. on lands so granted.

Mr. McMILLAN. Will the Senator from Ohio permit me to call his attention to a specific provision in the act authorizing the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States? Section 5 provides:

That 5 per cent. of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of the said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements as the Legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide by a clause in said constitution or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

Here is an express contract by the Government of the United States with the State of Minnesota, upon her admission into the Union, that this 5 per cent. should be paid, and the only question that can arise is whether or not where a person buys land of the United States and pays for it by a military bounty-land warrant that is a sale of the land by the Government of the United States within the meaning of that section. If it were paid for in cash there could be no doubt whatever about it, and the Government concedes it and has paid 5 per cent. on cash sales. It is precisely the same, and the land officers received the fees for the sale of the land by the Government, prescribed by act of Congress, where the Government received in payment for its land a bounty-land warrant, not from the soldier, but from any person who might be the owner of it. The land warrant is assignable at all times, and is a matter of negotiation in all the banking establishments of the country; it passes just the same as money.

Mr. ALLISON. May I call the attention of the Senator from Minnesota to the fact that these land-warrants were received as money at the land offices? You could pay for one hundred and sixty acres partly in a land-warrant and partly in money. They were received as cash.

Mr. McMILLAN. There was no difference between them. You could pay for land partly in cash and partly in a warrant, as suggested by the Senator from Iowa, and whether or not this is a sale of the land is the only question open for discussion here. It seems to me there can be no reasonable doubt about it under a fair construction of the contract.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Delaware, [Mr. SAULSBURY,] which will be read for the information of the Senate.

The Acting Secretary read the amendment.

Mr. SAULSBURY. Mr. President, the immediate question before the Senate is the amendment which I offered to the pending bill. I have said on that amendment all that I propose to say, and did not propose at this time to enter upon the discussion of the merits of this bill. The Senator from Ohio [Mr. SHERMAN] has, however, gone into a discussion of the whole question, and in the course of his speech he made a remark that somewhat surprised me. He stated that this question in some of its forms had been before Congress for twenty-five years. I never heard of its being here till about 1878. There was a cognate question here for several years, but not this question, growing out of what was called the 2 per cent. claim set up by Indiana, Illinois, and Ohio. That question had been before Congress for a very considerable time, and has been rejected by Congress on two or three different occasions, but I have not heard that any claim had been made for 5 per cent. upon the value of lands located by military land-warrants until that question was brought into this body, I think, for the first time in 1878. There was, I repeat, a question in reference to the 2 per cent. retained by the Government by consent of those States out of the proceeds of land actually sold for the purpose of constructing a public road leading to the West. The Senator from Ohio in the remarks he submitted complained that the Government had not kept the stipulation in the expenditure of that 2 per cent. with the State of Ohio, and said that the Cumberland road, which it was intended that money should be applied to, was only constructed through a part of the State.

I was surprised to hear that complaint of the Senator, because a former Senator from the State of Ohio had acknowledged that the Government of the United States as far back as 1825 had discharged its obligation as to the expenditure of the 2 per cent. so far as it applied to the State of Ohio. In 1825 Mr. Ruggles, a Senator from that State, addressed the Senate upon this particular question, the construction of the Cumberland road to the West, and I will read what he said, which was a very different statement from that made by the Senator from Ohio in his remarks a little while ago. Mr. Ruggles said:

> Ohio was the first State that was admitted into the Union upon this principle—

That is, on the principle of 5 per cent., 2 per cent. of which should be retained by the Government for the purpose of constructing a public highway from the East to the West—

> Ohio was the first State that was admitted into the Union upon this principle. This took place in 1803. When the 2 per cent. which had been reserved for the purpose of making a road leading to that State had accumulated so as to justify an expenditure, Congress passed a law, in 1806, authorizing commissioners to be appointed to survey and lay out a road from Cumberland, in Maryland, to the State of Ohio.
>
> After the survey and location were completed, annual appropriations were made by Congress for constructing the road, until it was finally completed from Cumberland to Wheeling, on the Ohio River, a distance of one hundred and thirty-five miles. This road lies entirely within the States of Maryland, Pennsylvania, and Virginia. Not one rod is within any of the new States. The contract with the State of Ohio is fulfilled; the road has been made to the boundary of that State; the 2 per cent. that has arisen, and will hereafter arise, has all been expended. Ohio, therefore, has no further claim upon Congress for any portion of the 2 per cent. which may be produced by the future sales of land in that State. It is but justice to admit that a greater sum of money has been expended in making the Cumberland road than the 2 per cent. would amount to in the State of Ohio. This excess must be considered as a direct appropriation from the Treasury for the accomplishment of a great national object, in which the whole western country had a direct and beneficial interest.

That was the utterance of a Senator from the State of Ohio in 1825, and yet the Senator from Ohio to-day charges that the Government of his country had been wanting in faith to the State of Ohio in reference to the 2 per cent. retained for the construction of a road to that State. That is the question, the 2 per cent. question, which had been here year after year until, I think, it was abandoned after 1876 and this new project brought in of giving 5 per cent. on all the lands that had heretofore been located by military land warrants. So far as I have any knowledge, the claim that is now made is entirely a new claim; for when the question of the 2 per cent. upon the lands that were actually sold was before Congress, the States of Ohio, Indiana, and Illinois were claiming that Congress should pay to them the 2 per cent. which it had reserved, this question of 5 per cent. upon the public lands which had been located with land-warrants was not brought into discussion, was not dreamed of at that day, so far as I know, by any Senator on this floor; and it was never until after the Congress of the United States had resisted the improper claims of Ohio, and Illinois, and Indiana to the 2 per cent., and by repeated reports of Committees on the Judiciary had demonstrated that there was no valid claim to be made to that fund then retained by the Government—it was never until that question was put at rest by two or three able reports that this question of the 5 per cent. on the value of the public lands which had been located by military land-warrants was brought to the attention of Congress.

There had been a claim made by the State of Iowa before one of the Executive Departments of the Government as far back as 1858. The then governor, I believe it was, of the State came to Washington and conferred with the Secretary of the Interior, making such a claim as is now embraced in the bill; at least a claim predicated upon the location of lands by military land-warrants. I believe he took the distinction at that time that where they were a bounty given to soldiers for services which had been rendered, and not a reward paid for services to be rendered, the State he represented had not proper claim. After a personal interview he addressed a letter to the Secretary of the Interior, Jacob Thompson, calling his attention to this distinction, which was read to the Senate by the Senator from Vermont [Mr. EDMUNDS] in the discussion of this question a few years ago. Mr. Thompson in a written reply informed him that by the terms of the enabling act upon which Iowa was admitted, and upon which this claim is predicated, there was nothing due to the State of Iowa, because it was the net proceeds of the sales of lands actually sold that was promised.

That decision of the Interior Department, so far as I am informed, at any rate so far as any legislative recognition of the claim has been had, that decision of the Secretary of the Interior in reference to the right of the State of Iowa to this fund, was acquiesced in, at least so far as we can judge from the records of this body and of the other House. It was not, as I again repeat, until after the disposition of the 2 per cent. claim made by the States of Ohio, Indiana, and Illinois that this claim was brought to the attention of Congress; so that the Senator from Ohio was egregiously mistaken when he uttered the remark that this claim had been in some of its forms before the Congress of the United States for the last twenty-five years.

Now, in reference to the Cumberland road, as it was brought into the discussion by the Senator from Ohio, I will say that the construction of the Cumberland road, designed especially for the benefit of the Western States, and upon which the Government of the United States expended over $6,000,000, was not only a discharge of this obligation to the State of Ohio, as was admitted by Senator Ruggles in 1825, but it was also a discharge of the obligation to Indiana and to Illinois so far as the 2 per cent. was concerned, because there was over $1,000,000 spent in the State of Indiana on the Cumberland road and some $750,000 spent in the State of Illinois upon the same road. The contract of the Government with the State of Indiana and with the State of Illinois and with the State of Missouri was not that this Government should build a road through those States, but a road leading to those States; and the construction of the Cumberland road to Springfield in the State of Ohio, with a large amount of work done upon it in the State of Indiana and the State of Illinois, involved the expenditure of more money than would have arisen from the 2 per cent. which they claimed a few years ago, and perhaps which they may still claim as having been retained improperly by the Government of the United States.

That is all I desire to say in reference to that 2 per cent. claim. So far as that claim is concerned, the Government has discharged its obligation to the States of Indiana, Illinois, and Ohio. They have, therefore, no further claim upon this Government in that regard.

Now I proceed to the bill under consideration. I desire to say, Mr. President, that there are some features of this bill that I do not like. In the first place, when you take up the bill you find that it is a measure proposed to take out of the Treasury of the United States, the common Treasury of the whole country, money placed there by taxation upon the people, arising not from the sales of public lands in any of these States but money in the Treasury placed there by taxation upon the people of the whole country, and this bill proposes deliberately to put in the public Treasury the hands of eighteen States of this Union and take out a part of that money for their own special benefit. I say this general feature of this measure will not commend it to the favorable consideration of the people of this country, and in my opinion ought not to commend it to the favorable consideration of the Senate. It is a direct proposition made in the Senate of the United States to take from the public Treasury a large amount of money and transfer it to the treasuries of the several States named in this bill. So the general aspect of this question, apart from any other consideration, I do not hesitate to say ought to be sufficient to insure its rejection by the Senate.

But there is another feature of this bill that is still more objectionable to my mind. If the States named in this bill have proper claims on the Government, why not bring them forward as distinct and separate measures? Why should they be brought into hotchpotch in this bill? No one here has a suspicion, of course, that there was any purpose to combine these separate claims in order to consolidate the votes of Senators whose States are interested; but outside of the Senate Chamber, where the virtues of Senators are not so highly appreciated and where criticism is indulged more freely on the action of this body than here, there will be found some persons, it may be evil-minded persons, to suggest that the reason for such a combination of interests was that the particular merits of the claims of individual States should not be scanned, but that by placing all in a common bill the States should in a lump pass their claims upon the Treasury by the united votes of their Senators. These States came into the Union at different times and under different circumstances, and the enabling acts contain different conditions and stipulations; and if the several States embraced in this bill have valid claims let them come in the ordinary way of legislation, and not by a system of bringing several States together in the same bill seek to pass them all by the same vote. Outside of the Senate Chamber it will be supposed to be the object of those who concocted this bill originally, the agents and attorneys of the States interested, that by a combination of interests, a union of several States in this bill, they could secure the votes of the members from those several States because of the particular interests which their States may have had in the bill.

Mr. VEST. Will the Senator allow me to ask him a question?

Mr. SAULSBURY. Certainly.

Mr. VEST. What is the difference between one bill covering all the States, and passing upon the claim of an individual State in a single case, establishing a precedent binding on the Government in other cases?

Mr. SAULSBURY. I will say to the Senator that while he may be able in his own mind to come to the conclusion that there is no difference, yet, outside of this Chamber, where the actions of the Senate of the United States are scrutinized with less charity than we scrutinize our own acts, the public opinion will be, I apprehend, that the reason for the combination of the several States embraced in this bill was to secure the support of the members of the Senate whose States were interested in the bill. Whether it will have that effect is yet to be seen. The question is whether it is proper to put the bill in a form that upon the public mind will make the impression that the bill was so framed for the object which I have named.

Apart from these general aspects of the bill, and in reference to its merits, upon what is this claim predicated? I listened to the argument of the Senator from Kansas [Mr. PLUMB] who reported this measure and who has pressed its consideration with a great deal of energy and zeal and ability, and I understand from his speech and from the report of the committee that it is based upon a contract made between the Government of the United States and the several States embraced in this bill in their enabling acts. He said the States were not here to ask for charity; they were here to demand right; and he placed this claim upon a valid and subsisting agreement between the General Government and the States embraced in the bill.

I submit that if it were possible (and I believe it is possible) to take this case to a court to interpret the contract, what would it be? The agreement is upon certain conditions that the Government will pay the States 5 per cent. of the net proceeds of the sales of the public lands within their limits. That was the contract, and there is no frittering it away by any latitudinarian interpretation of the word "sale," because it had a legal signification then, and it has now. The men who used that term in the enabling acts knew its import fully as well as we understand it.

When you put these States on the terms of their contract, if you see proper to call the provisions of the enabling act a contract or a compact binding on the respective parties, I say if there is anything coming to either of these States by a proper legal construction of any of the terms used in the enabling acts, I will certainly vote to give it. But every Senator who has spoken in favor of this claim has talked about a broad and liberal construction, and not a strict legal interpretation of the terms employed in the contract. If I did not misunderstand the Senator from Arkansas [Mr. GARLAND] this morning, acknowledged to be one of the ablest lawyers in the country, he did not come down to the strict construction by the acknowledged rules of interpretation of the language employed in the enabling acts, but put himself upon a broad and generous and liberal interpretation of the terms used in the enabling acts, in order that he might sustain the claim.

But, sir, I hold that when that compact or contract, if you may so call it, was entered into between the General Government and the State of Ohio, the policy of the Government in reference to public lands and the rewarding of soldiers for meritorious services by the distribution of public lands among them was a policy known not only to the General Government but known also to the State of Ohio. As early as 1776, before the General Government had any lands and but a bare possibility of acquiring public lands, it promised to give to the soldiers who served in the Revolution a portion of the public domain which might be acquired; and Virginia, interested in the struggle for our independence, anxious for the common rights of all the people, induced her soldiers to go into the war by the promise of lands, and generously afterward redeemed her promise by securing a reservation out of the public lands she generously ceded to the Government ample to fulfill and meet the obligations that she had entered into with her soldiers.

It was the recognized policy of this country even as early as 1802, when Ohio was admitted into the Union, that a portion of the public domain should be set apart for the soldiers who had served and should thereafter serve in the wars of the country. It is not to be presumed that it entered into the contemplation of Congress when it passed these enabling acts, or into the contemplation of the State of Ohio, or the convention of what is now the State of Ohio, when she accepted the terms and conditions of the enabling act of Congress, that the Government had abandoned its settled policy of rewarding the soldiers by military land-warrants and intended to deprive itself of the liberty of donating lands embraced within the State of Ohio to the soldier for the services he had rendered the country. So with all the States entering into the Union. This has been the settled policy of the Government. It promised 5 per cent., it is true, of the net proceeds of the sales of the public lands, but it did not enter into the contemplation of Congress that it had abandoned the policy of rewarding the soldiers by giving them public lands within the limits of Ohio or any other State of the Union on which they might locate, nor were such enabling acts and the conditions there appended accepted by any State of the Union with any understanding on their part that the Government of the United States had abandoned its generous policy and that they were to have 5 per cent. upon the value of lands taken up by military land-warrants. No such idea was then entertained, and the proposition of this bill is an afterthought, as unjust as it is absurd and preposterous.

I say, then, looking at these enabling acts in the light of the surrounding circumstances at the time of enactment, independent of the word used in the contract itself, fully understood by the Government and the States in accepting the proffered aid of the General Government, we can come to no other conclusion than that the claim now set up is in violation of the distinct understanding on the part both of the Government and of the States respectively accepting the bounty of the General Government.

But without looking to the circumstances under which these enabling acts were passed, looking away from the surrounding circumstances, which might properly be taken into consideration in giving a proper interpretation to the intent of the parties to the agreements, and confining ourselves to the language used in the contract, I am utterly amazed that any lawyer or that any Senator can come to the conclusion, which I have no doubt many of them have already done, that this is a valid and legal claim which these States are demanding of the Government.

What are the terms of the contract upon which they say they stand? It uses a well-defined term, "sale"—"sale of the public lands;" "the net proceeds of the sale of the public lands." What do those terms mean? Do they mean the disposition of the public lands to soldiers as bounty for services rendered the country, or in any other way the Government might see proper to dispose of them under the homestead laws or otherwise? If the construction now contended for is to be placed upon the terms of these contracts, then a claim may be set up on the part of those States for lands taken under the homestead laws for lands donated for educational purposes given the States themselves, for the swamp lands, for the lands granted for railroad purposes, and for all the lands which the Government in its generosity has given to these respective States.

I repeat, if the construction now contended for of these enabling acts is correct, then this Government has no security against any claim that may hereafter be set up for land taken in the several States of the Union under the homestead laws, or under grants to corporations for the purpose of building railroads in those States, or under grants to the States themselves for educational or other purposes, and they might just as well come here and claim, so far as a legal claim can be made, and make as valid and legal a claim even for the swamp lands in these respective States as they can for the lands which the Government has disposed of to its soldiers.

Mr. MAXEY. I would ask the Senator from Delaware on this point whether the allowance of a certain percentage, 5 per cent., upon the sales of the public lands means, as a question of law, that the Government is bound to pay 5 per cent. on the net proceeds of the lands sold? Is the Government in any wise bound to pay the percentage on lands disposed of otherwise than by sale?

Mr. SAULSBURY. The Government is not bound by the terms of these enabling acts to confine itself to one mode of disposition of the public lands, but may dispose of them as in its judgment it may think proper to dispose of them, and is only bound to the States for the land disposed of by actual sale. The term "sale" has a proper legal signification. There must be a seller and a buyer and a consideration paid in money in order to constitute a sale. All the lawbooks, I believe, in substance regard that as the proper definition of a sale; but we are not left to the general law on this subject, because it has received a construction from Congress away back in the past, and stands construed upon your statute-books which point out what is the meaning of the term "sales of the public lands." There is provision made for the sale of the public lands in the laws; but before I proceed to that permit me to say that the Government never sells lands by statute. It never has done it. I has authorized sales to be made under statutes and regulated the manner in which the sales shall be made, both public and private, but there has never been a sale of the public lands by act of Congress so far as I know; and yet it is insisted that acts of Congress which gave bounty warrants to the soldiers were sales of the land. So far as I know, there never has been a sale made by statute, by an act of Congress, to convey a title to land. There may have been such, but I am not aware of it; but, so far as the public domain of the country is concerned, no part of that has been sold in any other manner than the manner prescribed by the acts of Congress regulating the mode and manner of the disposition of the public lands.

I find in the statutes that there is provision for two kinds of sales: first, a public sale of lands, and then a private sale of lands; and without stopping to read the provisions of the law on this subject, I call attention to the fact that the public lands of this country are to be sold and disposed of as Congress has directed in the public statutes. I will read section 2358 of the Revised Code:

> Whenever the President is authorized to cause the public lands, in any land district, to be offered for sale, he may offer for sale, at first, only a part of the lands contained in such district, and at any subsequent time or times he may offer for sale in the same manner any other part, or the remainder of the lands contained in the same.

Section 2359 provides how a public sale of public lands shall be made:

> The public lands which are exposed to public sale by order of the President shall be advertised for a period of not less than three nor more than six months prior to the day of sale, unless otherwise specially provided.

Then it provides in reference to private sales how they may be effected. It is not, therefore, I say, granting lands by acts of Congress, or disposing of them to the soldiers by acts of Congress giving them bounties that constitutes a sale, or that was within the contemplation of the Congress at the time the enabling acts of these States were passed. Then, what was meant by the "proceeds of sales," because they not only used the term "sale," which has a well-defined meaning, but the acts used the term "net proceeds of sales?" Can it be possible that when Congress passed enabling acts for the several States they meant to say by those acts that any parcel of land located with a military land-warrant was to be included in that term? What would be the net proceeds of the sale of such a tract?

Mr. McMILLAN. Will the Senator from Delaware allow me to ask him a question?

Mr. SAULSBURY. Yes, sir.

Mr. McMILLAN. What is the minimum price fixed by the law of Congress for the sales of public lands?

Mr. SAULSBURY. One dollar and twenty-five cents an acre.

Mr. McMILLAN. Then she sells her land and receives payment in whatever she prescribes she shall receive.

Mr. SAULSBURY. I beg pardon; is there a provision in the public statutes that there is anything to be received but money for the sale of public lands?

Mr. McMILLAN. The Senator from Delaware is mistaken in that. He will find that wherever lands have been once offered at public sale, they are then subject to private sale at any of the land offices in the United States, and any subdivision of the lands surveyed by the United States can be purchased at not less than $1.25 per acre and be paid for in cash or its equivalent, a land-warrant issued by the United States.

Mr. SAULSBURY. I was aware of that, but it is an exception to the general law regulating sales of the public lands of which I was speaking.

Mr. McMILLAN. If a fractional section is desired to be purchased containing sixty-six acres, the purchaser can buy it and give a forty-acre land-warrant and the balance in cash and receive one patent for the fractional section.

Mr. SAULSBURY. I am aware that there has been an act enabling the holders of military scrip to use that in payment of lands instead of locating the lands exclusively with cash if they thought proper to do so. But that is only where the lands have been previously offered at public sale and not sold. It has nothing to do, however, with the matter under discussion, nor does it affect in the least the position I am seeking to maintain in this debate. The public lands under the laws regulating their sale must be sold for cash, except as has been stated by the Senator from Minnesota, and that exception does not alter the rule, because it only applies to lands previously offered for sale. I am aware of that, but that does not alter the general proposition. The general laws regulating the sales of public land require a cash payment. There has been a special statute to which he refers for the purpose of enabling persons who were the holders of these warrants to use them in payment of lands after they had been offered at public sale and could be disposed of at private sale. And 5 per cent. on land located with military land-warrants is now claimed under this bill.

A claim is made in this bill for 5 per cent. on the value of lands located by military land-warrants.

Mr. McMILLAN. That is the claim.

Mr. SAULSBURY. Looking at this question with a view to ascertain the validity of such a claim, I am unable to see anything which entitles it to be considered in the light of a just claim upon the Government. There is nothing in the enabling acts of the several States or the circumstances under which they were passed that can justify such a construction as is now sought to be put upon the terms used in these enabling acts, and nothing connected with the transaction that justifies the belief that it entered into the consideration of either of the parties, the General Government or the respective States, that the lands located with military land-warrants were to be considered in any sense a sale of the lands according to the language used in the enabling acts.

If this claim had been rested upon equitable considerations alone, it would have been a different question. I do not think they ever had any legal claim, and perhaps it was because they were perfectly satisfied that there was no equitable claim on the part of these States for the further bounty of the Government that they have seen proper to rest this claim exclusively upon its legal aspect and bearing. If these States should set up an equitable claim to this money, if they should come here and say to this high court of chancery, "You have taken the lands within our limits; you have deprived us of the benefits we otherwise would have obtained from the sale of those lands, and now we feel that you as an act of equity ought to give us an equivalent 5 per cent. of the lands located with military land-warrants within our limits," they would at once be met by facts and considerations which would prove that they have no equitable claim.

The Government has been liberal, has been bountiful, munificent to all these States. There is not a single State embraced in this bill but what has been a recipient time and again of the favors of the Government, and even at the present session of Congress we have passed a bill through the Senate for the improvement of the navigation of the Mississippi River, in the improvement of which every State embraced in this bill is interested, unless perhaps it be Nevada. We have passed a bill appropriating $6,000,000 for that improvement, in which Indiana, Illinois, Ohio, all the Northwestern States, are interested, except perhaps Michigan. Vast expenditures have been made for the benefit of the new States. The Government has built a magnificent public building in Saint Louis, costing three or four or five million dollars, and buildings costing even a greater amount in Chicago and in Cincinnati. These States have been recipients of the liberality and bounty of the Government; so that when they come here with an equitable claim they will be met by reminders of the charity, if I may use the term, by the liberality of the General Government exhibited toward them.

I am informed that 70,000,000 acres of swamp land alone have been given away to these States; to some more and to some less. Large land-grants for the purpose of building railroads in the States have been made. The donations of public lands to the States for educational purposes have been vast, and I believe I saw a statement—I do not know how true it may be—that Michigan, one of the claimant States, had had about 13,000,000 acres of public lands for one purpose or another; that Indiana and Illinois had had respectively very large grants of public lands. So it is with all these States. So that if they had predicated their claim to this money upon equitable grounds there would be counter-claims in the nature of favors bestowed. I suppose it was a knowledge of that fact that induced the friends of this bill to base it not upon an equitable but upon a legal claim against the Government.

Under this bill, according to a statement which is published in the RECORD, the following sums will be paid to the States named:

States.	Five per cent.
Alabama	$72,475 69
Arkansas	141,306 44
California	50,714 44
Colorado	12,191 25
Florida	29,317 57
Iowa	881,239 13
Illinois	595,866 32
Indiana	82,027 32
Kansas	270,741 12
Louiciana	72,425 19
Michigan	270,704 63
Minnesota	373,393 25
Mississippi	24,061 13
Missouri	426,186 82
Nebraska	121,202 38
Nevada	666 25
Ohio	113,593 88
Oregon	4,949 31
Wisconsin	404,111 38
Total	3,947,173 50

These are the beneficiaries under this bill. The other States of this Union of course get nothing, and the rest of the States of this Union have contributed to the fund out of which it is to be paid. Mr. President, there is, in my opinion, no legal or equitable claim on the part of the States enumerated in the bill to the money it is proposed to take from the Treasury for their benefit. Such an appropriation of the public money is unjust to the people who have paid it into the Treasury, and, in my opinion, ought not to be made.

I have now said all I desire to say upon this subject.

Mr. HOAR. I desire to submit an amendment to the bill under consideration, which I ask to have printed. I shall offer it hereafter. It is strike out all of the bill after the word "the" where it occurs the second time, in line 15, and insert:

Court of Claims; and shall give notice of such certificate to the governor of each of the said States.

SEC. 2. Either of said States may within two years from the filing of such certificate institute a suit in the Court of Claims for such amount as it may claim to be due on account of lands located therein by military scrip and land warrants. Said lands shall be estimated by the court at the rate of $1.25 per acre. The Attorney-General shall represent the United States in the defense of such suits and either party may appeal to the Supreme Court as in other cases. The judgment thereon shall be binding on the States and on the United States.

The proposed amendment was ordered to be printed.

Mr. FARLEY. I offer several amendments to this bill, which I ask to have printed.

The proposed amendments were ordered to be printed, and are as follows:

Amend section 1, in line 16, after the word "Treasury," by inserting:

"And the Secretary of the Interior shall also ascertain and certify to the Secretary of the Treasury the amount of sales of public lands made in the State of California since the admission of said State into the Union, including the amount of such lands entered or located in said State with military scrip or land warrants."

And after the word "acres," in line 21, same section, add the following:

"And to pay to the said State of California 5 per cent. of the proceeds of such public lands, estimating the lands entered or located with military scrip or land warrants at $1.25 per acre; and money received by said State under the provisions of this act shall be held by the said State of California as a school fund, the interest upon which shall be used in aid of the support of the common schools of said State."

Mr. CONGER. Mr. President——

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of executive business.

Mr. CONGER. I would prefer to speak to-night unless the Senator wishes to go into executive session.

Mr. CAMERON, of Pennsylvania. I have moved that the Senate proceed to the consideration of executive business.

Mr. CONGER. Can I retain the floor?

The PRESIDENT *pro tempore*. The Senator will have the floor for to-morrow morning.

Mr. CONGER. Very well.

Mr. CAMERON, of Pennsylvania. I renew my motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and seven minutes spent in executive session the doors were reopened, and (at five o'clock and fifty-three minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May* 17, 1882.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. RANDALL. I call for the regular order for the purpose of securing all the time possible for debate on the banking bill consistent with a vote to-day.

Mr. HUBBELL. Will the gentleman allow me to introduce two or three bills for reference only?

Mr. RANDALL. I cannot do so.

Mr. BUCKNER. I desire to say to my friend from Massachusetts [Mr. CRAPO] who is in charge of this bill that there is one side of this question which has not yet been fairly represented in the debate; and while I have not the least desire that discussion shall continue beyond proper limits, I do think there ought not to be any time fixed now for closing the debate. I do not wish to put any obstruction in the way of reaching a vote in a reasonable time.

Mr. CRAPO. Let me say to my colleague on the committee [Mr. BUCKNER] that, as the RECORD will show, very much more than half of the time thus far given to discussion on this bill has been occupied by the opponents of the bill.

Mr. REAGAN. The gentleman from Massachusetts is surely mistaken in that statement. Besides, sir, the gentlemen of the Greenback party represent their own views, not those of the Democratic party. I believe but two Democrats have thus far spoken in opposition to the bill, although several have spoken in its favor. I think that common fairness ought to be observed in this matter. I stood second on the list of those who were to speak in opposition to the bill. I had no opportunity yesterday to do so; and now I understand it is proposed this morning that the friends of the bill shall occupy the whole time.

Mr. RANDALL. My anxiety was simply to secure all the time possible for debate consistent with getting a vote to-day.

The SPEAKER. The Chair thinks that recognition has been fairly accorded to the different sides, and will be.

Mr. CRAPO. The gentleman from Indiana [Mr. HOLMAN] spoke an hour last night.

Mr. REAGAN. Oh, nobody was here last night.

The SPEAKER. The regular order is the call of committees for reports.

Mr. MILLS. I move to dispense with the morning hour for the call of committees.

The motion was agreed to, two-thirds voting in favor thereof.

EXTENSION ON NATIONAL-BANK CHARTERS.

Mr. CRAPO. I call for the regular order.

The SPEAKER. The regular order is the further consideration of the special order, the bill (H. R. No. 4167) to enable national banking associations to extend their corporate existence. The gentleman from New Jersey [Mr. HARDENBERGH] is entitled to the floor.

Mr. CRAPO. Before the gentleman from New Jersey proceeds I would ask gentlemen on the other side of the House how much time they desire, and when in their judgment the general debate on this bill should terminate.

Mr. PAGE. Let it run on for to-day.

Mr. REAGAN. I have no authority to represent this side of the House. I have an hour, but not wishing to occupy the whole time myself, I am under promise to my colleague [Mr. MILLS] to yield a portion of it to him.

Mr. MILLS. I shall be content if my colleague has an hour, and will ask no time for myself.

Mr. CRAPO. Let me make a proposition that by unanimous consent all general debate on this bill shall be closed at four o'clock to-day. That will give us five hours, and I assure gentlemen on the other side that they shall have half of it.

Mr. BUCKNER. I make a suggestion to gentlemen on the other side that debate be closed to-day, and that the bill and amendments be voted on at ten o'clock to-morrow. There is to be a trial of speed to-day and some members desire to witness it.

Mr. ROBINSON, of Massachusetts. Is there a proposition, Mr. Speaker, that the business of this Congress shall be suspended for the benefit of a horse race?

Mr. BUCKNER. No, sir; but I suggest that opportunity be given during the day for all who may desire to do so to indulge in the debate upon this bill and pending amendments, and that to-morrow the vote shall be taken. It is a perfectly fair proposition.

Mr. RANDALL. I do not think there is any objection to closing the debate at four o'clock to-day.

The SPEAKER. The Chair hears no objection to fixing the time indicated.

Mr. REAGAN. If it is understood that the friends of the measure are to parcel out the remainder of the time and to refuse to let the opponents on this side of the House to be heard, I for one cannot consent to it.

The SPEAKER. That cannot be done.

Mr. RANDALL. The Chair will protect the gentleman in that respect.

The SPEAKER. The Chair will protect gentlemen on both sides of the House in their rights. In the judgment of the Chair the friends of the measure do not desire to be unfair about it.

Mr. REAGAN. Very well, then, if both sides of the House are to have fair play.

Mr. RANDALL. Of course the Chair will have the assignment of the floor, and neither side will be given undue advantage over the other.

The SPEAKER. The Chair hears no objection, and the proposition of the gentleman from Massachusetts, that general debate shall be closed on this bill at four o'clock to-day, is agreed to.

Mr. CRAPO. I make the further suggestion, Mr. Speaker, that there shall be no debate under the five-minue rule on mere *pro forma* amendments.

Mr. BURROWS, of Michigan. There is no objection to that.

The SPEAKER. The gentleman from Massachusetts suggests, when the House proceeds to consider the bill and pending amendments under the five-minute rule, that debate shall be limited to five minutes on each side on substantive amendments.

Mr. REAGAN. I hope that order will not be agreed to at this time.

Mr. HOLMAN. That can only be done after the five-minute debate has commenced.

The SPEAKER. The gentleman from New Jersey [Mr. HARDENBERGH] is entitled to the floor.

Mr. HARDENBERGH. Mr. Speaker, I am not unaware of the responsibility that devolves upon me to-day as the Representative not only of one of the Congressional districts of New Jersey, but as a representative of the American people. I come to its discharge without any note and without any brief. I care not to deal in the dull details of figures which have been pronounced and read and repeated within the last three days before this House during every hour. I am here, sir, notwithstanding the remark that was made by the gentleman from Texas that I had no right as the president of a national bank to vote on this question.

I am here to accept the responsibility of my position without fear and without favor, and to denounce any attempt made by that spirit of unfairness and injustice which aims to strike at the national banking system of the country through any representative on the floor of legislation who may chance to have business connections with them.

Sir, when seven years ago I took my seat and with uplifted hand swore there to support the Constitution of the United States and the laws made in accordance therewith, my people, who gave me that commission by a majority of more than 5,000 votes, without any effort on my part, deemed I was sufficiently fair and unprejudiced to discharge my duties as an American Representative. Since then they have seen proper to retain me in the position I have occupied; and I come to it with a spirit to discharge simply what I believe to be its duties as a matter of right to my people, as well as in a spirit of justice and fairness to all, and in opposition to that miserable, wretched spirit of communism and socialism now extending itself throughout the land, which threatens capital in whatever shape or whatever amount or however it be invested with the most dire and dreadful consequences.

Why, sir, it was but two days ago, in my morning mail, came a letter signed by generous-hearted Peter Cooper, of New York, a man ninety-two years of age, a man who has been known, honored, and trusted by the American people; whose whole life has been one of benevolence, piety, and justice, and now in his declining years, when the shadows of the next world are gathering thick around him, and when his mind cannot be in the course of nature as clear and bright and strong as it was, indorses doctrines the most unwise in our financial history. His name is too honored in our history to permit the foundations of a proper conservatism to be swept away. In that pamphlet to which I have referred is quoted a suggestion which I venture to assert few of you would be willing to give countenance, and I am quite sure Mr. Cooper does not. What is that doctrine? Read it, representatives of the people, and you will understand it better. You will see that, instead of strikes against labor, suggestions are made to men to save three months of their wages to buy Gatling-guns and, with three months of provisions, to crush out monopolies of whatever kind. And this, Mr. Speaker, in a rep-

resentative government of the American people. Crush where you can monopolied power, but let it be done by proper process of law. Why, sir, what can there be behind all this crusade upon the national banks? Men are tender in their utterances about it as if they were afraid to speak their minds. I believe in educating the people and elevating them to a full knowledge of these great questions rather than pander to sentiments born of hasty and unreasoning prejudice. [Applause.]

I hope to be equal to my trust and to be able to perform the duties of my position, and I tell you gentlemen when you ask me what my people think upon a certain question—I tell you in response that they sent me here to perform my sworn duty as a Representative, and vote for them and to think for them, and act here according to my own judgment and conviction as to what is right; and if I had not that spirit in my breast, and if I did not dare to discharge that duty in the way that my conscience dictates, I should be ashamed of my American manhood. [Applause.]

Now, sir, let us hear some of the utterances which have been used during the discussion upon this question. I will call the attention of the House briefly to some of them, because it would be almost impossible to go through the whole category of infamies which have been charged against this system. Here is a remark that commends itself certainly to the whole American people, and is a very strong one in reference to a measure of this kind. Democrats, I commend it to you who profess to be the guardians of the popular interests. Talking about the national banking system I find these words:

> It is one of the most wicked, defenseless, inexcusable, flagrant cases of a popular swindle that ever came before Congress, not excepting the land-grant, Credit Mobilier, granite contract, river and harbor, whisky bill, or other swindles that have disgraced the Congressional legislation of the past, or threaten it at the present moment.

Mr. MILLER. Who is that by?

Mr. HARDENBERGH. Mr. BURROWS, of Missouri. Sir, if I could see such features in this poor banking act, so ruthlessly assailed, I would be among the first to crush it by my vote.

The American people have been wandering through the mazes for more than fifty years for a currency that could pass at once and without variance from Maine to Florida and from the Atlantic to the Pacific. They never found it until, when the war of the rebellion was begun and the necessity of a currency was a vital one to the Government, the national banking system was inaugurated and given to the country. I had no part in that action. I had nothing to do with it. I am to deal with facts and principles as I find them here to-day. I am to know what is best for my people, and in my judgment to apply the remedy for any public demand which my best judgment shall dictate. I have been advised by letters, time and often, to be careful of my public political aspirations as to what I may say upon the national banking system lest it may thwart them all. Sir, I will accept all the responsibility and will in face of all such opposition stand by what I conceive to be the principles of justice and right. [Applause.]

Now, sir, I have thought that in this war which has been waged against this national banking system there were other interests behind it. Can you conceive that a system that has been acceptable for twenty years to the American people should all of a sudden, within the last six months, especially since Congress has been in session, be found so imperfect that we have been called upon by a pressing public demand not only to denounce but to degrade and crush it, and to refuse to extend their charters, merely because the system is in the interest of monopoly? There must be something else behind all this. The movement is not an honest one. It may be the tariff; it may be railroad monopolies; but there is something behind it. It is not a spontaneous movement. It has not the sanction of the American people, and never can and never will have this sanction.

You and I have been in our brief life-time witnesses of great events in American history. We have seen how the swelling tide of public opinion has risen and surged from one end of the Republic to the other. We remember the days of Know-nothingism, when a man was compelled to announce where his great grandfather was born, and when the tattered remnants of a political piety were flaunted upon the cross of an insulted Saviour. That was considered then as American patriotism, but buried and damned to-day and forever, as it will be by any republic on earth which seeks to create distinctions between its citizens or refuses to extend to the humblest citizen the broad shield of its common protection.

What next? Then came the mighty exigencies of war. What carried us through that war? It was not the greenbacks. My friend from Pennsy'vania [Mr. BRUMM] announces the greenback as the redeemer, the great redeemer of his country. Why, sir, the redeemer that I acknowledge is always at par, and can save you under any circumstances; but the redeemer of my friend rose and fell in its redemption power, and you never can tell whether you are saved or whether you are lost. [Laughter.]

Now, one word in the interest of labor, in the interest of the workingmen, whose friend I am. An heir of toil myself, I have never known a day that I could call my own. Devoted through all my life to the exercise of the duties of my every-day employments, I stand up here, and no matter how any one here may profess to you anti-monopoly feelings, I dare to say what I believe to be right, and I care not how it may be construed, because opposition to monopolied power has ever been with me a controlling sentiment.

The whole point of this national banking business is this: there are just two sentiments that control the whole of it. You may recite the history of your Treasury notes and all your greenbacks, and the principles of Jefferson and of Jackson and of Hamilton, from the foundation of the Government down; but this I will say, that we have not yet reached the very pith and marrow of this question so as to decide what are the duties that we owe as their representatives to the American people. By a law that was passed some few years ago the national banking act was made general; any seven citizens accumulating a capital of $50,000 could organize a national bank. All the monopoly features of it were taken away. Each community had its own little bank. Perhaps on the one side of the street you might find a bank composed of Democrats, while on the other side you might find a bank composed of Republicans. I have only to say that the bank of which I am president has nine Republicans and two Democrats within it; and the question as to what my views were when I came here to Congress was never asked and never known.

The point is simply this: these national banks go on under a general law now in force. There has been no movement made by Congress to repeal the charters under the national-bank act. Strange that in all these utterances that have been made against them; strange that in all the eloquence that has been uttered, there never has been a sentiment yet expressed that I have heard in favor of the entire abolition of the national-bank act.

What, then, is to be done? I said to you I speak in the interest of labor as a workingman, in the interests of workingmen; and I will prove it to you. Your national-bank charters go on. The banks have the power to liquidate, to wind up, and they have the power to renew. As I said to you in a few brief words the other day, the liquidation of the banks compels the division of its reserve fund; and you have to divide within the next year, during which the charters of these banks expire, one hundred and twenty-eight millions of money and thus force the withdrawal of that amount of money from the industrial interests of the country, which I insist must produce a commercial revulsion and throw my people out of employment, for there is nothing that can take its place. You cannot issue greenbacks for it. You cannot issue Treasury notes for it. You must gather it from your industries and pay it to your people. A revulsion, a panic is the result. And if that measure is to be forced upon the country by the Democracy, or by its adherents, God save their future! I know not what it will be.

Sir, I have never been accustomed from my seat on this floor to deliver harangues about the public interests and about the people. I propose to do them service by my votes rather than by my voice. You elevate labor and it will take care of itself. By all this nonsense about the poor man you degrade him all the time instead of trying to elevate him to the duties of citizenship and to teach him by proper education the right exercise of the responsibilities that are upon him. When you do this, then and then only will you sweep back from your land this infernal tide of communism and of socialism that is abroad. It is time that bold words were uttered in the American Congress upon this question. It is time that the crowds which are every day arriving on our shores and that are diffused throughout our people, coming here with that desire for liberty which seeks without license for the aggregation of its powers—it is time we should remind ourselves in decisive yet kindly language that that is only liberty that is properly protected by American law.

I have now said upon this question all that I have cared to say. I announce myself the plain, unfaltering friend of the national-bank system until some better one is produced. I would have extended the charters of the banks for ten years instead of for twenty if my view had been the ruling one, because I do believe that within the limits of ten years the condition of your national debt will be such that some other mode must be adopted. But what that shall be I do not now know. I cannot accept the remarks of my friend from New York [Mr. HEWITT] upon that subject, his scheme being one whereby each bank shall become the protector of the other. That makes a monopoly gigantic in all its actions, to which I never could subscribe. But that these assailed institutions, taxed to death, scattered throughout our land, 2,000 in number, should be the subject of ridicule as being monopolies does seem to me to be one of the most absurd doctrines ever uttered in the American Congress. My great purpose is to use these institutions to sustain our industries which give wage to labor and enthrone in happiness the homes and the countenances of my toiling poor.

My position is simply this: if you compel these banks to divide up all their reserves you will thereby force a contraction of the currency to the extent of $128,000,000, which no greenback theory can provide against. And the men who are now struggling to make a living for themselves and their families with their wages of a dollar and a half or two dollars a day will be presenting themselves before you here as they did during the years of 1877 and 1878, in their meetings every night about your Capitol demanding some protection, demanding that some action be taken by you that would furnish them with bread or with labor.

Mr. HASELTINE. Will the gentleman permit me to ask him a question?

Mr. HARDENBERGH. Certainly.

Mr. HASELTINE. I would inquire of the gentleman if this Congress cannot enact a law that would authorize the Secretary of the Treasury to put in circulation enough legal tender to provide for any contraction of national-bank currency that might take place?

Mr. HARDENBERGH. I will say to my friend that this Congress can enact a great many laws. It enacted the other day what I consider a very strange law, as contrary to the genius of our institutions, the Chinese immigration bill. Congress might give to the Secretary of the Treasury the power to issue Treasury notes to fill up the gap caused by the contraction of national-bank currency. But it is my opinion that the American people never will consent to give such a power as that to any Secretary of the Treasury. You had not long since one in that office in whom you thought you could repose every trust. Yet against him to-day the vilest of reproaches are thundered, and the public newspapers throughout the country are speaking of the powers which you gave him and the manner in which he exercised those powers. I mean the late Secretary of the Treasury.

While I have no right to speak of a member of the other branch of Congress, I will say to my friend from Missouri [Mr. HASELTINE] that some day we might have a Secretary of the Treasury with a worse character than Mr. SHERMAN, who might exercise all these powers in a manner to suit himself. Then where would you probably be? Recollect that you can lead a horse to water but you cannot make him drink.

Mr. BRUMM. Restrain him by law.

Mr. HARDENBERGH. What law can restrain him? Congress sometimes adjourns from the 4th day of March until the first Monday in the following December. What exigencies might arise during that period no one can say. Suppose that you give this power to the Secretary of the Treasury. Can any man tell what it would be worth to one who was his nearest and best friend?

No, sir; the power to issue the currency of the country is properly where it now is, scattered throughout the several States. It is a wonder to me that the fathers of those who are now members here never raised their voices against the State banks when charters were given to them, and they could simply upon their own credit issue currency to the extent of three times their capital, and then when panics came the people, instead of receiving money from them, received the answer, "We cannot pay you."

Mr. HASELTINE. I would like to ask the gentleman another question.

Mr. HARDENBERGH. Very well.

Mr. HASELTINE. Do you not think that the American people would be quite as safe with the power to issue this currency given to the Secretary of the Treasury as they are now with the power exercised by interested capitalists and money speculators?

Mr. HARDENBERGH. Now, sit down and I will tell you. I have great faith in the American people, and in their honest intention to select those best qualified to represent them. There are two hundred and ninety-seven men in this House. Yet I once knew a man who sat in Congress since I came here who, it was said, had paid $120,000 for his election. Was that honest? Add to that the powers of a Gould and of a Vanderbilt, exercising the influence they do by means of the immense corporations they control, and where is your Congress, and where will be the rights of the people? It is not right to give any man a power like that.

Mr. HASELTINE. One other question.

Mr. HARDENBERGH. Certainly.

Mr. HASELTINE. Then, does the gentleman acknowledge that republican government is a failure and that we cannot trust the American Congress?

Mr. HARDENBERGH. To a certain extent I say so. With the present contamination of our politics and the manner in which railroad and other monopolies influence legislation, I tell you that you are not safe. First educate the people, not to communism, not to socialism, but in the principles of Democracy and of a pure government.

Mr. SMITH, of Illinois. Would not the Supreme Court of the United States hold that a further issue of legal tenders would be unconstitutional?

Mr. HARDENBERGH. No doubt about that.

Mr. BRUMM. Then it would contradict its own decisions.

Mr. HARDENBERGH. If I had my own way I would fund the $346,000,000 of legal tender now afloat. I remember when meetings were held here and members of Congress were called out to give their opinions and a clamor was raised for currency, for the legal tenders which had been retired to be reissued. Congress then voted that the Secretary of the Treasury should reissue these legal tenders, and they are now afloat among the people to-day.

I say that if you attempt to extend the volume of the currency, to give any such power to the Secretary of the Treasury, or even to a commission or to Congress itself, the faith of your people in the soundness of the currency will begin to droop and your securities will depreciate in value. And when that shall come tell me who will be the losers? It will not be the men who sit in the seats of money power, but the man who carries his hod in danger of his life from the bottom to the top of the ladder, and who at the end of the day receives a dollar and a half for his labor

During this discussion the Committee on Banking and Currency has been fearfully arraigned on subjects connected with this question; and here I may quote a remark made to me this morning by my eloquent friend from Brooklyn while we were riding up in the car. He said that reason may not always leave her throne, but madness often sits beside her and conducts her to improprieties. That is the case with many in the American Congress to-day.

I have said that without any question as to what the future of the banking currency shall be beyond the next ten years, I would not seek to perpetuate the national debt one hour in order to continue the national banking system. While I have asked this House to adopt such legislation as will prevent a panic, I have on the other hand asked that you shall prevent what will be left of the national banking system from becoming one of the most complete monopolies in the land. My fight is for labor; my fight is for the people. It is special laws given to corporations which wrest power from the people, and not general laws, whose provisions are open to all.

Mr. HASELTINE. As the gentleman is making an argument in behalf of labor, I ask him whether the people are not better protected in their rights through the American Congress than they can be through any licensed institutions of speculators?

Mr. HARDENBERGH. Mr. Speaker, I will answer the gentleman's question at once. I have always had the reputation of being a rather good-natured man—willing to oblige my friends; and since I have been a member of Congress I doubt whether one mail out of six or seven has come to me without some application for a position either in the navy-yard at New York, or in the municipal government at home, or upon some railroad with which the Government is connected. Unfortunately, sir, I have not been on such terms with any of the ruling authorities as would enable me to respond favorably to these various applications. I have seen those who are dependent upon their labor coming here and asking Congress to afford them some measure of relief, and they have never obtained it. The duties of a Representative are disconnected from the toil of the citizen. We are, to be sure, to enact laws for his benefit; but we must leave those laws to work out their results in their own sphere, without regard to the interests of particular individuals. Give us such laws as will harmonize labor with capital, and not such a kind of legislation as will prevent the smoke to curl from the chimneys of our factories.

I fully recognize the doctrine that this is a Government of and for the whole people. My friend makes a speech opposed to this bill and, as he conceives, in the interest of the people. I make a speech in its favor, desiring to prevent such a panic as must ensue from the withdrawal of one hundred and twenty-eight millions of currency. I desire to keep at work men who are connected with the different industries of the country—to secure their homes, to secure their happiness. Allow me to speak now as the president of a national bank having $250,000 of capital and $225,000 of surplus. There is another one similarly circumstanced within my city; and there is one twice as large. Now, what am I to do? I have been trying for the last five years to find occupation for those who have been applying to me in every branch of industry that I could reach by proper means and with all the personal influences that I could command. This has been one struggle and duty of my life. I labor in this direction wherever I can. But if this Congress shall refuse to pass this bill the community which I represent, embracing a population of 120,000, with industrial establishments involving a capital of $4,000,000 or $5,000,000, in which from 3,000 to 5,000 men gather for their daily work, cannot but suffer disaster. If those who with their ideas of finance believe it to be their duty to make war upon these banking institutions shall succeed, the inevitable result must be that these industrial establishments must reduce their force; and this will be charged upon the national banks.

Why this outcry against the national banks? A year ago, when the withdrawal of $18,000,000 of banking capital almost forced a panic, was it the banks that were responsible? No; it was Congress. Acting under the evil influences then operating, Congress undertook to force the banks to surrender at once the bonds upon which they were receiving 5 per cent. interest and to accept bonds on which but 3 or 3½ per cent. would be realized. As the guardians of property interests—the property interests of widows and orphans among others—the banks sought protection for those property interests. Yet although in this they acted simply as a man who defends his own existence, you condemn them for the efforts they made to save their credit and to give proper care to the interests committed to them. It matters not to me personally what may become of this bill.

Mr. HASELTINE. The gentleman will allow me to ask him what motive induced the national banks to contract their currency to the extent of $29,000,000 between 1875 and 1878, while the people all over the land were suffering hard times.

Mr. HARDENBERGH. I do not know that they did so.

Mr. HASELTINE. The Comptroller's report shows it.

Mr. HARDENBERGH. All the evidence within my knowledge shows the contrary. Now, the gentleman regards the national-bank system as a great monopoly. He thinks its powers and privileges are dangerous to the interests of the community. I will say that in my city to-day there are depositors who could, if they chose, frighten and shut up every bank within that city. Capital is timid; it does not dare to defy public opinion; it must do what is right; it must conform to the action of Congress. The national banks must obey